~~13~~ 165

LABOUR DEPT

1-1-79 - 31-12-80

For written reply

Hansard 17 Cols 885 13/6/80

Factory inspectors

(165)

617 Mr H E J VAN RENSBURG asked the Minister of Manpower Utilization

(1) How many posts for factory inspectors (a) are there in the Republic at present and (b) were filled in 1977, 1978 and 1979, respectively,

(2) how many (a) White, (b) Coloured, (c) Indian and (d) Black factory inspectors (i) were employed in 1977, 1978 and 1979, respectively, and (ii) are being trained at present,

(3) how many (a) White, (b) Coloured, (c) Indian and (d) Black workers were employed in each category of industry in South Africa in 1977, 1978 and 1979, respectively,

(4) whether there is a shortage of factory inspectors at present, if so, what steps are being taken to alleviate the shortage,

(5) what are the salary scales for factory inspectors in respect of (a) Whites, (b) Coloureds, (c) Indians and (d) Blacks?

The MINISTER OF MANPOWER UTILIZATION

(1) (a) 69 posts have been created for Whites

(b)

1977	21
1978	25
1979	33

(2)

	(a)	(b)	(c)	(d)
(i) 1977	21	—	—	—
1978	25	—	—	—
1979	33	—	—	—
(ii)	4	—	—	—

(3) The statistics are contained in the Report of the National Manpower Commission which was tabled on 23 April 1980

(4) Yes The vacancies for factory inspectors are advertised continuously The office of the Commission for Administration is at present conducting an investigation into the organizational structure and career prospects of factory inspectors with a view to establishing a better dispensation

(5) (a) The most recent salary scales and the measures for the application thereof are contained in Public Service Commission Circular No 1 of 1980 dated 1 April 1980, copies of which have been made available to the leaders of the opposition parties on a confidential basis

(b), (c) and (d) No posts for the other population groups have been created as yet and no salary scales have therefore been determined

Cold storage company, Cape Town

*8 Dr A L BORAINE asked the Minister of Co-operation and Development

(1) Whether he or his Deputy had talks with the representatives of a cold storage company in Cape Town recently, if so, (a) at whose instance did the meeting take place and (b) what was its purpose,

(2) whether any agreement was reached if so, what was its import?

The DEPUTY MINISTER OF CO-OPERATION

(1) Yes, with representatives of the Cape Town Meat Industry and Livestock Agencies

(a) At the request of the said Cape Town Meat Industry and Livestock Agencies

(b) To discuss the labour unrest that has developed in their industry

(2) The matter was discussed in full and a line of action has been decided upon

Dr A L BORAINE Mr Speaker arising out of the hon the Deputy Minister's reply, could he give us any indication of what that action is and how soon this strike can be ended?

The DEPUTY MINISTER Mr Speaker it will be in neither the interests of the

representatives nor of the workers concerned to reply to that question now

3/6/80.

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Black Labour (Transfer of Functions)

Bill

See S. Hansard 11 Cols 2136-2139

Hansard

THURSDAY, 6 MARCH 1980

†Indicates translated version

For written repl.

National Manpower Commission

51 (297) 6.3.80 165

305 Dr A. L BORAINE asked the Minister of Manpower Utilization

(1) Whether he has appointed a National Manpower Commission, if so,

(2) (a) who are the members and (b) which of them represent the interests of (i) the State, (ii) employers and (iii) employees?

The MINISTER OF MANPOWER UTILIZATION

(1) Yes The Industrial Conciliation Amendment Act, 1979, came into operation on 1 October 1979 Both the chairman and deputy chairman were appointed on 15 September 1979 The chairman and deputy chairman commenced their duties on 1 October 1979 and 1 November 1979 respectively The National Manpower Commission was constituted on 1 November 1979 and it held its first meeting on 16 November 1979

(2) (a) Chairman—Dr H J J Reynders
Deputy Chairman—Prof P J Van der Merwe

Members

Dr L T Badenhorst
Mr W Bornman
Lt-Gen G J J Boshoff
Dr S S Brand
Mr E A Cilliers
Mr B L Currie
Mr L E Davis
Mr L B De Wet
Dr E P Drummond
Mr C W H Du Toit
Mrs L B Mvubelo
Mr S C M Naude
Mr T S Neethling
Dr G K Nelson
Mr J Nienaber
Mr P A Olivier
Mr J H Opperman
Mr P J Pienaar
Prof J Poolman
Mr S S Potgieter
Mr J A Grobbelaar
Mr D A Hanekom
Mr Z M Jakavula
Mrs K Jowell
Dr S J Kleu
Mr M Lalaram
Mr J Liebenberg
Mr J B Magwaza
Prof H O Maree
Mr S Motsuenyane
Mr W T B Ridgard
Mr P W G Rossouw
Mr T I Steenkamp
Mr F F de W Stockenstrom
Prof S M Swart
Mr J P Verster
Mr M H Van Noordwyk
Dr J H Visser
Mr R C Webb
Mr J Wilkens

(2) (b) (i) Representing the State

Lt-Gen G J J Boshoff
Dr S S Brand
Mr E A Cilliers
Mr D A Hanekom
Dr S J Kleu
Mr S C M Naude
Dr G K Nelson
Mr J Nienaber
Mr P A Olivier
Mr J H Opperman
Mr S S Potgieter
Mr W T B Ridgard
Mr M H Van Noordwyk
Mr J P Verster
Dr J H Visser

(2) (b) (ii) Representing employers

Dr L T Badenhorst
Mr L E Davis
Mr L B De Wet
Dr E P Drummond
Mr C W H Du Toit
Mr J Liebenberg
Mr S Motsuenyane
Prof J Poolman
Mr P W G Rossouw
Mr T I Steenkamp
Mr F F de W Stockenstrom
Mr J Wilkens

(2) (b) (iii) Representing employees

Mr W Bornman
Mr B L Currie
Mr J A Grobbelaar
Mr Z M Jakavula
Mrs K Jowell
Mr M Lalaram
Mr J B Magwaza
Prof H O Maree
Mrs L B Mvubelo
Mr T S Neethling
Mr P J Pienaar
Prof S M Swart
Mr R C Webb

Mr R B MILLER Mr Chairman I would like to say that the additional expenditure requested by the hon the Minister is in fact the third lowest of all the main portfolios and I think he is to be congratulated on the degree of accuracy with which he budgeted The figure which is of considerable interest to me is the R300 000 under item 6— Utilization of Manpower I would like to know specifically whether the additional amount of expenditure includes any expenditure on the establishment of the infrastructure for the implementation of the Wiehahn recommendations or whether in fact the hon the Minister has been able to finance the development of that infrastructure out of the unrevised estimates in the second column

*The MINISTER OF MANPOWER UTILIZATION Mr Chairman the item Utilization of Manpower indicates something completely different The hon member will know that the department is also responsible for sheltered employment We have 13 factories for sheltered employment These factories are very important because the people employed there are people who, in the normal course could not find a place or hold their own in free competition In a time of rising costs—as now—it is necessary that one should revise from time to time These are the ordinary type of cost increases which are reflected here What actually happens is that the factories for sheltered employment employ people who of course manufacture goods I can tell the hon member that we manufacture goods for the Defence Force for example It is a simple type of article which one manufactures there When there are high rates of inflation with regard to expenditure on items the material which is used and so forth as has been the case recently these increases have to be supplemented because the Government holds the view that it must pay a contribution It is of the opinion that the articles manufactured should try and compensate for the costs involved However, one cannot always cover the costs and it is therefore always necessary to contribute All that is involved here is simply a supplement to pay for costs of materials in the 13 factories which were higher than were foreseen This is what the R300 000 is for

Mr R B MILLER Mr Chairman arising out of the hon the Minister's reply is the amount not recoverable through increased selling prices of the goods manufactured in the sheltered employment

The MINISTER OF MANPOWER UTILIZATION Mr Chairman, normally one would recoup the amount through selling but if one is bound to a contract one would in the meantime have to contend with an increase in prices and that sort of thing not only in respect of the price of materials, but also the cost of keeping these institutions going That is a very normal thing It could have been the other way around I have no other plan to offer the hon member than to say that in respect of normal cost increases one would not always be in a position immediately to recoup the amount by way of a higher price than could be obtained when selling the product It is a normal increase If one considers the fact that this amount is in respect of 13 factories and thousands of people one will realize that it is very low

Mr R B MILLER Mr Chairman I just want to come back to one of my original questions to the hon the Minister namely whether he is in fact financing the development of the infrastructure of the Industrial Court and/or the Manpower Commission out of the additional expenditures in respect of any of these items The hon the Minister has not replied to this

The MINISTER OF MANPOWER UTILIZATION Mr Chairman the Industrial Court is only to be instituted now As the hon member will know the appointment of the president of the Court was only undertaken at the beginning of December 1979 Naturally the cost will be debited to the department In respect of the Manpower Commission the cost has been very low I do not have the figure regarding the expenditure of the Manpower Commission at my disposal but I can tell hon members that it is not yet very high It will be much higher in future because as hon members will know it will take some time for the commission to get going This aspect pertains to nothing more than the salaries for two months of two of the officials and two or three other officials to assist them

Vote agreed to

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Hansard 5

Col 1838-1844

3/3/80

from part appropriation bill

Vote 6 — Labour

*Mr H E J VAN RENSBURG Mr Chairman I will the hon the Minister explain what the [illegible] which appear here with regard to [illegible] I should like him to comment on the [illegible] decrease of R72 000 [illegible] from 4— Training —and one would have expected there to be an increase Then the hon the Minister must give an explanation with regard to the increase of R20 000 under item 7— Manpower 2000 The total additional amount of R417 000 to be voted is admittedly not a very large increase and constitutes approximately 4% of the total amount Nevertheless I want the hon the Minister to use the opportunity to give us an explanation

*The MINISTER OF MANPOWER UTILIZATION Mr Chairman the increases are mainly due to the normal increase in transport costs particularly if one bears in mind that this is a department which has to hold a number of inspection services The hon member asked me why there has been a large

decrease under one item as one would have expected that there would have been an increase with regard to training The hon member is correct one would have expected that We are dealing here with the West Coast project and the training of adult White men Once one has an indication that the costs with regard to such training are going to be for the people who go there are subsidized Their transport there is subsidized Hon members should bear in mind that these are adults and in the instance it is a man with a family provision is also made for the family and also for further expenses One important item of expenditure is transport The hon member should remember that there are 198 of these people and they come mainly from the Transvaal The hon member will understand that the total expenditure per annum can be much higher than it would have been for let us say the influx from the Cape Peninsula The explanation for the increase is simply that—it is that the additional influx which we have experienced recently came from areas in the immediate vicinity and in this entailed less expenditure as a result of the lower subsidies that we had to pay What is important is that the number have increased and that there is no drop in the quality of the training which is the explanation said the hon member

The other matter pertains to manpower utilization The second question he asked pertains to the utilization of manpower The hon member asked me the reason for the amount indicated as R20 000 This is as a result of the following Taxi for motor transport in the case of the department have showed an increase of 33% since 1 April 1979 and then again from 1 July 1979 when there was further increase of 23% And then as the hon member will know the proposed public sector project of Manpower 2 000 was announced on 8 February 1980 Provision is being made here to launch the project We shall probably vote a larger amount in the main budget This expenditure is actually intended to start the promotion project The amount is not a large one as the hon member can understand If the hon member put the question because he felt the amount was too small I should like to give him the assurance that it will probably be supplemented This amount is only an initial amount

Wiehahn report almost complete

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R.D.M 15/7/82

By RIAAN DE VILLIERS
Labour Correspondent

THE long-awaited first report of the Wiehahn Commission of Inquiry into South Africa's labour laws may be signed tomorrow and handed to the Government next week

Prof Nic Wiehahn, chairman of the commission and advisor to the Minister of Labour, Mr Fanie Botha, said yesterday he had convened two commission meetings for today and tomorrow to finally approve and sign the report, which dealt with "broad issues of principle"

Asked whether he was confident that the report would be signed by the 14 commissioners tomorrow, he said· "I would rather not speculate on that It is still within the competence of any commissioner to request that recommendations be reconsidered "

He would also not say whether whether any commissioners would hand in minority reports

Prof Wiehahn said he intended handing the report to Mr Botha in Cape Town next week, subject to the permission of the State President After that, the fate of the report would be up to the Cabinet.

He would not comment on speculation that Mr Botha may hold a Press conference on the report next week, and yesterday the Minister's office would not confirm either that a conference would be held

Prof Wiehahn said the report — about 240 pages long — would no longer be an interim report but part one of the report, with six further parts envisaged

Asked whether new legislation was envisaged for this session of Parliament, Prof Wiehahn said drafting legislation was not the commission's task but that of the Department of Labour. "But I think it is intended to have legislation ready for this session "

The report, the result of the first thorough review of South Africa's industrial relations system for 30 years, has been awaited with intense interest

Together with the Riekert Commission of inquiry into the use of manpower, handed to the Government last year, it has dealt with some of South Africa's most explosive labour issues and may lead to a new deal for blacks

The Prime Minister, Mr P W Botha, has already indicated that the Cabinet would consider the two reports together.

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In the n

of strict sense a trust exists when the cre
trust, whom I shall call the founder,[7] hands over or is boun
over the control of an asset which, or the proceeds of wh
be administered by another (the trustee or administrat
capacity as such on behalf of or for the benefit of a th
(the beneficiary) or for some object other than the bene
trustee A trust in this sense is a species of the genus '
wide sense Its specific characteristic is that the trustee
trator acts not in his private but in an official capacity
one of the official capacities (tutor, curator, executor,
director) mentioned above.

[4] 'Apart from statutory definition [trustee] means one who is entrus
affairs of another' *Zinn NO v Westminster Bank NO* 1936 AD 89, 96, per
On the definition of trust see Frere-Smith 58 For 'trustee' see J J L Sis
African Judicial Dictionary 817–18
[5] (1883) 4 NLR 143, 159–60 On appeal (1886) 12 AC 167
[6] ie the beneficiary or person on whose behalf or for whose benefit the
or administers the property
[7] In English law usually called a settlor
[8] It is only in this sense that one can create a trust of another's property, as in *Ex parte*
Kemp 1940 WLD 26, H L Swanepoel in (1957) 20 *THR-HR*

ay be said to exist
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be bound (eg by
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st to be created of
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the trust property,
l that the founder
divest himself of a
perty.

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t or bequest to the
assets in a trustee
o the appointment
dhebber in modern
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According to the
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uch the ownership
e administrator or
ment The reasons
dministrative The
interchangeable[13]
the Trust Moneys
Estates Act 1965[15]
e normal arrange-

or's Est v CIR 1960 (1)

amentary trust does not
ee This seems mistaken
the assets in due course
to replace the trustee
exists at the moment of

nd *Hulsigingsbundel Pont*
f Honoré in (1969) 32

sen & others (1885) 5 SC
Master v Edgecombe's Exors
PD 147, 155–6, *Robertson*

[15] Act 66 of 1965 s 57 'administrator' . . . been given under his
control to be administered for the benefit, whether in whole or in part of any other
person'

25 APRIL 1979
Hansard A-4(699) 25/4/79
For written reply

Statutory boards/advisory bodies under the Department of Labour

481 Mr D J N MALCOMESS asked the Minister of Labour

(1)(a) What are the names of the statutory boards, councils and advisory bodies falling under his Department and (b) which annual reports are not laid upon the Table and (b) what was the administration cost of each such body for 1977-'78,

(2) what in respect of each such body (a) is the name and (b) are the annual emoluments of (i) the chairman and (ii) each member who is not a member of the Public Service,

(3) whether any of the vacancies on these bodies are advertised, if so, where, if not, why not.

The MINISTER OF LABOUR

(1)(a) (b)

Wage Board	R182 85[illegible]
Industrial Tribunal	R107 46[illegible]
Central Black Labour Board	R30 01[illegible]
Manpower Board	No[illegible]
Electrical Wiremen's Registration Board	R39[illegible]
National Apprenticeship Board	R1 29[illegible]

(2) (a) (i) Wage Board—I J Claassens
Industrial Tribunal—Dr F J Viljoen
Central Black Labour Board—H W Tindale
Manpower Board—Secretary for Labour (Public Servant)
Electrical Wiremen's Registration Board—Chief Inspector of Factories (Public Servant)
National Apprenticeship Board—Registrar of Apprenticeship (Public Servant)

(b) (i) Wage Board—R17 700
Industrial Tribunal—R17 700
Central Black Labour Board—R14 330
Manpower Board—None
Electrical Wiremen's Registration Board—None
National Apprenticeship Board—None

(ii) Wage Board—R14 700
Industrial Tribunal—R17 700

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[illegible] Wage B[illegible]
G B Ab[illegible]
W J S[illegible]

Industrial Tribunal
J D Barnard
L J Rossouw
J C R Wessels
C P N Bo[illegible]

Central Black Labour Board
Dr J G Louw

Manpower Board—
J D Venter
J S van Rooy
Dr E P Drummond
A J Barson
T Poolman
J A Grobbelaar
W Bornman

Electrical Wiremen's Registration Board—
J K von Ahlften
D F Kneale
A C L Elisio
J Hughes

National Apprenticeship Board—
N Human
H T van der Merwe
Dr E P Drummond
J H van Huyssteen
T Pattullo
R C Webb
W Bornman
J E Faure

[illegible]
[illegible] Board
Mo[illegible]
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Re[illegible]
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as well as subsistence and travelling expenses.
National Apprenticeship Board—No annual emoluments are paid Members receive an allowance of not [illegible] R8 00 for every 2[illegible] hours or part thereof for attending meetings of the Board as well as subsistence and travelling expenses

(3) No vacancies on these bodies are filled in terms of legislation which determine the procedure in respect of the various bodies

Note There is also a large number of apprenticeship committees established in terms of the Apprenticeship Act as well as industrial councils registered in terms of the Industrial Conciliation Act comprised of representatives of employers organizations and trade unions and it is assumed that the honourable member does not require details in the general

Minister asks for speed up of Wiehahn's work

165/400
STAR
13/9/79

By Sieg Hannig
Labour Reporter

CAPE TOWN — The Minister of Manpower Utilisation, Mr S P Botha, has asked the chairman of the Wiehahn Commission to complete his work by November so that many of the succeeding steps to the first report can be implemented next year

He had told Professor Wiehahn that he could not wait another two to three years, Mr Botha told the multiracial Trade Union Council of South Africa in Cape Town today

He was the first Minister of Labour to address an annual conference of Tucsa in the body's 25-year history

Mr Botha said he was not aware of any previous occasion when the Government had acted before the work of a commission of inquiry had been completed — as was the case with the Wiehahn Commission

However, it appeared that these good intentions had caused some trouble He stressed that shortcomings in the existing dispensation were under consideration

He said he was in the process of consultation on the subject of phasing out statutory job reservation as well, adding "You can expect that there will be an announcement on this very soon"

MR FANIE BOTHA

'Court will give labour code force of law'

STAR 17/1/79

By Sieg Hannig,
Labour Reporter

South Africa's new Industrial Court will lead to the rapid development of an employment code which will have the force of law, says Professor Nic Wiehahn, head of the Wiehahn Commission and president of the new court

In a rundown on the far-reaching developments facing him in the next few months, Professor Wiehahn indicated that he would continue to build on the principles set out in the first report of the Wiehahn Commission

To complete the commission's final report on labour reform by November, he said "we shall have to concentrate on principles rather than details — without leaving out essentials"

He described his appointment as president of the new Industrial Court as "a great honour," saying it had always been his ambition to bring about a court specialising in labour matters in South Africa

"The court will play a significant role in the development of fair labour practices which will rapidly have to develop into a labour code," he said

Asked whether such a code would be akin to that developed by the South African Employers' Consultative Committee on Labour Affairs (Saccola), he said

"It will be something more comprehensive, flexible and dynamic than the Saccola code, and this code will have the force of law."

He saw the code as developing from the decisions of the Industrial Court through enactment by Parliament, and added "Protection of workers' job security will be paramount"

Asked whether he would not be a "law unto himself" at the head of a court designed to evolve new laws, Professor Wiehahn said

'I shall adhere very much to the principles and premises set out in Part 1 of my commission's report

"Of course, one always has to have regard to the realities of the South African labour scene The court cannot be an ivory tower"

The court would also co-operate very closely with the Minister and the Department of Manpower Utilisation, the National Manpower Commission and organised commerce, industry and labour, while retaining its neutrality, he said

STUFFED CABBAGE SALAD — May Bennett, Ridgeworth

1 fresh green medium size cabbage
onions
carrots
tomatoes
fresh pineapple
radishes

Cut the centre from the cabbage, leaving the outer leaves to form a bowl. Wash well. Chop onion. Peel and cube the carrots and pineapple. Cube tomatoes. Thinly slice some of the inner leaves of the cabbage leaving the stalks. Place the carrots, pineapple, tomatoes, sliced cabbage and the finely chopped onion in a bowl adding any juice from the tomatoes, pineapple and add salt and black pepper to taste. Toss well, then pile the salad into the cabbage "bowl". Garnish with radish roses and a small bowl of mayonnaise for those who like it. To make the radish roses, cut across the tops in a double cross, then put them in iced water until the radishes open up.

---oOo---

GERMAN POTATO SALAD — Ethne Beard, Port Elizabeth

boiled potatoes
cooked bacon
mayonnaise
chopped onion
salt and pepper

Cube the potatoes while still hot. Chop up the bacon, mix with the potatoes, onion and mayonnaise. Season with a little salt and pepper. Use hot or cold.

---oOo---

EGG SALAD — May Bennett, Ridgeworth

hard boiled eggs
salanaise
salt and pepper
paprika and parsley

Cut eggs in half and lay on a flat salad platter; cut side

---oOo---

SPRING GREEN SALAD — May Bennett, Ridgeworth

1 medium size lettuce
2 onions
parsley
1 cucumber
mint (fresh)
scallions

Wash and shred the lettuce, chop onions finely and parsley; keep a few pieces for garnishing. Wash cucumber peel and cube. Wash scallions, and cut tops off leaving a short piece of the green left on. Toss the lettuce, parsley, cucumber, onion and scallions together, salt and pepper. Pour over a little French dressing and serve in a glass bowl. Garnish with a few sprigs of mint and parsley.

---oOo---

CURRIED GREEN BEAN SALAD — Mrs Futter, East London

2 lbs sliced green beans
2 chopped onions
1 d salt, level
2 cups water

Boil the beans (sliced) with salt and onions till cooked, then pour off the water.

Sauce:
1 1/2 cups sugar
1 d curry powder
1 heaped T flour
1/2 bottle vinegar

Mix the curry powder, flour with a little water. Mix well, so that no lumps form, and then add the sugar and vinegar, boil up and stir all the time, then add the cooked beans and onions, bring to boil again. Bottle.

---oOo---

APPLE TUNA TOSS SALAD

1 medium head lettuce, torn in bite-size pieces (4 cups)
1/3 cup coarsely chopped walnuts
1/2 cup mayonnaise or salad

ge sections,
soya sauce
to salad;

New search is on for ways to create work

Star 29/8/79 165

Labour Reporter

The possibility of a new Government initiative on unemployment was held out yesterday by the Minister of Co-operation and Development Dr Piet Koornhof.

Urban unemployment, unlike rural unemployment, was an immediate crisis — especially if it was massive, he said.

"I am not in a position to make announcements but the Government is working on the question," he said.

Creation of more jobs was an important contribution employers could make towards the well-being of the country and its people, he said.

Dr Koornhof, was outlining his labour philosophy in a speech in Johannesburg to the Associated Scientific and Technical Society.

He called on employers to:

- Take a hard look at the wages of their workers with a view to improving them as far as possible while stepping up productivity.
- Find out about workers' housing needs and what could be done to help them on a sound economic basis with the aim of ultimate home ownership.
- Extend in-service training possibly with the help of facilities provided by the Government.

Dr Koornhof said it was fairly certain that most of the incoming population would turn to urban environments — particularly groups other than whites.

Rapid growth in urbanisation needed a high rate of economic growth. This, in turn, needed more skilled labour — without the high immigration of the 1960.

Half the skilled labour — 30 000 to 40 000 workers — would have to be added each year by races other than white. Such artisans would be politically and socially more disciplined, more conservative and less radical in their outlook.

From these people, a new type of middle class would develop rapidly, Dr Koornhof said.

'SA's great challenge'

Political Correspondent

With more than a million jobless South Africa's greatest challenge is to create jobs for its present and future millions, the Minister of Manpower Utilisation, Mr S P Botha, said in Stellenbosch last night.

Addressing students of the university he said: "We have more than a million jobless who want to work and live in human dignity. New workseekers join the market at 364 000 a year going to 500 000 a year by the end of the century.

To place these numbers in service requires labour peace, political stability and growing prosperity.

If we can find an answer to the question of how and where the masses of South Africa can work, then we can guarantee a future of order and progress.

"South Africa is luckily the only country in Africa that has the resources and the leadership to accept this challenge. We must just have the will and co-operation of all the people to take on the task," he said.

Another reason for the necessity of better relations between all people in the country was to unity against the onslaught of marxism, he said.

December 1978

Hurdle 1 ... Director

MP pleads for more jobs for Coloured

Argus 4/10/79

165

SOUTH AFRICA is moving towards structural unemployment, a matter of grave concern, says Mr Alex van Breda, MP for Tygervallei and Chief Government Whip.

Until recently unemployment could primarily be attributed to the country's economic position, he told a meeting of Epping Industrialists Association

But the position had changed, with unemployment figures of 11,9 percent among coloured workers, 11,1 percent among blacks and 3,6 percent among whites.

Much more money was spent by industry on sophisticated automatic machinery and job opportunities were getting scarcer and scarcer.

19-million

Between 1960 and 1970 the coloured labour force grew from 554 000 to 702 000 and next year's projected figure is 1-million.

Out of an expected labour force of nearly 19-million by the year 2 000, about 1,9-million would be coloured with more than 96 percent of them living in the Western Cape For all these workers jobs must be created

Mr van Breda appealed to industrialists to look at their employment problem afresh and reconsider their attitude towards coloured labour anew, especially in anticipation of another economic upswing.

OPPORTUNITIES

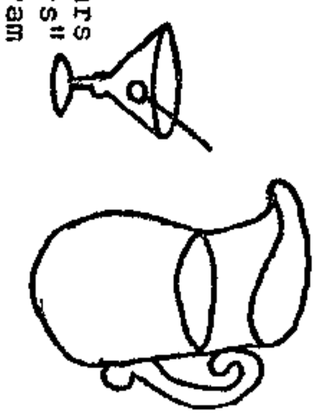
"If we in the Western Cape — Government agriculture, commerce and industry — fail to provide the required job opportunities, I shudder at the thought of what may await us"

Wages of coloured workers rose from R177-million in 1960 to R979-million in 1975 and would probably reach R2 080-million next year

From 1970 to 1976 the average rise in coloured wages was 16,9 percent compared with 4,3 percent of whites — 'staggering' figures, said Mr van Breda.

BEVERAGES

"Ah my Beloved, fill the cup that clears
Today of Past Regrets and Future Fears"
Omar Khayyam



GINGER BEER

Judy Morris, Port Elizabeth

10 bottles (750 ml) water
4 cups sugar
1 1/4 (20 ml) bottles Jamaica Ginger
1 t cream of tartar
1 1/2 heaped t dry yeast

Mix all together and leave for 6 hours. Then bottle in screw top bottles. Leave for a couple of days to mature. Keep it in fridge when mature.

COFFEE SPECIAL

May Bennett, Ridgeworth

Pour together into coffee glasses, hot milk and strong coffee. Top with following: fresh cream mixed with a good instant coffee, a few drops of vanilla essence and fine sugar.

---oOo---

GRANADILLA DRINK

Mrs Futter, East London

3 cups sugar
3 cups water
12 granadillas
3 t tartaric acid

Boil water and sugar to a thin syrup. Turn out the pulp of the granadillas. Then to this, add 3 t tartaric acid. Pour hot syrup over and allow to cool. Strain and bottle. (Squeeze the pulp to get all the juice out.)

---oOo---

WESTLEIGH PUNCH

May Bennett, Ridgeworth

1 large tin of pineapple juice
1 medium tin of orange juice
1 small tin lemon juice
1/2 cup sugar
1 large bottle cold ginger ale
1/2 cup cold water
1/2 cup Cinzano Blanc

Mix all together, let it stand 1/2 hour before using, in the refridgerator. Serve in Punch bowl, garnish with a few slices of orange or lemon cut very thin.

---oOo---

CAPPUCINO COFFEE

May Bennett, Ridgeworth

Use a strong brew of good percolated coffee. Heat milk but do not boil. Pour equal quantities of coffee and milk into cups, pouring in together. Whip in a spoonful of cream till frothy. Sprinkle a little chocolate and cinnamon on top of cream.

---oOo---

ORANGE HEALTH DRINK
(Delicious in Hot Weather)

May Bennett, Ridgeworth

10 oranges
2 pkts citric acid
4 tot Whiskey in
ted Mocca Java (or
ass. Top up with
ck of a silver
ck, Durbanville
ance
ttt, Ridgeworth
the ingredients
an and boil. Cool and
le - tie the corks down.
oung, Rondebosch
of tartar
ginger
/2 pkts dried yeast

'Let black workers into Cape'

Star 8/10/79 (165)

By Michael Chester, Financial Editor

BLOEMFONTEIN — The national executive of the Association of Chambers of Commerce is likely to join in renewed pressures on the Government to abolish restrictions on black labour in the Western Cape

The aim will be the scrapping of the controversial policy introduced in 1962 to give white and coloured workers labour preference in the area

Assocom undertook to start studies into the issue on the basis of a special report prepared by Professor S P Cilliers of Stellenbosch University who has opened a campaign to force the withdrawal of the policy

He handed in a copy of the special report to the national executive at the 1979 annual congress of Assocom here today

He told delegates that the policy imposed totally unfair restrictions on black workers in terms of seeking jobs.

Even black workers qualified for permanent residence and employment in the area were allowed into jobs only when it was proved that no white or coloured workers were available

He argued it was all the more ridiculous in view of the fact that black families settled in the Western Cape before even Johannesburg was born — more than a hundred years ago.

● **Dismantle the colour bar in unions — Page 5.**

PO service

BLOEMFONTEIN — In the next 10 years, the post office has to undertake the introduction of digital electronic exchanges, Mr Louis Rive, the Post Master General, told the Assocom congress here today

He said this would be done initially for the provision of additional telephone services, but within a short time, also for the replacement of its ageing electro mechanical exchanges

le procedures for looking at costs,
y to intuition, to highly complicated
clear-cut solutions. For these more
igements have to be made explicitly
trum between these two extremes are

stencies. It was noted that a
that a rand should yield approxi-
gramme it is spent. If the net
diture on one programme much exceeds
that on another, one can do better by withdrawing funds from the second programme and increasing expenditure on the first. By simply looking at a breakdown of the budget between programmes, the amounts spent on each may be compared with our intuitive notions of how much 'ought' to be spent on these things. Our judgement will depend on what we consider the benefits of expenditure under each programme to be, a process which cost-benefit analysis seeks to formalise (see below). For example, if it can be shown that expenditure on preventive medicine constitutes approximately 2% of all expenditure on health,[11] it may be felt that the benefits from this kind of provision warrant an increase in the share of the budget allocated to it.

Unfortunately, such intuitive processes can pick out only the grossest incongruities which are recognised by all, whatever criteria of 'value' are used. The optimum level of expenditure on a particular objective is, from the point of view of intuitive judgement, highly uncertain, because of the wide variation in benefits attributable to a particular type of spend-

results of
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r analysis
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another.

2.4 An Informal Method for Setting Objectives

The following method for guiding the choice of priorities has been described by John Bryant.[12] It has been used by medical and nursing students in Thailand, and one of its advantages is that it can be used where no numerical data is available. It, therefore, lends itself to discussion, to draw on the experience of a group of people

Potential health problems are first listed, and then given a score (from one to four pluses) under each of four headings.

Diagram 1 A method of ranking health problems

Problem	Prevalence	Severity	Community concern	Vulnerability to management	Total
Large & poorly spaced families	++++	++++	+++	++	96
Inadequate antenatal & obstetric care	++++	++	++	+++	48
Malnutrition	+++	+++	++	++	36
Need for medical care	++	++	++++	++	32
Specific diseases:					
V.D.	++	++	++	++	16
Dental problems	++++	+	++	++	16
TB	+++	+++	+++	++	54
Common cold*	++++	+	+	-	0
Yaws*	-	++	+++	++++	0

* Added to test scoring method

(132) 23/11/79

165

MANPOWER COMMISSION

Jobs first

FM. 23/11/79 (132) (165) (173)

The National Manpower Commission, which will play a key role in government's new labour system duly got off the ground last week As expected, it will not want for work

After the commission s inaugural meeting last Friday, pressmen were presented with a list of 14 broad areas which will occupy its attention The list is nothing if not ambitious, ranging from 'a comprehensive education programme for all ' through "an effective programme for industrial peace," to ' a residential area and housing programme for all

It is clear that the commission s work will go well beyond issues falling under the ambit of the Department of Manpower Utilisation Indeed areas such as the pass laws and the labour bureau system administered by the township administration boards will be specifically examined A sub-committee to examine SA s labour market has been established and it will be chaired, significantly by a senior official of the East Rand Administration Board

Commission chairman Hennie Reynders says the NMC will not necessarily regard aspects of the Wiehahn and Riekert reports as immediate priorities But some thorny issues raised by the Wiehahn white paper will be dealt with early on

An industrial relations sub-committee under Unisa s Professor Blackie Swart has been established and Reynders says it will give priority to the issue of trade union autonomy " Issues such as the closed shop mixed unions and deduction of union dues by employers should receive priority he adds

The commission's chief priority at the moment is the issue of employment creation and Reynders says work on this will begin ' immediately " The Board of Trade s Basie Kleu will head a sub committee to examine this and some of the work of Kleu's industrial strategy committee which has also been examining this issue will presumably be brought over to the NMC

Apprentice problem

Another thorny issue which could well receive early attention is the effect of military service on apprenticeships White trade unions are unhappy about agreeing to the indenturing of African apprentices As long as whites are subject to military service and blacks are not, white apprentices are at a disadvantage they say A Defence Force man serves on the NMC s executive and the SADF is apparently devoting attention to this issue

Addressing the commission at last week s meeting, Manpower Utilisation Minister Fanie Botha said it would work within current government policy but would be called upon to suggest changes

Is the commission worried about criticisms of its composition? Reynders says he has come across little criticism although some people have argued that we should have had a representative of one of the multinationals - others feel we should have a labour lawyer The commission has decided to co-opt outsiders to its subcommittees and these problems will be rectified soon he says

In response to suggestions that trade union representation is small and that public sector representation disproportionate Reynders replies that the commission has 15 public sector and 26 private sector representatives This latter group is divided into eight employer association men eight unionists and 10 "others he says Unionists complain, however that many of the 10 others have employer rather than labour, links

F.M. 23/11/79 (165)

LABOUR COURT

Clearing the way

Legislation setting up government's new industrial court is due for a substantial shake-up. Nevertheless the court will begin operating on December 1 as planned.

The *FM* understands that major amendments to the statute setting up the court will be presented to Parliament next session. Government men feel the present legislation (the court was set up by the Industrial Conciliation Amendment Act

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NOTICE 930 OF 1979

DEPARTMENT OF MANPOWER UTILISATION

INDUSTRIAL CONCILIATION ACT, 1956

With reference to the establishment of the Industrial Court in terms of section 17 of the above-mentioned Act, it is hereby notified in terms of section 17 (8) of the said Act, that the Minister of Manpower Utilisation has—

(1) appointed Prof Nicholas Everhardus Wiehahn as President and Mr Hendrik Tjaart Jacobus Coetzee as Registrar of the Industrial Court, and

(2) established a Special Division of the Industrial Court and appointed Dr Frederik Jacobus Viljoen as only member and Chairman

(30 November 1979)

KENNISGEWING 930 VAN 1979

DEPARTEMENT VAN MANNEKRAGBENUTTING

WET OP NYWERHEIDSVERSOENING, 1956

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(30 November 1979)

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1686

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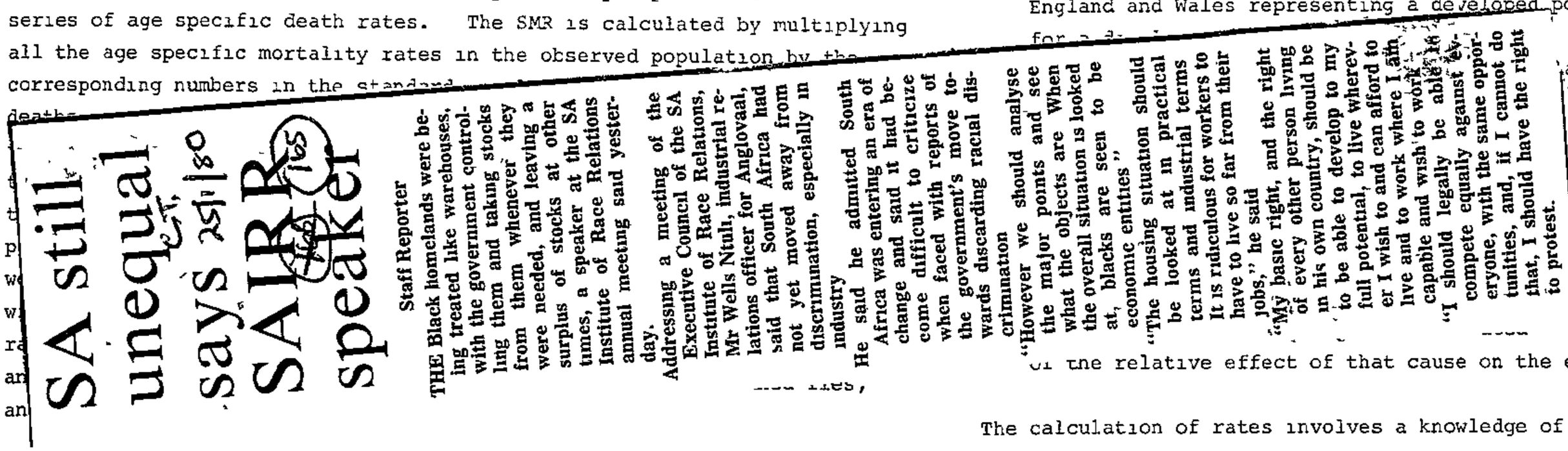
(30 November 1979)

Pole 126 68 6712

DISCUSSION

The crude death rates and the standardised mortality rates for whites, Asians and 'coloureds' and urban Africans are presented in Fig 1. The interpretation of these figures is confounded by the differences in the underlying structure of the population. The population pyramids of the various groups were pictured in Part I with the exception of the urban Africans, which appears in Fig. 2 This population shows an excess of healthy working males and lack of elderly persons as a result of the migratory labour situation.

The standardised mortality rate provides a single figure for the mortality experience of a population which can only be fully expressed in terms of a series of age specific death rates. The SMR is calculated by multiplying all the age specific mortality rates in the observed population by the corresponding numbers in the standard



SA still unequal says SAIRR speaker

Staff Reporter

THE Black homelands were being treated like warehouses, with the government controlling them and taking stocks from them whenever they were needed, and leaving a surplus of stocks at other times, a speaker at the SA Institute of Race Relations annual meeting said yesterday.

Addressing a meeting of the Executive Council of the SA Institute of Race Relations, Mr Wells Ntuli, industrial relations officer for Anglovaal, said that South Africa had not yet moved away from discrimination, especially in industry

He said he admitted South Africa was entering an era of change and said it had become difficult to criticize when faced with reports of the government's move towards discarding racial discrimination

"However we should analyse the major points and see what the objects are When the overall situation is looked at, blacks are seen to be economic entities"

"The housing situation should be looked at in practical terms and industrial terms It is ridiculous for workers to have to live so far from their jobs," he said

"My basic right, and the right of every other person living in his own country, should be to be able to develop to my full potential, to live wherever I wish to and can afford to live and to work where I am capable and wish to work

"I should legally be able to compete equally against everyone, with the same opportunities, and, if I cannot do that, I should have the right to protest.

Infant mortality rates are summarised in Fig. 3. Once again, difficulty is experienced in obtaining data for Africans. Birth statistics for Africans are not published by the central government The various medical officers of health[9] have estimated the infant mortality rates for their urban areas. These show considerable variation. (See also ref.15). A mean figure and the range are given in Fig. 2. These de facto figures should be interpreted with caution as sick infants are often brought to the cities from rural areas. An indication of the situation in the rural areas is given by a sample survey carried out in Cape Town and Transkei among Xhosa-speaking Africans.[12] An increase in infant mortality was observed with decreasing urbanisation, the figure for the completely rural areas being of the same magnitude as those parts of the world devoid of medical services. Fig. 4 summarises the age specific mortality rates of

rural areas or cause of deaths' according to the Bantu Reference Bureau (Personal Communication). At least 50 000 deaths among Africans were not registered. These occur mainly in the rural areas It is estimated that about 10% of the deaths in the main urban districts are not registered for Africans.

METHODS

The following indices were calculated:

1. Crude Mortality Rates
2. Standardised Mortality Rates. Two standard populations were used: England and Wales representing a developed population and Mexico 1960 for a d

ated mainly in five year age
he eighth revision of the

e last census year.
lity experience of a
hich would exist if a
it gives an indication
of the relative effect of that cause on the expectation of life.

The calculation of rates involves a knowledge of the base population age specific population. No official estimates of this are available for inter-censual years. For whites, Asians and 'coloureds, the 1970 population has been projected forward using the age specific survival rates from 1970 and taking into account the actual births and deaths in the 0-4 age group. Allowance was made for migration.

For Africans, a different procedure was adopted as a population figure for only part of the country was required. The 1970 age distribution[10] by magisterial district was used, the numbers being adjusted by the 1974 gross population estimates by economic region.[11]

Post 7/11/79

Sacked workers claim prejudice

PORT ELIZABETH — The Department of Manpower Utilisation is to investigate the manner in which General Tire signed off a number of workers dismissed in the wake of the recent industrial dispute.

Unemployment cards produced by the dismissed General Tire workers showed that in a number of cases management had written under reasons for leaving employment the word "strike"

Mr Jaap Cilliers, Secretary for Manpower Utilisation said yesterday that if this was correct the company had acted irregularly.

"The employer should have restricted himself to giving the reason for leaving work as 'other' as it is listed in the unemployment card

"It is not intended that the card should prejudice a man's future employment opportunities."

Mr D N Wiggill, divisional inspector of Manpower Utilisation in Port Elizabeth has promised an investigation and said that if the claim was correct, General Tire would be asked to call in the cards and change them.

Details of the unemployment card error emerged after 30 General Tire workers who had not been re-hired with their 800 fellow strikers were sent their unemployment cards last week by registered post.

One employee — a father of seven with 11 years service to General Tire — said that he had not been involved in any leadership role in the strike but had not been re-employed with other General Tire workers.

"Now that this is written in my book what chance do I have of getting another job?" asked the man.

Mr R G Nicholson, managing director of General Tire was unavailable for comment and his secretary said she did not believe any other company official could discuss the issue

inventory valuation.

The apparent effect of LIFO on working capital reveals a weakening structure whereas in real terms there is actually a strengthening of the working capital position.

Example 6

LIFO is applied for the first time during the current year and the LIFO adjustment (being the difference between the FIFO valuation and LIFO valuation of end of year inventory) is R10. The tax rate is 40%. Assume a bank balance of R20 and that tax is paid therefrom.

P/5

Minister reacts to Rightwing union opposition

By GERALD REILLY
Pretoria Bureau

CONFRONTATION in the field of labour could have extremely serious consequences and the Government would do all in its power to avoid them, the Minister of Manpower Utilisation Mr Fanie Botha, said in an interview from Cape Town at the weekend

He was reacting to claims by the secretary of the white Mine Workers Union (MWU), Mr Arrie Paulus that there were pointers to a confrontation during 1980 Mr Paulus called on the Government to avert a clash with white workers

Mr Paulus is at the spearhead of Rightwing trade union opposition to the Government's labour reform plans based on the recommendations of the Wiehahn and Riekert Commissions reports

Mr Botha said it appeared that Mr Paulus and the president of the SA Confederation of Labour Mr Attie Nieuwoudt were going out of their way "to make things extremely difficult

They are afraid the white worker has been exposed to unfair competition from workers of other races by the changes the Government has made and intends to make in the future

Mr Botha said, however, that through the Industrial Court the white worker had as great — if not greater — protection for his rights than he ever had in the past

He said confrontation could have a serious effect on the economy and could upset the delicate balance in the labour field which was vital if labour peace was to be maintained

He added that labour unrest could spread to the detriment of relations in other areas

Mr Botha cautioned that before Mr Paulus' threats were taken too seriously it should be asked whether he spoke for more than one or two of the country's 84 white trade unions

He does not even speak for all eight mining unions

We cannot afford to have bad blood between the Government and organised labour The country is at the beginning of a new economic era and the Government will do everything possible to maintain labour peace

Mr Botha said Mr Nieuwoudt's allegation that he had failed to consult the confederation before making changes were "absolute nonsense"

"I gave them the fullest possible opportunity to express their views It's my firm policy and it will remain so, to consult at every stage when changes are contemplated"

On the refusal of the MWU to train black workers in BophutaTswana mines Mr Botha said

"BophutaTswana is a sovereign country We cannot dictate to them on any issue and particularly on labour issues We cannot hold blacks on the BophutaTswana mines back from learning skills

White mineworkers will lose nothing and risk nothing by training black miners Unfortunately unreasonable fears are being encouraged and spread

Govt eyes labour in 2 000

RDM 22/2/86 (165)

By HELEN ZILLE
Political Correspondent

CAPE TOWN — The Government yesterday took another major step in forging an alliance with the private sector by establishing a joint committee to prepare South Africa for the country's labour requirements by the year 2 000

The committee is planning another top-level Carlton-style conference in Johannesburg on March 31 to launch the programme called Manpower 2 000

Black industrialists and trade union representatives were also present at yesterday's meeting in Stellenbosch indicating the Government's design to draw this sector into planning its labour programme

Mr Fanie Botha, the Minister of Labour, is chairman of the steering committee, with Mr Francis le Riche deputy chairman of Sentrachem and chairman of Atlas Aircraft Corporation

Mr Botha said yesterday Manpower 2 000 would be a promotions project to make the private sector fully aware of the advances required to meet the labour demands of the next century

The project would include black businessmen and trade unions, Mr Botha said

The main objectives were

- Promoting labour peace in South Africa,
- Creating new job opportunities,
- Promoting training and in service traning
- Increasing productivity

Hansard 3 Question Col 167/168
22/2/80

165

†The MINISTER OF POLICE

No

(12)

Immigration of workers

*15 Dr A L BORAINE asked the Minister of Manpower Utilization

(1) Whether (a) he, (b) his Department or (c) the National Manpower Commission was consulted about proposed incentives to encourage immigration of workers in the Republic, if so,

(2) whether (a) he, (b) his Department and (c) the Commission approved the proposals?

†The MINISTER OF MANPOWER UTILIZATION

(1) (a), (b) and (c) No

(2) Falls away

Dr A L BORAINE Mr Speaker, arising out of the hon the Minister's reply, does he not think that in view of the overall planning by the Manpower Commission, when so serious a step as making it easier for workers to come from overseas is envisaged and planned, his own department, and the Manpower Commission in particular, ought to be consulted?

†The MINISTER Mr Speaker, the department concerned did not do anything contrary to the view of my Department

Dr A L BORAINE Mr Speaker, with great respect to the hon the Minister, that does not answer the question I put to him Arising out of his reply I asked him whether he did not think that consultation between the two departments ought to have taken place in view of the outcry of Black and White workers in South Africa.

†The MINISTER Mr Speaker, the hon member knows or ought to know that departments normally consult each other continually on all sensitive matters That is why I say that the department concerned did not do anything contrary to my department's view

*16 Dr A L BORAINE—Reply standing over

Labour office to move

The Johannesburg office of the Department of Manpower Utilisation is to move from its present premises in Labour House, 180 Bree Street to Conlyn House, 156 President Street in April

Star 2-4-78

Labour office to move

165

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STAR 7/3/80 (165)

Mixed unions favoured

Mr Nico Hitchcock, the Industrial Registrar said today that many trade unions favoured mixed trade unions

Mr Hitchcock was speaking at the annual meeting of the Mine Surface Officials' Association in Johannesburg

Despite the fact that the Industrial Conciliation Act forbade mixed trade unions provision was made for the Minister of Manpower Development to register mixed unions — where the numbers of one population group were too small to justify a separate union, or where the proportions made it practicable

It is understood that MSOA has been looking at the implications of mixed registration

From today's discussions it would appear there are good chances of such an application succeeding

STAR 13/3/80

Assocom states 72-hour influx control rule

By Elizabeth Wilson, Labour Reporter

In a paper memorandum on the Riekert Manpower Report, Assocom states the 72-hour influx rule for blacks as 'seriously disturbing race relations' and causing great harm to the country's image overseas.

The Association of Chambers of Commerce calls for the reference books carried by blacks to be used solely for identification and not for influx control.

It argues that blacks from black states should have passports while black residents in white areas should be provided with a 'book of life' in the same way as whites.

The association reports that in practice, the 72-hour restriction is not effective in preventing the influx of blacks into major urban areas.

The three-day provision affords no guarantee against summary arrest since the onus is on the black person to prove his rights to be in an area.

Assocom says that where blacks commute daily from adjacent black homelands the restriction has 'become meaningless'.

It calls on the government to consider a total repeal of the 72-hour provision. In the meanwhile it recommends that the concessionary period be extended to 14 days.

It predicts that a tightening of influx control will result in increased illegal employment and a worsening of the squatter problem.

The squatter problem is 'already assuming alarming proportions' in major urban areas.

The memorandum calls on the Government to give top priority to the creation of additional job opportunities.

It highlights the urgent need for more housing for blacks in urban areas — including migrant blacks.

A shortage and backlog of housing for blacks in the major peri-urban areas, it says, and other areas to black states is a decline too of many of the manpower problems in these regions.

In the past the Government had attempted to link accommodation with employment opportunities in an attempt to restrict the influx of workers. The failure of this policy was 'generally accepted'.

The Riekert Commission had noted the dangers of the present position and Assocom welcomed its recognition of the rights of urban blacks to remain in urban areas permanently.

Among the Assocom recommendations on housing was a call for the introduction into the tribal areas of a scheme similar to the quasi-freehold system. This would provide an appropriate security of tenure which would permit building societies to make advances.

On the introduction of "central assembly centres" as employment advice centres, Assocom says Employers and employees should have complete freedom to negotiate their own contracts of employment at these centres.

Assocom stressed the importance of in-service training for black employees. Tax concessions should be retained for those employers who provided such training and there should be other incentives such as grants in aid.

On the question of subsidised transport, Assocom opposed in principle, all forms of levies on employers including levies for transport.

While there was a need to subsidise transport facilities for black workers the financial responsibility for this lay with the exchequer, said Assocom.

Probe into Industria blast

LABOUR inspectors this week held an inquiry into the blast at an Industria West steel factory on Monday.

The managing director of Supreme Metal Works, Mr S F Malan said that the investigating team was led by a magistrate, but would not give further details.

Move to scrap labour policy

CT 24/4/80

165

By DIANA POWELL

HOUSE OF ASSEMBLY. — The National Manpower Commission has hinted that it will recommend that the government scraps its policy of coloured labour preference in the Western Cape.

In the commission's first report, tabled yesterday, the chairman, Dr Hennie Reynders, suggested that a separate labour policy for the Western Cape could be regarded as superfluous in terms of the system of controlling the movement of manpower outlined in the report of the Riekert Commission last year

A key recommendation of the Riekert Commission, which examined legislation affecting the use of manpower, was a revision of the pass laws to make the availability of jobs and accommodation the criteria for controlling the influx of workers to urban areas

Control

The policy of preferential job opportunity for coloured and white workers in effect controlled the number of blacks able to work in the Western Cape

Dr Reynders said that representations had been made to the National Manpower Commission concerning the desirability of the existence of the Western Cape as a coloured preference area

He quoted the report of the Erika Theron Commission, which supported the policy, and the government's reaction, which stated that efforts were being made to apply it strictly

Dr Reynders said, however "Since the appearance of the report of the Riekerk Commission and the government's white paper on this commission, there have been questions from various sources about the desirability of the existing policy regarding manpower in the Western Cape

Superfluous

"The essential question is whether this policy can be reconciled with certain policy statements by the government, and whether the system of control over the geographical mobility of manpower, as recommended by the Riekert Commission, does not in any case make a separate policy in regard to the Western Cape superfluous"

The Western Cape is the only area in the country where job preference on racial grounds is enforced

The issue raised an avalanche of public comment last year when two members of the Theron Commission, Professor J B du Toit and Dr Theron herself, reversed their viewpoint on coloured labour preference and called for the scrapping of the policy

Heavy research burden for NMC

(165) CT 24/4/80

HOUSE OF ASSEMBLY — It is already clear that the National Manpower Commission will have to undertake continual research in a very broad field to keep up with developments and changes in the labour field, says the first report of the commission

The report says this is necessary if the NMC is to give well-founded advice

It lists some of the specific matters which will have to receive attention Among these are examinations of the supply and demand of labour

This would include total supply and demand, and supply and demand in specific regions and in specific categories

In the case of supply this would include analysis of population trends, including those of the work force, according to race, sex, age, educational qualifications and economic participation and of immigration and emigration

An examination of demand would include keeping up to date and particularizing studies on economic development and growth, changes in the economic structure and related manpower demands in all their facets

Other areas to be covered are

- An analysis of occupational structures and the vertical mobility of black workers,
- The position of female employees in the labour market,
- Economical and statistical analysis and investigations into the remuneration of manpower,
- Economic and statistical analysis and investigations regarding the productivity of manpower,
- Economic and statistical analysis and investigations in education, training and retraining of manpower, including training in the field of industrial relations,
- Studies on collective-bargaining processes,
- Studies on labour practices,
- Studies on international developments in labour,
- Studies about trade unions and their activities,
- Studies in the area of staff relations at national, regional and factory level,
- Studies regarding the efficacy of labour legislation, social benefits, economic conditions and developments and their implications for manpower,
- The question of unemployment in all its facets and the preparation of a manpower programme — Sapa

Manpower dept rapped over watchmen's lot

STAR 6/6/80 (165) (2)

By Elizabeth Wilson
Labour Reporter

The Industrial Aid Society in Johannesburg has accused the Department of Manpower Utilisation of not acting to change the "terrible conditions" in the watch-patrol industry although it is the State body responsible for protecting the interests of workers

In a strongly worded document, backed by affidavits, which was handed to the Divisional Inspector of Labour in Johannesburg yesterday, the society said it was extremely dissatisfied with the department's lack of action

It said it was common knowledge that night-watchmen in some firms were earning as little as R60 a month and working 108 hours a week Many were granted no leave or free periods

The society said previous approaches had been made to the department and affidavits had been submitted It had also drawn attention to the situation at a recent wage board hearing

It said "no reply or proof of positive corrective action" had been received

The society called on the department to prosecute within two weeks employers who did not pay proper wages It also asked for a provincial investigation to be launched into conditions in the watch patrol industry

It said that if it did not hear from the department within two weeks it would "take the matter further to higher authorities"

"SHELTERING"

The society said that only the department had jurisdiction to deal with the cases and the power to enforce the regulations

The society has alleged that employers are "effectively sheltering behind the Department of Manpower Utilisation"

Among affidavits supporting the IAS claim, is one in which an official of a watch patrol firm is alleged to have told complaining workers "Go to the Labour Department, I don't care They are my friends and they will do nothing for you"

Diamond trouble

By ANDREW McNULTY

THE SA Diamond Workers Union (DWU) has elected to take to arbitration the demarcation issue, which limits the size stone which non-artisan operators may cut

This decision, foreshadowed in Business Times last week, was decided at a meeting on Tuesday night

Unless the issue is resolved by negotiation a dispute will be declared after 30 days.

The arbitration will be one of the first cases to be settled by the new Industrial Court, which replaces the Industrial Tribunal

Manpower 2000 . . .

STAR 26/6/80

165

At last, women on committees

By Molly Harding

Women have now been appointed to the committees of Manpower 2000, a project aimed at highlighting the needs and abilities of all groups in society in the labour force. They were initially overlooked when the project was launched earlier this year

The Star brought the omission to the attention of the Minister of Manpower Utilisation Mr S P Botha, who was "embarrassed that he had "completely forgotten women" and promised to rectify the situation immediately

A Women's Page story a month later revealed there were still no women on the committees

Three months later the appointments have been made, and women have joined representatives of other sectors of society to point out the specific problems they face in the work force and try to resolve them.

The manpower 2000 project is a Government - sponsored back-up to the Manpower Commission and is not a formal commission of inquiry

EXECUTIVE

Margaret Lessing of Pretoria, former president of the South African Consumer Union, has been appointed to the executive committee, which comprises 28 representatives of the country's business leaders Val Mickleburgh, marketing manager for Total South Africa is now on the Johannesburg regional committee

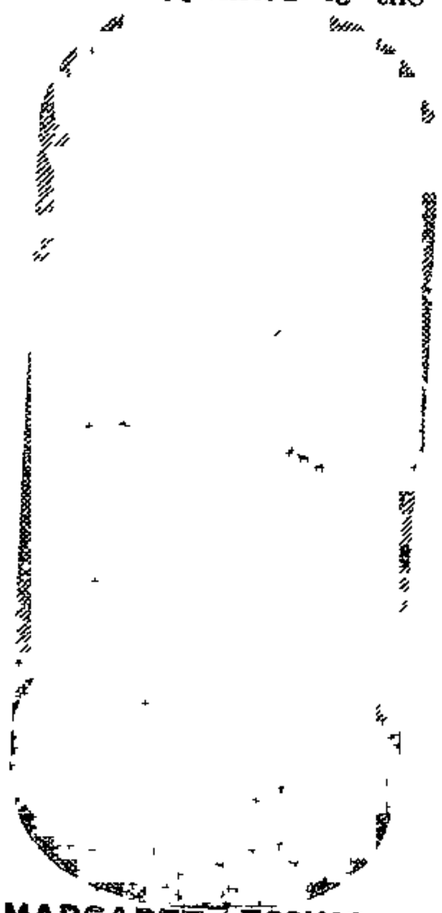
Other women have been appointed to the national committee, a larger body of about 200 representing all sectors, but their names are not yet available.

Trudda Prekel, a senior lecturer at Unisa's School of Business Leadership was also invited to sit on the executive committee, but declined as she will be on sabbatical in the United States for a year

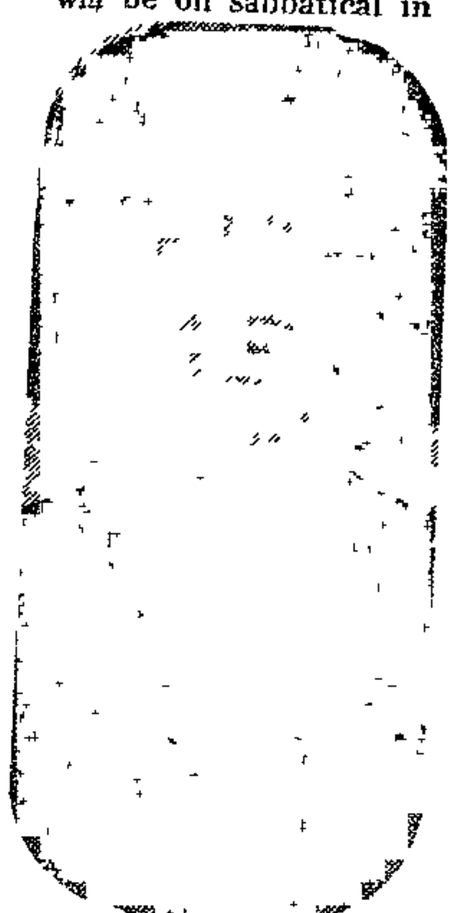
Mrs Lessing, who arrived back on Monday after a month overseas, was greeted with the invitation and said it was "right up my street."

A spokesman for the liaison office organising the committees said the appointments are not necessarily closed.

"Anyone who feels he or she has a contribution to make to the project is welcome to contact this office at Pretoria 3-2366"



MARGARET LESSING — "This committee is right up my street"



VAL MICKLEBURGH — is on the Johannesburg regional committee.

Record on trade union rights put straight

NATAL MERCURY 26/6/80

165

SIR, — I refer to the second leading article which appeared in your newspaper on June 6, 1980 under the heading 'Was this necessary?' and wish to draw your attention to certain inaccuracies contained in the article.

In paragraph three, referring to the role of the Government, you state 'Last year it did not see its way clear to implement the Wiehahn Commission's recommendation that trade union rights be granted to all workers, instead, it limited the eligibility of blacks to permanent residents of South Africa '

It should be pointed out that the Industrial Conciliation Act, 1956, as amended, empowers the Minister of Manpower Utilisation to extend the definition of 'employee', and the Minister duly exercised these powers by bringing in, in terms of Government Notice No R2167 dated 28 September 1979, any person who complies with the requirements of sub-paragraph (i) of paragraph (a) of the definition of 'employee' in section 1 of the Act, and who

(a) is or was a South African citizen, or

(b) is a citizen of a State the territory of which, or a part of which, formerly formed part of the Republic

If one examines the amended Act, in conjunction with the Gazetted notice mentioned above, it is clear, therefore, that the only persons excluded from trade union membership are those who enter the Republic for the purpose of carrying out a contract of service within the Republic, **if upon the termination thereof the employer is required by law or by the contract of service or by any other agreement or undertaking to repatriate that person, or that person is so required to leave the Republic**

It is evident therefore that your quoted statement, especially when read with your further comment in paragraph five of the article, viz The Industrial Conciliation Amendment Act denies membership to the vast majority of black workers living in the greater Durban area does not convey a clear picture of the facts It should be obvious from what I have said, that with the exception of certain contract workers, all employees working in the greater Durban area are in fact eligible for trade union membership

In the light of the foregoing, your remarks in paragraph six of the article, where you state that certain parties 'objected strongly to the exclusion of migrant workers from the amending legislation, warning that this would wipe out most of the existing unions and lead to industrial unrest and illegal strikes — and this is precisely what happened at New Germany' would appear to be unfounded

D P LIEBENBERG
Divisional Inspector
Dept of Manpower Utilisation
Masonic Grove
Durban

FOOTNOTE — Unfortunately we were not aware that the Minister of Manpower Utilisation had exercised the power vested in him by the 1956 amended Industrial Conciliation Act, to extend the definition of the word 'employee' Our argument that the eligibility of blacks to trade union membership was limited to permanent residents of South Africa is therefore invalidated, and it is now clear that virtually all employee working in the Greate Durban area are eligible for membershi The error is regrette — Editor

STAR 15/7/83 (165)

Fund-raising ban endangers Fosatu

By Elizabeth Wilson

The Government ban on the collection of funds by the 20 000-strong Federation of South African Trade Unions (Fosatu) has begun to have a crushing effect

The Metal and Allied Workers' Union and the Chemical Workers' Industrial Union have already had to retrench staff, and other unions within the Federation are examining their financial position

Fosatu's general secretary, Mr Alec Erwin, says the situation of paid officials in the organisation is to be assessed in the next few weeks and a decision taken as to whether people will be put on part time

He says that unless there is a change in the proclamation by the Department of Social Welfare and Pensions, an organisation which has recently reported burgeoning membership could be destroyed in a few months

The only chance for survival under present conditions, he says, would be if affiliates established [illegible] self sufficiency and thereafter made contributions to Fosatu

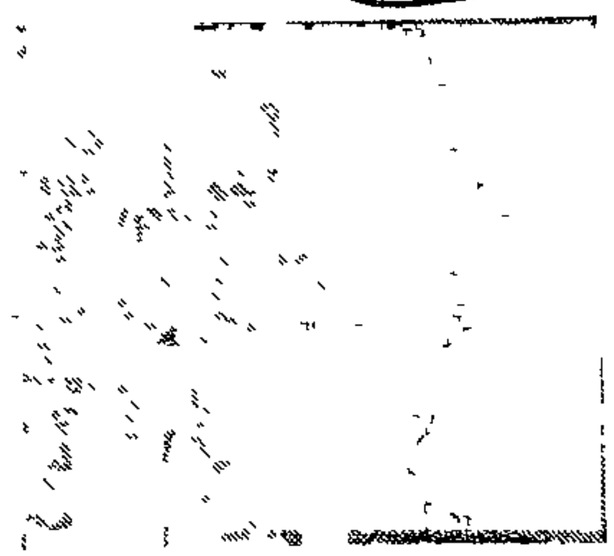
Mr Erwin says a closure of Fosatu will leave many workers with "no real alternative to Tucsa as a national body"

22/7/80 (165) Star

Progress Wiehahn has made

Star 22/7/80

Just over a year ago Professor Nic Wiehahn began dropping a series of tomes into the lap of Government which sent ripples of excitement through South Africa and even abroad. The series is the Wiehahn Commission's critical look at this country's jungle of race-oriented labour laws, and its proposals for cutting a liberal swathe through them. The Government accepted many, though some with reservations — generating high expectations of long-needed reform. But in that year, how far has this reform progressed? For one point of view Wilf Nussey interviewed Mr ARTHUR GROBBELAAR, general secretary of the powerful Trade Union Council of SA, a pioneer fighter for labour rights, himself a member of the Wiehahn Commission and now an executive member of the National Manpower Commission.



Professor Nic Wiehahn

Mr Arthur Grobbelaar is an optimist. Seated behind his broad, glossy desk in his Anderson Street office, he wears the smile of a man who at last has within reach what he has long fought for a free and open labour system with just rewards based on merit, not colour

The Wiehahn proposals, those accepted by Government, do not go nearly that far

But they are a vigorous start in that direction, more radical than anything the National Party has done in the labour sphere in its 32 years of power

In summary, the main ones are

- The beginning of the end of job reservation, one of the restrictions most reviled by blacks and most responsible for South Africa's ugly image abroad.

But it won't be an overnight change Instead it will be a phased one, because the Government is sensitive to the fears of whites in some trades of being ousted by cheaper black labour

Already, however, a very wide range of jobs is open to all comers.

- The granting of legal recognition to black trade unions by allowing them to register like any others, provided they meet the constitutional, financial and other standards.
- More important, allowing unions to go multiracial if they wish — which for the first time clears the way for an ultimately fully integrated South African work force.
- Giving the green light to greatly expanded training for blacks, from school level up
- Setting up a National Manpower Commission (NMC) comprising State, employer and labour (representatives) to plan policy and its administration.
- Creating an industrial court with broad powers to resolve disputes at low cost and to actually make law by precedent (Its first president is Professor Wiehahn)

It all looks good on paper, but what has the Government done to match the words with action?

Quite a lot, says Mr Grobbelaar, but most of it is still in the pipeline and little is publicly visible. He points out that the wheels of bureaucracy grind exceedingly slow.

(Some other labour administrators put it much more bluntly bureaucrats opposed to change and reform are deliberately sabotaging NMC action, they say)

Many of Tucsa's unions, according to Mr Grobbelaar, are frustrated and angered by apparent delay in implementing the Wiehahn proposals

But in fact, he says, the process has been considerably speeded up it used to take anything from 18 months to three years for a union to get registration. Now it takes about three months

The delay is partly the unions' fault.

New unions are often unfamiliar with registration procedure

Some old, unregistered unions have to update before they can be registered, such as getting their account books in order, straightening out their records and financial systems, bringing their constitutions into line with current legislation, all of which takes time

Few new unions have emerged as a result of the Wiehahn proposals, Mr Grobbelaar says Most seeking registration are old unions which now want to open their doors to include workers of other races

So far about 25 unions have applied.

One of the more visible changes is in apprenticeship Before Wiehahn there were virtually no black apprentices in South Africa, says Mr Grobbelaar

Now about 55 applications have been received for indenturing and some have been authorised, chiefly in the engineering, electrical and vehicle maintenance fields.

Fifty-five is not a lot, but even an oak starts as a sprig.

Black apprenticeship is taking off slowly, he states, for three main reasons.

Firstly, South African employers are slow in appreciating the scope offered by the new dispensation.

Secondly, black youth is still largely ignorant of the opportunities for apprenticeship and a career in labour.

Thirdly, the quality of a Standard 7 education, the minimum requirement for apprenticeship, is much lower for blacks than for whites

This last, says Mr Grobbelaar, needs urgent correction The whole system of black education has to be upgraded and brought into line with white schooling

Simultaneously, unions, employers and the State should join forces to encourage more people of all races to enter the worker professions because what South Africa desperately needs for the next two decades is not lawyers and academics, but the practical skills

There should be no great problem in training people, he believes Technikons have already shown their willingness to take in all races

The ball has started rolling in the new labour game and is slowly accelerating but it could be some years before it reaches full speed, according to Mr Grobbelaar.

New laws have to be passed to fully enable the Wiehahn proposals to be implemented

A technical drafting committee has been appointed to devise legislation (and another to do so in terms of the equally important Riekert Commission recommendations) and this will take time

The NMC itself has a variety of specialist committees carefully exploring the new ground opened up by Wiehahn, for which top-level personnel have had to be found.

Their task is monumental and to cut time and meet deadlines, they are co-opting the help of various outside agencies, like universities.

And even then there will be delays. Some of the changes which will sprout from all this cerebral activity is so radical, predicts Mr Grobbelaar, that employers and unions are just not equipped to handle them straight away.

But, he says, the NMC is well aware of the dangers of delay and of losing momentum.

"There will be a lot of problems in the next few years because change is inherently unstable, to an extent But it is necessary and good If there were no change now, however, there would be total instability "

To obtain a clear picture of the feedback system determining the welfare of a particular interest group, one should make a clear identification of the other groups in the environment taking a significant part in this system (for example, the PTA, the school board, the local authority education department, the local authority executive, etc) and decide at what level of detail one wants to give the situation description (in particular, how fine-grained a description of the resources, resource flows, and so on, will be used - for example, will one be satisfied to classify educational expenditure into categories such as 'salaries' and 'equipment', or will one want to use categories such as 'chalk', 'erasers', 'chairs', 'blackboards', etc)
This choice of level of detail should be made consistently with the choice of [illegible] of analysis a different level of description is [illegible] to the dynamics of welfare on a [illegible] time-scale of months, years, or decades [illegible]

[illegible] that the scheme can be described [illegible] situation [illegible] the resources be [illegible] defined[12] [illegible] the environment, [illegible] between resources, [illegible] (1) One must [illegible] the question involved [illegible] or not [illegible] whether the group [illegible] the question of [illegible] or not, that is, whether [illegible] its use or not, an specify what [illegible] When this has been clearly defined, it becomes [illegible] groups If [illegible] are transferred to or from groups, then a fair exchange [illegible] at the current exchange rate [illegible] has been made, [illegible] has taken place If [illegible] not take place

be us-ful if one did aim to produce a grand overall index combination function (see 3 - 2 and [90])

Level # 4 Error Correction

Just as errors arise in the action of social mechanisms and need correction by the action of the main feedback loops, so these main

Post 23/8/80 165

Three quizzed

From Page 1

ate the meeting yesterday. They said the Action Committee be brought in

Yesterday afternoon members of the Action Committee got notes from Putco officials telling them to get to the offices of the Department of Manpower Utilisation this morning

The divisional inspector of the department, Mr R Dickens, said the regional labour committee and the Putco liaison committee (which comprises both management and workers) met for two hours yesterday

"We will continue negotiations this morning, he said

He said the meeting was in terms of the law, and that is why the labour committee met the liaison committee

He would not comment about the "snubbing" of the Action Committee, but said negotiations are continuing today with "employee representatives"

Putco's PRO, Brigadier Jan Visser, said all he knew is that some members of the liaison committee are also members of the Action Committee, but did not know who had attended the talks

He referred questions to Mr Colin Bailey, the area executive, who was said to be out of town

In the meantime, worker representatives say the number of drivers who have been called for questioning at the security police headquarters in Protea has risen to three.

Mr Aubrey Hlatshwayo was called in on Friday, a day after Mr Obed Mofokeng and Mr Lucky Mamabolo.

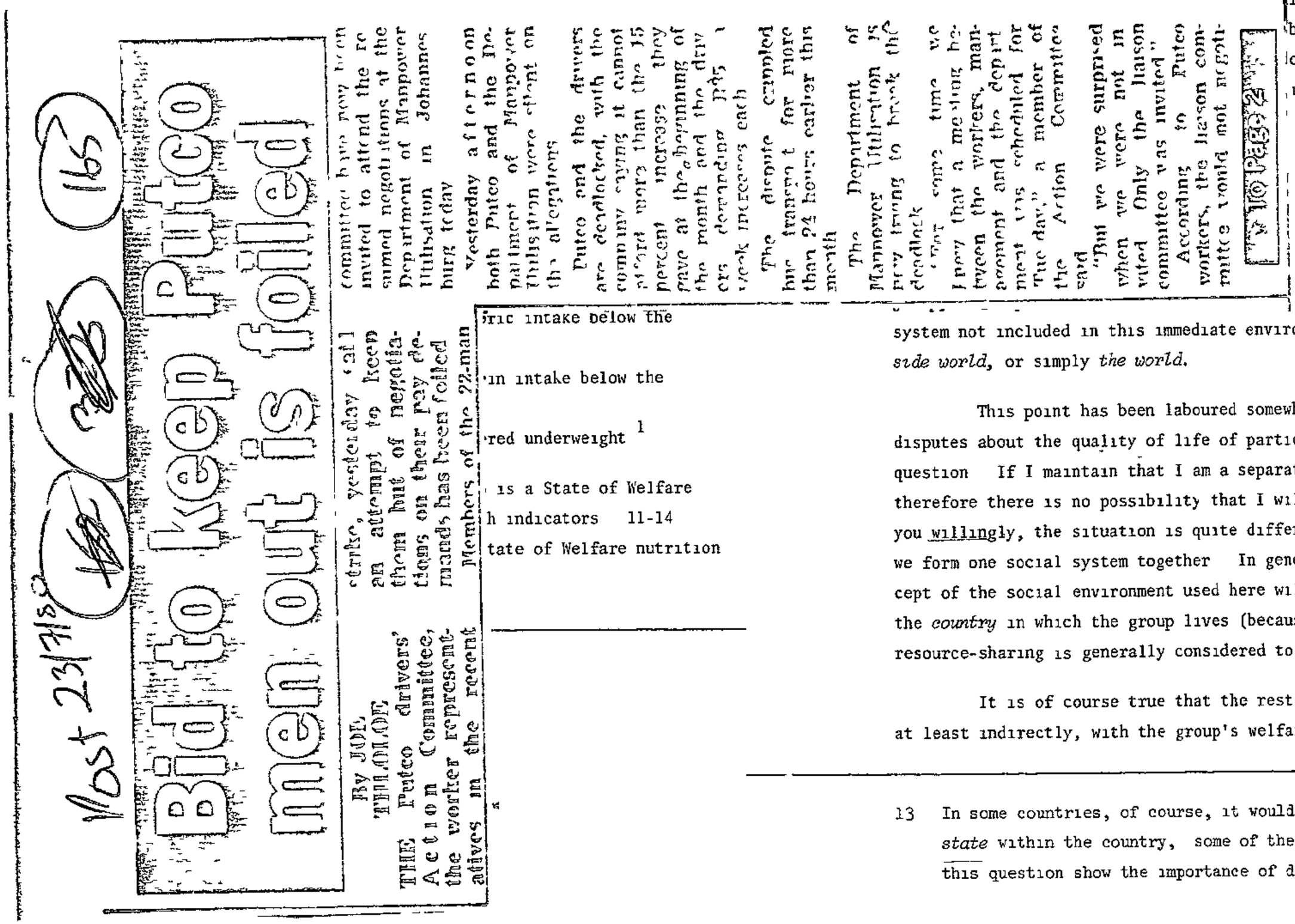
They all allege they were asked about the leadership of the strike and the drivers.

'access to power' level)

II Health and Nutrition

1 Expectation of life at birth

2 Infant mortality rate [2]



Most 23/7/85

Bid to keep Putco men out is foiled

By JOEL TOLOLOE

THE Putco drivers' Action Committee, the worker representatives in the recent strike, yesterday had hoped to keep an attempt to resume negotiations at the Department of Manpower Utilisation in Johannes-burg today

Yesterday afternoon both Putco and the Department of Manpower Utilisation were silent on the allegations

Putco and the drivers are deadlocked, with the company saying it cannot afford more than the 15 percent increase they gave at the beginning of the month and the drivers demanding 35 percent

The dispute erupted into transport for more than 24 hours earlier this month

The Department of Manpower Utilisation is now trying to break the deadlock

"Not some time we knew that a meeting between the workers, management and the department was scheduled for the day," a member of the Action Committee said

"But we were surprised when we were not invited. Only the liaison committee was invited."

According to Putco workers, the liaison committee would not negoti-

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encompass social systems whose activities substantially affect the quality of life of the group considered, but not wider Thus in considering, say, the welfare of the people in Scotland, it would be essential to include in the scheme taken into basic point here is that organi- ication involving China does in determining the living ion of conditions in that area uation where resources being d to remedy problems in Scot- hoose organizational and com- atural environment in which *etermining the welfare of the* rest of the natural and social system not included in this immediate environment, may be called the *outside world*, or simply *the world*.

This point has been laboured somewhat because in some circumstances disputes about the quality of life of particular groups centre on this question If I maintain that I am a separate entity from you and that therefore there is no possibility that I will share my resources with you willingly, the situation is quite different than if we commonly agree we form one social system together In general, but not always, the concept of the social environment used here will be synonymous with that of the *country* in which the group lives (because this is the unit within which resource-sharing is generally considered to be a natural possibility[13])

It is of course true that the rest of the world does interfere, at least indirectly, with the group's welfare, because it interacts with

13 In some countries, of course, it would rather be the *province* or *state* within the country, some of the current disputes involving this question show the importance of drawing the boundary correctly

Govt officials now in Putco talks

By KINGDOM LOLWANE

THE Putco wage dispute took a new turn yesterday when the Action Committee announced that their negotiations with management would be handled by the Department of Manpower Utilisation.

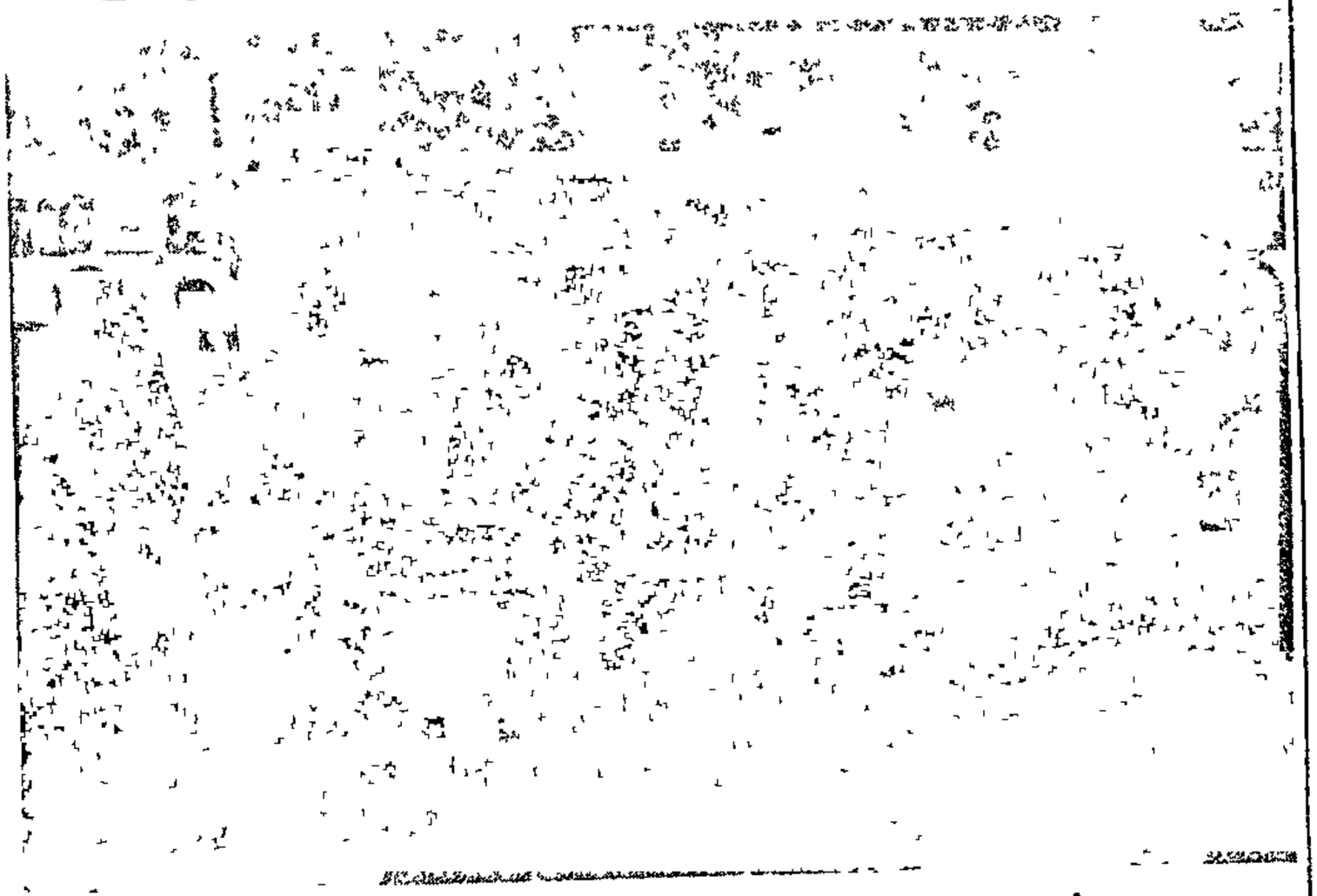
This came to light shortly after yesterday's meeting between the committee and the department officials in Johannesburg

The committee also said they had stepped down from their original demand for a R35 a week increase but refused to disclose their new figure

COMMITTEES

And the department's divisional inspector, Mr R Dickens, told **POST** in an interview that they had established regional committees to assist in the negotiations.

The committees, Mr Dickens said were formed in terms of the Black Labour Relations Regulations Act and consist of people from different business organisations in Johannesburg, Benoni, Krugersdorp and Germiston — the areas affected by the dispute.



Stranded passengers during the drivers' strike two weeks ago.

The new turn now means that only Putco management, the regional committees and the department officials will sit at the negotiating table.

Mr Dickens said there was no breakdown in yesterday's talks but refused to give details. He would also not say when the negotiations with Putco would take place

"Negotiations are still going forward and that's all I can say," he said.

The Putco dispute, which led to a strike by the workers two weeks ago, centres around a 15 percent increase that management offered. The workers had demanded R35 a week increment.

Several talks between Putco and the Action Committee have ended in a deadlock The Department of Manpower Utilisation was later called in to try and solve the dispute.

'Wiehahn court sits first time'

Star 28/7/78

By Sieg Hannig

History was being made in Johannesburg today when the Industrial Court went into its first session on an alleged unfair labour practice.

The case before the court concerned a dispute over an employer's failure to renew the contract of a migrant worker, Mr Stephen Maponya.

The Metal and Allied Workers' Union and Mr Maponya alleged that the action of the employer was an unfair labour practice.

They argued that the employer, A Malchle Pty (Ltd), trading as Precision Tools had effectively victimised Mr Maponya for being a member of the union.

The dispute earlier came before the National Industrial Council for the Iron Steel, Engineering and Metallurgical Industry, which failed to settle it.

While industrial courts have previously carried out functions inherited from the now defunct Industrial Tribunal, today's was the first session of the court in terms of its reconstituted functions arising from the Wiehahn Commission.

The hearing is being conducted in the boardroom of the Department of Manpower Utilisation.

29/7/80 STAR

Minister called in as city strike crises deepens

[redacted]

early today the general manager of the Transport Department, Mr Les Pettey, said today

About 75 drivers were fired yesterday when they stopped work but about half of those eligible to be rehired were back at work today, he said

Inspectors also helped drive the buses and Mr Pettey said there was no need now to ask white drivers to stand in on black routes

About 500 labourers in the department are still on strike and white staff are now cleaning and maintaining buses

Hundreds of strikers were this morning seen entering the Selby compound in West Street

In the City Engineer's Department, about 2 500 cleansing division workers continued their strike

At the Market 30 of the 50 black labourers "decided not to go to work today," the director, Mr P M Venter, said today

Officials at the municipal gas works in Johannesburg began negotiating with about 400 workers who went on strike

Early this afternoon the officials through an interpreter heard the workers' grievances

The general manager, Mr Malcolm Woodrow, said the strike would not have any drastic effect on the supply of gas

In the Traffic Department, 200 labourers continued their strike today. Officials claim they have also not yet made any demands

Johannesburg's Civil Defence chief, Mr H van Elst said the city's Civil Defence would not act until the city council declared a state of emergency.

Spokesmen for gas workers said they were striking in support of fellow municipal employees and for higher wages

A spokesman for the workers said "We have been promised R58 a week but we are only getting R33 a week

"We will continue to strike until we get our increases," he said

Interior gates at the factory were locked and the Press was not allowed through

Police at the site said the crowd was quiet and that no trouble was expected

A small contingent of policemen with a dog were stationed at the gasworks

If cleansing department workers remain on strike until tomorrow thousands in Klipriviersoog, near Nancefield, could face serious sanitation hazards

The families in the area depend on a thrice-weekly bucket system since there is no piped sewerage

Police seek union leader

Police are believed to be looking for Mr Joe Mavi, president of the Black Municipality Workers' Union, now involved in the major Johannesburg strike

Mr Mavi warned last Friday that more than 9 000 Johannesburg city workers would go on strike this week if the City Council did not approach his union to resolve the issue

This morning, two detectives from John Vorster Square came to The Star offices and asked to speak to the reporters who had interviewed him

Compound roof collapses

Several strikers were injured today when a roof collapsed at the Selby Compound

More than 60 were sitting on the tin roof which gave way under their weight One man was carried off with an injured back and several others complained of lesser injuries.

Scores of armed policemen were in the vicinity this morning, and traffic officers diverted cars from West Street near the M2 Motorway

How 12 city departments are affected

By Lynda Loxton

nformation available to The Star indicates that he following departments n the Johannesburg City ouncil are affected by the trike

● City Engineer's Department — about 3 000 of 000 black staff, mainly leansing staff, on strike.

● Gas Department — all 450 on strike.

● Transport Department — about 500 of 750 staff including labourers and bus drivers on strike.

● City Health — 50 of 700 staff on strike These are mainly those who clean public toilets and an emergency team has been formed.

● Library — all 90 black staff on strike. Books requested by readers cannot be delivered to branch libraries.

● Water Branch — all 490 staff on strike.

● Civic Centre — all 100 or so messengers and cleaning staff on strike

● City Treasurer's — half of the 240 staff on strike

● Market — about 30 of the 50 black staff on strike.

● Electricity Department — about 400 of the 2 300 are still refusing to go to work or be discharged

● Parks and Recreation Department — no figures available but the Johannesburg Zoo is reported to have no black staff at all The department has about 2 000 black staff

● Traffic Department — about 200 staff are on strike

● A few hundred staff could also be on strike in various of the council's smaller departments

How 12 city depa

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producing or supplying products or services On the
other hand, when one deals with two people co-
nected with each other, one usually considers the
actual relationship existing between them, either
because of work requirements or because of any
other reason (e g because of historical circumstances,
because of conditions created as a result of pressures
not necessarily conducive to the organizational
purposes, and, mainly, because the two people were
personally attracted to each other)

The semantics of the organizational structure
distinguishes between these two types of relationship

Industrial Court's historic ruling

29/7/80 Post (165)

HISTORY was made in Johannesburg yesterday when the Industrial Court ruled that a labour dispute in which the Industrial Council could not reach a decision, be heard by the court.

The case before the Industrial Court, which went into its first session on an alleged unfair labour practice, concerned a dispute over an employer's failure to renew the contract of a migrant worker, Mr Steven Maponya.

The Metal and Allied Workers' Union and Mr Maponya allege that the action of the employer was unfair labour practice

They argued that the employer, A Mauchle (Pty) Ltd, trading as Precision Tools, had effectively victimised Mr Maponya for being a member of the union.

The deputy president of the court, Mr B J Parson, who was the presiding officer in the case heard in the boardroom of the Department of Manpower Utilisation in Johannesburg, said there was no indication that the Industrial Council's executive committee had no powers to act on the dispute in terms of the Industrial Conciliation Act

The ruling follows argument by Precision Tools that it was improper for the court to hear the dispute as there had been a unanimous decision by the Industrial Council's executive committee.

The case will now be heard by the same court today

While the Industrial Courts have previously carried out functions inherited from the now defunct Industrial Tribunal, yesterday's was the first session in terms of its reconstituted functions arising from the proposals of the Wiehahn Commission

The most important feature of the court's function as an adjudicator on unfair labour practices is that it will set its own precedents and thereby shape the law yet to be evolved.

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CAPE TIMES 29/7/89

Industrial Court hears malpractice dispute

165

JOHANNESBURG — History was made here yesterday when the Industrial Court went into its first session on an alleged unfair labour practice

The case concerned a dispute over an employer's failure to renew the contract of a migrant worker, Mr Stephen Maponya

The Metal and Allied Workers' Union and Mr Moponya alleged that the action of the employer was an unfair labour practice They argued that the employer, A Mauchle Pty (Ltd), trading as Precision Tools, had effectively victimised Mr Maponya for being a member of the union

The dispute earlier came before the National Industrial Council for the Iron, Steel, Engineering and Metallurgical Industry, which failed to settle it

While the industrial courts have previously carried out functions which they had inherited from the now-defunct industrial tribunal, yesterday's was its first session in terms of its reconstituted functions arising from the proposals of the Wiehahn Commission

The most important feature of the court s function as an adjudicator on unfair labour practices is that it will set its own precedents and therefore will be shaping the law yet to be evolved

While yesterday's hearing confirmed the alleged rights of a black worker, the court is seen equally important in its role as protector of white workers interests

In this sense it is being watched closely by whites as well as blacks as a major factor in South Africa's new labour dispensation — Sapa

Star 29/7/80 (165)

First major test in industrial court

The industrial court has decided that it can hear its first major test case, brought by a migrant worker against his employers yesterday

In a day taken up with legal argument, Mr A Trollip, appearing for the employers, said there was no dispute, and no reason for the court to hear it

Mr M Brassey, who is appearing for the worker, said the industrial council had been unable to settle the dispute, and the court should decide on it

The president of the court, Mr Benjamin Parson, found that the court could hear the action

The court was set up after a recommendation by the Wiehahn Commission One of its functions is to hear cases in which workers allege they are victims of unfair labour practices

In the court's first major test case, Mr Stephen Maponya alleges that his former employers, Precision Tools, victimised him for being a member of the Metal and Allied Workers' Union

See Bona

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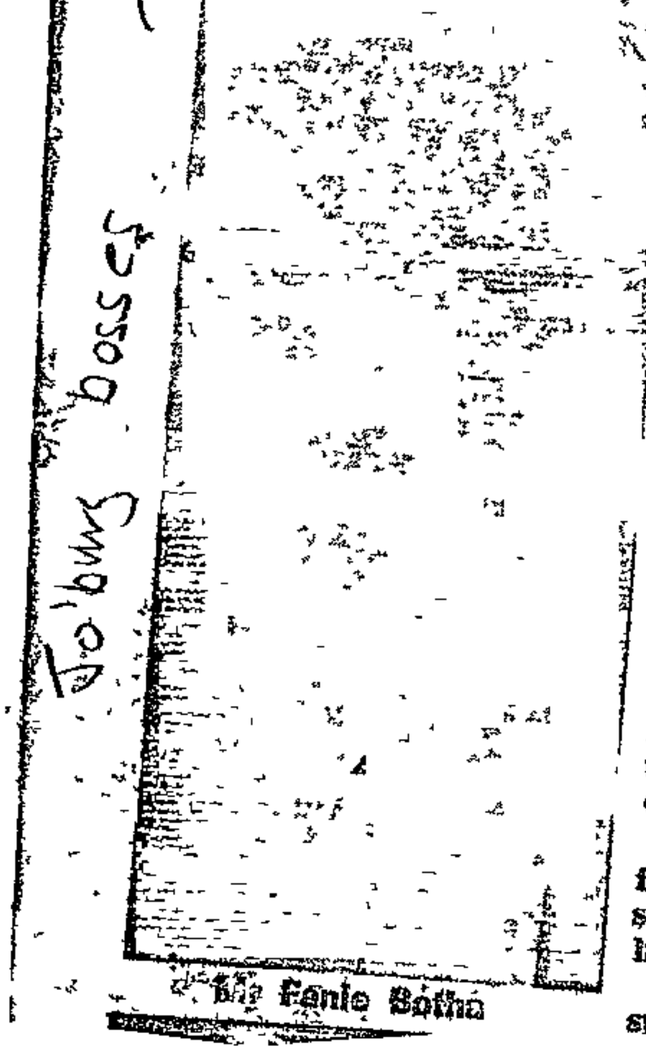
JOHANNESBURG MUNICIPAL BOSSES YESTEDAY MET THE MINISTER OF MANPOWER UTILISATION, MR FANIE BOTHA, AS ALMOST A THIRD OF THE CITY'S BLACK MUNICIPAL WORKFORCE — ABOUT 4 500 MEN — DOWNED TOOLS.

30/7/80 Own Correspondent Post



Mr Fanie Botha

At the same time, Mr Sam Moss, leader of the opposition in the Johannesburg City Council, announced that he was asking for the agenda of yesterday's monthly council meeting to be urgently suspended so the full council could discuss the "deteriorating" strike situation.

Mr J F Oberholzer, chairman of the city's management committee, said the full committee had met Mr Botha in Pretoria before yesterday's cabinet meeting

Mr Botha had asked for full information on the situation, but no decisions had been taken.

Mr Moss yesterday unsuccessfully tried to persuade the committee to meet workers' leaders He said the committee's refusal was "foolhardy".

But Mr Oberholzer said that until the Johannesburg Black Municipality Workers Union — which has played a leading role in the strike — was registered, the committee could not negotiate with it Workers should approach department heads, he said.

Meanwhile several of Johannesburg's municipal strikers were injured when a roof collapsed at the Selby Compound yesterday

Herded

The accident happened at about 9 am after thousands of strikers had been herded into the compound peacefully by armed police Several dozen of them sat on a corrugated roof which gave way under their weight.

Although they dropped no more than a few metres, one man was carried off with an injured back and several others complained of lesser injuries.

Scores of policemen, most of them in camouflage uniform, were standing by in the vicinity and traffic officers diverted cars from West Street near the M2 Motorway.

The police had rifles, machine pistols and rubber truncheons. Teargas equipment and gasmasks were also in evidence, but there were no incidents

Police stood by at various municipal departments and compounds in the city where workers congregated

Rubbish is still piling up in streets and there are fears that about 10 000 people in Klipriviersoog, near Nancefield, could face serious sanitation risks if cleansing department workers do not return to work by today.

Black bus services were running normally again early yesterday, reported the General Manager of the Transport Department, Mr Les Pettey.

About 75 drivers were fired when they stopped work, but about 50 percent of those eligible to be rehired were back at work," he said.

Inspectors also helped drive the buses and Mr Pettey said there was no need now to ask white drivers to stand in for the black routes.

(165)

PRESS STATEMENT BY THE HONOURABLE S P BOTHA, DVD. MP, MINISTER OF MANPOWER UTILISATION, ON THE INDUSTRIAL UNREST IN JOHANNESBURG

EMBARGO: 21h00 ON WEDNESDAY, 30 JULY 1980

As it happens with strikes of this nature, there is a strong element of incitement and intimidation present.

The unfortunate victims hereof are the clear majority group of unwilling strikers who are carried along in the process. It is the families of these people which suffer hereunder whilst the instigators retain their income.

The role of the Department of Manpower Utilisation is to provide the conciliation machinery and to act as mediator between the parties.

Thusfar the strikers have by-passed this machinery and in certain cases have refused that the conciliation machinery be put into operation.

Municipal services are in fact essential services where strikes are prohibited in terms of the Industrial Conciliation Act and where compulsory arbitration is prescribed in terms of the Act.

As in the past I am ready to put into operation the conciliation machinery prescribed by law.

Actions of this nature undermine the maintenance of law and order.

The successful application of the methods of conciliation are essential but the maintenance of law and order must at all

2/.....

costs enjoy precedence.

Over the past two years I have done everything in my power to improve the process of conciliation and the maintenance of order in the work situation and to bring it into line with the requirements of the day.

I therefore reject irresponsible conduct and I should like to express my trust that employers will succeed in normalising the situation within the framework of the existing negotiating machinery.

ISSUED BY THE DEPARTMENT OF FOREIGN AFFAIRS AND INFORMATION AT THE REQUEST OF THE MINISTER OF MANPOWER UTILISATION

PRETORIA

30 JULY 1980

Industrial court test case postponed

Star 30/7/80 (165)

The first major test case before South Africa's new industrial court has been postponed to next month

The case, which is being heard in Johannesburg, concerns a migrant worker's complaint of "unfair labour practice" by a former employer

Mr Steven Maponya and the Metal and Allied Workers' Union (MAWU) alleges that Precision Tools illegally terminated Mr Maponya's contract.

