

LABOUR LEGISLATION

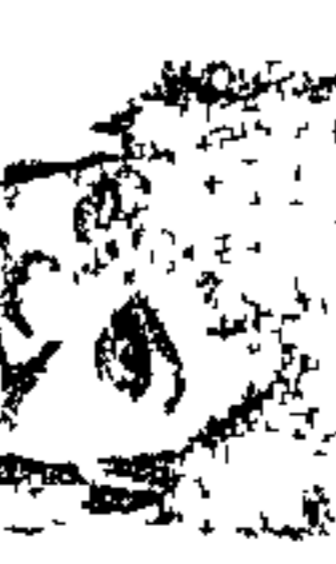
1990

JANUARY — MAY

PEOPLE AT THE TOP
ARE ON THE MOVE
SEE PAGE 7

PAGES AND PAGES OF THE BEST JOBS IN SOUTH AFRICA

MANPOWER
MIRROR by
ROBYN
CHALLMERS



Employers, workers brace for conflict

LABOUR analysts predict upsurge in industrial relations (IR) this year

The results of actions in 1989 will become evident this year. Some will be positive, some negative and others are unpredictable.

The Labour Relations Amendment Act (LRMA) for example is likely to continue to be a source of conflict between employers and trade unions unless the National Manpower Commission (NMC) report does the impossible — satisfies both parties.

Indices are that the report recommends scrapping of the controversial Section 79(2) which allows employers to sue unions for damage caused by a strike. The unions would welcome such a decision but many employers favour retention of their



ALLIE CONRADIE housing a major issue in 1990

right to claim compensation for losses incurred by a strike. At best, it can be hoped that the report will be able to strike a compromise that satisfies both unions and employers.

5/11/90

Cosatu and Nactu have threatened a new round of industrial action in continued protest against the Act.

The state of the economy is likely to play a big role in IR in 1990 as it did last year. At the end of 1989, Institute of Industrial Relations (IIR) senior professional officer Adrian Hersch correctly predicted that the economy would most directly affect the critical spheres of retrenchment and unemployment.

He identified privatisation and the weak rand price of gold as the two most vital elements in this scenario. Predictions for the gold price in 1990 appear fairly optimistic. Many analysts believe it will reach about \$405 an

ounce and then rise steadily, auguring well for the mining industry.

Others are more cautious, warning of the vulnerability of marginal gold mines should the price fall. In the run-up to the 1989 negotiations between the National Union of Mineworkers (NUM) and the Chamber of Mines large-scale retrenchments took place because working costs on 32 mines exceeded the gold price of \$385 an ounce.

Widespread retrenchments are likely to take place when privatisation gets off the ground and will affect both blacks and whites in the public sector. SAs, for example, is pumping millions into training its workers. Although spokesmen will not link this to retrenchments after privatisation, it is the most likely cause of the increased training activity.

cause major industrial action especially because trade unions are opposed to it.

A recent edition of the SA Labour Bulletin reports a loss of 132 000 jobs as a result of privatisation and steps lead up to it. Eskom has shed 14 000 jobs, Iscor 23 000, Sabs 75 000 since 1975 and the Post Office 20 000.

As in 1989, disputes between management and labour are likely to involve many matters including worker violence and housing.

Mr Hersch believes a long-term solution to the problems of violence in the mining industry may be found in those instances where managements employ workers who live with their families.

"But in cases where the migrant labour system operates even if a code of conduct is negotiated, the long term chances of success have to be considered."

A lasting solution will probably only be found when this system finally ceases to operate which apparently could take up to 10 years.

Housing will be a primary issue for negotiation. The SA Housing Trust annual report puts the housing backlog at 1.26-million.

Of this 820 000 are needed in SA. The annual building requirement to eradicate the backlog by the end of the century is now estimated to be 2-0 000 units.

Housing Trust acting managing director Wallie Conradie believes employers will have to make a greater effort to help provide accommodation for workers. If they do not, there could be social disruption and confrontation.

Last year's Institute of Personnel Management (IPM) conference was told that personnel practitioners would be faced with big changes in the 1990s.

Speakers identified productivity and training as crucial areas particularly because of the increasing shortage of skilled workers and the need for companies to remain competitive in a changing environment.

Human resources management will become a major challenge as SA moves into the 1990s, particularly in a post-apartheid era when the need to manage black-white relationships properly will be crucial.

PEOPLE AT THE TOP ARE ON THE MOVE SEE PAGE 7

MANPOWER MIRROR

MANPOWER MIRROR by ROBYN CHALMERS



PAGES AND PAGES OF THE BEST JOBS IN SOUTH AFRICA

Sturges 7/11/90

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STP

Employers, workers brace for conflict

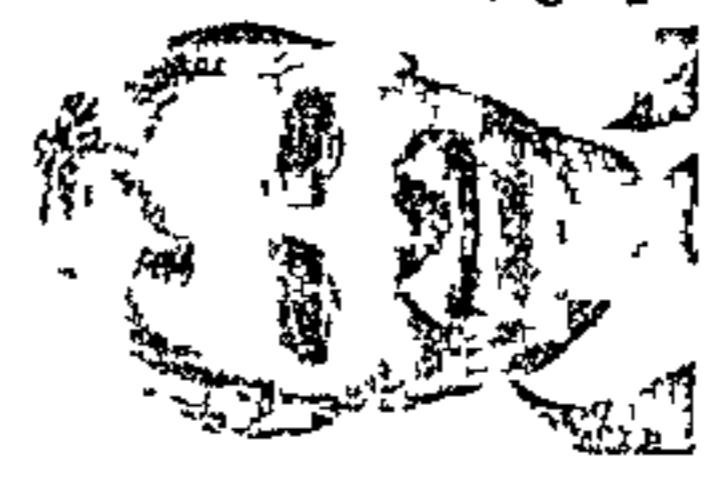
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WALLIE CONRADIE housing a major issue in 1990s



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Human resources management will become a major challenge as SA moves into the 1990s, particularly in a post-apartheid era when the need to manage black, white relationships properly will be crucial.

Minister decides on changes to labour law

stow 18/11/90 By Drew Forrest

(166)

The Minister of Manpower, Mr Eli Louw, has made a decision on politically sensitive labour law changes planned for the next parliamentary session and the legislation is currently with Government draftsmen.

This was confirmed yesterday by the director-general of manpower, Mr Joel Fourie.

Changes are expected to the controversial section 79 (2) of the Labour Relations Act, which broadens union exposure to damages in illegal strikes.

In line with the views of Cosatu/Nactu and major employers, the National Manpower Commission (NMC) is known to have urged the scrapping of the section.

But there were signs last year that the Government was seeking to placate conservative unions who want the section retained

● The NMC confirmed yesterday that the official deadline for submissions on the revamping of the entire LRA has been extended to the end of next month.

(166)

A new era for union politics

By LEN MASEKO

THE unbanning of the ANC and other political changes may lead to the removal of some economic constraints by and a new approach by trade unions to certain issues. So says Mr Richard

empowered with legal political platforms could change the nature of union politics," Cooke says.

A new era in industrial relations is unfolding in the wake of State President Mr FW de Klerk's landmark announcements,

according to Cooke "The exiled Sactu, for instance, is now free to return to South Africa and engage openly in labour organisation," he says.

Important developments are happening daily (in the labour arena) considering that the Industrial

Court became a reality 10 years ago and the Industrial Appeal Court only two years ago," he says

Juta is hosting several seminars on labour law and the role of trade unions in a changing South Africa.

Speakers at the meet-

ings include Mr Halton Cheadle, assistant director of Wits University's Centre for Applied Legal Studies, Mr Clive Thompson, director of the University of Cape Town's Labour Law Unit, Professor Adolph Landman of the University of South

Africa, and Prof PAK le Roux, an attorney.

The seminars will take place at the Sandton Sun Hotel (Johannesburg) today, Elizabeth Sun Hotel (Port Elizabeth) on March 1 and Royal Hotel (Durban) on March 5.

Minister asks for LRA amendments from his advisers

MANPOWER Minister Eli Louw has instructed government legal advisers to draft amendments to the Labour Relations Act for tabling in the forthcoming session of Parliament, director-general Joel Fourie said yesterday.

The proposed amendments are based on a recent National Manpower Commission (NMC) report which examined the controversial issues of union liability for damages suffered by employers during unlawful strikes and time limits for processing disputes through conciliation boards or industrial councils.

Fourie said it was hoped the drafting work would be completed soon.

He disclosed last month that the Cabinet had agreed to waive the rule requiring that proposed legislation be before the Cabinet by the previous September.

Fourie said until the Bill was tabled, details of the amendments would remain confidential.

The contents of the NMC report have also not been made public.

However, it is understood the NMC recommended the scrapping of section 79 (2) of the Act.

The section transfers to unions the

ALAN FINE

onus of proof that they were not responsible for damages incurred, thus increasing the scope for employers to sue successfully.

It is believed the NMC also proposed extending time limits and loosening up conditions for waiving them. Unions have protested that the Act potentially allows employers to avoid resolving disputes by using time limit technicalities.

BIDM 23/11/90

Overhaul

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Fourie said the NMC was still working on two other major, longer term, investigations related to labour legislation.

The first involves a total overhaul of the Act and the second is into the effects of labour legislation on small business development.

He said the NMC had received a request that the January 10 deadline for submissions on these two investigations be extended.

He said he believed this had been agreed to.

8/24/90

NUMSA PLAN TO IMPROVE COLLECTIVE BARGAINING

ALAN FINE

THE 210 000-strong National Union of Metalworkers of SA (Numsa) has called a special conference for February 10 to plan a more co-ordinated collective bargaining strategy in the four main sectors in which it is involved.

Convener Bernie Fanaroff said the conference was also designed to further democratise Numsa's participation in the collective bargaining process.

A pre-conference discussion document circulating within the union said despite important victories, there was a lack of co-operation between the sectors — motor assembly, motor components, engineering and tyre and rubber — in advancing the "living wage campaign".

An example raised in the document, that the motor assembly sector planned for strike action while the engineering sector settled without striking, suggested in future Numsa intended to plan large, simultaneous strikes.

Demands

It said there were differing regional strategies, weaknesses in some local and factory structures, and a feeling in parts of the union that the living wage campaign should be downgraded so that priority could be given to the campaign against the Labour Relations Act (LRA).

In addition to addressing these matters, the conference is also to discuss the type of demands to be put to employers during the year, taking into account the different circumstances in different sectors.

Suggestions listed included a R1,50 an hour across-the-board increase; improved job security through compulsory negotiation of retrenchments, high severance payments, and LIFO being the only criterion for lay-offs.

It was proposed the issue of job creation be addressed through limits on temporary labour and overtime. Exemptions from industrial council agreements should be opposed.

The draft proposed a R300 a month housing allowance and opposition to racial laws hindering housing development. It also addressed the issues of the LRA, proportional representation on industrial councils, education and training, maternity leave and retirement benefits.

Union conflict

No. R. 157

26 Januarie 1990

WET OP ARBEIDSVERHOUDINGE, 1956

YSTER-, STAAL-, INGENIEURS- EN METAL-
LURGIËSE NYWERHEID.—HERNUWING VAN
OPVOEDKUNDIGE- EN OPLEIDINGSFONDS-
OOREENKOMS

Ek, Dennis van der Walt, Direkteur: Arbeidsver-
houdinge, behoorlik daartoe gemagtig deur die Minis-
ter van Mannekrag, verklaar hierby, kragtens artikel 48
(4) (a) (ii) van die Wet op Arbeidsverhoudinge, 1956,
dat die bepalings van Goewermentskennisgewings Nos.
R. 228 van 8 Februarie 1985, R. 2056 van 13 September
1985, R. 1795 van 21 Augustus 1987 en R. 2452 van 2
Desember 1988, van krag is vanaf 1 April 1990 en vir
die tydperk wat op 31 Maart 1991 eindig.

D. VAN DER WALT,
Direkteur: Arbeidsverhoudinge.

No. R. 158

26 Januarie 1990

WET OP ARBEIDSVERHOUDINGE, 1956

BOUNYWERHEID, OOS-KAAP.—HERNUWING
VAN HOOFOOREENKOMS

Ek, Dennis van der Walt, Direkteur: Arbeidsver-
houdinge, behoorlik daartoe gemagtig deur die Minis-
ter van Mannekrag, verklaar hierby, kragtens artikel 48
(4) (a) (ii) van die Wet op Arbeidsverhoudinge, 1956,
dat die bepalings van Goewermentskennisgewings Nos.
R. 392 van 27 Februarie 1987, R. 2712 van 11
Desember 1987, R. 106 van 29 Januarie 1988, R. 2191
van 28 Oktober 1988 en R. 2567 van 24 November
1989, van krag is vanaf 1 Februarie 1990 en vir die
tydperk wat op 31 Julie 1990 eindig.

D. VAN DER WALT,
Direkteur: Arbeidsverhoudinge.

No. R. 159

26 Januarie 1990

WET OP ARBEIDSVERHOUDINGE, 1956

LEERNYWERHEID, REPUBLIEK VAN SUID-
AFRIKA.—HERNUWING VAN OOREENKOMS
VIR DIE LOOISEKSIE

Ek, Eli van der Merwe Louw, Minister van Manne-
krag, verklaar hierby, kragtens artikel 48 (4) (a) (ii) van
die Wet op Arbeidsverhoudinge, 1956, dat die bepa-
lings van Goewermentskennisgewings Nos. R. 380 van
4 Maart 1988 en R. 2313 van 18 November 1988, van
krag is vanaf die datum van publikasie van hierdie
kennisgewing en vir die tydperk wat op 30 Junie 1990
eindig.

E. VAN DER M. LOUW,
Minister van Mannekrag.

No. R. 157

26 January 1990

LABOUR RELATIONS ACT, 1956

IRON, STEEL, ENGINEERING AND METAL-
LURGICAL INDUSTRY.—RENEWAL OF EDU-
CATION AND TRAINING FUND AGREEMENT

I, Dennis van der Walt, Director: Labour Relations,
duly authorised thereto by the Minister of Manpower,
hereby, in terms of section 48 (4) (a) (ii) of the Labour
Relations Act, 1956, declare the provisions of Govern-
ment Notices Nos. R. 228 of 8 February 1985, R. 2056
of 13 September 1985, R. 1795 of 21 August 1987 and
R. 2452 of 2 December 1988, to be effective from 1
April 1990 and for the period ending 31 March 1991

D. VAN DER WALT,
Director: Labour Relations.

No. R. 158

26 January 1990

LABOUR RELATIONS ACT, 1956

BUILDING INDUSTRY, EAST CAPE.—
RENEWAL OF MAIN AGREEMENT

I, Dennis van der Walt, Director: Labour Relations,
duly authorised thereto by the Minister of Manpower,
hereby, in terms of section 48 (4) (a) (ii) of the Labour
Relations Act, 1956, declare the provisions of Govern-
ment Notices R. 392 of 27 February 1987, R. 2712 of 11
December 1987, R. 106 of 29 January 1988, R. 2191 of
28 October 1988 and R. 2567 of 24 November 1989, to
be effective from 1 February 1990 and for the period
ending 31 July 1990.

D. VAN DER WALT,
Director: Labour Relations.

No. R. 159

26 January 1990

LABOUR RELATIONS ACT, 1956

LEATHER INDUSTRY, REPUBLIC OF SOUTH
AFRICA.—RENEWAL OF AGREEMENT FOR
THE TANNING SECTION

I, Eli van der Merwe Louw, Minister of Manpower,
hereby, in terms of section 48 (4) (a) (ii) of the Labour
Relations Act, 1956, declare the provisions of
Government Notices Nos. R. 380 of 4 March 1988 and
R. 2313 of 18 November 1988, to be effective from the
date of publication of this notice and for the period
ending 30 June 1990.

E. VAN DER M. LOUW,
Minister of Manpower.

No. R. 160

26 Januarie 1990

WET OP ARBEIDSVERHOUDINGE, 1956

LEERNYWERHEID, REPUBLIEK VAN SUID-AFRIKA. — WYSIGING VAN OOREENKOMS VIR DIE LOOISEKSIE

Ek, Eli van der Merwe Louw, Minister van Mannekrag, verklaar hierby—

- (a) kragtens artikel 48 (1) (a) van die Wet op Arbeidsverhoudinge, 1956, dat die bepalings van die Ooreenkoms (hierna die Wysigingsooreenkoms genoem) wat in die Bylae hiervan verskyn en betrekking het op die Onderneming, Nywerheid, bedryf of beroep in die opskrif by hierdie kennisgewing vermeld, met ingang van die tweede Maandag na die datum van publikasie van hierdie kennisgewing en vir die tydperk wat op 30 Junie 1990 eindig, bindend is vir die werkgewersorganisasies en die vakverenigings wat die Wysigingsooreenkoms aangegaan het en vir die werkgewers en werknemers wat lede van genoemde organisasies of verenigings is; en
- (b) kragtens artikel 48 (1) (b) van genoemde Wet, dat die bepalings van die Wysigingsooreenkoms, uitgesonderd dié vervat in klousule 1 (1) (a), met ingang van die tweede Maandag na die datum van publikasie van hierdie kennisgewing en vir die tydperk wat op 30 Junie 1990 eindig, bindend is vir alle ander werkgewers en werknemers as dié genoem in paragraaf (a) van hierdie kennisgewing wat betrokke is by of in diens is in genoemde Onderneming, Nywerheid, Bedryf of Beroep in die gebiede in klousule 1 van die Wysigingsooreenkoms gespesifiseer.

E. VAN DER M. LOUW,
Minister van Mannekrag.

BYLAE

NASIONALE NYWERHEIDSRAAD VIR DIE LEERNYWERHEID VAN SUID-AFRIKA

LOOISEKSIE

OOREENKOMS

ooreenkomstig die Wet op Arbeidsverhoudinge, 1956, gesluit deur en aangegaan tussen die

(a) South African Tanning Employers' Organisation
en

(b) Transvaal Footwear, Tanning and Leather Trades Association

(hierna die "werkgewers" of die "werkgewersorganisasies" genoem), aan die een kant, en die

(c) National Union of Leather Workers

(d) Transvaal Leather and Allied Trades Industrial Union
en

(e) Amalgamated Clothing and Textile Workers' Union S.A.

(hierna die "werknemers" of die "vakverenigings" genoem), aan die ander kant,

wat die partye is by die Nasionale Nywerheidsraad vir die Leernywerheid van Suid-Afrika,

om die Ooreenkoms vir die Looiseksie, gepubliseer by Goewermentskennisgewing No R 380 van 4 Maart 1988 (hierna die Herbekragtigingsooreenkoms genoem), soos hernieu en gewysig deur Goewermentskennisgewings Nos R 1620 van 12 Augustus 1988 en R 2313 van 18 November 1988, te wysig.

1. TOEPASSINGSBESTEK VAN OOREENKOMS

(1) Hierdie Ooreenkoms moet nagekom word in die Looiseksie van die Leernywerheid—

- (a) deur alle werkgewers wat lede van die werkgewersorganisasies is en deur alle werknemers wat lede van die vakverenigings en wat onderskeidelik by die Looiseksie betrokke of daarin werk-saam is, en

No. R. 160

26 January 1990

LABOUR RELATIONS ACT, 1956

LEATHER INDUSTRY, REPUBLIC OF SOUTH AFRICA — AMENDMENT OF AGREEMENT FOR THE TANNING SECTION

I, Eli van der Merwe Louw, Minister of Manpower, hereby—

- (a) in terms of section 48 (1) (a) of the Labour Relations Act, 1956, declare that the provisions of the Agreement (hereinafter referred to as the Amending Agreement) which appears in the Schedule hereto and which relates to the Undertaking, Industry, Trade or Occupation referred to in the heading to this notice, shall be binding, with effect from the second Monday after the date of publication of this notice and for the period ending 30 June 1990, upon the employers' organisations and the trade unions which entered into the Amending Agreement and upon the employers and employees who are members of the said organisations or unions; and
- (b) in terms of section 48 (1) (b) of the said Act, declare that the provisions of the Amending Agreement, excluding those contained in clause 1 (1) (a), shall be binding, with effect from the second Monday after the date of publication of this notice and for the period ending 30 June 1990 upon all employers and employees, other than those referred to in paragraph (a) of this notice, who are engaged or employed in the said Undertaking, Industry, Trade or Occupation in the areas specified in clause 1 of the Amending Agreement.

E. VAN DER M. LOUW,
Minister of Manpower.

SCHEDULE

NATIONAL INDUSTRIAL COUNCIL OF THE LEATHER INDUSTRY OF SOUTH AFRICA

TANNING SECTION

AGREEMENT

in accordance with the provisions of the Labour Relations Act, 1956, made and entered into by and between the

(a) South African Tanning Employers' Organisation
and

(b) Transvaal Footwear, Tanning and Leather Trades Association

(hereinafter referred to as the "employers" or the "employers' organisations"), of the one part, and the

(c) National Union of Leather Workers

(d) Transvaal Leather and Allied Trades Industrial Union
and

(e) Amalgamated Clothing and Textile Workers' Union S.A.

(hereinafter referred to as the "employees" or the "trade unions"), of the other part,

being the parties to the National Industrial Council of the Leather Industry of South Africa

to amend the Agreement for the Tanning Section published under Government Notice No. R 380 of 4 March 1988 (hereinafter referred to as the Re-enacting Agreement), as renewed and amended by Government Notices Nos R 1620 of 12 August 1988 and R 2313 of 18 November 1988

1. SCOPE OF APPLICATION OF AGREEMENT

(1) The terms of this Agreement shall be observed in the Tanning Section of the Leather Industry—

- (a) by all employers who are members of the employers' organisations and by all employees who are members of the trade unions and who are respectively engaged or employed in the Tanning Section, and

No. R. 162

26 Januarie 1990

WET OP ARBEIDSVERHOUDINGE, 1956

SUIKERVERVAARDIGINGS- EN RAFFINEER-
NYWERHEID – WYSIGING VAN OOREEN-
KOMS

Ek, Eli van der Merwe Louw, Minister van Mannekrag, verklaar hierby—

- (a) kragtens artikel 48 (1) (a) van die Wet op Arbeidsverhoudinge, 1956, dat die bepalings van die Ooreenkoms (hierna die Wysigingsooreenkoms genoem) wat in die Bylae hiervan verskyn en betrekking het op die Onderneming, Nywerheid, Bedryf of Beroep in die opskrif by hierdie kennisgewing vermeld, met ingang van die tweede Maandag na die datum van publikasie van hierdie kennisgewing en vir die tydperk wat op 31 Maart 1991 eindig, bindend is vir die werkgewersorganisasies en die vakverenigings wat die Wysigingsooreenkoms aangegaan het en vir die werkgewers en werknemers wat lede van genoemde organisasies of verenigings is; en
- (b) kragtens artikel 48 (1) (b) van genoemde Wet, dat die bepalings van die Wysigingsooreenkoms, uitgesonderd dié vervat in klousule 1 (1) (a), met ingang van die tweede Maandag na die datum van publikasie van hierdie kennisgewing en vir die tydperk wat op 31 Maart 1991 eindig, bindend is vir alle ander werkgewers en werknemers as dié genoem in paragraaf (a) van hierdie kennisgewing wat betrokke is by of in diens is in genoemde Onderneming, Nywerheid, Bedryf of Beroep in die gebiede in klousule 1 van die Wysigingsooreenkoms gespesifiseer.

E. VANDER M. LOUW,
Minister van Mannekrag.

BYLAE

NYWERHEIDSRAAD VIR DIE SUIKERVERVAARDIGINGS- EN
-RAFFINERYWERHEID

OOREENKOMS

ooreenkomstig die Wet op Arbeidsverhoudinge, 1956, gesluit deur en aangegaan tussen

The Sugar Manufacturing and Refining Employers' Association

(hierna die "werkgewers" of die "werkgewersorganisasie" genoem), aan die een kant, en

The Amalgamated Engineering Union
The Natal Sugar Industry Employees' Union
The South African Electrical Workers' Association
The Sugar Industry Employees' Association
S.A. Boilermakers', Iron and Steel Workers', Shipbuilders' and Welders' Society,
National Sugar and Refining and Allied Industries Employees' Union,
Food and Allied Workers' Union,

en

National Industrial and Commercial Workers' Union

(hierna die "werknemers" of die "vakverenigings" genoem), aan die ander kant,

wat die partye is by die Nywerheidsraad vir die Suikervervaardigings- en -raffinerierywerheid,

om die Ooreenkoms gepubliseer by Goewermentskennisgewing No. R 2204 van 5 Oktober 1984, soos gewysig en hersien deur Goewermentskennisgewings Nos R 1821 van 23 Augustus 1985, R 1808 en R 1809 van 29 Augustus 1986, R 2456 en R 2457 van 30 Oktober 1987 en R 2426 en R 2427 van 2 Desember 1988, te wysig

No. R. 162

26 January 1990

LABOUR RELATIONS ACT, 1956

SUGAR MANUFACTURING AND REFINING IN-
DUSTRY.—AMENDMENT OF AGREEMENT

I, Eli van der Merwe Louw, Minister of Manpower, hereby—

- (a) in terms of section 48 (1) (a) of the Labour Relations Act, 1956, declare that the provisions of the Agreement (hereinafter referred to as the Amending Agreement) which appears in the Schedule hereto and which relates to the Undertaking, Industry, Trade or Occupation referred to in the heading to this notice, shall be binding, with effect from the second Monday after the date of publication of this notice and for the period ending 31 March 1991, upon the employers' organisations and the trade unions which entered into the Amending Agreement and upon the employers and employees who are members of the said organisation or unions; and
- (b) in terms of section 48 (1) (b) of the said Act, declare that the provisions of the Amending Agreement, excluding those contained in clause 1 (1) (a), shall be binding, with effect from the second Monday after the date of publication of this notice and for the period ending 31 March 1991, upon all employers and employees, other than those referred to in paragraph (a) of this notice, who are engaged or employed in the said Undertaking, Industry, Trade or Occupation in the areas specified in clause 1 of the Amending Agreement.

E. VANDER M. LOUW,
Minister of Manpower.

SCHEDULE

INDUSTRIAL COUNCIL FOR THE SUGAR MANUFACTURING
AND REFINING INDUSTRY

AGREEMENT

in accordance with the provisions of the Labour Relations Act, 1956, made and entered into by and between

The Sugar Manufacturing and Refining Employers' Association

(hereinafter referred to as the "employers" or the "employers' organisation"), of the one part, and

The Amalgamated Engineering Union
The Natal Sugar Industry Employees' Union
The South African Electrical Workers' Association
The Sugar Industry Employees' Association
S.A. Boilermakers', Iron and Steel Workers', Shipbuilders' and Welders' Society,
National Sugar and Refining and Allied Industries Employees' Union,
Food and Allied Workers' Union,

and

National Industrial and Commercial Workers' Union

(hereinafter referred to as the "employees" or the "trade unions"), of the other part,

being the parties to the Industrial Council for the Sugar Manufacturing and Refining Industry,

to amend the Agreement published under Government Notice No. R 2204 of 5 October 1984, as amended and renewed by Government Notice Nos R 1821 of 23 August 1985, R 1808 and R 1809 of 29 August 1986, R 2456 and R 2457 of 30 October 1987, and R 2426 and R 2427 of 2 December 1988

No. R. 164

26 Januarie 1990

WET OF ARBEIDSVERHOUDINGE, 1956
HAARKAPPERSBEDRYF, PRETORIA.—
OOREENKOMS

Ek, Eli van der Merwe Louw, Minister van Mannekrag, verklaar hierby—

- (a) kragtens artikel 48 (1) (a) van die Wet op Arbeidsverhoudinge, 1956, dat die bepalings van die Ooreenkoms wat in die Bylae hiervan verskyn en betrekking het op die Onderneming, Nywerheid, Bedryf of Beroep in die opskrif by hierdie kennisgewing vermeld, met ingang van die tweede Maandag na die datum van publikasie van hierdie kennisgewing en vir die tydperk wat drie jaar na genoemde Maandag eindig, bindend is vir die werkgewersorganisasie en die vakvereniging wat genoemde Ooreenkoms aangegaan het en vir die werkgewers en werknemers wat lede van genoemde organisasie of vereniging is; en
- (b) kragtens artikel 48 (1) (b) van genoemde Wet, dat die bepalings van genoemde Ooreenkoms, uitgesonderd dié vervat in klousules 1 (1) (a), 2, 5 (2) (c) en (e), 18, 19, 20, 21 en 30, met ingang van die tweede Maandag na die datum van publikasie van hierdie kennisgewing en vir die tydperk wat drie jaar na genoemde Maandag eindig, bindend is vir alle ander werkgewers en werknemers as dié genoem in paragraaf (a) van hierdie kennisgewing wat betrokke is by of in diens is in genoemde Onderneming, Nywerheid, Bedryf of Beroep in die gebiede in klousule 1 van die genoemde Ooreenkoms gespesifiseer.

E. VANDER M. LOUW,
Minister van Mannekrag.

BYLAE

NYWERHEIDSRAAD VIR DIE HAARKAPPER-
BEDRYF
(PRETORIA)

OOREENKOMS

ooreenkomsig die Wet op Arbeidsverhoudinge, 1956, gesluit deur en aangegaan tussen die

S.A. Hairdressers' and Cosmetologists' Association
(Northern Transvaal Division)

(hierna die "werkgewers" of die "werkgewersorganisasie" genoem), aan die een kant, en die

S.A. Hairdressers Employees' Industrial Union
(Northern Transvaal Branch)

(hierna die "werkgewers" of die "vakvereniging" genoem), aan die ander kant,

wat die partye is by die Nywerheidsraad vir die Haarkappersbedryf (Pretoria)

1. TOEPASSINGSBESTEK VAN OOREENKOMS

(1) Hierdie Ooreenkoms moet in die Haarkappersbedryf nagekom word—

(a) deur alle werknemers wat lede van die werkgewersorganisasie is en deur alle werknemers wat lede van die vakvereniging is,

(b) in die landdrostdistrikte Pretoria en Wonderboom

(2) Ondanks subklousule (1) is hierdie Ooreenkoms—

(a) slegs van toepassing op werknemers vir wie lonc in hierdie Ooreenkoms voorgeskryf word en op die werkgewers van sodanige werknemers,

(b) slegs van toepassing op vakleerlinge vir sover dit nie onbestaanbaar is nie met die Wet op Mannekragopleiding, 1981, of 'n kontrak wat daarkragtens aangegaan of 'n voorwaarde wat ingevolge daarvan gestel is

No. R. 164

26 January 1990

LABOUR RELATIONS ACT, 1956
HAIRDRESSING TRADE, PRETORIA.—
AGREEMENT

I, Eli van der Merwe Louw, Minister of Manpower, hereby—

- (a) in terms of section 48 (1) (a) of the Labour Relations Act, 1956, declare that the provisions of the Agreement which appears in the Schedule hereto and which relates to the Undertaking, Industry, Trade or Occupation referred to in the heading to this notice, shall be binding, with effect from the second Monday after the date of publication of this notice and for the period ending three years from the said Monday, upon the employers' organisation and the trade union which entered into the said Agreement and upon the employers and employees who are members of the said organisation or union; and
- (b) in terms of section 48 (1) (b) of the said Act, declare that the provisions of the said Agreement, excluding those contained in clauses 1 (1) (a), 2, 5 (2) (c) and (e), 18, 19, 20, 21 and 30, shall be binding, with effect from the second Monday after the date of publication of this notice and for the period ending three years from the said Monday, upon all employers and employees, other than those referred to in paragraph (a) of this notice, who are engaged or employed in the said Undertaking, Industry, Trade or Occupation in the areas specified in clause 1 of the said Agreement.

E. VANDER M. LOUW,
Minister of Manpower.

SCHEDULE

INDUSTRIAL COUNCIL FOR THE HAIRDRESSING
TRADE
(PRETORIA)

AGREEMENT

in accordance with the provisions of the Labour Relations Act, 1956, made and entered into by and between the

S.A. Hairdressers' and Cosmetologists' Association
(Northern Transvaal Division)

(hereinafter referred to as the "employers" or the "employers' organisation"), of the one part, and the

S.A. Hairdressers Employees' Industrial Union
(Northern Transvaal Branch)

(hereinafter referred to as the "employees" or the "trade union"), of the other part,

being the parties to the Industrial Council for the Hairdressing Trade (Pretoria)

1. SCOPE OF APPLICATION OF AGREEMENT

(1) The terms of this Agreement shall be observed in the Hairdressing Trade—

(a) by all employers who are members of the employers' organisation and by all employees who are members of the trade union;

(b) in the Magisterial Districts of Pretoria and Wonderboom.

(2) Notwithstanding the provisions of subclause (1), the terms of this Agreement shall—

(a) only apply to employees for whom wages are prescribed in this Agreement and to the employers of such employees,

(b) only apply to apprentices in so far as they are not inconsistent with the provisions of Manpower Training Act, 1981, or any contract entered into or any condition fixed thereunder

KENNISGEWING 58 VAN 1990

DEPARTEMENT VAN MANNEKRAG

WET OP ARBEIDSVERHOUDINGE, 1956

AANSOEK OM VERANDERING VAN DIE REGISTRASIEBESTEK VAN 'N VAKVERENIGING

Ek, Johannes Theodorus Crouse, Assistent-nywerheidsregistrator maak ingevolge artikel 4 (2) soos toegepas by artikel 7 (5) van die Wet op Arbeidsverhoudinge, 1956, hierby bekend dat 'n aansoek om die verandering van sy registrasiebestek ontvang is van die South African Aviation Engineering and Allied Union. Besonderhede van die aansoek word in onderstaande tabel verstrek

Enige geregistreerde vakvereniging wat teen die aansoek beswaar maak, word versoek om binne een maand na die datum van publikasie van hierdie kennisgewing sy beswaar skriftelik by my in te dien, p/a die Departement van Mannekrag, Mannekraggebou 123a, Schoemanstraat 215, Pretoria (posadres: Privaatsak X117, Pretoria, 0001).

TABEL

Naam van vakvereniging: South African Aviation Engineering and Allied Union.

Datum waarop aansoek ingedien is: 11 Desember 1989.

Belange en gebied ten opsigte waarvan aansoek gedoen word: Alle persone in diens in die Lugvaartbedryf as Vliegtuigonderhoudsassistent, Lugvaarttoesighouers, Voorraadkontroleurs, Kajuitbeamptes en Vragkontroleur in die Republiek van Suid-Afrika.

Vir die doeleindes hiervan word bogemelde bedryf soos volg omskryf.

“Lugvaartbedryf” beteken die bedryf waarin werkgewers en werknemers met mekaar geassosieer is met die doel om aktiwiteite uit te voer wat verband hou met die aankoms en/of vertrek van vliegtuie wat passasiers en/of lugvrag vervoer teen vergoeding.

Posadres van applikant: Posbus 3888, Kempton Park, 1620.

Kantooradres van applikant: Kamer 206, Anneks 707, Jan Smutslughawe.

Die aandag word gevestig op onderstaande vereistes van artikels 4 en 7 van die Wet:

(a) Die mate waarin 'n beswaarmakende vakvereniging verteenwoordigend is, word ingevolge artikel 4 (4), soos toegepas by artikel 7 (5), bepaal volgens die feite soos hulle bestaan het op die datum waarop die aansoek ingedien is, en wat die lidmaatskap betref, word alleen lede wat ingevolge artikel 1 (2) van die Wet op voormelde datum volwaardige lede was, in aanmerking geneem.

(b) Die prosedure voorgeskryf by artikel 4 (2) moet gevolg word in verband met 'n beswaar wat ingedien word

J. T. CROUSE,
Assistent-nywerheidsregistrator.

(26 Januarie 1990)

NOTICE 58 OF 1990

DEPARTMENT OF MANPOWER

LABOUR RELATIONS ACT, 1956

APPLICATION FOR VARIATION OF SCOPE OF REGISTRATION OF A TRADE UNION

I, Johannes Theodorus Crouse, Assistant Industrial Registrar do hereby, in terms of section 4 (2) as applied by section 7 (5) of the Labour Relations Act, 1956, give notice that an application for the variation of its scope of registration has been received from the South African Aviation Engineering and Allied Union. Particulars of the application are reflected in the subjoined table

Any registered trade union which objects to the application is invited to lodge its objection in writing with me, c/o the Department of Manpower, 123a Manpower Building, 215 Schoeman Street, Pretoria (postal address: Private Bag X117, Pretoria, 0001), within one month of the date of publication of this notice

TABLE

Name of trade union: South African Aviation Engineering and Allied Union.

Date on which application was lodged: 11 December 1989.

Interests and area in respect of which application is made: All persons employed in the Aviation Industry as Aircraft Maintenance Assistants, Aeronautical Supervisors, Stock Controllers, Cabin Attendants and Cargo Controllers in the Republic of South Africa.

For the purposes hereof the above-mentioned industry is defined as follows:

“Aviation Industry” means the industry in which employers and employees are associated for the purpose of conducting activities relating to the arrival and/or departure of aircraft conveying passengers and/or freight for reward

Postal address of applicant: P.O. Box 3888, Kempton Park, 1620.

Office address of applicant: Room 206, 707 Annex, Jan Smuts Airport.

Attention is drawn to the following requirements of sections 4 and 7 of the Act:

(a) The representativeness of any trade union which objects to the application shall in terms of section 4 (4) as applied by section 7 (5) be determined on the facts as they existed at the date on which the application was lodged and, as far as membership is concerned, only members who were in good standing in terms of section 1 (2) of the Act as at the aforesaid date shall be taken into consideration.

(b) The procedure laid down in section 4 (2) must be followed in connection with any objection lodged.

J. T. CROUSE,
Assistant Industrial Registrar.

(26 January 1990)

PEOPLE AT THE TOP ARE ON THE MOVE SEE PAGE 11

MANPOWER MIRROR BY ROBYN CHALMERS



PAGES AND PAGES OF THE BEST JOBS IN SOUTH AFRICA

Unions ready for battle if they don't win

EMPLOYERS and trade unions are anxiously awaiting news from the forthcoming session of Parliament at which amendments to the Labour Relations Amendment Act (LRAA) will be tabled.

The Government's legal advisers are drafting the amendments. They are based on a report by the National Manpower Commission (NMC), which handed its recommendations to Manpower Minister Eit Louw last December.

Employer organisation Saccola and union federations Cosatu and Nactu have discussed the LRAA for more than a year. But the drafting of the



Eit Louw quest for peace in labour relations

amendments effectively means there can be no more participation on their part.

Now it is all up to the Government. Mr Louw believes that labour peace is one of the most important considerations in industrial relations this decade, and that the amendments to the LRAA will play a decisive role.

Taken that two major stayaways against the Act last year cost the economy almost R1-billion in lost production, employers are anxious that the new amendments appease unions, but without swinging the bias against them.

Although neither the NMC nor the Government will divulge details of the report, industry spokesmen believe the controversial Section 79 (2) which

makes unions liable for strikes, will be scrapped and time limits relating to dispute procedures will be extended.

This deals with two of the six interim demands listed by Cosatu and Nactu.

The other four demands are that employers stop seeking urgent court interdicts to stop strikes; industrial court appeals should be quick and be handled by experts; union registration should be replaced with non-racial certification, and all references to strikes and boycotts should be scrapped from the definition of unfair labour practices.

It will not be known whether these demands have been dealt with until next month but if unions are not satisfied there will probably be widespread labour unrest.

The National LRAA Co-ordinating

Committee (NLCC), which is made up of Cosatu and Nactu affiliates, pledged late last year to intensify action against the LRAA in 1990 if the amendments did not meet their demands.

The Innes Labour Brief on socio-political and industrial relations prospects for SA in 1990 says if the unions' major objections to the Act are not dealt with mass protests will ensue.

Since its promulgation almost a 18 months ago, the LRAA has provided a perfect vehicle for the increased politicisation of trade unions which the Innes brief says will continue through out this year.

"As far as Cosatu and the Mass

Democratic Movement (MDM) are concerned, the six recently released ANC leaders are likely to pay greater attention next year to seeking to overcome the organisational weaknesses of the MDM and its affiliates.

"In order to do this, they are likely to draw even more strongly on the resources of the black unions - where organisation is known to be strongest. This must lead to the greater politicisation of the Cosatu unions in particular, but also other unions, during 1990."

The brief says another factor influencing this process is that the MDM and other black political groups will try to make use of the political space President De Klerk is providing to mobilise their support and recruit members.

The unions, it says, will come under increasing pressure to call out members in support of political campaigns. Stayaways and political protest will continue and even increase throughout 1990.

Although greater politicisation of unions could heighten conflict with employers, so could the trend in the union movement in favour of centralised bargaining forums.

The brief says the determination with which the union movement pursues centralised bargaining will increasingly conflict with the purist view of decentralised bargaining held by some employers.

vast improvement, say experts

Govt to relax controversial labour laws

B/Dam 30/1/90

166

~~166~~

ALAN FINE

THE Manpower Department has produced a Labour Relations Amendment Bill that goes some way towards addressing union objections to two aspects of the 1988 amendments that sparked outbreaks of shopfloor militancy.

A copy of the Bill, acquired by Business Day, shows government intends scrapping that part of Section 79 (2) of the Labour Relations Act (LRA) that transfers to unions the onus of proof, in the event of litigation, that members and officials were not acting with union authority in causing financial loss to companies during unlawful strikes.

The Bill also substantially extends and makes more flexible the time limits on the referral of disputes to industrial councils or conciliation boards, and simplifies these procedures.

It is based on the recommendations of a National Manpower Commission report completed late last year.

The report was commissioned by Manpower Minister Eli Louw.

It is expected the Bill will become law during the next session of Parliament, which opens on Friday. The Cabinet has waived its rule that proposed legislation be tabled before it by the previous September.

Labour lawyers yesterday expressed general satisfaction in that the Bill represented an improvement on the present provisions of the Act.

Graham Damant described it as "a vast improvement", while Paul Benjamin said it was generally "unproblematic".

The amendment to Section 79 (2) deletes the assumption that members or officials of unions or employer organisations "shall until the contrary is proved be deemed to have been acting with due authority" of their organisation.

This part of the Act had been attacked as opening the way for crippling litigation against unions.

The Act will continue to specify that interference with the contractual relationship between employers and employees renders one liable for damage claims.

However, both attorneys said this was the common law position in any event, and they speculated that the passage might have been retained as a "political compromise" to satisfy right-wing groups.

They welcomed an amendment that would scrap the requirement for disputes to be referred to industrial councils or conciliation boards within 21 days of deadlock being reached.

The existing law prevents any referral after the 21-day period has passed. Unions and lawyers have objected, saying this has prevented disputes from being resolved due to a technicality, and that it has therefore hindered good labour relations.

In terms of the Bill, it will still be required that disputes be referred to councils or boards within 90 days of such disputes arising, or the unfair labour practice coming into being.

The attorneys regretted this section had

□ To Page 2

Labour laws

B/Dam 30/1/90

been retained, as it would "still cause hardship". However, Damant said, the law permitted an industrial council or the Manpower director-general to condone late referrals.

The minimum period accorded an industrial council or conciliation board to resolve a dispute will be extended from 30 to 45 days — effectively lengthening the

~~166~~ 166

□ From Page 1

"cooling-off" period for which the Act provides.

Parties to a dispute will, in terms of the Bill, have up to 30 days — instead of the present 14 — to refer an unresolved dispute from a council or board to the Industrial Court. The court will be empowered to condone late referral if good cause is shown.

B/Dan 31/1/90

Saccola lauds planned Labour Act changes

EMPLOYER federation Saccola has welcomed the proposed changes to the Labour Relations Act reported yesterday, but stressed good labour law ultimately depended on blacks having equal access to law-making forums

The new draft Labour Relations Amendment Bill extends the time limits for processing disputes through official channels and deletes the part of Section 79 (2) which reversed the normal rules regarding onus of proof in damages suits

Manpower director-general Joel Fourie said yesterday the Bill was still under departmental discussion. He did not expect many substantive changes, if any, to be made before it was tabled in Parliament

Saccola chairman Bobby Godsell said he was pleased government had addressed issues central to the talks employers had conducted with Cosatu and Nactu during the past 18 months

"But, having said that, we still will not have good labour law until blacks

ALAN FINE and ADELE BALETA

have equal access to the legislature, and organised labour is fully involved in bodies like the National Manpower Commission (NMC)," he said

SA urgently needed a common consultative and negotiating forum for labour law which included all parties, he said. Meanwhile, Saccola would continue talking to government and the unions

Onus

Comment from Cosatu and Nactu was unavailable late yesterday, but union sources said a meeting would be held to discuss the Bill tomorrow night

In a statement yesterday, Seifsa welcomed the proposed scrapping of the part of Section 79 (2) that placed on unions the onus to prove they were not responsible for damages arising from unlawful strikes. This would result in a return to the normal principles of SA law

Seifsa welcomed the proposed removal of the industrial council's obli-

gation to refer unresolved disputes to the industrial court because, it said, the onus should rest with any party to the dispute

The employer federation supported the proposed extension of the time limit from 14 to 30 days for the referral of disputes to the Industrial Court as there would no longer be unnecessary delays

Proposed amendments to Section 27A of the Act would simplify the dispute resolution process and eliminate technical points arising from the current wording of the Act

But the statement said the proposed wording relating to the time limit for referral of disputes to industrial councils could be problematic in determining exactly when a dispute was alleged to have arisen

Seifsa said the proposed extension of the time period within which an industrial council could settle a dispute — 30 to 45 days — would allow time for more effective conciliation processes regarding dispute resolution and deferment of potential industrial action, pending the outcome of longer conciliation processes

● Comment: Page 6

Unions vindicated, says lawyer ^{Star} 3/11/90

LRA amendments insufficient - DP ¹⁶⁶

By Drew Forrest

Proposed changes to the Labour Relations Act were an improvement but would do little to defuse union anger over the legislation, the Democratic Party's manpower spokesman, Mr Peter Gastrow, warned yesterday.

The Star has confirmed reports that Government drafters have produced an amending Bill based on last year's National Manpower Commission inquiry

Manpower director-general Mr Joel Fourie said yesterday the Cabinet was still to decide on an aspect of the Bill and further amendments were possible. However, it was intended to enact it in the next session of parliament

The current version of the Bill

- Scraps part of section 79 (2) of the LRA which broadens union liability for damages by presuming unionists to have instigated illegal strikes. The rump of the clause, which creates a statutory liability for damages, stands. Unions argued that the section exposed them to crippling damages claims.

- Relaxes time limits in official dispute-settling procedures. The Bill scraps a requirement that parties apply for a conciliation board or industrial council hearing within 21 days of deadlock, but still requires them to

apply within 90 days of the dispute erupting. Provision is also made for the condonation of late applications

- Extends the "cooling-off" period between the referral of a dispute to an industrial council and a strike ballot from 30 to 45 days.

Mr Gastrow said the Manpower Department "like the proverbial elephant has laboured mightily to bring forth a mouse"

To meet union complaints, more sweeping changes were needed. A key problem was the "rigid" definition of unfair labour practice in the Act, which was not suited to the fluid labour arena

Step in right direction

Stressing that the status of the Bill was unclear, Anglo American's Mr Bobby Godsell said there was an encouraging overlap between its provisions and the content of union-employer talks on the LRA

Labour lawyer Mr Paul Benjamin described the relaxation of time-limits as a step in the right direction, but added that the 90-day requirement still allowed for a technical and obstructive approach to disputes.

Union objections had been vindicated, he said, urging employers to consider rehiring workers fired during LRA protest stayaways.

JOHANNESBURG. — A Congress of SA Trade Unions team is studying the proposed amendment to the Labour Relations Act and will issue a statement on completion of the study, spokesman Mr Neil Coleman said yesterday

"Our LRA working committee will meet this week to discuss the campaign and we will issue a statement after that," Mr Coleman said

The Labour Relations Amendment Bill goes some way towards addressing union objections to two aspects of

Capt 166 3/1/70
**Cosatu
to study
amended
labour act**

the 1988 amendments that sparked outbreaks of shopfloor militancy

Based on the recommendations of a National Manpower Commission report commissioned by Manpower Minister Mr Eli Louw, it

was completed late last year.

It shows that the government intends scrapping that part of Section 79 (2) of the LRA which transfers to unions the onus of proof, in the event of litigation, that members and officials were not acting with union authority in causing financial loss to companies during unlawful strikes

It is expected the bill will become law in the next session of Parliament, which opens on Friday

Mixed reaction to LRA modifications

PROPOSED Labour Relations Act changes revealed this week were a welcome beginning, and it was vital that the labour movement be involved in restructuring the Act as whole, key employer spokesmen said yesterday. *Sowetan 1/2/90 (166)*

Mr Vincent Brett, labour advisor of the SA Chamber of Business, said he hoped that the unions would "make their input on this occasion"

At the same time, a leader of South Africa's largest white labour body, the 100 000-member SA Confederation of Labour (Sacol), has criticised the effective scrapping of a section of the LRA which shifts the onus of proof onto unions facing damages arising from illegal strikes

Sacol secretary Mr Nic Celliers said white organised labour feared a rise in illegal strike action because of foreign interference.

The Government plans to overhaul the entire LRA, and the National Manpower Commission (NMC) has called for representations as a prelude to an inquiry.

New Act a welcome beginning - bosses

Labour Reporter

Proposed Labour Relations Act changes revealed this week were a welcome beginning, and it was vital that the labour movement was involved in restructuring the Act as a whole, key employer spokesmen said yesterday

At the same time, a leader of South Africa's largest white labour body, the 100 000-member SA Confederation of Labour (Sacol), has criticised the effective scrapping of section 79 (2) of the LRA in the proposed Bill

ILLEGAL STRIKES

This shifts the onus of proof on to unions facing damages arising from illegal strikes

Stressing that he had no objection to lawful strikes, Sacol secretary Mr Nic Celliers said white organised labour feared a rise in illegal strike action because of foreign interference

Mr Vincent Brett, labour adviser of the SA Chamber of Business, yesterday welcomed the Bill but stressed that it was only a beginning

"We are hoping to look at the whole Act and trust that unions will make their input on this occasion," he said

DISPENSATION

The Government plans to overhaul the entire LRA, and the National Manpower Commission (NMC) has called for representations as a prelude to an inquiry

This week the employer body Saccola stressed that an acceptable labour dispensation would only be reached when blacks were represented in the legislature and such forums as the NMC

FIM 2/2/90

LABOUR LAW CHANGES

166

Vehement union opposition to the 1988 Labour Relations Act should be defused to some extent by the new Amendment Bill, drafted by the National Manpower Commission (NMC)

It addresses two of the more controversial measures in the Act — as directed by Manpower Minister Eli Louw, when he invited submissions to the NMC last July on ways to “modernise and simplify” the Act

The first proposed change concerns section 79 (2), which, in certain circumstances, shifts the burden of proof from applicant to respondent in claims for damages from illegal strikes or lockouts.

The unions felt that this measure particularly could cripple them and, as a result, had threatened not to assist in settling disputes

The second change centres on more

flexible time limits for settling disputes, at the level of industrial councils and conciliation boards, before resorting to the Industrial Court. The Act currently places a 21-day limit, after which deadlocked disputes must be referred to a board or council.

Manpower Department sources declined to say anything more, as the Bill was still with legal advisers for “certain adjustments” and because it is yet to go before parliament and the standing committee

NMC chairman Frans Barker points out that the commission is still busy gathering submissions for a totally revamped Labour Act later this year or early next year

The January 10 deadline for proposals by interested parties has been extended to accommodate individual cases

PROPOSED changes to the Labour Relations Act, contained in a draft Bill leaked to the media this week, ignore the feelings of organised labour and will provoke labour unrest this year, says the Congress of South African Trade Unions

"Unilateral changes to the LRA, which do not take into account what Cosatu and the trade union movement as a whole say, will not bring industrial peace," said Marcel Golding, assistant general secretary of the National Union of Mineworkers

Golding, member of a Cosatu working committee that is examining the law, said the labour federation would discuss a programme of protest action against the law when its executive committee meets this weekend. He refused to disclose details before the meeting

Apart from changes to section 79 (2), a clause which allows employers to sue unions for damages arising out of illegal strike action, the Bill tightens the restrictions on union activity and legal strike action, said Golding. "In particular, the extension of the 'cooling off period' between the date

Hopes for industrial peace fade as Labour Act changes proposed

of deadlock and the date on which disputes must be referred for conciliation, from 30 to 45 days, is designed to restrict workers' rights and to prohibit strike action."

Golding criticised the SA Consultative Committee (Saccola), which represents major employer groups, for suggesting that the Bill addressed many of the issues raised in talks the organisation held with the union movement last year

"Saccola's enthusiastic remarks in response to the Bill raise doubts concerning sincerity about negotiating changes to the LRA."

Saccola chairman Bobby Godsell this week said the changes contained in the draft Bill were a "step in the right direction"

"But, having said that, we still will not have good labour law until blacks

Changes proposed for the new Labour Relations Act may knock off some of the harsher edges — but they don't begin to satisfy trade union demands.
By EDDIE KOCH

have equal access to the legislature, and organised labour is fully involved in bodies like the National Manpower Commission (which advises the minister of labour on policy matters)," he added

The new Bill leaves employers with the right to sue unions for damages sustained in illegal strike action but removes the section obliging union officials to prove they were not involved

The unions are not perturbed that

the right to sue will remain in the labour law as employers would be able to exercise this right in terms of common law anyway

But in December last year, Cosatu's working committee on the LRA issued a statement which outlined organised labour's short-term demands for changes to the Act

High on the list were demands that clauses which outlaw all forms of solidarity strikes between workers at different factories and consumer boycotts, be amended

The new labour law also makes it easy for employers to obtain urgent interdicts from the industrial court to force striking workers back to work

These powers were used by employers with abandon during the whole of last year to frustrate strike action and the unions are adamant

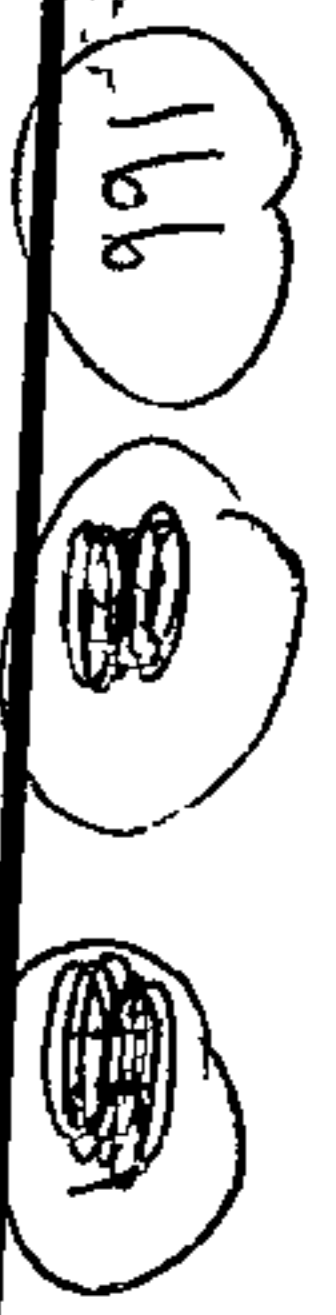
they must go
"The changes outlined in the draft Bill are not a genuine attempt to deal with the grievances of the unions," said labour lawyer John Brand

"One must remember that these two issues (the sung clause and time limits) were also those that employers found to be counter-productive last year

"It is no coincidence that it is only these that the government is willing to change"

If their demands were not met in their totality, the union statement said, "a sustained programme of action" would be mounted against the law

- It included calls for:
 - Marches in industrial areas during working hours
 - Defiance of industrial court interdicts against striking workers
 - Workplace occupations
 - Further stayaways
 - Drawing up a blacklist of companies which make extensive use of the LRA.



THE labour movement garnered the first fruits of its Labour Relations Act campaign this week, with the disclosure that the Government is to drop some of the Act's controversial provisions.

The amending Bill is based on last year's National Manpower Commission inquiry, which was clearly influenced by the "Saccola talks" between employers and Cosatu/Nactu on the LRA and 18 months of massive worker protest.

Unions saw the controversial 1988 amendments to the LRA as an attempt to weaken them and undermine industrial action. Two general strikes, a consumer boycott and a national overtime ban were the result.

The Cabinet still has to consider aspects of the Bill and further changes are possible, says manpower director-general Mr Joel Fourie. But the aim is to enact it during this session of parliament.

Liability

The key proposed change is the effective scrapping of section 79 (2) of the LRA, which shifts the onus of proof on to unions facing damages actions arising out of illegal strikes. The section has never been used, but unions feared it could expose them to crippling damages claims.

In what is seen as a sop to conservative white unions who wanted 79 (2) retained, government drafters have left the rump of the clause, which creates a statutory liability for damages. Lawyers say this is largely symbolic, as employers have a common law right to sue for strike damages.

The Bill also relaxes the time limits in statutory dispute-settling procedures. Labour lawyers believe time limits should be altogether scrapped as a technical obstacle to dispute settlement, but view the change as a positive step.

Changes minor

A final revision extends the "cooling off" period between the referral of a dispute to an industrial council and a lawful strike ballot.

In terms of the labour movement's overall complaints about the LRA, the changes are minor. In the Saccola talks, unions have demanded sweeping changes to the legislation.

These include the granting of

Fighting for Sowetan 2/2/90 166 CONSENSUS On the LRA

union rights to the public sector, domestic and farm workers, one labour law for South Africa and the homelands, immunity of legal strikes from interdicts and the reframing of the unfair labour practice definition to exclude sympathy strikes and intermittent strikes on the same issue.

The National Manpower Commission last year called for representations on a planned revamp of the entire LRA, and the unions aim to influence the reshaping of the law through the powerful employer lobby.

To the extent that the current Bill reflects employer-union consensus in the Saccola talks on both 79 (2) and the issue of time limits, the strategy has paid dividends.

Interdicts

But agreement on the central union demands will be more problematic if and when the talks, which are currently stalled, resume.

Employers are known to believe that the interdicting of strikes is sometimes necessary, although they concede that the Industrial and Supreme Courts often grant orders in non-urgent circumstances. Sources say they favour a tightening of court rules for the granting of urgent relief.



Measured against trade union demands, impending changes to the Labour Relations Act revealed this week mean very little. Rapid progress in union-employer talks on the Act seems the only way further mass unrest over the legislation can be averted, reports DREW FORREST.

On the unfair labour practice issue, employers agree the current definition is too rigid, but favour a partial codification which would take account of such concepts as irreparable damage through strike action.

Consensus

Although Saccola has said it favours union rights for all, it has qualified this by saying they should reflect the economic and structural circumstances of the sector concerned.

And while agreeing that labour law in South Africa and the homelands should "reflect com-

mon principles", it has said that employers must operate within existing law.

Some observers are pessimistic about the unique Saccola process, saying conflicting employer and union interests preclude consensus on key issues.

They believe the current Bill essentially addresses the concerns of employers, who had come to see 79 (2) and the time limits as counter-productive.

But the talks may be the only way further mass worker action around the LRA, threatened by the unions late last year, can be averted.

Cosatu scornful of labour Bill

COSATU yesterday described the new draft Labour Relations Amendment Bill as "another example of state blundering" because of both the process of its creation, and some of its contents.

The proposed changes, introduced without taking account of issues repeatedly raised by Cosatu and the rest of the trade union movement, would only exacerbate tensions at the workplace, a statement said.

In Cosatu's view, it was the principal industrial relations actors — organised business and labour — who should devise new labour legislation.

On the Bill itself, Cosatu said besides the relaxation on time limits (for processing disputes through official channels) and the changes to section 79(2), many of the other provisions were "unacceptable, retrogressive and fall far short of what has been demanded by the union movement".

Section 79 (2) relates to the onus of proof in cases of damages suits.

Cosatu said that in some respects, the proposed changes went well beyond the issues considered by the unions and employer federation Saccola.

A particularly unacceptable example, the federation said, was the extension of the "cooling-off period" from 30 days to 45 days. That is the period between referral of a dispute to an indus-

ALAN FINE

trial council or conciliation board and the time workers may lawfully go on strike. (166)

Saccola's enthusiasm for the proposed changes raised doubts as to their sincerity about wishing to negotiate an acceptable Labour Relations Act.

"If the state and employers continue to adopt this attitude, it would seem that nothing has been learnt from the past Consensus on labour legislation requires the full involvement of Cosatu and other unions as well as the employers. For the state to ignore this will only lead to more conflict," the statement concluded. By 21 2190

A Cosatu source said yesterday the organisation had not yet decided whether to make submissions to the National Manpower Commission on the investigation into consolidating the Act.

Meanwhile, Cosatu and Nactu yesterday wrote to Saccola asking for detailed employer views on aspects of the Act including urgent interdicts, unfair labour practices, and the status of public sector, agricultural and domestic workers.

The Federation of Salaried Staff Associations of SA yesterday confirmed its support for the amendments.

LRA draft changes will 'worsen tensions'

2/2/90 (166) By Drew Forrest

Draft changes to the Labour Relations Act failed to take account of concerns repeatedly voiced by the labour movement and would exacerbate workplace tensions, the Congress of SA Trade Unions said yesterday.

And, it added, the South African Consultative Committee on Labour Affairs's (Saccola) support for the changes raised the question of whether it was in cahoots with the Government.

At the same time, Nactu leader Mr Cunningham Ngcukana warned that workers were preparing for further mass action against the LRA. Union plans were linked to progress in forthcoming

ing talks on the Act with Saccola, he said. Cosatu said unilateral changes that did not take account of the labour movement would not bring industrial peace, and it called for full union involvement in rewriting the Act.

Besides the revision of Section 79(2) of the Act and time limits for dispute resolution, other provisions fell short of demands. The planned extension of the "cooling off" period before a legal strike aimed to restrict workers, it said.

Mr Ngcukana said the Bill failed to address union demands on issues such as the definition of unfair labour practice, interdicts against strikes and long delays in appeals.

Labour laws: unions still not happy

The labour movement has garnered the first fruits of its Labour Relations Act campaign with the disclosure that the Government is to drop some controversial provisions

The amending Bill is based on last year's National Manpower Commission inquiry, which was clearly influenced by the "Saccola talks" between employers and Cosatu/Nactu on the Act and by 18 months of widespread worker protest

Unions saw the controversial 1988 amendments to the Act as an attempt to weaken them and undermine industrial action. Two general strikes, a consumer boycott, and a national overtime ban were the result

The Cabinet still has to consider aspects of the Bill, and further changes are possible, says Mr Joel Fourie, director-general of the Manpower. But the aim is to enact it during this session of Parliament

The key proposed change is the scrapping of section 79 (2), which shifts onus of proof on to unions facing damages actions arising out of illegal strikes. The section has never been used, but unions fear it could expose them to crippling damages claims.

In what is seen as a sop to conservative white unions who wanted 79 (2) retained, Government drafters have left the rump of the clause, which creates a statutory liability for damages. Lawyers say this is largely symbolic, because employers have a

Measured against trade union demands, impending changes to the Labour Relations Act revealed last week are small beer. Rapid progress in union-employer talks on the changes seems the only way further mass unrest over the legislation can be averted, reports **DREW FORREST.**

common law right to sue for strike damages

The Bill also relaxes the time limits in statutory dispute-settling procedures. Labour lawyers believe time limits should be altogether scrapped as a technical obstacle to dispute settlement, but view the change as a positive step

A final revision extends the statutory "cooling off" period before a lawful strike, which Cosatu has attacked as a backward step aimed to curb workers' right to industrial action

In terms of the labour movement's overall complaints about the Act, the changes are minor. In the Saccola talks, unions demanded sweeping changes to the legislation

These include the granting of union rights to the public sector, and domestic and farm workers, one labour law for South Africa and the homelands, immunity of legal strikes from interdicts, and the re-framing of the unfair labour practice definition to exclude sympathy strikes and intermittent strikes on the same issue

The National Manpower Commission last year called for representations on a planned revamp of the entire Act, and the unions aim to influence the reshaping of the law through the powerful employer lobby

To the extent that the current Bill reflects employer-union consensus in the Saccola talks on both section 79 (2) and the issue of time limits, the strategy has paid dividends

But agreement on the central union demands will be more problematic if and when the talks, which are now stalled, resume.

Employers are known to believe that interdicts over strikes are sometimes necessary, but they concede that industrial and courts often grant orders in non-urgent circumstances. Sources say they favour a tightening of court rules for the granting of urgent relief

On the unfair labour practice issue, employers agree that the current definition is too rigid, but say account must be taken of concepts such as irreparable damage through strike action

Some observers are pessimistic about the Saccola process, saying conflicting employer and union interests preclude consensus on key issues

But the talks may be the only way further mass worker action over the Act, threatened by the unions late last year, can be averted

The Star and its Code

By HARVEY TYSON,
Editor-in-Chief

The Star's Standards

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6/2/90

Call Times 12/2/40
LP move to help farmworkers

Political Staff (A) (166)

THE Labour Party is to block all agricultural and manpower legislation until the government agrees to introduce legal protection for South Africa's farmworkers similar to that of industrial workers.

Five bills, due to be discussed in Parliament, will be immediately affected by the move.

Workers' Day will be May 1

The public holiday commemorating Workers' Day this year falls on Tuesday May 1, not May 7 as some 1990 calendars incorrectly reflect.

The Department of Home Affairs had received many inquiries as a result of the confusion, Mr Piet Colyn, director-general of Home Affairs said in a statement.

"This misunderstanding can probably be attributed to the fact that some calendars were printed before Proclamation No 185 of 1989 on 27 October 1989 in terms of which Workers' Day is to be commemorated annually on May 1," said Mr Colyn -- Staff Reporter

577K 7/2/90
(166)

Qualified but underpaid. According to national statistics, women make up 53 per cent of the population and 50.8 per cent of white-collar workers. Women with university and other degrees account for 61 per cent. However, 50 per cent of men with similar qualifications occupy managerial posts, while the ratio of women is only 7 per cent.

Even in sectors where women dominate employment equal pay remains a myth as wages and salaries are much lower than in sectors dominated by men. This is true for education (60 per cent), engineers (58 per cent), doctors (67 per cent) and economists (87 per cent).

Night shifts. Labour legislation specifically provides that women may only be put on night shifts as a temporary measure under exceptional circumstances. However, almost four million women now work on night shifts (double the number of men). According to Zoya Pukhova "ministries are moving so slowly to resolve this acute issue that even 50 years won't be enough for them to do the job, given their current pace".

No amelioration. Instead of alleviating the position of working women, economic reform has brought new problems. Productivity-related team contracts hit the most unprotected part of the work collectives - mothers with small children. With the current contraction in the workforce they are the first to be made redundant.

Estimates by women economists show that women will make up 15 million of the 16 million expected to be made redundant in the next eight years of structural adjustment. Flexible working time schedules and part-time job provisions are proving ineffective. When the law allowing women to work part-time was published, the proviso "subject to administrative approval" made it practically ineffective. Managers did not want the administrative complications.

Need for affirmative action. There is no machinery, says Zoya Pukhova, that would guarantee women social protection and monitor the observance of labour legislation. The Soviet Committee responsible for women's questions has called on the Government to include a special affirmative women's component in the comprehensive social development programme under preparation. New thinking calls for a new approach to the promotion of women to managerial and executive positions throughout the country.

Source

M S Gorbachev *Perestroika novoe nashle'mie (Dlia nashel strany i vesego mira)* (Moscow), 1987, 270 pp
Pravda, 29-30 June, 15 July 1988
Izvestia (Moscow), 5 Mar and 23 Oct 1988
Moscow News (Moscow), 12 June 1988 and 28 Jan 1989
Trud (Moscow), Nos 4, 7 and 11, 1988

LABOUR LEGISLATION

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Labour Relations Act: "broad" opposition by unions

The Labour Relations Amendment Act has generated fierce controversy between the employers, who give it broad support, and the trade unions, who see it as a blow to their rights. It led to a massive three-day national protest from 6-8 June 1988, in which an estimated 2.5 to 3 million workers participated each day.

At the same time, discussions held between the unions and the South African Employers' Consultative Committee on Labour Affairs (SACCOLA), which represents some 90 per cent of organised commerce and industry, resulted in several amendments to the Bill being agreed between the two sides. However, the Government pressed ahead with the Bill which was proclaimed on 12 August and became law on 1 September 1988. There can be no doubt that the legislation represents a radical reform of South African industrial relations.

COSATU - the 900,000 strong Congress of South African Trade Unions - had already submitted a complaint against the South African Government in accordance with the ILO's freedom of association procedures at the end of May 1988.

Union complaint to the ILO. COSATU's objections to the Act, set out in a memorandum to the ILO, and supported by the National Council of Trade Unions (NACTU), were based on two main grounds: first, the preference the Government sought to give to racially constituted unions at the expense of non-racial unions, and second, the fundamental curtailment of the right to strike. According to COSATU, the bar against non-racial unions went against the recommendation of the commission of inquiry into labour legislation (the Wiehahn Commission - SLB 4/79, p 442, and 3/80, p 353).

Union registration. The provision under the Act stipulates that "in determining the representativeness of a trade union, the Registrar shall have regard only to the members of the objecting union who are eligible for membership of the applicant union".

This means, says COSATU, that if the applicant union is open only to Whites, the representativeness of the objecting union will have to be determined by taking into account only its White members, and unless the objecting union has a majority of Whites, the applicant union will be registered. The fact that the objecting union may be overwhelmingly representative of workers in the industry as a whole will not count for anything.

Freedom to strike. The unions also criticise what they see as restriction on the right to strike under section 65 of the amended legislation. They are particularly critical of the fact that to the category of strikes absolutely

prohibited, the Government has added sympathy and secondary strikes as well as "repeat" strikes over any matter that has led to a strike in the previous 12 months. If unions contravene section 65, strikes expose the participants to criminal prosecution, civil claims for damages and dismissal. Under the previous law, legal strikers were given indemnity against civil liability. The unions submit that this amendment contravenes the fundamental freedom to strike and thus constitutes an illegitimate incursion into freedom of association and freedom to act collectively.

A more legalistic approach. The whole thrust of the new Act is that it moves away from emphasis on collective bargaining to a more legalistic approach. Under the previous provisions, once a legal strike or lock-out occurred, then both sides were left to resolve the dispute on the basis of their relative bargaining strength. Under the new provisions the industrial court becomes the "watchdog" of industrial relations and acts more as an adjudicator.

New labour appeal court. The Act includes a recommendation by the 1984 National Manpower Commission of setting up a new labour appeal court and defines its functions (SLB 3-4/84, p 574). It is this court, not the industrial court, that will now decide whether a strike is legal or not, on the basis of a detailed code covering "unfair labour practice". It will now, for instance, constitute an offence for employees to strike over the dismissal of a colleague because they are not "directly involved" in the dispute over the dismissal. Neither can male employees strike over the issue of maternity benefits because, not being female, they are directly affected by the dispute.

But far more important, as far as the unions are concerned, is that fact that having gone through all the legal motions for organising a strike, the court could nevertheless rule it "unfair". The fact that the court will also pronounce on the fairness of a lock-out does not, according to the unions, redress the balance as this is a weapon rarely used by employees.

The unions also feel that listing unfair labour practices is bad because it enables the minister to amend the definition whenever he chooses. The unions also fear the court is likely to be biased towards employers.

Employers' position. SACCOLA has given broad support to the legislation and did not agree that there is reason to believe that the courts will be prejudiced in their favour. It considered that the "fairness" or otherwise of strike action should be determined by its relationship to the collective bargaining process and for this reason supported the provisions on "repeat" strikes and secondary action. In its view, the legality of sympathy strikes, for example, was a matter of intense debate among labour lawyers, but never the subject of a definitive court ruling. The promotion of consumer boycotts, now defined as an unfair labour practice, has in the past been prohibited as an interference with the right to trade. It was therefore a new factor in the balance of power between the two sides.

The employers considered that the Act, on the whole, had brought South African legislation broadly into line with international standards and codified existing court guidelines on the requirements for fairness for disciplinary dismissals. Procedural requirements with regard to the right to strike had been streamlined. This right is acquired 30 days after the statutory dispute-resolving mechanisms have been invoked, unless this period is extended by mutual agreement. Moreover, while the new labour appeals court might

prolong legal proceedings, a specialised forum could only help in developing a consistent body of employment law.

An independent view. While labour lawyers are arguing the case for and against, an independent submission by Clive Thompson of the Labour Law Unit at the University of Cape Town took the view that the Act undermines established rights in the areas of unfair dismissal, collective bargaining and strike law. Furthermore, it was Mr Thompson's view that the Act contravenes ILO Convention No. 158 which provides that the employment of a worker shall not be terminated without a valid reason by permitting dismissal for no reason during the first six months of employment. Measures such as banning secondary strikes and undercutting the employer's duty to consult with a representative union on planned retrenchment, also resulted in altering the balance of power between bargaining partners in favour of the employers.

Likely impact on industrial relations. Since the Act was passed, the unions have continued to express concern that employers would use Section 79 to make claims against them following work stoppages. Employers have been urged by the Institute for Industrial Relations to be cautious about this type of action as it will cause irrevocable damage to the industrial relations climate.

The new law appears to be designed to cut down "wildcat" strikes since it gives employers the possibility to sue unions engaged in such activities. Although the Act makes it possible for unions to sue employers where they are found to be acting illegally, the unions have made it clear that this will be less of a two-edged sword than appears on paper. They do fear, however, that heavy damages claimed against unions could cripple union funds. While some changes in the Act are seen to be beneficial, COSATU and NACTU agree that the legislation is deliberately retrogressive and aimed at curbing union growth. Their view is that it is, at the least, disingenuous for the Government to claim that the right to strike remains unaltered. While several major firms agreed with union proposals for amendments, employers as a whole gave the new Act their full support. The consequences of the Act could possibly be a worsening of the industrial relations climate throughout the country.

Source

South Africa *Labour Relations Amendment Act, 1988*, Government Gazette (Cape Town), 13 July 1988, 53 pp (offprint)

Information received from the ILO Equality of Rights Branch

New Labour Act 'should include all workers'

ARGUS
23/2/90
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By DAVID YUTAR
Labour Reporter

FARM and domestic workers and State employees will have to be included in a future Labour Relations Act, according to a South African labour law expert

Such workers are excluded from the present Act.

Mr Clive Thompson, director of the Labour Law Unit at the University of Cape Town, and a member of the legislative committee of the National Manpower Commission (NMC), was speaking on the future of labour relations

He was one of four panelists at a seminar at the Mount Nelson Hotel this week forming part of a nationwide seminar on labour law, organised by Juta publishers

Arm Scor

"In a changing society we must look towards an encompassing statute . . . one which includes state employees, domestic servants, farm workers . . . the lot," he said

Employees dealt with by specialised statutes, such as Arm Scor employees and railway workers, needed to be brought together under one La-

bour Relations Act, Mr Thompson said.

"There may still be differential treatment . . . some people will be regarded as essential and treated as such in terms of the Act's provisions"

He said that although trade unionism of domestic servants was difficult because of problems organising them, at least such workers would receive the "fundamental protection" of such legislation

Mr Thompson also predicted a move "away from concentration on the unfair labour practice legislation with all its negative implications" towards what he termed a "more rights-based system"

"A new Labour Relations Act would emphasise a charter of rights for employers and a charter of rights for unions and individual employees, that may not be abrogated"

Change of style

In terms of such legislation, the concept of "unfair labour practice" would become a residual one in that it would be invoked where the charter of rights was lacking

"It's more a change of style but I think it's an important

one," he said "Instead of having to go and claim some violation, and prove a negative, you would be asserting a positive right as one would do in respect of many constitutions"

He said he felt the change would lend legitimacy to the new system of rights in a new Labour Relations Act

Other changes Mr Thompson felt were needed were to bring "private processes" whereby parties contracted out of the Act, under its provisions as well as the decriminalisation of strikes and the greater use of collective bargaining

Other speakers at the seminar were Professor Halton Cheadle, Assistant Director of the Centre for Applied Legal Studies at the University of the Witwatersrand and Professors Adolph Landman and P A K le Roux, both Professors of Mercantile Law at the University of South Africa

Professor Landman is chairman of the legislative committee of the National Manpower Commission (NMC), which has been given the task of evaluating and making recommendations on the redrafting of the LRA

Domestic and farm workers need protection in future

FARM and domestic workers and State employees will have to be included in a future Labour Relations Act, according to a South African labour law expert

Such workers are excluded from the present Act

Mr Clive Thompson, director of the Labour Law Unit at the University of Cape Town and member of the Legislative Committee of the National Manpower Commission (NMC), was speaking on the future of Labour Relations in South Africa

He was one of four panelists at a Current Labour Law seminar held at the Mount Nelson Hotel in Cape Town on Wednesday. The event was part of a nation-wide seminar on Labour Law, being organised by a major publishing house in the coming week

Own Correspondent

'In a changing society we must be looking towards an encompassing statute one which includes state employees, domestic servants, farm workers the lot,' he said

Employees presently dealt with by specialised statutes such as Armscor employees and railway workers needed to be brought together under one Labour Relations Act, he said

Essential services

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Prof Adolph Landman of the University of South Africa also addressed the seminar. He is chairman of the Legislative Committee of the National Manpower Commission (NMC), which has been given the task of evaluating and making recommendations on the redrafting of the LRA

See more on page 18.

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Numsa to continue legal battle

str 26/2/90 By Drew Forrest (202 X 1507) (166)

The legal battle between the National Union of Metalworkers and Barlows Manufacturing Company, already the subject of industrial and Supreme Court action, continues

Numsa announced last week that it is to appeal against a recent Supreme Court ruling in the case with vital implications for union rights in strikes.

The case originated in Numsa moves to mount strike action at BMC as part of the 1988 national metalworkers' strike.

Arguing that the dispute was between Numsa and the employer body Seifsa, of which it was not a member, the firm successfully applied for an interim restraining order from the Industrial Court

The court later refused to confirm the order. But in a setback for the union, this was overruled by the Supreme Court last December

Mr Justice R J Goldstone, with two judges concurring, confirmed that an industry strike can be legal. But Numsa is alarmed by another finding that a union cannot strike lawfully unless it has a reasonable chance of winning its demands.

In the latest edition of the influential *Labour Law Briefs*, experts argued that the judgment "loads the odds against the union" by imposing an unreasonable new requirement.

New LRA likely next year

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Revamped law should be meet standards of the ILO - Thompson

A FASCINATING speech, a member of the National Manpower Commission's (NMC) legislative committee, lawyer M Chive Thompson, gave details of debates under way in the NMC over the shape of a new labour relations statute. Last year the Government instructed the NMC to re-assess the Labour Relations Act the subject of fierce trade union criticism.

Hallmarks of an acceptable statute, Thompson said were that it would buttress collective bargaining and carry the broad support of the major actors big and small business, trade unions and government

union and individual rights were guaranteed in statutory charter.

Also on the cards was a generalised duty to bargain with representative unions subject to the flexible supervision of the Industrial Court

A simple majoritarian system - in which the biggest unions have a bargaining monopoly - was unsuitable, given the diverse interests in the labour field. "But I would very surprised if we retain the present system of one worker, one bargaining unit", Thompson said

Whether all its recommendations are enacted will depend on the political climate. But sources say many facets of the new law - which could reach the statute book next year - will reflect NMC thinking

Scrutiny

To this end, it was vital that the Saccola talks between employers and the LRA were coordinated with the NMC's deliberations

And as South Africa's lawmakers would be under intense scrutiny in the months ahead the law should also meet International Labour Organisation standards

Isolating potential areas of change, Thompson said the NMC was debating the final de-racialisation of the LRA

One proposal was that race discrimination in job recruitment should be banned. And union registration which now takes account of racial interests, could be reduced to a simple process of cer-

Union rights

Industrial Court proceedings - and specifically by the fact that a dispute could pass through up to seven hearings - were also under scrutiny. The plan was to reduce these to an initial hearing and an appeal

Thompson said there was a strong line of

should have union rights, although differential treatment for essential services - specifically curbs on strikes - were likely to remain

Sources say that of all the mooted changes, the inclusion of farm and domestic workers under the statute poses the toughest political challenge. Government caution on the issue would be reinforced by a rightward swing among whites, they warned

But the carrot is international acceptance. Thompson said the ILO - from which South Africa was ousted in 1964 - was looking for ways to play a part in a changing South Africa. Perhaps our readmission to the ILO is not so far off," he said

Disputes

Also under discussion was the decriminalisation of the statute, with strikes lockouts, victimisation and the breach of industrial council agreements no longer being crimes

Strikes could be restricted to economic disputes, and banned in rights disputes, such as dismissals. Society should not have to bear the cost of rights disputes - over the interpretation of a law or agreement - as these were amenable to third-party resolution, he said. Thompson said a key 'tonal' change could be a move away from the 'negative' unfair labour practice concept to a rights-based system where the employer,

Details have emerged of the National Manpower Commission's deliberations on the Labour Relations Act. These provide key pointers to the future shape of South African labour law. A SOWETAN CORRESPONDENT reports.

28/2/90

11/11/13 21/2/70
**Labour
protest
Marches
planned**

The Argus
Correspondent

JOHANNESBURG. —
Cosatu has proposed
marches during work-
ing hours in industrial
areas countrywide if
employers and the
government fail to
meet its demands on
the Labour Relations
Act.

The proposal is con-
tained in a pamphlet
distributed to workers
for discussion, which
also calls on members
to defy interdicts
against strikes.

The pamphlet also
proposes that Cosatu
meet Minister of Man-
power Mr Eli Louw to
table its demands and
that a congress be held
in April or May to plan
further action on the
Act and the living
wage campaign.

Demands listed in
the pamphlet include:

- That all employ-
ers, including those in
the public sector, take
part in talks with the
employer body Sac-
cola
- That employers
agree to a package of
interim demands on
the Act, including one
labour law for all
workers.

Fuchs queries assault verdict

23/7/90

By Peter Fabricius,
Political Correspondent

CAPE TOWN — Hillbrow MP Mr Lester Fuchs has asked a series of probing questions in Parliament about the court case in which a Piet Retief farmer was given a R100 fine for assaulting a crippled labourer who later died

Mr Fuchs said yesterday that the Democratic Party was shocked by the death of partly paralysed farm labourer Mr Ekathi Xaba, who died after being beaten by his employer, Mr Wilhelm Rabe of Piet Retief.

Mr Rabe was fined in the Piet Retief

Regional Court on February 12 this year. (166)

Mr Fuchs said: "The tragic death of Mr Xaba and the circumstances which surround the assault on him by his employer raise certain questions:

- "Why were witnesses who were present at the time of the vicious assault not called to testify on behalf of the State?"
- "Why did the court find that there was no link between the assault on Mr Xaba and the cause of death?"
- "Why was Mr Rabe, who was convicted of assault, fined only R100?"

New assault on Labour Act

By CHIARA CARTER

COSATU is to step up protest action against the Labour Relations Act (LRA).

The union federation plans to hold mass rallies in all regions to discuss the anti-LRA campaign and to table workers' demands with the Minister of Manpower

The Cosatu committee on the LRA met in Johannesburg this week and called for industrial area marches and other protest action if negotiations with the government and employers fail

It has also called on workers to defy all court interdicts, place pressure on their employers to negotiate the LRA, and build solidarity with workers facing attack in terms of the Act

Scrapping

Cosatu wants employers from the public sector and agriculture to attend the negotiations talks which have been taking place between the employer body, the South African Consultative Committee on Labour Affairs (Saccola), and Cosatu, Nactu and independent unions

Saccola and the trade union movement have reached broad agreement on the scrapping of a clause in the Act giving employers the right to sue unions, a change in the time limit on disputes, opening industrial court judgments to the public, and principles relating to retrenchment

No agreement has been reached on interim interdicts, strike and solidarity action and the broadening of labour legislation to cover all workers.

Mandela unity call

RELEASED ANC leader, Nelson Mandela called for trade union unity in a 30-minute meeting with a delegation from the National Council of Trade Unions (Nactu) this week.

Mandela told the delegation, led by Nactu president, Mr James Ndaweni, that unity within the "free trade union movement" was "essential".

After the meeting, a Nactu spokesperson said the federation might meet with the ANC in Lusaka later this year

South 1/3 - 713/90

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A glimpse of future labour relations

A fascinating peep into South Africa's labour relations future — free of illegal strikes and lockouts, and where union and employer rights are protected in statutory charters — was afforded at the Johannesburg labour law conference last week.

In a wide-ranging speech, a member of the National Manpower Commission's (NMC) legislative committee, labour lawyer Mr Clive Thompson, gave details of debates under way in the NMC over the shape of a new labour relations statute.

Last year, the Government instructed the NMC to reassess the Labour Relations Act, the subject of fierce union criticism, and interested parties have been invited to submit proposals for changes to the law.

Whether all its recommendations are enacted will depend on the po-

Details have emerged of the National Manpower Commission's deliberations on the Labour Relations Act. These provide key pointers to the future shape of South African labour law, reports **DREW FORREST.**

litical climate. But sources say many facets of the new law — which may reach the statute book next year and could involve the most sweeping changes since the Wiehahn reforms — will reflect NMC thinking.

Hallmarks of an acceptable statute, Mr Thompson said, were that it would buttress collective bargaining and carry the support of the major actors big and small business, trade unions and government.

To this end, it was vital that the "Saccola talks" between employers and the LRA were co-ordinated with the NMC's deliberations.

And as South Africa's lawmakers would be under intense scrutiny in

the months ahead, the law should also meet International Labour Organisation standards.

Isolating potential areas of change, Mr Thompson said the NMC was debating the final de-racialisation of the LRA.

One proposal was that race discrimination "at the port of entry" to employment should be banned. And union registration, which now takes account of racial interests, could be reduced to a simple process of certification similar to that in the Companies Act.

Also under discussion was the de-criminalisation of the statute, with strikes, lockouts, victimisation and the breach of industrial council agreements no longer being crimes

Strikes could be restricted to economic disputes, and banned in disputes of rights, such as on dismissals. Society should not have to bear the cost of rights disputes — over the interpretation of a law or agreement — as these were amenable to third-party resolution, he said.

Mr Thompson said a key "tonal" change could be a move away from the "negative" unfair labour practice concept to a rights-based system where the employer, union and individual rights were guaranteed in statutory charters.

Also on the cards was a "generalised" duty to bargain with representative unions, subject to the flexible supervision of the Industrial Court.

A simple majoritarian system — in which the biggest unions have a bargaining monopoly — was unsuitable, given the diverse interests in the labour field. "But I would be very surprised if we retain the present system of 'one worker, one bargaining unit'," Mr Thompson said.

Industrial Court proceedings — and specifically the fact that a dispute could pass through up to seven hearings — were also under scrutiny. The plan was to reduce these to an initial hearing and an appeal.

And while the new law would have to cover the whole labour field, it would have to cater for private recognition agreements and dispute procedures and dovetail with the independent mediation and arbitration of disputes.

Mr Thompson said there was a "strong line of thinking" within the NMC that farm, domestic and public sector workers should have union rights, although differential treatment for essential services — specifically curbs on strikes — were likely to remain. Exactly what constituted an essential service was also under discussion, he said.

Sources say that of all the mooted changes, the inclusion of farm and domestic workers under the statute poses the toughest political challenge. Government caution on the issue would be reinforced by a rightward swing among whites, they warned.

But the carrot is international acceptance. Mr Thompson said the ILO — the United Nations agency from which South Africa was ousted in 1964 — was looking for ways to play a part in a changing South Africa. "Perhaps our readmission to the ILO is not so far off," he said.

Industrial Court president named

Star 2/3/90 By Drew Forrest

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A new president of the Industrial Court has been appointed. He is a senior member of the court in Natal, Mr Dawie de Villiers.

The appointment of Mr de Villiers (58), an advocate for 15 years and a former magistrate, follows the death last week of the court's acting president, Mr Pierre Roux SC.

The news of Mr de Villiers's appointment was received with some misgivings within the labour fraternity yesterday.

"He is a likeable and fair-minded man, but his skills lie more in the arena of law than labour relations," said University of the Witwatersrand law professor Mr Martin Brassey.

Top labour lawyer Mr John Brand said he was "very disappointed".

"Given its vital role, the court needs a president with the stature of a Supreme Court judge," he said.

In an interview, Mr de Villiers said recent criticism of the court arose from the perceived inadequacies of the unfair labour practice legislation it had to apply.

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Sweet and sour (166)

Businessmen hoping that political glasnost might translate into a more relaxed industrial relations climate were warned to think again at last week's *Juta* labour law seminar in Cape Town. UCT's Clive Thompson warned of "new levels of volatility" in the pre-negotiation phase and predicted that 1990 would be an exceptionally difficult one in labour relations.

But short-term difficulties are balanced by some reasons for optimism. Thompson hinted that the International Labour Organisation was looking to play a role in SA. Locally, he highlighted two factors on the capital and labour front, the prospect that negotiated solutions may yet emerge from employer-union talks, and from government, a more sensitive approach under President F W de Klerk and Manpower Minister Eli Louw.

Thompson said the experience of the 1988 amendments showed it was crucial that a new labour statute — which is in early preparation — should carry all the major actors with it, including small business. It should also be clear and simple; supportive of collective bargaining as the best way of handling industrial relations; and consistent with world standards.

He singled out nine major issues which the Manpower Commission would have to address in preparing a new statute:

- A final deracialisation of the statute;
- Abolition of the system of registration — "more Pretoria bureaucracy" — to be replaced by a simpler procedure,
- An introduction of a generalised duty-to-bargain with recognised unions (not a rigid rule, but merely direction on what is probably the situation at common law anyway);
- The statute must be "encompassing" — it should cover domestic, agricultural and State employees,
- A move away from the "unfair labour practice" system to one based more on

rights. This would be essentially a style change that would see employers and employees "asserting a positive rather than proving a negative."

- An effort to incorporate private processes — for instance, certain West German companies have arrangements with Numsa which fall outside the Act;
- Strikes should be decriminalised. This would be a "modernisation and civilisation" of labour law;
- Society shouldn't have to bear the costs of some disputes. The right to strike should be limited to economic issues, and
- The Industrial Council system would need to be restructured.

Earlier in the seminar two interesting improvements were suggested to the way dismissals are handled.

Thompson addressed the concern that procedural issues are too dominant a factor in dismissals. He suggested that pre-disciplinary hearings should be abolished. He noted that they once served an important function, curbing management's peremptory instincts, but that phase has now passed and they are "a financial burden to everybody."

Thompson conceded that the unions would need to be persuaded what they stood to gain from sacrificing two bites at the cherry. The scheme could be implemented only where there is consensus and mutual trust.

The other suggestion came from Wits professor Halton Cheadle. He suggests that in cases where the risk of intimidation means secret witnesses have to be used — a device open to abuse — or where neither party wants to lead evidence, a preferable solution would be that both parties agree to appoint an inquisitor whose task is to find out the truth. The parties would agree to abide by whatever finding the inquisitor made. No lawyers would be involved.

As Mandela moves in, Relly moves out

WIM 213 - 8/31/90

By EDDIE KOCH

GAVIN "GR" RELLY bowed out as head of South Africa's most powerful corporation yesterday without finishing a job he started five years ago working for rapprochement between the African National Congress and captains of industry over the nature of a post-apartheid economy

When Nelson Mandela rolled out the red carpet for Relly on Monday, there were many in the business community who believed that the meeting would be a repeat of the pioneering conference in Lusaka between the ANC leaders and big businessmen that the Anglo chief put together in 1985

Before handing Anglo's reins to director Julian Ogilvie Thompson yes-

terday, Relly had clearly hoped to round off his career with another boost to the process of reconciliation between business and the ANC

Instead both men emerged from the half-hour discussion at Mandela's home in Soweto frustrated that the meeting did not allow in-depth talks on key economic issues facing the country.

But on Monday, Mandela used the occasion instead to lobby Relly about a new approach to labour relations — and the agenda was shaped by the fact that labour leaders Cyril Ramaphosa and James Motlatsi were present throughout.

Both men are senior officials of the National Union of Mineworkers and clearly wanted the meeting to signal that the fight for more progressive labour legislation in this country was as important as the issue of economic reconstruction for South Africa.

The end result was that the talks were deflected away from nationalisation.

However, the talks about labour relations did not deal with substantive issues — such as the deep conflict between labour and organised industry over the Labour Relations Act — mainly because Mandela has not had time to familiarise himself with complex trade union developments that have taken place in the last decade

Relly said that although the pair had not been able to discuss the post-apartheid economy, "the community and international community should not get into a flurry over nationalisation. These are issues that sensible men can discuss"

Relly's adviser Michael Spicer told the *Weekly Mail* both men had clearly felt the meeting "misfired" They were irritated because the shortage of time and the ANC leader's crowded programme on the eve of his departure for Lusaka did not allow in-depth talks on key economic issues.

"They emerged from the talks without having discussed anything substantial about the future of the economy," said Spicer "Then when the press asked the big questions of the day both men had to trot out fairly standard positions."

Police stop thousands-strong teachers' march

By PHIL MOLEFE

THOUSANDS of black teachers from different Pretoria township schools were yesterday ordered to disperse by the South African Police when they attempted to march to the Department of Education and Training offices

The teachers travelled from Mamelodi and Atteridgeville in buses and taxis and assembled at the Bloed Street taxi rank from where they would have proceeded with the march to the DET head office in Schoeman Street. The march was planned for 10am

Police barricaded Kruger and Boom streets alongside the taxi rank where the teachers had assembled

According to Mamelodi Teachers Union member Squire Khumalo, the

police gave the teachers three minutes to disperse.

In Soshanguve, over 1 000 teachers, who had gathered yesterday morning at the local community hall, were told by senior policemen that they could not proceed to Pretoria to join their colleagues for the march because it was illegal.

Teachers defied the police order and attempted to proceed to Pretoria in over 50 taxis and private cars.

The procession ran into a police road block near the Soshanguve police station and was prevented from going ahead

Several taxis and cars took another route via Hebron and Erasmus but again found that police had blocked the road.

See PAGE 9

sta 6/3/90

Employer-union discussions are back on track

By Drew Forrest

Vital talks between trade unions and employers on the Labour Relations Act are back on track after a three-month hiatus.

The chairman of the employer body Saccola, Mr Bobby Godsell, confirmed talks would resume on Thursday.

He also said that in line with a union request, Saccola had invited the National Manpower Commission, the Commission for Administration, SA Transport Services and the SA Agricultural Union to attend.

Last week, the Congress of SA Trade Unions wrote to Manpower Minister Mr Eli Louw proposing a meeting on the LRA. Unions want to meet him before Thursday, and are likely to urge him to ensure the attendance of employer bodies.

Cosatu/Nactu have consistently demanded one labour statute for all workers.

Also on the agenda will be new Saccola proposals on strikes and interdicts, including:

- The creation of an expert committee, representing unions and employers, to probe strike law here and abroad
- That Industrial Court interdicts against strikes should be subject to the same rules of urgency as the Supreme Court

Campaigns to improve transport and strengthen civic groups

By CHIARA CARTER
South 13-14/3/90
Western Cape to plan a joint campaign around community issues.

The decision was motivated by Cosatu's resolution last year to restructure the MDM and by severe problems, including crime and gangsterism, which workers are experiencing.

The congress resolved to make the LRA unworkable through the living wage campaign.

It called on the state to repeal the LRA and replace it with a "democratically-determined workers' charter of the masses."

Workers experienced serious problems with trams, buses and taxis, the congress noted.

The federation wishes to meet Sats, City Tramways and taxi associations to discuss the issue.

Cosatu shop stewards are also to meet with civic organisations in the

The congress decided to defy the LRA by taking solidarity action, go-slows, bans on overtime, placard demonstrations and defying court interdicts.

The region is to prepare for the Living Wage/LRA congress to take place in May, by working out a programme of action to co-ordinate wage struggles, the LRA and workers' charter campaigns and build locals.

The region will also look at ways of linking up with the UDF under the banner of the MDM.

The congress passed a resolution

endorsing the call by Nelson Mandela for peace in Natal and calling on people to build unity among the oppressed.

Delegates agreed to hold a special regional congress in late April, when office bearers would be elected.

A committee of secretaries from Cosatu affiliates is presently assessing the region. It will report its findings to the special congress.

The Cosatu regional secretary for the past four years, Mr Nic Henwood, indicated earlier this month he would not be available for re-election.

Star 9/3/90 (166) (2)

Board forced to suspend or curtail some services

Legal Aid cash-strapped

Lack of funds was the prime reason for denying a large number of citizens access to the courts, according to the Legal Aid Board's annual report for April 1 1988 to March 31 1989

The report, tabled in Parliament yesterday, said that while the board had been in a position to make accrued cash payments, this had been coupled with a curtailment of services

The board had been forced to suspend legal aid for criminal and civil appeals as well as civil matters where the quantum of the claim amounted to R2 000 or less for the year in review.

Restrictions

During this period no advocates had been instructed in the lower courts and no senior advocates in the Supreme Court

Legal aid for Industrial Court actions had also been suspended between April 1 1988 and November 30 that year

Divorce and related cases had been restricted on a legal aid tariff to a maximum of R750 if one attorney was involved and R1 000 if two attorneys were involved

In addition, legal costs in respect of applications or petitions after imposition of the death

Applications for help increase

Legal aid applications rose by 2740 between April 1988 and March 31 1989 despite the suspension of services, according to the Legal Aid Board's annual report for this period tabled yesterday.

During the year under review the board paid out R9 613 875,19 in South Africa and R66 000,00 in Namibia in respect of legal aid.

A total of 70 614 applications were received, of which 24 082, or 34,01 percent, were granted.

Refused cases totalled 13 232, while 22 166 were resolved by mediation or referred to the State or other institutions. A further 11 134 cases were pending further investigation, or social work reports. — Sapa.

penalty had been restricted on a legal aid tariff to a maximum of R500 per application or petition, the report said

The director of the Legal Aid Board, however, retained the authority in respect of all these suspensions and restrictions to grant legal aid in meritorious cases

He could also instruct advocates and senior advocates to increase or remove restrictions

The board had been forced to institute these restrictions and suspensions in an effort to stay within the appropriated amount from Parliament — R12 million — and to avoid having to request more funds

The activities of the board had increased annually and in these circumstances it was no longer possible to cope with the existing staff and methods, the report said.

Legal aid officers were located in Johannesburg, Pretoria, Germiston, Durban, Bloemfontein, Port Elizabeth, Athlone, Cape Town and Mitchells Plain.

The board was bound by financial obligations of about R23 445 846

These had not been reflected in the balance sheet as cash settlements had not been required in the year concerned

The board had been unable to recover R2 535,25 in legal costs

to which it was entitled, but R985 221,15 had been recovered from successful or settled actions

A further R20 705,06 had been recovered from debtors

There was still R45 209,66 outstanding — but which could possibly be recovered — at the end of the year

The demands for the board's services would probably become greater.

Meaningless

Access to the courts would become of ever greater importance in the protection of human rights, since the mere existence of a legal right was meaningless without means of enforcing it.

It was common cause that a large number of citizens did not now have access to the law.

The first problem remained the lack of funds, the report said

Although Parliament had drastically increased the funding of the board since 1985/86, this was not nearly enough

It had to be realised that no reform — political or labour-related — could succeed unless the majority of the public experienced a just functioning of the law — Sapa

SA farmworkers still lack legal protection

CAPT Tink 12/3/90 (166)

Labour Reporter

THE lack of legal protection for farmworkers has once again been highlighted following ANC leader Mr Nelson Mandela's condemnation of the exploitation of farmworkers

Speaking in Bloemfontein on Sunday, February 25, Mr Mandela said "The country recoils in horror at the repeated reports of farm workers being beaten to death by racist farmers"

He was referring to a finding by a Piet Retief magistrate that a farmer was guilty of assault following the death of woodcutter Mr Ekhati Xaba on August 24 last year. The farmer was fined R100

The Democratic Party and Lawyers for Human Rights have called for full details of the case and Transvaal attorney-general Mr Don Brunette has asked for a copy of the record and will be calling the prosecutor for an explanation

Farmworkers are not protected by labour laws with the exception of

some clauses in the Machinery and Occupational Safety Act and the Workmen's Compensation Act

"They are excluded from all other legislation," UCT's Labour Law Unit director Mr Clive Thompson said last week.

A spokesman for the Stellenbosch Advice Office says most of the cases they deal with concern farmworkers being evicted from their homes after being fired by farmers

The average wage in the area was between R20 and R40 a week and some farmworkers on some wine estates were paid up to R70 a week

However, some farmers also provided free housing and in some cases rations for their workers, the advice office spokesman said

On some Elgin apple farms, workers were being paid about R20 a week and received "very poor" rations.

Farmworkers' conditions of employment have long been a thorny issue

HOUSE OF ASSEMBLY

INTERPELLATIONS

The sign * indicates a translation. The sign †, used subsequently in the same interpellation, indicates the original language.

General Affairs

Workers' Day

1 Mr P J PAULUS asked the Minister of Manpower *

Whether discussions had been held with White trade unions before 1 May, was declared Workers' Day, if so, with which such trade unions, if not, why not?

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*The MINISTER OF MANPOWER Mr Chairman, there were comprehensive consultations with White trade unions *inter alia* before 1 May was declared Workers' Day. This took place *inter alia* at a gathering in Stellenbosch on 14 April 1988 and on 10 June 1988 in the Union Building, Pretoria.

During the gathering on 14 April 1988 the question of Workers' Day was discussed in depth and the delegates were almost unanimous that Workers' Day should be on 1 May. During the second meeting, on 10 June 1988, the vast majority of delegates, with the exception of the Mineworkers' Union, expressed themselves in favour of 1 May as a paid holiday.

A total of 26 trade unions were represented of which 15 were exclusively White trade unions [Interjections] In addition the National Manpower Commission in which both the employer and trade union organisations are represented, held detailed consultations with all parties. Here, too, a broad spectrum of White trade unions was represented.

The recommendation of the National Manpower Commission remained that 1 May should be declared Workers' Day.

The Government realises that there are certain groups of people who have objections to 1 May as a holiday for ideological reasons because of the connection it has with communist ideology. The recent past has shown that this connection is

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becoming irrelevant [Interjections] Yes, that is the case. This is happening as a result of the economic failure of that ideology [Interjections] Consequently Workers' Day will become more and more detached from any specific ideology [Interjections]

Therefore it is artificial to keep the dispute concerning 1 May as Workers' Day going and it is not in the interests of industrial peace or of all the workers of South Africa [Interjections]

*Mr P J PAULUS Mr Chairman, I want to make it very clear today that White trade unions were not consulted when it was decided to let Workers' Day fall on 1 May this year [Interjections]

Let us see what the hon the Minister—then still Acting Minister—said last year when we spoke about Workers' Day. He said that Workers' Day would fall on a Monday, and no longer on a Friday, so that the workers could have a long weekend. We made it very clear to the hon the Minister that the Government would change its standpoint and move Workers' Day to 1 May. I can see why the hon the Minister is moving it to 1 May this year, because he has just told us. He said Workers' Day had a communist connotation and they have now embraced the Communist Party in a big way [Interjections] I want to ask whether the hon the Minister spoke to comrade Ramaphosa when he did this [Interjections]

In the SA Worker of February 1990, the general secretary of the trade union for iron and steel workers said it was a sad day on which we had to see 1 May declared Workers' Day, and that the perennial demand to declare the first Monday in September as such, as well as the possibility of a long weekend, were things of the past.

We read the hon the Minister's reply in Hansard of 26 April 1989 [Interjections] The reason we have the first Monday in May, is that all the workers should get a long weekend. I still remember the remark made by the hon member who was the MP for Sasolburg. He said we had not given them any reason for not wanting the first Friday.

The NP is turning somersaults. When I was still with the trade union, I called Fanie Botha Somersault Botha. I shall be calling the hon the

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Minister of Manpower Somersault Louw because he does not know what he wants [Time expired]

Mr B B GOODALL Mr Chairman, there are two issues involved here. One is whether there should be consultation with trade unions on matters like this. The answer is yes, there should obviously, be consultation—not only with the trade unions, Black and White, but also with the employers organisations. This, we understand from the hon the Minister, has been done. It would not have helped, however, because what we have here is an attempt by the far right to organise White labour in South Africa for political purposes [Interjections]

The second point is whether we should celebrate 1 May as Workers' Day. It is an internationally accepted holiday. It is celebrated in West Germany and in France, and those are not communist countries. In South Africa 1 May was a *de facto* holiday. We have actually brought the law in line with reality. We had a situation in which we were celebrating the same event on two separate days. We cannot afford to do that. Our labour productivity is low enough as it is. It is estimated that each time we have a public holiday we lose R340 million in lost production.

We have got to decide how many public holidays South Africa is going to have. We should then work out what they will be. We shall have to take into account the needs and wishes of the various segments of our population, not only the White sector. That is the same rational thing to do. I find the growing similarity in the tactics of the lunatic left and the reaction very interesting [Interjections]

The MINISTER OF MANPOWER Mr Chairman, I want to thank the hon member for Edenvale for his sensible arguments in this debate.

*It is a pity that the CP is trying to score political points out of this matter [Interjections] The hon member for Carletonville denied that there had been negotiation. I told him that one out of the 15 White trade unions were opposed to this, and he can come to my office where I shall give him the names of the other 14 [Interjections]

Then he said we had suddenly embraced the communists because we had declared 1 May Workers' Day [Interjections] As the hon member for Edenvale said, this is also the case in

England and Holland, and after all, they are not communist countries [Interjections] The CP has not embraced the communists just because the hon member for Overaal is going to Russia, after all [Interjections]

The hon member referred to what I had said about the long weekend in a previous debate on my Vote. I still think a long weekend is a good idea. I told the White trade unions that if there was consensus among the workers of South Africa, they could come back to me on the question of a long weekend, and I would consider it once again. I said then that it was a good idea.

To say that we are hand in glove is the biggest load of nonsense under the sun, and I blame the hon member and his party for trying to manipulate our White workers who should actually play a leading part, for political gain. They can play a part on the basis of reliability, expertise and discipline, but the CP is politicising them so that they cannot play that part [Interjections]

*Mr P J PAULUS Mr Chairman, I should like to tell the DP that the only difference between them and the NP nowadays is the name [Interjections] Every time a DP member rises, he is praised and thanked by the NP for what the DP says about the NP [Interjections] They are fraternising with the NP just as the NP and the SA Communist Party are fraternising today [Interjections]

I want to repeat that I did not even mention the name of the Mineworkers' Union because I know they did not negotiate, but I did mention the trade union for iron and steel workers. That is the largest White trade union, and they deny that there were negotiations with them at any stage.

What was even more ridiculous, was that the hon the Minister mentioned 1988. In 1989 he said we knew what the Government's standpoint was and that was to make it the first Monday in May. Once again I say the Government does not know what is going on [Interjections]

They say they want to protect the rights of the minorities. Up to now they have avoided telling us how they want to protect the rights of the minorities. I want to make it clear that the employers and the Black trade unions—I said this last year, and that was exactly what happened—are going to celebrate Workers' Day

Manuscript

TUESDAY, 13 MARCH 1990

Manuscript

From 30 April to 4 May Once again the White workers are going to sacrifice traditional White holidays to give the Blacks in South Africa an opportunity to have a holiday [Interjections]

How is the hon the Minister going to prevent that, and how is he going to protect this minority of Whites? He cannot do so, because he fears the Black trade unions. If he picks up the telephone and it is a Black trade union, he says they must not speak. He has heard it is a Black trade union and he will comply with their demands. The hon the Minister does so without even listening to what they want [Interjections]

*The CHAIRMAN OF THE HOUSE Order!

*Mr P J PAULUS I want to make it clear that at present the Blacks are demanding Soweto Day. When the Manpower Vote is discussed, we must not be surprised if this hon Minister says the Government has decided to make 16 June Soweto Day, because the SA Communist Party and the ANC are going to claim that day, and once again the minority of Whites in South Africa are going to be left in the lurch by the NP. There is no point in the hon the Minister's telling us we want to capitalise on the question. We want to protect the White workers in White South Africa, and we shall do so as far and for as long as possible. The Government will not stand in our way.

The White workers are turning against the NP to an increasing extent, because they know they can no longer rely on the NP for protection [Interjections] That is why the hon the Minister for Virginia received a majority of only 47 votes. That is proof that the workers are turning against them.

*The CHAIRMAN OF THE HOUSE Order! There is no Minister for Virginia in the House [Interjections]

*The MINISTER OF MANPOWER Mr Chairman, the hon member said we did not protect minorities. If 14 of the 15 White trade unions say 1 May is acceptable to them, must I permit the standpoint of the remaining one to prevail? How does he justify his story about minorities then?

The fact is that in order to gain points for the CP, the hon member is reducing the White mine-workers to a political group of people who have to experience a threat in everything. He is doing the White trade unions a great disservice by

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Manuscript

presenting that argument. I shall say that to the White trade unions, because they have a function to fulfil. They can play a leading role, also in the new South Africa, as a result of their expertise and reliability. The White trade unions can play an enormous role on that basis, and I shall continue to say that.

Naturally, productivity is an important consideration. After all, we cannot afford to have another workers' day. We acknowledge that there must be a workers' day, but as the hon member said almost R400 million is lost every day that workers do not go to work. No country's economy can afford that. Nor can the country subject its workers to that. The National Productivity Institute was also consulted in respect of the matter and gave it their full support.

By declaring 1 May as Workers' Day, we have done all the workers of South Africa a good turn [Time expired]

Debate concluded

Independent Black states

2 Mr C W EGLIN asked the Minister of Foreign Affairs

Whether the Government is prepared to consider taking steps which would make it possible for the four independent Black states once again to become part of the Republic of South Africa? [Time expired]

*The MINISTER OF FOREIGN AFFAIRS Mr Chairman, it is not up to the South African Government to take steps to make possible the re-incorporation of the TBVC states in the Republic of South Africa. Those states became independent in terms of legislation of this Parliament, and that independence was preceded by lengthy discussions, negotiations and in most cases by referendums or elections which were held in those countries before it was decided that they should become independent.

It is therefore not up to this Government to take the initiative. It is up to the relevant countries. This Government has made it clear, through the hon the State President, that their return to the sovereignty of the Republic of South Africa is an option. It is an option, not because this Government has made this decision or needs to make this decision. It is an option which they have as independent states in any case, namely the

option to strive for any political objective they want to strive for, provided it is borne in mind that one cannot unilaterally by means of legislation in this country bring about their re-incorporation in the Republic of South Africa.

Similarly, it will again require a decision from this Parliament. It will require a thorough study of the various implications. It will require consideration of the type of structure those countries are going to submit to their voters because they cannot ask their voters, even in a referendum, to become part of the Republic again if they do not tell their voters on what basis they will do so [Interjections]

Will it be on the basis of a confederal relationship a federal relationship, a regional government or a provincial government? What are the implications in respect of agreements which they entered into after they became independent? What are the implications of loans they may have negotiated with foreign banks, governments or other financial institutions in this country?

This Government cannot be expected simply to take over debts incurred and contractual obligations entered into by independent countries. Hon members can therefore see that there are quite a number of complex questions arising from this issue [Time expired]

Mr C W EGLIN Mr Chairman I have noted the hon the Minister of Foreign Affairs cautious reply to this question. I am not arguing about the details and how one should get there.

The South African Government was for many years not neutral on this issue. For many, many years after Dr Verwoerd came to Parliament, they actively pursued the idea of Bantustans. They promoted that concept. What is more, the choice that was given to Black South Africans at that time was not a neutral choice. It was Hobson's choice. Their choice was either to go independent and have citizenship in relatively poor Black territories or else to stay in apartheid South Africa with no vote and no constitutional redress in this country.

I do not believe that a neutral approach is good enough. We believe the time has come for the Government to try to bring down the curtain on the Verwoerdian era of apartheid [Interjections] It has done enough damage to South Africa internally and externally, more than any other policy ever pursued in South Africa. We have

asked and expect this of the Government in view of the expectations raised *inter alia* by the hon the State President's speech, and by the Government's constant reference to an undivided South Africa, which to Black people has a very specific meaning, and in view of *inter alia* the instability which is being created because of the economic and political uncertainty of the future of those TBVC countries.

We believe that this Government must admit that the Bantustan experiment in South Africa's history was costly and disastrous. While the Government may not be able to force or to coerce, it must adopt a very specific attitude and say that it is leaving the nightmare of partition to the CP. It must say it stands for a truly reconstructed and united South Africa to which all the components that were part of South Africa can come back home.

Mr J H VAN DER MERWE Including Botswana? [Interjections]

Mr C W EGLIN The Government should adopt a positive attitude towards this. This does not mean that it invades or that it coerces but it means that it must stop being neutral on this matter. The Government must say that its policy is to work together with those other states for a new united South Africa.

*Mr T LANGLEY Mr Chairman the hon the Minister did not answer the hon member's question. The hon member's question was actually to what extent the prescriptions and the instructions of the ANC which were probably issued from the Victor Verster Prison, to the effect that the independent states in South Africa must be destroyed to pave the way for the holistic Azania of the NP/ANC have been complied with [Interjections] The hon the Minister can sit there grinning sheepishly. That is what is happening [Interjections] They have destroyed the work of Matanzima and Hendriks Verwoerd [Interjections]

*Dr F J VAN HEERDEN Mr Chairman on a point of order I do not think it is parliamentary to refer to a sheepish expression.

*Mr J H VAN DER MERWE You have one on your own face. Sit down! [Interjections]

*The CHAIRMAN OF THE HOUSE Order! The hon member for Soutpansberg may proceed.

Minister, unions to hold talks

Accord on labour laws within reach

ALAN FINE

FAST-moving developments over the last few days have opened the way to an agreement between organised labour, managements and government on mutually acceptable labour legislation in SA.

In the past few days employer federation Saccola has reached agreement in principle with Cosatu and Nactu on various changes to the Labour Relations Act (LRA), and proposed legislation based on these principles has been drafted.

And the office of Manpower Minister Eli Louw was in touch with Cosatu and Nactu yesterday to arrange a date, time and venue for a meeting between the parties to discuss the process of devising new legislation

Saccola has also been invited to attend the talks, which could take place as early as Thursday or Friday

One observer said the meeting would be the first at Cabinet level between government and the "organised left" in more than three decades.

A spokesman for Louw said the Minister was pleased the unions had approached him for a meeting, and he was looking forward to seeing them as soon as possible.

An employer said if all went well this process could lead to the formulation of SA's first "post-apartheid" legislation

The first major breakthrough came during a 12-hour meeting between Saccola and the union federations which ended at 2am

on Friday. The meeting agreed on various amendments to the Act, and appointed a legal committee to draft legislation based on the agreement.

Saccola chairman Bobby Godsell said yesterday the committee completed its task on Saturday. He had not yet seen the final product. The committee was also mandated to conduct a longer-term study of strike law.

It is expected the amendments to the LRA proposed jointly by Saccola, Cosatu and Nactu will be presented to Louw when they meet him.

A Nactu spokesman said yesterday the unions wanted to discuss with Louw the possibility of the proposed amendments being placed before the current sitting of Parliament.

They also wanted to discuss with him their views on the amendment Bill drafted late last year by the Manpower Department, and to express their dissatisfaction at not having been consulted on its details.

In general, the spokesman said, the unions wanted to discuss with Louw ways of ensuring that government took their views into account whenever new labour legislation was developed in future.

The unions had set aside their traditional reluctance to speak to government because "we have to bring this matter to

□ To Page 2

Labour laws

finality and a meeting offers an opportunity to do so."

The unions were highly critical of one aspect of government's draft Bill a clause which would lengthen from 30 days to 45 days the "cooling-off" period during which legal strikes could not occur

The Manpower Department has indicated it would be willing to hold back the Bill's tabling in Parliament

Godsell said the two proposed pieces of legislation needed to be integrated Apart from the extension of the cooling-off period, there was no conflict between the

two and employers were willing to recommend the retention of the existing law in this respect

The government Bill also proposes the scrapping of the controversial Section 79 (2) which relates to union liability for damages sustained in unlawful strikes, and extends the time limits for processing disputes through official channels Both are high on the list of union grievances

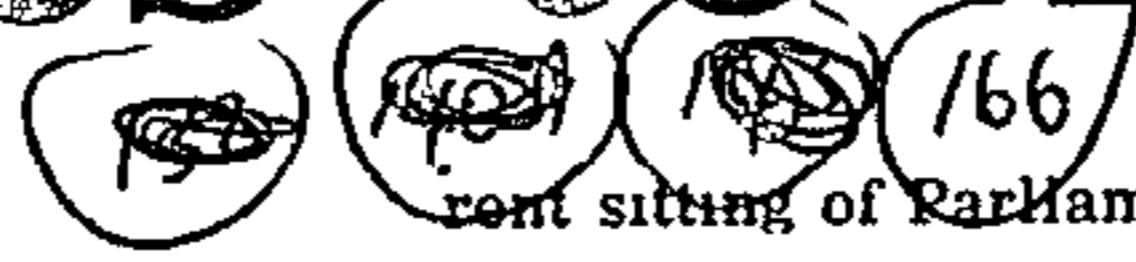
While details of the Saccola/union proposal were unavailable yesterday, the issues raised included limits on interdicts against lawful strikes

□ From Page 1

Govt to meet with unions, management

Way cleared for changes to LRA

Capl Units 13/3/90



Own Correspondent

JOHANNESBURG — Fast-moving developments in the last few days have opened the way to an agreement between organised labour, management and government on mutually-acceptable labour legislation in SA.

One prominent employer said if all went well this process could lead to the formulation of SA's first set of "post-apartheid" legislation.

In the last few days, employer federation Saccola reached in principle agreement with Cosatu and Nactu on various changes to the Labour Relations Act (LRA), and proposed legislation based on those principles has been drafted.

And the office of Manpower Minister Eli Louw yesterday exchanged several communications with Cosatu and Nactu aimed at finalising a date, time and venue for a meeting between them at which the process of devising new legislation would be the main agenda item.

Saccola has also been invited to attend the meeting — which could take place as soon as Thursday or Friday.

One observer said the meeting would be the first cabinet-level meeting between government and the organised left in more than three decades.

The first major breakthrough came at a 12-hour meeting between Saccola and the union federations which ended at 2am on Friday. The meeting agreed on various amendments to the Act and appointed a legal committee to draft legislation based on the agreement.

Saccola chairman Bobby Godsell disclosed yesterday the committee completed its task on Saturday, although he had not yet seen the final product. The committee has also been mandated to do a longer-term study on strike law — an aspect of the LRA mostly not covered by the union/Saccola agreement.

It is expected that the amendments to the LRA proposed jointly by Saccola, Cosatu and Nactu will be presented to the Minister when they meet him.

Cosatu and Nactu proposed meeting Louw in a letter written to him last month.

A Nactu spokesman said yesterday the unions wished to discuss with Louw the possibility of the proposed amendments being placed before the cur-

rent sitting of Parliament.

He said they also wished to discuss with Louw their views on the amendment Bill drafted late last year by the Manpower Department (whose details were published by Business Day in January), and express their dissatisfaction at not having been consulted on its details.

In general, the spokesman said, the unions wished to discuss with Louw ways of ensuring government took account of their views whenever new labour legislation is developed in future. They also wanted to discuss the problem of non-participation by State and agricultural employers in the talks with Saccola.

The Nactu spokesman said the unions had set aside their traditional reluctance to speak to government because "we have to bring this matter to finality and a meeting offers an opportunity to do this."

The unions previously criticised have government's draft Bill because they had not been consulted on it. They were also highly critical of one aspect of the Bill — that which would lengthen the "cooling-off" period during which a legal strike may not occur from 30 days to 45 days.

The Manpower Department has indicated it would be willing to hold back the tabling of the Bill in Parliament.

Godsell said the two proposed pieces of legislation needed to be integrated. Apart from the extension of the cooling-off period, there was no conflict between the two, and employers were willing to recommend the retention of the existing law in this respect.

The government Bill also proposes the scrapping of the controversial section 79 (2) which relates to union liability for damages sustained in unlawful strikes, and extends the time limits for processing disputes through official channels — both high on the list of union demands.

While details of the Saccola/union proposal were unavailable yesterday, the issues raised include limits on interdicts against lawful strikes, scrapping of racial features of the union registration process, and accessibility of Industrial Court judgments.

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HOUSE OF ASSEMBLY

INTERPELLATIONS

The sign * indicates a translation. The sign †, used subsequently in the same interpellation, indicates the original language.

General Affairs

Workers' Day

1 Mr P J PAULUS asked the Minister of Manpower *

Whether discussions had been held with White trade unions before 1 May was declared Workers' Day, if so with which such trade unions, if not, why not? †

B499E INT

*The MINISTER OF MANPOWER Mr Chairman, there were comprehensive consultations with White trade unions *inter alia* before 1 May was declared Workers' Day. This took place *inter alia* at a gathering in Stellenbosch on 14 April 1988 and on 10 June 1988 in the Union Building, Pretoria.

During the gathering on 14 April 1988 the question of Workers' Day was discussed in depth and the delegates were almost unanimous that Workers' Day should be on 1 May. During the second meeting, on 10 June 1988, the vast majority of delegates, with the exception of the Mineworkers' Union, expressed themselves in favour of 1 May as a paid holiday.

A total of 26 trade unions were represented, of which 15 were exclusively White trade unions [Interjections.] In addition the National Manpower Commission in which both the employer and trade union organisations are represented held detailed consultations with all parties. Here, too a broad spectrum of White trade unions was represented.

The recommendation of the National Manpower Commission remained that 1 May should be declared Workers' Day.

The Government realises that there are certain groups of people who have objections to 1 May as a holiday for ideological reasons, because of the connection it has with communist ideology. The recent past has shown that this connection is

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becoming irrelevant [Interjections.] Yes, that is the case. This is happening as a result of the economic failure of that ideology [Interjections.] Consequently Workers' Day will become more and more detached from any specific ideology [Interjections.]

Therefore it is artificial to keep the dispute concerning 1 May as Workers' Day going, and it is not in the interests of industrial peace or of all the workers of South Africa [Interjections.]

*Mr P J PAULUS Mr Chairman I want to make it very clear today that White trade unions were not consulted when it was decided to let Workers' Day fall on 1 May this year [Interjections.]

Let us see what the hon the Minister—then still Acting Minister—said last year when we spoke about Workers' Day. He said that Workers' Day would fall on a Monday, and no longer on a Friday, so that the workers could have a long weekend. We made it very clear to the hon the Minister that the Government would change its standpoint and move Workers' Day to 1 May. I can see why the hon the Minister is moving it to 1 May this year, because he has just told us. He said Workers' Day had a communist connotation and they have now embraced the Communist Party in a big way [Interjections.] I want to ask whether the hon the Minister spoke to comrade Ramaphosa when he did this [Interjections.]

In the SA Worker of February 1990, the general secretary of the trade union for iron and steel workers said it was a sad day on which we had to see 1 May declared Workers' Day, and that the perennial demand to declare the first Monday in September as such, as well as the possibility of a long weekend were things of the past.

We read the hon the Minister's reply in Hansard of 26 April 1989 [Interjections.] The reason we have the first Monday in May, is that all the workers should get a long weekend. I still remember the remark made by the hon member who was the MP for Sasolburg. He said we had not given them any reason for not wanting the first Friday.

The NP is turning somersaults. When I was still with the trade union I called Fanie Botha Somersault Botha. I shall be calling the hon the

Minister of Manpower Somersault Louw because he does not know what he wants [Time expired.]

Mr B B GOODALL Mr Chairman, there are two issues involved here. One is whether there should be consultation with trade unions on matters like this. The answer is yes, there should obviously be consultation—not only with the trade unions, Black and White, but also with the employers' organisations. This, we understand from the hon the Minister, has been done. It would not have helped, however, because what we have here is an attempt by the far right to organise White labour in South Africa for political purposes [Interjections.]

The second point is whether we should celebrate 1 May as Workers' Day. It is an internationally accepted holiday. It is celebrated in West Germany and in France, and those are not communist countries. In South Africa 1 May was a *de facto* holiday. We have actually brought the law in line with reality. We had a situation in which we were celebrating the same event on two separate days. We cannot afford to do that. Our labour productivity is low enough as it is. It is estimated that each time we have a public holiday, we lose R340 million in lost production.

We have got to decide how many public holidays South Africa is going to have. We should then work out what they will be. We shall have to take into account the needs and wishes of the various segments of our population not only the White sector. That is the sane rational thing to do. I find the growing similarity in the tactics of the inarticulate left and the reaction very interesting [Interjections.]

The MINISTER OF MANPOWER Mr Chairman, I want to thank the hon member for Edenvalle for his sensible arguments in this debate.

*It is a pity that the CP is trying to score political points out of this matter [Interjections.] The hon member for Carletonville denied that there had been negotiation. I told him that one out of the 15 White trade unions were opposed to this and he can come to my office where I shall give him the names of the other 14 [Interjections.]

Then he said we had suddenly embraced the communists because we had declared 1 May Workers' Day [Interjections.] As the hon member for Edenvalle said, this is also the case in

England and Holland, and after all, they are not communist countries [Interjections.] The CP has not embraced the communists just because the hon member for Overval is going to Russia, after all [Interjections.]

The hon member referred to what I had said about the long weekend in a previous debate on my Vote. I still think a long weekend is a good idea. I told the White trade unions that if there was consensus among the workers of South Africa, they could come back to me on the question of a long weekend, and I would consider it once again. I said then that it was a good idea.

To say that we are hand in glove is the biggest load of nonsense under the sun, and I blame the hon member and his party for trying to manipulate our White workers, who should actually play a leading part, for political gain. They can play a part on the basis of reliability, expertise and discipline, but the CP is politicising them so that they cannot play that part [Interjections.]

*Mr P J PAULUS Mr Chairman, I should like to tell the DP that the only difference between them and the NP nowadays is the name [Interjections.] Every time a DP member rises he is praised and thanked by the NP for what the DP says about the NP [Interjections.] They are fraternising with the NP just as the NP and the SA Communist Party are fraternising today [Interjections.]

I want to repeat that I did not even mention the name of the Mineworkers Union, because I know they did not negotiate, but I did mention the trade union for iron and steel workers. That is the largest White trade union, and they deny that there were negotiations with them at any stage.

What was even more ridiculous was that the hon the Minister mentioned 1988. In 1989 he said we knew what the Government's standpoint was, and that was to make it the first Monday in May. Once again I say the Government does not know what is going on [Interjections.]

They say they want to protect the rights of the minorities. Up to now they have avoided telling us how they want to protect the rights of the minorities. I want to make it clear that the employers and the Black trade unions—I said this last year, and that was exactly what happened—are going to celebrate Workers' Day

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from 30 April to 4 May. Once again the White workers are going to sacrifice traditional White holidays to give the Blacks in South Africa an opportunity to have a holiday. [Interjections.]

How is the hon the Minister going to prevent that, and how is he going to protect this minority of Whites? He cannot do so, because he fears the Black trade unions. If he picks up the telephone and it is a Black trade union, he says they must not speak. He has heard it is a Black trade union, and he will comply with their demands. The hon the Minister does so without even listening to what they want. [Interjections.]

*THE CHAIRMAN OF THE HOUSE Order!

*Mr P J PAULLUS I want to make it clear that at present the Blacks are demanding Soweto Day. When the Manpower Vote is discussed we must not be surprised if this hon Minister says the Government has decided to make 16 June Soweto Day because the SA Communist Party and the ANC are going to claim that day, and once again the minority of Whites in South Africa are going to be left in the lurch by the NP. There is no point in the hon the Minister's telling us we want to capitalise on the question. We want to protect the White workers in White South Africa, and we shall do so as far and for as long as possible. The Government will not stand in our way.

The White workers are turning against the NP to an increasing extent, because they know they can no longer rely on the NP for protection. [Interjections.] That is why the hon the Minister for Virginia received a majority of only 47 votes. That is proof that the workers are turning against them.

*THE CHAIRMAN OF THE HOUSE Order! There is no Minister for Virginia in the House. [Interjections.]

*THE MINISTER OF MANPOWER Mr Chairman, the hon member said we did not protect minorities. If 14 of the 15 White trade unions say I May is acceptable to them, must I permit the standpoint of the remaining one to prevail? How does he justify his story about minorities then?

