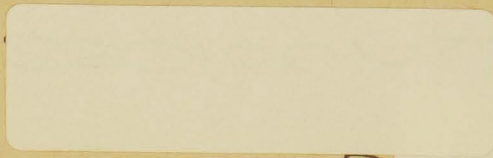
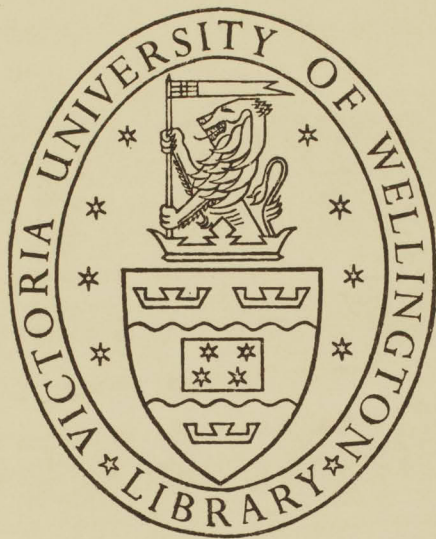


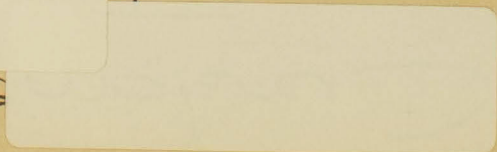
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Trade union power  
(and the law)

VICTORIA UNIVERSITY OF WELLINGTON trade unions

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as on?"

FACULTY OF LAW

"Wages, conditions and hours really embrace  
the whole objects of the existence of industrial

TRADE UNION POWER (and the law)

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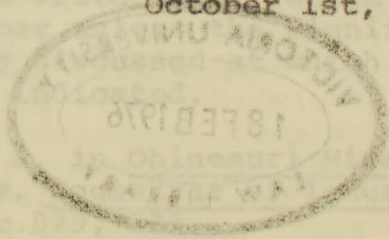
by Warwick Randolph Flaus

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Submitted as the writer's Research  
Paper in completion of the LL.M.  
unit 'Trade Union Law' for the  
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October 1st, 1972

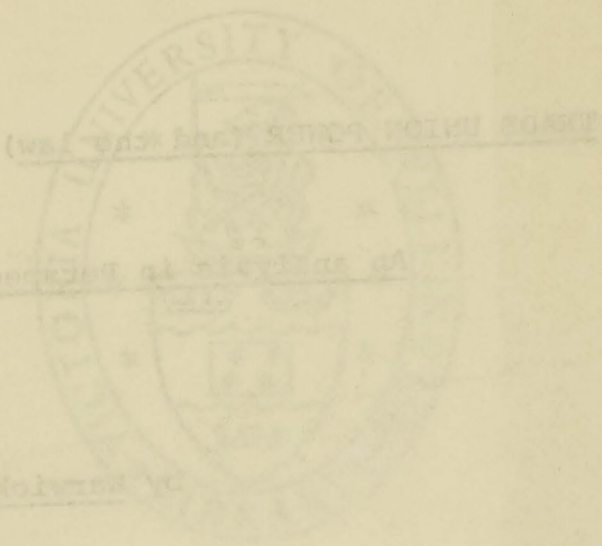


3. Chapman, Industrial Unions [1917]

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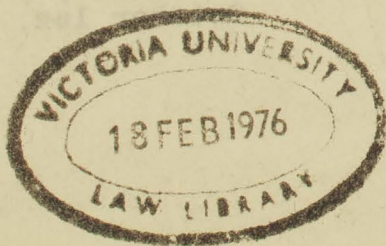
SCHOOL OF LAW



to assist in perspective

of various methods

Submitted as the writer's research  
paper in completion of the LL.B.  
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University of Wellington, New Zealand  
1975



336,590

"How much of a role is there for trade unions outside their own immediate interests of wages and so on?"<sup>1</sup>

"Wages, conditions and hours really embrace the whole objects of the existence of industrial unions"<sup>2 3</sup>

"You've got to use special definitions to justify that question. I don't accept this artificial dividing line that on one side there are legitimate, normal, traditional trade union functions and on the other you are outside the appropriate realm of trade union action. If it's appropriate to

1. This question was put to Mr R.J.L. Hawke, president of the Australian Council of Trade Unions in an interview with Ross Stevens reported in the N.Z. Listener 29/11/72, 15.
2. There is a distinction between 'trade' union and 'industrial' union in precise usage. "A registered industrial union is a corporation and a registered trade union is not. To make a statement of this kind is to use the words industrial and trade as terms of legal precision. But in common parlance an industrial union is a "trade union" and this usage is unlikely to be eradicated". D.L. Mathieson, Industrial Law in New Zealand, Vol. 1 96. The writer will retain the common usage in this paper unless the significance of registration is being discussed at which time any change in usage will be indicated.
3. Chapman J. in Ohinemuri Mines and Batteries Employees' I.U.W. v. Registrar of Industrial Unions [1917] N.Z.L.R. 829, 836.

<sup>5</sup> "The Evening Post" 1/6/72, 1. Reported statement of

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concern yourself with workers' leisure, why isn't it appropriate to concern yourself with the environment within which they are going to have the opportunity of using that leisure? I think that any dividing line which says one is proper and the other isn't is absurd."<sup>4</sup>

"The Government's threat ... to use legalities against the union movement would not deter the Federation of Labour executive .... If the Deputy Prime Minister thinks he can use this threat of legal retribution on the trade union movement then he is not going to be successful."<sup>5</sup>

In those three statements lie the ingredients for the conflict between the reality of the law's assessment of trade union powers and the view of the unionists themselves as to what the confines of their power should

4 R.J.L. Hawkie in response to the question in N.Z. Listener interview 29/11/72, 15. Mr W.J. Knox, Secretary of the New Zealand Federation of Labour echoes this sentiment in an interview reported in the Sunday Times, May 1972. "The government and some other people have called this ... [trade union ban during French Atomic testing in the Pacific - discussion below] ... playing politics but as far as we're concerned if anything endangers the lives (sic) of working class people and their families we take the right to protest."

5 "The Evening Post" 1/6/72, 1. Reported statement of Mr Knox.

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be. One thing is certain - those areas of trade union action to which the law gives legitimacy and within which the parties involved have little legal basis for quarrel differ markedly from those areas of possible trade union action. In fact the issue goes further for not only is possible trade union action more extensive than that which is legally allowable but also in many cases such extended trade union action is probable. This paper is aimed at revealing more thoroughly the ingredients of a dilemma of the gap between law and probability of action by trade unions.

It has been difficult to arrive at a simple, non-controversial definition of a trade union for the purpose of the opening discussion in this paper for it is only by artifice that one can divorce the characteristics of a trade union 'grouping' from the particular ends for which it coalesced. There are probably as many views as to the 'proper' purposes of trade union activity as there have been writers on the topic; the confusion is compounded if one is to consider also what are to be regarded as the 'proper' (and therefore 'allowable') means for achieving those ends. It is therefore deceptively comforting to set out upon the sanity of the escape route offered by Cronin and Grime who adopt a "chicken-and-the-egg" approach in asserting that "Trade Unions existed long

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before they were defined."<sup>6</sup> The merits (and deficiencies) of their view will soon become evident.

Even although logic would seem to demand a description of the entity before embarking on an appraisal of the objectives and methods of achieving them of today's trade unions we need to begin with a working definition. A trade union (or its plural) has been variously described as "a continuous association of wage-earners for the purpose of maintaining or improving the conditions of their working lives"<sup>7</sup>; "all organisations of employees - including those of salaried and professional workers, as well as those of manual wage-earners - which are known to include among their functions that of negotiating with employers with the object of regulating conditions of employment"<sup>8</sup>; "... essentially associations of manual or/and non-manual work people, including professional grades, formed to safeguard and improve the working conditions of their members and more generally to raise their status and promote their vocational interests."<sup>9</sup>

6 Cronin and Grime, Labour Law, Ch XII, opening line.

7 S. and B. Webb, History of Trade Unionism, (1920), 1.

8 Ministry of Labour Gazette (U.K.) November 1952, 375.

9 J.H. Richardson, An Introduction to the Study of Industrial Relations, 137



"any combination, whether temporary or permanent, for regulating the relations between workers and employers, or between workers and workers, or between employers and employers, or for imposing restrictive conditions on the conduct of any trade or business"<sup>10</sup>; "...[a group comprised of] labouring people. Its purpose is for to improve the social, economic or political lot of the individual through improving the position of the working group"<sup>11</sup>; a group giving "an expression of the fundamental right of men and women to organise themselves in order to protect and promote their interests by collective action"<sup>12</sup>. There is potentially an endless collection of examples.

Contrasted, these varied definitions provide a wide range of objects for trade unions - from the narrow one of their part in employer/employee relations to a wide one of improving the social, economic or political lot of the individual members. To a large degree the reasons for people's so associating is related to and determines the ends for which they associate in these definitions. In fact there may be residual differences

10 S.2 Trade Union Act 1908.  
11 S.C. Suffrin Unions in Emerging Societies  
12 Roberts, Trade Unions 1.  
14 Tannenbaum, The True Society: A Philosophy of Labour

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in these two motivating elements - for example while the Webbs and Sebig Perlman and Tannenbaum (other writers in the field) all looked to analyse the causes and development of trade unionism they found differing causes. The Webbs primarily saw trade unions as being concerned with economic issues, as being corporations for the supply of labour and so as a means to cornering the resource ~~for~~ mutual advantage. Sebig Perlman found the cause of trade unionism in the workers' consciousness of job-scarcity and their aim of control of the job.<sup>13</sup> Tannenbaum saw trade unionism in less utilitarian more psychological terms as stemming from a sense of alienation and a desire to create a 'community' identity which had been lost with the passing of the guilds in the industrial revolution<sup>14</sup>. Truly, then, there is no single, exclusive theory as to the very basis of these organisations in human terms. Fortunately the issue is of peripheral concern only to this paper so we need not face up fully to the fact that even amongst trade unionists there is little consensus as to the role of trade unions. We are faced rather with room for a quasi-positivist approach to the area as really the reasons for joining and the ends of the union itself are not easily nor fruitfully

13 S. Perlman, A theory on the Labour Movement (1928)

14 Tannenbaum, The True Society: A Philosophy of Labour

distinguishable unless we adopt again an artificial device of looking to a single individual for his view. It may well be that an individual member has joined for a limited purpose, one which will not readily encompass the realities of the group's action the totality of which action is our prime concern.

From the several definitions of trade unions it is possible to abstract some of their essential characteristics and to produce a denuded model unit: it is an entity identifiable as a group of people bonded through common interest the group combination being seen in toto as of advantage to them as individuals either in advancing their aspirations or protecting their interests. The asset which is available to the group but not to the individual is that which is enhanced by the combination, this giving the strength with which to support the group's interests. The strength of a trade union is particularised by its source - its control over the disposition of labour of its members. Potentially this strength is exercisable in pursuit of many varying ends - its exercise is governed only by the extent to which combining gives members an added hold on their labour vis à vis those who are their employers. He might have added an objective described as "acquisitive, active and political" not because it stems from the particular definitions of trade unions he

those who would wish to utilise it and axiomatically the degree to which the union leadership can co-ordinate its members' prime source of strength for a particular reason, usually in the hope of the successful pursuit of a desired end.

It is only by resorting to this sterile and ungarnished view of a trade union model that we can discover why there is room for so many views as to trade union potential and the limits of "allowable" pursuit of goals which a trade union might embark on and the means with which it might do it with the tools peculiarly available to it. A suitably general indication of the ends which trade unions might be expected to pursue by virtue of their peculiar strength is given by Professor Szakats<sup>16</sup> who finds from most definitions of trade unions two main objectives - the protection of workers and the improvement of their economic status. He says "The first objective may be described as defensive, passive and political, while the second as acquisitive, active and economic, but such categorisation would not express the truth. Protection can be achieved by active and aggressive means, while improvement of status may involve other than economic criteria." He might have added an objective described as "acquisitive, active and political" not because it stems from the particular definitions of trade unions he

16 A. Szakats, Trade Unions and the Law, 1931, p. 10

viewed but rather because it can stem from the fact that a trade union is just one of many groups with strength in society.

Omitted is the more general objective of groups (and therefore trade unions) encompassing both of those which he gave - that of realising a potential to effect change in society (or to prevent it) by virtue of the strength held. The possible scope of trade union objectives and tactics is limited not to those ascribed to them by commentators or even, as will be shown, by the law but by the degree of power trade unions may wield within the society compared with that weighed in against them. Beyond this consideration a large part of the limitation on trade union action is that determined in subjective political terms, whether it be a restraint which the unions themselves put on the range of objectives they will seek to achieve or the restraints which those groups in society who hold greater strength than the unions will put on them.