His contract was not renewed, they claimed, because the company objected to Mr Maponya's trade union activities

The hearing, which was postponed this morning until September 10, has important implications for labour law

Among the legal issues at stake is the right of migrant workers to expect renewal of their contracts

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PRESS STATEMENT BY MR E.A. CILLIERS, DIRECTOR-GENERAL: MANPOWER UTILISATION

(For immediate release)

It is hereby noted for general information that Mr M.W.J. le Roux has been appointed Industrial Registrar vice Mr J.N. Hitchcock in the Department of Manpower Utilisation. Mr Hitchcock will henceforth occupy the post of Registrar of Apprenticeship.

Department of Manpower Utilisation
PRETORIA

31 July 1980

Released by the Department of Foreign Affairs and Information at the request of the Director-General: Manpower Utilisation.

Star 31/7/80 (165)

Strikers want better pay—but that's not all

By Elizabeth Wilson

As the strike by thousands of Johannesburg's black municipal workers enters its eighth day, and tensions grow, city residents wonder what is at the root of it all.

What, they ask, prompted more than 10 000 workers to down tools and risk their jobs when there are rents to pay and mouths to feed.

Some say it is a desperate last resort by people who cannot live on their wages They point out that the council's minimum R33-a-week wage for labourers is below the household subsistence level

Others lay the blame on poor communications and the sluggish introduction of black trade unions

Still others maintain it is an attempt to force "de facto" recognition and alter the negotiating power base.

Professor Roux van der Merwe, professor of industrial psychology at the University of Port Elizabeth, sees similarities with the recent Port Elizabeth labour unrest.

Workers, he believes, are being hard hit by price increases Food, transport, fuel there is almost nothing which has not leaped in price

Aside from this he is also critical of the Government's "inability to bring black trade unions into the labour relations structure quickly enough"

Wiehahn and its immediate aftermath, he says, raised black worker expectations which were not realised Delays in the registration of black trade unions led to black unions asserting themselves — irrespective of registration

"You have people who were disappointed and who are now giving vent to their frustrated feelings about the situation," he says

Prof van der Merwe is "appalled" that management refused to speak to the union because it is not registered The unions, he says, have not had sufficient opportunity to register

"I think they miss the point altogether that, if workers are on strike, you should be only too glad to have a union to talk to — whether it is registered or not"

Employers should "encourage the development of strong, responsible trade union structures — where possible within an industrial council system"

"It is our failure to bring the benefits of the industrial council system home to blacks that is resulting in this rejection of the system," he says

The question of "competing" unions could become a key issue Prof Van der Merwe sees it as "major shortcoming" of the Wiehahn Commission that it does not make explicit provision for the process of union recognition

Other countries such as the United States have very clear legal provisions for recognition

Far from seeing an overnight solution to the present labour unrest, Prof van der Merwe predicts more strikes.

"If you create conditions for change, you must also create the structures for handling the consequences," he says

Professor Wynand Pienaar, professor in organisational behaviour at Unisa's School of Business Leadership, suggests today's strikers are "creating a crisis first — and negotiating afterwards"

They are less interested, he says, in the salaries of workers, than in "de facto" recognition of the leaders themselves They want to "rearrange the power base for negotiation"

But, he warns, "if power is rearranged on the basis of a crisis, we will have to live with it forever The moment you give in, any unregistered union can act the same way It is like a hijacking."

Professor Pienaar believes that in any strike the legalised structure must remain "non-negotiable — for now"

The suggestion may be made that there could be negotiation after the crisis ("After this, let's see if we can't find a way of legalising you so that you don't have to use this illegal method. . . ")

Concessions may have to be made — depending on the individual case

But afterwards, there are vital questions which must be asked.

These are:

- Did the people concerned have a legitimate claim to the power they were demanding — to controlling their own workers?
- Did we have effective and satisfactory negotiation structures between workers and management? (Liaison committees may often be very satisfactory to management but unsatisfactory to workers)
- How can I share power, and with whom?

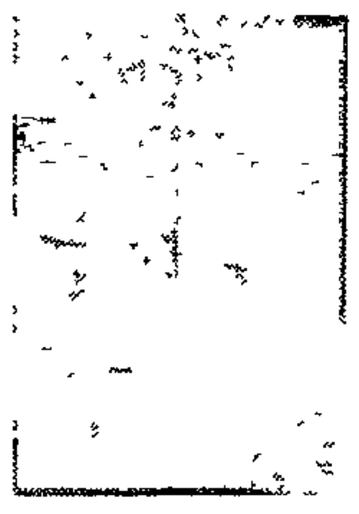
Says Professor Pienaar "Power should only be shared with a responsible person who is willing to share responsibility"

Prof Pienaar suggests that South Africans are standing at the threshold of deciding how much power they will have to share When? And with whom?

The claim of strikers, he says, is not so much for more money as "I want a say I want power . responsibility and authority"

These are what are negotiable

'Intimidation, incitement to blame for unrest'



Mr S P Botha

The Minister of Manpower Utilisation, Mr Fanie Botha, last night called for an end to the strike by Johannesburg's black municipal workers through negotiation and said intimidation and incitement were present in the unrest.

The following is the full text of the Minister's statement:

As it happens with strikes of this nature, there is a strong element of incitement and intimidation present.

The unfortunate victims thereof are the clear majority group of unwilling strikers who are carried along in the process.

It is the families of these people who suffer while the instigators retain their income.

The role of the Department of Manpower Utilisation is to provide the conciliation machinery and act as mediator between the parties

Thus far the strikers have by-passed this machinery and in certain cases have refused that the conciliation machinery be put into operation.

Municipal services are in fact essential services where strikes are prohibited in terms of the Industrial Conciliation Act and where compulsory arbitration is prescribed in terms of the Act

As in the past I am ready to put into operation the conciliation machinery prescribed by law. Action of this nature undermines the maintenance of law and order.

The successful application of the methods of conciliation are essential but the maintenance of law and order must at all cost enjoy precedence.

Over the past two years I have done everything in my power to improve the process of conciliation and the maintenance of order in the work situation and to bring it into line with the requirements of the day.

I therefore reject irresponsible conduct and I should like to express my trust that employers will succeed in normalising the situation within the framework of the existing negotiating machinery.

Key Industrial Court case is adjourned

C. Times 31/7/80 (165)

Own Correspondent

JOHANNESBURG — The Industrial Court adjourned yesterday to consider argument on two issues with far-reaching implications for the rights of black workers

At issue are the rights of contract workers to allege victimization if their employer does not renew their contract and the right of trade unions to bring Industrial Court actions on behalf of their members

The court's finding is likely to be closely watched by both unions and employers

If oral evidence is necessary on the facts of the case, it will be heard on September 11, 12 and 13 The court has been asked to deliver its findings on the legal points two weeks before that date It noted this request

In another development yesterday, both sides indicated they would seek to appeal if the court's ruling goes again them

It has been assumed up to now there is no right of appeal from decisions of the court However, this now appears to be in doubt

The case has been brought by the Metal and Allied Workers Union and Mr Stephen Maponya, a migrant worker They allege Mr Maponya was victimised by a local company, Precision Tools, when it refused to renew his work contract

The court's vice-President, Mr B J Parsons, is hearing the case and is assisted by two assessors, Professor P A K le Roux of Unisa (nominated by Mr Maponya and the MAWU) and Mr D S Harris of Seifsa (nominated by Precision Tools)

ACT

To provide for the devolution upon officers of the Department of Manpower Utilization and certain other persons of certain functions in terms of the Black Labour Act, 1964, and certain regulations.

(English text signed by the State President.)
(Assented to 1 July 1980.)

BE IT ENACTED by the State President, the Senate and the House of Assembly of the Republic of South Africa, as follows:—

Devolution of certain functions

1. (1) The State President may by proclamation in the *Gazette* declare that as from a date specified therein any function relating to the employment or the placing in employment of Blacks assigned by or in terms of the Black Labour Act, 1964 (Act No. 67 of 1964), or the Black Labour Regulations, 1965, published by Government Notice No. R.1969 of 3 December 1965, to an officer and specified in the said proclamation, shall devolve upon an officer or a category of officers of the Department of Manpower Utilization or upon any other person irrespective of whether he is an officer as defined in section 1 of the Public Service Act, 1957 (Act No. 54 of 1957), similarly specified.

(2) The State President may, in like manner, at any time or from time to time amend any such proclamation.

Short title

2. This Act shall be called the Black Labour (Transfer of Functions) Act, 1980.

GG 7255 9/10/80 (165)

NOTICE 730 OF 1980

DEPARTMENT OF MANPOWER UTILISATION

NATIONAL MANPOWER COMMISSION

It is hereby notified for general information that questionnaires on the extent and application of closed-shop agreements, existing under the Industrial Conciliation Act of 1956, have been sent out to various interested bodies

Other interested bodies or persons wishing to complete the questionnaires may obtain them from the Secretary of the National Manpower Commission Private Bag X316, Pretoria, 0001 Questionnaires must be completed and returned to reach the National Manpower Commission on or before 31 October 1980 Interested bodies or persons wishing to make further representations in this regard should do so in memoranda accompanying completed questionnaires

(9 October 1980)

KENNISGEWING 730 VAN 1980

DEPARTEMENT VAN MANNEKRAG-BENUTTING

NASIONALE MANNEKRAGKOMMISSIE

Hierby word vir algemene inligting bekendgemaak dat vraelyste oor die omvang en toepassing van gesloten-geledere-ooreenkomste, wat ingevolge die Wet op Nywerheidsversoening van 1956 bestaan, aan verskeie belanghebbende instansies uitgestuur is

Ander belanghebbendes wat van die vraelyste wil invul, kan dit van die Sekretaris van die Nasionale Mannekragkommissie, Privaatsak X316, Pretoria, 0001, verkry Vraelyste moet ingevul en teruggestuur word sodat dit die Nasionale Mannekragkommissie voor of op 31 Oktober 1980 bereik Belanghebbendes wat in hierdie verband verdere vertoe wil rig, kan dit doen by wyse van memoranda wat saam met ingevulde vraelyste gestuur word

(9 Oktober 1980)

165

Fanie Botha denies factory laws ditched

165 DD 12/8/80

PRETORIA — The Minister of Manpower Utilisation, Mr Fanie Botha, denied yesterday that the government had unofficially abandoned the laws governing factory employees and had handed the responsibility for control to management

He said a report of a speech he had made at Umdhloti on the Durban North Coast at the weekend was totally untrue

He said yesterday "Conditions on the factory floor are arranged by way of regulations which are promulgated by the minister

"It affects conditions in many factories and a great number of regulations, which do not easily keep abreast with the circumstances and changing circumstances in factories

"Factory inspectors can, through the delegation of powers give exemption by the government to factories"

The minister had fully delegated the powers and in its place had laid down guidelines for the handling of the situation, namely

That it is the responsibility of employers to maintain labour peace on the factory floor, not by way of regulation, but through negotiation between employers and employees to the satisfaction of the parties concerned,

That no force be exercised on workers to accept situations or arrangements against their will, and

That any group of workers will have the right to make requests concerning their circumstances to management, and that those requests be respected where practically possible

Mr Botha had further stated that the effect of this was that the onus was now being placed on the employer and the employee to negotiate on the conditions on the factory floors and to arrive at a satisfactory arrangement

"The industrial court as an instrument is always there to judge improper labour practices," Mr Botha said — SAPA

Manpower board tackles 'delicate' labour issues

165

STAR 13/8/80

By Arnold Kirkby
Pretoria Bureau

A number of delicate labour issues were dealt with by the National Manpower Commission in Pretoria during its final sitting for this year

The chairman of the commission, Dr Hennie Reynders, told a Press conference in his office afterwards that certain recommendations would be forwarded to the Minister of Manpower Utilisation in his annual report

These proposals will deal with:

- Whether or not blacks from neighbouring countries (excluding the homelands) should be allowed to join unions
- "Freedom of Association," which could allow racially mixed unions
- Trade union autonomy, which could give the unions the right to elect their office bearers and run their own affairs.
- The high-level manpower shortage and the problems which go with it.

The full implications of the "closed shop" concept — which makes employees automatic union members — are to be investigated by the commission before further recommendations are made

Dr Reynders said he could not give full details about recommendations because it was for the Minister to decide whether they would be accepted He emphasised that the commission acted only in an advisory capacity

He struck out at employers' lack of response to allowing black workers to become apprentices

About 50 blacks had applied for courses last year and only 25 of them qualified for acceptance within the requirements, including minimum education Of these 10 had since been registered

Call for better training

Own Correspondent

JOHANNESBURG — The Minister of Manpower Utilisation, Mr Fanie Botha, yesterday called on employers to guide black workers responsibly to participation in the government's new labour system.

Mr Botha was opening the conference of the S A Lumber Millers' Association in Johannesburg.

The meeting was also addressed by the mayor of Johannesburg, Mr Carel Venter, who defended the handling of the recent municipal strike.

Mr Venter said there would have been bloodshed on a wide scale if the council had not acted as it did.

Mr Botha said the government had "left no stone unturned to provide machinery for all races to resolve grievances".

He appealed to employers to promote "good human relations" on the factory floor, saying that this would stimulate productivity.

Appealing for greater training of labour, Mr Botha said that the productivity of labour in South Africa was only one-third as great as average productivity in the United Kingdom.

PROF WIEHAHN

Wiehahn to resign

165 DD 14/8/80

JOHANNESBURG — The architect of South Africa's new labour dispensation, Professor Nic Wiehahn, is to quit the government service

But he will leave only after the commission of which he is chairman has completed its final report, and the Industrial Court, of which he is president, is established and functioning fully

Prof Wiehahn's chief reason for quitting is his belief that his position as president of the Industrial Court is too "isolated," and restricts his role in labour affairs

Yesterday he denied speculation that his decision was prompted by dissatisfaction with the way in which his commission's proposed reforms were being implemented

He will join the teaching staff of a university graduate business school, and is also expected to be a consultant to private companies

Prof Wiehahn is expected to leave the Department of Manpower Utilisation towards the middle of next year.

Prof Wiehahn said yesterday "I believe I will best be able to help in implementing the new dispensation the commission brought into being in the private sector There I will be able to assist in training and guiding management, trade unions, and all those involved in labour "

He said that though it was an honour to be appointed president of the Industrial Court, the post placed the same restrictions on the incumbent as those imposed on a judge This meant he could not speak about and analyse labour affairs without the possibility of being accused of prejudging issues before the court — DDC

Prof Nic Wiehahn tells of death threats

(163) S. POST 17/4/86

BY ZWELAKHE SISULU

THE chairman of the Wiehahn Commission, Professor Nic Wiehahn, this week revealed that he had received death threats soon after the publication of the commission's first report

Professor Wiehahn came into prominence as the architect of the country's new labour legislation with the publication of the commission's report last year

As a result of the threats against him and his family, Professor Wiehahn said, he took certain precautionary measures which he would not reveal

He said "The threats have come through letters and telephone calls to my family

"I think the threats are linked to the commission's report because they coincided with the publication of our first report"

Although Professor Wiehahn travelled extensively in Europe after the publication of the report he had not received similar threats abroad

"It is obviously very difficult to say who exactly these callers are because often they use fake accents and only speak for a brief period," he said

He is due to leave the Department of Manpower Utilisation next year after the commission completes its final report He denied that his resignation was connected with the threats

On Friday night, a time bomb apparently planted by rightwing extremists partly destroyed the offices of Professor Jan Lombard of the University of Pretoria and a

165 18/8/80

PERSVERKLARING DEUR SY EDELE MNR. S.P. BOTHA,
MINISTER VAN MANNEKRAGBENUTTING

EMBARGO: 21H00
18 AUGUSTUS 1980

Vir algemene inligting word die aanstelling met ingang van 1 September 1980 van prof. P.J. van der Merwe in die nuutgeskepte pos van Adjunk-direkteur-generaal in die Departement van Mannekragbenutting hiermee bekend gemaak. Prof. Van der Merwe is 'n bekende arbeidsekonoom in die land en het ook buite die landsgrense bekendheid verwerf. As lid van beide die Riekert- en Wiehahnkommissie het hy diepgaande studies van die land se arbeidsvraagstukke -wette en moontlike oplossings gemaak en is hy ten volle op die hoogte van die redes en omstandighede vir veranderings wat op arbeidsgebied nodig is. Afgesien van sy deskundigheid op arbeids- en ekonomiese gebied beskik prof. Van der Merwe oor 'n goeie kennis van Staatsadministrasie wat aan sy jarelange verbintenis met die owerheid toegeskryf word. As gevolg van sy prestasies op die gebied van die arbeidsekonomie is hy onlangs die Stalzprys deur die S.A. Akademie vir Wetenskap en Kuns toegeken. Hy beskik ook oor die grade B.A., B.Comm., B.A. (Honneurs) M.A. en D.Phil. Hy het ook lank verskillende Swart tale bestudeer en as eksaminator in Sotho-tale opgetree.

Tans beklee prof. Van der Merwe die pos van Adjunk-voorsitter van die Nasionale Mannekragkommissie, maar hy het in die verlede op verskeie ander kommissies, adviesrade en ondersoekliggame gedien. Ook het hy affiliasies met talle professionele en ander konstitusionele organisasies en het talle publikasies die lig laat sien.

Ek is baie dankbaar dat prof. Van der Merwe hom vir aanstelling as Adjunk-direkteur-generaal van Mannekragbenutting beskikbaar gestel het asook vir die Universiteit van Pretoria dat hulle hom vir die doel vrygestel het.

Departement van Mannekragbenutting
PRETORIA
18 Augustus 1980

Vrygestel deur die Departement van Buitelandse Sake en Inligting op versoek van die Minister van Mannekragbenutting.

Labour market 'needs change'

165

STAR 20/8/80

Tangible changes instead of policy declarations are needed soon in the South African labour market to give credibility to the Government's new commitments

Speaking at a study group on "The Labour Order for the '80s the Challenges Ahead," deputy chairman of the National Manpower Commission Professor P J van der Merwe said time for change was running out

"Each day lost means a possible loss of opportunity to bring about change," he said

Official Government policy was to work towards maximum exploitation of labour resources, irrespective of race, colour or age The emphasis would be on training, provision of employment opportunities and industrial relations

ENCOURAGED

Individuals would be encouraged to join a trade union of their choice subject to its own prescribed conditions

"We are working towards freedom of movement of the individual subject to the availability of work and housing," Professor van der Merwe said.

He felt though that there was fairly widespread scepticism both locally and internationally, to changes.

He agreed that while there was "some validity in this" it was difficult to speed up the normally slow processes of legislative approval and overcome local resistance to change.

Staff shortage cripples health enforcement

23/8/80 STAR

165

By Craig Charney

INVESTIGATION

Severe shortages of trained manpower have crippled government efforts to enforce industrial health rules — and industry's efforts to meet them

Personnel in short supply include factory inspectors and industrial hygienists as well as doctors and nurses with training in occupational medicine.

The shortage of factory inspectors has virtually paralysed the efforts of the Department of Manpower Utilisation to enforce industrial health regulations for years

Its Industrial Safety Division has roughly 30 factory inspectors, charged with policing South Africa's 30 000 factories

"Give me sufficient staff, and I could cut industrial diseases by 10 percent in the first year," says one expert.

FRUSTRATION

"Without it, the Division can do damn all

"We have all the power we need — but too few people to wield it," complained Mr Manie Mulder, the division's deputy chief

So hopeless is the position that two senior men have quit the division in frustration in the past six years

To make best use of his few men, Mr Mulder tries to get them to high-risk factories at least once a year, though they don't always make it In consequence, other factories are seen even less often, even though their hazards, while less acute, may be no less real

When inspectors do visit, they are men in a hurry One of Mr Mulder's predecessors told the Erasmus Commission on Occupational Health that the inspectors were unable to do anything about toxic gases in factories, and usually had little time for monitoring or analysis of the plant atmosphere.

The situation is so bad in the Pretoria office — previously with a complement of three factory inspectors — that two men have departed, leaving their lone colleague and a temporary replacement to cover Pretoria's more than 3 000 factories as well as those of the Northern Transvaal

Experts all agree a drastic increase in the number of inspectors is urgently needed Their estimates of the number required range from 80 — or almost three times the present number — to 250, over eight times more

By comparison, the UK has 4 000 factory inspectors

The trained experts who run industrial health programmes, industrial hygienists, are in even shorter supply than factory inspectors

The Erasmus Commission found there were only five in the whole country when it reported four years ago

"I don't think there has been any increase in the number of qualified industrial hygienists since the Erasmus Report," said Professor Ian Webster, director of the National Centre for Occupational Health.

SCARCE

Doctors with specialist training in occupational medicine are also terribly scarce.

"Most general practitioners are not competent to diagnose industrial diseases," says one insider, "and industry employs very few qualified doctors"

Wits, Stellenbosch and Pretoria Medical Schools are beginning to teach the subject to undergraduates, but it appears there are no specialists in occupational medicine at South Africa's three other medical schools

To narrow the gap, Wits, Stellenbosch and Pretoria Universities are also offering post-graduate courses in industrial medicine to perhaps forty doctors annually

Matters are still "very inadequate," however, according to Professor Webster.

Perhaps the largest problem of all is the shortage of qualified nurses

"The nurses are the bottleneck," said Professor A M Coetzee of Pretoria Medical School

"The biggest number of factories employing nurses have nurses who know relatively little about occupational health You can't expect them to do the job"

RECOMMENDATION

In addition, many companies which need nurses don't have them On the recommendation of the Erasmus Commission at least 3 000 industrial health nurses should be employed

Sister Stella Coetzee, president of the newly established SA Occupational Health Nurses Association, says her best guess is that there are about 1 000 nurses in occupational service

Authorities warn that the manpower shortage should not become an excuse for inaction on industrial health

"Manpower develops if there is demand for it," Professor Coetzee said

Unregistered unions get legal boost

25/6/86 RDM

By STEVEN FRIEDMAN
Labour Reporter

THE Industrial Court yesterday ruled that all trade unions whether or not they are registered, can bring matters before the court on behalf of their members

The ruling which came in response to legal argument in the court's first major test case is seen as a significant breakthrough for the black trade union movement

In another crucial ruling the court agreed to hear evidence on allegations that an employer who had refused to renew the contract of a migrant worker had been guilty of an 'unfair labour practice" even though he was within his legal rights not to renew the contract

This too is seen as an important victory for black workers because it makes it possible for a contract worker whose employer refuses to renew the contract to seek relief from the Industrial Court even though the employer was legally entitled to refuse to renew the contract

The judgment was handed down by the court's deputy president Mr Benjamin Parsons assisted by two assessors Professor P A K le Roux and Mr D S Harris

It followed legal argument in a case brought by the unregistered Metal and Allied Workers Union and a contract worker, Mr Stephen Maponya against a Johannesburg company, Precision Tools

The union and Mr Maponya allege that the company refused to renew Mr Maponya's migrant service contract as a repression for his union activities The company denies this was its reason

The immediate effect of the court's ruling is that counsel for Mr Maponya and the MAWU can now lead evidence before the court in an attempt to establish their case The court will sit next month in order to hear this evidence

The Industrial Court was established following the recommendations of the Wiehahn Commission and one of its chief functions is to hear cases in which workers allege they have been victims of unfair labour practices

In a statement issued last night the union described the court's ruling as "a great victory and 'a step in the right direction"

The union said the judgment could create problems for employers who refused to renew labour contracts without valid reasons"

The union also welcomed the court's ruling that the union had *locus standi* to represent its members before the Industrial Court and described this as a highly significant breakthrough".

Legal sources last night described the judgment as 'heartening" and added that the court had "shown a flexibility and a willingness to cast aside formalism"

On the question of the union's standing in court, the judgment found there was no obligation under industrial law for a trade union to seek Government registration It also found that a union can exist for the purposes of industrial legislation without being registered

In addition, in a more significant finding, it also found that trade unions have the right to represent their members in the court

An earlier Supreme Court judgment in the "Bosman case", had held that trade unions have no standing to bring legal actions on behalf of their members Legal sources warned at the time that this meant black workers who wished to protect their rights in court could only do so individually

TRIBUNE highlighted their plight last week, now these exploited workers will get more

Pay rise for white slaves

(165) S. Tribune 24/8/80

By Daryl Balfour

THE "white slaves" of the Department of Manpower Utilisation — whose plight was highlighted by the Sunday Tribune last week — are to receive "substantially increased" salaries and travel allowances

This was confirmed by the chairman of the management committee at the department's Service Products factory, Daniel Liebenberg He said it had been decided that all wages at Service Products undertakings throughout the country would be reviewed

"It's being treated as a matter of urgency, but it's quite a long-winded thing so it could still take some time

"But I'm sure the workers will get a very substantial increase, probably back-dated to April 1 like the rest of the civil servants," Mr Liebenberg said

Service Products factories are sheltered employment undertakings for disabled and slightly retarded people

A Sunday Tribune investigation last week showed that workers were being exploited because of their "unemployable" status They are earning salaries as low as R23 a week, even though some are qualified artisans and matriculants

This week friends, relatives and parents of workers employed by Service Products telephoned the Tribune to praise the report highlighting their plight Mr Liebenberg slammed the report, saying the department was "only trying to help these people and keep them off the streets"

Last week the Tribune reported that workers at Service Products were earning wages below the Minimum Living Level as determined by the Bureau for Market Research at the University of South Africa

- They are not allowed to join the Civil Servants Association.
- They are allowed only 21 days leave a year
- They get only 21 days sick leave on full pay . . . even though they are supposedly disabled people.

They work on public holidays but have to find their own transport to the factory at Jacobs even though public transport does not run according to regular schedules

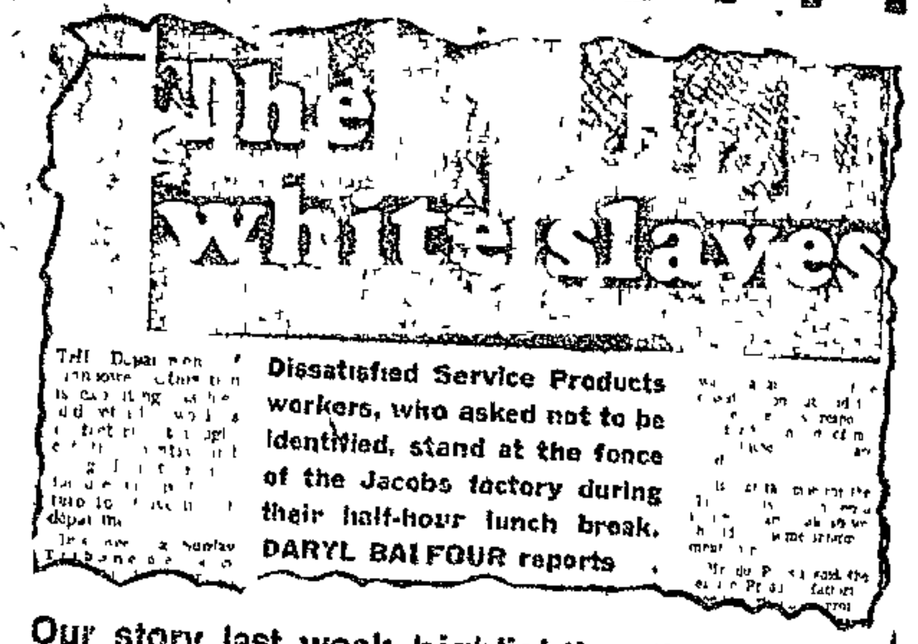
This week several more complaints were brought to light by workers and their relatives

- While the men are paid starvation wages — one man has worked there for 29 years and earns only R30 a week — there is no subsidised canteen and workers have to either bring their own lunch or buy from a nearby cafe
- The men have to buy their own tools.
- They are not provided with overalls and either have to buy their own — which they cannot afford — or work in civilian clothes
- They are not provided with payslips indicating deductions, tax or anything else
- The men fear victimisation if they query anything or complain about their treatment
- Their pay is docked or they are suspended and sent home if they arrive late for work, even on public holidays when public transport is erratic.

But this week, at a meeting called by the local manager of Service Products, John du Plessis, the workers were told they would be getting increases backdated to April and their travel allowances would be reviewed

Mr du Plessis denied the Sunday Tribune report had had any effect on improving conditions

FLASHBACK . . .


The white slaves

Dissatisfied Service Products workers, who asked not to be identified, stand at the fence of the Jacobs factory during their half-hour lunch break. DARYL BALFOUR reports

Our story last week highlighting the plight of the exploited Service Products workers.

25/8/80

Unregistered union's legal breakthrough

STAR

By Sieg Hannig
Labour Editor

Trade unionists and labour lawyers today hailed the first decisions made by South Africa's new Industrial Court on a case of an alleged unfair labour practice.

The presiding officer, deputy president Mr B J Parsons, assisted by two assessors, ruled that

- An unregistered trade union concerned in the case was entitled to bring this case to court
- Evidence could be heard in connection with the allegation that an employer had committed an unfair labour practice by failing to renew a migrant worker's contract

Lawyers are still studying the ruling but they see it as throwing open the Industrial Court to unregistered unions acting on behalf of their members, at least in cases of unfair labour practice

They also believe that, while the employer is entitled to allow a migrant worker's contract to lapse, it may now become illegal to do this where the motive can be shown to be victimisation and where the worker had reason to expect the renewal of his contract

The court's ruling was commended as a "welcome decision by a spokesman for the Federation of South African Trade Unions

Argus 29/8/80 (165)

Court ruling on trade unions welcomed

Labour Reporter

THE unregistered Western Province General Workers' Union today welcomed the ruling of the new Industrial Court that all trade unions, whether or not they are registered, can bring matters before the court on behalf of their members

'We hope the decision of the court to acknowledge unregistered trade unions if they represent their members will be noted by employers and the authorities,' a union spokesman said

'Recent events in the labour field have indicated strong contempt on the part of the State for the representatives of unregistered unions.'

The court ruling came after preliminary argument in its first major test case, brought by the unregistered Metal and Allied Workers' Union and contract worker Mr Stephen Maponya against the Johannesburg firm Precision Tools

The presiding officer also ruled that evidence could be heard in connection with the allegation that the employer had committed an unfair labour practice by failing to renew the migrant worker's contract.

Labour lawyers see the decisions as throwing the Industrial Court open to unregistered unions acting on behalf of their members, at least in cases of unfair labour practices

Also, although an employer is entitled to allow a migrant worker's contract to lapse, it may now become illegal where the motive can be shown to be victimisation and where the worker had reasons to expect the renewal of his contract

The Federation of South African Trade Unions (FOSATU) has commended the court's ruling as a 'welcome decision'

A spokesman said it lent weight to FOSATU's contention that representation, not registration, was the key issue in the recognition of trade unions.

Overseas visit to study labour laws

165

11/9/80 C-T.

Own Correspondent

PRETORIA — Two delegations from the Department of Manpower Utilization are to visit certain countries in Europe and the Far East to study training and related labour systems, the Minister of Manpower Utilization, Mr S P Botha, said in Pretoria at the weekend

The decision to send the delegations abroad stemmed from a recommendation of the Commission of Inquiry into Labour Legislation in its second report that the scope of responsibility and designation of the National Apprenticeship Board be broadened to enable the board to function as a National Training Board, incorporating the functions of the two councils which at present exist in terms of the two in-service training acts

The government, realizing the urgent need and advantages of developing the skills of the country's labour force, accepted the recommendation in principle They directed that new training legislation be provided for the particular training needs of South Africa and should be designed for introduction during the coming parliamentary session

The government, however, considered it necessary that an investigation into the operation of training systems and the functioning of similar training boards be carried out to ensure, as far as possible, the effectiveness of the proposed training board and the proposed legislation for the Republic

The first delegation includes Professor P J van der Merwe, deputy chairman of the National Manpower Commission and Mr M H van Noordwyk, director of training in the minister's department They left at the weekend for England, West Germany and France

The other delegation consists of Mr E A Cilliers, Director-General of Manpower Utilization, and Dr H J Reynders, chairman of the National Manpower Commission They will be leaving for the Far East in the third week of September

NOTICE 731 OF 1980

I, Ockert Grobbelaar, Workmen's Compensation Commissioner, hereby, under section 77 (6) of the Workmen's Compensation Act, 1941 (Act 30 of 1941), issue the directions in the Schedule.

SCHEDULE

1. In these Directions a word or expression defined in the Workmen's Compensation Act, 1941 (Act 30 of 1941), has the same meaning

2 When medical aid which includes rehabilitation therapy, is necessitated by an accident sustained by a White workman in the municipal area of Johannesburg, Randburg or Sandton and—

(a) such workman is resident in any of the said municipal areas; and

(b) such rehabilitation therapy is likely to exceed two days duration, such rehabilitation therapy shall be received at the Workers Rehabilitation Centre, Guild Road, Parktown-West, Johannesburg, unless—

(i) such workman is employed by an employer who or group of employers which has in terms of the provisions of the said Act made other arrangements with the commissioner for the furnishing of such rehabilitation therapy, or

(ii) the furnishing of such rehabilitation therapy at an institution other than the said Centre is in the opinion of the commissioner justified in view of the special circumstances pertaining to the case of the workman concerned

3 The Directions published in Government Gazette Notice 613 of 17 September 1976 are hereby withdrawn and replaced by the Directions in this Schedule

O. GROBBELAAR, Workmen's Compensation Commissioner.

(9 October 1980)

KENNISGEWING 731 VAN 1980

Ek, Ockert Grobbelaar, Ongevallekommissaris, vaardig hierby, kragtens artikel 77 (6) van die Ongevallewet, 1941 (Wet 30 van 1941), die voorskrifte in die Bylae uit

BYLAE

1 In hierdie Voorskrifte het 'n woord of uitdrukking wat in die Ongevallewet, 1941 (Wet 30 van 1941), omskryf is, dieselfde betekenis

2 Wanneer geneeskundige behandeling wat rehabilitasieterapie insluit, genoodsaak word deur 'n ongeval wat 'n Blanke werksman oorkom in die munisipale gebied van Johannesburg, Randburg of Sandton en—

(a) daardie werksman woonagtig is binne enige van genoemde munisipale gebiede, en

(b) bedoelde rehabilitasieterapie waarskynlik meer as twee dae in beslag sal neem, word daardie rehabilitasieterapie ontvang in die Werkers Rehabilitasie Sentrum, Guildweg, Parktown-Wes, Johannesburg, tensy—

(i) die betrokke werksman in diens is by 'n werkgewer of groep werkgewers wat ingevolge die genoemde Wet ander reelings met die kommissaris getref het om daardie rehabilitasieterapie te verleen, of

(ii) die verlening van daardie rehabilitasieterapie, in 'n ander inrigting as genoemde Sentrum na die mening van die kommissaris geregverdig is in die lig van die spesiale omstandighede van die betrokke werksman se geval

3 Die Voorskrifte uitgevaardig by Goewermentskennisgewing 613 van 17 September 1976 word hierby ingetrek en vervang deur die Voorskrifte in hierdie Bylae

O GROBBELAAR, Ongevallekommissaris

(9 Oktober 1980)

GS 7255 (165)
9/10/80

1.1 Realisation Account	241 000	
Machinery		80 000
Motor vehicles		24 000
Office Furniture		4 000
Stock		81 000
Accounts Receivable		50 000
Cash at Bank		2 000
Accumulated Depreciation - machinery	50 000	
- Motor vehicles	18 000	
- Office furniture	2 000	
Provision for doubtful debts	6 000	
	30 000	

Working with workers

THE Minister of Manpower, Mr Fanie Botha, is obviously deeply concerned about his lack of control over unregistered unions whose members were involved in the recent wave of strikes.

Government reaction so far has been to hit directly at the strike leaders while resisting such sweeping measures as the Wiehahn Commission's recommendation that recognition agreements between unregistered unions and companies should be declared illegal. More recently, the Government has also resisted suggestions that all unions should be compelled to register.

Now Mr Botha is showing signs of impatience, with his strong hint in a recent speech that the Government is contemplating a crackdown. He gave no indication of specific action being considered.

But the consequences of outlawing the unregistered unions or even attempting to bring them under some form of control are abundantly clear. By legislating against what are generally considered to be representative unions, Mr Botha would be making the cardinal mistake — repeated by this Government in the political field for 30 years — in believing that by outlawing or restricting an organisation, the ideas for which it stands would cease to exist He would not end strikes, but merely aggravate tensions on the factory floor.

The alternative is just as clear Mr Botha and industry have to learn to live with these unions simply because they exist and probably accurately reflect the demands of their members Drawing them into the decision-making process might not end all strikes, but would certainly avoid many and win a great deal of goodwill

RDM 10/9/80

8 black trade unions have been registered

(Star) (Cape Times 10/9/80)

Own Correspondent

JOHANNESBURG — Eight black trade unions have been registered since the government's new labour dispensation came into effect last October, the Director-General of Manpower Utilisation, Mr Jaap Cilliers, said yesterday

In addition, there are now 40 mixed trade unions — many of whom are believed to have received permission to enrol black members

Approached for figures on the composition of the registered union movement, Mr Cilliers said yesterday that 182 trade unions were now registered

Of these, 80 represented white workers only, 54 coloured workers only and eight black workers Another 40 were mixed, either for white, coloured and Asian workers or for all four races

This meant, he said, that the all-white unions were now in the minority

There are no figures available on the number of black or predominantly black unions in the country at present, but it is believed that at least 20 are still unregistered

None of the black or predominantly black unions affiliated to the two major black union co-ordinating bodies, the Federation of SA Trade Unions and the Consultative Committee of Black Trade Unions, have been granted registration

Labour observers regard the government's reaction to their registration applications as a key test for the new dispensation

Thus far, only "parallel" unions — those with close links to their non-black counterparts — or black "company unions" have been registered

Recently, several Fosatu-affiliated unions were granted permission by the Minister of Manpower Utilisation Mr Fanie Botha, to apply for registration on a non-racial basis

Some labour observers have criticized the fact that most of the 'independent" unions — those not closely associated to registered non black unions — have not yet been registered despite the fact that they applied several months ago

However, its supporters reply that many registration applications took up to a year to process before black workers were allowed to join registered unions

Several black or non-racial unions have decided not to seek registration, arguing that to do so would be to submit to increased government control

CAPE TIMES 10/9/80

Hints worry unionists

Own Correspondent

OHANNESBURG — Fears of a new overnment crackdown on unregistered lack and non-racial trade unions have rown after a speech by the Minister of Manpower Utilization Mr Fanie Botha, n which he hinted strongly at action gainst these unions

Action against unregistered unions ould eventually mean that only gov-rnment-approved unions would be al-owed to exist

There are at least 20 unregistered black and non racial unions in the coun-try at present and they make up the bulk o the black union movement

There has been speculation for some ime that the government was planning to move against unregistered unions This has been fuelled again by Mr Botha s speech to the Public Relations Institute of South Africa late last week

Leading role

In it, he referred to the recent strike wave in which he said 'certain unregistered trade unions played a leading role' He added 'One cannot say that their role in the strikes was always responsible

Mr Botha then went on to hint at future government action against these unions 'You can rest assured that the government is keeping a close watch on the situation and that adjustments in our system for the regulation of labour relations will be made if ne-cessary,' he said

Observers believe this could herald new legislation in the next session of parliament to control or ban these unions

Trade unionists allege that the gov-ernment instructed employers not to deal with unregistered unions during the recent strike wave and they see Mr Botha s remarks as evidence of grow-ing government hostility to these unions

I m convinced they re preparing to get at us We re not surprised at the minister s speech, we've seen it com-ing for ages ' an unregistered unionist said yesterday

The director general of manpower utilization Mr Jaap Cilliers yesterday refused to comment on the possibility of legislation against unregistered unions

"We are introducing a lot of legisla-tion next session in order to implement the Wiehahn commission recommenda-tions and I am not prepared to discuss details of this legislation," he said

The issue of union registration hit the headlines recently when the Joha-nesburg City Council refused to deal with the Black Municipal Workers Union because it was not registered

However, unregistered unions are not illegal and a small but growing number of employers have signed rec-ognition agreements which bind them to negotiate with these unions

Compulsory registration?

For some time however, there has been talk in official circles of moves to "put unregistered unions out of business

Two ways of doing this have been discussed

The first is to make registration compulsory, as it was before 1956 This would make it an offence for any trade union to exist unless it was approved by the government and received registration

According to some sources however, this idea is no longer in favour

The other is to implement a rec ommendation of the Wiehahn Commis sion and make it illegal for any employer to sign a recognition agreement with an unregistered union

This would make it impossible for these unions to win bargaining rights from employers and would make it impossible for them to fulfil the main function of trade unions

The commission also recommended making it illegal for employers to de-duct union dues on behalf of unregistered unions a move which would rob them of financial stability

This has been partially implemented but the government could decide to toughen up a ban on these stop order deductions

Key labour case delayed

Labour Reporter

THE NEW industrial court s first major test case adjourned yesterday as counsel for both parties held talks in an attempt to secure an out-of-court settlement

By last night however, no formal settlement had been signed

The court reconvened yesterday to hear evidence in the case It recently handed down an historic judgment on legal issues raised during the case which was hailed by black trade unions

This judgment opened the way for evidence to be heard and yesterday was set aside for that purpose However the hearing was cancelled as lawyers held lengthy talks in an attempt to find a settlement

The case has been brought by a migrant worker Mr Stephen Maponya, and his union the Metal and Allied Workers' Union

They allege that the company refused to renew Mr Maponya's contract as a reprisal for his union activities The company denies this

This the first major case to come before the court, which was established following a Wiehahn Commission recommendation

Recently the court found that unregistered trade unions were entitled to bring cases before it

It also appeared to open up a new legal avenue for contract workers by allowing evidence to be heard on the union's contention that by refusing to renew Mr Maponya's contract "without good reason", the company had been guilty of an "unfair labour practice"

'Workers' victory'

STAR 12/9/80

(165) (166) (167) (206)

By Sieg Hannig
Labour Editor

A new breakthrough for workers' rights has been achieved by the Industrial Court in its first hearing of an alleged "unfair labour practice"

"The case has shown that the Industrial Court has strengthened the hand of the workers," commented a lawyer on the out-of-court settlement won by a black contract worker and his unregistered trade union.

In terms of the settlement, the employer, Precision Tools, agreed to pay the Metal and Allied Workers' Union R4 000 and committed itself to a recognition agreement.

The agreement provides for.

- Recognition of the union
- Acceptance of the union's shop stewards.
- Shop steward representation for workers in grievance procedures which provide for arbitration in the event of a deadlock.

The union failed to achieve the reinstatement of Mr Stephen Maponya who was allegedly victimised for his union membership by the firm's failure to renew his migrant contract

But Mr Maponya got a new job this week and is to receive about R1 000 from the R4 000 being paid to the union.

Test case victory for contract worker

12/9/80 Star

By STEVEN FRIEDMAN
Labour Reporter

THE new industrial court's first test case has ended in a major victory for contract worker Mr Stephen Maponya and his union, the Metal and Allied Workers Union

In an out-of-court settlement yesterday, Mr Maponya's former employer, Precision Tools a small Johannesburg engineering company, agreed to pay the union R4 000 and recognise it

The agreement accords recognition to the union shop stewards in the factory as well as company recognition of the union itself

The company has also undertaken to grant the union stop order' facilities, grant its organisers access to its factory once a week and introduce a grievance procedure for workers

Mr Maponya and the MAWU brought the case to the court after the company refused to renew his migrant service contract They claimed the company did this as a reprisal for Mr Maponya's union activities

Although the the union had originally asked the court to reinstate Mr Maponya, he has found another job and this issue has thus fallen away

Last month, the court handed down an historic judgment in the Maponya case in which it found that unregistered trade unions were entitled to bring cases before it

It also found that unregistered unions were entitled to bring cases to the court in which they alleged that their members had been victims of an "unfair labour practice".

This opened a legal avenue to black unions after the Supreme Court had found, in the "Bosman case", that black unions had no right to bring an interdict against an employer on behalf of union members who fear victimisation

The industrial court also agreed to allow counsel for Mr Maponya and the union to lead evidence to support their claim that the company had been guilty of an "unfair labour practice' by refusing to renew the contract, even though it was legally entitled to do so

Rapport

Posbus 8422, Johannesburg. Ook gedruk in Kaapstad en Bloemfontein

Re: Term 3

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WERK!

165

GOEIE verhoudinge tussen mense en volke kan nie op armoede gebou word nie, sê die Minister van Mannekragbenutting, mnr. Fanie Botha, dié week. Dis eintlik onderbeklemtoning van die feit dat die gaping tussen ryk en brandarm, tussen ontwikkelde en onontwikkelde mense, 'n gevaarlike situasie is

'n Mens sien dit wêreldwyd, en jy sien dit hier in Suid-Afrika

Die Minister het 'n klem gelê op nywerheidsontwikkeling en gesê Suid-Afrika kan sy volle potensiaal as nywerheidsland net bereik in 'n beskaafde stelsel waarin 'n mens se meriete sy lewenspeil bepaal en nie sy velkleur nie.

In daardie verband gaan deure oop vir mense van alle bevolkingsgroepe in die land. Ook in die vakbondwese word 'n nuwe openheid opvallend. Dié week byvoorbeeld het 'n woordvoerder van spoorwegvakbonde gesê wettige swart vakbonde sal gehelp word Geen ongeregverdigde struikelblokke sal in die pad van vordering deur dié werkers geplaas word nie

Dié gang van sake is bemoedigend, maar die Minister het ook 'n vinger gedruk op 'n probleem. Die groei in Suid-Afrika se produktiwiteit is laer as in elke ander ontwikkelde land ter wêreld en dié gaping word by die dag ongunstiger

Hy sien net een oplossing: die verhoging van werkvermoe deur middel van onderwys en opleiding. Daaraan sal hy hom toewy. In dié verband het die staat 'n belangrike rol te speel maar so ook elke werkgewer in die land Want veral in die nywerheid is opleiding in die werkplek net so belangrik, indien nie belangriker nie, as in 'n lesingsaal Hier, voel ons, kan nog veel meer gedoen word

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RDM 16/9/80

New controls on labour 'imminent'

(165)

By STEVEN FRIEDMAN
Labour Reporter

A CABINET decision is expected soon on a formula to replace Section 3 of the Environment Planning Act

This restricts the number of black workers employers can hire in the urban areas and has cost tens of thousands of workers their jobs

The controls in Section 3 are expected to be scrapped in the next Parliamentary session but new controls to restrict the use of labour in the cities are expected to take their place

It is expected that increased decentralisation incentives will be introduced to encourage employers who hire large numbers of black workers to move to the homelands or "border areas"

But these may be accompanied by new taxes and other 'disincentives" for city employers who hire large numbers of black workers

Section 3 lays down racial labour quotas which city employers may not exceed without Government permission The most common ratio is five black workers to every two whites employed

This clause has come under heavy fire and its critics allege that it has cost thousands of black workers their jobs and has also stifled economic growth in the cities

It was used extensively against the Transvaal clothing industry some years ago Many black workers lost their jobs as a result and it was alleged that many small firms had to close at the time

The Riekert Commission recommended these restrictions be abolished and a Bill to abolish Section 3 was introduced in the last Parliamentary session It was later withdrawn

Both the Government's response to this recommendation and a memorandum which accompanied the Bill, however, made it clear that Section 3 would only be repealed once new controls had been introduced in its place

The task of looking for a new formula was assigned to a committee on economic co-operation and strategy under the chairmanship of the Prime Minister's economic advisor, Dr Simon Brand

A source close to the committee said yesterday that it had completed its work some weeks ago

Its recommendations, together with other proposals affecting a wide range of economic issues, had been forwarded to the recently appointed De Kock Committee which is examining the economics of the "constellation of states" concept

"It is impossible to make firm predictions, but we believe a Cabinet decision on Section 3 is likely within the next six weeks," the source said

He added that the issue was being treated as a priority because it directly affected businessmen's investment plans

Fanie Botha in 'disaster' warning to management

STAR 17/7/80

165

Pretoria Bureau

The Minister of Manpower Utilisation, Mr Fanie Botha, today warned managements of "disaster" unless they dealt with leadership groups which held credibility among the workers

Speaking in Pretoria, Mr Botha said "Management should deal with whatever leadership group holds credibility among the workers

"To impose a group favoured by management but not by those they are supposed to represent, will lead to diaster

Trade unions should be viewed positively Without their leadership role it would be more difficult to deal with conflict in industrial relations in South Africa"

Mr Botha said a great responsibility rested on the employer

"He must realise that legislation alone cannot ensure labour peace

Without his co-operation adaptation and sacrifice, nothing can be brought about.

Prevention is better than cure and employers must be in a position to identify conflict situations in time and to eliminate the problems"

Mr Botha said the number of blacks, coloured people and Indians in professional and management posts would have to double by 1987

He said personnel policy should provide for equal treatment of all workers

DECISIONS

"Decisions will have to be made on the equality of company facilities for sport and recreation, washing and eating accommodation, medical services, salaries and fringe benefits like housing, pension leave and transport," he said

He said employers must accept that more and more pressure for increased wages and improved conditions must be [illegible]

The [illegible] relations practices will be wasted if a company's working conditions remain inadequate," he said

Mr Botha was opening a symposium on the use of industrial sociology in human relations

● The Johannesburg City Council will deal with whatever group holds credibility among the workers — as long as it is a registered trade union

Mr J F Oberholzer MPC was commenting today on the warning by Mr Botha He added, however, that "we do not talk to people who go on strike"

Mrs Janet Levine, the PFP city councillor, said Mr Botha's statement was realistic and in keeping with the growing pressures that have emerged in labour relations over the past few years

Minister's new line on unions

18/7/80 Rom

(165)

By STEVEN FRIEDMAN
Labour Reporter

IN A speech which seemed to indicate a marked shift in Government attitude, the Minister of Manpower Utilisation, Mr Fanie Botha, has warned employers against refusing to deal with representative trade unions

"Management should deal with whatever leadership group holds credibility among the workers To impose a group favoured by management but not by those they are supposed to represent will lead to disaster ' Mr Botha warned

But at the same time he said that black unions had to be brought under "statutory control ' in order to prevent them becoming ' the prey of our enemies"

Mr Botha was speaking in Pretoria yesterday at a symposium on industrial sociology organised by the University of South Africa's Sociology Department

Labour observers said yesterday the speech was "in marked contrast to other recent speeches made by the Minister in which he appeared to attack the independent black unions"

One observer said the speech indicated 'a much more realistic approach to labour issues on the part of the Government — at least in theory"

Mr Botha also told the meeting 'Trade unions should be viewed positively Without their leadership role it would be more difficult to deal with conflict in industrial relations in South Africa "

If there was no union, employers should establish effective committee systems

Black trade unions have long suspected that, despite recent reforms, the Government favours the committee system, which unionists see as weak and ineffective

Mr Botha's remarks are seen, however, as the first Government statement uniquevocally backing unions and making it clear that employers are to rely on committees only when representative unions do not exist in their plants.

They could be effective in persuading reticent employers to deal with representative black unions

The Minister's remarks appear to imply criticism of those employers who have decided to deal with "parallel" and "company ' unions of their own choosing rather than with representative unions

Some employers have sought to set up their own black unions or to persuade registered unions to recruit black workers in an attempt to "freeze out" independent black unions

Black trade unions have suspected that this strategy enjoyed tacit support from some Government officials and that the authorities preferred some unions to others

Mr Botha's statement now appears to commit the authorities to recognising the rights of representative unions, however unpalatable they may seem to some employers

Some observers may interpret it as an implied criticism of the Johannesburg City Council's handling of the recent municipal strike, in which the council refused to deal with the Black Municipality Workers Union and insisted on dealing with its own "company union".

Observers also point out that these remarks run counter to a number of recent speeches by the Minister in which he appeared to put the blame for the recent strike wave squarely on the shoulders of black unions.

RAND
Daily Mail
FRIDAY
September 19, 1980

Will the real Fanie Botha stand up?

165

THE call by the Minister of Manpower Utilisation, Mr Fanie Botha, for employers to recognise trade unions which have "credibility" among the workforce is welcome, but puzzling.

Welcome because it strikes a realistic note on a critical issue on South African factory floors. Puzzling because it appears to contradict many of the Minister's public utterances of late as well as the practice of his Government.

Mr Botha's statement on Wednesday was unequivocal Employers, he said, were risking "disaster" if they dealt with unions which did not enjoy the support of workers. In addition, managements should not impose unions on their workforce if those organisations did not enjoy worker credibility

This addresses a crucial issue. Despite recent reforms many employers are still reticent about dealing with representative black unions. Some seek to keep the unions out of their factories by steering them towards industrial councils, where they bergain only on broad issues with employer associations Others, like the Johannesburg city council, seek to elbow out representative unions and deal only with those which they, rather than their workers, have chosen.

The Minister's remarks may induce them to face reality and accept that negotiating with leaders who do not enjoy the support of their constituents is indeed a recipe for disaster.

But Mr Botha should look also to the practice of his own Government

It has finally recognised the reality of black unions but has imposed so many controls on unions that it has appeared to want only a weak, ineffective, union movement

It has consistently demanded that unions register under a system which, by Mr Botha's own admission, seeks to bring them under "statutory control", not strengthen them

It has devised a labour system which black workers believe is designed to tie up their demands in red tape, rather than see that they are dealt with speedily

It has, in statements by both Mr Botha and his department, appeared to condone employers who refused to negotiate during strikes. In virtually every one of the major disputes, police have been called in and worker leaders have been arrested or detained without charge

All of these actions are themselves disastrous because they make it more difficult for union leaders to negotiate and more easy for those who reject negotiation to operate

So that, however, welcome Mr Botha's latest statement, it will be far more welcome when his own Department and Government begins to heed it

Court explains refusal to hear test case

By STEVEN FRIEDMAN
Labour Reporter

THE Appeal Court in Bloemfontein has made known its reasons for refusing to hear a crucial "test case" on workers' rights

Recently the court refused to hear an appeal by the unregistered Transport and Allied Workers Union, a Government works committee and two workers against a judgment by Mr Justice Eloff in the "Bosman case"

Yesterday Mr Justice Muller handed down written reasons for the court's refusal to hear the appeal on September 3

He said the court refused to condone the late filing of notice of leave to appeal and the court record

He said that in a case where there had been a flagrant breach of the rules of the Appeal Court in more than one respect, and where in addition there was no acceptable explanation for some periods of delay, an application for condonation should not be granted, whatever the prospects of success of the appeal might be, reports Sapa

Mr Justice Eloff had ruled in the Transvaal Supreme Court that an unregistered union had no right to go to court on behalf of its members if it feared they might be victimised

He also ruled that a works committee had no legal standing to go to court at all

The judgment was interpreted as a serious blow to the legal standing of unregistered unions and to the legal rights of black workers in victimisation cases

It was handed down in a case in which the union, the P E Bosman Transport Works Committee and two workers had brought a case against a Vereeniging company, Piet Bosman Transport

They had asked the court for an interdict restraining the company from dismissing workers or altering their terms and conditions of employment to their disadvantage

Mr Justice Muller said the explanation given for the late filing of the notice of appeal was "so unacceptable or wanting that even if virtually all the blame could be attributed to the applicants attorneys, condonation ought not, in his view, to be granted"

Mr Justice Wessels, Mr Justice Miller and acting judges of appeal, Mr Justice Galgut and Mr Justice van Heerden, concurred.

'Give us a chance'

NM 25/9/80

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Mercury Reporter

PROF Nic Wiehahn, president of the Industrial Court, yesterday appealed to trade unionists to give the new body room to develop and make its contribution to peaceful labour relations in South Africa

Speaking at the 26th annual congress of the Trade Union Council of South Africa being held in Durban this week, Prof Wiehahn said the Court was less than a year old and operated in a controversial and sensitive area in an attempt to preserve industrial peace

He said the Court would apply equity in coming to decisions with basic principles of justice playing an important part

'But the Court will also look at extra-legal or socio-economic and socio-political factors when it considered a case before it, he said

'And that is why we cannot expect the Court to be 100 percent right from the beginning

Prof Wiehahn said the Court had deliberately been given a very wide field of reference It could build up a history of case law for reference and recommendations could be made to the Department of Manpower regarding labour laws

The Court would also be split up into divisions and Prof Wiehahn said in his opinion a separate division of the Court would eventually sit in each major region of South Africa

Officers of the Court were full-time employees of the State and the Court would sit throughout the year

It would attempt to deal with cases as speedily as possible and a backlog of cases would be avoided if possible

'As long as the Court has the dynamism of growth within it, I can assure you that it will, in the long term be the Court that it wants to be

Prof Wiehahn said it would be the first ever to attempt to define fair play in labour practice

No other industrial Court in the world had attempted to define the concept

The Court had jurisdiction over all matters relating to labour relations except for alleged criminal acts which would be dealt with by the normal Courts of law

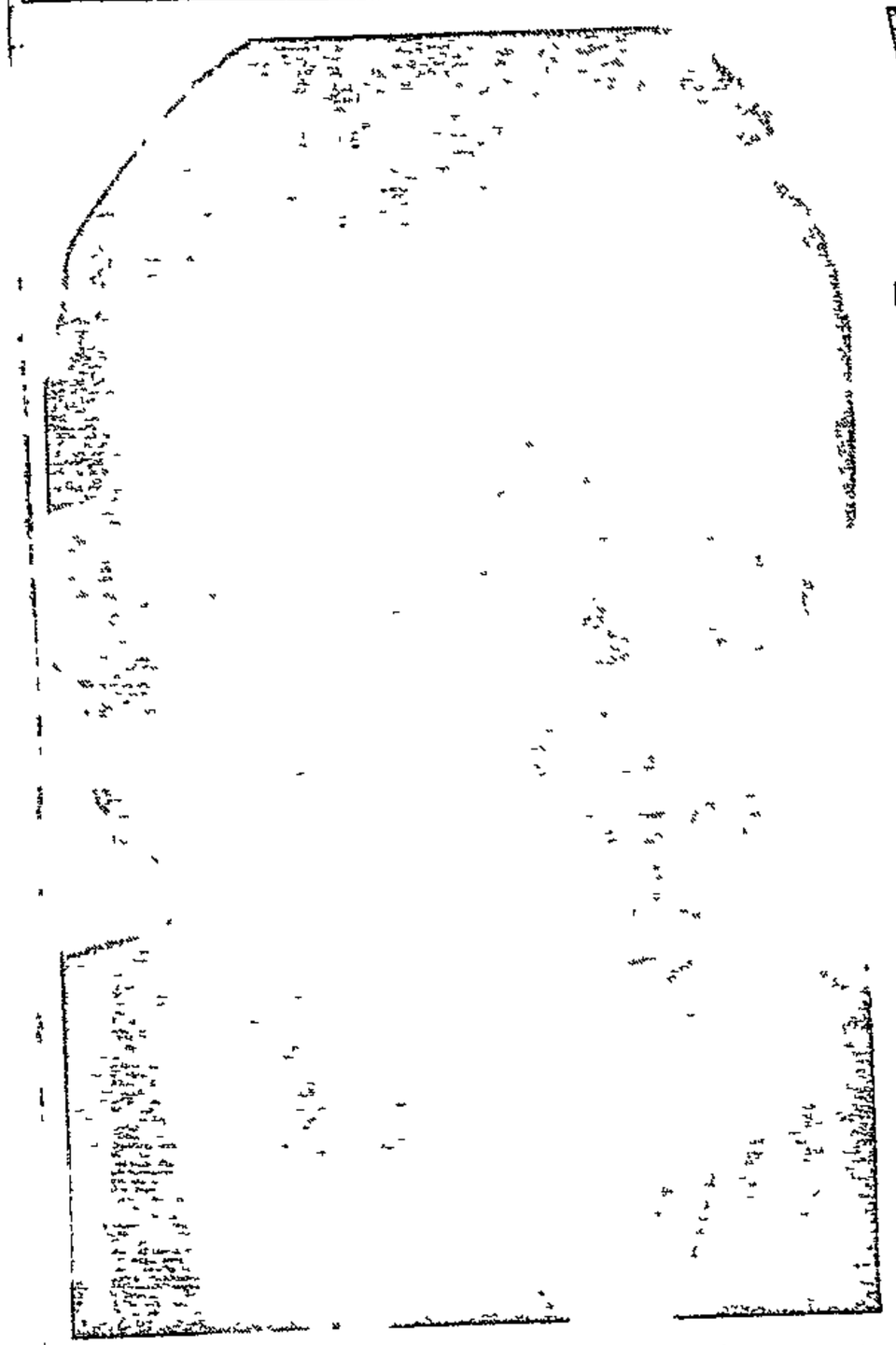
He said costs would be kept as low as possible so to be available to the ordinary worker

All people who stand in an employer/employee relationship should appreciate that South Africa now has a specialised Court to handle labour affairs and be patient if it does not meet all present demands made upon it

The process of perfecting the Court so that it will be beyond criticism is progressing very well he said

The Tutorial

4/ ...



Professor Nic Wiehahn . . . rejects interpretation of rights of unregistered unions.

Wiehahn: not the right interpretation

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Post 25/9/80

By JOE THLOLOE

PROF Nic Wiehahn yesterday said a recent decision by his deputy had been misinterpreted and that unregistered trade unions did not necessarily have the right to represent members before the Industrial Court.

Prof Wiehahn, president of the court, was speaking at Tucas' 26th annual conference in Durban

He said the decision in the case brought by the Metal and Allied Workers' Union and Mr Stephen Maponya against Precision Tools in Johannesburg recently had been misinterpreted

"It is now interpreted that all unregistered unions have locus standi before this court," Prof Wiehahn said

"This is not really the case It was not a decision to be interpreted generally

My deputy, Mr Parsons, decided on the facts put to the court that that particular union had locus standi.

"It could well be that another unregistered trade union could come along and say it wanted to have locus standi. The court could come to a different decision"

When the decision was given last month it was interpreted by unionists as a breakthrough for unregistered unions

Mr Maponya's case was the first to come before the court

UNFAIR

At the end of Prof Wiehahn's speech on the Industrial Court, the conference unanimously passed a resolution expressing disappointment at the "inadequate legislative provisions governing the functions and jurisdiction of the Industrial Court'

Supporting the resolution Mr B L Krynauw said access to the court was limited and cumbersome.

He said unfair dismissals should also be defined as an unfair labour practice

"We submit there must be no uncertainty over the status of victimisation," Mr Krynauw said.

The conference called on the government to increase the authority of the court, and make it "of greater relevance to workers."

Teachers probe men-only ruling

STAR 25/9/80

(165)

By Sheryl Raine, Education Reporter

The Transvaal's system of reserving teaching posts for men is illegal in terms of the Industrial Conciliation Act according to a Transvaal Teachers Association investigation

Although the Act does not apply to any government employees, including teachers the implications of the Act could prompt the TTA to take their case to the industrial court.

A group of women teachers, headed by Miss J Gemmel, principal of Jeppe High Preparatory School and Miss E Niemeyer, principal of Pretoria Girls' High School, have drawn up a memorandum and will continue their investigations with a view to legal action

SERIOUS

Mr Peter Mundell, president of the TTA, said the matter had been discussed informally with Dr Hennie Reynders, chairman of the National Manpower Commission

'We wished to establish from him whether other professional employees were employed along discriminatory lines Dr Reynders suggested that the matter was of such a serious nature that it ought to be put to the industrial court He recommended that we wait until the Human Sciences Research Council's enquiry into education had been completed"

The Transvaal Education Department reserves a third of all permanent primary school posts for men and a third for women The remaining third are filled by teachers of both sexes

PERMANENT

In high schools, two-fifths of all permanent posts are reserved for men the same number are reserved for women and the remaining fifth can be held by men or women teachers

A woman cannot be appointed to a man's permanent post even though there is a critical shortage of men teachers, particularly in English-medium schools

4/ ...

'Court must handle victimisation cases'

STAR 25/9/80

Labour Editor

DURBAN — The first and foremost of unfair labour practices — an employer's victimisation of a worker — was excluded from the jurisdiction of the new industrial court, the Trade Union Council of South Africa heard yesterday.

This "major flaw" was highlighted in the presence of the courts President, Professor Nic Wiehahn, at Tucsa's annual conference by Mr Barney Krynauw of the Garment Workers' Union.

"Many of us know the near impossibility of getting a conviction on a victimisation of a worker criminal courts," Mr Krynauw said.

He pointed out several other shortcomings of the court.

- Access to the court was limited or cumbersome.
- There was no clear right of appeal to the Supreme Court.
- The court required explicit powers to enforce its decision.

Professor Wiehahn was asked what recourse there was in the case of a dispute over which employers and trade unions on an industrial council were deadlocked and he said there appeared to be no recourse.

When pressed further on this issue, he said that if the deadlock had resulted from the bad faith of one of the parties in his opinion that constituted an unfair labour practice that should be handled by the court.

Another speaker Mr Des West of the Tucsa executive, said far too big a percentage of the tax rand was being used to finance a separatist ideology and ensure its continued existance.

He said that a "massive dismantling" of the apartheid structure would release public funds which could then be used to improve the lot of teachers, nurses and policemen.

No. 1994 26 September 1980

AANSTELLING VAN WAARNEMENDE DIREKTEUR-GENERAAL—MANNEKRAGBENUTTING

Vir algemene inligting word bekendgemaak dat Dr P. J van der Merwe aangestel is as Waarnemende Direkteur-generaal Mannekragbenutting gedurende die afwesigheid vanaf 22 September 1980 tot 10 Oktober 1980 op amptelike besoek aan die buiteland van mnr Elias Albertus Cilliers, Direkteur-generaal Mannekragbenutting.

No 1994 165 26 September 1980

APPOINTMENT OF ACTING DIRECTOR-GENERAL—MANPOWER UTILISATION

It is hereby notified for general information that Dr P J van der Merwe has been appointed Acting Director-General. Manpower Utilisation during the absence of the Director-General Manpower Utilisation, Mr Elias Albertus Cilliers, from 22 September 1980 to 10 October 1980 on an official visit aboard

RES 17

SEAT BELT SUPPLIERS

REMITTANCE ADVICE

31 JULY 1979

Balance as per statement : 25 July 1979	1 800
Less: trade discount on invoice 210	120
	1 680
Less: cheque forwarded on 20 July	140
	1 540
Add: overcast on statement	10
	1 550
Less: Invoice No. 312	120
	1 430
Less: credit note No. 26 treated as an invoice	30
	1 400
Less: discount 5%	70
	1 330
Less: cheque payment	1 710
Refund due:	R 380

Major test case before Industrial Court

CAPE TIMES 30/7/80

Own Correspondent

JOHANNESBURG — The right of trade unions to bring "unfair labour practice" cases to the Industrial Court was challenged in argument yesterday.

The court, which is hearing its first major test case, also heard argument yesterday on another vital labour issue — the rights of contract workers to expect that their contract be renewed.

The court's ruling on these two issues is expected to have a crucial bearing on labour law.

A migrant worker, Mr Steven Maponya, and the Metal and Allied Workers Union have brought an action alleging that Mr Maponya's former employer, Precision Tools, was guilty of an "unfair labour practice" when it refused to renew his contract.

They allege that his contract was not renewed because the company wanted to end his union activities at its plant.

In argument yesterday, Mr A Trollip, counsel for Precision Tools, argued that the MAWU had no standing to bring the action with Mr Maponya.

He cited a Supreme Court case in which it was held that a union had no legal interest in whether one of its members had been victimized, and had no legal standing in such cases.

Mr M Brassey, for the union and Mr Maponya, argued that this did not mean that a union had no standing in the Industrial Court, which he described as "a quasi-judicial tribunal".

If unions were not allowed to bring such cases, workers would have to do so individually. He asked what would occur if 3 000 workers at a company asked to be heard individually.

The rights of contract workers also featured in argument yesterday.

Mr Trollip argued against a memorandum submitted by the union and Mr Maponya, partly reflecting its suggestion that it was possible for a migrant labour contract to contain an "implied term" that it would be renewed.

This would mean that migrant workers could, in certain cases, argue that it was understood between them and their employer that their contracts would be renewed and that failure to do so could constitute victimization.

Mr Trollip argued that an employer could not renew a migrant worker's contract without the permission of the authorities, in this case the West Rand Administration Board.

If the court ordered the company to reinstate Mr Maponya, it would be asking it do something which was illegal without WRAB's permission. He also argued that the company had a legal right not to renew a contract.

Mr Brassey argued against this, suggesting that the "call-in" card which an employer may give a migrant worker automatically entitled him to be registered in a new contract.

The case is being heard by the court's vice-president, Mr Benjamin Parsons, assisted by two assessors, Professor P A K le Roux of Unisa (nominated by Mr Maponya and the MAWU) and Mr S Harris of Seifsa (nominated by Precision Tools).

Govt creates new council to control all training

Pretoria Bureau

The Minister of Manpower Utilisation, Mr Botha, today announced the establishment of a new training council which would control all new manpower training measures in South Africa

Opening the international conference of the Association of Personnel Service Organisations (APSO) in Johannesburg, Mr Botha said a new Training Act should be ready for submission to the next sitting of Parliament

This Act would co-ordinate six different training acts

Mr Botha said the proposed new training council would become the only controlling body on the application of the new measures to regulate the training of workers.

The new council would take over all the present functions of the three existing boards concerned with training

He said the council would also be given more authority than that exercised by the three existing boards.

The council would control the monitoring of training standards and the co-ordination and promotion of all forms of training

AUTHORITIES

"To ensure that the national training council performs all its functions as effectively as possible, it is also envisaged to appoint persons on the council who are authorities in the field of education and training," he said.

Mr Botha said the Department of Manpower Utilisation was considering renewing the employment service it offered

"As a result of the recession and especially the work of the Riekert and Wiehahn commissions and the National Manpower Commission, the service is now being examined closely

"The department must prepare for a total service to all population groups in the future," he said

'Let us find jobs for black workers'

By Sieg Hanning
Labour Editor

A face-to-face appeal to permit employment agencies to place black job seekers was made to the Minister of Manpower Utilisation, Mr Fanie Botha, at an international conference in Johannesburg today

The appeal came from Mr Ralph Parrott, president of the Association of Personnel Service Organisations of South Africa (Apso).

He spoke at the opening of a combined conference of Apso and the International Confederation of Private Employment Agency Associations

In a reply to the appeal at a Press conference after the opening, the Minister said "I shall pay attention to this matter and believe that a place for private agencies in the placement of black workers can be found in co-operation with the State."

One thousand of the 1400 new jobs that needed to be created every working day during the next 20 years would be for blacks, Mr Parrott said

"It is a strange anomaly that our industry is still legally debarred from handling black workers"

Mr Parrott also called for the elimination of the section of the Physical Planning Act which reduced the opportunity to create jobs.

Commerce and industry also had to accept the challenge of creating opportunities for blacks

"We can no longer fall back on and blame the national philosophy," Mr Parrott said.

"We now have to put both our money and our actions where until recently we have only had our mouths"

Labour court case postponed

Labour Reporter

A UNIQUE labour court case which is being heard in the Boksburg Magistrate's Court has been adjourned until Tuesday.

The case is a private prosecution brought against an East Rand company, SMG Ceramics, by a black worker, Mrs Angel Makhanya.

This week the court heard Mrs Makhanya's case and adjourned after two witnesses for the company had given evidence. The hearing will resume on October 23.

When the case was initially brought to court, the magistrate, Mr Gideon van Wyk, upheld a defence argument that Mrs Makhanya was not entitled to bring a private prosecution against the company.

Mrs Makhanya's lawyers appealed to the Supreme Court which upheld her right to proceed with the prosecution.

Names of 41 on labour body released

By HELEN ZILLE
Political Correspondent

THE MINISTER of Labour, Mr Fanie Botha, yesterday announced the names of 41 men who will serve on the National Manpower Commission — the body with far-reaching powers that will control the future of South Africa's labour dispensations.

The multiracial commission, under the chairmanship of Dr H J Reynders, includes academics, representatives of employers and organised labour, as well as a Major-General of the Defence Force.

This composition reflects the Prime Minister's "total strategy" of drawing all sectors into formulating South Africa's future policy direction.

The labour field is seen as one of the most important aspects of the Government's policy of relaxing economic apartheid, and drawing blacks into the free enterprise system.

The 41 commission members will begin their two-year term of office today, and during that period will play a major role in determining South Africa's future labour dispensation.

The commission will also be responsible for drawing up new labour legislation.

The commission members are Dr W Ba denhorst of Market and Opinion survey; Mr W Bornman honorary secretary SA Confederation of Labour Major General G J Boshoff deputy chief of staff personnel department of Defence Dr S Brand economic advisor to the Prime Minister Mr E A Cillers secretary for manpower utilisation Mr B L Currie chairman Federal Consultators Council of South African Railways and Harbours Staff Associations Mr L B de Wet, group industrial relations manager Hewlitts Corporation Ltd Dr E P Drummond, director of Safsa Mr C W H du Toit, personnel consultant of Anglo American Industrial Corporation Mr A Grobbelaar general secretary of Tucsa Mr J H D Grossius, director of Bifsa Mr D A Hanekom public relations officer of the Department of Coloured Affairs Mr Z M J Akavulle, personnel officer of Prolux Paints Mrs K Jowell senior lecturer of the Graduate School of Business at the University of Cape Town Mr S J Klau chairman of the board of trade and Industry, Mr M Lataram national secretary of the National Union of Furniture and Allied workers Mr J Liebenberg industrial relations advisor of the Chamber of Mines Mr J B Mgwaza personnel development office of Hewlitts Professor H O Maree director of the Potchefstroom College of Education Mrs L Mvubelo, general secretary of the National Union of Clothing Workers Mr S M Naude director of National Education Mr T S Naethling general secretary of Amalgamated Engineering Union, Dr G K Nel-sony director of the National Institute for Personnel Research Mr J Nienaber a director in the Department of Education and Training.

Mr P A Oliver, deputy secretary in the Department Indian Affairs Mr J Opperman senior director of the East Rand Administration Board Mr P J Plantsar General Secretary of the Motor Industries Employees Union of SA Prof J Poolman Vice Rector of RAU Mr S Potgieter deputy secretary in the Department of Co-operation and Development Mr W C B Rigaret a senior director in the Department of Posts and Telecommunications Mr P G Rossouw deputy president of the Institute of Personnel Management Mr T J Steenkamp group personnel manager of General and Finance Corporation Mr F Stopforth, executive director of the Die Afrikaanse Handels Instituut Professor S M Swart director of the Institute of Labour Relations Mr J Unisa Mr J van der Merwe deputy chairman of the National Manpower Commission Mr M H van Noordwyk deputy secretary in the Department of Manpower Utilisation Dr J H Visser, executive director of the National Productivity Institute Mr R C Webb, general secretary of the Motor Industry Combined Workers Union Mr J Wilkens president of the SA Agriculture Union Mr Botha also announced that Mr Sam Motsuenyane, president of the National African Federated Chamber of Commerce, had been appointed but was overseas and had not yet agreed to serve on the commission.

2.2 Programme Evaluation

Methods of evaluation range from simple procedures for looking at costs, where the conclusions are left largely to intuition, to highly complicated processes which present more or less clear-cut solutions. For these more precise methods, most of the value judgements have to be made explicitly in advance. Some points on the spectrum between these two extremes are analysed below.

2.3 Looking at Expenditure

Basically, one is looking for inconsistencies. It was noted that a logical axiom, basic to economics, is that a rand should yield approximately the same value in whichever programme it is spent. If the net social benefit from the marginal expenditure on one programme much exceeds that on another, one can do better by withdrawing funds from the second programme and increasing expenditure on the first. By simply looking at a breakdown of the budget between programmes, the amounts spent on each may be compared with our intuitive notions of how much 'ought' to be spent on these things. Our judgement will depend on what we consider the benefits of expenditure under each programme to be, a process which cost-benefit analysis seeks to formalise (see below). For example, if it can be shown that expenditure on preventive medicine constitutes approximately 2% of all expenditure on health,[11] it may be felt that the benefits from this kind of provision warrant an increase in the share of the budget allocated to it.

Unfortunately, such intuitive processes can pick out only the grossest incongruities which are recognised by all, whatever criteria of 'value' are used. The critic[illegible] steps involv[illegible] way of systematically valuing the benefits of different programmes to render them comparable to one another.

2.4 An Informal Method for Setting Objectives

The following method for guiding the choice of priorities has been described by John Bryant.[12] It has been used by medical and nursing students in Thailand, and one of its advantages is that it can be used where no numerical data is available. It, therefore, lends itself to discussion, to draw on the experience of a group of people.

Potential health problems are first listed, and then given a score (from one to four pluses) under each of four headings:

Diagram 1. A method of ranking health problems

Problem	Prevalence	Severity	Community concern	Vulnerability to management	Total
Large & poorly spaced families	++++	++++	+++	++	96
Inadequate antenatal & obstetric care	++++	++	++	+++	48
Malnutrition	+++	+++	++	++	36
Need for medical care	++	++	++++	++	32
Specific diseases:					
V.D.	++	++			

can be compared by cost-effectiveness analysis!

Reports on unrest 'damage economy'

STAR 19/11/80 (165)

The manner in which newspapers reported on labour matters did great damage to the economy, a spokesman for the Department of Manpower Utilisation told the Steyn Commission inquiring into the mass media today

In situations of unrest, work stoppages and strikes some newspapers "approached the leftist elements" and based their reports on half-truths or certain facts, Mr J L Scheepers, undersecretary of the administration section of the department said

Labour issues involving blacks were especially highlighted and presented in such a way that it appeared as if they were being unfairly treated by employers, a department memorandum said

The agitating elements would run to the Press who in turn published sensation and thereby encouraged confrontation and revolution.

The SABC-TV was criticised for showing local and overseas incidents of unrest and sabotage as this could influence sections of the population

DD. 21/11/80 (165) (166)

The new deal for workers

Like a well-known sucking sweet, the new labour deals introduced by the government tend to have a hole in the middle

While policy switches often bring important changes around the periphery, they all too often have a fatal flaw at the centre which threatens to render the whole exercise meaningless.

And so it may prove with the changes in labour law which the Minister of Manpower Utilisation, Mr Fanie Botha, announced last week.

Mr Botha told the press of changes aimed at introducing union autonomy, allowing mixed unions, and giving all workers, including foreign black contract workers, full union rights.

Speaking after talks with employers and registered unions, he expressed pleasure at the progress he appears to have made in selling the legislation to the right-wing unions who staged a last-ditch stand against reform last year.

But he also made clear his belief that the proposals would help to woo the growing unregistered union movement into the official labour system and still foreign and local criticism of the government's labour reforms.

Referring particularly to the charge that changes were designed to control unions, Mr Botha said: "After this, no one will be able to say our system is designed to police unions."

The all-important details of the new legislation are yet to come. But Mr Botha has spelled out the broad direction of the changes and there are already doubts about whether his optimism is well-founded. The new moves may well increase, rather than still, criticism of government labour policy.

His optimism is based on the fact that full union rights for all, including the right to mixed unions, are now entrenched in law. Mr Botha added that union autonomy would also be guaranteed — unions would be free to organise whom they wished and form union alliances as they wished.

But accompanying the new legislation — its "hole in the middle" — are tough measures which could drastically raise the penalties attached to striking, for tens of thousands of black workers.

According to Mr Botha, he will begin negotiating bilateral agreements with "Southern African States" whereby any of their citizens who engage in an illegal strike will be summarily removed from the white area.

While he said it was a priority to negotiate such agreements with foreign Southern African governments, he added that they would also be entered into with the homelands.

If they did not sign, those countries or homelands could simply find that their labour would not be used here, Mr Botha said.

This could mean, quite simply, that any contract worker who takes part in a strike which is not legal in terms of the government's machinery, will lose the right to earn a living in white South Africa.

The implications are awesome. The right of workers to withhold their labour is an accepted right in all democratic labour systems. Even unionists who would shudder at the thought of calling a strike, point out that at the right time it is essential to have bargaining.

If an employer knows that there is no threat, or no to how remote, that his workers will strike to back his intransigence in the dispute.

Stripped of the right to refuse to work, workers have little power to win any bargaining rights or to enforce the rights they negotiate.

Critics can thus like to argue that Mr Botha's new proposals will give tens of thousands of contract and migrant workers every right except the one that really matters — the right to bargain effectively.

To the uninitiated, clamps on illegal strikes appear fair enough. After all, if there is machinery for negotiation before strikes can take place it seems only fair that action should be taken against those who ignore it.

But critics of the system claim the machinery is so cumbersome, there have been few legal strikes in the country's labour history.

Before a legal strike can be called, workers have to go through elaborate machinery which can take months to complete. By the time the channels are exhausted, workers have usually long since lost interest.

Mr Botha made it clear that the machinery would remain unchanged. This means that workers will still be faced with the prospect of negotiating a minefield of red tape before they have a right to strike, or even talking matters into their own hands and losing their jobs.

The move could also pose a dilemma for black homeland and other government in the sub-continent. If the sign, they invite a backlash from disgruntled workers. If they don't they could see job opportunities for their citizens dry up — and face the same backlash.

Other aspects of the proposals may also pose problems for Mr Botha.

First, there are doubts as to how far reaching his guarantees of union autonomy will be. He made it clear that the official registration system would remain unchanged because the country had "the best labour legislation in the world". Unionists were quick to comment that this could render the promises of change hollow.

They and some employers also have argued that the registration system is a large part of the reason why unregistered unions have refused to register, for the system itself plays a key role in controlling unions.

The government's registrar can register a union for a specific area, industry or part of an industry only. This gives him the power to deny unions rights in areas where they have members.

This stipulation could also be used racially. The registrar could decline to register a union for a specific race group in an area.

The procedures are time-consuming also and no independent black union (one without employer or registered union backing) has yet gained registration.

It is for this reason that various employer groups have called for a streamlined system in which the representativeness of a union in a particular plant could be tested by a secret ballot.

Mr Botha said last week that one reason for not changing this system was to prevent competition between unions in particular areas. This could be seen as a means of protecting established unions against their emerging rivals.

But what is clear is that the system's critics will be more unhappy as long as registration remains unchanged.

Another content issue is likely to be the proposed clamps on links between local unions and their foreign counterparts. Western unions have argued they should be free to assist black unions here and that by doing so they are contributing to the country's industrial life.

And local unregistered unions have argued that they need help from abroad to find the funds and resources which decades of exclusion from official bargaining rights have denied them. This, too, is likely to be seen as a clamp on unions' freedom to associate.

Mr Botha's announcement follows weeks of speculation about forthcoming changes. Influential business organisations had been demanding change and the government seemed to be listening. Expectations of a substantial revamp of the official labour system were high.

This was hardly surprising. Labour events throughout the year had illustrated the need for change had never been as pressing.

The Wiehahn Commission's first report last May had opened the official bargaining system to black workers and their unions for the first time. In so doing, it let black unions in from the cold — but ushered them into a system hedged with controls which soon proved inadequate for worker, and particularly black worker, needs.

The thinking behind the strategy was clear. Black unions were a relatively weak force, battling against official and employer hostility. But they were beginning to grow and a handful of employers were beginning to recognise them.

Rather than allow a second system to grow up outside the net of official control, therefore, the government moved to include black unions in the system. It would allow them to grow — but only on terms laid down by the system.

In reaction to this year's strikes and the growth of a union movement which refuses to enter the government's labour system, the Minister of Manpower Utilisation, Mr Fanie Botha, has announced forthcoming changes to labour law. Labour Reporter STEVEN FRIEDMAN examines these developments.

The problem was that somehow arguing that registering was likely to produce more disadvantages than benefits, decided to stay unregistered.

In many cases, the unions concerned have proved to be those which have grown fastest and there is mounting co-operation between those unregistered unions who refuse to register. The prospect of a powerful force rising outside the government system once again reared its head.

At the same time, the wave of strikes this year made it clear the government moves had not damped black worker militancy.

A factor officials have always been played, but about which there is no doubt, is that the reforms were partly aimed at reducing hostility to the government in international labour circles. However, influential employer spokesmen attending international labour conferences this year found this simply wasn't happening.

Indeed, they returned to voice their concern that the "mileage" which the government and business could have obtained from the changes were being almost totally nullified.

Particular aspects affecting foreign opinion were that migrant workers and commuters (those who live in a black homeland and commute daily to work in a white area) were granted union rights by ministerial proclamation rather than law and that mixed unions could only be registered with ministerial consent.

Another issue was that foreign black workers are not permitted registered union rights while foreign whites are.

As a result, leading employer organisations such as the Federated Chamber of Industries and, to a lesser extent, the Association of Chambers of Commerce, began calling for changes in labour legislation.

Besides the need to respond to foreign criticism, they argued that important unions were refusing to register, and that the spectre of a powerful labour movement operating outside official control was looming. If that happened the country faced "industrial anarchy" they said.

The official system had to be made more attractive to unregistered unions. This could be done by entrenching full freedom of association in law — allowing all workers to join registered unions and allowing unions to have totally non-racial structures if they wished.

Equally important, employer bodies began to take the initiative by accepting the need to negotiate conditionally with unregistered unions, thus raising the possibility that the official system would be by-passed again.

The government's response, mainly communicated through public and private speeches from Mr Botha, was ambiguous. On the one hand, he startled many observers by boldly calling on employers to deal with representative unions rather than "sweetheart" groups which could be relied on to avoid hard bargaining.

He added that the government was determined to make the system more attractive to unions by eliminating some of the controversial controls.

But he warned also of the danger of allowing an unregistered union movement to develop. This would mean, he said, that some unions would benefit by being allowed to escape the controls to which their rivals were subjected.

He also warned that unregistered unions would be free to link up with political organisations, a practice which is long established in the western world, but which the government has always been determined to outlaw.

And he made it clear he was as concerned as ever by foreign unions backing the local unions.

His statements caused a good deal of confusion. Some employer and union spokesmen complained that Mr Botha was blowing hot and cold and that the two postures appeared to contradict each other.

They didn't. The two approaches were entirely consistent.

The government, Mr Botha was saying, was determined to bring into its system any unions which could be persuaded to come in. Any union which was prepared to submit to the controls would be welcome, no matter how militant some employers believed it to be.

On the other hand, unions unprepared to come into the new system would face the wrath of an officialdom no longer prepared to countenance them.

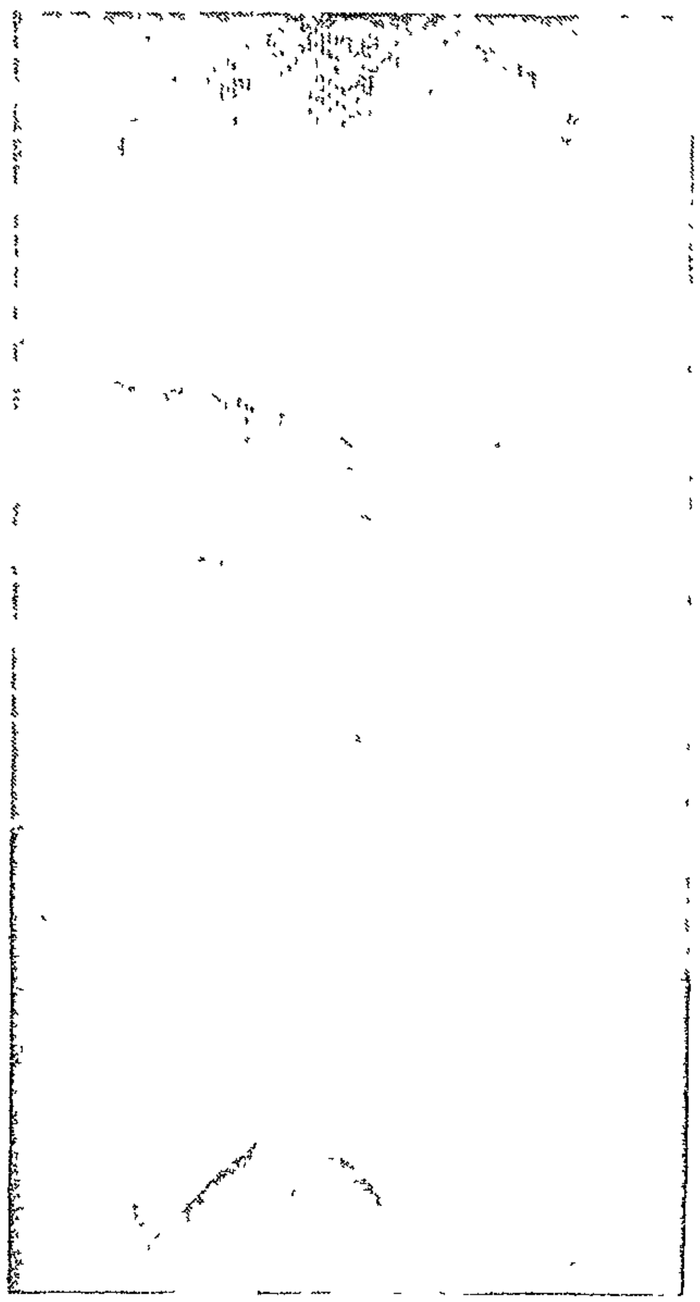
The goal is still control as a means of warding off what it sees as undesirable political and foreign influences. If possible by negotiation and by improving the system. If that is not possible, presumably by other means.

The new legislation encapsulates that principle. Whether it does so effectively remains to be seen.

The moves to woo unions are obviously an improvement. But they seem to have fallen far short of expectations and the system still seems unable to do what it presumably is designed to do — ensure industrial peace by allowing workers full bargaining rights.

The anti-strike measures, powerful as they are, are unlikely to solve the government's problem, even if unwilling homeland and Southern African governments go along with them. Legislating against strikes hasn't tended to stop them in the past. It may not do so this time.

As always, the legislative power to control events does not imply actual power to control them — a view which Mr Botha appears still to reject.



Minister of Manpower Utilisation, Mr S. P. "Fanie" Botha.

Labour crisis opens doors to women

23/11/80 Sun Times

165

By HELEN STANWIX

THE desperate manpower shortage may mean more job opportunities for women.

A growing awareness by employers that women are an underutilised labour force will mean that women who dropped out of work to become mothers or because it was not financially worth their while to work, may be attracted back into the economy

Labour figures showing the slow development of female opportunities, has prompted the Department of Manpower Utilisation to appoint a womanpower sub-committee as part of the "Manpower 2000" drive

Latest statistics show female participation in the economy to be up to 30 years behind other Western countries.

South African women account for 23 percent of the civilian labour force — the level United States women reached in 1946

Women in the US now account for more than 40 percent of the workforce

Traditional

Womanpower 2000 claims women still work in traditional employment areas — clerical, teaching, shop assistants and service positions

In industry they are only significant in areas requiring sewing or stiching skills

Further up the promotional ladder, women have hardly dented the male armour Few women progress from the clerical to administrative jobs and while most teachers are women, four out of five lecturers are male

Velia Kirkpatrick, committee chairman and national coordinator says employers are generally bound by sex-stereotypes in listing top jobs

"Even in industries where some women are already active, only 'male' vacancies are specified," she said

● Next week, a 16 page full-colour supplement to the Business Times looks at the womanpower issue. It highlights the need for better use of women and outlines some of the opportunities for female labour.

MANPOWER 2000

Minister outlines labour strategy

STAR 26/11/80 (165)

Pretoria Bureau

The Minister of Manpower Utilisation, Mr Fanie Botha, today spelt out a manpower policy which, he said, was part of South Africa's total strategy

He was opening a convention of the Manpower 2000 campaign in Pretoria

Mr Botha said the strategic programme consisted of plans to:

- Train and re-train managers, workers, school leavers and unemployed people

This programme made provision for the training of many more people than in the past and for close co-operation between the State and the private sector, he said

- Create job opportunities
- Improve productivity
- Improve labour bureau services for job-seekers of all population groups New legislation on this would be passed next year, he said
- Preserve labour peace by including training in labour relations, extending the industrial council system and creating new conciliation procedures and machinery to settle disputes

Legislation in this connection would also be passed next year, he said

- Institute programmes of labour co-operation between South Africa and neighbouring independent states

Mr Botha said South Africa could offer both job opportunities and training for outside workers as part of co-operation in a constellation of states

Programmes for protecting the safety and health of workers should be started, he said Here too, new legislation would be introduced next year to make provision for more favourable benefits.

Pamphlets to 'sell' the SA labour system

(165) 27/4/80

Labour Reporter

THE Government is to embark on a concerted pamphlet campaign to sell the official labour system to workers

The pamphlets also urge workers to maintain labour peace and to ensure that worker interests do not fall into the hands of strangers or undesirable elements

The Minister of Manpower Utilisation Mr Fanie Botha announced this yesterday at the convention in Pretoria of Manpower 2000 a semi-official project of which he is chairman Copies of the pamphlets were also released yesterday Manpower 2000 will distribute it

They spell out the rights afforded workers under the Government's labour system and urge workers to make use of official machinery

Each pamphlet also contains a plea to workers to accept that they have responsibilities to maintain industrial order and to work efficiently

An inscription on the bottom of each pamphlet reads Remember that the worker stands on two legs -- the leg of rights and the leg of responsibilities

The pamphlets will be translated into three black languages and distributed to as many workers of all races as possible

The pamphlet campaign is seen as a reaction to the growth of black worker action this year and fears that influential black unions are bypassing the official system

It also appears to be aimed at those white workers who reject recent Government labour reforms

A general pamphlet on the Rights of South African Workers says The worker who understands his rights and exercises them in a responsible and disciplined manner need have no fears about the future and need not allow or invite outsiders to look after or protect his interests

These workers hold the key to the promotion of their interests and it is their duty, backed by legislation to safeguard the key so that it does not fall into the hands of undesirable elements , the pamphlet says

Eight other pamplets are to be distributed

They cover

- The right to work and the right of access to training,
- The right of fair remuneration to organise and to belong to a union and to negotiate and bargain collectively,
- The right to the protection of safety and health and to security through the Government's Unemployment Insurance and Workmen's Compensation Acts
- The right to job security and protection against unfair labour practices

All the pamphlets spell out existing legislation on these issues and urge workers to make use of official machinery in order to exercise their rights

For example, the pamphlet on bargaining emphasises the rights of workers to bargain and join the union of their choice

II NEOPLASMS

	W		A		C		B	
	M	F	M	F	M	F	M	F
0-1	0,17	0,13	0,00	0,21	0,06	0,16	0,04	0,06
1-4	0,03	0,07	0,07	0,00	0,07	0,05	0,03	0,04
5-24	0,09	0,05	0,07	0,	0,06	0,04	0,05	0,04
25-44	0,26	0,33	0,21	0,				
45-64	3,01	2,58	1,47	2,				
65+	12,24	7,26	4,70	5,				
ALL	1,41	1,21	0,36	0,				
NO.	2920	2522	126					

III ENDOCRINE, NUTRITIONA

	W		A		C		B	
	M	F	M	F	M	F	M	F
0-1	0,09	0,05	0,06	0,21	2,27	1,68	2,31	1,96
1-4	0,03	0,01	0,00	0,05	1,27	1,08	1,02	1,29
5-24	0,01	0,01	0,01	0,01	0,01	0,01	0,02	0,02
25-44	0,02	0,02	0,08	0,08	0,08	0,05	0,06	0,07
45-64	0,09	0,12	0,39	0,88	0,28	0,42	0,24	0,61
65+	0,39	0,59	1,61	2,59	0,81	1,28	1,04	1,44
ALL	0,05	0,08	0,12	0,18	0,28	0,26	0,22	0,33
No.	114	173	43	63	316	307	455	530

Industrial court is now ready

By Sieg Hannig
Labour Reporter

The president of South Africa's new Industrial Court, Dr Nic Wiehahn, said today that the court would assume its functions on Monday.

"Matters of fair employment practice will be given priority," he said.

"As we are only starting, we shall at first have to concentrate on cases with far-reaching implications, leaving petty matters for later

"Well-prepared cases submitted by trade unions and employer organisations will have to come before individual grievances But in time we intend to get round to everybody"

Dr Wiehahn said written complaints should be sent to the registrar of the court, Private Bag X227, Pretoria 0001.

TABLE I

MORTALITY RATES FOR THE 17 MAJOR DIVISIONS OF THE ICD (8th REVISION)

(Note: There are no tables for divisions V, XI, XII, XIII because of the small numbers in each of these categories).

FECTIVE AND PARASITIC DISEASES

	A		C		B	
	M	F	M	F	M	F
	9,81	6,60	55,55	51,04	29,36	27,05
	0,76	0,79	8,27	7,48	3,56	3,42
	0,07	0,08	0,21	0,21	0,20	0,22
	0,17	0,20	1,14	0,78	0,36	0,45
45-64	0,25	0,13	0,75	0,45	3,30	1,37	2,15	1,27
65+	1,04	0,72	1,61	1,98	5,48	2,78	5,45	2,93
ALL	0,19	0,15	0,56	0,45	3,33	2,69	1,66	1,61
NO.	399	315	198	159	3792	3146	3472	2593

C. Times

Pamphlets tell black workers of their rights

13/6/80 (165)

Staff Reporter

A SERIES of more than 90 000 pamplets in Zulu, Xhosa and Sesotho, informing workers of their rights, has been published by the National Committee for Manpower 2 000.

The pamplets are the latest in the Manpower 2 000 campaign A total of 18 pamphlets has now been published The new series includes information about the right to organize and to belong to an employees' organization and the right to negotiate and bargain collectively.

A small number of English and Afrikaans pamplets have been published, but it is the black worker who is the target of this stage of the Manpower 2 000 campaign The titles of the eight pamplets are.

