

Mr David Kay, a Wellington chartered accountant, will arbitrate over the dispersal of the HMA's assets.

He has been appointed by the minister of agriculture and fisheries to conduct an investigation under section 12 of the Ministry of Agriculture and Fisheries Act into the ownership of the net assets of the New Zealand Honey Marketing Authority in the event of its disillusion or reorganisation.

Two particular areas were nominated by the parties involved as requiring clarification;

- If the whole or some part of those assets may be attributed to past and present suppliers of the New Zealand Honey Marketing Authority, how should those funds be used or made available for the use or benefit of such suppliers.
- If the whole or some part of those assets may be attributed to the whole of the honey industry (including packers and producers as defined in the legislation) how should those funds be used or made available for the use or benefit of the industry as a whole.

The arbitrator has requested that all parties should have their written submissions delivered to him by

December 19, with provision for supplementary submissions as late as December 31. The following parties are entitled to make submissions to the arbitrator:

Each executive member of the HMA, the NBA, the Packers Association, the proposed honey marketing co-operative and the New Zealand HMA suppliers association. Individual beekeepers may make representations to any of the above groups to which they may belong and these representations can be included in the principal submissions of that group.

The decisions to appoint an arbitrator under the Ministry of Agriculture and Fisheries Act and prompt agreement on terms of reference for his investigation, were given added impetus by the issuance of an injunction in the High Court which effectively stopped the HMA from advancing any of its assets to a honey marketing co-operative until a decision had been made by an arbitrator as to whom those assets belonged.

The following article is the editor's interpretation of some of the background leading up to the injunction.

INJUNCTION, ARBITRATION, DISPERSAL

DEMOCRACY always works best in a community where a broad consensus can be reached on most issues. Where a community is divided into camps of entrenched opinion of similar strength, majority verdicts often mean little.

Such was the case at the 1980 NBA conference when the contentious topics relating to the HMA's assets were put to the vote. As we noted in our September issue, votes swung from 27 to 21; 27 to 24 and from 25 to 26, revealing two camps of contrary opinions well-known and well-expressed so often before.

Only by compromise and careful negotiation is resolution of this sort of situation likely to be achieved. Certainly, as in industrial relations, the involvement of government is rarely successful in achieving an acceptable solution.

So, in retrospect, it should have come as no surprise when the leader of one of the two beekeeper opinion groups decided to issue an injunction preventing a dispersal of the HMA's assets until an independent arbitrator had had his say.

Equally, it comes as no surprise that those members of the proposed co-operative should feel bitterly disappointed that court action should have been used to stop them from proceeding with the establishment of their venture, especially when they understood that the HMA board had promised to provide the 1 per cent loan capital on which their proposals were in part based.

However, because of the cost of challenging an injunction in the High Court, all negotiations between the various industry bodies on the transfer of HMA assets to a honey marketing co-operative have ceased. In the words of Harry Cloake, one of the prime movers in the co-operative, "The authority and Mr Dickinson (one of the defendants named in the injunction) could have contested the injunction and legal opinion was they could well have been successful. However this would have taken some time, probably several months before a hearing could have been arranged and would have been costly.

"This cost would have been on the hive levy account, a direct cost to the hive levy payers. It may have been necessary to have an increase in the levy to cover this cost — something the industry may not have agreed to and certainly the co-operative steering committee would not agree to.

"Second, the authority and the steering committee could have requested the minister to have legislation brought down to over-rule the injunction. The minister had indicated this possibility, as he is favourably disposed to the principle of a co-operative in the form proposed. But to have done this, would have caused considerable ill-feeling and may have caused a rift in the industry. The committee was not prepared to be a party to this happening.

"Third, the committee could withdraw from its agreement with the HMA. The

committee believed it had a responsibility to the industry not to incur unnecessary costs. It also felt that it should not create ill-feeling or be unreasonable in negotiations."

The steering committee therefore withdrew from the agreement. But only after requesting that the injunction be lifted and that export controls be reimposed on bulk honey until the co-operative became established.

While the export controls were subsequently replaced by the authority, Arataki Honey and Mr and Mrs Ray Robinson, would not agree to lifting the injunction they had obtained.

It is the opinion of the co-operative steering committee that those responsible for the injunction acted in haste and unwisely. They also feel hurt that the injunction has not been lifted, even though they are now willing to wait the decision of the arbitrator. On the other hand, the supporters of the injunction feel that an important principle is at stake.

Because Mr Percy Berry, the former HMA chairman and managing director of Arataki Honey Limited was overseas when this article was written, we spoke to Mike Stuckey, the deputy chairman of the HMA and a supporter of Mr Berry's actions.

Mr Stuckey said that when it was first proposed that 80 per cent of the equity of the HMA should be lent to the new co-op at 1 per cent, he supported the proposal.

"As soon as I looked into it though,

I saw the pitfalls and became concerned that cheap money was a basis of a lot of the thinking in the co-operative and if this money did not eventuate, it could kill the whole project.