There may, however, be a third supremely important limitation on group action in society, one that places limits not only on tactics per se which groups might use but also on goals which they might pursue because of the 'drastic' actions they would need to take to pursue them or because of the deleterious effect of 'internal friction' present in a society where one interest group

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alone has the strength to reach its goals at the expense of any of the others. Otherwise the situation of group action and its limitations in society would be governed only by 'Catch - 22' which says "they have the right to do anything we can't stop them from doing"<sup>17</sup>

The answer as to this third limitation may be found in a brief consideration of the societal scope of 'power' leaving from our consideration specific subjective moral commitments on the part of the actors and going beyond the specific legal environment in which they move. Unfortunately such a study will not reveal to us such a limitation as will place 'natural' buffers on attempts by groups to act in a particular way in society to achieve the goal of their whim limited only by their strength; it will show no inherent defects in tactics and goals available to strong groups such as will hold their actions to pre-determined bounds as if by some law of the universe beyond their strength.

To the lawyer, whose preference must be for precise reasoning along predetermined lines based on rules already containing the moral imperatives of action, the answer is in a nightmare of 'sliding scales'. At best they reveal the weaknesses of arbitrary action by groups but they still do not provide some immutable law with

17 J. Heller, Catch - 22 (Corgi Ed. 1966), 430

18 *ibid.*, 81-2.

20 *ibid.*, 83.

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precedence over the other two factors discussed above; rather we discover that action may be subjected to a narrowing range of viable options based on several continua.

Before embarking on this consideration perhaps a reference by way of analogy to Perelman's analysis of justice will help provide a foreward to the position.<sup>18</sup> He determines that there must be two elements to the working concept of justice. He argues that the formal rule of justice (which 'requires that those who are essentially similar should be treated alike'<sup>19</sup>) does not contain any clue as to when beings are essentially similar nor how they must be treated. For the rule to be applicable in practice it must have added to it the elements of concrete justice i.e. a specification of the two missing criteria for the application of justice. This concrete element is what decisions the system's operators make as to the cases which are to be classified as "essentially similar". This established, for justice to prevail all cases so classified must be treated 'alike'.

Perelman argues that only this flexible formulation of justice safeguards its universality in application<sup>20</sup>.

18 Ch. Perelman, The Idea of Justice and the Problem of Argument.

19 ibid, 81-2.

20 ibid, 83.

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Thus we have a sliding scale with a constant aspect (so that an arbitrary treatment of all cases is impossible) and a flexible aspect. Just as we are then able to say that in Anatole France's wry comment that the law "forbids the rich as well as the poor to sleep under bridges" we still find 'justice' (however cynically it might make us regard the whole affair compared with a law granting all men citizenship and all men an equal vote in the selection of government by virtue of their citizenship) so is the case with 'power'. As we shall find, analogous to Perelman's formal justice is the constant of power's being manifest in the successful pursuit of societal goals (in competition with other actors). The 'concrete' aspect to power is the differing effects on the actor, his subject, his goal and his societal context changes in the kind of power applied will have and the influence of that relatively objective and discernible factor on the actor in his making a decision to act in that social context. At best we will have narrowed the area in which purely subjective factors may weigh in the mind of the actor in a 'power' situation where his resources present him with a practical choice as to his action. Beyond that point, however, the limitation is purely subjective even although in normal situations it may be possible to predict what action he will take. This prediction is



based on normal tendencies, not imm<sup>u</sup>stable natural laws. power either because its members willingly surrender to that recognition or if they do not.

THE SOCIETAL SCOPE OF POWER<sup>21</sup>

There is little to be gained in this context in dwelling on precise distinctions between 'society', 'the state' and 'government'. An adequate but simple approach is to view 'society' as comprising "the whole gamut of social relationships and organised groups"<sup>22</sup> (amongst which actors we will find trade unions); "the state" in its barest terms is the instrument of coercive power which of necessity (distinguishing it from the groups subject to it) has

21 To provide a relatively simple framework for what is potentially a very complex discussion requires a perhaps unseemly reliance on the writings of a few. However in so far as only a few get the opportunity to codify truisms (however complex) and since of these Amitai Etzioni (The Active Society (1968) does the job particularly well the apparently heavy reliance on this writer is, hopefully, justifiable. It is to be hoped further that the comparative ease with which such long sociological analyses may be synthesised may render this heretical approach to legal research a little less painful to the reader than might ~~be~~ a 'simple' reference to the texts involved.  
N.B. \*~~Baron~~ Deutsch, Social Sciences as Sorcery (1972) accuses modern sociologists of writing more and more about less and less. In a well documented treatise he asserts that their work is boring, misleading, pseudo-scientific and trivial amounting to little more than "ponderous restatements of the obvious" masked by a "smoke screen of jargon". Suffice it to say that I am indebted to Etzioni.  
\*Stanislaw Androski

22 L. Lipson, The Great Issues of Politics (2nd Ed.) 54.

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both the legitimate and practical monopoly on ultimate coercive power either because its members willingly surrender to that recognition or if they do not, can be made to recognise the monopoly should they in fact challenge the state. These two concepts are not distinct and opposing but rather are necessarily interrelated.

The 'Government' is that particular group of individuals who have gained control of the essential instruments of the state and who by virtue of this have the strength to enforce orderly (or disorderly) settlements of disputes between societal groups or between any group or groups and the state.

Of the three entities it is society which provides the context for interaction and it is therefore within these broad confines that a study of the forces which bring about changes in the status quo must be made. It is inconceivable that society may be destroyed even although actors within it and different governments may come and go - the very definition of society demands its existence so long as relationships between distinguishable entities exist. Just as energy is indestructible but rather changes its form depending on the stresses to which it is subject, so it is with society. This discussion must, then, be divorced at this stage from any particular system of politics for it

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is contended that the most important common basis to all political systems is the power structure and that it is primarily the organisation of the power structure which differentiates any one form of societal interaction as expressed in terms of the type of political system, from any other<sup>23</sup> ~~(which will be a reflection only in degree of which groups in society are free to compete with each other in their relationships and in the intensity and limitations of the struggle in resolving disputes between them) and bearing in mind that our consideration is not polluted with the values held in society either by all of the groups or by any one of them.~~ ... the state-society cannot be viewed simply

To make a pure study of the relationships between the components of society we must retain a model unpolluted by the particular value commitments of the various actors. Since our interest is with potential limits on what one group might do to realise its own goals in society and also some limits on the goals it might pursue it must be recognised simply that the existence of differing values and goals might be expected to throw the actors into a particularly conflicting relationship. The type of Government to which the groups are subject

23 The situation is stated baldly: "Politics as power consists fundamentally of relationships of superordination and subordination, of dominance and submissions, of the governors and the governed." V.O. Key, Politics, Parties and Pressure Groups (5th Ed.) 2.

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will not affect the essential quality of the relationship but will only reflect the degree to which the conflict is freely waged between the groups and the intensity and limitations of the struggle in resolving the dispute between them.

#### Power or Have a Predictive Value?

To begin one must establish the true meaning of the word 'power' for until now this concept which is basic to societal relationships has been used as if it had some commonly understood meaning to the reader. Its widespread importance is reflected in Stone's statement.<sup>24</sup>

"... the state-society cannot be viewed simply as one single power structure, but is made up of very numerous and varied power structures ... being often engaged in a dynamic struggle for the extension of their varied spheres."

In this context power is "a capacity to ... introduce changes in the face of opposition"<sup>25</sup> (this including both sustaining a course of action or preserving a status quo that would otherwise have been discontinued or altered). Axiomatically power does not exist in

24 Julius Stone, Social Dimensions of Law and Justice (1966) 626.

25 A. Etzioni, op. cit. 314.

27 Etzioni, 315

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vaccuo as the 'property' of one actor but is a relative quality - it is possessed by one actor over another in regard to the former's ability to pursue successfully a goal conflicting with and at the expense of the other's active aspiration.

Does Power Have a Predictive Value?

The value of 'power' to the student of societal relationships would be minimal if his awareness and assessment of it could be derived only from the outcome of particular 'clashes' between groups; if this were the case we would be advanced little on our way to determining whether or not its inherent characteristics limit its exercise.<sup>26</sup> Etzioni points out that one can look to the 'capacity' of an actor, this not being reflected in one particular exchange between actors but being a generalised quantity relating to his overall capability of reducing the resistance of other actors to his generally preferred courses of action over a set of matters over a period of time.<sup>27</sup> Capacity is significantly measurable when derived from an actor's past performance and from a study of the relative 'assets'

26 Although it is a concept derived from relationships this does not mean that the factors discoverable from its exercise may not in some way be seen to limit the scope for its being employed in particular relationships, neither party being prepared to exercise it despite the fact that it is available to them.

27 Etzioni, 315

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at his disposal.

"Assets" are the 'possessions' of an actor which are able to be converted into power ('realised') but are not necessarily or inevitably so used. Rather they are the actor's power 'base' or 'potential', compared with the actual observed reduction of the resistance of other actors which is the power actually generated.

Is Power a Reflection of Inventories of Assets?

In using the 'asset' concept along with the 'power' concept we can explain why in a particular situation an actor with comparatively less potential power has in fact been able to prevail over an actor who might have been predicted as the more likely 'winner'.<sup>28</sup>

A study of the power base of an actor is further of assistance in helping explain why an actor prevails in a sector where he does not have any immediately obvious base from which to derive this power<sup>29</sup>; such a source

28 While this is of reduced significance when the clash is just one of several so that we might expect that ultimately the actor with greater potential will prevail more often than not, it is of significance where the unexpected outcome occurs in a critical instance i.e. where one victory is irreversible rather than being part of a more sustained conflict consisting of several incidents.

29 Etzioni gives the example of the United States wielding strong power in the United Nations, where in fact all members have one vote, by virtue of its influence over the individual countries holding a vote e.g. "The fact that the United States has economic power over the Central American Republics ... greatly influences the votes of these Republics in the General Assembly" op cit. 316.

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for study is also useful in revealing why an actor will sometimes submit rather than enter into an open struggle with another because he perceives not that his defeat is certain but that on a probabalistic basis the risk of defeat is higher than is acceptable to him.

The observable power base alone will not determine the probability of outcome - only the possibility of outcome were we to assume that there are no subjective factors involved but that actors will pursue their goals to the greatest extent that their assets will permit. Such a perspective is in no way realistic for there are many reasons, both subjective and objective, why a particular actor will not 'realise' those assets which he holds. The next few sections of the paper will deal with the many variables involved in this determination.

#### THE POWER/CONFLICT MODEL OF SOCIETY

For this model of society to reflect societal relationships accurately it must be agreed that society will be comprised of several actors motivated to attain a goal or goals. While some of the goals may be universal (agreed to by all of the groups rather than being of purely partisan concern) this can by no means be taken for granted nor be viewed as the most

significant determinant of societal relations.<sup>30</sup>

Rather there will be many goals of partisan interest which will be incompatible between groups; further there will be insufficient assets realisable for all of the groups to achieve their goals. In short the successful pursuit of partisan goals by one group must limit the goals of some others.<sup>31</sup>

While the power model of society does not mean that of necessity the groups will be involved in overt to intra-societal conflict such conflict will frequently occur. The diversity and frequent intangibility of an actor's power base ensures that a group's effective capacity in realising its assets will not always be

30 In fact while the groups in this instance may not interact only through overt conflict, the sharing of goals and the agreement on priorities to which the scarce assets will be applied will in its ensure pattern probably still reflect the relative power potential of the various actors for here an actor's power "appears in the ability to eliminate all arrangements which differ from those finally reached" (Etzioni, 318) even although the actor's commitment to the agreement may be so altruistic as to assure that this 'ability' will never be translated into action.

31 By way of example one group may wish to halt his country's trade with another. This may be of itself its goal because it believes such trade should not be pursued or it might be the means ~~by~~ which that group proposes to put pressure on another to follow a particular line of action. The successful pursuit of the immediate goal of halting trade will limit the aspiration of the group subject to the power employed by the actor to achieve this end to make profits from the trade. In preventing the trade the subjected actor's profit will be impaired and it will be denied the use of that asset to pursue any further partisan goal it might have.



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predictable, particularly by the actors themselves. Few actors would openly challenge another with a view to losing<sup>32</sup>; however: "if the relative power of various societal units were completely measureable, and if there were a supreme judge who could adjust the patterns of priorities of shared objects and the allocation of assets not committed to shared projects - to the changing power assessments - societal conflict would be greatly reduced; a basic function of societal conflict is to substitute for the lack of such measurements and judges"<sup>33</sup>.

This discussion must leave open the question of whether or not power itself is the only determinant of social change. Inescapably it is at least at the

32 Unless perhaps the goal is martyrdom or to ensure that by doing so they might somehow motivate a third party to weigh in in support of their cause against the erstwhile stronger one.

