TOWARD PROSPERITY? SOME ASPECTS OF RECENT ECONOMIC DEREGULATION IN NEW ZEALAND

Richard J. Osborne*

I. INTRODUCTION

On July 14, 1984, the Labour Government was elected in New Zealand, and Roger Douglas became Minister of Finance. Douglas swiftly enacted a thorough policy of deregulating New Zealand's economy base. His policy, popularly called "Rogernomics," was based on a set of economic principles or theories which he developed—a practice highly unusual for any New Zealand minister. Currently, Roger Douglas is no longer Minister of Finance, and there has been increasing doubt concerning his policies and their effects within New Zealand.[1]

This paper sets out some of the most important aspects of the deregulation process Roger Douglas began. These aspects may be of particular interest to those outside New Zealand planning to trade with New Zealanders on a business-to-business basis. Such potential trading partners will need to know, in outline at least, the results of implementing Rogernomics in New Zealand over the last four years and whether that process is likely to continue.

Prior to the election of the Labour Party, the New Zealand economy was not in good shape. It had been characterised as having:

> exceptionally low productivity growth combined with an inability to adjust to changing circumstances. . .very high rates of inflation, [a] large balance of payment deficits, rapidly deteriorating overseas debt ratios and rising debt service costs[,]. . .serious re-

* Partner, HESKETH HENRY, Barristers & Solicitors, Auckland, New Zealand; LL.B., Hons. (Auckland), M.I.L.R., J.S.D. (Cornell).

1. The term "Rogernomics" was officially adopted by the New Zealand Labour Government in its election advertising materials prior to the 1987 election. *See* Collins, "Successes claimed for Rogernomics", N.Z. Herald, May 16, 1987. The resignations have been widely interpreted as the result of a campaign to reduce the power and alter the speed of implementing many of Rogernomics' policies, particularly in the area of taxation. David Caygill is the new Minister of Finance. *See generally* Nat'l Bus. Rev., Dec. 16, 1988, at 1, col. 1; Nat'l Bus. Rev., Dec. 15, 1988, at 1, col. 1.

> source misallocation arising from massive price and profit distortions. . .caused by very high levels of import protection, extensive producer and housing subsidies, a morass of money control, severe restraint on competition, uneconomic criteria for public sector investment, poor tax structures and so on.[2]

These conditions existed when the Labour Party was elected in 1984, even though the previous National (or conservative) Party government had made some moves toward deregulation and other economic reforms.[3]

Prior to 1984, the New Zealand Labour Party had been out of power and in opposition in parliament for nine years. Roger Douglas, a long-serving Labour Party member of Parliament, was increasingly frustrated by New Zealand's poor economic performance. During his time in opposition, Mr. Douglas was a frequent, vocal critic of New Zealand's economic policy. The title of his 1980 publication, *There's Got to Be a Better Way*, indicated Douglas' active pursuit of an economic alternative and desire for radical change. After the Labour Party's 1984 victory and its reelection in 1987, Douglas wrote a book entitled *Roger Douglas: Toward Prosperity*, which reviewed aspects of his then-implemented economic policies.[4]

The policies outlined in *Toward Prosperity* and in the Labour Government's budgets (or economic policy statements) from 1984 to date (January 1989), have a strong monetarist, market-oriented flavour.[5] As described in *Toward Prosperity*, the two primary

---

2. L. Bayliss, The Labour Government's Economic Policies—An Appraisal (Address to the Conference of Business Economists and Corporate Planners, Dunedin, N.Z.) (Apr. 9, 1987) at 1.

3. *Id.* However, the period from 1982 to the 1984 election, when the National Party was in power, was characterised by economic fiat: wages, prices, and particularly mortgage interest rates were controlled by regulation, often on a day-to-day basis. *See* Price Freeze Regulations 1984, *originally published at* 1984 S.R. 193 *and* Financial Institutions (Interest Rates) Regulations 1984, *originally published at* 1984 S.R. 131; Rent Limitation Regulations 1984, *originally published at* 1984 S.R. 17; Price Freeze Regulations 1982, *originally published at* 1982 S.R. 141, *reprinted with Amendment Nos. 1-28 at* 1984 S.R. 156, all of which underwent regular amendment (by Order in Council or Executive Order), and, in the case of the Financial Institutions Regulations in the period immediately prior to the 1984 election, literally daily amendment. Frustration with these ad hoc policies was a major reason for the Labour Party's electoral victory in 1984.

4. R. DOUGLAS & L. CALLEN, ROGER DOUGLAS: TOWARD PROSPERITY (1987). *See* Gair, *More Readable Than Reasonable*, Nat'l Bus. Rev., July 3, 1987 (National Party spokesman on Finance reviewing ROGER DOUGLAS: TOWARD PROSPERITY); *see generally* Government Economic Statement (Dec. 17, 1988); *see also* Collins, Auckland Star, Dec. 19, 1988 (contending that the Statement had been produced in order to reassure nervous New Zealand investors after the October 1987 stock market crash).

5. For a discussion of Rogernomics, its relationship to monetarism and general economic theory, see S. COLLINS, ROGERNOMICS: IS THERE A BETTER WAY? 28-33 (1987). For conservative criticisms of the philosophy underlying Rogernomics, as viewed by a member of the National Party opposition, see S. UPTON, THE WITHERING

Rogernomic philosophies underlying the Labour Party's 1984 budget were:

> better resource allocation determined by what the *market* wanted, and the concept of *equity* and *fairness*. The first would bring enormous productivity gains to the economy because, by letting prices show where the profits are, the private sector would be more than willing to invest in those areas. The benefits from that would flow through to everyone. There are two aspects to *fairness*. The changes would need to be split across every sector of society so that our actions were seen as even-handed, but we also intended taking away much of the special assistance given to special groups in the past; therefore the impact of change could not be even. Those who have benefited most from that help would have to make the biggest adjustments in the future.[6]

The central theme in Douglas' policies was that to be competitive in a world market, New Zealand had to have an inflation rate comparable to or less than those of its major trading partners. Thus began a sustained attack on domestic inflation, which now stands at an annual rate of 4.7%.

Critics of Douglas and his monetarist theories, it should be emphasised, are quick to note that implementing monetarism is not a novel solution. It has been tried in many Western economies and has been abandoned in all except for Chile. Douglas' critics add that monetarism is a philosophy that takes no account of social costs, accentuated in a small country like New Zealand.

A key aspect of Douglas' policies was the devaluation of the New Zealand dollar. Douglas blamed the overvalued exchange rate for causing economic distortions, subsidies, internal deficits, external borrowing to fund those deficits, and high interest rates within New Zealand.[7] Upon election and in the midst of a constitutional crisis, the Labour Party devalued the New Zealand dollar by twenty

---

OF THE STATE 41-46, 84-88 (1987). Rogernomics has clear parallels to the economic policies Mrs. Thatcher has pursued in the United Kingdom. *See, e.g.*, Pratt, *Deja vu? Rogernomics and the UK Experience*, COOPERS & LYBRANDS [N.Z.] FORECAST, Nov.-Dec. 1987 at 1. However, Rogernomics' social objectives should not be ignored. *See* R. DOUGLAS & L. CALLEN, *supra* note 4 at 30-35; *Providing for Social Goals*, Nat'l Bus. Rev., Mar. 18, 1988 (interview with Mr. Douglas).

6. R. DOUGLAS & L. CALLEN, *supra* note 4, at 81 (emphasis added). *See generally id.* at 30-35 (discussing Labour Party policy papers written in 1984).

7. The dollar had been seriously overvalued for many years, producing an ever-growing maze of distortions which were strangling the economy. A large devaluation would permit Labour to reshape the system of incentives for businesses of every kind and set them back on a sound market-oriented footing. The over-valued exchange rate had not only made our exports more expensive and less competitive overseas, it also made imports cheap in New Zealand, cutting the ground from under local import substitution industries. It was reducing employment, wages, profits, and investment.

