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NEW ZEALAND BUSINESS ROUNDTABLE

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REIGNITING REFORM IN AUSTRALIA AND NEW  
ZEALAND

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HOTEL DU VIN, POKENO  
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## **REIGNITING REFORM IN AUSTRALIA AND NEW ZEALAND**

*Speech by the President of the Business Council of Australia, Hugh Morgan:  
Reigniting Reform in Australia and New Zealand*

*Delivered at 7.30pm 20 February, 2004 to the New Zealand Business Roundtable  
Annual Retreat*

It's a great pleasure to be here to share with you some thoughts, and to participate in a discussion concerning our common predicaments. Going back over the long history of the Australian-New Zealand relationship, which in the 19th century was much closer than it is now, I recall one of the truly great lines in Australian political history, which was uttered by Henry Parkes, Premier of NSW, at the banquet which was held in Melbourne in conjunction with the constitutional convention of 1891. The New Zealand political leaders were still on board at that time and Parkes referred to "the crimson thread of kinship which runs through us all".

From time to time one reflects on what would have been different in the subsequent history of our two countries if New Zealand had stayed on board. It is idle speculation, of course, but it is a harmless indulgence and good for dinner conversation.

Since the mid-1980s both Australia and NZ have undergone a profound economic and cultural transformation. In Australia's case by far the most important change was the decision to wind back protection. In NZ the transformation was far more wide-ranging, but the processes of socialising the economy had gone much further here than in Australia, and the prospect of national insolvency was much more immediate and pressing in NZ in 1984 than the relatively slow decline that was Australia's future at that time.

This is not the place to run through the list of important reforms that have changed NZ dramatically from what this country was like in 1984. But one in particular should get a mention, because the current NZ government seems intent on thoroughly gutting the Employment Contracts Act of 1991, a reform which gave NZ the most efficient, and one should add, the most labour-friendly, labour market within the OECD, perhaps in the world. It is a matter of deep regret that such a great reform should last for only 13 years, and it is a sharp reminder that there are no permanent gains in politics. The price of freedom, in this case freedom in the labour market, is eternal vigilance.

Because of the tensions at the heart of Western civilisation, every Western nation is always at risk. We can always do better, but we can just as easily forget the lessons of the past, and return to the ideas and doctrines which we know, from centuries of experience, will bring great harm to the nation. We are now facing this problem in the way we think about the labour market.

In Australia, Peter Reith got the Workplace Relations Act through the Senate in 1996. It was a much less substantial reform than he wanted. But the changes in the law regulating the Australian labour market which were part of that Act, enabled Chris Corrigan to change the people who ran the Australian waterfront. For more than half a century the waterfront unions had run the waterfront. After the struggle of Easter and the succeeding weeks of 1998, the MUA (Maritime Union of Australia) lost control and the stevedoring companies, Patrick in particular, regained the capacity to manage the business which they owned. The productivity gains that were achieved by Patrick were very quick to be realised – from 14 - 16 lifts per hour to 34 lifts per hour. More important than that was the predictability which came into port operations. Ship operators now know that if their ships arrive on schedule, they will depart right on schedule, and that predictability means huge economic gains.

After the 1996 Act came into effect my former company, WMC, of which I was CEO, was able to use the AWAs (Australian Workplace Agreements) prescribed in the Act as a means of turning WMC into an all-staff company, with zero lost-time since 1997 and a productivity gain of 2-and-a-half times. Without that change I think the company would have been at risk.

In Australia, then, we have made no progress in the legislation governing the labour market since 1996. In Western Australia, where legislation passed by the Court Government gave that State the best regime in the country, that Act has been repealed by the Gallop Government and companies are fleeing to the federal system as a consequence. I think it is clear from the continuing decline in union membership (at least in the non-government sector) that public support for the “system” continues to ebb away, most notably amongst young people. At the Federal level Mark Latham has already warned us that under a Latham Government, casuals will lose their rights to be casual, an option which provides higher pay and greater flexibility than that allowed to so-called permanent employees. Also on the Labor agenda is an increasingly vigorous attack on contractors and sub-contractors, a group which, with self-employed people generally, now comprise 28 percent of the work force, a proportion which is growing rapidly. Legislation is proposed in South Australia, a Labor State, which

seeks to change, in the most extraordinary way, the law of contract as it operates in the world of business and commerce, and the ambition behind this revolutionary Bill is the desire to turn every contractor into an employee.

