

INDUSTRIAL RELATIONS — DISPUTES

1994

Saccawu claim 'total lies'

KATHRYN STRACHAN

ALLEGATIONS by the SA Commercial and Catering Allied Workers' Union (Saccawu) that about 1 500 Shoprite/Checkers workers face retrenchment this week have been dismissed by the company as "total lies" and a political ploy on the part of the union. B/SCH

Saccawu general secretary Papi Kganare said on Friday the company had indicated its intention to retrench the 1 500 workers in a press release but had failed to provide the union with proper notice. 3/11/94

He said the action was provocative and the retrenchments an attempt to drive Saccawu out of the company.

Kganare said the union had already declared a dispute with Shoprite/Checkers and would be mobilising its members to resist this latest attack. (51) (S)

PAC unwavering

By Donwald Pressly
Political Staff

THE Pan Africanist Congress would not consider lifting its armed struggle until there was a cessation of hostilities from the SA Defence Force, PAC negotiator Patricia de Lille said yesterday. Commenting on a report issued by the Defence Ministry that the PAC was apparently softening its stance on its armed struggle, De Lille said the organisation would never suspend its struggle unilaterally.

Sowetan 7/1/94
The ministry was commenting on De Lille's statement that the PAC had consistently condemned all acts of violence and was busy negotiating a comprehensive mutual cessation of hostilities with the Government.

She confirmed, however, that plans were afoot for a meeting between the SA Defence Force and the PAC military wing, the Azanian People's Liberation Army. "The details are at present being worked out," she said.

Ultimatum for Coke

By Ike Motsapi

SOWETO businessmen have given Amalgamated Beverages Industries seven days to solve the pay dispute with its workers. After that they will heed the call for a boycott of its products.

About 2 500 workers, who are members of the Food and Allied Workers Union are on strike. Mr George Nene, national chairman of ABI's shop stewards committee,

Sowetan 7/1/94
said businessmen from the Greater Soweto Chamber of Commerce agreed with the Fawu that the company, which produces Coca-Cola, should be given a chance to find a solution.

Striking workers will meet at Vista University in Soweto tomorrow at 10am to discuss the latest developments. The meeting will also discuss plans for a march on the Head Office of ABI in Sandton on Wednesday.

Bizwell



Textile firm disputes 320 to be reinstated

Biday 7/11/94
ERICA JANKOWITZ

MOOI River Textiles yesterday disputed union claims that 320 dismissed workers would be reinstated later this month with full back pay at an estimated cost of R9m

The Southern African Clothing and Textile Workers' Union (Sactwu) said the company dismissed the workers during 1991 and 1992 as a result of alleged illegal industrial action (15) (15) (15)

Sactwu took Mooi River Textiles to the Maritzburg Supreme Court to force the company to honour an agreement in which arbitration was set down as the method of dispute resolution

Once this issue was settled, the parties agreed to process four individual arbitration cases to test the validity of the dismissals "It was agreed that after the arbitration, the parties would review the cases of the remaining workers," Sactwu said.

The union contended its members had been unable to report for duty during political turbulence in the Mooi River/Bruntville area which had resulted in the deaths of several members, including one killed on the company's premises

This, Sactwu said, had been upheld by the arbitrator who had found the dismissals unfair as workers had stayed away because of "manifestly genuine and reasonable fears for their personal safety" which the company had not allayed

Mooi River Textiles chairman David Royston said at most about 250 workers

To Page 2

Reinstatement

Biday 7/11/94

From Page 1

would be affected by the award as workers had been dismissed in two batches and the union had taken no action with regard to the other 70 He said the four who had been through the arbitration process would be reinstated as set down in the award (15) (15)

However, the company was studying the text of the award and was "exploring and assessing all alternatives open to it" (15)

Royston said the arbitrator had given the parties until January 24 to meet to discuss the situation and "there was no foregone conclusion that the remainder would be reinstated" The company would be considering further proposals and there was a possibility that more than 200 additional arbitrations would be conducted before the dispute was resolved (15) (15)

Workers debate strike

About 1 200 municipal workers met yesterday in Diepmeadow, Soweto, to decide whether to strike over a dispute with the town council (151) (SAA)

The workers, members of the SA Municipal Workers Union (Samwu), claim the council reneged on a promise to backdate salary increases two years

"Diepmeadow municipal work-

ers are the only council workers who have not benefited from the salary grading scales instituted during 1992 and 1993," a Samwu spokesman said yesterday.

The Diepmeadow Council could not be contacted

Workers are due to decide today whether to launch a strike. — Staff Reporter

EXECUTIVE DISMISSAL

FM 1812/94

Micor faces R6,8m claim

There are still repercussions of the controversial buyout last year of minority shareholders in freight & travel company Micor. In an unfair dismissal case due to come before the Industrial Court, ex-director Michael Delahunt is suing his former employers and Micor management for R6,8m — the biggest single claim of its kind in SA (151)

Delahunt had drawn attention to what he perceived as major shareholders taking undue advantage of their majority stake to the prejudice of the minority shareholders before the buyout. It was first reported that he had resigned but he later said he had not received official notice that his services had been terminated. A Micor spokesman said that Delahunt had been suspended and was still on the payroll.

"Negotiations are under way for an amicable termination and, while he has been suspended from certain duties, we are still in

court - pso

CURRENT AFFAIRS

FM 1812/94

touch," the spokesman was quoted as saying.

But circumstances have changed dramatically since the Micor statement and there has been anything but an amicable settlement. Delahunt is not seeking reinstatement but is instead suing Micor for damages and loss of future remuneration and pain and suffering. He is backed by Webber Wentzel labour lawyer Deon Nel who has instructed Natal advocate Malcolm Wallace SC, who will be assisted by Johannesburg advocate Gerrit Pretorius (151)

The Industrial Court hearing is likely to cover "sensitive aspects" of last year's Micor saga. Auditing firm Kessel Feinstein is expected to be called to testify. Prior to the buyout, shareholders pointed out that Kessel Feinstein — which had issued a certificate stating the 90,7c/share offered by a consortium was fair and reasonable — was also either auditor or financial adviser of certain members of the consortium led by Micor chairman Cecil Kaplan and his son, Mark.

Delahunt, who later made a cash offer for Micor's foreign assets, maintained that the consortium offer was unfair to minorities. Delahunt said that Kessel Feinstein had certified the value of Micor to be around R2 per share only two months before the offer was made. Later the consortium raised its offer by more than 50% to 140c after minorities threatened to get an interdict to prevent the sale.

Delahunt is determined to continue the battle. Nel confirms that a week has been set aside for the Industrial Court hearing but refuses to comment further. Kaplan did not respond to calls from the FM. Eddie Botha

Union dispute over sacking

JACQUIE GOLDING

THE Eastern Transvaal branch of the SA Commercial, Catering and Allied Workers Union (Saccawu) yesterday declared a dispute with Shoprite/Checkers management, accusing it of unfair dismissals and racist treatment. *8 Day*

Saccawu claimed 30 black workers at Eastern Transvaal stores had been unfairly dismissed and union organisers had been denied the right to represent workers at disciplinary hearings. *(15)*

Shoprite/Checkers management denied the claims, saying only one worker had been dismissed. *113194*

Management had arranged a meeting between the parties and offered arbitration on the matter but third party intervention had been rejected by the union, a Shoprite/Checkers spokesman said.

Saccawu accused management of acting in bad faith and demanded the reinstatement of all dismissed workers.

Traffic dept pay dispute resolved

Star
The Johannesburg Traffic Department pay dispute has been settled. 31/3/94

Executive director of public safety Mike Davis said a meeting with the South African Municipal Workers' Union yesterday had been very successful

Apparently all parties were happy with the agreement reached (151) (31/3/94)

A progression plan had been formulated which would provide major benefits for most staff members, and these would be fully implemented within the next two months, he said.

The plan would be used for fire and ambulance staff as well.

Davis said a strike had never been formally declared.

"There were grievances and these have been addressed

"The men were never off duty and in fact I would like to commend them on the excellent work they did during Monday's unrest in the city centre.

"They put their lives at risk and were the unsung heroes," he said — Staff Reporter.

TPA locks out workers after row

Star 24/3/94

BY CHARMEELA BHAGOWAT

The Transvaal Provincial Administration locked about 100 workers out of their offices in downtown Johannesburg yesterday after a dispute between the workers and management.

National Education, Health and Allied Workers' Union (Nehawu) regional chairman Siphwe Mazibuko said workers at the Community Services and Pensions Department had submitted a list of demands to management in February.

Among the demands were: a risk allowance for staffers working in dangerous areas; promotions for existing staffers and an end to the promotion of white workers who did not qualify for certain jobs, added security due to dangerous work conditions; and a minimum salary of R1 300 and an increment of R200 for those earning R40 000 or 10 percent across the board.

Jeff Wilkins, head of the TPA's Witwatersrand Community Development Branch, yesterday said the workers were locked out because of unruly behaviour.

Late yesterday, a Nehawu official said workers were involved in discussions with TPA management to resolve the conflict.

~~SSI~~ (151)

■ NATAL Newspapers' pay offer of 8 per-
cent was rejected on Thursday by the South
African General and Allied Workers Union,
which declared a dispute (151) (2/3)

The union said the offer was unreason-
able in view of the rising cost of living, a
14 percent rise in medical fund contribu-
tions and increases in pension contributions
and taxes

ARC 23/4/94

Eskom ~~Sowetan~~ workers ~~3/15/94~~ in dispute

By Joe Mdhlela

AT least 50 East Rand workers, who claim to have been forced to take a retrenchment package by Eskom last year, are now demanding their jobs back.

Shop steward and member of the National Union Metal Workers of South Africa Mr David Mabuse said they were asked by management to take the package because of a cost-cutting exercise by the company.

Claim denied

Company representative Mr Altus Mulder denied the claim.

"The truth is that these workers on their own decided to take voluntary severance packages. At no stage did the company force them to do so," he said.

Mulder said negotiations were under way to resolve the issue.

Mabuse appealed to all retrenched workers to contact him at (011) 736-8572.

Union declares dispute with Shoprite/Checkers

8/12/14 2016/194

ERICA JANKOWITZ

THE SA Commercial, Catering and Allied Workers' Union (Saccawu) yesterday declared a wage dispute with Shoprite/Checkers after three days of negotiations left the two parties almost R200 apart, Saccawu spokesman Jeremy Daphne said

Daphne said it was unusual for a dispute to be declared so early in negotiations, but he attributed this to "a combination of the relationship history with Shoprite/Checkers and increased expectations after the change of government. As a new society starts to emerge in SA, workers are expecting improvements in their working lives," he said

When the dispute was declared, Saccawu was demanding a R250 across-the-board increase and a minimum wage based on the Checkers minimum of R1 140 a month

The company had offered a R65 increase and a minimum based on the Shoprite minimum of R805 a month, Daphne said

A Saccawu shop steward said the union would be pushing hard for parity between the two companies as well as the elimination of the rural/urban wage differential pursued by

the company

The union's demand represented about a 24,5% increase on the average wage and the company's offer about a 6,4% increase, he said.

Other issues still on the table were a 13th cheque, staff discount, annual leave, funeral scheme, long service award, salary advance, uniform allowance, compassionate leave, parental rights and casual staff.

Daphne said the dispute had been referred to conciliation board and industrial council hearings, but no dates had been set (S) (51)

A Checkers/Shoprite spokesman said the company was surprised that the dispute was declared at this stage, "particularly in view of the flexibility agreement we reached and recent relations with the union"

The company urged the union to engage in constructive negotiation. The spokesman said the group had a "genuine intent to resolve the dispute amicably, and as soon as possible".

He said the union was intransigent and not willing to negotiate past the initial wage increase management had suggested

■ Shoprite Checkers has urged the SA Commercial, Catering and Allied Workers Union to engage in constructive negotiations after the union declared a dispute.

The union declared a dispute on a demand of a 31 percent increase on basic wages.

Management said it expected both parties to enter the negotiations in a spirit of compromise and reconciliation, but Saccawu had not been forthcoming.

(30) (151) ARG 21/5/94

ppling strike ● New constitution 'can't deliver'

Mwasa, SAUJ in strike ballot

By Ike Motsapi
Labour Reporter

Sowetan 30/5/94
■ WAGE TALKS Conciliation

THE SOUTH AFRICAN Union of Journalists will ballot its members for possible strike action on Wednesday after wage talks with Argus management collapsed.

This follows an announcement by the Media Workers Association of South Africa last week that it would also ballot its more than 1 500 members employed by Argus on the same day

The SAUJ said in a statement wage negotiations failed to resolve the dispute at a Conciliation Board meeting last week.

SAUJ *The Star* branch co-ordinator Marika Sboros said "Our union is also preparing for a strike ballot on Wednesday"

Board talks provides no solution:

SAUJ demands a 13 percent across-the-board salary increase Management is offering nine percent from the middle of May. (25)

Mwasa *The Star* branch secretary Thabo Leshilo and Sboros issued a joint statement which reads "Management is attempting to drive a wedge between the two unions because they are aware of our collective strength (151)

"A yes vote does not mean an immediate strike It is merely the first step in opening up avenues of creative and legal industrial action

"It is important that union members stand united to achieve our com-

mon objectives"

Mwasa demands an across-the-board salary increase of 15 percent for its members while management made a final offer of eight percent

Mwasa opened its demand at 19 percent but lowered this during wage talks

Mwasa and Argus failed to reach agreement on salary increases at a Conciliation Board hearing on May 19

Mwasa has sought the support of political, trade unions, civic, church and community organisations.

The National Council of Trade Unions and the Congress of South African Trade Union have pledged support.



Argus journalists' strike ballot set for today

■ BY JUSTICE MALALA

About 3 000 employees of the Argus Group — whose stable of newspapers includes The Star — are expected to take part in a strike ballot today which could see them embarking on industrial action.

The ballot follows a deadlock in wage negotiations between the Argus Group and the South

African Union of Journalists (SAUJ) and the Media Workers' Association of South Africa (Mwasa).

The wage negotiations started early this year and culminated in conciliation board meetings last month which failed to resolve the dispute.

The SAUJ is demanding a 13 percent across-the-board increase and Mwasa 15 percent.

backdated to April 1. The Argus Group has offered 8 percent backdated to April 1 or 9 percent backdated to May 13.

Legal strike

In a joint statement last week, the two unions' leaders said a majority vote for strike action would not mean an immediate strike.

Star 116194

They said the ballot was merely the first step in opening avenues of creative and legal industrial action to continue efforts to get a just settlement.

"If indeed we do go on strike, it will be a legal strike, protected by law, contrary to what you (members) may have been told," the unions said.

Argus Group personnel director Roger Wellsted said the

group's pay increases over the past few years had all exceeded the annual inflation rate.

"This year's offer also exceeds the inflation rate by about 1 percent."

"In addition the company has, with the co-operation of the unions, also been implementing substantial pay adjustments in accordance with our new pay philosophy," Wellsted said.

Argus workers vote today

Sowetan

11/6/94

By Musa Zondi

MEDIA workers from Argus newspapers start balloting today for a possible strike against the company over wages

Members of the Media Workers Association of South Africa and the South African Union of Journalists are balloting jointly across the country

Negotiations between the two unions and the management of Argus newspapers deadlocked. The conciliation board's attempt to break the deadlock failed.

Mwasa is demanding 15 percent while the SAUJ is demanding a 13 percent increase. Argus' final offer stands

at eight percent

Mwasa said a "no" vote would mean workers accept Argus' eight percent offer

A "yes" vote would mean the union could continue negotiating or call for the reconstitution of the conciliation board or strike. The unions could exercise any of the options, but would choose whatever is in the interests of workers. (15) (243)

Various political organisations have supported the workers

In a statement, the Azanian People's Organisation said it found workers' demand of a 13 percent increase to be "a fair, legitimate demand, particularly

given the fact that Argus raked in millions of rands in political advertising during elections"

Azapo committed itself to respect the outcome of the ballot and pledged support for the workers

"If Argus workers go on strike, we would go out of our way to make sure that none of the company's newspapers get delivered to any area in this country. We are confident that the black community would be fully supportive of Argus workers' demands," said Azapo executive member Dr Gombilemo Mokae

Union federations Cosatu and Nactu have also pledged to support the media workers

Argus workers vote today

By Musa Zondi

MEDIA workers from Argus newspapers start balloting today for a possible strike against the company over wages

Members of the Media Workers Association of South Africa and the South African Union of Journalists are balloting jointly across the country

Negotiations between the two unions and the management of Argus newspapers deadlocked. The conciliation board's attempt to break the deadlock failed

Mwasa is demanding 15 percent while the SAUJ is demanding a 13 percent increase Argus' final offer stands

at eight percent

Mwasa said a "no" vote would mean workers accept Argus' eight percent offer

A "yes" vote would mean the union could continue negotiating or call for the reconstitution of the conciliation board or strike. The unions could exercise any of the options, but would choose whatever is in the interests of workers (15) (23)

Various political organisations have supported the workers

In a statement, the Azanian People's Organisation said it found workers' demand of a 13 percent increase to be "a fair, legitimate demand, particularly

given the fact that Argus raked in millions of rands in political advertising during elections"

Azapo committed itself to respect the outcome of the ballot and pledged support for the workers

"If Argus workers go on strike, we would go out of our way to make sure that none of the company's newspapers get delivered to any area in this country. We are confident that the black community would be fully supportive of Argus workers' demands," said Azapo executive member Dr Gomolemo Mokae

Union federations Cosatu and Nactu have also pledged to support the media workers

Sowetan

11/6/94



Delay in industrial action ballot

Star 216194

■ BY JUSTICE MALALA

Voting by about 1 500 Argus Group workers to decide whether to embark on industrial action went on smoothly at branches countrywide yesterday but was delayed at The Star

Workers at The Star could not vote after confusion over the right of editorial executives to participate in the balloting

The eligibility of workers, who had joined the Media Workers' Association of South Africa (Mwasa) after the dispute between management and the unions was declared, was also questioned and balloting was stopped by the union.

Mwasa and management finally agreed that those members with dual membership of Mwasa and the SA Typographi-

cal Union would have to declare to which union they wished to belong. Voting would take place on Tuesday

Members of the South African Union of Journalists (SAUJ) at The Star will vote today (151)

The SAUJ is demanding a 13 percent across-the-board increase while Mwasa is demanding 15 percent, backdated to April 1. Argus management is offering 8 percent backdated to April 1 or 9 percent backdated to May 13. (243)

Argus Group personnel manager Roger Wellsted said the participation of executives who have hiring and firing power in the balloting "seems in principle wrong".

SAUJ negotiator Mari ka Sboros said any member who wants to be balloted has a right to and should be allowed to ex-

ercise that right.

In a joint statement the union and management said "The union and management agree that the recognition agreement (regarding editorial executives) should and will be renegotiated after the present dispute."

Wellsted said management was quite disappointed that editorial workers in particular were contemplating industrial action despite salary adjustments over the past three years.

Sboros added: "Members are adamant that their demands are reasonable and believe that the time has come to back them up with action."

Mwasa Star branch secretary Thabo Leshilo accused management of trying to minimise the number of participants in the industrial action.

Strike ballot result tomorrow

■ BY JUSTICE MALALA

The turnout by journalists at Argus Group newspapers to vote on industrial action yesterday left union leaders in a positive frame of mind.

"We believe that the mood in favour of industrial action is strong. The turn-out has been excellent countrywide," said SA Union of Journalists (SAUJ) negotiator Marika Sboros.

At The Star more than half the 137 SAUJ members had already turned out. At Natal Newspapers more than two-thirds of SAUJ members turned out to vote, she said.

The SAUJ is demanding a 13 percent across-the-board increase backdated to April 1. The Media Workers of SA (Mwasa) is

Star 31/6/94
demanding 15 percent across the board. Argus management is offering 8 percent backdated to April 1 or 9 percent backdated to May 13, of which 70 percent is an across-the-board figure.

The strike ballot comes after conciliation board meetings last month failed to resolve the dispute.

Balloting was delayed at The Star and several other newspapers after confusion over the right of editorial executives to take part.

Sboros said results of the balloting would be known by tomorrow.

A majority "yes" vote means workers will embark on legal industrial action while a majority "no" means an end to the dis-

pute and acceptance of the 8 percent increase.

Mwasa said balloting at The Argus, Natal Newspapers and The Star had been postponed until next Tuesday while the eligibility of certain members was still being investigated.

Mwasa general secretary Sithembele Khala said the eligibility of workers who had joined the union after the dispute was declared was still being investigated by union lawyers.

Argus Group personnel manager Roger Wellsted said management was disappointed that editorial workers were contemplating industrial action despite salary adjustments which had been implemented over the past three years.

Journalist's union votes to strike over pay

JOVIAL RANTAO

LABOUR CORRESPONDENT

JOURNALISTS at Argus Newspapers and the South African Press Association (SAPA) won a right to go on strike yesterday when a strike ballot by the South African Union of Journalists (SAUJ) produced an overwhelming "yes" vote

The Media Workers' Association of South Africa (MWASA), to which other journalists and media workers are affiliated, was to have held its strike ballot on Wednesday, but this has been postponed to Tuesday

MWASA is to meet the SAUJ today to formulate a common strategy

MWASA said its strike ballot had been postponed because management had questioned the eligibility of workers who joined the union after the dispute was declared

"Management also questioned the eligibility of members who also belong to the conservative South African Typographical Union (SATU)," said Thabo Leshilo, branch secretary of MWASA at The Star

The strike ballot followed unsuccessful Conciliation Board meetings, held last month, to resolve the wage dispute

Roger Wellsted, Argus Newspapers' personnel consultant,

said in a statement that over 80 percent of Argus employees had accepted the company's pay offer while the SAUJ had voted in favour of industrial action

"We are naturally very disappointed that the majority of SAUJ members have elected to take industrial action. The SAUJ repre-

sents 400 of our 720 editorial staff and over 200 of these staff members elected industrial action," he said (ISI) ~~ISS~~

"MWASA's ballot will only be completed on Tuesday. They represent a further 580 members involved in these negotiations, and at least 140 of these mem-

bers are employed in editorial departments. We are still negotiating with one other union, SAGAWU, which represents a further 195 staff in Natal

"We currently have acceptance of our wage offer from the majority of staff which include members of SATU, UCCAWASA

Editorial independence pledged

STAFF REPORTER

BRITISH businessman Tony

O'Reilly has given an assurance that the same principles of editorial independence practised at Independent Newspapers should apply in Argus Newspapers

O'Reilly, who owns a controlling share in Argus, also pledged that political affiliation would not be a criterion in choosing non-executive directors of the Argus boards.

Last week, the South African Union of Journalists expressed concern at remarks made by O'Reilly in which he was reported to have talked about boards of directors directing editorial policy.

O'Reilly, speaking in Atlanta yesterday at the US-South Africa Conference on

Democracy and the Market Economy, said Independent Newspapers had a proud reputation of being independent in name and in content.

"I believe very strongly in the principles of a free press, and see it as a fundamental pillar of the new democratic system which is being created in South Africa. This is a wonderful time for South Africa, full of promise and hope. It is also an important time for newspapers as literacy increases and more and more South Africans look to Argus newspapers for news and enlightenment.

"We assert and practise the principle of editorial independence in all our newspapers, many of which

report on the divided and polarised society of Northern Ireland

"Our editors and journalists in some 50 publications in Ireland, Australia and Great Britain are noted for their professionalism and integrity, refusing to be intimidated or deflected from their duty fully to inform their readers."

O'Reilly said the board of directors of Independent Newspapers was composed of non-partisan people who were representative of Irish and international society and who were responsible for setting the broad group policies.

"But it is the editors who must make the judgments about coverage and analysis and who control editorial content," he said

and SACCAWU. We have a total of 6 700 staff in the company

"Our current pay offer is 1 percent ahead of inflation and over the past few years our increases have exceeded inflation. In addition, with the support of the unions, we have implemented a job grading programme which has resulted in substantial increases being granted to staff over and above the annual increases. We believe that our pay scales are competitive in relation to the market."

Argus and SAPA management's final offer was 8 percent backdated to April 1, or 9 percent backdated to May 1. MWASA is demanding a 15 percent increase and the SAUJ 13 percent

SAUJ negotiator Marika Shorros said the union would hold plant-level meetings early next week to decide on appropriate action.

"Journalists have become targets and work under appallingly dangerous conditions. They have to cope with increased workloads in the workplace. It's a tribute to an unwavering commitment to their profession that so many have not left for greener pastures. Journalists deserve better working conditions and proper remuneration for their services."

ANC says news blackout would be unfortunate

Political parties support media unions in dispute

BY JOVIAL RANTAO
LABOUR CORRESPONDENT

The ANC and the Workers List Party threw their weight behind the two unions involved in a wage dispute with Argus Newspapers and the South African Press Association yesterday.

The Media Workers Association of South Africa (Mwasa) and the SA Union of Journalists (SAUJ) are demanding a 15 percent and 13 percent salary increase respectively. The two companies are offering 8 percent backdated to April 1 or 9 percent backdated to May 13.

ANC secretary-general Cyril Ramaphosa said yesterday. "One of the most important features of a democracy is a vigorous and inquiring press. It is therefore most unfortunate that

SUPPORT for media unions in a wage dispute with Argus Newspapers and the South African Press Association grows

Argus, which has such a dominant place in the industry, has not yet adequately addressed such vital issues as payment of a living wage for all staff or affirmative action, including at managerial level."

He said a news blackout would be unfortunate at a time when the new Government was still being established and a flow of information was vital, and when foreign investors were keenly focusing on South Africa.

Star 8/16/94

Argus Newspapers chief executive John Featherstone said the company would welcome an opportunity of meeting jointly with Mwasa and the SAUJ for mediation of issues in dispute.

"We will ask Ramaphosa for the opportunity to present our side of the issue, which we believe will demonstrate our good faith in dealing with the issues he has raised," he said.

Members of the SALKJ last week voted for industrial action after wage talks with management deadlocked.

Mwasa employees of Argus Newspapers in Natal and of the Sowetan have voted for the strike. Results of the Mwasa strike ballot held at The Star yesterday will be announced today.

Support for the unions is growing. The Workers List Party

(WLP) yesterday joined local political parties and trade unions which have pledged support.

In Ireland, England and Australia, journalists at newspapers where Tony O'Reilly — the new majority owner at Argus Newspapers — has interests have promised to embark on solidarity picket demonstrations, from tomorrow.

In a statement, the WLP said the 15 percent increase demanded by Mwasa and the 13 percent by the SAUJ was reasonable in the light of Argus's R63 million profit.

Journalists and media workers at Argus Newspapers and Sapa will begin protest action tomorrow that could culminate in a strike on Monday — the day on which Argus Newspapers is set to be listed on the Johannesburg Stock Exchange.

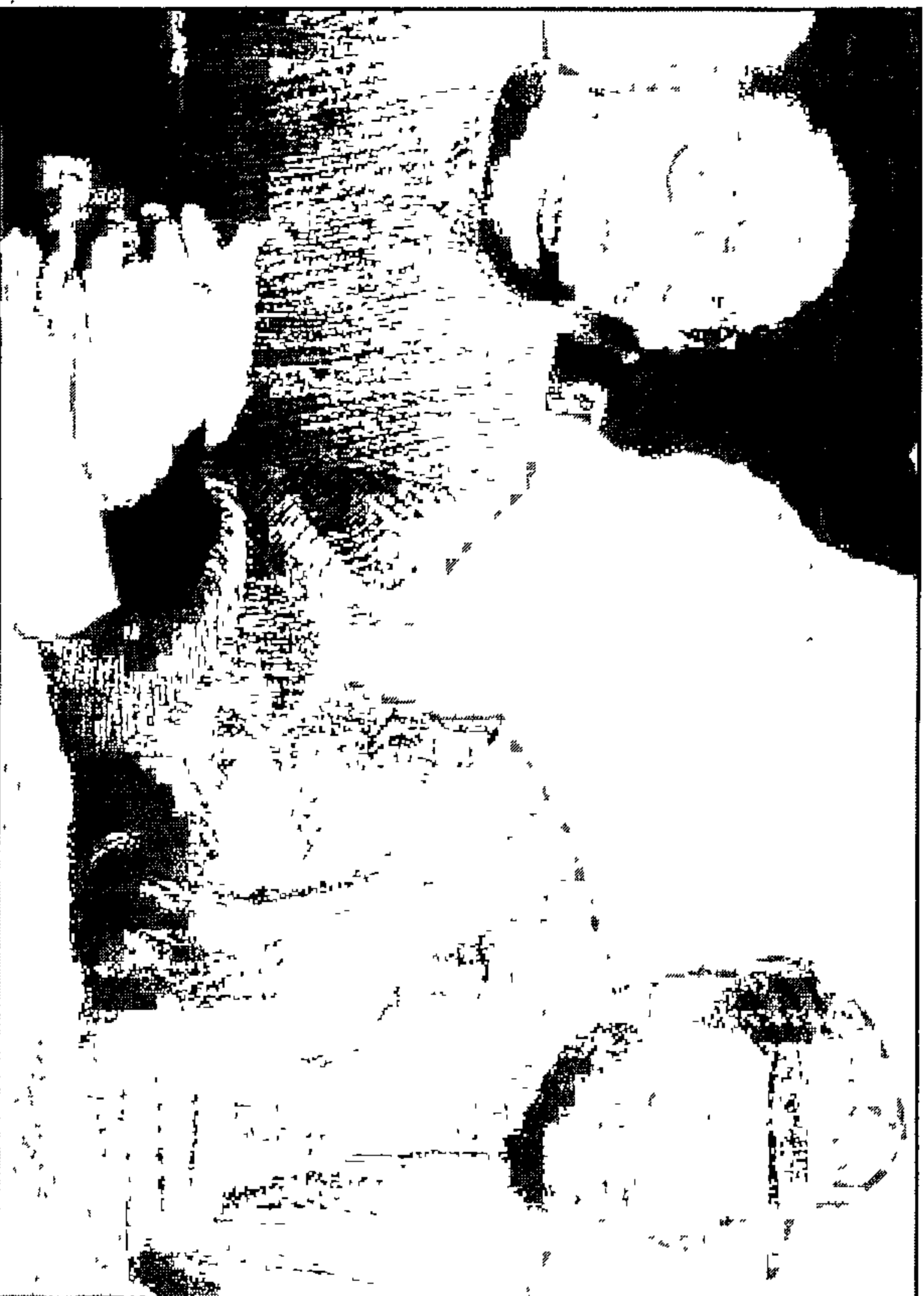


ARC. 816/94

Union buries hatchet

JOHANNESBURG. ~~(151)~~ The South African Commercial, Catering and Allied Workers Union and Shoprite/Checkers have buried the hatchet over disciplinary action against a Saccawu member, pending a meeting next Monday (151)

NEWS Prisoners strike to get pardons ● Workers to picket Argus offices



Ready to act ... Mr Mathatha Tsedu, acting president of the Media Workers Association of South Africa, briefs the media yesterday on the programme of action Mwasa and the SA Union of Journalists are to take from today. With him is Mr Connie Molusi of the South African Union of Journalists.

PIC: MBUZENI ZULU

Countrywide pickets at Argus plants today

By Ike Motsapi a\16194
Labour Reporter

THE wage dispute between media workers employed by the Argus Company and management takes a new turn today with the start of lunch hour pickets at Argus offices countrywide

The pickets, by about 2 000 members of the Media Workers Association of South Africa and the South African Union of Journalists, could culminate in possible strike action next week

Argus group human resources manager Mr Roger Wellsted yesterday said he was disappointed that the two unions had opted to picket while management had offered to go for mediation

He said management would consult the Independent Mediation Services of SA pending their acceptance by both unions. He disputed that more than 2 000 union members would go on strike as predicted by Mwasa and SAUI.

"Out of 4 000 people covered by the recognition agreement, only about 550 voted yes for strike action. This represented about 14 percent."

Demonstration

Members of Mwasa and SAUI plan to hold a demonstration outside the Johannesburg Stock Exchange on Monday when the Argus Company is listed

Mr Mathatha Tsedu, Mwasa acting president, told a Press conference in Johannesburg yesterday that "we will be there to demand that management meets our democratic demand for a living wage"

Reading from a joint Mwasa and SAUI statement, Tsedu said "The many other factors which management chooses to ignore deliberately, like the affordability of the company to pay, the competitors in the market place and the whole economic upswing, count in favour of a better increase."

Pickers protest outside Argus and Sapa offices

Press row goes to mediation

JOURNALISTS who protested outside their offices plan to protest outside the JSE when Argus is listed under its new owner

BY JOVIAL RANTAO
LABOUR CORRESPONDENT

Trade unions in the Argus Group have agreed to take their wage dispute to mediation.

Hour-long picket demonstrations were held outside offices of most Argus papers and the SA Press Association yesterday.

The Media Workers' Association of South Africa and the South African Union of Journalists agreed to mediation set down for Tuesday, but said this would not alter their plan to demonstrate outside the Johannesburg Stock Exchange on Monday.

The demonstration is set to coincide with the listing of Argus Newspapers on the JSE under majority owner Tony O'Reilly.

Yesterday Argus management and the two unions agreed to appoint Wits Business School lecturer Vusi Masinga and Independent Mediation Services director Charles Nipen as mediators.

Mwasa acting president Mathata Tshedr said the protest actions would stay "forever" if needed be. He said the union's national strike committee would be



Demonstration . . . Star workers protest outside the newspaper's Sauer Street offices in Johannesburg yesterday demanding a higher wage increase than the Argus company has offered them.

finalising a plan of action this weekend.

Mwasa and the SAUJ were to discuss joint actions today.

SAUJ chief negotiator Marika Sboros said the large turnout

outside the offices of The Star yesterday showed that journalists were prepared to take action to back up their demand for a fair increase.

Sapa management yesterday

raised its offer from 8 to 10 per cent, backdated to April 1.

Mwasa and Allied Publishing yesterday reached an agreement on an 8 percent wage increase offered by the company.

The agreement, according to Allied managing director Steve Nortje, included a link to the three-year phase-in of the company's new pay structure initiated by the Argus Group.

PICTURE: DUFF DU TOIT

151

Star 10/6/94

Strike looms at Argus newspapers

Vuyo Mvoko WM10-16/6/94

FAILING a last-ditch management climb-down on media workers' pay claims, the Argus group faces its first national newspaper strike from Monday.

The action, planned to coincide with the listing of Argus newspapers on the JSE, could negatively affect its share price.

On Wednesday Argus chief executive John Featherstone indicated management would not budge from its final offer of an eight percent across-the-board increase backdated to April 1, or nine percent backdated to May 13. The South African Union of Journalists (SAUJ) has demanded 13 percent and the Media Workers Association of South Africa (Mwasa) 15 percent.

Featherstone agreed potential strikers were an "important portion" of the workforce. But he was adamant the newspapers would not be brought to a standstill, and doubted the action would hit the Argus listing. He said the company could only accept ANC general secretary Cyril Ramaphosa's suggestion on Tuesday of mediation.

The SAUJ and Mwasa said this week they had asked Tony O'Reilly, the Irish press baron on the point of acquiring 31 percent of Argus, to intervene. They said the International Federation of Journalists would before Monday announce solidarity action at O'Reilly's British, Irish and Australian papers.

Eighty-five percent of Mwasa members voted for the strike, while the SAUJ's Marika Sboros said her union had won "a clear majority".

Pay row: Press unions agree to ceasefire

Weekend Argus Reporter

JOHANNESBURG. — The South African Union of Journalists (SAUJ) and the Media Workers of South Africa (Mwasa), the two unions locked in a pay dispute with Argus newspapers, have agreed to suspend industrial action — pending the outcome of Tuesday's mediation

Both parties agreed, after picket demonstrations by workers on Thursday, to appoint Wits Business School lecturer Vusi Masinga and Independent Mediation Services director Charles Nupen as mediators.

The Argus has offered eight percent across the board. The SAUJ demands 13 percent and Mwasa 15 percent.

Yesterday the SAUJ and the South

African Press Association (Sapa) settled their wage dispute. Sapa journalists will receive a 10 percent increase, seven percent of which will be across the board and the rest will be paid as merit

In the Argus dispute Marika Sboros, the SAUJ's chief negotiator, said both her union and Mwasa, represented by S'thembele Khala, its general secretary, decided to suspend industrial action as a compromise to give the mediation process a chance

The decision, she said, was taken at a joint national strike committee meeting in Johannesburg yesterday. A separate Mwasa national strike committee meeting is to be held in Durban today. ARG 11/6/94

"However, picketing at the Johan-

nesburg Stock Exchange, to coincide with the listing of Argus newspapers under new majority owner Tony O'Reilly, will go ahead as planned.

"We believe that management is sincere about trying to resolve the conflict amicably and we trust that their decision to agree to mediation is not just another delaying tactic."

The two unions saw mediation as a possible last chance to avert a crisis situation "We have also taken this decision in the best interests of the community, who would otherwise be faced with a probable news blackout," she added.

The two unions' final position — they have not waived their right to strike — was dependent on the outcome of Tuesday's mediation.

Media opts for mediation

DURBAN — The Media Workers' Association of SA (Mwasa) decided at the weekend to join colleagues in the SA Union of Journalists (SAUJ) in a bid to resolve, via mediation, a wage dispute with Argus Newspapers

Mwasa's national strike co-ordinating committee met in Durban at the weekend and decided to postpone any strike action until the outcome of mediation, which begins tomorrow

Mwasa acting president Mathatha Tsedu told a news conference yesterday that the decision to enter mediation was a "measure of good-faith bargaining that we hope will characterise the attitudes of management"

But, he said, the union's planned picket of the Argus listing at the JSE today would go ahead

Tsedu maintained the Argus company was in a position to meet his union's "reasonable demands"

He warned that failure to do so would "plunge the country into a news blackout for those people who rely on the English language newspapers to supply their information"

Mwasa is demanding a 15% annual salary increase for its members

The Argus company has offered 8% Wage negotiations deadlocked on May 19 — Sapa

BIDAY 13/6/94

(151)

Protesting workers sub contracted

Labour Reporter

CONTRACT employees working on the electrification of Khayelitsha by Phambili Nombane who embarked on a four-day work stoppage over wages were employed by sub contractors and not main contractor Racec Pty Ltd.

About 80 workers downed tools at the end of May because they had not been paid for the work completed in Site B near the police station.

Racec managing director M J Uys said: "The contract is labour based, and Racec is obliged to employ and train entrepreneurs from within the community who then sub contract to Racec according to agreed rates certified by a professional consulting engineer.

"All payments to these sub contractors were made timeously and in terms of such certificates ART 13/6/94

"The problem occurs when these sub contractors fail to pay their workers or abscond after payment has been made, leaving workers unpaid," Mr Uys said

Phambili Nombane is a joint company comprising Eskom, British distribution utility East Midlands Electricity and Electricité de France.

13/6/94

Mwasa open to mediation

DURBAN — The Media Workers Association of SA (Mwasa) decided at the weekend to join colleagues in the SA Union of Journalists in a bid to resolve a wage dispute with Argus newspapers through mediation

Mwasa's national strike co-ordinating committee decided here to postpone their strike action until the outcome of mediation, which begins tomorrow

Wage negotiations deadlocked on May 19. — Sapa (151)

Cosatu paper maps central bargaining

ERICA JANKOWITZ

IN LINE with Cosatu's goal of establishing centralised bargaining as the norm in SA, its research arm yesterday issued a discussion paper suggesting a flexible three-tier system based on about 40 centralised bargaining forums (151)

In terms of the report, about 95% of SA's economically active population would be covered by the proposed system and only special cases — such as domestic workers — would fall outside its ambit. But minimum labour standards for these workers would be set by wage boards.

National Labour and Economic Development Institute (Naledi) director Jeremy Baskin said Cosatu had commissioned the research after its March campaigns conference at which centralised bargaining was identified as its top priority.

Naledi recommended collective bargaining at three levels: a national body would establish a legislative bargaining framework supplemented by about 40 industrial council-type structures across the 11 sectors at which wage policy and labour standards would be negotiated, and plant-level bargaining to thrash out company-specific issues, including productivity.

Baskin said the bodies would interact and the industrial-level forums would be registered as industrial councils and "form the legal centre of the system".

Ratified agreements would be gazetted and made legally binding on parties and extended to cover non-parties. However, special cases would be covered by schedules appended to main agreements which would cover specific regions, marginal enterprises, small and medium enterprises and other specific needs "with the long-

To Page 2



National Labour and Economic Development Institute director Jeremy Baskin, left, explained the Institute's bargaining recommendations at a news briefing yesterday. Cosatu's Jayendra Naidoo said the report would underpin Cosatu's policy. Picture ALLEN VAN DER LINDE

Cosatu

away

15/6/94

From Page 1

term aim of achieving convergence". Baskin gave six arguments for a centralised bargaining system: establishing minimum wages and labour standards; offering a more effective and efficient way of bargaining; allowing "unions to promote egalitarian objectives" such as flattening wage curves and standardising benefits, allowing economies of scale on retirement and medical benefits to ensure their long-term survival; increasing worker and employer power to enhance social and industrial stability; and giving unions a firm foundation from which to negotiate constructively on industrial restructuring (151)

The first move, from labour should be defining about 40 sectors to form "a basis for tripartite negotiations aimed at establishing a new system".

Baskin identified problems with the current system, which was inflexible and inefficient. Centralisation also presented problems — including the possible widening of the leadership/membership divide and "international trends towards the devolution of industrial relations" after experiments with regulated systems.

However, he felt these were not insoluble, "nor always inherent to centralised bargaining", but they should be taken into account during the process of designing a new bargaining framework.

Cosatu negotiations co-ordinator Jayendra Naidoo confirmed that a more centralised approach to bargaining was of paramount importance to the union federation. He said employers and government would be involved in discussions on the issue.

Cosatu tells how to bargain

(51) CT 15/6/94
Own Correspondent

JOHANNESBURG — In line with Cosatu's goal of establishing centralised bargaining as the norm in South Africa, its research arm yesterday issued a discussion paper suggesting a flexible three-tier system based on about 40 centralised bargaining forums

In terms of the report, about 95% of South Africa's economi-

cally active population would be covered by the proposed system and only special cases — such as domestic workers — would fall outside its ambit. But minimum labour standards for these workers would be set by wage boards

National Labour and Economic Development Institute (Naledi) director Mr Jeremy Baskin said Cosatu had commissioned the research after its March confer-

ence at which centralised bargaining was made top priority

Naledi recommended collective bargaining at three levels. A national body would establish a legislative bargaining framework supplemented by about 40 industrial council-type structures where wage policy and labour standards would be negotiated. Plant-level bargaining would thrash out issues specific to companies

Argus, unions settle wage dispute

JOHANNESBURG. — Argus Newspapers yesterday settled its wage dispute with the Media Workers Association of South Africa and the South African Union of Journalists, following mediation earlier in the week.

The parties agreed to an eight percent pay rise across the board, backdated to April 1, and a further two percent from July. The deal includes a 15 percent bonus sacrifice if the company does not exceed its profit forecast by five percent.

Argus agreed to set a minimum monthly salary of R1 350

from October 1.

SAUJ chief negotiator Marika Sboros said co-operation by the two unions had bolstered the strength of both. It was the first time they had co-operated on a shop-floor issue, having before joined forces only in Press freedom campaigns.

"We hope it is the shape of things to come," said Ms Sboros.

Mwasa acting president Mathata Tsedu said the deal showed the unions' rejection of earlier pay offers had been justified.

"This is a lesson to management to take workers' grievances seriously and negotiate in good faith with union leaders to avoid unnecessary confrontation in the future."

Argus Newspapers' group personnel consultant Roger Wellsted said the improved offer was linked to an incentive profit-sharing scheme.

"We have been looking for some time at ways to reward increased productivity and this innovative approach by the unions may lead to new initiatives to achieve this" — Sapa

ARG 18/6/94
(243) (151)

Argus, unions settle wage dispute

JOHANNESBURG. — Argus Newspapers yesterday settled its wage dispute with the Media Workers Association of South Africa and the South African Union of Journalists, following mediation earlier in the week.

The parties agreed to an eight percent pay rise across the board, backdated to April 1, and a further two percent from July. The deal includes a 15 percent bonus sacrifice if the company does not exceed its profit forecast by five percent.

Argus agreed to set a minimum monthly salary of R1 350

from October 1.

SAUJ chief negotiator Marika Sboros said co-operation by the two unions had bolstered the strength of both. It was the first time they had co-operated on a shop-floor issue, having before joined forces only in Press freedom campaigns.

"We hope it is the shape of things to come," said Ms Sboros.

Mwasa acting president Mathata Tsedu said the deal showed the unions' rejection of earlier pay offers had been justified.

"This is a lesson to management to take workers' grievances seriously and negotiate in good faith with union leaders to avoid unnecessary confrontation in the future."

Argus Newspapers' group personnel consultant Roger Wellsted said the improved offer was linked to an incentive profit-sharing scheme.

"We have been looking for some time at ways to reward increased productivity and this innovative approach by the unions may lead to new initiatives to achieve this." — Sapa

ARC 18/6/94

(243) (151)

Argus, unions settle wage dispute

JOHANNESBURG — Argus Newspapers yesterday settled its wage dispute with the Media Workers Association of South Africa and the South African Union of Journalists, following mediation earlier in the week.

The parties agreed to an eight percent pay rise across the board, backdated to April 1, and a further two percent from July. The deal includes a 15 percent bonus sacrifice if the company does not exceed its profit forecast by five percent.

Argus agreed to set a minimum monthly salary of R1 350

from October 1.

SAUJ chief negotiator Marika Sboros said co-operation by the two unions had bolstered the strength of both. It was the first time they had co-operated on a shop-floor issue, having before joined forces only in Press freedom campaigns.

"We hope it is the shape of things to come," said Ms Sboros. *ARC 18/6/94*

Mwasa acting president Mathata Tsedu said the deal showed the unions' rejection of earlier pay offers had been justified. *(24/3/94)*

"This is a lesson to management to take workers' grievances seriously and negotiate in good faith with union leaders to avoid unnecessary confrontation in the future."

Argus Newspapers' group personnel consultant Roger Wellsted said the improved offer was linked to an incentive profit-sharing scheme.

"We have been looking for some time at ways to reward increased productivity and this innovative approach by the unions may lead to new initiatives to achieve this" — Sapa

JOBS

SA's new order flirts with the old system

St. Times (Buss) 19/6/94

Cosatu sees the old South Africa's system of industrial councils as the basis for wage centralised bargaining, an issue dear to its heart **KEVIN DAVIE** reports

(ISI) reviewed and dispute resolution should be streamlined. It says that to deny exemptions could lead to Constitutional Court challenges.

"The unions want (centralised bargaining) forums to be established by voluntary agreement, but are prepared to have them established through legislation if necessary."

Organised capital has conceded that existing centralised bargaining arrangements should not be under-

more efficient form of bargaining, it allows unions to promote more egalitarian objectives. It allows workers and employers to benefit from economies of scale and increases the power of both parties.

Democratic rupture, the process whereby there is a widening gap between union leaders and workers, is a risk.

If centralised bargaining is to gain acceptance, it must be flexible. "Flexibility means decentralising and then re-centralising. Structural flexibility is the heart of the matter."

A flexible system should accommodate the needs of small and medium enterprises (SMEs).

But the prime aim for unions should be to keep all employers within the regulatory net.



TIGHT FIT Liaison manager Steven Miller with teachers and pupils in one of the container classrooms at a school in the Orange Farm squatter camp, near Johannesburg. The school is part of a joint project between the Wits Vaal Regional Peace Secretariat and big business which uses shipping containers to provide clinics, creches and literacy centres in under privileged areas

"Centralised bargaining is under pressure in most industrialised countries. Deregulation, decentralisation and labour-market flexibility remain the dominant trend."

It says centralised bargaining forums should determine minimum wages and working conditions which can be extended to all employers and employees in the industry concerned.

The legal centre of the system should rest on 40 centralised forums registered as industrial councils (ICs).

"This gives them the power to make legally binding agreements for an industry and, crucially, have these extended to non-parties."

Cosatu says a less bureaucratic style of IC should be developed. Individual workers and small employers often receive shabby treatment from ICs.

The exemption system should be



DAVID MATTHEWS

BRIAN Angus's defence of industrial councils (Business Times, June 12) illustrates the misleading reasoning used by proponents of the system to rationalise their control over industry and commerce.

In respect of minimum wages he side-steps the indisputable contention that lower wages encourage employment and, being the question, argues that low wages do not lead to higher employment in themselves. Nobody says that they do.

In the first place there must be a demand for labour. The African example of low wages with no increase in the demand for labour illustrates not what he contends but

Apartheid relic continues to benefit a minority

St. Times (Buss) 19/6/94

By **DAVID MATTHEWS**

rather than heavily regulated, socialist economies are unable to grow healthily and generate that demand.

As a member of an industrial council myself, I find his claims that its main purpose is to set fair minimum terms and conditions of employment laughable.

So far as I have been able to ascertain after considerable study, an industrial council is nothing more than a collusive monopoly granted by the state to a minority

of employers and employees which they exercise largely for their own benefit.

The granting of this monopoly may be justified by moral claims to be "setting fair terms of employment" and "promoting labour relations" but, like so many justifications for doing good, they are by and large no more than a smoke-screen to gain public approval and conceal the true nature of the system.

Industrial councils are to industry and commerce what the control boards are to agriculture: state-protected monopolies, permitting

the recipient organisations to manipulate the market process to their own financial advantage, all in the name of public good.

They were formed in the 1920s in order to exclude blacks from the labour market by granting the white trade unions the right to set minimum wages — which they did at a level high enough to deny black entry into the labour market.

The mechanism they used to achieve their self-serving end (minimum wage rates) is the same mechanism used today by industrial councils to exclude would-be workers from the labour market.

Black workers remain the principal victims of the system.

It is understandable that workers, in their naivety as to how the mechanism of minimum wages works, should support it, but it is tragic that our leaders, knowing full-well how rotten apartheid and its legal structures were, do not comprehend this and, through the mechanism of minimum wages, are perpetuating apartheid's objectives.

Minimum wages are the opposite of affirmative action in the sense that they disempower the very people the government is attempting to empower, by denying them access

to the labour market.

Thus favoured employers and favoured employees are permitted and encouraged by the state to collude and fix labour and other costs to their benefit, contrary to the interests of the consumer, employers, employees and job creation.

This cannot be in South Africa's interest and the ugly reality behind the strawsong of "fair wages" and "promoting labour relations" should be exposed for what it is — manipulation of society by self-serving power groups.

David Matthews is chairman of the Small Business Association.

Opportunities for all — Based on Merit

Financial Controller

Instrumentation Artisans

How Many Hats Can You Wear?

TECHNICAL ASSISTANT

★ Attractive Negotiable Package Inclusive of Benefits & Car

Unique Position for a versatile, Liaison & Documentation

Union disrupts council meeting

151 ARG 1/7/94
□ Move to banqueting hall after abuse

SHARON SOROUR
Municipal Reporter

PROTESTING municipal workers spent hours in an empty council chamber yesterday — after disrupting the council's monthly meeting — before a delegation handed over a memorandum detailing their grievances.

About 50 SA Municipal Workers' Union shop stewards staged a placard protest in the foyer of the civic centre before demanding their right to sit in the chamber public gallery.

Workers protested against the "unilateral" selling off of public assets and land, including the abattoir and the closure of the Kogel Bay resort, the way the council was implementing its affirmative action programme, and the "contemptuous" way the executive committee treated the union.

Once in the chamber, acting branch secretary Neville Alcock asked if the

council would be prepared to accept the union's memorandum.

Acting mayor Gordon Oliver declined and workers shouted abuse.

Mr Oliver's pleas that the council be allowed to carry on with business were drowned out by interjections.

The meeting was adjourned and resumed in the banqueting hall.

The protesters vowed to stay in the chamber until they handed over their memorandum.

Commenting on the disruption, executive committee chairman Clive Keegan said it was an "appalling display of negotiation by intimidation, to which we will not be party".

Councillor Arthur Wienburg said workers had to follow procedures and the council could not give in to the demands of people who had behaved "appallingly".

He asked why the protesters had not been forcibly removed.

World Bank slates town-twinning idea

Biday 4/7/94

SAMANTHA SHARPE

THE concept of a "twinning" programme aimed at merging white local authorities and adjacent townships to reorganise local government has been condemned by the World Bank

The bank's latest report on reducing poverty in SA said the "twinning" of Sandton, Randburg and Alexandria, which has a deficit of R12m, would require a 9% increase in property taxes in Randburg and Sandton to cover the Alexandria shortfall

But the "twinning" of Johannesburg, Diepkloof and Soweto — Diepkloof and Soweto's local authorities are burdened with a deficit of R200m — would result in an increase of about 40% in Johannesburg property taxes

This would encourage the pattern of "space distortion" inherited from the apartheid era, the report said

Firms and households in high tax areas would relocate to avoid a heavier tax burden, with different households getting varied levels of service depending on where they lived

"Ultimately a twinning programme would result in the loss of economic base

for Johannesburg (for example) and a further deterioration of the level of services provided in the lower-income areas"

The report called for a metropolitan boundary which incorporated the entire central Witwatersrand region

The metropolitan system would more than likely create a local government system accountable to constituencies and independent of the uncertainties of central financing

It would also have a better chance of financing the backlog in urban infrastructure and services in a way that ensured disciplined government spending

Urban centres were the economic core of the country, and enhancing their functioning was vital to national growth and improving access to basic services for the poor, the report said

Central Witwatersrand Regional Services Council chairman Len de Wet said recently that a transitional metropolitan council would be created soon to take over the functions and powers of the Johannesburg and neighbouring city councils and the regional services council

Dispute threatens services in Tembisa

MORE than 300 Tembisa City Council workers were dismissed last month after an unresolved dispute that is threatening services in the area

Tembisa administrator Han Eybers said the dispute started with alleged illegal actions by the labour force, including taking a council official hostage

The council has enlisted the assistance of private contractors and remaining

BONILE NGQIYAZA

staff members in an attempt to render essential services

The council alleges the dismissed employees were involved in disruption and intimidation

Eybers said a subcontractor was prevented from digging graves. Electricity staff, and the ambulance and fire brigade were also prevented from per-

forming their duties.

Eybers said the council was granted a Supreme Court interdict two weeks ago to prevent the dismissed workers from occupying council property

He said an Industrial Court hearing on the matter had been set for today

The Health, Municipal and Allied Workers' Federation could not be reached for comment

140 ballot boxes disputed

CAPE TOWN — A total of 140 ballot boxes with 185 115 ballot papers were disputed in the KwaZulu/Natal election, constituting about 4,1% of the province's voters, the SA Institute of Race Relations has reported

The institute said most of the disputed ballots were marked in favour of the Inkatha Freedom Party. In all other areas, the number of disputed ballots was negligible, the institute said

The Independent Electoral Commission (IEC) had reported widespread irregularities and incidents of coercion in KwaZulu/Natal, including the stuffing of ballot boxes, voting by children, the operation of illegal voting stations and the removal of IEC officials from some polling stations

Because of the coercion, about 20% fewer monitors were deployed in KwaZulu/Natal than had been planned

Assessing the election, the institute said one of its vice-presidents, Lawrie Schlemmer, had described SA's present political situation as one of "pre-democracy"

TIM COHEN

In such a situation, ethnically based political groupings had opted for a unity government rather than a normal government-versus-opposition arrangement

He said the ANC had been supported by only 3% of whites while only 2% of blacks had supported the NP or the DP

Government by "grand ethnic coalition" would lead to a "corporatist state", he said

While providing the country with stability, such a system would also cater for the interests of central and provincial government, most labour, most agriculture, most business and most traditional sectors

But SA could pay dearly for this in the long term through the possible exclusion of the concerns of consumers and investors

Opposition to government and innovative policy proposals would have to be provided by groupings outside Parliament, particularly through the work of non-governmental organisations, Schlemmer said

Numsa declares two pay disputes

Bina 7/7/94
ERICA JANKOWITZ

THE National Union of Metalworkers of SA (Numsa) yesterday declared disputes in the motor vehicle manufacturing and steel/engineering industries

Numsa general secretary Enoch Godongwana said the union's central executive committee had resolved to reject employer wage offer ~~(8%)~~

Deadlock in the steel/engineering sector, which employs about 270 000 workers, was reached with employers offering 8% and the union demanding 12% ~~(15%)~~

Other outstanding issues included basic education of 160 hours a year per worker, a new wage structure, narrowing wage differentials, industry restructuring and employment security, Godongwana said

In the motor manufacturing sector, which employs about 25 000 workers, employers had offered 7% in response to the union's 15% demand. Other issues were the same basic education demand, employment security, revising the grading structure and extending the national bargaining forum to suppliers. Hours of work and overtime agreements were also in dispute.

Formal dispute meetings in terms of the Labour Relations Act would now be convened. If these failed to resolve the disputes, Numsa would ballot members on possible strike action.

Seifsa executive director Brian Angus expressed surprise at the declaration of a dispute. At the parties' last meeting, Seifsa's final offer had been rejected by all unions except Numsa, which said it wanted to canvass a response from some regions.

Angus said employers expected a written response today and would meet unions at a scheduled Industrial Council executive committee meeting on Tuesday.

Numsa declares wage disputes

~~1/8~~ ~~1/8~~ Own Correspondent ~~3/3~~ (157)

JOHANNESBURG — The National Union of Metalworkers of SA (Numsa) declared disputes yesterday in the motor manufacturing and steel/engineering industries ~~CT 7/7/94~~

Numsa general secretary Mr Enoch Godongwana said the union's executive committee had resolved to reject wage offers from employers

Deadlock in the steel/engineering sector, which employs about 270 000 workers, was reached after employers offered eight per cent and the union demanded 12%.

In the motor sector, which employs about 25 000 workers, employers had offered seven per cent and the union wants 15%.

Seifsa executive director Mr Brian Angus was surprised at the declaration, saying Numsa had accepted Seifsa's final offer, even though it wanted to canvass a response from some regions

He said employers would meet unions at an Industrial Council meeting on Tuesday.

CT 18/7/94
**Democracy
'not enough'**

DURBAN — The wave of industrial action by organised labour was a sign that democracy alone could not deliver, Minister without Portfolio Mr Jay Naidoo said.

Workers expectations were very high and the sooner the collective bargaining system was improved, the better for the economic growth of the country. (15)

Speaking here, Mr Naidoo said labour laws, which gave workers the right to strike and rights of collective bargaining, must be drafted by the new parliament.

He said workers were not satisfied.

Mr Naidoo said government officials not prepared to implement the RDP had no place in the government. — Sapa

Strike goes to mediation

PICK 'n Pay and the South African Commercial, Catering and Allied Workers Union yesterday agreed to mediation to end a dispute over wages *Sowetan*

A statement by the Labour ministry said Mboweni had viewed the strike with growing concern and had recommended mediation to the two sides.

"The Minister of Labour has recommended to the parties that the dispute be referred to mediation and that a mediator be appointed as a matter of urgency

"This recommendation has been accepted by both Pick 'n Pay management and Saccawu," the statement said

Local collective bargaining

It added that Mboweni had advised the parties to accept mediation when it became clear that negotiations had completely broken down and the "strike could move beyond the parameters of local collective bargaining".

"The ministry reiterates its full recognition of the constitutionally enshrined right to strike and the right of management and unions to seek appropriate and mutually acceptable mechanisms

to resolve collective bargaining disputes. 2117194

"In this regard, the ministry would not dictate to either party the terms of a possible solution, but would recommend and support mechanisms to resolve disputes

"Furthermore, the ministry would like to stress that the right to strike does not extend to violence, either from workers on strike, police or management. (S) (S)

"In the current wage negotiations and disputes, great care should be taken by all parties to protect the integrity of the collective bargaining system build over many years of struggle," he added

● The 18 executive members of the Joint Affirmative Management Forum, who staged a sit-in at the Pick 'n Pay offices in Bedfordview on Tuesday, left the building yesterday

Mr Siphwe Mazibuko, Jamafo's spokesman, said about 3 000 members of the organisation who have declared a dispute with management, were likely to go on a full-blown strike after an emergency meeting to be held tomorrow — Sapa

SA Breweries faces strike threat

8/Day 2117194
ERICA JANKOWITZ

SA BREWERIES workers would conduct a strike ballot in the brewing division next week, as wage negotiations had deadlocked, the Food and Allied Workers' Union said yesterday.

Fawu spokesman Ernest Buthelezi said the company was offering a 10% package. The union was demanding an 11.5% increase. Management had refused to revise its final offer, even during mediation. The union had dropped its demand from 13%.

There was a "possibility of industrial action" involving about 5 000 SAB workers nationally, but the union hoped this could be avoided and settlement reached.

SAB had asked the union for a meeting to discuss strike rules so as to avoid confrontations similar to those that had occurred in the Pick 'n Pay strike, he said.

However, Fawu had responded by saying that both parties had to control their ranks. If no temporary labour was employed, union members would not be provoked into confrontation. "We don't mind if they run the plant with non-striking workers, but they mustn't bring in scabs."

SAB management could not be reached for comment.

Nupen to mediate in Pick 'n Pay strike

Star 22/7/94

■ BY JOVIAL RANTAO
LABOUR CORRESPONDENT

Charles Nupen, director of Independent Mediation Services of SA, has been appointed to mediate in the Pick 'n Pay strike following an appeal by Labour Minister Tito Mboweni.

Mboweni said the SA Commercial, Catering and Allied Workers Union and Pick 'n Pay should meet Nupen as soon as possible, and urged them to settle their dispute urgently.

The appointment comes as a wave of labour disputes in different industries countrywide continues unabated.

Yesterday, the PWV saw the start of yet another strike when more than 400 shunters at the Metro Rail Service stopped work over wage demands and the job evaluation procedure.

In Cape Town, hundreds of workers at a fruit exporting company went on strike, also in support of increased wages.

Police arrested more than 800 Pick 'n Pay workers in the PWV yesterday for violating an Industrial Court interdict preventing protests within 500 m of Pick 'n Pay stores. Saccawu said yesterday it would challenge the interdict in court.

Upsurge

The Industrial Relations Network has recorded more than 15 strikes, involving more than 30 000 workers, in the first three weeks of this month.

Labour experts say the current upsurge in industrial action could be attributed to the many wage negotiations currently underway and workers' high expectations after the election.

Labour analyst Duncan Innes said workers expected to get bigger increases because of political change and the fact that the economy was coming out of the recession.

Economists have expressed fears that the industrial action posed the biggest single impediment to foreign investment.

Labour analysts Andrew Levy and Associates said the number of working days lost in the second quarter of 1994 was almost double that of the same time last year.

Sapa reports that Acting President Dullah Omar said last night that the strikes currently facing the country were not directed at the Government or the ANC, but at monopolies which were not interested in building the country.

Speaking in Cape Town, Omar said all South Africans and businesses had to assist the Government in nation-building.

He said workers and bosses would have to organise themselves better to prevent future strikes.

DISPUTE OVER UNFAIR DISMISSALS

By **STAN MHLONGO**

NEGOTIATIONS between Shoprite Checkers, its employees and Saccawu meant to resolve a dispute over alleged unfair dismissals had not been concluded by the end of the week (15/10/94)

The workers claim that Checkers had become intransigent since joining forces with Shoprite in 1990 "About 300 people have lost their jobs since then," claim the union

But Shoprite Checkers has strongly disputed this, saying only 160 people have lost their jobs so far

■ Fifteen employees at Modulex company in Johannesburg downed tools in protest against poor implementation of health laws at the company and in demand for higher wages. *CIPress*

Workers are also protesting against abusive language allegedly used by a director of the com-

pany when addressing employees

■ The SA Domestic Workers Union this week marched over the unfair dismissal of a domestic by her Rosebank employer after she had asked for a raise 247194

Joyce Matjeka claims she was paid R267 a month for working seven days a week for five years. She only had a day off when one of her relatives died, she said

Builders' strike suspended

**DAVID VUTAR
and PIETER MALAN**
Weekend Argus Reporters

THE five-day strike by six construction-worker unions was suspended and the unions called on their members to return to work on Monday.

Union spokesman Lunalle Mqikela said the strike was suspended to allow wage negotiations to take place.

Workers are demanding a minimum wage of R30 an hour for artisans, R25 a day for general workers, an annual bonus, medical aid and pension benefits.

Earlier yesterday, a Congress of South African Trade Union spokesman told a large crowd of demonstrators outside the offices of the Building Industrial Council on the Foreshore that they had no option but to return to work temporarily.

The gathering went ahead in spite of an agreement earlier

this week to suspend the illegal strike action.

Mr Mqikela said a negotiating council was established with two representatives from each company to address the unions' demands.

The question for a single building-industry labour union also would be addressed.

Earlier yesterday, police maintained a heavy presence as about 2 000 building workers demonstrated outside the Foreshore offices.

The workers, representing six construction-worker unions, toy-toyed and sang freedom songs in front of a police razor-wire cordon around the building.

Earlier this week, representatives of the unions reached an agreement with the Master Builders Association (MBA) that illegal strike action would cease, enabling negotiations on substantive demands to take place.

A memorandum circulated to workers noted their "concern" over the denial of basic

rights. These included the right "to earn a decent living".

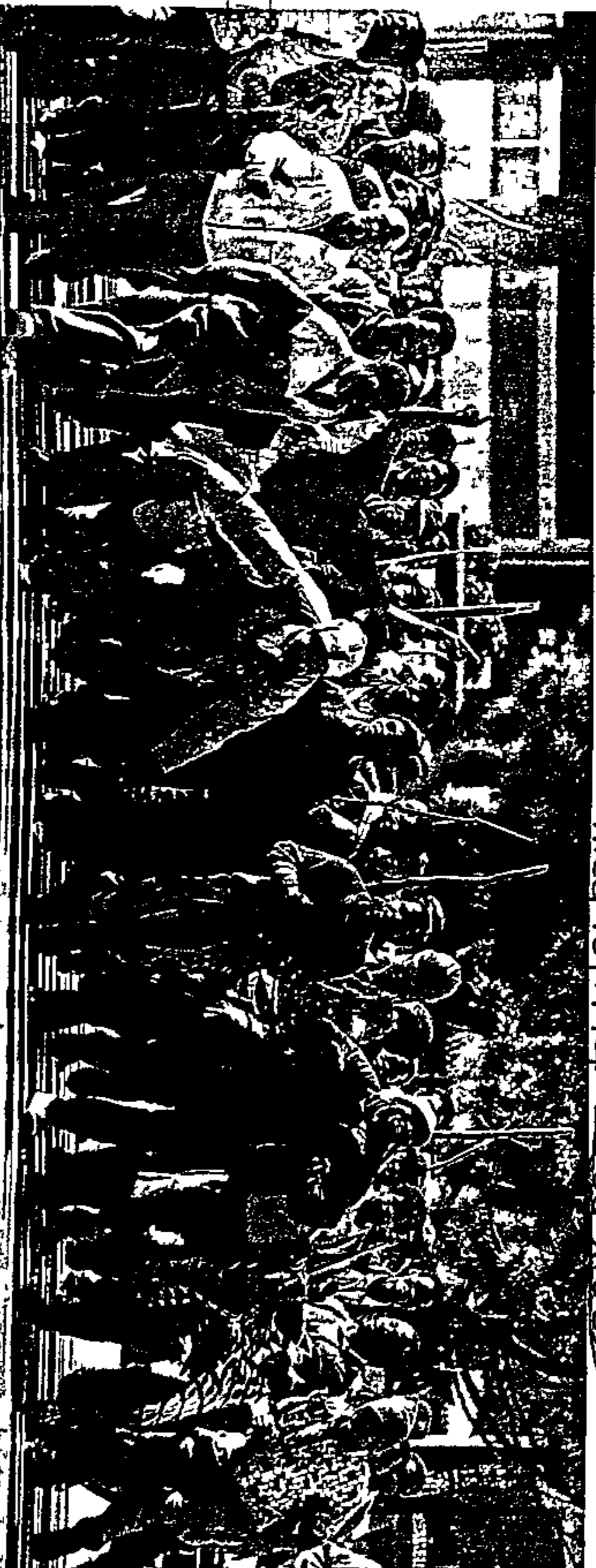
Other demands were severance pay for retrenched workers, pay for "time lost through inclement weather" and a review of the Building Industrial Council's constitution.

The workers also demanded that no action be taken against strikers.

MBA assistant director Donald Cosgrove said the latest strike action ran "contrary to the agreement" reached earlier in the week.

The unions affected were the Building Workers' Union, the Amalgamated Society of Woodworkers, the Amalgamated Union of Building Trade Workers, the Construction and Allied Workers' Union, the South African Operative Masons' Society and the Woodworkers' Union.

After they were addressed, workers dispersed peacefully. Earlier yesterday, police warned building industry workers to leave the Norwich Life construction site in Claremont because they were trespassing.



WORKERS DEMONSTRATE: A crowd of about 2 000 construction workers demonstrates outside the offices of the Building Industrial Council for the Western Province on the Foreshore. Pictures: LEON MULLER, Weekend Argus



LIVING WAGE: One of the posters left behind by demonstrating workers

Pay rise rejected

ARG 26/7/94

MIDDELBURG The National Union of Metalworkers of South Africa has rejected a nine percent pay rise offered by Columbus Stainless and declared a dispute, a company spokesman said. (52)

Faint, illegible text or markings on the right edge of the page.

Unions stand accused

STRIKERS are being blamed for feathering their nests at the expense of the unemployed DAVID BREIER reports.

CAPE TOWN — Militant strikers have been accused of being a relatively small elite with jobs, promoting their sectional interests at the expense of jobless millions.

They are also under fire for undermining the ability of the economy to sustain the new Government's Reconstruction and Development Programme (RDP).

Attacks on South African trade unions, and notably the COSATU labour federation, are being made internationally as well as locally and by the Government as well as the private sector.

It follows the upsurge in strikes mainly by unions affiliated to COSATU, which is engaged in a bid to assert its power in its alliance with the ANC and the SACP.

The unions' war cry has been for a "living wage" while millions of unemployed have no wages at all. Employers maintain their unskilled workers are well paid

by international standards while COSATU says half its members earn less than R1 000 a year.

President Nelson Mandela this week criticised some COSATU strikers, saying some people had been unable to move from resistance to reconstruction.

This led to an SACP central committee backlash against Mandela for "echoing" the view that strikes harmed the RDP.

The World Bank reports that high wage demands by organised labour have cost South Africans hundreds of thousands of jobs and had resulted in South African businesses investing in machines rather than workers.

The bank said the high price of South African labour meant the country could not compete internationally with its more productive export rivals.

The Standard Bank Investment Corporation reports

Auto workers vote for nation-wide strike

PORT ELIZABETH — About 45 000 workers voted for a nation-wide strike in a referendum held last week. This follows last week's vote by COSATU strikers to support a nation-wide strike against the Government's Reconstruction and Development Programme (RDP).

The referendum was held on Wednesday in a bid to avert a strike at the time car and truck manufacturers are expected to start production.

MSA organiser G. M. Harrod said the employees would vote in favour of the strike.

that in spite of the smooth political transition, the latest developments have forced a new assessment of the economy.

Analysts now believe optimistic growth forecasts should be reduced because of the strikes. International investors showing interest after the fall of apartheid have been discouraged by the latest trends.

Sanlam chief economist Johan Louw expressed concern that COSATU action would further discourage for-

ign investment.

This week COSATU and business leaders agreed that raised expectations after the election were a major reason for the strikes.

Professor Henne Kotze, head of political science at the University of Stellenbosch, said the unions, representing people with jobs in the formal sector, were a relatively small elite compared with the unemployed.

Kotze said South Africa's long-term chances of survival were good provided there

was a "social contract" between government, employers and labour. But at present labour was trying to dominate the other two.

"In the short term it is vital the trade unions do not spin out of orbit," he said. He endorsed a widely held view that the unions lacked leadership after their top echelons had entered the new Government.

Kotze said an "insider-outsider" syndrome had developed. This meant that the "insiders" who were union members with jobs were

striking for higher pay, effectively excluding unemployed "outsiders" from jobs as higher pay levels damaged the economy and prevented new employment.

"The strikes are to the detriment of the outsiders. In fact it means less growth and fewer jobs," Kotze said.

"Economic growth is one of the pillars, perhaps the only pillar, of the RDP. It is only economic growth that can create more money for social upliftment."

He said the politicians had not helped matters by creating the perception among trade unions that ANC leaders were on a " gravy train" by paying themselves and their friends high salaries.

This set the tone for unions to push their demands further.

Kotze also cautioned that the strikes could create the perception that black labour could not be relied on. He said there were unemployed whites who would be only too happy to work for R400 a week.

"We need delayed gratification," he said, suggesting

workers should work towards higher pay rather than expecting instant post-apartheid dividends.

COSATU spokesman Bheka Nkosi denied that COSATU members were a privileged elite merely because they had jobs. He said their pay had lagged behind inflation in previous years and they were trying to make up the backlog. He maintained the current round of strikes was normal for July.

Nkosi also said that far from keeping unemployed people out of jobs, union members needed their pay to support unemployed family members. He denied the strikes were undermining the RDP. "Businesses feel exempt from the RDP. They use the RDP to force workers to make sacrifices," he said.

Nkosi maintained that in post-apartheid South Africa "the rich are getting richer while the workers have to tighten their belts and get poorer". He said workers expected a dividend from the post-apartheid upswing, which should benefit only the rich.

Meet Mr Mediator

(151) ARGUS 18/94

The biggest, most bitter industrial dispute, pitting the leading supermarket chain against the main catering union, ended on Wednesday. Argus Correspondent GLENDA DANIELS spoke to the broker of the settlement.

THE resolution of the Pick 'n Pay strike, the first major industrial dispute of the post-election South Africa, was met with collective relief by all, particularly the protagonists who endured a bruising three-week test of power.

The end, about noon on Wednesday, seemed to come as suddenly as the beginning. But before that came many long hours of bargaining. And in the midst of that was Charles Nupen, the 44-year-old national director of the Independent Mediation Services of South Africa.

Back in his neat, simply furnished Richmond, Johannesburg, office, and nearly 24 hours after settlement, Mr Nupen still bore the tell-tale signs of many days of conveying demands and counter-demands between Pick 'n Pay and Commercial, Catering and Allied Workers' Union negotiators.

In a grey suit and still looking stressed, he could afford to smile. Being in the middle of the most bitter and longest labour dispute was as "challenging" as it was "stressful". "I'm pleased it's over."

He is now concerned about the rebuilding of relations between Pick 'n Pay management and Saccawu members.

"I sincerely hope that the parties, once the conflict has resolved, will be able to (implement) the key agreements contained in the settlement and reconstruct their relationship. If their public announcements are anything to go by, both parties seem to see positive elements in the settlement."

At its height, the strike evoked strong emotions not only among workers and management, but also from the public and sections of the media. Does he think this reaction was warranted?

"Strikes are not an alternative to the negotiation process. They are a feature, an aspect of collective bargaining. People tend to focus on the fact that strikes damage relationships, but they also need to recognise that strikes are an instrument to focus the mind on compromise."

"We would do better as outsiders not to demonise the participants of industrial action, but rather to dispassionately give support to settle to those involved."



CHARLES NUPEN:
"Pleased it's over"

Who does he think deserves credit? He mentions Labour Minister Tito Mboweni, for his "proactive" role of facilitating settlement. Mr Nupen was appointed mediator by the minister.

"It was the first time I experienced the minister using his powers under Section 44. My sense is that his timing and approach to the parties was right," Mr Nupen adds.

He has no regrets about the work he does because the wonderful camaraderie and mutual support among his colleagues makes it all worthwhile. He mentions, for instance, a night during the Pick 'n Pay mediation when he and friend and fellow mediator Dave Douglas visited another mediator John Brand and brainstormed the dispute until the early hours.

This kind of support happens all the time, he says.

Mr Nupen, a mediator for 10 years, is a lawyer who has worked for the Legal Resources Centre and as an attorney in Cape Town. In his student days in the '70s he was president of the Student Representative Council at the University of Cape Town and of the National Union of Students. Most recently he was an IEC commissioner.

Imssa, an independent, non-profit conflict resolution agency, celebrates its tenth anniversary this year. Since its inception in 1984, its mediations and arbitrations have increased steadily. In 1984, for example, there were 39 mediations and five arbitrations. This rose to 859 arbitrations and 464 mediations last year. The corresponding figures for this year stand at 284 mediations and 371 arbitrations.

Mr Nupen explains mediation as the intervention of an acceptable third party to assist negotiating parties who are in difficulty or have deadlocked. The mediator does not

determine the outcome — the power lies with parties.

A mediation would normally deal with issues like wages while an arbitration attempts to resolve disputes over rights, for example a dismissal. The role of an arbitrator would be to determine an outcome at the request of the disputing parties.

In the mid-'80s Imssa began providing a balloting service to employers and unions and from that a major service developed — the Election and Balloting Service — which runs elections in industrial and political settings.

Mr Nupen says they are now involved in running a massive postal ballot over a provident fund. Recently they organised the car industry ballot for thousands of employees. They also ran the ballots for ANC national and regional lists in 54 different sets of elections throughout the country. They also run civic association elections in communities, he said.

"In 1989 we started mediating conflicts in the communities at the request of organisations and in response to actual and perceived need the Community Conflict and Resolution Service was born, with two major components — mediating conflict and in the peace structures, violence reduction."

This unit is now involved in "facilitating the delivery side of reconstruction and development initiatives."

Imssa also has a training division which this year will run 150 courses. The courses are for training mediators and to train unions, employers, non-governmental organisations, community organisations and government departments in conflict resolution.

The panels of mediators and arbitrators come from professionals like lawyers, academics, psychologists, industrial relations practitioners and also community-based people.

At the end of the interview Mr Nupen takes the trouble to mention mediator Thabo Molewa who was killed in December in Tokoza.

"Thabo was Imssa's most prolific and successful mediator in the way he worked with people, not only through his technical skills, but in the way he managed to break down barriers while often working in a hostile environment."

NEWS Police warn mothers about kidnappers ● Motor industry strike may enter week two

Strike goes on as Numsa walks out of talks

A NATIONWIDE strike in the motor industry is set to enter its second week after the National Union of Metalworkers of South Africa walked out of negotiations late yesterday.

The Numsa walk-out was supported by the smaller, and predominantly white, Iron and Steel Workers' Union when talks deadlocked over a model for

restructuring wages and the annual wage increase.

Numsa central bargaining organiser Mr Gavin Hartford said all parties agreed on a model for restructuring "apartheid-inherited" wage scales and that a task group would be set up to examine its implications for the industry. Hartford said, however, the Auto-

mobile Manufacturers' Employers' Organisation refused to discuss this year's wage increases until the agreement on restructuring was in writing.

He said Ameco had adopted this stance despite the agreement being read to negotiators by the National Bargaining Forum chairman Mr Fred Ferreira. At the start of talks yesterday Numsa

was demanding that differences in wages between the highest and lowest paid workers on the same skill levels be eradicated over three years, Ameco was offering to do so over four years.

Ameco vice-chairman Mr Harry Gazendam said the implications of restructuring wage scales was an "enormously complicated exercise which will

cost millions of rands and a one-year difference is not an easy gap to close."

He said Ameco could not make a final offer on wage increases until all parties were clear on wage restructuring because of its implications for budgeting.

Both Numsa and the Iron and Steel Workers' Union are demanding a 12 percent increase in wages. — *Ecrin*.

Shoprite calls for arbitration

ET 5/8/94
JOHANNESBURG. —
Shoprite/Checkers yesterday appealed to Minister of Labour Mr Tito Mboweni to appoint an arbitrator after a breakdown in mediation between the supermarket chain and the South African Commercial Catering and Allied Workers' Union (SACCAWU).

The group said in a statement Saccawu ended talks after a day-and-a-half of mediation.

The dispute concerns a strike at 24 Shoprite/Checkers stores — Sapa

Steel firm in pay deadlock

JOHANNESBURG

(S1)

Mediation between stainless steel manufacturer Columbus Stainless and the National Union of Metal Workers of SA has failed, the company said yesterday.

The union, sticking to its wage demand of an 11% increase a month, had rejected the company's 9% offer.

Columbus said Numsa added two demands — upgrading the two lowest worker categories and 160 hours of educational leave a year.

Columbus general manager Mr. Wilhelm Prinsloo said upgrading workers meant a 20% wage increase for the lowest paid workers without improved productivity.

Sapa

Ackerman urges mediation law

By MAGGIE ROWLEY
Deputy Business Editor

PICK 'n PAY chairman Mr Raymond Ackerman last night called for mandatory mediation in wage disputes and for legislation within three months to make strike rules compulsory on an industry to industry basis

In an interview after the res-

(151) CT 5/8/94
olution of the three-week strike by Pick 'n Pay workers, Mr Ackerman said mediation should be the first step in wage disputes and not a last resort and he urged unions to follow this route rather than resort to strike action

He said the real problem Pick 'n Pay had faced was not the strike but the undisci-

plined behaviour of strikers

"We tried for six years to get the union to sign strike rules, which they refused to do. They only signed after we were forced to call in the police following attacks on customers, staff and our property, but when they saw that the strict rules ruled out such behaviour they just tore them up

"For the good of workers, companies and the country, legislation needs to be introduced forcing unions to sign strike rules. Behaviour is at the heart of peaceful settlements of strikes. As the outcome of the strike has shown, management cannot and will not be held hostage by aggressive tactics and thuggery"

Police death toll this year up to 151

SUSAN RUSSELL

THE number of policemen killed by unknown attackers on the Witwatersrand during the past week rose to seven with the discovery of the body of an off-duty sergeant in Vosloosrus on Saturday.

This brings to 151 the number of police personnel killed this year. Sixty-nine were killed in the PWV.

Police said yesterday that the body of Sgt VBC Memela was discovered with gunshot wounds in his neck and stomach on Saturday evening. Two constables were also shot dead in separate incidents in the Durban area on Saturday.

A police spokesman said an off-duty constable, wearing a police tracksuit, was shot dead by armed men in Umlazi, outside Durban. A second constable was shot dead in Lamontville.

Their deaths were the latest in a spate of police killings which saw Safety and Security Minister Sydney Mufamadi last week publicly commit himself to harsher penalties for the murderers of police. Police Commissioner Gen Johan van der Merwe has called for the reimposition of the death penalty to deal with police killers.

The recent spate of police murders should be seen by SAPS members as a challenge to be faced in the same way SA had faced problems in the past, Mufamadi said yesterday.

Friday's proclamation freeing the country's 11 separate police forces to work

outside their previously restricted areas of jurisdiction would enable police to deploy resources and skilled personnel more effectively in responding to the problem.

The Minister said the killings were not politically motivated, but reflected organised crime's response to a climate where improved relations between police and the community allowed police to carry out their duties more effectively. (151)

Mufamadi said the positive public reaction to Saturday's police procession of about 2 000 personnel through Soweto attested to a much improved relationship between the community and the police.

His statement follows Friday night's killing of the Mabaso family in Wattville near Benoni on the East Rand.

Two men armed with an AK-47 rifle and a pistol killed Floyd Mabaso, 26, his wife Agnes, 21, their one-year-old son Toby, daughter Nqobile, 3, and grandmother Emily Mabaso, 65, in their home.

Police do not yet know the motive for the attack.

Reacting to the murders, Mufamadi said, "This attack must be condemned as inhuman, especially since such young children were slain."

"These killings, as well as others, emphasise the urgent necessity to find a creative and inclusive solution to the problem of violence, especially on the East Rand."

Shocks likely on TBVC accounts

TIM COHEN

CAPE TOWN — The joint standing committee on finance has authorised the auditing of the accounts of the former TBVC states by the auditor-general, setting the stage for revelations on financial abuses.

Auditor-General Henri Kluever told a sitting of the committee on Friday that at least nine audit reports were outstanding for the former TBVC states, while a further seven were outstanding in respect of the former homelands. 8/8/94

Transkei appeared to be the worst offender and reports on its accounts had not been submitted for the past five financial years, he said.

Audits were also outstanding in respect of the 1991/92 and 1992/93 financial years for Bophuthatswana and Venda, while no information was available for Ciskei.

Although central government had not controlled the audits of the former TBVC states, the new constitution effectively

placed the responsibility for auditing these accounts with central government.

Kluever asked the committee whether his department should pursue these reports and this path was supported by NP and ANC members. However, it was pointed out that the joint committee on public accounts would also have to be given a chance to express an opinion. (151)

Kluever said it would be difficult to complete the audits because the institutions had been largely subsumed under provincial administrations.

Kluever also admitted that there had been pressure on the office by the previous government to modify its reports. He declined to provide details.

He pointed out that the office was still restricted in its auditing, particularly in respect of the Special Defence Account.

J
d
P
S
E
R
I
C
U
N
C
U
E
S
" t
a
u
t
D
V
C

Arbitration in Checkers row

ET 8/8/94

Own Correspondent

(151)

JOHANNESBURG — The SA Commercial Catering and Allied Workers' Union (Saccawu) and Shoprite-Checkers have agreed to advisory arbitration in their eight-week dispute

This follows Labour Ministry intervention, Shoprite spokeswoman Ms Adele Gouws said yesterday. Shoprite had appealed to Labour Minister Mr Tito Mboweni on Friday to appoint an arbitrator after the union threatened national strike action.

After consultation with the ministry, Saccawu is understood to have accepted proposals for non-binding, advisory arbitration.

The union had earlier rejected arbitration proposals because the company insisted the arbitrator should not make an award in respect of the grievance lodged by a dismissed shop steward.

The strike began in mid-May when the shop steward was dismissed for allegedly using 'racially abusive language to a Jewish manager' at a Killarney, Johannesburg, store.

Saccawu will meet Shoprite management today to decide on the terms of arbitration.

CAPE

Stayaway threat by chemical workers

ISI

ARC 9/8/94

□ 'Prosecute guard and close security firm or ...'