33 Etzioni, 319. This situation contrasts sharply with the international situation of balancing nuclear weaponry. The relative ease with which "strike capabilities" of potential opponents can be measured and the consequent maintenance of something approaching a balance of destructive capability is a strong deterrent to overt conflict. The analogy should not be stretched too far for past a certain point relative imbalances of nuclear strike potential do not contribute to the essential power relationship as the action may achieve the peculiar mutual capacity to destroy each other at a point of balance which is more likely to result in a 'stand-off' or 'stalemate'.

basis of almost all such change<sup>34</sup>; its influence is ameliorated however by such other factors as whether or not the actors see their power base as utilised appropriately in pursuit of particular goals for the decision does not exist in a vacuum. Actors may refrain from invoking power in a particular situation not because their goals have altered but because of their value judgment that for various reasons its use would be 'wrong' in that instance.<sup>35</sup> Ultimately an actor with the power potential to pursue societal goals is limited only by his acquiescence to another situation - simply by his unwillingness to risk the various consequences of realising that power base, whatever might be the subjective reasons for his holding that view. The implication is that the exercise of power is a complex business involving many repercussions; to the actor, his opposition, his goal and the structure of the society within which he acts. We might expect all these

34 Even although the change may be prompted by such objective factors as alterations in the physical environment which will have an effect on all actors the degree to which various actors are able to cope with it will be directly referable to their power potential.

35 e.g. if an actor is, above all, committed to societal stability he may refrain from invoking his power in instances where its use would endanger that stability.

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factors to be assessed and taken into account by an actor before he mobilises his resources and the weight placed on these is itself qualified by the strength of the actor's commitment to his goal.

However Etzioni leaves us in no doubt as to the realities and all pervasive influence of power in society:

"The application of power is a principal way of getting things done. Its ethical standing depends in part of the kinds of things that get done and on the ways in which goals are set and attained; these factors in turn depend much more on the distribution of power ... and on the amounts and kinds of power used ... than on the very fact that power was exercised. Hence most societal actors must choose not between getting things done voluntarily or through the exercise of power, or between exercising power or not getting things done but rather among the varying degrees and kinds of power to apply."<sup>36</sup>

i.e. if an actor 'acts', power is involved.

#### The 'Cost' of Applying Power

- (1) Realising Assets. An actor's capacity is effectively

36 Etzioni, 321. (the emphasis is added)

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a function of those assets in his possession (as discussed and what he does with them: it is not reflected merely in an inventory of his assets but in the additional more subjective notion of his decision as to what assets should be realised for his immediate needs of survival, what should be retained for later use, what should be 'invested' so as to increase the power base and what should in fact be converted into societal power. In making his decision the actor is limited (and guided) by certain realities of the power concept (applying to both him and his opposition).

As will be discussed below [and is hinted at by Etizioni's statement above (footnote 36)] 'power' is available in various gradations and types. Our first consideration must, however, be of what is involved in converting assets into power per se.

The process of transforming assets into power is a step by step procedure (rather than a simple matter of the 'ignition' of assets as 'fuel') until a stage is reached immediately prior to its actual utilisation. An actor's ability to act is dependant then upon what delay effort or drain on the power base is involved here and therefore whether or not by virtue of these factors an option is really open to him. However a decision not to mobilise assets does not mean that they will continue to maintain their current value potential

for if assets are continually held in anticipation of future use they will probably depreciate.<sup>37</sup>

Objectively the best course open to an actor wishing to remain an effective actor while also achieving his current aspirations is to realise his goals with the maximum possible preservation of his future potential to continue to realise his goals i.e. with the minimum withdrawal of the effective assets in his power base while allowing for minimal wastage through depreciation of those assets not mobilised.<sup>38</sup>

(2) Some further truisms which serve the realisation of this thesis stem from the dependence of an actor's power on how he decides to use what assets compose his power base. Comparatively, a narrow power base used well tactically could, obviously, overcome a wide base

37 e.g. if the actor is a trade union, the power potential, dependent upon the morale of its members, may decline if action is continually thwarted by leadership. This will have the effect of narrowing future options for any action dependent on this power base.

38 This still does not place a truly objective limit on the way power will be used for there is no reason to assume that actors will pursue the best course or that they will structure their goals or assets in the way best available to achieve their maximum effect at the minimum cost to their power base.

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used badly. While the limits to this in effect are narrow, for ultimately efficiency can substitute for affluence only to a small degree it is useful to add that in effective action an actor exercising good control over his assets will gain considerably more effect from small additions to his asset base; however the actor with wide power base but poor control will achieve more in power output by improvements to his control than by additions to his base. In practice it is easier in the short term to improve control than to increase assets.<sup>39</sup>

(2) Communication. Effective utilising of communication in its many forms provides an actor with an opportunity for achievement of goals with minimal expenditure of

39 An illustration (open to criticism for a rather simplistic and reductionist approach) is provided by the vagaries of gaining membership solidarity for trade union strike action: while combined and co-ordinated withdrawal of labour is potentially devastating to the actor losing it, each union member is potentially a weak link whose contribution to effective action is governed by many factors such as his family situation and his personal commitment to the action. The wealthy employer whose assailable power base (and resistance) is well controlled (being under one thumb) will probably be the weaker ultimately despite additions to his power base compared with the possibilities of increased union effectiveness should its leadership gain improved control over its membership (power base). In reality the latter is unlikely to occur as initial strike action (under union leadership) probably reflects better control than will be available in later stages of a prolonged strike because of the vagaries of the human resource utilised as the power base in that a union may be less likely to sustain its support in the power base in a prolonged

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assets. Clearly an actor can make more communications of his preferences to other actors than he has power to support in action. However this communication is still referable to the actor's real power base for only this can give the signals such credibility as may encourage an opposing actor to comply with the former's aspiration.

For one actor to get a message to another involves less cost to his power base than would be the case in actually making the recipient comply with the message. For both it may be more desirable to rely on credible communication based, by reference, on real assets than to indulge in open conflict. Communication is complementary to power<sup>40</sup> and provides power with a far more flexible avenue of effect in being able to transfer the symbols of power (as well as being able to play to the values held by the actors<sup>41</sup>).

40 It might be argued that effective communication is part of an actors power arsenal (at least in his comparative ability to use it) rather than merely an adjunct to power itself. The outcome of such an argument really does little to alter a perspective analysis of group effect in society but goes rather to the purity of semantics.

41 The greater the part played in a societal system by communication in allowing actors to achieve goals the more likely it is that the goals are shared or not in conflict (unless the asset bases of the actors are so disparate as to show clearly that resistance of one by the other would clearly be 'suicidal'). The greater the part played by conflict the less likely it is that goals are shared.

Reiterating the point that power wielded is determined not only <sup>by</sup> the asset base but also by the way it is utilised clearly the skill and capacity of the actors in communications is significant. This stems not just from the fact that successful use of communication<sup>42</sup> to achieve goals conserves the power base but also from the fact that it will not always be easy to predict and assess just how an asset base might be utilised<sup>43</sup> in a power relationship even although the communication might purport to be without reservation. There is a "permanent gap between the symbolic and objective facets of power and [this] allows the actor the opportunity to magnify the impact of his power by skilful communications"<sup>44</sup>. Thus while communication must still be related to the power base to maintain a degree of credibility, the impact of an actor<sup>45</sup> is partly enhanced the greater the skill of the actor in

42 Or even an unsuccessful use of it followed by a withdrawal to reconsider rather than by an escalation to conflict for a decision to communicate may have been on the basis that a goal was not of sufficient importance to warrant the drain on assets overt exercise of power might demand.

43 One of the factors we have already considered as contributing to 'conflict' (f.n. 33).

44 Etzioni, 338.

45 Axiomatically 'impact' will be directly related to 'credibility.'

later fails to back up its promises with action.



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a strategy of communication.

We are able to make some useful statements on the relationship between communication and power:

1. Since communication will often be sufficient to achieve a goal without conflict an actor will not restrict communicated threats and promises to the assets available to him to carry them all out<sup>46</sup>.

2. The impact of an actor's threats and promises<sup>47</sup> will depend on his reputation for realising his assets when called upon to do so on the basis of his communications.

3. Even although in an instance an actor is found not to fulfil his communicated intent he may yet have already produced some results<sup>48</sup> albeit at the later expense of his reputation when he does not 'deliver the goods' (and the concomitant decreasing effective

46 e.g. an international analogy would be the part played by the United States in its various alliances. If it were called to honour all at once it would be most unlikely to be able to do so yet it is still able to benefit from the results of the promises and threats which its alliances imply.

47 Promises and threats represent the rather more cajoling element of communication, making clear to another actor that certain actions will bring certain responses.

48 e.g. stretching the U.S. analogy (f.n. 46) the promises and threats of the U.S. implicit in its alliances may persuade other countries to join the alliance thus strengthening it even although the U.S. later fails to back up its promises with action.

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respect for his reputation other might have will  
lessen the effectiveness of his communications as a means  
of influencing policy and achieving goals).

4. An actor's communicated threats or promises may  
retain some future credibility even if he does not carry  
them out on earlier occasions. This will depend on whether  
or not other actors have even lower credibility, how  
tolerant the system is to lack of 'political solvency'<sup>49</sup>  
and how large the assets remain despite its failure  
to utilise them when called.

5. Referring to the fact that to convert assets to power  
involves taking steps an actor's very steps towards  
realising his assets may act as communication deterring  
another from resisting because he is aware of the  
mobilising process. This is a communication situation  
in which power is more overtly manifest; it represents  
the point at which communication begins to consume assets,<sup>50</sup>  
even although the process might not go so far as to  
actually expend the power potential immediately available.

A study of effective communications shows that they  
rest on continuing relations between groups where the  
assets the subject of the threats and promises are still

49 The least 'tolerant' systems will be those with the  
greater identity with overt conflict and zealous  
pursuit of goals by partisan groups.

by the previous actual exercise of power. When  
gestures are made, the "credit" needs to be replenished  
or their effect is lost, thus, each gesture has  
a cost.

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relevant; while even the relative credibility of actors may be manipulated, the impact gained from it is lost if the final opportunity for action is missed and that instrument is no longer available for future use, not necessarily through the destruction of the power base but because the communication level alone is no longer available as a viable option to the actual utilisation of the power base.

Further, it is inherent in the "power-threat" aspect of a social system that "the more often that threats are not cashed, the lower the credibility tends to be and the higher the gains that may be made by an occasional actual realisation. Thus every use of a threat means that the pressure to actualise is mounting as the stock of credibility is depleted. Consequently effective systems are not those that never actualise threats but those that have to actualise them less often than others."<sup>50</sup>

(3) Resistance and Modes of Power From our consideration of the essential basis of relations in society when actors

50 Etzioni, 341. His summary of this preceding discussion is usefully set out:  
"There are, thus, three different kinds of costs involved in the application of power; of the assets "consumed" as power is generated; of the power itself as it is spent; and of symbolic gestures which, the more often they are used, tends to bring closer the point of actual expenditure.  
51 The last may be viewed as a kind of credit established  
52 by the previous actual exercise of power. When gestures are made, the "credit" needs to be replenished or their effect is lost, thus, each gesture has a cost."

generality of application to actors' likely responses to their options.

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are concerned with "getting things done" we have noted that the influence of power is all-pervasive and that the choice faced by these actors does not allow the rejection of power but rather is as to the degree and kind of power to apply.<sup>51</sup> We must look now, then, to whether the nature of power itself (either through the instruments it makes available or the goals which actors use them to advance) imposes some objective limitations on its utility and therefore on its actual use. What will prevent an actor from using those assets available to him to pursue a societal goal by any means of power to which those assets might be converted, relying on them to persuade other groups to acquiesce or even to overcome their direct resistance? It is an extremely difficult area in which to avoid the subjective (or 'quasi-subjective') reasons behind an actor's failure to attempt to "get things done" for as will be seen any hope for an objective element lies with the actor's attitude to a range of decreasingly viable courses of action open to him, even although the range itself and an actor's probable and realistic response to it may be constituted from an objective study.<sup>52</sup>

51 see f.D. 36.

52 At the risk of appearing to invoke Orwellian "New Speak" it is hoped that we may be able to arrive at a 'subjective' element so close to the 'objective' as to be 'quasi-objective' because of its almost certain generality of application to actors' likely responses to their options.

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As already hinted<sup>53</sup>, it is submitted that as a direct counter balance to an actor's striving to achieve societal goals will be his wish to survive as an actor of influence by maintaining the continuing credibility of his power base to support his aspirations. The fact that power is reflected in triumph over resistance requires that counter-forces are mobilised against the actor. Axiomatically the more power he has to generate, the greater the demand on his power base and the greater the opposing force for the existence of an opposing force calls for power and the strength and form of the opposing force determines <sup>how much of what kind of</sup> power will be required to overcome it. While a primary objective limitation on an actor's exercise of power will be, then the drive to expend the minimum possible of his assets, his actual expenditure will be a function of his commitment to achieving the goal balanced against the resistance to this achievement. The degree and type of power exercised will tend to be that which can overcome resistance at the least possible cost and certainly that which will produce by its exertion the minimum possible resistance. Before analysing this additional factor - the implications of the use of power - we need to look to what provides the essential bond between

53 Although subject to the confines noted in f.n. 38. It seems safe to assume that survival at least will appeal to any actor even although he may not act in the way best to ensure it.

men in society.<sup>54</sup> Parsons, Redfield, Mays, Schmalenbach, Etzioni observes<sup>55</sup> that in the past students of society have pointed to two main bases giving cohesion to social organisation: the first says that "men are related to each other through emotional and natural bonds which form natural associations subject to natural leadership." The relationship stemming from man's 'natural' impulses, however, could not survive the exigencies of the physical realities of its environment. Industrialisation and the resulting necessary division of labour, specialisation and exchange imposed on man a social organisation based on shared interests and interdependence based on self-interest. Since the cohesion was provided by the ingredient of self-interest natural leadership of men was not a significant factor - man was not in constant conflict with his fellows "either because he believed in a value that supported social organisation (including the value of the other) or because it was profitable to be sociable and organised." In a brief survey of the thinking of Weber, De

<sup>54</sup> Up until this point the neutral term 'actor' has been used to describe units in society. The next portion, must be reduced to the level of the individual human participants; the general application of any of the conclusions reached here to the position and actions of groups in society will be validated below when they are again treated as the 'actors'.