On the protectionist front, tariff reduction is still proceeding, but ominously, the new Labor Leader, Mark Latham, a self-declared "free-trader" has stated that under Labor, no further reductions in Textiles Clothing and Footwear tariffs will take place. TCF is by far the worst example of the protectionist legacy and if the WTO commitments made during the Uruguay Round are to mean anything, there should be zero tariffs on TCF by 2008. As Australia moves forward with the current scoping study with China for an FTA, there will be a new challenge to TCF protection in Australia.

Roger Kerr asked me to speak on the topic "Reigniting Reform in Australia and NZ". The first question which arises when thinking about this matter is this. Why should we, as corporate leaders or ex-leaders, or even as private citizens, bother about reform, let alone reignition?

This question has to be answered, because many corporate heads, quite deliberately and after considering the issue, say, "reform is not my problem, and it's not my company's problem." They add "We work within a legal and political framework, and within a cultural milieu, which we have inherited, and which we are not going to be able to change."

They go on: "Our job, given the deck of cards which has been handed to us, is to do the best that we can for our shareholders. I will be lucky to remain as a CEO for five years, and playing a public policy role is certainly not in my interest, nor in my company's interest."

A further twist to this argument comes from the composition of the Business Council of Australia (BCA) of which I am currently president. I must remind tonight's audience that I am here in a private capacity and the opinions and the perceptions expressed tonight are my own, and not necessarily those of the BCA. A large proportion of the Business Council of Australia's (BCA) membership comprises companies which are headquartered overseas, usually in the US or in the UK. It is interesting to note that some multinationals play a very active political role in many countries. BP, for example, has been an assiduous promoter of the global warming campaign all around the world, presumably for what are, from their perspective, sound commercial reasons. Other multinationals are extremely reluctant to get involved in political debates in foreign jurisdictions.

The resolution of this issue becomes easier if we consider one area of legislation which directly affects the day-to-day life of corporations. In Australia we are currently in dispute with the Government over proposed changes to the Corporations Act; changes which have been bundled together under the acronym of CLERP 9. For the purposes of tonight's discussion I merely assert that within this bundle of legislation is some very bad law. And it seems to me to be self-evident that the fact that this legislation is now in front of us, and that we are arguing from way behind scratch, means that we, meaning the big end of town (to use the colloquial term), have been overtaken by events, which arguably we might have foreseen. In N Z you have done much better in this debate, and the reason you have done so much better is that the NZBR has been engaged in the debate over corporate law from the very beginning, and at the very highest level of sophistication.

The NZ Companies Act is, by international standards, a simple and comprehensible standard bundle of contracts, although I understand that the collapse of Enron and WorldCom in the US has created a desire in New Zealand to cure a disease in corporate life which hasn't been discovered in this country. I regard your relatively light-handed companies and securities regimes as a national asset of which New Zealanders should be jealous.

I think that most corporate leaders would accept the argument that the state of company law which regulates how they carry on their daily business, is of great consequence to them. I think most would also agree that it is part of their responsibilities to their shareholders to seek to influence the state of opinion which produces a particular Corporations Act, for example, in that part of the world where they happen to be domiciled.

There are some multinationals who I believe argue that, as far as they are concerned, if a sovereign nation passes legislation which makes their operations in that jurisdiction either uneconomic or impolitic, they may, if necessary, simply walk away, and find somewhere else to carry on their activities. Foreign owned companies often see themselves as "guests" in someone else's country, and that perception generates strong pressure to avoid public debate.

