

Funding the Future

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There has been debate on whether or not [Jeremy Corbyn has said](#) he will reinstate Clause IV, the [old Labour Party commitment](#):

To secure for the workers by hand or by brain the full fruits of their industry and the most equitable distribution thereof that may be possible upon the basis of the common ownership of the means of production, distribution, and exchange, and the best obtainable system of popular administration and control of each industry or service.

There is no point in asking me with this is right or not: I am not engaged with any such discussion, know nothing of it and nothing I write here has anything formally or informally to do with Jeremy Corbyn. I am also not a member of Labour. But as a chartered accountant and political economist I am interested in what might make companies work best in the UK.

I am not convinced by the old Clause IV. From what I heard from Jeremy Corbyn during radio interviews it does not seem he is either. What instead it seems he is rightly doing is comparing the above with what was put in its place in 1995, [which was a commitment to](#):

a dynamic economy, serving the public interest, in which the enterprise of the market and the rigour of competition are joined with the forces of partnership and co-operation to produce the wealth the nation needs and the opportunity for all to work and prosper, with a thriving public sector and high quality services, where those undertakings essential to the common good are either owned by the public or accountable to them;

And then he is saying, or so it seems to me, that this commitment has not been fulfilled in at least three ways.

First, some sectors that need to be owned by the public (and he mentioned rail) are not.

Second, some other sectors that need to be accountable to the public (and he mentioned energy) are not.

And third, I think he is saying that the enterprise of the market is not always working in the public interest, which is hardly a radical thing to say: the evidence is all around us.

In other words, he is saying this commitment is not being met and if that is the case is then asking what can be done about it, before (as I clearly heard him say) reform of this wording becomes a priority. Or, to put it another way, he is asking how Labour can seemingly fulfil its commitment to create a better mixed economy, which is something about which I wrote in [The Courageous State](#).

There is a fundamental problem in achieving that goal right now. It is one to which I hope all politicians with concern on this issue will give attention. It is inherent in section 172 of the Companies Act 2006. [This says](#):

A director of a company must act in the way he considers, in good faith, would be most likely to promote the success of the company for the benefit of its members as a whole, and in doing so have regard (amongst other matters) to-

(a) the likely consequences of any decision in the long term,

(b) the interests of the company's employees,

(c) the need to foster the company's business relationships with suppliers, customers and others,

(d) the impact of the company's operations on the community and the environment,

(e) the desirability of the company maintaining a reputation for high standards of business conduct, and

(f) the need to act fairly as between members of the company.

I think it quite fair to say that this is a legislative variant on Clause IV and its successor, noted above. And all were, I should add, written by the Labour Party.

Now it so happens that I [have always argued](#), based [more recently on the work of David Quentin](#) that this law does not oblige companies to maximise profit, but I think the deficiencies within section 172 are much more significant than that, and are at the heart of what I hope Jeremy Corbyn is saying.

First, what section 172 clearly says is that the providers of capital are the first amongst equals in a company: although others have to be considered, their interests are, apparently, paramount. If Jeremy Corbyn is saying that he does not agree with this, then I am happy to agree with him. I can, for example, see no reason why a shareholder who might have acquired, and then sold, their stake in the business in less time than it has taken you to read this sentence should have higher priority in the consideration of management than employees who has worked for a company for a day, a week, or a lifetime. Nor do I see why the shareholders of a company, who are very often amongst the smallest providers of capital to it, should have their interests ranked over and above those of employees, who also loan money to the company that

employs them until payday, or of suppliers, or tax authorities, or anyone else who does also provide capital.

Second, if long-term interests are considered secondary (and that must be the implication, because they are not given priority ranking) then short term-ism is effectively endorsed by this statement and that, very clearly, is contrary to the best interests of the UK economy.

Third, it is also bizarre that best the high standards of business conduct are, again, considered to be of only secondary importance.

The fact is that in very many large global companies, whether publicly or privately owned, practice which conflicts with section 172 is to be found. The good news is that quite often the conflict is evidenced by these companies giving some priority to the issues considered secondary by section 172 but that is not, by any means, always the case. As far as I know no one has ever been subject to legal challenge for reason of creating too significant a gap between member's interests and those of the other parties whose concerns are meant to be taken into account.

In my opinion, there is no doubt that section 172 fails to reflect the needs of the modern British economy. I think that employees of companies have at least as much right shareholders when it comes to key votes, and should be entitled to vote on critical issues such as the appointment directors, the approval of accounts, and the takeover of companies. No one has more stake in these issues than employees. If such a measure had been in place the gutting of the UK economy by asset strippers would have been prevented and our current crisis of low wages, low productivity, and the fact that we have a manufacturing sector that largely assembles kits of parts produced elsewhere would all have been avoided.

In addition, if section 172 had been reformed so that companies were required to take into account all providers of capital, and not just shareholders, and had been as a result required to pursue the highest standards of business conduct first of all a great deal of tax avoidance would have been contrary to the law and secondly we would not have seen the type of bank nationalisation that took place in 2008 where it seems that the nationalised banks were run solely in the interests of bankers in the City, and not for the benefit of the public as a whole.

So, what I think and hope Jeremy Corbyn is saying is that we need to have a constructive debate about what the rights and obligations of companies are in the 21st-century, and that in the light of the 2008 crash we have very clearly not got this right. Control in that case should not, necessarily, always be linked to ownership, and it does require accountability to a much wider range of people than at present, some of whom at least need specific representation in the general meetings and even the boardrooms of companies to make sure that major public interest companies are held to account for what they do.

In saying so that term 'Public Interest Companies' does seem, to me, to be vital. We have to date had Public Limited Companies and private companies, but the distinction makes little sense. The vast majority of companies in the UK are small and owner managed, and as a result know the vast majority of their employees, stakeholders and others to whom they have responsibility. I have for a long time [proposed reform to the structure](#) in which they should operate. Now we need to we categorise all larger companies so that they can be clearly identified to have a broader obligation to society whilst recognising that it is it is harder for them to fulfil this because they cannot, and will never, know all those on whom they have impact, which fact then requires a form of democratic representation within their governance systems of the wide range of stakeholder interests that impact on them if those interests are to be properly understood so that these companies are truly able to act in the public interest.

What is wrong with saying that?