<sup>55</sup> Etzioni, 354.

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Tocqueville, Maine, Tonnies, Redfield, Mays, Schmalenbach, Parsons, Plato, Hobbes, Mosca, Pareto and even Marx - the fine points of which serve little purpose for our discussion - Etzioni determined that all tended to downgrade force as an ongoing factor in cohesive social organisation and on this account disagrees with this element of their respective analyses. He concluded rather that the three organisational principles - the normative (where the bond was natural for men), the utilitarian (where the bond was useful to and physically necessary for men) and the coercive were of equal theoretical status<sup>56</sup>

(a) Modes of Power. Up until now we have talked rather abstractedly of power and its role, discovering it in its effect (i.e. that it allows a group to achieve a goal in the face of opposition) thus being rather restricted from viewing its working and its implications in its influence of the various factors involved in achieving this effect.<sup>57</sup>

In converting his assets into power an actor may provide himself with a variety of instruments with which to influence other actors. With them he may punish

56 Etzioni, 356: "There are no a priori or empirical grounds on which to hold that one of these serves as a more general principle of social organisation than the others."

57 See f.n. 36.

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resisting actors, reward those who help, remove those who block or assist those who implement a collectively-set course of action. In substance the instruments differ as physical, material or symbolic and thus there is a threefold classification of the asset/power phenomenon: power is coercive, utilitarian or persuasive<sup>58</sup> and aside from various combinations of these, there are no other possible forms for it.<sup>59</sup>

The link of these three classes of instrument which reassures us that they are aspects of power is that all must enable those who have them to reduce the resistance to the course of action they prefer.<sup>60</sup> Persuasion is the

58 These coinciding with the differing elements of social cohesion.

59 We have already noted that communication (and threats and promises) is directly referable to power potential.

60 At 320 Etzioni argues that power is not necessarily 'coercive' in the sense of eliminating all or most alternatives to the course imposed on the actors who are subjected. More often power takes effect indirectly by altering the situation - it is used to make a course of action less attractive to the subject altering the costs to the subject of making a choice to pursue a course contrary to the wishes of the actor rather than removing the choice. The submission may be a voluntary one in the sense of unwillingness to pay the cost. Etzioni says that in extreme coercion there are only two alternatives and the costs of following one is very high (probably destruction). The choice element remains, however and therefore he says: "... it seems useful to treat the concepts of coercion and non-coercion not as a dichotomy ~~dichotomy~~ but as points on a continuum. Accordingly coercion is used to refer to compliance relations in which there is little or no effective choice. Non-coercive and compliance includes utilitarian and normative relations." (321 - emphasis added). and who



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one most open to misconstruction in this respect. This is because of its direct ties to the normative aspect of relations, the main analytical difficulty being over the apparent subjective element of the scope and limits of persuasive assets. In fact, however, the confusion is avoidable for while persuasive power rests on appeal to the values and sentiments of actors (i.e. on their subjective views) the actual existence and type of values to which actors are committed is in fact objective and discoverable. Thus in fact the asset base relevant to persuasive power is not the 'fuel' itself (i.e. the values held by actors and the intensity with which they hold them which really only determines the quality of the 'fuel') but rather the 'match' to be applied to the fuel i.e. who has an access to manipulate the commitments to which actors hold. The actual power is in the structure, organisation, allocation and application of the means to manipulate these symbols etc. such as to be able to demonstrate that the course the actor wants others to follow is supportive or implementative of the values and symbols to which the others are committed. The strength of their commitment, only limits the usefulness of the asset in power terms. The power to manipulate existing values rests not with all actors in any one instance but only with those who have useful access to them e.g. through the media and who

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can show that their proposed goal is not outside or at odds with the values held. Persuasion is a power where information and influence is not, for its application may be successful in getting actors to suspend preferences which they held earlier even although they may not abandon them as information or influence may lead them to do - the goal may, rather, be held over until the values to which actors are committed are altered or until the sway of those able to manipulate the symbols is undermined. The essence of power remains as indicated in the "latent resistance of the actors who suspended their preferences."<sup>61</sup>

The other two classes of instrument are more easily referable to the power base and the distinction between them can become somewhat blurred. Etzioni cites the assets which may be utilised directly in the utilitarian class as including "economic possessions, technical and administrative capabilities, manpower etc"<sup>62</sup> His explanation is not really self-sustaining.<sup>63</sup> Really he

61 Etzioni, 359.

62 Etzioni, 357.

63 He says at 357-8 "Utilitarian power is generated when these assets are applied or exchanged in such a fashion as to allow the unit which possesses them to bring other units to support its line of action."

65 at p. 358.

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means to hark back to our earlier mention of the nature of society based on shared interests and interdependence where market relations prevail. Utilitarian power must be exercised through manipulation of those of his assets which an actor might see as being needed by another in such a way as to alter that or another actor's course of action: this may be done perhaps by simply denying the opponent access to the assets or by distributing them in another way. The effectiveness of this form of power will depend on the strength of the subjected actor's need for access to the assets, and whether or not they are available from other sources, compared with his commitment to resisting the initiating actor's movement towards his goal.

While those assets which make up a base transferable into utilitarian instruments of power may also be converted to coercive instruments<sup>64</sup> the conversion is necessary before they can be viewed as of coercive potential. Etzioni lists the coercive assets as "weapons, installations and manpower which the military, the police or similar agencies use"<sup>65</sup>. Coercive power is directly related to the employment of violent means rather than

64 e.g. a union may use its manpower as vigilantes rather than relying on manipulating their withdrawal of labour.

65 at p. 358. "structures... [are] ... the typical relations between power-wielders and those who are affected to an continual extent by the kinds of power used and the orientations of the subjects." Etzioni, 364.

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simply referring to more general pressure - "coercive power refers to the use of force and not to other means of enforcement."<sup>66</sup>

(b) Modes of Power and the Implications of their Use

Etzioni goes further in his discussion than we need to follow him - in fact it would be dangerous to follow his theoretical model of society much further for while we are concerned with the continuing relations between groups and the ways in which each will seek to achieve its goals, his framework goes on and considers continuing structures of compliance<sup>67</sup> which I see as being a concern with a pattern of relationships between a continually identifiable power-wielder and a continually identifiable subject rather than the more piece-meal arrangement manifest in our framework of competing groups where in specific interchanges there may or may not be compliance. However some of the general statements he is able to make are extremely important for our purposes.

The three fold classification of societal bonds and the three aspects of power which relate to them require further comment for while of the latter each is clearly

66 Etzioni, 358.

67 "compliance structures...[are] ... the typical pattern of relations between power-wielders and their subjects; these are affected to a continual extent by the kinds of power used and the orientations of the subjects." Etzioni, 364.

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(and definitionally) effective in reducing resistance to an actor's preferred course of action, the choice of which to use in a situation (assuming all are available to the actor) is far more complex than simply 'selecting a weapon from the rack'. Each type of power has its special implications in use to the actor<sup>68</sup>, the subject, the goal and the societal context in which the relationship occurs.

The special implications are most clearly linked with the 'resistance' which each generates in the opposing actor. The important issue here is not only the tactical wish to generate the minimum possible resistance in the subject and still achieve the goal (thus preserving the asset base at its maximum possible level) but also rests in more 'qualitative'<sup>69</sup> matters. The choice is made in the context of the 'active society' and much will depend on whether or not the exercise of power has an effect undermining its bases -

68 This is a consideration aside from that of simply how large a drain on assets is involved.

69 "It is not only that the ethical status of power varies with different goals, if the perspective of the subject is substituted for that of a power wielder, and when wrong is imposed rather than corrected, but also that the kind of power that is used makes a difference" Etzioni 350. He argues again that the choice is not as an ethical matter one of whether or not to use power for the actors have already made that basic ethical choice.

71 Etzioni, 350.

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may drain an actor's resources somewhat but creates a  
those essentials which make it 'master of itself' for  
future interaction also.<sup>70</sup>

The merits of the exercise of power are comparable  
only as between the varying kinds used, in terms of the  
resistance which they generate in their use. It is  
not realistic to compare these with an ideal situation  
where resistance is absent because the relationship  
is not one of power but of concensus, arrived at freely  
and reflecting only the will of the parties, regarding  
the goals which are to be pursued and the method of doing  
so. Perhaps the closest manifestation of such 'powerless'  
relationships is that where influence is exercised for to  
successfully exercise influence means that given the  
same situation, the actor who has altered his preference,  
"would not choose the same course of action he favoured  
before influence was exercised"<sup>71</sup>. To exercise influence

70 Etzioni asks whether it will undermine the bases  
of 'authentic commitment, participation and  
legitimation' ('legitimation' means giving the  
actor 'authority' to exercise power - this is when  
the "power ... is used in accord with the subjects'  
values and under conditions he views as proper" 360.  
This does not mean that the course of action followed  
in the face of 'authority' is that supported and  
desired by the subject.) (350). He says that the  
active society is one responsive to its members (617)  
and authenticity exists where responsiveness is  
experienced as such - authenticity requires that the  
actor be conscious, committed and hold a share of the  
societal power and that these three necessities must  
be balanced (620). As far as is necessary for my  
thesis the concept will be expanded upon in the text  
above.

71 Etzioni, 360.

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may drain an actor's resources somewhat but creates a barest minimum of resistance (a term which becomes inappropriate in the context - the reference is really to any turmoil the subject might suffer before establishing his preference in his own mind). Influence may still gain for an actor what he wants but differs from power in that it does much the same for the subject. While superficially similar to an exercise of persuasive power influence is definitely distinguishable: "The difference between persuasion and influence is analagous to the difference between propaganda and education."<sup>72</sup>

The concept of resistance is of little use to us as an analytical tool when used to describe the creation of cross-currents of reaction in a party subject to power. The term 'alienation' is a far more accurately inclusive one to describe these reactions and requires further discussion before we return to its relationship with the various instruments by which power might be exercised. In initiating the discussion, Etzioni uses the more imprecise term 'distortion' and it is really with this effect that we should be primarily concerned for while a distorting effect of the application of power is useful to our search for the limitations of power other than by the choice of the wielders, the reasons

72 Etzioni, 360.

for the distortion are perhaps less useful and also more open to dispute. Distortion and its revelation of inherent deficiencies in the instruments of power is likely to be more easily viewed than the root cause of it.

Etzioni describes 'alienation' and its effects usefully but brings us close to a subjective area in his view as to its undesirability. In short, alienation is founded in "The unresponsiveness of the world to the actor, which subjects him to forces he neither understands nor guides"<sup>73</sup> It is not a term restricted to the actor's psychological view of his position but has a structural base - so long as he is unable to participate authentically<sup>74</sup> in the processes that shape his social being he is alienated. The bases of alienation are then in<sup>the</sup> societal and political structure in which the actor has his place, not in the actor himself. Alienation is not simply a condition - it has an effect; it affects the subject because society is unresponsive to his needs and the 'oppressor' because it "creates a distorted social world which ... [he] ... cannot elude."<sup>75</sup> Our concern is with

73 Etzioni, 618

74 'Authentic' participation is elucidated in f.n. 70.

75 Etzioni, 619.



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the generalised effect which results from alienation<sup>76</sup> due to the exercise of power; that effect which results in 'distortion'. The greater the distortion the greater the drain on the actor's resources to achieve his goal and the less efficient (and more generally damaging) the instrument used to achieve it. In effect, alienation drains assets.

The kind of power used is directly referable to the level of 'alienation' generated. The three organisational principles and the three related classifications of power are really manifestations of two continua: one is of the kinds of power generated and able to be utilised<sup>77</sup> for the actor with assets able to produce all three is not restricted to just those three but has available to him also combinations of them

:the other is of the likely effects of the type of power utilised for as society draws its cohesion from coercive, utilitarian or normative bonds these will be only significant points on the continuum and the level of

76 Etzioni would argue that alienation should be minimised as intrinsically bad as well as because to create it is to generate resistance and a drain on one's own assets. Our concern here is to avoid the intrinsic factor and consider, rather, how to minimise resistance and also how distortion affects the quality of the instrument used in pursuing a societal goal.

77 See f.n. 60.

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alienation in society will be dependant on the relative weights of each of these elements in the organisation.