If it is accepted, then, that corporate leaders do have a duty to seek influence opinion in the sphere of company law, then the next phase of the argument becomes – is there a fence which defines an area of ground within which companies may properly get involved in public debate, but outside of which they

will invite criticism for straying into areas which have nothing to do with business life.

If we return to the field of company law, and consider all of the elements which go into producing a superior product in this field, it is immediately clear that we need an extensive arsenal at our disposal if we are to engage effectively in this debate. We have to manage sophisticated arguments in economics, law, history, and constitutional theory. At first sight a debate about appeals to the Privy Council would seem to lie well outside the domain of a business organisation. The New Zealand experience shows otherwise. In Australia we lost the right of appeal to the Privy Council during the Whitlam and Fraser years, with barely a murmur. If that had not happened I'm confident that our High Court would not have dared to overturn the law of real property as they did in *Mabo*, notwithstanding the concern which the general public, and the justices of the High Court had for the social conditions of Aboriginal citizens.

It is of course impossible for the CEO to become expert in all these fields. But they have to know who the top players are, and be able to feel comfortable with the contending arguments. This in itself is a big ask. And this is where the Roger Kerrs of the world, and the NZBR, come into the picture.

Different industries face different problems in the way in which governments can do them harm or good. The resource sector is heavily dependent on the goodwill of government, since its sunk costs are usually very high, and its property rights are much less secure than, say, the owner of a freehold title to land takes for granted.

The banking sector, likewise, is highly dependent on the capacity of governments, or their central banks, to maintain a sound currency. That simple sentence, in itself, encompasses a long and at times bitter debate about inflation and its causes, and the role of governments throughout history in debauching the currencies for which they were responsible.

In November 1999 we had a referendum in Australia in which we had to decide whether to abandon the monarchy as the keystone of the constitutional arch, and become a republic.

Some companies were major players in that debate – notably News Ltd – which, through its newspapers, campaigned strongly in favour of the republic. Some business related arguments got a run in that debate. It was argued, for example, that unless Australia became a republic we would be severely disadvantaged in our trading relationships with Asia.

If my memory is accurate it was clear that a majority of business leaders favoured the republic, and some came out publicly in favour of it. Elite opinion, generally, was strongly in favour of the republic. But because a sufficiently vocal group of republicans were prepared to vote only for a republic that had a directly-elected president at its core, the monarchy won by a substantial 55 to 45 percent. Every State voted against the republic.

That debate divided the business community as it divided church people, lawyers, journalists (to some degree), politicians across party lines, and the implications for economic and commercial life, if the republic had won, were not discussed. That debate is an example of an extremely important issue which divided the country in strange ways, and business leaders had no more influence than the humblest citizen in the arguments which went back and forth.

I've mentioned some issues from the recent past to demonstrate the complexity and variety of the issues which affect business and commercial life. In the end it is impossible to escape from the fact that the establishment of the corporation, with its limited liability, its separate legal personality, its shareholders, directors, and management, was a consequence of intense politicking that took place during the early to mid 19th century in England; and that the continuance of the corporation as a key institution in the economic life of our respective countries will require continuing involvement in public debate.

So far my argument has been about the legitimacy of business involvement in public life and policy debate. That involvement could obviously take the form of pure rent-seeking. In Australia, from 1902 until 1992, we had the rent-seeking which is intrinsic to protectionism as the dominant form of corporate involvement in political life. I'm very pleased to be able to say that the BCA played a crucial role in the debates which followed the Hawke Government's decision – a decision supported by the Coalition in opposition – to phase out protection. In particular, in September 1992, when Prime Minister Paul Keating played with the idea of reversing policy in this matter, and there was a ferocious campaign by the protectionist interests to bring about this U-turn, the BCA's steadfastness in support of the phase-out was critical to the outcome of that debate.

What is obviously very different from the old-style rent-seeking which dominated our national life for so long, is the development of a business voice which is focussed on the national interest, in the broadest possible interpretation of that concept. I think the NZBR is unique in the world in developing the concept that the

interests of the corporate sector, and the interests of the nation as a whole, are so closely intertwined that they cannot be separated.