The fact is that in order to gain points for the CP, the hon member is reducing the White mine-workers to a political group of people who have to experience a threat in everything. He is doing the White trade unions a great disservice by

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presenting that argument. I shall say that to the White trade unions, because they have a function to fulfil. They can play a leading role, also in the new South Africa, as a result of their expertise and reliability. The White trade unions can play an enormous role on that basis, and I shall continue to say that.

Naturally, productivity is an important consideration. After all we cannot afford to have another workers' day. We acknowledge that there must be a workers' day, but as the hon member said, almost R400 million is lost every day that workers do not go to work. No country's economy can afford that. Nor can the country subject its workers to that. The National Productivity Institute was also consulted in respect of the matter, and gave it their full support.

By declaring I May as Workers' Day, we have done all the workers of South Africa a good turn. [Time expired.]

Debate concluded.

Independent Black states

2 Mr C W EGLIN asked the Minister of Foreign Affairs

Whether the Government is prepared to consider taking steps which would make it possible for the four independent Black states once again to become part of the Republic of South Africa? *Hansard 13/3/90 B504E INT*

*THE MINISTER OF FOREIGN AFFAIRS

Mr Chairman, it is not up to the South African Government to take steps to make possible the re-incorporation of the TBVC states in the Republic of South Africa. Those states became independent in terms of legislation of this Parliament, and that independence was preceded by lengthy discussions, negotiations and in most cases by referendums or elections which were held in those countries before it was decided that they should become independent.

It is therefore not up to this Government to take the initiative. It is up to the relevant countries. This Government has made it clear, through the hon the State President, that their return to the sovereignty of the Republic of South Africa is an option. It is an option not because this Government has made this decision or needs to make this decision. It is an option which they have as independent states in any case, namely the

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option to strive for any political objective they want to strive for, provided it is borne in mind that one cannot unilaterally by means of legislation in this country bring about their re-incorporation in the Republic of South Africa.

Similarly, it will again require a decision from this Parliament. It will require a thorough study of the various implications. It will require consideration of the type of structure those countries are going to submit to their voters, because they cannot ask their voters, even in a referendum, to become part of the Republic again if they do not tell their voters on what basis they will do so. [Interjections.]

Will it be on the basis of a confederal relationship, a federal relationship, a regional government or a provincial government? What are the implications in respect of agreements which they entered into after they became independent? What are the implications of loans they may have negotiated with foreign banks, governments or other financial institutions in this country?

This Government cannot be expected simply to take over debts incurred and contractual obligations entered into by independent countries. Hon members can therefore see that there are quite a number of complex questions arising from this issue. [Time expired.]

Mr C W EGLIN Mr Chairman, I have noted the hon the Minister of Foreign Affairs' cautious reply to this question. I am not arguing about the details and how one should get there.

The South African Government was for many years not neutral on this issue. For many, many years after Dr Verwoerd came to Parliament they actively pursued the idea of Bantustans. They promoted that concept. What is more, the choice that was given to Black South Africans at that time was not a neutral choice. It was Hobson's choice. Their choice was either to go independent and have citizenship in relatively poor Black territories or else to stay in apartheid South Africa with no vote and no constitutional redress in this country.

I do not believe that a neutral approach is good enough. We believe the time has come for the Government to try to bring down the curtain on the Verwoerdian era of apartheid. [Interjections.] It has done enough damage to South Africa internally and externally, more than any other policy ever pursued in South Africa. We have

asked and expect this of the Government in view of the expectations raised *inter alia* by the hon the State President's speech, and by the Government's constant reference to an undivided South Africa, which to Black people has a very specific meaning, and in view of *inter alia* the instability which is being created because of the economic and political uncertainty of the future of those TBVC countries.

We believe that this Government must admit that the Bantustan experiment in South Africa's history was costly and disastrous. While the Government may not be able to force or to coerce, it must adopt a very specific attitude and say that it is leaving the nightmare of partition to the CP. It must say it stands for a truly reconstructed and united South Africa to which all the components that were part of South Africa can come back home.

Mr J H VAN DER MERWE Including Botswana? [Interjections.]

Mr C W EGLIN The Government should adopt a positive attitude towards this. This does not mean that it invades or that it coerces, but it means that it must stop being neutral on this matter. The Government must say that its policy is to work together with those other states for a new united South Africa.

*Mr T LANGLEY Mr Chairman, the hon the Minister did not answer the hon member's question. The hon member's question was actually to what extent the prescriptions and the instructions of the ANC, which were probably issued from the Victor Verster Prison to the effect that the independent states in South Africa must be destroyed to pave the way for the holistic Azania of the NP/ANC, have been complied with. [Interjections.] The hon the Minister can sit there grinning sheepishly. That is what is happening. [Interjections.] They have destroyed the work of Maranzima and Hendrik Verwoerd. [Interjections.]

*Dr F J VAN HEERDEN Mr Chairman, on a point of order. I do not think it is parliamentary to refer to a sheepish expression.

*Mr J H VAN DER MERWE You have one on your own face. Sit down! [Interjections.]

*THE CHAIRMAN OF THE HOUSE Order! The hon member for Soutpansberg may proceed.

HOUSE OF ASSEMBLY

Historic meeting to tackle LRA

Bosses, unions to work out new deal

By Drew Forrest

In what could herald a new era of tripartite co-operation in labour matters, employers are to join black unions at a historic meeting with Manpower Minister Mr Eli Louw this week

The meeting, over the Labour Relations Act (LRA), will be the first between an organised formation of the left and a Minister. It will also be the first joint forum of the state, employers and black worker delegates.

Legislative force

It follows a breakthrough in two-year-long negotiations on the LRA between the employer body Saccola and Cosatu/Nactu last week.

Describing the developments as "an enormous step forward", Saccola chairman Mr Bobby Godsell confirmed Saccola would join Nactu and Cosatu at the meeting with Mr Louw in Pretoria on Thursday.

Nactu's Mr Cunningham Ngcukana said the unions would urge Mr Louw to give legislative force to their agreement

with employers.

They would also ask him to ensure the National Manpower Commission inquiry into labour law was co-ordinated with the Saccola process, and that the public sector employer, the Commission for Administration, attended future Saccola talks.

The Government has already announced that LRA changes planned for this session of parliament have been put on hold in anticipation of the meeting with Mr Louw.

Unions and employers were tight-lipped about their interim deal, but it is understood that the drafting committee sat all Saturday and that an agreement may be finalised within days.

Sources said it would address the seven unions' demands listed in a recent Cosatu pamphlet.

These included the scrapping of a section broadening union exposure to lawsuits, the relaxation of time limits in dispute procedures, the automatic publication of Industrial Court judgments, the right to solidarity strikes and one labour statute for all workers.

B/Dam 14/3/90

Militancy disrupts workplace



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INCREASED militancy since the unbanning of political organisations and Nelson Mandela's release has caused confusion and uncertainty in the workplace, labour sources say.

Some employers are already examining the implications of political developments which have heightened worker expectations and seen a "new-found confidence" which is likely to be displayed at the negotiating table.

National Union of Metalworkers of SA (Numsa) engineering secretary Bernie Fanaroff says a consequence of political developments is that union activists are having to spend time in townships dealing with macro-political issues. This means less planning in the workplace and more spontaneous action.

Sharing

"Workers feel liberation is imminent, causing increased militancy."

He says worker demands are changing and this is witnessed in a demand for the sharing of the economy.

OK Bazaars industrial relations executive Gavin Brown says the impact of political developments on the workplace is characterised by uncertainty and confusion and unrealistic expectations which still have to be manifested

in a tangible form. Companies, he said, are responding with more tolerance and sensitivity, but this is not part of a long-term policy. He believes political developments will affect wage negotiations with heightened worker expectations of greater increases.

National Union of Mineworkers (NUM) assistant general secretary Marcel Golding says workers realise it is their right to participate in democratic organisations of their choice.

They believe this right has to be freely expressed, putting the spotlight and pressure on employers to put "their houses in order".

Recent NUM members' activity in the Free State illustrates the continuing demand for the removal of discrimination on the mines.

Golding says. "We are no longer at the level of tabling demands which remain unaddressed. Workers have repeatedly tried to use the grievance procedure without success

"Workers expect the right to organise on the mines where employers have used their property rights to restrict them"

Chamber of Mines president Kennedy Maxwell says "it is vital the parties work together to seek potential solutions", particularly in the

mining industry where recent developments are cause for concern.

He says. "It appears there has been a deliberate attempt to create polarisation (between workers and management)" and prospects for a favourable outcome to future negotiations will be reduced if parties enter the exercise from positions of polarisation.

An article in the February issue of Seifsa News lists employer guidelines on how to manage "the impact of the events which have created conflicting emotions in the labour force ranging from jubilation and raised expectations to anxiety and concern".

Implications

It states worker reaction to the developments can generate anxiety among other sections of the workforce, leading to confrontation and violence.

Employers are advised to consider the implications of implementing disciplinary action, which should be avoided wherever possible.

Industrial Relations Consultant Andrew Levy said worker expectations had risen and they had been shown that all was negotiable.

"Trade union's will push against the door which is swinging open and one can only speculate there will be an increase in industrial action," he said.

Most white unions favour May 1

SP- 14/3/90 (166) (166)
Only one of 16 white trade unions consulted — the White Mineworkers Union — had been against May 1 being declared Workers' Day, Minister of Manpower Mr Eli Louw said yesterday

Speaking in the Assembly during an interpellation debate, he said the National Manpower Commission had always been in favour of the move

Mr Arrie Paulus (CP Carletonville) said white unions had not been acknowledged in the decision

Mr Brian Goodall (DP Edenvale) said Workers' Day was celebrated on May 1 in countries such as West Germany and France. The law had now

been brought into line with reality

The previous situation was that Workers' Day had been celebrated on two days by different groups, and South Africa could not afford that

Mr Louw said it was a pity the CP was trying to "catch political flies" on the issue

The CP wanted to protect the white worker, and would do so, Mr Paulus retorted

Mr Louw said white SA unions could play a big role in, for instance, enhancing productivity.

It had been calculated that every workday lost cost SA about R400 million a year — Sapa

(27) (H66)
**Mines rule
'racial'** ^{CAT}
^{Temp}
^{14/3/90}

Own Correspondent

JOHANNESBURG —
The Chamber of Mines yesterday accused the government of seeking to reintroduce racially discriminatory regulations on the mines — an attitude which “flies in the face” of official government policy.

Chamber vice-president Mr Clive Knobbs was commenting after the Appeal Court yesterday granted the Minister of Economic Affairs and Technology leave to appeal to a Full Bench of the Transvaal Supreme Court against an order that declared part of the Mines and Works regulations invalid.

The part involves latrines and change-houses

Thursday, March 15 1980

3/Day 15/3/90

Union federations meet Louw today

~~113~~ ALAN FINE ~~114~~

A MEETING between SA's two largest union federations — Cosatu and Nactu — and Manpower Minister Eli Louw is scheduled to take place at 3.30pm today. (166)

Plans for the meeting, which could lead to extended negotiations on new labour legislation for SA, were finalised yesterday. (166)

Representatives from employer federation Saccola would not attend as originally planned.

A spokesman for Louw said this was at Louw's request.

He felt that since this was his first meeting with the two union federations, he preferred to meet them on their own, and would be willing to have a three-way meeting with Saccola at a later date.

Louw's spokesman said the minister saw today's meeting mostly as an opportunity to get to know union representatives.

As far as he was concerned, the agenda should be open.

Louw did not intend putting anything specific on the table, but wanted to ascertain the unions' views on various issues.

Cosatu and Nactu, in their letter requesting the meeting, said they wished to discuss with Louw pending draft amendments to the Labour Relations Act, the possibility of other amendments being passed during the current parliamentary session, and inclusion of state employers in future talks on labour legislation.

A Cosatu spokesman said yesterday a draft agreement between the union federations and Saccola had been prepared by a technical committee.

However, settlement would be reached only once the draft had been approved by the parties involved.

THE right to strike is fundamental to sound industrial relations

The right and capacity of a trade union to bring workers out on strike may ultimately be the only reason why a manager seeks genuine agreement with organised labour

Without the right to strike, trade unions become pathetic, powerless bodies and the rule of management is absolute

The right to strike requires more than freedom to withdraw labour. It requires job protection as well.

While such a right does interfere with the entrepreneur's right to manage his enterprise as he sees fit, guaranteeing the right to strike is in society's interests.

To ignore the need for labour legislation and allow any individual to do as s/he likes in order to advance his economic interests is to invite anarchy.

It is the sort of belief which invites and legitimises the smashing of machines and the burning of factories.

If there are no laws to protect strikers, then there is no need to strike according to rules. This would be untenable to enterprises that rely on skilled labour — the industries vital to a strong and modern economy.

Finally, the right to strike is vital to any system of free collective bargaining, necessary to ensure the fair distribution of economic wealth and an organised and relatively orderly industrial process.

The interests of capital are protected by a range of laws. If rules exist to protect the interests of property, why not protect labour?

The right to strike provides a fair

Strike rights — or anarchy



The law should guarantee certain basic strike rights in the interests of better industrial relations, EBRAHIM PATEL, education officer of the South African Clothing and Textile Workers' Union, argued in a talk delivered at a recent industrial relations workshop. Here is an edited version of the talk:

balance between the many legal protections which an employer enjoys and the very basic rights which workers require to have effective trade unions.

It is not enough to merely have the right to strike.

Workers should be able to strike without fear of dismissal.

It is often argued that a strike for an indefinite period means employers face two choices — to close down

the business or take on a replacement workforce.

If an employer says s/he has no alternative but to recruit an alternative permanent workforce, s/he should have to prove this.

The right to physical reinstatement would act as a powerful deterrent on employers and would limit dismissal to those instances where there is genuinely no alternative.

There has been much discussion about the rights of workers to protection in primary, secondary and sympathy strikes.

Normally a primary strike involves the legal form of a registered company.

This encourages the fragmentation of an operation into a series of separate companies.

A textile mill with spinning, weaving and finishing operations, producing a single product may easily be broken into three separate companies.

This means that the employers can avoid the power of combination by the workers.

In the case of industry wide strikes are companies who are members of an employers' association in the industrial council the primary employer and the only tar-



Ebrahim Patel

get for strike action?

If this were so it would be a powerful incentive for employers to resign from employer associations — leading to unions being forced to negotiate separately tens of thousands of agreements separately.

A large corporation can use all its resources to sit out a strike at one plant indefinitely. It can transfer production to strike free factories.

This undermines completely the notion that a subsidiary company is the primary employer.

There is no reason why labour should accept the strength of corporations and not be allowed to exploit their weaknesses.

Secondary strikes are seen as those with no direct relationship with the plant where the dispute arose initially.

They normally involve the customers or suppliers of a strike hit establishment.

Employers say such action hurts an uninvolved party.

Why should a secondary operator be morally exempt from industrial action when he profits from his relationship with the strike hit company?

A business has many risks, one of which is a secondary strike — an additional pressure on the employer to settle the dispute.

Sympathy strikes involve workers with no direct interest in a particular dispute.

It is difficult to define direct interest.

At an absurd level any strike against the dismissal of a fellow worker is a sympathy strike because the action was not done directly to us.

The crucial test whether a strike should enjoy protection is whether the strike is directly aimed at employers who are part of a dispute or can affect the outcome of a dispute — be they customers, suppliers, associated companies or employers in the same industry.

During a strike, an employer is free to recruit temporary replacement. Strikers should have an equal right to prevent recruitment.

This is why strikers want picket facilities.

Not only is the right to picket a basic freedom of assembly. Workers will protest whether it is legal or not.

Denying picket facilities does not reduce violence. It merely drives strikers from the open factory area to the bus stops, trains and townships where trade unions are unable to monitor activities.

The lack of proper picket rights and facilities invites and encourages illegal acts and violence.

More broadly, if unions are powerless and rightless, industrial conflict will not go away — it simply takes on less controllable and predictable forms.

A further point for employers to consider is that the increasing attempts to break up centralised bargaining forums and adopt the limited 'let's look at the balance sheet' approach removes important opportunities for a joint labour-management dispensation to emerge, leaving workers to turn to the state to regulate matters.



NUM general secretary, Cyril Ramaphosa and trade unionists demand worker's rights

Unfair^{Star} 15/3/90 labour laws 166 criticised

Job reservation retarded for more than 20 years the development, progress and earning capacity of black people, the Budget Review said

"Viewed from the perspective of the utilisation of labour as a factor of production, certain past discriminatory practices contributed to the backlogs still found in some fields today, and affecting our black people in particular," it said

"Job reservation, thus, with its accompanying restrictions on training, retarded for over 20 years the development, progress and earning capacity of many"

The long prohibition on the ownership of land and property in certain areas had "militated against the possibility of accumulating fixed assets"

"This had a baneful impact on people's ability to build up capital and to enter the world of business"

It was in everybody's interest that more acceptable living standards should materialise quickly, the review said — Political Staff

should be interpreted restrictively

Certain previous decisions had viewed the matter from an individualistic perspective, concentrating on the role of common law contractual principles. The decision rejects this but still emphasises the common law angle. Le Roux believes this ignores the reality "that an overtime ban is a form of collective action in support of a demand (similar to a strike)."

The decision has led to the position, says Le Roux, where "it is now possible for employees to enter into a form of industrial action which, though it is similar to and has the same purpose as a strike, is completely legal. This is so even though the dispute-resolution procedures of the Labour Relations Act have not been complied with and even though the matter may already be regulated in a binding collective agreement between the parties."

Le Roux suggests that this undermines the purpose of Section 65 of the Act — that "collective action should be resorted to only after the dispute-resolution mechanisms of the Act have been exhausted." Failure to adhere to Section 65 renders action illegal, allowing an employer to approach the courts for an interdict prohibiting the action.

Le Roux suggests that some of the reasons put forward by the Appellate Division are not that persuasive. Thus the scenario that employees would be forced to work against their will is unlikely. Any court order would "only prevent a refusal to work overtime where it is collective in nature and where it is in support of a demand." Such an order would last only until the statutory dispute-resolution procedures had been exhausted, whereupon the overtime ban would become legal. At no stage would individuals who did not wish to work be forced to do so.

Le Roux says two factors reduce the scope for uncertainty: only overtime bans of a collective nature are relevant, and these will be resorted to only in situations where overtime is usually worked (otherwise they don't offer any leverage).

LABOUR LAW — 2 FIM 16/3/90

A question of time

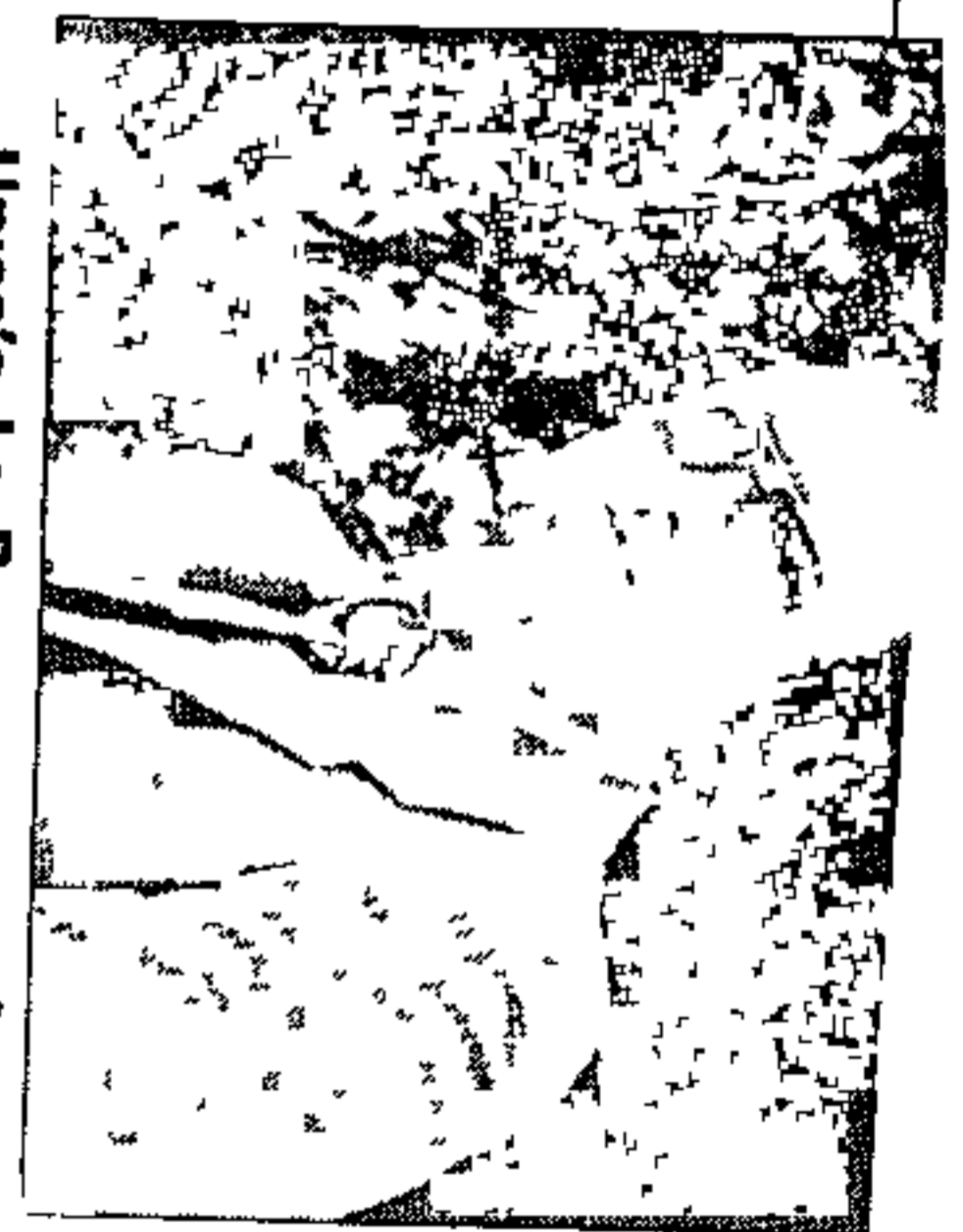
Does an overtime ban, where there is no contractual duty to work after hours, constitute a strike? In a case between SA Breweries and the Food & Allied Workers' Union the Appellate Division recently said no (*Currents*, October 6 1989) but an article by Unisa's Prof P A K le Roux, in Juta's *Current Labour Law Workbook*, suggests the decision "does not reflect the reality of everyday industrial relations."

The reasons for the decision were

- The vagueness which could be imported into the definition of a strike and the ensuing uncertainty if the word "work" was interpreted to include work normally done;
- The fact that such an interpretation could lead to an infringement of the employee's common law rights not to be compelled to work overtime, (166) (166)
- The idea that the right to withhold labour is an important tool in the bargaining process, and
- The principle that a penal provision

On the question of a restrictive interpretation of a penal provision, Le Roux says this should not apply when it would lead to the whole purpose of Section 65 being undermined. He adds that this case indicates the problem with "making criminal offences the primary method of enforcing the prohibition against strikes." He advocates some form of civil sanction instead.

Le Roux believes industrial relations will be best served if the use of overtime bans, as economic weapons, is regulated through the unfair labour practice mechanism. He notes



Unisa's Le Roux ... another view on overtime bans

that the courts have "consistently held that actions which are otherwise legal in terms of common law or statutory provisions may nevertheless constitute an unfair labour practice."

He hopes the court will continue to apply this rule "and to find that overtime bans can constitute an unfair labour practice in situations where it is unfairly utilised, for example, where it is resorted to prior to the exhaustion of collective bargaining or where the demand being made is already regulated in a binding collective agreement."

'Historic' talks between Govt and unions

570
16/3/90
By Peter Fabricius,
Political Correspondent

CAPE TOWN — The powerful Cosatu and Nactu federations met the Government for the first time here yesterday in talks described as historic

The union bodies and the Minister of Manpower, Mr Eli Louw, issued a joint statement afterwards, saying the talks had been fruitful and committing themselves "to reaching the broadest possible consensus on future labour legislation"

Mr Louw agreed to consider urgently the draft agreement on changes to labour law negotiated recently between Cosatu/

(166)
Nactu and the employer body Saccola. Ensuing legislation could come before Parliament this year

The statement said it had been agreed that a further meeting including Saccola should be held to discuss the proposed amendments to the Labour Relations Act

The draft proposals by Cosatu, Nactu and Saccola are believed to include measures limiting unions' liability to legal damages arising from strikes, and proposals that all workers should enjoy union rights

Mr Louw has agreed to arrange a meeting between Cosa-

tu/Nactu and the Minister of Administration, Dr Wim de Villiers, to discuss their call for union rights for public servants

Mr Louw also agreed to convey to the SA Agricultural Union the request for a meeting with Cosatu/Nactu to discuss labour rights for farm workers

He agreed that "all workers should have basic worker rights, which must be negotiated"

The Minister also agreed to convey the unions' proposals for direct negotiations between them and the appropriate authorities on the current disputes in the health and prison sectors

● See Page 10.

1166

Minister to revise Labour Act after joint talks

By EDDIE KOCH

MANPOWER Minister Eh Louw last night agreed to push a new Labour Relations Act through parliament this year—a move that is bound to boost the process of negotiation in South Africa.

This is the first time that tripartite negotiations between organised labour, big business and the state have resulted in a common commitment to revising a major piece of apartheid legislation.

The meeting was also significant because a leading representative of the Pan Africanist Congress (PAC), Cunningham Nguukana, who had rejected the notion of negotiation with

the government, was included in the delegation which met the minister yesterday.

The dramatic announcement came after a ten-man labour delegation yesterday flew into Cape Town for talks with Louw aimed at preparing for revamped labour legislation in South Africa.

The draft of the new labour law is being jointly negotiated by organised industry and a team from the Congress of South African Trade Unions (Cosatu) and the National Council of Trade Unions (Nacht).

It still has to be endorsed by the membership of the three parties be-

fore being sent to the minister.

A joint statement by the unions and Louw last night said the draft would be submitted to the minister as soon as possible, who would send it to the National Manpower Commission for its urgent attention.

“On receipt of the NMC’s proposals, the minister will give this his priority attention and endeavour to put it through parliament in the current session.”

According to union sources, the

draft legislation, which was completed at the weekend but has not yet been made public, includes the following provisions:

● It curtails powers that employers enjoy under the current law to squash strike action by using industrial court interdicts.

● It removes the existing definitions of unfair labour practices (ULPs) and suggests a return to the situation that applied before 1988. This laid down a general statement of fairness but relied on industrial court judgments to elaborate on the definition of what constitutes a ULP.

● It scraps all time limits regarding dispute resolution procedures and lays down retrenchment and dismissal standards that are in line with International Labour Organisation principles.

● It removes the right that employers have to sue unions for damages lost during illegal strike action and provides for the automatic publication of all industrial court judgments.

The draft thus meets all the interim demands put on the table by the unions at the talks with the South African Committee on Labour Affairs (Saccola).

Louw, unions seek consensus

CAT Trip 16/3/90 (10) (11) (12) (13) 166

By BARRY STREEK
Political Staff

YESTERDAY's first meeting between a cabinet minister and South Africa's two largest trade union federations, Cosatu and Nactu, resulted in agreement that all workers should have basic worker rights which had to be negotiated.

In a joint statement last night they also committed themselves to "reaching the broadest possible consensus on future labour legislation".

The conciliatory tone of last night's statement indicated a significant breakthrough after years of often acrimonious conflict between the government and black unions.

They agreed to hold further discussions on thorny issues such as privatisation, deregulation, inflation and work-place violence.

All parties said after yesterday's meeting between Minister of Manpower Mr Eli Louw and representatives of the Congress of South African Trade Unions (Cosatu) and the National Congress of Trade Unions (Nactu), that discussions on proposed legislation were "fruitful".

The joint statement said the draft agreement negotiated between between Cosatu/Nactu and the employer

body, Saccola, would be submitted to the minister as soon as possible and after this Mr Louw would refer it to the National Manpower Commission.

The minister will then give the NMC's proposals priority attention and endeavour to put them through Parliament in the current session.

Mr Louw also indicated he would "facilitate" a meeting of the unions with the relevant minister on the issue of the public sector and convey "an urgent request" to the South African Agricultural Union to discuss labour legislation covering farmworkers.

"All parties agreed that all workers should have basic worker rights which must be negotiated.

"They also agreed there should be a further meeting, with Saccola present, to discuss proposed amendments to the Labour Relations Act.

"On the present disputes in the health and prison sectors, the minister will convey the proposal for direct negotiations between the responsible authorities and the trade unions concerned.

"The parties exchanged preliminary views on a range of issues relating to privatisation, deregulation, inflation and work place violence and agreed that these will require further discussion," the statement said.

See 16/3/90 (166) () ()

Unions meet Minister

Accord calls for changes in labour Act

By Drew Forrest

Sweeping interim changes to the Labour Relations Act — including the scrapping of the present unfair practice definition and curbs on strike interdicts — are proposed in a draft agreement between the labour movement and employers.

The accord also embodies a set of union and employer rights, drawn from the Wiehahn Commission, in which it is agreed that farm, domestic and state employees should be covered by labour law.

A key proposal

The product of two years' debate between Cosatu/Nactu and the employer body Saccola, the accord still has to be ratified by members.

But sources said the plan was to present it at a joint meeting with Manpower Minister Mr Eli Louw for enactment during the current session of Parliament.

The unions put their demands on the LRA at a ground-breaking meeting with Mr Louw yesterday.

A key proposal in the agreement, de-

tails of which have been leaked to The Star, is the scrapping of the current unfair labour practice definition, which includes bans on sympathy strikes and consumer boycotts.

The parties propose a reversion to the pre-1988 position, when the Industrial Court had a flexible mandate to develop labour law by precedent.

And while the right to interdict illegal strikes remains, it is agreed that reasonable notice must be given, so that unions can oppose applications.

Other proposals are:

- The old unfair labour practice clause be expanded to deal with retrenchments and dismissals, in line with International Labour Organisation principles.

Acceptable labour law

- Scrapping of most time limits in official dispute procedures.
- The automatic publication of Industrial Court judgments, subject to special application.

Sources stressed that the draft accord was only part of the unions' longer-term push for acceptable labour law.

MANPOWER MIRROR

MANPOWER
MIRROR by
ROBYN
CHALMERS

PAGES AND PAGES OF THE BEST JOBS IN SOUTH AFRICA

Key agreement by the big unions

THE surprisingly conciliatory mood between Saccoola, Cosatu and Nactu could mean the start of an important forum to discuss broader socio-economic issues. Saccoola and the two black trade union federations this week agreed in principle on various changes to the controversial Labour Relations Act (LRA). The agreement follows almost two years of tough debate between the parties.

Change has been the order of the day in SA since State President De Klerk took over from P.W. Botha. The rapidity of the change from the unbanning of the ANC to the release of Nelson Mandela has left many businessmen feeling and unsure of what to do next.

Even more startling was Cosatu and Nactu agreeing to meet Manpower Minister Eli Louw to discuss the proposed changes. After so many years of refusing to meet with the Government, this could signal the start of something new

Unfortunatly, many were galvanised into action last Friday when Walter Sisulu confirmed the ANC's support for nationalisation. Businessmen have generally held onto the hope that the ANC's support of nationalisation is a ploy to give it a stronger stance at the negotiation table. However, when Mr Sisulu told top businessmen at a Wits Business School

breakfast that nationalisation was considered the best way to redistribute wealth in SA, foreign investors began to pull out quickly. While businessmen contemplate the horrors of nationalisation, and the ANC and trade unions contradict each other on how important a policy it is, the homelands and townships exploded in a tyranny of violence with very little constructive discussion taking place.

The co-operative spirit between Saccoola, Nactu and Cosatu this week must surely be promoted as far as possible to overcome this. An Institute of Personnel Management (IPM) and SA Chamber of Business conference last week National Union of Metalworkers of SA (NUMSA)

engineering secretary, Berrrie Panaroff said the forum created by these three parties was ideal for starting negotiations and preliminary discussions on the restructuring of the economy. Mr Panaroff stresses that there is no quick fix to SA's economic and social problems, saying he doesn't think there are any unionists "who see nationalisation as an end in itself or as a complete answer to our economic problems."

While Mr Panaroff may differ marginally with Mr Sisulu on the question of nationalisation both are firm on the viewpoint that big business has paid nothing more than lip service to the eradication of apartheid.

He says trade unions believe from bitter past experience that employers and shareholders in SA "will not co-operate in any significant way with restructuring and the reduction of resources - so nationalisation will be necessary. As to what kind of nationalisation I don't believe anyone has rigid answers at this point."

To overcome the apparent unwillingness of business to change the current order, Cosatu has identified various crucial areas for the development of policies aimed at restructuring the economy.

It has established committees to look into the economy, health care, training and skills, collective bargaining, provident and pension funds and housing and restructuring the auto, electronics and information technology industries.

Cosatu believes it is justified in eliminating business co-operation in building a new SA. Yet Mr Sisulu last week called on business to put aside their fears and preconceived notions and band together to find ways that would bring peace and prosperity to all South Africans.

The ideal forum for doing this could be that of Saccoola, Cosatu and Nactu. Hopefully, the protracted negotiations on the LRA should soon come to an end. Mr Panaroff believes that once this has been accomplished the impor-

S/Times

18/3/90

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WALTER SISULU together with trade unionists and businessmen have a far greater chance of negotiating successfully with the Government for better housing, education and social conditions as a team than in opposition to one another.



Thousands of Rand Water Board workers took to the streets of Johannesburg on Friday in solidarity with colleagues fired last year. *CPICS 18/3/90* ■ Pic: ANDRIES MCINEKA

Water Board workers stage protest

By **BONGANI HLATSHWAYO**

MORE than 2 330 workers from the Rand Water Board toy-toyed in the streets of Johannesburg and at Faraday Station on Friday in solidarity with 370 fired workers

The 370 workers, who were stationed at Suikerbos, were fired in November last year and had gone

to the Industrial Court to hear their fate, but the case was postponed until July 7

They are members of the Municipal, State, Farm and Allied Workers Union from Vereeniging, Swaartkoppies, Village Main and Suikerbos

The workers left Vereeniging on Friday morning in five bus loads, but only three made it to Jo-

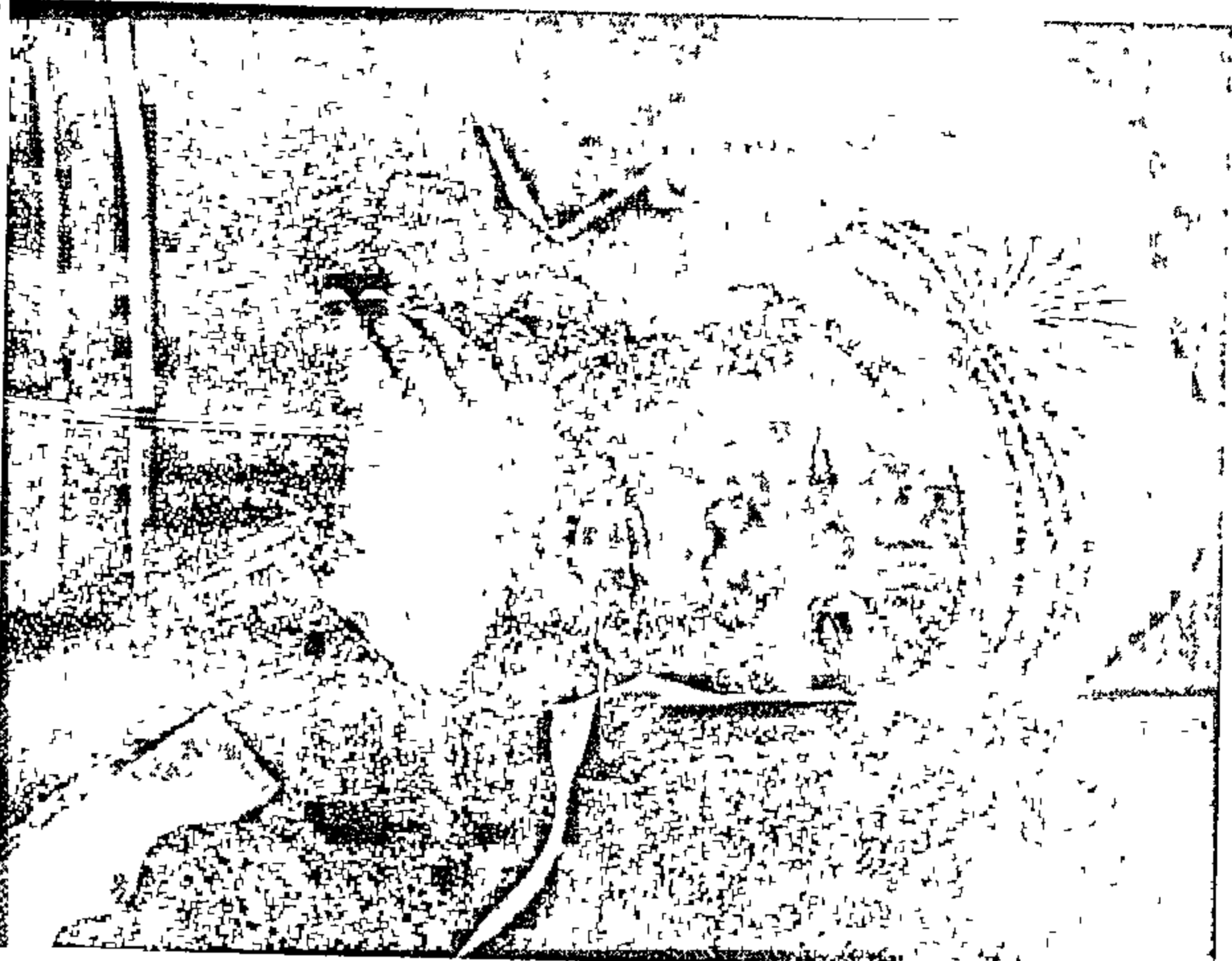
hannesburg
Two buses were turned back by police on the highway near Diepkloof, according to union general secretary Phillip Masia

"A Sgt Selfontein from the Diepkloof Riot Unit told us people from Vereeniging needed permits when coming to Johannesburg. We are still going to take it up with

them," he said

He said they had given management an ultimatum to reinstate the workers before March 5 or face strike action

"Workers have now resolved to stage a sit-in until their fellow workers are reinstated. This is meant to put pressure on the Board to reinstate them pending the court hearing," said Masia



Leah Mogapi... claims she earned R55 a month. ■ PIC EVANS MBOUENI.

No joy for sacked domestic worker

City Press 18/3/90

By SOPHIE TENA

A DOMESTIC worker fired after toiling for 12 years for a pittance cannot obtain compensation as there are no laws that bind an employer to certain wage scales

Leah Mogapi, 65, was paid R55 a month to work in the Nuweling household in Johannesburg

With that she was expected to keep the home fires burning at her Potchefstroom home, support herself and her mother

Mogapi claimed that from the R55, she sent R45 to her aged mother, leaving her with only R10 to look after herself

Unlike some domestic workers who are earning up to R400 a month and enjoying fringe benefits, Mogapi could not even open a saving's account

... as she falls foul of poor labour laws

Her employer, Mrs Nuweling, refused these claims, saying Mogapi had worked for the family for seven years. The employer also said she was earning R60 a month, not R55

Nuweling thought there was nothing wrong in paying Mogapi "R60 a month" because "she stayed in my yard, ate my meals and I also clothed her", she said

Nuweling said "And when she got a holiday break she would go to her family in Potchefstroom and would only return after two to three months

"I paid her off because she complained that she was losing

her eyesight and was going blind

"I then gave her R400 for two months' salary, pension fund and for long service"

But Mogapi tells a different story. She claims to have worked for the Nuweling family for 12 years, managing their 10-roomed house without ever getting a day off, except on the day when she was scalded by boiling water

She told *City Press* of an incident in December last year when she was admitted to hospital after boiling water spilled over her

She was kept in hospital until

the end of January when she was discharged

"After I was discharged from hospital I returned to work but only worked for the month of February because my employer told me that I was old and could not continue working for her

"She gave me R200 which she said was my salary for the months of January and February, and the rest was for long service and pension fund"

Mogapi, has since been to the Black Sash for help

Beulah Rolnick, of the Black Sash said "It is disgusting to find that there are employers who exploit their employees so brutally

"But it disturbs me because there is nothing we can do to help Mogapi, as there are no laws that bind employers to certain salary scales for domestic workers"

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Big changes proposed to 'unfair' labour legislation

ORGANISED labour and business is to propose to government a complete rewrite of the unfair labour practice (ULP) definition in the Labour Relations Act (LRA), a draft of an agreement between employer federation Saccola and Cosatu and Nactu shows.

They are also to propose drastic revisions to the Labour Appeal Court (LAC) system which has been criticised as unwieldy and staffed by persons often not knowledgeable in the field of industrial relations

The draft agreement is still being finalised and has to be approved by constituents of the three organisations before it is presented to Manpower Minister Eli Louw for his consideration

Louw and the unions agreed the document — which could run to about 40 pages — should be handed to him as soon as possible, and Nactu acting general secretary Cunningham Ngcukane said yesterday this would probably be early next month

Should the LRA be amended along the lines proposed in the agreement, this would eliminate those amendments introduced in 1988 against which the two union federations have staged

ALAN FINE

several protests in the last two years.

The changes would be of an interim nature, with Saccola and the union parties having embarked on a longer term study of certain aspects of the law, particularly those relating to strikes

In the meanwhile, the redrafted ULP definition would effectively return to the Industrial Court the ability to decide on the fairness or otherwise of such actions as sympathy strikes, rolling strikes and consumer boycotts at present designated unfair by the current ULP definition

This would occur by reinstating the pre-1988 ULP definition which gave the court broad scope to determine these issues which are now codified in the LRA

The proposed definition would also declare dismissals unfair unless they were carried out with good and sufficient cause and in compliance with proper procedures. In the case of retrenchments, prior negotiation would be required

Amendments to the status of the LAC would include returning it to the jurisdiction of the Manpower Ministry. The Manpower Minister would make ap-

pointments after consulting the National Manpower Commission

The intention is to ensure labour specialists operate the court. The implication is that groups like Cosatu and Nactu would be willing to join the NMC so as to give themselves the consultative power to which the NMC would be entitled. The right of appeal to the Appellate division would be scrapped

The court would be entitled to interdict unlawful strikes, but its ability to interdict lawful strikes would be limited to exceptional circumstances. Respondent unions would be afforded reasonable opportunity to oppose interdict applications

The draft also proposes deletion of a clause which is said to give racially segregated unions the right to oppose the registration of non-racial unions. The draft also makes easier the publication of court judgments.

It would also, as a draft Bill recently published by the department already does, delete section 79 (2) of the LRA which relates to union liability for damages sustained in unlawful strikes. It would extend time limits for the processing of disputes further than the Bill does

An introduction to trade unionism

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Trade unionism was introduced into this country by British skilled workers who worked on the diamond mines and gold fields.

As most of them belonged to unions in their mother country, they started branches of those unions in this country.

In practice, all racial groups were represented in labour relations. However, 1922 saw a new turn of events. White workers, mainly Afrikaners, went on strike, forcing the Government to exclude black workers from labour relations. It is argued that white workers were agitated by employers promoting job fragmentation and exploiting black workers

through lower wage rates. A trade union is defined as an organisation, controlled and funded by workers, to promote their interests at the workplace and in the community. The power of unions comes from membership and this forces employers to enter into recognition negotiations to establish procedures.

through lower wage rates

A trade union is defined as an organisation, controlled and funded by workers, to promote their interests at the workplace and in the community. The power of unions comes from membership and this forces employers to enter into recognition negotiations to establish procedures.

Objectives

Unions are democratic organisations and their constitutions require not only election of leaders but report backs and voting on issues through

Abel Majola of the Wits Business School in this article tells us about the role of a trade union. This is part of our fortnightly series on industrial relations. The series is aimed at giving our entrepreneurs a deeper insight into labour relations.

Societal

The constitution also provides for departments such as organising, education and the legal units.

In most countries unions form federations with the following objectives:

- * to organise workers at the workplace.
- * to ensure unions are

controlled by workers. * to negotiate a living wage and working conditions.

* to strive for a just standard of living and social security. * to protect workers against injustices and victimisation. * to facilitate education and training for

workers

There are different types of unions:

Industrial unions. They organise members in an industry irrespective of their jobs but for a specific industry. For example, Numsa in the metal and Saewu in the chemical industries.

General unions.

Their aim is to organise on a general basis, irrespective of industry, area or job. For example, Saawu. Another example would be Uwusa, formed by Inkatha. Craft unions Most of the early

white unions were craft unions and organised all workers in specific jobs e.g. carpenters, bricklayers. The confederation of the Metal and Building Unions represents the majority of white artisans.

Federations

In South Africa the principle of craft protection through controlled training and opportunities was also used to keep unions exclusively white. In comparison the black unions organise mainly unskilled and semi-skilled workers.

There are presently two major black federations

with an estimated membership of over one million and Naciu - with an estimated membership of between 250 000 - 400 000. We also have white federations.

When members are organised they can negotiate specific issues as a group with their employer, who will be on the other side of the table. Collective bargaining is a two-way process of give and take.

Although unions are, in a technical sense, primarily organisations of workers irrespective of political affiliation, circumstances in this country have forced them to be politically active.

Unions back judicial 'council spies' probe

THE disclosure that a spy network had operated from the Johannesburg city council had seriously jeopardised council relations with the 13 trade unions representing more than 20 000 council workers, manpower director Jaap Kitshoff said last night. *BIDam 23/3/90*

He added that he had never received a report on union activities from the security department.

Town clerk Manie Venter has admitted that R17 000 from the security budget was paid to spies for information on political and trade union organisations to safeguard

EDYTH BULBRING

the city's interests.

The Johannesburg Municipal Trade Unions' Joint Committee held an urgent meeting yesterday to discuss the allegations that its activities had been monitored. *(166)*

It supported calls by other organisations for a judicial inquiry.

"The relationship of mutual trust and understanding which existed between us and the city council has been shattered,"

□ To Page 2

Judicial probe *BIDam 23/3/90*

the representative unions said in a statement yesterday

Chairman Lorraine Lotter said the Johannesburg city council had experienced unprecedented labour peace over the past decade

She said the committee abhorred the fact that it was considered to be within the investigation framework and objectives of the security department.

Meanwhile, city treasurer Wilhe Siebert said allegations that the security budget was R50m was rubbish

He said R23m was allocated annually to

(166) □ From Page 1
the security department and his books were open to Business Day's scrutiny

In the House of Assembly yesterday, Budget and Local Government Minister Amie Venter said he had discussed the matter with the responsible MEC in the Transvaal, Olaus van Zyl

Van Zyl had undertaken to give it urgent attention

"We both regard this in a serious light and will treat it as a very urgent matter," he said in reply to debate on the Local Government vote

● Comment: Page 6

Unionists ~~hold~~ hold talks ^{ib6}

The South African Commercial and Catering Allied Workers Union will hold a meeting of all the Johannesburg Stock Exchange workers at Oddee House, 142 Kerk Street, on Saturday March 24 from 10am. ⁵⁰

The meeting ^{21/90} will discuss Labour Relations Act in relation to JSE and the union membership.

Parliament in brief

LP firm on farm workers

THE Labour Party decided yesterday that it would extend its refusal to pass any manpower and agricultural legislation until labour laws are extended to cover farm workers. The LP caucus said it would continue this strategy despite an appeal earlier this week by the Minister of Manpower, Mr Eli Louw, to end it.

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Wiehahn to look at Ciskei

CAH Times 23/3/90
Own Correspondent

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BISHO. — Ciskei's military government announced yesterday that it had appointed Professor Nic Wiehahn to investigate labour laws in the country.

The military ruler, Brigadier Oupa Gqozo, said his government considered the project as of "extreme urgency", adding that Professor Wiehahn would start his task as early as next week.

Brig Gqozo said he had arranged with the South

March in Vaal




ABOUT 50 000 Vaal Triangle township residents are expected to march to the National Party offices in Market Avenue, Vereeniging, this morning.

Sowetan 26/1/90

Permission for the march, organised by the United Democratic Front, has been refused by both the Vereeniging town council and the town's chief magistrate. **166**

Residents' grievances include the rent issue and the Labour Relations Act.

The march starts at the local showgrounds at 9am. 

Own Correspondent

PORT ELIZABETH — The Wiehahn Commission on labour relations in the Transkei has called for the scrapping of all existing labour laws, the proclamation of new legislation, and the legalisation of trade unions

It also recommends that essential services be defined by the government and protected against labour unrest

Professor Nic Wiehahn's one-man commission found that the government should retain the right to categorise certain services as "essential" And employees in those services should be precluded from striking and employers from locking workers out

Disputes in essential services should go to compulsory arbitration as soon as possible

Human rights

Prof Wiehahn recommended that employers and trade unions should plan a flexible national strategy for economic development and employment creation in the country

The report says that freedom of association and organisation is a fundamental human right which must be implemented in Transkei's

Scrap T'kei labour laws — Wiehahn

CNT 7/17P 26/3/90

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CNT 7/17P 26/3/90 Political Staff

THE development corporations in the six non-independent homelands spent R392 million in 18 months but only attracted investment of R421,7m

In only one of the homelands — KwaNdebele — was more invested by South Africa and foreign companies than by the development corporations

These details have been revealed in the replies given by the Minister of Development Aid, Dr Stoffel van der Merwe, to questions tabled in Parliament by the Democratic Party MP for Johannesburg North, Mr Peter Soal

In the period between April 1988 and September 1989, South African companies invested R376,3m and foreign companies R45,4m in the six homelands.

But in KaNgwane, where the local development corporation spent R15,7m over the 18-month period, not a single South African company invested in the homeland and foreign companies invested a mere R3,8m.

In KwaZulu, where the local development corporation spent a whopping R237,3m over the same period, R103,3m was invested by companies, R20,8m of which was by foreign companies.

Dr Van der Merwe also said there were 3 440 manufacturing concerns and 109 286 people were employed in the six homelands, where the development corporations had invested R713,4 million — an average of R6 528 a job

labour legislation
In the report Prof Wiehahn found that discrimination in employment should become a criminal offence

Having just tabled his 400-page report on Transkei, Prof Wiehahn has been appointed by Ciskei's military government to investigate labour laws in that country Ciskei military ruler Brigadier OJ Gqozo said his government considered the project extremely urgent.

Trade unions operating in the country at present are doing so illegally and that all persons, including women, young people and the disabled, should be treated equally

Other findings were

● The rural economy should be developed by way of educational training and a financial programme

● A small business sector should be encouraged and, if necessary, various existing laws scrapped to make that possible

● The government must do everything to instil confidence and trust and dispel notions of political instability This would attract international finance and development.

● The dormant National Manpower Commission should be revived to implement the commission's recommendations

● The Labour Act of 1977 must be repealed and its objectives incorporated in occupational safety legislation

● Trade unions must be registered, officials must be fully accountable to members, and proper accounts be kept.

● Victimisation of employees by employers or vice-versa should be treated as a criminal offence.

Handwritten notes:
matters
Grace Kelly
Theobald

Labour conference material 'useful'

RYCROFT has compiled a collection of speeches delivered at the 1989 Labour Law Conference held in Durban - which provided some useful material for trade unionists and academics on issues affecting workers

Among the issues dealt with at the three-day conference, was the role of industrial councils in dispute resolution and the part played by collective bargaining in industrial relations.

30/1/90
Sondwan

Title: The Private Regulation of Industrial Conflict
Edited by: Alan Rycroft
Publisher: Juta
Book Review: Mokgadi Pela

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1/23

The conference was attended by 400 delegates - including lawyers, managers and trade unionists

In his welcome address, Justice RJ Goldstone, said a meeting of management, academics and labour activists was conducive to a meaningful interchange of ideas.

Such a meeting, he said, contributed towards proper understanding of economic and political future of the country

Delivering the keynote address, Professor Clyde Summers of the University of Pennsylvania Law School, dwelt on the na-

ture of industrial relations in different parts of the world.

He said conflict between management and workers was an inevitable ingredient of the workplace.

Such a conflict existed in every economic system - whether capitalist or communist.

He stressed however, the importance of collective bargaining in solving problems at the workplace.

"Collective bargain-

ing reduces conflict over control who makes the decisions by providing workers a share in the control

"It gives workers a voice in the decisions that affect their working life. Domination is softened by participation."

"Collective bargaining - by establishing agreed-upon rules and a process for interpreting and implementing those rules - provides a system of industrial justice," Summers said.

Saccola favours new labour laws

EMPLOYERS hoped that any changes to labour law proposed by them and two labour federations would receive serious and positive consideration by the Government, a spokesman for the SA Consultative Committee on Labour Affairs says.

Writing in his organisation's report, Saccola chairman Mr Bobby Godsell said he also hoped talks involving the employers' association, Nactu and Cosatu would continue and "move quickly" towards resolution of the disputed clauses in the Labour Relations Act.

He said Saccola believed it had reached agreement in principle on four issues. These were:

- * Whether race should be a criterion regarding union registration;
- * Whether industrial court judgments should be published more widely;
- * Whether time limits should be legislatively prescribed regarding the industrial council and conciliation board;

* Whether Section 79(2) of the Act that presumed union liability regarding actions of its members should be retained.

Employers and federations were now focussing on two other issues in their interim "narrow agenda", Godsell said.

The two aspects were: whether employers and unions should have access to urgent forms of court relief in the case of a legal strike or lock-out; and how the protection of legally striking workers against dismissal should be provided by law.

He said employers were concerned when Cosatu and Nactu linked, "both in time and subject", their anti-LRA campaign to protest against the parliamentary elections on September 6 last year.

"This linkage illustrates the problems of the partial incorporation of black South Africans into the economic, but not yet into the political structures of citizenship.

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CASH

Act Gold

Honour for

Dismissed union men go to court

2/4/90 By Drew Forrest

Chronic divisions within one of Cosatu's most important affiliates, the 80 000-strong Food and Allied Workers Union (Fawu), broke into the open last week when dismissed Cape Town officials applied to court for reinstatement.

Fawu's former Cape Town branch secretary, Mr Miles Hartford, and four others have asked the Cape Supreme Court for an order nullifying the "purported election" of a new branch executive on February 4.

They also want an interdict preventing the respondents, including new branch secretary Mr Edwin Sauti, from intimidating or assaulting them.

The hearing will be next week.

Sources say the conflict springs from attempts by the "populist" Fawu leadership to enforce a uniform political line. Cape Town workers carrying placards complaining of "Stalinism" had marched in protest against the dismissals.

Last year political rifts led to the dismissal of Fawu's Eastern Cape secretary, who set up an alternative union.

"Purges" of union employees have also been reported in the Johannesburg branch.

Labour Relations Act proposals up for public comment (166)

THE National Manpower Commission (NMC) legislation subcommittee today released its proposals for the consolidation of the Labour Relations Act.

The recommendations, which simplify the Act, will be open to public debate with the intention of inviting comment.

The report commissioned by Manpower Minister Eli Louw to investigate a revision of the existing law proposes the Labour Relations Act be extended to include the TBVC countries and the self-governing territories in anticipation of their reincorporation into SA.

13/Dec 3/4/90

The subcommittee has proposed the ambit of the Act be extended to include state employees, farm and domestic workers and academics. Only SAP employees and state security personnel have not specifically been included in the proposal but the committee has suggested these employees be given trade union rights in terms of the Act.

ADELE BALETA

It was recommended dispute procedures

be simplified under the Act. Both parties may choose independent mediation or private dispute resolution procedures.

There should be a duty to bargain at the appropriate level. Strikes should be decriminalised and regulated by unfair labour practice jurisdiction. Strikes on rights disputes including unfair labour practice disputes should be outlawed and protection be given to strikers who comply with procedures. Dismissal provisions of the Act should be simplified to follow the International Labour Organisation convention.

To Page 2

Labour

15/Dec 3/4/90

(166)

From Page 1

Restriction on trade union affiliation with political movements should also be scrapped.

The NMC should be reconstituted as the National Labour Council, which would be bipartisan — with state representation.

Its function would be to formulate policy on all aspects of labour.

● See Page 4

Union registration provisions should be similar to company registration requirements. The complicated registration system should be abolished and replaced by a simple certification procedure.

See Page 4

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Guidelines for Cape coast get the nod

LESLEY LAMBERT

CAPE TOWN — The Cape Provincial Administration (CPA) has approved plans which will act as guidelines for future onshore developments along the Cape coastline and possibly deter controversial proposals like the recently abandoned Robberg marina in Plettenberg Bay.

The structure plans have been released in five lengthy documents, each of which deals with a separate sub-region.

These include the west coast area from Veldrif to Bokpunt, the Cape Town coastline, the southern Cape area from Macassar to Gourits River, Outeniqua to Humansdorp and the area between the Gamtoos and the Great Fish rivers.

The aim of the research programme, initiated by the CPA four years ago, was to draw up guidelines to address the potential conflict between conservation of rapidly diminishing natural areas and pressure for township and resort development.

The guidelines were intended as a refinement of the CPA's 1973 Coastal Plan.

The plans provide a framework for the evaluation of applications and proposed developments by the private and public sectors. They do not refer to developments already under way.

The issues dealt with in the documents have become increasingly relevant.

Political changes have removed racial barriers in recreational areas creating more pressure for development in these areas, government decentralisation has placed more emphasis on private sector development for which central guidelines are deemed to be necessary and the west cape coastline has been pinpointed as a major future development area.

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Manpower expects doubled workload

LESLEY LAMBERT

CAPE TOWN — New responsibilities, including the labour relations of commercialised public utilities, will virtually double the Manpower Department's workload.

Its 1989 annual report, tabled in Parliament yesterday, says the department has taken responsibility for the Workmen's Compensation claims and occupational safety functions of Transnet.

"The takeover of functions will virtually double the workload, and the department, with its present staff and funds, will be unable to cope," the report says.

Another new responsibility resulting from economic changes concerns the small business sector. The National Manpower Commission began investigating the effect of labour legislation on this sector last year and an amending Bill covering technical adjustments is expected this year.

The department is reported to be keeping a close watch on provisions of industrial council agreements which could hamper economic activities.

Developments in the field of labour relations during the year include a review of section 79(2) of the Labour Relations Amendment Act, following criticism of certain provisions of the legislation, and the introduction of a labour code and guidelines for labour relations in the agricultural sector, drawn up by agricultural unions in consultation with the Houses of Representatives and Delegates.

The department expects the winding up of certain industrial councils to result in more applications for conciliation boards and the scaling down of employee fringe benefits from industrial council agreements.

(100) B/Du, 4/4/90 (166) (10) (10)

Labour law set for significant changes

SIGNIFICANT changes to the Labour Relations Act (LRA) were proposed by the National Manpower Commission (NMC) technical committee in a 16-page document released yesterday.

A significant proposal is to widen the ambit of the Act to include domestic and farm-workers, state employees, academics and oil rig employees within the limits of SA territorial waters. These workers have never enjoyed protection in terms of the Act.

The proposals encompass major aspects of the Act including its scope of application, registration of trade unions, industrial councils and courts, strikes and unfair labour practices, but does not reflect suggestions on technical aspects of the Act.

Although not part of its mandate, the committee proposed that labour legislation in SA, the self-governing territories and the TBVC countries be "harmonised".

Among others, the goals of the proposed labour legislation should promote industrial peace, foster collective bargaining, protect freedom of association, simplify procedures and address the duty to bargain, the NMC said.

The NMC, commissioned by Manpower Minister Eh Louw to investigate a revision of the Act, has invited comment and public debate on the proposals and has suggested that May 21 to 23 be set aside for oral representations.

The proposals are independent of the draft agreement reached between employers' body Saccola, and two major black trade union federations, Cosatu and Nactu.

It was suggested certain sectors such as farm workers and domestic workers be included in principle but provision could be made in the Act to include them by proclamation.

Different parties should be allowed to agree on their own dispute resolution procedures. They should be able to choose independent mediation or private dispute resolution procedures.

Strikes should be decriminalised but regulated in terms of the unfair labour practice (ULP) definitions. Strikes on

ADELE BALETA

rights disputes including ULP disputes should be outlawed and strikers who complied with procedures should be protected.

Secondary industrial action should not be declared illegal. Instead of a cooling off period of 30 days before the start of a strike, the NMC has proposed this be changed to 24 days. Employers' right to interdict strikes should be restricted.

The Act should impose a duty on the employer, if requested to do so, to bargain on appropriate matters with a union which is sufficiently representative.

The NMC committee was divided on the question of trade union registration.

One proposal was to retain the existing system but to make it compulsory and the other suggested "representivity" was relevant when a union sought to bargain, but not at the level of registration.

Agreement

A simplified certification process should replace complicated registration requirements — representation, gazetting and the noting of objections. Any union denied certification would have the right of appeal to the Industrial Court.

On the issue of Industrial Council agreements the NMC suggests provision be made in law for the Manpower Minister to consider the position of smaller businesses before signing an agreement.

The existing Conciliation Boards (CB) time limits should be abolished, but a dispute should still be referred within 180 days, a period which could be extended. The CB would have 30 days in which to attempt to settle the dispute.

There should be a single labour appeal court with no further appeal to the Appellate Division and trade unions should be allowed to affiliate to political movements.

It was recommended the NMC be reconstituted as the National Labour Council — a bipartisan body with state representatives enjoying observer status.

● Comment: Page 10

New LRA should be for all - NMC

Sowetan 4/4/90

1166

By LEN MASEKO

CIVIL servants, academics, farmworkers and domestic workers should be covered in the revised Labour Relations Act, says the National Manpower Commission in a report released yesterday.

But the NMC report, which is open for public debate until May 18, says police and "the security services" should be excluded from the ambit of the Act

The right of employees in the two categories to establish a trade union could "possibly be provided for in the Act", says the report.

This is one of the proposals contained in the 16-page report compiled by the advisory body. The report does not include joint proposals of the SA Consultative Committee on Labour Affairs, Cosatu and Nactu - who still have to complete their draft agreement on the Act.

Meeting

Mr Cunningham Ngcukana, Nactu's acting general secretary, yesterday said his federation and Cosatu would seek a meeting with Saccola "possibly next week".
Cosatu spokesman Mr

Neil Coleman said the federation would first study the report before reacting to its proposals.

Other NMC proposals include that.

- * Strikes be decriminalised and regulated by unfair labour practice jurisdiction,

- * The existing time limits over Conciliation Boards should be scrapped but a dispute should still be referred within 180 days which may be extended,

- * Strikes on rights disputes - including unfair labour practice disputes - should be outlawed and protection be given to workers who comply with procedures; and

- * The Act should force an employer to bargain with a sufficiently representative trade union on worker issues

PROPOSALS for changes to the controversial Labour Relations Act (LRA) were released by the legislative sub-committee of the National Manpower Commission last week.

This follows a surprise meeting between a 10-person union delegation and the Minister of Manpower, Mr Eli Louw, last month.

Unions and the joint trade union sub-committee dealing with the anti-LRA campaign are studying the NMC proposals.

Unions and employers, who agree the law must be revamped, will have the opportunity to give verbal input on the Act next month.

Most of the NMC proposals directly address areas of conflict which have arisen since the Act was passed in September, 1988, while others indicate a move to legalise an already existing situation.

Recommendations do not go beyond addressing the problems which arose with the Act, to extend worker rights such as job security and the right to strike.

There will be little debate over the proposal to remove Section 79, which gives employers the right to sue unions for damages resulting from strikes. This was already agreed on between Saccola and unions which succeeded in making the clause unworkable.

When the union delegation met Louw, they proposed that dispute procedures be simplified.

The NMC has agreed, saying parties should not have to engineer deadlock to apply for a conciliation board hearing. Time limits currently governing disputes should be abolished. Instead, there should be a 180-day time limit (which may be extended).

The NMC recommended that all disputes be submitted directly for arbitration which should be compulsory for workers in essential services.

These, the commission said, could include petrol suppliers and situations where a strike could produce a life-threatening situation.

Pivotal

All parties are likely to agree to the commission's recommendation that strikes be decriminalised and governed by labour legislation.

The commission said it saw the role of the industrial courts as 'pivotal' and that industrial court cases should be made public — another point on which Saccola and unions have agreed.

The commission agreed that the procedure for registration of trade unions should be simplified. However, it was divided over whether a union needed to prove it represented majority membership on registration.

The commission said there was a duty on the employer to bargain

Labour wants to get its Act together

South 11/4 - 18/4/90

166

with representative trade unions and to provide representative unions with stop order facilities.

The NMC agrees with the unions and Saccola about implementing standard labour practices in line with those recommended by the International Labour Organisation such as the last-in first-out basis for retrenchment.

It came out strongly in favour of centralised bargaining in whole stressing that membership of industrial councils was voluntary.

While this will strengthen the battle by unions to retain central bargaining, they will be less happy with the NMC proposal that employers will not be obliged to bargain at plant level if covered by an industrial council agreement.

The commission said the enforcement of industrial council agreements should be simplified.

Of major significance is the NMC proposal that all workers, barring those employed in the police and security services, be included in the provisions of the Act.

Militant action

This would mean that millions of domestic agricultural and public sector workers would be covered by it — one of the major demands of the unions.

In part, the commission was faced with a situation in which civil servants are increasingly being organised into unions prepared to take militant action with or without the sanction of law.

The commission said there might be room for a joint trade union within the police and security services — a nod of acknowledgement for the recent rumblings of discontent among police and prison warders.

The commission also proposed that the homelands labour legislation be harmonised with that of South Africa.

This would effectively end the situation where employers relocate to the homelands to take advantage of the absence of labour law.

Recent political events in the homelands where unions are making steady progress make homogeneity in terms of legislation desirable.

The commission also

The anti-Labour Relations Act campaign may lead to positive results, with new proposals by a sub-committee of the National Manpower Commission to change the controversial legislation. CHIARA CARTER reports

recommended that South African labour law be extended to the limits of South African waters so as to cover oil rig workers who presently fall outside the provisions of the Act.

This follows the Appeal Court ruling last year in the Sopolog case that workers employed outside the territorial limit do not qualify for protection under South African law.

The commission included a lengthy definition of an unfair labour practice (ULP).

Unions on the other hand have said they want the law to revert to the pre 1988 situation where there was a general statement of fairness in the Act while industrial court judgements elaborated on the definition of an ULP.

Another major difference from the union perspective is over so called secondary strikes and sympathy strikes.

The NMC recommended that sympathy strikes, strikes in support of recognition or to demand the reinstatement of a dismissed worker should be prohibited.

An attempt to incite an illegal strike would be regarded as a criminal act.

Strikers could be dismissed only if the strike was an unfair labour practice, workers became redundant during the strike or if the strike was not peaceful.

Since 1988, employers have flooded the courts seeking interdicts and interim relief.

The NMC has proposed that strikes can only be interdicted as an ULP if they do not comply with the definition of a legal strike.

Strikes could also be interdicted if they threaten people physically or property, or involve criminal acts.

Unions could be held liable only for criminal acts during a strike.

There is likely to be considerable debate during this session of Parliament about what should be removed from the Act and what included.

The present climate of negotiation between state, employers and unions is clearly a result of the two year battle waged by unions against the Act.

Resilience

While the anti LRA campaign was not sustained, employers and the state were clearly taken by surprise by unions' resilience in the face of the Act.

The present round of discussions does not signify the end of the campaign.

Still to be tackled is how to make the LRA protect worker rights which extend beyond the present parameters of the Act.

These would include more far-reaching rights such as participation in decisions over economic policy, strike rights, the right to employment.

These issues are closely tied to Cosatu's Workers' Charter Campaign.

Unions are presently filling in a questionnaire as the first step towards drawing up the charter.

What is envisaged is that the LRA would protect the rights contained in this charter.

Also still to be determined is the relationship between the charter and the constitution.



FLASHBACK. Workers in Cape Town who marched against the LRA last year

Looking at the Labour Law

Sowetan

12/10/41/58

IN continuation of the series on this subject, I want to pick up from the contract of service and proceed to a more prescriptive terrain of the relationship between the employer and the worker - labour law.

This is going to be a selective introduction to law, so only the rudimentary parts will be discussed. Briefly, labour law is that body of legal rules which regulates individual and collective labour relationships between a) employers and workers

b) workers among themselves
c) the state and the employers and workers

Sources

There are basically four important sources that constitute modern labour law. These are Roman-Dutch law, which was transplanted to this country and extended and developed by the courts to become our common law. Statute law, which comprises laws passed by Parliament and is some-

Courts and Supreme Courts are particularly responsible for setting down precedent law.

Worker

The relationship between the individual employer and the individual worker is by far the most important relationship in labour law. It is sometimes referred to as individual labour law, mostly regulated through the contract of employment, which I discussed in the previous article.

There is also collective labour law, which is concerned with the relationships on the collective level, i.e. between groups of organised workers and the employer. Collective labour law concerns itself with questions such as how collective agreements are, their legal effects, and the problem of whether an employer should be compelled to bargain with a representative trade union.

collective agreement however, is that it can regulate the terms and conditions of employment in a business company covered by the agreement.

For example, such an agreement could regulate hours of work, overtime, holidays or wages. South African collective law consists of a combination of common law principles and legislation.

Two pieces of legislation that give meaning to collective law will be given prominence in this discussion. These are the Basic Conditions of Employment Act No 3 of 1983, and the Labour Relations Amendment Act No 83 of 1988. However,

I do not propose to deal with them here, save to highlight those sections that underscore the principle of collectivity.

I must point out that the object of these two Acts is to lay down the barest minimum conditions of employment and to regulate same.

Affect

It affects equally the small entrepreneur as well as the established business, irrespective of the size, trade, or industry. The LRA's definition of "employee" has been expanded. It now means any person who is employed by or working for an employer and receiving remuneration,

and any other person whomsoever who in any manner assists in carrying on or conducting the business of the employer.

"Employer" means any person who employs or provides work for any person and pays him/her From the foregoing it is quite apparent that a significant portion of those of our friends who employ cousins, brothers, nephews and in-laws fall broadly within the ambit of this definition.

Consequently, the concomitant rights and obligations that arise out of this relationship cannot be escaped except where there is an express exclusion by this Act or another

For a moment I am going to avoid looking at specific exclusions in respect of certain categories of employers, industries and areas by virtue of deregulation for obvious reasons, but am going to focus on broad areas covered both by the Basic Conditions of Employment Act and Labour Relations Act as amended.

It is most important to

*To Page 20

Sipho Mzolo, a consultant with the Institute of Industrial Relations, has prepared this week's industrial relations article. He takes a look at the contract of service and the legal relationship between employer and worker. These articles are aimed at assisting entrepreneurs grasp more clearly industrial relations in the industry.

Labour laws

*From Page 17

understand the provisions relating to the BCEA's scope and application.

The Act does include all employees who work in shops, offices and factories within its ambit and their employers. Besides its ordinary meaning, "shop" will include hair-dressing saloons, barber shops and restaurants. The definition of "office" covers any premises where book-keeping, typing, writing or other clerical work is performed.

The Act regulates the maximum daily ordinary working hours.

Entitled

Periods of leave are not discretionary. Every worker is entitled to them.

If a worker is absent from work for a period of more than two days, his employer is bound to pay sick leave provided that the worker can produce a medical certificate.

Under this Act an employer is under certain circumstances prohibited from certain acts relating to payment.

For example, an employer may not

- require a worker to repay him any remuneration paid.
- commit any act as a result of which a worker is deprived of the benefit of remuneration
- fine a worker for committing any act or omission in the course of his employment.
- deduct any money without the worker's authorisation.

Acts of legislation, so statute and legislation will import the same meaning in this article. Case law is that body of law created by courts in the process of interpreting the statute. Industrial

The statutes of collective labour law can also lay down minimum standards applicable to all employers falling within their scope. Possibly the most significant feature of such a

Cosatu to sign LRA accord

610 am 12/4/90
COSATU has decided to sign the interim draft agreement on proposed changes to the Labour Relations Act (LRA), Cosatu's LRA working committee spokesman Marcel Golding said last night.

The draft agreement entered into between employer federation Saccola and union federations Cosatu and Nactu has been referred to Saccola for comment, Golding said.

It has to be approved by constituents of the three organisations before it is presented to Manpower Minister Eli Louw for consideration.

Golding said Cosatu was concerned at Saccola's "delay" in signing the draft agreement. Saccola initially said it would respond by Monday but has asked for a postponement until April 20.

"Cosatu believes a delay in signing the agreement will have major consequences

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ADELE BALETA

in our efforts to pilot the changes through this session of Parliament," Golding said. The delay raised questions as to whether Saccola had been properly mandated in the course of negotiations, he said.

Although Nactu spokesmen could not be reached last night, it is believed the union federation intends signing the document.

Saccola secretary Freda Dowie denied Saccola was dragging its feet. She said the document had been drawn up by working groups representing the parties.

"There were no full teams from any side. It takes time to process the document through Saccola," she said.

Asked if Saccola had found any stumbling blocks in the proposals, she said: "I cannot say. We are having a working group

□ To Page 2

Cosatu ^{610 am 12/4/90}

meeting on the document"

She said work on the agreement had started only about four weeks ago.

"Saccola has always been properly mandated throughout the talks and we are in the process of mandating at the moment."

Pushing the changes through Parliament was also Saccola's aim, she said.

Golding said Cosatu's decision to sign was the culmination of months of worker action in the factories, shops, mines and public and private sectors.

He said the draft agreement was only

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the first stage of Cosatu's campaign to achieve equitable adequate legislation to protect workers and unions.

The interim agreement proposed that all workers be covered by the legislation, and secured basic rights for all workers.

These included the rights of all workers to belong to unions, to strike, to bargain collectively, of access to stop orders and the recognition of shop stewards.

Proposals included reverting to the unfair labour practice definition prior to the amendment of the LRA.

Two labour federations agree to LRA changes

Star 17/4/90

1407 166

By Shareen Singh

Cosatu and Nactu have agreed to sign the interim draft agreement between Saccola and the unions on proposed changes to the Labour Relations Act (LRA), the federations said last week.

The unions are waiting for Saccola to sign the interim agreement. The agreement has to be approved and signed by all three parties before it is presented to the Minister of Manpower, Mr Eli Louw, for consideration.

Meeting

Cosatu and Nactu expressed concern that the employer organisation has not made a decision yet.

The unions had suggested an April 9 meeting between the parties, but the employers pushed the date forward to Monday April 23.

Mr Marcel Golding, spokesman for Cosatu's LRA working committee, said any delay in signing the agreement would affect their plans to pilot the changes through this parliamentary session.

Saccola secretary Ms Frieda Dowie reportedly denied the employer organisation was dragging its feet.

She said a working group had started working on the agreement about four weeks ago.

It would take time to process the document through Saccola, she said.

Mr Golding said the draft agreement accepts that all workers must be covered by the legislation and ensures basic rights for all workers.

These basic rights include the right to strike, to bargain collectively and recognition of shop stewards. Other aspects provide for reverting to the old unfair labour practice definition.

In respect of dismissals and retrenchments, the International Labour Organisation's guidelines will apply.

A special labour appeal court will be established with expert judges to hear appeal cases. Dispute procedures will be made simpler and racial registration will be scrapped.

A response from Saccola is expected by April 20.

Despite their accord on the LRA, rivalry between Cosatu's

Chemical Workers Industrial Union (CWIU) and the Nactu-affiliated South African Chemical Workers Union (Sacwu) has resulted in violent clashes between members of both unions.

Last Tuesday the CWIU obtained an urgent interdict against Sacwu's president and two shop stewards to stop them from assaulting or threatening to assault CWIU members at AECI's Modderfontein plant.

The three have until May 8 to respond to the interdict.

Gaining membership

A CWIU statement listed several incidents of violence between the two unions over the past two years, at plants where Sacwu members wish to leave their union to join the CWIU.

The CWIU claims that many Sacwu members are moving over to join their union.

Sacwu spokesman Mr Humphrey Indaba said this was not correct and that his union was in fact gaining membership.

Attempts to merge the two unions since 1981 have failed and the CWIU blames this on the Sacwu leadership.

For written reply

General Affairs

Hout Bay: sewage

194 Mr C W EGLIN asked the Minister of Water Affairs

- (1) Whether an exemption permit has been granted to the Cape Western Regional Services Council to allow the discharge of sewage into the sea at Hout Bay, if so, when was it granted,
- (2) whether, prior to the granting of the permit, his Department required a feasibility study of an alternative land-based sewage disposal scheme to be undertaken, if not, why not, if so,
- (3) whether he will make public the results of such a study, if not, why not?

B474E

The MINISTER OF WATER AFFAIRS

- (1) Yes, on 2 May 1986
- (2) No Local authorities and/or other institutions, normally appoint professionally qualified specialist consultants to investigate sewage disposal alternatives and to make recommendations regarding the best possible means of disposal. Upon receipt of the report by the specialist, it is studied by the Department of Water Affairs to determine whether the resultant discharge would be acceptable. There is no statutory provision for compulsory investigation of alternative sewage disposal schemes but the Department can, and has in the past, in some cases requested that such schemes be investigated.
- (3) Falls away

Originally it was the policy of the Department of Water Affairs to eliminate the disposal of raw sewage into the sea as far as possible. This policy was adopted at that time because there was then little knowledge about the effects of raw sewage discharge on the marine environment and little expertise was available for the proper design of marine outfall pipelines.

The Department of Water Affairs has a

HOUSE OF ASSEMBLY

according to the guidelines set by Report No 94 of the South African Scientific Programmes (Water Quality Criteria for the South African Coastal Zone). On the basis of this investigation the Department decided that the marine disposal of sewage under the conditions listed in the exemption issued would adequately protect the beneficial use of the marine environment at Hout Bay.

The present policy does not require an applicant to carry out a detailed and exhaustive comparison of alternative options for the disposal of effluent. I am also satisfied that at the time public opinion was taken into account and that it was not against the marine disposal of the effluent. It seems that since the time the exemption was granted public opinion has changed and turned against the marine disposal of sewage. If I now have to withdraw the exemption, it would result in fruitless expenditure by the Regional Services Council. As the exemption, when it was issued, met all the Department of Water Affairs' policy requirements, the said exemption remains valid and will not be reconsidered at this stage.

Civil pensioners

201 Mr K M ANDREW asked the Minister of National Health and Population Development

- (1) How many civil pensioners are there who retired (a) before 1960 and (b) during the period (i) 1960 to 1965, (ii) 1966 to 1970, (iii) 1971 to 1975 and (iv) 1976 to 1980,
- (2) what is the average monthly pension paid to pensioners in each of these categories?

B481E

Hansard 17/4/90
The MINISTER OF NATIONAL HEALTH AND POPULATION DEVELOPMENT

- | | | |
|---------|-------------|--------|
| (1) (a) | Before 1960 | 785 |
| (b) (i) | 1960-1965 | 1 373 |
| (ii) | 1966-1970 | 3 204 |
| (iii) | 1971-1975 | 8 590 |
| (iv) | 1976-1980 | 15 970 |
-
- | | | |
|---------|-------------|-----------|
| (2) (a) | Before 1960 | R1 077,90 |
|---------|-------------|-----------|

- Hansard 17/4/90
- | | | |
|---------|-----------|-----------|
| (b) (i) | 1960-1965 | R1 094,72 |
| (ii) | 1966-1970 | R1 000,39 |
| (iii) | 1971-1975 | R 988,55 |
| (iv) | 1976-1980 | R 899,57 |

Bed occupancy rate at hospitals

212 Mr M J ELLIS asked the Minister of National Health and Population Development

What was the average bed occupancy rate in 1989 in each specific hospital falling under the provincial administrations? B495E

The MINISTER OF NATIONAL HEALTH AND POPULATION DEVELOPMENT

PERCENTAGE BED OCCUPANCY PROVINCIAL HOSPITALS

The average percentage bed occupancy for provincial hospitals during 1989 is not readily available. The average percentage bed occupancy for provincial hospitals during 1988 was as follows:

	No of Hospitals	No of Beds	Ave % Occupancy
Cape Province	83	17 476	76,18
Natal	26	11 015	77,13
OFS	27	4 650	78,59
Transvaal	65	21 762	66,49

Labour Relations Act: wage regulating machinery

219 Mr P H PGASTROW asked the Minister of Manpower

- (1) How many (a) industrial council agreements, (b) conciliation board agreements, (c) arbitration awards, (d) Wage Board determinations and (e) orders in terms of the Labour Relations Act, No 28 of 1956, were in force as at 31 December 1989,
- (2) how many (a) Whites, (b) Coloureds, (c) Indians and (d) Blacks were affected by each of the above five categories of wage regulating machinery as at that date? B547E

Hansard 17/4/90
The MINISTER OF MANPOWER

- | | |
|---------|------|
| (1) (a) | 147 |
| (b) | None |
| (c) | 5 |
| (d) | 46 |
| (e) | 5 |

Hansard 17/4/90 (166)

	(a) Whites	(b) Coloureds	(c) Indians	(d) Blacks
Industrial council agreements	172 138	196 576	64 617	536 590
Conciliation board agreements	—	—	—	—
Arbitration awards	(Estimated figures)			
Figures are not readily available				
Wage Board determinations	169 000	135 000	39 500	554 550
Orders (sect 51A)	(Estimated figures)			
All races 142 800 (separate figures are not readily available)				

Note Figures supplied are according to the definition of "wage regulating measure" in section 1 of the Labour Relations Act 1956. Some persons may be accounted for twice as all wage regulating measures are included. See paragraph 1 29 of the Department's Annual Report, 1989, as well as paragraph 24 of the Preface and Review

Industrial Court cases

251 Mr P H P GASTROW asked the Minister of Manpower

- (a) How many cases were referred to the Industrial Court, (b) how many of these cases were settled before evidence was called and (c) how many *status quo* orders were (i) granted and (ii) refused, in 1989?

Hansard 17/4/90 B641E

The MINISTER OF MANPOWER

- (a) 4 492
 (b) 2 059 cases settled or withdrawn before hearing
 (c) (i) 154
 (ii) 183

Note These figures are for the period 1 November 1988 until 31 October 1989. Please see table 11 on page 146 of the Department's Annual Report of 1989

Industrial accidents

252 Mr P H P GASTROW asked the Minister of Manpower

- (1) (a) How many industrial accidents occurred in 1989 and (b) what was the total cost of these accidents to (i) the State,

the total period for which the persons injured in such accidents were absent from work?

Hansard 17/4/90 B643E
 The MINISTER OF MANPOWER

- (1) The figures for 1989 are not as yet available
 (2) The most recent figures available are for 1986

(a) 247 784 as contemplated in the Workmen's Compensation Act, Act No 30 of 1941

(b) R118 314 740,80

(c) 3 346 125 man-days

Note Also see paragraphs 23, 27, 28 and 31 of the Accident Fund Annual Report 1989

Director-General administrative post

256 Mr C W EGLIN asked the Minister of Foreign Affairs

- (1) Whether a former Director-General of his Department, whose name has been furnished to his Department for the purpose of his reply, has been appointed to an administrative post in his Department: if so, (a) to what post, (b) (i) what are his powers, functions and responsibilities and (ii) over what areas will he exercise them and (c) what is the name of this person,
 (2) whether any agreement has been reached with the present Government of Ciskei in relation to this post, if so, what is the nature of this agreement?

Hansard 17/4/90 B667E
 The MINISTER OF FOREIGN AFFAIRS

- (1) (a) Dr B G Fourné has been appointed on a short term contract in the Department of Foreign Affairs to act in an overall co-ordinating capacity in the Eastern Cape area as from 9 March 1990
 (b) (i) and (ii) He has no executive powers but acts in consultation with the Department of Foreign Affairs and the Ciskei Council of State in a co-ordinating capacity with regard to government functions in the region

as well as those concerning relations between the RSA and Ciskei

- (c) Dr B G Fourné
 (2) The Chairman of the Ciskei Council of State was consulted on the desirability of the appointment and he welcomed the appointment

SATS publicity programme

258 Mr H H SCHWARZ asked the Minister of Mineral and Energy Affairs and Public Enterprises

- (1) (a) What is the cost of the publicity programme presently being conducted (i) on television, (ii) on radio and (iii) in the printed media by the South African Transport Services and (b) (i) for how long is it intended to continue with this programme and (ii) what is the purpose thereof,
 (2) (a) what is the cost of the publication *Transnet - a leadership corporate profile* and (b) how many copies of this publication have been prepared?

Hansard 17/4/90 B669E
 The MINISTER OF MINERAL AND ENERGY AFFAIRS AND PUBLIC ENTERPRISES

- (1) (a) (i) R2 038 289,16
 (ii) R191 709 54
 (iii) R1 503 990,17
 (b) (i) Television until 12 May 1990
 Radio until 16 April 1990
 Press until 15 April 1990
 (ii) To introduce the SA Transport Service's name change and to obtain the maximum acceptance for the new Corporate Identity

- (2) (a) R456 250 00
 (b) 35 000

Aggrieved parties, decisions/legal costs

260 Mr P J PAULUS asked the Minister of Manpower

- (a) What amounts were paid by his Department in 1986, 1987 and 1988, respectively, in legal costs in respect of cases in which decisions of the Minister, Director-General and

PEOPLE AT THE TOP ARE ON THE MOVE SEE PAGE 9

MANPOWER

MIRROR by ROBYN CHALMERS



PAGES AND PAGES OF THE BEST JOBS IN SOUTH AFRICA

Labour law peace about to break out

THE debate on the Labour Relations Act could be approaching a happy ending

After two years of tough negotiation, employer federation Saccola and trade union organisations Cosatu and Nactu agreed in principle last month on various changes to the LRA.

This was followed by a historic meeting between Manpower Minister Eli Louw and a Cosatu Nactu delegation. Mr Louw agreed to try to push through amendments, based on Cosatu Nactu-Saccola principles, at the current session of Parliament.

On April 3, the National Manpower Commission (NMC) legislation subcommittee released its proposals for the consolidation of the LRA. Its proposals have been generally welcomed



Bobby Godsell insisted on NMC involvement by unions, employers and labour lawyers.

Saccola chairman Bobby Godsell says employers tried all along to co-

ordinate discussions on the LRA with the review being conducted by the NMC

"Both Cosatu and Nactu declined invitations to serve on the NMC. We insisted that the NMC be invited to our meetings. Cosatu and Nactu agreed to this and was represented by its acting chairman at most of the meetings held in 1989."

The result is that the draft agreement between Saccola and the two union federations, and the NMC proposals, broadly follow the same theme, although there are certain differences.

The key areas which come under the spotlight in the tentative agreement between Cosatu, Nactu and Saccola are

the definition of an unfair labour practice (ULP), the Labour Appeal Court (LAC) system and a simplification of disputes and court procedures.

The agreement proposes scrapping of amendments to the LRA introduced in 1988 and reinstating the pre-1988 definition of a ULP. Effectively, this gives the Industrial Court the right to decide whether actions such as sympathy and rolling strikes and consumer boycotts are unfair or not.

Dismissals and retrenchments are also dealt with. The proposed draft agreement suggests that dismissals be declared unfair unless they are made in accordance with proper procedures. Negotiation on retrenchments must take place.

The NMC proposals also deal with ULPs, saying disputes concerning

them may, in the case of industrial councils and conciliation boards (CBs), be referred to the Industrial Court by agreement of the parties.

Alternatively, it suggests that there be a distinction between disputes of right — like alleged ULPs or statutory obligations — and disputes of interest, being all those which are not concerned with a right.

The proposal says disputes of right should be submitted directly to the Industrial Court. Disputes of interest should be referred to an industrial council or CB, unless sent for mediation or otherwise resolved.

Both the NMC proposals and the Cosatu-Nactu-Saccola agreement focus

on the LAC. The draft agreement suggests that the LAC be returned to the jurisdiction of the Manpower Ministry and that the Manpower Minister make appointments to it after consulting labour specialists operate in it.

Should this proposal be accepted by the Government, the chances that union representatives will join the NMC are high. In addition, it says the LAC should be able to interdict unlawful strikes. But it can do so only under exceptional circumstances in the case of lawful strikes.

The NMC proposals suggest a high status be given to the labour court and its appeal body. It says the court should play a pivotal role in the revised system, with an appeal body at the punna etc.

The NMC says: "The appeal body will make law and should be a division of the Supreme Court, with court members having the same status as judges. Appointees should be suitably qualified and appointments would be made by the State President after consultation with the National Labour Council."

For the incumbents to be in touch with industrial relations it is suggested that they hear appeals together with lay assessors representing both capital and labour.

The proposal says the LAC should hear appeals and decisions of the lower labour court, which would carry out the same functions as the present Industrial Court.

Critical stage in labour talks

B11-4 23/4/90

NEGOTIATIONS between business and labour on changes to SA's labour legislation have reached a critical stage with a meeting tonight between employer federation Saccola and Cosatu and Nactu.

The meeting, to attempt to finalise a draft agreement, takes place after disclosures that Manpower Minister Eli Louw had told the union federations he required the complete agreement soon if there were to be time to consider translating it into legislation

Saccola spokesmen confirmed the organisation had submitted to the unions on Friday certain proposed changes to the original interim draft agreement drawn up by legal representatives of the two sides

Cosatu and Nactu announced last week they were ready to sign the draft.

It could not be ascertained exactly what these changes were

Cosatu negotiating team member Marcel Golding said he had not yet had an opportunity to study the Saccola document so could not comment on the differences

It would appear that there is a new

16.6
ALAN FINE

urgency to finalise the agreement after Louw wrote to the union federations last week telling them the agreement should be submitted to him as soon as possible. Failing this, it would be too late to draft legislation for passage through Parliament this session

The communication between the Minister and the union federations follows their first meeting in March, during which they agreed new labour legislation should be based on consensus of as broad a range of interested party opinion as possible.

The interim draft agreement proposed that all workers be covered by the legislation and secured basic rights for all workers. These included the right of all workers to belong to unions, to strike, to bargain collectively, of access to stop orders and the recognition of shop stewards. Proposals included reverting to the unfair labour practice definition existing before the amendment of the Labour Relations Act.

up a Transvaal Cricket Union bursary at Wits University.

According to evidence before the court Hec-

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New labour law subject of dispute

By Day 25/4/90

ALAN FINE

DIFFERENCES between organised business and labour in negotiations over the Labour Relations Act could hinder plans for legislative amendments to be pushed through Parliament this year.

Cosatu/Nactu spokesman Marcel Golding said yesterday proposed revisions by employer federation Saccola to the draft devised by legal representatives of the two sides seriously complicated the timetable.

The revisions, described by Golding as "substantial" were discussed at a six-hour meeting in Johannesburg which ended in the early hours of yesterday morning. The unions, he said, believed Saccola might have reneged on certain agreements in principle reached previously.

Saccola secretary Frieda Dowie disputed that allegation. "We are not reneging on any agreement. We proposed revisions because we were not satisfied at the way in which some of the agreements in principle had been translated into proposed legislation," she said.

The parties are scheduled to meet again tonight and a further meeting has been scheduled for Monday when, it is hoped, the agreement could be finalised for submission to Manpower Minister Eli Louw.

While spokesmen for both sides would not divulge details of the dispute, it is understood they revolve around interdicts against strikes, time limits for the lodging of disputes, and an employer undertaking to abide by any agreement even if it is not translated into law. The unions are willing to accept that employers should have the right to apply for interdicts against unlawful strikes.

However, Saccola wishes employers to be entitled to apply also for interdicts against lawful strikes where substantial and irreparable harm could be caused to the affected business.

The unions want 180 days for the lodging of disputes through official channels, while Saccola is willing to accept a substantially shorter period than that.

Finally, it is understood Saccola is loathe to undertake to sign an agreement "on the implementation of the rights contained in the proposed amendments for so long as these rights have not been given legislative effect."

Anger over labour proposals

By Drew Forrest

The issue of strike interdicts has emerged as a key obstacle to finalising a vital union-employer deal on the Labour Relations Act.

At a six-hour meeting with union groupings Cosatu and Nactu on Monday night, the employer body Saccola proposed wide-ranging amendments to the draft LRA agreement struck last month.

Unionists yesterday said employers seemed to be reneging on the deal, which had been referred to members for endorsement, not further negotiation.

They also described as "a breach of procedure" Saccola's use of senior counsel to redraft the agreement, saying the task had been entrusted to a mutually agreed drafting committee.

Saccola chairman Mr Bobby Godsell stressed that

the committee had worked without a mandate and that the draft deal had to be referred for study and change by the parties. "It was never envisaged that its proposals were set in concrete," he said. The employers' current stand was "thoroughly consistent" with principles agreed on during the Saccola talks.

Sources said Saccola has departed from the draft agreement in four major respects.

- The Industrial Court could interdict lawful strikes which threatened life or property, or cause "substantial or irreparable harm" in the draft deal, legal strikes are immune from interdict

- An agreement to implement basic worker rights for all workers, including public-sector and farm workers not covered by the LRA, has been dropped.

- An agreement that there should be a single appeal from the Industrial Court has been dropped

- The time limit for the referral of unfair-labour-practice cases has reverted to the current 90 days. The draft provides for 180 days.

Last-minute snags in the Saccola process could thwart the passage of the agreement into law in the current session of Parliament.

At a meeting last month, Manpower Minister Mr Eli Louw told the unions he would try to push through legislation based on the broadest possible consensus. Last week, however, he reportedly told Cosatu and Nactu that time was running out.

Further talks are expected to take place today.

Labour Act talks hit serious snags



Marcel Golding

THE "Saccola talks" on the Labour Relations Act have hit serious snags, with union negotiators accusing employers of "reneging" on key features of a draft agreement reached last month.

This raises doubts about the translation of the deal into law during the current parliamentary session.

According to reports, Manpower Minister Mr Eli Louw has warned the unions that final agreement will be needed soon if it is to be enacted.

At a meeting with Cosatu/Nactu in Johannesburg on Monday night, Saccola (the SA Consultative Committee on Labour Affairs) presented the response of its mem-

bers to the agreement, which the unions have endorsed.

According to Cosatu negotiator Mr Marcel Golding, the employer body has "restructured the entire package".

"There are now substantial areas of difference," he said.

Saccola could not be contacted before going to press yesterday.

The union view has been that the interim deal must be seen as a total package which cannot be amended without a fresh mandate.

"On our present mandate, we can't see our way clear to accepting the Saccola proposals," Golding said.

Golding declined to elaborate, but it is understood that the issue of

interdicts against strikes has emerged as a major stumbling-block

The draft agreement proposes significant curbs

on strike interdicts

Golding said a further meeting between Saccola and the unions was set for today

Breakthrough for LP

Political Correspondent

Aluw 27/4/90 (166)

BOYCOTTING legislation in parliament has earned the Labour Party a significant breakthrough, with the government agreeing for the first time to include farmworkers in certain labour legislation.

The Labour Party agreed today to suspend its boycott of all manpower and agricultural legislation, a move which has effectively prevented debate on these Bills in parliament so far this session, after reaching an agreement with the Minister of Manpower, Mr Eli Louw.

The LP demand was that the country's scores of unprotected farmworkers be covered by existing labour legislation

Star 27/4/90
Attempt to resuscitate draft LRA (166)

Labour Reporter

In a bid to salvage the draft employer-union deal on the Labour Relations Act, a re-drafted accord is to be taken back to the constituencies of both sides

Following talks between the employer body Saccola and the union groupings Cosatu and Nactu, a bipartisan drafting committee met yesterday to reshape the agreement.

Saccola secretary Mrs Friede Dowie said further talks were likely once members had been consulted on the new draft.

Earlier this week Saccola proposed wide-ranging amendments to the agreement, prompting union charges that employers were reneging on its terms. Employers denied this

Proposed changes include the issues of strike interdicts and the implementation of basic rights for all workers in advance of new legislation.

The aim is to submit the agreement to the Government for enactment during the current parliamentary session. Further delays could prevent its passage into law

al court, strikes and lockouts, unfair labour practices and employee rights, union registration and the role and composition of the NMC itself

The NMC says some of the functions of the revised Act would be to promote industrial peace; protect freedom of association, foster collective bargaining; simplify procedures, and address the concept of the duty to bargain

A significant proposal in the 16-page document released on April 10 is that legislation should be harmonised with labour law in the self-governing and TBVC States. It is also suggested the scope of the Act be extended to include all occupations — including civil servants, farm and domestic workers

It is proposed that farm and domestic workers should be included "in principle" at this stage, but that provision could be made in the Act for its extension (or certain provisions thereof) by proclamation later

Police and security personnel have not been included

It is also recommended that the NMC be reconstituted and renamed the National Labour Council. This would be bi-partisan but include State representation as observers in formulating labour policy

Other recommendations

- Dispute resolution mechanisms to be simplified and disputes on individual issues to be processed in either the Industrial Court (possibly to be renamed the Labour Court), the magistrates' courts or the small claims courts,
- Scope to be made for bargaining at appropriate levels and that private mediation be made available in addition to conciliation boards and industrial councils,
- Arbitration to be encouraged through the State subsidising the arbitrator's fee,
- Strikes to be decriminalised and regulated by unfair labour practice jurisdiction,
- Court procedures to be simplified with a single appeal court with no further recourse to the Appellate Division replacing the six labour appeal courts,
- Every employee to have the right of freedom of association,
- The unfair labour practice code to be freshly defined,
- Union registration be replaced by a simple certification procedure, and
- Selective dismissal/re-employment of strikers to be barred unless the strike was not procedural, or made a job redundant, or was not peacefully conducted. Fair procedure must be followed before dismissing

Concerning industrial councils, it was proposed that provision be made for the manpower minister to accommodate the needs of small business before signing an agreement

It was also recommended that the existing conciliation boards' time limit should be abolished — but a dispute should still be referred within 180 days, a period which could be extended. The board should be given 30 days to settle a dispute

May 21-23 is reserved for oral representation, which will be open to public scrutiny ■

LABOUR LAW FIM 271490

Getting there

Proposals released by the National Manpower Commission (NMC), aimed at amending the controversial 1988 Labour Relations Act, go a long way to simplifying the law. They also outline some significant changes. The NMC has invited public debate and comment on the proposals.

These are independent of the recent draft agreement reached between the employers' body, Saccola and the two trade union federations, Cosatu and Nactu, which has yet to be finalised. The acting chairman of the NMC, Frans Barker, explains that this was an interim agreement dealing with specific areas of the Act and will be taken into consideration by the NMC. Saccola and the two union federations, says Barker, have agreed the NMC should continue its investigation, which is aimed at a complete revision of the Act

The NMC proposals "attempt to provide the foundations of an integrated approach" to revising the Act. It, therefore, concentrates on its major components: its scope of application, industrial councils, the industri-

Unions and industry meet to draft new Labour Act

(166)

By EDDIE KOCH

TRADE unions and organised industry were last night locked in intensive efforts to draft a new labour law for South Africa

The high-powered meeting was the latest in a string of attempts to break the logjam between unions and big business over the controversial Labour Relations Act (LRA)

A joint committee of experts from both parties met for most of yesterday to draft a new and mutually acceptable bill so that it can be passed by parliament this year

The outcome of the drafting session was not known at the time of going to press. But both union and employer sources said the aim was to agree on a draft piece of legislation that could be recommended to their members for urgent adoption.

An alliance of unions from the Congress of South African Trade Unions (Cosatu) and the National Council of Trade Unions (Nactu) plan to meet employer associations on Monday next week for the draft to be formally accepted. If this happens, it will be forwarded to the Minister of Manpower so that it can be tabled in parliament during the current session.

The on-off talks between the unions and the South African Consultative Committee on Labour Affairs (Saccola), which represents big business, ran into snags last week as employers asked for an earlier version of the jointly drafted law to be amended.

The main stumbling block was the employers' insistence that they retain the right to apply for urgent court interdicts against legal strikes in cases where these posed a threat to lives or the future of a company.

The earlier version of the joint Saccola/union draft included the right to interdict illegal strikes.

"We are not prepared to compromise on the right of workers to proceed with legal strikes. What is the use of workers complying with all the procedures to make their strike legal if, in the end, they can be interdicted by their employers?" said a senior union representative.

"We have accepted that the employers' concerns can be accommodated by redrafting the wording of the document. A joint team has been established to try and arrive at a mutually acceptable document that can be recommended to both constituencies for approval on Monday."

Saccola representative Freda Dowie declined to comment on the debates that took place in talks this week. "These are very sensitive and premature publicity could hinder our ability to get agreement on the draft," she said.

The parties agreed that all workers will be covered by labour legislation although it is not yet clear if farmworkers and state employees will be covered by the LRA or separate legislation, says Golding.

Parties push on with talks about LRA

ALAN FINE

COSATU, Nactu and employer federation Saccola were yesterday holding on course their attempt to reach agreement on interim changes to the Labour Relations Act to be made law during the current parliamentary session (166)

No official statements were issued after a seven-hour meeting which ended in the early hours of yesterday morning.

However, sources at the meeting said a drafting subcommittee of senior union and Saccola officials and their legal representatives was attempting to rework sections of the previous draft agreement on which the two sides disagreed.

The issues in dispute include the right of employers to bring interdicts against lawful strikes, time limits for the lodging of disputes, and changes in the operation of the labour courts.

It is understood that both sides made concessions, but details of these were described as too sensitive to disclose at this stage. A further mandating process will probably be required. *By 27/4/90*

A union spokesman said Cosatu and Nactu were still very concerned that delays could prevent the possibility of an eventual agreement becoming law during this parliamentary session.

A Manpower Ministry spokesman said yesterday it was not possible to designate a final deadline for submission to Minister Eli Louw of the agreement.

However, if Parliament adjourned in early July as expected, time was running short.

Louw has told the parties any agreement would be examined very seriously and with urgency. However, it would have to be investigated by the National Manpower Commission and be put through the normal procedures.

Behind the big ones

What can be learned from the major strikes of 1989, marked as they were by death, violence, intimidation and severe destruction of property? This is what three management executives explored in a Durban seminar last week. They discussed the strikes which affected SA Transport Services (now Transnet), SA Breweries and the Durban Transport Management Board (DTMB). (166)

Transnet's Nico Heyns said his organisation is still facing major difficulties with relations between strikers and non-strikers, three months after the strike ended. One of the most bitter and violent strikes in SA's history, the 13-week Sats vs Sarhwu dispute cost 37 lives, R42m in lost wages and R40m in damage to property. (166) (166) (166)

Heyns said there had been two main consequences, the realisation that staff could be significantly reduced, "by up to 30%" and the subsequent voluntary retrenchment

50

package offered by Transnet to employees. There was also a white employee backlash.

In contrast, the more conservative Blatu union is still complaining that its members did not get enough protection during the strike. An important similarity between the Sats strike and the 10-week SAB strike last year, was the role played by the MDM in helping settle the disputes.

While Sats insisted on Sarhwu registration, called their strike illegal and fired strikers, these were not important issues for SAB. Yet the beer strike was also prolonged and marked by violence.

One consequence of the SAB strike is their attempt to put forward an arbitration model, so far rejected by the Food and Allied Workers' Union, to decide on acts of violence.

"The idea is to have an inquiry of fact, with provision for the arbitrator to hear evidence in camera, to decide what happened, but not how to settle," says SAB's Rob Childs.

A retrospective view of Durban's bus strike shows that it was an anomaly, with political events like the defiance campaign and elections leaving the DTMB powerless.

But the strike was also characterised by shop stewards taking virtually full control.

Says DTMB's Marshall Cuthbert. "Our strike was Mickey Mouse compared to the Sats strike but I believe the 'organisers' (not union officials) behind both the Sats and SAB strikes cut their teeth on us." ■

New-look labour proposals

Sunday Times 22/4/90

166

RECOMMENDATIONS for a new labour dispensation in KwaNdebele were made public this week

Nic Wiehahn, chairman of the commission of inquiry into KwaNdebele labour affairs, handed his 95-page report to the Government

Professor Wiehahn says the unique feature of the recommendations is that they combine all the regulations governing labour relations into five comprehensive laws

These are the Placement and Employment Insurance Act, the Labour Relations Act, the Wage and Basic Conditions of Employ-

ment Act, the Protection of Safety and Injury Insurance Act and the Career Guidance and Manpower Training Act

"The labour system and laws have been designed to harmonise and dovetail as much as possible with those of SA with the objective of achieving the greatest degree of uniformity"

Provision is made for the recognition and registration of trade unions, employer organisations and industrial councils, for collective bargaining, mediation, arbitration and conciliation boards

In addition, provision is made for the introduction of a labour code, a diminished role for gov-

ernment in labour relations, the introduction of a dynamic training programme and upgrading of the division of manpower in the Department of Internal Affairs to a fully independent Department of Manpower

Professor Wiehahn says the commission decided not to recommend the introduction of an independent labour or industrial court separate from that of SA because the cost would be prohibitive

"Instead, we believe the KwaNdebele Government should negotiate with the SA Department of Manpower to extend its industrial court's jurisdiction to KwaNdebele or, alternatively, the magis-

trates' courts of KwaNdebele be commissioned to hear and decide labour cases"

The commission also recommends an urgent investigation into the minimum levels of wages in KwaNdebele

Employers should be persuaded to introduce labour relations structures in their enterprises with a view to negotiating wages, conditions of employment, benefits, grievance and disciplinary procedures

Professor Wiehahn says the new labour dispensation will put an end to the trend of cheap labour and the lack of organised trade unions in the area

del
5/4/82

SAB strike is examined in Industrial Court hearing

Labour Reporter

South African Breweries and the Food and Allied Workers Union cross swords in the Industrial Court today in a sequel to labour conflict at SAB's Rosslyn brewery last year.

At issue is Fawu's claim that management unfairly locked out 900 workers over an eight-day period last June. It wants compensation for lost wages.

SAB public affairs manager Mr Adrian Botha said workers had refused to work alongside a certain Mr Mxinge after he had complained of intimidation.

Strike

Both parties accepted that this was a strike.

SAB refused to allow a resumption of work once Mr Mxinge was off site. Management believed a conditional tendering of services constituted strike action.

In a statement, Fawu said the company had launched an "outrageous" counter-claim running into millions of rands for lost production during the dispute.

Mr Botha said SAB had considered such a claim, but had since dropped the idea.

Metal bosses push up pay offer to workers

By Drew Forrest

The giant Steel and Engineering Industries Federation (Seifsa) raised its wage offer by 1,5 percent in the third round of annual pay negotiations, which will affect 380 000 metalworkers.

The offer now stands at between 11,5 and 15,7 percent — which means an hourly rate of R4,07 for labourers and R9,27 for artisans

The largest union which is party to the metal industrial

council, the National Union of Metalworkers, has demanded a R5,50 minimum for unskilled workers and an across-the-board rise of R2.

Seifsa said in a statement that further employer concessions included an agreement in principle to extend the wage deal to all parts of South Africa, including the homelands, "if legally possible"

This is subject to provisos that the extension be phased in over a period, and that small

businesses were excluded
Employers also offered to increase living-out allowance by between 44 and 72,4 percent

Seifsa said much of last week's negotiations focused on the proposal that small businesses — possibly defined as having eight or fewer employees — be excluded from the wage agreement. Employers indicated that the success of the talks might depend on a positive response to the proposal

The next round of talks is on May 10

Employment Act changes hailed

Labour Reporter

The employer body Saccola has welcomed Government moves to regulate the basic employment conditions of farmworkers and has urged the participation of employers and unions in the framing of new law

Last Friday, Manpower Minister Mr Eli Louw announced in Parliament that following extensive discussion with the SA Agricultural Union and parliamentary representatives of farmworkers, the Basic Conditions of Employment Act and the Unemployment Insurance Act would be amended next

year to apply to farming

The particular circumstances of agriculture would be taken into account in adjusting the laws and all interested parties would be consulted

Mr Louw also said that he had asked the National Manpower Commission to probe and make recommendations on the extension of the Labour Relations Act and the Wage Act to farming

The NMC would also be asked to investigate "whether the rights of domestic workers should be protected in legislation and if so, in what form"

The "unique circumstances"

of these employees called for special consideration, he said

Welcoming the moves, Saccola chairman Mr Bobby Godsell stressed that the involvement of the SAAU and unions was vital if new legislation was to meet the needs of all parties.

On the Labour Relations Act, SAAU president Mr Nico Kotze stressed that the NMC was investigating a separate legal dispensation for dispute-settlement in agriculture

He warned that the Wage Act — which provides for the setting of minimum wages — could have serious financial implications for farming

Employment Act changes hailed

20/11/90
Labour Reporter (166)

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Labour legislation changes lie ahead

COSATU, Nactu and Saccola have achieved a breakthrough on changes to SA's labour legislation after the unions and the majority of Saccola affiliates agreed in principle to sign an interim agreement on the Labour Relations Act (LRA)

But Cosatu announced yesterday negotiations were still at a delicate stage as the remaining Saccola affiliates had yet to agree.

Cosatu, Nactu and Saccola held late night talks on Monday as pressure mounted for an agreement to be reached to allow time for amendments to the LRA to be passed this parliamentary session

Cosatu spokesman Geoff Schreiner said the parties had agreed to sign the interim agreement on May 7, pending responses from Saccola affiliate Transnet and two Durban-based affiliates of the SA Chamber of Business (Sacob)

Urgency

Transnet only recently joined the negotiating process, and the Sacob members had refused to endorse the agreement so far. Schreiner said he was confident the agreement would be signed

The Cosatu statement said both sides had agreed it was a matter of "utmost urgency" the agreement was sent to the Ministry of Manpower to be processed in time for it to become law during this parliamentary session

Saccola secretary Freda Dowie said yesterday the federation would not issue a statement on the agreement. She said the situation was still delicate

MATTHEW CURTIN

The interim LRA agreement proposed all workers be covered by the legislation and secured basic rights for all workers. These included the right of all workers to belong to unions, to strike, to bargain collectively, of access to stop orders and the recognition of shop stewards

The agreement also provided for the establishment of specialist sub-committees to consider the structure, functioning and rules of industrial and labour appeals court, criteria for presiding officers, and statutory and judicial strike regulation.

A redraft of the original interim agreement was drawn up last week by a bipartisan committee, which Schreiner said was substantially unchanged.

Wide-ranging amendments put forward by Saccola last week had been dropped. The Cosatu statement reiterated a call for all workers, including farmworkers, to be covered by the LRA provisions.

Last week Manpower Minister Eli Louw announced in Parliament that the Basic Conditions of Employment Act and the Unemployment Insurance Act would be amended to apply to farming next year, after extensive discussions with the SA Agricultural Union (SAAU)

He had asked the National Manpower Commission to investigate extending the LRA and Wage Act to farmworkers.

This development was welcomed by Saccola chairman Bobby Godsell but SAAU president Nico Kotze warned the extension of the Wage Act could have serious financial repercussions for farming.

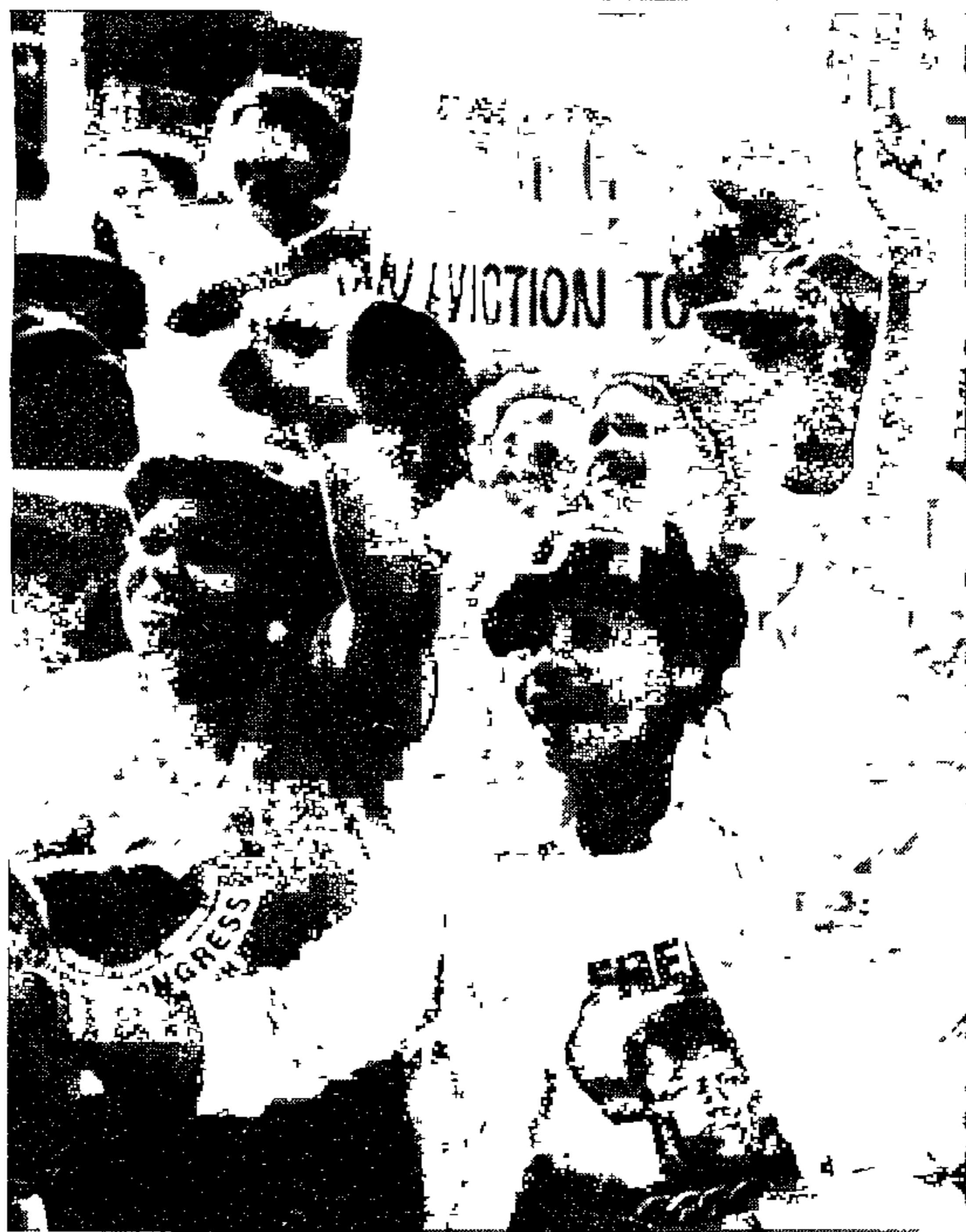
Unions accept LRA changes

The two major union federations and a majority of Saccola affiliates have agreed in principle to sign an interim list of amendment proposals to the current Labour Relations Amendment Act, the Congress of SA Trade Unions said yesterday. (166) (143) (143)

A statement said that at a meeting on Monday Co-satu, Nactu Unions and the employer body Saccola had agreed to sign the agreement on May 7, pending responses from two major Saccola affiliates. (143)

Those at Monday's joint meeting apparently concurred that the agreement would in the meantime be given to the Minister of Manpower, Mr Eli Louw.

A request would be made that he urgently process the agreement "to ensure that it becomes law during the current parliamentary session". — Sapa.



Women marching against the Labour Relations Act

South 3/5-9/5/90

PIC KAREN HURT, AFRAPIX

Breakthrough in LRA reached

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By CHIARA CARTER

IN a major breakthrough for labour relations, an interim agreement over changes to the controversial Labour Relations Act (LRA) has been reached between the two largest trade union federations in South Africa and employers.

Cosatu-Nactu and the majority of affiliates of the employer body, the South African Consultative Committee on Labour Affairs (Saccola), this week agreed in principle to sign the interim agreement.

The actual signing will take place next week — pending responses from two major Saccola affiliates, Transnet and two Durban-based affiliates of the South African Council of Business.

The agreement will be sent immediately to the Minister of Manpower with a request that it becomes law during the current parliamentary session.

The agreement provides for a set of basic worker rights, such as the right to strike and to bargain collectively, for all workers — including offshore workers.

The agreement reverts to the defi-

inition of an unfair labour practice used before the Act was amended in 1988.

In terms of the agreement, time limits and bureaucratic procedures governing the declaration of disputes would be scrapped.

Unions would not be held responsible for damages resulting from illegal industrial action.

The agreement allows for proper notice and an opportunity to be heard in the case of interdicts against illegal strikes and lockouts.

Dismissal and retrenchment procedures would be brought into line with the conventions of the International Labour Organisation.

According to the agreement, registration would be deracialised. Both public and private sector unions would be registered.

It establishes specialist sub-committees to examine the structure, functioning and rules of the industrial and labour appeal courts, criteria for appointing presiding officers and the legal regulation of strikes.

It makes provision for industrial court judgments to be made public, specialist assessors to sit in the labour appeal court and for the court to hear appeals within 90 days of referral.

Accord on Labour Act changes

By LEN MASEKO

EMPLOYERS and trade unions have agreed to sign an interim agreement on proposed changes to the controversial Labour Relations Amendment Act. *Sowetan 3/5/90*

The agreement follows months of talks between Cosatu, Nactu and the SA Consultative Committee on Labour Affairs (Saccola).

The two parties are expected to sign the agreement on May 7, pending responses from some of Saccola's affiliates, including Transnet.

The terms of the agreement include:

- * Scrapping of the section which allows employers to sue unions in the event of wild cat strikes;

- * The establishment of specialist sub-committees to consider the structure, function and rules of - among other things - the industrial and labour appeals court; and,

- * Revision of secrecy provisions relating to industrial court judgments.

The parties are to send the agreement to the Minister of Manpower, Mr Eli Louw, "as a matter of utmost urgency".

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Registration fees: guards to march in protest

Labour Reporter

The recently passed Security Officers Act is to be the focus of countrywide protest marches by workers in the security industry.

At the heart of the protests is the Act's requirement that security guards register at a cost of R30 this year and R70 thereafter, on pain of dismissal or a ban on working in the industry.

Passed in April, the Act seeks to regulate the sector by requiring contract security firms and their workers to register.

It also establishes a Security Officers Board, with police, security police and industry representatives approved by the Government, to frame regulations.

Exorbitant

Transport and General Workers Union spokesman Mrs Kally Forrest said security workers had flocked to union branch meetings for the sector at the weekend. At these, it was decided to stage marches this month and in early June.

"The registration fee is exorbitant. The statutory minimum wage for security guards is R413 a month, but recent research showed that 80 percent of companies pay less than half this."

Mrs Forrest said workers' anger also focused on the Act's requirement that no one who had committed a crime could work in the sector. "Forty percent of black workers are estimated to have criminal records, many for political, influx control and petty offences."

Breakthrough LRA talks

W/Ment 4/5-10/5/90

THE trade union movement this week clinched an agreement with organised industry to steer new legislation through parliament that will amend the controversial Labour Relations Act before the end of June.

This is the first time that unions, big business and the government have agreed through a process of tripartite negotiations to amend a major piece of apartheid legislation.

The Congress of South African Trade Unions (Cosatu) said a labour alliance and the South African Coordinating Committee on Labour Affairs (Saccola), which represents most employers, had agreed on the draft of a new labour law late on Monday night.

The announcement, on the eve of the first peace talks between the African National Congress and the government, will inject a large dose of confidence into the negotiations to end apartheid rule.

The draft, which lays down rights that organised workers do not enjoy, will enhance the ability of unions to participate in the collective bargaining process.

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By EDDIE KOCH

Saccola agreed with a joint delegation from Cosatu and the National Council of Trade Unions (Nactu) to adopt formally the draft on Monday next week. Meanwhile it will go to the Department of Manpower so it can be processed through parliament this year.

Manpower Minister Eli Louw agreed during talks with Cosatu and Nactu earlier in the year to steer the draft through the procedures required for parliament to pass it before this sitting ends in June.

A representative for the department, Johan Miller, confirmed the draft will be sent to the National Manpower Commission (NMC) as soon as it reaches the minister's office so it can be processed urgently.

The draft includes a set of basic worker rights, including the right to bargain collectively and to strike. Saccola has agreed to push for it to be transformed into a law that covers all workers and to urge its members to deal with unions according to its principles.

About-turn on farm labour

81 Times 6/5/90

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THE announcement by Manpower Minister Eli Louw that farm workers will be brought under the ambit of the Basic Conditions of Employment Act (BCEA) is a major shift in Government labour policy

But it falls short of union demands that these workers be covered by the Labour Relations Act (LRA)

Mr Louw says labour legislation

will be introduced next year to enable farm workers to be covered by a BCEA specifically adapted to agriculture, as well as the Unemployment Insurance Act

The National Manpower Commission will investigate and report within 12 months on the suitability of applying the LRA and the Wage Act in agriculture

Parties who will make submis-

sions will include the labour movement and the South African Agricultural Union (SAAU), the employer body

The SAAU has over the years rejected the concept of inclusion in the LRA, saying that agriculture is not suited to its dispute-resolving mechanisms. It is also opposed to the implementation of the Wage

Act, arguing it would lead to a decline in employment on farms

However, as far back as 1987 the SAAU indicated that it was not averse to provisions of the BCEA being accepted if specifically adapted to agriculture, for example, with modifications to working hours for each sub-sector, to allow for the unique nature of the operation

Interim agreement on Labour Act changes to be signed

By **CONNIE MOLUSI**

THE DAYS of protest action against the Labour Relations Act (LRA) could be over when an interim agreement on changes to the Act between Cosatu, Nactu and South African Consultative Conference on Labour Affairs (Saccola) is signed.

Parties have agreed to sign the agreement pending the responses of three major Saccola affiliates - Transnet, which recently joined the negotiations, and two affiliates of Saccob, which has refused to endorse the accord.

Meanwhile, the interim agreement will be sent to the Manpower Minister Eli Louw asking him to process the agreement urgently to ensure it be-

comes law during the current parliamentary session.

The draft agreement, which lays down rights that organised workers do not now have, will improve the ability of unions to take part in collective bargaining.

Main areas of agreement include the right to strike, which will include all workers, and new provisions relating to dismissals and retrenchment in line with International Labour Organisation (ILO) conventions.

Louw declared last year, when assuming his post as minister of manpower, that he was prepared to make changes to the controversial amendments of the LRA as long as workers and employers agreed.

PEOPLE AT THE TOP
ARE ON THE MOVE
SEE PAGE 9

MANPOWER
MIRROR
ADRIAN
HERSCH

**MANPOWER
MIRROR by
ADRIAN
HERSCH**



PAGES AND PAGES OF THE BEST JOBS IN SOUTH AFRICA

Employers, unions lead way to 'new SA'

WHILE senior members of the Government and the ANC were preparing for "talks about talks" for a new constitution, employers and organised labour were reaching agreement on what could become the first piece of legislation to be negotiated for a new South Africa.

Senior Saccola and union officials consented to sign an agreement this week, pending responses from some Saccola affiliates, on interim changes to the Labour Relations Act which may become law in the current parliamentary session.

Manpower Minister Eli Louw says the agreement will receive urgent attention, but will have to be examined by the National Manpower Commission and go through the normal procedures. If the agreement is written into law, it will be the first time that anti-apartheid groups, big business and the State have successfully concluded what Loet Douwes Dekker of the Wits Business School terms a "trivariate agreement" as a means of dealing with institutionalising labour conflict.

The draft comes after a time of intense labour, as well as political conflict. Labour consultant Levy, Piron & Associates calculates that mandays lost because of industrial action in the first quarter of 1990 was four times the level for the same time last year.

The Saccola-union draft is an interim agreement covering specific parts of the Act. It should not be confused with the recently released National Manpower Commission proposals aimed at a full and much wider revision of the Act.

Representations about these proposals are scheduled to be completed by the end of May, and the legislative changes will be possible only in next year's parliamentary session.

The Saccola-labour agreement could bring about several significant changes. At the time of writing, indications were that these included a reversion of the unfair labour practice (ULP) definition to the pre-September 1988 position. But there is a new provision concerning dismissal in line with International Labour Organisation conventions.

There are provisions for specialist assessors to sit on labour appeal court issues and for this court to hear appeals within 90 days of referral.