Id. at 31-32.

percent.[8]

Other important aspects of Douglas' programme included deregulating New Zealand's economic markets, thereby increasing competition. Import-licensing and tariff systems which formerly protected New Zealand manufacturers were removed. Also, tax reforms which reduced high individual and corporate tax rates were introduced to encourage economic decisions that were geared to the market rather than tax considerations.[9]

The rate of economic change within New Zealand from 1984 to January 1989 has been dramatic and extremely wide-ranging.[10] That these monetarist, market-oriented changes have been achieved by a Labour Government, which has its intellectual and political roots in trade unionism and socialism, rather than by a National Government with (supposedly) the opposite point of view, is beyond the scope of this paper. Also beyond this scope are the political accomplishments of Roger Douglas and others who achieved these policies within their own party.[11]

While noting the rapid economic change, it would also be a mistake to view Rogernomics as non-regulatory. For example, the New Zealand Commerce Act 1986 was enacted to reinforce antitrust and other trade practice regulation within the country, and the Fair Trading Act 1987 has a definite consumer protection orienta-

---

8. *Id.* at 51-62. The crisis concerned devaluation policy in the interim period between the National and Labour Party Governments. Public figures debated which government should determine and implement that policy.

9. *Id.* at 32-35, 201-21.

10. For a good (although politically orientated) summary of the extent of those changes, see N.Z. LABOUR PARTY, 1987 POLICY DOCUMENT (1987) under each of the headings "The Labour government has. . .". These changes have generally been preceded by press announcements publicising the concepts behind the changes, any alterations following feedback from those announcements, consultation, and then review by specially convened consultative committees drawn from the industry affected. Legislation giving formal effect to such changes has often followed long after. As a result, professional advisers usually know that a particular practice is unlawful as of a particular date, but they do not know the precise details of such changes. This has been true particularly with taxation changes. *See infra*, Section II.E, notes 62-76 and accompanying text. For a very critical comment, see Marryatt, *Legalisation by Announcement and the Consultative Process*, ERNST & WHINNEY, [N.Z.] FIN. NEWS, Mar. 1988.

11. The answer to the first question is probably that political and certainly economic theories have not been of much significance in New Zealand politics and that, generally speaking, the National ("conservative") and the Labour ("socialist") Parties within New Zealand have traditionally pursued policies of government intervention and regulation. Both parties have been wary of competition, market forces, and individual economic action. For a brief comment on the political aspects of Roger Douglas' achievements in relation to the likelihood of the continuation of his policies in the future, see *infra* Section III, notes 77-84 and accompanying text. Roger Douglas did not stand alone in the Labour Party. He had a group of Ministers (Messrs. David Caygill, Richard Prebble, and Trevor de Cleene in particular) who either strongly supported his policies or were otherwise prepared to go along with them. *See* R. DOUGLAS & L. CALLEN, *supra* note 4, at 63-72.

tion.[12] As a similar pro-regulatory example, even though exchange control has been abolished, it is still necessary for a foreign trader to obtain the consent of the Overseas Investment Commission to do business in New Zealand.[13] It would, therefore, be a mistake to view Rogernomics as inconsistent with Douglas' expressed intention to achieve many of the Labour movement's traditional social policies: Douglas means to attain them on the basis of a competitive and soundly-based economy.

Section II of this paper focuses on five microeconomic aspects of deregulation or "Rogernomics": (1) financial deregulation; (2) the removal of import and tariff licensing; (3) reforming the labour market; (4) the creation of state-owned enterprises ("SOEs") and recent moves towards their privatisation; and (5) actual and proposed taxation reforms. Section III reviews these changes and, an admittedly dangerous undertaking, predicts whether and to what extent they may be lasting elements of New Zealand's economy.

II. DEREGULATION

A. Financial Deregulation

Following the 1984 election the financial sector of the New Zealand economy was deregulated. Douglas himself commented:

> I think we have moved further and faster in financial deregulation than in any other area. . . .The speed of change was possible because the financial sector's structure allowed it. Generally all that was required was the removal of regulations or a Government decision, rather than a mass of legislation, and the implementation of our decisions was more direct than in some other

12. *See* Caygill, *Deregulation Finesse or Folly*, 1988 N.Z.L.J. 77 ("What the Government has done is to thoroughly examine the various sectors of economic activity in this country, especially the more highly regulated ones and those in which the State has played a major part. In each instance we have questioned the various regulations and the Government's involvement"). Caygill was at the time Minister of Trade and Industry and has subsequently replaced Mr. Douglas as Minister of Finance. The Fair Trading Act, No. 121, 1986 N.Z. Stat. 1225 and the Commerce Act, No. 5, 1986 N.Z. Stat. 69, are based directly on equivalent Australian legislation and are examples of another theme underlying deregulation, Closer Economic Relations with Australia or "CER", a common-market process begun by the National Party government and aggressively continued, particularly in relation to imports and tariff control, by the Labour Party government. For a recent and illustrative comment on CER and its political implications, see the cover article, *Why New Zealand Should Become the 8th and 9th States of Australia*, BULLETIN, Apr. 12, 1988. The Commerce Act 1986 applies to Crown corporations or state-owned enterprises. *See infra* Section II.D, notes 51-57 and accompanying text.

13. The Overseas Investment Commission established under the Overseas Investment Act 1973, No. 14 1973, 1 N.Z. Stat. 61, and the Overseas Investment Regulations 1985, 1985 S.R. 256, is broadly equivalent to the Australian Foreign Investment Review Board. Its attitude favours overseas investment in New Zealand. A helpful and recent guide to its requirements and procedures is the New Zealand government publication, A GUIDE TO MAKING AN APPLICATION UNDER THE OVERSEAS INVESTMENT REGULATIONS 1985 (1988).

areas of the economy.[14]

The previous situation consisted of direct controls on interest rates and deposit-taking activities with compulsory lending ratios and exchange controls.[15] Concisely, it has been characterised by:

(a) restricted capital movements in and out of New Zealand;
(b) private overseas borrowings limited to a 12-month period at a maximum interest rate of two percent over the Singapore or London interbank rate;
(c) the prohibition of overseas borrowing by New Zealand financial institutions;
(d) the prohibition of foreign exchange purchases for investment by New Zealand residents;
(e) restricted entry into New Zealand by overseas banks, strict controls on foreign exchange dealing and the short-term money market, and a limit of seventy percent on foreign ownership of New Zealand financial institutions.[16]

The first important financial deregulation was the devaluation of the New Zealand dollar. The second involved removing draconian controls on wages, rents, prices, and interest rates that had been imposed by the previous National Party Government.[17] Next, the Government removed the special status for official short-term money market dealers and the regulations on trading (or retail) banks which had limited their ability to accept short-term deposits without restriction. The significance of the latter change was that banks could now compete with finance companies which had previously cornered the short-term money market and could, by this new competition, force interest rates downwards.

Other changes occurred. The Reserve Bank of New Zealand resumed tendering for government stock, bonds, or securities sold to the public for fixed periods at fixed interest rates. The previous government required banks and financial institutions to invest a certain amount of their assets in government stock and other public sector securities at low interest rates determined without direct reference to the market. The revised tender system offered market rates which were high, increasing overseas investors' demand for New Zealand dollars and ultimately forcing the Government's decision on March 2, 1985, to float the New Zealand dollar. This was done by eliminating the requirement that only the Reserve Bank of

14. R. DOUGLAS & L. CALLEN, *supra* note 4, at 137. *See generally id.* at 136-50.

15. *See generally* D. HARPER, THE FINANCIAL SERVICES INDUSTRY: EFFECTS OF REGULATORY REFORM (New Zealand Institute of Economic Resources Paper 35, 1986).

16. *See* J. SAVAGE, FINANCIAL CENTRE PROSPECTS FOR NEW ZEALAND (New Zealand Institute of Economic Resources Monograph No. 41, 1988) at 6-7.

17. *See supra* note 3. All the regulations referred to in that footnote were repealed.