"From that point on I decided to do everything in my powers to stop the HMA's funds from being dispersed until the arbitrator had had his say. If I had had sufficient financial resources myself I would have taken out the injunction.

"I don't think that just because a man has the financial power to do something he believes in, that he should be seen as being a greater ogre for it. Percy Berry does have the financial power to take something out like an injunction and he has done so because he feels very strongly that this is in the interest of the whole industry. Certainly, anything that Percy or Arataki was likely to gain from stalling the establishment of the co-operative would long ago have been spent in legal fees."

Mike believes that while it was unfortunate that the co-operative was led to believe that it could proceed with the help of HMA finance, he feels it is more important that things should be done in the right order. "You have to cut your cloak according to your cloth. If the co-operative had been given 80 per cent of the HMA's equity at 1 per cent, their thinking may have been coloured by what they hoped to get in the final wind up, rather than what they might actually get."

The most important issue in Mike's eyes was that the HMA should have an adequate throughput this season.

"Producers considering supplying the co-operative would be very wise to supply the authority this season, rather than selling to producer packers," he said. "Suppliers would then be taking over a strong organisation when the co-op starts up. If throughput for the HMA is so low as to make it as uneconomic, however, they will have to start right from the ground floor.

"There is no better argument for supplying the authority, than the assurance that a strong authority will give suppliers a good platform from which to start their co-operative."

After Arataki/Robinson injunction was issued, there was a flurry of activity as the people involved consulted their solicitors.

At its meeting on September 16 and 17, the HMA had passed five resolutions. These covered the interim payment on all honey supplied to the authority, the appointment of the arbitrator and the lifting of all controls on the export of extracted honey.

The contentious part of the meeting came when the proposal to lend to the proposed co-operative was discussed.

The authority chairman, Mr Berry, queried the right of Mr Ivan Dickinson to vote, given that he was likely to become a member of the proposed co-operative if the HMA was disbanded. The meeting queried the chairman's ruling and voted that it was in order for Mr Dickinson to vote.

As a result, after long discussions, a resolution was passed, agreeing to lend the co-operative up to 80 per cent of the HMA's net distributable equity at 1 per cent interest and the remainder at Rural Bank export rate until August 31, 1981 when the arbitrator's decisions would be known.

Two days later, on September 19, the general manager of the authority was advised that the High Court had issued interim orders restraining the HMA from acting on the resolution to transfer assets and lend money to the proposed co-operative.

While the chairman and vice chairman of the authority, (Messrs Berry and Stuckey respectively) were convinced that the injunction should be sought to enable the completion of arbitration before funds or assets were allocated, NBA president Paul Marshall (who had attended the HMA meeting) was not so sure. "I had hoped the process of transfer from HMA to co-operative would go smoothly," he recalls. "But as soon as the injunction was issued, all the hard work done by so many people, along with all the good will that had been created, was thrown out the window."

Along with other people in a similarly independent position, Mr Marshall was concerned that Mr Berry should have taken out the injunction when he was still chairman of the authority. It placed Mr Berry on both sides of the argument, being the chairman of the authority against which his firm, Arataki Honey, had taken out the injunction.

Mr Marshall, as president of the NBA, then sent a telegram to Mr Berry suggesting that in view of the apparent conflict of interests, Mr Berry should review his chairmanship of the HMA. Mr Berry apparently did not agree, for he retained his chairmanship until the November 4 meeting of the HMA board in Auckland at which he was replaced as chairman by Ivan Dickinson.

Mr Marshall has stated his concern that the hive levy payer may have to pay for something started by someone else and while he recognises Mr Berry's right to act in what he sees as being the best interests of the industry, he is concerned that cost alone should have left the whip hand with Mr Berry.

"However that's the way it is," he said. "The important thing now is that the NBA puts together some balanced submissions to the arbitrator so that the correct decision is made.

"It is also important that the government legislates on the terms of the arbitration so that his decision is not invalidated by another raft of injunctions. The failure of the government to act would only result in further delays and I am already extremely worried about the time that has gone past in which little progress has been made."

While government involvement in legislating for the terms of arbitration has Mr Marshall's support, the role of the government in the whole debate is wide open to question.

Thanks to legislation which constituted the HMA with four producer members and one government representative, the authority has often been in a position where producer voices are split and where the government member effectively has the power to decide. While such a situation would be intolerable in any major industry, the small size and lack of political clout of the honey industry has left the government member with unacceptable powers.

Since the debate on the delicensing of the honey industry started to gain momentum before the 1979 conference, the government member on the authority, Mr Don Hayman, has held centre stage.

It is probable, that if the government member had not taken such an active part both in debate and voting on proposals to transfer the HMA's capital to the co-operative, the current impasse would not have resulted.

While the minister of agriculture and his under secretary may support the establishment of a co-operative, it has been quite evident for a long time that the industry was evenly divided on how the authority's assets should be distributed. In supporting one side in what was an otherwise fairly evenly divided debate, a false picture was painted of the true producer support for proposals dealing with their money.