Labour Reporter

THE Chemical Workers Industrial Union is to call a one-day stayaway of all Western Cape members in response to the shooting by a Sea Point security guard of a striking Capegas worker — unless the guard is prosecuted and the security company closed

Greaser Aubrey Kilana, who had 21 years experience at Capegas, was shot dead last Monday. He was allegedly part of a group of strikers who attacked a three-lorry Capegas convoy in Beach Road, Woodstock.

Meanwhile mediation between Capegas and the union resumes tomorrow. Union organiser Colin Rani said today workers were satisfied with the company's latest offer of a 45 cents an hour across the board wage increase

Mediation would focus on the company's desire to build a disciplinary clause into its offer, and the union rejection of this position

Mr Rani said the stayaway had been decided upon at a branch executive meeting on Saturday. Next week's meeting of the Chemical Workers Shopstewards Council would decide on a date for the action

The union was also demanding the dismissal of Capegas chief executive Keith Lloyd and financial director Bernard Straughan, Mr Rani said.

Asked to comment on the latest developments, Mr Straughan said the company hoped to settle its dispute with the union at the earliest opportunity.

"We are trying to get mediation going again and were under the impression some progress was made at the last

round of mediation last Thursday," he said

Police spokesman John Sterrenberg said the investigation into Mr Kilana's "unnatural death" was continuing

"On completion of the investigation all the documentation will be laid before the senior state prosecutor who will have to decide on a course of action," Captain Sterrenberg said

● The South African Chemical Workers Union is planning a march for Saturday at 10am from the Macassar Civic Centre to Somchem in Somerset West

In a statement today, the union said it was embarking on the action because of Somchem's "refusal" to negotiate wage increases, recognise the union or allow union officials to be part of its job grading exercise

Mediation for small business

ERICA JANKOWITZ

MEDIATION between labour and management in small and medium enterprises required special skills and a more interventionist approach, Mediation and Conciliation Centre founder Mahmood Fadal said yesterday

The centre was established 16 months ago with its service tailored to the requirements of small and medium enterprises.

"This is the area where there is little, or in some cases, no regulation by law and employers and employees have to solve disputes on a voluntary basis."

Fadal said the service complemented that offered by the Independent Mediation Service of SA in focusing on conflict resolution for organised small and medium enterprises and organised labour and where industrial councils did not exist.

For example, the centre facilitated a recognition agreement between Roshnee traders and the SA Commercial, Catering and Allied Workers' Union and established a central bargaining forum

The centre offered expeditory arbitration — a process which offered companies immediate and cost-effective arbitration on dismissal cases.

Though struggling for funding, the centre realised it needed to tailor its fee structure to accommodate small and medium enterprises and trade unions and so calculated charges according to a user's ability to pay, Fadal said

The centre also offered training for shop stewards on basic labour law and worker rights and conducted balloting for trade unions. During the election it helped with voter education and in resolving disputes.

Fadal said he disagreed with an idea being floated by the Labour Ministry to make mediation compulsory before a strike ballot could be conducted.

"Mediation must be voluntary and it should be viewed as one of several bargaining tactics. If it is made compulsory, unions will have no option but to strike if the process fails"

His idea was to create a centre dedicated to creating a culture of conciliation through constructive dialogue and harmonious relations between conflicting interest groups.

(151)

Steel groups find consensus

Own Correspondent

JOHANNESBURG —
Provisional agreement
was reached between
the Steel Engineering
Industries Federation of
SA (Seifsa) and the 12
party trade unions on
the second day of media-
tion yesterday

It is believed the wage
offer was between 9%
and 10%, but the parties
will not disclose details
until further meetings
— Sapa

CT 10/8/94

Civil servants vote on wage strike

By Waghied Misbach

South 12/18 - 16/18/94

CIVIL servants from the Public Service League (PSL) are conducting a strike ballot this week after wage talks with the government collapsed last week.

The chairperson of the PSL, Mr Malcolm Domingo, confirmed the organisation was consulting its 50 000 members countrywide on taking strike action.

Domingo said the government had repeatedly ignored their demands for changes in the salary packages of clerks, who form the major membership of the PSL.

"They told us that we were not a high priority at the moment," he

said.

All public service organisations are currently involved in wage talks with the government.

The general manager of the Public Servants Association (PSA), Mr Casper van Rensburg, said his 103 000 members' "bottom line" is an inflationary increase. However, they were not considering strike action at the moment. (151) (250)

Meanwhile the government has backed down on its controversial proposal to pay cabinet staff members inflated salaries.

The proposals would have meant that people in the posts of minister's private secretary, administrative secretary, public relations officer, assistant private secretary, typist, registry clerk and messenger would have earned well above the norm for civil servants.

The government and the 11 public service organisations agreed last week that staff employed by ministers would be paid like "normal civil servants", said Van Rensburg.

He said the National Party had wanted the proposals accepted but this was rejected by public service organisations.

Salaries of members of parliament are also likely to be reduced after the ANC called for an investigation into the issue.

Strike mandate at hospital

Staff Reporter (15)

THE Public Servants
League of SA (PSLSA)
yesterday obtained a
mandate from about 400
Lentegeur Hospital staff
to lead a strike if future
wage negotiations dead-
locked

CT 12/8/94

This was said by
PSLSA spokesman Mr
David Meiring, who add-
ed that league president
Mr Malcolm Domingo
had called the meeting
to assess "grassroots
feelings".

Dispute at UWC resolved

Labour Reporter

(SI)

THE National Education Health and Allied Workers Union has resolved its disputes with the University of the Western Cape and Libertas Hospital in Goodwood

Union organiser Dale Forbes said today UWC had agreed to suspend campus control head Piet du Toit while allegations of corruption, racism and issuing unlawful instructions were being investigated.

ARC 18/8/74
UWC also agreed to reinstate a worker and investigate how she was dismissed

At Libertas, where the union has been demanding recognition for three years, about 60 members occupied the hospital yesterday

"Management eventually agreed to a verification process which will commence on Monday," Mr Forbes said.

Checkers mediation collapses

Star

■ BY JOVIAL RANTAO
LABOUR CORRESPONDENT

Mediation between Shoprite/Checkers and the South African Commercial, Catering and Allied Workers' Union (Saccawu) to resolve the protracted illegal strike at the company's 24 stores collapsed yesterday and the union announced it would conduct a strike ballot. S18194

The Witwatersrand region of Cosatu announced yesterday that the planned stayaway on Monday had been cancelled and a consumer boycott of Shoprite/Checkers stores would start on Monday.

Shoprite/Checkers said Saccawu had walked out of mediation and appealed to Labour Minister Tito Mboweni to appoint an arbitrator.

Saccawu media officer Sithembele Tshwete said his delegation did not see the point of continuing as the Shoprite/Checkers delegation had refused to negotiate terms of reference for the arbitrator.

Saccawu members are to march to the Hillbrow branch of Shoprite/Checkers today.

The dispute concerns the illegal strike and an inquiry into allegations of racially abusive language used by a Saccawu national shop steward.

(S18194)

Conciliation hopes for Pep dispute

A CONCILIATION board is to meet today hoping to resolve a wage dispute at two Pep manufacturing plants — in Butterworth in the Eastern Cape.

In a statement the Clothing and Textile Workers Union said more than 500 workers were involved in plant sleep-ins

Workers downed tools on August 25, protesting over the retrenchment packages for 30 workers.

The union is also demanding a R25 a week increase across-the-board from July 1

The company has offered R11,15 a week from date of settlement and a further R1,61 a week increase for the six months ending on June 30, 1995.

Sapa ARG
(51) 30/8/94



Strike spotlights bargaining system

BIDAY 01/9/94

ERICA JANKOWITZ

THE prolonged strike in the motor assembly sector has brought centralised bargaining starkly into the spotlight, with many commentators blaming the system for some elements of the dispute.

Currently all seven major manufacturers bargain wages and conditions of employment annually in the national bargaining forum. Two unions — the Cosatu-affiliated National Union of Metalworkers of SA and the SA Confederation of Labour-affiliated SA Iron, Steel and Allied Industries' Union — are the other parties to the forum

The forum was established a few years ago at the insistence of Numsa in line with Cosatu's stated aim of establishing centralised bargaining structures in all major industries

Numsa wants to take this a step further and include component and tyre manufacturers under the same umbrella, but employers have rejected this move

Automobile Manufacturers Employers' Organisation vice-president and chief negotiator Harry Gazendam believes the forum has outlived its usefulness in its current form

Employers want three bargaining levels: nationally a tripartite body to negotiate labour policy, industry-

level negotiations to establish fair and equitable minimum standards, and at plant level some profit-sharing agreement.

Gazendam stresses this is not the same as two-tier bargaining in which unions settle minimum standards at industry level and then negotiate separately at plant level to improve wage rates.

Employers within the forum will not disclose results because they are competitors. Gazendam says the forum bundles seven fierce competitors into a single structure with the inevitable "fudged response".

Numsa national organiser Gavin Hartford rejects the employer response, saying setting minimum standards would mean most members would not be affected by any industry-level agreement as there are vast disparities between the highest- and lowest-paid workers in the sector.

Hartford says the union has pushed employers for a stand on bargaining levels for the past three years and has only received a coherent position since the strike pushed the issue to the forefront.

This, and all other issues, will be negotiated with the resumption of dispute meetings this week.

360
218
3/8

(151) (42)

Strikes stay - Mboweni

By Ismail Lagardien 9/19/94

THE Government will continue to support collective bargaining in labour relations and will support any efforts to strengthen the process, the Minister of Manpower, Mr Tito Mboweni, said yesterday

Labour relations and collective bargaining had to be placed in the context of a market economy and industrial disputes were an integral part of this system, he said.

"It is in the nature of the relationship between capital and labour in a market economy that fundamental contradictions will always exist and conflict will continue in varying degrees

"In this context the collective bargaining system is the best mechanism to manage this basic contradiction. We will neither attempt to supercede or override the collective bargaining process."

He said, however, that in a good collective bargaining system, in which strikes and lockouts were the ultimate weapons used by both workers and management, maximum advantage could be derived by all parties involved in a dispute

However a particular weakness of the current labour dispensation was "a lack of coherent mediation and conciliation capacity" and which Government would tackle "as a priority".

21/5/94
**Dispute over
staff transfer**

THE Public Service League (PSL) has declared a dispute with the Western Cape provincial administration over the transfer of personnel as a result of the closure of Volks Hospital in Gardens. (151) (25)

The PSL said the administration had undertaken not to retrench or transfer staff against their will. — Sapa

Khayelitsha

without cops

CT 21/9/74
KHAYELITSHA still has no operational traffic police force, as all 14 of its members have been "grounded" in a bitter dispute with their management over alleged misuse of petrol for private purposes. (51)

A request to them to escort British Prime Minister Mr John Major's entourage yesterday could not be complied with, as they still cannot fill up their cars at council petrol bowsers.

On Monday evening, the angry patrolmen, who had been denied petrol at the council depot, blockaded for several hours 10 members of management and eight other employees into a fenced administration block.

Building dispute threatens opening of Nyanga complex

(151) (113) ARL 28/9/94
TOM HOOD and ROGER FRIEDMAN
Staff Reporters

NEXT week's opening of the giant R30 million Nyanga shopping centre is threatened by the dispute between building workers and Murray and Roberts, the main contractors

The company pulled its workers off the site after they were attacked by a dissident group, group Cape managing director Geoff Turner said today

Sub-contractors are still working and a spokesman for the developers, Combi and Company, said a meeting would be held with all contractors and sub-contractors

"We are making every effort to open in time," he said

Mr Turner said the majority of workers were not involved in the dispute but the company stopped building work for the safety of its employees

However, the contract was on schedule, he said.

● A crowd of men claiming to be the workers dismissed last week by Murray and Roberts have gathered at Mutual Station.

Work at all Murray and Roberts sites in the city remained disrupted today — a week after the company fired 550 workers for downing tools to attend a meeting called by the Building Workers' Council Committee.

The council committee is an unrecognised federation of workers which cuts across union lines — some of them affiliated to Cosatu.

Yesterday, as Murray and Roberts management met regional Cosatu leadership in the city, a group of men descended on the Newlands rugby stadium "B" ground and attacked working labourers

Meanwhile, Cosatu and Murray and Roberts thrashed out a joint proposal which will be put to all Murray and Roberts workers at a meeting in the city tomorrow.

Cosatu in talks over building company dispute

ROGER FRIEDMAN, Labour Reporter

COSATU and Murray and Roberts enter urgent negotiations today after the 550 workers dismissed by the company last week rejected the latest re-employment offer yesterday.

Previously, the workers rejected an offer brokered by recognised trade unions in the building industry with Murray and Roberts.

The workers were dismissed after they walked off sites to attend a meeting called by the Building Workers' Council Committee last Wednesday.

The council committee, an unrecognised federation of workers cutting across union lines, was unhappy with the unions' wage settlement earlier this month after protracted, sometimes violent, industrial action.

Work was still disrupted today at Murray and Roberts sites, including Newlands rugby stadium and the Nyanga station development.

Cosatu stepped into the fray this week, fearing the industrial action would spread.

The proposal put to the workers at a meeting in the city yesterday was that they would all be re-employed but that disciplinary action would be taken against those who allegedly incited illegal industrial action or took part in any violence.

According to Murray and Roberts, a site foreman at Newlands rugby stadium was injured and another worker was sent to hospital after clashes with the dismissed workers on Monday.

Murray and Roberts managing director Geoff Turner today described the company's latest re-employment offer as "accommodating as we could be" but Cosatu's regional secretary Alan Roberts said the workers had rejected the offer and demanded unconditional re-employment instead.

**Dock workers
list grieyances**

SEVERAL hundred
Portnet employees
marched through Table
Bay harbour on Thurs-
day to demand an end to
the privatisation of port
facilities and alleged
unilateral restructuring
by Portnet management.
The workers, members
of the South African
Railway and Harbour
Workers' Union, pre-
sented their grievances
to port manager Mr
Neels Hubinger. — Sapa

CT 15/10/04

Assurance on bargaining

Political Correspondent

151

THE government has no intention of interfering in collective bargaining in the private sector, says cabinet secretary Jakes Gerwel

There has been speculation that a fiscal discipline programme included a proposed agreement between workers and business on restraint in wage demands in return for more democracy in the workplace

ARC 28/10/94

Professor Gerwel said Finance Minister Chris Liebenberg had briefed the cabinet this week on a programme to transform the public sector in line with the government's commitment to fiscal discipline

Mwasa in dispute

THE Media Workers Association of South Africa has declared a wage dispute with Perskor and may go on a national strike if the company fails to meet the workers' demand. The union's Southern Transvaal administrative secretary, Mr Themba Hlatshwayo, said the union expected the dispute to go for conciliation next week. Coupled with a 20 percent increase, the

union is demanding an initial wage adjustment to bring the minimum to R323 a week.

Hlatshwayo said it was a disgrace the workers earned as little as R164 a week. He said the dispute could result in a national work stoppage at all Perskor plants.

Human resources manager of the company Mr Fanie Gouws was not available for comment. (151)

Nehawu cries foul over Venda retrenchments

GIVING in to union demands to reinstate thousands of retrenched drought relief workers in Venda would set a dangerous precedent for other unemployed workers in the province, the Northern Transvaal premier's office said yesterday

The National Education, Health and Allied Workers' Union (Nehawu) yesterday accused the provincial government of negotiating in bad faith by retrenching workers while negotiations were going on

Nehawu said 14 000 workers had been dismissed so far, while the provincial government said it had laid off about 10 000 temporary workers on the drought relief projects because funding had been exhausted.

NOMAVENDA MATHIANE

The premier's office said it was under no obligation to negotiate with Nehawu on the plight of temporary workers.

Pietersburg Nehawu organiser Emmanuel Mohale said a regional meeting was planned for tomorrow to address the problem and to look into issues such as promotions, pay parity and Nehawu stop orders that were not being processed by the government.

Mohale said a joint Nehawu-government commission set up to investigate the region's financial standing found a sum of R14m in one of the former government's accounts

"This money could be used to keep these

workers in employment instead of laying them off, and using the army to put up water boreholes and supply water to the villages," he said

"The government's argument that the workers who have been laid off are temporary workers does not make sense because the majority of those people have been temporarily employed by the former government for over 18 years," he said.

□ Sapa reports that police reopened the Bisho/King William's Town road yesterday which had been blockaded earlier in the day by public servants and general workers from the former Ciskei administration.

The workers are complaining about wage discrepancies.

ne Aid

BEST AND MOST EXPERIENCED
T SERVICE COMPANY

OFFER

es and Hoists.

s and hoists - Legally required by

gally required by the O.S.H. Act.

lly required by the O.S.H. Act.

s. We can overhaul your cranes
nge spans, height of lifts, speeds,
controls, brake conversions,

Public service unions to go ahead with strike ballot

CAPE TOWN — Public service unions will continue with a strike ballot following Public Service Bargaining Council chairman Hannes du Preez's decision not to rule on whether a deadlock had been reached in negotiations, sources said yesterday.

If Du Preez had ruled against the unions, and judged that there was no deadlock, the ballot would have fallen away

Instead, Du Preez informed government and the 18 public service unions that they would have to decide themselves on their next move, the sources said.

The sources said government could eventually be forced to go to the Supreme Court to prevent the unions going ahead with SA's first public service strike.

Two weeks ago Du Preez turned down a request by the unions, after four days of inconclusive talks, to declare a deadlock, as he had done in earlier talks. He said he wanted to seek legal advice

Government negotiators, who at the time appeared to have outsmarted the unions, argued that technically the deadlock was broken because both sides had shifted from their original positions.

Unions vowed yesterday to continue with strike balloting of their members

Public Servants' Association (PSA) GM Casper van Rensburg said ballot papers were posted to union members in non-essential services on Tuesday

Van Rensburg said the union hoped to

DAVID GREYBE

have the ballot results by December 5

He confirmed the PSA had requested Du Preez to go ahead with arbitration between government and the unions involved in essential services, because they were prohibited from striking

Van Rensburg was at pains to stress that the 106 000-strong PSA would go to almost any length to have wage talks resumed.

A Public Service Bargaining Council source said Du Preez was busy trying to arrange a special meeting of the council, within the next few weeks, to discuss the PSA request.

A Public Service League official said ballot papers would be posted to members on Monday He said the league, together with at least four other public service unions, planned to hold a single day for balloting on December 12.

A government source said government had not yet formulated its response to the latest developments

After the last round of talks failed, the unions reverted to their original demand of a 15% across-the-board wage increase and a minimum monthly wage of R1 500, from December 1 Government improved its pay offer twice during the talks, to end up with a minimum wage offer of R1 075 a month from April 1, and R1 250 a month from April 1 1996

nbique,
nabolo,
e.
Man-
ings in
zo said
SA had
tional

re still
ted by
would

d," he

Unions go to court over jobs dispute

BO 9/12/94 (ISI)
DAVID GREYBE

CAPE TOWN — The first of a string of urgent union applications against provincial governments who have readvertised public service jobs will be heard in the Industrial Court today.

The Northwest was the only government which bowed to union threats of legal action, and agreed this week to suspend its jobs campaign.

Two provincial governments — the Free State and Eastern Transvaal — refused, saying yesterday they were prepared to defend themselves in court.

A Free State spokesman said his government would oppose an urgent Industrial Court interdict application brought by the Hospital Personnel Trade Union.

The union demanded government suspend its "unilateral" jobs campaign in the provincial public health sector.

Public service unions are demanding that guidelines for the transformation of the public service be negotiated first with them at central level, saying without more transparency the process of transformation cannot be deemed credible.

The Free State is also facing an urgent Supreme Court interdict application next week by the biggest public service union.

The Public Servants'

Association (PSA) gave the Free State, Northwest and Eastern Transvaal provincial administrations until today to suspend all re-advertising of posts

The Free State spokesman said late yesterday the province's lawyers were still studying the association's demand, but indicated it would not comply.

Supreme Court action against the Eastern Transvaal government is also expected next week, after it rejected the demand to suspend the jobs campaign.

An Eastern Transvaal spokesman maintained his government had complied with laid-down procedures drawn up at national level for the filling of posts. He said the association would have to pursue the matter with central government.

In the Northwest, a legal clash between government and the unions was avoided when representatives from the two sides agreed this week to suspend the jobs campaign until clarity was obtained from government.

Unions are opposed to jobs being offered outside the public service before candidates from within have been considered. The PSA is also demanding the establishment of a special tribunal to resolve disputes.

ARG. 13/12/1994

Technikon wage row deadlock

NORMAN JOSEPH
Staff Reporter

(51)

A MEETING between the Peninsula Technikon Employees Union and the technikon's management to resolve a wage dispute has ended in deadlock.

Academic and administration staff demanding an increase of 30 percent declared a dispute with the technikon last week.

The technikon said it did not have the funds for the increases.

A spokesman for the union said management had agreed in September to negotiate salary adjustments for 1994. The dispute was not resolved because of management's unwillingness to "address" the issue.

The spokesman said "The only offer management considered was a contribution to members paying the transitional tax levy. This was rejected as it will benefit only certain members."

Acting rector Brian Figaji said: "We discussed the grievances of union members but differed on negotiations for salary adjustments for 1994."

"We raised a few things such as what we possibly could do regarding 1994 salary adjustments. We will be happy to talk about 1995 with them."

The parties will meet again on January 16.

Mediation at Pepsi plant

JOHANNESBURG —
The Independent Media-
tion Services of South
Africa (IMMSA) has
been called in to break
the deadlock between
Pepsi and unemployed
workers demanding jobs
at the new firm's plant.
IMMSA will negotiate
with New Age Beverages
— Pepsi's holding com-
pany in SA — and work-
ers calling themselves
the Gauteng Job Seek-
ers' Association. — Sapa

CS 22/12/79 (51)

Handwritten notes and markings on the right margin, including a vertical list of numbers and some illegible text.

INDUSTRIAL RELATIONS - DISPUTES

1995

Release of dismissed Spar staff demanded

CT 4/1/95
151

JOHANNESBURG —
About 250 people surrounded the Roodepoort police station last night to demand the release of 10 people arrested for incidents at Spar supermarkets in the town earlier yesterday

At the Florida Spar yesterday morning, dismissed workers allegedly stole goods and caused damage of about R45 000, police said

During the incident, the owner was assaulted and shelves overturned

The group then marched to a Spar at Wilropark in Roodepoort and later gathered outside a Spar outlet in Ouklip Road.

Three people were arrested

The crowd threw bricks at police. Some policemen were also reported to have been sjambokked before the Roodepoort dog unit was called in. Seven more people were arrested

The 10 appearing at a bail application last night were due to appear again today — Sapa



Firm and union in deal on contract workers

ROGER FRIEDMAN
Labour Reporter



THE Food and Allied Workers Union (Fawu) and a Goodwood potato chip manufacturer seem to have avoided clashing in court over the company's plan to fire contract workers and hire temporary staff through an employment brokerage

The parties met their lawyers yesterday after the union's lawyers fired off a letter giving Brass Ladle Foods three days to reverse its decision to dismiss 21 workers or face interdictory proceedings in the Industrial Court

Its refusal to grant permanent employee status to the 21 workers was an unfair labour

(151) ARG 13/1/95
practice, Brass Ladle Foods was told

"We regard your conduct in threatening to terminate the service of the 21 so-called casual employees as not only compounding the unfair labour practice, but also as a criminal offence."

A similar letter was addressed to employment brokerage Status Personnel, which the company had approached to supply temporary labour from February 1

By helping Brass Ladle Foods in "committing an offence in terms of the Labour Relations Act", Status would have "knowingly committed a delict" against the Fawu mem-

bers and could be liable for damages

Last week the owners of Brass Ladle Foods said they could not afford costly litigation and if Fawu proceeded with legal action, they threatened to warn off potential foreign investors by telling international media what "investing here entails"

But a meeting between the union and company in the presence of a local industrial relations firm seems to have settled their differences

The company agreed to reconsider its position and offer full-time employment to at least some of the workers who faced the axe. The company

also recognised the principle of union organisation.

In return, the union agreed to suspend legal action and withdraw its conciliation board application. The union also agreed that chip making was a seasonal business and that some of the contract workers would not be employed permanently but have their contracts extended.

The final details of the agreement will be thrashed out at a follow-up meeting on January 24

Company co-owner André Maart declared himself "absolutely happy" with the agreement, while Fawu could not be contacted for comment

Govt to act in
Spar dispute

ERICA JANKOWITZ

THE Labour Department was expected to set up a meeting between Spar management and the SA Commercial, Catering and Allied Workers' Union, (Saccawu) tomorrow, union spokesman Sithembele Tshwete said yesterday.

He said Saccawu representatives met Labour Department officials earlier this week to propose mediation to end the 10-week strike over regional bargaining. Ministry officials had agreed in principle to the proposal and said it would approach management on mediation.

Hundreds of workers have lost their jobs after striking illegally on November 9 at scores of Spar outlets in Gauteng. Incidents of police violence, intimidation and vandalism have been reported.

Spar management was not available for comment yesterday, but its stand had been to resist central bargaining because of its franchise arrangement.

Transnet workers locked out of depot

TRANSNET management at the Kaserne depot yesterday locked out SA Railways and Harbours Workers' Union (Sarhwu) members who had been demanding that private companies not be allowed to operate in Transnet.

The union protest started last week after a Transnet manager employed an outside worker in place of a Transnet worker who was on leave.

Transnet then approached the court which ruled that the manager and the two employees involved both be suspended until the union and management had resolved

**JOHANNES NGCOBO and
AMANDA VERMEULEN**

the matter amicably. **BD 27/11/95**

Transnet regional manager Rod Hinchco said yesterday the union had been preventing private companies from coming into the depot. Because the union had violated the court agreement and continued the protest, management had decided to lock the company's gates

Union spokesman Mandla Ndlela yesterday blamed the lock-out on Transnet management's failure to suspend the white su-

pervisor

The union and the management were still locked in a meeting late yesterday.

Meanwhile, the Rennie's Group yesterday threatened legal action against Sarhwu after union members blockaded the nearby City Deep depot and allegedly damaged property

Rennie's said 250 drivers contracted to Roadwing, a subsidiary of Saftainer which was owned by Rennie's, had been threatened by Sarhwu members who maintained their jobs were in jeopardy

To Page 2

Transnet

BD 27/11/95
Spoornet, which embarked on privatisation several years ago, contracts much of its container delivery business to Roadwing's 250 owner-drivers.

Rennie's freight management division CE John Cattell said: "The broader economic implication (of the dispute) is disturbing. For the past four days workers have prevented Roadwing operators from moving freight to and from City Deep — the world's largest inland port."

The owner-drivers were "mostly black entrepreneurs who, using their own trucks, move goods to and from storage depots". They were part of a Roadwing programme to assist drivers in acquiring their own vehicles

Sources said Spoornet drivers had become increasingly dissatisfied with Spoornet's policy to step up its privatisation scheme through contracting Roadwing drivers

Rennie's said the simmering dispute be-

BD 27/11/95 From Page 1
tween Sarhwu members and Roadwing contractors had come to a head last week when 200 Sarhwu members had threatened Roadwing drivers at the Kaserne terminal with pangas and rocks. "Several drivers were assaulted."

It added that workers surrounded and threatened Roadwing trucks at City Deep yesterday, and the situation had been defused by Spoornet management. "But after the trucks had left, workers turned on the employees of City Deep office buildings and forced them to evacuate."

Cattell said since Roadwing started using owner-drivers, Sarhwu members had been "agitating" against the concept in the belief that their jobs were threatened.

He noted that Roadwing last year won the Chartered Institute of Transport's Company of the Year award for its support of the reconstruction and development programme through its empowerment scheme

Containers pile up at Kaserne depot

MARCIA KLEIN

THOUSANDS of containers — many with perishable goods, are accumulating at Transnet's Kaserne, Johannesburg, container depot, closed since the middle of last week because of a labour dispute.

Transnet management locked SA Railways and Harbours Workers' Union (Sarlwu) members out of the depot on Thursday after a dispute over hiring temporary workers and the use of contract delivery services. (270) (151)

Estimates of the number of containers at the depot, on rail and in the marshalling yard ranged from 5 000 to 8 000. One freight industry source said many clients had re-ordered goods by airfreight to avoid having to switch off round-the-clock manufacturing facilities. BD 28/11/95

Sources said it was impossible to estimate the financial implications of the bottleneck. Some of the goods would perish and many companies would lose production if vital materials were left standing at the depot.

The Kaserne closure, coupled with a go-slow at Durban harbour in another labour dispute, had resulted in a backlog which would take weeks to work off, freight industry sources said.

A Spoornet spokesman said nothing had moved through the depot by late on Friday. Rennie's said lawyers for owner-drivers contracted by Roadwing, part of the Ren-

□ To Page 2

Kaserne

□ From Page 1

nies Group, were hoping to negotiate with Sarlwu to resolve the dispute. Roadwing subcontracts drivers who move goods to and from storage depots.

Rennie's said Sarlwu members had been agitating against the owner-driver concept as they felt it threatened their jobs.

Heneways Freight Services chairman Pat Henegan said the terminal was "raided" by disgruntled workers on Thursday.

"Telephones were ripped out, and computers unplugged. Container operators had to flee for their lives."

His company had diverted its containers from Durban to Port Elizabeth and Cape Town to avoid the go-slow in Durban. But it was much more costly to transport goods from these ports to Johannesburg. "We have taken flak from clients who are desperate for their deliveries."

'Six weeks' to clear depot

INGRID SALGADO

(151)

SPOORNET'S City Deep container depot would take six weeks to clear its backlog of 5 400 containers but this figure could rise if SA Railways and Harbours Workers' Union (Sarhwu) members continued preventing private contractors delivering to and from the depot.

Spoornet spokesman Ian Bleasdale said only 15% of containers were clearing through the depot. Fourteen trains were backed up and unable to offload.

Sarhwu and Spoornet were negotiating yesterday. Sarhwu is protesting against the use of contract delivery services, believing members' jobs are under threat.

Meanwhile the SA Chamber of Business (Sacob) has called for a crisis working group to consider immediate and long-term solutions to the bottleneck.

Sacob spokesman Peggy Drodskie said low capacity at Durban's container terminal and the hold-up at City Deep were having a strong knock-on effect on each other.

Scheduled visits of container vessels from Europe on an eight-day cycle were out of synchronisation.

Forty refrigerated containers with perishable goods had to be returned to their ports of origin.

If the problem was not resolved speedily it would affect SA's image as a trading nation, add to import costs and influence the inflation rate. **BD 2/2/95**

Closed shop arrangements on their way out

ERICA JANKOWITZ

CLOSED shops were on their way out, but agency shops would be provided for if the draft Labour Relations Bill became law. *BD 3/2/95*

Although no legally enforceable duty to bargain was included, the Bill gave unions organisational rights which would "unashamedly promote collective bargaining"

Closed shops were bargaining arrangements compelling all workers in a particular firm or industry to join a designated trade union when employed. Objections were that this flew in the face of freedom of association, but closed shops were common in many sectors

Agency shops tried to avoid this criticism, but still dealt with the question of "free riders" — workers who benefited from collective agreements which were extended to non-union members although they had made no financial contribution to union coffers.

The agency shop arrangement required non-members to pay a fee into a fund, administered jointly by management and labour, which would be used to contribute to collective bargaining expenses.

A few private agency shop arrangements existed in the mining and motor manufacturing sectors.

According to the Bill's drafting team, closed shop bargaining arrangements would probably not be acceptable in terms of the new constitution.

Existing closed shop agreements would not be immediately outlawed in terms of the Bill, but would remain in place until the constitution was finalised and the issue resolved.

In terms of the draft, union security arrangements would be covered by allowing for agency shops which "should pass muster under the interim constitution".

Agency shops could be introduced only if the union represented a specified percentage of the workforce. This figure would be negotiated between the social partners at the National Economic, Development and Labour Council (Nedlac). The drafting team suggested a minimum of 50%.

In addition, forcing reluctant workers to join the union would be outlawed and agency fees would not be more than union subscription fees.

The draft Bill conferred organisational rights on unions including stop-order facilities and the right of access to premises for union-related purposes.

Time off for union activities and the right to hold meetings were covered along with the right to information for collective bargaining purposes and the right to

elect union representatives.

However, none of these rights would be absolute with each being qualified by "what is reasonable in the circumstances". For example, confidential information could not be disclosed to a third party without severe sanctions being incurred.

Unions would become entitled to exercise these rights only once they reached certain "thresholds relating to representativeness". Again, the figure would be left to Nedlac to decide. *(151)*

Adversarial relations 'kill ability to compete'

(S) ERICA JANKOWITZ BD 5/2/95

INTEREST-based bargaining should replace positional bargaining in response to new imperatives of modern organisations, labour lawyer Chris Albertyn says in the latest Employment Law.

Organisations would need to adapt to these new imperatives and be responsive to co-operation, multi-skilling, consumer demands and quality needs, Albertyn notes. Old-style hierarchical, segmented and job-defined organisations would be unable to compete effectively in the global market.

"The historical process is inevitable, which companies and unions make the transition is not." Adapt to these challenges or face the consequences, he says.

Positional bargaining — in which the parties embark on an adversarial style of negotiations without considering the impact of their outcome — is inappropriate to organisations based on participation and co-determination.

In contrast, interest-based bargaining seeks to find common ground between the parties, resulting in a mutually acceptable outcome.

Albertyn gives some examples on areas of agreement. These could include a principle that workers should be no worse off as a result of negotiations and that real wage increases should not be inflationary, but linked to productivity improvements. Parties may also agree that all should benefit equitably from the company's success.

In addition, attributes considered important to the company could be rewarded in terms of the goals set.

- Albertyn suggests some solutions including:
- Transferring some supervisors to productive positions;
 - Using flexible shifts to reduce overtime;
 - Self and team supervision;
 - Bonuses linked to quality and waste reduction;
 - Multi-skilling and job flexibility;
 - Opportunities and rewards for training; and
 - No lay-offs until managers have taken a set pay cut.

Chemical workers' union threatens mass action

MXOLISI MEXASHE
Weekend Nyus Reporter

THE Chemical Workers' Industrial Union (CWIU) in the Western Cape has threatened mass action as a last resort to persuade the government to withdraw criminal charges against more than 60 unionists who took part in a strike for increased wages at Capegas last July.

The charges arise from disturbances when strikers were arrested for allegedly carrying sticks, sjamboks and iron bars and assaulting other workers. One worker, Aubrey Kilane,

was shot dead by a security guard. The incident sparked off solidarity demonstrations by almost 1 000 Chemical Workers' Industrial Union workers and African National Congress members in the Western Cape, who called for the prosecution of the guard and the closure of his security company. Collin Rawu, CWIU regional secretary, said that by charging the 62 former Capegas employees — the case has been postponed to May 3 and 4 — with intimidation the State was deliberately removing politics from the case.

Mr Rawu claimed the prosecution wanted to demonstrate the harshness workers could expect if they continued to demand their rights. "Admittedly," he said, "there was some violence during the strike and it was provoked by the use of scab labour by the company. The use of scab labour must naturally anger workers when using the only legal recourse open to them — strikes," Mr Rawu said. He said the new Labour Relations Bill was mute on the use of scab labour and it was one of the main issues his union was raising against the Bill.

What has angered us more is the fact that the private security guard employed by Capegas who shot and killed Comrade Kilane gets off scot-free. No charges have been laid against him and the workers who had a legitimate cause are, instead, the ones who are being treated as criminals. His union intended staging a mass demonstration when its members appeared in court next month, Mr Rawu said. The trial, expected to last four to five days, is likely to cost the State more than R50 000.

Teachers declare dispute over pay

(151) ~~327~~

19/4/95

■ BY JUSTICE MALALA
LABOUR REPORTER

talks in the Education Labour Relations Council in Pretoria yesterday

Possibilities of industrial action by teachers increased yesterday when the National Professional Teachers' Association of SA (Naptosa), the largest teacher organisation in the country, declared a formal dispute with the Education Ministry

The move by the moderate association follows the decision by the SA Democratic Teachers' Union (Sadtu) last week that it would declare a "day of protest" in which activities would be undertaken to highlight the plight of teachers

The association declared the dispute after

Naptosa and Sadtu are demanding an 18,4% increase. The Government has offered 1,4%

Naptosa president Leepile Taunyane said he hoped that teachers would not be forced to resort to industrial action as this would not be in the interests of pupils or of education.

He said it was clear that less than 10% of the R2,5-billion allocated for improvement of conditions in the entire public sector was being offered to teachers for salary improvements in the 1995/96 financial year

education looming

Teacher unions declare dispute over salaries

(151) Sowetan 20/4/95

Sowetan Correspondent

TEACHERS' unions have declared an industrial dispute over wages as government's offer will see "only one third" of all teachers qualifying for increases

Members of the National Professional Teachers' Organisation said in announcing the dispute yesterday the union would not shy away from strike action if all other methods failed

The South African Democratic Teachers' Union has also declared a dispute

Wages frozen

According to the offer made by government, teachers earning more than R45 000 a year would not receive an increase this year and would effectively have their wages frozen

Last year's increase was only 5,6 percent

For those earning under R45 000, increases ranging between 0,028 percent and 6,6 percent had been offered, said Mr Andrew Pyper of Naptosa.

He said this meant teachers earning R18 000 a year would receive about R80 a month more after tax while those

earning R44 000 would get an extra R3,66 in their pay packet.

Naptosa has called for an 18,4 percent increase, saying this would redress poor increases of previous years

The worst hit teachers were those already suffering under recent taxation changes. They, according to union spokesmen, would be worse off than last year

Dispute resolution

Naptosa president Mr Leepile Taunyane said the dispute resolution process would hopefully lead to a resolution of the problem, but if there was no other option, the union would not hesitate to strike

Taunyane said "We do not believe that striking is in the best interests of the pupils nor do we want to alienate the parents"

Whereas teachers might have expected about R800 million for salary increases in the light of existing agreements, only R260 million is available, he said

What was totally unacceptable was that the reallocation of funds had not been negotiated with the teaching profession, he said

Teachers declare labour dispute (S1)

CT 20/4/95

PRETORIA: South Africa's two teachers' unions yesterday declared a formal labour dispute with Education Minister Professor Sibusiso Bengu after a deadlock in pay talks here

Announcing the move, which could pave the way for a legal teachers' strike, the National Professional Teachers' Organisation of SA (Naptosa) said the government's pay offer was an insult

Naptosa's opening demand was for an increase of 18,4%. The government proposed that teachers earning between R1 500 and R3 500 a month get increases ranging from 0,2 to 6,6%. Those earning more would get no raise.

"It means that some teachers will get a raise of as little as R7 a month and about 35 000 teachers will have no increase at all," Naptosa president Mr Leepile Taunyane said

He said the South African Democratic Teachers' Union had also declared a formal dispute

The two unions represent about 220 000 teachers in the Edu-

cation Labour Relations Council, with Naptosa accounting for 60% of the voting strength in the negotiating body

Mr Taunyane said that if the government was serious about avoiding unrest it would need to reappraise its offer

Mr Taunyane emphasised that the union would be reluctant to embark on a strike as this would be detrimental to children and parents — "but we will not shy away from this option once all other avenues have been exhausted"

Priority

Mr Taunyane said that only R260 million of the R2,5 billion available for public service raises had been set aside for teachers' increases

The government had said that improving minimum wages in the public service was its priority

Funds previously used for improving only teachers' salaries had been allocated for this purpose — Sapa

Parliament workers may strike

Weekend Argus Political Staff

MEMBERS of the National Education, Health and Allied Workers Union (Nehawu) at parliament have declared a formal dispute — and will decide in two weeks whether to strike

Nehawu parliament branch chairman Buddy Ntsong said the dispute, which was declared on Tuesday, centred on salary parity and new appointments

He said workers employed after May 10 last year, were appointed at the "junior levels"

Although the union was not demanding a general salary increase for its 380 members at parliament, it was insisting that these workers be moved to the top notches of their pay scales

Mr Ntsong said the minimum salary for cleaners, service officers and catering staff was R990 and the average salary earned by them was R1 200 per month

Nehawu demanded that monthly salaries for these categories of workers be increased to R2 300

On new appointments, Mr

Ntsong said workers were demanding a monitoring role. He said the union had investigated rejected applications "and we have cause for concern"

He said "We can't trust the old bureaucrats to make the appointments on their own."

The parliamentary secretariat and Nehawu are scheduled to meet on May 12, after which the union will take a decision on striking

The deputy secretary of parliament, Chris Lucas, said yesterday they were still studying Nehawu's documents.

AKU 29/4/95

(S) (S) (S)

A nation of blackmailers?



ARLT 29/4/95

■ South Africa is fast becoming a nation of blackmailers and hostage-takers — and the ANC has been called on to crack the whip.

DAVID BREIER

Weekend Argus Political Staff

THE African National Congress has been urged to crack the whip before South Africa degenerates into a nation of extortionists

This follows the growing plague over the last year of hostage-taking and blackmail as a method of exacting demands by workers, students and even policemen

This week the ANC was blamed for originating the climate that has led to hostage-taking and public blackmail — and critics say it is up to the ANC-majority government to clean up the mess it helped create

Incidents of hostage-taking include this week's incident in which fishermen held sea fisheries chief Louis Botha to press their demands for a payout

University of the Western Cape students recently held senior staff hostage, police sta-

tion commanders have been held hostage by their own policemen, Khayelitsha workers held officials hostage and in the Eastern Cape, prisoners held a warder hostage

A union has even threatened to hold cabinet ministers and white health workers hostage

In other cases, the community as a whole has been held to ransom. This week a militant union shut down Cape Town's ambulance service for eight hours to press demands

Hospital workers have blockaded hospitals including Groote Schuur and Tygerberg — and in KwaZulu-Natal hospital workers threw contaminated laboratory samples into maternity wards

Traffic officials and police have blockaded roads — while in the Transkei, soldiers used firepower to break up a police road blockade

Sport is also being held to ransom, with postal workers and the Police Union both threatening to undermine next month's Rugby World Cup and the SA National Civics Organisation threatening to damage Cape Town's Olympic bid

ANC leaders have condemned actions in which individuals and the community have been held to ransom

But Stellenbosch political scientist Willie Breytenbach said this was not enough as the ANC bore much of the responsibility for creating the climate in the first place

He said it was the ANC, together with the mass democratic movement and the United Democratic Front, which began the practice in South Africa of using other people to promote a cause

"With their campaign of 'no education before liberation' they kept children out of school," he said

In that case, children were used as pawns and forced to sacrifice their education to pressure the white government

"I am not blaming the ANC now — at that time it was a very effective instrument in bringing their message through to the government of the day. But this kind of thing could easily become institutionalised as part of the culture of entitlement we now see

"Therefore the responsibility must lie very heavily with the ANC as the senior partner in the government of national unity to crack the whip. President Mandela, when he opened parliament, said precisely this"

Professor Breytenbach said the only cases in which the ANC had actively cracked

down on hostage-takers and police blockaders had been in the Eastern Cape. But it should do the same in major economic centres where those who carried out such activities should be arrested and charged

He said the ANC had begun to undo the damage of the boycott culture it helped create, by launching operation Masakane to encourage people to pay for services. The ANC had a similar obligation to end hostage-taking and public blackmail, he said

Professor Breytenbach said it was vital hostage-taking should not be rewarded — there should be no concessions to hostage-takers. Foreign investors were being discouraged by unruliness in the country

Those taking hostages had high expectations after the end of apartheid and felt they should be rewarded for their part in the struggle, he said.

When the world's most famous former hostage, Terry Waite, was in South Africa last year he cautioned against the use of hostage-taking to press for demands

Mr Waite was held hostage in Lebanon for several years after he went there on behalf of the Archbishop of Canterbury to negotiate the release of other hostages

New tack needed in labour disputes

BY BRUCE CAMERON

POLITICAL EDITOR

The head of the drafting team assigned to overhaul labour legislation, Professor Halton Cheadle, said yesterday that conciliation boards and industrial courts were unable to resolve shop floor disputes effectively.

He told a parliamentary briefing that only a fifth of disputes taken before the Labour Department's conciliation boards and less than a third of those that go before industrial councils get resolved.

This was against the 70 percent of disputes resolved by the private mediation company, Imsa. The reason was Imsa used independent

and properly trained mediators

Cheadle said the department was spending a "derisory" R60 million on resolving industrial conflicts.

"It is just outrageous. It is essential more money be spent on resolving disputes if we want to get away from our strike-prone culture."

There was no question that a way had to be found out of the current adversarial relationships on the shop floor, he said. Agreements reached at national and industry levels showed that solutions could be found.

Key elements in the draft legislation included

□ Replacing the labour department's conciliation boards with an independent commission for con-

conciliation, mediation and arbitration run by management, labour and government,

□ Detailed mechanisms to protect workers from being dismissed and limits on interdicts and legal action for damages. Cheadle said the right to strike was not at issue. The debate was instead about what limitations to place on strikes;

n Simple procedures for strike action,

n The establishment of a labour court, to make rapid decisions on disputes and

□ The codification of judgments on unfair labour practices. Cheadle said the issues codified in the draft legislation were a temporary measure. A bill would define issues more clearly.

CT (BR) 15/3/95 (151)

Legacy of last white mining privileges removed

The Chamber of Mines is to remove the final pillar of privilege for white mineworkers by cancelling closed-shop agreements covering 40 000 skilled and supervisory miners

After two years of unsuccessful

negotiations on an alternative arrangement, the chamber has announced it is unilaterally revoking the agreements with the Council of Mining Unions and three mining officials' associations

The decision ends a legacy of white dominance of closed shop supervisory positions on gold and coal mines which dates back to 1937, when the agreements were introduced

— Staff Reporter

SAW 27/3/95

White miners' unions irate at termination of closed shop agreement

BD 27/3/95

THE Chamber of Mines has cancelled the industry's 58-year-old closed shop agreement, provoking angry protest from the mainly white skilled mine workers' unions which have historically benefited from the arrangement.

Friday's move followed two years of unsuccessful talks between six members of the Council of Mining Unions and three of officials' associations, aimed at finding a mutually agreeable way of phasing out the closed shop. It is likely to lead to a major realignment of collective bargaining arrangements in the industry.

Chamber of Mines chief negotiator Adrian du Plessis said the closed shop agreements, which compelled particular classes of white employees to belong to particular unions, were no longer "sustainable or defensible".

The cancellation comes into effect from July 1. However, all nine affected unions have been guaranteed collective bargaining rights for two years to give them an adjustment period. Agreement was not reached because some unions wanted the guarantee to remain in force in perpetuity. In terms of the phasing out arrange-

MEMEE GRAWITZKY
and ALAN FINE

ment, lasting until June 1997, workers covered by the closed shop would have to remain members of the union designated by the closed shop agreements. But they could also now join a union of their choice.

Du Plessis said that this arrangement was proposed to allow "unions and associations a clear and reasonable opportunity to adapt".

The reasons for cancelling the agreements were that they were unconstitutional,

as they were racially based (applying to whites only) and infringed on the individual's right to associate.

The agreements, defined in respect of particular crafts and skills, had also become too prescriptive, especially with the move towards multiskilling where jobs no longer fitted into particular categories.

Industry observers say the move is likely to weaken drastically the 'artisans' unions such as those representing electricians, boilermakers and so on, and officials' associations representing the industry's white-collar employees as a union

(51)

membership ceases to be compulsory. However, the far right-wing Mineworkers' Union may benefit as artisans of similar political outlook move to it. When De Beers cancelled its closed shop agreement 10 years ago, the artisans' unions lost about 30% of their members. Two thirds of these gave up union membership and the remainder joined the MWU.

The NUM, too, is likely to gain after having fought for the abolition of the closed shop arrangement. Until now, while it has been allowed to recruit skilled workers,

To Page 2

Miners

(51)

BD27/3/95

From Page 1

the closed shop agreement has prevented the union from representing them in chamber collective bargaining forums.

Qualified black miners were therefore not represented in collective bargaining with the chamber because the MWU permits only white membership.

An industry source pointed out that now, six years after the abolition of racial restrictions, 35% of qualified miners and 50% of learners were black.

The MWU currently represents about 5 000 qualified miners, the artisan unions

about 15 000 and the officials' associations around 20 000.

Council of Mining Unions official Ben Nicholson lashed out at the manner in which the chamber had handled the cancellation of the closed shop agreement. He said the unions were currently seeking advice as to the legality of the notice.

The chamber's announcement comes in the wake of the draft Labour Relations Act which says such arrangements would probably not be acceptable in terms of the constitution

Dispute ~~(SA)~~

with SAPS

60 3/5/95
PRETORIA — The Public Servants' Association has declared a dispute with the SA Police Service, saying it excluded some civilian employees from a one-off payment of R350. (51)

The association accused the SAPS of "unilateral decisions" on the use of R15m "rolled over" from the previous financial year. ~~(SA)~~

It said this amount was set aside to meet the demands of SAPS employees who did not receive the R350 which was meant for all shift workers.

The association said police commissioner George Fivaz initially agreed that a committee of SAPS management and all employee organisations concerned would determine how the R15m should be used.

However, police management "unilaterally decided" to pay R350 to all uniformed personnel not working shifts. The PSA demanded that 18 000 civilian non-shift workers also be paid R350. — Sapa.

Govt to farm out labour disputes: The minister of labour, Tito Mboweni, is to introduce special measures to wipe out the backlog of disputes before the industrial court, up by 25 percent last year to 6 200 cases. He plans a special national settlement week in which all outstanding disputes will be settled by outside mediators.

(51) (S) CT (BR) 5/5/95

LOCAL MEDIA

Unions compromise on bargaining rights

(151)

BD 8/5/95

RENEE GRAWITZKY

COSATU, Nactu and Fedral have agreed to a compromise position on the question of bargaining rights in order to discourage fragmentation and the proliferation of small trade unions.

This became clear in the joint position tabled by Cosatu, Nactu and Fedral during the opening round of negotiations on the draft bill on the Labour Relations Act within the National Economic, Development and Labour Council (Nedlac).

Cosatu general secretary Sam Shilowa said although the three federations supported a majoritarian approach, the law should seek to develop strong and stable trade unions.

Shilowa said the federations took into account three different positions in terms of levels of representivity.

Unions with 30% representivity in a particular bargaining unit should be entitled to representation in industry bargaining councils, unless a different level of representation had been negotiated and agreed to, he said.

Where a bargaining forum exists at company level covering two or more workplaces, unions with at least 30% representivity should be entitled to all rights.

Where bargaining takes place at plant level, the union with a 50% plus one majority should have sole bargaining rights. If no union has a majority, then any trade union with at least 30% membership will be entitled to all rights except for rights of representation and bargaining.

Shilowa said in the case of agricultural

workers, unions with 15% representivity should be entitled to all rights except bargaining rights.

Business South Africa (BSA) was of the view that the Bill in some instances favoured majoritarianism rather than sufficient representivity

The federations have proposed the definition of "workplace" for the purpose of representation be referred to as a "company" while in the retail sector, reference should not be made to "outlet".

BSA was concerned over the broad definition of "workplace", while in defining "bargaining units", employers are proposing the establishment of some formula to "delineate the boundaries of representation and organisational rights".

Labour has proposed the retention of closed shop and agency shop arrangements and the provision for single and multi-union closed shops which should be democratised through the holding of ballots.

BSA proposes that the Bill give full effect to freedom of association and to disassociate by "permitting individual employees to refrain from becoming party to any form of union security arrangement".

Labour's other concerns around the draft Bill related to the full protection of the right to strike, the use of scab labour and the definition of essential services. Shilowa said the agricultural sector should not be deemed to be an essential service.

● Comment: Page 8

Clothing employers' offer 'problematic'

CLOTHING employers tabled their final mandated position of 10% during the second round of wage negotiations with the SA Clothing and Textile Workers' Union (Sactwu) last week.

Sactwu national clothing negotiator Lionel October said negotiations could be problematic as workers were demanding a real wage increase above inflation.

Employer spokesman Johan Baard said the offer of 10% on package and 10,25% in the lower paying areas was the national mandated position.

Employers had requested the union to

RENEE GRAWITZKY

present its final position to ascertain how far apart the parties were.

The union is demanding a 15% increase, an annual bonus of a week's wages, an increase in employer contributions to the industry provident fund of 4% this year and 5% next year, and regulation of fixed contract labour. It also wanted a closing of the wage gap between workers in the Free State, Northern Cape and Eastern Cape and those in the Western Cape, KwaZulu/Natal and Gauteng.

Warning to conclude wage negotiations

THE Hospital Personnel Trade Union of SA (Hospersa) said it would do everything possible to ensure public sector wage negotiations were concluded this week to avoid "widespread labour unrest".

Negotiations are due to resume this week in Cape Town. Hospersa national collective bargaining secretary Nic Kruger blamed delays on government negotiators not being properly mandated.

Kruger called on government to bargain in good faith as negotiations, which started

ERICA JANKOWITZ

in August last year, were "costing the taxpayer enormous amounts of money".

Hospersa would insist on a written guarantee that existing pension benefits would remain intact and any deficits in funds would be made good within three years.

Hospersa would also fight for the implementation date of increases to be backdated to April 1, not on July 1 as proposed by government.

New plant

im
be
ent
or
ent
war
y-
off
ith
ch
nd

in
ha
nd
we
ms
lu-
iso
ial

er,
on
lid
for

n-
np
in
va-

not
y-
ce
in

s a
en-
ha
ve
ur

ith
on
ter
in
In-
he

id
e-
in

at
a-
1-
1-
1-
1-
1-
h
1-
1-
d
1-

C
d
SA
ml/
Ca
wi
20
be
in-
th
on
Ol
(N
Ru

th
in-
Ti
m

fo
m
st
st
he
At
ci
at
ne
ti
N
R
m
Si

N
d
d
u
h
u
g

p
ri
ta
r
w
it
ir

A
a
b

N
t
t

w
th

n
s

B

J

a
s
p
n
h
A

Parliament workers in dispute

Political Correspondent

A DISPUTE has been declared between the National Education Health and Allied Workers Union and the management of parliament

ARG 9/5/95
At issue is the timing of a wage offer from management, and the method by which staff will be involved in decisions on new staff appointments

Nehawu has given parliamentary management until Friday to make a wage offer. But management says it will make its wage offer on May 23.

The rules committees of the na-

(151) (233)
tional assembly and senate will hold an urgent joint meeting tomorrow.

The Speaker of the national assembly, Frene Ginwala, and the president of the senate, Kobie Coetsee, will address the meeting on the crisis over staff appointments.

About 100 posts at parliament were advertised in January.

Recruitment goals included affirmative action, with the guidelines that 80 percent of appointments should be black people and that half of the jobs in each section, and overall, should be given to women.

Union to focus on dispute with Spar

(257) (151) (20)

■ LABOUR REPORTER

The longstanding dispute between Spar stores in Gauteng and dismissed workers over centralised bargaining will be the focus of the SA Commercial, Catering and Allied Workers' Union (Saccawu) annual meeting on Sunday.

The meeting, to be held at Vista University's Soweto campus, will decide on a new programme of action for the reinstatement of the more than 2 000 dismissed workers and ways to continue with the campaign.

Saccawu spokesman Sithembale Tshwete said yesterday more than 800 delegates would be attending the meeting and it would be concluded with a march, details of which would be finalised at the meeting.

Battle Spar 9/5/95

He said the march would be held to highlight the plight of the dismissed workers and the "intransigence" of Spar management over the centralised bargaining issue.

Another issue to be discussed in relation to the Spar strike would be the disclosure of information clause in the draft Labour Relations Act, said Tshwete, adding that this would help the union in its battle to get Spar store owners to agree to centralised bargaining.

The dispute with Spar started after the union demanded centralised bargaining for all stores in Gauteng last year. But store owners said they owned the stores individually and therefore each store had the right to negotiate salaries and other benefits with its own employees.

The dispute has not been resolved despite numerous meetings and clashes which have turned violent.

Tshwete said talks between the union and consultants for the Spar store owners were still continuing, but no progress was evident yet.

Spokesmen for Spar stores could not be reached yesterday.

Union may meet Mbeki in bid to resolve parliamentary dispute

NEHAWU president Vusi Nhlapo will try to meet deputy President Thabo Mbeki this week to discuss the labour dispute at parliament, secretary of the union's parliamentary branch Themba Nkosi said *ARC 10/5/95*

He said Mr Nhlapo had discussed the union's demands for better pay, and a say in hiring of new staff, with Speaker Frene Ginwala but "did not achieve anything at all"

Nehawu members demonstrated

outside parliament yesterday for the third day in succession.

A union leaflet said they had also decided not to wear uniforms or dress formally. It appealed to "all democratically-minded" MPs, especially former Cosatu officials, for support.

An emergency meeting of parliament's rules committees will be held today to hear a reportback on the negotiations — Sapa

Mwasa ⁽¹⁵¹⁾ workers get 10,5 percent

By Abdul Milazi
Labour Reporter

THE Media Workers Association of South Africa settled its wage dispute with Argus Newspapers before a scheduled Conciliation Board hearing.

Mwasa Southern Transvaal deputy chairman Mr Mokgadi Pela told union members at a meeting in Johannesburg yesterday that the two parties had settled at 11 percent across-the-board for the lowest paid workers and 10,5 percent for workers on higher grades. These would be backdated to April 1. Negotiations deadlocked when management refused to accede to the union's opening demand of a 12,4 percent across-the-board increase.

Management opened at 8,4 percent and later moved to 10,5 percent, which was accepted by Mwasa's counterpart, the South African Union of Journalists

Mwasa, however, rejected the offer on the grounds that members in the lowest paid category would not benefit.

"We are happy with the present arrangement because workers in the lowest grades are getting more and they were our prime concern," said Pela.

Management also agreed to increase housing subsidies from R200 to R250 a month. The company further agreed to pay an additional R30 for two years for first-time home buyers and to increase the minimum wage to R1 500 a month. Employees would also be entitled to six months maternity leave and five days paternity leave.

(51) 2570

Unionists shut out Ginwala

ST 14/5/95

THE Speaker of the National Assembly, Dr Frene Ginwala, had to cancel a lunch for a top European Union official yesterday because union workers refused to serve her.

Dr Ginwala was to have hosted the parliamentary lunch for European Union Commissioner for Development Joao de Deus Pinheiro, who is on a visit to discuss EU relations with South Africa.

Dr Ginwala was forced to cancel as members of the National Education Health and Allied Workers' Union refused to serve her as part of a continuing wage dispute.

Management had offered to table a comprehensive wage offer, including a minimum wage, on May 23. But Nehawu asked for a minimum of R2 366 and demanded a response by May 12 — Sapa

Work resumes after labour conflict at Alusaf site

Farouk Chothia

DURBAN — Construction work at the Alusaf Hillside smelter project in Richards Bay resumed yesterday, with just over half the workforce reporting for duty, according to Alusaf spokesman Tom Ferreira

The site was closed last week after contracted construction workers went on strike. About 50 people were injured on Wednesday when security personnel opened fire on demonstrating workers.

Ferreira said the site was quiet and peaceful yesterday, and he was confident that all workers would return today. Construction and Allied Workers Union (Cawu) spokesman Bonginkosi Mncwabe said he had received reports that supervisors were afraid to work because of last week's disturbances. A meeting was to have been held late yesterday to address their concerns, but the outcome of the meeting could not

be established last night.

The strike started after workers, employed by Rumdel Construction, complained about alleged deficiencies in safety equipment. They also demanded permanent jobs after their contracts expired.

Mncwabe said his information was that about 3 500 people had gathered for a while outside the site yesterday morning, seeking permanent employment from Alusaf.

Ferreira said that while Alusaf sympathised with the job seekers, highly-skilled personnel were needed because of the "state of art equipment" that would be used to ensure the smelter was internationally competitive. Latest technology was purchased from Aluminium Pechiney in France.

Operators required a minimum standard nine pass with mathematics and science as subjects, and Alusaf still had to send them for further training. About R50 000 was budgeted for

additional training during 1994/1995. About 200 recruited operators had already been sent to countries like France for the training.

Mncwabe said Alusaf needed to assure job seekers that they would be employed as labourers and drivers once opportunities arose.

Ferreira said there would be about 300 permanent jobs in areas such as catering and security, but these would be contracted out to businesses that specialised in such fields.

Alusaf was making every effort to employ local people. Close to 100% of the 350 operators already employed were from KwaZulu/Natal, and more than 50% of them lived within a 50km radius of the smelter.


Alusaf was employing more direct labour than its international competitors. It would employ about 1 100 people for the production of aluminium, he said, exceeding the international norm by about 200.

Ambulance



Rod Douglas

boss suspended

ARG 17/5/95  *Probe into management of dispute-ridden service (151)*

By ANDREA WEISS
Municipal Reporter

THE chief officer of Cape Town's municipal ambulance service, Rod Douglas, has been suspended, pending an investigation into the management of the service which has been badly hit by industrial disputes

This was confirmed today by Mr Douglas and deputy city administrator Alan Dolby

There was no suggestion of charges of misconduct against Mr Douglas who has been head of the service for about five years, Mr Dolby said

Mr Douglas's suspension comes in the wake of a continuing labour dispute at the ambulance service where members of the SA Health and Public Service Workers' union have demanded recognition.

Also suspended from the service are 38 members of the union who took part in an eight-hour protest action which effectively shut down the ambulance service for a day recently.

According to Mr Dolby, the union members have been told three times by the city council they may return to work pending the outcome of disciplinary action, but only if they give an undertaking not to disrupt the service again. This undertaking has not been given.

Mr Dolby said the suspensions were creating a problem within the ambulance branch which was short of resources

"But it is really a choice between being short-handed or facing their threat to disrupt the service entirely"

Part of the suspension order against the union members was that they would not be allowed to enter the ambulance premises or any depots, he said.

Mr Douglas, who is working at Captour on a voluntary basis to help with the Rugby World Cup, declined to comment on the reasons for his suspension.

But Mr Dolby said there was no suggestion of charges of misconduct against Mr Douglas who was formally suspended on May 10 by the city's executive committee.

Last Friday, the union members occupied the mayoral suite demanding to see the minutes of an executive committee meeting which contained information about Mr Douglas's suspension.

In the meantime, Mr Dolby is "overseeing" the service until an acting manager can be appointed

The terms of the investigation will be finalised by the city's executive committee, which is also considering whether the union should be recognised by the council.

The SA Municipal Workers' Union has called for the ambulance service management to disband in favour of an interim management committee, and has said that the suspension of the workers was "causing strain" among its members.

All suspended members are receiving full pay in terms of the new labour law

Argus and unions

settle wage dispute

(213) (151) SPAN 17/5/95
Argus Newspapers announced yesterday that it had settled on an effective 10,5% across-the-board wage increase, following disputes with all three of its trade unions earlier this year.

Argus management said it had looked at special issues raised by the three unions — the SA Typographical Union, the Media Workers' Association of SA and the SA Union of Journalists — and decided that some benefits should be extended to all staff.

Management said in a

statement that benefits included an increase in its housing subsidy to a maximum of R250 a month; a R1 500 minimum wage; five days' paternity leave every two years; and improved maternity benefits.

Gauteng regional managing director Deon du Plessis said he was happy the agreement had been achieved and hoped it would herald a new "business partnership" with the unions: "We will work together to further our mutual objective," he said. — Staff Reporter.

Nehawu in Parliament protest

■ OWN CORRESPONDENT

Cape Town — Parliamentary staff members belonging to the National Education, Health and Allied Workers' Union (Nehawu) occupied the office of the secretary to Parliament, Robin Douglas, yesterday.

Demands

Nehawu regional secretary Shereen Samuel said the union had given management until the close of business yesterday to respond to its demands.

These are the signing of a recognition agreement, transparent appointment procedures, and parity in wages and salaries.

Other protesters, bearing placards, lined the lobby of the old House of Assembly.

The protests were part of industrial action following last week's declaration of a dispute with management.

The occupation of Douglas's office ended at about 11am, while the placard protest in the lobby dispersed earlier.

Workers said their plans were to occupy different offices in the

parliamentary complex daily. If no solution was reached, a strike ballot could be held this week.

The occupation of Douglas's office is the latest development in simmering worker discontent.

Occupation

Earlier incidents in the saga included occupation, while it was not in use by MPs, of the National Assembly chamber, and occupation of Speaker Frene Ginwala's office.

Douglas could not be reached for comment yesterday.

st

in
the
and
her

ous
the
lay

ad
oit,
still
d.

(20) (197) star 17/5/95

Exco suspends official

CT 18/5/95

LISA TEMPLETON

THE chief officer of the Cape Metropolitan Ambulance Services, Western Cape, Mr Rod Douglas, has been suspended from service following unresolved labour disputes.

He will remain suspended for the duration of an investigation.

His suspension follows a continuing dispute involving the militant SA Health and Public Services Workers' Union, which is demanding recognition.

Last month a group of ambulance workers blockaded the entrance to the Pinelands control centre for eight hours. Last Friday about 20 members occupied the mayoral suite.

Mr Douglas was suspended by exco on the May 10, pending an investigation into the management of the Pinelands branch. There are no charges of misconduct.

Disrupt

Also suspended are 38 union members who participated in the Pinelands blockade.

They have been offered a chance to return to work, if they agree not to disrupt the service in the future.

Deputy city administrator Mr Alan Dolby said yesterday that a caretaker would be appointed from elsewhere to oversee the Pinelands branch.

Mr Douglas was not available for comment.

The SA Municipal Workers Union has called for the management to be disbanded and an interim management established at Pinelands to provide the service to the community.

Tito intervenes in union talks

Renee Grawitzky

BD 18/5/95
structure was crucial for industries in crisis and to addressing restructuring

LABOUR Minister Tito Mboweni on Tuesday urged delegates from chemical and related industries to enter meaningful negotiation with the Chemical Workers' Industrial Union in order to reach agreement on the demand for a centralised bargaining forum in the industry.

Mboweni said he had attended the meeting, called for by the union, to "lend support to negotiations leading to a more rationalised system of bargaining" in the industry.

He hoped the parties would engage in meaningful negotiations in order to reach agreement and so take forward government's objectives of economic growth, equity, and industrial peace and stability, he said.

"If the parties maintained an intransigent position, these goals would be unattainable"

Mboweni said he had attended the meeting despite some employers' calls for him not to.

Employers claimed his attendance might lend credibility and support to the demand.

CWIU general secretary Musi Buthelezi said the establishment of a centralised bargaining

The intention of the meeting was to obtain a broad principle agreement from employers on the question of centralised bargaining.

Once this agreement was obtained the parties could discuss the type of structure to be established, for example, whether sectorial forums should be established, he said.

Following a request from the union, employers discussed the proposal for a blanket agreement on centralised bargaining

The employers divided themselves into about 10 subsectors.

The union's centralised bargaining campaign co-ordinator, Martin Jansen, said after the meeting that employers appeared to be more receptive to the idea of centralised bargaining.

Employers conveyed to the union that they were not prepared to bargain as a single chemical industry but were prepared to explore centralised bargaining in individual industries under the umbrella of the chemical industry

Jansen said the employers' position would be considered by the union's executive tomorrow.

u-
te
n-
s-
ty
id
se
s'
y
ie
s
y
a
d
e
e
r
e
y

Striking Tanker Services Worker killed by truck

Renee Grawitzky

A WORKER was killed this week during a wage strike by 600 members of the Transport and General Workers Union (TGWU) at Tanker Services in Germiston.

TGWU spokesman Malcom Ray said the worker was run over and killed by a truck driven by a white subcontractor, who had been employed during the two-week strike. Tanker Services MD Derrick West

Services worker killed by truck

ED 1915 195
said the incident had been taken up by the SA Police Services, who had laid a charge of culpable homicide against the subcontractor.

Workers had fired shots at the subcontractor as he drove off from the accident, and he could lay charges of attempted murder, West said.

Ray said the union held the company responsible for the death, as they had hired scab labour, contrary to the request of the union. The union regarded legal strike action as an

extension of collective bargaining. West said strike rules were in place. The rules had mainly been adhered to, except for the KwaZulu/Natal area.

The strike arose over a dispute about wages. The union was demanding a 15% across the board increase, while the company was offering 13,5% or 12,5% if they went on strike.

Meetings were held yesterday and would resume today in an attempt to resolve the dispute.

This announcement appears as a matter of record only

May 1985



The Standard Bank of South Africa Limited
Johannesburg, Republic of South Africa

US-\$ 130,000,000
Revolving Credit Facility

Arrangers and Senior Lead Managers

COMMERZBANK AKTIENGESELLSCHAFT

THE SANWA BANK, LIMITED

Lead Manager

Tensions simmer at Alusaf's site

Nicola Janvey

ED 1915 195
Construction workers were back on site at the Alusaf Hillside Smelter yesterday and a meeting between community representatives, Alusaf and local police was scheduled for this morning following violent incidents last week.

Alusaf Richards Bay spokesman Loraine Lennon said yesterday violence had flared again, despite commitments by community and traditional leaders, workers' representatives and management to end it. A Tuesday meeting with local chiefs and the Richards Bay mayor was supposed to normalise activities.

"Despite efforts made by workers' representatives party to the agreement, a small element among the 5 300 construction workers on site could not be controlled," police advisor Siphiso Lekele said. Lennon said Alusaf had been forced to request full-time law enforcement last Thursday "to ensure the safety of workers and contractors' personnel".

The Work Seekers' Committee, an organisation of unemployed Richards Bay residents, were upset employment would be reduced once construction was completed, to about 1 500 jobs.

Gemin spokesman Tom Ferreira said 1 100 were on Alusaf's payroll. The remainder were contractors.

The 350 positions needed at the new plant were filled from the Richards Bay and KwaZulu/Natal area.

Lennon said the disruptions were unlikely to delay the scheduled June 14 start-up

Chemical workers to declare dispute

BD 19/5/95
Renee Grawitzky

THE Chemical Workers' Industrial Union (CWIU) resolved yesterday to declare a dispute and prepare for a national strike.

The decision was taken after an assessment by the union of progress made during a meeting with chemical employers on Tuesday.

CWIU general secretary Musi Buthelezi said Labour Minister Tito Mboweni had, in terms of reconstruction and development programme objectives, supported centralised bargaining to address socioeconomic issues.

The union wanted government to legislate centralised bargaining. If necessary the union would start action to "bring some sense to government by disrupting the economy" and to force employers on this issue.

Employers were presented with a demand to attend the meeting to negotiate on wages — and the union's demand for a centralised bargaining forum in the industry.

Buthelezi advised employers that once an in-principle agreement was reached on centralised bargaining,

the parties could discuss the structure of the forum. This could include divisional forums falling under a broader national body.

Buthelezi said employers were not prepared to give an upfront commitment to centralised bargaining, but instead proposed centralised bargaining within divisional forums.

Based on this response the union would declare a dispute and intended applying for a conciliation board hearing.

At the same time the union would attempt to continue talking to employers about an agreement on centralised bargaining.

The union, with Cosatu, would target employers who intended disciplining workers who began industrial action this week.

Buthelezi said talks had taken place with other affiliates also demanding central forums with their respective employers.

The union had approached the Nactu-aligned SA Chemical Workers' Union to discuss the campaign for centralised bargaining.

However, the union was not available to confirm this.

Manufacturing hit hardest by strikes

CAPE TOWN — The number of strikes in SA increased from 790 in 1993 to 804 in the 12 months ending October 31, the Labour Department's annual report showed.

Workers lost R148,48m in wages through strikes. The greatest loss of man-days — 50,55% — occurred in the manufacturing sector, followed by mining (23,55%).

The country's economic hub, the Witwatersrand, had the highest incidence of strikes, accounting for 26,24%, followed by Pretoria with 10,3%. *BD 19/5/95*
Port Elizabeth registered the lowest rate, of 3,23%. ~~151~~

Most of the strikes were over wage disputes (27,11%), while demands for higher wages and other reasons came to 11,32%, and 25,5% of strikes were over conditions of employment.

A sign of improving shop-floor relations was that only 16,04% of strikes resulted from disciplinary action by employers.

The membership of registered trade unions also declined 14,5% from 2,89-million in 1993 to 2,47-million in October. The decline was ascribed to saturation in the growth potential of new trade unions and also to the decrease in job opportunities as a result of the recession.

Another reason cited was that an important part of the trade union leadership entered the political and administrative arena, resulting in a depletion of the executive ranks of unions.

Only 23,7% of the economically active population belonged to trade unions, the Labour Department said. — Sapa.

LABOUR BRIEFS

Nehawu workers apply pressure

JOHANNESBURG. About 50 000 members of the National Education, Health and Allied Workers' Union (Nehawu) joined a Pretoria march yesterday morning to pressure the Public Service Commission to accede to its minimum wage demands

Nehawu organiser Mr Zebulon Dlodlu said the march was called after 10 months of fruitless negotiating

A memorandum detailing Nehawu's demands would be handed over to the commission. It wanted a reply by the end of June, Mr Dlodlu said

~~(151)~~ (151)

Union's dispute meetings

Renee Grawitzky

DISPUTE meetings between the SA Commercial Catering and Allied Workers' Union (Saccawu) and Pick 'n Pay and Edgars are taking place this week, according to union spokesman Leonard Gentle.

The dispute meeting with Pick 'n Pay takes place today, with the union demanding R192 across the board over a nine-month period, while the company has offered R160 over 12 months. Following last year's strike, agreement was reached on a 15-month period. The union wants to revert to the original implementation date of March 1 and is demanding a nine-month agreement this year and, from 1996, a 12-month agreement.

The union said it would meet Edgars this week. It is demanding R250 across the board and the company is offering R210.

Negotiations with Amrel

Furnishers deadlocked earlier this month — not over wages but over the union's demand for a greater degree of financial disclosure than the company was prepared to grant.

The union has not responded to the company's final offer of an across-the-board increase of R170 or 11% and a minimum wage of R1 400.

Negotiator Gibson Nduli said his union had not tabled its demand as it required information relating to the effect of the wage offer on the total wage bill and a breakdown of the salary bill, including information about directors' and supervisory salaries.

Several agreements have been concluded in the retail sector with increases ranging from 10% to 14% and across the board increases ranging from R130 to R200 at Joshua Doore, Pep/Ackermans, Score Furnishers, Karos Hotels and OK Bazaars.

Sactwu suspends talks

Renee Grawitzky

(134) (151) BD 25/5/95
ment would be negotiated.

FOLLOWING in the footsteps of the Chemical Workers Industrial Union, the SA Clothing and Textile Workers Union (Sactwu) has suspended plant-level talks in several sectors where centralised bargaining forums do not exist.

In the textile industry the union has, over the past two years, held discussions with employers on the formation of a national industry forum to represent the industry in macroeconomic negotiations and to bargain collectively on "macro-industrial issues common to the industry".

These would include training, pension and provident fund, health care and industrywide exemptions from relevant legislation and any other matter agreed to by the parties.

Within this framework, nine sectoral bargaining forums were identified where wages and other substantive conditions of employ-

A national industrial council for cotton textile industry was launched in February while a forum in the worsted textile industry appeared to be operating to some degree.

Employers in various sectors have been notified that plant-level bargaining has been suspended in textile and related industries, despite existing recognition agreements, and requested to attend national level bargaining in Durban on June 6.

In the clothing industry, employer spokesman Johan Baard said the parties had agreed to resume talks with a view to exploring settlement options.

Negotiations deadlocked with the union demanding a 15% increase on the total package — including a 13% wage increase and 2% for increased pension fund and annual bonus contributions — while employers offered a package of 11,25%.

Cosatu call for strike on June 19

(151) 2006 (30) ST 28/5/95
By EDYTH BULBRING
Political Correspondent

COSATU will embark on a programme of rolling mass action and hold a half-day national work stoppage in an attempt to pressurise business to accept its proposals for new labour legislation.

The federation's national executive decided yesterday to begin mass action on June 5, and to organise marches in city centres during a half-day national work stoppage from mid-day on June 19.

The decision was sparked by a lack of progress in negotiations between business and labour in the National Economic Development and Labour Council (Nedlac) over the draft Labour Relations Bill.

"The positions advanced by the business community put us so far apart that there is no settlement in sight. The differences are so fundamental that it's not just a matter of re-wording things," Nedlac's labour convener, Ebrahim Patel, said at a press briefing on Friday.

Negotiations on the new legislation began at the beginning of the month and must be finalised by the end of June if the Bill is to be passed by Parliament this year.

The negotiations will continue during the rolling mass action campaign.

The three main areas of conflict are the feder-

ation's demands for compulsory centralised bargaining, the right to strike, and organisational rights, Cosatu spokesman Neil Coleman said yesterday.

The demands have been endorsed by the two other trade union federations in Nedlac — the National Council of Trade Unions (Nactu) and the Federation of SA Labour Unions (Fed-sal). They will meet this week to decide on a strategy in response to the impasse.

Cosatu's vice-president, George Nkadimeng, said yesterday: "If employers think Cosatu has no teeth, we have teeth and we can bite"

Business SA's representative in Nedlac, Bokkie Botha, said yesterday Cosatu's decision was "dreadful" and "silly".

"I think it is unfortunate that the union has decided to embark on mass action at a time when negotiations are still taking place.

"We have been in discussion for a fairly short time and it is clear this is an attempt to pressurise business and government," Mr Botha said.

Dispute at harbour settled — most staff back at work

Shipping Correspondent

THE dispute among staff of the berthing gangs in Cape Town harbour has been settled with almost all labourers returning to work

ARC 30/5/95

The only exception were members of the South African Railways and Harbour Workers' Union

By today the breakbulk division was still experiencing strike action from members of Sarhwa Operational efficiency is around 10 percent with five vessels affected

Workers in this division are demanding that a separate performance bonus be negotiated for them

(151)

The container terminal is fully operational but the strike over the weekend delayed ships further and the backlog has increased. Cartage could only meet 30 percent of their commitment yesterday

Delays to the seven vessels in the outer anchorage, which averaged 50 to 60 hours at the end of last week, have increased substantially, varying between 102 and 121 hours

Nactu joins central bargaining squabble

■ BY THABO LESHILO

The National Council of Trade Unions (Nactu) has joined in the acrimonious public squabble over central bargaining within Nedlac (National Economic, Development and Labour Council), maintaining a no-compromise position on demands by small, micro and medium enterprises (SMMEs) for special concessions.

Nactu's position follows weekend threats of mass action by Cosatu.

Assistant secretary general Mahlomola Skhosana said International Labour Organisation standards had to be obeyed and labour could not accommodate demands by SMMEs to be excluded from minimum wage requirements and other conditions of employment set.

According to the Foundation for African Business and Consumer Services (Fabcos), industrial council agreements and

other deals governing relations between big business and big labour were inimical to SMMEs.

Fabcos secretary general David Moshapalo said the agreements ignored the uneven development in the different sectors of South Africa.

He suggested that a "sunset clause" be put in place to allow SMMEs, who have no record of dealing with organised labour, time to match labour's sophistication.

"We need time to conduct workshops to teach our members about their obligations towards labour and to win their support," said Moshapalo.

Skhosana said there was no way the labour movement would allow exploitation of workers to go on for the sake of small business.

Despite this hardline position, Moshapalo shared Labour Minister Tito Mboweni's optimism that problems within Nedlac would be resolved.

(151) 30/5/95

Workers free 3 after talks

(191) (213)

Star 14/6/95

■ BY JUSTICE MALALA
LABOUR REPORTER

Three senior managers, who were held hostage for more than eight hours by workers at the government-run minerals research company Mintek in Randburg yesterday, were released in the afternoon after the workers reconsidered their actions

About 150 National Union of Mineworkers (NUM) members took the three hostage after talks concerning disciplinary procedures collapsed

Mintek vice-president Rams Ramokgopa, human resources manager Danie van Vuuren and industrial relations manager Adriaan du Plessis — were taken hostage in the human resources office at about 9 30am

Speaking while being held hostage, Van Vuuren said the workers' actions were "totally

uncalled for and unprocedural" NUM spokesman Dennis Koape said the dispute concerned a theft case at the plant involving a security officer.

The union and management had collected evidence regarding the case, but instead of instituting a disciplinary hearing, management had decided that there had been no wrong-doing

He said the union demanded the security officer's suspension and a disciplinary hearing

"In the past workers who were found guilty of theft were fired but because he (the officer) is white, he has not been fired. We want the security officer fired immediately," Koape said

The hostages were released following an agreement among workers to mandate their leaders to canvass government support for their cause

Union warns of action

Sowetan 15/6/95

~~(S)~~ (157)

Abdull Milazi reports that Numsa and Seifsa are heading for trouble as deadlock remains

THE National Union of Metalworkers of South Africa (Numsa) and the Steel and Engineering Industries Federation of South Africa (Seifsa) are on a collision course over a range of issues

Numsa general secretary Mr Enoch Godongwane warned of impending industrial action unless outstanding matters were resolved satisfactorily. He said if employers did not take a realistic position in closing the wage gap, broadbanning, productivity and employment

security, the union would have no option but to resort to the strategies of "the bad old days." Little or no progress has been made in closing what the union describes as an "apartheid wage gap".

Godongwane said only limited progress had been made in negotiations so far. But key bargaining elements remain unresolved. Numsa wants equal training for all employees, and is pushing for workers to be graded according to their skills rather than according to the tasks they perform.

Metal industry talks deadlock

Renee Grawitzky

METAL industry negotiations deadlocked yesterday after the National Union of Metalworkers of SA (Numsa) and the Chemical Workers' Industrial Union (CWIU) rejected employers' final offer of a 10% increase on actual rates.

During the third round, Seifsa proposed the 10% increase and a further 1% increase for employees in the lowest category. This was conditional on unions agreeing to deregulation for a year of wages for employees coming into the industry and existing regional wage exemption procedures remaining in place. Seifsa said this proposal was tabled in an attempt to stimulate job creation.

While two influential unions — Numsa and the CWIU — have rejected the offer, the remaining unions have modified their demands. Numsa rejected Seifsa's offer as it did not deal with its three-year strategy, which attempted to restructure the industry. Closing the apartheid wage gap — reducing differentials between grades — broad banding, education and training, employment security and productivity bargaining were part of this strategy.

Numsa said it was pointless working on the wage rate without dealing with overall demands, as it was a package deal.

Seifsa negotiator Brian Angus said the parties were negotiating minimum terms of employment. "Employers do not believe they can drive such a process from a centralised bargaining position," he said. Issues such as the wage curve and producti-

Continued on Page 2

Deadlock

Continued from Page 1

vity bargaining should be dealt with at plant level and "there might be larger employers who would go that route"

Seifsa had agreed to reduce the number of grades from 13 to five, but, according to Numsa, without paying for the greater degree of flexibility that would result from this. Angus said the parties had not yet agreed to the five grades, which would involve a cost to the industry.

Numsa general secretary Enoch Go-

dongwana said Numsa saw this as the final year to get a new wage model in place. The model had to address two key problems — the inequitable wage structure and the need to modernise the industry quickly to meet world competition.

He said Seifsa had continued to avoid the wage gap issue. It was "the view of our bargaining committee that a dispute with Seifsa is now inevitable".

Numsa would convene a national bargaining conference on June 22 and 23 to decide on a course of action.

(151) (151) PD 15/6/95

Urgent talks on lock-out

Staff Reporter ~~188~~ (151)

ABOUT 500 workers have been locked out of a Woodstock fish processing factory, and urgent talks are under way between management and trade union representatives

The workers, all members of the South African Commercial Catering and Allied Workers' Union (Saccawu), have been suspended without pay after an illegal two-hour strike at the I&J plant yesterday

The Congress of South African Trade Unions (Cosatu) and two of its affiliates — the Food and Allied Workers' Union (Fawu) and Saccawu — are holding urgent talks with factory management about the issue today *ARG 22/6/95*

Fawu has a recognition agreement with I&J, but Saccawu does not

Saccawu's paralegal officer Zoe Holland said the crisis was exacerbated by the fact that the workforce was divided along racial lines

Black workers were Saccawu supporters and were therefore locked out of the factory, while coloured Fawu members remained at work.

Tension arose yesterday after the dismissal of two Saccawu supporters and management's refusal to allow Saccawu to represent the workers at an appeal hearing

Saccawu supporters downed tools and formed a picket line on company premises

Two Fawu shop stewards who broke through the picket line were assaulted by their Saccawu peers

An emergency meeting between union representatives and management last night failed to resolve the crisis

Talks continue today

Ms Holland said the company's decision to suspend workers without pay was illegal

● An I&J spokesman said the company was compiling a press release on the situation

Dispute in metal sector

Renee Grawitzky

The National Union of Metalworkers of SA (Numsa) formally declared a dispute with employers in the metal industry this week after its core demands linked to a three-year bargaining strategy were not addressed in the employers' final offer. 20 23/6/95

The dispute was declared after the last meeting when employer association Siefesa tabled its final 10% across the board offer. An offer of an 11% increase for the lowest grade was also tabled, conditional upon a deregulation agreement of this rate for new employees for one year.

The parties agreed after the meeting to submit their final positions in writing to the industrial council.

In response to Numsa's dispute declaration, Siefesa declared a counter-dispute.

A Siefesa spokesman said employers needed to be in a position to counteract any possible action from the union.

The union began its national bargaining conference yesterday, which ends today, to decide on how to pursue the dispute and what its bottom line is.

The disputes are being processed through the industrial council. Dispute resolution procedures and a meeting of the parties will be held shortly.

Building dispute over retrenchments drags on

BY JUSTICE MALALA
LABOUR REPORTER

APR 23/6/95 (151)

A week-old dispute between management and workers over the retrenchment of five temporary employees at two building sites in the Johannesburg city centre has led to losses of more than R1,4-million to the contractor — and the dispute is still unresolved.

More than 80 labourers employed by the LTA construction company at the nearly completed Reserve Bank building in Pritchard Street downed tools on Wednesday and were joined by their colleagues in Bank City in Jeppe Street yesterday.

LTA Building Transvaal joint managing director Rene van Hal said yesterday the company had obtained a court interdict, and papers had been handed to workers informing them that the strike was illegal.

He said the workers had been warned to return to work by noon today.

Construction and Allied Work-

ers' Union shop steward Alphabet Mphela said yesterday the workers felt that management had acted unfairly in retrenching the five because they could have been transferred to other sites.