New Zealand[18] could buy and sell foreign currency and by allowing the licensing of foreign exchange dealers. The rationale behind floating the New Zealand dollar was to allow its worth to be determined by the market and not by the Reserve Bank of New Zealand in its dual function as government stock issuer and foreign exchange controller. The New Zealand dollar now floats in response to market forces, without government intervention by the Reserve Bank of New Zealand or otherwise.

During late 1984 and early 1985 restrictions on overseas borrowing were removed in preparation for the float of the New Zealand dollar.[19] Exchange controls (which previously required the Reserve Bank's consent to currency movement to and from New Zealand) were also removed[20] together with government stock ratio requirements. Finally, financial institutions in New Zealand were allowed to become banks, and restrictions upon overseas financial institutions entering the New Zealand market were revoked.[21] Specifically, a stamp tax transaction duty payable on transfers of securities was eliminated.[22]

Financial deregulation prompted an explosion of financial services and the entry of financial institutions to the newly deregulated market, mainly in the wholesale and corporate banking area.[23]

---

18. The government-owned and directed Central Bank of New Zealand is otherwise broadly equivalent to the United States Federal Reserve Bank or the Bank of England. The empowering act is the Reserve Bank of New Zealand Act, No. 134, 1964 N.Z. Stat. 1013.

19. The empowering act is the Overseas Investment Act 1973. The previous regulations were the Overseas Investment Regulations 1974, 1974 S.R. 117, *as amended by* 1978 S.R. 79 *and* 1979 S.R. 270. The new regulations are the Overseas Investment Regulations 1985, 1985 S.R. 256.

20. *See* Exchange Control Regulations 1985, 1985 S.R. 4 and subsequent amendments.

21. *See* Reserve Bank of New Zealand Amendment Act 1986, No. 131, 1986 N.Z. Stat. 1427, which applies the principal Act to branches of foreign financial institutions and generally gives the Bank a supervisory function in respect of the entry of banking and financial institutions into New Zealand. The Bank has a policy of approving new bank entrants on a qualitative and not a quantitative basis, without time limits. *See* J. SAVAGE, *supra* note 16, at 7. However, there is a capital requirement of NZ$30,000,000 issued and NZ$15,000,000 paid-up capital for registered banks. *Id.*

22. *See* Stamp and Cheque Duties Amendment Act (No. 2) 1988, No. 16, 1988 N.Z. Stat. 9; INLAND REVENUE DEP'T TECHNICAL POLICY CIRCULAR No. 88/2, pt. 10 (1988).

23. Some idea of the range of activity (particularly overseas activity) can be gauged from the Exemption Notices issued under the Securities Act 1978 in relation to issues of debt, equity, and participatory securities exempted from full compliance with that Act and its accompanying Regulations. *See, e.g.*, Securities Act (Overseas Take-Overs by New Zealand Companies' Exemption Notice 1987, 1987 S.R. 284; Securities Act (Continuous Issues) Exemption Notice (No. 3) 1987, 1987 S.R. 366; Securities Act (Commercial Bill Dealers) Exemption Notice 1987, 1987 S.R. 367; Securities Act (Overseas Companies) Exemption Notice (No. 2) 1986, 1986 S.R. 367; Securities Act (Australian Issuers) Exemption Notices 1985, 1985 S.R. 278, and 1987, 1987 S.R. 184; Securities Act (New Zealand and Australia Employee Share Purchase Schemes) Exemption No-

There was an outpouring of pent-up activity throughout New Zealand, particularly in its largest city, Auckland, as it suddenly became possible to borrow overseas at interest rates apparently lower than those available in New Zealand. Restrictions on lending and interest rates were removed, fueling commercial property development, in general, and high-rise commercial buildings in Auckland, in particular. This development greatly increased the number of securities offered to the public as well as the number of corporate listings on the New Zealand Stock Exchange until the stock market crash of October 1987.[24]

There has been very little criticism of financial deregulation as such. Rather, criticism of Douglas' policies has focused on their failure to reduce New Zealand's inflation, external deficit, and overseas debt, which have hindered New Zealand exporters' business and made the country's economy less attractive to domestic and foreign investors.[25]

B. Import Licensing and Tariffs

Rogernomics argues that New Zealand's former import licensing and tariff systems, by limiting the goods that could be freely imported into the country, had discouraged foreign manufacturing and other investment. Due to the artificially small characteristics of the New Zealand market, these restrictions in turn enabled domestic manufacturers to pass on price increases and costs throughout

---

tice 1986, 1986 S.R. 78; Securities Act (Australian Unit Trusts) Exemption Notice 1986, 1986 S.R. 131; The Securities Act (United States Issuers Employee Stock Purchase Plans) Exemption Notice 1986, 1986 S.R. 266. Two things are striking: the number of overseas corporations involved and the range of activities to which the Notices relate. A much greater number of such activities were controlled without Exemption Notices under the Act and Regulations.

24. Interest rates and exchange rates remained high after 1984. The New Zealand dollar was generally close to parity with the Australian dollar and worth at least sixty American cents. In the period immediately prior to the 1984 election thirty-one new companies were listed on the New Zealand Stock Exchange. There were thirty-two listings in 1985, weighted towards property, horticulture, and other newer industries, particularly bloodstock (or racehorses). In 1986 and 1987 there were respectively 50 and 65 floats and in total since 1984 there have been 178 floats. "New listings in 1984 came at a time when deregulation of the economy was starting slowly and, therefore, the perceived opportunities for people who thought they had strong entrepreneurial abilities are more limited than they are now." For quotation and sources, see *The Fashion Factor in the Life Cycle*, Nat'l Bus. Rev., Apr. 14, 1988, and O'Brien, *The Inevitable Industry Life Cycle*, Nat'l Bus. Rev., Apr. 12, 1988.

25. Bayliss, *supra* note 2, at 3; Hall, *Rogernomics Under Fire on All Fronts*, Dominion, Dec. 7, 1987; Pirie, *Australian Broker Bain Suggests Short-Term Caution in NZ Market*, Dominion, Nov. 12, 1987; *Private Debt Shows Sharp Rise*, N.Z. Herald, Nov. 2, 1987; *Policies Failing to Succeed Says Bayliss*, Dominion, Oct. 20, 1987; Smith, *Deregulation's Impact on Financial Sector*, Austl. Fin. Rev., Oct. 29, 1987, at 78-79; Grondelle, *Academic Rejects Timing of Float*, Dominion, Sept. 30, 1987; *Government Debt Reduction Means Private Increase Says Philpott*, Dominion, June 29, 1987.

the rest of the economy. These increases were borne rather severely by New Zealand exporters with the further result that successive governments (whether National or Labour) intervened with export incentive programmes or subsidies in order to try to redress the imbalance. Rogernomics' policy has been, therefore, to provide for "the progressive reduction and elimination of most import licensing; for the introduction of low tariffs on many duty-free imports; and for the staged reduction of very high tariffs to a more reasonable level."[26]

Under the previous system of import licensing, the Department of Trade and Industry published a yearly schedule of goods which could only be imported if there was a license. Licenses for certain products were the subject of public tender.[27] Shortly after the 1984 devaluation of the New Zealand dollar, the Labour Government announced policies removing export incentives by 1988 and removing import licensing thereafter, thus enabling goods to be freely imported into New Zealand.[28] Many export incentives related to agricultural products, a major New Zealand export. Eliminating these incentives removed the insulation this sector of the New Zealand economy had against market forces and compeled a re-examination of what products were most needed by overseas buyers.[29] Later, in 1985, efforts began to remove tariffs on foreign goods.[30]

Currently, import licensing is almost gone, yet tariffs remain. Existing tariffs are set out in the New Zealand government publication *Customs Tariffs of New Zealand 1988*. In light of government policies aimed at promoting growth and efficiency in the economy, further tariff reform has been recommended. The Government has accepted these recommendations; consequently, tariffs on most goods not subject to industry plans will be reduced over four years commencing on July 1, 1988, to an ad valorem tariff structure with

---

26. R. DOUGLAS & L. CALLEN, *supra* note 4, at 33.

27. For a convenient summary of the earlier position, see DELOITTE, HASKINS & SELLS, NEW ZEALAND, DOING BUSINESS IN NEW ZEALAND: A GUIDE FOR THE FOREIGN INVESTOR 18-20 (1983) [hereinafter A GUIDE].