- The right to work;
- The right to fair remuneration and conditions of service;
- The right of access to training and retraining,
- The right to organize and to belong to an employees' organization,
- The right to negotiate and bargain collectively,
- The right to the protection of safety and health,
- The right to security in terms of the Unemployment Insurance Act and the Workmen's Compensation Act,
- The right to job security and the protection against unfair labour practices

The pamphlets are to be distributed to trade unions, trade schools, schools, factories and labour centres throughout the country

Benefits of trade union explained

"The government fully endorses the principle of employees at all times possessing the right to organize themselves into trade unions with a view to obtaining registration and thereafter utilizing the bargaining and conciliation machinery created by legislation," says a pamphlet

It explains the benefits of belonging to a trade union and points out that certain obligations and responsibilities go hand-in-hand with them

"The conduct of the South African trade union movement generally testifies of a sound sense of responsibility, and the government appeals to workers to continue this trend"

Another pamphlet tells workers that they have the right to discuss with their employer matters relating to work and place of work — to bargain and negotiate collectively

"Experience has shown that provided workers exercise this right in a responsible manner, negotiations can achieve much more than any other course of action"

The pamphlet advises the worker who has reason to be dissatisfied with his working conditions not to down tools immediately "Instead, he should first discuss it with his superviser, foreman or manager If he is a member of a trade union, he may also approach that union in the matter"

The pamphlet explains what further action can be taken in terms of the Industrial Conciliation Act should the dispute not be settled, and points out that even workers who are not members of a registered trade union may apply for the appointment of a conciliation board

"When a dispute cannot be settled by way if the conciliation machinery, it can be referred to the Industrial Court"

1981 PROSPECTUS ENTRY TO REPLACE THE "GENERAL INFORMATION" CHAPTER ON PAGE 118 OF THE 1980 PROSPECTUS

lay December

AGE NEWS

Bill disregards labour court

(177) (140) (178) (166) (165) 29/12/80

By Drew Forrest

A recently published draft bill — the Manpower Training Bill — has been sharply criticised for its failure to extend the powers of South Africa's new industrial court.

The Bill appears to have been drafted without the court in mind, say labour lawyers, who comment that "it is pointless to set up an industrial court and then to deny it effective powers"

The draft follows existing labour law by proposing that apprentices underpaid in terms of their contracts should lay a charge against their employers Civil action would be possible after an acquittal, or a refusal by the State to prosecute.

The lawyers point out however that the industrial court has no criminal jurisdiction, and that as a court of law it has no power to hear civil disputes arising out of contracts of employment

A "golden opportunity" to strengthen the court will be lost if its jurisdiction is not extended into this area of wage recovery, the lawyers say.

Meanwhile, the Federation of South African Trade Unions (Fosatu) has expressed misgivings over another section of the draft Bill — which appears to envisage controls over labour relations training by unregistered unions

Fosatu general secretary Mr Alec Erwin said yesterday that controls over the training of unionists for union activity was "a matter for labour, not the State"

REGISTERED

Under Section 31 of the proposed Bill, any centre used by an unregistered union for labour relations training would have to be registered Such training would have to be "in accordance with training courses approved by the registrar."

The vice-chairman of the National Manpower Commission, Professor P J van der Merwe, has said no State controls on the ideological content of training courses are intended

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Mathematics in the last section of this prospectus.

wishing to enter the business world with a
wishing to qualify as attorneys, advocates or
advisers (see also the chapter on Entrance to
Legal Profession)
wishing to qualify as teachers of Commercial
Acts

seven basic first-year curricula, leading to several streams. All the curricula have accounting as a here are options with minimum and maximum contents in s and Statistics, and these subjects are offered as econd majors, along with Economics.

lum structure is detailed in Schedule A.

are designed in such a way that the student acquires ound knowledge for his final year in his first and s. For example, a knowledge of commercial and y is essential for the final-year courses on accounting, d auditing.

1A & 1B

ntenting to proceed to Economics II should take 1A. Economics 1B is a terminal course and does not turally to Economics II. However, students who wish to another curriculum after their first year may he Head of the Department of Economics for permission to Economics II after Economics IB.

Mathematics/Statistics curricula are intended for students d background in mathematics. The attention of students in these curricula is drawn to the entrance requirements atics I, as detailed in the entry of the Department of

Industrial Court president

31/12/80 10D

165

PRETORIA — Mr B J Parsons has been appointed president of the Industrial Court, the acting Director-General of the Department of Manpower Utilisation, Dr P J van der Merwe, announced here yesterday

He succeeds Dr Nic Wiehahn who has resigned for personal reasons

Mr Parsons, a former chief magistrate, has for the past two years been deputy president of the court which judges industrial disputes He will be succeeded by Dr D B Ehlers — SAPA

LABOUR DEPT.

9/1/81 — 31/12/81

165 gg 7357 9/1/81

 Industrial Court

DEPARTEMENT VAN MANNEKRAG-BENUTTING

No 56 9 Januarie 1981

WET OP NYWERHEIDSVERSOENING 1956

Ingevolge artikel 17 van die Wet op Nywerheidsversoening word dit hiermee bekendgemaak dat die Minister van Mannekragbenutting met ingang van 1 Januarie 1981 mnr Benjamin Joubert Parsons as President van die Nywerheidshof en dr Daniel Bartholomeus Ehlers as Adjunk-president van die Nywerheidshof aangestel het.

DEPARTMENT OF MANPOWER UTILISATION

No 56 9 January 1981

INDUSTRIAL CONCILIATION ACT, 1956

It is hereby notified in terms of section 17 of the Industrial Conciliation Act that the Minister of Manpower Utilisation has appointed with effect from 1 January 1981, Mr Benjamin Joubert Parsons as President of the Industrial Court and Dr Daniel Bartholomeus Ehlers as Deputy President of the Industrial Court

Test of powers for new industrial court

(165) 31 MAR 23/1/85

By Drew Forrest

South Africa's new industrial court is sitting for the second time as a court of law today to hear a unique application for urgent relief brought by members of an unregistered trade union

Since its establishment in 1979 the court has heard only one case in its new capacity as a court of law rather than merely of arbitration — the celebrated Maponya case

The present action is seen as a further significant test of its largely undefined powers particularly in relation to urgent applications

The action arises from a dispute last November at Raleigh Cycles in Springs when about 700 workers were dismissed after a brief stoppage

Members of the Fosatu-affiliated Engineering and Allied Workers' Union will allege that by breaking an undertaking to rehire all dismissed workers in the New Year the company is guilty of an unfair labour practice

They will seek an urgent interdict restraining the company from continuing its alleged lockout of the strikers

The basis of the urgency is the company's present policy of hiring new workers to replace the applicants

Since labour disputes lend themselves to urgent applications for relief the case is seen as a crucial test of the court's powers

It may also help to flesh out the statuteory definition of an 'unfair labour practice," a key concept in labour law

For the best work in fourth

FINE ART & ARCHITECTURE

ARCHITECTURE

Cape Provincial Institute of Architects' Prize
For the best student in :-

Sixth Year

P F Dunckley

Helen Gardner Travel Prize
For a student who has satisfactorily completed 1st, 2nd and 3rd major courses.

P A Rapoport

Molly Gohl Memorial Prize
For the best woman student in third year.

Miss C Tredgold

David Haddon Prize
For the best student of Architecture (or Quantity Surveying) in the subject of Professional Practice.

D H Pryce Lewis

General J B M Hertzog Prize
For the best final year student.

S A Read

Osbourn Prize

[redacted]

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For the best final year student.

S A Read

Osbourn Prize
For the best work in fourth year.

D H Pryce Lewis

John Perry Prize
For the best work in third year.

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130 000 hours lost in job disputes

THE ASSEMBLY — More than 130 000 man-hours were lost in 100 labour disputes involving 15 771 black workers during 1979

This was disclosed in the annual report of the Department of Manpower Utilisation which was tabled in Parliament yesterday

The department said there was a slight decrease in the number of labour disputes in 1979, compared with the previous year, but the number of man-hours lost rocketed by 62,5 per cent

There was also an increase of 11,3 per cent in the number of black workers involved

During 1979, a total of 2 683 liaison committees, 312 works committees, eight co-ordinating works committees and nine co-ordinating liaison committees covering 774 150 black employees were functioning

The department said although the growth rate in liaison committees had decreased, the committees still played a meaningful role in fostering better understanding between employers and employees and in creating sound human relations — PC

Special pay deal for fulltime soldiers

STAR 28/1/81

165

254

By Arnold Kirkby, Pretoria Bureau

South Africa's fulltime soldiers will receive a new pay deal this year

Lieutenant-General Gert Boshoff, Chief of Staff (Personnel), who retires at the end of the week, hinted in an interview that the SADF will receive a special pay deal this year, following a study into the reasons for the high turnover of Permanent Force staff

The study was made by General Boshoff and his staff last year and also analysed the optimum use of the SADF's manpower resources

This led to Project 2000, aimed at providing the Defence Force's manpower needs until the turn of the century, within the highly competitive manpower market and a growing military threat

The study dealt with the needs of the Permanent Force members

National servicemen, Citizen Force members and Commandos have received pay increases over the past two years

All men entering the operational area, whether permanent or citizen force personnel, receive additional danger pay

"There is a need to see the fighting soldier and his family through a different pair of glasses, because of the disruption of his home life and the nature of his work, which in itself is dangerous," he said.

"The SADF regards all members as fighting men, before any other considerations"

General Boshoff said an element of differentiation between the SADF and the bulk of the Public Service could be seen in the context of the current ra- from a clerk in the Public Service.

He said special benefits for the soldier — including the Citizen Force — were justified because the man who spent six months on the Border had to be seen in a different light to a clerk in the Public Service

He believed the Government would approve the plans to implement the proposed pay rises

This would make the SADF fully competitive in the manpower market, he said

FIXED ASSETS

FIG. 5.3

CHART FOR COMPARING THE INFLUENCE OF LEASING, SUBCONTRACTORS AND DEPRECIATION ON DIVISIONAL ROI

DIVISIONAL COST STRUCTURES (%)

Owned Plant	Hired Plant	Sub-Contractors	Materials	Site Overheads	Total
36	10	15	25	14	100
39	24	4	15	18	100
48	5	12	20	15	100
				17	100

Wiehahn on board

STAR 2/2/91

Professor Nic Wiehahn, the leading authority on labour and industrial relations in South Africa and former chairman of the Wiehahn Commission has been appointed to the board of directors of Goodyear South Africa.

His appointment was announced in Port Elizabeth by the company's chairman and managing director, Mr Walb Life.

FACULTY OF ENGINEERING

Corporation Medals

For the best student in each of the 2nd, 3rd and final years.

Second Year (Bronze Medal)

Miss G C Littlewort

Third Year (Silver Medal)

Miss N C Davidson

Fourth Year (Gold Medal)

P M Salmon
T J Cumming
D P Weeks
J H Rens
B F McCleland

Professor George Menzies Prize

Awarded on results of final examinations to the best male student in Land Surveying or Civil Engineering.

J H Rens

Sammy Sacks Memorial Prize

Awarded to the student with the best classwork in Engineering Drawing.

L Menegaldo

CHEMICAL

Investigation of closed shops

3/2/81 (165)

Labour Reporter

The National Manpower Commission [illegible] this year to make a recommendation to the Government on closed shops at companies and industrial relations training for trade union [illegible] managements.

This was [illegible] in Pretoria this week by the chairman of the commission, Dr Hennie Reynders.

Dr Reynders said the commission was preparing a report on the pros and cons of the closed shop principle and would possibly be making recommendations to the Government on this sensitive issue.

He also said some company managements and trade unions were inexperienced in conducting proper industrial relations training, and the commission had looked into this.

Sharing financing of training [illegible] was also [illegible] investigated.

Concern had been expressed by the private sector over a provision in the Draft Training Bill which would enable the Minister of Manpower [illegible] private industry.

Dr Reynders said he was most disappointed in the private sector's reaction to Government initiatives in black apprenticeship training as there had been only [illegible] registrations since March 1979.

It was still possible for unregistered trade unions to conduct industrial relations training, although they first had to register with the Department.

This would in turn place the unions under the scrutiny of department officials. (Pending draft legislation would assign this task to training advisers.)

The Manpower Commission will also review registration procedures for trade unions, Dr Reynders said.

Some unions had waited many months to be registered.

Dr Reynders referred to several key labour issues which arose last year:

- Government commitment to a free enterprise system.
- Government acceptance that black trade unions be accorded legal rights and other advantages.
- The registration of black apprentices throughout the country and not only in the "national states."
- The increase in the number of strikes and work stoppages.
- The increased interest shown by employers in employee training.

CHEMI

FACULTY OF ENGINEERING

Corporation Medals

For the best student in each
of the 2nd, 3rd and final years.

Second Year (Bronze Medal)

Miss G C Littlewort

Third Year (Silver Medal)

Miss N C Davidson

Fourth Year (Gold Medal)

P H Salmon
I J Cumming
D P Weeks
J H Rens
B F McCleland

Professor George Menzies Prize

Awarded on results of final
exami[illegible]

THE RISE AND DECLINE OF THE

It is no longer speedy, no longer cheap and no l

A recent judgment has sharply diminished the role of the industrial court — a development which has implications for workers and employers throughout the country as well as for the Wiehahn Commission's plans for a new labour system. Labour Reporter STEVEN FRIEDMAN charts the rise and decline of a labour reform.

ABOUT a dozen black workers sat in a Government office in Pretoria last week listening to a welter of legal argument which they and other laymen in the room little understood

When it was over, their lawyer gathered them together and boiled the argument down to a simple sentence the Government's new industrial court would not hear their case.

The implications of this decision went well beyond that room. Although seemingly of little consequence outside those four walls, it had direct implications for the country's entire labour force

The court was seen by the Wiehahn Commission and the Government's White Paper responding to the commission's first report as a cornerstone of the new labour system the report ushered in

But the court had decided it was not permitted to play that role

Disappointed lawyers and trade unionists immediately branded the judgment as an indication that official promises of reform were "coming unstuck"

To many, the court's decision was the story of the rise and fall of yet another reform Some speculated that it might eventually disappear altogether

That may be a little hasty But, considering the fanfare with which the court was first mooted, its decline has been remarkable.

The Wiehahn report contained a detailed plea for a special labour court

It argued that the procedure in the ordinary civil courts was too formal and cumbersome to resolve labour disputes

The ordinary courts, it pointed out, were overloaded with work and cases could take months — or longer — to reach them

Labour disputes required quick action, it added In addition, the ordinary courts were too expensive and were out of the financial reach of most workers.

There was, therefore, a need for an "uncomplicated, expeditious and very inexpensive" court with a special knowledge of labour

According to the commission, such a court would interpret labour law, hear allegations of "irregular and undesirable" labour practices, judge the legality of strikes, pickets, boycotts and the like

It would not be bound only by the letter of the law, but would be free to take into account extra-legal "sociological and anthropological" considerations and the principle of "equity" or natural justice.

The court would also develop fair employment gu.delines — seen as a substitute for foreign labour codes — through precedents it set in judgments

The court would also develop fair employment guidelines an administrative arm of the Department of Manpower Utilisation which had none of the powers of a court — but would also take on the new role of an industrial court.

From the start, the new court was seen by many as a double-edged sword.

On the one hand, the need for a speedy and cheap court to hear labour matters was regarded as an important improvement.

The advantages of a cheap and uncomplicated forum for labour disputes were obvious. Not only would it give workers a form of protection, but it would, perhaps, reduce the risk of strike action by resolving grievances speedily

On the other hand, however, there were fears that the court would become an important instrument of official control over labour.

If it was allowed to take non-legal considerations into account, there was a danger that it would use its power to enforce Government political goals rather than purely interpret the law, critics argued

In addition, its right to "make laws" by developing precedents was also seen as an indication that the court would be used to control labour relations.

Critics pointed out that, although the Supreme Court establishes precedents, it only interprets the law The new court, however, would be able to decide of its own accord what fair labour practices were

And most observers believed that the court's chief role would be to protect white, coloured and Indian workers who feared that the scrapping of job reservation would cost them their jobs

Government spokesmen stressed repeatedly that the end of job reservation would not mean the end of protection for "minority groups" These workers could still go to the court for protection — better protection than job reservation had offered, they said.

Critics and supporters of the court agreed, however, that it was a cornerstone of the new system

The Government's own White Paper said the new labour system envisaged by the commission was "largely dependent" on the establishment of the court.

The debate was beginning to warm up when legislation establishing the court was introduced It departed from the recommendations in key respects.

On a technical level, the Bill was described by even senior Government men as "a disaster". They claimed that the new law gave the court no power to subpoena evidence or fulfill several of the functions of a court of law.

In one important respect, the Bill limited the court's powers sharply. it laid down that it could only act as a court of law in issues involving those laws administered by the Department of Manpower Utilisation

Mr Martin Brassey, an advocate with a special interest in labour law, points out in the *Industrial Law Journal* that this prevents it from deciding on employment contracts, which are governed by the common law, not the department

The law also introduced a procedure for taking alleged "unfair labour practices" to the court which was to become intensely controversial later on

If workers alleged an unfair labour practice, they first had to take their case to an industrial council, the official bargaining bodies comprising employers and registered unionists.

Only if the council failed to settle the dispute could it go to the court

In an apparent attempt to provide relief before cases got to the court, the law allowed the Minister of Manpower Utilisation to order an employer to restore the "status quo" before the alleged unfair practice occurred

Any decrease in the court's intended powers seemed to be compensated for, however, by two measures which sharply increased its powers Firstly, the new law (passed in 1979) defined an "unfair labour practice" as "anything which is, in the opinion of the industrial court, an unfair labour practice"

Lawyers were quick to point out that the court was now able to rule — and make law — virtually as it liked and that its decisions could not be overruled by a higher court, except in very special circumstances

The complaint about the higher court's right to overrule decisions was fairly academic, however — the Bill did not provide for a right of appeal to the Supreme Court

This obviously re-doubled fears that the court was to be a means of control which could not be held in check by the ordinary courts

There was one other controversial aspect of the law — the court became part of the Department of Manpower Utilisation and its president a department employee.

This meant that the department could appear in court to be heard by one of its own officials His impartiality would — however unfairly — be suspect

The Bill, which soon became law, attracted severe criticism — from within the Government as well as outside it

As a result, the clauses establishing the court were amended again in 1980 and some of the technical shortcomings were removed

The new amendment also defined an "unfair labour practice" — thus reducing the court's powers to arbitrarily decide on these issues

The Appelate Division of the Supreme Court was also, in Mr Brassey's view, given limited powers to review decisions on "unfair labour practices"

Some saw the changes as a sign of Prof Wiehahn's waning status in the department — as he lost influence, so did his court, they argued

The definition of an "unfair labour practice" remained vague, however, and Mr Brassey argues that the court's discretion in this area is still so wide that "there is little prospect" of appeals

The Bill also limited the powers of the court in another way — one which, in the view of one lawyer, "takes away the court's whole rationale"

It excluded from the definition of unfair labour practice strikes, lock-outs and important types of victimisation.

This appeared to remove from the definition the three crucial issues affecting black workers "How many black worker disputes have not involved victimisation, strikes or lock-outs?" a labour lawyer exclaimed angrily.

It was, however, argued that this did not mean that the court could not rule on these issues — simply that they were not unfair labour practices

The court faced its first major test case in the middle of last year — and it came not from aggrieved white workers but from a black contract worker, Mr Stephen Maponya, who alleged he had been victimised for union activities.

His union, the Metal and Allied Workers Union, took his case to the court.

In the preliminary stages of the action, Mr Maponya, who was unemployed and subject to endorsement out at any moment under the pass laws, got anything but speedy redress

The metal industries' industrial council asked for a several extensions before it considered his case and it took well over a month before he finally appeared before it

The council had no power to do anything about his case even if it wished to — it could only decide whether a dispute still existed But Mr Maponya and the union had to go through this step before they could reach the court

At the same time, the Minister's office took several weeks before refusing to grant an order reinstating Mr Maponya until the case was decided

Officials explained that they couldn't take a quick decision because the law forced them to consider representations from all interested parties

It took Mr Maponya a long time to get uo the court — by which time the exercise was hardly cheap as lawyers had been working on his and the union's behalf for several weeks The case itself was also to take several weeks.

In the end, however, the case raised hopes about the court's future among unions and labour lawyers

In a judgment on points of law, the court ruled that unregistered unions had the right to approach it and also appeared to support the view of Mr Maponya's counsel that it was possible for a migrant worker to allege victimisation when his contract was not renewed

The case did not proceed after the judgment — the company settled, agreeing to recognise the union and pay it damages.

For unions and their lawyers, the court had reached its zenith It appeared that unions and their members would begin to use it extensively and lawyers hailed its "flexibility"

The excitement did not, however, percolate through to some in Government

Shortly after the case, Prof Wiehahn, then still president of the court though he had not presided at the Maponya case, appeared at a meeting to say the judgment didn't mean *all* unregistered unions could go to the court

He implied that the court hadn't set a precedent, but had simply ruled on a specific case

Some believe that the retreat from the court's planned role as a precedent-setting body began then

Matters came to a head after a strike at Raleigh Cycle in Springs

Dismissed Raleigh workers alleged they had been victims of a lock-out because their employer had allegedly promised to re-hire them after a work stoppage but had then refused

They also alleged that Raleigh's action was an "unfair labour practice"

They did not, however, take the matter to the industrial council. They gave the council a short time to consider the matter and, when it said it could not hear it immediately, went to the court for an urgent interdict

Counsel for the workers argued that they were entitled to bypass the council because they were jobless and needed quick redress, which the council could not provide.

In judgment, the court's president, Mr B J Parsons, and his deputy, Dr D B Ehlers, ruled that the court had no jurisdiction to hear the case.

They cited the law — which gave the court power to act as a court of law only in matters "arising out of the application of the provision" of a law administered by a department.

Counsel for the workers had argued that this simply meant that the court could decide on matters where these laws were applicable

The court found, however, that it could only act as a court where somebody could actually be seen to have applied the law As Dr Ehlers put it "In other words the provisions of the Act were applied by someone and there then arose some dispute or matter from such application"

Examples provided by Mr Parsons indicate that this refers chiefly to industrial council agreements, Government wage orders and the like in which workers, employers and the Government are seen to apply labour law

Strikes, lock-outs and victimisation would, then, certainly not fall within the court's powers — after all, workers who strike or employers who lock out or victimise their workers can hardly be said to be applying the law

The court thus appears to have decided that it can play no part in pronouncing on any of these issues This radically impairs its ability to channel conflicts out of the factory floor and into the courts

That did not rule out the court's powers to decide on unfair labour practices

In the Raleigh case, however, the court decided the workers had not gone through the proper channels by first going to the industrial council

Mr Parsons rejected argument that the workers had no form of speedy redress by pointing to their right to approach the Minister br an order

The Act had laid down procedures to be followed and these had to be followel, Dr Ehlers ruled, however urgent workers felt the matter to be

The Raleigh workers are now taking the industrial council route in an attempt to take the matter up in the court again

But the exclusion of work stoppages and some forms of victimisation from the definition of an "unfair practice" makes the future of such cases dim

The court can, of course, still hear "unfair labour practice" cases not involving stoppages or victimisation But it can only hear them after workers have been to their industrial council

Lawyers point out that the "cumbersome" Supreme Court can hear urgent applications, the "speedy" industrial court cannot, at least on these issues

The reaction from lawyers and unionists has been angry

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RAND DAILY MAIL, Thursday, February 1

INDUSTRIAL COURT

onger in the centre of events

Some take issue with the judgment Others say it merely confirms that the law establishing the court has destroyed the commission's original intentions

"As soon as workers win a victimisation case in the court, the Government takes victimisation out of the court As soon as black workers start using a court it appears that the court can't hear their case," a lawyer complains

"Avenues for channelling conflict through the law are dwindling If workers can't rely on the court, they may take other action "

He adds that a situation may arise in which the Supreme Court cannot hear cases because it believes the industrial court should hear them, but the industrial court won't hear them

Some critics see the court's decline in political terms — inevitably, for as long as the court remains part of the department, it will be seen as an arm of the department, rather than as a court

They argue that the authorities did not expect the court to be used by black workers to achieve collective aims When the Maponya case led to recognition for a black union, they decided the time had come to stop the rot

Rather than take the risk that the forum would become a means of leverage for black workers, the authorities decided to prune its powers, they claim

This may simply be a gut reaction to events.

But whatever the truth, the fact remains that the commission's plans for the court have gone seriously awry — whether one believes it was planned as a means of control or as a "cheap and speedy" workers' court

Obviously, the court cannot diminish its role in respect of some workers and not in respect of others As Gertrude Stein might have said, a judgment is a judgment is a judgment

As its ability to protect workers decreases, so does its capacity to control labour relations

The court can still hear "unfair labour practices" cases, but workers and unions may decide not to follow the cumbersome procedures laid down

There are certainly areas left in which the court could play a role But it is no longer speedy, no longer cheap and no longer in the centre of events

For that reason, some believe the court may wither away and become little more than the old industrial tribunal — essentially an administrative body

Those who feared the court's control may breathe a sigh of relief But most would still agree that the country needs a special labour court

Lawyers back the idea of giving workers redress through an informal and cheap court as well as the the idea of legislation to govern "unfair labour practices" But they believe the court's entire structure must be changed

"Its procedures must be streamlined It must be removed from the Department of Manpower Utilisation Its decisions must be subject to appeal And, most importantly, it must not be allowed to make law," says one.

He and others see the court interpreting labour guidelines which are clearly spelled out in law — and they suggest the American guidelines as an example These protect workers from victimisation, interference in union affairs, an employer's refusal to bargain and so on

That, they argue, is the only course for a reform which, many believe, is dying on its feet

FM 22/2/81

INDUSTRIAL COURT

No jurisdiction

165

The effects of a ruling handed down by the Industrial Court last week are already being felt in labour circles. This week lawyers decided to withdraw two cases which were due to come before the court within the next two months.

The court held on Friday that it did not have the jurisdiction to hear a case in which dismissed workers at Raleigh Cycle asked for an interim interdict restraining the company from failing to re-employ them under the same conditions they had been subject to before they were dismissed. The court ruled that workers could only approach it on the issue of an unfair labour practice if they had approached either an industrial council or a conciliation board.

Labour observers predicted that the ruling would act as a deterrent for workers who were considering seeking relief through the labour court. Pending cases against Bullbrand and Putco have been withdrawn — the former case will now be taken directly to the Supreme Court, while the Putco case is to go before a Conciliation Board. Both cases involve prohibitions of unfair labour practices and requests for relief.

Labour observers predict that the cases will now be protracted and that in the Supreme Court case the applicants will be faced with large legal fees. They point out that the Industrial Court was established precisely to prevent these circumstances arising.

"We are back at square one," says a labour observer. 'Black workers have as little chance of winning redress now as they did before Wiehahn's new labour dispensation was heralded in. If the court cannot provide institutional relief for them what means do they have?

'The only answer for them is to resort to other means — such as strike action.'

2 MORTALITY IN SOUTH AFRICA 1929 - 1974

PART 1 1929-1970

It has become increasingly apparent during recent years that advances in medical knowledge and expertise do not necessarily give rise to concomitant improvements in the health of the community. Despite the problems of using mortality data as a means of assessing a community's health status, it is a measurement which has stood the test of time and, to date, is usually the only method of evaluating the health populations, albeit indirectly, since it is frequently the only data which is available. The standard analyses of routinely collected mortality data undoubtedly provide an important indication of the unhealthy problems in the community and, if their limitations are appreciated, they provide an invaluable input into the overall health profile of the community highlighting the predominant problems and identifying major

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C. 21/2/81 (165)

Union fears of fresh govt attack

By STEVEN FRIEDMAN
Labour Reporter

FEARS of a new government attack on some unregistered trade unions have been revived after a speech yesterday by the Minister of Manpower Utilization, Mr Fanie Botha

Mr Botha said the government's industrial court could be used against some unions He was speaking at the congress of the Yster-en-Staal Unie, a major white trade union, in Pretoria

He added that the government would seek closer consultation with employers and established unions in an effort to deal with his claim that order in labour relations was being "subverted" by "certain elements both within and without the trade union movement"

The speech represented the sharpest government attack on sections of the labour movement for some time and observers believe it could reflect government impatience with black worker militancy and the growth of an unregistered (largely black) union movement

The Minister of Defence, General Magnus Malan, claimed this week that labour unrest had been planned by the banned African National Congress which was using "front organizations" for this purpose

"The dissemination of misleading and incorrect information to workers, misrepresentations, the pursuing of political activities and so on are but a few examples of practices that take place today in certain trade union circles and which must be combatted," he said

Observers believe this could open the way for action in the courts, particularly against those unions which favour community involvement

Mr Botha said the country's labour system also rested on the principle of order, which was being "subverted" by some in the union movement.

"Responsible trade unions and employers must consider, together with the government, ways and means to maintain order, including labour peace"

There had been discussion on this issue in the past and in the future there would be "still closer contact" on this issue, because "it cannot be allowed that the trade union movement is used to create disorder and unrest which has nothing to do with conditions of service and work conditions"

At the same time, however, Mr Botha appealed to workers and unions not to expect the government to act against individual worker groups and unions "on unfair grounds"

He said this would be morally unjustifiable and would create a favourable climate for revolution

Mr Botha hinted that the government was seeking the help of the established union movement and hoped that it would act as a buffer against those unions the government considers undesirable

He warned that it was important for the "established and responsible" unions which had a "common interest and goal" not to try to destroy each other through "unfair practices"

If they did this, they would create a climate of "distrust" which "can only have a favourable effect on those unions who place first neither the interests of the country or those of the workers"

Some observers believe the minister may have been referring to recruitment battles between the Mineworkers' Union and other white unions

being made to measure the positive aspects of health, these have tended not to be applicable for routine use at a national level, leaving health planners with the alternative but to make use of measurements which concentrate on the unhealthy aspects of the community. Mortality data is one such measurement.

Information about the mortality experience of the community is routinely collected in most countries, the reliability and detail of this data showing considerable variation depending on a number of factors, not the least of which are the resources available for its collection. There are further problems associated with reliability (See Pt. II).

on deaths in South Africa were published
pstics.[3] Intermittent reports covered
the period 1938 to 1962, since which time a regular series has been published.[5] The figures for whites cover the entire period 1921-1970,

* For details of sources of deaths before 1926, see reference 3, volume for 1938, page XVIII.

RDM 21/2/80 (165)

Govt attack on some unions feared

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The Minister of Defence General Magnus Malan claimed this week that labour unrest had been planned by the banned African National Congress which was using front organisations for this purpose

Mr Botha reminded union members that the Government's industrial court had the power to determine whether a labour practice was 'unfair'

He said it should be realised that 'unfair labour practices' were not restricted to relations between employers and workers, but also related to union activities

"The dissemination of misleading and incorrect information to workers misrepresentations, the pursuing of political activities and so on are but a few examples of practices that take place today, in certain trade union circles and which must be combated"

Observers believe this could open the way for action, particularly against those unions who allow communist involvement in the court

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At the same time, however, Mr Botha appealed to workers and unions not to expect the Government to act against individual worker groups and unions "on unfair grounds"

He said this would be morally unjustifiable and would create a favourable climate for revolution

Mr Botha hinted strongly that the Government was seeking the help of the establishment and hoped that it would act as a buffer against those unions the Government considers undesirable

He warned that it was important for the "established and responsible" unions which had a "common interest and goal" not to try to destroy each other through "unfair practices"

He said however that competition between trade unions was "healthy"

⊙ Mr Botha also revealed that 82 black workers had been registered as apprentices last year White apprenticeships had risen by about 500 those among coloureds by about 550 and among Asians by 224 Just over 10 500 apprenticeships had been registered, about 1 400 more than last year

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CHEMICAL

Labour court judged itself out of existence — lawyers

23/2/81 STAR

"An act of ritual suicide" is how one lawyer describes a judgment handed down recently in South Africa's Industrial Court.

He adds that the court's powers now seem so restricted that it cannot play the central role in labour affairs intended for it by its architects.

DREW FORREST examines the judgment, and its import.

165

The new Industrial Court — hailed after its establishment in 1979 as a breakthrough for South African labour relations — has chosen to retire from public life

This was the conclusion of a wide range of labour lawyers and experts after studying the crucial judgment given by the court in Pretoria a fortnight ago

Proposed by the Wiehahn commission as a specialist labour court offering a cheap and easy civil recourse to aggrieved workers and employers, the court has long frustrated the hopes pinned on it

The Industrial Conciliation Amendment Act, which gave birth to the court denied it the power to hear disputes arising out of contracts of employment It also denied the right to apeal to the Supreme Court

In the 18 months since its inception it has heard only two cases in its new capacity as a court of law The second of these, that of Moses Nkadimeng and others v Raleigh Cycles (SA) Ltd heard on February 12 appears to have curtailed its powers still further

The applicants in the case were workers fired after a strike at Raleigh Cycles

Alleging that the company had committed an illegal "lock out" and an unfair labour practice by breaching an undertaking to rehire them, they felt that they had a claim to reinstatement

Under the Industrial Conciliation Act disputes involving unfair labour practices must pass through the official dispute settlement procedure either industrial council or conciliation board before reaching the Industrial Court

In this case the industrial council could not meet within a time period acceptable to the workers and they turned to the Industrial Court

The workers asked not for a final settlement of the dispute but for interim relief — an urgent court order restraining the company from continuing the alleged lock out and the unfair labour practice

This was not to be — and the reasons advanced by the courts president, Mr B J Parsons for rejecting the application are potentially vast in their implications

Under the Industrial Conciliation Act, the court is empowered to hear all disputes arising out of the application of the provisions of the laws administered by the Department of Manpower Utilisation "

Mr Martin Brassey, counsel for the Raleigh workers, argues any dispute covered by industrial law — rather than say, the law of contract — falls under the Industrial Court

However Mr Parsons ruled that the court has jurisdiction only in disputes which follow the direct application of industrial law

Lawyers are baffled as they can envisage a situation where a labour dispute arises out of the "misapplication" of the law, but not out of its application "

In practice a worker who goes on strike or an employer who victimises an employee cannot be said to be "applying the law" Such actions spark the vast mass of civil cases in the labour field and the court has ruled that it cannot hear them

Other features of the judgment have caused grave concern not least the ruling that the court cannot hear an application grounded in an alleged criminal offence

The Industrial Court has lawyers say judged itself out of existence '

Without ready access to an inexpensive and effective labour court workers are more likely to resort to the simplest form of pressure — the strike

[illegible]
[illegible] which raise
[illegible] enterprises whose effect on
[illegible] is hazardous etc. It recommends methods
for the systematic evaluation of these effects.(22)

Star 26/2/81

165

Labour law setback

THE Industrial Court, created by the Wiehahn Commission 18 months ago as a mechanism to hear workers' grievances began life under a cloud — a suspicion that its restricted powers and cumbersome procedures might disguise yet another means of controlling workers. The court's handling of its first case, however, was unexpected. It demonstrated independence and decisiveness.

But the optimism was premature. The court has heard only one other case since then, the one on February 12 involving the workers of Raleigh Cycles (SA) Ltd. Its handling of this case was very different. What made the difference was how the wording of a sentence in the Industrial Conciliation Act was interpreted.

Essentially the court's president, Mr B J Parsons, had to choose between ruling in terms of the "spirit" of the law or its "letter." He chose the latter, and in doing so according to some legal opinion, set such severe restrictions on what cases the court is now empowered to hear that it has virtually judged itself out of existence.

This will be a blow to those who have worked to have labour grievances resolved through legitimate means — an untimely setback for moderation in an area where moderation is most needed. The irony is that it was not caused by any decree, order or interference by the authorities but simply by the way a few words in a document were interpreted.

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22 'Environmental, Health and Human Ecological Considerations in Economic Development Projects', World Bank, May, 1974.

if the information available is not plentiful or of [illegible] quality it may be the highest level of analysis warranted

5 where some epidemiological information is available the results of the above exercise can be compared with a more formal analysis using an epidemiological approach. The most cost-effective methods for different objectives (programmes) are evaluated and compared with each other by their contribution to a small number of health indicators, such as life expectancy, morbidity or nutritional status

6 Cost benefit studies are not generally a suitable method for assessing health programmes except where they can be made to yield unambiguous answers, e.g where financial returns to the spending agency more than balance the outlay and the other benefits are positive.

Methods of incorporating health economics into the administrative framework to achieve these ends would include

a) training planners in the principles of health economics
b) employing economists in the Department of Health and the Provinces (as in U.K. initial difficulties of communication may be a necessary first step to the sharing of perspectives without which no benefits can be derived).
c) constitution of a health planning body, which deals with the health implications of policy in all sectors (as in e.g. the Sri Lanka Planning Unit(23)). This body would first research and model the health system - that is, all the factors which contribute to health and their order of significance. The evaluation of projects falling under the health and other ministries could then be done. Unless some such basic model is referred to it is impossible to ensure

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23. This concept is outlined for Nutrition Policy in L. Joy and P. Payne 'Food and Nutrition Planning', FAO, Rome, 1975.

Factory inspectors

300 Mr H E J RENSBURG asked the Minister of Manpower Utilization

(1) How many posts for factory inspectors (a) are there in the Republic at present and (b) were filled in 1980

(2) how many (a) White, (b) Coloured (c) Indian and (d) Black factory inspectors (i) were employed in 1980 and (ii) are being trained at present,

(3) how many (a) White (b) Coloured (c) Indian and (d) Black workers were employed in each category of industry in South Africa in 1980,

(4) whether there is a shortage of factory inspectors at present, if so, what steps are being taken to alleviate the shortage,

(5) what are the salary scales for factory inspectors in respect of (a) Whites, (b) Coloureds, (c) Indians and (d) Blacks?

The MINISTER OF MANPOWER UTILIZATION

(1) (a) 69

(b) 35

(2)

	(a)	(b)	(c)	(d)
(i)	35	nil	nil	nil
(ii)	35	nil	nil	nil

(3) This information is unfortunately not available as yet but will be furnished to the hon member as soon as it becomes available

(4) Yes The vacancies for factory inspectors are advertised continuously The Commission for Administration is presently finalizing its investigation into the organizational structure and career prospects of factory inspectors A better dispensation for these officials could possibly alleviate the shortage

(5) (a) The most recent salary scales and the measures for the application thereof are contained in Public Service Commission Circular No 1 of 1980 dated 1 April 1980, copies of which were last year made available to the leaders of the opposition parties on a confidential basis

(b), (c) and (d) No posts for the other population groups have been created as yet and no salary scales have therefore been determined

Raleigh row drags on despite agreement

Labour Reporter

Dismissed employees of the Raleigh Bicycle plant in Springs have accused management of not acting in good faith in efforts to reach a settlement

More than 700 workers were dismissed in January after a dispute in the previous November Raleigh's management claimed it had not dismissed any workers but had merely failed to renew their contracts

The union which represents the majority of the dismissed workers, the Engineering and Allied Workers' Union (EAWU), took Raleigh to the industrial court in February

But, in a surprise decision, the president of the court, Mr B J Parsons, ruled that the case was not within the court's jurisdiction

In a further bid to settle the dispute the Transvaal Industrial Council for the Engineering Industry met a week later to discuss the unfair labour practices alleged by the EAWU

The union complained that Raleigh had already taken on new employees and had no intention of taking on any of the dismissed workers

At the council meeting Raleigh and EAWU reached agreement The central points were

- The settlement would finalise the dispute with the workers who were dismissed in November
- The dismissed workers could re-apply for jobs at the plant
- Raleigh would undertake to re-employ those workers when vacancies occurred
- Neither party would discuss the settlement with the Press

Mr Calvin Nkabinde, EAWU secretary said the dismissed workers had since called on his union to make further representations to Raleigh

They claimed that Raleigh had taken on only about two dozen workers since the settlement was reached in February

Of the 700 dismissed workers, about 350 were EAWU members and none of these had been taken on

Mr Nkabinde also said that although some EAWU members were still in the plant there was little union activity going on

The shop stewards committee and the workers committee were inactive

Mr Nkabinde also said the dismissed workers feared that other firms were reluctant to hire them once it was known that they were from Raleigh

EAWU had written to Raleigh recently, detailing the workers' complaints but had not yet received a reply, Mr Nkabinde said

- A Raleigh spokesman approached by The Star recently to inquire about the hiring of dismissed workers would not comment because of the council agreement

TABLE 31

Type of work	Hours a week	Cash wage (weekly, R)	Payment in kind (daily)
Unknown	?	1,50	?
	?	2,31	?
	?	3,46	?
	?	3,46	?

In addition to meals, many women get other items of payment in kind - working clothes, food, materials for [illegible] and other 'presents' at Christmas. Except for [illegible]thes, these payments are included - with the [illegible] of the women - in estimates of 'total family [illegible]ve.

[illegible] cash wages of the 43 women whose working hours [illegible]are below.

out of their minds

In short, for whatever reasons, it is clear that Cape Town only partially learnt the lessons of 'Black October' 1918

Union man loses victimisation case

A Boksburg Regional Court magistrate has found a multinational firm not guilty of victimising a worker

Executives of Van den Bergh and Jurgens, part of the Unilever group, were accused of having victimised Mr Paul Ntuli, a member of the Food Beverage Workers' Union who was dismissed in December, 1979

The firm yesterday pleaded not guilty to alternative charges under victimisation clauses in the Wage and Industrial Conciliation Acts

Mr Ntuli claimed he was dismissed for his activities as a shop steward But his employers said Mr Ntuli was dismissed only after he received several verbal warnings and one written warning

DEFENCE

Van den Bergh and Jurgens's defence was that Mr Ntuli had left his post on occasion, was guilty of absenteeism and bad time-keeping and had refused to take instructions from his superiors

Mr Ntuli was first employed in June 1979 as a trainee supervisor and in August had joined the Food Beverage Workers' Union

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19 Information given to author in interviews with Rev E E Mahabane (Rondebosch, 19 January 1978) and Mrs L Mawu (Langa,15 July,1978)

20 CAPE TIMES 14 October,1918

21 See, for instance, CAPE TIMES, 9,10 and 14 October 1918

22. Quoted in Report of the Influenza Epidemic Commission,U G 15-'19 p 31

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Factories' Act to be amended

Amendments to legislation which would increase safety in industry were being drafted and would be promulgated as soon as possible, the Minister of Manpower Utilisation, Mr Fanie Botha, said in Pretoria

Opening a symposium on the safety of textiles, Mr Botha said the Factories' Act was primarily concerned with the protection of the safety, health and welfare of industrial workers

It had been amended and updated several times to keep abreast of industrial developments

In its White Paper on the Wiehahn Commission report on the Factories' Act, the Government had once again declared intention to amend the Act to extend the protection it afforded to workers

Workclothes should not endanger safe work, Mr Botha added Precautions against fire and the use of protective clothing and equipment under certain conditions were mandatory in terms of the Factories Act In this field, the textile industry could play a major role

It was imperative that the search for more efficient materials with which to equip and clothe workers in different conditions of employment should never stop

"To this end I urge the textile industry to consider the production of more specialised safety products through the use of nonflammable and other specially designed textiles" — Sapa

Dairyman in court over dismissals

A director of a dairy was charged in the Johannesburg Magistrate's Court today with illegally dismissing three employees for participating in the formation of a liaison or works committee

Mr J D Nel of Nel's Dairy, Rustenburg Road, Victory Park, pleaded not guilty to contravening the Manpower Utilisation Act

The State alleged that Mr Nel unlawfully dismissed Mr Isaac Kanya, Mr Albanes Sefanyetso and Mr Jairus Mosine in March last year.

The three alleged victimisation for their part in the election of a liaison committee

In a surprising development, the magistrate, Mr C A Alcock, said the Chief Magistrate of Johannesburg had received a letter in which "the writer objected to Mr Nel being allowed to sit alongside his legal representative."

(Proceeding)

Dairy owner in court

A DIRECTOR of a dairy was charged in the Johannesburg Magistrate's Court yesterday with illegally dismissing three employees for participating in the formation of a liaison or work committee

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~~156~~ ~~157~~ ~~154~~ 165 SOWETAN 10/4/81

COST OF PEPTIC ULCERATION IN R.S.A. - JULY 1976 TO JUNE 1977

- Medical care R18,9 million (37,2% of total cost)

Consultations (private practitioners)	R1,5 m
Diagnosis (tests, barium meal, gastroscopy, etc.)	R2,1 m
Drugs	R4,5 m
Provincial hospitals	R8,9 m (47%)
Private hospitals (bed rate, theatre, dispensary)	R1,3 m
Surgery (surgeon, anaesthetist, assistant)	R0,6m

Whites 54,6% of cost

Outpatients R0,3 m (3%)

In-patients R8,6 m (97%)

-Transvaal 50% of cost
-Number of patients 15 270
-Surgery· 22,4%
-= f (hospital days x cost/day)

Surgical	42 563	12,4
Nonsurgical	127 152	[illegible]
Total	169 720	(11,1

- Lost productivity (absenteeism) R31,9 million (62,8% of total cost)

- Total cost R50,8 million

COST OF PEPTIC ULCERATION IN THE R S A - JULY 1976 TO JUNE 1977

- Lost productivity (absenteeism) R31,9 million (62,8% of total cost)
  - Method of calculation Man-years lost x value man-year
  - Morbidity R[illegible] m ([illegible]%)
    - Temporary [illegible] R[illegible] m ([illegible])
      - Period of [illegible] working days)
      - [illegible] working [illegible]
      - [illegible] 15 working [illegible]
    - Gastric cripples R11,9 m ([illegible])
      - 0,[illegible] of all cases
      - Whites 83% of cost
  - Mortality [illegible] m ([illegible]%)
    - White 212 Bla[illegible]
    - Whites [illegible]% of c

R m	White %	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	644
8,0	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	1 697

Working days l[illegible] 4 0 8 0 (Whites· 70,9%)

- Medical care R18 9 million (37,[illegible]

- Total cost R50,8 million

Industrial courts lack credibility, survey finds

STAR 19/5/81

165

By Tony Davis
Labour Reporter

Labour leaders feel the industrial court process is a "waste of time," according to a recent survey

The survey, conducted by the business magazine People and Profits, found the industrial court process left labour relations "in a vacuum"

Mr Arthur Grobbelaar, the general secretary of the Trade Union Council of South Africa (Tucsa), said the court was weak because the original proposals made by the Wiehahn Commission had been either watered down or ignored

He was critical of the legal profession — itself critical of the court — because lawyers had probeen responsible for weakening the court's powers.

"Its major problem is lack of credibility on all sides Nobody has any faith in it now It must be completely restructured and, unless it can be brought back to what was formulated by the Wiehahn Commission, it will never regain its credibility," Mr Grobbelaar said

Mr Tommy Neethling, general secretary of the Amalgamated Engineering Union, joined Mr Grobbelaar in criticising the industrial court for having no "teeth" — no provisions to enforce its decisions

He also said the court should have the power to reinstate employees immediately a decision had been reached

Mr Neethling questioned the need for legal assessors at court cases, saying if the intention was to obtain legal advice for the case "we might as well have stayed where we were, dealing with the civil courts"

The editor of the Industrial Law Journal, Mr Howard Cheatle, was critical of the recent Draft Bill amendments to the Industrial Conciliation Act which did little to ensure the industrial court would become effective

Professor J Piron of Unisa, said a labour court should be instituted in place of the industrial court

The labour court would resolve legal disputes or disputes of rights — and not disputes of interest

"I know industrial courts function well in many other countries, but I think our South African legal tradition is opposed to a court with mixed functions," Professor Piron said

Manpower report: women are pleased

Most leading Johannesburg businesswomen have reacted enthusiastically to recommendations concerning women included in a special report of the National Manpower Commission.

The report advocates more use of trained women and suggests the Department of Finance give "serious consideration" to revising the present tax structure

It says more women should be employed part-time and employers should provide facilities such as creches and day-care centres while allowing women to work flexitime.

"It will cost employers less to provide creches and flexitime than to recruit staff overseas," said Mrs Elisabeth Bradley, a director of Wesco.

She said she would not be satisfied until married women were separately taxed.

"These are outstanding recommendations We've come a long way in the past few years," said Professor Sandra van der Merwe of the University of the Witwatersrand's Graduate School of Business

Mrs Velia Kirkpatrick, chairman of the Womanpower 2 000 Committee whose brief it is to get women back into the labour force, said, "These are all things we've recommended to the Government"

Mrs Valerie Mickleburgh, marketing manager for Total SA, said the more tax concessions made to employers to train their workers, "the more they will do so"

Mrs Adele van der Spuy, women's rights campaigner, said "the tax recommendation should not be taken up at finance level only This is a Cabinet issue"

She said she expected an announcement on the tax issue this year

Businessmen welcome commission's report

Star 5/6/81 (165)

Reaction by some of Johannesburg's top businessmen to a Manpower Commission report released this week which recommends, among other things, that employers "reconsider their attitudes towards women" makes a soul wonder what all the fuss has been about

By SUE GARBETT

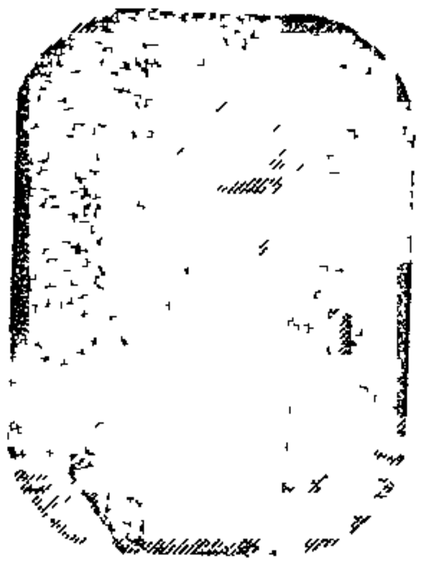
Mavbe I've only been talking to the enlightened ones, but none of them turned a hair when the commission's recommendations were read out to them

No splutterings of amazement, no chauvinistic snortings as they heard the commission's recommendations that,

- more women be employed on a part time basis,
- employers provide facilities for women like creches and day care centres,
- women be allowed to work flexitime,
- the Department of Finance give "serious consideration" to revising and adapting the present tax structure

Most of the top men I spoke to said they were already implementing many of the recommendations, and they would be happy to consider the rest if approached by their staff to do so

Mr P J Badenhorst, joint managing director of the United Building Society which employs over 4 000 staff many of them women said "I m very strongly in favour of giving equal opportunities, and of equal pay for equal work"



VELIA KIRKPATRICK — Government making "our job" a little easier

He said his company had a problem with flexitime because it had to be open to the public in certain hours, "but we do have some form of shift work"

On the subject of creches he said he was sympathetic to the idea "but it has not been feasible or necessary up till now"

Mr Badenhorst said he felt the present tax structure was definitely a disincentive to a certain category of working woman

Mr John Napier, financial director of Otis which has about 1 000 employees, said his company had had flexitime for 10 years now

"We also have part-time workers and some employees will work a morning and a couple of days, that sort of thing

"The market being what it is, when we've had a good worker who leaves to have a baby, we like to get her back and therefore, go out of our way to make this possible," said Mr Napier

He pointed out that equal opportunity was company policy "So by and large we've already implemented the commission's recommendations," he said

Dr Shlomo Peer, group managing director of Anglo American Insurance Holdings, said that the recommendations were very good

"Until a year ago, we were against part-time workers because many women who worked fulltime wanted to change But we feel now, in view of the shortage of skills, we have to allow this"

Dr Peer pointed out that his company had used flexitime for a number of years as it was "an important perk to staff"

We have never had demands for a creche or day care centre If we did, it would be a difficult decision," he said

DR SHLOMO PEER — Always a positive attitude towards working women

As far as attitudes towards working women were concerned, "ours has been a positive one We have never had a male chauvinist attitude We employ hundreds of women, even on the marketing side which a lot of companies don't do

We are a company of equal opportunity," said Dr Peer, and indeed it is his company that has been retraining free of charge, older women who want to re-enter the work force

Mrs Velia Kirkpatrick, who chairs the Womanpower 2000 Committee, whose brief it is to get women back into the labour force, said that one of its biggest problems had been traditional attitudes towards working women

'If the Government recognises this, as it seems to have done, then it makes our job a little easier," she commented

She said that lack of flexitime, creches, day care centres and part-time jobs were all demotivating factors for women who wanted to work

"If employers want us in the labour force, they will all have to reconsider these factors," she stressed

"How encouraged we are that when the Government makes a report like this, women feature so strongly and that the Department of Manpower Utilisation realises working women need this attention" said Mrs Kirkpatrick

Mrs Valerie Mickleburgh, marketing manager of Total SA, said that while there were problems in changing the present tax structure, "I have no doubt that the tax system is militating against productivity"

Mrs Elisabeth Bradley, a director of Wesco and top businesswoman, said she was most impressed with the recommendations "I hope they can push them through," she said

Judging from the businessmen I spoke to the climate is right and the soil fertile for improved working conditions for women

If you don't feel this is the case in your company just show this report to the boss. Once he's read the Government approach, he'll soon realise he's out of step — won't he?

Whites get all the top jobs

Drastic skilled shortages in most fields but blacks still not being trained

A 45 percent shortfall in engineers, one doctor for every 20 000 people in the homelands, 19 percent of posts for physiotherapists unfilled, a need for twice as many graduates in forestry — the catalogue of shortages is endless.

And yet according to the National Manpower Commission's new report on High Level Manpower (HLM), no less than 70 percent of South Africa's managerial, professional semi-professional and technical personnel are recruited from its white population

If the 4 million workers in agriculture and domestic service are included, Africans, coloureds and Indians — representing 82 percent of the population — contribute less than 20 percent of the country's HLM

Repeatedly underscored in the report is the crucial link between HLM and economic progress

"The rapid reconstruction of West Germany after World War Two emphasised the relative importance of trained manpower vis-a-vis other production factors such as capital and raw materials," it states

"The importance of HLM was also confirmed when large-scale capital investment in underdeveloped countries in Africa and Asia did not lead to the expected economic development because of a lack of such manpower"

And although the HLM component of South Africa's workforce rose from 8 9 percent of total to 12,1 percent between 1965 and 1979 (7 3 percent if agricultural workers and the unemployed are included), the report stresses that the figure for the United States is close to 30 percent

The heavy reliance South Africa has placed on whites — and especially white males — for its executive, professional and technical personnel cannot continue, the report insists

"It is clear that the highest priority in increasing the contribution of the black groups to the country's HLM, since the contribution that can be made by whites is apparently already realised

"If the contribution by the other groups cannot be increased it is expected that the country will not be able to realise its potential development and growth"

The report shows that an "upward movement" of Africans, coloureds and Indians is already under way — a trend which 'needs merely to be accelerated"

Among Africans there is an annual growth rate of 6 percent in clerical workers, 9 percent in sales workers and 6 7 percent in foreman and supervisers Projections prepared by the economic planning branch of the office of the Prime Minister indicate that black professional and clerical groups will double in size between 1977 and 1987

Predictions for the ten-year period include

- A sharp decline in the percentage of whites in the professions — from 62 to 54 percent of total By 1987, Africans will make up 33 percent of this HLM category
- A sharp increase in the number of African artisans and apprentices — from 25 000 to 70 000 — so that by 1987, 17 percent of employees in this category will be African At the same time, the white component will fall by 13 percent from 70 to 57 percent of total
- A 7,2 percent drop in the white share of the clerical job market

Despite these changes in the racial composition of South Africa s HLM, the report predicts little or no change in the traditional pattern of white managers and black production workers

In 1977, no less than 96,8 percent of management personnel was white, while 0,5 percent was African a decade later, the first figure will have fallen, and the second figure will have risen by a bare one percent

At the same time, the number of African production workers will have climbed from 1 177 000 to 1 566 000 — an increase from 77,6 to 80 3 percent of total

'Blacks needed to fill room at the top'

A greater share of top level management must be taken by black, coloured and Indian people if the country is to progress, says a new report analysed by DREW FORREST.

A 45 percent shortfall in engineers . . one doctor for every 20 000 people in the homelands 19 percent of posts for physiotherapists unfilled . a need for twice as many graduates in forestry — the catalogue of shortages is endless .

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The heavy reliance South Africa has placed on whites — and especially white males — for its executive, professional and technical personnel cannot continue, the report emphasises

PRIORITY

"It is clear that the highest priority is increasing the contribution of the non-white groups to the country's HLM, since the contribution that can be made by whites is apparently already realised"

The report shows that an upward movement of black coloured and Indian people is already under way — a trend which "needs merely to be accelerated"

Among blacks, there is an annual growth rate of six percent in clerical workers, nine percent in sales workers and 6,7 percent in foremen and supervisors. Projections prepared by the Economic Planning Branch of the Office of the Prime Minister indicate that "non-white professional and clerical groups will double in size between 1977 and 1987

PREDICTIONS

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THE EFFECTIVE USE OF ALL NATIVE METHODS OF MANAGING MALNUTRITION described in this paper is based on the management of childhood malnutrition and the view that it is an expression of family and social disorganisation. This approach rather than simply or mainly a medical problem, is based on experience and investigations in the Kalkbaarbeek district, which is part of a rural homeland and a city hospital in the area of the country.

East London where patients come in about equal numbers from town and country.

A list of these is appended and will be discussed at relevant places

In the Kalkbaarbeek area during the course of more than 5 000 interviews with the "guardians" of malnourished children, as well as many conversations with

	MN	LUA	LN
Fathers working as migrants in towns	85%	82%	76%
Fathers deserted	70%	25%	18%
Fathers contributing	14%	52%	71%
Average monthly amount from contributing fathers	R4-50	R1-00	R3-00

(b) Severe and almost universal poverty in all groups with most units having less than R3/person/month, which was the price of peanut butter at the time of the survey, in the area at the time of the survey. In this case, the LN group fare clearly better off than the other two groups.

Living in overcrowded rented accommodation, each of those contributing a large proportion of their and those fathers shared resources of neighbours and money.

Undernourished children were also nearly the primary dependants of their fathers, but typically lived in nuclear families on their fathers for cash and their mothers for subsistence farming, supported by other relatives.

Only one in ten malnourished children lived in a fatherless family and in nearly all of these the father was unemployed, 10% were usually deserted by their fathers, and sometimes

	MN	LUA	LN
Illegitimacy rate	27%	30%	26%
Children in mothers parental care	44%	92%	90%
In mothers care but not supported by father	55%	33%	22%
Unsuitable guardians (eg senility, defect, abuse)	25%	0	2%
Mother working because father not supporting	23%	4%	5%
Abandoned by mother dead	15% (9/4)	0	12 (aban.)

.../2.

.../3

Fanie denies using police on unions

Saawu being victimised — Opposition

Political Staff

THE Minister of Manpower, Mr Fanie Botha, yesterday denied that his department had called in the police to act against unregistered trade unions.

"We do not ask the police to operate in the field of labour. We do not do it," Mr Botha said

But he stressed that the police had a duty to maintain law and order and added that not everyone in trade unions were "little angels"

"The police are free to maintain law and order," he said

However, he had never asked the Minister of Police to take action against strikers and the police did not interfere in the operations of his department.

Mr Botha said this after both Dr Alex Boraine (PFP, Pinelands) and Mr Horace van Rensburg (PFP, Bryanston) urged Mr Botha to ask the Minister of Police to stop acting against the South African Allied Workers Union in the East London

No solution

Dr Boraine said there appeared to be victimisation against Saawu such as through the detention of two its leader under the Terrorism Act although they worked in a factory which recognised the union.

"This sort of action affects the [illegible] of manpower direct-[illegible] Dr Boraine said

Nothing would be solved by [illegible] unionists and he urged [illegible] Botha to speak to the Minister of Police about these [illegible]

Mr Van Rensburg said the dis[illegible]tion of a document which [illegible] been drawn up by the Security Police in East London against [illegible] should be condemned

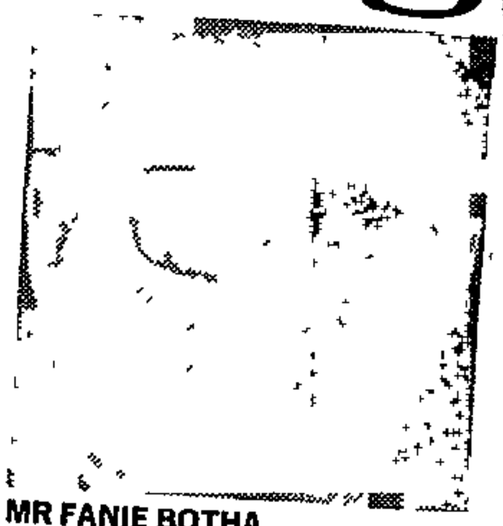
Subversion

[illegible] urged Mr Botha to protest the Minister of Police about distribution of the document [illegible] "He does not do so and [illegible] by weakly he will be al[illegible] other people to interfere [illegible] to subvert the policies of his [illegible]ment"

[illegible] Mr Van Rensburg asked Botha whether he had seen document, the Minister said [illegible] police do not stick their [illegible] into my department's [illegible]

[illegible] Van Rensburg said this [illegible] action was bedevilling [illegible] relations and creating [illegible]

[illegible] is being created be[illegible] the unwarranted intere[illegible] of the police," Mr Van [illegible] said



MR FANIE BOTHA
We don't do it

Don't push registration, urges PFP

OPPOSITION spokesmen on labour yesterday urged the Government to resist any pressures to make the registration of trade unions compulsory

Political Staff

The PFP spokesman, Dr Alex Boraine (MP for Pinelands) said he had been relieved that the Government had accepted a recommendation from the Wiehahn Commission to keep voluntary registration

"I hope very much the Government will not move to a position where it forces all unions to register," Dr Boraine said during the budget debate on the Department of Manpower Vote

The New Republic Party spokesman on Labour, Mr Ron Miller, MP for Durban North, said "We believe the present system of voluntary registration is a good one

"We believe it will be counterproductive to force unregistered unions to register

"We think it is sound to allow voluntary registration provided they comply with the statutory provisions in relation to membership lists and accounts," Mr Miller said

Dr Boraine said he was, however, disappointed at the possibility of union registration being made compulsory

"The registration of organisations by the State is a controlling rather than a facilitating function"

Compulsory registration of unions would destroy notions of self-government and voluntarism which had long been part of South Africa's labour relations philosophy

Dr Boraine said he saw suggestions that the Government was moving in the direction of compulsory registration

If it was to be enforced "it must be linked to the enforcement of the unions collective bargaining rights

"If representativity is part of the registration requirement it should result in automatic membership of industrial councils where they exist and employers should be compelled to recognise unions where there is clear evidence they are representative," Dr Boraine said

The ideal situation was for registration to remain voluntary

The Government must resist the temptation to use the "big stick" because this would undo much of the good which has been done in labour reform and would heighten the suspicion and distrust already present and retard progress towards greater industrial peace, said Dr Boraine

New deal for labour is working — Botha

THE number of black workers who had shown their willingness to co-operate in the new labour dispensation was phenomenal, the Minister of Manpower, Mr Fanie Botha said yesterday

Speaking during the debate on his vote in Committee, Mr Botha said there were positive indications that the new dispensation would succeed

When the new dispensation was first mooted, there were those who claimed reforms were cosmetic, outdated and aimed at continued suppression of black workers

There were those who claimed that changes in other fields would have to follow if changes in the manpower field were to succeed, and those who feared reforms could be used as a lever to force other unwanted reforms

In spite of all this, it was becoming evident that the new policy was beginning to succeed

Mr Botha said the Government was determined not to be stopped in its efforts to find and implement a dispensation which would satisfy every worker in South Africa

Major factor

For such a dispensation to succeed it would have to be brought about in an atmosphere of industrial peace and this had been one of the major factors influencing reform

The autonomy of trade unions and their right to determine membership had to be retained, while workers had to be given the opportunity of forming common interest groups

Other essentials were that trade unions, whether registered or unregistered, would have to have constitutions available for scrutiny, that their membership lists be similarly open, that their funds should be audited and that their head offices should be within the borders of the Republic

In this way it would be possible to bring about the necessary reforms, Mr Botha said — Sapa

New labour law lauded

THE new labour legislation left few impediments to the upliftment of all of South Africa's workers, Mr Ron Miller (NRP Durban North) said yesterday

Speaking during the Manpower Vote in Committee, Mr Miller said the private sector and the Government could now enter into a partnership in prosperity in which each had equal participation and equal responsibility Sapa

Black labour officers inspectors officials in other capacities

287 Dr A L BORAINE asked the Minister of Manpower

(1) How many Blacks have been appointed to the establishment of his Department as (a) labour officers, (b) inspectors and (c) officials in other capacities

(2) whether any Blacks in training are to take up such appointments in his Department if so how many in each category?

The MINISTER OF MANPOWER

(1) (a) Nil

(b) Nil

(c)

Senior Clerk	6
Senior Interpreter Clerk	1
Interpreter Clerk Grade I	6
Interpreter Clerk Grade II	2
Assistant Clerk	12
Clerk Grade I	4
Clerk Grade II	21
Messengers	26
Cleaners	9
National Manpower Commission Members	4
Total	91

Black labour. officials/inspectors

292 Dr A L BORAINE asked the Minister of Manpower

(a) How many (i) officials and (ii) inspectors with special responsibilities for matters affecting Black labour are appointed by his Department and (b) in terms of what legislation are they appointed?

The MINISTER OF MANPOWER

(a) (i) 70—of which 18 posts are vacant

(ii) 130—of which 27 posts are vacant

(b) Black Labour Relations Regulation Act 1953
Shops and Offices Act, 1964
Apprenticeship Act 1944
Unemployment Insurance Act 1966
Training of Artisans Act 1951
In Service Training Act, 1979
Industrial Conciliation Act 1956
Wage Act, 1957
Factories Machinery and Building Work Act 1941

Note With the exception of the Black Labour Relations Regulation Act, 1953 Official and inspectors of the Department deal with matters affecting all workers and not specifically Black workers

(2) No

Regional Black labour committees

288 Dr A L BORAINE asked the Minister of Manpower

(1) (a) How many regional Black labour committees have been established and (b) in which areas are they located

(2) (a) How many Black labour officers have been appointed and (b) where are they employed?

The MINISTER OF MANPOWER

(1) (a) 17

(b) Benoni Bloemfontein, Cape Town Durban East London Germiston, Johannesburg Klerksdorp Krugersdorp Ladysmith Newcastle Pietermaritzburg Port Elizabeth Pretoria Vereeniging Welkom and Witbank

(2) (a) 21

(b) Bloemfontein Cape Town Durban East London George Johannesburg Kimberley Ladysmith Newcastle Port Elizabeth Pretoria Upington Welkom and Witbank

160.

Manpower dept must overcome black suspicion

Star 11/9/81. (165)

The Department of Manpower's impending takeover of black employment bureau is causing problems

The Bureaus, administered up to now by the Department of Co-operation and Development as part of the influx control system, have been regarded with suspicion by the black population

But when Mr Fanie Botha's department takes over the "guidance and placement centres on November 1 their functions are to be as far removed as possible from influx control even though the centres will be run by agents from the administration boards

Mr A E Steehuisen, director of manpower for the West Rand Administration Board, said that guidance/placement and influx control would be sharply divided

Where possible the new centres would be housed in separate buildings All black people would be welcome to visit them for aptitude testing and job placement The centres would also liaise with potential employers, Mr Steenhuisen said

NEW SYSTEM

Asked how the old Bantu Aid Centres would fit into the new system, Mr Steenhuisen said these were closer to the influx control function and had no connection with the guidance and placement centres.

"They are to help people put their documents in order," he said.

The idea of the aid centres was to keep people out of court and reduce pass law convictions People whose documents were not in order were usually referred to aid centres by the police.

"There is a big demand for their services and they are run by experienced officials," Mr Steenhuisen said.

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(7.3)

(7.4)

LCL $= \bar{\bar{x}} - 3\bar{r}/(d_2\sqrt{n})$ $= \bar{\bar{x}} -$

$= 2,01 - 3(0,16)/(2,326.\sqrt{5})$ $= 2,01$

$= 2,10$

$= 1,92$

TABLE 7.3 FACTORS GIVING UNBIASED ESTIMATE OF σ FROM

Number of observations in subgroup n	A_2	*Factor for estimating* σ *from* $\bar{r}$ *(multiply* $\bar{r}$ *by* $1/d_2$*)* d_2	*Number of observations in subgroup* n	A_2
2	1,880	1 128	22	0,167
3	1,023	1 693	23	0,162
4	0,729	2 059	24	0,157
5	0,577	2 326	25	0,153
6	0,483	2 534	30	
7	0,419	2 704	35	
8	0,373	2 847	40	
9	0,337	2 970	45	
10	0,308	3 078	50	
11	0,285	3 173	55	
12	0,266	3 258	60	
13	0,249	3 336	65	
14	0,235	3 407	70	
15	0,223	3 472	75	
16	0,212	3 532	80	
17	0,203	3 588	85	
18	0,194	3 640	90	
19	0,187	3 689	95	
20	0,180	3 735	100	
21	0,173	3 778		

† Adapted by permission from E L Grant, "Statistical Quality Control," 3d ed., McGraw-Hill Book Company New York, 1964

The values of $\bar{\bar{x}}$, the UCL and the LCL and the sample means are plotted in Figure 7.2

Black labour: officials/inspectors

166 Dr A L BORAINE asked the Minister of Co-operation and Development

(a) How many (i) officials and (ii) inspectors employed by his Department are entrusted with special responsibilities for matters affecting Black labour and (b) in terms of what legislation are they appointed?

The MINISTER OF CO-OPERATION AND DEVELOPMENT

(a) (i) 149

(ii) 12

(b) sections 1 (iii), 2, 17 and 21 of Act 67 of 1964
Section 1 (vi) of Act 25 of 1945
Section 4 of Act 59 of 1972

Western Cape: Blacks employed by Manpower/statutory bodies (165)

Hans 7 Q C (413)

402 Mr P A MYBURGH asked the Minister of Manpower 16/9/81

(a) How many Blacks are employed in the Western Cape by (i) his Department and (ii) statutory bodies for which he is responsible and (b) what is the estimated average figure in respect of each such category for the preceding period of 10 years?

The MINISTER OF MANPOWER

(a) (i) One

(ii) Nil

(b) The estimated average figure in respect of Blacks employed by the Department is two This part of the question, to the extent that it relates to statutory bodies, falls away

Manpower 2000 careers exhibitions (165)

Hans 3 Q C 430

*15 Mr S A PITMAN asked the Minister of Manpower

18/9/81

(1) Whether the Manpower 2000 careers exhibitions were organized in conjunction with provincial departments, if so, what provincial departments were involved in each province,

(2) whether any other (a) State departments and (b) organizations were involved in this project, if so, what State departments and organizations,

(3) (a) how many careers exhibitions have been held, (b) where were they held and (c) what was the total cost of these exhibitions,

(4) whether such exhibitions were open to all sections of the community, of not, (a) which sections of the community were excluded and (b) why?

†The MINISTER OF CO-OPERATION AND DEVELOPMENT (for the Minister of Manpower)

(1) The intitiative for the Manpower 2000 careers exhibitions came from the Committee of Education Heads The exhibitions were organized by the four Provincial Education Departments and the Department of National Education, in conjunction with the Executive Committee of Manpower 2000 and the Department of Manpower

(2) A speicial co-ordinating committee of the Committee of Education Heads invited (a) State Departments such as

Posts and Telecommunications, Defence, and the Commission for Administration as well as the South African Railways and Harbours and (b) organizations from the private sector to participate in co-operation with each of the organising Provincial Education Departments The organizing was done and co-ordinated at provincial level

(3) (a) In total 27 careers exhibitions will have been held by the end of October 1981

(b) Bloemfontein, Newcastle, Durban, Port Elizabeth, Cape Town, Kimberley, East London, Pietermaritzburg, Pinetown, Alberton, Boksburg, Benoni, Springs, Johannesburg, Roodepoort, Middelburg (Tvl) Nelspruit, Bethal, Potchefstroom, Vanderbijlpark, Klerksdorp Lichtenburg, Pietersburg, Nylstroom, Tzaneen, Pretoria and Rustenburg

(c) The Executive Committee of Manpower 2000 voted R132 254 towards costs Inputs in the form of time, manpower and money by the Provincial Education Departments and the other participants were substantial, but exact costs cannot be determined

(4) The organizing Departments, in conjunction with the particiapting bodies, geared the exhibitions to pupils falling under their control but where practical allowed scholars and careers guidance teachers from other sections of the community admission

(a) and (b) Fall away

Black Labour Relations Regulation Act

Hansard QC 481-2 2/4/9/81

289 Dr A L BORAINE asked the Minister of Manpower

How many (a) White and (b) Black designated agents have been appointed in terms of section 20 of the Black Labour Relations Regulation Act, No 48 of 1953?

The MINISTER OF MANPOWER

(a) Two

(b) None

Hans8 Disputes/work stoppages/strikes (165)
SC 482-484 2 4/9/81

290 Dr A L DORAINE asked the Minister of Manpower

(a) How many (i) disputes, (ii) work stoppages and (iii) strikes were dealt with in terms of the Black Labour Relations Regulation Act in 1979 and 1980, respectively, by (aa) Black labour officers, (bb) regional Black labour committees, (cc) the Central Black Labour Board and (dd) the Wage Board and (b) in what industries, trades or occupations did (i) work stoppages and (ii) strikes occur?

The MINISTER OF MANPOWER

(a) (i)

	1979	1980
(aa)	72	161
(bb)	1	2
(cc)	1	2
(dd)	1	2

Note In addition to the figures given in (a)(i)(aa) there was a substantial unknown number of disputes which were dealt with by the Black Labour Officers in respect of each year in the normal course of their duties and which were settled on the spot, but which did not result in either work stoppages or strikes

(a) (ii) (aa) 34 during 1979 and 54 during 1980

(bb) to (dd) None

(a) (iii) (aa) 37 during 1979 and 105 during 1980

(bb) to (dd) None

(b) (i) Automobile Manufacturing Industry, Building Industry, Textile Industry, Meat Trade, Iron, Steel, Engineering and Metallurgical Industry, Civil Engineering

Industry, Local Government Undertaking Fruit and Vegetable Canning Industry, Commercial Distributive Trade, Cement Products and Ceramics Industry, Food Industry, Road Passenger Transportation Trade, Mining Industry, Rubber and Rubber Products Industry, Dairy Industry, Sweet Manufacturing Industry, Canvas and Ropeworking Industry, Clothing Industry, Electricity Supply, Forestry Industry Heavy Clay and Allied Products Industry, Metal Containers and Allied Products Industry, Motor Industry, Printing and Newspaper Industry, Private Hotel and Boarding-House Trade, Stevedoring Trade and Watch Patrol Services

(ii) Automobile Manufacturing Industry Building Industry, Textile Industry, Meat Trade, Iron, Steel, Engineering and Metallurgical Industry Civil Engineering Industry, Local Government Undertaking Fruit and Vegetable Canning Industry, Commercial Distributive Trade, Cement Products and Ceramics Industry, Food Industry, Road Passenger Transportation Trade, Mining Industry, Rubber and Rubber Products Industry, Baking and/or Confectionary Industry, Dairy Industry, Sweet Manufacturing Industry, Furniture Manufacturing Industry, Chemical and Allied Products Industry, Cleaning Services, Clothing Industry, Laundry, Dry Cleaning and Dyeing Trade Heavy Clay and Allied Products Industry, Leather Industry, Metal Containers and Allied Products Industry, Mineral Water and Liquor Manufacturing Industry Motor Industry, Printing and Newspaper Industry, Private Hotel and Boarding-House Trade, Pulp and Paper Manufacturing Industry, Stevedoring Trade, Tobacco Manufacturing Industry, Warehousing, Watch Patrol Services and Woodworking Industry

Unregistered unions blamed for strikes

CT 6/10/81 (165)

Political Staff

HOUSE OF ASSEMBLY. — Unregistered trade unions have been blamed by the Department of Manpower for the sharp increase in illegal strikes last year

In its annual report for 1980, tabled in Parliament yesterday, the department said "Unregistered trade unions were in practically all instances involved in these illegal strikes

"There was unfortunately a sharp increase in the number as well as the extent, intensity and duration of illegal strikes and work stoppages during the year, which were concentrated markedly in the larger industrial centres and which were responsible for an undesirable loss of man-hours and production

"There was also a substantial increase in the number of black workers involved in these strikes," the department said

There were indications that "the trade union movement was in certain instances being used to promote political objectives"

"The rising cost of living and the resultant effect on material living conditions, as well as dissatisfaction with existing levels of renumeration, were however, contributory causes of illegal strikes

"In certain instances an atmosphere of discontent was created where workers refused to continue their work but did not make specific demands, or where work was stopped as a first step and the employer was then confronted with grievances and demands"

The report said there were instances of objectives that were not always of a purely economic nature, of poor or defective channels of communication between employers and employees and especially, of the generation in certain instances of unrealistic expectations, coupled with excessive and even irresponsible wage demands that were above the employers' ability

"This trend should, nevertheless, gradually become normalized, especially where the full statutory machinery is used in an orderly fashion to settle disputes and where only a legal strike, as a last resort after all other attempts to find a solution by way of negotiation have failed and where there is no other way out is the final step in the process of negotiation between employers and employees," the department said

It said there were 134 strikes involving 42 981 black workers in 1980 compared to 51 strikes involving 10 515 black workers in the previous year

There were also 70 work stoppages involving 13 305 black workers compared to 15 disputes involved 1 979 black people in the previous year

Umzinto puts up its black workers' wages after Govt ultimatum

21/10/81

165

Mercury Reporter

UMZINTO North Town Board at a special meeting yesterday, decided to upgrade the wages of its black workers following the ultimatum by the Department of Manpower to put up their wages within 48 hours or face prosecution

Yesterday, neither Town Clerk Mr Enoch John nor chairman Mr Goolam Bellim would comment after the meeting, but it was learned from a reliable source that the board had decided to grant a blanket increase of R20 a month to all black labourers

The minimum starting salary of black labourers was also upgraded from R76 to R100 a month with effect from November 1

The board's more than 70 black labour force downed tools this week in protest against what they described 'starvation wages', and demanded a minimum increase of R30 a month

The latest increase, said to cost the board more than R17 000 a year, was expected to dig further into the board's already depleted coffers, a board member said last night

Recently former chairman and member Mr Sarjoo Bagratee reported an estimated R50 000 shortfall in the board's estimates unless the rateable income were boosted

Manpower probe reports progress

STAR 3/11/81 (165)

By Tony Davis
Labour Reporter

The National Manpower Commission (NMC) was hoping to complete its investigations into a number of labour issues and see them tabled during the 1983 Parliamentary session

This was said last night at a Pretoria Press briefing by the chairman of the NMC, Dr Hennie Reynders

According to recommendations made in the Government's White Paper in response to the fifth Wiehahn Commission report, the NMC was looking at registration procedures and the issue of union representation.

"We will be investigating these over the next few months and findings will be distributed to interested parties for comments," Dr Reynders said.

TRAINING

The issue of registration has been a sore point with unions affiliated to the Federation of South African Trade Unions (Fosatu) which have been critical of what they call racial registration — being registered as "black" unions despite a non-racial constitution

Dr Reynders said the NMC was also required to look at industrial relations training. There were inexperienced new unions as well as inexperienced managements

He said the NMC had to see to what extent the Government should be involved in this training Commission members felt the Government should not be directly involved but rather try to promote and give guidance for such training

The NMC was also investigating the possibility of a minimum national wage as well as training schemes for the unemployed

The latter was an important issue because of the large number of considerations involved, such as the purpose of such training, the categories of unemployed, type of training facilities, role of the private sector and placement of the trained workers, Dr Reynders said

UNREST

The NMC had sent out questionnaires to employers and training bodies on the issue of in-service training and had received a good response

Asked about the recent increase in labour unrest, Dr Reynders said the NMC was concerned with what could be done to eliminate the cause of the disputes He acknowledged that proposed pension legislation had in part been responsible for unrest in Natal and the Eastern Cape

Minister spells out board's role

STAR 6/11/84

165

Own Correspondent

Mr Fanie Botha Minister of Manpower has made it clear that the newly formed National Training Board falls under his direct control

Speaking in Pretoria yesterday the Minister stressed that although the board was to have executive powers, it would only be able to use them at his discretion

The primary role of the board, he said, would be to advise him on matters of policy arising from the new Manpower Training Act, and matters relating to training

The board's advisory functions were very wide, said Mr Botha and it need not feel inhibited in making recommendations

He pointed out the board's goal as being "the development to the highest possible level, of the knowledge, skills and talent, of the total work force bearing in mind the differences in individual aptitudes"

While not wanting to dictate to the board, Mr Botha suggested the following guidelines for the board to give it's attention

- The co ordination and rationalisation of existing training programmes, showing a significant rise in productivity
- The use of mass media in particular radio and television, for training purposes
- The determination of priorities as far as training was concerned
- Liaison and co-operation with the independent national states
- The promotion of training through labour relations

Mr Botha praised the board for its initiative, saying seldom before in South Africa's labour history was so much expected from a small group in such a short time

The board's role was not simply to promote training opportunities for every worker, but also to prove as a source of inspiration to him

STAR 10/11/81

(165)

Reef workers try official channel

By Drew Forrest

The Metal and Allied Workers' Union has taken the first step on the road to industrial court action in its dispute with Litemaster Products in Wadeville.

Mawu and the 22 Litemaster employees dismissed on October 23 have referred the dispute to the metal industries industrial council If it cannot be resolved at this level, the council will refer it to the Industrial Court.

It is understood that the union and the workers have made wide-ranging allegations of unfair labour practices at Litemaster, arising out of the dismissals and the company's code of employment practice.

'WARNINGS'

When the dispute first erupted the union claimed workers had been dismissed "in doubtful circumstances which suggested victimisation" after refusing a management offer of a 10c hourly wage increase They were demanding a 50c rise and a R2 minimum wage.

According to management the workers were fired after repeated warnings and "for very specific reasons."

Observers consider it important that, despite the volatile labour climate on the East Rand, workers have been prepared to take the dispute through the official channels

Black unions have attacked both the official disputes procedures and the Industrial Court as being too cumbersome to deal adequately with the grievances of black workers

One-way rule on mines is unfair — court

STAR 3/12/81

165

By Drew Forrest

An eight-year battle involving the South African Technical Officials Association, two rival mining unions and the Chamber of Mines ended yesterday with a judgment in the Industrial Court

The court found that the so-called "one-way traffic" rule — allowing members to leave SATOA to join the rival Underground Officials and Mine Surface Officials' Associations, but not the reverse — was unfair labour practice

The chamber has enforced "one-way traffic" on its mines since SATOA's formation and recognition in 1973

The practice has restricted the union's membership, its officials say, and threatened its financial stability

At an Industrial Court hearing in September, the chamber argued that it was bound by an accord with the older associations which had insisted on the restriction as a "quid pro quo" for the recognition of SATOA

Before 1973 the Underground Officials and Mine Surface Officials Associations had exclusively enjoyed a closed-shop agreement with the chamber

But SATOA said the "one-way traffic" rule applied only to those who were members of the older associations before 1973 — and not those recruited afterwards

This was accepted by the court which determined that from January 1982

- All mine officials except those recruited before 1973 should have freedom to move between the three associations,
- Mine officials should have the right to pay dues by stop-order to the association of their choice

The SATOA general secretary, Mr Harry Mallet-Veale, welcomed the judgment yesterday He claimed that the chamber had backed the "one-way traffic" rule because it weakened SATOA — "the most militant officials' association"

The chamber said in a statement that the dispute was "essentially between the officials' associations themselves,' adding that it had tried to bring the bodies together, but failed

Public service in 'complete chaos'

CAPE TIMES 3/12/81

165

Own Correspondent

JOHANNESBURG — One of South Africa's top civil servants has warned on his retirement that the manpower situation in the public service has deteriorated from 'semi-chaos' to 'complete chaos' over the past few years.

Ending his career on a controversial note, Mr Jaap Cilliers, Director-General of Manpower, has also:

- Hit out at critics of the public service and defended it as still the best in Africa.
- Criticized attempts to play down the role of the department in implementing the government's new labour dispensation.
- Said the dispensation was going through an understandable period of growth pains.

Mr Cilliers has retired after 43 years in the civil service. He rose to prominence during the past six years as first Secretary for Labour and later Director-General of Manpower, presiding over the introduction of the government's new labour dispensation.

Successor

His successor is Dr P J van der Merwe, a prominent former academic who has been drawn increasingly into administering the new labour dispensation after serving on the Wiehahn and Riekert commissions.

In an interview yesterday, Mr Cilliers said the crisis in the civil service applied not only to the quantity but also to the quality of people attracted to it.

He warned that the "old public servants" who had come from the Depression years had either retired or were on the verge of retiring.

Their background of patriotism, loyalty and dedication is probably not common any more in the times in which we live.

They had grown up in hard times and security was an important factor in their lives. But he warned: "Security of employment is no longer the monopoly of the public service and can be obtained in other spheres of employment."

Mr Cilliers said public servants were held responsible for slow decision-making, red tape and moving like tortoises — but in spite of the present shortcomings, no country in Africa could be credited with a better public service.

Mr Cilliers said it was the duty of civil servants to keep low-profiles and their function was to administer and not to govern.

But in a move which appeared to reflect tensions within the official labour establishment surrounding the role of the Wiehahn commission he said: "I regret to say that I read in the press that the laws of the department were rewritten over the past four years by outside people.

"I ask myself what I and my successor are supposed to have been doing during that period. It is one thing to recommend and another to motivate and implement," he said, and spoke of the "tremendous task" performed by senior officials in implementing the new dispensation.

Time factor

Mr Cilliers did not want to detract from the work done by the Wiehahn and Riekert commissions — but the new developments had been part of an evolutionary process which would have taken place in any case to a great or lesser extent.

"This is indicated by the fact that some of the legislation introduced over the past four years has emanated from the department's experience itself — as the time factor obviously did not permit us to wait for some of the findings of the one commission."

Commenting on the future of the new dispensation, he said black workers who had been excluded from the official system for 40 years would take some time to realize the value of operating within it.

"Current problems are growth pains which one must expect, and I for one

Reforms in labour proposed

Cape Times 9/12/81

Own Correspondent

JOHANNESBURG — A working paper on union registration and recognition by the official National Manpower Commission (NMC) contains criticisms of major aspects of the country's official labour relations system and key proposals for labour law reform.

The document which has come into the possession of the Rand Daily Mail quotes many of the criticisms of the system made by employers and trade unions and contains options for reform, some of which if implemented would meet many of the objections of critics of the official system.

The NMC emphasizes that the document does not necessarily reflect its views but some see it as a precursor to proposals for key reforms of the system.

Key demands

It suggests, among other points, that aspects of the system could fall foul of the spirit, although not the letter, of labour conventions drawn up by the International Labour Organization.

The paper is also sympathetic to direct recognition of unions by employers at company level — one of the key demands of black unions.

It discusses the idea of legislation to help unions achieve this, thus reducing strikes on the issue, and of speeding up official strike procedures which have been criticized as too cumbersome and bureaucratic.

The document is being circulated to interested parties by the NMC, which is asking employer associations, unions and other parties to comment on controversial labour relations issues.

Investigation

Earlier this year, the government instructed the NMC to investigate the controversial registration system and other key aspects of the official system.

A covering letter accompanying the document stresses that the views expressed in it and options which it spells out are not necessarily proposals by the NMC, but are summaries of the views of organizations consulted by it.

This was emphasized yesterday by the NMC's chairman, Dr Hennie Reynders. "We have not yet taken a stand on these issues. The views expressed in the document are simply those we have gathered from other parties," he said.

However, it is seen as significant that the document stresses the need for reform and that all but one of the options advocate change.

'Unacceptable'

Since the government opened the official system to blacks, critics have said it is too bureaucratic and that registration imposes unacceptable controls on unions. They say it is not suited to the needs of black workers.

The paper contains a wide-ranging series of options for reform, although it stresses that none are necessarily endorsed by the NMC.

All of these provide for some form of control over union political affiliations, constitutions and finances, but suggest key reform.

These include barring race registration, making registration automatic or basing it on union representativeness, removing some official discretion in registration, allowing unregistered unions access to official disputes machinery.

STAR 9/12/81

Crucial Industrial Court case

By Drew Forest

The dispute at Litemaster Products in Wadeville where 22 black workers were dismissed last month has been referred to the Industrial Court.

Labour sources say the case could have far-reaching implications for South African industry.

The applicants, the Metal and Allied Workers' Union and the 22 dismissed Litemaster workers recently referred the dispute to the metal industries industrial council. Settlement was not reached and the matter was passed on to court yesterday.

The applicants have made wide-ranging allegations of unfair labour practices at the firm. These included:

- Dismissal of the workers during wage talks to thwart the negotiating process.
- The refusal to negotiate with a union which was representative and with which the company had previously agreed to negotiate.
- The imposition of a code of employment practice which deprived workers of common law rights.

It was also argued that the company failed to comply with its employment code in dismissing the workers.

The company has argued that the workers were fired after repeated warnings and for very specific reasons.

If the case reaches the Industrial Court, labour sources say it could become a crucial test of whether employers are bound by their own industrial relation procedures.

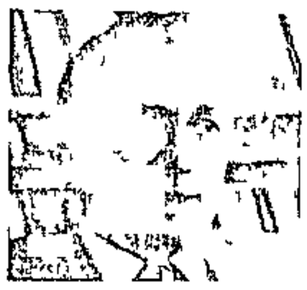
It may also establish as an unfair labour practice any unilateral change in employment conditions which prejudices existing worker rights.

Sources say it may decide whether widely held notions of unfair dismissal fall within the South African definition of "unfair labour practice".

PIET VAN DER MERWE

F.M. 18/12/81

Labour perspectives



The *FM* spoke to Dr Piet van der Merwe, who at the beginning of this month took over the key post of Director General of Manpower

***FM* There are fears that the increasing number of recognition agreements being signed between companies and emerging black unions will lead to a labour relations system which competes with the industrial council system Could you please comment?**

Van der Merwe In SA we have become used to industry-level bargaining, but we should not forget that plant, or enterprise-level bargaining is the most common form of bargaining in the world In countries such as the US, Canada, Japan, most socialist nations of Europe, as well as the emerging African states, enterprise-level or plant-level bargaining is the most common form of bargaining Even in West European countries where industry-level bargaining used to be very much in vogue, enterprise-level bargaining is increasing

Therefore I think one must not look at it as the industrial council system versus enterprise-level negotiation One must try to marry the two I think particularly in situations where you have emergent trade unions with little experience of negotiating, it is the natural thing to go for enterprise-level bargaining It bears a much closer relationship to the world of experience of the worker and is a better known area to him Industry-level bargaining is an abstract concept to the worker

I think this is a natural development which should be allowed to run its course Perhaps at a later stage it will on its own move to a higher plain of industry-level bargaining

There has been much criticism of the regulations dealing with trade union registration Some industrial relations specialists argue that there are not enough inducements to emerging unions to register. What are your feelings on this issue?

I think the whole question of registration is very much over-emphasised In terms of the most recent amendments to the labour legislation, registration remains voluntary and is therefore no longer the crucial issue it has been made out to be What has become much more important than registration is really whether a union, registered or unregistered complies with obligations imposed on it in the new Labour Relations Act The new legislation in effect provides for the existence of unregistered unions and imposes on them certain obligations which they have to meet Providing they meet these they can function and can also enter into enterprise or plant-level bargaining with employers on terms they reach agreement on

We know there are criticisms and problems concerning the registration process The National Manpower Commission is investigating the whole registration procedure and it has issued a preliminary document for comment by all parties In the light of that there may no doubt be adjustments

What is your reaction to complaints that the large-scale detention of unionists is eroding the important reforms which have been made in labour?

Detentions do not take place in terms of labour legislation, they take place in terms of laws outside the purview of the Department of Manpower That these detentions do have an effect on trade union activities and labour relations one cannot deny But of course, unless one knows what the reasons for the detentions are one cannot really evaluate whether they are justified or not One must presume that they are justified, but one cannot really judge on the merits of them unless one knows the full facts, which one normally does not But inevitably they do effect relations between employers and employees and they do cause tensions between the department and the trade unions involved

What is your response to complaints that the Industrial Court has not lived up to expectations?

There has been quite a lot of criticism levelled at the Industrial Court, some of it stemming from a misunderstanding of what the court is really supposed to do I think one must regard the court as a new institution which must still develop One of the main criticisms has been that the court is not as easily accessable as people thought it would be But one does have to take into account that it is a court in the proper sense of the word and that certain procedures have to be followed to get access to it

The whole functioning of the court and ways and means of access to it are also being investigated by the National Manpower Commission in conjunction with the court itself We hope that in the light of these investigations, most of the criticism which has arisen can be removed in future

What do you regard as your main priorities?

The main priorities facing the Department of Manpower lie in the field of training and productivity Larger numbers of people have to be trained — and trained in the right direction We also have to make sure that the trained labour pool that is available is utilised to the best advantage

In the area of social security the department will of course continue to lay down certain minimum standards which are necessary for the protection of workers In the field of industrial relations the department will provide a broad framework However, industrial relations is essentially something in which the employer and employee parties, rather than the department, are involved Therefore, as I see it, the main thrust of the department will be in the direction of training and the effective utilisation of the available stock of trained people

What do you believe are the most important qualities needed by people involved in industrial relations?

One must be honest, sincere and sympathetic in one's dealings with either the employer or employee parties One must be objective and deeply impartial In other words, one cannot have any preconceived ideas about what needs to be done One has to be knowledgeable, not only about industrial relations issues, but also about all those other issues which either directly or indirectly have a bearing on industrial relations In other words, one must look at industrial relations problems not only in the context of the work environment, but also in the context of the social and political environment in which industrial relations has to function It is a difficult area to work in and courage is needed

ARGUS 28/12/81

Workers refuse to take part in inquiry

165

Labour Reporter

THE recent wave of detentions of trade unionists has led a major progressive trade union, the General Workers' Union, to refuse to participate in an investigation being conducted by the National Manpower Commission

In an open letter to the commission, the GWU's general secretary, Mr David Lewis, said the union had intended to submit detailed representations concerning the registration recognition and representativeness of trade unions

The union's executive committee had decided, however, that to proceed with its submissions would be 'a charade in view of the recent spate of arbitrary actions against sections of the union movement

SEARCHES

'Over the past two months, numerous trade unionists in Johannesburg, Durban and East London have been detained and union offices in Cape Town and East London have been searched,' the letter said

This kind of activity made a mockery of 'any attempts to reform and democratise the labour policies of the country Unionists and workers did not know from one day to the next whether another unionist was likely to be detained or another office raided

UNDERMINING

The GWU called on the National Manpower Commission to state 'unequivocally and publicly' that arbitrary action by the Security Police was undermining attempts to promote reformist labour policies, and to take steps to ensure that the Govern-

(165) Star 30/12/81

Avalanche of statute

By Drew Forrest

The past year has proved one of the busiest in decades for the Department of Manpower

The long and complex process of change set in motion by the Wiehahn Commission culminated in an avalanche of statute, draft law and White Paper responses to commission reports

In line with the State's rationalisation policy no fewer than eight separate statutes were repealed and consolidated into new law Changes or proposed changes, touched almost every aspect of the labour field

Many of the changes have streamlined and updated protective legislation, and were generally well received

Benefits payable to injured workmen were improved in terms of an amendment to the Workmen's Compensation Act, and the incomes ceiling above which workers were excluded from its ambit was raised from R9 600 to R12 000 a year

An amendment to the Wage Act abolished sex discrimination in the Wage Board's minimum wage fixings, which protect tens of thousands of unorganised workers not covered by industrial agreements

The Government's bantustan policy marred what was otherwise an important reform — the extension of unemployment insurance to black coal and gold miners.

Migrant workers and commuters from the independent homelands were excluded from the amendment, leaving more than 100 000 miners from Transkei and Venda, which have no UIF without cover.

A later amendment to the Unemployment Insurance Act sought to cushion Ciskei residents from the loss of South African UIF rights, by preserving benefits for three years after the homeland's independence

Also ploted through Parliament were two Bills aimed at rationalising the labour market and alleviating South Africa's skilled manpower shortage

The Guidance and Placement Act provided for the establishment of public vocational guidance and job placement centres and the regulation of private employment agencies

All existing training legislation was merged adapted and deracialised in the Manpower Training Act.

The latter set up a new joint employer-employee body, the National Training Board, to advise the Minister on training policy and to co-ordinate and promote training

It provided for the first time for the training of work-seekers, and for the establishment of a State-subsidised Manpower Development Fund to finance registered and industrial council training schemes.

It gave the Minister new powers to levy any category of employer, or employers generally, for training purposes

Tucked away in the Act was a contentious clause which extended State control over the delicate area of labour relations training

Unregistered unions and union federations were compelled to register any private training centre with the Government which would vet the courses offered

Official concern over unregistered unions — caused by Mr Fanie Botha in Parliament of 'undermining order in the labour field — was a major theme in the centrepiece of the 1981 labour reforms the Labour Relations Amendment Act

That the Act was an historic step forward nobody would deny It erased long standing racial restrictions on registered unions, allowing mixed unions to be formed and giving them the right to racially integrated branches and executive committees

Provisional registration, a 1979 amendment rejected by the black unions, was scrapped and sex discrimination in industrial agreements was outlawed

Widely criticised clamps on registered unions in an earlier draft Bill — including a clause empowering the State to wind them up if they acted 'unreasonably — were dropped

At the same time, the Act subjected unregistered unions to effective compulsory registration through wide ranging administrative controls

Employers were barred from deducting dues on behalf of unregistered unions without the permission of the Minister

Registered unions are forbidden in the main Act to finance political parties The restriction was widened — now embracing 'other' assistance, as well as attempts to influence union members in favour of a political party — and was extended to their unregistered counterparts

After being scrapped in the draft Bill, the statutory committee system, so bitterly opposed by black unions was reinstated

It became an offence for any union to give strike pay to workers striking unlawfully

The Government was more circumspect in its dealings with white labour

In a White Paper it agreed in principle to the scrapping of statutory job bars on the mines — but said there would be no change in the law before safeguards for white workers had been negotiated with their unions

However, there have been strong hints from official quarters that the Government will act unilaterally if the mining industry cannot set its own house in order

What of 1982, and beyond? Draft legislation giving more muscle to the much criticised Industrial Court has been published and will be passed next year

In terms of the draft Bill, the court will be able to make orders and a full right of appeal to the Supreme Court will be enshrined

Amendments to the provisions governing the closed-shop practice and the in-plant committee system are on the cards

And in the last stage of the rationalisation process, the Factories Act and the Shops and Offices Act will be adapted combined and parcelled out into two Bills — one on basic conditions of employment and the other on industrial health and safety

In the interim, the National Manpower Commission is investigating the whole thorny issue of union registration and further changes — but not before 1983 — are possible in this area

LABOUR DEPT.