The involvement of the government member meant that there was a lot of jockeying for position inside the authority, resulting in an "unclear" position for both HMA staff and suppliers. This was only resolved when the September 16 and 17 meeting of the authority was forced to come to a much belated decision, only to have it over-turned by an injunction a few days later.

This active government involvement in producer politics means that an issue which probably could have been resolved by compromise between the contending parties, has ended up in a situation where enough recrimination could be generated to pollute the industry for years. But the resigned acceptance of the situation by the co-operators (who have had their dreams bitterly shattered) and

by those who support the injunction (who feel that they were painted into a corner with only one means of escape) would seem to indicate that nearly everyone is looking forward to the day when government involvement in the industry is minimised.

Certainly it has been made quite clear that there has been no suggestion or implication of impropriety on the part of anyone involved in the proceedings.

And in a newsletter to hive levy payers about the September 30 meeting of solicitors, it was explained that the naming of Mr Dickinson and Mr Berry in the injunction was for technical legal reasons, rather than as a result of any personal motives.

The next step will be the preparation of written submissions, followed by formal hearings convened by the arbitrator. Like anyone in his position,

he will be ensuring that his findings are not only fair and reasonable, but that they also have an appearance of fairness.

This, combined with the stated willingness of all beekeeping groups to abide by the arbitrator's decision and on the part of the government, to divest itself of more controls on industry, should see a new beekeeping industry in New Zealand from next season.

Advisors don't knock on doors anymore

THE MINISTRY of Agriculture's chief apicultural advisory officer, Grahame Walton, strongly defended his staff at the September meeting of the NBA executive.

In reply to criticism from executive member Steve Lyttle, Mr Walton said that the old approach of advisers going around knocking on doors had long gone. "The apiary section was the last advisory group to follow this policy and now," he said, "the service is essentially on request, with emphasis on making better use of the mass media."

Mr Lyttle had said that he was sure there was potential to get better use of the existing advisory officers. He said he had been at Orari for some years and had only seen one apiary instructor in that time. He added that he had never made any requests for advisory assistance, but thought he would have had the odd approach.

Mr Walton said he didn't accept the premise that these people were doing nothing. "Our staff are fully occupied, but if you're not getting the service you think you need, you should in the first instance contact the adviser and ask for a discussion group to be set up, a field day or whatever else you think is necessary."

Mr Walton explained that the apicultural advisory officer's role was quite different to that of the agricultural or horticultural adviser. The apicultural adviser had to promote beekeeping at various levels. The most important was giving export-oriented advice, but nevertheless most advisers were involved in giving advice to beekeepers right down to the hobbyist level. There was also the quality assurance role, the apiary inspection role and, in some districts, the need to assist with field trials.

Mervyn Cloake said advisers must get around and find out about new ideas which are being developed every day. "It's the small things which are very often important. By getting around accumulating knowledge and passing it on, the advisers will do their jobs better and also bring the industry closer together," he said.

The discussion on the advisory service arose out of conference remits from Canterbury and the Hawkes Bay concerning the reduction in apicultural section staff. Mr Walton said that the section was already well-staffed considering the number of commercial beekeepers, compared with other sections of primary industry.

When apicultural scientist Pat Clinch of the Wallaceville Research Centre

spoke to the executive later in the day he pointed out that staffing problems were severely affecting the amount of work he could do for the industry. Pat explained that during Trevor Palmer-Jones's day there were two scientists and two technicians working full-time on beekeeping matters at Wallaceville. Also Ivor Forster was working with the Ministry of Agriculture. Today there was only one scientist and only one technician based at the centre.

Pat Clinch explained that he had hoped that when Ivor Forster had left, that the new apicultural advisers with their degree qualifications would have been able to assist with some of the research work. However, Grahame Walton explained that there was less opportunity for this because of reduced staff. Mr Walton said that this was an area where the industry could help, by defining areas where research would be valuable to the whole industry.

Mr Walton said it was important that the industry defined clearly what it wanted. There was, he said, a number of areas where research could be conducted including production, marketing, management, education, research, advisory work, diseases and finance. While there was no need for a navel-gazing exercise, he said it was important that the industry and the ministry together determined what was needed so that staff needs could then be calculated.

BEEKEEPERS TECHNICAL LIBRARY

To start on the negative side: The special postal rate for library exchange has been done away with. So you will be paying second class parcel rates and this is considerably dearer.

On the positive side: Executive has approved the spending of up to \$100 for the purchase of library material. So some new books should be available in the near future.

From the editor we received "A murmur of bees", a collection of poems compiled by Amoret Scott. Thank you editor. He also tells me that he did the

reviewing for the December "Beekeeper". Lets me off the hook.

Some more recent overseas journals have arrived. Amongst them some APIACTA numbers with very interesting articles on: Propolis, selection for productivity, brood equalisation management, heat sterilisation of equipment, etc.

Some borrowers are keeping books far too long. Other readers are waiting. Please stick to the rules. A reminder telling you that books are overdue, costs time to write and 20c postage.

Hon. Librarian: John Heineman, P.O. Box 112, Milton, Otago.