28. *Id.* at 138. Most import licensing on goods outside special industry plans ended on July 1, 1988. *See* DEP'T OF TRADE AND INDUSTRY, TARIFF WORKING PARTY REPORT TO THE MININSTER OF TRADE AND INDUSTRY, Oct. 1987 [hereinafter TARIFF REPORT].

29. A GUIDE, *supra* note 27, at 178; R. DOUGLAS & L. CALLEN, *supra* note 4, at 177-92. See TARIFF REPORT, *supra* note 28, at 32, for a graph showing the decline in assistance.

30. *Id.* at 184. There was a move towards tariffs rather than import licensing in the period prior to 1984. For example, in 1983 about twenty percent of imported goods were subject to licensing. These were mostly consumer goods, raw materials, or components, for which there were no local substitutes. Australian imports and tariffs were and are dealt with under the CER agreement. *See supra* note 12. For the pre-1984 tariff position, see generally A GUIDE, *supra* note 27, at 20-21. For a history of the New Zealand Tariff, see TARIFF REPORT, *supra* note 28, at Annex 3.1.

a maximum tariff of one and a half percent compared to a current maximum of forty percent. Review and monitoring of the tariff system is to be overseen by the New Zealand Economic Development Commission, which intends to make further improvements in this area.[31]

Most critics of deregulating import licensing and tariffs have argued that deregulation has been too absolute and was therefore inappropriate for New Zealand's small economy, particularly when New Zealand competes with much larger and highly regulated economies elsewhere in the world.[32] Moreover, some contend protection remains essential to providing a domestic research and development base for New Zealand products.[33]

C. The Labour Market

Although just prior to July 1984, the previous National Government imposed wage controls, it nonetheless deregulated the labour market by suspending a compulsory requirement that workers join unions in industries covered by a national collective bargaining agreement. If workers resisted, they could lawfully be dismissed by their employers. The Labour Government reinstated compulsory union membership in 1985.[34]

After July 1984, the Labour Government revised New Zealand's wage-fixing and industrial relations arena.[35] The previous system took an institutionalised approach to wage-fixing. For instance, if the parties could not agree on a bargaining matter, it became the subject of compulsory arbitration before the Arbitration Court.[36] This approach severely restricted bargaining between employer and employee groups and discouraged both initiative and

31. *See* GOVERNMENT ECONOMIC STATEMENT (1987) at 52; TARIFF REPORT, *supra* note 28, at 77-78.

32. Beanland, *Panacea or Poison?*, Dominion Sunday Times, June 7, 1987; Harris, *Debate Must Center on Direction*, Dominion Sunday Times, May 24, 1987; *Some Economic Theories Badly Based-Claim*, Christchurch Press, May 16, 1987. *See* TARIFF REPORT, *supra* note 28, at Annex 5.1, for a review of trade barriers imposed by some of New Zealand's major trading partners: Australia, Hong Kong, Japan, Korea, the United Kingdom, the United States, and Taiwan.

33. *See, e.g.*, Waring, *Protect or Perish*, Dominion, Nov. 26, 1987.

34. The act under which, among other things, wage controls were imposed was the Economic Stabilization Act, No. 38, 1948 N.Z. Stat. 347, (*repealed* 1987). For examples of those controls, see *supra* note 3. For details of compulsory union membership see the Labour Relations Act 1987, §§ 59, 71. For exemption procedures see Vranken, *Union Membership: A Critical Review of Decision of the Union Membership Exemption Tribunal*, 1986 N.Z.L.J. 403.

35. *See generally* R. DOUGLAS & L. CALLEN, *supra* note 4, at 94-105.

36. For reviews of the previous system, see A. SZAKATS, INTRODUCTION TO THE LAW OF EMPLOYMENT 108-39 (1975); A. SZAKATS, TRADE UNIONS AND THE LAW 119-61 (1968). *See also* J. HOLT, COMPULSORY ARBITRATION IN NEW ZEALAND: THE FIRST FIFTY YEARS (1986).

considerations of productivity. Furthermore, it encouraged employers to pass on any wage increases to their customers because their products were protected against competition from imported goods. With the removal of import licensing and the reduction of tariffs following July 1984, the environment in which this abuse was possible changed; and the need for legislative reform and deregulation became more intense.

Toward the end of 1984, negotiations between the Government, employers, and unions resulted in an agreement regarding voluntary arbitration. If either the employer or employees does not wish to have the issue resolved by the Arbitration Court, then it will not be submitted for review. Equally important, the Government has not become involved in industrial relations bargaining. Rather, it has left bargaining to the parties directly concerned. These two changes, the first, an agreement on voluntary arbitration and the second, a policy of non-intervention or non-regulation, have been subsequently reinforced by the enactment of the Labour Relations Act 1987.[37]

This Act is not, however, an exercise in total deregulation. Its provisions are quite detailed in their regulation of the procedures for negotiating industrial awards, industry-wide bargains, or agreements which are usually confined to a particular work place. The Act provides for a Mediation Service and an Arbitration Commission in order to help negotiations of awards and occasionally agreements. The Act also instituted a Labour Court. The essential difference between the new Act and the previous dispute resolution system is that the former leaves employers and unions to negotiate within the bounds of stated procedures. The Act does not prescribe or limit what must be or can be negotiated. Rather, it sets out a system whereby the two groups most directly involved in the labour market can themselves negotiate an award applicable to a particular industry or an agreement applicable to a particular work place. Most importantly, it provides that an award or an agreement, having been negotiated, cannot be easily amended prior to its expiration date and can be enforced by the employer or the union through the newly created Labour Court.[38]

The legislation's primary emphasis is allowing the parties to reach their own arrangements with more regard to an employer's ability to pay and to issues of productivity. The focus on these two factors since the legislation's enactment has been much greater than

37. *See generally* Labour Relations Act 1987, No. 77, 1977 N.Z. Stat. 1, §§ 132, 186, 194-206; N.Z. DEPARTMENT OF LABOUR, A GUIDE TO THE LABOUR RELATIONS ACT (1987).

38. *See generally* N.Z. Empl. L. Guide, (CCH N.Z.) ¶¶ 15, 65.

that seen before July 1984.[39] There has also been a greater willingness on the part of employers to seek to enforce their industrial bargains through legal action.[40]

Among these recent developments has been a strong move toward the extension of shop trading hours to include Sunday trading.[41] However, these changes have not disipated criticism. Critics of deregulating the labour market maintain that the national award system is still too regulated[42] and that compulsory unionism should be abolished.[43]

Lastly, and most recently, the public sector of the labour market has been radically altered with the enactment of the State Sector Act 1988. Effective April 1, 1989, this Act removes most of the employment legislation which previously applied specifically to public (or government) employees, such as the State Services Act 1962 and the State Services Conditions of Employment Act 1977. The new Act creates a revised legal framework for such employees in that the Government has adopted the principle that, unless there is a good reason otherwise, what is good for private-sector employ-

39. *See* R. DOUGLAS & L. CALLEN, *supra* note 4, at 103; Collins, *Success is Claimed for Rogernomics*, N.Z. Herald, May 16, 1987. For example, employers and some unions at the Auckland Nissan car assembly plant have attempted to introduce a flexible work-time and quality system based upon the Japanese model. *See* Barrett, *Nissan Objectors Attacked from Both Sides*, Nat'l Bus. Rev., Apr. 13, 1988, at 7. This system has run into opposition from other unions. *See Union Official Renews Resign Call*, Auckland Star, Apr. 13, 1988, at A3. Some employers and employees have begun to negotiate work contracts outside the award structure. *See Meat Company Applies for Work Contracts*, Auckland Star, Apr. 13, 1988, at A5.