1982

JAN — DEC

Union registration voluntary says manpower chief

(165) D. Dispatch 22/1/82

EAST LONDON — The question of trade union registration was not as crucial as it had been made out to be the Director-General of Manpower, Dr Piet van der Merwe, said yesterday

Commenting on an issue which has led to much controversy in East London following the growth of unregistered unions, Dr Van der Merwe said 'We believe in freedom of choice and the self-governance of trade unions

"If a trade union does not wish to register for whatever reason, they are quite free to do so In terms of the new Labour Relations Act registration remains a voluntary process

Dr Van der Merwe said the new legislation expressly placed the unregistered and registered unions on the same footing with both having to conform to certain minimum requirements

As registration is voluntary and all unions have certain minimum obligations which are essential for the maintenance of law and order and the protection of members then it is not a matter of major concern whether a union is registered or not

'The obvious advantage of registering is being allowed access into the industrial council but there are disadvantages to the industrial council system as well If a union chooses not to register and make use of the industrial council system we must respect their wish

Asked whether the actions of the state in detaining many officials of the unregistered unions, including several from East London, did not contradict this standpoint Dr Van der Merwe said Detentions do not take place in terms of industrial legislation

'They are outside our area and, while they do have an effect on industrial relations there is no way that we can interfere

Dr Van der Merwe said the major priority of the department were the questions of training and productivity — DDR

Manpower chief: Ciskeians' UIF issue getting priority

D. Dispatch 12/1/82

By PHILIP VAN NIEKERK
Industrial Reporter

EAST LONDON — The Director General of Manpower Dr P J van der Merwe, said yesterday that the problem of Unemployment Insurance Fund (UIF) contributions by Ciskei residents was receiving attention at the 'highest level'

He was commenting on the continuing uncertainty and tension over the issue Dr Van der Merwe said he was aware of criticisms by worker organisations in East London of the fact that they will lose their right to UIF benefits three years after Ciskei independence unless the Ciskei government institutes its own fund

"We are giving this our urgent attention as a matter of priority he said

A circular has been sent out to employers by the Border Chamber of Industries (BCI) in an attempt to clarify the complicated issues involved

Mr David Saunders, the president of the BCI said the problem was that, like the controversial Preservation of Pensions Bill, employers were being caught between trade unions and legislation again

In early December at a meeting held by local trade unions the South African Allied Workers Union (Saawu) and the African Food and Canning Workers Union (AFCWU) about 1 500 workers elected to call for a refund of their UIF contributions from their employers

According to a proclamation in the Government Gazette, Ciskei independence on December 4 last year significantly altered the position of workers in the Border region paying in to the UIF fund These workers are however divided into several classes

Those workers living in Ciskei and working in Ciskei For instance the work force at Dimbaza, ceased to contribute to the fund from December 4 However their benefits if they become unemployed are to be preserved for three years after the date of independence

Commuter workers, such as those living in Mdantsane and working in East London, are regarded as contract workers They are to continue paying UIF contributions until the anniversary date of their date of engagement at the factory

Like the first class of workers, their UIF benefits will be preserved until three years after independence This class forms the bulk of workers in East London

Workers resident in South Africa, such as those at Duncan Village will continue to contribute and receive benefits as before even if they are Ciskeian citizens

To add to this many employers who employ Transkeians have been deducting UIF payments from their employees for the past five years even though these payments were due to cease when Transkei became independent in 1976

The Assistant UIF Commissioner in Pretoria Mr C J Vermeulen said recently that South African employers were continuing to deduct UIF money from Transkei workers in spite of the fact that this was illegal

And a local employer said yesterday that his company had continued to deduct UIF payments from Transkei contract workers after 1976 because it would have meant reprogramming their computer for just a few workers

There has been no indication yet as to whether the Ciskei intends to set up its own UIF fund

Of the other independent states only Bophuthatswana has set up its own fund — there is no unemployment insurance for Transkeian or Venda contract workers

A spokesman for the Manpower Department said yesterday that all homeland governments on receiving independence were offered the option of a lump sum from the South African UIF to start their own fund or preserved benefits for workers three years after independence

Ciskei had chosen to transfer the fund in the same way as Transkei and Venda and if they wish to start their own fund now it would have to be without the initial help of a lump sum from the South African UIF

Dr Van der Merwe said he was not aware yet whether the Ciskei had decided to set up their own fund or not "There is nothing to prevent them but that is their decision"

Employers have indicated that they would be prepared to continue contributing to Ciskei UIF even though as South African employers they are not bound to contribute to the fund of a foreign country

Even if Ciskei decides to institute its own fund (and some employers are confident that they will) difficulties still remain, according to the trade unions At the inter-union meeting in December workers said their experience was that social security payments by homeland governments were erratic and they did not trust a fund run by Ciskei

In addition they raised the difficulty of workers who had been contributing to the South African UIF for long periods sometimes up to 30 years or more When they start paying in to a Ciskei UIF the question was asked "do they start paying from the beginning or is their South African UIF record transferred?"

Mr Saunders said the Federated Chamber of Industries had been in contact with the Department of Manpower and they had been given the assurance that there would be flexibility in the implementation of the proclamation

'The real challenge now is to ensure that there is proper communication between employers and employees so that this whole matter can be sorted out equitably' — DDR

labour

Death clouds progress

~~39~~ ~~132~~ ~~145~~ 165

WDM 8/2/82

By STEVEN FRIEDMAN

THE death in detention of unionist Dr Neil Aggett seems set to prompt a serious deterioration in relations between the growing black union movement and the Government.

At least five unions or union groupings have warned that there can be no further relationship between them and the Government until Security Police action against unions ends.

This was spelt out in a statement by representatives of Fosatu — the country's biggest independent union grouping with a membership of over 90 000 — the General Workers' Union, the Food and Canning and African Food and Canning Worker's unions; and the Cape Municipal Workers' Association

Although relations between the unions and the authorities have always been tense, in the past 18 months some independent unions have met the Minister of Manpower, Mr Fanie Botha

Evidence

And many unions — even some regarded as "militant" by some employers and the authorities — have been prepared to comment officially to the Department of Manpower on legislation and to give evidence to official inquiries

In a recent confidential document, the Government's National Manpower Commission welcomed this and said it could be seen as a sign, that — whatever their differences with the Government — these unions were at least prepared to recognise the legitimacy of officialdom and the new official labour system

But in the statement issued after Dr Aggett's death, representatives of the union groupings said there could be "no further and future relationship" between them and the authorities while Security Police action continued

They claim Security Police action against unions has been increasing recently, and cite raids on union offices, detentions, arrests and bannings as well as other actions ,such as "inciting employers to adopt a harsh line against unions"

And they say the Department of Manpower "cannot wash its hands" of the death "by saying these are matters concerning the security of the State"

In another statement, the General Workers' Union said "We shall mourn (Dr Aggett's) death by intensifying our struggle against the State which bears the total responsibility for his death"

Refused

The General Workers' Union recently refused to give evidence to a National Manpower Commission probe, in protest against union detentions

In statements issued after Dr Aggett's death, his union insisted it believed he had been detained solely in connection with his union work

Mr Jan Theron, general secretary of the Food and Canning Workers' Union, said that when Dr Aggett was detained, police had removed union documents from the union's Transvaal office

"What have these to do with the security of the State he asked.

Star 9/2/82 (165)

Minimum wage recommended by commission

The National Manpower Commission has recommended a minimum wage to the Government.

This was announced by the chairman, Dr Hennie Reynders, in Pretoria yesterday. He did not give the amount, but said the recommendation was contained in one of several reports submitted to the Government.

The other reports concerned the training of unemployed, schemes to be used for the purpose, and the training of workers in industrial relations.

The Government's reaction was being awaited.

The latest statistics showed that unemployment among black men in South Africa, excluding the independent homelands, was about 5,5 percent.

The overall rate for men and women was 7,3 percent which compared favourably with Western countries.

The figures were also an improvement on last year's.

While slow growth had been predicted for the year, he did not believe this would substantially increase the unemployment rate.

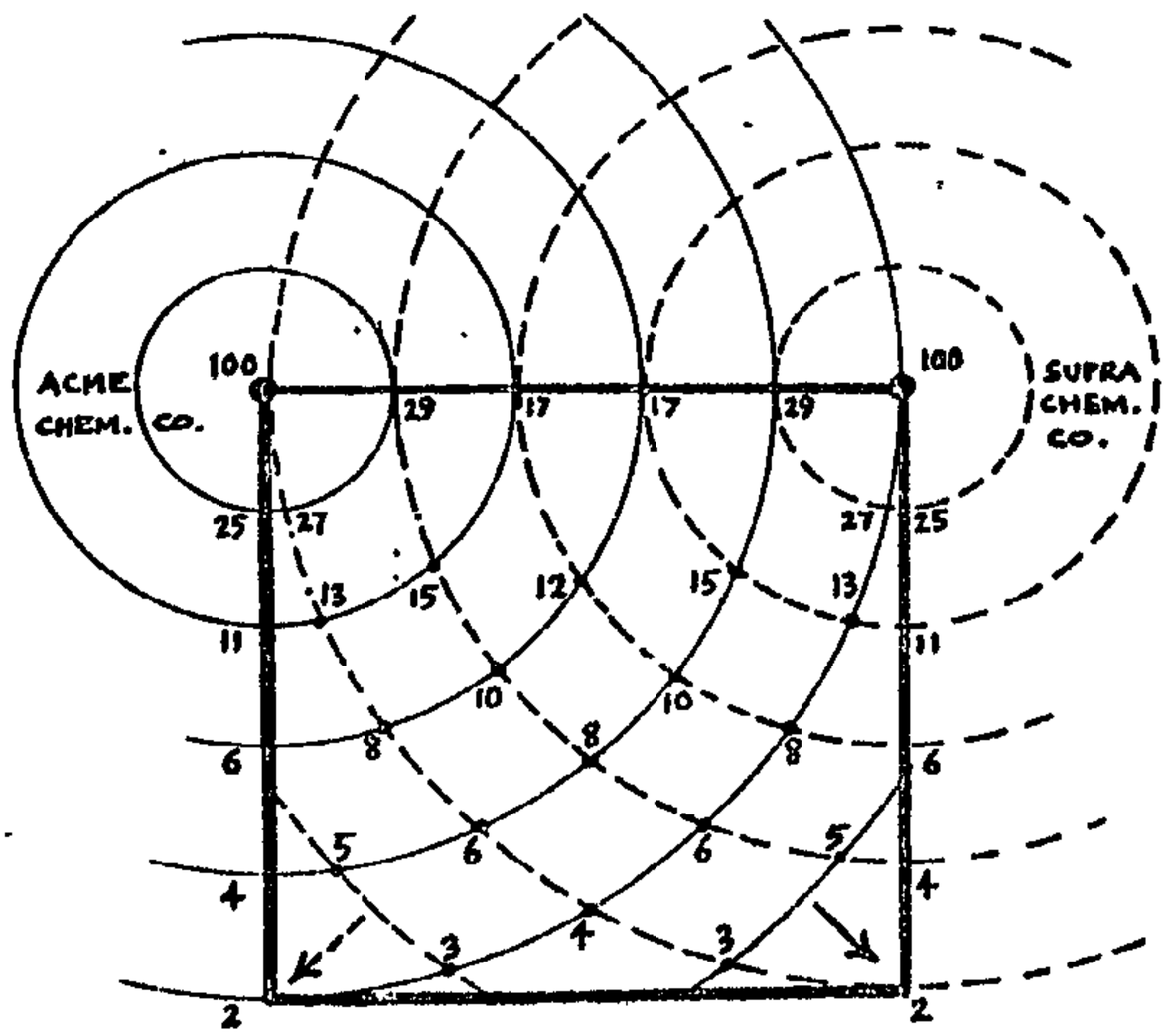
The commission was involved in three interrelated studies which it hoped to submit to the Government in mid year. These were a further investigation into the registration of trade unions, their representativeness and recognition, the function of works councils and the industrial court and its functions.

"We are also looking into the manpower needs of South Africa," said Dr Reynders. The Human Sciences Research Council had been asked to do a five-year study on the subject.

The commission was concerned about the country's relationship with the International Labour Organisation and had decided that "objective reports" on progress made in the labour field in South Africa should be sent to the ILO in spite of the country being out of the organisation

6.4 A Graphics Exercise on Pollution

The following diagram and its accompanying description appeared in a newspaper report on pollution levels in a residential area near two chemical factories.



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Move to ease labour delays

EAST LONDON — Interim arrangements would be made at the Duncan Village labour bureau so that the workload was streamlined the Chief Director of the East Cape Administration Board, Mr Louis Koch said yesterday

Mr Koch was reacting to complaints about delays in processing workseekers from Mdantsane and Duncan Village who have to get permits from the bureau office before being engaged in East London

He said members of his staff had investigated the situation last week and come up with proposals which would bring about the changes

"We have also looked into the aspect of fuller utilisation of black staff and are arranging that more are involved in skilled work," Mr Koch said

He added that the board had made some proposals to the Department of Co-operation and Development with regard to workseekers from Mdantsane going to the Duncan Village labour bureau

"If those proposals have, after consultation with the Ciskei Government, been approved, more improvements in moving workseekers will be effected" — DDR

165

D. Dispatch 13/2/82 (165)

Details soon of new job centres

EAST LONDON — The East Cape Administration Board (ECAB) is to make an announcement on Monday on employment and information centres provided for in new legislation introduced last November

The chief director of ECAB Mr Louis Koch said yesterday a press release on Monday would announce further improvements in the system which could mean that people would not be required to report to labour bureaux for employment anymore

The Guidance and Placement Act provides for the introduction of employment centres and was promulgated in November last year for its provisions to be effective from November 29

In terms of the law workseekers are required to furnish designated officers in the employment centres with particulars about themselves

The officer is then required to issue a workseeker with a registration card and the workseeker has thereafter to inform the officer should he find employment or remain unemployed for a certain period

Employers are also required to inform the officers as soon as they employ workseekers

Principals of schools are required to supply information to employment centres about school leavers

The law also provides for private employment offices to process workseekers and sets out regulations under which they operate — DDR

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Widow warns against agency ripoff

165

E. Post

17/2/82

By SHIRLEY PRESSLY

WIDOWS are being taken for a ride by a Pretoria-based agency which offers a service obtainable free at any Department of Manpower office

The commission to the agency was, in one case, as much as R270

A Port Elizabeth woman who was recently widowed, said today she wanted to warn other widows against using an agency to claim widow's benefits through the Unemployment Insurance Act.

She was widowed in December and yesterday received an unsolicited letter from an agency offering to obtain widows' benefits on her behalf

Mr J C Greyling, divisional inspector of the Department of Manpower, said dependants of deceased contributors to the Unemployment Insurance Fund could claim benefits

Many widows were probably not aware of these benefits, said Mr Greyling To qualify, a contributor must have contributed to UIF for at least three years

The payout to the widow of a UIF contributor who earned R1 000 a month at the time of his death would be R2 700, said Mr Greyling

This money did not form part of the estate, nor was it taxable Mr Greyling said that a widow whose husband had earned more than R1 000 a month before his death could still claim dependants' benefits as long as her husband had contributed to the unemployment fund for a period of not less than three years

These payments could have been made 10 or even 20 years ago The only condition was that a contributor must have been employed for the period preceding his death

Mr Greyling said all contributors were in possession of a contributor's record card, which had to be produced when lodging claims

Widows also had to give copies of their husband's death certificate, a post-mortem certificate or burial order and a signed certificate from their last employer, plus a copy of the marriage certificate

If all the documentation was in order, a payout could be made within two to three weeks.

These services were available free at the Department of Manpower offices at the Eben Donges Building, Port Elizabeth, or from magistrates' courts in country towns which did not have Manpower offices

Applications for blacks were handled by the East Cape Administration Board

The Pretoria agency — which offers the service to widows — takes an administration fee of 10% of the claim

Widows have three years within which to lodge a claim from the death of a husband

The same benefits are also payable to men who are dependent on their working wives The same conditions apply

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READING

While the Department will try wherever possible to facilitate reading by placing texts in the short loan section of Leslie Library and distributing selected prescribed articles, you are strongly advised to make the fullest possible use of the Library. It would stand you in good stead to attend an orientation course conducted during the first

Datum van registrasie Date of registration	Brandmerk Brand	Naam van eienaar Name of owner	Adres Address	Datum van registrasie Date of registration
19/10/81	DYE	I D J Els	Baviaanskloof, Jansenville	18/11/81
19/10/81	DYF	M S Bata	P O Box 137, Zeerust	18/11/81
19/10/81	DYG	G P Greyvenstein	Posbus 158, Barkly-Oos	18/11/81
19/10/81	DYH	N W Johnson	Pk Dordrecht	19/11/81
20/10/81	DYI	W Dykema	Posbus 61, Settlers	19/11/81
20/10/81	DYJ	J L du Plessis	Fernside, Maclear	20/11/81
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[illegible]	DYY	G J van Wyk	Posbus 305, Wolmaransstad	2/12/81
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[illegible]	DZA	B S Masiangoaki	Private Bag X91085, Heystekrand	2/12/81
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[illegible]	DZJ	J du Toit Olivier	Posbus 143, Maclear	9/12/81
[illegible]	DZK	Percy M Sampson	P O Box 498, Mafikeng	10/12/81
[illegible]	DZL	M F Baotlwaeng	P O Box 38, Mothibistad	11/12/81
[illegible]	DZM	C O Monchusi	Private Bag X745, Vryburg	14/12/81
[illegible]	DZN	R R Ntshabelle	Private Bag X91085, Heystekrand	14/12/81
[illegible]	DZO	G W Ellis	Privaatsak X204, Ellisras	17/12/81
[illegible]	DZP	East and West Investments (Pty) Ltd	Posbus 938, Pietersburg	17/12/81
[illegible]	DZQ	J C Parkin	Posbus 41, Northam	18/12/81
[illegible]	DZR	R Snodgrass	Forstweg 73, Bramley, Johannesburg	21/12/81
[illegible]	DZS	Johan Wilkens	Posbus 166, Klerksdorp	22/12/81
[illegible]	DZT	Thusho J Makodi	P O Box 7, Pamperstad	23/12/81
[illegible]	DZU	Hendrik J Lombard and H J Lombard	Posbus 73, Vrede	28/12/81
[illegible]	DZV	H J V van Heerden	Posbus 65, Hlobane	30/12/81
[illegible]	DZW	K F K McDonald en J C Parkin	Posbus 66, Northam	30/12/81
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[illegible]	DZY	J A du Preez	Posbus 387, Ellisras	30/12/81
[illegible]	DZZ	P J Semenya	P O Box 43, Bochum	30/12/81

(19 Februarie 1982)/(19 February 1982)

KENNISGEWING 101 VAN 1982

DEPARTEMENT VAN MANNEKRAG

NASIONALE MANNEKRAGKOMMISSIE

In opdrag word bekendgemaak dat 'n ondersoek na die verskillende vlakke van kollektiewe bedinging en verwante sake deur die Nasionale Mannekragkommissie onderneem word met die oog daarop om op die vroegste moontlike datum verslag daaroor aan die Minister van Mannekrag te doen Die Kommissie het verskeie instansies en belanghebbende persone versoek om gedurende Maart en April 1982 mondelinge getuienis voor hom oor die aangeleentheid af te lê

Ander belanghebbendes wat getuienis oor hierdie aangeleentheid wil aflê, moet 'n skriftelike versoek aan die Sekretaris van die Nasionale Mannekragkommissie, Privaatsak X316, Pretoria, 0001, rig sodat dit die Nasionale Mannekragkommissie voor 12 Maart 1982 bereik.

G J J. VAN ZYL, Sekretaris Nasionale Mannekragkommissie.

(19 Februarie 1982)

NOTICE 101 OF 1982

DEPARTMENT OF MANPOWER

NATIONAL MANPOWER COMMISSION

By direction it is notified that an inquiry into the different levels of collective bargaining and related matters is being undertaken by the National Manpower Commission with a view to reporting thereon to the Minister of Manpower at the earliest possible date The Commission has requested several interested bodies and persons to give oral evidence before it during March and April 1982

Other interested parties who wish to give evidence on this matter should address a written application to the Secretary, National Manpower Commission, Private Bag X316, Pretoria, 0001, to reach him before 12 March 1982

G J. J. VAN ZYL, Secretary National Manpower Commission

(19 February 1982)

ROM 22/2/82 165

Inquiry seeks protection for 2m labourers

Political Staff

THE Government last night announced an urgent inquiry by the National Manpower Commission (NMC) to blueprint terms for minimum working conditions for South Africa's 2 000 000 farm and domestic workers.

Because farm labourers and domestics fall outside the scope of existing labour laws, they are widely regarded as the most exploited sector of the economically active population

And the Government has drawn strong criticism for not introducing some form of legal protection for the agricultural workforce — estimated in 1980 at 1 200 000 — and the 700 000 domestic workers

In a statement issued at midnight, the Minister of Manpower, Mr Fanie Botha, said that "owing to the particular working circumstances of farm workers and domestic servants", they were excluded from the scope of several laws administered by his department

He said the NMC would consult with organised agriculture and the relevant organisations in respect of domestics, then conduct an investigation into measures in terms of which minimum conditions of service for workers in these sectors could be regulated

"As in almost every other country in the world, there are in South Africa a great variety of factors which militate against the institution of formalised or structured conditions of service for workers in agricultural and domestic services," he said

But this did not mean practical ways should not be sought to ensure that workers in these sectors had the protection extended to those in other sectors, "insofar as this is practically possible".

Workers in these sectors represented 14,1% of the economically active population "The Government would not be fulfilling its responsibility if it did not also look after the interests of this large group of workers"

Mr Botha said factors "peculiar to this sector" that must be taken into consideration were

- The "intimate and long-standing" personal relationships between employers and their farm workers and domestic servants,
- The wide geographical distribution of these workers,
- The seasonal nature of farming operations,
- The influence of climate, such as rainfall, on farming operations, and
- The fact that certain work had to be done on a daily basis

He said the NMC would liaise closely with all interested parties in connection with the investigation, and he appealed for full co-operation to ensure that the inquiry would "serve the best interests of the country and all those concerned"

ACCOUNTING A

SOLUTION TO: GL5

(1) Premiums Treated as Business Expense

01, Jan 1:	Insurance Expense Bank being payment of premium	300
Dec 31:	Income Statement Insurance Expense being closing entry	300

Years 02 and 03 - same as 01

04, Jan 1: Insurance Expense

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Farm workers, servants wage probe

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COUNTING A

Mercury Correspondent

CAPE TOWN—Minimum conditions of service for about 2 000 000 farm workers and domestic servants would be investigated by the National Manpower Commission, the Minister of Manpower, Mr Fanie Botha, announced last night.

The National Manpower Commission has been instructed to investigate methods of laying down minimum conditions of employment for these workers

Because farm and domestic workers are excluded from South Africa's labour laws they have often been regarded as the most exploited sector of the economically active population

The Government has, in the past, been strongly criticised for not introducing some form of legal protection for the 1 200 000 agricultural workers and about 700 000 domestic servants

In a statement issued at midnight, Mr Botha said that 'owing to the particular working circumstances of farm workers and domestic servants' they were excluded from the scope of application of several laws administered by his department, including the Labour Relations Act, the Wage Act and the envisaged Conditions of Employment Act.

'On account of a variety of circumstances and developments and because the authorities also have a responsibility to look after the interests of workers in these sectors, I have decided to direct the National Manpower Commission to urgently, and after consultation with organised agriculture and the relevant organisations in respect of domestic servants, conduct an investigation into measures in terms of which minimum conditions of service in respect of the workers in these sectors could be regulated.

'As in almost every other country in the world, there are in South Africa a great variety of factors which militate against the institution of formalised or structured conditions of service for workers in agricultural and domestic services.

Protection

'This is, however, no reason why practical ways out should not be sought to ensure that workers in these sectors, just as workers in other sectors, also get the necessary protection insofar as this is practically possible

'Factors which are peculiar to this sector and which must therefore be taken into thorough consideration, are the intimate and longstanding personal relationships between employers and their farm workers and employers and their domestic servants, the wide geographical distribution of such workers, the seasonal nature of farming operations, the influence of climatic factors such as rainfall on farming operations and the necessity of certain activities being performed on a daily basis

'There are great numbers of workers in employment in agricultural and domestic service.

'In 1980 there were 1 200 000 agricultural workers and 700 000 domestic servants, thus a total of almost 2 000 000 workers.

'This represents 14,1 percent of the economically active population of the Republic of South Africa The Government would not be fulfilling its responsibility if it did not also look after the interests of this large group of workers

'I want to emphasise that I have requested the National Manpower Commission to liaise very closely with all interested parties in connection with the investigation and I want to appeal to all such parties to give their full co-operation in order to ensure that the investigation will serve the bests interests of the country and all those concerned,' Mr Botha said

There was no indication in the statement when the far-reaching inquiry would be completed

~~4~~ ~~244~~ ~~139~~ 165

Mercury 22/2/82

griculture would resist wage rises for workers

We will cut back on our labour force, farmers warn

(4) (139) (133) (355) (165) (294)

Mercury 23/2/82

Mercury Reporter

TAL farmers yesterday reacted ously to the proposed investiga- n into the conditions of farm rers by the National Manpower ission but warned they would re- any attempt to raise wages above st levels

th Africa's 1 200 000 farm work- have so far been excluded from legislation

mers interviewed by the Mercury that if the commission led to an ase in workers' wages then they id mechanise and reduce their r force.

spokesman for the Wattle and Tim- Growers' Union said farmers were ing to bear increased fertiliser equipment cost and increased est rates set by the Land Bank

they had to cover increased wages top of this most of the farmers reduce their labour force,' he

spokesman said there had been redible drop in the number of entering farming because of in- costs.

added it was a difficult situation Government and the farmer to with as a drop in the number of s would lead to an increase in ed workers.

Heinz Bartels, an Impendle farm- 'You can't pay labourers some- you haven't got'

mers interviewed felt that the ion of farm workers was very dif- to that of a worker in industry they received various perks If were taken into consideration said they would welcome the ission

nding on the area, the perks un- d by farmers yesterday includ- ing, schooling for labourers' n — in some cases the farmer for school uniforms and books — medical services and some rs gave a cattle allowance to labourers.

secretary of the Natal Agricul- Union, Mr Alwyn Bisschoff, said too soon to form an opinion on ssion but said they would be ng it with the farming sector

said an examination of the condi- of farm workers would be an ex- y wide undertaking due to the y of types of farming

'Some types of farming rely on casual labour, some on seasonal labour and others had a semi-skilled permanent labour force

'The position in farming is much more complex than industry where they have nothing to do with the worker once he has left work The farmer provides accomodation and often medical services for his workers,' he said

The general-secretary of the National Federation of Workers, Mr Mathews Oliphant, said they would be presenting their demands to the commission as they regarded it as a 'step in the right direction'

Their primary demand would be to have both domestic workers and farm labourers falling under present labour legislation, particularily the Workman's Compensation Act and the Unemployment Insurance Act, he said

The Unemployment Insurance Act provides ordinary unemployment benefits, maternity benefits, illness allowances and death benefits whereas the Workman's Compensation Act provides compensation for loss of earnings due to disabilities arising out of accidents contracted at work

The community worker in Durban for the Domestic Workers and Employers Project (DWEP), Mrs Mary Mkhwanazi, yesterday welcomed the announcement that minimum conditions of service for about 700 000 domestic workers in South Africa were to be investigated

Mrs Mkhwanazi said that she cried tears of joy when she heard the announcement by the Minister of Manpower, Mr Fanie Botha, on a news bulletin yesterday

She said that Mrs Audrey Cobden, the founder of DWEP, would have been overjoyed because she had been pressing for this move for years Mrs Cobden has left South Africa to live in Canada

Mrs Mkhwanazi said she hoped it would not take long for legislation in this regard to be enacted

'We have waited and suffered long enough since we submitted a memorandum on this subject to the Wiehahn Commission on labour legislation in 1977' she added

Senior opposition spokesman have welcomed the Government's inquiry into minimum service conditions for domestic and farm workers

Both the Progressive Federal Party and the New Republic Party have urged the Government to treat the inquiry as a 'priority' and have said that 'regional' conditions should be taken into account.

'This inquiry is long overdue. We have been asking for this for some time and I can only hope that it will be done with all speed,' Mrs Helen Suzman, chief Opposition spokesman on urban black affairs, said yesterday.

'It is a complicated issue. Great care should be taken not to jeopardise existing employment and the investigators should make allowances for regional factors

'These two categories of workers are among the most exploited in the country in terms of wages, working hours and general conditions.'

Both categories had the added disadvantage of 'immobility', particularly farm workers

Mr Ron Miller, chief NRP spokesman on manpower said: 'If ever there was a group of workers who were open to abuse by employers it is the domestic workers I urge the inquiry to treat the investigations as top priority.'

Mr Ralph Hadingham, the NRP's agriculture spokesman, said farmers would welcome the inquiry because there had been a great deal of 'unfounded' criticism about their treatment of staff

The public had not appreciated the bond of loyalty and responsibility which existed between the farmer and his staff

This responsibility had not fallen on the shoulders of employers in the urban areas, he said

'It is true that odd cases of exploitation of labour have been brought to light which has tended to nullify so much of the good work that so many famrers have carried out to improve the conditions of their staff,' he said.

Farmers should regard the investigation not as a witch-hunt but as a vehicle to streamline a policy which would lead to a more contented and productive labour force.

'I must emphasise that it is absolutely essential that this investigation be conducted in close-operation with organised agriculture, particularly local farmers' associations,' said Mr Hardingham.

'This is important because the fringe benefits which are associated with the whole structure of wage determination vary from area to area'

Mixed feelings about probe on servants

Sowetan 25/2/82

165

THE ANNOUNCEMENT of an inquiry into working conditions of domestic and farm workers has been recieved with mixed feelings by domestic workers in Johannesburg.

Some could not believe that a move to improve and safeguard their workforce is due. Others expressed excitement over the news

A mother of five, Mrs Maria Dibetlo, said they were the last workers that can be recognized by the Government She believes that only her employer can decide on what to pay her

She earns R70 a month and although it is not sufficient for the maintenance of her children, she believes that half a loaf is better than no bread

Another domestic worker, who refused to be identified, told **The SOWETAN** that she would not raise her hopes on "empty promises"

She earned "ten shillings" (R1,00) a month when she started work in 1965, when her youngest child was a month old Her monthly wage is now R65

When she went on maternity leave, she had to get a relative to replace her for a period of three months All she got as maternity benefits was a knitted baby suit from her employer.

She was also ordered to return to work as soon as possible because her employer was not prepared to keep "unknown" workers

A gardener told **The SOWETAN** that it will probably take the Government "some years' to better their working conditions

Mr Simon Tshengo added that this move was long overdue, and most domestic servants have learnt to live under exploitation

Mr Tshengo augments his monthly earnings of R100 a month by working at a pub at night He has been at the job for two years, but does not know a thing about leave pay and other benefits

A member of the Randburg Centre of Concern said she appreciated the Government s move on the welfare of domestic workers Miss Disebo Molot said the Government has at last recognised domestic servants as part of the most important workforce in the country

The Domestic Workers Employment Project (Dwep) welcomed the Minister's announcement about a commission to look into conditions of work for domestics

In a statement released yesterday, Mrs Leah Tutu says Dwep has been campaigning for the inclusion of domestic workers in the country's labour legislation for years

"We hope in laying a minimum wage, the Minister will take a realistic view of the cost of living It is a disgrace that workers should not be protected by the Government against their unscrupulous employers

"Domestic workers, like any other worker sometimes get injured in the course of duty — why can't they claim Workman's Compensation?"

Mrs Tutu said Dwep hopes the Minister will treat this as a matter of urgency

165 134 329

Unions: Reform and action

Labour specialist STEVEN FRIEDMAN reports on a remarkable developments highlighting what appears to be a sharp difference of approach towards trade unions by the Department of Manpower, on the one hand, and the police on the other . . .

"As far as we are concerned, the Government's labour reforms died with Neil Aggett" — trade union statement on the day of Dr Aggett's death.

JOHANNESBURG — In the past few weeks, a trade unionist has died in detention and another has been admitted to a psychiatric ward after two months in detention.

There are at least 10 unionists and three other people with union connections in detention and last week six Port Elizabeth union men were released after 270 days in security police custody

Unionists say the detentions are only "the tip of the iceberg" and that there is a growing "security police vendetta" being waged against them

They cite raids on union offices, arrests of strikers and union officials, bans on union meetings, and a range of other actions to back their claim that there is a growing wave of "repression" aimed at the union movement

At the same time, the Department of Manpower's National Manpower Commission is working on an investigation which could lead to the removal of key controls on unions contained in labour legislation

Senior department officials have implied publicly that some demands of emerging unions — such as direct plant-level bargaining between unions and employers — are no longer opposed by officialdom

The NMC has taken small but significant steps towards greater dialogue with emerging unions by inviting them to submit evidence to it.

Variance

In other words, the public actions and statements of Mr Fanie Botha's department, on the one hand, and the police, on the other, seem totally at variance

As the department slowly acknowledges that some controls placed on unions by labour law should go, so the police continue to seek to control the unions

In public statements, unions have suggested that the seeming difference in attitude is merely a subtle ploy They have accused the department of "condoning" security police action against them

Since cabinet decisions are taken collectively, they say, the Minister of Manpower must take responsibility for police actions

Unionists have thus argued that the government is back-tracking on labour reform and police actions have imperilled official labour intiatives

The Urban Training Project, a union advisory body, recently warned that progress towards freedom of association — which entails full union rights — was in danger, and this point has been made in various other union statements

And the Cape-based General Workers' Union recently refused to submit evidence to an NMC probe — after giving evidence to official bodies on several other occasions — citing the detentions and other police actions as a reason

At the same time, some sources argue that there is tension between the department and the police.

The police, they say are becoming impatient at the inability of labour law to control the growing union movement and are stepping in. At the same time, they suggest, the department is "embarrassed" at action against unionists

They point to a statement by NMC chairman Dr Hennie Reynders that detentions were creating "uncertainty" in labour relations Dr Reynders added that he "hoped" people were not being detained for union activities

Mr Fanie Botha

And in an interview last December, the department's Director-General, Dr Piet van der Merwe, said "one must presume" detentions were justified, but added "Inevitably they do affect relations between employers and employees and cause tensions between the department and the unions concerned"

If the department is unhappy about police actions, it seems unable to prevent them Police action against unions has grown and the new approach seems to have the approval of the Minister of Law and Order, Mr Louis le Grange

Thus Mr Le Grange told TV viewers last year that the government was prepared to live with some labour unrest while unions were becoming established, but that certain unions were overstepping the mark.

And in Parliament, Mr Le Grange conceded that a security police officer in East London had drawn up a document spelling out plans to curb the influence of the unregistered South African Allied Workers' Union

He said he had done so without authorization, but then appeared to condone the officer's actions

Of course, police have always intervened in labour relations Last September, Mr Le Grange told Parliament police had been "called out" 90 times to labour disputes, 34 times to work stoppages and 147 times to strikes in the past two years

But unionists insist that intervention has increased.

In East London, for example, there has been constant official action against Saawu members, either by the SAP or the Ciskeian authorities

These include detentions, raids on offices and arrests for alleged offences

Charges

Thus Mr Robert Gqweta, brother of Saawu president Mr Thozamile Gqweta, last week told journalists he had just been acquitted on a charge of collecting money illegally and was now facing Riotous Assembly charges in Ciskeian courts

Other measures taken by police in the past few months include raids on the offices of unions such as Saawu, the General Workers' Union and Food and Canning Workers' Union and the banning of union meetings during times of labour unrest

There has also been intense police action during strikes During one week in October, 83 Port Elizabeth workers were detained in connection with strikes and on one occassion — at BMW's Pretoria factory — armed police burst into the plant, only to leave after management asked them to withdraw.

At two Reef strikes, unions claimed police had visited strikers in their hostels to get them to return to work.

In a few cases, strikers who have been arrested have been charged with

Mr Louis le Grange

tougher, little used pieces of security legislation rather than with traditional anti-strike laws

There have also been several claims by unions — denied by police — that official pressure has been exerted to persuade landlords to deny them the use of offices and halls

Action against unions by "independent homelands" has also been a feature In Ciskei, this has taken the form of repeated detentions as well as active official involvement in recruiting strike-breaking labour

And a Saawu member was killed last year when Ciskei police opened fire on a crowd of workers returning from the funeral of Mr Thozamile Gqweta's mother and uncle, who died when their house caught alight.

In Bophuthatswana, three officials of a Fosatu union were last year arrested for holding a union meeting without official permission.

These are merely a selection of incidents There also have been strikes in the past few months in which police have not intervened directly And police insist they are merely keeping the peace, not taking on the unions.

But it is clear that unions are having to live with a high degree of police involvement in their work.

In one respect, the department bears ultimate responsibility for this It is labour law which makes all but a few strikes illegal and which therefore requires that police intervene in them

But it is clear that the department is rethinking some labour laws which place controls on labour relations

That, at any rate, is the drift of speculation coming out of the NMC.

There is an important sense in which the relaxation of controls in labour law may be directly related to stepped-up police action against unions

When the government's new labour dispensation was ushered in in 1979, it contained key controls on trade unionism. Some already existed in labour law and the Wiehahn Commission suggested several new controls

Government speakers emphasized to anxious white workers that the idea of the changes were to bring black unions under control, not to strengthen them

There was thus good reason for the police to adopt a fairly low profile.

But the controls did not work As employers and unions found them onerous, they began creating their own bargaining systems outside official control

Thus, although they still remain wedded to some degree of control, senior Department of Manpower men seem to be prepared to jettison some of the measures which have attracted the ire of unions and opposition from some employers

Certainly, recent hints by top officials imply that they are prepared to leave a lot more to employers and unions than would have been dreamed possible a few years ago

But it may well be that the more the Department moves away from control, the more the police believe it their duty to step up their own labour role

Actions

The spectre of a strong black labour movement is clearly not palatable to the police — judging by the actions of the past few months

They may well have decided that if the Department of Manpower is not going to control strikes and the like, they are

In other words, the move to greater labour reform may be the spur to recent police intervention

And increasingly, the issue is becoming not what clauses remain in labour law, but to what degree the authorities are prepared to let employers and workers sort out their own destiny free of police intervention.

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SUNDAY TRIBUNE, FEBRUARY 28, 1982

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FARM LABOUR PROBE BEGINS

By Shami Harichunder

FANIE Botha, Minister of Manpower, has ordered a probe into the terms of employment of the country's two million domestics and farm workers His announcement came immediately after a **Sunday Tribune** report which exposed the working conditions and starvation wages of some blacks employed by Natalse Landboukooperasie.

The report disclosed that some black labourers at NLK's grain depots in Wasbank, Blood River and Dannhauser are earning wages of between R6,37 and R22,50 a week, do not receive paid annual leave and are not paid to work overtime.

Mr Botha said in an interview during our two-month investigation into wages and working conditions at NLK, one of the biggest farmers' co-operatives in the country, that no business sector should be paying wages like these.

The Government investigation is to be headed by the National Manpower Commission

Chairman Dr Hennie Reynders said yesterday his commission would start its country-wide probe next month and would probably present its findings to the Government in about a year.

At present domestic and agricultural workers — they make up 14 percent of the country's economically active population — have no protection under any of the country's labour laws

Trade unionists, community workers and Opposition spokesmen have long identified workers in these two sectors as among the most exploited in the country.

The community worker in Durban for the Domestic Workers' and Employment Project, Mr Mary Mkhwanazi, yesterday welcomed the announcement that the conditions of service for about 700 000 domestics workers in South Africa will be investigated

Alwyn Bisschoff, secretary of the Natal Agricultural Union, said it was too soon to form an opinion on the commission. He pointed out an examination of the conditions of farm workers would be an extremely wide undertaking because of the diversity of types of farming

"Some types of farming rely on casual labour and others on a labour and others on a semi-skilled permanent labour force

"The position in farming is much more complex than in industry, where they have nothing to do with the worker once he has left work. The farmer is the provider of accommodation and often medical services for his workers"

Meanwhile, NLK has still not attended to worker complaints about starvation wages

Petrus van Rooyen, general manager of NLK, has again refused to comment So insistent was he that he did not want to answer the **Tribune** questions that he threatened to seek a court injunction.

STAATSKOERANT
VAN DIE REPUBLIEK VAN SUID-AFRIKA

REPUBLIC OF SOUTH AFRICA
GOVERNMENT GAZETTE

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Vol 201] PRETORIA, 12 MAART / MARCH 1982 [No 8090

GOEWERMENTSKENNISGEWING

DEPARTEMENT VAN MANNEKRAG

No R 448 — 12 Maart 1982

REELS VIR DIE VOER VAN DIE VERRIGTINGE VAN DIE NYWERHEIDSHOF

Die Nywerheidshof het kragtens artikel 17 (22) van die Wet op Arbeidsverhoudinge, 1956 (Wet 28 van 1956), met die goedkeuring van die Minister van Mannekrag, die reels in die Bylae hiervan gemaak

BYLAE

INHOUDSOPGAWE

GOVERNMENT NOTICE

DEPARTMENT OF MANPOWER

No R. 448 — 12 March 1982

RULES FOR THE CONDUCT OF THE PROCEEDINGS OF THE INDUSTRIAL COURT

The Industrial Court has under section 17 (22) of the Labour Relations Act, 1956 (Act 28 of 1956), with the approval of the Minister of Manpower, made the rules in the Annexure hereto

ANNEXURE

CONTENTS

for full details see GG 8090

Experts say Manpower and Police on collision course

(165) E. Post 23/3/82

THE death in detention of Dr Neil Aggett has provoked what promises to be serious confrontations between the State and independent unions and between two Government departments Employers say they are the ham in an ideological sandwich of which black nationalists and the Government are the bread CHARLENE BELTRAMO reports and traces the history of independent unions and what they will mean to South African labour and the country's foreign image

TWO Government departments are on a collision course over labour

The Department of Manpower Utilisation is reportedly concerned that harsh action by the Department of Law and Order is negating their 'hands off' stance on trade unionism

And two weeks ago, Professor Blackie Swart, chairman of the industrial relations committee of the Government's National Manpower Commission, said the death in detention of Dr Neil Aggett "need never have happened" and had cast a "further shadow over the credibility of Government labour reforms"

Employers and academics have said the Department of Manpower, under Minister Mr Fanie Botha, was slowly gaining international approval for South Africa and a more sympathetic approach from labour organisations, including the International Labour Organisation, for what were seen as genuine efforts on the part of South Africa to reform its labour policy

A prominent employer said recent action against trade unionists, culminating in the death in detention of Dr Aggett and the admission to hospital of two prominent trade unionists, Mr Thozamile Gqweta (who was subsequently released) and Mr Sam Kikine of Saawu, had brought years of hard work by the department "back to zero"

Prof Swart said that although action by other Government departments, such as police involvement in strikes and the detention without trial of trade unionists, "could be sound in principle," they complicated "the delicate balance that existed between labour and management"

Dr Jan van Zyl, executive director of the Federated Chamber of Industries, in common with a high propertion of the employers interviewed, criticised the "difficulties arising with the Department of Law and Order, which is not concerned with labour, but which interferes in labour by detaining unionists and not bringing them to trial

"The policy of the Department of Manpower is very clearly non-intervention in the labour field, even keeping well clear of labour disputes

"We have called on the Government on a number of occasions to bring labour leaders to trial

"The Government says these people are threatening the security of the State The only way that can be resolved is in court If they are not brought to court it creates the impression that they are being harassed for being unionists, while that may not be the case"

Trade unionists of the largely non-racial 'independent' unions are increasingly cynical of State labour reforms and the motives of the Department of Manpower

Mr Jan Theron, general secretary of the African Food and Canning Workers' Union (of which Dr Neil Aggett was Transvaal regional secretary), has accused the department of actively assisting the police in repressive action against independent trade unions and their members

And a Natal organiser of the 100 000-member Federation of South African Trade Unions (Fosatu) said "While the State has attempted to convince the public and the International Labour Organisation that there are genuine reforms on the labour front, underneath there is a current of repression against trade unions by the State"

Last year the Government barred Fosatu from fund-raising after the Natal Supreme Court had overruled an earlier ban The Fund Raising Act was amended to take away the court's right to intervene and a new ban was then imposed

One of the most notorious interventions was the distribution among employers, particularly in the Eastern Cape, of a document designed to weaken Saawu and the independent unions

Mr Louis le Grange, the Minister of Police, admitted in Parliament last year that the document had been compiled by a senior Security Police officer based in Port Elizabeth

Management at some of the few dozen "progressive" businesses which have officially recognised independent trade unions have also complained that their mail has been tampered with, that their telephones have been tapped and that there have been requests for interviews from the Security Police and the National Intelligence Service

Mr Peter Wrighton, managing director of the giant Premier Group, echoed the unease of many employers that trials had not followed actions by police against trade unionists

"The trade unions will be radicalised if their leaders are put away," he said, dismissing any claim that unions were presently radical

"Frustrations about lack of political representation will increasingly be taken out in the work place Harsh Government action will only radicalise the situation"

A leading labour lawyer said "Trade unions have been thrown out of town offices in terms of the Group Areas Act, Fosatu has had its funds cut off, union leaders are being detained for lengthy periods and meetings are prohibited in homelands In 'independent' Bophuthatswana a trade union meeting of more than 20 people cannot legally be held without a magistrate's permission

"There will be more use of the so-called security laws against trade unionists

"But they will never succeed in checking this growth

"The chances of the Government eradicating the labour movement again as they did with the South African Congress of Trade Unions (Sactu) in the early sixties are less, as the unions have adapted to deal with that threat"

This is an adaptation some employers have already praised

An employer group that recently reaffirmed its recognition agreement with Saawu, which has five of its six executive members in detention, praised the excellent negotiating skills of the unionists who have taken up the reins of the 80 000 member union while their leaders are locked up

Contrary to their apparent aims, repressive Government action is serving only to unify and strengthen the previously fragmented trade union movement

One of the rallying cries of the burgeoning non-racial trade union movement was put to the test recently after Dr Aggett died

More than 85 000 workers in hundreds of factories throughout South Africa stood in silence next to idle machines or left the shop floor during a half-hour tribute to Dr Aggett

The stoppage, which industrial sociologists have termed a 'political strike" was the first incident in which workers took industrial action of a political nature on the shop floor and not in the form of a "stay-away"

It was also the first political strike called by trade unions in more than two decades

Dr Eddie Webster, an industrial sociologist at the University of the Witwatersrand, said the stoppage was significant because unions had previously been reluctant to become directly involved in political action, "but had been provoked into action against repression"

"They are now likely to widen their involvement in those issues

"Managements and the State should seriously consider the implications of detentions," he said

The independent trade union movement began emerging as a strong force after the 1973 strikes

Their presence was bolstered by the Wiehahn reports, which paved the way for legitimate black trade unions, although some did not register and most adopted a non-racial stance

Mr Phiroshaw Camay, general secretary of one of the more important trade union movements to emerge, the Council of Unions of SA (Cusa), said the Wiehahn reports and changes in legislation had lent legitimacy to black trade unions in the eyes of employers

Employer-approved liaison committees were increasingly rejected by workers and employers began to deal with and sign recognition agreements with trade unions at company level, he said

Lavish dinner under fire

25/3/82 (165) RDM

Political Correspondent

CAPE TOWN. — A sumptuous banquet to launch the Manpower 2 000 project in Pretoria last year cost R95 706.

This is disclosed in part three of the Auditor-General's report published in Parliament yesterday. The official Opposition's chief spokesman on manpower, Dr Alex Boraine, described the amount as indecent and called on the Minister of Manpower Utilisation, Mr Fanie Botha, to explain it

I shall certainly raise this matter under the Manpower vote and I hope that this scandalous behaviour will not be repeated

"There are many ways to launch a campaign The very worst is to indulge in a sumptuous feast when the Minister of Finance is calling on South Africans to tighten their belts," said Dr Boraine

The banquet expenditure is listed under the heading "Manpower 2 000" — entertainment expenses"

The Manpower 2 000 banquet was attended by 2 000 invited guests.

The guest speaker was the Prime Minister, Mr P W Botha

According to one of the guests it was a lavish affair with expensive food including lamb and crayfish

NEWS

Labour mobility freeze judged 'unfair'

Star 23/7/82

A "freeze" imposed by employers on the movement of skilled workers in the diamond cutting industry has been ruled an unfair labour practice by the Industrial Court.

The application, heard in Johannesburg on March 8, was brought by a tenacious white union, the SA Diamond Workers' Union.

It centred on a rule adopted in 1961 by the industry's employer body, the Master Diamond Cutters' Association, which required employers to go through the association for all labour needs.

The court upheld the union's contention that the rule had been unfairly used to freeze labour mobility in the industry. It ordered that the rule be deleted from the association's constitution.

It also ordered the association to pay damages to a worker, Mr B C Bonthuis, who the union said had been frozen out of employment for a two-week period last year.

The general secretary of the union, Mr Robin Rich, said the judgment had "smashed a 20-year-long Draconian practice." He added that when the industry moved out of its current recession the ruling would strengthen the bargaining position of workers.

An employer spokesman said the judgment would have little effect" as there was already a termination of employment agreement with the union which precluded the free movement of labour in the industry.

WHAT'S ON

TODAY

Sandton City invites

Vienna today. The largest single group 29

Mr Krzysztof Pomorski's family brought their dog. Mr Pomorski

ports for his wife and seven-year old daughter

Star 8/4/82

(165)

Govt adviser talks in dispute with union

By Drew Forrest

In an unprecedented move a top Government labour adviser has been drawn into the dispute between Fosatu's Chemical Workers Industrial Union and the chemical firm of Henkel SA

Professor "Blackie" Swart, chairman of the National Manpower Commission's industrial relations committee, confirmed last night that he is to hold discussions with CWIU officials in Durban today

A delegation from Fosatu's Natal region is meeting Henkel management today in a bid to settle the dispute which has prompted union calls for an international boycott of the company Professor Swart said he would probably attend

The CWIU is seeking negotiating rights at the company as well as the reinstatement of workers fired after the recent strike at Henkel's Durban plant

18 000 affected by Dept shuffle

S P BOTHA New boss of trade tests

By John Raboroko

The central organisation of trade testing in South Africa, formerly the responsibility of the Department of National Education, has been placed under the jurisdiction of the Department of Manpower.

Announcing this the Minister of Manpower, Mr S P Botha said the transfer of jurisdiction was a logical consequence of the Public Service, especially since trade testing was of a practical nature and therefore directly related to legislation administered by the Department of Manpower.

"This training legislation also affected all population groups and people of all races were being tested at the Olifantsfontein Trade Testing Centre whereas the functions of the Department of National Education were confined to the education of the specific population group, Mr Botha said

The centre, which is situated near the Olifantsfontein railway station, between Johannesburg and Pretoria, is responsible for the trade testing of apprentices and trainees who wish to become artisans

Approximately 18 000 trade tests are carried out annually in about 200 different trades. The transfer will not affect the administrative work or the trade test arrangements

Source Star

19/5/82

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'Honesty, justice' in labour policy

CAPE TIMES 165 23/4/82

Staff Reporter

THE Minister of Manpower Utilization, Mr Fanie Botha, said yesterday that he was convinced the government was following a labour policy based on "honesty and justice"

Addressing a conference on ministry in business, organized by the Ned Geref church in Parow, he said it was the government's sincere wish that workers were happy and contented and that disputes between employers and workers were settled in a reasonable and orderly manner

Guidelines had been given to employers, workers and government officials to promote industrial peace These included individual freedom of choice, trade union autonomy, maximum consultation and co-operation and minimal State intervention

The government had also created a legal framework to promote industrial peace in the form of the Law Relations Act of 1956, which had been adapted, modernized and rationalized since 1979

Another government priority was to protect the safety and health of workers and to provide financial assistance in times of ill-health or unemployment.

It was also the government's stated intention that the knowledge, skill and ability of every worker should be upgraded to the highest possible level

Court looking at status of sugar workers

165

28/4/82 Mercury

Mercury Reporter

IT WAS important for the sugar industry that costs were maintained at a low level so that it could succesfully compete in the export markets, the general manager of C G Smith's Management Services, Mr Don Macleod said yesterday

He was giving evidence in this week's Industrial Court sitting to consider the distinction between farm labourers and industrial workers in order to resolve a 30-year-old dispute within the sugar industry

The dispute revolves around the status of workers loading and unloading cane at 'mill sites' and 'loading zones' and who have been regarded as agricultural workers and therefore not covered by the Sugar Industrial Council agreement.

The Industrial Court, which is being presided over by the president, Mr B J Parsons and the vice-president, Dr D B Ehlers, has been asked by the Sugar Manufacturers and Refining Employers' Association and the National Union of Sugar and Manufacturers and Refining Employees to consider whether these workers should not fall within the agreement

Mr Macleod told the Court that if cane loading workers were brought into the Industrial Council agreement each miller/planter — a miller who also farms sugar — would have to pay a higher transport rate and therefore would be prejudiced in comparison with the farmer

Under cross-examination by Mr M Pillimer, representing the National Union of Sugar Manufacturers and Refining Employees Union, Mr Macleod conceded that the present sugar transport system was in the interest of the miller

'It is absolutely essential for the miller to make sure the cane is delivered properly in order for the mill to operate,' he said

Mr Pillimer said it was therefore in the interest of the miller to continue the present transport operation even if he had to pay higher wages to the cane loader workers

Earlier, Mr K R McCall, representing the Sugar Employers' Association, outlined the numerous types of 'mill sites' and 'loading zones' where cane was loaded before being transported to the mill

The Court heard how a substantial number of workers — more than 543 — employed at these sites to load and unload cane were paid agricultural wage rates, but no contributions to an unemployment insurance fund were paid Workers covered by the agreement had the benefit of an unemployment insurance fund

The hearing continues today

Mining council to take Botha to court

30/4/82 RDM (165)

By STEVEN FRIEDMAN
Labour Correspondent

THE Council of Mining Union is to take the Minister of Manpower, Mr Fanie Botha, to court in a case which could have important implications for labour law, a CMU source said yesterday

The Council represents all white workers on mines which belong to the Chamber of Mines

The CMU's decision stems from an application for a conciliation board it made to the Minister in December

In it, the unions alleged the mines committed an unfair labour practice by discriminating between different classes of workers on sick pay

This, the source, said, had arisen out of claims that some mine managers "arbitrarily" docked the pay of workers who had been sick

The term "unfair labour practice" was introduced into labour law after the first Wiehahn Commission report and is designed, Government spokesmen say, to protect workers The law allows the Minister to take action on various disputes if an unfair labour practice is alleged

Earlier this week, the council received a reply from the Department of Manpower which, CMU men believe, rejected the view that discrimination between workers on sick pay could be an "unfair labour practice"

"The department agreed to appoint a conciliation board, which means that they recognise that a dispute exists But the Minister stipulated that the board would not be discussing anything which is an alleged unfair labour practice

"We have consulted lawyers on the issue and they believe that the Minister is therefore saying that discrimination of this nature could never be an unfair labour practice, even if the allegations are true

"Our lawyers believe that we have good grounds for arguing that the Minister has not properly applied his mind to this issue and we are therefore going to court," a CMU unionist said

He argues that the issue is not whether the mines did discriminate as the unions allege they did, but whether the alleged action could be an unfair labour practice

The case could, therefore, enable the courts to spell out further what constitutes an unfair labour practice

MR FANIE BOTHA
faces court action

S.A. THEATRE AND CINEMA EMPLOYEES UNION

Telephone: (011) 211 494

Year	Membership			
	African	Asian and Coloured	White	Total
1970		..	..	1 197
1971		..	..	1 288
1972		..	..	1 288
1973		169	1 270	1 439
1974		147	1 262	1 309
1975		202	975	1 177
1976		232	964	1 196
1977			620	774
			650	774
			758	939
			678	991

KENNISGEWING 285 VAN 1982

DEPARTEMENT VAN MANNEKRAG

NASIONALE MANNEKRAGKOMMISSIE

In opdrag word bekendgemaak dat die Minister van Mannekrag die Nasionale Mannekragkommissie versoek het om 'n ondersoek te onderneem met die oog daarop om op die vroegs moontlike datum verslag aan hom te doen oor moontlike maatreels om die diensvoorwaardes van plaaswerkers en huishoudelike werkers in diens van huishoudings te reel Die opdrag lui soos volg

Ingevolge artikel 2 (D) (1) van die Wet op Arbeidsverhoudinge, 1956, word die Nasionale Mannekragkommissie opdrag gegee om ondersoek in te stel na, verslag te doen oor en aanbevelings te doen in verband met—

(a) faktore wat 'n invloed het op die bepalings van diensvoorwaardes en wedersydse verpligtinge tussen enersyds plaaswerkers en huishoudelike werkers in diens in private huishoudings en andersyds hul werkgewers, met inagneming van die besondere behoeftes ten opsigte van die beskikbaarheid van 'n bestendige en voldoende aantal werkkragte,

(b) die mate waarin bestaande maatreels en instellings ten opsigte van die reeling van diensvoorwaardes in die behoeftes van werkgewers en werknemers in die twee sektore voorsien, met inagneming van die werkgewer se behoefte aan sekerheid van arbeidsbeskikbaarheid en die kontraktuele verantwoordelikheid van weknemers en werkgewers,

(c) die kwessie of, in die lig van die bevindinge van die ondersoek en die ervaring elders, die omstandighede waaronder diensvoorwaardes in die twee sektore tot stand kom, afsonderlike owerheidsmaatreels of aanpassings van die bestaande maatreels en instellings vir die reeling van diensvoorwaardes in die twee sektore wel in die Republiek van Suid-Afrika nodig is, en indien wel en met inagneming van Suid-Afrikaanse omstandighede—

(i) wat die aard van die maatreels of aanpassings moet wees, en

(ii) hoe hulle effektief toegepas kan word.

By die uitvoering van die opdrag moet die ondersoek beperk word tot omstandighede in die Republiek van Suid-Afrika buite die selfregerende nasionale state en moet van meet af met die Suid-Afrikaanse Landbou-unie en die res van die georganiseerde landbou en ander relevante organisasies geskakel word en waar moontlik moet van hulle verteenwoordigers by die ondersoek betrek word

Alle belanghebbende persone en instansies word hierby versoek om getuienis of vertoe oor die opdrag aan die Kommissie voor te lê Die getuienis of vertoe moet skriftelik wees en moet die Kommissie binne twee maande vanaf die datum van publikasie van hierdie kennisgewing bereik en gerig wees aan die Sekretaris, Nasionale Mannekragkommissie, Privaatsak X316, Pretoria, 0001

G. J. J VAN ZYL, Sekretaris· Nasionale Mannekragkommissie

(7 Mei 1982)

NOTICE 285 OF 1982

DEPARTMENT OF MANPOWER

NATIONAL MANPOWER COMMISSION

By direction it is notified that the Minister of Manpower has requested the National Manpower Commission to conduct an investigation with a view to reporting to him at the earliest possible date on possible measures to regulate the conditions of employment of farm labourers and of domestic workers employed by households The directive reads as follows

In terms of section 2 (D) (1) of the Labour Relations Act, 1956, the National Manpower Commission is directed to inquire into, report on and make recommendations in connection with—

(a) factors affecting the determination of the conditions of employment of farm workers and domestic workers employed by private households and of their obligations to their employers and vice versa, with due regard to the special needs in respect of the availability of a stable and sufficient number of employees,

(b) the extent to which present measures and institutions for the regulation of conditions of employment serve the needs of employers and employees in these two sectors, with due regard to the employer's need for assured availability of labour and the contractual responsibilities of employees and employers,

(c) the question whether, in the light of the outcome of the investigation, experience elsewhere and the circumstances under which conditions of employment are determined in these two sectors, separate government measures or adjustments to the present measures and institutions are needed to regulate the conditions of employment in these two sectors in the Republic of South Africa and, if so, with due regard to South African circumstances—

(i) what the nature of the measures or adjustments should be, and

(ii) how they could be applied effectively

The investigation must be limited to the situation in the RSA excluding the self-governing national states and, from the outset, there should be liaison with the SA Agricultural Union and the rest of organised agriculture and other relevant organisations, and if possible some of their representatives should be involved in the investigation

All interested persons and bodies are hereby invited to submit evidence or make representations to the Commission regarding the directive The evidence or representations should be in writing, must reach the Commission within two months of the date of publication of this notice and should be directed to the Secretary, National Manpower Commission, Private Bag X316, Pretoria, 0001

G J. J VAN ZYL, Secretary· National Manpower Commission.

(7 May 1982)

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SS 8141

Hunting accident details proved a difficult trail

E-Post 1-5-82 165

Weekend Post Reporters

TO get up-to-date statistics of industrial accidents in the Port Elizabeth-Uitenhage region is no easy task

The National Occupational Safety Association figures are based on a disabling injury which prevents a man doing his job for longer than a full shift, or if he suffered bone damage.

These figures are incomplete because they reflect only accidents at premises to which Nosa has been invited

The figures are not broken down into categories for fatalities or permanently maimed workers

The Department of Manpower Utilisation in Port Elizabeth had a national figure, but because this had not yet been tabled in Parliament, they could not release it

Officials there suggested telephoning the Occupational Safety Department in Pretoria, who in turn suggested getting hold of a copy of the *Workmen's Compensation Act 1941 — Report on Statistics*

This bound book was freely available through libraries, the offical said

But reference sections at the Port Elizabeth Library and University of Port Elizabeth Library could only turn up copies dating back to the late 1930s

Contained in this report is a complete breakdown of all industrial accidents on a regional basis as well as numbers killed, permanently injured or not seriously injured

Library personnel suggested the regional offices of the Department of Statistics

Here it was found that statistics were kept of all accidents excluding domestic workers, but that no analysis was made of these accident statistics on a regional basis

A spokesman for the regional office also admitted that the figures were misleading as many accidents were reported through head offices not situated in this region

Another call to Pretoria — this time to the Department of Statistics there — revealed that the most recent figures they had were for 1978, though they were busy working on those for 1979.

A department official explained "Figures are only released once most of the negotiations with the Workmen's Compensation Commissioner on payments have been completed"

The official admitted that his department had a backlog going back at least two years

UNIONS OPERATING IN 1981 GROUPED ACCORDING TO INDUSTRIAL CLASSIFICATION

Unions have been classified according to the Standard Industrial Classification of All Economic Activities. The full extent of the operation of the following general workers unions has not been established:

National Federation of Workers
Orange-Vaal General Workers Union
General and Allied Workers Union

AGRICULTURE, FORESTRY AND FISHING

Black Allied Workers Union
Farmworkers Union
Food and Canning Workers Union
National Certified Fishing Officers Association
Orange-Vaal General Workers Union
Trawler and Line Fishermen's Union

MINING AND QUARRYING

Amalgamated Engineering Union of S.A.
Amalgamated Union of Building Trade Workers
Amalgamated Society of Woodworkers of S.A.
Black Allied Workers Union
Black Mineworkers Union
Federated Mining Explosives and Chemical Employees Union
Iron Moulders Society of S.A.
Mine Coloured Staff Association of South Africa
Mine Surface Officials Association of South Africa
Mine Workers Union
S.A. Boilermakers, Iron and Steel Workers Shipbuilders and Welders Society
S.A. Electrical Workers Association
S.A. Engine Drivers, Firemens and Operators Association
S.A. Technical Officials Association
Underground Officials Association of S.A.

MANUFACTURING

Food & Beverages

African Food and Cannin
Amalgamated Engineering
Bakery Employees Industr
Black Allied Workers Un
Boland Inmaakwerkersvere
Brewery Employees Union
Cadbury In-Company Unior
East London Meat Trade U
Food and Cannning Worker
Food, Beverage & Allied
General Workers Union
General Workers Union of
Natal Baking Industry En
Natal Sugar Industry Emp
National Milling Workers
National Union of Dairy
National Union of Operat
National Union of Sugar
National Union of Wine,
Operative Bakers, Confec
Pretoriase Baknywerheids

Cape Times 15/5/86 165

Unions plan legal action

THE Minister of Manpower's rejection of an appeal by six unions against their registration along racial lines will be challenged soon in the Supreme Court.

This was announced in Cape Town by Mr Joe Foster, the recently elected general secretary of the Federation of South African Trade Unions (Fosatu), to which the unions are affiliated.

A little more than a year ago the six unions were registered on a racial basis. As Fosatu has strong non-racial policies it objected to this and appealed to the Minister of Manpower, Mr Fanie Botha, to reverse the decision.

But last week Mr Botha gave the thumbs down.

Mr Foster said Fosatu's lawyers had been instructed to take the matter further. It would end up in the Supreme Court either in Durban or Johannesburg.

The test case would receive much attention because the Government's claim to have deracialised the official labour system would be strongly challenged, he said.

(65) RDM. 19/5/82

Bid to end white union dispute

Labour Correspondent

THE Minister of Manpower, Mr Fanie Botha, has appointed an official conciliation board in an attempt to settle the pay dispute between white mine unions and the Chamber of Mines

This means both parties will have to return to the negotiating table while the conciliation board is in operation If the board fails, unions may call a legal strike ballot

Unions on the mines, represented by the Council of Mining Unions, declared a dispute with the Chamber after rejecting its offer of a 5% increase for white workers The unions want 15%

A CMU source said yesterday the unions had learnt Mr Botha had agreed to set up a conciliation board, and the unions would now have to decide on its first meeting — hopefully by next week "at the latest"

In terms of labour law, a conciliation board must bring both parties to a dispute back to the negotiating table

If negotiations collapse at the conciliation board, unions may hold a legal strike ballot after 30 days

Union sources said yesterday the Chamber had said at a recent meeting it was willing to negotiate on white workers' pay demands

"But they went on to tell us that they would only do this if we agreed to drop our demands substantially below 9,5% We could never take that back to our members" the source said

Chamber of Mines comment was not available yesterday

The dispute over wages does not affect pay for black workers The black wage increase is determined separately

LABOUR:

'Things will never be the same again'

MORE ATTENTION had been devoted to manpower issues in South Africa in recent years than at any other time in the labour history of the country, Dr P J van der Merwe, director general of Manpower told the recent conference of the Boilermakers, Iron and Steelworkers, Shipbuilders and Welders Society

By SELLO RABOTATHA

Dr van der Merwe said it appeared to him as though the importance of manpower was suddenly "rediscovered" by the Government, employers trade unions academics and journalists, and that this rediscovery was transforming economic life and more particularly the industrial relations scene in South Africa to a far greater degree than we may think at this stage

He said the manpower scene today shows that things will never quite be the same as before A number of factors have contributed to this rediscovery, such as

- Structural changes in the country s economy which have resulted in important shifts in the occupational and industrial distribution of the labour force
- The growing realisation that fiscal and monetary policy measures on their own could not solve problems of unemployment, inflation and regional development unless they were reinforced by manpower policies,
- The growing shortage of high level manpower and of skilled and unskilled workers in different sectors of the country's economy,
- The realisation that the country's labour policies and laws had not kept pace with the developments in labour practices in the workplace and
- International developments in the labour field, and more particularly the adoption of active manpower policies by the industrial countries of the world

Dr van der Merwe said there were four overriding problems facing the country today These were industrial relations problems resulting in strikes and work stoppages or product boycotts, unemployment skill shortages and low productivity levels

The causes of these problems were many and varied, and there were no immediate or easy solutions to these problems

"I am confident that we have the leaders and followers who can overcome the obstacles to change," Dr van der Merwe said

Mr G Ahrends, president of the society told the conference the Government had to speed up the removal of racism from the country's labour laws He said a large number of people in the country were not only ready but waiting for rational and peaceful change to be made to the social, economic and political structure

Wage increases outstripped inflation

Political Staff

THE ASSEMBLY — The average earnings of all workers in South Africa increased ahead of the rate of inflation in the first nine months of least year, the National Manpower Commission reported yesterday

It also said that the absolute difference between the earnings of whites and those of other population groups grew

However, the average earnings of coloureds, Asians and blacks increased more rapidly than those of whites, the commission said

The commission said the past year had been characterised "by a particularly high increase in average earnings" and estimates reflected an average increase of more than 20%

In the first nine months of the year, white salaries increased by 24,6%, coloured salaries by 26,8%, Indian salaries by 34,1% and black salaries by 24,9%

"The Consumer Price Index rose by 15,2% between 1980 and 1981, which means that real earnings increased by more than 10%

"The biggest increases occurred in the tertiary sectors, namely trade, transport and communication, finances and insurance and Government and services"

The commission also said "the percentage income gap between whites and Asians narrowed slightly and Asian earnings amounted in 1981 to 46% of that of whites, compared to 44% in 1980.

"Coloureds earned 33% of white's income and blacks about 25%," the commission said.

A Human Sciences Research Council investigation had found that the median income of self-employed white male graduates was R28 930, while white male graduates in the private sector had a median income of R19 750 and in the public sector of R16 810, the commission said

More strikes in '81 than ever before

Political Staff

THE ASSEMBLY — South African industry was hit by more strikes last year than ever before, with most strikes reported in the Eastern Cape

The National Manpower Commission's annual report, released yesterday, reveals that there were 342 strikes between January and December, 1981, compared with 207 the previous year

The commission labels nearly all the strikes last year as illegal

The report states that 29,5% of the strikes (101), were in the Eastern Cape The area with the second highest number of strikes was the Pretoria-Witwatersrand-Vereeniging area where 94 strikes, or 27,5% of the total number occurred

The Eastern Cape also lost the highest number of man-days where strikes resulted in 79 712 man-days lost In the PWV area 43 280 man-days were lost

But the report says that althogh the increase in strikes appears "fairly sharp at first glance" a comparison with other countries shows that the effect strikes had on the country's production as a whole was still smaller than in most of the developed industrial countries.

"In view of the fact that the Republic is still at the beginning of a new labour dispensation it is to be expected that disruption, including disruption by strikes, will occur during the period of re-adjustment

"Despite the increase in the number of strikes, there is no reason for unnecessary alarm"

Nearly 93 000 workers were involved in strike action last year, resulting in the loss of 226 554 man hours

"The most important reason for strikes was dissatisfaction with wages and in about 48% of cases this was cited as the reason or one of the reasons for action"

"The controversial pension question was given as the reason in no fewer than 15% of strikes"

Dr Hennie Reynders, chairman of the commission, says that the increase in the number of strikes and work stoppages was not unexpected

"In a sense it was to be expected because of the larger number of trade unions and the growth of membership, especially among black workers, with the attendant increase in activity and the fact that many of the participating parties are still relatively inexperienced in the processes of collective bargaining

"In addition there was constant pressure on real living standards owing to inflation

"What I want to say is that we must guard against regarding every strike as virtually a national crisis A strike is a normal feature of the bargaining process that takes place in a free market"

He says that if strikes do not occur it may indicate that employers have acquired too dominant a position. Too many strikes, on the other hand may reflect excessive domination by labour

The report states "If the Republic's position is compared with that of other countries, it is found that despite the increase in strikes, the situation is not really as bad as often alleged

"For example, not as many man-days are lost per 1 000 workers per annum as in developed countries such as the United Kingdom and the United States"

260 000 blacks in registered unions

Political Staff

THE ASSEMBLY — The number of black members of registered trade unions increased by 359% last year to reach 260 000, the National Manpower Commission said yesterday

This surpassed the 100 000 it estimated belonged to unregistered unions

The commission, whose annual report was tabled in Parliament yesterday, said the black membership of registered trade unions now constituted 24,6% of the total of 1 050 000

During 1981 there were 200 registered trade unions compared to 188 the previous year

The commission said this increase was "mainly as a result of the admission of black trade unions to the statutory labour dispensation"

It said 56 700 black people were members of registered trade unions in 1980

Most of the black members of registered trade unions belonged to blacks only unions The comission said 162 028 workers belonged to these unions

A further 84 523 black workers belonged to registered mixed unions and 13 526 belonged to four unions which had registered for black members

It is estimated that the membership of the unregistered trade unions is at present nearly 100 000," the commission added

"It appears that blacks now form 24,6% of the total trade union membership of registered organisations, whites 44,4 and coloureds and Asians 31,0%

"These figures also suggest that the membership of registered trade unions in 1981 is 12,2% of the total work force of this country in 1980

"However, excluding agriculture, forestry and fishing, domestic workers and other unspecified workers, the figures is 16%," the commission said

It estimated that 6,8% of black workers — or 9% if unregistered trade unions were taken into account — belonged to unions

"Although many of the new trade unions have already been registered or are in the process of registration, a number of them have indicated that for the forseeable future they will not make use of the negotiating machinery of the Labour Relations Act and consequently they will not register

"Towards the end of 1981 there were, as far as is known, 21 unregistered trade unions in the country, seven of which have applied for registration"

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Number of unemployed 'unsatisfactorily high'

Political Staff

THE ASSEMBLY — Although the unemployment rate in South Africa had dropped, the number of black people out of work was still unsatisfactorily high, the National Manpower Commission said yesterday

The chairman of the commission, Dr Hennie Reynders, warned that the expected downturn in the economy could result in the deterioration of the employment position in the short and medium terms

The commission estimated that the unemployment position among black people had dropped 17% — 87 000 people — between September, 1979, and September, 1981.

In its annual report, tabled in Parliament yesterday, the commission said that 7,3% of economically active black people were unemployed in September, 1981

It also said unemployment had decreased considerably among coloured people and that with 36 000 coloured people out of work the unemployment rate was 3,9% in September, 1981

An absolute increase of job opportunities for 144 000 workers took place in non-agricultural sectors, including 98 000 for black people

The commission said that in terms of sex the current population survey had shown that "unemployment is considerably higher among coloured and black women than among men"

Most black and coloured unemployed men were recorded as production, mining and transport workers while among unemployed women were made up of service workers

"In terms of age, the largest percentage of black and coloured unemployed people are younger than 30 years

"Among blacks, for instance, this figure was 59,5% in June, 1981, and among coloureds it was 66,8%"

The unemployment rate was higher in the metropolitan areas and the self-governing national states than in towns and on farms.

"It is especially high in the cities and towns of the Cape Province and on farms in the Orange Free State," the commission said

In the provisional results of the 1980 census, there were 8,7-million economically active people in South Africa, excluding Transkei, Bophuthatswana and Venda

Dr Reynders said although unemployment among blacks was still unsatisfactorily high and "although there is also a widespread problem of underemployment in the economy, it nevertheless remains true that there is practically no country in the world at present that can equal the achievement of ours, in which employment has continued to graw faster than the population increase and unemployment among 11 population groups has been declining significantly since 1979"

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40

BOUR

Inquiry wanted on farm labour and domestics

Star 23/6/82 165

Own Correspondent

The National Manpower Commission has called for representation on the service conditions of farm workers and domestic servants.

The chairman of the commission, Dr Hennie Reynders, said in Pretoria that South Africa had about 1,2 million farm workers and 700 000 domestic servants, but labour laws which regulated the basic service conditions of millions of other workers did not apply to them.

Earlier this year the Minister of Manpower, Mr Fanie Botha, asked the commission to probe the need for measures to protect agriculture and employers of domestic servants against malicious attacks and to determine the mutual obligations of employers and employees.

MEASURES

Dr Reynders said minimum wages were not relevant because the Minister's directive concerned only measures regarding conditions of employment in general.

Representations may be submitted in writing to the Secretary, National Manpower Commission, Private Bag X316, Pretoria 0001.

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Miners threaten court action

CAPE TIMES 24/6/82 (185)

Own Correspondent

JOHANNESBURG — The Mine Surface Officials Association says it is planning an unprecedented industrial court action against the Chamber of Mines

The action would centre on alleged violations by the mines of an agreement on black job advancement and on MSOA complaints about the Chamber's attitude to the present round of wage talks

The MSOA claims mines are promoting blacks and coloured people at pay rates lower than those whites would be paid This 'discriminates against non-whites and undermines white job security'

A circular to MSOA officials by the general secretary, Mr Robert Botha says the association will go to the court if the Chamber does not meet its requests on these issues by Friday

A Chamber spokesman declined to comment on the MSOA's claims

When the court was established observers believed its key function would be to rule on cases in which whites were unfairly replaced by blacks If the MSOA goes ahead its action will provide a test of the court's attitude to these issues

In the document Mr Botha repeats claims that mines have been guilty of "thousands of violations of an agreement to consult MSOA members when blacks are promoted to officials jobs

He says the Chamber was asked to put a stop to the "violations and it reissued its circular advising mines of the agreement but the MSOA wrote to it on June 18 saying this was 'insufficient'

The association demanded an "explicit undertaking" from the Chamber that the agreement would be adhered to and reminded the Chamber that it had to notify the MSOA of each appointment made in accordance with the agreement

Each notification should contain the minimum salary attached to the job and the actual salary of the promoted man

The minimum salary for the non-white appointment must at all times be not less than that which would have been applicable to a white attached to the post'

On wages the MSOA alleges that the Chamber's offer of a 9 percent increase on minimum pay rates is "incomplete because it relates only to "designated and not to "non-designated" jobs — the majority it says of officials jobs

It says the Chamber told it "non-designated jobs would be taken care of by individual mining groups' schedules but that it has not been given these

● The SABC reported yesterday that the Council of Mining Unions would hold a strike ballot on July 7, according to Sapa The decision had been taken at a special meeting of the council following the breakdown in pay talks with the Chamber

... for hotel

165 Star 24/6/85

The newly constituted National Manpower Commission has added another 19 members to its fold and will now operate for a three-year term.

The outgoing NMC committee had 42 members, compared with this session's 61, and had a term of 2½ years.

The current committee is chaired by Dr Hennie Reynders.

There are 29 new members on the committee which was formed at the beginning of last month.

Trade union members include: Mr A I Nieuwoudt of the SA Municipal Employees' Association, Mr N M Mbewu of the Railways' Black Staff Association and Mr Norman Daniels of the Textile Workers' Industrial Union.

Academic members include Professor Roux van der Merwe of the University of Port Elizabeth, Professor C J G de Vries from Stellenbosch, Professor R V Sutton and Professor A K le Roux of Unisa and Professor A C Nkabinde, rector of the University of Zululand.

Employers and other officials include: Mr Sam van Coller, director of Seifsa, Mr R S Parrott, personnel consultant, Professor Piet van der Merwe, director-general of the Department of Manpower and Mr R L Peteni, president of the African Teachers' Association of SA.

There are several committees on the NMC covering employment creation, industrial relations and education and training, among others.

165

Latest labour rulings 'unfair'

Sowetan 29/6/82

THE latest changes to the Industrial Court dealing with unfair labour practices will not help the court to serve the needs of the workers.

The president of the Garment Workers Union, Dr Anna Scheepers, said that, from a trade union point of view it was essential that an Industrial Court should exist in South Africa and that it should deal with unfair labour practices

Dr Scheepers who is also president of the Trade Union Council of South Africa said it was "regrettable" that the Government had decided to complicate the court by introducing the right of appeal to the Supreme Court through to the appellate division

The court was originally a place to which a worker could take his case or an employer without using an ordinary court of law "

Dr Scheepers said that originally the court could decide for itself what an unfair labour practice was — and it would conduct its business without lawyers and legal technicalities

"The amendment made earlier this year was definitely ill-conceived — the right to appeal about decisions of the court on unfair labour practices is exactly what should never have happened

This simple court which was to help in the provision of a sound system of industrial relations in South Africa, will find itself bound firmly into all the legal complexities and necessities of our courts of law," she said

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6/7/82 (165) Mercury

Increase wages, Umzinto told

Mercury Reporter

THE Department of Manpower has warned the Umzinto North Town Board to upgrade the wages of its black labourers after complaints of growing dissatisfaction

This is the second time that the department has intervened in a row over pay between the Indian-controlled local authority and its black labour force

Last year the board granted black workers a 10 percent pay hike after receiving an ultimatum from the department to upgrade wages within 48 hours or face prosecution

A deputation from the black workers' liaison committee this week met Town Clerk Enoch John and demanded an immediate increase of R30 a month for all black workers irrespective of whether they were on a scale or not

They also pointed out that their take-home pay was insufficient to enable them to live 'decently'.

Since the last increase about a year ago the price of food and other goods had increased rapidly, so much so that even their net take home pay was insufficient to meet the food bill let alone other household expenses, they said

In a report tabled at a closed meeting of the board yesterday, Mr John disclosed that the leader of the deputation, Mr Gilbert Mquadi had informed him that the black workers had threatened strong action when making their pay demands

The report also disclosed that a senior official of the Department of Manpower had informed the Town Clerk of the dissatisfaction among black workers

'He said he felt it his duty to alert me that trouble was brewing among the black employees who appeared to be dissatisfied and disgruntled about their take-home pay and that the board should give serious consideration to increasing their pay

'If this were not resolved amicably between the black workers' liaison committee and the town board, then at the instance and request of the liaison committee it may be necessary for my department to set up a conciliation board to settle the dispute'

The chairman of the board's works committee, Mr Ismail Moolla, told the Mercury last night that he would support the upgrading of black workers' pay on condition they showed greater efficiency

'Closed shop' to be tested in court

By STEVEN FRIEDMAN
Labour Correspondent

THE controversial "closed shop" provision, which forces workers to belong to a trade union, is to be tested in the Government's new industrial court

The case is likely to be closely watched by both employers and unionists The closed shop is firmly supported by most established unions, but has been attacked by emerging unions and employers, who see it as a violation of workers' freedom of association

The registrar of the industrial court confirmed this week that the case, brought by Natal furniture company Grafton Everest against the furniture industry's Natal Industrial Council and the National Union of Furniture and Allied Workers (NUFAW), an affiliate of the Trade Union Council of SA is to be heard

He said a date for the hearing had not been set "The parties are negotiating on a date and we are waiting for them to come back to us," he said

The case concerns an agreement negotiated at the Natal council which means all black furniture workers must belong to the NUFAW The closed shop in the union has only recently been extended to blacks

Grafton Everest brought the case after three of their workers refused to join the NUFAW The council told the company it must fire the workers

At one stage, the council sent an agent to the plant to evict the three But he was turned back and they are still working at the plant

It is understood that the three refuse to join because they support the unregistered SA Allied Workers' Union Informed sources say other NUFAW members at the plant originally backed the SAAWU

The company has now taken the case to the court, arguing that to fire workers because they refuse to join a union is an 'unfair labour practice"

The NUFAW's secretary, Mr Mohan Lalaram, confirmed yesterday the company had brought the case, but added "We believe their attorneys have told them there is nothing illegal about the closed shop

"Instead of doing this, why didn't they apply to the Minister of Manpower for an exemption from the closed shop, which they can do?," he said

It is understood that the company has not asked for an exemption because this would mean that the closed shop principle would not be tested in court

Date 17/6/82

Degree/Diploma/Certificate for which you are registered (e g B A , B Sc) B A

Subject ECONOMICS IA
(to be copied from the heading on the Examination Paper)

Paper No PAPER II C I
(to be copied from the heading on the Examination Paper)

Examiners' Initials		

NOTE CAREFULLY

1 Enter at the top of each page and in column (1) of the block on this cover the number of the question you are answering
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WARNING

1 No books, notes, pieces of paper or other material may be brought into the examination room unless candidates are so instructed
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Survey planned on farm labour

Star 22/7/82 165

Farming Correspondent

The widest farm labour survey yet will be launched by the Manpower Commission

A sub-committee of about 14 members will be set up, on which all interested parties will be represented

A survey of domestic servants' working conditions will be undertaken simultaneously

The Manpower Commission's terms of reference are to "report on possible measures to regulate the conditions of employment of farm labourers and of domestic workers"

Farmers are adopting a wait-and-see attitude They were shocked however by the announcement yesterday by the Minister of Finance that loans for black housing on farms have been discontinued As none of the urban black housing projects has been shelved this is discrimination against the farm workers, they say

CLOSED SHOP CASE

(165) (FM) FM 23/7/82

The Industrial Court has been asked to rule whether the closed shop, which forces workers to belong to a trade union in a particular company or industry, constitutes an unfair labour practice.

A case challenging the closed shop has been brought by Grafton Everest against the furniture industry's Natal industrial council and the National Union of Furniture and Allied Workers (NUFAW), an affiliate of the Trade Union Council of SA (Tucsa) The closed shop, favoured by established unions and criticised by those in the emerging union movement, is a highly controversial labour issue.

It is understood that Grafton Everest has decided to challenge the closed shop in the wake of the refusal by some of its workers to join the NUFAW A date for the hearing has not yet been set, but court officials believe it will probably come before the court in October

Union wins rights

24/7/82

Labour Correspondent

A WADEVILLE electrical company, Litemaster, has signed a recognition agreement with Fosatu's Metal and Allied Workers' Union (MAWU) which grants the union the right to bargain over pay and work conditions

The agreement comes at a time when almost all East Rand metal employers have resisted MAWU demands to bargain directly on these issues and insisted that bargaining take place before an industrial council

The recognition agreement is a sequel to an industrial court action brought by MAWU against Litemaster, which is partly German-owned As part of an out-of-court settlement, the company agreed to open recognition talks with the union

Besides bargaining rights, the agreement also governs grievances, strike and lock-out, dismissal, health and safety and retrenchment procedures, and other issues

Litemaster's managing director, Mr John Houston, said the agreement was "a significant step forward for relationships" at the firm

Meanwhile trailer manufacturers Henred Fruehauf, who recently signed a wage agreement with MAWU at its two East Rand plants, has signed a pay agreement with MAWU at its Durban factory

Textile union to fight for fired workers

26/7/82

Sowetan

IN PROBABLY the first labour unrest battle over retrenchments, the National Union of Textile Workers (NUTW) is to take South African Fabrics of Rossburg, Durban, to the International Court over some of the harshest retrenchments executed by any textile employer this year.

Joshua Raboroko

This was confirmed to The SOWETAN yesterday by the union's general secretary, Mr Obed Zuma, who said that they have already served papers and are waiting for a response from the State

When the company retrenched 60 workers, it gave the union 36 hours' notice of the dismissals, selected workers for retrenchment without taking length of service into account, and introduced overtime for remaining workers at the same time

Some of the dismissed workers had worked for the company for more than 20 years The union will ask the Industrial Court to rule that the company has engaged in unfair labour practice.

COURT

The union will ask the court to order

- that all retrenched workers should be reinstated,
- that the company should not retrench workers without giving the union 30 days' notice, and allow the union a reasonable opportunity to negotiate a fair procedure for retrenchments which may be necessary

SA Fabrics is a subsidiary of a British company and the union also wants an official complaint with the International Labour Organisation (ILO) over the issue

Mr Zuma also said that SA Fabrics knows "quite well that they would not do this kind of thing in Britain Why do it here"?

In Britain, retrenchments such as those by Fabrics would not only be unfair, but also illegal, labour experts say

CONDUCT

In terms of codes of conduct for multinationals operating in South Africa, all parties to the ILO have agreed that subsidiaries will operate their factories here in accordance with internationally accepted standards

This will be the first time that the Industrial Court will have to state its position on retrenchments and it remains to be seen whether it will impose the same regulations in South Africa as are commonplace overseas.

165

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Natal firm asks Court to test 'closed shop'

Mercury 27/7/82 165

Mercury Reporter

A NATAL furniture company has asked the Industrial Court to test the controversial 'closed shop' provision, which forces workers to belong to a trade union

The case is being brought by Grafton Everest against the furniture industries' Natal Industrial Council and National Union of Furniture and Allied Workers (NUFAW), an affiliate of the Trade Union Council

It concerns a council agreement which forces all Indian, black and coloured furniture workers to belong to NUFAW

The closed shop has been extended only recently to blacks

The closed shop is firmly supported by most established unions but has been attacked by emerging unions and employers, who see it as a violation of workers' freedom of association

It is understood that Grafton Everest brought the case after three of their workers — one who has worked for the company for 25 years — refused to join NUFAW because they supported the unregistered South African Allied Workers' Union The council told the company they must dismiss the three workers

The company has now taken the case to the Court, arguing that to fire workers because they refuse to join a union is an unfair labour practice and runs counter to the principle of freedom of association

Tested

NUFAW's secretary, Mr Mohan Lalaram, yesterday confirmed that the case had been brought by the company but said 'it was the right of any employer to ask the Minister of Manpower for an exemption from the closed shop agreement'

It is understood that the company has not asked for an exemption because this would mean that the closed shop principle would not be tested in court.

The Natal Industrial Council for the furniture industry declined to comment when contacted yesterday

The Registrar of the Industrial Court confirmed the case, but said a date had not yet been set because 'we are waiting for the parties to agree on a mutually satisfactory date and then come back to us'

Union seeks court order for 300 workers

165

28/7/82

Sowetan

By JOSHUA RABOROKO

THE GENERAL Workers' Union of SA (Gwusa) intends seeking a Supreme Court order for recognition and rights to organise over 300 black workers employed by a Pretoria laboratory concern.

The union's Transvaal secretary, Mr Donsie Khumalo, yesterday told The SOWETAN that several attempts to seek these rights at Norbtan Laboratories had drawn a blank.

Mr Khumalo said that the union had successfully organised over 200 workers and approached the management for recognition Management asked the union to submit full proof of representative character

"While this was happening we learnt with regret that some of our members were being victimised and we again demanded to see management and highlighted the issue of victimisation

"We also made a formal application to them, concerning recognition, but were shocked when they replied that we were not the right union for their workers and as such they refused to have any dealings with us".

Mr Khumalo also said that it was on these grounds that the union intended seeking court action because in terms of Section 78 of the Labour Relations Act workers were entitled to join any union of their choice.

"Our members have refused to serve on the consultative committee which the management has formed," he said

The union is intending to hold a meeting with workers soon to explain their plight More workers have decided to join the union, he said

The group personnel manager of the company, Mr W Bufski said that they had carefully considered the tactics of Gwusa and had come to the conclusion that they did not have the interests of the workforce at the plant at heart.

Inter alia, it was found that the union was not registered "but this is not the reason why we can't deal with them," he said

———, 1982

~~Z1~~ 165

D. Dispatch 30/7/82

Notice dispute: man ordered to pay R131

EAST LONDON — An Mdantsane man has been ordered to pay a sum of R131 after terminating his services with a local furniture shop

Mr David Phindani, a father of five, has received a letter from the Department of Manpower Utilisation ordering him to pay R131,54 — half of his monthly salary — because he had allegedly contravened Section 8 of the Shops and Offices Act

Section 8, which is rarely enforced by employers according to a Department of Manpower Utilisation spokesman, requires employees either to pay or give their employers the prescribed notice of termination of employment

In the letter Mr Phindani received, the department stated that his former employer, Ellerines Furnishers, had lodged a complaint against him and upon investigation it appeared he had contravened Section 8

Mr Phindani in an interview with the Daily Dispatch said he could not afford to pay the amount ordered He was the sole breadwinner for his family

He claimed he had given Ellerines Furnishers the required notice of termination of employment on April 15 However, the manager, Mr Cliff Boucher, had ignored this, he said

Mr David Phindani . can't afford to pay

On April 30, the day he left the company, he found a sum of R10,96 had been deducted from his salary He queried this with Mr Boucher who told him that deductions had been made from salaries of other employees as well, said Mr Phindani

Mr Phindani said he then gave 24 hours notice and some days later started working for Ciskei Furniture in Mdantsane

Mr Boucher yesterday denied Mr Phindani had given the required notice "He simply absconded He never indicated he was going to leave, and if he was short paid he should have brought the matter to my attention," he said

The regional manager of Ellerines, Mr Mervyn Durant, said the company's staff seldom absconded, but the company could not allow employees to "get away" with absconding

"It is against the law, and we have to take these steps We simply have to cover ourselves We are not trying to be nasty, but important jobs cannot be left open in this way"

Mr Durant added that if Mr Phindani had not found alternative employment, the company would not have lodged a complaint with the department "We will not try to get blood out of a stone, but in this case it is different," he said.

Mr Phindani said he had approached the department, but was told that nothing could be done as the charge had been laid against him by Ellerine Holdings

Since he had received the department's letter he had also offered to work the 14 days' notice at Ellerines, but he was told that this was impossible as his position had been filled

The department's local divisional inspector could not be reached for comment yesterday

However, the Port Elizabeth divisional inspector, Mr J C Greyling, said complaints from employers in terms of Section 8 were "the exception"

"It is difficult to say why employers don't complain I personally feel that few employees abscond," he said, adding that the department "from time to time" received complaints from employees in terms of Section 8

If complaints were lodged, the department lodged an official inquiry, said Mr Greyling

A spokesman for the department in Pretoria, Mr D James, said "In my own experience I have not had any complaints on absconding from employers" — DDR

Govt urged to end labour discrepancies

165 RDM 30/7/82

By DON MARSHALL
Pretoria Bureau Chief

THE Government should sort out departmental differences in dealing with labour problems in South Africa, Mr Theo Heffer, a manpower consultant, said in Pretoria yesterday

Speaking at a meeting of the Institute for Strategic Studies, he said under the present situation the Department of Manpower advocated a reformed labour policy while other departments, such as the police, took action which hindered trade union activities and harrassed union officials and members

"I fear for my children and their generation when I see how labour unrest is handled at many factories The police move in with batons and teargas to control a situation where workers are demonstrating peacefully and where there is no threat to life or property

"I believe there is no place for that kind of unnecessary action and something needs to be done about it I know it is difficult, because in South Africa it is impossible to divorce labour from politics"

He did not want to place the blame specifically on the police because in many instances they arrived on the scene at the request of the employers

He also mentioned the prohibition on funds from overseas which affected union groups such as the Federation of SA Trade Unions (Fosatu) and detentions without trial, which he said undid some of the good done by the Department of Manpower

"These are emotional issues but it is just not good enough for spokesmen for the Department of Manpower to say they do not fall under the department's control Much of the good which is being done — with its positive effects internationally — is negated by such actions on the part of the authorities," Mr Heffer said

All workers in South Africa — with the exception of domestic workers, civil servants and workers in the agricultural sector — had the right to freedom of association, to organise and to collective bargaining

"The Government has provided a framework for achieving industrial peace through the collective bargaining process It has recognised the existence and legitimate role of the employer and employee and made possible a reformed industrial relations system which does not see race as the major determinant

"It did so because it realised that monetary and fiscal policies alone were not sufficient to tackle problems

"Effective manpower policies had to supplenent and complement monetary and fiscal policies The Government realised, too, that labour legislation had become outdated

The panel discussion at the institute's headquarters at the University of Pretoria was attended by representatives of the Department of Foreign Affairs and Information, the National Institute for Security, the Security Police and academics

Blacks call for a say

18/8/82 Star (165)

By Jennifer Moran

Blacks should be serving on the National Manpower Commission on Domestic and Farm workers to make it representative, says the Inkatha Johannesburg Domestic Workers Brigade

In a memorandum to the commission it says: "Blacks should have a say in matters affecting their fate"

The brigade circulated questionnaires to members to get a picture of what the domestic worker faces in Johannesburg.

It found that wages ranged from R32 to R150 a month Some workers had not had an increase for five years.

More than 60 percent of the people in the survey were breadwinners.

Some workers started at 6 am and were expected to stay on duty until 11 pm. Several were not given annual leave; others got two weeks a year.

The most serious exploitation was in work, says the brigade.

Most domestics were expected to cook, clean the house, wash and iron, and baby-sit. Some were also expected to help in the garden and wash cars.

The brigade recommended creation of separate legislation to regulate the relationship between employer and domestic, bearing in mind that this relationship was different to most other employer-employee relationships.

It suggests:

- A minimum wage of R90, increased every six months
- An eight-hour day; hours worked after that to count as overtime
- Annual leave to be agreed by both parties; the worker to get a bonus equal to at least a month's salary.
- Employers should provide accommodation and where this is not possible compensate the worker for transport.
- A clear, written agreement specifying work and hours It should be an offence for employers to force employees to do work not agreed on or exceed working hours.
- Training for domestics to encourage professionalism.
- A watchdog body to monitor employers and employees.

The brigade also asked that the present labour law be amended to include domestic workers in the Workman's Compensation Act and the Unemployment Insurance Fund

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Millers and workers unhappy over decision

Mercury 20/8/82

- Labour Reporter

ABOUT 700 farm labourers in the sugar industry in Natal have been reclassified as industrial workers following a recent industrial court decision — a move which could significantly alter their conditions of employment and wages

The decision followed a week-long sitting in Durban earlier this year in a bid to resolve a dispute within the sugar industry which has been going on since 1950

But, millers and the union said yesterday the dispute was likely to continue as the Court's judgment left 'too many grey areas'.

The decision to shift the dividing line between industrial workers and farm labourers outside of the actual factory premises could also spill over into other agriculture-based industries and spark off labour disputes

South Africa's farm workers at present are excluded from labour legislation and therefore have no access to any legal bargaining structures, including trade unions

Disputes

But, although the workers who load and unload cane for transhipment to the mill now fall under labour legislation, the Court ruled that conditions of employment 'other than on an agricultural basis' would have to be negotiated.