"If the five workers are redundant here they could be transferred to other sites such as Bank City or others where LTA is contracted. But the management decided to handle the retrenchments alone and did not consult us.

"They have failed to listen to workers' demands and instead have forced us to embark on this action," he said.

The work stoppage at the two sites, whose contracts are worth more than R150-million, had by yesterday started spreading to other LTA sites.

Other affected sites so far are in Empire Road, Elandsfontein and Randburg, where workers downed tools and joined the congregated labourers at the Reserve Bank site over the past two days.

Mintek staff suspended for stoppage

(151)

CP 25/6/95

By JEFFERSON LENGANE

AT MINTEK, disciplinary action means "no work, full pay"

Mintek, a government-run company specialising in mineral and metallurgical technology, has put 150 National Union of Mineworkers (NUM) members on suspension with full pay for alleged involvement in an unprocedural industrial action.

The suspension was sparked by the suspended employees' work stoppage on June 13, when they demanded that a disciplinary enquiry be held to clarify why a security chief officer, Johan Engelbrecht, was found not to be at fault for allegedly "stealing" steel iron rods.

NUM regional co-ordinator Archie Palane said Engelbrecht had been caught with new steel iron rods and was brought before a disciplinary hearing. He was found not to be at fault when he said it had not been clear whether he had been given permission to take new or old rods.

On the day of the work stoppage management gave the workers a memorandum which said that Engelbrecht's conduct had initially been investigated by senior management, who had concluded that "Mintek's procedures were inconsistent and thus created much misunderstanding".

The memorandum said that the procedures had then been "rectified" and that it had been decided that no particular person had been at fault

The memorandum warned NUM members taking part in industrial action that "their actions and conduct are seen as negative, uncompromising and unprocedural" and that they would not be paid during their work stoppage. The memorandum was intended as "a formal disciplinary warning not to engage in such action again on this issue."

On receiving the memorandum, the workers went to management offices to enquire how the company could flout its own disciplinary procedures by summarily taking a disciplinary measure without any hearing where workers could give their side of the story.

This approach created another controversy. Management allege the act was hostage-holding, an allegation NUM hotly denies. Management said to have been held hostage are Mintek vice-president Rams Ramokgopa, human resources manager Danie van Vuuren and a Du Plessis.

Consequently, a memorandum of suspension dated June 14 was served on the employees citing the previous day's work stoppage and the alleged hostage-holding as contributory factors.

The workers were then suspended on full pay.

Ramokgopa told City Press that only 110 workers had been suspended and that Mintek had "reached a mechanism which will be put in motion this week to treat each individual's involvement in the matter".

Eskom, MWU to meet

ESKOM and the Mineworkers' Union would hold a meeting on Thursday, to try to avert clashes at power stations, MWU general secretary Peet Ungerer said at the weekend. An interim understanding on the meeting was reached after Eskom sought an interdict to prohibit union members from interfering with the country's power supplies because of a wage dispute. The MWU, unlike other unions involved, had rejected Eskom's offer of a 10% wage increase. (151)

80: 26/6/95

Catering union in pay dispute

CT 6/7/95

JOHANNESBURG: The South African Commercial, Catering and Allied Workers' Union has declared a wage dispute with City Lodge and Sun International.

Spokesman Mr Sithembele Tshwete said yesterday the union's demand for a R302 increase had been rejected by City Lodge, which was offering a R164 a month increase

(151)

Own Correspondents, Sapa

Unions and Seifsa in dispute

(151)
Sowetan Reporters

Sowetan 7/7/95
THE National Union of Metalworkers of South Africa and employers in the metal industry will go to mediation next week in a bid to break the deadlock in the current annual wage negotiations

Negotiations between Numsa and the Steel and Engineering Industries Federation of South Africa broke down two weeks ago when the two parties could not agree on the union's key demands

Numsa and the Chemical Workers Industrial Union declared a dispute against Seifsa, which in turn declared a dispute against the two unions

Numsa spokesman Ms Judith Weymont said the union hoped mediation would help end the impasse.

Union threat to cut blood supply

ALG 8/7/95

(157)

Nehawu declares dispute after fumigation incident

ADELE BALETA
Staff Reporter

THOUSANDS of lives will be at stake if workers at Western Province Blood Transfusion Services carry out their threat to cut Cape Town's blood supply if management does not meet their demands.

The workers, including medical scientists, drivers and technicians, have threatened to call on their "allies" in the community to withhold blood donations, which could plunge the health system into crisis.

Members of the National Education, Health and Allied Workers' Union (Nehawu) had been summoned to disciplinary hearings by management for participating in an illegal work stoppage.

■ Blood transfusion services workers want salaries to be increased and have demanded "real" affirmative action.

But medical scientist Donovan Hiff, who is also chairman of Nehawu's shop steward committee, denied there was a stoppage, saying workers had gathered to elect a health and safety sub-committee to investigate the alleged contamination of workers with formaldehyde, a fumigant used at the service's Beaconvale plasma plant in Parow.

Among other demands, Nehawu wants a complete restructuring and democratisation of the service, which they say is racist and unfair to the workers. They want salaries to be increased, a recognition agreement with

management and "real" affirmative action.

Nehawu officials say they have declared a dispute with management with regard to union bashing, intimidation and victimisation.

Dr Hiff said he and another worker, Edmund Pool, were in the laboratories at the Beaconvale plasma plant in Parow when they were exposed to formaldehyde, which can cause cancer. He said the fumigation began without his knowledge and without warning.

He said a complaint had been lodged with management and the Department of

Manpower had been contacted. "We then held a meeting with members during working hours."

The transfusion services medical director and CEO, Arthur Bird, said "Fumigation is carried out over the weekend and the fumes are cleared by Monday. On this particular Friday some workers were not aware that fumigation had started. People who complained are fit and well."

Management had contacted the Department of Manpower and were waiting for a report.

Management said tension mounted yesterday when a mass disciplinary meeting over the illegal work stoppage of 80 Nehawu members was interrupted.

"We decided on a mass hearing because previous individual hearings had failed."

Lingelethu councillors in hostage drama

C7, 11/7/92

STAFF REPORTER

NINE Lingelethu West town council officials, including Khayelitsha mayor Mr Vuyani Ngcuka, barricaded themselves into their offices all day yesterday after striking workers allegedly threatened to burn them in their cars if they tried to go home.

Last night the town treasurer, Mr Willy Olivier, said a delegation

of 20 workers left the municipality's Bellville offices at 5pm after negotiations over the hostage drama. It was hoped they would try to disperse the crowd of about 200.

The workers were apparently demanding a wage increase which would put them on a par with their colleagues in the Kapa town council and other municipalities on the same grade as Lin-

gelethu

This is the second time this year office workers at Lingelethu West have been held hostage. On April 19 employees were kept prisoner for 12 hours by workers striking over the same issue.

"I've had enough, the police must just get me out of here now," said one office worker.

Mr Ngcuka said last night the council had agreed with the work-

ers that the funds available would be sufficient to pay the salary increase only for May and June. Payment of increased salaries from July onwards, and back pay, would depend on obtaining additional funds from the provincial government. The provincial government's reply was that no additional funds would be granted to Lingelethu West Transitional Council. An agreement was reached last

Friday that a committee in which the workers would be represented would be formed to pursue the matter with the government. Mr Ngcuka said he was "surprised" by the industrial action. "We condemn the hostage keeping of staff and the councillors and the work stoppage which has occurred today, more particularly when the matter is being attended to."

Ports suffer bottlenecks as union strikes

CT 11/7/95 (DR) (151) (230)

BY AUDREY D'ANGELO

Strike action at the port of Cape Town yesterday — after a 24 hours of strong winds prevented ships from unloading — threatened a return of the congestion which cost shipping companies millions of

rands earlier this year. Other ports were also affected.

The one-day industrial strike called by South African Rail and Harbours Workers' Union yesterday took the form of sporadic work stoppages and the handing over of memoranda to Portnet officials.

Hennie Joubert, South African Airways cargo manager at Cape Town International Airport, said air freight had not been affected by the strike. Labourers who stayed away had been replaced by casuals. International passenger services were not affected.

Mediators
BD 13/7/95
hear dispute

Bence Grawitzky
(151)

THE Steel Engineering Industries' Federation of SA and the National Union of Metalworkers of SA attended a first mediation session yesterday to resolve the wage dispute in the metal industry affecting more than 200 000 workers

Mediators were Charles Nupen, facilitator in the motor manufacturing agreement last month, and Felicity Steadman.

The union declared a dispute after industry employers refused proposals for a three-year strategy incorporating the closing of the wage gap in and between grades, a productivity framework agreement and training and education for the upgrading of skills and wages. The union rejected the employers' across-the-board increase of 10%, claiming this exacerbated existing wage differentials.

The discussions continue over the next two days

NUM declares wage dispute

THE National Union of Mineworkers (NUM) said it had declared a dispute with Anglo American Platinum over wages and conditions of employment.

The annual wage negotiations deadlocked earlier this month after the NUM negotiating team rejected a final management offer of an 8% wage increase for the year ahead.

NUM said it was demanding a 16% across-the-board increase. Other areas of dispute were paternity and compassionate leave of seven days on full pay, and a living out allowance of R355 for some workers.

NUM said Amplats had rejected its proposal that the dispute be referred to independent mediation in an attempt to resolve the impasse.

"The union is left without an alternative but to apply for the establishment of a conciliation board. If there is no positive response our members will be reluctantly compelled to consider industrial action," NUM said.

(5) NUM said earlier that Amplats had offered an additional 2% if the union agreed to work a six-day week and on public holidays, but the union said it wanted to refer these issues to a working group.

The mines affected were Rustenburg Platinum Holdings, Lebowa Platinum Mines and Potgietersrust Platinums, it said. About 25 000 members were involved in the dispute.

No comment could be obtained from Amplats.

NO 19/7/95
□ Renee Grawitsky reports that NUM formally declared a dispute with the Chamber of Mines over wages, job grading and a range of issues after a meeting last week. It is understood that informal discussions would take place between parties today to explore options to resolve the dispute. The union is planning a march on the chamber on Saturday in support of its demands. — Renter

...to certain to make it difficult

he risk

with surgeon Fanus Serfontein, right. With them is Gauteng he

upport
ahead,
ts and
nstruc-

Court stops immediate eviction of workers

Deborah Fine

(151) M 2/8/95

AN ATTEMPT by Scaw Metals to secure the immediate eviction of more than 600 workers from its Union Junction Hostel in Germiston failed in the Rand Supreme Court yesterday

But Judge T Plewman ordered the matter to return to court on August 15 when the workers — believed to be mainly migrants from KwaZulu-Natal — will have to show why an eviction order should not be granted

Scaw MD Anthony Harris said in an affidavit before court that the workers' continued presence at the hostel could lead to labour unrest and "horrific violence".

Violence erupted at the hostel last month after the murder of National Union of Metalworkers of SA (Numsa) shop stewards committee chairman C Manyathi, who was shot 10 times in a hostel changeroom

Numsa workers and many non-union members demanded the hostel's closure and went on an unlawful strike on July 24. The strike spread to Scaw's Isithebe plant, in Natal and Rand Scrap in Germiston

The workers resumed duty on July 28, on condition Scaw lodged a court application to evict the Zulu workers and publicly committed itself to the hostel's closure. About 1 100 workers, mainly Numsa members and non-Zulu non-Numsa members, voluntarily vacated the hostel on July 28. About 600 Zulu workers refused to leave

Numsa warned Harris its members blamed the Zulus for Manyathi's death

Advocate Malcolm Wallis SC, representing Scaw, said accomodation had never been part of their contract. But advocate Sias Reyneke, representing the workers, said his clients were "adamant" the accomodation had been promised as part of their employment conditions.

The workers had refused to leave because Scaw intended relocating them to vacant land in the ANC-aligned Thokoza and Katlehong townships where they would be vulnerable to attack. The sites also had no sanitation, no running water and no electricity.

In addition, the Industrial Court still had to rule whether the eviction would constitute unfair labour practise

Armstrong & Associates 1082

Top estates

BSA split over draft labour Bill averted

Renee Grawitzky

A POTENTIAL split within the ranks of Business South Africa (BSA) over the draft Labour Relations Bill has been averted after the Afrikaanse Handelsinstituut (AHI) clarified its position regarding its stated reservations on the proposed law.

The AHI, a member of BSA and party to the negotiations on the draft Bill at Nedlac last week, circulated a document to all Cabinet members in which it outlined its reservations on certain clauses of the draft Bill and highlighted possible negative consequences

BD 4/8/95
However, following a sharp reaction by Labour Minister Tito Mboweni, the AHI sent another letter to Cabinet members saying it supported the Nedlac agreement, despite its reservations.

The AHI said Mboweni had advised it that its comments could jeopardise passage of the Bill and could undo unanimous support for the Bill in Nedlac.

AHI manpower policy committee chairman JP Landman said the AHI's aim all along had been "to promote small business, job creation and economic growth".

Mboweni said he did not foresee the agreement being unravelled during the parliamentary process.

AHI's areas of concern relate to centralised bargaining, lock-outs, scab labour, workplace forums, severance pay, the manning of the dispute settlement system and the closed shop.

JOINT N
CONF L
/INC

Labour bill nears passage

CT (BR) 4/8/95

(166) ~~(167)~~

BY THABO LESHILO
STAFF WRITER

Protracted negotiations on the labour relations bill are about to end, enabling Tito Mboweni, the minister of labour, to concentrate on his five-year job stimulation plan.

Mboweni said yesterday "The ministry of labour has come out of the labour relations process satisfied that South Africans can indeed sit down and negotiate agreements"

Thus week the cabinet ratified agreements in Nedlac on the pro-

posed law. The agreements include a ban on the use of scab labour during employer-initiated lockouts and that employers give a seven-day notice before employing replacement labour during strikes.

Mboweni said his drafting team had already started working on the final wording of the bill. It had to be finalised before it could be considered by Cabinet and debated in parliament.

Dave Brink, the president of Business SA, said organised business was committed to a law that balanced rights of both workers and employers.

Small business lobby criticises labour Bill

John Dladlu

8/8/95

(166)

THE Sunnyside Group, an independent small business lobby group, has criticised the draft labour relations amendment Bill for failing to "empower small business to contribute effectively towards rapid economic growth, long-term development and the redress of economic imbalances"

This criticism is contained in the group's newsletter, SMME Alert, which discusses the effect of legislation on small business

In the section dealing with industrial councils — negotiating structures for employers and labour to discuss wages and work conditions — the article says that the Bill fails to

address the macroeconomic problem of the councils' impeding economic activity, particularly for small business

"Industrial councils are largely agreements between labour and big business. Few small firms are members of employer organisations on industrial councils. Also, few employees employed by the sector are unionised," the newsletter says

Industrial councils may be seen as mechanisms for big business and organised labour to reduce the competitive threat from small firms and their employees

Small business cannot afford the high labour costs which big business is able to carry

Regarding the provision for workplace forums, another recommendation in the draft Bill, the group proposes that these structures be made voluntary platforms where both management and labour can engage with each other on an equal footing

However, the Johannesburg-headquartered group also has praise for the proposed labour legislation. Aspects highlighted include the simplification of the law regarding unfair dismissal, the fact that workplace forums may be established only in workplaces employing more than 100 people, and that industrywide agreements must provide for an independent body to consider applications for exemption from non-parties

Union warns: scrap Nedlac

~~(S)~~ (bb)
Renee Grawitzky

BD 8/8/95

Newly formed trade union federation the South African Independent Trade Unions Confederation has called for the disbanding of the "government-created" National Economic, Development and Labour Council (Nedlac) and the scrapping of the agreement which was reached on the draft Labour Relations Bill.

Federation co-ordinator Themba Ncalo said the body's 15 unions had agreed to form a new federation because they had not been consulted on the Bill.

He said the federation would fight for the disbanding of Nedlac and for the LRA negotiating process to start afresh.

Labour Minister Tito Mboweni would be informed that if these demands were not met the federation would consider nationwide action, he said.

W Cape (157)

and union
ARL 8/18/95
go to court

over 85 jobs

Staff Reporter

THE National Education Health and Allied Workers Union (Nehawu) and the Western Cape government are seeking court orders to restrain each other after 85 jobs in the province's social services department were terminated.

The union wants the workers reinstated, while the government wants workers to stop disrupting business at its Bellville office.

Meanwhile, as workers milled about outside the Bellville office today, workers in Oudtshoorn took over the office "completely", said Nehawu spokesman Wilfred Alcock.

The 85 workers were initially among more than 200 employed last January on three-month contracts by the now-defunct house of representatives. Their contracts were renewed several times.

Last month the department decided to shed 85 posts but offered 132 workers further six-month contracts

In response, several social services offices in the Western Cape were targeted for mass action.

According to the province, the contracts expired on August 1. The workers were initially employed to perform a specific function. This job had taken longer than expected, hence the renewal of contracts.

It had been decided not to renew 85 contracts following a report by the province's management advisory services.

Calls to uphold labour rights

John Dlodlu

(166) BD 14/8/95
SOUTHERN African countries using special investment incentives which contravened labour and human rights could risk termination of their preferential trade links with SA, it emerged at the weekend

Trade unionist Lionel October, spokesman for the labour constituency at the National Economic, Development and Labour Council, said labour hoped to strike an agreement with its government and business counterparts to have all SA partners in preferential trade agreements

agree to uphold social rights

These included rights to join unions, rights to collective bargaining, and a ban on child labour as well as all forms of discrimination

October felt a new bilateral agreement with Zimbabwe should include these four clauses

October felt a revamped customs union agreement, currently being thrashed out, should also have social clauses in it.

Agreement on the social clauses has been delayed by government's failure to table its response to the labour proposal

Centralised bargaining demand rejected

Renee Grawitzky

BD 15/8/95
THE Chemical Workers Industrial Union said yesterday that close to 20 out of 400 companies had rejected its demand for centralised bargaining and refused to endorse the agreement reached at the conciliation board last week.

The union said companies including Lever Brothers, Continental China and Rand Rubber had rejected the agreement.

A Lever Brothers spokesman said it was still considering the agreement and had requested the additional time in which to

(151)
consider and respond on the agreement. He said "the company had not rejected the agreement out of hand".

The union said members in those companies which did not agree to centralised bargaining would begin balloting soon. The union warned that "workers from companies exempted from industrial action will embark upon solidarity action against those intransigent employers".

The union said plant level bargaining in those companies where agreement had been reached on centralised bargaining would begin after August 21.

Centralised bargaining demand rejected

Renee Grawitzky

BD 15/8/95
166
THE Chemical Workers' Industrial Union said yesterday that close to 20 out of 400 companies had rejected its demand for centralised bargaining and refused to endorse the agreement reached at the conciliation board last week.

The union said companies including Lever Brothers, Continental China and Rand Rubber had rejected the agreement.

A Lever Brothers spokesman said it was still considering the agreement and had requested the additional time in which to

consider and respond on the agreement. He said "the company had not rejected the agreement out of hand".

The union said members in those companies which did not agree to centralised bargaining would begin balloting soon. The union warned that "workers from companies exempted from industrial action will embark upon solidarity action against those intransigent employers".

The union said plant level bargaining in those companies where agreement had been reached on centralised bargaining would begin after August 21.

Municipal 'action' plan

Staff Reporter

WESTERN Cape municipal workers will be told today that their shop-stewards have rejected an offer of arbitration to settle their wage dispute with employers. *ARL 16/8/95*

They will be asked to give their blessing to a "programme of action" for next week, so the wave of municipal action sweeping other parts of the country will not be felt in the Western Cape.

The protest action follows the failure of mediators to settle the wage dispute between employer/bodies and the South African Municipal Workers Union (Samwu).

The union held a shop-stewards' council meeting last night which rejected the question of arbitration, a spokesman said.

The shop-stewards would be reporting back to members today for a mandate to resume the recently suspended programme of action next week.

The protest action — which included a gravediggers strike and the near-collapse of the region's sewerage treatment system — was suspended a fortnight ago.

They should surrender that money to the RDP [Applause] They cannot continue being paid for oppressing us. That is unfair.

The DEPUTY MINISTER OF FINANCE Madam Speaker, I want to continue with the good news, namely our attempt to implement the spirit of the agreement and section 189 in the Constitution. It has taken us time to get to this point. We tried to be as fair as possible. We tried to keep things affordable. I believe that the Bill will meet those criteria.

I briefly want to mention some other points. We envisage that persons of 40 years and older will register that at the age of 50 persons may be entitled to draw a *pro rata* pension, that at the age of 60 they will be entitled to a pension. Provision will also be made for disabled persons and for dependants of beneficiaries. A gratuity will be paid.

We believe, in the spirit of co-operation we have had with the parties, that we will come to an agreement that is equitable for all. I think progress is being made in this regard. The Cabinet and I feel confident that the Bill will implement section 189 and we will make it retrospective to 27 April last year. In other words, the delay that has taken place as a result of very important consultations will not adversely affect those entitled to this benefit.

With regard to the other issues that have been raised about disclosures of matters, I will only say this. The Department of Finance has not gone to great lengths to uncover those positions. Many of these funds throughout the system are closed pension funds, and it is a matter of dealing with the trustees and the rules of those funds.

Our major objective has been to achieve the implementation of section 189. I believe that once we have done so, it will be a very important step forward for the people who are extremely deserving of this pension. I think that that is good news.

Mrs. P DE LILLE Madam Speaker, I hear what the hon the Deputy Minister is explaining to us this afternoon.

An HON MEMBER But do you understand? [Laughter]

Mrs. P DE LILLE We accept what he says. I can also just say to the hon the Deputy Minister that if

he needs any assistance in identifying those people, I can help him. [Interjections.] I already know that there are plus-minus 100 of them. I can assist him if there are any problems. I tried to follow the right way by coming to Parliament to see if we could get the names here, but, if not, we will start naming them. [Interjections.]

We are also very happy to learn that whatever pensions are going to come up for our freedom fighters will be backdated to 27 April 1994. My colleague here says 1960. However, we want to appeal to whoever bears the responsibility in this regard to speed up the process, because, in the interim, our freedom fighters—those who were on Robben Island and outside this country—are now back home. Some of them are really destitute people who have joined the rest of the country, and we appeal to the Minister and whoever bears this responsibility to speed up the process.

The DEPUTY MINISTER OF FINANCE Madam Speaker, up to now we have had excellent co-operation from the parties. This has not been an easy matter and I think we all regret the delay that has occurred, but, as I have indicated a moment ago, we will attempt to address that as best we are able to do so.

I would very much welcome the support of all parties and persons affected in the process of gathering information about the persons who may be eligible for the special pension. I think this is something that will have to be done jointly by the parties. We are going to have to work hard.

This Bill will go before Parliament this session, and we must implement it this year. We hope the House will co-operate with us in this matter so that we can go forward.

With regard to previous pensions, I must just inform the hon member that, regrettably, the position is much more complex than perhaps even she envisages. If she has information that can help us, we will welcome that. We may also be able to give her some information. The only thing I am grateful for at the moment is that I am not entitled to any of these pensions. So, as far as I am concerned, if she can help me with information, I will help her. I hope the House will be even more co-operative when we bring this Bill before the Assembly.

Debate concluded.

QUESTIONS

†Indicates translated version

For oral reply

President of the Republic

Proposed legislation on labour relations

* 1 Mr A WATSON asked the President of the Republic †

(1) Whether he has received any objections concerning his actions on 6 June 1995 in support of the demands of Cosatu with regard to the proposed legislation on labour relations, if so, what was the (a) nature and (b) extent of these objections,

(2) whether he will make a statement on the matter?

Hansard 16/8/95
N718E
The MINISTER OF LABOUR (for the President of the Republic)

(1) The only written objection received so far by the Office of the President was contained as a minor part of an extensive memorandum from the South African Public Servants Association in the Eastern Cape, which was addressed to the President and the Premier of the Eastern Cape, it contains amongst other things a reference to the President's attendance of the Cosatu march on 6 June 1995.

(2) No

Mr A WATSON Madam Speaker, arising from the reply given on behalf of the President, reference was made to a written objection that was received. It is no secret that there were numerous objections to the actions of the President, from parliamentarians, community leaders and even Cabinet Ministers, as I understand it. We also know that virtually every newspaper worth reading contained objections.

My question to the Minister who replied on behalf of the President is why the reply referred only to written objections when there were numerous objections. Must we conclude from the reply that the President disregards any public outcry and the views of the community at large?

The MINISTER OF LABOUR Madam Speaker, the President is not ignoring anything. It is quite clear that he says he has received this particular

written objection. There may have been others of which I am not aware, but he has received this particular written objection.

Perhaps the hon member could come closer to the point. Does he have any problem with the President going to meet people? What is wrong with that? [Interjections.]

Ministers

Questions standing over from Wednesday, 21 June 1995

CSIR: research into building material

* 1 Mr M F CASSIM asked the Minister of Trade and Industry

Whether building material research undertaken by the Council for Scientific and Industrial Research to determine which building material is most efficacious in each climatic or geographical area has been used to prepare specification guidelines for use by the central government and provincial and local governments, if not, why not, if so, (a) when and (b) in what document is this information contained?

N718E

The MINISTER OF TRADE AND INDUSTRY Madam Speaker, the reply to this question is fairly lengthy and it would require us to go into technical detail. I could bore this House with alkali-silica reactions, in concrete and all manner of things. However, because of the technical nature of the question and the extent to which it is detailed, I ask your permission and the leave of the House to table the response.

The SPEAKER Order! It will be tabled.

The MINISTER OF TRADE AND INDUSTRY (Reply laid upon the Table with leave of House)

Commonly used building materials are generally available in all areas of the country and are covered by national standards. The most suitable materials are therefore selected for use in any specific region.

Close co-operation exists between the SABS and CSIR in the setting of guidelines for use by central, provincial and local governments and the development of new standards for building materials.

The CSIR, for example, gave significant inputs during the development of the National Building Regulations and the associated schedules which

are published as deemed-to-satisfy rules in the following two standards

SABS 0400 "The application of the National Building Regulations",
and
SABS 0401 "The construction of dwelling houses in accordance with the National Building Regulations"

In framing the regulations cognisance was taken of the following principles

the regulations must

- be appropriate to buildings of all sizes and in all situations,
- be flexible and not prescriptive in order to make provision for innovation,
- set standards of performance necessary to ensure the health and safety of occupants of buildings,
- be limited in number as far as possible, and
- be as simple as possible

The development of these nationally applicable regulations based on the above principles was a completely new approach when compared with the then existing building by-laws which varied from local authority to local authority and which were prescriptive and therefore restrictive. Technical experts from the CSIR provided considerable inputs to this project together with representatives from local government and industry.

The CSIR's research with regard to building materials spans various Divisions of the CSIR and is covered by many hundreds of individual reports, research papers and publications, as well as being taken up in numerous codes of practice, specifications and guidelines of other bodies such as the SABS

Examples of some of the relevant specifications and codes in which the results of CSIR's materials research projects materialised are as follows

* National Home Builders Registration Council Warranty Scheme (1995)

The CSIR, drawing on the full body of relevant research findings, contributed to the compilation of the NHBRC's draft Standards and Guidelines document which is soon to be incorporated in the Home Builder's Warranty

Scheme The users of this document would be

- The NHBRC
- National and Provincial departments of housing
- National and Provincial housing boards
- Building contractors (small, medium and large)
- Association of Mortgage Lenders

The ultimate beneficiary of this document is the first-time, new build-home buyer

* Guidelines for the provision of engineering services and amenities in residential township development (Red Book) (1994)

These guidelines, issued by the Department of Housing in collaboration with the National Housing Board, and published by the Division of Building Technology of the CSIR, are the product of several CSIR research projects as well as containing contributions from sources other than the CSIR. The more than one thousand registered users of this document typically include

- Central government departments such as Housing, PWD, as well as corresponding departments in Provincial governments
- National and Provincial housing boards
- Local authority engineering and planning departments
- Engineering and town and regional planning consultants

* Materials specifications for cementitious binders, aggregates and sands from concretes, plasters and mortars

CSIR research and development projects spanning many years, certain of which are ongoing, have enabled significant contributions to be made towards the development of national specifications in these fields. Many of these materials are region-bound in the sense that the source of raw materials is determined by the geology of the country or, in the case of certain industrial waste streams such as fly ash or slag, by the location of the industries producing them. Examples of some of the relevant specifications and codes in which the

CSIR's materials research work has been incorporated are

- SABS 1083, Aggregates from natural sources-aggregates for concretes
- SABS 0145, Code of practice for concrete masonry construction
- SABS 1215, Concrete masonry units
- SABS 1090, Sands for plaster and mortar
- SABS 082, Code of practice for timber buildings
- SABS 626, Portland blast furnace cement
- SABS 1466, Portland fly ash cement
- SABS 1491, Portland cement extenders,
- Fulton's Concrete Technology (sixth edition particularly)

One particular test method which relates specifically to materials availability and suitability in a regional context is the work done by the CSIR in the field of alkali-silica reaction (ASR) in concretes. The test method developed in this work, which provides for a relatively quick method of identifying problematic aggregates sourced locally has been taken up in the SABS Standard Method 1245, "Potential reactivity of aggregates with alkalis (accelerated mortar method)". This work has particular regional relevance as it allows an early indication of durability problems which might be experienced in concretes with certain site-sources aggregates.

Users of such specifications are

- Civil engineering consultants
- Building and construction materials specifiers
- Building and civil engineering contractors (small, medium and large)
- Materials manufacturing industry

* Acceptance criteria for *Agreement* South Africa

CSIR research in the structural, materials, thermal performance, materials and fire fields has formed the basis of the acceptance criteria adopted by *Agreement* South Africa for its fitness-for-purpose certification of non-

standardised building methods, materials and products. Such certification gives guidance as to where (geographically, climatically or topographically) specific methods, materials or products are suitable for their intended use. Factors such as adequate durability and structural strength are impacted by the geographical locality, climatic conditions and topography of the region or area in which the subject is to be used and the CSIR's guidelines as embodied in the *Agreement* South Africa documentation

- Booklet No 1, Performance criteria and minimum requirements for the assessment of innovative methods of construction
- Booklet No 2, Minimum *Agreement* Norms and Technical Advisory Guide
- ACTMAPs 1 & 2 (*Agreement* Criteria and Test Methods Applicable to Products)

Users of *Agreement* certification include

- Central and Provincial government departments such as Housing and Public Works
- Local government (building plans approval, etc)
- National and Provincial housing boards
- Members of the Association of Mortgage Lenders
- Developers
- Building consultants, including designers and specifiers
- Building contractors and contractor-licensors of certificated systems/products (small, medium and large)

Users of CSIR-based *Agreement* performance criteria are

- The Board of *Agreement* South Africa
- Building system/method developers
- Building Materials and product manufacturers

Beneficiaries of *Agreement* certification are home buyers/owners of dwellings incorporating *Agreement* certificated products, materials and techniques

* National housing programme and RDP-related research

Apart from the building material-specific aspects of the CSIR's research, examples of which are highlighted above, the CSIR also conducts research in the field of land use planning and management which is region-related and which impacts directly on the national housing programme and the RDP. This research includes work on

— the quantification and evaluation of land use through remote sensing techniques

— The use of information technology and integrated data management systems to provide decision support for housing delivery and subsidy management at national, provincial and local authority levels

— development feasibility modelling, including the use of terrain evaluation techniques, and the manipulation of geotechnical, geographic, topographic and demographic data

The CSIR's RDP-related research, development and implementation (RDI) work is spread widely through the organisation, with most of the twelve operating divisions working on RDI projects relevant to the RDP

* CSIR research references

The wide body of CSIR research in the field of building materials is referenced in several data held by the CSIR. Specific queries regarding particular materials for use in particular geographic or climatic regions could be addressed by reference to the appropriate database

Queries in this regard may be addressed to either

Mr Awire Vlok

Market and Business Development Manager
Division of Building Technology
CSIR

Tel (012) 841-3870
Fax (012) 841-4680

or

Mr Bryan Wallis
Manager Technology
Division of Building Technology
CSIR

Tel (012) 841-2522
Fax (012) 841-4680

Occupation of government houses by Ministers of former Venda

*19 COL N G RAMAREMISA asked the Minister of Public Works

(1) Whether any government houses previously used by former Venda Ministers are currently being occupied by any private persons, if so,

(2) whether he or his Department has given any permission to these persons to occupy these houses, if not,

(3) whether he or his Department intends taking any steps in this regard, if not, why not, if so, what steps?

N751E

The MINISTER OF PUBLIC WORKS

The Government houses previously used by Cabinet Ministers of Venda are at present controlled by the Department of Public Works in the Northern Province. I have therefore requested the responsible Member of the Executive Council to provide me with the necessary information to respond to this question

(1) Yes, some government houses previously occupied by former Venda Ministers are currently occupied by private persons. Students at the University of Venda illegally occupied these houses between 23 May 1995 and 7 June 1995

(2) The Department of Public Works in the Northern Province did not give permission to these persons to occupy the houses. The former Venda Administration, of which Col Ramaremsa was a member, allowed these houses to be rented at R1 500 per month

(3) The students who illegally occupied the residences were evicted on 24 May 1995 and four students were charged and later released. The students re-occupied the houses on 27 May 1995 and were again evicted on 7 June 1995

The Department of Public Works has accepted the responsibility for the completion of a National Register of State-owned Fixed Assets. The task is being

undertaken in close collaboration with the Department of Land Affairs and the Provincial Authorities

The mutual reconnaissance planning of the project provides as a first step for the appointment of a Steering Committee to oversee the project. A project manager is being appointed to manage it, and with his team will be responsible for a detailed plan of action, and the comprehensive control and monitoring of the project

The target date for the completion of the project is the end of next year

Membership of Lome Convention

*36 Mr M van S HAMMAN asked the Minister of Trade and Industry

(1) whether South Africa has applied for membership of the Lome Convention, if not, why not, if so,

(2) whether this application has been accepted, if not, why not, if so, what are the relevant details,

(3) whether he has discussed the possibility of a free trade agreement between South Africa and the European Union with any representatives of the Union, if not, why not, if so, what are the relevant details,

(4) whether he will make a statement on the matter?

Hamman said 16/8/95
N791E

The MINISTER OF TRADE AND INDUSTRY

I think the primary point one wants to make is that it is in South Africa's interests to regain those export markets that we had prior to the imposition of sanctions. In seeking to establish a formal relationship with the EU the Lome Convention clearly offers a long-term relationship of the kind that we seek. The Lome Convention is an agreement between the 15 member states of the EU and 70 African, Caribbean and Pacific countries

One must also take account of the position of South Africa in Southern Africa. Clearly the framework which the Lome Convention offers provides us with the best opportunity for sustainable interaction between South Africa and the EU

On this basis the EU offered a twin-track relationship on 12 June this year.

— firstly, qualified membership of the Lome Convention excluding the elements of development finance and trade concessions

— secondly, a bilateral agreement with, in the view of the EU, should be an agreement leading to the establishment of a free trade area between the EU and South Africa

The specifics of the proposed EU-SA relations are still being negotiated between South Africa and the EU. Unfortunately this process has taken a break because the EU has shut down for holidays in August, but the negotiations were formally opened on 30 June this year in Brussels at a ceremony attended by ministerial representatives of both governments

Our preliminary response has been to accept the principle of qualified membership of the Lome Convention—qualified because many of the provisions of the Convention are not quite suited to our needs, and South Africa does not want to prejudice the relationship and the interests of the ACP countries

Regarding the EU's proposal for South Africa and the EU to start a process leading to the establishment of a free trade area, South Africa's response has been that we accepted the invitation as a long-term objective. We placed 15 years on the table with the EU in this regard. In other words, the Government could not commit the country to a free trade agreement with the EU before we had some measure of certainty as to what the impact of this would be on the economy as a whole and on a sectoral basis, as well as on the Southern African regional economy

Currently we are involved in a research process to establish on what terms and with what implications South Africa can enter into an agreement with the EU which might lead to a free trade agreement

Nevertheless, in approaching the issue South Africa's objective has been and will always be to obtain the maximum possible non-reciprocal trade preferences in the EU for the longest possible period necessitated by the current processes of political and economic restructuring in the country

Platinum wage talks deadlocked

(151) Star 16/8/95

LABOUR REPORTER

The National Union of Mineworkers (NUM) will begin consulting about 55 000 Impala Platinum Mines and Amplats workers on action to be taken after separate wage negotiations with both companies failed to reach agreement

The union said yesterday the conciliation board affecting 30 000 Impala workers ended in deadlock yesterday and workers would be balloted over management's wage offer

The union is demanding 14% across-the-

board, down from its original 17%, while Impala has offered 7,5%

Impala has refused to make offers regarding NUM's demands on annual leave, housing and living-out allowances, service increments and recognition of service on retirement, the union said in a statement

NUM is also consulting 25 000 of its members in Johannesburg Consolidated Investments' Amplats after the mining group offered an 11% increase for workers on the six lowest grades and 10% for the rest Included in the offer is three months maternity leave

on full pay and seven days' paternity and compassionate leave

Amplats is also offering a living out allowance of R350 Workers would also become permanent employees instead of signing new contracts every year as in the past

The union originally demanded a 16% across-the-board increase while Amplats offered 8%

Other issues in the negotiations, like affirmative action and job grading, have been referred to several working groups

Neither of the two companies could be reached for comment late yesterday

Labour Bill

gets Cabinet (166) Star 17/8/95 thumbs up

■ BY PATRICK BULGER
POLITICAL CORRESPONDENT

Cape Town — The Cabinet, meeting for the first time in Cape Town since the start of the winter recess at the end of June, yesterday approved an amended version of the Labour Relations Bill.

Labour Minister Tito Mboweni told the Cabinet the Bill would now be forwarded to Parliament, which he hoped would pass it during the current session which ends in a month's time.

Cabinet secretary Jakes Gerwel said there were still a number of issues to be negotiated in relation to the legislation such as the status of public sector workers like the police.

The Cabinet agreed to amend the constitution to allow local government elections due on November 1 to be held in different parts of the country at different times.

Gerwel said IFP leader and Home Affairs Minister Mangosuthu Buthelezi read the Cabinet a "lengthy statement" detailing the IFP's opposition to staggered elections.

Also approved was South Africa's accession to the World Heritage Foundation in terms of which sites of irreplaceable value are listed in an international register, and membership of the International Fund for Agricultural Development.

South Africa will join the African Development Bank, with Finance Minister Chris Liebenberg as South Africa's governor and Deputy Finance Minister Alec Irwin as deputy governor.

The Cabinet agreed to South African material assistance to the UN peacekeeping force in Angola. The UN Convention on Women was approved and Health Minister Nkosazana Zuma will lead the SA delegation to the UN Conference on Women in Beijing.

The Cabinet also gave the go-ahead to the Defence Amendment Bill.

Cabinet passes Labour Bill

CT 17/8/95

(166)

THE cabinet, meeting for the first time since the start of the winter recess, yesterday approved an amended version of the Labour Relations Bill. Labour Minister Mr Tito Mboweni said the bill would now go to Parliament.

Cabinet secretary Dr Jakes Gerwel said there were still a number of outstanding issues which had to be negotiated. These included the status of public sector workers like the police in relation to the legislation.

The cabinet also approved SA's accession to the World Heritage Foundation in which sites of irreplaceable value are listed in an international register. — Political Staff

Public hearings to be considered

D-Day nears for shape of labour Bill ^(1bb)

**Renee Grawitzky
and Tim Cohen**

THE last crucial decision about the shape of the Labour Relations Bill is to be decided on Tuesday when the parliamentary standing committee on labour relations decides whether to allow further public submissions.

Committee chairman Godfrey Oliphant said it could not be seen to be rubber stamping the Labour Relations Bill which was endorsed by Cabinet yesterday, and would decide on Tuesday whether it would waive the need for public hearings.

Various business bodies have called for the parliamentary process to be transparent and to follow its normal course while labour has indicated it will take its lead from the committee's decision.

Labour Minister Tito Mboweni said the standing committee was governed by the sovereignty of Parliament and "the committees will need to decide democratically on the process to be adopted". But it is understood that the parties — government, Business SA and labour — are concerned that the agreement could be unravelled within the standing committee process. Oliphant said the committee would be sensitive to the agreement "but we cannot sit with our hands tied".

Cabinet Secretary Jakes Gerwel, speaking after Cabinet's endorsement of the Bill,

^{BO 17/8/95}
said there were still several unresolved issues but these would not hold up its passage through Parliament.

Oliphant said the committee appreciated that the draft Bill emanated from the process within the National Economic, Development and Labour Council where "everyone had a say". But this should not undermine Parliament's sovereignty.

Cosatu general secretary Sam Shilowa said the standing committee should decide on how the process should unfold using the Nedlac report and its own judgment on what would promote industrial relations.

Johannesburg Chamber of Commerce and Industry CE Marius de Jager said if government was serious about transparency all interested parties should be able to comment and the parliamentary process should not be short-circuited. Sacob's Raymond Parsons endorsed this saying "We do not believe the Nedlac agreement which was accepted with reservations should exclude due process and transparency in the parliamentary system."

DP leader Tony Leon said if the standing committee was to perform its function of legislative oversight and sovereignty it should be able to hear representation from other parties not included in the process. The Nedlac agreement was a carefully crafted compromise and if changes were made they would have to be referred back to Nedlac, leading to delays.

(15) (18)
**Sign or
we strike**

- union
STAN 18/8/95

■ BY JUSTICE MALALA
LABOUR REPORTER

A total of 46 000 chemical workers may go on strike if a group of companies do not sign an agreement which commits them to participation in centralised bargaining forums for the industry from next year.

Chemical Workers' Industrial Union centralised bargaining co-ordinator John Appolis said the union, which had been fighting for the establishment of centralised bargaining structures for years, had given employers until Monday to sign the agreement.

"We have reached agreement with 210 out of about 400 companies in the chemical industry on the establishment of centralised bargaining forums," he said.

"These companies, which employ about 65% of our members, still have not signed the agreement, and if they have not done this by Monday we will ballot our members for strike action."

Municipal workers poised to march

Star 18/8/95 (151)

■ BY JUSTICE MALALA

Local authorities countrywide are heading for serious confrontations with the SA Municipal Workers' Union if workers' wage demands are not met by next week.

Samwu has already started strike action in parts of the country.

The union's programme of mass action to force local authorities to agree to its wage demands is set to enter a crucial stage next week, when it plans to embark on mass protest marches throughout SA.

The marches will be staged a day before wage talks on Thursday with representatives of Gauteng, Eastern Transvaal and Northern Province authorities.

The mass action campaign has already started in earnest in the Free State, where several policemen and union members were injured in clashes on Wednesday.

Other provinces affected are the Western Cape, Eastern Cape and Kwa-Zulu-Natal.

Samwu secretary-general Roger Ronnie said yesterday that the action could culminate in a nationwide strike by the union's 50 000 members.

The union has demanded a minimum of R1 500 a month for workers in major centres, and R1 000 a month for those in rural towns.

■ Free State commissioner Faan Cloete yesterday ordered the deployment of police reinforcements after two policemen were seriously injured in Bloemfontein during an attack by striking municipal workers.

Labour Bill may call for extra session

(166)

*sowetan
23/8/95*

PARLIAMENT might have to come back for an extra sitting in November if the Labour Relations Bill was not passed during the present session, Labour Minister Tito Mboweni said yesterday

The Bill, which has yet to be approved by the Cabinet, is expected to be tabled on September 5.

"Hopefully the Bill will be adopted by September 15," Mboweni said

If Parliament decided that there was not enough time to pass all the Bills that were in the pipeline by then, an additional sitting would have to be held in November

Members of the National Assembly's Labour Committee have already been given a draft version of the Bill

Described as a "confidential working document", the draft is several centimetres thick. It was not released to the Press, but apparently combines a draft Bill published in February and the National Economic Development and Labour Council agreement reached in July

The Cabinet will discuss the draft on August 30 when outstanding subjects, such as the inclusion of the South African Police Service and the Public Service Union in the Bill, will be finalised

Referring to the short time which the committee has to study the document, Mboweni said he was not asking them to rubber-stamp it, but to scrutinise it

"We are asking them to make decisions fully cognisant of the agreement made (by Nedlac) The committee must be on guard that the agreement struck in Nedlac is in the national interest."

"The agreement with Nedlac represents a very important and delicate balance," Mboweni told the committee during an informal briefing earlier yesterday — *Sapa*.

Nedlac accord goes to parliamentary committee

Star 23/8/98

(166)

Labour Bill enters last lap

Cape Town — Nedlac negotiators yesterday appealed to Parliament's committee on labour to protect the delicate balance of their labour relations accord, but the National Party warned it would not act as a rubber stamp

The multiparty parliamentary committee headed by former Congress of South African Trade Unions (Cosatu) official Godfrey Olphant yesterday began its assessment of the long-awaited Labour Relations Bill

Balance

The details were hammered out in almost 150 hours of bargaining between the Government, employers and unions in the National Economic Development and Labour Council (Nedlac).

"The agreements at Nedlac represent a very important and delicate balance. If you take one component of the agreement away it brings about a major im-

NP WON'T rubber-stamp agreement and warns of amendments

balance," Labour Minister Tito Mboweni told the committee "If you do that you will just reopen the whole thing and end up in a situation that could become unmanageable very soon"

Cosatu secretary general Sam Shilowa and Business South Africa representative Bokkie Botha backed Mboweni's appeal for quick passage of an unamended Bill

"From the side of labour and the unions, we want to see the Labour Relations Bill become law this year, not next year," Shilowa said.

"There are reservations that

the parties have, both business and labour, but which we have said should not affect the need to pass this legislation this year," he said.

Olphant said, however, that the committee would immediately commence a two-week review including a call for public submissions on the bill and probably public hearings

National Party representative Leon Wessels warned that the committee would not surrender its obligation to examine and, if necessary, amend the Bill.

"We cannot be seen to be a party to a document we are not proud of ourselves. The possibility (of amendment) is there .. We simply cannot be seen to be just rubber stamping the Nedlac agreement," he said

Mboweni gave the committee a working draft of the Bill, which will define labour relations and repeal scores of apartheid-era clamps on workers and unions.

He refused, however, to pub-

lish the Bill or to give copies to the media. A labour ministry source said Mboweni was reluctant to have further public discussion on the bill, which was hammered out in Nedlac negotiations and on the basis of 23 volumes of public submissions to the council.

Mboweni told Reuters the Bill, due to be tabled formally on September 5, was a plain language rendition of an early draft with amendments negotiated by Nedlac members

Confidential

He said it was still a confidential Cabinet document and though the public would be asked to comment on it over the next two weeks, it could not be published

Olphant told reporters he did not believe that withholding the Bill would undermine the credibility of the public debate he hopes to generate over the next two weeks — Reuter

MPs told not to cause waves on labour bill

POITICAL STAFF

LABOUR Minister Mr Tito Mboweni has warned MPs against reopening the debate on the "delicately-balanced" Labour Relations Bill

His remarks drew a sharp reaction from opposition party MPs who said they objected to being asked to "rubber-stamp" the bill

The bill, which includes amendments agreed upon by labour, business and government negotiators at Nedlac last month, has been given to members of the portfolio committee which intends to hold hearings on its contents

The amended bill is not available to the public as it is a confidential cabinet document. It is to be made public only after the cabinet approves it on September 6.

MPs on the committee were

CT 23/8/95



'DELICATE': Mr Tito Mboweni

aghast that the committee would try to hold hearings without the public's having access to the bill

Democratic Party labour spokesman Mr Mike Ellis said people could make representations only if they had copies of the bill

National Party labour

(166)
spokesman Mr Leon Wessels said parliament could not "rubber-stamp" the legislation

"We can't be seen to be party to a document that we are not proud of ourselves," said Mr Wessels, a former labour minister in the previous government

MPs would be "sensitive" to the agreements already reached, he said

Mr Mboweni said the agreements "represent a very important but delicate balance". If one component was removed there would be a "disequilibrium". He warned MPs against "reopening the whole thing" and said the government could "end up with a situation that could (be) unmanageable"

Cosatu general secretary Mr Sam Shilowa said labour wanted the bill to become law this year. Labour and business had their reservations, but this should not stop the bill

episdn 1121 00022

Sacked workers clock up more court miles

By CARMEL RICKARD

THE case of nearly 1 000 workers, sacked more than a decade ago by BTR Sarmco, will be heard by the Labour Appeal Court tomorrow.

In the more than 10 years that the workers have been fighting their dismissal, this will be the fifth time the case has been heard in court.

First, it was taken to the Industrial Court. During that hearing, the workers objected to the fact that the court's presiding officer, Mr P Rouw, addressed a seminar organised and addressed by management's lawyers.

The workers then asked the Supreme Court to re-

view the case and Judge John Didcott, then a member of the Natal bench, found that, after addressing the seminar, Mr Rouw should have recused himself from hearing the case.

That decision was taken to the Appeal Court in Bloemfontein, where Judge Didcott's decision was upheld in a landmark ruling on the need for the court to be seen by the public as independent and impartial.

The Appeal Court said the case should be heard again, and the marathon continued with a second round in the Industrial Court. Earlier this year that court decided that, in sacking the workers on May 1 1985, management had not been guilty of an unfair labour practice.

On Monday, the workers will be back in court with an appeal to the Labour Appeal Court.

(151) ST 27/8/99

R
9
9
**9 DAYS
FAR EAST
FLY CRUISE**

E:
he
he
n's
cal
in
he
ial
to
13
ce
ER
EN

Sacked workers clock up more court miles

By CARMEL RICKARD

THE case of nearly 1 000 workers, sacked more than a decade ago by BTR Sarmcol, will be heard by the Labour Appeal Court tomorrow.

In the more than 10 years that the workers have been fighting their dismissal, this will be the fifth time the case has been heard in court.

First, it was taken to the Industrial Court. During that hearing, the workers objected to the fact that the court's presiding officer, Mr P. Rouw, addressed a seminar organised and addressed by management's lawyers.

The workers then asked the Supreme Court to re-

view the case and Judge John Didcott, then a member of the Natal bench, found that, after addressing the seminar, Mr Rouw should have recused himself from hearing the case.

That decision was taken to the Appeal Court in Bloemfontein, where Judge Didcott's decision was upheld in a landmark ruling on the need for the court to be seen by the public as independent and impartial.

The Appeal Court said the case should be heard again, and the marathon continued with a second round in the Industrial Court. Earlier this year that court decided that, in sacking the workers, on May 1 1985, management had not been guilty of an unfair labour practice.

On Monday, the workers will be back in court with an appeal to the Labour Appeal Court.

(151) ST 27/8/99

MPs warn on new draft Bill

■ BY PATRICK BULGER
POLITICAL CORRESPONDENT

Cape Town — The Cabinet is due to reach another landmark decision on contentious labour legislation before Parliament, namely whether the police force should have the same bargaining rights as other workers.

The confidential draft Bill now being examined by the portfolio committee on labour appears set

to become the major challenge to Parliament this session.

MPs allege that they are being asked to "rubber-stamp" an agreement which comes from the National Economic Development and Labour Council (Nedlac).

DP leader Tony Leon warned the committee, which began its deliberations yesterday, that the Bill had serious macro-economic implications and would create

inflexibility in the labour market.

"We join other parliamentarians in their desire not to see this committee being used as a rubber stamp in this process," Leon said.

However, Labour Minister Tito Mboweni cautioned MPs against undoing the hard-won agreements of Nedlac.

The committee heard that the Ministry of Safety and Security

would propose to the Cabinet that the police be included under the provisions of the envisaged Act. At present they, along with the defence force and the intelligence agencies, are excluded from such legislation.

Leon said that he wanted Reserve Bank Governor Chris Stals, Finance Minister Chris Liebenberg and Trade and Industry Minister Trevor Manuel to make submissions.

New labour bill hits barrier: The Nediac-agreed Labour Relations Bill, which labour minister Tito Mboweni was hoping to steamroller through Parliament, has hit a barrier. The National Party and the Democratic Party said they were not prepared to rubber-stamp it because they considered it to be a threat to small business.

(166) CT (SR) 30/8/95

Cosatu condemns alleged lobbying to alter draft Act

Star 30/8/96

(166) (22)

■ BY JUSTICE MALALA
LABOUR REPORTER

The Congress of SA Trade Unions has slammed business organisations lobbying to bring about changes to the draft Labour Relations Act as agreed upon by labour, business and government leaders last month

Cosatu general secretary Sam Shilowa said on Monday the attempts to bring further changes to the Act, which still has to be passed by Parliament, was ei-

ther an attempt at changing the agreements reached in the National Economic, Development and Labour Council (Nedlac) or was a repudiation of business negotiators in the talks

The union federation's accusations came as concern over the process of reaching agreement on the new labour laws, particularly surrounding their perceived lack of transparency, continued to grow among observers

Labour Minister Tito Mboweni

also complained last week that certain organisations were trying to bring changes to the Nedlac agreement by lobbying parliamentarians

Shilowa added that the lobbying, which he said was being conducted by the SA Chamber of Business (Sacob) and the Afrikaanse Handelsinstituut, was part of the organisations' strategy to delay passage of the Bill through Parliament this year

But Sacob labour affairs

spokesman Gerrie Bezuidenhout yesterday denied the allegations, saying the organisations had never undertaken any behind-the-scenes lobbying to have the Act changed

"We recognise, as Sacob, that there were certain compromises made in Nedlac. We do not want to undermine those compromises, because it is the interests of the wider business community that must be catered for and not Sacob's alone. We are not alone in this," he said

Reform proposal may grant subsidy to millions

... planning to grant sub-
... similar in concept
... to the rural poor
... as a centre-
... entrepreneurs
... reform programme
... department deputy
... it was
... said yesterday
... cost of
... the potential
... the depart-
... because the existing
... with
... comfortable
... millions
... But millions of people
... be eligible.

Details of the proposed "settlement and land acquisition subsidies" are given in a discussion document to be tabled at the national land conference, due to start on Thursday at the World Trade Centre. The document says that because of "severe fiscal constraints", all rural households will not immediately receive the grant. It adds that a decision will have to be taken on whether households designed to be taken on grants are agricultural or "once-off grants to acquire agricultural or other productive land and to upgrade it by

installing water supplies, sanitation, waste disposal, roads and fencing. Subsidies as the national housing subsidy and householders will not be eligible for both. The document says subsidies will but-
... the proposed Land Reform (Labour Tenants) Act by enabling or supply alter-
... acquire land for settlement. The subsidies
... native land for improve tenure and housing
... can be used to improve tenure in tied housing
... security for farm workers in tied housing
... a key government concern — through
... provision of housing and infrastructure.

Farmers would be expected to reach agreements with workers or the state guaranteeing the workers' occupational rights when they vacated the property. The money could also be used by pro-
... workers for off-farm housing and to pro-
... in agri-villages or urban areas, and to pro-
... workers for off-farm housing and to pro-
... in agri-villages or urban areas, and to pro-
... cure an equity share in a farm, farmers
... With the worker's consent, farmers
... could apply for grants for housing equal to
... improvements, as long as an amount equal to
... the subsidy was paid into a special account
... when the farmworker left the farm.

The document also discloses that a trust is being established with departmental and Land Bank money to facilitate the "leveraging" of rural credit. This would retail-
... sale credit on soft terms to private rates.
... which would on-lend at market rates.
... "It is hoped that this type of arrange-
... ment will encourage private banks to fa-
... miliarise themselves with this segment of
... the market," settlement planning profes-
... would make "settlement plan the acquisition
... and development of land, by using profes-
... sional advisers' services."



Privileged Bill slated

Sowetan 31/8/95

NP concern that the small businessman may suffer after passage of labour Bill

(166)
(2)

IT WAS "scandalous" that people with a direct interest in proposed labour relations legislation had no access to the draft Labour Relations Bill, National Party Labour spokesman Leon Wessels said yesterday

He said it was a "farce and a disgrace" that the measure was being debated by Parliament's Labour Committee when the Press had no access to the document. It would only become generally available once the Bill was tabled in Parliament, and therefore the committee debate

was merely a "warm-up exercise", he said

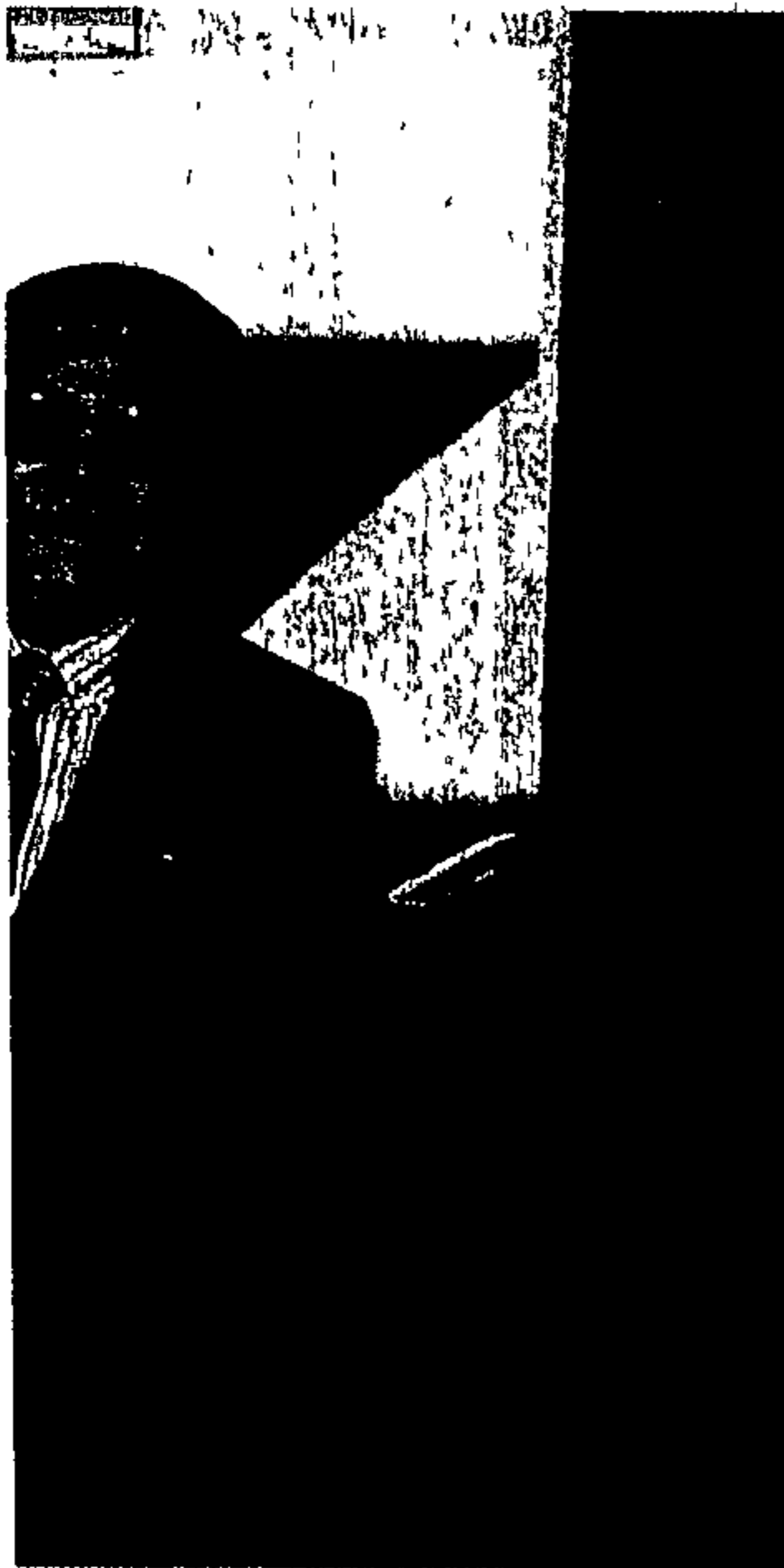
The legislation and the way it was being dealt with did not satisfactorily address the interests of the small businessman, who was important in creating jobs

It was essential to obtain this sector's opinion on the proposed legislation. The Labour

Ministry has refused to release copies of the document to the Press

Labour Minister Tito Mboweni has indicated he wants the Bill passed by Parliament before the end of this year so that the structures it proposes are in place by the next round of wage talks in March and April 1995 - Sapa

Lost everything — homes, family, dignity — under Group Areas



Picture DOUG PITHEY, Staff Photographer
are which was once their front gate



Picture ANDREW INGRAM, Staff Photographer

□ **HAPPY MEMORIES:** Fuaad Davids was just a schoolboy when his family were forced to sell an 18-acre property in Constantia



□ **HAPPY PARENTS:** Mr and Mrs John Bessick of Claremont in better days



□ **FAMILY HOME:** Family members relax in front of the cottage

we

ARL 26/8/95

take it One of my sisters told me she still had nightmares about being back in South Africa It was not only about taking away our dignity It was the way the family was broken up that still affects us," said Mrs Nelson

Mrs Nelson, now 66, said she and her husband stayed on in South Africa to care for her parents

"My mother said that somebody had to stay here to bury her Just two years later she died," she said.

Her one sister left the country after she married a white man and refused to submit to a "pencil-test" which could have allowed her to be reclassified white

"The pencil test was simple If the pencil fell out of your hair, then you could opt to be white It was taken on appearance only in those days," said 69-year-old Mr Nelson

Now living in a tiny flat in Southfield, the Nelsons battle to pay their rent of more than R700 a month and accumulated expenses which amount to more than their combined pensions

Having been married for 47 years, the couple have shared many hardships Without financial help from their children, the couple would not survive, they say

Mrs Nelson said she was delighted to hear her land rights restitution case had been given top priority

"It is more than two years since I started the process of restitution and I feel the time has come for my case to be heard," she said

Mrs Nelson's father John Henry Bessick was forced to sell his properties in Dreyer Street for £1 600 in 1954

"The fact is he paid £1 150 for the property before he did any alterations to it. He never owned another property and died penniless," she said.

Mr Bessick, who was classified white because of his fair skin colour, died a penniless man bro-

Asa and Fuaad feel their family roots are still down Strawberry Lane

GLYNNIS UNDERHILL

Staff Reporter

ARL 26/8/95

TAKING a trip down memory lane with Asa and Fuaad Davids will lead to Strawberry Lane in Constantia, where the flowering acres the family once owned have been replaced by high walls and luxury homes.

The subject of a historic land-rights restitution claim, the Davids family's claim on behalf of 12 family members has been prioritised as one of the top 10 in the Western Cape to go before the Land Claims Court

Neither Mr and Mrs Davids have any idea of the value of the land today or what the court might decide could be proper compensation

Breathing the fresh air and marvelling at the lush foliage around Strawberry Lane, the couple were clear on one thing

"We would like to move back here to our roots and let our children grow up in Constantia We both grew up in the countryside with lots of fresh air," said Mrs Davids

A child cycling up the road in this up-market area illustrated the stark contrast between Constantia and Salt River, where the Davids extended family now live in two semi-detached cottages

Mr Davids points up the road, where the community mosque still stands, untouched by the Group Areas Act

Five families belonging to the Davids clan lived on 18 acres of land in Constantia which stretched way beyond Strawberry Lane, up the hill and over the dale.

Mr Davids was just 16 and a schoolboy when his family was forced to sell their land in terms of the Group Areas Act

■ In 1968 the Davids were forced out of their Constantia home. None of the family thought then they might one day under a new government be compensated for their losses.

priest, sold his land for just R40 000 to a white developer who gave him the best offer

"It was very distressing when we had to move Our family used to grow and cultivate our own flowers and sell them That's what the whole family did for a living We had never worked for anyone else I still feel very heartsore about it," said Mr Davids, a paint company supervisor

Mr Davids said the family grew many types of flowers, including sweet peas Life in Constantia was peaceful and the river on the boundary of their huge property flowed only in winter, he recalled

"You could walk around without any worries at night. Only the dogs bothered you Everybody in the community knew one another and it was the safest place in the world," he said

The family, who once owned horses and a cow, built homes for each couple on the property as the family grew

When the family were forced to move, they were spread around Cape Town and left behind the family graveyard

It was Mrs Davids who put together the family claim and spent hours at the deeds office and telephoning people who could offer direction on their claim

"I really did it for the whole family. I...

Workplace forums to replace autocratic management

STAFF WRITER

The workplace forums proposed in the Labour Relations Bill represent a bold step towards establishing more productive labour relations in South Africa, according to Patrick Deale, a partner at labour consultancy, SPA Consultants.

Employers have realised that the autocratic management styles that produced great results in the past won't continue to do so in the future," says Deale in the forthcoming

ing issue of People Dynamics, which is published by the Institute of Personnel Management.

Unlike during the days of mass production, worker co-operation and input were vital to successfully meeting the needs of customers in today's competitive environment.

On the other hand, unions and workers have realised that the political struggle was now over and have switched their focus to job security, the removal of apartheid in the workplace and improving the

quality of the life of workers.

"With the depth of management expertise and the strength of the trade unions, it makes compelling sense for management and workers to get down to the business of generating growth together," says Deale.

The Labour Relations Bill, he says, seeks to balance the delicate equation between growth and equity by institutionalising participation through workplace forums. However, for the forums to suc-

ceed in achieving their twin objectives of democratising the workplace and improving efficiencies, the following success factors should be in place:

- The parties should agree on a framework of strategic objectives to give direction and a sense of common purpose to the workplace forums, accompanied by a code of mutually acceptable conduct to guide the relationship between the two bodies,
- The senior executives of com-

panies must show genuine commitment to a new style of management,

- The participative approach to management must be seen as a way of life and a long-term process,
- The huge gap between the fairly sophisticated management and the largely semi-illiterate workforce must be narrowed,
- Workers must be assured their efforts will be rewarded, and
- All employees, not only union members, must be included in the forums

(151) (151) (151) CT (AR) 5/19/98

Bargaining forums proposed

Renee Grawitzky (151) (151) ^{MD 14/9/95}

NATIONAL retail employers would be approached by the SA Commercial Catering and Allied Workers Union (Saccawu) to participate in a national retail bargaining forum and employers in the hospitality industry would be approached to form a hospitality industry forum.

Leonard Gentle of Saccawu said this position was adopted at a national bargaining conference held at the weekend where issues like centralised bargaining, wage policy, industry training boards, a social plan and a tourism policy were discussed.

He said this position would, however, only be finalised by November following further shopfloor discussion.

National retail employers would, in the meantime, be approached to participate in this national bargaining forum. It

would be a voluntary structure similar to the car sector.

The national forum would have subchambers for the various subsectors, such as furniture, Gentle said.

Gentle said in exchange for extended shopping hours or the move to a seven-day working week, the union would look towards reduction of work hours from 45 to 40 a week; an increase in shifts to facilitate job creation; the upgrading of casuals to permanent staff; and ensuring that workers would still work five days a week, if a seven-day week was introduced.

He said the union would also convene an industry-wide meeting to establish a training board.

On wages, the union would move away from a tendency to agree to across-the-board increases. The union would, Gentle said, consider the skills/job grading link.

Labour needs slick mediation body

Renee Grawitzky

BD 21/9/95

THE success of the new labour relations system was dependent on the effective functioning of the proposed commission for conciliation, mediation and arbitration, independent mediator Charles Nupen said yesterday

Speaking at the Innes Labour Brief seminar on preparations for the Labour Relations Act, Nupen said the social partners within the National Economic Development and Labour Council (Nedlac) had accepted this "They will have to give it life," he said.

The social partners would be involved in policy making and would have to ensure the commission worked.

He said "Nedlac will have to move with due haste to establish the governing body so that the commission can be up and running"

Nupen speculated it could take up to nine months to set it up.

The governing body of the commission — which would be a tripartite arrangement — allowed for the nomination of three representatives from labour, government and business. He said these nominations did not necessarily have to come from within their

constituencies "I hope that the social partners will look to people to govern the institute who have the expertise and who do not necessarily represent sectoral interests."

A good many of the commissioners required would have to be drawn from the ranks of the social partners

Adrian du Plessis, presenting an employer perspective on the Labour Relations Act, said there had been a mutual sense of frustration between labour and business negotiators as they tried to reach agreement on the labour Bill

"The subject did not lend itself to a distributive type of bargaining"

Du Plessis said "This reflects on the need for the careful consideration of the agenda within Nedlac and (the need) to include the social partners in the deliberation preparatory to the drafting of legislation."

He said the relationship between the consensus-seeking process in Nedlac and the law-making process in Parliament was not properly structured and, in the future, attention should be focused on trying to find the proper balance and relationship between Nedlac and Parliament.

NUM wins Appeal Court protest ruling

~~16/9/95~~
BLOEMFONTEIN — All the participants in the September 5-6 1989 stayaway at three Free State mines should have been dealt with on the same basis, the Bloemfontein Appeal Court has ruled

It upheld yesterday the appeals of the National Union of Mineworkers (NUM) and of dismissed employees of the President Brand, President Steyn and Fred-dies mines. **BD 22/9/95**

It had been argued for the ap-pelants that participation in the stayaway was collective action in pursuit of "a legitimate socio-economic interest" (to protest against the general election and the introduction of the 1988 amendments to the Labour Relations Act).

Judge Nestadt said the need for management to enforce discipline could not be underestimated

But on the basis of cumulative factors, dismissal was "excessive and therefore inappropriate"

It was not in dispute that if the dismissals were set aside, the reinstatement of the individual ap-pellants should follow, he noted

The court ordered that if the parties themselves could not resolve the outstanding matters, they should be decided by the Industrial Court — Sapa

Firm ordered to reinstate fired 69

~~16/9/95~~
Renee Grawitzky

BD 22/9/95 (151)
BOART MSA (Pty) has been ordered by the Labour Appeal Court to reinstate 69 National Union of Metalworkers of SA (Numsa) members with 10 months' back-pay, after it found their dismissal during a strike in August 1992 to be unfair. The decision was handed down on Wednesday.

Pam Stein of Cheadle Thompson & Haysom, acting on behalf of the union, said the cost to the company for back payment in wages — based on salaries paid in 1992 — was about R900 000

Boart said it was considering applying for leave to appeal to the Appellate Division.

The dismissals arose out of the nationwide metal industry strike which began on August 3 1992. On the morning of August 25, Boart dismissed 84 workers but subsequently reinstated 15. On the afternoon of August 25, the Supreme Court granted the Steel and Engineering Federation of SA (Seifsa) an interdict on the grounds the strike was illegal be-

cause the union had not complied with the balloting provisions.

The Industrial Court dismissed the union's application for reinstatement and found that the company, which "dismissed the striking workers for operational reasons", had not committed an unfair labour practice.

The company argued that before and during the strike workers were briefed on the financial position of the company and that "the ultimate consequence of the strike would be that jobs of all employees would be endangered". On August 21 the company issued an ultimatum for strikers to return to work and it was alleged that the company was suffering irreparable damage which would affect the job security of all employees.

The Labour Appeal Court said where an employer dismissed workers for economic reasons, it was the duty of the court to assess those and all other relevant facts. The court found the company failed to show that if it had not dismissed the workers it would have risked "irreparable harm".

BD 22/9/95 (151)

Arbitration inquiry

THE Law Commission is investigating all facets of the law regarding international and domestic arbitration to bring SA in line with international trends SA's increasing trade links with other countries and the business sector's reliance on arbitration as a means of resolving disputes meant it was important that SA's law was in line with international norms

Arbitration laws to be revamped

(11) 22/9/95

■ BY NORMAN CHANDLER
PRETORIA BUREAU (ISI)

South African laws relating to international and domestic arbitration are likely to be revamped in terms of recommendations expected to be made by the South African Law Commission.

Acting on proposals from the Association of Arbitrators of South Africa (Aasa), the commission is investigating all facets of the 1965 Arbitration Act.

The commission said in Pretoria yesterday that it was debating to what extent international commercial arbitration laws should be implemented in order to regulate international arbitration with a South African connection and what measures should be taken.

"Political developments in South Africa are leading to more economic links. As business people regard arbitration as a favoured means of dispute resolution, it is important that the country's arbitration law be in line with international norms," the commission said.

Workers locked in a cage

Sowetan 22/9/95 (20) (151)

By Khangale Makhado

ABOUT 35 workers employed by a carpet company in Fordsburg, Johannesburg, were locked in a cage for more than 24 hours following a dispute between them and the firm

The workers, all members of the SA Commercial, Catering and Allied Workers' Union have accused the company of locking them in a cage at 4pm on Wednesday until about 6pm yesterday

A spokesman for the workers said

yesterday that their families, who had heard about the caging, arrived at the premises but were refused either to see or even supply them with food.

He said their strike action started on Thursday last week when management refused to recognise their union

However, a spokesman for the company, Mr Shafia Mohideen, said the workers had not been locked in the cage deliberately

Mohideen said after the workers had refused to vacate the premises, they

were left no option but to lock the place when they left for home

"The agreement with the striking workers was that they were not supposed to enter the building but to conduct their business anywhere else

"They, however, stormed the building - a move that could have prevented normal business from going on

"We also had to lock when we left because had we not done so, we would have exposed our property to danger," Mohideen said

Worker disputes backlog to be settled

JACQUELYN SWARTZ
Staff Reporter

ABOUT R2 million is to be spent clearing a backlog of more than 6 500 unresolved worker-employer disputes countrywide, including 680 cases in the Western Cape.

The bulk of them — more than 4 000 — are in Johannesburg.

Details of the National Settlement Week programme were announced yesterday by the Independent Mediation Service of South Africa, (IMSSA).

The Industrial Court outlined details of a programme to be held in Cape Town between November 6 and 10.

The Cape Town programme, which follows a National Settlement Week in Durban and precedes one in Johannesburg, is aimed at reducing a backlog of 680 cases. *ARB 27/9/95*

Run simultaneously with settlement attempts in Port Elizabeth and East London, it is expected to clear about 200 outstanding Western Cape cases at a rate of 40 a day.

The National Settlement Week initiative was sanctioned by Labour Minister Tito Mboweni, who said in a statement delivered on his behalf by Special Adviser David Lewis that the plight of workers awaiting hearings was one of his motivations.

"Another reason is the need to start our new dispute settlement resolution system with a clean slate.

"We cannot afford to burden the new system with the problems of neglect caused by a previous government," the statement said.

Mr Mboweni also condemned the former dispute resolution system of conciliation at industrial councils and conciliation boards as "ineffective" and "wasteful of scarce resources".

"The industrial court was never fully sponsored by the previous government.

"The court was regarded as an institution which made inroads on the privilege of employers to deal arbitrarily with their workers.

"The disregard for the Industrial Court and the failure to allocate appropriate resources to the court has meant that the court has never been in a position to deal adequately with the workload which has come its way," the statement said.

"We are told that only 30 percent of all disputes referred to industrial councils are settled there.

"In the case of conciliation boards the position is even more unfortunate.

"Only 20 percent of all disputes are settled there."

Disputes not settled at industrial councils or conciliation boards were either resolved by arbitration or by the industrial court.

"The persons who bear the brunt of this unhappy situation are the dismissed workers who wait patiently for their cases to be heard.

"This situation is obviously one which the ministry cannot condone.

"If the law fails to provide an adequate alternative to disgruntled workers the law will fall into disrepute and labour peace will be seriously threatened by parties taking the law into their own hands.

"This will jeopardise peace, good order and a stable society will be put at risk."

The Industrial Court and IMSSA will, on a voluntary basis, offer workers and employees the chance to mediate existing disputes by placing at their disposal the services of skilled and respected mediators and arbitrators.

Test cases for labour disputes

ET 27/9/77 (151) #66

BARRY STREEK

TWO dismissed Cape Metropolitan Council workers are to be the first test cases in the Victorian Labor Party's settlement of industrial disputes.

The workers' claim against dismissal has been thrown back to the Industrial Court of Victoria.

So instead of a lengthy drawn-out process in terms of old Labour Party policies have agreed to a voluntary r

olution of the dispute in Settlement Week, organized by the Independent Mediation Service of South Africa and the Industrial Court be seen

The services of both parties had agreed to solve their dispute in Settlement Week through mediation.

Settlement Week procedures are a development of the new system of resolution mechanisms that feature in the new Labour Relations Bill which comes into effect next year.

Programme *Sowetan 28/9/95* to speed up labour disputes

(151) (122) (122)
ABOUT R2 million is to be spent clearing a backlog of more than 6 500 unresolved worker/employer disputes countrywide - including 680 cases in the Western Cape. The bulk of them, more than 4 000, are in Johannesburg.

Details of the National Settlement Week programme were announced yesterday by the Independent Mediation Service of South Africa, (IMSSA).

The Industrial Court outlined details of a programme to be held in Cape Town between November 6 and 10. The Cape Town programme follows a National Settlement Week in Durban and precedes one in Johannesburg.

Run simultaneously with settlement attempts in Port Elizabeth and East London, it is expected to clear about 200 outstanding Western Cape cases at a rate of 40 a day.

The National Settlement Week initiative was sanctioned by Labour Minister Tito Mboweni who said in a state-

ment that the plight of workers was one of his motivations. The Industrial Court and IMSSA will offer workers and employees the chance to mediate existing disputes by placing at their disposal the services of skilled and respected mediators and arbitrators.

"Another reason is the need to start our new dispute settlement resolution system with a clean slate.

"We cannot afford to burden the new system with the problems of neglect caused by a previous government," the statement said.

Mboweni also condemned the former dispute resolution system of conciliation at industrial councils and conciliation boards as "ineffective" and "wasteful of scarce resources".

"The industrial court was never fully sponsored by the previous government. The court was regarded as an institution which made inroads on the privilege of employers to deal arbitrarily with their workers."

Nupen nominated to head new commission

By ROSS HERBERT

STAFF WRITER
ET(BR) 2/10/93
The minister of labour, Tito Mboweni, confirmed that he intended to nominate Charles Nupen to head the commission for conciliation, mediation and arbitration in terms of the Labour Relations Act.

Sources close to the ministry said Mboweni wants Nupen to organise the new agency but remain at the helm only for a fixed time, perhaps as brief as 12 months, to make way for a black candidate.

Mboweni would not confirm the limited tenure. However, Nupen said he was discussing the position with Mboweni and, "I think one would be looking at a fixed period of time".

Until March this year, Nupen was head of the Independent Mediation Service and was tapped by Mboweni to arbitrate the Pick 'n Pay dispute with the SA Commercial, Catering and Allied Workers' Union last year. He also served as commissioner of the Independent Electoral Commission.

"In my view, he is obviously the best candidate for the post. Whether we can afford him or not is another question," said Mboweni. He said that getting a person with the right professional credentials and credi-



CONCILIATORY Labour
Minister Tito Mboweni

bility among business and labour was important to making the new arbitration system work.

He said he had not yet discussed the appointment with the National Economic Development Labour Council. "Nedlac, of course, will have to agree."

"Twelve months is just too short a time to set up the commission," said one industrial relations attorney concerned that moving Nupen out too soon would hamper the commission's reputation for impartiality and would leave too little time to firmly establish it.

THE ongoing public sector strikes have exposed a serious contradiction between government's commitment to extending labour rights to all workers — enshrined in the new Labour Relations Act — and its role as employer of hundreds of thousands of aggrieved and increasingly militant employees

It has handled this contradiction poorly, and its responses have aggravated the situation. These strikes are landmark events not because of the numbers involved, which for the time being are small, nor because of the questionable tactics of workers that have been sensationally reported in the media, but because they are the first test of government's new approach to industrial relations

The new labour law establishes an extremely advanced system that facilitates workers' collective organisation, expands joint-decision making and provides a new approach to dispute resolution emphasising mediation and arbitration

The system depends, however, on a mature industrial relations system with strong, representative and accountable organisations on both sides of the bargaining table who can understand and make use of the innovative procedures

The new law is thus a bold vision for the future, rather than a description of current practice, as such organisations are largely absent in the public, farm, and domestic sectors. Effective organisation in these sectors will be built only through a sustained period of experimentation, conflict and — to use an unfashionable word — struggle. These sectors are at least 15 years behind manufacturing and the mines, where workers and employers have developed sophisticated organisation.

Such struggle is not only normal, healthy and inevitable, but essential to the development of sound labour relations in the public sector. It is also misunderstood by senior government officials.

As employers — rather than as labour law visionaries — they have acted as if public sector labour relations can be conducted as peace-

Govt response to labour unrest is inappropriate

GLENN ADLER

(151)

BD 4/10/95

ful, technical affairs in national forums between senior representatives of government and labour. When nurses disrupted the smooth running of the national bargaining chamber in the public sector, government officials responded in ways oddly reminiscent of their white public service predecessors: they hastened to brand the strikes illegal, and threatened disciplinary action and dismissals.

They ignore that the organisation on which this system depends will be established through conflict, which occasionally takes regrettable and indefensible forms. However, during a period of confrontation, mature industrial relations practitioners look beyond their adversaries' pyrotechnics — which are often necessary to motivate the troops and put pressure on the other side — to concentrating on the real issues at stake. The sooner senior government leaders accept this fact, the sooner they can rise above the disturbing distractions of strikes and move towards a constructive industrial relations system.

The government has correctly pointed out that the issues motivating the strikers are the legacy of the past. Workers find themselves stranded in apartheid-era grading systems engineered to reinforce a white elite through wide wage differentials and promotion proce-

dures insensitive to qualifications and experience. Standard features of SA trade unionism in the manufacturing sector — such as workplace-based shop steward facilities, and effective grievance and disciplinary procedures — are recent introductions, or non-existent.

Without the right to strike, with profound constraints on collective bargaining, and with little action to independent trade union organisation, black public sector workers historically could do little to alter their circumstances. Ultimately their conditions of service were decided in bureaucratic forums dominated by white government officials and the white leaders of staff associations.

With a few notable exceptions, nurses remain outside proper trade unions in which they have power to elect — and discipline — their leaders. It is not surprising that the recent national 5% wage agreement provided a catalyst for the nurses' strike; they had little direct involvement in the process and do not feel bound to uphold agreements negotiated by strangers.

Thanks to the increase in free health care provided to children and pregnant women, their workloads have increased while real

wages have fallen

If government has successfully identified the historical causes of the strikes, it has not responded creatively. Nurses have been told that no wage increase is possible before 1996, and to be patient while a comprehensive health restructuring is undertaken. To this unpalatable mixture of deferral and diversion, government has added the threat of coercion: the strike is illegal and will be met with stern measures.

These responses are seriously flawed on principled and practical grounds. Although their actions are illegal under the current act, the legal status of the nurses' action is difficult to define under the new Act. Strikes in essential services are prohibited, but the definition of "essential" remains untested.

And it is unclear that all nurses will fall into the category.

More practically, the nurses have power because they cannot easily be replaced. Dismissal ultimatums have been shown to be unenforceable. These strategies will not solve the problem, but they do make the strikes tests of government credibility and competence.

Government can craft plans for reconstructing the health services, but even good plans from well-meaning administrators will not work so long as legitimate representatives of relevant parties neither

understand nor participate in the process. Joint decision-making, as provided in the Labour Relations Act, and democracy more generally mean that citizens can have a share in the decisions that affect them. But for democratic forums to function effectively, individuals need organisations that can speak authoritatively and can ensure that their constituencies abide by decisions

However, while organising is necessary and possible, it is time-consuming, messy and inevitably conflictual. Here both sides need to put their houses in order. The government should make immediate secondments of the best and the brightest industrial relations minds in the private sector

More immediately, public sector workers must avail themselves of the existing — and forthcoming — legal opportunities afforded them for union organisation and democratic protest.

There are hopeful signs that the nurses are developing sophisticated strategies for pursuing their grievances

They are also making serious efforts towards establishing proper union structures

For its part, government can contribute to a resolution to the disputes by engaging the workers in a search for solutions and — most importantly — by lowering the heat and easing confrontation. The ANC's notable skills at reconciliation should be deployed in a search for constructive compromises. They should refrain from demonstrating strikers, and treat these as necessary processes in the development of an industrial relations system

If government fails to grasp this possibility, it will inflame an already sensitive situation while undermining its legitimacy among workers and raising more general doubts about its competence. Disciplinary action and dismissals will encourage further strikes and poison the air, making further reconciliation — which must inevitably occur — infinitely more difficult

□ Adler teaches in the Wits sociology department.

Builders 'unlikely' to quit warranty accord

BD 12/10/95

Robyn Chalmers

THE construction industry has backtracked on its threat to withdraw from the builders' warranty mechanism if banks fail to achieve the 50 000 low-cost home loans targeted for next June.

Building Industries' Federation of SA (Bifsa) president Reg Edwards said yesterday that some builders were still concerned about the slow progress on mortgage loan approvals, and some were unhappy about their participation in the mechanism.

It was, however, unlikely that the motion passed at Bifsa's annual conference last month — to review its participation in the mechanism if banks did not meet the loans target — would be implemented, he said.

"We all need to pull together if the housing programme is to get off the ground. The banks are just as concerned about lack of progress."

Over the past four months, fewer than 1 000 mortgage loans have been issued by the four major banks in SA, sparking fears that the 50 000 loans agreed on with government last year

would not be met.

However, banking industry sources said that several smaller banks were making progress in their efforts to deliver finance to the low-income market.

Community Bank executive trustee Cas Coovadia said the bank had been very active in the area of mortgage finance to the lower end of the market over the past six months.

"This is particularly the case in the past two months because bottlenecks that existed in the subsidy release programme are beginning to be resolved."

Coovadia said the Community Bank had committed 1 370 loans valued at R67,4m over the past six months, of which 670, valued at R28,6m, had actually been disbursed.

The average value of the loan disbursed was R42 705. All bank loans were issued at 18,5%, the current rate.

□ Housing subsidies amounting to R65,6 million have been approved by the Free State housing board. A total of 4 379 subsidies have been approved and 3 250 approved in principle.

See Page 4

Mediation service to remain independent

BD 12/10/95 (151)

Renee Grawitzky

THE Independent Mediation Services of SA (IMSSA) would remain independent of the Commission for Conciliation, Mediation and Arbitration but would assist it wherever possible, Dave Douglas of IMSSA said at the launch of Gauteng Settlement Week last night.