40. *See, e.g.*, Northern (Except Gisborne) Rd. Transp. IOUW v. Shell Oil N.Z. Ltd., 1 N.Z. Empl. L. Cas. (CCH N.Z.) ¶ 78-144 (H.C. 1987); H.W. Coyle Ltd. v. Plumbers IOUW, 1 N.Z. Empl. L. Cas. (CCH N.Z.) ¶ 78-109 (H.C. 1987); New Zealand Meat Processors IOUW v. Alliance Freezing Co. (Southland), 1 N.Z. Empl. L. Cas. (CCH N.Z.) ¶ 78-093 (H.C. 1986); Tip Top Ice Cream Co. v. Northern Clerical IOUW, 1 N.Z. Empl. L. Cas. (CCH N.Z.) ¶ 78-092 (H.C. 1986); Auckland Hosp. Bd. v. New Zealand Federated Hotel IAOW, 2 N.Z. Empl. L. Cas. (CCH N.Z.) ¶ 78-144 (Labour Ct. 1988); Alliance Freezing Co. (Southland) v. Canterbury Drivers IOUW, 2 N.Z. Empl. L. Cas. (CCH N.Z.) ¶ 78-143 (Labour Ct. 1988); Herbert, *Congested Labour Court Faces Workload*, Nat'l Bus. Rev., Mar. 28, 1988.

41. The issue is before a Government advisory committee. Currently, shops are open Monday to Friday. There is an increasing trend toward full Saturday opening. *See Fletcher Pushes Case for Sunday Trading*, Nat'l Bus. Rev., Apr. 13, 1988. *See also Big and Small Business Clash on Sunday Trading*, Auckland Star, Apr. 12, 1988.

42. *See, e.g.*, Barrett, *Fay Chastises Bosses over "Low" Wage Rates*, Nat'l Bus. Rev., Apr. 13, 1988 (Michael Fay is quoted as follows: "Let's get rid of centralised bargaining, let's deregulate the labour market. . . .To encourage productivity a labour-relations system must be based on closer employer/employee relationships at an enterprise level. Employers and employees cannot afford to have national awards and agreements that inhibit direct negotiations between them"). *See also* Barrett, *Bright Sparks amid the Gloom*, Nat'l Bus. Rev., Apr. 15, 1988.

43. *See, e.g.*, *Farmers Cry Foul on Union Votes*, N.Z. Herald, Apr. 12, 1988 ("Union membership is now compulsory on thousands of the country's farms after ballots of employees. . .only 2 of about 4000 dairy employees voted on the issue. . .a vote for compulsory union membership of 12 to eight.").

ers, unions, and workers should be good for the state. Government departments are to be organised along corporate lines, and the conditions of government employment are to be determined in generally the same way as for other employees under the Labour Relations Act 1987. Thus, the performance of government employees will come under much greater scrutiny.[44]

D. State-Owned Enterprises and Privatisation

One major objective of the Labour Government is to reduce New Zealand's official overseas debt.[45] One approach to this problem was improved use of government spending of that portion of revenue not already allocated to financing that debt. As Roger Douglas writes:

> We had consistently placed great emphasis in our economic policies on putting resources to better use and increasing competition. Every area of the private sector, to a greater or lesser degree, had been given a new framework in order to do that. Now that emphasis needed to be extended to the public sector. The public sector was urgently in need of reform and accounted for 25% of our gross domestic product. If we really wanted a lasting improvement, a sustainable trend to lower deficits, we would have to change the way the state services are organised and managed.[46]

Pressure for change began in May 1985. The objective was to rationalise the commercial activities of large government departments such as those involved in construction activities, timber, coal, electricity production, and postal and telephone services ("SOEs"). The Government's intention was to create "a set of basic principles to reorganise SOEs so that they operated on a commercial basis, shifting responsibility for non-commercial functions elsewhere, exposing them to private sector competition, and letting their managers manage or making them more accountable for their performance."[47]

---

44. Herbert, *Reform Proposals Upset CSU Head*, Nat'l Bus. Rev., Dec. 11, 1988, citing State Services Minister Stan Rodger. For a useful comment, see Taylor, *State Sector Bill Revisited*, Nat'l Bus. Rev., Apr. 8, 1988; *Government Amends Bill to Stem Strike Action*, Nat'l Bus. Rev., Mar. 11, 1988; *Legislation Promises to Carry Forward Existing Obligations*, Nat'l Bus. Rev., Mar. 9, 1988; *State Sector Bill Fails to Offer Private Sector Benefits*, Nat'l Bus. Rev., Mar. 9, 1988; Clark, *Finding the Balance in the State Sector Bill Tug-of-War*, Nat'l Bus. Rev., Mar. 7, 1988; Taylor, *State Sector Bill—Prince or Beast*, Nat'l Bus. Rev., Feb. 28, 1988; Hicks, *Seeking a Better Way to Keep the Blood Flowing*, Nat'l Bus. Rev., Feb. 18, 1988.

45. Private debt remains high. *See, e.g.*, *Nation's Buying on HP Rises 6.5%*, Auckland Star, Apr. 12, 1988. *See also New Markets—New Borrowers*, EUROMONEY, Nov. 1988.

46. R. DOUGLAS & L. CALLEN, *supra* note 4, at 223-24.

47. *Id.* at 24. Corporatisation is comprehensively discussed in P. MCKINLAY, CORPORATISATION: THE SOLUTION FOR STATE OWNED ENTERPRISE? (rev. ed. 1987),

After intense negotiation, the Government Economic Policy Statement of December 12, 1985, set out five principles which were to apply to SOEs which produced goods and services on a commercial basis:

(a) responsibility for non-commercial functions would be separated from major trading SOEs;
(b) managers would be given a principal objective of running SOEs as successful businesses;
(c) managers would be given responsibility for deciding how they achieved performance objectives agreed to with ministers, so the managers could be held accountable to ministers and parliament for their results;
(d) the advantages and disadvantages which SOEs had, including barriers to competition, would be removed so commercial criteria provided a fair assessment of performance;
(e) each SOE would be restructured according to its commercial purpose under the guidance of boards appointed generally from the private sector.[48]

These principles were intended, above all else, to increase governmental efficiency and therefore ensure that tax revenues could be used for social purposes—the second of the policy objectives of Rogernomics referred to in Section I.[49]

The enactment of the State-Owned Enterprises Act 1986 created a legislative framework for SOEs. Each SOE was intended "to operate as a successful business" and to be "as profitable and efficient" as comparable businesses that were not owned by the Government.[50]

The Act refers to a number of SOEs which were either already in existence[51] or newly created,[52] spanning the fields of aviation, coal and electricity production, property ownership, land and forest development, railways, petroleum production, postal and banking services, telephone services, tourism, and shipping. As part of the creation of SOEs, new chief executive officers for these corporations

55-66. An excellent series of articles by Sallee can be found in Nat'l Bus. Rev., Jan. 23, Jan. 30, Feb. 6, Feb. 13, Feb. 20, Feb. 27, and Mar. 6, 1988.

48. R. DOUGLAS & L. CALLEN, *supra* note 4, at 227 (account of the political background to these decisions).

49. *See supra* note 6 and accompanying text.

50. State-Owned Enterprises Act, § 4(1)(a), No. 124, 1986 N.Z. Stat. 1306, 1309.

51. *See* State-Owned Enterprises Act, First Schedule, 1986 (Air New Zealand Ltd., Airways Corporation of New Zealand, Coal Corporation of New Zealand Ltd., Coal Corporation of New Zealand, Electricity Corporation of New Zealand, Government Property Services Ltd., the Land Corporation, New Zealand Forestry Corporation Ltd., New Zealand Railways Corp., Petroleum Corporation of New Zealand Ltd., New Zealand Post Ltd., Post Office Bank Ltd., Telecom Corporation of New Zealand Limited, Tourist Hotel Corporation of New Zealand, and Shipping Corporation of New Zealand Limited.)