This ruling is likely to lead to further disputes when sugar millers and the union wrestle over higher wages and improved conditions of service for these employees

C G Smith's personnel director, Mr William Horlock, said the judgment was like 'launching a new model of car along a road with no sign posts or directions'

He said millers were 'considering the possibility of appealing against the judgment because the issue has tremendous implications for the industry'.

Mr Selby Nsibande, general secretary of the National Union of Sugar Manufacturing and Refining Employees, said the judgment was not 'constructive' as there were still a number of grey areas

D. Dispatch

Unions no threat says minister

21/8/82 (165)

DURBAN — Trade unions in South Africa had not become militant and posed no threat politically or to the South African economy, the Minister of Manpower, Mr Fanie Botha, told the Natal National Party congress here yesterday

Mr Botha, in a brief summary of the labour situation, reassured the congress in this regard and said there were no plans to create unions or lay down minimum wages for farm labourers

The work stoppage situation in South Africa compared favourable with the rest of the world and South Africa had become the model country in the field of labour relations

The government had decided to have the National Manpower Commission investigate labour conditions in agriculture to forestall the possibility of a boycott of South African agricultural exports in protest against possible allegations of "slave labour"

"This is a dangerous angle and we must remove that sting as soon as possible from our enemies

"It is important that we know whether the situation is in fact slave labour or not," he said

"It is not true that we want to lay down minimum wages or create labour unions for farm workers."

Union men cleared

165

Sowetan 27/8/82

THE DETENTION of trade unionists by police was as a result of the violation of non-labour laws, according to the Director-General of Manpower, Dr Piet van der Merwe.

Answering a question at a Press conference in Pretoria yesterday, he said although strikes were illegal and should be condemned no unionist has been brought to court for violating labour laws

Unionists who have been detained in the past had information which police needed or were involved in other activities which might endanger the security of the State, he said

Unionists have in recent months been harrassed and detained by security police during and after labour unrests

In his answer, Dr van der Merwe said his department was concerned about speedy means of solving labour disputes that was why "we published the Labour Relations Amendment Bill recently "

Referring to the industrial councils, he said some unions preferred plant-level bargaining and it was vital that whatever ways were used, strikes should be settled speedily

The Government wanted to see co-operation between workers, unions and employers and did not want to force emerging black unions to register

Mr Dennis van der Walt, Parliamentary Officer of Manpower, told The SOWETAN that the Government was "heartened by calculations which show that the average number of days of production lost by strikes has declined from three days last year to 1,9 so far this year "

RDM 27/8/82 165

Metal council rules face major legal test

By STEVEN FRIEDMAN
Labour Correspondent

WORKERS at a Durban metal plant are considering seeking a court order declaring that the rules of the country's biggest industrial council pension fund, which affects nearly half a million workers, have no legal force for black workers

The move would have major implications for industrial relations in the metal industries If the action succeeds, lawyers say, it will mean the metal industrial council agreement is also not applicable to blacks

Industrial councils are a cornerstone of the country's official bargaining system. The metal council is the biggest, fixing minimum wages and work conditions for more than 450 000 workers of all races.

The possible court action is the latest development in an ongoing attempt by workers at Defy Metal Industries to have their contributions to the metal industries pension fund refunded

The workers, most of whom belong to the SA Allied Workers' Union, struck over this demand and have been negotiating it with Defy for about nine months

But Defy cannot meet the demand as the fund's rules do not allow workers to withdraw their money unless they have retired or have left the industry for six months

Earlier this year, the company applied unsuccessfully to the council for an exemption from its rules

Talks continued but on Friday Defy told the union nothing further could be done, short of breaking the law

A Saawu representative said yesterday that the union had decided this week to consider three courses of action

They would either appeal to the Minister of Manpower against the council's decision not to grant an exemption, ask the company to establish a non-contributory pension fund or seek the Supreme Court order

The application for the order would argue that the agreement setting up the pension fund should not have been extended to black workers because the unions which negotiated it were not representative of them

A course of action would be chosen next week

"The workers believe they were not consulted about setting up the fund They also have no control over how it invests its money or detailed knowledge of how it is administered They therefore do not want to belong to it

"The company's attitude is sympathetic, but the council has adopted a no-compromise stance The workers therefore feel they must take further action," he said

The director of the Steel and Engineering Industries Federation, Mr Sam van Coller, yesterday confirmed that Defy had been refused an exemption He said exemptions were granted to companies only on the basis of guidelines established by precedent

Defy general manager Mr Ron Colley confirmed yesterday that talks had been taking place on the issue

Defy had honoured its commitment to the workers and Saawu to keep them informed of its attempts to persuade the fund's board of management to change its rules, but it had ultimately been faced "with a situation over which we have no control"

The company believed communication with workers and the union had improved and that it had done everything it could to settle the issue, Mr Colley said

FM 27/8/82

SUGAR WORKERS

Drawing the line

Hundreds of farm labourers in the Natal sugar industry have been reclassified as industrial workers in terms of a recent Industrial Court ruling

The court's decision has far-reaching implications It means the industry will have to renegotiate wages and employment conditions of a significant number of its employees at a time of depressed world sugar prices In addition, any new deal struck with erstwhile farm labourers has the potential to spark off labour unrest in other agricultural sectors

The court's ruling on the status of the workers was sought after a dispute had arisen between the National Union of Sugar Manufacturing and Refining Employees and C G Smith over the wages paid to workers loading and unloading cane for transhipment to the mill at Chaka's Kraal

The union claimed that the workers were industrial ones and as such should be paid industrial council rates C G Smith claimed that labourers working in the loading zones were traditionally agricultural workers and consequently fell outside of the council agreement

The differences are significant Agricultural workers in fact are not covered by the industrial council agreement for the sugar industry. Mill workers on the other hand, do fall within the agreement and consequently benefit from industrial council wage rates

Wages paid to industrial workers are more than 50% higher than those paid to agricultural workers In their submissions to the court, representatives of the sugar industry argued that the factory fence should be the legal point up to where the agreement should be honoured Any attempt to re-define the dividing line between industrial and agricultural workers could possibly disturb the industrial peace in the industry

In an historic ruling the court decided to uphold the factory fence as the legal boundary for those workers covered by the agreement But at the same time it reclassified workers in the cane loading zones and mill sites as industrial workers It recommended that conditions of employment for these workers should be renegotiated

Neither party claims to be satisfied with the ruling Selby Nsibande, general secretary of the union, says the court had no standing to make recommendations All it was asked to do was decide on a classification for the workers

C G Smith's personnel director, Barry Horlock, believes that the decision was "equitable," although he concedes that a large body of opinion in the sugar industry would like to have seen the *status quo* retained Nsibande says, as the court has now ruled that the workers are industrial workers, he is expecting the industry to pay them full industrial council rates

Horlock says he would like to see a new agreement negotiated outside of the existing industrial council agreement He warns that the financial position of the industry is precarious "We have to try and aim at an economic rate The unions must realise that they cannot keep on pushing up wages and expect to maintain employment levels"

Sugar millers will be meeting shortly in an attempt to get a mandate for the negotiations At one stage, Horlock says, millers thought of appealing against the decision, but they are now preparing themselves for a period of tough negotiations with the union

One factor which complicates the situation is that the Commission of Inquiry into the Sugar Industry is examining cane transportation as part of its brief Although it is not known what its recommendations will be, it is possible that it will suggest that the responsibility of getting the cane to the mill should be taken away from the millers and given back to the growers

Questions to Minister over fired dockers

E. Post 2/9/82

By JERRY McCABE

THE dismissal of 400 workers by the South African Transport Services yesterday was raised during a question-and-answer session with the Minister of Manpower, Mr Fanie Botha, at his meeting with Eastern Cape businessmen today

Mr Brian Matthew, executive director of the Midland Chamber of Industries, asked Mr Botha why, when the Government had issued a White Paper accepting certain principles of maximum self-government, these principles were not carried out by Government departments like the SATS

Mr Matthew said a situation had arisen where the private sector was almost being held at ransom by what had happened in the Port Elizabeth harbour

Mr Botha replied that, as far as possible, the various Government departments were all dedicated to the principle of self-government and autonomy

"I am sure if you discussed the problems with the relevant department the matter could be sorted out That department is also dedicated to self-government," he said

The Government sometimes had to "look forward when other people neglected to do their duty", Mr Botha said

Another questioner asked Mr Botha to what extent he thought the police should be involved in industrial disputes

The Minister answered that his department never called on the police to solve its problems, and that the police became involved only when those involved in industrial disputes gave them reason to be

Mr Botha was also told that certain unions had difficulty in obtaining official recognition, and was asked what could be done about this

"We do try to expedite the recognition of unions as far as possible Sometimes we do have a great problem getting the right information from the unions to enable us to recognise them Sometimes the problem lies with the other side and not with us," Mr Botha replied

"It is to the advantage of all concerned that all unions should be registered"

Fanie slams union militants outsiders', 'militants

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Mercury 29/8/87

Mercury Correspondent

OHANNESBURG—In one of his toughest attacks on sections of the trade union movement, the Minister of Manpower, Mr Fanie Botha, yesterday warned employers against bowing backwards to the dictates of outsiders or militants'

He also urged employers not to 'forsake the loyalty of that part of their workforce which acts responsibly and still respects the rule of law', and union members 'not to allow yourselves to be dictated to by outsiders'

He said unions should put the country's interests before those of their members

His speech came as the South African Transport Services yesterday fired hundreds of members of the unregistered General Workers' Union and bused them out of Port Elizabeth docks under police escort Mr Botha said after his speech that he had not been referring to any particular labour dispute

Mr Botha was adressing a meeting of leading employers in Johannesburg as part of a nationwide programme of addresses to employers

In the address, Mr Botha also detailed the progress of Government labour reforms, warned of growing unemployment and urged business to combat inflation, warning that 'the most dangerous situation will be approaching' if the country's 5 500 000 workers could not afford basic necessities

Dictates

Mr Botha said a matter of 'extreme importance' was 'the treatment of that part of the workforce in any organisation which acts responsibly and is prepared to sacrifice individual interest to the national interest'

'The time has come for many employers to practise self-government in such a way that they retain their own self-respect instead of bowing to the dictates of outsiders or militants

'The choice is theirs,' he said

He urged union leaders to put the country's interests first, 'the interests of their members second, and their own interests third'

Mr Botha also urged union members to realise that 'there are too many people riding on your backs who have not spent a single day at the workbench'

Ignored

'Ask them what they are doing with your membership fees, ask them to expose their books to public scrutiny, ask them whom they serve,' he said

But, answering a question from Mr Piet Streicher of Seifsa, Mr Botha said many industrial relations problems stemmed from the fact that top management had ignored labour relations issues for too long

He said workers would have to be persuaded that 'excessive' pay demands would prompt employers to replace them with machines

Hundreds of dock workers sent home

Labour Reporter

THE Port Elizabeth dock dispute came to a head yesterday when hundreds of dockers were bused back to their townships after they staged a sit-in, according to union sources.

The South African Transport Services said 200 contract workers were bused back to their townships to collect their personal belongings and arrangements were being made for them to return to their homelands 'as soon as possible'.

But, a General Workers' Union organiser said all the dockers who were members of the union had been involved in the stoppage

About 900 dockers have been on a go-slow since Monday in an effort to gain the right to be represented by the GWU.

In the 10-month-long recognition dispute, SATS has refused to negotiate with the union and has favoured the in-house SAR Staff Associations

The union organiser said that when the morning shift continued the go-slow, officials told them to leave the docks. The workers sat down, and later the police arrived

Yesterday a SATS spokesman said about 200 dockers had been fired for 'refusing to carry out lawful instructions and repudiating their contracts'

Help for Loyal Staff in Strikes

By BRIAN POTTINGER
Political Correspondent

THE Government — through the Unemployment Insurance Fund — is to make available R2 million to help motor industry workers in the Port Elizabeth-Uitenhage-East London areas who have been affected by the strike actions of other workers.

Announcing this today, Mr Fanie Botha, the Minister of Manpower, also appealed for the private sector to match the Government's initiative in helping workers who, through no fault of their own, were affected by strike actions.

The move will have major implications for the motor industry, where substantial numbers of workers have been affected at different periods by strike action undertaken by members of other unions.

The scheme announced by Mr Botha involves combating unemployment by finding work for loyal employees who have no earnings during work stoppages.

Mr Botha said the scheme would be applicable only to future instances of losses caused by worker stoppages and would be administered by the Department of Manpower.

"This is an indication of the sincerity of the Government to give assistance out of the Unemployment Insurance Fund, which is administered under their aegis to workers who act responsibly and who lose earnings through no fault of their own," he said.

Mr Botha emphasised that the Government did not stand aloof from the problems of workers caught up through no wish of their own in strike action.

The Government placed a high premium on that section of the worker force that was stable, loyal and experienced.

Mr Botha suggested employers should seek ways to reward the loyalty of its workers.

Speaking later to assembled businessmen, Mr Botha warned that any businessman who neglected the interests of the responsible and loyal part of his work force was courting disaster and deserved little sympathy.

"No employer can forsake the loyalty of that party of his workforce which acts responsibly and which still respects the rule of law," the Minister said.

The time had come for employers in South Africa to practise the philosophy of self-government in such a way that they retained their self-respect instead of bowing to the dictates of outsiders or militants.

His message to them was to stop hiding behind the Government, to put their own houses in order and face up to their responsibilities.

"Stand by those loyal workers who lose time and income as a result of the actions of others," he said.

Mr Botha also criticised as "irresponsible" companies in the Eastern Cape who responded to industrial unrest by threatening to move their operations elsewhere.

● See Page 4

The Minister of Manpower, Mr FANIE BOTHA (left), at a Press conference in Port Elizabeth today. With him are Dr PIET VAN DER MERWE, (right) Director-General of Manpower, and Mr J C GREYLING, PE Divisional Inspector of Manpower.

E. Post 165 2/9/82

Govt pledge on harbour unrest

Political Correspondent

THE Minister of Manpower, Mr Fanie Botha, today pledged the Government to work for a "stabilisation" of the dockworkers situation in Port Elizabeth but gave no indication of what steps he personally would take.

Mr Botha told a Press conference that it was not policy to comment on industrial unrest while it was in progress

He confirmed that the Government's broad advice to the private sector was that it should at least keep talking to the unions even if not registered but declined to comment on the SATS's consistent refusal to talk to the GWU

In answer to a question as to what steps the Government could take to resolve the dockworkers' dispute, he said that it was not a matter for comment through the Press

Pressed as to whether his department was in fact considering taking action in the dispute, he replied "Draw your own conclusions"

WOZA Albert has scored an international triumph.

Its performance at the Edinburgh Festival, also known as the International Festival Fringe, has won it a first prize out of the 800 plays that were presented.

Twelve performances were staged at the city's experimental Traverse Theatre from August 24 as part of the International Festival Fringe.

The Traverse, always open to new ideas and experiment, billed the South African production as "a blockbuster . . . a two-man explosion . . . the most politically potent show ever staged in South Africa".

Woza Albert moves to Berlin next week, then on to London for a four-week season and later France before it comes back home to South Africa.

Percy Mtwa and Mbongeni Ngema are certainly going places with Woza, their own creation, with the help of Barney Simon.

Unions come second - Botha

165

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Sowetan 2/9/82

THE Minister of Manpower, Mr Fanie Botha, yesterday appealed to trade-union leaders to put South Africa's interests first and not let outsiders tell them what to do.

Addressing businessmen in Pretoria, he told trade unionists to be wary of people who were "feeding off the backs" of others and had not spent a single day at the workbench

"Ask them what they are doing with your membership fees, ask them to expose their books to public scrutiny as any respectable company is required to do Ask them whom they serve," he said

Mr Botha said union leaders should put South Africa's interests first, the interests of their members second and their own interests third

"Do not allow yourselves, to be dictated to by outsiders. Stand on your own feet and be proud of it," he said

"We have such leaders, and we are thankful for them But we also have those who are otherwise inclined," he added He did not elaborate

He said economic development and growth in South Africa was still constrained by a shortage of skilled labour, particularly on the Witwatersrand.

Employers who neglected the interests of "responsible and loyal" workers were courting disaster and deserved little sympathy

"It is beyond comprehension that any employer can forsake the loyalty of that part of his workforce that acts responsibly and which still respects the rule of law

500 wait

terdict declaring their dismissal on July 29 invalid

Mr Ian Farlam, SC, argued for the students that the action of the rector, Professor J A Lamprecht, in dismissing the students was grossly unreasonable and accordingly also invalid

Mr Frank Kroon, SC, for the university, said that the rector had acted within the regulations of the university. He had been very reasonable, bearing in mind the background to the situation that had developed on the campus on July 29

The students had been given three warnings to return to classes

y hides za's body

American jazz musician Lionel Hampton, began arriving on Thursday for the State funeral tomorrow afternoon

Notably, mourners are expected to include both the South African Government delegation and one from the African National Congress (ANC)

Mystery surrounds the whereabouts of the King's body Some observers there maintain it has already been buried in a secret cave in the mountains overlooking the royal kraal But a Government spokesman is adamant that it has not yet been buried

The chiefs and warriors of the royal regiments gathered at the royal kraal, where their voices rise in song each morning like this mountain kingdom's mists, will not say — and they are among the few who know.

• SEE PAGE 5.

Focus on dagga

A TWO-DAY conference spotlighting the dagga problem in southern Africa will be presented by the Department of Health and Welfare at the University of Natal, Durban, next year.

A statement by the Department yesterday said the conference would be held in September 1983.

The conference would examine the consequences of dagga abuse, ways to reduce availability of dagga and measures to reduce the demand for dagga.

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"The time has come for many employers in South Africa to practise the philosophy of self-government in such a way that they retain their self-respect instead of bending over backwards to the dictates of outsiders or militants," he said.

Govt gears to face SA labour challenges

By GERALD REILLY
Pretoria Bureau

THE Government was planning further big changes to meet challenges in the labour field in South Africa, the Director-General of Manpower, Dr P J van der Merwe, said yesterday

Addressing the regional conference of the Afrikaanse-handelsinstituut at Allemanskraal in the Free State, Dr Van der Merwe said although much had so far been achieved there were a number of challenges and problems "staring us in the face"

Speaking on unemployment — he gave no estimates of the number of blacks out of work — he said South Africa was in an abnormal position where it had a shortage of skilled manpower and a surplus of unskilled workers

"The challenge is clear We must try to create about 250 000 new jobs every year"

Dr Van der Merwe said the country had been struggling for some time with an unparalleled inflation problem which, besides other detrimental effects, also affected labour relations

Unemployment, inflation, shortage of skilled labour and labour relations were the important problems

On the future challenges, Dr Van der Merwe said as far as the role of the Government and the Department of Manpower was concerned "I assure you adjustments and changes in the labour field will be continued on an ongoing basis for as long as this is necessary"

He said it was planned to introduce further legislation during the 1983 parliamentary session

One of the most important was a draft Bill on service conditions This would lay down the minimum daily hours of work, meal times, payment of overtime, annual and sick leave and other conditions.

Further legislative changes would take place in 1984 and in the following years as a result of a number of important investigations being undertaken by the National Manpower Commission

These included the difficult and sensitive issue of registering trade unions and the functions of the Industrial Court.

Over the past two years South Africa's labour legislation had been rationalised and modernised and although the process was not completed "we can say to the world, come and see for yourselves"

Sapa reports that the Minister of Manpower, Mr Fanie Botha, told businessmen in Port Elizabeth yesterday that in line with the decentralisation of the training advisory service of the Department of Manpower from January next year, the Government intended to establish training sections in the office of each Divisional Inspector of Labour

"These sections will be headed by senior training advisers who will be responsible for the promotion of training in the region, the maintenance and improvement of training standards, the coordination of training efforts, the payment of cash training grants to industrialists, and so forth

"We hope to involve experts in the field of training in the work of these committees in each region, so as to ensure maximum local involvement and participation on the part of employers, trade unions, employees and educational institutions," Mr Botha said

Be proud of our industrial relations laws, says Botha

(165) ~~(166)~~ ~~(225)~~ S. Tribune 5/9/82

By MIKE PEIRSON
Finance Editor

SOUTH Africa has nothing to hide and much to be proud of in its industrial relations legislation, Minister of Manpower, Fanie Botha, told a gathering of Durban businessmen on Friday.

"I believe the time has come for us to face our critics," he said, "and to prove to them that our industrial relations system and the well known principles on which it is based, is a sound one and is producing results — despite the desperate attempts by some elements to abuse the system for political and personal gain."

In 1981 the country lost four-and-a-half days for every 100 workers employed in the modern sector of the economy This compared with Sweden 105 days, Australia 51, UK 45 and the US 35

The average duration of strikes was reduced to 1,9 days during the first half of this year compared with three days in the same period last year.

At the end of 1981 there were 200 registered trade unions representing 1,1 million workers A total of 260 000 black workers were represented by 61 of these unions compared with 100 000 at the end of 1980

The Minister, however, sounded the same warning as he had to businessmen in Pretoria and Johannesburg early in the week "Any employer who neglects the interest of the responsible and loyal part of his workforce is courting disaster and deserves little sympathy

"It is beyond comprehension that any employer can foresake the loyalty of that part of his workforce which acts reasonably and which still rejects the rule of law.

"The time has come for many employers in South Africa to practice the philosophy of bowing backwards to the dictates of outsiders or militants. The choice is theirs

"My message to them is stop hiding behind government, put your house in order and face up to your responsibilities. Stand on your own feet and be proud of it.

"To all trade union leaders I would say sort out the false from the truth. There are too many people feeding off your backs who have not spent a single day at the work bench. Ask them what they are doing with your membership fees, ask them to expose their books to public scrutiny as any respectable company is required to do, and ask them who they serve"

The Minister said it was intended to modernise and extend the vocational guidance and placement services sponsored by his department

"It makes no economic sense to train our workers if we do not also ensure that their skills are applied effectively. Too little attention is often devoted to this and too few employers and employees are utilising the free service at their disposal."

He asked during question time for more co-operation between companies over training programmes to avoid expensive and unnecessary duplication of ideas.

On the unemployment front the Minister provided some devastating figures. At a growth rate of 3,6 percent, unemployment can be expected to increase from 10,6 percent of the labour force (900 000) in 1977 to 21,9 percent (2,4 million) in 1987.

At a "favourable" 5 percent the figure is expected to reach 1,3-million by 1987

"Even this second figure is a dangerous one," he said. "The challenge is clear. We must create 250 000 new jobs every year. The way to do it is through balanced regional development and growth and Natal and KwaZulu is of particular importance on account of the high rate of unemployment and fast population growth."

He added that the labour scene in this country was in a state of constant change and it was essential to ensure labour policies and legislation kept pace with labour practice.

There would be continued consultation with business in regard to legislative adjustment. The most important due in Parliament in the 1983 session were: the Condition of employment Bill; and the Machinery, Occupational Safety and Occupational Hygiene Bill.

These Bills will lead to the repeal of the Shop and Offices' Act 1964 and the Factories and Building Work Act 1941 respectively.

Also in the pipeline are amendments to the Labour Relations Act 1956 and legislation aimed at drastically streamlining the machinery and procedures for settling disputes.

"Further changes are due to follow in 1984 on the difficult and sensitive issue of the registration of trade unions; and the levels of collective bargaining; and the functions of the Industrial Court," he explained.

"Many employers in Durban are faced with demands for plant level bargaining and some of you have indeed negotiated such agreement in accordance with the philosophy of self government and also because there are no legal restrictions on such bargaining. And the Industrial Council System which has served South Africa so well for so long is under attack from certain quarters"

The Minister said, in question time, that while it was necessary to protect existing legislation it was also necessary to adapt to changing circumstances.

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Urgent talks on fired dockers

Labour Correspondent

SENIOR officials of SA Stevedores Limited, which employs stevedores in all the major ports, are flying to Pretoria to meet senior Department of Manpower officials today in an attempt to find a solution to the labour dispute in Port Elizabeth harbour

As a result of this initiative, fired SA Transport Services (SATS) dockers have suggested to stevedores that they delay their planned sympathy strike, which is due to begin tomorrow

The stevedores will consider the suggestion today

The threatened stevedores' strike follows last week's firing and bussing out of Port Elizabeth harbour of hundreds of SATS dockers who were on a go-slow The go-slow was a reaction to SATS' 11-month refusal to talk to the General Workers Union (GWU), to which the fired dockers and the stevedores belong

Since the firings, SA Stevedores and the GWU have been trying to find a solution to the SATS impasse in an attempt to avert a potentially crippling strike

The company has backed calls for talks between SATS and the union, saying that the dispute centres around the workers' right to join a union of their choice

A statement issued by the GWU yesterday said in the light of today's talks between the department and the company, a general meeting of SATS dockers yesterday "recommended to the stevedores that they postpone Friday's sympathy action pending the outcome of (the) talks"

The union said that the recommendation by the dockers that the action be delayed "underlines the GWU's commitment to negotiation"

It said "As long as there is a possibility, however slim, of a negotiated resolution, our members will talk and only when faced with a blanket refusal to talk will they embark on industrial action"

Employers 'cash in'

(165)

9/9/82

The Department of Manpower has become a training centre for the private sector, the Director-General of Manpower, Dr P J van der Merwe, said at the opening of a R1 million training centre in Vereeniging.

He said the Government trained skilled workers for its own needs.

But many private sector employers were cashing in by attracting trained workers away from the public service.

ARGUS, TUESDAY SEPTEMBER 21 1982

ARGUS 21/9/82

Tucsa distress over unregistered unions

Labour Reporter

STEP by step unregistered trade unions were being placed on an equal footing with registered unions, to the extent that an increasing number of unionists were beginning to question the value of registration

This was said yesterday by Mr R H Botha, secretary of the Mine Surface Officials' Union of SA, at the Trade Union Council of South Africa (Tucsa) conference in Cape Town

Mr Botha was speaking to a motion calling on the Minister and the Director-General of Manpower to ensure that race was not a consideration in initial registration or in extending the scope of existing registered trade unions

He said registered unions accepted the discipline of confining themselves to certain constituencies in terms of the Labour Relations Act, but unions which did not bother to register were free to poach where they pleased and disrupt not only other unions but the whole structure of labour relations

The only disadvantage unregistered unions suffered was not being able to use stop-order facilities without the permission of the Minister

Mr Botha's union had changed its constitution to delete the word "white", but when it had tried to enrol black mine surface officials, it was told it had to apply for an extension of the union's scope

The Industrial Registrar would not grant this until the union was representative of workers it wished to include in its constitution

The motion, which included a clause calling on the Minister to consult Tucsa unionists before any changes in labour legislation were made, was passed unanimously.

In another motion before the conference, Mr Ike van der Watt, general secretary of the SA Boilermakers, Iron and Steel Workers, Shipbuilders and Welders Society, called on the Government to prevent employers dismissing workers engaged in legal strike action

Mr van der Watt said it was common practice for employers to threaten striking workers with dismissal, whether the strike was legal or not.

The right of workers to withhold their labour for a just cause should be protected, he said The motion was adopted

● Dr Anna Scheepers was unanimously elected for a second term as Tucsa president There were no other nominations.

Mr E V van Tonder, secretary of the SA Typographical Union, Mr Botha and Mr L A Petersen, secretary of the Garment Workers' Union (Western Province), were elected first, second and third vice-presidents

There were no other nominations for the positions of first and third vice-presidents Mr Des East, of the Motor Industry Combined Workers' Union, stood against Mr Botha for second vice-president

Trade union registration investigation

ARGUS 21/9/82

165

Labour Reporter

IT WOULD be completely incompatible with the Department of Manpower's principle of voluntarism to force any trade union to register, Dr P J van der Merwe, director-general of the Department of Manpower, said today

Dr van der Merwe was addressing delegates at the annual conference of the Trade Union Council of South Africa (Tucsa)

There were differences of opinion as to what the approach should be, but since the whole question of registration was being investigated by the National Manpower Commission, it appeared desirable to wait for the commission's report, he said

CRITICISM

Dr van der Merwe said much criticism had been levelled against the department at the time that expired before registration was granted However, the unions were not altogether free of blame as far as delays were concerned

The department was concerned about the lack of co-operation from unions with regard to the submission of the prescribed documentation and statistics to the Industrial Registrar

"With the exception of a few unions, the department has to request unions repeatedly for the submission of the statements concerned

"Failure of this nature is a criminal offence, and though the department is reluctant to go to the extreme of prosecuting unions for not complying with the Act in this regard, such a step will, however, have to be considered if a material improvement is not evident in future," Dr van der Merwe said

HAZARDS

Referring to occupational safety and health hazards in the workplace, Dr van der Merwe said they could "no longer be dealt with by authoritarian types of legislation".

A tripartite effort was necessary to improve the quality of life of the workers, making use of the expertise of government, labour and employers

A draft Bill dealing with occupational health and safety had been drawn up by the Department of Manpower and would be introduced in the next parliamentary session

Dr van der Merwe said the workmen's compensation office encountered "vast difficulty" in processing and assessing claims for compensation

This was because of the failure of employers to report accidents and submit relevant documentation to the Workmen's Compensation Commissioner

It was also due to the employers' failure to register their businesses and pay their assessments

Dr van der Merwe thanked the trade union movement for its "co-operation and support" Without that the department would not have been able to make the progress it had

Unions 'won't be forced to register'

CAPE TIMES 22/9/82

Labour Reporter

THE Director-General of Manpower, Dr Piet van der Merwe, told the annual conference of the Trade Union Council of South Africa (Tucsa) in the City yesterday that his department had no intention of forcing trade unions to register

Amid calls by Tucsa delegates for compulsory registration of unions, he said this was incompatible with the basic philosophy of the department of maximum self-governance by employers and employees

Mr Robbie Botha, of the Mine Surface Officials' Association of SA, said on Monday that registration was becoming an encumbrance and unregistered unions were poaching where they pleased and "disrupting the whole labour relations structure"

Mr D C Benade, of the Tramway and Omnibus Workers' Union, told Dr Van der Merwe that a policy of forced registration could have prevented the General Workers' Union (GWU) dispute at the Port Elizabeth docks by stopping the GWU from operating in the South African Transport Services — an industry where there already was a registered union

Dr Van der Merwe replied that the issue of registration was highly sensitive and was still being investigated by the National Manpower Commission "But a system of compulsory registration will be strongly criticized in international circles," he warned.

In reply to criticism that the cost of factory building was escalating because of safety requirements, Dr Van der Merwe said he was not prepared to lower safety standards to a level below which the workforce would suffer

He also accused employers of being lax in reporting injuries properly and registering their businesses in terms of the Workmen's Compensation Act.

About 9 000 summonses had to be issued against employers every year for failing to report accidents in the proper manner, and thousands of court orders had to be issued against employers for failure to pay their as-

tucsa conference

Manpower director tells unions to negotiate

(165) Labour Reporter

A 40-HOUR-WEEK should be negotiated between employers and their employees, rather than be laid down by the Government, the director of the Department of Manpower, Dr Piet van der Merwe, said yesterday. 23/9/82

Dr van der Merwe said his department believed in the free enterprise system and this included free collective bargaining.

'We, therefore, merely lay down the parameters within which the two parties can negotiate with the minimum of State interference,' he said.

Dr van der Merwe was responding to a call issued by the Trade Union Council of South Africa for the Government to provide for a maximum 40-hour-week.

He said a number of industries had already negotiated a 39-hour-week, but the possibility of introducing this in other industries would depend on their particular circumstances. 'Conditions differ from industry to industry,' he added.

'It is possible for employers and employees to negotiate a 40-hour-week at an industrial council, which could then be made legally binding on all parties,' he said.

'Employees might be prepared to agree to a 42-hour-week provided employers gave them other service benefits,' Dr van der Merwe said.

Meanwhile, the president of the Association of Chamber of Commerces, Mr Gordon Stuart-Reckling, said 'Production in South Africa is so low that we can't afford to introduce a 40-hour-week.'

As the country was in the midst of a recession, Mr Stuart-Reckling said he would prefer to see a cutback in working hours than retrenchment

Govt to fund courses in labour relations

165 Mercury 28/9/82

Mercury Correspondent

PRETORIA—The Minister of Manpower, Mr Fanie Botha, announced in Pretoria yesterday the Government would make funds available for training in labour relations

Launching a training course for officials of the S A Iron and Steel and Allied Trades Association, the minister said the basis on which grants would be made was still being considered and he hoped to make an announcement soon

He said the Government was disappointed that organised labour and industry were so sluggish in making use of the invitation made possible by manpower training legislation to embark on training programmes on labour relations

In terms of the Manpower Training Act the minister said, he was empowered in consultation with the Minister of Finance to grant allowances to registered trade unions and employers' organisations and federations which held labour relations training courses

Mr Botha said labour relations was a sensitive issue which could be the forerunner not only of unrest but also of economic growth and welfare

Productivity and labour peace were to a great extent dependent on the effective maintenance of sound labour relations

Bad labour relations potentially could lead to conflict Training of all interested parties was essential, Mr Botha added

Govt official: 'Closed shop' benefits unions

By STEVEN FRIEDMAN
Labour Correspondent

THE chairman of the Government's National Manpower Commission Dr Hennie Reynders has defended the controversial "closed shop" principle, which means workers must belong to a trade union

The closed shop's application in South Africa has been attacked by black unionists and some employers and a "test case" on the issue is pending in the Industrial Court

Writing in the Industrial Relations Journal of SA, Dr Reynders says that retaining the closed shop in South Africa "will on balance probably have more advantages than disadvantages"

He adds that "no proven case of abuse or malpractices have been officially reported in SA".

According to the Department of Manpower, Dr Reynders writes, over the past five years "there has only been one appeal against the refusal of exemption from a closed shop agreement" and the department says "it has no knowledge of problems in the application of a closed shop agreement"

He adds that black workers must, however, be made aware of the safeguards against misuse of the closed shop in labour law

Emerging unions have charged that "minority" registered unions have been able to use the "closed shop" to recruit thousands of black workers who would not willingly have joined those unions.

A Natal company has brought a case to the Industrial Court, charging that its workers have been forced by the closed shop to join a registered union

In his article, Dr Reynders says it is clear that the closed shop "through the restriction it places on the freedom of the individual" is in conflict with fundamental principles of a free market economy.

But he adds that it has also played an important role in strengthening unions, enabling them "to acquire a large membership without having to put a disproportionate effort into recruiting"

It also ensured that workers who benefited from union efforts also contributed to the union

In many countries, Dr Reynders writes, the closed shop is supported by the state because effective bargaining is considered vital for productivity In these cases, it became "a means for the promotion of the State's objectives rather than those of the trade union"

4/10/82 (165)

Labour chief criticises Grosskopf

Labour Correspondent

THE Director-General of Manpower Dr Piet van der Merwe has criticised the Grosskopf committee report on pass legislation for failing to recommend permanent residence rights for platteland blacks

In a memorandum to the committee, also signed by Professor Nic Wiehahn, Prof Van der Merwe suggested that blacks from independent homelands be allowed into the country only if they had work permits approved by the Department of Immigration the Grosskopf committee

In another memorandum, Mr M B Kumalo, also a committee member, criticised the report for excluding certain categories of migrant workers from the right to live permanently in the cities and suggested that some migrants be exempted

In their memo, Dr Van der Merwe and Prof Wiehahn suggested that, if city contract workers were to be allowed permanent residence after five years, the right of black people who have lived for generations in white platteland areas should also be recognised

They should also be able to sell their labour freely on the urban labour market —

Black people from independent homelands should be allowed into "white areas" in the same way as immigrants from other independent states in that the Department of Immigration would issue temporary work permits after consulting the Department of Manpower

● A leading Stellenbosch academic, Prof S P Cilliers, has added his voice to criticism of Dr Piet Koornhof's Orderly Movement and Settlement of Black Persons Bill, which largely ignores the Grosskopf findings

In a study of the Bill released to the Sunday newspaper Rapport, Prof Cillers said the Bill would force hundreds of thousands of black people, who qualify to live in the cities, to leave, leading to widespread squatting

He said certain aspects of the Bill were more restrictive than the Black Urban Areas Act which is now in force and that it could also lead to widespread pass raids in white farming areas

The Bill would sharply increase the potential for conflict and lead to further polarisation between white and black, Prof Cilliers said

It would be in the country's best interests if the Bill was withdrawn, he said

Chairman unhacks controversial 'closed shop'

Mercury 5/10/82

Labour Reporter

THE chairman of the National Manpower Commission, Dr Hennie Reynders, has defended the controversial 'closed shop' principle, which forces workers to belong to a particular trade union.

The application of the 'closed shop' in this country has been attacked by the emerging trade unions, and a Natal company is to test a 'closed shop' agreement in the Industrial Court

In the latest edition of the *Industrial Relations Journal of SA*, Dr Reynders said although there were strong objections to the closed shop, 'it is a long-established practice, the retention of which will probably have more advantages than disadvantages'

He added that a 'prohibition on the closed shop 'will result in profound disruption of the large number of stable employer-employee relationships of which such agreements constitute a part'.

'However, it is equally clear that if closed-shop agreements are applied without restraint or control, this may lead to a variety of malpractices or abuses,' he writes

But, Dr Reynders said 'no proven cases of abuse or malpractices have been officially reported'

The emerging trade unions have argued that closed-shop agreements have been used by 'minority' registered trade unions to recruit thousands of black workers who would not have willingly joined those unions.

And the Natal furniture company, Grafton Everest, has brought a case to the Industrial Court charging that the closed shop has forced its workers to join a registered trade union

Membership

In his article, Dr Reynders said 'It is clear that the closed shop, through the restrictions it places on the freedom of the individual, is in conflict with the fundamental principle of the free-market economy.'

But, he added, it helped unions by enabling them to 'acquire a large membership without having to put a disproportionate effort into recruiting'

It also ensured that 'effective discipline' could be exercised over workers in any action intended by the union or to prevent any undesirable action

The closed shop's advantage for employers, Dr Reynders said, had been that it had had 'a beneficial effect on labour peace and a steadying influence on sound labour relations over the years'

But, he warned, there should be adequate measures to protect employers and employees against abuses and malpractices and urged that 'greater awareness' should be fostered among blacks.

The Natal Mercury, Tuesday, October 5, 1982

Mercury 21/10/82

Strikers apply to Industrial Court

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Labour Reporter

IN a sequel to a strike at Vleissentraal at Cato Ridge, 42 workers dismissed during the strike yesterday applied to the Industrial Court for temporary re-instatement

The case is the first of its kind to come before the Industrial Court as the amendments to the Labour Relations Act enabling the Industrial Court to order temporary re-instatement came into operation only on September 1

Prior to the amendments, applications for temporary re-instatement had to be made to the Minister of Manpower, Mr Fanie Botha

In terms of the Act the Court can order the company to re-instate the workers for up to 90 days or order that they be paid an amount equivalent to their re-instatement

Yesterday's hearing was one of a series of legal actions being taken by Vleissentraal workers who were fired at the begining of August after they had struck in support of two dismissed shop stewards

Last Friday two workers applied to the Pietermaritzburg Supreme Court for re-instatement

The hearing, which has been adjourned until January 31 next year, is to be used as a test case in a bid to win the re-instatement of all the dismissed workers

After hearing argument yesterday the president of the Industrial Court, Mr B J Parsons, reserved judgement and told the parties he would let them know of his decision through the Registrar

Coloured labour policy causes Govt rift

ARGUS 25/10/82

165

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Political Staff

AN ideological rift in the Government over its long-established coloured labour preference policy for the Western Cape is reflected in evidence to the economic affairs committee of the President's Council

The policy was criticised as a "discriminatory measure" in a memorandum submitted to the committee by the Department of Manpower

In a clear reference to restrictions on black employment, the department said it was difficult to justify a system which allowed a person to live in an area but in effect prohibited him or her from working there

FREE MARKET

The memorandum, submitted as evidence by the Director-General of the Department of Manpower, Dr Piet van der Merwe, dealt with measures restricting the functioning of a free market economy

It stated "If labour preference control measures are dropped, this department can be freed from the administration of a discriminatory measure" This would contribute to a better attitude to the department and the State in general

Commenting today, an Opposition spokesman on Western Cape black affairs, Mr Tian van der Merwe, said the department's memorandum provided 'final proof that in terms of labour considerations the Government's policy has no good potential whatsoever'

"RACIST OBSESSION"

It was clear that an inexplicable and unjustified attitude was being taken by the Government to the position of black people in the Western Cape

"The labour preference policy has now finally been discredited as a mere racist obsession with no practical justification remaining

"If the Nationalist MPs, particularly those of the Western Cape, do not now reconsider their pig-headed attitude on this question they will stand exposed as racists," Mr van der Merwe said

KOORNHOF COMMITTEE

The Department of Manpower had now been added to an impressive list of institutions, individuals and experts who had condemned the coloured labour preference policy

A committee appointed by the Minister of Co-operation and Development, Dr Piet Koornhof, had recommended that the policy be continued

What was significant, Mr van der Merwe said, was that a minority recommendation to Dr Koornhof's committee that the policy be scrapped had been supported by one Nationalist MP and by the only black man who served on the committee

(Report by F S Esterhuyse, 122 St George's Street, Cape Town.)

Every yea... ple fear mo... number of b... Argus looks

FIRE V... A FIGH...

By Tim O'Hagan
Medical Reporter

MAGDA AFRIKANER, 27, sitting naked, apprehensive and burnt from her neck down to her waist in the bathroom of the Woodstock Hospital's Burns Unit, is not a pretty sight

With 25 percent of the surface skin of her body virtually erased by a fire which engulfed her bed, she is, nevertheless, lucky to be alive

Magda was asleep in bed in her Caledon home, when a candle fell over and set fire to the sheets She fled from her room, a flaming torch

CRACKLING

When the ambulance brought Magda from Caledon Hospital to Groote Schuur, she was grotesquely burnt, her skin was like crackling, and she was intensely dehydrated and in pain

After rapid assessment, she was injected with morphine and intravenously fed 13 litres of liquid in 24 hours to counter the effects of dehydration

She was then taken to Woodstock's Burns Unit, under the supervision and care of Dr Cecil Bloch head of the Department of Plastic Surgery at Groote Schuur Hospital and Dr Bernard Price, registrar of the Burns Unit

DR Cecil Bloch, head of the Depart... Groote Schuur Hospital, assists as... kaner is bandaged after

DEDICATION

The fact that she survived is testimony to the dedication and efficiency of a small team of medical personnel who have turned this new Burns Unit into a lifejacket for people who, until a few years ago, had less than half a chance of coming through alive

Magda is one of 12 patients being treated at the unit, and when she leaves in a few months time, more than 200 patients will have been successfully treated since January for burns — ranging from superficial skin burns, to full-thickness burns which take the skin away entirely

Another patient, Joseph Forbes of Kraaifontein, was a... recently with s... cial burns over... cent of his body... his wife threw... water on him w... was asleep in be...

FIVE DEA...

Joseph says he... given his wife, ... looking forward... ing reunited wi... again

IRDM 27/10/82

Union to test 'unfair dismissal' law in court

By STEVEN FRIEDMAN
Labour Correspondent

THE Industrial Court is to be asked to order the reinstatement of a worker who was allegedly unfairly fired at a Wadeville liquor company — a case which will test for the first time recent changes to labour law

Until now the courts have compensated workers who have been unfairly dismissed, but have not ordered their reinstatement

And, in another development, an attempt to challenge the controversial closed shop principle — which compels workers to join a union — in the court for the first time may be thwarted on a technicality as a result of argument heard by the court on Monday

The move to seek a reinstatement application was announced yesterday in a statement by the National Union of Wine, Spirit and Allied Workers, a registered union with close links to Tucsa's Garment Workers Union

The union will seek the application against Distillers Corporation of Wadeville, which, it alleges fired a union shop steward without following laid-down dismissal procedures

According to the statement, the company has refused to reinstate the worker and the union is thus taking the matter to the court

The union says the case will "test the effectiveness" of the recently amended Section 43 of the Labour Relations Act, "which in its new form is untried by the court" The Section deals with "unfair labour practices'

The "closed shop" action was heard by the court in Durban yesterday It has been brought by Natal company, Grafton Everest, of which three workers face dismissal by the furniture industry's Natal industrial council because they refuse to join a Tucsa-affiliated union

The union has a "closed shop" agreement with employers on the council

The Mail's Durban correspondent reports that the industrial council's lawyer asked the court to refuse to hear the case because, he argued, the company had not followed correct procedure in bringing the case to court.

The court is still to decide on this argument

s left no , says union

Star 10/11/82

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initiated a four-day work week in July and introduced the three-day week last month

A Sigma spokesman said the firm had a policy this year of reviewing its economic position on a monthly basis Unproductive workers also came under scrutiny on a regular basis.

Some industry sources fear that in the event of any worker militancy at Sigma the firm could use the occasion to lay off more workers — a case of "disguised redundancy"

Sigma's recognition agreement with Naawu followed a prolonged dispute which saw its entire workforce out on strike in April

Newsmen, employers in talks

Star 10/11/82

Labour Reporter

The South African Society of Journalists held day-long talks yesterday with newspaper publishing employers in a bid to preserve the industy's conciliation board

Both the Argus Printing and Publishing Company and South African Associated Newspapers (SAAN) informed the SASJ recently they were withdrawing from the board at the end of the agreement this year

The SASJ attacked the move, saying it would bring to an end some 40 years of peaceful collective bargaining between employers and journalist representatives at the board level

Argus and SAAN are understood to want regionally based negotiations with journalists on wages and working conditions as opposed to national talks through the conciliation board

Yesterday's talks brought no immediate end to the dispute and the SASJ is looking at legal recourse through the country's industrial legislation.

Firm sacked 78 unfairly, says union

Star 10/11/82

The Metal and Allied Workers Union (Mawu) has told the Industrial Court that Stobar Reinforcements dismissed its 78-man workforce in August without sufficient reason and without giving the workers a chance to state their case

This was said by the union's counsel yesterday in an application to reinstate the workers it alleges were unfairly dismissed, pending determination of the dispute by the Industrial Court

Labour experts see the case as significant, because it brings into question the industrial agreement which spells out disciplinary procedure to be followed in any dispute in the metal industry

Mr Martin Brassey appearing for Stobar Reinforcements argued that section 35 of the industrial agreement which spells out the disciplinary procedures was void because it was too vague to be put into effect

Mr Halton Cheadle, appearing for Mawu and 51 of the dismissed workers said that if section 35 was void the entire industrial agreement would have to be declared void — which was "inconceivable"

The Stobar management has alleged that all the workers at the plant in Elandsfontein staged a go-slow on August 16-20, and were retrenched after worker representatives were informed that the situation was becoming intolerable

Mr Cheadle said Stobar had failed to follow the disciplinary measures set out in the agreement The company had also failed to investigate the alleged go-slow before acting against the workers

"The only evidence Stobar management has produced are the production figures for the week of the alleged go slow. These low figures do not take into account the drop in the number of orders and the earlier decision by management to cut down on the number of working hours," Mr Cheadle said

An important reason for the low production figures was the economic downswing, which a director of the firm had admitted was affecting production

Mr Cheadle said the dismissal of the workers was an unfair labour practice and a form of disguised retrenchment

Mr Brassey said Stobar had been prepared to enter into negotiations with a recognised trade union, as spelt out in the industrial agreement

But the industrial council had no jurisdiction in the dispute because Stocks and Stocks — the controlling company of Stobar Reinforcements — was registered with the Building Industrial Council

Stobar was therefore not obliged to enter into any negotiations with the industrial council because it was not a party to an agreement with Mawu

The hearing was adjourned indefinitely

Settlement at 11th hour

VANCOUVER — British Columbia dockers, ordered back to work

Probe into welfare of SA's farm workers

ARGUS 11/11/82 (165)

or Supplied)

Labour Reporter

THE investigation by the National Manpower Commission (NMC) into the situation of farm workers would not concern itself with the working conditions of farm workers as such, but only with the question of whether structures could be created to determine these conditions, Dr H J Reynders, chairman of the NMC, said yesterday

Dr Reynders was addressing a symposium organised by the Cape Pomological Association on management practices in agriculture with specific reference to labour matters

Wide range

Part 5 of the Wiehahn Commission had recommended that provision be made for farm workers within labour legislation, said Dr Reynders

In the White Paper the Government pointed to a wide range of factors militating against the establishment of a formal system of labour relations in agriculture Among these were the wide geographical distribution of the agricultural workforce, the absence of an effective communications medium and the problems of applying labour legislation to agriculture

New probe

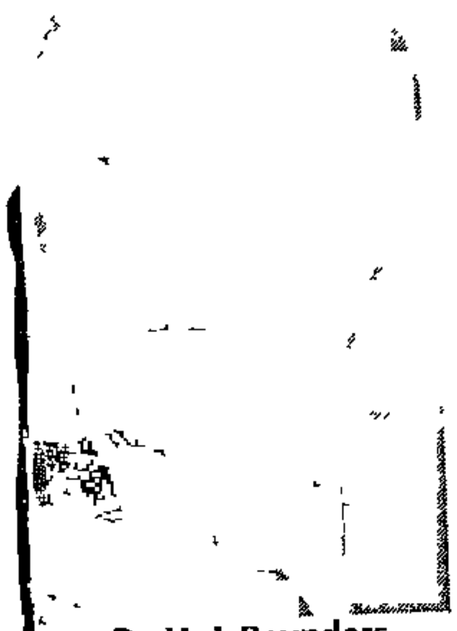
However, the Minister of Manpower had announced earlier this year that the NFC would undertake investigations into possible mechanisms that could determine the working conditions of farm workers, because the Government would be neglecting its duty if it did not take into account the interests of such a large section of the South African workforce

Old links

The Minister had indicated that particular conditions affecting agriculture had to be taken into account in such an investigation, Dr Reynders said

"Among these are the intimate and longstanding personal relations between employers and farm workers, the wide geographical distribution of these workers, the seasonal nature of agricul-

lation



Dr H J Reynders

ture and the influence of climatical factors on agriculture"

The NMC also emphasised the "total package" which farmworkers earned, which included free housing, medical services and free food

Stability

The NMC was aware of initiatives among farmers to further the spiritual and physical welfare of their workers

"A satisfied and happy workforce in agriculture is not only in the interests of the farmer himself, but also in the interests of the country as a whole It brings stability, order and labour peace and has a noticeable influence on productivity," Dr Reynders said

THE A

Get more efficient, farmers are urged

SOUTH AFRICAN farmers have been told to look at ways of managing their farms more efficiently

The Deputy Minister of Agriculture, Mr G J Kotze, this week urged farmers to apply the basic principles for successful business enterprise into farming

Opening the manpower symposium in Cape Town, he said the complexity and risk of modern farming were high and farmers could no longer use "hit-and-miss" methods of labour management

He said it was important to increase the productivity of farm workers and a programme to achieve this should be worked out

South African farmers would also have to ask themselves whether they were partly to blame for making farm work less popular for black and coloured workers.

Labour Week

By STEVE FRIEDMAN

Industrial court goes on trial

RDM 15/11/82

165

A GOOD deal more than legalisms is at stake in a crop of "test" cases currently coming before the Government's industrial court.

A case argued before it this week is one of at least three which seek to test new powers the court has been granted in a recent change to labour law.

This change means the court can now order that the status quo in any dispute which has come before it be maintained until the dispute is settled — or the court has ruled on it.

In most disputes, this would mean temporarily reinstating workers who believed they were fired unfairly and the cases will clarify what standards the court will use in granting orders.

The issue is vital to shop-floor relations.

Firstly, lay-offs or firing of workers during disputes is common right now.

Secondly, while disputes in boom times tend to be settled by a power battle in the factory, in a recession unions look to other ways of fighting their members' battles.

For some unions, particularly those in Fosatu, this has meant an increasing use of the court. And next year should see an even greater use made of it.

Thirdly, although the court was devised as a "speedy" forum for settling disputes — and it certainly is a lot quicker than the ordinary courts — cases before it still take time before a decision is reached because of both its procedures and its workload.

So fired workers — many of whom are migrants and are not allowed to take new jobs — have been faced with the prospect of waiting months before the court can rule on whether their sacking is fair. In cases where the court decides it isn't, the new law is designed to provide them with speedy redress.

For employers, of course, the rulings will indicate just how willing the court will be to order reinstatements. And this will obviously affect the extent to which unions will use it.

One other point about union use of the court — which has been sharply criticised by unionists in the past — is this. Several disputes before it have been settled by the parties themselves without the need for a ruling.

So its role in getting the two sides to the bargaining table — albeit in a limited way — may be as vital as the judgments it hands down.

charges against two others were dropped. So not a single unionist detained in the much-publicised police swoops has been convicted.

These events have strengthened the hand of employers who argue for a public anti-detention stance — a development which may have an impact on labour relations in future.

Council workers' row referred for arbitration

Labour Reporter

THE dispute between Durban City Council and the Durban Municipal Employees Society over the grading of foremen and assistant foremen has been referred to the Industrial Court for arbitration union sources said yesterday

The row threatened to erupt into a mass walk-out by middle management in September

The general secretary of the society, Mr J J Maree said yesterday the Conciliation Board which sat on Tuesday failed to settle the dispute and it was decided to refer the matter to the Industrial Court for arbitration

Because the dispute involves employees working in essential services who are not allowed to strike by law, and because it was not settled by the Conciliation Board consisting of an equal number of employee and employer representatives, it is compulsory to refer it to arbitration.

The dispute revolves around the special higher grades created about 18 months ago for 41 foremen and assistant foremen in a section of the electricity department

The special grades were introduced because the 41 employees work with high tension live voltage they are called out regularily in all conditions and work long hours carrying out emergency repairs

The society had asked the council to upgrade all the wages of foremen and assistant foremen to the higher grades but the council decided instead to downgrade the special grades

Mr Maree said council representatives had offered to hold the 41 employees at their present wages over two wage increases until the rest of the foremen and assistant foremen caught up but this was not acceptable to the society

He charged that the wages of muncipal employees in Durban were not on a par with comparable municipalites such as Cape Town and Pretoria

The Town Clerk, Mr Gordon Haygarth, who was a member of the Conciliation Board, refused to comment yesterday saying the board's proceedings were secret

Municipal staff granted added rise

Mercury 27/11/82

Labour Reporter

THE Industrial Court has awarded Pinetown municipal staff an extra 3,5 percent wage increase on top of the disputed 10 percent one granted by the Town Council earlier this year.

The local committee of the South African Association of Municipal Employees had asked the council for an 18 percent increase at the beginning of the year

But, after a meeting of the staff advisory committee, consisting of four council members and four staff members, it had been agreed to moderate the demand to a 15 percent increase across the board

However, the Town Council had over-ruled the committee's recommendation and had granted a 10 percent increase, causing widespread discontentment among staff and a strike by 120 refuse and road workers

The employees' association had declared a dispute and a conciliation board had been set up but this had failed to settle the matter

It had been referred to the Industrial Court for arbitration

The Court's deputy-president, Dr D B Ehlers, awarded the staff a 3,5 percent increase backdated to August 1

An executive committee member of the employees' association, Mr Bob Castro, said the award had been made for the white staff because technically the association could not represent the municipality's black employees

'But we hope the council will give the same increase to all the staff,' he said

LABOUR WEEK

by STEVE FRIEDMAN

165 346

A court dispute that is hot news

RDM Dec. 1983

GOINGS-ON in the Press rarely make hot news — the public is far less fascinated by them than the Press itself.

But the industrial court action by the SA Society of Journalists against SA Associated Newspapers, Sapa and the Argus Company is one Press dispute with major implications.

The SASJ wants the court to use its new powers to grant temporary "status quo" orders — referred to previously in this column — to order the companies to resume bargaining with it.

And it wants the court to rule that it is an "unfair labour practice" for an employer to refuse to bargain with a majority union.

In the United States and other countries, the law compels employers to bargain. SA law spells out no such duty and disputes in which employers refuse to deal with unions who claim majority support are common.

Even registered unions don't have an automatic right to bargain.

But SA law does now allow the court to act against "unfair labour practices" and the SASJ argues that refusal to bargain is such a practice.

If the court agrees, many unions which have been refused recognition may ask for orders compelling an employer to bargain — including those whom employers refuse to deal with outside an industrial council.

In any event, the judgment may well spell out the rights both sides have in a dispute over bargaining.

This goes to the heart of present-day South African labour relations.

As in several other cases, the court has also been asked to spell out the conditions under which it will grant "status quo" orders — which has a vital bearing on the rights of fired workers.

□□□

THE new Intimidation Act is again under fire from unionists.

Since it was introduced following the Rabie Commission report, several workers have been arrested — fulfilling predictions that it would be used against unionists — but only one convicted.

Last week, charges under the Act against two Brits members of the Metal and Allied Workers' Union were dropped after they had been arrested during a strike and MAWU called for the Act's scrapping, charging it was damaging labour relations.

The Act sets heavy penalties for "intimidation", which is defined very widely.

Lawyers say labour laws barring strikes are hard to enforce in the courts and that the Act enables police to prosecute strikers without having to prove an illegal strike has taken place.

And MAWU claims that, because police have such wide powers under the Act, they use it against strikers more freely than the labour law provisions.

All this comes amidst talk that labour laws making it a crime to strike may be scrapped. Unionists say there will be little point in taking this step amidst much fanfare when there is a security law giving the police power to intervene in strikes at will.

Nor, they add, is labour reform helped by a 1962 decree giving Department of Co-Operation and Development Commissioners arbitrary powers to ban union meetings in black townships.

The Lydenburg Commissioner has used these powers to ban meetings of MAWU members at Tubatse Ferrochrome, which recognises it.

Appeals to him by the company to drop the ban were apparently rebuffed.

□□□

EMERGING union attacks on industrial council agreements are common — but it is unusual to see employers joining the fray.

It seems some chemical firms are up in arms about their new agreement, which follows the decision by the Council of Unions of SA-affiliated SA Chemical Workers' Union to join the council.

SACWU demanded to renegotiate pay and won large increases.

The employers claim these are too high and much of their ire is directed at the employer body, the Transvaal Chemical Manufacturers' Association.

This comes as the TCMA is trying to extend its scope throughout the Transvaal as a prelude to enlarging the council, which now only covers a section of the industry.

Both it and SACWU say their dealings show employers and black unions can bargain effectively on councils and that the industry would benefit if the council covers all Transvaal plants.

But the resistance to the increase could be a blow to their plans.

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MANY employers are irritated by emerging unions who insist union leaders are "servants of the members" who can take no decision without their consent.

They will be cheered by the views of leaders of a large Tucsa union, the Garment Workers' Union of the Western Province.

Its paper "Clothesline" recently broke its traditional silence on labour issues to attack a member who charged she couldn't live on the wage the union negotiated, had backache because it did nothing about safety and that "going to the union is just like going to the boss".

The union urges her to cease "grousing" and says that, if she doesn't like her factory, she can always move to another.

It also suggests she visit the union office where the leaders will try to "put a bit of backbone into her in place of that backache".

If she really wants a better deal, she can always join the employer association.

Union charges Triomf with victimisation

RDM 9/12/88

Labour Correspondent

A BLACK trade union, the SA Chemical Workers' Union (SACWU), has applied to the industrial court for an order against Triomf Fertiliser company for allegedly "unlawfully victimising workers"

The union also alleges Triomf committed an "unfair labour practice" at its Potchefstroom plant by laying off about 60 of its 800 workers in November including, it claims, the union's entire branch executive committee

It also charges that the company has attempted to have the workers removed from the area in terms of influx control laws and that company security guards assaulted workers

The case is one of a crop brought to the court in which unions are testing a recent change to the law allowing the court to temporarily reinstate workers while a dispute over an alleged "unfair labour practice" is being resolved

In a statement released yesterday, SACWU says that, if it is successful, it may be the first union to win mass reinstatement from the court — the reinstatement of 60 workers pending the outcome of an official conciliation board hearing

A Triomf spokesmen said yesterday the company's chairman Dr Louis Luyt was aware of the dispute and had asked for full particulars

"He is waiting for a report on the union's allegations and obviously can't comment until he receives it", he said

SACWU claims the "vast majority" of those laid off were union members

The union also says the company has not granted it any form of recognition despite its "strong representations" at the company and a recommendation to Triomf from the Institute for Industrial Relations, a joint management-labour organisation

The union also claims Triomf forwarded the names of the fired workers to the Western Transvaal Administration Board, and the workers will be "endorsed out" before the legal machinery can be put into action.

Journalists' case tests principle of negotiation

Labour Reporter

An Industrial Court case which could have major implications for negotiations between employees and management begins on Monday.

The Southern African Society of Journalists (SASJ) has taken SA Associated Newspapers and the South African Press Association to court over the groups' announcement that they intended pulling out of the industry's conciliation board.

Two questions will be tested at the hearing:

- Whether the collapse of a long-established bargaining structure by unilateral withdrawal is acceptable;
- Whether employers have a duty to negotiate bona fide — that is, showing a willingness to bargain.

Both Argus and Sapa wrote to the SASJ informing the union they intended withdrawing from the board at the end of this year.

The SASJ regarded this action as an unfair labour practice and sought legal advice.

A finding in favour of the SASJ at the hearing would mean employers would have an obligation to negotiate in a bona fide manner with a representative trade union.

While this principle is established in labour relations abroad, it has yet to be established in South Africa, union sources said.

The conciliation board has a 40-year history and its threatened demise has evoked protest from the International Federation of Journalists.

PROGRESSIVE FEDERAL PARTY

Cracks in the facade

Unity within the Progressive Federal Party in the Transvaal has never been monolithic But it is showing more cracks than usual as a group of, generally young, anti-establishment "pragmatists" manoeuvre to seize control from the old-PFP northern suburbs elite

They claim to have no ideological differences with the establishment, but to be anxious for changes to increase efficiency and party image

So far the party leadership proclaims a bland ignorance of the rebels' existence Southern Transvaal chairman Douglas Gibson, within whose area most of the pragmatists are based, says there is certainly no split if it is defined as secret plotting against party leaders

"If, however, our strategy of promoting party growth and leadership in key areas outside the traditional PFP seats results in people like me being pushed out, then that's fine," Gibson said

Transvaal PFP chairman Max Borkum, who is a prime target of the pragmatists, would not discuss them If, as the *FM* believed, they were mainly from the southern Transvaal region, then it was up to Gibson to comment, said Borkum. He also would not comment on the attempt by Marius Barnard, MP for Parktown, to unseat him as Transvaal chairman It was Barnard's "democratic right" to stand, he said

The pragmatists, who are not willing to be identified at this stage, claim the Barnard candidacy as an early trial of their strength Barnard failed by only 22 votes

Gibson says that far from being surprised, he had expected Borkum to lose, while Orange Grove MPC Joel Mervis was surprised at how close Barnard came Mervis says he has had no indication of a possible rebel movement except at the congress, when he was told by one of his constituency people that the Barnard candidacy represented "the other regions" trying their strength

Ironically, the establishment policy of building grassroots strength outside the traditional PFP areas in anticipation of taking advantage of an electoral split between Nationalist and Conservative Party voters coincides exactly with the rebels' policy of building strength in those same areas in order to eventually outvote the establishment

In both cases, that policy could be working PFP party strength in Randburg is now in excess of 450, that in Westdene more than 350, Johannesburg West is close to 400; and Florida over 300

This is still small in terms of the 1 500 to 2 000 members some of the northern suburbs constituencies can show — but strength is building up rapidly

PFP's Borkum ... almost ousted as Transvaal chairman

FM 165

LABOUR LAW 10/12/82

Closed shop stays

Grafton Furniture Manufacturers has failed to obtain an Industrial Court declaration that a closed shop provision affecting three of its employees is an unfair labour practice

The case, which has attracted widespread interest from unionists and employers, concerns an agreement negotiated at the Industrial Council for the Furniture Industry (Natal) A closed shop provision in the agreement stipulates that workers in the industry must belong to the National Union of Furniture and Allied Workers (NUFAW), an affiliate of the Trade Union Council of SA (Tucsa)

However, three Grafton employees have refused to join the union Grafton decided to go to court when the industrial council refused to grant it further exemptions from the closed shop provision Such a refusal meant that Grafton would have had to fire the workers (who have worked for it for 16, 25 and 28 years respectively) if they persisted in their refusal to join the NUFAW

Ernie Wentzel SC, who appeared for Grafton, told the court that the company wished to obey the law, but in doing so it would cause harm to persons with whom it had no quarrel This was why the company had asked the court to give guidance by way of a declaration

In a 28-page judgment, the court has ruled that this application is "an irregular step " It has granted the application by the industrial council that it should be set aside

The court has ruled that Grafton did not follow the procedure laid down by the Labour Relations Act This stipulates that the company should have referred the matter to the industrial council before bringing it to the court The next step that could have been taken by Grafton, if it disagreed with the council's decision, would be to appeal to the Minister of Manpower against the council's decision

Wentzel had argued that the council was the very body whose competence was at issue and it was therefore inappropriate for it to deal with the dispute

The court also disagreed with Wentzel's interpretation of its powers He argued that the Industrial Court is not an inferior court like a Magistrate's Court He said that within its own field it is a court of original jurisdiction as if it were a superior court

The court has placed a far narrower interpretation on its jurisdiction, and on its authority to make declaratory orders Says the judgment "The Industrial Court has not been established as a superior court or a division of the Supreme Court It being a creature of statute, it has no jurisdiction beyond that granted by the statute creating it "

Grafton has still to decide what its next step will be The court's ruling does not appear to prevent the company from bringing the matter back to the court once it has followed what are deemed to be the correct procedures

FM 10/12/82

MINEWORKERS

The NUM talks tough

Resolutions adopted by the National Union of Mineworkers (NUM) at its inaugural congress last weekend may have an important impact on the future of industrial relations in the mining industry

The NUM is an affiliate of the Council of Unions of SA (Cusa) and is the first mining union from the ranks of an emergent union grouping A marked feature of the congress was the strong sense of enthusiasm shown for the union by the more than 1 500 black mineworkers present

The union began recruiting about four

Not many families are lucky enough to be able to stay together.

Unite families is the cry from rural areas

Women fight for legal recognition

Sowetan 165

Sowetan 10/12/82

By SINNAH KUNENE

FINANCE institutions have been challenged as to whether they require a certificate of sterilisation before granting home loans on the basis of both the husband and wife's salary, and also about their attitude to granting black women loans.

In their latest newsletter the Women's Legal Status Committee states that it is awaiting replies from some institutions The committee has also replied to a questionnaire from the National Manpower Commission asking about its activities in the labour field.

Included in the questionnaire are.

- that the WLSC is compiling a memorandum to the Minister of Manpower in connection with equal pay for comparable work, easier access to the Industrial Court, rights for pregnant women to have their jobs kept open before and after confinement; an increase in Unemployment Insurance Fund benefits and action on discriminatory pension and medical benefits;
- that the WLSC appreciates the removal of "sex clauses" from the labour legislation but it contends that this is only the beginning of justice for women;
- that the co-convenors Ms Roberta Johnston and Ms Babette Kabak continue to sit on the Womanpower 2 000 committee which concerns itself with the training and retraining of women

The WSLC has written to the Minister of Co-operation and Development, Dr Piet Koornhof, stating concern over the social consequences of separation of families where the breadwinner is forced to find a livelihood in an urban area.

This follows the minister's statement that he was likely to introduce legislation waving certain court decisions which permitted women to live in urban areas with their qualified husbands (The Khomani case).

"It is a recognised basic legal right of married people to live together and bring up their families together, and every population group other than the blacks have this unquestioned right taken for granted," the newsletter states

Other matters for which the WLSC have made submissions to the relevant Government institutions include the Orderly Movement and Settlement of Black Persons Bill, the Matrimonial Property Legislation and Alcohol as a mitigating factor.

In reply to the latter, the Department of Justice expressed the minister's concern and that he had already ordered an investigation into this

The founder member of the WLSC who gave the organisation its name, Dr Ellen Hellman, died recently

Labour Week

(165) RDM 13/12/82

By STEVE FRIEDMAN

Chamber of Mines surges ahead with new policy on unions

IF THERE is ever a world land speed record for labour reform, expect an entry from the Chamber of Mines.

A few months ago, the mines lagged well behind other industries Last week, they broke with decades of tradition and announced new union recognition guidelines which, on paper, put them ahead of many others

Up to now, a union's registration has been central to whether the mines would recognise it Not long ago, a union could not be recognised on a single mine unless it had support throughout the industry Even the terms under which unions could recruit on mines were tough

Now, registration is not an issue — the main one is whether a union is representative Unlike some industries which see themselves as reform pioneers, the mines will not insist unions bargain at an industry-wide forum

Any union which represents a "significant" number of workers — not necessarily 50% — in any job on a mine will be able to negotiate pay and conditions for its members with that mine

The Chamber will be the body granting recognition and one of its men will take part in negotiations, but bargaining will concern that mine only

To gain this right, unions will have to have a democratic constitution and agree to negotiate jointly with any other union with "significant" members in the job concerned

The Chamber, which has been discussing the change for a while, says the "mood" in the country — including planned changes to labour laws — has softened towards unregistered unions It also accepts that black unions may not want to bargain at industry level until they feel strong enough

This change goes further than the Chamber's recent decision to grant access to three black unions Then it still seemed the mines might not bargain with unions who rejected their terms

Now any union which makes headway on a mine will be able to bargain — whatever its view on registration and councils The first beneficiary may be the fast-growing National Union of Mineworkers, which last week rejected both

There may well be snags ahead The NUM has criticised aspects of the guidelines and also charges that some mines are resisting it, despite the Chamber stance

But the change certainly seems to open the way to a challenging new labour era on the mines

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LABOUR history is not only being made on the mines

Last week brought the news that Fosatu's National Union of Textile Workers is likely to join the Transvaal knitting industrial council.

This would be a major break with most Fosatu unions' attitudes thus far

But the move is far from a victory for employers who refuse to bargain pay with unions outside councils

If the NUTW does join, it will have won employer agreement to radical changes to the council, which will make it unique.

It is likely that a union with a majority at a company will have the right to bargain directly with it — which other employers who support councils oppose It will also be able to consult its members on each stage of negotiations

Industry-wide pay talks may even take place outside the council, which will merely ratify the result

Changes already include scrapping the "closed shop" and writing into the agreement majority union rights in individual plants

The NUTW's willingness to join the council comes after knitting employers adopted a flexible stance and dealt with it outside the council

They recognised the NUTW's right to bargain directly with firms and reached a unique industry-wide pay deal with it outside the council

So the first employer association in three years to persuade a Fosatu union to join a council is one which did not try to force it to do so

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In their agreement with the NUTW, knitting employers also agreed to work towards paying Fosatu's goal of a "living wage"

Fosatu regards R3 an hour as a "living wage" and minimum knitting pay is not much more than a third of that, so this may seem less of a victory than unionists would have us believe

But Fosatu unionists argue that employers agreed to a major change in the standards for pay bargaining.

Most bargaining now centres on what percentage rise on their present pay workers will receive Fosatu men say this accepts that present wage standards are valid

Instead, they want a pay goal to be set — the figure both sides see as a "decent wage" — and bargaining to concern how quickly employers can afford to get there

Many employers will resist this, not only because it seeks to push up wages, but also because they believe a "living wage" is in the eye of the beholder But they may well increasingly be faced with this demand

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NOT for the first time, the industrial court has refused to hear, on technical grounds, a key "test case" — this time on the "closed shop".

Whether the court is interpreting its powers too narrowly or the law governing it is too hemmed in with re tape, it is not playing the ce tral role the Wiehahn Cor mission expected

Its inability to act speedil in settling issues is clearl damaging its credibility

At any rate, yet anothe test case will be heard by i today Brought by the S Society of Journalists agains Press groups SAAN and A gus, it tests key union recog nition issues with ramifica tions for all industries

Journalists face employers in key test case

By STEVEN FRIEDMAN
Labour Correspondent

IN A major test case yesterday, the industrial court was asked to rule that any employer who failed to negotiate "appropriately" with a representative trade union was guilty of an "unfair labour practice".

It was also asked to find that an employer could not refuse to bargain if a union failed to meet preconditions set by the employer before negotiating

And it was asked to temporarily order an employer who allegedly refuses to negotiate with such a union to resume bargaining

If the court upholds these points, its decision will have have far-reaching implications for the rights of unions throughout industry

The case has been brought by the president of the SA Society of Journalists, Mr David Bleazard, and other SASJ members against publisher SA Associated Newspapers, two SAAN papers, and the SA Press Association

The action concerns the withdrawal of SAAN, Sapa, and Argus Printing and Publishing Ltd from the unofficial conciliation board on which they bargain pay with the SASJ. Argus is not opposing the action

And, in what is believed to an unprecedented move, a full bench of the court is hearing the case in Johannesburg Its president, Mr B J Parsons, is presiding and both the other members are hearing the case

The newspaper companies withdrew from the board after asking the SASJ to agree to a resolution accepting regional pay differences and that editors would have maximum discretion in awarding pay increases

In papers before the court, they say they were forced to withdraw from the board because the SASJ refused to accept this

They deny they refuse to bargain, saying they are prepared to negotiate with SASJ branches They also say they are entitled to leave the board

The SASJ members charge that the two issues were raised by SAAN "to forestall further bargaining of a type which it sees as unpleasant" and to end a negotiating forum which has preserved "harmony" for more than 40 years

Counsel for the SASJ, Mr M Brassey, yesterday cited letters between top SAAN and Argus executives in which they discussed leaving the board — partly because of "militancy" by journalists — several months before formally raising the issues which led to their withdrawal.

The SASJ is asking the court to use powers recently granted it to restore the status quo in "unfair labour practices" disputes by temporarily ordering SAAN and Sapa to rejoin the board until the dispute is resolved

Mr Brassey argued yesterday that the court did not have to be fully satisfied of the merits of the SASJ case in order to do this

Unlike civil court actions, he argued, the onus was on the party against whom the order was brought to satisfy the court it should not grant one

Mr Brassey quoted extensively from American cases holding that it was an unfair labour practice to refuse to bargain He argued that the right to bargain was also "implied" by the Labour Relations Act.

"If the court finds there is no duty to negotiate, we on this side can pack up our bags and go home," he said

He said SAAN's willingness to negotiate at individual newspapers did not mean it was willing to bargain It could not seek out a new bargaining forum which covered less workers than were represented by a recognised union

He also charged that SAAN, while setting preconditions for negotiations with the SASJ, had set none for the black media workers' union, Mwasa, and was thus "discriminating" against the SASJ

Mr W Lane, for SAAN and Sapa, will reply today But yesterday he raised two technical points against the application

A status quo order can only be obtained after an official conciliation board has been applied for, and Mr Lane said the SASJ members' application for a board was "defective" He also argued that white-collar workers were not "labour" and could not be victims of an "unfair labour practice"

Court risks appearing a fool, Press hearing told

~~(19)~~ ~~(123)~~ (165) ROM 15/12/82

By STEVEN FRIEDMAN
Labour Correspondent

THE industrial court would "risk making a fool of itself" if it ordered an employer to bargain "in good faith" with a union, the court was told yesterday

Mr W Lane, who was appearing for SA Associated Newspapers and the SA Press Association in an important test case brought by the Southern African Society of Journalists, also told the court there was nothing in labour law which made it an "unfair labour practice" to refuse to negotiate with a representative trade union

Mr Lane said the term "unfair labour practices" did not deal with relations between unions and employers, only with those between workers and employers

A key issue in the case is whether refusal to bargain with a majority union can be ruled "unfair"

Mr Lane also argued that the term "unfair labour practices" was not meant to apply to white-collar workers such as journalists but to "the working class who might burn down buildings or cause public disorder"

A full bench of the court yesterday reserved judgment in the case, which stems from the withdrawal of SAAN, Sapa and the Argus company from the conciliation board on which they negotiate pay and conditions with the SASJ

The firms say they withdrew because the SASJ refused to bargain on regional pay differences and the principle of across the-board pay increases

It has asked the court to award it a temporary order forcing the companies to resume bargaining with it Argus is not opposing the application

In reply to arguments by Mr M Brassey, for the SASJ, Mr Lane said the court could not order SAAN and Sapa to perform a specific act such as bargaining "in good faith" as it could not enforce this

It was impossible to judge what "good faith" entailed and the companies would not know how to comply with the order There was no way to prove whether they were complying and the court would risk "making a fool of itself"

He said the companies were forced to withdraw from the board because the SASJ adopted an "unyielding attitude"

He also charged that the SASJ's use in the case of confidential letters between SAAN and Argus executives without saying where it obtained the letters was "positive evidence of a lack of good faith"

But Mr Lane said the letters did not show the companies "contrived" to leave the board, but that they were concerned about specific bargaining issues

He also disputed Mr Brassey's contention that the country's labour law "implied" that employers were obliged to negotiate with majority unions

He described the SASJ's case as "ill-conceived and profitless"

In a reply, Mr Brassey said there was American precedent for defining "good faith" He also disputed that producing confidential documents in court constituted "bad faith"

He charged SAAN had fought the case "unreasonably" as an "academic exercise" and asked the court to award costs against it

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1. Enter at the top of each page and in column (1) of the block on this cover the number of the question you are answering
2. Blue or black ink must be used for written answers The use of a ball point pen is acceptable Red or green ink may be used only for underlining, emphasis or for diagrams, for which pencil may also be used
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1. No books, notes, pieces of paper or other material may be brought into the examination room unless candidates are so instructed
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3. No part of an answer book is to be torn out
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The Star Wednesday December 15 1982

Judgment is reserved in SASJ dispute

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Labour Reporter

Judgment was reserved yesterday in a dispute between the South African Society of Journalists and SA Associated Newspapers and the SA Press Association

In a sitting before a Full Bench of three industrial court judges, the court heard the SASJ's demands that newspaper industry employers return to negotiations at the conciliation board level

The SASJ asked the court to restore the status quo and order Saan and Sapa back to the conciliation board until their current dispute was resolved.

The hearing, which lasted two days, is seen as a test case by labour experts in that it seeks to bring employers to bargain in good faith with a representative trade union, and to restore the status of a long-standing conciliation board

The case was brought against Saan and Sapa as well as the Argus Company by the president of the SASJ, Mr Dave Bleazard, and other union members in the publishing groups

Argus adopted a watching brief, agreeing to accept any decision the court came to

The SASJ argued that the employers had refused to negotiate bona fide, and their withdrawal from the conciliation board at the end of this month could result in an end to the many years of labour peace in the industry

Counsel acting jointly for Saan and Sapa, Mr W Lane, argued that it was the SASJ that had come to the negotiating table with pre-conditioned and had refused to consider a request for regionalised negotiations

While the SASJ sought to prove that the employers' withdrawal from the board amounted to an unfair labour practice, all the employers wanted was a change in the framework for determining labour practices This in itself did not amount to unfair labour practice

Employers had seen 1983 negotiations leading to another deadlock and arbitration as the SASJ was not acting in good faith — and the employers then withdrew from the board, Mr Lane told the court

OBLIGATION

Because newspaper-based journalist chapels gave the SASJ its mandate to negotiate, employers felt that direct regional negotiations were preferable to further deadlocks through centralised bargaining

Mr M Brassey, counsel for the SASJ, told the court that the employers had an obligation to negotiate through the conciliation board Saan showed a desire to forestall further collective bargaining of a type which the group saw as "unpleasant and demanding," Mr Brassey said.

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'Journalists do not burn factories'

E. Post 15/12/82

JOHANNESBURG — "Journalists are gentlemen and do not burn down factories and could therefore not be involved in labour unrest," the legal representative of the South African Associated Newspaper group (Saan) told an Industrial Court

Mr Willie Lane, who is appearing for Saan and the South African Press Association (Sapa) in their dispute with the South African Society of Journalists (SASJ), said this in reply to the SASJ's claim that Saan's action in withdrawing from the extra-statutory Conciliation Board was an "unfair labour practice" which could lead to labour unrest

Mr Lane contended that the term "unfair labour practice" as it appeared in the Labour Relations Act referred specifically to "labourers" and not to white collar employees

He said the Industrial Court would "risk making a fool of itself" if it ordered an employer to bargain "in good faith"

It was impossible to judge what "good faith" entailed and the companies would not know how to comply with the order There was no way to prove whether they were complying

Mr M Brassey, for the SASJ, claimed it was clear that as far as the Act was concerned, the term labour referred to white and and blue-collar workers

"Where would one draw the line between employees and workers — does one choose between the classes, the 'gentlemen' versus the 'workers' or does one decide on race?" he asked

Referring to an Appeal Court decision, he said the Appellate had ruled that a managing director could be termed a "worker" in terms of the Workmen's Compensation Act

A full bench of the court reserved judgment in the case, which stems from the withdrawal of Saan, Sapa and the Argus company from the Conciliation Board on which they negotiate pay and conditions with the SASJ

A key issue in the case is whether refusal to bargain with a majority union can be ruled "unfair" — Sapa

SASJ plea to court: Judgment reserved

CAPE TIMES 15/12/82

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Own Correspondent

JOHANNESBURG — The Industrial Court would "risk making a fool of itself" if it ordered an employer to bargain "in good faith" with a union, the court was told yesterday

It was also told there was nothing in labour law which made it an "unfair labour practice" to refuse to negotiate with a representative trade union

Mr W Lane, appearing for South African Associated Newspapers and the South African Press Association in a test case brought by the Southern African Society of Journalists, told the court the term "unfair labour practices" did not deal with relations between unions and employers, but only between workers and employers

A key issue in the case is whether refusal to bargain with a majority union can be ruled "unfair"

Mr Lane also argued that "unfair labour practices" did not apply to white-collar workers such as journalists, but "the working class" who, the legislators feared, "might burn down buildings or cause public disorder"

A full bench of the court yesterday reserved judgment in the case, which stems from the withdrawal of SAAN, Sapa and the Argus company from the conciliation board on which they negotiate pay and conditions with the SASJ

The firms say they withdrew because the SASJ refused to bargain on regional pay differences and the principle of across-the-board increases

The SASJ charges this was a "contrived" reason and that the firms withdrew from a body which had "ensured harmony" for more than 40 years because they wanted to avoid a type of bargaining they found unpleasant

It has asked the court to award it a temporary order forcing the companies to resume bargaining with it Argus is not opposing the application

In reply to arguments by Mr M Brassey, for the SASJ, Mr Lane said the court could not order SAAN and Sapa to perform a specific act such as bargaining "in good faith", as it could not enforce such an order

It was impossible to judge what "good faith" entailed and the companies would not know how to comply with the order There was no way to prove whether they were complying and the court would risk "making a fool of itself"

Mr Lane also charged that the SASJ was unwilling to bargain in "good faith"

He said the companies were forced to withdraw from the board because the SASJ adopted an "unyielding attitude" and refused to compromise

He said the SASJ's use in the case of confidential letters between SAAN and Argus executives without saying where it obtained the letters was "positive evidence of a lack of good faith". He said the letters did not show the companies "contrived" to leave the board

He disputed Mr Brassey's contention that the court should grant an order restoring the bargaining status quo unless the companies could satisfy it that such an order should not be granted

An order would "interfering with the running of the business" of SAAN and Sapa and could only be granted if the SASJ proved it had a right to one

"Unfair labour practices", Mr Lane argued, applied only to blue-collar workers and the case showed the "dangers" of extending the term to other workers because even newspapermen such as deputy editors who were in positions of authority would be covered by any order granted

He described the SASJ's case as "ill-conceived and profitless" and urged the court to dismiss it

In a reply, Mr Brassey reiterated aspects of the SASJ case and said there was United States precedent for defining "good faith" He also disputed that producing confidential documents in court constituted "bad faith"

Firm fails over closed shop test

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Mercury 16/12/82

Labour Reporter

A NATAL furniture manufacturer, Grafton Everest, has failed in its attempt to get the Industrial Court to test the controversial 'closed shop' principle which forces workers to belong to a particular union

And as a result it could be called on by the furniture industries' industrial council to fire three long-service employees if they persist in their refusal to join Tucsa's National Union of Furniture and Allied Workers

In his written judgment, the Court's deputy president, Dr D B Ehlers, said that Grafton, which had asked the Court to rule that 'closed shop' forcing its workers to belong to the Tucsa union was an 'unfair labour practice', did not bring its application properly

The court action follows the Natal furniture industry's industrial council turning down Grafton's application for an exemption from the 'closed shop' provision on behalf of its three employees who are allegedly members of the S A Allied Workers Union

Irregular

In the judgment, Dr Ehlers said the company's court application was 'irregular' as Grafton had not followed the procedures laid down in the Labour Relations Act

In terms of the Act, Grafton should have referred the dispute to the industrial council before bringing it to court and further, the company had the right to appeal against the council's decision to the Minister of Manpower

Dr Ehlers also upheld the argument put forward by the industrial council that Grafton's application had been brought in terms of the wrong clause in the Act

The Court's ruling allows Grafton to either appeal to the Supreme Court against the judgment or to refer the matter to the Court again

A company spokesman said they would be meeting with their legal representatives in the new year to discuss which procedure to follow

A union source said the three workers would probably be given a further 90-day period to join the union before Grafton was asked to dismiss them

An industrial council spokesman said the matter would first be discussed by the full council before any decision was taken No meeting had yet been arranged

165 FM

COURT CHALLENGE

17/12/82

Is an employer, who fails to negotiate "appropriately" with a representative trade union, guilty of an unfair labour practice?

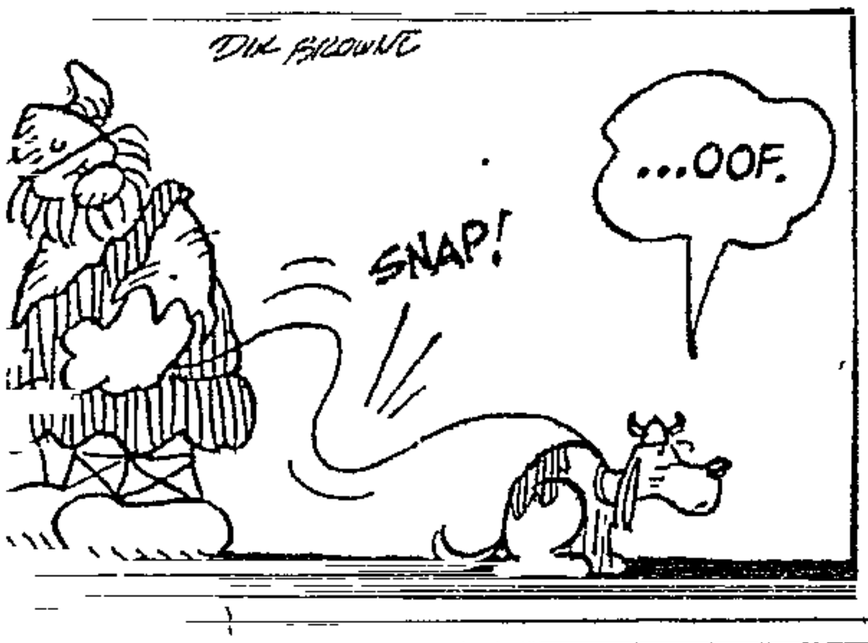
This is one of the issues on which the Industrial Court has been asked to give a ruling in a case which could have important implications for unions and employers in SA A full bench of the court heard the case in Johannesburg this week

The case has been brought by David Bleazard, president of the Southern African Society of Journalists (SASJ), and members of the society, against SA Associated Newspapers (Saan), two Saan newspapers and the SA Press Association The action followed newspaper employers' withdrawal from the unofficial conciliation board where they have negotiated with the SASJ in the past

The employers say they were forced to withdraw because the SASJ refused to agree to accept regional pay differences They say they are entitled to leave the board and have indicated a willingness to negotiate with SASJ branches

The SASJ has applied to the court for an order directing employers to remain members of the board It argues that they had no right to leave the board simply because one aspect of the negotiations for the conclusion of a new agreement has foundered, or may founder in the future

By Dik Browne



Journalists' union wins Industrial Court action

(165) Star 29/12/82

CAPE TOWN—The Industrial Court yesterday ordered Argus Printing and Publishing Company, South African Associated Newspapers and the SA Press Association to remain members of the SA Newspaper (Press) Editorial Conciliation Board and to negotiate with the Southern African Society of Journalists, reports Sapa

Welcoming the court's decision the SASJ stated "It is a vindication of our view that the employers' intended withdrawal from the board, without good reason constituted an unfair labour practice

"Withdrawal would have collapsed the collective bargaining machinery between journalists and their employers which has served the newspaper industry well for nearly 40 years

"The SASJ hopes the court's decision will encourage a more constructive attitude towards negotiations on the part of the employers"

Labour lawyers regard the judgment as embodying the principle that employers are bound to bargain in good faith with employees where there has been a long-standing negotiating relationship, reports Tony Davis

The order to resume negotiations, made by a full bench of three Industrial Court judges on the basis of two days' evidence and argument, comes a few days before the expiry of the current agreement between the SASJ and employers.

Counsel for Saan and Sapa argued that they had withdrawn from the board because they had foreseen forthcoming wage talks heading for deadlock They contended the SASJ was not negotiating in good faith

The Argus did not contest the case, indicating in advance of the hearing it would accept the court's decision

Reasons for the judgment have still to be given The SASJ's application for costs was dismissed

The managing director of Saan, Mr Clive Kinsley, today declined to comment on the court's decision

The order merely reopens negotiations. Points of issue between the SASJ and employers on wages and working conditions have still to be resolved — Sapa

rights — Sash

29/12/82

this or do not know how to have their rights endorsed in their reference books

There are no section 10 rights for people living within a homeland or on a white-owned farm outside the prescribed urban areas

Section 10 (1) (a) qualifications are given to those who have lived in one town since birth.

A person is entitled to section 10 (1) (b) rights if he has worked in registered employment for the same employer in the same town for 10 years or has lived lawfully and continuously in the same town for 15 years

Section 10 (1) (c) rights are granted to the wife and unmarried daughter or son living with a person who has 10 (1) (a) or (b) qualifications.

All contract workers in the country are denied urban rights even if they have worked in their present jobs for more than 10 years or lived legally in hostels for more than 15 years

They are required to return to the rural area each year to renew their contracts

UNIVERSITY OF CAPE TOWN
EXAMINATION ANSWER BOOK

Cape Times 29/12/82

Join pay talks, newspapers told

165

Own Correspondent

JOHANNESBURG — An industrial court yesterday ordered the publishers of the country's main English-language newspapers and the SA Press Association not to withdraw from the conciliation board on which salaries and working conditions are negotiated with the Southern African Society of Journalists

In a judgment handed down in Pretoria, the court also ordered that the publishers — SA Associated Newspapers Ltd, the Argus Printing and Publishing Company Ltd, the Pretoria News (Pty) Ltd, Cape Times Ltd, Eastern Province Newspapers Ltd and Sapa — meet with the SASJ within a month to negotiate

Reasons for the judgment will be given later The SASJ's application for costs was dismissed

The president of the SASJ, Mr David Bleazard, said last night "It is a vindication of our view that the employers' intended withdrawal from the board without good reason constituted an unfair labour practice"

He said the withdrawal would have meant the collapse of collective bargaining machinery between journalists and their employers, which had served the newspaper industry well for nearly 40 years

The judgment followed a hearing earlier this month at which representatives of the SASJ asked the court to rule that the employers' intention to withdraw from the conciliation board was an "unfair labour practice"

In what was believed to be an unprecedented move, a full bench of the court heard the matter It was regarded as a major test case which could have far reaching implications for the rights of unions throughout industry

The employers said they intended withdrawing from the board after the SASJ refused to accept regional pay differences and that editors would have maximum discretion in awarding salary increases

Powers

In papers before the court, the employers denied they had refused to negotiate and said they were prepared to bargain with SASJ branches They also said they were entitled to withdraw from the board

The applicants representing the SASJ asked the court to use powers recently granted to it to restore the status quo in "unfair labour practices" disputes by temporarily ordering the respondents to remain on the board until the dispute was resolved

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Examiners' Initials	56	

NOTE CAREFULLY

1. The answers only on the right hand pages wi marked The left hand pages may be usec rough work, but no credit will be given for work
2. Enter at the top of each page and in column the block on this cover the number of the qu you are answering
3. Blue or black ink must be used for written an The use of a ball point pen is acceptable Red or green ink may be used only for underlining, emphasis or for diagrams, for which pencil may also be used
4. Names must be printed on each separate sheet (e.g. graph paper) where sheets additional to examination book(s) are used.

otes, pieces of paper or other material ught into the examination room unless re so instructed

are not to communicate with other or with any person except the invigilator.

n answer book is to be torn out

books must be handed to the commis- an invigilator before leaving the examination.

Any dishonesty will render the candidate liable to disqualification and to possible exclusion from the University

EDSON 15255

Union officials have trespass charges thrown out

165 RDM 31/12/82

Pretoria Bureau

CHARGES of trespassing against two officials of the General Workers' Union of South Africa (Gwusa) were withdrawn yesterday in the Kempton Park Magistrate's Court

Mr Donsie Khumalo, Transvaal secretary of Gwusa and Mr Solly Masemola, an organiser, were arrested outside the premises of the Trade Centre at Olifantsfontein on November 29

The men and another Gwusa organiser, Mr Soloman Maluleke, had an appointment with the head of the centre, Mr M Smit The men failed to trace him and were arrested when they left the centre

They were taken to Olifantsfontein Police Station where they were charged with trespassing.

The charges against Mr Maluleke have not been withdrawn and he is to appear again in the Kempton Park Magistrate's Court on January 7

At the time of the incident Mr Smit said workers at the Trade Centre — which is run by the Department of Manpower — were precluded from joining a trade union because they were State employees

Yesterday Mr Khumalo accused officials at the Trade Centre of employing strong-arm tactics against unionists

He said nothing would deter him from carrying out his union activities for the benefit of the workers

Mr Khumalo is currently facing a charge of inciting a strike at De Luxe Dry Cleaners in Pretoria Judgment in this case will be given in the Pretoria Regional Court on January 21

LABOUR DEPARTMENT.

1983

JAN. —— DEC.

(165) FM 7/1/83

REASONS AWAITED

Publishers of SA's major English-language newspapers have been ordered by the Industrial Court to resume negotiations with the Southern African Society of Journalists (SASJ)

The court ruled that the Argus Printing and Publishing Company, SA Associated Newspapers and the SA Press Association should remain members of the conciliation board at which wages and working conditions have traditionally been negotiated with the SASJ

The court refused the SASJ's application for costs

When the reasons for the judgment are given later this month it will be possible to assess its wider implications for labour relations in SA However, some labour lawyers already regard the judgment as highly significant They believe it embodies the principle that employers are bound to bargain in good faith with employee organisations where a long-standing relationship between them exists

The judgment follows a hearing last month at which the SASJ asked the court to rule that the employers' intention to withdraw from the conciliation board was an unfair labour practice

The Argus company did not contest the case, and indicated that it would accept the court's decision The other employers said they had been forced to withdraw from the board because the SASJ refused to accept regional pay differences They expressed a willingness to negotiate with SASJ branches

Company told to reinstate 51 workers

By Tony Davis, Labour Reporter

The Industrial Court has ordered an Elandsfontein firm to reinstate 51 workers who were dismissed during a dispute last August

The decision is viewed as highly significant as this is the first time the court has made such an order and it confirms the right of dismissed workers to demand temporary reinstatement from their previous employers

Fosatu's Metal and Allied Workers' Union made an urgent application to the Industrial Court last September after the management of Stocks and Stocks dismissed the workforce of 78 men after a week's go-slow dispute

The court met in Johannesburg in November where Mawu claimed the workers had been dismissed without sufficient reason and without being able to state their grievances to management

Stocks and Stocks, and the holding company Stobar Reinforcing, had failed to fully investigate the go-slow before dismissing workers, counsel for the 51 men stated

Disciplinary procedures laid down in the metal industry's industrial council agreement were described as being too vague

Judgment was reserved but was awarded this month to the 51 workers, ordering the temporary reinstatement of the men by the firm in terms of Section 43 of the Labour Relations Act.