The settlement week — a joint initiative by the Industrial Court and IMSSA to reduce some of the estimated

4 000 cases awaiting the Industrial Court in the Gauteng region — takes place between November 13 and 25.

Durban's settlement week resulted in the settlement of 120 of a backlog of between 500 and 600 cases.

The intention of this countrywide initiative was to give parties the opportunity to "finalise disputes in an effective and relatively inexpensive way through conciliation, arbitration and other agreed processes"

Call for crude oil refining rise

BD 12/10/95

SA WOULD have to increase its existing crude oil refining capacity by 150 000 barrels a day to 800 000 over the next five years to accommodate increasing regional demand, BP Southern Africa chairman Tony Deakin said yesterday.

Sapa reports he told the Africa Oil 1995 conference that BP estimates showed regional petrol demand would double by 2010 as the Southern African Development Community started moving off its low fuel consumption base.

SA had a daily crude refining capacity of about 450 000 barrels, while synthetic fuel producers — Sasol and Moss gas — had crude oil equivalent capacity of under 200 000 barrels a day.

SA's refined consumption was about

320 000 barrels a day with an additional synfuel consumption of an equivalent 120 000 barrels.

He said SA's current export capacity would fall short of demand in fewer than five years.

Meanwhile, Samantha Enslin reports that Exploration and Production Namibia MD Ger Kegge told the conference Eskom and Iscor were still being considered as potential users of Kudu Gas.

Shell holds 75% of a joint exploration licence with Engen. Kegge said studies showed the fields could have a lifetime of at least 30 years.

However, the viability of Kudu Gas depended largely on whether a major end user could be secured.

Free arbitration offer to solve labour disputes

(151) Star 11/10/95

■ BY TARYN LAMBERTI

Parties currently involved in Industrial Court cases will be able to solve their disputes free of charge through arbitration during Gauteng Settlement Week.

The project, to be launched tonight by the Industrial Court and the Independent Mediation Service of SA (Imssa), will run from November 13 to 24.

Parties will be able to utilise the services of many of the most experienced labour mediators and arbitrators in the country at no cost to themselves, planners said.

"Conciliation and arbitration form the basis of the dispute system in the new Labour

Relations Act. Settlement week will give participants an opportunity to gain experience in the new system," organisers said.

A R2-million budget, for the whole country, would be provided by the Industrial Court, said David Douglas, Imssa's industrial dispute resolution director.

He added that between 500 and 1 000 cases would be dealt with over the two-week period, which could be extended.

The Kwazulu-Natal Industrial Court recently held its Settlement Week in Durban and achieved a 75% settlement rate in 150 cases.

Interested parties should contact Anne Mullins at (011) 726-6680 or 726-5093. Fax (011) 726-8065.

(151)
Nurses told to reapply

ABOUT 5 000 dismissed nurses in the Transkei tried to return to work yesterday in defiance of a court interdict preventing them entering hospital premises, but they were handed dismissal notices and reapplication forms at the hospital gates and not allowed to enter.

This followed an application by the nurses in the Transkei Supreme Court on Tuesday for a court order compelling the regional government to reinstate them and to pay their salaries.

BD 19/10/95
REPORTS Business Day Reporters, Sapa

Cape nurses' battle continues

(151) (S)

Star 19/10/95

Port Elizabeth - The confrontation between dismissed Transkei Hospital nurses and the Eastern Cape government - which has developed into a legal wrangle - is continuing unabated

About 5 000 nurses tried to return to work yesterday in defiance of a court interdict preventing

them from entering hospital premises, but they were handed dismissal notices and reapplication forms at hospital gates and told they would not be allowed to enter

This followed an application by the nurses in the Transkei Supreme Court on Tuesday for an order compelling the regional

government to reinstate them and to pay them their salaries. The hearing was postponed to November 9

Provincial health and welfare department secretary, Mvuyo Tom, confirmed yesterday that between 4 000 and 5 000 nurses had tried to return to work - Sapa.

Nurses defy court in attempt to work

(151) CT 19/10/95 (22/52)

PORT ELIZABETH. The confrontation between dismissed Transkei hospital nurses and the Eastern Cape government is continuing unabated.

About 5 000 nurses tried to return to work yesterday in defiance of a court interdict preventing them entering hospital premises, but they were handed dismissal notices and re-application forms at hospital gates and told they would not be allowed to enter.

This followed an application by the nurses in the Transkei Supreme Court on Tuesday for an order compelling the regional government to reinstate them and to pay them their salaries.

The hearing was postponed to November 9.

Provincial health and welfare department secretary Dr Mvuyo Tom confirmed that about 90% of the dismissed nurses were returning to work.

"But their return is illegal and they cannot enter the hospital in terms of the court interdict barring them from the hospitals." — Sapa

Better prospects for shop-floor solutions

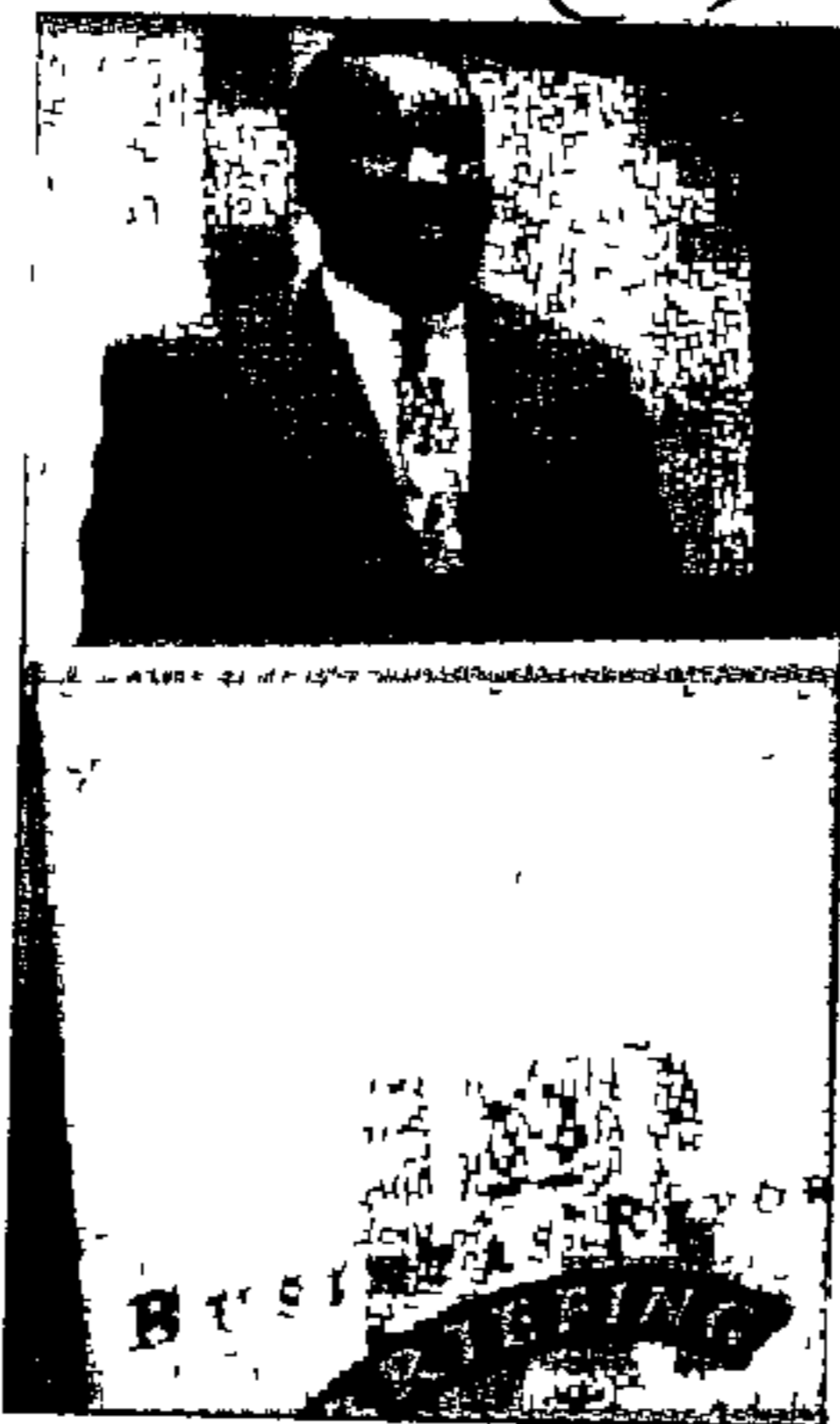
By JIM SMITH

The central players who negotiated the new Labour Relations Act warned yesterday of potential flash-points in the new law, but largely agreed that the new industrial relations framework would improve prospects for solving disputes and forging workplace partnerships.

Mediation specialist Charles Nupen, who chaired the half-day Business Report/Southern Life Briefing seminar in Johannesburg, said the new Commission for Conciliation, Mediation and Arbitration (CCMA) faced the challenge of hiring and training several hundred mediators before it could begin its work.

Nupen, who was chosen by Labour Minister Tito Mboweni to lead the new commission, said the team of mediators would be responsible for facilitating the resolution of disputes — including disagreements over the creation and conduct of the workplace forums that must be established under the new law.

Law professor Halton Cheadle, the main drafter of the new act, said the CCMA would shift the dispute resolution process from the "rather amateurish" current system of government conciliation boards, to a more streamlined approach that had been developed and refined by Nupen's Independent Mediation Service of South Africa during the



Labour minister Tito Mboweni
PHOTO JOHN WOODROOF

1980s and 1990s.

The role of labour lawyer would change from that of litigant to arbitrator and problem-solver, Cheadle said.

Adrian du Plessis, the chief negotiator for Business South Africa, said the process had shown the immense difficulty of trying to negotiate a detailed statute with bargaining tactics more suited to settling a wage dispute.

He said the negotiators had used "every form of bare-knuckle tactic", and debates over individual words had disguised disagreements

over major principles

Du Plessis said while collective bargaining remained essentially voluntary, "there are clear threats and inducements to centralisation"

He expressed concern that workplace forums "remain inextricably at the discretion of a majority union — although once established are open to all"

Nevertheless, echoing the sentiments of every speaker at the briefing, Du Plessis said the new law contained the seed of a system of broadly based legitimacy that fosters effective and direct engagement between workers and managers.

"The LRA gives us the tools, some sharp, some blunt and, dare I say, some that may even be dangerous, and invites us to get back to work on the tasks at hand," Du Plessis said.

Ebrahim Patel, the deputy general secretary of the South African Clothing and Textile Workers Union, cautioned labour not to be careless in its use of its increased right to strike.

"We must use our power potently but sparingly (and) avoid a premature resort to power."

Patel said organised labour faced a daunting task of training thousands of shop stewards to participate effectively in the new workplace forums and sectoral councils.

"Workplace forums introduce a new set of tools for managing change," he said.

(151) CT(MR) 25/10/95

By
The
ag
an
un
pr
ina
co
ta
of
we
it
re
of

Nurses delay strike pending court ruling

JOHANNESBURG — Nurses will refrain from strike action pending the result of court action against the Eastern Cape government on November 9, said National Nurses' Forum chairman Gordon Moncho today. (151)

The forum would "give negotiations a chance", he said, noting that strike action by nurses would contravene a decision by the forum's national leadership. ARG 26/10/95

Mr Moncho denied reports that nurses country-wide had given the government until today to respond to their demands or face strike action.

The court hearing in Umtata concerns the dismissal of about 6 000 striking nurses in Transkei. The forum has demanded their unconditional reinstatement, but the Eastern Cape government is adamant that they must re-apply for their jobs.

Department of Health director-general Dr Olive Shisana told the forum in a meeting on Tuesday that the matter had to be resolved at provincial level. — Sapa.

Employees up in arms

By Abdúl Milazi
Labour Reporter

THE South African Commercial Catering and Allied Workers Union and Metropolitan Life are locked in a dispute over the company's refusal to allow workers to use its facilities for organisational purposes.

Trouble started when Metropolitan Life labour relations manager Mr Gregory Beck discovered that workers at the company's head office in Cape Town were using the internal newsletter to announce their union meetings.

In a letter addressed to senior public relations manager, a Ms Burger, Beck explained that Saccawu had

no organisational rights within the company and therefore was not allowed to use the facility

"The company has, however, as a gesture of goodwill allowed Saccawu once-off access and prior permission to use notice boards to afford them an opportunity to attain the agreed representivity," says the letter

Saccawu national negotiations coordinator Mr Stanley Mngomezulu said the action by Metropolitan Life smacked of racism and was a total disregard of the aspirations of black workers

Mngomezulu said the newsletter was used by workers to communicate matters of mutual interest

"Senior management has also used this publication to announce their birthday parties and no one objected. We therefore call upon Mr Beck to retract the letter sent to Ms Burger, which outlaws publication of Saccawu notices and use of notice boards," said Mngomezulu

He said employers were still living in the past and refused to accept that basic organisational rights were no longer a privilege, but a right

Metropolitan Life insists that Saccawu needs 50 percent representation in the company to qualify for the use of its facilities

Beck refused to comment explaining that he had to follow protocol

(151) (151)

Sowetan 7/11/95

Quick way to settle disputes

15/1
10/11/95

Settlement week shows the way forward for industrial dispute resolution through SA using confidential mediation until agreement is reached

By David Douglas

When Labour Minister Theo Mbowa launched National Settlement week in Durban in September this year he spoke of the Government's commitment to changing the way labour disputes have been resolved in the past.

Speaking of "Rolling Settlement Week" - a reference to its being held in Durban, Cape Town, Port Elizabeth and Johannesburg at different times during October and November this year - the Minister said Settlement Week heralded the beginning of a different era as contained in the new Labour Relations Act.

This creative process is supported and sponsored by the Department of Labour and the Industrial Court, and enjoys the backing of leaders in management and labour.

"While the new Act will be implemented during 1996, the implementation of a Settlement Week in Gauteng is long overdue. The Pretoria Industrial Court has a current caseload of approximately 4 700 cases.

In addition, 4 000 files are within the court's buildings awaiting review to determine whether they represent matters still needing to be dealt with by the court.

Add to this the fact that the court deals with about 250 to 300 cases per month - but is currently receiving

approximately 350 to 400 new cases during the same period.

The conclusion is clear. The backlog is huge and is growing.

If you are a worker who alleges he has been unfairly dismissed, the implementation of this form of justice is Dickensian rather than effective. About 90% of the Industrial Court cases consist of these cases.

Put yourself in such a worker's shoes. You have waited between 14 and 16 months before your matter comes before the court. Unless you have found another job, your savings and benefits will have been wiped out by now, and any assets bought on credit will have been repossessed.

A process in which you have nothing to lose

It is quite possible you have moved to another town and therefore cannot be contacted when your case comes up. Your case could then be dismissed and you will not have received even the appearance of justice.

Indeed, it may sometimes suit some employers to have troublesome matters locked up in the backlog for over a year.

The dismissed worker will be off the premises and no legal costs need be incurred until the matter finally comes up in the Industrial Court. If the employer loses the case, their financial resources would make a series of appeals an attractive option.

However, the delay can backfire if, for example, a worker or group of workers is reinstated retrospectively. The back pay due could amount to a large amount of money, as some recent appeal cases have shown.

In addition to this potential financial cost, there is also the relationship cost within the workplace.

Presuming the dismissed worker enjoys the support of the union and of his/her colleagues, a delay may only serve to heighten and prolong the resultant tension and adversarialism within the workplace.

Aside from the problems of the current Industrial Court system, what makes Appropriate Dispute Resolution in general, and Settlement Week in particular, so attractive? Simply put, Settlement Week offers processes which are:

- entered into voluntarily,
- able to a final and binding resolution to the dispute,
- able to be tailored to suit the specific needs of the parties,
- handled promptly and speedily,
- accessible and understandable,
- facilitated by trained professionals, and
- cost-effective - in fact, they are free.

All parties who have cases caught up in the Industrial Court backlog are invited to participate in Settlement Week, which will be held from November 13 to 24 on the ninth floor of the Carlton Office Block.

However, this is a completely voluntary process and both parties must first agree

- to participate, and
- on the nature of the process they wish to use.

A range of processes will be available to the parties, including mediation, conciliation and arbitration (or any combination of these). We expect that most cases will be resolved within one day.

However, if an extension of time is necessary, this will be arranged. Parties will also be entitled to bring legal advisers along at their own cost. Trained, professional facilitators from the Independent Mediation Service of South Africa (IMSSA), the Resolutions Board and the Med-

iation and Conciliation Centre are ready to act as facilitators of all the processes.

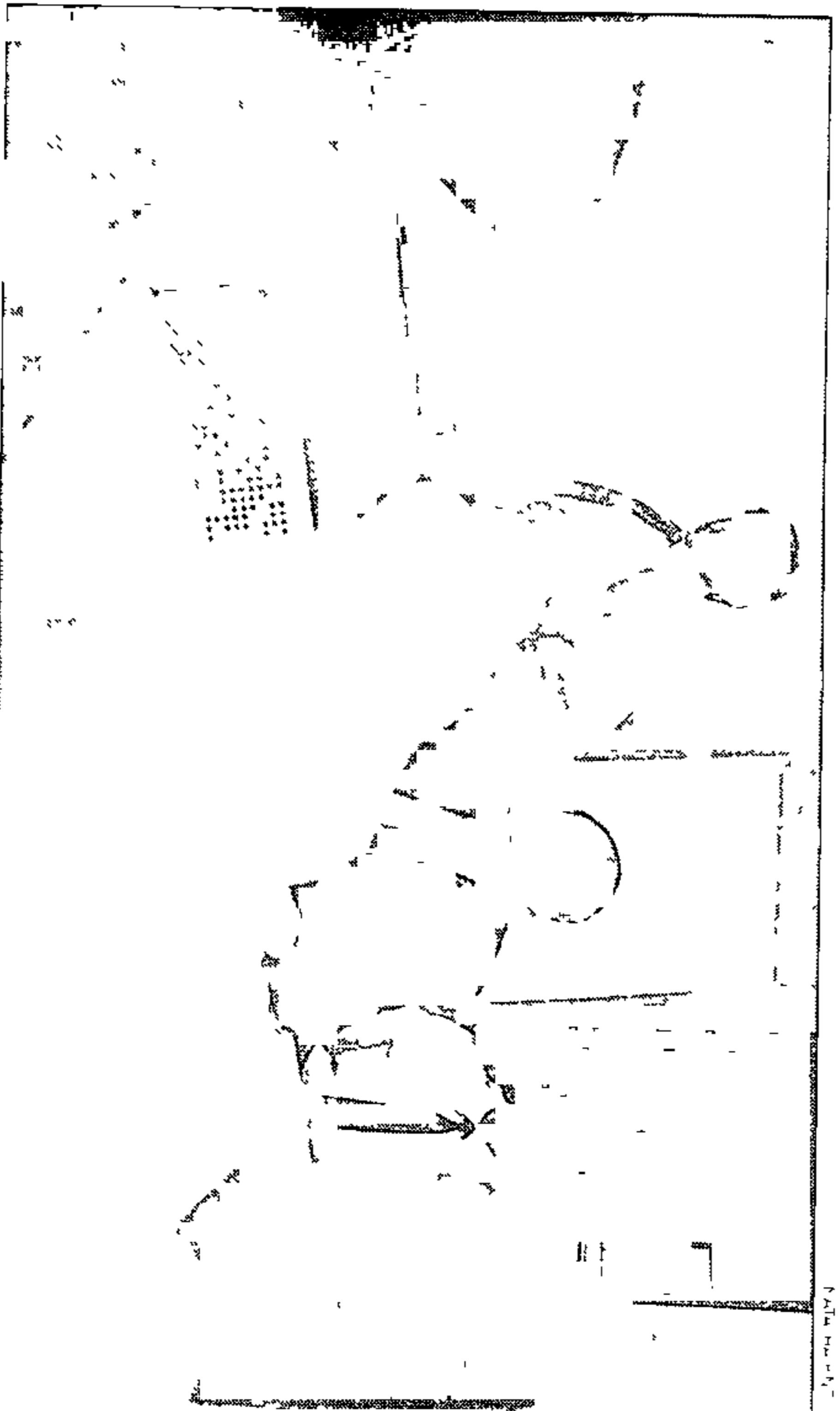
The processes available to parties offer something for everyone. The beauty of arbitration is that it provides you with a legal, evidentiary format which is, however, less formal than a court case but gives you a solution which is final and binding.

This is not necessarily as extreme as it sounds as the parties have the opportunity to draft the terms of reference, and construct the arbitrator's powers and the process itself to form a structure with which they are comfortable.

Mediation is a process in which you have nothing to lose. The process is confidential and without prejudice until a settlement acceptable to both parties is reached.

A non-binding or advisory arbitration could give the parties some idea of what judgment will be given if their case goes forward to the Industrial Court.

Cases submitted to Settlement Week will not lose their place in the Industrial Court roll, so if certainly is a case of parties having nothing to lose but settlement to gain.



Parties to the cases in the backlog face a very real choice to remain there for up to 16 months at potentially great cost or to take part in Settlement Week.

This will provide an opportunity to participate in alternative dispute resolution processes and also to contribute to the enhancement of the ad-

ministration of justice in South Africa

■ The Settlement Week office can be contacted at telephone numbers (011) 726-6680 or 726-5093

David Douglas is national project director of the IMSSA's Industrial Dispute Resolution Service

Two sides of the coin striking workers (above) and round table talks (below) Alternative dispute resolution processes contribute to the enhancement of the administration of justice in South Africa

Mboweni intervenes in Metro Rail, union feud

Star 10/11/95 (151)

South African Footplate Staff Association threatens more strike action if Metro Rail continues probe into train drivers

Labour Minister Tito Mboweni yesterday intervened in a growing row between Metro Rail and the mainly white South African Footplate Staff Association which represents 3 500 train drivers

Safsa deputy general secretary Louis Brockett said in a statement that Mboweni was very concerned about the deteriorating relationship between the two sides and had asked to meet the union

The wildcat strike that crippled commuter rail services in Johannesburg, Pretoria and Durban on Wednesday was organised by Safsa to protest against an internal Metro Rail inquiry involving three union members arising from a train disaster at Mariannhill, KwaZulu Natal, in which 67 people died

Metro Rail marketing and communications chief Zukile Nomvete

yesterday said it would not be held to ransom by any union and would embark immediately on a national campaign to recruit 300 train drivers to alleviate shortages and redress past imbalances

"We have 60 vacancies for drivers at present and we will first recruit from within our organisation. We will then advertise for a further 240 drivers"

Brockett said Nomvete's statement was unprofessional and Safsa would not be intimidated.

Safsa had the support of all Transnet unions and Wednesday's strike might be only the tip of the iceberg, he said. Nomvete's statement was uncalled for and it was clear he had very little knowledge of negotiations or labour relations, Brockett said. Agreements had to be honoured and Safsa would not allow

Metro Rail to make unilateral decisions

"We have no problem with affirmative action. We have never said we don't want black train drivers. But there are certain minimum standards and qualifications and we cannot compromise on safety," he said.

SABC radio reported Wednesday's strike cost Metro Rail about R700 000 in lost revenue and the cost of alternative transport for commuters.

The South African Railway and Harbours Workers' Union (Saru) general secretary Derek Moopo said Metro's internal inquiry into the three Safsa members should continue unhindered.

Moopo said it would be unfair for the probe to be stopped by Safsa's apparent blackmail tactics. - Sapa.

Train drivers to be disciplined

(157) (157)
By Abdul Millazi *Sowetan 10/11/95*

THE white train drivers who went on strike on Tuesday will be disciplined, Metro Rail spokesman Mr Zukile Nomvete said yesterday.

Meanwhile train services were yesterday back to normal in Johannesburg, Pretoria and Durban.

The drivers were protesting against the company's decision to call an internal inquiry into a white driver and his conductor who were driving the train which killed 67 black commuters in Marianhill last year.

The South African Footplate Staff Association argued that the hearing was an unfair labour practice as the two had gone through an emotional and traumatic experience.

The two men were acquitted in a court of law.

Samwu calls off action

THE SA Municipal Workers Union (Samwu) has called off its planned mass action campaign in Northern Province for the reinstatement of about 720 dismissed municipal workers. The campaign was scheduled to start today in support of more than 620 workers dismissed by the Pietersburg town council and 98 fired by the Groblersdal town council.

Samwu regional secretary Walther Theledi was optimistic negotiations with the councils would bring a breakthrough.

~~(2)~~ 151
BD 13/11/95

Workplace forums 'no easy solution'

Renee Grawitzky

BD 13/11/95

(151)

WORKPLACE forums as provided for in the new Labour Relations Act would be unable to move SA beyond adversarial relationships towards more co-operative ones, Port Elizabeth University industrial relations unit head Mark Anstey said recently.

At an Industrial Relations Association of SA (Irasa) seminar Anstey said he did not believe that the National Economic, Development and Labour Council (Nedlac) would achieve this either.

However, Federation of SA Labour Unions (Fed-sal) general secretary Dannhauser van der Merwe said workplace forums would deliver and result in a move away from adversarial relationships.

He said: "Unions initially opposed workplace forums but changed their minds after they saw that there were instances where they worked and strengthened unions." He said the establishment of forums would take time, would require the will and change in mindset to make them work and would require training and increased capacity.

Anstey said the new legislation was largely based on the German experience, but did not go the whole way. Instead of following the German example where workplace forums were employee-driven, in SA they would be union-driven. This was problematic as trade unions and more specifically majority unions would have the "sole gateway to democracy".

Anstey said it was understandable that unions would want to control workplace forums to some extent in order to prevent a recurrence of incidents in the 1950s and 1960s when employers tried to co-opt unions through works councils. In Germany workplace forums worked parallel to collective bargaining. In terms of the proposed system in SA, such forums would be subordinate to collective bargaining.

Anstey said the Act might obstruct less developed labour relations systems.

Settlement Week brings fast resolution to disputes

(S1) Nov 14 1995

Alternative process alleviates backlog in industrial courts

By JUSTICE MALALA
Labour Reporter

For more than a year, Jacob Dukker lived in suspense, not knowing what his fate was, nor when it would be decided.

Jacob, the sole breadwinner in his family and a father of two, has been out of work for more than a year after being retrenched along with 38 other workers last September. Believing the retrenchments were unfair, the workers took the matter to the Industrial Court for resolution.

"We were still waiting for a date for the matter to be heard, a year after the matter was lodged there. I was surviving through part-time jobs but times are hard, and such jobs are not easy to find," said Dukker, who used to work as a welder, yesterday.

Due to the backlog of more than 4 700 cases at the Pretoria Industrial

Court, coupled with about 4 000 files waiting to be reviewed to find out whether the matters still need to be dealt with by the court, it seemed unlikely the 39 workers' case would have come to court in the near future, thus keeping them in a state of uncertainty.

But thanks to a bold idea that took the combined efforts of the Labour Ministry, the Independent Mediation Services of SA and the Industrial Court to kick off, Dukker and many other workers' cases are being heard in a week of alternative dispute resolution to alleviate the backlog in the court and to ensure that justice is dispensed quickly.

Settlement Week, which runs formally in Gauteng over the next two weeks, was designed to offer employers and workers a speedy way of ending disputes through mediation, arbitration and any other process they felt would help resolve

the dispute. Participation is voluntary and by agreement between the disputing parties.

Yesterday, two cases were settled within the first thirty minutes of proceedings.

"The only problem is that many employers are not coming forward because they believe if the matter drags out it is to their advantage," said a National Union of Metalworkers of SA official who was involved in one of the quick resolutions.

The process is also under way in Durban, Cape Town and Port Elizabeth, where hundreds of disputes have already been settled.

The matter between Dukker's group could not be settled yesterday, but he is hopeful.

"At least after this process I will know exactly where I stand, rather than waiting for years only to find that I have been waiting for nothing," he said.



ANDREAS VLACHAKIS

In suspense ... Jacob Dukker hopes that justice will now be done after a year of waiting.

Strikes threat as train smash driver is fired

CT 14/11/95

(151) ~~270~~

DURBAN: The firing of the driver of a train that derailed, killing 67 people, at Mariannhill near here last year might lead to widespread strikes by fellow drivers, the SA Footplate Staff Association said yesterday

Mr Johannes Meyer, 36, was dismissed yesterday after a joint Spoornet-Metro Rail disciplinary hearing. He and conductor Mr Juri van Aswegen were recently acquitted by a magistrate of culpable homicide

Many survivors of the crash claimed the train was speeding

Safsa said it was considering strikes to protest against Mr Meyer's "unfair" dismissal

"Safsa will not take this lying down," general secretary Mr Chris de Vos said.

Last week, Safsa train drivers paralysed commuter services in many parts of the country when they went on strike in protest against the disciplinary hearing.

A tearful Mr Meyer would not comment. Safsa has spent about R400 000 in his defence since the disaster

Mr De Vos said the company hearing had been marred by "third force" intervention and unprofessional conduct. Spoornet and Metro Rail had buckled under enormous pressure to find a scapegoat for the

loss of life, he said. Safsa would appeal against the decision

"If there's another strike next week, it will be more organised," Mr De Vos said.

Contrary to agreements, Spoornet and Metro Rail had disregarded Mr Meyer's unblemished safety record, he said.

"The company disciplinary code makes provision for a first infringement. Every worker has the right to make a mistake"

After the court verdict, Metro employee Mr Jan Wester was called, together with Mr Meyer and Mr Van Aswegen, to appear before the company hearing.

Warning

After three days of deliberation, the company found Mr Meyer and Mr Wester guilty, on the balance of probabilities, of contravening company regulations

Mr Wester received a serious warning. Mr Van Aswegen was cleared

Metro Rail spokesman Mr Zukile Nomvete denied the company had acted unfairly in dismissing Mr Meyer.

"A hearing is normal company procedure designed to ensure a quality service to our customers," he said. — Sapa

Rail dispute arbitration

STON 15/11/95 (151) (230)

Durban - Metro Rail and a railway workers' union have agreed to arbitration in a dispute over the dismissal of the driver of a train in which 67 commuters were killed in a crash last year, a joint statement said yesterday.

South African Footplate Staff Association (SAFSA) general-secretary Chris de Vos ruled out an immediate strike to demand the reinstatement of driver Johan Meyer.

Meyer was sacked on Monday after a Metro Rail inquiry found that the train derailed near Marianhill because it was speeding.

"We want to take the legal route first," De Vos added.

Metro Rail spokesman Michael Howitz said the case would probably be heard next week. - Reuters.

Driver's dismissal might spark strike

20 14/11/95 (151)
DURBAN — The firing of the driver of a train that derailed at Mariannhill in KwaZulu-Natal last year, killing 67 people, might lead to widespread strikes by fellow drivers, the SA Footplate Staff Association said yesterday.

Johannes Meyer, 36, was dismissed yesterday after a joint Spoornet-Metro Rail disciplinary hearing. He and conductor Juri van Aswegen were recently acquitted by a Durban magistrate of culpable homicide.

Many crash survivors claimed that the train was speeding at the time.

Safsa yesterday said it was considering strikes to protest against what it called Meyer's unfair dismissal.

"Safsa will not take this lying down," general secretary Chris de Vos told a media briefing in Durban. "This

unfairness is not acceptable."

Last week Safsa train drivers paralysed commuter services in many parts of the country when they went on strike to protest against plans for the disciplinary hearing.

A tearful Meyer would not comment on the company's decision. Safsa has spent about R400 000 in his defence, and will appeal against the decision. It also intended to discuss possible strike action at a council meeting next week.

A Metro Rail spokesman, Zukile Nomvete, denied that the company had acted unfairly in dismissing Meyer.

Reacting to Safsa's warning on possible strikes, Nomvete said that Metro Rail had contingency plans. "Reasoning should prevail over confrontational attitudes," he said. — Sapa.

Drivers agree to arbitration

Bonile Ngqiyaza

(151) 
BD 15/11/95

THE SA Footplate Staff Association said agreement had been reached with Transnet to refer the dismissal this week by Transnet of one of the association's members to arbitration.

The driver of the Marianhill tram which derailed in KwaZulu-Natal last year, killing 67 people, was dismissed after a joint Spoornet-Metro disciplinary hearing for contravening company regulations. The driver, Johannes Meyer, had been acquitted in court.

Safsa spokesman Chris de Vos said yesterday that both parties were waiting for names of arbitrators from the Independent Mediation Services of SA.

There is no strike action planned this week. Meanwhile, the Federation of SA Labour Unions condemned Transnet's threat last week that it would train 300 black drivers as irresponsible and racially divisive. Transnet has retracted the statement.

Fawu moves to settle dispute

Labour Reporter (151)

THE Food and Allied Workers' Union (Fawu) is to convene a South African Breweries shopstewards' council to discuss ways of pressuring the management of Appletiser Manufacturing in Grabouw to settle a wage dispute with the union. *ARG 20/11/95*

Appletiser is a subsidiary of SA Breweries

Workers at the Appletiser factory have been on a legal strike for 15 days since their deadlock over wages.

Fawu and management have been locked in negotiations since the strike began.

Fawu said they proposed on Tuesday that the Minister of Labour be asked to appoint an independent mediator to resolve the dispute. If mediation failed, arbitration should be pursued. Fawu said SAB rejected their proposals.

One of SA's most bitter labour disputes ends

Renee Grawitzky

IN THE longest and one of the most bitter disputes in SA labour history, the Natal division of the Labour Appeal Court yesterday upheld a decision handed down by the Industrial Court last year that BTR Sarmcol had not committed an unfair labour practice when it dismissed 970 workers during an illegal strike over recognition 10 years ago.

The decision follows an appeal by the National Union of Metalworkers of SA, previously known as the Metal and Allied Workers' Union, to dismiss the Industrial Court decision which ruled in favour of the company.

The Labour Appeal Court judgment handed down by Peter Combrinck and assessors Michael Cowling and Sandi-la Ngcobo in Maritzburg yesterday found that not only had BTR not committed an unfair labour practice when it dismissed the striking workers, but workers "were not justified in going on strike, nor was the union justified in adopting the strike on behalf of the workers and persisting therein."

The court criticised the union, saying it should have realised it was losing the battle and capitulated, "in which event the appellants (workers) would not have lost their employment. It refused to do what was obviously in its members' interests and is therefore solely to blame that they were not employed. In our view it must shoulder the responsibility for the tragic consequences of its stubborn refusal to succumb to the inevitable."

In its application to the Industrial workers and persisting therein." The court criticised the union, saying it should have realised it was losing the battle and capitulated, "in which event the appellants (workers) would not have lost their employment. It refused to do what was obviously in its members' interests and is therefore solely to blame that they were not employed. In our view it must shoulder the responsibility for the tragic consequences of its stubborn refusal to succumb to the inevitable."

BTR (151) (1984)

Continued from Page 1

April 30 1985 and persisting in the strike until their demands were met. It also assessed whether BTR was justified in dismissing and refusing to re-employ them.

The court looked at the cause of the strike and found that it was doubtful whether the company's failure to sign the recognition agreement caused the strike. The court said "In our view the inference is inescapable that it was the disagreement about May Day which caused the workers to go out on strike, and not the fact that the respondent had not yet signed the recognition agreement. It was too much of a co-

incidence that right after Schreiner (the union official) promised that there would be trouble, the strike broke out. "If, as we have found, the cause of the strike was the dispute about May Day, then there was no justification for the strike," it said.

In light of the company's precarious financial position and a failure by workers to comply with ultimatums, the court said it was not unreasonable to dismiss the workers with an offer to apply for re-employment.

As time passed "it was impossible to restate the old workforce or reach any form of settlement, mainly because of the effect such action would have had on the new workforce."

This was the sixth time the case had been referred to court since the dismissals on May 3 1985.

BTR court

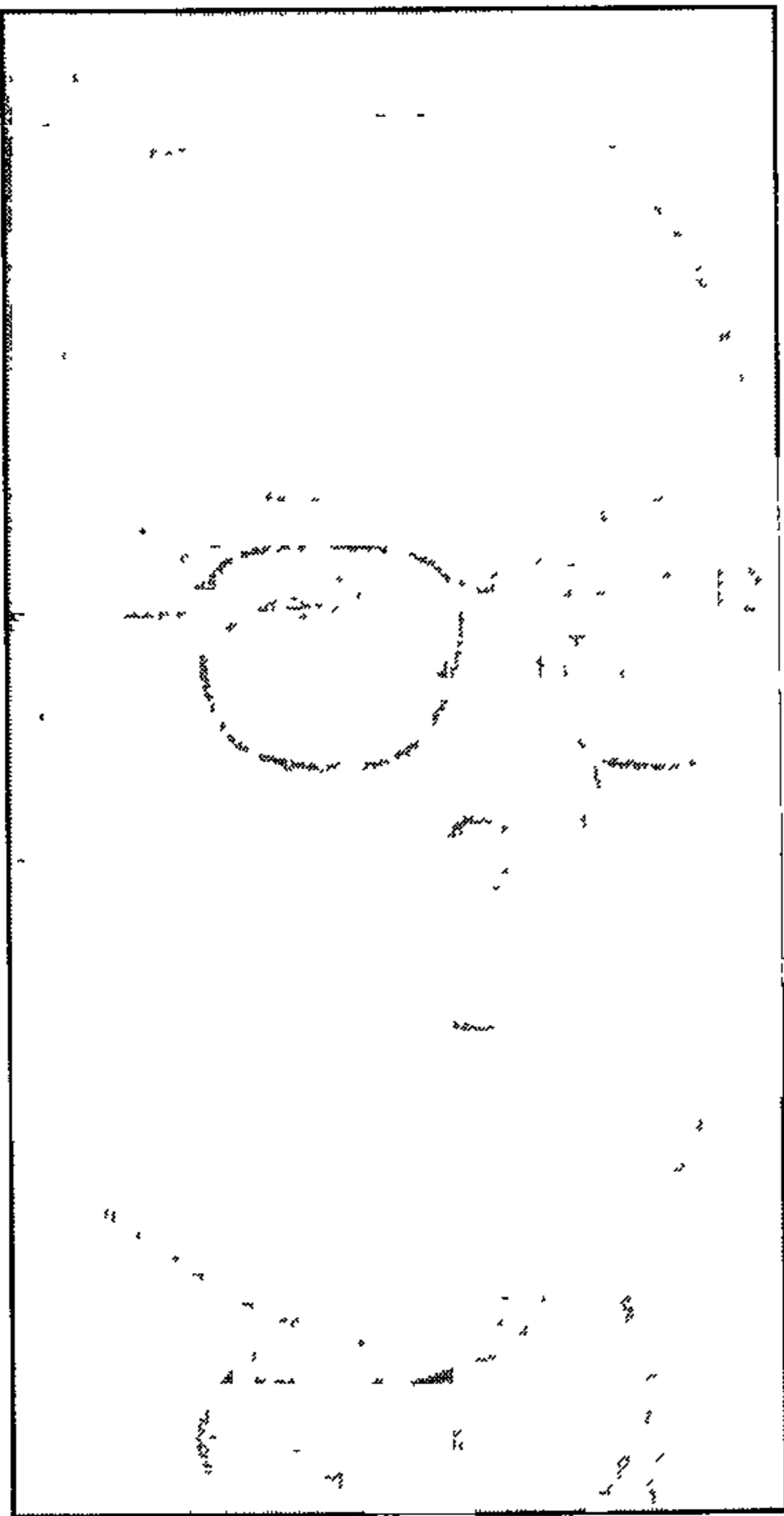
Victory

ers — who led the strike — were subsequently murdered. The bitterness continued 10 years down the line.

The union estimated that 20% of those dismissed had found permanent employment and despite the death of close to 100 workers, the widows of those who died over the years were still awaiting some kind of compensation.

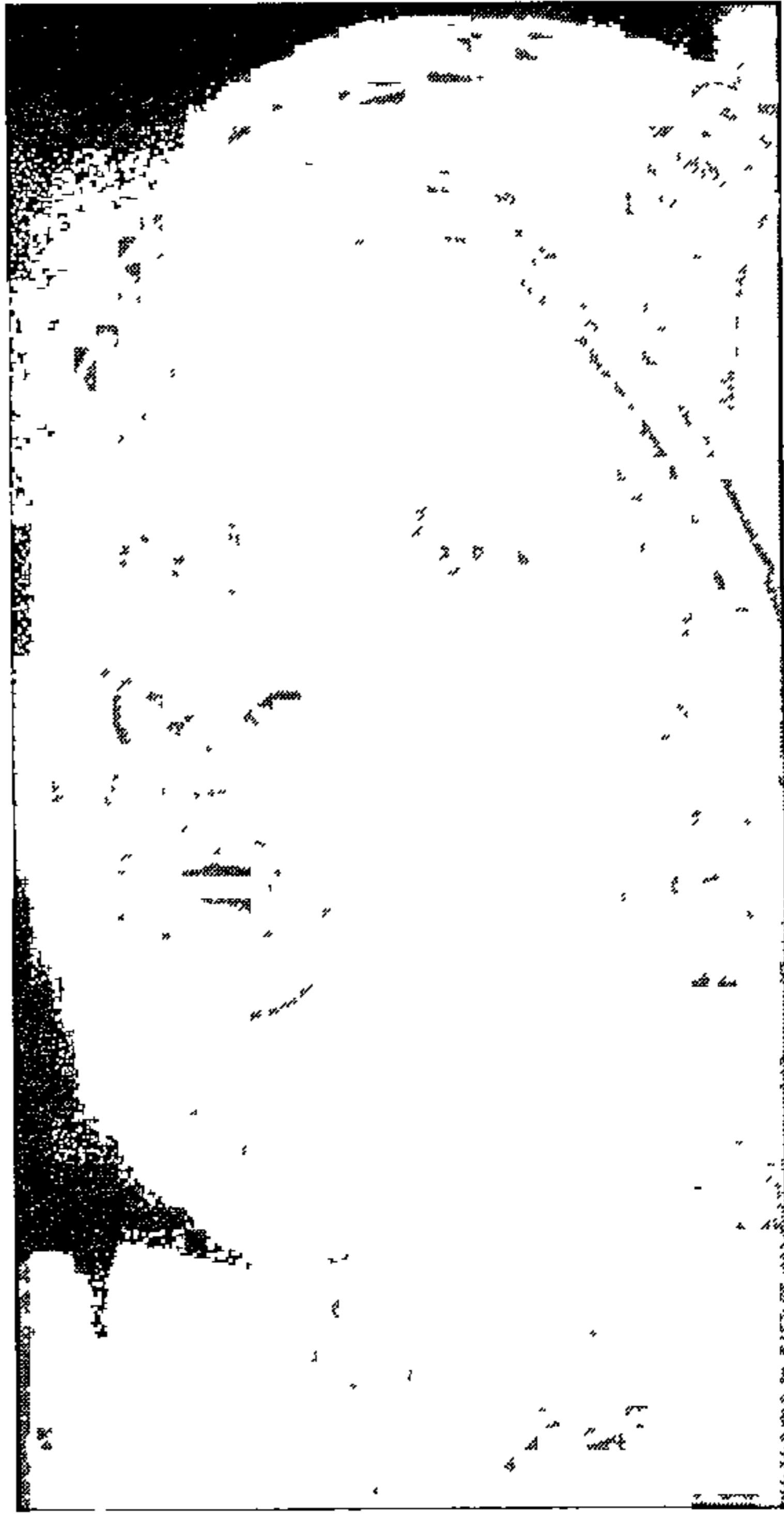
In coming to its decision, the court considered whether the workers were justified in launching strike action on

Continued on Page 2



Mahmood Fadal ... the Mediation and Conciliation Centre has grown by leaps and bounds this year.

PIC JOE MOLEFE



Emma Mashinini ... the former union leader is one of the MCC's mediators.

Black leader in mediation

By Abdul Milazi
Labour Reporter

FOR A LONG TIME the Independent Mediation Services of South Africa was the only mediator in the country - until a black mediation firm started making waves early this year

Since its inception in 1993 until this year, the Mediation and Conciliation Centre has lived in IMSSA's shadow, battling to gain recognition from both business and labour

Started by the Congress of South African Trade Unions' former Wits region chairman Mr Mahmood Fadal, the MCC has grown in leaps and bounds this year

It has just been appointed by the National Negotiating Forum of the South African Police Services as one of its alternative dispute-resolution agencies.

The MCC was set up to provide mediation and conflict-resolution services, initially to small- and medium-sized enterprises and institutes

Fadal said "The project, a multi-level initiative, came into being after consultation with various stakeholders in the business community, unions, community and sports organisations"

Since its formation, the MCC has trained an expert panel of mediators, that include senior attorneys, advocates and industrial labour specialists

"The MCC's basic approach is to influence parties to the dispute to reach a settlement through a process of dialogue between themselves," said Fadal

He said the cost of taking an unfair dismissal case to the Industrial

Mediation and arbitration are the new buzzwords in labour relations

al Court could amount to R3 000 if the services of an attorney were used

"The MCC, however, by proposing and using arbitration to expedite matters, will cost no more than R600 shared between the two parties to the dispute," said Fadal

He added that the MCC's intervention was aimed at contributing towards normalising South Africa's industrial situation

"We welcome the formation of the Commission for Conciliation, Mediation and Arbitration. As a Government-funded service, it will make mediation accessible to even the smallest organisations"

Mediation bodies

He cautioned, however, that the CCMA would only succeed if things were done in consultation with private mediation bodies

"I hope the MCC and other agencies will be consulted so that they can make contributions, which has not been the case in the past," said Fadal

He pointed out that mediation and arbitration would play a major role in South Africa's labour market because it has been made compulsory by the new Labour Relations Act

"We must make sure the CCMA does not fail since it is funded by taxpayers' money. If it chooses to subsidise private agencies, these agencies must not overcharge," said Fadal

He said agencies like the MCC

and IMSSA should not charge more than R1 200 a day per dispute

"Mediation has been out of reach for many small unions and businesses because of the high fees charged by mediators. Many of them charge R5 000 a day and more," said Fadal

The MCC boasts among its mediators former Independent Electoral Commission director Mr Jerome Ngwenya, who is its co-director

Others include Land Commissioner Ms Emma Mashinini, its president and legal advisor Mr Rob le Grange and Truth Commission member Ms Yasmin Sooka

From humble beginnings, the MCC has mediated several major disputes, including the Sun International and the Kruger National strikes in July this year

When some of its panelists were appointed as mediators last year, Fadal was made senior mediator to coordinate the North West and Mpumalanga provinces

"As the field has grown over the past few years, dispute resolution is now faced with new challenges and opportunities. The prospects of development and the accompanying rise in expectations taxes our individual capacities and provides a strong incentive to collaboration," said Fadal

With the new Labour Relations Act placing strong emphasis on mediation and arbitration, Fadal believes the MCC will play a major role in improving industrial relations

in South Africa

151 / Rowan
11/12/95

Mediation body starts to take shape

(151) BD 19/12/95
Renee Grawitzky

THE Commission for Conciliation, Mediation and Arbitration's interim board meets this week to discuss the appointment of an independent chairman and a director, as well as the way forward for the commission.

The interim board comprises three representatives each from business, labour and government, but will be officially appointed by Labour Minister Tito Mboweni only once Nafcoc has finalised its representative on the board.

Labour's representatives are Ebrahim Patel (Cosatu), Manene Samela (Nactu) and Ben van der Walt (Fedsal) while business representation included Bokkie Botha and Rudolph Gouws. However, no final appointment has been received from Nafcoc after their original representative resigned from the organisation. Government representatives are the labour department's director-general Sipho Pityana and deputy director-general Les Kettleidas, as well as public service and administration department director-general Paseka Ncholo.

At the heart of the new Labour Relations Act is the establishment of the commission,

designed to provide a quick, efficient and cheap means of resolving disputes.

The commission has to be up and running by the time the new Act comes into effect on May 1.

The International Labour Organisation (ILO) has been providing financial and human resource assistance in the establishment of the commission. Former Independent Mediation Services of SA head Charles Nupen is the ILO's technical adviser.

Pityana said last week the department had requested R100m be set aside in its 1996/7 budget for the operation of the commission. Mediation and Conciliation Centre director Mahmood Fedal said yesterday that because the commission would be funded with taxpayers' money, it was crucial that it succeeded. Its success depended on the support provided by private dispute resolution agencies such as the centre.

Fedal said the users of the dispute resolution mechanism — business and labour — should also be consulted on the formation of the commission. Excluding these parties could result in them going to other private agencies and not utilising the structures established by government.

Ostrich speculators to be eased into scheme

Louise Cook

BD 19/12/95

A NEW scheme in the former Transvaal ostrich industry to boost leather and meat exports would allow speculators in without needing farms or infrastructure.

Transvaal Ostrich Producers' Organisation chairman Johan Wingerd said at the weekend that 40 ostrich farmers had set up a co-operative to take over the running of the Ostriches Galore abattoir and feed lot at Turlton in the Magaliesburg.

Instead of young birds being raised by farmers on farms, the co-operative would take in thousands of 6-month-old birds at 55kg into its feed lot from speculators or part-time farmers.

At least 8 000 birds were likely to be delivered to the feed lot next year, he said.

"This way, anyone can buy a young ostrich, have it delivered straight to the feed lot to raise it and deliver it to the abattoir after five months at 85kg. The buyer does not need a farm, labour or any farming skills."

Wingerd said the scheme could offer returns on investment of 23% a year.

The Transvaal Agricultural Union, backing the move, said the co-operative would also export quality ostrich leather and meat products in "meaningful quantities and on a consistent basis."

"The move is aimed at providing a co-operative feed lot system that delivers slaughter birds in economic quantities to abattoirs," the union said.

Wingerd was optimistic about the future of the industry in the former Transvaal.

It was 10% the size of the Karoo industry at Oudtshoorn, but had potential to overtake the farming and export operations run by the Klein Karoo Co-operative, he said.

"Gauteng entrepreneurs have money to invest in the industry. We are hoping to set up further feed lots and abattoirs in Gauteng, Northern Province and Free State over the next few years," he said.

Mediation body starts to take shape

Renee Grawitzky

BD 19/12/95

THE Commission for Conciliation, Mediation and Arbitration's interim board meets this week to discuss the appointment of an independent chairman and a director, as well as the way forward for the commission.

The interim board comprises three representatives each from business, labour and government, but will be officially appointed by Labour Minister Tito Mboweni only once Nafcoc has finalised its representative on the board.

Labour's representatives are Ebrahim Patel (Cosatu), Manene Samela (Nactu) and Ben van der Walt (Fedsal) while business representation included Bokkie Botha and Rudolph Gouws. However, no final appointment has been received from Nafcoc after their original representative resigned from the organisation. Government representatives are the labour department's director-general Siphon Pitjana and deputy director-general Les Kettleada, as well as public service and administration department director-general Paseka Ncholo.

At the heart of the new Labour Relations Act is the establishment of the commission,

designed to provide a quick, efficient and cheap means of resolving disputes.

The commission has to be up and running by the time the new Act comes into effect on May 1.

The International Labour Organisation (ILO) has been providing financial and human resource assistance in the establishment of the commission. Former Independent Mediation Services of SA head Charles Nupen is the ILO's technical adviser.

Pitjana said last week the department had requested R100m be set aside in its 1996/7 budget for the operation of the commission. Mediation and Conciliation Centre director Mahmood Fedal said yesterday that because the commission would be funded with taxpayers' money, it was crucial that it succeeded. Its success depended on the support provided by private dispute resolution agencies such as the centre.

Fedal said the users of the dispute resolution mechanism — business and labour — should also be consulted on the formation of the commission. Excluding these parties could result in them going to other private agencies and not utilising the structures established by government.

Book warns against privatisation of electricity

CAPE TOWN

— As government finalises plans to revamp the electricity supply industry, two Cape Town researchers have warned against any attempts to privatise the sector.

In the new book *Poverty and Power*, published by UCT Press, Anton Eberhard and Clive van Horen say that, as in eastern Europe, the movement to democracy has led to pressures to open the economy and promote wider participation.

This has led to "thoughtless prescriptions for wholesale privatisation of state functions and corporations, often with disastrous consequences for social and economic equity", the book says.

"But there is now a growing understanding that the market has not met, and will not meet, all development challenges and, in particular, will not fully provide for the basic needs of the poor."

"A lean and efficient state is envisaged which appreciates where markets best function but which intervenes strategically, selectively and, if necessary, deeply in those areas where markets fail."

The authors support the idea of the industry being guided by an independent electricity regulator, who has already been appointed. — Reuter.

BD 19/12/95

BD 19/12/95

INDUSTRIAL RELATIONS — DISPUTES

1996 — 1997

Arbitration law defective, says commissioner Steyn

Deborah Fine

SA's unimpressive and internationally backward mechanisms for alternative dispute resolution had significant implications for foreign investment and international trade, SA Law Commission project director on international arbitration Jan Steyn said recently.

Steyn, a former Cape judge and currently joint ombudsmen for life assurance and appeal judge for Botswana, Lesotho and Swaziland, said SA's existing

arbitration legislation was considered by most circles to be "defective" for use in international arbitrations.

The current laws had no provisions dealing with international arbitrations and did little more than seek the enforcement of foreign awards, he said.

The law commission's projects committee, which includes Prof David Butler, Prof Dick Christie QC, Adv Jeremy Gauntlett SC and Judge Shemaaz Meer, recently published a discussion paper with three core proposals aimed at en-

hancing international arbitration in SA and making the SA version "user-friendly" to foreign parties.

The proposals included the application of the Model Law adopted by the United Nations Commission on International Trade Law, the enhanced application of the New York convention and the proposed accession by SA to the Washington convention on the settlement of investment disputes between states and nationals of other states.

The Model Law's aim was to promote

the harmonisation and uniformity of national laws pertaining to international arbitration procedures.

The Washington convention of 1965 focused on the resolution of investment disputes between a contracting state or government of another contracting state and a national of another contracting state.

The aim of the convention was to promote a climate of mutual confidence between states and investors, thereby increasing the flow of resources to developing countries.

SA's ratification of the convention would create the necessary legal framework to encourage foreign investment and economic development, Steyn said.

He said as the implementation of government's macroeconomic strategy began to yield dividends, major infrastructural development projects could well be financed by international agencies or consortiums. Disputes were bound to arise, and international investors would seek acceptable, rapid dispute resolution mechanisms.

Firm accuses foreign affairs dept of dirty tricks campaign

PRETORIA — SA's foreign affairs department was utilising its foreign diplomatic missions to leak disinformation to implicate Executive Outcomes in the Zairean conflict, the company claimed yesterday.

The company, which supplies military advisers, and allegedly merce-

mercenary activities in the area," the firm said.

The story appeared in La Figaro last weekend and was quoted in SA newspapers this week.

The company also claimed that a similar disinformation operation was carried out by SA's Dutch embassy during September — Sapa

ANGLO American and De Beers have denied claims by Zairean rebels that the SA groups had active operations in the strife-torn central African country.

The rebels, who have been gaining territory in recent weeks, reassured foreign companies that they would honour established mining concessions.

Jean Kabongo, special security adviser to rebel leader Laurent Kabila, said the rebels would try to open up new areas to mining, especially in the central region of Kasai. He said both De Beers and Anglo had mining operations in areas now under rebel control.

The rebels said they had already captured the mining centre

day that it had no mines in Zaire but maintained about five buying offices in the country.

De Beers spokesman Tom Tweedy said mining activities were under the control of the state-owned Societe Minière de Bakwanga (MIBA), which exploited Zaire's diamond deposits.

"De Beers has no diamond mines in Zaire, we don't even have technical guys going up to the MIBA mine. It is a totally separate company run by Zaire and Sibeka in Belgium, of which Sibeka only has a 20% interest."

He said De Beers had a small stake in Sibeka but no interest or involvement in the Zairean operations — Reuter

EDIA CORPORATION LIMITED

(Incorporated in the Republic of South Africa)
(Registration No 01/00352/061)

S FOR THE SIX MONTHS ENDED 30 SEPTEMBER 1996

Interim results for the six months ended 30 September 1996 are as follows

Council forecasts conflictive bargaining

CT (BR) 5/12/96 (151)

STAFF REPORTER

Johannesburg — Rising inflation and a slowdown of economic growth indicate that next year will produce a tougher bargaining environment than this year, said a report in the December issue of the South African Labour Bulletin

Wendy Dobson, the co-ordinator of the Labour Market Chamber at the National Economic Development and Labour Council, said in her report that the combination of the uncertainty of the rules of the new Labour Relations Act and the economic constraints expected would suggest next year's "collective bargaining round will be more conflictive and disruptive than was the case this year"

South Africa was spared acrimonious wage strikes in the past year, with the Southern African Clothing and Textile Workers' Union (Sactwu) and the South African Commercial Catering and Allied Workers' Union (Saccawu) emerging as the exceptions

Sactwu embarked on a nation-

al strike in support of 10 percent wage increase and settled on 9,5 percent. The disruption within the catering industry was seen more in the light of the lack of centralised bargaining and that Saccawu had to spread itself thinly across the sector

Dobson saw the industrial action by the mainly white technicians at SAA, and management's subsequent lockout, as the first significant action taken by this union in more than 10 years

However, Dobson said that this year's experience showed labour relations were conducted with greater maturity, especially in the private sector, with unions moderating their wage demands

The average wage settlement across all sectors this year was 10 percent, in line with the past three years, but a marked shift from the late 1980's when wage settlements averaged 18 percent

Inflation this year had not exceeded 8,4 percent, with the average inflation rate at about 6,5 percent, so real wages increased during this year, Dobson said

Call for SA to 'normalise' arbitration

209/12/96

(151)

Deborah Fine

THE Arbitration Foundation of SA wholeheartedly supported calls by the SA Law Commission for a total revamp of SA's "antiquated" arbitration laws, foundation chairman Adv Michael Kuper SC said yesterday

"The daily reality is that there is an international commercial world out there, and you either play by it or are ignored by it."

He was reacting to a paper delivered by the commission's project director on international arbitration, former Cape Judge Jan Steyn

Steyn said the swift adoption of international arbitration procedures in line with those put forward by the United Nations Commission on International Trade

Law was vital if SA wished to attract foreign investment

Kuper said many Western nations had reformulated their arbitration laws over the past decade to ensure the legislation was "user-friendly" to international business

Many of SA's existing or potential trade partners, including a number of African countries, had adopted or were in the process of adopting the UN conventions

Backwardness in the international arbitration field was seen as such a serious and fundamental threat to trade and commerce that Britain had recently held a special joint sitting of both Houses of Parliament to pass a legislative framework in line with international trends

The last time SA revised its ar-

bitration laws was in the 1970s "Our laws are out of the ark," Kuper said "Unless arbitration is regulated in a way that is acceptable to business, investors will go elsewhere"

The problem with the existing laws was that SA's national courts were still entitled to interfere in disputes and accuse arbitrators of going beyond their jurisdiction.

"That just has to happen once in an international dispute and SA will be blown off the international commercial map. It would be an awful result," Kuper said

The UN on the other hand, had called for the limitation of the role of national courts, and placed emphasis on party autonomy, whereby parties were given the freedom to choose how their disputes should be determined

Labour ministry faces court action

Deborah Fine

151
00 13/12/96

AN INDUSTRIAL Court senior presiding officer has lodged an industrial court application in which he accused the labour ministry of an unfair labour practice on the basis that he was allegedly racially discriminated against during selection proceedings for appointments to the Commission for Conciliation, Mediation and Arbitration (CCMA).

Citing Labour Minister Tito Mboweni and his director-general Siphon Pityana as respondents in the matter, advocate JCB Schoeman claimed the ministry had ignored his tertiary education and years of labour-related experience simply because he was white. He argued that, instead, black candidates with no post-matric qualifications and very little labour experience had been appointed to the commission.

Accusing the ministry of an unconstitutional "new apartheid" in the name of affirmative action, he claimed it had also overlooked several of his white colleagues, all of whom were also experienced and qualified, on a similar basis.

Schoeman said the ministry's unfair practice had jeopardised his future job security because he could not be certain of continued employment once the industrial court was shut down in about eighteen months' time.

Schoeman said he would have been assured of a "rosy future" had the ministry not implemented its affirmative action programme in a manner which violated all accepted labour norms. He and his colleagues had been told to assume that their applications to the commission had been unsuccessful.

Schoeman asked the court to order the ministry to guarantee his job security in line with his status until he reached his retirement age of 66, or be paid a monthly salary in line with his position until he retired. Alternatively, the court should award him damages equivalent to what he would have earned from the date on which the court finally closed to his retirement, or 70% of this amount as the retrenchment package paid to a state official.

The ministry denied Schoeman's allegations, stating in answering affidavits that no unfair labour practice had been perpetrated against him. The fact that Schoeman and his colleagues had not been appointed to the commission did not mean they could not be appointed in the future. It claimed that the Industrial Court did not have the jurisdiction to hear the matter because the dispute had arisen after the implementation of the new Labour Relations Act.

The case has been postponed to February 17.

Mediation body to start

(157) *Sowetan 6/11/96*

By Abdul Milazi

SOUTH Africa will be closer to a conflict-free shop floor when the Commission for Conciliation, Mediation and Arbitration (CCMA) opens its doors on Monday

The launch of the CCMA will coincide with the implementation of the country's new Labour Relations Act

A total of 124 commissioners, 93 of whom will be part-time, were sworn in at the weekend

CCMA chairman Charles Nupen said the Commission's main objective was to provide effective and quicker dispute resolution in the

workplace "It will take time to reach that, as we are still a developing institution"

The commission will also facilitate the establishment of work place forums aimed at encouraging more employer and worker participation in policy decisions on the shop floor

Advice to unions

Nupen said other duties of the commission included giving advice and training to unions and employers on workplace forums and other matters, on voluntary basis

Nupen said there were currently 80 sectors in the country, including the iron and steel industry, which fell

under bargaining councils

"The CCMA will conciliate disputes This means commissioners will assist disputing parties in reaching a negotiated settlement," Nupen explained

He said in cases where no settlement was reached, the commission would arbitrate "Commissioners will hear evidence from both sides and issue an award which will be binding on both parties"

The CCMA will have nine provincial offices where hearing will be held but Nupen charged that his commissioners will conduct other hearings at the workplace if necessary

Minister calls business concerns 'nonsense'

Tito Mboweni defends new commission

CT(BR) 11/4/96 (151)

GUY OLIVER

Johannesburg — Tito Mboweni, the labour minister, dismissed as "absolute nonsense" the concerns of business about the quality of the commissioners of the Commission for Conciliation, Mediation and Arbitration (CCMA).

"Anybody from business who says that is talking utter nonsense," Mboweni said after an ANC national executive committee meeting over the weekend.

"If it is white business, perhaps this scepticism is that darkies can't organise anything .. It makes me very upset," he said

The commission, headed by Charles Nupen, is seen as integral to the successful working of the new Labour Relations Act, which comes into force today. The commission seeks to prevent labour disputes from arising and to settle disputes through conciliation and arbitration. Speedy dispute resolution is the key.

One commissioner said "There is a rule of thumb in labour relations. It doesn't matter if you win or lose but just get it out of the way"

However, Gerrie Bezuidenhout, the director of labour affairs at the South African Chamber of Commerce, said there was concern both with some commissioners and the capacity of the CCMA to deal with disputes.

"It is a totally new dispensation, and even the best experienced people will have to make some adjustments .. It is not necessarily reflective of the people."

Steve Lenahan, the industrial relations consultant for Anglo's Gold Division, reportedly said last month: "We do have serious concern about the design of the commission, given the budgetary constraints and the number and quality of commissioners"

Frans Barker, the Chamber of Mines, deputy industrial relations adviser, said: "We hope experienced ones (commissioners) get the tough cases and the less experienced ones have more courses and on-the-job learning"

Barker said that by next year's wage rounds, it was imper-

ative the commission was running smoothly

A CCMA commissioner said the commission had extremely capable people, but business does not even know who they were. A beginner was not going to be tasked with a complex issue of national importance, the commissioner confirmed.

The CCMA head office is in Johannesburg and has provincial offices in each of the nine provinces (see table below). The commission is expected to process as many as 30 000 cases a year, with a staff complement of 435 people, including 90 full-time commissioners. An initial budget of R93,4 million for the financial year to March 30 1997 has been allocated. An allowance of 43 per cent was for salaries and wages (R39,9 million). Senior commissioners will receive a yearly package of R239 000, while junior commissioners will receive R120 000.

An initial group of 72 commissioners has been appointed full-time. The complete commissioner complement was expected to have been reached by next month. The commission has contracted 206 part-time commissioners.

Mboweni said the CCMA budget would be considered yearly. He said it would not begin with an over-generous budget, and there should be "no extra fat in any organisation". In terms of the law the CCMA is ready to discharge its responsibilities, he said.

Brian Allen, a labour consultant with Andrew Levy, said it was unfair for business to make judgments about the ability of commissioners until awards had been made.

The act provides much guidance for arbitration, but if the CCMA's credibility suffered, it would be worrying, Allen said. The reaction of business could be rooted in fear of change, he said. "I suppose we are going to see numerous cases being lodged in the first couple of months"

This would let the cement dry as employees seek to narrow the boundaries and labour to test the boundaries of the new legislation, Allen said.

Arbitration can save companies legal costs

ART 11/11/96 (151)

ESANN DE KOCK
BUSINESS REPORTER

Companies and individuals should take note of the legal cost-saving opportunities offered by the non-profit Arbitration Foundation of Southern Africa (Afsa), says its director, Mervyn King.

Formed six months ago to provide and administer dispute resolution services throughout South Africa as well as internationally, Afsa has already dealt with 40 arbitrations and five mediation cases involving a total of more than R100-million, he said.

These included two international arbitration cases

Afsa was formed by the South African Chamber of Business (Sacob), 25 legal firms, every Bar Association, in South Africa, the Corporate Lawyers' Association, the Association of Arbitrators and eight major accounting firms

Frances Turton, Afsa's chief executive officer, said in an interview that although the foundation's Arbitration House was headquartered in Sandton in Gauteng, Cape Town companies and individuals could make use of the service through the offices of the Cape Chamber of Commerce and Industry

Afsa offered an arbitration service to resolve disputes ranging from about R10 000 to millions of rands.

Mr King described the cost-saving aspect of arbitration as "huge" - especially from a business point of view

"South Africa's isolation during the years of apartheid has meant that we have fallen behind in terms of the general practice of arbitration and mediation"

In other countries, he said, arbitration had already been practised for many years

Taiwan, for example, was in its 30th year of commercial arbitration and in London and Canada arbitration centres had been in existence for as long as 20 years.

Although Afsa - South Africa's first joint venture between organised business, the legal and accounting professions - was not established to by-pass the judicial system, Mr King said judicial systems worldwide just could not keep up with the global nature and the complicated nature of trade.

Arbitration provided a process of dispute resolution which was quick, fair, confidential and congenial - all elements which were necessary for efficient business procedure

Mr King added that arbitration and mediation had the added advantage of preserving business relationships via an independent third party

Afsa would complement the legal system, as Justice Minister Dullah Omar had pointed out last month at the official opening of Afsa's arbitration centre in Sandton.

Eager to extend the arbitration service, Mr King said Afsa had just signed a co-operation agreement with the Mauritian arbitration and mediation service and it was negotiating a similar agreement with Zimbabwe.

Commenting on Afsa's international arbitration and mediation role, Ms Turton said that, in the context of international trade, collapsing trade barriers and hard currency disputes, foreign investors and businessmen expected the "comfort" of an arbitration clause and recourse to dispute resolution

Afsa recruited its arbitrators through its founding members, which gave the foundation access to a wide range of competent, professional and business leaders as well as to junior members of professions well able to deal with smaller disputes

The foundation also provided different training courses for both prospective users of the services, as well as skill training for panellists

The training, so far, had proved popular with a variety of people, from managers to community-based organisations, Ms Turton said

Commission ready for its first complainant

GUY OLIVER

LABOUR EDITOR

Johannesburg — Margaret Ann Uys, an employee of Ardenelle, a Cape Town credit bureau, has secured her spot in South African history by becoming the first complainant to the Commission for Conciliation, Mediation and Arbitration (CCMA) set up in terms of the new Labour Relations Act

Uys's dispute arose on Monday, the day the new act came into effect and at about the same time that Zwelinzima Vavi, the assistant general secretary of Cosatu, was in Johannesburg paying tribute to worker struggles of the past to celebrate the act's inception

A conciliation hearing has been scheduled for next Monday under the guidance of Ian Newall, a Western Cape CCMA commissioner

According to Daniel Matsopola, the CCMA Western Cape registrar, Uys complained she was told "she had to go", and no reason was given for her dismissal

If the respondent, named in the CCMA files as a Mrs H Nel, had dismissed Uys last Friday, Uys would have had to follow the tortuous old route

of the apartheid-era industrial courts. All disputes arising from Monday onwards fall within the domain of the CCMA.

A labour consultant said that under the new dispensation the Ardenelle case would be over in six weeks at most. Furthermore, there would be no cost to Uys or Nel, unless the case went to arbitration and Nel was ordered to pay compensation

Under the old dispensation, the consultant said, Nel and Uys would have had to wait about eight to 10 months before the case even went to court, and costs incurred would have ranged between R10 000 and R25 000

No legal representatives would be permitted during the CCMA conciliation meeting. Even if the case went to arbitration, "the chances of legal representatives being allowed are also slim", the consultant said

The CCMA, headed by Charles Nupen, was set up under the new labour legislation. Its aim of speedy resolution of disputes is considered integral to the act's successful implementation

Nupen said that by yesterday afternoon there had been about 40 referrals at the CCMA's nine provincial offices

CT(BR) 13/11/96 (151)

Labour laws made easy as ABC for all

LIKE the South African cricket team that is touring India, Dan Matsapola has had to invoke the Gogga magic to do the trick.

His 12 year old cricket-mad son, Phany, had settled comfortably into the Transvaal under-12 team, so dislodging him for the gate-force winds of the falrest Cape drew on the full range of Matsapola's negotiating skills.

"It wasn't easy to convince him that coming to Cape Town was a good idea — but I must admit I capitalised on the fact that Paul Adams is from here," Matsapola says.

The 42-year-old Randburg father of three boys specialises in generalist human resources.

"Watsgeoid!" I hear you cry. It's the area of study that involves just about any issue related to human resources development — be it industrial relations, personal issues, social and professional responsibility — you name it.

That's what Matsapola has been trained in — perfect for his demanding task as Cape Town's first provincial registrar for the new (and very wordy) Commission for Conciliation, Mediation and Arbitration (CCMA).

With the official launch of the Labour Relations Act 10 days ago, the CCMA, an independent body, opened for business at its 78 Darling Street offices in the city. Right opposite the Castle.

Replacing the refereeing functions of the Industrial Court and Labour Appeal Court, it is

designed to help employers and employees sort out their labour disputes speedily and fairly.

And that's the task of Matsapola and his 42-member staff.

The proverbial new kid in town, Matsapola took the plunge in July and moved to the Cape from the corporate environment in Gauteng (where they do business even before they've had their Weetbix).

No walkover softie himself, the tough-talking and versatile Matsapola is however, instantly likeable and disarmingly frank. And he'll walk that extra mile for the sake of peace.

Matsapola had his baptism of fire when he found himself in the middle of the national Pick 'n Pay strike in the mid-80s.

The experience has prepared him well for the complexities this side of the Grape Curtain, a challenge he has readily accepted.

Matsapola is passionate about the new Labour Relations Act "I have faith in it, I'm absolutely committed to it," he says.

"Having spent some time in the workplace on the management side, having experienced issues on the ground, both at home and elsewhere outside the working environment, I think this is going to be the answer for the working class."

Matsapola says the best feature of the Act is that it is written simply. "It is a dramatic change from the statutes that we're used to in our country where you couldn't understand a single sentence."



NEW KID ON THE BLOCK: Dan Matsapola, the provincial registrar of the Commission for Conciliation, Mediation and Arbitration (CCMA). Behind him provincial administration manager Ms Pamela Crowley talks to interpreter Mr Jabu Madala.

The law governing the CCMA clearly dictates to us to keep a balance and to be independent, not to slant towards any of the parties."

Matsapola and his staff have been on an "aggressive campaign" these past few weeks, making contact with the "social partners" — government, business and labour — to explain the role of the CCMA.

that struck him about this province was that racial polarisation appeared to be widespread. "It is just this one sad fact that worries me, because the Western Cape is a wonderful province. It has a lot more to offer than many other provinces. "But one should not be pessimistic, one should rather look at the things that can make a difference."

we can do is to respect their well-being. They must become part of the economic mainstream."

Does Matsapola foresee that legislation eventually will have to be used in the workplace to enforce measures like affirmative action quotas?

"That is a great concern on the part of business, but I think there is no option but to do that eventually."

"I personally feel that stricter control from the state is going to happen because of the history that we have."

"Management has paid more lip service than anything else — and with the great skills shortage in our country it is clear that if government is not going to intervene in addressing these issues from a statutory point of view, we will get nowhere."

Management reaction to such a move was expected to be antagonistic initially.

"We know that most of business is not really happy with the Act — that is fact. But the reality is that this is the way things are going to happen to address fundamental issues of an economic nature."

"We're talking about the low level of the economy in South Africa which stems from a lack of adequate productivity from the labour force."

"And the only way to enhance productivity is to put structures in place in the workplace where that productivity can be enhanced — and how better to do it than by means of a statute?"

PHOTOS: THEMBAKOSI DWANISA

Matsapola says it is not enough to rely on the goodwill of business. Working conditions in many instances still are appalling, he says.

"There's nothing that motivates employees to feel that they are part of the business. We really need to drive our efforts towards that end — that's where it matters most."

Productivity will never improve if conditions are left as they are. So far, there are not many who are confident that business will do anything to address these issues.

Matsapola hopes to ensure the Labour Relations Act is understood well by every person, whether literate or illiterate, educated or uneducated, economically viable or not.

"It may not be as fruitful if it isn't understood by everybody because it hinges on very, very important elements of everyone's life, the key issues being that it has to address working conditions and impact on the economy long-term."

As it stands, the Labour Relations Act is trying to influence all the parties to move away from confrontation to a more co-operative relationship to influence productivity.

It will add value to the economy and it is hoped that this will have positive ripple effects for the economy at large.

"And," says Matsapola, "that people will start being able to buy bread and start living like human beings."

CT 20/11/96

Worker power still force to be reckoned with

CT 20/11/96

(151)



DISCUSSING STRATEGY: Two workers in conversation at the height of the clothing workers strike in July

STRIKE! Synonymous with worker struggles against apartheid-era bosses, this most widely-used form of 80s protest is still a firm feature of modern-day industrial relations, despite a changed political environment. Is it realistic to expect that with the new, worker-friendly Labour Relations Act, this powerful union tool is on the way out?

The stipulations of the new Act, just 10 days old, have revolutionised the approach to labour relations. When the full range of the legislation finally is exercised, the resources of managements and unions will be tested to the full.

"I must make one point about strikes," says Mr. Ebrahim Patel, SA Clothing and Textile Workers' Union spokesman.

I had probably been harping on about it and Patel had noted this. The irony of seeing workers still resorting to industrial action, laying siege to a Parliament of the very people they had elected to power.

"In every democracy — Germany, United States, Britain —

striking should not be seen as dysfunctional in a society, says Patel — "If used sparingly and in instances where negotiation in itself is unable to achieve the objectives of the parties."

Patel says it is regrettable that workers "still have to fight every battle through strikes, where they lose wages and there is not a sufficient preparedness by the business community to initiate the necessary changes."

But strikes are part of the tools of a modern industrial democracy. "You can't have in any society — even in a democracy — a situation where government regulates every tiny issue at a workplace."

Accordingly, either one accepts that workers will have to rely totally on government to regulate everything (alternatively, that they have to rely on the goodwill of business) — "or you create a mechanism for business and labour to talk to each other."

"When they succeed, you capture that agreement in some legal form.

"When they fail, you give them ordinary tools to address these problems."

of the government and some of that (strike action) at least is attributable to their flexing their muscle," Van Zyl says.

"They are keen to show the present government that they are a force to be reckoned with — despite a lot of the unions having lost many of their organisers to Parliament."

A city human resources consultant says that under the present political set-up, it should not be necessary to "get to the situation of strikes — that's really bad industrial relations."

"People now know they have freedom and power to bring about a change in our social scenario in terms of their being able to exercise that option."

This would be a particular test for managements.

"People, having been in an authoritarian, autocratic management situation, don't like being challenged in terms of the way they've been conducting business."

"But those challenges are there today and they are healthy."

"Democracy has brought about the right of choice."

On another level, resentment and consequent strike action often could be avoided by applying common sense.

Among the examples of what causes resentment is when employees see the owner of the company "rock up in a brand-new car while they (workers) are paid salaries which in their eyes are not worth the job they're doing."

Other than wages, it is often day-to-day workplace issues which can be resolved easily that also cause resentment.

"A secretary will go to her boss and say she needs a new chair because the old one is uncomfortable and causing her backache."

The response invariably is that nothing can be done because of budgetary constraints.

"But when it comes to the boss's needs, he makes pretty sure that he gets his new car because he's vying with the financial director for the latest model.

"The employee has to struggle along with her chair."

So are sown the seeds of greater problems in industrial relations.

Dismissed worker helped by new Act

Semelan
20/11/96 (151) (151)

By Abdul Milazi

AN Eastern Cape farmworker who was unfairly dismissed last week in Uitenhage was reinstated within 48 hours of his firing

This followed an intervention by the newly established Commission for Conciliation, Mediation and Arbitration (CCMA)

CCMA Eastern Cape provincial registrar Max Madlingozi said the new Labour Relations Act (LRA) wanted the number of labour disputes reduced and the commission was doing just that

The Eastern Cape dispute was not the only one. Three other disputes involving unfair dismissal, discrimination and unfair labour practice were resolved in KwaZulu-Natal and Western Cape, all within three hours

"This sends a clear message South Africa can bid the prolonged disputes of the past goodbye. Although we have set ourselves a maximum of 30 days to settle a dispute, we will strive to settle each case in the shortest time

possible," said Madlingozi.

Before the introduction of the new LRA last week, disputes took as long as three years to settle, while the maximum time set for settling a dispute was even longer (180 days)

"We want to deal with cases as they reach our offices. With our experienced commissioners disputes do not take long and both parties leave our offices satisfied," Madlingozi explained

Significant feature

Madlingozi said the significant feature of the Eastern Cape case was that it was brought by a farmworker in a sector which had been excluded from previous labour legislation

He charged that the commissioners reacted to cases with expediency and the cases took less than two days to settle

"That is from the time the case is referred to us, the hearing is set up and the dispute is settled"

According to Madlingozi the farm worker's hearing took three hours

New body settles four disputes in record time

ARGUS CORRESPONDENT

The newly-established Commission for Conciliation Mediation and Arbitration (CCMA) has chalked up four victories within a week after the implementation of the new Labour Relations Act (LRA).

Described by Labour Minister Tito Mboweni as the "engine" of the LRA, the CCMA swung into action last Tuesday when the history-making case of Margaret Uys became the first to be registered after the act was implemented.

Uys, a Western Cape credit bureau employee, was instantly dismissed by her employers, Ardenelle, last Monday. On Monday this week, the Western Cape CCMA settled the dispute and she was reinstated.

But when she returned to the company, she found her working conditions so different that she went back to the CCMA for help. She was then paid out by the company after she had lodged a dispute of unfair labour practice.

Her dispute with Ardenelle credit bureau arose from her dismissal by the company without reasons being given. According to Western Cape CCMA registrar Daniel Matsopola, Ms Uys was just told "she had to go".

However, the first case to be settled by the CCMA took place in Uitenhage in the Eastern Cape last weekend. A citrus farm foreman had been retrenched on Wednesday.

He approached a Congress of South African Trade Unions (Cosatu) branch dealing with farmworkers the following day. On their advice, he had his dispute referred to the CCMA the next day.

After only three hours the matter was settled. The foreman was reinstated and the farmer employing him was, according to the CCMA, comfortable with the outcome.

CCMA officials said that the time it took to resolve the dispute was a record.

They said that using the old apartheid labour relations procedures would have been more cumbersome and taken longer.

ARG 20/11/96

(151)

(151)

All labour disputes

resolved

Star 23/11/96
The Commission for Conciliation, Mediation and Arbitration has resolved all of the 355 disputes referred to its commissioners since opening its doors last November

In a statement yesterday, the commission said two disputes were settled on the day of referral, while the average time to settle disputes was two working days

"Apart from the trucking sector, all of the disputes settled to date have been disputes lodged by individual employees against their employers," the statement said.

Of the cases, 73% were individual dismissal disputes and 13% concerned alleged unfair labour practices. The remaining disputes were over alleged unfair discrimination and unilateral changes to terms of employment - Sapa

SA BUSINESS DIGEST

(151)

CCMA starts its life fulfilling the promise of speedy resolution

The Commission for Conciliation and Mediation (CCMA) has begun its operations, fulfilling the promise of speedy resolution of labour disputes. The Commission, established under the Labour Disputes Investigation Act, is the first of its kind in South Africa. It is a tripartite body, comprising representatives of employers, employees, and the state. The Commission's mandate is to provide a fair and equitable forum for the resolution of labour disputes, thereby promoting industrial harmony and stability. The Commission's operations are expected to be highly effective, given its commitment to speedy resolution of disputes. The Commission's first case was heard on 15th July 1996.

CT (PR) 25/11/96



Mediation in security dispute

Reneé Grawitzky

BD 26/11/96

151

A WAGE dispute covering more than 60 000 security guards would be referred to the Commission for Conciliation, Mediation and Arbitration after employers and nine unions party to the negotiations failed to resolve the dispute yesterday.

This comes on the same day as truck drivers returned to work after an agreement was reached late on Friday night. A security industry employer spokesman said the parties had deadlocked two weeks ago, with the union demanding a 15% increase and employers offering 9,5%.

Employers, who said "this is as far as we can go", tabled a revised offer yesterday amounting to an improved package of 12%, which the unions rejected.

A spokesman for the Transport and General Workers' Union said employers had tabled a final offer of 10% which was not acceptable.

With the LRA finally in place, Nupen has his work cut out

GUY OLIVER

LABOUR EDITOR

It is probably not surprising that Charles Nupen, who is responsible for overseeing how business and labour interact, declined the short walk from his offices to join in celebration with the likes of Tito Mboweni, the labour minister, Zwelenthuma Vavi, Cosatu's assistant general secretary, and Raymond Parsons, the director of the South African Council of Business, at Library Gardens on November 11, the day the new Labour Relations Act became law

In a sense, those celebrating were breaking through the tape while Nupen and his 300-odd staff were settling into the starting blocks

Nupen is aware of the expectations people have in the role his Commission for Conciliation, Mediation and Arbitration (CCMA) will play in South Africa's bid to become a world-class and competitive nation

"There is an expectation on the part of the state that there will be a reduction in the levels of conflict. There is an expectation on the part of labour that here they have a statute and a dispensation that they have had for the first time a part in forging, planning and making to create a more equitable set of circumstances in the workplace

"And business has a desire to see a more stable collective bargaining environment and a more stable labour relations system"

But the track Nupen steps on to is not unfamiliar. The 1973-4 Durban strikes coincided with his studies at Durban University. "I was studying to be a lawyer and guess the confluence between law and labour emerged from that time as part of my experience"

Like many of his contemporaries, he reveres Rick Turner, the Durban University philoso-

phy lecturer who advised trade unions and was murdered in 1978, as an important influence. Nupen was elected to the Nusas presidency in 1974. Two years later, he was charged under the Suppression of Communism Act for calling for the release of political prisoners, enduring a 12-month trial

He is uncomfortable with the suggestion that he comes from a select Turner clique, though Turner, he says, had a profound effect on a whole generation of students

In the same vein he is politely dismissive at being considered synonymous with the CCMA. "There are people here with tremendous energy (and) depth of experience, and if this institution is going to work it is going to be because of those contributions"

His task is to develop a culture within the organisation, which is expected to handle 40 000 cases next year, its first full financial year

He believes the CCMA and labour court are not only instruments of delivery but are also a resource. The labour court provides an avenue for disputes which have not been resolved by the commission. It can adjudicate matters such as automatically unfair dismissals and unfair retrenchment disputes

He hopes the commission will chip away at South Africa's high levels of adversarialism and replace it with more rational cooperative modes of interaction

"We are not the key actor on the stage," he says. "Unions and employers are the key actors"

The commission's composition, as stipulated by the act, mir-

rors South Africa's demographic makeup

"We have gone out and done that. Approximately 65 percent of our full-time commissioners are black, and of those about 50 percent are African. There is a considerable degree of experience in terms of involvement of industrial relations, experienced trade unionists, people drawn from business, lawyers, legal academics, those kinds of people"

Despite Nupen's long involvement in labour issues and opposition to apartheid, he negotiated the speedy resolution of the 1990

transport strike and managed to get unions and management talking during the 1987 OK Bazaars strike under a state of emergency

For the first time, his prose is muddled by the excitement of building an institution reflective of South Africa. "Diverse. In a huge mul-

ticultural experiment here I find it amazing we need to settle a language. It's English at the moment but there are 11 official languages, but we've employed a lot of interpreters"

Some business circles expressed reservations about the commissioners' qualifications, but Nupen knows every commissioner's background

What experience does Ian Newall have, the Western Cape commissioner who was assigned the first dispute brought to the CCMA?