A particularly organised society will in itself reflect the mixes of these elements found in it.<sup>78</sup>

Thus society is to be found in various gradations of the following as the mix of these elements alters:

"Where force prevails [i.e. where power in its coercive form is prevalent as the basis for social organisation] a terror regime is likely to prevail, with its concomitant factors - fear, hate, and a sharp differentiation between those in power and those subject to it. Where exchange is the prevailing mode of gaining one's way, where each person is a means to the other ... market relations prevail [i.e. utilitarian shared interest and interdependence] ... where appeals to values, concensus, education and debate are prevalent, members are more committed to each other and to the shared societal goals [i.e. normative organisation - persuasion is likely the prevalent ~~norm~~ force]"<sup>79</sup>

78 There is a danger again of assuming that this analysis is directly transferable to our use for it is geared rather to forms of organisation in society and its characteristics than to the characteristics of one particular case of interaction between groups (see circa. f.n. 67). However this more general picture does reveal the nature of the reaction to and the effects of a particular power relationship between groups.

79 Etzioni, 356-7.

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In choosing whether or not to pursue a goal and by what means an actor deciding to apply power will, then have a choice among various kinds of power differing in their alienating effects. Clearly the least alienating relationship is that in which power is not exercised at all<sup>79</sup> - that where any social change brought about by group interaction is through influence. It is a short step from influence to the point of persuasion in a power relationship. The hypothesis<sup>80</sup> is, then, that normative controls incur the least costs (in terms of alienation and resistance generated) and persuasion is itself the least costly to the actor.

In its effect when force is used those subject to it tend to become highly alienated<sup>81</sup> and those who are highly alienated can hardly be controlled except by force. At this level force begets and determines the strength of the reaction to it and could come to involve a type of self-perpetuating force relationship. On the other hand those who are guided by normative means are those highly

79 In fact Etzioni suggests that this may be a little more alienating than some more intensive social controls. The picture is probably like a graph showing the density of water as it is cooled to freezing point, the lowest point on the graph occurring slightly before freezing.

80 Etzioni, 370.

81 Etzioni, 364.

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committed and reliance on normative guidance builds up commitment.<sup>82</sup>

What, then, is the dilemma facing the 'actor' in society? We have noted that if actors in one society are wont to use power more often and in its more coercive forms than actors in another then the objective result must be that those subject to power in each will in fact have differing psychic and physical reactions to their treatment. Fortunately, while actors largely influenced by their personalities may in fact tend to exercise power in varying degrees and forms for many reasons ranging from their personal satisfaction at its exercise to the achievement of societal goals, larger unit actors (like groups in society) will tend to reduce the personality aspect (and personal satisfaction gained in pursuit of some purely psychological need) and rather rationalise power in its degree and form in terms of its relative effectiveness in their goal oriented framework.

It would be fatuous to argue that the only use to which power will be put in society is that which is most 'efficient' in achieving goals; this simply belies

<sup>82</sup> Etzioni, 364 "... or, at worst ... [generates] ... comparatively mild alienation".

may triumph the actual effect of his action may well have been wider than that sought. This 'penumbral'

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reality. However by observing those conditions under which an actor makes his decision how to act and in pursuit of what goal and given our awareness of the distorting effect of power in society on those subjected to it (as reflected in their alienation and resistance) we are moving towards establishing a narrowing range of valid options available to an actor on the continuum of power instruments.

Before attempting to draw these threads together we must further consider the implication involved in the important relationship between means and ends. The very end pursued may demand that only a particular form of power be utilised in its pursuit for otherwise the aspiring actor may well find that the end he 'achieves' through action is a mere distortion of that which he set out towards. This stems partly from the fact that the application of power affects aspects of society other than those for which it was mobilised - while these effects may not be the goal pursued they are inescapably part of the goal achieved. As we have already observed there is much uncertainty in the predictability of outcome should two actors misjudge their relative capacities and openly pursue conflicting goals. In these cases overt conflict between the groups occurs and while one may triumph the actual effect of his action may well have been wider than that sought. This 'penumbral'

effect of power seems directly related to the concept of distortion and the frequent unpredictability of outcome makes power a double-edged sword. An awareness of this fact may well reduce an actor's propensity to take chances where outcome is unpredictable; however it is most likely that the peripheral effects of power are taken into account before action even although these may in fact distort the goal actually achieved.

An image of the extreme case in this context is provided by Popper in his treatise on 'piecemeal' versus 'utopian' engineering.<sup>83</sup> He argues in support of pursuing small goals at a time - we learn from our mistakes therefore they should be as small as possible. Accordingly the piecemeal engineer "will make his way, step by step, carefully comparing the results expected with the results achieved, and always on the look-out for the unavoidable unwanted consequences of any reform; and he will avoid undertaking reforms of a complexity and scope which make it impossible for him to disentangle causes and effects, and to know what he is really doing."<sup>84</sup> In effect this approach has the added advantage of being private in character. It should create the minimum interference

83 K. Popper, The Poverty of Historicism (1960) 64 - 70.

84 ibid, 67

85 ibid, 68.

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with others, something to which utopian planning is quite contrary with its course of aiming to remodel the whole of society in accordance with a definite plan or blueprint (No room for 'small' mistakes there!) Popper argues that in practice the utopian method "turns out to be impossible; the greater the ... [utopian] ... changes attempted, the greater are their unintended and largely unexpected repercussions"<sup>85</sup> The necessary repair work continually leads the utopian planner to do things he did not intend to do.

One should not attempt to draw too precise an analogy from Popper to the exercise of power. It does elucidate, however, the dangers inherent in the use of power in terms of its unpredictability and consequent effect on goals in fact 'achieved' and indicates that the risk is perhaps heightened the greater the resistance to the goal for the more unprecise the weapons of power become and the wider the repercussions of their use the less efficient power becomes in achieving precisely stated goals. Thus even while any use of power will have distorting effects, the commitment of the actor to his goal may be comparatively high and the distortion expected by the power used comparatively low; Etzioni predicts that in such a case "most actors most of the time prefer this combination to neglecting their normative goal - commitments and not resorting to power"

85 *ibid*, 68.

at all"<sup>86</sup> The key to the unexpected outcome is planted at the beginning!

A Conclusion

If this far from perfect treatment of power in society has shown us nothing else it has revealed at least how complex are the issues involved in determining how an actor arrived at policy decisions in the field of balancing the choice of goals and the deployment of the means to pursue them. Hopefully we have done more for it is apparent from this discussion that there is not a gap just between the legal prosc<sup>ri</sup>ptions on societal action and the possible actions an actor could take but also there is a gap between the possible and the probable actions taken the latter certainly being closer to the legal prosc<sup>ri</sup>ptions than are the former.

However, inescapably, we are still dealing with tendencies which rest ultimately on the subjective choice of the actor even if the effect of his exercise is his own destruction. In making clearer the probable limits actors will place on their own exercise of power we must make several assumptions none of which is directly assailable - for a societal unit to be described usefully as an 'actor' there must rest with him some capacity to mobilise power; the actor will wish to continue to survive physically; the

86 Etzioni, 351.



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actor will have positive aspirations to achieve goals (even if they be the preservation of the status quo) and these goals will frequently conflict with and be 'achievable' only at the expense of the interests of other actors; the actor will wish to retain so far as possible a future capacity to achieve the goals of its aspiration.

An actor will exercise his options within two main guidelines (other than his physical capacity) - there will be a certain range of instruments of force available to him and the degree of resistance which he will encounter will depend in part on the type of instrument chosen. This must be measured against the action necessary to the task and the final decision to act must take into account its repercussions both in terms of the likelihood of success (and the cost of failure or success to the actor) and the repercussions of the action in its societal context. The weight given to these factors will be dependant upon the actor's commitment to normative assessments - the exercise of power per se is not one of these for that is a necessary consequence of his position as an actor in society. The choice is rather one as to the type of power to be exercised and (aside from any subjective commitment to refrain from exercising particular types of power) the action chosen will probably be a reflection of the actor's assessment of the 'best' move in the circumstances. Given the dual elements - an actors wish

to achieve goals even in the face of resistance and an actor's likely wish to retain a future capacity to similarly act - the actor will probably choose to realise his goals with the maximum possible preservation of his power potential. This will mean that he must choose the course of action most likely to succeed with the least possible alienation of those subject to its effects.

In the final analysis of the theoretical position of the actor in society however, it must be noted that the necessary starting point for any action is the normative disposition of the actor. It is the strength and nature of this essentially subjective commitment which will determine how the actor will respond to the variable of action and goals available to him. The realities of power provide little other protection from 'Catch - 22'.

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To the sociologist the realities of power will produce few surprises but the lawyer may be a little unsettled for his interest will be in how the power relationships of society have been translated into law or at least in whether or not the law has been successful in institutionalising and ameliorating the harshness of these conflicts of interest in society. The remainder of this paper related particularly to the case of trade unions as active groups in society at large will attempt to provide him with some

explanations.

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SOCIAL GROUPS AND THE STATE

It is important first to consider the relationship between the state and the group actors in political society. As already noted the state has the monopoly on ultimate coercive power so it is largely a question of the policies of the government controlling the instruments of the state which determines the intensity with which the societal groups might interact. A 'correct' analysis of the part to be played by the state and government in society has been a controversial issue for some time, theorists being preoccupied with the reason for the coercive force of the state and how to delimit the respective spheres of authority of the state and the groups. J.N. Figgis<sup>87</sup> attempted to steer a course between the origins of the groups (in particular the 'supernatural' origins of the Church) and the need to recognise that no one of them represented all men and that it was therefore as social entities rather than as independent entities with more important links with their members by virtue of their coalescence than with the state, that they must confront

87 J.N. Figgis, Churches and the Modern State, (1914 London 2nd Ed.)

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the state. He spoke of the state as "an ascending hierarchy of groups"<sup>88</sup> and argued<sup>89</sup> that "Between all these groups there will be relations, and not merely between the individuals composing them. To prevent injustice between them and to secure their rights a strong power above them is needed. It is largely to regulate such groups and to ensure that they do not outstep the bounds of justice that the coercive force of the state exists"

By the 1920s theorists again looked at groups, not seeking to justify the inevitability of group subjection to the state and dual membership (i.e. individuals had allegiance to their groups - in particular the church - and to the civil authority of the state) but rather seeing them as an idealist's answer to the threats inherent in the monistic view of the state - the view influenced largely by Hegel<sup>90</sup> who saw that man achieved full realisation only in his allegiance to and membership of the state. The new theorists argued that "to assume that freedom and equality

88 *ibid*, 250.

89 *ibid*, 89-90.

90 G.W.F. Hegel, Philosophy of Right, Philosophy of History - the monistic approach as a trend referred to Hegel rather than being derived from him for the arguments against monism bear little relationship with the aspirations Hegel had for man.

...of law with fixed content... of social control which... simply urges that the research of reason must reach conclusions which are valid so long as the conditions they presume obtain. Such a generalisation must be the basis of all political action..." intro. to L. Duguit, Law in the Modern State,

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consist in unlimited competition is simply a travesty of the facts ... we come once more to the age of collective endeavour"<sup>91</sup>. The history of the time pointed out the dangers of this approach for in the case of Fascist Italy the post-war depression and the existence of conservative unions combined to show how easily the corporate state could develop for as one writer pointed out a drive to coordinate the groups in fact leads to a strong state<sup>92</sup>. In fact the supporters of the new pluralistic theory of the state were faced with trying to resolve two divergent premises - that men in fact often obeyed their groups rather than the State (the groups being primarily the Church and Trade Unions) and that men were more likely to achieve self-realisation<sup>93</sup> in their 'natural' social groups than simply as subjects of the State.

Essentially the failure in this 'ideal' was the impossibility of conducting a theory of the non-sovereign

91 H.J. Laski, The Foundations of Sovereignty (1921), 290-1.

92 G.D.H. Cole, Guild Socialism Re-Stated (1920), 122-3.

93 Laski was motivated by the wish to find a substitute for the natural law theories which had declined. He saw the artificiality of the doctrine of state sovereignty as having evolved to replace these and sought a replacement with more 'natural' consequences. Rather than presenting a new natural law with fixed content he argued for a form of social control which "...does not lay down any eternal or immitable laws of human conduct ...[but]... simply urges that the research of reason cannot help reaching conclusions which are valid so long as the conditions they presume obtain. Such a generalisation must be the basis of all political action..." intro. to L. Dugiut, Law in the Modern State,

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state for the idea of men freely associating in groups provided no more guarantees of their liberty than did subjection to the authority of the state. Freely associating groups have their problems if there is no higher protection for them for all will be seeking to advance their goals in various ways, usually at the expense, at least in part of others. The necessary political alternative of giving to the state a co-ordinating role to avoid infringements of group rights by others immediately sowed the seeds for undermining the group system for the need to reconcile two areas of sovereignty must needs results in a heirarchy again.

Political pluralism as an ideal form of social control (instead of state sovereignty) is again eclipsed. The issue in reality now is not which element should have sovereignty but rather how much freedom do the groups have to conduct their interaction governed only by the physical limitations of their relative strengths given that the state is the only sovereign 'grouping'.