The chairman of Mawu's shop stewards' committee at Stobar, Mr Robinson Ramasodi, said they were pleased with the decision

Court says 51 must be rehired

CAPE TIMES 11/1/85

Own Correspondent

JOHANNESBURG — In a decision likely to have far-reaching implications for South African labour relations, the Industrial Court has ordered the reinstatement of 51 workers dismissed last year by an Olifantsfontein company

It was the first time the court had ordered the reinstatement of sacked workers

The case was brought by the Metal and Allied Workers' Union (Mawu), a Fosatu affiliate, and 51 migrant members against the firm Stocks and Stocks and its holding company, Stobar Reinforcing

The respondents had asked for the temporary reinstatement of the workers, alleging their sackings were unfair

In a statement yesterday Mawu hailed the "historic judgment" The chairman of Stobar's shop stewards' committee, Mr Robinson Ramasodi, said "We are very, very happy to have won this order, not only for ourselves, but because it will help all workers"

The union and workers alleged in court that they were fired without warning in an attempt by the company to avoid negotiations over retrenchments so that it could carry out "disguised retrenchment" by dismissing all the workers and then rehiring only some

Mr H Cheadle, for the union and the workers, argued that it was an "unfair labour practice" to dismiss an entire work force to avoid retrenchment negotiations with a representative union

Mr M Brassy, for the companies, submitted that Section 35 of the Metal Industrial Council agreement, which set out procedures employers must follow before dismissing or retrenching workers, was "void for vagueness"

Reasons for the judgment will be given later There was no order on costs

Labour sources said last night that the order was "heartening", but that it was difficult to say exactly what its effect on labour relations would be before the resons for the judgment were known

One source said the order seemed to show that the court was "doing what it was set up to do"

Court orders 51 back to jobs

RDM 165

11/11/83

By CHRIS FREIMOND

IN A landmark decision that is likely to have far reaching implications for South African labour relations, the Industrial Court has ordered the reinstatement of 51 workers dismissed last year by an Olifantsfontein company

It was the first time the court had ordered the reinstatement of sacked workers

The case was brought by the Metal and Allied Workers' Union (MAWU) — a Fosatu affiliate — and 51 migrant members against the firm Stocks and Stocks and its holding company, Stobar Reinforcing

The respondents had asked for the temporary reinstatement of the workers because they alleged their sackings were unfair

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Mr M Brassy, for the companies, submitted that Section 35 of the Metal Industrial Council agreement which sets out procedures employers must follow before dismissing or retrenching workers, was "void for vagueness"

He said it had no legal force because it did not spell out what an employer had to do to fairly dismiss workers

Reasons for the judgment will be given later The court made no order on costs

Top labour sources said last night that the order was "heartening", but it was difficult to say exactly what its effect on labour relations would be before the resons for the judgment were known

One source said the order seemed to show that the court was "doing what it was set up to do"

Asbestos row settled

165

Star 12/1/83

Labour Reporter

An out-of-court settlement was reached yesterday between a Durban asbestos firm and the South African Allied Workers Union over a dispute dating back to last March

A joint statement released by the two sides said that Turnall Ltd and members of Saawu's building affiliate who were former employees of the firm had reached the out-of-court settlement after lengthy negotiations at the recommendation of the president of the Industrial Court

The settlement was reached with neither side conceding the validity of the other's case

Turnall dismissed about 50 workers in March last year allegedly over demands for union recognition

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FM 14/1/83

NDUSTRIAL COURT

A landmark ruling

'he Industrial Court ruling that 51 workers ismissed by Stobar Reinforcing last year iust be reinstated, appears to have pro- ɔund implications for labour relations in A

Although the written judgment in the ase is still awaited, it is already clear that ıe court has made a landmark ruling This the first time it has reinstated dismissed orkers in terms of Section 43 of the La- ɔur Relations Act which provides for in- 'rim relief of an aggrieved party involved certain types of labour disputes The ɔurt can order reinstatement, via a status ıo order, pending another hearing at hich the dispute will be heard

In the Stobar case, the court has ordered at the workers have to be reinstated with fect from October 1 last year through to ınuary 29 this year on terms and condi- ɔns no less favourable than they enjoyed ıor to dismissal

The case was brought to the court last year by the Metal and Allied Workers' Union (Mawu), an affiliate of the Federation of SA Trade Unions (Fosatu), and 51 workers dismissed by Stobar Reinforcing, a wholly-owned subsidiary of the Stocks group

Stobar maintained that the workers had broken their contracts, and therefore had effectively dismissed themselves, by having embarked on a go-slow The workers denied that they had resorted to such action The workers and the union argued that it was an unfair labour practice to unilaterally sack a whole workforce to avoid retrenchment negotiations with the union — a charge which the company denies

For anyone trying to assess the significance of the court's ruling, it is possibly wise to focus not on these and other accusations and denials made by the parties, but to examine arguments presented by the union and the workers for reinstatement

Their case rested on two main arguments firstly, they submitted that an employer must have reasonable grounds for dismissing an employee and must have conducted a thorough investigation into the alleged misconduct before sacking a worker Secondly, they argued that a worker faced with dismissal should be given an opportunity by an employer to present his side of the matter

It must again be emphasised that because the court's written judgment is still being awaited, it is not yet possible to give a thorough assessment of its ruling However, it is extremely significant that the court has granted reinstatement in the light of the arguments presented by the union This has some important implications

☐ The whole concept of unfair dismissal is becoming an important issue in SA labour law Employers will, in future, have to be far more cautious in their approach towards dismissing employees, especially when those employees are represented by a union which has the resources and expertise to challenge employers' actions in court,

☐ Companies will have to ensure that they have equitable disciplinary, dismissal and dispute-settling procedures in order to prove that a dismissal was not conducted in an arbitrary, unfair manner,

☐ Employers who face litigation over alleged unfair dismissals will not only have to contend with high legal costs, but also the possibility of having to pay large amounts of money in back-pay In the Stobar case, the amount the company will have to pay is being negotiated between it and the union There are indications that a settlement will total between R25 000 and R40 000,

☐ Even when, as in the Stobar case, reinstatement may only be a prelude to the holding of an unfair labour practice hearing, the company's chances of recovering this back-pay if it wins the unfair labour practice hearing are slim. Tracing dozens of migrant workers living in various homelands to recover the back-pay would obviously be extremely difficult, and

☐ Finally, the ruling is yet another indication that the Industrial Court is beginning to occupy an important position in labour relations in this country Mawu's victory at the court will doubtless prompt many unions and employees to approach the court for rulings on other important labour issues

Discussions are being held between the company and the union in the wake of the court decision As the *FM* went to press, there were signs that they were heading for a settlement If such a settlement is reached the union will obviously not pursue its unfair labour practice case against the company

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165 151 140A 189

FM 14/1/83

INDUSTRIAL COURT

A landmark ruling

The Industrial Court ruling that 51 workers dismissed by Stobar Reinforcing last year must be reinstated, appears to have profound implications for labour relations in SA.

Although the written judgment in the case is still awaited, it is already clear that the court has made a landmark ruling. This is the first time it has reinstated dismissed workers in terms of Section 43 of the Labour Relations Act, which provides for interim relief of an aggrieved party involved in certain types of labour disputes. The court can order reinstatement, via a status quo order, pending another hearing at which the dispute will be heard.

In the Stobar case, the court has ordered that the workers have to be reinstated with effect from October 1 last year through to January 29 this year on terms and conditions no less favourable than they enjoyed prior to dismissal.

The case was brought to the court last year by the Metal and Allied Workers' Union (Mawu), an affiliate of the Federation of SA Trade Unions (Fosatu), and 51 workers dismissed by Stobar Reinforcing, a wholly-owned subsidiary of the Stocks group.

Stobar maintained that the workers had broken their contracts, and therefore had effectively dismissed themselves, by having embarked on a go-slow. The workers denied that they had resorted to such action. The workers and the union argued that it was an unfair labour practice to unilaterally sack a whole workforce to avoid retrenchment negotiations with the union — a charge which the company denies.

For anyone trying to assess the significance of the court's ruling, it is possibly wise to focus not on these and other accusations and denials made by the parties, but to examine arguments presented by the union and the workers for reinstatement.

Their case rested on two main arguments: firstly, they submitted that an employer must have reasonable grounds for dismissing an employee and must have conducted a thorough investigation into the alleged misconduct before sacking a worker. Secondly, they argued that a worker faced with dismissal should be given an opportunity by an employer to present his side of the matter.

It must again be emphasised that because the court's written judgment is still being awaited, it is not yet possible to give a thorough assessment of its ruling. However, it is extremely significant that the court has granted reinstatement in the light of the arguments presented by the union. This has some important implications:

- The whole concept of unfair dismissal is becoming an important issue in SA labour law. Employers will, in future, have to be far more cautious in their approach towards dismissing employees, especially when those employees are represented by a

face to face

221 FM 14/1/83

DIRK MUDGE

Towards nationalism

Dirk Mudge resigned this week from the Ministers' Council of the National Assembly in Namibia, of which he was chairman. He is also chairman of the Democratic Turnhalle Alliance, and has declared that he will remain in the Namibian political arena.

***FM* You have said that SA policy within Namibia is increasingly to support the rightwing. Why do you think this is?**

Mudge: I've learned that everything the SA government does in Namibia is in the interests of the ruling party in SA. Presumably this is behind it. As a politician I comprehend this, as a Namibian I cannot accept it.

Do you expect new internal elections to be held, or will the Administrator-General rule, possibly with an advisory council, until a settlement?

Because of my resignation, the Ministers' Council will dissolve, and my colleagues won't be prepared to elect a new one.

I have no idea whether there will be a new National Assembly. The Adminstrator-General will have to take over all legislative and executive functions.

There are rumours about new elections. But the DTA won't take part unless they lead somewhere, towards finality and stability.

We've had three elections in the last five years without getting there. Our priority is still elections that will get us international recognition, elections under UN Resolution 435 if the UN can repair its biased image.

If these continue to be remote, we must consider internal elections. But this time we shouldn't be rushed into them. It has done us a lot of harm on previous occasions.

And the commission of inquiry into corruption must table its report beforehand, so that people know where they stand with the people they're electing.

Would you participate while AG8, the current ethnic constitution, is in force?

The Republican Party, the white party in the DTA, is withdrawing from the white Legislative Assembly in protest against AG8. We've tried for amendment to it and didn't get it, which put us in the middle, between SA and popular expectations.

Now we're effectively getting out of the whole system of government, because we can't achieve what we promised.

Is the DTA moving away from being an ethnic-based alliance towards a more unitary centralised political organisation?

For all practical purposes we are a political party, with our ethnic member parties functioning as branches. This makes us more representative than other parties because we have roots in all the ethnic groups.

The ethnic structure of the DTA is a technical factor. Member parties are not independent units. The DTA's aspect as an alliance mustn't be overemphasised.

Many observers believe the DTA has moved into a far more strongly Namibian nationalist position over the past few years, partly because of SA actions. Is this the case?

Yes, I believe that if all groups, black and white, are going to participate in a common political structure, we need a common ideology, a philosophy to make that possible. And that is Namibian nationalism.

189 165 140A 151

union which has the resources and expertise to challenge employers' actions in court,

☐ Companies will have to ensure that they have equitable disciplinary, dismissal and dispute-settling procedures in order to prove that a dismissal was not conducted in an arbitrary, unfair manner;

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☐ Finally, the ruling is yet another indication that the Industrial Court is beginning to occupy an important position in labour relations in this country Mawu's victory at the court will doubtless prompt many unions and employees to approach the court for rulings on other important labour issues

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FM 14/1/83

SOWETO

Unity talks soon

Greater Soweto or tripartite Soweto? This highly contentious issue is up for discussion on January 18, when Soweto's three community councils meet West Rand Administration Board (Wrab) and Co-operation and Development Department officials to discuss whether the three councils that represent Greater Soweto should be scrapped in favour of one Greater Soweto Council

The existing community councils are David Thebehali's Soweto council, Joseph Mahuhushi's Diepmeadow council and Isaac Mashoa's Dobsonville council Soweto is the giant, with 76 000 houses. Diepmeadow has 26 000 and tiny Dobsonville, near Roodepoort, 4 000

Co-operation and Development commissioned an investigation of the issue in 1981 Last year the Smuts report came out, recommending amalgamation of the three

In the light of the Black Local Authorities Act passed last year, black community councils will get near-municipal powers This means that ultimately a number of the functions of Wrab will fall under the authority of the Soweto council — or councils

Elections for community councils are due to take place in November this year and, presumably, unification must take place by then, if ever.

David Thebehali, head of the Soweto Council, and Wrab chairman John Knoetze are in favour of unification The Dobsonville and Diepmeadow chairmen, predictably, are not. It's a tangled issue The existing councils were created by the Community Councils Act and have only existed in their present form since 1978. But it's easier to create administrative machinery than to abolish it

Knoetze says that a decision will probably be taken in the very near future. "No city as developing as Greater Soweto is at the moment can afford the luxury of three administrations There must be one administration — one electrical engineer, one chief executive officer," he says, adding· "I have not got the staff. I'm to transfer between a third and a half of my staff to Soweto alone to make it a viable administration"

Thebehali argues "Most of the Greater Soweto facilities are in Soweto For exam-

Detention of trade unionists queried

Political Correspondent

THE Department of Manpower has confirmed that it received numerous representations during 1981 from various sources about the detention of trade union leaders

The 1981 report of the Department — released yesterday — reinforces reports of widescale concern among employers at the mass detentions of trade union leaders during the year

The report observes however that 'detentions in terms of security laws do not fall within the scope of the legislation administered by the Department of Manpower

Labour Week

By STEVE FRIEDMAN

31/1/83

Union act a 'man bites dog' story

THE news that the SA Allied Workers' Union has taken part in industrial council negotiations must have seemed like a labour "man bites dog" story

Not only is SAAWU regarded by many employers — and the Security Police — as "radical", but it is one of the unions which refused to enter unity talks with rivals who joined industrial councils.

But it did take part, albeit unofficially, in the explosives council's annual pay talks, and SAAWU's insistence that it was not there as a party to the council does not alter that

Whether it will do so again is another matter It says it won't

AECI (African Explosives and Chemical Industries), the only employer on the council, hopes to negotiate a national bargaining deal with SAAWU and the black SA Chemical Workers' Union, the other emerging union with which it deals

It wants pay bargaining to take place at a national level, but won't insist on the council as a vehicle

But AECI also obviously plans to continue bargaining with the established unions on its council They include major metal unions who are committed to the council system

So a formula reconciling these factors will have to be found

There are some interesting facets to the AECI developments

Firstly, SAAWU's participation is further evidence of the silliness of assigning images to unions — a practice much beloved by some employers and trendy university labour watchers

Whether a union is "radical" only becomes clear in negotiations and is at any rate fairly trivial compared to the overriding question of whether it represents its members

The last four years have seen several cases in which "militants" bargained like "moderates" and vice-versa

The AECI developments come as the National Union of Textile Workers (NUTW) has been working out an arrangement with knitting employers which may see sweeping changes to the knitting council and a decision by the NUTW to join it

Some labour watchers see the beginning of a trend

They suggest a growing number of employers accept that industry-wide bargaining with emerging unions can only come about through major changes to councils or arrangements to accomodate unions which refuse to join them

This might produce a changed union stance and open the way for industry-level deals between employers and union opponents of councils, so settling conflict on how bargaining will take place

It's far too early to predict that in the vital metal industries, such an accomodation seems as far off as ever, despite some planned changes to the council

But there is a whiff of change about, however slight

THIS month the industrial court handed down two landmark rulings

In both cases, its reasons for the decisions are perhaps more important than the rulings themselves, which are expected to be released late this week or soon thereafter

But the rulings themselves have far-reaching implications

In the first decision, the court ordered three newspaper employers to reverse their decision to quit an unofficial conciliation board where they bargain with the Southern African Society of Journalists

Lawyers say it could not have done so without finding, at least in part, that it is an "unfair labour practice" for employers to refuse to bargain with majority unions

This is a watershed in labour law, with a direct bearing on recognition disputes involving emerging unions

But much will depend on the court's reasons, which should spell out the circumstances in which it will intervene in these cases.

The second was the granting of the first-ever "status quo" order compelling an employer to reinstate fired workers pending the settling of a dispute It ordered Stobar Reinforcing to reinstate 55 members of the Metal and Allied Workers' Union

As influx control laws compel many black workers to leave the cities when they lose their jobs, the granting of such orders would be a key impetus to settling disputes

Employers' ability to fire migrants in the sure knowledge that they must leave the cities would be restricted and unions would have an incentive to use the court, rather than boycotts and campaigns

The Stobar dispute has already been settled

But, as with the SASJ, there were unusual features in the case and the reasons will indicate the circumstances in which these orders will be granted

□□□

THE outcome of that annual slugfest, the Mine Workers' Union general council meeting, should be revealed early this week

Other established mine unions are watching carefully. They hope the all-white MWU has abandoned its long-standing refusal to bargain at the same table as unions representing black workers

They want to get all mine unions, from the MWU to the black National Union of Mineworkers, into one caucus

There was a difference of opinion within the MWU on this before the meeting

But the MWU stance may be less important than the NUM's An industrial council or some similar forum is not on without its agreement, which seems unlikely

Meanwhile, the NUM is about to enter into negotiations on its first recognition agreements — on two Anglo American mines

Recognition is likely, but will the NUM win agreements from houses which have taken a tougher line than Anglo?

NOTE CAREFULLY

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4. Names must be printed on each separate sheet (e g. graph paper) where sheets additional to examination book(s) are used.

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3. No part of an answer book is to be torn out
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Any dishonesty will render the candidate liable to disqualification and to possible exclusion from the University

EDSON

CAPE TIMES 2/2/83 (165)

Industrial disputes: Legislation tabled

Labour Reporter

NEW legislation designed to streamline the settling of industrial disputes was tabled in Parliament yesterday

The Labour Relations Amendment Bill, 1983, introduced by the Minister of Manpower, Mr Fanie Botha, differs only marginally from the draft Amending Bill which was published in August last year for general comment The bill was first published in January last year

In terms of the bill, unregistered unions and employer groups will be granted direct access to conciliation boards, the government's official dispute settling machinery

Current legislation

Under current legislation, individual members of these organizations can apply for a conciliation board in their own right, but their union is legally excluded from doing so

The bill empowers the Minister of Manpower to establish a conciliation board on his own initiative without consulting the parties concerned This is if, in his opinion, the dispute should be settled without delay "in the public and national interest"

The bill aims to speed up disputes in essential services and disputes where an unfair labour practice is alleged

In these cases the parties can refer their disputes to direct arbitration without going through a conciliation board or an industrial council

Mr S P Botha

A further proposed amendment allows the Minister to appoint a mediator acceptable to all parties if he thinks it will help settle the dispute

Apart from financial and business affairs, the bill also aims to lift the secrecy on industrial court proceedings The bill further makes provision for the registration and control of labour brokers and greater protection for workers hired out by them

Conciliation board for unregistered unions

APBUC 8/2/83 (165)

Labour Reporter

UNREGISTERED unions will be allowed to apply for conciliation boards to resolve disputes if the new Labour Relations Bill becomes law

The Bill, which has been tabled in Parliament, also allows the Minister of Manpower to establish conciliation boards "on his own initiative if he is of the opinion that a dispute should be settled without delay in the public or national interest"

The Minister would not be obliged to consult the parties concerned in this case

Under current legislation, unregistered unions do not have access to official machinery for settling disputes but members of these unions can apply for a conciliation board

The proposed amendment means that unions will be able to represent members in their own name

The purpose of the amendment, according to the explanatory memorandum on the Bill, is "to create an official forum for the settlement of disputes to be used by both registered unions in industries and areas where no industrial council exists and unregistered, representative unions

Another proposed amendment enables unions, workers and employers in non-essential industries to apply for direct arbitration in a dispute

At the moment only disputes in essential industries can be referred for arbitration

In the event of a dispute between an employer and an individual employee, it is proposed that the matter be referred to the Industrial Court for a decision

VERY CANDIDATE MUST enter in olumn (1) the number of each question nswered (in the order in which it has een answered); leave columns (2) and) blank.

	Internal	External
(1)	(2)	(3)
9.		
Examiners' Initials		

Date 24/10/80

Degree/Diploma/Certificate for which you are registered (e.g. B.A., B.Sc.) CTA

Subject ECONOMICS 1B

(to be copied from the heading on the Examination Paper)

Paper No K 78

(to be copied from the heading on the Examination Paper)

NOTE CAREFULLY

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FM 11/2/83 ~~HBC~~ ~~151~~

LABOUR DISPUTES 165

Sudden settlement

Did the Industrial Court ruling in the case of Stobar Reinforcing have a bearing on the sudden settlement of a similar labour dispute at Vleissentraal's Cato Ridge plant in Natal?

The Vleissentraal management says no But representatives of the Fosatu affiliated Sweet Food and Allied Workers Union say they detected a discernible shift in management s position following the court s decision In terms of Section 43 of the Labour Relations Act the court ordered the temporary reinstatement of 51 dismissed Stobar workers pending another hearing

In an out of court settlement last week Vleissentraal agreed to take back 30 of the 85 workers originally dismissed ending a dispute that had lasted almost seven months In terms of the agreement, 10 of the workers were to be signed on immediately and the balance taken back over a period of three months

The dispute at Vleissentraal has been particularly acrimonious In July last year five workers, including three shop stewards, were retrenched Plant workers who refused to go back to work until they were reinstated, were fired

Vleissentraal also sought to evict the former employees from their hostel accommodation The union's response was to seek an Industrial Court hearing At the same time it brought an action in the Supreme Court for the reinstatement of five workers on the grounds that they had not been retrenched, but dismissed because of union activity But before the matter could come before the court Vleissentraal signalled that it was prepared to negotiate

Union organiser, Jay Naidoo, believes the Stobar ruling could have played a role, along with a number of other factors "They realised that we had a strong case and it was possible that they would lose the court action, with costs In the light of that they thought it was better for them to settle"

Head of Vleissentraal's hides and skins department, Hendrik Hart, says "The union approached us, that's why we negotiated Had they approached us earlier we would have taken them on As it is, they have been taken back on our terms This is no victory for the union"

Did the judgment in the Stobar case have any influence on their decision to negotiate? "It wasn't even mentioned," says Hart

Judgment in Press case a 'vital step for unions'

165

RDM 16/2/83

By STEVEN FRIEDMAN
Labour Correspondent

IN A judgment with implications for bargaining throughout industry, the Industrial Court has ruled that, in some circumstances employers can be ordered to bargain in "good faith" with a union

But it has stopped short of ruling that labour law automatically compels an employer to negotiate with a representative trade union

These points are contained in the court's full judgment on the case in which it ordered newspaper employers to temporarily return to an unofficial conciliation board on which they negotiate with the Southern African Society of Journalists

The SASJ had applied for the order after the employers — SA Associated Newspapers, Argus Printing and Publishing and the SA Press Association — withdrew from the board Although the order was granted in late December, the court's reasons were only released this week

The judgment was handed down by the court's deputy president, Dr D B Ehlers Its president, Mr B J Parsons, and Mr D R van Schalkwyk concurred

Labour lawyers said yesterday the judgment was a key first step for unions seeking to have their right to bargain enforced by the court, even though it did not rule that employers had an automatic duty to bargain

It could open the way to other orders compelling employers to bargain

In another important step, the court also ruled that it may grant workers temporary orders restoring the "status quo" in a dispute, even if there is doubt about whether they have established a prima facie case in law that the employer has been guilty of an "unfair labour practice"

In the SASJ case, it granted the union its order even though it says there is "some doubt" about whether it had established a prima facie right to it

It did so partly because it found the damage to the SASJ, if the order was not granted, would be greater than the damage to employers if it was

On the key question of the duty to bargain, the SASJ had asked the court to find that there was such a duty implied by the country s labour law and it had also quoted American case law in support of this

The court ruled that 'one should be cautious in relying on foreign sources although they could be of assistance

In the SASJ case the 'crucial point' seemed to be that a practice which had been in force for some 40 years had been changed and this was likely to have "at least some inequitable consequences"

But the court also rejected the argument that it could not order employers to negotiate in "good faith" as it would be difficult to enforce this order

"The refusal of an order which is aimed at bona fide negotiation simply because it would be obviously difficult to ensure compliance would tend to frustrate the very purpose for which the court was approached,' it ruled

Employers obliged to bargain court

Star 16/2/83

By Tony Davis
Labour Reporter

Employers are obliged to bargain in good faith with representative trade unions where there has been a long history of such a relationship

This significant fact arises from the Industrial Court judgment released at the weekend into last year's case between the South African Society of Journalists and the South African Associated Newspaper group, the SA Press Association and the Argus Printing and Publishing Company

At the end of December the court ruled in favour of the SASJ and ordered the employers back to the industry's conciliation board

In the judgment the three presiding court members found that in certain circumstances it was the duty of employers to negotiate with a representative union

The SASJ had held negotiations with employers for close to 40 years and the intention of the publishing groups was to change this practice, the court found

The judgment states that unlike American labour laws, there is no local equivalent for compelling parties to negotiate in good faith

However, if any parties refused to comply with an order laid down by the court, this would constitute an offence

The judgment also makes an important ruling by observing that white collar workers such as the SASJ applicants were also classified as "labour" under South African labour laws

Therefore such categories of workers were also entitled to initiate cases of unfair labour practices against employers

in the South African Defence Force in 1980, 1981 and 1982, respectively, and (b) what were his specific functions in each such year,

(2) in what (a) section and (b) capacity is Brigadier Knoetze currently employed?

The MINISTER OF DEFENCE

I do not consider it in the interest of Brigadier Knoetze, or for security reasons, in the public interest to disclose the information The disclosure of the information will no doubt also have a negative effect on the morale and discipline of members of the S A Defence Force who are concerned with sensitive affairs

Defence Force: Brigadier D S. Hamman

*6 Mr P A MYBURGH asked the Minister of Defence

(1) (a) In what section of the South African Defence Force was Brigadier D S Hamman employed as a staff officer operations in (i) 1981 and (ii) 1982 and (b) what were his specific functions in each such year,

(2) in what (a) section and (b) capacity is Brigadier Hamman currently employed?

†The MINISTER OF DEFENCE

I do not consider it in the interest of Brigadier Hamman, or for security reasons, in the public interest to disclose the information The disclosure of the information will no doubt also have a negative effect on the morale and discipline of members of the SA Defence Force who are concerned with sensitive matters Where persons who are concerned with sensitive and intelligence functions refuse—this does not only happen in South Africa, but also in all the countries in the world—to subject intelligence services to this type of exposure, I should like to refer to the reply which the hon the Prime Minister gave to Question No 3 on 9 February this year

80 Hansard Q 61, 128

Technical Committee of Inquiry into the Group Areas Act and Related Legislation

16/2/83

*7 Mr P R C ROGERS asked the Minister of Community Development

Whether the Technical Committee of Inquiry into the Group Areas Act and Related Legislation has completed its investigations, if not, when is it expected that the investigations will be completed?

†The MINISTER OF COMMUNITY DEVELOPMENT

The Technical Committee has not yet completed its investigation and it is therefore at this stage very difficult to give an indication as to when it will be completed It is however expected that the investigation will possibly be completed during the second half of this year

Mr D J DALLING Mr Speaker, arising out of the hon the Minister's reply, may we assume that the main remaining area of investigation of that committee is the Reservation of Separate Amenities Act and the Blacks (Urban Areas) Consolidation Act? Is that correct?

The MINISTER No, that is not so

Hansard

Railway houses: political meetings

(304A) Q 61. 128 16/2/83

*8 Mr J. C B SCHOEMAN asked the Minister of Transport Affairs†

Whether he or the management of the South African Transport Services has issued any directive in regard to the holding of political meetings in Railway houses, if so, what instruction?

The MINISTER OF TRANSPORT AFFAIRS

No

16/2/83

Purchase of 1145 Breyer Avenue, Pretoria

Hansard Q. 61. 128-129

*9 Mr F J LE ROUX asked the Minister of Community Development †

Whether the property known as 1145

Breyer Avenue, Waverley, Pretoria, was purchased by the State recently, if so, (a) when, (b) from what person or body was it purchased, (c) what was the purchase price and (d) for what purpose was the property purchased?

†The MINISTER OF COMMUNITY DEVELOPMENT

Yes

(a) 12 November 1982

(b) Mr P C van Blommestein

(c) R115 000

(d) as an official residence for a senior officer of the South African Defence Force

(165) Hansard

Farming operations/domestic service: conditions of employment

Q 61, 129 16/2/83

*10 Mr P R C ROGERS asked the Minister of Manpower

Whether the report of the National Manpower Commission on the conditions of employment in farming operations and domestic service in private households has been completed, if not, when is it expected to be completed?

†The MINISTER OF MANPOWER

No It is not possible at this stage of the investigation to determine a date on which the report will be completed

Sale of indigenous wood

*11 Mr M A TARR asked the Minister of Environment Affairs and Fisheries

(1) What procedure is adopted by the Directorate of Forestry of his Department in the sale of indigenous hardwoods to furniture manufacturers in the Republic;

(2) whether any groups of manufacturers are given preferential treatment, if so, why?

The MINISTER OF ENVIRONMENT AFFAIRS AND FISHERIES

(1) Indigenous timber was normally sold by auction in the Southern Cape and Tsitsikamma forest regions in the past In the rest of the Republic such timber sales are negligible and any available supplies are disposed of by tender As from October 1982 quotas have, however, been allocated to furniture manufacturers in the Southern Cape area

(2) Yes During recent years there has been an increased interest in the limited volumes of timber from indigenous forests and the supply falls short of the demand The Southern Cape furniture manufacturers have bought timber from the Southern Cape and Tsitsikamma indigenous forests since before 1940 and the well-known Southern Cape furniture industry is totally dependent on timber from those indigenous forests To ensure a continued supply to that well established industry, a quota was allocated to the Southern Cape furniture manufacturers at prices based on the prices realized at previous auctions The usual auction sales are still held for the balance of the timber and are open to all buyers as in the past The system of quota allocation was introduced on an experimental basis and will be evaluated after the next auction sale in March 1983

(260) **SABC: Director-General** 16/2/83

Hansard Q. 61. 130-132

*12 Mr D J DALLING asked the Minister of Foreign Affairs and Information

Whether prior to the appointment of the Director-General designate of the SABC he or the Deputy Minister of his Department had discussions with any members of the Board of the SABC concerning the said appointment; if so, (a)(i) with whom and (ii) when were such discussions held and (b)(i) what was the

Staff down but output up at Manpower

Star 17/2/83

(65)

By Tony Davis
Labour Reporter

Despite its own serious manpower problems, the Department of Manpower is coping with the shortages and has even improved productivity to the chagrin of other Government departments.

In various divisions within the department more work was being performed by fewer staff, I was told.

Work procedures had been streamlined and bonus-incentive schemes and overtime remuneration were introduced and paid to officials who performed extra work.

During last year 45 000 hours of overtime was done by Department staff and was being kept up again this year, said a spokesman.

Manpower's performances come at a time when other Government departments are reeling under staff shortages and complaints of too much work.

SHORTENED

In two senior Department of Manpower sections, the office of the Unemployment Insurance Commissioner and the office of the Workmen's Compensation Commissioner, fewer staff were performing more work for more applications over the past few years.

"In various divisions within the Department, work procedures have been shortened and simplified, and use is made throughout of form submissions, even for submissions to the Minister," the spokesman said.

The Department's labour relations, personnel and accounts divisions had also contributed to the overtime efforts.

At the Department's Johannesburg offices an incentive scheme was introduced in 1975 during a critical staff shortage, and while the offices can justify a service register of 420 posts, only 289 staff are now successfully managing operations.

The number of staff shortages in the Department of Manpower were reported by the Director-General, Dr P J van der Merwe, in the 1981 annual report.

At the end of 1981 one in every five department posts was vacant, 54 percent of the posts were occupied by women and 813 people had resigned during 1981 as compared to 904 appointments.

Labour Week

By STEVE FRIEDMAN

Unions' new stance on councils

RDM 21/2/83

FOR the past few years, the debate over the Industrial Council system has been a key labour relations issue

For varying reasons, almost all emerging unions have not joined councils, preferring to negotiate on the shop floor

Most employers, their associations and the established unions, have insisted on council bargaining

The nuances of the argument are many and varied, and many have seen this as a classic clash between white and black perceptions

But some major developments appear to be just around the corner

At least two unions of the Federation of SA Trade Unions (Fosatu) are considering joining councils One, the National Union of Textile Workers, has already expressed an interest in joining at least one council under certain conditions

The other has been canvassing members on the issue and a decision either way will be revealed soon There is support for going in as a tactic, but also for continuing to stay out

The debate centres around tactics only — Fosatu made it clear last year it saw the council issue as tactical, rather than one of principle In other words, the issue was what the union could get out of joining or staying out

Even if the unions go in, two points have emerged already

Agreement by a Fosatu union to join a council is unlikely to be unconditional — demands for changes in exchange for its participation are almost certain

And any Fosatu union which joins a council will continue to demand, and engage in, wage bargaining at plant level

□□□

THIS week's industrial court judgment in the case between the Southern African Society of Journalists and newspaper employers gave little comfort to employers who take a tough line on labour issues

Firstly, the court found that there are circumstances in which it could order an employer to bargain in "good faith" with a union

It implied only that this applied where there was already a bargaining relationship, and also stopped short of holding that there was an automatic duty to bargain

But lawyers point out that it did not rule out other possibilities and believe the judgment could serve as a "stepping stone" to orders compelling employers to bargain in other situations

And they also point out that it is a major development for the court to rule that there is any right to compel bargaining at all

The judgment also laid down rules for granting "status quo" orders — temporarily restoring the situation before a dispute began — which are favourable to parties seeking orders

□□□

IS the pressure on workers' jobs lifting slightly?

It might seem foolhardy to even suggest this after a week in which the Minister of Finance warned that continued difficult times and rising unemployment lie ahead

But one well-connected management source claims an unmistakeable change in the attitude of some companies Some managements of his acquaintance are, he says, rethinking planned retrenchments or planning to move from a three or four-day week to a five-day one

□□□

WHILE there are growing signs of a new era of labour reform on the mines, this does not seem to have got through to the unknown men who this week arrested two organisers of the National Union of Mineworkers and took them off to a Commissioner's court.

Clearly, this is not a help to mine labour relations

But there is another disturbing aspect The men were fined for not having lodgers' permits to live in the Klerksdorp house in which they were staying

Black mine union organisers have, of necessity, to travel around from mine to mine, spending days, if not weeks, recruiting

Where are they going to live while they do this if finding somebody to put them up for a few days also means being fined at the Commissioner's courts?

'Govt prepared to negotiate with unregistered trade unions'

NatEd 24/2/83

Mercury Reporter

PROPOSED changes relating to conditions of employment in industry meant the Government was now prepared to negotiate with unregistered trade unions, the Department of Manpower's director of labour relations, Mr Mike van Noordwyk, said yesterday.

Promulgation of the new legislation expected around mid-year would make it possible for unregistered unions to have full access to the Conciliation Board as a means of settling disputes

Mr van Noordwyk was addressing a Durban Chamber of Industries symposium yesterday

Shops Act

The department was aware of 53 current unregistered trade unions and, after communicating with each, only one had 'told us to go to hell — so far', Mr Van Noordwyk said

He described the scrapping of the Shops and Offices Act and the Factories, Machinery and Building Works Act, which will be substituted by the Machinery and Occupational Safety Act and the Basic Conditions of Employment Act, as a 'wide rationalisation programme'

But he warned that problems could be anticipated in bringing about the new legislation — notwithstanding the improvements it heralded for employers and employees

Consensus among the more than 250 delegates appeared to be that the changes were welcomed

A point raised by Mr Van Noordwyk was that a number of 'labour brokers — some of whom operated from the backs of trucks — had started appearing around industrial sites and that it was proving difficult to control the numbers and categories of workers they recruited

Medical aid

The new legislation was also aimed at improving medical aid, sick leave and pension fund benefits for such employees, for example

Another provision was that all employees would have to be provided with certificates of service once they left a place of employment

The only sexually discriminatory legislation was a stipulation that pregnant women could not be required to work 'four weeks before or eight weeks after the occasion'

Changes in the factories

LABOUR EXECS OUTLINE REFORM

By Mike Peirson

27/2/83

nel chiefs were given the first detailed indication this week of what the government has in store over changes to the old Factories Act

In the hot seats, answering a barrage of questions confidently and with a surprising sense of humour, were two executives of the Department of Manpower in Pretoria, Mike van Noordwyk (director of labour relations) and Gus Weich (chief Factories inspector)

The centre of attention at the seminar, organised by the Natal Chamber of Industries, was the basic conditions of employment and machinery and occupational safety legislation which will become law later this year

It is a rationalised and up-dated form of the Factories Act, although most of the provisions of the existing legislation will stay intact

"We had to keep in mind the rights and privileges of those in the work place, and we have been able to make some subtle changes particularly in the field of employment of women," said van Noordwyk

It has been classified as the Magna Carta for female workers as sex discrimination in terms of conditions of service have been abolished — except when it comes to pregnancies Women will not be allowed to work four weeks before they are due to give birth and for eight weeks afterwards

In fact, the new legislation will now encompass thousands of people who were not covered by the old law

Among the points made by Van Noordwyk were

- Victimisation penalties have been increased
- Company records can now be kept on microfilm instead of gathering dust and taking up unnecessary space in storerooms
- Certificates of service must be given to employees when they leave a job
- A tighter rein is to be kept on labour brokers, many of whom even operate from the back of bakkies on building sites

They will be required to provide their workers with the benefits related to the industry in which they normally work, despite the fact that they might be moving from company to company in the course of their contract work

Problems are anticipated, but Van Noordwyk explained that disputes over individual workers as to which industry they might belong, can be taken to the industrial court for a determination

- The 53 unregistered trade unions in the country will now be able to make use of the conciliation machinery which exists for registered unions

"We have had a very good response from the unregistered unions on this matter," said Van Noordwyk "Only one told us to go to hell"

- There will be no more compulsory overtime Any overtime that is considered by the employer to be regularly necessary must be written into the contract of the employee before he starts the job

Details given by Weich of the new safety legislation included

- The formation of an advisory council for occupation safety comprising representatives of employers and employee, with technical experts co-opted whenever necessary to deal with specific topics
- The appointment of safety rep[illegible] on the shop floor to a ratio of one to every 50 workers

"If we do nothing else in the next two years we will enforce these two factors," said Weich

- No-one may sell machinery in future which does not comply with South African safety regulations, and this includes imports
- The Ministry may appoint local authorities to assist the department in enforcing the new regulations This could be some time off because of the finances involved
- The powers of factory inspectors are to be extended to the level where he can stop any machine or process (both mechanical and chemical) which he might deem dangerous to the worker
- For injuries to workers caused on the job through negligence and not necessarily the direct contravention of the regulations, a employer can be fined up to R4 000 or jailed for up to two years, or both

FEARS FOR THE FUTURE IF 'VERLIGTE FANIE' LOSES HIS SEAT

165 S. Tribune 27/2/83

Labour keeps an eye on Soutpansberg

By BARNEY MTHOMBOTHI

THE LABOUR movement will be keeping a close watch on the progress and outcome of the coming Soutpansberg by-election where Minister of Manpower Fanie Botha will be facing a concerted rightwing onslaught from the Conservative Party and the HNP

Mr Botha and his two Conservative Party adversaries — Dr Andries Treurnicht, MP for Waterberg, and Tom Langley, MP for Waterkloof — resigned their seats this week to fight the by-elections which have been dubbed the "Battle of the Berge", and labour experts have warned that labour reforms would face a severe test and that a defeat for Mr Botha would have dire ramifications for the labour field and the country

By-elections in Soutpansberg, Waterberg and Waterkloof have been set for Tuesday, May 10

Experts said this week that even if Mr Botha returns to Parliament as a nominated member, the Government may decide to tread much more carefully to appease its rightwing voters

☐ Andries Treurnicht and Tom Langley

☐ Fanie Botha

☐ Anna Scheepers

☐ Roux van der Merwe

Mr Botha will contest Soutpansberg, a seat he has represented in Parliament for 25 years, against Mr Langley of the Conservative Party Soutpansberg is a verkrampte platteland seat

Mr Botha has been credited with much of the labour reforms, especially the legitimacy accorded black trade unions by the system

As Minister of Manpower, he has had to pilot through Parliament all Bills flowing from the recommendations of the Wiehahn Commission, which ushered in a new labour dispensation

Mr Botha has repeatedly clashed with the rightwing of the National Party, particularly Dr Treurnicht, who sees the dispensation as a calculated process to undermine white workers

Labour reform will therefore be on trial during the campaign and a defeat for Mr Botha will prove to the Government they are far ahead of their supporters

Professor Roux van der Merwe of the Department of Industrial Psychology at the University of Port Elizabeth, said the thought of a defeat for Mr Botha was "quite worrying"

"Mr Botha has been a good Minister of Manpower and I think if he is not re-elected it will have very serious repercussions in that area, particularly when one considers the quite considerable powers that the law gives to a minister," he said

"Up to now we have had a minister who understands the labour area very well and I think he has guided labour reforms successfully"

Professor van der Merwe said his concern was that if Mr Botha lost, his successor may not share his viewpoint and may not have the same enthusiasm as Mr Botha

Even if Mr Botha were to return to Parliament as a nominated member the Government may decide to slow down the pace in this field

"The Government itself may feel that it has to tread much more carefully I think the matter is quite serious," he said

"Obviously one would watch the outcome (of the by-election) with worry."

Dr Anna Scheepers, president of the Trade Union Council of SA (Tucsa), said there would be "tremendous problems" for labour — and the country — if Mr Botha were not re-elected

Dr Scheepers said the workers of South Africa owed Mr Botha a debt of gratitude for the courageous improvements he had made in the labour field

"He is always in regular consultation with the trade unions and if any representation is made he gives it very serious consideration

"If somebody without the same willpower and courage should become minister, the whole pace may slow down which will not be in the interest of the trade union movement, the workers or the country," she said

She agreed the Government was already committed to reform but said the person at the helm had to "push fearlessly all the time"

"Mr Botha is deeply committed to seeing that all workers are properly trained and that is what we need

"There is a great shortage of trained labour and we will have to expedite the pace very much to get more skilled people because otherwise we will have more unskilled unemployed"

Mr Henk Botha, an industrial relations consultant, felt the pace of reform in the labour field would continue regardless of who holds the Manpower portfolio

He predicted Mr Botha would be re-elected, albeit with a small majority

Feb. 1983

Big steel company pays out workers

A MAJOR steel company, Dunswart Iron and Steel, has agreed to pay more than R30 000 in compensation to migrant workers who were retrenched at its East Rand plant last year, according to informed sources

The settlement is the first to be revealed in which an employer has compensated migrant workers for being retrenched before their contracts expired

It is understood that Dunswart, which is controlled by the Gencor group, agreed to pay the compensation at a time when it faced the possibility of court action to challenge the retrenchments on the grounds that the workers were migrants whose contracts with the company had not expired

A company spokesman yesterday reacted to queries about the settlement with a brief "no comment". And Mr David Sibabe, general secretary of the Metal and Allied Workers Union (MAWU), also refused to comment.

The retrenched workers are members of MAWU and it is believed that the union played a role in the negotiations after their retrenchment.

It is understood that, after negotiations in which the possibility was raised of court action to test the legality of retrenching migrants in mid-contract, Dunswart agreed to pay the workers R500 each as compensation

Estimates of the amount paid out in terms of this formula range between R32 000 and R35 000

Retrenchment of migrants in mid-contract has been a common practice in manufacturing industries and, until last year, it had been assumed that there was no legal obstacle to it.

However, last year the giant Steel and Engineering Industries Federation issued a circular on retrenchments to its members saying it had taken legal advice on the issue.

Car union seeks sacked workers

By Z B MOLEFE

PRETORIA — Datsun car plant here sacked 100 workers "because there were no jobs because of the recession", then replaced them all the next day.

Now the United Motor and Allied Workers' Union is looking for the sacked workers to gather evidence against Datsun. The union plans taking Datsun management to the Industrial Court.

Most of the retrenched workers were union members, and, says union secretary Dora Nowatha, union lawyers have only trached down 10 sof far.

THE INDUSTRIAL COURT FM 4/3/83 (165)

Defining what's really unfair

Just a year ago, the Industrial Court was the target of severe criticism The offspring of the Wiehahn reports on labour it seemed to be taking an inordinately long time to find its feet Perhaps that was inevitable It was attempting to fulfil difficult tasks entrusted to it by a government intent on making profound changes to labour relations, its *bona fides* were on the line Today there is no mistaking the excitement — and anxiety — the court is provoking among participants in the labour arena It has begun to make rulings and judgments that could radically restructure the relationships between them

Two key factors underlie the growing interest in the court Firstly, its power to rule that certain actions constitute an unfair labour practice (ULP), secondly, the recent authority given to it to grant *status quo* orders in terms of Section 43 of the Labour Relations Act This section allows the court to grant interim relief to an aggrieved party — a group of dismissed workers, say — involved in certain kinds of labour disputes, pending another hearing at which the dispute itself will be adjudicated

By the end of 1980 the first year of the court's operation, it had received a total of 15 matters of which only one was a ULP case However, last year, the court had 41 matters on its roll — 15 ULP cases and 10 involving Section 43 (a high number, considering the court was given the authority to issue *status quo* orders only in September last year)

However the court is exerting an important influence beyond the cases that it hears The mere threat of a ULP case has helped to propel employers towards a peaceful resolution of some recent disputes

Not all employers are necessarily dismayed by this process Some believe the court is helping to make government s new labour dispensation more credible to emerging unions "Section 43 is but one example of some of the good things in the Labour Relations Act," says a senior official in an influential employer body

It is also clear that an important effect of some of the court's judgments has been to promote constructive negotiation and relationship-building between disputing parties

The cases involving Stobar Reinforcing and newspaper employers have shown that Section 43 can be a powerful weapon for trade unions Indeed unionists and labour lawyers predict that the court may be flooded with Section 43 applications in the near future as employees try to challenge employer practices they believe are unfair

In the Stobar case, the court ordered the temporary reinstatement of 51 dismissed employees The court has yet to deliver its written judgment on this case, but it is clear that the whole concept of unfair dismissal is being brought within the ambit of SA labour law

Employers do of course have certain legitimate grounds for dismissing employees

These include operational requirements (for example, the need to retrench people), incapacity (the inability of an employee to perform his duties), or misconduct But the Stobar ruling appears to suggest that if employers want to avoid a legal challenge from unions representing dismissed workers, they must be able to provide ample proof that misconduct has actually taken place Such proof can best be provided by the implementation of equitable disciplinary or dismissal procedures

The Stobar ruling also shows what a potent legal remedy Section 43 can be Although the court issued its decision at the end of last year, it ordered that the workers had to be reinstated from October 1 Stobar was, therefore, faced with the prospect of having to pay the 51 workers three months' back pay, despite the fact that a ULP had not yet been determined The *status quo* order was granted pending a ULP hearing — and the union involved has now decided not to pursue its case

In fact, Stobar and the union have reached an amicable settlement The company has paid a substantial amount to the workers and has agreed to re-employ them

Some observers believe that the court's decision in the case between newspaper employers and the Southern African Society of Journalists (SASJ) will prove even more significant in the long term The SASJ claimed last year that employers had committed an unfair labour practice by giving notice of their withdrawal from a domestic conciliation board, through which wages have traditionally been negotiated The court ordered the employers to return temporarily to the board

It stopped short of ruling that an employer is automatically compelled to negotiate with a representative union However, some lawyers believe the court's decision embodies the principle that employers are bound to bargain in good faith with employee bodies where a long-standing relationship between them exists

The fact that the court was willing to hear an issue involving the collective bargaining relationship of disputing parties raises interesting questions For example, can an extremely low wage offer be declared a ULP — particularly if the employer is paying far more to another group doing basically the same work?

Unfair or not?

The court's president, Benjamin Parsons, says "We have not had this raised yet As to whether it is a ULP will depend on the circumstances — it is a wide definition One will have to consider the facts raised I cannot say whether it will or will not constitute a ULP But I know there is a school of thought that wage bargaining should be excluded from the ULP definition That is a matter of principle over which we do not have any hard and fast ideas"

Not yet, anyway Meanwhile, the court is still attracting some vehement criticism

IC's Parsons . blazing a legal trail

This is not surprising The parties over whom it must adjudicate often have very diverging interests and expectations Parsons is correct in saying the court has an unenviable task Ordinary courts must apply legal principles in their hearings and findings But, as the Wiehahn Commission pointed out, in most labour cases sociological, economic, political and psychological aspects are as important as legality

Much of this criticism is probably misdirected — and should be focused on certain aspects of the legislation relating to the court's establishment The growing willingness of unions to challenge what they perceive to be ULPs, and their increasing use of Section 43 orders, has renewed debate about some of the court's most fundamental functions It is significant that some issues, basic to the effective functioning of the court, are being probed by the National Manpower Commission (NMC) in collaboration with the court

One such issue centres on the fact that as matters now stand, the guidelines given to the court by the legislature on what constitutes a ULP are extraordinarily vague (see box) This is in contrast to the position in some Western nations, where governments have prescribed clear principles US legislation, for example, clearly defines 12 practices in which employers and unions may not engage

Some academics and employers believe government should have had the courage to enshrine ULP principles in legislation The court would then have had a more interpretive function compared with its present task of having to make new law by building up precedents

This argument may have some merit The Wiehahn Commission envisaged a quick and inexpensive process of adjudication In practice, because the court has such vague guidelines, each time it deals with a new ULP case it has to hear a vast amount of evidence and argument from highly qualified legal experts The costs of such court actions are high (up to R30 000 for one of the parties alone in a case, according to some lawyers) As a rule, parties have to bear their own legal costs since the court is limited to making awards of costs only on grounds of frivolity or unreasonableness

In addition, the court has sometimes been unable to give quick decisions because it has had to decide on completely new issues in SA law The court's ability to deliver speedy judgments is also being impaired by the parties themselves They frequently ask for delays because of the complex and novel arguments they have to prepare

On the other hand, some lawyers argue that the present system has important advantages It does, for example, allow them to present arguments from foreign labour law in a court which appears to be willing to take decisions that a government, faced with pressures from business and other interests, might be reluctant to take

"If government were to try to formulate fair employment practice principles, the chances are that it would come up with something that would satisfy no one," says one respected legal academic

These lawyers also argue that the Wiehahn Commission was naive in believing that a means could be created for inexpensive labour litigation "We are dealing here with new issues in our law which affect millions of working people Inevitably, legal costs will be high, but they are not beyond the means of employers or unions which have substantial support," says one

There is also the hope that as a body of case law develops — and more of the court's findings are made public — it will be far easier to assess what constitutes a ULP "It took many years and decades for the supreme Court to develop law through judgments," says Parsons "This court was established only three years ago and it will, of course, take some time for it to develop our labour law" Stringent secrecy provisions have governed the court's activities in the past, but a new amendment to the Labour Relations Act is aimed at encouraging more widespread publication of decisions and judgments

Another debate surrounds the fact that a ULP dispute can be referred to the court only after an industrial council or conciliation board has failed to settle the dispute It may be prudent to force the parties to go through conciliation machinery before approaching the court, but is it wise to involve industrial councils — regarded with extreme suspicion by many emerging unions — in this process?

Other issues also need to be addressed A recent judgment in the Transvaal division of the Supreme Court appears to indicate that the Industrial Court has the status of a lower court

It is wise that the court should have only this status when it makes such far-reaching decisions? Should the court not reside within the ambit of the Department of Justice rather than the Department of Manpower?

At present the court may adjudicate over both disputes of rights and disputes of interests Should a clear distinction not be made between these issues and separate courts or should perhaps separate branches of the court be created to hear them? These are a few of the issues that need to be studied

Judicial machinery for the settlement of labour disputes is one of the cornerstones of a sound industrial relations system It is not surprising therefore, that SA's Industrial Court was designed to be an integral part of government's brave new labour world The court deserves to occupy a pivotal position in labour and it is to be hoped that the NMC investigation into its functions will help it to better fulfil this vital difficult and crucial role

FM 4/3/83 (165)

THE PRECISE DILEMMA

The far-reaching concept of the unfair labour practice (ULP) was introduced into South African law in 1979 The snag was that at that stage no one knew what it meant An amendment to the Industrial Conciliation Act defined ULP as meaning "any labour practice which in the opinion of the Industrial Court is an unfair labour practice"

Criticism of this extraordinarily circular description prompted government to introduce a new definition the following year In essence, this defined it as any labour practice or change in labour practice (other than a strike or lockout) which may cause

- ☐ Any employee or class of employees to be unfairly affected, or cause their employment opportunities work security or physical, economic, moral or social welfare to be prejudiced or jeopardised,
- ☐ The business of any employer or class of employers to be unfairly affected or disrupted,
- ☐ Labour unrest to be created or promoted, or
- ☐ The relationship between employer and employee to be detrimentally affected

Though this is a little more helpful than the original, it is still an extremely broad definition As Alan de Kok says in his book, The Industrial Laws of SA "The definition is so wide that an analysis of it would open up almost limitless fields of conjecture"

So far, ULP rulings by the court have dealt with relatively obscure issues, particular to certain industries For example, it ruled that a regulation in one industry, which froze labour mobility was unfair The regulation forced companies to contact the employer association for all their labour needs, and unionists claimed the regulation had been used to block the employment of certain workers

There are signs, however, that contentious cases which have wide implications are heading towards the court

Impasse faces union in labour dispute

30/3/83 RDM (346) (165)

By STEVEN FRIEDMAN
Labour Correspondent

IN A highly unusual move, an Alberton metal company has refused to take part in the procedures laid down by labour law for settling disputes over alleged "unfair labour practices"

The company, Screenex Wireweaving, is involved in a dispute with the Metal and Allied Workers' Union over the alleged firing of 140 workers in January, after a dispute over retrenchments

MAWU has declared a dispute with Screenex, alleging it is guilty of an "unfair labour practice", which could see the dispute referred to the industrial court

But the Labour Relations Act lays down that an "unfair labour practice" dispute must first be referred to the industrial council in the industry affected, which must try to settle it within 30 days. So the parties must appear before the council, which will try to settle the dispute If it fails, then the issue can be referred to the court.

On March 1 Screenex wrote to the council refusing to attend a meeting

It says MAWU is "at liberty" to proceed to the industrial court and the company "reserves its rights" if the union does so

It says MAWU's charges against the company are "vague" and Screenex's failure to negotiate at the council should not be seen as an admission of accurate union allegations. Repeated attempts to obtain Screenex comment have failed

MAWU general-secretary Mr Ginger de Jager said yesterday the matter was "sub judice". Asked if any employer had refused to discuss a dispute over an alleged "unfair labour practice" at the council, he said in one instance an employer refused to appear before the council, but made submissions in writing

In cases where either party refused to appear at all, the council found itself in a legal quandary, he said The Act gave the council subpoena powers, but the Industrial Registrar had to agree before a subpoena could be issued — and this would jeopardise the chances of resolving the dispute within the 30 days

● MAWU has also reacted to the dispute by asking Southern African governments and mining houses to which Screenex sells equipment not to buy its products

RDM 165 14/3/83

DESPITE key changes in the industrial court's role, the law setting out its procedures still presents problems

One controversial clause requires workers who allege an "unfair labour practice" to take their dispute to an industrial council, which must attempt to settle it within 30 days

The council cannot dict a settlement and there is no record of a council having achieved one Hence the claim that this simply delays the dispute on its way to the court

The problem has been lessened by a change allowing workers to go straight to the court to ask for temporary court orders but it still persists

It was given a new twist this month when a metal firm Screenex, which is involved in an "unfair practice" dispute with MAWU, simply told the council it did not wish to attend the meeting arranged to attempt a settlement.

In what is believed to be a unique move, it said it could see no point in negotiating with the union on the dispute

The law says the council can force either party to attend such a meeting But it needs the permission of the industrial registrar and, by the time this is obtained, there is little time to attempt to settle the dispute in thirty days In other words, labour law's answer to Catch 22.

Another clause causing concern is that which says the court can only award costs to either party in special circumstances

This plays a major role in cutting down the ability of workers to approach the court Legal costs are steep and are made steeper if they are unlikely to be recovered, even if the case is won

14/3/83

165 Hansard

Disputes/work stoppages/strikes

Q Col. 709-710 17/3/83

433 Dr A L BORAINE asked the Minister of Manpower:

(a) How many (i) disputes, (ii) work stoppages and (iii) strikes were dealt with in 1982 in terms of the Labour Relations Act, No 28 of 1956, by (aa) his Department and (bb) the Wage Board and (b) in what industries, trade or occupations did (i) work stoppages and (ii) strikes occur?

The MINISTER OF MANPOWER

(a) (i) (aa) 71,

(bb) nil

(ii) (aa) 48,

(bb) nil

(iii) (aa) 346,

(bb) nil

Remark The figure of 71 disputes furnished is in respect of the number of applications received for the establishment of conciliation boards and for direct arbitrations In addition officials of the Department of Manpower dealt with and resolved a substantial unknown number of disputes in the normal course of their duties

(b) (i) Construction (2)
Local Government and services (6)
Manufacturing (29)
Mining (3)
Trade and accommodation (4)
Transport and communication (4)

(ii) Construction (11)
Local Government and services (10)
Manufacturing (251)
Mining (7)
Trade and accommodation (39)
Transport and communication (28)

Note For the sake of uniformity the occurence of strikes and work stoppages is classified on a sectoral basis only

(165)

INDUSTRIAL COURT

Braitex pays out

FM 25/3/83

A dispute between the Fosatu-affiliated National Union of Textile Workers (NUTW) and textile manufacturers, Braitex, has been settled — with the workers receiving R40 000, the largest pay-out so far in a labour dispute

The settlement, which also provides for plant bargaining rights for the union, was made an order of the Industrial Court Braitex is also required to reinstate 15 retrenched workers and to hold a ballot to avoid allegations of favouritism against the Cusa-affiliated Textile Workers Union (TWU)

During hearings, the Industrial Court subpoenaed an employers' association, the Textile Yarn and Fabric Manufacturers Association, to appear before it and provide documentation This is believed to be the first time the court, which has made several precedent-setting decisions lately, has taken such action

The Braitex dispute revolved around allegations of unfair labour practices and, in particular, the unilateral alteration of wages, in particular bonuses, without discussion with the NUTW There was also a dispute between the NUTW, which claims majority membership among Braitex employees, and the TWU

The court order establishes the factory rights of the NUTW — meaning that wage negotiations may now be conducted at factory level if the ballot establishes the NUTW has a majority over the TWU The implication of the order is that unions which are members of the Industrial Council for the textile industry, as the TWU is, don't automatically acquire rights at factory level simply by virtue of council membership

Nonetheless, the TWU is entitled to ask for a ballot once a year to establish the membership majority

In terms of the court order, Braitex has been ordered to conduct a ballot among employees, with the NUTW and TWU observing If the NUTW gets the majority in the ballot, the court-ordered procedures will come into operation These include grievance, retrenchment, disciplinary, negotiation and dispute procedures Failure to comply with these procedures will be contempt of court

Retrenchment procedures stipulate that a month's notice is necessary with time to allow discussion between the union and the employer as alternatives to retrenchment Retrenchment must be on a last in-first-out basis, subject to special circumstance, and retrenched employees must get severance pay and preferential re-employment

Legal sources believe that the Industrial Court appears to be endorsing the principle of one union per factory If the principle is accepted, and if the TWU loses the ballot, their stop-orders and access will be cut off

John Copelyn, NUTW general secretary, says "This is significant because Braitex is covered by an Industrial Council In the past the council has tried to prevent the NUTW's recognition at factory level by Braitex

"It's also a significant step forward in terms of established relations between factories and industrial bargaining Now they will not be entitled to avoid plant bargaining by looking to the IC In terms of the settlement, the court has permitted bargaining at both levels"

It is possible the union is reading too much into the settlement — at least as far as its effect elsewhere is concerned Labour litigation, through the IC, is new and case law is still being developed Future developments remain to be seen

Trade unions 'move away from strikes to legal action'

165

Labour Reporter

A CHANGE of emphasis in trade union industrial action strategy had been noticed by academics, industrial relations practitioners and union watchers during the past year

This new trend, which seemed to be becoming increasingly common, was a swing from strike and work stoppages to legal action Unions were, more and more frequently, turning to both the ordinary and industrial courts to settle disputes and fight for workers and trade union rights

This new order was the subject of a recent publication, *Industrial Relation Trends*, by Prof Willie Bendix of the Stellenbosch School of Business and Mr Eddie Nicholson, a manager of an industrial relations practice

They suggested that the business of labour relations was fast becoming equated with that of labour legislation because of the unprecedented number of labour-related cases heard by industrial and ordinary courts recently

There had been some significant examples of this trend during the past year

In the Stag Packaging case a full bench of the Supreme Court overruled a lower court judgment and allowed seven workers, allegedly dismissed for trade union membership, to apply for reinstatement.

More recently members of Fosatu's Metal and Allied Workers' Union were granted temporary reinstatement at Stobar Reinforcing when the Industrial Court issued a status quo order after the union claimed the company had committed an unfair labour practice by dismissing all employees and selectively rehiring some of them

And four Fosatu unions are presently awaiting a Supreme Court judgment after their appeal against a decision by the Minister of Manpower not to allow them to bargain officially for all race groups and to allow race to be one of the aspects of trade union registration

Significantly the matter has been taken to court, rather than Fosatu unions protesting the decision by deregistering, as many observers expected them to do at the time

Prof Bendix and Mr Nicholson believe that 'unions see industrial court action as an alternative to strike action and as a means of redressing traditional inequities and bargaining imbalances'

Trade unionists, however, especially those of the newer unions, see the matter differently.

Alec Erwin, the trade union federation's former general secretary and present national education secretary, does not think unions are using the courts as an alternative to strike action

'Legal action is just one of a range of strategies that unions have adopted to gain and ensure worker rights. Fosatu will only go for a court action if it is linked to a planned organisational drive'

It seems likely however that Fosatu unions will become more involved in Industrial Court cases in the years ahead Their changed attitude towards union registration, which drew criticism from some unregistered unions, and the decision by some Fosatu unions, notably the Metal and Allied Workers' Union, to join industrial councils could lead to increased industrial court action in the settling of disputes

Mike Morris of the unregistered, independent General Workers' Union agreed that the Industrial Court was just one strategy open to trade unions, but believed the current recession had led to the increased use of the court in settling disputes and protecting workers' rights

'The economic climate has put unions on the defensive This has pushed the Industrial Court, as a union tactic, to the fore'

Mr Morris said some unions always resorted to the courts as a means of settling disputes, but believed this was due to a lack of organisation in the unions concerned

'For some unions the court is the only weapon they have

'It is important to remember that the status of the Industrial Court is ambiguous at the moment Unions are therefore testing it all the time, and testing new labour legislation, for example unfair labour practices, by taking it to the Industrial Court'

Durban lawyer Richard Lyster, who has represented trade unions in legal disputes, believed the creation of the Industrial Court was an attempt by the Government to come to terms with "what is perceived as a move away from traditional and reactionary labour practices'

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Durban lawyer Richard Lyster, who has represented trade unions in legal disputes, believed the creation of the Industrial Court was an attempt by the Government to come to terms with 'what is perceived as a move away from traditional and reactionary labour practices'

'The carrot of the Industrial Court, of temporary reinstatement orders, of orders for payment of wages after dismissal, is held out to worker and union alike to persuade them to deal with their disputes in a court of law rather than by striking'

Mr Lyster said recent decisions from the Industrial and Supreme Court had dismissed some perceptions of them as being tools of management and of having an establishment bias in their decisions

He warned however, that 'it would be naive to believe that the union movement does not perceive the Industrial Court clearly in its South African context, that is as a functionary of the State aimed at maintenance of the status quo and the steady growth of capital.

Naawu takes dismissal row to court

THE dispute between the National Automobile and Allied Workers' Union (Naawu) and Alfa Romeo over the dismissal of the union members will come before the Industrial Court on Monday.

By MONO BADELA

The Transvaal regional secretary of Naawu, Mr Taffy Adler, told The SOWETAN yesterday the union had launched an urgent application in terms of the Labour Act to the Industrial Court requesting among other things the reinstatement of its victimized members

The union also requested an order restraining Alfa Romeo from imposing the Works Council on its workforce The union demanded that Alfa Romeo officially recognise the union as representative of its employees at the Wynberg depot

Mr Adler said the union had also taken up the matter with Alfa Romeo's head office in Italy for breaches of the European Economic Community (EEC) code of conduct

He said the union began recruiting workers at the warehouse and workshop depot in Alfa in Wynberg in November 1982 By January the union felt it was sufficiently representative to approach management A meeting between the union and Alfa took place on January 27, 1983 at which the union requested recognition, stop orders, access to the plant and the election of shop stewards

Mr Adler said the company refused to give information regarding the number of workers in the plant, and refused to consider the application forms offered as proof of union membership The company said that it would make inquiries about whether workers wanted the union "by its own means"

The following week Alfa commenced interviews between the workers and the company personnel officer Mr Adler claimed that these were part of an attempt to set up a works council as an alternative to the union

The union protested at the pressure exerted on workers by these interviews, but received no co-operation from management On February 10 a council of four was elected Mr Adler maintained the election procedure was "highly irregular" and that the works council did not represent the wishes of workers

Fosatu hails Supreme Court ruling

20 APR 1983

THE Federation of South African Trade Union's (Fosatu) central committee this week heralded the Natal Supreme Court's judgment that race could no longer be considered an industrial interest.

A statement released by the general secretary, Mr Joe Foster, said the judgment delivered by a full bench marks a crucial victory in Fosatu's two-year battle against the State's insistence on giving affiliates certificates restricting them in terms of race.

"In line with Fosatu's policy of non-racialism, it rejected racial registration and appealed to the Minister of Manpower to overrule the registrar. However, the Minister turned down Fosatu's appeal which led the Federation to taking the matter to the Supreme Court. The judgment totally rejected the State's argument that race could be seen as an industrial interest and furthermore ruled that costs be paid by the State," the statement said

The central committee now awaits the State's decision on whether they wish to proceed with the case to be heard in the Transvaal Supreme Court concerning racial registration of two Fosatu affiliates It hopes the State will heed the Natal decision and drop the case and remove all references to race from registration certificates

The federation also welcomed the fact that after a very difficult and disrupted meeting, seven unions committed themselves to building a new federation

Fosatu praises court race ruling

Cape Times 25/4/83

Labour Reporter

THE Federation of South African Trade Unions (Fosatu) has hailed as a "crucial victory" the decision by the Natal Supreme Court to set aside the racial qualification placed on the registration of four unions by the Industrial Registrar

The court held that race could no longer be considered an industrial interest

The four unions involved were the Metal and Allied Workers' Union, the Chemical Workers' Industrial Union, the Transport and General Workers' Union and the National Union of Textile Workers, all affiliates of Fosatu

The unions were appealing against the decision by the Industrial Registrar to place a racial qualification on their registration when they registered in 1980, a decision which was supported by Mr Fanie Botha, the Minister of Manpower

Fosatu said the judgment marked a crucial victory in their two-year battle against the State's insistence on giving affiliates certificates restricting them in terms of race This was against Fosatu's policy of non-racialism

● In papers filed to the industrial court, Fosatu's National Union of Textile Workers (NUTW) has charged that the Frame textile group threatened to fire members who did not join the Cape-based Textile Workers' Industrial Union (TWIU) and that management actively recruited members for this union

The NUTW is to ask the court to restrain the company from recognizing the TWIU, an affiliate of the Trade Union Council of South Africa (Tucsa), or extending facilities to it.

Union's court action against car factory

Labour Correspondent

AN INDUSTRIAL court action by the National Automobile and Allied Workers' Union against the motor firm Alfa Romeo was adjourned yesterday to allow the court to consider points raised by the company's lawyers

The union is alleging that Alfa imposed a works council on workers as a substitute for the union, despite worker opposition to the council, and that it retrenched workers without consulting them It charges that these are unfair labour practices

Alfa alleges that workers support the works council, that the union does not have support in its Wynberg spares department where it is demanding recognition, and that it is not compelled to consult workers about retrenchments

Yesterday the company's lawyers asked the court to consider

- Whether NAAWU is entitled to bring an action on behalf of three individual members,
- Whether the union is a party to a dispute at issue in the case, and
- Whether the court had the right to hear a victimisation case

Company representatives argued that this point should be put to the Appelate Division and union lawyers argued that the case should proceed because these issues had already been decided

The court has adjourned until further notice to consider these issues

FM 29/4/83

165 151 195

LABOUR LAW

Focus on firings

Is an employer who is faced by a work stoppage entitled to dismiss workers *en masse*? Can an employer, who has formulated a dismissal procedure, be forced to hold individual hearings for *all* the employees involved in the stoppage, either before they are fired, or at a later appeal stage in the procedure?

Answers to these questions may emerge from a legal challenge made by the Media Workers' Association of SA (Mwasa) against the dismissal of 209 employees of *The Star* newspaper last month

Having failed to persuade the newspaper's management to reinstate the employees, members of Mwasa have now decided to take legal action

As previously predicted by the *FM*, the impasse between the newspaper and Mwasa seems likely to be one of the most protracted labour disputes this year

A group of Mwasa members filed papers at the Industrial Court last Friday in an attempt to obtain the reinstatement of the 209 workers, who were dismissed after they took part in a two-day work stoppage They had refused to work unless a fellow Mwasa member was reinstated, pending an appeal against his dismissal

The Star's management has maintained that the worker whose dismissal sparked off the stoppage had been given a final written warning in September last year as a result of disciplinary offences He was fired last month after he was alleged to have threatened the life of a supervisor and his dismissal was confirmed at a later appeal hearing Mwasa has since accepted this ruling

However, management appears to have taken the view that because their newspaper performs an essential service, there is an onus on employees to honour contracts and agreements It has therefore taken a tough stand against the workers who participated in the stoppage Mwasa has maintained that such drastic action was unwarranted

By last week, however, after talks between newspaper employers and Mwasa leaders, it became clear that *The Star* did not intend rehiring the sacked workers It was willing to consider some kind of severance payment for those who had worked for the newspaper for a long time The *FM* understands that the newspaper's management had decided to pay about R70 000 to dismissed workers, but that payment has been stalled by Mwasa's court action

Mwasa is seeking reinstatement in terms of Section 43 of the Labour Relations Act This section provides for the granting of interim relief to an aggrieved party — for example, reinstatement of a dismissed worker — pending a later hearing on the dispute

***Star* on sale ... tough management line**

The Mwasa case appears to hinge on three main arguments

- Management precipitated the stoppage due to the irregular manner in which it dismissed the individual whose firing led to the subsequent labour unrest,
- Management's entire handling of the events during the dispute amounts to an unfair labour practice, and
- In the dismissal of the 209 workers, management did not adhere to its dismissal procedure

Management denies these charges and tells the *FM* that it intends contesting the application

Large-scale dismissals of employees are not unusual in SA They have often been seen by many employers as a legitimate response to what they perceive to be irresponsible worker actions Given the fact that unions are making increasingly successful use of Section 43, the case is likely to be watched closely by both employers and unions

Plant denies victimising dismissed black workers

165

5/5/83 E. Post

Post Reporter

THE marketing manager for Alfa-Romeo in South Africa, Mr R McCleery, said today workers in the plant were definitely not "victimised", as claimed by the National Automobile and Allied Workers' Union (Naawu)

In the meantime, a partly-heard Industrial Court case, the sequel to the dismissal of 16 black workers at the motor assembly plant in Wynberg, Johannesburg, in February, has been postponed indefinitely

Sixteen workers lost their jobs because of retrenchment However, Naawu took up the dismissal of only three of them with the Industrial Court

Mr McCleery said today workers in various departments were retrenched because of the downturn in the economy

"It was a normal business decision," he said

He was unable to say if another worker was hired in the parts warehouse the day before the 16 men lost their jobs as claimed by Naawu.

Mr Freddie Sauls, regional secretary of the National Automobile and Allied Workers' Union (Naawu) said today the workers were "victimised because they refused to join the works committee at the plant

The men whose cases were referred to the Industrial Court were Mr Thomas Mathole, Mr Hendrik Poo and Mr Lazarus Nioepe, all of Alexandra Township near Johannesburg

Mr Sauls said the case was partly heard and was postponed indefinitely

Court rules on sacked Saawu four

5/5/83

By STEVEN FRIEDMAN
Labour Correspondent

A DISPUTE between the SA Allied Workers' Union and an Eastern Cape metal smelting firm has taken a new turn — the Industrial Court has ordered the smelter to reinstate four Saawu members whom it fired in February.

This is believed to be the first time Saawu, which is against taking part in "Government institutions" has made use of the court.

The firings prompted a work stoppage which placed Saawu's recognition agreement at the smelter in the balance and led to the firing of 73 members of the union at the plant.

An Industrial Court action for the reinstatement of the 73 workers is also pending.

The smelter — at Berlin — is owned by Fry's Metals, a Wadeville-based company which bought it recently from battery manufacturers Chloride.

Chloride was the first company to recognise Saawu and the recognition agreement at the smelter remained in force when Fry's took over.

But in February the firing of the four workers led to a dispute during which, the union alleges, Fry's said it was not bound by the agreement.

Workers allegedly struck as a result and the 73 were fired.

The union then undertook two separate actions — one for the reinstatement of the four and another on behalf of the 73.

Last Thursday the court issued an order instructing Fry's to reinstate the four temporarily pending the outcome of the case. The order was issued in terms of Section 43 of the Labour Relations Act which allows the court to order reinstatement of workers until a dispute before it has been settled.

Fry's managing director, Mr George Griffiths, said yesterday the four would not be physically reinstated but would be paid for the period of the order.

He said the company intended to oppose the action asking for the reinstatement of all the workers.

Premier dispute takes new turn

By STEVEN FRIEDMAN
Labour Correspondent

THE Paper, Wood and Allied Workers' Union said yesterday it was taking the Barlow Rand company Premier Paper to the Industrial Court, after a new dispute erupted yesterday about worker representation at Premier

Workers at Premier's Kliprivier mill returned to work on Monday after a strike which saw the company cancel its recognition agreement with the PWAWU. They returned after Premier agreed to hold talks with them over a mid-year pay rise

The union says workers are now insisting that this be negotiated with union shop stewards, but the company said earlier this week it was holding elections for worker representatives to take part in the negotiations

If the shop stewards were elected, it would negotiate with them, it said, but would not regard them as union stewards

Premier said in a statement yesterday that these elections were "still in progress" and were due to be completed today

It said many departments had already held elections and had "returned former shop stewards unopposed"

It said one department, "not seeing any necessity for holding an election, decided to retain their former shop steward elected before the agreement with the PWAWU was cancelled"

But the union said yesterday the stewards were "furious" about this statement.

It said workers in all departments had refused to take part in any new elections because they insisted on being represented by union stewards only

"According to the shop stewards, no voting took place nor was there any proposing or seconding of names", the union said, adding that stewards were "amazed" to hear they had been elected unopposed

The PWAWU also claimed workers were not prepared to have the stewards attend a meeting with management "in any capacity except as shop stewards"

It said it was the majority union at Premier and had warned the company previously that it would consider an "unfair labour practice" action against it in the Industrial Court if it refused to negotiate with the PWAWU

"We believe management's ridiculous attempt to turn the shop stewards into some sort of works council entrenches this unfair labour practice," the union said

It said workers had refused during the strike to return until the dispute was settled "precisely because they feared this kind of trick from management"

INDUSTRIAL COURT (165)

Expansion possible

FM 13/5/83

The growing importance of the Industrial Court in labour relations in SA is underlined by the court's rapidly increasing workload It is currently dealing with about 35 cases — about double the number it was hearing this time last year

Many of these cases concern alleged unfair labour practices and applications for *status quo* orders in terms of section 43 of the Labour Relations Act Unions continue to display a growing awareness of what an effective remedy these orders can provide Section 43 gives interim relief for an aggrieved party, pending a later hearing on the dispute

Some emerging unions, especially those affiliated to the Federation of SA Trade Unions (Fosatu), have been making important gains But it is significant that other emerging unions, which have been more hostile towards government-created bodies or structures, are also beginning to approach the court for redress In the past they have displayed a deap-seated mistrust of State institutions, and the fact that some are now using the court seems to indicate that its credibility is increasing

In recent months the court has been approached by members of the Media Workers' Association of SA (Mwasa) and the SA Allied Workers' Union (Saawu) In the Mwasa case, the dismissal of 209 workers by *The Star* newspaper is being challenged (*Current Affairs*, April 29)

The Saawu case concerns an application for the reinstatement of workers sacked by Fry's Metals in the eastern Cape Last week the court ordered the company to reinstate four workers it dismissed in February Their dismissal prompted a work stoppage which resulted in the firing of a further 73 workers — and an application has also been made to the court for their reinstatement

Meanwhile, Fosatu's National Union of Textile Workers (NUTW) has obtained a court order restraining a Frame Group textile company from recognising a union affiliated to the Trade Union Council of SA (Tucsa) The NUTW had claimed that the company had attempted to intimidate workers into joining a Tucsa union — a charge denied by management Last Friday the court ordered Frametex not to recognise the Tucsa union in preference to the NUTW, and not to grant it facilities denied its rival The NUTW would like a secret ballot to be held to determine which union has majority support

It seems likely that the court, which has three full-time members, may gain further members to deal with the load "You might say that this is on the cards," says one source in the Department of Manpower

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Lesotho's mini-volcano draws international interest

By Brendan Nicholson,
The Star's Foreign News Service

17 MAY 1983

MOLIMO-NTHUSI (God Help Me) PASS — A minor volcanic eruption high in the mountains of Lesotho has focused intense scientific interest on the kingdom in the clouds

Technically the last volcanic activity in Southern Africa that was visible from the surface is supposed to have taken place 180 million years ago

Now geologists from as far afield as Holland and Germany are seeking information about a mini-Vesuvius that spewed a small carpet of black, coke-like lava on a mountainside more than 2 000 m above sea level in October last year

The eruption was accompanied by an earth tremor felt as far away as Maseru, 58 km to the west

A similar quake was felt by local residents in February this year but was not accompanied by an eruption

Though the "crater" left by the subterranean activity measures only about 25 cm across, enough heat appears to have been generated a metre away from it to melt a thick steel cable supporting a large electricity pole

One of the first to see the phenomenon was a Lesotho Electricity Department foreman on horseback line patrol who said lava "bubbled and steamed" from the hole for three days

Local herdboys became instant geologists as they described to sightseers in a mixture of Sesotho and English how it oozed from the ground "like porridge"

While such activity is fairly normal in the region known as the "ring of fire" that embraces Hawaii, the Philippines, Japan and the Andes mountains in South America, it is considered highly unusual in geologically stable Southern Africa

Specimens of lava taken from the scene of the eruption are being examined at the University of the Witwatersrand

Geologist Mr Richard Armstrong, of the Bernard Price Institute at Wits, visited the site and said preliminary investigations indicated that some sort of volcanic eruption had taken place

Laboratory tests were under way and when they were complete it should be possible to establish the source of the material and from what depth it had emerged

The discovery of the mini-volcano near the mountain resort was greeted with mixed feelings in Lesotho

Some officials, apparently fearing that word would spread that the kingdom was about to be blasted off the face of the earth by another Krakatoa-like explosion, were at pains to dismiss the lava as no more dangerous than a pile of tar

Other experts said it was clearly only the result of a lightning strike

Those made of sterner stuff were delighted with the emergence of a potential tourist attraction.

In fact, the little volcano is already drawing dozens of curious locals and expatriates from Maseru.

Its reputation is being [illegible]orously defended by [illegible]enthusiastic amateur [illegible]logists of the moun[illegible] [illegible] take time off from minding their goats and cattle to scoff at suggestions that their discovery might be anything less than a real, live volcano

Sadly, no official steps were taken to protect the site, and souvenir hunters quickly smashed up most of the carpet of lava estimated to have been about 3 m by 2 m and about 20 cm deep, and carted it away.

Johannesburg geologist Mr Richard Armstrong and his wife, Brenda, examine the "crater" of Lesotho's volcano.

Awful phenomenon – or maybe profitable

Herdboys Tsekiso and Liphoioletsa examine their volcano for depth

TTXX

(165)

17 MAY 1983

Company quits labour court case

Labour Reporter

In a surprise move, counsel for an East Rand truck manufacturing firm yesterday withdrew from an Industrial Court case in Pretoria

The United African Motor Workers Union, an affiliate of the Council of Unions of South Africa, took the management of Fodens to the court on 35 counts of alleged unfair labour practices

However, after making undertakings for a settlement, the company withdrew from the case when counsel for the union refused to accept the undertakings

The principal claims made by the union were that disparaging remarks were made about workers and the union by management, union members were unfairly dismissed, and that the company refused to discuss recognition with a representative trade union

Yesterday's case brought the plant to a standstill as many of the workers were present at the court

A spokesman for the company said they were awaiting the court's decision on their offer of a negotiated settlement

SA union dispute settled in Rome

Labour Reporter

The National Automobile and Allied Workers' Union (Naawu) this week won recognition at two Alfa Romeo depots in Johannesburg after an agreement made in Rome

Naawu had taken the car firm to the industrial court with allegations of unfair dismissals and refusal to negotiate

But in Rome on Monday Naawu reached an agreement with the South African management of Alfa on recognition and on the reinstatement of dismissed workers

The union's general secretary, Mr Fred Sauls, said the agreement was the result of pressure on local management by Alfa's head office in Rome, and the International and Italian metalworkers' federations

"The agreement is important because the company has now clarified its stance towards unions and will allow union recruitment," he said

The Rome agreement noted that the industrial court case against Alfa would be dropped, but Mr Sauls said Naawu had yet to discuss the issue

ACCORDING to the Department of Manpower, there have been only 25 strikes in the first few months of this year, compared to 72 for the same period last year

If the figures are correct — and there are those who dispute them — the chief reason is clearly the recession, not the success of official dispute-settling machinery, as some officials argue

On the other hand, the official industrial court must have also played a role in reducing strikes by giving unions an alternative to suggest to members

And, while logic suggests a drop in strikes throughout the year, don't bank on it. Black worker action is still highly unpredictable

CAPE TIMES 26/5/83

UIF probe under way

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Political Staff

HOUSE OF ASSEMBLY — The Minister of Manpower, Mr Fanie Botha, yesterday said an investigation into implementation of the Unemployment Insurance Fund was under way.

He was responding to opposition criticism of the administration of the fund during the debate on the Manpower vote

Mr Ron Miller (NRP Durban North) called for an urgent review of the administration of the UIF as the whole system appeared to have collapsed

Unemployed people currently could wait up to four months to receive benefits from the fund and the time had come to review the total administration of the fund

Conference

Mr Miller suggested that a conference of interested parties be called to investigate a possible decentralization of administering the fund for the purposes of collecting subscription and paying out benefits

He asked whether employers who currently collected subscriptions to the fund from their employees could not pay out the benefits,

The PFP's labour spokesman, Dr Alex Boraine, warned that there was considerable anger and disillusionment about long delays in the payment of benefits

"Many people who have paid into the fund for years cannot understand why it takes months for them to receive benefits

"Different excuses have been offered, the chief among which are that the computer is out of action and shortage of staff This is not good enough

Benefits

"I hope the minister will give some reassurance to those unemployed who have waited for months that they don't have to wait longer," said Dr Boraine

He asked the minister whether consideration was being given to the improvement of benefits offered by the fund

Turning to the recent establishment of unemployment insurance funds by the independent black states, Dr Boraine said many black workers were dissatisfied about this arrangement as it meant they had to return to these states to obtain their benefits

He asked whether the new systems were streamlined enough and contributors could be assured of receiving the appropriate benefits when they were needed

"It is of utmost importance to ensure that all workers are protected," said Dr Boraine

He also asked the minister whether he had received any representations as a result of the changeover to independent funds

'Snide'

Replying, Mr Botha said it was inevitable that problems regarding payment of benefits had arisen Claims sometimes had to be referred back to the relevant departments of the independent states which also battled with staff shortages

He deplored "snide" references to the problems experienced with the department's computer and said the installation of any computer for a while implied problems

Regarding the administration of the UIF, Mr Botha said the Unemployment Insurance Council had appointed a sub-committee to look into implementation of the fund

UIF pay soon 'back to normal'

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By Tony Davis,
Labour Reporter

Star 27/5/83

The Unemployment Insurance Board appointed a special sub-committee to look into problems with payouts of Unemployment Insurance Fund benefits in December last year

The Department of Manpower's director-general, Dr Piet van der Merwe, said this week the sub-committee had provided his department with short-term measures designed to alleviate difficulties in UIF benefit payouts

The sub-committee was formed as a result of the dramatic rise in the numbers of registered unemployed, from 37 000 last July to 70 000 in March

Dr van der Merwe said the special sub-committee would continue to investigate long-term measures for the future operations of the UIF

He repeated the department's position — that the payout of benefits had returned to normal in Johannesburg and Pretoria while Cape Town and Durban were expected to be up to date soon

● See Page 7.

All unions to open books

Star 2/6/87

165

Labour Reporter

Unregistered trade unions are now required by the Department of Manpower to provide information on membership and finances.

Previously only registered unions were bound by such regulations under the Labour Relations Act, but recent amendments to the Act put the onus on unregistered unions to provide information.

Unions are to submit details of income, auditors' reports, balance sheets, appointments and elections among other things.

Failure to comply can mean a fine or jail sentence.

The department has sent letters requiring information to several unregistered unions.

The general secretary of the South African Allied Workers' Union, Mr Sam Kikine, said his offices were visited by department officials last week.

He had also received a written request to submit details of his union's finances.

The Deputy Director-General of the Department of Manpower, Dr C F Scheepers, said unregistered unions were being asked to comply with "minimum requirements" of the Act.

The requests were in no way a clampdown on unregistered trade unions, he added.

Union told to submit records of members

STAR 8/6/83

165

Labour Reporter

The Orange-Vaal General Workers' Union based in Vereeniging has been told to submit membership records to the Department of Manpower or appear in court.

Several unregistered trade unions have been approached over the last few weeks with requests to submit their financial and membership records These were required only from registered unions until recent amendments to the Labour Relations Act

The union's secretary, Mr Philip Masia, said the union had received a warning from the Department of Manpower that it would be subpoenaed if it did not submit certain information

Unions which refuse to comply with the department's requirements face a fine or jail term

Senior Department of Manpower officials have said the requests for details are a minimum requirement under the Act and the department is in no way attempting to curb union activities

alleviate this shortage if not why not if so what steps?

The MINISTER OF MANPOWER (Reply laid upon the Table with leave of House)

(1) Yes The number of vacancies were not mentioned in the advertisements but merely the centres where they exist

(2) Yes The qualifications for appointment are a three year National Diploma in Industrial Hygiene or Public Health or another equivalent appropriate qualification

(3) Yes 27

(4) Yes Five applicants were appointed

(5) Yes (a) Because enough appropriately qualified persons cannot be recruited locally

(b) The United Kingdom

(6) Yes Six

(7) The suitableness of the six candidates is now being gone into

(8) Yes There is a shortage of 39 units

(9) Yes Posts are advertised regularly Letters were addressed to universities in an effort to recruit graduates Ranks of Learner Inspectors of Occupational Safety were introduced so that the Department itself can train persons in the work situation and enrol them at Technicons for full time courses to make them of use sooner The first persons in these ranks have already been recruited The Commission for Administration was further requested to conduct an investigation into the salary structures of the specific careers in the divisions in an effort to improve the service package of this branch Considerable improvements have been effected and the Department is now busy with further intensive recruitment efforts through its employment section and advertisements in the press to supplement the shortages

Q Col 1553 - 1555
Hansard 15/6/83

Factory safety inspectors

*13 Dr A L BORAINE asked the Minister of Manpower

(1) Whether his Department advertised for factory safety inspectors in 1982, if so, how many posts were advertised,

(2) whether any conditions were attached to such posts, if so what conditions,

(3) whether any applications were received, if so, how many,

(4) whether these applications were successful, if not, why not,

(5) whether his Department has subsequently advertised any of these posts in countries other than South Africa, if so, (a) why and (b) in which countries,

(6) whether any applications have been received as a result, if so,

(7) whether any of these applications were successful,

(8) whether there is a shortage of factory safety inspectors in his Department at present, if so, what is the extent of the shortage,

(9) whether any steps have been taken to

RDM 27/6/83

(165)

WAGE disputes rarely, if ever end in the industrial court

But this is precisely the possibility created by the Metal and Allied Workers' Union's opposition to the metal industries wage agreement

MAWU, which has rejected the agreement reached at the metal industrial council, may declare a dispute with employer federation Seifsa on this issue

It is able to do this because the council's own dispute procedure has been changed to make such action possible

If this failed to settle the dispute it would be referred to mediation arbitration, or the industrial court.

Any attempt to ask the court to pronounce on an agreement reached at the country's biggest industrial council is certain to attract widespread interest

RDM 27/6/83

165

THE industrial court last week heard argument which, if upheld, would curb employers' ability to fire strikers en masse

In a case between the Media Workers Association of SA and The Star newspaper, MWASA argued that it was not illegal for workers to stop work in protest at a unilateral change in work conditions by an employer

Its lawyer said court decisions had ruled that such a stoppage would be a lock-out, not a strike

This would have special relevance where a union and employer entered into a recognition agreement If an employer breached the agreement unilaterally, workers would,

Labour rule is criticised

Labour Correspondent

IN AN unusual move, the Chamber of Mines has criticised a key aspect of the labour law introduced in the wake of the Wiehahn Commission report.

In his address to the chamber's annual meeting yesterday, its outgoing president, Mr Willie Malan, criticised the clause in labour law which allows the Industrial Court to take action against employers for "unfair labour practice".

The clause had "potential for considerable damage to labour relations", he said

The chamber wanted it changed so that a dispute of "interest" — for example, a wage dispute — would not fall within the definition of an "unfair labour practice This should be left to negotiation rather than the law

Meanwhile, the Anglo American Corporation said in its annual report yesterday that the emergence of black unions on the mines was "the most important development" in the industry over the past year

(bb) None

(cc) None

(ii) (aa) Five

(bb) None

(cc) None

(b) (i) Seven applicants were in possession of the National Diploma for Health Inspectors Sixteen were in possession of the National Diploma in Public Health One was in possession of a senior Certificate and a National Technical Education Diploma One was in possession of a N T C II and a Trade Certificate in fitting and turning One was in possession of a Senior Certificate

(ii) (aa) BSC (Honours) Environmental Sciences, Diploma in Population Observation

(bb) Safety Officer certificate, N E B O S H Certificate Fork Lift Truck Instructor's Certificate Kenetic Lifting and Handling Instructors Certificate First Aid Instructors Certificate

(cc) Diploma in Occupational Health and Safety

(dd) Radiation Safety Practice Stages 1 and 2 Educational Test 1 Member of the Institution of Industrial Safety

(ee) Higher certificate in Occupational Safety and Health

(ff) Diploma in Safety

(2) No—as these are entrance posts, the Department itself decides on the appointment of suitable candidates

(3) Normally no statements are released on appointments in the entrance posts When candidates for these posts are not considered suitable for appointment or when they are no longer interested after having been informed of the salary for which they qualify, the posts are re-advertised

Hansard 29/6/83
165 Q. col. 1763

Factory safety inspectors

1074. Dr. A. L. BORAINE asked the Minister of Manpower:

(1) (a) How many of the (i) 27 applicants for and (ii) five appointees to the posts of factory safety inspectors referred to in his reply to Question No 13 on 15 June 1983 were (aa) White, (bb) Coloured and (cc) Asian and (b) what were the qualifications of (i) each of the above-mentioned applicants and (ii) the six applicants from the United Kingdom,

(2) whether these applications were referred to the Commission for Administration for consideration, if not, who makes the final decision on the appointments, if so, (a) when were they so referred and (b) (i) what was their recommendation and (ii) when did they communicate this recommendation to his Department,

(3) whether he will make a statement on the matter?

The MINISTER OF MANPOWER:

(1) (a) (i) (aa) 27

Media dispute resolved soon?

JOHANNESBURG — Judgement was reserved in Wednesday's Industrial Court hearing between The Star newspaper and the Media Workers Association of South Africa (Mwasa)

An attempt before the Court's opening to settle the dispute failed after Mwasa applicants had turned down management's offers

During the two-day hearing the 162 union applicants sought to be reinstated after having been sacked for striking in support of a dismissed colleague

Advocate J L Lazarus for the Star said that the newspaper was willing to pay out between R300 and R2 000 in severance pay to 139 former workers who had more than five years of service before their dismissal in March as a result of a strike Other applicants would receive R250 in severance pay

The Star also offered to reinstate some of the applicants who had had very long service at the paper

Mr Clive Thompson for the applicants said that while the former workers were interested in some form of interim relief their ultimate goal was physical reinstatement — and the Star would have to get rid of the workers they had taken on as replacements

The union applicants' case rested on the argument that workers had downed tools because management had abused their contractual rights, Mr Thompson said

Court ruling breaks new ground in labour practice

Star 13/7/83 (165)

By Tony Davis,
Labour Reporter

An important Industrial Court judgment has laid down a number of rulings on employer-employee relations

The judgment, released this week, was made by the court's deputy president, Dr D B Ehlers, in the case between Fodens (SA) and the United African Motor and Allied Workers' Union and three of its members

The applicants alleged several unfair labour practices against the Alberton firm The case was heard by the Industrial Court over two days in May

At the start of the case attorneys for Fodens offered a settlement which provided, among other things, for negotiations with the union, a pledge not to victimise union members and a retrenchment procedure

But the applicants continued with their case in spite of the settlement offer

Dr Ehlers, in his judgment, made a ruling enforcing the terms of the settlement offer He ordered the company to pay one of the applicants, a retrenched contract worker, regular and overtime wages from the period of his dismissal until the end of his contract He also declared the derogatory remarks management staff had made to the union regarding pension fund pay an unfair labour practice

In the judgment, Dr Ehlers pointed to at least 10 instances of unfair labour practice These were failure to negotiate with a representative trade union worker freedom of association, use of derogatory terms to workers, refusing to undertake not to victimise workers, failure to negotiate any disciplinary code, the manner of conducting retrenchments, dismissal of a contract worker before his contract was up, refusal to refund contributions in terms of the contract and the pension fund issue

The accumulation of these practices had a detrimental effect on employer-employee relationships, Dr Ehlers ruled

"There was an absence and lack of any understanding of industrial relations or even a personnel function and also no disciplinary policy and procedure or retrenchment policy or guidelines as requested by the first applicant (the union) and no recognition of the union," the judgment said

The three individual union applicants received pay-outs and the respondent was ordered to negotiate with the representative auto union

But the applicants were not granted costs

Dr Ehlers also outlined procedures for employers in the event of any retrenchments Prior warning, fair application of an agreed retrenchment selection criterion, proper consultation beforehand with a representative union, adequate steps to seek alternative employment and the "first in, last out" principle, were important procedures to be carried out in the event of any lay-offs.

UNITED ... Brits steel workers during one of the meetings they have held every day for the past

The defiant 249 f for the right to v

By ANTON HARBER

EVERY day for the last 10 months 249 workers at Brits have gathered to discuss their dismissal from a steel factory.

They have sold all their possessions, including their livestock, and have become relient on relatives and friends to keep them and their families alive

They have had to take their children out of creches and schools and, in some case, send them away to relatives who will look after them

But they have been locked in a dispute with B & S Steel Furniture Company since an incident in the Brits plant on September 7 last year and — in an unprecedented show of resilience and unity — have refused to give up their fight for reinstatement

Earlier this year, they declared a dispute at the Industrial Council But the deadlock was not broken

This week they instituted an action at the Industrial Court asking for an order declaring their dismissal unfair and unlawful and reinstating them to their jobs

They also claimed R850 000 in back pay and costs for the legal action

Since the costs are likely to be extremely high, the claim against the company could amount to nearly R1 000 000

The case could be crucial to labour law, because it is by far the highest claim ever to be made before the court and because the court has never before faced a demand for retroactive reinstatement of as many as 249 workers

The case could determine whether the court is prepared to award such large amounts and reinstate so many workers

There have also been allegations that the practices which the union has claimed were illegal are common in outlying areas such as Brits

If the court agrees with them, the case could be a first step in stopping such practices

According to papers before the court, the Metal and Allied Workers' Union (Mawu) has claimed that workers from the factory began approaching them for help in April last year

Within two months, they had organised 35% of the factory

Although Mawu had not yet asked for recognition, management learnt of their organising efforts and allegedly made intensive efforts to stop them

For example, there were repeated searches of people suspected of carrying recruiting forms

Two workers have said the managing director offered them extra pay if they spied for him He wanted to find out who the union activists were so that they could be "kicked out" of the factory

When a shop stewards' committee was elected, the 12 members were summarily dismissed

According to Mawu, they were the only people dismissed that day The reason given was retrenchment.