52. The nine newly-created corporations are identified in the previous footnote.

were appointed from among prominent business people in New Zealand, and assets previously held by the relevant government departments were transferred to the new SOEs.[53]

The management of the SOEs has been well-summarised as follows:

> Each of the state owned enterprises will be required to submit to their shareholding ministers. . .a statement of corporate intent which will specify for the current and two ensuing financial years a whole series of matters, including the objectives of the enterprise, the nature and scope of the activities which it intends to undertake, and a range of financial measures. These will vary from enterprise to enterprise, but each will be based on the principle that its board is accountable to ministers for the effective operation of the enterprise, and that enforcement of this accountability requires, first, that the board specify what the enterprise intends to do and, secondly, that its results are measured against its expressed intentions in terms of financial and other criteria which are agreed in advance. Key documents, including the statement of corporate intent and audited financial accounts, must be laid before [Parliament] within 12 sitting days of their receipt by ministers.[54]

Since the 1986 Act, the Post Office has been further divided into three SOEs: New Zealand Post, Post Office Bank, and the Telecom Operation of New Zealand. The New Zealand Forest Service has been replaced by the Forestry Corporation (responsible for commercial activities), the Department of Conservation, and the Ministry of Forestry. The Ministry of Works and Development has been incorporated to enable that SOE to take a more commercial approach towards the consulting, construction agency, and civil engineering services which it provides as a government department.[55]

---

53. R. DOUGLAS, *supra* note 4, at 233-34. On employment in the SOEs, see Sallee, *Severance Option Results in Short-Staffed SOEs*, Nat'l Bus. Rev., Mar. 31, 1988. On the pricing for transfer of assets, particularly in respect of Electricorp, see P. MCKINLAY, *supra* note 47, at 63-66 and 71-73. For valuation of assets transferred to Airways Corporation Ltd., Coal Corporation Ltd., Electricity Corporation Ltd., Government Property Services Ltd., New Zealand Post Ltd., and Telecom Corporation Ltd., see Nat'l. Bus. Rev., Apr. 5, 1988.

54. P. MCKINLAY, *supra* note 47, at 61. *See also* Prebble, *A Perspective on State Owned Enterprises*, ERNEST & WHINNEY [N.Z.] FIN. NEWS, Mar. 1988 (the author is Minister of SOEs).

55. These have caused at least 253 redundancies. *See No Work Prospects for MOW Managers*, Auckland Star, Apr. 12, 1988. A noticeable aspect of corporatisation has been advertising by the SOEs. For example, the New Zealand Forestry Corporation placed this newspaper advertisement:

> The New Zealand Forestry Corporation and its subsidiary companies Prolog and Timberlands are responsible for your commercial forests, processing wood, and selling our products both here and abroad. Our prime objective will be to turn your half million hectares of planted forests into a profitable enterprise. An objective we are already achieving after only 12 months of operation.

Dominion Sunday Times, Apr. 10, 1988, at 32.

Creating SOEs deregulated those parts of the economy where government departments previously dominated. This change allowed the SOEs and private organisations to compete against each other. It likewise provided the basis for the SOEs to be privatised.[56]

The Government privatised Petroleum Corporation Limited through a public tender offer, and the Development Finance Corporation of New Zealand. The Development Finance Corporation of New Zealand, established in 1973 and operated primarily as a government development bank, was restructured in 1986 as a limited liability investment bank able to operate freely as a commercial banking entity with private ownership.[57]

The Government definitely plans to privatise several SOEs soon, and it is presently considering selling off the SOE assets to private organisations to significantly reduce New Zealand's debt.[58] Recently, there have been successful negotiations for the sale of Air New Zealand to a consortium involving the Australian-owned airline Qantas.[59] Steps have also been taken to make government departments and employees, the state-owned health system, and local government more accountable and open to private enterprise.[60]

---

56. Douglas does not discuss privatisation in his book, but it is undoubtedly a logical extension of the SOE policy. *See also* Bayliss, *supra* note 2, at 2. For a National Party criticism that the Government has not moved quickly enough towards privatisation, see Gair, *Indicators Tell a Grim Tale*, Sunday Auckland Star, May 3, 1987. *See also* P. MCKINLAY, *supra* note 47, at 74-78, *Corporatisation: A Step on the Way to Privatisation?* and Mr. McKinlay's articles of Aug. 28, Sept. 18, Sept. 24, Oct. 23, Nov. 20, Nov. 24, 1987, Feb. 24, Feb. 25, Mar. 1, and Apr. 26, 1988, in the Nat'l Bus. Rev.

57. *See* Development Finance Corporation of New Zealand Act No. 129, 1986 N.Z. Stat. 1406; Smith, *Deregulation's Impact on Financial Sector*, Austl. Fin. Rev., Oct. 29, 1987. The DFC now operates as a fully-fledged merchant bank operating itself and through its subsidiaries. *See DFC Venture Acquires Control of Cruise*, N.Z. Herald, April 13, 1988. For a review of the varying performance of SOEs, see *Telecom Tops But Railway Worst Among the SOEs*, Nat'l Bus. Rev., Dec. 9, 1988.

58. Nat'l Bus. Rev., Mar. 28, 1988; Sallee, *Full SOE Sell-Offs Planned*, Nat'l Bus. Rev., Feb. 24, 1988 (citing the Minister of SOEs' letter to SOE chairpersons to that effect, Feb. 17, 1988).

59. For previous attempts to sell Air New Zealand, see, e.g., *Air NZ: To Sell or To Hold?*, N.Z. Herald, Apr. 7, 1988, at 9. At the time of writing, these negotiations have faltered. *See* Auckland Star, Apr. 12, 1988. But, the negotiations may be revived. *See Super-Airline Proposal Flies Again*, N.Z. Herald, Apr. 12, 1988. For details on the sale of the airline to the consortium and the requirement of a partial public float, see Smith, *Share Float Condition as PIC/QANTAS Get Air NZ.*

60. *See generally* P. MCKINLAY, *supra* note 47, at 82-87; OFFICIAL CO-ORDINATING COMM. ON LOCAL GOV'T, REFORM OF LOCAL AND REGIONAL GOVERNMENT DISCUSSION DOCUMENT (1988); *Report on the Hospital Services*, Nat'l Bus. Rev., Apr. 7, 1988; and Clark, *Caygill Cautions on Health Restructuring*, Nat'l Bus. Rev., Apr. 6, 1988. The State Sector Act 1988 referred to in Section II.C. gives greater freedom to government departments to operate autonomously. Among other things, this is leading to the introduction of modern accounting systems. *See Public Service Accounting Needs Revamp*, N.Z. Herald, Apr. 12, 1988. In December 1988, Postbank, the government-owned banking arm of the Post Office, was sold to a listed bank, ANZ Banking Group.

In the context of these changes, the following comment is pertinent:

> Whatever the future of the reform process, it is clear that we are witnessing a fundamental change in the relationship between governments and the societies which they govern. For New Zealand, as for other societies which have undertaken the process of reforming their trading enterprises, a continuation of change seems inevitable regardless of the political colouration of the government of the day.[61]

E. Taxation

Tax policy has been a vital element of the government's economic policy of deregulation. In a sense, this is not deregulation at all but inevitable government regulation for the purposes of gaining revenue. In the past, direct taxation in New Zealand has been high.[62] Concessions to taxpayers eroded the tax base, and tax rates (particularly marginal rates) rose rapidly to a maximum marginal tax rate of sixty-six percent. As Roger Douglas has stated:

> The excessive rates encouraged people to exploit the underlying weaknesses in the tax system that allowed, for instance, employees to receive tax-free income in the form of fringe benefits. It produced a cycle of increasing tax rates which led to evasion and a shrinking of the tax base; that made even higher rates necessary and caused further tax base erosion. The system was also imposing high costs on the economy. High tax rates discouraged work, training, risk-taking and saving. Instead people were encouraged to use their ingenuity in seeking tax concessions, or devising means of avoiding tax; and investment and commercial decisions and the way people were paid for their work became increasingly dependent on the intricacies of a tax system gone crazy. Money, materials and labour were channelled into activities whose primary purpose was to provide tax concessions for those involved, adding little or nothing to the general economy through income or wealth.[63]

A number of approaches to this problem have been implemented. The first has been indirect taxation.[64] The second has been a reduction in personal and corporate tax rates.[65] The third has

---

See Bywater, *ANZ Grabs Post Bank But BNZ Sale Canned*, Nat'l Bus. Rev., Dec. 22, 1988.