The term “national interest” is one which our Prime Minister, John Howard, has used quite frequently in recent times. For example, he defended the decision to withdraw from the Kyoto Protocol with the simple but repeated statement, that it was not in our national interest to ratify. I have noted with keen approval that the NZBR has maintained a strong position on Kyoto on the same ground – that ratifying Kyoto is not in NZ’s national interest.

Much further afield, President Putin’s economic adviser Andrei Illarionov, has emphasised repeatedly that the US and Australia have refused to ratify Kyoto on the grounds that it would damage their economies. How much more would Russia have to lose, he asked, if Russia were to ratify?

Prime Minister Howard also used the term in defence of the decision to send Australian troops to Iraq.

I think “national interest” is a very important term and one which business leaders should use – albeit with care. As an example I think it should be said from time to time that it is in New Zealand’s national interest, as it is in Australia’s national interest, that our countries should be prosperous rather than impoverished. Some of you may think that’s a pretty trivial statement. But I don’t think it is. There have been in the past, and there are today, goals in political life other than general prosperity, and if we go back 500 years into English history, one such incommensurable goal was that England should be protestant and not catholic. Much blood and treasure was spilt in that debate. The cruelty that was meted out to the losers is deeply shocking to us today. And if we look around the world today we find murder and oppression, justified on religious grounds, in very many places.

An important strand in the political tradition of the West is the dream of equality, and the pursuit of equality, rather than prosperity, is an important driver of political action and ambition. The national interest, on this basis, is the development of a nation of equals, rather than a nation of prosperous but arguably unequal people.

So a continuing voice which argues that general prosperity is at the core of what we understand by the term “national interest” is not wasting its time. Further, the articulation of the belief that it is better for a nation to be respected within the world, rather than pitied, is also worthwhile. Australia has done some funny things during its 103 year history as a nation, but the NZ flatulence tax stands out as a landmark in that genre.

In Australia there is an historic sense of concern about our geo-political position in the world. The defence issue, along with immigration, was central to our decision to come together as a federation in 1901. It is a simple matter to align that historic concern with our economic capacity to finance a serious defence budget. An economy capable of sustaining modern defence technology, and providing the people to effectively employ that technology, requires real prosperity and unqualified international competitiveness. Thus arguing that policies which will reduce competitiveness, and prosperity, are indeed contrary to the national interest, is not hard in Australia. But we should not assume that the argument can be taken for granted.

It is difficult for business leaders to realise that what seems obvious to them, is much less obvious to others. Business leaders are competitive by nature. They want to succeed. If they didn't they wouldn't be where they are. But many people, perhaps most people, are quite content with lives lived at a more leisurely pace. Their primary concerns, often, are family and social life. Their sporting activities, perhaps, are very important to them. They want to enjoy their work and that enjoyment does not require climbing the corporate ladder. So being, to use another of John Howard's phrases, "relaxed and comfortable", both nationally and in their working and private lives, is more important to many people, than being economically competitive, or successful in commercial life.

There is no clash between these different values, provided that people are free to pursue their interests and their ambitions with as much or as little vigour as they wish, and don't expect to get free rides at other people's expense. If the society in which the people live is prosperous, and the ambitions of some are for a contemplative or otherwise quiet life, then those ambitions can be fulfilled much more readily than if the society in which they find themselves is desperately poor. Adam Smith observed that it was much easier being poor in a rich country than being poor in a poor country.

There are, therefore, very powerful arguments to justify prosperity rather than, say, equality, as being central to the national interest. In using the word "equality" in this context it may be necessary to emphasise that one of the most important legacies which we have inherited is the ideal of "equality before the law". The idea that wealth or position should bestow legal privilege is deeply offensive to us, and this sense of outrage becomes, in turn, a guarantee of our freedom. Further, the fact that every child is born with a different genetic endowment, does not mean that we should not try to ensure that our children enjoy the best possible education, thus enabling them to maximise the full potential of that endowment.