"Ian," Nupen says without hesitation, "has an academic background. He taught at the (University of Cape Town) Graduate School of Business, he has been a full-time (industrial relations) practitioner for many years." Antoinette Leresche, the Gauteng CCMA registrar? "She comes from a merchant bank, where she ran human resources. She wanted a change and is very public spirited." And Sipho Radebe, a newly appointed senior commissioner in the North West Province? "He has many years' experience in the trade union movement"

Nupen admits there will be teething problems. "But ultimately, if the culture within the institution is one which is committed, with a healthy work ethic, where there is energy and where the support systems are good, I have confidence the CCMA will prove itself and provide a service"

There is already a hierarchy. There are 12 full-time senior commissioners at the top; below them is a four-tier grading system, so less experienced commissioners can work their way up through cases of greater complexity

Nupen, who comes from the generation that learns from their children about computers, has learned how to log in to the CCMA database. Though still in its infancy, it is building up a selection of cases and referrals all commissioners have access to. In its first two weeks, 355 cases were referred to it. Three national senior commissioners systematically surf the database, checking jurisdiction, every day. If they have a query, they contact one of the nine provincial structures

"The best settlement of a dispute is one which reflects an agreement between parties, that must be first prize," says Nupen

"In the short term, if we can achieve rates of settlement (conciliation) of between 40 and 50 percent we will be doing well"

The act's late implementation on Remembrance Day instead of May Day gave the commission something of a reprieve in terms of its budget allocation

The commission has been assigned R73,9 million in operating costs and R20 million for capital expenditure. Though Nupen is not demanding corvettes, he believes the budget should be determined by case volumes

But he is quick to point out that the commission has achieved an immediate saving on government monies since November 11 because there is now only one institution dealing with dispute resolution

Nupen recognises that everybody wants money from the government and the government is attempting a cost-containment approach. "(The CCMA and labour court) hold no higher value in terms of financial allocation than education, hospital services and the police

"It is early to predict if we are an institution that is properly resourced or not. Time will tell. My own sense is, if we are going to discharge our responsibilities, we are going to need an allocation significantly in excess of that which we have received this year"

'If the culture is committed with a healthy work ethic, I am confident the CCMA will prove itself'

Collective (151) (151) bargaining clause gets thumbs up

By Rafiq Rohan
Political Correspondent

THE Congress of SA Trade Unions is in a celebratory mood after agreement on collective bargaining was yesterday given the green light by the Constitutional Committee

The formulation of the Constitutional Committee has given effect to the decision of the Constitutional Court

"We welcome the fact that the Constitutional Committee has rejected attempts to bring the lockout clause in through the back door, and has rejected the introduction of the concept of 'economic power' and 'collective action' into the clause on collective bargaining," Cosatu said after yesterday's historic meeting of the CC

Cosatu said the solution was not an ideal one, that the agreement on collective bargaining was not the preferred option, but "it is the product of negotiation and we accept it as such"

The formulation in the Constitution now reads "Every trade union, employers' organisation and employer has the right to engage in collective bargaining. National legislation may be enacted to regulate collective bargaining"

Cosatu says the formulation is reasonably balanced, reflecting the realities of the industrial relations system

Arbitration to assist courts

Deborah Fine

BB 14/10/96
FORMALISED arbitration and other methods of alternative dispute resolution could play an important role in relieving SA's overburdened and under-resourced courts, Justice Minister Dulah Omar said on Friday.

Speaking at the official launch of the Arbitration Foundation of Southern Africa he said even the most advanced countries with the most sophisticated judicial systems had a need at every level of society for speedier, less cumbersome and often "less abrasive" means of resolving disputes.

The foundation was formed in June as a venture between the legal, accounting and organised business professions to provide and administer resolution services in southern Africa.

Founding members include every Society of Advocates affiliated to the General Council of the Bar of SA, 28 attorneys' firms, eight accounting firms, the SA Chamber of Business, the SA Corporate Lawyers Association and the SA Association of Arbitrators.

Dispelling criticisms previously levelled at the foundation, Omar said business and other interest groups had the right to seek alternative and legitimate mechanisms through which disputes could be resolved effectively and in the most "economically possible" way.

The criticisms had included concerns that the foundation was elitist, designed to provide justice for only the rich and was racist in that it had been motivated by an opposition to transformation and the appointment of black supreme court judges.

Omar said arbitration and other forms of alternative dispute resolution should not be seen as inherently antagonistic to, or a substitute for, the judicial system, but rather as complementary means of solving problems.

It was clear that alternative dispute resolution could play an important role in broadening access to justice at all levels, including the commercial, labour, family law, juvenile law and customary and indigenous law fields.

The foundation has offered cheaper forms of arbitration to ensure alternative dispute resolution was more accessible to the smaller business person and a broad base of SA citizens.

Foundation CE Frances Turton said after the launch that Omar's statement was "certainly the most positive and encouraging indication ... and we hope to fulfil his expectations".

Others at the launch included Transvaal judge president CF Eloff, deputy judge president HCJ Flemming, Gauteng safety and security MEC Jesse Duarte, and former Chamber of Commerce and Industry president Mervyn King.

Full-time member

— A basic salary of R183 432 and R142 731 per annum for the chairperson and a member respectively

Part-time members

— A basic salary of R142 731 per annum (i.e. remuneration of R71 per hour or part thereof)

(b) (i), (ii) As a result of the new salary grading system which was approved for the public service with effect from 1 July 1996 the remuneration of the members should be adjusted as follows

Full-time members

— A basic salary of R233 079 and R177 486 per annum for the chairperson and a member respectively

Part-time members

— A basic salary of R177 486 per annum (i.e. remuneration of R89 per hour or part thereof)

The proposals received regarding the remuneration will soon be submitted to Cabinet and the Minister of State Expenditure

Tonga magistrate's court: fine for rape/assault

*9 Ms S C VOS asked the Minister of Justice

(1) Whether, with reference to a newspaper article in *Business Day* of 20 August 1996, a copy of which has been furnished to his Department for the purpose of his reply, a fine of R450 or six months' jail was recently imposed on a 14-year-old Mpumalanga schoolboy by a Tonga magistrate's court for the rape of and assault with a panga on a 25-year-old neighbour, if not, what is the position in this regard, if so, why a heavier sentence was not imposed,

(2) whether he will consider reviewing the provisions of law which allow magistrates to hand down such sentences for offences of this nature, if not, why not, if so, what are the relevant details,

(3) whether he will make a statement on the matter?

N1896E

The MINISTER OF MINERAL AND ENERGY AFFAIRS (for the Minister of Justice)

Difficulties were experienced in obtaining information relating to the first portion of the question. The Attorney-General of Pretoria and the Magistrate at Tonga were approached for comment and both report that the case cannot be traced on the available information.

Through the Division Liaison Services and the SA Press Association the source of the newspaper report was traced to the African Eye News Agency in Nelspruit. This agency was contacted and a report containing more particulars, including the magistrate's name, was obtained. The Magistrate at Tonga states that even with the further particulars, the case cannot be traced. The magistrate referred to in the report, Mr Mabuzza, does not recall the case at all. Rape cases are, in any event, only heard in the regional courts. The local regional court was also approached, to no avail.

A message was left with the African Eye News Agency to provide further information and to request the reporter to contact the Department. He works on a freelance basis, however, and it is not known when he will be available again.

Business interrupted in accordance with Rule 199(3) of the Standing Rules for the National Assembly

Transnet: abuse of company credit cards

*10 Mr A J LEON asked the Minister for Public Enterprises

(1) Whether an investigation has been conducted by Transnet into allegations concerning the abuse of company credit cards by employees, if so, (a) what was the nature of the allegations being investigated, (b) against how many employees were these allegations made and (c) what total amount of money was involved,

(2) whether any Transnet directors have been investigated, if so, (a) which directors and (b) what amount was involved in each case?

N1897E

The MINISTER FOR PUBLIC ENTERPRISES:

Transnet Limited furnished the following reply to the hon member's question—

(1) Yes

(a) The investigation covers all instances where Company credit cards were used for payments not in the normal course of the Company's business. The payment of personal expenses via a Transnet credit card is not permitted, and such payments are thus included in the investigation.

(b) The investigation was instituted following an earlier review of the system of internal control relating to credit cards. A total of 51 individuals have already been identified where *prima facie* abuse of Transnet credit cards allocated to them has occurred. In each case such *prima facie* abuse is then subject to a full disciplinary inquiry, in terms of Company policies and procedures, in order to determine whether there was an actual irregularity, and what action to take. It has not been possible to follow up on all card holders to date and it is anticipated that the total number will increase by approximately 15.

(c) The total amount of actual abuse can only be determined following the disciplinary inquiries referred to above. The best estimate which can currently be made is that the total actual abuse is approximately R600 000.

(2) Yes

(a) All holders of Transnet credit cards, regardless of their status in the organisation, have been investigated. This includes all the Executive Directors, *prima facie* abuse has only been identified in relation to one Director, Mr Sapho Nyawo, and is currently the subject of a full disciplinary inquiry.

(b) The total amount involved, which includes expenditure not paid via a credit card, is R106 277. Additional matters, which are difficult to quantify in Rands, amount to approximately R30 000.

Commission for Conciliation, Mediation and Arbitration: budget (151)

*11 Mr A J LEON asked the Minister of Labour

(a) What annual budget was allocated to the Commission for Conciliation, Mediation and Arbitration for the 1995-96 financial year and (b) of the amount so budgeted, what amount was allocated towards the subsidisation of (i) bargaining councils and (ii) private agencies for the resolution of disputes?

N1898E

The MINISTER OF LABOUR

(a) There was no annual budget allocated towards the Commission for Conciliation, Mediation and Arbitration for the 1995-96 financial year. However, funds were made available for start-up costs and an amount of R4.5m was transferred during February 1996.

(b) (i) and (ii) Falls away

Mossgas: subsidies

*12 Mr J A JORDAAN asked the Minister of Mineral and Energy Affairs

What was the total amount received in subsidies by Mossgas during the 1995-96 financial year?

N1899E

The MINISTER OF MINERAL AND ENERGY AFFAIRS

R121,6 million

SA Navy: submarines

*13 Mr D H M GIBSON asked the Minister of Defence

(1) (a) How many submarines are owned by the South African Navy, (b) what is the (i) age and (ii) condition of each of these submarines and (c) what functions do these submarines fulfil,

(2) whether the submarines currently owned by the Navy are adequate for the purposes for which they are used, if not, in what ways are they inadequate, if so, what are the relevant details?

N1900E

Warning that clashes with labour loom in

Renée Grawitzky

COLLECTIVE bargaining during next year could be marked by increased confrontation as labour became more aggressive in resisting economic and political trends which had an impact on its power and influence, a management consultant warned yesterday.

Gavin Brown & Associates' latest collective bargaining survey, of the first nine months of the year predicted that such confrontation could be triggered by the possibility of further job losses and moves towards below inflation increases.

In addition, changes in the industrial relations arena because of the new labour legislation could create uncertainty about the "new rules of the game".

Brown said the majority of employers had concluded wage settlements this year with the national average being about 10,6% — way in excess of the annualised inflation rate. Real wage increases were, however, accompanied by either static or negative growth in employment, Brown said.

The labour movement, he said, was short of skilled leadership. At a shopfloor level "a near-total absence of credible leadership is weakening worker unity and resulting in successive defeats in a variety of different types of conflicts". He claims in a number of disputes, workers, in defiance of advice from union head offices, embarked on strikes and negotiating strategies with disastrous consequences.

Unions such as the NUM, Numsa and Sactwu appeared capable of "weathering the storm". However, unions like Saccawu were facing serious problems. During negotiations this year a number of employers unilaterally implemented increases while

Woolworths cancelled, but later reinstated, its long-standing recognition agreement with Saccawu. This occurred as the union "was clearly no longer able to speak on behalf of employees".

It is also understood that the union failed to achieve majority support for strike action at some retail outlets, including Edgars, following a lengthy dispute.

The drive for centralised bargaining in the retail sector had al-

—so ground to a halt after exploratory discussions revealed that union's lack of representivity throughout the industry. In the chemical industry employers were growing impatient with the centralised bargaining process.

The SAA technicians' strike was one of the most important of the year, representing the first major action by a predominantly white union in more than 15 years.

(151)
BB30/10/98
future

Unions oppose Transnet wage offer

Reneé Grawitzky

(151)
THREE predominantly white Transnet unions declared a wage dispute with the company yesterday after they refused to accept a wage option which would effectively narrow the wage gap between the lowest and higher paid workers.

Transnet confirmed that the SA Footplate Staff Association, the Technical Workers' Union and the Employees' Union of SA had declared a dispute and the parties would be meeting in mediation next week.

The predominantly black unions including the SA Railway and Harbours Workers' Union (Sarhwu) and the Black Trade Union of Transnet supported a wage option which would narrow the wage gap.

BD 2/8/96 (151) (270)
In terms of this option workers could earn an across the board increase of R233 which for lower paid workers would amount to about 19%, but would amount to 4,5% and upwards for workers higher up the pay scale.

The unions opposing such an option have proposed R233 across the board or 8%, whichever was the greater.

The company said negotiations this year had been conducted very differently to previous years. Unions had now been informed that the company could allocated R270m for salary increases and the unions, with input from management, were able to decide how this amount should be distributed.

The company said the unions were granted full financial disclosure including the salaries and cost of management to the company. J.A.

SAUJ members at SABC decide to strike if demands are not met

(151) ~~210~~ ~~213~~
More than 70% of SA Union of Journalists (SAUJ) members at the SABC have given their executive a mandate to embark on a strike action should their demands not be met

The results of the strike ballot conducted by the Electoral Institute of SA throughout the SABC's national offices and its employees currently in Atlanta, was released last night

Spokesmen for both the SAUJ and the SABC said the ball was in the other's court to resolve the dispute as quickly as possible

The dispute revolves around three issues presented to SABC management: a special allowance of R200 per month to all SAUJ journalists, an increase on this al-

lowance and an extension of reduced parking fees to SAUJ members

The SAUJ accepted the offered 12% increases for next year, but refused to budge on the issue of allowances

Magdaleen Kruger of the SAUJ said she believed the SABC was interested in having the dispute mediated and expected them to come to an agreement in the next three days

She said the SAUJ was prepared to return to negotiations, but with the mandate from its members, they would call a strike if they were not satisfied

Marj Murray from the SABC said they were "eager to resolve the issue" - Staff Reporter

Star 2/8/96

Drivers and artisans threaten to halt rail services

(151) (27) CT(MR) 2/8/96

By Thabo Leshilo

Johannesburg — South Africa's train services may be brought to a halt if train drivers and railway artisans go on strike after the declaration of a wage dispute by three predominantly white Transnet unions yesterday.

The South African Footplate Staff Association, the Technical Workers' Union and the Employees' Union of South Africa rejected the company's offer of a 4,8 percent increase for the middle-income group. The three unions represent about 40 000 members. Most are from the middle-income group.

However, the South African Railways and Harbours Workers' Union (Sarhwu), the Black Trade Union of Transnet, Transnet Allied Trade Union and Salstaff accepted Transnet's offer of a 19 percent increase for low-paid workers.

Together they represent about 56 000 of the company's 96 800 employees in the bargaining unit.

Soon after the dispute was declared, the three trade unions and Transnet agreed to appoint Hans van der Dries of the Independent Mediation Service to mediate the dispute. Mediation starts on Tuesday.

"At this stage, indications of large-scale strikes are not excluded, though union leaders will execute all means to avoid strikes until all prescribed dispute (resolution) mechanisms of the industrial council have been exhausted," said Chris de Vos, the general secretary of the footplate staff association.



FIGHTING STANCE David Oosthuizen, the president of the Technical Workers' Union, and Christo van Heerden, the union's secretary-general, say Sarhwu is "in bed with management" PHOTO: JOHN WOODROOF

He said the union would "guide its members on a legal strike" if the dispute was not resolved within a month.

"Naturally, such action will cause major economic disaster," De Vos said.

As an example he cited the one-day strike by train drivers in November last year, which left at least 700 000 commuters stranded in Gauteng and Natal.

The train drivers' union called the strike to protest against an internal disciplinary inquiry against three members. They had been acquitted of culpable homicide after 67 people died in the 1994 Marianhill train accident, near Durban.

Karel Mostert, the president of the Transnet Employees' Union, accused the company of creating

friction among the trade unions by making them decide how to allocate the R270 million it said was available for increases.

"We are not against the demand of our colleagues for closing the wage gaps. But we don't agree that they (Transnet) should do so by taking money away from the middle group. It's like robbing Peter to pay Paul," Mostert said.

He said the 4,8 percent increase was even more unacceptable considering that people who rented their homes from Transnet had to pay market-related rents, employees' contributions to the company medical aid scheme was being doubled and a cap was being placed on overtime pay.

He said the offer should be increased to at least 8 percent. That would increase Transnet's

wage bill by a further R63 million.

David Oosthuizen, the president of the Technical Workers' Union, expressed dismay at Sarhwu's decision to accept the company's offer. Sarhwu is the company's largest trade union.

"I am at a loss for words. How can a union which was so militant in the past accept crumbs. They are now in bed with management," Oosthuizen said.

Lyll Masse-Hicks, the president of Salstaff, said his union supported the capping of overtime pay because it reduced the cost of overtime work a person, meaning even more people could work overtime.

Con Jooste, the senior industrial relations manager at Transnet, had not responded to questions at the time of going to press.

12 big unions locked in combat over wage disputes

(151) (255)
By Goba Ndlovu

Star 2/8/96
The past two weeks have seen 12 major trade unions deadlocking over wages

A third party has been engaged to end a strike by about 100 000 South African Clothing and Textile Workers' Union (Sactwu) members. Charles Nupen of the Independent Mediation Commission has begun mediation between the union and employers, and by yesterday both parties were cautiously optimistic about a settlement. Sactwu is demanding 10% across the board, while management is offering 8%.

The National Union of Metalworkers of South Africa (Numsa) is involved in two deadlocks, one in the tyre industry, the other with the Steel and Engineering Industries Federation of South Africa.

In the tyre industry, Numsa has agreed to settle with management and its artisan members have shown wage solidarity by accepting an 8% increase.

But a rival union, the South African Workers' Union (Sawu), formerly Yster en Staal, is demanding 9%. Sawu has objected to the lowering of the demand.

In the Seifsa negotiations, the deadlock is caused by Numsa and two other unions which insist that the public holiday penalty clause in the industry's main agreement be scrapped.

According to Seifsa, employers have improved their last offer of between 8% and 9% to between 8,5% for skilled workers and 9,5% for the unskilled.

Numsa has rejected the offer, including management's readiness to amend the penalty clause.

At Impala Platinum in Rustenberg, 25 000 members of the National Union of Mineworkers (NUM) have gone on strike.

The union is demanding between 8,5% and 12%.

The South African Catering Commercial and Allied Workers' Union (Saccawu) has deadlocked with Dions Stores, Clicks, Edgars Group and City Lodge Hotels Limited. The union is demanding 11%, but have been offered 9%.

The Metal and Electrical Workers' Union of South Africa, a Nactu affiliate, is still deadlocked at Robert Bosch in Faraday.

Seven more deadlocks are clustered around Transnet. They are South African Railways and Harbours Workers' Union, Transnet Allied Trade Union, the Black Trade Union of Transnet, the South African Footplate Staff Association, the Technical Workers' Union, the Employees' Union of South Africa and Salstaff.

Sarwhu, Tatu and BTUT want R233 or 19%, but the remaining four unions are prepared to settle at 8%. Management is offering 4,5%. One of the main reasons for the deadlocks is differences between the unions.

Union threatens to paralyse city

By CHARL DE VILLIERS

CAPE Town is bracing itself for another wave of municipal disruption tomorrow following "overwhelming" support for a strike by white collar staffers, the Independent Municipal and Allied Trade Union claimed.

The showdown over wages with six local municipalities and the Cape Metropolitan Council will swing into action at 2pm tomorrow when Imatu members rally at

a mass meeting at the Rygersdal sportsgrounds, Imatu general-secretary Gawie Beukman said

The union, with a claimed membership of 10 000, has warned city ratepayers that their lives will be "severely inconvenienced" once the strike for a 10 percent or R220 monthly pay rise starts to bite

Imatu's threats of widescale disruption come hard on the heels of a three-day strike by members of the SA Municipal Workers Union, who called off their protest

on Thursday after wresting a R1 600 minimum wage from employers

Imatu, which is holding out against an offer of eight percent, says its members can "paralyse" the city

Beukman said Imatu would ensure that emergency services responded to "life-threatening" situations. Other areas of municipal authority, however, could be expected to be disrupted

This includes electricity and

water supply, traffic regulation, stormwater drainage, ambulances, fire services, libraries and clinics

Beukman said the Imatu ballot had been counted by Wednesday night, and the result had been overwhelmingly in favour of industrial action

The union's Western Cape chief, Frik van Deventer, said Imatu's supporters were not prepared to suffer further insults like "an eight percent offer."

(ISI) ST(CM) 11/8/96

Arbitration group spells out benefits

Susan Russell

BO 22/8/96
(151)
A NEW national dispute resolution centre offering specialised mediation and arbitration services — the first joint venture of business and the legal and accounting professions — was not an attempt to bypass the judicial system, Frame Group chairman Mervyn King said yesterday.

Speaking at a briefing of the newly established Arbitration Foundation of Southern Africa, King said it was in line with similar organisations worldwide which served the needs of the international business community.

International businesses which conducted their affairs across borders had realised in the past 30 years that they could not rely on the judicial systems of the countries they were doing business in to settle disputes. This was not a reflection on the judicial system of any country but a business need.

Two years ago Sacob had realised that as SA emerged from years of international isolation there was also a need in this country for a facility where the business community could take its disputes without resorting to adversarial litigation.

King emphasised the facility was not designed so much for large business corporations as for small or medium-size businesses.

The foundation, a non-profit company, also offers mediation and arbitration services in disputes between individuals, including matrimonial ones.

The foundation, which has branches in Cape Town and Durban, has already handled 20 disputes in its 10-week existence. It aims at providing compre-

hensive dispute resolution to the entire southern African region as well as the Indian Ocean islands.

CE Frances Turton said: "The process of arbitration is intrinsically part of the larger picture of the administration of civil justice. In most legal systems, as in SA, the courts oversee the invocation of the arbitration process without interfering in the merits of the dispute and ensure the enforcement of arbitral awards."

The foundation is the first joint venture by organised business and the legal and accounting professions. Founding members include all the societies of advocates affiliated to the SA General Bar Council, 25 leading attorney firms, eight accounting firms, Sacob, the Corporate Lawyers' Association of SA and the Association of Arbitrators of SA.

Clients choose an appropriate arbitrator or panel on a sliding tariff scale according to their budget and the complexity of the issue in dispute.

There was some initial criticism of the foundation, particularly from black lawyers, who feared the new facility was a vote of no confidence in SA's transforming judicial system by white, male lawyers who handle the majority of specialised civil litigation.

Foundation chairman and senior member of the Johannesburg Bar Michael Kuper SC said this was not so. Arbitration made it possible to maintain a business relationship after a dispute, unlike the destructive nature of adversarial litigation where of necessity the veracity of both sides is called into question. It offered also the benefit of confidentiality compared with the public nature of court litigation.

New body fills arbitration gap

(151) Lawetan 23/8/96

By Shadrack Mashalaba

THE conflict resolution sector was given a boost this week with the formation of the Arbitration Foundation of Southern Africa (Afsa)

Afsa is a joint initiative between legal and accounting professionals and the business community

The foundation, formed two months ago and launched this week, has already processed 22 disputes

Afsa chief executive Frances Turton

describes the foundation "as a constructive alternative to the justice system"

"Panel membership will be reviewed annually and a strict code of conduct will be adhered to when selecting a panel to adjudicate complaints. We will not allow our independence to be sacrificed"

Turton says Afsa was also formed because of an increased need for conflict resolution, particularly now that the new Labour Relations Act calls for compulsory mediation and arbitration

Although some South African industries are familiar with mediation and arbitration, this system will be extended to sectors of industry that have not experienced it before

Businessman Mervyn King said the formation of the body was not a reflection on the judicial system but a necessity that arose over the past two years

"With the world opening to us the centre has been established to serve as a national and international forum to settle disputes"

National bargaining council plan now ready

Reneé Grawitzky

BD 26/8/96 (151) (200)

THE basis for an agreement to establish the first national bargaining council as envisaged by the proposed new Labour Relations Act, which still has not come into effect, was reached last week between chemical employers and six unions.

The parties said that they now had the basis of an agreement which would be drafted by September 6.

Chemical Workers Industrial Union general secretary Muzi Buthelezi said that once the agreement was signed, a constitution would be drafted, hopefully by the end of September. It had taken the union four years of struggle to get to this point, he said.

Employer spokesman Fanie Ernst said the process showed that if parties were committed to finding answers to complex problems, these could be resolved through a serious commitment to collective bargaining.

He said he hoped that "this is the first step towards a new relationship between labour and business that will promote economic growth".

The agreement would provide for the establishment of a national bargaining council covering more than 150 000 workers and seven sub-sector chambers. Although the council would be established in line with the Act, the difference lies with the agreement by the parties to establish these sub-sectors.

These sectors would apply to industrial chemicals (such as explosives, fertilisers, speciality chemicals and surface coatings); petroleum; rubber; plastic converters; pharmaceuticals; glass and fast-moving consumer goods.

It is believed that the parties were unable to agree on the sector pottery should fall into. This would be referred to Nedlac as a demarcation issue.

Oasis faces protests by union over dismissed workers

NORMAN JOSEPH
Staff Reporter

ARC 28/8/96

THE National Education, Health and Allied Workers Union (Nehawu) may take the Oasis organisation that cares for physically and mentally disabled children, to the department of manpower's conciliation board over the dismissal of 11 workers.

The workers were sacked by the Oasis management, apparently for joining Nehawu.

The Ravensmead branch of the South African National Civics Organisation (Sanco) came out in strong support of Nehawu this week.

In a statement, Sanco secretary Jack Feris said that the organisation would ask for an urgent meeting this week with the trustees responsible for the Ravensmead Oasis branch.

If the meeting could not be organised, "various mass protests" would take place.

Recently several meetings between Nehawu and the Oasis management about the dismissal of 11 Ravensmead care workers, ended in deadlock.

Many unsuccessful protest actions had been held at the Oasis head office in Claremont and at the Ravensmead branch.

A Nehawu spokesman said the union would shortly release full details of the action they planned to take.

Oasis spokesman Gail Bester said recently that the organisation's management had information that Nehawu would campaign against them.

LABOUR

Business and labour need equal negotiating rights

(106) (191)

Fairness should rule bargaining

CT (PR) 12/9/96

By Andre van Niekerk

Most labour lawyers agree that a main purpose of labour law is to create structures through which conflict between employers and workers can be institutionalised. That is achieved by collective bargaining, or, as an eminent English academic put it, by "engaging in a struggle in which neither side obtains final victory over the other, (in which they) eventually elaborate rules of the game which both sides become anxious to protect".

Underlying this "philosophy of mutual survival" is an assumption that there is a rough balance between collective bargaining partners. That does not mean that their bargaining positions must always be equal, or that their economic strengths need be equal. It means that the rules of collective bargaining should permit the parties, in appropriate circumstances, to exercise the economic muscle they can muster, to support their positions.

The rules of collective bargaining, and the status of the economic weapons that the parties may legitimately use to support bargaining positions, are established by law. In constitutional jurisdictions, these may be the subject of constitutional rights. The text

adopted by the Constitutional Assembly in May gives trade unions a right to bargain, and workers a right to strike. Employers enjoy only the right to bargain, and then only through an employers' organisation.

Business was concerned that this asymmetrical formulation of labour rights may lead to an interpretation that the text's drafters intended to exclude an individual employer's right to exercise economic power to further collective bargaining. Perhaps that is what

the drafters intended. However, in the proceedings before the constitutional court their intentions were less relevant than the constitutional principles with which the text had to comply. Constitutional Principle XXVIII requires the constitu-

tion to "recognise and protect" the rights of employers and workers to bargain collectively.

Business challenged the constitutional text because it was concerned that the text would permit labour legislation to establish a disequilibrium in the status of an employer's economic weapons with those of labour. The value of many of the weapons that may have been at an employer's disposal have already been eroded by labour legislation. For example, the right to dismiss employees who

participate in an unlawful strike is curtailed by the Labour Relations Act. The constitutional text, at least on the face of it, did not preclude laws that would deny employers any weapons at all.

Business argued that the text failed to comply with the constitutional principle because

□ it did not expressly confer on employers the right to resort to economic power to further collective bargaining; and

□ it gave constitutional protection of the right to bargain to employer organisations and not to individual employers.

Business did not argue that the right to lockout should be included in the new constitution, nor that the right to lockout was equal to the right to strike. The debate between business and labour was not about

the right to strike versus the right to lockout. Other objectors cast the debate in those terms, but business was careful to seek only a constitutional guarantee of an employer's right to exercise economic power to further its right to bargain collectively. The nature and extent of that right, it said, should be fine-tuned by legislation, the labour courts and collective bargaining, whenever that became necessary to maintain a degree of parity in the weapons necessary for collective bargain-

ing. What was important for business was that the constitution permit fine-tuning by recognising and protecting an expressed right to collective action by employers to further their right to bargain.

That is precisely the right that the court upheld. Though business had asked for its recognition, the court did not consider this necessary because, in its view, the right to exercise economic power was implied from the right to bargain collectively. Furthermore, the right to bargain extended to all employ-

ers, and not only to employer organisations.

The constitutional text must be amended to reflect the court's ruling. If there is any victory in this, it is a victory for those who recognise that power is not an all-or-nothing com-

modity, and that a functional balance of power is a precondition for effective bargaining. If there is any defeat, it is for those who refuse to recognise that collective bargaining is as often about one party securing compliance with its own demands as it is about resisting the other's demands.

□ Andre van Niekerk is a legal adviser at Anglo American, an adviser to Business South Africa on labour law and an honorary professor in the department of mercantile law, Unisa.

Collective bargaining should allow parties to support their positions

The debate is not about the right to lockout versus the right to strike

Union asks blood donors to help avert strike in pay dispute

ESTELLE RANDALL
LABOUR REPORTER

(151) (151) (151)
ARG 25/9/96

A pay dispute at the Western Province Blood Transfusion Service could threaten emergency blood supplies.

The National Health and Allied Workers' Union (Nehawu) has appealed to blood donors to help avert industrial action by persuading management to settle the dispute through arbitration.

The union says it has sent letters to donors and provincial health officials asking them to urge the management to settle.

The Nehawu chairman at the service, Thabo Mabeta, said the union would assess the situation and make a decision about a possible strike early next week.

He said that when the union and management deadlocked over wages after two months of talks, Nehawu proposed that an independent arbitrator be used. Management refused and instead agreed to a 10 percent increase with a minority union.

Nehawu was demanding increases ranging from 17 percent on the lowest salary of R1 400 a month to 12 percent for top salaries of R6 000 a month.

Arthur Bird, medical director of the service, expressed surprise that the union was publicising the dispute, because, he said, there were still "one or two steps" that could be explored to end it.

He said arbitration, as the union was demanding, was not one of those.

Dr Bird said management had held separate wage talks with Nehawu, the majority union, and another medical workers' union, Hospersa, which had between 40 percent and 45 percent membership at the service. "Our offer has been accepted by a large number of staff - more than 40 percent."

'Bad blood' brewing over salaries

(151) 
ANEEZ SALIE
HEALTH WRITER

CP 26/9/96
BLOOD supplies in the Western Cape are under threat because of a dispute over the salaries and perks earned by the directors of the non-profit Western Province Blood Transfusion Service (WPBTS).

Three directors of the service earn a combined total of R827 497 per annum. This has spurred the National Educational, Health and Allied Workers Union (Nehawu) to demand pay increases in excess of inflation.

The service has rejected the linkage and has denied the package was huge, saying it was market-related.

The two parties have deadlocked, and the union's binding arbitration proposal has been declined by the ser-

vice. The workers have now appealed to blood donors to support them, and they may decide on a strike next week to secure a 17% increase on the lowest monthly rate of R1 400, and 12% for top salaries of R6 000.

Nehawu committee chairman Mr Thabo Mabeta said the three directors earned a monthly package of R30 000 each, whereas the minimum salary of workers was R1 400. Of 400 employees, 176 earned below R2 500.

The service's income is derived entirely from the sale of donated blood.

WPBTS public relations officer Ms Sheryl Gelderbloem said yesterday the three directors earned R22 986 a month, which included a car allowance, medical aid, pension and a 13th cheque.

"The WPBTS, a Section 21 compa-

ny not for gain, is committed to providing market-related salaries for its staff," said Gelderbloem.

In view of the new salaries of chief specialists in public teaching hospitals — first outlined in the Cape Times on Monday — "it is quite clear that the salaries of WPBTS directors are not out of line."

A chief specialist at the large academic hospitals such as Groote Schuur and Tygerberg is the highest paid employee. Last year, when WPBTS directors were earning an annual package of R275 832 with perks, a chief specialist was earning R148 599.

Gelderbloem said the WPBTS's salary policy and wage increases were recommended by its executive committee, comprising active blood donors elected by fellow donors.

Centralised bargaining to be discussed

Renee Grawitzky

(151) ~~151~~ BD 14/3/96

MAJOR retailers have agreed in principle to discuss centralised bargaining, while chemical employers and unions have been unable to resolve a dispute on the powers of the central bargaining council and interim arrangements for this year's wage negotiations

The SA Commercial Catering and Allied Workers' Union has indicated that retail employers agreed at a meeting last week to participate in a negotiation process on centralised bargaining.

The union's original demand was for the establishment of a bargaining council in the retail sector. However, employers were not prepared to agree at the outset to the format of the structure.

Union spokesman Leonard Gentle said at the employers' request it had agreed to a neutral third party to act as facilitator during the negotiation process.

Gentle said in advancing the union's campaign for a bargaining council a one-hour picket would be held countrywide on March 18. Meanwhile, members of the six

unions party to discussions on centralised bargaining in the chemical industry have indicated their intention to embark on industrial action in support of their demand that the bargaining council has overriding powers over the subchambers.

Employer spokesman Fanie Ernst said in addition to this dispute, the Chemical Workers' Industrial Union had requested that as an interim arrangement this year, all union employers agree to an interim national forum to discuss wage increases.

996

re
in
the
oth
neg
an
Ho

Sacwu to canvass members before following CWTU's industrial action

By JAMES LAMONT

Johannesburg — The South African Chemical Workers' Union (Sacwu) will not follow the programme of industrial action put forward yesterday by the Chemical Workers' Industrial Union (CWIU) until it has canvassed the opinion of its members next month.

A Sacwu congress will meet in three weeks to decide if the 40 000-strong union will follow the CWTU in a dispute with employers over a central bargaining system, Mashindi Mavhivha, Sacwu's Vaal organiser, said yesterday.

The CWTU presented its programme of strike action, overtime bans and demonstrations to fellow chemical unions yesterday. The programme begins next week. The

Johannesburg — The South African Municipal Workers' Union is staging nationwide marches today in solidarity with 40 workers demanding a wage strike last year. The 110 000-strong union is also voicing its opposition to privatisation.

Workers will march in all major provincial centres. They will march at Parliament and have requested a meeting with Tito Mbovha, the minister of labour. A total stayaway has been called in Mpumalanga.

Industrial action comes after negotiations with the chemical industry employers broke down over veto power accorded the proposed national bargaining council. The union forum agreed to apply for a conciliation board to resolve the dispute.

Nelson Mthombeni, the CWTU assistant general secretary, said Sacwu was not ready to consider industrial action but that other unions in the chemical industry had indicated willingness to support CWTU's industrial action.

"The decision to take industrial action was made because employers could not accommodate union demands over a bargaining system," Mthombeni said.

CWTU wants a minimum wage of R1 800 a month, a 20 percent wage increase and a 40-hour working week by this year.

Sacwu's Mavhivha expressed disappointment that CWTU had independently gone ahead with its programme of action.

Workers march in protest against dismissals and privatisation

By JAMES LAMONT

Johannesburg—Thousands of municipal workers took to the streets of South Africa's cities yesterday in a solidarity march for workers dismissed last year and to protest against the privatisation of state assets.

The South African Municipal Workers' Union (Samwu) called for nationwide marches in solidarity with about 900 members dismissed during a wage strike in September and October.

The 110 000-member union took the opportunity to voice its opposition to the privatisation of public

utilities and government functions.

Marches went ahead in all major provincial centres, said Roger Ronne, the general secretary of Samwu.

A stayaway was in force in Mpumalanga with marches taking place in Nelspruit and Groblersdal.

Ronne said that between 3 000 and 4 000 workers had marched in Pietersburg.

Stanley Yisaka, the regional secretary of the Western Cape, said that 9 000 workers marched on parliament in Cape Town and handed a memorandum to Tito Mboweni, the minister of labour. Samwu is seeking the reinstatement

by April 1 of workers dismissed in Pietersburg, Groblersdal, Sannieshof, Henneman and Unzinto during a dispute over wage demands. The union had demanded a minimum wage of R1 500 a month and a 12,5 percent across-the-board increase.

According to Yisaka, no agreement had been reached in the Western Cape on these demands. "We are still waiting for employers to come back to us," he said.

Yisaka said that local councils were adamant they would not take workers back and had employed scabs in their place. He said that further action would take place if

demands were not met.

"If people do not come to their senses, we will draw up a plan of action for more than one day," he said. Though Samwu was considering a national strike, workplace demonstrations would take place until the end of the month.

Nicolette Howard, the manager of the marketing arm of Pietersburg city council—which fired 600 workers—said the dispute remained in mediation. The mediation began a month ago.

She said that mediation would determine whether workers were reinstated. Ronne said that the executive

committee of the local council had published a notice in local Pietersburg newspapers saying it had decided to call off the mediation process and had proposed a re-employment package. Ronne said that the terms of re-employment were unacceptable.

The union also declared its marches were a protest against privatisation.

"Our concern is that public servants are the most affected by the privatisation that is taking place," Yisaka said. "We are saying that restructuring of state assets is affecting our members."

Ronne said the union had

"made it clear on many occasions that privatisation has brought nothing but suffering and devastation to the very people it is supposed to benefit."

He said that negotiations were urgently required to reassure public servants of their role in the provision of basic services.

"The government and employers need to set in motion a process of thorough-going negotiation with workers in the public service and local government in particular to seek new ways of revitalising and restructuring public provision of basic services in the interest of the masses of our people," Ronne said.

Radio doyen wins first round against SABC

JEAN LE MAY ~~(S)~~
Staff Reporter

(151) ARG 23/3/96

POPULAR broadcaster Leslie McKenzie, axed by the SABC when it restructured Radio South Africa last March, has won the first leg of a case he brought against the corporation in the Cape Town Industrial Court.

The court found that he was an employee in terms of the Labour Relations Act. If he succeeds in the second leg, he could collect damages for wrongful dismissal.

The action could set a precedent for other cases involving part-time or free-lance workers.

Mr McKenzie, who is now with Fine Music Radio (FMR), hosted two shows on Kfm, the hour-long *Talkabout* every weekday and the weekly *Traveller's Check*. There was huge public protest when Mr McKenzie and other popular broadcasters were axed. They included Marilyn Holloway, Stella Heyer, Jeremy Dawes, Christopher Bennett, Paul Desmond, Roy Williams and Bob Law.

SATURDAY Argus understands that other cases may be pending.

After the court's finding last week, Mr McKenzie's lawyer Piet Faber told SATURDAY Argus the matter would be set down for a decision on whether his dismissal was fair and was based on proper commercial considerations.

Pieter de Klerk, president of the Industrial Court, said that it was common cause that Mr McKenzie was a free-lance contributor who produced and presented two programmes for the SABC.

He was not a member of the permanent staff and his engagement extended over six years.

Originally, there were contracts with standard fixed provisions for each programme, said Mr De Klerk, but when the relationship ended there was no contract for *Talkabout*.

In the absence of a contract, the matter could be decided on how the parties conducted themselves, he said.

"Mr McKenzie was invited to attend and actively took part in staff meetings. He was paid monthly and received an annual increase. He was given paid leave or time off and devoted all his productive capacity over a period of six years to his tasks. He even kept office hours on a similar basis to staff who were permanent staff members."

Although Mr McKenzie produced other programmes on an *ad hoc* basis, they were all for other divisions of the organisation. The SABC was his only source of income, said Mr De Klerk.

"He was regarded as a co-employee (part of the furniture) which was not the case with ordinary free-lance contributors. These considerations are incompatible with the notion of an independent contractor."

Union members stop work

Bonile Ngqivaza



Liberty Life property, Musi said

ABOUT 300 SA Commercial and Catering Allied Workers' Union members downed tools for about three hours in Sandton City, Sandton, yesterday in solidarity with four shop stewards who were suspended in early March by Liberty Life Properties.

Saccawu finance sector co-ordinator Joseph Musi said the suspensions had been "unilateral and unprocedural".

The four unionists were suspended pending the findings of an investigation into allegations of "dishonesty and failure to comply with standard departmental procedures". The company accused them of "abusing or causing damage to

He said yesterday's protest action had been launched to press demands for wage increases and to highlight unfair and discriminatory practices at the Sandton City branch.

The union, Musi said, also wanted members' provident funds transferred to Old Mutual, where Saccawu had a trust fund which was under its control.

Musi said management had spurned efforts to open negotiations on wage demands, and a letter from the union to management on the issue had elicited no response.

Liberty Life Properties declined to comment on the matter.

BD 26/3/96



About 300 Saccawu members demonstrated in front of the Sandton City, Johannesburg, offices of Liberty Life Properties yesterday in support of demands for talks on wage increases to begin and for the reinstatement of four shop stewards suspended earlier this month

Picture JOHANNES VOGEL

Key issues identified in social debate

Renee Grawitzky

(151) 27/2/96

THERE were many issues in innovative collective bargaining agreements which could potentially constitute components of a social wage or social contract, Avril Joffe said yesterday during a presentation to the National Economic, Development and Labour Council (Nedlac) labour market chamber.

Based on research in a document titled "Collective Bargaining Agreements during 1995 - Innovations and Trends" by Joffe and Chris Lloyd of Labour Market Alternatives, Joffe and Lloyd were unable to find connections between social contract theory and SA industrial practice.

However, the nature of collective bargaining could provide key input for the social partnership debate.

A number of issues had to be addressed in this regard, Joffe said.

First, the industrial relations environment was not conducive to social partnership.

Secondly, the parties involved had not been able to see the connection between elements within their agreements as being framed in terms of a social partnership, Joffe said.

The purpose of the research was to identify collective bargaining trends and innovative approaches and then to evaluate these in an appropriate manner.

The research did not look at actual shopfloor practice but rather at provisions in collective bargaining agreements.

The research cautioned against the disruptive tendency in SA to compare bargaining in one industry with progress in other bargaining forums.

Agreements surveyed were divided into two categories: those attempting to effect social stability on the shopfloor and to address the lack of social services, and to issues relating to economic imperatives.

%
nt

19

36

BO 29/3/96
Insurance firm

wins hearing over union row

(151)
BLOEMFONTEIN — It could not be said that Mutual & Federal Insurance had acted unfairly when it refused to negotiate wages and employment terms for members of the Banking, Insurance, Finance and Assurance Workers' Union, the Appeal Court decided in Bloemfontein yesterday.

The court found that the Labour Appeal Court (Transvaal) had, on June 24 1994, erred to find that the company's refusal to bargain with the union constituted an unfair labour practice.

About 13% of the company's employees were members of the union — its constitution precludes white employees from membership.

Union members fell into three categories: non-clerical workers (40%), clerical workers (9%) and first-level supervisors (6%). From the racial restriction in the union's constitution, it had the potential to represent all non-clerical employees but did not have the potential to represent the majority in the other two groups.

The company had been prepared to negotiate with the union in respect of one or more categories provided that the union was sufficiently representative of employees in the category.

Appeal Justice Vivier said the union's representativeness in the categories where the company had refused to bargain was minimal, and it could not be said it had acted unfairly. — Sapa.

95

1994

22 310
9 351

31 661

12 000
13 042

33 544
26 925

11 415
15 510

6 619

31 661

198,3

during the
garments.

ing existing

ional group
pleasure in

ries
ars Limited
at

00

Ince Cape

Bosses, workers gain in bargaining

(151) Sowetan 18/4/96

Collective bargaining has become one of the focal points of the country's industrial politics, **Abdul Milazi** reports.

THE national agreement on collective bargaining in the auto-manufacturing industry last year, highlighted the need to accommodate both the interests of workers to improve their lives, and those of employers to restructure and compete successfully in the global economy

This prompted the National Economic Development and Labour Council (Nedlac) to sanction its labour market chamber to examine overall trends in wage settlements with a focus on the auto-manufacturing agreement.

The agreement which was acknowledged by business, labour and government as a landmark deal, provided for a three-year period agreement skills training and linking wage rates and skills levels.

It was the first tangible step towards incorporating demands by the National Union of Metalworkers of South Africa (Numsa) for the correction of skills and wage discrimination, and those of employers for improvements in productivity and a reduction in industrial disputes.

The nature of the agreement, especially its three-year life span, was also a radical move from the country's industrial practice. Traditionally agreements only lasted for one year.

In an interview with *Sowetan Business*, Nedlac spokesman Mr Lomin Saayman said what was achieved by the auto-manufacturing agreement aroused public interest and led to the emulation of parts of it in negotiations by other sectors

However, the engineering sector, which had been grappling with the same issues as the auto industry for two years, did not achieve similar results

The different results in these industries which both have centralised negotiations with the same trade unions, highlighted the general differences in bargaining outcomes across the economy.

Saayman said the auto-manufacturing agreement heralded a breakthrough in industrial relations because of the centrality it gave to restructuring, productivity improvement, grading and wage negotiations

The auto agreement was followed by another milestone deal signed in the mining industry, where management agreed to share profits with workers through a performance bonus scheme.

This agreement provided for part of gold profits to be shared directly with employees, and recognised the importance of worker and union participation in the improvement of profitability and workplace efficiency.

"The scheme facilitated for a percentage of the total benefits available for distribution under the bonus scheme, amounting to 25 percent of the total amount to be shared equally among participating employees," said Saayman.

The remainder is then distributed as pension or provident fund contributions.

Individual companies have since signed agreements committing parties to productivity

Bara labour dispute hits non-emergency patients

Star 17/5/96 (151)

By JAMIE SIMON
Medical Correspondent

Baragwanath Hospital has frozen admissions of all non-emergency cases from today because a labour dispute has badly disrupted the institution's linen supply.

Hospital spokesman Hester Vorster said an unofficial go-slow had been started by members of the National Health and Allied Workers' Union (Nehawu) in the linen department last week, although management had still not been informed of the reasons for the protest.

The freeze on admissions would mean even lengthier delays in cases of elective surgery. Waiting lists already stretched up to two years for orthopaedic surgery, one year for eye surgery, and between two weeks and five months in at least seven other specialist units.

Vorster said, where possible, hospital staff had been deployed to work overtime in the linen department.

Disposable linen had been bought for the theatres, linen was not changed daily unless absolutely necessary, and some patients were on beds with only blankets, she added.

Hospital staff usually washed about 50 000 items, including bed linen and pyjamas, a day. All the linen rooms which were usually fully stocked were now empty, Vorster said.

Nehawu regional secretary Mike Dube said provincial and hospital authorities had been informed that staff had a grievance regarding the advertisement of and appointments to new posts.

"I'm not sure if they have started any strike or go-slow action, but we have raised the grievance," he said.

Dube said he would be investigating the action and its impact on the running of the hospital.

Nehawu members would be meeting Gauteng Deputy Director-General of Health Dr Eric Buch this afternoon to discuss the issue.

Telkom workers in deadlock

(151) ~~151~~ *Sametun 29/5/96*
By Abdul Milazi

THE Communication Workers' Union yesterday threatened to go on strike if Telkom did not change its decision to withdraw certain benefits enjoyed by workers for years

Telkom has in turn applied for

mediation by the Conciliation Board in a bid to break the three-month deadlock with six of its trade unions

Negotiations were scuttled when Telkom proposed to withdraw certain allowances and reduce the housing subsidy

A meeting between the company

and the unions two weeks ago failed to resolve the dispute. A spokesman for the CWU said the unions would consult their members on the latest offer

Telkom has proposed to reduce leave and overtime benefits, the housing subsidy and withdraw some allowances

P
D
w
u
s

I
I
C

I
t

Union to challenge Ayob

CP 2/6/96
By THEMBA HLENGANI

PRESIDENT Mandela's lawyers, Ismail Ayob and Partners, are to enter a round of legal battles in the Labour Court after an application for the establishment of a Conciliation Board by Saccawu on behalf of six employees who were retrenched last month.

According to documents in possession of City Press, Saccawu had declared a dispute with Ismail Ayob and Partners after the "unfair" retrenchment of six of their members. It lodged its application with the Gauteng department of labour this week.

Muku Macozoma and the other five were retrenched at the beginning of last month.

Elias Mothoa, a Saccawu official, said that they had tried to arrange a meeting with Ayob's office with a view to reaching an agreement but unfortunately Ayob did not respond.

"Our legal department is busy preparing an application for interim relief on this matter and it will be submitted next Tuesday to the department," Mothoa said. Mothoa said that the relief would seek that Ayob reinstate the retrenched workers while talks to resolve the dispute continue with the union.

According to Saccawu, the six workers were unfairly retrenched as they were not given enough notification time before retrenchment and they should be reinstated.

Ayob could not be reached for comment on the Saccawu Conciliation Board application.

Collective bargaining trends analysed

CT(OBR)5/16/96 (151)

A research report which analyses collective bargaining trends in South Africa over the past two years is being viewed as an invaluable aid, both for workers intent on improving their conditions and for companies wanting to restructure to become more competitive in the global market.

The report was commissioned by Nedlac's Labour Market Chamber.

It has been described as "the first attempt ever undertaken in South Africa to describe what is taking place in collective bargaining across all sectors of the economy".

Specific interest in collective bargaining trends started last year when, according to the chamber, it became apparent, particularly after the auto sector reached a national agreement, that there were many innovative ideas being explored to accommodate both the interests of the workers and companies.

A workshop was arranged in August last year to examine overall trends in wage settlements, with special focus on the auto-manufacturing agreement.

"Every year, particularly between April

and August, trade unions and employers engage in collective bargaining over wage rates and conditions of employment," the chamber's report states. "These negotiations have an enormous impact on the quality of life of millions of workers and their families and on the prospects for companies intent on becoming more productive and competitive."

Because the auto-manufacturing agreement was lauded as a landmark agreement, Nedlac decided to study collective bargaining trends.

It was accepted at the workshop that it was necessary to take a more comprehensive look at these trends and the chamber commissioned research.

The finding of the research report, the chamber says, reflects the content of agreements which have been signed between employers and trade unions on a variety of issues. A wide range of agreements at plant, company and industry level are included.

According to the chamber, the report is divided into two volumes. One provides a commentary on innovations and trends in

collective bargaining while the second is a resource document which lists the actual clauses of the agreements for each of these.

The report summarises and analyses the content of agreements on 17 different themes including Aids, health and safety, worker participation in decision-making, wage gaps, grading and performance related increases, training, benefits, job security, productivity and profit sharing, periods of agreement, affirmative action, flexibility in hours of work, industry policy, workplace and organisation restructuring, subcontracting, casual and temporary labour, levels of bargaining, union capacity, RDP commitment and independent mediation and arbitration.

"Two broad issues which precipitate the signing of agreements on a range of issues are identified," the chamber reports.

"The first arises from an attempt to create stability on the shop floor, reduce conflict and meet social and political expectations.

"The second arises from the imperative to meet economic pressures and, in particular, to gear industry for the increased

competition resulting from the opening up of our economy."

The report looks at the possibilities for innovations in collective bargaining and social partnerships at the national level.

It noted that there are four broad areas in which collective bargaining issues could relate to a national-level partnership.

These are social wages (retirement incomes, housing, transport, health and education), productivity arrangements, savings and investment policies, and industrial policy.

"In all these areas it would be possible to make national-level agreements that would set an overall direction and affect the shape of collective bargaining," it says.

The report concludes with a discussion of the possibility of continued research on collective bargaining trends through Nedlac.

It raises a range of issues for consideration by unions and employers at company and sectoral level of the Labour Market Chamber.

The issues are to be taken forward by the chamber.

Concern over cut in labour body's budget

Renee Grawitzky

CONCERN has been expressed at the reduction in the conciliation, mediation and arbitration commission's budget allocation from R110m to R73,9m

The cut in the commission's budget occurred following the labour department's recent budget cut.

This move has now raised concerns about whether this will have an effect on the commission's effectiveness and the role it is supposed to play in terms of the provisions in the new Labour Relations Act.

International Labour Organisation special adviser to the commission's establishment secretariat Charles Nupen said yesterday certain constraints had been placed on the commission's governing body following indications from the department that the original sum allocated had been reduced

Nupen said the governing body would have to budget accordingly in particular areas in order to accommodate this change.

National Council of Trade Unions assistant general secretary Mahlomola Skhosana said this cut in the commission's budget could either cause a further delay in the establishment of the commission, or would affect its work and lead to backlogs as experienced by the Industrial Court

The labour department, spokesman

(151) 205/6/96
Shareen Singh said, had allocated about R110m for the settlement of disputes. However, because the department was still running parallel systems — with the old Labour Relations Act still in place and the process under way to introduce structures in terms of the new Act — money had to be set aside for existing dispute resolution structures, she said.

The Industrial Court and conciliation boards received approximately R36m in order to settle those cases which were being processed under current legislation.

The department was, she said, in the process of seeking additional funding from its savings to finance one-off capital expenditure incurred in the establishment of the commission

Although the Industrial Court's budget had been cut from R31m to R26m, the intended work of the commission exceeded by more than twice as much the workload of the court, with the new Act outlining its wide-ranging functions.

The work of the commission extends beyond dispute resolution, to a wider range of issues than contemplated by the court. It is also intended to provide advice and training on collective bargaining structures, the establishment and functioning of workplace forums, workplace restructuring, and many other issues.

Wide powers wanted for new labour commission

Renee Grawitzky

THE Commission for Conciliation, Mediation and Arbitration will have to become equipped to resolve wide-ranging disputes which could even extend to sector or enterprise-level disputes about privatisation or restructuring

Speaking about progress made in setting up the commission, ILO special adviser Charles Nupen said the Labour Relations Act contemplated a wide range of functions to be performed by the commission which went beyond conciliation and arbitration

Nupen outlined the extensive progress made during the last four months in putting the systems in place to ensure that by mid-August the commission could be up and running

He said the commission was not the sole reason for the delay in the implementation of the Act. The Labour Court still had to nominate members while the technical amendments to the Act would be passed only during the next sitting of Parliament.

(151) (P) 28/6/96
Nupen said besides facilitating the establishment of statutory councils and workplace forums, a large portion of the commission's work would relate to dispute prevention

Over time the commission would seek to engage the social partners in discussion over possible areas of dispute that could arise and to find ways of "nipping these flashpoints in the bud"

The Act's intention was to provide an institution which would over time decrease the level of industrial action, Nupen said. He said the commission needed time to test its systems and if this was given, the expectations of the partners would be met

Research indicated that in any one year the commission could be faced with 30 000 referrals, the majority of which would relate to traditional unfair dismissal cases.

When the commission opened its doors, it would have a staff complement of 370 employees which would rise to 435 by next year, Nupen said

Union in *Somehan 3/7/96* deadlock with Iscor *(151)*

THE National Employees' Trade Union declared an official dispute with Iscor after wage negotiations ended in deadlock on Monday

Iscor reopened wage negotiations with Netu after demonstrations at its Pretoria, Newcastle and Vanderbijlpark works last Thursday, but these failed, resulting in Monday's deadlock

Netu assistant general secretary M Landman yesterday said its members rejected Iscor's final wage increase offer of 8,7 percent on the higher grade and a 10,4 percent on the lower grade

He said Netu would apply for a conciliation board meeting through the national industrial council for the iron, steel, engineering and metallurgical industry

In a statement yesterday Iscor said employees had returned to work, but an illegal strike was still in progress at its Grootgeluk coal mine in Northern Province

A spokeswoman said Iscor and Netu had apparently reopened wage negotiations. — Sapa

Metal industry moves to resolve disputes

BY XOLISA VAPI

Employers and trade unions in the metal and engineering industries have moved closer to agreement during talks in Johannesburg aimed at resolving industrial disputes declared last month.

But no agreement has been reached and a committee consisting of employers and unions will meet tomorrow to formulate recommendations on how best to resolve the standoff.

After four rounds of bargaining, the industry's nine trade unions, led by the National Union of Metal Workers of SA (Numsa),

(983) (151) Star 11/9/96
still have more than 90 unresolved demands on the table.

On wages alone, unions are demanding a general increase of up to 25%, while the employers, under the aegis of the Steel and Engineering Industries Federation of South Africa (Seifsa), have offered 7,5% on actual wage rates and improvements in the industry's conditions of employment.

Numsa secretary-general Enoch Godongwana said the major component of their demands was the "closure of the apartheid wage gap" which created disparities in terms of earnings.

Numsa's demand tabled last year was that the minimum wage for unskilled workers should be increased over a three-year period to 60% of the average artisan rate, with a 10% differential between each grade.

Godongwana said the lowest-paid employee earned about 27% of the actual artisan rate.

He said there was a dire need to move from a task-based, 13-grade employee grading system to a skill-based, 5-grade system which called for high levels of productivity and the improvement of skills of the workforce in the industry.

It is not a vote of no confidence in the judicial system or a reaction to affirmative action judicial appointments, says General Bar Council vice-chairman and Afsa director Michael Kuper. He says business's frustrations with the rigid, time-consuming and adversarial nature of the court system is an international phenomenon. Arbitration allows commercial disputes to be resolved in a cordial manner so that business relations between the parties are not severed.

SA Chamber of Business director-general and Afsa director Raymond Parsons views the move as a "positive development" for both big and small business. "We are simply catching up with global trends. The name of the game in the 21st Century is to keep your options open on how disputes should be settled, in the interests of sound business relations."

Afsa also offers mediation, where a mediator facilitates a mutual agreement between the parties, as opposed to arbitration where a matter is adjudicated by an arbitrator who makes an award in favour of one of the parties. It aims to settle issues ranging from sport and entertainment to labour disputes.

Former head of Independent Mediation Services of SA, Charles Nupen says "There's a growing concern as to the delays and costs of litigation which persuades people to turn to private mediation which can expedite the resolution of disputes. It remains to be seen whether an institution which draws on the legal

profession can deliver this service. It depends on the fees and the degree to which they can turn cases around."

All over the world business complains that courts do not match specialists to cases, says Kuper. "In SA, with resources very thinly distributed, the problem is pronounced." Afsa aims to solve the problem by creating a national arbitration pool of the country's top 600 lawyers, accountants and businessmen of which 150 are building industry specialists.

The parties will choose an arbitrator from a register which will list each arbitrator's speciality and tariff rate, ranging from R900 to R6 000/day for a Silk.

Afsa chief executive Frances Turton says arbitration has in the past been too expensive for smaller businesses and ordinary individuals. Afsa clients can tailor costs to suit their pockets and the complexity and nature of the dispute.

Though Afsa's daily rate may be more expensive than going to court, Kuper says the Afsa route shouldn't take longer than six months (including an appeal) compared with the three years it usually takes to settle a matter in court. The hours are more flexible with arbitrations taking place at night or on weekends.

To avoid the pitfalls of unmanaged arbitration, Afsa rules prevent either party from delaying the proceedings and arbitrators are compelled to deliver their findings timeously. Appeals should not take longer than a single day.

Afsa is a nonprofit company based in

ARBITRATION

(151)

COURTING AN ALTERNATIVE

FM 12/7/96

Business, the accounting and legal professions have joined forces to form the Arbitration Foundation of Southern Africa (Afsa) which will bypass the courts by providing a national network of 600 specialist arbitrators for hire.

Launched last month as a joint initiative of the Johannesburg Bar and the SA Chamber of Business, Afsa will make managed arbitration available for the first time in the country and bring SA in line with international practice.

48 CURRENT AFFAIRS

Sandton. It intends to extend its network to Namibia, Botswana, Zimbabwe, Lesotho and Swaziland.

Meanwhile, the Commission for Conciliation, Mediation & Arbitration, a key independent statutory institution of the new Labour Relations Act, hopes to be ready by mid-August, says its director-designate, Nupen. By then it is expected that parliament will, eventually, have passed the Labour Relations Act.

The commission's objectives are to prevent labour disputes from arising, to settle those that do arise by conciliation or, if necessary, arbitration, and to provide a range of other services — notably to assist in the establishment and functioning of workplace forums, and decide on applications regarding nonparties to a bargaining council.

Nupen, who envisages the commission as a "user-friendly, one-stop shop for efficient dispute resolution," expects a big chunk of its work to arise from unfair dismissal disputes. The commission will employ 91 full-time and 180 part-time commissioners in a total staff complement of 435 by January. It has a budget of R73,9m. ■

Dispute process nears completion

Kevin O'Grady

NEDLAC had completed a series of tasks implementing new labour dispute resolution processes as required by the new Labour Relations Act, executive director Jayendra Naidoo said yesterday. These included:

- Nominating members and an independent chairperson for the governing body of the Commission for Conciliation, Mediation and Arbitration;
- Advising Justice Minister Dullah Omar on the seat of the new Labour Court;
- Advising President Nelson Mandela on who the Judge President and deputy Judge President of the new Labour Court should be;
- Submitting nominations for the rules board;
- Submitting nominations for the essential services committee; and
- Approving and finalising the Labour Relations Act Amendment Bill.

The process for finalising regulations and schedules to the Act was expected to be completed next week.

Codes of practice for picketing and retrenchments and setting of criteria for demar-

cations of sections and areas were still being drafted.

Five nominees for the rules board, which sets rules of conduct for the Labour Court and the Labour Appeal Court, and six nominees for the essential services committee — which decides which public services are essential, therefore prohibiting workers from striking — had already been submitted to Omar and Labour Minister Tito Mboweni for approval.

"Announcements regarding appointments to these two new structures should be made by the minister in the near future," Naidoo said. The appointments of Judge John Myburgh and Judge Froneman as Judge President and deputy Judge President of the Labour Court had been confirmed, as had those of the 10-man governing body for the commission, chaired by attorney Ray Zondo.

Johannesburg had been approved as the main seat of the Labour Court, with satellite courts operating in Cape Town, Port Elizabeth and Durban. Nedlac had also recommended that the commission and the Labour Court be housed in the same buildings.

PD 12/7/96

(151)

National arbitration service established

(151)
Deborah Fine

BD 15/7/96

THE legal and accounting professions and the formal business community have joined forces to form the Arbitration Foundation of Southern Africa (Afsa), a non-profit company providing a national arbitration service for smaller businesses and the public

Afsa CE Frances Turton said yesterday the foundation's founding membership included every legal Bar in SA, as well as 25 legal firms, eight major accounting firms, the SA Chamber of Business, the Corporate Lawyers' Association and the Association of Arbitrators.

She said Afsa's formation was not a criticism of the judicial system nor an attempt to bypass it

"We are simply trying to respond to the pressures of the new global village and provide a specialised service to cater to the complexities of modern trade"

She said that although it was always "better and less expensive" for parties to settle disputes out of court, the arbitration route had in the past been too expensive for smaller businessmen and the man in the street.

"Our objective is to provide this service at the lowest possible cost and to help alleviate pressure on our courts. It is worth noting that the first two matters we have dealt with involved sums in excess of R37m," Turton said.

The foundation was not geared to provide free legal aid and those wanting to use the service could set maximum cost levels and be given "a range of options that suit their pockets"

Afsa aimed to serve the broader community with a cost-effective service for disputes involving R10 000 or more

The foundation hoped to attract members from the engineering and construction industries and related disciplines

Expert calls for workplace forums

Reneé Grawitzky

15/11/96
BD 15/7/96

DURBAN — The establishment of workplace forums in non-unionised environments and a higher level of information disclosure to such forums should have been provided for in the new Labour Relations Act, a German labour expert has said.

Manfred Weiss, professor of labour and civil law at JW Goethe University in Frankfurt, was addressing the 9th annual labour law conference in Durban at the weekend.

Weiss said that for the first time in SA, structures were being created which were intended to promote co-operative relations and could be a step towards democratising the workplace.

He said such structures could have a positive spill-over effect in the political arena as they were the source of basic consensus-seeking for the restructuring of society.

They could also lead to greater efficiency and increased legitimacy in the implementation of decisions. Once workers were involved in decision-making, the implementation of decisions would be easier, he said.

Participation

Weiss said workplace forums with lower statutory powers should be established in non-unionised environments. He said contrary to union fears that this would prevent unionism, such initiatives could serve as a stimulus to workers to form unions so that such forums could be transformed into and granted the same powers as forums in unionised environments.

Worker representatives should obtain access to all information to take meaningful decisions and to create a climate of trust and participation, Weiss said.

He said the new Act should not restrict the flow of information. Employers could safeguard themselves by building in a secrecy clause so that sensitive information was not disclosed to the whole workplace.

Weiss stressed that successful implementation required intensive training, the possible use of independent experts and the willingness of both parties to start the process.

Germany's relative prosperity, he said, largely resulted from the establishment of workplace forums.

Weiss said forums were not only a question of creating a second channel for decision making and consultation, but of creating a better framework for investment and job creation.

"We have to bring alive this law and we have to build up between management and workers a culture of trust and confidence," he said.

Non-profit arbitration service offered

By Patrick Phosa

The legal and accounting professions have joined hands with the formal business community to form a non-profit company to provide a national arbitration service.

The Arbitration Foundation of Southern Africa (Afsa), which was launched earlier this month, has been set up to settle issues ranging from sporting controversies to entertainment tussles or labour disputes and will serve the broad community with a cost-effective service for disputes involving not less

than R10 000.

The foundation has already dealt with two cases involving sums in excess of R37-million, Afsa chief executive Frances Turton said last week.

Afsa also aims to offer foreign players comfort during arbitration and recourse to dispute resolution in the context of international trade, collapsing trade barriers and hard currency disputes, Turton said.

She added that the formation of the organisation did not imply criticism of the judicial system or an attempt to bypass it.

"We are simply trying to respond to the pressures of the global village we now operate in and to provide a specialised service to cater to the complexities of modern trade. Of course, it is always better, and less expensive, for parties to settle disputes out of court.

"Unfortunately, even the arbitration route has in the past been too expensive for smaller businessmen and ordinary people. Our objective is to provide this service at the lowest possible cost and to help alleviate pressure on our courts," Turton said.

**STUDENTS
&
MIGRANTS**

Discounted Airfares

**Contact IOM
Pretoria
Phone (012) 323-7202
Fax (012) 323-7218**

**ATTN: WHOLESALERS
& DENIM FACTORIES**

Capable of comprehensive denimware factory making all denim categories from top to bottom. We have huge capacity and are now opening up for domestic private label programmes!!!

**Contact Kathy at:
☎ (011) 643-1341/2 FAX: (011) 643-1343
TO ENQUIRE ABOUT OUR
EXCITING PRODUCTS NOW!**

Star 26/7/96

Saccawu declares dispute over wages

(151)

The South African Commercial, Catering and Allied Workers' Union (Saccawu) yesterday declared disputes with three leading chain stores and a hotel group over demands for higher pay and better working conditions.

Workers at City Lodge hotels, Dions, Clicks and the Edgars group, which includes Edgars, Jet, Sales House and Shoe Corp, are demanding wage increases and better working conditions.

Dions workers have demanded a R250 pay rise and a 15% staff discount. Management has offered R200 and a 10% discount.

Saccawu said its members were prepared to accept the 10% discount if the deal included medical aid and blue chip discounts.

Clicks workers have declared a dispute in their bid to secure a R215 across-the-board increase, plus an additional one day off per month. Management has offered a R115 increase.

Saccawu claimed Clicks had offered workers a lower increase this year than last. It accused the company of not wanting to improve the lot of workers. Sapa.

'Will to settle' in tough wage talks

Reneé Grawitzky

THREATENED disputes and strikes at the height of the current wage round reflect a combination of worker expectation of increases as high as last year and hard bargaining on the part of employers in the face of tough economic constraints in some sectors.

Durban-based management consultant Pat Stone said despite a range of threatened strikes and hard bargaining on both sides, there "was a sense that parties are willing to settle". He said unions were not embarking on strike action "all over the place".

Management consultant Gavin Brown said this year's wage round had been one of the quietest in the past five years. Agreeing with Stone, he said there was a willingness to settle, and a reluctance to get into adversarial bargaining.

He said that average settlements were coming in at 10% — far above the inflation rate.

Those industries settling lower, such as in leather at 7,75%, were predominantly industries which were under threat by illegal imports, the inability to compete internationally, and massively reduced sales volumes, Brown said.

Andrew Levy of Andrew Levy and Associates said that such a situation should be expected at this time of the year.

"At this point there does not appear to be anything sinister in what is happening," he said.

This year however, Cosatu had, he said, effectively focused attention on the wage round, and it had sustained its campaign relating to wage differentials between workers and management.

In recent weeks, retail, metal, mining and chemical workers have threatened industrial action in support of wage demands.

In the face of the clothing strike, the SA Commercial Catering and Allied Workers' Union (Saccawu) has declared disputes in a number of large retail outlets including Edgars, Dions, Cicks, CNA and Woolworths.

It would seem the union has targeted Edgars with various forms of demonstrations, and has planned a march on its offices on Friday. The company has offered 9% with a minimum guaranteed increase of R220 per month which had been accepted by Fedcrow but rejected by Saccawu, which wanted R350 across-the-board or 20%.

Although such disputes exist, settlements have been achieved at a number of companies including Pick 'n Pay, Truworths, Bears, Makro, OK Bazaars and Checkers. Settlements in these companies have ranged between 9% and 12%, and across-the-board increases have ranged between R163 and R225 per month.

Outside of the retail sector, strikes are being contemplated at Impala Platinum Mines and in the metal industry.

National Union of Metalworkers of SA spokesman Elias Monage said yesterday the union's senior leadership would meet today to discuss its strategy concerning the dispute in the metal industry, and they would decide on various forms of action, including strikes and demonstrations.

Impala and the National Union of Mineworkers have not as yet met, to try to resolve the continuing wage dispute.

BD 30/7/95 (151)

Rise in arbitration and mediation noted

Reneé Grawitzky

(151) 30/7/96

THE Independent Mediation Service of SA (IMSSA) yesterday reported a sharp rise in the use of and number of mediations and arbitrations in the first half of this year compared with the corresponding period last year.

During a briefing session yesterday on IMSSA's role under the new Labour Relations Act, it was revealed that the organisation had conducted 407 arbitrations to June this year as compared to 340 last year and 281 mediations as compared to 252 last year.

This increase could be attributed partly to the backlogs in the Industrial Court and to an increased acceptance of the use of mediation and arbitration in view of the shift in focus of dispute resolution as depicted in the new Act.

IMSSA's national project director Alistair Smith said the new Act attempted to reduce levels of conflict by entrenching certain rights, thereby removing possible conflict areas.

He said the new Act attempted to fundamentally address the challenges facing the SA economy which was characterised by high levels of adversity, low productivity, jobless growth and import oriented production. It required a shift in the mindset for all the social partners, and developing trust was crucial in ensuring social partners were able to make this quantum leap,

which could not be achieved overnight.

The new Act provided for both statutory dispute resolution through the Commission for Conciliation, Mediation and Arbitration (CCMA), the Labour Court and bargaining councils being responsible for dispute resolution and private dispute resolution.

Smith said private dispute resolution agencies such as IMSSA had a number of crucial advantages over statutory dispute resolution. These related to the ability of the parties not only to choose their own mediator/arbitrator but to ensure a greater degree of flexibility in terms of the design of their own dispute resolution procedures and its terms of reference.

The new Act provided IMSSA with a number of new opportunities and would meet such challenges by providing a range of new services around designing dispute resolution systems, facilitating parties in the establishment of workplace forums or other forms of employee participation and facilitating disputes over information disclosure.

It also provided IMSSA with major challenges in ensuring the continuation of quick and efficient service, which was being addressed.

IMSSA highlighted its role in the establishment of the CCMA which related to the training up of commissioners and making its panellists available on a part-time basis to the commission

Mediator optimistic on new LRA

(151) Star 31/7/96
(166)
By Goba Mdhlovu

The future of private dispute resolution services in a changing South African labour scenario looked bright, newly appointed Independent Mediation Service of South Africa (Imssa) national project director Alistair Smith told a press briefing yesterday.

Gov. ... Act - due to be passed into law - had responded to global as well as internal problems regarding labour, Smith said.

On the home front, there had been an adversarial approach between labour and ... increasing unemployment. The country faced stiff international competition economically.

"The new Labour Relations Act is the Government's response to these new challenges. In the act, key aspects which affect Imssa relate to dispute resolution, which seem to be covered fully," said Smith.

Smith said that despite making mediation and arbitration compulsory and creating bargaining councils, the act had provision for private dispute resolution. "It is here where our future lies. Private dispute resolution will grow because it has decided advantages over other forms," said Smith.

There was already growth in the industry. Mediations were 252 in June 1995 and they rose to 281 in June 1996. The same was true of arbitrations. In June 1995 arbitrations stood at 340, in 1996 they were 407.

Nupen has a plan for labour arbitration

er(BR) 31/1/96 (151)

BY DAVID CANNING

Durban — Labour disputes should be resolved within days if the new Commission for Conciliation, Mediation and Arbitration achieved its potential, independent mediator Charles Nupen told The Mercury/Kessel Feinstein Business Buzz breakfast yesterday.

Nupen is a special adviser to the International Labour Organisation's project to set up South Africa's new labour structures.

Citing the need for improved labour relations, Nupen used the example of South African motor manufacturers. He said it took between 100 and 200 hours to build a car in South Africa, compared with between 11 and 26 hours for manufacturers in countries such as Japan.

Procedures for the new dispute resolution commission should be as simple as possible, Nupen said, with a basic form for lodging disputes that reaches the right official within hours of submission.

He said commissioners should avoid technicalities and get down to the core issues quickly. He also proposed a system of roving commissioners who would visit sites of disputes.

Many of the disputes coming before the commission would relate to unfair dismissals, he said. He envisaged junior but trained professionals handling these issues.

He warned that setting up the commission and allied structures



MOVER Special labour adviser Charles Nupen, second from left, who wants to speed up dispute settlement, with Stuart Grant of Kessel Feinstein, John Patten, The Mercury's editor, and Alistair Beattie, also of Kessel Feinstein

was an "enormous task". If placed under too much pressure, the commission would initially concentrate only on areas mandated by statute, such as conciliation, arbitration and the establishment of workplace forums. Those at its discretion, such as training advice, would have to take a back seat.

Nupen estimated that it would take about three to five years for the commission to reach its full working capacity.

He said the system would be dependent on the expertise of the commissioners, and he hoped that experienced practitioners in the industry would serve the commission part-time.

The new labour legislation, Nupen said, aimed to create a less adversarial labour environment.

Though he said it undoubtedly strengthened labour and met union aims to rebuild industries, improve skills, make firms more competitive

and ensure a decent standard of living, Nupen emphasised it was wrong to conclude that it simply advanced the interests of labour at the expense of management.

He said the legislation met many management concerns as well, such as voluntary collective bargaining and the need to increase shop-floor participation, separately from negotiations.

The system was flexible and encouraged self-regulation, he said.

Mondi wage dispute moves to mediation

Vuyo Mvoko

(151) 6013/2/97

MONDI and the Paper, Print, Wood and Allied Workers' Union (Ppwawu) are scheduled to appear before the Commission for Conciliation Mediation and Arbitration this morning in an attempt to resolve the 28-day-old strike at Mondi's Merebank Mill in Durban.

About 550 of Mondi's 1 320 workers are on strike. The company is still in production.

The commission requested today's meeting in terms of the Labour Relations Act's provisions on dispute resolution.

Although the parties in dispute met on their own yesterday in another attempt to find common ground, both parties left to consult their principals, and planned to meet again this morning before the mediation session.

Ppwawu regional organiser and head of the negotiating team, Mhlaba Mkhize, said the union stood firm on its demand for pay increases of 11% across-the-board, and R1,50c an hour shift allowance, as well as two days paternity leave and five days compassionate leave.

The company's negotiating team, lead by MD Derrick Minnie and GM John Barton, was still offering a 9,5% across-the-board increase, a R1,05c shift allowance, two days paternity and two days compassionate leave, Mkhize said.

"Currently there are no significant moves," Mkhize said. "It is 11% or the strike goes on. We have made a substantial revision on our part. Mondi, Mkhize said, had lost R100m in turnover when it would have had to pay only R785 000 in wages demanded.

Mondi management was not available for comment.

Consultants, lawyers still party to mediation

Reneé Grawitzky
Bd 25/2/97

COMMISSIONERS appointed to conciliate in disputes referred to the Commission for Conciliation, Mediation and Arbitration (CCMA) are allowing legal representation — despite the expressed objection of the new Labour Relations Act to exclude consultants and lawyers.

A number of consultants have reported that commissioners were increasingly allowing the parties to bring legal representation into the conciliation process.

Legal representation in the form of industrial relations consultants or lawyers was allowed if both par-

ties agreed and if the commissioner believed it would speed up and be constructive to the process.

This was so despite the fact that legal representation during dispute resolution had been hotly debated during negotiations around the new act. Drafters of the new act were determined to exclude and minimise the role of consultants and lawyers in dispute resolution as the process under the old act had become highly legalistic and expensive.

The explanatory memorandum to the draft bill said: "Legalism undermines the goals of the system, namely, cheapness, speed, accessibility and informality ... Lawyers

make the process legalistic and expensive. They are often responsible for delaying the proceedings due to their unavailability and the approach they adopt."

The new act does not give commissioners the discretion to allow for legal representation in the conciliation process. However, a number of industrial relations consultants had indicated that from their experience, commissioners were taking the view that if both parties agreed and it did not create an imbalance, then legal representation would be allowed.

A Gauteng consultant said one commissioner had said that every

commissioner had their own policy on this issue. Those commissioners who allowed the active participation of consultants did, however, warn that if consultants became obstructive they would be removed.

A CCMA source said the commission was aware of this and had no doubt that this matter would be addressed by the Labour Court and would be resolved finally.

Labour law consultant Gavin Werner said it appeared that the commission had adopted a pragmatic approach and "whatever works they are adopting". He cautioned however, that this deviation from the act could work only if used ap-

propriately and responsibly.

Another consultant said that although the philosophy of the new act was to prevent regression to the old legalist approach of the Industrial Court, he did not believe the intention of the new act was to prevent parties from making a contribution "or, for that matter, preventing people from making a living".

A consultant said companies had found ingenious ways of bypassing the prohibition against legal representation. Companies were issuing their consultants with letters to indicate that they were temporary employees, thereby ensuring that they could represent them.

New approach to disputes

BD 28/2/97

(151)

René Grawitzky

DISPUTE resolution can be speeded up if employers and unions agree to a process in which an arbitrator periodically facilitates the resolution of a number of disputes which have accumulated in a company over a period

This proposal is among a number of innovative ideas mooted by Chris Albertyn, vice-chairman of Ontario's labour relations board, to deal with workplace dispute resolution

At a Johannesburg workshop organised by the Centre for Applied Legal Studies, Albertyn said a number of companies in Canada had gone this route, which required a high level of trust between both parties

As part of a collective agreement, the parties would agree to periodic visits by an arbitrator, who would come to the company and attempt to "clear up all outstanding minor disciplinary cases or interpretations of agreements".

This approach, which was not yet widely used, was a useful way of clearing out a number of disputes in one go instead of each individual dispute being referred to the board, Albertyn said. This process could become like a "clearing house for disputes", providing for a quick but lasting resolution of disputes without the parties having to present formal evidence

The arbitrator could decide on the status of the ruling of the dispute. Temporary rulings

could be granted or no ruling at all, depending on the complexity of the issues. Albertyn said if disputes were not settled during the allocated time, parties could at least decide there and then how the dispute should be resolved in the future

Unions, he said, had the discretion to decide which issues should be addressed within such a process.

The jointly agreed upon arbitrator would, in theory, take part in the process for the duration of the collective agreement so that he became familiar with the parties.

Some discussion took place on the role of lawyers on the board and how nonavailability of legal counsel tended to delay the resolution of disputes.

SA preparing law to help solve commercial disputes

By Coudjoe Amankwaa

SOUTH AFRICA is preparing a draft arbitration law aimed at promoting and using the arbitration conciliation mechanism for resolving commercial disputes

Speaking at the conference under the theme Resolution of International Trade and Investment Disputes in Africa, Justice Minister Dullah Omar said arbitration and other means of dispute resolutions

such as conciliation in resolving commercial disputes, were on South Africa's agenda

"The existence of a judicial system of high quality, coupled with some tradition or arbitration and other alternative dispute resolution methods have in some measure placed South Africa in somewhat of a favourable position," he said

Omar said it was necessary for South Africa to review the law and practice relating to international

dispute resolution because of the increasing trade and investments

At the same conference, Minister of Trade and Industry Alec Erwin said the re-entry of post-apartheid South Africa into the global arena has presented the country with challenging opportunities for participation

He said the process of globalisation has clearly presented enormous opportunities for economic growth

Sowetan 7/3/97 (151)

Labour body swamped with referrals

Reneé Grawitzky

THE Commission for Conciliation, Mediation and Arbitration has been flooded with more than 10 000 referrals over the past few months, many of which should not have been sent to it

Sources close to the commission, which was set up under the Labour Relations Act on November 11, said parties referring frivolous matters to the commission were abusing the system and would stretch resources. In some cases the same dismissal case was referred several times — by the individual, the union and even spouses.

The sources said commissioners were working day and night to provide an efficient and effective service, but parties had to be more circumspect in the type of disputes they referred.

Commission director Charles Nupen said the case load showed that

original estimates of 40 000 cases during the first year were conservative

Several problems were being experienced with the types of referrals. Often referrals were not properly completed or the commission did not have jurisdiction over the matter.

He said resources were being used to sort out such problems and a fair amount of capacity was being used on referrals which should never have been submitted.

A commission source said disputes arising before November 11 or matters unrelated to the Labour Relations Act, which related to workmen's compensation or the Basic Conditions of Employment Act, were being referred. Another source said people who did not have a case "were just trying to push their luck" while others tended to use the commission as an industrial relations consultancy. Commissioners found

some unions did not screen cases and members bypassed officials.

Another commissioner said in some instances employers were reluctant to assist in conciliation. As a result, those disputes would have to be referred to arbitration. He said employers were doing themselves a disservice as once matters were referred to arbitration a decision was imposed upon the parties. Conciliation allowed the parties to determine settlement.

Nupen acknowledged that the commission's capacity was being stretched to its limit and a common approach in dealing with this issue had to be found by the social partners. Systems were being devised to deal with the large number of referrals, he said.

It is understood that a commission governing body meeting this week will address the capacity problem and the commission's budget for 1997/98.

80 9/11/97

Early success for new dispute resolution body

Reneé Grawitzky (151)

THE Commission for Conciliation, Mediation and Arbitration, established in terms of the new Labour Relations Act, has achieved a 77% success rate in resolving disputes in the first seven weeks since its inception.

The commission said yesterday that of the 601 disputes referred to it since November 11, 461 had been settled during conciliation. The 140 which had not been resolved would, depending on the nature of the dispute, be referred either to the Labour Court or to arbitration, result in a strike or lockout or be settled by the parties themselves.

Commission director Charles Nupen said the settlement rate compared favourably both domestically and internationally. At the same time, he said, it was too early to draw firm conclusions, but it was very encouraging.

Nupen said the new system was proving itself in terms of the turnaround time of cases referred for conciliation. In many instances cases had been dealt with within days of referral, while one or two cases had been resolved in a matter of hours.

The early intervention in major areas of industrial action, a case in point being the transport strike, would have resulted in substantial savings to the national economy, he said. In Gauteng the commission conciliated in 84 disputes, followed by 128 in KwaZulu-Natal and 115 in the Western Cape. Unfair dismissals accounted for an estimated 60% of disputes referred.

Parties in the main had referred disputes to the commission. However, during the transport, Lifecare and Sapekoe strikes, it had decided to offer assistance to the parties.

"What has emerged during this start-up period is a work ethic appropriate to dispute resolution" with commissioners conciliating well into the night and over weekends," he said.

Emphasis had to be placed on training current commissioners; developing capacity to facilitate the establishment of workplace forums; and developing capacity to operate effectively in promoting dispute prevention.

Act provides relief to companies

(151) *Sowetan* 23/1/95

By Abdul Milazi

COMPANIES that provide essential services can now apply for their businesses to be designated as essential services by the Commission for Conciliation, Mediation and Arbitration's Essential Services Committee

The committee will sit some time in March

CCMA Essential Services Committee head Dhaya Pillay says essential services are those which when interrupted would endanger the life, safety or health of the population or part of it

Companies whose applications are approved will be exempted from strikes and would be forced to refer their disputes to the CCMA

"Representations are now being received by the committee in its investigation of certain services where strikes have been forbidden in the past"

Essential services in the past were the fire fighting services

The Parliamentary services, the police services and the military are designated as essential services under the new Labour Relations Act

Pillay, however, cautions that it is her committee's prerogative to approve or reject an application "We will scrutinise each application carefully and determine whether the claim by the employer has grounds or not"

"The Essential Services Committee, which operates under the auspices of the CCMA, must determine whether a service is essential and may conduct an investigation in order to determine this," says Pillay.

This committee also has powers to determine certain services as maintenance

Under maintenance service category, the LRA describes it as a service which, if disrupted, will destroy any working area, factory or machinery

Employers may apply to the committee for a decision whether the whole or part of the business is a maintenance service

CCMA's system stores relevant case data centrally

New body can solve labour disputes fast

JENNIGAY COETZER

Johannesburg — The Commission for Conciliation, Mediation and Arbitration (CCMA) has installed a new computer system that will enable disputes to be settled in a matter of days instead of months

The system allows the relevant information pertaining to the labour dispute to be stored on a single database, says Viren Parmanand, the head of the department of information technology at the commission

Information is therefore readily available to the facilitators and arbitration staff who can then hand down a decision far more rapidly than in the past

Given the level of labour unrest and the lack of resolution mechanisms, the CCMA may become the most important statutory body to bring order to the workplace and restore foreign confidence in South Africa's workforce, says Parmanand.

Established under the Labour Relations Act, which became law last year, the commission has been tasked with conciliation, mediation and in some cases arbitration in labour disputes across the country

The body acts on behalf of aggrieved workers and employers. The primary objective is to settle differences between labour and management in the minimum time to everybody's satisfaction and get the wheels of industry turning again, says Parmanand.