L.C. Webb<sup>94</sup> sees the problem of group - state relations as arising in an age 'predominantly associative in character'<sup>95</sup>. He says "The growth in power of industrial corporations

94 L.C. Webb, Legal Personality and Political Pluralism (1958) - 'Pluralism and After', 179.

95 A phrase coined by Laski (The Foundations of Sovereignty, 289).

and trade unions, the waning of popular belief in the possibility of a self-regulating economic system, and the vogue of socialist theories presaged the development of a political and economic order in which social groups would play a much more important part than they had in the previous century" and he notes that this in fact has been the case: "From the mid-1930s onwards... the progressive breakdown of the laissez-faire system and the corresponding growth of interventionism and economic planning have meant that in almost all western countries political and economic organisation has been characterised by a kind of pragmatic pluralism"<sup>96</sup>

While it has been conceded by pluralists that the state is sovereign there has been some confusion about the sphere of the 'State' and the sphere of "Society" for while the state has a monopoly on coercive power ultimately<sup>97</sup> the use to which this power is put is a matter of policy. Modern intra-societal group development has occurred primarily in the area of utilitarian relationships and any

96 op. cit., 180

97 If the entity under scrutiny was found not to have the capacity to settle any conflict occurring in the society in which it is 'paramount' then presumably it would not be the state.

in fact one of control at its most sophisticated level - roughly commensurate with the application of persuasive power. Its basis however will still be no different from

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conflict between interdependent group may be of concern to all of the individuals in the society and therefore of the State. While there will continually be arguments as to the best role the State should play in governing and limiting the allowable conflict between groups the debate is settled at any one time by the fact that the persuasions and policy of the Government determine the precise nature of the relationship at that time. The extent of the freedom and the principles governing it will be found in the law by which the Government controlling the State regulates the administration of its coercive power to its subjects.

#### THE LAW AND TRADE UNION POWER

While the content of the law may be tailored to suit the interests of as many of the groups subject to its guidelines as possible the fact that it might need to be enforced indicates that it may not at all times suit all people some of whom will be transgressors. If the subjects of the law acquiesce to its strictures then enforcement presents few problems and a general lack of challenge to its content may indicate that the power relationship between the enforcer and the subject is in fact one of control at its most sophisticated level - roughly commensurate with the application of persuasive power. Its basis however will still be no different from



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cruder forms of power control.

However given that the content of law is a reflection of the policies of its creators and that ultimately its creators are the Government the main problem faced with an existing set of legal rules is with their enforcement. Law is only a means of settling certain kinds of disputes and there are limits within which it operates. To say that power is the ability to produce a desired result is not sufficient, for power, like freedom, does not exist in a vacuum but can only be exerted at certain times in certain ways. So it is with law, itself an aspect of power. Radical lawyers have argued that a legal/judicial system "arises and flourishes when, where and to the extent that class interests cannot be reconciled"<sup>98</sup>. While it is not useful nor necessary to our purpose to equate 'group' and 'class' interests<sup>99</sup> the approach is useful in elucidating the dilemma of law: given its place in society law is found to be not a combination of immutable and unassailable truths which by their very incorporation in the

98 K. Cloke, Law and the Radical Lawyer (a paper prepared for the U.S. Radicals in the Professions conference, June 1967. Reported in The Movement Toward a New America (1971), 722)

99 Cloke's thesis was that law was simply another weapon by which class interests maintained their interests and ensured their continuing dominance. His theory is close to the 'iron law of oligarchy' of G. Mosca, The Ruling Class (1939). Our thesis concerns the mechanics and conflict elements of the legal framework and of law in the social framework.

law command and inevitably bring compliance - rather compliance can be assured (or, at least realistically expected) only when its content coincides with the aspirations of the groups with the strength to challenge it or when its enforcement can be guaranteed in the face of opposition. As a means of resolving conflict between determined opponents, the law is of decreasing effectiveness as the commitment and-capacity of its subjects increase. At this point the power of the Government to enforce is the only guarantee for the conflict becomes independent of the values incorporated in the law itself and falls squarely into the matrix of power in society.

To be sure by definition the state can settle any of the challenges with which it is faced but the decision to act to quell a challenge is not qualitatively different from the decision of any single actor in society to act in the face of opposition, the factors to be taken into account being essentially the same although being phrased differently. The state might justify its action in the name of the 'public interest' but so might any other of the actors even although as a group their interest will be primarily in the welfare and aspirations of its members. While hopefully the two may coincide there is no reason why they will, the essential conflict rather belying the possibility, for 'public interest' in itself is a phrase geared essentially to giving subjective policy

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decisions an air of widely acceptable 'neutrality'. The key to the discovery of any objectivity in group/group/state conflict probably lies in the modern utilitarian/'market' aspect of relationships with its emphasis on interdependence and shared interests but rather frustratingly, to those who would wish to find certainty, this tends more to provide probabilities of limits on action rather than certainties.

It is in the utilitarian aspect of relationships that trade unions have their particularised power potential, that of a degree of control on the supply of labour and as a concomitant degree of control on its withdrawal as a tactic for achieving goals. It is in this area that the law has attempted to provide normative controls and assurances as to the limits of action unions might take in pursuit of their goals. There are of course aspects of law which in vacuo will be potentially applicable to subjects of the state regardless of their 'status', ranging from the persuasive aspects of law appealing directly to the actor's recognition of his interest in obeying, to the overt application of coercive power in the degree necessary to ensure compliance should the cost of failure to gain it be seen as higher than that necessary to bring about obedience. It is however with aspects of the ability of trade unions to reinforce their aspirations with utility oriented power that the generally operative

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law has been primarily concerned in New Zealand.

It is not my intention, nor the function of this paper, to deal with the substantive content of the law relating to trade unions in New Zealand nor with the sanctions resulting from their breach for the purpose of this paper has been to reveal the nature of the dilemma of the gap between legal proscriptions of trade union action and the limits which the trade unions set for themselves. The necessary study is essentially one of policy-making as seen in the light of the role of power in societal relationships between groups. There is little point in repeating in detail what other works by more capable writers in fact already provide on the detailed law in New Zealand for the dilemma is one faced in all societies to varying degrees. It will therefore be more valuable to consider a particular case of direct political action by unions and by this course attempt to draw some generally valid conclusions as to the perspective in which many factors, including the law, are taken into account by the actors.

"The Bomb in our Backyard"<sup>100</sup> - Study in Union Militancy.

Political strikes are "... concerted work stoppages which

100 This rather vulgar phrase was used by the Dominion to draw attention to its daily reports on the action and its results.

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are not concerned with making ordinary demands on employers for the changing or sustaining of conditions of employment, but are essentially concerned with making demands on governmental authorities for altering or redirecting policy in the political or industrial sphere. They may be characterised by their lack of any obvious industrial demands, while seeking to change or affect political events, or they may have industrial demands which can only be met by the Government's alteration of an aspect of the political system"<sup>101</sup>. These differ from 'industrial' strikes because they differ in tactics and aims; the economic pressure applied is not aimed at the employer but rather at the government by inconveniencing it by inconveniencing a section of the community,<sup>102</sup>. Given the "ever-tightening and interlocking interdependence of

101 S. Silverman, "Australian Political Strikes", 30

102 Para. 361 of the Royal Commission on Trade Unions and Employers' Associations 1965-68 U.K. shows that there are other less severe forms of direct action available to trade unions and that the choice of which to take depends on many factors: "Trade unions enable the collective strength of workers to be brought to bear in a systematic way. Striking is the most dramatic form of collective action ... but ... there are other forms of industrial action which underful employment can be as effective or almost as effective as the strike. They include the work-to-rule; the go-slow; the banning of overtime; and the 'blacking' of goods."

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industry and the state"<sup>103</sup> the Government is faced with having to resolve a situation which while having an adverse impact on the community and damaging both groups in conflict, cannot be resolved between the two groups but only by direct Government intervention or by its acquiescing to or reaching a compromise on the political demands made of it. Hopefully our brief study will indicate some of the ways in which all of these elements interact in the event of direct action taken by trade unions for political ends.

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Rule 4a of the New Zealand Federation of Labour lays down three conditions of membership the third of which is that "members must accept and abide by the majority decisions of the Annual Conference and other duly constituted bodies of the Federation."

The 1972 Federation of Labour's Conference passed a resolution on May 8th calling on "... all members of all affiliated unions to refrain from providing any services to French shipping or aircraft for the duration of the ... [proposed French] ... nuclear tests, in accordance with the policy of the Federation and its opposition to

103 W. Paynter, "Trade Unions and Government" Pol. Q 41: 444-54, 444. In brief he argues that with the development alluded to in the phrase above and the decline in effect of a Parliamentary Opposition, trade unions have a role based on the sanctions available to them to act as a powerful force for social change - they must, in place of the opposition, confront Government on all issues.

105 Other newspapers will be referred to only if their

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nuclear testing."<sup>104</sup> French tests are unpopular/suggests

To gain a true picture of the results of this resolution in practice it is necessary to embark first on a rather lengthy narrative, in note form, of the interchanges which occurred during the period of its effect as reported in the newspapers of the day.

25/5/72: Dominion<sup>105</sup> recalls F.O.L. resolution and predicts stoppages of shipping/French advise tests to be held 1/6/72 - 30/6/72/ U.S.S. Co decides to miss calls at Tahiti and Noumea/watersiders announce refusal to handle French ships and cargoes for duration of tests/Aircraft workers already announced refusal to service U.T.A. - French Airlines' Planes - in fact refuelling in Auckland unnecessary.

27/5/72: Dominion editorial notes problem of piecemeal protests/F.O.L. ban described as harmful only to New Zealanders/F.O.L. criticised for encouraging newly-formed Seamen's Union to refuse to work ships (one of the conditions of its formation that it should not impede the free flow of trade)/suggests better to restrict ~~1~~ban to French ships

104 As restated in the Evening Post 31/5/72. The Dominion of that morning reported (p.2) that such boycotts by New Zealand workers over international issues were not new and gave examples cited by Mr T.M. Hill, chairman of the Wellington Trades Council of similar boycotts which had been conducted in the past with varying degrees of success: In 1937 New Zealand and Australia waterfront workers refused to load scrap iron for Japan. In 1936 a boycott was placed on Italian goods and a boycott of wool for Spain.

105 Other newspapers will be referred to only if their information supplements this newspaper.

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and aircraft to show French tests are unpopular/suggests ban "cannot compare for effectiveness with strong action by Government".

:Minister of Labour Thompson criticises ban as politically based/no prospect of achieving anything but damage to N.Z. trade/'other countries' will take trade over/questions legality and asks for report on legal remedies for parties detrimentally affected from Labour Dept.

:Waipa Mill and Lockwood Homes of Rotorua predict damage to substantial markets if ban proceeds.

30/5/72: Dominion, 1. French Official quoted as denying tests dangerous and saying if N.Z. refused to trade France might reconsider matters affecting N.Z. and E.E.C./F.O.L. + Secretary Knox says this blackmail will not silence opposition/suggests substantial loan secured by N.Z. from France attempt to 'buy off' protest/if tests not dangerous why not held in France? - well aware of effects ban could have but necessary because "the N.Z. Govt. had not shown any willingness to take constructive action" in opposing tests/"We believe we have the right to protect the people we represent."

President of N.Z. Bureau of Importers and Exporters criticises plans for ban/say F.O.L. "not the elected Government of New Zealand"/predicts ban will cost N.Z. \$10 million/ says ban will hurt only N.Z./ asks Minister



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of Trade Talboys to use influence to lift it. Two French-owned cargo vessels withdrawn from N.Z.-Pacific Islands service because of proposed ban.

Labour M.P. Walding criticises Government for years of token opposition to French testing/links it with French loan to N.Z./if tests no danger why not held in France?/some reservations on F.O.L. ban saying whole country should bear costs rather than one sector/says Govt should take more action - should raise subject at U.N. Conference on The Human Environment in Stockholm (to be held in June) suggests case could go to International Court of Justice.

:Evening Post Prime Minister asks F.O.L. representatives to meet him to talk that afternoon (P.M. has already heard from Thompson on legality of ban)/assures France ban is by unions not Government of N.Z.

31/5/72: Dominion As result of meeting P.M., F.O.L. Exec, to reconsider ban/P.M. says meeting with F.O.L. amicable - he said would only hurt N.Z. and asked them to try to reform their protests "in such a way as to ensure that New Zealand traders and workers were not hurt in the process"/Predictions F.O.L. Exec. would- not withdraw ban because of unity of decision at Conference but might tone down if Govt took sterner action on tests/More manufacturers see ban as threat to Pacific trade and imperilling jobs in N.Z. - claim that all oppose tests but not sympathetic to F.O.L. approach.

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Evening Post F.O.L. Exec. unanimous in decision to stand firm on ban/criticises Government stand on tests/ says ban already influencing others - Australian Council of Trade Unions has called for similar ban by its members ("The Australian Trade Union movement is following a similar humanitarian course to that adopted by the Affiliates of the F.O.L.")/Auckland Clerical Workers Union refuses to provide services for French airline U.T.A./ Carpenters and Related Trades Union sends request to large French Union for support.

Editorial Balances argument that nation's health in paramount with 'economic fact of life'/alludes to ban endangering E.E.C. position/ are tests dangerous enough to health here to warrant F.O.L. actions? "New Zealanders will need to be convinced that the F.O.L.'s direct action in this instance is motivated by a genuine and substantiated concern and not as a means of further embarrassing the Government".