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Cosatu talks to thrash out labour aims

Labour Reporter

More than 300 Cosatu delegates are to meet for a crucial conference on May 12 and 13 to chart the way forward in its living-wage, Labour Relations Act and Workers' Charter campaigns

The conference, to be held at the University of the Witwatersrand, grew out of attempts to co-ordinate the campaigns, said key Cosatu transport unionist Mrs Jane Barrett

She said that after input on the economy, progress would be reviewed and decisions taken on how to proceed in each area

Mrs Barrett said that on the agenda were "core demands" in

the 3-year-old living-wage campaign relating to centralised bargaining, job security, education and training

Also up for discussion is the campaign against Barlow Rand, accused by the unions of undermining central bargaining, Cosatu's anti-privatisation thrust, and the minimum wage issue

Mrs Barrett said a decision would probably be taken on how to proceed with the "Saccola talks" on the Labour Relations Act, now that an agreement on interim changes to the legislation is imminent

A further living-wage campaign is planned for September, she said

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SM 7/5/90

All unions now look for more muscle

The immediate task in the current hospital crisis has been to restore normal patient care — but the strike wave has broader implications for South Africa's 730 000 public servants

Union and legal sources believe the hospital unrest, following hard on the heels of the railway strike, may bring home that a special labour dispensation for State and semi-State sectors will not work

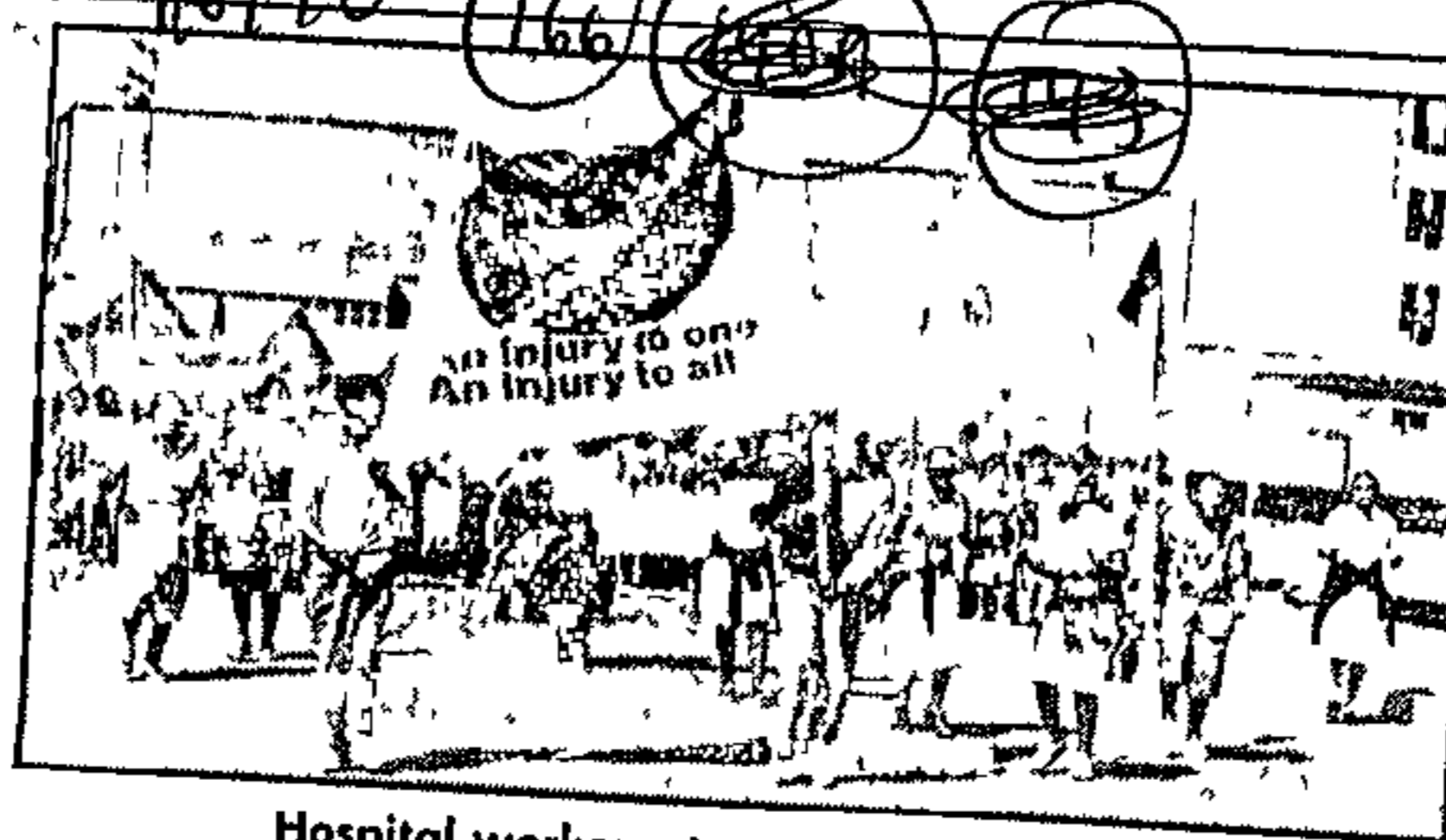
State employees are now covered by the Public Service Act, a statute drafted by men who apparently thought public sector unions an outlandish idea

This provides for the recognition of staff associations at the discretion of the Commission for Administration and an advisory council on which associations sit. But on union recognition and collective bargaining, it is quite silent

At the same time, the Labour Relations Act (LRA), while providing for the registration of public service unions, denies them all its benefits. Public servants and workers in hospitals, schools, State forests and the security forces cannot strike lawfully or use the Act's dispute procedures or the Industrial Court

The Public Service Act has been cited by the Transvaal Provincial Administration in refusing to recognise the National Education, Health and

The hospital strikes have given fresh impetus to union demands for the extension of the Labour Relations Act to the public service. The Star's **LABOUR REPORTER** looks at some of the issues



Hospital workers stage a protest march

Allied Workers Union (Nehawu), which says it has hit a similar brick wall in dealings with the Johannesburg College of Education and Witwatersrand Technikon

It is likely that the hospital dispute will be settled in a makeshift manner by informally granting Nehawu union rights and some form of bargaining status

But there seems to be more flexibility than the TPA implies. Stressing that there is no specific statutory ban on union recognition, Nehawu lawyer Jonty Joffe argues that a common law deal can be reached

A Commission for Adminis-

tration spokesman effectively conceded the point this week by saying that the non-recognition of public service unions was policy rather than a legal requirement

The Government is aware of the weakness of the present dispensation. In the wings is the Public Service Amendment Bill, tabled in Parliament last year and currently with State law advisers, which effectively provides for union recognition and a Public Service Central Bargaining Council

Whether it will meet the needs of public servants, or indeed ever be enacted, are moot points

Modelled on the South African Transport Services (Sats) Conditions of Service Act, the Bill proposes a ban on State sector strikes. As on the railways, this is likely to be ineffective, Mr Joffe stresses

He adds that the proposed bargaining forum, the product of Government decree rather than agreement, will suffer from the same defects as the Transnet Labour Council. These include equal votes for unions of unequal size

At talks with the employer body Saccola, black unions have consistently pressed for the LRA's extension to all workers. Special provision could be made for essential services, though much more closely defined than at present

Talks between Cosatu/Nactu and the responsible Minister, Dr Wim de Villiers, are planned shortly

And in its preliminary proposals for the consolidation of the LRA, published last month, the National Manpower Commission also argues for one labour Act for all

A Commission for Administration spokesman said this week that the State had given recognised public service associations a pledge to push through the Public Service Amendment Bill

If it is enacted — and he conceded that the situation was "very fluid" — it could well be overtaken by a revamped LRA



Making history . . . at the signing of the Labour Relations Act deal are (top, from left) Saccola's Mr Bobbie Godsell and Mr Bokkie Botha and (bottom, from left) Nactu's Mr Cunningham Ngcukana, Cosatu's Mr Jay Naidoo, and Saccola chairman Mr Anton Roodt

Labour Reporter

The two-year "Saccola talks" reached an historic climax yesterday when unions and employers signed an agreement on far-reaching interim changes to labour relations laws

The deal was struck between the employer body Saccola and the union federations Cosatu and Nactu

It will be forwarded to the Government during the present session of Parliament

A joint statement said the parties were ready to meet the National Manpower Commission, State legal draftsmen and the Parliamentary Standing Committee on Manpower Affairs "on an urgent basis"

Saccola chairman Mr Anton

Star 8/5/90
Two-year talks on SA's labour laws reach climax

Roodt revealed that Transnet had also "associated itself with the agreement" Transnet has been an occasional participant in the Saccola talks as an observer

Cosatu and Nactu said in a statement that they welcomed the deal, but stressed that there was "a long road ahead"

Public sector and other employers not covered by the Labour Relations Act (LRA) will be expected to endorse and comply with basic worker rights

set out in the agreement

To this end, the unions will soon meet the South African Agricultural Union, Ministers responsible for the Commission for Administration, and the Post Office

The unions also stressed that although the agreement restored the situation because the controversial 1988 LRA changes, the law fell short in other ways

It did not cover homeland workers, and there was a need for full strike rights and "impar-

tial and competent" courts

The unions added that the Saccola forum should go on to negotiate macro-issues such as health, housing, education and training

A key feature of the agreement is its proposed reversion to the pre-1988 definition of unfair labour practice This would lift the ban on solidarity and intermittent strikes, although unlawful strikes would be unfair

The agreement proposes that the creation of a panel of expert assessors, acceptable to labour and employers, to advise the president of the Labour Appeal Court

Two assessors would sit on each appeal and the ruling would be by a majority

Employers, unions agree on new LRA

APR 25/76 166

JOHANNESBURG — Employers and worker representatives signed a major agreement yesterday which calls for a number of amendments to the Labour Relations Act which points, it was suggested, to a new climate of negotiation.

Habitual enemies of old, yesterday wise-cracking representatives of the SA Consultative Council on Labour Affairs, the Congress of SA Trade Unions (Cosatu) and the National Council of Trade Unions sat alongside one another to sign the document.

It will be forwarded immediately to Manpower Minister Mr Eli Louw for processing and it is hoped it will be law by the end of this session of Parliament, reporters were told.

As outlined by Cosatu last week, the

amendments include

- Scrapping of the time limits and bureaucratic procedures in relation to the declaration of disputes (other than a 180-day time bar on disputes of right but with expeditious condonation procedures)

- Provisions for proper notice and an opportunity to be heard in the case of interdicts against illegal strikes and lockouts.

- Reversion to the unfair labour practice definition of pre-September 1988

- New provisions relating to dismissals and retrenchments in line with the International Labour Organisation conventions

- Provisions for specialist assessors to sit in Labour Appeal Court matters and for this court to hear appeals within 90 days of referral

- A set of basic worker rights (including the right to bargain collectively and the right to strike)

Saccola chairman Mr Anton Roodt, in a brief reference to the details of the agreement, said it represented "a major step towards broadly supported 'rules of the game'."

Mr Roodt said he was sure most of the signatories to the agreement wished it had been signed long ago.

"It (the agreement) shows it is possible to reach consensus through discussion," said Mr Roodt, a sentiment confirmed by Cosatu general secretary Mr Jay Naidoo.

Although the labour agreement had been signed before the Groote Schuur Minute, said Mr Naidoo with a smile, it had in fact pre-empted that document.

Some of the delay was apparently

caused by the position of two Saccola affiliates — Transnet and the National Printing Federation. Transnet has since advised Saccola that it is a willing signatory to the agreement, if only to end the delay.

Another Saccola representative, Anglo American director Mr Bobby Godsell, said the National Printing Federation was not party to the agreement.

Mr Roodt said Mr Louw had not indicated whether there would be enough time to process the document in this session of Parliament.


And in another cautionary note, Mr Naidoo said that a deal still had to be negotiated with employers from the agricultural, administration and postal sectors.

There was still a long road ahead, he said — Sapa

Hope for legislation this year

B10cm
8/5/90

Employers, unions sign LRA accord

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AFTER more than two years of negotiation, employer federation Saccola and union groups Cosatu and Nactu yesterday took the historic step of signing an agreement on amendments to the Labour Relations Act (LRA).

Suggesting they had set an important example for the political process faced by SA, the parties said the agreement was "an indication it is possible to resolve conflict through discussion and compromise".

The agreement was to be forwarded immediately to Manpower Minister Eh Louw "in the hope it will be possible to debate and process the proposed changes during the 1990 session of Parliament", a joint statement by the three organisations said.

The parties had, to this end, made themselves available to urgently meet the National Manpower Commission, government and parliamentary legal draftsmen, and the Parliamentary Standing Committee on Manpower Affairs.

Louw undertook on March 15, after a meeting with the two union federations, to give any proposals arising from the negotiations priority attention.

The agreement was signed at a Johannesburg hotel by Saccola chairman Anton Roodt and Cosatu and Nactu general secretaries Jay Naidoo and Cunningham Ngcukana respectively.

The proposed legislative amendments are interim ones, with agreement that specialist sub-committees be established to examine areas of concern not covered by the agreement.

These include the structure, rules and functions of the industrial courts and of the Labour Appeal Court, the criteria for appointing presiding officers to the courts,

ALAN FINE

and the statutory and judicial regulation of strikes and lockouts.

Cosatu and Nactu said while they welcomed the agreement there was still "a long road ahead" before fully acceptable labour legislation was achieved.

This would require public sector and other employees not yet covered by the Act coming under its ambit. For this reason the unions intended meeting the SA Agricultural Union and the Ministers responsible for the Commission of Administration and the Post Office.

(Transnet, as a member of the Afrikaanse Handelsinstituut — a Saccola affiliate — is effectively the first and only state-owned corporation to associate itself with the agreement.)

Cosatu and Nactu said in many respects the agreement only recovered ground lost in the 1988 amendments to the LRA. They wanted the law extended to cover the homelands, workers to be accorded full rights to strike, and the establishment of "impartial and competent labour courts".

They believed the translation of the agreement into law was simply a matter of political will, and that such legislation should be treated as expeditiously as that related to the political negotiations.

The forum created for these negotiations was an important and useful one, and should be used for talks on other "macro" issues like health, housing, training and education, and benefit schemes, they said.

Naidoo said labour legislation should always be negotiated in this manner, including in a post-apartheid SA.

□ To Page 2

LRA accord

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□ From Page 1

"Labour law can only work if the two main protagonists — business and labour — are satisfied with its content," he said.

Among the most important aspects of the proposed law is a reversion to the pre-September 1988 definition of unfair labour practice, and new provisions relating to dismissals and retrenchment in line with ILO conventions.

The agreement also effectively removes the right of the industrial court to interdict legal strikes and lockouts, and contains provisions for proper notice and an opportunity to be heard in interdict applications against illegal ones.

It contains a set of basic worker rights, including the right to bargain collectively and the right to strike.

It proposes removing any potential racial considerations from the registration process, scrapping or extending time limits in relation to the declaration of disputes, revising secrecy provisions relating to industrial court judgments and scrapping the presumption of liability against trade unions in relation to wildcat strikes.

Finally, it proposes a procedure for the appointment of a panel of assessors to the Labour Appeal Court jointly nominated by organised business and labour.



Mr du Plessis . . . apartheid equivalent to socialism.

'High interest rates still necessary'

It would not be possible to bring down inflation unless high interest rates were maintained, the Minister of Finance, Mr Barend du Plessis, said yesterday.

Replying to the first reading debate on the Budget, he said such interest rates were a necessary pain.

Turning to disparities in State spending, he said while this Budget was the best the Government could have done at this stage, it was reviewing its five-year fiscal plan and would look at it again.

The state did not see its way

clear to paying a bonus at this stage, but if ever it did, it would be directed at the elderly.

Referring to a statement that the Government's revenue was determined for it and not by it, Mr du Plessis said his colleagues regularly came to him to see how moves could be made within the Budget.

He had received no such representations from Ministers in the Houses of Representatives and Delegates, to which the Chairman of the Ministers' Council in the House of Representatives, Mr Allan Han-

drickse, interjected "We submitted a budget and you cut it".

Turning to privatisation, Mr du Plessis said its aim was to loosen available fixed capital for the socio-economic upliftment of all South Africans, for such capital to be used more efficiently and for the tax base to be broadened.

A mechanism had also to be found to deal meaningfully with any State surpluses.

Care had to be taken not to fall into the trap of ideology, so that wrong options could be prevented.

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Govt non-committal on new labour laws

ALAN FINE

MANPOWER Department representatives were non-committal yesterday on whether it would be possible to translate into legislation this year the historic employer/union agreement signed on Monday on proposed interim amendments to the Labour Relations Act.

The accord between employer federation Saccola and union groups Cosatu and Nactu was reached after more than two years of talks.

The parties have expressed concern that a failure to have the agreement translated into law would reverse the positive developments that have flowed from the agreement.

At their first meeting in mid-March, Manpower Minister Eli Louw told the two union federations he would submit any agreement to the National Manpower Commission (NMC) for its urgent attention.

He would give the NMC's proposals "priority attention and endeavour to put it through Parliament in the current session". He has since stressed the need for broad consensus on new labour legislation.

A Manpower Ministry spokesman confirmed yesterday that Louw had received a copy of the agreement and had begun studying it.

He said Louw's feeling was that the most appropriate next step would be a

meeting with representatives of the three parties to the agreement.

Asked whether it would be possible to complete the process before the Parliamentary adjournment — scheduled for late June — the spokesman said it was possible, but he was unwilling to make any binding commitment.

Manpower director-general Joel Fourie said while he still had to study the agreement he thought it "was going to be difficult, but we will do our best".

He said it would be necessary to consult groups not party to the agreement, in terms of the department's policy of achieving broad consensus.

However, Cosatu and Nactu have said their attitude "to co-operation with institutions such as the NMC will be informed by the success or otherwise of processing this agreement through the white Parliament", and they believed pushing the changes through was merely a matter of political will.

An employer source yesterday agreed with that assessment, saying that since the proposals were already supported by such a broad range of interests it did not seem necessary to follow unnecessary procedures.

● See Page 8

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THE two-part agreement signed on Monday between employer federation Saccola and Cosatu and Nactu on interim amendments to the Labour Relations Act (LRA) represents the broadest compact yet negotiated between private sector employers and mainly black unions.

The first part — five pages long — contains statements of intent, rights and principles, and undertakings on future contacts.

It defines the agreement's purpose as endeavouring to secure agreement from the state to translate proposals into legislation, and to get the SA Agricultural Union and the state as an employer to agree to the extension of the LRA to cover agricultural and public sector employees.

It sets out, in general terms, various basic worker rights including the right to belong to a trade union, to bargain collectively, to withhold labour, to work, to (unspecified) protection and to development.

The parties undertake to do all that is necessary and reasonable to have these rights translated into leg-

Accord sets a precedent

166
Biday 9/5/90

ALAN FINE

isolation where this is not already the case.

They agree that specialist sub-committees should be established to examine areas of concern not covered by the agreement, including the structure, rules and functions of the Industrial Court and the Labour Appeal Court; the criteria for appointing presiding officers to the courts; and the statutory and judicial regulation of strikes and lock-outs.

The second section, which runs to 30 pages, is a draft of proposed amendments to the LRA.

The suggested new unfair labour practice (ULP) definition represents the most dramatic change, reinstating the general definition which existed prior to the controversial 1988 amendments and eliminating the 12 specific types of ULPs contained in the present Act.

It also amends the section of the definition relating to unfair dismissals, by eliminating the existing six-month period during which a dismissal may, by definition, not be unfair, and strengthening the right of employees to a hearing prior to dismissal and to consultation prior to retrenchment.

The parties have proposed the Act be extended to include workers within the continental shelf — apparently to cover, among others, gas exploration — and to permit employee associations composed of both public and private sector workers.

The proposals seek to eliminate

potential racial considerations in the registration process by deleting the clause which effectively permits uniracial unions to object to the registration, on a non-racial basis, of a union involved in the same industrial sector.

Probably the second most important change proposed is that which would remove from the Industrial Court the right to grant interdicts against lawful strikes and lock-outs — again a reversion to the pre-1988 status quo.

The court would still be entitled to interdict unlawful industrial action, but would be obliged to avoid as far as possible granting such interdicts without hearing submissions from the respondents.

In terms of the proposals, the court would be given extended

powers to condone late references of disputes to industrial councils or applications for conciliation boards. In any event, the parties would have 180 days rather than 21 days in which to refer ULP disputes.

The agreement also proposes establishment of a panel of 20 to 30 assessors for the Labour Appeal Court; all experienced legal practitioners appointed by the Justice Minister but nominated jointly by "the major national federations of employer organisations and of trade unions".

It is also proposed that provisions for secrecy regarding court judgments be relaxed, although scope would remain for asking the court to rule that all or part of particular judgments remain confidential.

Finally, the agreement proposes the deletion of section 79 (2), as a draft Bill already published has done. The section is that which presumes unions liable, unless they can prove otherwise, for damage suffered during unlawful strikes.

LETTERS

Rules of the game

Manpower Minister Eli Louw will go into discussions with employers' body Saccola and union federations Cosatu and Nactu, once he has studied their landmark agreement on "proposed interim changes to the Labour Relations Act" Louw expects to refer the proposals to the National Manpower Commission by early June (166)

In a joint statement, Saccola, Cosatu and Nactu said the goal of their two years of discussions on the 1988 Act was to achieve law that enjoyed the confidence of all major actors. The proposals are the first tangible result of compromise by the three parties. If incorporated into the Act, the changes "will represent a major step towards broadly supported 'rules of the game'" (166)

The proposals restore the definition of unfair labour practice that existed before the 1988 Act. They remove union liability for damages in illegal strikes, extend or abolish

Cosatu's Jay Naidoo and Saccola's Godsell ... happy day



11/5/90 (166)

the time limit regarding dispute declaration, take race out of the registration process, and mirror ILO convention on dismissal and re-trenchment. They also aim to scrap the Industrial Court's power to interdict legal strikes and lockouts, and revise secrecy provisions of the court's judgments. Basic worker rights include the right to strike and bargain collectively. (166) (166)

F/M 11/5/90 (166)

FARM LABOUR F/M 11/5/90

Hot potato (166)

A combination of Labour Party pressure and President F W de Klerk's new political vision is behind government's long-delayed move to bring farm workers under the protection of labour law

Manpower Minister Eli Louw announced in parliament last month that amendments to the Basic Conditions of Employment Act and the Unemployment Insurance Act will be tabled next year.

He has asked the National Manpower Commission to investigate the Wage Act and Labour Relations Act as they affect farm workers and to report within 12 months. The commission has also been asked to investigate whether the rights of domestic workers should be protected by law.

Louw says the "unique circumstances" of domestic workers means labour legislation

can't be applied in its present form (166)

It has taken government nearly five years to agree to extend labour law reforms to farm workers after being given a report on the matter by the commission in July 1985. The report has never been made public but it is reliably understood to have recommended the moves Louw has now announced.

Government repeatedly claimed delay in releasing the report was due to the wide-ranging nature of consultations that were necessary before any action could be taken.

The real reason was, however, apparently the unacceptability of the recommendations within the conservative farming community. But there were strong indications late last year that organised agriculture was moving towards the acceptance of a better deal for workers (*Current Affairs* October 27 1989).

Government came under pressure this year when the Labour Party refused to discuss labour or agricultural legislation in Standing Committees as a protest against government's reluctance to reform farm labour measures. In reaction to Louw's announcement, the LP has agreed to co-operate again.

The CP's Frank le Roux warned it was dangerous to extend labour laws to farm workers because it could lead to rationalisation of the labour force and increased urbanisation. He added there were about 1,5m workers on farms and another 6m people depended on their earnings.

SA comes in from cold at labour conference

Labour Reporter

South Africa is to take its first tentative step back into the world labour arena next week when local unionists, employers and Government representatives attend a mould-breaking conference in Harare convened by the International Labour Organisation (ILO)

South Africa was expelled in 1966 from the ILO, a United Nations agency representing the world's employers, unions and governments

The National Manpower Commission and the Department of Manpower, union federations Cosatu and Nactu and the employer body Saccola will be represented at the four-day "consultative workshop", which will centre on future South African labour law in the light of inter-

national standards

Also present will be representatives of the ANC and the National African Federated Chamber of Commerce and Industry

It is understood that Organisations of African Unity reservations about the meeting were only overcome when the ANC's Nelson Mandela wrote to the ILO giving his personal endorsement. The initiative for the conference apparently came from Cosatu

Clive Thompson, workshop co-ordinator and director of the Labour Law Unit at the University of Cape Town, said it would be the first time the major industrial relations actors in South Africa had met under the auspices of an international agency to debate future labour law

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AM. Times 15/90

Louw reacts to labour accord

THE accord between the employer federation Saccola and the union groups Cosatu and Nactu contained proposals on a far wider spectrum than provided in the draft Labour Relations Amendment Bill, the Minister of Manpower, Mr Eli Louw, said yesterday

Those proposals which were not reconcilable with the draft bill would have to be referred to the National Manpower Commission for consideration and recommendation to him after all other interested parties had been granted the opportunity to comment

But he was willing to discuss the accord with Saccola, Cosatu and Nactu "as early as Tuesday, May 15"

Mr Louw's statement indicates that although he feels the proposals go further than the ambit of the draft amendment bill, and therefore by implication cannot be considered together with it, the momentum gained in the accord should not be lost

However, despite the proposed meeting on Tuesday, it seems unlikely that key aspects of the Saccola/Cosatu/Nactu agreement will be submitted to Parliament during the current session

PLANS to privatise state forests could be catastrophic for consumers and push up the price of houses, Mr Rupert Lorimer, Democratic Party MP for Bryanston, said in Parliament yesterday

Mr Lorimer said that late last year, the Department of Forestry had announced an average increase of 29.6% in the price of sawlogs, apparently as a prelude to privatising the forests

He said the results of the increase for consum-

House costs 'will soar' if forests sold

ers could be catastrophic

"The biggest user of sawn timber is the building industry. This inordinate price increase would push up building costs excessively and, in turn, push up the price of houses at a stage when South Africa faces a housing crisis"

RIVAL UNION MOVEMENTS AGREE: THE LABOUR MOVEMENT MUST BE IN ON THE TALKS

THE Congress of South African Trade Unions (Cosatu) plans to sit in on future talks with the government to ensure that basic worker rights are enshrined in a new constitution for South Africa.

The decision indicates that organised labour — flushed with success at the agreement by big business to amend the Labour Relations Act (LRA) — will use its considerable muscle to shape the agenda and demands that will be tabled at future talks.

And Cosatu's move, decided by the powerful labour federation's central executive committee in the wake of last week's accord at Grootte Schuur, is the first sign that resistance movements are preparing for a new phase in the negotiation process.

Cosatu general secretary Jay Naidoo said now that negotiations were moving towards a discussion of "substantive issues that affect our people", his organisation would send delegates to future meetings with the

government. And he told the *Weekly Mail* that the one million-strong federation's programme at the talks would be informed by widespread discussions that are now taking place in union ranks about the need for a charter to protect the rights of the poor, the unemployed and workers in post-apartheid South Africa.

Cosatu's move comes amidst claims by left-wing socialist groups that the absence of labour leaders in the African National Congress delegation to the peace talks confirmed their belief that negotiations would lead to a selling out of the working class.

Strim Moodley, publicity secretary

Unions want their own seat at the Grootte Schuur table

Flushed with their success at pushing through an amendment to the Labour Relations Act, the unions want a seat at the negotiations table, while labour representatives are notably lacking. EDDIE KOCH reports

for the Azaman Peoples' Organisation (Azapo), told the *Weekly Mail*: "For us it is extremely worrying that the ANC's negotiating team had no trade union representation. They left out the most crucial element in the whole equation — the black working class."

Said Naidoo. "The Grootte Schuur

talks were about preparing the ground for negotiations rather than the substantive issues of concern to us the social economic and political conditions facing our people.

"For these reasons, Cosatu's central executive committee resolved it was not necessary to be physically present in these talks and we relied on consultations made possible by the alliance between Cosatu, the ANC and the South African Communist Party. Now that the talks are entering a new phase we have decided to send our own delegates."

Cosatu has launched a programme to draft a workers' charter as a matter of urgency and plans to hold a joint

congress with Nactu in September or October to adopt the document. At least three drafts have been circulated amongst affiliates for discussion.

"Discussions over a workers' charter will feed into negotiations and affect policy on a range of issues including housing, education, the nature in a post-apartheid economy," said Naidoo.

He confirmed that Cosatu and Nactu's agreement with the Consultative Committee on Labour Affairs (Saccolla) to revamp South Africa's labour legislation had encouraged the federation to enter the negotiation process.

Labour experts say the agreement to remove parts of the Act designed to hamstring the power of organised labour is unique in the world. It capped a two-year period of tripartite discussions between organised labour, big business and the government.

Manpower Minister representative Johan Miller has confirmed that the draft law will urgently be put through the procedures that are needed for it to be tabled in parliament before its current sitting ends in June. If the government fails to translate the draft into law, Saccolla has agreed to urge its members — which include most of the country's major employer associations — to abide by the principles of the agreement in their dealings with unions.

Naidoo said the unions' victory over the LRA, together with the relaxation of repressive legislation that has accompanied national negotiations, would strengthen organised labour's ability to shape South Africa's future.

"Any measures to create free political activity will strengthen our position on the ground," he said. "This has been identified as a central task in all sectors — trade unions, youth, students, women, civics and building a mass-based ANC."

There are signs that the Pan Africanist Congress is winning support for its radical stand against negotiations.

But members of Cosatu, interviewed by the *Weekly Mail* at last week's May Day rallies, indicated the negotiations have created expectations amongst rank-and-file members that issues of vital concern to them will be addressed in the talks.

"Negotiations will change things for the workers in terms of equal rights, housing and jobs," said Michael Mtamba, a shop steward from the Raleigh Cycles factory in Springs.

"You see these *iminkhukhu* (shacks) that we live in," said a worker at a rally in Bekkersdal, a highly congested township on the opposite side of the Reef. "Our leaders will tell the government to replace them with proper houses."

These sentiments — together with Cosatu's intervention in the negotiations — indicate that the talks will need to deal with the problems of poverty at an early stage if they are to succeed.

National Council of Trade Unions general secretary Cunningham Ngcukana, who is a founder member of the PAC's internal wing, stressed that none of the resistance movements were opposed to negotiations in principle.

"We are saying that broad consensus must be reached within the liberation movement before we embark on a process of negotiations. At the table the liberation movements must articulate workers' interests."

Back to work for hospital workers

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12/5/90

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IT WAS back to work for thousands of Reef hospital workers yesterday morning, but most hospitals crippled by the 10-day strike will only be functioning normally by Monday, according to hospital staff

Granting *de facto* recognition to the National Education, Health and Allied Workers Union (Nehawu), the Transvaal Provincial Administration on Thursday agreed to a wide range of union rights and the end to discriminatory labour practices in the health services

Victories

Strike negotiations ended in a number of apparent victories for Nehawu. The TPA has agreed that the practice of employing health workers as casual labour would end and all employees would in future be defined as permanent workers. The TPA also agreed to stop any wage discrimination based on race, sex or marital status.

Hailed as a major victory, by health workers, was the fact that Nehawu had won the right to be consulted in cases where hospitals may be privatised.

Wage negotiations between the authorities and Nehawu are ex-

PAT DEVEREAUX

pected to begin within the next fortnight.

"The end to the strike means that weekend casualties will be admitted as usual at most Reef hospitals," said TPA liaison officer Piet Wilken.

Mr Wilken said that although most workers had returned to Reef hospitals by yesterday — the deadline for their return lapses tomorrow morning.

All hospital workers at the Johannesburg Hospital had returned to work by yesterday, according to hospital liaison officer Jenny Gilwald.

Backlog

"We have a backlog of patients as a result of the strike, but we're expecting things to be running smoothly by Monday," she said.

Baragwanath Hospital liaison officer Hester Vorster said all striking hospital workers had returned to work by 8 am yesterday morning. But she added that the hospital would only be functioning normally by Monday.

A Natalspruit Hospital nursing sister said the hospital — one of the worst hit by the strike — was functioning smoothly once more.

PEOPLE AT THE TOP
ARE ON THE MOVE
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24 FEBRUARY 1990

SUNDAY TIMES, Business Times, May 13, 1990 5

MANPOWER
MIRROR by
ADRIAN
HERSCH



PAGES AND PAGES OF THE BEST JOBS IN SOUTH AFRICA

Hospital strikers spotlight a raw deal

STRIKES involving hospital workers belonging to the National Education, Health and Allied Workers Union (Nehawu) have raised many questions.

The issues involve the morality as well as the conditions that gave rise to the strikes. But the strikers could mark a turning point for legislation for those in the public service.

Nehawu sent a memorandum to the chief superintendent of Baragwanath Hospital at the beginning of March containing workers' demands.

They included a minimum wage of R1 100 a month and a R400 across-the-board increase, recognition of the union, and the abandonment of race discrimination at health institutions.

The authorities responded by saying that in terms of the Public Service Act only the Commission of Administration and Co-ordination could recognise staff associations. The authorities said that because of this they were "not in a position to formally recognise, or enter into a recognition agreement with a trade union."

Lunch hour demonstrations occurred. They were followed by go-slow action and then full strike action, which spread to 10 hospitals involving about 8 000 workers. Only emergency cases could be handled.

Most of the strikers were non-medical staff but there were exceptions, such as at Netalspruit Hospital where some

nurses were not working at various stages. Their action was condemned by the SA Nursing Council.

The authorities have been accused of dragging their heels when warning signs began to flash. One of the warnings was strike action involving non-medical staff at Cape Peninsula hospitals.

The origins of the dispute can be found in the historical context regarding different forms of legislation for public and private-sector workers.

There have been three major strikes in the public sector this year. One involved teachers in the Johannesburg area, and the other two the non-medical staff at hospitals in the Cape Peninsula and Transvaal.

The teachers' strike in Soweto and Alberton, suspended for three months

pending responses from the Government, still has the potential to adversely affect the future of many pupils raising questions about the morality of such action.

Common to all three strikes have been two important issues — demands for higher pay and greater job security.

Since 1979 black workers in the private sector have been covered by the Labour Relations Act (LRA). As a result they have been able to secure higher wages and better job security than their counterparts in the public service.

Labour Research Services of Cape Town carried out a survey of wage settlements concluded in the private sector between July and December 1989. It calculated an average monthly minimum wage of R657. At SA Breweries the minimum wage is R1 063 a month.

Before the hospital strikes, the lowest paid workers earned less than R300 a month.

As far as job security is concerned, workers in the private sector covered by the LRA enjoy the protection of the Industrial Court.

Public servants on the other hand, do not have access to it. Further, some workers who have been employed in hospitals for decades but are still classified as temporary employees, and can be dismissed on 24 hours' notice.

The gulf between the two sectors in terms of conditions of service has widened over the years in the post Witwatersrand era to such an extent that the stresses and

strains have possibly proved to be too great.

A labour lawyer says he thinks it would be advisable to include hospital workers in the LRA, but under the definition of "essential service" employees.

As such, there would be no freedom to strike, but compulsory arbitration in disputes would be used. Workers would enjoy the broad protection afforded by the Act, including the issues regarding unfair labour practices and access to the Industrial Court. That would ensure equity for them and play a role in bridging the gulf between the private and public sectors.

When asked about the morality of the current Nehawu strike, he says that un-

der the circumstances the workers face it is difficult to comment. However, were these workers to be included in the LRA, under the conditions he outlines, he would be able to comment.

At the time of writing fortunately no known casualties have occurred as a result of the hospital strike. The action marks one of many traumatic periods in the history of South African industrial relations but there is a possibility that it could be a turning point for the better for public service workers.

The strikes could strengthen the National Manpower Commission proposal released in April, that certain sectors of the public service be accommodated in a special way more or less along the lines that essential services would be accommodated (in the LRA).

SA on verge of ILO breakthrough

A MEETING in Harare next week could be the first step towards South Africa's readmission to the International Labour Organisation.

The meeting will be attended by senior representatives of the Government, employer bodies and the trade unions. International experts of the ILO will also be present.

The conference will be chaired by a member of the ILO's Committee of Experts, Sir John Wood.

South Africa was expelled from the ILO in 1966.

Labour experts describe next week's Harare meeting as "a dramatic breakthrough".

The meeting has been organised by the Equality of Rights Branch of the

Sunday Times Reporter

ILO following representations made by the Congress of SA Trades Unions (Cosatu).

Mr Clive Thompson, director of the Labour Law Unit at the University of Cape Town and a co-ordinator of the event, said the meeting would begin in Harare on Monday and end on Thursday.

The talks are historic in that representatives of the South African Government will have official contact with the ILO after a lapse of 24 years. It will also be the first time that the ILO has engaged other SA parties at this level.

166 It will also be the first time that representatives of the Government, organised labour and industry have met together in a joint forum at the same time.

The meeting comes hard on the heels of the signing last week of an agreement between organised industry and labour, Saccola (the SA Co-ordinating Committee on Labour Affairs) and Cosatu/Nactu respectively, on interim changes to the Labour Relations Act, which may become law during the next parliamentary session.

S/Times 13/5/90
The task of the Harare workshop will be to co-ordinate National Manpower Commission proposals, released in April, on a broad consolida-

SA labour legislation will be examined against the benchmark of ILO conventions and recommendations.

Mr Thompson said the workshop would attempt to establish a basic consensus among the principle parties involved in industrial relations "to secure an equitable framework of labour legislation under a future democratic dispensation".

The meeting will be attended by members of the National Manpower Commission, the Department of Manpower, Saccola, Cosatu, Nactu, the ANC and Nafcoc. International experts from the ILO will also be present.

tion of the LRA with the recent Saccola/labour agreement.

Proposals on revised Labour Act delayed

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Sometan 15/5/90

THE National Manpower Commission will submit its proposals on a revised Labour Relations Act to the Minister of Manpower during 1991 and not at the end of this year as originally planned.

According to NMC acting chairman Dr Frans Barker, the delay arose because some interested organisations were unable to submit their representations by the original due date, May 18.

The return date for representations on proposed changes to the LRA has been extended to June 20.

A further postponement is not possible, Dr Barker said yesterday.

The invitation relates to parties wishing to comment on the working document of the NMC technical committee on the revision and consolidation of the LRA.

Oral representations will be made from June 26 to 29 and organisations were asked to submit brief summaries of their representations by June 6.

Those organisations wishing to keep to the

original dates for oral submissions can do so on May 21 and 22.

The NMC's intention had been submit its proposals on a revised LRA to the Minister of Manpower by the end of 1990. - Sapa

Minister to meet union men

15/5/90
The Minister of Manpower, Mr Eli Louw, is to meet a delegation of employers and trade unionists on Friday, to discuss proposed changes to the Labour Relations Act. *(166) (45)*

A spokesman for the Minister yesterday said the meeting would focus on the changes proposed by Cosatu, Nactu and Saccola.

This will be the second time in many months that these parties meet to discuss amendments to the labour law.

The amendments, contained in an agreement between the two federations and Saccola, include proposals on a new definition of the unfair labour practice.

* See Page 8

DATE: 21/11/90

Demos to continue in W Cape

Staff Reporter

THE nationwide "action week" of demonstrations and marches called by the Congress of South African Trade Unions will continue in the Western Cape today

Thousands of workers in the harbour, Paarden Island, Salt River, Epping, Montagu Gardens, Atlantis and Paarl are demanding that the Labour Relations Act be amended, that workers be paid a "living wage" and that a workers' charter be implemented

They are also campaigning against privileges at work.

They are demanding that these measures become written law before the current session of Parliament ends

A Cosatu spokesman said yesterday the workers would also be protesting against the proposed privatisation of the public sector

15/5/88 166

SA labour facing the 'acid test'

A landmark in South Africa's labour history, last week's employer-union accord on the Labour Relations Act, can be seen as the fruit of the new era of negotiations
DREW FORREST, The Star's Labour Reporter, reports.

The black labour movement would be one of the architects of our future, a prominent labour consultant told a conference last week — and his words have been dramatically confirmed by the Labour Relations Act (LRA) accord clinched between unions and employers

Nothing more clearly demonstrates the growing power, sophistication and tactical flexibility of Cosatu/Nactu than the agreement, reached with the employer body, Saccola, after two years of negotiation, coupled with mass protests against the LRA

This is not to detract from the role of the employers, who have shown courage and sensitivity to the broader climate of conciliation in South Africa. The agreement can be seen as one of the first tangible fruits of the new era of negotiations

It may also be the first time anywhere that these old foes have struck a deal on the statutory framework for their relationship

If it is translated into law — it has been forwarded to the Government for enactment in this session of Parliament — it will substantially redress union complaints about the controversial 1988 amendments to the Act

Manpower Minister Eli Louw has told the unions he will try to process the accord this session, which may not be technically feasible, but which marks a shift in Government thinking

Cosatu/Nactu are to push for further changes, including the extension of the Act to farm, public service and homeland workers, full strike rights and "impartial and competent courts". They also want the Saccola forum to start debating "macro" issues such as housing and education

In addition, the agreement sets up specialist sub-committees to probe further the industrial and labour appeal courts, and the issue of strikes

Besides its symbolism, the agreement will have a major impact on day-to-day workplace relations if it becomes law

It embodies a set of basic worker rights — including the right to strike and to work — which Saccola will try to get its members to follow

By reverting to the pre-1988 definition of unfair labour practice, it removes the ban on sympathy and repeat strikes and consumer boycotts. Only unlawful strikes would remain unfair and subject to interdict

Race is no longer an "interest" in union registration, and the controversial Section 79 (2) of the LRA, which broadened union exposure to damages actions in illegal strikes, has been scrapped

In some ways, the accord improves on the pre-1988 position. The unfair labour practice definition has been broadened to include fair dismissal and retrenchment procedures in line with International Labour Organisation standards

An immediate benefit for industry is the suspension of the labour movement's LRA campaign, which has entailed two stayaways and a national overtime ban

But some employers are clearly worried that too much has been conceded. This was reflected in Saccola counter-proposals to the original draft agreement after a report-back to its affiliates

Saccola chairman Mr Anton Roodt warned last week that an acceptable industrial relations order depended not just on the letter of the law, but on "the spirit in which the parties approach each other"

"The agreement is seen by employers as a high-risk venture," said one management source. "The acid test will be a drop in rapidly escalating levels of industrial unrest"

CPM - 7/15/90 (15) (16) (17) (18) (19) (20) (21) (22) (23) (24) (25) (26) (27) (28) (29) (30) (31) (32) (33) (34) (35) (36) (37) (38) (39) (40) (41) (42) (43) (44) (45) (46) (47) (48) (49) (50) (51) (52) (53) (54) (55) (56) (57) (58) (59) (60) (61) (62) (63) (64) (65) (66) (67) (68) (69) (70) (71) (72) (73) (74) (75) (76) (77) (78) (79) (80) (81) (82) (83) (84) (85) (86) (87) (88) (89) (90) (91) (92) (93) (94) (95) (96) (97) (98) (99) (100)

Historic talks on SA labour law

HARARE. — In the first meeting of its kind, representatives of the International Labour Organisation (ILO) yesterday sat down here with delegations from Cosatu, Nactu and the South African government to discuss labour laws for a post-apartheid society.

However, the National Manpower Commission (NMC), which said yesterday that its management had not been invited to participate, said the meeting had no decision-making power because of its exclusion. The commission will be represented only by members of its technical committee on the La-

bour Relations Act (LRA).

But Mr Neville Rubin, the senior official in charge of the ILO's equality of rights branch in Geneva, said the chairman of the NMC, Dr Frans Barker, had been invited "at the specific instigation of Cosatu".

Mr Rubin stressed that the meeting was not discussing the readmission of SA to the ILO — from which it was expelled 20 years ago.

Yesterday's discussions were chaired by Sir John Wood, one of Britain's leading experts on industrial law. — Own Correspondent and Sapa

Louw to meet unions over agreement

MANPOWER Minister Eh Louw is scheduled to meet representatives of Cosatu, Nactu and Saccola on Friday for discussions on the historic agreement reached by organised business and the unions on changes to the Labour Relations Act

The date of the meeting, where the Minister intends asking for clarity on "vague or unclear" aspects of the agreement, was confirmed by Saccola and Manpower officials

But it appears there could be conflict between government and the

ALAN FINE

unions over whether the agreement is translated into law this year

Cosatu announced yesterday it had decided to stage a "national day of action" next Tuesday to demand that the agreement be made law during the current session of Parliament

According to Louw, he had undertaken "to make all reasonable endeavours to put those proposals which are reconcilable with the draft

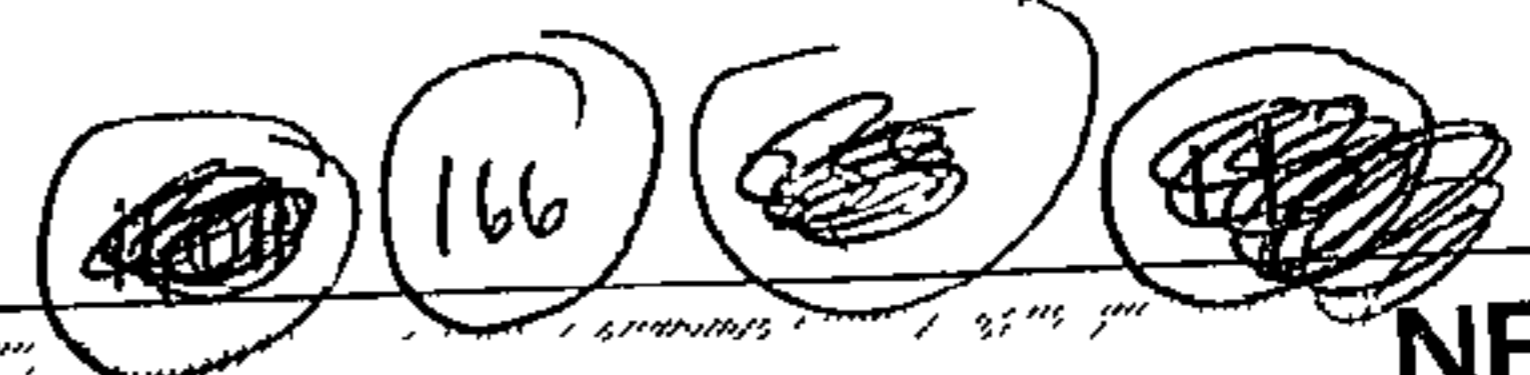
Amendment Bill through Parliament this session" However, the agreement he received contained proposals "on a far wider spectrum" than those provided for in the Bill

The Bill relates to certain limits regarding dispute procedures and the liability of unions for damages sustained in unlawful strikes

Cosatu also said it would be making representations to the National Manpower Commission next week on the commission's investigation into restructuring the Act

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Cosatu in move to push 'Saccola accord'

Labour Reporter

The 'million-strong Congress of SA Trade Unions is to stage a national day of action next Tuesday to demand the enactment of the "Saccola accord" on the Labour Relations Act during this session of parliament

Involving factory protests, industrial area marches and rallies, the action was decided at Cosatu's Campaigns Conference in Johannesburg at the weekend

A statement said the protests, which in some areas would last the whole week, would also focus on the federation's anti-privatisation and Workers' Charter campaigns

Last week, Manpower Minister Eli Louw gave a strong hint that the LRA accord between Saccola and Cosatu/Nactu might not reach the statute book this year

Mr Louw said it had been agreed at his recent talks with the unions that the accord should reach him in April. It would then go to the National Manpower Commission for recommendations, and broad consultation would be necessary on any

amendments. The current parliamentary session ends in less than two months

Mr Louw said he had only offered to push through proposals related to the draft LRA Amendment Bill leaked to the press early this year

This is far narrower in scope than the far-reaching proposals in the Saccola accord

Minimum wage campaign

Other resolutions at Cosatu's Campaigns Conference were

- That the campaign against Barlow Rand, accused of undermining central bargaining, should be intensified.
- That a campaign on the Unemployment Insurance Fund should be launched
- That discussions should be held on launching a national minimum wage campaign, to complement the campaign for a living wage

The conference endorsed a Cosatu central executive committee decision to stage a week of action from July 1 focusing on the Natal violence

Concern over security law

Star 17/5/90 (66) (124) (129)

White unions urged to join black in search for better labour laws

By Robin Drew,
The Star's Africa News Service

HARARE — White trade unions in South Africa were yesterday urged to join the two major black umbrella bodies, Cosatu and Nactu, in continuing discussions on how best to formulate better labour laws

The appeal came from leaders of both bodies who had been attending a three-day workshop in Harare under the auspices of the ILO at which a South African Government advisory body was also represented.

It was disclosed that a lawyer representing white trade unions, Mr Jan Hurter, also attended the Harare meeting as a member of the National Manpower Commission delegation headed by Dr Franz Barker

At a press conference after the workshop which was in closed session, Mr Jay Naidoo, general secretary of Cosatu, said the Government had accepted it would have to consult with the labour movement and stop viewing it as hostile.

But he said a positive response from the Government, particularly in relation to the interim draft agreement reached by Cosatu and Nactu with the employer body, Saccola, was essential.

"We are not prepared to continue endless debate with no result being seen," said Mr Naidoo.

Asked about working class white reaction to current events, Mr Naidoo said "If we could talk to them, it would be fine. But it is very difficult to talk when they point a gun at you. We are hopeful, however, that all workers, black and white, will recognise their common interests."

Dr Barker, said he fully agreed the discussions in Harare had been very frank and very constructive. It had been very valuable for the Manpower Commission to have interaction with the ILO

South Africa left the ILO in 1966 after the International Labour conference had adopted a strong declaration on apartheid in 1964

THE strike that crippled several Transvaal hospitals over the past week is the latest example of militancy that has swept the public sector.

Like a Trojan horse within the heart of the state's institutions, thousands of government employees at homeland institutions, the post office, railways, schools and security services this year have embarked on industrial action designed to force the authorities to listen to their demands.

As public sector workers, they are not entitled to protection under the Labour Relations Act

Bargaining

They have been denied union recognition. Because they do not have the right to collective bargaining, they earn pitifully low salaries without job security.

There are cases of general assistants earning as little as R240 a month after years of service with the administration.

Moves by the state to privatise the public sector present a massive threat to jobs and workers' ability to take united

The 'Trojan Horse' of the public sector

action.

The announcement earlier this year of a 10 percent increase for civil servants — while ministers were awarded an increase of 26 percent — incensed workers and even conservative staff associations responded by threatening strike action.

The public sector revolt was spearheaded by Cosatu's South African Railway and Harbour Workers' Union (Sarhwu), whose members engaged the authorities in a bitter and protracted national strike last year.

The strike ended with notable gains for the union — including an undertaking to re-employ thousands dismissed during the strike.

Since the beginning of this year, there have been rumblings from workers in the post office, sporadic strike action by municipal workers and industrial action by warders and policemen who are members of the fledgling Police and Prisons

Civil Rights Union (Popcu).

Several other unions such as Nactu's NUPSW and black staff associations have indicated interest in joining the protest action.

Even white public servants are learning the lesson that militancy brings tangible gains.

When parliament opened, members of the conservative South African Nursing Association marched to protest for increases.

White Transnet workers took industrial action last month — the first ever in the industry.

Settlement

The most spectacular victory won by workers was the settlement that brought an end to a 16-day strike which crippled Cape provincial hospitals in March.

The strike was the largest public sector strike ever experienced in Cape Town. It was considered unusual as strikers were not dismissed and the strike received strong sympathy from other members of the medical staff, including the hospital superintendent, Dr Jocelyn Kane Berman.

The strike was suspended after the authorities agreed to guarantee job security, grant maternity benefits, negotiate with the Health Workers' Association and increase pay.

Cosatu and Nactu are demanding that labour legislation is extended to cover all workers in South Africa.

The recently-completed report on changes to the LRA by the Manpower Commission includes similar recommendations.

Clearly, the days of excluding civil servants from labour legislation are over. Workers have shown themselves willing to embark on extensive industrial action with or without the sanction of law.

The involvement for the first time of nursing staff in the Johannesburg strike indicates that militancy is spreading to professions which have previously passively accepted being underpaid and overworked.

What will have to be ironed out is just how far workers in essential services can go in expressing grievances.

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of mass mobilisation

the country are expected to take part in a week long programme of mass action in support of several key union demands.

The "week of mobilisation", which begins next Monday, follows the first-ever Cosatu campaigns conference in Johannesburg last weekend

Cosatu is calling for mass action in support of its LRA, Living Wage, anti-privatization and Workers' Charter campaigns

The federation intends making representations at the National Manpower Commission (NMC) hearing on the LRA between the 21-23 May

A Cosatu spokesperson said the federation would present its viewpoint on proposals by the NMC — notably the definition of an essential service, closed shop agreements and participation in the NMC

Demonstrations

On Tuesday, the federation intends to hold lunchtime marches and demonstrations in industrial areas.

The demonstrations will focus on the anti-privatisation campaign and the demand for the agreement on the LRA signed last week by Cosatu, Nactu and employer body Saccola to be made law during the current parliamentary session

The demonstrations will also be in support of the Living Wage Campaign (LWC) which has recently been revived by Cosatu

The core demand of the LWC is for all workers to be paid a living wage

The weekend conference agreed to investigate the issues of a legislated, minimum wage

The living wage demand is closely tied to the demand for a living unemployment

ment benefit - important to ensure that the division between the employed and the growing number of unemployed is not aggravated

The demand for job security is another key LWC demand and includes negotiated retrenchments, reduction in overtime and an end to casual labour

The battle against privatisation which unions say threatens both wages and jobs is another important aspect of the LWC

The fight for centralised bargaining is part of the LWC because the absence of

Workers will be meeting at five centres in Cape Town on Thursday to discuss the Workers' Charter

The centres are the Sactwu hall in Salt River, the Samwu hall in Athlone, the Premier hostel in Guguletu, the Dorothy Boesak Centre in Bellville, the Nicro Centre in Eastridge and the Saxon-sea civic centre in Atlantis

This is a follow-up to the widespread distribution of questionnaires around the charter and is part of the preparation for the workers' charter conference scheduled to take place in October

Violence

A focus on the situation in Natal at factories throughout the Western Cape on Wednesday signals the beginning of a concerted attempt by Cosatu to solve the Natal violence



Cosatu delegates at the campaigns conference at Wits university last weekend

ILO standards seen as a guide for SA

HARARE — Standards laid down by the International Labour Organisation (ILO) should be used as a guide for the establishment of new labour laws in SA

This was said in a joint statement by SA delegates to a three-day ILO seminar, which ended here yesterday

The delegates represented Cosatu and Nactu, the National Manpower Commission and Saccola

The statement described the talks as "a lively and constructive exchange of views" that would be taken into account when labour and employers' organisations put forward proposed amendments to SA's labour relations laws in the future

Among topics discussed were international labour laws, collective bargaining procedures, strikes and basic worker freedoms, including a vote in national affairs

National Manpower Commission acting chairman Frans Barker said he would be reporting back to Manpower Minister Eli Louw

"It is very difficult to revise and redraft labour legislation in isolation. We appreciate the opportunity to have had this interaction with the ILO," he said

Cosatu general secretary Jay Naidoo said the meeting "demonstrated how, out of line with international

standards SA legislation is"

In the past, he said, "we have constantly tried to talk to the government... it is important that the NMC and the government now accept they will have to consult with the labour movement

"We are are not prepared to continue endless debate. We have to see this transformed into action," Naidoo said.

He said the Harare meeting was arranged before political reforms were announced by President F W de Klerk

Cunningham Ngcukana, representing Nactu, said his organisation did not envisage a future democratic SA following the same path as many of its neighbours, where in some cases labour unions have been suppressed, workers' rights ignored and strikers detained

"Given the history of our trade union movement and the commitment of the liberation movement to independent trade unions and collective bargaining determined by the main players, I don't see any problems," he said

British ILO official Sir John Wood, who chaired the meeting, described the Harare talks as exploratory.

No further meeting was scheduled at the present time, he said. — Sapa-AP.

Cosatu calls for 'action'

By LEN MASEKO

COSATU has called for a "national day of action" next Tuesday to force the Government to pass a labour law that encompasses changes proposed by trade unions and employers during the current session of Parliament.

The call comes on the eve of a meeting between the Minister of Manpower, Mr Eli Louw, Saccola, Nactu and Cosatu.

They are scheduled to meet in Pretoria tomorrow to discuss the proposed changes.

The meeting follows an agreement between the employers and the two federations on amendments that should be included in the Labour Relations Act.

By yesterday, it could not be established what form the "national day of action" would take.

Cosatu spokesmen could not be reached for comment.

The call was made at a "Living Wage" conference attended by about 250 Cosatu delegates at the University of Witwatersrand last weekend.

The delegates resolved, among other things, to:

* Call a two-day meeting this weekend to discuss the launch of the anti-privatisation campaign, and

* To step up the campaign against Barlow

Rand for "undermining the collective bargaining process".

A Department of Manpower spokesman said the Minister would not comment on the issue "at this stage".

This week the National Manpower Commission, which was asked by the Minister to review the labour legislation, said it would submit proposals on the revised LRA to the Minister during 1991 - not at the end of this year as originally planned.

This meant that the proposed amendments could be enacted only next year - something that is likely to spark a new row between the State and the unions.

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NEWS

Minister, unions to discuss accord

Labour Reporter

Demands for the swift enactment of the watershed "Saccola accord" on the Labour Relations Act (LRA) are set to dominate today's meeting between Manpower Minister Eli Louw and employer and union representatives.

Attending the talks will be union federations Cosatu and Nactu and the employer body Saccola, which last week agreed on proposals for wide changes to the LRA.

Union demands for these to be made law during the current parliamentary session are developing into a major flashpoint.

Mr Louw has hinted that this might not be possible, while Cosatu plans nationwide marches, protests and rallies next week to underscore the demand

In a statement, Mr Louw singled out the following difficulties

● The accord had been promised to him last month, and had to go to the National Manpower Commission (NMC) for study and recommendations Consultation to ensure the broadest possible consensus would also be needed

● He had agreed only to try to push through proposals which related to a draft LRA amendment Bill. The Saccola accord had a broader scope

New proposals, including those relating to the unfair-labour-practice definition, termination of service and union rights of public servants, would also have to be referred to the NMC and all interested parties for comment

The meeting with Mr Louw comes in the wake of a historic conference in Harare, convened by the International Labour Organisation and attended by the NMC, Saccola, Cosatu and Nactu, on future South African labour law.

After the conference, Cosatu's Jay Naidoo warned that the unions "were not prepared to continue endless debate (on the LRA) without result".

Apprenticeships popular again

Labour Reporter

A steady, six-year downswing in the number of apprentices entering industry has been dramatically reversed, Manpower Minister Eli Louw revealed last night

Speaking in Johannesburg, Mr Louw said new apprenticeship contracts had fallen from a peak of 14 500 in 1982 to the "alarmingly low" figure of 7 900 in 1988.

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LABOUR LAW DISCORDS

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114 19/5/90

Not all the Saccola-Cosatu-Nactu proposals on changing the Labour Relations Act are reconcilable with the draft Amendment Bill. And the historic employer-union agreement also contains proposals on "a far wider spectrum than those provided for in the Bill," says Manpower Minister Efi Louw.

However, this does not look like cause for alarm. The minister will meet the three parties to clarify matters this Friday, before referring the proposals for consideration by the National Manpower Commission, which will in turn advise Louw on the apparently irreconcilable parts.

In terms of the Bill, the minister was expecting proposals relating specifically to "certain time limits in the Act, as well as to the accountability of trade unions for compensation in the case of unlawful strikes."

The main points of the Saccola-union

proposals that will now have to be ironed out concern.

- Their new definition of unfair labour practice, which "does not include the guidelines on fair conduct included in the present definition,"
- New provisions on the termination of service which "omit the right of parties to regulate the termination of service by agreement,"
- Legal remedies available for unfair strikes and lockouts are omitted;
- Certain provisions protecting the freedom of association are omitted,
- The protection of servicemen is omitted,
- Provisions which curb unfair sympathy strikes, lockouts and boycotts are omitted, and
- The competency of civil servants to belong to unions is addressed, but without prior consultation with existing staff associations

'Historic' progress in SA labour talks

Own Correspondent

JOHANNESBURG — After nearly seven hours of tough talking on Friday, Manpower Minister Eli Louw, Cosatu, Nactu and Saccola agreed that amendments to the Labour Relations Act proposed by the latter three would be published in a special Government Gazette for comment this week.

The meeting, described by one source as even more historic than that two weeks ago at which the union-Saccola agreement was signed, has revived hopes that the agreement could still be translated into legislation this year.

However, much uncertainty on this score remains, and it appears the usually antagonistic employers and unions are to be involved in an intensive lobbying effort to ensure their agreement does become law within the six weeks before Parliament is adjourned.

Proposals

Louw said after the meeting that in addition to having the draft Bill published in a special Gazette on Wednesday, the proposals had been referred to the National Manpower Commission for comment as soon as possible.

Saccola spokesman Bobby Godsell said his organisation "continues to be hopeful" this could be achieved.

Nactu acting general secretary Cunningham Ngcukana said "But if it does not happen, we will have to recommend to our members that there be no further co-operation with the minister, the NMC or any other arm of the state.

"We took a political risk in talking to the minister, and we expect reciprocation."

Big breakthrough in SA labour talks

(166) ALAN FINE (BSP)

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"We took a political risk in talking to the minister, and we expect reciprocation."

Mass stayaways in Transvaal

23/9/90 Staff Reporters

Work stayaways, marches and factory demonstrations erupted across the Transvaal yesterday as thousands of workers took part in the Congress of SA Trade Unions (Cosatu) "day of action" on the Labour Relations Act.

Sapa reports that police arrested 128 demonstrators on the East Rand and that teargas was used to disperse marchers in central Johannesburg.

The Cosatu action was designed to press the Government into enacting a union-employer accord on the Act before Parliament goes into recess.

A national picture could not be obtained yesterday, although hundreds of shopworkers staged protests in Port Elizabeth.

Major industries in the Eastern Transvaal were hit when the protest, fuelled by local grievances, mushroomed into full-scale stayaways.

A Sasol spokesman said very few black workers had turned out at the Secunda plants and Anglo American reported a complete stayaway of workers from all divisions of Highveld Steel in and around Witbank.

A Cosatu spokesman in Secunda said between 40 000 and 50 000 people had

taken part in a march through eMbalenhle township to the council offices.

Police reported that teargas was used on several occasions in eMbalenhle to disperse youths setting up roadblocks. A coal truck was burnt near Secunda and there was sporadic stoning of vehicles.

In Witbank, where a boycott of white businesses is taking place, the town centre was deserted.

In Germiston, an estimated 5 000 unionists from three industrial areas marched through the city at lunchtime yesterday.

Police said 128 people had been arrested for obstructing traffic during marches in Kempton Park, Spartan and Isando.

Postal and commercial workers staged separate marches in the Johannesburg city centre yesterday, one to the Stock Exchange, and, according to Cosatu regional secretary Amos Masondo, there was a partial stayaway in Industria.

Demonstrations were also reported from Elandsfontein, Wadeville and Edenvale. A union source said thousands of workers had marched from Vereeniging to Sebokeng.

Sowetan 23/5/90

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Some of the many workers who took to the streets throughout the country yesterday in an attempt to pressurise the Government to legalise the changes to the Labour Relations Act proposed by Cosatu, Nactu and employers. The federations' members marched on the Department of Manpower offices in Johannesburg and Germiston to deliver petitions.

SIG 24/5/90

Court deals blow to whites

The all-white Mineworkers Union — and by implication the white labour movement — has been dealt a severe blow in a key Industrial Court judgment

The court this week upheld the refusal of Anglo American's East Rand Gold and Uranium Company to formally recognise or bargain with the MWU on account of its racial constitution

Ergo was justified in not wishing to follow retrogressive policies which would be increasingly anachronistic in a new South Africa, said court mem-

ber Ameen Bulbulia

In a statement, Anglo stressed that the ruling did not stop workers from belonging to the MWU, with which it would maintain informal dealings

The MWU went to court in February, arguing that Ergo was unfairly refusing to bargain in good faith and thwarting freedom of association.

Lawyers said the judgment could provide a legal basis for stripping racial unions of existing bargaining rights. — Labour Reporter

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Black unions have made great strides

Sowetan 25/5/90
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Although the application of source industrial relations theory is still at a developing stage, black trade unions have achieved more gains in industrial democracy during the last decade than their white counterparts.

This forced employers to pay attention to work place industrial relations

The purpose of this article is to present a historical overview of the system of control, resulting in a dormant and limited labour movement that kept unionism latent among the black workers

Coercive employment practices:

In 1841 the "Master and Servant Ordinance" in the Cape Colony was passed as a coercive employment practice, which oppressed black workers, eg workers faced a severe penalty for refusing to work overtime or for going on strike. This was only removed in the late 70s

In order to control and hinder their movements an appendage by law forced them to carry passes.

The discovery of gold in 1886 — further entrenched exploitation as black workers were classified as servants and through taxation, they were forced to earn wages. This promoted discriminatory employment conditions and practices

In 1910 the "colour bar" was introduced in the labour market with the contract system to control labour mobility

Black workers, anchored in the rural areas, had no skills to use as a bargaining weapon

The pass system and "influx laws" reinforced curbs. Black unions were unacceptable. Thus the idea that workers could not be employed in labouring jobs at low wages became increasingly part of the values and

Abel Majola of the Wits Business School this week looks at the development of industrial relations in the country. The page is sponsored by Barlow Rand in its endeavour to promote business education in the community.

thinking of that time

Racialism in labour legislation:

The 1924 Industrial Conciliation Act and other legislation reinforced the two colour bars on free movement and freedom of association

According to the Industrial Dispute Act of 1909 two precedents were established. Black workers were excluded from definition of employees in the Labour Act, resulting in white workers forming in alliance with employers to prevent the emergence of black unions

In addition, the Riotous Assemblies Act of 1914 gave the government powers to deal accordingly with strikes and also to prohibit illegal gathering that were viewed as endangering public safety

Hence the basic features of these and other laws were entrenched in the Industrial Conciliation Act, excluding contracted black workers from the definition of employee

The practical effects which these legislation had on the character of the labour movement were profound.

In some industries there was a decline in membership and alienation to union leaderships, in particular among blacks as a result of constant harassment by the police.

The state as protector of the interest of the dominant class as a whole ensured that white workers were not subjected to any form of job

or skill competition with their black counterparts, thus co-opting white workers on its side

In the early 1970s African workers began again, as they had tried from the beginning of the century, to organise into trade unions and challenged the dualistic structure of industrial relations

During this decade black trade unions managed to challenge certain apartheid laws

In the past a central problem in the development of black unions, has been to wage a struggle against management's resistance to unions, state hostility and white unions

Prior to the 70s, there had been major repressive attempts to control or to clamp down on African labour movements

During World War 2, and in the early 1950s and early 1960s each wave of unionisation was followed by repressive legislation

The implication of state intervention had serious consequences by hampering the development and growth of black trade unions

The 1973 Natal strikes were a milestone for the labour movement as thousands of black workers forced employers and the government to review labour laws. Thus the commission of inquiry chaired by Professor Nic Wiehahn was set up in 1977

The establishment of the commission was a non-event as several commissions of inquiry had been set up by the government in the past and did not bear fruits for the labour movement

The previous commission was appointed 30 years earlier, consequently the existing Industrial Conciliation Act (1956) was amended. Since then conditions and practices in the field of labour have developed and changed considerably

RINGING THE CHANGES

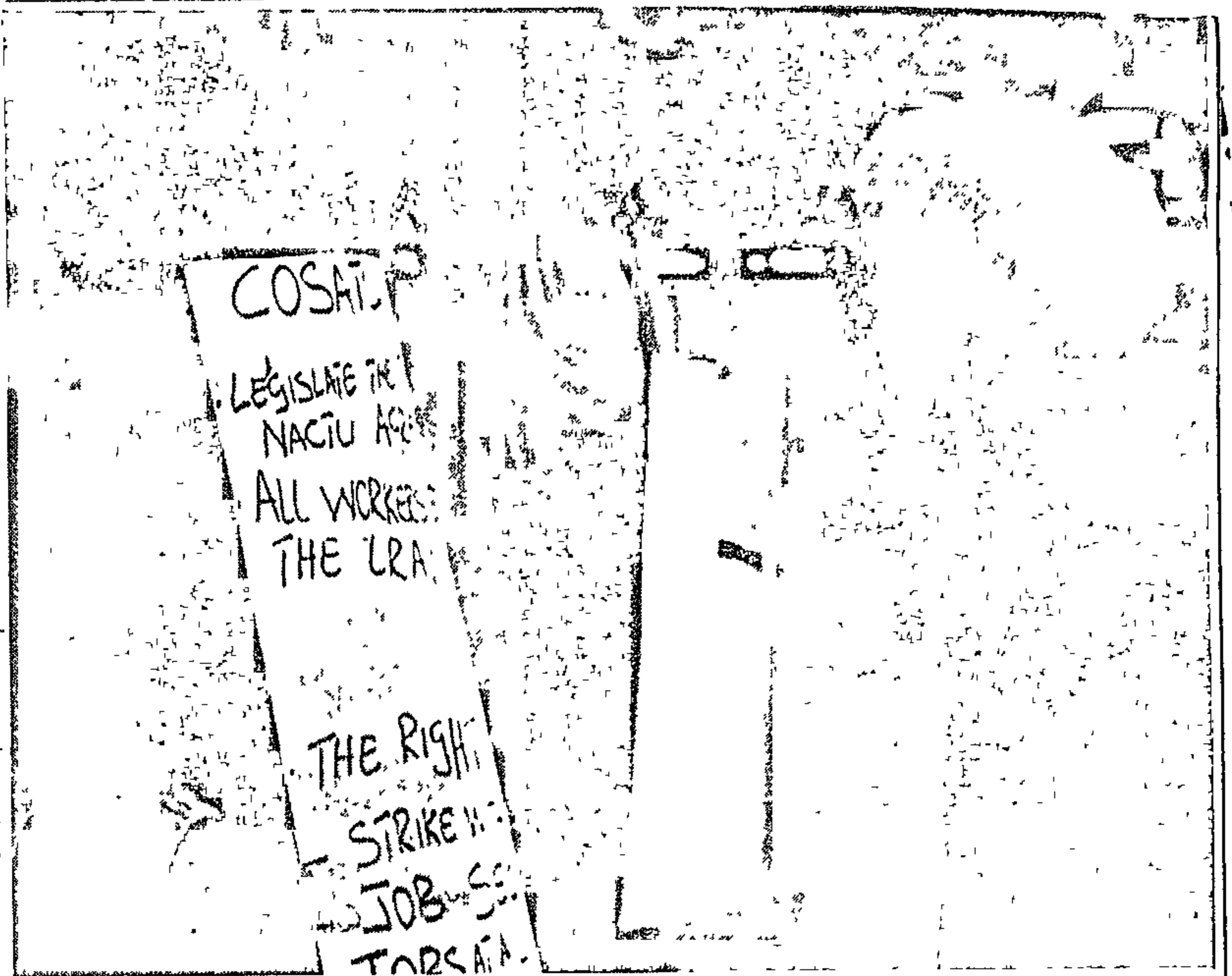
FIM 25/5/90 (166)

The Saccola-Cosatu-Nactu proposals on changing the Labour Relations Act were published on Wednesday in the *Government Gazette* for general information and comment. This follows Manpower Minister Eli Louw's initial reservations about the historic employer-union accord (*Current Affairs* May 18) and a marathon session of talks with all parties last Friday to clarify certain aspects and omissions (166)

Louw says that as well as having the Draft Amendment Bill published the proposals have been referred to the National Manpower Commission for consideration and recommendation as soon as possible

He adds the parties committed themselves "to taking all reasonable steps to have the agreement translated into legislation as a matter of urgency" — which could see the proposals through parliament in the current session

W/Man 25/5 - 31/5/90



A passerby takes a closer look at a placard demanding government implement the new draft Labour Relations Bill during a lunch hour protest in Johannesburg this week, part of a "week of mass action" throughout the country. Placard demonstrations and marches were

held throughout the country in the campaign organised jointly by the Congress of South African Trade Unions (Cosatu) and the National Council of Trade Unions (Nactu).

1166

Picture: Associated Press



8/21
25/9/90 (166) (167)

Promise of quick move to enact Saccola labour accord

Labour Reporter

Manpower Minister Eli Louw has agreed to take all reasonable steps to translate a union-employer accord on the Labour Relations Act into law as a matter of urgency

The announcement, described by unionists as "a partial breakthrough", follows the Minister's meeting with the employer body Saccola and union federations Cosatu and Nactu on Friday

Mr Louw also announced that a draft amendment Bill based on the "Saccola accord" would be published for comment on Wednesday

Before Friday's talks, the Minister indicated that only proposals relating to an earlier draft Bill, much narrower in scope than the Saccola accord, could be enacted

Cosatu negotiator Marcel Golding said unions would meet the National Manpower Commission this week. The aim was to put draft legislation before the Cabinet by June, he said

Mr Golding stressed that despite significant progress at Friday's meeting, Cosatu's nationwide protests to demand the enactment of the Saccola agreement would go ahead this week

Nactu's Cunningham Ngeukana said the enactment of the Saccola proposals was a question of political will

"The Minister stressed the technical difficulties. As we are not represented in Parliament and have no say in how it runs, this is not our concern," he said

Cosatu pressure to get Bill passed 'was futile'

ELI LOUW

TRADE union action aimed at forcing enactment of a new labour law during the current parliamentary sitting was futile as its promulgation was not a "matter of political will".

This was said on Friday by Mr Johann Muller, a spokesman for the Minister of Manpower, when asked to comment on efforts by Cosatu to pressurise the promulgation of the draft Labour Relations Amendment Bill.

"Everybody would like to see the Bill tabled

before Parliament this year, but it has to go through the normal process of legislation," he said.

He expected the Bill to be tabled before the end of June, but said its promulgation was not a question of the Minister, Mr Eli Louw's, "political will".

The draft law could not be "steamrollered", and other parties besides the employer's federation, Saccola, and Cosatu and Nactu trade union federations had to be consulted.

Any comments on the Bill - gazetted on Wed-

nesday - must be submitted to the Department of Manpower by June 6, he said.

National Union of Metalworkers SA researcher and member of Cosatu's drafting team Mr Jeff Schreiner said "As far as we are concerned, processing the Bill in the current sitting is principally a matter of political will."

The union federations and representatives of the Department of Manpower had agreed to a programme which would include the Bill being tabled by the second week of June - Sapa

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hood matters
majoritarian
without the pro-
rities.

Regional differences and
"divergent local circum-
stances and needs" would be
accommodated, the CCLA en-
visaged, although these would

OF a directly
elected mayor as one finds in
the United States.

The CCLA will consider all
these options at its next meet-
ing on October 25.

CAP Tmfs 29/5/90
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Ministers meet union leaders

Political Staff

BASIC worker rights and bringing
public sector workers under the La-
bour Relations Act were discussed
yesterday by two ministers and a
trade union delegation.

The Minister of Mineral and Energy
Affairs and Public Enterprises, Dr
Dawie de Villiers, and the Minister
for Administration and Economic Co-
ordination, Dr Wim de Villiers, said
in a joint statement: "The discussions
took place in a good spirit.

"There was an open and frank ex-
change of views on important issues
such as basic workers as well as the

case for including public servants and
postal workers within the ambit of the
Labour Relations Act."

The union delegation included the
Post and Telecommunications Work-
ers' Association, SARH Workers'
Union and Cosatu

They said the union delegation was
advised to submit its views to the
National Manpower Commission
which was at present looking into
these issues

"It was pointed out that the govern-
ment will decide on these issues once
it has had the opportunity of studying
the National Manpower Commission
report," the ministers said.

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Govt to drop racial trade union restrictions

By BARRY STREEK

THE registration of trade unions on racial grounds is to go

Minister of Manpower Mr Eli Louw yesterday told a South African Association of Municipal Employees (Saame) delegation that it was the policy of the government that, as a premise, race should not be provided in statutory enactments.

"Thus, the minister does not foresee that race can be seen as an industrial interest within the scope of registration of trade unions in future," Mr Louw and Saame said in a joint statement.

At present, trade unions can be registered for particular race groups or for membership of all races, but in recent years the number and membership of racially exclusive trade unions has been declining.

Mr Louw's statement yesterday means that the government is to abolish these legally enforced racial restrictions in the registration of trade unions.

LABOUR LEGISLATION

1990

~~JUNE~~ — ~~JULY~~ ~~August~~ ~~SEPTEMBER~~

JUNE — DEC

15/6/90

A law that legislators 'forgot'

By CLAIRE ROBERTSON,
Pretoria Bureau

A particularly nasty little piece of labour legislation was quietly dealt a death blow in the Labour Appeal Court this month

This effectively opens the way for thousands of black workers to claim access to labour structures such as the Industrial Court, conciliation boards and collective bargaining

Contained in a 1970 proclamation, the 20-year-old legislation specifically excluded workers in "Bantu Trust areas" from recourse to the limited provisions of the Industrial Conciliation Act (now known as the Labour Relations Act) which applied to blacks.

This was later amended to make it clear that only "Bantu" workers in these areas were excluded from the labour protection contained in the Act. There existed at the time a dual system of labour relations — one set of labour laws for blacks and one set for whites

The Labour Relations Amendment Act of 1981 — and one earlier Act — effectively repealed the "black" labour legislation and removed racial tags from the "white" to create a unified system of labour relations

But black workers in Trust areas were still left out in the cold because their exclusion from the Industrial Conciliation (or Labour Relations) Act was not specifically repealed by the 1981 legislation

Or so the South African Development Trust (SADT) argued in a recent case

The 1970 proclamation remained unchallenged throughout a decade of labour reform until, in 1987, about 330 Soshanguve workers approached attorney Nick de Villiers of the Legal Resources Centre in Pretoria for help in redressing what they saw as unfair retrenchment. Of the six cases so far dealt with, four were settled out of court by the SADT

Then the Development Trust changed tactics and decided to challenge the jurisdiction of the Industrial Court in the matter

It claimed the 1970 proclamation excluded the applicants from recourse to the Industrial Court as Soshanguve was a Trust area

In a January 1988 application for interim relief involving a batch of 14 of the workers, the Industrial Court ruled that it had jurisdiction.

History

The SADT challenged this, and the matter was referred to the highest court in the labour hierarchy, the Labour Appeal Court

Arthur Chaskalson, SC, argued the matter and Mr Justice S J Mynhardt, chairman of the Transvaal division of the Labour Appeal Court, ruled in favour of the applicants. The 14 men will now take their case to the Industrial Court in October, but the ruling has implications for all workers living in black Trust areas

The 38-page judgment traces the complex history of the relevant labour legislation as successive labour Acts overtook one another. Each granted slightly wider rights to black workers until, in 1981, the Labour Relations Amendment Act attempted to do away with racial segregation of workers' rights entirely

But the 1970 proclamation was not included in the 63 detailed amendments of or inclusions to the old Industrial Conciliation Act that made up the Labour Relations Amendment Act of 1981

It was, according to the applicants, forgotten by the legislators.

Mr Justice Mynhardt said that as the 1981 legislation had repealed "black" labour legislation that *did* apply to the Trust land workers, if these workers were to be excluded from other legislation because of the proclamation they would have only common law to fall back on in labour relations with employers

Had this been the intention of the legislator, one would have the "inexplicable situation" where those workers were suddenly denied access to labour mechanisms they had enjoyed for 28 years

If this were the case, "for them the Labour Relations Amendment Act would have been a step backwards while for other black workers it was a great step forward"

Crisis talks on labour Act 166

THE decision by Manpower Minister Eli Louw not to translate into law this year amendments to the Labour Relations Act — proposed in a joint union/employer agreement — was at least partly the result of pressure by four large corporations.

This emerged yesterday as parties to the agreement — Saccola, Cosatu and Nactu — met for crisis talks on the decision — approved by the Cabinet on Wednesday.

It is understood Sasol, Eskom, Gold Fields and UK multinational BTR-Dunlop made submissions to the National Manpower Commission last month opposing, or expressing reservations about, the agreement reached in March.

Spokesmen for Sasol and BTR yesterday each confirmed the companies had made individual submissions to the NMC on the agreement, but declined to elaborate.

In explaining the Cabinet decision, Louw

ALAN FINE

said the NMC had received divergent comment indicating more time was required to study the proposals and their implications as they "drastically change the rights of both employers and employees".

A Manpower Ministry spokesman added yesterday that 81 parties had commented on the proposals.

Asked whether the decision represented a rejection of the NMC's views, he said Louw "did not reject any proposals of the NMC, but indicated he could not disregard the comments by other interested parties".

Saccola spokesmen were unwilling to comment before their crisis meeting.

But Cosatu said the decision caused it "to seriously question this government's commitment to the process of political negotiations".

B 10 am 15/6/70

Nationwide action looms over Labour Act

W/Week 15/16 - 21/6/90

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NATIONWIDE industrial action is looming following the cabinet's decision not to enact the "Saccola accord" on the Labour Relations Act before parliament recesses.

Yesterday, employers and government officials were understood to be involved in frantic moves to rescue the situation and stave off unrest.

Attacking the cabinet's "short-sighted" measure as designed to frustrate the unions and warning that it would exacerbate tensions in the workplace, the Congress of South African Trade Unions said it would hold an urgent executive committee meeting to decide on appropriate steps.

The unions are also to meet the African National Congress and "other relevant organisations". Cosatu negotiator Marcel Golding would not comment

on speculation that the ANC would be asked to withdraw from its talks with the government as a mark of protest.

And although he would not be drawn on the unions' likely response, he said spontaneous worker protests were already erupting in individual plants.

Following this week's Cape Town meeting between Manpower Minister Eli Louw, union federations Cosatu and the National Council of Trade Unions and the employer body, the South African Consultative Committee on Labour Affairs, the cabinet announced yesterday that the Saccola agreement would not be translated into law this parliamentary session. The session ends on June 22.

Instead, Louw would continue consulting interested parties with a view to possible legislation next year.

Worker protests have erupted over the government decision not to enact the "Saccola accord". DREW FORREST reports

In a statement, Louw said there had been a wide response to the Saccola proposals, which were published for comment after referral to the National Manpower Commission for recommendations.

The response indicated that there had been insufficient time to study the proposals, which had economic implications and drastically altered the rights of employers and workers, he said.

At this week's talks, he had suggested that more time be allowed for comment. As an alternative, he had offered to enact proposals on which adequate

consultation had taken place, and to consult on others. He had also offered to include an enabling provision in the LRA under which an agreement could be given statutory force.

This had been rejected by the other side, which had pressed for the full agreement to be enacted.

Yesterday, Cosatu slammed the cabinet decision as "pandering to minority employers and unions who enjoy little, if any substantial support", adding that the government's "disregard of the views of the principal actors in the labour arena reflects its unwillingness to move along a path of democracy".

Stressing that while Saccola represented 65 000 companies employing over four million workers, and Cosatu/Nactu had close to two million members, Golding said there had been 80

objections to the Saccola proposals. A key concern among some employers is the far dismissals code.

Objectors apparently include Gold Fields, Dunlop and Sasol — all Saccola members — Eskom, the Mine Workers Union, the Rand Afrikaans University and Unisa.

Sources indicated that the NMC's proposals coincided with those in the Saccola accord. But Louw had been prepared to enact only minor changes to the LRA, including the extension of time-limits for dispute resolution and the scrapping of racial registration.

He would not agree to revert to the pre-1988 unfair labour practice definition or to suggested changes to the Labour Appeal Court but had offered to limit the right to urgent strike interdicts, sources said.

No action by Parliament on labour law

By CONNIE MOLUSI

FAILURE by Parliament to enact joint proposals by Cosatu, Nactu and Saccola to amend the Labour Relations Act during the current parliamentary session has led to panic as the labour movement gears itself for industrial action

The failure to translate the proposals into law was partly due to pressure from four major corporations - Sasol, Eskom, Gold Fields and UK multinational BTR-Dunlop - and the Mine Workers' Union.

The four companies made submissions to the

17/6/90 166
National Manpower Commission (NMC) opposing or expressing reservations about the agreement between the unions and employers

However, the Cabinet gave Manpower Minister Eli Louw the go-ahead to continue consultations with Cosatu, Nactu and Saccola.

The minister held a meeting with their representatives, who emerged tight-lipped.

Louw said in a statement there had been a wide response to the Saccola-union proposals, which were published for comment.

The response indicated there had been insufficient time to study the proposals, which had economic implications and drastically altered the rights of employers and workers," said Louw

He suggested that more time be allowed for comment, but as an alternative offered to enact proposals on which adequate consultations had taken place

Louw also offered to include a provision in the Act under which an agreement could be given statutory powers

He said he hoped the process of consultation, co-operation and consen-

sus-seeking between all interested parties would continue so as to achieve labour peace.

Cosatu has condemned the Cabinet's decision as "pandering to the minority employers and unions which enjoy little support"

Nactu said the decision showed the minister was more concerned about his constituency than the interests of workers.

Saccola said in a statement on Friday it regretted the delay in legislating the proposed changes.

"Saccola has today written to the Minister of Manpower with proposals to reconcile the parties'

desire to see legislation this year and the Cabinet's desire to allow for further consultation," it said.

"Saccola continues to commit itself to working constructively with Cosatu, Nactu, the Department of Manpower and the National Manpower Commission to this end"

Govt accused of labour 'blunder'

COSATU yesterday made a last-ditch call for government to reconsider its decision not to translate into law the union/Saccola agreement on changes to the Labour Relations Act. It is understood the unions have written directly to President F W de Klerk setting out their motivation

In a public statement, Cosatu said it was not too late for government to correct its "blunder" made at a Cabinet meeting last Wednesday. "It would require an urgent meeting of the Cabinet and possibly, but not necessarily, a few additional days of Parliament. If it has the courage to take this route, widespread labour conflict might be avoided," Cosatu said.

The federation added the decision, if unchanged, would be a setback for the talks about talks between government and the ANC and the creation of a climate conducive to negotiation.

It would also confirm the argument for the maintenance of international economic pressure on SA "until this regime practices what it is currently preaching", and would force the unions to consider severing dealings with the authorities.

ALAN FINE

Cosatu said the statement by Manpower Minister Eli Louw last Wednesday explaining the decision was misleading in two respects

Firstly, it "studiously fails to mention what was recommended to the Minister by his own National Manpower Commission (NMC) or to offer reasons why he and the Cabinet rejected the NMC recommendations."

166 Responsibility

"Secondly it suggests that Cosatu, Nactu and Saccola adopted an inflexible approach in regard to legislating their agreement"

Cosatu argued it had told Louw at their meeting a week ago that while it obviously wished the full agreement to be legislated and renewed its proposal, it was his responsibility to decide how to approach matters

"However, by choosing not to give legislative effect to any provisions of the agreement, even the recommendations of the NMC, the Cabinet has made a serious blunder," Cosatu said

Cosatu appeals directly to FW

Star 20/6/90

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Political Staff and Staff Reporters
Cosatu representatives last night telephoned President de Klerk, asking him to intervene in a dispute between the labour movement and the Government

Trade unionists are threatening a wave of pickets, boycotts and stayaways if the Cabinet does not extend the sitting of Parliament today to amend the Labour Relations Act

A Tuynhuys spokesman confirmed today that Cosatu telephoned Mr de Klerk at home

"Mr de Klerk took note of their views," he said, but said he would not discuss the matter on the telephone

"He did not give them undertak-

ings or assurances and, in regard to their requests to have a meeting with him, said Cosatu would be contacted today," he said

On claims by Cosatu general secretary Jay Naidoo that the President had said he would take the matter to the weekly Cabinet meeting today, the spokesman said Mr de Klerk would never disclose details of the Cabinet agenda

The Government has said it cannot introduce legislation this year to implement the accord which Cosatu and the other trade union federation, the National Council of Trade Unions (Nactu), signed this year with the employer body, the SA Consultative Committee on Labour Affairs (Saccola)

The trade unions are hinting that the ANC could pull out of talks with the Government if their request is not complied with

Parliament is due to go into recess on Friday

Last night, top Cosatu officials started an indefinite sit-in at the Department of Manpower's offices in Johannesburg, demanding the amendments be brought before Parliament

Among those who started the sit-in were Mr Naidoo and National Union of Mineworkers general secretary Cyril Ramaphosa

Offers

Cosatu negotiator Marcel Golding said yesterday if the Cabinet did not extend Parliament for a few days for the amendments to be passed, the country faced a deluge of protests.

Yesterday, Manpower Minister Eln Louw said he could not entertain short-notice amendments to the Labour Relations Act

Sapa reports that Mr Louw said in Cape Town he had offered to introduce most of the signatories' proposals and the accompanying recommendations of the National Manpower Commission in the current session of Parliament and leave those remaining for 1991

As an interim measure, he had offered to introduce legislation immediately giving the accord legal recognition, confining its application to the signatories. This had been rejected

Call for better deal for nature conservationists

Pretoria Correspondent

Gross starting salaries for learner conservation officers with matric were R642 a month and those for qualified nature conservation officers R1 139, while the average salary of the 343 nature conservation officers employed by the State and Cape and Transvaal provincial departments was R1 610 a month

The Public Servants' Association (PSA) has called for a massive salary injection for nature conservationists

This includes a 40 percent pensionable salary increase for nature conservation officers, as well as the implementation — backdated to 1983 — of a new dispensation for research technicians

A report in The Public Servant magazine describes the 465 nature conservation officers, research technicians and conservation scientists as a "crisis group"

This, the article said, was R409 a month less than that of any similarly qualified personnel in the public service. The TPA responded by saying it had consistently given support for better salaries

LRA row may threaten talks

31 Dec 20/6/90
COSATU yesterday threatened to ask the ANC to abandon its negotiations with government and to call SA's biggest national stayaway unless President F.W. de Klerk agreed to a meeting to change the Cabinet decision to delay any amendment to the Labour Relations Act (LRA)

And NUM general secretary Cyril Ramaphosa told a media conference in Johannesburg yesterday that mining industry wage talks, at a "crucial" stage, could be scuppered unless the Chamber of Mines agreed to support suggested amendments to the Act

The Cabinet apparently decided not to implement the joint employer/worker suggested amendments because of objections received from some interest groups and because of a claimed shortage of time. Cosatu general secretary Jay Naidoo told the news conference

ANC internal spokesman Ahmed Kath-

PETER DELMAR

rada said last night he did not know if the ANC had taken a formal decision on the issue, but any representations from Cosatu would receive serious consideration

Naidoo said there could be no national political settlement without the endorsement of the trade union movement

Naidoo said factory demonstrations and mass stayaways of "proportions not witnessed before" would be called.

In addition, Cosatu would end its contact with the Manpower Department and the National Manpower Commission, while Saccola would be urged to follow suit.

Meanwhile about 20 officials from Cosatu and affiliated unions began an indefinite sit-in at Manpower Department offices in Johannesburg yesterday.

Naidoo said government's decision

□ To Page 2



Cosatu general secretary Jay Naidoo, left, and his Numsa counterpart Moses Mayekiso at a Johannesburg media conference yesterday at which Cosatu announced a sweeping plan of action if demands concerning the Labour Relations Act were not met. Picture ROBERT BOTHA

LRA

31 Dec 20/6/90
raised questions about its commitment to democratic reform

Ramaphosa said the NUM was concerned about objections he said Goldfields had made to the proposed amendments and would ask the Chamber of Mines today what its position was on the issue

It was in the country's interests that the parliamentary session be extended to enable the proposals to be passed into law

Chamber of Mines external affairs senior GM Johan Liebenberg said yesterday the chamber and its members had unanimously supported the agreement between Saccola, Cosatu and Nactu

Naidoo said the agreement on LRA

amendments had been endorsed by 66 000 employers and 4-million workers of whom 1,5-million were paid-up union members

MIKE ROBERTSON reports from Cape Town that Manpower Minister Eh Louw yesterday appeared to rule out any possibility of amending the LRA this year, at a hastily convened Press conference

The Minister said Cosatu had written to De Klerk asking for an urgent meeting and he had indicated he was prepared to meet them this week

However, Cosatu had replied that it would only be interested in meeting if the LRA was amended this Parliamentary session which ends on Friday

□ From Page 1

FW rejects Cosatu demands on LRA ¹⁶⁶

PRESIDENT FW de Klerk has agreed to meet the Congress of South African Trade Unions to try to diffuse a looming showdown over labour legislation.

But De Klerk said last night he was not prepared to give in to Cosatu's demand for the Labour Relations Act to be amended during this session of Parliament.

However, he was prepared to have a Bill introduced to the Parliamentary Manpower Committee to be finalised before the next session.

Cosatu has threatened drastic measures, including mass industrial action and a request to the ANC to call off negotiations, if the Government did not legislate its recent labour accord with employer organisation South African Co-ordinating Council of Labour.

After discussing the looming crisis with the Cabinet yesterday, De Klerk last night issued a letter which he had just faxed to Cosatu general secretary Mr Jay Naidoo.

He agreed to Naidoo's

request for a meeting with him and said he was prepared to meet him and other parties to the labour accord at 10am on June 26 in his office at the Union Buildings in Pretoria.

De Klerk said he had asked Manpower Minister Mr Eli Louw to attend.

He said that further deliberations and discussions on the accord would be in the best interest of both workers and employers before legislation was finalised.

Complex

The parliamentary process did not allow for complex legislation of this sort to be finalised in a relatively short period of time.

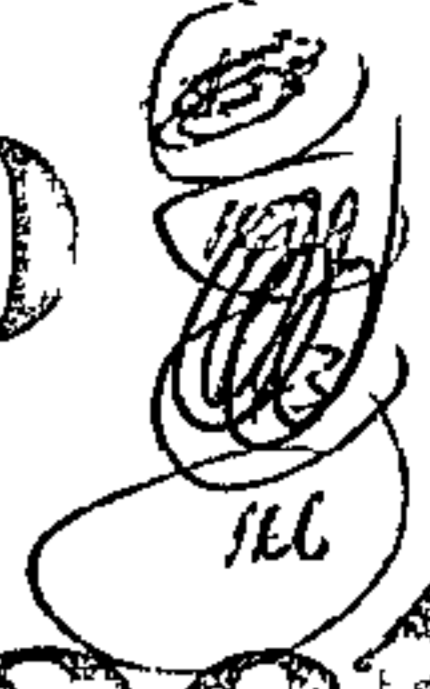
It would therefore not be possible to pass legislation during this session of Parliament.

He said that after further negotiations, it would be possible to introduce a Bill to Parliament's joint manpower committee so legislation could be finalised before the start of the next session of Parliament.

It's a donkey's life

F.W., unions to talk on labour act

CMT TWP
21/6/90



Political Correspondent

PRESIDENT F W de Klerk last night agreed to a meeting with black trade union federations in a bid to defuse the potentially damaging conflict between the government and labour over the proposed changes to the Labour Relations Act

However, Mr De Klerk stressed it would not be possible to meet Cosatu's demand that legislation reforming the contentious law be passed during this session of Parliament

In a letter, released after yesterday's lengthy cabinet meeting to Cosatu's general-secretary Mr Jay Naidoo, Mr De Klerk said he was prepared to meet with both unions and employers on June 26 to discuss the Saccola-Cosatu-Nactu accord

The proposed meeting will also be attended by the Minister of Manpower, Mr Eli Louw, who has

been at the centre of the storm

Responding to a threatened nationwide stayaway on July 2 by both the ANC and Cosatu, Mr De Klerk said it was clear that further deliberations and discussions would be "in the best interests of both workers and employers, before legislation is concluded"

However, Mr De Klerk added that the parliamentary process did not allow for complex legislation of this nature to be finalised in a relatively short time

"It will therefore not be possible to pass legislation in this regard during this session of Parliament."

But Mr De Klerk proposed as a compromise that it would be possible to introduce, after negotiations, a bill this year to the joint committee of Parliament

This would provide ample time for the multi-party committee to finalise legislation before the

start of the next session of Parliament which is slated to begin in February

The compromise proposal came against sharply conflicting statements yesterday from the Conservative Party and the Democratic Party on how the impasse should be resolved

The CP said that if Mr De Klerk or any member of his cabinet made any concessions to Cosatu's demands they would undoubtedly be gutless victims of "criminal blackmail"

But the DP said that the proposed amendments to the Labour Relations Act should be brought before Parliament "with all deliberate speed"

The DP's deputy manpower spokesman, Mr Tony Leon, called for a further session of Parliament this year to ensure the enactment of the measures

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Quick LRA transition to law 'still possible'

Blom 22/6/90

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IN 1987 and 1988 Cosatu and Nactu, the two largest trade union federations, began waging national and international campaigns against the then draft Labour Relations Amendment (LRA) Bill

Saccola vigorously opposed these campaigns, and instead challenged the union federations to enter discussions with it about the Bill

These discussions began in March 1988. By August the three organisations had identified six problematic clauses in the draft Bill, and signed a joint letter to the Director-General of Manpower asking for a delay in the promulgation of these clauses, to enable employers and union federations to define solutions

The Bill was nevertheless enacted in September 1988

Timetable

Talks between the employers and union federations continued until May 7 1990, when the three bodies signed an agreement setting out detailed interim changes to the Labour Relations Act, dealing mainly with the clauses identified in 1988

This agreement was intensively debated within the ranks of Saccola's 10 member organisations and unanimously endorsed

At subsequent meetings in May between the parties to the agreement and the Director-General and Minister of Manpower, a timetable was agreed on in terms of which

□ The agreement was published in a special Government Gazette in draft Bill form, and parties were invited to comment within a period of 14 days,

□ The National Manpower Commission (NMC), the government's standing ad-

The SA Employers Consultative Committee on Labour Affairs (Saccola) yesterday published this account of events leading up to the present crisis over changes to the Labour Relations Act.

visory body on labour affairs, was asked to urgently examine the agreement and, in the light of the comments received, recommend further action,

□ The NMC did this, and although this report has not been made public, the Minister has informed the parties that the NMC — after considering the comments of interested parties — has recommended that one clause be omitted, one rewritten, two held over for further consideration, and that the balance of the agreement be translated into legislation,

□ At a meeting with the Minister on June 12 — almost two weeks before Parliament was due to recess — Saccola, Cosatu and Nactu urged the Minister to proceed with at least those parts of the agreement that had been endorsed by the NMC

This view has been confirmed both privately and publicly on a number of subsequent occasions

Against this background, Saccola is frustrated that it has not been possible to at least begin the process of converting the NMC-endorsed proposals into law

Labour law sets out the rules by which the parties to an industrial society should deal with each other. Those elements of the Saccola/Cosatu/Nactu accord

which have been endorsed by the NMC now have the broadest possible employer and union support

The legislation of these proposals will serve the interests of industrial peace, and thereby the national interest

Against this background, Saccola welcomes the proposed meeting between Cosatu, Nactu, itself and the President

It hopes this meeting will lead to a programme of action which will enable the Manpower and Education Joint Committee of Parliament to agree on a Bill by no later than September this year

This is a time for all parties to act in a way that will promote industrial peace

It is still possible to convert the proposed changes to the Labour Relations Act into law expeditiously

All parties should carefully consider whether their words and their actions positively contribute to this end

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ST. AUGUSTINE

Cosatu invited to talks with govt

(166)

FW rules out rapid change to labour Act

B/Dam 21/6/90

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CAPE TOWN — President F W de Klerk yesterday invited Cosatu to meet him next week to discuss proposed changes to the Labour Relations Act (LRA), but emphasised that it would not be possible to pass legislation in this regard during this session of Parliament.

Cosatu has threatened a series of disruptive labour actions, including boycotts, demonstrations, strikes and stayaways should government fail to amend the Act this year along lines proposed in an agreement between itself, Nactu and employer federation Saccola.

Before De Klerk's statement, Saccola negotiator Bobby Godsell expressed the hope that the President would intervene positively on the issue.

In a letter to Cosatu general secretary Jay Naidoo, which he made public last night, De Klerk said he was prepared to meet Cosatu at the Union Buildings on June 26 to discuss the agreement.

He had asked Manpower Minister Eli Louw to be present at the meeting.

In the letter De Klerk said "In view of representations made to me directly from various interested parties, it is clear that further deliberations and discussions would be in the best interest of both workers and employers, before legislation is concluded."

He emphasised that "the Parliamentary process does not allow for complex legislation of this nature to be finalised in a

MIKE ROBERTSON
and ALAN FINE

relatively short period of time. It will therefore not be possible to pass legislation in this regard during this session."

"What would be possible would be to introduce timeously, after negotiations, a Bill to the Joint Committee in order to provide ample time for this committee to finalise legislation before the start of the next session of Parliament," he said.

Naidoo could not be contacted last night and Godsell declined to comment further until a Saccola meeting this morning.

But Godsell, in calling earlier for positive intervention from De Klerk, said this was necessary "given all that is at stake, not only for labour relations but also for demonstrating what can be produced by discussion and compromise."

Meanwhile 27 senior Cosatu leaders vacated the Johannesburg Manpower Department offices after a 24-hour sit-in, saying their action had achieved its goal.

At a media conference at the offices prior to the departure, Naidoo indicated Cosatu would be willing to have just those aspects supported by the National Manpower Commission made law rather than the entire agreement. The NMC proposed delays in, for example, changing the structure of the Labour Appeal Court but supported most of the other proposals.

NUM general secretary Cyril Ramaphosa said Cosatu regretted that employ-

□ To Page 2

LRA

B/Dam 21/6/90

(166)

□ From Page 1

ers which, through Saccola, had supported the changes would suffer when industrial action occurred. "Saccola negotiated in good faith. But it is unfortunately our only weapon. It is the state which will have to bear the blame."

Naidoo warned, though, that companies identified as having opposed legislation would receive "special" treatment, including consumer boycotts where feasible.

It also emerged yesterday, however, that three of the key companies whose objections were cited by Manpower Minister Eli Louw as reasons for delaying passage of a Bill had either withdrawn their objections or stated their representations should not delay the process.

Naidoo and employer sources said Gold Fields had withdrawn its objections. The

company could not be reached for comment. And Eskom and law firm Denys Reitz said their submissions had been of a technical or constructive nature and were not designed to delay the process.

Sasol and BTR Dunlop are two firms which have not withdrawn their objections. □ Naidoo said Cosatu had not, as reported yesterday, called on the ANC to abandon the negotiating process because of the LRA dispute. Rather, it had called for the ANC to "review" its position which would not mean abandoning talks with government. Naidoo said Cosatu had already briefed the ANC on the matter and would be sending a top-level delegation to the ANC National Executive Committee meeting scheduled to end tomorrow.

© Comment Page 8

Saccola backs meeting with FW

By Shareen Singh

The SA Co-ordinating Council of Labour (Saccola) expressed frustration yesterday that the agreement on the Labour Relations Act was not legislated but it welcomed a meeting with State President F W de Klerk and the unions

The agreement between Cosatu/Nactu and Saccola on amendment to the Labour Relations Act (LRA) was gazetted in a draft bill form and parties were invited to comment within 14 days

The National Manpower

Commission (NMC), after considering comments by interested parties, recommended a few changes and supported the enactment of the balance of the agreement. But the Cabinet on Tuesday decided not to legislate

Saccola said those elements of the Cosatu/Nactu/Saccola agreement which were endorsed by the NMC had the broadest possible union and employer support

Cosatu had not made a decision by yesterday on whether the federation would meet President de Klerk

Cosatu warns on Labour Act delay

By DON HOLLIDAY, Staff Reporter

THE Congress of South African Trade Unions (Cosatu) will call on the ANC to review its role in negotiations if the government does not introduce legislation to amend the Labour Relations Act in the present session of parliament

This was announced by Cosatu spokesman Ms Lucy Nyembe at a Press conference in Cape Town this week.

The conference was attended by representatives of Cosatu, the National Council of Trade Unions, the Pan Africanist Congress, the ANC and other labour organisations

Ms Nyembe said it had become clear to Cosatu that the "season of conflict" with the government was not yet over

"SERIOUS ERROR"

Talk about a "new South Africa" meant little if the commitment of the government was not seen

The Cabinet's decision not to introduce the Labour Relations Act amendment legislation in this session of parliament was a serious error of judgment. The consequences for the economy were grave

Other moves which would be considered by Cosatu if the amendments were not introduced were calls for mass stayaways, boycotts and encouragement of mass demonstrations and pickets

Asked why the ANC and PAC were sharing the same platform, she said there was a long-standing agreement to work together at improving conditions for workers

Labour bill: Call for go-ahead

CML Tint
25/6/90
166

Own Correspondent

JOHANNESBURG — Weekend statements from Sasol and BTR Dunlop mean that every major company whose "objections" to proposed amendments to labour law were cited by Minister of Manpower Eli Louw as reasons for delaying the introduction of legislation, has now called for the process to go ahead.

This emerged as Cosatu announced it had decided on Friday to accept the invitation from President F W de Klerk to meet him, along with Nactu, Saccola and the Manpower Department to discuss the matter.

Mr Louw told the three parties to the Labour Relations Act accord (Cosatu, Nactu and Saccola — CNS) two weeks ago that comments received by the National Manpower Commission (NMC) indicated the time to study the proposals was too short.

He cited Sasol, BTR Dunlop, Eskom, Gold Fields, law firm Deneys Reitz and Unisa as having made such submissions.

Manpower director general Mr Joel Fourie yesterday repeated the depart-

ment's defence of delaying the introduction of legislation, and added hundreds more objections had been received after the official May 23 closing date for submissions to the NMC.

BTR group industrial relations manager Mr Glen Sutton said that following consultations with the Natal Chamber of Industries "it appears that our concerns on the interpretation of the CNS agreement have been allayed by certain assurances given to the chamber by the chairman of Saccola, and on this basis our submissions of June 5 become inappropriate."

Sasol noted a letter from managing director Mr Paul Kruger to Saccola's Mr Bobby Godsell last week in which he thanked Mr Godsell for "bringing to our attention" that the NMC recommendations did not propose immediate passage of two clauses of the agreement and draft Bill which were Sasol's main concern.

● Meanwhile, NMC acting chairman Mr Frans Barker announced public hearings this week from June 26 to 29, in its broader investigation into consolidating the Act.

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Act sparks strong reaction on labour front

(166)

So we can
25/6/90

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THE intense activity on the labour front at the moment underlines the problems posed by the present Labour Relations Act, Congress of SA Trade Unions spokesman Neil Coleman says.

OK Bazaars is entering its fourth week of confrontation with SA Commercial Catering and Allied Workers Union members, and with thousands of workers on strike around the country. Saccawu is also involved in disputes with Edgars and Checkers.

Municipal workers have downed tools at Sandton in Johannesburg, Verwoerdburgstad near Pretoria, and have all but crippled Cape Town's refuse removal system.

Industrial action is also taking place in at least four other companies, including Satchwell Controls, Grapnel Silencers, Southern Sun and on at least three oil rigs off the South African coast.

Thousands of unionists

from the wine and spirits industry will cast their ballot on Friday for a nationwide strike.

Mr Coleman emphasised that disputes arose from immediate grievances. "But the problems of the LRA feed into the situation. When faced with a potential dispute, there is no set framework ... Both Saccola (the SA Consultative Conference on Labour Affairs) and ourselves (Cosatu and the National Council of Trade Unions) have recognised this."

Cosatu is due to reply on Friday night to a proposal by State President FW de Klerk that he and Manpower Minister Eli Louw meet the unions on Tuesday to discuss the Saccola accord amendments to the present LRA.

The unions have promised industrial action "of unprecedented proportions" if the amendments are not pushed through Parliament by the end of this session. - Sapa

months ago already been chopped back to 41 as a 1990

fits of a shrinking rand exchange rate.

perhaps more important, how to trim the soaring cost of production

Tomorrow's meeting between FW and Cosatu may avert labour crisis

Star 25/6/90 (166)

STAFF REPORTERS

President de Klerk is due to meet representatives of Cosatu, the country's largest labour federation, in Pretoria tomorrow to try to diffuse a looming showdown over labour legislation

After two years of negotiations, between the bosses, the South African Employers' Consultative Committee (Saccola) on one hand, and the workers, the Congress of South African Trade Unions (Cosatu) and the National Council of Trade Unions (Nactu), Cosatu protested over a delay in the immediate implementation of the agreement in the Labour Relations Act

Minister of Manpower, Eli Louw, said more time was needed for consultation over the agreement. The unions were not willing to accept this and contacted President de Klerk. This led to his agreeing to meet union representatives

The Draft Labour Relations Amendment Bill comprises seven pages of interim amendments to the Labour Relations Act passed in 1956 and changed or enlarged scores of times since.

The major changes proposed relate to definitions of two aspects of unfair labour practice, namely.

- Defining the freedom of workers to strike and the right of employers to lockout,
- Broadening the definition of unfair dismissals

On the first point, the pro-

posed legislation takes this aspect of organised labour relations back to the 1981 position in that employers cannot ask the Industrial Court to order a strike to stop on the grounds that it is unfair

In the past, employers could claim that a strike was unfair because of its financial effects on the firm, or because the demands were perceived as unreasonable.

Under the interim amendments, if the correct labour procedures such as declaring a dispute, consultation and attempts at conciliation have been followed, there is no recourse to the Industrial Court to have the strike stopped

Employers may still seek an interdict to have an illegal strike stopped — such as a wildcat strike before or while the union is involved in negotiation, or a sudden downing of tools by workers without attempting to resolve the issue through negotiation

Major problems

In this case, the employer must give the workers 48 hours notice that it intends to seek an interdict.

This time lag would present major problems for certain industries — for example, the huge costs and potential damage to equipment should a steel foundry's furnaces have to shut down for two days

The proposed legislation thus includes a provision that, where the application is served

in less than 48 hours, the other party is given written notice "at the earliest opportunity" and given a reasonable chance to be heard

The flip side of this provision likewise protects a lockout by the employer from interdict without the union giving the employer similar notice

On the second point, guidelines for unfair dismissals laid down by the International Labour Organisation have been introduced

Workers may be fairly dismissed with reference to their performance or conduct — or with reference to the operational needs of the firm involved after consultation with the union and after proper procedures have been followed

Further provisions simplify and clarify the processes for declaring a dispute, broaden the Act to include, in effect, oil rig workers, clarify certain powers of the Industrial Court, and provide for two assessors chosen by union and employer bodies to sit in Labour Appeal Court hearings

The wider application given the Act also allows registered unions to have a mixed State and private sector membership

Once amended, the Act will no longer recognise race as an industrial interest. Unions will not be able to object to the registration of new unions or extension of registration of existing unions on racial grounds

Employers retract labour law queries

25/6/90 B1 Day 25/6/90

WEEKEND statements from Sasol and BTR Dunlop mean that every major company whose "objections" to proposed amendments to labour law were cited by Manpower Minister Eli Louw as reasons for delaying the introduction of legislation, has now called for the process to go ahead.

This emerged as Cosatu announced it had decided on Friday to accept President F W de Klerk's invitation to meet him, along with Nactu, employer federation Saccola and the Manpower Department to discuss the matter.

The meeting, set down for tomorrow, appears to be the last chance to avert labour disruptions planned by the unions to protest at delays in processing legislation.

Louw told the three parties to the Labour Relations Act accord (Cosatu, Nactu and Saccola — CNS) two weeks ago that comments received by the National Manpower Commission (NMC) indicated the time to study the proposals was too short.

He cited Sasol, BTR Dunlop, Eskom, Gold Fields, law firm Deneys Reitz and Unisa as having made such submissions.

Manpower director general Joel Fourie yesterday repeated the department's defence of delaying the introduction of legislation, and said hundreds more objections had been received after the official May 23 closing date for submissions to the NMC.

ALAN FINE

BTR spokesman Glen Sutton said following consultations with the Natal Chamber of Industries "it appears our concerns on the interpretation of the CNS agreement have been allayed by certain assurances given to the chamber by the Saccola chairman, and on this basis our submissions of June 5 become inappropriate".

Sasol showed Business Day a letter from MD Paul Kruger to Saccola's Bobby Godsell last week in which he thanked Godsell for "bringing to our attention" that the NMC recommendations did not propose immediate passage of two clauses of the agreement and draft Bill which were Sasol's main concern.

"Although we still have concerns regarding other aspects of the Bill we do not want to delay unnecessarily the legislative process. We are prepared to address these concerns before the Standing Committee as was suggested by you."

Earlier Eskom spokesman George Lindeque said he had explained to Godsell and Fourie that Eskom's comments had been "largely of a technical nature, drawing attention to obvious ambiguities and errors in the draft Bill".

"I made it clear the process need not be

To Page 2

LRA B1 Day 25/6/90

delayed in order to correct the draft Bill accordingly. Eskom has not withdrawn its representations but we are making every effort not to delay the process unduly."

A Deneys Reitz spokesman said the firm did not object to the proposed amendments. The firm's representations "were constructive and drew attention to practical difficulties in the draft Bill. Our representations were not intended to be used as a basis to delay the passage of the Bill or to avoid the promulgation of any amendment. This will be conveyed to the Minister of Manpower immediately."

Sapa reported Unisa denied it had objected to the accord. Principal Prof J van Vuuren said statements on the accord had, however, been made by "an eminent scholar" in the field of labour relations who was attached to the university. These statements had been made in the academic's personal capacity. Gold Fields declined to comment on reports that it, too, had with-

drawn any objections it may have had to the draft Bill being given legislative effect. However, both union and employer sources confirmed this had occurred.

Fourie said most of the 80 submissions received by the NMC had suggested changes to the proposals even if not all had asked for a delay. He added the Department had received 500 more objections since May 23.

"But the point is not to count heads. There are people who have problems with the CNS accord. Let's give them an opportunity," he said.

He said it was clear from the wording of their letters and statements that some of the originally cited firms — including Eskom and Sasol — still had problems with the proposals.

In an unprecedented move, NMC acting chairman Frans Barker announced public hearings this week from June 26 to 29, in its broader investigation into consolidating the Act.

From Page 1

Landmark meeting eases labour discontent

CML T-145 27/6/90 (23) (24) (25) (26)

PRETORIA — Seething labour discontent over delays in enacting a landmark industrial relations agreement between the country's major employer grouping and black trade union federations was temporarily eased following a historic meeting here yesterday.

The four-hour meeting between President F W de Klerk and the labour representatives ended with an interim arrangement aimed at resolving the continuing crisis over the Labour Relations Amendment Act.

A tripartite working party will be formed within 14 days to examine ways of resolving the impasse over the law, but trade union re-

presentatives warned of continued pressure backing their demand for speedy enactment of a new labour accord.

Mr De Klerk, Manpower Minister Mr Eli Louw, representatives of the South African Consultative Committee on Labour Affairs (Saccola) and office-bearers from Cosatu and the National Council of Trade Unions (Nactu) met in the Union Buildings to seek a solution to the crisis.

The parties emerged confident that the working group would pave the way for mutually acceptable labour legislation.

And a statement by the State President's Office hinted that the desired labour law could be finalised early during the 1991 parliamentary session.

The accord in question was drafted over a two-year period — characterised by protracted industrial unrest — by the Saccola-Cosatu/Nactu grouping and is held as an alternative to the contentious Labour Relations Amendment Act.

The agreement reached at yesterday's meeting proposed that a joint working party should meet within 14 days and report progress within a further 30 days.

The "constructive nature" of yesterday's meeting was praised by Anglo American Corporation.

Cosatu and Nactu spokesmen warned, however, that the federations would continue exercising organised labour action until the accord had been written into law.

— Sapa

Mass union protest hangs in balance

27/6/90
By Norman Chandler (166) and Shareen Singh

President de Klerk moved yesterday to allay mounting union anger over delays in amending labour legislation

However, unions must still decide whether planned massive industrial protest action will be postponed.

There were no formal statements at the end of the four-hour discussions yesterday between the Government, Cosatu, the country's largest trade union federation, the National Council of Trade Unions (Nactu) and the SA Consultative Committee on Labour Affairs (Saccola).

Cosatu has already declared it is "disturbed" that the meeting did

not produce the results it expected and has indicated it will discuss industrial action in this light.

Protest action is likely to be suspended for at least three weeks, however, while Cosatu and Nactu discuss their proposed plan of action including stayaways, demonstrations and sit-ins.

Amendments

A joint position will be finalised at Cosatu's central executive committee meeting on July 20

Last week, Cosatu wanted proposed amendments to the Labour Relations Act to become law before the end of the parliamentary session last Friday, while Mr de Klerk said he would not be prepared to give in to the demand

Cosatu general secretary Jay Naidoo said last night that workers were being hit daily with mass dismissals and interdicts under the Labour Relations Act. Workers could not wait much longer.

Saccola spokesman Bobby Godsell was positive about the outcome of the meeting.

He said the proposal to set up a joint working committee to try to restore mutual confidence and the passing of the legislation was "most constructive".

Nactu secretary-general Cunningham Ngcukana said the organisation welcomed the establishment of a working party but was disappointed at the failure of the Government to give expression to labour accord.

● See Page 14

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Union disrupts hearing on labour Act

166

DANIEL FELDMAN

THE National Manpower Commission's (NMC) verbal hearings on the consolidation of the Labour Relations Act was disrupted by about 75 chanting and toy-tossing Nactu demonstrators yesterday before being suspended.

The union members arrived at the Building Industries' Federation SA (Bifsa) headquarters, the location of the commission's inquiry, and demanded an end to the hearings until the Saccola/Cosatu/Nactu labour relations accord was "translated into legislation", Nactu spokesman Warton Nbaduli said.

He said Nactu was opposed to the hearings because "the commission had written recommendations to the Manpower Minister on the proposed accord without reference to the parties involved and without showing the recommendations to the involved parties. 8 | 04 | 27/6/90

Outcome

"The NMC and the Manpower Department want to undermine the process that Nactu, Cosatu and Saccola have thus far engaged in," said Nbaduli.

In response, NMC acting chairman Frans Barker said: "The NMC had taken note of Nactu's reasons for objecting to the hearings but the consolidation investigation should be seen as completely separate from the accord and not as an alternative to the accord.

"We are hopeful that the outcome of the discussions on the accord between the State President and Saccola, Cosatu and Nactu will enable the commission to resume its hearings."

Before the disruption, the Federation of Salaried Staff Associations of SA had presented evidence and Bifsa was midway through presenting its testimony. Testimony from the American Chamber of Commerce was cancelled.

Barker said today's scheduled hearings would be postponed.

Committee to examine labour law dispute

THE extent of industrial unrest over the Labour Relations Act dispute would be determined by progress made in a working committee to be established after yesterday's tripartite meeting hosted by President F W de Klerk in Pretoria, union sources said.

Eighteen representatives of Cosatu, Nactu and Saccola (CNS) — the parties to the accord on suggested amendments to the Act — attended together with Manpower Minister Eli Louw and his director-general Joel Fourie

The working committee — to be established in terms of a proposal at yesterday's meeting — would be mandated to discuss ways of "restoring mutual confidence" after government's failure to translate the accord into law this year.

A statement from De Klerk's office described the discussions as cordial and said the President had agreed to a follow-up

ALAN FINE

meeting later in the year. It said the legislation under discussion would be "expedited as far as possible within the framework of parliamentary procedures, the goal being to finalise the legislation early during the 1991 session of Parliament"

De Klerk announced that Louw had agreed to extend the time for comments on the proposed legislation to July 31

The working committee proposal was made after De Klerk turned down labour's main proposal — that Parliament be reconvened later this year for the purpose of dealing with the amendments. Parties to the accord still have to decide whether they will sit on the committee.

However, should all parties agree, the committee will meet within 14 days and report on progress after another 30 days. The National Manpower Commission and

the Manpower Department will also take part, while the Commission for Administration will be invited.

Cosatu delegation member Geoff Schreiner said the CNS parties had impressed on De Klerk that a serious credibility crisis had arisen because of Louw's handling of the matter, and it was here that lost confidence had to be restored.

Cosatu and Nactu said they were discussing a programme of protest action, and this would continue "in the light of (yesterday's) meeting and progress made towards a satisfactory settlement in getting the CNS accord into law".

Saccola described the meeting as "constructive" and one employer source said there appeared no reason that satisfactory legislation could not be finalised by September for passage through the parliamentary standing committee.

● Picture: Page 3

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BIDAY 27/6/90

Meeting to break impasse over LRA

By DREW FORREST

THE ground-breaking first meeting of the "joint working party", proposed at the recent talks between President FW de Klerk, employers and unions as a means of breaking the impasse over the Labour Relations Act, is to take place next Wednesday

Manpower Director General Joel Fourie confirmed that Manpower Department representatives would attend the meeting at the department's Pretoria headquarters

Saccola and a Cosatu team, including general secretary Jay Naidoo, will also attend, but the other union player, the National Council of Trade Unions (Nactu), has yet to decide its response

This week Nactu's acting general secretary, Cunningham Ngcukana, said his personal view was that the working party proposal was a "delaying tactic" by the state aimed at outflanking the Saccola process

"It will enable the National Manpower Committee (NMC) to conclude its in-

quiry into the whole LRA, while Saccola and the unions are concerned with interim changes," he said

The Nactu national executive would decide its stance at the weekend.

Cosatu's Geoff Schreiner said the federation would push in the working party for the recall of parliament later this year to enact the Saccola proposals.

Failing this, the federation would demand broader changes, including the immediate extension of the Act to the public sector. Proposals on the position of domestic and farmworkers would also be made

Cosatu has also asked for the NMC, the Commission for Administration and the SA Agricultural Union to be represented in the forum, and director general Fourie said this would be discussed at the meeting next week.

He stressed that at the talks with Saccola and the unions, De Klerk had made it clear that there was no prospect of another parliamentary session this year

Sit 1/2/70 (116)

A help in forging a new society

The labour relations processes employed in a changing workplace can be of help in forging a new society, according to Anglo American's industrial relations head Bobby Godsell. Report by **CLAIRE ROBERTSON** of The Star's Pretoria Bureau.

The "lines of conflict" in South Africa were no longer only racial but drawn between urban insiders and rural or peri-urban outsiders, between the unionised and the unemployed, Bobby Godsell, head of Anglo American Corporation's industrial relations department, told a seminar on mediating a new South Africa which was held at Unisa last week.

"Against this background of change and of new forms of cleavage, what contribution can the processes of labour relations make?"

"I would argue that labour relations has been an area where new realities and new power relations have first emerged"

The impact of labour relations was and would be felt on the lives of ordinary men and women both in the workplace, where black and white workers encounter each other "and have to grapple with new power realities", and up to the highest levels.

Four areas or levels in which labour relations processes were mediating the emergence of a new South Africa were the workstation, the company, the industry and on a national level.

In the workstation itself, from the mine stope to the office, fundamental challenges were being experienced as feudal authority patterns were challenged.

Challenged

"In times past, the role of the boss and the role of the baas were confused. A supervisory authority was built on a foundation of perceived racial superiority of power."

He said this perception was now being challenged and perhaps the most dramatic evidence of this was the regularity with which unfair dismissals were now challenged.

"It has become extremely difficult in South Africa to fire anybody," he said, only to be reminded by the following speaker, assistant general secretary of the National Union of Mineworkers, Marcel Golding, that Mr Godsell's employer had nonetheless managed to fire 50 000 people recently, in a reference to mine retrenchments.

Disciplinary codes and procedures, the notion that one could not discipline someone without a valid reason, and the accompanying disciplinary hearings, had created "a little microcosm of both status equality and just process in the absolute engine house of our economy", said Mr Godsell.

"This is on one the hand very difficult and on the other extremely exciting."

Labour relations practices were leading to increasing disclosure of the financial records of companies, thereby giving people access to economic reality.

"In the decades that lie ahead South Africa is going to grow in its economy and compete effectively in world markets."

"We are going to have to produce more with less; more output with less capital . and this can only effectively come about through a kind of partnership agreement between the workforce and trade unions on one hand and management on the other."

Mr Godsell said that South Africa had inherited a tradition of centralised collective bargaining.

"We will see an expansion of the collective bargaining agenda into the areas of housing, education and health care for the workers."

At the national level, the negotiations between organised labour and employer bodies about the Labour Relations Act were a form of "national collective bargaining".

"Increasingly, we will see labour legislation made in this way, I think we will see the transformation of what is now the National Manpower Commission into a kind of parliament of management and organised labour," Mr Godsell said.

We have facts on killings - top cop

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POLICE had information that alleged Civil Co-operation Bureau members Mr Ferdie Barnard and Mr Calla Botha were involved in the assassinations of Swapo executive member Mr Anton Lubowski and Dr David Webster, the Harms Commission heard yesterday.

This was said by Col Floris Mostert, officer investigating the death of Wits academic Dr David Webster

Mostert said he had information that the CCB was involved in both killings and that Botha and Barnard were implicated

He told the commission's sole member and chairman Mr Justice Louts Harms that so far the information - and not evidence - had implicated



By Sowetan Correspondent

the men in the deaths but had not said they were the murderers

In a statement made on April 5 this year, Mostert said an anonymous caller had told police on June 9 and August 29 last year the people who killed Webster on May 1 last year had links to "one or other department of the Special Forces section of the SA Defence Force"

Another call was received early in Septem-

HARMS PROBE INTO HIT SQUADS

ber from Cape Town saying the person who killed Lubowski was the same person who had murdered Webster

Editor

Asked by Mr Tim McNally, who is leading evidence for the commission, whether he would identify the source of the information or the sex of the caller, Mostert refused

The name of Sowetan Editor Aggrey Klaaste appeared in a CCB file that was confiscated by offi-

cial of the Harms Commission

Klaaste's name was underlined along with the names of UDF official Mr Andrew Boraine, sociologists Mr Wilmot James and Dr Neville Alexander and Professor Herman Gillhooie

The file, marked "Region 6 and 9", contained the names and telephone numbers of all the officials of the Institute for a Democratic Alternative in South Africa, the Johannesburg-based Five Freedoms Forum and the End Conscription Campaign

His name was linked to the Nation Building campaign

Lieutenant-Colonel Johan Wright told the commission yesterday he had confiscated the file in the CCB's offices at Special Forces Headquarters in Pretoria - Sapa

FROM THE SCAPE

couple have asked that it should not be made known to them what they had suffered from

"Although our kids will soon be orphans, please spare them the horror of having people point fingers at them, the children whose parents died of Aids"

They then opened up, telling of their intimacies, secrets they shared with nobody else They lament the day in January this year when they were told that in a matter of days or weeks they will have died from Aids

They were at an advanced stage of the disease

According to doctors, it could be next week, next month, and even next year But they will never leave the hospital, and the shadow is with them every minute of their lives When they go to sleep they do not know if they will be alive the next morning

Not sure

The man (35) said he had extra-marital sexual relations with four women and is not sure which of them had infected him.

Doctors are unable to track her down and she may be infecting other people

Last month Sowetan revealed that more than 100 Soweto residents were being treated for Aids at Baragwanath

Mr Kunene said on admission he exhibited symptoms of ulcer He also had pains in the chest and vomited often especially after meals

"Later I became weak and was diagnosed as a pneumonia sufferer" He had swollen lymph glands on the neck and a chronic cough which are symptoms of the later stages of

r of fact

"QwaQwa workers want salary *Sowetan* erroneously quoted a *Association* spokesman as *also* demanding the termination of Dr BJ Tucker, the homeland's *wet* 915/90 118 demanding the resignation of Dr *Secretary* of health any inconvenience caused by the

Doctors join the strike

Doctors join the strike

The meeting was held at the University of Witwatersrand, where workers' representatives from 11 different hospitals denied that they had intimidated workers and volunteers "We must deal with

the question of scab labour," a spokesman from the Hillbrow Hospital said "But we will do so in a disciplined manner. We do not have to force people to join the struggle."

Spokesmen from the strike-hit hospitals said they had assembled "skeleton staff" to care

for patients while the strike was on

Hospitals affected by the strike are Baragwanath, Natalspruit, Hillbrow, Tembisa, Johannesburg (General), Far East Rand Boksburg-Benoni, Willem Craywagen, Middelburg, Tshepong and HF Verwoed

More people detained

The Human Rights Commission (HRC) yesterday reported a rise in detentions since the beginning of March, attributing the increase mainly to a police clampdown on "political celebration" in the wake of ANC deputy leader Mr Nelson Mandela's release *Sowetan* 915/90

Another factor, an HRC spokesman said, was the campaign for the

resignation of black councillors (327)

The spokesman said 265 people were currently being held in South Africa under the emergency regulations Of those, 98 were being detained in the Western Transvaal, 64 in the Northern Transvaal, 71 in the Orange Free State, 18 in Natal, eight in the Eastern Cape, five in the PWV area and one in the Western Cape

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Changes to Act discussed

Two major trade union organisations and the employer body Saccola met Manpower Minister Eli Louw in Cape Town yesterday to discuss the creation of legislation embodying an agreement on the controversial Labour Relations Amendment Act (LRA)

Congress of SA Trade Unions spokesman Marcel Golding said the Government had been told that nothing less than legislating the amendments to the LRA agreed to by Cosatu, the National Congress of Trade Unions and Saccola would be acceptable — Sapa

QMK Tim 13/4/90

Domestic
workers
union
LP agree
to meet

By BARRY STREEK
Political Staff

THE Labour Party and the South African Domestic Workers Union (Sadwu) yesterday agreed to hold joint meetings about the position of domestic workers

The LP and Sadwu held a surprise meeting yesterday after the union had strongly criticised a Labour Party advertisement for stating that domestic workers were already entitled to unemployment insurance benefits.

In a joint statement, issued by Ms Maggie Witbooi of Sadwu and Mr Petrus Meyer, the MP for Vredendal, they said they met yesterday "to discuss the rights of domestic workers in particular". They said the meeting arose from the LP advertisement and "possible confusion that could arise from it.

"Both sides accepted each others bona fides.

"The LP's only interest is to acquire the rights of domestic workers and not to form its own or opposition unions

"We agree that we should get together in future to discuss progress with each other and to see how how we can complement one another's struggles.

"The LP salutes the role that domestic workers have played in contributing to the building of the country's human, social welfare and economic wealth," the joint statement said



Mr Kobie Coetsee

14/6/90

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No new laws on Labour Act pact

Political Staff

THE government has decided not to introduce legislation to put into effect the accord between employers and unions on the Labour Relations Act this year

Consultations will continue aimed at legislating the accord next year

This was announced yesterday by the Minister of Manpower, Mr Eli Louw

Marais launches income tax Bill

THE Income Tax Bill, which considerably reduces individual tax, takes a further step towards separate taxation of husbands and wives and extends the Site system to an income level of R40 000, was read for the first time in parliament

Introducing the Bill yesterday, Deputy Minister of Finance Dr Org Marais said that, in terms of the proposals, married women became fully fledged taxpayers in their own right, and with the exception of investment income, which was too easy to manipulate, they were taxed on their own income

"DUBIOUS PLEASURE"

Some married women, namely those earning more than R40 000 a year, or running their own businesses, would as from the 1991 tax year have the "dubious pleasure" of completing their own annual tax returns

Two measures which should encourage savings were the increase in exemption on investment income from R1 000 to R2 000 and the exemption of dividend income in the hands of individuals and close corporations

It was proposed as a first step in the simplification of the problem of distinguishing between capital and revenue, to introduce a new rule

In essence this meant a person could make an election that profits made on quoted shares which were held for more than 10 years could not be taxable

The recommendations of the Technical Committee of Mining Taxation were further implemented this year by bringing in the second phase of a lower tariff for gold mines and the further phasing out of the surcharge for other mines

Other measures would encourage development of new mines

Mr Marais said there was confusion over Paye deductions where services were performed by a close corporation or a labour broker

There was serious concern that considerable Paye losses might be suffered

Although the main problem had already been identified and provided for in the Bill, there was still much detail which needed to be resolved — Sapa

FW offers to see Cosatu to avert labour law showdown

By Peter Fabricius and Shareen Singh

CAPE TOWN — President de Klerk has offered to meet the country's biggest labour federation, Cosatu, in Pretoria on Tuesday to try to diffuse a looming showdown over labour legislation.