A work stoppage occurred in an attempt to get the 12 workers reinstated. After negotiations, they were reinstated on condition they did not serve on any committees

Meetings and negotiations with management continued, with some success

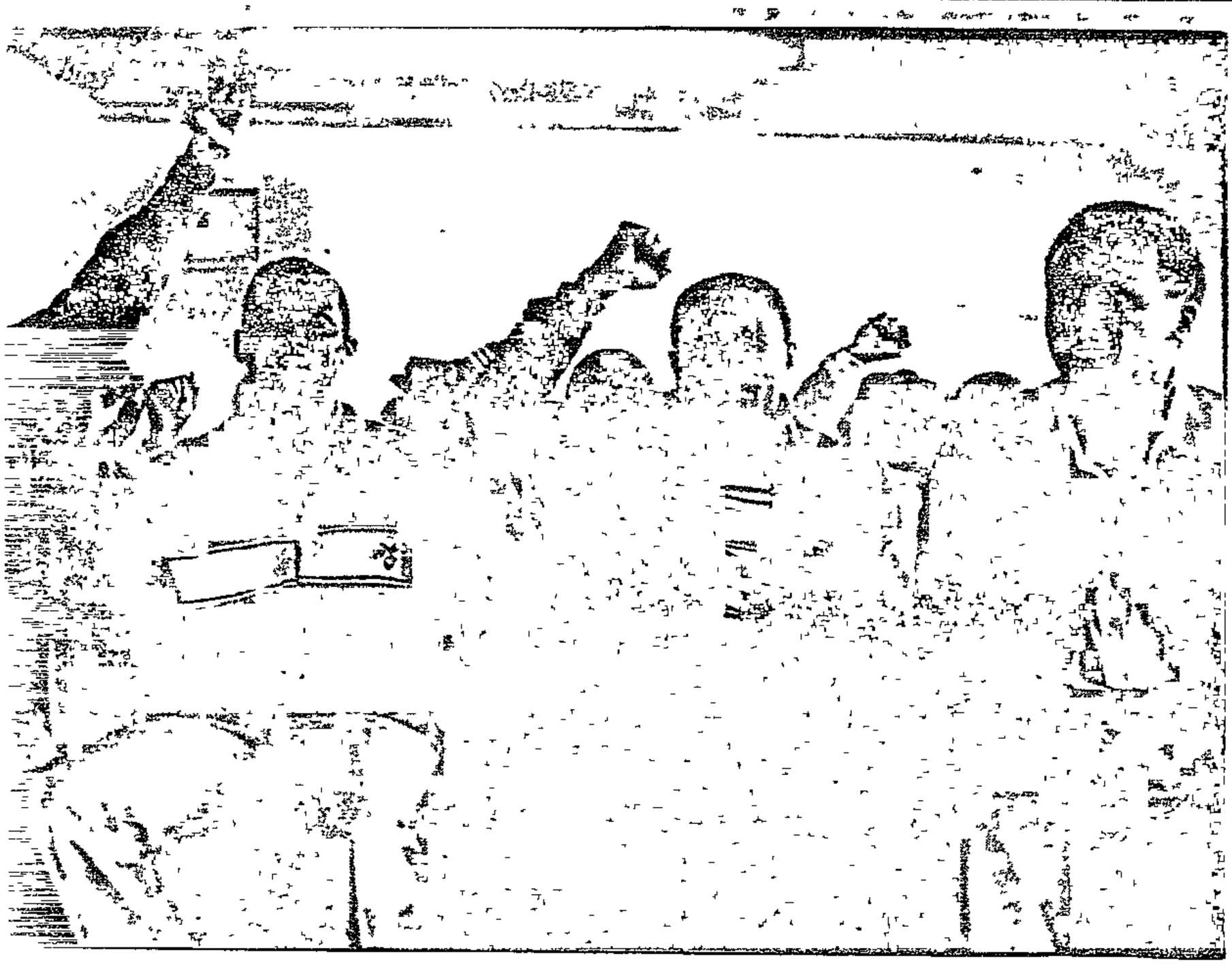
But, according to Mawu, management's attitude changed when the shop stewards asked for the union to be recognised

Management are alleged to have made a number of efforts to erode the influence of the union by threatening workers with dismissal cause of their uni membership

At a meeting about the missal of a worker, managing director said was the boss and would what he liked," accor to Mawu's submission the court

"It was his factory and i then on there would be more committee"

The next day, September management turned off the machines 10 after starting time and formed the workers were all dismissed



..kers during one of the meetings they have held every day for the past 10 months

defiant 249 fight he right to work

RDM 14/7/83

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Meetings and negotiations with management continued, with some success

But, according to Mawu, management's attitude changed when the shop stewards asked for the union to be recognised

Management are alleged to have made a number of efforts to erode the influence of the union by threatening workers with dismissal because of their union membership

At a meeting about the dismissal of a worker, the managing director said "he was the boss and would do what he liked," according to Mawu's submission to the court

"It was his factory and from then on there would be no more committee"

The next day, September 7, management turned off all the machines 10 minutes after starting time and informed the workers they were all dismissed and would have to reapply for their jobs

No reasons were given and management allegedly refused to talk to the shop stewards' committee about the action

Management then re-employed only people who had not joined the union, according to Mawu

Some 600 re-applied and 400 were accepted The 249 who have instituted the court action have never reapplied

Because Brits is a small business community, Mawu said, the chances of workers finding jobs elsewhere in the town were small

But to add to this, management allegedly "took active steps to blight their prospects of employment elsewhere"

Mawu has claimed that the company sought to use the influx control law to prevent workers from getting work elsewhere

They also claimed that the dismissals constituted victimisation were in breach of the workers' individual contracts and in breach of an Industrial Council agreement

The company failed to give the workers a proper hearing and failed to negotiate properly with worker representatives The purpose was to rid themselves of a union presence Mawu claimed

Mr H Back the managing director yesterday rejected the union's story and said he would be contesting the case

"It is impossible to deal in the Press with these complex legal and factual allegations

"We consider that at all times we have behaved correctly and fairly towards our workers," he said

For all this time the workers have gathered every day, some coming from as far as 25km away

When they ran out of money for their bus fares, they shared bus tickets and took turns to attend the meetings

If they had been able to find other jobs during the 10-month dispute, they would gladly have taken them, they have said But there are no jobs in Brits

For a while they could live on their savings and on the money they made from selling their possessions Now, according to one worker leader, they live on charity

"Some of us do not eat properly and cannot feed our children like we used to," he said

"Some of us have had to sell our goats and cattle and this was very difficult, as we sold them for very litte

"We have come to realise what it is to sacrifice and stick together and to trust one another Most of us were not aware of our rights

"We learnt that by being alone nothing could happen and the only way was to stick together"

Worker takes minister to court

Court Reporter

AN UNEMPLOYED textile worker, who claims he was thwarted in claiming unemployment insurance benefits he was legally entitled to, yesterday took the Minister of Manpower and the Claims Officer at Badger Lane, Durban, to the Supreme Court.

His application, which was for an order directing that benefits due to him in terms of the Unemployment Insurance Act be made to him or, alternatively, that his claim be investigated by the Durban office, was adjourned by consent when it was called in the Motion Court of the Supreme Court, Durban, yesterday.

In papers Mr Nhlanlem Meshack Nzuza, of Kwa Mashu, said from October 1979 to August 1982 he worked at a Jacobs factory earning R63,70 a week He qualified as a contributor in terms of the Unemployment Insurance Act and deductions were made from his wages

He said he applied for benefits from the fund and on April 15 this year and was paid R126 at Ordnance Road He was informed at the time that he would receive a further payment on April 29

Unfortunately his grandmother died on that day and he was not able to return until May 6 when he was told by a clerk to return a week later

On that occasion he was told to obtain a workseeker's permit in order to reapply for unemployment benefits Although he obtained the necessary permit, he was instructed to make a new application at Ndwedwe

Mr Nzuza said he was entitled to apply for benefits in the area where he lived and to be paid for 26 weeks

also remanded.

Those who appeared in court yesterday are:

Ms Esther Hlatshwayo, Mr Ishmael Mokoena, Ms Meisie Cefu, Mr Juda Ngcobo, Ms Betty Koba, Mr Isaac Mwanaza, Ms Agnes Modise, Mr Wilson Khumalo, Ms Wilhemina Mokone, Ms Sophie Cefu, Ms Doris Siwane, Mr Mashindi, Ms Aletta Makgalemele, Ms Lilian Siwela, Ms Ntombifikile Mjola, Ms Maria Tsotetsi, Ms Theodora Nkakutsa, Ms Maria Maneetsi, Ms Lydia Mr Johannes Thom, Mr Jo- Rafel, Mr Jeremiah Makgetha, Mr Gideon Dlamini, Mr Amos Mkhize and Tommy Mofokeng

the gun, which [illegible] to him by members of the ANC in Mozambique whom he met while visiting his wife and child He said he had no intention of using the gun and had sold it within four hours of receiving it.

In passing judgment, the magistrate Mr J van Dam said it was improbable that the ANC could send a firearm to a person who was just a casual acquaintance

"You could have shown the messenger the door, pistol and all," said Mr Van Dam

He said although Langa got rid of the firearm, it was not a mitigating factor, because he showed complete disregard for the legal control of firearms

He said he must take cognisance, in deciding sentence, of the actions of the ANC, including the killing of police officials and the indiscriminate bombing of members of the public

Union to sue firm for fired workers

Mail Reporter

THE Metal and Allied Workers Union has instituted an R850 000 claim — the biggest ever to come before the Industrial Court — on behalf of 249 Brits steel workers who have been on strike for 10 months

And, in an unprecedented show of resilience, the 249 workers have been meeting every day since they were fired by B & S Steel Furniture in Brits on September 7, 1982

The union is claiming the workers were dismissed in an attempt by management to get rid of union presence in the factory

They are asking the Industrial Court to rule their dismissal unfair and illegal and reinstate the workers They have also asked for back pay, totalling R850 000, for the workers and for payment of legal costs The costs are expected to be about R1-million

In a statement yesterday, the managing director, Mr H Beck, said the company considered that at all times it had behaved correctly and fairly towards the workers

The case will be important because it could determine whether the Industrial Court will grant such a high amount and reinstate so many workers

● See Page 9

icapped'

of were imper- syn- that were parents relevant before

the conception of their child.

The report recommended that the genetic services programme of the Department of Health and Welfare should be considered as a priority programme Funds should be made available for research, development and technological aids to prevent and eliminate the consequences of genetic handicaps as far as possible

Terror victims claim from fund

By WIM VANVOLSEM
Pretoria Bureau

THE board of the State President's Fund has received its first two applications for assistance from terrorist attack victims

The secretary of the Board, Mr A D Barnard, told the Rand Daily Mail yesterday many more requests for application forms had also been received

The fund, which was established on June 22 this year, now stands at over R1-million.

This includes cash contributions, public pledges by municipalities and other authorities, a cheque for R25 000 by Sasol, and the Government's rand-for-rand contribution

The applications for assistance will now be evaluated by the board, assisted by several expert committees on matters such as medical expenses, rehabilitation and values of properties

Application forms are obtainable from the secretary of the board at room C215, Pensions Building, 34 Hamilton Street, Pretoria (Private Bag X63, Pretoria 0001) or by telephoning 012-323-9311

Contributions can be deposited at any bank in South Africa to the credit of the fund's account No 000-652-113, Pretoria Main Branch, Volkskas

State's wording under fire . . .

Mail Reporter

THE "bad" Afrikaans used in the Government's constitutional proposals came under fire at the annual meeting of the Federasie van Afrikaanse Kultuurverenginge in Pretoria yesterday

A delegate, Mr Nic van Rensburg, said that the way Afrikaans was used in the constitutional proposals was "bad" and "worrying"

"Irrespective of whether the constitutional proposals are accepted or not, it is difficult for me to see how some of our foremost legal advisers could have worked on the proposals," Mr Van Rensburg said

Professor J H Senekal, chairman of the language committee of the FAK, declined to comment on Mr Van Rensburg's speech

Mines Benefit Society to employ full-time doctors

By JOHAN BUYS

THE Mines Benefit Society is to appoint two full-time doctors for its 1 750 members in Boksburg to replace 11 panel doctors who resigned because of the "capitation fee system"

The panel doctors were leaving because they claimed the scheme did not cover overhead costs and was "no longer an economical proposition"

The mass resignations left the MBS with only three panel doctors

The doctors had given their patients three months notice of their intention to contract out of the scheme by the end of July

A doctor said yesterday "The capitation fee does not cover our costs and we still have to pay for increased rents, nurses salaries and other essentials"

The general manager of the Mines Benefit Society, Mr C Cook, said "We intend to appoint two full-time doctors to attend to our members from the beginning of August.

"They will be able to look after their needs adequately"

According to Mr Cook, a panel doctor was paid a monthly "capitation fee" for each MBS member regardless of whether the member visited him once, or 10 times a month.

MATTER OF FACT

TO CORRECT specific errors of fact, write to the Editor at P O Box 1138, Johannesburg, or telephone the Editor's secretary at 710-9111 between 9am and 5pm on weekdays

If you have broader complaints about the Rand Daily Mail these can be taken up with the Mail Ombudsman, James McClurg, c/o the Editor's secretary

POLITICAL comment in this issue by R A Gibson Benjamin Pogrund newsbills by Michael Stent headlines and sub-editing by Bryan Pearson cartoons by David Anderson Dave Gaskill all of 171 Main Street Johannesburg

Unions praise new ruling

By JOSHUA RABOROKO

MAJOR trade unions have welcomed the Industrial Court's ruling that it is unfair labour practice to refer to a black worker as a "boy" or "kaffir".

The unions have urged workers to demand that their employers refer to them by their names and that employers should stop making derogatory remarks about employees

They were reacting to the judgment passed by the court's president Dr D Ehlers, on a dispute between the Cusa-affiliated United African Motor and Allied Workers' Union and Fodens (South Africa) company.

In the judgment the president pointed to at least 10 instances of unfair labour practice in the use of derogatory terms such as "boy" or any other word which is derogatory to the union and workers

Reacting to the ruling, the Commercial, Catering and Allied Workers' Union of South Africa's president Mr Isaac Padi said that the ruling was an eye-opener for most unions

It would serve as a sign of goodwill in promoting harmonious industrial relations in the country

He knew of instances where employers referred to black workers as "kaffirs" or "boys" and said that workers should "rise up and fight for their rights" Workers and unions will now fight the usage of these derogatory remarks by going to court.

The general secretary of the Sweet, Food and Allied Workers' Union Ms Maggie Magubane said that the ruling was "a victory for unions" in their fight against unfair labour practices in the country

A spokesman for the National Union of Mineworkers, Cyril Ramaphosa said that the ruling was welcomed and that they would "take the matter up with mining bosses who call black miners 'kaffirs', etc "

Other unions which welcomed the ruling are the Federation of South African Trade Unions (Fosatu), the Council of Unions of South Africa (Cusa) and the South African Allied Workers' Union (Saawu)

HELPING OUT: In an effort to improve the high dropout rate in black schools, the South African Breweries has launched a R200 000 bursary programme to provide education from Standard Seven to matric for Soweto pupils. Attending the launching of the programme at Orlando Stadium yesterday, are from left to right: Mr Johannes Nkosi, inspector of education Mr Cyprian Mahlaba and SAB representatives Mr Gary May and Mr Windsor Shuenyane.

Motorists face stricter controls

MOTOR vehicle driving licences might be separated from the reference book or book of life next year, according to a spokesman of the Automobile Association (AA) yesterday.

The spokesman said this was part of the introduced next year to flush over 1-million people driving with forged licences or without a driver's licence

Separate licences, which motorists will be required to carry on their persons, will facilitate quick identification

The spokesman said the AA had made recommendations to the Minister of Transport on the separation earlier this year and he had hinted that it might be approved.

Other measures in- try with a central registry.

A point system according to which drivers will lose points if they violate any traffic ordinance may also be introduced. Should a driver lose a certain number of points, his li- be accompanied by heavier fines which will be applicable in all four provinces with effect from March next year

Meanwhile the Association of Motorcycle Importers and Distributors (Amid) is calling for

The News In Brief

'Spies' deported

MASERU — Two men holding British passports were to be handed over to the British High Commission in Lesotho yesterday after being caught allegedly spying on the ANC.

The two were arrested by the kingdom's security police on June 30

Lesotho Mounted Police headquarters announced that the men were found in possession of documents indicating that they were spying for "another country "

The country was not named. — SFS.

Drive for unity

REPRESENTATIVES of black governments who attended a meeting at Kempton Park on Monday have resolved to work for the establishment of a greater South Africa based on non-racialism and democracy, the Chief Minister of Lebowa, Dr Cedric Phatudi, said in a document issued to the Legislative Assembly in Seshego this week.

The meeting, convened by Dr Phatudi, was attended by representatives of Transkei, KwaZulu, Gazankulu, QwaQwa, Venda and Kangwane. — Sapa.

Case postponed

THE CASE against the police constable who shot dead a collegue with a R1 rifle at Protea headquarters on April 13, was yesterday postponed to August 5 in the Johannesburg Magistrate's court pending the Attorney General's decision.

Appearing briefly before Mr D J du P van der Wath was Mr Mokoko Sariel Lekhoaba (27), of Zone 2 Meadowlands. He has pleaded not guilty to a murder charge arising from the death of constable M W Mthombeni.

Students in court

TWO University of the North students and a former

NEW PRECEDENTS

Fm 15/7/83 (165)

The Industrial Court appears to have created important new precedents in SA labour law in a case between the United African Motor and Allied Workers' Union (Uamawu) and Fodens (SA)

Lawyers involved in the case are still studying the judgment which gives new guidelines on unfair labour practices But it appears that one implication is that the court is willing to order an employer to bargain in good faith with a representative trade union In an earlier judgment involving the SA Society of Journalists, the court had made such an order in circumstances where there had been a long-established relationship between a union and an employer In the Uamawu case, the obligation on an employer to bargain in good faith seems to extend to circumstances where such a relationship had not yet been established

The court has ordered the company to implement formal undertakings it gave during a court hearing in May These included promises

- ☐ Not to victimise employees who are union members,
- ☐ Not to interfere with the freedom of association of union members, and not to persuade them by any unlawful means to join another union,
- ☐ To immediately begin negotiations in good faith with the union on the signing of a recognition agreement, as well as retrenchment, grievance, disciplinary policies and procedures,
- ☐ To instruct directors, managers and employees not to use any word which is derogatory of employees,
- ☐ Pay two employees their average wages (including overtime earnings calculated on the basis of their earnings for the six months immediately before their dismissal) from the date of their dismissal to May 16 this year; and
- ☐ Utilise the services of the Wits Business School labour academic Loet Douwes Dekker as a mediator when deadlocks occur

July 1983

30 WEEKS WITHOUT THEIR JOBS BACK

(165)

MORE than 80 workers at a screen manufacturing company near Germiston have entered their 30th week of unemployment. The deadlock follows a dispute over Screenex's refusal to renew contracts of migrant colleagues.

As a result the workers, who are members of the Metal and Allied Workers Union, are on their knees praying that their union succeeds in bringing the matter to the Industrial Court.

Mr Siza Mdakane, chairman of the shop stewards at the company, said trouble started last December when Screenex said it would not renew "calling cards" for migrant workers

● Workers dismissed by Screenex 30 weeks ago at a union meeting this week.

"That," Mr Mdakane went on, "meant our employer was dismissing our colleagues . . . He advanced no reason why they would be without jobs We tried to reason with him and the whole thing ended in a deadlock."

On December 10 the workers went on strike and the company claimed the entire 146-strong black workforce had broken contract.

On December 14 the workers were locked out. They had gone to the factory to collect their wages and holiday pay.

"We were never paid. Our employer just didn't have time for us. His argument at the time was we were no longer his employees.

"Without our union, families, mothers, wives and relatives could have never survived, said Mr Mdakane as the 86 workers "formally" joined forces with another 78 workers from an adjacent factory on strike after a dispute three weeks ago.

Screenex refused to talk to reporters.

165 15/7/83

LABOUR LITIGATION

Breaking new ground

Labour relations in SA may never be quite the same in the wake of an Industrial Court action launched by the Metal and Allied Workers' Union (Mawu) against a Brits metals industry company and its associates

The union believes that 249 workers dismissed in September last year have a monetary claim of more than R850 000 against B & S Furniture Company and its associated companies Furthermore, the union claims they are entitled to be reinstated in their jobs

Issues raised in the case — allegations of victimisation of union members and unfair dismissal — have been heard in previous cases in the ordinary courts and the Industrial Court, and have been declared unlawful However, never has the Industrial Court been faced with a case of such magnitude

The case will demonstrate, therefore, whether the court is willing to award amounts as large as R850 000 should it find that an unfair labour practice has been committed. In addition, if it makes employers pay costs of the action — something which the union is seeking — the total cost of the case to the employers could be close to R900 000, perhaps even more

No matter what the actual outcome of the case, it will have one important practical effect. The mere fact that a union is both willing to pursue such a case and has the resources to do so, emphasises yet again to managements that an issue such as dismissal — especially mass dismissal — has to be approached with great caution

A spokesman for the companies strongly denies the union's charges and says the court action will be opposed He says it is impossible to deal in the press with such complex legal and factual allegations "We consider that at all times we have behaved correctly and fairly towards our workers," he adds

According to the union's version of the events, the case has arisen from a deteriorating relationship between management and workers at two adjacent Brits factories The union alleges that after it began recruiting workers last year, there were repeated searches of people suspected of having recruiting forms, that threats were made to workers about their joining a union and that some were offered payment to act as management spies.

It says 12 elected shop stewards were dismissed in July, but were reinstated after a work stoppage It complains further that management stalled on granting it recognition

The union alleges that on Monday September 6, management sought a pretext to dismiss a leading shop steward committee member and declared that there would be no committee in the factory at all It claims that management stopped production the following day and informed workers that they had been dismissed The union says it soon became clear that union members would not be re-employed

Since then fairly extensive negotiations have taken place between the union and the companies, both inside and outside of the metal industry industrial council, but to no avail

Mawu claims the major issues in the case are

- That the companies sought to rid themselves of a union presence They could not do so by dismissing only union members because that would obviously infringe on the criminal prohibitions against victimisation Instead, they dismissed everybody and then re-hired non-union members selectively;
- That the dismissals amount to victimisation of people because of their union membership,
- That dismissals were in breach of the contracts of employment of individual employees,
- That the companies failed to properly negotiate with a workers' committee or the union as the representative of the workers,
- That the companies failed to give the employees a hearing prior to their dismissal,
- That the companies adopted criteria for re-employment that constituted victimisation, and
- That the companies have influenced the local administration board to prevent union members from being re-employed elsewhere in Brits

The union is accordingly seeking an order declaring the dismissal of the employees to be an unfair labour practice, or, alternatively, that the failure to re-engage them after their dismissal should be declared an unfair labour practice It is also seeking the payment to workers of all accrued wages and other benefits they should have received since their dismissal

There are other significant features of the dispute Firstly, there is the union s extreme dissatisfaction, as revealed in papers placed before the court with the manner in which industrial council agents have investigated the dispute And, secondly, it has shown the extraordinary tenacity and determination of the workers to continue their struggle against the companies, despite suffering considerable financial hardship over the past 10 months

LABOUR MOBILITY

Pretoria's guilt

In his annual statement as Chairman of Anglo American, Gavin Relly pinpointed a major SA industrial weakness when it

Name-calling an 'unfair labour practice'

HEY, DON'T YOU CALL ME THAT!

(165) City Press 17/7/83

By LEN KALANE

YOU can't call your workers "kaffir" or "boy" — and that's official!

A landmark Industrial Court judgment this week found that the use of any derogatory word against employees was an unfair labour practice.

Now the directors, manager and the white personnel of Fodens (SA), a firm in Alberton, have been instructed by Dr D B Ehlers, the deputy president of the Industrial Court, not to use the word "boy" or "kaffir" on their black staff.

The applicants were the United African Motor and Allied Workers' Union and three of its members, Fenati Jaxa, Simon Jende and Phineas Masheshi, who also alleged victimisation from their bosses

Freedom

In his judgment, Dr Ehlers also instructed the Fodens management not to victimise members of the union, not to interfere with the freedom of association of members of the union and not to attempt to persuade members by whatever unlawful means, to join another union.

The court also ordered Fodens to start negotiations with the union with a view to signing a recognition agreement, a fair and comprehensive grievance procedure and a disciplinary procedure.

Pledge

The company was ordered to pay three dismissed workers for the period from the date of their dismissal to the date their contracts ended

At the start of the case, attorneys for Fodens offered a settlement which provided for negotiations with the union, a pledge not to victimise union members and a retrenchment procedure.

But the union decided to go ahead as they wanted rulings from the court.

● THE Urban Foundation hit the magical R50-million mark this week — and it's only six years old.

And it was the last instalment of a whopping R500 000 windfall, spread over four years, from t made the R50m mark.

Here Pick-'n-Pay chairman, Mr Raymond Ackerman (left) celebrates the handing over of the las are Ms Debra Mabiletse a Foundation executive, Mr Fred Stiglingh and Mr J H Steyn, the Foundation

...hen. They be ...ere dismisse ...he company ...o get rid of

'G JU K BU

By BENIT PHILLIP

United we stand, say workers

City Press 17/1/83

THEY HAVE had no income since September last year, have sold their possessions, but still 249 Brits workers refuse to give up their 10-month struggle for fair treatment.

● B & S workers meet . . . "the only way is to stick together."

CP Reporter

The 249 workers were fired from B&S Steel Furniture Company on September 7 last year.

They believe they were unfairly dismissed and have been fighting for reinstatement since then They believe they were dismissed because the company was trying to get rid of a union presence in the factory

Managing director H Back said this week he believes he has always treated his workers fairly and properly

Everyday for 10 months the workers have gathered in a church hall in Brits to discuss their position and make decisions on their next move

The Metal and Allied Workers Union, to which most of them belong, took the matter to the Industrial Council earlier this year, but the council failed to break the deadlock

This week they began an Industrial Court action that could become crucial to labour relations in this country

They are asking the court to rule that they were unfairly dismissed and to reinstate them retroactively They are also asking for R850 000 in back pay, the largest claim ever to come before this court

It is also believed that the kind of labour practice these workers are fighting is common in outlying areas like Brits If the court finds these practices to be unfair, this could be a first step towards stopping them

The 249 workers claimed the company turned off the machines on September 7 last year and fired everyone

This came the day after a meeting between shop stewards and the managing director over the sacking of a worker.

Mr Back told the shop sterwards he was the boss and would do as he liked.

The union says the company had hindered the union in its attempts to organise workers

The company then rehired some of the workers, leaving out those who were active in the union, say the strikers

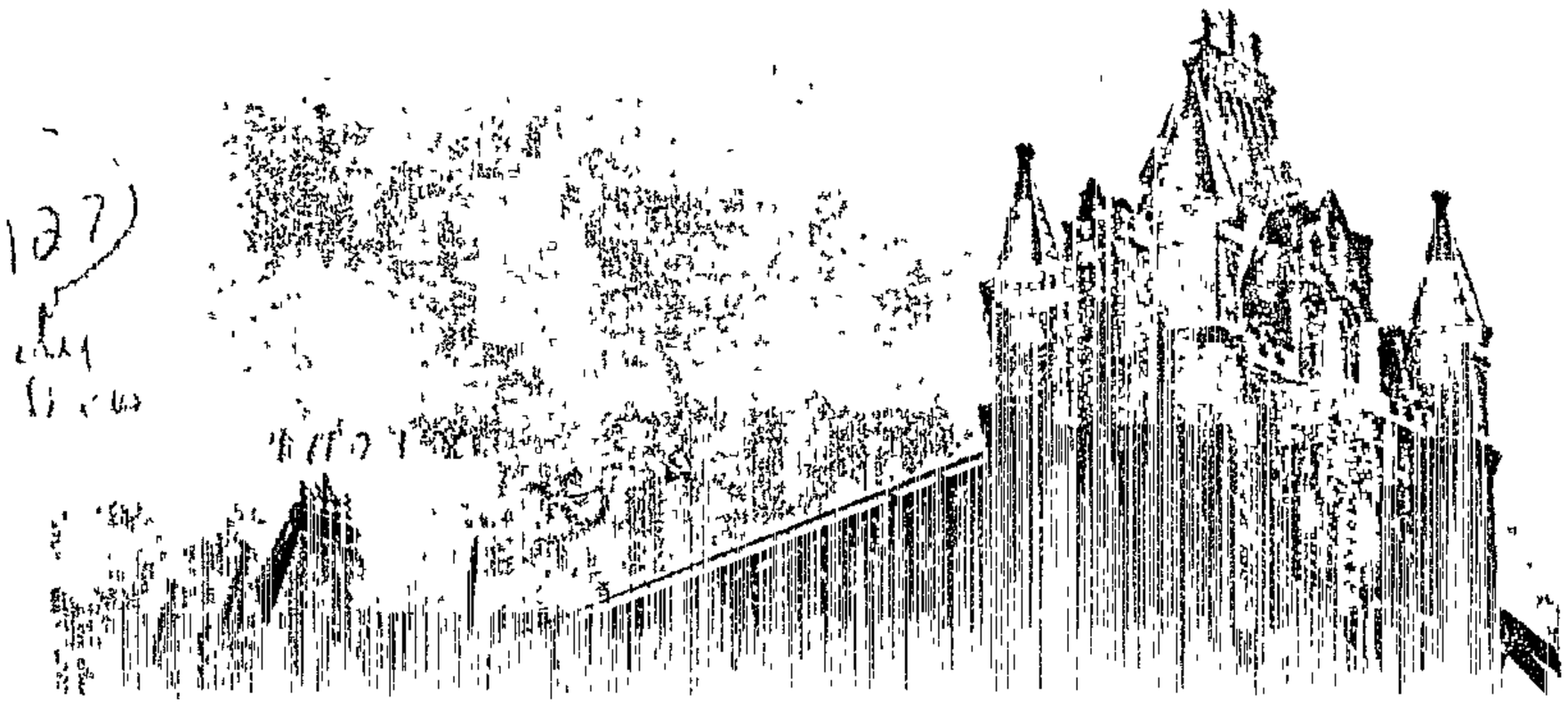
"Some of us have had to sell our goats and cattle and this was very difficult, as we sold them for very little," one worker said

"We have come to realise what it is to sacrifice and stick together and to trust one another

"We learnt that by being alone nothing could happen and the only way was to stick together," he said

'GARLIC JUICER KILLED BITCHER'

London's most famous landmark — Tower Bridge.



FM 22/7/83

(165)

UNIONS

Employer obligation

Employers faced with decisions over union recognition, dismissal and retrenchment would be wise to study the Industrial Court's determination in the case between Fodens (SA) and the United African Motor and Allied Workers' Union (Uamawu).

Last week the *FM* provided lawyers' initial impressions of the implications of the case. Some who have had time in the past week to analyse the court's findings are able to give a more detailed interpretation of the case, which seems to create extremely important new precedents.

They believe it shows that the court is moving increasingly towards the view that an employer does have an obligation to bargain in good faith with a representative union. They say the court's reasoning appears to be the following: collective bargaining is a good thing, therefore there can seldom be good reason why people should not get around a table and talk. In such circumstances, the most appropriate mouthpiece of employees would be a union with majority support

The court's determination therefore seems to take the decision in the Southern African Society of Journalists' case an important step further There the effect was to order an employer to bargain in good faith where there had been a long-established relationship between a union and an employer The determination in the Fodens case seems to imply that there is an obligation to bargain in good faith with a *representative* union, even if there has been no relationship with it in the past.

The Fodens case also shows that the court believes that retrenchments must be conducted in a fair manner and that unions should be consulted It appears that employers retrenching workers must use objective criteria, such as last-in-first-out (lifo), and not retrench people for disciplinary reasons

The implication of the decision on an application by one dismissed employee appears to be that the court will rule that an unfair dismissal never actually amounted to dismissal Therefore, such a dismissed person is entitled to receive all pay and benefits owing to him since his unfair dismissal

INDUSTRIAL COURT

Change must be cautious

Employers can possibly be excused for being alarmed about the increasingly successful use being made by unions of the Industrial Court. Recent court decisions are certainly making employers extremely cautious when dealing with some matters traditionally considered as falling within the ambit of unilateral management control These include issues such as discipline, dismissal, retrenchment and union recognition

It would, however, be unfortunate if employers' concern about the growing influence of the court led to impulsive efforts to amend legislation governing its functions It cannot be denied that there are fundamental flaws to the way in which the court was originally established For example, is it wise that it should have the status of a lower court when it deals with issues which affect millions of working people? Should there not be separate courts, or separate branches of the court to deal with disputes of rights and disputes of interest? Should the legislation not provide a better definition of what constitutes an "unfair labour practice?"

These are just some of the issues which are likely to be dealt with by the National Manpower Commission (NMC) investigation into the court's functions. During the past two years, the NMC has displayed a commendable willingness to canvass a broad cross-section of opinion in its investigation of labour issues.

It is especially important that the views of all the parties in labour should be obtained in its investigation of the court.

Possibly the most compelling reason for this is that the court — like no other institution in SA's stormy labour arena — is attracting participation from an extraordinarily wide array of unions. Emerging unions which have been so hostile towards government that they have shunned participation in "official" bodies, are now finding that they can make important gains through the court. The effect of this is that the credibility of government's labour reforms is being enhanced.

It would be a great pity if precipitous amendments to the court's functions caused them to view strike action, rather than legal action, as the most viable means to redress their grievances.

1/8/83 (165) RDM

A step to majority bargaining?

Labour Week

By STEPHEN FRIEDMAN

THE industrial court has taken two decisions this year which expand the right of majority unions in a plant to bargain with employers Now it may face two more cases on this key issue

Early this year, the court ordered newspaper employers to resume their forty year-old bargaining relationship with the SA Society of Journalists

Then it ordered motor company Foden's to bargain with Cusa's United African Motor and Allied Workers' Union at its Pretoria plant

Both rulings may be initial steps on the way to the court endorsing the American idea that employers must bargain "in good faith" with majority unions in their plants

Now the court may hear a case which could take it further down this road

Fosatu's Paper, Wood and Allied Workers Union is threatening court action against Anglo American subsidiary Mondi Paper for allegedly refusing to bargain with it at a Durban mill

It says Mondi won't negotiate with it there until recognition talks between it and PWAWU at another Natal mill are complete And agreement in these talks depends on PWAWU agreeing to negotiate some issues at an industrial council

So it charges that Mondi is using refusal to negotiate in an attempt to force it to join a council

Its believes that placing such a precondition on bargaining is a violation of "good faith" negotiation — which is consistent with American labour law

If PWAWU's version of the facts is correct, and if the court upholds its view, the ruling would have dire implications for employers who won't bargain with unions until conditions are met — such as joining a council

The second possible case has equally intriguing implications

The Insurance and Assurance Workers' Union of SA (IAWUSA) is threatening to take insurance giant Liberty Life to the court over a recognition dispute

IAWUSA is open to blacks only and Liberty Life is refusing to recognise it because of this The company says many of IAWUSA's members do the same jobs as whites and it does not want to recognise a union which will represent only some workers in particular job categories

IAWUSA says freedom of association is violated if an employer refuses to recognise a union because of its membership criteria

If the court agreed with IAWUSA, a union might be entitled to bargaining rights in a company if it signed up most workers in a particular race group — even if these were a small minority of the total workforce

If it found against it, it could open the way to challenges against the right of white unions to bargaining rights where they represent a minority — a decision which would be politically sensitive, to say the least

□□□

THOSE who are cynical about Government pass law "reforms" will not have been surprised by recent developments surrounding the Rikhoto judgment

Since the Government said it would implement Rikhoto — without allowing workers who qualify to bring their families to the cities — a series of events have seemed to indicate that its commitment to this is less than total

First the West Cape Administration Board said it would not grant city rights to long-term migrants if they had taken leave during their contracts — a ruling which conflicts with the Mthiya judgment, which upheld the city rights of these workers

This will now be settled by the Board's appeal against Mthiya, another pass law test case which will affect thousands of workers

Then the West Rand Board decided that citizens of "independent" homelands weren't entitled to rights because they were "foreigners"

This is awaiting a ruling from Pretoria, but may also be the subject of a "test case"

And now the Black Sash says officials are using a variety of devices to obstruct the granting of rights to those who qualify A dossier drawn up by it contains copious evidence of this official "obstructionism"

So once again, hopes of pass law reform are being dashed — and the frustration of workers subject to influx control increases

Industrial court rules sackings 'unfair'

(165) S-Times, 7/8/83

TWO Cape Town artisans who claimed that a Johannesburg-based engineering firm, Servix SA (Pty) Ltd, had wrongfully sacked them while they were working on the Koeberg nuclear power station project, have been given their jobs back.

This followed a year-long battle to prove they had been victims of an unfair labour practice

The firm has completed its work in Cape Town and moved back to Johannesburg, so they cannot physically reinstate the men.

By NORMAN WEST

But the General Secretary of the non-racial Engineering and Industrial Workers Union of SA, Mr Archie Poole, described the outcome of the case as "more than a moral victory".

Servix has been ordered by the Industrial Court to reinstate the two Cape Town artisans, Mr Ellis Williams, a sheet metal worker, and Mr Michael Bedasie, a boilermaker.

The court determined that there had been unfair labour practice by Servix.

Terms

In terms of the Industrial Court determination on the dispute between Servix and the Union, Servix agreed to:

- Compensate each of the artisans R2 500,
- Re-instate them up to and including June 30, 1983;
- Alter the Unemployment Insurance Fund (UIF) cards of the two men to reflect "retrenchment", instead of "other reasons", as the reason for the termination of their services;
- Alter its records to reflect a continuous period of employment up to June 30, 1983.

The determination of the alleged unfair labour practice, made in terms of the Industrial Relations Act, was made by the Deputy President of the Industrial Court, Dr D B Ehlers.

The Union first lodged a complaint with the Cape Regional Council of the National Industrial Council for the Iron, Steel, Engineering and Metalurgical Industry, in letters dated October 4 and 11, last year.

Unauthorised

The Union alleged in these letters that a number of unauthorised deductions had been made last year against the wages of certain employees of Servix in respect of certain tools lost on the Koeberg site.

When the Union pointed this out to Servix, they reacted by dismissing Mr Bedasie as well as the Union's shop stewart, Mr Williams, who originally drew the attention of the Union to the alleged irregularity.

Sacked workforce are low on food, but high on courage and solidarity

Sowetan 8/8/87

By PHIL MTIMKULU

MEETING: For the past 10 months these workers have been meeting at the Roman Catholic Church Hall in Brits to give each other courage and help to fight the pangs of hunger.

EVEN people who earn a pittance regard Friday as an important day, but for 300 dismissed workers in Brits Friday has long since lost its meaning.

The children of these people — who were last employed 10 minths ago — no longer rush to meet them in anticipation of getting sweets and other presents — as they have realised that their parents no longer bring parcels home on Fridays

These people lost their jobs 10 months ago when their employer, B & S Steel Furniture Company in Brits, dismissed the entire workforce and later rehired others — leaving 300 out of work

Since that day — September 7 last year — the 300 have been fighting against their dismissal The case first appeared before the Industrial Council, which rules that 60 percent of them should be rehired The 300 rejected this as they wanted all the workers to be rehired The case has now been taken to the Industrial Court.

During the 10 months these workers have been meeting every day at the Roman Catholic Church Hall, in Brits location

Approaching the hall one is greeted by shouts of "Amandla" and the singing of trade union songs which the workers have composed themselves Everybody takes part in the singing and anyone who has something to say says it

A committee of 16 men and women co-ordinates the activities of the 300 The committee has no chairman or secretary, and all its members participate on an equal basis

The committee members said that meeting every day gives them the strength to continue

"It always helps because when one of us has a problem and is absent, we will not be able to help But if one of us has a sick child and does not have money to take the child to a doctor, we club together and make contributions," said committee member Mr Ernest Masala

The committee revealed that though some of them used to earn as little as R45 a week and the highest paid was getting R118 a month, they all looked forward to earning wages again and providing for their families

How have the dismissed workers survived for the past 10 months?

"We are depending on the sympathy of our neighbours and friends to sustain us, otherwise some of us would have died from hunger It has been difficult Some of us had to take our children from schools or send them to relatives Some of us had to sell our livestock to have money to pay our accounts and buy food," they said

When I asked whether they ever go to bed without a meal, they laughed at my naivety "It is not a thing that happens sometimes, but is a frequent occurrence We no longer get hungry, because you cannot get hungry when you know there won't be any relief," they said

The workers, who were being unionised by the Metal and Allied Workers Union (Mawu), said they have received little help from organisations outside Brits In Brits they received assistance from the local churches They said they would welcome more community assistance to alleviate their plight "People must not see this as the problem of the people of B & S in Brits, but they must align it with the general workers' struggle for a fair deal from those who own the means of production," they said

And what are the prospects of them finding employment elsewhere in Brits? "Nil," they said The committee members said B & S had blacklisted them by telling the Labour Bureau that as they were still locked in a dispute with them, they should not be hired by other companies Other companies had also been told that they should not be hired as they would unionise their "peaceful" workers, the committee alleged

One committee member, Mr Davidn Sihlangu, said their strike and subsequent dismissal had broadened their perspective about the "struggle", a work they used frequently. "We are now face to face with the struggle," he said

Mr Sihlangu said they had expanded their activities and were trying to make other workers in the Brits area aware of their rights "We have realised that it is only by the workers coming together that they can achieve victory," he said

The fate of the workers depends on the Industrial Court But they are confident of victory.

165 RDM 8/8/83

WHY should anyone except lawyers be concerned about who is awarded costs in an industrial court action?

The answer is that the issue has a great deal to do with the ability of workers and unions to make use of the court at all. And the court is a cornerstone of the new labour dispensation.

The normal practice in the courts is that the winning party has its costs paid by the loser. This means parties who can't afford litigation, but are sure they will win their case, will not be forced to foot the bill.

Not so in the industrial court. The law setting it up allows it to grant costs only if it believes a party has engaged in an action wilfully or frivolously.

The court has interpreted this strictly and has invariably ordered each party to pay its own costs regardless of the result.

These often exceed R10 000 and workers and unions, to whom the sums involved are enormous, must meet the full bill even if the court decides they were in the right.

It is not difficult to see how this can prevent them making use of the court.

The court provides a forum where disputes can be resolved without factory confrontation and the costs stipulation limits the extent to which it can play this role.

Now the issue will be tested in the Supreme Court. Cusa's United African Motor Workers Union has appealed against the court's decision not to grant it costs in the Foden's case, which it won.

This is the first Supreme Court test on the costs issue.

'Closed shop' takes knock

RDM 12/8/83

165

Labour Correspondent

THE "closed shop" in the printing industry — which forces workers to belong to the SA Typographical Union — received yet another blow yesterday

Workers at Nampak's Maritzburg factory voted to quit SATU, a statement by the Paper, Wood, and Allied Workers' Union (PWAWU) said yesterday

The union said, however, workers were still compelled to pay union deductions to SATU and warned it might take action on this issue

PWAWU said the ballot was held because Nampak applied to the industrial council on June 1 for an exemption allowing workers to join the union of their choice.

But it charged that SATU, which is a member of the council, had delayed this application and the ballot, conducted by the company, had been held to "demonstrate to SATU the wishes of the workers at Nampak"

The ballot follows two similar polls at Transvaal factories in which workers voted to quit SATU and join PWAWU

According to PWAWU, 67% of the workers at the Nampak plant voted to quit SATU It is understood almost all of these were black workers and that other races had not decided to leave the union

It said the ballot paper had asked workers whether they wished to resign from SATU "in order to be free to join or not join any other trade union"

PWAWU also charged that SATU officials had been invited to attend the ballot and address their members, but had refused

PWAWU said workers were "furious" because the company was still deducting SATU dues from their pay

(65) Hansard 17/8/83

Working conditions of farm/domestic workers: investigation

Q. 61. 1888

*37 Dr A L BORAINE asked the Minister of Manpower

Whether, with reference to his reply to Question No 20 on 11 February 1983, the investigation by the National Manpower Commission into the working conditions of farm and domestic workers has been completed, if not, (a) why not and (b) when is it anticipated that it will be completed, if so, what were the findings?

†The MINISTER OF MANPOWER

No

(a) Further evidence is still being gathered

(b) During 1984 The rest falls away

CAPE TIMES 18/8/83 165

Procedures for strikes slow and lengthy

By PHILLIP VAN NIEKERK, Labour Affairs Reporter

LEGAL strikes are exceptionally rare in South Africa — before June there had only ever been one or two among black workers And of the hundreds of strikes which accompanied the rise of black worker militancy between the late 1970s and last year, all were technically illegal

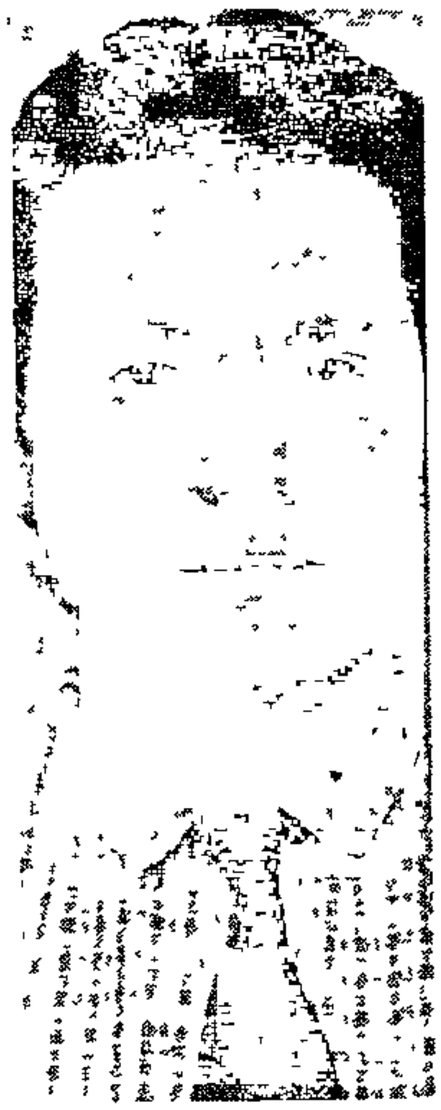
This is because the Labour Relations Act lays down lengthy and slow legal procedures which unions must go through before they are permitted to strike legally

Far from reducing the number of strikes, the system has led to a *de facto* situation in which so-called "illegal" strikes are part and parcel of the industrial scene The department, aware of this curious flaw in the country's labour machinery, has amended the law to speed up the settlement of disputes, but illegal strikes are still the norm

Prosecution of workers for going on strike is rare, in keeping with the Department of Manpower's philosophy of self-governance in industrial relations between employers and workers

But in direct contrast to this enlightened attitude by one arm of the state, detentions and prosecutions of strikers do still take place by another arm — in terms of security legislation such as the "intimidation" clause of the Internal Security Act.

Unionists claim that going through all the legal channels before striking undermines worker militancy and resolve and removes the issues from the shopfloor And the advantages of reaching the end of the tunnel are dubious legal strikers can still be fired and selectively re-employed The balance of power does not shift in favour of workers



Phillip van Niekerk

At the Trade Union Council of South Africa (Tucsa) conference in Cape Town last year the Mine Surface Officials Association — which had almost been involved in two legal strikes with the Chamber of Mines — called for a ban on employers firing legal strikers This call has been subsequently repeated, particularly in established union circles, where illegal strikes are few and far between

It is, therefore, of note that workers at Natal Thread, members of the emerging National Union of Textile Workers (NUTW), an affiliate of the Federation of South African Trade Unions (Fosatu) have won an important concession over the right to strike. At the end of June, the workers embarked on South Africa's first legal strike in about seven years

form of an overtime ban, bringing the factory — a continuous operation — to a halt daily and seriously disrupting production At the end, the company agreed to pay a 15c an hour increase to the workers and agreed that in a legal strike they would either dismiss all the workers or none of them

As it is difficult for a company to fire its entire workforce without selectively re-employing some of them the agreement is seen as effectively establishing the right to strike It could also point the way for future strike agreements at other plants

New pay offer

Memories of last year's raging battle between employers and workers at the three Port Elizabeth-Uitenhage motor manufacturing giants were rekindled this week at an industrial council meeting to discuss wages

But fears of a new clash over wages appear to have been averted and Fosatu's National Automobile and Allied Workers' Union (Naawu) has agreed to take back a new pay offer from the companies — General Motors, Ford and Volkswagen — to their members

While neither Naawu nor the employers issued an official statement after the meeting, it is believed that workers have been offered three increases between now and next August, raising minimum pay by 40c an hour This could raise their pay in line with the rising cost of living, while the union is demanding an increase in real wages once the economy improves

The Eastern Cape, and particularly the PE motor industry, has possibly been the most volatile labour front in the country over the past three years Recession-hit 1983, however, has seen a change in this trend, and an amicable wage settlement in the Eastern Cape motor industry will further confirm this.

Take them back

About 250 workers from the B and S Steel Furniture Company in Brits have been meeting every day for nearly a year following an alleged mass lock-out at the firm on September 8 last year

The workers, all members of the Metal and Allied Workers' Union (Mawu) have, according to the union, endured "tremendous hardship" but have refused to give up.

Now their cause has been propelled into national prominence They have asked the Industrial Court to order the company to take them back, and pay R850 000 in back pay, the largest back pay claim ever to come before the court.

Mr Gavin Relly no takers

Challenge

Mr Robin McGregor, researcher and compiler of "Who Owns Whom" has issued a novel challenge to Anglo American, which he calculates controls 56 percent of the Johannesburg Stock Exchange He has suggested they train basic skills to 250 000 blacks a year

He has called on Anglo chairman, Mr Gavin Relly, to "force the state to put its money where its mouth is instead of pussy-footing with so-called training perks compensating industrialists for what they should be doing anyway"

He believes the funds for the training — which could have a "tremendous ripple effect" on the economy — could come from a short term loan levy or from a tax moratorium for Anglo The total cost, he estimates, would be in the region of one billion rand a year

So far there have been no takers

Sacked workers go to court

Sowetan 22/8/83

Sowetan 22/8/83

By PHIL MTIMKULU

(165)

THE 300 Brits workers who have been unemployed since being fired by their company, B and S Steel, 10 months ago, will today put their case before the Industrial Court.

The Metal and Allied Workers' Union (Mawu) which represents the workers will tell the court that they were fired because they had shown interest in the union This happened after some workers had approached Mawu for help last year in April

When management heard of efforts to unionise the workers it made efforts to stop them

DISMISSED

When a shop steward's committee of 12 was elected all the members were summarily dismissed This led to work stoppage to get the workers reinstated They were reinstated on condition they did not serve on the committee But when the shop stewards asked for the union to be recognised, problems arose Eventually on September 7, all the workers were fired and only those who did not belong to the union were rehired

The workers are going to ask the court to declare their dismissal unfair and unlawful and to be reinstated in their jobs They are asking for a huge amount in back pay and costs for legal action

The Industrial Court has never awarded costs in all the cases it had decided Already one union which had a decision granted in its favour by the Industrial Court but was not granted costs, is appealing against the latter part of the judgment

Since their dismissal the workers have been meeting daily at the Roman Catholic Church Hall to give each other moral support Life for them has been a perpetual struggle They are depending on friends and relatives for contributions in order to keep them going

Crucial test case for unions in the offing

By STEVEN FRIEDMAN
Labour Correspondent

IN WHAT could become a key industrial court test case, the Metal and Allied Workers' Union has declared a dispute with one of Maritzburg's biggest employers, Scottish Cables.

The dispute arose over the company's alleged refusal to negotiate wages with MAWU outside the official industrial council system — an action which has never been contested in court before.

MAWU announced yesterday it had declared disputes with five companies in the Durban and Maritzburg areas A dispute can lead to an industrial court action or legal strike.

MAWU said it had also declared a dispute with CYC Steel and Engineering of Maritzburg over its "refusal to supply free boots and overalls for the protection of its employees".

A company spokesman, Mr Lawrence Nathan, confirmed the dispute but declined to comment further

A third dispute, it said, had been declared with a Pinetown firm Gedore Tools for allegedly retrenching workers without consulting the union MAWU says this "has been clearly established as an unfair labour practice" where a union is representative

A company spokesman declined to comment, but said Gedore was not aware a dispute had been declared

The Scottish Cables dispute is taking place against the background of a dispute between MAWU and the Association of Electrical Cable Manufacturers

In the wake of metal industrial council wage negotiations, the association awarded increases similar to those negotiated at the council MAWU rejected these and declared a dispute with both the association and some of its members

MAWU said Scottish Cables had agreed to bargain directly with it on wages but had then "reneged".

It charged that "much pressure" had been brought to bear on the company, "probably" from cable firms

But MAWU's Natal secretary, Mr Geoff Schreiner, said he had expected Scottish Cables "to have resisted such interference in their own affairs and to have honoured their undertaking"

The company's managing director, Mr Harold Dixon, said Scottish Cables was unable to pay more than the increase conceded by the employer association — from 12c to 21c an hour.

He defended the association's stance, saying MAWU had demanded 40c an hour.

Mr Dixon said wage levels at cable plants were "significantly above" those in the main metal wage agreement and the industry faced "a major reduction in demand for their products" and "an escalation in imports"

The increases granted were, therefore, the most the industry could afford

He said Scottish Cables' wages were above "the cable industry norm" and the company had also taken steps to cushion the effect of the recession on workers

(165) FM 2/9/83

diation, arbitration, legal action through the Industrial Court, or the holding of a legal strike

A variety of issues are involved in these disputes Most involve wages, but one may culminate in an Industrial Court hearing about whether an employer has an obligation to disclose financial information to unions In another, there may be a challenge through the court over a company's unwillingness to negotiate wages after the employer association to which it belongs had granted workers an increase A feature of another dispute is the alleged refusal of an employer to provide protective clothing to workers The union also complains that cable industry negotiations were concluded prematurely, with the union not being given time to report back to its members

Some employers may have been startled by the union's new strategy However, a spokesman for the Steel and Engineering Industries Federation of SA (Seifsa) says employers in the industries would obviously prefer employees to resolve disputes through official procedures Therefore, he says, Mawu's increasing use of the procedures is being viewed as a positive development

LABOUR DISPUTES 2

NUTW's court action

The National Union of Textile Workers (NUTW) has launched a court action which could have an important impact on its efforts to be recognised by the Frame group An urgent application by it against the group and the Textile Workers' Industrial Union (TWIU) is due to be heard in the Natal Supreme Court next week

The recognition battle between the NUTW and Frame is one of the most significant labour disputes in SA this year (*Leaders* August 5) The NUTW, an affiliate of the Federation of SA Trade Unions (Fosatu), claims it received an undertaking from a senior member of management last year This was that the group would recognise as the sole collective bargaining representative of its weekly-paid employees at the Frametex Mill, that union which showed it had the support of the majority

However, in March and April this year management told the union that recognition was being granted to the TWIU, an affiliate of the Trade Union Council of SA (Tucsa) The NUTW disputed management's claim that the TWIU had obtained majority support at the mill and brought a successful Industrial Court action temporarily restraining management from recognising the TWIU A feature of that case was the evidence produced by the NUTW alleging that Frametex employees were persuaded, intimidated and coerced by certain members of management and an appointed liaison committee, to join the TWIU

Conciliation

The group has strongly denied these allegations and has opposed the union's application to the Minister of Manpower for the establishment of a conciliation board The Minister has still to announce a decision on this application, but meanwhile the Industrial Court order restraining Frame management from recognising the TWIU has expired

About two weeks ago, following an unsuccessful late application to the court by the NUTW for extension of the order, management appeared intent on formally recognising the TWIU The NUTW alleges that within hours of the court's decision not to extend the order, Frametex management informed employees that the TWIU would be recognised However, it now appears that pressure from NUTW has resulted in management delaying a decision on recognition, pending the outcome of the Supreme Court hearing

Two important issues will be raised before the court Firstly, the NUTW wants to hold the group to the promise it says it received from a member of management about recognition last year Oral evidence on this issue will be heard Secondly, the NUTW is seeking a Supreme Court review of the Industrial Court's decision not to extend its order restraining the group from recognising the TWIU

BUS SEGREGATION

Durban fights

Durban's hopes of integrating some bus routes have been dashed But transport officials say they are not going to take the National Transport Commission's (NTC) refusal lying down They will fight through the courts if they have to

Town Clerk Gordon Haygarth tells the *FM* that the Durban Transport Management Board (DTMB) has written to the NTC asking for an explanation If the commission does not respond, the board will consider seeking a court injunction to force a reply Further legal action to overturn the decision is contemplated

The chairman of the board, Marshall Cuthbert, is optimistic about the chances of success He notes that East London applied three times to desegregate bus services before the NTC finally agreed Durban has already had three stabs at it, but the intention is to try again "We wouldn't have applied in the first place if we didn't think the cost effectiveness and rationalisations would be of benefit to the city," says Cuthbert

He says he is perplexed and mystified by the NTC ruling Johannesburg, Cape Town, Port Elizabeth, East London and Maritzburg all run mixed services of some type, yet Durban's application has been persistently turned down Some believe that the many objections and leverage from militant rightwing pressure groups weighed heavily against the DTMB The speculation is that with the referendum coming up, government is reluctant to do anything to upset the Right

According to Cuthbert, the board has a strong case for desegregation Durban runs two separate bus services — one for whites and one for blacks While the black service operates at roughly break-even, the white service incurs substantial losses — mainly because it is under-patronised In 1978-79 the white service deficit was running at around R2,5m This year it is expected to be down to around R500 000 — but only because the level of service offered has been drastically trimmed

PUBLIC SECTOR PAY HIKE?

There are signs that government may soon grant a pay increase to public servants and employees of the SA Transport Services (SATS).

Senior members of the Federal Council of SATS Staff Associations who met Transport Minister Hendrik Schoeman this week say they received a tentative offer of a 10% rise from October 1, or a 12,5% increase from the beginning of next year They made it clear to Schoeman that they preferred a 10% rise in October and say he promised to discuss the matter with his Cabinet colleagues

Some government sources believe that if SATS employees receive pay rises, it is almost inevitable that similar increases will be given to virtually all public service employees. The last major pay rise for most SATS and public sector employees was granted in April last year There is evidence of growing impatience, especially among railwaymen, over government's reluctance to grant increases at a time when MPs have voted themselves substantial pay rises

There has also been speculation that government will introduce increases before the November referendum in an effort to win the goodwill of public sector employees Colin Cameron, president of the Public Servants' Association, says it was inevitable that some people would believe this But he adds that, in fairness to government, it should be remembered that Finance Minister Owen Horwood announced early this year that government was willing to consider salary adjustments in the second half, if economic conditions permitted

BOBBY GODSELL (165) 9/9/83

Concern about the court

(165)

Bobby Godsell is the Anglo American Corporation's industrial relations consultant.

The Industrial Court came into being in 1979 in the midst of high and positive expectations from all parties The Wiehahn Commission had suggested that it would provide a speedy, low-cost and informal means of resolving conflict-type disputes

Almost four years later, after the court has processed over a 100 cases, some of these expectations have turned into reservations, particularly in the employer camp

Some employer anxiety has resulted from court judgments where the court proceedings clearly revealed that employer actions were hasty and ill-conceived. It is not this anxiety with which I am here concerned Some of the concerns are of a more fundamental nature I wish to deal with two of these more deep-seated concerns They arise entirely out of statutory provisions for the court, and in raising them I am, of course, implying no criticism of the court or its officials, but rather of the statutory constraints within which the court must function

What should the purpose of the court be to interpret existing rights or create new ones?

In a market-orientated industrial relations system, rights should be created by the legislature in those areas which affect the public good Additional rights should be created through the collective bargaining process It is not desirable that new rights should be created by the judiciary However, the inclusion of the concept "unfair labour practice," particularly defined as it is at present, forces the industrial court to be involved in the creation of new rights The concept is a fundamentally subjective one In particular situations, it can only be defined as a balance between the interests of the employer and the employee

In extreme cases, manifestly and flagrantly unfair labour practices can and do threaten the public good In such cases, it is appropriate that the State should prohibit such practices However, the best way to prohibit them in a way that is clear to all parties is to define them specifically in legislation Our existing legislation contains many such practices Various kinds of summary dismissal, compulsory over-time, denial of leave and victimisation are already defined in law as illegal labour practices

Where the public good is not threatened, the question of what is a fair or unfair labour practice is an issue which in the past has been negotiated between management and unions I believe the creation of new rights should continue to be the result of collective bargaining and negotiation rather than *ad hoc* State intervention in the form of the Industrial Court

The second fundamental area for concern is the relationship of the court to the collective bargaining process The history of industrialisation indicates that collective bargaining is the best way to resolve conflict in industry It involves the primary parties and its outcome is the direct responsibility of these parties Many, if not most industrial disputes are basically subjective in nature They have no "right answer" but only an answer which the parties concerned are prepared to live with.

There is some indication that the activities of the court in relation to the unfair labour practice, in particular, are encouraging parties to seek to achieve through the court that which they have not been able to achieve through the bargaining process Through the *status quo* provision, unions at times appear to be seeking to achieve that which they have not even attempted to accomplish through bargaining

A good illustration of this is the notion, implicit in some recent court rulings, that it may be an unfair labour practice not to bargain in good faith with a representative union While the notion that the courts should compel the parties to bargain seems on surface attractive, and indeed to support the bargaining process, in practice the obligation to bargain is fraught with difficulty and danger For example

- ☐ Of whom should the union be representative? All workers, all black workers, all skilled workers? The recent dispute at Liberty Life illustrates the complexity of this question,
- ☐ How is representivity to be measured? Through membership, paid-up or signed-up? Through a referendum? What is the status of the minority union? and,
- ☐ How do we determine whether bargaining has been in good or bad faith?

It is my contention that these complex questions have their least worse resolution in the bargaining process itself and are not the appropriate domain of a court of law. Furthermore the existence of the court as a final decider of these sorts of issues may well discourage the parties from reaching a workable compromise in bargaining

Considerable experience around the world suggests there is an improved role for labour courts Already in SA, the court is among the most broadly used institutions If legitimacy is to grow, perhaps it is time to think again about the court's appropriate function

LABOUR MATTERS

NUTW and Frame

A court action launched by the National Union of Textile Workers (NUTW) against the Frame group has had an interesting outcome

An urgent application by the NUTW was heard in the Natal Supreme Court last week It arose from a recognition dispute between the union and Frame *(Current Affairs* September 2) The union sought to hold the group to a promise it says it received from a member of management last year The promise was that the group would recognise as the sole collective bargaining representative of its weekly-paid employees at the Frametex Mill, that union which showed it had the support of the majority

In addition, the NUTW sought a Supreme Court review of the Industrial Court's decision not to extend its order restraining the group from recognising the NUTW's rival, the Textile Workers' Industrial Union (TWIU)

The NUTW had made an unsuccessful late application last month to the Industrial Court for an extension of the order it made earlier this year

Evidence on these matters was heard in the Supreme Court last week But before the court made a ruling, a settlement was reached between the parties The NUTW agreed to withdraw its application and paid certain of the company's costs It also agreed that in any future proceedings it would not claim that any contractually binding agreement on recognition had been concluded between it and Frame

In return, Frame agreed not to recognise, or grant stop-order rights to the TWIU until the Minister of Manpower reaches a decision on the NUTW's application for a conciliation board Should the Minister appoint a board, Frame will continue to refrain from recognising the TWIU until the dispute has been resolved either through the board or the Industrial Court

Frame faces union test case

RDM 21/9/83 165

By STEVEN FRIEDMAN
Labour Correspondent

THE Minister of Manpower, Mr Fanie Botha, has opened the way for an industrial court test-case between the Frame textile group and Fosatu's National Union of Textile Workers

Mr Botha has appointed an official conciliation board to look at the dispute, despite opposition from the Frame group which said it would rather see its recognition dispute with NUTW settled by a strike than by a conciliation board and court hearing

In terms of labour law, NUTW's only recourse if the Minister had not appointed the board would have been to strike — which Frame said it was willing to accept.

But its appointment means that, if it fails to settle the dispute, NUTW can take the company to court.

The union's acting general secretary, Mr John Copelyn, yesterday said the NUTW was determined to take the case to court if the board failed to settle the dispute

Key labour law issues will be tested in the dispute if it comes to court, including whether it is an unfair labour practice for an employer to favour a minority over a majority union and whether the court can order an employer to hold a ballot among workers to test which union will be recognised at a plant

The dispute centres around charges by the NUTW that Frame is refusing to recognise it at its Frametex mill and is instead favouring Tucsa's Textile Workers Industrial Union

It charges that Frame has granted facilities to the Tucsa union which it has denied NUTW, although the NUTW is the majority union at the mill

It also charges that company personnel officers have pressured workers into joining the Tucsa union

It wants the court to order the company to hold a secret ballot for workers to choose between the two unions

In papers before the court, Frame conceded that the TWIU was not the majority union at the mill, but says it represented a majority within the group

It also filed papers opposing the union's request for a conciliation board, saying that recognition disputes were best settled by strikes

The case will test not only whether it an unfair labour practice for an employer to favour a minority union, but whether an employer can refuse to recognise a union because it has a majority in one plant but not in a group of them

Mr Copelyn said yesterday the union had held a meeting at the weekend attended by about 1 000 workers at which it elected four workers and two officials who would represent the union on the board

The managing director of the Frame group, Mr Selwyn Lurie, was not available for comment yesterday

165 23/9/83 FM

CLIVE THOMPSON

Why the court matters

Clive Thompson is an attorney and researcher at the University of the Witwatersrand's Centre for Applied Legal Studies.

In a recent article in the *FM* (*Current affairs*, September 9), Bobby Godsell of the Anglo American Corporation raised certain critical points about the functioning of the Industrial Court. He noted that serious reservations about the court existed in employer ranks and elaborated on some of these.

There can be little quibbling about what was probably the central tenet of Godsell's piece, namely that "the history of industrialisation indicates that collective bargaining is the best way to resolve conflict in industry. It involves the primary parties and its outcome is the direct responsibility of these parties." However, he did not expand on some of the corollaries of this statement.

If issues between employers and unions are best thrashed out between themselves, then the disputants should be allowed to have recourse to industrial action to close the deadlock gap, and the ring held by the State must be a fair one. Neither is true of the present dispensation. A clear dualism is evident in the Labour Relations Act: it seeks to encourage collective bargaining but simultaneously, through its convoluted disputes procedure, effectively criminalises most forms of industrial action. Picketing, a normal incident of collective action elsewhere, is proscribed under the Internal Security Act, while the wide terms of the Intimidation Act have already been directed at unionists.

Most important of all, the effect of the range of statutes controlling every aspect of the supply of black labour is that migrant workers resort to industrial action at their peril. Even a legal striker is open to instant dismissal, and a migrant who has lost his job forfeits his (always precarious) right to remain in an urban area Many a dispute has been "resolved" by the mass deportation of the workforce and employers have not been conspicuous in their condemnation of such occurrences

Against such a backdrop, it is relatively painless to advocate collective bargaining as the first and last word on proper relations between the parties

Godsell believes that the courts should declare the law rather than make (any of) it. Should the courts indeed hack those engaged in "so intimate an act as negotiation" to fit the Proscrustean bed of rigid law, employers would be the first to raise a storm. In the labour field, more than any other, it is essential that an adjudicative body be afforded scope to work imaginatively when seised of disputes. It is impossible for statutory definitions to cope with the nuances of labour developments. The example which Godsell cites — representivity — is a case in point.

Legal duty

His contention that the question of the legal duty to bargain with a representative union should be left to the bargaining process is rather surprising. In most countries collective bargaining got underway only once the legal duty to bargain had been secured by the labour movement. The fundamental dispute over the very framework for bargaining is one of right, not interest. The social cost of leaving it to be resolved by the parties is high.

Recognition has primarily two aspects: the acceptance of bargaining agents and the definition of appropriate bargaining units. Except in the UK and Utopia, both aspects require statutory and judicial regulation. Most overseas jurisdictions have settled the bargaining agent question through legislative intervention. There is a statutory duty to bargain with a representative union and recognition disputes are outlawed. The right to be recognised flows from a relatively simple certification procedure, usually involving a ballot.

The definition of the appropriate bargaining unit, on the other hand, is precisely the type of issue which, failing agreement between the parties, is best left to an adjudicative body which can fashion a binding decision consonant with the contours of a particular industrial setting Once again, if collective bargaining is the objective, devious and dilatory arguments over its underpinnings cannot be allowed to frustrate the process. Moreover, although collective action may break a deadlock over the bargaining unit, interests of parties other than the immediate disputants are at stake and hence these boundaries should be established by a body which can take a wider — often an industry-wide — view of things. Of course, an ill-fitting judicial imposition will not preserve industrial peace or advance collective bargaining. But to deny a labour court any role is no solution.

It is significant to note that in the two cases where the Industrial Court's finding amounted to orders to bargain with a union — *Bleazard* v *Argus* and *United African Motor and Allied Workers Union* v *Fodens* — the acceptance of the bargaining agent and not the appropriate bargaining unit was in issue. In the absence of statutory regulation of the subject, I submit that the court's determinations were salutary. They certainly led to a speedy resolution of other recognitions disputes.

The observation that "through the *status quo* provision, unions at times appear to be seeking to achieve that which they have not even attempted to accomplish through bargaining" is surely misconceived. The *status quo* order by definition may only preserve on an interim basis what has already been won, by negotiation or otherwise. Where orders have been granted, they have followed unilaterial conduct and a failure to negotiate.

To secure greater legitimacy, an improved role for the Industrial Court as part of wider legislative reform in the labour field is certainly required. The call is to tap the systems developed in other countries. Given the practices prevailing in some quarters, it is not inevitable that such a move would endear the court to more employers.

LABOUR DISPUTES

The Minister acts

Manpower Minister Fanie Botha has appointed conciliation boards in an effort to resolve two significant labour clashes

Last Friday the Department of Manpower announced the appointment of boards for the wage dispute between the black National Union of Mineworkers (NUM) and the Chamber of Mines, and the recognition dispute between the National Union of Textile Workers (NUTW) and the Frame group

The NUM is engaged in an important trial of strength with the chamber over pay increases for black workers at the Rand Refinery (*Current affairs* September 16) If a board had not been appointed by the end of last week, the union would have been free to launch a legal strike if most of its members at the refinery voted in favour of such action By Wednesday last week it was threatening to hold a strike ballot if a board was not appointed Should the board ot resolve the dispute within a month, the _nion can again exercise its right to strike legally

It seems likely that the board appointed - the dispute between Frame and NUTW ould result in an important test case going efore the Industrial Court The issue of ion recognition lies at the heart of this ispute (*Leaders* August 5) Because the erms of reference of the board include al- gations of an unfair labour practice, the

(165) (2) (43) (140) (197) (211)

union can launch an action through the Industrial Court if the dispute is not resolved by the board If the minister had not appointed the board a strike may well have been the only viable option available to the NUTW

Extremely interesting labour issues will be raised if the NUTW goes to court These include questions about an employer's obligation to recognise a majority union and the best way (for example, the holding of a ballot) to determine which of two rival unions has majority support in a plant. At issue will also be the question of what constitutes the most appropriate bargaining unit. Should this be a single plant or should it be the entire complex within which the plant is located?

Answers to questions such as these will obviously have important implications for unions and employers in many industries.

in my opinion

CLIVE THOMPSON

Why the court matters

(165)

Clive Thompson is an attorney and researcher at the University of the Witwatersrand's Centre for Applied Legal Studies

In a recent article in the *FM* (*Current affairs*, September 9), Bobby Godsell of the Anglo American Corporation raised certain critical points about the functioning of the Industrial Court He noted that serious reservations about the court existed in employer ranks and elaborated on some of these

There can be little quibbling about what was probably the central tenet of Godsell's piece, namely that "the history of industrialisation indicates that collective bargaining is the best way to resolve conflict in industry It involves the primary parties and its outcome is the direct responsibility of these parties" However, he did not expand on some of the corollaries of this statement

If issues between employers and unions are best thrashed out between themselves, then the disputants should be allowed to have recourse to industrial action to close the deadlock gap, and the ring held by the State must be a fair one Neither is true of the present dispensation A clear dualism is evident in the Labour Relations Act it seeks to encourage collective bargaining but simultaneously, through its convoluted disputes procedure, effectively criminalises most forms of industrial action Picketing, a normal incident of collective action elsewhere, is proscribed under the Internal Security Act, while the wide terms of the Intimidation Act have already been directed at unionists

Most important of all, the effect of the range of statutes controlling every aspect of the supply of black labour is that migrant workers resort to industrial action at their peril Even a legal striker is open to instant dismissal, and a migrant who has lost his job forfeits his (always precarious) right to remain in an urban area Many a dispute has been "resolved" by the mass deportation of the workforce and employers have not been conspicuous in their condemnation of such occurrences

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DISPUTE SETTLED

FM 23/9/83

An amicable settlement appears to have been achieved in the protracted dispute between the Metal and Allied Workers' Union (Mawu) and a Brits metal industries company and its associates

Earlier this year Mawu launched an Industrial Court action against B & S Furniture Company (*Current affairs* July 17) The union alleged that B & S unfairly dismissed 249 workers in September last year and argued that they were entitled to reinstatement and backpay amounting to about R850 000

The union and the company have issued a joint statement expressing satisfaction with the settlement They believe a good relationship will be established between themselves

The settlement appears to be a significant one for a number of reasons

- Although neither of the parties is revealing the terms of the settlement, it seems logical that the union would have pressed hard for substantial compensation for the dismissed workers,
- It is significant that the union has achieved a satisfactory settlement with an employer in a region such as Brits Emerging unions have complained bitterly during the past year of the hardline attitude towards unions held by many employers outside the major urban areas, and
- The settlement has been achieved in the wake of the extraordinary tenacity and determination shown by the dismissed workers to continue their struggle against the company During the lengthy dispute they suffered considerable financial hardship and met almost daily to maintain a common stand

Industrial court role at stake

(165) RDM 27/9/83

Labour Correspondent

THE future role of the industrial court — and in particular its right to reinstate fired workers — is at stake in a crucial case which was argued before the court in Johannesburg yesterday

The case has been brought by the Metal and Allied Workers' Union and 12 of its members against Barlow's Manufacturing Company in Kew, a company in the giant Barlow Rand group

The company argued before the court yesterday that, where an employer fired workers after giving the required notice or by paying the required notice pay, the court had no power to decide whether the sacking was "unfair"

It asked the court to agree to refer this point of law to the Appellate Division, a request which was opposed by MAWU and the other applicants After hearing argument on this point, the court's deputy president, Dr D B Ehlers, reserved judgment

If the company's argument is upheld, the court's role in ordering temporary or permanent reinstatement of dismissed workers where it decides the firings were unfair would be almost entirely removed.

Many of the court's key cases over the past year have involved the granting of such reinstatement orders

The company argues that the point of law involved — whether the court can pronounce on firings where the legal notice requirements were observed — has still not been clarified and that the Appeal Court should do so

Sacked miners claim area was unsafe

Key mine test case on refusal to work

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RDM 29/9/83

By STEVEN FRIEDMAN
Labour Correspondent

THE National Union of Mineworkers yesterday served papers on the Gold Fields (SA) West Driefontein mine, thus instituting a key industrial court test case on whether workers can refuse to work in an area they consider unsafe.

The papers contain shock allegations about an incident this month in which 17 NUM members at the mine were fired for refusing to work in an area because they believed it to be unsafe

The mine said the area was safe but the NUM says a rockfall injured a worker in the area in question two days after its members were fired for refusing to work in it It says a miner was injured when the roof caved in on him

It also alleges workers who refused to work in the area were subjected to racial abuse by mine officials and that, at one point, an official threatened to shoot two of the workers

A Gold Fields spokesman said yesterday the company planned to contest the action But it could not respond in detail to the union's allegations yet as it had referred these to its legal advisers

The NUM has asked the court to order the temporary reinstatement of the 17 men who were fired for refusing to work in the area while its dispute with the mine over the sackings is resolved

The union also announced in a statement yesterday it had applied to the Government Mining Engineer for an urgent inquiry and inspection at the area where the men refused to work

This is the first time the court will have to decide whether workers are entitled to refuse to work in an area they consider unsafe

The action has been brought by the NUM and the 17 dismissed workers In papers before the court, they allege the workers refused to work in the area for several reasons

- The roof of the area was hanging dangerously;
- They had heard rumblings there — "an indication of a possible rock burst",
- The roof had "abnormally wide" cracks,
- The roof supports were tilted at an angle, and,
- "Rocks kept falling when touched slightly by workmen's helmets"

It claims that another gang had been working in the area concerned, but had been moved after a white and three black miners had been "seriously injured" Two of the three black workers are still in hospital, it charges

The papers allege that, when the men reached the area — 14 level — they heard a team leader say it was unsafe The signs were such that "even a novice would recognise the danger of a rockfall" and they refused to work there

When team leaders went to see the shift boss that evening, he allegedly called the workers "dogs" and insulted them racially

On another occasion a shift boss is alleged to have said he did not care if black miners died in the area as the mine "could easily buy other k s and dogs to work in their place"

The mine said its production manager had inspected the area and found it safe and that a Government inspector had done the same

Call for independent Industrial Court

Sowetan 5/10/83 (165)

THE harassment and detention without trial of trade unionists has been a "constant worry" in South Africa, the South African Federated Chamber of Industries (FCI) says in its annual report.

The report to be presented at the chamber's conference next week, says it has continued to have discussions with the authorities about "this important issue" since the activities of unions, particularly black unions, have increased

Referring to development of dispute settling mechanisms the chamber suggested that lack of compliance with the basic requirements hampered unregistered unions in making use of the available machinery

It has recommended to the government that the Industrial Court be part of the independent judicial system of South Africa and that it be open with its judgments and decisions

The report says that the court, arising from the Wiehahn Report and created in 1979, has begun to make a major impact on industrial relations in South Africa

"A wide range of disputes are increasingly being referred to it by union parties in particular The most important question is whether the court should create new rights or merely interpret and clarify existing rights"

"A prime example of the creation of new rights, is the increasingly implied obligations contained in several judgments that employers should bargain with representative unions The collective bargaining system has always been voluntary

"The court's action has the effect of imposing a type of "public good" obligation in this previously free and voluntary relationship, the report says.

The chamber also says that the only way to prevent the court from creating new rights will be to remove the open-ended definition of unfair labour practices and to replace this with specific definitions clearly specified in the statutes"

MAWU to take concern to court over sackings

Sowetan October 1983

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By JOSHUA RABOROKO

THE Fosatu-affiliated Metal and Allied Workers' Union (Mawu) is to take a Wadeville firm, Litemaster, to the Industrial Court following the sacking of 86 workers at the plant.

In a statement to The SOWETAN yesterday, the union said it was also looking at other means of "crippling management's action" in an attempt to have the workers reinstated

Litemaster sacked its entire workforce after they had gone on strike in protest against a number of retrenchments during June this year. The management later re-employed all but the 86

The union, the statement continued, had held several discussions with the management on the plight of the workers, but management had refused to settle their grievances

"We strongly condemn Litemaster's decision to dismiss workers Such undemocratic action will never solve problems We will continue fighting management until our brothers are reinstated," the statement says.

Meanwhile Mawu has announced that a formal settlement has been reached between it and the Scottish Cables company in Pietermaritzburg whereby the company has agreed to recognise the union

Some of the terms of the recognition agreement include collective bargaining rights for the union The wages issue has been set aside until the union's dispute with the company is settled.

The agreement is seen by the union as being "a step forward "

3 major labour disputes settled

STAR October 1983

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By Carolyn Dempster, Labour Reporter

A display of muscle-flexing by the Metal and Allied Workers' Union in Natal recently and a preparedness to take employers to the Industrial Court has resulted in the settlement of three major disputes

At Scottish Cables, the company has bowed to pressure to reopen negotiations with Mawu after a dispute was declared over wages. Management has also undertaken to sign a recognition agreement which gives Mawu the right to negotiate wages at plant level

McKinnon Chain, after a struggle for recognition by Mawu, recently capitulated and has agreed to begin negotiating in good faith. Mawu had threatened to take the employers to court

And, at Pefco, five workers who were retrenched have been reinstated The union also secured back pay for the five and won overalls and safety boots for workers in the factory.

In another dispute at Gedore Tools, Pinetown, the company has offered to settle with the union over the 10 Mawu members who were retrenched without the union being consulted

5/10/83 RDM (165)

ONE of the industrial court's key functions has been challenged in the court itself

Last week, Barlows Manufacturing, a Barlow Rand company, argued in a case brought by the Metal and Allied Workers Union that the court could not grant temporary status quo orders reinstating sacked workers if an employer had given them adequate notice (The court would still be able to pronounce on dismissals, but not as a matter of urgency)

This would largely remove the court's right to grant urgent status quo orders no matter how unfair the sacking might seem to it.

One of the court's chief roles has been to grant such orders This has given workers speedy recourse by removing the need for a long wait before the court pronounces on firings In many cases, the granting of these orders has led to speedy settlement of a dispute

The company wants this referred to the Appeal Court

THE Metal and Allied Workers Union's new strategy of using official machinery to declare disputes with employers seems to be paying off in Natal

According to the MAWU's newsletter, disputes at McKinnon Chain and Scottish Cables have been settled, and one with Gedore Tools is close to settlement The MAWU also settled its wage dispute with WB Cameron after a strike ballot

But in the Transvaal, the wage dispute with Highveld Steel entered deadlock last week and others with major firms are not settled

The MAWU also claims significant growth in Rosslyn, Pinetown, Witbank and Springs and lists 12 recognition agreements. It says another 23 are being negotiated

The union cites as a reason for its growth during a recession its decision to concentrate only on important sectors of the metal industries

Startling claim in gold mine dispute

Worker hurt after fears of danger

By Carolyn Dempster, Labour Reporter

Just two days after 17 mineworkers at West Driefontein Gold Mine were fired for refusing to go underground because of fears that the 14th Level was unsafe, a miner was injured in a rockfall on the same level

Mr Lekebe Myeni was hitting a wedge into position at the 14th Level on the morning of Saturday September 24 when part of the roof caved in above him

The falling rock cut into his shoulder, buttock and hip and he was treated for minor injuries

By his own admission Mr Myeni was scared of working in the area and frightened of the conditions of the squares

UNEASINESS

He was one of the original group which refused to go underground on Tuesday September 20 because the miners were uneasy about Level 14

But, under threat of losing his job, Mr Myeni resumed work on September 22

This is one of the startling claims contained in papers before the Industrial Court in the dispute recently declared between the National Union of Mineworkers and Gold Fields (Pty) Ltd.

The NUM is challenging Gold Fields, as the owners of West Driefontein, over the dismissal of its 17 union members, alleging an unfair labour practice

On September 20 the gang of about 40 mineworkers refused to go underground and the union was informed that the men had been threatened with dismissal as a result

On September 22, 17 mineworkers were fired after they repeated that they were willing to work — but only after they had been assured the level was safe

FIRST TIME

It will be the first time that the Industrial Court decides whether workers are entitled to refuse to work in an area they consider unsafe

Up until last week, claims made concerning two separate incidents in which miners were injured at Level 14 were unsubstantiated

However, Gold Fields has now conceded that the accidents did occur

In response to the legal papers served by NUM, Gold Fields admits that three mineworkers were injured in rockfalls at the 14th Level, but emphasises that both incidents should be seen in their proper context

"Mining, by its very nature, is inherently dangerous and regrettably injuries are continually sustained by workmen underground The three injuries referred to do not reveal anything out of the ordinary and do not justify the conclusion that the relevant area was more dangerous than other areas in the mine"

'JUST CAUSE'

However, in the papers before the court, NUM alleges that the mineworkers had just cause to believe it was unsafe to work on that level

- On September 12 two mineworkers were injured in a rockfall in one of the gulleys in the area
- On September 14 the gang working on the 14th Level was swapped with a gang working on Level 26 The incoming gang was told by the departing gang that Level 14 was unsafe
- On September 16 there were problems concerning the "hand-over" of the new work site
- Over the following two days an inspection of the area by the shift boss and then the gang revealed fissures in the rock as wide as a man's fist, many supports were tilted at an angle, faint rumblings were heard in the rock, and rocks and stones were easily dislodged if the mineworkers bumped their helmets against the "tafel".

Vital ruling on sackings

(165) RDM 27/10/83

Labour Correspondent

IN A KEY ruling the Industrial Court has rejected a request by lawyers for Barlows Manufacturing Company that it allow an Appeal Court challenge on its power to reinstate workers if they have been fired with proper notice

The Industrial Court's deputy president, Dr D B Ehlers, has found that the company's contention that the court cannot reinstate these workers has "no reasonable prospect" of being upheld by the Appeal Court.

One of the industrial court's key roles has been to grant interim reinstatement orders to fired workers and, had it agreed to the company's request, it would have opened the way for this role to be severely limited

A spokesman for Barlow Rand, which owns the company, said it was still studying the judgment and would decide on its response "within the next few days"

The court was asked to make the ruling in a case brought against the company by the Metal and Allied Workers' Union for the temporary reinstatement of workers who, MAWU believes, were unfairly dismissed

Lawyers for the company argued that, because the workers had been given proper notice, the court had no right to grant them temporary reinstatement

They asked the court to refer this point to the Appeal Court for a ruling — which the Labour Relations Act allows it to do

Mwasa loses its appeal over workers' sackings

165

22/10/87 Star

The Media Workers Association of South Africa's application against The Star for reinstatement of more than 100 former employees has been dismissed by the Industrial Court

No order for costs was made and the written judgment — which is expected to set out important guidelines about employers' rights to fire workers en masse for striking — will be made available later

The Star dismissed 209 workers in March after they refused to stop striking in protest over a colleague who was sacked

Mwasa took the newspaper to court in June to try to win reinstatement under Section 43 of the Labour Relations Act

During the two-day hearing, Mwasa alleged that The Star had ignored disciplinary procedures in the man's dismissal and wanted to "smash" the union by sacking most of its members

The Star denied that proper disciplinary procedures had not been followed and said there was no bias against union members

Counsel said the workers' failure to respond to management's call to return to work was cause for dismissal and management had suggested that the man appeal against his dismissal

Mr C Thompson appeared for Mwasa and Mr J V Lazarus, SC, assisted by Mr A T Trollip, appeared for The Star

Court action in offing

Union takes on 3 more employers

Star 24/10/83

By Carolyn Dempster, Labour Reporter

The United African Motor Workers Union has challenged three separate employers with industrial court action over unfair labour practices.

After its recent success in the industrial court case against Fodens, the union has instituted proceedings against Auto Industrial Pty Ltd, Rand Rubber Products, Johannesburg, and Mini Bus in Rosslyn, Pretoria.

At Auto Industrial, eight union shop stewards were dismissed by management on October 7. UAMWU general secretary Mrs Dora Nowatha said management's reason for the dismissals was "internal re-organisation".

Mrs Nowatha said she was told by one of the dismissed men the company had replaced the fired workers within five days.

Management has not replied to a union letter requesting talks on the issue. Now the union plans to fight the dismissals in court on the basis of an unfair labour practice.

A company spokesman would not comment on the dismissals or the allegation that additional workers had been taken on.

A refusal by Rand Rubber to recognise the union as representative of the workforce has also led to a threat of industrial action.

Mrs Nowatha said although more than 50 of the 92 workers there were union members, all representations to management for recognition had been thwarted.

"The managing director has said he doesn't have time for trade unions and he will never recognise a trade union in his company. He is not even prepared to look at our constitution," she said.

Rand Rubber's managing director Mr A Cosan-i was not available to comment.

At Mini Bus, the union is claiming an unfair labour practice after workers were not paid for two days after a work stoppage. The workers claim they were told to leave the premises by management after they stopped work to query wage increases, but that is disputed by the company.

METRO BRIEFS

Union may fight on

Star 24/10/83

The Media Workers Association of South Africa is contemplating further legal action to seek the reinstatement of striking union members fired by The Star in March

Mr Zwelakhe Sisulu, Mwasa president, confirmed today that the union's national executive would be meeting lawyers to discuss the options open to the union if they were to take the case further

On Friday, the Industrial Court dismissed the union's case for the reinstatement of the more than 100 workers, without awarding costs

The order came after three months of deliberation

Mwasa has refused management's offers to settle out of court — Labour Reporter

structural changes tax- make financial manage- ... as central

Cape Times 25/10/83 (165)

Labour relations — key area for building industry

PORT ELIZABETH — The building industry today faced many problems arising from the current recession, from the drought and, probably most challenging of all, from emerging pressures in the industrial relations field, Mr Jed Bramwell, chief executive of Murray & Roberts said

Addressing the opening of the Building Industry Federation of South Africa's congress in Port Elizabeth, he said "There is no doubt in my mind that the government's efforts to broaden the processes of negotiation with workers and to liberalize our labour legislation will lead to a more stable and productive labour force in the longer term"

Problems

He said the process of achieving this state of affairs would be painful and, in some cases, traumatic, for employers

In the future, management would have to devote more time to the problems of industrial relations than it had done in the past, and in this regard, it had to recognize the implications of the rulings of the industrial court.

"Recent court proceedings had clearly revealed that in many instances employer reaction under pressure from organized employees was hasty and ill-conceived"

Mr Bramwell said the tendency towards the means of production being absorbed by fewer and fewer major companies had not led to any increase in the means of production, the creation of a greater number of job opportunities or increased efficiency within the country's economy as a whole

As far as the construction industry was concerned, it had also led to the undesirable practice of in-house trading in an industry which had always prided itself on the fact that it represented the very essence of the free enterprise system

Preferences

"Today many of the major construction companies are owned by mining and financial groups which tend to give special preferences to their own companies

"This unhappy state of affairs has led to many contractors becoming increasingly frustrated by the tendency of these major groups to seek tenders apparently only to check prices and maintain a level of honesty in the pricing of their own in-house companies," he said — Sapa

Mawu hails ruling

Argus 22/2/83

THE Metal and Allied Workers Union (Mawu) has welcomed the Industrial Court's decision in reinstating 12 sacked workers at Barlow Manufacturing Company before a strike at the plant.

Mawu's spokesman said that after the sacking of the workers they declared a dispute with the company and subsequently an industrial court action seeking the workers' reinstatement

The Industrial Court has rejected Barlow's contention that it be allowed to appeal or challenge the power to reinstate workers if they have been fired with proper notice

The court found that the company's contention that the court should not reinstate the workers has no reasonable prospect of being upheld by the Appeal Court

Mwasa to meet Star

Sowetan 27/10/93

THE National Executive Committee of the Media Workers' Association of South Africa (Mwasa) will hold a meeting tomorrow with The Star newspaper management concerning the case of the 209 sacked workers.

This was confirmed to The SOWETAN by the union's president, Mr Zwelakhe Sisulu, who said the union had asked for an audience with the newspaper management following last week's Industrial Court ruling.

The 209 workers, members of Mwasa, took the company to the Industrial Court on grounds that their dismissal was unfair after they had gone on strike.

But the Industrial Court president rejected their application for reinstatement.

Mr Sisulu also announced that the union's southern Transvaal region would hold a meeting at the DOCC on Sunday starting at 8 am. All members are requested to attend.

LABOUR RELATIONS

Trade unions and race

When a company declares itself against racialism, it would seem on the surface, to have a *morally* irreproachable position Or does it? What happens if some of its employees decide to set their own criteria for association — must they be forced to comply with management's guidelines? These issues lie at the heart of the confrontation between Liberty Life and the Insurance and Assurance Workers' Union of SA (Iawusa)

Iawusa limits its membership to blacks, coloureds and Asians — and Liberty finds this unacceptable and is refusing to recognise the union So who's right? The question is a tricky one — and there is much disagreement among employers and unions over whether it is legitimate for a union to use race as a criterion for membership, or for management to refuse to recognise a racially-based union Given the growing strength of a rightwing white union such as the Mineworkers' Union (MWU), and the proliferation of black unions with links to the black consciousness movement, it is important to provide some perspective on the debate

Since the early days of trade unions in the Western world, a variety of bonds have bound employees together in workers' organisations *Craft unions* have organised workers in a variety of industries who hold common trade skills obtained through apprenticeship *Industrial unions* have sought to represent all workers in a given industry Workers have also organised themselves according to the place where they work, and have established *enterprise unions* For their part, *general unions* have traditionally tried to provide a bargaining base for unskilled workers, irrespective of occupation or industry

Skilled jobs

All these types of unions have developed in SA However, when trade unionism became established in SA about a century ago, race overshadowed everything Craft unions formed by whites demanded that entry into skilled jobs should be barred to blacks through legislation Industrial unions, established from 1930 onwards, could not escape the impact of racialism because the Industrial Conciliation Act prevented blacks from belonging to registered unions

In 1979, government granted trade union rights to black workers, and since then appears to have largely revised its opposition to multiracial unions In recent years there has been a slow, but distinct, trend towards multiracial unionism In 1978 there were 41 registered unions representing whites, blacks, Asians and coloureds By the end of last year, this figure had risen to 56 It is significant, too, that between 1978 and 1982 the number of registered white unions dropped from 84 to 71

Stickers litter downtown Johannesburg calling for a boycott of "racist" Liberty Life. They prompt the question. just who is being racist?

But there has certainly not been a stampede towards multiracial unionism Even some black and white "parallel" unions, with a long history of close co-operation, have found it difficult to find enough common ground to achieve a merger Most of the new generation of black unions established during the past decade accept members of all races, but in fact, few whites have joined them

If the common interest of workers is the most effective basis on which a union can be established, then it is hardly surprising that the trend towards multiracial unionism in SA has not been a rapid one

Liberty ... no apologies for being 'innovative'

Past discriminatory legislation has retarded black education, training and job advancement Until recently, blacks lacked effective collective bargaining power, while skilled whites had, over a long period of time, negotiated themselves the status of a privileged labour elite, enjoying high pay and labour mobility

The needs, interests and priorities of an unskilled worker earning R1 an hour are obviously very different from those of a skilled white earning R8 an hour, or more How much do such employees have in common? Indeed, there is the obvious danger that they would perceive each other to have conflicting interests The recent rapid growth of the MWU outside the mining industry testifies to white workers' opposition to blacks moving into skilled jobs

Many employers have accepted unracial unions as an inevitable fact of life in SA They have recognised them if the unions have been able to demonstrate that they represent a significant proportion of relevant groups of employees

Liberty, however, has decided to take a stand against such unions and has presented a number of important arguments in favour of its refusal to recognise Iawusa The company is proud of its record of being an equal opportunity employer and says most of its black employees are clerical workers who get the same pay, on the basis of merit, as whites Therefore, says Liberty, its black and white employees do not have differing needs in the workplace

Bargaining unit

It believes groups who constitute a bargaining unit should be linked by a common work content — they should share common responsibilities or skills The company wants bargaining units "which are consistent with our organisational structure in the interests of efficiency and control, and to prevent fragmentation of the workplace"

The company is also troubled by what it perceives to be a strong political message being propagated by the union, and fears that recognition of Iawusa could cause tensions between employees of different race groups

Iawusa insists that black employees have different needs to their white colleagues and that there cannot be a "unity of unequals" More importantly, the union argues that the company cannot prescribe how employees should exercise their right to freedom of association

The dispute has come at a time when the Industrial Court appears to have placed an obligation on an employer to bargain in good faith with a "representative union" Is a union representative in a company if it has the support of most employees of a par-

ticular race group? Until fairly recently, Iawusa was considering getting an answer to this question through the Industrial Court, but now says this would be a cumbersome process Instead, it may launch a consumer boycott against Liberty and its associated companies

There is no mistaking how relieved the leaders of some emerging unions are about Iawusa's decision not to go to court The reason for this lies in a victory gained by the Federation of SA Trade Unions (Fosatu) in the Natal Supreme Court earlier this year It successfully challenged Manpower Minister Fanie Botha's support for the decision of the Industrial Registrar to register several Fosatu affiliates on a racial basis Fosatu's view was that while the Registrar has the right to register unions for a specific "interest," race should not be regarded as such an interest

The court ruled that there are cases in which race can be regarded as an interest in the process of registration, but it rejected the argument of counsel for the minister that different races automatically have different interests The court said because no evidence was provided to show that special circumstances allowing race to be taken into account existed in the case of the Fosatu unions, they should never have been registered on a racial basis

This victory was a setback to some established unions who have tried to use the registration process to prevent emerging unions from representing workers of all races And emerging unions who favour "non-racialism" have feared that if the Industrial Court ruled in Iawusa's favour, this would considerably modify the gains made by Fosatu in the Natal Supreme Court

But if there is a distinct lack of sympathy for Iawusa from some quarters of the emerging union movement, there is, perhaps, even less sympathy for Liberty from some industrial relations practitioners

They argue that Liberty has made the fatal error of trying to curtail its employees' right of freedom of association Liberty may be doing this on moral grounds But they say that past efforts by employers to curtail this freedom by refusing to recognise unregistered unions, or forcing employees to join enterprise unions, have not only often backfired, but have diminished the credibility of any employer efforts to lay down such guidelines

No violation

Liberty counters that it is not violating this freedom at all — and that it is merely exercising its right to decide whether or not to recognise a particular union In the case of Iawusa, says Liberty, the union has not even been able to demonstrate that it represents most blacks employed in the company's head office

Some of Liberty's critics also believe the company is over-emphasising the threat of inter-racial strife resulting from recognition of a black union They say it is inevitable that black workers in industries such as insurance, where whites constitute a majority of the workforce, should want their own unions They theorise that once the black workforce in such an industry grows — and the union representing it develops capable leadership — race will begin to decline as an issue They also claim that Liberty is placing too much emphasis on Iawusa being a "political" union All unions, they argue, are political

Some believe that Liberty should have been more flexible and should have tried to establish a relationship with the union The company could have then adopted the same approach that certain other employers have formulated towards minority unions it could, for example, agree to discuss procedural matters (such as discipline, dismissal and grievances), but refuse to negotiate substantive issues, such as pay

Liberty says it considered this option, but decided it was not viable It says wage bargaining appears to be one of Iawusa's main goals Liberty executive director Mark Winterton believes the company's critics have themselves become inflexible

"Liberty makes no apologies for being an innovative company — either in life assurance or industrial relations," he says "Most racially-based unions in SA are built around job protection or political ambition In the longer term they are likely to create strife between black and white and not reduce it The black and white members of a single multiracial union will have to come to terms, instead of confronting each other Ultimately, black and white alike have a lot to lose by confrontation in the political arena Do we have to repeat apartheid in the workplace at the behest of those who say it is 'naïve' or 'arrogant' to have an independent point of view?"

Indeed, Liberty may deserve some sympathy for its principled stand against the racial divisions found in the wider SA society that are now being played out in the workplace But it has certainly discovered that taking such a stand carries great risks — and it may find in future that in such matters discretion may just be the better part of unshakable principle

MONEY SUPPLY CONTROL

Better luck next time

A burst of official optimism follows each failure by the Reserve Bank to meet even informal monetary targets. Is it justified?