1/6/72 Dominion Ban begins after final efforts by Government to persuade F.O.L. to abandon it. Deputy Prime Minister Muldoon says possibility of Army or other Services being called in ruled out. Had no comment to make on possible legal action against watersiders for refusing to work shipping. Mr Knox Secretary of F.O.L. reports that no threats were made at the meeting. Muldoon recounts

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arguments used by Government: all loss through ban would fall on New Zealand and future invaluable trade with French Territories would be lost : Though the resolution was passed by F.O.L. Conference did not believe individual unionists would think they should carry burden and possible claims made by Crown : members of Seamen's Union would lose jobs if trade with French Territories diminished (Mr W.T. Martin president of Seamen's Union said as good- trade unionists they would continue with their action).

General Manager of New Zealand Apple and Pear Marketing Board predicts loss of \$600,000.00 in overseas exchange if ban enforced.

"Evening Post. Headline "Massive Economic Impact Feared For New Zealand"/3000 tons of cargo already accumulated in Auckland/French seeking alternative sources of supply for French Territories/ more cargo for France itself will accumulate/predicts 12 ships to be affected in immediate future/General Manager of U.T.A. says ban will not influence his Govt - only harm N.Z. tourist industry and 60 tons per week of exports - jeopardise jobs of 21 New Zealanders employed by U.T.A./Air New Zealand advises U.T.A. that it cannot meet its contractual obligations - therefore U.T.A. will be denied freedom to use its legally granted traffic rights and U.T.A. predicts Air New Zealand will gain in these routes - predicts retaliatory

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measures against Air N.Z. in New Caledonia and Tahiti.

Headline "Government Orders Legal Probe of F.O.L's work ban"/Muldoon says Crown Law Office has been asked to say what remedies could be taken and possible claims made by Crown and by third parties with interests damaged in the ban/also opinion on what amendments might be needed to legislation for future similar situations if present law inadequate/offers to fly F.O.L. to Stockholm Conference to make direct protests instead of ban - may even fly them back/also offers that Govt will pay for an advertisement in a leading french newspaper every day for a year to let F.O.L. express feeling as alternative to ban.

Knox "If the deputy Prime Minister thinks he can use this threat of legal retribution on the Trade Union movement then he is not going to be successful"/mentions confidential suggestion made by Muldoon (not one of the above) - matter still confidential.

Editorial Emphasises only New Zealand will lose in the ban/minimises likely fall out from tests/hints at economic reprisals from France/hints that Govt and F.O.L. at impasse (makes no value judgment) and that only Mr Kirk, Leader of the Opposition can restore reason to the situation by dissuading the F.O.L.

2/6/72 Dominion Knox elaborates statement on 'legal

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retribution' - we had already taken it into account - Mr Muldoon "should have known that the rights of the New Zealand people could not be suppressed by any legal measures"./says many telegrams and messages of support from non-unionists/put blame for ban on Govt. - "Had the Government taken some firm and decisive protest measures we would not have had to impose our ban" Alex Harvey Industries could lose \$250,000 in month, \$500,000 in year. Muldoon says Crown Law Office says Govt unable to take successful legal action "at this time" against F.O.L. but private parties who suffered loss could.

Evening Post Driver's Union ban on rubbish service at French ambassador's home. Knox sets out conditions to be met for F.O.L. to consider lifting ban - that French Govt should postpone testing until after Stockholm Conference, N.Z. Govt should undertake to call a meeting of Pacific Nations and French Govt to discuss testing/Telegram of support for ban from International Metal Workers Federation (20 million members!)/support from District trades councils, St John's Theological College, N.Z.U.S.A.  
3/6/72 Dominion Muldoon agrees to F.O.L. conditions so far as N.Z. Govt can achieve them - will ask Pacific nations if would attend a conference says decision in response to request of F.O.L. Minister of Foreign Affairs Holyoake said Govt had initiated consultations with Pacific Govts on best steps to be taken at Stockholm

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Conference. Govt says F.O.L. should now lift ban.

U.T.A. threat of reciprocal ban on Air N.Z. not taken seriously/indication of many world organisations supporting F.O.L. stand. Editorial - sees F.O.L. as having advantage over Govt because 'tougher line allows it to make emotive capital out of its professed defence of "humanity" and that while Govt has honourable record many think it should take stronger steps. Suggests both parties have chance to get off hook - F.O.L. proposals not impossible to Govt. Hints at lack of control of F.O.L. over affiliates and reiterates "The F.O.L. is not the Government..."

Evening Post Knox says Govts move to ask French to stop testing not enough - ban will continue until French postpone tests until after Stockholm Conference/F.O.L. pleased with Govt moves to call Pacific Conference/next F.O.L. Exec. meeting 3 days away - nothing changes before that.

Muldoon Govt has complied with F.O.L. request and expects F.O.L. to carry out its side of bargain. Suggests F.O.L. is adding further conditions.

Editorial welcomes new flexibility of F.O.L. stand/suggests that realisation that N.Z.'s options for action against tests limited/"By awakening the public conscience the F.O.L. has made its point. It would now serve its own and the country's interest if it dropped the ban and let

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the Government take over".

4/6/72 Sunday Herald- Marshall Some Tahitian orders switched to U.S./market endangered/F.O.L. ban of no effect on French test plans/Muldoon reiterates only N.Z. losing/ Reports of build up in French activity in preparation for carrying out tests/President of Auckland Freezing Workers pleased with F.O.L. stand - said the matter was, however, in the hands of the F.O.L. and any further comments would have to come from Mr Knox.

5/6/72 Dominion Knox F.O.L. would continue ban unless French agreed to postpone tests until after Stockholm Conference/Muldoon's telegram replying to F.O.L.'s conditions to lift ban made no mention that Govt had approached French Govt (said will) and that the French had not answered/F.O.L. had expected results like switch of Tahitian orders to U.S. in face of ban/suggested ban might last after June 30 if necessary. Muldoon asked F.O.L. to lift ban for Govt complied with F.O.L. request/said F.O.L. had asked for request to French Govt not an answer from. U.T.A. doing clerical work with own executive staff - Manawatu section of P.S.A. (not affiliated to F.O.L.) asked national exec. of P.S.A. to call for protest action by French public servants.

Some warnings against panic buying in Noumea. N.Z. Importers and Exporters Bureau claimed to be beating ban.

Evening Post Marshall said Polynesian nations

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closer to tests than N.Z. taking more relaxed, realistic attitude (had just returned from visit) Deputy Leader of Opposition Watt said P.M. of Samoa expressed great concern at effects of tests - felt helpless as small nation - interested in combining with others in protest but N.Z. must give lead.

Indications that exporters beating ban only by using stocks already outside N.Z. (not in Australia)

6/6/72 Dominion Knox F.O.L. still waiting to hear what French Govt has to say - not even certain that N.Z. Govt had approached French/understood Australian watersiders and seamen taking some stand as N.Z. counterparts - not certain/ban still on.

Indication that 120,000 cases of apples held up/may be sold on home market if no transport by end of month.

Evening Post Marshall - Govt had delivered request to its Ambassador in France to pass on 2/6/72 - no reply yet - had informed Knox by telephone. Knox denied any hint that F.O.L. President Skinner opposed extent of ban. French press attache in Wellington said ambassador having no difficulty with rubbish disposal. Marshall N.Z. representative at Stockholm Conference (Minister of the Environment MacIntyre) would put certain resolutions/ denied there had been any changes in MacIntyre's instructions since he left N.Z. - denied F.O.L. ban had led to any material changes in N.Z. attitude to the tests which will be expressed



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at the conference. ... the accumulation of  
7/6/72 Dominion Robert Hawker (President Australian  
Council of Trade Unions) said suggestion Australian traders  
would take advantage of F.O.L. ban to beat N.Z. traders  
"absolute crap" - Australian unions imposing same bans  
on French as F.O.L. - suggested rumour of failings in  
A.C.T.U. coverage false and made for political reasons -  
public and press reaction ban favourable - traders and  
shipping interests want ban lifted. Knox F.O.L. Exec.  
meeting previous day considered Govt request to lift  
ban - refused/deplored "the vacillating attitude of the  
Government on the issue and deplored motives of several  
business concerns who appeared to be "subordinating the  
welfare and interests of New Zealand citizens to the  
accumulation of further profits"/said "informed sources"  
told him matter of French tests not in Stockholm Conference  
agenda until after ban imposed.  
Evening Post President of Associated Chambers of  
Commerce criticised of Knox's comments - "This statement is  
so typical of the attitude of the F.O.L. - playing on the  
emotions of the public ... [also] ... exposes the type of  
thinking on which some F.O.L. decisions are made. It is  
time it was realised that it is in the welfare and interest  
of New Zealand citizens that business firms do make a  
profit, because if they did not, there would be no businesses  
and therefore no jobs ... [we all agree nuclear testing

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abhorrent but F.O.L. can be assured] ... the accumulation of further profit will not be the predominant thought of the firms concerned .... The federation has made its point about the tests. The Government has taken action. The ban should now be lifted."

8/6/72 Dominion Marshall MacIntyre at Stockholm getting no support from delegations (including Australia) for strong resolution on French Tests - would put forward firm more general resolution - position confirmed what Govt already knew; rest of world more relaxed on issue than N.Z. because no health hazard. Knox not surprised Govt getting no support - time to organise was when French announced the tests to be held.

Evening Post N.Z. Ambassador in Paris - delivered request for suspension of tests 7/6/72<sup>106</sup> - no sign of reply - made clear ban was not by N.Z. Govt - impression that earlier comment on E.E.C. bore no relationship to the official French Govt policy. Diplomatic Sources - unlikely French will agree to disruption of tests - regard them as essential to country's defence policy and a matter only for internal decision.

French Nuclear testing in fact began during the ban and the ban continued until the end of the testing programme late into the following month. The debate continued in that

106 In fact the French had not even received the request while the F.O.L. was waiting for an answer to it!

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time much as it did in the outline above with very much the same arguments being used by each party involved. Significantly non - F.O.L. unions joined the fray in support of those affiliated: While at the level on which the strike was conducted it was not conducive to 'action' on the part of P.S.A. branches the spread of the issue into rather more coercive interchanges going to the very basis of withdrawal of labour itself should the Government have chosen to force the matter the support of the unions not on the front-line would have been of profound importance to the F.O.L. (and would have weighed heavily with any such decision by Government) A ban by telegraphist members of the Post Office Association on all telex and cable traffic with France began on 25/6/72 and the New Zealand Federated Storemen and Packers' Union recommended<sup>107</sup> that its members ban the dispatch of all goods "by any means" to New Caledonia or French Polynesia. Post Office technicians voted on 28/6/72 not to service "direct dial telex machines" in support of the telegraphists' ban. Potentially the ban might have started to bring more such generalised pressure on the Government to act as any vestige of a claim that the strike was restricted to trying to influence French decisions went with the commencement of the test programme and the

107 As reported in the Dominion 12/6/72. No date is given for the actual date of implementation. The ban included any goods consigned by U.T.A. or any "French Flag shipping."

action became more clearly one of attempting to influence Government action in New Zealand rather than representing a protest to the French.

What were the effects of the ban? The French were little affected except in the degree of acrimony with which their image was treated in New Zealand; the ban itself lasted and did halt trade with no obvious pressure by one union on another to act; public opinion would seem to have opposed the tests overwhelmingly and in this sense made the direct union action more acceptable generally than it might otherwise have been;<sup>108</sup> trade with French Territories was damaged; the Government's action on the tests in fact went further than it would have gone had it not been forced to contend with trade union confrontation.

In all the ban produced a staggering variety of cross-currents in New Zealand society. In part this would have been due to the fact that the Government appears to have underestimated the appeal of the ban to the public; not only did the Government have to face the unions by threat and by sympathetic statements on the position of traders hurt by the ban but also it had to deal with

108 An example of this tendency is shown in a statement in a letter to the Dominion 9/6/72: "I seldom agree with the decisions of the F.O.L. but this is one time I do support their actions and I feel that many other New Zealanders who are fed up with the mumbling of a Government lacking intestinal fortitude also feel the same way..."

111 s.g. Dominion 2/6/72 - Knox

112 s.g. Dominion 2/6/72 - Knox

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the duality of public demands that the ban was unpleasant but that so were the French tests and that really the Government was not doing enough about either of them.