But his peace bid coincides

with Cosatu's mounting of major protests at delays in amending the Labour Relations Act as proposed by employer and worker organisations

Mr de Klerk made it clear last night he was not prepared to give in to Cosatu's demand for the Act to be amended this parliamentary session, which

ends tomorrow

Cosatu officials left the Johannesburg offices of the Department of Manpower yesterday after a 21-hour sit-in to prepare for massive industrial action

Speaking at the Department of Manpower's office, Cosatu general secretary Jay Naidoo

said unprecedented levels of industrial action could be expected, including stayaways, national strikes, sit-ins and protest marches

More than 300 protesting workers toyi-toyed outside Conlyn House in President Street, Johannesburg

● See Page 10.

Gold back ⁽¹⁶⁶⁾
^{Star 21/6/90.}
above crucial
\$350 mark ⁽¹⁶⁶⁾

Finance Staff

The threat of labour action by the National Union of Mineworkers to protest against the delay in implementing the Labour Relations Amendment Act pushed the gold price above the crucial \$350 mark today.

Dealers in London yesterday said fears of supply disruptions in South Africa helped the metal to stage a late rally and close \$2,25 higher at \$350.

This trend continued in New York, where the metal rose to \$350,05, and in the Far East this morning. In Hong Kong gold opened \$2,05 up at \$351,55.

Political uncertainties in the Soviet Union — hard-line communists have made it clear they will try to replace President Mikhail Gorbachev as leader of the Soviet Communist Party at a party congress in July — added to the uncertainty in the currency and metals markets

FW to
ARCUS 20/6/90
step into
labour /66
Bill row

By MICHAEL MORRIS
Political Correspondent

PRESIDENT De Klerk is set to step into the row over the controversial Labour Relations Act to try and prevent a damaging confrontation between the unions and the government

Presidential aides were to be contacting Cosatu officials today to discuss their request to see Mr De Klerk

It was also possible that the Cabinet, meeting routinely today, would discuss the rising tension between the unions and the Department of Manpower

Mr De Klerk confirmed early today that Cosatu had telephoned him at home last night

"NO UNDERTAKINGS"

In a statement, Mr De Klerk said he had taken note of their views, but made it clear he was not prepared to enter into discussions on the telephone

Mr De Klerk gave "no undertakings or assurances" to Cosatu

However, he said Cosatu officials would be contacted today, in connection with their request to meet him

Last night's telephone call followed Cosatu's warning yesterday that it would launch a nine-part action programme — including a national mass stay-away — unless a meeting with the President went ahead

Cosatu wants Mr De Klerk to find a way to introduce amendments this year to the Labour Relations Act

Minister of Manpower Mr Eli Louw has argued that more time is needed to consider the legislation

● See page 4.

CAPE TOWN 20/6/90

● A complaint to the International Labour Organisation on "violations of worker and trade union rights"

Mr Louw said the government and the trade union federations had met for the first time on March 15

He was told that the unions were close to reaching an agreement with Saccola on the Labour Relation Act and would like it to be translated into legislation during the current session

Mr Louw said he had explained that "the time is very short" and the union representatives had promised the agreement would be sent to him before the end of April

When he finally received the agreement on May 9, he had convened a meeting on May 18 which was attended by Saccola and trade union federations. He informed them that Parliament was expected to go into recess between June 15 and 30

From page 1

Mr Louw said he had explained that before the bill was drawn up the agreement would have to be referred to the NMC, an advisory body, to allow it time to consider the measure. Other interested parties would also have to be given a chance to comment

The agreement was advertised on May 23 and more than 80 comments were received in the next two weeks from unions, small business and big business, with the "vast majority" calling for the agreement to be altered

The chief criticism centred on the definition of an unfair labour practice and the labour appeal court

Mr Louw said another meeting was arranged for June 12, where he had put forward two proposals — neither of which had been acceptable to the unions

He was bound to consider the interests of all

workers, including those not represented by the union federations and the unemployed before reaching a decision on a course of action

Mr Louw acknowledged that Saccola represented over 60 000 employers of the 158 000 registered in SA with the Unemployment Insurance Fund, while Cosatu and Nactu represented about 1,5 of the 5,5 million registered with the UIF

He said it would be wrong for the government to accept an agreement without giving all parties an opportunity to voice their opinions

Mr Louw said last night that he wished to discuss the following three issues with the SCN

● The possible publication of the National Manpower Commission's report on the accord for comment.

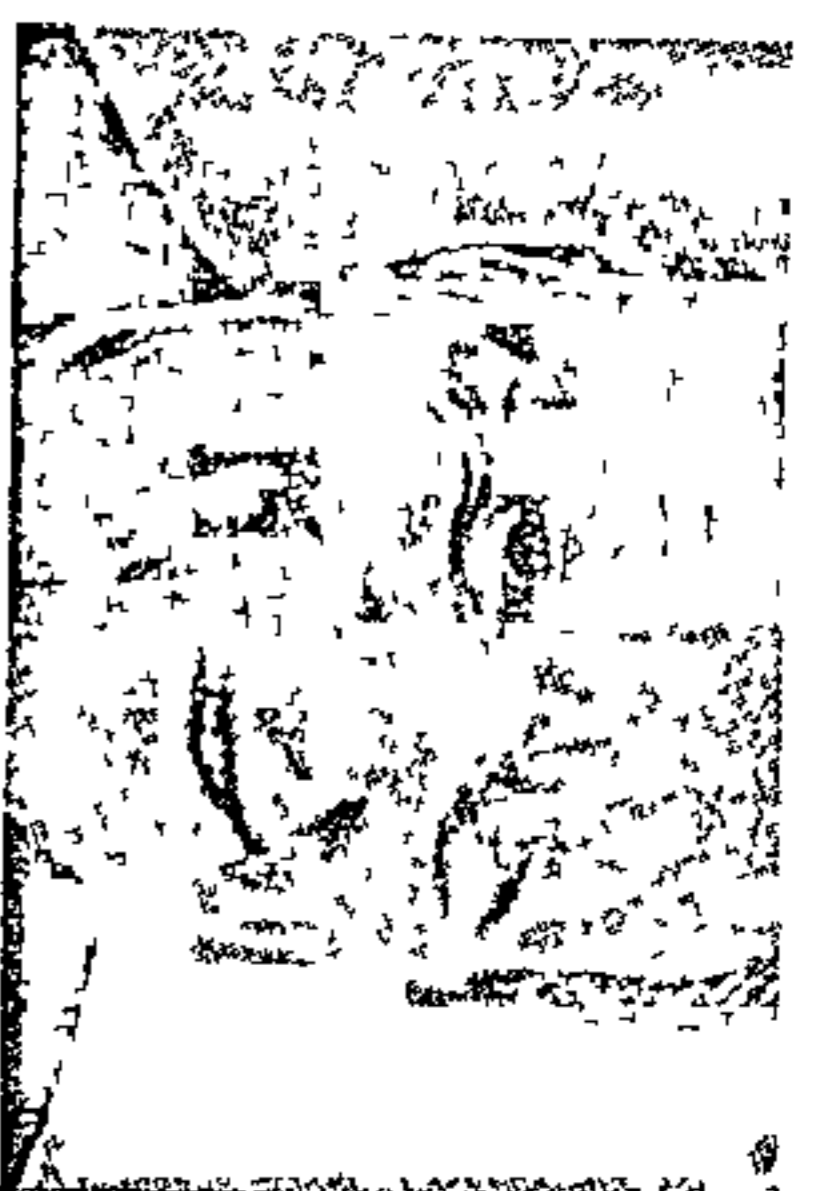
● A comparison between international

standards (for example International Labour Organisation conventions), the accord and the NMC's recommendations

● The programme to be followed for further consultation and submission of a draft amendment bill for consideration by the Joint Committee of Parliament



IT'S A SHOCKING



Mr Eli Louw

Mr Louw
20/6/90

[Handwritten signature]
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SHOWDOWN

By ANTHONY JOHNSON
Political Correspondent

A MAJOR showdown is looming between trade union giant Cosatu and the government over its refusal to pass legislation this parliamentary session on amendments to the controversial Labour Relations Act.

Cosatu yesterday threatened to scupper the talks between the ANC and the government and stage mass industrial action if the government did not abandon its stance.

And as a sit-in began at the National Manpower Commission (NMC) offices in Johannesburg, the National Union of Mineworkers warned it would suspend wage negotiations with the Chamber of Mines if the impasse was not resolved soon.

At the centre of the controversy is an agreement reached last month between SA's largest employer organisation, Saccola, representing 66 000 employers and four million workers, and Cosatu and Nactu union federations with a paid-up membership of 1,5 million.

Manpower Minister Mr Eli Louw said yesterday the cabinet had decided that the Saccola/Cosatu/Nactu (SCN) agreement on amendments to the Labour Relations Act could not become law this session.

But he insisted that his "door is still open" and consensus could still be reached.

Cosatu said the cabinet's decision to delay incorporating changes to the act until the 1991 session was a "serious error of judgment" which could carry grave consequences for the economy.

"Cosatu reiterates its willingness to meet the State President urgently to explore ways of legislating this agreement and avoiding the possible consequence of industrial unrest and conflict."

Should Mr De Klerk refuse to meet them, "there will be no doubt that confrontation is being sought with the

trade union movement".

Should the government refuse to incorporate the SCN agreement this parliamentary session, Cosatu has called for a programme of action including:

- An urgent meeting with the ANC to review its continued participation in negotiations with the government.
- A call for a "national mass stayaway".
- Product boycotts of employers who opposed amendments to the Labour Relations Act.
- "Solidarity actions" from post office workers
- Asking ambassadors in South Africa to urge their governments to maintain sanctions
- Withdrawal of Cosatu's contact with the National Manpower Commission, the director-general of the department of manpower and the minister of manpower
- Saccola will also be requested to withdraw from participating in the NMC and certain other statutory bodies.

To page 2

P.T.O



FW moves to ease labour tensions

Argus 21/6/90 (166)

By MICHAEL MORRIS, Political Correspondent

PRESIDENT De Klerk has moved to ease tension between the government and trade unions over proposals to change the Labour Relations Act, but has ruled out amending the legislation before next year's session of parliament

He has agreed to Cosatu's request for a meeting which will take place at 10 am on June 26 at his office in the Union Buildings in Pretoria, and has suggested a way to speed up amending legislation for the next session of parliament

Minister of Manpower, Mr Eli Louw, will attend the meeting next week

Mr De Klerk has also invited the other parties to the agreement — Nactu and the employers' federation Saccola

National stayaway

The meeting arises after Cosatu threatened a nine-point action plan — including a national stayaway — if Mr De Klerk did not step in to help resolve the dispute

Conflict arose because Cosatu wanted the proposals written into the Act as amendments during this session Mr Louw argued that there was not enough time

Meanwhile, the Democratic Party has called for second session of parliament this year, if necessary, to change the Labour Relations Act

Manpower spokesman and Houghton MP Mr Tony Leon argued that the fact that the proposed amendments were the result of "consultation, ne-

gotiation and agreement" between the "giants" in the employer and employee spheres "means that they could ensure significant labour peace into the foreseeable future"

He said the government's "foot-dragging" on the issue was disturbing

Complex legislation

However, the President said in a letter to Cosatu general secretary Mr Jay Naidoo yesterday that it was "clear that further deliberations and discussions would be in the best interest of both workers and employers, before legislation is concluded

"The parliamentary process does not allow for complex legislation of this nature to be finalised in a relatively short period of time It will therefore not be possible to pass legislation in this regard during this session of parliament"

He added "What would be possible, would be to introduce timeously, after negotiations, a Bill to the joint standing committee in order to provide ample time for this committee to finalise legislation before the start of the next session of parliament"

In further reaction yesterday, Conservative Party spokesman on manpower, Mr Frank le Roux said that if Mr De Klerk made any concessions to Cosatu, they would be "willing victims of criminal blackmail"

He accused Cosatu of using the National Party/ANC negotiations as a trump card to blackmail the government, and accused the government of creating a climate for labour unrest through its handling of negotiations on the Labour Relations Act

C/1747/166) 22/6/70/166)

No debate on labour

Political Staff

THE Speaker, Mr Louis le Grange, has rejected a request by the Democratic Party for a special debate on the Labour Relations Act which is now threatening widescale labour and industrial disruption.

Mr Peter Gastrow, the DP's spokesman on manpower, said yesterday the party had requested a special debate on the delay in bringing before Parliament the amendments to the Act as requested by both organised labour and management.

FW to see Cosatu over Act

Sowetan 22/6/90

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PRESIDENT FW de Klerk has moved to ease tension between the Government and trade unions over proposals to change the Labour Relations Act, but has ruled out amending the legislation before next year's session of Parliament.

He has agreed to Cosatu's request for a meeting which will take place at 10am on June 26 at the Union Buildings in Pretoria.

SOWETAN Correspondent

Minister of Manpower, Mr Eli Louw, will attend the meeting.

De Klerk has invited Nactu and Saccola.

The meeting arises after Cosatu threatened a nine-point action plan - including a national stay-away - if De Klerk did not step in to help resolve the dispute.

Conflict arose because Cosatu wanted the Act amended this session. Louw argued that there

was not enough time.

The Democratic Party has called for a second session this year, if necessary, to change the Act.

Manpower spokesman Mr Tony Leon argued that the fact that the proposed amendments were the result of "consultation, negotiation and agreement" between the "giants" in the employer and employee spheres "means that they could ensure significant peace into the foreseeable future."

However, the President said in a letter to Cosatu general secretary Mr Jay Naidoo yesterday that it was "clear that further deliberations and discussions would be in the best interest of both workers and employers."

Rand Music by Mail

Cor. Commissioner & Fountain Sts.,
Krugersdorp

CASSETTES & LPs LOW RAND PRICES
MARK LPs OR TAPES WANTED

Cape Times 22/2/90

~~166~~ 166

Thousands to march in city today

Staff Reporter

THOUSANDS of city council, OK and Eskom workers are expected to march in Cape Town and Bellville tomorrow in support of "living wage" demands backed by an unprecedented cross-section of extra-parliamentary movements

The marches were announced yesterday at a city press conference held to outline objections to President F W de Klerk's reluctance to pass amending legisla-

tion to the Labour Relations Act. Council workers, OK staff and Eskom workers are involved in ongoing and bitter labour disputes with their managements

For the first time in many years a press conference platform was shared by the PAC, the ANC, Azapo, the UDF, Cosatu and several member unions yesterday

Chairperson Ms Luci Nyembe, regional secretary of Cosatu, said this was because in the present

supposed climate of "progressive labour relations we find we are being thrown back into the middle ages"

This had "provoked" the organisations to unite in opposition.

Ms Nyembe added that the ANC executive was "very positive" about Cosatu's call for the executive to review continued participation in negotiations with the government

CAT-71113 22/6/70

Post for Wiehahn

PRETORIA — Professor Nic Wiehahn, widely acclaimed as the architect of South Africa's labour reforms in the early 1980s, has been appointed chairman of Transkei's National Manpower Commission.

Prof Wiehahn, who is best known for his 1979 report which laid the basis for the liberalisation of labour dispensation, will also act as labour adviser to the Transkei government. — Sapa

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Emergency meeting to debate LRA talks

ALAN FINE

AN emergency meeting of Cosatu affiliates, scheduled to begin tonight and probably continue today, is to decide whether to accept the invitation of President F W de Klerk to meet him on Monday to discuss the Labour Relations Act impasse.

Cosatu sources indicated there was a 50-50 chance of the unions agreeing to a meeting.

However, given De Klerk's position that passage of amendments to the Act during the current session of Parliament was impossible, there appeared very little scope for finding a solution which would defuse Cosatu's threat of widespread labour disruptions.

Rumours recently that Parliament might have to be recalled later this year to deal with a range of legislation appear to have been discounted, although this would be one possible solution to the problem.

Nactu, Saccola and Manpower Minister Eli Louw have also been invited to the meeting. 8/0am 22/6/90

In a statement yesterday, Saccola said it was "frustrated that it has not been possible to at least begin the process of converting the NMC-endorsed proposals into law"

● See Page 4

TOTAL		SUBS		TRANSPORT		GRAND TOTAL	
ROTHMANS	20'S	1.31	1.50				
ROTHMANS SPECIAL MILD	20'S	1.31	1.50				
LEXINGTON	20'S	1.30	1.47				
RANSOM	20'S	1.31	1.50				
VOGUE	20'S	1.31	1.50				
LION	10 BOX	0.48	0.56				
		1.31	1.50				

REP. SIGN. _____
MEMBER SIGN. _____

Numsa to make crucial decisions this weekend

WTE ARGUS 23/6/90 166

By DICK USHER
Business Staff

CRUCIAL decisions affecting about 600 000 workers in four industrial sectors will be taken at a major union conference this weekend

The National Union of Metalworkers (Numsa) second national bargaining conference in Johannesburg will deliberate progress in four sets of negotiations metal and engineering, tyre and rubber, auto manufacturing and the motor trade

It is a follow-up to February's first national conference which, in a step towards unifying the four sectors in which Numsa is involved, laid down positions and guidelines for this year's negotiations

The vital element emerging from the conference was that the bargaining committee for each sector would no longer have decision-making power on settlements or deadlocks, but these would have to be referred to a further bargaining conference

After last week's sixth round of negotiations in the metal industry, the Steel and Engineering Industries Federation (Seifsa) issued an optimistic statement that "considerable progress" had been made in negotiations

Seifsa said employers' final offer on wages ranged from 15 percent (R1,24 an hour) for artisans to 18 percent (64c an hour) for labourers

In the three other sectors, a Numsa spokesman said some progress had been made on some issues but not on others

While the ultimate drive is towards centralised bargaining around common demands, Numsa's position is that it wants to see satisfactory progress towards those goals this year

The union's key demands include across-the-board increases of at least R2 an hour, a 40-hour working week, a limit on overtime and agreement not to implement the 1988 amendments to the Labour Relations Act

This weekend's conference will hear report-backs from each sector on progress in negotiations and will deliberate further action

Complicating the picture is the government's decision not to go ahead with legislation this year to amend labour legislation in line with the accord reached by the South African Employers' Coordinating Committee on Labour Affairs (Saccola) and the two union federations, Cosatu and Nactu

Numsa, a Cosatu affiliate, is the major union involved in all four sectors, although Nactu affiliates such as the Metal and Electrical Workers Union (Mewusa) and the Steel, Engineering and Allied Workers Union (Seawusa) have a significant position in the metal industry talks with the Steel and Engineering Industries Federation (Seifsa)

Paralleling Numsa's position, another Cosatu affiliate recently took decisions on centralised bargaining at a social security conference

The South African Commercial, Catering and Allied Workers Union (Saccawu) considered long-term strategies including industrial councils covering all workers in a sector or centralised bargaining with groups such as Tradegro, Metro and S A Breweries, which controls OK Bazaars, Edgars and Sales House

Ccawusa is presently on strike at OK Bazaars, is in dispute with Checkers and starts talks with Wooltru this weekend

In the medium-term, Ccawusa is to press for the same demands on wages and service conditions to be presented at all negotiations

Another decision taken at the Saccawu conference mirrors a stance by another Cosatu affiliate, the Chemical Workers' Industrial Union (CWIU)

As part of its push for social security, Saccawu decided on a campaign for national provident funds in the commercial and catering sectors

CWIU has for about the past two years been engaged in persuading employers to join the Chemical Industry National Provident Fund and has in recent months run several strikes over the issue

NMC to look at the labour law

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THE National Manpower Commission (NMC) will hear oral evidence on the consolidation and amendment of the Labour Relations Act from tomorrow until Friday, acting NMC chairman, Dr Frans Barker, said.

Neither Cosatu nor Nactu are scheduled to make submissions to the NMC technical committee.

The two trade union federations, together with the SA Consultative Committee on Labour Affairs employers' organisation, are at the centre of a controversy sparked by the Government's refusal to immediately legislate an alternative labour law drawn up by the three parties. *Sowetan 25/6/90*

The media and the public are welcome to attend the hearings by the NMC technical committee, Barker said.

The hearings will take place at the Bifsa head office, 14 Alexandra Road, Halfway House.

On Wednesday, the NMC moves to the Midrand address of the Development Bank of South Africa, from where it will move back to the Bifsa offices on June 29.

Further inquiries can be directed to Mr F de Villiers of the NMC liaison division at (012) 310-6250 (work) or (012) 87-2374 (home). - Sapa.

Labour, Saccola to meet De Klerk

Sowetan 26/6/90

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THE National Council of Trade Unions will be part of the joint labour and employers' delegation which meets State President Mr F W de Klerk in Pretoria today to discuss the enactment of a new labour law.

The federation's assistant general secretary, Mr Cunningham Ngcukana, said yesterday Nactu would be represented by six senior officials.

The meeting takes

place at the Union Buildings in Pretoria. It follows threats of widespread labour unrest by the Congress of South African Trade Unions after the Government postponed enacting the draft labour law during the 1990 Parliamentary session.

Nactu, together with Cosatu and the South African Consultative Committee on Labour Affairs employers' body, are due to meet Mr de Klerk and Manpower Minister Eli Louw at 10am today, spokesman for the State President's office, Caspar Venter, confirmed.

The three parties responsible for the alternative Labour Relations Act accord planned to meet in Johannesburg late yesterday. Mr Ngcukana added.

Comment

Commenting on the meeting with Mr de Klerk, a Saccola spokesman said the State President was "not the type of man who would arrange such a meeting for nothing".

A Cosatu spokesman was not immediately available for comment.

A delegation of ultra-rightists will be meeting State President F W de Klerk in Pretoria today to raise "rightwing and white" views of the "new South Africa".

Announcing this yesterday, Herstigte Nasional Party chief secretary Mr L J van der Schyff said the HNP, Afrikaner Weerstandsbeweging, Magsak-sie Afrikaner Nasionalisme and Genootskap van Regte Afrikaners would be represented at the 2pm meeting with Mr de Klerk in the Union Buildings - Sapa.

Nactu joins talks with FW today

Cape Times 26/6/90

PRETORIA — The National Council of Trade Unions (Nactu) will accompany the joint labour and employers' delegation which meets President F W de Klerk here today to discuss the enactment of a new labour law.

Confirming Nactu's attendance, the trade union federation's assistant general-secretary Mr. Cunningham Ngcukana said yesterday Nactu would be represented by six officials.

The meeting follows threats of widespread labour unrest by Cosatu, after the government postponed enacting the draft labour law during this year's parliamentary session.

Nactu, together with Cosatu and the SA Consultative Committee on Labour Affairs employers' body (Saccola), are to meet Mr De Klerk and Manpower Minister Mr Eli Louw, a spokesman for Mr De Klerk confirmed.

Commenting on the meeting with Mr De Klerk, a Saccola spokesman said the State President was "not the type of man who would arrange such a meeting for nothing".

A Cosatu spokesman was not immediately available for comment — Sapa

Labour hearings are open

The National Manpower Commission will hear evidence on the Labour Relations Act over the next four days during hearings that are open to the public.

The hearings today and on Friday will be at the head office of the Building Industries Federation of SA, 14 Alexandra Road, Halfway House.

The hearings tomorrow and on Thursday will be at the Development Bank of South Africa, Midrand
Proceedings begin at 8 am.

Star 26/6/90

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6 star 26/6/90



NEWS

Unions, Right to meet FW

President de Klerk will meet a delegation of trade unions and employers today, as well as spokesmen for ultra-Right organisations

The National Council of Trade Unions (Nactu) will accompany the joint labour and employers' delegation which will meet Mr de Klerk in Pretoria to discuss the enactment of a new labour law.

Nactu assistant general secretary Cunningham Ngcukana said yesterday Nactu would be represented by six senior officials

The meeting at Mr de Klerk's Union Buildings offices follows threats of widespread labour unrest by the Con-

gress of South African Trade Unions (Cosatu) after the Government had failed to enact the draft labour law during the 1990 parliamentary session

Nactu, Cosatu and the employers' body, the SA Consultative Committee on Labour Affairs (Saccola), are due to meet Mr de Klerk and Minister of Manpower Eli Louw at 10 am

White views

● A delegation of ultra-rightists will meet Mr de Klerk in Pretoria today to raise "right-wing and white" views of the "new South Africa"

Herstigte Nasionale Party chief sec-

retary L J van der Schyff said yesterday the HNP, Afrikaner Weerstandsbeweging (AWB), Magsaksie Afrikaner Nasionalisme (MAN) and Genootskap van Regte Afrikaners (GRA) would be represented at the 2 pm meeting

The meeting had resulted from the ultra-rightists not being represented in Parliament, Mr van der Schyff said

The HNP would be represented by party leader Jaap Marais and his deputy, Mynhard Peter, while Ernie van der Westhuizen and Nico van Rensburg would go on the AWB's behalf

The AWB's "commandos" would be represented by former policeman Colonel Servaas de Wet — Sapa

Hearing into LRA to begin

DANIEL FELDMAN

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THE National Manpower Commission (NMC) technical committee will begin hearing verbal evidence today as part of its investigation into the "consolidation and amendment" of the 1956 Labour Relations Act, according to NMC acting chairman Frans Barker. 8 Day 26/6/90

The Federation of Salaried Staff Associations of SA, the Building Industries Federation SA (Bifsa) and the American Chamber of Commerce in SA will give evidence today.

The commission, which will meet till Friday, will also hear evidence from Barlow Rand Limited, Plymouth Brethren, the SA Chamber of Business, the Association of Law Societies, Sasol Limited, the Mineworkers' Union, Transnet Union, the Council of Mining Unions, the Labour Foundation, the SA Employers' Consultative Committee on Labour Affairs (Saccola) and the Chamber of Mines.

The Labour Relations Act will also be discussed by President F W de Klerk at his meeting with representatives of Cosatu, Saccola and Nactu in the Union Buildings today.

So weferm 27/6/90

Unions meet FW

(166)
~~SA~~

● From Page 1

But trade union representatives warned of continued pressure backing their demand for speedy enactment of a new labour accord

De Klerk, Manpower Minister Mr Eli Louw, representatives of the South African Consultative Committee on Labour Affairs (Saccola) and office bearers from Cosatu and the National Council of Trade Unions (Nactu) met in the Union Buildings to seek a solution to the crisis

The parties emerged confident from the meeting in De Klerk's Union Building offices that the working group would pave the way for mutually acceptable labour legislation.

And a statement issued by the State President's office hinted that the desired labour law could be finalised early during the 1991 parliamentary session.

Cosatu was represented by its general secretary, Mr Jay Naidoo, Mr Cyril Ramaphosa, general secretary of the National Union of Mine Workers, Mr Jeff Schreiner and Mr Vusi Khumalo

Nactu's delegation included Mr Cunningham Ngcukana, (general secretary), Mr Humphrey Ndaba, Ms Mmapopi Molefe and Mr Meshack Ramela.

Saccola was represented by Mr Bobby Godsell, Mr Bokkie Botha, Mr Naas Steenkamp, Mr JP Landman, both of the Afrikaans Handels Instituut, Mr Johan Liebenberg of the Chamber of

Mines, Mr Lesly Boyd and Mr Andre Lamprecht, both from the South African Chamber of Business, Mr Dawid Mostert and Mr Bram Angus, both from Seifsa

Ngcukana told newsmen after the meeting that "nothing concrete" had been achieved

Naidoo believed that more substantial progress could have been made but no immediate results have been achieved

Ngcukana yesterday said they did not rule out the possibility of strike action as a protest against the Government's stance.

Saccola's Bobby Godsell said the desire of the parties to this accord, to give it legislative expression as quickly as possible was noted, as was the Government's concern to allow for further consultation and due legislative process.

Labour inquiry disrupted

The National Manpower Commission (NMC) public hearings regarding the consolidation of labour relations were suspended indefinitely after the first day's proceedings at Halfway House were interrupted by a National Council of Trade Unions (Nactu) protest yesterday. *Stz 27/6/90 (166) (175) (178)*

The commission was to have heard four days of evidence from various unions, industrial federations and business groups, as part of its investigation of the Labour Relations Act (LRA) of 1956.

At 11 am, a delegation of about 50 singing Nactu members refused to allow the sitting to continue. They demanded the hearings be postponed until Nactu's suggested changes to the LRA, made in agreement with the Congress of South African Trade Unions

(Cosatu) and the South African Co-ordinating Council on Labour Affairs (Saccola), became law.

The Government failed to legislate the suggested Saccola/Cosatu/Nactu amendments to the LRA in the parliamentary session which has just finished. *(175)*

At the Halfway House hearing, Nactu said the NMC's recommendations on the Saccola/Cosatu/Nactu accord had not been made available to them. They said the NMC and the Department of Manpower wanted to undermine the accord.

NMC acting chairman Dr Frans Barker issued a statement saying the NMC investigation into the LRA should be seen as separate from the Saccola/Cosatu/Nactu accord and not as an alternative to it. *6*

File 28/6/90

(166) ~~166~~ ~~166~~ ~~166~~

NEWS

Court dismisses union case against OK

The Industrial Court yesterday dismissed an urgent application by the South African Commercial, Catering and Allied Workers' Union (Saccawu) for an order declaring OK Bazaars conduct an unfair labour practice.

However, the union did not see its application as totally unsuccessful. Saccawu spokesman Jeremy Daphne said the court did not see urgency in the union's application, but maintained the union's right to file the same application for interim relief.

Conduct challenged

The court ruled that Saccawu still had the right to challenge OK's conduct during the strike, even though this might appear to be in conflict with the company's Supreme Court order obtained last week.

Union members had a right to remain on company premises, the court said, and their removal might be considered an unfair labour practice.

Mr Daphne said the union was proceeding with the same application, but under section 43 of the Labour Relations Act for interim relief.

The strike by more than 7 000 workers continued at 131 stores nationally. Mr Daphne said 214 workers had been arrested to date and 33 dismissed by OK management. Talks are to be held today.

in a fresh bid to end the OK Bazaars strike.

OK management and representatives of Saccawu are scheduled to meet in Johannesburg to negotiate on the strike by union members countrywide.

Strikers want improved pay and working conditions. Mr Daphne was adamant yesterday that strikers would not lower their demands.

The union is demanding an across-the-board increase of R160 a month and a minimum monthly wage of R800. Other demands include March 21 as a paid holiday, and a 13th cheque.

OK's offer includes service increases of between R115 and R145 a month and a minimum wage of R710 after a year's service.

Optimistic

OK industrial relations spokesman Gavin Brown was optimistic that a settlement would be reached soon. He maintained that negotiations meant flexibility. Strikers had lost more than R4.5 million in wages and bonuses since the strike began on June 4.

Mr Brown said the Industrial Court decision meant strikers could not enter 11 OK stores. Strikers at these stores would also have to refrain from any alleged intimidation of non-strikers, customers or suppliers. — Staff Reporter and Sapa



Shop or strike... Alpheus Qwabe pickets outside the Elft Street, Johannesburg, branch of OK Bazaars yesterday on the opening day of the chain's nationwide sale, which is the 24th day of the strike by 6 500 workers. ● Picture by John Hogg.

Star 26/6/90

Builders can get insurance cover on defects

By Jabulani Sikhakhane
The Builders Civils and Engineering Underwriting Managers (BCE) has launched a unique home defects insurance scheme which provides indemnity against defects in design, materials and workmanship for a five-year period after construction is completed.

Underwritten by Fedgen, the scheme will cover houses, town-house complexes, cluster homes,

small flat developments and single-storey shopping malls.

Cover is subject to the builder/contractor being a member of the Building Industries Federation of SA (Bifsa), through membership of the regional Master Builder's Associations or Building Industries' Associations.

Each association will be required to approve each mem-

bers' application for HDI cover.

The premium, payable on completion of the building, is one percent of the replacement value of the property for five years and a minimum premium of R1 000 applies.

A plus for home owners is that the value of properties protected by the scheme will have a much higher resale value.

Fedgen has also launched another insurance package for

companies (Bifsa and MB members) with a turnover of to R5 million. The policy offers cover of up to R2,5 million on any one contract, public liability of R1 million on every loss and sum insured of R50 000 on contractor's plant.

Building materials in transit (insured vehicles), in storage insured premises will be covered up to R25 000.

8/Day 28/6/90
Manpower
inquiry at
secret venue
after protest

DANIEL FELDMAN

THE National Manpower Commission (NMC) resumed hearing oral evidence yesterday on the consolidation of the Labour Relations Act, but the proceedings were conducted in camera, NMC acting chairman Frans Barker said.

He said evidence by Barlow Rand, Plymouth Brethren and the Iron and Steel Industrial Council was heard at "a secret venue" yesterday.

The decision was taken after the first day of hearings on Tuesday was suspended due to chanting Nactu members. They demanded an end to the hearings until "the Saccola-Cosatu-Nactu (SCN) labour relations accord was translated into legislation".

Barker said the remainder of the scheduled hearings would still be held today and tomorrow. He said they might be reopened to the public depending on Nactu's plans.

Objections

Nactu general secretary Cunningham Ngcukama said the union would not protest at today's hearings. He intended to speak to Barker about the union's objections to the hearings.

American Chamber of Commerce in SA executive director Wayne Mitchell said he was disappointed at not having a chance to present the chamber's viewpoint to the commission on Tuesday. The chamber favoured the proposed accord, he said.

Manpower Minister Eli Louw announced in a statement yesterday that the NMC's report on the SCN accord would be published in a Government Gazette tomorrow for comment by not later than July 31.

Sapa reports from Pretoria that Louw's announcement came a day after President FW de Klerk met labour representatives in a bid to defuse the crisis over enactment of the accord.

CAPE TIMES 29/6/90
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Domestic workers stage march

ABOUT 300 city domestic workers marched yesterday under an ANC banner to demand labour law protection

The group, representing Sadwu (the South African Domestic Workers' Union), marched down Darling Street and across the Parade to the Thomas Boydell building, where a list of demands was handed over to a department of manpower official.

Some of the demands include an eight-hour working day, a minimum wage and three weeks' paid leave

"Domestic workers have been ignored and are at the mercy of employers," said Sadwu national treasurer Ms Myrtle Witbooi.

Commission forced to use secret venue

Star 29/6/90

Disruption by trade unionists forced the National Manpower Commission to use a secret venue to continue its hearing of oral evidence on the consolidation of the Labour Relations Amendment Act yesterday

Regretting the move, NMC acting chairman Dr Frans Barker said the commission did not want to hold the hearings in camera, but added "It does not help if proceedings are disrupted"

He was referring to a protest on Tuesday by members of the National Council of Trade Unions, who chanted outside the commission venue in the Building Industries Federation head office at Halfway House

The protesters were demanding that the NMC technical committee examining the LRAA stop taking oral evidence until the Cosatu/Nactu/Saccola labour relations accord was written into law

Further hearings were due to take place in the Midrand headquarters of the Development Bank of South Africa, but Dr Barker declined to say where subsequent hearings would be conducted

The final hearing takes place today and parties would be informed of the venue, he said

Employer and industrial relations groupings which attended yesterday's session included the 66 000-member SA Consultative Committee on Labour Affairs, Chamber of Mines, Labour Foundation, Building Industries Federation, SA Chamber of Commerce, American Chamber of Commerce in SA and Sasol

Labour unions were represented by the all-white Mineworkers Union and Transnet Union — Sapa.

National protest campaign angers bosses

Stayaway workers will risk penalties

By Shehnaaz Bulbulia
and Karen Stander

Employers may take disciplinary action against workers who heed the ANC/Cosatu call for a national stayaway and nationwide protests planned for next week.

All companies interviewed by The Star said a policy of "no work, no pay" would be followed. Some said disciplinary action could be taken.

The Cosatu campaign, endorsed by the ANC and the UDF, aims to force the Government to take action against KwaZulu Police and Inkatha "warlords" to end the six-year Natal war which has cost 3 000 lives.

Next week's protest campaign has pitted the ANC and Cosatu in a new confrontation with Inkatha, while the South African Council of Churches has formulated a peace proposal in a bid to defuse possible violence.

The National Council of Trade Unions (Nactu) and the Pan Africanist Congress (PAC) will not support the campaign. The PAC has appealed to the ANC to halt the campaign, saying it could only serve to heighten the conflict between the ANC and Inkatha.

An SACC code of conduct during the campaign has been endorsed by both the ANC and Inkatha.

Yesterday both Cosatu and Inkatha called on opposing factions not to intimidate workers either opposed to, or supporting the stayaway.

Employers interviewed yesterday expressed discontent with the organisers of the stayaway and said the protest action would do little to solve the Natal conflict.

Mockery

Anglo American spokesman James Duncan said the company did not support stayaways as a means of solving problems. Anglo would implement its policy of "no work, no pay".

The managing director of the South African Breweries Beer Division, Graham Mackay said SAB had also adopted a policy of "no work and no pay", and depending on the circumstances, disciplinary action may be brought against workers who heeded the stayaway call.

Cosatu's campaign, Mr Mackay added, was making a mockery of the ongoing talks between employers and organised labour.

Chain stores have arranged for housewives and students to fill in for protesters at the tills.

At a press conference in Johannesburg yesterday called by Cosatu, the UDF and the SA Youth Congress (Sayco), Cosatu general secretary Jay Naidoo said the intention of the week of protest was to pressure President



No sale... nanny Mina Thobedi was confronted by two men who offered R1 000 to buy fourteen-month-old Chandre for a witchdoctor. ● Picture by Sean Woods.

By Shareen Singh

Two men tried to buy a 14-month-old baby for a witchdoctor, a young Roodepoort mother told The Star yesterday.

Debbie van Ryneveld, of Witpoortjie, said she was shocked when her maid, Mina Thobedi, telephoned her at work and told her that two men had offered R1 000 for her son Chandre.

When Mina refused to hand over the baby, the men said they would send someone later with R5 000 to

Men try to buy baby for witchdoctor

collect it for a witchdoctor.

Mrs van Ryneveld and her husband rushed home immediately and telephoned the police.

The police kept a watch on the house from a side street, Mrs van

Ryneveld said. At about 3 pm a man shouted to the maid from across the road that he had come to collect the baby.

But then he realised the parents were at home and said he would be back today.

Mrs van Ryneveld said her husband would be able to identify the man, but the police did not see the incident.

Since the ordeal she has taken Chandre and Mina to work with her. "I am too scared to leave my baby at home," she said.

South African Council of Churches has formulated a peace proposal in a bid to defuse possible violence

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Chain stores have arranged for housewives and students to fill in for protesters at the tills

At a press conference in Johannesburg yesterday called by Cosatu, the UDF and the SA Youth Congress (Sayco), Cosatu general secretary Jay Naidoo said the intention of the week of protest was to pressure President de Klerk to put an end to the war in Natal

'Find the will'

Mr Naidoo said the State had the capacity to end the conflict, if it could find the political will. "The national mass action is designed to encourage it to find that will"

In Ulundi yesterday, Inkatha president Chief Mangosuthu Buthelezi said there had not been "one single call for a stay-at-home which had not been enforced upon the people"

It was tragic that the leadership of the ANC, including deputy president Nelson Mandela, still insisted that the armed struggle was necessary and should not be called off, he said

● In Durban, ANC leader Walter Sisulu said Monday's stayaway action was decided upon because "we have no other weapon at our disposal" for ending the Natal carnage

"The ANC reiterates in the strongest terms possible our support for the nationwide stayaway," he added

Mr Sisulu said the steps needed to achieve Natal peace included disarming the KwaZulu Police, dismantling the "KwaZulu bantustan" and arresting known "warlords".

Belanghebbendes wat vertoe rig, moet daarmee rekening hou dat die Raad sy aanbeveling baseer op die beste inligting beskikbaar met betrekking tot—

(a) die omstandighede waaronder die harpui ingevolge artikel 56 (1) van die Doeane- en Aksynswet, 1964, geag kan word gedump te wees, veral ten opsigte van die pryse waarteen harpui in die normale verloop van handel in die Volksrepubliek Sjina, Hongkong en die Republiek Indonesië verhandel word, en die pryse waarteen harpui uit die Volksrepubliek Sjina, Hongkong en die Republiek Indonesië uitgevoer word,

(b) wesentlike skade ondervind deur die Suid-Afrikaanse bedryfstak;

(c) die mate waarin die dumping die oorsaak van die wesentlike skade is; en

(d) die vraag of dit in die openbare belang is om op te tree teen die dumping

Enige navrae moet gerig word aan mnr. J Gelderblom by telefoon (012) 322-8244, bylyn 211.

[RHN-verw. T5/2/6/2/5]

(29 Junie 1990)

KENNISGEWING 532 VAN 1990

DEPARTEMENT VAN MANNEKRAG

WET OP ARBEIDSVERHOUDINGE, 1956

Hierby word vir algemene inligting bekendgemaak dat die Media Workers' Association of South Africa, met ingang van 19 Junie 1990, ingevolge artikel 4 (7) van die Wet op Arbeidsverhoudinge, 1956, as 'n vakvereniging geregistreer is ten opsigte van Swart persone as voltydse of los werknemers in diens in die Media-, Drukkers-, Verpakkings- en Verwante Bedryf soos hieronder omskryf, in die landdrostdistrikte Benoni, Die Kaap, Durban, Johannesburg, Krugersdorp, Nelspruit, Pietermaritzburg, Pietersburg, Port Elizabeth, Pretoria, Roodepoort, Stellenbosch, Vereeniging en Witbank.

“Media-, Drukkers-, Verpakkings- en Verwante Bedryf” beteken sonder om die gewone betekenis daarvan enigerwys te beperk die bedryf waarin werkgewers en hul werknemers gemoed is met—

(i) die produksie en verspreiding van nuus, en omvat werknemers in diens in die Elektroniese Media as fotografe, verslaggewers, koerantverspreiders, drywers, verkopers, masjienoperateurs, invoegers, klerke, tiksters, videokameraoperateurs, aanbieders en beeldmengers; en

(ii) die produksie van drukwerk van watter aard ook al, met inbegrip van stereotipering, proeflees, lettergieting, elektrotipering, fotoblokmaak, foto-gravure, litografie, drukkersingenieurswerk, drukkerspakhuiswerk, stempelwerk, boekbindery, lniëring, afsnywerk, syskermprosesdruk, duplisering en inkmenging, en omvat die produksie van houers, sakke, omhulsels of enige ander soort houer gemaak van papier of enige ander buigsame materiaal,

en dit omvat alle werksaamhede wat met voormelde bedrywighede gepaard gaan of daaruit voortspuit

(29 Junie 1990)

Interested parties who wish to make submissions should bear in mind that the Board's recommendation will be based on the best information available in respect of—

(a) the circumstances under which rosin may, in terms of section 56 (1) of the Customs and Excise Act, 1964, be regarded as being dumped, particularly in respect of prices at which rosin is being sold in the ordinary course of trade in the People's Republic of China, Hong Kong and the Republic of Indonesia and prices at which rosin is exported from the People's Republic of China, Hong Kong and the Republic of Indonesia;

(b) material injury being experienced by the South African industry;

(c) the extent to which the dumping causes the material injury, and

(d) whether it is in the public interest to act against the dumping.

Any enquiries should be directed to Mr J Gelderblom at telephone (012) 322-8244, extension 211

[BTI Ref. T5/2/6/2/5]

(29 June 1990)

NOTICE 532 OF 1990

DEPARTMENT OF MANPOWER

LABOUR RELATIONS ACT, 1956

It is hereby notified for general information that the Media Workers' Association of South Africa, has with effect from 19 June 1990, in terms of section 4 (7) of the Labour Relations Act, 1956, been registered as a trade union in respect of Black persons employed in a full-time or casual capacity in the Media, Printing, Packaging and Allied Industry, as defined below, in the Magisterial Districts of Benoni, Durban, Johannesburg, Krugersdorp, Nelspruit, Pietermaritzburg, Pietersburg, Port Elizabeth, Pretoria, Roodepoort, Stellenbosch, The Cape, Vereeniging and Witbank

“Media, Printing, Packaging and Allied Industry”, without in any way limiting the ordinary meaning thereof, means the industry in which employers and their employees are concerned with—

(i) the production and distribution of news, and includes employees employed in the Electronic Media as photographers, reporters, newspaper distributors, drivers, vendors, machine operators, insertors, clerks, typists, video camera operators, producers and vision mixers; and

(ii) the production of printed matter of any nature whatsoever, including stereotyping, proof-reading, type casting, electrotyping, process engraving, photogravure, lithography, printer's engineering, printer's warehousing, stamping, bookbinding, ruling, cutting, silkscreen process printing, duplicating and ink mixing, and includes the production of containers, bags, wrappers or any other form of container produced from paper or any other flexible material,

and includes all operations incidental to or consequent on any of the aforesaid activities

(29 June 1990)

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Labour movement reconsiders closed shop

SA's LABOUR movement is fast changing its collective mind on the desirability of the closed shop. *8 IDAM 217190*

Seen by black unions for many years as a white union ploy to entrench job reservation, the closed shop is now finding favour, according to an article in the latest edition of the SA Labour Bulletin

Co-authored by Chemical Workers' Industrial Union general secretary Rod Crompton and labour lawyer Chris Albertyn, the article expresses misgivings about "free riders" *(166) (102)*

The main concern hinges on how a union deals with those who refuse to belong to the union or participate in disputes but nevertheless take advantage of benefits

ALAN FINE

won by the union

They also say free riders, by scabbing during strikes, make it easier for employers to dismiss striking union members

Various suggestions, designed to counter negative viewpoints, are put forward including one that a majority in a bargaining unit should be required to ballot in favour of introducing a closed shop and that there should be a regular review

A mechanism should also be present which would enable a significant minority (30% to 40%) to petition for a re-ballot during a two-year period

● See Page 12

LRA commission completes hearing

THE National Manpower Commission (NMC) completed its hearing into the consolidation of the Labour Relations Act (LRA) on Friday, opening its doors only to the media after hearings were temporarily suspended last week due to protesting National Council of Trade Unions (Nactu) members.

NMC acting chairman Frans Barker said oral evidence was presented on Friday by the SA Employers' Consultative Committee on Labour Affairs, Building Industries Federation of SA, SA Chamber of Business, Chamber of Mines, and the American Chamber of Commerce in SA.

He said the "full programme was very valuable," and the technical

DANIEL FELDMAN

committee would now redraft its working document and submit it to the full commission by the end of July.

He expressed hope that the commission would be able to "draft something in legislative form fairly soon"

Each organisation presented opinions on aspects of the commission's current working document, including trade unions and employer organisations, industrial councils, conciliation boards, bargaining levels, voluntary and compulsory arbitration, strikes, pickets, lockouts, labour brokers, drafting styles, unfair labour practices, and employee rights

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BIDAY 2/7/90

SA sitting on a time-bomb as strikes threaten industry

By CONNIE MOLUSI

SOUTH Africa is sitting on an economic time-bomb, with thousands of black workers on strike in the mining, health, metal, and transport industries. And a large section of organised labour is this week bracing itself for massive strike action in coming months.

"This large-scale mobilisation will not abate in the months ahead, in the light of the government's decision regarding amendments to the Labour Relations Act and the possible results of the annual wage talks," said labour consultants Levy, Piron and Associates.

They warned of "an unprecedented wave of industrial action which employers would find difficult to counter".

Employer, union and government spokesmen said the strike surge is due to a combination of heightened worker expectations resulting from recent political changes, and South Africa's economic problems.

Already 50 540 workers are on strike countrywide. The number swelled by a further 25 000 this week when mineworkers downed tools in the Free State goldfields to protest against the arrest of colleagues.

The retail industry has been hard hit, with leading chain-stores OK Bazaars and Checkers crippled by

wage strikes countrywide.

The South African Commercial and Catering Allied Workers' Union (Saccawu) is leading the field in terms of man-days lost as the result of the prolonged OK Bazaars strike involving 7 000 workers.

OK has threatened to retrench 500 workers if the strike does not end soon.

In the catering industry, 5 500 workers employed by the giant Southern Sun hotel group are out on a wage strike, while 10 000 workers at Checkers are on strike.

Saccawu also has wage disputes with Edgars, Metro

■ To Page 2

Strike time-bomb threatens economy

■ From Page 1

Cash and Carry and Frasers Mine Stores involving 6 000 workers.

This week more than 300 workers were locked out of the Mama's Pies factory after seven drivers were dismissed for refusing to deliver pies to OK Bazaars.

The National Union of Mineworkers (NUM) has disputes pending with the Chamber of Mines' coal division and the De Beers group.

Although the NUM has settled its wage dispute with the Chamber's gold division, another nine disputes are in progress involving some 63 000 mineworkers.

In the metal industry, the National Union of Metalworkers of South Africa (Numsa) has declared a dispute with the Steel and Engineering Industries Federation of South Africa (Seifsa) in which better wages head the list of demands.

Seifsa executive director Brian Angus said the unions involved had not indicated whether they accept the employer's final offer, tabled at the sixth round of bargaining on June 14.

The bargaining with Seifsa affects 150 000 workers in the metal and engineering industries.

Already 1,2 million man-days have been lost this year through industrial action, almost treble the number for the same period in 1989.

Wages accounted for the largest percentage of strikes in terms of man-days lost (63.5 percent), followed by grievance and disciplinary actions (26 percent), and dismissals (1,7 percent).

The six most active unions in terms of man-days lost are Numsa (19,1 percent), Chemical Workers Industrial Union (11,8 percent), NUM (11 percent), Printing, Paper, Wood and Allied Workers Union (6,6 percent), Saccawu (6,6 percent), and Food and Allied Workers Union (4,4 percent).

Press 8/7/90

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Hotel strike: sides opt for mediation

By Shareen Singh

After six eviction orders and allegations by both management and union in the Southern Suns national strike, the parties have opted for mediation to try to solve the dispute.

The Industrial Court hearing in the South African Commercial Catering and Allied Workers Union's (Saccawu) application against the company's eviction orders was postponed to next Wednesday.

Southern Suns' application to declare the strike at Malibu Hotel illegal was heard in the Supreme Court, Durban yesterday. The court ruled that the union must

prove majority membership and conduct a strike ballot. Workers must resume work while this process was taking place

~~166~~ ~~166~~
Vast sums
R12 7190

Union spokesman, Allan Horwitz, said the strike was costing Southern Suns vast sums of money. Scab workers were being paid R8,50 an hour amounting to R1 500 a month and the company had also employed many security guards, he said.

This, coupled with the phenomenal costs involved in obtaining the six interdicts has confirmed for the union that the company was playing

"a power game" rather than considering economics," the union said.

Southern Suns spokesman, Karl Ludick, said higher rates were paid to casual workers because the company had to obtain casual staff at short notice.

Mr Horwitz stressed that the strike was not only about wages. A central issue in the dispute was the unions demand for the re-instatement of 107 workers dismissed at four holiday resorts.

Management must move on both issues and offer a package deal if it wanted settlement, the union said.

The parties will start mediation tomorrow.

... in the face of a group of angry women who stripped and

... have moved in on two squatter camps over the past two days

... looks like political manipulation to me". — The Argus Correspondent and Sapa

Cosatu will reconsider mass action plan if talks go well

ARGUS 13/7/90

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By MICHAEL MORRIS
Political Correspondent

THE Congress of South African Trade Unions has undertaken to reconsider its programme of mass action in protest at the government's handling of the Labour Relations Act dispute.

This will happen if the working party set up after talks with President De Klerk comes up with "satisfactory proposals"

The undertaking was made yesterday after the first meeting of the working party

But Cosatu also indicated that it would only take part in the working party if there was certainty that it would conclude its work within 30 days, that none of its proceedings were cloaked in secrecy and that the aim was to "formulate a settlement for consideration

by all constituencies"

The working party was set up after President De Klerk stepped into the growing row over the government's refusal to bring labour legislation in line with the agreement between Cosatu, the National Council of Trade Unions and the employers' federation, Saccola, during the past session of parliament

The government argued that key elements of the agreement needed to be discussed by organisations, which were not party to it.

It suggested the law be amended during next year's session of parliament

Saccola and department of manpower representatives at yesterday's meeting agreed to consider the conditions Cosatu set for taking part in the talks,

as well as a number of other proposals

If the conditions are accepted, the working party will meet again on July 26

The other proposals Cosatu made were that the government should agree that

● All public sector workers be granted basic worker rights immediately,

● There should be no "secret meetings" with employers on labour relations, and that

● A second interim Bill be drafted immediately to extend the Labour Relations Act to all workers and on a proper Labour Appeal Court system

Cosatu also wants Saccola to agree to measures between now and the enactment of the original Amendment Bill to give effect to the agreement between them

Secret talks may have influenced FW, says Cosatu

By DREW FORREST

"CLANDESTINE" talks with union and business representatives may have influenced State President FW de Klerk during last month's Labour Relations Act crisis, claims the Congress of SA Trade Unions.

Cosatu's Geoff Schreiner said the federation had hard information that public service unions and businessmen on the Economic Advisory Council had urged De Klerk in secret meetings last month to delay LRA amendments based on the "Saccola accord".

At the first meeting this week of the "joint working party" on the LRA, proposed at the recent union-employer encounter with De Klerk, Cosatu demanded an end to secret talks between the state, business and unions.

Comment from the president's office could not be obtained yesterday. But a Public Service Association source confirmed that the LRA was raised at a meeting between recognised public service unions and De Klerk on June 12.

"The meeting was mainly about wages, and was public knowledge," he said. "But we did ask the President for more time to consult members on the proposed Bill." De Klerk announced three days later that Parliament would not pass the Bill during the current session.

Cosatu has reacted by intensifying its LRA demands. At the "working party" talks this week, it demanded the enactment of two Bills by no later than early next year: the original Bill, based on the Saccola accord, and further legislation extending the LRA to all workers and creating a "proper" Labour Appeal Court system.

Other demands were that the state immediately grant basic worker rights in the public sector and secure the backing of Cosatu, Saccola and Nactu for any further changes to the LRA.

At the talks, Cosatu demanded the other parties accept that the working group complete its work in 30 days and formulate a settlement for consideration by their constituencies. It added that its programme of mass protest on the LRA could be assessed in the light of an acceptable solution.

It also called on Saccola to agree on measures giving force to the Saccola accord in advance of legislation.

Yesterday Nactu, which did not attend the working party talks, said it would decide whether to participate at a national council meeting later this month.

26 000 in 'human chain' protest

Labour Reporter

IN one of Cape Town's biggest trade union demonstrations, more than 26 000 clothing and textile industry workers formed a "human chain" in support of a workers' charter

Wet weather failed to dampen exuberance as hordes of workers, mostly women, spilled out of about 500 factories from Worcester to Cape Town to form separate chains in 15 industrial areas yesterday

The lunch-hour pavement protest was organised by the SA Clothing and Textile Workers' Union and organiser Mr Ebrahim Patel hailed it as "a huge success"

DISCIPLINE

He said the demonstration was free of violent incidents

Police kept a low profile as workers, decked out in the union's colours of red and yellow, waved placards, sang and toyi-toyed

In Salt River about 8 000 people lined Victoria Road for several kilometres and traffic was disrupted when toyi-toying workers surged into the road

Some motorists hooted and shouted messages of support.

At Epping an estimated 5 000 took part, Parow Industria 2 500, Elsies River 2 100 and Atlantis 2 200

About 1 100 linked arms in Paarl, 200 in Wellington and 600 in Worcester

Mr Patel said the demonstration was proof of the "depth of worker interest in the changes taking place in South Africa and the determination of workers to have their rights incorporated in a post-apartheid constitution"

The right to strike and picket, bargain with employers, belong to a trade union and trade union independence are included in the Cosatu workers' charter

But the Cape Clothing Manufacturers' Association complained that the campaign was being "taken to the streets" instead of before the Industrial Council

Several employers extended lunch hours by 30 minutes to allow employees to protest

Posadres van applikant: Posbus 19, Scottburgh, 4180.
Kantooradres van applikant. Wickstraat 2, Verulam

Die aandag word gevestig op onderstaande vereistes van artikel 4 van die Wet.

(a) Die mate waarin 'n beswaarmakende vakvereniging verteenwoordigend is, word ingevolge subartikel (4) bepaal volgens die feite soos hulle bestaan het op die datum waarop die aansoek ingedien is, en wat die lidmaatskap betref, word alleen lede wat ingevolge artikel 1 (2) van die Wet op voormelde datum volwaardige lede was, in aanmerking geneem.

(b) Die prosedure voorgeskryf by subartikel (2) moet gevolg word in verband met 'n beswaar wat ingedien word

D. W. JAMES,
Nywerheidsregistrator.
(20 Julie 1990)

Postal address of applicant: P.O. Box 19, Scottburgh, 4180.

Office address of applicant: 2 Wick Street, Verulam.

Attention is drawn to the following requirements of section 4 of the Act:

(a) The representativeness of any trade union which objects to the application shall in terms of subsection (4) be determined on the facts as they existed at the date on which the application was lodged and, as far as membership is concerned, only members who were in good standing in terms of section 1 (2) of the Act as at the aforesaid date shall be taken into consideration.

(b) The procedure laid down in subsection (2) must be followed in connection with any objection lodged.

D. W. JAMES,
Industrial Registrar.
(20 July 1990)

KENNISGEWING 584 VAN 1990
ADMINISTRASIE: VOLKSRAAD
DEPARTEMENT VAN LANDBOU-ONTWIKKELING

KENNISGEWING VAN VERGADERING VAN SKULDEISERS KRAGTENS ARTIKEL 22 (1) VAN DIE WET OP LANDBOUKREDIET, 1966

Hierby word 'n vergadering van ondergenoemde applikante en hulle skuldeisers op die plek en datum hieronder genoem, belê, met die doel om skuldeisers in staat te stel om hul vorderings teen die applikante te bewys en 'n skikkingsvoorstel van die Landboukredietraad te oorweeg.

J. H. RADEMEYER,
Direkteur: Direktoraat Finansiële Bystand,
Departement van Landbou-ontwikkeling.

NOTICE 584 OF 1990
ADMINISTRATION: HOUSE OF ASSEMBLY
DEPARTMENT OF AGRICULTURAL DEVELOPMENT

NOTICE OF MEETING OF CREDITORS IN TERMS OF SECTION 22 (1) OF THE AGRICULTURAL CREDIT ACT, 1966

A meeting of the undermentioned applicants and their creditors is hereby convened at the place and date mentioned hereunder for the purpose of enabling creditors to prove their claims against the applicants and of considering a proposal for a compromise by the Agricultural Credit Board.

J. H. RADEMEYER,
Director: Directorate Financial Assistance,
Department of Agricultural Development

Aansoek van Application by	Plek van byeenkoms Place of meeting	Datum en tyd Date and time
Helena Susanna Steyn, Louis Philippus Steyn en/ and Rondawel-Noord (Edms) Bpk / (Pty) Ltd, van die plaas/of the farm Rusplaas, Posbus/P O Box 163, Bothaville, 9660	Kantoor van die Landdros/Magistrate's Office, Bothaville	22 Augustus/August 1990 om/at 09 00

(20 Julie 1990)/(20 July 1990)

KENNISGEWING 585 VAN 1990
ADMINISTRASIE: VOLKSRAAD
DEPARTEMENT VAN LANDBOU-ONTWIKKELING

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J. H. RADEMEYER,
Direkteur: Direktoraat Finansiële Bystand,
Departement van Landbou-ontwikkeling

NOTICE 585 OF 1990
ADMINISTRATION: HOUSE OF ASSEMBLY
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NOTICE OF MEETING OF CREDITORS IN TERMS OF SECTION 22 (1) OF THE AGRICULTURAL CREDIT ACT, 1966

A meeting of the undermentioned applicant and their creditors is hereby convened at the place and date mentioned hereunder for the purpose of enabling creditors to prove their claims against the applicant and of considering a proposal for a compromise by the Agricultural Credit Board.

J. H. RADEMEYER,
Director: Directorate Financial Assistance,
Department of Agricultural Development

Aansoek van Application by	Plek van byeenkoms Place of meeting	Datum en tyd Date and time
Wybrand Willem Matthews, van die plaas/of the farm Voetpaddrift, Posbus/P O Box 356, Leeudoringstad, 2640	Kantoor van die Landdros/Magistrate's Office, Wolmaransstad	7 September 1990 om/at 09 00

(20 Julie 1990)/(20 July 1990)

W/Mail
20/7-22/7/90

Strikers have a right to picket . But is it legal?

166

A VENERABLE institution elsewhere but legally precarious in South Africa, the strike picket has been thrown into eye-catching relief by the current labour turmoil in the retail and hotel sectors

National strikes at city centre stores and hotels has given rise to the most systematic and publicly visible use of the picket in our labour history

The practice has become a major flashpoint. Hundreds of picketers have been arrested, in the OK Bazaars dispute alone, 188 face charges

In response, the South African Commercial, Catering and Allied Workers Union (Saccawu), a Congress of South African Trade Unions affiliate, has written letters of protest to the commissioner of police and Law and Order Minister Adriaan Vlok, coupled with threats of supreme court action. It also plans a one-hour nationwide work stoppage in all Saccawu-organised plants to highlight the issue

Essentially a moral appeal to fellow-workers not to undermine strike action — either by “scabbing” or using the services of dispute-hit firms — pickets mounted outside or on the premises of strike-hit firms also serve to spotlight demands and pressurise employers.

The Labour Relations Act (LRA) is silent on the practice but picketers in South Africa are hemmed in by a web of other laws. In terms of the blanket ban on outdoor gatherings under the Internal Security Act, the phalanx of picketers so familiar in Britain and the United States is not possible here

Picketers also have to watch what they say to strike-breakers and customers of strike-hit firms. The Intimidation Act outlaws threats of damage or assault, and in terms of the LRA, an explicit boycott call is an unfair la-

Strike pickets have emerged as a major flashpoint on the labour front. It's a key right — according to experts — but of uncertain legality in South Africa
DREW FORREST
reports



Adriaan Vlok ... Using the velvet glove tactic regarding picketers

bour practice
Saccawu argues there is nothing unlawful in the peaceful display of placards by small groups of suitably spaced strikers, and insists that the denial of the right “heightens emotions and exacerbates frustrations” Police evidently do not agree

In an apparently co-ordinated crackdown, picketers have been arrested across the country under obscure municipal bylaws outlawing advertising without local council permission. Saccawu holds the laws are being misapplied

A Transvaal Provincial Administrator’s notice of 1973 aimed at unauthorised advertising has also been invoked, as have laws banning demonstrations in the vicinity of parliament and the courts

Legal sources believe that police are under instructions not to use tougher methods. But lawyers detect intense frustration within the force over the velvet-glove approach and nostalgia for lost Emergency powers

Specialists argue that picketing is an essential feature of South Africa’s “adversarial” or “laissez faire” labour relations system, modelled on that of Anglo-Saxon countries

“It’s the obverse of the employer’s

union’s power to discipline its members. A culture of covert coercion emerges, where strikers discipline their fellows away from the workplace and collective control”

The absence of a clear legal framework has prompted a growing move in South Africa towards self-regulation. Often, unions issue their own strike rules. During the 1988 national metal industry strike, for example, the National Union of Metalworkers circulated a code urging picketing strikers not to drink liquor, damage property or resort to violence or intimidation

In the wake of Numsa’s groundbreaking agreements with West German companies, employer-union deals enshrining the right to controlled picketing are also on the increase, says labour consultant Brian Allen. “Managements are saying, ‘Let’s permit it and regulate it’ They’re pragmatic — they see the practice can’t be stopped”

Typically agreements specify the location, spacing and numbers of pickets, and bind picketers not to display defamatory placards or interfere with customers, suppliers and non-strikers.

The signs are that the state is also preparing to recognise, but circumscribe, the practice of picketing

In its latest annual report, the National Manpower Commission announced that it had drawn up a picketing code for submission to Manpower Minister Eli Louw this year. And the NMC’s recent “working document” on the consolidation of the LRA proposes that some forms of picketing should be an unfair labour practice

An alternative view in the working document is that all picketing should be banned — but this apparently reflects the minority view of white unionists, who fear their members, habitual strike-breakers, may be harmed or intimidated

Acting NMC chairman Dr Frans Barker said the picketing code would not be given the force of statute, as this was too inflexible

In line with the British model, the intention was to have a set of guidelines which could be used as evidence in the industrial court, he said.

WEEKLY MAIL Rates

Weekly Mail	Weekly Mail only
12 mths	6 mths 12 mths

□ That collective bargaining must be institutionalised at relatively central levels if there's to be any kind of social regulation or compact between the State, capital and labour

The assistant director of the Wits Centre for Applied Legal Studies, Halton Cheadle, argues that some form of regulation is important to set reasonable standards. The Free Market Foundation is very wary about this.

The Labour and Economic Research Centre's Taffy Adler illustrated how industrial councils have made a significant contribution to general social welfare, preventing wages from sinking to very low levels. He argues that the gradual demise of industrial councils has had the effect of lowering employment standards and damaged collective bargaining as an institution.

Ironically, says Adler, the result of the break-up of industrial councils is a massive additional burden to the State and society as a whole.

It is argued that deregulation and privatisation are taking place without reference to unions or negotiation, and here Competition Board chairman Pierre Brooks, unable to gainsay the charge, came in for a roasting. Natal University's Chris Albertyn describes this by-passing of the unions in the changing of regulations as typical of the features of the authoritarian state, as outlined by UCT Prof Andre du Toit in an earlier address.

The charge seems to be supported by the concerns expressed by Adolph Landman (chairman of the labour relations committee of the National Manpower Commission), about the Department of Manpower holding back the law-making process for pushing through the Saccola-Cosatu-Nactu accord. "I suggest the department is overstepping the mark," Landman stuck his neck out, adding that though the NMC is government's official adviser, "it does seem to have other advisers who are not publicly accountable."

UCT's Clive Thompson says any new legislation has to serve two periods — the present transitional phase as well as the new order to come.

It is ironic that labour, once at the progressive forefront, has now started to lag behind political developments. The search for better dispute resolution procedures that measured up to ILO standards, says Thompson, is being thwarted by the Department of Manpower.

He believes it a curious omission that the draft labour legislation makes no mention of affirmative action — essential to the future.

While we have a core of fairly well-protected industrial workers, says Thompson, there is a crucial need, linked to the land issue, to extend such rights to rural workers. Labour and management are going to have to adjust their attitudes in order to replace SA's deeply adversarial labour relationship with a co-operative one. Union autonomy, he adds, is going to be crucial in the new SA if democratic pluralism is to succeed.

But should the right to strike be inalienable? Thompson believes the ILO convention should form the basis of this right in law. Cheadle says it isn't inalienable but a question of where you draw the line — either the court is given that power or it's written into the statute.

Numsa's Geoff Schreiner reckons the line should be drawn by the parties themselves, adding "we don't believe in the absolute right to strike." He suggests more emphasis should be placed on compulsory arbitration in extreme cases.

Cheadle revealed that the Saccola-union accord proposes restructuring the labour appeal court to make it more of a specialist labour court — with the status of an appeal court, beneath which would function the industrial court.

Discussing unions and political affiliation, Chris Gilmore, of the Italian union federation CGIL, drove home the message of the "incompatibility between trade unions and political office," which has been formally adopted by his union.

Not only does this make the formation of more cohesive unions possible, it is a question of different roles, says Gilmore, who is here advising Cosatu. This does not mean unions reject intervention on socio-political issues that affect workers as citizens. ■

LABOUR CONFERENCE ^{FIM} 20/7/90

Guarding the flame

Deregulation and privatisation — and their impact on collective bargaining — were at the core of this year's labour law conference, jointly organised by the labour law departments of UCT, Wits and Natal.

The conference, now the premier event of its kind, commenced with the general issues of economic restructuring and democracy in societies in transition, before tackling the impact of political policies on collective bargaining, directions in labour law and the role of collective bargaining in what was assumed would be a social democratic state (undefined) in future.

It was regretted that there was "unwillingness by government and certain large employer representatives to participate and advance positions in public which they espouse in practice. For example, on levels of bargaining" — an indirect reference to Barlows' preference for plant-level bargaining.

Broadly, three themes emerged.

- That democratic regulation of organisations and, ultimately, society involves pluralism and the importance of maintaining free and independent trade unions,
- That some level of regulation is necessary to ensure a balance of power between unions and employers, and to check the unfettered use of power by either, and

Workers march for basic rights

By LULAMA LUTI *c/f press 22/7/90*



*c/f press
22/7/90*

FOR the second time in just over a year, domestic workers in the Witwatersrand took to the streets of Johannesburg this week, demanding recognition for their union.

Hoisting brooms, brushes, buckets and other cleaning equipment, about 5 000 domestic workers marched from Saratoga Avenue near Berea to the Johannesburg regional offices of the Department of Manpower in President Street.

They handed a letter to director of local affairs JJ Knoesen, demanding coverage in terms of the Employment Act and protection as workers under the Labour Relations Act.

Spokesperson for the South African Domestic Workers' Union (Sadwu), Selinah Vilakazi, said by defying a directive which gave permission for only 500 people to march, domestic workers were displaying impatience at the authorities' reluctance to respond to demands.

"We are sick and tired of being told our demands are still being looked at. We demand the prompt response of those in authority. They can rest assured campaigns against exploitation will intensify until we are recognised."

Domestic workers are also demanding a minimum monthly wage of R450, a 40 hour week, the right to receive visitors, decent accommodation, maternity leave, and unemployment and pension benefits.

Vilakazi dismissed reports that Sadwu members had threatened non-union members with death if they did not take part in the march.

"Nobody was forced to take part in the march and we have received no reports of intimidation. We have been inundated with calls from employers who have threatened some members with dismissal should they take part in marches in future."

SD

Reports on unions inadequate at best

Cape Times 27/7/90

From EBRAHIM PATEL,
National Education Secretary,
SA Clothing and Textile Workers' Union (Salt River):

The Cape Times carried a one-paragraph report on July 17, announcing the granting of municipal and magisterial permission for the human chain demonstration and a four-paragraph report on July 18, setting out employer concerns about the human chain.

Your newspaper has failed to carry any articles setting out the reasons for this demonstration, as conveyed in the Press releases issued by our office.

More seriously, the Cape Times has failed to seek the trade union view on employer concerns about the human chain and has accordingly reflected only one view on the matter.

We write to you, though, not merely because of limited coverage of our activities but because we have noticed a pattern of distorted or limited coverage of trade union activities.

Wide coverage is given to strikes, and particularly violence and arrests during strikes — the media then reflects as news only such activities, and in consequence the public view of trade unions is one of strikes, disruption and violence.

Trade unions however, engage in a wide range of activities

ignored by the newspapers. One such activity is the campaign to draft a charter of workers' rights. The campaign, coordinated by Cosatu, seeks to determine from workers the rights which they wish to include in the laws and constitution of a post-apartheid South Africa.

Such rights will include organisational rights (to belong to trade unions, strike, picket, bargain with employers), industrial democratic rights (partake in the management of enterprise, joint appointment of judges to industrial courts) and the right to trade union independence (from the state, political parties and employers).

That one million organised workers (Cosatu's membership) are involved in such a major and important activity is newsworthy.

That Cape Town's biggest union, representing 68 000 workers locally, at 500 Cape factories, plans to hold a human chain to show worker support for the charter of worker rights, is newsworthy.

Surely the Cape Times ought to have given more coverage to the planned protest?

WHEN writing to the Editor please be brief, double-space, use only one side of the sheet, sign your name and give your full address. Letters are liable to be shortened and edited.

PR645 27/7/80 (10)(16)

Clothing union to spotlight 'new South Africa' at national congress

By SHARON SOROUR
Labour Reporter

LABOUR law, trade union independence and political policy in the "new South Africa" will come under the spotlight at the second national congress of the South African Clothing and Textile Workers' Union at the weekend.

Union national media officer Mr Ronald Bernickow said about 700 delegates from union branches throughout the coun-

try, as well as South African and international guests, would attend the congress in Durban.

"Our theme — Restructuring the Future — reflects the tremendous growth of the organisation since its formation in September last year as well as the need to restructure the national union to accommodate this growth".

Membership had grown from 185 000 when the union was formed to more than 200 000.

Most recruits came from the homelands

Speakers from the African National Congress, Cosatu and the American Amalgamated Clothing and Textile Workers' Union would address the two-day congress during an open session.

"Resolutions on the agenda include a workers' charter, political policy, the ANC's constitutional guidelines and labour law in the new South Africa".

Die aandag word gevestig op onderstaande vereistes van artikel 4 van die Wet:

(a) Die mate waarin 'n beswaarmakende vakvereniging verteenwoordigend is, word ingevolge subartikel (4) bepaal volgens die feite soos hulle bestaan het op die datum waarop die aansoek ingedien is, en wat die lidmaatskap betref, word alleen lede wat ingevolge artikel 1 (2) van die Wet op voormelde datum volwaardige lede was, in aanmerking geneem.

(b) Die prosedure voorgeskryf by subartikel (2) moet gevolg word in verband met 'n beswaar wat ingedien word.

D. W. JAMES.

Nywerheidsregistrator.

(27 Julie 1990)

KENNISGEWING 604 VAN 1990

DEPARTEMENT VAN VERVOER

WET OP LUGDIENSTE, 1949 (WET No. 51 VAN 1949), SOOS GEWYSIG

Hierby word ingevolge die bepalings van artikel 5 (a) en (b) van Wet No 51 van 1949 en regulasie 5 van die Regulasies vir Burgerlugdienste, 1964, vir algemene inligting bekendgemaak dat die Nasionale Vervoerkommissie die aansoeke waarvan besonderhede in die Bylaes hieronder verskyn, sal aanhoor

Vertoe ingevolge artikel 6 (1) van Wet No. 51 van 1949 ter ondersteuning of bestryding van 'n aansoek moet die Direkteur-generaal Vervoer (Direktoraat Burgerlugvaart), Privaatsak X193, Pretoria, 0001, en die aansoeker binne 21 dae na die datum van publikasie hiervan bereik en daarin moet gemeld word of die persoon of persone wat aldus vertoe rig, van plan is om die verrigtings by te woon of om daar verteenwoordig te word.

Die Kommissie sal reel dat kennis van die datum, tyd en plek van die verrigtings skriftelik gegee word aan die aansoeker en al die persone wat aldus vertoe gerig het en wat verlang om aldus verteenwoordig of teenwoordig te wees.

BYLAE A

LYS VAN AANSOEKE OM DIE TOESTAAN VAN LISENSIES

(A) Naam en adres van applikant. (B) Naam waaronder die lugdiens geëksploiteer gaan word. (C) Besonderhede van lugdiens (i) Gebiede wat bedien gaan word (ii) Roete(s) wat bedien gaan word. (iii) Basis(se). (iv) Soort verkeer wat vervoer gaan word (v) Frekwensie en roosters waarvolgens die diens geëksploiteer gaan word. (vi) Soort opleiding wat verskaf gaan word. (vii) Besonderhede en beskrywing van soort werk wat onderneem gaan word (viii) Tariefskaal. (D) Lugvaartuie wat gebruik gaan word.

Attention is drawn to the following requirements of section 4 of the Act

(a) The representativeness of any trade union which objects to the application shall in terms of subsection (4) be determined on the facts as they existed at the date on which the application was lodged and, as far as membership is concerned, only members who were in good standing in terms of section 1 (2) of the Act as at the aforesaid date shall be taken into consideration

(b) The procedure laid down in subsection (2) must be followed in connection with any objection lodged.

D. W. JAMES,

Industrial Registrar.

(27 July 1990)

NOTICE 604 OF 1990

DEPARTMENT OF TRANSPORT

AIR SERVICES ACT, 1949 (ACT No. 51 OF 1949), AS AMENDED

Pursuant to the provisions of section 5 (a) and (b) of Act No 51 of 1949 and regulation 5 of the Civil Air Services Regulations, 1964, it is hereby notified for general information that the applications, details of which appear in the Schedules hereto, will be heard by the National Transport Commission

Representations in accordance with section 6 (1) of Act No 51 of 1949 in support of, or in opposition to, an application, should reach the Director-General Transport (Directorate Civil Aviation), Private Bag X193, Pretoria, 0001, and the applicant within 21 days of the date of publication hereof stating whether the party or parties making such representations intend to be present or represented at the hearing.

The Commission will cause notice of the time, date and place of the hearing to be given in writing to the applicant and all parties who have made representations as aforesaid and who desire to be present or represented at the hearing.

SCHEDULE A

SCHEDULE OF APPLICATIONS FOR THE GRANT OF LICENCES

(A) Name and address of applicant (B) Name under which the air service is to be operated (C) Particulars of air service. (i) Area to be served. (ii) Route(s) to be served. (iii) Base(s) (iv) Types and classes of traffic to be conveyed (v) Frequency and time tables to which the service will be operated (vi) Types of training to be provided. (vii) Particulars and description of types of work to be undertaken. (viii) Tariff of charges (D) Aircraft to be used.

Intrekking van die kortingsfasiliteite ten opsigte van:

Weefstowwe van katoen, vir die vervaardiging van sakdoeke (items 311 18/52.08/01 00, 311.18/52.09/01.00, 311.18/52 10/01.00; 311 18/52.11/01.00 en 311 18/52.12/01.00).

[RHN-verw. T5/2/11/9/1 (900180)]

Applikant:

Raad van Handel en Nywerheid, Privaatsak X753, Pretoria, 0001.

Lys 26/90 is by Algemene Kennisgewing 592 van 20 Julie 1990 gepubliseer.

(27 Julie 1990)

Withdrawal of the rebate facilities in respect of:

Woven fabrics of cotton, for the manufacture of handkerchiefs (items 311.18/52 08/01 00; 311 18/52 09/01 00; 311 18/52 10/01 00, 311 18/52 11/01 00 and 311.18/52.12/01.00).

[BTI Ref. T5/2/11/9/1 (900180)]

Applicant:

Board of Trade and Industry, Private Bag X753, Pretoria, 0001.

List 26/90 was published under General Notice 592 of 20 July 1990.

(27 July 1990)

KENNISGEWING 603 VAN 1990**DEPARTEMENT VAN MANNEKRAG****WET OP ARBEIDSVERHOUDINGE, 1956****AANSOEK OM REGISTRASIE VAN 'N VAKVERENIGING**

Ek, David William James, Nywerheidsregistrator, maak ingevolge artikel 4 (2) van die Wet op Arbeidsverhoudinge, 1956, hierby bekend dat 'n aansoek om registrasie as 'n vakvereniging ontvang is van die Natal Association of Employees of Black Local Authorities. Besonderhede van die aansoek word in onderstaande tabel verstrek.

Enige geregistreerde vakvereniging wat teen die aansoek beswaar maak, word versoek om binne een maand na die datum van publikasie van hierdie kennisgewing sy beswaar skriftelik by my in te dien, p/a die Departement van Mannekrag, Mannekraggebou 123A, Schoemanstraat 215, Pretoria (posadres Privaatsak X117, Pretoria, 0001).

TABEL

Naam van vakvereniging: Natal Association of Employees of Black Local Authorities.

Datum waarop aansoek ingedien is: 2 Mei 1990.

Belange en gebied ten opsigte waarvan aansoek gedoen word: Alle persone in diens van 'n Swart plaaslike owerheid in die landdroesdistrikte Dundee, Durban, Estcourt, Glencoe, Inanda, Kliprivier, Lion's River, Lower Tugela, Moorivier, Mount Currie, Mtonjaneni, Paulpietersburg, Pietermaritzburg, Pinetown, Umvoti, Umzinto en Vryheid

Vir die doeleindes hiervan beteken "Swart plaaslike owerheid" 'n plaaslike owerheid soos omskryf in die Wet op Swart Plaaslike Owerhede, 1982.

Posadres van applikant: Posbus 32330, Mobeni, 4060.

Kantooradres van applikant: Zigastraat, Sibongile, Township Dundee, 3000

NOTICE 603 OF 1990**DEPARTMENT OF MANPOWER****LABOUR RELATIONS ACT, 1956****APPLICATION FOR REGISTRATION OF A TRADE UNION**

I, David William James, Industrial Registrar, do hereby, in terms of section 4 (2) of the Labour Relations Act, 1956, give notice that an application for registration as a trade union has been received from the Natal Association of Employees of Black Local Authorities. Particulars of the application are reflected in the subjoined table.

Any registered trade union which objects to the application is invited to lodge its objection in writing with me, c/o the Department of Manpower, 123A Manpower Building, 215 Schoeman Street, Pretoria (postal address: Private Bag X117, Pretoria, 0001), within one month of the date of publication of this notice

TABLE

Name of trade union: Natal Association of Employees of Black Local Authorities

Date on which application was lodged: 2 May 1990.

Interests and area in respect of which application is made: All persons employed by a Black local authority in the Magisterial Districts of Dundee, Durban, Estcourt Glencoe, Inanda, Klip River, Lion's River, Lower Tugela, Mooi River, Mount Currie, Mtonjaneni, Paulpietersburg, Pietermaritzburg, Pinetown, Umvoti, Umzinto and Vryheid.

For the purposes hereof "Black local authority" means a local authority as defined in the Black Local Authorities Act, 1982.

Postal address of applicant: P.O. Box 32330, Mobeni, 4060.

Office address of applicant: Ziga Street, Sibongile, Township Dundee, 3000

NOTICE 582 OF 1990
SOUTH AFRICAN RESERVE BANK



Statement of Assets and Liabilities on the 30th day of June 1990

<i>Liabilities</i>		<i>Assets</i>	
	R		R
Share Capital	2 000 000,00	Gold	2 871 395 015,46
Reserve Fund	69 956 766,96	Foreign assets	2 287 461 753,55
Notes in circulation	8 799 848 542,00	Total gold and foreign assets	5 158 856 769,01
Deposits		Domestic assets	
Government	8 005 312 383,31	Discounted bills	3 192 100 000,00
Provincial administrations	480 549 954,91	Loans and advances	
Banks and building societies	2 330 740 971,15	Government	—
Other..	94 696 516,05	Other	2 305 156 739,16
Other liabilities	8 353 647 126,41	Securities	
		Government	623 430 353,86
		Other	1 122 985 056,50
		Other assets	15 734 223 342,26
	<u>R28 136 752 260,79</u>		<u>R28 136 752 260,79</u>

The gold reserves as at 30 June 1990 were valued at R841,26 per fine ounce, compared with the valuation price of R875,09 per fine ounce as at 31 May 1990

Pretoria, 6 July 1990

C J SWANEPOEL,
General Manager

(20 Julie 1990)/(20 July 1990)

KENNISGEWING 583 VAN 1990

DEPARTEMENT VAN MANNEKRAG

WET OP ARBEIDSVERHOUDINGE, 1956

**AANSOEK OM REGISTRASIE VAN 'N VAK-
VERENIGING**

Ek, David William James, Nywerheidsregistrator, maak ingevolge artikel 4 (2) van die Wet op Arbeidsverhoudinge, 1956, hierby bekend dat 'n aansoek om registrasie as 'n vakvereniging ontvang is van die Scottburgh Municipal Employees Association. Besonderhede van die aansoek word in onderstaande tabel verstrek.

Enige geregistreerde vakvereniging wat teen die aansoek beswaar maak, word versoek om binne een maand na die datum van publikasie van hierdie kennisgewing sy beswaar skriftelik by my in te dien, p/a die Departement van Mannekrag, Mannekraggebou 123A, Schoemanstraat 215, Pretoria (posadres: Privaatsak X117, Pretoria, 0001).

TABEL

Naam van vakvereniging: Scottburgh Municipal Employees Association

Datum waarop aansoek ingedien is: 16 Mei 1990

Belange en gebied ten opsigte waarvan aansoek gedoen word: Alle werknemers in diens in die Plaaslike Owerheidsonderneming soos onderneem deur die Munisipaliteit van Scottburgh in die landdrostdistrik Umzinto

“Plaaslike Owerheidsonderneming” beteken die onderneming waarin werkgewers en hul werknemers met mekaar geassosieer is vir die instelling, voortsetting en afhandeling van enige handeling, skema of aktiwiteit wat deur 'n plaaslike owerheid onderneem word.

“Plaaslike owerheid” het dieselfde betekenis as wat daaraan toegeken is by artikel 1 van die Wet op Arbeidsverhoudinge, 1956.

NOTICE 583 OF 1990

DEPARTMENT OF MANPOWER

LABOUR RELATIONS ACT, 1956

**APPLICATION FOR REGISTRATION OF A
TRADE UNION**

I, David William James, Industrial Registrar, do hereby, in terms of section 4 (2) of the Labour Relations Act, 1956, give notice that an application for registration as a trade union has been received from the Scottburgh Municipal Employees Association. Particulars of the application are reflected in the subjoined table.

Any registered trade union which objects to the application is invited to lodge its objection in writing with me, c/o the Department of Manpower, 123A Manpower Building, 215 Schoeman Street, Pretoria (postal address: Private Bag X117, Pretoria, 0001), within one month of the date of publication of this notice

TABLE

Name of trade union: Scottburgh Municipal Employees Association.

Date on which application was lodged: 16 May 1990.

Interests and area in respect of which application is made: All employees employed in the Local Authority Undertaking as undertaken by the Municipality of Scottburgh in the Magisterial District of Umzinto

“Local Authority Undertaking” means the undertaking in which employers and their employees are associated for instituting, continuing and finishing any act, scheme or activity which is undertaken by a local authority.

“Local authority” shall have the same meaning as that assigned to it in section 1 of the Labour Relations Act, 1956.

Kantooradres van applikant: Alphagebou 13, Bullion Boulevard, Richardsbaai.

Die aandag word gevestig op onderstaande vereistes van artikels 4 en 7 van die Wet.

(a) Die mate waarin 'n beswaarmakende vakvereniging verteenwoordigend is, word ingevolge artikel 4 (4), soos toegepas by artikel 7 (5), bepaal volgens die feite soos hulle bestaan het op die datum waarop die aansoek ingedien is, en wat die lidmaatskap betref, word alleen lede wat ingevolge artikel 1 (2) van die Wet op voormelde datum volwaardige lede was, in aanmerking geneem.

(b) Die prosedure voorgeskryf by artikel 4 (2) moet gevolg word in verband met 'n beswaar wat ingedien word.

D. W. JAMES,
Nywerheidsregistrateur.
(6 Julie 1990)

KENNISGEWING 551 VAN 1990

DEPARTEMENT VAN MANNEKRAG

WET OP ARBEIDSVERHOUDINGE, 1956

AANSOEK OM VERANDERING VAN DIE REGISTRASIEBESTEK VAN 'N VAKVERENIGING

Ek David William James, Nywerheidsregistrateur, maak ingevolge artikel 4 (2) soos toegepas by artikel 7 (5) van die Wet op Arbeidsverhoudinge, 1956, hierby bekend dat 'n aansoek om die verandering van sy registrasiebestek ontvang is van die Catering Employees' Union. Besonderhede van die aansoek word in onderstaande tabel verstrek.

Enige geregistreerde vakvereniging wat teen die aansoek beswaar maak, word versoek om binne een maand na die datum van publikasie van hierdie kennisgewing sy beswaar skriftelik by my in te dien, p/a die Departement van Mannekrag, Mannekraggebou 123A, Schoemanstraat 215, Pretoria (posadres: Privaatsak X117, Pretoria, 0001).

TABEL

Naam van vakvereniging: Catering Employees' Union.

Datum waarop aansoek ingedien is: 11 Desember 1989.

Belange en gebied ten opsigte waarvan aansoek gedoen word: Blanke, Kleurlinge- en Asierwerknemers in diens in die Spyseniersbedryf in die landdrostdistrikte Alberton, Benoni, Boksburg, Brakpan, Germiston, Johannesburg, Kempton Park, Krugersdorp, Randburg, Randfontein, Roodepoort, Springs en Westonaria.

"Spyseniersbedryf", sonder om enigerwys die gewone betekenis van die uitdrukking te beperk, beteken die bedryf waarin werkgewers en hul werknemers met mekaar geassosieer is met die doel om maaltye en/of verversings — hetsy in vloeistofvorm of andersins — vanuit 'n bedryfsinrigting te verskaf en/of te lewer, en dit omvat die verskaffing van alkoholiese verversings waar dit met maaltye en/of verversings verskaf word, en dit omvat voorts alle werksaamhede wat daarmee gepaard gaan. Met dien verstande dat dit NIE die volgende omvat NIE:

- (a) Akkommodasiebedryfsinrigtings en losies-huise,
- (b) die verskaffing van alkoholiese verversings in kroeg en hotelle; en
- (c) die verkoop van goedere in dieselfde onveranderde staat as wat dit gekoop is

Office address of applicant: 13 Alpha Building, Bullion Boulevard, Richards Bay

Attention is drawn to the following requirements of sections 4 and 7 of the Act

(a) The representativeness of any trade union which objects to the application shall in terms of section 4 (4) as applied by section 7 (5) be determined on the facts as they existed at the date on which the application was lodged and, as far as membership is concerned, only members who were in good standing in terms of section 1 (2) of the Act as at the aforesaid date shall be taken into consideration.

(b) The procedure laid down in section 4 (2) must be followed in connection with any objection lodged.

D. W. JAMES,
Industrial Registrar.
(6 July 1990)

NOTICE 551 OF 1990

DEPARTMENT OF MANPOWER

LABOUR RELATIONS ACT, 1956

APPLICATION FOR VARIATION OF SCOPE OF REGISTRATION OF TRADE UNION

I, David William James, Industrial Registrar, do hereby, in terms of section 4 (2) as applied by section 7 (5) of the Labour Relations Act, 1956, give notice that an application for the variation of its scope of registration has been received from the Catering Employees' Union. Particulars of the application are reflected in the subjoined table.

Any registered trade union which objects to the application is invited to lodge its objection in writing with me, c/o the Department of Manpower, 123A Manpower Building, 215 Schoeman Street, Pretoria (postal address Private Bag X117, Pretoria, 0001), within one month of the date of publication of this notice.

TABEL

Name of trade union: Catering Employee's Union

Date on which application was lodged: 11 December 1989.

Interests and area in respect of which application is made: White, Coloured and Asian employees employed in the Catering Trade in the Magisterial Districts of Alberton, Benoni, Boksburg, Brakpan, Germiston, Johannesburg, Kempton Park, Krugersdorp, Randburg, Randfontein, Roodepoort, Springs and Westonaria.

"Catering Trade", without in any way limiting the ordinary meaning of the expression, means the trade in which employers and their employees are associated for the purpose of providing and/or supplying meals and/or refreshments — whether liquid or otherwise — from any establishment, and includes the provision of alcoholic refreshments where provided with meals and/or refreshments, and further includes all operations incidental thereto.

Provided that it does NOT include—

- (a) accommodation establishments and boarding house,
- (b) the provision of alcoholic refreshments in bars and hotels, and
- (c) the sale of goods in the same unaltered states as bought.

KENNISGEWING 549 VAN 1990
ADMINISTRASIE: VOLKSRAAD
**DEPARTEMENT VAN LANDBOU-
 ONTWIKKELING**

**KENNISGEWING VAN VERGADERING VAN
 SKULDEISERS KRAGTENS ARTIKEL 22 (1) VAN
 DIE WET OP LANDBOUKREDIET, 1966**

Hierby word 'n vergadering van ondergenoemde applikant en sy skuldeisers op die plek en datum hieronder genoem, belê, met die doel om skuldeisers in staat te stel om hul vorderings teen die applikant te bewys en 'n skikkingsvoorstel van die Landboukredietraad te oorweeg.

J. H. RADEMEYER,
 Direkteur: Direktoraat Finansiële Bystand,
 Departement van Landbou-ontwikkeling.

NOTICE 549 OF 1990

ADMINISTRATION: HOUSE OF ASSEMBLY
**DEPARTMENT OF AGRICULTURAL
 DEVELOPMENT**

**NOTICE OF MEETING OF CREDITORS IN
 TERMS OF SECTION 22 (1) OF THE AGRICUL-
 TURAL CREDIT ACT, 1966**

A meeting of the undermentioned applicant and his creditors is hereby convened at the place and date mentioned hereunder for the purpose of enabling creditors to prove their claims against the applicant and of considering a proposal for a compromise by the Agricultural Credit Board.

J. H. RADEMEYER,
 Director: Directorate Financial Assistance,
 Department of Agricultural Development

Aansoek van Application by	Plek van byeenkoms Place of meeting	Datum en tyd Date and time
Joseph William Ganter van die plaas/of the farm Klipscheur, Posbus/P O Box 1618, Bethlehem, 9700	Kantoor van die Landdros/Magistrate's Office Bethlehem	22 Augustus/August 1990 om/at 10 (0)

(6 Julie 1990)/(6 July 1990)

KENNISGEWING 550 VAN 1990
DEPARTEMENT VAN MANNEKRAG
WET OP ARBEIDSVERHOUDINGE, 1956

**AANSOEK OM VERANDERING VAN DIE
 REGISTRASIEBESTEK VAN 'N VAKVERENIG-
 ING**

Ek, David William James, Nywerheidsregistrator, maak ingevolge artikel 4 (2) soos toegepas by artikel 7 (5) van die Wet op Arbeidsverhoudinge, 1956, hierby bekend dat 'n aansoek om die verandering van sy registrasiebestek ontvang is van die National Industrial and Commercial Workers' Union. Besonderhede van die aansoek word in onderstaande tabel verstrekk.

Enige geregistreerde vakvereniging wat teen die aansoek beswaar maak, word versoek om binne een maand na die datum van publikasie van hierdie kennisgewing sy beswaar skriftelik by my in te dien, p/a die Departement van Mannekrag, Mannekraggebou 123A, Schoemanstraat 215, Pretoria (posadres: Privaatsak X117, Pretoria, 0001).

TABEL

Naam van vakvereniging. National Industrial and Commercial Workers' Union

Datum waarop aansoek ingedien is: 1 Maart 1990.

Belange en gebied ten opsigte waarvan aansoek gedoen word. Alle persone in diens in die Natuurveselverwerkingsnywerheid in die landdrostdistrik Hlabisa.

Vir die doeleindes hiervan beteken "Natuurveselverwerkingsnywerheid", sonder om die gewone betekenis van die uitdrukking enigerwyse te beperk, die nywerheid waarin werkgewers en hul werknemers met mekaar geassosieer is in bedryfsinrigtings vir die verwerking van natuurvesels afkomstig van die sisalplant, en omvat dit alle werksaamhede wat daarmee gepaard gaan of daaruit voortspruit.

Posadres van applikant: Posbus 38, Richardsbaai, 3900.

NOTICE 550 OF 1990

DEPARTMENT OF MANPOWER
LABOUR RELATIONS ACT, 1956

**APPLICATION FOR VARIATION OF SCOPE OF
 REGISTRATION OF A TRADE UNION**

I, David William James, Industrial Registrar, do hereby, in terms of section 4 (2) as applied by section 7 (5) of the Labour Relations Act 1956, give notice that an application for the variation of its scope of registration has been received from the National Industrial and Commercial Workers' Union. Particulars of the application are reflected in the subjoined table

Any registered trade union which objects to the application is invited to lodge its objection in writing with me, c/o the Department of Manpower, 123A Manpower Building, 215 Schoeman Street, Pretoria (postal address: Private Bag X117, Pretoria, 0001), within one month of the date of publication of this notice

TABLE

Name of trade union: National Industrial and Commercial Workers' Union.

Date on which application was lodged 1 March 1990

Interests and area in respect of which application is made. All persons employed in the Natural Fibres Processing Industry in the Magisterial District of Hlabisa

For the purposes hereof "Natural Fibres Processing Industry", without in any way limiting the ordinary meaning of the expression, means the industry in which employers and their employees are associated in establishments for the processing of natural fibres from the sisal plant, and includes all operations incidental thereto or consequent thereon.

Postal address of applicant: P.O. Box 38, Richards Bay, 3900

Behind the scenes in OK strike

Sowetan 24/7/90

"I am only surviving the strike because I am Christian. I am always praying. God is understanding. I pray and people help me."

These are the words of 'Johanna' (38), a single parent and a mother of two schoolchildren. She lives in Orlando East in Soweto.

Johanna (not her real name), is a cashier at OK Bazaars Union members and the supermarket chain on Friday agreed on a wage and working conditions package, ending a seven-week labour dispute.

"I don't think we were wrong to go on strike," she said in an interview. "It was the only language the company could understand."

Money

Another OK worker, Mrs Nora Tseko (34), concurred "We have not got increases at our company without fighting for it."

During the strike, Johanna said she had already borrowed money from people and between R600 and R1 000 was outstanding in unpaid accounts at stores.

Her landlord had granted her a temporary reprieve from eviction, she said.

By RAPHAEL BANDA

threatening to down tools. The strikers are demanding increased wages and have accused some of the strike-hit companies of racism, what they and their comrades call the "baaskap attitude".

Most of the strikers, women and men, are blacks, historically the most disadvantaged racial group in South Africa.

They have joined trade unions in droves, looking

tionally co-ordinated support committee to take over the task.

In contrast to trade unions in Europe, most unions in South Africa do not have funds to cushion strikers during stoppages.

The monthly R5 membership fees paid to the SA Commercial Catering and Allied Workers Union were mostly "swallowed" by legal actions during the stoppage, said negotiator Mr Jeremy Daphne.

Industrial relations consultant Stuart Pennington said workers here could not afford to run a strike fund as contributions would have to be higher.

To talk about a strike fund in South Africa is not an easy situation," he said.

Stone said the flood of strikes experienced in the first six months of this year had increased three fold the number of man days lost within the same period in 1989.

The two labour analysts saw a direct link between the reforms introduced by President Fw de Klerk and the increase in strikes.

The political change brought about as a result of De Klerk's move to urban political parties, permit free political ac-

But, he said, "the economic situation is one which is not being taken account of by the labour movement."

"We have really a combination of heightened positive political activity and negative economic activity."

Approach

He added sectors currently hit by strike action had been historically intransigent in their dealings with workers.

They are "historically sectors which have adopted an adversarial approach to industrial relations."

In this new political climate they are feeling the brunt of that. Strikes in these sectors have become almost an annual event.

Conflict

It was inevitable there would be high level of conflict (in labour) this year," Stone added.

Union strength has come under threat since the passage of the controversial Labour Relations Amendment Act of 1988.

It led to a three-day nationwide stayaway protest action.

The amendments clearly were an attempt,

removal of clauses which drastically curtailed worker power.

Threats

However, the passage of that agreement into law has been delayed, provoking threats of labour unrest.

De Klerk stepped in to defuse the 'time bomb' although relations between workers and employers remain uneasy.

Evaluating the current strikes, Pennington said "It's not victory or defeat (that matters). In a strike everybody loses." - Sapq

Stone

In a bid to avert hardship during strikes, strikers set up support committees assigned to obtain financial aid from the community.

Mr Raymond Stungu, an employee at OK Bazaars and a member of a support committee in Johannesburg, said no money had come in from the community.

He said organisers of the strike were now considering setting up a national

"There are people who won't lend you money. Others are not throwing me out because I am on strike," she said.

Johanna is one of the thousands of workers who had walked off their jobs in recent weeks in a showdown with supermarket chains OK Bazaars and Checkers, hotel giant Southern Sun, the Frame Group and six liquor companies, to mention some.

Thousands more in other industries are also

leaders had "been translated into short-term direct economic expectations," Pennington said.

Reforms

Unionists are saying that with the Government trying to push the pace of political reform the time to strike on economic issues has never been better.

The Government will be reluctant to use the old-style force to suppress industrial action.

Bureaucrats push demand for inclusion in Act to Cabinet level

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8/10/90 118/90

GERALD REILLY

PRETORIA — Pressure from public service staff to have government workers brought within the Labour Relations Act's ambit has forced the issue to Cabinet level, Public Servants' Association (PSA) GM Hans Olivier said yesterday.

It was on the agenda of special Cabinet meetings on Monday and yesterday at a secret venue outside Pretoria.

Olivier said public servants should no longer be denied rights set out in the Labour Relations Act.

He said there were two possibilities supplementing the Public Service Act to provide for the instruments and mechanisms in the Labour Relations Act, or the application of the Act to public servants.

During the protest that followed the 10% non-pensionable pay hike from April, many members demanded the right to strike or go slow in support of demands for improved service conditions. Olivier said the logical solution was to bring the public service work corps under the umbrella of labour relations legislation.

Under existing conditions the public service staff associations had little muscle when it came to pay demands and negotiations. They were at the mercy of government. The PSA realised that essential services could not be disrupted by strikes, but at the same time they needed the bargaining rights accorded all other workers in terms of the Labour Relations Act. The PSA also wanted the right to go to arbitration when negotiations deadlocked.

"The bottom line is we have no effective powers to force the employer to compromise with us on our demands," Olivier said.

The PSA welcomed Cabinet's decision to consider improved labour legislation for government workers. However, the PSA was not asked to submit inputs as a background to the discussions. Olivier said the PSA could not turn a blind eye to strong indications that the Labour Relations Act was to be reviewed and possibly amended to include public servants.

Don't deny Public Servants - plea

PUBLIC servants should no longer be denied the right other employees in the private sector enjoy in terms of the Labour Relations Act, the general manager of the Public Servants' Association, Mr Hans Olivier, said yesterday.

Responding to reports that the Cabinet might discuss the unionising of public servants during their "planning session" this week, Olivier said two possibilities existed for this purpose, namely, "Supplementing the Public Service Act to make provision for the instruments and mechanisms provided for in the Labour Relations Act, or the application of this act to all public servants

"The PSA is at present considering the matter carefully," he said

Olivier said the logical solution could possibly be to make the Labour Relations Act accessible to all public servants "in view of the fact that it is an easier avenue for the solution of the present problems"

"The application of the Act to accommodate public servants would also alleviate the position of officials rendering essential services in which case they would in terms of the Act be excluded from the right to strike and be compelled to participate in compulsory bargaining with the employer." Sapa.

No. R. 1827

3 Augustus 1990

WET OP ARBEIDSVERHOUDINGE, 1956

MEUBELNYWERHEID, OOSTELIKE KAAPROVINSIE.—HERNUWING VAN HOOFOORENKOMS

Ek, Dennis van der Walt, Direkteur: Arbeidsverhoudinge, behoorlik daartoe gemagtig deur die Minister van Mannekrag, verklaar hierby, kragtens artikel 48 (4) (a) (ii) van die Wet op Arbeidsverhoudinge, 1956, dat die bepalings van Goewermentskennisgewings Nos. R. 1654 van 6 Augustus 1982, R. 33 van 7 Januarie 1983, R. 163 van 3 Februarie 1984, R. 2093 van 21 September 1984, R. 141 van 24 Januarie 1986, R. 843 van 2 Mei 1986, R. 438 van 6 Maart 1987, R. 1704 van 7 Augustus 1987, R. 2808 van 18 Desember 1987, R. 805 van 21 April 1989 en R. 2525 van 17 November 1989, van krag is vanaf die datum van publikasie van hierdie kennisgewing en vir die tydperk wat op 31 Desember 1990 eindig.

D. VAN DER WALT,
Direkteur: Arbeidsverhoudinge.

No. R. 1829

3 Augustus 1990

WET OP ARBEIDSVERHOUDINGE, 1956

YSTER-, STAAL-, INGENIEURS- EN METALLURGIESE NYWERHEID.—WYSIGING VAN REGISTRASIE- EN ADMINISTRASIEFONDS-OORENKOMS

Ek, Eli van der Merwe Louw, Minister van Mannekrag, verklaar hierby—

(a) kragtens artikel 48 (1) (a) van die Wet op Arbeidsverhoudinge, 1956, dat die bepalings van die Ooreenkoms (hierna die Wysigingsooreenkoms genoem) wat in die Bylae hiervan verskyn en betrekking het op die Onderneming, Nywerheid, Bedryf of Beroep in die opskrif by hierdie kennisgewing vermeld, met ingang van die eerste Maandag na die datum van publikasie van hierdie kennisgewing en vir die tydperk wat op 31 Maart 1995 eindig, bindend is vir die werkgewersorganisasies en die vakverenigings wat die Wysigingsooreenkoms aangegaan het en vir die werkgewers en werknemers wat lede van genoemde organisasies of verenigings is; en

(b) kragtens artikel 48 (1) (b) van genoemde Wet, dat die bepalings van die Wysigingsooreenkoms, uitgesonderd dié vervat in klousules 1 (1) (b) en 2, met ingang van die eerste Maandag na die datum van publikasie van hierdie kennisgewing en vir die tydperk wat op 31 Maart 1995 eindig, bindend is vir alle ander werkgewers en werknemers as dié genoem in paragraaf (a) van hierdie kennisgewing wat betrokke is by of in diens is in genoemde Onderneming, Nywerheid, Bedryf of Beroep in die gebiede in klousule 1 van die Wysigingsooreenkoms gespesifiseer

E. VAN DER MERWE LOUW,
Minister van Mannekrag.

No. R. 1827

3 August 1990

LABOUR RELATIONS ACT, 1956

FURNITURE MANUFACTURING INDUSTRY, EASTERN CAPE PROVINCE.—RENEWAL OF MAIN AGREEMENT

I, Dennis van der Walt, Director: Labour Relations, duly authorised thereto by the Minister of Manpower, hereby, in terms of section 48 (4) (a) (ii) of the Labour Relations Act, 1956, declare the provisions of Government Notices Nos. R. 1654 of 6 August 1982, R. 33 of 7 January 1983, R. 163 of 3 February 1984, R. 2093 of 21 September 1984, R. 141 of 24 January 1986, R. 843 of 2 May 1986, R. 438 of 6 March 1987, R. 1704 of 7 August 1987, R. 2808 of 18 December 1987, R. 805 of 21 April 1989 and R. 2525 of 17 November 1989, to be effective from the date of publication of this notice and for the period ending 31 December 1990.

D. VAN DER WALT,
Director: Labour Relations

No. R. 1829

3 August 1990

LABOUR RELATIONS ACT, 1956

IRON-, STEEL-, ENGINEERING AND METALLURGICAL INDUSTRY — AMENDMENT OF REGISTRATION AND ADMINISTRATION EXPENSES AGREEMENT

I, Eli van der Merwe Louw, Minister of Manpower, hereby—

(a) in terms of section 48 (1) (a) of the Labour Relations Act, 1956, declare that the provisions of the Agreement (hereinafter referred to as the Amending Agreement) which appears in the Schedule hereto and which relates to the Undertaking, Industry, Trade or Occupation referred to in the heading to this notice, shall be binding, with effect from the first Monday after the date of publication of this notice and for the period ending 31 March 1995, upon the employers' organisations and the trade unions which entered into the Amending Agreement and upon the employers and employees who are members of the said organisations or unions; and

(b) in terms of section 48 (1) (b) of the said Act, declare that the provisions of the Amending Agreement, excluding those contained in clauses 1 (1) (b) and 2, shall be binding, with effect from the first Monday after the date of publication of this notice and for the period ending 31 March 1995, upon all employers and employees, other than those referred to in paragraph (a) of this notice, who are engaged or employed in the said Undertaking, Industry, Trade or Occupation in the areas specified in clause 1 of the Amending Agreement

E. VAN DER MERWE LOUW,
Minister of Manpower.

A new bargaining chip: Public sector unions

W/Med 3/8 - 5/18/90 (166)

By DREW FORREST

THE Congress of SA Trade Unions has demanded the immediate recognition of representative public sector unions as a condition for reviewing threatened mass action over the Labour Relations Act.

The demand that the state recognises unions and give them organising rights was among those tabled at the second "joint working party" meeting on the LRA involving unions, employers and the Manpower Department last week.

These talks are seen as an important barometer for measuring prospects of success in broader political negotiations. Significantly, the burning issue of state sector union rights was reportedly on the agenda of two Cabinet strategy meetings held at a secret venue near Pretoria this week.

At the LRA meeting, attended for the first time by the National Council of Trade Unions (Nactu), Cosatu fleshed out demands for the state and employers to give practical effect to the "Saccola accord" in advance of legislation.

The federation wants two LRA Bills tabled early in the next parliamentary session — proposed amendments blocked by the Cabinet in June and a separate Bill extending the LRA to all workers and revamping the Labour Appeal Court.

Cosatu's Marcel Golding said other Cosatu demands last week were that the state appoint a Commission for Administration official to handle complaints about union recognition in the public sector and publicly acknowledge that all workers should have basic labour rights.

It also proposed a "complaints board" to hear complaints about breaches of the Saccola accord by Saccola member employers. Manned by a senior legal representative, this would be empowered only to make recommendations.

Cosatu also wants Saccola to "prevail" on errant members to comply with the accord, and for those who refuse to be publicly named.

Golding said that if the state and employers met the demands in advance of legislation, Cosatu would review its programme of mass action.

THE WORKERS WHO GOT THE HIGHEST PAY RISES IN 1990

By DREW FORREST
PUBLIC sector pay rises are running way ahead of those in other sectors this year, reflecting the massive groundswell among lowly-paid state and semi-state employees.

The latest wage report of the Cape Town-based Labour Research Service (LRS) shows an average annual increase for labourers in the sector between January and June this year of 30,8 percent, compared to an overall industry average of 20,9 percent. Next in the log was the tyre and rubber industry, where increases averaged 25 percent.

Consultants Levy Piron and Associates recently estimated that the state sector accounted for almost half the man-days lost through strikes this year.

The LRS stresses, however, that public sector rises are from a very low base. The average weekly wage in the sector is R152 — ninth on the wage table, and outstripping only transport, textile and catering. The overall industry average is R174 and the average in the top-paying, metal industries is R213.

Basing its findings on 1988 agreements, the LRS sees a declining trend in average settlement levels, which it traces to the weakening of the economy and a tougher bargaining climate.

The average 20,9 percent increase for labourers was two percent less than in 1988. Adjusted for inflation, it amounts to 6,4 percent, as compared with 9,5 percent in the first half of 1988. The LRS says political changes may lead to longer disputes and strikes.

He also took issue with a letter from the Department of Manpower proposing talks on "intimidation and coercion" on the shopfloor, ways of reducing labour unrest and the role of the LRA in cutting inflation, saying these were not relevant to the task of the working party. Department comment could not be obtained.

Critical LRA talks resume today

CRITICAL talks on the Labour Relations Act resume in Johannesburg today between unions, employers and government, with Cosatu threatening a stayaway from October 8 to 10 as the price of deadlock.

And it was disclosed yesterday that a special Cabinet committee, chaired by Administration and Economic Co-ordination Minister Wim de Villiers, had been appointed to examine union demands regarding bargaining rights for public sector employees. *B10am 10/8/90*

Today's talks occur at the third gathering of the working group which was estab-

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ALAN FINE

lished at a meeting between the parties and President F.W. de Klerk earlier this year.

The group's task is to resolve the conflict which arose out of government's failure to translate into legislation this year those aspects of the Cosatu/Nactu/Saccola (CNS) accord on amendments to the Act which were supported by the National Manpower Committee (NMC).

Union spokesman Marcel Golding says

□ To Page 2

LRA talks

B10am 10/8/90 (166) □ From Page 1
the unions have demanded further commitments from government early next year in addition to passage of the NMC draft Bill and changes to the Labour Appeal Court structure.

It is these commitments the Cabinet committee is to examine

The unions have also proposed to Saccola that certain measures be taken to encourage the observing of the terms of the CNS accord by employers in the interim. These issues will form the bulk of today's agenda.

The union is demanding of government that it confirm its belief in full collective bargaining rights for the public sector and, pending legislation, that it guarantee basic organising rights

It also wants a member of the Commission for Administration to be appointed as a person with whom unions can discuss complaints of alleged contraventions of these rights, and a system of compulsory arbitration in cases of dispute

Manpower Department sources said yesterday the unions were giving the state too little time to consider complex issues

The unions also want Saccola to agree to the establishment of a complaints board with advisory powers to examine areas of non-compliance by employers with the CNS accord.

Should these issues not be resolved, Cosatu has decided its threatened stayaway would be preceded by a month of national and regional conferences and countrywide marches on September 29.



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600 fight for right to strike

By Brendan Templeton
About 600 workers and their employers in the small Northern Transvaal town of Brits are engaged in a struggle which could prove crucial to the development of industrial relations in South Africa

At stake is the workers' right to strike over dismissals
The telephone and optical fibre cable manufacturing com-

pany, ATC, applied for and was granted an interdict in the Industrial Court preventing its workers from embarking on strike action after the dismissal of three shop stewards.

The National Metalworkers Union (Numsa) said a direct effect of the court ruling will be to make all strikes over dismissals illegal.

This undermined the very intentions of the Labour Relations Act, Numsa said.

Despite the interdict, workers embarked on their planned strike and were locked out of the company premises, a shop steward said.

ATC said in a statement it viewed the matter as a dispute of right which should be resolved through arbitration.

"The decision to strike where such a dispute resolution mechanism has been offered is considered unfair and can only cause harm in the relationship between the company and its employees," it said.

Numsa general secretary Moses Mayekiso said the dismissals were "selective" and an "attempt to rob the workers of their leadership".

The union's legal officer Ruth Edmonds said the interdict was not served as a rule nisi which would have given the union a chance to challenge it. It was up to the company to follow it up.

'Progress' made in LRA talks

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PROGRESS was made in talks between unions, employers and government on the Labour Relations Act (LRA) towards forming consensus on future labour legislation which would make Cosatu's national protest campaign plans unnecessary, according to Manpower Department director-general Joel Fourie.

Fourie said yesterday progress was made at Friday's talks, although Cosatu gave no undertaking to scrap its planned stayaway.

Cosatu comment was unavailable at the time of going to press

Saccola labour legislation spokesman Bobby Godsell said the meeting proved to be "constructive" and would demonstrate the commitment of employers to translating amendments to the LRA into law.

The working committee consisting of the National Manpower Commission (NMC), the Manpower Department, Cosatu, Nactu and Saccola met for the third time last week since its establishment at a meeting between the parties and President F W de Klerk earlier this year.

The group's task is to resolve con-

MATTHEW CURTIN

flict which arose from government's failure to promulgate, this year, aspects of the Cosatu/Nactu/Saccola (CNS) accord on amendments to the LRA which the NMC supported

Cosatu has said that a stayaway would be held from October 8 to 10 preceded by a month of national and regional conferences, and countrywide marches on September 29 if the talks ended in deadlock

Godsell said the outcome of a Saccola/Cosatu joint drafting committee meeting to be held this week and the response from the Manpower Department on Friday's meeting would determine the extent of the working committee's success

He said Saccola was confident unions and employers were close to finding a sustainable way of reviewing labour legislation

Godsell said the Manpower Department advised them last week of the formation of a special Cabinet committee, chaired by Administration and Economic Co-ordination Minister Wim de Villiers, to co-ordinate the government's response to the working party's findings.

13/8/90

Govt begins drafting new set of LRA amendments

β Day 15/8/90

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THE Manpower Department has begun drafting a new set of amendments to the Labour Relations Act which will replace the draft proposed in May by the National Manpower Commission (NMC), director general Joel Fourie confirmed yesterday.

The new Bill is to be presented soon to the working committee charged with finalising the amendments. The committee consists of the parties to the Cosatu/Nactu/Saccola (CNS) accord, the NMC and the department.

The working committee is awaiting the new Bill before further progress can be made.

It is also awaiting a Cabinet decision on union proposals on immediate basic organising rights for public sector employees and their unions, and

ALAN FINE

their eventual inclusion under the terms of the Act.

Government sources said yesterday the Cabinet committee appointed last week to investigate these proposals — chaired by Administration and Economic Co-ordination Minister Wim de Villiers — was expected to complete its work within a week and the Cabinet was likely to make its decisions at its meeting next Wednesday.

Expedite

As far as the new Bill was concerned, Fourie said it was based on the latest NMC report drawn up after additional public hearings on the original NMC Bill. However, the NMC report contained certain (undis-

closed) problems and the departmental draft had to take these into account.

The CNS parties earlier this year attempted unsuccessfully to convince government to expedite the passage of the NMC's draft Bill. It was understood they were now uneasy about the latest developments, but were awaiting the final product before commenting in detail.

Fourie said his goal was to ensure "the greatest possible consensus" among all interested parties.

Asked whether he believed the new Bill would assist in defusing the tensions surrounding the LRA dispute — including the threat of a work stayaway in October — Fourie said if it was read in an intellectual rather than an emotional light he could envisage no serious objections.

Massive stayaway in October?

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168-22/8/90
South

By CHIARA CARTER
A THREE-DAY national stayaway is planned for October if negotiations between employers, unions and the gov-

ernment over the controversial Labour Relations Act (LRA) do not produce satisfactory results.

this year.

Also to be discussd at the bargaining conference is a proposal for countrywide marches at the end of September.

Cosatu spokesperson Mr Neil Coleman said the federation had agreed in principle to stayaway action from October 8 to 10.

The federation wants the state to legislate the accord and then introduce legislation which will extend the labour law to cover all workers, recognise public sector unions and revamp the industrial courts

Fawu urgent application

THE Food and Allied Workers' Union (Fawu) will bring an urgent court application this Friday for the dismissal of about 380 abattoir workers to be declared unfair.

The workers were dismissed by Cape Slaughter in Matieland two weeks ago after a backpay dispute

Fawu regional secretary Mr Appolis Madikize said the company had refused to reinstate the workers

Defiance

A final decision on whether to proceed with a stayaway will be taken at the next Cosatu campaign conference in September.

Cosatu renewed its defiance campaign in connection with the LRA after the government failed to legislate an accord reached between unions and the employer body Saccola earlier

A working committee is examining changes to the LRA

The conference will also discuss the workers' charter campaign, a cornerstone of attempts to place workers' demands on the national negotiating table.

Minimum wage

A workers' charter conference is scheduled to take place in November

Another campaign which Cosatu seems set to take up is the demand for a national minimum wage

Cosatu's living wage committee has recommended a minimum salary of R700 for all workers, with the possible exception of domestic workers

The federation is still committed to the battle for a living wage — at present somewhere between R1 100 and R1 500

EDUCATION AID PROGRAMME (EAP) - WESTERN CAPE

Vacancy for
ADMINISTRATIVE SECRETARY
(Temporary)

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Deneys Reitz argues for final order against union

B/Dum 11/18/90

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CONTROVERSY surrounding submissions to Manpower Minister Eli Louw by attorneys Deneys Reitz on the Saccola-Nactu-Co-satu Labour Relations Act accord was being used by the South African Commercial Catering and Allied Workers' Union (Saccawu) to justify unlawful conduct against the law firm, it was argued in the Rand Supreme Court yesterday.

Counsel for Deneys Reitz, C Plewman SC, made this submission before Mr Justice Flemming in seeking a final order restraining the union from conducting a protest campaign against the firm and picketing its Sandton office

Deneys Reitz obtained an interim interdict against Saccawu on July 17 following a resolution passed by the union at its annual congress to conduct a campaign to "pressurise and embarrass" the firm which represented management in the recent OK and Southern Sun/Holiday Inns strikes

The resolution followed the union's claims that Deneys Reitz was involved in "union bashing" and was

SUSAN RUSSELL

responsible for disrupting established collective bargaining processes

In applying for an interim interdict last month, Deneys Reitz submitted that the planned union action was an unlawful attack on the independence and integrity of the firm and legal profession as a whole.

The firm also claimed the proposed action was an attempt to interfere with the administration of justice

Undertaking

In opposing the granting of a final order, Saccawu argued that its terms were too wide and would curtail the union's rights to legitimately criticise Deneys Reitz on matters outside its professional activities

The union has tendered an undertaking not to interfere with the firm's professional activities while reserving the right to publicly criticise its conduct outside the sphere of its legal practice

Saccawu has also said it will con-

sent to an order interdicting it from picketing in relation to the firm's practice and engaging in activities which impeded its attorneys' professional activities.

Deneys Reitz has not accepted either and has asked for a final interdict in the terms of the order originally sought

Counsel for Saccawu, J Gauntlet SC, argued that the union was entitled to "pressure and embarrass" Deneys Reitz within the law's limits

An example of where this would be permissible, Gauntlet said, was public criticism of the submissions made to Eli Louw by Deneys Reitz which were perceived as delaying the passing into law of the Saccola agreement

Gauntlet said it was not unlawful and in contravention of common law to criticise lawyers advancing views on a highly contentious political, social issue

He argued that the firm was asking for a blanket order against the union

Mr Justice Flemming reserved judgment and with the consent of both parties extended the interim order until he reached a final decision on the matter.

Public sector talks to begin

ALAN FINE

THE Cabinet has instructed the Commission for Administration and the National Education Department to begin negotiations with "representative parties" on new arrangements for collective bargaining in the public sector.

The move — which followed talks on the Labour Relations Act between Saccola, Cosatu, Nactu and the Manpower Department — was disclosed in a statement issued jointly yesterday by Manpower Minister Eli Louw, Home Affairs and National Education Minister Gene Louw and Administration and Economic Co-ordination Minister Wim de Villiers.

The two union federations have demanded — in addition to translation into law of changes to the Act agreed with Saccola — immediate basic organising rights for public sector unions and the eventual inclusion of public sector employees under the Act.

Government has argued that Cosatu and Nactu's public sector unions represent a small proportion of the public service and that broader consultation is necessary.

The unions have threatened a work stayaway during October if their demands are not met. Spokesmen could not be reached for comment yesterday on the latest development.

The three Ministers said government endorsed in principle the basic rights of employers and employees in all sectors and especially the basic rights of freedom of association and collective bargaining.

They said the state as an employer would continue its commitment to fair and just conduct towards its employees while ensuring public service departments were still able to render an efficient service.

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18/Day 29/8/70

TEACHERS and civil servants could win trade union rights, including the right to collective bargaining, as a result of a government decision to review employment conditions of state employees.

The government intended limiting "to the minimum" its intervention in the relationship between public service departments and their employees, the Minister of National Education, Mr Gene Louw, said in a statement.

The government had recently deliberated on the position of employ-

Teachers ^{7/11} could win ^{29/8/70} union rights

ees of the state.

"The government endorses in principle the basic rights of employees and employers in all sectors of the national economy and in particular the basic rights of freedom of association and collective bargaining."

The government last week initiated a process aimed at recognising em-

ployee rights for teaching staff and state employees.

Mr Louw said the government had now instructed the Commission for Administration and the Department of National Education to accelerate the process

These two bodies would liaise widely with interested parties "in order to establish, through a process of negotiation with representative parties, efficient and suitable arrangements for relations between employers and employees with the relevant sectors"

Cabinet decision a 'milestone'

Own Correspondent

CMT Times

11/9/70

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JOHANNESBURG. — Union federations Cosatu and Nactu and employer federation Saccola have welcomed the cabinet decision to endorse the tripartite agreement on labour legislation.

The cabinet decision to approve the deal reached on September 14 was announced at a media briefing on Wednesday by Manpower Minister Mr Eli Louw. He described it as "a milestone on the road to achieving internationally acceptable labour legislation".

The 18-point agreement framed as a "Minute" includes an undertaking by government to submit to Parliament this month a draft amendment Bill to the Labour Relations Act Bill, for consideration by the Joint Committee on

Manpower
It also contains an in-principle commitment to bargaining rights for all workers and sets out processes to be followed in implementing this principle as regards public sector, farm and domestic workers.

In terms of the agreement, the unions are to call off the work stayaway planned for next month and will join a restructured National Manpower Commission (NMC) which will be a central part of these processes.

Cosatu said a formal decision on the agreement would be taken on October 4 at a special executive committee meeting.

Nactu acting general secretary Mr Cunningham Ngcukana said his organisation now considered itself bound by the terms of the Minute.

WIN 719-1319190

Stayaway looms after government response to LRA

By DREW FORREST

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A MASSIVE three-day stayaway is looming next month following an "unsatisfactory" government response to Congress of SA Trade Unions (Cosatu) demands on the Labour Relations Act.

A final decision on the stayaway, provisionally set for October 8 to October 10, is to be taken by 300 delegates at a key Cosatu campaigns conference in Johannesburg this weekend. Delegates will also decide on whether to launch mass marches on September 29.

The decision was deferred pending a government response to demands for interim changes to the LRA. Cosatu has demanded the enactment in the next parliamentary session of amendments based on the "Saccola accord", a separate Bill extending the Act to all workers and restructuring the Labour Appeal Court. It also wants recognition and organising rights for public sector unions.

Cosatu campaigns co-ordinator Lisa Seftel said a satisfactory state response had not been received.

The recent government announcement that the Commission for Administration and the Department for National Education are to negotiate with representative state sector unions on a new labour dispensation for the public service falls far short of Cosatu's demands.

It is also understood that in redrafting the Bill based on the Saccola accord, the Manpower Department is seeking changes to the unfair labour practice clause. The major feature of the accord is its proposed reversion to the pre-1988 definition.

Arguing that the "joint working party" talks on the LRA, involving the state, Saccola and Cosatu/Nactu, have been unproductive, Cosatu is understood to have proposed one further meeting of the forum.

The Cosatu conference is also expected to produce recommendations on a proposal of a R700 national minimum wage, the closed shop and whether strikes should be curbed in essential services. Fierce controversy is expected over the minimum wage, which at least one major affiliate opposes.

Cosatu plans three-day stayaway on LRA

COSATU plans to call for a three-day stayaway in October to protest against the slow progress being made by the Labour Relations Act (LRA) working committee, a Cosatu official said yesterday.

Lisa Settel said Cosatu's central executive committee will recommend to a conference this weekend that the federation organise the stayaway.

She said Cosatu believed government was stalling attempts to reach consensus on the LRA and only by resorting to mass action would Cosatu revive the negotiating process.

The LRA working committee — consist-

MATTHEW CURTIN

ing of representatives from the National Manpower Commission, the Manpower Department, and Cosatu, Saccola and Nactu (CSN) — was commissioned by President F. W. de Klerk to resolve conflicts which arose from the failure to promulgate aspects of the CSN accord in LRA amendments this year.

The Manpower Department has begun drafting new LRA amendments, but no details are available yet.

The working party is waiting for the inclusion Bill and a Cabinet decision on the inclusion

of union proposals on the rights of public sector employees and their unions, to organise Manpower director-general Joel Fourie said the new Bill should defuse tensions surrounding the LRA dispute and make Cosatu's planned action unnecessary.

Settel said the stayaway would take place from October 8 to 10, preceded by mass marches at the end of September if demands were not met.

She said the closed conference at Wits University would be attended by 300 delegates from Cosatu affiliates.

Cosatu plans stayaway

MATTHEW CURTIN

COSATU will organise a one-day national stayaway as part of three days of mass action from October 8 to 10 to protest against government's refusal to meet its demands on amendments to the Labour Relations Act (LRA).

A Cosatu spokesman said yesterday the stayaway on October 8 would be followed by two days of factory-based action.

This action was decided upon by 300 delegates at the Cosatu Campaign Conference held in Johannesburg at the weekend.

The spokesman said the government had made no decisive moves to meet Cosatu's demands put to the LRA working committee.

The committee — consisting of representatives from the National Manpower Commission, the Manpower Department and Cosatu, Saccola and Nactu (CSN) — was commissioned by President F W de Klerk to break the deadlock which arose from the failure to promulgate aspects of the CSN accord in LRA

amendments this year

Cosatu set a 30-day deadline, now past, for government to meet its demands that the CSN accord be legislated, the Act be extended to farm and public sector workers and a more efficient labour appeal system be legislated.

The spokesman said in these circumstances the conference "had no alternative" but to sanction mass action.

Effective

He said Cosatu also saw a close link between the recent spate of township violence and government's refusal to meet its demands on the LRA, as both were attempts "to undermine democratic organisation and working class unity".

Cosatu hoped, through mass action, to put pressure on government to take effective action to end the violence.

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Unions, Saccola meet govt in last-ditch attempt to settle LRA

Blom 12/9/90

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ALAN FINE

COSATU, Saccola and Nactu (CSN) are due to meet Manpower Minister Eli Louw in Pretoria tomorrow in a last-ditch attempt to settle their differences over the Labour Relations Act before Cosatu's planned mass mobilisation effort on the issue next month.

Confirming the planned meeting, Manpower director-general Joel Fourie said yesterday Louw had undertaken to give definitive answers to union proposals on ways to resolve the impasse.

The two union federations have demanded that the National Manpower Commission (NMC) draft Bill based on the CSN accord reached earlier this year be translated into legislation, proposed changes to the Labour Appeal Court system be introduced, public

sector unions be accorded normal organising rights immediately, and that the Act eventually be amended to extend collective bargaining rights to the public service, domestic and farmworkers.

On the issue of bargaining rights for the public service, the Cabinet has already instructed the Commission for Administration and the National Education Department to negotiate with representative unions.

Fourie said Louw had in his possession a draft Bill, based on the CSN accord and the NMC proposal, to use as a basis for discussion at tomorrow's meeting.