In 1980, Finance Minister Owen Horwood took the unusual step of setting a money supply target in his annual budget speech He hedged his bets, of course, in this uncharted area, by not specifying a chosen growth rate — saying merely that "a rate of increase somewhat below that of the rate of inflation would not seem unreasonable" But a year later, when describing just how wide of the mark the monetary arrow had flown, he suggested that a 10% to 12% growth rate for M2 was what he had in mind

As it happened, the average rate of quarterly annualised growth in M2 during the 1980-81 fiscal year was almost 35% In one quarter, it hit 49% Something had gone terribly wrong

Three years later, it's still going terribly wrong Take a look at the table with this article It shows the quarterly changes in M2 since mid-1979 as seasonally adjusted annualised percentages The swings, ranging from 9% to 49%, are very large One could say that a declining average, from 31% over the first eight quarters to 20% over the last eight, is an improvement. But bear in mind that the second eight quarters straddle the most intense economic recession since World War 2, and that a 20% growth rate remains dangerously high

Take a look at the graphs They show the behaviour of money supply (M1) in SA and in the US over the last 10 years You could argue that there is little to choose between them They both show extraordinary volatility But you'll notice that the range in which the US aggregate moves is 3,5% to 13% The SA aggregate's range is 1% to 52%

The truth is that the Reserve Bank is not in control of the supply of money in SA This remains true even when a quarterly growth rate of 50% is followed by one of 10% Both are testimonies to the failure of a self-appointed aim, a failure which the Bank itself admits even as it displays a steady professional optimism The question is "Why?"

Economists offer a double answer to this single question The Bank doesn't have the tools, they say, and even if it did, it doesn't have the autonomy to use them properly in an environment fraught with political obstacles

The sharpest tools are the ones that control bank lending As the table shows, bank credit to the private sector has been the

Now some employers have begun to complain that it is far too easy to obtain a *status quo* order

The recent case of *Wahl vs AECI* may have worrying implications for both unions and employers In April this year a fight broke out between two AECI employees — Kenneth Graham Wahl and a black worker The company held an inquiry into the incident under its disciplinary procedure and decided to dismiss them both When Wahl's later appeal under the procedure was unsuccessful, he applied to the Minister of Manpower for a statutory conciliation board and to the Industrial Court for temporary reinstatement

The court decided in favour of Wahl It said that suspension for a month, and not dismissal, was the appropriate penalty for his misconduct It therefore ordered that his reinstatement should come into effect a month after his dismissal The dispute which arose from his dismissal was later settled at a conciliation board

Challenge

An important implication for employers appears to be that even when management has closely adhered to established disciplinary procedure, its decision to dismiss an employee can be successfully challenged through the use of Section 43 In addition, although the court was faced only with an application for temporary relief, it showed an apparent willingness to actually adjudicate on the dispute by pronouncing what it believed to be the appropriate sanction for an employee's misconduct.

Unions cannot be too happy with the case, either The reason for this lies in the fact that the Act makes a clear distinction between different kinds of disputes which are eligible for Section 43 relief Section 43(1)(a) refers to the actual or proposed dismissal or suspension of an employee, Section 43(1)(b) to the actual or proposed alteration of terms and conditions of employment, and section 43(1)(c) to the commission of an alleged unfair labour practice

Some successful cases for reinstatement of an unfairly dismissed employee have in the past been based on Section 43(1)(c) And there has been one very good reason why an aggrieved party should plead that an unfair labour practice has been involved This is because, should the dispute not be resolved by an industrial council or a conciliation board after temporary reinstatement has been granted, it can be referred back to the court for final adjudication This is not the case with Section 43(1)(a) and (b) disputes They cannot be referred to the court after being dealt with by an industrial council or conciliation board, unless the disputing parties specifically agree to this

Some labour lawyers have, therefore, been concerned by the court's decision that Wahl's case was based not on the commission of an unfair labour practice — but that it was a Section 43(1)(a) application

They fear this may set a precedent which will dictate that many future applications for the reinstatement of unfairly dismissed employees must be dealt with under Section 43(1)(a) A consequence will be that even though such employees gain temporary reinstatement through a *status quo* order, they may find it extremely difficult to gain access to the court for final adjudication of the dispute

Meanwhile, the court has in recent weeks issued a number of important judgments These include

- A rejection of a Section 43 application by the Media Workers' Association of SA (Mwasa) for the reinstatement of more than 100 workers dismissed by *The Star* newspaper last year The court's written judgment — which may provide useful guidelines about employers' rights to dismiss striking workers *en masse* — has still to be released Mwasa has meanwhile rejected the newspaper's offer of an *ex-gratia* severance payment of about R101 000 to 195 dismissed employees *The Star* had no legal obligation to make such a payment, but decided to offer it in view of the long service of many of the employees, and the financial hardship they have suffered
- The court's rejection of a request by Barlows Manufacturing that it allow the Appeal Court to challenge its power to reinstate workers if they have been dismissed with proper notice The court said the company's contention that the court cannot reinstate these workers had "no reasonable prospect" of being upheld by the Appeal Court

LABOUR LAW

Status quo queries

A recent decision of the Industrial Court raises intriguing questions about its issuing of *status quo* orders to aggrieved parties.

In terms of Section 43 of the Labour Relations Act, the court is empowered to provide temporary relief to applicants who claim they have been unfairly dismissed — pending a more thorough examination of the issue The effect is that they will be temporarily reinstated, prior to a possible industrial council or conciliation board settlement, or a later court hearing on the dismissal

Successful applications by unions for such orders during the past year have had the salutory effect of compelling many employers to adhere to equitable disciplinary, dismissal and grievance procedures. In addition, the fact that Section 43 provides such a potent remedy has meant that a growing number of unions have viewed legal action as a more attractive option than strike action in efforts to combat unfair dismissals.

STRIKES

On the increase

Official figures show a sharp drop in the number of strikes during the first half of this year However, as 1983 draws to a close, indications are that this trend has been significantly reversed One observer has even predicted that the overall level could be as high as 1982 when SA experienced its highest number of strikes ever.

This contradicts the conventional wisdom that unions are weakened in recessionary times and therefore hesitate to strike It also stands in stark contrast to the recession of the mid-Seventies when there was a sharp drop in strike activity

According to industrial relations consultant Andrew Levy, it is normal for strike activity to increase at this time of the year. But he says that compared to the earlier months, the increase has been dramatic

"More man-days were lost in the first two weeks of July than during the first six months of the year And recent weeks have been like Gallipoli There have been many days when our consultancy has had five or six strikes on its hands There is a fair chance that the number of strikes will come out at the same level as last year," he told the *FM*

Levy's contentions appear to be confirmed by some of the emerging unions The Metal and Allied Workers' Union of SA, which was involved in more strikes than any other union last year, has experienced five strikes in the past two weeks The union involved in the second highest number of strikes last year, the Commercial Catering and Allied Workers' Union of SA, has also experienced an increase in strike activity recently — at least three in the last three weeks

Unions affiliated to the Council of Unions of SA (Cusa) have also been embroiled in strikes, although it appears as if Cusa unions are experiencing a quieter time than others Nevertheless, a Cusa spokesman tells the *FM* that an affiliate, the Food Beverage and Allied Workers' Union, was involved in two strikes during September. Another affiliate, the Building Construction and Allied Workers' Union, has also been involved in strikes

These are, of course, just some of the strikes that have taken place recently Accurate strike statistics are notoriously difficult to obtain But these recent strikes do point to a trend

According to Levy there has been a shift in the pattern factors triggering off strikes, with wages becoming the predominant issue He says that in the fourth quarter of last year, and first quarter of this, wage disputes provoked only a small proportion of strikes, while issues of discipline and dismissals accounted for a far larger number "Now the pattern is shifting Wages are being emphasised," he told the *FM*

Another industrial relations consultant

165 RDM 10/11/83

Meeting to discuss role of industrial councils

By STEVEN FRIEDMAN
Labour Correspondent

THE Department of Manpower has called all the country's 104 industrial councils to a meeting in Pretoria which is expected to discuss the future of councils as well as key criticisms of them raised by black unions and other critics

Industrial councils, which are a cornerstone of the country's official bargaining system, have been under fire by emerging, mainly black, unions and other critics for the past few years

Many unions with a large black membership have refused to join them

The Director-General of Manpower, Dr Piet van der Merwe, announced the meeting in a statement yesterday which described it as an "historic summit"

He told the Rand Daily Mail that the purpose of the meeting was to enable councils to engage in "soul-searching" about their future direction and the problems facing them

"The meeting is part of our continuing attempt to modernise aspects of the bargaining system in the light of changing conditions," he said

Dr Van der Merwe revealed that the meeting followed a request from the department to councils, asking them to submit "motions" outlining their problems and views

He added that he expected several key issues to be raised at the meeting

These included suggestions that councils were not representative in the industries for which they bargain legally-binding minimum wages and the conditions under which new unions and employer bodies are admitted to councils

Dr Van der Merwe added that he also expected the meeting would discuss the conditions under which council agreements were extended to workers and employers who had not been a party to negotiating them

The meeting also takes place against the background of a controversial move by the department to enable smaller businesses to be exempted from the wages laid down in industrial council agreements

Dr Van der Merwe said each council had been asked to send three delegates — one each representing employers, employees and permanent staff on the council

Its purpose, he added, was to discuss "the role, functions and position of the industrial council"

Court action against factory

Cape Times 11/11/83

By RIAAN DE VILLIERS

THREE clothing workers have started an industrial court action against a Diep River clothing factory, claiming they have been unfairly dismissed because of links with a new clothing workers' union being set up in the Western Cape

The Clothing Workers' Union (Clowu) was launched at the end of last month in opposition to the Western Province Garment Workers' Union

'Skirmish'

The court action is the first skirmish in what may become a protracted factory-floor war as the new union seeks to make inroads on the massive established union, with a closed-shop agreement with employers and a formal membership of some 60 000

The workers claim they were summarily dismissed by the manager of their company, Park Avenue Lingerie, after being questioned about their links with Clowu and the distribution of pamphlets within the factory

'Victimized'

Following their dismissal they approached the newly-established Cape Town office of the Legal Resources Centre for assistance

Mr Geoff Budlender of the LRC confirmed yesterday that he had been instructed by the three workers to prepare an industrial court action on the grounds that they had been victimized

If the industrial council could not reach a settlement, the main dispute would then go to the court, he said

'Discipline'

Mr J Reinhardt, managing director of the clothing firm, said yesterday the firm had not been officially informed of any pending legal action

He confirmed that the three workers had been dismissed in a "normal disciplinary action" about 10 days ago but strongly denied that this had been caused by their involvement with the new union.

LABOUR LAW

Defining strikers' rights

The Council of Mining Unions (CMU) is planning to approach the Industrial Court for a ruling on whether it is an unfair labour practice to dismiss employees taking part in a legal strike

This follows a dispute being declared between the CMU — a co-ordinating body representing eight white-led mining unions — and the Chamber of Mines However, such a case will obviously have profound implications for unions and management in many other industries because its outcome could significantly affect the balance of power between disputing parties

CMU chairman Arrie Paulus says the council has decided to approach the court for a ruling following the Chamber of Mines' refusal to amend a clause in the contract of employment that union men sign when they join a chamber-affiliated mine In essence, this clause stipulates that if they take part in a strike, their contracts will automatically be terminated

The CMU, however, believes that this clause is unfair because it does not make a distinction between illegal strikes and strikes which are legal in terms of the Labour Relations Act The CMU is demanding that, should an employee participate in a legal strike, this should not be construed as either notice to terminate his employment contract, or his repudiation of that contract The CMU believes the contract should merely be suspended during a legal strike

The chamber has offered to amend the clause to remove the threat of automatic termination of employment to workers who take part in a legal strike But even in the event of a legal strike the chamber is understandably reluctant to relinquish its common law right to dismiss any employee who does not fulfil obligations contained in the employment contract

The CMU is not satisfied with this offer. It and the chamber failed to reach an accord at a conciliation board meeting on the issue in August

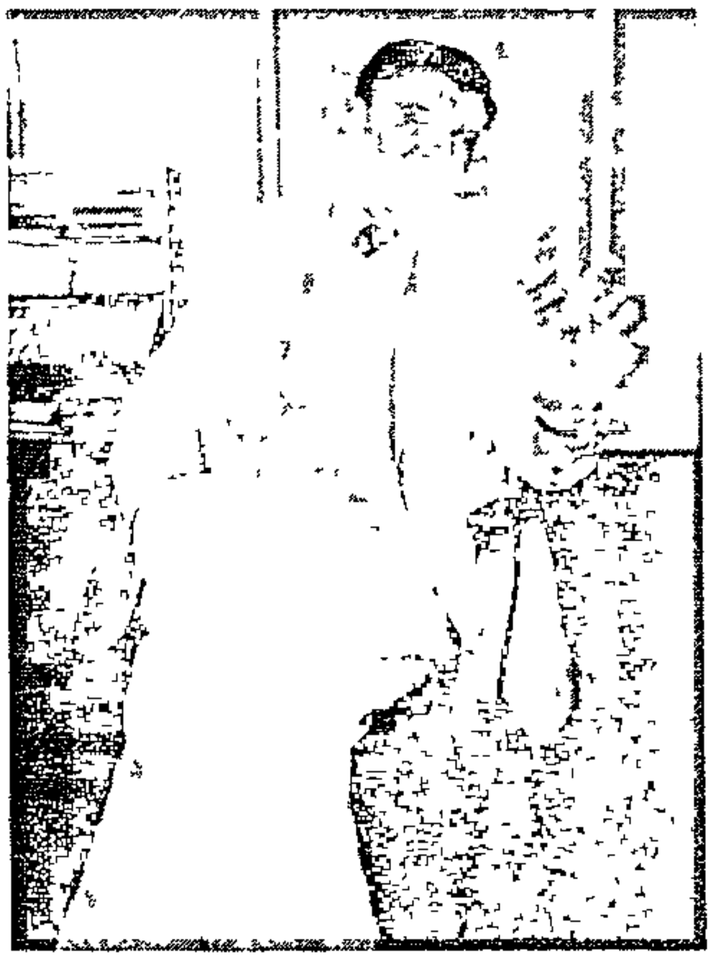
The dispute raises fascinating — and controversial — questions which have been debated in many Western nations Unionists in many parts of the world have argued that the right to strike has no real meaning unless employees are protected against dismissal during industrial action Such protection is granted to workers in countries such as France and Italy, while in the US employees participating in a strike over an unfair labour practice may also not be dismissed

In SA, the main advantage to be derived by unions and employees who go through the time-consuming procedures needed to hold a legal strike is that they will not be liable for prosecution under the Labour Relations Act However, very few legal strikes have been held in recent years — and the State has been reluctant to prosecute illegal strikers In 1981, for example, nearly 100 000 workers were involved in illegal strikes — yet only 301 were arrested and only 10 were prosecuted

An argument being made with increasing emphasis by some SA unions is that additional rights should be granted to workers who strike legally The National Union of Textile Workers (NUTW), an affiliate of the Federation of SA Trade Unions (Fosatu), gained an important victory in this connection earlier this year After having held a legal strike at a Natal company, the union obtained an undertaking from management This was that in the event of any future legal strike, management would not selectively fire or rehire the employees The union thus won the crucial right to strike without fear of selective dismissal or re-engagement

This is significant, because striking employees have often faced the threat of union activists losing their jobs through selective dismissal or rehiring in the wake of strikes Such an undertaking means that management would have to find an entirely new workforce or choose the probably more attractive option of living with its existing one

But the CMU's demand is far more ambitious — and SA employers are not the only ones who have expressed the fear that a total ban on dismissing legal strikers would decisively tilt the industrial balance of power in favour of unions Employers nurse a very real fear that if the threat of dismissal is removed, strikes will not only become more protracted, but will take place on an unprecedented scale In SA the threat of dismissal is especially real to unskilled black workers, who can be replaced with relative ease if they are fired for striking



CMU's Paulus ... taking legal action

A significant factor in the dispute between the CMU and the chamber is the fact that many CMU members live in company housing If they break their employment contracts by striking, they have seven days in which to vacate such premises Paulus says the chamber has been quick to point out in past disputes that workers risk losing such an employee benefit if they strike

NATAL POLITICS

New ballgame

Black/white politics in Natal has entered a new ballgame in the wake of the referendum Zulu political leaders, who had campaigned hard with the Progressive Federal Party (PFP) for a "no" vote in the province, were shocked at the support the constitution received from the white electorate — 72%

In the past, Natal with its ethnically diverse population, had been held up as a shining example of inter-racial accord There is already a large measure of co-operation between the administrations of Natal and KwaZulu Though it received only a lukewarm reception, the Buthelezi Commission, which advocated a form of consociational government for the province, was perceived as an attempt to strengthen ties across the colour line

Many believe the referendum result has now alienated blacks and eroded any goodwill that existed Relationships between blacks and whites are unquestionably at a low ebb and political leaders on all sides will have to work hard at mending fences

Not everyone, however, is pessimistic Chairman of the Buthelezi Commission, Professor Denys Schreiner, its secretary Professor Lawrie Schlemmer and commissioner Chris Saunders, all believe that whites and blacks in Natal share a common destiny and that a political accommodation has to be found Some, like Saunders, have suggested that the commission could in fact form the framework for any future political dispensation

CAPE TIMES 12/11/83

Sacked worker to get wages

Staff Reporter

THE Industrial Court has ordered the temporary reinstatement of a sacked Cape textile worker who claims she was victimized for union activities by her employers, Franz Falke of Bellville South

But the firm has elected to keep on paying her wages without her returning to work, pending the final outcome of the case

Mrs Maxie Dreyer, a member of the Fosatu-affiliated National Union of Textile Workers, took legal action after she was fired on September 1.

Mr Geoff Budlender of the Legal Resources Centre, who is handling the matter, said yesterday that a temporary reinstatement order had been granted this week

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Industrial court to rule on right to strike

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LABOUR WEEK

By STEVEN FRIEDMAN

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A DISPUTE with a crucial bearing on the right of workers to strike is to be referred to the industrial court

The court will be asked to rule on whether it is an unfair labour practice for employers to sack workers who strike legally.

The dispute has been declared not by emerging unions but by the Council of Mining Unions, which represents white workers

At issue are white miners' contracts, which state that if the worker strikes — legally or illegally — his employment contract ends.

The Chamber of Mines has offered to change this clause so that it would apply to illegal strikes only

But the mines want to retain their common law rights to fire legal strikers, which other employers also enjoy.

The case would have immense ramifications.

Were the court to rule in the CMU's favour, the incentive for unions to use the legal strike machinery would be enhanced immeasurably

But such a ruling would also alarm employers, for it would radically increase worker bargaining power

□□□

COULD changes to industrial councils, cornerstones of the official bargaining system, be on the way?

A meeting due later this month could be a straw in the wind

The Department of Manpower has invited all the country's 104 industrial councils to a "historic summit" in Pretoria — the first meeting of its kind to be held

The department's Director-General, Dr Piet van der Merwe, says the meeting will engage in "soul-searching" about the role of councils and their problems

It follows, he says, a request by the department to councils to submit "motions" on the problems they face and suggested solutions.

The council system has been under fire for some time

The meeting is expected to discuss the representativeness of councils. Since black workers were included as "employees" in labour law, few councils remain representative of the workers whose pay they negotiate.

ARGUS 14/11/83 CITY/NATIONAL (497) (165)

Union to represent Cape textile staff

Labour Reporter

THE National Union of Textile Workers, a Federation of South African Trade Unions affiliate, is to negotiate its second recognition agreement with a textile firm in Cape Town tomorrow.

The Natal-based union is also believed to be involved in negotiating a third agreement, which would bring the number of textile workers represented by NUTW in Cape Town to about 1 500

The agreement will be negotiated with a Bellville South textile factory, Franz Falke Textiles, recently ordered by the Industrial Court to temporarily reinstate a dismissed union member

"Victimised"

The worker, Mrs Margaret Dreyer, claimed she had been victimised for union activities

"The company said she was dismissed for 'disobeying a foreman', but she had no warning and was given no hearing," said an NUTW spokesman

The Industrial Court ordered last week that Mrs Dreyer be temporarily reinstated pending the outcome of the case

Pay

But the company has chosen to pay her for three months rather than have her return to work

The NUTW has more than 15 000 members in Natal, Transvaal and the Eastern Cape.

It has been organising textile workers in the Western Cape for the past year.

The only trade union previously operating in the textile industry here was the Tucsa-affiliated Textile Workers' Industrial Union

'Miners lied on safety'

NUM

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15/11/83

By PHILLIP VAN NIEKERK

SEVENTEEN mineworkers who refused to go underground at the West Driefontein mine in September, believing the conditions to be unsafe, were accused at an industrial court hearing yesterday of "lying"

In reply, Mr M Brassey, for the National Union of Mineworkers (NUM), alleged the Goldfields of SA-owned mine management had been dishonest and had behaved in a "Victorian" manner towards their workers.

They had expected the workers to merely obey instructions and accept management's word for safety in the area

The action was brought by the NUM against Goldfields for firing the 17 workers. The NUM has alleged the dismissal was an unfair labour practice and has called for their reinstatement.

A Department of Mineral and Energy Affairs inquiry last week found the area had been safe at the time

Mr C Plewman, SC, for Goldfields, questioned the workers' bona fides alleging they had been lying about mine conditions.

(165) 15/11/83

Company issues a court threat to union

By STEVEN FRIEDMAN
Labour Correspondent

A COMPANY has started legal action against a trade union, alleging "unfair labour practice"

The move, in an industrial court, is believed to be without precendent in this country

The company, Howick firm BTR Sarmcol, has declared a dispute with the Metal and Allied Workers' Union, charging it has failed to "bargain in good faith"

The union says it will fight the case

Sarmcol have requested the Minister of Manpower to appoint a conciliation board to settle the dispute

A company spokesman said yesterday that, if the board failed to settle it, Sarmcol would take industrial court action

Although unions have made frequent use of the court to allege employers have been guilty of "unfair labour practices", this is believed to be the first time an employer has taken such action against a union

If the case comes to court, it will have important implications for unions and employers throughout industry and could open the floodgates to a spate of similar cases

Sarmcol's action flows from a dispute with MAWU over severance pay, after agreeing to negotiate a recognition agreement with the union

MAWU has demanded that retrenched workers receive two week's severance pay for every year they have worked

It wants negotiation on this at the same time as recognition talks

The company argues that severance pay should not form part of recognition talks and that the issue should be negotiated after the union is recognised

The company's spokesman said MAWU had adopted a "rigid and inflexible stance during negotiations" on the issue by refusing to move from its demand

"They have told us it is union policy to demand two weeks' pay and they refuse to budge

"We believe this means they are not prepared to bargain in good faith," the spokesman said

He confirmed a claim by the union that the two sides had agreed to negotiate a recognition agreement within three months of MAWU recruiting a majority at the plant and that this had not been done

"We believe the union is responsible for this They have set conditions for the signing of an agreement — such as severance pay — because they do not want to be subject to the discipline of a formal agreement," he said

A MAWU spokesman said the union would fight the case if it went to court.

"Their claim that we are inflexible is nonsense," he said "We originally demanded that workers who were made redundant receive four weeks' severance pay for each year they had worked We changed that to two weeks — so we have been prepared to adjust our demands"

Company cites union over 'good faith'

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Mercury 17/11/83

Mercury Reporter

IN WHAT is believed to be an unprecedented move, a company has laid the ground for an Industrial Court action against a trade union, alleging the union is guilty of an 'unfair labour practice'

The Howick firm BTR Sarmcol has declared a dispute with the Metal and Allied Workers' Union, charging it has failed to 'bargain in good faith' The union says it will fight the case

Sarmcol has asked the Minister of Manpower to appoint a conciliation board to settle the dispute A company spokesman said yesterday that, if the board failed to settle it, Sarmcol would take Industrial Court action

Although unions have made frequent use of the Industrial Court to allege employers have been guilty of 'unfair labour practices', this is believed to be the first time an employer has taken such action against a union

If the case goes to court, the result will have important implications for unions and employers throughout industry

Spate of cases

Were the court to rule that a stance taken by an employer or union during negotiations could be 'unfair', this could open the way to a spate of cases brought by both employers and unions

Sarmcol's action flows from a dispute between it and Mawu over severance pay, which follows an agreement by the company to negotiate a recognition agreement with the union

Mawu has demanded that retrenched workers receive two weeks' severance pay for every year they have worked It wants negotiation on this to take place at the same time as recognition talks

The company argues that severance pay should not form part of recognition talks and that the issue should be negotiated after the union is recognised

The company's spokesman said Mawu had adopted a 'rigid and inflexible stance during negotiations' by insisting that severance pay form part of recognition talks and by refusing to move from its demand

Union policy

'They have told us it is union policy to demand two weeks' pay and they refuse to budge We believe this means they are not prepared to bargain in good faith,' he said

He confirmed a union statement that the two sides had agreed to negotiate a recognition agreement within three months of Mawu recruiting a majority at the plant, and that this had not been done

'We believe the union is responsible for this They have set conditions for the signing of an agreement — such as severance pay — because they do not want to be subject to the discipline of a formal agreement,' he said

A Mawu spokesman said the union would fight the case in court

'Their claim that we are inflexible is nonsense,' he said 'We originally demanded that workers who were made redundant receive four weeks' severance pay for each year they had worked We changed that to two weeks — so we have been prepared to adjust our demands'

He claimed that the failure to conclude an agreement within three months was the company's fault

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Sebe's air force

THE tiny Ciskeian Air Force is all set to rule the skies — with six single-engined propeller-driven aircraft from Israel.

The new aircraft will more than double the present numerical strength of the Ciskeian Air Force — but they are hardly enough to make the Ciskei a regional superpower

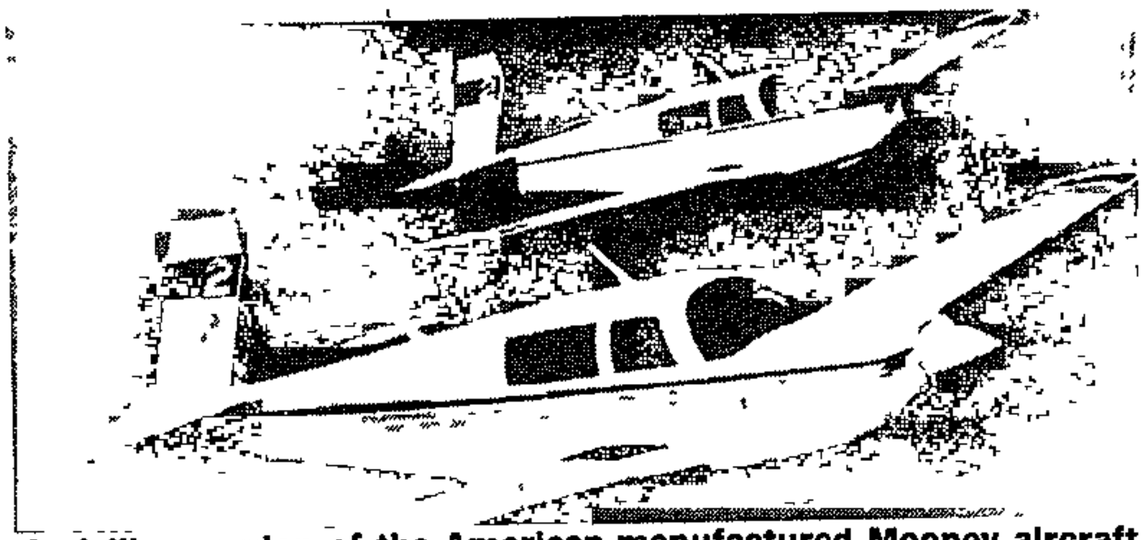
The Rev Vein Ntshinga, Ciskei's Minister of Defence, said this week that the Ciskei Government had agreed to buy six military-type Mooney aircraft from a private company in Israel.

They would be delivered within six weeks, he added

Mr John Wooten, chairman of the Friends of the SAAF Club and a member of the Aviation Society of Africa, said the Mooney was a light aircraft which he believed was used by the Israeli Army to train their pilots

All Mooney models are propeller-driven, single-engined aircraft which seat two or four people.

A spokesman for a South African aircraft company which has dealings with the Mooney Aircraft Manufacturing Company in America said the civilian and the military versions of the Mooney were not very different



A civilian version of the American-manufactured Mooney aircraft

The Rev Defence Minister buys six new aircraft

By PETER DENNEHY

The civilian version, the M20, seats four people, while the military version, the TX1, seats only two

The TX1 has a turbo-charged engine, and has camouflage paintwork

It could scarcely be described as a heavily-armed aircraft

The spokesman would not venture a guess at the price for which the Ciskei would get the aircraft, as they were probably part of a special deal

The Ciskei Defence Force has four aircraft, comprising two Sky Vans and two military helicopters, one of which is spanking new, said Mr Ntshinga

President Sebe also has a private (civilian) jet, which has to be kept in East London because no runway in the Ciskei is long enough for it

Mr Ntshinga, who is a practising Methodist minister, confirmed that 20 Ciskeians who had matriculated with good passes in mathematics and science had been selected to go on a two-year pilot training course in Israel

They left this week — travelling on South African passports, as Israel does not recognise the Ciskei's statehood — after a stern lecture from President Lennox Sebe, enjoining them to behave themselves and study hard in Israel

Training

Their training will cost the Ciskeian Government R5-million altogether — R250 000 for each pilot

Mr Ntshinga believed that at least some of the trainees will also learn to fly jets

Ten of the prospective pilots were employed by the Ciskeian Defence Force, and the remainder, some of whom were students, were being paid by the Ciskei Government.

The Israeli Ambassador to South Africa, Mr Eliahu Lankin, said this week.

"Our office in Jerusalem does not know about this pilots' training scheme"

Business Day

Employers may turn to using court action against unions

21/11/83 RDM

LABOUR WEEK

By STEVEN FRIEDMAN

165

FOR much of this year, unions have used industrial court action against employers with great effect Now an employer is to use court action against a union

Howick firm BTR Sarmcol has declared a dispute with the Metal and Allied Workers' Union, alleging it is guilty of an "unfair labour practice" If the dispute is not settled, it will go to the court.

Other employers may declare similar disputes soon

The Sarmcol case has some major implications — which might worry employers as much as unions

The company charges MAWU has been "inflexible" in negotiations by refusing to budge from a demand for two weeks' severance pay for retrenched workers

MAWU denies it is inflexible and says it has modified one major demand

Sarmcol is relying on a concept in US labour law which has not been fully tested here — that parties must bargain "in good faith"

In the US, a refusal to budge from a demand could be ruled unfair

If Sarmcol goes to the court and is succesful, however, the precedent set could be used just as enthusiastically by unions

An employer who refused to negotiate any issue with a union because it is a "management prerogative", could face court action if Sarmcol wins its case

Meanwhile, increased employer use of the court may highlight more sharply the rule that, in most cases heard by the court, both parties must pay their own costs

If employers are to use the court more, unions are going to have to find money to defend these actions But, of course, major companies have access to far more money than unions

If the law is not changed to allow the winning party to claim costs, some employers could use court action to deplete union finances and thus sharply weaken unions — win or lose

□□□

LABOUR insiders believe Mr Fanie Botha's resignation will not have a major effect on Government labour policy and they are almost certainly right.

Many factors point in that direction but perhaps the most important is that labour relations action has moved increasingly outside the Department of Manpower's direct control.

Indeed, departmental initiatives have become less and less of a factor on the labour scene

It would take a major effort by Mr Pietie du Plessis to reverse the trend and it seems unlikely he would try — particularly while senior Department officials, who have not sought to stop this trend, remain in place.

But one fear voiced by a senior employer source is that Mr Du Plessis, as a relatively junior Minister, may not have the clout to withstand demands from the security establishment for tough action against unions

Labour law not a shield for lax managers

(165)

23/11/83

Financial Reporter

THE primary responsibility for good labour relations rested with management, the Director General of Manpower, Dr P J van der Merwe, said yesterday.

He told the annual meeting of Alberton Industries Association that managements which failed to give top priority to labour relations, ignored the build-up of conflict conditions and neglected to take steps to avoid confrontation, could not expect legislsation to do the job for them nor protect them against reasonable grievances of workers.

Dr Van der Merwe said everyone, including the media, should be alert to generalisations, overreaction and ways of reporting which tended to inflame disputes.

Trade unions, workers and employers had little to fear and much to gain from the orderly industrial relations created by the Labour Relations Act.

The Act had not placed trade unions in a weaker positon and had not adversely affected their freedom.

Trade unions and workers had been the main benificiaries of amendments to the Act.

Dr Van der Merwe said total membership of trade unions increased from 727 000 in 1979 to 1,266-million in 1982.

The number of black workers who joined registered unions increased from nil to 395 000.

At the end of 1982 there were 78 registered mixed unions, with 576 000 members, compared to the 1979 membership of 203 000.

The wages of about 1,2-million workers were regulated by 84 industrial agreements at the end of 1982. No differentiation on the basis of race, colour or sex was permitted.

During 1982 60 applications for the establishment of conciliation boards were recommended. Only 14 were refused.

Industrial court matters increased from 36 in 1981 to 49 in 1982.

90 days to resolve mine row

Star 24/11/83

Labour Reporter

The dispute between the National Union of Mineworkers and Goldfields West Driefontein over the dismissal of 17 miners will have to be resolved by a conciliation board within the next 90 days or the case will go back to the Industrial Court.

A temporary order was handed down by the Industrial Court yesterday afternoon ordering the reinstatement of the miners, dismissed on September 22 for refusing to go underground because they considered the area unsafe

Labour lawyers have hailed the court's decision as a key to determining future disputes over workers' safety rights.

However, a spokesman for Goldfields refused to comment on the implications of the decision, other than pointing out that the order is only a temporary one.

" An interim order like this is usually decided on the balance of convenience," said the spokesman "All it will mean is the miners will be given back pay until a substantive hearing decides on the merits of the case."

LABOUR LAW (165)

Defining good faith

FM 25/11/93

Since the Industrial Court placed an apparent onus on employers to bargain in "good faith" with a representative union, question-marks have hung over defining exactly what is meant by this concept

Now, in a significant dispute, which could be headed for the court, the issue has been brought up by an employer against a trade union Howick company BTR Sarmcol has declared a dispute with the Metal and Allied Workers' Union (Mawu) The company charges that the union has committed an unfair labour practice for failing to bargain in good faith with it

Sarmcol has requested the Minister of Manpower to appoint a conciliation board to settle the dispute If the board does not succeed in doing so within 30 days, the matter may go before the court The outcome of such a case will have major implications for SA industry

At issue is a dispute over severance pay for a number of retrenched workers which arose after Sarmcol agreed to negotiate a recognition agreement with Mawu The union has demanded that the retrenched workers receive two weeks' severance pay for each year worked It wants to negotiate the pay issue at the same time as the recognition agreement

The company argues that the issues are different in nature and that Mawu is being inflexible for refusing to separate them This refusal, it says, is what constitutes the lack of good faith

Mawu denies these claims It says it has already reduced its demands for severance pay from four to two weeks, and indicated that it will fight the case if it gets to the Industrial Court

Curbs likely for industrial court

165

RDM 25/11/83

By STEVEN FRIEDMAN
Labour Correspondent

LEGISLATION to curb the powers of the Government's Industrial Court — which has played a major role in labour relations this year — is likely to be introduced

At a Press conference yesterday after a key summit of all the country's 104 industrial councils in Pretoria, the Director-General of Manpower, Dr Piet van der Merwe, said a law on the court's powers could be introduced in 1985

It is likely to strictly define an "unfair labour practice" — the concept trade unions have used to win unprecedented bargaining rights from employers in the court

This follows mounting employer concern over the role of the court Employers have argued that, because the definition of an "unfair practice" is very wide, the court's power to make law by setting precedents is too great

Dr Van der Merwe said yesterday that, at the meeting, industrial councils expressed concern at the wide definition of an "unfair practice" in the law

He said councils felt that this "created problems" for them "and could make them irrelevant"

According to Dr Van der Merwe, delegates to the meeting believed the problem could be met by strictly defining an "unfair practice"

In a statement, he said delegates believed that "greater clarity was desired on what the conciliatory function of the court should be"

Dr Anna Scheepers, immediate past president of Tucsa, said worker representatives at the meeting agreed that this change was necessary.

● See Page 2

Unions praise court decision

SEVERAL trade unions have hailed the Industrial Court decision (NUM) to reinstate 17 miners, all members of the National Union of Mineworkers, who were sacked by West Driefontein Gold Mine in October this year.

The unions contend that the decision is a "major breakthrough" in their fight against unfair dismissals. They will use this case as precedent, they said.

NUM took the mine concerned to court alleging that the dismissal of the workers constituted an unfair labour practice in terms of the Section 43 of the Industrial Relations Act.

The workers were dismissed after they had refused to work underground because they feared for their safety as the result of a rockburst which had earlier occured at the mine.

NUM's general secretary, Mr Cyril Ramaphosa, said that the decision was "an eye-opener" and conceded it had various implications concerning the position of miners. He said NUM would "use it to bargain for the rights of our members".

The workers, most of whom came from neighbouring states, expressed delight at the decision because they were without jobs for quite some time

"Thanks to the union", one worker said.

Industrial court sets the scene for tough safety negotiations

(165) RDM 28/11/83

LABOUR WEEK By STEVEN FRIEDMAN

THE industrial court's decision to grant temporary reinstatement to 17 National Union of Mineworkers members who were fired at West Driefontein seems to have set an important precedent.

The 17 were sacked for refusing to work in an area they considered unsafe — and what gives the decision its importance is that a Government enquiry later found the area to be safe

No reasons for the decisions have been released, but NUM's lawyers argued that, even if an area was found afterwards to be safe — as at West Drie — workers might have valid grounds for refusing to work in it (if, for example, there had been accidents there previously)

In such a case, they argued, the onus was on management to allay worker fears — in this case by allowing a union to intervene

The court has presumably gone some way to endorsing this which means that employers who refuse to negotiate with workers — and unions — in similar situations could face reinstatement orders against them

Though situations like that at West Drie are more likely on mines than elsewhere, there are factories where similar disputes could occur

So the ruling may well aid unions who want negotiation rights on safety

NUM says it will advise members to refuse to work in areas they consider unsafe and has urged mines to sign safety agreements with it to avoid court actions

Gold Fields, which owns West Drie, points out that the order is only temporary and has vowed to follow the dispute through the official machinery. It also suggests the order has not decided the merits of the case

But the fact that employers could face 90-day orders to reinstate workers in similar situations could act as a powerful incentive to negotiate on safety.

28/11/83

aimed, not at greater clarity, but at weakening unions

RDM 28/11/83

LAST week's first-ever "summit" of industrial councils rejected the view that councils need to undergo major changes to survive

The meeting, composed almost exclusively of supporters of councils, seems to have been taken up more with extolling the virtues of councils than with suggesting reforms to them.

The answer to emerging union opposition to councils was seen in publicising council activities widely and in greater "professionalism" by those on councils

Employer spokesmen argued that dialogue with unions who reject councils could persuade them to change their view and that unregistered unions — who can't join councils — and other opponents of the system should be involved in aspects of council activities.

Some established unions wanted unions to be forced to register

But a couple of suggestions aimed at improving the function of councils emerged — that their disputes machinery should be speeded up and their wage agreements published more quickly

No major legislation seems likely as a result — except on the industrial court — but the Department of Manpower will look at criteria for councils' representativeness

There was criticism from some quarters of employers who sign recognition agreements with unions, but no new law is planned on this

A key outcome of the meeting is that the department is to go ahead with a Bill to give the Minister of Manpower the power to exempt small businesses and rural employers from the minimum wages in council agreements

RDM 28/11/83

TURMOIL hit Olifantsfontein, outside Pretoria, in the past week

This centres on a dispute at Cullinan Industrial Porcelain, where some workers belong to Cusa's Building, Construction and Allied Workers Union

PAYDAY

NEW YORK — Amway Corporation sold enough floor polish last year to clean a foot-wide strip from the earth to the moon It sold enough bleach to wash three dozen nappies for every baby in the world's developed countries.

Its revenue was $1,2bn, it ran the world's largest radio network and paid about 1-million door-to-door salesmen in 40 countries This month it was fined $25m by a Canadian court for undervaluing its exports to Canada for several years

The Amway empire is built on the theory that the world can always use another oven-cleaner, a bar of soap, lipstick or a vitamin tablet — especially if it can be bought at home

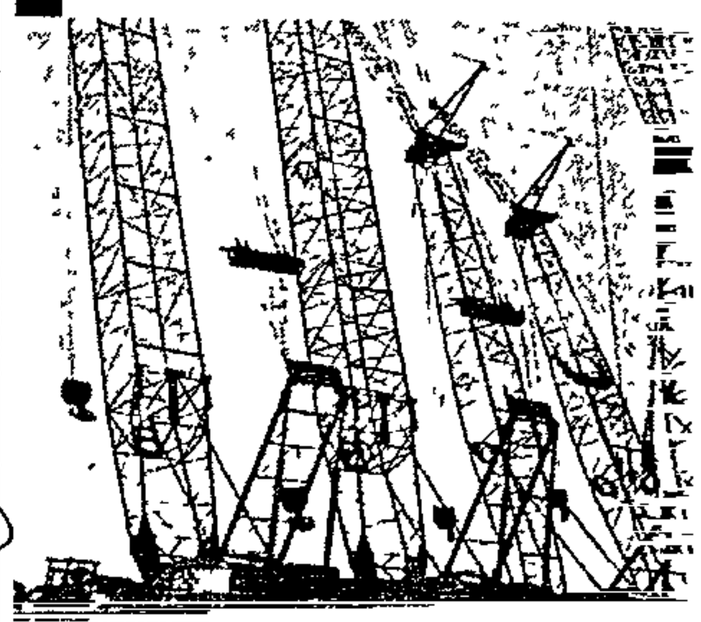
It offers the lure that anyone can go into business with a $75 sample kit and climb the free enterprise ladder by recruiting other distributors and sharing in their success along the way

But Amway's business practices have tinised by the Trade Commi the company cused by the Si consin of gerated get-r claims

The FTC case against investigators the company merchandise merely disti Wisconsin sett when Amway tone down its motional litera

Rich Devos, founded the years ago, was ing an inter the business replied "Nob that. Nobody has en this type of to this level A metics) is the the world in di — in what they old door-to-door

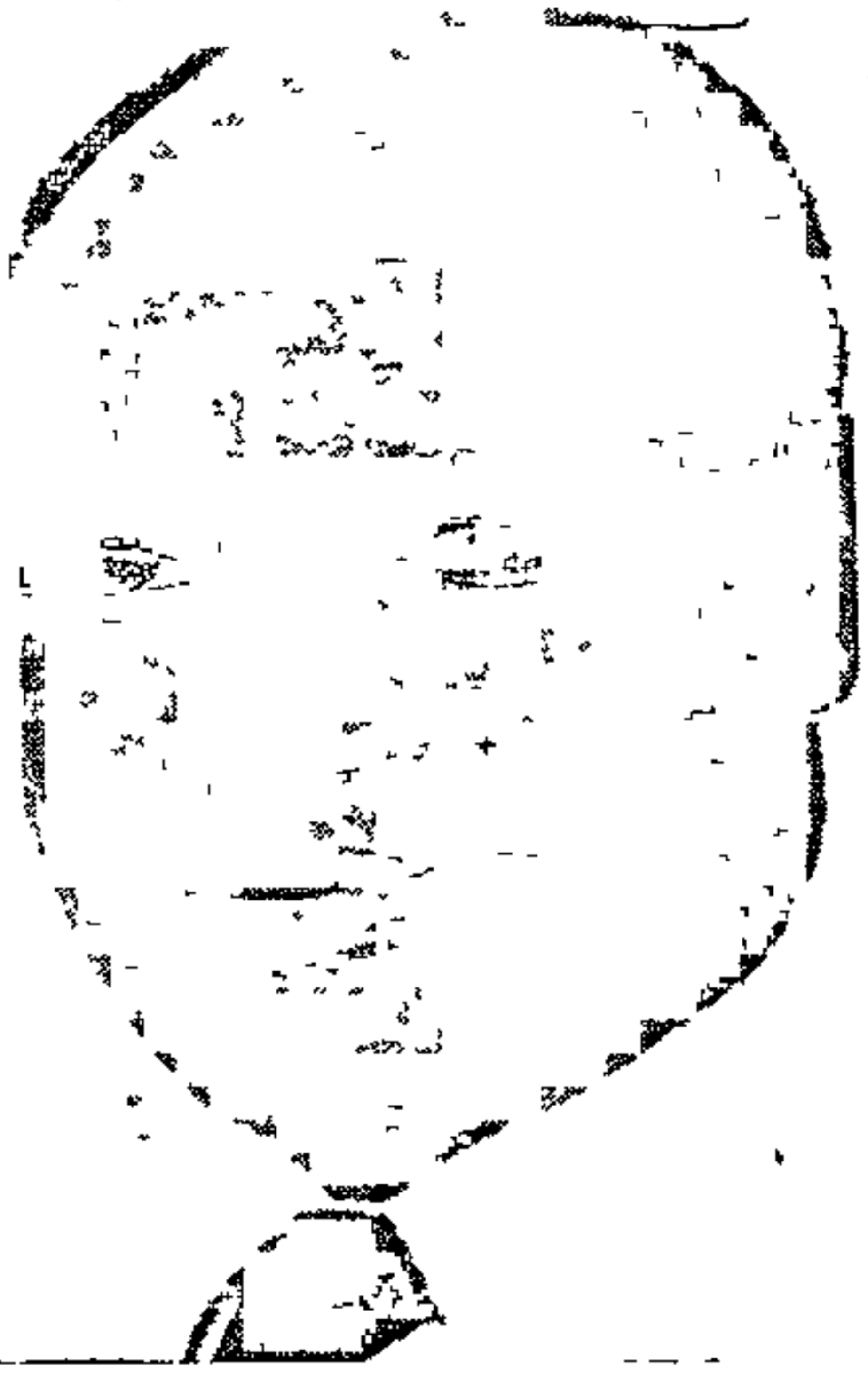
"But Avon more organi orthodox than ness. This little more free with everybody



2) ROM 28/11/83

hake off trade shackles

, trading partner of ·ẻ's determination to on its wealthy neigh-, both in Africa and eports from Harare.



C partners as well as nine sub-Saharan African coun-

ier Harare economists ex-ed concern at the declining between Zimbabwe and South a One said the pattern of trade the two countries was ly evening out largely due to s such as a depressed consum-rket in Zimbabwe and last s devaluation of the dollar, favoured Zimbabwean ex-

the downward trend could nue later although he doubted uld ever drop below 10% of bwe's total foreign trade

report says "If the advent of a more accommodating system for that country is imminent, the resource costs of effecting what will then be only a temporary diversion of trade would be out of all proportion to any effect it is likely to have precipitating events

"If, on the other hand, no early change in the South African political system can be expected, trade diversion may turn out to be a largely ineffectual but nonetheless painfully self-damaging gesture"

A spokesman for the South African Trade Mission in Harare said economic stability in Zimbabwe was in South Africa's interest and he expected no major change in trade between the two countries "for at least 10 years"

Although trade with Zimbabwe represented only a fraction of South Africa's foreign trade, trade and transport links through Zimbabwe were "very important in a regional context"

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porary and has vowed to follow the dispute through the official machinery It also suggests the order has not decided the merits of the case

But the fact that employers could face 90-day orders to reinstate workers in similar situations could act as a powerful incentive to negotiate on safety

28/11/83 ☐☐☐ 165

THE employer lobby calling for the industrial court's wings to be clipped seems to have won the day ROM

A new law is likely in 1985 to define an "unfair labour practice" more strictly

This follows last week's industrial council summit at which it was argued that the wideness with which the concept is defined in law gives the court excessive powers which interfere with the role of councils

Emerging unions have won major gains from the court and the call for change is a reaction to this Established unions back the employer view

There is nothing wrong with defining an "unfair practice" more strictly.

It is preferable for the law to spell out exactly what is "unfair", while still leaving the court some leeway

But much will depend on the new law's wording

If it "rolls back" union gains in the court — particularly the right to bargain where they represent a majority — the measure will appear to be

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the minimum wages in council agreements

ROM ☐☐☐ 28/11/83

TURMOIL hit Olifantsfontein, outside Pretoria, in the past week

This centres on a dispute at Cullinan Industrial Porcelain, where some workers belong to Cusa's Building, Construction and Allied Workers Union

Workers struck more than three weeks ago and were fired The plant closed temporarily, then reopened last week Strikers were selectively rehired

There have been demonstrations and a march by fired workers, police have raided their hostel and arrested over 100 on pass offences and management claims fired strikers have assaulted CIP workers

Workers at three other BCAWU plants in the area see the dispute as a test and have written to CIP demanding the reinstatement of the fired men They have also asked their own managements to intervene

At one company, Johnson Tile, a brief strike last week seems partially related to the CIP dispute

CIP sees all this as a "militant" campaign to gain recognition for BCAWU at the plant where, it says, it has only 25% membership

BCAWU insists the company is refusing to negotiate with its workers

Whatever the truth, the incidents show a cohesive BCAWU presence in the area

Union changes stance on legal recourse

(165) RDM 29/11/83

Labour Correspondent

THE unregistered National General Workers' Union has decided to make use of the Government's official dispute-settling machinery for the first time, its general secretary, Mr Donsie Kumalo, said yesterday

Mr Kumalo said this represented a change of policy as the union had been against using the official machinery in the past Union leaders' new stance would be put to members at a general meeting at the weekend for ratification

He said the change was being made for "tactical reasons" and would involve referring disputes to industrial councils and the industrial court

According to Mr Kumalo, the new stance would enable NGWU to declare disputes with two companies in the Pretoria area, MM Steel Construction and Bold Stone, who he accused of refusing to recognise the union "even though we have majority membership at their plants"

The disputes would be referred to the metal and building industries' industrial councils and, if they failed to settle them, to the industrial court, Mr Kumalo said

"It is an unfair labour practice to refuse to recognise a majority union and we believe both these companies have done this," he said

But a spokesman for Bold Stone expressed "total surprise" at Mr Kumalo's statement

"We are still negotiating with this union and this is the first I have heard of a deadlock or dispute However, you obviously don't recognise a union overnight and we have been holding talks on the subject In fact, we have been waiting for the union to come back to us with a date for further talks," he said

An MM Steel Construction representative also denied the company refused to deal with NGWU

RDM 30/4/83

Lay-offs again under focus in Frame dispute

165

By STEVEN FRIEDMAN
Labour Correspondent

THE industrial court's attitude to retrenchments will be tested further in a key dispute between members of the National Union of Textile Workers and the Frame Group of textile companies tomorrow.

Ten workers retrenched by Frame in October are alleging that their firing was "unfair" — in some cases because the principle of "last-in-first-out", whereby long-service workers are the last to be retrenched, was not observed.

Although the court has urged employers to negotiate on retrenchment, it has not ruled on whether principles such as "last-in-first-out" should apply.

The workers also allege the retrenchment of some of them is illegal because they are migrant workers who were fired before their contracts ended.

Frame has replied that its policy is that workers' efficiency, rather than the "last-in-first-out" principle, decides whether they are retrenched

It says this and other aspects of its retrenchment policy constitute "fair labour practices in the capitalist work environment"

It also denies that the migrants who were retrenched lost their jobs illegally. It says their contracts allow them to be retrenched at a week's notice.

The case, which is to be argued in Durban, takes place in the context of a continuing recognition dispute between Frame and the NUTW at its Frametex mill.

The Minister of Manpower has referred this dispute to the industrial court, but the Frame group wants the case postponed because, it says, it plans to go to the Supreme Court in a bid to overturn the Minister's decision.

This issue may also be raised at tomorrow's hearing

In papers before the court, eight of the 10 workers allege they were retrenched without either them or their union being consulted

Another two allege they were fired when they were transferred to another department, but refused to go until they were assured their conditions of employment would not change

One of the retrenched workers claims 19 years' service with the company and another 18 years' service

They say they were simply told they were to be retrenched and "promptly escorted from the premises".

The Frame group has replied by spelling out its retrenchment policy

While it insists that efficiency is its main criterion, it adds that, where workers have similar competence, the one with less service is retrenched.

It says its policy is that, where redundancies occur in one department, workers are, if possible, transferred to another.

This, however, means that, once they are transferred, they become the workers with the least service in their new department, says the company

£9

Ten in key test case

RDM 1/12/83 165

Labour Correspondent

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165 FM. 2/12/83

services, and that your employer must perceive that excess of worth over cost

Any subscriber to that ethic would conclude that the employer is obviously the appropriate judge of the question whether your services should be dispensed with or retained The legislature ought to impose some form of statutory constraint on the employer's freedom of action in regard to the arbitrary termination of the services of his employees However, the function of the court should be to decide not whether an employer acted correctly in coming to the decision to dismiss an employee, but whether that decision is one that could reasonably have been reached If the court concludes that it could, the court should uphold the employer's decision, even if the court, had it been the employer, would or might have come to a different conclusion

This jurisdiction of the court would be tantamount to the jurisdiction of the Supreme Court to review the proceedings of an administrative or quasi-judicial body The Supreme Court will not interfere in the result of the proceedings under review unless it comes to the conclusion that the tribunal whose proceedings are under review misapplied or failed to apply its mind to the matter or acted in bad faith Further, the Supreme Court will not interfere with the findings of fact of the tribunal whose proceedings are under review unless they are clearly wrong, or were made in bad faith

What has happened to date, however, is that the Industrial Court has placed itself in the position of the employer and treated reinstatement applications as if the court were the person or body in the employer's hierarchy responsible for discipline, and vested with the right of dismissing workers In one recent case the court found that the employer ought, instead of dismissing a worker, to have exacted a penalty that it would have been unlawful for the employer to exact — suspension for a month On the basis of this finding, the court ordered the reinstatement of the worker in employment with effect from a date one month after his dismissal Clearly, the court intended that the suspension should have been without pay, since its order was designed to have that effect

This should not be construed as implied criticism of the court, but rather of the legislature for conferring on it such an impractically wide and all-embracing jurisdiction Suspension, whether with or without pay, requires the employee to keep his service available to the employer, and therefore if the suspension is without pay it is against public morals and unlawful It is nothing more nor less than slavery

Retrenchment

As far as I am aware, the court has not yet laid down retrenchment guidelines But if the court continues to adopt the attitude that employment in private enterprise ought to be regarded as a sheltered occupation, it may be expected to interfere in both the decision to retrench and the criteria used in the selection of employees for retrenchment

If my worst fears are realised, the court will favour full employment in favour of retrenchment, and thereby concern itself in the making of management decisions it is hardly qualified to make, such as building inventory which cannot be sold, working short time (with the resultant underutilisation of often expensive equipment), or the like

As regards the selection of employees for retrenchment, the trade unionists argue hotly against using the "opportunity" of retrenchment to apply discipline, thereby confusing the application of discipline with the assessment of merit If they had their way, retrenchment would take place on a strictly "last in, first out" basis (subject to some qualification in favour of a migrant worker who, by virtue of length of service, is about to obtain his "Rikhoto rights") What has happened to the concept of reward for meritorious and dedicated service?

The assessment of the relative worth of an employee as opposed to his cost is one that only the employer, being at the workplace, can undertake The validity of this assessment as a criterion for selection of workers for retrenchment is likely to be tested before the court soon If the court negates the validity of that criterion, it will be equivalent to the acceptance of the, to me, undesirable, ethic that mediocrity rules in the workplace If the court accepts the validity of that criterion, it must surely concede that it is one that can be best be measured and applied by the employer

There is a crying need for the urgent amendment of the ruling labour relations dispensation in order to restore to employers the jurisdiction that they have traditionally enjoyed over the behaviour, composition and discipline of their workforces, while at the same time accepting some degree of control over arbitrary action The need for such amendment appears to have been recognised at the recent conference of industrial councils Its urgency was not, a department spokesman said the amendments could not be effected before 1985 Industrialists, who are hamstrung under the present dispensation, cannot afford that long a delay

In my opinion, the necessary amendements are

- ☐ A more precise definition of the concept "unfair labour practice," and
- ☐ The amendement of sections 43 and 46(9) of the Labour Relations Act, to limit the jurisdiction of the court to that of a court of review rather than a court of appeal From this would flow an acceptance of the employer's version of facts in dispute, unless sound reasons exist to doubt the employer's veracity, in which event evidence ought to be led and cross-examination allowed

Advice to miners

By JOSHUA RABOROKO

THE National Union of Mineworkers (NUM) has advised thousands of members on the mines to refuse to work in areas which they consider unsafe.

This advice was given by NUM's general secretary, Mr Cyril Ramaphosa, who said the workers should urge mines to sign safety agreements with it to avoid court action

The advice comes in the wake of an Industrial Court's decision to grant temporary reinstatement to 17 members of the union who were fired at West Driefontein gold mine

They were dismissed after refusing to work underground in an area which they considered unsafe, although a Government inquiry had earlier found that the place was safe

In another development, the gold mine has said that it will pay the workers for the period of the order — but will not allow them to work This means that the workers could lose their right to live in the hostel of the mine

- The enquiry into the Hlobane mine disaster which claimed the lives of about 67 miners, has been postponed from December 4 to January 24 next year

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Court hears of Frame dismissals

Mercury 2/12/83

Mercury Reporter

THE National Union of Textile Workers yesterday made an application to the industrial court for the reinstatement of 10 workers who were retrenched by the Frame Group recently

Mr Martin Brassey, a Johannesburg Advocate, told the Court that the retrenchments were unfair because neither the union nor the workers were consulted before they were dismissed.

The principle of 'last-in-first-out' — whereby long service workers are the last to be retrenched — was also not observed

It was also alleged that the retrenchment of some of them was illegal because they were migrant workers who were fired before their contracts had expired. Among those dismissed were employees with 19 years' service

In reply, Mr Douglas Shaw, QC, for the Frame Group said the group's policy on retrenchment was founded on efficiency rather than the 'last-in-first-out' principle and where workers have similar competence, the one with less service was retrenched

He said this and other aspects of Frame's retrenchment policy constituted 'fair labour practices in the capitalist work environment'

He denied that the migrants who were retrenched, were dismissed unfairly. Their contracts allowed them to be retrenched at a week's notice

In affidavits filed in court the company says that where redundancies occurred in one department, workers were, if possible, transferred to another

This, however, meant that once they were transferred they became the workers with the least service in their new department

Mr Brassey was instructed by Chennells, Albertyn and Seymour, and Mr Shaw by Garlicke and Bousfield

The court deferred its ruling

FM 2/12/83 (65) 2/12/82 Argus in time

At one stage the White Paper goes so far as to state "It will depend on the community concerned to what extent education of an equal quality does, in fact, develop"

This can, and has, been interpreted as meaning that black communities will be expected to make good the drastic under-provision of facilities caused by decades of government neglect

Not quite Education and government sources also point to the White Paper's commitment to "equal" education and to "continue with the process" of eliminating the backlog of facilities for blacks This can only be done by steering more money to the various black education departments (given government's refusal to set up a single ministry)

The White Paper does speak of "levies to be collected at local level in order to supplement financial resources" But for the foreseeable future such levies are likely to be of significance only in the white areas

Despite government's denial that it will "lower" existing (meaning white) educational standards "in order to eliminate any backlogs," the financial section of the White Paper can only mean that in future the amounts voted for various black education departments will grow significantly faster than those for white education

White parents, if they wish to maintain standards, will have to subsidise school budgets from their own pockets

LABOUR DISPUTES (65)

Workers acquitted

Nine workers dismissed by Barlows Manufacturing for allegedly intimidating other workers during a work stoppage in July have been acquitted on charges of assault and public violence by the Wynberg Magistrate's Court

The nine were among a group of 12 workers originally charged after a work stoppage over a wage demand by members of the Metal and Allied Workers' Union (Mawu) at the factory The State later dropped charges against three.

The acquittal follows an Industrial Court hearing in which Barlows argued that it was entitled to dismiss any workers provided it gave the necessary notice Barlows claimed the court did not have the jurisdiction to hear the case and asked for it to be heard in the Appeal Court

On October 19 the Industrial Court ruled that an unfair labour practice could occur even if specified notice is given and that it therefore did have the jurisdiction to hear the case

The issue has now been referred to the relevant industrial council Barlows has agreed to pay workers' wages from the time of their dismissal until the end of January, or until the matter is settled by the council or the court, if the matter is referred back to it.

LRS

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Advertising

making money

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help them survive

Govt urged to support backyard business

(165) E. Post 3/12/83

By WILMAR UTTING

THE National Manpower Commission is to urge the Government to slash the red tape and actively support township backyard businessmen instead of treating them as illegal

This could herald a major breakthrough in breaking down racial business barriers

The report is due to be released next month by the Minister of Manpower Mr Pietie du Plessis

It is understood that the report stresses the importance of the small businessman to the country's economy and the need for a relaxation of legal restrictions impeding his development

It also calls for the abolition of all race discrimination [illegible] previously urged in the Riekert report

[illegible] reveals that in Soweto one in four people is engaged in some type of backyard money-making activity, and recommends that big businessmen and the Government — the country's biggest [illegible]umer — become customers for articles produced by such "illegal [illegible]repreneurs

Government department [illegible]ment [illegible]ged to re-train their officials to relax their interpretation of regulations affecting the small

● Turn to Page 3

Call to slash black business red tape

E. Post 3/12/83

● From Page 1

businessman and to make sure "standards are not so high they cannot possibly be met"

The study is titled "An investigation of the small business sector in the Republic of South Africa, with special reference to factors inhibiting the growth of the informal sector"

It was undertaken by a sub-committee headed by Dr Hennie Reynders, chairman of the National Manpower Commission

The 18-month investigation was an extension of a study by the Department of Management at Pretoria University to expose the legal impediments which hamper aspirant small businesses, the director-general of the Department of Manpower, Dr Piet van der Merwe, said this week

The expanded probe also involved the financial and administrative problems, he said, including obstacles raised by public officials in their interpretation of regulations

"A number of Government departments will be involved," he said

Dr Van der Merwe said the report would be submitted to the Minister for release next month

"The Minister may, of course, decide to take decisions on the report before releasing it," Dr Van der Merwe said

The report refers to a starting list of more than 70 laws which impede the growth of a small business

A total of 15 Acts were named as specific obstacles

They include

- The Group Areas Act, which forbids a black businessman to operate in a white area
- The Bantu Urban Consolidation Act
- The Factories, Machinery and Building Act
- The Apprenticeship Act
- The Shops and Offices Act
- The Liquor Act
- The Unemployment Insurance Act
- The Road Transportation Act

Agricultural legislation, ordinances and by-laws were also named

SUNDAY TRIBUNE, DECEMBER 4, 1983

Employers want curb on labour's use of Act

By Deon Delport

Employers and established trade unions encouraged the Government this week to curtail one of the most effective weapons emerging unions have used against employers during disputes.

The result of this week's historic meeting between the Government, employer organisations and trade unions, to look at the role of industrial councils, will probably be a curbing of the powers of the Industrial court in interpreting the concept of an "unfair labour practice."

The concept has been used, especially by the emerging unions, as a way of winning bargaining rights against employers, observers pointed out.

Dr Piet van der Merwe, Director-General of the Department of Manpower, summing up the day's meeting at a press conference, referred to the "concept of an unfair labour practice" as the most important problem area identified.

He said problems resulted from the very wide definition of an unfair labour practice in the Act.

"It created problems for Industrial Councils and there was the feeling in some quarters that it makes the whole Industrial Council responsibility in the field of mediation and settling disputes irrelevant."

He said there was also general concern that the wide definition "can lead to an abuse of that definition." All the parties would have to rethink their concept of an unfair labour practice, he said.

Trade unions have more frequently this year turned to the Industrial Court to interpret the unfair labour practice provision.

In some employer circles, fear has been expressed about the court's findings and it has been argued that the definition is too wide.

No change to the definition could be introduced before the 1985 Session of Parliament, Dr van der Merwe said.

Also at the conference, Dr Anna Scheepers, a past president of the Trade Union Council of South Africa, a federation of mainly established unions, many of whom are competing for members with the emergent unions, said trade unionists present had agreed that the concept needed revising.

Mwasa v The Star

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Right to fire workers is clarified

12/83 Star

By Carolyn Dempster, Labour Reporter

An important legal precedent regarding the right of employers to dismiss striking workers has been set by the Industrial Court in the case brought by the Media Workers' Association of South Africa against The Star

The application by Mwasa for the reinstatement of 209 workers was turned down by the court on the basis that the applicants had failed to establish a prima facie right to strike

The significance of the judgment is that:

- In view of the vague definition of an unfair labour practice, it clarifies the right of an employer to fire striking workers
- It is likely to boost the confidence of employers who seek to dismiss workers from now on
- The only way unions will be able to protect their members is through negotiating contracts preventing employers from dismissing striking workers for a stated period of time.
- It is one of the few cases taken to the industrial court by a union to be won by an employer.

The application, in terms of section 43 of the Labour Relations Act, was made by Mwasa in June after The Star fired 209 workers

The workmen went on strike over the dismissal of one of their colleagues, Mr Oupa Msimang

In his finding, Mr D R van Schalkwyk said that, in view of the disciplinary history of Mr Msimang, "the respondent ... revealed unsurpassed leniency towards him, rendering his dismissal totally justified"

Mwasa alleged that The Star management ignored disciplinary procedures in Mr Msimang's dismissal.

The court made two important rulings in this regard

- That the "protection" in a system of procedures is not unilateral protection for the benefit of the employee only, but is bilateral and affords protection to the employer as well.
- That the action by the 209 workers constituted a strike and not a work stoppage as argued by the union, and that even if final agreement on disciplinary procedures has not been reached by the two parties, "it does not imply that anarchy is to reign in the interim"

Severance payments accepted

Labour Reporter

The Media Workers Association of South Africa has accepted the R100 000 severance settlement offered to the 209 workers dismissed by The Star earlier this year.

The union was given until November 30 to accept the offer. After receiving the Industrial Court judgment on the application for the reinstatement of the workers, the union decided not to take the matter further and to accept the severance offer.

Payments were pegged to the length of service of the individual employees dismissed and ranged from R250 to R2 000.

'Successful' talks on fuel supplies to SA

The Star's Foreign News Service

ROME — Mr Pietie du Plessis, the Minister of Manpower, has had vital discussions in London and in Rome about the supply of petroleum to South Africa

This was confirmed here yesterday by Mr du Plessis

In an unpublicised visit, Mr du Plessis met businessmen in London and Rome, held discussions with Dr Chester Crocker, the Reagan Administration's Assistant Secretary of State for African Affairs, and Mr Clelio Darida, the Italian Minister of State Industries

Mr du Plessis stressed that the businessmen he referred to were acting on behalf of "other countries"

He commented yesterday "There is very little that I can say about these discussions except that they were highly sucessful from the point of view of assuring the supply to South Africa of petroleum at satisfactory prices"

In Rome on Tuesday, Mr du Plessis paid what he referred to as a "courtesy visit" to Mr Darida "I used the opportunity to discuss the supply of coal from South Africa to Italy"

When he met Dr Crocker on Tuesday, Mr du Plessis discussed largely labour relations and trade union affairs "We discussed the South African Government's labour policy, my own attitude to these problems and how I see the road ahead

"In turn, Dr Crocker gave me an extensive outline of his government's position on the labour situation in South Africa"

Mr du Plessis left for South Africa today

Textile workers in ongoing court saga

165 NDM

Labour Correspondent

8/12/83

A KEY Natal Supreme Court case between the Frame textile group and the National Union of Textile Workers (NUTW) was postponed yesterday — but the two sides are due to contest yet another key case today

The recognition dispute between Frame and the union has been marked by repeated legal actions which have led observers to describe the dispute as a "legal war of attrition"

Today's case will be the third prompted by the dispute to be heard by the ordinary courts and the dispute has also prompted two Industrial Court actions

Today's case involves Frame's alleged refusal to stop deducting union dues from the pay of 250 workers at its Pinetex mill who have resigned from the Textile Workers Industrial Union (TWIU) to join the NUTW

In the case due to be argued yesterday, Frame wanted the court to set aside a decision by the Minister of Manpower referring its recognition dispute with NUTW to the Industrial Court

Mr Acting Justice Galgut ruled, however, that the case was not urgent and declined to hear argument on it He postponed the case until January 27

The dispute centres chiefly on NUTW's demand for recognition at Frame's Frametex mill in New Germany, where it claims Frame has favoured the TWIU, even though it represents a minority of workers

Frame argues that the TWIU represents a worker majority in its New Germany complex — which contains several mills — and is therefore entitled to facilities ahead of NUTW

Today's case has been brought by the union, which alleges Frame has contravened the Basic Conditions of Employment Act by refusing to cease deducting dues from workers who have resigned from a union without that union's consent

It says the workers asked Frame to stop deducting money from their pay on behalf of the TWIU but that Frame said it would do this only if the union agreed

9/12/83 (165) (151) (157) (140A) RDM

Deductions are 'illegal'

Mail Correspondent

DURBAN — The massive Frame Cotton Corporation was accused of making illegal deductions from workers' pay for subscriptions to the Textile Workers' Industrial Union of South Africa (TWIU), a Durban civil court magistrate heard yesterday

This allegation was made by Mr J N Sithole and 18 other workers at Frame's Pinetex mills, when they applied to the court for an order declaring the deductions unlawful and interdicting the company from continuing the deductions

Mr Sithole said in papers filed before Mr G J Botha that he had been employed by the company since January 1966 He and the other workers became members of the TWIU in September 1982

They resigned from the union a year later and withdrew their stop order authorisation to the company and the union They have since joined the National Union of Textile Workers

In their submission the workers said the continued deduction of money from their pay for subscription to a union to which they no longer belonged constituted a criminal offence and told the court that they planned to lay criminal charges against the company

Mr Selwyn Lurie, joint managing director of the Frame group said in a replying affidavit that the company recognised the TWIU as the "collective bargaining representative" for the company's workforce at the Pinetex mills

He denied that Mr Sithole and the 18 others had resigned from the TWIU

In terms of the union's constitution, members must give one month's written notice to the union's regional director if they wanted to resign No resignation may be accepted until all money owed by members to the union were paid

As far as the company was concerned the workers were registered members of the TWIU and in terms of an agreement between the company and the TWIU, the company accepted the mandates of the workers to make deductions from their pay in favour of the TWIU

Frame maintains that the mandate had not been revoked and until such time that it was, the company was compelled to abide by it

Judgment was reserved

LABOUR LAW

Redressing the balance

Employers who have become nervous about the rising number of union victories at the Industrial Court will be comforted by the outcome of the court battle between the Media Workers' Association of SA (Mwasa) and *The Star* newspaper

In March this year, 209 black workers were dismissed by *The Star* for taking part in a strike They had refused to work unless a fellow union member — Oupa Msimang — was reinstated, pending an appeal against his dismissal for allegedly threatening the life of a supervisor After failing to persuade the newspaper's management to re-employ the strikers, the union sought their reinstatement through a court application under Section 43 of the Labour Relations Act

This court action was significant because it raised important questions about the application of disciplinary and grievance procedures — and the ability of an employer to dismiss striking workers *en masse* In October, the court announced that it had rejected the union's reinstatement application But it has only been during the past week that copies of the full, written judgment have finally become available The reasoning will soothe many employers who have begun to argue that they are hamstrung by unions' increasingly effective use of Section 43 *status quo* orders

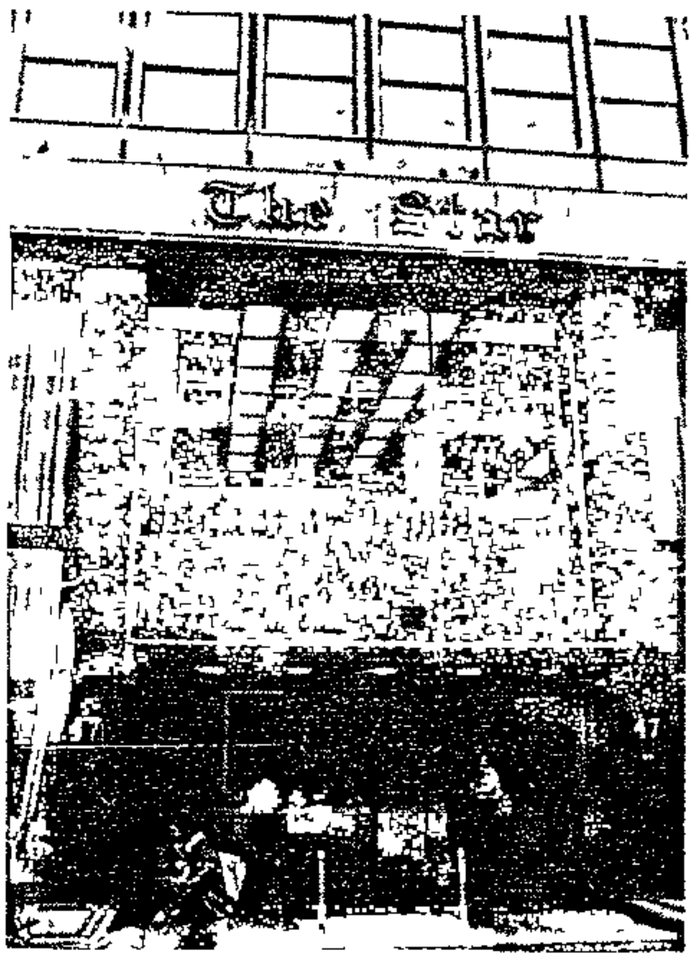
The union had claimed that management had precipitated a work stoppage by the irregular manner in which it dismissed Msimang But the court has determined that the workers did, indeed, take part in a strike, as defined by the Labour Relations Act Further, according to some observers, it seems to have endorsed the traditional view that the existence of an alleged unfair labour practice is not necessarily a protection against dismissal of employees who take part in a strike

An important issue at stake in this case was the legal status of the newspaper's disciplinary policy and procedure and its grievance procedure Long before the dispute, the newspaper's management had submitted copies of these to Mwasa, but got no response beyond an indication that they had been referred to the union's lawyers The court found that this therefore made the formal implementation of the policy and the procedures by management "a unilateral and subsequently futile operation"

However, the court found that there had, indeed, been informal adherence to the procedures and that this had in no way prejudiced Msimang On the contrary, the court says, in dealing with offences committed by Msimang, management "revealed unsurpassed leniency towards him, rendering his dismissal totally justified"

An important feature of the judgment is the court's forthright criticism of the union's behaviour It refers to Mwasa members' insistence that Msimang — "a potentially dangerous character" — should be reinstated as a condition for their return to work Says the judgment "The court finds it difficult to perceive why the applicants (the Mwasa members) under the prevailing circumstances did not reveal a compromising approach in an effort to restore the *status quo*" Later in the judgment, the court refers to their "defiant and unreasonable attitude"

It also says that if they truly believed that Msimang had been unfairly dismissed, it was "incomprehensible" why his case was not referred to the court in the manner prescribed by the Labour Relations Act



The Star ... management's 'unsurpassed leniency'

TOWNSHIP POLLS

The fatal flaws

Government analysts are arguing that the low polls in the recent elections held in terms of the Black Local Authorities Act were due to poor timing But the local government structures provided for in the Act, while having many advantages, seem fatally flawed for two reasons

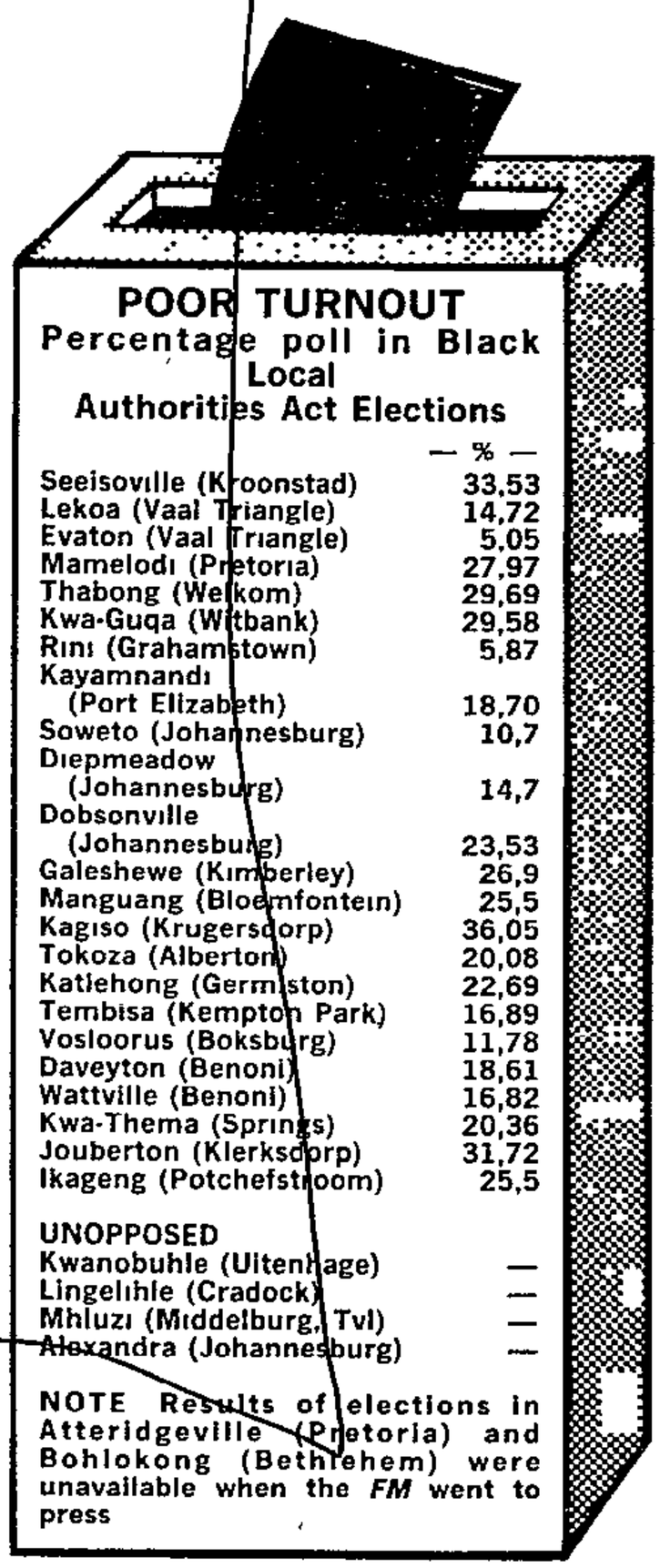
☐ They retain the hated, paternalistic mechanisms of administration boards (to be phased into semantically more acceptable-sounding community development boards), and

☐ They lack the rudiments of a viable financial basis

"Blacks were asked to vote for boots without laces," a senior government official admitted this week Despite Minister of Co-operation and Development Piet Koornhof's talk of "progress" (from a 6% poll in Soweto in 1978 to 10,7% last week and an average 21% poll countrywide, with two small townships yet to vote), there is deep disappointment in Pretoria that blacks did not embrace the new system with open arms

The official attitude is, in many ways, as

continued on page 43



POOR TURNOUT
Percentage poll in Black Local Authorities Act Elections

	— % —
Seeisoville (Kroonstad)	33,53
Lekoa (Vaal Triangle)	14,72
Evaton (Vaal Triangle)	5,05
Mamelodi (Pretoria)	27,97
Thabong (Welkom)	29,69
Kwa-Guqa (Witbank)	29,58
Rini (Grahamstown)	5,87
Kayamnandi (Port Elizabeth)	18,70
Soweto (Johannesburg)	10,7
Diepmeadow (Johannesburg)	14,7
Dobsonville (Johannesburg)	23,53
Galeshewe (Kimberley)	26,9
Manguang (Bloemfontein)	25,5
Kagiso (Krugersdorp)	36,05
Tokoza (Alberton)	20,08
Katlehong (Germiston)	22,69
Tembisa (Kempton Park)	16,89
Vosloorus (Boksburg)	11,78
Daveyton (Benoni)	18,61
Wattville (Benoni)	16,82
Kwa-Thema (Springs)	20,36
Jouberton (Klerksdorp)	31,72
Ikageng (Potchefstroom)	25,5
UNOPPOSED	
Kwanobuhle (Uitenhage)	—
Lingelihle (Cradock)	—
Mhluzi (Middelburg, Tvl)	—
Alexandra (Johannesburg)	—

NOTE Results of elections in Atteridgeville (Pretoria) and Bohlokong (Bethlehem) were unavailable when the *FM* went to press

Think before firing warning to firms

165 ROM

14/12/83

SUMMARY dismissal of workers could land more employers in court

Labour practices were changing so markedly that companies had to think twice, advised Stellenbosch University's Professor S M Swart, before firing staff without hearing all sides of the dispute

Discussing what he referred to as a landmark ruling on unfair labour practices, Metal and Allied Workers' Union vs Stobar Engineering, he said "Unfair dismissals are becoming increasingly significant in South African labour law. Employers will have to be far more cautious in their approach towards dismissing employees, especially when they are represented by a union which has the resources and experience to challenge employers' actions in court," he told a West German seminar

Among the influences of industrial courts was the curbing of an employer's ability to victimise staff in labour disputes.

Prof Swart, head of industrial relations at the Graduate School of Business, told the Kronberg meeting the number of cases dealt with by industrial court hearings had increased rapidly. By the end of 1980 there had been 15 disputes of which only one dealt with unfair labour practice Last year 41 cases, of which 15 dealt with unfair labour practices, were heard.

"Moreover, the court is starting to exert a significant influence beyond the cases it hears The threat of an unfair labour practice case often induces out-of-court settlements"

Prof Swart said that among new benchmarks set by the hearings were

- Employers must have reasonable grounds for dismissals and have conducted thorough investigations into the alleged misconduct,
- Workers faced with dismissal should be given a chance to give their side of the story;
- Employers may not refuse to negotiate with representatives of registered trade unions,
- Employers may not prevent employees becoming members of trade unions,
- Employers may not reduce pay nor unfavourably alter conditions of employment on the basis of trade union affiliation.

Curbing of abusive manpower practices would have to be, he added, matched by more moderate attitudes among workers whose disruptive behaviour would also be weighed in the rulings of industrial court hearings

"Companies will have to prove that equitable disciplinary and dispute-settling procedures exist and are utilised Employers who face litigation over alleged unfair dismissals will not only have to contend with high legal costs but also with the possibility of having to pay large amounts of money in back-pay."

Prof Swart said Section 46 (9) of the Labour Relations Act had become "a key clause with respect to the potential which it provides for bringing an alleged unfair labour practice to court and it will probably be used with increasing frequency". — Sapa

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Industrial Court setting precedents

Mercury 15/12/83

JOHANNESBURG — Significant precedents are occurring as a result of the increasing role being played by the Industrial Court in resolving labour disputes — among them the fact that employers' freedom to victimise workers has been curtailed

This was said by Prof S M (Blackie) Swart, head of industrial relations at the University of Stellenbosch Graduate School of Business, at a seminar in Kronberg, Germany The seminar dealt with South Africa's economic relations with Germany and the subject of Prof Swart's address was 'Future aspects of the South African economy in the context of political developments'

Cases

Prof Swart said the number of cases which had been heard by the Industrial Court had increased rapidly Whereas by the end of 1980 it had dealt with a total of 15 matters, of which only one concerned unfair labour practice, during last year alone it had 41 cases, of which 15 were about unfair labour practice 'Moreover, the court is starting to exert a significant influence beyond the cases it hears, as the threat of an unfair labour practice case often induces out-of-court settlements and peaceful resolutions,' he said

Prof Swart cited several Industrial Court hearings which have crystallised industrial relations practices for the future Among the issues on which clarity had been gained were

- An employer must have reasonable grounds for dismissing an employee and must have conducted a thorough investigation into the alleged misconduct before sacking a worker,
- A worker faced with a dismissal should be given an opportunity by an employer to present his side of the matter,
- An employer may not refuse to negotiate with a representative of a registered trade union,
- Employers may not insist that employees may not be members of a trade union or other similar association of employees, and
- An employer may not reduce the rate of remuneration or unfavourably alter conditions of employment on the basis of trade union affiliation by employees

Danger

Prof Swart said there was now sufficient proof that 'ad hoc manpower practices constitute a significant danger to the potential viability of a business concern in South Africa'

He added 'As a corollary it is suggested that disruptive behaviour on the part of employees could be viewed in a similar negative light by the Industrial Court'

Discussing what he referred to as a landmark ruling on unfair labour practices (The Metal and Allied Workers' Union vs Stobar Engineering), he said 'Unfair dismissals are becoming increasingly significant in South African labour law Employers will have to be far more cautious in their approach towards dismissing employees, especially when they are represented by a union which has the resources and experience to challenge employers' actions in court

Procedures

'Companies will have to prove that equitable disciplinary and dispute-settling procedures exist and are utilised Employers who face litigation over alleged unfair dismissals will not only have to contend with high legal costs but with the possibility of having to pay large amounts of money in back pay'

Prof Swart said Section 46 (9) of the Labour Relations Act had become 'a key clause with respect to the potential which it provides for bringing an alleged unfair labour practice to court and will probably be used with increasing frequency in the future' — (Sapa)

Parow firm to reinstate workers

Cape Times 15/12/83

Labour Reporter

A PAROW engineering firm, Plaza Engineering, yesterday backed down in the face of an industrial court action brought by the General Workers' Union (GWU) and agreed to reinstate 13 workers it retrenched earlier this year.

The workers, who were laid off in September, will be reinstated pending the negotiation of a "mutually acceptable retrenchment procedure", according to a statement issued by the GWU yesterday.

In the process, they will receive arrear wages amounting to about R10 000 for 2½ months of the three months in which they have been out of work.

Agreement was reached in an out-of-court settlement between the two parties before the industrial court was to hear an application for reinstatement of the workers and payment of arrear wages yesterday.

In its statement the GWU said it was "satisfied" with the settlement and added. "Had management agreed in the first place to negotiate in good faith with the representative union, it would not have been subject to the heavy financial commitment which the settlement extracts."

A union spokesman said the workers were likely to be retrenched again, but this would now occur in terms of a "proper retrenchment procedure".

According to the spokesman, the firm informed its workers on September 15 that it would have to lay off workers but said it would consult the union shop stewards' committee before doing so.

However, it retrenched 16 workers the next day without consulting the committee or the union.

The GWU brought the court action after the firm refused to reinstate the workers and negotiate their retrenchment. Three of the workers concerned had subsequently been re-employed.

The spokesman said the union would continue to press for a recognition agreement.

Union court tussle settled

RDM 15/12/83 165

By STEVEN FRIEDMAN
Labour Correspondent

SOUTH AFRICA'S first-ever industrial court action brought by an employer against a trade union for an alleged "unfair labour practice" has been settled out of court, the Howick metal firm BTR Sarmcol said yesterday

The settlement also appears to have ended a dispute declared by the Metal and Allied Workers Union (MAWU) — which Sarmcol sought to take to court — against the company

Sarmcol said in a statement the settlement meant the two sides had agreed to negotiate on union recognition, severance pay, and wages in the new year

The dispute between the two sides began after negotiations in which they deadlocked over MAWU demands that severance pay for retrenched workers be written into the recognition agreement between it and Sarmcol

MAWU declared a dispute with the company — a first step towards taking it to the industrial court — arguing that it was an unfair labour practice for the company to refuse to negotiate severance pay with it

Sarmcol, which said it was not against severance pay but wanted to negotiate this separately, later hit back by declaring its own dispute with MAWU

The company alleged the union was guilty of an unfair labour practice because it "refused to bargain in good faith".

Yesterday the company's statement said the two sides agreed in an out-of-court settlement to meet again in the new year for negotiations

The talks would be aimed at

- Completing negotiations for an agreement detailing the procedural aspects of MAWU's recognition,
- Establishing a mutually acceptable severance pay policy;
- Setting up wage negotiations in April, 1984, for a review of wages

Store told to reinstate staff

Mercury (165) 21/12/83

· Mercury Reporter

A HILLCREST supermarket, Richdens Foodliner, which holds the Spar franchise, has been ordered by the Industrial Court to immediately reinstate four workers who were retrenched recently

Miss Colleen Richardson, of the Legal Resources Centre which made the application on behalf of the Commercial, Catering and Allied Workers' Union of South Africa, said yesterday that the reinstatement order was retrospective to the date of their dismissals

The four workers, Mr Ernest Gumede, Mavis Vezi, Angeline Ngwane and Winnie Phewa — all members of CCAWUSA — were laid off during September and October

The Legal Resources Centre was approached and the matter was referred to the Industrial Court

Miss Richardson said the dismissals were unlawful

Mr David Dennison, managing director of the supermarket, said the company's attorneys had been instructed to take the Industrial Court ruling on appeal to the Supreme Court

He said the company had valid reasons for dismissing the workers and denied allegations that it was an act of victimisation because of their trade union involvement

22/12/83 Mercury

Court orders reinstatement

Mercury Reporter

A NATAL transport company, Cargo Carriers, has been ordered by the Industrial Court to reinstate immediately one of its workers who was dismissed after refusing to work overtime

Mr Alson Dlamini, who had been employed by the company as a conductor for the past seven years, is back at his job, according to Mr Satchie Govender of the Legal Resources Centre, which took the matter to the Industrial Court

Mr Govender said the reinstatement order was made retrospective to August 11 — the date on which Mr Dlamini was dismissed

In papers filed in court, Mr Dlamini said his services were terminated by the company's branch manager when he refused to work overtime

He said that about 5 p m on August 10, immediately after he finishing work and clocked his card, he was approached by the branch manager and asked whether he would like to work overtime

Mr Dlamini replied that he could not because he had no transport to get home late at night, but said he would be willing to work if the company provided transport

'The manager then replied that if I did not want to work overtime I must come in and sign off the next day,' he said

In a replying affidavit, the branch manager said that the particular division in which Mr Dlamini was employed as a conductor had at all material times been an overtime intensive activity'

He said Mr Dlamini had refused to work overtime on previous occasions and once encouraged a co-worker to also refuse to work overtime

'Not only are drivers and conductors required to undertake long journeys but it frequently happens that the maintenance and repair of trucks is completed at or about the end of the working day and caravans or mobile homes are required to be loaded on to the trucks for delivery the same evening' he added

REINALD HOFMEYR

Barlow Rand and Fosatu

In its 1983 annual report, Barlow Rand questioned certain objectives of the Federation of SA Trade Unions (Fosatu) and expressed concern about some of its affiliates' strategies The *FM* spoke to Barlow Rand Group Industrial Relations Director Reinald Hofmeyr about these and other labour issues

***FM*: The Barlows annual report cites the need for a *modus vivendi* to be found with some Fosatu unions Will it be possible to find common ground with them during the coming year?**

Hofmeyr: I think the year ahead is going to be an extremely difficult one Perhaps at this point I should say that where the press is talking about a change of stance on the part of Barlows or a hardening of attitudes, that is not really the way we see it

The great cause for concern in our minds is the fact that there definitely has been a deterioration of relationships between some of our companies and some of the Fosatu unions And here we find ourselves in a bit of a catch-22 situation in that we were one of the very first major companies to say publicly that we respected the right of our employees to decide by whom they should be represented We agreed to negotiate with unions regardless of whether they were registered or unregistered, and regardless of whether they were parties to industrial council agreements or not

This drew a great deal of sharp criticism from some employers and employer organisations on the basis, as they put it, that we were "letting the side down" We are unrepentant We still believe it is the best line to follow, and I think we have shown our good faith by the very large number of recognition agreements we have concluded

Yet it is from these very unions that we have recognised — against the advice of other employers — that we now face this increasing hostility

The last thing we want is confrontation, but we are really facing some extremely grave difficulties in our relations, particularly with the Metal and Allied Workers' Union and the Paper, Wood and Allied Workers' Union We are having to contend with loss of production due to wildcat strikes, bans on overtime, violence against non-strikers in one instance, attacks on our chairman and snide remarks about our code of employment practice — a code which we take very seriously

I think we will have to come to some sort of accommodation with the unions in this regard if a *modus vivendi* is to be found I don't think we can continue to tolerate some of the methods that are being used

Would it be correct to say that much of the breakdown in relationships is being caused by an apparent drive by some unions towards greater worker and union participation in decision-making?

Yes Dealing with Fosatu for the moment, this greater participation in decision-making is entirely in line with their long-term objectives as we see them, and as they were spelt out in (Fosatu general secretary) Joe Foster's policy statement at the Fosatu congress

We believe that capitalism, despite whatever faults it may have, is still the best recipe for sorely-needed economic growth We have great difficulty in accepting the signing away of what we perceive as management's obligation to take certain decisions in the interests of the people who provide risk capital and enable us to survive and grow

So while we are prepared to negotiate on any matter relating to the contract of employment, we have been unwilling to enter into recognition agreements where we or our companies are called upon to negotiate on any matter of "common interest," which obviously would include such things as where you site your plants and what production methods you use And this, I think, is possibly a cause of frustration and annoyance on the part of some unions

Are there not some issues where such union participation can be useful — for example, productivity, retrenchment and safety?

Yes Retrenchment is, of course, a very difficult issue But while we would not negotiate on whether retrenchment is necessary, we would certainly be happy to negotiate on possible alternatives to retrenchment In fact, unions have been very helpful with their suggestions on some occasions There can also be negotiations over the criteria to be used to determine who should be retrenched Compensation for retrenchment is a very fair issue for negotiation as well

Slow progress is being made in talks between the Chamber of Mines and white-led mining unions over the phasing out of discriminatory practices Do you think an agreement can be achieved in 1984 on, for example, allowing black workers to hold blasting certificates?

I am not optimistic because there has been no softening, to my knowledge, of the attitude of the Mineworkers' Union I think sooner or later government will simply have to do what it gave notice of doing — and that is in the absence of some agreement, to intervene The restriction of blasting certificates to certain race groups is unacceptable

Some Barlows companies have faced inter-union rivalry during the past year. What approach should management adopt towards such a problem?

I think we have been very clear about this ever since we issued guidelines to our managers as far back as 1980 We believe managements should remain completely aloof in this situation We think it is unfair and fatal for any management to explicitly or implicitly show any preference for any particular union

Rivalry is something we are simply going to have to live with, and I think that where it exists, sooner or later one party will emerge as the party by which employees wish to be represented I think it is significant — although our packaging companies have received scant credit for it from the unions — that we have in fact managed to get exemptions from the closed shop agreement in the printing and packaging industry in four cases where the majority of people in the plants concerned clearly demonstrated that they wished to be represented by the Paper, Wood and Allied Workers' Union, and not by the SA Typographical Union

What should be done to improve the functioning of the Industrial Court?

There are two elements here The first is that it is very necessary that the concept of the unfair labour practice should be more closely defined in legislation The second, and equally important thing, relates not so much to the functioning of the court, but to the legislation in terms of which it has to operate If one takes a look at that legislation in, I would say 99 cases out of 100 that come before it for a *status quo* order, the court really has no alternative but to grant the order on the basis of balance of convenience So I would regard it as very necessary that that legislation should become more circumscribed

RETRENCHMENT CASE

The Industrial Court has ordered the Frame Group to temporarily reinstate 10 employees who it retrenched earlier this year

This case is an important one, (*Current Affairs* December 2) because it reflects conflicting management and union views on what is the most appropriate criterion an employer should use to determine which workers should lose their jobs when retrenchments are necessary

Frame believes that efficiency should be viewed as the primary criterion It has argued that it should be allowed to retain efficient workers and to retrench the inefficient, subject to certain other "considerations" contained in the group's retrenchment policies

However, the National Union of Textile Workers (NUTW), which represents the 10 retrenched employees, believes that a formula such as last-in-first-out (lifo) is best — and has argued that Frame has been unfair Many unions hold this view because they say that lifo eliminates the danger of victimisation, and grants legitimate protection to people who have given many years of service to an employer

Last week the Industrial Court granted the NUTW's applications for *status quo* orders in terms of section 43 of the Labour Relations Act Such orders provide interim relief — in this case, temporary reinstatement of the retrenched employees — pending a later hearing on the dispute

It is always a little risky to attach not much significance to the granting of *status quo* orders

Nevertheless, there is little doubt that many employers will take careful note of the NUTW's successful applications They will obviously be watching further litigation between it and Frame on the retrenchment issue with great interest

Union wants court action

By JOSHUA RABOROKO

THE emerging General and Allied Workers Union (Gawu) is to apply for an industrial court action for the reinstatement of 52 workers at General Tyre and Rubber Company sacked following a labour dispute at the plant.

This was confirmed to The SOWETAN yesterday by the union's national organiser, Mr Amos Masondo, who said that this will be the first time such action is taken since the union was formed in 1980

The workers were sacked after they had demanded the reinstatement of two colleagues dismissed for allegedly stealing company property early this month

The workers, members of Gawu, had earlier staged a demonstration on the company's premises following management's refusal to negotiate with them

Mr Masondo said that police arrived at the scene and held discussions with their employers Thereafter, the workers left the area after leaving the company's properties on the premises

"We have tried to open discussions with management on the issue of the reinstatement of the workers, but this has been to no avail," Mr Masondo said

The union has asked for legal advice on the issue and an industrial court action is to follow early in the new year, according to Mr Masondo.

The company's representative, Mrs L Bucker, said the matter was in the hands of their lawyers who are on leave She declined to comment further on the matter

Union wants six reinstated

Mercury 31/12/83 (165)

African Affairs Reporter

THE Industrial Court has been asked by the Estcourt branch of the South African Allied Workers' Union to reinstate six of its members who were fired by Teal and Sons following a dispute over their Christmas bonus

Mr J Gumbi, branch chairman of SAAWU in the area, told the Mercury yesterday that workers who went on strike on December 19 and 21 had been dismissed but returned last week, except the six employees who were members of the committee representing their trade union in the firm

He said he and Mr Herbert Barnabus, the national organiser for SAAWU, had approached Mr R Teal, the manager for the firm He refused to negotiate with them on the grounds that he did not recognise their trade union

Mr Gumbi said they had reported the matter to the Industrial Court to have them reinstated and paid retrospectively No date had been fixed for the hearing

Mr Teal told the Mercury yesterday that there were not sufficient workers to form a trade union and he was not prepared to recognise them Everything was back to normal as the workers had returned to work

But Mr Gumbi pointed out that they had returned to work on the understanding that the court matter was still pending