"First we try reconciling the parties. If that fails, we go to arbitration which is binding on both parties," he says

CT(BR) 30/1/97 (151)
The heart of the commission's new information technology system is the case management system. This was developed by Johannesburg-based company Dexel, using Forte, a rapid application development tool

From the moment a dispute is lodged with the CCMA, a predetermined process has to be followed

The case management system tracks the process from the beginning until the dispute has been resolved. It took less than three months to develop the system

Each of the nine provinces has a CCMA office equipped with Pentium PCs. Operating within the Microsoft Windows environment, each PC is hooked up to distributed NT-based servers. At its head office in Johannesburg, CCMA has a Sun 4000 server computer that is used as a central repository for all the case data as well as human resources and financial data

Using Oracle as the central database, there is ample room for expansion, says Deven Moodley, the IT system manager at the CCMA. He explains that a feature of the new system is that if the wide-area network goes down, each office has the ability to operate as a separate entity until the link is restored.

Finalised by six developers, the system came in on budget and within deadline, says Moodley

Because the system is object-oriented, it will be relatively simple to enhance, expand or change

Dexel will continue to train developers and programmers until they are entirely comfortable with the Forte development system, says Moodley

Bosses and workers may pay

Reneé Grawitzky

EMPLOYERS and workers could be forced to fork out increased levies to industrial and bargaining councils to finance their additional dispute resolution functions provided for in the new Labour Relations Act.

Several councils, fearing they could be short of funds, said they might have to increase their current levies or institute a specific dispute resolution levy. Two councils have already gone this route and another is contemplating such a move.

A number of council representatives said, however, that such a move depended on the type of disputes referred to councils. At this stage a levy increase could be premature. Others said increased levies could act as a disincentive for parties to establish councils, as they would become more expensive.

One council representative said: "This will be viewed as a penalty for belonging to a council." A unionist said: "Why should workers who belong to councils have to bear extra costs when those outside councils have access to free services through the Commission for Conciliation, Mediation and

Arbitration.

These contemplating increases expressed concern over the manner in which subsidies would be granted to councils for dispute resolution.

They were opposed to the commission acting as a judge and jury in apportioning subsidies and argued for this function to be carried out by the labour department.

Traditionally, councils are required by law to carry out a range of dispute resolution functions. However, if bargaining councils wish to become accredited dispute resolution agencies, they will have to comply with criteria specified in the act which will require additional funding. Councils have to apply to the mediation commission for accreditation and after that can apply for subsidies.

National Union of Metalworkers of SA general secretary Enoch Godongwana said those councils contemplating levy increases were acting prematurely, as this presupposed that these councils would continue to exist in their present form. Councils, he said, should not be accredited or receive funding until the demarcation of industries had been resolved.

Mediation commission executive director Charles Nupen said a large number of councils had applied for accreditation, but as yet none had been accredited. Councils could become accredited after a lengthy process in which they had to develop the capacity to discharge their dispute resolution functions as accredited bargaining councils, he said. Councils had not as yet reached the stage of applying for subsidies.

The building industrial council for Gauteng increased its levy from 30c an employee a week to 75c, and the motor council had increased its levy from R1,15 an employee a week to R1,60. In the case of the motor council, the additional amount will be put into a separate dispute resolution fund.

Metal and engineering council general secretary Dave Levy said that although councils had done dispute resolution for decades, extra costs would be incurred because of the increased range of functions councils would have to perform.

Master Builders Association director Colin de Kock said no council could afford to finance requirements of the new act from its current levies.

Heavy case load for mediation council

(151)

The Congress of SA Trade Unions (Cosatu) has expressed concern at the heavy case load of the Council for Conciliation, Mediation and Arbitration (CCMA).

In a statement issued after the federation's four-day executive committee meeting this week, Cosatu said research had been commissioned to study cases submitted to the CCMA.

"Cosatu wants to check if the increase is as a result of incompetence of union organisers or the decline in the ability of shop stewards and factory managers to resolve minor problems on their own without resorting to referring every small dispute to the CCMA," the statement said. - Business Reporter

ARG 12/4/97

Cosatu endorses proposal on bargaining councils

Reneé Grawitzky

UNION federation Cosatu has endorsed the proposal that differences within bargaining councils be accommodated through special schedules for smaller companies, different sectors or for nonstandard employment such as casual or temporary workers

This resolution was adopted at the federation's first central executive committee meeting of the year, where a position was adopted on the demarcation of industries. The com-

mittee also resolved there should be fewer bargaining councils than the 82 industrial councils at present.

The federation belatedly resolved to resist attempts at privatising municipal services and water supplies, as a number of local authorities had gone this route. This was coupled with stands on the privatisation of SAA and Eskom.

Cosatu has endorsed plans by the SA Municipal Workers' Union to launch a campaign on May 1 against privatisation of municipal services. It rejected announcements by gov-

ernment ministers on the privatisation of SAA, which was contrary to negotiations under way between labour and government.

The committee said post and telecommunications, electricity, public transport, housing, health, water, state forests, municipal services and education were services that must remain in state hands.

On employment standards, no final decision was taken on whether a strike would go ahead on May 12. However, the committee called for the campaign to be intensified.

BD 14/1997 (151)

New conciliation commission swamped as caseload spirals

40 additional commissioners to be appointed

ARG 17/14/97

(51)

THABO MABASO
BUSINESS REPORTER

The Commission for Conciliation, Mediation and Arbitration (CCMA) is to increase its number of staff so it can deal with the flood of cases that have come its way since it was launched last year to resolve labour disputes.

The Congress of South African Trade Unions (Cosatu) has complained that the CCMA "is drowning in a sea" of cases.

Cosatu spokeswoman Nowethu Mpati said the CCMA was receiving close to 500 complaints a day. Most of them could have been resolved by employers and employees themselves, she added.

"The situation is so serious that the CCMA employees are apparently going to

propose amendments to the Labour Relations Act and ask for the three-month timeframe within which to deal with each case to be extended to six months," Ms Mpati said.

CCMA director Charles Nupen denied this.

Ms Mpati said workers, especially those who were not unionised, "run to the CCMA every time there is a problem at their workplace".

"As Cosatu we want to encourage workers not to take each and every case they have to the CCMA. They must use bargain-

'Cosatu wants to encourage workers not to take each and every case they have to the CCMA'

ing forums at their workplaces to resolve such problems," she said.

The CCMA was established under the Labour Relations Act and is charged with conciliating, mediating and, in some cases, arbitrating in labour disputes in the quickest possible time.

Mr Nupen acknowledged that the commission had problems with the size of its caseload.

"We obviously are experiencing difficulty dealing with the volume of cases coming to us.

"But the governing body has approved a budget of R120 million for the 1997/1998 financial year and this will enable us to employ another 40 commissioners."

The CCMA has 80 full-time and 200 part-time commissioners on its staff.

"We are trying our best to deal with the workload and the 40 additional commissioners will be of some assistance in dealing with the volumes coming to us."

Mr Nupen said that in March the commission had received about 224 genuine complaints a day.

During November it received 834 cases and for the whole of March the number had more than tripled to 4 038 cases.

Between November, when the CCMA was established, and March, the commission had received 14 000 complaints

LABOUR

CT(DR) 6/5/97

(151)

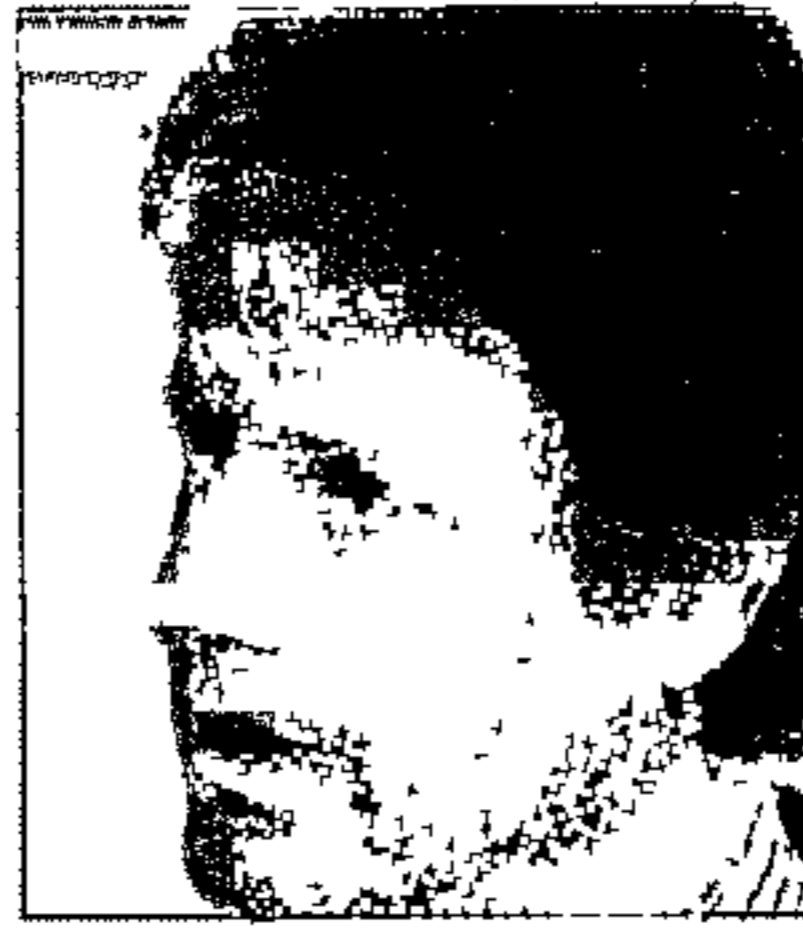
CCMA has settled nearly 10 000 cases

More than 19 000 cases, of which about 50 percent had been settled were referred to the Commission for Conciliation, Mediation and Arbitration (CCMA) during its first six months of operation. Charles Nupen, the coordinator (right), said yesterday

"Fifty percent is not bad, but we could be doing better," he told a parliamentary committee.

The commission was set up in terms of the new Labour Relations Act to provide quick and fair mediation in labour disputes, especially those involving small employers and unorganised workers such as domestic and farm workers.

Because of the high workload, Nupen said more staff would have to be recruited to deal with cases. The commission planned to take on 40 more full-time commissioners as well as about 10 part-time commissioners over the next few months — *Reuters, Cape Town*



Dismissals top list of cases before mediators

ARC 6/5/97 (151)

POLITICAL STAFF

Unfair dismissals, often involving disciplinary issues, are by far the main cause of labour disputes referred for independent mediation.

Charles Nupen, director of the new Commission for Conciliation, Mediation and Arbitration, told the National Assembly's labour committee yesterday that this applied to about 70 percent of the disputes referred to the commission.

He said that there was a need for a national campaign to show managements how to handle discipline in the workplace fairly.

Mr Nupen told the labour committee that 19 242 industrial disputes had been referred to the commission's provincial offices since it had been started on November 11.

He said the commission, estab-

lished by the Government and operating on a R120-million annual budget, had a success rate of about 77 percent. It would be higher if parties who settled privately after lodging a case with the commission, were included.

He said the growing number of disputes between employers and employees gave individual commissioners up to three or more cases a day. The number of commissioners was to be increased by a third to deal with the growing case load, Mr Nupen said.

Another 40 part-time commissioners would be recruited over the next three months and deployed where full-time commissioners could not cope. The commission would also beef up its registry and administration staff.

Mr Nupen said 37 percent of the cases dealt with by the commission came from Gauteng, 20 percent from KwaZulu Natal and 14 percent from the Western Cape.

Tshabalala case witnesses 'may be protecting widow'

HIGH COURT REPORTER

A Langa man accused of murdering Camps Bay businessman Bheki Tshabalala has told the Cape High Court that witnesses who implicated him in the murder may have been living

covered, through newspaper reports, that Mr Tshabalala's body had been found, he was "glad", because he had not been able to continue his affair with Nomonde Tshabalala while her husband was missing.

He said witnesses who said he had pointed out the car the body was found

Commission to employ 40 additional members

Jacob Dlamini

(151)

CAPE TOWN - The Commission for Conciliation, Mediation and Arbitration would employ 40 more commissioners to deal with an increasing caseload, director Charles Dupont announced yesterday.

The commission recruitment had already started to the recruitment of members to be based in the Johannesburg head office and provincial offices.

The commission had already embarked on a major recruitment drive which would help to boost its pool of commissioners to about 140. The commission would also employ about 14 more administrative staff.

Dupont and the commission had dealt with a total of 19 217 cases in 1996, a 50% increase on 1995. The bulk of the cases were in the commercial distribution sector.

The Eastern Cape accounted for 7% of all cases, the Free State for 5%, KwaZulu-Natal for 20% and Mpumalanga for 7%. The Western Cape dealt with 14% of the cases, the North West recorded 5% of cases and the Northern Province 4%. The Northern Cape had the fewest cases, only 1%.

BD 6/5/97

Star 7/5/97

Disciplinary issues cause most disputes (151)

Cape Town - Unfair dismissals often involving disciplinary issues are by far the main cause of labour disputes referred for independent mediation

Charles Nupen, director of the new Commission for Conciliation, Mediation and Arbitration, told the National Assembly's labour committee this week that about 70% of disputes referred to the commission related to this issue

He said a national campaign was needed to educate company managements on how to handle discipline in the workplace fairly

Nupen told the labour committee 19 242 industrial disputes had been referred to the commission's provincial offices since the organisation set up shop on November 11.

The commission, established by the Government and operating on a R120-million annual budget, had a success rate of about 77%

Nupen said 37% of the cases dealt with by the commission came from Gauteng, KwaZulu Natal contributed 20% and the Western Cape 14% - Own Correspondent

Arbitration (151)

body sets up

office in city

ARG 8/5/97
BUSINESS EDITOR

The regional office of the Arbitration Foundation of Southern Africa (AFSA), a joint dispute resolution initiative by lawyers, accountants and business, was opened last night.

Chairman of the regional board Ben Griesel said AFSA offered a mechanism to speed up the resolution of contractual and other disputes.

Specialist panels would apply expertise to settle issues ranging from sport to entertainment to labour and commercial disputes.

"This method of overcoming disagreement is less acrimonious than court action and makes it easier for the parties to resume a good working relationship," he said.

The marketing and administration of AFSA will be done by the Cape Chamber of Commerce and Industry.

Inquiries: Mike Bertram, Cape Chamber of Commerce and Industry, telephone 418-4300 or fax 418-3500.

CCMA funds inadequate

THE Commission for Conciliation, Mediation and Arbitration - responsible for labour dispute negotiations - is inadequately funded, the SA Chamber of Business warned yesterday

The increase in the budget to prevent and settle disputes, including financial support for the CCMA, was a disappointing six percent, it said

The CCMA was widely recog-

nised as being under-resourced, which resulted in a backlog of cases, a written submission to National Assembly labour committee hearing on the labour budget vote said

"Much uncertainty and frustration also results from certain decisions of the commission which reflect the inadequate preparation of some commissioners and the lack of guidelines for the commission's operation"

(151)
The organisation also felt not enough money had been allocated to administer the Occupational Health and Safety Act properly and criticised cuts in allocations to training centres and training of the unemployed

Sacob reiterated its opposition to the over-regulation of the labour market, saying this would result in greater unemployment - Sapa

Sowetan 13/5/97

Dispute body 'lacks funds'

BD 13/5/97

CAPE TOWN — The Commission for Conciliation, Mediation and Arbitration, responsible for labour dispute negotiations, was inadequately funded, the SA Chamber of Business (Sacob) warned yesterday.

The budget increase to prevent and settle disputes, including financial support for the commission, was a disappointing 6%, it said.

The commission was widely recognised as being underresourced, resulting in a backlog of cases, a written submission to the National Assembly labour committee hearing on the labour budget vote said. (151)

"Much uncertainty and frustration also results from certain decisions of the commission which reflect the inadequate preparation of some commissioners and the lack of guidelines for the commission's operation," Sacob said — Sapa

Unions agree to mediator in row

Bonile Ngqiyaza

BD 13/5/97

(51)

THE Commission for Conciliation, Mediation and Arbitration may be asked to intervene in the wrangle between SA Police Service management and two of the unions representing the police.

The suggestion would be raised with national commissioner George Fivaz at a meeting today, safety and security secretary Azhar Cachalia said yesterday after meetings with the Police Union (Sapu) and the Police and Prisons Civil Rights Union (Popcru).

Cachalia said both Popcru and Sapu had been receptive to the idea at the separate meetings yesterday afternoon where common problems experienced with management had been raised.

Both unions had pledged to assist in exposing corrupt officials in the department and to work to improve service delivery.

Cachalia said Popcru was unhappy with management's lack of commitment to transformation.

The union was asked to review some of the methods it has used in its protest action and had indicated it would consult its constituency on the matter.

Popcru was calling for Fivaz's immediate resignation as he lacked the vision required to transform the police, and had proved incapable of fighting crime.

Tsumane said the union was waiting for replies to letters requesting a meeting with Fivaz to discuss an anticrime campaign.

(151) Sowetan 19/5/97

Nehawu-SAVF row for arbitration

A DISPUTE over salaries involving the Suid Afrikaanse Vrouefederasie and the National Education, Health and Allied Workers Union is to be taken for arbitration, SAVF president Unus van Graan said at the weekend.

Nehawu called a strike by its members at 18 SAVF old age homes in Gauteng, Mpumalanga, Northern Province and North West in April after salary negotiations deadlocked.

After the latest round of talks

during the week, Nehawu rejected an increase of R120 a month on the grounds that the offer bound the union to making no further salary demands for the next two years, which Nehawu found unacceptable, Van Graan said.

The SAVF had also been unable to increase the minimum wage of R739 a month it offered at the homes because of a shortage of funds.

According to Van Graan, many

pensioners were already committing up to 90 percent of their income to pay for living in the institutions, which were also being funded by pensioners' relatives.

No further contributions could be expected from either source.

The vacuum caused by the continuing Nehawu strike at the homes is being filled by volunteers, including students and schoolchildren, who were doing a "tremendous job", said van Graan - Sapa.

Public sector to get bargaining council

David Greybe

CAPE TOWN — Negotiations on a new umbrella bargaining council for the public sector were nearing completion, government and union officials said at the weekend.

The public service co-ordinating bargaining council would, for the first time, provide a bargaining forum for all public servants at national and provincial levels, as well as employees in education, police, prisons and civilian defence sectors.

The new bargaining council would deal at a national level with all public service labour issues, including conditions of service, norms and standards, and cross-sectoral issues such as pensions, medical aid and housing benefits, a government official said.

Government and public service trade unions would have equal representation on the new council, as under the present but fragmented system, the official said. "There will be no change in the balance of power between the two sides."

The education labour relations council and the national negotiating forum of the police service would be transformed into sectoral bargaining councils. However, the central chamber of the public service bargaining council would be scrapped. The new national bargaining council was expected, once up and running, to establish "one or more" public service sectoral councils, the official said.

Provincial and departmental bargaining chambers would in future be known as bargaining councils, but would retain their present status, the official said. "They will deal with issues at that specific level and will act in-

dependently of the new national bargaining council."

Public Servants' Association deputy GM Anton Louwrens said. "The main reason for the new public service co-ordinating bargaining council is to co-ordinate collective bargaining in the public sector. Up until now we have had a fragmented structure."

Mainly technical issues on a constitution for the new bargaining council and transitional arrangements for the public service sector were still outstanding, Louwrens said.

Public Service Commission member John Ernstzen told the parliamentary public service committee last week he was hopeful the new council "will get off the ground soon".

The government official said: "Everyone involved is in favour of the new bargaining council being established as soon as possible."

A task team with government and union representatives is scheduled to meet at the end of the month to finalise the establishment of the new council, Louwrens said.

Agreement in principle was reached on most issues at a meeting of stakeholders last Thursday, he said.

However, some of the smaller unions protested at a threshold provision of 20 000 members for union admission to the new bargaining council. The draft constitution for the new council gives unions six months' grace to meet the threshold.

Negotiations for the new public service co-ordinating bargaining council have been carried out under the auspices of the Commission for Conciliation, Mediation and Arbitration (CCMA), and in line with the provisions of the Labour Relations Act.

Christie, Schmidt take province to CCMA

BD 27/5/97

(151)

Reneé Grawitzky

IN A precedent-setting case for SA sport, Northern Transvaal's axed rugby coach Kitch Christie and his former assistant Uli Schmidt have approached the Commission for Conciliation, Mediation and Arbitration (CCMA) to resolve their dispute with the province

Christie and Schmidt approached the commission on April 24 after claiming unfair dismissal

CCMA national senior commissioner Mohammed Jajbhay said yesterday the parties met only on Friday after the Northern Transvaal Rugby Union failed to appear at the first meeting. Another meeting is planned for today

It is believed one outstanding item relates to the inclusion of a confidentiality clause in the settlement agreement

Jajbhay said the time had dawned for the sporting fraternity to withdraw from the "fossilised shells" that governed administrators' relationships with players and coaches. Administrators, players and coaches who operated within the realm of the Labour Relations Act had to be conscious of their mutual rights and obligations

Industrial relations consultant Alex Wainright, acting for Christie and Schmidt, said at this stage he could not comment, while the Northern Transvaal Rugby Union said the matter was still sub judice

Northern Transvaal approached

World Cup-winning coach Christie to take over the provincial team at the beginning of the season after the players rebelled against coach John Williams and his assistant Eugene van Wyk

Provincial officials visited Christie, who has had cancer for many years, in hospital last month to tell him he "had been relieved of his position"

Williams and Van Wyk returned to their posts after Schmidt declined to continue in the position. The Sunday Times reported that sources claimed Christie had been used by the union to get players to sign contracts preventing them from embarking on strike action. The report said the intention was always to remove Christie once the players had signed the contracts

False Bay Coast - Bacteriological Quality	All Year		Summer		Near treated wastewater or stormwater outfalls
	Oct 1995 to Sept 1996	Examined	Oct 1995 to March 1996	Examined	
Bathing Areas					
Millers Point	25	116+	13	197+	Michells Plain WWTW effluent outfall
Fishermans Beach	25	16	13	15	West MP stormwater
Seaford Beach	25	25	13	42	West MP stormwater - 50 m West of
Long Beach	25	156+	13	250+	West MP stormwater - 50 m East of
Glencam Beach	25	81	13	128+	West MP stormwater - 50 m East of
Fish Hook Beach	25	79	13	273+	West MP stormwater - 50 m East of
Silvermine River Mouth	25	25	13	32	West MP stormwater - 50 m East of
Kalk Bay Harbour Beach	25	500+ 2 097*	13	473+	West MP stormwater - 50 m East of
Kalk Bay	25	13	13	23	West MP stormwater - 50 m East of
Kalk Bay Pool	25	11	13	16	West MP stormwater - 50 m East of
Dalebrook Pool	25	12	13	25	West MP stormwater - 50 m East of
St James Pool	25	9	13	25	West MP stormwater - 50 m East of
Sandown Hotel	25	103+ 2 066#	13	1 320+	West MP stormwater - 50 m East of
Mazzenberg Station	25	158+ 1 070	13	556+	West MP stormwater - 50 m East of
Muzzenberg Pavilion	25	61	13	49	West MP stormwater - 50 m East of
Saurse Beach	25	56	13	48	West MP stormwater - 50 m East of
Lifebox 21	25	61	13	27	West MP stormwater - 50 m East of
Lifebox 23	25	49	13	46	West MP stormwater - 50 m East of
Somabie	25	82	13	93	West MP stormwater - 50 m East of
Ribbon Parking Area	25	62	13	223+	West MP stormwater - 50 m East of
Lifebox 30	25	41	13	133+	West MP stormwater - 50 m East of
Strandfontein Point	25	64	13	278+	West MP stormwater - 50 m East of
Strandfontein Tidal Pool	25	16	13	15	West MP stormwater - 50 m East of
Lukannon Drive Pump Station	25	37	13	66	West MP stormwater - 50 m East of
Mhandl Beach West	25	100	13	109+	West MP stormwater - 50 m East of
Mhandl Beach East	25	113+ 1 700	13	108+	West MP stormwater - 50 m East of
Monnabur Tidal Pool	19	15	11	14	West MP stormwater - 50 m East of
Maccassar Beach	21	527+ 1 930	10	1 050+	West MP stormwater - 50 m East of
Strand-Melkhan	17	162+	9	105+	West MP stormwater - 50 m East of
Wohlenside Station	16	29	9	23	West MP stormwater - 50 m East of
Strand - Melkhan	16	29	9	23	West MP stormwater - 50 m East of
Springbok Cafe	16	90	8	239+	West MP stormwater - 50 m East of
Strand - Pier	16	121+	8	135+	West MP stormwater - 50 m East of
Strand - Harmony Resort	16	414+	8	735+	West MP stormwater - 50 m East of
Gordons Bay - at Str Lowry's Pass River	21	752+ 3 706*	10	1 110+	West MP stormwater - 50 m East of
Gordons Bay - Van Riebeck Hotel	21	47	10	51	West MP stormwater - 50 m East of
Gordons Bay - Harbour	21	20	10	16	West MP stormwater - 50 m East of
Gordons Bay - Bakun Beach	20	3	9	3	West MP stormwater - 50 m East of
Kogel Bay Beach	21	4	10	4	West MP stormwater - 50 m East of
Rooets	21	7	10	4	West MP stormwater - 50 m East of

* Values below which given percentages of results lie
 + Exceeds EU Guideline value (80% of values not more than 100)
 # Exceeds EU Mandatory value (95% of values not more than 2000)

Hammond

QUESTIONS

†Indicates translated version

For oral reply

THE CHIEF WHIP OF THE MAJORITY PARTY Mr Charman, as per agreement with my colleagues in the other parties, the following questions shall stand over Question 9 standing over from Tuesday 13 May and, of the new questions Questions 5, 6 and 8 Of the questions transferred for oral reply, Question 10, which is on page 9 of the Question Paper, will also stand over

It is further agreed that upon the expiry of a period of some 30 minutes, the outstanding questions may be tabled

I would like to thank all the parties for their co-operation in this regard

THE CHAIRPERSON OF THE NCOP Order! Before we proceed with the first question on the Question Paper, I would like to extend the gratitude of the House to hon Ministers who have consented to answer questions here

Questions standing over from Tuesday, 13 May 1997

Bargaining council agreements: extension/reduction of impact (151)

*2 Mr J SELFE asked the Minister of Labour

Whether he intends introducing legislation aimed at exempting business from extending bargaining council agreements and/or reducing the impact of bargaining council agreements on small businesses, if not, what is the position in this regard, if so, (a) what will be the nature of such legislation and (b) when will it be introduced? C22E

THE MINISTER OF HEALTH (for the Minister of Labour)

There is no intention, at this stage, to introduce legislation aimed at exempting small businesses from bargaining council agreements. However many bargaining councils already make separate provisions for smaller businesses or provide such businesses with easy exemptions from aspects of council agreements. This is a trend the Department wishes to encourage

The existing LRA makes provision for an independent body to consider exemptions for small business. We are currently considering whether further legislative amendments could be necessary

New questions

Visit to Malaysia: benefits to SA

*1 Mr J SELFE asked the Minister of Defence

(1) Whether any positive benefits to South Africa were gained during his visit to Malaysia in December 1995, if not, why not, if so, what specified benefits.

(2) how was the cost of R49 539 incurred in respect of the trip made up? C219E

THE MINISTER OF DEFENCE

(1) Yes. Although it is presently difficult to quantify the positive benefits in terms of rands and cents, the visit must be seen in the light of South Africa's efforts to seek new and lucrative markets in the East

I was one of only a few Ministers to be invited to the LIMA 95 exhibition and the visit helped strengthen our diplomatic relations with Malaysia

A direct result of my trip to the LIMA 95 exhibition was the visit to South Africa by the Minister of Defence of Malaysia who visited our DEXSA 96 exhibition

He was accompanied by a large contingent comprising the Deputy Secretary of Defence, the Chief of their Air Force, other Generals and very senior businessmen

During my visit to Malaysia I not only had lengthy discussions with my counterpart but also met with the Prime Minister of Malaysia, the Minister of Technology from Indonesia, senior military officers from Australia and officials from the Philippines, Brunei and Vietnam

My presence at LIMA 95 gave South Africa a higher profile at the exhibition and the impact was reported as very noticeable

The highlight during LIMA 95 was the signing of four joint-venture contracts with Denel, ATE, UEC and Milkor

(2) I was accompanied by my wife and we were official guests of the Minister of Defence of

Fidelity Guards refers Springbok dispute to CCMA

Reneé Grawitzky

En 6/6/97

(151)

FIDELITY Guards has referred a demarcation dispute over Springbok Patrols' alleged failure to comply with the national bargaining council for road transport industry to the Commission for Conciliation, Mediation and Arbitration (CCMA)

The purpose of referring the dispute to the commission is to ascertain whether cash in transit should fall within the security or transport industry

The bargaining council is of the view that Springbok Patrols' cash in transit division falls within its jurisdiction. Other security companies which have cash in transit divisions, such as Fidelity, are party to the council.

Fidelity has taken the view that cash in transit is first and foremost a transport function and this division should therefore fall under the jurisdiction of the road transport council.

Springbok holds that cash in transit is a security function, and has refused to join the council.

Transport council rates are higher than those prescribed by the security industry wage determination. At the heart of the dispute is the fact that Springbok, because its labour costs are lower, has a competitive advantage and is able to undercut Fidelity in bids for contracts.

In 1994 the industrial council applied to the Industrial Court for a demarcation order in respect of Springbok Patrols. The matter is still to be heard.

Because of these delays, Fidelity Guards decided to take up the matter and has referred the case to the commission.

The matter has been set down for the end of this month.

W Cape accounts for one in five of CCMA's caseload

86% of disputes resolved

THABO MABASO
BUSINESS REPORTER

One in five cases referred to the Commission for Conciliation, Mediation and Arbitration (CCMA) during its first two months of operation came from the Western Cape.

Of the 2 917 disputes referred to it, Gauteng province accounted for 31%

CCMA director Charles Nupen told a news conference that the commercial and distributive sector accounted for 19% of cases

A surprising trend was that domestic workers and the agricultural sector accounted for 4% each of cases the CCMA handled.

Before the commission was established, domestic workers and farm labourers seldom resorted to mediation to resolve disputes with their employers, Mr Nupen said.

The CCMA was established in November to resolving disputes between employers and employees in the quickest possible time. Previously complainants had to wait for months before their cases were resolved.

Mr Nupen yesterday presented the commission's first annual report to Parliament.

It contained few surprises, with the bulk of issues mediated involving unfair dismissal disputes

(151) ARG 6/6/97
The CCMA had conducted 1 244 conciliations between November and December and had settled 86% of these, the report said.

Gauteng province, the industrial hub of South Africa, had 382 cases and the Western Cape 245

Mr Nupen said Labour Minister Tito Mboweni had appointed an Essential Services Committee which would operate under the auspices of the CCMA

The committee was established to investigate which sectors performed essential services, that if interrupted, could harm the South African population.

Mr Mboweni, who was also at the news conference, said the CCMA had done magnificent work in a short space of time

The commission had resolved labour disputes that could have been harmful to the economy, Mr Mboweni said.

Earlier this year, the CCMA was reported to be drowning in a sea of cases, with workers referring the smallest disputes to the body commission

Mr Nupen said at the time that some of the disputes could have been solved without the CCMA's intervention

As a result of the workload, the Government granted the CCMA an increased annual budget of R120 million, which enabled it to hire an additional 40 commissioners, Mr Nupen said

"We are in the process of interviewing people throughout the country," Mr Nupen said

CCMA solves record number of disputes

By Abdul Milazi

THE Commission for Conciliation, Mediation and Arbitration (CCMA) achieved an 86 percent settlement rate since its formation seven months ago.

This was revealed by Labour Minister Tito Mboweni at a conference to review the CCMA's performance in Cape Town at the weekend.

"From November 11 to December 31 1996, the CCMA dealt with 1 380 disputes over which it had jurisdiction. Of these it conciliated 1 244 of which 1 064 settled," said Mboweni.

He said the disputes referred to the CCMA came from all employment sectors, with not one standing out as particularly prone to disputes.

"Significantly, domestic and agri-

culture sector disputes accounted for seven percent of cases and individual dismissals constituted the bulk of cases," said Mboweni.

He explained that larger disputes settled included the national motor transport strike and a three-week strike involving 20 tea estates in the Northern Province and KwaZulu-Natal.

"The Labour Relations Act places a statutory obligation on the CCMA to conciliate disputes within 30 days but provision is made for extending this period if the parties to the dispute agree.

"This may include mediation, conducting a fact-finding exercise or making an advisory arbitration award.

"The new conciliation process encourages the parties in dispute to

take an active part in finding solutions and the bases for settlement," Mboweni said.

Mboweni argued that arbitrations conducted by the CCMA had an advantage in that they were more relaxed than formal court proceedings.

"Beside conciliating and arbitrating disputes, the CCMA has played a facilitative role in offering advice and training on aspects of the Labour Relations Act to the Gauteng department of health and the National Union of Mineworkers," he said.

"It has also helped to establish the Public Service Coordinating Bargaining Council, which covers the whole public service. To the CCMA also falls the task of overseeing the work of the essential services committee."

See also 9/6/97

(5)

Labour dispute

body engulfed by workload

Star 16/6/97 (151)

Consultants say the Commission for Conciliation, Mediation and Arbitration has cumbersome procedures



By EDWIN NAIDU

Six months after the birth of a new Labour Relations Act, which is intended to ensure speedier resolution of disputes in the workplace, some experts are claiming the process is too slow and workers are being asked to wait for up to a month before their cases are heard.

The act stipulates that conciliation must take place within 30 days once a complaint has been received by the LRA's main dispute resolution mechanism, the Commission for Conciliation, Mediation and Arbitration (CCMA).

Labour experts have warned that the CCMA could come under heavy pressure as the workload increases during wage negotiations over the next four months.

Gavin Brown, a labour law expert, said in a report that the CCMA had been overwhelmed by the volume of disputes and that the commission was under-resourced in financial and human terms.

He said the inclusion of the former homelands, the public service and a variety of activities previously separate from the ambit of the act, have combined with freer access to dispute resolution mechanisms by the conventional workforce to ensure that the commission's work was unmanageable.

"In effect, the CCMA has emerged as a statutory employee grievance procedure. It is empowered to remedy an almost infinite range of employee dissatisfaction. However, the state simply does not have the resources available to

fund such a wide-ranging service to the employed portion of society," he said.

Brown said the core of the commissioners were competent, experienced and dedicated, while some appeared to be struggling under trying circumstances. Another group comprised talented and enthusiastic, but inexperienced, staff members.

Consultant Tony Healy said while those involved in the drafting of the employment bill had good intentions, the act was too sophisticated for the average worker.

In addition, Healy said the inexperience of some of the commissioners appointed to the CCMA had contributed and could contribute to further backlogs over the next two months.

Many companies, he said, were bypassing the CCMA by "contracting out" and enlisting the skills of professionals to deal with disputes between their management and staffers who belonged to unions.

Healy said another problem created by the act was over-representation. He said the act stipulated that complainants had to represent themselves at conciliation meetings and were not allowed to engage the services of a lawyer unless a dispute was declared.

If a complainant had taken a labour consultant along to the conciliation meeting, one could be faced with a farcical situation. If the commissioner asked the complainant a question, the complainant could, in turn, ask the consultant how to answer.

"It serves to lengthen and duplicate a process that was supposed to have dealt with problems speedily," he said.

Pierre Wolmarans, employment advisor with Coopers and Lybrand, said the CCMA could lose credibility if it could not

handle the flood of complaints set to flow in over the next few months.

He said the easy access the public had to the CCMA meant that anyone feeling aggrieved at not being treated fairly could go to the commission for help. The fact that people had to represent themselves, without the help of lawyers, unless there was a dispute, could force the process to drag on at huge costs to the taxpayer who were expected to foot the bill for all deliberations at the commission.

Kobus Marais, a member of the Labour Law Group, said people seeking redress from the CCMA were being turned away because of the heavy load. Some commissioners were not able to deal with certain problems because of inadequate training, he said.

However, Brian Allen of Andrew Levy and Associates in Sandton said the CCMA had been successful in solving at least 70% of cases.

"The pressure on them will grow in the coming months but so far, I believe, they have been doing a professional job."

"One has to take certain criticism with a pinch of salt because if a commissioner grants a case in favour of someone, he's regarded as good, otherwise, he's not. I am satisfied they have done a good job so far."

In a statement after its recent indaba in Johannesburg, the Congress of South African Trade Unions (Cosatu) said it was concerned about the heavy workload of the CCMA and also believed the commission could not deliver under a tight budget.

Cosatu has also commissioned research to check the competence of union organisers or the ability of shop stewards and factory managers to resolve mini problems without resorting to referring every small dispute to the CCMA.

PERSONAL VIEW

Italian lessons could help wage talks

ET (DR) 18/6/97 (151)

ALEX PESTANA

Some of South Africa's biggest unions and employers in the mining, motor, engineering and clothing sectors are about to enter into wage negotiations, or have just done so

As the new round of wage negotiations gets under way, it may be appropriate to remind negotiators that wage increases have a bearing on inflation, and it is vital the relationship is understood.

In particular, the idea of automatically linking wage increases to inflation has gained currency of late. In South Africa, past inflation has been the sacrosanct benchmark from which negotiators have departed.

Usually, the initial salvoes from labour would be pitched well above inflation, and management would counter with offers below inflation. Relative bargaining strength would then determine the settlement.

In countries that are in a more mature phase of bargaining, the practice of automatically linking wage increases to inflation is common. The practice is known as wage indexation and, if well implemented, can eliminate much grandstanding.

The problem with this far-sounding concept is that, in the absence of gains in productivity, it is practically impossible to break the inflationary cycle.

Indexation ensures that future inflation is determined by past inflation — a cartwheel embedding indelible tracks in the fabric of the economy. The only way to break the cycle is to drop the practice of looking at past inflation. In its place, the negotiators must bargain on the basis of expected future inflation.

This is precisely what transpired in Italy in 1993

The country's automatic wage indexation system — the "scala mobile" — was scrapped and a pact with unions tied wage rises to anticipated future inflation

This, together with new measures taken by the Bank of Italy, saw inflationary expectations driven out of the system. The positive results flowed quickly. Inflation dropped to 1,7 percent from 6 percent in late 1995, the premium rate of Italian over German bonds reduced from 6 percent in 1995 to 2 percent, and the economy is forecast to grow at 2,1 percent next year, as opposed to this year's 1 percent.

Lower bond yields and interest rates meant the Italian government could obtain cheaper financing today. In South Africa, where the interest rate bill on state debt consumes over 20 percent of the Budget, this would be a welcome spinoff since a saving on the interest bill would leave more money for RDP-related projects.

The benefits of the Italian experience should not be lost on us, although Italian medicine cannot be glibly prescribed for all. Driving the Italian resolve was an ardent national desire to become a founder member of European monetary union. No such imperative exists here.

Yet an attempt can be made. Labour's suspicions will first have to be allayed: the rumblings of labour against even the conciliatory tone of the growth, employment and redistribution (Gear) strategy and its social accord are understandable.

After all, the Italian benefits came at a price. For a while real wages dropped after indexation had been scrapped. Unemployment rose from 8,8 percent in 1992 to 12,2 percent today. The Italian option, in effect, nudged labour to underwrite the cost.

However, provided commitments are made, there are ways to establish bona fides on all sides. For instance, the agency doing the inflation forecast must be agreed upon.

This could be a sensitive issue because, apart from the normal risk, the forecast figure would be

a political powder keg. One way of defusing its explosive power would be to build a corrective clause into negotiations. Suppose actual inflation turns out to be 2 percentage points higher than forecast.

A clause in the agreement could automatically add 2 percentage points to wages before the next year's negotiations.

Naturally, this risks being inflationary when the forecast is low. But it is a risk worth taking, given the fortuitous secular downward inflationary trend in which we find ourselves.

Commentators on the labour scene have taken heart from recent figures on wage settlements. The average union-negotiated wage increases in the first quarter of this year amounted to 9,1 percent, compared with an average inflation rate of 9,6 percent. By contrast, increases in non-unionised, higher-skilled sectors have actually increased by an average of 12 percent, according to a survey of employment agencies.

This is seen by many as a realisation by labour that wage increases should be linked to productivity and not only inflation. Such an interpretation is hasty. Unions have been losing the bargaining power they once had.

Whatever the reasons for the lower settlements, under conditions of stagnant productivity it is impossible to see how inflation can be beaten if salaries and wages (which make up 58 percent of gross domestic expenditure) rise in keeping with inflation.

South Africans will have to buy into a co-ordinated strategy if they are to succeed. The idea is not without its pitfalls, but such an initiative might just prove the catalyst required to move the country into Gear.

□ Alex Pestana is an investment strategist at Capital Alliance Asset Managers in Cape Town

Commission expects flood of complaints

(151)

Star 16/6/97

Although the Commission for Conciliation, Mediation and Arbitration has resolved 77% of the cases it has considered since November, the next few months are set to bring a flood of applications which will provide a tough test to meet deadlines

Director Charles Nupen declared the commission's first six months a success but said the growing number of cases lodged was cause for concern

Last November the CCMA received an average of 56 cases a day and by the end of March, the figure had risen to 224. It received 110 cases a day in December, 140 a day in January and 206 a day in February. All in all, more than 19,000 referrals were received in the six months and 50% of these had been dealt with and closed.

The CCMA was set up in November under the new Labour Relations Act and has an operating budget of R120-million to improve worker relations, prevent labour disputes, settle workplace disputes, and help establish workplace forums. Employees unhappy with employers can seek help free of charge.

Nupen confirmed the commission had requested that parties agreed to extensions of time limits as the volume increased. "The major problem is based on our human-resources

capacity to process the mountain of applications."

Compounding CCMA's problems was the fact that a large number of parties who had sought help had not first attempted to deal with the problems in terms of agreed internal procedures. And incorrect referrals to the commission were another problem.

He said the CCMA currently had 80 permanent commissioners and a part-time roster of 200 with plans to employ another 42 on a full-time basis and expand the temporary staff base.

However, Nupen dismissed any suggestions that the commissioners were not sufficiently competent to handle the large volume of cases.

"Most are highly qualified and several of them have come from trade union and business backgrounds."

Commissioners and registry staff had undergone intensive training according to international standards, and their performance over the past five months had been impressive.

Nupen said the commission was braced for a surge in work over the next four months as wage negotiations take place around the country.

"Once we engage the services of more commissioners, it will of course increase our

ability to provide services countrywide."

Nupen said the CCMA was set up within a very tight timeframe but managed to recruit and train 400 employees in nine offices and a head office.

"In its early stages it is understandable there would be many teething troubles. Given the volumes, systems problems were being encountered in processing cases in certain areas, but these are being analysed and necessary corrective measures taken."

However, he said CCMA's success rate in resolving 77% of cases had surprised even himself.

"When we started, I thought that if we could double the 15% success rate of solving disputes under the old system, that would be good."

"What we have achieved has been impressive and compares with the best in international standards."

He cautioned that as the volumes increased, the percentage settlement rate could drop but said he was reasonably satisfied with the achievements.

"I am mindful of the problems which lie ahead and see them as challenges. We have a dedicated staff working under enormous pressure, but I am confident, with understanding from our users, we can negotiate these hurdles."

BT (BT) 29/6/97

Commission (151) shows its bite matches the law's bark

RAEL SOLOMON of The Labour Consultancy looks at how the CCMA is getting tough with employers

EMPLOYERS are fast learning to live in trepidation of the Commission for Conciliation, Mediation and Arbitration. Employers who ignore the implications of new labour legislation do so at their own risk. The ease with which employees may refer their disputes, usually for unfair dismissal, to the CCMA is having a real effect on how employers handle dismissal and is hitting them where it hurts the most, in their pockets.

The CCMA claims 80% of all disputes are resolved at the mediation stage — the main reason being the spectre of arbitration hanging over employers' heads as the next step to failed mediation. Employers must attend arbitration hearings or risk them proceeding in their absence.

Arbitration decisions handed down are final and binding and may not be appealed against, unless it can be proved that the commissioner was guilty of misconduct. An analysis of some decisions make for interesting reading.

Case 1

A R30-a-day, once-a-week domestic worker was summarily dismissed by her employer

after eight weeks. The employer claimed that the worker had stolen a petticoat, coffee mixer and two cups. She refused to pay her for the last four weeks she had worked (R120) and kicked her off the premises.

The employer did not turn up for the mediation process and was subpoenaed to attend an arbitration, which she also failed to attend. The hearing was held in her absence.

The commissioner found that the worker had been procedurally and substantively unfairly dismissed and said she was entitled to the maximum compensation she could impose. She was awarded 52 weeks compensation at R30 a week, a total of R1 560.

Case 2

The owner of a superette did not turn up for a conciliation hearing at the CCMA, nor for the subsequent arbitration.

The employee of the superette claimed that she had been dismissed because her employer had a fight with her husband. When the employer did not turn up for arbitration, the commissioner accepted the employee's version of what had transpired. It was found that the dismissal was procedurally and substantively un-

fair and an award of R2 800 in compensation was made.

Case 3

An employee claimed unfair dismissal on the grounds the employer had not held a formal disciplinary hearing. The commissioner disagreed, holding the view that too rigid procedural rules could be counter-productive. The feedback given to the employee had been informal but adequate.

The employee had been set a sales target for the three-month probationary period which she had accepted as being realistic. When she fell short of this target by the end of the second month she was dismissed. The commissioner held the view that the dismissal was substantively un-

fair because the employee was not given a fair opportunity to complete her probationary period and to show her full capability of meeting a performance standard. She was awarded one month's salary (R5 500) in compensation.

Dismissing employees in the probation period used to be relatively simple, but with new legislation employees' rights to fair procedures are not nullified during probation.

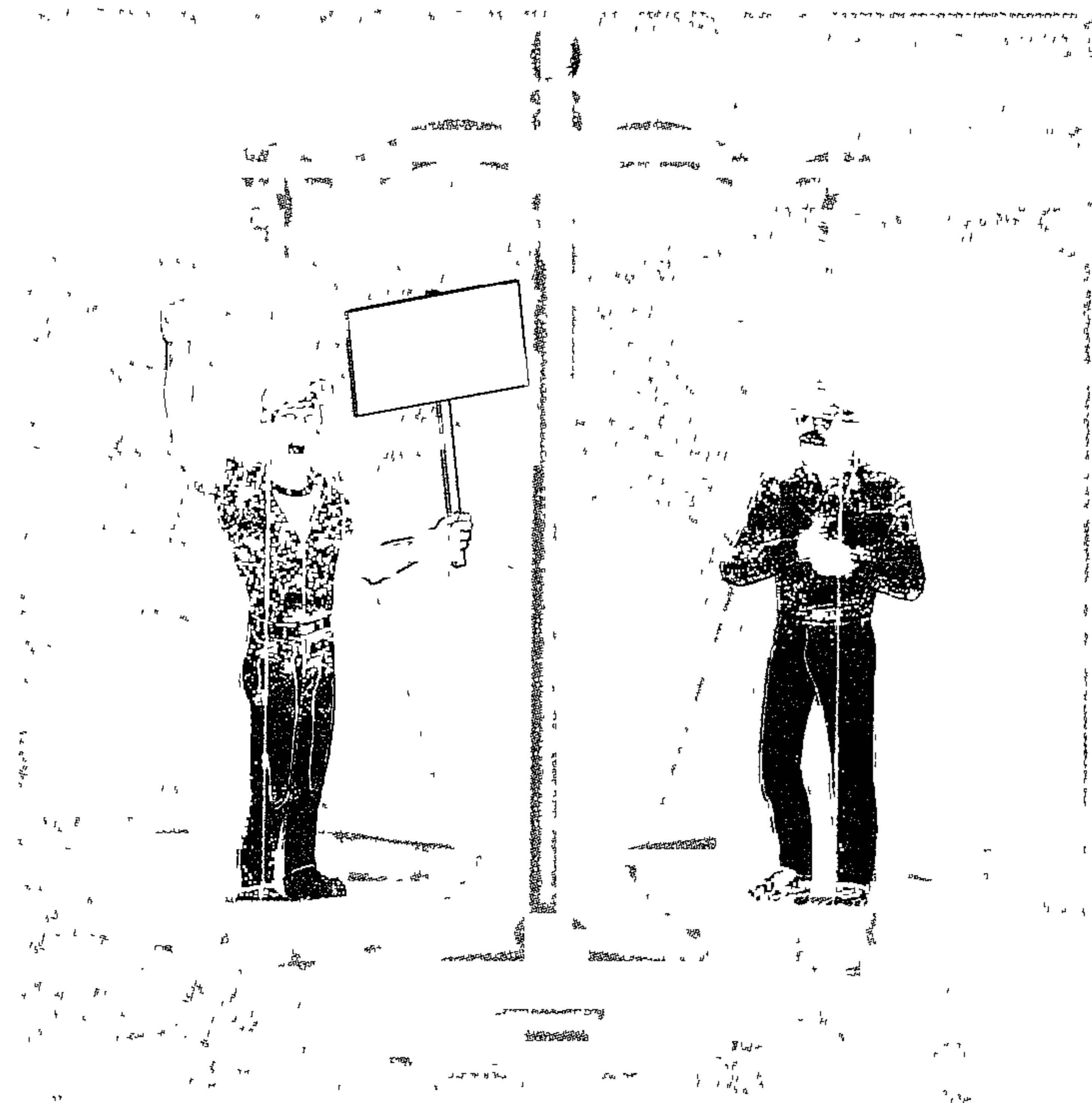
Case 4

The Act states that "if the dispute arbitrated is about the fairness of a dismissal and one of the parties has alleged that the reasons for dismissal relates to the employee's conduct or capacity the parties are not entitled to legal represen-

tation without the agreement of the commissioner and both parties."

In this case the applicant claimed unfair dismissal on the grounds that no full reason was given for his dismissal and requested that he be represented by an attorney. The employer objected to the employee having legal representation and the lawyer was allowed to participate only as an observer. The commissioner suggested that the parties resolve the dispute through conciliation. The employer finally agreed to two months' net compensation of R10 000 and to pay the tax on the settlement.

● *The Labour Consultancy offers a daily interactive labour service, Labour Guides, on Business Times' web site. Labour Guides can be found at www.btimes.co.za*



SAUJ ^(17/00) ₍₁₅₁₎ declares ^{Sowetan} dispute _{30/6/97} with SABC

By Sello Seripe

THE South African Union of Journalists (SAUJ) has declared a dispute with the SABC following management's alleged failure to consult with the union on a bona fide basis.

The union's general secretary Motsomi Mokhele said despite a collective agreement by the corporation and the union in accordance with the new Labour Relations Act to consult on a bona fide basis, the corporation continued to take unilateral decisions.

Motsomi said the declaration of the dispute was prompted by the SABC's failure to provide the union with timely and relevant information pertaining to about 1 200 proposed retrenchments. The union also accused the SABC of failure to enter into consultations over avoidance measures and the union's proposals on alternatives to retrenchments.

Since the recommendations of the McKinsey Consultants for, inter-alia, large scale retrenchments, a cloud of uncertainty has been hanging over thousands of workers as to what their fate will be. Motsomi said the final straw came when the union learned that management had been advising some staff members of their pending retrenchment. SABC spokesperson Marj Murray yesterday confirmed that the union had declared a dispute with the SABC.

Denying that the SABC was not consulting with the union, Murray said the SABC had engaged in negotiations with the SAUJ, Media Workers Association of SA and the Broadcasting Electronics Media Association Workers Union. She also denied that the SABC had advised some workers of their pending retrenchments.

Pharmaceutical industry faces CCMA

CT(BR) 30/6/97 (151) (3)

JONATHAN ROSENTHAL

Johannesburg — The Chemical Workers and Industrial Union (CWIU), with a claimed membership of 43 000, last week referred its wages and working conditions dispute with employers in the pharmaceutical industry to the Commission for Conciliation, Mediation and Arbitration (CCMA), a union spokesman said last week.

The union said it was

demanding a 15 percent wage increase against an employers offer of 9 percent.

It said employers had agreed in principle to a R2 000 minimum wage for the sector but wished to exempt five companies which would pay R1 800 a month. The union said it had rejected the proposal and demanded that the five companies phase in the required increases to bring minimum wages across the sector to R2 000

within the next year.

The union said other differences were its demand for a 40-hour working week and four months paid maternity leave. Employers have offered 3 months with 33 percent pay and the balance made up in benefits from the Unemployment Insurance Fund.

Employers had proposed a private mediation, "but that doesn't stop us from going ahead with consultation with the CCMA".

Chemical union dispute referred to commission

Reneé Grawitzky

BD 1/7/97 (151)

DISPUTES between chemical employers in seven sectors and the Chemical Workers' Industrial Union (CWIU) centre on a principle agreement for a 40-hour working week with the phased-in period open for negotiations and wage increases up to 15%

Chemical employers expressed frustration yesterday over the negotiation process, asking whether it constituted serious wage talks or part of the dispute over the Basic Conditions of Employment Bill, used to strengthen union federation Cosatu's hand.

The CWIU has declared a dispute around a minimum wage of R2 000 a month, a 40-hour working week and six months of maternity leave, four of which should be paid.

The union wanted a 40-hour working week to be phased in by 1999

The union announced at the weekend that more than 6 000 workers in the petroleum industry were gearing up for industrial action

An employer source said most employers paid way above R2 000 a month.

Disputes had been referred to the Commission for Conciliation, Mediation and Arbitration (CCMA).

Landmark decision on food, canning industry

'Tomato sauce, lemons not essential'

RR/1/7/97



(151)

THABO MABASO
BUSINESS REPORTER

A 38-year-old provision in the Labour Relations Act (LRA) that deemed tomato sauce and lemons to be essential foods and banned strikes in the food and canning industry has been lifted following a landmark decision by the Commission for Conciliation, Mediation and Arbitration (CCMA).

The CCMA's Essential Services Committee ruled last week that the sector did not constitute an essential service.

The decision was the first to be taken by the committee which was set up last year to rule on which sectors of the economy constituted essential and non-essential services.

The CCMA defines essential services as those which, if interrupted, would endanger the life, personal safety or health of the whole or any part of the population.

Committee chairperson Dhaya Pillay told Business Argus that investigations had failed to reveal what reasons there were in 1969 for deeming the food and canning industry to be an essential service.

"Nothing seems to make any sense. I think that it's quiet hilarious because some of the commodities they declared as essential include tomato sauce and lemon citrus," Ms Pillay said.

"Nobody is going to die if they have tomato sauce."

Ms Pillay speculated that their inclusion on the list of essentials may have been part of a plan by the previous government to stem political demonstrations, which trade unions seemed to spearhead.

"I suppose it was also a political decision to protect farmers from workers who wanted to strike," Ms. Pillay added.

The LRA stipulates that workers employed in essential services cannot strike and that disputes must be referred for arbitration.

A spokesman for Langerberg Foods, one of the biggest canning plants in South Africa, said the company would not be affected by the ruling because it had not used the provision banning strikes.

The Food and Allied Workers' Union could not be reached for comment.

The committee also ruled that the supply and distribution of petrol or other fuels to local authorities was a non-essential service.

The regulation and control of air traffic and the weather bureau, as a support service to air traffic control, have been declared essential services.

CCMA spokeswoman Happy Zondi said that the committee had also probed the supply of electricity, water and sanitation and firefighting to see if they were essential or not.

"The determinations with respect to whether or not these industries are essential will be published shortly in the Government Gazette," Ms Zondi said.

CCMA flooded with cases

BD 2/7/97

(151)

Réneé Grawitzky
 DISPUTES referred to the Commission for Conciliation, Mediation and Arbitration (CCMA) had continued to increase with the case load now exceeding 28 000, national senior commissioner Gavin Hartford said yesterday at the Engen Development Forum.

Addressing delegates on the new Labour Relations Act, Hartford said 70% of the commission's case load were linked to individual dismissal cases and not big industrial disputes.

The extent of the case load was reflected in Gauteng alone having hit its 10 000 mark last week.

One of the commission's concerns was that it was doing the work of trade unions by providing basic representation to workers on

the shop floor. Workers who had grievances were bypassing unions and going straight to the commission, he said.

The commission was unable to deliver in the area of dispute resolution and assist the parties in developing codetermination in the workplace because it was bogged down in trying to handle the excessive case load.

The commission, he said, had to be proactive in ensuring bargaining and statutory councils were trained in dispute resolution and accredited so that they could take the pressure off the commission.

Recently, the commission had facilitated the drafting of the constitution for the establishment of the Public Sector Co-ordinating Bargaining Council covering more

than 1-million workers

Meanwhile, management consultancy FSA-Contact said yesterday that the speed of the commission's process coupled with the high settlement success rate would encourage unions to declare disputes with employers more readily during this year's wage round than in the past.

FSA-Contact spokesman Paul Wigglesworth said SA should "brace for a wave of pay-related strikes" as the parties entered the wage negotiations season.

He said the majority of disputes referred to the commission to date related to individual unfair dismissals, but he expected this to change "as unions will be encouraged to refer pay disputes to the commission rather than continue with internal negotiations"

LEGALS & OFFICIALS
280-3225

MIDRAND TOWN COUNCIL
 HALFWAY HOUSE
 CLAYVILLE TOWN PLANNING SCHEME

Notice is hereby given that we, NEW TOWN ASSOCIATES intend to apply in terms of clause 18 of the abovementioned scheme the Midrand Town Council consent to use Holding

Wage deals in dispute

M+G (D/M) 4-10/7/97

(151)

Ferial Haffajee

GOVERNMENT has begun to reap the benefits of the new Labour Relations Act, with disputes increasingly being institutionalised. This has meant less action on the streets.

Andrew Levy & Associates says strikes for the first half of the year dropped by more than a third compared with same period last year.

Consultant Gavin Brown says "It's the first time in three years that the public service negotiations have gone into dispute, but otherwise it's normal for this time of the year." Most analysts suggest average increases will match current inflation of 9,5%.

This is the state of negotiations:

ENGINEERING

Workers: 1 285 000, of whom 278 000 are members of the National Union of Metalworkers of SA (Numsa).

Demands: An inflation-matched increase. The new demand for 9,5% is down substantially from the opening demand of 16% to 22%.

Offers: Employers have offered an 8% increase for artisans and 8,5% for other workers, up from the 7% offered during the last round.

Other demands: Numsa wants 200 hours paid training a year. Employers say this is untenable as it amounts to a month off every year for training.

Comment: Numsa and the employer body, the Steel and Engineering Industries Federation, are in dispute but negotiations are continuing.

MINING

Workers: About 300 000 workers

belonging to the National Union of Mineworkers (NUM), Mynwerkers Unie, two officials' unions and Electrical Workers Union.

Demands: NUM wants a minimum wage of R1 200 a month, while employers are said to have offered a minimum R1 000 a month to be phased in over three years and an average increase of 8%. The Chamber of Mines does not reveal its wage offer but discussions with its unions continue.

Other demands: Employers want greater union flexibility on Full Calendar Operations, which saves on working costs and boosts productivity.

PUBLIC SERVICE

Workers: 1,2-million, of whom 316 000 have declared a dispute.

Demands: The four Congress of South African Trade Unions-affiliated unions say government has committed itself to an inflation-busting increase, but has only offered 7,5%, while the government says its offer is 9%. Mediation will start soon.

In other notable settlements, about 65 000 workers in the tyre industry last week received an 11,5% increase, while clothing workers received 9,6%.

Numsa also expects a settlement in the auto-assembly sector, where a three-year wage agreement appears to be working well. Now De Beers is pushing for an agreement of the same duration to secure longer industrial peace. The dispute between De Beers and its trade unions, involving about 5 500 workers, of whom the majority are NUM members, was this week still before the Commission for Conciliation, Mediation and Arbitration.

Natyre labour dispute simmers

(151)

(151)

CT(BR) 8/7/97

JONATHAN ROSENTHAL

INDUSTRIAL EDITOR

Durban — Bridgestone, the Japan-based tyre multinational, faces its first significant labour dispute in South Africa just months after it bought Fedstone from Murray & Roberts for R290 million and announced a further investment of R220 million earlier this year.

The multinational group, which claims a 19 percent share of the international tyre market, was accused by its employees this week of unfair labour practices over the retrenchment of more than 30 people in Natyre, a tyre sales subsidiary.

Natyre employees, who declined to be named for fear of retribution, yesterday said they had not been consulted on a decision to close Natyre's administrative centre in Durban, and had been informed by memo that they would be retrenched

The memo said Durban's administration would be incorporated into the structures of Quality Tyres or Supa Quick, sister companies in the Fedstone group.

Benita Whitcher, a lawyer representing several of the employees, said the new Labour Relations Act required that any closures or retrenchments had to make business sense and that employers were obliged to discuss alternatives and means of mitigating the effects of retrenchments with affected employees.

"My clients are saying there was no need to retrench because they don't think there is an economic rationale to closing the administration centre. It was presented to them as a fait accompli with no consultation," she said.

Employees have also alleged that Natyre had charged certain group expenses to the Dur-

ban administration centre's account, making the Durban centre appear less economically viable.

Schimichi Matsunaga, the executive vice-president of the South African operation, yesterday said that the correct procedures had been followed.

"The management style of Murray & Roberts was to keep group companies separate and competing within the group. This seemed strange to us because we must be unified, otherwise we cannot survive in the future," he said.

The group was rationalising its operations to become the dominant tyre company in the domestic market.

Bruce O'Ehley, the managing director of Natyre, said the group had no choice but to restructure because it had lost R2 million in the four months to April. He also said correct procedures had been followed.

CCMA's good track record

(15) Sowetan 15/7/97

By Shadrack Mashalaba

OF THE 10 000 cases that the Commission[†] for Conciliation, Mediation and Arbitration had heard in Gauteng alone since last November, 68 percent were resolved, the CCMA announced yesterday

Addressing a media briefing in Johannesburg yesterday, CCMA convening senior commissioner for Gauteng Mr Gavin Hatford said since the commission opened its doors to the public on November 11, the success rate of the provincial organisation was phenomenal

He said since Gauteng formed the industrial nucleus of the country, it was not surprising that they had to resolve such a high number of disputes in such a short space of time

Hatford said 69 percent of the cases referred to the commission related to unfair dismissals. These were followed by cases involving unfair labour practices, matters of mutual interests, representing nine percent respectively, and unilateral change of conditions of employment at four percent

The sectors involved are commercial (with 19 percent of cases), food/beverages (11 percent) and the two sectors previously excluded from Labour Relations Act – agriculture and domestic affairs – represented four percent respectively

According to Hatford, 25 percent of the cases brought to the CCMA had not been attended to as the parties involved did not show up

10 000th case under new labour law heard in Gauteng

(151) CT (Mk) 17/7/97

FRANK NXUMALO

Johannesburg — The Gauteng provincial office of the Commission for Conciliation, Mediation and Arbitration (CCMA) said yesterday it had heard its 10 000th case under the new Labour Relations Act (LRA)

Gavin Hartford, a senior commissioner, said this figure represented 39 percent of cases handled by the CCMA nationally since it opened shop on November 11 last year

He said the trend in Gauteng was in line with the region being the industrial heartland of South Africa. Despite its massive workload, the CCMA had maintained a success rate of 68 percent

"Although the region had received in excess of 10 000 cases,

many of these had been wrong referrals," Bradford said, adding that the case load for the province was growing exponentially

"Under the old Labour Relations Act, the settlement rate was very low, varying between nought and 30 percent. A 68 percent settlement rate is high by world standards," Hartford said

Under the old act, disputes that could not be settled were referred to the industrial court and often took a year or more to be heard

"The time period from referral to conciliation was three weeks and from conciliation to arbitration was, on average, two months," Hartford said, referring to the new system

He said the majority of cases in the region, about 73 percent, in-

involved individual unfair dismissal dispute hearings for workers in the commercial distribution sector

These were followed by domestic workers, private security firms, the food and beverage sector, building and construction, and banking, respectively

He said the farming sector had hardly featured because there was insufficient knowledge about the services provided. "People in urban areas are the first to make use of the service," he said

A major challenge for the dispute body was to provide efficient service to the public to ensure disputes were heard timeously

Another was to sustain a high quality of settlements within the commission

CCMA orders (151) compensation

Sowetan 17/9/97

Sowetan Correspondent

THE Commission for Conciliation, Mediation and Arbitration (CCMA) has ordered a Johannesburg company owner to pay R500 000 to nine workers he sacked when he took over the company in October last year.

Labour observers said yesterday the outcome signalled the changing face of the South African labour scene. The award demonstrated that employers could no longer get away with arbitrary dismissals.

"There have been many retrenchment cases but these are controlled by strict procedures where employers are held to account. It is rare that you see a dismissal with such disregard for the law these days," one labour researcher said.

The CCMA was established in terms of the Labour Relations Act to adjudicate on labour disputes.

Referring to the case, CCMA director Mr Charles Nupen said it should be expected that commissioners would

rule decisively where they found unfairness. "I hope that the public becomes aware of the CCMA as a channel and through that we can infuse a greater degree of fairness into workplace relations," he said.

The former employees, who were all key members of Carephone 911, a security and emergency-related company, were awarded the amount for unfair dismissal. Carephone CEO Mr Brian Isaacs has been ordered to pay up by Saturday.

The CCMA found that the workers' dismissal and treatment by Isaacs, between November last year and January, was "apart from being unfair, nothing short of disgraceful".

One employee, the crisis control room operator who is also the sole breadwinner for his mother and grandmother, was awarded more than R81 000. He has not been able to find work since his dismissal, the court found, due mainly to the very specialised nature of his work.

● See page 7

Commission announces its 10 000th hearing

Bonile Ngqiyaza

THE Gauteng office of the Commission for Conciliation, Mediation and Arbitration yesterday announced its 10 000th hearing since its formation in November last year

At a briefing in Johannesburg, Gauteng convening senior commissioner Gavin Hartford said on average the region handled 39% of the national case load and maintained a provincial settlement

BD 17/7/97
rate of 68% in conciliations

Hartford released figures showing that 73% of the disputes handled were unfair dismissals, followed by cases of unfair labour practice (9%), matters of mutual practice (6%), severance pay (3%) and "other" disputes (9%)

Most cases were from the commercial and distributive sector, followed by the domestic sector, private security, food and beverage, the building and construction sector and banking and finance

(151)
He said it was likely that the commission would have to handle more than its projected case load — 40 000 cases — this year

Gauteng had 120 part-time commissioners, 28 full-time commissioners, and would take on 17 staff next month to be trained as commissioners. There were about 100 full-time staff members

While there was no breakdown of figures for the provinces, the commission was working on a R120m budget

Boss must pay sacked workers (151)

R500 000

CT 17/12/97
JOHANNESBURG The Commission for Conciliation, Mediation and Arbitration (CCMA) has ordered a Johannesburg company owner to pay R500 000 to nine employees he sacked when he took over the company last year.

Labour observers said yesterday the outcome signalled the changing face of the South African labour scene. The award demonstrated that employers could no longer get away with arbitrary dismissals.

The CCMA was established under the Labour Relations Act to adjudicate on labour disputes.

Referring to the case, CCMA director Mr Charles Nupen said it should be expected that commissioners would rule decisively where they found unfairness.

"I hope that the public becomes aware of the body as a channel and that we can infuse greater fairness into workplace relations," he said.

The ex-employees, who were all key members of Carephone 911, a security and emergency-related company, were awarded the amount late last month for unfair dismissal. Carephone chief executive officer Mr Brian Isaacs has been ordered to pay up by Saturday.

The CCMA found that their dismissal and treatment by Isaacs, between November last year and January was "apart from being unfair, nothing short of disgraceful".

One employee, the crisis control room operator, was awarded more than R81 000. He has not been able to find work since his dismissal, the court found, mainly because of the specialised nature of his profession.

The case was repeatedly postponed by Isaacs, who, ex-employees said, made every effort to intimidate CCMA commissioners and "squeeze out of his obligations".

In the final arbitration award, the commissioner wrote: "I have also taken into account the disgraceful manner in which Mr Isaacs has conducted Carephone's business since his 'take-over' at the end of October 1996, which I am told by all the employees has led to its downfall and has even contributed to its clients being placed in life-threatening situations."

Own Correspondent

Boss must pay fired workers R500 000

By ADAM COOKE

The Commission for Conciliation, Mediation and Arbitration (CCMA) has ordered a Johannesburg company owner to pay R500 000 to nine employees he sacked when he took over the company in October last year.

Labour observers said yesterday the outcome signalled the changing face of the South African labour scene. The award

demonstrated that employers could no longer get away with arbitrary dismissals.

CCMA director Charles Nupen said it should be expected that commissioners would rule decisively where they found unfairness.

"I hope the public becomes aware of this as a channel and through that we can infuse a greater degree of fairness into workplace

relations," he said.

The ex-employees, all key members of Carephone 911, a security and emergency related company, were awarded the amount last month for unfair dismissal. CEO for Carephone Brian Isaacs, must pay by Saturday.

The CCMA found their treatment and dismissal by Isaacs was nothing short of disgraceful."

Star 17/7/97 (151)

SA NEWS DIGEST

AGRICULTURE

CT (PDR) 18/7/97

Sugar wage stalemate referred to CCMA for 'speedy resolution'

The Sugar Bargaining Council said yesterday that it would refer the lengthy dispute that has shut down 14 refining and milling operations to the Commission for Conciliation, Mediation and Arbitration (CCMA).

This move comes after the failure between unions and management yesterday to sign a draft agreement as the strike entered its third week. Eric Botha, a union spokesman, said members had indicated they were "neither overwhelmingly positive nor negative" about the offer spelled out in the agreement. He said CCMA would be brought in for a speedy resolution of the dispute.

The draft agreement said employees would be offered an 11,5 percent wage increase, backdated to April 1. This differed from the previous offer of 11,5 percent backdated to June 1 with another 2 percent increase to come in October. Sugar cane cutters and farmers entered the debate yesterday, saying they had had to lay off hundreds of workers because of the strike. — *Ravin Maharaj, Durban*

~~(S)~~ (151) ~~(152)~~

Workers win case but no back pay

By Abdul Milazi

WHEN the 177 Supreme Springs Systems workers who were unfairly dismissed in 1992 won their case in the Industrial Court last Friday, all they got was their jobs back.

The judgment, while significant in that it comes about five years after the dismissals, highlights an important shortcoming of the old Labour Relations Act which fell away with the promulgation of the new LRA in November 1995.

Had the order been granted in terms of the new law, the unfair dismissal ruling would have entitled workers to a maximum compensation of 24 months' pay.

The Nigel-based engineering company dismissed the workers, all members of the National Union of Metalworkers of South Africa, for allegedly taking part in an illegal strike in 1992.

Workers took the matter up with the Industrial Court.

Advocate Etienne Nel who presided over the case, ruled that they were unfairly dismissed and ordered their reinstatement. Workers are expected to report for work by September.

To Numsa's dismay, Nel made no order for compensation, back pay or for the company to pay workers and the union their legal costs.

Back pay

According to industrial relations expert Gavin Weiner, the dismissal of workers participating in a legal strike is automatically regarded as unfair. This then entitles workers to a maximum of 24 months back pay.

Defence attorney Nicky Howard of Cheadle, Thompson and Haysom, who represented the dismissed workers, said the reinstatement order was a major victory for workers "after such a long time".

She said the strikers were not compensated because their case was lodged before the new law was promulgated.

It was therefore heard in the old Industrial Court under the old LRA. Howard said the new legislation did not have jurisdiction over cases lodged before its promulgation.

Supreme Springs System manager Louis Kap refused to comment on whether they would take the workers back or appeal against the order. "We will not make any comment at this stage because we are still consulting our legal team on the matter".

Nel was said to be in London and therefore not available to explain why he did not award compensation equivalent to six months back pay as provided for in the old LRA.

Numsa general secretary Mbuyi Ngwenda said: "In as much as we welcome the court decision, we are nevertheless perturbed that the order failed to give compensation to workers".

Sugar strike may end after efforts by labour body

Nicola Jenvey

(151)
DURBAN — A crippling 19-day sugar industry strike is due to end today after more than 4 500 workers agreed to return to work following intervention at the weekend by the Council for Conciliation, Mediation and Arbitration (CCMA) 60 21/7/97

However, the strike could result in lost revenue of millions of rands for SA's sugar industry.

The 14 mills and refineries affected by the strike will be fully operational by tomorrow.

Employer representatives and the five trade unions reached an agreement on Saturday over wage increases after a fortnight of meetings.

Trade union spokesman Eric Botha said the resolution "should have happened far sooner" and that the CCMA had played a pivotal role in resolving issues which had caused the strike.

The agreement is for an 11,25% increase backdated to April 1. This will be followed by a 2% increase from December 1, effectively increasing the base margin by 13,25%.

The workers had initially demanded a 20% across-the-board rise.

Milling and Refining Employers' Association chairman Bheki Sibiyá declined to estimate losses incurred during the strike, saying that the 100 000 tons of cane cut and awaiting crushing retained "a fair degree" of sucrose.

He said that the lost capacity could be recovered by extending the crushing season beyond Christmas and that the sugar stockpiles had been sufficient to continue supplying orders.

Sibiyá said the increase did not realistically close the wage gap between sugar industry employees and those in other agricultural businesses. The trade unions would resume efforts to bring the industry in line when negotiations started for 1998/99, he said.

A merit increase system would be reviewed by management and shop stewards while Tongaat-Hulett and Illovo Sugar were committed to restructuring employee grades and had undertaken to provide the appropriate training to remove the A1 grade level.

CT(MR) 21/7/97 (151) (152) ~~SUGAR~~
Sugar not crushed by three-week strike

RAVIN MAHARAJ

Durban — The sugar industry was expected to "recover rapidly" from the three-week strike to complete its crushing season this year, analysts said on Friday

But they said the cost of funding backdated pay increases, the "knock-on" effect of the strike on downstream industries and restructuring necessary after the strike, would put a damper on company earnings for the year

The strike, which shut down 14 milling and refining operations, ended on Saturday after marathon mediation talks between Tongaat-Hulett, the diver-

sified sugar and industrial group, Illovo Sugar, the sugar producer, and the five unions in the Sugar Bargaining Council

The council had referred the lengthy dispute to the Commission for Conciliation, Mediation and Arbitration (CCMA) late last week

Eric Botha, a Sugar Bargaining Council spokesman, said yesterday that Eugene van Zuydom, a senior commissioner affiliated to the CCMA, had come up with an offer that both sides "could not refuse"

The parties, he said, had settled on a 11,25 percent increase, backdated to April 1, with a fur-

ther 2 percent increase effective from December 1 this year. Outstanding issues would be dealt with at a corporate level

Botha said about 4 500 workers would return to work tomorrow. Cane cutters, farmers and haulage companies would also resume production

The sugar industry — which earns foreign exchange of more than R1 billion — exports to 27 countries and last year enjoyed a healthy sugar crop of 2,25 million tons

Management had entered the weekend talks offering an 11,5 percent increase effective from June 1 with a further

2 percent increase from October 1. The Sugar Bargaining Council wanted an 11,5 percent increase backdated to April 1 with another 2 percent from April 1

The unions represented in the Sugar Bargaining Council were the National Employees' Trade Union, the National Industrial and Commercial Workers' Union, the Food and Allied Workers' Union, the National Sugar and Refining and Allied Industries Employees' Union and the South African Electrical Workers' Association

The five unions represented 80 percent of the workforce in the sugar industry

□ MEDIATION

CT (PR) 23/7/97

(151)

CCMA director to resume contract with ILO

Charles Nupen, the incumbent director of the Commission for Conciliation, Mediation and Arbitration (CCMA), will be leaving the commission at the end of October to resume his contract with the International Labour Organisation (ILO), a spokesman for the department of labour said yesterday.

The spokesman said the ILO had seconded Nupen to the CCMA on a short term contract when the dispute resolution body was inaugurated in November last year. The department added that the CCMA governing body will soon advertise for the post of a new CCMA director and that Tito Mboweni, the labour minister, had expressed his "appreciation for the work done by Nupen and wished him well in his ILO responsibilities."

"Since it was established, the CCMA has played a significant role in resolving workplace disputes and increasing the settlement success rate to 70 percent from around 20 percent under the old system. However its impact outside major centres has been questioned by labour consultants, as has its ability to solve major disputes. — Frank Nxumalo, Johannesburg

Nupen returning to world body (151)

PRETORIA — Charles Nupen, the current director of the Commission for Conciliation, Mediation and Arbitration (CCMA), will leave the organisation at the end of October to resume his contract with the International Labour Organisation, the labour ministry said yesterday.

The ILO released Nupen to take up a short-term contract with the CCMA when the new Labour Relations Act es-

tablished the dispute-resolution body last November, the ministry said

The ministry said that Nupen's successor would inherit an efficient dispute resolution organisation with competent commissioners, case and administrative staff in all provinces.

Labour Minister Tito Mboweni expressed his appreciation for the work done by Nupen and wished him well in his ILO responsibilities — Sapa.

BD 23/7/97

Good wage talks season

(151) Semetan 23/7/97

By Abdul Milazi

SOUTH Africa's traditionally strike-prone wage bargaining season has ended with almost all major negotiations resolved, prompting industrial relations experts to predict a relatively stable third quarter

Andrew Levy and Associates' Jackie Kelly says strike figures for the first nine months of this year may end up being even lower than the total for the same period in 1996, when 1 350 million workdays were lost

The past two weeks have seen settlements being reached in major industrial sectors, including gold min-

ing, steel and engineering as well as clothing and textiles. Together these sectors employ more than half a million workers. Kelly also says it is just a matter of time before the coal mining talks are resolved.

While there is overall consensus that this signals an increasingly mature approach to wage bargaining, some industrial relations analysts warn that the unresolved Basic Conditions of Employment Bill talks still hold the potential for further labour unrest.

Lower strike activity in the third quarter will signal a continuation of the downward trend noticed in the first

two quarters of this year.

According to Kelly, 260 000 workdays were lost because of industrial action in the first six months of the year, compared to 400 000 in the same period last year, while 1995 saw 1,2 million workdays being lost in

the same period.

Kelly says the number of workdays lost this year are the lowest since 1991 when 375 000 days were lost through strikes.

The settlement in the steel and engineering sector is one of the most significant because negotiations revolved around training for workers, a demand which formed part of the National Union of Metalworkers of South Africa's fight for what it calls a social wage.

Clothing and textile is another major sector that settled last week, while the strike by about 2 000 workers in the sugar industry was settled at the weekend with the assistance of the Commission for Conciliation, Mediation and Arbitration (CCMA).

Joe Campanella of Weimer-Campanella says the early settlement in major sectors show a mature approach to wage talks by negotiators. "Parties are now coming to negotiations well prepared," he says.

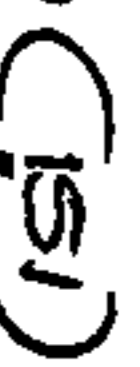
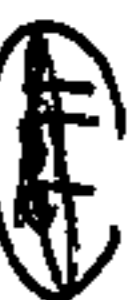
CCMA chairman Charles Nupen says it is encouraging to see major sectors settling without the assistance of mediation or arbitration. Nupen, however, warns that the Basic Conditions of Employment Bill provides a potential for conflict.

However, Carol Allais of the University of South Africa's industrial relations department, differs, saying the industrial climate cannot be easily predicted.

Western Cape makes new LRA history

Building industry bargaining council agreement a first

ACT 24/1997



THABO MABASO
BUSINESS REPORTER

The Western Cape has become the first province in the country to have a bargaining council agreement approved in terms of the new Labour Relations Act (LRA) by Labour Minister Tito Mboweni.

The approval this week means that the Western Cape-based Bargaining Council for the Building Industry, will go down in history as the first to have its collective agreement published under the new LRA. The Ministry of Labour said in a state-

ment that it would extend the agreement to cover employers and employees who are not part of the council. The council registered with the ministry last year.

The agreement is effective for two years and covers areas such as working conditions and terms of employment. Four trade unions and two employers' organisations have signed the agreement.

The ministry said the trade unions represented about 73% of workers falling within the council's scope, while the employer parties provided work for about 76% of the workers. Construction and Allied Workers'

Union (CAWU) regional organiser Lulamle Mqikela said an allowance for employees doing dangerous work had been established in terms of the agreement.

Another allowance for employees who were required to go away for periods to perform jobs had also been established, he said.

"We have also agreed to pay workers a retrenchment package, which would be one week's pay for each completed year of service," Mr Mqikela said.

Other issues that were still being discussed by the council included the establishment of an Increment Weather Fund, to

enable workers to be paid when they were unable to work due to the weather, and the setting up of a provident fund.

Mr Mqikela said the current agreement replaced one that had been in force since 1921.

"The previous one had problems and discriminated against workers on racial grounds. It also was restrictive and exhaustive," he added.

Master Builders' and Allied Trades' Association president Jonathan Mitchell described the new agreement as "revolutionary and likely to make for better communication".

"Previous documents were very authoritarian and dictatorial and attempted to categorise people so that they could only do certain work. The new agreement is far less restrictive and will allow the employer to use his labour more productively. The only condition will be that he pay the required rate," Mr Mitchell said.

He praised the trade unions for putting the interests of their members and the industry first.

"We believe that the new document will give us a far more stable workforce, that was one of the prime objectives in drawing it up," Mr Mitchell said.

'Bogus' unions undermine Act

Mtq (Bm) 1-7/8/97 (151)

Labour courts are being jammed by people using loopholes in the new Labour Relations Act to reap financial benefits, reports **Charlene Smith**

SOUTH AFRICA'S new labour legislation has placed huge caseloads on its various judicial bodies — and created new opportunities for slippery labour analysts and lawyers.

Since the new Labour Relations Act came into effect on November 11 last year, 121 trade unions have been registered and 48 employee organisations — many of them bogus and deliberately created to gain access to thousands of potentially lucrative cases before the Council for Conciliation, Mediation and Arbitration (CCMA).

In all there are presently 403 trade unions and 247 employee organisations. The plethora of bogus unions some with names similar to those of existing trade unions has led to at least three cases being filed against the Registrar of Trade Unions in Pretoria by existing unions to get the new names struck off the register.

A source in the registrar's office said: "We are digging ourselves deeper and deeper into a mess. The Act says we must register a union if it gives us the inaugural minutes but we know many are not bona fide. We have one union that has submitted no financial statements since 1992 but we cannot compel it to do so. We try and get unions to give different names but so many are registering it is getting difficult."

New unions registered in the last year include "The National Entitled Workers Union", "Simunye Workers Union", "Thor Transport and General Workers Union", "Nationwide Employers Union" and "United Chemical Industrial and Allied Workers Union."

Minister of Labour Tito Mboweni says: "Many consultants are registering themselves to gain special access to the CCMA. There are even instances where an individual consultant registers both as an employer organisation and as a union and then outs for business outside the council signing up complainants at the door. This defeats the purpose of the Act." Mboweni is investigating the matter further.

Charles Nupen, director of the

CCMA, said it was seeking to interpret section 135 (4) which relates to conciliation and excludes third parties such as lawyers or labour analysts consistently throughout the commission.

He said it knew some parties were attempting to represent parties before the commission "under the guise of officials assisting employees or employee organisations or trade unions. In these cases we seek to identify their bona fides and if we cannot establish them in our view we exclude those persons from proceedings. We have the full backing in this of the CCMA governing council which includes business, labour and government."

The CCMA nationally has heard just under 10 300 cases. While labour consultants and labour lawyers could present matters before the old Industrial Court at all stages they do not have the same rights in terms of the Act, and some lost lucrative sources of revenue.

A Department of Labour official points out that the purpose of the Act was to try to strengthen and rebuild employer/employee relationships at conciliation, "but the purpose of this is defeated when there is a third party who has a financial interest in the outcome." In some instances labour lawyers or consultants have registered as directors of their clients' companies to try to subvert the Act.

Mboweni notes that about two-thirds of matters brought before the council are resolved in the earliest stages of the process. He says the more effective settlement of disputes "is a major contribution to labour market stability and equity [and] has saved the economy millions."

However, labour analysts believe this honeymoon is fading, with bustiness becoming increasingly reluctant to pay workers sacked for misconduct, such as theft, being drunk on the job or assault (a significant number of cases). "While employers have tended to pay, say, three months wages rather than go through a costly and time-consuming litigation process, some companies are adopting a harder attitude and this is likely



Tito Mboweni investigating abuses of the new Labour Relations Act

PHOTOGRAPH: SIDDIQUE DAVIDS

to form the basis of a new trend," says a prominent labour official. Behind the scenes, judges and commissioners are complaining of inadequate back-up from the Department of Labour in eliminating huge caseloads. The old industrial court in Pretoria as an example has said it will never meet its April 30 deadline next year for closure despite clearing an average of a thousand cases a month off its roll.

Judge Mohammed-Ameen Bulbulia, who heads the industrial court, says the 10 500 cases waiting to be heard in April had been reduced by a thousand in May and was down to 8 677 in June. This reflects remarkable work by his staff of 30 or 40 presiding officers "against 300 a year ago."

"Our budget has also been cut from R31-million to R23-million, and it has been very difficult to keep officers who earn only R648 a day here

with R81 an hour for preparation and the writing of judgments compared to R1 500 a day and R600 for the writing of judgments for CCMA commissioners," Judge Bulbulia said. "The minister has said he wants this court closed by the end of April next year but I do not think that will be feasible before the end of 1998."

Old court venues are closing around the country and their case loads are transferred to Pretoria and are heard by circuit presiding officers.

The new labour court is already preparing itself for an expected deluge of new cases that will put pressure on its five judges. Although there is a narrow review base for matters to go before the labour court — with only 16 reviews presently pending before it from the CCMA — the court and its five judges are kept very busy mostly with urgent appli-

cations relating to strikes. One judge each month spends his time travelling from one metropole to another — Cape Town, Port Elizabeth and most often, Durban to hear matters.