He will seek to reach consensus with the parties on this and the

other matters and, if successful, will take joint proposals to the Cabinet for approval on September 19. It is understood the matter may also be discussed in Cabinet today.

Asked whether he thought Louw was willing to make sufficient concessions to make agreement possible, Fourie said "They have said it depends on government's political will. It also depends on their willingness to resolve the issue."

But, Nactu acting general secretary Cunningham Ngcukana said the unions were not optimistic. Government, he said, had taken contradictory stances in the past.

He added Nactu structures had been discussing whether to join Cosatu in the planned October 8 work stay-away.

B/Dan 14/9/90 166



Manpower Minister Eil Louw, left, met representatives of Cnactu, Nactu and Saccola in Pretoria yesterday to discuss the Labour Relations Amendment Act. On the right are Saccola representative Bokkie Botha, Cnactu general secretary Jay Naidoo and NUM assistant general secretary Marcal Golding.

● Report: Page 1
Pictures: ROBYN RYAN

Hopes high for resolving LRA deadlock

PRETORIA — Trade union and government sources were last night expressing cautious optimism at the prospect of soon resolving the long-standing impasse over the Labour Relations Act.

Manpower Minister Eli Louw, Cosatu, Nactu and employer federation Saccola representatives began meeting at 3pm in Pretoria and by evening it appeared the talks on the Act were likely to continue into the early hours of the morning, and possibly even then be adjourned.

One trade union source said during a break in proceedings that the situation was "not looking hopeless" and said it appeared there might be a satisfactory proposal

ALAN FINE

from government based on the Draft Amendment Bill proposed recently by the National Manpower Commission (NMC).

Government sources agreed that there had been "quite a lot of progress" on such a draft Bill. The Bill's proposed amendments would include changes to what the unions believe are objectionable features of the unfair labour practice definition.

However, government sources added there were problems with other issues, especially the position of public servants, domestic and farm workers

The two union federations have demanded that all such workers presently excluded from the terms of the Act be brought under its ambit.

Louw and some of his staff were planning to leave the meeting for a few hours so he could attend a meeting in his constituency. They planned to return at about 10pm.

During that period the unions and Saccola were to discuss matters just between them. This included the union demand that employers be bound by the terms of the Cosatu/Nactu/Saccola accord on which the NMC proposals were based

● Picture: Page 3

Dispute may soon be settled

Star
15/9/90

ABBEY MAKOE

(166)

A DISPUTE between Blackchain Stores and its former employees, who were locked out and subsequently fired last year, may be settled out of court — a few days before the Industrial Court was expected to decide on the matter.

The 84 workers took Blackchain to court after several attempts to resolve the issue proved futile. Workers were in favour of an out-of-court settlement, especially if re-instatement would be part of the deal.

Cabinet set to put its seal on LRA deal

8 10am
17/9/90 ALAN FINE (166)
NO LAST-MINUTE hitches were likely on Wednesday when Manpower Minister Eli Louw would put Friday's deal on the Labour Relations Act to Cabinet, government sources said at the weekend.

The historic agreement, finalised at a 12-hour meeting that ended at 3am on Friday, must still be formally approved by Cosatu, Saccola and Nactu (CSN) leadership structures. The deal is a product of more than two years of conflict and talk.

It includes a government undertaking that legislative amendments — based on the May CSN accord and modified by the National Manpower Commission (NMC) and the tripartite working party — will be introduced in Parliament next February.

Louw also made "certain proposals" on basic rights for workers — the public service, domestic and farm workers — not covered by the Act at present.

It is understood that, as far as public sector employees are concerned, these proposals include a process for ensuring limited, interim union rights as well as a longer-term solution. Government has already instructed the Commission for Administration to begin negotiations with representative parties on labour relations in the public sector.

The union delegates undertook, in return, to recommend to their affiliates that should the Cabinet endorse these proposals, the planned anti-LRA stayaway protest scheduled for next month be cancelled.

They would also recommend that Cosatu and Nactu join a "restructured" NMC — something they have refused to do for several years.

□ To Page 2

LRA deal

8 10am
17/9/90
This would mean that — assuming changes to the legal rights of domestic and farm workers are processed through the NMC, as is normally the case with changes to labour law — the unions, as NMC members, would be directly involved.

The third leg of the deal involves the union and employer groups agreeing to recommend to their members that, until the accord becomes law, they should act in accordance with their accord in respect of the service and notice of interdicts (the

166 □ From Page 1
accord outlaws interdicts against lawful industrial action), time limits regarding dispute resolution (which the accord extends), and "non-reliance on the presumption position" of Section 79 (2) of the Act, which imposes on unions the onus of proof that they were not responsible for damages incurred in unlawful strikes.

The proposed new legislation would also substantially change the unfair labour practice definition.

● Comment: Page 8

6 Dec 14/9/90 P

(12) BRIEFS (1407)

Mercedes talks go on

EAST LONDON — Talks are continuing in East London between the management of Mercedes Benz SA and the National Union of Metalworkers of SA, a month after a small group of rebel Numsa members caused a factory shutdown. At issue are the procedure for workers wanting to take industrial action and the position of Numsa regarding the National Bargaining Forum.

PO workers challenge Bill

WORKERS in the Department of Posts and Telecommunications have started picketing various main post offices in the country in an effort to get the Post Office Amendment Bill scrapped.

They picketed post offices in Johannesburg and Pretoria

In the Eastern Cape workers are staging a sit-in and in Durban's West Street branch, a memor-

Secret 19/9/90
andum has been presented to officials

In a statement this week, the Post Office and Telecommunications Workers Association said workers were suspicious of the Bill and viewed it as an attempt to introduce privatisation, disguised as restructuring and rationalisation.

Potwa has sent a memorandum to the Minister of Telecommunica-

tions, Dr Dawie de Villiers, demanding that the Bill be withdrawn

The statement said workers objected to it because of the strong belief that the Bill would lead to loss of jobs, as they would no longer be covered by the Labour Relations Act for up to two years

The statement added that the Bill sought to give equal representation between management on the one hand and the unions/staff associations on the other. Potwa believed this situation would reduce the workers' bargaining strength - Sapa

TRANSITIONAL SA presents itself as a cauldron of discontent. Lethal political rivalries, township violence, suburban crime, rent and school boycotts, homelessness, joblessness, stayaways and strikes seem to merge into one another.

Some of the recent convulsions can only be described as senseless, others suggest the hand of agent provocateurs while others still can be led back to known organisations.

The picture of seamless tumult is dangerously misleading, for it invites an unsophisticated policy response

Nowhere is this more true than in the area of labour relations. There are many who view the widespread industrial strife of 1990 as just a further expression of general lawlessness. Certainly some of workplace conflict is attributable to bloody-mindedness, but in most cases the source of grievance is discernible and remediable.

A combination of factors distinguishes labour action from other assaults on the status quo.

Firstly, it is directed Trade unions are probably the most structured of the bodies operating in the extra-parliamentary terrain. They have a history of relatively open organisation and are presided over by strong leadership groups which regularly replenish themselves from within.

Labour assault on status quo

166
B/D am 20/9/90

CLIVE THOMPSON

Secondly, labour action is goal-oriented. Shop-floor issues are usually well-defined and unions' larger social objectives are public knowledge.

Thirdly, industrial action carries an immediate price for those who invoke it. The loss of production coincides with a loss of wages, and mutual attrition induces settlement

Fourthly, and consequently, labour action is subservient to negotiation and hence rationality. Bargaining over differences and the conclusion of agreements are definitive elements of industrial relations.

Finally, both bargaining practices and strikes are amenable to legal regulation, although even good law has limitations.

Blacks have acquired industrial rights before political ones. The stealthy reformers of the P W Botha era never anticipated that unions would exert such leverage with the limited material provided by a de-racialised labour statute.

But unions bear real power today. Twenty years ago the economy could have been overhauled and rerouted by the joint endeavours of govern-

but it would be premature to call it momentous.

This process will remove a major source of industrial conflict. That will facilitate a return to industrial peace but will not in itself provide a basis for a much needed economic partnership. Labour relations require not merely repair but reconstruction.

If the sceptics on all sides are to be turned, an aggressive and imaginative schedule must be followed to forge new forms of economic co-operation between management and unions. Labour reforms should continue to lead political changes, for the groundwork is better prepared in the former area, the actors are more likely to succeed, and there is a better prospect of a salutary demonstration effect.

There is talk of reconstituting the National Manpower Commission as a truly representative tripartite body positioned to play an integrative and influential role in the labour economy.

If these plans are brought to fruition, the long haul of producing order, and a new order, out of the anarchy of 1990 will have commenced

Prof Thompson is director of UCT's Labour Law Unit and on the National Manpower Commission's legislation committee.

negatives that go far deeper than the standard conflicts of interest of other industrial societies

It is not surprising, therefore, that labour campaigns have combined with other types of social unrest. That energy could be redirected to mobilise the same constituency to constructive ends if the place of labour was acknowledged in a new scheme of economic relations.

A well-crafted institution of collective bargaining is capable of tackling several problems simultaneously. It can unlock productive forces, function as an effective redistributor of wealth within an essentially market system, and provide social glue for the emerging constitutional order.

The 1988 Labour Relations Amendment Act was an ill-conceived component of a moribund political dispensation. It did, however, trigger a consultative process between business and labour that has now assumed a near-institutionalised form. The accord concluded between Saccola, Cosatu and Nactu, most of which will presumably become law next year, was significant

ment and business alone. That option is not possible now

If unions are not brought on-side in formulating and implementing strategies to meet the daunting economic challenges that lie ahead, they will foil any initiatives undertaken in that regard.

A market-driven economy is widely seen as the key for economic renewal. Looking past the rhetoric, the existence of strong unions is not antithetical to such an end. They have played central roles in the development of both social and liberal democracies, and are an inevitable corollary of any system that respects and promotes freedom of association.

In SA unions have demonstrated a formidable ability to organise concerted action within and across industries.

They have done so in an adversarial setting marked by divisions and

Cabinet likely to react soon over LRA call

By LEN MASEKO

166

THE Minister of Manpower is expected to announce the Cabinet's response to the demand by Cosatu, Nactu and employers that certain changes be made to the controversial Labour Relations Act as soon as possible.

The Cabinet was at its meeting yesterday expected to approve the amendments proposed by a high-level delegation representing the two federations and the employers' body Saccola.

Earlier the Minister, Mr Eli Louw, had indicated he would strongly recommend that the Cabinet approve the amendments finalised at a meeting last Thursday between him and a delegation representing Nactu, Cosatu and Saccola.

Kept

Details of the LRA changes are being kept under wraps until they had been approved by the Cabinet.

A three-day "mass action" called by Cosatu for October 8, 9 and 10 now hinges on the Cabinet's decision.

The federation agreed at last Thursday's meeting to cancel the protest action, which included a stayaway on October 8, if the Government endorsed the historic agreement between the three parties.

Cosatu and Nactu also agreed to join a restructured National Manpower Commission.

The unions had planned the action to protest against "the slow progress being made by the LRA working committee".

Labour blazes a trail for post-apartheid law

W/Mail 21/9-27/9/90

(166)

A landmark deal clinched between unions, employers and the state this week could pave the way for South Africa's first post-apartheid legislation. DREW FORREST reports

"If this is the way deals are struck in the new South Africa — with give and take and a willingness to settle conflict by dialogue — I'm going to stick around"

This jubilant comment by the Manpower Minister's administrative secretary, Jan van Tonder, followed last week's historic agreement between government, the employer body Saccola and Cosatu/Nactu over the Labour Relations Act

Reached after 12 solid hours of talks in Pretoria, the deal is the first reached on actual legislation between the state and the liberation movement.

It takes place as broader constitutional negotiations founder in the morass of countrywide violence "The Wiehahn reforms were way ahead of political developments," was one comment "Once again, labour is blazing a trail"

Observers also say surprise government concessions at the talks flow from a high-level government decision to seek a new relationship with the labour movement "The acid test of this theory will be whether the Cabinet gives its stamp of approval"

Participants were also struck by the decisive role played by Manpower Minister Eli Louw, in contrast with his heavy dependence on the Manpower Department in previous dealings on the LRA

At the time of writing, the deal still had to be endorsed by the three constituencies. If the Cabinet backs it, Cosatu/Nactu will recommend to affiliates that they drop the one-day LRA stayaway planned for next month

But against the threat of stayaway action, and Louw's direct role in negotiations, there is widespread optimism that agreement will be finalised

The "minute" signed in Pretoria by the three parties is the climax to protracted and difficult "joint working party" talks set up at a meeting with State President FW de Klerk after the June LRA crisis. This was sparked by the state's refusal — on the grounds that wider consultation was needed — to enact an agreement on interim LRA changes agreed between Saccola and Cosatu/Nactu

As a form of penalty, the unions upped their demands. In addition to legislation based on the Saccola accord, they called for a second Bill extending LRA rights to all workers and streamlining the Labour Appeal Court, as well as recognition and organising rights for representative public sector unions

The minute entails compromises by all sides. In a key concession, the state would table the Saccola accord in the first parliamentary session next year, as modified by the National Manpower Commission and the working party

In essence, the state would enact NMC recommendations it refused to legislate in June. These coincide with the Saccola accord, with the major exception of a fair dismissals code, based on International

Labour Organisation norms, embodied in the unfair labour practice definition

At the heart of the Saccola accord is the proposed reversion to the pre-1988 definition of unfair labour practice — and the state has now yielded on this. Sources say that in the joint working party, the Manpower Department tried to salvage as much of the 1988 definition as possible.

Smaller, technical changes to the accord have also been proposed by the state. Although the presumption of union agency in unlawful strikes under the controversial section 79 (2) of the LRA would be scrapped, the rump of the section, creating a statutory liability for strike damages, would stay

For its part, Saccola has agreed to urge its members not to use 79 (2), and to implement the accord's provisions in respect of time limits for dispute-settlement and the service and notice of interdicts, in advance of legislation

It is on labour rights for workers not covered by the LRA that the unions appear to have given most ground. Instead of a second Bill extending the LRA to farm, domestic and public service workers, the deal envisages

● That negotiations on a new labour dispensation for the public service, under the auspices of the Commission for Administration and the Department of National Education, will go ahead. It is also proposed that disputes over union organising rights be submitted to third-party conciliation

● That the NMC will report on its investigations into the legal position of

farm and domestic workers by June next year.

Industrial undertakings in agriculture are to be the subject of a separate NMC probe, to be concluded by the end of November. If sufficient consensus is reached — and wide consultation with agribusiness will be needed — the Saccola Bill could be amended to cater for workers in this sector

An additional sweetener is Louw's undertaking, made earlier this year, that the Basic Conditions of Employment Act and the Unemployment Insurance Act are to be "suitably amended" next year to apply to farmworkers

The issue of farmworkers remains a potential stumbling-block. Cosatu and Nactu will need the endorsement of their farming affiliates, while powerful, conservative employer interests could hamper consensus on new law

Union demands for a revamped Labour Appeal Court also seem to have been shelved, after it was pointed out that changes had to involve the Justice Department. To step up the process, the state has offered to facilitate talks between the unions and Justice Department representatives

An intriguing prospect raised by last week's deal is that Cosatu and Nactu may continue to shape legislation — directly through the NMC, the government's statutory adviser on labour law. In a startling confirmation of their newfound power and standing, the unions have agreed to consider joining a "re-structured" NMC if the Cabinet approves the deal

The minute envisages that the NMC should be "broadly representative of major players" in the labour arena, and that restructuring will follow talks involving the unions, Saccola, Louw and the NMC itself.

Some unionists are known to favour proportional representation on the NMC, which would sharply reduce the influence of white labour. Enraged by the government's refusal to act on NMC recommendations during the June crisis, they also want to give the commission more teeth.

One possibility would be to carry the Saccola process into the NMC, by converting it from an advisory body into a negotiating forum. Louw is believed to favour direct Manpower Department representation on the commission.


How was consensus snatched from the jaws of confrontation at last week's meeting? Employer sources believe that in the wake of the June debacle, the Cabinet took a strategic decision to forge a working relationship with black unions and to avoid excessive tampering with legislation acceptable to capital and labour.

Concerted lobbying by bodies such as the South African Chamber of Business and the Chamber of Mines may have contributed to the shift, they believe. The stayaway threat, and the prospect of further labour disruption if the state failed to respond, must have concentrated official thinking.

Influences within the Manpower Department have waned, in tandem with Louw's growing confidence and grasp of the labour field. "Last week, Louw was very definitely in the driving seat," said one observer.

Crucial to the deal was the participation of unionists and employer, seasoned by more than two years of talks in the Saccola forum. A cabinet green light would show that government, too, is committed to rule by consensus and negotiation

LRA stayaway on ice after Cabinet endorses 'minute'

By DREW FORREST  166

IN a giant step towards labour consensus, the Cabinet has endorsed the Labour Relations Act (LRA) "minute" agreed by unions, employers and the government last week.

Next month's threatened LRA stayaway will now almost certainly be averted. The structures of the Congress of SA Trade Unions (Cosatu) and the National Council of Trade Unions (Nactu) must still approve the deal, but agreed to recommend the dropping of stayaway action if the Cabinet gave its backing.

Cosatu said yesterday it would make a formal decision at a special executive committee meeting on October 4.

It warned that if the parliamentary standing committee "tampered" with agreed changes to the LRA, "the whole process may revert to square one". The minute merely initiated a series of processes, it added. The outcome of these would be the acid test of whether the state and employers were willing to drop "antiquated practices".

The Cabinet decision will boost government efforts to win world credit for labour reforms. In a major diplomatic coup, Manpower Minister Eli Louw is to attend this year's annual conference of the International Labour Organisation (ILO), a specialist United Nations agency in Geneva. WIMM 219 - 27/9/90

Louw will be the first government minister to attend an ILO meeting since South Africa was ousted from the body in 1964. At a press conference in Pretoria yesterday, he said he hoped to draw on the ILO's "vast know-how" with an eye to developing an internationally approved labour system.

The Cabinet had unanimously accepted that the LRA agreement between Cosatu/Nactu and the employer body Saccola, as modified by the National Manpower Commission (NMC) and the joint working party involving the state, should be enacted.

Its key feature was the redefinition of unfair labour practice, such that the Industrial Court would weigh strikes and lockouts on the basis of their legality, not fairness. The NMC would negotiate codes of conduct on fair labour practices for employers and employees.

Changes to the LRA would not interfere with planned negotiations in the public service and education sector on a new labour dispensation, Louw said. Provision in the Saccola accord for the registration of unions with public and private sector members would be enacted once these talks were completed.

He confirmed that Cosatu and Nactu had agreed to join a restructured NMC, after consultations.

● See story on page 9

LABOUR

FIM 21/9/90

DEADLOCK BROKEN

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In a major labour relations breakthrough, the Cabinet is expected to endorse an agreement for a new Labour Relations Act — breaking a three-month deadlock between government, employer body Saccola and union federations Cosatu and Nactu. In an

FIM 21/9/90

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interview with the *FM*, Manpower Minister Eli Louw said he would recommend that Cabinet approves the legislative amendments as agreed upon by the parties.

After 12 hours of talks, last week, the parties accepted the National Manpower Commission proposals, says Louw. This resolved the major point of the agreement, namely the definition of an unfair labour practice. "We went back to the pre-1988 definition, which is less prescriptive and gives more discretion to the Industrial Court," says Louw. If Cabinet accepts the agreement, Louw promises that it will be introduced into parliament next year.

Louw plans to bring SA's labour system into accord with International Labour Organisation (ILO) standards. He leaves next week for Geneva to attend an ILO meeting — the first such visit in years by a SA labour minister.

Vera von Lieres

Unions

Win

Government accepts LRA changes

battle

Sowetan, 21/9/90

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THE Government has accepted changes to the Labour Relations Act proposed by the National Council of Trade Unions, the Congress of South African Trade Unions and the employers' organisation Saccola.

**By ALINAH DUBE
and SAPA**

Minister of Manpower Mr Eli Louw told a news conference in Pretoria yesterday that the recommendations were agreed to by himself, Cosatu, Nactu and Saccola on September 13 and 14.

changes at its meeting yesterday

The main amendment to the LRA would be on the definition of an unfair labour practice. The revised clause meant that future strikes or lock-outs would no longer be judged by the Industrial Court on the basis of their being fair or unfair.

They would be considered on the

The Cabinet approved the

To Page 2

Workers win major battle

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basis of whether they were legal or illegal, according to rules prescribed by the law.

The agreement between Cosatu, Nactu and Saccola, modified by the National Manpower Commission and the working group comprising representatives of all parties, would now be translated into legislation and referred to Parliament before the end of the month.

Reacting to the announcement, Cosatu warned that the whole process would be overturned if the Parliamentary Standing Committee "tampered in any way" with the amendments.

The federation said South Africa's labour laws still fell far short of international standards because not all workers enjoyed the rights of labour unions.

It was referring to the fact that farm labourers and public servants were not covered by the LRA.

Yesterday's announcement is a breakthrough for the two federations,

which have been campaigning for the past three years for certain clauses to be scrapped. It brings to an end a chapter of bitter lobbying by the two federations and independent unions.

"Labour peace can never be legislated for. The engine-room of sound labour relations is the level of harmony reached between management and workers on the work floor," said Louw.

The agreement on the proposals put to the Cabinet further included that

* The parties agreed damages could be claimed in the event of illegal strikes and lock-outs.

* The registration of trade unions with members in both the private and public sectors would only be promulgated once the process of negotiation had been completed.

* Cosatu and Nactu agreed not to call their planned stayaway, and that

* Cosatu and Nactu agreed to participate in a restructured NMC, after consultation

06/16/12

Major players welcome LRA breakthrough

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ALAN FINE

UNION federations Cosatu and Nactu and employer federation Saccola yesterday welcomed as a major breakthrough the Cabinet decision to endorse the tripartite agreement on labour legislation

The Cabinet decision to approve the deal reached on September 14 was announced at a media briefing yesterday by Manpower Minister Eli Louw. He said it was "a milestone on the road to achieving internationally acceptable labour legislation"

The 18-point agreement framed as a "minute" includes an undertaking by government to submit to Parliament this month for consideration by the joint committee on manpower a draft amendment Bill to the Labour Relations Act Bill

It also contains an in-principle commitment to bargaining rights for all workers and sets out processes to be followed in implementing this principle regarding public sector, farm and domestic workers

In terms of the agreement the unions are to call off the work stayaway planned for next month and will join a restructured National Manpower Commission (NMC) which will be a central part of these processes, and is still investigating a revamping of the entire Act. They and Saccola will consult the SA Agricultural Union on bargaining rights for farm workers

Cosatu said a formal decision on the agreement would be taken on October 4 at a special executive committee meeting.

A Cosatu spokesman warned that the Minister's announcement should be tempered with some caution in that, should the joint committee tamper with the proposed legislative changes, the whole process could "revert back to square one". The minute constituted "only a beginning to a set of processes. The acid-test lies in what emerges from these processes."

Nactu acting general secretary Cunningham Ngcukana said his organisation considered itself bound by the minute's terms.

Saccola chairman Anton Roodt described the development as "an historic breakthrough, clearly demonstrating that consensus on critical issues of national

□ To Page 2

LRA

import is possible where the leadership and will exist"

The agreement, he said, "provides a substantive and encouraging base for continued interaction between government, employers and organised labour in seeking common ground to best serve the economic well-being of the country". He said Saccola appreciated the "constructive role in reaching consensus during the final round of negotiations" played by Louw, director-general Joel Fourie and NMC acting chairman Frans Barker

□ From Page 1

The immediate amendments to the Act would stop interdicts against lawful strikes and lockouts, restore to normal the onus of proof question where unions are sued for losses incurred by employers in unlawful strikes, and delete the codification section of the unfair labour practice definition. This would give greater discretion to the Industrial Court. But Louw, however, disclosed that the NMC is, through employer/union consensus, going to develop a new "code of conduct" between the parties which could serve a similar purpose

C/Press 23/9/90

Cosatu happy ⁽¹⁶⁶⁾ with govt decision on LRA

COSATU has welcomed the Cabinet decision to endorse the Labour Relations Act Working Party Minute.

A statement released in Johannesburg this week said the decision was a victory for workers

"The way has now been cleared for the most objectionable of the September 1988 amendments to be removed from the statute book," said the statement

"It must be strongly emphasised however that the Minute only becomes an agreement once all parties have had an opportunity to consult their constituencies "

Cosatu said Manpower Minister Eli Louw's announcement should be tempered with caution in that:

■ Should the Parliamentary Standing Committees tamper with the proposed legislative changes in any way, then the whole process may revert back to square one;

■ The Minute constitutes only the beginning of a set of processes, and the acid test lay in what consent emerged from these processes; and

■ The Minister's Press statement on Thursday was "unfortunately highly selective and inaccurate in part". - Sapa

Nactu on negotiations

Sowetan 28/11/90

By DON SEOKANE

NATIONAL Council of Trade Unions would decide this weekend whether to negotiate with the government, Nactu president Mr James Mndaweni told delegates at the federation's three-day conference at Nasrec, Crown Mines yesterday.

Mndaweni said the congress came at a time when "the future is pregnant with possibilities"

"We believe that before any negotiations could begin, consensus within the broad liberation movement should be reached to avoid friction

"Until the Internal



JAMES MNDAWENI

Security Act, Population Registration Act and the State of Emergency is repealed, the struggle for liberation should be intensified," Mndaweni said

PAC secretary-general, Mr Benny Alexand-

er, said Nactu should spell out its position on negotiations

Alexander said the PAC had no mandate to negotiate with the "illegal regime" and that the only democratic and legitimate process for negotiations, is a constituent assembly based on one person one vote on a common voters' roll in a unitary state

The congress was attended by representatives of the British, Canadian and American embassies. Foreign trade unions including the International Confederation of Free Trade Unions were represented

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28/9/90
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SA's labour practices 'will move forward'

By SHARON SOROUR
Labour Reporter and Sapa

SOUTH Africa will create a system where labour practises are more in accordance with internationally accepted standards, says Manpower minister Mr Eli Louw.

After a week-long visit to the International Labour Organisation (ILO) in Geneva, Mr Louw said certain elements still had to be addressed the plight of domestic workers, farm workers and public sector employees

However, proposed amendments to South Africa's labour legislation had been seen in a positive light by the ILO.

At a Press conference in Pretoria he said there was an understanding about the challenges the country faced, which had been created by the release of African National Congress deputy president Mr Nelson Mandela, the leadership of President De Klerk and the unbanning of political organisations.

The proposed legislation amendments, which will be raised in the forthcoming parliamentary session, proved that South Africa "was moving in the right direction".

On the domestic work, farm work and public sector front he said. "The Manpower Commission is working on two of these issues . . . It is negotiating with the representative parties in the field"

Complaints laid with the ILO against the government by the giant trade union federation Cosatu were raised in a meeting between Mr Louw and the director-general of the ILO, Mr M Hansenne.

These included the consideration of race in the registration of trade unions.

Mr Louw emphasised this had been addressed in the proposed amendments.

'Undemocratic' white union vote under fire

By SHARON SOROUFI
Labour Reporter

THE National Union of Metalworkers of South Africa (Numsa) has proposed voting changes to weaken the influence of white-dominated unions at industrial council level, SA Labour News reports

The union affairs digest said the 130 000-strong union wanted to abolish the present one-union, one-vote system and replace it with a proportional representation system on the National Industrial Council for the Engineering and Metal Industries

The council was the largest in South Africa, comprising 14 unions and the Steel and Engineering Industries' Federation of South Africa (Seifsa) which represented about 70 employer bodies

DISPROPORTIONATE

If the union's demands were met, they would have a ripple effect across the industrial council system, according to the digest.

The present voting system gave disproportionate power to the smaller, generally conser-

vative and white-dominated craft unions which occupied most of the seats on the industrial council, the journal said

Numsa national organiser Mr Alistair Smith said Seifsa and all 14 unions had equal representation regardless of their size

He said "This means that when it comes to important decision-making, all it takes is one of the 14 unions to vote with the employers to get a simple majority"

It was an undemocratic process as some of the smaller unions had only three or four thousand members

"We want representation on the basis of membership so that if 50 percent of the trade unions are not in favour of a particular decision, then it cannot be passed," Mr Smith said

Numsa had raised the issue several times "with little success" as the council accepted the proposal "in principle", he added

"We now have an agreement to pursue the discussion and we are hoping to make significant progress"

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NOTICE 842 OF 1990

DEPARTMENT OF MANPOWER

NATIONAL MANPOWER COMMISSION

INVITATION FOR SUBMISSIONS
REGARDING AGRICULTURAL INDUSTRIES

1. The Minister of Manpower has requested the National Manpower Commission (NMC) to consider and recommend before the end of November 1990, the possible inclusion of the following clause in the proposed Labour Relations Amendment Bill to be tabled in Parliament during 1991:

Section 2 (2) (b):

Notwithstanding the above, this Act shall apply to any undertaking that in the nature of its operations, is industrial in character.

1.1 This request relates to so-called agricultural industries, i.e. undertakings in the broader agricultural sector that are mainly involved in non-farming operations. The request should be seen as separate from the NMC investigation regarding the expediency or otherwise of making the Labour Relations Act, No. 28 of 1956 (LRA) applicable to *bona fide* farmworkers, regarding which investigation the NMC will in due course call for submissions.

2. In an endeavour to facilitate the widest possible consultation and in an effort to work for broad consensus, comment from any interested party in regard to the proposed inclusion of the clause in the Bill, is hereby invited. The responses received will enable the NMC to consider and recommend to the Minister of Manpower, an appropriate course of action.

3. The following background is provided in an effort to raise some of the relevant issues and to put forward certain arguments pertaining to the possible inclusion of the proposed clause or an alternative clause.

4. Section 2 (2) of the LRA whereby farming operations are excluded from the ambit of the LRA, has given rise to a long line of Supreme Court and more recently, Industrial Court decisions as to the application of the Act "to persons in respect of their employment in farming operations".

5. The present accepted case law position would roughly seem to be that both the nature of the main activities in which employees and employers are associated together for purposes of farming and the nature of the enterprise would determine whether the undertaking constitutes farming operations as envisaged in the Act. This is, however, not necessarily conclusive in itself [see *Sweet, Food and Allied Workers Union and Another v Delmas Kuikens*, (1986) 7 ILJ 628 (IC)]

6. The aim of the proposed inclusion of section 2 (2) (b) is by no means to place *bona fide* farming interests of ordinary farmers within the ambit of the LRA. Rather, with the development of Agricultural industries (and the advent of agricultural businesses) it has become imperative to work towards a position of certainty in this regard. It is becoming increasingly clear that although certain undertakings may be termed enterprises in which employees and employers are associated together for farming purposes, the actual nature of the operations may well be industrial in character. Those employed in

KENNISGEWING 842 VAN 1990

DEPARTEMENT VAN MANNEKRAG

NASIONALE MANNEKRAGKOMMISSIE

UITNODIGING OM VERTOË TE LEWER
INSAKE AGRICULTURIE

1. Die Minister van Mannekrag het die Nasionale Mannekragkommissie (NMK) versoek om oorweging te skenk aan en aanbevelings te doen voor die einde van November 1990, aangaande die moontlike insluiting van die volgende klousule in die voorgestelde Wysigingswetsontwerp op Arbeidsverhoudinge wat in 1991 ter tafel gelê sal word

Artikel 2 (2) (b):

Nieteenstaande die bostaande, sal hierdie Wet van toepassing wees op enige onderneming wat in die aard van sy bedrywighede, industrieel van aard is.

1.1 Hierdie opdrag het betrekking op sogenaamde agriculturie, d.w.s. industrie in die breë landbou-sektor wat hoofsaaklik betrokke is in nie-boerderybedrywighede. Die opdrag moet gesien word as afsonderlik van die NMK ondersoek rakende die wenslikheid al dan nie om die Wet op Arbeidsverhoudinge, No. 28 van 1956 (WAV), op *bona fide*-plaaswerkers van toepassing te maak. Die NMK sal tergelegenertyd vertoe aanvra t.o.v. hierdie ondersoek

2. In 'n poging om die grootste mate van konsultasie moontlik te maak en as deel van die soeke na breë konsensus, word kommentaar van enige belanghebbende party rakende die voorgestelde insluiting van die klousule in die wetsontwerp hiermee uitgenooi. Die vertoes sal die NMK in staat stel om die Minister van Mannekrag van gepaste advies te voorsien

3. Die onderstaande agtergrond word voorsien om sekere van die relevante aspekte te opper en om sekere beredenerings t.o.v. die moontlike insluiting van die voorgestelde klousule of 'n alternatiewe klousule te opper.

4. Artikel 2 (2) van die WAV waardeur boerderybedrywighede uitgesluit word van die bestek van die WAV, het aanleiding gegee tot 'n hele reeks beslissings van die Hooggeregshof en meer onlangs die Nywerheidshof, insake die toepassing van die Wet t.o.v. "persone ten opsigte van hul diens in boerderybedrywighede".

5. Die huidige aanvaarde hofbeslissings dui breedweg aan dat beide die aard van die hoofaktiwiteite waarmee werkgewers en werknemers saam geassosieer is vir die doeleindes van boerdery sowel as die aard van die onderneming sal bepaal of die onderneming boerderybedrywighede in terme van die Wet behels. Dit is egter nie noodwendig beslissend opsigself nie [sien *Sweet, Food and Allied Workers Union and Another v Delmas Kuikens*, (1986) 7 ILJ 628 (NH)]

6. Die oogmerk met die voorgestelde insluiting van artikel 2 (2) (b) is geensins om *bona fide*-boerderybedrywighede van gewone boere binne die bestek van die WAV te plaas nie. Met die ontwikkeling van agriculturie (en die ontstaan van agriculturibedrywighede) het dit eerder belangrik geword om te beweeg na 'n posisie van sekerheid in hierdie verband. Dit word algaande meer duidelik dat alhoewel sekere ondernemings as ondernemings beskryf kan word waar werkgewers en werknemers saam geassosieer is vir boerderydoeleindes, mag die werklike aard van die bedrywighede in der waarheid industrieel van aard wees. Diegene wat in dié

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this connection may be subject to conditions similar to those applicable to employees falling within the ambit of the LRA, and they would thus be entitled to the protection afforded by the LRA.

7. It has also become imperative to clarify the position for purposes of the above-mentioned NMC investigation regarding the accommodation of farm workers in terms of labour legislation.

8. It is foreseen, however, that difficulties may well arise as to the definition of "industrial character" when it comes to farming. This aspect may in terms of section 76 (3) possibly be left for determination on the facts by the Courts, and here especially by the Industrial Court. Submissions are invited regarding other mechanisms which are simple, efficient and inexpensive (also for the State), whereby such determinations can be made.

8.1 Taking into account existing guidelines in terms of case law, activities related to agricultural production, can possibly be Categorized in several ways. One such way is probably the following:

- (a) **Primary activities:** These include all *bona fide* (primary) farming activities such as sowing, cultivating crops, harvesting, breeding live stock, raising live stock, etc. It will possibly also include cleaning, packaging and storage of the farm's own primary produce
- (b) **Secondary activities:** These include industrial activities pertaining to the agricultural sector, such as the secondary processing or refining of farm produce, the packaging of processed farm produce, etc. It may possibly also include the purchasing and further processing (milling or packaging of other farmers' produce).
- (c) **Tertiary activities:** These include service activities as they pertain to the agricultural sector, such as trading in agricultural produce.

8.2 Other possibilities to differentiate between the various activities, are on the grounds of ownership, scale of production or the nature of the production process. There may also be further or even be simpler tests which could be applied to distinguish between activities which are industrial in character and *bona fide* farming activities. Submissions on this aspect are invited.

9. The definition of "undertaking" is also important. At present it is accepted that an employer may be involved in the agricultural sector as a person running a farming operation (thereby excluded from the LRA), but may also be considered as employing other employees engaged in separate activities (eg industrial) and such employees will be included under the LRA. This is possible because "undertaking" in terms of the LRA also includes a section or portion of an undertaking. On the other hand, it is quite clear that not only farmers in the conventional sense may be engaged in farming operations, but other commercial or industrial firms may equally be engaged in farming operations in which they employ farm workers excluded from the ambit of the LRA [see *HL & L Timber Products (Pty) Ltd v Clegg* (1990) 11 ILJ 847 (IC)]. The inclusion of the proposed section 2 (2) (b) could possibly bring more clarity in this regard.

verband in diens geneem word mag onderhewig wees aan omstandighede wat soortgelyk is aan dié wat van toepassing is op werknemers wat binne die bestek van die WAV val, en hulle sou dus geregtig wees op beskerming in terme van die WAV

7. Dit is ook van belang dat die posisie uitgeklaar moet word vir die doeleindes van die bogenoemde ondersoek deur die NMC rakende die akkommodering van plaaswerkers in terme van arbeidswetgewing.

8. Dit word egter voorsien dat probleme moontlik kan ontstaan rakende die definisie van "industriële van aard" t.o.v. boerderybedrywighede. Hierdie aspek kan moontlik in terme van artikel 76 (3) gelaat word vir 'n bepaling op die feite deur die hof en veral die Nywerheidshof. Vertoe word verlang rakende ander meganismes wat eenvoudig, effektief en koste-doeltreffend is (ook vir die Staat), waardeur sodanige vasstellings gedoen kan word

8.1 Met inagneming van die riglyne wat reeds bestaan in terme van hofbeslissings, kan aktiwiteite t.o.v. boerderyproduksie moontlik op verskeie wyses gekategoriseer word. Een sodanige manier is waarskynlik die volgende:

- (a) **Primêre aktiwiteite:** Dit sluit in alle *bona fide* (primêre)-boerderybedrywighede in soos plant, bewerking van gesaaides, oes, veeteelt, ens. Dit sal moontlik ook insluit die skoonmaak, verpakking en opberging van die plaas se eie primêre produkte.
- (b) **Sekondêre aktiwiteite:** Dit sluit in industriële aktiwiteite wat verband hou met die landbousektor, soos bv die sekondêre prosessering of verfyning van plaasprodukte, die verpakking van geprosesseerde plaasprodukte, ens. Dit kan moontlik ook insluit die aankoop en verdere prosessering (maal of verpakking van ander boere se produkte).
- (c) **Tersiêre aktiwiteite:** Dit sluit in diensaktiwiteite met betrekking tot landbou, bv. handel dryf in landbouprodukte

8.2 Ander moontlikhede om te onderskei tussen verskillende bedrywighede, is op grond van eienaarskap, skaal van produksieproses. Daar mag ook verdere en selfs eenvoudiger toetse wees wat toegepas kan word om te onderskei tussen aktiwiteite wat industrieel van aard is en *bona fide*-boerderybedrywighede. Vertoe oor hierdie aspek word aangevra

9. Die definisie van "onderneming" is ook belangrik. Tans word dit aanvaar dat 'n werkgewer in die landbou betrokke kan wees as 'n persoon wat 'n boerderybedrywigheid bedryf (daarmee uitgesluit van die WAV), maar dat hy ook ander werknemers in diens kan hê wat betrokke is in afsonderlike aktiwiteite (bv. industrieel) en sodanige ander werknemers sal dus ingesluit wees onder die WAV. Dit is moontlik omdat "onderneming" in terme van die WAV ook insluit 'n deel of gedeelte van 'n onderneming. Aan die ander kant, is dit ook duidelik dat nie alleen boere in die konvensionele sin betrokke mag wees by boerderybedrywighede nie, maar ook ander kommersiële of nywerheidsondernemings wat ewenwel betrokke kan wees in boerderybedrywighede en waar hulle plaaswerkers in diens neem wat uitgesluit is van die toepassingsbestek van die WAV [sien *HL & H Timber Products (Pty) Ltd vs Clegg* (1990) 11 ILJ 847 (NH)]. Die insluiting van die voorgestelde artikel 2 (2) (b) kan moontlik meer duidelikheid in hierdie verband bring.

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9.1 It should also be noted that the courts have defined an "undertaking" as follows: "An undertaking may be those industrial operations, generally large in scope, which involve any or all of the operations of industry but are not so general or common in occurrence that they may be said to fall under any recognized industry ... Industry denotes the devotion of work to production, generally understood as commercial production rather than mere creation". *R v Port Elizabeth Municipality* 1928 EDL 49.

10. To simplify the processing of submissions, it would be appreciated if submissions could be structured along the following lines:

- (a) Whether a clause with the intent of section 2 (2) (b) should be incorporated in the LRA. Please motivate both positive and negative responses.
- (b) Whether the proposed wording would be unambiguous, and if not, what alternative wording would be more suitable.
- (c) What should be understood by "industrial in character"?
- (d) Possible tests or guidelines to distinguish between undertakings that are industrial and those that are agricultural in character.
- (e) Proposals regarding inexpensive (also for the State), efficient and simple mechanisms to determine whether an undertaking is industrial or agricultural in character.

11. Any comments or representations regarding the proposed section 2 (2) (b) should be submitted in writing, in duplicate, before **26 October 1990**. The submissions obtained, will if necessary, be made available for public information. One copy must be sent to the Secretary (att Ms F. A. Kroukamp), National Manpower Commission, Private Bag X316, Pretoria, 0001, and the other to the Director-General: Manpower, Private Bag X117, Pretoria, 0001

M. J. K. BLOM,
Secretary

(5 October 1990)

BOARD NOTICE

BOARD NOTICE 69 OF 1990

THE SOUTH AFRICAN MEDICAL AND DENTAL COUNCIL

ELECTION OF MEMBERS OF THE PROFESSIONAL BOARD FOR MEDICAL SCIENCE

It is hereby notified in terms of section 15 (5) of Act No. 56 of 1974 and regulation 8 of the regulations for the election of members of the Council published under Government Notice No. R. 2279 of 3 December 1976, that the following registered medical scientists have been validly nominated as candidates for election as members of the Professional Board for Medical Science, for the five year period 1 December 1990 to 30 November 1995:

Fripp, Peter John.
Jansen, Stander.
Nel, Pieter Phillip Cornelius.
Smith, Martin Sidney.
Steyn, Josef Markus.
Van Helden, Paul David

9.1 Dit moet ook gemeld word dat die houe 'n onderneming soos volg gedefinieer het: "An undertaking may be those industrial operations, generally large in scope, which involve any or all of the operations of industry but are not so general or common in occurrence that they may be said to fall under any recognised industry ... Industry denotes the devotion of work to production, generally understood as commercial production rather than mere creation". *R vs Port Elizabeth Municipality* 1928 EDL 49

10. Om die verwerking van vertoes te vergemaklik, sal dit waardeer word as voorleggings soos volg gestruktureer kan word:

- (a) Of 'n klousule met die strekking van artikel 2 (2) (b) by die WAV geïnkorporeer moet word. Motiveer asseblief beide positiewe en negatiewe antwoorde.
- (b) Of die voorgestelde bewoording ondubbelsinnig sal wees, en indien nie, watter alternatiewe bewoording sal meer gepas wees.
- (c) Wat behoort verstaan te word deur "industrieel van aard"?
- (d) Moontlike toetse of riglyne om te onderskei tussen ondernemings wat industrieel of landbou van aard is.
- (e) Voorstelle rakende goedkoop (ook vir die Staat), effektiewe en eenvoudige meganismes om te bepaal of 'n onderneming industrieel of landbou van aard is.

11. Enige kommentaar of vertoes rakende die voorgestelde artikel 2 (2) (b) moet skriftelik, in tweevoud voor **26 Oktober 1990** ingedien word. Die verkreepte vertoes sal, indien nodig, vir openbare inligting beskikbaar gestel word. Een kopie moet gestuur word aan die Sekretaris (aandag mev F. A. Kroukamp), Nasionale Mannekragkommissie, Privaatsak X316, Pretoria, 0001, en die ander aan die Direkteur-generaal Mannekrag, Privaatsak X117, Pretoria, 0001.

M. J. K. BLOM,
Sekretaris,

(5 Oktober 1990)

RAADSKENNISGEWING

RAADSKENNISGEWING 69 VAN 1990

DIE SUID-AFRIKAANSE GENEESKUNDIGE EN TANDHEELKUNDIGE RAAD

VERKIESING VAN LEDE VAN DIE BEROEPSRAAD VIR MEDIESE WETENSKAP

Ingevolge artikel 15 (5) van Wet No. 56 van 1974 en regulasie 8 van die regulasies vir die verkiesing van lede van die Raad afgekondig by Goewermentskennisgewing No. R. 2279 van 3 Desember 1976, word hierby bekendgemaak dat ondergenoemde geregistreerde mediese wetenskaplikes geldig genomineer is as kandidate vir verkiesing as lede van die Beroepsraad vir Mediese Wetenskap vir die vyfjaartydperk 1 Desember 1990 tot 30 November 1995:

Fripp, Peter John.
Jansen, Stander.
Nel, Pieter Phillip Cornelius.
Smith, Martin Sidney.
Steyn, Josef Markus.
Van Helden, Paul David

ber 5 to October 11 1990

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Don't alter LRA 'minute' - Cosatu

W/Min/5/10-11/10/90
By DREW FORREST 166 KEM
THE Congress of South African Trade Unions' national executive committee has ratified the historic "minute" on the Labour Relations Act forged by union, employer and state negotiators.

Confirming this, Cosatu's Geoff Schreiner stressed that two concerns were raised at yesterday's NEC meeting. These were that the process of legislating the agreement should be smooth and without interruption and that further LRA amendments, notably union rights for farm, domestic and state workers, were required.

Cosatu has said that if the parliamentary standing committee "tampers" with the agreement, negotiations may revert to square one.

"We view the minute as a major victory for workers. But if we are forced to, we will again resort to action," he warned.

Schreiner said Cosatu was committed in terms of the minute to participation in a revamped National Manpower Commission. However, Cosatu leaders would meet next weekend to debate whether to take part on an interim basis and on demands for restructuring.

There has been speculation that as a first step towards engagement with the NMC, Cosatu may join a sub-committee on farmworkers' labour rights.

Yesterday Bobby Godsell, a representative for the employer body Saccola, said he foresaw no problems with Saccola's endorsement of the minute.

LABOUR FOCUS

ILO may help formulate new SA labour laws

By DREW FORREST

THE International Labour Organisation is believed to have offered assistance to the South African government in reformulating labour law in line with international standards

If the reports are correct, this would be the major breakthrough of Manpower Minister Eli Louw's recent trip to Geneva, where he met ILO director-general Michel Hansenne and other officials during the organisation's annual conference

The strict purpose of Louw's contact was to discuss whether South Africa would submit to ILO jurisdiction on a complaint lodged by the Congress of SA Trade Unions over the 1988 amendments to the Labour Relations Act

The ILO constitution provides for a "fact-finding and conciliation commission" to investigate complaints emanating from non-member countries, if the government concerned agrees. South Africa effectively lost its ILO membership in 1966

It appears that although Louw did not reject ILO jurisdiction, he is playing for time on the issue. At a press conference this week, he suggested the complaint might fall away with planned amendments to the LRA next year

The Cabinet recently endorsed an LRA deal reached between Cosatu/Nactu, Saccola and the Manpower Department, in terms of which most of the controversial 1988 amendments will be scrapped in the next parliamentary session

Louw stressed that one of Cosatu's objections to the LRA, that it provided for racial registration of unions, would be addressed in the proposed amendments

The government has been vague about future contacts with the ILO, saying only that it could not be excluded. But the UN agency is believed to be willing to help formulate legislation compatible with ILO conventions

Direct ILO-to-government contact on the LRA would be a major step forward from initial consultations between the National Manpower Commission, Sac-

cola and Cosatu/Nactu at an ILO-chaired seminar in Harare earlier this year

It would be facilitated by Cosatu/Nactu involvement in a restructured NMC — a move envisaged by the recently signed LRA "minute". Sources indicate that as a first step, Cosatu may join a special NMC committee on farmworkers' labour rights, due to convene later this month

Government sources said there was a possibility of direct ILO-to-government consultations once proposed LRA amendments had been drafted

Clive Thompson, head of the University of Cape Town's Labour Law Unit and a member of the NMC's sub-committee on the LRA, said he believed South African readmission to the ILO was still some years off. "In this period of political transition, the aim is one of engagement," he said.

"ILO help at this stage could be crucial. It may be easier to get good labour law now, when things are fluid, than in the future when political positions harden"

Big labour revamp on

STimes 2110190

By DRIES van HEERDEN

THE Government is drafting a complete overhaul of its labour legislation in the wake of its recent success in negotiations with major trade unions and employer's organisations.

Manpower Minister Eli Louw promised this week the new dispensation — already dubbed "son of Wiehahn" — will be negotiated step by step between the National Manpower Commission and the concerned parties.

An ugly chapter in the history of industrial peace was closed this week when the draft Labour Relations Amendment Bill was published in Cape Town — the result of many months of negotiations. And its effect on labour peace was almost

immediate — within hours the powerful Congress of SA Trade Unions (Cosatu) announced it was calling off its countrywide stayaway planned for tomorrow.

Interviewed in his Pretoria office this week, Mr Louw called the new legislation "a triumph for negotiations." And he promised to push it through Parliament "within days after the start of the new session early next year."

Mr Louw said the new law would return labour relations to the days immediately following the Government's historic decision in the mid-80s to accept the far-reaching changes proposed by the Wiehahn Commission.

These reforms earned the Government high praise in a period when almost every-

thing else it did was severely criticised.

But 1987/88 saw a sudden sharp increase in strikes, stayaways and industrial action by the trade union movement intent on flexing its political muscles.

There were elections on the horizon, the right-wing was stirring and the Government was not in a mood to be trifled with. The result — a clampdown in the form of changes to the Labour Relations Act that seriously curtailed the unions' right and ability to institute industrial action.

The law was rammed through Parliament against the strongest objections of both the unions and large employers. With hindsight, Mr Louw now admits, it was a mistake.

"But at least we kept on talking and negotiating," he said. "Sometimes the sessions lasted until three in the morning." First Cosatu and the other trade union grant, Nachu, negotiated an agreement with

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the employer's organisation, Saccola. This was sent for comment to the National Manpower Commission (NMC).

The NMC reported to Mr Louw who then started negotiating the new law, clause by clause, with the concerned parties.

"I was accused of dragging my feet," he said. "There were calls for my resignation. But I knew that we could not take any shortcuts."

The main feature of the draft bill — still to be discussed by the Parliamentary Standing Committee — is that it amends the definition of an unfair labour practice to its pre-1988 position.

The main feature of the draft Bill — still to be discussed by the Parliamentary Standing Committee — is that it amends the definition of an unfair labour practice to its pre-1988 position. The strict provisions within which the industrial court had to decide cases — and which raised the ire of the unions — have been changed to guidelines. No longer compulsory, but at the discretion of the court.

The contentious clause that enables parties to sue for damages on actions resulting from an industrial dispute remains, but the onus shifts to the complainant.

Cosatu has welcomed the new changes, but warned that the whole issue could revert to square one if the Standing Committee tampered with it.

"This is only the beginning of a set of processes. The acid test is whether it leads to consensus," it said in a statement.

Valuable

Next on Mr Louw's negotiating menu is tackling the rights of categories of workers not yet covered by legislation — especially civil servants, farm and domestic workers.

Already the Basic Conditions of Employment Act and the Unemployment Insurance Act will be broadened next year to apply to farm workers.

Way

And then there is the revamp of the labour relations system. This will include the complete restructuring of the NMC itself. Cosatu and Nachu have already indicated that they will participate in a new-look NMC.



Last month's labour law agreement will benefit all employers, says Sacob industrial relations committee chairman Bokkie Botha

Picture ROBYN RYAN

Sacob's Botha welcomes agreement on labour law

ALAN FINE

THE labour law agreement between unions, employers and government represented a decisive move away from protest to a more constructive way of handling conflict, Sacob industrial relations committee chairman Bokkie Botha said yesterday

The benefits of the agreement reached last month would be felt by all employers, particularly by small business employers.

Very significant, he said, was the clause in which all parties committed themselves "to dialogue and discussion to resolve conflict wherever it arises"

While this would not guarantee an end to problems, and shop floor problems would not disappear overnight, it did mean a commitment to an end of "unilateral" stayaways

Sacob was pleased that Cosatu and Nactu had committed themselves to joining a restructured National Manpower Commission

This would, in future, mean that all parties would become part of the process of developing labour legislation rather than some being outside critics

Conciliation board for Gant's workers

Star 19/10/90
CAPE TOWN — Mass firings on a Somerset West estate owned by DP national chairman David Gant have resulted in a successful application for a conciliation board by five of the sacked workers.

Confirming this yesterday, Stellenbosch attorney Glyn Williams said the workers, formerly employed in a sawmill on Mr Gant's estate, claim they were summarily and unfairly dismissed.

The workers and about 400 colleagues were fired in May after a three-day strike, demanding that Mr Gant

negotiate with an elected committee on wages and conditions of service

All but 69 workers were subsequently reinstated

The former sawmill workers are deemed to be factory workers in terms of the Labour Relations Act and have access to the Industrial Court, Mr Williams said.

A separate Supreme Court action is being prepared for the reinstatement of the remaining workers

Mr Gant was not available for comment. His attorney, L Blignaut, refused to comment — Sapa.

Cosatu's drive pays dividends in homelands

By DREW FORREST ^{W/Man 12/10-10/10/90}
A major drive by the Congress of SA Trade Unions is changing the face of labour law and labour relations in the homelands.

Following changes of government and an intensified union organising push, new laws have been passed in Transkei and Ciskei and are imminent in Venda and KwaNdebele. At the same time, Cosatu has announced a campaign in Bophuthatswana, involving stayaway action, to win the right to operate there.

Hundreds of thousands of homeland workers, many unorganised and on low wages, are affected.

A Cosatu document acquired by the *Weekly Mail* stresses that Cosatu's ultimate aim is to re-integrate the homelands into South Africa. But to give interim worker protection, boost organisation and lay the basis for a unitary system, the federation has launched negotiations with homeland governments to pass laws more favourable to workers.

The aim is to provide speedy and simple legislation in line with South Africa's pre-1988 Labour Relations Act, allowing unions to operate and giving organising rights.

Homeland laws, the document says, should cover all workers, including farm, domestic and state employees, provide a simple dispute procedure and industrial court system, or arbitration instead of a court, exclude legal strikes from the unfair labour practice definition, guarantee basic union organising rights, and contain a simple union certification process. The automatic certification of South African-registered unions is proposed.

Cosatu also suggests the State President be pressed to strip "self-governing" homelands of labour jurisdiction, so that South African law applies.

It is understood that in the light of looming LRA changes in South Africa, the most enlightened of the homelands, kaNgwane, has shelved plans for its own labour statute and aims to restore central state jurisdiction.

Change is most advanced in Transkei and Ciskei, following the rise to power of regimes closer to the Mass Democratic Movement. Both homelands this year passed decrees officially recognising unions and legalising strikes.

Their "independent" status makes swift change possible. "self-governing" homelands' laws need the State President's endorsement.

In Transkei, Cosatu has played a direct law-making role through the homeland's National Manpower Commission. It was the NMC, says Cosatu's Eastern Cape chairman Thembinkosi Mkalipi, which convinced the government to drop the 1988 LRA amendments from legisla-

tion drafted for Transkei by Nic Wiehahn.

And Transkei has overtaken South Africa in another key respect — the decree covers farm and domestic workers.

However, the federation is deeply unhappy at "unexplained" departures from NMC proposals — in particular, the exclusion of the civil servants, teachers and parastatals from the decree. Also ignored were proposals for the automatic registration of South African-registered unions and majority union rights.

In Ciskei, where Cosatu and the chamber of industries dealt directly with the military council, the decree also excludes strikes from the unfair labour practice definition. But it does not cover civil servants, small business and farm and domestic workers.

To remedy these defects, Cosatu last week met Transkei's Major-General Bantu Holomisa and Ciskei's Brigadier Oupa Gqozo. According to Mkalipi, they conceded on most issues — with the key exception of civil servants.

Holomisa agreed, however, to refer to parastatals on the issue of parastatal rights and to the NMC on the civil service, and Mkalipi is optimistic the demands will be met. Gqozo, "less secure in his power", was a tougher proposition, he said.

Cosatu says resistance to civil service labour rights is widespread among homeland leaders, ascribing this to fear of destabilisation.

Cosatu also reports progress towards new law in other homelands. In its document, it says:

• Negotiations are under way with Venda, which accepts most Cosatu proposals but is unhappy about civil service rights, and with QwaQwa.

• KwaNdebele wants Cosatu to draft new laws, which would cover the public service, and may call a special legislative assembly next month to pass it.

• Following rapid unionisation and mass strikes, Lebowa had met Cosatu and was keen to enact a new law covering all workers except police.

Gazankulu, however, had not responded to Cosatu overtures and was reportedly drafting legislation for enactment next January. "We must ensure laws are not passed behind our backs," Cosatu says.

The major stumbling-blocks remain kwaZulu — with which Cosatu has no relationship — and Bophuthatswana, the most developed homeland.

A ding-dong battle looms in Bophuthatswana, whose Industrial Conciliation Act bars "foreign" unions. Manpower Minister Simon Seodi last week stressed Cosatu had no legal standing in the territory and warned that workers joining the planned stay-away risked the sack.

Bill is fair reflection of labour accord ⁽¹⁶⁶⁾ Saccola

EMPLOYER federation Saccola has declared the recently published Labour Relations Amendment Bill a fair reflection of the agreements between itself, the unions and government

The Bill, a culmination of two-and-a-half years of union protests, is to be discussed this week by the Manpower Parliamentary committee as part of the process of passage through Parliament. It is expected to become law early next year.

Saccola secretary Frieda Dowie said the Bill, drafted by government legal experts in terms of the tripartite agreement announced on September 20, appeared satisfactory.

Union officials could not be reached for comment. However, UCT labour law unit director Clive Thompson said an initial reading of the Bill threw up at least one poorly thought out sub-clause, but he had found nothing to be seriously concerned about.

Thompson acted for the unions during stages of the dispute. He is a member of the National Manpower Commission's legislation committee which drafted a report on which the agreement, and therefore the Bill, is

based

The questionable clause to which he referred — Section 4 (a) (ii) — deals with the power of the Industrial Court to grant urgent interdicts against work stoppages, a power arguably covered by another clause.

The most important features of the Bill include the reinstatement of the pre-1988 unfair labour practice definition and removing from the Industrial Court the power to interdict lawful strikes and lock-outs.

It would also limit the court's ability to grant interdicts without 48 hours notice to the respondent other than under special circumstances and extend the time limits for referring disputes through official channels.

It also aims to delete from the Labour Relations Act the controversial clause which reversed the onus of proof requirement in the case of damages suits brought against unions for losses sustained in unlawful strikes.

It would also delete a section of the Act which could be used by uniraical unions to protect their position against non-racial unions.

BIDAM 15/10/90
ALAN FINE

Consultant alleges informal govt-ANC labour accord

16/Jan 19/10/90

MATTHEW CURTIN

TRADE unions shied away from strike action in the third quarter of this year because of an informal accord between the ANC and government in the wake of the Pretoria Minute, Levy, Piron and Associates director Brian Allen said yesterday. This agreement accounted for the National Union of Metalworkers' (Numsa's) readiness to accept a settlement in the metal industry pay talks despite a ballot in favour of strike action after prolonged and apparently deadlocked negotiations.

He said the ANC and Cosatu traded a withdrawal from strike action for government assurances of an acceleration in reforming the Labour Relations Act. The settlements in the metal and mining industry in August contrasted with a surge of often bitter industrial disputes and a record 1,2-million man-days lost in the first half of the year.

Commenting on the consultancy's 1990 wage settlement bulletin, Allen said the most striking and positive feature this year was the primacy of wage issues as triggers for strike action.

Despite the political turmoil in SA, 72% of strikes concerned wage issues. Consultants said a better appreciation of economic reality seemed to determine both employer and union strategies. The average level of wage demands was slashed from just under 90% in 1989 to 51% this year.

The average wage settlement level for the third quarter dropped from 17,9% in the first six months to 16,9%.

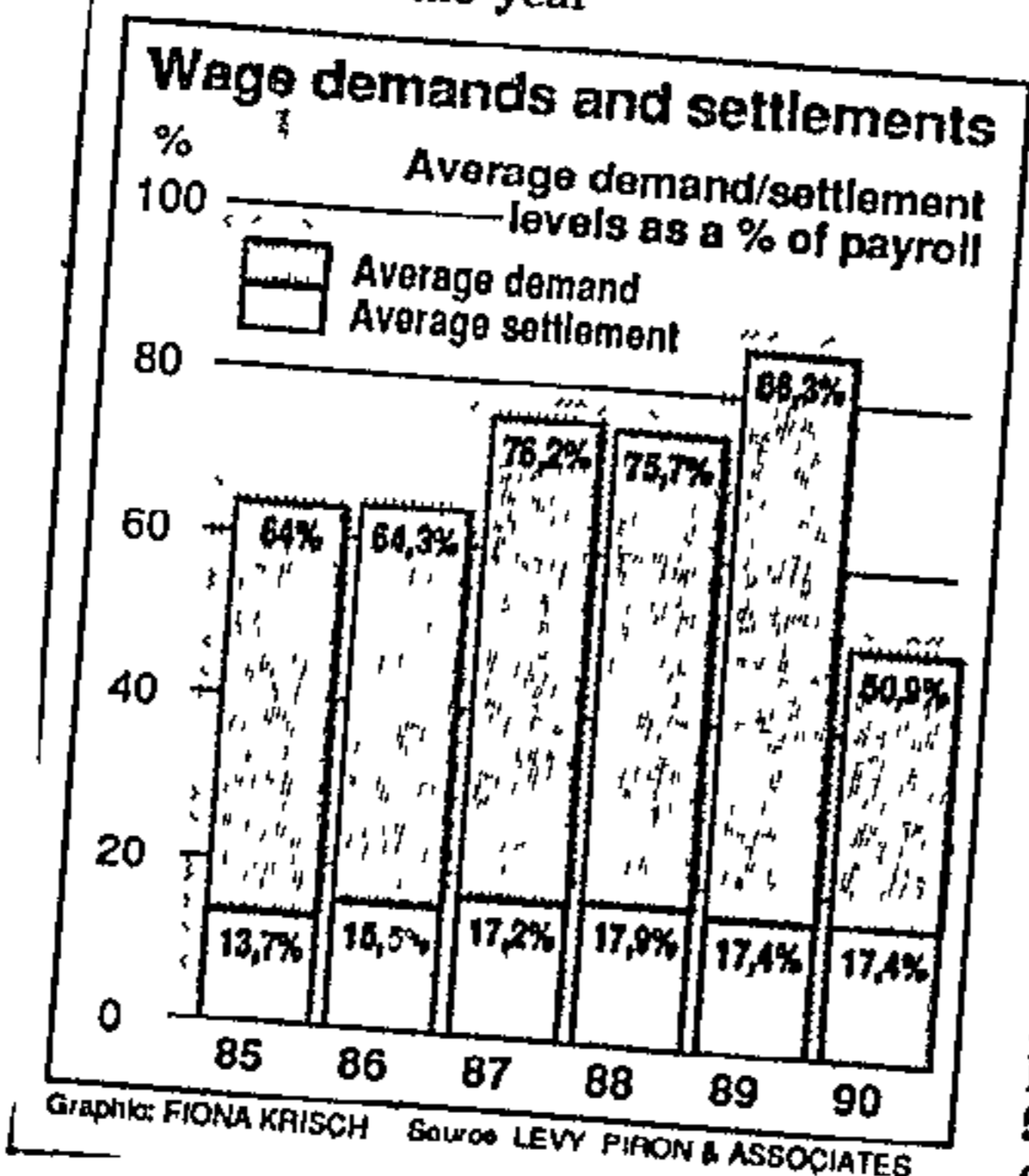
The 1990 average settlement was a fraction under 17,4%, the same percentage as last year and half a point down from 1988. Allen said this showed union leaders were increasingly concerned with the trade-off between jobs and wages, successfully bargaining for negotiated retrenchments, training and better severance pay to be written into wage agreements.

He said the salient feature in industrial relations this year was industrial unrest and unionisation in the public sector.

Consultants said the ramifications for the state were huge given that the LRA amendments would cement its role as an employer and that government was expected to spend R18m or 25% of the national budget on paying central government and provincial workers next year.

The bulletin also noted the shift in Cosatu's attitude to the necessity of a national minimum wage.

Consultants said unemployment in SA had reached critical levels and there was little sign the economy would grow by the 5% necessary to sustain even current levels of employment.



Policy shift as union federation joins NMC

By DREW FORREST

IN a key policy shift, the Congress of SA Trade Unions is to join the state's National Manpower Commission before it has been overhauled — but, subject to certain conditions

In the Labour Relations Act "minute" adopted by unions, employers and the state, Cosatu and Nactu undertook to join the the statutory advisory body on labour law once it had been restructured

But at a central committee meeting last weekend, Cosatu decided to enter the NMC with immediate effect. As the body was processing the "minute", this would ensure the federation's involvement in the first stage of law-making, said Cosatu campaigns co-ordinator Lisa Seftel.

"If the NMC is not going in the direction we want, we'll return to mass action to press our demands," she said. "And we reserve the right to withdraw if we don't feel we're gaining from participation."

A key Cosatu demand is the setting of a

deadline for the restructuring process. The federation would be formulating guidelines for restructuring, Seftel said.

Other conditions for participation are that, *W/Mail 19/10-25/10/90*

- Manpower Minister Eh Louw should only appoint Cosatu representatives elected by the federation to the NMC and its sub-committees, and that the federation should have the right to recall its representatives

- Louw and the NMC should deal with Cosatu and not its individual affiliates

- That Cosatu is not bound by NMC recommendations and reserves the right to protest against them. The federation also wants Cosatu positions reflected in all NMC proposals

- Cosatu reserves the right to distribute NMC documentation among its affiliates

It is understood that in the initial stages, Cosatu will sit on sub-committees investigating labour rights for farm and domestic workers, as well as attending NMC workshops. These committees have already started their deliberations

LABOUR

LRA 'war': Cosatu fires new volley at 'worrying' clauses

By DREW FORREST

THE Congress of SA Trade Unions has asked Manpower Minister Eli Louw for an urgent meeting to discuss "worrying" clauses in the recently published Labour Relations Amendment Bill.

In a statement signalling that the long Labour Relations Act war may not be completely over, Cosatu's Geoff Schreiner said the Bill departed in two key respects from legislation accepted by unions, employers and the state when they adopted the recent watershed LRA "minute"

This was a violation of a pledge by Manpower Director-General Joel Fourie that any changes would be referred to the lawyers of Cosatu and Saccola, he said. He also complained that despite an undertaking that the unions would be involved at all stages of legislation, Cosatu had not been invited to attend parliamentary joint committee deliberations on the Bill this week.

Fourie could not be contacted. But Louw's administrative secretary, Jan van Tonder, said the parliamentary committee had decided to hear evidence and Cosatu had been asked to give it.

He also stressed that as the committee hearings amounted to a first reading of

the Bill, Louw could not insist on Cosatu's participation. "In effect, they would become temporary members of parliament," he commented.

Schreiner said Cosatu was concerned at a clause specifying the Industrial Court's discretion to ban as unfair practices in the 1988 unfair labour practice code, which the Bill repeals. Originally neutral, this now encouraged the court to consider these practices unfair, he said.

Another change empowered the Industrial Court to interdict work stoppages — which could include lawful strikes. A vital feature of the agreed legislation was the immunity of lawful strikes from interdict. "Read together, these clauses could enable the court to ban legal strikes," Schreiner said.

Labour lawyer John Brand described the work stoppage clause as "a further indication of sloppy and incompetent draftsmanship and a departure from the agreement".

Reacting, Van Tonder said he was convinced there was no bad faith and that "misunderstandings and uncertainties" would be clarified. "The changes may have been made by the government's legal adviser while the minister was overseas," he said.

New labour Act should 'sort out any problems'

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MATTHEW CURTIN

POLITICAL changes in SA this year placed a strain on the country's labour relations system which it was not designed to bear, Manpower Minister Eli-Louw said at the weekend.

He was nevertheless confident that whatever problems there were in the labour arena, they would be accommodated within the framework of the Labour Relations Act. b10 ay 22/10/90

Addressing an SA Society of Bank Officials (Sasbo) banquet in Johannesburg on Saturday, Louw said labour relations were at the forefront of change in SA and constitutional change in particular.

Louw said unions were now facing "the bite of membership unemployment".

He warned if spiralling labour costs were not matched by increases in productivity, employers would simply move into new areas of technology, so reducing the demand for labour. Levels of employment depended on the competitiveness of SA exports, and unions should "review the soundness of their demands before going on overhasty strikes".

Farmers warn against excessive pay demands

THE SA Agricultural Union (SAAU) was confident it could pre-empt soaring wage demands and large-scale redundancies among farm workers, SAAU deputy director-general, services, Kobus Kleynhans said yesterday.

He said farmers realised labour would inevitably become more expensive.

But if government listened to SAAU appeals not to extend the Wage Act to

MATTHEW CURTIN

farm workers, if farmers adopted sound management principles which indirectly deterred unmonitored and spiralling wage demands, and if farmers achieved greater productivity, agriculture would remain competitive in the job market.

Agriculture was traditionally infertile ground for union mobilisation. Far-

mers had no misgivings over the extension of the Basic Conditions of Employment Act (BCEA) to their employees.

But, said Kleynhans, farmers were still wary of the implications that an extension of the Wage Act or unionisation, yet to be legitimised in terms of the Labour Relations Act (LRA), would have.

Excessive wage demands would threaten the 1.3-million farm workers in SA who, with dependants, made up almost a quarter of the country's population.

The Agriculture Department, in a report in August, said about 30% of farmers stood "to go bust by year-end", and the SAAU has appealed to government to make more bridging finance available for threatened farms.

Food and Allied Workers' Union assistant general secretary Mike Madlala said yesterday farmers in

excessive pay demands

should not prejudice the effect higher wages would have on the industry.

Fawu, the union charged by Cosatu to mobilise farm workers, was concerned primarily with ensuring farm workers were recognised in law and able to organise legitimately.

Manpower Ministry spokesman Johann Muller said yesterday Minister Eh Louw had commissioned the National Manpower Commission (NMC) to investigate how to extend the BCEA and Unemployment Act to farm workers, and whether the Wages Act and the LRA should be extended.

The ministry was addressing the issues "with urgent attention". Future conditions in agriculture had to guarantee a living wage for employees and the economic performance of farms.

The SAAU's 19th annual congress opened last night in Pretoria.

8/00ay 24/10/90

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LRA provisions irk farmers

PRETORIA — The agricultural industry's opposition to being included in the controversial Labour Relations Act (LRA) was stressed at the annual conference of the SA Agricultural Union yesterday

Western Cape Agricultural Union president Chris du Toit warned that farmers were not prepared to be integrated into a formal labour relations framework yet. Neither were farm workers ready for such a sophisticated system of bargaining.

It was clear the proposal to include farm workers in the legislation was rooted in pressure from certain sources, apparently with political motivation, he said.

There were serious reservations about whether a system of industrial councils and industrial courts where every farmer and his workers could bargain on service conditions could ever work in practice.

Du Toit said unemployment was SA's greatest problem — not negotiations or constitutional reforms or any other problem politicians liked to talk about.

All factors, including legislation that

could work against the creation of employment, had to be handled with kid gloves. The farmer's production process was dependent on a reliable work force.

They had no other choice "but to do the right thing at the right time" because of weather and growth cycles, Du Toit said.

The wage legislation collided with all the principles of a free economic system. "And I cannot see how imposing it on agriculture can be considered."

Du Toit said the LRA was clearly tailored for the needs of the industrial and commercial sectors.

It had little relevance against a background of the complexities and different needs of the primary agricultural sector.

Massive stayaway actions and unrealistic wage demands had taken on political dimensions. What trade unions failed to appreciate was that employers were also fighting for survival.

GERALD REILLY

Agriculture 'stymied by interest rates'

PRETORIA — Sustained high interest rates are among the major stumbling blocks preventing a significant recovery in the agricultural industry.

This point was made yesterday at the SA Agricultural Union conference.

Free State Agricultural Union president Izak Cronje said the industry was worried about government planners' reliance on interest rate mechanisms in the fight against inflation.

Cronje said the interest rate policy should form part of a comprehensive strategy with a balanced fiscal and monetary policy package in which interest rates did

not play a dominant and distorting role.

He stressed a purposeful fiscal policy should include a shrinking of government's demand on scarce capital and manpower resources and a reduction in government's part in the economy.

Speakers complained about the widening gap between producer and consumer prices.

In the previous 12 months, it was stated, production costs rose by nearly 18% against producer price rises of 5.4%.

GERALD REILLY

25/10/90

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not play a dominant and distorting role

Louw gives way on LRA changes

By DREW FORREST

MANPOWER Minister Eli Louw has given way on hotly disputed changes to the Labour Relations Amendment Act currently before the parliamentary standing committee on manpower

In talks this week with Louw and Manpower Director-General Joel Fourie, the Congress of SA Trade Unions objected to "half a dozen" changes, made without consultation, to legislation agreed at the clinching of the recent Labour Relations Act "minute"

Cosatu's Geoff Schreiner said Louw

had agreed to put amendments giving effect to the original proposals before the standing committee, which is to vote on the legislation this week. Cosatu had also given evidence to the committee.

Cosatu's main concern was a clause giving the Industrial Court discretion in respect of the 1988 unfair labour practice code, which the Bill repeals. Drafting changes had undermined its neutrality, Schreiner said

Also of concern was a clause empowering the court to interdict "work stoppages"

Sex, race to go from mining law

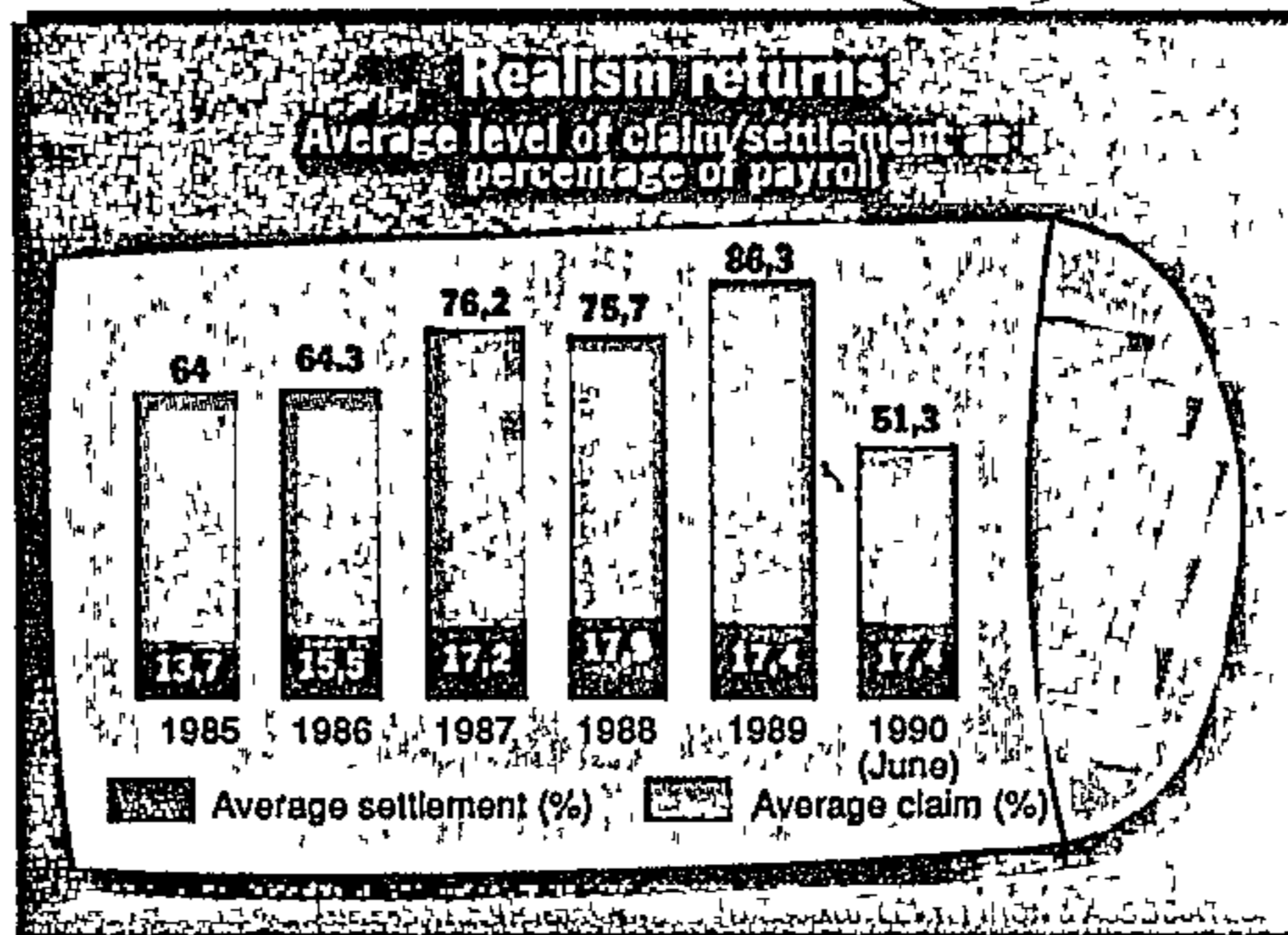
Capl T. B. 1/11/90
Political Staff
SEX and race discrimination are being removed from mining.

For the first time women will be allowed to work underground and people of colour will be able to acquire prospecting and mining rights.

In terms of the Mines and Works Amendment Bill which has been published in Cape Town, women will be able to go down the mine as long as

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they do not do "manual work". They will have to hold management positions or be employed in health or welfare services. Women will also be allowed underground if it is required for their studies.

A memorandum with the Bill says it aims "to delete certain obsolete restrictive measures in the Mining Rights Act which discriminate on the grounds of race".



While again unions are trying to ensure that members achieve increases above the inflation rate, the flipside is a significant rise in retrenchments

NUM spokesman Jerry Majatladi estimates that retrenchment figures on gold mines have reached 32 000 since the beginning of the year and the Chamber of Mines has warned that thousands more jobs are at risk

Apart from wage claims, wage packages this year have included demands for provident funds, housing subsidies, parental rights, education and training and a reduction in the working week from 45 hours to 44 hours.

There has also been a heavy emphasis on long-service benefits

Two areas which have been particularly important this year and in which progress has been made, are provident funds and parental rights

Saccawu in particular has made substantive gains, forging a precedent-setting agreement with Pick 'n Pay and recently achieving a substantial deal at Foschini. At Pick 'n Pay, women staff are entitled to nine months paid leave, which can be shared by couples working in the company

And workers have pushed to move out of company-controlled pension funds into union-controlled ones

Centralised — as opposed to plant-level — bargaining remains a big issue. Though there is a willingness on both sides to explore the possibility of negotiating at a centralised level, results are still tentative, says Cosatu's assistant general secretary Sidney Mufamadi

It appears that while unions are again prepared to accept wage settlements much lower than their opening demands, there is renewed and increased emphasis on conditions of service

According to Saccawu's Jeremy Daphne, significant improvements were made on non-wage issues. Demands for March 21 as a paid holiday were generally won and there has also been a focus on compassionate leave and year-end bonuses

As these processes continue, managements, in turn, table counter-demands — mainly linked to productivity

To date, they have had little success. Other demands are in areas of production and attendance bonuses

Managements, in other words, are looking at more of a labour trade-off than the bargaining process has seen in the past. It is probably the right time to make such counter-claims, as recession bites and the economic arguments gain weight

government, the employer body Saccola and Cosatu-Nactu over the LRA, Cosatu had called for the recognition of representative public-sector unions as a condition for reviewing threatened mass action over the Act. Negotiations between the Commission for Administration, the Department of National Education and representative State sector unions on a new labour dispensation for the public service were announced in August.

Numsa led the field as far as strike activity is concerned (23,1%), followed by CWIU (10,4%) and NUM (7,7%). Interestingly, Samwu featured for the first time in the top six unions and accounted for 3,4% of man-days lost. Despite the heavily weighted political situation since February 2, wages have remained by far the most important strike trigger (71,5%) — much the same as last year. Next is grievance-discipline (14,2%) and other factors (9,4%)

In general, employers have been finding this year's wage round tough and fairly protracted. There is also a heavy emphasis on disclosure of information and unions are putting up new claims, such as security of employment

Some unions have also begun to negotiate on behalf of subcontractors

A threatened national strike by Numsa members in the engineering industry was averted recently. According to union spokesman Bernie Fanaroff, the decision to call off the strike was strongly influenced by the factional violence that swept Transvaal townships. Though Numsa said members were not satisfied with wage increases ranging between 19% and 15,5% for the lowest and highest grades respectively, they decided to settle

Despite the possibility of a strike on the coal mines, wage agreements between the Chamber of Mines and the NUM were also reached without industrial action. On the gold mines, NUM accepted a chamber offer of wage increases between 14,5% and 17%

Though the union was less flexible on the coal mines — which it believed had a better ability to pay — it finally accepted increases between 14,5% (the lowest in any category) and 30,8% (the highest in any category)

Fired Mewusa workers reinstated

Express 18/11/90

RELATIONS have been normalised between the Metal and Electrical Workers Union of South Africa and a Potchefstroom metal company following the dismissal of 125 workers

The workers - who were dismissed by Anglo American's WJ Engineering Company on September 7th - were all reinstated following an out of court settlement (166) ~~(166)~~ ~~(166)~~

Labour relations heading for yet another turbulent year

Sit times 2/12/90

166

THE COMING year could be tough for labour relations

The strike rate will be at least as high as this year's and wage increases will continue to outpace inflation, say labour consultants.

But the Sacaola-Cosatu-Nactu (SCN) accord could provide a forum for management and labour to find common ground on critical issues, such as housing, education and health

The 4-million mandays lost to industrial action this year were largely due to widespread strikes in the public service — including walk-outs by hospital, school and municipal employees

The retail and hotel sectors also accounted for a major part of lost mandays. The OK Bazaars, Checkers and Southern Sun strikes were among the worst

Upward

Wage issues were central to these strikes, and 71% of all mandays lost in the year were related to pay

Political flux, giving rise to heightened worker expectations, and high inflation are believed to be the major causes of the rising strike rate.

Experts say these causes are still present, if not increasing. So the strike rate will at least be maintained

Andrew Levy Associates consultant Brian Allen says. "Inflation is showing an increasing upward trend and political manoeuvring about the new constitutional structures is only beginning.

"We can expect much the same pattern of strike action in 1991 as we experienced in 1990."

Wage increases were been consistently above the inflation rate in the 1980s. This year the trend was maintained — increases averaged 17,4%

FSA-Contact consultant Mike Beaumont says that in 1991 the average pay increase is likely to exceed the rate of inflation because worker expectations and determination to

By ADRIAN HERSCH, human resources consultant



ADRIAN HERSCH Tough year ahead achieve more income will remain high.

But there could be a wider range in the settlements for the first time

"In some instances, where companies are really battling, increases could be as low as 11%"

Job security is now a feature of bargaining.

Levy Associates Pat Stone says most negotiations are accompanied by demands for job guarantees and minimum severance benefits, and a ban on temporary and casual labour.

Tens of thousands of jobs were lost this year. The mining industry was particularly hard hit. The chances of a national strike in the industry were thus remote.

The Chamber of Mines and the National Union of Mineworkers (NUM) settled for an average increase of 16,5%

Workers voted in favour of a strike

in the metal industry, but it did not materialise.

The National Union of Metal Workers of SA (Numsa), the major union involved, said a strike had the potential to aggravate violence in the townships.

But the increases, ranging between 15% and 19%, are regarded by many as reasonable. The union probably agrees.

The agreement between the Manpower Department, the National Manpower Commission, Saccola, Cosatu and Nactu over the Labour Relations Act (LRA) is expected to defuse tensions in industrial relations

Testing

A Bill reflecting the agreement will be put before Parliament in early 1991

One of the major changes to the LRA will be replacement of the unfair labour practice definition by one almost the same as that in force before the 1988 amendments

Mr Beaumont says the forum established by Saccola, Cosatu and Nactu offers hope for further discussion on issues beyond labour legislation. This potentially includes housing, education, job creation, small-business development and health care.

But the unions face a testing time. The Mercedes-Benz strike highlighted the problem of lack of worker solidarity. A minority of union members were against central bargaining, believing they could get a better deal for themselves through negotiations at the plant

Appeals from union officials went unheeded

Mr Beaumont says the question of union alignment with political parties could prove to be a major issue in 1991. If not handled carefully it could lead to splits in some unions

LRA clauses on farm labour 'to be dropped'

166
MATTHEW CURTIN

THE National Manpower Commission (NMC) was set to shelve clauses which include agri-industrial workers in the new labour relations legislation due for promulgation in the first 1991 parliamentary session, it was claimed at the weekend.

Farm Workers' Research and Resource Project (FRRP) co-ordinator Andrew Ball said the FRRP as well as Cosatu and the Food and Allied Workers' Union (Fawu), were concerned the clauses, part of the Saccola/Cosatu/Nactu accord, had been "squashed" after SA Agricultural Union representations to the NMC. 6/04/91

These workers now had "no guarantee" they would be covered by new legislation.

The FRRP was concerned the discrepancies in conditions between industrial workers and so-called agri-business workers in areas like forestry would be perpetuated. Ball said unionised workers in companies like Sappi, Mondi and Hans Merensky earned an average of R850 a month compared to their counterparts working in timber growing, classed as agricultural workers, who earned only R280 a month.

SAAU deputy director, general services, Kobus Kleynhans said there were several problems about the inclusion of agri-industrial workers in the new amendments to the Labour Relations Act (LRA). There was no succinct definition of these workers, and as Manpower Minister Eli Louw had instructed the NMC to compile a report on the possible application of the LRA to farm workers by the end of April, the SAAU felt there was no need to rush through clauses concerning agri-industrial workers.

NMC member Adolph Landman said last week the inclusion of agri-industrial workers in terms of the amended LRA had been postponed pending the NMC's report on all farmworkers.

NMC acting chairman Frans Barker said there were practical problems in extending the LRA to farm workers.

The NMC remained committed to its task of investigating how the Unemployment Insurance Fund and the Basic Conditions of Employment Act would be extended to farm workers, and whether the LRA and Wage Act should be extended.

By CHIARA CARTER

THE crunch in annual wage negotiations in the Cape cotton industry is likely to occur within the next week.

According to Sactwu national organiser, Mr John Eagles, the union expects employers to table their final offers within the next week.

Sactwu itself is finalising activities to highlight living wage demands in the indus-

Wage crunch looms in cotton industry

try.

Already four disputes have been declared — two by employers and two by the union.

"We anticipate tough sessions. Employers' offers have so far been in the R20 to R30-a-week range. This

is not near the bottom line demand of workers," Eagles said.

A key demand put forward by the union is the re-establishment of a central bargaining forum.

The Industrial Council for the Cotton Textile Manufacturing Industry (Cape Province) was formally dissolved earlier this year following the withdrawal of major employers, including Barlow Rand subsidiaries, from the employer forum.

This year's negotiations are being conducted at plant level at about 19 different companies in the Cape Peninsula and Boland.

According to Eagles, the union has formed a negotiating council to coordinate negotiations so that employers face uniform demands.

The union has adopted a hardline approach on non-union members and is demanding that employers implement lower increases for workers who do not belong to the union.

"The industry is highly unionised, with more than 90 percent of workers union members. We are adopting an extreme view on freeters. We hope that they will decide to enter the union," Eagle said.

Other demands include proclaiming Sharpville Day as a paid holiday and standardising benefits in the industry.

While the implementation date for the agreement is January 1, Eagles said Sactwu was prepared to continue negotiations in the new year if necessary.

Civil servants code

A WIDE range of public sector employee organisations met with the Commission for Administration in Pretoria last week and agreed on an interim labour relations code for public servants who are excluded from the Labour Relations Act.

The historic meeting agreed existing labour legislation in the public service is "inadequate" and employees should be involved in drawing up a new system which would include the entire public sector.

The meeting set up a collective bargaining mechanism which will meet in January next year.

Breakthrough in public service

W/Mail 7/12-13/12/90

ELEVEN unions and staff associations representing 300 000 workers laid the foundations for a new labour deal in the public service in trailblazing talks with the Commission for Administration last week.

In a key development, the employee bodies — including the largely white Public Servants Association and emergent black unions such as Cosatu's National Education, Health and Allied Workers' Union (Nehawu) — forged a united front at the talks and made common demands.

These included interim labour rights for unions such as Nehawu and unrecognised staff bodies. The Public Service Act makes no provision for union recognition or formal collective bargaining.

Nehawu general secretary Sisa Njikelana said the talks signalled "a major breakthrough in building union rights in the public service, which we have been denied. It's clear now that we're making headway".

The commission has fought shy of the Saccola forum on the Labour Relations Act. But a state sector strike wave and consistent Cosatu pressure for the inclusion of state workers in the LRA has

Unity among staff associations and unions at recent talks heralded a breakthrough for workers' rights in the public service, reports **DREW FORREST**

persuaded the government of the need for a new deal, and separate negotiations for public service unions were offered as a compromise earlier this year.

In the LRA "minute" signed by government, employers and the unions, Cosatu effectively agreed to shelve its demand for the immediate extension of the LRA to the public service and to use the alternative forum offered.

Last week's talks aimed to set the terms of, and criteria for participation in, a formal forum for negotiations. This will meet for the first time from January 28 to 30 next year.

Tough criteria applied by the commission to last week's talks led to the exclusion of Nactu's National Union of Public Service Workers and SA Black Municipal and Allied Workers' Union, on grounds that they have members outside the public service.

After pressure from the union-staff association front, employers accepted new criteria which should allow Nactu to participate. These, it is reliably un-



Nehawu's Sisa Njikelana... we have more to gain through a united front

derstood, will admit unions with 1 000 verified public service members which submit their constitutions.

The interim labour rights agreed to by the commission will provide a vital leg-up for unions such as Nehawu and the Health Workers' Union, which have been battling for recognition. They include:

- A commission pledge to urge departmental heads to give representative unions workplace access and the right to represent workers, where "reasonable requests" are forwarded.

- An invitation to submit wage proposals for the 1991/2 financial year — only recognised associations have pre-

viously had this right. The commission has agreed to continue granting this right until a formal bargaining forum is established.

- Access to the same information the commission gives to recognised bodies. At departmental level access to information has to be approved by the relevant head of department.

The commission will also urge the Treasury to grant stop-orders for the collection of dues "where some form of formal relationship exists between the department and the staff association/union".

These rights were of particular significance for Nehawu in departments such as development aid, agriculture, education and water affairs, where the union had made inroads, Njikelana said.

In a joint statement, the employee bodies said they believed the negotiating forum should be broadened to include the public sector as a whole "with a view to consolidating the labour relations dispensation in the public sector".

In a summary of decisions taken at last week's talks, which have been acquired by *The Weekly Mail*, the following topics are proposed for discussion next year: criteria and scope of recognition, collective bargaining structures, the bargaining process, the bargaining unit and levels of bargaining, dispute procedures, unfair labour practices and legislation.

The forum will have to decide whether the Public Service Act or the LRA should govern public service labour relations, and, if the LRA applies, whether the sector should be covered by a separate chapter of the Act.

Njikelana said the union/staff association front flowed from a recognition "that we have more to gain by coordinated activity than by bickering".

However, given the sharp contrasts in political and operating styles, the front's long-term viability seems doubtful. Conservative staff bodies allegedly urged the state president not to enact the Saccola accord earlier this year. There are also membership battles. Nehawu, for example, is in conflict with Hospersa, a black hospital worker body widely seen as a "sweetheart union".

Parliamentary committee insists on changes to LRA amendments

By DREW FORREST

THE parliamentary joint standing committee on manpower has demanded changes to Labour Relations Act amendments planned for early next year, it was revealed this week.

Sources said the "critical core" of legislation agreed between employers, the Manpower Department and Cosatu/Nactu in the LRA "minute" would remain intact, and that the unions could probably live with the changes. Cosatu and Nactu could not be contacted.

In what was effectively the first reading of the Bill, the standing committee insisted that the proposed notice period for strike interdicts should not apply to essential services.

W/M on 7/12 - 13/12/90
The unions originally proposed a 72-hour period to enable them to respond in court.

The sources pointed out that the original proposal would have enabled unions to maintain essential service strikes, which are unlawful, without fear of interdict for the prescribed period.

"Essential services" are very widely defined in current law.

They also said the committee had extended proposed time limits in official dispute procedures.

The disclosure follows a National Manpower Commission (NMC) recommendation that the Bill should not extend LRA rights to undertakings in

agriculture. *(166)*

As a sop to the unions, which want all farmworkers covered, the LRA minute asked the NMC to investigate the interim inclusion of agri-industry. Government has made no final decision, it is understood, but seems certain to follow the NMC lead.

Insiders said business interests on the NMC were overwhelmingly in favour of dealing with all farmworkers together. The commission must report to government on the farming sector as a whole by next April.

It is believed that a split recommendation has gone to government, with Cosatu, which sits on the NMC's farmworker sub-committee, dissenting

WORKER DEMANDS SET TO INTENSIFY IN 1991

CIP news 16/12/90
LABOUR relations in 1991 were set to be dominated by union demands for job security and added momentum to Cosatu's Living Wage Campaign, according to a leading Johannesburg industrial relations consultancy.

The first half of this year saw an unprecedented increase in strikes, with just over four million mandays lost by the end of year, consultants Andrew Levy, Johan Piron and Associates said in their draft 1990/1 report. (166)

In 1989 just over 3,09 million mandays were lost and the past year saw a "dramatic" 23 percent hike in strikes in the public sector.

Political instability and economic pressure were the major factors contributing to union growth and heightened worker militancy - both of which existed in "high measure" in 1990.

Debate in Cosatu on a workers' charter to be included in a post-apartheid constitution had reached an advanced stage, although there were some "fundamental disagreements" on its content.

The major wage debate in trade union circles was whether a future government should legislate a minimum rate of pay, or whether market forces should be allowed to fill this function.

A white worker backlash could be expected as predominantly black-based unions blocked unilateral management changes in industrial relations.

White trade unions would also grow in the coming year.

Unemployment was unlikely to drop, causing unions to be less willing to discuss productivity and profitability at the expense of jobs. Pressure for the redistribution of wealth would continue.

The enactment of the current Labour Relations Bill in early 1991 would probably be met with demands for further modifications.

Unions party to the landmark Cosatu/Nactu-/Saccola accord would "vigorously" campaign for the LRA to be extended to cover public sector, agricultural and domestic workers.

Privatisation in the public and industrial sectors was likely to be opposed by unions in alliance with the ANC and other "progressive forces".

The State and smaller business sectors would be targetted in union recruitment drives.

Cosatu and its affiliates would continue to push hard for centralised bargaining and centralised social security benefits - resulting in a shift from "plant-based to an industry-based consciousness".

Demands for union inclusion on decisions regarding reduction in permanent workforce levels had shown the emphasis shifting from the protection of workers to the protection of jobs themselves.

Unions were shifting to a "pro-active" strategy by including job security issues in wage bargaining time.

Other sectors also had to address the pivotal question of job creation in a bid to soften the retrenchment blow.

Cosatu's Living Wage Campaign, which set a basic monthly rate of R750 in 1990, was poised to gain momentum. Unions would demand more pay with less work, partly in a bid to preserve jobs. - Sapa

LABOUR relations in 1991 are to be dominated by union demands for job security and added momentum to Cosatu's Living Wage Campaign, according to a leading Johannesburg industrial relations consultant.

The first half of this year saw an unprecedented increase in strikes, with days and days lost by the end of year, consultants Andrew Levy, Johan Piron and Associates said in their draft 1990/1 report.

Labour demands in the New Year

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On retracements, the agreement between the National Union of Mineworkers and Anglo American subsidiary Freegold South would set a precedent in the economically hard-hit mining industry.

The past year saw a "dramatic" 23 percent hike in strikes in the public sector.

Political instability and economic pressure were the major factors contributing to union growth and heightened worker militancy - both of which existed in "high measure" in 1990. Unions would continue to fight for workers' rights instead of general political rights.

Debate in Cosatu on a workers' charter to be included in a post-apartheid constitution had reached an advanced stage, although there were some "fundamental disagreements" in its content.

Debate

The major wage debate in trade union circles was whether a future government should legislate a minimum rate of pay, or market forces should be allowed to fill this function.

A white worker backlash could be expected as predominantly black unions blocked unilateral

management changes in industrial relations. While trade unions would also grow in the coming year, unemployment was unlikely to drop, causing unions to be less willing to discuss productivity and profitability at the expense of jobs. Pressure for the redistribution of wealth would continue.

The enactment of the current Labour Relations Bill in early 1991 would probably be met with demands for further modifications, particularly that the law be returned to the pre-September 1988 dispensation.

Unions party to the landmark Cosatu/Nacu/Saccola accord would "vigorously" campaign

Business

The State and smaller business sectors would be targeted in union recruitment drives.

Cosatu and its affiliates would continue to push hard for centralised bargaining and centralised social security benefits, with a concomitant shift from "plant-based to an

industry-based consciousness."

Other sectors also had to address the pivotal question of job creation in a bid to soften the re-trenchment blow. - Sapa.

Send for 1 311 2190

CAP: T1475 19/12/90

Farm workers to get labour rights

Own Correspondent

JOHANNESBURG — Recommendations by the National Manpower Commission (NMC) that rights enjoyed by workers in other industries be extended to farmworkers will be gazetted on Friday, the Manpower Department confirmed yesterday

Department spokesman Mr Joggie Kastner said the NMC's recommendations centred on labour rights such as unemployment benefits, maximum working

hours, overtime, vacation leave, the right to form unions and the right to strike

He added that his department was giving all interested parties until February 1 next year to comment on the recommendations before an amendment bill was drafted

"After an amendment bill has been drafted it will be published in the Government Gazette to enable all interested parties to comment before it is taken to the cabinet for consideration," Mr Kastner said

He added that the bill would be in the 1991 parliamentary session and had been approved by the cabinet

The NMC was instructed by Minister Mr Eli Louw early last year to investigate the extension of conditions of Employment, Unemployment Insurance and Labour Relations to farmworkers

In terms of his agreement with Mr Nactu and Saccola in September, Mr Louw undertook to examine the question of extending union and other rights to farmworkers

Doubts over farm labour suggestions

166

TRADE unions yesterday expressed reservations about the National Manpower Commission's (NMC's) recommendation that farmworkers not be granted the right to organise themselves in terms of the Labour Relations Act (LRA).

The Food and Allied Workers' Union (Fawu) — the Cosatu affiliate charged with mobilising farmworkers — and the National Union of Farmworkers (NUF) both cautiously welcomed NMC recommendations that basic working conditions and unemployment benefit requirements be extended to farmworkers.

Fawu assistant general secretary Mike Madlala said the NMC's recommendations were "a step in the right direction". But he warned that as long as farmworkers were without the "organisational protection" afforded industrial workers in terms of the LRA, the new provisions were no guarantee that farmworkers' conditions would improve.

Madlala said it had taken the establishment

MATTHEW CURTIN

of black trade unions to ensure industrial workers' rights were observed even though the Basic Conditions of Employment Act (BCEA) and Unemployment Insurance Act (UIA) existed.

NUF general secretary Shaka Moleisana said the recommendations — to be gazetted tomorrow — constituted progress. But the union, which he said had a paid-up membership of about 6 000 farmworkers, was concerned that the NMC had recommended agri-industry workers be excluded from the amendments to the LRA. *Business Day 20/12/90*

Under the BCEA, SA's 1,4-million farmworkers will have statutory maximum weekly and daily working hours, prescribed meal intervals, overtime pay, annual and sick leave, and contractual protection.

When covered by the UIA, farmworkers will enjoy unemployment, maternity, illness, adoption and health benefits accruing to dependants of deceased contributors. Farmworkers and

their employers will contribute to the Unemployment Insurance Fund.

Once the Manpower Department has scrutinised comments on the recommendations, it will submit draft legislation for Cabinet approval.

However, Manpower Department acting director-general Joggie Kastner noted yesterday that despite the NMC recommendations, farmworkers would still be without the legal right to strike or join trade unions, and would enjoy no minimum wage provision.

The NMC was expected to report early next year on whether the LRA and Wage Act should be extended to all farmworkers. The NMC would propose that workers on farming units employing more than 100 staff be covered by the new labour legislation, and that agri-industry workers be included with all farmworkers in new legislation likely to be passed in 1992.

Business Day incorrectly reported yesterday that the NMC had recommended that the LRA be extended to include farmworkers

Recognition for Labour's power

Winnifred 20/12/90 - 10/1/91

UNIONS
DREW FOREST

A YEAR ago it would have been unthinkable employers and black union chiefs making common cause before a standing committee of the South African parliament

attempts to clip the wings of the unions, seemed very far away

The date is October 26, the occasion joint representations by the Congress of South African Trade Unions (Cosatu), the National Council of Trade Unions (Nactu) and the employer body Saccola on planned amendments to the Labour Relations Act (LRA)

Cosatu's decision to engage with the NMC, an advisory body which works closely with the Manpower Department, is strategic, selective and highly conditional Demands for the inclusion of farmworkers in the LRA were held

This "crowning accomplishment", as one employer described it, highlights the emergence of a new style of political unionism — a shift from the politics of opposition and protest to the exercise of real power in state structures

From the side of the government, it makes it more representative — a Cosatu demand — could foreshadow a "National Labour Council", in which unions, employers and the government

full flowering may only come in a post-apartheid South Africa, it heralds the dawn of a new tripartism between labour, capital and state on social policy

"We're beginning to see new union politics, combining strategic thinking towards the state with successful mass action," commented Wits sociology professor Eddie Webster "The institutional power of labour is being recognised, not only at the economic level but in politics and society"

The breakthrough pace of development has been largely driven by an internal logic — there is no evidence of a union masterplan But February 2 gave the process a decisive fillip

Barely a month after President FW de Klerk's speech to parliament, and after two years of grueling talks, Cosatu, Nactu and Saccola clinched the "Saccola Accord", essentially rolling back the 1988 amendments to the LRA

The next step was to get the deal enacted, requiring engagement with the state With this in mind, the unions met Manpower Minister Eli Louw, and when the cabinet refused to enact the deal in June, held talks with De Klerk

His appointment of a three-cornered "working party" to break the impasse led in September to a second major breakthrough — the LRA "minute", which committed the government to enacting the heart of the Saccola agreement and the unions to the dropping of mass protests and participation in the National Manpower Commission (NMC)

The State of Emergency, with its detention of unionists and legislative attention of unions and legislative at-

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of embryonic pact-formation, and it is a process which is clearly at work at industry level, particularly in mining and engineering

This year's Metal Industrial Council agreement is significantly wider than mere wage contract, covering such areas as training and job creation On the times, industry-level talks on issues such as violence and race discrimination suggest a newfound employer acceptance of a "social union role"

An intriguing article in the annual report of Andrew Levy and Associates detects important differences of emphasis in union thinking — broadly labelled "nationalist" and "workerist" on the issue of a "social contract"

"Nationalists" are more resistant to significant short-term compromise arguing that this can only happen through majority rule But political transition could bring a "relatively startling change of heart" It is only a partial overstatement to suggest that they might be very fierce lions until majority rule, lambs after it, the article comments

In a startling diplomatic coup in May, signalling the emergence of a conditional IL O line on South Africa, NMC officials joined Saccola, Cosatu and Nactu at an IL O-sponsored workshop on labour law in Harare And in September, Louw was quick to follow up the LRA "minute" by seeking a personal audience with the IL O's Geneva-based director-general

Without Cosatu's endorsement, the Harare workshop could not have happened — in effect, the federation conceded some international credibility to the state and employers in its quest for acceptable law

A similar tactical flexibility has been evident throughout the year Although Mercedes Benz sit-in, the latter throwing into harsh relief the alienation of ordinary members from union leaders At the same time, the Saccola leaders are known to have struggled with mandates for the LRA accord

For the unions, Thompson foresees a twofold conflict on the one hand between constitutionalists and hardliners who still cling to revolutionary fantasies, and on the other between leaders and rank-and-file, "who have a different experience and have yet to taste the fruits of pact-formation"

The challenge of the Nines is essentially the same on the labour and political terrains to what extent can organisations committed to peaceful solutions curtail their consciences?

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Unions cool on farmhands' deal

Opp. Times 20/12/90 Own Correspondent (166)

JOHANNESBURG — Trade unions yesterday expressed reservations over the National Manpower Commission's (NMC's) recommendation that farmworkers not be granted the right to organise themselves in terms of the Labour Relations Act (LRA).

The Food and Allied Workers' Union (Fawu) and the National Union of Farmworkers (NUF) both cautiously welcomed NMC recommendations that basic working conditions and unemployment benefit requirements be extended to farmworkers.

The Fawu said the recommendations were "a step in the right direction", but as long as farmworkers were without the "organisational protection" afforded to industrial workers, the new provisions were no guarantee their conditions would improve.

Under the Basic Conditions of Employment Act (BCEA), SA's 1,4 million farmworkers will have statutory maximum working hours, prescribed meal intervals, overtime pay, annual and sick leave, and contractual protection.

Once the Manpower Department has scrutinised comments on the recommendations, it will submit draft legislation for cabinet approval.

The NMC is expected to report early next year on extending the LRA and Wage Act to farmworkers.

Comment on impact of Acts sought

Staff Reporter SKW 24/12/90

National Manpower Commission (NMC) acting chairman Dr Frans Barker has invited submissions regarding applications of the Labour Relations Act (LRA) and the Wage Act to farm workers.

This follows instructions by Manpower Minister Eli Louw to the NMC in June to investigate, report on and make recommendations in regard to expediency of the LRA and Wage Act as applicable to farm employees.

The NMC should report to the Minister before the end of April, Dr Barker said.

Farm workers are at present excluded from collective-bargaining structures and the dispute-settling mechanisms of the LRA.

This implies that the industrial court has no jurisdiction over farm workers and that the term "unfair labour practice" does not apply to them.

In addition, farm workers may not strike legally.

Dr Barker said the NMC had not yet formulated a point of view regarding the Acts, and the invitation for submissions was to guide the NMC in this regard.

"The NMC has already made certain recommendations to the Minister regarding the Basic Conditions of Employment Act of 1983, the Unemployment Insurance Act of 1966, and agri-industries. The Department of Manpower is publishing these recommendations simultaneously for comment," he said.

The NMC had constituted, as part of its investigation, a farm workers' committee that represented employer and employee organisations involved in agriculture as well as various legal representatives, he added.

Dr Barker said the committee had compiled a working document that contained background information and alternative approaches regarding the possible application of these Acts to the agricultural sector.

Labour relations issues lead the field in national negotiations

AMID all the talk about talks in 1990, it was in the field of labour relations that national negotiations reaped the most rewards.

Not that the industrial relations arena was without strife during 1990. There were bitter strikes, prolonged plant closures and violence threatened to wreak havoc, and often did, with company operations and union organisation.

But the Cabinet's decision on September 20 to approve the 18-point labour relations "minute" — the go-ahead for the promulgation of amendments to the Labour Relations Act (LRA) in the first session of Parliament next year — was a breakthrough for industrial relations.

Hiccoughs

Manpower Minister Eli Louw hailed the decision "as a milestone on the road to achieving internationally acceptable labour legislation", and his comments were echoed by labour lawyers, Cosatu, Saccola and Nactu.

The accord represented unprecedented co-operation between the state, capital and labour. It is perhaps the start of a labour regime, the kind which SA labour experts admire in Germany, the Netherlands and Sweden.

The consensus on LRA amendments was not achieved without serious hiccoughs. The Manpower Ministry narrowly staved off a mass protest campaign by Cosatu set for October as

MATTHEW CURTIN

problems were solved. This was after President F W de Klerk had said in June government would not be able to promulgate the amendments this year as originally intended.

The working party he commissioned involving employers, unions and the National Manpower Commission (NMC) provided the goods in the end, with the bonus of Cosatu's decision to rejoin a reconstituted and revitalised NMC. The minute included an in-principle commitment to bargaining rights for all workers and laid out the processes by which the principle would be implemented regarding the public sector, farm and domestic workers.

Cosatu's Geoff Schreiner said in November that while the changes to the LRA were significant, unions had only the freedom to strike, and without the right to strike they were effectively reduced to "collective begging".

His comments were a sign of the debate in Cosatu on a workers' charter and labour's determination to play an integral role in constitutional talks.

In debating some of the thornier issues unions faced within their own constituency, the SA Clothing Textile and Allied Workers' Union led those questioning the practicality of Cosatu's long-standing commitment to a national minimum wage, an issue on which the federation is still to take a definitive stand. Sactwu union said industry-wide

minimums were desirable; an obligatory wage of R700 a month could bankrupt the textile industry.

Commenting on the outcome of the workers' charter conference in November, Cosatu general secretary Jay Naidoo said delegates agreed on the principle of freedom of association but also resolved the closed shop was an acceptable form of union activity "provided it was democratic".

Unions agreed on issues such as the right to strike free from interdicts, to participation in all state structures in the interests of members, and the right to take part in economic planning.

Package

Other developments showed the convergence of employer and worker opinion with Anglo American and the National Union of Mineworkers setting the pace with a series of agreements addressing critical issues in the mining industry.

In early December they signed a retrenchment agreement at Anglo's Freegold South mine designed to minimise job losses in an industry hit by rising costs, falling ore grades and a low gold price. The package not only saved about 5 000 jobs through miners accepting extended unpaid leave periods but demonstrated Anglo's appreciation of growing union concern for job security, and the NUM's appreciation of commercial strictures facing gold mining.

Stayaways: Court in crossfire

CAP T 1/15
27/12/90
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DURBAN — The Industrial Court is caught up in a complex tangle of political sympathy and industrial responsibility in reviewing the dismissal of workers involved in political stayaways, says Natal University lecturer D Grant

Writing in a recent issue of the Industrial Law Journal, Grant said political stayaways had become a popular and effective tool for disenfranchised South Africans to convey their dissatisfaction with state policies and to bring political demands to the fore

"The need to find new forms of political expression has not left the industrial arena untouched and in the recent past the workplace has become a crucial outlet for political protest.

"Apart from the economic costs, political stayaways may frustrate employers and lead to worsening relations between the employer and participating employees"

Grant said that while expressing sympathy for the plight of the disenfranchised, the court had at times disapproved of this form of political protest, but had shown also a reluctance to condone the dismissal of workers caught up in political unrest

He referred to a number of Industrial Court decisions where the court had taken into consideration workers' fears for their own safety in deciding whether or not to take part in a stayaway

"This approach recognises that the stayaway is not an act of deliberate absenteeism on the part of the individual employee," Grant said

"The stayaway is a collective action over which the individual employee has very little control

"Employees who wish to work, or do not support the call for the stayaway, may be prevented from doing so by tension in the township in which they live and the possibility of intimidation"

Most employers, he said, had learned to accept the inevitability of political stayaways and had introduced a number of strategies to deal with them

These included the principle of no work, no pay, the buying of days where an employee had to work on specified days to compensate for days absent, and recognition of established stayaways, such as June 16, as paid holidays

Dismissal, Grant said, was the most drastic response to political stayaways

The court, in exercising its discretionary power to grant reinstatement, had to take into account all relevant factors

These factors included the length of service of the employee and his/her employment prospects

Grant said that the courts, when first faced with the dismissal of participants in stayaways, had tended to evade the substantive question of the legitimacy or legality of the stayaway and based their decisions on procedural aspects or mitigating factors

"Political stayaways will remain a feature of SA labour relations in this period of political uncertainty and unrest," he said

Recent industrial court decisions had recognised that the political aspects of employees' lives could not be disregarded

"The ultimate solution has to be a political one," said Grant.

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Change round the corner on the country's farms

Star 27/12/90 (166)

New eras are not always heralded by long periods of preparation. Sometimes they are inclined to creep in noiselessly, and occasionally quite suddenly. Understandably, it has therefore, taken most of South Africa's 60 000 white farmers some time to accept that their traditional relationship with their farm workers is about to undergo an irreversible change. And many of them are worried about the possible consequences.

The enormous pressure brought to bear on the Government by trade unions and other organisations for the extension of all labour laws to agriculture appears to have succeeded. It is now in the bag that several of the relevant Acts are to undergo this extension during the 1991 sessions of Parliament. Most farmers fear that the implementation of the modifications proposed will not only further imperil their already precarious existence but also

the livelihood of their workers, numbering with their families at well over 5 million people. One of the main Acts in contention is the Labour Relations Act, the consolidation of which it is a foregone conclusion, will make provision for the inclusion of farm labourers.

Farmers on the whole are not in principle opposed to trade unions, but they argue that, unlike commerce, industry and mining, farming is a business almost totally dependent on seasons and the weather. It cannot be switched off temporarily when subjected to a strike or go-slow or stayaway action, and switched on again when disagreements have been settled.

If such action, for instance, were launched at a critical production phase, such as planting

a crop after the first rains or harvesting fields of ripe wheat, a whole season's efforts may be wiped out in a matter of days. The farmer may face insolvency, in which event all his workers could become unemployed with a disastrous ripple effect on their families. A case in point is the recent four-month strike by 1 200 citrus workers at the Zebediela Estate. Admittedly this is an isolated case and the estate, one of the biggest citrus-growing enterprises in the world, has been able to survive it, but you can imagine the consequences if similar actions were to be taken on the average maize, wheat or fruit farm. It could simply end in a no-winners all-losers situation.

The other labour laws of relevance are the Basic Conditions of Employment Act, the Unemployment Insurance Act and the

no legal protection against exploitation simply seek sensation and they do not care for the real interests of these workers who, in fact, are fully protected by the common law, which prevails over all other laws. "The Wage Act that determines minimum wages is unacceptable to agriculture. It negates all the principles of a free economic system, and I simply cannot see how it can be applied to farming."

"The Labour Relations Act, catering for commerce and industry, totally ignores the complexity and different nature of primary agriculture. "Claims by trade unions that they speak on behalf of farm workers are preposterous. In the past three years the Farm Workers Union has succeeded in recruiting only 707 members on farms. Attempts to enforce this Act in agriculture will be



Agricultural correspondent GEORGE NICHOLAS examines how impending changes to the Labour Relations Act could affect farmer-worker relations in the farming industry.

Wage Act. Their application to agriculture will involve some practical problems. Among prominent agriculturalists who have expressed strong views on various aspects of the entire farm-labour legislation issue is outspoken Chris du Toit, who farms just outside Paarl. "There are few countries

today in which farm workers are grouped with all other workers and subjected to all labour laws," he says. "Throughout the world, recognition is given in statutory labour legislation to the uniqueness of agriculture as an employer. "People in South Africa who claim that farm workers have

liams of Eshowe, agrees. He takes pains to emphasise that formal labour-relations legislation needs sensitive handling so as not to disrupt the harmony which exists between the farmer and farm employees. "Some years ago the Natal Agricultural Union issued a document to guide farmers on the road to good labour management practices," he says. "Those farmers who have applied the principles outlined will find any transition painless, but those who have done nothing may suddenly find themselves faced by unrest and dissatisfaction. Fortunately there are not many of them."

Mr. Williams says farmers do not wish to see the introduction of any legislation, such as the Unemployment Insurance Act, that increases the paperwork burden on the farm and in the civil service, especially at a time when the Government is facing financial constraints due to the social demands of the new South Africa.

Precious

This policy, adhered to through many years throughout the country and in the absence of legislation, has resulted in excellent labour relations on the farm. This precious relationship should not now be undermined by political and other actions, Mr Erasmus says. A Natal farmer, Dave Wil-

liams of Eshowe, agrees. He takes pains to emphasise that formal labour-relations legislation needs sensitive handling so as not to disrupt the harmony which exists between the farmer and farm employees. "Some years ago the Natal Agricultural Union issued a document to guide farmers on the road to good labour management practices," he says. "Those farmers who have applied the principles outlined will find any transition painless, but those who have done nothing may suddenly find themselves faced by unrest and dissatisfaction. Fortunately there are not many of them."

LABOUR LEGISLATION

1991

Farm labour law debate carries on

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MATTHEW CURTIN

FARMWORKERS and farming communities stand only to lose from being included in the provisions of labour legislation, argue some members of the National Manpower Commission (NMC) committee investigating the expediency of making the legislation applicable to farmworkers.

Satisfactory informal and formal provisions existed for ensuring the welfare of farmworkers, and the Labour Relations Act (LRA) and Wage Act were not suitable statutes for improving the farmworkers' position.

In a recent Government Gazette, the NMC set out arguments for and against the inclusion of farmworkers in terms of the two Acts.

The views represented those of committee members, and not the commission itself, which includes SA Agricultural Union and Cosatu representatives. Each made its respective concern at and support for the extension of the legislation to agriculture clear last year.

Extending the two Acts would entrench farmworkers' rights to union organisation, give protection against unfair labour practices and set statutory minimum wages. Those on the NMC committee opposed to this said the move would undermine existing farmworkers' fringe benefits, promote unemployment and disrupt farming communities through strike action.

They argued agriculture was an "essential service" on a par with electricity and sanitary services, the disruption of which could "not be allowed".

The present system of industrial councils and industrial courts would be unable to cope with the strain of accommodating an influx of 1.4-million new workers.

They submitted the "traditionally close personal relationship" between farmers and their employees and common law provisions were already adequate guarantee of farmworkers' rights.

Proponents of extending the LRA and Wage Act argued that farmworkers were denied "access to the advantages that go with statutory recognition".

Trade union organisation in agriculture was far advanced regardless of the legislative provisions. Once extended these would foster greater unionisation and improve employer/employee communication in the sector, the standard of living of farmworkers, and provide mechanisms for addressing the disputes and grievances of farmworkers. These arguments echo the findings of the Wiehahn Commission.

The difficulties facing the NMC in recommending that farmworkers be covered by labour legislation were demonstrated in its failure to achieve a unanimous recommendation with regard to agri-industrial workers, originally scheduled to be included in amendments to the LRA.

The NMC concluded by making alternative recommendations, one of which had majority committee support, the other proposed by Cosatu.

Cosatu argued farming activities employing more than 100 workers which were of an industrial character — canning, forestry, lumber and plantation operations — should be included in the scope of the LRA.

The majority standpoint proposed the status quo be maintained until the NMC had completed its investigation of the extension of the LRA to all farmworkers.

LABOUR

Major resistance likely to new deal for farmworkers

THE extension of fundamental workplace rights to farmworkers was a "definite gain" but was likely to hit major resistance from "unenlightened" farmers, a legal expert and member of the National Manpower Commission's farmworkers' sub-committee warned this week.

Dawie Bosch was commenting on NMC proposals for the extension of the Basic Conditions of Employment Act (BCEA) to agriculture, published for comment last month. Amendments based on the proposals, as well as extending the Unemployment Insurance Act to farms, will be tabled during the coming parliamentary session. They will affect an estimated 65 000 farmers employing 1,3-million workers.

The document is the product of hard bargaining and compromise, largely between the SA Agricultural Union and Cosatu, which sat on the sub-committee. In a unique move aimed at securing Cosatu's involvement in the final report, sub-committee members attended full NMC deliberations and were given voting rights.

Lining up with Cosatu on most issues was Labour Party MP Piet Meyer — the LP, a largely rural party, is clearly shoring up its political interests — and Saccola vice-chairman Bokkie Botha.

Bosch said that by regulating such issues as overtime, public holidays, annual leave, sick leave and notice, the proposals recognised the need to shield farmworkers in their day-to-day work situation. Such rights were historically denied on many farms. Of equal importance was the BCEA's ban on victimisation for union activities, a potential spur to unionisation in a sector notoriously difficult to organise.

Also envisaged is a ban on the employment of children under 12 and tough controls on employment between 12 and 15. This is limited to 90 minutes on a school day or five hours at other times, with written parental permission and if the farmer registers with the Manpower Department.

In the report, Cosatu dissented from this, arguing that the BCEA's general 15-year age limit should also apply on farms. Other key compromises and changes to the current Act included:

- A 48-hour working week, with the possibility of a further four hours by agreement for not more than three months in a year, and a corresponding reduction later in the year.

Protecting farmworkers under the Basic Conditions of Employment Act is a step in the right direction but could meet resistance from farmers, reports **DREW FORREST**

The SAAU argued that the seasonal nature of farming ruled out the BCEA's current 46-hour limit.

- One day's unpaid leave in return for compulsory Sunday work, and double time for more than five hours' work on a Sunday. Sunday work is currently voluntary in terms of the BCEA.

- Reasonable notice for a fired worker on the cancellation of housing or land use rights. These commonly form part of a farming wage package.

- A ban on victimisation of workers who discuss conditions with others or refuse an order in breach of the Act.

The NMC accepted, on Cosatu's urging, that discrimination should also be outlawed, but decided that the issue required further investigation. It was also split on Cosatu's call for a ban on unilateral changes in employment and dismissals in anticipation of new law.

- The payment of piece work at permanent worker rates. This clause was resisted by the SAAU, which argued for regulation by private agreement.

- Civil remedy for breaches of the Act, which currently provides only for prosecution.

- The registration of farm labour contractors. Such registration is only provided for under the LRA.

Isolating defects in the proposals, Bosch stressed that farm labour contractors, often ordinary workers or rural chiefs, tended to be "men of straw" or difficult to trace. Registration needed to be coupled with a cash deposit, to ensure claims could be met. And farmers who used unregistered brokers should themselves be liable — a Cosatu proposal voted down by the NMC.

Bosch also stressed that the effectiveness of any new legislation turned crucially on Manpower Department enforcement. Maximum penalties were small — a R1 000 fine and/or 12 months' jail, or double this in the case of victimisation or child labour abuses — and were rarely imposed.

He added that the proposed civil remedy could be beefed up by "civil fines" for breaches of the Act, in favour of aggrieved workers who otherwise had little to gain by court action.

Soon to be protected ... NMC proposals extend basic workplace rights to farmworkers for the first time

Photo: AFRA

Weekend FOCUS 3

Worshipping the same God but worlds apart

Too often farm labourers are exploited and without a voice to demand a humane deal while their employers reap the benefits of their labour. Now there is a glimmer of hope in the legislation to be tabled in parliament early this year.

Weekend Argus Reporter JOCELYN MAKER toured 170 wine farms of Simondium and De Doorns and found the grinding cycle of hopeless poverty and hunger had become as firmly established as the handsome homesteads.

On Sundays in Simondium the voices of brown and white churchgoers drift across the beautiful landscape in praise of the same God.

This hamlet, eight kilometres south of Paarl, is a place of stark contradictions hidden by neat farmlands, tall trees and stately homes.

For many of the farm labourers who express suppressed emotions in the singing of hymns there is no harmony in this tranquil setting.

While they plead with God to help them endure exploitation and poverty, down the road their "masters" and "basses" give thanks.

The labourers know they must keep their mouths shut about their plight, the pittance they are paid and the appalling conditions in which they live, or they will lose even that.

This fear is a legacy that has been passed down from generation to generation.

The workers see no hope of the "new South Africa" they hear about on the radio. For them this is another promise never to be kept.

Not all the farmers in the area exploit their labourers. Many have made a huge effort to upgrade living conditions, salaries and health.

On the farms that have caring owners, the wellbeing of labourers has improved dramatically. Those who still live in squalor under a "kwaal bass" see the difference and it hurts.

FOR more than 37 years Anna and Gert (not their real names) have worked the same farm. "My children were born in this house. It's

falling to pieces. We never broke anything — it is just so old," says Anna. "I dig in the land, prune vines and am a picker. I work for R40 a week and my husband gets R50. When he first started here he got R3 a week."

"It is my old fingers which look after the vines and pick the grapes that make my master rich. When the wine leaves the farm sometimes one bottle is sold for more than I earn in a week. This makes my heart heavy with pain. Maybe my master does not want to think about this."

"We work from 6am to 6.30pm. It's hard work and when it rains we are not allowed to stop. We have 45 minutes for lunch. The young people can manage but our bones are old and we are very tired."

In the old days, the farmer used to give them bread. The dop system has been done away with.

"Now we get nothing and the little money we earn cannot feed us. Most of us buy our food from the one shop in Simondium but they are so expensive. One tin of condensed milk costs R1.90."

Her old dilapidated three-roomed home is in the middle of a row of others. All are surrounded by squalor. Dirtbins overflow and there is a stench from burning garbage and an open drain in front of the houses.

"The children are always sick. Many have died. The mothers try to keep the flies away from the babies but when their noses run it is difficult. The open-hole toilets stink and the

flies come to this."

For about 150 people there are only two taps and even on cold winter mornings they have to queue.

If only the bass would listen to us. If we were paid more money we would be able to look after ourselves a lot better.

"Something is gone from the hearts of our people. They have become sick with what is happening to them and what they have seen happen to their parents."

"We cannot complain to the bass, he will chase us away. Many times he has promised he will fix our houses but we are still waiting."

A clergyman who begged not to be named for fear that he would not be allowed back to help labourers, said the situation was bleak.

"The labourers work very long hours for very little money. The wages vary from R16 to R40 a week. There is no interaction between parents and their children who have to stay at home alone with no one to feed or look after them properly."

"Alcoholism is rife. Few farmers still have the dop system. Some still give alcohol on Friday nights in exchange for a R5 drop in salary. Labourers' children, some as young as 13, are also working on the lands. The need to help the family financially keeps them out of school."

"If they would stop employing them, the children might have a chance of getting an education. Within a short while of working these youngsters begin drinking as well. The whole vicious circle goes around again."

MANY of the farmers in Simondium are very conservative. For them there is only the old way of treating their workers, yet it has no place in what is happening in our country now.

The exploited workers speak about the "new South Africa" but do not believe it will happen in their lifetime.

"They see one farmer caring for his labourers while another abuses them. They see the poverty they live under and the grand homes farmers live in."

"Sadly it's the same age old story, but when will it stop? Some of the farmers know their workers' children are being fed during the week at school yet they will not pay their parents better wages."

Miss Sandra McAllister, Cape Regional director of Operation Hunger said that all the 630 pupils at the Simondium primary school are being fed by her organisation.

"Fifteen percent of these children have been stunted due to chronic malnutrition. These figures show how bad the situation is."

The clergyman said there are many social problems in Simondium such as child abuse, wife battery, assaults, stabbings and the breakdown of family units.

"I have very many good caring people in the congregation who try (to help) but they are up against problems that cannot be sorted out unless certain farmers upgrade their living conditions and salaries."

"History will continue to repeat itself and the hopelessness will remain."

Bitter Heartbreak Valley

THE sweltering summer heat which hangs over De Doorns plays havoc with the festering sores and infected ears of the township's malnourished children.

When it is bitterly cold and the rain turns the dusty streets into mud pools, the children endure the severe weather and the pain of hunger bites deeper.

For the elderly many of whom have never left the valley, going without food for long periods is a hardship they accept.

In all the years they have worked on nearby farms they have never earned enough to save for their old age. It was impossible they say as they were paid so little.

Now they see the situation repeating itself. They listen as their sons and daughters complain bitterly about their low wages and their exploitation at the hands of some farm owners and employers.

When the elderly queue with the children for a cup of soup from Operation Hunger their hearts break as they watch the trembling little hands hold out mugs, tins, jugs and bottles for their only daily meal.

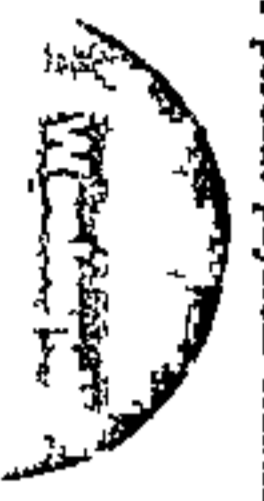
ACCORDING to the Cape regional director of Operation Hunger, Miss Sandra McAllister, there is a very high rate of malnutrition in the valley.

At the F J Conradie Primary School there are 995 children of whom 948 are fed each day by Operation Hunger.

"At this school 20 percent of the children have been stunted in their development. It is a large number and is a very good indicator of a long period of chronic malnutrition.

"At Orchard Primary School, also in De Doorns the situation is worse. This school has 672 children. We provide a daily meal to 650. They have a 35 percent physical stunting rate which is extremely serious.