61. P. MCKINLAY, *supra* note 47, at 139.

62. Seventy four and one-half percent of all government revenue from direct taxation distributed was as follows: personal income tax (63.3%), corporate tax (8.8%), and other direct taxes (2.4%). R. DOUGLAS & L. CALLEN, *supra* note 4, at 207. *See also id.* at 193-94.

63. *Id.* at 194. *See also* GOVERNMENT ECONOMIC STATEMENT, *supra* note 4.

64. For the introduction of indirect taxation, see generally R. DOUGLAS & L. CALLEN, *supra* note 4, at 207-21.

65. *Id.* at 194-95.

been the reform of accruals accounting legislation.[66] The fourth has been proposals for tax haven legislation.[67] The fifth is likely to be some form of capital gains tax.[68]

Of these, indirect taxation reform has so far been the most significant, tax-haven legislation having been stalled for the time being.[69] On October 1, 1986, the Goods and Services Tax Act 1986 came into force imposing a ten percent tax on the sale to consumers of all goods and services. The goods and services tax is very similar to the United Kingdom's value added tax. The tax has had an initial effect on inflation, but its introduction was well-handled. It is now an accepted part of the New Zealand commercial environment.[70]

As far as personal and corporate tax rates are concerned, Roger Douglas preferred a flat individual tax rate, probably very close to a corporate tax rate, to encourage tax neutrality: the removal of any tax incentive to use one form of trading vehicle rather than another.[71]

Proposals regarding corporate tax had two aspects: (1) removing the double taxation of company earnings when they were distributed to shareholders by introducing an imputation or tax credit system; and (2) reducing the corporate tax rate to twenty-eight percent as of April 1, 1988. The first of these objectives has now been achieved.[72] The second was introduced on April 1, 1988,[73] how-

66. *See* N.Z. LAW SOC'Y SEMINAR, TAXATION-ACCRUALS, Feb.-Mar., 1988. Douglas personally regarded this tax avoidance change of particular significance since it brought NZ$1 billion of income into the tax net. R. DOUGLAS & L. CALLEN, *supra* note 4, at 205.

67. *See* R. DOUGLAS & L. CALLEN, *supra* note 4, at 205; GOVERNMENT ECONOMIC STATEMENT, *supra* note 4, at Annex 2.

68. *See* R. DOUGLAS & L. CALLEN, *supra* note 4, at 205 (unenthusiastically considering the proposal). The view of many commentators is that introduction of the tax will be necessary to appease mounting opposition to Rogernomics from within the Labour Government and to increase government revenues, even if only marginally. In addition, the Consultative Committee on International Tax Reform has recommended the change; *see infra* note 69, at 58-59. The Prime Minister and Roger Douglas also affirmed this; *see* Press Statement Feb. 16, 1988.

69. *See* CONSULTATIVE DOCUMENT ON INTERNATIONAL TAX REFORM (1987) and REPORT OF THE CONSULTATIVE COMMITTEE ON INTERNATIONAL TAX REFORM (PART 1) 1988. The recommendations of the Consultative Committee are too complex to be reviewed here, but, the Government indicated in a press statement on Mar. 25, 1988, that it will accept them.

70. An outline of the operation of the Act is set out in N.Z. INLAND REVENUE DEP'T GST GUIDE (rev. ed. 1986). The move toward indirect taxation should reduce the proportion of direct taxation to total revenue from about 75% to 50%. *See* ERNST & WHINNEY NEW ZEALAND, DOING BUSINESS IN NEW ZEALAND (1987). This is an excellent overview of the New Zealand business environment for anyone wishing to do business there. The new Minister of Finance, Mr. Caygill, has recently increased the rate of GST to 12.5% from July 1989.

71. *See* GOVERNMENT ECONOMIC STATEMENT, *supra* note 4, at 7-8.

72. *See* CONSULTATIVE DOCUMENT ON FULL IMPUTATION (1987). Imputation

ever, the tax rate has recently been raised to thirty-three percent, the same level as the marginal personal tax rate.

The first overt political challenge to Rogernomics occurred in the area of individual and corporate tax reform. Roger Douglas and his supporting ministers were in apparent conflict with the Prime Minister and more traditional Labour members of Parliament.[74] The December 17, 1987, Economic Statement promised a wide range of tax reform, but while Douglas was outside New Zealand, the Prime Minister, David Lange, announced its delay. He appeared to have done so without consulting with Douglas.[75] Consequently, the proposed flat-rate personal tax regime was set aside in favour of a two-tier system, effective October 1, 1988, with twenty-four percent applicable to incomes up to $30,875 and thirty-three percent on incomes above that level. Some commentators have viewed this compromise as temporary and have not ruled out a return to a flat-rate tax in the future. However, in view of Roger Douglas' resignation, Prime Minister Lange's unsympathetic attitude, and the new Minister of Finance, Mr. Caygill's, advocacy of a capital gains tax and refusal to rule out future increases in tax rates, a return to a flat-rate tax seems most unlikely.[76]

III. SUMMARY AND CONCLUSIONS

There have been few criticisms of deregulation as such. To the contrary, commentators have applauded deregulation at the microeconomic level and have generally regarded the changes reviewed here as revolutionary, and perhaps even too slow in relation

---

theoretically took effect Apr. 1, 1988, but the implementing legislation was not passed until Dec. 16, 1988. Income Tax Amendment (No. 5) Act 1988. The most accessible source for the quickly changing announcements in this area is Law & Prac. (CCH N.Z.) Recent Developments Tab.

73. The rate for non-resident companies is 33%, but Mr. Caygill announced on Mar. 22, 1989, that the rate would be increased to 38% from Apr. 1, 1989, in line with the new corporate tax rate of 33%. *See* N.Z. Herald, Mar. 22, 1989; Nat'l Bus. Rev., Mar. 22, 1989. For a critical review of tax changes and their piecemeal implementation, see Walton, *A Beginner's Guide to the Tax Minefield-Higgeldy Piggledy Reform Keeps Consultants in Secure Employment*, Nat'l Bus. Rev. Weekend Rev., Nov. 25, 1988.

74. *See* Sallee, Nat'l Bus. Rev., Mar. 30, 1988. *But see* Lange, *Improving the Economy While Enhancing Social Equity*, Nat'l Bus. Rev., Apr. 12, 1988.

75. *See Tax-Package Delays News to Douglas*, Nat'l Bus. Rev., Jan. 29, 1988. On the tax rates, see Law & Prac., *supra* note 72, at 77, ¶ 62,088.