The “equality” to which I refer is the value which we practice in family life (although not without exception) but which when applied to nations leads in the end to despotism and appalling poverty, as the tragedy of communism vividly demonstrated.

I see no reason why a business organisation cannot argue consistently and confidently in support of prosperity and in support of government policy that will sustain prosperity rather than diminish it; and, in doing so, create a general understanding of the national interest which will sustain the nation in times of unpredictable misfortune.

In both Australia and New Zealand the passion for moving forward with a reform agenda aimed at improving prosperity and competitiveness seems at the moment to be extinguished, or at least quiescent. In Australia the primary cause for this quiescence is a Senate which is hostile to reform, and which, because of our electoral arrangements, is most unlikely to ever give the Howard Government, or any Coalition government, the capacity to pass legislation which will give effect to, for example, serious and urgently required labour market reform.

A Labor Government is far more likely to get its legislative programme through a senate which it does not control, because the corner parties, the Greens and the Democrats, have different ambitions for Australian society than the freedom and the prosperity I have talked about this evening. I think there are parallels in your MMP parliaments.

There are two things which can trigger political change – for better or worse. The first is opinion. Edmund Burke tells us that all government is based on opinion, and the shaping of opinion in such a way that allows change for the better to take place requires continuing zeal and commitment, often with little apparent hope of success. Once again the NZBR provides an outstanding example of such zeal and commitment. Nowhere else in the world will you find a business organisation that has been founded on such a commitment, and which has achieved so much.

The second is events. When Harold Macmillan became Prime Minister of the UK he was asked what would shape his administration. He replied, “events – dear boy – events.”

Events can never be predicted. No one, to my knowledge, predicted the events of 9/11, but the world has been changed by the terrible events of that day, and we are still grappling with the consequences, and will continue to grapple with the consequences, for years to come.

Reacting decisively and positively to events is what political leadership is all about. But what is possible in political life depends on opinion, and it is in the shaping of opinion that the business community has its opportunity to play a legitimate and very important role in the political life of the nation.

When we speak of shaping opinion we must understand that engaging in public debate, because that is the only instrument we have, can be a hazardous business, and if we want to succeed we have to have the best players and the best team, and to commit to the long haul. Corporations have a big handicap in this game. Political leaders, from both sides of politics, are usually quite ruthless in controversy, and bagging the big end of town is much more fun for them than shooting ducks, particularly when parliamentary privilege is available. But in the political culture which we, as cousins separated by the Tasman, share, there is a deep respect for honesty, for consistency, and for predictability; and an admiration for leaders who have sacrificed immediate popularity because of their commitment to describing the reality of the world around them, to an audience that doesn't want to listen. That admiration, of course, comes well after the event.

The title for these remarks "Reigniting Reform" suggests that somewhere out there, if only we could find it, is a gas lighter which, when found and turned on, would start the fire which signals to everyone that we were on our way, and that problems which have been holding us back were going to be effectively dealt with.

I would like to believe there is such a gas lighter but if there is, I haven't found it. So the hard slog of argument and debate has to continue and I wish to conclude by returning to the geo-political situation in which we are placed and which is not going to change.

Our combined population is about 24 millions. Our two nations are outposts of western civilisation in a part of the world often called the antipodes – a long way from the societies from which we sprang. I do not believe we will be able to maintain our civilisation, our way of life, or our independence, in this part of the world unless we are rich. Rich in worldly goods; rich in knowledge and technique; rich in energy and entrepreneurship; rich in science and the arts; and at the same time, prepared to sacrifice part of our wealth so that we can defend ourselves effectively when threats to our sovereignty arise.

We are heirs to a civilisation which is the envy of those who look at it from outside, even though we tend to take it for granted, or even sneer at it for its alleged flaws. An important part of that civilisation is the corporation, an extraordinary artifact, and

a powerful engine of economic progress. We should defend it, and ensure that we can bequeath it, in good shape, to the generation that is soon to take over. More broadly we have to defend the role of business and markets in society, the institutions on which our prosperity and vitality depend. In doing so we will contribute greatly to the future security and well-being of our countries.