A church group that is helping the community save life in the township is at an all time low.



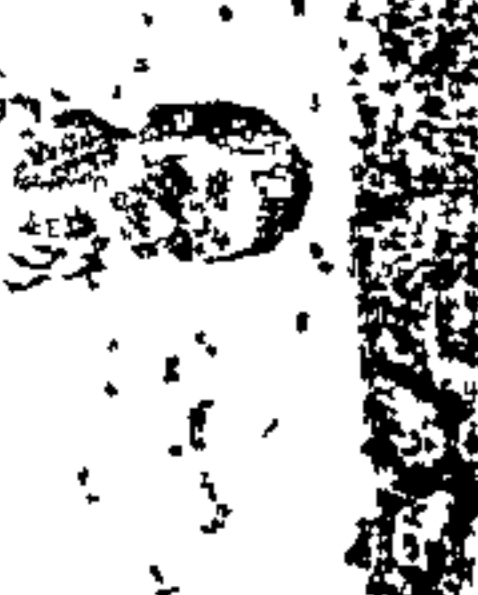
Right: Dompie's pus-encrusted ear which drives



Pictures: JOCELYN MAKER

Below: He refused to speak, the pain of deprivation is etched on his small face.

Friends said his father had left him and all he gets to eat is a cup of soup which Operation Hunger provides every day in the township of De Doorns.



A church group that is helping the community save life in the township is at an 21-time low.

We will speak about what is happening but cannot allow our names to be used or that of our church a spokesman said.

It's a sensitive situation. The farmers and the white community across the railway line will label us as troublemakers and this will hamper our work.

The spokesman said the main problem was unemployment, followed closely by the low wages paid to workers.

Some of the community work for the municipality. They clean the streets and toilets and do other menial jobs for which they earn up to R35 a week.

Others who work for Spoornet are luckier. They earn between R400 to R600 a month.

"Many of the mothers are domestic servants who get about R35 a week. They work from 6am to 7pm. Often these women are the only breadwinners in a family or their husbands work only during the picking season from October to May.

"The whites of De Doorns are mainly very conservative and treat their workers as if we were still living in the Dark Ages," the church spokesman said.

THIS week the trial of a De Doorns farm manager who allegedly assaulted a labourer, leaving him partly deaf, was postponed to January 30 after a preliminary hearing in the Worcester Magistrates court.

No charges have been put to Mr Jacobus Lourens, 48, of the farm Immanuel Orchard.

According to the church spokesman physical assault on labourers is common in the area, but most of the workers who are beaten refuse to come forward as they know they will never find employment in the area again.

"It's a never ending problem. The unemployed are trapped. Family units are breaking down. The worst part of all is that it is the children who suffer. We have a huge TB problem and many of the youngsters are



infected with sores. Their hair is falling out and they are listless. Hunger does this to them.

The church also deals with the labourers working on the farms.

"Obviously it is not on every farm that the people are living in hovels and being treated so badly, but there are many who still do and this has to be stopped.

When we arrive at their cottages many of the labourers will not allow us inside as they are so ashamed of them.

Some of the farmers still have the dog system which is ruining the people. During the picking season children also work back-breaking hours, but they get involved in drinking and within a short time they become dependent on the stuff.

"A married couple living on one farm were almost thrown off recently. The husband was too old and frail to work so he stayed at home during the day while his wife went out to work on the lands.

"When the farmer caught him collecting wood for the family he was told to leave. His wife asked the farmer why this had happened and the farmer told her that because her husband was not employed by him, he was not allowed to collect his wood. Now the wife has to do it every night after she gets home.

"Another man who was born on a farm and had been there for 61 years had a young son who went off to try to get himself educated. The boy came back to visit and while he was there the farmer heard about it. He came to the old man and told him that if his son did not work on the farm he would have to leave.

"The son refused, saying that he was only visiting, but the farmer would not listen and both father and son were told to leave."

Enforcement of rights 'a major problem'

A MAJOR problem of protecting farmworkers under the Basic Conditions of Employment Act will be enforcing these rights, a member of the National Manpower Commission's farmworkers' sub-committee has warned.

Legal expert Mr Davie Bosch said Manpower officials needed to be given more power and that civil recourse for farmworkers should be made more accessible.

He was commenting on the NMC's proposals for the extension of the Basic Conditions of Employment Act (BCEA) published last month.

Amendments based on the proposals as well as extending the Unemployment Insurance Act to farms, will be tabled during the coming parliamentary session. They will affect an estimated 65 000 farmers employing 1.3 million workers.

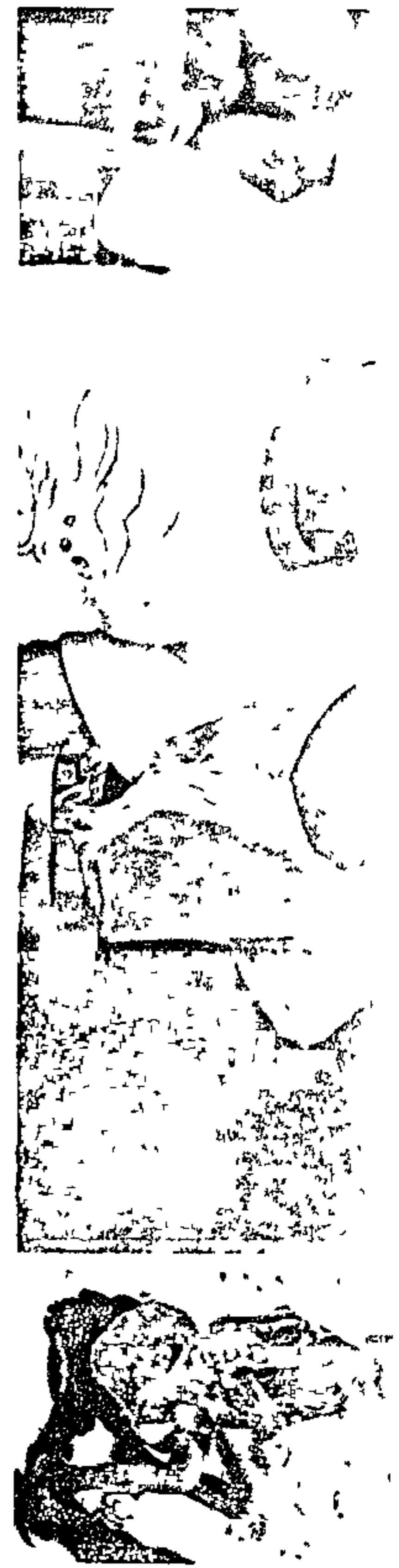
"Under the Act, employers will be required to keep wage records. If a worker complains to a Manpower Inspector that he is not receiving the salary he is supposed to then the records can be called for."

"It is so seldom that the inspectors check on this, if the records are not available they usually do not pursue the wage claim. If the labourer also knows that there are no records he drops the matter."

"This is an area that has to be looked at. Enforcement is vital."

OTHER proposals are:
 ■ A 48-hour working week, with the

Right
 Dominic's pus-
 encrusted ear
 which drives
 him to
 distraction
 and his sister
 Dominic's
 sores, which
 refuse to heal,
 are the signs
 of chronic
 malnutrition
 of many
 children in De
 Doorns.



Left: Screaming in fear of strange white faces, the only playground this three-year-old Simondium child knows is the muck of an open drain and the filth of poverty which surrounds his delapidated home.



possibility of a further four hours by agreement for not more than three months in a year and a corresponding reduction later in the year.

The SAAU argued that the seasonal nature of farming ruled out the BCEA's current 48-hour limit.

■ One day's unpaid leave in return for Sunday work and double time for more than five hours' work on Sunday.

■ Reasonable notice for a fired worker on cancellation of housing or land use rights. These commonly form part of a farming wage package.

■ A ban on victimisation of workers who discuss conditions with others or refuse an order in breach of the Act.

■ The NMC accepted on Cosatu's urging that discrimination should also be outlawed, but decided that the issue required further investigation.

It was also split on Cosatu's call for a ban on unilateral changes in employment and dismissals in anticipation of new law.

■ The payment of piece work at permanent worker rates. This clause was resisted by the SAAU which argued for regulation by private agreement.

■ The registration of farm labour contractors. Such registration is only provided for under the Labour Relations Act.

■ Civil remedy for breaches of the Act which currently provides only for prosecution.

Steps to protect domestic workers under consideration

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VERA VON LIERES

THE National Manpower Commission is inviting submissions on possible measures to protect domestic workers in private employ

Acting commission chairman Frans Barker said in a statement yesterday domestic workers had few channels to challenge unfair dismissal, settle disputes or raise grievances.

Barker's announcement follows an instruction last June by Manpower Minister Eli Louw to the commission that it should investigate and make recommendations on the matter

Barker said domestic workers were currently excluded from the Labour Relations Act, the Basic Conditions of Employment Act, the Wage Act, the Unemployment Insurance Act and the Workmen's Compensation Act.

There were practically no statutory minimum conditions of employment for domestic workers and they were further excluded from the social security benefits provided for by the Unemployment Insurance and Workmen's Compensation Acts, Barker said

He warned, however, that including domestic workers under existing labour legislation should be approached with

circumspection.

Inappropriate legislative provision could lead to increased unemployment, while summary inclusion would in some instances not provide appropriate protection and meet the specific needs of domestic workers and their employers.

Barker said a domestic worker committee consisting of representatives from women's organisations, trade unions and legal experts had been formed.

The committee had compiled a working document containing background information and alternative approaches regarding the inclusion of domestic workers within the scope of labour legislation. This reflected the views of the individuals on the committee and did not represent a government or commission position, he said.

Excerpts of the document would be published in the Government Gazette tomorrow.

The commission is inviting submissions on the alternative approaches mentioned in the document, Barker said.

Submissions should be submitted by February 28.

Political hopes boosted strike spirit

MID major political developments last year, trade unions, after a two-year lull in strike action, leapt into a scenario of mass spontaneous uprising with higher expectations and renewed shop-floor confidence in challenging employers.

The February unbanning of the ANC, PAC and SACP and the release of Nelson Mandela ushered in a militant mood and a strong spirit of optimism. Mass marches, rallies, slayaways and demonstrations were seen in every province.

It was in this euphoric climate, coupled with mass political mobilisation, that worker expectations increased and, consequently, industrial action escalated.

Evidently, workers believed they would have more bargaining power in a less repressive climate, thus becoming more assertive on the shop-floor and reviving Cosatu's living-wage campaign, which seemed to have subsided.

The length of strikes at OK Ba-zaars, Southern Suns, Nampak and Zebedelia Citrus Estate (between 40 and 87 days) bore testimony to workers' confidence and militancy.

Nactu's National Union of Wine, Spirit and Allied Workers, with no previous strike history, held out for 34 days in a national wage strike.

Workers in the public sector and parastatals too, though not well organised, joined the strike wave.

Thousands of teachers took to the streets in a significant demonstration which forced the Government to grant teachers' unions some recognition and opened negotiations on such matters as salary scales and job security.

Hospitals, post offices, municipalities and railways were hit by major strikes.

Attempts to include public sector employees in the Labour Relations Act added impetus to their actions.

Some unionists say the high level of industrial action was also due to Cosatu's move away from the centre stage of politics — a role it had assumed when political organisations were banned in 1988.

While the political changes may have raised expectations of a post-apartheid dividend, employers argued that the average 14.5 percent inflation rate and a declining economy made union wage demands "ri-

Four million 'man-days' were lost last year as a consequence of strike action alone — a 25 percent increase over 1989. SHAREEN SINGH looks at the context in which industrial action took place.

dulously high."

Despite hardened management attitudes, soaring retrenchments and a poor economic climate, union militancy was not crushed.

But towards the latter part of last year, violence on the Reef severely affected the union movement. With their lives at stake, union members were forced to engage in a more urgent battle to defend themselves, over and above their wage struggle.

Clashes in the community had spread to the shop-floor, effectively weakening union strategies.

Several strikes had been aborted as union members became the targets of warring factions. In Sebokeng, 19 members from

the National Union of Metalworkers were killed. They were on strike at the time at Union Steel Corporation. Several Iscor workers were also killed shortly before the union had planned to go on a legal wage strike.

Cosatu accused employers of using the violence to crush workers' militancy.

The federation had to focus much of its attention on the violence and on defending its members.

A marked increase in violence between strikers and non-strikers, or scabs, was also a major problem with unions once again attacking employers for ignoring their warning of the dangers of employing "scab" labour.

Touching on this issue, Cosatu's Workers Charter Conference in November agreed that a new constitution should include a demand for no dismissals and no "scabs" during procedural strikes.

A significant development last year was the Cabinet's acceptance of the Cosatu/Nactu/Saccola (CNS) accord on the Labour Relations Act (LRA). The labour federations and the employer body accepted this as

a victory after more than two years of campaigning for changes to the LRA.

But for Cosatu and Nactu the campaign around the LRA does not end here. The federations say many other worker-rights battles still have to be won: in particular, trade union rights for all workers and the extension of labour legislation to the banustan homelands. Although the CNS accord makes provision for civil servants, domestic workers and farm workers, the Government is still resisting this.

Also significant was the federations participation in the National Manpower Commission — a definite shift in their firm position against participating in state structures. Labour consultants believe this has set a precedent for future relations between government structures and the federations.

With well over 70 000 workers retrenched last year and massive retrenchments in the pipeline this year, unions will focus attention on job security, improved retrenchment packages, training, restructuring of companies and disclosure of company figures. □

Cosatu rejects argument to bar domestic workers from LRA

3/20/191 -

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VERA VON LIERES

COSATU yesterday rejected arguments contained in a National Manpower Commission memorandum that domestic workers be excluded from the Labour Relations Act (LRA), saying this would "again leave domestic workers at the bottom of the labour pile"

However, the federation described the commission's investigation into extending legal protection to domestic workers as the first step towards giving them full worker rights

Cosatu was responding to a working document produced by a commission subcommittee on the possibility of extending the LRA and other legislation to include domestic workers.

Excerpts from the committee's working document were published for comment in the Government Gazette last week. The committee did not make any findings, but contained

arguments for and against the extension of labour laws to domestic workers.

Cosatu, together with women's organisations, legal experts and the SA Domestic Workers' Union, contributed to the subcommittee.

Cosatu warned that not all the views expressed in the document represented those of domestic workers or its own Arguments against extending the LRA and other Acts to domestic workers which were based on administrative problems or the special relationship between domestic workers and employers were invalid, Cosatu said.

It was argued in the document that the LRA and other Acts should not be extended to domestic workers because the Small Claims Court pro-

vided for courts to hear civil claims and related matters by them

It was also stated that employers' opposition to the additional administrative burden created by the LRA could result in mechanisation and large-scale dismissals

In its statement, Cosatu criticised the proposal that domestic workers should be covered by separate legislation. It would ensure they remained "second-class workers"

The document further suggested domestic workers be covered by a separate domestic workers Act which would include those parts of the LRA and Basic Conditions of Employment Act relevant to domestic workers Another option would be to include domestic workers under the LRA but with additional provisions for the "domestic sector's" special circumstances

Bill 'result of two years of negotiation'

Political Staff

AFTER two years of negotiations between the South African Employers' Consultative Committee on Labour Affairs, the Congress of South African Trade Unions, the National Council of Trade Unions and the State, the Labour Relations Amendment Bill has come before parliament.

Five hours have been set aside for the debate, which finishes today. The bill is likely to be supported by all parties except the Conservative Party.

The bill has 15 aspects, comprising three amendments to the existing law, three deletions and nine new provisions.

The Minister of Manpower, Mr Eli Louw, said bottlenecks in a draft of the bill had brought Saccola, Nactu and Cosatu together for discussions. They suggested interim ideas to address the most topical problems pending a consolidation of the law on labour relations.

The bill was an honourable attempt to bring employers, employees and the State closer together to promote a climate of mutual appreciation and joint responsibility, Mr Louw said. Already it seemed that a new dispensation was developing.

Mr Frank le Roux (CP Brakpan) said the bill showed that the African

National Congress, the SA Communist Party, Cosatu and Nactu were already operating as an interim government.

The CP was not prepared to pass laws while it had a pistol held to its head. The bill showed capitulation in favour of ANC deputy-president Mr Nelson Mandela, the ANC and the SACP.

Dr A J G Oosthuizen (NP Alberton), chairman of the Joint Committee of Education and Manpower, said there had been more comment on the bill than on any other piece of labour legislation in the past five years.

Mr Peter Gastrow (Durban Central DP) said the bill was an example to other government departments to bring into government interested bodies not in parliament.

"This bill shows what interim administration is about," he said.

For parliament to pass laws that were legitimate, they needed to have the support of people affected by them. Procedures had to be worked out to have representation of people outside parliament brought into the process of law making, Mr Gastrow said.

Mr Sathie Naidoo (Independent Durban Bay) said all members of the House of Delegates supported the bill. But it was sad that farm workers and domestic servants were excluded.

No finality on labour changes (166)

Sovietan 12/2/91

THE controversial Labour Relations Amendment Bill was by late yesterday still being debated in Parliament.

The Bill addresses union objections to certain aspects of the 1988 amendments that

sparked outbreaks of shopfloor unrest.

Speaking in the House yesterday, the Minister of Manpower Mr Eli Louw said the amendments should be seen as an "honest attempt" to bring together employees, employers and the State.

"It is clear that the best results can be achieved when all the parties involved can provide solutions to problems which effect worker/employer relations," Louw said.

Farmworkers may benefit

FARMWORKERS in South Africa could get full labour rights by next year.

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Currently estimated at 1,3 million, farmworkers do not benefit from the four main labour laws - the Basic Conditions of Employment Act, the Unemployment Insurance Act, the Labour Relations Act and the Wage Act. Amendments to these

By ISMAIL LAGARDIEN
Political Correspondent

laws have been submitted to include farmworkers, the Ministry of Manpower said yesterday.

When the Acts are passed, farmworkers will, in terms of the Unemployment Insurance Act, qualify for payment in the event of unemployment

after a period of contributing to a fund.

When the Basic Conditions of Employment Act is amended, the normal working hours for a farmworker will be 48 hours a week, and those of herdsmen 60 hours. Farmworkers can work nine hours and 30 minutes a day.

The amended Bill also provides, among others,

that a farmworker will get two weeks paid leave a year, and 30 days sick leave in a three-year cycle.

The new Labour Relations Act provides for the settlement of disputes between farmworkers and employers

The Wage Act has been amended in such a way that it does not prescribe a minimum wage.

Debate on labour Bill nears climax

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Political Staff

After two years of negotiations between the South African Employers' Consultative Committee on Labour Affairs (Saccola), the Congress of South African Trade Unions (Cosatu), the National Council of Trade Unions (Nactu) and the State, the Labour Relations Amendment Bill came before Parliament yesterday for debate.

Five hours have been set aside for the debate, which finishes today. The Bill is likely to be supported by all parties except the Conservative Party.

The Bill has 15 aspects comprised of three amendments to the existing law, three deletions and nine new provisions.

Eli Louw, Minister of Manpower, said bottlenecks in a draft of the Bill had brought Saccola, Nactu and Cosatu together for discussions. They suggested interim ideas to address the most topical problems, pending a consolidation of the law on labour relations.

The Bill was an honourable attempt to bring employers, employees and the State closer together to promote a climate of mutual appreciation and joint responsibility, Mr Louw said. Already it seemed that a new dispensation was developing.

The best results were reached when employers and employees arrived at solutions to problems for themselves.

The proposals were the result of two years of negotiations and showed that conflict was best handled through discussions and searching for consensus, Mr Louw said.

Mr Frank le Roux (Brakpan CP) said the Bill showed that the ANC, SACP, Cosatu and Nactu were already operating as an interim government. The

CP was not prepared to pass laws while it had a pistol held to its head, he said. The Bill showed capitulation in favour of ANC deputy president Nelson Mandela, the ANC and SACP.

Dr AJG Oosthuizen, (Alberton NP) chairman of the Joint Committee of Education and Manpower, said more comment was received on the Bill than any other piece of labour legislation in the past five years.

Peter Gastrow (Durban Central DP) said the Bill was an example to other government departments to bring into government interested bodies that were not in Parliament.

"This Bill shows what interim administration is about," Mr Gastrow said. For Parliament to pass laws that were legitimate, they needed to have the support of people affected by them. Procedures had to be worked out to have representations of people outside Parliament brought into the process of law making, Mr Gastrow said.

The Bill did not represent the first prize for Saccola, Nactu and Cosatu, and neither would cheer the Bill as it was only their second prize.

The Bill was a compromise, and that is what legislation should be about — a compromise between different interests to promote the broad interests of all those involved in a specific area, Mr Gastrow said.

Sathie Naidoo, Independent Member of the House of Delegates for Durban Bay, said all members of the HoD supported the Bill. But it was sad that farm workers and domestic servants were excluded from the Bill, he said.

Parliament has divided into two committees to consider legislation this week. The other chamber was considering the Legal Aid Amendment Bill, the Maintenance Amendment Bill, the Sheriffs Amendment Bill and the Judicial Matters Amendment Bill.

POLITICS

Sound labour relations vital to SA's prosperity

By 12/2/91

BILLY PADDOCK

CAPE TOWN — Labour relations and negotiations had to be handled very carefully as they were vital to SA's prosperity, Manpower Minister Eli Louw said yesterday during the debate on the Labour Relations Amendment Bill.

Louw said an efficient and effective labour force was SA's greatest asset.

However, labour peace could not be enshrined in legislation and had to be worked for with patience and flexibility on both sides, he said.

The proposed amendments showed this was the case.

They were the result of two years of negotiations which proved conflict was handled best through discussion.

He also said anyone who argued for sanctions and made threats to scare off investors either had no knowledge of the working of the economy, or was insensitive to the lot of the poor and the jobless.

He said the proposed amendments were an attempt by employers, employees and the state to promote understanding and responsibility.

TANIA LEVY reports the most important features of the Bill, published in May last year, included the ren-



• LOUW

statement of the pre-1988 unfair labour practice definition and removed from the Industrial Court the power to interdict lawful strikes and lockouts.

The Bill also limited the Industrial Court's ability to grant interdicts within 48 hours' notice to the respondent except in special circumstances. It extended the time limits for referring disputes through official channels.

The Bill aimed to delete from the Labour Relations Act a controversial clause which reversed the onus of proof required in the case of damage suits brought against unions for losses from unlawful strikes.

Sana reports that Peter Gastrow (DP Durban Central) said during the debate the Bill represented a healthy balance between the interests of employers and employees.

"This shows what interim administration is all about," he said during the debate.

There had been talk of pressure being exerted on the standing committee by Saccoca, Cosatu and Nactu. It would be naive to have ignored the power bases of such large organisations.

"The contents of this Bill are not a first prize for either of the unions, but signify a compromise from all sides. That is also what legislation should be about."

Jacobus Botha (CP Wonderboom) said during the debate SA would enter a period of unprecedented industrial unrest if the Bill was passed.

This was what the two union federations wanted, he said.

The stipulation in the draft legislation that the first 48 hours of an illegal strike would be regarded as legal clearly laid the basis for the mass action which the ANC/PAC alliance was advocating, he said.

Arrie Paulus (CP Carletonville) said consensus could not be reached if one side threatened the other.

He said trade unions had used threats of refusal to negotiate unless their demands were met during National Manpower Commission sittings.

Angola tipped as trading partner

By 12/2/91

BILLY PADDOCK

CAPE TOWN — Trade with Angola was starting to take place and in the future Luanda would be SA's best partner in Africa, Foreign Affairs director-general Neil van Heerden said yesterday.

In an interview he said Angola was a very rich country but it was "not a bread basket", so trade would be beneficial to both SA and Angola. Various business initiatives between the two had been started in the past few years which had paved the way for a warming of relations, a business source said.

One of the primary advantages for SA was Angola's rich oil fields.

Van Heerden said he envisaged the normalisation of trade with Angola in the next two years, but first there had to be a ceasefire and the peace process had to be on track.

He said a ceasefire would open all sorts of channels and therefore SA had a strong vested interest in helping it reach fruition.

Last Friday Van Heerden met Angolan President Jose Eduardo dos Santos in Luanda, where they discussed Angola's allegations at the Joint Commission talks that SA had started to resupply Unita with military hardware.

He said he told Dos Santos SA was not doing so, but pointed out many other countries were supplying aid to Unita, most notably the US.



Conservative Party fights Labour Bill

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DESPITE an onslaught from the Conservative Party, a Bill amending the Labour Relations Act is being discussed today in Parliament.

The Conservative Party has called the Bill a "capitulation to Cosatu" which puts a gun to the Government's head.

However, most other Members of Parliament have expressed support for the Bill, according to Mr Peter Gastrow, the Democratic Party's spokesman on Labour.

Historic

It is scheduled for discussion at an usual meeting of the Joint Standing Committee on Education and Manpower. It will subsequently be put to a vote by Parliament as a whole.

The Bill, the first to emanate from an agreement between the Congress of South African Trade Unions/National Council of Trade Unions and the South African Employers' Consultative Committee on Labour Affairs, is seen as historic.

The Bill calls for the Labour Relations Act of 1956 to be



amended. It also seeks the following.

- * To return to the definition of "unfair labour practice" used before a 1988 amendment.

- * To extend the provisions of the Labour Relations Act to

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certain off-shore operations within South Africa's oceanic borders;

- * To allow State organisations to be registered as a union,

- * To restrict the granting of interdicts or other court orders during strikes and lock-outs;

- * To mandate that such interdicts and court orders, when warranted, be granted only after 48 hours notice by the applicants unless employees have been warned of a labour action 10 days in advance, in which case five days notice by the applicants would be required,

- * To dispense with bureaucratic formalities currently required to refer a dispute to an industrial council and apply for the formation of a conciliation board;

- * To extend the period in which such actions can be taken from 90 to 180 days,

- * To eliminate the requirement of a deadlock for such actions to be taken;

- * To make routine the formation of a conciliation board when an industrial council is not performing adequately,

- * To facilitate representatives of unregistered trade unions or employers' organisations sitting



A report ordered by Minister of Manpower Eil Louw influenced a proposed labour Bill.

on conciliation boards so that to do so they only need present a certificate of compliance with the Act.

- * To allow parties in a labour dispute to seek recourse from the Industrial Court within 90 days if an industrial council or conciliation board is making no headway,

- * To give the Industrial Court the right to determine alleged unfair labour practices,

The Bill is expected to become law within days, ending more than three years of controversy.

The CP has proposed amending the Bill, but the feeling close to Parliament is that it will go through as tabled.

New LRA Bill 'a triumph' for trade unions

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THE Labour Relations Amendment Bill, tabled in parliament this week, was a triumph for organised labour and particularly for its strategy of combined mass action and negotiations, the Congress of SA Trade Unions said this week.

The fruit of an arduous three-cornered process involving employers, black unions and government, the Bill has been termed South Africa's "first post-apartheid statute".

Key Cosatu LRA negotiator Marcel Golding slammed Conservative Party moves to "delay and obstruct" the Bill and described as "nonsense" CP claims that Cosatu/Nactu/Saccola had subverted the sovereignty of parliament by holding a gun to the state's head.

"The Bill is not simply the Saccola Accord," he stressed. "The accord was modified in talks with the government and by the parliamentary standing committee." White labour was represented on the National Manpower Commission and had ample opportunity to make independent representations, he added.

"What the CP has not understood is that legislation cannot work without the consent of the major players who must live by it."

Four clauses have been referred back to the standing committee following CP objections. It wants the status quo on unfair labour practices and racial

registration retained, and rejects the 48-hour notice period for interdicts on wildcat strikes.

However, Golding said he was confident the Bill would go through without substantial amendments when it came to the vote, probably this week.

Golding listed seven major advances in the legislation:

- Strikes and lockouts were removed from the unfair labour practice definition

- Unions had to give a minimum 10-day notice of a lawful strike and employers five-days' notice of a court challenge to strike action. In the past, the courts had routinely granted strike interdicts without hearing the union case, he said

- Racial criteria for union registration were scrapped.

- Official conciliation procedures were simplified.

- The presumption of union responsibility for illegal strike damages was scrapped.

- Unions with public and private sector members could now register.

- The LRA was extended to South Africa's continental shelf, meaning that



Cosatu's Marcel Golding ... seven major advances in the new labour legislation

offshore oilrig workers, for example, were covered.

Labour's short-term aim was the reversal of the 1988 LRA amendments, and the Bill substantially achieves this. And although Cosatu/Nactu's broader demands — notably the extension of the LRA to all workers and the revamping of the labour appeal system — remain on the agenda, moves are under way to address them.

Golding said he expected talks on a new public service labour deal and National Manpower Commission deliberations on farm and domestic labour to bear fruit this year. Approaches had also been made to the Justice Department on the revamping of the Labour Appeal Court.

He emphasised that in the "Labour Minute", the state had pledged not to pass new labour law without consultation.

At its central executive committee meeting at the weekend, Cosatu agreed to intensify the campaign for full rights for farm, domestic and state workers. It also stressed that the public service negotiations should be widened to include the entire public sector.

DREW FORREST

Passing of new labour law is widely welcomed

THE Labour Relations Amendment Bill was passed by Parliament yesterday after two-and-a-half years of intensive negotiations between employers and trade unions.

The Bill translates into law the Cosatu-Nactu/Saccola (CNS) agreement which aimed at addressing problems with the 1988 amendments to the Labour Relations Act (LRA). All parties to the agreement yesterday welcomed its passing.

Its most important features include the reinstatement of the pre-1988 definition of an unfair labour practice and removing from the Industrial Court the power to interdict lawful strikes and lockouts.

The Bill also limited the court's ability to grant interdicts without 48 hours notice to the respondent except in special circumstances and extended the time limits for referring disputes through official channels.

Anton Roodt, chairman of the employer federation Saccola, said the Bill had removed labour legislation from the arena of workplace conflict.

Roodt said the Bill dealt with interim amendments to the LRA pending the comprehensive consolidation of

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VERA VON LIERES

the Act currently being undertaken by the National Manpower Commission.

Saccola would seek to have further amendments incorporated at the earliest available opportunity.

Roodt said Saccola was now looking forward to constructive interaction between employers, trade unions and government in developing generally accepted labour law through the National Manpower Commission.

Mobilisation

NUM assistant general secretary Marcel Golding said yesterday the passing of the Bill brought to an end three years of intense mobilisation by Cosatu.

He described the Bill as being the first piece of legislation formulated outside Parliament.

The Bill, Golding said, indicated that sustained mass action, together with constructive negotiations with employers and government, could bring about significant legislative reform.

He said the Bill brought to an end the first phase of Cosatu's campaign to effect labour rights for all workers

in SA

Among other issues, Cosatu would now concentrate on extending union rights to farmworkers, domestic workers and public sector employees, and restructuring the National Manpower Commission and the Labour Appeal Court.

Nactu general secretary Cunningham Ngcukana said yesterday the Bill was a victory for workers who had sacrificed jobs and livelihoods in defence of the rights of trade unions.

Ngcukana emphasised that the Bill, as envisaged in the CNS accord, had been translated into law as an interim measure.

He said the question of the Labour Appeal Court still needed to be addressed and parts of the CNS accord had not yet been legislated.

BILLY PADDOCK reports that Peter Gastrow (DP Durban Central) said yesterday in Parliament the passing of the Bill was an example of the way all laws should be enacted.

The CP said in Parliament the passing of the Bill was once again an illustration how government, the National Party, the National Manpower Commission and Saccola had bowed to pressure from the ANC and Cosatu/Nactu.

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Passing of labour Act seen as worker victory

Political Staff

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CAPE TOWN — Parliament yesterday passed the Labour Relations Amendment Act.

This brings to an end two years of tough negotiations between the Government, Saccola, Nactu and Cosatu.

The Act is regarded as an attempt to bring employees, employers and the State closer together to promote a climate of mutual appreciation, Minister of Manpower Ell Louw said this week.

Saccola spokesman A K Roodt said it was "an event of considerable significance not just for labour relations but

for the process of negotiation".

Cosatu's Neil Coleman said yesterday the passing of the Act was a victory for workers.

Nactu general-secretary Cunningham Ngcukana said: "The Act is a victory for the workers who sacrificed jobs and livelihood in defence of the rights of trade unions and workers."

He said the inclusion of farmworkers, domestic and public-sector workers was still on the agenda and this meant that South Africa was still a long way from acceptable international standards, but the first step had been taken.

LRA a victory 166

Sowetan 15/2/91

By ISMAIL
LAGARDIEN
Political
Correspondent

THE LABOUR Relations Amendment Act was yesterday approved by Parliament and now only awaits the signature of State President FW de Klerk for it to become law - a mere formality.

This brings to an end two years of hard negotiations between the government, the South

African Employers Consultative Committee on Labour Affairs (Saccola) and trade union federations, Nactu and Cosatu.

The Act is an honourable attempt to

promote a climate of mutual appreciation, the Minister of Manpower said earlier this week.

Responding to the announcement, Cosatu's Mr Neil Coleman yesterday said it was a victory for workers.

Coleman added that it was this was only the beginning.

UNDOING THE DAMAGE

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McGREGOR'S ECONOMIC ALTERNATIVES
 edited by Anne McGregor (Juta, 393pp,
 R34,95)

This book about SA's economic problems is divided into five parts. I propose to give most of my attention to the massive contribution of Azar Jammine, after commenting briefly on the others.

Unemployment, poverty and the informal sector are linked in Bobby Godsell's contribution, which is both penetrating and compassionate. In his treatment of the informal sector he warns against expecting too much of its potential — and also on the sort of mistakes bureaucrats might all too easily make in attempting either to assist or regulate it.

Prof Laurence Harris is primarily concerned to explain and defend the economic strategy of the ANC. He offers a justification for its refusal to renounce the option of nationalisation. In his conclusion, he mentions a number of possible shocks the economy may face among others, fluctuations in the price of mineral exports, oil price increases and loss of export markets due to worldwide recession. One of the strengths he sees in the ANC's mixed economic strategy is that it is designed to enable government to react effectively to such shocks. But hasn't it been shown that most governmental reactions to a crisis do further damage to the world economy and hence in the end to each of its components?

Robin and Guy McGregor deal with the factors which have led to grotesque concentration in the private sector. They argue that the Competition Board and statutes under which it operates have been ineffective in comparison with the controls that exist in the US which, rather surprisingly, they see as having succeeded. But worst of all has been what Jammine calls the enormous bottling up, through exchange control, of liquidity in the hands of the institutional giants. These have had little alternative but to invest their excess cash in SA equities.

Leon Louw's contribution is a powerful and comprehensive review of the superiority of the market. It includes a chapter entitled "A Dozen Popular South African Myths," relating to the supposed inability of the mar-

ket to satisfy certain social needs. In every part of the world, what Louw calls "The World's First Global Revolution" is sweeping away the cobwebs of socialism and related fallacies. SA has the choice between prospering in tandem with this revolution or stagnating outside it.

The trouble with Louw's case is that the ANC has a seemingly easy answer: why is free enterprise getting a hearing only now? Until the Seventies, the NP succeeded in directing the economy to produce the maximum advantage for its own clientele. Now the NP is demanding that a future black government should do as it says, not as it has done.

What Jammine shows in his contribution is the appalling, perhaps irreparable damage the NP has inflicted on the economy through



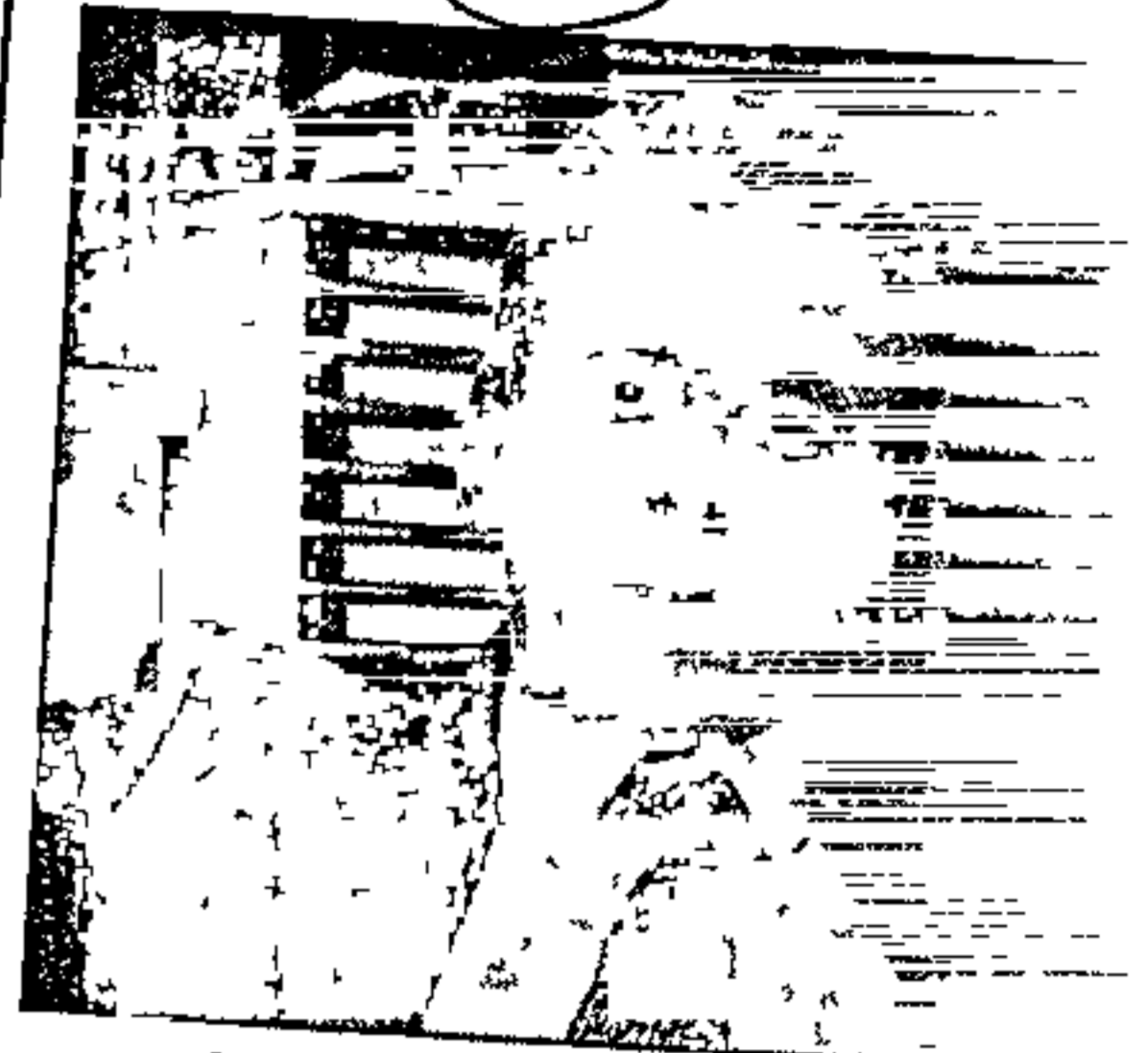
Jammine an enormous history of distortion

its persistent attempts to show that controls could do better than the market.

Allowing unemployment to grow is the surest way to generate social instability. Jammine sets against the backdrop of the declining economy the problem of providing jobs. "About 400 000 new jobs need to be created annually simply to prevent unemployment from rising. This means the country has to generate an economic growth rate of at least 4% a year merely to provide jobs for new workers coming on stream each year."

"Demographers say only by raising people's standard of living will the propensity to procreate decline. Therefore, on both counts — the need to limit unemployment and the need to restrict population growth — a high level of economic growth is required if chaos is to be prevented."

During the Forties and Fifties the economy achieved a growth rate in GDP of



Louw political controls mean stagnation

around 4,5% on average, in the Sixties it increased to 5,5% despite rigorous apartheid. But in the Seventies a decline set in. In the Eighties the growth rate would have been less than 1% if one were to exclude an 6% hike in 1981. The gold price had soared the previous year and made things look rosy for a while.

During that decade, the ratio of fixed investment to GDP fell steadily, with a consequent loss of competitiveness in international markets. Jammine shows by a table of comparison with other countries that what has been truly dismal has been the performance of manufacturing — a sector of crucial importance, because from it the employment multiplier gets to work. Sanctions, though significant, have been a rather less important factor.

Jammine indicates the general lines on which we may hope to reverse the decline: a leaner public service, lower levels of government spending and taxation, and above all the control of inflation. It is because of the inflationary implications of ANC policies that he challenges them head on, inflation has in the past favoured the rich and impoverished the poor and will be certain, if persisted in, to produce the same result in future.

Radford Jordan



Godsell don't expect too much of 'informals'

BUYING BOOKS

Some books reviewed by the FM may not be readily available. If you have difficulty obtaining a title from a bookshop, we suggest you contact the publisher's representative. The telephone numbers for the book reviewed this week (code 011) □ Juta — 23-4810.

New LRA Bill 'a triumph' for trade unions

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THE Labour Relations Amendment Bill, tabled in parliament this week, was a triumph for organised labour and particularly for its strategy of combined mass action and negotiations, the Congress of SA Trade Unions said this week.

The fruit of an arduous three-cornered process involving employers, black unions and government, the Bill has been termed South Africa's "first post-apartheid statute"

Key Cosatu LRA negotiator Marcel Golding slammed Conservative Party moves to "delay and obstruct" the Bill and described as "nonsense" CP claims that Cosatu/Nactu/Saccola had subverted the sovereignty of parliament by holding a gun to the state's head

"The Bill is not simply the Saccola Accord," he stressed "The accord was modified in talks with the government and by the parliamentary standing committee" White labour was represented on the National Manpower Commission and had ample opportunity to make independent representations, he added

"What the CP has not understood is that legislation cannot work without the consent of the major players who must live by it."

Four clauses have been referred back to the standing committee following CP objections it wants the status quo on unfair labour practices and racial

Despite protests from the Conservative Party, the Labour Relations Amendment Bill tabled in parliament this week has been hailed as South Africa's first 'post-apartheid statute', reports

DREW FORREST

registration retained, and rejects the 48-hour notice period for interdicts on wildcat strikes

However, Golding said he was confident the Bill would go through without substantial amendments when it came to the vote, probably this week.

Golding listed seven major advances in the legislation

- Strikes and lockouts were removed from the unfair labour practice definition

- Unions had to give a minimum 10-day notice of a lawful strike and employers five-days' notice of a court challenge to strike action In the past, the courts had routinely granted strike interdicts without hearing the union case, he said

- Racial criteria for union registration were scrapped

- Official conciliation procedures were simplified

- The presumption of union responsibility for illegal strike damages was scrapped

- Unions with public and private sector members could now register

- The LRA was extended to South Africa's continental shelf, meaning that



Cosatu's Marcel Golding ... seven major advances in the new labour legislation

offshore oilrig workers, for example, were covered

Labour's short-term aim was the reversal of the 1988 LRA amendments, and the Bill substantially achieves this And although Cosatu/Nactu's broader demands — notably the extension of the LRA to all workers and the revamping of the labour appeal system — remain on the agenda, moves are under way to address them

Golding said he expected talks on a new public service labour deal and National Manpower Commission deliberations on farm and domestic labour to bear fruit this year Approaches had also been made to the Justice Department on the revamping of the Labour Appeal Court

He emphasised that in the "Labour Minute", the state had pledged not to pass new labour law without consultation

At its central executive committee meeting at the weekend, Cosatu agreed to intensify the campaign for full rights for farm, domestic and state workers It also stressed that the public service negotiations should be widened to include the entire public sector

AS MANAGEMENT and labour prepare for the new SA, "social contract" is fast becoming the new buzz phrase among big employers, unionists and some ANC activists. Why is this, and what might it mean for union strategies?

It is hardly controversial to argue that SA's eventual political compromise must be accompanied by an economic compromise. The leaders of resistance movements, business and the government recognise this and they have already begun discussing its terms.

But this is no guarantee that the compromise will work, because it may not be accepted by those affected by it. Resistance movements' limited ability to ensure constituency support for compromise will apply particularly to an economic compromise. Labour relations experience shows compromises work only because those who harbour high expectations have been party to negotiating the compromise between what they want and what is possible.

If a post-apartheid economic compromise is to work, those who harbour the expectations will have to be party to it too. It must involve organised interest groups with leaders strong enough to ensure their followers will accept it. The trade union movement is the most obvious candidate, and this is why the social contract is likely to dominate labour relations in the 90s.

Social contracts in other countries have often assured both redistribution and high growth because they usually achieve union agreement to wage restraint in exchange for other gains. Unions accept that the capitalist economy will not disappear with apartheid. Business leadership increasingly accepts that calls for economic "realism" cannot persuade the majority to defer all its expectations, and it sees a social contract as a way of negotiating the terms of redistribution.

ANC economic strategists are coming to accept that the ANC will be unable to meet black economic expectations on its own, and they too are beginning to argue that a social contract can resolve the problem.

Social contract will dominate labour relations in the '90s

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Co-determination of the economy, down to the individual enterprise level, may be a necessary feature of an economic compromise.

Even government is accepting the need for economic compromise.

Despite these signs, a workable social contract will not be achieved easily here, nor will it be a panacea which will guarantee the success of a post-apartheid economy. While successful social contracts abound in developed economies, there have been no successes in developing ones.

In developing countries the unions represent a relative elite — those who have jobs. A social contract negotiated with them binds only a section of the "have nots". The success of a local contract may depend rather on whether groups other than unions are included — such as the urban unemployed, the rural landless and small farmers.

The second obstacle is that recent talk of a social contract may well obscure the real differences which still separate the likely bargaining partners. A workable contract will require tough compromises.

Some union views were gauged recently in an exercise in which key union officials were asked whether they would negotiate a compromise with employers in which they agreed to peg wage demands to the inflation rate in exchange for increased business social spending. All said this was premature. But their reasons are more important than the answer

If they were to begin negotiating deals of this sort, unions would have to persuade their members to abandon the adversarial relationship which has been the key feature of bargaining until now. Unionists say that no matter how rational the argument for doing this may be, workers still work in an economy in which they believe they have no stake — because they have no control over it.

There is a consensus among major Cosatu and Nactu unions that workers will have to enjoy a say in economic and industrial decisions if they are to gain enough of a stake to make macro-economic compromises possible. But they approach the issue in different ways.

For convenience's sake (and at the risk of simplifying union debates) it is useful to divide the unionists into "nationalists" and "workerists".

The nationalists, who are found in both major federations, argue that workers have no say over the economy because they have no say over the government. For them, the precondition for economic compromise is a majority government. Once that is achieved, workers will accept responsibility for the economy because

it will then be the nation's economy, not the white minority's. Resistance to compromise might then give way to a relatively startling willingness to accept it.

The "workerist" position — only partially developed — is more complex. Workerists agree that major compromise will be impossible until workers have a share in economic power. But they do not believe that need wait for a new government.

Workerist unionists, who tend to be found in Cosatu only, accept their industries will have to become more efficient if they are to survive in world markets and continue to provide jobs. They can either resist changes which are needed to ensure the survival of industries, as British unions did, or try to negotiate the terms of change, like the Swedish or German unions.

Workerists point out that, at present, decisions on investment priorities, manning levels and deciding how industry and the economy is organised, all fall into the "management prerogative" category. If they are expected to take joint responsibility for the future of their industry, they need joint responsibility for controlling it, it is argued. This boils down to a demand for "co-determination", power sharing in industry, which, a "radical" workerist ac-

knowledges, unionists would have dismissed out of hand not long ago. He and his union are still reluctant to use that phrase, but concede that economic realities are propelling them towards it.

Nevertheless, endorsement of such schemes by workers with high expectations will not be automatic. It will be possible only if workers are party to the compromises. Co-determination, therefore, cannot be restricted to the national or industry level. Workers in individual companies and plants will also have to have a say in strategic decisions.

Workerists acknowledge workers would make mistakes in the early days of co-determination since they lack the knowledge which management enjoys. But they are resigned to paying that price, both because they believe there is no alternative and because they expect workers to become more adept with experience. Some see negotiating the terms of industrial and economic power-sharing now as a way of protecting worker interests after white rule goes. They fear a majority government will insist on dictating economic policy.

In negotiations with nationalist unionists, employers are therefore likely to make more headway if they scale down their expectations of the concessions which can be won before white rule goes. In negotiation with workerist unions and unionists, progress will depend on employer willingness to abandon some prerogatives now in an attempt to avert state intervention later.

Some unionists acknowledge there are currents within the movement which may seek to protect special worker interests only — for example by clothing in militant rhetoric a demand for a high "living wage".

The key question is on whose terms a social contract will be negotiated — and whether it becomes a vehicle for stability and growth or for elites on both sides of the divide to carve up the cake at the expense of those who may be excluded from it.

□ This is an edited extract from the recent Andrew Levy and Associates' annual report.

Labour Act to benefit workers

By IKE MOTSAPI

THE Congress of South African Trade Unions has begun a campaign to persuade homeland governments to accept the revamped Labour Relations Act.

The Act was passed in Parliament last week.

Mr Neil Coleman, information officer of Cosatu, said the acceptance of the Act by homeland governments would enable workers to fight for "their rights without fear of being arrested."

Success

Coleman was outlining the success achieved by the federation during its four-year-long fight to have certain amendments incorporated into the Act.

Cosatu, Nactu, South African Consultative Committee on Labour Affairs (Saccola) and the National Manpower Commission met recently to review the Labour Relations Act. The meeting was dubbed "The Labora Minute".

Coleman said the response from homeland governments had so far been very "favourable."

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Labour laws need to be rationalised ¹⁶⁶ Wiehahn

8/20/91 22/2/91
Business Day Reporter

LEADING labour relations expert Nic Wiehahn has called for SA to follow the example of Namibia, Transkei and KwaNdebele by rationalising its labour legislation.

Wiehahn said in an interview with the Bureau for Information he believed labour legislation could be revised and the eight labour Acts administered by the Manpower Department reduced to five.

Labour legislation, he said, had already been simplified in other countries including Namibia, Transkei and KwaNdebele.

"In these newly designed and simplified systems, state involvement has been minimised and the relationship between employer and employee emphasised.

"As a result, the importance of collective bargaining was accentuated, while the state's role was reduced to that of facilitator, guide and educator," Wiehahn said.

He said that simplifying labour legislation would benefit all labour relationships, including those between customer and businessman, employer and employee.

"These are currently under pressure due to the turbulence in our society, particularly in the political sphere," he said.

Wiehahn said last year's agree-



● WIEHAHN

ment on labour legislation between government, Saccola and trade union federations Cosatu and Nactu was "definitely a step forward".

"It is also a positive step with regard to policy making and legislation in the labour field and beneficial to the relationship between government and the trade unions.

"The important issue is that this agreement will result in the broaden-

ing of industrial democracy. A much larger section of the trade union movement now has a greater responsibility regarding development in the labour field.

"When trade unions share the responsibility for labour development with government, they tend to move away from a radical and militant approach towards a more co-operative attitude to government and society."

Wiehahn said he conceded the amendments to the Labour Relations Act provided greater clarity on whether strikes should be allowed by defining a strike in terms of whether it was legal or illegal.

"However, I prefer the terms fair and unfair, because the new terms are very legalistic and imply court interference and a judicial decision. Other solutions to a labour dispute could be found where court or state interference would be unnecessary.

"Normally a dispute arises between employers and employees, therefore solutions and remedies should be found by (those) involved."

Wiehahn said the state's role would decrease as constitutional progress was achieved, with more issues being debated by employer and employee. Public servants, who had been excluded from the formal system of industrial relations, would acquire more rights and would eventually have the right to bargain collectively.

Homelands split on labour legislation

THE Gazankulu government has passed a Labour Relations Bill requiring compulsory registration of unions and the location of union head offices in the homeland, Cosatu revealed this week.

In a document released at its LRA press briefing, the federation said it appeared to have persuaded the homeland to delay promulgation until it saw Cosatu's proposals on the Bill.

It also said Lebowa had drafted a "problematic" labour Bill very similar to South Africa's 1988 LRA, but had asked Cosatu to comment on it.

Although its final aim is incorporation of homeland workers under the central state, Cosatu is pushing for labour law deals with homeland governments as an interim

measure.

Other developments revealed in the document include:

● Following last year's mass protest action, Bophuthatswana had agreed to meet Cosatu on its controversial Industrial Relations Act.

● kwaNdebele had drafted a statute containing "a number of problems", but had asked Cosatu to participate in a Labour Advisory Council.

● kaNgwane, the most advanced of the homelands, was considering asking Pretoria if it could fall under South African law.

● Following last year's strike wave, QwaQwa had agreed not to change its pre-1988 LRA without consulting Cosatu.

Cosatu ready for 'phase two' of LRA campaign

By DREW FORREST

Wmal 242-282/91
CONFLICT is looming over the legal rights of farmworkers, as the Congress of South African Trade Unions gears up for "phase two" of its Labour Relations Act campaign.

At a press briefing following last week's enactment of the Labour Relations Amendment Bill, Cosatu's Geoff Schreiner announced the federation would be pressing for the inclusion of farmworkers in the LRA and Wage Act this session of parliament, and was considering a campaign on the issue.

The new strategy flowed from the National Manpower Commission's rejection of Cosatu proposals that the LRA be extended to "agribusiness" in last week's Bill, he said.

Cosatu would be meeting Saccola and the SA Agricultural Union — Schreiner described the latter as a "major stumbling block to getting new law".

Official government reaction could not be obtained, but Manpower Department sources attacked the demand as "unreasonable" and "unrealistic". One stressed that the NMC report on farmworkers would only reach the minister at the end of April and that the legislative process might take a further

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six months. Parliament recesses in mid-June.

Commenting that the Cosatu demand could prejudice the NMC's findings, NMC chairman Dr Frans Barker added: "We will have to publish our recommendations — this is in line with the Labour Minute (of which Cosatu is a signatory) and only fair to the broader labour community."

Outlining the broad aims of phase two of the LRA campaign, Schreiner said it aimed to extend the Act to domestic, farm, state and homeland workers, secure new labour rights and overhaul the NMC.

The strategy was to argue in the NMC for farm and domestic workers to be covered by existing statutes, with special provision for their circumstances. In a document, Cosatu warns: "Our negotiations with the NMC will go nowhere unless there is a mass action on the ground."

LRA talks in the public service currently involved only Cosatu's health union, and the federation would push for a broad public sector forum embracing postal, rail, municipal and teaching affiliates.

On new worker rights, Schreiner



Cosatu's Geoff Schreiner — pressing for the inclusion of farmworkers in LRA

stressed that Cosatu would seek a decisive intervention in NMC thinking on the consolidation of the LRA. Demands include the full right to strike and picket, and organisational rights, such as automatic check-off, recognition and access for representative unions.

Cosatu proposals for a specialist labour appeal court which would expedite and cut the cost of appeals had been widely canvassed in the legal profession, and the federation was now waiting for the Manpower Department to set up talks with the Department of Justice.

On the restructuring of the NMC — "a critical issue which raises questions about a new, tripartite negotiating forum for all labour matters" — Cosatu wanted a commission representative of major players, with greater powers and the ability to range "beyond mere labour law".

The life of the present NMC ends in April and Schreiner said he hoped negotiations would start before then. Cosatu would also look at restructuring the Manpower Department itself with an eye to better enforcement of laws, particularly in the farm and domestic sectors.

(2) yes, (a) the only formal request for notification has come from the community health group of the Medical Association of South Africa and (b) this group is of the opinion that AIDS should be made notifiable

†Dr W J SNYMAN Mr Speaker, arising out of the hon the Minister's reply, I wish to ask him whether the Government, owing to the seriousness of this threat, intends making a negative HIV-test a prerequisite for any immigrant or person who applies for permanent citizenship

†The MINISTER Mr Speaker, once again I do not want to venture into my colleague's field who, owing to circumstances relating to Parliament, has not been able to attend

†Mr J H VAN DER MERWE You do not know!

†The MINISTER I do not know and therefore I request that this matter again be placed on the Question Paper so that the hon members can be furnished with a reply

SADF: alternative service

*3 Mr L FUCHS asked the Minister of Defence Whether some form of alternative service (a) exists and/or (b) is envisaged for persons refusing to serve in the South African Defence Force, if so, what is the nature of such alternative service?

†The DEPUTY MINISTER OF DEFENCE

- (a) Yes A member can do community service after having been classified as a Religious Objector by the Board for Religious Objection
- (b) No other form of alternative service is envisaged

†Mr J H VAN DER MERWE Mr Speaker, arising from the hon the Deputy Minister's reply, I would like to know whether any legislation is envisaged to amend the existing legislation regarding the evasion of national service

†The DEPUTY MINISTER Mr Speaker, the reply to that is an unequivocal no

†Mr J H VAN DER MERWE That is a good reply

†Specifically includes trade unions, employers' organisations, strikes and lock-outs Future amendments to the Act will be considered on the grounds of the investigation and recommendations

(2) The Labour Relations Act, 1956, at present provides in section 17(12)(a) for the granting of costs orders according to "the requirements of the law and fairness" in the case of urgent interim applications for legal aid as well as in the case of section 46(9) determinations The Act also provides in section 43(4)(c) for the granting of a costs order in the case of a section 43 (status quo) application, but it may only be granted by the Court "on the ground of unreasonableness or frivolity on the part of a party" In terms of section 17(22)(c)(vi) of the Act the Rules Board may make rules "as to the taxation of bills of costs" only

Withholding tax on interest

*5 Mr J J WALSH asked the Minister of Finance

- (1) Whether he is considering the introduction of a withholding tax on interest, if so, (a) how will such a tax be applied and (b) when is it to be introduced,
- (2) whether he will make a statement on the matter?

†The MINISTER OF FINANCE

(1) (a) and (b)

As mentioned in the Budget Review of last year, the real return on interest-bearing investments is very low or even negative, and the existing taxation of interest discourages saving It was considered that a withholding tax, imposed on interest received by individuals, would have made a positive contribution to the encouragement of savings, but that the implementation of such a system could only be accomplished after several obstacles had been investigated and eliminated It was envisaged that the tax would be a final tax, at a low rate, deductible at source and payable to Inland Revenue

(2) As mentioned during the introduction, on 19 February, of the Part Appropriation

Bill, 1991, the Committee regarding the Advancement of Equal Competition for Funds in Financial Markets (the Jacobs Committee) gave serious consideration to this matter Their investigation brought to light numerous problem areas, of which the most crucial is the reclassification of other income and the practice of so-called arbitrage, for which solutions have not yet been found It has, therefore, been decided not to proceed with the implementation of such a tax at this stage

Leprosy

*6 Dr F H PAUW asked the Minister of National Health

- (1) What is the latest information on the incidence of the various forms of leprosy among the population groups in the Republic,
- (2) whether her Department regards leprosy as a highly contagious or deadly disease,
- (3) (a) what is her Department's standpoint on the (i) notifiability and (ii) isolation of cases of this disease and (b) what is the motivation for the removal of lepers from their social environment?

†The MINISTER OF NATIONAL HEALTH

(1) Notified cases of leprosy in the Republic of South Africa by population group, 1990 (as on 11 February 1991) are as follows

Asian	0
Black	31
Coloured	1
White	0

No information regarding the various forms of leprosy is available,

(2) no,

(3) (a) (i) leprosy is a notifiable disease and

(ii) patients are not isolated and leprosy patients' are referred to Westfort Hospital in Pretoria for confirmation of the diagnosis and stabilising of the treatment As a rule patients are then referred back to their place of origin for continuation

day

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Unions poser dodged

THE Minister of Manpower, Mr Eli Louw, has side-stepped a question on whether the government is to make trade unions liable for the actions of their members.

He said yesterday that the Labour Relations Act was being investigated. "Future amendments to the act will be considered on the grounds of the investigation and recommendations."

Cosatu to discuss 1991 campaigns

8/Day 8/3/91

VERA VON LIERES

COSATU delegates from around the country will meet at the weekend to discuss the labour federation's 1991 campaigns programme which will include action on the issues of retrenchments, centralised bargaining and the Labour Relations Act (LRA)

Cosatu said in a statement about 300 delegates from various affiliates and regions would meet in Johannesburg.

Other issues to be discussed would include campaigns around Cosatu's demands for a constituent assembly and a living wage, literacy and a campaign for workers' rights in a new constitution

Cosatu said the conference would also discuss various demands — including a 40-hour week, setting up a job creation fund and the retraining of retrenched workers

Cosatu said it would be focusing attention on extending rights guaranteed by the LRA to public, farm and domestic workers

The conference would discuss Cosatu's attitude towards a restructured National Manpower Commission and the Manpower Department's proposed labour code

By SHARON SOROUR
Labour Reporter

TRADE union leaders — celebrating the promulgation of the Labour Relations Amendment Act — will now push for labour legislation to be extended to South Africa's 1,3-million farmworkers

Farmworkers, employed on the country's 65 000 farms, are covered only by the Machinery and Occupational Safety Act and the Workmen's Compensation Act and are regarded as being among the most exploited members of the labour force

Legislation to extend the Basic Conditions of Employment Act (BCEA) and the Unemployment Insurance Act (UIA) to agriculture is in the pipeline

Minister of Manpower Mr Eli Louw has indicated that it is likely that the proposed legislation will be dealt with during this year's parliamentary session

Hailed as victory

This follows the promulgation of the Labour Relations Amendment Act of 1991, which was made law by President De Klerk on Wednesday and comes into operation on May 1

The Act contains wide-reaching features and has been hailed as a victory for employers and employees after more than two years of intense negotiations between employer body Saccola, the government and the two union federations, Cosatu and Nactu

In December the government called for comment on proposals by the National Manpower Commission (NMC) to extend certain legislation to farmworkers, paving the way for significant improvements to their working conditions

The proposals are based on the work of a special technical sub-committee, which included delegates from Cosatu, the South African Agricultural Union (SAAU), the Rural Foundation, the Labour Party, the NMC and two lawyers

According to the labour journal I R Data, it seems that the NMC does not intend extending the legislation to agriculture on a "blanket basis", but to restrict jurisdiction to "agri-business" — the sector where processes are more tertiary like processing, refining or packaging

The logic is that this type of farming operation could be defined as a "factory without a roof"

However, workers in corporate agricultural concerns like forestry and fruit packing have been unionised for some time now with agreements being negotiated to a certain extent

Even though these workers are not

covered by the Labour Relations Act and therefore do not have the right to strike legally, there have been strikes in these sectors

"And these have not been dealt with any differently from a strike in industry," I R Data reports

If the Basic Conditions of Employment Act is extended to agricultural labour, there will be important, far-reaching implications for Western Cape and other farmers — even those who have complied with the Labour Relations Act to a certain degree

According to I R Data this is because the Act is, in essence, protective legislation governing matters including hours of work, leave and basic minimum wages

"Hours of work are traditionally difficult to regulate in agriculture because of the seasonal problems such as planting and reaping and the ability to combine these with the right weather

"Livestock, too, cannot be subject to controlled hours due to the unpredictability of illness, lambing, calving and the necessity to move water at short notice," I R Data says

Key recommendations

Some of the key NMC recommendations on the Basic Conditions of Employment Act include

- Maximum ordinary working hours for farmworkers of 48 hours a week and 9,5 hours a day

- To accommodate the seasonal nature of agriculture, farmers and farmworkers should be able to agree on four hours a week in addition to normal hours for up to three months annually without workers getting overtime pay

- Payments in kind, use of land larger than a certain size, consumer goods, food and accommodation should be included in the calculation of wages. A list should be published stating the value of various types of goods and employers should not be allowed to make deductions from workers' wage packages without consent

- Workers doing piece work should be paid a minimum wage equivalent to that of permanent workers doing similar work

- The NMC could not reach consensus on the employment of child labour in terms of the Basic Conditions of Employment Act, other than on a farm, it is illegal to employ a child under 15. The majority of committee members recommended that farmers be allowed to employ children between 12 and 15 to do light work with provisos, including no work in school hours and registration of child labour with the Department of Manpower

Hope for farmworkers

New deal sought after historic labour laws passed

Mk 5/12/4/91

CITY



NATIONAL

Labour Act delayed from taking effect

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Sowetan 16/4/91

Sowetan Correspondent

THE Labour Relations Amendment Act of 1991 published in the *Government Gazette* last week only comes into operation on May 1.

The Act, which was passed by Parliament on February 14, carried the signature of State President FW de Klerk - the required formality for it to become law.

But according to a spokesman from De Klerk's office, certain technicalities have to take place before the Act comes into operation.

He said: "Regulations accompanying the Act are drawn up by the Department of Manpower and they have to be approved, after which a proclamation document will be sent to Mr De Klerk for approval."

The proclamation document and the regulations will be published in the *Government Gazette* together with the commencement date of the Act.

Ministry of Manpower Press secretary Mr Johann Muller said the regulations would be published on April 22.

Reacting to an article in *The Argus* yesterday, Muller said the Act was not only a victory for the labour movement but for the tri-party negotiating team.

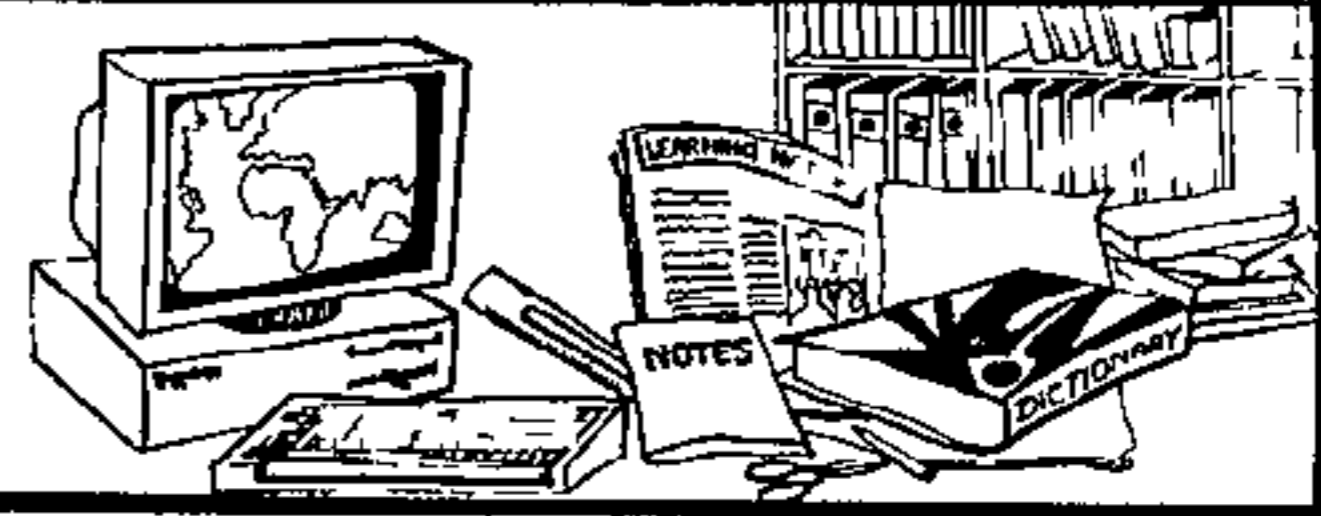
The Act translated into law the Cosatu-Nactu-Saccola accord, which redressed some of the problems attached to 1988 amendments to the Labour Relations Act of 1956.

Muller said: "It was a victory for negotiations, in the widest possible context, between Saccola, Nactu, Cosatu and the Government. That is how we hope to see all labour legislation negotiated."

The Bill had 15 aspects, comprising three amendments to the existing law, three deletions and nine new provisions.

The most important aspects of the Bill were the reinstatement of the pre-1988 definition of an unfair labour practice and removal of the power to interdict lawful strikes and lockouts from the Industrial Court.

RESOURCES



Workers' Rights - unfair dismissals

New Nation (Learning Nation) 16/4-25/4/91

In this series of articles we will look at labour laws affecting workers at the workplace. When we talk of laws we mean written or unwritten laws. Written laws are made in the apartheid parliament. Unwritten laws arise out of customs or practices recognised by the courts. An example of an unwritten law is the crime of murder, this crime is not described in any legislation of parliament. Most of the laws made by the present racist parliament were made to oppress us. Do you know of any laws which are oppressive?

Labour Relations Act

There are many labour laws affecting us as workers. Labour laws are the laws that affect us at the work place. Most of us who are organised in COSATU and NACTU are probably aware of the Labour Relations Act (LRA). Maybe you are one of the workers who participated in the stayaway for the repeal of the amendments to the LRA during June 1988. In this article I want to concentrate on the laws relating to dismissals. One of the worst things that could happen to us as workers is to be dismissed. The LRA says that before an employer can dismiss a worker the dismissal must be fair. If a dismissal is unfair then the dismissal is an unfair labour practice. The important question is when is a dismissal unfair?

Here is an example of an unfair labour practice

Zodwa works at Expensive Supermarkets as a cashier. Her supervisor tells her to clean the area around the till. Zodwa tells her supervisor that she is refusing to clean the area around the till because that work is not part of her job description. The supervisor then calls Zodwa a lazy black. Zodwa then slaps the supervisor and calls her a white racist. The supervisor calls the manager who approaches Zodwa and tells her that she is dismissed and should take her bag and go immediately. If you were a judge, how would you decide whether this dismissal is unfair or fair?

Requirements For a Fair Dismissal

Good Reason

The question to be asked is whether there was a good reason for Zodwa's dismissal. One person might say that there was a good reason for Zodwa's to be dismissed because it was wrong for her to slap her supervisor. Another person might say that Zodwa should not have been dismissed because her supervisor was wrong to have told her to clean the area around the till when that was not part of her job. Furthermore, Zodwa only slapped the supervisor after the supervisor had aggravated the situation by making a racist remark.

In the above example the basis for the dismissal is as a result of misconduct. Other examples of misconduct are theft, absenteeism and intimidation. To be dismissed the misconduct must be serious.

Fair Procedure

The second question is: was Zodwa given a chance to give her side of the story? It is clear that the manager only listened to the supervisor's story. This was clearly unfair towards Zodwa. The law says that before a worker is dismissed, she/he must be given a hearing. Another name for a hearing is a disciplinary enquiry. A hearing is like a court case. At court there is normally a judge who hears the case. At the disciplinary enquiry this judge is called a presiding officer. At court each party has the right to present his case.

Using Zodwa's case as an example, the following are the requirements for a fair disciplinary enquiry:

1. Reasonable Notice

Before Zodwa is called to a disciplinary enquiry she must be given reasonable notice of the enquiry. It would be unfair if the manager told Zodwa to come to an enquiry and he only gave her an hour's notice. This notice is important as Zodwa must have the opportunity to prepare her case.

2. The Charge Must be Stated in the Notice

Zodwa must know what misconduct she is charged of. The manager might think that the misconduct is assault, but if he does not say this Zodwa may think that the misconduct is refusal to obey a lawful instruction (refusing to clean the area around the till) and one may prepare for the wrong charge.

3. Particulars of the Disciplinary Enquiry

The notice must also state the time and date of the disciplinary enquiry so that Zodwa can know when she must be prepared and have her witnesses and representative present.

4. Representative of Her Choice

Zodwa must have the right to elect a representative of her choice to represent her at the enquiry. In most trade unions workers have shop stewards who will represent them at a disciplinary enquiry. If you do not have a shop steward you can ask any of your co-workers to represent you.

5. Right to an Interpreter

Zodwa must have the right to speak in her home language and to have English or Afrikaans interpreted in her own language.

6. Witnesses

Zodwa must have the right to call witnesses who will give evidence in her favour. If the till packer saw the incident and heard the supervisor make the racist remark, she could give evidence.

7. Right to Cross Examination

The company will also have the right to call witnesses who will give evidence against Zodwa. Zodwa and her representative have the right to ask these witnesses questions. This is called cross examination.

8. Unbiased Presiding Officer

The presiding officer is the person who will hear the case and decide whether Zodwa should be dismissed or not. This presiding officer must not be personally involved in the case. He must be neutral.

9. Mitigating Factors

Before the presiding officer takes decision he must take mitigating factors into account. Examples of mitigating factors are: Zodwa's years of service at the company, her past disciplinary record and her personal circumstances, e.g. does she have children to support, will she find another job?

10. Right of Appeal

If the presiding officer takes the decision to dismiss Zodwa, she should have the right to appeal against her dismissal to a superior manager, e.g. the regional manager.

Industrial Court

If Zodwa's appeal was unsuccessful, she has the right to take her dismissal case to the Industrial Court. At the Industrial Court a presiding officer will decide whether Zodwa's dismissal was fair or unfair. If the presiding officer decides that her dismissal was unfair, he could order her reinstatement to her job and she could receive some money. As there are certain legal procedures that have to be followed before a case is heard in the Industrial Court, Zodwa will need legal assistance. If Zodwa was a member of a trade union, she could report her dismissal to the union who would take her case to the Industrial Court.

If she was not a member of a union she could instruct an attorney to assist her. As she would need money to pay the attorney she might not be able to instruct an attorney. There are certain organisations that might assist her.

1 Legal Resources Centre	2 Industrial Aid Society	3 Legal Aid Bureau
P. O. Box 9495 Johannesburg 2000 Tel No. 833-2170	Second Floor, Metro Centre 266 Bree Street Johannesburg 2001 Tel No. 299315/7	York House Rissik Street Johannesburg Tel No: 8348561

Strike Action

The workers at the company may be so upset about Zodwa's dismissal that they could go on strike and demand the reinstatement of Zodwa.

Other Reasons for Dismissal

A worker could also be dismissed because of incapacity. An example of incapacity is the following:

Thabo is a switchboard operator and he loses his hearing. He therefore does not have the capacity to work as a switchboard operator. Does his employer have the right to dismiss him? Would this dismissal be fair? What do you think?

An exercise that you could do during your lunch hour is to enact the incident surrounding Zodwa's dismissal. You could also enact her disciplinary enquiry.

Next week we will learn about the law relating to retrenchments.

Labour 'at forefront of reform'

By SHARON SOROUR
Labour Reporter

LABOUR is at the forefront of reform in South Africa and will continue to lead the way, with the country's labour system on the brink of gaining acceptance in the international labour fraternity.

MANPOWER

Minister of Manpower Mr Eli Louw said in an interview with The Argus that apart from a few outstanding issues, like extending protective legislation to farmers, domestic workers and certain state employees, the system was close to

reaching a standard "that can be defended anywhere in the world".

South Africa's labour system moved a step closer to international standards when the Labour Relations Amendment Act of 1991 was signed on April 10.

"We proved with the agreement that it was possible to come together, find sufficient common ground and, in the end, reach consensus."

The Act brought to a close more than two years of intense negotiations between the governments of Cosatu and Nacou and employer body Saccola on proposed 1988 amendments to the much-criticised Labour Relations Act of 1956

It has been hailed as a victory for the tri-partite negotiating team and will come into effect on May 1.

Earlier Mr Louw said the Act was regarded as an honourable attempt to bring employers, employees and the State closer to promote a climate of mutual appreciation.

The Labour Relations Amendment Act paved the way for greater labour peace in the future, creating a broader industrial democracy in developing the labour system.

"If you consult the parties for whom the legislation is being drawn up before it reaches the Statute Book, and consensus can be reached, it will of course bring greater

peace in the labour arena when it is passed or becomes law."

Mr Louw said protective legislation for farmworkers would be introduced in parliament before July, but whether the bill would be passed depended on parliamentary process.

The legislation incorporates farmworkers into the Basic Conditions of Employment Act and the Unemployment Insurance Act.

Mr Louw said he believed labour peace could never be guaranteed in South Africa because there were "too many players in the field and too many external influences in the industrial arena that could lead to disharmony".

"But I am satisfied that since the major players are talking to one another, and to the government, there is undoubtedly a better atmosphere to develop labour harmony," he said.

The government's role in promoting labour peace was to take a "more neutral stance" between employers and the labour movement.

"Government must provide a framework conducive to labour peace in which the parties can find one another. The government must try to remain impartial to the greatest extent — and that is another arm of the department."

South Africa had resumed international labour ties after making contact with the In-

ternational Labour Organisation last year, after three decades

"The government recently approved a request for the ILO to visit South Africa on a fact finding visit to investigate a complaint lodged by Cosatu against the Labour Relations Act.

"The complaint, submitted in 1988 related to two sections of the Act which allegedly contravened ILO conventions. But the Labour Relations Amendment Act effectively deletes the offending provisions," he said.

A visit by ILO experts would improve international liaison on labour matters, he said.



Mr Eli Louw "system close to a standard that can be defended anywhere in the world"

A 'new era' dawns for militant black trade unions

By SHARON SOROUR
Labour Reporter

INDUSTRIAL action has cost more man days over the past five years than during the preceding 75, but trade unions have not only had a

destructive impact on the economy, they have played a key role in redistributing wealth to black workers, says industrial sociologist Dr Duncan Innes.

In the Innes Labour Brief he said the impact of unions on the economy during the past year had been "significant", with more man days being lost because of strikes in 1990 than in any year since 1987.

He said "No doubt some may wish to interpret this as evidence that unions have played a purely destructive role in the economic life of the country

"However, if union actions have damaged the economy, they have also brought considerable financial benefits to black workers, thereby playing a key role in redistributing wealth to important sections of the workforce."

But this period had not been without its costs to the workforce employment had shrunk significantly in the formal sector while 1.4 million new work-seekers had entered the labour market.

Many commentators argued that there was a direct relation between rising wages, improved working conditions and benefits for workers — which placed too big a financial burden on companies — and falling levels of employment.

He said "Simply put, the argument is that rising wages place too big a financial burden on companies, which are then forced to retrench but this certainly cannot be viewed as the only cause of rising unemployment."

The economic stagnation could be blamed on recessionary conditions of the past decade, sanctions, high taxation, rising government expenditure — rather than wage increases.

Trade unions functioned best in an expanding economic environment where there was a demand for labour, and not in a situation of falling employment.

"Clearly the continuation, and even intensification, of adversarial conflict in management union relations can only make an already bad situation much worse — not only for business, but for trade unions as well."

Dr Innes said it was possible, however, that 1990 had ushered in a more constructive era in the relationship between employers and unions.

Referring to the historic Labour Relations Amendment Act (LRAA) — which was ne-

gotiated between employers, trade union federations and the state — he said 1990 represented the dawning of a new era for black unions as they were beginning to position themselves to influence future state and corporate policies from within.

"A further by-product of the LRAA agreement was the black unions' decision to join the state's National Manpower Commission (NMC). This was an extremely important development, representing a complete break with previous

black union strategy of boycotting state institutions

"The age in which employers participated in state structures without black union participation is over," he said

Unions would also move to increase their influence over the Industrial Court as well as over government welfare, unemployment insurance and training schemes

Referring to employer-union relationships in the new South Africa, Dr Innes said the gap between the main

players was large with Co-sab remaining committed to socialist principles while the business community was "wedded to the free market doctrine of privatisation and deregulation"

"Clearly, both sides have very little in common with one another and believe fervently in the destruction of the opposing systems.

"These are the two poles of the debate but there is an important constituency within both camps who share a common belief in the need for a

The historic Labour Relations Amendment Act has ushered in a new era for militant black trade unions which are now following a more participative and co-operative approach to industrial relations. But a harmonious labour environment is not in the offing, argues industrial sociologist and labour expert Dr Duncan Innes

mixed economy in South Africa, at least for the immediate future."

However, even within these ranks there are differences with unionists favouring a mix in which the state sector dominated the private sector while employers favoured the reverse.

"But let there be no mistake of a new thinking is emerging within the unions in terms of which a more participative and co-operative approach may evolve, this does not mean that the hard

bargaining and adversarial approach of the previous phase will magically disappear

"On the contrary, unions will seek to gain through participation many of the demands they sought to win by adversarial bargaining"

Dr Innes said employers should answer this approach with "trade-offs" where issues could be traded off against one another

"For example, unions will undoubtedly demand from employers recognition of their right to participate in enterprise and industry decision-making. Employers have the right to demand from unions that agreed proce-

dures should be respected and adhered to," he said

But the new strategy of participation did not mean that unions were likely to ease up on mass action in the immediate future.

"Unions will continue to use mass action both as an external pressure on those they are negotiating with and in response to ANC campaign calls."

The ideal of an harmonious, non-politicised industrial relations environment was "certainly not in the offing"

"The next few years, in which a basis for more constructive co-operation may be established, will not be immune from conflict."

Lesotho miners feeling gold pinch

WITH the gold price continuing to take a tumble on the world market, thousands of Basotho miners have begun returning home from neighbouring South Africa.

The price plunge is said to have cost South Africa's mining industry at least 50 000 jobs last year alone, and the trend is expected to continue for the rest of this year.

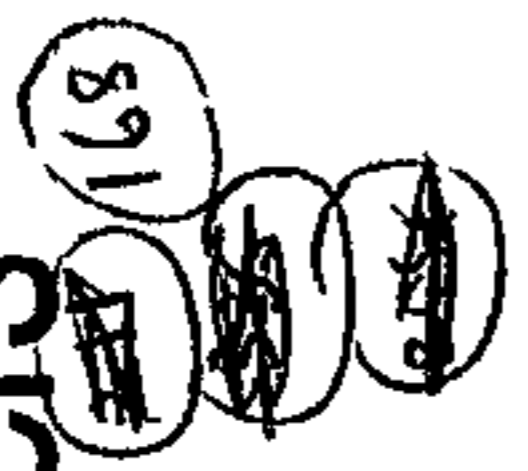
A retrenched miner who asked not to be named said he came home three weeks ago after working for only six months on the mines and had still not informed his wife that he had been

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retrenched. "My wife would be shattered at hearing the news. We were planning to build our own house by the end of this year as we are still staying with my parents."

At the beginning of 1990, the average number of Basotho miners in South Africa was 103 040. By the end of February 1991, the figure had dropped to 95 551.

The decrease has rattled Lesotho government circles because of the economic repercussions for the country. — *INTER PRESS SERVICE*



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New Bill cancels seven racist Acts

Political Correspondent

DISCRIMINATORY measures in seven Acts are to be removed by a new Bill tabled in parliament today.

The Further Abolition of Racially-Based Measures Bill removes a number of clauses which make a distinction between different races or population groups and is in line with the repeal of the Population Registration Act.

However, a transitional measure in the Bill is intended to "temporarily maintain existing classifications in the population register".

The new Bill alters the:

- Workmen's Compensation Act by deleting references to blacks and Asiatics,
- Merchant Shipping Act, by deleting special arrangements for the property, diet and accommodation of "non-whites",
- Marriage Act by abolishing the provision for the appointment of marriage officers for particular population groups,
- Births, Marriages and Deaths Registration Act, by deleting special provisions for black and Indian immigrants and by bringing the Act into line with the repeal of the Population Registration Act,
- Unemployment Insurance Act, by deleting references to blacks and Asiatics,
- National Parks Act, by deleting the reference to "European", and,
- Identification Act, terminating the inclusion of a person's race or population group in the population register, and placing the birth entry number on the certificate which indicates race — with an identity number.

Cosatu pushes for 'minute' between NMC and Louw

By DREW FORREST

IN A move to give National Manpower Commission recommendations on labour law more teeth, the Congress of South African Trade Unions is to push for a "minute" between the NMC and Manpower Minister Eh Louw

Cosatu's Geoff Schreiner said Cosatu envisaged a three-phase restructuring of the NMC — entailing changes in its composition, new powers and finally a revamped relationship with Louw. Some changes would be needed to the Labour Relations Act. "We are not looking to replace parliament's lawmaking function," he said. *Wimani 10/5-16/5/91*

Schreiner said there was already broad NMC agreement that the commission should comprise major labour actors, rather than hand-picked "experts", and "fair consensus" that it should be a negotiating forum on labour law and wider economic questions

The bottom line for Cosatu was that it should not be purely advisory and that employers and unions should be proportionally represented. Cosatu wanted state and private employers to form a single bloc — a proposal which had hit private sector resistance — and provision for the Manpower Department to express its views while negotiations were under way.

The life of the present NMC — which was due to expire on May 1 — is to be extended to facilitate the restructuring process. Louw is expected to announce this in his budget speech in parliament today. The NMC's proposal, which Cosatu accepts, is for a four-month extension

The manpower star who the left loves to hate

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W/mal 10/5-16/5/91

SUBJECTIVELY, I feel misunderstood — surprising words for one of the country's most powerful public servants.

Quietly spoken and affable, it is hard to believe that Manpower director-general Joel Fourie is the man the black unions and left-leaning labour lawyers love to hate

A mere 42, Benoni-born Fourie's comet-like ascent through the ranks of the civil service suggests unusual talents. A University of Pretoria law graduate, he lectured at the university and acted as a legal advisor to Iscor before joining the Manpower Department in 1985. Four years later, he was at the top of the greasy pole.

And yet his rise has been dogged by controversy — despite his self-effacing manner, few state officials have been so consistently under the media spotlight. He has been variously branded as an arch-conservative, devotee of deregulation, enemy of the industrial council system and saboteur of labour law reform.

Employers pay tribute to Fourie's technical skills, but say he is not at home in the new era of hard bargaining over labour law. "He is a technocrat, not a negotiator," one commented.

Unions and their partisans are harsher, viewing him as the architect of the 1988 Labour Relations Amendment Act, now consigned to the dustbin of history by a legislative volte-face which followed two general strikes, a consumer boycott and a national overtime ban.

And while the LRA was being rewritten, in arduous union-employer negotiations which ultimately drew in the state, he was accused of blocking change and paying undue heed to minor players on the right of the labour spectrum.

He has been misrepresented, Fourie insisted in a rare face-to-face interview in his Pretoria office. "There are too many checks and balances for one person to play such an overriding role." The 1988 Bill underwent 130 amendments when it reached the standing committee of parliament, he pointed out.

He also dismissed suggestions that he was a sort of Svengali manipulating the relatively inexperienced Manpower Minister Eli Louw. "No politician worth his salt will listen to one person." His role in the 1988 unfair labour practice code — a major union bugbear — was no more than to implement National Manpower Commis-

Arch-conservative or neutral technocrat? Enemy of change or chief of the most enlightened state department? **DREW FORREST** interviewed one of the country's most controversial officials, Manpower director-general Joel Fourie



Misunderstood ... Joel Fourie

sion (NMC) proposals in the light of comment, he stressed. He was adamant the department had a neutral role, testing law in the cauldron of broad public opinion and applying purely technical criteria in recommendations to its political bosses.

It is probably true that the 1988 law was a product of the times rather than the machinations of any one man. "It was drafted in the middle of the emergency; there were all sorts of pressures on government," Fourie remarks. And there is undeniable justice in his claim that of all state departments, Manpower has been most open to change.

At the same time, there is clearly a widening conservative-reformist divide within officialdom — specifically between Fourie's department and the NMC, the government's labour law advisor. On the LRA, and more recently the Basic Conditions of Employment Act and proposals for an unfair labour practice code, there are stark differences of approach.

The key flashpoint is the lawmaking process, rather than law itself — and opposition to the department appears to extend beyond the unions. Sources speak of tensions between Fourie and NMC chairman Frans Barker, seen as an apostle of co-determination in the labour field.

Cracks first appeared last year, after the cabinet rejected the NMC's redrafted labour Bill based on the Saccola pact. In an apparent reference to Fourie, a senior NMC man told a legal conference that certain "advisors to the minister" were thwarting the commission's efforts and usurping its role.

The suggestion was that the department was acting as a reactionary filter between the NMC and the politicians — and it is a complaint which has risen in stridency since the Congress of South African Trade Unions (Cosatu) joined the commission as a full member.

In the most recent storm, the federation lashed as "unwarranted interference." Manpower Department proposals for the extension of the Basic Conditions of Employment Act to farmworkers. These largely ignore NMC recommendations forged in arduous bargaining between labour and the South African Agricultural Union.

Underlying Cosatu's diatribe is a novel conception of labour lawmaking, which it is strongly punting in current moves to restructure the NMC. Dismissing the department's "neutrality", the unions want to draw it into NMC negotiations as one special interest among others. They are also seeking a "minute" binding the Manpower Minister to the commission's compromises.

Some sources suggest that the department is stonewalling these changes, seeing in them a threat to its power. Fourie insists that the fate of the NMC is a political decision — "we can only advise" — and that he has not yet come to a view.

"Obviously it's frustrating for the NMC when its compromises are ignored. But if it is to be more than advisory, we must look at the legal and moral consequences. In effect, politicians are being asked to delegate their lawmaking prerogatives."

Arguing that organised labour and business make up 30 percent of the labour field, he is also worried that a direct department role in the NMC will undermine its neutral, consensus-seeking role.

Fourie believes that the current problems are essentially ones of transition, and that it would be "tragic" if they disrupted the newfound relationship between labour and the state.

"We are trying to play the game as closely as possible to the rules," he said. "But there is uncertainty about where we are going. What is our new role, and how should we act in the interim?"

Cosatu to meet Louw on labour commission

6/10/81 13/5/91 VERA VON LIERES (166) 1981

COSATU will meet Manpower Minister Eli Louw today to start talks on restructuring the advisory body which will determine whether Cosatu continues to serve on the National Manpower Commission.

NUM assistant general secretary Marcel Golding said at the weekend the meeting would discuss restructuring the commission, extending the Basic Conditions of Employment Act and Unemployment Insurance Act to farmworkers, and extension of the Labour Relations Act (LRA) to homeland and public sector workers.

Sapa reports Louw told Parliament on Friday a majority of commission members recommended that farmworkers be covered by the LRA and the Wages Act, which should be changed to provide for agriculture.

Golding said Cosatu, which was taking part in the commission on a conditional basis, envisaged the commission as a negotiating forum on labour law. However, recent changes in its composition still needed to be evaluated, he said. In a recent Campaigns Bulletin, Cosatu proposed that the commission should not be purely advisory and that employers and unions should be proportionally represented. It also proposed that the commission should be a negotiating forum, able to advise on wider economic questions and labour law. Proposals are still under discussion within Cosatu.

McLaren get a look at the Las Vegas strip from the new Universe '91 title.

Picture: Associated Press

New deal envisaged

for SA farm workers

union-employer proposals on basic rights for farm workers

"Our concerns were partly addressed, but at this stage it is not possible to comment until we have seen the State's proposals in black and white," Mr Madlala added

The Bill, once referred to the Cabinet, has to be examined by State legal advisers before being submitted to the standing committee and eventual voting in Parliament

Mr Muller said the standing

committee could decide to hear further evidence on the extension of the Act to farm workers

The Basic Conditions of Employment Act governs minimum worker rights such as hours of work and holiday and sick leave

The rights to organise and joint trade unions, bargain wages and strike are enshrined in the Labour Relations Act

The extension of the LRA to farm and public-service workers and the homelands is subject to a separate inquiry

Cosatu also envisages a re-structured NMC which serves as a negotiation forum between organised labour, employers and the State, with agreements being implemented by Parliament as law — Sapa

could not comment on the proposals in the Bill until he had seen it

The "very candid" discussions with Mr Louw included the relationship between the National Manpower Commission (NMC) and the Department of Manpower, said Mr Madlala

Three weeks ago Cosatu, which agreed to conditional participation on the advisory body, threatened to withdraw from the NMC because the department had ignored joint

CAPE TOWN — The Basic Conditions of Employment Act could be extended to farm workers by the end of the current parliamentary sitting, Manpower Ministry spokesman Johan Muller said yesterday.

He was commenting after a three-hour meeting between Manpower Minister Eli Louw and Cosatu, which included discussing the extension of the Act to farm workers.

This extension is expected to be submitted to the Cabinet tomorrow

The Basic Conditions of Employment Act does not cover minimum wages and the right to organise trade unions or to strike

Mike Madlala, a member of the Cosatu delegation, said he



home show [C] have one

controversy came to a head last year and a trial was pending, muddled its way through its predicament was obvious — how to handle a sensitive and emotional issue implicating the wife of a leader who has not only become indispensable to the future of the ANC, but the entire nation. Adding to the ANC's problems was a membership divided on what became known as the "Winnie affair".

Higher court

While a higher court has been asked to give a final pronouncement and the last words on the trial not yet spoken, there are certain steps the ANC will have to take.

It will have to start healing divisions within its ranks caused by the "Winnie affair". It will need to expurgate the entire matter by ensuring that an internal investigation is held and that it is properly and conclusively dealt with at the forthcoming national congress. Forgetting that it ever happened will be the worst thing to do.

There are fences to mend with formations of the mass democratic movement whose senior members found it necessary, during the course of the trial, to say they stand by the exorcism of Mrs Mandela over the Stormie Seipen matter in early 1989. It needs to realise that its interests were best served by having the case dealt with publicly.

Mrs Mandela's political ambitions will need to be dealt with astutely. Her conviction on criminal charges cannot simply be ignored and the first effects of the trial were already felt at last month's Women's League conference where she was soundly defeated in her bid for presidency.

Crowning her conviction at the July congress with elevation to the NEC would no doubt have disastrous consequences.

In the final instance, the "Winnie affair" must not sidetrack the ANC in achieving its ultimate objectives. There is a struggle to be won!

UNTIL about a year ago, culture was what you got when you bought tickets to the Cape Town Film Festival, and weapons were what you used to steal the money to buy the tickets. Now, we are surrounded by "cultural weapons" which seem to be so necessary to certain male members of the exploited and oppressed classes that they will fall over if they are asked to walk around without them.

Many people have been mystified by the origin of these cultural weapons. But now the truth can be revealed. It all goes back to a certain statement made by one of our own dear comrades. In February 1990, a discussion document by Comrade Albie hit the headlines all around South Africa. It was a long and thoughtful paper, drawing together everything that the comrade had learnt in exile about Russian novels, Mozambican ballet and whiteness. But one sentence stood out from all the others — the call for a five-year ban on the use of culture as a weapon of struggle.

Bomb

This call was like a bomb hitting the brains of all the cultural soldiers hidden in bunkers around the country. Some of them collapsed at once, like pricked balloons, some came leaping joyfully out of hiding, tearing off their aggro T-shirts and prancing around naked with daisies in their ears, shouting "Freedom at last!" A few struck their heads defiantly through the holes in their bunkers and called out "The struggle continues! Viva disorganised overfunded groups of unproductive cultural workers as a weapon of struggle, vva!"

In short, there was a hell of a lot of screaming and shouting on this topic for quite a while.

Now as we all know, there are many different languages spoken in South Africa. Some would call this a sign

A peasant the grain



of our wonderful cultural richness and diversity, others would see it as a bloody nuisance. Everyone would agree that it can create problems from time to time. Like for example, causing somebody who is not very familiar with conversational ANC-English to misunderstand Comrade Albie.

This somebody was a wise old man who lived in a hut in the wise old Natal hills, and who spoke only Zulu, the traditional language of brave men and their mothers.

Owing to his unfamiliarity with ANC-English, he thought that what Comrade Albie was actually calling for was a ban on all cultural weapons. And this made him extremely angry, because he earned his living by making these things (Which one can understand, of course, nobody pays you anything these days for wisdom.)

Production line

To be more exact, this wise old man was an important link in the production line of cultural weapons. He it was who took delivery of all the bits of copper pipe, rusty nails, aluminium road sign support bars, and other raw materials that were always going missing in the big cities. Small, unhealthy looking city scavengers would make their way to him where he sat in the canefields, and he would weigh their raw materials and pay them a fair price — a piece of sugar cane as long as the piece of

pipe they brought, or a spit-roast carne rat for the lucky ones who could offer a ready-made axe.

Then, once these farmers had gone back to the city to harvest new crops, he would give a long, low whistle and through the sugar cane would come a representative of the Cultural Weapons Production Co-operative, which had its factory lower down in the valley.

The rep would arrive in a large vehicle that looked a bit like a Casspir, except that it had bouganvillea growing through the wire mesh on the windows and a full-colour portrait of Mangosuthu the Great airbrushed along its side.

The production co-op had been given this useful armoured bakke by Armscor, which had adopted the project as part of its social responsibility programme and was busy developing grassroots weapons production skills as part of its commitment to the new South Africa.

The co-op rep would spend an hour or so with the Zulu wise man drinking beer and learning the secrets of local life (like who was wearing what T-shirt, and which meetings were going on), and then he would leave with his cargo of scrap metal. The wise man was very happy with this arrangement, because the co-op had promised him that it was putting money into a Swiss bank account for him, so that he could fulfil his lifelong

dream of leaving the canefields behind and returning to a yacht in the Mediterranean.

So you can imagine that a ban on all cultural weapons was not a thought to gladden this old man's heart. And because he had powerful friends, he could immediately implement a counter-strategy.

Together with Armscor's marketing manager and a top advertising agency, he worked out a campaign to sell the idea of cultural weapons to every brave Zulu-speaking man and his mother. The campaign was based on the idea that no man should appear in public without a cultural weapon. It was not just a question of tradition, it was a matter of showing you had style, class, the ability to succeed in life. A man without a cultural weapon was like a comrade without a T-shirt, a president without a wife, a curry without dhanya. Unthinkable.

Ethnic sjamboks

The campaign, as we all know, has been wildly successful. Cultural weapons, like nja turtles, are everywhere. Sweet old men with beards and sportsjackets carry whips in the street. Gleaming axes lie next to car phones in imported sports cars. Designer ethnic sjamboks hang next to art posters on the walls of some of our most famous artists.

The fever is spreading. Soon children will be graded in primary school on their ability to handle a machete, and grandmothers will discuss spear-sharpening techniques over tea.

Perhaps, though, there's still time for someone with a book of ANC-English grammar to go up and visit the wise old Zulu man, and persuade him to turn off the flood of weapons. An offer of Chris Ham's job and a holiday home in the Bahamas should be enough to convince him.

Circular on Labour Act is ignored

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THE South African Chamber of Business (Sacob) has sent out a circular to businessmen on the Labour Relations Amendment Act, which came into effect on May Day

However, major black business organisations such as Nafcoc and Fabcos, whose membership employs thousands

of workers in South Africa's townships and many of whom have not been hard hit by labour unrest, have remained silent on the Act.

Sources say that the two organisations have met and discussed a variety of issues with Sacob, although it is still not clear whether the labour relations came under spotlight

The most important feature of the amendments, which resulted from drawn-out efforts and discussions between Saccola (an employers association) and Nactu and Cosatu, is the replacement of the detailed definition of an unfair labour practice by a much broader definition.

This means that employers and trade unions will have more freedom as to their arguments and actions concerning unfair labour practices which have been very controversial between the parties since the LRA was implemented in 1978

The industrial court will also have wider discretionary powers to determine unfair labour practices

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**Domestic workers
take to the streets**

By Shareen Singh

Domestic workers in several towns and cities held demonstrations outside Department of Manpower offices yesterday to highlight their demand for inclusion in the Labour Acts

The demonstration was part of Cosatu's campaign for extension of the Labour Relations Act to all workers

Spokesman Florrie de Villiers said the SA Domestic Workers Union (Sadwu) wanted domestics included in the Labour Relations Act, the Basic Conditions of Employment Act, the Wage Act, the UIF Act and the Workmen's Compensation Act.

Johannesburg demos said protection under the law was their only hope of getting decent wages and working conditions.

Mrs de Villiers said Manpower Minister Eli Louw had ignored the National Manpower Commission's recommendations on farm workers, and Sadwu was concerned that he might adopt the same attitude regarding domestic workers.

Farm workers in the new LRA?

Special Correspondent

IT appears as if the long struggle by trade unions to bring farm workers and public sector workers under the protection of labour legislation will eventually bear fruit.

Acting National Manpower Commission (NMC) chairman Dr Frans Barker says the recommendations on the inclusion of farm workers under the Labour Relations Act have been completed and submitted to Manpower Minister Eli Louw. They will be published for comment in the Government Gazette of May 30. C/P 26/5/91

According to Barker, the NMC recommendations call for farm workers to be included under the Labour Relations Act, but with the stipulations applying to them adapted in certain circumstances.

"The majority determination of the NMC is that employers and employees should be allowed to solve their own differences as far as possible. We have also recommended that small labour courts be established to assist farmers in solving differences which may arise"

As far as the inclusion of domestic workers in labour legislation is concerned, the investigation should be completed by June 18, when the NMC will submit a report to the Minister

As with farm workers, a minimum wage will probably have to be determined on a regional basis.

For Cosatu the inclusion of workers in the public sector under the protection of labour legislation remains an important issue

Labour statistics illustrate that this inclusion would be of utmost importance to trade unions

In 1989 only one percent of all lost man-days derived from the public sector, but last year the figure jumped to 24 percent of all lost man-days. The prospect for even more strikes within the public sector appears likely

However, it must be remembered that the NMC recommendations on the inclusion of workers in the public sector under the Wage Act and the LRA are recommendations only. The power of final decision-taking rests with the Minister

NMC tables proposals on farmworkers

By DREW FORREST

THE National Manpower Commission has recommended the extension of the Labour Relations Act (LRA) to South Africa's 1,3-million farmworkers — subject to amendments which include Small Labour Courts, statutory mediation and further regulation of the right to strike.

The recommendations, part of the NMC's wide-ranging investigation into farmworkers' legal position, are published for comment in the *Government Gazette* today.

The report makes it clear that the SAAU is "not fully convinced" of the need for a formal labour relations dispensation in farming, fearing that the statutory recognition of unions could disturb the "special" relationship between farmers and their workers.

The majority view is that separate Acts would cause uncertainty and suspicion, leading to constant pressure for inclusion under the LRA, and would be difficult to administer. However, a range of amendments to take account of special conditions in farming are proposed, including:

- The inclusion of mediation and arbitration among statutory dispute-settling mechanisms. Mediation should be concluded within 30 days, or longer by agreement, before Industrial Court action or a strike.

- Small Labour Courts (SLC) with regional jurisdiction, to deal largely with disputes of right, where no professional representation would be allowed and from which no appeal would be possible. Complainants would have the option of using these

or the Industrial Court.

Though most NMC members rejected a Cosatu call for a restructured NMC to be involved in appointing court officers, a procedure for the removal of incompetent officers drew broad support.

The NMC accepts the right to strike and lock out in agriculture, but suggests regulation to take account of the sector's unique features. These include its seasonal character and the fact that payment in kind, including housing and land use, will be difficult to withhold during industrial action.

The NMC recommends no-strike agreements banning strikes and spec-

ifying compulsory arbitration or other remedies for certain periods of the year. To guarantee enforcement, enabling legislation would be needed.

Another suggestion is the right to court interdicts banning strikes for a certain time because of special circumstances — including a threat to the viability of a farm, or a danger to health and safety or property.

There is general agreement on the need for the NMC to develop an unfair labour practice code, which most members hold should apply to all sectors. The SAAU suggests a code should be a precondition for the inclusion of farming under the LRA.

Commission split on farm wage

By DREW FORREST

SHARP differences of perspective within the National Manpower Commission — notably between the SA Agricultural Union and black unions — clearly emerge in the NMC's split recommendation on the application of the Wage Act to farming.

In its report, gazetted for comment today, the commission merely records three conflicting views.

Cosatu and Nactu call for the inclusion of farming under the Act, conversion of the Wage Act

which sets statutory minimum wages in unorganised sectors, and a tripartite body representing business and labour.

Stressing that only 17 per cent of farmworkers are organised, the commission

between pay in farming and other sectors. They also support unionising farms and collective bargaining.

In contrast, the SAAU favours a separate wage act for farming, and the Agricultural Union supports the Wage Act for farmworkers.

NMC tables proposals on farmworkers

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Cosatu and Nactu call for the inclusion of farming under the Act and the conversion of the Wage Board, which sets statutory minimum wages in unorganised sectors, into a tripartite body representing the state, business and labour.

Stressing that wages comprise a mere 17 percent of expenditure in agriculture, the unions point to the gap

between pay in farming and other sectors. They also say difficulties in unionising farms are an obstacle to collective bargaining.

In contrast, the SAAU and conservative employer body Cofesa call for the Act to continue excluding farmworkers. They say minimum wages will fuel inflation and unemployment, adding that 30 percent of white farmers are near insolvency.

The inclusion of farmworkers under the Basic Conditions of Employment Act and Labour Relations Act will provide for wages to be set in bargaining, they argue.

A third view holds that the extension of the Act should be delayed for two years and that voluntary wage guidelines for farming should be drawn up in the interim.

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Unique proposal on strike action

Farm labour laws heading for shake-up

B10ay 30/5/91

(166)

VERA VON LIERES

THE National Manpower Commission (NMC) has recommended far-reaching changes to agricultural labour law, including a unique proposal for dealing with strikes during key periods of the farming process.

The recommendations on collective bargaining, dispute settlement and the minimum wage are contained in a 16-page report due to be published in the Government Gazette today. The report has been handed to Manpower Minister Eli Louw.

Draft legislation to include farmworkers is expected to be drawn up towards the end of August. It would affect 1,3-million farm workers — or 6-million people including dependents.

Parties to the report include Cosatu, Nactu and the SA Agricultural Union (SAAU). Other union and employer groups also participated in discussions.

The SAAU expressed reservations about a number of the key recommendations, saying it was "not convinced of the need for a formal labour relations dispensation at present". It expressed fears that labour relations in agriculture, now peaceful, could be badly disturbed by a new dispensation.

The SAAU said it therefore remained hesitant about extending the Labour Relations Act to the agricultural sector at all.

The NMC recommends that, because of the "biological" nature of farming, "no-strike" agreements should apply during peak farming periods. During such periods, disputes would be resolved through compulsory arbitration.

However, it was considered undesirable to totally outlaw strikes in agriculture as this would destroy collective bargaining.

In another key move, the NMC recommended that provision should be made for establishing Small Labour Courts — similar to "small claims" courts — under the ambit of the Industrial Court to deal with minor disputes of right.

Small Labour Courts would not be courts of record and no professional representation would be allowed. They should be in all major towns and should have regional jurisdiction.

The commission further recommended that a code of unfair labour practices be drafted to apply to agriculture and, probably, other sectors.

Acting NMC chairman Frans Barker said this would introduce clarity.

Such a code should have "legal effect" and it should be possible to present it as evidence in court.

The commission agreed that there should be initial attempts to settle disputes at farm level, failing which there should be access to an industrial council, a conciliation board, mediation or arbitration.

The SAAU felt that at the initial stage of dispute settlement there should be no "outside interference", such as by unions. However the majority of the NMC disagreed.

Barker said another key recommendation was that parties should be able to go directly to mediation or arbitration with-

□ To Page 2

2

BUSINESS DAY, Thursday, May 30 1991

Farm labour

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□ From Page 1

out first approaching a conciliation board.

The majority of the commission's members felt it was desirable that the LRA be extended to cover farmworkers rather than to have a separate law governing agricultural collective bargaining.

Barker said the commission failed to obtain a unanimous decision on recommendations around a minimum wage system governed by the Wage Act — where a state-appointed Wage Board determines minimum wages and conditions of employment. Some — especially the unions — supported including agriculture under the ambit of the Wage Board, others — including the SAAU — supported the status quo in terms of which agriculture is excluded.

While it was not the majority view the

NMC finally recommended that the status quo remain in force and the issue be reconsidered in two years' time.

In the interim, the Wage Board should make recommendations about acceptable minimum wages which would not become law but would "serve to orientate the farming community" towards the idea, the report states.

A spokesman for Louw said the NMC's recommendations were "an important step in the process of attaining widest possible consensus" on agricultural labour law.

He said Louw "would seriously scrutinise any recommendations representing employer and employee views".

Labour Act reforms will be law next year ¹⁶⁶ Louw

By SHARON SOROUR
Labour Reporter

REFORMS to extend four labour Acts to agricultural workers are set to come into effect next year, said Mr Eli Louw, Minister of Manpower

Amendments to two of the Acts — the Basic Conditions of Employment Act and the Unemployment Insurance Act — were submitted to parliament this week and are being considered by a parliamentary joint committee

The recommendations of the National Manpower Commission on the other two — the Labour Relations Act and the Wage Act — are published in the Government Gazette for comment until August 31, Mr Louw said at a Press conference

"The objective of the Unemployment Insurance Act is to

ensure contributors do not lose remuneration in the short term when services are terminated

"Employers and employees both contribute 90c per R100 of the employee's remuneration as premium to the fund," Mr Louw said

The most important Basic Conditions of Employment Act amendments envisaged were

- The normal working hours of farmworkers were 48 hours a week and 60 hours for herdsmen

- The maximum normal working hours a week for farmworkers could be lengthened by agreement by four hours to 52 hours and 10 hours a day for three months during a continuous period of 12 months — provided normal working hours be reduced by a corresponding number of hours without a wage loss in the

same 12 months ^{ARG 21/6/91}
● As far as normal working hours were concerned a farmworker could work nine hours and 30 minutes a day

- The provision of two weeks paid vacation leave a year and 30 days sick leave in a three-year cycle

Mr Louw said labour legislation was based on a compromise between the interests of workers and farmers and did not necessarily satisfy any of the parties 100 percent

"The final product is reasonable and establishes a dispensation both parties can live with," he said

Bills on rights of farm hands tabled

CAPE TOWN — Rights for farmworkers regarding unemployment insurance and working hours were tabled in Parliament yesterday and most likely will be promulgated next year.

Sapa reports additional legislation for farmworkers was to be tabled next year in amendments to the Labour Relations Act and the Wage Act, Manpower Minister Eli Louw said at a news conference yesterday.

BILLY PADDOCK reports Louw said the Basic Conditions of Employment Act and the Unemployment Insurance Act would be delayed because they were still being discussed in the joint committee.

The committee would not have time to submit amendments before the end of the session today, he said.

He said the most important amendments to the Basic Conditions of Employment Act were

□ That normal working hours of a farmworker are 48 hours a week and the working hours of herdsmen

are 60 hours,

□ Farmworkers' spread-over can be up to 14 hours a day;

□ A farmworker can work nine-and-a-half hours a day;

□ That farmworkers receive two weeks paid leave a year and 30 days sick leave in a three-year cycle,

□ The maximum normal working hours a week can be extended by agreement to 52 hours for a period of three months during a 12-month period provided there was a reduction of normal hours without loss of wages in the same period.

Legislation extending the Labour Relations Act to farmworkers had been published for comment. The closing date for submissions was August 31 which meant it would also only be tabled next year, Louw said.

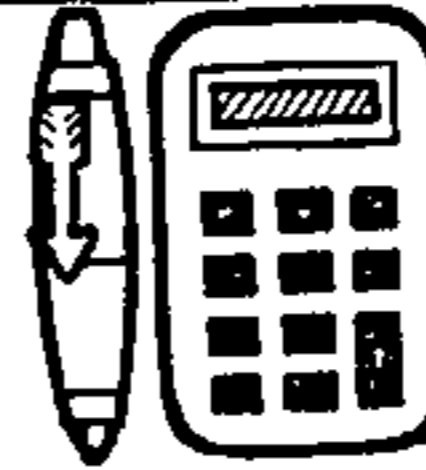
He said the National Manpower Commission had recommended that the Wage Act being extended to farmworkers, and which made provision for the Minister to institute an inquiry, should be delayed for two years.

Call for new provincial govt

PRETORIA — The present provincial government system was unacceptable and a drastically different system of regional government had to be implemented, Transvaal MEC for Community Development and Environmental Conservation Willie Hoods said last night.

He told a Rapportryerskorps meeting the regions need not follow existing historical borders. With adjustments the present economic development regions could be used and the provincial and self-governing territories' administrations could form the core of the administrative frameworks of future regional governments.

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LABOUR

Weekly Mail Reporter 28/6 - 4/7/91

THE Basic Conditions of Employment Bill, tabled in parliament last week, goes some way towards a better deal for farmworkers — but is still not entirely acceptable

This is the view of Dawie Bosch, labour lawyer and member of the National Manpower Commission's (NMC) farmworkers' sub-committee.

According to the Department of Manpower, the Bill is likely to be legislated in February next year despite hopes that it would go through this session

The new Bill includes many of the NMC proposals omitted by the Manpower Department in controversial draft legislation earlier this year

It provides for a 48-hour working week which can be extended by four

New Bill gives better deal for farmworkers

hours a week over a period of three months. The department had proposed a 54-hour week over a period of four months.

Overtime has been set at three hours a day and not more than 10 hours a week. Sunday work will be paid at double normal wage rates with a day's paid leave if the work has exceeded five hours. In a significant move, the Bill provides for piecework to be paid at normal rates

But, says Bosch, "although most of the areas of consensus (in the NMC) are covered, some have been watered down".

The NMC recommended "reasonable

notice" to provide more than the statutory notice of two weeks for farmworkers. "The department has introduced very specific circumstances for extended notice and has weakened the clause," said Bosch.

A key NMC recommendation was the introduction of civil remedies for breaches of the Act. The Bill allows for civil remedies — but stipulates that parties to a civil claim must sign a certificate removing the Manpower Department's responsibility to investigate.

Strict regulations aimed at governing the granting of exemptions from the Act were laid down by the NMC, among them a provision that the manpower

minister should provide reasons for granting exemptions and should publish those granted. The Bill leaves the granting of exemptions to the minister. Significant absences are anti-race and sex discrimination clauses proposed by Cosatu and a proposed ban on dismissals in anticipation of new law. A clause preventing farmers from forcing farmworkers to buy at their shops has also not been included.

The posting of summaries of legislation in four languages on all farms, a unanimous NMC proposal, is omitted from the Bill. Also excluded is a Congress of South African Trade Unions proposal for the streamlining of depart-

ment enforcement procedures. Explaining these omissions, a Manpower Department representative said the Bill was rushed through before parliament recessed. Only the most important clauses were included.

He said the Bill was likely to be significantly changed by the parliamentary standing committee.

● The Unemployment Insurance Act Amendment Bill, extending UIF to farmworkers, was also tabled in parliament last week. It makes provision for the Act to be phased in over 12 months, to "uniform and prepare employers and employees properly".

However, the Bill also makes provision for the farmworkers to become contributors as soon as the Act is passed, should they so wish



Tobacco The processing and manufacture of tobacco and its derivative products,

Cold Storage, Distribution and Fresh Produce Markets The preservation of food by cold storage, the distribution of food and the marketing of fresh produce

Postal address of applicant P O Box 3629, North End, Port Elizabeth 6056

Office address of applicant Print House Building, Room 3, First Floor, 365 Kempston Road, Korsten, Port Elizabeth

Interests and area in respect of which registration is held. All persons engaged in the Food Processing Industry as defined above in the Magisterial Districts of Albany, Aliwal North, East London, Elliot, Graaff-Reinet, Hankey, Indwe, King William's Town, Kirkwood, Lady Grey, Middelburg (CP), Molteno, Port Elizabeth, Queenstown, Stutterheim and Uitenhage

Attention is drawn to the following requirements of section 4 and 7 of the Act

(a) The representativeness of any trade union which objects to the application shall, in terms of section 4 (4), as applied by section 7 (5), be determined on the facts as they existed at the date on which the application was lodged and, as far as membership is concerned, only members who were in good standing in terms of section 1 (2) of the Act as at the aforesaid date shall be taken into consideration

(b) The procedure laid down in section 4 (2) must be followed in connection with any objection lodged

D. W. JAMES,
Industrial Registrar.

(5 July 1991)

Tabak Die verwerking en vervaardiging van tabak en sy derivaatprodukte,

Koelkamers, Verspreiding en Varsproduktemarkte Die preservering van voedsel in koelkamers, die verspreiding van voedsel en die bemerking van vars produkte

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Belange en gebied ten opsigte waarvan registrasie gehou word Alle persone in diens in die Voedselverwerkingsbedryf soos hierbo omskryf, in die landdrosdistrikte Albany, Aliwal-Noord, Elliot, Graaff-Reinet, Hankey, Indwe, King William's Town, Kirkwood, Lady Grey, Middelburg (Kaa), Molteno, Oos-Londen, Port Elizabeth, Queenstown, Stutterheim en Uitenhage

Die aandag word gevestig op onderstaande vereistes van artikels 4 en 7 van die Wet

(a) Die mate waarin 'n beswaarmakende vakvereniging verteenwoordigend is, word ingevolge artikel 4 (4), soos toegepas by artikel 7 (5), bepaal volgens die feite soos hulle bestaan het op die datum waarop die aansoek ingedien is, en wat die lidmaatskap betref, word alleen lede wat ingevolge artikel 1 (2) van die Wet op voormelde datum volwaardige lede was, in aanmerking geneem

(b) Die prosedure voorgeskryf by artikel 4 (2) moet gevolg word in verband met 'n beswaar wat ingedien word.

D. W. JAMES,
Nywerheidsregistrator.

(5 Julie 1991)

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NOTICE 617 OF 1991

DEPARTMENT OF MANPOWER

RECOMMENDATIONS OF THE NATIONAL MANPOWER COMMISSION ON THE RESTRUCTURING OF THE NATIONAL MANPOWER COMMISSION

By direction of Mr E van der M Louw, Minister of Manpower, the above-mentioned Recommendations are published in the Schedule hereto for general information and comment

The Recommendations of the National Manpower Commission (NMC) set out hereunder flow from the meeting between the Minister of Manpower, the South African Consultative Committee on Labour Affairs (SACCOLA), the Congress of South African Trade Unions (COSATU) and the National Council of Trade Unions (NACTU) on 14 September 1990

Paragraph 8 of the minutes of that meeting reads as follows

"The working party agrees that legislation on labour relations cannot work unless there has been extensive consultation with at least the major actors in the labour relations arena and broad consensus on the legislative framework for the regulation of

KENNISGEWING 617 VAN 1991

DEPARTEMENT VAN MANNEKRAG

AANBEVELINGS VAN DIE NASIONALE MANNEKRAGKOMMISSIE OOR DIE HERSTRUKTURERING VAN DIE NASIONALE MANNEKRAGKOMMISSIE

In opdrag van mnr E van der M Louw, Minister van Mannekrag, word bogemelde Aanbevelings in die Bylae hiervan vir algemene inligting en kommentaar gepubliseer

Die Aanbevelings van die Nasionale Mannekragkommissie (NMK) wat hieronder uiteengesit word, vloei voort uit die vergadering tussen die Minister van Mannekrag, die Raadplegende Komitee van Suid-Afrikaanse Werkgewers insake Arbeidsaangeleenthede (SACCOLA), die Congress of South African Trade Unions (COSATU) en die National Council of Trade Unions (NACTU) op 14 September 1990

Paragraaf 8 van die notule van die vergadering lui soos volg

"Die werkgroep is dit eens dat wetgewing oor arbeidsverhoudinge nie kan werk nie tensy daar breedvoerige oorlegpleging met ten minste die hoofakteurs in die arbeidsverhoudinge-arena plaasgevind het en bree konsensus oor die wetgewende

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6. Should the Minister have a discretion in who he may appoint to the NMC, provided employers and employees are equally represented?
7. Should the NMC have decision-making powers?
8. Do you experience any problems with the present system? If so, please give details
9. How could **extensive consultation** take place and **broad consensus** on the legislative framework be reached?

Comments should be in writing and should be sent to either—

Adv Abraham Bardin
National Manpower Commission
Private Bag X316
PRETORIA
0001
Telephone. (012) 310-6336

or to the—

Director-General of Manpower
Private Bag X117
PRETORIA
0001
(for attention Mr D van der Walt)

not later than **30 August 1991**.

6. Moet die Minister 'n diskresie hê oor wie hy in die NMK kan aanstel, met dienverstande dat werkgewers en werknemers gelyke verteenwoordiging het?
7. Moet die NMK besluitnemingsbevoegdheid hê?
8. Ondervind u enige probleme met die bestaande stelsel? Indien wel, verskaf asseblief besonderhede
9. Hoe kan **Breedvoerige oorlegpleging** plaasvind en **breë konsensus** oor die wetgewende raamwerk bereik word?

Kommentaar moet skriftelik ingedien word en moet gerig word aan—

Adv Abraham Bardin
Nasionale Mannekragkommissie
Privaatsak X316
PRETORIA
0001
Telefoon (012) 310-6336

of aan die—

Direkteur-generaal van Mannekrag
Privaatsak X117
PRETORIA
0001
(vir aandag mnr D van der Walt)

nie later nie as **30 Augustus 1991**.

SCHEDULE

NATIONAL MANPOWER COMMISSION

RECOMMENDATIONS ON THE RESTRUCTURING OF THE NATIONAL MANPOWER COMMISSION (NMC)

1. INTRODUCTION AND FACTUAL POSITION

1.1 The current NMC's term of office expired at the end of April 1991 and the Minister announced in Parliament that he would be extending the term of office up to 30 September 1991. A new NMC must therefore be appointed with effect from 1 October 1991.

1.2 The majority of the NMC members feel that the NMC should be restructured in terms of functions and composition. This document sets out the views of the NMC on this issue.

1.3 A number of organisations not represented on the NMC¹ were invited to participate in the deliberations on the restructuring of the NMC. These are

- * Federation of Municipal Trade Unions
- * FITU—Federation of Independent Trade Unions
- * FEDSAL—Federation of Salaried Staff Associations of South Africa
- * CMBU—Confederation of Metal and Building Unions
- * SACOL—SA Confederation of Labour
- * NAFCOC—National African Federated Chamber of Commerce and Industry
- * NACTU—National Council of Trade Unions

Those marked with an asterisk (*) participated fully and their views are reflected in this document. For ease of reading no distinction is drawn between NMC members and other representatives.

1.4 In terms of current legislation the Minister of Manpower appoints the members of the NMC. In terms of section 2A(1) of the Labour Relations Act (LRA) the NMC shall "consist of a chairman, a deputy chairman and as many other members as the Minister may deem necessary to represent the interest of the State, employers and employees". In appointing such members "the Minister may consult such organisations representing employers or employees, or other bodies, as he deems qualified to represent the interests concerned".

1 5 The functions of the NMC are stated as follows in section 2D(1) of the LRA "to make such investigations as it may consider necessary into, and submit recommendations to the Minister concerning—

- 166 (a) all labour matters, including labour policy,
 (b) any administrative matter connected therewith which is referred to it by the Minister "

(1) **NOTE:** Representatives of COSATU, FABCOS (Foundation for African Business and Consumer Services) and COFESA (Confederation of Employers of Southern Africa) have recently been appointed to the NMC

2. SUMMARY OF MAIN RECOMMENDATIONS

Note. The main body of the report should be referred to for details regarding NMC recommendations, minority views, etc This summary is simply provided for ease of reference and not as a complete exposition of NMC views Messrs R Botha, Prenaar, Nieuwoudt and FITU in particular pointed out that their views were not reflected in the summary

2 1 **Appointment of restructured NMC:** The NMC should be restructured in terms of its functions and composition as soon as possible It should, however, be appointed in terms of the existing LRA

2 2 The role and function of the NMC:

2 2 1 The NMC should for the time being remain an advisory body of the Minister of Manpower The majority view was that its advice should, as far as possible, be given on the basis of consensus To reach consensus it is unavoidable that "negotiation" will take place, i e that compromises will be made and "deals will be struck" The NMC should therefore contain elements of a negotiating forum, although certain NMC members did not agree with this view

2 2 2 According to the majority view, no labour legislation should be put to Parliament unless the NMC has been given every opportunity to consider it and to comment thereon

2 2 3 According to the majority view, the NMC's proposals regarding legislative changes should, if not accepted by the Minister, also be submitted to the Parliamentary Joint Committee

2 3 Composition:

2 3 1 The NMC should consist of employer and employee representatives in equal numbers A limited number of individual experts should also be appointed and the Department of Manpower should actively participate in NMC proceedings, although without voting rights The State, as an employer, should be represented but the NMC was not unanimous regarding the manner of its representation

2 3 2 According to the majority view, the membership of the NMC should to some extent reflect the composition of the labour community at large, which implies that some system of weighting should be used The following factors will be important in this regard

- (a) Membership,
 (b) the importance, diversity and relevance of the organisation in terms of influence etc

2 3 2 1 The NMC was divided as regards the system of weighted membership, with some members maintaining that the Minister should appoint members roughly on the basis of the above criteria, COSATU maintaining that the Minister should have no discretion, the employer representatives maintaining that all employer organisations should agree among themselves on employer representation, and some members being opposed to weighted membership

2 3 3 Members representing employer and employee organisations should be nominated by such organisations and should at all times enjoy the confidence of their organisations The Minister should therefore relieve them of their membership if he is requested to do so by their constituency The majority view was that members should have a mandate from their constituency

2 3 4 A limited number of independent members should be appointed Their views should be reflected in NMC reports, but the NMC was not agreed as to whether or not they should have voting rights

2 4 **Recommendations and reports:** The NMC was unanimous in feeling that both majority and minority views should be reflected in NMC reports Most members felt that recommendations enjoying the substantial support of NMC members, e g 75%, should be regarded as official NMC recommendations and should carry the necessary weight when being considered by the Minister The majority of the members of the NMC felt that all NMC recommendations and comments on Bills should be available for public scrutiny

2 5 **The Department of Manpower:** The Department of Manpower should participate actively in the work of the NMC, without, however, having the right to vote There should be constant interaction between the Department and the NMC, and the Department should at an early state inform the NMC of any views it might have or might be aware of, without prejudicing the Minister in this regard When the NMC's recommendations are published for comment, all submissions should be made available to the NMC Close co-operation between the NMC and the Department is necessary in respect of inviting and evaluating comments on NMC recommendations

DETAILED RECOMMENDATIONS**3. APPOINTMENT OF A RESTRUCTURED NMC**

166 3.1 The majority of the members of the NMC feel that a restructured NMC should be appointed as soon as possible and in any event not later than 1 October 1991. The new NMC should be appointed in terms of the existing Act. In the appointment of the new NMC, however, the collective experience or the present NMC should not be lost. To ensure continuity a number of the existing members should, if at all possible, be reappointed. The NMC's term of office should not be longer than three years, but this could be shortened by changes to the LRA and/or constitutional developments.

3.2 The appointment of the NMC should not preclude the possibility of future changes to the composition and role of the NMC or of legislative changes. With this in view, the NMC should from time to time assess its mode of operation and effect legislative or other changes where necessary.

4. THE ROLE AND FUNCTION OF THE NMC**4.1 Advisory/negotiating body:**

4.1.1 The majority of the members of the NMC felt that the NMC should for the time being remain an advisory body of the Minister of Manpower. Until such time as the LRA is changed, the NMC should function in terms of the existing legislation, i.e. as an advisory body to the Minister of Manpower. It is, however, envisaged that the NMC's advice will be given, as far as possible, on the basis of consensus views. To reach consensus, it is unavoidable that "negotiation" will take place, i.e. that compromises will be made and "deals will be struck". It therefore appears unavoidable that the NMC will contain elements of a negotiating forum between employer and employee representatives, i.e. that the NMC will try to reach consensus on recommendations to be submitted to the Minister. If consensus is not reached, however, the views of all members must be submitted to the Minister.

4.1.2 The reason why the NMC will contain elements of a negotiating forum, is that there is a need, on both the side of the major employer organisations and on that of the major union organisations, to try and reach agreement on labour legislation. If this need is not met within the NMC, negotiations will take place in forums outside of the NMC and the NMC will largely become irrelevant. A forum outside the NMC would deal with the matters relevant to the negotiating partners, but would be unstructured and would not necessarily include all important parties. Rather than having this kind of pressure group, the NMC should be restructured to meet the needs of the employer and employee organisations. It was, however, stressed by some members that the smaller role-players should not be ignored in this process.

4.1.3 Because compromise will form a part of the process, the advice of the NMC must as always be considered very seriously by the Minister. If compromises are made, the terms of such compromises should not be changed lightly, as such changes usually imply a movement away from the compromise in the direction of one or other of the parties' original point of view before the compromise was reached.

4.1.4 COSATU's view was that the NMC should have decision-making powers, although not to the extent that Parliament is overruled. The NMC and the Minister should negotiate on the decision-making powers of the NMC, e.g. on whether or not the NMC's recommendations should be put to Parliament for consideration (see par 4.2.2 below).

4.1.5 "Members R. Botha, Pienaar & FITU were of the opinion that the NMC is and must at all times function as an Advisory Body and not as a decision-making body. The possibility of compromises and deals being struck within the NMC as to the recommendations to be submitted to the Minister was completely unacceptable." COFESA also indicated that they are totally opposed to a national bargaining forum, or to compromises being made. The NMC should always remain a neutral body where all views can be submitted.