76. *See* McPhee, *Flat Tax Remains a Prospect After Compromise*, N.Z. Herald, Feb. 13, 1988; *cf.* James, *Still Waiting for Social Dividend*, Nat'l Bus. Rev., Dec. 9, 1988; *PM Still Thinks Tax Cuts Too Big*, N.Z. Herald, Jan. 25, 1989; Collins, *Caygill Eyes Tax on Capital Gain*, N.Z. Herald, Jan. 18, 1989 *and* Clark, *Caygill Dodges Questions on Budget Tax Hike*, Nat'l Bus. Rev., Dec. 16, 1988. Mr. Caygill's most recent economic pronouncement on Mar. 21, 1989 maintained existing personal tax rates while increasing the corporate tax rate to 33%. *See, e.g.*, N.Z. Herald, Mar. 22, 1989, Nat'l Bus. Rev., Mar. 22, 1989.

to tariff policy and the labour market.[77]

Criticisms of Rogernomics itself as a set of policies have concentrated upon the macroeconomic aspects of those policies: an alleged inability to control inflation, the creation of balance of payments deficits, and both government and private overseas debt. Although there are signs that the inflation rate is falling and that high interest rates are dropping, to many New Zealanders the most tangible and often personal experience of Rogernomics has been the rising rate of unemployment.[78] Unemployment, now at its highest level in forty years, is a critical issue underlying the political survival of the Labour Government. It provides a major focus for criticism of Rogernomics, from the traditional, non-market-orientated members of the Labour Government and Party, from the National Party opposition, and ultimately from the New Zealand electorate at the polls in 1990, when the next general elections is held.[79]

Until his resignation, Roger Douglas maintained his economic policy as the underpinning of changed social policy; since his resignation he has understandably warned that any change in the policies initiated would result in economic catastrophe for New Zealand. His successor, Mr. Caygill, has affirmed his commitment to the blind trust of Rogernomics.[80]

---

77. *See, e.g.*, Sallee, *Treasury and Reserve Bank Criticise Pace of Reforms*, Nat'l Bus. Rev., Oct. 23, 1988; Philpott, *The Failings of Rogernomics*, Dominion, May 5, 1987.

78. *See* Bayliss, *supra* note 2; *Policies Failing to Succeed Says Bayliss*, Dominion, Oct. 20, 1987; Philpott, *The Failings of Rogernomics*, Dominion, May 5, 1987; *Is Everything Falling Into Place?*, Dominion, May 6, 1987. *See also* Hall, *Economists Ignore Crucial Questions*, Dominion Bus. News, Apr. 13, 1987; *Economist Says Government Policy in Tatters*, N.Z. Herald, Feb. 13, 1987; Hall, *Rogernomics Under Fire on All Fronts*, Dominion, Dec. 7, 1987; Templeton, *Shattered Illusions*, Auckland Sunday Star, Sept. 27, 1987, at A10; *Government Debt Reduction Means Private Increase Says Philpott*, June 29, 1987; *Some Economic Theories Badly Based-Claim*, Christchurch Press, May 16, 1987; *Philpott Doubts Restructuring Will Fix Deficit*, Dominion, May 18, 1987; Collins, *Successes Claimed for Rogernomics*, N.Z. Herald, May 16, 1987; Braddell, *Still Debate Left in Rogernomics*, Evening Post, Apr. 22, 1987.

As to the falling inflation and interest rates, see *Inflation and Interest Rates*, LAWLINK, Mar. 1988. For predictions of up to 100,000 unemployed, see *BERL Tips Recovery Start by 1988*, Dominion, Sept. 18, 1987. As of the time of writing, the registered unemployed were 7.6% of the full-time work force. N.Z. LABOUR DEPT., MONTHLY OPERATIONS, Jan. 1988. Provisional Feb. 1988 figures were 100,569 registered unemployed.

79. *See, e.g.*, Grafton, *National's Each-Way Policy Punt*, Dominion Sunday Times, Apr. 17, 1988; James, *Warning Signs for a Divided Labour*, Nat'l Bus. Rev., Mar. 31, 1988; *Gov't Focuses on Economy as Jobless at New High*, N.Z. Herald, Jan. 25, 1989 and "Total unemployed is 149,603 or about 11% of the workforce;" *see Special Cabinet Meeting called over jobs crisis*, Nat'l Bus. Rev., Jan. 25, 1989.

80. *See, e.g.*, *Providing for Social Goals*, Nat'l Bus. Rev., Mar. 18, 1988, at 7 (interview with Mr. Douglas); *Mystery of Douglas Dossier*, Nat'l Bus. Rev. Weekend Rev., Nov. 25, 1988; *Douglas Declares War*, Nat'l Bus. Rev., Dec. 15, 1988, *and Caygill Comfortable with Blueprint of Rogernomics*, Nat'l Bus. Rev., Dec. 15, 1988.

The economic verdict on Rogernomics and the question posed in the title of this article must be regarded as unproven and unanswered. Prior to Douglas' resignation, a safe prediction was that deregulation would continue at the microeconomic level for as long as Douglas remained Minister of Finance in the Labour Government. The pace of deregulation at that time showed no sign of diminishing and included proposals to review occupational licensing and perhaps ultimately deregulate many occupations. Examples were dentists, auctioneers, the taxi industry, motor vehicle dealers, lawyers, and other groups whose occupations relate to housing, such as real estate agents, architects, professional engineers, drainlayers, plumbers, gasfitters, electricians, engineering associates, surveyors, valuers, and quantity surveyors.[81]

Following Douglas' resignation, itself a sign of popular dissatisfaction with his policies, such a prediction has become much less certain despite signs of improvement in New Zealand's economic performance.[82] There has been an evident level of criticism of Rogernomics. Some commentators treat Douglas' policies as a failure and advocate a return to at least some degree of interventionist regulatory policies.[83] A return to deregulation remains possible. After all, it is unlikely that the structural alterations to import and tariff licensing, indirect taxation, financial deregulation, and the transfer of assets to SOEs and their privatisation will be easily undone. Indeed, some of those changes, especially in relation to asset transfers, will be impossible to reverse. Successive future governments are likely to accept the reality of such deregulation, and future debate will likely center on macroeconomic policies, with the possible exception of deregulation in the labour market and its effects on unemployment.

What is striking even in the midst of criticism is the consensus that the deregulation achieved by the Labour Government was necessary. As one consistently critical commentator on Rogernomics has noted:

---

81. *See Occupational Regulation*, GOVERNMENT ECONOMIC STATEMENT; ECONOMIC DEV. COMM'N, REFORM OF MOTOR VEHICLE DEALER LICENSING (1987); OCCUPATIONAL LICENSING IN NEW ZEALAND (1988). For strong criticisms of proposals respecting lawyers, see *Deregulation—Are the Answers Predetermined?*, LAW TALK (New Zealand Law Society Newsletter), Mar. 1988.

82. *Trade Gains Signal Upturn in Economy*, N.Z. Herald, Jan. 19, 1989 (discussing an improved New Zealand performance in the context of a 4.7% inflation rate for 1988, the lowest inflation rate for nineteen years). *See also Inflation Set to Rise Again*, N.Z. Herald, Jan. 18, 1989. Lowered interest rates are expected to follow the decrease in inflation. *See, e.g.*, Collins, *Interest Cut Expected to Follow Inflation*, N.Z. Herald, Jan. 18, 1989.

83. *See e.g.*, McDermott, *Pure Economics Experiment Appears a Failure*, N.Z. Herald, Jan. 17, 1989. In contrast, the OECD predicts New Zealand's gross domestic product to rise 1.5% during 1989 and 2% in 1990 with corresponding inflation rates of 4.2% and 3.5%. *See OECD Tips Improved Ecomony*, Nat'l Bus. Rev., Dec. 22, 1989.

> No-one two and a half years ago would have believed that any New Zealand Government would have made such a determined attack on the deep-rooted resource allocation and inefficiency problems which have beset the New Zealand economy. More important, the Government has made a major impact on changing attitudes and perceptions in both the public and private sectors. There is now widespread recognition that New Zealand must be efficient in every sector if it is to earn a satisfactory living in a highly competitive world. Business management and efficiency have greatly improved and no longer sees government handouts and subsidies as the solution to its problems. These are very substantial achievements in such a short time and the Government deserves full credit for its skill and determination.[84]

In spite of the undoubted pressures that will mount to change the direction of Rogernomics before the 1990 election in New Zealand, it is against a background of changed attitudes in New Zealand that Rogernomics must be measured. The reality must be recognised that the deregulatory measures of the Labour Government, particularly in the areas of exchange control, financial services, SOEs and privatisation, import licensing, and tariffs and taxation policy, will not easily be reversed by an electorate grown accustomed, despite increased unemployment, to economic freedoms which may yet result in prosperity.

84. *See* Bayliss, *supra* note 2, at 2.