There are also two judges on permanent after-hours standby for urgent applications and they too have found their schedule is often hectic.

As an example Judge Ray Zondo heard an urgent application in Cape Town last Sunday and was in Durban on Monday for another urgent matter.

Judge JP Myburgh, judge president of the labour court, says that at this stage there is not enough work to justify a full-time judge in any of the other centres but he foresees a situation, possibly some time next year when an increasing labour court load could begin placing serious pressure on the existing judges and the three new judges to be appointed in October.

Non-urgent matters take time to filter through the council and by the end of the year we should see pressures begin increasing on the labour court and the labour appeal court. Our fear is that we could be hit with an avalanche of reviews when the present high settlement rate begins dropping, which it inevitably will.

Judge Myburgh said the difficulty with urgent matters was that they had to be decided quickly "but because it is a new Act the judges have no precedents to rely on. They have to motivate very carefully because the legal fraternity and others monitor judgments very closely and use them to interpret labour legislation."

The majority of cases heard by the Johannesburg-based Labour Court have been urgent applications. Only three labour appeals under the new Act have been heard since the court began functioning late last year and all resulted from urgent applications two involving the same company Ceramic Industries Limited and the National Construction, Building and Allied Workers Union.

The labour appeal court also hears appeals from the industrial court arising from judgments given since the new Act came into effect on November 11 last year.

It is expected that some 200 to 300 appeals will come before the labour appeal court from the backlog being ploughed through by the old industrial court.

WS

Numsa halts motor sector talks

ET (BR) 8/8/97

(151)

FRANK NXUMALO



IMPASSE Mbuyiselo Ngwenda, the general secretary of Numsa, wants negotiations broadened PHOTO JOHN WOODROOF

Johannesburg — The National Union of Metalworkers of South Africa (Numsa) had declared a dispute with the South African Motor Industry Employers' Association (Samiea) after wage negotiations reached an impasse, Mbuyiselo Ngwenda, the union's general secretary, said yesterday.

The dispute is in the motor sector, and all other sectors have reached agreements. But Ngwenda said the union was mobilising all its members towards a national day of action on September 9 in support of the motor workers.

He said the impasse was caused by Samiea's insistence that "only wages should be the focus of negotiations" as apparently set out in the industry's main agreement. A main agreement is one reached in the industry bargaining chamber.

"This is strange and ridiculous," Ngwenda said. "Main agreements can be changed, and we have rejected this argument as just another delaying tactic. We demand that wage increases be on actuals and not on minimums."

As a result of the dispute, Samiea has suspended discussions and is seeking a labour court declaration on the interpretation of

wage negotiations in the industry, as set out in the main agreement.

Hosea Morapedi, the union's motor sector co-ordinator, said Samiea had rejected Numsa's demands for an end to wage disparities between rural and urban areas. Lower-grade workers in a small town are paid differently from workers of the same grade in big cities.

He said Samiea was also resisting the transformation of the workplace and the general improvement of pay packets.

Numsa wants wage increases between 9,5 percent and 15 percent, depending on the worker's grade, regardless of whether the workplace is in a rural or urban region. At present, grade 1 urban workers earn R3,52 an hour and their rural counterparts R2,64. Grade 8 workers (artisans) earn R13,33 in all areas.

Victor Fourie, Samiea's executive director, said the dispute was not about the extent of the wage increase but about the basis of negotiations.

"The reason for the dispute is that in terms of the main agreement discussions should be on minimums and not actuals, which are the subject of shopfloor deliberations. We are seeking labour court interpretation on wage negotiations," Fourie said.

Labour law late for work in court battle over pay cut

(151) ST 10/8/97

Judge rules that company can't lock out individuals

CAROL PATON

WHEN sales executives Caron Schoeman and Ingrid Rossouw were told by their employer, electronics giant Samsung, that their sales commission was to be cut by more than half they were shocked.

Rossouw had worked for the company for 14 years and Schoeman for five. Both had been top performers, and believed they had an exciting future with the company.

But even more surprising was the company's response to their objections — they were locked out of the premises until they agreed to consent to the new commission structure.

The battle over their reduced earnings, which they say amounted to a loss of R42,000 a year

each, sent Schoeman and Rossouw on a labyrinth journey through South Africa's labour relations system. But after five months and plenty spent on lawyers fees, they have yet to find a remedy for their problem.

"It has been absolute hell," said Schoeman, a divorced mother of three. Her ordeal began in February, some six months after Samsung, a Korean company, bought out James Ralph, a local company which had been the sole agent of Samsung products.

"We were told that everything would remain the same. Then in February, when they announced our packages for the new year, our commission was changed from 0,5 percent to 0,23 percent. I had three meetings with management and I was told that we had been receiving windfall earnings in the last six months and they were simply correcting the situation," said Schoeman.

But she refused to agree to the reduced package. The next day she filed a dispute with the Commission for Conciliation, Mediation and Arbitration in Johannesburg — the body set up by the Labour Relations Act to settle disputes between employers and employees — arguing that Samsung had unilaterally changed her conditions of employment.

"At the meeting I gave my case. But Samsung did not. They said in their opinion conciliation had failed and that, therefore, they had the right to lock me out," said Schoeman.

Samsung ordered Schoeman to return her company cellphone and petrol card and told her that she was not entitled to enter the premises. Attached to the notice of her lockout was an agreement accepting a lower commission. If she signed it, the lockout would be revoked.

At the same time, her colleague Rossouw was also locked out. Rossouw, who also objected to the lower commission, had lodged a dispute with the CCMA after being suspended by the general manager, Antony le Roux, without being given a hearing.

Rossouw, who had won a number of sales awards during her time with the company, said that Le Roux suspended her after she argued with him after work one day about being paid late in January. But the CCMA lost Rossouw's file and as a result her case was never heard.

Rossouw was locked out without any attempt having been made to conciliate



AN UNCERTAIN FUTURE: Caron Schoeman and Ingrid Rossouw. Picture: ELIZABETH SEJAKE

her case at the CCMA, something which, according to the Labour Relations Act, must be done before an employer can resort to a lockout.

"If you consider the length of time I had worked there, this (the lockout) was such an insult," said Rossouw. "For 14 years I had helped to build the company. It was a hell of a blow to me."

Schoeman said "We couldn't look for other jobs because we were still employed by Samsung. And we weren't prepared to resign and let them get away with it. So by the time it came to the lockout, we were faced with the choice of leaving the company or fighting it."

The two then joined forces and applied to the Labour Court for a ruling on the lockout and on their decreased commission. However, the day before the court hearing, which took place in May, Rossouw's lockout was revoked, she was paid on the reduced commission scale and told to report for work.

At the same time that the case came before the Labour Court, the CCMA notified Schoeman and Samsung that their case would now be arbitrated, which is the next step in an individual dispute after conciliation.

But, hoping that the Labour Court would settle the matter, Schoeman and Samsung agreed to postpone the arbitration and went ahead with the case.

But by opting to go to the Labour Court instead of persisting with arbitration through the CCMA, Schoeman, who had been locked out for two and a half months without pay, became an unwitting victim of the system.

Judge Elna Revelas dismissed the case, saying that the court did not have jurisdiction to rule on a "monetary matter." But she did note in her judgement that it was illegal to lock out a single employee.

As a result, Schoeman was allowed to go back to work on June 23 and was eventually paid for the lockout period. But she was told that both she and Rossouw were to be retrenched a month later because Samsung could no longer afford to employ them.

This week Schoeman and Rossouw went back to the CCMA offices, where they lodged papers contesting the legality of their retrenchment, arguing that no documentary proof had been provided by the company.

Samsung refused to comment on the dispute.

WIKKELING

NEWS

STRIKES Commission for conciliation will attempt to resolve wage

More mediation at Beacon

CT(BR) 12/8/97

dispute
CT(BR)
(151)

RAVIN MAHARAJ

Durban — The Commission for Conciliation, Mediation and Arbitration (CCMA) would today contact Beacon Sweets and Chocolates and the Food and Allied Workers' Union (Fawu) in an attempt to resolve the wage dispute, Beacon said yesterday

But a company spokesman said no date had been set for talks. The strike, which today enters its 26th day, has cost 2 300 workers R6 million in lost wages

A marathon seven-hour meeting between Beacon's management and the union, and the earlier intervention of the CCMA, have as yet failed to resolve the strike

A spokesman said, in addition, Beacon had been plagued

by two hijackings and an armed robbery in Gauteng last week. Product, computer equipment and a vehicle — with a total value of more than R500 000 — were stolen in three separate incidents

A company spokesman said the company had plans to ensure the distribution and manufacture of products with temporary labour. He said a steady stream of workers had begun to return to work in their individual capacities

On Friday, the company announced it had secured a significant export contract despite the strike

Arnold Zulman, the chairman of Beacon, said the union was using the protracted strike as a bargaining chip for Cosatu on the proposed Basic Conditions of Employment Bill

Responding to the union's open letter sent to him last week, Zulman said the union was conducting its activities in conjunction with Cosatu's "lobbying activities in the corridors of power"

At the start of the strike, the union was demanding a 12 per cent across-the-board increase — Beacon offered 10 percent — a 40-hour work week and the scrapping of performance-related pay for salaried staff

The strike enters its 26th day today and has cost 2 300 workers R6m in lost wages

Beacon dispute goes to the CCMA today

RAVIN MAHARAJ

(151) (151) (151)

Durban — The Commission for Conciliation, Mediation and Arbitration (CCMA) meets Beacon Sweets and Chocolates and the Food and Allied Workers' Union (Fawu) today in an attempt to end the strike, Beacon said yesterday.

A company spokesman said yesterday that Beacon had been plagued by a dramatic increase in incidents of intimidation and violence at the company's factory in Mobeni near Durban.

The spokesman said Beacon had sent a letter to Fawu expressing concern at the increase in incidents of violence.

"We have warned the union that its members must refrain from carrying dangerous weapons while picketing, or else face legal and/or disciplinary action."

In separate incidents at the Mobeni factory, police said an employee was injured when his Durban home came under fire from unknown gunmen. Seven people were attacked — and some beaten — by striking workers while on their way to work. In another incident a striking worker, armed with a home-made axe, tried to assault people who were seeking work at the factory, was arrested.

The spokesman said striking workers armed with sjamboks also attacked two women, who were treated on factory premises.

Vish Naidoo, a South African

Police Services spokesman, said police were investigating several cases of attempted murder. He said all incidents of violence reported by Beacon would be investigated.

In addition to the latest incidents, Beacon had been plagued by two hijackings and an armed robbery in Gauteng last week.

Product, computer equipment and a vehicle — with a total value of more than R500 000 — were stolen in the three separate incidents. Police had identified three suspects in these incidents.

Fawu could not be reached for comment yesterday.

Marathon meetings between management and the union, and the earlier intervention of the CCMA, have as yet failed to resolve the strike, which enters its 27th day today. The strike has cost the 2 300 workers R6 million in lost wages.

Beacon said it had made plans to ensure the distribution and manufacture of products with temporary replacement labour. Last Friday the company announced it had secured a significant export contract despite the strike.

At the start of the strike, the union was demanding a 12 per cent across-the-board increase —

Beacon offered 10 per cent — a 40-hour work week and the scrapping of performance-related pay for salaried staff.

CF (BE) 13/8/97

Commission to supervise Beacon talks

Nicola Jenvey

BD 13/8/97
DURBAN — Beacon Sweets & Chocolates management and the Food and Allied Workers' Union (Fawu) will enter another round of talks today under the supervision of the Commission for Conciliation, Mediation and Arbitration, as the strike by more than 2 300 employees enters its 28th day

Beacon has reported "a dramatic increase" in intimidation and violence

~~151~~ ~~151~~ ~~151~~ (151)
related to the strike. A Beacon spokesman said management had sent a letter to Fawu expressing its concern. The company has warned the union that its members must refrain from carrying dangerous weapons while picketing or face legal and disciplinary action.

Last week the company lost more than R500 000 in products, computer equipment and vehicles in three separate episodes in Gauteng. The police yesterday identified suspects.

SA invited to become member of Permanent Court of Arbitration

Deborah Fine

(151)
BO 28/8/97

SA HAD been invited to become a member of the international Permanent Court of Arbitration (PCA), the justice department said yesterday

The invitation was extended to Justice Minister Dullah Omar by the International Court of Justice's Judge Bola Ajibola after his visit to SA earlier this year

The court is situated at the Hague, in the Netherlands, and offers member countries mediation, arbitration and conciliation mechanisms to settle international disputes.

Ajibola, who is also the president of the Pan African Council of the London Court of International Arbitration, said that by agreeing to accede to the 1907 Convention for the Pacific Settlement of International Disputes, SA would demonstrate its willingness to resolve interstate disputes, as well as those between states and private individuals, on the basis of respect for law.

Membership, however, would not result in the mandatory submission of disputes to the court

This could be done only with the consent of the disputing parties, either by treaty, contract or ad hoc agreement

He said that by acceding to the convention, SA would also gain access to the facilities and staff at the court's international bureau. Membership would cost SA \$4 350 a year

A justice department spokesman said that SA was considering membership of the court, and that his department and the foreign affairs department would make presentations to Cabinet in this regard once the process of consulting interested parties — including the business sector — had been completed

Farouk Chothia

Commission backs union officials' right to access

DURBAN — The Commission for Conciliation, Mediation and Arbitration (CCMA) has ordered the University of Durban-Westville to partially lift banning and suspension orders on two union officials so that they can act on behalf of the union on the campus.

The affected union, the Combined Staff Association (Comsa), represents about 70% of employees at the university. Comsa hailed the ruling as "progressive", saying that the new Labour Relations Act had "fundamentally altered the common law rights to private property of employers".

The university had suspended staff member and Comsa office bearer Prea Banwari pending the outcome of a disciplinary hearing into claims that he had been involved in acts of serious misconduct during campus conflict.

Heinrich Bohmke, a Comsa full-time organiser who was not a university employee, was banned from the campus on the grounds that he was an "undesirable person", a decision reached on the findings of a government-appointed commission of inquiry into campus conflict.

Comsa challenged the decision, saying the two union representatives were entitled to enter university premises to

conduct their official union duties. In preventing Banwari and Bohmke from doing so, rights conferred to the union in terms of the Labour Relations Act had been breached. The two wanted to attend the union's annual general council meeting on campus. The union also wanted them to be representatives in wage negotiations, but university management had refused to allow this.

Defending its position, the university argued that organisational rights were collective rights, and not individual rights. Comsa had not been deprived of these collective rights because of Bohmke's banning and Banwari's suspension.

CCMA commissioner E van Zuydam said the suspension and banning did not constitute an unfair labour practice. However, Comsa was entitled to exercise its organisational rights through its elected office bearers and appointed officials. Banwari and Bohmke should be given access to the campus, but only for the purposes of participating in wage negotiations and the annual general meeting.

Comsa said the finding meant the Act vested the organisational rights of unions in individuals. It was no longer possible for employers to exclude those whom they regarded as "undesirable" union officials from negotiating teams

BO29/8197



151

Commission backs union officials' right to access

Farouk Chothia

DURBAN — The Commission for Conciliation, Mediation and Arbitration (CCMA) has ordered the University of Durban-Westville to partially lift banning and suspension orders on two union officials so that they can act on behalf of the union on the campus.

The affected union, the Combined Staff Association (Comsa), represents about 70% of employees at the university. Comsa hailed the ruling as "progressive", saying that the new Labour Relations Act had "fundamentally altered the common law rights to private property of employers".

The university had suspended staff member and Comsa office bearer Prea Banwari pending the outcome of a disciplinary hearing into claims that he had been involved in acts of serious misconduct during campus conflict. Heinrich Bohmke, a Comsa full-time organiser who was not a university employee, was banned from the campus on the grounds that he was an "undesirable person", a decision reached on the findings of a government-appointed commission of inquiry into campus conflict.

Comsa challenged the decision, saying the two union representatives were entitled to enter university premises to conduct their official union duties. In preventing Banwari and Bohmke from doing so, rights conferred to the union in terms of the Labour Relations Act had been breached. The two wanted to attend the union's annual general council meeting on campus. The union also wanted them to be representatives in wage negotiations, but university management had refused to allow this.

Defending its position, the university argued that organisational rights were collective rights, and not individual rights. Comsa had not been deprived of these collective rights because of Bohmke's banning and Banwari's suspension.

CCMA commissioner E van Zuydam said the suspension and banning did not constitute an unfair labour practice. However, Comsa was entitled to exercise its organisational rights through its elected office bearers and appointed officials. Banwari and Bohmke should be given access to the campus, but only for the purposes of participating in wage negotiations and the annual general meeting.

Comsa said the finding meant the Act vested the organisational rights of unions in individuals. It was no longer possible for employers to exclude those whom they regarded as "undesirable" union officials from negotiating teams.

Premiership election aborted

Vuyo Mvoko

THE Gauteng premiership battle took another turn yesterday with the announcement that all proceedings to date had been aborted after being found to have "generated a lot more heat than light".

Outgoing premier Tokyo Sexwale said he had now decided to "break the logjam" by first stepping down from the provincial chairmanship of the African National Congress (ANC) instead of

surviving at the ANC provincial general council on August 18 the that premiership would be decided by election. At that stage there were two candidates — provincial ANC treasurer Amos Masondo, favoured by the leadership, and deputy chairman Mathole Motshekga, the branch favourite. Sexwale, addressing a news conference yesterday, said the ANC's branch had been consulted on Tuesday and had "in principle" accepted the new ap-

Ball reins in enthusiasm about Olympic bid

Tim Cohen

LONDON — Cape Town bid committee chairman Chris Ball yesterday put a damper on over-enthusiasm about Cape Town's chances, claiming not to be encouraged by a dramatic fall in the

odds on Cape Town hosting the 2004 games at British betting shops. It was impossible to predict the outcome of the voting, which would take place next Friday in Lucerne, Switzerland, he said. Although Cape Town would put in a

strong bid, the race to host the 2004 Olympics was still wide open. He said this round of bidding to host the games was one of the tightest ever, with all the cities having a chance.

See Back Page

BD 29/8/97

(151)

Labour court dismisses bid by employers to block Numsa

ET(BR) 1/9/97 (151) (151)

Johannesburg — A labour court judge dismissed on Friday an employer association's application to prevent the National Union of Metalworkers of South Africa (Numsa) from tabling demands on actual wage increases as opposed to increases on minimums

Actual wages are the amount an employer pays the worker above the prescribed minimum wage for the industry. The South African Motor Industry Employers' Association had asked the court to declare that for ongoing wage negotiations Numsa

was only entitled to negotiate on "minimum rates of pay"

The employers' association had also asked the court to interdict a strike by the union

The judge, AJ Maserumule, said the applicant's argument was related to the parties' previ-

ous practice of negotiating only minimum wages at the bargaining council. However, he said nothing precluded a party from tabling demands whose effect would be to change the regime that might have existed until then — Frank Nxumalo

CCMA presence in Nedlac queried

Renee Grawitzky

BS 10/9/97 (151) ~~BS~~
LABOUR and business have questioned government's proposal to bring a Commission for Conciliation, Mediation and Arbitration (CCMA) facilitator into the National Economic, Development and Labour Council (Nedlac) negotiations on the Skills Development Bill.

Labour, government and business convenors meet tomorrow to discuss this proposal while Business SA (BSA) meets tonight to formulate a mandate.

Nedlac confirmed that the possibility of approaching a CCMA facilitator was discussed by labour last week. The

idea was floated informally with business when it was briefed on the bill

BSA appeared divided on this issue and questioned whether government was anticipating conflict over the bill as occurred with the Basic Conditions of Employment Bill

Some elements in business believed it would be useful to have a skilled facilitator from the outset while others were concerned in light of the debate around Nedlac's future and government's call for the institution's role to be reviewed. A business source said that if this issue was not handled carefully it could further undermine tripartism and Nedlac

CCMA helps cut number of strikes

(132)

BD
30/9/97

Bonile Ngqiyaza

STRIKE activity has fallen to its lowest level since 1990, a drop ascribed in part to the work of the Commission for Conciliation, Mediation and Arbitration in disputes.

A report by industrial labour consultancy Andrew Levy & Associates said 510 000 man days had been lost to strikes in the first nine months of this year, against 1 350 000 over the same period the previous year and 870 000 lost man days in 1995.

The significant reduction could be ascribed also to the fact that most centralised bargaining agreements were finalised without large-scale industrial action this year, it said.

The figures for 1994 and 1993 were 2,5-million and 2,4-million respectively, while 1-million man days were lost in 1991 and 2,2-million in 1990.

The report noted some high-profile disputes in the third quarter, including strikes in the sugar industry involving five unions and at Beacon Sweets. The latter had been marked by "worrying levels" of intimidation and violence. However, fewer workers had taken part in strikes this year than in the equivalent period of previous years, the report said.

The main strike triggers this year were wages (70%), recognition and bargaining levels (16, 2%), discipline and dismissals (3,7%), grievances (8, 2%) and retrenchments (1, 8%).

The report said the percentage of wage-related strikes had increased from 59% last year. "The wage bargaining environment has been particularly tough this year and a number of strikes

took place when the parties were close in terms of final offers."

It said the majority of strikes — 51,5% — took place at national level.

Most regional strikes had taken place in KwaZulu-Natal (27,5%), 9% had taken place in the Eastern Cape, 5,7% in Gauteng, 2,4% in the Western Cape; and 3,9% in the other regions combined.

The most active unions in terms of man days lost through strikes were the Food and Allied Workers' Union (38%), the Paper, Printing, Wood and Allied Workers' Union (21, 9%) and the National Union of Metalworkers of SA (11, 9%), the report said.

The National Employees Trade Union and "others" (11,1%), the SA Commercial, Catering and Allied Workers' Union (6%) and the National Union of Mineworkers (4,2%) also contributed significantly.

The report noted that Fawu — which had experienced internal divisions — had been particularly active this year. Fawu strikes included those at Nestlé Premier Foods, Beacon, SA Breweries and Chapelat.

Food had been the industry's hardest hit by strike action, experiencing 49,9% of recorded strikes.

Other affected industries were paper and printing (21,9%), automobile (6,6%), manufacturing (5,9%), retail (4,6%) and mining (4,2%).

The report said it did not take account of stayaways "as a matter of policy". However, as these were protected by the Labour Relations Act it could be expected that the number of man days lost through this form of industrial action could increase.

(151)

New labour laws contributed to better bargaining relations

CCMA helped reduce strikes, say consultants

FRANK NXUMALO

LABOUR CORRESPONDENT

Johannesburg — Timeous intervention by the Commission for Conciliation Mediation and Arbitration (CCMA) had ensured that the bulk of central bargaining negotiations this year were concluded without large scale industrial action, Andrew Levy & Associates, the labour consultants, said yesterday

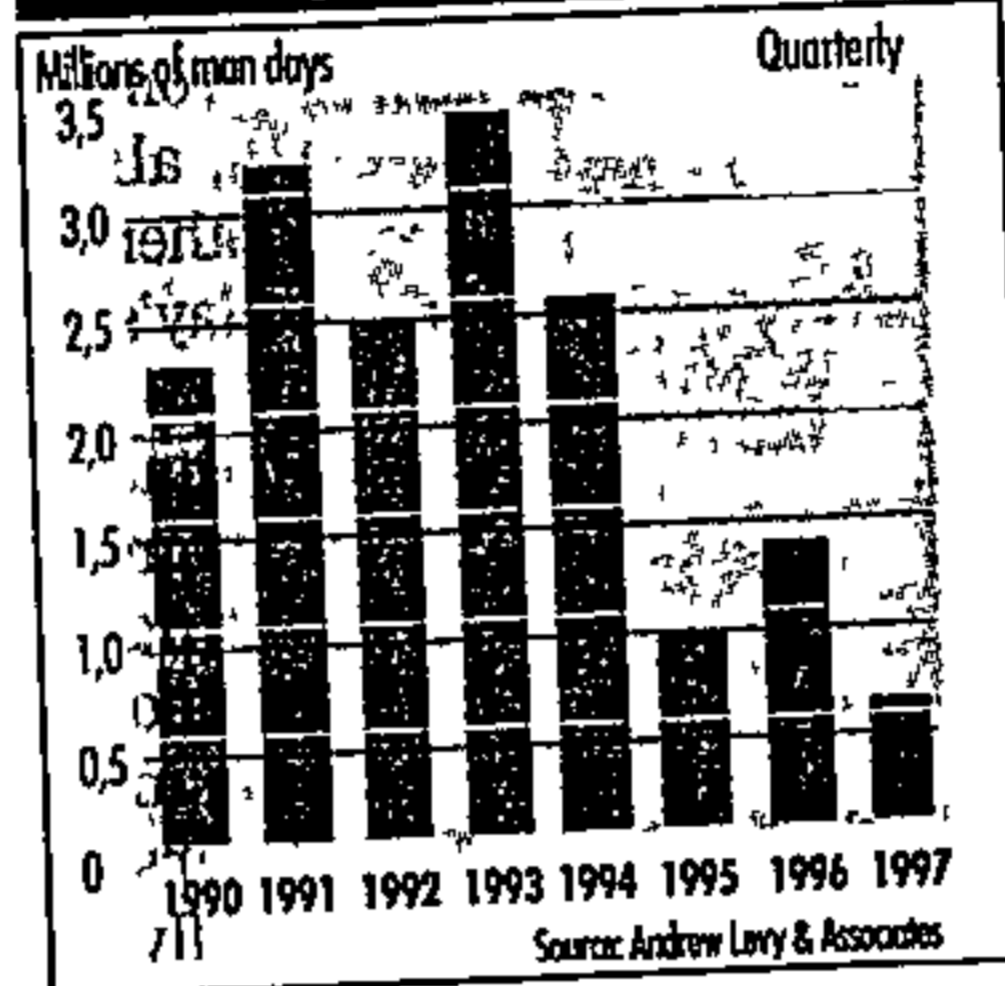
A report by Andrew Levy said the number of man days lost to strikes dropped from 1,35 million in 1996 to 510 000 by the end this month — the lowest since 1990

Charles Nupen, the CCMA director, said the new labour laws, especially the Labour Relations Act, had contributed to the better central bargaining relations and "any reduction in industrial action impacted positively on production output and on the economy"

He said the CCMA had mediated successfully in the retail, mining, health and public sectors, including the resolution of the acrimonious Food and Allied Worker's Union (Fawu) strike at Beacon Sweets

Tito Mboweni, the labour minister, said this significant drop in strikes was not only a reflection of the important role the CCMA played in the resolution of industrial disputes but "a vote of

Man days lost to strikes



confidence in the commission and an indication of the early success of the new labour reform laws"

Jacqui Kelly, an Andrew Levy researcher, said in addition to CCMA's contribution, in-house dispute resolution mechanisms, including those dealing with grievances and discipline, were now "fairly well established"

On whether an improved level of negotiation skills had also contributed to the significant drop, Kelly said the figures "do reflect that this is the case"

The report said the main strike triggers up until September were wages at 70 percent, recognition/bargaining levels at 16,2 percent, discipline/dismissals (3,7 percent), grievances (8,2 percent) and re-trenchments (1,8 percent)

The report said "wages again formed the major trigger and have in fact increased over the same period in 1996 when 59 percent of the strikes were wage related."

"The wage bargaining environment has been particularly tough this year and a number of strikes took place when the parties were close in terms of final offers"

It showed the majority of strikes took place on a national level in 51,5 percent of cases, followed by KwaZulu-Natal at 27,5 percent, Gauteng (5,7 percent), Eastern Cape (9 percent), 2,4 percent in Western Cape and 3,9 percent in the other regions combined.

The most active unions in terms of man days lost were Fawu (38,7 percent), the Printing, Paper, Wood and Allied Workers' Union (21,9 percent) and the National Union of Metalworkers of South Africa (11,9 percent).

"Fawu, which has experienced internal divisions, was particularly active this year and strikes at Nestlé, Premier Foods, Beacon, SA Breweries and Chapelat contributed to this overall figure."

Industries hardest hit by strikes were food at 49,9 percent, paper/printing (21,9 percent), vehicle makers (6,6 percent), manufacturing (5,9 percent), retail (4,6 percent) and mining (4,2 percent)

(151) CT(MR) 30/9/97

Mediation director tipped to head conciliation body

(151)

ARG 8/10/97

THABO MABASO
BUSINESS REPORTER

Independent Mediation Services of South Africa director Linda Orleyn is the frontrunner in the race to succeed current Commission for Conciliation, Mediation and Arbitration (CCMA) head Charles Nupen when he leaves his position at the of the month.

Reliable sources told the Cape Argus this week that Ms Orleyn was the leading contender on a shortlist compiled by the CCMA's governing board.

The current CCMA director is due to step down at the end of October so he can resume his work at the International Labour Organisation (ILO) in Pretoria.

Mr Nupen was released by the ILO last year so that he could take up a

short-term contract with the CCMA

Under his leadership, the CCMA has drawn praise from a wide range of quarters for helping to reduce the number of strikes this year, with its timely interventions during disputes between workers and bosses

A report by a leading firm of labour consultants last month said the number of days lost because of strikes this year had been the lowest since 1990

CCMA governing board acting chairman Bokkie Botha said a decision had not yet been taken on who would lead the dispute solving body

"This situation involves three partners, that is labour, business and Government.

"They, therefore, must agree on the person to be appointed," Mr Botha said

Ms Orleyn would not comment yesterday

MANAGEMENT

Mediation has a high success rate

DD 9/10/97 (151)

Steven Nackan

INCREASED local and global competition in SA will intensify the demand for more effective business management practices, including the use of relationship-preserving means of resolving disputes. In the US, mediation has proved ideally suited to many business disputes. It is a new frontier in dispute resolution which has considerable potential in the SA business world.

Opponents of the litigation approach to handling disputes have labelled it a zero-sum game because the winner takes all. This is too generous a depiction. As winners and losers alike will attest, litigation is, in fact, a negative-sum game. Interminable legal disputes cost companies valuable time and money that could otherwise be channelled to more productive uses. Furthermore, the legal system is neither designed nor equipped to deal with, or preserve, the complex and often fragile relationships in business.

Enter the alternative dispute resolution (ADR) movement, reflected in the widespread acceptance of arbitration as a more private, less formal, and effective version of traditional adjudication. Mediation, also under the ADR umbrella, is common in the SA labour and matrimonial fields, but is seldom used to resolve commercial disputes.

Mediation is a private, voluntary and informal process in which a neutral third party helps participants reach a mutually satisfactory resolution to their dispute: a win-win outcome. The mediator has no decision-making authority. The mediator's role

is to facilitate a fair collaborative problem-solving effort, drawing on the presumed competence of the parties themselves to generate agreeable terms.

Mediation returns ownership, control, responsibility and dignity to the parties. Furthermore, the mediation process is designed to deal with personal conflict as well as substantive issues. Thus inclusivity, along with simplicity, flexibility and self-determination are the buzzwords typically used to explain the success of the process and the durability of agreements.

Disputes can be resolved in days and, in many cases, hours. Companies which have experienced the process have seen its unique potential for restoring harmony to even the most acrimonious of relationships and have achieved dramatic cost savings.

Mediation has not been satisfactorily promoted in SA. In the US, the virtues of commercial mediation are widely acknowledged. Based in New York, the CPR Institute for Dispute Resolution, a nonprofit alliance of major corporations, law firms and legal scholars, has been aggressively marketing mediation.

So far, 850 US corporations and about 3 200 other companies have signed pacts to use mediation as a first recourse to resolving disputes. The pledge bandwagon includes commitments from American Express, Coca-Cola, PepsiCo, Ford, Microsoft and McDonald's. Success rates are estimated at between 85% and 90%.

□ Nackan is an attorney who has recently returned to SA from Boston.

New director takes over CCMA

(151) ET(BR) 13/10/97

FRANK NXUMALO

Johannesburg — Thandi Orleyn was the new national director of the Commission for Conciliation, Mediation and Arbitration (CCMA), the commission announced at the weekend.

Orleyn, the first black woman law graduate from the University of Port Elizabeth, takes over from Charles Nupen, the founding director.

Orleyn has been the national director of the Independent Mediation Services of South Africa (IMSSA) since 1995.

She was also appointed regional director of the Legal Resources Centre in 1994, where she had practised as an attorney since 1985.

Orleyn said she found the appointment challenging and exciting. "It's a challenge but I am excited to be taking over from Charles and continuing the good work that he started," she said.

"The CCMA is an important structure and we must make sure that the social partners



UPBEAT Thandi Orleyn is excited by the challenge of heading the CCMA

PHOTO JOHN WOODROOF

continue to have confidence in it. It is also important that we continue to deliver an efficient and professional service and play a critical role in the development of labour relations."

Compared with the apartheid-era industrial courts, the CCMA has been most successful in resolving disputes.

Tito Mboweni, the labour minister, told a media briefing he was excited to have someone of Orleyn's experience taking

over. He said: "We are quite certain there will be a good working relationship between Orleyn and staff of the CCMA, who have already worked with her in the capacity of part-time senior commissioner."

Mboweni said the new director would benefit from the "sterling work" done by Nupen, who also expressed his confidence in his successor. "It is going to be tough, but I know the commission will be in good hands."



New Commission for Conciliation, Mediation and Arbitration national director Thandi Orleyn, left, at a news conference in Johannesburg with Labour Minister Tito Mboweni, centre, and outgoing director Charles Nupen. Picture: ROBERT BOTHA

New director for arbitration commission

(151)
Stephane Bothma
BD 13/10/97

INDEPENDENT Mediation Service of SA national director Thandi Orleyn has been appointed new national director of the Commission for Conciliation, Mediation and Arbitration, Labour Minister Tito Mboweni said yesterday

Orleyn will take up her new position in December to replace outgoing director Charles Nupen.

Orleyn has already served on the commission as a part-time senior commissioner and was voted in unanimously as the new director by the commission's governing body, Mboweni said

The first black woman law graduate from Port Elizabeth university, Orleyn joined the Legal Resources Centre as an attorney in 1985

Nine years later she became regional director of the centre and a year later, in 1995, joined the media service as the national director

"She will benefit from the work done by Charles Nupen, who set up the commission and structures two years ago," Mboweni said.

He called on the commission's senior staff to give Orleyn all their support "She has the experience for the job," he said.

Orleyn, who said that Nupen had been her mentor throughout her career, told the conference that she did not feel intimidated by her new position

Nupen will join the International Labour Organisation and will be working on projects in SA and southern Africa

Substitute MPs pass welfare bill

David Greybe

CAPE TOWN — The African National Congress (ANC) in Parliament's welfare committee on Friday used substitute ANC MPs to push through draft legislation on a new child-support grant system after the National Party (NP) walked out in protest.

However, the implementation of the new grant system under the Welfare Laws Amendment Bill could still be delayed because of two possible Constitutional Court challenges. The welfare department plans to phase in the grant scheme from January.

The NP walkout, led by Patrick McKenzie, was in protest against the bill's intention to restore the administration of social security grants to the national government from the provinces. The NP supported most of the new grant provisions in the bill.

Committee chairman Cas Saloojee suspended the meeting after the walkout in order to implement the co-option procedure which permitted the use of noncommittee members to make up a quorum and adopt the bill.

The welfare department called the NP walkout "irresponsible". The bill will now go to the National Assembly

and then the National Council of Provinces for adoption

None of the other political parties was present at Friday's meeting, but the NP said it was confident it could get enough opposition support to refer the bill to the Constitutional Court. The support of one third of the National Assembly is needed to make an apply to the court for an order declaring all or part of an act unconstitutional

Welfare director-general Leila Patel told the committee earlier the transfer of social security powers to the provinces in a proclamation by President Nelson Mandela last February had been "invalid and incorrectly assigned". The department obtained three legal opinions that the reversal of the powers was constitutional. It was supported by the state law advisers who said because social security powers were considered concurrent under the constitution, central government had overall control of them.

The Western Cape government did not rule out its own Constitutional Court challenge to the bill. It believed the bill was unconstitutional, Western Cape legal adviser Dirk Brand said. The provincial cabinet would decide what to do next, he said.

Talks resume on bargaining council

Reneé Grawitzky

CHEMICAL employers and unions have resumed negotiations in an attempt to finalise the constitution for the establishment of the chemical industry bargaining council, the subject of discussion for more than two years.

Talks on the council resumed last week following wage settlements in seven subsectors of the broader chemical industry.

In the aftermath of the wage negotiations some employers felt disillusioned about the future of the centralised bargaining structure while the Chemical Workers' Industrial Union said the negoti-

ation process had proved to be quite frustrating.

Employer spokesman Fanie Ernest said the recent talks had shown the process of centralised bargaining was difficult, and thus required a real commitment on all parties to ensure it worked.

The Commission for Conciliation, Mediation and Arbitration had, he said, played an instrumental role in ensuring settlements were reached. Union national collective bargaining coordinator Bheki Ntshahntshali said increases in the seven subsectors — including glass and plastics, petroleum, pharmaceuticals and plastics converters — ranged

between 10% to 12%, with the average increase being about 10,5%. The majority of petroleum workers, except those at Sasol, received a 11% increase. Sasol workers received 10,5% but those on the minimum rate will get 12%.

The highest paid actual minimum rate of pay will be R2 865 a month paid by British Petroleum, and the lowest R2 000 a month.

Ntshahntshali said other core demands met by employers included maternity leave and a reduction in working hours. The majority of sectors, he said, agreed to grant six months' maternity leave, four to be paid either at 33% or 100%, with jobs guaranteed

Top woman lawyer to head labour arbitration body

(151) AR 13/10/97
Johannesburg - The Commission for Conciliation, Mediation and Arbitration (CCMA) has appointed Thandi Orleyn as its new national director.

Labour Minister Tito Mboweni said yesterday that the Department of Labour and the governing body of the CCMA were pleased to have somebody with Ms Orleyn's experience heading the commission.

"We are quite certain there will be a good working relationship between Ms Orleyn and staff of the CCMA, who have already worked with her in her capacity as part-time senior commissioner," he said.

Ms Orleyn, who is to take up her position in December, was the first black female law graduate from the University of Port Elizabeth.

She has been national director of Independent Mediation Service of South Africa since 1995 and in 1994 was appointed regional director for the Legal Resources Centre, where she has practiced as an attorney since 1985.

Mr Mboweni said Ms Orleyn, who was voted in unanimously by the CCMA governing body, stood to benefit from the work done by outgoing national director Charles Nupen.

"She will inherit a strong organisation," Mr Mboweni said. "The CCMA has already made an impressive start."

Mr Nupen said there was a sense of loss at leaving something he had helped begin, but added, "I know the commission will be in good hands." - Sapa

7 8

Change 'needed in workplace'

(45) (151)

THE pressure of globalisation will force labour and management to develop a co-operative relationship, Professor Clive Thompson of UCT said at the launch of the Western Cape chapter of the SA Society for Labour Law yesterday.

Employers would have to invest in staff training if they wanted to improve productivity and compete with companies abroad.

"It is important that labour law practitioners ... come up to speed with key labour market issues to support work force change."

If companies wanted to compete in the global market they had to give workers more responsibility by investing in skills training.

Thompson criticised trade unions for allowing their opposition to workplace forums to form an obstacle to labour-management co-operation.

"These forums were intended to serve complementary functions to collective bargaining. They are there to improve workplace efficiency and look at more productive work methods, not to challenge the unions." — Staff Writer

CTA 17/10/97

...als were arrested. ... containing the cartoons was found on the roadside. ... illegal drinking in public. The box ... Picture TYRONE ARTHUR

CCMA rules actor's dismissal from Pact last year unfair

Kevin O'Grady

WELL-KNOWN actor Jimmy Borthwick was unfairly dismissed by Pact when he and four other actors were retrenched last December, the Commission for Conciliation and Arbitration (CCMA) ruled on Friday.

Borthwick, who was the only retrenched actor to take his case to the CCMA, confirmed the finding and said he was awarded a "settlement figure". He would not disclose the amount.

He said the CCMA found that, among other things, Pact management did not consult sufficiently with the actors before retrenching them.

Meanwhile, the Johannesburg Dance Foundation announced on Friday that it would close its professional company Johannesburg Dance Theatre at the end of the year to allow it to focus on its role as a tertiary training institution.

The decision to close the company was taken by foundation directors before the September 25 murder of Paula Preller, one of the company's principal dancers, a spokesman said.

The dance company accounted for 70% of total costs in the foundation's 1997/98 budget and it was unlikely the R700 000 that would have been needed to prolong the company's life into next year would have been raised from sponsors.

The foundation would re-structure and would focus its activities on an extended course in dance performance.

CCMA rules against labour department

BD 23/10/97

Reneé Grawitzky

THE labour department was at the receiving end of its Labour Relations Act recently when the Commission for Conciliation, Mediation and Arbitration (CCMA) ruled it committed an unfair labour practice by not promoting two employees (151) (44)

Two members of the Industrial Court declared a dispute against the department after they had on three occasions applied for assistant director positions which were advertised three times in more than three years. They had been filling the positions in an acting capacity.

They argued that the previous incumbents were ranked as assistant directors and the department had committed an unfair labour practice by not appointing them to the positions.

CCMA commissioner Larry Shear agreed with the employer's argument that the law and custom did not provide a right to claim extra remuneration or promotion if a person performed the functions of someone more senior. However, consideration had to be given to whether it was fair to expect persons to perform a function beyond their rank and status without recognition.

He ordered the department to appoint the two applicants into the positions of assistant directors, backdated to February 18.

Shear said yesterday the law recognised that managerial prerogative was necessary for the efficient operation of a business, but it could not be unbridled and had to be subject to fairness.

CCMA success rate dropping

success rate 11/11/97 (151)

The commission celebrates its first anniversary today

By Abdul Milazi and Sapa

THE Commission for Conciliation, Mediation and Arbitration's (CCMA) success rate has dropped to 62 percent and it is fighting a losing battle to handle the volume of cases being referred to it

This startling revelation comes from industrial relations expert Paul Wriggleworth, as the commission celebrated its first anniversary today

It has handled 20 000 cases

Wriggleworth said the commission had achieved an exceptional 72 percent settlement rate between November last year and the end of May this year

He said the commission was in danger of being overwhelmed by a backlog of cases, due to unions encouraging their members to turn to the CCMA for assistance in disputes

The backlog of cases made it unlikely that all cases referred to the CCMA would be heard within the 30-day timeframe for dispute mediation set down in the new Labour Relations Act

Wriggleworth said the growing backlog could be attributed to a shortage of commissioners and other qualified personnel as well as the fact that the commission was being used as a first rather than last-resort mechanism for dispute resolution

Internal matter

"Too many disputes which, under the old industrial relations legislation, would have remained an internal company matter are now being referred immediately to the CCMA," he said

"These referrals are often made by union members who then appear before the commission without any

union representation despite the fact that the provisions of the Labour Relations Act allow them to be represented by a union official

"In the past, trade unions would ensure they represented their members at workplace dispute negotiations, knowing that allowing disputes to drag on through the industrial courts would be an expensive and time-consuming exercise for the union and its members

"Neither party to a dispute is permitted legal representation, the case is dealt with speedily and although the CCMA success rate is declining, the chance of achieving a settlement remains high"

Wriggleworth said this stance by unions and the pressure it brought to bear on the commission, could undermine the speedy resolution of disputes as envisaged by the Labour Relations Act

DEBBIE YAZBEK



Leading the way ... the new director of the CCMA, Thandi Orleyn, says one of the secrets to her success is the support she receives from her doctor husband.

Black can be best, says new head of labour commission

Star 11/11/97 (151)

By GLENDA DANIELS

Dummitive Thandi Orleyn might look too small to fill the shoes of the towering Charles Nupen. But the new director of the Commission for Conciliation, Mediation and Arbitration (CCMA), has a determination, ambition and competitive spirit unrivalled to any.

"Sometimes a black person is the best person for the job," says Orleyn, countering the charge that she is an affirmative action appointment. She might speak in soft tones but she is fed-up with people claiming she's on the rise because she is a black woman.

The CCMA turns one today, having completed 45 515 cases. Despite the completion of these cases, enormous problems exist due to a backlog of thousands of arbitrations and mediations, coupled with a shortage of financial resources to pay skilled lawyers.

But Orleyn remains undaunted as she glances at the big map of South Africa on her office wall - signifying her mammoth task of heading the CCMA nationally.

Sporting a stylish black-and-white suit and high-heel shoes, Orleyn sits in her big, Johannesburg office, recently vacated by Nupen, who is now the South Africa's representative in the International Labour Organisation (ILO). She laughs heartily on hearing that many have noted her following Nupen from job to job.

She, like him, worked at the Legal Resources Centre for many years. She then took over Nupen's national director position at the Independent Mediation Services of SA (IMSSA) just over two years ago, when he became head of the CCMA.

Orleyn, determined to put her own stamp on the organisation set up by the Government to solve labour disputes in the country, says "It's pure coincidence that I have followed in his (Nupen's) footsteps. I don't believe in emulating him. Although I respect him as a good mediator and facilitator, we will probably do things differently as we are products of different environments."

A 40-something mother of three children, Orleyn was born in New Brighton, Port Elizabeth. She attended Inanda Seminary and then went to Fort Hare, where she was deeply involved in student politics.

While there was no career guidance in Eastern Cape townships, Orleyn always knew she would become a lawyer because that's what people said she would do after

she proved to be a good debater. The poverty in the townships prompted her to specialise in human rights law.

She describes herself as a hard worker, with drive and a competitive spirit.

"Too many women shy away from competition, leaving the door wide open for males. Ambition is not necessarily a bad thing," she says.

While it is generally tough for working mothers to juggle career and mother roles, surely it must be twice as hard for one who is a mover and a shaker?

Her secret is a supportive husband. A doctor, he tends to the children when they are sick, he takes them to school when she can't and he is at home at regular hours to handle other responsibilities. "He is also more of a disciplinarian and takes homework with the children quite seriously."

Orleyn's parents often take her children away for the school holidays.

She engages her children in her work by talking to them about her commitments.

Orleyn has only one diary, which

Short frame and all, this woman has drive, competitive spirit to lead successfully

encompasses her daughter's ballet lessons alongside arbitrations and meetings. Her children often know, even before her husband, when she is going overseas. She then promises them that they will get her undivided attention the following weekend.

Orleyn also has a housekeeper and a driver to support her.

This support system works well, allowing her to compete in a male-dominated world. But she is quick to point out she does not see herself as the mythical superwoman.

"We all make mistakes, and we have to make sacrifices when we have careers and children."

She concedes that she is likely to make some mistakes in her new job. While she admits it is an enormous responsibility, which is "scary and challenging, it is also exciting."

There is also the problem of sexism. Unions are male-dominated and boardrooms are still full of pale males in grey

suits. A black woman in her position will be considered a challenge to the patriarchal setup.

"I used to think patriarchy was only rife in African society, but my white colleagues experience it too. It must be a South African thing and it has to change."

Orleyn is reluctant to talk about the change she aims to implement in the commission. But, she concedes, her first task is to look at the enormous skills and human resource problem. In the first months of her job, starting in December, she will visit the nine provinces and examine particular problems.

There is a serious skills and finance shortage, she points out, which hampers progress.

One has to contextualise the problems, she says. The commission was set up in a short space of time.

With the Labour Relations Amendment Act in place only from September last year, marking a new era in labour relations, many organisations do not know they can first take disputes to their own bargaining councils, before they come to the CCMA.

"I am a firm believer in people development. I want to set up systems that can work effectively, and want to draw up a plan where I assess the level of development and look at preventative ways of dealing with disputes."

So, while her future looks promising, what about IMSSA, which presently experiences funding problems common to most NGOs these days? The organisation is also going through enormous restructuring, and, with the CCMA in operation, it has had to broaden its work to encompass community dispute resolution, among other issues.

While Orleyn feels "sad" about leaving IMSSA, she counters the charge her colleagues make that "she left them in the lurch by moving on to the next best thing", by pointing out that she is not beholden to any organisation.

"Everyone has to move on. It's not a ship I am abandoning. I see a bright future for the organisation."

This might be a career move for me, but it is also important to work hard and prove to people that black women have the skills and expertise necessary, she says.

"As a black woman it is important to accept opportunities and challenges and to set an example to others. It's also important to prove to people that a black person can be the best person for the job," Orleyn says.

Workload swamps conciliation body

BY ADAM COOKE

Individual non-union members and employees of small businesses are the most frequent users of the Commission for Conciliation, Mediation and Arbitration (CCMA), it emerged on the statutory body's first anniversary yesterday.

Since its establishment, the body's 40 Gauteng commissioners have had to deal with more than 20 000 cases.

The body handles about 50% more "one-person shows" – such as farm and domestic workers who were previously not protected under the law – than complaints by organised workers in sectors such as mining.

"Basically we are becoming more accessible to the unorganised workers," the convening senior commissioner in Gauteng, Kenny Mosime, said. He added that 70% of all cases in Gauteng were unfair dismissals.

Gauteng CCMA registrar Jabulani Mbatha said 60% of this year's cases were settled in the conciliation phase and did not need to go to mediation or arbitration.

"We even have a pool of

cases where we have helped to prevent conflict because we are increasingly moving into disputes at an early stage and settling," Mbatha said.

In Gauteng, the commission – which had expected to hear 55 cases a day – was registering 88 new cases a day and this was causing a bottleneck.

Labour analyst Gavin Brown said the CCMA had been swamped by cases because it was so accessible.

"The interventionist role of the CCMA in the province has been very positive because it has decreased the number of strikes, but from the employer's point of view this is rough justice that is very speedy and often done by overworked commissioners with little experience," Brown said.

Jeremy Crawford, an attorney dealing with labour disputes, said there was a general feeling that there were too many individual applications.

There are indications that the Labour Relations Act will be changed to allow for better filtering, such as allowing only non-unionised members to approach the CCMA.

Star 12/11/97 (151)

Commission gears up for labour disputes

Reneé Grawitzky

THE Commission for Conciliation Mediation and Arbitration is bracing itself for the pre-Christmas round of retrenchments in the build-up to the annual shutdown by the manufacturing industry.

This was disclosed yesterday when the commission celebrated its first year in existence. The Gauteng region reported that it had processed 20 000 cases since the institution was launched in November last year.

Gauteng registrar Jabulani Mbathe explained that the region alone accounted for close to 50% of all cases referred to the commission which had exceeded the 45 000 mark nationally. Mbathe

indicated that about 61% of disputes had been settled.

Initial projections of the commission's caseload had been 55 cases a day, but instead it was 88 cases a day. This had posed major challenges for the commission and as a result the Gauteng region had restructured to meet the higher than expected caseload.

Convening senior commissioner Kenny Mosime said the heavy caseload indicated the institution's greater accessibility to parties in the unorganised sectors.

Mosime said 5% of cases referred were from domestic or farm workers. Small business accounted for 6% of cases in Gauteng.

Although 70% of the cases referred to the commission were

BD 12/11/97 (151)
individual unfair dismissals, the commission was increasingly presiding over human rights issues like gender and sex discrimination cases.

Mosime said "the fact that we are dealing with these cases indicates that people are taking employers to task on human rights abuses in the workplace".

Mbathe and Mosime stressed public acceptance that the institution was nonpartisan was crucial. Dispute prevention would have to be tackled to prevent continuation of the huge caseload.

Mosime said prevention of disputes required capacity building within organisations, and the year ahead would be devoted to educating the parties in the workplace.

Group lashes out at CCMA

Deborah Fine

THE Commercial and Allied Employers' Organisation has attacked the Commission for Conciliation, Mediation and Arbitration (CCMA), accusing the body of being "unprofessional, arrogant and manned by staff ill-equipped to perform their tasks".

Claiming that the organisation represented 410 smaller businesses, representative Lukas Coetsee said yesterday that his organisation believed the way in which the CCMA and its commissioners handled labour disputes at present was a violation of the constitutional principles of fair administrative procedures and reasonable, procedurally fair justice.

The organisation intended bringing this fact to the attention of the Constitutional Court through action in the Labour Appeal Court. The organisation's accusations follow similar claims by the Association of Law Societies, which said earlier this week that it also

DD 19/11/97 (151)
intended lodging a Constitutional Court challenge against Labour Relations Act provisions which prevented attorneys from representing their clients at most CCMA hearings.

Coetsee said respondents in disputes did not have the right to nominate an arbitrator and were often left to "the luck of the draw".

"Large businesses and unions are more fortunate because they are presided over by experienced and well-qualified senior commissioners. Smaller businesses and unions have to be satisfied with less competent people."

The organisation also objected to the fact that once a case had been decided, there were no mechanisms in place to revisit the merits of the matter, unless there had been misconduct on the part of a commissioner.

He said the first step to ensure the CCMA became a "reputable labour relations participant" was the implementation of appeal procedures and a "policing system" for arbitrators.

Sacked strikers lose bid for reinstatement

ARG 20/11/97
THABO MABASO
BUSINESS REPORTER

The Commission for Conciliation, Mediation and Arbitration (CCMA) has failed to resolve the dispute between 68 sacked people and their former employer, Sea Harvest

Sea Harvest dismissed them for allegedly contravening a court order requiring them to return to work after a two-week strike in September

The Food and Allied Workers Union, which represents those sacked, even though they are members of the Trawler and Line Fishermen's Union (Talfu), has denied Sea Harvest's allegations

Fawu took Sea Harvest to the CCMA this week in the hope that the dispute-resolution body would reinstate those sacked

However the conciliation attempt by commissioner Johann Hamman was unsuccessful.

"I tried my best to reconcile the two parties, but unfortunately it was not possible," Mr Hamman said

Fawu spokesman Barry Stemmet said those sacked would apply for arbitration to the CCMA within a few

~~STAFF~~
(101)
days

"The company was adamant that the workers had gone on strike illegally, and they weren't even prepared to discuss a settlement," Mr Stemmet said.

Sea Harvest Operations Manager Greg Anderson said his company was not wrong in dismissing the employees, as they had ignored ultimatums to return to work

"They in fact dismissed themselves by not heeding the ultimatums. We feel confident that the steps we took were correct," he said

"We are also confident that the arbitrator will understand us when we say they were in defiance of their union, which told them to go back to work, and a court order."

The September strike at Sea Harvest ended when a court ordered the strikers to return to work, while the Independent Mediation Services of South Africa sought a resolution of the dispute. Workers wanted a 15% wage increase and Sea Harvest was offering 10%.

Sea Harvest, said to be the biggest fish processor in the southern hemisphere, also suffered damaging wage strikes in 1995

The lady who has to make the tough calls

NOVEMBER 11, 1996 saw the birth of an initiative by the government which was welcomed by everybody

The formation of the Commission for Conciliation, Mediation and Arbitration (CCMA), made up of business, government and labour organisations, was seen as a pioneering move that would change the face of labour relations in this country

As a new structure which had to work on a trial-and-error basis, CCMA soon found itself faced with certain dynamics which were not foreseen when it was established.

When the CCMA had its first birthday earlier this month, it had more than 50 000 cases on its books

Its projections had anticipated far less, highlighting the problem of a shortage of resources to deal with the case load

The CCMA also faces other concerns

It is reported that a recent move by the governing body has stripped away some of the powers that the nine provincial registrars used to exercise in their administrative duties

This move, argue observers, gives more leverage to the commissioners in terms of organisational power structures and puts provincial registrars out in the cold

It could also threaten good relations within the organisation

With these concerns, was it a good time for respected legal mediator Charles Nupen, who has been with the organisation since its inception, to leave and hand over the reins to Thandi Orleyn?

As the new director of the CCMA, Orleyn will find herself at the centre of national scrutiny when she takes up her post on December 8

South African labour stakeholders are naturally expecting the new appointment to create a stable footing for the CCMA's growth in the dynamic labour relations environment

"The CCMA is a new structure in the whole context of labour relations. Whatever projections were made when it started were made in the dark. And that is how we find ourselves faced with these situations," Orleyn says of its current challenge

Admitting to a tough task ahead, she points out that the CCMA, like most structures in a transforming democracy, has to balance delivery against limited resources

The problem of an overload of cases also arises from the lack of co-operation between all the social partners involved, Orleyn says

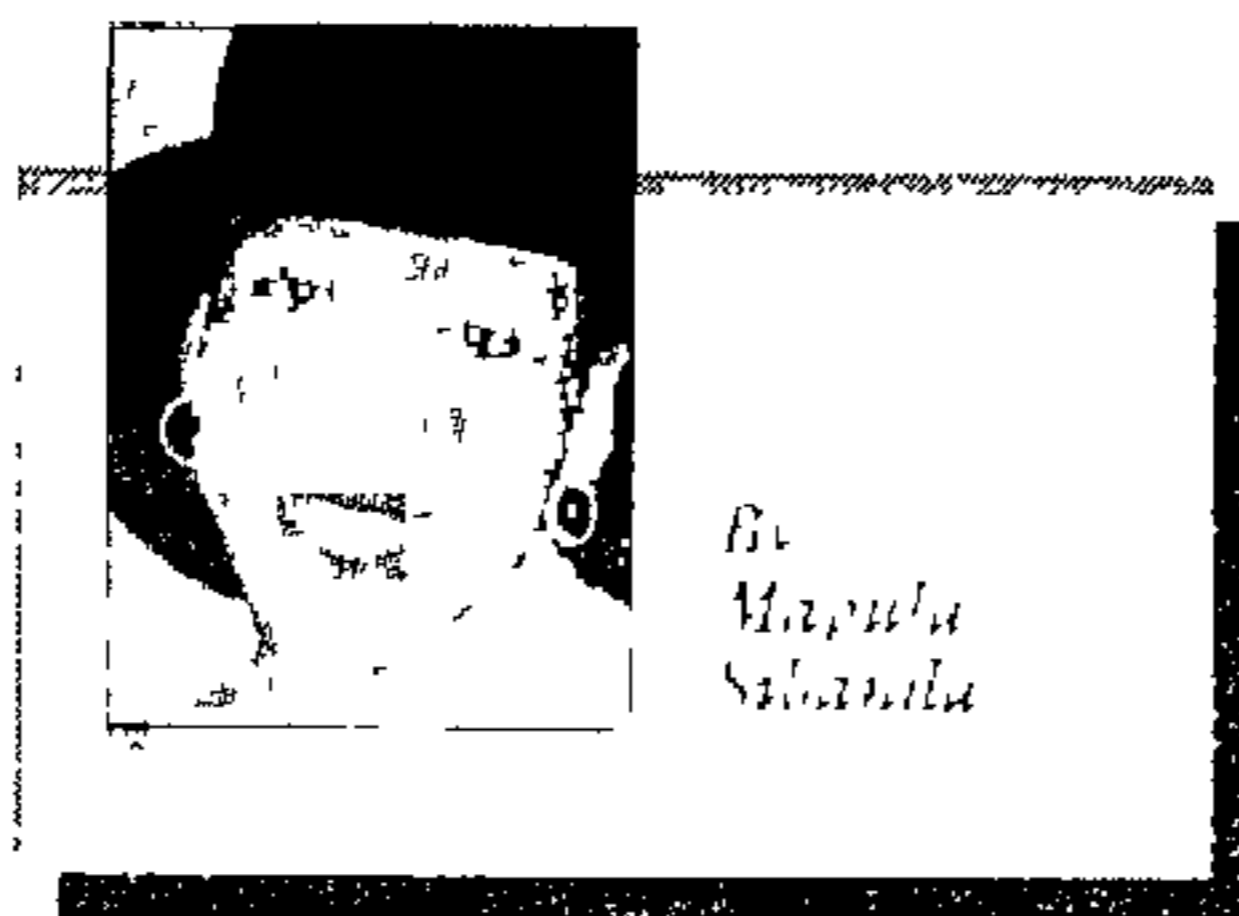
In this case, business, government and labour should create an interactive platform where some of the disputes can be solved, before landing at CCMA, she argues

As the CCMA enters its second year, part of Orleyn's work to remedy the situation will be to focus on extensive training of all stakeholders, as well as of the CCMA staff

KEEPING labour, business and government communicating with each other to prevent crippling breakdowns in our society is a difficult mission – but dynamo Thandi Orleyn is ideally suited for the job.

"In our first year, people came in and were expected to perform. We now need to continue training and developing them to meet our new demands and needs," she says

About the issue of sidelining national registrars, Orleyn assumes the mediator role and gives a cautious reply "For somebody who has not started there already, I understand that the issue is still under consultation, but I am not aware of any tension regarding change in that part"



Change, stresses Orleyn, does not happen for its own sake, but only when it will result in a more efficient and professional service

Many may have noticed that Orleyn has been following Nupen's footsteps in the last few years

Like Nupen, she worked at the Legal Resources Centre, then took over his national directorship post at the Independent Mediation Service of South Africa, and now the directorship at the CCMA

Orleyn has had extensive experience in human rights law and mediation

No, Nupen does not recommend her for the jobs, she adds

The fact that she applied for the position and got it should say a lot about her individual capabilities

And as a black professional woman about to head a national organisation, Orleyn says she is used to going where few have gone before and takes her position at the CCMA as just another challenge

"It is important for people to be pioneers and if there are no black people who are willing to do that we will never know if we have certain capabilities," she says

"Women also need role models to give that kind of confidence to others," she says

From the early years, when she was growing up in the Port Elizabeth town-

(191) CP30/11/97
ship of New Brighton, Orleyn aspired to enter fields which were not prescribed for women

Since she hated the sight of blood, being a lawyer was the next best thing to medicine

After studying law at Fort Hare University and serving articles in Port Elizabeth, Orleyn followed her heart to the then Transvaal when she married Dr David Sekete in 1984

They now live in Spruntview, Katlehong with their three children

A year of staying at home playing housewife after their first child was born was a time when Orleyn reflected on her career path and made a decision to stick to human rights law

"I worked partly as a receptionist for my husband, who was starting out his practice at the time, I breastfed, and I also had time on my hands to think about what I was doing," she recalls

Back at work at the Legal Resources Centre where she worked as an attorney for ten years, Orleyn felt alive, representing the underdog who often could not afford to pay for legal services

One case she handled in Kroonstad is still clear in her mind

"I defended a man on an assault charge. The Afrikaner magistrate told me that I was the first woman to address his court and I amazed him by conducting the case in Afrikaans. My client won the case, of course"

Although a promising career in law was imminent for Orleyn – she was one of the advocates sitting on the Constitutional Court's first case who voted the death penalty as unconstitutional – she switched to the field of mediation and arbitration when she joined IMSSA

"I am a conciliatory person who is more inclined towards mediation because I believe in a win-win situation all the time," she says

Is the two-year stint at IMSSA enough to steady Orleyn against the heavy current that she is about to swim against at CCMA?

"I see myself as a person who has determination and I believe in my capabilities," she says with confidence

Taking the job at the CCMA, says Orleyn, is about more than personal growth – it is about being in a position to effect change and transformation in our country "It is knowing that I was part of making change, instead of criticising from the sidelines"

Time to reflect for mediation director

ARG 1/12/97

(151)

THABO MABASO
BUSINESS REPORTER

The newly appointed Commission for Conciliation, Mediation and Arbitration (CCMA) director, Thandi Orleyn, plans to spend some time evaluating a hectic year for the commission.

She is determined to ensure that the dispute resolution body is not left behind by everyday changes in South Africa

She told the Cape Argus that it was going to be difficult to fit into CCMA founder director Charles Nupen's rather large shoes, but was confident that she would make it

"It has been a hectic year for the CCMA and one of the first things that we have to do is to sit down and evaluate what we have done and see if there are any lessons to be learned."

The CCMA, a statutory body,

was founded a year ago and has dealt with hundreds of cases Earlier this year the body had to boost its staff numbers with 40 additional commissioners because of a heavy workload

Between November last year and March this year the CCMA had received 14 000 complaints

Not only does the CCMA have a heavy load but Ms Orleyn will have to tread carefully in a minefield dotted with explosive devices known as unions and business organisations

Ms Orleyn, a lawyer by training, has been with the Legal Resources Centre for 11 years Between 1994 and 1995 she was a regional director of the LRC's Gauteng region

In 1995 she was appointed national director of the non-government Independent Mediation Service of South Africa

She takes up her new job on December 8



Thandi Orleyn: starting next week as director of the CCMA

Atomic body loses round one to scientist

MTG 5-11/12/87



corporation denied. It had contended that it had a right to follow its own internal procedures for disciplinary hearings. The AEC has been ordered to pay costs.

Gustav Thiel failed to have an independent media monitor preside over a disciplinary hearing the AEC is holding against him. The corporation had planned to have its chief executive, Waldo Stumpf, as judge at the hearing. Murphy was suspended in November from his executive position, pending a hearing into his alleged failure to submit details of credit card expenditure and also following the wrong procedure in dismissing an employee of the corporation. Murphy, a returned exile who specialises in radiation physics, was appointed to transform the image of the AEC. Judge BC van den Heever found this week that a binding agreement had been concluded between Murphy and Stumpf that an independent representative of the Independent Mediation Service of South Africa would chair the disciplinary inquiry. The AEC later reneged on this agreement. Murphy had argued that Stumpf was biased against him, a charge the corporation denied. It had contended that it had a right to follow its own internal procedures for disciplinary hearings. The AEC has been ordered to pay costs.

Murphy said in response to the judgment: "The AEC has always been plagued with a high black staff turnover which is attributed to the management's failure to create and maintain an enabling environment for people who were excluded from the development of the corporation and its culture."

Mojalefa Murphy, one of South Africa's most senior black nuclear physicists, has won the first round in a dispute with the Atomic Energy Corporation (AEC). This week, the Pretoria High Court ruled that Murphy was entit-

No lawyers in dispute, says NTL

By PERCY MAKHAMEDZHA

IN A DISPUTE over unfair labour practice, a Gauteng company has refused a worker the right to be represented by a lawyer in disciplinary hearings

The row between Germiston-based Normans Transport Lines (NTL) and 30 of its truck drivers reached boiling point this week when the company insisted it would only allow shop stewards to represent the workers at the hearings

The drivers do not belong to a union

Lawyers representing the truck drivers, attorneys Stupel and Berman, told City Press they intended to take NTL to the Commission for Conciliation, Mediation and Arbitration (CCMA) to answer allegations that its disciplinary code is vicious to its employees.

Wayne Draper of Stupel and Berman, said "We have lodged an appeal for one of the drivers, Vivian Tshabalala, against three warnings

he received last month

The company has rejected the appeal, saying lawyers were not welcomed"

Mike Abbots, NTL's Group Personnel Manager, said he wished to place on record that Tshabalala was in breach of the Recognition Agreement with the Transport and General Workers Union which caters for all hourly paid employees

Tshabalala said he feared his job could be on the line after receiving three warnings for transgressing the disciplinary code

"The company's planning manager, Sean Brown, wants to see me fired," he claimed

Tshabalala has asked the lawyers to appeal against the charges, which include exceeding the 80 km per hour speed limit, failing to properly fill in his logsheet and tachograph and failing to carry out pre-and post-trip checks

When asked to sign the record of warnings including two reprim-

ands and an admonishment, Tshabalala refused and consulted the lawyers

Draper said the charge of exceeding the speed limit was a broad allegation

He said NTL should indicate a specific allegation, adding that Tshabalala was at no stage called by Brown, neither were his logsheets taken or gone through in respect of the dates mentioned.

Draper added that NTL had not given Tshabalala a chance to answer the warning

"I am not happy with NTL's handling of the case because our client is not a member of the union

"The agreement between the company and the union is not binding on my client

"They should follow rules that are followed by other companies and stop creating their own at employees' expense," Draper said

He added that if he did not manage to get an appeal for Tshabalala, he would go straight to the CCMA.

(151)

CP 7/12/97

Rus Business Day

DAY, DECEMBER 22 1997

www.bday.co.za

BDM A BDFM publication

The Cathay Pacific, The Legend of Asia

CATHAY PACIFIC

ASIA EXPRESS

VAT Subscription R2,00 inc VAT (where available)

Commission calls for new department to administer SA's courts

Deborah Fine

THE feasibility of setting up a new department to administer SA's courts should be considered "as a matter of urgency", the Hoexter commission of inquiry into the rationalisation of the provincial and local divisions of the High Court has found.

The third and final report of the commission, headed by Judge Gus Hoexter, said courts were being administered by the justice department in an "unsatisfactory fashion". The court system would function more efficiently and productively if SA were to have its

own department for courts.

In this regard, it was recommended that a committee of senior judges, a senior magistrate, a senior justice department official and a chartered accountant visit New Zealand to study that country's department for courts.

It also proposed the establishment of independent specialist family courts of comprehensive jurisdiction, having the status of superior courts, in each of the provincial High Court divisions.

Such courts would have jurisdiction concurrently with High Courts to hear divorce cases, all matters ancillary to divorce such as custody and access to

minor children, maintenance and paternity cases. The courts would also have jurisdiction to hear cases involving customary or religious unions not recognised by SA civil marriage laws.

Family courts, would not exercise criminal jurisdiction, and should be launched via a pilot project under the Natal High Court provincial division.

Other recommendations included introducing case management to control the pace of litigation in defended actions. Case management would enable courts to dictate the pace of litigation by setting strategically fixed deadlines which were "just long

enough to allow proper preparation and just short enough to require parties to act briskly".

The introduction of "fast-track" criminal courts such as those in the Western Australian District Courts was also strongly recommended.

Johannesburg's commercial court for the resolution of complex, commercial disputes should continue and the Supreme Court Act should be amended to give the judge-president authority to designate a case as a commercial action. The exchange of witness summaries should be mandatory in all cases before the commercial court.

It was not necessary to establish specialist intellectual property law and insolvency courts. Regular civil circuits in the Western Cape functioned smoothly and no civil circuits were needed in Gauteng, Free State, KwaZulu-Natal and Eastern Cape. No circuits were needed in Northern Cape above those soon to be established.

Until effect was given to recommendations in the commission's first interim report, the Gauteng judge-president should consult attorney's associations in Mpumalanga, Northern Provinces and North West to determine the need for civil circuits.

Hansard

(2) Until the formation of the Airports Company in August 1993 the Department was responsible for managing and developing the nine State Airports as prescribed by Law. Since then the Department's function has become regulatory, and it is therefore not involved in the commercial development of any airports.

Even as a private venture the economic viability of developing an airfreight depot at the former Durnottar Central Flying School is questionable. The following facts need to be borne in mind here:

- Airfreight handling at Johannesburg International Airport is not being negatively effected by the increase in passenger traffic, capacity remains adequate.
- At least 95% of all flights to and from Johannesburg Airport carry cargo as well as passengers. Dividing the two components by means of two handling terminals would thus not be a satisfactory solution.
- Any proposed future usage of the airfield by a private sector developer would, in terms of the constitution, have to be negotiated with the relevant Provincial/Local Authorities and the SANDF.

(3) The SANDF reports that it is no longer maintaining the Flying School at Durnottar as an airfield. The terrain had been handed over to the South African Army to use as it sees fit.

(4) Fall away because of 2 and 3

Representations concerning high crime rate
714 Mr A J LEON asked the Minister for Safety and Security

- (1) Whether he has received representations concerning the high crime rate from any persons and/or organisations since 1 January 1997, if so, (a) from whom and (b) what was the purport of each representation.
- (2) whether he has taken or intends taking any action in pursuance of such representations, if not, what is the position in this regard, if so, what action.

Hansard

Annexure A

I AM CONCERNED ABOUT AND OPPOSED TO

- * The unacceptably high levels of murders, crime and lawlessness
- * The infringement of property rights
- * Tax pressure on all levels
- * The deterioration in state administration, including health and education
- * The negative influence of poor government decisions with regard to agricultural production and thus food security

I hereby fully support the South African community's appeal to the President and Government to introduce and implement urgent and effective measures

J E Wind, Pikerberg
17/3/97

Annexure B

Laurence Levy
Murdered 17 April 1997

HIS AND OTHER, KILLERS ARE STILL AT LARGE AND CONTINUE TO PERPETRATE VIOLENCE IN OUR SOCIETY, WITH EVERY MURDER IN THIS COUNTRY YOUR CONSTITUTIONAL RIGHTS ARE BEING ERODED

Help us to take back control and bring them to Justice by faxing this flyer to those accountable

MR S F MUFAMADI (012) 320-5065
MS J DUARTE (011) 355-1850
PRESIDENT N R MANDELA (012) 823-8246
MR T SEXWALE (011) 838-7428

*Will it be your turn next
or should it be the killers*

Julia Twigg

Annexure C

R DICKSON & KIE/CO
Boekhouding
Sekretarieel
Haakdoringstraat 6
West Acres
Tel (013) 741-1072/3
Fax (013) 741-3852
Postbus/PO Box 1631
NELSPRUIT 1200
26/05/1997

THE HONOURABLE PRESIDENT

NELSON MANDELA
FAX NO (012) 461-4987

MR F S MUFAMADE - MINISTER OF SECURITY
FAX NO (012) 320-2059

MR T SEXWALE - PREMIER OF GAUTENG PROVINCE
FAX NO (011) 355-1710

MR M PHOSA - PREMIER OF MPUMALANGA PROVINCE
FAX NO (013) 755-3079

Dear Sir

The citizens of South Africa can no longer tolerate the unacceptable violence and lawlessness which exists in our country.

Each day we are confronted with car hijacking, robberies and senseless murders affecting our lives as well as the lives of our family and friends.

There does not appear to be any attempt to curb this terrible cycle of crime which has become a way of life in South Africa.

The continuation of this violence will result in a loss of confidence by investors and capital flight, thus creating fewer jobs and a spiral of violence.

To say nothing of the mass emigration of skilled and educated people who seek personal safety elsewhere and who are so necessary to develop the potential of our new country.

In the interest of all the people of South Africa we appeal to you urgently to address this serious matter and to introduce visible law enforcement to curtail the violence.

Yours faithfully

R DICKSON & CO
M L DICKSON

Commission for Conciliation, Mediation and Arbitration: person appointed

715 Mr A J LEON asked the Minister of Labour

Whether a certain person, whose name has been furnished to his Department for the purpose of his reply, has been appointed to the Commission for Conciliation, Mediation

and Arbitration, if so, (a) in what position, (b) at what salary, (c) what selection process was followed, (d) what salary is paid to each other member of the Commission and (e) who will be responsible for paying the said person's salary? N1211E

THE MINISTER OF LABOUR

(a) Mr Nupen was appointed in November 1996 by the Governing Body, in terms of Section 118 of the LRA of 1995, as Director of the CCMA. He was appointed on a twelve month contract, renewable by agreement.

(b) Mr Nupen is not being paid a salary by the CCMA since the Governing Body negotiated with the International Labour Organisation, with whom Mr Nupen has a contract, that he be released for the period of this contract. The Governing Body is currently seeking advice on the appropriate salary level for a position of this sort and a figure will be proposed shortly to the Minister.

(c) The position was initially advertised last year but the Governing Body decided not to make an appointment from among the applicants. Mr Nupen was appointed after extensive discussions - among members of the Governing Body and between Governing Body members and their principals (Government, Business and Labour) - determined that he would be the most suitable candidate to approach.

(d) In terms of the LRA of 1995, the Governing Body comprises nine members (three from each of the social partners) plus a chairperson. Governing Body members are not CCMA employees and are paid only for attendance at meetings. These are generally held monthly. They may also be reimbursed for associated transport and accommodation costs.

At present all but one Governing Body member is in full-time employment elsewhere, and in practice most are not lodging claims for meeting attendance. In respect of the remaining member, who is self-employed, an allowance of R1 500 per day is paid. Some Governing Body members claim for transport and accommodation reimbursement, but most carry these costs, courtesy of their existing

employer. We see this as an indication of the commitment of the parties to the institution.

Approval is currently being sought by the Department of Labour from the Department of State Expenditure for an indication of whether the figure of R1 500 per day is appropriate. Total meeting fees paid since the CCMA establishment in March 1996 to 10 June 1997 equals R94 560.

(e) not applicable at this stage. From November 1998 we anticipate the Director being paid from the CCMA budget, as indicated above.

Minister/Deputy Minister visits abroad

717 Mr C W EGLIN asked the Minister for Provincial Affairs and Constitutional Development

(1) (a) How many times in (i) 1996 and (ii) during the period 1 January 1997 up to the latest specified date for which information is available, did (aa) he, (bb) his Deputy Minister and/or (cc) staff members of his Ministry go on trips outside the borders of the Republic funded entirely or partially by the State and (b) what was the (i) purpose, (ii) cost to the State, (iii) destination and (iv) duration of each such trip,

(2) whether any family members and/or other persons not employed by the State went on any of these trips, if so, in each case, (a) who and (b) at what cost to the State? N1213E

THE MINISTER FOR PROVINCIAL AFFAIRS AND CONSTITUTIONAL DEVELOPMENT

(1)(a)(i) (aa) Once

(bb) Once

(cc) Once

(ii) (aa) Twice

(bb) Not applicable

(cc) Twice

(b)(i) Constitutional Study Tour

Study tour on political party funding

International Union of Local Authorities Conferences

(ii) R51 880 (1996)
R30 552,92 (1997)

(iii) Germany
Canada and USA
Mauritius

(iv) 08 tot 15 Januarre 1996
22 tot 31 Augustus 1996
05 tot 07 April 1997

(2) Yes, the trip to Mauritius
(a) Ms E Wessels (spouse)
(b) R2 500

Private sector companies: information to CSS

718 Mr K M ANDREW asked the Minister of Finance

(1) What information are private sector companies obliged to submit to the Central Statistical Service (CSS),

(2) whether any employees of the CSS have been (a) charged with and/or (b) prosecuted for abusing such information, if so, what are the relevant details in each case,

(3) whether any measures are in place to prevent such abuse, if not, why not, if so, what measures? N1214E

THE MINISTER OF FINANCE

(1) According to Section 3(a) of the Statistics Act, 1976 (Act No 66 of 1976), statistics may be collected related to economic, financial demographic and social matters and any other matter

(2) (a) and (b) No

720 Mr R S MOLEKANE asked the Minister of Defence

SANDF: voluntary packages

(a) How many personnel members of the South African National Defence Force have taken voluntary packages since the commencement of the system of voluntary packages for public servants, (b) what are the (i) ranks, (ii) gender and (iii) race of these persons and (c)(i) how many of these persons have been re-employed as civilians in the SANDF and (ii) in each case, (aa) at what level, (bb) in which arm of the service and (cc) why? N1257E

THE MINISTER OF DEFENCE

(a) Since the commencement of the Voluntary Severance Package system was introduced on 31 August 1996, 5 639 members have taken the package to date (31 May 1997)

Rank	Asian (iii)		Black (iii)		Coloured (iii)		White (iii)		Total	
	M	W	M	W	M	W	M	W	M	W
(i)										
Mag Gen									8	8
Brig									18	20
Col									100	106
Lt Col									12	198
									8	28
									218	246

I. R. - DISPUTES

1998 - 1999

Dismissal of Afrox drivers is upheld by Labour Court

Taryn Lamberti

THE labour Court has found that the dismissal of 52 Afrox employees while they were engaged in a protected strike was substantively and procedurally fair.

Judge AA Landman dismissed recently an application by the SA Chemical Workers' Union, which claimed its members were retrenched unfairly because they had embarked on a strike.

Landman found that Afrox, a manufacturer of industrial and medicinal gases, had made the decision to retrench 52 of its drivers and hire outside contractors in good faith and in the company's best interests. "The evidence shows there was good reason to declare redundancy, in order to service the customers of Afrox through outside contractors and to combat the potential loss of custom to competitors."

The judge said "exhaustive efforts were made (by Afrox) over a long period of time to accommodate the union and to avoid dismissal ... and the union was unable to suggest a more acceptable solution".

The dispute arose in April 1996 when Afrox approached the union for a solution to drivers working overtime in

(151)BD 12/1/98
excess of that permitted by law. Afrox delivers gases to about 700 customers, in chemical bulk tankers, seven days a week, 24 hours a day. The result is that some of the 52 drivers were working 22 hours of overtime a week.

Management's solution was to introduce a staggered shift system, which the workers rejected because they had to work over weekends and would receive less overtime pay.

After a failed trial period — of drivers working reduced overtime hours without staggered shifts — Afrox introduced the staggered shift system on September 30 1996. Workers embarked on a first strike on September 30 and a second strike on January 11 1997 in support of the union's demand that Afrox abandon its staggered shift system. Several attempts by Afrox to interdict the strikes failed. On January 11, a lockout was implemented and on January 24, Afrox told the union it would dismiss employees for "operational requirements".

The judge said he believed the decision to dismiss the drivers was made in good faith. "Although we speak of the right to a job, this right is itself dependent ... on the existence in economic terms of the enterprise," he said.

Truth body to ask for amnesty review

Stephen Laufer

THE truth commission is to ask the high court to review urgently amnesties granted to 37 senior African National Congress officials, including ANC president Thabo Mbeki.

The move follows criticism of the amnesties and legal advice to the commission that the amnesties could be faulty in terms of the act governing the truth body's work.

Archbishop Desmond Tutu said after a commission retreat on Robben Island yesterday that the truth body had considered its own and public concern over the amnesties. In discussion with the amnesty committee, it had been agreed to follow the advice of advocate Wim Trengove that the amnesties should be referred to the high court.

BD 14/1/98
The decision had been unanimous despite differences of opinion late last year over how best to respond to criticism of the amnesty decisions.

The high court is to be asked for a declaratory order defining whether the amnesties comply with the law governing the commission. This means that the court will review a unanimous decision by three judges — amnesty committee members Hassan Mall, Bernard Ngoepe and Andrew Wilson.

One committee member, advocate Sisi Khampepe, said that if the court found the amnesties to be faulty, they would be referred back to the amnesty body. The applicants could then be asked to furnish further details before their applications were reprocessed.

Khampepe said any of the 37 amnesty applicants could oppose the

court action, but the ANC responded by welcoming the commission's move.

The amnesty applications are understood to have given no detail on the acts or omissions for which individuals sought pardons. They referred instead to the detailed submission by the ANC on all its anti-apartheid-era activities, which could have involved the gross violation of human rights. Critics pointed out that the law required acts or omissions for which amnesty was being requested to be detailed.

The commission also said yesterday it had decided not to take further action on the amnesty granted to Tutu's son, Trevor, for making a bomb threat at an airport. Sapa reports that commission deputy chairman Alex Boraine said the body was satisfied all provisions had been taken into account.

Justice department faces overtime dispute

Stephané Bothma

PRETORIA — Staff organisations declared a dispute with the justice department yesterday over its decision to hold "discussions" on the suspension of overtime payments, rather than full negotiations.

Justice Minister Dullah Omar has announced that overtime payments in the department will cease today because "funds have dried up".

State advocates claim an average of 25 hours' overtime a month while pro-

BD 14/1/98
secutors claim between 30 and 40 hours.

The dispute was declared at a special meeting of the departmental bargaining chamber and would now be submitted for arbitration, justice department chief communications director David Porogo said.

Although the situation now prevented state advocates and prosecutors from embarking on official protest action, Association of State Advocates spokesman Rheta Meintjies said prosecuting staff had indicated they would refuse to work any overtime without

pay from today.

Five employee organisations attended the meeting, including the Public Servants' Association, the National Education, Health and Allied Workers' Union and the Association of Interpreters. Porogo said the department had called the meeting to discuss the reasons for the suspension of overtime pay for the rest of the financial year and proposals for resolving the matter.

Before any discussion could take

Continued on Page 2

Overtime

Continued from Page 1

BD 14/1/98
place, the organisations had opted to declare a dispute over the department's standpoint that the resolution of the matter was not one for negotiation but for consultation. Meintjies said the attempt by the department to force staff organisations into "consultation" as opposed to negotiation, was not in the interest of staff members.

Porogo said a dispute over a tech-

nical issue had denied employees the opportunity to be informed on the matter and to influence events.

He said the department would continue to seek the necessary funding to resume overtime payments, if possible before the end of the financial year.

Omar said that until now, the department had been able to afford overtime pay, as many positions had been vacant and money had been available. "However, we are in the process of filling these vacancies so that a lot of work pressure will diminish and the need for overtime will reduce."

Unions approach Mandela on collective bargaining

A DELEGATION of trade-union leaders from 14 countries met President Nelson Mandela yesterday at his Houghton, Johannesburg, residence to seek his support for the promotion of collective bargaining.

Archie Palane, the general secretary of the Southern African Miners' Federation, said delegates had also raised the issue of the arrest of two trade unionists in Nigeria. "The president was asked to raise the

matter within the Organisation of African Unity and demand their release," he said.

Palane said Mandela appreciated the coming together of trade unions and initiation of a solidarity-action plan, especially in cases of human-rights violations.

Mandela had also noted the importance of a united effort by trade unions when the labour movement was under attack and when employers were ignoring

collective bargaining.

At the Parktonian Hotel conference centre later yesterday, delegates heard reports from various countries that Rio Tinto had deliberately and unilaterally terminated labour agreements.

In cases in which negotiations on collective bargaining agreements were still taking place, the company was dragging its feet, they said

BD 9/2/98

151

Palane said the other matter raised was Rio Tinto's discriminatory wage policies which were in place to prevent unions from acting as collective bargaining agents for their members.

It was also reported that, particularly in Namibia, Zimbabwe and SA, (Rio Tinto) management sought to divide workers in bargaining units, where the trade unions, especially black unions will nego-

tate for certain categories while on the other hand they are not allowed to negotiate on behalf of workers above the bargaining unit," Palane said.

He said the health of Rio Tinto's workers was jeopardised by the company's policies on the dumping of hazardous materials. "So far we have won two compensation cases and there is the likelihood of more." — Sapa.

(151) ET (BR) 12/12/98

CCMA seeks greater efficiency

The Commission for Conciliation, Mediation and Arbitration (CCMA) would embark on dispute-prevention programmes this year to curtail its workload and maintain an efficient work environment, Eugene van Zuydam, the senior commissioner of the CCMA, said yesterday.

Van Zuydam said the CCMA had noticed an increasing number of employees were bypassing their unions and going straight to the CCMA for assistance. "Some workers say the unions are not doing their jobs properly, and they come to us, but this is severely hampering our operations."