From the raw material laid out above on the first eight days of the ban and the five days prior to it we are able to confirm many of the general assertions made about political strikes and direct union action for political ends made by Sandra Silverman<sup>109</sup> as a result of studying in detail some 24 political strikes in Australia<sup>110</sup>. An important distinction between those studies and the 'French test ban' is that in the 24 cases the unions are acting militantly in a context of other placid unions. This was not the case as regards the F.O.L. ban. Tactics and Justifications Given by Unions<sup>111</sup> - a marked tendency to argue that their action is taken in the name of something higher than their individual welfare e.g. humanitarian considerations and that it was taken in the public interest and for the general welfare<sup>112</sup>. Axiomatically the government is attacked for not acting in that interest<sup>113</sup>

109 op. cit. f.n. 101. <sup>114</sup>

110 The most recent being in 1966 - a refusal by seamen to man two ships with supplies for troops in South Vietnam. <sup>115</sup>

111 Silverman, 32. <sup>116</sup>

112 e.g. Evening Post 31/8/72., Dominion 2/6/72 - Knox

113 e.g. Dominion 2/6/72 - Knox

This goes to the very basis of the whole issue of the

and other elements opposing the union action are often criticised- for being motivated by more selfish partisan concerns<sup>114</sup>. Frequently the argument is implied or even stated that just as a capitalist is not expected to invest his property in those areas which are morally repugnant to him so should the worker have this right with respect to his labour (and particularly he should have the right to protect himself as best he can)<sup>115</sup>

There is often a tendency to imply reasons (other than an altruistic view on the part of Government as to the merits of the case) for the Government's inaction on the political issue concerned.<sup>116</sup>

By resorting to direct action the unions are serving notice publicly that they could no longer rely upon 'peaceful' means of persuasion as a remedy - that now they must act with the force available to them to impress upon the Government how important the demands were.<sup>117</sup>

"Decisions to strike ... [are] ... tempered with considerations of success and support... [unionists] are not prepared to take wild gambles and throw caution to the wind...<sup>118</sup>

114 e.g. Dominion 7/6/72 - Knox

115 e.g. Dominion 30/5/72 - Knox

116 e.g. Dominion 30/5/72 - Knox

117 e.g. Dominion 30/5/72 - Knox

118 Silverman, 33.

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This goes to the very basis of the whole issue of the political strike as a manifestation of the power relationships of groups in society and policy-making in that environment. In an extensive interview with me Mr Knox<sup>119</sup> discussed the concerns particularly determining F.O.L. actions. He said the F.O.L. saw its first responsibility as being to the 360,000 people it represents and to expressing their views and aspirations as strongly and as effectively as possible. The F.O.L. must always carry out the policy of its annual Conference which is the expression of the will of those people. In no case, however would the F.O.L. risk seeing its members or the Union movement go down<sup>120</sup>. Rather in implementing policy the F.O.L. assesses the likely response to its direct action, - in particular that of the Government - the repercussions of the action and its suitability for achieving the goal, the reaction of the Community and the strength of the Unions on which the success of the action will depend. He reiterated that the F.O.L. executive

119 Secretary F.O.L. - interview 28/9/72.

120 He claimed that by recommending to the "Seamens Union" in 1971 that it return to work in the face of threatened deregistration under the I.C. and A. Act and in acquiescing to that deregistration when it occurred the F.O.L. in fact saved the Union.

...wind is, and then makes its decision, that's the way I don't want to be in the trade union movement." N.S. Listener 29/11/71, 1971 at p. 15.

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does not make the decisions and that when Conference makes its recommendations for action it does so in the knowledge that its members are likely to suffer as a result and further that too wide a division in making such a decision will weaken the union movement as a whole.

The French test issue in fact began with the individual unions. At Conference it was put very strongly. Aside from the altruistic reasons behind the view expressed at Conference there was also a notion that this was a good issue to struggle on and one in which the Unions were well within their 'rights'<sup>121</sup> to act. It was further recognised that the F.O.L. would need public support to be effective on such a moral issue but that it could act, albeit less effectively, without it. The unions saw their position as one of leading the way.<sup>122</sup> When asked to elaborate Mr Knox said that lack of public support would not have prevented the action as the F.O.L. responsibility<sup>124</sup>

121 Mr Knox was emphatic in not equating this with legal 'rights' - rather it reflects his statement in f.n.4.

122 R. Hawke expressed the view that a decision as to how trade unions should act was not one which ipso facto should depend on the public view of it:  
 "...the day when the trade union movement reduces its modus operandi to being a "barometer" which puts up its great collectively wetted finger to its conception of what the prevailing wind is, and then makes its decision, that's the day I don't want to be in the trade union movement." N.Z. Listener 29/11/72, 1971

124 Silver at p. 15.



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was to its members. The issue was, however, rather more as to likelihood of success. He affirmed that the F.O.L. would not act to such a degree purely on the basis of its own strength that it in fact threatened to bring so strong a response as would alter the fabric of society itself.<sup>123</sup> Ultimately a policy was reached as being in the best interests of the F.O.L. members as people and on which they could have some influence because of their 'economic punch'. The F.O.L. was optimistic as to a successful outcome and was reinforced in this view by its recently forged links with the A.C.T.U. through forming an Australia - New Zealand Trade Union Co-ordinating Council which 'guaranteed' success of a stronger line by unions in carrying out their 'moral obligations'.

In effect, the Unions make a carefully considered tactical decision before taking direct political action.

Reactions of the Public. In considering three long strikes<sup>124</sup> Silverman noted that in all, those of the public close to manufacturing trade and exporting complained that the issue did not warrant the loss suffered. The reaction of

123 This question was put to him in various ways and the words are largely those of the writer - the main point was to establish whether or not the F.O.L. would encourage unions to act to the maximum limits of their peculiar strength even at the risk of altering society itself. The view was expressed in terms of "We're not quite ready for the revolution yet!"

124 Silverman, 34. Editorial "...the Government needs to be awfully careful that in attacking the trade union boycott it does not seem to be championing the French cause."

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the public tends to be one of holding a residual caveat at the unions taking a role it had thought was better tailored to the Government's talents but on the merits of the issue of a particular strike and considering the action the Government had or had not taken it was prepared to support the union action to the extent that the merits of the issue outweighed the damage resulting from union action. The duality of this reaction and the split between those directly affected by the action and those who are not is readily found throughout the whole French test ban experience.

Reaction of the Labour Party. There are few instances where direct action is supported by the Parliamentary Labour Party. Throughout the F.O.L. ban the opposition in Parliament tended to attack the Government for not doing enough to protest to France etc, than to praise the union action. It is understandable that the Labour Party will be oriented towards Government/Parliamentary sovereignty but on the issue of the F.O.L. ban criticising the Government for its inaction on French tests took the Labour Party as close to supporting the F.O.L. as the Government's opposing the F.O.L. ban took it towards supporting the French tests.<sup>125</sup>

Reaction of the Government Governments tend never to 'welcome

125 Dominion 3/6/72 Editorial "...the Government needs to be awfully careful that in attacking the trade union boycott it does not seem to be championing the French cause."

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actions which exceed constitutional forms or challenge their authority and are never happy to alter policy in the face of 'intimidation'. Essentially they balance the measures needed to stop the strike against what effect allowing the strike to be successful would have on making the union challenge more prevalent<sup>126</sup> and tend to explain whatever decision they reach in terms of a notion of 'general welfare' or 'public interest', and interest greater than a sum of all the sectional interests. Overall the emphasis tends to be on an argument that the harmony their decision brings will be better to all in the end. Furthermore there is an assumption that all attempts to force concessions from (rather than persuade) the government are 'contrary to the rules and requirements of parliamentary democracy'.

Essentially the argument is based on an implied assumption of the inherent worth and viability of Parliamentary democracy in which a decision made by a group other than a majority of citizens was in fact that group

126 Both the unions and the government must have had an eye to the success of the French ban and the effect it would have in encouraging unions to act again in opposition to the Springbox Tour of New Zealand in 1973 the latter issue being potentially far more disruptive to N.Z. than the former. On 8th May 1972 the F.O.L. Conference resolved that the F.O.L. would "support any union which took action against the Springbox tour" (restated Dominion 4/9/72, 13.

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usurping the Government's function by imposing its will on the majority and defying the majority will vested in Parliament. However the Government is in a difficult position when its own policies are unpopular and those of the 'usurpers' are popular (even although their methods might be reason for reservation).

In fact the Government rather entered the fray in the case of the F.O.L. ban. The arguments about democracy and public interest were put, but mainly in newspaper editorials. The Government will have weighed up the amount of trade involved, the lack of splits in the union stand, the community support for the unions' aims (if not their means) and the other damage being done in the short term to the Community - for in the public eye (as expressed through the newspapers) the issue soon became one of 'what was being done about the bomb?', the ban on trade being accepted, for the time being, as a fait accompli. For the F.O.L. the ban was a political success.

#### CONCLUSION

While the Government acquiesced to the F.O.L. ban ostensibly because there was no legal action it could take the apparent finality of the statement masks the realities of the situation. The real question is whether the existence of an apparently applicable law would have altered the Government's approach to the situation and

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further whether the situation would have arisen had there been a law directly applicable to 'prevent' it?

Clearly in any full scale clash between a group and the state, the state will triumph for by definition it holds the ultimate monopoly on coercive power. As we have discussed law is an aspect of power for it reflects the policies of those who made it. To the extent that those policies and the laws do not conflict with the aspirations of a group 'subject' to them the situation is essentially one of relatively sophisticated relations between groups (from any one of which the group controlling the state does not differ in quality other than so far as it holds the ultimate monopoly on coercive power).

However our discussion also reveals that unless some goals which it might have the capacity to pursue do not in fact fill any part of the particular group's aspirations, then conflict, or at least the graded manifestations of a power relationship, are inevitable. If the state is faced with resolving a conflict between resolutely opposed groups the law and settlement in terms of its normative content will be decreasingly effective and the display will be one of rather more naked power on the state's part for the conflict becomes less dependent on the values incorporated in the law and falls more into an undisguised power relationship. Similarly, in the face of a challenge to its authority the state's decision to react is not made

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in a qualitatively different framework from that in which choices which face other societal actors when considering the pursuit of a goal are made.

To return briefly then, to the realities of trade unions and the law we recall that the power most readily available to these groups is that drawn from their position in a relationship in society based on interdependence and shared interests of groups. Specifically trade unions are made up from actors who supply labour to those who need it and who enjoy the advantages redolent in that. While normally the reciprocity of the 'market' situation will present little overt signs of the power relationship, the operative factor in the continuance of the arrangement is whether or not the actors in their collective unit, the trade union, have goals other than those satisfied by the relationship. Should the group in fact perceive other goals then it must employ that amount of the power available to it necessary to achieve the goal should it decide to pursue it. We find that the law which might have reflected the earlier relationship now represents the norm of the group's likely behaviour less and less and in order to preserve the law as a credible limit on the group's action the state must act to prevent the group's breach of it.

The relationship between the state (the enforcer) and the group is one reflected decreasingly in the

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substantive content of the law and more in the degree to which the law is backed up. The more 'coercive' the power needed to back it up, the greater the degree of 'alienation' created and the less efficient in terms of the preservation of an asset base for each actor for future pursuits of societal goals and in terms of the purity of the goal attainable compared with that sought.

If, then, the state incorporated in its policy a law which is repugnant to the actor subject to it, the effectiveness of the law in achieving its end depends more and more on the relative commitments the 'subject' and 'enforcer' make to resisting and securing (respectively) the goals sought. Given total commitment on each side and the inevitably uneven power distributions then the original effective intention of the law for practical purposes may be lost in the costly power struggle - for it may result in the destruction of the actor whose very preservation but subject to his being able to pursue his goals in a manner acceptable only to the enforcer was what was intended in the law.

This is the dilemma inherent in the law relating to political strikes and attempts to prevent trade unions from acting beyond the pursuit of those concerns ascribed them by the state. Following the F.O.L. trade ban during the French tests the Government has expressed its interest in

Decision 13/9/72, 13

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preventing unions indulging in such future 'political' actions.<sup>127</sup> When this writer asked Mr Knox how the F.O.L. and its affiliates would react to sanctions against 'political' strikes he said unreservedly "We'll fight the penalties!" There is no doubt that in such a conflict as in any, the coercive power of the state will prevail but as our discussion has shown this will occur in a context of power relationships which exact varying costs. The cost is directly referable to the commitment of the actors and the commitment of the actors is directly referable to their goals. Unfortunately power is a blunt instrument!

However it has not been the intention of this paper to focus on such an extreme case of societal power relationships. Rather our concern has been with the gap between the limit prescribed by the substantive law of the state as to the 'permitted' concerns of trade unions and the view which trade unions themselves hold as to what they shall concern themselves with. In this way it has been attempted to show that the actual actions taken by trade unions will reflect only in part the substantive content of the law for our discussion of power in society

127 The view first expressed generally was on the N.Z.B.C. Television Programme 'Saturday' 3/9/72 in an interview with Mr Muldoon. The Minister of Labour, Mr Thompson confirmed that "proposed industrial legislation would include sanctions against political strikes" - Dominion 15/9/72, 13



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and the inclusion of law in that framework has indicated that the norms of activity set down by the law and the sanctions available to reinforce them are only one of many factors a societal actor, in our case a trade union, takes into account before choosing and embarking upon his own course of action. Law is not a combination of immutable and unassailable truths which by their very incorporation in the law command and inevitably bring compliance. The dilemma of law in perspective is that it is only an ingredient in the sliding scales of actions and reactions available to societal groups - that what law can guarantee and what is expected of it are two frequently barely related entities.

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The fact that law is not a set of immutable truths which by their very incorporation in the law command and inevitably bring compliance. The dilemma of law in perspective is that it is only an ingredient in the sliding scales of actions and reactions available to societal groups - that what law can guarantee and what is expected of it are two frequently barely related entities.



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