4.2 Political prerogatives:

4.2.1 The NMC is unanimous in its opinion that Parliamentary prerogatives cannot be usurped by a body such as the NMC. It is of the nature of the democratic process that the representatives of the people, i.e. Parliament, should retain the final say. The Minister, through Cabinet, as representative of the government of the day, should have the right to submit legislation to Parliament. The majority of the members of the NMC felt that the Minister and Cabinet should in a democratic state also retain the prerogative of deciding on the contents of legislation that the government wants to submit to Parliament. A body such as the NMC is not elected by the people, and is not directly answerable to the voters. At most, it could be said to represent an important proportion of the work-force, particularly in view of the fact that it is organised. In a democratic state the government should take very careful note of the views of employer and employee groups when it decides on labour matters to be submitted to Parliament. Ideally, Parliament should also be aware of the views of employer and employee organisations, especially if such organisations are represented in a structured way in a statutory body such as the National Manpower Commission.

4.2.2 Several members felt that there should be some interaction between the NMC and Parliament, but views of the kind of interaction required varied from giving evidence only if invited by the Parliamentary Joint Committee to the Minister being obliged to put NMC views to Parliament. The majority of the members of the NMC was in favour of a system whereby the NMC's proposals on legislative changes would, if not accepted by the Minister, also be submitted to the Parliamentary Select Committee, i.e. tabled in Parliament. COFESA was not in favour of this direct interaction with Parliament and felt that the NMC should only give evidence if invited by the Parliamentary Joint Committee.

4.2.3 No labour legislation should be put to Parliament unless the NMC has been given every opportunity to consider it and to comment thereon. COFESA felt that this was too prescriptive and would not always be practical.

4.2.4 "Members R. Botha, Pienaar and FITU were of the opinion that the NMC, being merely an Advisory body to the Minister, is in no position to by-pass and or overrule the Minister and communicate direct with Parliament."

5. COMPOSITION OF THE NMC

5.1 General approach:

5.1.1 The NMC should consist of employer and employee representatives in equal numbers (see par 5.2). A limited number of individual experts should also be appointed (see par 5.6). The Department of Manpower should be represented, although without voting rights, and should participate actively (see par 8). The State, as an employer, should be represented in some way or other (see par 7).

5.1.2 The unanimous view was that the NMC should be as small as possible, but still large enough to accommodate different views. The majority felt that the NMC should consist of about 25 members, in the proportion of 10 employers, 10 employees and 5 independents. Another view was that it should have 35 or 40 members, with 15 employers, 15 employees and either 5 (FEDSAL) or 10 independents. All employer representatives indicated that employer organisations should be given the opportunity to determine their own representation and weighting, and that the size of the NMC cannot be decided upon before this process has been completed. They also felt that the State, as an employer, should not be included in the private sector employers' tally as this would "dilute" their representation.

5.1.3 COSATU is opposed to the principle of each constituency working out its own representation. The representation of the NMC as a whole, including the various constituencies, should be discussed and agreed upon by the NMC. The reason for this is that it is important for all parties to know who they are negotiating with and what the basis of their representation is.

5.2 Significant interest groups:

5.2.1 The NMC will not be able to function effectively unless at least the significant groups among employer and employee organisations are represented on the NMC.

5.2.2 In addition, the membership of the NMC should to some extent reflect the composition of the labour community at large, but with the proviso that the number of employer representatives should be equal to that of the employee representatives.

5.2.3 The majority of the members of the NMC therefore recommend that some system of proportionality or weighted membership should apply, although agreement was not reached as how this could be achieved.

5.2.4 Representation in direct proportion to membership is not advocated, but the membership should be weighted in two respects, i.e.

- (a) The membership, which will be based on independently audited figures for paid-up membership, and
- (b) the importance, diversity and relevance of organisation in terms of influence, e.g. whether the organisation represents national rather than sectional interests.

5.2.5 The NMC's views on the system of weighting were as follows:

- (a) A number of members felt that the Minister should retain the prerogative to decide, on the basis of the above criteria, on the weighting of membership of the NMC, but that he should be obliged to appoint members in accordance with the organisation's nominations (see par 5.3, below).
- (b) COSATU's view was that the Minister should not have a discretion in this regard. Representation should be broadly in accordance with the size and diversity of the membership of an organisation. There should also be a minimum requirement in terms of the number of members. The thrust of rules regarding composition should be towards amalgamation and co-operation in the case of employer and trade union parties respectively and should not encourage division, sectionalism and a plethora of minority interests. The NMC should therefore itself decide on the weighting and composition of membership.

(c) The employer representatives on the NMC (SACOB, AHI, Chamber of Mines, SAAU, Seifsa, COFESA and FABCOS) felt that employer organisations in South Africa should be allowed to come together and agree among themselves on the composition and weighting of employer representation on the basis of (a) and (b) above

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(d) Member Le Roux as well as representatives from COFESA and SACOL were opposed to the principle of weighted membership, as it would mean absolute domination by the larger organisations and disregard of the principle of appointing the best individual for the job.

(e) Messrs R. Botha, Pienaar and FITU rejected the principle of so-called "significant groups" being given recognition on the NMC

5.2.6 One problem area was representation by smaller interest groups. The NMC accepted that it would not be possible to get even a significant proportion of smaller interest groups represented on the NMC, simply because there are too many of them. Other methods should therefore be used to get their input and to ensure that it is not only the interests of the large organisations that are considered. The appointment of independent persons could play an important part in this regard. Furthermore, the principle of asking for comment from all interested parties should be the rule rather than the exception. Smaller interest groups could also band together specifically to nominate a representative on the NMC. Parliament does, however, have the final say, and smaller interest groups could also, through their members of Parliament, give an input. Finally, it should be accepted that smaller interest groups will have more influence through a collective voice, i.e. it would be advisable if they could find themselves a "home" in a larger organisation.

5.3 Members to be nominated by their constituency:

5.3.1 The majority of members agreed that employer and employee representatives should be nominated by their respective organisations and should enjoy the confidence and continued support of their organisations (and constituencies). The Minister should appoint whoever has been nominated and should release members from their membership if he is requested to do so by the organisation concerned. The members must also be accountable to their constituencies.

5.3.2 Messrs R. Botha and Pienaar submitted that because of their rejection of both significant interest and smaller groupings and because the principle of weighted membership in voting procedures had also been rejected, their view that the Minister should invite nominations for prospective NMC members through the *Government Gazette* stands and is not affected by any undecided issues on significant representation and weighted voting as had been suggested.

5.3.3 COSATU was not in favour of this approach and favoured a system whereby the composition would be decided by the NMC. The majority of the members of the NMC, however, felt that this issue need only be decided on once the issue of weighted membership had been settled.

5.4 Mandate:

5.4.1 A majority of the members of the NMC felt that in view of the role and functions of the NMC as foreseen in this document, members should represent the views of their organisations. They should therefore have a mandate. The NMC will not be able to fully reflect the views of employer and union organisations if members serve in their personal capacity and if their views and those of their organisations do not correspond.

5.4.2 One objection to mandated views was that this would make compromise more difficult. Mandates cannot be changed even if good arguments are raised against the mandated position. The counter-argument was that this is to some extent already how the NMC has functioned in the past e.g. that members (although not all members), felt bound by their organisation's point of view even though as individuals they did not always agree with it. This problem did not always arise in the past because the organisations' views were not always sought. Some limited discretion also seems to form part of a mandated position, and if substantial changes to that position are required new mandates can be sought. It is therefore preferable that mandates should be flexible, although this depends on the organisations concerned.

5.4.3 Members R. Botha and Pienaar as well as FITU and SACOL rejected *in toto* the principle of members of the NMC operating in terms of a mandate. Acceptance of such a principle, it was submitted, would change a member from an objective, knowledgeable adviser to a puppet conveying "his master's voice". As an NMC member, it was the national interest that should be served and not sectional interests. COFESA said that it would be difficult or impossible to obtain a mandate from their members.

5.5 Alternates:

5.5.1 There seemed to be general agreement that the system of having alternate members was a good one and should be continued. Such members should come from the same organisation as the primary member and should also have a mandate. Alternate members would be allowed to attend all meetings, but for the sake of the efficient functioning of the NMC, either the primary or the alternate member (but not both) should participate in the discussions on a specific topic. This issue need not be decided at this juncture, however, and could be decided upon by the restructured NMC.

5.6 Independent members:

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5.6.1 The majority view was that the Minister should be able to appoint a number of independent members to the NMC. Such members should, however, form a relatively small proportion of all members. Some of the reasons for appointing such members are that they possess expert knowledge, that they can represent broader interests rather than sectional or vested interests, that they could assist the NMC in reaching consensus and that the Minister should be able to appoint a number of persons of his own choosing. This might even be a further step towards improving the legitimacy and credibility of the NMC. Such independent members could be academics, lawyers or people from employer and employee organisations that are not directly represented. If the latter, then there should be equality between employer and employee representation.

5.6.2 The NMC was unanimous in feeling that the views of all NMC members (including those of independents) should be reflected in NMC reports and recommendations, but there was no agreement as to whether the independent members should have full voting rights.

5.6.3 Those in favour of voting rights argued that only if independent members have voting rights will their view be taken seriously and will there be the kind of debate and "negotiation" foreseen in par 4.1, i.e. debate with a view to achieving consensus. Those opposed to voting rights argued that these persons do not represent any constituency and cannot have a vote equal to that of a person representing many thousands of workers or many employers. Whether they should have a vote or not will, however, also be influenced by the proportion of total membership they represent. If they form a large percentage of all members they should not have a vote, but if only a small proportion, they could have a vote. COSATU reserved its views in this respect.

5.6.4 The NMC could not agree on the proportion these independents should form of the total membership, but the majority agreed that their numbers should be limited. The majority of members voted for a proportion of 20 per cent, although there was some support for both 10 per cent and 33½ per cent.

5.6.5 COSATU and some employers favoured a system whereby employees, employers and the State were to nominate "independents" and the Minister was then to appoint an equal number of independents from each list. Another possibility is that the Minister could appoint independents from joint nominations by employer and employee members of the NMC.

5.6.6 Messrs R. Botha and Pienaar and representatives from FITU were of the opinion that all the members of the NMC should be independent.

6. VOTING PROCEDURES

6.1 Although, ideally, the commission should function by way of consensus, this will not always be possible. If a certain proposal receives the overwhelming support of the members of the NMC it should carry the necessary weight when being considered by the Minister. The majority of the members of the NMC were in favour of a system whereby a proposal which is supported by no less than 75% of the members should be regarded as a formal NMC position.

COSATU felt that this should apply if a proposal was supported by at least 66% of employer representatives and 66% of employee representatives. The report to the Minister should reflect both the majority and minority views.

6.2 Messrs Botha and Pienaar as well as KOFESA, FITU, SACOL and the SAAU recorded their disagreement with the proposed voting procedures. Their view was that, in an advisory council, the voting was of minor or no importance. Democratic principles whereby a majority vote determined the decision of the NMC simply should not apply since the NMC was not a decision-making body. Each recommendation emanating from the NMC should be followed by a statement of the number of members who approved the recommendation. In this way all views, including minority views, would be conveyed to the Minister, who was entitled to see all that his advisers advised him to do.

6.3 Voting should take place according to the members present, with each member's vote carrying equal weight. If there was to be any weighting, this should be reflected in the composition of the NMC, rather than in giving some members more votes than others. Voting by proxy or by post was not acceptable as this would have a negative influence on the reaching of compromises within the NMC. COSATU reserved its views in this respect.

6.4 The NMC was agreed that both majority and minority views should be reflected in NMC reports.

7. REPRESENTATION BY THE STATE AS EMPLOYER

7.1 The NMC was unanimous that the State should participate in NMC proceedings as an employer, e.g. via the Commission for Administration. There was no agreement as to whether it should have a vote and whether it should form part of the membership of employers representing the private sector.

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7.2 The argument in favour of full membership status was that the State is also an employer and should therefore be subject to the same rules as other employers. Arguments against this view were that there are fundamental differences between the State and the private sector (e.g. in terms of the principle of profit and loss), the fact that the State is subject to the Cabinet (while the Cabinet also takes final decisions on legislation to be submitted to Parliament) and that the State is financed mainly through taxes.

7.3 COFESA's proposal was that the State as employer should be given the option of being represented via existing employer organisations, although all employer organisations with the exception of COFESA indicated that the State could not become a member of their organisation.

8. INTERACTION WITH THE DEPARTMENT OF MANPOWER

8.1 The NMC is agreed that the Department of Manpower must participate actively in the proceedings or activities of the NMC. The purpose of this participation is to enhance informed debate within the NMC and to hear at an early stage any views that the Department might have or might be aware of. This is especially relevant in respect of administrative problems that may be caused by NMC recommendations. The idea is not to commit the Minister or the Government to any of the views expressed.

8.2 The Department even now publishes provisional views in the form of draft legislation, without necessarily committing the Minister. There is therefore little reason for the Minister to feel bound by any of the views that the Department might express at an earlier stage, i.e. as part of the NMC debate. It would in fact facilitate more effective and informed debate within the NMC.

8.3 The Department should, for two reasons, not have voting rights. The first reason is related to the aspect mentioned above, i.e. to exercise a voting right could be seen to commit the Department or the Minister or to cause embarrassment if there were to be a difference of opinion between the political head and the administrative head of a Department (or even within the Department). The second reason relates to the fact that the Department could side with one or other of the parties and then later have an important influence (i.e. on the Minister) when a decision is taken on the recommendation. In such cases the Department would to some extent "judge its own case".

By and large, it would therefore be better for the Department to fulfil an advisory role on the NMC.

8.4 If the Department actively participates in NMC proceedings, the NMC will also be much clearer as to why its recommendations might not have been accepted. There should therefore be enough interaction between the Department and the NMC to address this issue. The possibility of the Department "judging" the NMC's recommendations would also thereby be reduced, since there will be constant interaction between the Department and the NMC.

8.5 The issue of the Department's receiving separate submissions on NMC recommendations without the NMC being privy to them was also raised. The possibility of this practice continuing, but with the NMC being supplied with the substance of the comments was discussed, although not supported by the majority of the members of the NMC. The argument for making only the substance of such comments known and not the identities of the respondents was that people are hesitant to submit comments if their views will be made known or if there is a chance that they will be targeted for action because of their views. In addition, arguments are more important than names and if names are supplied, some good arguments (e.g. of individuals) might be ignored.

8.6 The majority of the members of the NMC were in favour of an open system, i.e. that both the identities and the substance of submission should be known. If an organisation feels strongly enough about a certain viewpoint, it should be prepared to defend that view openly. If any illegal action were taken against such organisation for maintaining that view, the organisation would be protected by the courts. The Department would also be in an invidious position if it had to decide between NMC proposals and "secret" submissions. This would form an ongoing source of conflict between the NMC and Department, instead of encouraging co-operation. COFESA indicated that it would be satisfied with the substance of submissions only, together with an indication of whether the respondent were an individual, an employer, employer organisation, trade union, etc.

8.7 The majority of the members of the NMC favoured a system whereby the NMC and the Department were to publish NMC views for comment jointly, both being involved in evaluating such comments. COFESA did not agree, and said it should remain the prerogative of the Minister to publish whatever he finds necessary, and that the Department should undertake the actual publication.

9. OTHER MATTERS

9.1 Public scrutiny:

9.1.1 The majority of the members of the NMC felt that all NMC recommendations and also comments on bills should be available for public scrutiny, unless agreed otherwise by the Minister and the NMC. One possible alternative in certain cases, e.g. with long reports, was to publish a notice indicating that the NMC had made recommendations on a certain matter and that the report on the matter was available on request. COFESA did not agree, and said that the Minister should retain the prerogative to publish NMC recommendations.

9.2 Consolidated LRA:

9.2.1 Most members were agreed that a new NMC should deal with the consolidation of the LRA. Members R Botha and Pienaar as well as COFESA and FITU felt that the consolidation exercise should not be proceeded with before the new constitutional dispensation had taken visible shape, as the new industrial dispensation would have to fit in with the new constitution and not *vice versa*.

9.3 Research facilities:

9.3.1 The majority of the members of the NMC accepted that an advisory body such as the NMC had to do research on aspects that the NMC would be discussing and on which it would be formulating recommendations. Even if the advisory body were to contain some elements of a negotiating forum, research should still be done in order to encourage informed, scientific and objective debate. COFESA said that it was not the function of the NMC to undertake research and that the staff complement should be limited.

9.4 Chairperson and deputy chairperson:

9.4.1 Individual members of the NMC or the NMC itself may forward the names of people for appointment as chairperson and deputy chairperson to the Minister. The Minister appoints the chairperson and deputy chairperson. COSATU's view was that the chairperson should be agreed upon by the NMC.

9.5 Name:

9.5.1 The name National Labour Commission was raised as a possibility. A number of members felt that the present name had found acceptance and was widely known in the labour community and should for that reason be retained. Until the existing LRA is changed, however, the NMC will have to function in accordance with that Act, i.e. under the name of National Manpower Commission.

June 1991

BYLAE**NASIONALE MANNEKRAGKKOMMISSIE****AANBEVELINGS OOR DIE HERSTRUKTURERING VAN DIE NASIONALE
MANNEKRAGKOMMISSIE (NMK)****1. INLEIDING EN FEITESTELLING**

1.1 Die ampstermyn van die huidige NMK het einde April 1991 verstryk en die Minister het in die Parlement aangekondig dat hy die ampstermyn tot 30 September 1991 gaan verleng. 'n Nuwe NMK moet dus met ingang van 1 Oktober 1991 aangestel word.

1.2 Die meerderheid van die lede van die NMK voel dat die NMK ooreenkomstig sy werksaamhede en samestelling herstruktureer moet word. Hierdie dokument sit die menings van die NMK oor dié aangeleentheid uiteen.

1.3 Etlke organisasies wat nie in die NMK¹ verteenwoordig word nie, is uitgenooi om aan die beraadslagings oor die herstruktureering van die NMK deel te neem, te wete

- * Federation of Municipal Trade Unions
- * FITU—Federation of Independent Trade Unions
- * FEDSAL—Federation of Salaried Staff Associations of South Africa
- * CMBU—Confederation of Metal and Building Unions
- * SAKVA—SA Konfederasie van Arbeid
- * NAFCOC—National African Federated Chamber of Commerce and Industry
- * NACTU—National Council of Trade Unions

Organisasies wat met 'n asterisk (*) aangedui is, het ten volle deelgeneem en hulle menings word in hierdie dokument vervat. Geriefshalwe word geen onderskeid tussen NMK-lede en ander verteenwoordigers gemaak nie.

1.4 Kragtens bestaande wetgewing stel die Minister die lede van die NMK aan. Ingevolge artikel 2A(1) van die Wet op Arbeidsverhoudinge, 1956, (WAV) bestaan die NMK uit, " 'n voorsitter, 'n adjunk-voorsitter en soveel ander lede as wat die Minister nodig ag om die belange van die Staat, werkgewers en werknemers te verteenwoordig". By die aanstelling van sodanige lede "kan die Minister die organisasies verteenwoordigende werkgewers, of werknemers, of ander liggame, raadpleeg wat hy bevoeg ag om die betrokke belange te verteenwoordig".

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NMCC seeks its own restructuring

W/MCC-517-11/7/91

N A key step towards co-determination, the National Manpower Commission has urged its own restructuring to provide for negotiations between business and unions on labour law.

The NMC's recommendations on restructuring have already gone to Manpower Minister Eli Louw but were publicised this week.

They follow last year's "Labora Minute", in which the Congress of South African Trade Unions (Cosatu) and the National Council of Trade Unions (Nactu) agreed to join the commission if it was restructured.

The black unions want to transform the NMC from a body of hand-picked advisors to the minister into a negotiating forum in which major interest groups strike deals on labour law and broader socio-economic policy.

Louw has extended the life of the current NMC until September 31 this year. The NMC recommends that a restructured commission should be appointed no later than October 1.

In its report, the NMC agrees that it should remain an advisor to the Manpower Minister, but the majority view is that it should operate as far as possible on a consensus basis.

"It is unavoidable that negotiation will take place, that compromises will be made and deals will be struck," it says.

"Because compromises will be part of the process, the advice of the NMC must always be considered very seriously by the Minister."

Facilitating negotiations is a proposal that the NMC should comprise employer and employee representatives in equal numbers, with individual experts sitting in limited numbers.

The majority recommendation is 10 members each for employers and employees, and five independents.

The majority view is that representation should be weighted to take account of membership strength and the importance and influence of the organisation, but there is no agreement on how this should be done.

Some members hold that the minister should make appointments roughly using these criteria, while Cosatu argues he should have no discretion. Employers believe employer representation should be settled among themselves.

The NMC recommends that commission members should operate on mandates and enjoy the confidence of their

Far-reaching changes have been recommended to the state's labour advisor, the National Manpower Commission

By DREW FORREST

constituencies. The minister should appoint whoever has been nominated and should remove members if requested to do so by the relevant organisation.

And to give the body a tripartite character, it also proposes that the Manpower Department should "actively participate" in NMC proceedings — informing the commission of its views at an early stage — but without voting rights.

This is clearly designed to avert recent problems where the department has overridden hard-bargained NMC compromises. "If the department actively participates in NMC proceedings, the NMC will be much clearer on why its recommendations have not been accepted," the report says.

The report also recommends that the state as an employer should be represented, via the Commission for Administration.

The black unions also want to give the NMC more teeth, and the report goes some way towards this.

Members are unanimous that the commission, which is not elected, cannot usurp parliament's prerogatives and that the minister must have the right to frame legislation.

However, the majority view is that no labour law should go to parliament unless the NMC has been allowed to consider and comment on it. It is also recommended that NMC proposals should be submitted to the parliamentary select committee — that is, tabled in parliament — if the Minister rejects them.

Most members agree that NMC recommendations enjoying substantial support — no less than 75 percent — should be considered the commission's official position and carry corresponding weight with the minister.

Cosatu's view is that the NMC should be a decision-making body, and it envisages a negotiating relationship between the commission and the minister.

In the past, it has suggested a "minute" to govern the relationship.

Major changes seen for SA labour laws

SHARON SOROUR (166)
Labour Reporter ARG 11/1/91

THIS year's revamped Labour Relations Amendment Act is not the end of the line in the development of South African labour legislation, SA Labour News reports

Far-reaching changes were expected as labour relations built on the more democratic law-making ushered in by the negotiations between unions, employers and government which had led to the new Act, the latest issue of the labour affairs journal said

Amendments to the Basic Conditions of Employment Act and the Unemployment Insurance Act to cover agricultural workers, tabled in parliament this session, would almost certainly be passed at the next session

National Manpower Commission recommendations on changes to the new Labour Relations Act and the Wage Act should become law in 1991

National Manpower Commission member Dr Kate O'Regan told delegates at a labour seminar recently that further prospects for the 1990s included

● A consolidated labour statute, now in its fourth draft, likely to be enacted in 1992 or 1993

● Matters concerning the country's 1,3 million farmworkers and preparation of a fair labour practice code

● Exemptions for micro-businesses and the restructuring of the manpower commission itself

Key aspects were the establishment of a national labour commission to replace the manpower commission, the enactment of certain positive rights for workers, the revamping of industrial councils, the creation of permanent conciliation centres to replace conciliation boards; encouragement of collective bargaining and the protection of procedural and lawful strikes and lockouts.

Legislation to restructure the Labour Appeal Court as a division of the Appeal Court was expected soon "A key issue here is the likelihood that in addition to a presiding judge, two assessors — chosen from lists provided by unions and employers — would be appointed"



New labour relations draft

THE Department of Manpower has invited comment on recommendations which, if implemented, could restructure the National Manpower Commission (NMC) into the key bargaining forum on national labour issues

NMC acting chairman Dr Frans Barker said yesterday the NMC recommendations proposed transforming the advisory body into a "semi-negotiating forum" for organised labour and industry. — Sapa (166)

Quick fix court for labour rows

STimes (Dun Times) (166)

By ADRIAN HERSCH

ALMOST every employer and employee in South Africa would be affected by major changes to labour law now under consideration.

The National Manpower Commission (NMC) envisages significant changes to the Labour Relations Act (LRA).

NMC chairman Frans Barker told a labour law conference in Durban that the establishment of a small labour court (SLC) was strongly supported by commission members.

28/7/91

Limited

Dr Barker says the recommendation is that in the SLC there should be no right to appeal and no legal representation should be allowed.

"The process should thus be inexpensive, quick and easy."

The jurisdiction of the SLC would be limited — exactly how this would be done has not been decided.

But limitations could include the type of issue or the number of workers involved in the dispute.

A new industrial relations system for the public service is being formulated by a

forum comprising the State and 11 personnel associations and trade unions.

Education is excluded from this forum because it is negotiating its own system.

Dr Barker says NMC recommendations concerning labour relations, for small businesses and domestic workers have been handed to Manpower Minister Eli Louw and will be published soon.

The Basic Conditions of Employment Act — specifically amended for farm workers — was tabled in Parliament last month and should be enacted early next year.

The NMC technical committee has drafted a consolidated LRA. The draft will be fully considered when the NMC is restructured about the end of the year.

The restructured NMC will comprise an equal number of employer and employee representatives and will, for the first time, include Cosatu representation.

Involvement in the NMC is one of the major issues for discussion at Cosatu's congress.

Labour law for farmworkers

Sowetan 8/8/91

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NO country - least of all South Africa - can afford to ignore the strong worldwide awareness of basic human and worker rights, Minister of Manpower Mr Eli Louw said yesterday

At the Northern Cape Agricultural Union annual congress in Kimberley, he said it would not be wise for agriculture to ignore the world and isolate the country "especially because of the industry's great dependence on exports to foreign countries"

Farmers were not dealing with ordinary commercial articles, but with people who were employ-

ees in their service and most of whom were "as poor as a churchmouse".

Labour legislation was being considered for the sector because Government-initiated investigations, as well as research over a number of years, indicated agriculture had to be subjected to "normal labour Acts" with necessary amendments.

He said. "The persistent denial of basic legal rights can, to the detriment of the sector, cause heavy conflict and leave agriculture without mechanisms to handle such a conflict." - *Own Correspondent*

Homelands in harmony?

W/Maid 9/18-15/8/91

A TOP-LEVEL meeting between the Congress of South African Trade Unions and government representatives — including cabinet ministers — has provided a vital pointer to government plans for the homelands

The government has been tight-lipped on the future of the homeland system, insisting it must be settled in constitutional negotiations

However, at precedent-setting talks in late June, state representatives told Cosatu they backed the idea of harmonising South African and homeland labour laws. Present were Constitutional Development Minister Gerrit Viljoen, his deputy Roelf Meyer, the Minister of Development Aid Jacob de Villiers and two representatives of the Foreign Affairs Department.

As in other key areas, labour is breaking new ground. The labour regime for the whole country would be decided in the first step towards homeland re-incorporation.

Hints of what the government plans for the homelands emerged at a top-level discussion on homogenising labour law, reports **DREW FORREST**

By accepting the principle, the government has given its clearest signal that it sees no long-term role for separate homelands — although it undoubtedly remains wedded to some form of federalism

Questioned on the talks, Viljoen would only confirm they had taken place and that further contact was envisaged. But a Cosatu internal report states that the government "was prepared to proceed with the harmonisation of labour laws and the integration of labour administrations".

In the case of "self-governing" homelands, this would involve amendments to the National States Constitution Act, returning labour jurisdiction to the cen-



tral state. The South African Labour Relations Act would then apply

The Cosatu report adds that the government accepted that harmonisation of labour law in the "independent" homelands — Transkei, Ciskei, Venda and Bophuthatswana — would have to be done through an existing forum, the "multiparty technical committee".

Constitutional Development Minister Gerrit Viljoen ... Cosatu says government is ready to proceed with the integration of labour administrations

The government also agreed that a conference involving the state, homelands and Cosatu was necessary to secure agreement on the extension of the LRA and pledged to sound out the homelands on their attendance

The push for one central statute is a switch in strategy for Cosatu, which until recently was negotiating separately with the homelands for improvements in their respective labour laws

Cosatu's Donsie Khumalo said Letsoya, Gazankulu, KwaNdebele and Venda had indicated they favoured the extension of the LRA and wanted to attend a multilateral summit.

KaNgwane, the most enlightened of the homelands, has already passed a law ceding its labour jurisdiction to South Africa. Cosatu plans approaches shortly to OwaQwa, Ciskei and Transkei — and believes Major-General Bantu Holomisa's response will be positive.

The next round of talks with the state was on September 19, and Cosatu hoped to broaden it to include compliant homelands, Khumalo said.

A key stumbling-block remains Bophuthatswana, which shows little sign of softening on its controversial Industrial Conciliation Act. Banning "foreign" unions, this is currently the target of a Cosatu campaign.

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Second wave in industrial relations

S/Times (Bus/7) 18/5/77



SWEEPING changes to laws governing strikes and lock-outs are envisaged in a newly consolidated Labour Relations Act (LRA)

The contentious proposals come during the "second wave" of change in industrial relations

National Manpower Commission (NMC) technical committee member Willem Roux says the draft envisages that workers on strike will not be liable to dismissal under certain conditions

They include where there is no misconduct, where jobs have not been made redundant because of the strike, and where its continuation is not "undesirable"

An "undesirable" strike includes conditions where company property is threatened, where the viability of the company is in jeopardy or if violence or threats occur

Protection from dismissal would also depend on whether the strike is "permissible" This depends on such factors as whether industrial laws or agreements are adhered to and correct strike procedures have been followed

A final draft is to be prepared when representations from all parties have been heard Trade unions are expected to want greater protection from dismissal than proposed

Nick Wiehahn, of the University of SA, sees the State's role continuously decreasing

By ADRIAN HERSCH

in labour relations in the second wave of change.

He predicts that negotiations will increasingly involve affirmative action and equal opportunities in training, social responsibility and advancement for blacks and women

Labour lawyer Halton Cheadle says union influence will be "invasive" in many areas, including politics.

"But it will not be revolutionary — the tendency will be to social democracy"

Optimistic

In the second wave of change a large degree of consensus is being reached between capital and labour at national level This includes the Saccola, Cosatu, Nactu talks, Cosatu's participation in the NMC and the recent mining summit

At centralised bargaining level the role of industrial councils is expanding to include training, decisions on investment and all aspects of government policy affecting industry

Professor Cheadle predicts there will be movement to co-determination, such as exists in Germany and Sweden, at plant level

Professor Wiehahn is optimistic about developments in the second wave and sees SA's becoming more acceptable in the international labour scene

THE debate over the social contract is central to Cosatu's proposals for restructuring the National Manpower Commission (NMC) into a forum for the negotiation of national labour market issues.

For some it has become fashionable to argue that the social contract equals wage restraint and no-strike clauses. Therefore, it is said, social contracts are bad. Therefore the trade union movement should have nothing to do with them.

This argument is manipulative and misleading. The equivalent of wage restraint and very explicit no-strike agreements are sometimes accepted by unions at plant and company level. Why not the same howls of horror? Because all unionists acknowledge that, under certain circumstances such as accidents, contracts or agreements might be necessary for tactical reasons.

And such agreements need not be seen only in negative or defensive terms, as concessions borne out of weakness.

One could well postulate a situation where — in exchange for price-fixing and improvements to the social wage (directly benefiting the more marginalised sections of the working class) — the trade union movement agrees to temporary restraints on wage increases and on strike action related to issues contained in that contract.

Whether such an agreement works depends essentially on whether trade union members fully understand and endorse the contract in the first place.

In the short term, there are no magic recipes regarding what should or should not form the basis of any agreement, be it with a single employer, employers generally, and/or the state. But it is critical that decisions regarding what and what not to accept should be informed by a strategic perspective which embodies our aims and objectives as a federation.

In short any agreement should be measured in terms of its value in taking the working class towards its socialist objective.

Assuming a case has been made

A social contract can advance the interests of labour

GEOFF SCHREINER

*β|paw
21/8/91.*

(166) (132)

must be clearly appraised of precisely what has caused the deadlock and why they are being called upon—to debate, themselves the issue of taking action.

Participation in mass action should not be based simply on an instruction from on high and loyalty to a particular organisation.

What new powers does the NMC require? Presently it is merely an advisory body. The Minister is entitled to choose which recommendations of the NMC to endorse and which to reject. This is completely unacceptable.

Accordingly, the federation has proposed that no draft legislation related to labour should be put before Parliament unless it has been through the NMC.

Further, where there is consensus on proposed legislation within the NMC then, firstly, the NMC should be entitled to draft such legislation and secondly, it should be placed before Parliament in that same form. The Minister would be entitled to adopt whatever approach he chose to such draft law.

The intention is to prevent NMC recommendations ending up in the Minister's bottom drawer.

But the proposals do accept that a democratically elected parliament should have the ultimate right to pronounce on NMC proposals.

Parliament would have to weigh up the possible consequences of rejecting or amending NMC proposals.

It is also important to open up the NMC to representation by a broader range of actors than employers, trade unions and the state. It makes sense, for example, that women's organisations should be invited to make representations on labour market issues. This kind of approach, which currently pertains in Canada for example, could well have the effect of moderating trade union chauvinism and helping to ensure better representation for the more marginalised groups in society.

□ Schreiner is a Numsa official who also represents Cosatu in national negotiations with employers and government. This is an edited extract from an article in the latest edition of the SA Labour Bulletin.

union movement in our country, to help us avoid the chauvinist, sectionalist responses of other once-progressive and militant federations in other parts of the world.

In these endeavours, Cosatu has to ensure that it retains its independence. This means the will, capacity and right to support its demands, where necessary, by mass action, in its engagement with capital and the state at national and other levels.

Welding mass action and negotiations into a coherent strategy at national level is a massively difficult project. The current negotiations between the ANC and government demonstrate this. The ANC leadership, which is heading the negotiations, continually underemphasises (and even demobilises) the mass action component. Other sectors of the ANC — the youth for example — continually push militant action without any clear conception of any of the limits and possibilities of the negotiations component.

Mass action linked to negotiation does not mean simply that there is negotiation at the same time as there is mass action. To get beyond mass action, which is simply about protest, we need to ensure that our action links directly into the negotiation process and is part of a clear sustained campaign.

If deadlock is reached, then mass action must follow. Our constituency

How should we then approach the question of restructuring the NMC?

If the NMC is to become the forum in which we negotiate all macro-level issues, we would have to ensure, in the short term at least, that the scope of the NMC's responsibilities were widely defined.

In fact, the current legal definition of the NMC's functions — "to make such investigations as it may consider necessary into, and submit recommendations to the Minister concerning all labour matters, including labour policy" — is already sufficiently wide.

Going one step further, however, Cosatu would have to look at the possibility of drawing in existing advisory, policy-making and executive forums under its ambit — such as the National Training Board and the Unemployment Insurance Fund Board.

One important merit of a simple (single) forum is that we simply do not have sufficient resources to spread across a broad spectrum of negotiating forums.

Secondly, it would facilitate building unity across sectors of the economy including the public sector and farmworkers, for example. This could mark an important political development for the trade

for national negotiations, what forum are we going to use? Cosatu has three options. It can fight for a new institutional forum recognised by the state. It could opt for a looser, ad hoc forum. Or it could choose to restructure and restructure the NMC.

The federation has attempted to keep open all these possibilities. Cosatu agreed to proposals by the state and employers in October 1990 to participate in the NMC, provided it was restructured to become a very different institution.

At the same time, Cosatu signalled that it would continue with other non-institutionalised negotiations — at least until it was satisfied that the new NMC was established along the lines proposed by the federation.

Cosatu, therefore, is conditionally participating in the NMC while simultaneously setting up meetings with national employer organisations and various state departments to begin negotiations around a range of macro-level issues.

If the former process flops because the Manpower Minister is unwilling to accept the basic propositions put forward by Cosatu (and endorsed by Nactu), then the federation can leave the NMC and begin a campaign of mass action to force acceptance. At the same time, Cosatu can continue engagement, where necessary through non-institutionalised options.

LETTERS

By DREW FORREST

TRADE union impatience is rising over alleged government "foot-dragging" on the Labour Minute and specifically its pledge of labour rights for all workers.

Frustration currently centres on the slow progress in extending labour law to farmworkers, but the position of domestic and state employees, and the restructuring of the National Manpower Commission, are also of concern. Unionists warn of a possible return to mass protest action if reforms continue to stagnate.

Yesterday, the Congress of South African Trade Unions mounted a protest picket outside the Union Buildings in Pretoria to coincide with parliamentary

Govt 'dragging feet' on Minute

standing committee hearings on the amendment of the Basic Conditions of Employment Act (BCEA) and Unemployment Insurance Act (UIA) to cover farm labour.

Amending legislation, the fruit of a National Manpower Commission (NMC) probe and the sounding of interested parties, was tabled in parliament this year but not enacted. Cosatu fears the taking of further submissions from organised agriculture may mean a further delay.

The picket's theme was "We (workers) want our rights now". Last year's

Labour Minute between labour, employers and the state commits the government to rights for all workers.

"We question the government's political will," said Cosatu campaigns coordinator Lisa Seftel. "It is under intense pressure from farmers, but it must make a political choice." Unionists were increasingly talking of a revision to mass action, she warned.

In a further sign of rising impatience, Cosatu last week met Manpower Minister Eih Louw and tabled a memorandum listing nine key demands:

The memorandum urges the extension of the BCEA and UIA to both farm and domestic workers in the next session of parliament. It also wants the Labour Relations Act and Wage Act to these under-represented sectors.

It also calls for:
● A restructured NMC to take over from next month, comprising that Louw has "varied" his agreement to extend the life of the current NMC only until the end of September

● An NMC committee to advise Louw on appointments to the Industrial Court, stating that Cosatu is dissatisfied with the quality of some court officers.

Confirmation that the state will start macro-economic negotiations with unions and employers on September 14. It complains the state has refused to commit itself to a date.

Cosatu also complained that talks on a new public sector labour dispensation were taking place in several forums — for example with the Commission for Administration (CFA) and the Education department — and that the CFA wanted separate legislation for workers specifically under its jurisdiction. Cosatu wants one forum for the entire public sector and one dispensation. It is understood that little progress was made at the talks.

From Mono Badela
Johannesburg

Impi attack wipes out man's family

(278)

South 12/91 - 18/9/91

MR ELLIOT MOTSHWENENG of Mofolo Central, Soweto, returned home from a stokvel on Sunday afternoon to find his wife, young daughter, elderly mother and sister murdered.

Earlier this week, the soft-spoken 45-year-old driver was still battling to make sense of Sunday's indiscriminate attack.

He dreads returning to his home which, he says, was torn apart by angry Inkatha Freedom Party supporters.

The raiders launched their blind revenge attack after at least 23 IFP supporters were shot down by unknown gunmen armed with automatic weapons in Thokoza township.

I arrived home at about 3:30pm from the stokvel and from a distance I could see Inkatha people in the streets outside. Some were in my yard. The police were outside," he told SOUTH.

"I was scared to go in. People were running away. When the Inkatha people shifted I asked the police if I could go inside to see what was going on. 'I saw my dog lying in the yard, still chained. They had shot and stabbed it.'

He entered the house and found the body of his mother, Jeanette, covered in a pool of blood. Terrified, he made his way to her bedroom to look for his children.

"I saw my sister Joyce lying next to the bed. The bed had been turned off its side. She had been stabbed and shot.

"Then I saw that she was still breathing very slowly. Inside the cupboard I saw my daughter Jeanette. She had been stabbed and her jeans were partly pulled down. I think she had been raped — my sister too.

"After that I started to look for my wife. I found her behind a pile of blankets."

Virginia, Motshweneng's wife, had been stabbed and shot.

Motshweneng said he later learned that his three-year-old son, Tsetso, his daughter, Matumela, 7, his sister's young son, William, and daughter, Esther, had survived the attack.

His other children, Cynthia, Francina, William and Sandra, also escaped. They were at choir practice in Dube Village during the killing spree.

Motshweneng said the attackers looted his house and stole the TV set, radio, wall clock and money from the bedroom. They also broke cupboards, dining room furniture and windows.

This was the pattern of destruction, mayhem and killings carried out by the frenzied and rampaging Inkatha impis who ran amok and destroyed everything before them on their march back to the hostels following a rally at Mofolo Central.

A Baragwanath Hospital spokesperson said 57 people had been brought in from the Mofolo area on Sunday night. Of these, five were certified dead on arrival and three died while attempts were being made to resuscitate them.

She added that 24 others had been brought in by 8:30am on Monday after jumping off moving trains. By Wednesday evening, over 100 lives had been lost in the Transvaal.

Police did not stop killings — survivors

(278)

South 12/9 - 18/9/91

SURVIVORS of last weekend's bloody clashes between Inkatha-backed hostel dwellers and township residents this week described in horrific detail how they narrowly missed being killed when Inkatha members attacked their homes.

The residents blamed the police for their failure to prevent the brutal killings. They claimed from their sick beds at the Baragwanath Hospital in Soweto that the mayhem in Mofolo Village, Soweto, took place in full view of the security forces.

"They had been escorting the hostel dwellers on their way to the Diepkloof Hostel when I was attacked," said 53-year-old Bartholomew Luhlunu who is recovering at Baragwanath Hospital after being hacked on his head and stabbed with a spear in his left shoulder-blade.

Luhlunu said he was stabbed with a spear inches from his heart.

Speaking with difficulty Luhlunu told SOUTH that he was on his way



Bartholomew Luhlunu

home in Klipspruit when he met the rampaging Inkatha members.

"They attacked me wantonly and I had no chance to run away. They just swarmed all over me, clubbed me with sticks and hacked me on the head. I do not know how I survived



Israel Simelane

the onslaught. They were beating up everyone they came across. Passing cars were also smashed."

He said he was picked up by a passing mini-bus taxi and driven to hospital.

Luhlunu has five children. "They do

'I found them in the room'



Photographs depicting the consequences of violence would not normally be published in SOUTH. After considered judgment, the pictures on this page were chosen in order to create a greater public awareness of the tragic reality of violence in South Africa — and to emphasise the urgency for peace in our country — The Editor

not even know that I am here in hospital."

Another victim, Israel Simelane, a hostel dweller from Nancefield, Soweto said he was part of the marching Inkatha supporters when he was shot by someone he did not know.

A driver, he is now nursing two bullet wounds — one bullet was still lodged in his chest and another bullet hit him on the left cheek.

He said he had been attending an

Inkatha rally in Dobsonville and marching back home. His car was in Pongola in the Eastern Transvaal.

"I had been sent by my brother to buy articles in the nearby township of Mofolo when a bullet hit my thigh," said 10-year-old schoolboy Tshabalala.

The schoolboy now finds it difficult to move about. He said that the day in hospital that the bullet still lodged in his thigh.

Govt dragging feet - Cosatu

12/9/91

By Shareen Singh

Cosatu yesterday accused the Government of dragging its feet in implementing the Laboria Minute and threatened to take mass action.

The minute has been agreed to by unions, employers and the State. It was signed a year ago by Cosatu/Nactu, the South African Co-ordinating Committee on Labour Affairs (Saccola) and the Government,

changing the Labour Relations Act.

The spirit of the Laboria Minute was being ignored, Cosatu charged. It said a number of issues had been agreed on but the Government had not yet moved to make these reality.

According to the minute, the Government had agreed to grant farm workers the same rights as those enjoyed by industrial workers. But Minister of Manpower Eh Louw had refused to give any commitment about including

these workers in the Labour Relations Act and the Wage Act, Cosatu said

Regarding domestic workers, a National Manpower Commission (NMC) investigation had been completed in June, but little progress had been made in transforming these recommendations into law.

Cosatu demanded that the Minister obtain a commitment from the Cabinet that domestic workers be included in the Basic Conditions of

Employment Act, the Wage Act, the Labour Relations Act, the Worker's Compensation Act and the Unemployment Insurance Fund Act

The Laboria Minute agreed to grant full rights to public-sector workers, but the Commission for Administration, which agreed to produce draft legislation to cover public-sector workers, had failed to meet three deadlines, Cosatu said

A draft, which Cosatu was studying, was finally produced last month

The Government had agreed that the NMC would be dissolved by April this year and a restructured NMC would replace it

But the Minister had extended the term of office of the NMC and refused to commit himself to a date when a restructured NMC would be appointed, Cosatu said

The minute made provision for the discussion of economic issues among the parties who signed the minute. Cosatu and the Department of Manpower held

discussions on July 1 on a range of issues, including retrenchments and job-creation programmes, but the department has refused to say when negotiations could start

Workers' rights were a burning issue in Cosatu and if these were not implemented soon, workers would have no option but to resort to mass action

The federation's central executive committee would meet at the end of the month to decide on action

Cosatu warns of mass action

Shilowa 12/9/91

(b6)

By IKE MOTSAPI

THE 12-month "honeymoon" between Cosatu and the Government appears to be over.

Relations between the two have become strained in recent months because of labour issues

Cosatu yesterday threatened to pull out of the negotiations and may encourage its affiliates to engage in national strikes

The central executive committee of Cosatu will meet on September 27 to decide on what action to take

Cosatu's Press officer, Mr Neil Coleman, said the Government had agreed to speak to Cosatu on its terms "in order to ease the pressure piled on it by us"

"We have no option but to resort to mass action or pull out of the talks," assistant general secretary Mr Sam Shilowa added

Cosatu said "the spirit of the Laboria Minute is being flagrantly ignored"

Shilowa said "On Friday this week it will be a year since Cosatu signed the Laboria Minute with Nactu, Saccola and the State

"Cosatu is becoming increasingly dissatisfied with the pace at which the Minute is being implemented

"The Minister of Manpower, Mr Eli Louw, refused to accede to most of Cosatu's demands"

These are that

The Laboria Minute committed the Government to grant rights to farm workers While the Basic Conditions of Employment Act and Unemployment Insurance Fund Act will most likely be passed in the next parliamentary session, the Minister refused to commit himself on the LRA and Wage Act;

The Government refused to commit itself on granting domestic workers rights under the Wage Act, LRA, Workmen's Compensation and UIF,

In negotiations with the Commission for Administration the Government had agreed to produce draft legislation to cover public sector workers; and that

Cosatu had agreed to talks on the restructuring of the National Manpower Commission on condition this was done in such a way major players were properly represented The Government had reneged

"There is growing concern in that the State and employers are renegeing on their agreement," Shilowa added

'Cinderella' domestics in from the cold

SOUTH AFRICA's cinderella domestic sector moved decisively towards official regulation this week with the publication of far-reaching recommendations by the National Manpower Commission.

The recommendations, published in the *Government Gazette* for comment today, are the fruits of an NMC probe ordered last year by Manpower Minister Eli Louw and are likely to lead to legislation in 1993.

They call for the inclusion of the country's 800 000 domestics under the Labour Relations Act (LRA) and Basic Conditions of Employment Act (BCEA), with adjustments to take account of the sector's peculiar circumstances. These include provision for a small labour court and a simplified conciliation procedure.

The historical exclusion of domestics from both Acts means they cannot join registered unions, use the industrial court or the official dispute-setting machinery, have no redress against unfair dismissal or victimisation, and no right to paid leave, restrictions on working hours or regulation of overtime.

Union organisation in the sector is embryonic. The NMC report puts the paid-up membership of the Congress of South African Trade Unions' South African Domestic Workers' Union and the National Council of Trade Unions' Black Domestic Workers' Union at 14 525 and 8 434 respectively.

The NMC also recommends in principle that domestic workers be covered by the Unemployment Insurance Act, and Workmen's Compensation Act,

Domestic workers — long excluded from labour legislation — may soon have official regulation if extensive recommendations by the National Manpower Commission come into effect, reports **DREW FORREST**

but proposes the creation of a working group — consisting of members of the NMC's domestic workers' committee, Manpower Department representatives and workmen's compensation and unemployment insurance officials — to investigate the administrative implications of their inclusion.

As the key modification of the LRA, the commission recommends that domestic workers and employers should have the option of using an industrial court or the small labour court for legal redress. Although part of the industrial court system, the latter would have simplified procedures, no right of appeal and no professional representation.

Some conciliation or mediation would be required before court action. As formal conciliation boards were not suitable for the domestic sector, this could take the form of a simple meeting between the parties.

A mediator could be any person not directly involved in the dispute, the commission suggests.

The NMC also suggests that the proposed unfair labour practice code, which would serve as a non-statutory guideline admissible as evidence in court, might be modified for the do-



Special circumstances ... Certain Acts will be modified to allow the extension of worker rights to domestics Photo: GUY ADAMS

Some commission members held that incompatibility might be grounds for dismissal, that dismissal procedures need not be followed during an agreed probationary period and that a cash award could replace reinstatement where the employment relationship had broken down.

The NMC recommends that domestic workers should be covered by most provisions of the BCEA including those on working hours (a maximum of 46 hours a week), overtime (a maximum of 10 hours a week), paid leave (14 days a year), maternity leave, and

child labour (no employee should be under 15 years). Adjustments include an additional four hours' voluntary overtime for workers tending children, the sick or the aged, and a maximum "spread-over" of 14 hours for live-in domestics.

The commission also recommends the inclusion of two new provisions in the BCEA — one enabling domestics to take civil action for the recovery of money due to them, and the other preventing employers from victimising workers who refuse to breach the Act, or who discuss their employment conditions with others.

Draft Bill covers public service

166
6/9-12/9/91

THE Commission for Administrative Services (CFA) has drafted a Bill which would radically alter labour law in the public service, bringing it substantially in line with the Labour Relations Act. The draft, distributed to employee bodies for comment, is styled the Pub-

lic Service Labour Relations Act of 1992 — clearly signalling the state's intention to push it through next year. At stake are the rights of more than 700 000 public servants, who under the current Public Service Act have no specific right to or procedures for bargaining or industrial action.

State employees' labour rights will be improved if a new draft Bill is passed, reports

DREW FOREST

Public service unions and associations have been locked in talks with the CFA on a new labour dispensation

throughout this year.

The creation of the negotiating forum was the direct product of Cosatu pressure for the extension of the LRA to the public sector and the state's subsequent pledge, in the Labour Minute, to grant labour rights to all workers. The unions and associations party to

the forum, which include Cosatu's National Education, Health and Allied Workers Union and the Public Servants Association, are to comment on the draft Bill when the forum reconvenes at the end of this month.

Modelled on the LRA, the draft vastly improves the current dispensation, but is likely to fall short of union demands. A key advance is the provision for state workers to use the industrial court, the Labour Appeal Court and statutory conciliation mechanisms such as industrial councils and conciliation boards. Provision is made for a "public service bargaining council", which would apparently function as an industrial council.

The legislation also lays down much the same strike procedures as the LRA, giving state employees strike rights for the first time.

computer services, paramedical personnel and court officials to the category

Essential service disputes would be subject to compulsory arbitration. Given that the Cosatu conference defined essential service strikes as those risking loss of life, the breadth of the definition is bound to hit union flak.

Objections will also centre on the administration of the law, which is left in the hands of the CFA. Employee bodies want the Manpower Department to take charge.

However, sources point out that such a change would mean a National Manpower Commission investigation, which would delay the implementation of the law.

That the CFA has based the legislation on the LRA is a victory for labour the talks deadlocked last month over precisely this issue.

The draft expressly excludes the Defence Force, police, office of the Auditor General, prisons and National Intelligence Service. As there are already links between Cosatu and the Police and Prisons Civil Rights Union (Pop-cru), the federation is unlikely to accept a blanket exclusion of these sectors

NEWS IN BRIEF

Labour unit exposed

REPRESENTATIVES of 11 public sector staff associations and two unions will meet next week to discuss government using the services of an alleged member of a labour relations bureau whose links with the security police were recently exposed. (166)

Public Servants' Association GM Hans Olivier said yesterday the associations and unions would meet in Cape Town to discuss various issues including the position of attorney Hugo Pienaar.

Pienaar, who was contracted by the Commission for Administration as an expert on labour law, allegedly joined the Liaison Bureau for Labour Relations shortly after its formation in March 1989.

The commission was formed to draft labour legislation for the public sector.

B/day 4/10/91

THE growing insecurity of Bophuthatswana's satraps — highlighted by the recent detention of Black Sash protesters — is harshly emphasised by their most recent sortie into the labour law arena.

Bophuthatswana officials tout the Industrial Relations Act (IRA) of 1991 as a "proactive" law, designed to shoot trouble before it gets out of hand. What they really mean is that it intensifies state control over the labour field.

Passed and gazetted in September, and now awaiting proclamation by the Manpower Department, the law repeals the controversial Industrial Conciliation Act of 1984, which outlaws "foreign" (that is, South African-based) trade unions.

But far from relaxing controls and bringing the legislative framework more closely in line with South Africa — the trend in almost every other homeland — the Act tightens the screws on the Congress of South African Trade Unions (Cosatu) and companies willing to deal with its affiliates.

It also reverses the more conciliatory line Bophuthatswana seemed to be moving towards, after the launch of a Cosatu campaign marked by a damaging stayaway last November which brought both Bophuthatswana and Pretoria industry to a standstill.

At talks with a Bophuthatswana cabinet committee early this year, Cosatu appeared to have clinched a deal granting it organising rights and pledging the homeland to consultation on labour law changes. The Bophuthatswana government later denied this was its intention.

Among its provisions are:

- A requirement that all unions register within three months of the commencement of the Act. Registration will be refused worker bodies "under the direct or indirect control" of "foreign" unions, federations or political parties, or which have "governing bodies" or leaders based outside the homeland.

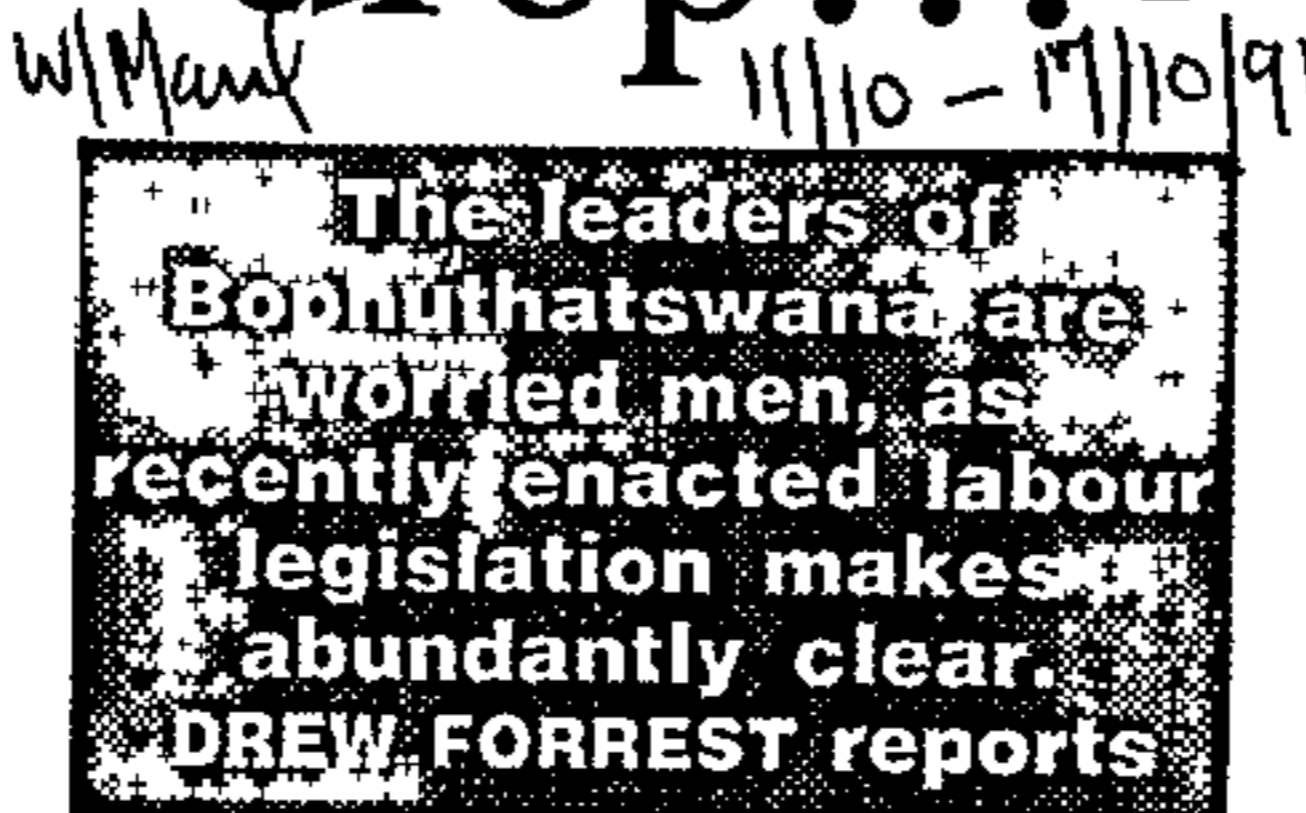
- A ban on the deduction of union dues on behalf of South African unions active in Bophuthatswana. Employers who flout this face a R5 000 fine.

Through a "National Industrial Relations Council" and a "Judicial Committee" operating under it — both manned by government appointees — the state acquires sweeping powers to interfere in labour matters.

After an inquiry, the judicial committee can strike out any provision in a union constitution, suspend registration or wind up a union. It can also interdict any strike "not in the national interest".

Smaller Bophuthatswana companies may welcome the new law: as Bophuthatswana-based unions have proved themselves notoriously tame, it effectively seeks to create a union-free zone. In a statement last week, Bophuthatswana claimed most employers had "actively praised and pledged their support" to the IRA, and that only "a

Bopping until the unions drop



minority" of firms were dissatisfied with it.

This "minority" includes such small fry as South African Breweries, AECL, Pilkington Shaterprufe and Rustenburg Platinum Mines — all South African-based and with long-standing relationships with Cosatu unions in South Africa. They fear being caught between the rock of Cosatu unionism and the hard place of the IRA.

Sources say ongoing employer representations on the Act, which now seek an eleventh-hour stay of execution, were initially met with threats of deportation against managers who refused to implement it.

There is also the ever-present danger of "cross-border" sympathy action in protest against the new law. This week Cosatu's northern Transvaal regional secretary, Donsie Khumalo, warned that Cosatu was poised to deny Bophuthatswana companies markets by "blacking" their products in South Africa.

Employers are also understood to have communicated their concerns to the South African Department of Foreign Affairs — and the government response suggests a shift in attitude since PW Botha ordered the SADF to roll back the 1988 Bophuthatswana coup.

Anxious that unrest over the IRA may threaten the constitutional process and undermine its credibility overseas — it realises that the outside world draws no distinction between Bophuthatswana and South Africa proper — the cabinet asked National Manpower Commission chairman Frans Barker to investigate. Barker is known to have held talks with Bophuthatswana cabinet ministers, and the government officials

have also contacted and gathered information from Cosatu.

Cosatu believes that the direct intervention of Foreign Affairs minister Pik Botha has secured the shelving of the Act pending discussions.

Other well-paced sources confirm this, but say Bophuthatswana President Lucas Mangope signed the legislation despite a pledge to hold it back pending further discussion. "The Bophuthatswana cabinet is incredibly sensitive about the homeland's independence and suggestions that Pretoria is calling the shots," said one insider.

Why is Bophuthatswana so glaringly out of step with broader trends? Some observers blame hard-line ex-Rhodesians in the cabinet and civil service, notably Rowan Cronje, who holds the defence portfolio and sits in Bophuthatswana's national security council. Their concern, charges Cosatu's Khumalo, is "the protection of their jobs and pensions" after the earlier career setback of Zimbabwean independence. The other alleged "super-hawk" is manpower minister Rev Steven Seodi.

There can be little doubt that Cosatu organising successes and protracted unrest at Impala Platinum put the wind up Bophuthatswana leaders. Manpower secretary Herbert Moloantsoa is known to believe that ANC marshals took charge at Implats, intimidating workers to join Cosatu and establishing arms caches in the mine hostels.

The shift to a harder line appears to flow principally from fears about Bophuthatswana's future in the run-up to constitutional negotiations. Cosatu is clearly seen as a stalking-horse for the ANC, bent on weakening the homeland's negotiating hand through destabilisation.

The IRA reflects such paranoia about the use of trade union power for political ends. Among a plethora of restrictions, it provides that:

- No person convicted of a security offence carrying a jail sentence of more than three months can work as a union office-bearer or official.

- Unions may not affiliate to or use their money to promote political organisations, or constitutionally require members to pay a "political subscription". They are also banned from paying affiliation fees to federations which financially support political bodies.

- Unions may not promote political organisations by allowing them the use of their "services, equipment or facilities".

- Unions may not contribute to or receive money from any organisation banned under Bophuthatswana's Internal Security Act or other security law.

Comically, the IRA follows up these Draconian clamps by stating that they should not be read as hampering unionists "in the enjoyment of the fundamental rights and freedoms .. as contemplated by Chapter 2 of the Republic of Bophuthatswana Constitution Act of 1977".

Studying the effects of labour relations

B/day 15/10/91

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SACOB'S standing committee on industrial relations, chaired by AECT's Bokkie Botha, looks at events which affect industrial relations, including the trade union movement and legislation

"We see the committee's main role as influencing government policy," says Sacob labour affairs manager Gerrie Bezuidenhout

There are four main areas of concern:

- The composition of industrial relations structures, such as the National Manpower Commission,
- The extension of labour legislation to previously unaffected sectors of the workforce, such as farm-

workers and domestic employees,

□ Social policy issues like health care, AIDS, education and pension which are fast influencing the industrial relations relationship between employer and worker; and

□ Readmittance of SA into the international labour arena via organisations like the International Labour Organisation and the International Organisation of Employees.

"There is a need in SA for employees and employers to unite nationally on labour issues and Sacob has been active in influencing this where it can," Bezuidenhout says.

"This is important because, nationally, employees have to have stronger representation on bodies which deal with matters relating to industrial relations and if SA is readmitted to international organisation, it must speak with a united voice."

The committee deals proactively with labour issues and, as a member of Saccola, was party to the Saccola/Cosatu/Nactu labour accord which was three years in the making.

Botha says VAT and the impact labour unrest over this could have on the economy, the effect of labour relations on the economy and potential influence vio-



GERRIE BEZUIDENHOUT

lence has on industrial relations are among the topics which the committee is investigating

"We try to ensure all labour relations issues are handled in such a way as to reduce conflict and increase understanding between the parties," he says

Nationalisation fear the great deterrent

Japan on slow SA return road

S/Times (Buss) 24/10/91

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ALLEN COOK: Long-term view

By CURT VON KEYSERLINGK and IAN SMITH

JAPANESE companies will be hesitant to invest in SA as long as nationalisation remains possible, says Yoshiaki Murakame, economic consul in the Japanese consulate-general in Pretoria.

He says. "We are a capitalistic country and many Japanese companies will not hurry to invest in SA.

"We are keen to help black businessmen understand capitalism and are paying the expenses for two of a party of 30 on a study trip to Japan"

Mr Murakame says that with the exception of sales of certain vehicles and computers to apartheid-enforcing government agencies, all Japanese sanctions have gone. This includes visa restrictions.

Many Japanese companies have already visited SA with a view to increasing trade. Several trade delegations are expected soon.

Air links have not been negotiated, and although they are subject to no official restriction, practical difficulties may arise as Japanese airports are fully stretched.

Nissan SA managing director John Newbury says "We anticipated the lifting of sanctions 18 months ago and have been talking about it with our Japanese suppliers since then. We expect a big increase in business with Nissan in Japan and see ourselves becoming a *kojun* or source plant for Nissan in certain countries in Africa and Mauritius."

Mr Newbury declines to comment on direct investment by Nissan Japan in the SA company.

Remote

Another motor manufacturer with Japanese links says the chances of direct equity investment in his company from Japan are remote. But there are good chances that SA-owned companies may form partnerships with Japanese suppliers for marketing components and vehicles made here and other parts of the world.

"This could be possible because of the generous export incentives to motor manufacturers and SA's growing acceptance as a trading partner.

"Japanese vehicle sales to the rest of Africa are a fraction of those here, but it would be worthwhile business for us."

He says one of his senior colleagues is in Japan to discuss the possibility.

Chief executive of Rand Mines coal division Allen Cook does not foresee early investment by Japanese in SA mines. But he does not rule it out in the long term.

Mr Cook says "If they invested here it would be in new mines with exclusive supply agreements. They would not seek control, merely a stake. The Japanese have

invested heavily in Canadian and Australian coal mines."

It is believed that a reason they do so is to cause an oversupply which keeps prices down.

Mr Cook says. "The lifting of sanctions will allow us to sell more coal to Japan. But I expect the increase to be modest in the short term."

Exports are likely to fetch better prices because much SA coal was sold cheaply during sanctions to cement manufacturers. They can readily switch from coal to cheaper materials. More exports to Japan would go to power utilities which pay more.

Freeze

Mr Cook says long-term coal export prospects are encouraging because Australia supplies 70% of Japanese utilities' needs. The Japanese also do not wish to depend on one supplier of a strategic commodity.

The Japanese Government acted a lot faster to remove sanctions — some of which have been in place for 20 years — than SA officials expected. Its moves to free business and diplomatic relationships are more comprehensive than the most optimistic businessmen forecast.

Observers say this reflects the pressure the Foreign Ministry in Tokyo has come under since a high-level delegation from Japan's Federation of Economic Organisations (Keidanren) visited SA last April.

Foreign Ministry officials stalled the announcement until the crucial vote at the UN on October 15 gave Japan its long-awaited seat on the Security Council.

Sanctions went within a week in spite of earlier suggestions that Japan would wait for the ANC to confirm that all political prisoners had been released.

Two-way trade between the two countries has risen from the freeze level of about \$4-billion a year to between \$5-billion and R6-billion, says SA Foreign Trade Organisation international manager David Graham.

Deputy Finance Minister Theo Alant has urged borrowers to explore the Japanese capital market, which is not a traditional source of funds for SA.

Bankers believe trade credit lines with suppliers will expand quickly.

Reparation' bid would force individuals to pay third of their assets

ANC PIAN FOR WUBA THE WY

Stewart 13/10/91

By BILL KRICE

THE ANC is considering an extraordinary proposal which would force South Africans to pay a one-off levy of a third of their assets to the state in reparation for apartheid.

The proposal was adopted by a working group at an ANC conference on affirmative action in Port Elizabeth at the weekend. The conference also proposed the deliberate creation of a "business crisis" to force corporations to submit to demands for affirmative action.

The capital levy proposal comes hard on the heels of statements last week by ANC leader Nelson Mandela that nationalisation was still an option for the ANC, and a statement by ANC secretary-general Cyril Ramaphosa that the ANC would "re-evaluate" foreign loans if it came to power. Mr Trevor Manuel, the ANC's economic head, also made a strong pitch to US businessmen at a conference in the United States this week to continue disinvesting.

Mr Heinz King, the ANC member who reported the decision of the working group to the conference, said taxpayers would be expected to pay off the levy over 10 years. The money would be used to help disadvantaged communities.

Mr King was unable to provide further details of the proposal, but a rough estimate shows that a person with capital assets of R500 000 would pay R16 700 a year to cover the levy. A recent survey showed that half the white households in South Africa had net assets above R100 000. The annual levy on this amount would be R33 300.

Surrender
Reporting back on committee discussions, Mr King said it was felt that any land reform process must include affirmative action. Beneficiaries ought to include the victims of forced removal (both rural and urban), the homeless, township residents those



Alive-burial mix-up siri

BACK FROM THE DEAD . Emil Brussow comforts daughter Emejean, who he thought had been killed in an accident

By TERRY VAN DER WALT

GRIEVING father Emil Brussow shovelled soil

SA heroes in world golf final

By NORMAN DABBLE, St Andrews

SOUTH AFRICA'S golf heroes earned a standing ovation yesterday as they toppled home favourites Scotland to reach the final of the Dunhill Cup in their first major international team event after 11 years of isolation.



JOHN BLAND

South African captain Gary Player was cheered all the way down the 18th hole of the historic Old Course as he clinched victory for his team with a four-stroke win over Gordon Brand Jr.

"It is marvellous," said Player. "Here we are beating the home team and we get an ovation. I think it proves everyone is glad we're back." The Springbok triumph over Scotland followed an amazing win over the United States, the No 1 seeds, Ryder Cup champions and hot favourites, in a morning quarter-final.

South Africa 11

More and more in common



Gary Taylor is director of human resources at Medscheme.

The seeds of an interim "government" have already germinated in a number of areas within the SA society, but in a form not necessarily envisaged by the various players.

The model might not involve the United Nations (as happened in Namibia), nor a committee of Wise Men comprising politically neutral but widely credible referees. If certain current trends develop we might well see a "second tier" of policy-makers emerging in all major areas, which in effect runs the country by democratically devising policy on key issues. They could well go further by having a say in budgetary reallocation during this interim phase.

These committees would exist in each of the major functional groupings of government — security, finance, manpower, health, housing and so on; and would involve the major stakeholders in that particular field, not just the politicians.

The groupings, though cumbersome at first because of their size and the need for effective mandating, will form more democratic and acceptable forms of interim structures than any externally imposed caretaker government could. Parliamentary power would diminish considerably, as the legislature would be effectively rubber-stamping budgets and policies emanating from committee level.

There are some areas where such multilateral efforts are successfully under way and such initiatives could serve as models for other interim structures.

The labour relations field is perhaps the most developed of these, where the latest amendments (and proposed future changes) to the Labour Relations Act have been dubbed "the first post-apartheid legisla-

tion"

To summarise the process, the major stakeholders in the labour arena got together to produce an accord which finally resulted in legislation being generated through the National Manpower Commission (NMC) for mere enactment by parliament. Despite the recent tactical withdrawal from the NMC by Cosatu in order to ensure that it becomes more democratic and powerfully reconstituted, the body is certain to continue to drive policy and not the Department of Manpower.

Leading labour lawyer Halton Cheadle articulated the vision recently by stating that "the thinking is that the NMC ought to have a special relationship to parliament as a policy body, that laws relating to labour and the labour market must proceed through, before they are tabled in parliament. Though it will not usurp the sovereignty of parliament, it will play a policy formation role."

On the economic front, a number of moves have been made — again with organised labour and business deciding that this country's future economic survival, let alone growth, should not be left solely to politicians.

Recent press reports of behind-the-scenes working parties reflect high-level involvement through the Consultative Business Movement, Cosatu and others in creating an interim forum for economic policy. The prevailing thinking is that the economy cannot wait for a referendum, a new constitution or an all-party election.

The shift by Finance Minister Barend du Plessis, as hinted at the IMF conference, shows some evidence of government's readiness to consider a new approach. A new structure might by now have been established if the consultations with the VAT delegation had yielded a more widely acceptable compromise.

Even with VAT we saw a structure emerging, in which labour, consumer and even medical stakeholders formed a grouping to challenge old-style decision-making. Cosatu's Jay Naidoo has confirmed that the planned mass action is to support the "issue

of process" rather than VAT per se. It has been proposed that the unions want these interim structures in place *before* a new government is elected to ensure their future survival and influence.

In health care, similar moves are under way. The unpopular amendments proposed to the outdated Medical Schemes Act are bound to be scuttled as the Minister gets buffeted by vested interests.

Recent calls by the Medical Association for the Bill to be referred to "a joint consensus forum which enjoys representation by all role-players in the health environment" will stand a better chance of achieving an acceptable redistribution of health.

Though security issues would originally have seemed to defy consensus, we have already seen some interim structures emerging in an attempt to combat violence.

Clearly, peace is the most elusive of goals at present, but the joint efforts of stakeholders, including church leaders, in the Peace Accord have given some direction. It is worth noting that acceptance was gained for the principle that the police owe allegiance to higher values than traditional line authority.

Peace initiatives at community level have enjoyed lower profile, but facilitating bodies have been achieving meaningful results in some areas.

The conclusions which could be drawn from the above examples — and there are several other working groups already in place, including on local government and telecommunications — is that we are already evolving an "interim government" within the present legislative framework. The National Party has already demonstrated a willingness to accommodate such initiatives and seems likely to be supportive of informal interim structures.

There are several major advantages to informal forums which harness the energies of vested interests, expert opinion, idealism and experience. They tap into democratic processes during the interim phase while the constitutional scene is still developing. This could relieve the politicians of some of the work and deter government from ruling by decree — both now and in the future. ■



Small businesses urged to assist in labour legislation

VERA VON LIERES

SMALL businesses should not expect to be excluded from future labour legislation, National Manpower Commission acting chairman Frans Barker has said

Speaking at a recent FSA-Contact annual labour law seminar, Barker said the commission had proposed that a facilitator be set up in the Department of Manpower to liaise with small business to ease potential problems small business may have with the department *B/Daw 8/11/91*

Barker said it was essential that small business employers involved themselves in the debate on future labour legislation and in employer associations to influence the process leading to new legislation.

He said a restructured Labour Relations Act (LRA) was now only likely to be implemented in 1994 due to current restructuring processes, including those taking place within the commission.

Recommendations which had been completed by the commission included the establishment of a small labour court which would serve as an informal forum for settling disputes — similar to the Small Claims Court.

The privatisation of conciliation mechanisms through the establishment of private conciliation centres was also suggested

Farm workers 'to get union rights'

Cosatu rejoins govt labour body for talks

166
B/D ay 8/11/91

FIVE weeks after its withdrawal from the National Manpower Commission (NMC), Cosatu will today join a meeting of the body at which Manpower Minister Eli Louw is expected to announce the extension of labour law to farm workers, and disclose his views on the commission's restructuring.

Cosatu general secretary Jay Naidoo said yesterday the federation, together with Nactu, saw the meeting as an opportunity to resolve the disputes and eliminate the obstacles which led to Cosatu's withdrawal on October 1.

Cosatu's walkout was sparked by its perception that Louw was resisting the restructuring of the commission into a more authoritative body, and was delaying the extension of labour law to farm, domestic and public sector workers.

"Our withdrawal was not a matter of principle. However, we did not want to participate further in the NMC until there was a clearer timetable," Naidoo said.

He said while Cosatu was to attend today's meeting with existing commission members, this did not mean it had reversed its withdrawal. Nactu says it has never officially joined the commission.

Naidoo said the commission's work was part of a negotiating process established as a consequence of the tripartite Laboria Minute. "We are committed to that process, and are going into the meeting to try to eliminate obstacles and set about the business of getting better labour legislation. I hope the Minister is coming with a sense of wanting to resolve the problems."

Naidoo said Cosatu did not plan to raise the question of a national economic bar-

ALAN FINE

gaining forum — the crux of this week's stayaway — at today's meeting. The meeting would focus on more easily resolved labour law and commission issues in dispute with the Manpower Minister.

It is understood Louw plans to tell the commission and other participants about a Cabinet decision to put before Parliament legislation for the partial extension of the Labour Relations Act (LRA) and the Wage Act to cover farm workers.

The LRA is likely to be extended almost in total. However the commission, in its recommendations published in May, suggested a number of key adjustments to facilitate better labour relations.

It proposed a system of "no-strike" arrangements during peak seasonal farming periods, when disputes should be resolved through compulsory arbitration.

It also recommended the establishment of Small Labour Courts to deal with individual disputes of right, and the drafting of an unfair labour practice code applicable either to agriculture only or to all sectors covered by the Act.

The Wage Act, in terms of which minimum wages and conditions of employment are set for unorganised sectors, is likely to be substantially revised for its application to agriculture.

The commission was split between mostly union parties which wanted the Act to be fully applicable, and those opposed to any setting of minimum standards for agriculture. A middle view held that the Wage Board should make minimum wage recommendations which would not become law but serve as a guide to farmers.

Cosatu joins NMC talks

Own Correspondent

JOHANNESBURG —
Cosatu will join a meeting of the National Manpower Commission (NMC) today, five weeks after it withdrew from the commission.

At the talks Manpower Minister Mr Eli Louw is expected to announce the extension of labour law to farm workers, and disclose his views on the commission's restructuring.

(66 CT 8/11/91)
Cosatu general-secretary Mr Jay Naidoo said yesterday the federation, together with Nactu, saw the meeting as an opportunity to resolve the disputes which led to Cosatu's withdrawal on October 1.

Revamp awaits manpower body

BILLY PADDOCK

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GOVERNMENT supported proposed changes to the National Manpower Commission which would make it broadly representative of the major employer and union organisations, Manpower Minister Eli Louw said at the weekend.

He was speaking after a meeting of the commission which was attended by Cosatu — the first since the labour federation withdrew five weeks ago.

Louw said he had put forward at the meeting his provisional views on restructuring the commission.

In essence Louw's view was that the commission should be restructured to incorporate union and employer organisations such as Cosatu and Saccola. The commission would then negotiate policy to reach consensus and after this was achieved, make its recommendations to him and government.

"But it would remain advisory and it should be understood that such negotiation cannot bind me or the government. Parliament should retain the final say in respect of legislation," he said.

Louw said he told the commission that all labour legislation would be considered by the commission before submission to Parliament.

He added the commission should also have direct access to Parliament.

Any changes to the commission's

relationship with Parliament should be made at the multiparty conference.

He added that if the commission did incorporate Cosatu, Nactu and Saccola, its recommendations would be seriously considered.

Louw said he did not know whether Cosatu and Nactu would reverse their decision of five weeks ago and rejoin the commission. As far as he was concerned, government had not been dragging its feet on restructuring the commission, nor on extending labour legislation to the agricultural sector — key Cosatu reasons for withdrawing from the commission.

Louw also released details on the extension of the Labour Relations Amendment Act and the Wage Determination Act to the agricultural sector which Cabinet had approved in principle.

The final decision on how these acts would be made applicable was subject to a process of wide consultation.

The Wage Act should be extended to agriculture, but with the proviso that its application be delayed for 24 months after approval by Parliament.

Louw said the commission's recommendation that the Labour Relations Act should provide for no-strike agreements under certain circumstances was acceptable.

Killers linked to right-wing fugitives

JONATHON REES

TWO men who committed suicide after killing a policeman and wounding another in an ambush in the Kalahari last week might be linked to fugitive right-wing murder accused Adrian Maritz and Henry Martin.

Jurgen White, 22, and Johannes Grobelaar, 19, were members of the secret, ultra right-wing Kerk van die Skepper (Church of the Creator) in Pretoria, according to police.

Police said they were investigating the possibility the pair also belonged to the Orde Boerevolk (OB) — the same organisation as fugitives Maritz and Martin, who fled SA using

false passports on October 23. Maritz and Martin, who recently ended a prolonged hunger strike in a Pretoria hospital, are wanted on charges of murder and attempted murder relating to several bomb blasts last year.

At the time of the hunger strike, they were members of the ultra-right OB founded by Piet Rudolph, now a spokesman for the AWB.

OB leader Nic Strydom recently said he no longer had dealings with White and Grobelaar.

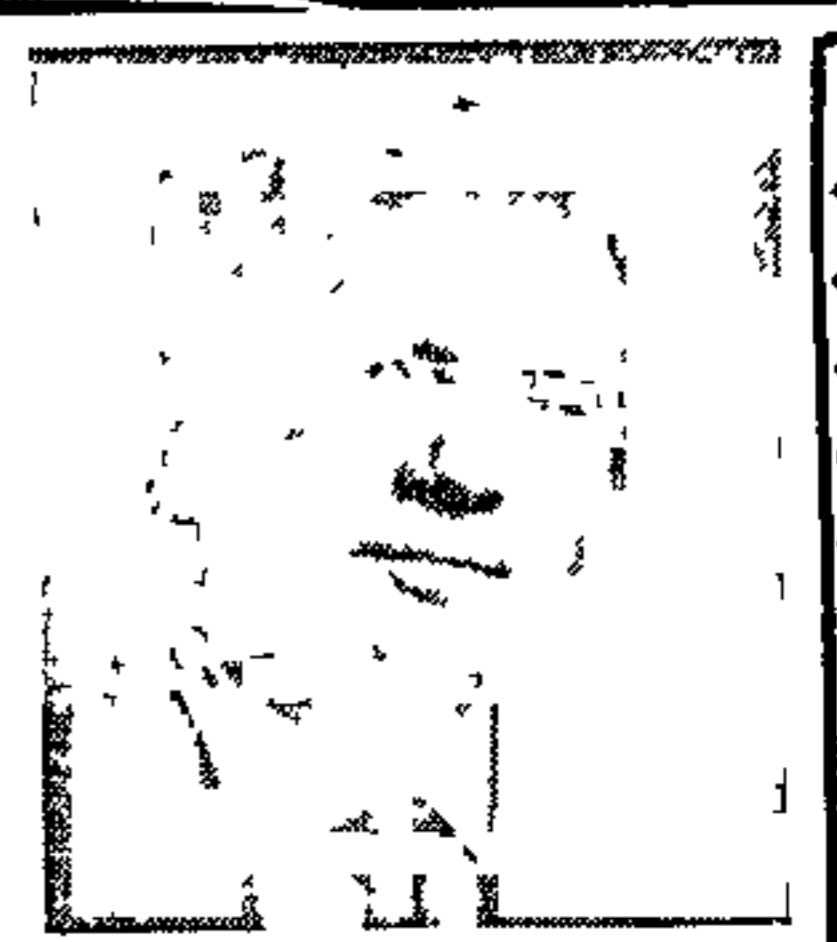
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lations on scratch cards and the like

Govt 'yes' to NMMC changes

166

ET 11/11/91



John Morgan has been elected president of the SA Association of Consulting Engineers.

From BILLY PADDOCK

JOHANNESBURG — The government supported far-reaching proposed changes to the National Manpower Commission which would make it broadly representative of the major employer and union organisations, Manpower Minister Eli Louw said at the weekend.

Louw said he supported a commission recommendation that the body be restructured to find as much consensus as possible on labour policy.

He was addressing a news briefing on Friday shortly after a meeting of the commission which was attended by Cosatu — the first since the labour federation withdrew five weeks ago.

Louw said he had put forward at the meeting his provisional views on restructuring the commission, but he did not know if Cosatu would accept the terms and therefore rejoin it.

In essence Louw's view was that the commission should be restructured to incorporate trade union and employer organisations such as Cosatu and Saccola. The commission would then negotiate policy to reach consensus and after this was achieved, make its recommendations to him and government.

"But it would remain advisory and it should be understood that such negotiation cannot bind me or the government. Parliament should retain the final say in respect of legislation," he said.

Louw said he had also told the commission that all labour legislation would be considered by the commission before submission to Parliament.

He added the commission should also have direct access to Parliament. This will probably occur through the standing committee on labour legislation.

However, he said it was not desirable to restructure the com-

mission with respect to its interaction with Parliament in such a way "as to pre-empt constitutional arrangements".

Any changes to this arrangement should only be made at the multiparty conference. "The question whether the commission should directly advise Parliament, without involvement of the Manpower Minister, should thus be dealt with in a representative political forum," Louw said.

He added that if the commission did incorporate the major union groupings (Cosatu and Nactu) and employer organisations (Saccola), its recommendations would be seriously considered "because it is not possible to ignore or totally reject the views of organisations that represent more than a million members".

'Kept small'

Louw said he did not know whether Cosatu and Nactu would reverse their decision of five weeks ago and rejoin the NMC. As far as he was concerned, government had not been dragging its feet on restructuring the commission, nor on extending labour legislation to the agricultural sector — key Cosatu reasons for withdrawing from the commission.

"In terms of our arrangement I undertook to give my views on the restructuring during the first week of November. I have done this in accordance with that agreement so I have kept my side of the bargain," Louw said.

Regarding the commission's view that it should consist of about 25 members, in the proportion of 10 employers, 10 employees and 5 independents, Louw said the commission should be as small as possible, while still accommodating different views and interests.

Other recommendations include:

- Members should enjoy the confidence of their organisations and Louw was prepared to appoint or release members nominated if requested.

- The state as employer should not be represented on the commission, but the Commission for Administration could interact on request with the commission technical committees in respect of matters and employees within its jurisdiction.

- The Manpower Department could participate in commission proceedings in an advisory capacity with a view to providing information, but its participation could not bind the Minister or government.

Louw also released details on the extension of the Labour Relations Amendment Act and the Wage Determination Act to the agricultural sector which Cabinet had approved in principle.

The final decision on how these acts would be made applicable was subject to a process of wide consultation with all interested organisations.

The Wage Act should be extended to agriculture, but with the proviso that its application be delayed for 24 months after approval by Parliament.

Louw said the commission's recommendation that the Labour Relations Act should provide for no-strike agreements under certain circumstances was acceptable.

He said the dispute settlement machinery should provide for more informal, simplified and less rigid procedures to facilitate the conciliation process.

The concept of a special court as a simplified and less expensive alternative to the Industrial Court was acceptable for the settlement of disputes between farmers and farmworkers.

"It will have to be accepted, however, that, due to practical considerations, there will have to be a phasing in period," he said.

In principle the commission recommendation that a code of fair and unfair labour practices be drafted and given legal effect was also acceptable, but the most effective way of doing so would have to be fully investigated.

Manpower commission

DUE TO an editing error, Business Day yesterday reported Manpower Minister Eli Louw saying that any changes to the National Manpower Commission's relationship with Parliament should be made at the multiparty conference ~~(162)~~ (166)

In fact, Louw said it was not suitable to restructure the commission with respect to its interaction with Parliament in such a way "as to pre-empt constitutional arrangements" *B/day*

The error is regretted *12/11/91*

B. Dang 13/11/91
13/11/91

LRA extension protest
STRONG objection has been expressed by Free State Agricultural Union manpower committee chairman Tobie Basson to the announcement by Manpower Minister Eli Louw that it had been decided in principle to extend the Labour Relations Act and Wage Act to agricultural workers (166)

Louw's move (166) 'will not upset labour talks' (166)

8/Day 14/11/91
ALAN FINE

MANPOWER Minister Eli Louw today relinquishes his Cabinet portfolio following yesterday's announcement that he had been appointed Acting Speaker of Parliament. However, Manpower Department sources said it was hoped this would not delay critical changes to labour law currently in the pipeline.

Justice Minister Kobie Coetsee has been appointed Acting Manpower Minister, and Deputy Justice Minister Dame Schutte gains the additional post of Deputy Manpower Minister. The post of Education and Training Deputy Minister, held by Schutte until now, has been abolished.

A Manpower Department source said Louw would probably not have asked for the new appointment, as he had built important relationships with organised labour, and was putting into effect key tripartite labour relations agreements.

However the new position, left vacant after the death of Louis le Grange last month, required someone of Louw's stature.

The source said he did not believe the changes would cause delays in the processes of restructuring the National Manpower Commission and extending labour law to farm and domestic workers.

Decisions on these issues were effectively settled in principle and it remained only for departmental officials to sort out details.

A meeting between Louw and Co-satu and Nactu scheduled for November 19 to discuss the commission's restructuring would be cancelled. He said a meeting with the new Ministers was possible soon thereafter.

State under pressure on farmworkers' rights

15/11-21/11/91
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166
64
By DREW FORREST

CONFLICTING pressures on government over the extension of labour laws to agriculture came under the spotlight this week, following its announcement that the Labour Relations Act and Wage Act are to be extended to farmworkers.

Welcoming the Cabinet's decision, the Congress of South African Trade Unions however attacked Manpower Minister Eli Louw's "refusal" to commit himself to amendments next year. This was at odds with the Labour Minute, in which the government had agreed to "prioritise" new labour law for farm, domestic and state employees, it said.

It also took issue with Louw's pledge to allow further "extensive consultation with interested parties", saying this held out the threat of further delays and made nonsense of broad consultation already undertaken by the Manpower Department and the National Manpower Commission (NMC).

Louw also described as "reasonable" a majority NMC proposal of a two-year delay in implementing the Wage Act in respect of agriculture. Cosatu opposes any delay.

The two most conservative regions of the South African Agricultural Union also attacked the government's pledge to bring farmworkers under the two statutes, but from a very different perspective.

Saying it was "shocked" by the announcement, the Transvaal Agricultural Union said the legislation would "force farmers to rationalise, meaning large-scale dismissal of farmworkers". Food prices would rise and entrepreneurship suffer, it said.

Complaining that the government was proceeding with the amendments despite farmers' "well-formulated objections", the Free State Agricultural Union warned of "a negative effect on the already hard-pressed industry and the consequent estrangement of employers and employees".

FM 15/11/91 (166) (168)

accommodate the special circumstances of agriculture as far as possible"

Amendment Bills will be put through parliament as soon as possible and further comment will be invited before final Bills are presented

The proposal to extend the two Acts to farm workers was submitted by the National Manpower Commission (NMC) It recommends there should be provision in the Labour Relations Act for no-strike agreements — a kind of seasonal peace obligation during harvest time — and that such agreements should be enforceable Louw accepts this

He also believes that dispute settlement machinery should provide for more informal, simplified procedures to ease conciliation — though this would to some extent depend on what the parties prefer A simpler, cheaper alternative to the Industrial Court will have to be introduced The idea of a special court seems acceptable, says Louw

The NMC also recommends that a code of fair and unfair labour practices should be drafted and given legal effect

The Minister thinks it "reasonable" that the Wage Act could be extended to farming with the proviso (backed by the majority on the NMC) that its application should be delayed for 24 months after approval by parliament

Even then, this does not mean that a wage determination will apply to agriculture "It seems advisable to give the industry a fair opportunity to negotiate its own conditions of employment," says Louw This explains the need for the 24-month delay Any wage determination has to be handled with great care because of the effect it could have on farmers' ability to continue in business and on jobs These are the ostensible reasons for the Free State farmers' objections

Cosatu and Nactu attended last Friday's meeting "in an observer capacity" to hear Louw's provisional views on farm workers' rights as well as the restructuring of the NMC — the issue on which Cosatu last month withdrew from it

While welcoming Cabinet's in-principle decision on farm labour, Cosatu says the Minister's refusal to make any commitment to introduce draft legislation in the next session of parliament is at odds with government's commitment to "prioritise" labour law for agricultural, domestic and State employees in terms of the Laboria Minute signed last year

The further consultation Louw speaks of also suggested more delays and makes nonsense of the very long and broad consultation already done via the NMC and Manpower Department, says Cosatu

The union federations also "believe that the Minister's statement on the restructuring of the NMC offers a glimmer of hope that an acceptable dispensation can be reached"

However, certain key issues have yet to be negotiated and resolved, say Cosatu and Nactu These include agreement on a formula for representation which will ensure that the NMC can be an effective negotiat-



Manpower's Louw won't be bound by NMC negotiations

ing forum; ensuring a single process of negotiation and consultation which includes the Department of Manpower "within the ambit of the NMC," and inclusion of public sector employers and workers in the NMC to ensure balance

Louw — whom the unions say is "not likely to act in the same unilateral way as his colleague, Finance Minister Barend du Plessis, especially given the conflict that resulted from his handling of the VAT crisis" — accepts the NMC's majority recommendation that it should be a consensus-seeking body But it "should remain advisory" This implies, says Louw, "that there could be negotiation regarding labour policy within the NMC to attain such consensus It should be understood, however, that such negotiation cannot bind me or government"

The unions are to meet Minister Louw for further discussion on Tuesday Then they will "evaluate their current positions in relation to the NMC on the basis of the Minister's response"

LABOUR LAW

(166) (168)

Moving closer again

FM 15/11/91

Government's acceptance in principle that the Labour Relations Act and Wage Act should be extended to agriculture has been welcomed (with slight reservations) by Cosatu and slammed by the conservative Free State Agricultural Union

Announcing the Cabinet's endorsement of basic labour rights for farm workers, Manpower Minister Eli Louw said that this would take place only after the "widest possible consultation and consensus-seeking to

Louw blow for labour relations

w/m and 15/11-21/11/91
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By DREW FORREST

THE abrupt move of Eli Louw from the manpower portfolio is seen by unionists as a victory for Cabinet hawks and a major setback for embryonic tripartism on the labour front

Louw, known to favour strongly the participation of the labour movement in the framing of labour law and socio-economic policy, has been appointed acting speaker of parliament. Justice Minister Kobie Coetsee takes over as acting manpower minister, while deputy Justice Minister Danie Schutte has been appointed deputy minister of manpower.

The move takes place against the backdrop of a strong push on various fronts for interim rule and hardening cabinet attitudes to a perceived challenge to the government's authority.

Incensed by last week's VAT stay-away and by the dropping of the South African flag and anthem for the Olympics, the cabinet has reportedly decided to move on to the offensive against the African National Congress and its labour ally, the Congress of South African Trade Unions.

Leading cabinet resistance to "interim government by stealth" are said to be Finance Minister Barend du Plessis, Law and Order Minister Hernus Kriel and Coetsee.

Du Plessis' hard-line approach over VAT is said to have sparked open conflict in the cabinet, while Kriel told the Sunday press before the VAT stay-away that Cosatu demands for a direct role in economic and political restructuring were "unacceptable and would be resisted".

Under Louw, the Manpower Department has been in the forefront of moves towards co-determination. In terms of the historic "Laboria Minute" last September, it conceded black labour's right to say in new labour legislation, and Cosatu has since had a critical influence in framing law on farmworkers through the National Manpower Commission.

Louw is also known to have been a

strong advocate within Cabinet circles of a negotiating forum on broad economic policy involving the trade unions. The creation of such a forum was a key union demand in the VAT stay-away.

Although he has not entirely escaped union criticism, Louw has shown a flexibility and openness to black union concerns in stark contrast to the approach of his predecessor, Pietie du Plessis.

Unofficial government comment on Louw's loss of the manpower portfolio has been soothing. Officials have been quoted as saying they did not view it as a demotion and that Louw had indicated he would like a less stressful job.

They also reportedly said that his decision might have been influenced by the fact that his wife was unwell.

But within the Manpower Department there are doubts about whether Louw requested the move. Sources point out that he was at the centre of a range of sensitive talks with labour on new legislation and the restructuring of the National Manpower Commission.

"We're convinced he's been shafted," said a leading unionist, who asked not to be named.

"The timing of the move is important. We seemed to be moving towards a macro-economic forum and Cosatu and Nactu were due to meet him for vital talks next week."

It has been reported that the government has cancelled the talks, set for November 19, but that a meeting with the new minister may take place soon afterwards.

Unionists now fear that progress towards an economic forum and the restructuring of the NMC to provide for an expanded union role may be in jeopardy. Cosatu wants the NMC reshaped into a forum in which advice to the minister on labour law is negotiated by the main actors in the labour field.

●See Page 17

Tight-rope balance

LABOUR law proposals on the closed-shop agreement — membership of a trade union becomes a condition of employment — are akin to a tight-rope act

The National Manpower Commission's draft for a consolidated Labour Relations Act offers a delicately balanced freedom of association and "freedom of dissociation" mix

It is proposed that all workers belong to a particular trade union if two-thirds, voting by secret ballot, are in favour

But the agreement can be terminated if more than 50% of workers — again voting by secret ballot — are against it

To hold the ballot, 10% of workers would have to petition the Industrial Registrar

Several closed-shop agreements are in operation and have been negotiated through industrial councils

The moderate Trade Union Council of SA (Tucsa), now defunct, comprised many unions involved in these agreements

Cosatu unions, often vying for membership with their Tucsa counterparts, saw the closed-shop as an obstacle

But matters have changed

Cosatu's 186 000 member SA Clothing and Textile Workers Union (Sactwu) endorsed the closed-shop principle at its congress this year

Two former Tucsa affiliates, now part of Sactwu, had closed-shop agreements with industrial councils in the Cape and Natal

Sactwu has kept the closed-shop agreements going

Star Times (Buss) 17/11/91

166 By ADRIAN HERSCH

Public service blacks

in new demand

By ADRIAN HERSCH

A COSATU union has made affirmative action demands in pay talks involving the public service.

The National Education Health and Allied Workers Union (Nehawu) first seeks to get an "in-principle" agreement on the need for affirmative action. The working details would be settled later.

Nehawu general secretary Sisa Njikelana says demands centre on skills upgrading, promotions and appointments.

He stresses that the union wants affirmative action not only in terms of race but gender. *S/Time (Buss)*

The union also demands a minimum wage of R1 000 a month. *24/11/91*

Mr Njikelana says the affirmative action plan will not lower standards.

Issue

"The fact that we are seeking skills upgrading means that we do not want to see people promoted without the adequate qualifications."

The union wants the programme to be jointly run by labour and management.

The Commission for Administration (CFA) has not yet commented on the affirmative action demand.

However, CFA chairman Piet van der Merwe has previously said that blacks already outnumber whites in the public service.

The union's demands indicate that affirmative action will become a major industrial relations issue in years to come in all sectors.

The pay talks in the public service will begin at the end of January through an "interim national bargaining forum".

The forum includes 11 staff associations and trade unions and the CFA.

The parties have held discussions in the past year to consider new legislation for public servants to give them full labour rights. *166*

Degree

A draft Bill, released recently, may become the Public Service Labour Relations Act in 1992.

It is similar to the Labour Relations Act and would allow State workers access to the Industrial Court and the Labour Appeal Court.

The head of the mostly white Public Servants Association (PSA), Hans Olivier, says the 11 associations and unions achieved a remarkable degree of agreement on the proposed legislation.

CFA spokesman Hannes du Preez says the drafting committee will meet again in December.

He says the proposed legislation will cover about 400 000 State employees.

Setback for deregulation

THE National Manpower Commission (NMC) report on small business, due to be published early next year, does not exclude the estimated 2.2-million workers in that sector from major provisions of the Labour Relations Act (LRA)

The decision will disappoint proponents of deregulation.

Some Western European countries exempt small businesses from laws restricting employment termination. In Italy and France, for instance, this applies where fewer than 15 and 10 people respectively are employed.

The NMC does not propose concessions of this nature.

Its recommendations largely relate to streamlining dispute procedures under the LRA and aim to simplify administrative procedures required under other labour Acts

Issue

The NMC proposes that although small businesses should not be excluded from the LRA, guidelines should be drawn up for them, particularly about disputes

Where there are disputes the parties should be encouraged to negotiate or discuss their differences before reference to an industrial council or conciliation board

By ADRIAN HERSCH

If discussions cannot resolve the issue, mediation and arbitration are encouraged. The NMC proposes that arbitration costs be subsidised by the State

Small businesses have been exempt from new wage determinations since 1985 under the Wage Act and the NMC does not recommend any change

The Basic Conditions of Employment Act is not seen as "restrictive", but the report recommends that it be simplified, especially with regard to record-keeping.

Artificial

Some interest groups wanted the small business definition to apply to those with fewer than 20 employees

But the NMC proposes that only "micro-businesses" — where there are no more than five employees — should qualify for concessions

Other requirements include that the business have an annual turnover of less than R250 000 and that it is managed and controlled by the owner

The report says provision must be made to thwart attempts by employers to artificially set up smaller concerns to qualify as a small business

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24/11/91

THE NATIONAL MANPOWER COMMISSION REPORT ON SMALL BUSINESS

Labour: Courts or constitution?

By DREW FORREST

AT a glance, the 12-article section on worker rights in the African National Congress' draft Bill of Rights seems absurdly detailed

The right to form unions, bargain collectively and strike — fair enough. But is there really a need to protect the right to picket, to "reasonable" union access to company premises and to the deduction of union dues "where appropriate"?

Shouldn't such relative minutiae, evidently included at the behest of the ANC's labour ally, the Congress of South African Trade Unions, be dealt with in statute law or collective agreements?

Also enshrined in section 6 of the ANC's Rights Bill — which covers workers and unions — are union rights to participate in lawful political activities and to form national federations and join international federations, the principles of equal pay for equal work and equal access to employment, and rights to state-provided pension, unemployment and workplace injury benefits.

Internationally respected labour law expert Bob Hepple, of the University College of London, certainly believes ANC proposals to be off-mark. He has written to the ANC arguing that section 6 should be largely enacted in ordinary labour law, rather than in the constitution.

Hepple is vitally concerned that the nurture of

progressive labour legislation in South Africa requires "an autonomous labour court administering a self-contained system of labour law"

If article 6 is dropped holus-bolus into the constitution, he argues, the Constitutional Court, whose officials may know nothing of labour law, may have to determine fundamental labour law issues.

Hepple believes no more is needed than constitutionally guaranteed rights to freedom of association, to form and join unions, to bargain collectively and to strike, subject to certain limitations.

Legal advisor to Cosatu Halton Cheadle concedes the danger, but argues that a balance has to be struck between giving labour too little protection and putting too much in the hands of an unspecialised court.

"Consider what happened under (former British premier) Margaret Thatcher. There was no British court to strike down laws which substantially undermined trade union rights and were severely criticised by the International Labour Organisation."

A possible compromise, he said, would be to second an officer of the Labour Appeal Court as an ex officio member of the Constitutional Court when labour matters were at issue.

Cheadle defends section 6 by arguing that the job of a democratic constitution must be to

protect and foster collective bargaining within a common law system which is fundamentally hostile to it.

"The law must provide a protective arena in which unions and employers can both exercise power, and in that context negotiate with each other," he said.

Unlicensed picketing, for example, had been typically prosecuted in South Africa as a form of illegal advertising.

Property and privacy rights preclude automatic union access to companies and to the disclosure of "such information as may be reasonably necessary", another right enshrined by section 6.

What of the "left" argument that by encouraging too much reliance on the constitution, one may indirectly sap the labour movement's organisational vitality? Isn't the ultimate guarantee of rights the collective power of "civil society"?

"We've had 50 years of the all-powerful state, and we've seen what that has done," Cheadle said.

"In South Africa, civil society consists of a couple of struggle organisations.

"I accept that you need people to insist on and defend constitutional rights. At the same time, you've got to entrench freedom of association, to protect associations from the state. You've got to have a framework within which civil society can thrive."

Mystery man Marais takes over as Manpower Minister

w/ Mail 13/12 - 18/12/91.

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By Ferial Haffajee
SOUTH AFRICA'S incoming Manpower Minister is a mystery man

Employers and unionists this week were for once unanimous, declaring that they knew nothing of his reputation and had never had dealings with him

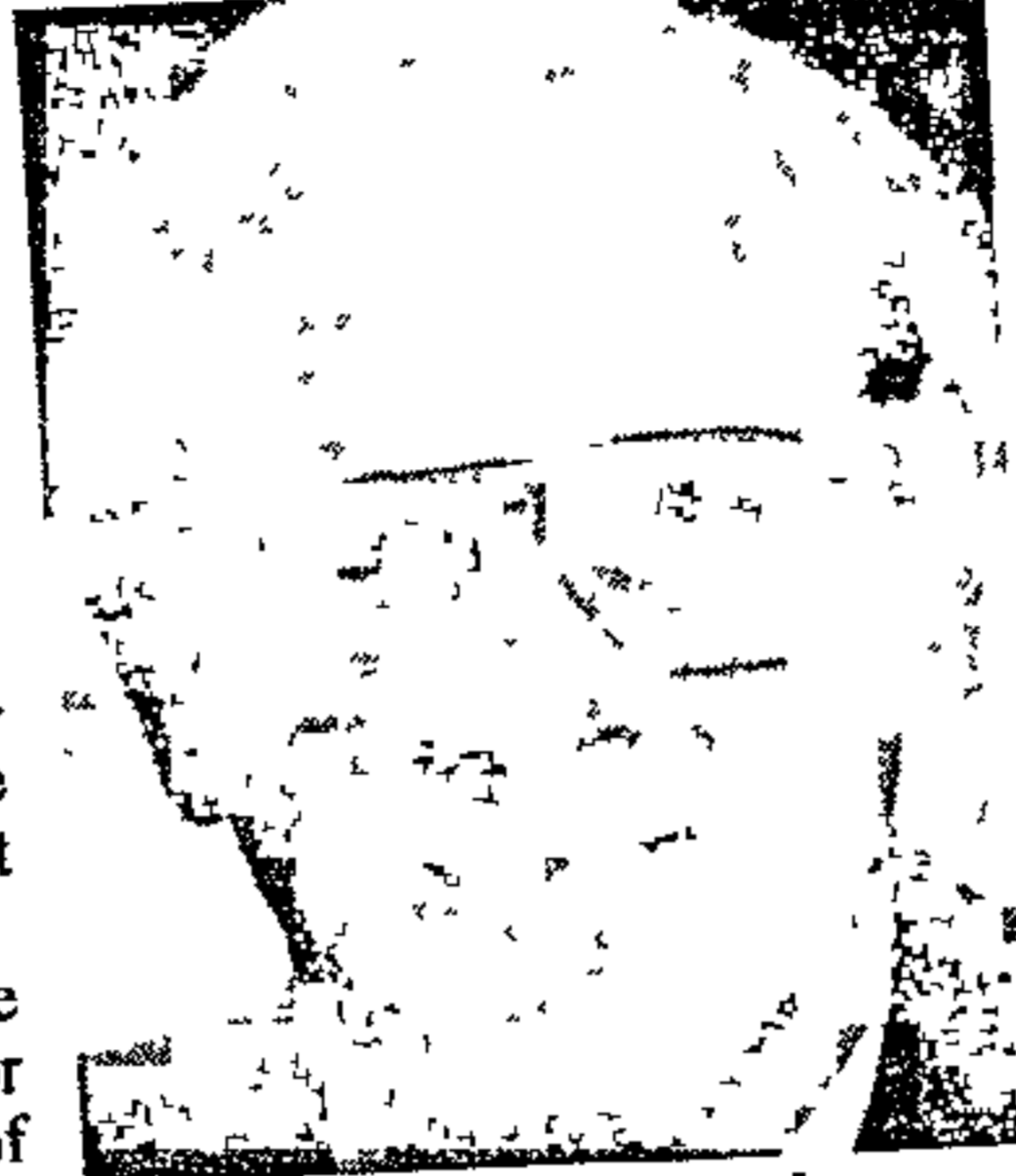
Even a senior department representative could shed no light on the qualifications of new boss "I don't know him at all," he said this week

Pieter Gabriel Marais (59) is State President FW de Klerk's choice for the hot seat at the Department of Manpower. He will take office on January 20 next year

With a law degree from the University of Stellenbosch, he was a practising attorney and wine farmer until 1982 when he became MP for Stellenbosch

A senior labour consultant this week described Marais as a *verligte*

"We hear that he is a liberal and we welcome this," confirmed Bangumzi Khumalo of the Congress



New Minister Piet Marais

of South African Trade Unions "But we feel that the continuity of negotiations is going to be affected."

He explained that trade unions have had to deal with three ministers in the past three months

After Eh Louw's dismissal, Kobie Coetsee was appointed acting minister and last week De Klerk announced the appointment of

Marais as new minister in last week's cabinet reshuffle

Khumalo said Coetsee had promised to come back to Cosatu in the new year on the developments around proposed legislation for farm and domestic workers. Now, the federation believes it will have to negotiate a meeting with the new minister to rehash the same issue, stalling the legislation even longer

Marais' expertise appears to be education. With only a short stint on the Combined Committee for Legislation on Land Reforms, most of his parliamentary career has been spent in education departments

He was chairman of the Combined Committee for Education, and the Deputy Minister of Education and Development Aid until the end of August this year. From September 1, he was Minister for Administration and from October 1, he was also Minister of Education and Culture for the House of Assembly

NUM application turned down

VERA VON LIERES

THE Industrial Court on Friday dismissed an urgent NUM application for the temporary reinstatement of more than 4 000 workers fired two weeks ago at Doornfontein gold mining company, a Gold Fields of SA spokesman said yesterday

The application was dismissed with costs on the grounds that there was no urgency in the matter, the spokesman said

And in another development, the Pretoria Supreme Court on Friday granted the company a provisional order allowing it to evict dismissed workers. In terms of the order, the workers and the union will be given an opportunity on Wednesday to show cause why it should not be made final, the spokesman said

NUM acting general secretary Marcel Golding could not be reached

for comment yesterday (165)

Workers were dismissed after they embarked on an illegal strike two weeks ago (165) (245)

Doornfontein announced last week it had applied to the Supreme Court for an order evicting the dismissed workers who were occupying mine territory. It said accommodation occupied by the fired workers was needed to accommodate a new workforce. The illegal strike had led management to conclude that if the mine was to have a future, it needed a reliable workforce.

Golding said management had failed to accept several union proposals aimed at effecting a return to work of the dismissed workers

LABOUR LEGISLATION

'1992

Common regional labour law sought

^{6/10/92}
MOVES to transform the entire southern African region into a cohesive economic community should include a programme to create a common labour law system

This is the view of UCT labour law unit researcher David Woolfrey, who believes a "harmonised and enlightened" labour system is essential to balanced and equitable economic development

Writing in the Industrial Law Journal, Woolfrey said investors had to contend with an industrial relations environment that varied considerably from country to country.

"Transnational" investors in southern Africa faced a multiplicity of labour law systems," he said.

"Migrant workers shed rights and obligations, and acquire new ones, as they move across national frontiers."

Woolfrey said the need for labour law harmonisation was possibly more pressing in southern Africa than it had been in Europe because sharp disparities in wage levels and general conditions of service would increase the temptation for "social

¹⁰⁶
SUSAN RUSSELL

"dumping" as countries competed for scarce foreign investments

"Those countries with a high rate of unionisation and well-developed labour law systems may find themselves outbid in the market for capital by those offering a haven from labour strife and a relatively cheap supply of labour," he said.

The approximation of labour standards, Woolfrey said, would go a long way towards averting this process.

¹⁰⁶
Basic

"Investors will not be able to shop around for the most docile and legally handicapped work-forces

"Workers will not have to move in search of basic minimum working conditions and organisational rights"

Opposition to a harmonised labour law system was likely, though, he added, because the typical Third World problems of poverty, high in-

flation, unemployment and lack of technology and skills meant a high premium was placed on employment creation and economic growth

"Inevitably, pressures for economic deregulation and the provision of investment incentives in the form of cheap labour, a union-free environment, will run counter to any calls for labour law harmonisation"

But Woolfrey stressed that an enlightened labour system was essential and would promote industrial democracy thus contributing to overall social consensus and stability.

"The SA Commercial Catering and Allied Workers' Union has already initiated demands for regional wage bargaining and has formed alliances with unions in Namibia, Botswana and Swaziland"

Those interested in promoting sound industrial relations policies and practices in southern Africa, Woolfrey said, should do everything within their power to ensure labour issues were placed squarely on the agenda of current regional political and economic planning

BYLAE

I Korting- item	II			III Mate van Korting	Annota- sies
	Tarifpos	Korting- kode	T S		
410 05					Deur kortingitem 410 05 te skrap

Opmerking —Die voorsiening vir 'n korting op reg op wyn of drinkbare spiritus vir destilleringdoeleindes word ingetrek

SCHEDULE

I Rebate item	II			III Extent of Rebate	Annota- tions
	Tariff Heading	Rebate Code	C D		
410 05					By the deletion of rebate item 410 05

Note —The provision for a rebate of duty on wine or potable spirits for distillation purposes is withdrawn

DEPARTEMENT VAN JUSTISIE

No. R. 161

10 Januarie 1992

REËLS KRAGTENS ARTIKEL 17A (7) VAN DIE WET OP ARBEIDSVERHOUDINGE, 1956 (WET No 28 VAN 1956), MET BETREKKING TOT DIE VOER VAN VERRIGTINGE IN DIE ARBEIDSAPPELHOF

Die Minister van Justisie het kragtens artikel 17A (7) van die Wet op Arbeidsverhoudinge, 1956 (Wet No 28 van 1956), na oorleg met die Minister van Mannekrag, wat oorleg gepleeg het met die Reelsraad wat by artikel 17 (22) van genoemde Wet ingestel is, die reëls in die Bylae gemaak.

BYLAE

REELS MET BETREKKING TOT DIE VOER VAN VERRIGTINGE IN DIE ARBEIDSAPPELHOF

Woordoms krywing

1. In hierdie reëls het 'n woord of uitdrukking waaraan 'n betekenis in die Wet of die reëls uitgevaardig kragtens artikel 43 van die Wet op die Hooggeregshof, 1959 (Wet No 59 van 1959), gelees met artikel 6 (3) van die Wet op die Reelsraad vir Geregshowe, 1985 (Wet No. 107 van 1985), geheg word, die betekenis aldus daaraan geheg, en tensy uit die samehang anders blyk, beteken—

“appèl” 'n appèl bedoel in artikel 17 (21A) van die Wet,

“dag” 'n hofdag;

“die Wet” die Wet op Arbeidsverhoudinge, 1956 (Wet No 28 van 1956),

“griffier”, met betrekking tot die arbeidsappèlhof, die griffier bedoel in artikel 17A (6) van die Wet

Appèlle

2 (1) 'n Appel moet binne 40 dae na die datum van aantekening daarvan voortgesit word, by ontstentenis waarvan die appèl by verstryking van genoemde tydperk verval, in welke geval 'n respondent die reg het om 'n bevel vir sy verkwiste koste te vra

(2) Die voortsetting van 'n appèl bring *ipso facto* die voortsetting van 'n aangetekende teenappèl teweeg

(3) (a) Indien 'n teenappèl aangeteken is en die appèl verval, verval die teenappèl ook, tensy 'n datum vir die aanhoring daarvan binne 20 dae na die datum van verval van die appèl by die griffier aangevra word

DEPARTMENT OF JUSTICE

No. R. 161

10 January 1992

RULES IN TERMS OF SECTION 17A (7) OF THE LABOUR RELATIONS ACT, 1956 (ACT No 28 OF 1956), REGULATING THE CONDUCT OF THE PROCEEDINGS OF THE LABOUR APPEAL COURT

The Minister of Justice has, under section 17A (7) of the Labour Relations Act, 1956 (Act No 28 of 1956), after consultation with the Minister of Manpower, who consulted the Rules Board established by section 17 (22) of the said Act, made the rules in the Schedule

SCHEDULE

RULES REGULATING THE CONDUCT OF THE PROCEEDINGS OF THE LABOUR APPEAL COURT

Definitions

1 In these rules a word or expression to which a meaning has been assigned in the Act or the rules promulgated under section 43 of the Supreme Court Act, 1959 (Act No 59 of 1959), read with section 6 (3) of the Rules Board for Courts of Law Act, 1985 (Act No 107 of 1985), shall bear the meaning so assigned to it and unless the context otherwise indicates—

“appeal” means an appeal referred to in section 17 (21A) of the Act,

“day” means a court day;

“registrar”, with reference to the labour appeal court, means the registrar referred to in section 17A (6) of the Act,

“the Act” means the Labour Relations Act, 1956 (Act No. 28 of 1956)

Appeals

2 (1) An appeal shall be prosecuted within 40 days after the date of noting thereof, failing which the appeal shall lapse after the expiry of the said period, in which event a respondent shall have the right to apply for an order for his wasted costs

(2) The prosecution of an appeal shall *ipso facto* operate as the prosecution of any cross-appeal which has been noted

(3) (a) If a cross-appeal has been noted and the appeal lapses, the cross-appeal shall also lapse, unless application for a date of hearing thereof is made to the registrar within 20 days after the date of the lapsing of the appeal

(b) Die hof waarna geappelleer word, kan op aansoek van die appellant of teenappellant en by aanvoering van goeie gronde 'n appèl of teenappel wat verval het, terugplaas

(4) (a) 'n Appellant moet binne 30 dae na aantekening van appel 'n kennisgewing aflewer waarin sy volledige woon- en posadres en die adres van sy prokureur, indien hy verteenwoordig word, vervat is en waarin hy die griffier versoek om 'n datum van aanhoring van die appel te bepaal

(b) By ontstentenis van 'n in paragraaf (a) bedoelde aanvraag kan die respondent te eniger tyd voor verstryking van die in subreel (1) bedoelde tydperk op dergelike wyse 'n datum van aanhoring van appel aanvra

(c) By ontvangs van 'n in paragraaf (a) of (b) bedoelde aanvraag deur die griffier word die appèl by die toepassing van hierdie reëls geag behoorlik voortgesit te wees

(d) 'n Aanvraag by die griffier soos in paragraaf (a) of (b) bedoel, moet van drie afskrifte van die betrokke oorkonde vergesel gaan

(5) (a) 'n Party wat 'n appèl wil teenstaan, moet binne 15 dae na die datum van aflewering van die in subreel (4) (a) of (b) bedoelde aanvraag die griffier en die ander partye van 'n kennisgewing voorsien wat 'n adres bevat waar so 'n party enige dokument betreffende die appèl of 'n afskrif daarvan sal aanvaar. Met dien verstande dat indien 'n party in gebreke bly om so 'n adres aldus te voorsien, dit nie nodig sal wees om so 'n dokument of 'n afskrif daarvan aan so 'n party te verskaf nie, tensy die arbeidsappèlhof anders beveel

(b) Die aansoeker moet binne 10 dae na verstryking van die in paragraaf (a) bedoelde tydperk 'n afskrif van die oorkonde aan alle partye wat aan die bepalings van paragraaf (a) voldoen het, verskaf

(c) Enige dokument betreffende die appel, of 'n afskrif daarvan, wat ingevolge hierdie reëls verskaf moet word aan 'n party wat aan die bepalings van paragraaf (a) voldoen het, moet na die in paragraaf (a) bedoelde adres gestuur word

(6) (a) By ontvangs van 'n in subreel (4) bedoelde aanvraag moet die griffier in oorleg met die betrokke Regter-president 'n datum van aanhoring van die appel bepaal, welke datum minstens 40 dae na die datum van ontvangs van so 'n aanvraag moet wees, tensy alle partye by die appel skriftelik tot 'n vroer datum toestem. Met dien verstande dat die griffier nie stappe doen om 'n datum van aanhoring te bepaal alvorens daar na sy oordeel voldoen is aan die bepalings van subreel (8), gelees met subreëls (4) (d) en (9) (a) en (b) (i) en (ii), nie

(b) Die griffier moet die betrokke aansoeker om 'n datum onverwyld, na bepaling van 'n datum van aanhoring van die appèl, skriftelik kennis van die datum gee

(c) Die aansoeker moet onverwyld na ontvangs van 'n in paragraaf (b) bedoelde kennisgewing 'n kennisgewing van terrolleplasing aan die griffier en aan die partye wat aan die bepalings van subreel (5) (a) voldoen het, verskaf

(7) 'n Terrolleplasing van 'n appèl bring *ipso facto* die terrolleplasing van 'n teenappel teweeg, en omgekeerd

(b) The court to which the appeal is made may, on application of the appellant or cross-appellant, and upon good cause shown, reinstate an appeal or cross-appeal which has lapsed

(4) (a) An appellant shall, within 30 days after noting an appeal, deliver a notice in which his full residential and postal address and the address of his attorney, if he is represented, are contained and in which he requests the registrar to determine a date for the hearing of the appeal

(b) In the absence of a request referred to in paragraph (a) the respondent may, at any time before the expiry of the period referred to in subrule (1), request in a like manner the determination of a date for the hearing of the appeal.

(c) Upon receipt by the registrar of a request referred to in paragraph (a) or (b) the appeal shall, for the purposes of these rules, be deemed to have been duly prosecuted.

(d) A request to the registrar referred to in paragraph (a) or (b) shall be accompanied by three copies of the record concerned

(5) (a) A party who wishes to oppose an appeal shall, within 15 days after the date of delivery of the request referred to in subrule (4) (a) or (b), provide the registrar and the other parties with a notice which contains an address at which such party will accept any document concerning the appeal or a copy thereof. Provided that if a party fails to so provide such an address it shall not be necessary to furnish any such document or a copy thereof to such party unless the labour appeal court orders otherwise.

(b) The applicant shall, within 10 days after expiry of the period referred to in paragraph (a), furnish a copy of the record to all parties who have complied with the provisions of paragraph (a)

(c) Any document concerning the appeal, or a copy thereof, which in terms of these rules shall be furnished to a party who has complied with the provisions of paragraph (a) shall be forwarded to the address referred to in paragraph (a)

(6) (a) Upon receipt of a request referred to in subrule (4) the registrar shall, in consultation with the Judge President concerned, determine a date for the hearing of the appeal, which date shall be at least 40 days after the date of receipt of such request, unless all parties to the appeal consent in writing to an earlier date. Provided that the registrar shall not take steps to determine a date of hearing until in his opinion the provisions of subrule (8) read with subrules (4) (d) and (9) (a) and (b) (i) and (ii) have been complied with

(b) The registrar shall forthwith, after determining a date for the hearing of the appeal, give the applicant for a date concerned written notice of that date

(c) The applicant, after receipt of a notice referred to in paragraph (b), shall forthwith furnish the registrar and the parties who have complied with the provisions of subrule (5) (a) with a notice of set-down

(7) A notice of set-down of an appeal shall *ipso facto* operate as a set-down of any cross-appeal, and *vice versa*

(8) (a) Die in subreel (4) (d) bedoelde oorkonde, wat van 'n inhoudsopgawe voorsien moet wees, moet 'n juiste en volledige weergawe van die pleitstukke en die getuienis en van alle dokumente wat vir die beregting van die appèl nodig is, bevat

(b) Elke afskrif van die oorkonde moet—

(i) duidelik met dubbele spasiering op A4-standaard papier getik of gedruk wees,

(ii) gepagineer wees en elke tiende reël op elke bladsy moet genommer wees, en

(iii) as juis gesertifiseer wees deur die prokureur of party wat dit indien, of deur die persoon wat die oorkonde voorberei het.

(9) (a) Behalwe vir sover dit die meriete van die appèl raak, word afskrifte van getuiedagvaardigings, kennisgewings van verhoor, toestemmings tot uitstel, opgawes van dokumente, kennisgewings om bloot te lê of insae toe te laat en ander dokumente van formele aard uit afskrifte van die oorkonde weggelaat, maar 'n lys van sodanige dokumente moet bygevoeg word

(b) (i) Met die skriftelike instemming van al die partye by die appel kan enige bewysstuk of ander gedeelte van die oorkonde wat nie op die geskilpunt op appel betrekking het nie, uit afskrifte van die oorkonde weggelaat word

(ii) Indien 'n bewysstuk of ander gedeelte van 'n oorkonde aldus uit 'n afskrif daarvan weggelaat word, moet bedoelde skriftelike instemming die onvolledige afskrifte van die oorkonde wat by die griffier ingedien word, vergesel

(iii) Ondanks die bepalings van subparagrafe (i) en (ii) kan die hof wat die appèl aanhoor, te eniger tyd die oorspronklike volledige oorkonde aanvra en kennis neem van alles wat daarin voorkom

(10) (a) 'n Appellant moet minstens 15 dae voor die datum van aanhoring van 'n appèl 'n bondige opgawe van die hoofpunte wat hy op appel wil aanvoer, tesame met 'n lys van die bronne wat ter staving van elke punt aangehaal sal word, aan die griffier en alle partye wat aan die bepalings van subreel (5) (a) voldoen het, verskaf. Met dien verstande dat twee addisionele afskrifte van die opgawe en lys in die geval van die griffier verskaf moet word

(b) 'n Respondent moet minstens 10 dae voor die datum van aanhoring van 'n appèl 'n dergelike opgawe en lys van bronne aan die griffier, die appellant en al die ander partye wat aan die bepalings van subreel (5) (a) voldoen het, verskaf. Met dien verstande dat twee addisionele afskrifte van die opgawe en lys in die geval van die griffier verskaf moet word

Dringende appèlle

3 Ondanks die bepalings van hierdie reëls en ongeag die datums bepaal vir die aflewering van die stukke in reël 2 (10) bedoel, kan die Regter-president van die Provinsiale Afdeling van die Hooggeregshof wat regsbevoegdheid het in die afdeling waarvoor 'n arbeidsappelhof ingestel is of 'n regter wat in die algemeen of vir 'n bepaalde geval deur sodanige Regter-president vir die betrokke doel aangewys is, op aansoek van 'n party wat by 'n appèl betrokke is en na aanhoor van die ander betrokke partye, gelas dat 'n voorgenome appèl as 'n dringende aangeleentheid behandel word en beveel dat dit afgehandel word op die tyd en wyse wat hy goeddink

(8) (a) The record referred to in subrule (4) (d), which shall be provided with an index, shall contain a correct and complete reproduction of the pleadings and the evidence, and of all documents necessary for the hearing of the appeal

(b) Every copy of the record—

(i) shall be clearly typed or printed in double spacing on A4 standard paper,

(ii) shall be paginated and every tenth line on each page shall be numbered; and

(iii) shall be certified as correct by the attorney or party lodging the same or by the person who prepared the record

(9) (a) Save in so far as it affects the merits of the appeal, copies of subpoenas, notices of trial, consents to postponements, schedules of documents, notices to produce or to permit inspection and other documents of a formal nature shall be omitted from copies of the record, but a list of such documents shall be included in the record

(b) (i) With the written consent of all the parties to the appeal any exhibit or other portion of the record which does not relate to the question at issue in an appeal may be omitted from copies of the record

(ii) If an exhibit or other portion of a record is so omitted from a copy thereof the said written consent shall accompany the incomplete copies of the record which is lodged with the registrar

(iii) Notwithstanding the provisions of subparagraphs (1) and (ii) the court hearing the appeal may at any time request the original complete record and take cognizance of everything appearing therein.

(10) (a) An appellant shall, not less than 15 days before the date on which an appeal is heard, furnish the registrar and all parties who have complied with the provisions of subrule (5) (a) with a concise statement of the main points which he intends to argue on appeal, together with a list of the authorities to be cited in support of each point. Provided that two additional copies of the statement and list shall be furnished in the case of the registrar

(b) A respondent shall, not less than 10 days before the date on which the appeal is heard, furnish the registrar, the appellant and all the other parties who have complied with the provisions of subrule (5) (a) with a similar statement and list of authorities. Provided that two additional copies of the statement and list shall be furnished in the case of the registrar

Urgent appeals

3 Notwithstanding the provisions of these rules and regardless of the dates for the delivery of the documents referred to in rule 2 (10), the Judge President of the Provincial Division of the Supreme Court having jurisdiction in the division for which a labour appeal court was established or a judge who has, for the purpose concerned, been appointed either generally or in a particular case by such Judge President may, upon application from a party to the appeal and after hearing the other parties to the appeal, direct that a proposed appeal be dealt with as an urgent matter and order that it be disposed of at such time and in such manner as he may deem fit

Algemene bepaling

4 Vir sover hierdie reëls nie in verband met 'n appèl vir 'n besondere aangeleentheid voorsiening maak nie, is die reëls uitgevaardig kragtens artikel 43 van die Wet op die Hooggeregshof, 1959 (Wet No 59 van 1959), gelees met artikel 6 (3) van die Wet op die Reëlsraad vir Geregshowe, 1985 (Wet No 107 van 1985), behoudens die ander bepalings van hierdie reëls en die bepalings van die Wet, *mutatis mutandis* op die aangeleentheid van toepassing

Inwerkingtreding

5 Hierdie reëls tree op 17 Januarie 1992 in werking

DEPARTEMENT VAN LANDBOU

No. R. 244 10 Januarie 1992

BEMARKINGSWET, 1968 (WET No 59 VAN 1968)

AARTAPPELSKEMA HEFFING EN SPESIALE HEFFING WYSIGING

Ek, André Isak van Niekerk, Minister van Landbou, maak hierby ingevolge artikel 79 van die Bemerkingswet, 1968 (Wet No 59 van 1968), bekend dat—

(a) die Aartappelraad bedoel in artikel 6 van die Aartappelskema gepubliseer by Goewermentskennisgewing No R 2400 van 25 November 1988, soos gewysig, kragtens artikel 27 van genoemde Skema die Bylae by Goewermentskennisgewing No R 120 van 27 Januarie 1989, soos gewysig, verder gewysig het in die mate in die Bylae hierby uiteengesit, en

(b) genoemde wysiging deur my goedgekeur is en op die datum van publikasie hiervan in werking tree

A. I. VAN NIEKERK,
Minister van Landbou

BYLAE

Die Bylae by Goewermentskennisgewing No R 120 van 27 Januarie 1989, soos gewysig by Goewermentskennisgewings Nos R 851 van 28 April 1989, R 155 van 26 Januarie 1990, R 3015 van 28 Desember 1990 en R 3178 van 27 Desember 1991, word hierby verder gewysig deur klousule 3 deur die volgende klousule te vervang

“Bedrag van heffing en spesiale heffing

3 Die bedrag van die heffing en spesiale heffing in klousule 2 bedoel, is onderskeidelik 8,3c (BTW ingesluit) per 10 kg-aartappels en 1,7c (BTW ingesluit) per 10 kg-aartappels ”

DEPARTEMENT VAN MANNEKRAG

No. R. 167 10 Januarie 1992

WET OP ARBEIDSVERHOUDINGE, 1956

ELEKTROTEGNIËSE NYWERHEID, OOS-LONDEN
HERNUWING VAN HOOFDOOREENKOMS

Ek, Donald Charles Moody, Direkteur Arbeidsverhoudinge, behoorlik daartoe gemagtig deur die Minister van Mannekrag, verklaar hierby, kragtens artikel 48 (4) (a) (ii) van die Wet op Arbeidsverhoudinge, 1956, dat die bepalings van Goewermentskennisgewings R 1749 van 17 Augustus 1984, R 1363 van 21

General provision

4 In so far as these rules do not, in connection with an appeal, make provision for any specific matter, the rules promulgated in terms of section 43 of the Supreme Court Act, 1959 (Act No 59 of 1959), read with section 6 (3) of the Rules Board for Courts of Law Act, 1985 (Act No 107 of 1985), shall, subject to the other provisions of these rules and the provisions of the Act, be *mutatis mutandis* applicable

Coming into operation

5 These rules shall come into operation on 17 January 1992.

DEPARTMENT OF AGRICULTURE

No. R. 244 10 January 1992

MARKETING ACT, 1968 (ACT No 59 OF 1968)

POTATO SCHEME LEVY AND SPECIAL LEVY
AMENDMENT

I, Andre Isak van Niekerk, Minister of Agriculture, hereby make known in terms of section 79 of the Marketing Act, 1968 (Act No 59 of 1968), that—

(a) the Potato Board referred to in section 6 of the Potato Scheme published by Government Notice No R 2400 of 25 November 1988, as amended, has under section 27 of the said Scheme further amended the Schedule to Government Notice No R 120 of 27 January 1989, as amended, to the extent set out in the Schedule hereto, and

(b) the said amendment has been approved by me and shall come into operation on the date of publication hereof

A. I. VAN NIEKERK,
Minister of Agriculture.

SCHEDULE

The Schedule to Government Notice No R 120 of 27 January 1989, as amended by Government Notices Nos R 851 of 28 April 1989, R 155 of 26 January 1990, R 3015 of 28 December 1990 and R 3178 of 27 December 1991, is hereby further amended by the substitution for clause 3 of the following clause

“Amount of levy and special levy

3 The amount of the levy and special levy referred to in clause 2 shall be 8,3c (VAT included) per 10 kg of potatoes and 1,7c (VAT included) per 10 kg of potatoes respectively ”

DEPARTMENT OF MANPOWER

No. R. 167 10 January 1992

LABOUR RELATIONS ACT, 1956

ELECTRICAL INDUSTRY, EAST LONDON
RENEWAL OF MAIN AGREEMENT

I, Donald Charles Moody, Director Labour Relations, duly authorised thereto by the Minister of Manpower, hereby, in terms of section 48 (4) (a) (ii) of the Labour Relations Act, 1956, declare the provisions of

Biday 14/1/92

Retail sales decline

DEALERS and businessmen said yesterday retail sales in December had been disappointing.