Van Zuydam also said the CCMA had begun discussions with Cosatu and three other unions, to find reasons for this "new trend". It would also engage in workshops for small businesses on unfair dismissals — *Ravin Maharaj, Durban*

CCMA rules in Samwu's favour

Sowetan 4/3/98
By Abdul Milazi

THE South African Municipal Workers Union (Samwu) has won its first victory in its anti-privatisation campaign

This follows the Commission for Conciliation, Mediation and Arbitration's (CCMA)'s ruling on Monday that privatisation of refuse removal in the Western Cape's Khayelitsha township was an unfair labour practice

The CCMA further ruled that the introduction of the Billy Hattingh Refuse Removal Scheme in Khayelitsha constituted a unilateral

change in the terms and conditions of employment of municipal refuse removal workers

Samwu spokeswoman Ms Anna Weekes said the township had not been clean since Hattingh's company took over refuse collection. In the last month the council had to redeploy municipal workers to assist with the cleaning of the area

Tygerberg councillor Mr Vuyani Ngcuka said the privatisation of waste removal services was meant to instill discipline in a work force of about 160 people

Weekes said "It goes without saying that any form of privatisation

(151)
should only be contemplated with due regard for the right to a fair labour practice"

Samwu has been fighting a losing battle against privatisation of basic services in municipalities around the country

Councils have been privatising water and sewerage services to cut costs

In Khayelitsha, Ngcuka and other council members were allegedly assaulted by striking workers who were angered by the privatisation move

"Workers whose jobs were under threat became involved in a scuffle with councillors," said Weekes

Sowetan 18/3/98

Milling group to face CCMA

(151) (15)

By Abdul Millazi

PREMIER Milling training and development manager for Mpumalanga and North West provinces, Ebrahim Harvey, is taking the company to the Commission for Conciliation, Mediation and Arbitration (CCMA) for allegedly unfairly retrenching him this month.

Harvey was one of two black training managers facing retrenchment due to Premier Milling's restructuring process which included having one training executive for Gauteng and North West instead of one for each province.

Harvey and his Gauteng counterpart, Gudu Mngomezulu, found themselves having to contest the new position and the rules were simple – the unsuccessful candidate lost the job.

"The underlying motive for asking us to contest the position was to absolve the company from taking a decision on who should be retrenched between Mngomezulu and me," he said.

Harvey refused to apply for the new position, demanding that both he and Mngomezulu be retained. The axe fell on him.

"They could not use the last in first out (LIFO) system because we have

the same number of years of service. So they had to make us contest for one position and thereby absolving themselves from taking a decision," said Harvey.

Harvey's main concern, however, is that none of his white colleagues in other provinces are affected by the restructuring. "How is it that the only two black managers have to be retrenched?"

He said the decision to combine the two regions grossly underestimated the impact the Skills Development Bills and the Basic Conditions of Employment Bill would have on training.

"Just the sheer geographical spread of the two regions combined will make it practically impossible for one person to manage training effectively, especially once the bills become law," said Harvey.

Premier Milling corporate human resources head Manasse Matau said Harvey's retrenchment was part of the restructuring process.

"We have already retrenched about 3 000 workers of all colours and at all levels since last year."

He argued that Premier Milling management was satisfied that they had followed fair procedure in dealing with the retrenchment.



PEACEMAKER... The new director of the Independent Mediation Service of SA, Thabo Ndabeni, is a sought-after mediator despite not having a legal background.

The iron fist in a velvet glove

By ALI MPHAKI

TOGETHER with Tsietsi Mashimbi and others, they led students in what has come to be known as the "1976 Soweto uprisings". Now Thabo Ndabeni is a peacemaker, the recently appointed director of the Independent Mediation Service of South Africa (Imssa).

Adjectives like fiery, uncompromising and obstinate are but some of the adjectives that could have been appropriate to describe Ndabeni during the '76 era.

But with the passage of time, the bespectacled, softly spoken Ndabeni has evolved to a level where he's become one of the most sought after mediators

Communities in the former "war-torn" Kathorus area rave about his "persuasive" manner in handling conflict.

Ndabeni was part of the Kathorus task team formed to stabilise the area for the '91 elections to take place.

That the situation in the area did stabilise and elections took place - with minimum violence - was as a result of input from people like Ndabeni

His colleagues go so far as de-

scribing him as "an iron fist in a velvet glove".

Almost two months as Imssa director, Ndabeni is the first director of the organisation to come from a non-legal background.

For an organisation that has grown enormously since its launch in 1984, his appointment is said to go a long way towards giving Imssa a "different perspective" as Ndabeni's thinking is not constrained by legal training

His predecessor, Thandi Orlyne, is now director at the government-created Commission for Conciliation, Mediation and Arbitration (CCMA).

When the CCMA was started, there were concerns that Imssa's role was no more. Unlike the CCMA, Imssa is an independent organisation solely dependent on funders, especially foreign ones.

Imssa charges for its services, whereas the CCMA offers a free service.

To some degree, Ndabeni says, both Imssa and CCMA act in a complementary manner rather than adversarial, as some of the cases that are now stockpiling at the CCMA are being transferred to Imssa.

Ndabeni is under no illusion as

to the massive task that lies ahead for him as director of Imssa.

Among his priorities is to continue the transformation of the organisation, which has over the years been perceived as "elitist" and "white"

The priority is to make sure that the composition of Imssa's panelists and staff reflects South African demographics

In his book, affirmative action is not a re-racialising of the South African society, but a "national need for all structures of South African life to change

"It's no secret that most structures in South Africa have been white. What we need is to ensure that no structure remains as it was before 1994."

He says added to that is that for Imssa to remain on the leading edge, users' needs are primary

"You find a client requesting to have a panelist who is female and who speaks Setswana

"As a serious conflict resolution service we need to be able to respond to such requests"

To this end, Imssa recently signed an agreement with some funders to train about 150 black attorneys as arbitrators.

(151)

CP 22/8/98

Media unions declare pay dispute (151)

Star 25/2/98

(152)

Durban - The Media Workers' Association of SA and other unions have declared a pay dispute with Independent Newspapers, Mwasa said yesterday

The dispute was referred to the Commission for Conciliation, Mediation and Arbitration

following the unions' rejection of an 8,6% increase and the newspaper group's failure to attend a dispute resolution meeting

Mwasa, SA Union of Journalists, SA Typographical Union, SA General Workers Union and Numdusa want 11,2%. - Sapa

Appeal court confirms sleeping workers finding

(151) BD 27/3/98

BLOEMFONTEIN — The Supreme Court of Appeal has confirmed a finding by the Natal Labour Appeal Court that the dismissal of 12 night-shift workers who slept on duty was unfair labour practice

They were employed by Boardman Brothers (Natal) in its candle-making section in Ladysmith

On October 28 1994 the labour appeal court ordered Boardman to reinstate the workers on terms and conditions no less favourable than those that would have governed their employment had they not been dismissed in May 1991. A majority of the court had found that, while the workers were guilty of misconduct, it was not such as to warrant dismissal.

Yesterday Appeal Judge Smalberg said it appeared that a scheme had been devised by the employees' shift whereby those on night shift would forego all but one of their breaks, work straight through until they had achieved their target and then sleep for the rest of the night. That had worked well until a compulsory drying process time was introduced.

The workers were no longer able to achieve their target within the shortened working hours. That did not prevent them from continuing with what was by then established practice, although they were thereafter incapable of achieving their production target.

The judge said although the employees were charged with dishonestly

due to claiming payment for time not worked, that was an incorrect formulation of the complaint. The real thrust of Boardman's case was that the workers had dishonestly taken money for work not done

To determine the issue of unfairness it had to be considered that when the employees initially joined the scheme devised for them to reach their target and then sleep, it was not their intention to prejudice Boardman or act dishonestly.

They were required to work longer hours than permitted by law. Although the management acted with the best intentions to accede to the workers' request to only work four nights a week, it should have realised that the workers could not and would not be able to work the hours agreed on. It should have foreseen their sleeping during working hours as a real possibility.

The employees were clearly at fault in not telling management that they were physically unable to work the long hours; not disclosing that they were sleeping and the extent to which they were not working, accepting, over a long period, payment for hours not worked and ignoring management's legitimate concerns about low and declining production levels.

The finding of the labour appeal court went to the heart of the matter that some form of corrective discipline should have been applied instead of the drastic measure of dismissal — Sapa.

Earnings per

Mokotedi given wrong title

we had to fulfil," Ken said
arch - she has 13 children, 59
, 97 great-grandchildren and 14

The family plan an even more spectacular
surprise for Gertrude when she turns 100
Ken said: "That is going to be something
amazing, but we'll keep it a surprise"

Simons, by his own ad-
mission, had an unquench-
able, sexually driven urge to
kidnap and murder young
boys

Official suspended for keeping mum on firing

By PETA THORNYCROFT

Dan Matsapola, Land Bank direc-
tor of human resources, failed to
tell his employers he had been
sacked from his previous job for
serious misconduct, including alle-
gations of financial irregularity.

Matsapola was working as a
registrar at the Commission for
Conciliation, Mediation and Arbit-
ration in the Western Cape last
year and was suspended on full
pay in March. He was sacked three
months later before arbitration
into his case had been concluded.

CCMA director Thandi Orleyn
confirmed Matsapola had been
fired last year. The CCMA in the
Western Cape had accused him of

financial irregularities in connec-
tion with hotel accommodation and
a hired car.

Last week Matsapola was sent
on "special leave" on full pay of
about R370 000 a year while his
case was investigated.

Helena Dolny, managing direc-
tor of the Land Bank, said: "No,
I didn't know he had been fired. He
came to an interview after being
shortlisted by a professional head-
hunter. I will have to see what my
rights as an employer are where
there has been misrepresentation
of certain facts. I did discover he
had been insolvent through person-
al misfortune, not through any
fraudulent activities."

Dolny said there had been a

campaign by some white staff
against Matsapola's appointment
to the Land Bank. Crude stickers
had been put on his car.

"I wrote an open letter to the
staff pointing out that one should
look at the circumstances of in-
solvency. In his case there was
no fraud, and his job in human
resources didn't require him to
have any financial skills"

Dolny said she experienced
open hostility from some white
Land Bank employees when she
was appointed to her job last year
Dolny, a respected academic, is the
widow of former Communist Party
chairman Joe Slovo.

Matsapola's Land Bank discipli-
nary hearing is in two weeks

(151) A/TW 28/3/98

Helping to resolve disputes at work

Stan 30/3/98 (151)

The Commission for Conciliation Mediation and Arbitration, which was established in 1996 under the Labour Relations Act, has the function of resolving disputes between employees and employers.

The aim of the CCMA is to provide an effective and speedy settlement of labour disputes, according to Andrew Sparks, senior researcher, information services at the CCMA.

"A CCMA commissioner's function in a conciliation hearing is to attempt to resolve the dispute between employer and employee through a process of conciliation," he explains "The CCMA is really a third party, which helps parties to resolve their dispute by assisting and guiding them."

A conciliation hearing is private and confidential. Other persons may only be present by mutual consent.

The majority of commissioners have a legal background and all have received and specific training. In addition, interpreters are available at all CCMA offices.

A settlement must be reached within 30 days of the dispute being referred to a commissioner for conciliation. The hearing involves no cost to the parties.

Sparks explains that if the

conciliation procedure is unsuccessful, because either party refuses to attend, or if a settlement agreement is not adhered to, the matter may be referred, by either party, for arbitration by a CCMA commissioner.

At the arbitration hearing a commissioner is empowered to make an award, which is final and binding.

Certain types of disputes cannot be referred for arbitration and have to go to the Labour Court. These include dismissals resulting from strike action and those relating to pregnancy.

If either party refuses to attend an arbitration hearing, an award may be made in their absence.

Arbitration awards are circumscribed by law. For example, although the preferred remedy for an unfair dismissal is reinstatement, where this is not possible the payment of compensation may be awarded, subject to certain limitations. These include a maximum of 12 months salary where dismissal is for an unfair reason.

If the dismissal is for a fair reason, but correct procedures have not been followed, a maximum award may be made of the

salary that would have been earned between the date of referral to conciliation to the last date of arbitration hearing.

Sparks says a point of interest relating to unfair dismissals concerns what is known as a "constructive dismissal": when an employer, by his or her actions, has made it intolerable for an employee to continue working and that employee resigns, this would be regarded as a dismissal.

Despite some current backlogs, an arbitration award will normally be made within four months of the matter first being referred for conciliation. Arbitration proceedings are also at no cost to the parties.

Conciliation and arbitration facilities are open to all employees and employers with the exception of certain categories such as the SA Police Services.

A wide range of employee-employer disputes, from sexual harassment to wage disputes, discrimination, and unfair dismissals have been heard by the CCMA. More than 65% of matters referred for conciliation between November 1996 and December 1997 have resulted in settlements.

For more information, call (011) 377-6600 or fax (011) 834-7352.

'Gauteng CCMA is overworked'

Reneé Grawitzky

THE Commission for Conciliation, Mediation and Arbitration (CCMA) has received 60 000 applications in its first 16-months' of operation instead of the expected 40 000 a year

Commission registrar Mondli Zinema said on Friday that more than half of the applications were from the Gauteng region.

Top US arbitrator Arnold Zack, who visited SA recently, said that Gauteng's heavy workload could lead to tension, but commissioners had adapted well to the excessive and unexpected workload.

There was rising concern that the Gauteng region has major problems. Sources said that some problems stemmed from commissioners being overworked and others from internal politics

^{POD 6/4/98}
Zack came to SA with eight arbitrators from the American Arbitrators' Association to help CCMA arbitrators in a "reciprocal interactive learning intervention" with commissioners operating on homeground. The project was jointly funded by the International Labour Organisation and US state department

Zack explained that the group had travelled around the country and observed nearly 60 commissioners during conciliations and arbitrations. The US arbitrators had held confidential sessions with the commissioners to elicit problem areas and to provide advice as mentors

He had found the commissioners to be positive, enthusiastic and committed to their work. At the same time, they had a good knowledge of the law

⁽¹⁵¹⁾
Zack said that the system was efficient and proving itself in the smaller offices that were not as overburdened as Gauteng with heavy caseloads

Roberto Goldick, another visiting US arbitrator, said the group was impressed by the commissioners' skills, especially in conciliation. However, it appeared that the less experienced commissioners feared having disputes referred to arbitration, and tried to ensure that they were settled during the conciliation phase.

Work had to be done to ensure such commissioners reached a comfort zone in their skills as arbitrators, she said

Acting CCMA director Calvin Lebea said the interaction with the US arbitrators would help to improve the quality of service provided by the commission

First private sector bargaining council formed

Reneé Grawitzky

(151)

THE signing of the constitution of the national bargaining council for the clothing manufacturing industry yesterday marked the formation of the first national council in the private sector in terms of the new Labour Relations Act

Agreement on the constitution comes after four years of talks

between clothing manufacturers and the SA Clothing and Textile Workers' Union.

However, the adoption of the constitution was nearly hijacked by a small employers' group, the Garment Manufacturers' Association of the Western Cape, which argued that the interests of small business were not properly accommodated in the constitution.

The matter was resolved when the parties agreed to adopt a resolution at the first council meeting to the effect that the management of small businesses would be addressed by the regional structures of the council.

The signing of the constitution paves the way for the application for registration of the council, which will cover 85 000 workers.

DD 9/4/98

Manuel in hot water over wage allocations

~~250~~ (151)
CHRISTO VOLSCHENK

ECONOMICS EDITOR

CT (BR) 9/4/98

Cape Town — The dispute over the lower allocation by Trevor Manuel, the finance minister, in his Budget for salary and wage increases to public servants had been referred to the Commission for Conciliation, Mediation and Arbitration (CCMA) for conciliation, Anton Lourens, the deputy-general manager of the Public Servants Association, said yesterday.

The three-year wage deal originally stipulated a budget of R4,8 billion, which Manuel cut by R1,5 billion last month.

"Five public sector unions ... had forced the dispute to the CCMA on the grounds the government had reneged on the three-year wage agreement between the government and the public sector unions," Lourens said.

Should the CCMA rule in favour of the unions, Manuel would have to add R1,5 billion to his expenditure for the year, which would push the deficit before borrowing up from 3,5 percent of GDP to about 3,7 percent.

The first and second phases of the three-phase wage agreement had been implemented, and another R6,5 billion for the financial year 1998-99 was due from the government for the third phase.

The third phase will be implemented in July, and R4,8 billion would have been sufficient, but Manuel allocated R3,3 billion.

Manuel said inflation had dropped sharply in the past year, which meant salary and wage increases could be lower in nominal terms and leave public servants with the same real rises.

Yesterday Lourens said there was "no reference to inflation and real increases in the three-year wage agreement"

At a cost of about R650 million for every percentage point increase, R4,8 billion would have funded an average rise of 7,3 percent. Instead, public servants face getting 5,3 percent on average.

Civil service unions take R6,5-bn pay row to arbitration

Government backs out of deal

(157) (250) ARG 20/4/98

ARGUS CORRESPONDENT

Johannesburg - The labour dispute between the Government and public servants goes to arbitration today, after a state decision not to honour a deal to allocate R6,5-billion to improve working conditions for police and other public servants.

The Government is facing action from the SA Police Union, the Public Servants' Association, and 22 other government workers' unions

The two sides will meet at the Commission for Conciliation, Mediation and Arbitration (CCMA) in Johannesburg today

Sapu president Arno Nel said a dispute was declared at the Public Service Co-ordinating Bargaining Council, where the Government indicated it would not honour the three-year salary agreement of R6,5-billion

Mr Nel said the Government had allocated only R3,37-billion for improvements to conditions of service over the next three years.

This indicated a pay increase of

3,5% instead of the agreed increase of 7,5% in July this year, Sapu's Andy Miller said

Mr Nel said workers had already made compromises "Sapu believes that their members have already sacrificed conditions of service in the three-year agreement, which were to the benefit of the state as employer.

"Among others are a reduction in government contributions to the pension fund, the removal of automatic notch increments, a change to danger allowances and the sacrifices of other allowances within the SA Police Service, a change in promotional policy and limited overtime"

Mr Nel regretted that these compromises had been accepted in the light of the prospective 7,5% increase.

"These compromises were accepted by police officials and other public servants with the promise of a revised salary system which could only be fully implemented in the final year of the agreement - 1998/9. In the final stage of implementation, the state has now reneged on these agreements"

Mr Nel called on the Government

to "value their police officials in prioritising crime and rewarding them for their efforts."

The Police and Prisons Civil Rights Union (Popcru) endorsed the move by the other unions, calling on the Government to dig deeper into its coffers to meet the obligations flowing from the agreement

"We understand that Government has betrayed the working class by not honouring the agreement we reached. Popcru calls on the Minister of Finance to do something about the situation," said Popcru secretary-general Jacob Tsamane

"We are willing to negotiate further about the issue. It is a bad precedent for the Government not to honour its obligations"

The Public Servants' Association (PSA) pledged undivided support to the stand taken by the other unions

PSA negotiator Johan Uys said it was the first time that all the government unions were speaking with one voice. "We are in a three-year agreement. The Government cannot just back out."

C

Conciliation to resolve unions' wage dispute

Journalist, 20/4/98 (151)

By Shadrack Mashalaba

THE conciliation meeting under the auspices of the Commission for Conciliation, Mediation and Arbitration (CCMA) will convene in Johannesburg today to resolve a three-year salary dispute between some of the public service unions and the Government

The unions in dispute are the Federation of Unions of South Africa and other independent public sector trade unions that represent more than 400 000 workers. The unions claim that the Government has reneged on an agreement reached in 1996.

The South African Police Union spokeswoman Shamira Huluman

said when the agreement was signed, the Government guaranteed at least R6,5 billion each year for salary improvements in the public service.

Savings that were to come from right-sizing, particularly from retrenchments, were to be used to upgrade the salaries of remaining workers, Huluman said.

Shift in spending

"In the past two years the Government effected the agreement. This year, however, it made available only R3,3 billion," she said.

The government's argument to cut the budget, according to Huluman, was because of a shift in spending priority.

Huluman said the state had already reaped the benefits of the three-year agreement in the first year by a reduction in prison contributions amounting to R400 million a year.

The removal of automatic notch increments (R1,26 billion savings a year) and the reduction in pension benefits were also savings for the Government during this period.

"Unions also gave approval for the right-sizing of the public service which led to the abolition of about 150 000 jobs," she said.

"The ball is now in the government's court to deal with the matter appropriately. Our next form of action hinges on the outcome of Monday's meeting," Huluman said.

LABOUR Cosatu warns that plan to 'prevent abuse' may block non-union access

Mboweni proposes CCMA fee

THABO LESHLIO

BUSINESS EDITOR

Johannesburg — The Commission for Conciliation, Mediation and Arbitration (CCMA) should consider charging a fee to raise funds and prevent the abuse of its services, Tito Mboweni, the labour minister, said yesterday.

"Faced by the increased demands both from users as well as different labour law statutes, the question about users paying for some of the services provided needs to be looked at," Mboweni said.

He was addressing the media on the CCMA's second annual report tabled in Parliament yesterday. The report shows the CCMA received R98,4 million from the state and R3,9 million in sundry income. It spent R86,5 million.

Mboweni said too many trivial cases, or those where internal dispute resolution procedures had not been exhausted, were being referred to the CCMA.

The commission is responsible for disputes in terms of the Labour Relations Act, Mines Health and Safety Act, Basic Conditions of Employment Act and the forthcoming Employment Equity Act.

Cosatu, the labour grouping,



HARD WORKING Tito Mboweni, the labour minister, left lends an ear as Thandi Orleyn, the CCMA director, reports that the commission solved over 39 thousand cases in '97. PHOTO JOHN WOODROOF

was "surprised" by the minister's "shocking" proposal, but two labour analysts supported it. Nowetu Mpati, Cosatu's spokesman, said the idea should be carefully debated at the National Economic Development

and Labour Council because it may render the CCMA inaccessible to non-union members. But Gavin Brown, an independent labour analyst, said it was about time something was done to stop trivial cases taking

up the commission's time. "Most employers will support the idea of a nominal charge that would at least deter some of the more frivolous applications," Larry Palk, the managing director of labour consultancy

Andrew Levy & Associates, agreed. "Maybe the CCMA should start using the legislation to award costs against people bringing frivolous cases to it."

Mboweni praised the CCMA for having helped to reduce industrial conflict in South Africa. "In a country that has been characterised by a high level of 'adversarialism', it is a tribute both to the CCMA and our social partners that the CCMA was able to resolve over two-thirds of the disputes referred to it through conciliation last year."

But Brown said strikes had been on the decline since 1992, long before the CCMA was established 18 months ago, because of the "insecurity over jobs, massive retrenchments and the weakening of trade unions."

Research by Andrew Levy shows that 650 000 man days were lost to strikes last year, compared to 1,7 million in 1996.

Thandi Orleyn, the CCMA's director, said 60 007 disputes had been referred to it last year. Some 39 939 cases were solved, 10 898 were awaiting conciliation and 3 952 were awaiting arbitration. On average, 240 cases were referred to it every working day.

□ Business Watch, Page 2

Arbitration does the job

ET(MR) 23/4/98
(151)

THABO LESHLIO

Thabo Mboweni, the labour minister, credits the 18-month old Commission for Conciliation, Mediation and Arbitration (CCMA) with having played an important role in stabilising the volatile industrial relations arena in its short lifespan.

Research by Andrew Levy labour consultancy bears this out, showing that 650 000 man days were lost to strikes last year, compared with 1.7 million in 1996. Larry Palk, the Cape Town managing director of Andrew Levy & Associates, says the CCMA has handled more cases than would have gone to the now-defunct industrial court.

"There is no doubt industrial action was substantially down on the previous year. Anyone must agree that the CCMA on balance has done a very good job of reducing and attempting to resolve disputes at the conciliation stage.

"More disputes which might have led to strikes are going to the CCMA. People who complain about it must look at the alternative, which is more industrial action," says Palk.

But Gavin Brown, another labour analyst, says the success of the CCMA in promoting industrial peace should also be seen in light of the restraining effect of uncertainty about jobs because of retrenchments and the weakening of trade unions.

Bokkie Botha, the acting chairman of the CCMA, says in the commission's annual report released this week that it considered 60 007 disputes during the year under review, compared with the 40 000 cases it expected.

Thandi Orleyn, the CCMA's



director, said of the 60 007 disputes referred to it last year, 39 939 cases were solved, 26 000 of them through conciliation and arbitration, 10 898 were awaiting conciliation and 3 952 were awaiting arbitration. The remainder fell outside the CCMA's jurisdiction or were combined because they involved the same issue.

On average, 240 cases were referred to the CCMA every working day. In all, 78 arbitration awards were taken on review to the Labour Court, of which only eight succeeded. The rest were either withdrawn by the parties or dismissed by the court.

"The majority of the disputes related to individual dismissals, which means that now, all who are active in the South African economy have access to industrial justice," says Botha in the report.

But fears have been raised this might no longer be the case, following Mboweni's suggestion that the commission charge for its services to help raise funds and to deter complainants from referring cases to it needlessly.

Indeed, the objective of the CCMA is to "assist the transformation of South African relationships by promoting expedient, integrated, uniform, high quality and simple dispute settlement services and by promoting effective strategies for dispute prevention".

Orleyn says the conciliation process encourages the parties to take an active part in settling their own disputes.

"The number of disputes settled in conciliation demonstrates the capacity that parties have, with third party intervention, to find their own solutions to disputes," she says.

The change from industrial court procedures to the more informal CCMA approach has highlighted the advantages of arbitration, which is less adversarial, cheaper and speedier, but still affords parties a final binding decision, she notes.

In provincial terms, Gauteng had the lion's share (37 percent), reflecting its economic dominance, KwaZulu Natal 18 percent, Western Cape 13 percent

and Mpumalanga 7 percent. Northern Cape was the lowest at 2 percent, then Northern Province and Northern Cape 5 percent each, Free State 6 percent and Eastern Cape 7 percent.

Of concern to Mboweni is the high percentage of cases related to unfair dismissal — 74 percent. This, he says, reflects inadequate workplace disciplinary and grievance procedures.

Michael Baogram, a labour lawyer, begs to differ. He says far too many cases are sent to the commission before internal procedures are exhausted because of the requirement that unfair dismissal cases must be referred to the CCMA within 30 days.

He says some of the cases referred to the commission are sometimes solved by the parties while the CCMA prepares to resolve them through conciliation — meaning the money it spends on them goes to waste.

Unfair labour practice cases were the next biggest category at 12 percent, "others" 7 percent, issues of mutual interest between employees and their boss-

es 5 percent and severance pay disputes 2 percent.

Analysis of cases by sector shows most problems in the commercial sector (20 percent), followed by the private security (7 percent), food and beverages (6 percent), building/construction (6 percent) and domestic disputes (6 percent). Agriculture came in at 5 percent and other sectors accounted for the balance.

The commission received R98.4 million from the state and R3.9 million in sundry income. It spent R86.5 million. It has 282 part-time and 111 full-time commissioners. There are 191 case management staff and 121 other support staff.

The commission's two other key functions are to facilitate the establishment of workplace forums and statutory councils, and to accredit bargaining councils and private agencies to do the work it does.

It will soon accredit some bargaining councils and private agencies to conduct dispute resolution. "The Labour Relations Act anticipates that the CCMA will be the leading institution in respect of dispute resolution but not the only one," says Mboweni.

However, the department of labour is concerned at the slow pace of transformation within the bargaining councils ahead of the May 10 deadline for the submission of new constitutions and agreements in line with the new act.

Mboweni says bargaining councils are too slow to improve their representativity.

Other key areas requiring change include those relating to the accommodation of small business interests and bringing the councils' dispute resolution and enforcement mechanisms in line with the act.

Dispute between Cosatu and textile firm resolved

Dustin Chick ~~(151)~~

(151)
A DISPUTE between the Congress of SA Trade Unions (Cosatu) and a southeast Asian textile and clothing company operating in the Northern Province over the sacking of 250 workers for allegedly joining a union had been resolved, the federation announced yesterday

Cosatu spokesman Nowetu Mpati said all the

workers had been rehired without loss of pay. BD 23/4/96

Mpati said company management and negotiators from Cosatu, who had earlier tried to recruit members, had reached agreement late yesterday that the workers would be reinstated.

The recruitment attempt formed part of Cosatu's membership drive launched on April 1

Mpati said negotiations were under way with the company to finalise a recognition agreement between the two groups.

She said it would be a long process to change the company's ignorance of the functioning of unions and labour relations laws — although the company had agreed workers would not be fired for joining unions.

She said employers had rights as well and investors needed to be guided on which forums and bargaining councils they could belong to. These forums would help train and advise these companies in labour relations, Mpati said.

On Tuesday Cosatu criticised investors, especially those from Asia, for being ignorant of SA's labour relations laws and said this ignorance was not a defence of unfair labour practices.

The federation said that the companies needed to respect the laws of SA and understand that they could not abuse workers' rights as they did in their own countries

The company, South East Clothing, could not be reached for comment.

Job seeker claims R1m from 'biased' CCMA

Reneé Grawitzky

DD 24/4/98 (151)

THE Commission for Conciliation, Mediation and Arbitration faces a compensation claim of R1m from a job applicant who alleges he was discriminated against in his application for a job as senior commissioner on the basis of his skin colour.

Pieter de Klerk, a former member of the Cape Industrial Court, declared a dispute against the commission earlier this month after his application for the job of senior full-time or part-time commissioner was rejected. The declaration was in terms of the residual unfair labour practice definition in the Labour Relations Act, by which job applicants can challenge would-be employers on the basis of unfair discrimination.

He argued that his rejection as a commissioner was because he was a "white middle-aged male". He said he was also discriminated against because he had worked for the industrial court.

De Klerk said yesterday it had become evident during his job interview that some panel members appeared to harbour negative feelings "because of my association with the industrial court". He also argued it was unfair that one of his interviewers was also an applicant for the position he was applying for.

Commission national director Thandi Orellyn yesterday confirmed De Klerk had declared a dispute against the organisation but said the matter was still sub judice, as the parties were still in conciliation.

De Klerk said attempts to conciliate over the matter last week had failed. The commission, he said, had refused to give reasons why his application had been rejected. He said the matter would be referred to the Labour Court if the commission persisted in refusal to grant reasons for rejecting his application.

This is the second dispute De Klerk has declared against the commission. He declared one last year when it refused to grant him an interview.

'Collective bargaining needs to be strengthened'

18/5/98
John Dlodlu (151)

COLLECTIVE bargaining needed to be strengthened, an international trade unionist said at the weekend.

Phillip Jennings, of the Geneva-based Fiet, a 12-million strong union federation of private service employees, warned of a future battle if an individualistic approach to bargaining were to replace a collective mode.

"I don't think that's the way to go for labour relations in SA," he told journalists after the conclusion of meetings by commissions at Saturday's summit of the National Economic, Development and Labour Council (Nedlac)

He said there were frustrations among delegates to the commission on collective bargaining that the good intentions and work of the Labour Relations Act needed to be consolidated.

Jennings was defensive of Nedlac's continued role in SA's transformation, saying that Parliament should not be nervous of Nedlac's advisory function.

"I think modern democracies require a place where labour, business and government can meet and exchange ideas and new approaches of developing local economies," he said

Mfundo Nkulu, the chief director for Africa trade relations at the SA trade department, said delegates had agreed on the need for an integrated development strategy in southern Africa.

"There is some acceptance of the vision that regional integration is the way to go for effective participation ... in the global economy," he said, pointing out that Trade Minister Alec Erwin had confirmed that SA would be tabling a market-access offer to its regional partners in July.

Nedlac under scrutiny

John Dlodlu

THE National Economic, Development and Labour Council came under harsh scrutiny at the weekend, with Nedlac's role players admitting weaknesses in the statutory agreement-making body.

However, Nedlac's annual summit, opened by President Nelson Mandela, was characterised by what observers saw as mature and constructive criticism.

But labour and community interests would not pass up the opportunity to criticise government's macroeconomic plan.

Fadila Lagadien, leader of community interests at Nedlac, called on government to "review its obstructionist position of not contributing towards the skills development levy"

Labour Minister Tito Mboweni said on government's behalf that although Nedlac had certainly promoted participation in economic decision making, the body had failed so far to assist in closely aligning macro-economic, industrial and labour market policies

for employment growth.

In fact, Mboweni said, there was a tendency for the various chambers, Nedlac's negotiating committees, to "work in relative isolation from each other".

Jayendra Naidoo, executive director at Nedlac, pointed out some failings of the Nedlac process.

These included failure to create a "common vision" among its many partners

"We do not have a 'social partnership' yet; rather we engage in 'social dialogue'," he said.

Social issues

Many important social issues which affect the quality of life of South Africans, including land reform, social welfare and education, had yet to be addressed in Nedlac.

The public finance chamber nearly collapsed, thanks to the debate over whether government's macroeconomic strategy, Gear, was negotiable or not and the extent to which macroeconomic policy could be subject to negotiation

However, Naidoo reported that the chamber had been resuscitated to deal with, among others, state expenditure, monetary policy, government revenue and fiscal policy.

Mboweni, although generally appreciative of other partners' contributions, challenged them to be accountable for their undertakings and consequences of actions. "If government is to table its budget for discussion, why do trade unions not discuss the implication of their bargaining strategies and why do employers not need to present their pricing and investment policies which, after all, have an equally important effect on general economic performance?"

The planned jobs summit would test Nedlac's credibility. "Can the social partners stretch towards a national goal — including going beyond their sectional interests," he said.

Only labour had so far tabled its proposals, although Mboweni said government's thoughts would be unveiled next month for public comment.

Gold Fields of South Africa Limited

(Registration number 05/04181/06)
(Incorporated in the Republic of South Africa)
("GfSA")

New Wits Limited
(Registration number 05/04822/06)
(Incorporated in the Republic of South Africa)
("New Wits")

Vogelstruilsbult Metal Holdings Limited
(Registration number 05/04346/06)
(Incorporated in the Republic of South Africa)
("Vogels")

(collectively "the Companies")

Cautionary announcement

Shareholders of the Companies are referred to the cautionary announcement, appearing elsewhere in this publication, regarding the proposed Driefontein Consolidated Limited joint venture and are advised that the boards of directors of the Companies are considering various restructuring alternatives to unlock shareholder value in the Companies. These alternatives may include, inter alia, the unbundling or disposal of assets of the Companies or entering into arrangements with appropriate partners.

Shareholders are accordingly advised to exercise caution in dealing in their shares in the Companies until a further announcement is made

Johannesburg
15 May 1998

Merchant banks

Sponsoring broker



'Crumbling' labour arbitration body costing taxpayer millions

The Commission for Conciliation, Mediation and Arbitration (CCMA) is costing the taxpayer millions of rands in legal fees every month because of its inability to settle labour disputes timeously

Advocates are paid thousands of rands per case to ease the backlog. Originally, it took two weeks for cases to be heard. By January, the waiting time had stretched to three months. Now, the CCMA doesn't even give arbitration dates.

CCMA information officer Sue King said "It is pointless for us to set dates for hearings because we do not have an idea when cases will be heard."

"We are negotiating with the Bar Council and Independent Mediation Service of South Africa to assist us with the backlog. We are currently paying advocates per day and the amount depends on the complexity of each case."

Ms King refused to divulge the exact amount of money it costs taxpayers each month. Advocates charge on average R5 000 a day in court.



CONSUMER FOCUS

A labour specialist pointed out that if the CCMA was left to crumble - which it is already showing signs of doing - aggrieved parties might resort to wildcat strikes and create industrial chaos.

The consequences for workers and companies and taxpayers are catastrophic. Companies losing money and business while waiting for an arbitration date have no recourse against the CCMA or the Department of Labour. Workers who could lose their houses or possessions while awaiting the outcome of a CCMA action may bring civil actions for compensation against companies only if they win their cases.

When the CCMA was set up in December 1996, it was meant to provide a cost-effective dis-

pute-resolution avenue and thereby reduce labour strife. Opposing parties have to declare a dispute to the CCMA within 30 days.

If conciliation fails, an arbitration date is meant to be given within 14 days. Since its inception, just over 13 000 cases have been referred for arbitration, but fewer than 7 000 have been finalised. Some labour attorneys have slammed the CCMA.

"Time is money, but the CCMA doesn't seem to care. As far as we are concerned, most conciliation commissioners are insufficiently trained and lack the necessary experience and training to solve disputes. On many occasions I have been told not to lead evidence in a case," a labour attorney said.

One labour specialist blamed the CCMA's incompetence on the fact that commissioners attended a mere four-week conflict resolution course.

"They are often blatantly biased towards the employees and do not check the credibility of their allegations," he added.

Commissioner Mahomed Jajbhay said ongoing in-service training was provided.

Simon Mahlangu, 30, a father of three, was dismissed by a security company for alleged theft. He took his case to the CCMA last month and still did not have an arbitration date.

"I have no other income and I am struggling to feed my family. I could not believe it when the commissioner at the CCMA told me that I must not come back to check for an arbitration date. This Government promised to protect us from unfair labour practices, but now they act just like the old regime. I will not vote for them next year."

Presiding officers from the Industrial Court are being phased out of the industrial relations system, but can apply for positions as CCMA commissioners. They possess valuable experience in labour disputes and retraining them in conciliation would be more cost-effective than employing commissioners who are advocates or who are inefficient.

Commission swamped with cases

Reneé Grawitzky

THE Commission for Conciliation, Mediation and Arbitration faced a deluge of referrals in the wake of the introduction of further labour legislation — especially the Employment Equity Bill — and this could place additional burdens on already stretched resources

This emerged yesterday as commissioners expressed concern that the body was experiencing capacity constraints. They said this, coupled with the flood of current and anticipated referrals, was making it difficult to adhere to statutory requirements.

Commission director Thandi Orleyn said the resources available could not cope with

the deluge of cases referred

Sources close to the commission said rising tensions within the body — perhaps due partly to excessive work loads in the Gauteng region — might have led to a number of resignations. These resignations could hinder the addressing of the growing backlog of arbitration cases. It is believed that it could take up to eight months to set down cases for arbitration. This has prevented the commission from meeting its 30-day statutory time limit as specified in the Labour Relations Act.

However, the backlog would be reduced by contracting arbitrators from the Independent Mediation Services of SA and selected advocates from the Johannesburg

Bar Council

More than 88 000 cases have been referred to the commission since its inception in November 1996. The projected case load for this year alone is about 76 000 to 81 000. The commission estimated that more than 300 cases a day were being referred to it.

It had been estimated that the equity bill might lead to an additional 10 000 cases.

Meanwhile, public service unions of the Federation of Unions of SA (Fedusa) have referred their dispute with government to the commission for arbitration.

The dispute centres on labour's claim that government failed to comply with the terms of a three-year wage deal that was signed in 1996.

(171)
MD 28/5/98

Labour Court should help to break disputes logjam

By CLAUDIA MPETA

glar ~~30~~ 30/5/98 (151) (151)
While the virtues of the Employment Equity Act are still being disputed at the National Economic Development and Labour Council, a helping hand has been extended to workers with the official opening of the Labour Appeal Court.

It is hoped that the court, with its emphasis on conciliation, efficiency and accessibility, will play a major role in ensuring that lengthy labour disputes do not clog the system. The court has been operating on an ad hoc basis since November, 1996 and has already heard 89 cases and 26 appeals.

"During our term of office, a week has not gone by when this court has not been in session," said Mr Justice John Myburgh.

One of the strengths of the new system is the provision that has been made for the hearing of urgent appeals. The swiftness of this system was demonstrated recently in the application by Business South Africa against Cosatu to declare the union movement's intended protest action over the Basic Conditions of Employment Act unlawful.

Judgment was handed down within a week, whereas some cases in the old Industrial Court dragged on for years.

The rules of the court, which are based on the Labour Relations Act, have also been streamlined to make them more accessible.

One of the important functions of the Labour Court is to determine whether a strike or a lockout enjoys protection by the Labour Relations Act.

The court also adjudicates if the Commission for Conciliation, Mediation and Arbitration is unable to resolve disputes about picketing or when an employee claims to have been unfairly dismissed.

The court's location in Braamfontein puts it within walking distance of the train station, taxi ranks and bus routes.

Industrial Court grinding to a halt with

SHALO MBATHA

The Industrial Court is grinding to a halt ahead of its closure later this year, and its backlog of over 2 000 cases will be passed on to the already loaded Commission for Conciliation Mediation and Arbitration (CCMA)

More than 50 Industrial Court presiding officers have joined the CCMA, according to the court's president, senior advocate M A E Bulbulia. Most were attracted by the higher fees being paid by the CCMA, whose commissioners get R1 000 a day (or R1 500 a day for senior commissioners) compared to the R648 a

day at the Industrial Court. Others have left to return to private practice because of the pending closure of the court.

Under the Labour Relations Act (LRA) of 1995, the CCMA will be the primary dispute resolution mechanism for labour cases and the Industrial Court will be closed. There is

ARG 6/6/98

still uncertainty whether Industrial Court cases which were initiated before the LRA took effect would automatically be passed on to the CCMA.

Mr Bulbulia has issued a notice to all parties informing them about the shortage of presiding officers. Only 18 officers are available to hear cases

(157)

and many pending cases have been postponed indefinitely.

Mr Bulbulia's notice implored disputing parties to settle outside the judicial system, because presiding officers would only be available after they had been recruited and appointed at a future date. However, in reply to questions by Consumer Alert, Mr

Bulbulia said no new presiding officers had been recruited.

In an attempt to offer a service to their clients, labour specialists and legal practitioners wait all day in the corridors for a chance to "hijack" a presiding officer whose matter was settled fast. "These are very expensive ambushes because failure to

'capture' a presiding officer could cost up to R5 000 a day in advocate fees," lamented a labour consultant.

The Industrial Court has between 2 000 and 3 000 outstanding cases nationally, and litigants fear their cases may never be heard. They take no comfort in the CCMA because it is plagued by its own woes

huge backlog

'Not falling behind in its work, and most users are satisfied'

Star 6/6/98

(141)
(48)

The Commission for Conciliation, Mediation and Arbitration has objected to Consumer Alert's report on May 23 that the body is falling behind in its work

CCMA information services department head Sue King said dates for arbitration of cases are being set by the body's offices around the country on a daily basis, and that allegations of delays in the processing of industrial relations cases reflect only a minority of the total case load of the commission

She said the CCMA had a backlog of 800 cases in Gauteng, and that this was a small percentage when compared to the more than 13 000 the commission has already dealt with. Around 63% of the total of 88 000 cases the commission has dealt with were handled in the conciliation phase and did not even get to arbitration, King said

She added that an independent survey of the CCMA's work found that 70-80% of people involved had found the commission's service "good to excellent".

"This is dramatically different to what it was under the old system," said King

A caller from Durban, who preferred to remain anonymous because he is involved on a daily basis in working with disputes through the CCMA, said that in KwaZulu Natal there were backlogs of as much as six months or more and that small companies especially were being badly prejudiced

He said the Labour Relations Act stipulated that even if an employer had valid grounds for dismissing a worker, if the dismissal was not done in accordance with set procedure, the employer would have to pay compensation. That compensation was calculated from the date of the dismissal

"The company may well be in the right, but because of the delays in the CCMA system, it is forced to pay six months or more in salary to an employee who was rightfully dismissed. This kind of drain

on a company's cash flow could well force some smaller concerns to go bankrupt"

The man said the CCMA did not seem to be keeping to time limits set out as an addendum to the act, which says cases should require no more than 74 days to go from the dispute stage, through conciliation and arbitration to a final resolution. Many cases were taking much longer.

His comments were echoed by Johannesburg labour lawyers, who confirmed our initial story about delays within the CCMA. One said he knew of a client who was still waiting for an arbitration date after six months

This week, an official of the Metal and Electrical Workers Union of South Africa, Moses Manake, was quoted in news reports as saying he was dealing with cases which had been referred to the CCMA during the middle of 1997 and for which arbitration hearing dates had still not been set by last month.

Manake also said CCMA case managers sometimes give the applicant different dates and times for a hearing to those given to the respondent.

Deadline

Manake claimed further delays arise when CCMA commissioners fail to stick to the 14-day deadline set by the act for the finalisation of the arbitration process and award. In two cases, the wait for the arbitration decision was eight weeks.

King also objected to Consumer Alert's suggestion that commissioners were not qualified enough for the work they are doing. She said most of the commissioners had tertiary education, with many having law degrees.

She also denied that taxpayers' money was being squandered by the CCMA's hiring of advocates to deal with cases.

She said that, under an agreement with the Bar Council and the Independent Mediation Services of South Africa, the advocates were being paid R1 000 a case

Managers to march against Pick 'n Pay and the CCMA

ET (19/6/98) (151) (151)

FRANK NXUMALO

LABOUR EDITOR

Johannesburg — More than 1 000 Pick 'n Pay managers and supervisors will hold a march in Johannesburg today to protest against failures by the retail group and the Commission for Conciliation, Mediation and Arbitration (CCMA) to deal with their grievances.

The protesters, allied to the Joint Management Forum (Jamafo), have accused the CCMA of not being responsive and proactive in processing labour disputes referred to it. They said the commission had become "worse than the old industrial court".

Jamafo said the CCMA should have "passed the learning curve" by now. The new constitution guaranteed

workers the right to have their cases promptly heard and that the CCMA was "just not delivering", they said.

"This causes unnecessary hardships, especially on employees. We also know that employees get prompt attention when they approach the CCMA during threatened strike action.

"Individual employees sometimes have to wait for long periods while the CCMA deals with the gridlock caused mainly by lack of sophistication. This is clearly unacceptable."

But Thandi Orleyn, the director of the CCMA, said she had not yet received a referral of the Jamafo case and that she viewed the planned action as "premature".

The forum also accused

Pick 'n Pay of racism. "We have done an in-depth study and found that people at Pick 'n Pay are still being paid according to the colour of their skin and gender," said Adrian van Dyk, a Jamafo spokesman.

He cited a case in one of the Pick 'n Pay hypermarkets in Johannesburg where they discovered that a white security officer was being paid R500 more than a male black officer who in turn was being paid R300 more than a black female security officer for equal work and experience.

Frans van der Walt, Pick 'n Pay's human resources director responded. "Jamafo's attack on Pick 'n Pay and the CCMA are a result of Jamafo's inability to recruit sufficient membership to warrant collective bargaining."

CCMA logs 100 000th row referral

(151)
FRANK NXUMALO

CT (DR) 30/6/98 LABOUR EDITOR
Johannesburg — The Commission for Conciliation, Mediation and Arbitration (CCMA) yesterday celebrated the logging of the 100 000th dispute referral and released findings on three areas of research into its work

These are the national user survey, a longitudinal study of one sector and its dispute resolution record under the old and the new system, and an attitudinal survey on CCMA commissioners tapping their approach to the conciliation process.

The CCMA said the respondents, workers and employers, were asked to specify areas in which the CCMA could improve its services, "even if they had given excellent or good ratings"

A total of 28 percent felt the CCMA could pay more attention to time periods and improved procedures, 15 percent said it should give more advice and training to the public and improve its public image; and 7 percent believed commissioners could improve their impartiality

Sue King, the CCMA director of communications, said in late 1997 the CCMA had conducted a study of the food and beverages sector to explore differences between the new dispute dispensation and the previous one, which used conciliation boards

"The CCMA achieved a 70 percent conciliation settlement rate for disputes referred to it from within this sector in the first months of 1997 compared to 32 percent settlement achieved by conciliation boards within the same sector in the first six months of 1996," King said

In the commissioner survey, King said it was found that the CCMA reflected the nation's demographics and there was no significant difference in performance or the reaction of the parties to the commissioners based on their demography, backgrounds or previous experience

Commission achieving settlements

Pearl Sebolao (171) 80 7016198

THE Commission for Conciliation, Mediation and Arbitration had closed 76% of the cases lodged before it, and achieved an average national settlement rate of 71% since its inception just one-and-a-half years ago, commission national director Thandi Orleyn said yesterday.

Addressing a media briefing to mark the 100 000th case referred to the body, Orleyn said the commission's success rate was higher than that of its predecessors, which had had a success

rate of only 32%. Bokkie Botha, acting chairman of the commission's governing body, attributed the success rate to the fact that the body was owned by all the stakeholders — government, employers and employees.

The results also showed that "a culture was being developed where the parties had become more open to the dispute resolution process and did not try to pre-empt it", Orleyn said.

Despite minor problems that still had to be addressed, the commission's track record had exceeded all expectations, she said.

Problems the commission had yet to address included the heavy workload in certain provinces, especially Gauteng, where sometimes disputes could not always be attended to within the required statutory period of 30 days, Orleyn said.

Of the 100 000 disputes logged, 37% came from Gauteng, followed by Kwazulu-Natal with 20%. The Western Cape accounted for 12% of cases and the Northern Cape for 2%.

She said the issue of race and that of the differing backgrounds of the commissioners did not affect the dispute

resolution process negatively.

Orleyn said the increasing acceptability of the commission would, however, soon reach a stage where the government's budgetary allocation to it would no longer be sufficient.

Dismissal disputes accounted for 75% of the cases and 89% of the individual disputes brought before the commission. Most of the cases brought before the commission (71%) had been solved at the conciliation stage.

Of the 15 329 completed arbitrations, 22% had been settled by conciliation in the arbitration process.

Deal struck in NSBC pay dispute

CT (Mr) 22/7/98 (151)

THABO LESHILO

BUSINESS EDITOR

Johannesburg — The pay dispute between the department of trade and industry and employees of the ill-fated National Small Business Council (NSBC) had been resolved, a department spokesman said yesterday.

The council members reported the department to the Commission for Conciliation, Mediation and Arbitration (CCMA) last week in an attempt to get the department to pay their salaries. They had not been paid since last month.

The complaint followed the department's decision to liquidate the NSBC, a section 21 company, because of alleged financial irregularities by

the company's management and because it was insolvent. The NSBC was established by the government in 1996. Two weeks ago, the department fired the company's five directors, even though they were not implicated in the alleged abuse of public funds and had requested the forensic investigation. The department has appointed two of its officials to run the NSBC's affairs. These are Alistar Rutgers, acting chief director of small business promotion, and Alroy Dirks, the director of the department's centre for small business promotion.

The department spokesman said the agreement reached last week provided that the disgruntled employees submit their wage claims to the Ernst & Young, the auditors who con-

ducted the forensic investigation.

"On verification (of their claims), the staff would be compensated," he said. He could not say how much money was involved.

But Churchill Mrasi, an NSBC councillor and the chairman of the Gauteng Provincial Small Business Council, said the staff would be paid three months' salary. He said national and provincial councillors were owed money for attending NSBC meetings. They would also submit claims for payment against the company to the auditors.

Mrasi said some councillors had not been paid for meetings attended since last year. They were paid about R300 for provincial meetings and R400 for national meetings.

Union wage settlements up in view of inflation

LABOUR unions obtained high wage settlements this year despite a lower inflation rate, a survey by a Johannesburg-based industrial relations and labour law consultancy revealed yesterday.

Andrew Levy and Associates said an average 9,2% settlement was reached from January 1 to June 30 this year, compared with 9,7% last year. This compared with an inflation rate of 5,2% for the year to June 30.

The consultancy said: "With average inflation at its lowest level for years, there is pressure from employers for wage settlements to align themselves more closely to this figure. This, however, runs contrary to a trend in SA collective bargaining which makes major shifts from a previous settlement difficult to achieve. Regardless of the movement in the inflation rate, the benchmark is generally the previous year's settlement."

"Employers endeavouring to reach a more realistic agreement find themselves up against strong resistance from the unions, often leading to the declaration of a dispute and industrial action."

Research consultant Jackie Kelly said more than 200 firms from various industries participated in the survey which found:

- Settlements ranged from 6% in the municipal sector to 18% in transport;

- The average minimum wage between January 1 and June 30 this year was R1 884;
- Initial union demands ranged from 9% to 150%, averaging 33%;
- Management counter offers ranged from no increase to 10%, averaging 6%;
- The average time taken to settle wage negotiations was 84 days;
- The majority of wage agreements (84,6%) were for one year, the remainder

being for 15 months to two years,

- In 91,6% of surveyed wage negotiations, no industrial action was expected; and
- Most firms reported an improvement in the conduct of parties during pay talks.

"With a number of negotiations still taking place, we anticipate that the average level of settlement will drop further in the next quarter to about 9%," the consultancy said — Sapa.

(32) BS 29/7/98 (151)

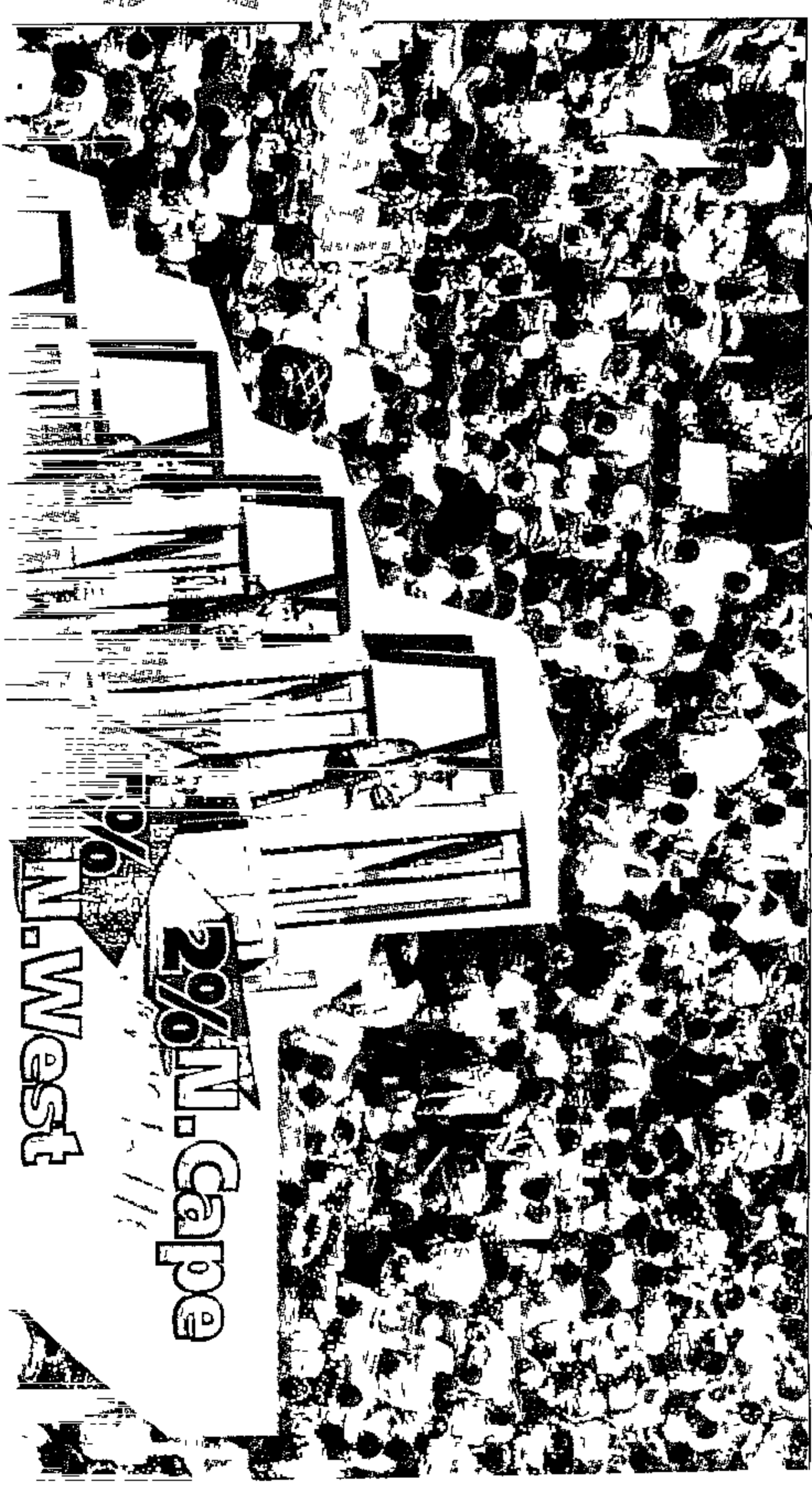
CCMA

buckles under load

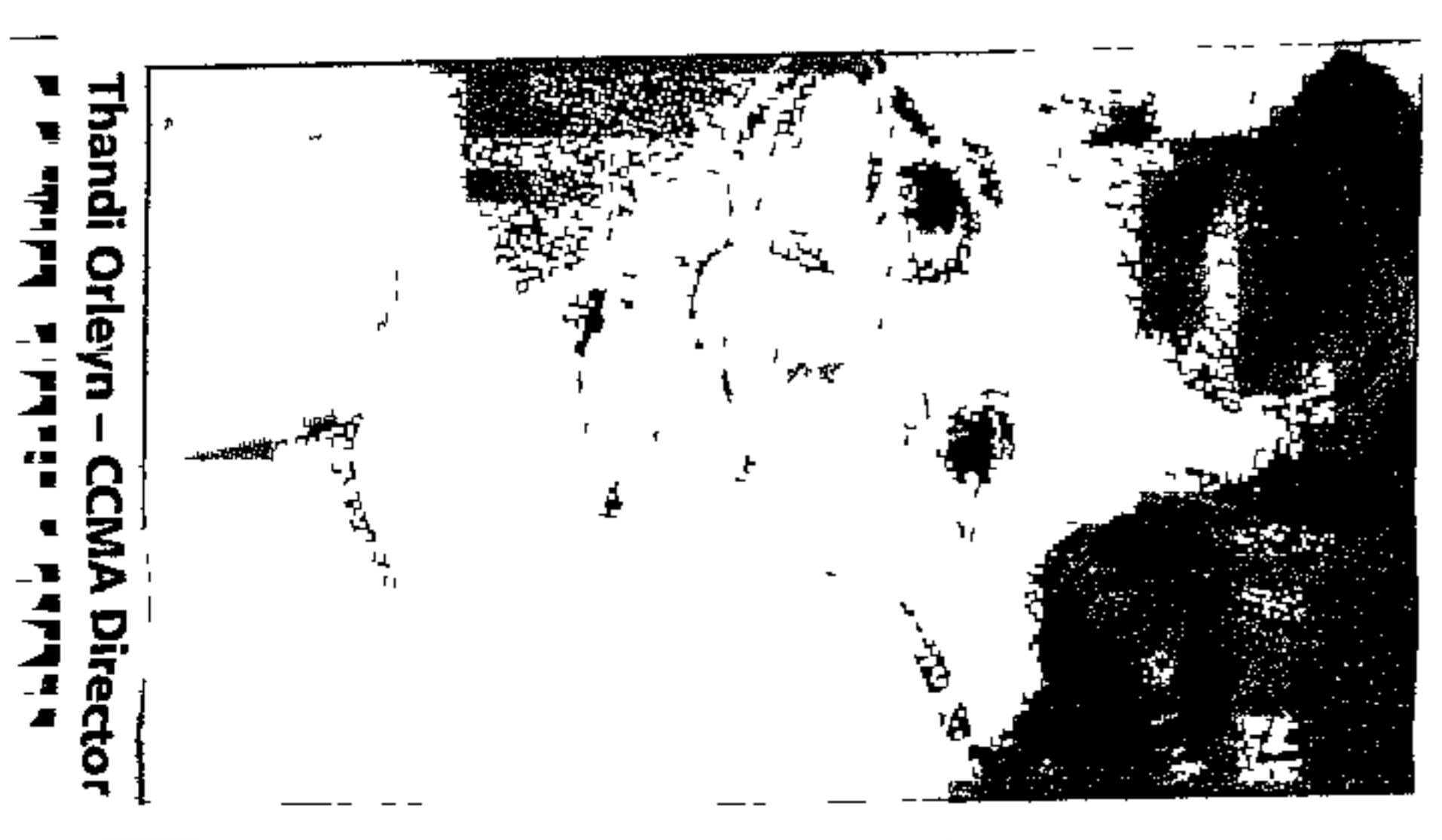
The upsurge in industrial action has brought the role of the Commission for Conciliation, Mediation and Arbitration under the spotlight. **Simon Zwane** reflects on the commission's past year in operation and asks whether the CCMA has lived up to expectations

When the Commission for Conciliation, Mediation and Arbitration (CCMA) was launched at the end of 1996, business, labour and the state were hopeful that it would lead to more stable labour relations, speedy resolution of labour disputes and a reduction in industrial conflict. But strikes continue to be a distinct feature of industrial relations in the country. There are indications that the number

Handwritten notes:
188
151
Mar 10/8/98



GARY BERNARD



GRAPHS JIGNASA DIAR

Thandi Orleyn - CCMA Director

about 310 000 days already lost in the first half of the year.

With the strike season reaching its peak in the second half of the year, industrial relations observers predict that the number of days lost will increase to about a million by the end of the year. This will be a significant increase compared to last year's figure of 650 000.

Does this mean the CCMA, set up in terms of the new Labour Relations Act, has failed to live up to expectations and deliver workplace peace? Certainly not. According to labour consultants Andrew Levy and Associates, the CCMA contributed significantly to a levelling off in strike action last year.

"Since its inception on November 11 1996 its success rate has fluctuated between 62% to 72% of disputes referred to it," the consultants say in their annual report.

Strikes have declined significantly, from the record breaking 9 million reached in 1987, 4,2 million in 1992, 3,9 million in 1995 and 1,7 million in 1996 just before the CCMA came into being.

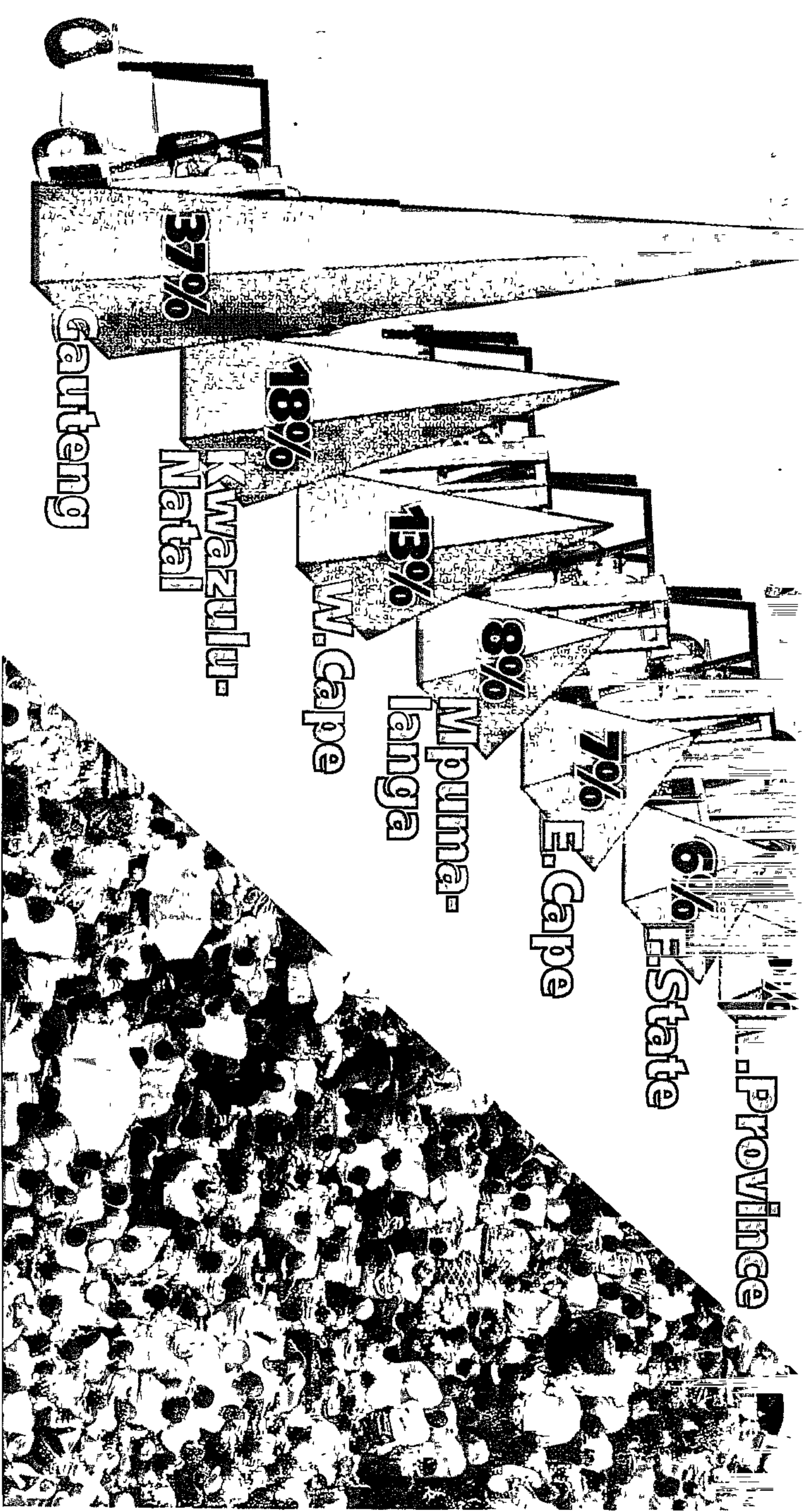
An expectation that the commission was capable of delivering industrial justice led to the number of disputes referred to it increasing beyond predictions.

The 60 000 cases referred to the CCMA last year outstripped expectations by about 20 000. Although this larger-than-expected caseload indicates the high level of confidence economic players have in the CCMA, it has also created problems for the commission, which is still in its infancy.

Thandi Orleyn, CCMA director, says the backlog in hearing cases, particularly in Gauteng, has come about as a consequence of the increasing caseload.

She says the commission is now taking 60 days before it hears a case, as opposed to the required 30-day time-frame.

According to Orleyn, Gauteng has a backlog because, "as the hub of the economy and the province with the most industry, its caseload is more than that of



other provinces"

Of all cases handled by the commission, Gauteng accounts for 37% of them, which is more than the number of cases handled by Mpumalanga, Eastern Cape, Free State, Northern Province, North West and Northern Cape jointly. Orleyn, who took over the leadership

of the CCMA from Charles Nypen in December last year, believes that the commission has done amazingly well in the short period of its existence.

It has succeeded in resolving about 26 000 cases of the 30 068 in which it intervened last year. "The move from industrial court pro-

cedure to a more informal approach has highlighted the advantages of the arbitration procedure, with its less adversarial, less costly and speedier methods.

"It is faster than court proceedings, but at the same time affords parties a final and binding decision," she says. The commission has also managed to

set up offices in all nine provinces, thus ensuring that it was accessible to most people in the country.

Orleyn, an attorney born in Port Elizabeth (who is a keen rugby supporter), is also aware of challenges facing the commission in the year ahead and says strategies are already in place to take ad-

vantage of the lessons from the past year. "An area the CCMA will focus on during the coming year, to improve the level of service to the public, will be a drive to increase the conciliation settlement rate as well as to improve the quality of settlement agreements and arbitration awards made by commissioners."

Commercial Distributive	10%
Private Security	7%
Food/Beverage	6%
Building/Construction	6%
Domestic	6%
Agriculture	5%
Mining	4%
Business Services	4%
Informal	3%
Motor	3%
Metal	3%
Public Sector	3%
Bank/Finance	2%
Cleaning/Laundry	2%
Private Transport	2%
Liquor/Catering	2%
Chemical	2%
Clothing/Textiles	2%
Private Health	2%
Hotels	2%
Paper/Packaging	2%
Other = sectors accounting for less than 2% of the total	12%

Job disputes mediator set to gain muscle

THABO MABASO
BUSINESS REPORTER

Proposed far-reaching amendments to the Labour Relations Act will result in more powers for Commission for Conciliation, Mediation and Arbitration judges and the scrapping of the industrial court.

The moves by new Labour Minister Shepherd Mdladlana will result in quicker resolution of labour disputes

in the CCMA. Pending cases in the industrial court will be referred to the CCMA.

Mr Mdladlana told the Cape Argus that the changes to the act governing the establishment of the CCMA were meant to lighten its heavy workload.

"At the moment only the director of the CCMA (Thandi Orleyrn) has the power to make decisions on the outcome of cases handled

"This is taking too much of her time because of the many cases that

pass through the CCMA," said Mr Mdladlana.

"The amendments will provide the CCMA director with the power to allow commissioners below her to make decisions."

The CCMA has dealt with more than 100 000 cases since it was established 18 months ago

The body was so swamped with cases last year that former director Charles Nupen had to appoint 40 extra commissioners.

Mr Mdladlana said he planned to scrap the industrial court. The establishment of the labour court had rendered the industrial court obsolete.

"The Government is losing lots of money as a result of the industrial court's existence," he said

The changes would be handled during the current session of Parliament. He discounted dissent on the proposed changes in labour and business circles. "Everyone agrees on these changes," he said

(157) AR 4 12/8/98

Judge votes CCMA system superior

FRANK NXUMALO

LABOUR EDITOR

Johannesburg — The case management system of the South African Commission for Conciliation, Mediation and Arbitration (CCMA) "had turned out to be superior" to that of the Australian Industrial Relations Commission (AIRC), the commission that helped establish it in the first place, Judge Geoffrey Guidice, the president of the AIRC, said yesterday.


"I am here to look at the development of the South African CCMA case management system, and it's much better than ours," Guidice said, adding that the Australian experience had been fundamental in shaping the Labour Relations Act.

But whether the Australians would develop what South Africa had set up in terms of case management would depend on cost, he said.

The AIRC, like the CCMA, had to deal with a large proportion of unfair dismissal cases and there had been a number of "internal discussion" of how services could be improved.

Guidice said that the major difference the two countries' industrial policy was that in addition to the federal AIRC, each state in Australia had an industrial relations commission, which set up the basic conditions of work and basic wages around April each year.

Although only about 32 per cent of workers in that country's private sector were unionised, the

CT (PR) 19/8/98 (157) 

salaried workforce was much larger than its South African counterpart.

The CCMA said the relationship between the two institutions had developed into continuing bilateral co-operation and technical assistance, including governing body commissioner, administrative and registry assistance.

Different South African delegations had visited AIRC under the auspices of, and funded by, AusAid.

Sithembele Tshwete, of the CCMA communications department, said the overall conciliation rate since the inauguration of the commission in November 1996 was 71 per cent.

This was a significant improvement over the old industrial council, he said.



IMPRESSED Judge Geoffrey Guidice of the Australian Industrial Relations Commission

PHOTO: JOHN WOODROOF

CCMA forced to do some navel gazing

Reneé Grawitzky

THE Commission for Conciliation Mediation and Arbitration (CCMA) — set up in terms of the Labour Relations Act to resolve disputes — is embroiled in attempts to resolve internal grievances raised by its staff association.

The association, which represents about 80% of nonmanagerial employees, submitted a petition last month to the commission's governing body requesting its intervention.

The petition, signed by more than 350 employees, listed a number of grievances mainly relating to alleged bad management practices including unfair promotions, appointments made by the national registrar and is-

BO 13/8/98
sues around management grading.

At the same time a number of CCMA employees have declared individual disputes relating to procedures around internal promotions. Some of these cases were not resolved during conciliation and have been referred to arbitration or the Labour Court.

The acting chairman of the commission's governing body, Bokkie Botha, said during discussions with the association that it was agreed that the matter should be dealt with by the commission's director.

CCMA director Thandi Orleyn said a series of bilateral meetings was under way and good progress was being made in addressing the issues raised by the association.

(15) (151)
Orleyn said, however, that a number of the issues related to discussions around the negotiation of a "relationship (recognition) agreement"

The commission was also involved in wage negotiations with the association which were at a delicate stage, she said.

The commission faces some constraints as the majority of its funding comes out of the labour department's allocation which amounts to about R106m for the current financial year. A commissioner said these developments occurred at a time when commissioners were being placed under tremendous pressure as the case load continued to increase. Last month, 7 000 cases were referred to the commission.

80 7/19/98
CCMA settles
staff grievances

Reneé Grawitzky (151) (151)

THE Commission for Conciliation Mediation and Arbitration (CCMA) took time out to settle its own dispute when it reached agreement with its staff association on a 6% wage increase and mechanisms to address a range of grievances.

At the same time, the labour department last month received a number of petitions signed by Industrial Court members and employees in protest against the court's closure. The court's outstanding cases are to be handled by the CCMA.

In July, the CCMA's staff association, which represents about 80% of nonmanagerial employees, submitted a petition to the commission's governing body, requesting its intervention.

Signed by more than 350 employees, the petition listed a number of grievances, which included unfair promotions, appointments and issues around management grading.

CCMA director Thandi Orleyn said the parties agreed to put in place mechanisms for a long term relationship-building exercise.

An industry source said government should give consideration to allocating additional resources to ensure the CCMA remained effective and was able to implement the spirit and intent of the Labour Relations Act. The institution's structures were developed on a predicted caseload of 40 000 a year. However, in less than two years, 120 000 cases had been referred to the CCMA.

Heavy case load bogs down CCMA

LYNDA LOXTON

PARLIAMENTARY CORRESPONDENT

CT 30/9/98 (OR)

Cape Town — The Commission for Conciliation, Mediation and Arbitration (CCMA) had become bogged down in the unexpected flood of cases referred to it, the national council of provinces' select committee on labour and public enterprises heard yesterday

Dennis van der Walt, the labour department's director of collective bargaining, told the committee that more than 110 000 cases had been referred to the CCMA. It was now "considerably behind" in its work

He said the Labour Relations Amendment Bill was aimed at speeding up the flow of cases through the CCMA, but it was clear that the Labour Relations Act would have to be reviewed again by the year 2000 to iron out further problems

Van der Walt said Greg Smith, the Australian labour commissioner who had helped create the CCMA, had admitted during a recent visit that

the Australian model had not been perfect for South African conditions

"The number of referrals has outstripped the projections," Van der Walt said

The bill seeks to simplify many CCMA procedures, provides for the closure of the industrial court and the transfer of cases to the CCMA, and provides greater flexibility in dispute resolution procedures

The bill also will allow the director of the CCMA to delegate certain functions, such as the signing of subpoenas, and allow commissioners to run disputes involving the same parties on the same day

Van der Walt said the bill also would prevent so-called labour consultants or "unions" formed just to deal with certain disputes from "trying to elbow their way into disputes"

It would stipulate that disputes should be arbitrated within 90 days of conciliation failing. This would prevent people waiting for anything up to a year before arbitration

Bill a bid to beef up CCMA (161)

80 30/9/98

THE Labour Relations Amendment Bill was tabled in Parliament yesterday in a bid to enhance the institutional functioning of the Commission for Conciliation, Mediation and Arbitration, bargaining councils and the Labour Court

The amendments would ameliorate the flow of cases, phase out the Industrial Court and improve the functioning of the bargaining councils

Also, all pension, provident and medical aid schemes or funds established in terms of collective agreements in bargaining and statutory councils would in future be subject to the Pensions Funds Act and the Medical Schemes Act

CCMA reports a 35% increase in cases

Reneé Grawitzky

BD 28/12/98

UP TO 35% more disputes were referred to the Commission for Conciliation, Mediation and Arbitration (CCMA) this year than last year, with 321 referrals being received on average a day

At the same time the Independent Mediation Services of SA (Imssa), a private dispute resolution agency, saw a 30% increase in the referral of arbitration this year. This may be partly due to a backlog at the CCMA.

The commission reported that 13 843 cases were arbitrated this year while a further 8 030 were

(151) ~~155~~

scheduled for hearings next year. To date, 328 arbitration awards have been taken on review to the Labour Court with only 47 being successful.

This year, 80 795 disputes were referred to the commission, compared with 60 000 last year.

Since its inception in November 1996 — when the new Labour Relations Act came into operation — more than 143 000 disputes have been referred to the commission. The body expected to face about 40 000 cases a year.

Imssa support services director Mark Turpin said Imssa panellists were assisting the commission in an

informal way to reduce its backlog of cases. Imssa's approach was to support the CCMA, rather than to compete with it.

Turpin said there were indications from the CCMA that where parties could pay their way they "should be encouraged to go to Imssa". He expected Imssa's work to increase by 10% to 15% in the year ahead.

The CCMA said the Gauteng region continued to face the largest caseload, followed by KwaZulu-Natal and the Western Cape. Individual dismissals accounted for the majority of disputes. The retail sector accounted for 20% of cases referred.

Unfair dismissals spark off disputes

(151)

By Mzwakhe Hlangani

ALMOST 70 percent of the disputes about labour relations referred to the Commission for Conciliation, Mediation and Arbitration are caused by unfair dismissals

According to CCMA communications coordinator Mr Sithembele Tshwete these disputes arise out of the perception that disciplinary action against fellow employees is tantamount to unfair treatment, subsequently necessitating small and big companies to adopt guidelines for administering fair disciplinary procedures in the workplace

"In the past there were visible shortcomings in a method of discipline that preferred a unilateral construction of rules of conduct, where any infringement or even minor ones were translated into dismissal and where there was no consistent use of disciplinary penalties."

Tshwete added that this method had been a recipe for major disputes in the past, and had certainly contributed to adversarial labour relations

The Labour Relations Act requires

that there be fair and consistent approach to allegations of indiscipline. In addition it is also a requirement that there be a fair disciplinary procedure that determines appropriate disciplinary action when necessary, he said

"The emphasis here is for medium and big enterprises to have a formal disciplinary code, while the small ones may have an informal code as well as agree to standards of conduct in the workplace

"The Act requires that employees should know what conduct companies expect of them and the consequences of not adhering to that conduct

"The best way to do this is for companies to have a disciplinary code that sets out possible offences and accompanying sanctions, as this is important in legitimising the code of a company," Tshwete said

Other factors considered in the code of conduct includes employees' awareness of whether the rule contravened is valid and reasonable, whether the standard is consistently applied by the employer and whether dismissal is an appropriate sanction

No solution yet to dispute

(189) (154)

By Dan Fuphe

THE week-old dispute between management and workers at Micro Press Tools in Nuffield, near Springs, over allegations of nepotism and racial discrimination, continued yesterday morning.

More than 60 workers downed tools last Tuesday and staged a sleep-in at the factory after a number of what National Union of Metalworkers of South Africa (Numsa) shop steward Mr Owen Manana said was "management's intransigence" on matters related to workers' rights.

The company's production man-

ager, Mr Mark Richardson, declined to comment.

Workers accuse Richardson of being responsible for the re-introduction of apartheid-style job reservation.

● Stifling the promotion of black workers and denying them the "right" to hold monthly meetings on site.

● Giving job opportunities to unqualified white apprentices, and of

● Allowing a white foreman who is a shop steward of the National Employees Trade Union to act as both a judge and jury on matters affecting Numsa members

191 members

Manana further accused the company of breaking a long-standing agreement of affording all workers equal opportunities for promotion.

"The turning point in the dispute was when management walked out of a meeting that was organised by Numsa on August 3. The meeting was aimed at bringing an end to this long-standing confrontation," Manana added.

The toyi-toying strikers were adamant that they would continue their protests until the company and Richardson agreed to treat them humanely with respect.

Employers, trade unions rapped over the knuckles

(17a) (151)

Analysts say parties are too quick to haul each other before the CCMA, writes S'THEMBISO MSOMI

ST(OT) 12/9/99

EMPLOYERS and organised labour have come under fire from labour analysts for intransigence in collective bargaining, resulting in unnecessary strikes and legal disputes.

Labour Minister Memphiso Mdladlana this week released the Industrial Action annual report. It shows 38-million mandays were lost following strike action last year.

Analysts warn that the figure is likely to be far higher this year unless the public sector wage dispute is resolved soon. Central government was the least affected by industrial action last year. It is feared that a full-blown strike by civil servants could have severe consequences.

Econometrix's Tony Twine says because of the sheer size of the civil service, a one-day strike could easily result in the loss of 800 000 workdays.

The conflictual labour relations environment prevalent in SA is blamed for a dramatic 35% increase in the number of disputes brought before the Commission for Conciliation, Mediation and Arbitration (CCMA). The commission's director, Thandi Orleyn, says an average of 344 new cases are referred to the CCMA each working day.

Orleyn says some parties appear willing to "haul" each

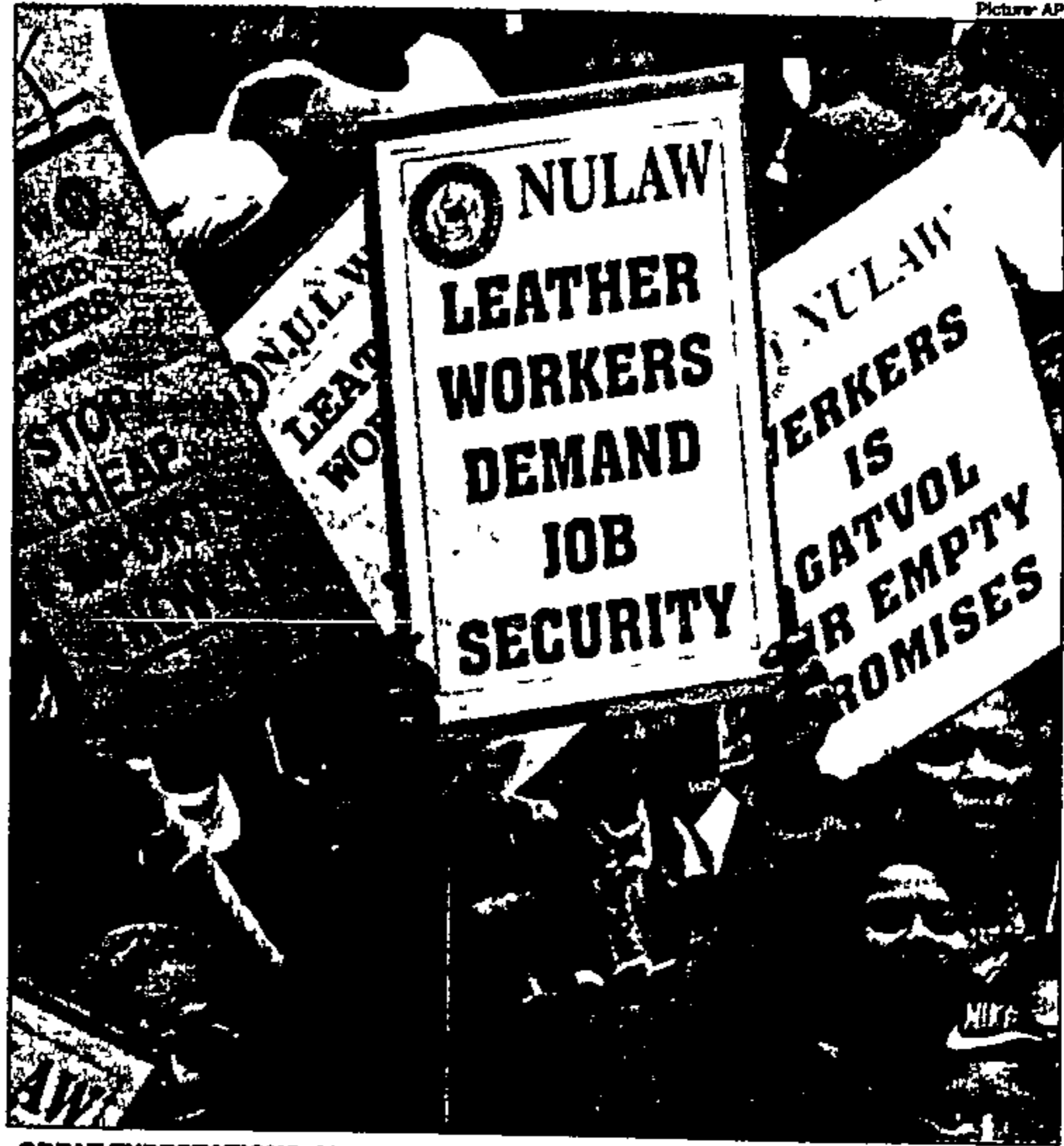
other to the CCMA "at the drop of a hat" on trivial issues.

Addressing a media briefing this week, Mdladlana appealed to employers and trade unions to resolve their disputes internally and allow the CCMA to be better utilised by unorganised workers.

"What has happened to the creative solutions with which unions and employers in different industries emerged through collective bargaining over the years? Or is it the approach now to say, oh well, it's strike season again, as if it is a weather condition like a tornado about which we can do nothing?"

Brian Allen, a labour consultant at Andrew Levy and Associates, says Mdladlana's report confirms the view that strikes are on the increase.

"At the beginning of the year we predicted there was going to be an increase in industrial action as a result of a number of factors including the downward pressure on wages and a fall in interest rates. But another problem is the rule of thumb which exists in SA collective bargaining which says you do not settle for less than you got in the last wage negotiations."



GREAT EXPECTATIONS. Members of the SA Clothing and Textile Workers' Union voice their feelings in a protest march to Parliament in Cape Town this week.

"This clearly results in conflict as unions want higher increases than the previous year while employers want to settle for the same, if not lesser, percentage than the previous year," says Allen.

Twine says he does not see strike trends changing. "This is because negative attitudes between labour and business are entrenched and will be difficult to change."

The manufacturing sector had the highest number of industrial disputes, 86, last year — resulting in the loss of 2 440 406 workdays.

"Most disputes arose from

collective bargaining and the predominant reason underlying disputes related to wages and other compensation," the annual report reads.

Although the CCMA has severe work overload, the body has been praised by Mdladlana for helping to avert a substantial number of strikes in various industries.

However, Mdladlana emphasised the need for full utilisation of other conflict resolution institutions provided for by labour laws.

Analysts believe that access to the CCMA is too easy and that a "gatekeeping mecha-

nism" is needed to ensure that cases really needing consideration by the commission are dealt with.

Allen suggests the creation of a body similar to the motion court in the labour court, which weighs the merits of each case before it is heard.

"In this way parties can be instructed to find internal solutions if those are possible," he says.

But labour department spokesman Phenyio Nongane says there is no need for the creation of a gatekeeping structure.

"The law provides for workplace forums. Forming such structures would encourage internal resolution to disputes," he says.