Spokesmen for large chain store groups said although sales in real terms had been better than the previous year, they showed a significant decline in real terms.

They attributed the decline to the recession and said consumers bought only bare necessities.

Biday 14/1/92

Labour law 'inflexible'

THE Alternative Dispute Resolution (ADR) Act is unlikely to succeed in its objective to provide alternative, creative and cheaper methods of resolving disputes, says Centre for Dispute Resolution director Simon Garvey.

"The Act seeks to tie up practitioners in an autocratic and inflexible manner which is in absolute contrast to the spirit of ADR,"

Garvey said yesterday. "True mediation requires flexibility and scope for the mediator."

Biday 14/1/92

Kaunda quits politics

FORMER Zambian president Kenneth Kaunda has quit active politics to promote global peace.

His decision to resign as leader of the United National Independence Party, through which he ruled Zambia for three decades, and the gulf between those who support him and those who reject him now threaten to destroy the once-powerful party.

REPORTS Business Day Reporter

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Denmar SA's re-ent last Friday

No room for labour monolith

By Peter Dodds 29/11/92

PETER DODDS Mb

31/02/92

THE author of a recent article in the Industrial Law Journal advocated a common labour law system for southern Africa (Business Day, January 9). The same article referred to an SA trade union engaging in regional wage bargaining and forming alliances with unions in Namibia, Botswana and Swaziland.

The implication is that a common labour law system and regional union activities are one and the same thing, which they are not. It is possible to find merit in the argument that disparity in protective labour legislation should be reduced to the minimum, but there are dangers for the region in a monolithic trade union movement.

The primary social and political obligation in Africa today is to accord proper recognition to the fact that the wages sector — the trade unionists — constitute what Marxists call the "labour aristocracy". They are, already, a privileged elite in each of the countries of the region. Recent figures suggest that only one in 12 matriculants is likely to find a niche in the workforce and that, generally, there are eight to 10 applicants for every vacancy.

The wages sector constitutes a small minority; the unemployed, the underemployed, the subsistence farmer and the informal sector are the vast majority, a position which will worsen, progressively, as popu-

lations continue to grow, AIDS notwithstanding.

It is a dangerous fallacy, in those circumstances, to suggest that social consensus and stability will follow in the train of "social democracy". Social democracy will benefit the minority who have already democratised their salaries and increased the gap between themselves and the have-nots, those whose earnings are already protected by joint negotiation, labour tribunals and minimum wage regulations and whose working conditions are protected by complex legislation, enforced by the taxpayer through the ministries and departments of labour.

Further protection for the already privileged would outrage the have-nots and it would not be difficult to imagine the repercussions. The author would probably deny that he is advocating a closed shop for southern Africa's wage sector, but that would be the outcome if his proposals were put into effect.

His concerns are clear when he writes "Those countries with a high rate of unionisation and well-developed labour law systems may find themselves outbid in the market for capital." What it amounts to is a tacit

admission that the "high rate of unionisation" has priced the SA employee out of the regional market, and only by extending the tentacles of local unionism to the rest of the region can local competition be eliminated.

There is no apparent reference to productivity. If all employees are equally productive in the same market there is logic in advocating common wage rates, but they are not, and the market place is different.

A monolithic union movement in the southern region would have the capacity to safeguard its members' interests to a degree well beyond the demands of equity but, in the foreseeable future, there is little likelihood of its membership growing. Even if it did, it would not be sufficient to reduce materially the pool of unemployed.

Population numbers will increase, and the wage-earning minority will become smaller in proportion to those without a finger on whatever

economic cake is available to be shared.

"Methinks he doth protest too much" is probably a suitable response to the author's arguments. What started off as a reasonably laudable proposal that disparities in labour law in the region be reduced ended up as a motion that it could be accompanied equitably by a common approach to employee organisation and representation.

The former had a measure of common sense in its favour; the latter is neither economic nor moral. It is not beyond the realm of fantasy that the author was nusing on other uses to which a monolithic regional union structure could be put. Ministers at the Southern Africa Labour Commission meetings have always agreed that in many social and economic spheres they have common cause, but they stop well short of surrendering sovereignty in matters of wages.

Whose system of labour law and industrial relations is being held up as the paradigm? Are SA industrial relations the yardstick for regional industrial democracy, or are they simply a slightly more sophisticated version of the political phenomenon which those who have spent time in

Africa to the north will have experienced in the 1950s?

Big Brotherism is out of date. This is particularly relevant in the light of the author's comment. "Investors will not be able to shop around for the most docile and legally hand-capped work force." What the author is saying is that investors will have no choice, they will have to accept whatever the monolith offers, which is not much of an option.

Instead of southern Africa being a stimulating, colourful and competitive free market, it would be a dull grey area, akin to Eastern Europe and equally unattractive.

The reality is that productivity in SA must be raised as dramatically as the rise in wage rates over the past two years. To be competitive in first world manufacturing markets, local labour costs and productivity levels must be on a par which, currently, they are not.

Foreign investors are not likely to be attracted to a situation where wage levels have little link with economic reality. Equally, they are not likely to swarm into a regional closed shop where union hegemony — rather than the imperatives of high productivity, industrial calm and economic earnings — is paramount.

Dodds is a former director of the Swaziland Federation of Employers

ILO commission to probe SA labour laws

THE International Labour Organisation's Fact Finding and Conciliation Commission visits SA from February 6 to 23 to investigate if the country's labour laws conform with international standards. (166)

The commission could lay the basis for the country's return to the membership of the ILO which it quit in 1966. (167)

The three-member ILO delegation comprises the High Commissioner for Barbados in London, Sir William Douglas, Mr Justice Kirby of New South Wales in Australia, and Mr Justice Lallah, the Chief Justice of Mauritius.

The delegation will also investigate complaints lodged by Cosatu with the ILO after the 1988 Labour Relations Act amendments which sparked mass protest and work stayaways in this country. This preceded an historic agreement between Cosatu, Nactu and the SA Employers Coordinating Committee on Labour Affairs which was translated into legislation in 1991. B/day 29/1/92

At a Press briefing in Johannesburg yesterday, Cosatu officials said that through the commission it hoped to secure certain public commitments from government, including a timeframe for their implementation. — Sapa.

When should a company tell the union that a change of ownership which could affect the employment relationship is in the offing? Furthermore, what exactly is meant by "full and proper consultation"?

These are key questions for business following the Industrial Court ruling last week that Checkers must "properly consult" the SA Commercial, Catering and Allied Workers' Union (Saccawu) before it can sell or shut down any of its stores.

It is established in labour law that, where jobs are at stake and there is knowledge of this, the company has a duty to "consult" the union in question. It is part of good-faith bargaining, though it might seem an infringement of a fundamental right in common law — that is, the right to dispose of one's property as one sees fit.

One problem with last week's finding by Mohammed Bulbulia, a permanent member of the Industrial Court, is that he gave no reasons with it; these were expected to be delivered later this week. The ruling was made in terms of section 17 of the Labour Relations Amendment Act, which provides for urgent interim relief, pending a fuller hearing under section 43, which can take up to four months.

In Checkers' case, that could mean having to keep paying more than 30 workers who are sitting at home, since the (closed) Roodepoort store in question was due to be taken over by new owners at the end of January.

The union sought an urgent application last weekend to prevent, it said, 34 members being laid off at the end of this month. A union spokesman apparently explained that when Pepkor took control of Checkers, it had told the union that members' working conditions would not change.

That, though, seems less relevant than the question of when, precisely, the union was informed that the company might close one (or more) of its stores.

A source close to Checkers — which is outraged by the court's decision — says that the union was notified, late December, that the company was closing the Roodepoort store and had started relocating employees. The union, over four meetings, refused to cooperate. While those consultations were underway, the company sold the store because the lease was up for renewal. The union was informed of this, says the source, adding that, from Checkers' point of view, it complied with guidelines on retrenchment.

The implications of the ruling as it stands, says the source, are enormous — especially in the highly competitive retail trade. For example, the duty to consult could well affect business if competitors know that a store

FM 31/1/92
is due to be closed. Such sensitive commercial negotiations cannot be carried on in a public manner, he says. Meanwhile, the company's lawyers have asked urgently to be given the reasons for this unprecedented ruling, with a view to taking it on review at the Labour Appeal Court. Checkers is also trying to find alternative jobs for the 34 employees — 26 of their colleagues had already been placed elsewhere.

The interesting point at issue, which should emerge when the court gives its reasons, is the question of when the union should be informed of a change of ownership, says Pat Stone, of Andrew Levy & Associates. This is because of the implications it could hold for ownership changes in liquidations or mergers, for example, when secrecy may be important to safeguard the transaction. ■

Negotiations

save ILO visit

W/Mar 7/2-13/2/92

By FERIAL HÁFFAJEE

FRENZIED negotiations have saved the day for the International Labour Organisation's fact-finding and conciliation commission which arrives in South Africa this weekend

Fears that the Congress of South African Trade Unions and the government were on a collision course over the commission's terms of reference were ironed out on Wednesday

According to Cosatu lawyer Halton Cheadle "The South African government has allowed the commission to deliberate on labour matters in general."

The initial complaint laid against the government by Cosatu related to the controversial 1988 amendments to the Labour Relations Act.

Subsequent legislation remedied the Act and Cosatu then sought to extend the commission's terms of reference "to include issues that South Africa needed to address in order to meet its international law obligations".

It was assumed that the terms had been ironed out by then Manpower Minister Eli Louw when he visited the ILO last year, but this was disputed by Manpower director general Joel Fourie

This week Fourie said the extended terms of reference was to have been the subject of negotiations between Louw and Cosatu, which never took place

Cosatu says the government's reticence in extending the terms of reference related to its fears of "being put on trial" A serious diplomatic bungle was narrowly avoided by last-minute cabinet intervention

But the last hurdle has not been crossed Cosatu will request that all the ILO hearings be conducted in public even though the commission's rules demand confidentiality

Cosatu general secretary Jay Naidoo said "The commission's visit is part of the process to help develop a future dispensation and it must be jointly and publicly determined" However, Cheadle said the federation "will abide by the ruling of the commission"

SAAU blow to farm laws

THE hopes of South Africa's 1,6-million farmworkers were dealt a blow this week when the South African Agricultural Union (SAAU) persuaded the government to delay vital changes to labour law affecting agriculture.

SAAU deputy director Kobus Kleynhans said Manpower Minister Piet Marais had agreed to delay amendments to the Basic Conditions of Employment Act (BCEA), currently before parliament. This is understood to have followed an intense campaign in which the union met the minister on several occasions and lobbied MPs.

The SAAU is pushing for a separate farm labour statute — in opposition to government moves, backed by the Congress of South African Trade Unions, to extend major labour Acts to agriculture in this session of parliament.

Last year the agricultural union took part in National Manpower Commission negotiations, also involving Cosatu, leading to recommendations that the BCEA, Labour

Relations Act (LRA) and Unemployment Insurance Act (UIA) should cover farms

Cosatu said this week: "It is very disturbing that the agricultural union now wants to renege on its undertakings." The federation also angrily accused the government of "folding its arms and doing nothing".

According to Cosatu representative Lisa Seffel, the federation "will fight very hard to get the legislation through in this session of parliament".

Late last year Cosatu pulled out of the NMC, accusing the government among other things of "dragging its heels" on giving basic labour rights to farm and domestic workers.

Manpower director-general Joel Fourie appeared unaware of the developments this week, saying he saw no reason for the BCEA and LRA not to be extended to farms this year.

But Kleynhans insisted Marais had

Moves to get new legislation on farmworkers passed in this session of parliament were dealt a blow this week when the South African Agricultural Union dug in its heels, reports

FERIAL HAFFAJEE

agreed to delay the legislation until the SAAU had had an opportunity to put forward its case to all important players. The legislative process is already far advanced, with amendments to the BCEA awaiting their second reading and the LRA extension Bill "in the final stages before being tabled in parliament", according to Fourie.

Kleynhans confirmed that farmers would push for "an agriculture-friendly" Act, incorporating the principles of

the BCEA, the LRA and the Wage Act. The proposal had been put to Cosatu at a meeting last week.

Reacting in a statement, Cosatu said "SAAU was part of all negotiations which led to the NMC recommending the extension of the BCEA, the UIA, LRA and the Wage Act. The SAAU itself endorsed the extension of the BCEA and the UIA."

Pointing out that the NMC had set its face against separate legislation for farms, it complained that 18 months had already elapsed since the Labour Minute — in which the government pledged basic rights for all workers — and that negotiations for a new statute would mean further delays.

Dawie Bosch, a member of the NMC's sub-committee on farmworkers, said "It is a major setback to hold back the legislation now." The drought had led to mass retrainments on farms and workers were in dire need of protection now, he said.

It appears that the SAAU has backtracked under pressure from its most conservative affiliates, in the Free State and Transvaal. Kleynhans said the two provinces had voted against the extension of the legislation at their congresses.

Although Kleynhans could give few details of the SAAU's proposed farm labour statute, he said the union

had problems with working hours and dispute-settling mechanisms proposed by the NMC. It was also against a minimum wage in agriculture — the NMC was split on whether to extend the Wage Act to farms.

If immediate prospects for farmworkers seem dim, those for domestic workers — covered only by the Machinery and Occupational Safety Act — are positively dismal.

This week Fourie could give no undertaking that legislation for domestic workers would be passed in this parliamentary session.

He said the department's draftsmen were working on the farming laws and would first have to complete this task. The department was presently sorting through the 200 comments it had received on the NMC's proposals.

He added that the practical implementation of domestic workers' legislation, as well as financial and personnel implications, needed to be researched and planned. He pointed out that the department would have to register 1,2-million more employees.

Cosatu's priority is to bring farmworkers into the labour law mainstream, and a failure to enact the current BCEA amendments would certainly trigger a protest campaign.

Reacting to a controversial draft Bill last year, in which the manpower department overrode NMC recommendations, the federation threatened to call a world boycott of South African farming exports.

special council meeting last night. The mayoral theme for his year of office, Johannesburg — Gateway to the Future, was announced at a news conference yesterday. The new mayoress is Wille Viljoen. Picture BRIAN HENDLER

Cosatu to meet Minister

COSATU will meet new Manpower Minister Piet Marais for the first time today to get a report-back on the progress government has made on undertakings Marais' predecessor, Eli Louw, gave to Cosatu. *B(DC) 3/3/92*

Cosatu's general secretary Jay Naidoo says issues that will be discussed include:

Progress made on Louw's commitment to include farmworkers under

DIRK HARTFORD

the Basic Conditions of Employment Act and the Unemployment Insurance Fund, ~~(7/7/92)~~

Extending the Labour Relations Act and Wage Act to cover farmworkers,

Extending labour legislation to cover domestic workers, *(166)*

The restructuring of the National Manpower Commission, and

The revamping of the Industrial Court

Three more...

Domestic workers now on agenda

Govt nod for labour laws to cover farms

Biday 4/3/92

166

TWO key labour laws could be extended to cover SA's 1,3-million farm workers by the end of April.

This was one of several agreements reached yesterday at the first meeting between new Manpower Minister Piet Marais and the country's two largest labour federations, Cosatu and Nactu.

"We reached a number of concrete arrangements about addressing issues outstanding since the departure of Eli Louw last November," Cosatu general secretary Jay Naidoo said "It was a very constructive meeting. It seems it will be possible to achieve a number of new agreements with this Minister relatively quickly."

According to Cosatu, Marais agreed that amendments to extend the Basic Conditions of Employment and Unemployment Insurance Acts to farm workers must be urgently processed through Parliament. He undertook that this process would be completed before the end of April.

It was agreed that discussions between the SA Agricultural Union, Cosatu/Nactu and the Manpower Department should be held as soon as possible to iron out problems with the extension of the legislation.

Manpower director-general Joel Fourie, who was present at the meeting, stressed that consultation with the SAAU was an important part of the process envisaged by the Minister.

Organised agriculture indicated last

ALAN FINE

week it opposed extending the Basic Conditions of Employment Act and other labour laws to agriculture. SAAU chairman Boet Fourie told a meeting of the Free State Agricultural Union SAAU wanted separate "agriculture-friendly" labour laws to apply to the industry.

A draft amendment Bill published last year provided only for limited special consideration for agriculture, mostly related to the seasonal nature of the industry — for example, longer working hours during peak periods.

Manpower's Fourie said if consensus could not be reached at the proposed consultations, government would have to take a final decision.

The union representatives also briefed Marais on the proposed economic negotiating forum being discussed between the unions and organised business. "He listened carefully and we expect he will convey our views to the Cabinet," said Naidoo.

The extension of labour law to domestic workers was also discussed. Cosatu said Marais agreed to respond by mid-April on progress in processing legislation, including how practical problems in extending the Unemployment Insurance and Workmen's Compensation Acts can be solved. Marais also agreed to convene a meet-

□ To Page 2

Labour laws

Biday 4/3/92

166

□ From Page 1

ing of major labour relations parties to discuss representation on the National Manpower Commission. This issue has delayed restructuring of the commission. Government has proposed that a third of the commission be made up of independent experts. Labour, however, has proposed that only it and business be full members. This would effectively make the commission a negotiating forum, a situation the department is not comfortable with.

Cosatu said Marais undertook that there would be no further delay in decisions on the commission's restructuring.

The meeting discussed establishing a "satisfactory tripartite process regarding the implementation of a national training

strategy. A number of steps were set in motion to ensure this process gets under way."

It also discussed "serious administration problems" in the Industrial Court and it was agreed to set up a joint working group to investigate possible solutions.

Fourie said the main problem was delays of up to nine months in the hearing of cases in those regions that were particularly overloaded with cases.

He said there had been a noticeable improvement in relations between labour and the ministry. "There is more of an understanding of the department's problems on their part, and we have a better understanding of what the unions want."

Basic rights for farmworkers soon

By Shareen Singh ^{STAR} 4/3/92

Farmworkers would enjoy basic labour rights before the end of April, Manpower Minister Piet Marais told Cosatu and Nactu at a meeting yesterday.

The minister agreed with the union federations that amendments to extend the Basic Conditions of Employment Act and Unemployment Insurance Act to farmworkers had to be urgently processed through Parliament.

He gave an undertaking that this process would be completed before the end of April.

Mr Marais also agreed to convene an urgent meeting of all the major players in the labour arena to discuss the question of representation and restructuring of the National Manpower Commission — issues which led to Cosatu pulling out of the NMC last year.

The federations briefed the minister on the proposed economic forum of employers and trade unions and discussed a number of problems confronting them regarding the implementation of the Laboria Minute.

Mr Marais promised the unions he would

● Set up a meeting between the SA Agricultural Union, Cosatu/Nactu and the Department of Manpower as soon as possible to iron out further problems regarding the extension of labour legislation to farmworkers (166)

● Respond to Cosatu by mid-April on progress in the processing of legislation for domestic workers, including recommendations on how practical problems in extending the Unemployment Insurance and Workmen's Compensation Acts to domestic workers could be overcome

'No need to delay farm labour law'

B (Day) 5/3/92

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CAPE TOWN — Government had no reason to delay giving farm workers basic rights as consensus had already been reached between key players, National Manpower Commission member Dawie Bosch said yesterday.

He was reacting to Manpower Minister Piet Marais' statement that the extension of the Basic Conditions of Employment Act to the country's 1.3-million farm workers still depended on consensus between parties represented on the commission.

Bosch, a researcher with the Stellenbosch-based Centre for Rural Legal Studies, also warned that a draft Bill on farm workers' rights threatened to undermine the commission's future negotiations on legislation.

While government was committed to extending the Labour Relations Act to farm workers — and with it the requirement of fair labour practices — this had been delayed until at least 1993.

"During (our) investigation on legislation covering farm workers, consensus was reached on most recommendations dealing with the application of the Basic Conditions of Employment Act to farm workers.

"Parties such as the SA Agricul-

tural Union (SAAU), Cosatu and Nactu were party to this consensus," said Bosch.

GERALD REILLY reports SAAU deputy director-general Kobus Kleynhans said yesterday the union was pressing for a single comprehensive piece of labour legislation for the agricultural industry.

The SAAU believed that extending the Basic Conditions of Employment Act to farm workers was neither feasible nor acceptable to most farmers.

Bosch said the SAAU was going back on consensus reached at the National Manpower Commission.

He said central commission recommendations had been watered down or left out of the Bill now before Parliament.

The Bill removed existing rights from some categories of workers and left out commission clauses aimed at protecting farm workers against dismissals expected to accompany agricultural restructuring.

"If negotiated recommendations are disregarded in this way, parties will lose their incentive to negotiate and fight for their interests in other spheres, — which may cripple an already weak economy," Bosch said. — Sapa

Farm workers stand to gain after talks

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5/31/92

FARM workers could enjoy basic industrial rights by the end of April following discussions on Tuesday between the Minister of Manpower, Mr Piet Marais, and the country's two largest labour federations

According to a statement released by Congress of South African Trade Unions spokesman Mr Neil Coleman, Marais had agreed to begin restructuring the National Manpower Commission without further delay - an important breakthrough

Meeting

It was the first meeting between Cosatu, the National Council of Trade Unions and the Minister, at which Marais had been briefed on the labour federations' positions on the proposed economic forum, as well as union concerns

Marais had made a number of undertakings, Coleman said

"Cosatu trusts that these undertakings will be met as speedily as possible in order to prevent the types of problems and delays we have been experiencing"

The Department of Manpower was not available to comment on Cosatu's statement that Marais had agreed to extend the Basic Conditions of Employment and Unemployment Insurance Acts to farmworkers before the end of April

Problems

It was also agreed that the South African Agricultural Union, Cosatu, Nactu and the Department of Manpower should meet as soon as possible to iron out further problems with extending legislation to farmworkers, said Coleman

Marais also agreed to give Cosatu a progress report by mid-April on extending labour laws to domestic workers

Pact on farm workers denied

CAPE TOWN — Manpower director-general Joel Fourie yesterday denied the National Manpower Commission had reached consensus on extending labour rights to farm workers.

If consensus had been reached between employers and employees it could not usurp Parliament, he said.

Earlier, commission member Dawie Bosch had said government did not have to delay giving farm workers basic legal rights as these had been agreed on.

His remarks followed a statement by Manpower Minister Piet Marais that the Basic Conditions of Employment Act could be extended to farm workers before the end of April, sub-

ject to the commission's consensus.

Marais said this week amendments to cover farm workers would be legislated before the end of April. (166)

However, after meeting Cosatu and Nactu on Tuesday, he said the process was subject to consensus being reached with the SA Agricultural Union, representing farmers.

According to Cosatu, the SAAU had been party to negotiations on the commission, which resulted in the recommendation that existing labour laws be extended to farm workers.

The SAAU has since said it supports a separate body of legislation for agriculture — Sapa (SAAU)

Cosatu and Marais go a-courting

W/Mail 6/3-12/3/92
Organised labour and the new manpower minister are trying hard to establish a rapport, reports **FERIAL HAFFAJEE**

ORGANISED labour has squeezed from the government a pledge to enact key legislation for farmworkers this parliamentary session — but the farmers' lobby remains a hurdle to be crossed.

At their first meeting with new Manpower Minister Piet Marais — a remarkably conciliatory affair — the Congress of South African Trade Unions and the National Council of Trade Unions extracted from the minister an undertaking to extend the Basic Conditions of Employment Act (BCEA) and Unemployment Insurance Act to farmworkers by the end of April.

Marais' commitment may have saved the day. Last week it appeared that the South African Agricultural Union (SAAU) had managed to bully him into delaying the legislation, and that the government and labour were on a collision course.

Cosatu threatened "serious action" if the government gave in to SAAU pressure by delaying the legislation, reminding them that it had pulled out of the National Manpower Commission over this issue.

In the same meeting, Marais also agreed to an urgent meeting of all par-



Manpower Minister Piet Marais

ties to discuss the restructuring of the NMC.

But the path of the farmworkers' legislation will be far from smooth. Although the SAAU's plans for a parallel agricultural labour statute appear to have been thwarted, farmers are a key government constituency, and the Manpower Department will have to do a delicate balancing act to appease both sides.

SAAU representative Kobus Kleynhans said Marais had contacted him and assured him that he had not agreed unequivocally to pass the legislation by the end of April.

"We must convince the minister that our proposal is a viable one. If he isn't convinced then there will have to be substantial amendments to the BCEA currently before parliament," he said.

Perhaps predicting the SAAU's almost certain resistance, Manpower director-general Joel Fourie stressed that the parties had agreed that negotiations involving the government, the SAAU and Cosatu were essential to the legislative process.

He added that because the par-



Cosatu's Jay Naidoo

ties had a "common goal", he was optimistic that solutions would come easily. If the SAAU's proposed statute contained basic labour rights for farmworkers, he could see no reason for it not being acceptable.

But Cosatu's campaigns co-ordinator Lisa Seftel, pointing to the federation's policy of a "single legislative dispensation", said that Cosatu would oppose the SAAU's demands for a special farm labour statute.

Seftel doubted whether even a reframed, separate statute could convince the SAAU's conservative constituency. Accusing the SAAU of using the new demand as a delaying tactic, she pointed out that it had not given details of its legislative proposals.

Conscious of its weakness in the farming sector and anxious for some statutory dispensation, labour is unlikely to push for changes to the BCEA Bill before parliament — despite misgivings about some of its provisions.

Listing objections to the Bill, Dawie Bosch, a member of the NMC's technical committee on farmworkers, said "Central recommendations of the NMC have been left out or watered down in the BCEA

166
This potentially undermines future negotiations on legislation. Parties will lose their incentive to negotiate and fight for their interests in other spheres which may cripple an already weak economy," he said.

Key problems, he said, included

- The Bill's failure to protect farmworkers from arbitrary dismissals
- The Bill's wide definition of "farming activities" would remove the existing BCEA rights of many workers currently regarded as industrial workers. They include workers in processing plants and shops based on farms.

- Farmworkers would be entitled to only one month's notice, whereas the NMC recommended "reasonable notice" to take account of the special circumstances on farms.

- Inadequate protection against victimisation for trade union activities.

- The Bill's failure to make summary dismissals illegal.

Bosch said a watertight Act was even more essential now, as 100 000 farmworkers were threatened with dismissal because of the drought. Impending labour legislation could also spark pre-emptive firings.

Cosatu's Seftel said they had raised these problems with the minister, but added "We are eager for this legislation to be passed as soon as possible. There are a number of weaknesses, but it is a step forward."

Another important development in this week's pilot meeting was Marais' undertaking to give Cosatu a progress report on legislation for farmworkers by mid-April.

Fruitful discussions on a tripartite national training strategy, administrative problems with the industrial courts and the planned economic negotiation forum were also held, according to Cosatu.



SA is on way back to ILO

By ADRIAN HERSCH

SI Times (455)
SOUTH Africa will be re-admitted to the International Labour Organisation (ILO) when an interim government is in place 8/3/92

A senior labour lawyer says that contrary to previous expectations, regaining membership will not depend on whether SA's labour laws meet international standards

But the recommendations of an ILO commission which visited SA will have an important influence on labour legislation here

"It will set the parameters for debate about our labour law," he says

The Government announced this week that the Basic Conditions of Employment Act and Unemployment Insurance Act would be extended to farm workers before the end of April

But this will fall short of ILO recommendations, says the labour lawyer

8/12/92 9/13/92

Farm labour row

MANPOWER director-general Joel Fourie seemed to have deliberately undermined National Manpower Commission negotiations on rights for farm workers, Cosatu said at the weekend.

His denial that the commission had reached consensus was extremely strange as the agreement had been gazetted in 1990, Cosatu spokesman Neil Coleman said.

FOURIE IS ...
MEMBER ...

...

...

Union liability not law

GOVERNMENT was not considering introducing legislation to make trade unions liable for their members' actions, Manpower Minister Piet Marais said yesterday in reply to a question tabled in Parliament. (166)

It was also not envisaged that amendments would be made to industrial court rules regarding costs of actions before it.

610 am 13/3/92
REPORTS Business Day Reporter, Own Correspondent Sapa AP-DJ

all adjustments to existing service benefits are subject to inclusion in the improvement plan for service conditions which is, on the basis of the availability of funds, negotiated annually with recognized personnel and trade associations

- (2) no,
(3) no,
(4) falls away

Reply substituting reply to Question No 102 on 12 March 1992, put by Mr L Fuchs (col 377)

Trade unions: legislation

102 Mr L FUCHS asked the Minister of Manpower

(1) Whether it is envisaged to introduce legislation to make trade unions vicariously liable for the acts of their members, if not, why not, if so, when,

(2) whether it is envisaged that the rules of the Industrial Court will be amended so as to allow costs orders to be given in certain circumstances, if not, why not, if so, when? B262E

The MINISTER OF MANPOWER

- (1) No The common law situation applies as supplemented by section 79 of the Labour Relations Act, Act 28 of 1956
- (2) No The powers of the Industrial Court to grant cost orders in specific circumstances are governed by sections 17(12)(a) and 43(4)(c) of the Labour Relations Act, 1956

Own Affairs

Theft from departmental hospitals

32 Mr M J ELLIS asked the Minister of Health Services and Welfare

- (1) Whether any instances of theft of supplies and equipment other than medicines from hospitals under the control of her Department occurred during the course of 1991, if so, (a) what supplies and equipment form the bulk of these thefts, (b) at which hospitals in each province did these thefts occur and (c) what is the value of the supplies and equipment stolen,

- (2) whether her Department is investigating the theft of such supplies and equipment, if not, why not, if so, with what result,
(3) whether she will make a statement on the matter? B312E

The MINISTER OF HEALTH SERVICES AND WELFARE

- (1) Yes
- (a) Electrical equipment
- (b) *Transvaal*
Evander Hospital
Hendrik van der Bijl Hospital
J G Strydom Hospital
Kempton Park Hospital
Ontdekkers Memorial Hospital
Paardekraal Hospital
Phalaborwa Hospital
South Rand Hospital
Willem Cruywagen Hospital
Cape Provincial Administration
Port Elizabeth Provincial Hospital
Natal
Greys Hospital
Orange Free State
None
Departmental Mental Health Hospitals
Witrand Hospital
Tara die H Moross centre
Alexandra Hospital

(c) R92 334

- (2) Yes, the South African Police are notified of all thefts. The success rate in terms of transgressors located and stolen property repossessed is, however, low

(3) No

4

Patients turned away from hospitals

51 Mr M J ELLIS asked the Minister of Health Services and Welfare

Whether, during the latest specified 12-month period for which information is available, any hospitals under her control turned patients away because they were members of a race group other than White, if so, (a) which hospitals and (b) for what reasons? B402E

The MINISTER OF HEALTH SERVICES AND WELFARE

- (a) No
(b) Not applicable

INTERPELLATIONS UNDER NAME OF MEMBER

Burrows, Mr R M— <i>Own Affairs</i> Education and Culture, 185, 436	Paulus, Mr P J— <i>General Affairs</i> National Health, 267
Gerber, Mr A— <i>Own Affairs</i> Education and Culture, 291	Prenaar, Mr C H— <i>Own Affairs</i> Agricultural Development, 33
Haswell, Mr R F— <i>General Affairs</i> Law and Order, 272	Rajab, Mr M— <i>General Affairs</i> Correctional Services, 211 Law and Order, 323
Langley, Mr T— <i>General Affairs</i> National Intelligence Service, 1	Rajbansi, Mr A— <i>Own Affairs</i> Chairman of the Ministers' Council, 328 Housing, 45, 220
Leon, Mr A J— <i>General Affairs</i> Law and Order, 129	Van der Merwe, Mr H D K— <i>General Affairs</i> Constitutional Development, 399
Le Roux, Mr F J— <i>General Affairs</i> Foreign Affairs, 123	Van Eck, Mr J— <i>General Affairs</i> Law and Order, 405
Momborg, Mr J H— <i>General Affairs</i> Mineral and Energy Affairs, 7	

R198,8m as at 31 March 1991 The IDC-
/state had contributed R590,3m (73,9%) to
the SBDC compared with the private sec-
tor's R161,1m (20,2%) contribution

Marais in labour talks

CAPE TOWN — Stalled talks on restructuring the National Manpower Commission and labour rights for farm workers will be addressed by Manpower Minister Piet Marais over the next 10 days

The restructuring of the NMC will be the focus of discussions when Saccola chairman Bokkie Botha and a National Employers' Association delegation meet Marais on Thursday ~~(166)~~ (166)

A spokesman for Marais confirmed yesterday he would meet lawyers on Saturday to discuss hitches in extending industrial rights to farm workers 8/1/92

The issue of farm workers' rights would also be taken up when Marais met representatives from the SA Agricultural Union and Cosatu on Friday 31/3/92

Cosatu's meeting with Marais follows a meeting on March 3 when he indicated that basic labour rights could be extended to farm workers by the end of April — Sapa

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Marais meets Saccola

MANPOWER Minister Piet Marais and members of Saccola met yesterday for the first time to discuss restructuring the National Manpower Commission, spokesman Ted Townsend said

BIPOLY
3/4/92

(166)



Marais mediates

166

■THIS week Manpower Minister Pict Marais will hold a number of meetings with key players in attempts to iron out stonewalled negotiations around the National Manpower Commission and farmworkers' legislation.

On Thursday this week he met Bokla Botha of the South African Co-ordinating Committee on Labour Affairs (Saccola) and the National Employers Association to discuss the restructuring of the National Manpower Commission.

Today the SAAU and Cosatu will put forward their positions to Marais on extending legal rights to farmworkers and tomorrow, he meets lawyers to discuss the hitches this piece of legislation faces.

26/11/76 - 9/11/76
summary

LABOUR

By DREW FORREST

GOVERNMENT cost-cutting initiatives have emerged as a threat to the National Manpower Commission, a vital statutory think-tank on labour law

Government sources said this week an official study of the Manpower Department's infrastructural requirements was under way and that there was a real possibility that funding for the NMC's secretariat might be withdrawn

A possible response would be to secure alternative funding through a levy on employers and workers, they said

The news comes as efforts to

State may suspend funding for NMC

reamp the NMC move to a climax Last week the employer body Saccola met Manpower Minister Piet Marais on the issue, and sources said Marais was likely to respond within the next fortnight

Last year the commission formally recommended its own restructuring to the government. Saccola, the Congress of South African Trade Unions — at that stage an NMC member — and other parties called for it to be reshaped into a negotiating forum representing

key actors in the labour field, with a direct Manpower Department role to ensure a single law-framing process

Official sources said the government's response might be critically affected by a policy decision on whether to join forums in general, including the proposed economic negotiating forum Apparently fearing it will concede away its right to rule, and wishing to focus on the Convention for a Democratic South Africa, the state has been resisting nego-

tations on a range of fronts

Last week Cosatu, Saccola, the South African Chamber of Business and Foundation for African Business and Consumer Services (Fabcos) tabled joint proposals for an economic forum in talks with Economic Co-ordinator Minister Derek Keys

Sources said that as the NMC was its statutory advisor, the Manpower Department was unlikely to shun it completely However it might opt for observer status, rather than the more

active, albeit non-voting role envisaged in the commission's recommendations

There are two other potential areas of conflict. Cosatu wants a direct relationship between the NMC and parliament, governed by a protocol. One implication would be that if the minister rejects a consensus recommendation, it would still go to the legislature

In addition, the NMC proposed a 25-member commission with 10 seats each for employers and labour The government appears to favour a larger body with significantly more independent members

ARG 10/4/92

Bid for unity on labour legislation

SHARON SOROUR, Labour Reporter (166)

MANPOWER Minister Mr Piet Marais meets giant union federation Cosatu and the SA Agricultural Union today in a bid to reach consensus on the extension of labour legislation to farmworkers.

Mr Marais is to chair the meeting at the Department of Manpower offices in Pretoria, a spokesman for the Ministry of Manpower confirmed.

According to Cosatu's campaigns co-ordinator, Ms Lisa Seftel, Mr Marais would later meet Cosatu and the National Council of Trade Unions (Nactu) separately.

At a meeting with Cosatu general-secretary Mr Jay Naidoo earlier this year, Mr Marais said he saw no reason for two key labour laws — the Basic Conditions of Employment Act and the Unemployment Insurance Act — not to be extended to agriculture before the end of April.

But while key players party to the National Manpower Commission recommendations agreed on certain proposals "in principle", the SA Agricultural Union has since opposed these proposals, according to Mr Dawie Bosch of the Centre for Rural Legal Studies in Stellenbosch.

Mr Bosch said: "I can't see how the government will be able to justify not extending these Acts this year after all the undertakings of the past."

"It may be that the union is using its objections as a way of pressuring the government to water down certain proposals contained in the Labour Relations Act — it may be a strategic move."

Mr Bosch said the union was proposing that a separate Labour Act be drawn up for agriculture.

Talks to

STAR 15/4/92

resume

on farm

labour

CAPE TOWN — Manpower Minister Piet Marais, the SA Agricultural Union and Cosatu will meet again tomorrow in a bid to resolve the deadlock over labour rights for farm workers

The parties held a "long and very difficult, though fruitful" meeting in Pretoria on Friday. Manpower Ministry spokesman Ted Townsend said yesterday

Cosatu has demanded that the Basic Conditions of Employment Act and Labour Relations Act be extended to the country's 1.3 million farmworkers, while the SAAU has argued for a separate statute for agriculture

Progress

Mr Townsend said progress had been made at Friday's talks, but did not elaborate. The meeting would go ahead on Thursday

Approached for comment, SAAU co-director Kobus Kleynhans said tomorrow's meeting was tentative

"The parties have decided that only the Minister's press secretary will liaise with the press," he added

Cosatu campaigns coordinator Lisa Seftel said Cosatu would try to issue a more detailed statement later — Sapa

NMC funding (166) (185)
NATIONAL Manpower
Commission Secretariat acting
W/Man 16/4-23/4/92

LABOUR BRIEFS

W/Man 16/4-23/4/92
chairman Frans Barker this week reacted strongly to the rumour that the government was planning to withdraw funding from the secretariat. (166) (185)

"The secretariat is the lifeblood of the NMC and without it the commission will not be able to develop labour law," he said.

Barker said he was confident that both the Congress of South African Trade Unions and the National Council of Trade Unions would rejoin the NMC subject to that body's being modified.

Your business: don't fall foul of labour law

STAR 18/4/92

GENERALLY, the maximum number of working hours in a week, excluding overtime, is 46 and, generally, employees are not permitted to work more than 12 hours a day. Employees are entitled to a one-hour break after five hours of continuous work.

Overtime, generally, is payable at a minimum rate of one-and-a-third of the normal rate and is limited to three

ADAPTED from "Starting and Running Your Own Business", published by the private business services division of chartered accountants KPMG Aiken & Peat.

hours a day and 10 hours a week

Double time, generally, has to be paid for Sunday work

Generally, professional staff are entitled to a minimum of three weeks' leave a year and other staff to two weeks

Employees not work-

ing more than five days a week are entitled to 30 days' paid sick leave in a three-year period

Any other employees are entitled to not less than 36 days' paid sick leave over the same period

The minimum period of notice of termination

given by an employer is one day during the first four weeks of employment. Thereafter, weekly-paid employees have to be given one week's notice and monthly paid employees two weeks' notice

Employers may not discriminate against members of the trade unions

These points are taken from the Basic Conditions of Employment Act and, of necessity,

are brief. If in any doubt, consult the Act or obtain professional advice

The terms of the Act, however, are not applicable to employees whose conditions of employment are regulated by industrial council agreements under the Labour Relations Act, or wage determinations under the Wage Act, 1967, or in terms of the Mines and Works Act

● Next week premises and location

Plans to ease labour law for small business

6/10am 21/4/92

166

THE National Manpower Commission has recommended the easing of labour laws and regulations applicable to small businesses as part of a strategy to encourage economic growth.

The call for a special dispensation for small business has the support of Cosatu, whose commission representatives have signed the report

In the report, a summary of which was published in the Government Gazette last week, the commission said a balance between employer and employee interests was "of the utmost importance".

The aim of the investigation, commissioned by the Manpower Ministry in April 1989, was to "stimulate small business development and the creation of employment without detracting from the basic rights of employees"

The commission was therefore opposed to granting small businesses blanket exemptions from labour legislation — including wage-regulating instruments. But its recommendations would streamline the process by which they were exempted if they could provide adequate reason for this, and also reduce to a minimum the red tape involved in complying with labour law

Acting commission chairman Frans Barker said yesterday that, while the recommendations were not dramatically far-reaching, he hoped they would encourage a process which would bring more concessions in the future

The initial draft was more drastic, but it had to be adjusted in an effort to seek consensus, he said. Not only the unions, but also big business which feared unfair competition, were opposed to comprehensive exemptions for small businesses

The recommendations, if accepted,

ALAN FINE

would apply to "micro businesses" defined as units employing no more than five people with an annual turnover of up to R250 000 measured in 1990 terms. They should be independent, and managed and controlled by the owner.

The report proposed that each industrial council agreement include a provision stating that its purpose was not to restrict entrepreneurial initiative. Where it could be shown that this was occurring, the council could grant exemptions from specific provisions of its agreement. Unless the councils complied with this, or agreed to call for and consider representations from small businesses covered by them, the Minister should refuse to promulgate wage-regulating agreements

As regards the Basic Conditions of Employment Act, the commission proposed the retention of the existing ad hoc system for granting exemptions to the Act's minimum standards, except that a set of guidelines be drafted. These guidelines should take into account the nature of the specific business, its size, how long it had been in operation and whether an agreement existed between the employer and employee

The commission proposed that micro businesses and new small businesses (employing, say, up to 20 people) should be automatically exempted from particular provisions of the Act, especially administrative requirements

This should apply not only to industrial council requirements, but also to particular laws. For example, there could be rationalisation of the repetitive information which had to be provided in terms of

□ To Page 2

Small business From Page 1

the Unemployment Insurance Act and the Workmen's Compensation Act

The commission recommended that, to lighten their administrative burdens, micro businesses be permitted to pay their Unemployment Insurance, Workmen's Compensation and Industrial Council-imposed social security contributions quarterly or even annually

The report suggested the appointment of a "facilitator" to monitor the exemption process and recommend improvements

The report also proposed a simplified dispute-settling procedure in terms of the Labour Relations Act. Greater emphasis should be placed on alternative dispute resolution through mediation and arbitra-

tion — subsidised by the state — rather than the normal procedures involving industrial councils, conciliation boards and the Industrial Court

It also proposed that micro businesses be exempted from aspects of the Machinery and Occupational Safety Act, including regulations relating to sanitary and washing facilities, dining rooms and provision of seats. Further investigation was required into regulations on lighting, thermal requirements, noise, windows and fire precautions

The Manpower Department has called for comment and representations on the report within 90 days

6/10am 21/4/92

Manpower commission 'could become extinct'

CAPE TOWN — The National Manpower Commission, dogged by delays in extending labour laws to all workers, could become extinct if it is not restructured, acting chairman Frans Barker said in the commission's 1991 annual report

It had been impossible to achieve full consensus on principles for restructuring the commission by January 1992. The advisory body had recommended that it be appointed in

Bloem 22/4/92
a restructured form by April *(166)*

Barker said employers and labour representatives had shown a greater willingness to find some common ground on labour policy in 1991

However, the loss of man-days to strikes, Cosatu's "symbolic" withdrawal from the commission and deteriorating economic circumstances were less encouraging

Our political staff reports that the

commission recommended a one-season trial period of daylight saving, beginning on the first Sunday of October and ending on the last Sunday of March, with clocks throughout SA advanced one hour for the period

The Unemployment Insurance Fund, in its annual report tabled in Parliament yesterday, said an actuarial investigation had shown its reserves were sufficient to allow the inclusion of farmworkers — Sapa



Workers to march

Sowetan 23/4/92
FARM and factory workers would march to Parliament tomorrow to demand the immediate extension of the Labour Relations and Wage Acts to agriculture

166
This was said by Mr Mike Madlala, assistant general secretary of the Food and Allied Workers Union yesterday

The march, organised by Fawu and the Congress of

South African Trade Unions, was believed to be the first mass action demanding full labour rights for the country's 1,4 million farm workers, he said

Perturbed

Speaking at a Press conference, Madlala said Fawu and Cosatu were particularly perturbed that the State President, Mr FW de Klerk, had not responded to growing demands to alleviate the plight of farm workers

In a statement, Fawu said "The new South Africa will remain a distant dream while more than a million workers remain in bondage"

March planned for farm labour rights

CAPE TOWN — Cosatu's food union, charged since 1985 with organising SA's 1.4-million farmworkers, sees little hope of achieving this goal unless it has legal clout.

The Food and Allied Workers Union (Fawu) represented some 25 000 workers on farms — a "drop in the ocean" according to Fawu assistant general secretary Mike Madlala.

Fawu and Cosatu would lead a march to Parliament tomorrow to demand basic labour rights be extended to the agricultural sector, he said.

At a news conference in Cape Town, Madlala blamed the absence of legislative protection for workers and unions for Fawu's failure to

make inroads into the sector.

He said farmworkers had no access to unfair labour practice jurisdiction or the Industrial Court, as opposed to workers who fell under the Labour Relations Act (LRA).

Fawu and Cosatu may have approached negotiations on legislation "the wrong way round", said Madlala. Instead of pressing for the extension of the Basic Conditions of Employment Act to farmworkers, it should have demanded that the LRA be extended, giving workers and organisers organisational protection.

In its demands to government tomorrow, Fawu and Cosatu would demand the immediate extension of this Act to farmworkers — Sapa

COSATU'S food union, charged since 1985 with organising the country's 1,4 million farmworkers, sees little hope of achieving this goal unless it has the legal clout to do so.

The Food and Allied Workers Union represented some 25 000 workers on farms, a "drop in the ocean", according to Fawu assistant general secretary Mr Mike Madlala.

Breaking with its hitherto low-key public profile on organising workers on farms, Fawu and Cosatu will lead a march to Parliament today to demand that basic labour rights be extended to the agricultural sector.

Speaking at a Press conference in Cape Town, he blamed the absence of legislative protection for workers and unions for Fawu's failure to make any significant inroads into the sector.

The union needed organisational power before it could enforce concessions for workers on farms - but was hamstrung by not having the right to build that power.

It has adopted a twofold approach in trying to penetrate the farming sector: the traditional trade union tool of organisation, and taking part in the official advisory body on labour

Effort to unionise farmworkers balked

24/4/92
Dwefen

'We know that quite a number of farmworkers have been dismissed in anticipation of labour laws being extended to the farming sector.'

In its demands to the Government today, Fawu and Cosatu will demand the immediate extension of this Act to farmworkers, for, "without this, all legislation relating to farmworkers cannot be enforced".

"If a farmworker is dismissed, the family also goes and often they lose their accommodation. This is different to industrial workers, who don't rely on their employers for access to accommodation."

Fawu estimated that up to 5 million people were dependent on farmworkers as breadwinners.

Trespass laws prevented union organisers from going on to farms. From this stemmed Fawu and Cosatu's demands that the Trespass Act be scrapped immediately and organisers be allowed free access to farms.

Attempting to bridge the legal gulf between farm and city, Fawu has concentrated on organising work-

ers on company farms where it already has a presence in the related industry.

But, in the absence of legal protection, supportive mobilisation by industrial workers held no guarantees of advances for farmworkers.

Fawu was not the only union trying to organise farmworkers. The National Union of Farmworkers, affiliated to the National Council of Trade Unions, and other independent unions were also active in the sector.

Nactu, which has joined Cosatu in NMC negotiations, had not been invited to Friday's march as it was based in Johannesburg, said Madlala.

"This is a start, and we will definitely include Nactu, its affiliates and the independent unions."

Madlala said he believed there was light at the end of the tunnel.

Optimism about progress towards full labour rights for workers on farms had, however, to be tempered against the background of the experience in Zimbabwe - where labour rights for farmworkers sparked dismissals.

"We know that quite a number of farmworkers here have been dismissed in anticipation of labour laws being extended to the farming sector." - Sapa

tured into a representative, negotiating forum between employers and employees on labour policy.

Madlala said workers on farms had no access to unfair labour practice jurisdiction or the Industrial Court - protection enjoyed by workers who fell under the Labour Relations Act.

Fawu and Cosatu may have approached negotiations on legislation "the wrong way round", said Madlala.

Instead of pressing for the extension of the Basic Conditions of Employment Act to farmworkers, it should have demanded that the LRA be extended, giving workers and organisers organisational protection

as delaying the promulgation of the Bills into law.

"At the same time, the Department of Manpower should not delay enacting the Labour Relations and Wage Acts so they apply to agriculture."

The union had also been faced with having to deal with three different Ministers of Manpower in a three-month period including and leading up to the appointment of the present Minister, Mr Piet Marais.

Fawu's involvement in the NMC followed the 1990 Laboria Minute, which committed the Government to extending labour rights to all workers and undertakings that the NMC would be restructuring

before the end of the 1991 Parliamentary sitting.

"This only happened 12 days before the session ended and there was no time for Parliament to debate the Bills. This year we've seen them being shuffled down the order papers."

"Then the South African Agricultural Union lobbied the Minister of Manpower and other parliamentarians for their support for a consolidated Act for agriculture."

Cosatu and the SAAU would, nonetheless, continue to discuss their respective demands, said Madlala.

"This should not be seen

In search of some common ground down on the farms

By Ferial Haffajee

166 (168)
24/4-29/4/92
A SERIES of high-level meetings between government, worker and farmer representatives has failed to clear the murky future of farmworkers legislation, which remains logjammed in the parliamentary process

But there is a groundswell of resistance among farmworkers who may not have the patience to weather yet another series of negotiations

Today farmworkers, political and church organisations will march on parliament. In the past weeks, farmworkers have held placard protests

The third in the series of meetings to decide the future of the legislation took place last Friday. It was to have been the last meeting but it too ended in an impasse

According to government sources, the only progress made was that the Congress of South African Trade Unions, the National Council of Trade Unions and the South African Agricultural Union (SAAU) are "at least listening to each other"

Cosatu's end of April deadline to the Minister to demand decisive action on the legislation will not be met — instead another meeting will be held on May 7

This week, the federation was adamant that this will be the last meeting

SAAU representative Kobus Kleynhans said "we will not easily reach consensus but I am positive that we will reach common ground"

But all parties know the fragility of negotiations and have adopted a

wait and see approach to the May meeting. Cosatu is eager to get legislation passed for one of its most embattled sectors while the organised farmers lobby (SAAU) has realised that it cannot wish away trade unionism on the farms and is keen to find "common ground"

In the path of the legislation is SAAU's insistence on separate labour legislation for farmworkers. To what extent it is still wedded to this scheme is unclear

Kleynhans was non-committal this week and would only say "Cosatu and the SAAU are looking for labour legislation that will work"

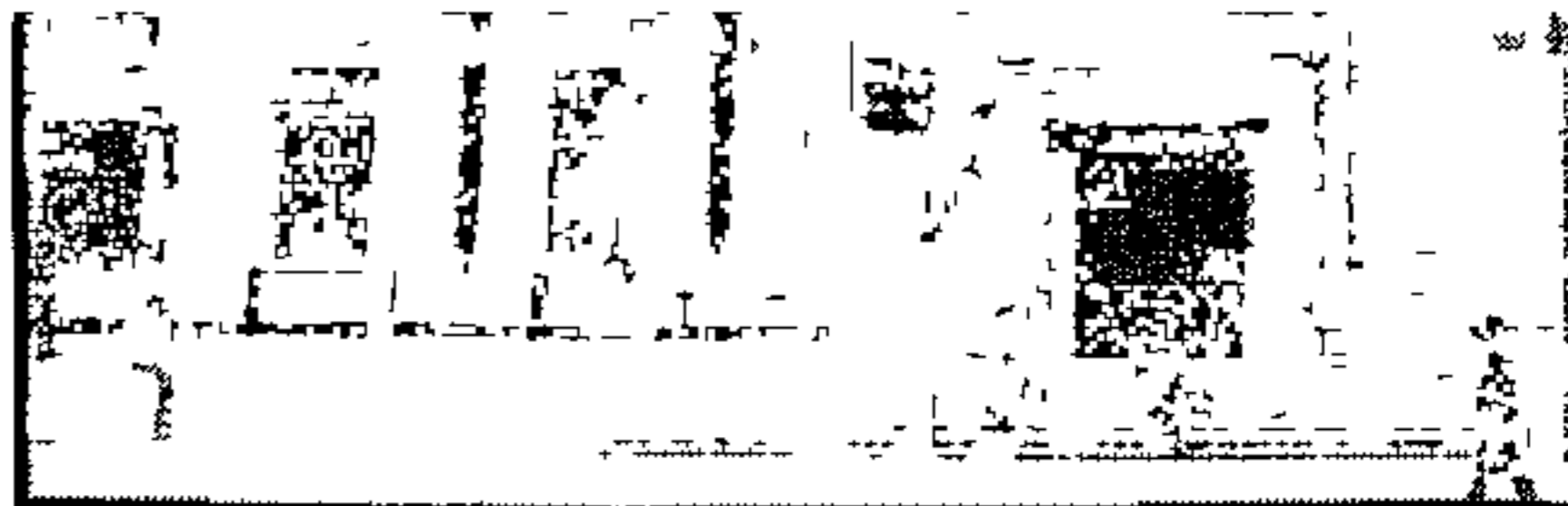
The Food and Allied Workers' Union (Fawu) is spearheading the campaign around the legislation. It has only 25 000 members in the sector, a sector employing 1,6-million workers

But organising work is hampered by the lack of legislation. Ben Sinzane, a Fawu farms organiser, said they are denied access to the farms in terms of the Trespass Act. Instead, they have to meet workers at night or at the weekend outside the farms

Today, Fawu and Cosatu will march on parliament to demand that the Basic Conditions of Employment Act and the Unemployment Insurance Act be passed on to farmworkers in the current parliamentary session

They will also highlight the right to freedom of association and collective bargaining for farmworkers as well as campaign for the scrapping of the Trespass and Illegal Squatting Acts

Articles are recognised as the best training method but there are not enough to go around Another area of concern is the restriction on attorneys from appearing in the Supreme Court. SUSAN RUSSELL reports.



The Supreme Court in Johannesburg

Problem solving in the workplace

^{B10 am 29/4/92}
SINCE the liberalisation of SA's labour laws, this field has rapidly developed into a sophisticated and complex area of legal practice supported by extensive legislation

The Labour Relations Act, which introduced the concept of equity for both parties, and the unfair labour practice has revolutionised the contractual basis of employment law, according to lawyers

Attorneys describe labour law as possibly the most creative area of legal practice because the relationship between management and labour is never static but a constant process requiring a variety of legal skills.

Most experienced labour lawyers, whether they represent employers or employees, stress that they have formed close on-going relationships with their clients

It also is an area of law in which alternative dispute resolution methods such as arbitration and mediation have been used with great success

Johan Lubbe of Hofmeyr van der Merwe says the rapid development of labour law has resulted in both management and labour regularly seeking advice on what their rights are before taking a business decision or accepting a decision or proposal.

"Larger corporations are increasingly using the services of attorneys as part of the management team to

either assist or conduct their annual wage negotiations

"Wage negotiations involve quick decisions on requests for information, the utilisation of specific bargaining tactics or an entire bargaining strategy.

"On-the-spot legal advice is therefore required from time to time"

Lubbe says attorneys also become involved in training their clients to handle day-to-day industrial relations.

"Hofmeyr van der Merwe has assisted clients in training managers in the holding of internal disciplinary inquiries and appeals, as well as the handling of grievances"

Crisis

The handling of labour disputes, especially industrial action, invariably involves crisis management, says Lubbe.

"Heat-of-the-moment decisions by employers during strike action may later prove to be costly .

"Legal advice in such crisis moments assists clients in taking more objective decisions

Attorney Kevin Mulligan of Moss-Morris Mendelow Browde describes the relationship between labour and management as "much like a marriage with its ups and downs"

Mulligan says there are no right and wrong answers in labour disputes, only better and worse solutions.

¹⁶⁶
Mulligan, who only acts for corporate clients, says there are two approaches to labour law as an attorney The first is to attempt to solve a particular problem when it arises If one solution does not work, there is an attempt at something else

Mulligan prefers the second approach, which is to be an adviser to the client, becoming involved on an on-going basis

"I encourage this with most of my clients, otherwise you get involved in a quick-fix situation which does not foster a long-term relationship between union and management"

A firm which has had an important role to play in the development of labour law in SA is Cheadle Thompson and Haysom

The partners have been involved in negotiating and drafting of key legislation in SA, including amendments to the Labour Relations Act, the Basic Conditions of Employment Act, the Wage Act, Unemployment Insurance Act, Workmen's Compensation Act and the Machinery and Occupational Safety Act

In addition, its partners were responsible for advice concerning the drafting of the labour legislation in Namibia, as well as introducing or redrafting labour legislation in all the homelands

Recently Cheadle Thompson and Haysom represented a number of organisations at the International Labour Organi-

sation's Fact Finding and Conciliation Commission, which came to this country to investigate Cosatu's complaints about the 1988 Labour Relations Amendment Act

The commission was extended to an investigation of how SA's labour legislation compared with international standards, particularly with regard to freedom of association

"The report," says labour attorney Paul Benjamin, "will be out in the next few months and will have a marked impact on labour law developments in this country"

Joint

Mulligan believes labour legislation in future will result from the joint input of labour, capital and government

Unions, he says, have gone out of their way to demonstrate their muscle and that they are a force to be reckoned with This will not change in the future

"As much as the present government was unable to quash the unions or remove their power, a future government will not be able to do so either"

"I foresee we are going to end up with a vastly changed Act and, I believe, in the not too distant future

"That Act, when it comes, will be the product of a consensus between government, labour and capital under the aegis of government."

Protect domestic farm workers call

Sowetan 30/4/92

(166)



There were 613 strikes in 1991

THE Department of Manpower has recommended that the Basic Conditions of Employment and Unemployment Insurance Acts be extended to the agricultural sector.

National Manpower Commission members, except the SA Agricultural Union, recommended that the Wage Act be extended to farms.

The NMC also recommended that domestic workers be protected by the Basic Conditions of Employment, Labour Relations, Unemployment Insurance and Workmen's Compensation Acts.

Its annual report covering its activities ranging from labour relations to military objection to tertiary service - was tabled in Parliament this week.

The 154-page document reported a rise in trade union membership, advances in extending labour laws to unprotected sectors, fewer workplace accidents and increased unemployment.

An amended Labour Relations Act - agreed between Saccola, Cosatu and

Nactu - was passed by Parliament in 1991, but no progress had been made on its consolidation because the National Manpower Commission had not been restructured.

The productivity-based wage agreements in the mining and automotive assembly industries could be regarded as important developments.

Altogether 613 strikes in sectors covered by the LRA claimed 1,24 million mandays lost in 1991, but the numbers involved decreased by almost 50 per cent on 1990 figures.

Stayaway

Wages were the main cause and the manufacturing industry suffered most in terms of mandays lost.

In 28 strikes more than 1 000 workers were involved, and each strike lasted seven days on average.

Strike figures did not include public sector disputes and the November 4 and 5 stayaway, when the majority of the country's workforce did not go to work.

Violence in the

workplace continued - 22 people were killed and about 90 injured at the President Steyn gold mine in Welkom during November 1991.

The multiracial Federation of Independent Trade Unions, representing some 210 000 workers in 23 unions, was launched in October 1991. Its stated objectives included playing a constructive and moderate role in a free market economy.

A meeting was held between Saccola and three major union federations to discuss setting up an economic forum to give employers and employees a say in restructuring the economy.

The Minister and the Department of Manpower met twice with Cosatu to discuss a wide variety of subjects concerning trade unionism.

"It is the Department's policy, as far as possible, to consult employers and employees whenever changes are envisaged to the legislation administered by the department," wrote the Director-General of Manpower, Mr Joel

Four years ago, for the first time in many years, a full-time deputy, Mr Glen Carelse, was appointed to help the Minister of Manpower, Mr Piet Marais.

The number of employers' organisations dropped from 271 in 1987 to 214 last year.

Trade union membership of registered unions rose from 1 879 million in 1987 to 2 750 million in 1991 and about three million employees belonged to registered and unregistered trade unions in terms of the Labour Relations Act.

Agreements

Eighty-nine industrial councils administering 141 agreements were registered at the end of 1991. They regulated wage agreements covering 36 000 employees, and the conditions of service of 488 000 workers.

The building and construction industries proved the most dangerous, with 123 fatalities in 1991, followed by agriculture and forestry with 86 deaths.

In all, there were 474 work-related fatalities in 1991, compared to 435 the

previous year. Only 53 percent of people who reported for trade tests actually passed. It was hoped that modular training would alleviate this problem.

Apprenticeship contracts increased from one in 1990 to 566 in 1991, proof that training boards could make a significant contribution to training.

During 1991, 173 religious objectors were referred to the department for placement in community service. Owing to a Supreme Court judgment, 389 religious objectors were sentenced anew during 1991.

More than R27 million was spent on training unemployed people for the formal sector by October 31 1991, and more than R31 million on skills' training for the informal sector.

Altogether 550 185 people were paid unemployment insurance benefits in 1991, against 438 292 in 1990. More than R891 million was paid out in 1991, and about R587 million in 1990.

Workmen's Compensation payments for medical

costs increased by about 23 percent, amounting to over R111 million, compared with R61 million in 1986.

The 1991 amendments to the Labour Relations Act resulted in a decrease in the number of cases referred to the Industrial Court, but the number of matters which could not be finalised increased by 39 percent.

The Labour Appeal Court heard 65 cases in 1991.

Altogether 7280 conciliation boards were established following 11 114 applications between November 1 1990, and October 31 1991.

Altogether 5 209 disputes were referred to Industrial Councils, of which 2 101 were settled. The rest, if not settled, were referred to the Industrial Court, arbitration, mediation or eventually ended in deadlock - Sapa.

PSA submits proposals

166
GERALD REILLY

PRETORIA — The Public Servants' Association has submitted its final recommendations to the Commission for Administration for a new labour relations deal for government workers.

The PSA wants included in the legislation, expected to come before Parliament before the end of the current session, the right to conciliation and arbitration, access to the Industrial Court and the right to strike.

PSA GM Hans Olivier said the PSA stressed in its submission its responsibility to take effective action against unacceptable salary and service conditions *8/04*

"Although we have asked for the right to strike, we would want to avoid a situation such as that which has developed in Germany at all costs," he said *6/5/92*.

But, he added, government workers could not continue to be at the complete mercy of government when it came to service conditions



High and Dry As white farmers go bankrupt, thousands of farmworkers lose their jobs
Photo KEVIN CARTER

Farm legislation stalls at go-nowhere summit

WITH just three months to go before this sitting of parliament ends, proposed legislation for farmworkers lies bogged deep in negotiations. And the possibility of smooth passage for this legislation is becoming more and more bleak.

May 7 was supposed to be D-day, the day the Congress of South African Trade Unions, the National Council of Trade Unions and the South African Agricultural Union (SAAU) made a final decision on the

As the drought deepens, legislation to protect farm workers is still as distant as rainclouds on the horizon

FERIAL HAFFAJEE reports

legislation

Instead it turned into another go-nowhere summit. The parties agreed only to seek mandates on two proposals: the first was whether key leg-

islation should be debated in this parliamentary session and the second was whether there should be one separate labour statute for farmworkers or whether they should be governed by existing South African labour statutes.

Over the weekend the two trade union federations issued a demand that the Basic Conditions of Employment Amendment Bill and the Unemployment Insurance Amendment Bill be debated and passed in this session of parliament.

But Cosatu and Nactu have minimal membership in the farming sector and consequently have little bargaining power with the farmers. This is reflected in their patient and conciliatory approach to the SAAU. The union statement also said that "we remain prepared to enter into negotiations with the SAAU concerning one or many acts for the agricultural sector".

Cosatu and Nactu also said this week they realised there was little hope for the legislation being passed by June.

The federations believe the failure by the government to pass the legislation in the 18 months since the Labora Minute was passed indicated "a lack of political will on the part of the government to extend basic rights to farmworkers".

Many farmworkers were being retrenched because of the drought and this made the issue a more burning one because they were left without any protection, said the two federations.

Last week, Cosatu launched its drought relief campaign. In terms of the campaign, they will demand that a greater share of the government's drought relief fund go to farmworkers and their families.

Cosatu said that only two percent of the R1-billion allocated by the government to drought relief would be distributed to farmworkers. "The bulk of the money will go not to prevent mass starvation but to prevent white farmers from going bankrupt."

Delays in the farmworker legislation could be key sparks to Cosatu's general strike planned for July.

Everything keeps going wrong at Toyota plants

By FERIAL HAFFAJEE

MANY prospective Toyota buyers now face a four-month wait for their new wheels because of a two-week strike at the company's Durban plants.

Every day 430 motor cars do not roll off the assembly line and the 6 000 workers on strike lose R800 000 in wages. Experts estimate that the company has lost R207-million in turnover and the communities where workers live have lost R7,2-million workers would have spent there. In addition, the company's 68 component suppliers have lost R42-million with the figure climbing by R5-million a day.

These are the startling statistics behind the strike which was sparked by the actions of an allegedly racist line manager "who practises outdated industrial relations", alleges the National Union of Metalworkers of South Africa (Numsa). Workers are on strike to demand that he be fired.

But the company says "By demanding that we act against a supervisor without any recourse to due process, workers are violating their own hard-won advances toward security of employment."

On Tuesday, the parties agreed to refer the matter for arbitration. But workers refuse to return

to work until the arbiter makes an award. "The inference is that any return to work will be conditional on a finding in favour of the workers. This is an untenable situation for us," says Toyota.

The union says that management was alerted to workers' dissatisfaction with the line manager in February and failed to do anything about it.

"We feel that if workers come back to work now, management might come up with delaying tactics so problems must be resolved while we are on strike."

On May 7, the company was granted an interdict by the industrial court forcing workers to go back to work. Workers have ignored the interdict and are adamant about staying on strike "even for a thousand days".

The call for the dismissal of the line manager has been extended, two other senior managers are also on the firing line. In addition workers are demanding the reinstatement of a shop-steward dismissed six months ago.

Numsa regional organiser in Durban Magrapers Hlatwayo, said that the parties held five meetings to iron out the dispute. On Wednesday they worked late into the night to find a way out of the impasse.

Comprehensive labour relations reference book

W. May 22/5-28/5/92
INDUSTRIAL RELATIONS IN SOUTH AFRICA
(second edition) by Sonia Bendix (Juta, R89,99)

AS Sonia Bendix said in the 1989 edition of this book, this is no academic treatise. It is intended to fulfil a need among industrial relations practitioners and students for a comprehensive reference book on industrial relations in South Africa.

It may not be a "treatise", but it is clearly rooted in a strong academic background, which makes it authoritative and serious. While only those with a deep interest in the subject would read the entire volume, the topics are treated thematically. This makes them accessible to anyone who may have an interest in a smaller area within the broad subject area of labour relations. This accessibility is enhanced by the way each chapter begins with a clear summary of its contents, making it easy to cover the subject area quickly and read in depth where the need arises.

The subject matter is systematically covered from the ground up. From an analysis of work and the labour relationship to the philosophical and historical background of labour relations; from economic theory and analyses of trade unions to collective bargaining and methods of negotiation, the background is clearly set out and well researched. They may be some in the labour camp who will be unhappy with the way the general background part of the book is written — in the style of enlightened management textbooks — but this cannot be regarded as a flaw. Also the part dealing with economic theory may not be popular in this constituency.

It is in the area of industrial relations in the South African context that this book really shines. A succinct history of trade unionism in South Africa from the earliest time, seen in its political and legislative context, sets the scene. A detailed examination of employer bodies, trade unions and state structures and the legislative framework of labour relations including employment law and safety legislation follows.

Finally, the book includes annexures of union membership figures, the Workers' Charter, some Congress of South African Trade Unions policy documents, the South African Business Charter, the Saccola Accord, the Labora Minute and examples of recognition, disciplinary and grievance procedures.

To her target group of students and IR practitioners, the author could confidently have added personnel managers, trade unionists and government labour officials. All of these are likely to find parts of this book invaluable and many will refer to it repeatedly in the course of their work.

Stephen Heyns

(166) CT 3015/92

Labour reform 'still needed'

GENEVA — The UN International Labour Organisation said yesterday that South African labour laws still needed wide-ranging reform, but cited the government's awareness of that fact as a hopeful sign

A report by a special ILO commission, appointed to investigate labour relations in South Africa, also said "anti-union violence which has prevailed in South Africa is totally unacceptable" and demanded the government bring perpetrators to trial

The rights to form a trade

union and to collective bargaining are "vital attributes of a free society", the report by three law experts said

The report urged the Pretoria government to push "vigorously" for reforms of the country's Labour Relations Act, which should include ensuring the independence of trade unions, the right to strike and collective bargaining rules

It noted that reforms had begun under President F W de Klerk but said further "changes should ensure that basic civil liberties are provided by law and guaran-

teed in practice in a democratic society"

South Africa is not a member of the ILO, whose conventions set down international labour standards

The report urged Pretoria to join key ILO conventions on freedom of association and collective bargaining

The panel held hearings with union, employer and government representatives in South Africa last February

Heading the panel was Sir William Douglas, a former Jamaican high court judge — Sapa-AP

THE year 1991 was a wasted year with respect to social policy. It should have been a period in which the social parties — unions and employers — prepared important socio-economic ground for the imminent constitution-making process. In the event, elements within the Cabinet and the Manpower Ministry, distrustful of the role of unions, contrived to block the tripartite initiative which had led to the signing of the Laboria Minute of September 1990.

In terms of that Minute, it will be recalled, government agreed to accommodate the unions in the formulation of labour policy in return for a peace obligation. However, by October last year, it became clear government had no intention of revamping the main statutory advisory body, the National Manpower Commission (NMC), and that it wished to outflank the unions in its attempts to restructure the economy.

A disaffected Cosatu walked out of the NMC, fell back into the familiar adversarial relations of old (which took the form of the VAT stayaway), and then decided to pitch for higher political stakes.

Now, in the middle of 1992, the NMC continues to languish while unions and employers have begun to direct their energies towards the establishment of a macro-economic forum. Unions and business have a legitimate stake in fashioning national economic policy. However, that process is convoluted, and labour is only one (and a latecomer at that) of many actors seeking a role. Labour's influence will be diffuse.

To the extent that the leap onto the macro-economic stage bypasses rather than builds on labour-specific institutions (existing and potential), the move represents a departure from a 20-year-old union strategy and is fraught with the risks typical of any top-down approach.

Unions have an entrenched presence at plant level and a significant

Time for a rethink on unions' role in shaping policy

Blair 1/6/92

CLIVE THOMPSON

presence at industry level. What they lack is an institutional base — statutory or independent — at national level within which to forge national labour policy.

That base is necessary if unions are to play a key role in developing broader labour and social policy; the conflictual relations which characterise contemporary collective bargaining are to be converted into more co-operative ones through the conclusion of social pacts, an active labour market policy is to be developed, and unions are to commit their constituencies as part of a wider process of economic renewal.

Under current conditions, union influence on macro-economic policy is likely to be marginal, and the costs of later disillusionment may be large. Union influence on labour (and social) policy, by way of contrast, could be pivotal.

Labour and management jointly control the major variables in the labour market, can make demands of the state, set attainable goals and, most crucially, deliver. Mainly for its own worth but also, incidentally, if the macro-economic initiative is to have any prospect of success, it is essential that the social parties, and in particular the state, invest a great deal of effort in restructuring the

NMC and the other statutory and non-statutory institutions of national labour policy.

The Laboria Minute demonstrated a fatal deficiency within the existing NMC a body which purports to be representative of labour and business, and which wishes to negotiate its way to consensus positions, cannot be located within the labour ministry and cannot be a creature of the Minister of Manpower. To play a useful role in a changing society, a refurbished labour council will need to enjoy a different status, be entrusted with new responsibilities and be composed on a new basis.

In terms of status, autonomy should be a defining feature of any new body. It should not lie within the embrace of a labour ministry but should be constituted as an independent statutory body drawn from civil society and set apart from both the state administration and the legislature. Autonomy requires financial independence and this should be achieved through a dedicated levy on commerce and industry.

Its principal function should be to advise all ministries dealing with labour matters and Parliament on la-

bour and social policy. Conversely, all state ministries dealing in a substantial sense with labour matters should be obliged to confer with the council in arriving at departmental policy. This consultative process should, ideally, be carried out in co-ordination with any future macro-economic forum (a successor to the Economic Advisory Council?), where unions should have a separate, though attenuated, representation.

Another function of a council would be to co-ordinate policy in respect of all other statutory bodies dealing with labour matters, such as the Unemployment Insurance Board, the National Training Board and the Advisory Council for Occupational Safety and Health. These other bodies, which are generally bilateral or tripartite in character, should play a larger role in transitional SA and should, by rights, already be receiving a substantial slice of development funding.

To mention just one example in terms of the Manpower Training Act, provision has been made for a "fund for the training of unemployed persons" and a "manpower development fund", finance in both cases coming from (among other sources) Parliament.

Unions and employers should be

pressing for the enlargement of these funds and a role in overseeing their deployment. Some important demands relating to interim government and administration could be addressed by exploiting the possibilities in this entire area.

A council should also have a research function to enable it to discharge its obligations of advising all ministries and Parliament competently and authoritatively.

Finally, a council should play a key role in the appointment of judicial officers in the labour courts. Those tribunals must enjoy legitimacy to play their proper role as arbiters of last instance in the industrial relations system. The current Ministerial appointment process detracts from the stature of the labour courts. With regard to composition, drawing generally on European and particularly the Netherlands experience, there seems to be much merit in comprising a council equally out of employer, union and "public interest" representatives.

The last category should serve as a bulwark against some of the excesses of social corporatism. Representatives here could come from constituencies such as rural workers, women's groups, small businesses and independent experts. The presence of these representatives would force the business and labour elites of the formal economy to develop policies which reach both the urban informal sector and the countryside.

Although a labour council's principal function would be advisory, one would expect the political conversation to develop, over time, that ministries and Parliament would not lightly depart from a consensus position reached in such a council. Parties represented on the council would be those most intimately involved in and affected by labour policy, and this social fact should be implicitly recognised in any new constitutional dispensation.

Thompson is associate professor and director of the Labour Law Unit, UCT, and was a member of the NMC legislation committee.

B/D any 2/6/92

New initiative is launched to revitalise inner Jo'burg

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THE launch of the Central Johannesburg Partnership (CJP) was the start of a tough initiative to revitalise the inner city area, chairman Cliff McMillan said last night.

The co-operation of all involved — the city council, business and the community — would ensure tangible results, he said.

All three partners contributed to resources in different ways, providing time and expertise on a continuing basis. The business community had accepted the responsibility to fund the partnership while the council made its resources available.

Speaking at the launch, McMillan said the partnership offered the vehicle for a coherent strategy. The partners were involved through enlightened self-interest.

Executive committee chairman Gerald Leissner said the funding of the partnership would take several forms.

Major players in the inner city area had been approached to either extend a low interest loan of R500 000 each or contribute R50 000 a year.

It was hoped R10m would initially be raised from loans or debentures.

Johannesburg City Council management committee chairman Ian Davidson said the business community had approached the council and indicated it was willing to have a special levy introduced on companies in the inner city area.

This was an informal approach, David-

PETER GALLI and ANDREW KRUMM

son said. Once a formal application was made it might have to be taken to provincial or government level, but the council would only consider it if the business community was convinced it was what they wanted.

Johannesburg Civic Associations general secretary Cas Coovadia said negotiations were under way to buy seven buildings in Hillbrow and Joubert Park.

The aim, he said, was to put the pilot project on the partnership's agenda for the development of social housing in the inner city area. The buildings' owners had approached the civic and were asking for R8m. This was under negotiation.

The key aspect was affordability and the private sector had been asked to finance loans of between R8m and R10m at interest rates of 10% to 11%. Existing tenants would not be displaced, and would become owners of the units over time as security of tenure altered people's perceptions of maintenance and security, he said.

Chairman Alec Gullen said the security task group was negotiating with the SA Police about the establishment of satellite police stations. "The SAP has been asked to contribute manpower, while the CJP will fund all the running costs."

Farm strikes at issue in negotiations

PRETORIA — The SA Agricultural Union (SAAU) and Cosatu are still locked in negotiations on the application of labour laws to the country's more than 1-million agricultural workers.

Although the two sides had edged closer, the major issue of curbing farm strikes remained, an SAAU spokesman said.

Also still to be agreed on is the possible application of the Basic Conditions of Employment Act to the industry.

SAAU representatives, the National Manpower Commission and Cosatu will meet again shortly.

According to agriculture sources, nearly the whole industry is opposed to the application of inflexible labour laws.

GERALD REILLY (166)

National Maize Producers' Organisation GM Giel van Zyl said there was relative peace on farms throughout the country with good relations between employers and employees.

"What the application of the Labour Relations Act to farm workers really means is a foot in the door for trade unions," Van Zyl said.

He said this would include a third party in a normally stable labour situation with likely disruptive consequences.

Any move to include farm workers in labour legislation would have to take account of the unique conditions in the farming industry, he said.



New plan to form union for workers on farms

SI Times
(Cape metro)
166
7/6/92
By JESSICA
BEZUIDENHOUT

AN independent trade union for farmworkers — which would campaign for the abolition of child labour, the right to organise on farms and for recognition agreements with farmers — will be established soon.

This was decided by about 200 farmworkers at a national conference held at a Bellville hotel this week.

The conference, organised by the Food and Allied Workers Union (Fawu), decided that Fawu should form a national committee to oversee the organisation of farmworkers until such time as an independent union could be formed.

Several resolutions — on issues such as the drought, housing and the Labour Relations Act — were discussed at the conference.

On the drought, it was felt that government aid to farmers should be given only on condition that farmworkers were not retrenched.

The conference demanded that farmworkers be covered by the Unemployment Insurance Fund.

Recognition agreements



COMRADES . . . Mr Chris Hani and Mr Jan van Eck a meeting of farmworkers in Claremont this week
Picture: TIM ZIELENBACH

should address social problems, and the union would also campaign for health and safety demands and compensation for affected workers.

Workers should be provided with proper housing off the farms so that they did not lose their homes when they lost their jobs.

The conference also demanded the immediate extension of the Labour Relations Act (LRA) and the Wage Act to include farmworkers, and the abolition of the Trespassing and Squatting Act.

Mass action would be considered if the government

failed to meet these demands.

The conference followed a public meeting at the Claremont Civic Centre on Wednesday addressed by SA Communist Party leader Mr Chris Hani and suspended MP Mr Jan van Eck.

Mr Hani told the meeting that for years farmworkers had been the most exploited workers as a result of their exclusion from the labour laws of the country.

Mr van Eck said workers should have the same right to vote as their employers and should not allow their employers to decide for whom they should vote.

Farm Bill is attacked by all

Sowetan Correspondents

THE Government has been attacked from all quarters following the tabling of the Basic Conditions of Employment Bill last Friday *Sowetan 11/6/92*.

While the ANC is seeking to have the Bill implemented as soon as possible to expedite employment rights for farmworkers, the SAAU and National Maize Producers Organisation are angered with what they claim is a Government breach of promise.

Nampo claims negotiations between itself, the SAAU and Cosatu over the content of the Basic Conditions of Employment Bill, the Labour Relations Bill and the Wage Bill are incomplete.

Organised agriculture sources believe there is a veiled threat to Manpower Minister Mr Leon Wessels that without the full support of the farmers, the Bill, when promulgated, will not be successful.

"All we are saying is that if the Government does not consult us, its chances of implementing the laws are slim," said a source.

Conversely, the ANC has accused the Government of pandering to the SAAU by delaying the passage of the Bill, claiming that no negotiations had been planned with the SAAU.

The ANC said the Bill had been the subject of high-level negotiations in the National Manpower Commission for more than two years, and the final draft version which resulted represented the interests of the groups involved. There was, therefore, no reason to re-open talks.

Government agrees: Law must change

W/Maid 12/6-18/6/92

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South Africa's labour legislators — both present and future — heed a recent International Labour Organisation report, the country could soon have a body of labour law to match the best in the world.

In a statement issued in response to the report, the government this week concurred with the ILO commissioners, who said: "The government is aware of the need for reform in the trade union and labour relations field

The government has responded positively to recommendations which would make South Africa's labour system one of the more advanced in the world. FERRAL HAFFAJEE reports

This provides a hopeful framework within which the various issues and problems identified in the Commission Report can be addressed."

The government also pointed out that important developments had taken place since the ILO commis-

sioners' visit in February. These included negotiations on legislation concerning farmworkers and towards the establishment of a national economic negotiating forum.

The government added that it is considering ways of extending inter-

im basic conditions of employment to domestic workers and that problems relating to trade union registration will be dealt with in the new Labour Relations Act currently being drafted.

The statement welcomed the ILO's offer of assistance in restructuring the labour courts and added that this was hopefully the start of a healthy relationship.

Shamima Saley, an attorney who acts for the Congress of South African

Trade Unions (Cosatu), commented this week: "It's a good report because it places our labour law in the context of international norms."

"The message seems to be that we can reapply for admission to the ILO if certain criteria are met. If we take heed of the recommendations, we could have one of the more advanced labour systems in the world."

The ILO commission came to South Africa at the invitation of Cosatu and after three months of tough deliberations, its report was issued last week.

The report states that the exclusion of farm and domestic workers from the labour statutes "poses one of the most serious problems affecting freedom of association in South Africa" and recommends the "early enactment" of appropriate legislation.

With municipal workers marching countrywide and the threat of a strike by civil servants, legislation for the public sector has become more pressing. The commission recognised that — in line with international standards — an unfettered right to strike in the public sector is not feasible. But it recommended that "adequate, impartial and speedy conciliation and arbitration procedures be set in place."

It also recommended the speedy negotiation of terms and conditions of employment for the public sector, as well as a redefinition of "essential services" workers.

Other key recommendations of the ILO report are that trade unions should be prohibited by law from restricting membership in terms of race and that the labyrinth of legislation for the "homelands" should be brought into line with South Africa's labour law.

- The report lists a number of ways in which the authorities' discretionary powers impinge on freedom of association. Among the more serious infringements are:
- The right to refuse the registration of a trade union
 - The right to conduct an inquiry into the affairs of a union
 - The provision that companies have to apply for permission to implement stop-order facilities where trade unions are not registered
 - On the right to strike, it recommended:
 - The streamlining of pre-strike procedures
 - That a simple majority in a strike ballot is sufficient
 - The inclusion of the right to strike over socio-economic issues
 - The amendment of the Act to provide protection for strikers against dismissal

Talks on farm labour laws suspended

STAN 166
24/6/92
The Congress of South African Trade Unions has suspended talks with the SA Agricultural Union (SAAU) about labour laws for the agricultural sector.

Cosatu campaigns coordinator Lisa Seftel said Cosatu would resume talks when the Minister of Manpower set a date for the promulgation of the Basic Conditions of Employment Bill and the Unemployment Insurance Bill, which make the existing Acts applicable to farmworkers.

She said the SAAU wanted the Unemployment Insurance Bill to be implemented next year. Cosatu wanted both Bills to be promulgated immediately.

SAAU deputy director of general services Kobus Kleynhans said it appeared that negotiations had reached a standstill.

Breakdown in Cosatu's talks with farmers' union

5/20/72 7/17/72
PRETORIA — Negotiations between the SA Agricultural Union (SAAU) and Cosatu on the application of the Labour Relations Act and the Wage Act to farm workers have stalled after months of fruitless meetings, SAAU deputy director Kobus Kleynhans said yesterday.

Cosatu had cancelled two meetings, scheduled for June 8 and 18, he said.

"We do not know whether they intend coming back to the negotiating table, or whether there has been a total breakdown."

Kleynhans said the SAAU was uncertain whether Cosatu was the appropriate organisation to deal with on the future labour conditions of farm workers.

"We are looking at the possibility of speaking to and negotiating with other bodies, such as the tribal chiefs, who are more closely in touch with farm work-

GERALD REILLY

ers than Cosatu, political parties and the Rural Foundation.

On the legislative amendments passed by Parliament last session to include farm workers in the Unemployment Insurance Act, Kleynhans said the SAAU was negotiating with the Manpower Department to have promulgation of the amendment postponed until the year's end.

"Then, we believe, other 12 months should be allowed for the 65 000 farmers involved to re-evaluate in terms of the legislation."

On the other controversial amendment accepted by Parliament — the application of the Basic Conditions of Employment Act to farm workers — Kleynhans said this was opposed by the SAAU and the majority of farmers.

The two-day politically motivated stayaway will be illegal, warns Rod Harper

No job protection for the strikers

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THE general strike, called by Cosatu and its affiliates on August 3, will be an illegal strike in terms of the Labour Relations Act and, given the recent decisions of the Labour Appeal Court, workers who join could lose their jobs.

Since a politically motivated strike is illegal in South Africa it would also constitute an unfair labour practice because it unfairly disrupts employers' businesses.

In the past the Industrial Court has assisted some employees who have engaged in politically motivated stayaways. These cases have mostly related to anti-apartheid activities. With the change in the political climate, the death of apartheid and the introduction of negotiations on political change, the argument for supporting em-

ployees in these circumstances has lost significance.

Employees will, therefore, be placing themselves in severe jeopardy in engaging in a general strike.

The risks they face are exacerbated by the fact that employers and employer associations have given advance warning that they will take disciplinary action against employees.

The view that black employees have no other means of voicing their support or opposition cannot hold the same force in the present situation. Black representatives at Codesa are presently part and parcel of a political body that should give birth to a new constitution and to a democratic society. Blacks through the ANC and other political organisations now have avenues through which they can voice

their opinion and influence decision-making.

In the United States, Germany and France political strikes are illegal. The prohibition of political strikes is, therefore, a normal phenomenon based on social policy considerations.

In all the legal systems quoted above, including ours, the strike is a last-resort weapon that unions can use in collective bargaining to attempt to compel the employer to accede to demands concerning working conditions.

The Labour Relations Act encourages "self-government" in industry in order to prevent interference from the State. Should employees use employment to enter the political arena then they will abuse the privilege of self-government.

This could be a dangerous activity which can encourage the merging of the two domains and promote State interference.

The present unemployment figures and the state of the our economy suggests that employment constitutes a valuable asset.

There is no guarantee that employees will be reinstated after dismissal or that they will find other jobs. Employees who wish to embark in these politically motivated collective actions should carefully weigh personal interests and those of their families against an exercise which may prove to be unsuccessful and cost them their jobs. □

● Rod Harper is a labour lawyer from Webber, Shepstone, and Findlay

DISMISSAL cases in the Industrial Court and Labour Appeal Court have increased sharply, writes ADRIAN HERSCH.

Statistics compiled by Van Zyl, Rudd & Associates show that challenges to dismissal in the first six months of this year more than doubled compared with the same time last year.

Continuing recession means that employees are becoming more determined to keep their jobs.

Sackings contested

But most cases relate to industrial court powers and functions — which could result in a move to arbitration.

Brian van Zyl says the Labour Relations Act (LRA) — as it now stands — presents problems about the jurisdiction of the industrial court.

Mr Van Zyl says the restructuring of the LRA is expected to deal with these prob-

lems. He predicts that until there is a new LRA the parties will make greater use of arbitration because they are able to agree on its jurisdiction.

In the first six months of 1992 the National Union of Metalworkers of SA (Numsa) and the SA Commercial Catering and Allied Workers Union (Saccawu) were involved in most of the labour court cases.

...nor Chris Stals.

...gramme (SAP) which has

each checked

LABOUR FEATURE Numsa members lose their legal battle for refusing voluntary work

Overtime ban is 'unfair practice'

By Ike Motsapi

A CONCERTED refusal by employees to work voluntary overtime which they had worked regularly constitutes an unfair pressure and labour practice.

This is the view of Peter Grealy and Sara Gon of Webber Shepstone Findlay following a recent Appellate Court Division judgment in the case of the National Union of Metalworkers of South Africa (Numsa) versus Macsteel

Grealy and Gon, writing in *People's Dynamics*, said the judgment ended years of controversy as to whether or not pressure tactics during negotiations were legitimate

Macsteel originally obtained an interim interdict in the Industrial Court requiring workers to terminate a collective ban on overtime embarked upon during wage negotiations

■ FINAL RULING Appellate Division rules employees' action as pressurising employers:

After the Industrial Court order was served on the union and its members, the majority of employees worked overtime when requested by the company.

On the return day of the interim interdict the Industrial Court suspended the existing interim interdict. The next day the union members collectively refused to work overtime

After the two parties had reached an agreement on wages union members agreed to work overtime as requested

The company then sought a final determination on the issue in the Industrial Court. The court found that the imposition of a collective overtime ban by the union and its members in the performance of voluntary or non-contractual

work during wage negotiations was a legitimate industrial relations pressure tactic which workers could exercise without any notice to the employer in order to test their collective bargaining power

The Labour Appeal Court reversed the Industrial Court's decision

The reason why the ban on overtime was, in the Labour Appeal Court's view, unfair was that it constituted a deviation from the purpose of collective bargaining

"It, so to speak, pre-empted collective bargaining," Grealy said

Gon said: "The Labour Appeal Court had no hesitation in finding that the premature resort to collective ac-

tion instigated by the union was unfair.

"The fact that the ban on overtime commenced on the day following a mass report-back meeting on negotiations by the union was, in the absence of evidence to the contrary, conclusive evidence in the court's view of the union's involvement."

The union referred the matter to the Appellate Division

It submitted that it accepted that the refusal by the majority of the workers to do overtime was "concerted action" taken by the employees in order to pressurise the company during wage negotiations

The union also accepted that it was

party to and encouraged this refusal and that the refusal by the employees to work overtime constituted a "labour practice" for the purpose of the definition on unfair labour practice in Section 1 of the Labour Relations Act as amended by the Act of 1988

The union, however, submitted that it could never be unfair for workers to refuse to do overtime, regardless of the motive, because employees were under no contractual obligation to work overtime

Grealy and Gon said the Appellate Division's judgment should be welcomed as it emphasised the primary importance of collective bargaining and also recognised that parties should only enter into "power play" as a last resort.

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27/8/92

So wefern



Commission 'balanced'

DIRK HARTFORD

NATIONAL Manpower Commission chairman Frans Barker says the decision of Manpower Minister Leon Wessels to restructure the commission strikes a healthy balance between the interests of the various parties to the commission

Barker said the immediate issues on its agenda included the consolidation of the Labour Relations Act (LRA) — including the issues of the registration of unions, industrial councils and strike law. The NMC had to decide on whether courts or legislation should clarify disputes around retrenchment and dismissal.

Other issues on its agenda were likely to include affirmative action and improving productivity.

He said the issue of independent members to the commission — and how they should be dealt with — was likely to be the most controversial matter for the other parties to the commission. He emphasised that the commission working group itself could not reach consensus on this.

Wessels said the one third of the members of the commission delegat-

ed by the Minister would consist of the chairman, deputy chairman, departmental representatives and expert (legal and otherwise) appointed by the department.

The other two thirds will be representatives of employers and labour chosen by those constituencies. The Minister would also hear the views of majorities and minorities.

Wessels stressed the commission advise the Minister. But DP spokesman Robin Carlisle said it would serve little purpose unless and until government gave it decision-making power so it could function as a true labour relations forum.

Cosatu said its executive would be meeting in a week's time to decide on whether or not to participate.

Its preconditions for participating included that the department be bound by majority decisions, that public sector parties be represented and that consensus in the commission be put directly to Parliament.

● Comment. Page 10

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Penalties for enterprise

Johan Naude is senior manager of development promotion at the Small Business Development Corp

Efforts to revitalise the economy can benefit from a hard look at the impact of labour law on the small, or developing, business sector

The statutory framework for labour relations evolved during the Eighties, within formal collective bargaining structures. These were dominated by the larger employers, the benefits of labour democracy were secured for thousands of employees

But to what extent can our labour legislation be reconciled with the need for economic growth?

The recent report of the National Manpower Commission (NMC) on the influence of labour law on the small business sector accepted a number of important principles

The report says it is imperative that more South Africans become involved in the ownership of the means of production. It stresses the need for accelerating the development of entrepreneurs

One way to achieve this would be to acknowledge legally the special circumstances and structural weaknesses of smaller businesses

The NMC report recommends that micro enterprises (those with no more than five permanent employees), as well as new small businesses still in their first year, should get automatic concessions in terms of the Work-

men's Compensation Act, the Unemployment Insurance Act and the Machinery & Occupational Safety Act. More fundamental are proposals to make the system of exemptions more accessible

A compromise is necessary between protecting jobs and protecting workers. Here a distinction must be drawn between

- Costly legal requirements that undermine start-up and growth prospects, and
- Principles that ensure fairness

The report says there should not be interference in the autonomy of industrial councils. However, it recommends that where parties to an industrial council have requested the promulgation of a wage agreement, the Manpower Minister may refuse this unless the council has tried to meet the needs of small business

To what extent will such an approach be followed in practice?

Industrial councils are inherently biased against competition. The development needs of the small business sector are not being accommodated because of the centralised nature of industrial bargaining. Negotiation forums are dominated by larger employers (and unions). Their agreements impose requirements more suitable to big companies — though some small employer bodies have recently acquired representation on industrial councils to try to rectify this

More emphasis should be placed on re-

FM 4/9/92



gional or geographic agreements. Micro enterprises should also be exempted from such cost requirements as minimum wages, social security contributions, prescribed equipment and record-keeping — or have them phased in gradually

The reliance on existing exemption procedures is over-optimistic — despite the recommendation that such applications should be treated more seriously and that micro businesses be made more aware of their exemption rights

Industrial councils need to become more accountable for their decisions. It may be necessary to impose statutory requirements on them to comply with the rules of natural justice

Wealth creation through small business development can happen only if structural inequalities are removed. For example, it is not entirely clear to what extent the interests of the small business sector will be represented on a reconstituted NMC

Equity has often been cited as a primary reason for strict compliance with all provisions of the labour law. But surely there is merit in determining compliance based on size and affordability

We cannot go forward with a burdened small business sector. There has to be consultation, negotiation and compromise in order to achieve the goals of economic development.

Guide to holding of proper strike ballot

■ Judge found there were irregularities in Numsa's action:

By Ike Motsapi

RECENT Industrial Court decisions have resulted in trade unions wondering what constitutes a proper strike ballot for the purpose of Section 65 of the Labour Relations Act (LRA)

The strike by the National Union of Metalworkers of South Africa (Numsa) was declared null and void by the Pretoria Supreme Court after the court found that there had been some irregularities during balloting

People's Dynamics on Labour Law in South Africa has published an article on the issue of what constitutes a proper strike ballot.

Among the guidelines are

A ballot officer must make the necessary arrangements for the holding of the ballot, supervise the conducting of the

ballot and ensure that procedure in the union's constitution is strictly adhered to.

The ballot officer should give the employer reasonable written notice of the date, time and place of the ballot and invite him to send an observer to witness the balloting.

Where an employer permits a ballot to be held on his premises, the ballot officer should ensure that the balloting is not disruptive.

The issue upon which the ballot is to be taken must be the same issue which formed the subject of the dispute between the parties at the Industrial Council or Conciliation Board meeting;

The issue as it appears on the ballot papers, in one of the official languages, should be clear, concise and understandable

(166)
bowetam 24/9/92

[Faint handwritten notes and markings on the right margin]

on behalf of that union or organization, in furtherance of a strike or lock-out. Provided that this indemnity shall not apply to any act committed in furtherance of any strike or lock-out in which, or in the continuation of which, any employee, employer or other person is by section 65 forbidden to take part, or to any act the commission of which is a criminal offence, or any action contrary to a non-strike or non-lock-out agreement."

Amendment of the long title of Act 28 of 1956, as substituted by section 20 of Act 94 of 1979, section 61 of Act 57 of 1981, section 10 of Act 2 of 1983 and section 29 of Act 83 of 1988

10. The long title of the principal Act is hereby substituted by the following long title

"To consolidate and amend the law relating to the registration and regulation of trade unions and employers' organizations, the prevention and settlement of disputes between employers and employees, and the regulation of terms and conditions of employment by agreement, **[and]** arbitration and labour codes, to provide for the establishment of a National Manpower Commission and to define its functions; to provide for the establishment of an industrial court and to define its functions, to provide for the establishment of a special labour court and to define its functions; to provide for the establishment of a labour appeal court and to define its functions, to provide for the control of labour brokers and the registration of labour brokers' offices; and to provide for incidental matters."

Short title and commencement

11. (1) This Act shall be called the Labour Relations Amendment Act, 1993, and shall come into operation on a date fixed by the State President by proclamation in the *Gazette*

(2) Different dates may be so fixed in respect of the different provisions of this Act

(31 December 1992)

NOTICE 1178 OF 1992

DEPARTMENT OF TRANSPORT

**AIR SERVICE LICENSING ACT, 1990
(ACT No. 115 OF 1990)**

Pursuant to the provisions of section 15 (1) (b) of Act No 115 of 1990 and regulation 8 of the Domestic Air Services Regulations, 1991, it is hereby notified for general information that the application details of which appear in the Schedule hereto, will be considered by the Air Service Licensing Council

Representations in accordance with section 15 (3) of Act No 115 of 1990 in support of, or in opposition to, an application, should reach the Air Service Licensing Council, Private Bag X193, Pretoria, 0001, within 21 days of the date of publication hereof

beampte namens daardie vereniging of organisasie ter bevordering van 'n staking of uitsluiting gepleeg, aanhangig gemaak nie. Met dien verstande dat hierdie vrywaring nie van toepassing is nie op enige handeling verrig ter bevordering van 'n staking of uitsluiting waaraan, of aan die voortsetting waarvan, enige werknemer, werkgewer of ander persoon deur artikel 65 belet word om deel te neem, of op enige handeling waarvan die verrigting 'n kriminele oortreding is, of enige handeling in stryd met 'n geenstakings- of -uitsluitingsooreenkoms."

Wysiging van die langtitel van Wet 28 van 1956, soos vervang deur artikel 20 van Wet 94 van 1979, artikel 61 van Wet 57 van 1981, artikel 10 van Wet 2 van 1983 en artikel 29 van Wet 83 van 1988

10. Die langtitel van die Hoofwet word hierby deur die volgende langtitel vervang.

"Tot samevatting en wysiging van die wet met betrekking tot die registrasie en reeling van vakverenigings en werkgewersorganisasies, die voorkoming en beslegting van geskille tussen werkgewers en werknemers, en die reeling van bedinge en voorwaardes van diens deur ooreenkoms, **[en]** arbitrasie en arbeidskodes, om voorsiening te maak vir die instelling van 'n Nasionale Mannekragskommissie en om sy werksaamhede te omskryf, om voorsiening te maak vir die instelling van 'n nywerheidshof en om sy werksaamhede te omskryf, om voorsiening te maak vir die instelling van 'n spesiale arbeidshof en om sy werksaamhede te omskryf, om voorsiening te maak vir die instelling van 'n arbeidsappèlhof en om sy werksaamhede te omskryf; om voorsiening te maak vir beheer oor arbeidsmakelaars en die registrasie van arbeidsmakelaarskantore; en om voorsiening te maak vir bykomstige aangeleenthede "

Kort titel en inwerkingtreding

11. (1) Hierdie Wet heet die Wysigingswet op Arbeidsverhoudinge, 1993, en tree in werking op 'n datum deur die Staatspresident by proklamasie in die *Staatskoerant* bepaal

(2) Verskillende datums kan aldus bepaal word ten opsigte van die verskillende bepalings van hierdie Wet

(31 Desember 1992)

KENNISGEWING 1178 VAN 1992

DEPARTEMENT VAN VERVOER

**WET OP DIE LISENSIERING VAN LUGDIENSTE,
1990 (WET No 115 VAN 1990)**

Hierby word ingevolge die bepalings van artikel 15 (1) (b) van Wet No 115 van 1990 en regulasie 8 van die Regulasies vir Binnelandse Lugdiens, 1991, vir algemene inligting bekendgemaak dat die Lugdienslisensieringsraad die aansoeke waarvan besonderhede in die Bylae hieronder verskyn, sal oorweeg

Vertoe ingevolge artikel 15 (3) van Wet No 115 van 1990 ter ondersteuning of bestryding van 'n aansoek moet die Lugdienslisensieringsraad, Privaat Sak X193, Pretoria, 0001, binne 21 dae na die datum van publikasie hiervan bereik

in the form of a labour code or the amendment of a labour code referred to in subsection (2) and request that the labour code or amendment referred to, be declared binding upon the parties who submitted the labour code or amendment. Provided that the provisions of subsections (2) (b) and (3) shall *mutatis mutandis* apply in respect of the publication, suspension or amendment of such labour code or amending labour code

(5) Any labour or amending labour code declared binding in terms of subsection (4) upon all the members of the group or association of employers referred to in subsection (4), shall be binding upon every employer who was a member of such group or association on the date on which the labour code or amending labour code was concluded, or who thereafter became a member, during the whole period, during which such labour code or amending labour code is binding upon the members of such group or association, whether he remains a member of such a group or association or not

(6) The Minister or an officer designated by him for that purpose, may, on application, grant exemption from any provision of a labour code made under subsection (2) or (4) or amending labour code made under subsection (4), to or in respect of any person for such period and subject to such conditions as the Minister or such officer, as the case may be, may determine

(7) Any exemption granted—

(a) by the Minister or any such officer may at any time be withdrawn by the Minister, or

(b) by any such officer may at any time be withdrawn by that officer or by any other officer designated by the Minister for that purpose

(8) An industrial council agreement or a conciliation board agreement or any matter regulated in terms thereof in respect of an employee, shall not be affected by a labour code, but a labour code shall be applicable in respect of such an employee in so far as a provision thereof provides for a matter which is not regulated by or in terms of the agreement referred to, in respect of such an employee "

Amendment of section 79 of Act 28 of 1956, as substituted by section 26 of Act 83 of 1988 and section 12 of Act 9 of 1991

9. Section 79 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

"(1) No civil legal proceedings shall be brought in any court of law against any employee, employer, registered trade union or employers' organization, or against any member, office-bearer or official of any such union or organization in respect of any breach of contract, breach of statutory duty or delict (other than defamation) committed by that employee, employer, union or organization, or by that member, office-bearer or official

die wysiging van 'n arbeidskode bedoel in subartikel (2) aan die Minister voorlê en versoek dat bedoelde arbeidskode of wysiging bindend verklaar word vir die partye wat die arbeidskode of wysiging voorgelê het. Met dien verstande dat die bepalings van subartikels (2) (b) en (3) *mutatis mutandis* van toepassing is ten opsigte van die publikasie, intrekking of wysiging van sodanige arbeidskode of wysigingsarbeidskode

(5) Enige arbeidskode of wysigingsarbeidskode wat kragtens subartikel (4) bindend is op die lede van die groepe of vereniging van werkgewers soos in subartikel (4) bedoel, is bindend op elke werkgewer wat 'n lid was van sodanige groep of vereniging op die datum waarop die arbeidskode of wysigingsarbeidskode aangenaam is, of wat daarna 'n lid geword het, gedurende die hele tydperk waarin sodanige arbeidskode of wysigingsarbeidskode bindend is op die lede van sodanige groep of vereniging, hetsy hy 'n lid van so 'n groep of vereniging bly al dan nie

(6) Die Minister of 'n beamppte deur hom vir dié doel aangewys, kan, op versoek, vrystelling verleen van enige bepaling van 'n arbeidskode kragtens subartikel (2) of (4) of wysigingsarbeidskode kragtens subartikel (4) gemaak, aan of ten opsigte van enige persoon vir die tydperk en onderworpe aan die voorwaardes wat die Minister of bedoelde beamppte, na gelang van die geval, bepaal

(7) 'n Vrystelling wat toegestaan is—

(a) deur die Minister of so 'n beamppte kan te eniger tyd deur die Minister ingetrek word, of

(b) deur so 'n beamppte kan te eniger tyd deur die beamppte, of deur enige ander beamppte deur die Minister vir dié doel aangewys, ingetrek word

(8) 'n Nywerheidsraadooreenkoms of 'n versoeningsraadooreenkoms of 'n aangeleentheid daarkragtens ten opsigte van 'n werknemer gereel, word nie deur 'n arbeidskode geraak nie, maar 'n arbeidskode is ten opsigte van so 'n werknemer van toepassing vir sover 'n bepaling daarvan vir 'n aangeleentheid voorsiening maak wat nie ten opsigte van so 'n werknemer by of kragtens bedoelde ooreenkoms gereel word nie "

Wysiging van artikel 79 van Wet 28 van 1956, soos vervang deur artikel 26 van Wet 83 van 1988 en artikel 12 van Wet 9 van 1991

9. Artikel 79 van die Hoofwet word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang

"(1) Geen siviele geregtelike stappe word in enige geregshof teen 'n werknemer, werkgewer, geregistreerde vakvereniging of werkgewersorganisasie of teen 'n lid, ampsdraer of beamppte van so 'n vereniging of organisasie ten opsigte van enige kontrakbreuk, verbreking van 'n statutêre verpligting of onregmatige daad (behalwe laster) deur daardie werknemer, werkgewer, vereniging of organisasie, of deur daardie lid, ampsdraer of

NOTICE 1176 OF 1992**DEPARTMENT OF AGRICULTURE**

AGRICULTURAL PRODUCT STANDARDS ACT,
1990 (ACT No 119 OF 1990)

REGULATIONS RELATING TO DAIRY PRODUCTS
AND IMITATION DAIRY PRODUCTS: PROPOSED
AMENDMENT

The Executive Officer: Agricultural Product Standards intends to request the Minister of Agriculture to further amend the Regulations relating to Dairy Products and Imitation Dairy Products, published by Government Notice No R 2581 of 20 November 1987, as amended by Government Notice No R 2141 of 6 October 1989.

The proposed amendments are available for inspection and copies can be obtained from the Executive Officer: Agricultural Product Standards, Private Bag X258, Pretoria, 0001, Telephone (012) 206-3259, Fax (012) 206-3267.

Interested parties who wish to comment on the proposed amendments are invited to forward their comments in writing to the above address by not later than 31 January 1993.

D. P. KEETCH,

Executive Officer: Agricultural Product Standards.

(31 December 1992)

NOTICE 1177 OF 1992**DEPARTMENT OF MANPOWER**

PROPOSED AMENDMENT OF THE LABOUR RELATIONS ACT, 1956

1. A draft Amendment Bill, set out in the Schedule hereto is published as a working document for general information and comment

2. (a) All interested parties are invited to submit **written** comment on the Draft Amendment Bill as soon as possible. Such comment should be forwarded to the Director-General, Manpower, Private Bag X117, Pretoria, 0001, or Fax No. (012) 320-0799 for the attention of Mr P. Viljoen [Tel No (012) 310-6427].

(b) Comment should reach the Director-General by not later than 26 February 1993.

(c) The name, telephone number, fax number and address of a person who may be contacted in regard to the comment should also be stated clearly

3. The final Amendment Bill will be submitted by the Department of Manpower to the Government after the comment received on the working document appearing in the Schedule has been processed.

4. The working document must be read against the following background

(a) Provision is made for a special labour court and negotiations are taking place to create the infrastructure for such a special labour court but it may take a considerable time before it becomes operational.

KENNISGEWING 1176 VAN 1992**DEPARTEMENT VAN LANDBOU**

WET OP LANDBOUPRODUKSTANDAARDE, 1990
(WET No 119 VAN 1990)

REGULASIES BETREFFENDE SUIWELPRODUKTE
EN NAGEMAAKTE SUIWELPRODUKTE VOOR-
GESTELDE WYSIGING

Die Uitvoerende Beampte Landbouprodukstandaarde is voornemens om die Minister van Landbou te versoek om die Regulasies betreffende Suivelprodukte en Nagemaakte Suivelprodukte, gepubliseer by Goewermentskennisgewing No R 2581 van 20 November 1987, soos gewysig deur Goewermentskennisgewing No R. 2141 van 6 Oktober 1989, verder te wysig

Die voorgestelde wysigings is ter insae beskikbaar by en afskrifte kan bestel word vanaf die Uitvoerende Beampte Landbouprodukstandaarde, Privaatsak X258, Pretoria, 0001, Telefoon (012) 206-3259, Faks (012) 206-3267.

Belanghebbendens wat kommentaar op die voorgestelde wysigings wil lewer word genooi om dit skriftelik voor of op 31 Januarie 1993 by bovermelde adres in te dien

D. P. KEETCH,

Uitvoerende Beampte Landbouprodukstandaarde

(31 Desember 1992)

KENNISGEWING 1177 VAN 1992**DEPARTEMENT VAN MANNEKRAG**

VOORGESTELDE WYSIGING VAN DIE WET OP
ARBEIDSVERHOUDINGE, 1956

1. 'n Konsepwysigingswetsontwerp wat in die Bylae hieronder verskyn, word as 'n werksdokument vir algemene inligting en kommentaar gepubliseer

2. (a) Alle belanghebbendes word versoek om so spoedig moontlik **skriftelik** kommentaar op die Konsepwysigingswetsontwerp te lewer. Die kommentaar moet gestuur word aan die Direkteur-generaal Mannekrag, Privaatsak X117, Pretoria, 0001, of Faksno (012) 320-0799 vir die aandag van mnr P Viljoen [Tel No. (012) 310-6427].

(b) Kommentaar moet die Direkteur-generaal nie later nie as 26 Februarie 1993 bereik

(c) Die naam, telefoonnommer, faksnommer en adres van 'n persoon met wie oor die kommentaar geskakel kan word, moet ook duidelik gemeld word

3. Die finale Wysigingswetsontwerp sal deur die Departement van Mannekrag aan die Regering voorgelê word nadat kommentaar wat op die werksdokument wat in die Bylae verskyn, verwerk is

4. Die werksdokument moet gelees word teen die volgende agtergrond

(a) Daar word vir 'n spesiale arbeidshof voorsiening gemaak en onderhandelings is aan die gang om die infrastruktuur vir so 'n spesiale arbeidshof te skep maar dit kan 'n geruime tyd neem voordat dit operasioneel sal wees

(b) The establishment of rights without a structured mechanism to enforce such rights, is still problematic (165) (166).

(c) Consensus between employers and especially between the South African Agricultural Union and the employees who served on the National Manpower Commission, could not be reached on the following matters—

- whether guidelines on codes should be published together with the draft bill,
- the manner in which the code should be drafted and by whom;
- the manner in which an order for reinstatement should function,
- the procedures to settle disputes,
- time limits to settle disputes,
- quite a number of aspects regarding the special labour court;
- certain aspects concerning non-strike and lock-out agreements, and
- the manner in which the extension of the Labour Relations Act to agriculture should take place

(d) The NMC recommended that the Act should be flexible, clear and certain. In order to achieve this, it was recommended that a code should be drafted. The Department agrees with this approach and would recommend to Government that a code is a prerequisite to achieve the objective suggested by the NMC. An acceptable code should therefore exist at the time the amendments become law. It will be unfair towards both employers and employees to expect from them to be au fait with the principles set out in the numerous decisions of the various courts.

(e) Consensus could also not be reached by the NMC whether a labour code should be of a sectoral or national nature. As the present investigation was only in respect of agriculture, the Department suggests that both sectoral and national codes for agriculture should be possible. The different sectors of agriculture are so diverse that it should be possible for that specific sectors to also bring about a code. Whether this principle should be extended to the other sectors of the economy is a matter which could be further investigated.

(f) The NMC has recommended that the labour codes should have legal force. By making the labour code part of the definition of an unfair labour practice, legal force is given thereto by the enforcement of the rights and liabilities linked to the compliance of this definition.

(g) The principle of self-governance which was recommended by the NMC, is also included in the enabling provision for a code (proposed section 51B). It is possible for parties to also bring about the guidelines for a code by means of a collective

(b) Die daarstelling van regte sonder 'n gestruktureerde meganisme om sodanige regte af te dwing is nog problematies.

(c) Konsensus tussen werkgewers en in besonder tussen die Suid-Afrikaanse Landbou-unie en die werknemers wat op die Nasionale Mannekragkommissie gediens het, kon nie oor die volgende aangeleenthede bereik word nie—

- of riglyne oor kodes saam met die wetsontwerp gepubliseer moet word of nie,
- die wyse waarop die kode saamgestel moet word en deur wie,
- die wyse waarop 'n bevel vir herindiensstelling behoort te funksioneer,
- die prosedures om dispute te besleg,
- tydlimiete om geskille te besleg;
- 'n hele aantal aspekte rakende die spesiale arbeidshof;
- sekere aspekte betreffende geenstakings- en -uitsluitingsooreenkomste; en
- die wyse waarop die uitbreiding van die Wet op Arbeidsverhoudinge na die landbou moet plaasvind

(d) Die NMK het aanbeveel dat die Wet soepel, duidelik en seker moet wees. Ten einde dit te bereik, is aanbeveel dat 'n kode opgestel word. Die Departement stem met hierdie benadering saam en sal by die Regering aanbeveel dat 'n kode 'n voorvereiste is om die doel wat deur die NMK voorgestel is, te bereik. 'n Aanvaarbare kode moet derhalwe bestaan wanneer die wysigings wet word. Dit sal onregverdig teenoor werkgewers en werknemers wees om te verwag dat hulle vertrouwd moet wees met die beginsels soos uiteengesit in vele beslissings van die onderskeie houe.

(e) Daar kon ook nie konsensus op die NMK bereik word of 'n arbeidskode sektoraal of nasionaal van aard moet wees nie. Omdat die huidige ondersoek slegs ten opsigte van die landbou was, stel die Departement voor dat sektorale sowel as nasionale kodes vir die landbou moontlik moet wees. Die verskillende sektore van die landbou is so uiteenlopend dat dit moontlik moet wees om vir daardie bepaalde sektore ook 'n kode daar te stel. Of hier dieselfde beginsel na die ander sektore van die ekonomie uitgebrei moet word, is 'n aangeleentheid wat verder ondersoek kan word.

(f) Die NMK het aanbeveel dat die arbeidskodes regsrag moet hê. Deur die arbeidskode deel van die definisie van 'n onbillike arbeidspraktyk te maak, word daaraan regsrag verleen deur die afdwinging van die regte en verpligtinge verbonde aan die nakoming van hierdie definisie.

(g) Die beginsel van selfbestuur wat die NMK aanbeveel het, is ook vervat in die magtigende bepaling vir 'n kode (voorgestelde artikel 51B). Dit is moontlik vir partye om by wyse van kollektiewe ooreenkoms ook die riglyne vir 'n kode daar te stel, soos

agreement, as is presently the case of some industrial councils. Provision is also made for the possibility of a non-strike or non-lock-out agreement. The definition of "an agreement" in the Act is extended to give legal force to this recommendation of the NMC. At this point in time the suggestion is limited to agriculture, as the investigation by the NMC was limited to agriculture only.

(h) The NMC has made divergent recommendations regarding reinstatement orders. The Department recommends that, if a party chooses to follow the normal process, he can obtain such a reinstatement order from the industrial court. If a party, however, chooses to speedily finalise the matter at the special labour court, it is recommended that the special labour court be limited to awarding compensation and not reinstatement. This recommendation by the Department is also limited to agriculture as the investigation by the NMC only dealt with agriculture.

(i) In view of the viewpoints taken on the NMC that it is expedient that a dispute should be settled at the lowest possible level, a new section 42 (1A) is proposed in which a conciliation board will play an important role in the settlement of disputes. It will also enable employers and employees in agriculture to achieve this object with the settlement of disputes by means of collective labour codes, as referred to in the proposed section 51B(4).

SCHEDULE

GENERAL EXPLANATORY NOTE:

- [] Words in bold type in square brackets indicate omissions from existing enactments
- Words underlined with a solid line indicate insertions in existing enactments

BILL

To amend the Labour Relations Act, 1956, so as to define certain expressions; to make the Act applicable to farming activities; to provide for the establishment of a special labour court; to provide for labour codes and to provide for matters connected therewith.

BE IT ENACTED by the State President and the Parliament of the Republic of South Africa, as follows

Amendment of section 1 of Act 28 of 1956, as amended by section 1 of Act 41 of 1959, section 1 of Act 104 of 1967, section 1 of Act 94 of 1979, section 1 of Act 95 of 1980, section 1 of

tans die geval is by sommige nywerheidsrade. Daar word ook die moontlikheid vir geen stakings- of -uitsluitingsooreenkoms voorsiening gemaak. Die definisie van " 'n ooreenkoms" in die wet word uitgebrei om regs krag aan hierdie aanbeveling van die NMK te gee. Op hierdie tydstip word die voorstel beperk tot die landbou, aangesien die ondersoek van die NMK slegs tot die landbou beperk was.

(h) Die NMK het uiteenlopende aanbevelings oor herindienstellingsbevele gemaak. Die Departement beveel aan, dat indien 'n party verkies om deur die gewone proses te gaan, hy wel so 'n herstelbevel by die nywerheidshof kan kry. Indien 'n party egter kies om die saak spoedig gefinaliseer te kry by die spesiale arbeidshof, dan word aanbeveel dat die spesiale arbeidshof beperk word tot die toeken van kompensasie en nie herindienstelling nie. Hierdie aanbeveling van die Departement is ook slegs beperk tot die landbou omdat die ondersoek van die NMK slegs oor die landbou gehandel het.

(i) In die lig van die standpunte op die NMK dat dit wenslik is dat 'n geskil op die laagste moontlike vlak besleg behoort word, word 'n nuwe artikel 42 (1A) voorgestel waarin 'n versoeningsraad 'n belangriker rol sal speel in die beslegting van geskille. Dit sal ook vir werkgewers en werknemers in die landbou moontlik wees om hierdie oogmerk met geskilbeslegting deur middel van kollektiewe arbeidskodes, soos in die voorgestelde artikel 51(B)(4) bedoel, te bereik.

BYLAE

ALGEMENE VERDUIDELIKENDE NOTA:

- [] Woorde in vet druk tussen vierkantige hake dui skrapings uit bestaande verordenings aan.
- Woorde met 'n volstreep daaronder, dui invoegings in bestaande verordenings aan.

WETSONTWERP

Tot wysiging van die Wet op Arbeidsverhoudinge, 1956, ten einde sekere uitdrukkings te omskryf; om die Wet op boerderybedrywighede van toepassing te maak; om voorsiening te maak vir die instelling van 'n spesiale arbeidshof; om vir arbeidskodes voorsiening te maak en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

DAAR WORD BEPAAL deur die Staatspresident en die Parlement van die Republiek van Suid-Afrika, soos volg

Wysiging van artikel 1 van Wet 28 van 1956, soos gewysig deur artikel 1 van Wet 41 van 1959, artikel 1 van Wet 104 van 1967, artikel 1 van Wet 94 van 1979, artikel 1 van Wet 95 van 1980, artikel 1 van Wet 57 van 1981, artikel 1

Act 57 of 1981, section 1 of Act 51 of 1982, section 1 of Act 2 of 1983, section 1 of Act 83 of 1988 and section 1 of Act 9 of 1991

1. Section 1 of the Labour Relations Act, 1956 (hereinafter referred to as the principal Act), is hereby amended—

- (a) by the substitution in subsection (1) for the definition of "agreement" of the following definition

" 'agreement' means an agreement entered into or deemed to have been entered into by parties to an industrial council or conciliation board under this Act **[: Provided that for the purposes of an unfair labour practice, it shall include]** and also any agreement **[enforceable in terms of this Act and]** entered into between any - **[an employer and a trade union or any group of employees in the employment of such employer]**

- (a) employer;
- (b) group of employers,
- (c) employers' organisation,
- (d) group of employers' organisations,
- (e) group of one employer and one or more employers' organisation, or
- (f) group of employers and one or more employers' organisations,

on the one hand and any—

- (g) group of employees,
- (h) trade union;
- (i) group of trade unions; or
- (j) group of employees and one or more trade unions,

on the other hand,

with regard to farming activities;",

- (b) by the insertion in subsection (1) after the definition of "Director-General" of the following definition:

" 'disputes of rights', disputes arising from an agreement or labour code with regard to farming activities and the unfair dismissal of an employee in employment in connection with farming activities,"

- (c) by the insertion in subsection (1) after the definition of "employers organization" of the following definitions.

" 'farm' includes fresh water and sea water in so far as farming activities are carried on therein or thereon,

van Wet 51 van 1982, artikel 1 van Wet 2 van 1983, artikel 1 van Wet 83 van 1988 en artikel 1 van Wet 9 van 1991

1. Artikel 1 van die Wet op Arbeidsverhoudinge, 1956 (hieronder die Hoofwet genoem), word hierby gewysig—

- (a) deur in subartikel (1) na die omskrywing van "arbeidsappèlhof" die volgende omskrywing in te voeg

" 'arbeidskode', 'n arbeidskode wat ingevolge artikel 51B tot stand gebring is,"

- (b) deur in subartikel (1) na die omskrywing van "beloning" die volgende omskrywing in te voeg

" 'boerderybedrywighede', enige bedrywighede op 'n plaas in verband met die landbou, met inbegrip van veeteelt, tuinbou en bosbou,"

- (c) deur in subartikel (1) na die omskrywing van "gebied" die volgende omskrywing in te voeg

" 'geenstakings- of -uitsluitingsooreenkoms', enige skriftelike ooreenkoms wat 'n bepaling bevat wat 'n staking of uitsluiting tussen die partye by so 'n ooreenkoms vir 'n tydperk van nie langer as 12 maande nie verbied en wat ook nie vir tydperke van langer as 12 maande verleng mag word nie;",

- (d) deur in subartikel (1) by die omskrywing van "onbillike arbeidspraktyk" die volgende woorde by te voeg.

" . Met dien verstande dat waar 'n werkgewer of werknemer ooreenkomstig die bepalings van 'n artikel 51B arbeidskode en die Wet op Basiese Diensvoorwaardes, 1983 (Wet No 3 van 1983), opgetree het, sodanige optrede as billik geag word totdat die teendeel bewys is en dat enige optrede in stryd met 'n geenstakings- of -uitsluitingsooreenkoms geag word onbillik te wees totdat die teendeel bewys is,"

- (e) deur in subartikel (1) die omskrywing van "ooreenkoms" deur die volgende omskrywing te vervang.

" 'ooreenkoms', 'n ooreenkoms wat deur partye by 'n nywerheidsraad of versoeningsraad kragtens hierdie Wet aangegaan is of wat geag word aldus aangegaan te gewees het [: Met dien verstande dat by die toepassing van 'n onbillike arbeidspraktyk dit] en ook enige ooreenkoms [insluit wat ingevolge hierdie Wet afdwingbaar is en] wat aangegaan is deur enige - ['n werkgewer en 'n vakvereniging of enige groep werknemers in diens by so 'n werkgewer]

- (a) werkgewer,
- (b) groep werkgewers;
- (c) werkgewersorganisasie,
- (d) groep werkgewersorganisasies;

'farming activity' means any activity on a farm in connection with agriculture, including stockbreeding, horticulture and forestry,"

- (d) by the insertion in subsection (1) after the definition of "labour broker's office" of the following definition:

" 'labour code', a labour code brought into existence in terms of section 51B";

- (e) by the insertion in subsection (1) after the definition of "Minister" of the following definition

" 'non-strike or non-lock-out agreement', any written agreement which contains a provision which prohibits a strike or lock-out between the parties to such an agreement for a period of not more than 12 months and which may also not be extended for periods of more than 12 months,"

- (f) by the insertion in subsection (1) after the definition of "secretary" of the following definition:

" 'special labour court', a court established by section 17E,"; and

- (g) by the addition to the definition of "unfair labour practice" in subsection (1) of the following words:

" Provided that where an employer or employee has acted in accordance with the provisions of a section 51B labour code and the Basic Conditions of Employment Act, 1983 (Act No 3 of 1983), such action shall be deemed to be fair until the contrary has been proven and that any action contrary to a non-strike or non-lock-out agreement shall be deemed to be unfair until the contrary has been proven,"

Amendment of section 2 of Act 28 of 1956, as amended by section 2 of Act 57 of 1981, section 2 of Act 81 of 1984, section 2 of Act 83 of 1988 and section 2 of Act 9 of 1991

2. Section 2 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection.

"(2) This Act shall not apply to persons in respect of their employment [in arming operations or] in domestic service in private households, nor to officers of Parliament in respect of their employment as such, nor, subject to the provisions of subsections (3) and (9), to persons employed by the State in respect of their employment as such, nor to any employee of any local authority designated by such authority in terms of any law as chief administrative officer of the local authority, in so far as it concerns the determination of remuneration and other service benefits provided for in the Remuneration of Town Clerks Act, 1984 (Act No 115 of 1984), nor to

(e) groep van een werkgever en een of meer werkgewersorganisasie, of

(f) groep werkgewers en een of meer werkgewersorganisasies,

aan die een kant en enige —

(g) groep werknemers;

(h) vakvereniging,

(i) groep vakverenigings,

(j) groep van werknemers en een of meer vakverenigings,

aan die ander kant,

ten aansien van 'n boerderybedrywigheid,"

- (f) deur in subartikel (1) na die omskrywing van "perseel" die volgende omskrywing in te voeg

" 'plaas', ook varswater en seewater vir sover boerderybedrywigheede daarin of daarop beoefen word,"

- (g) deur in subartikel (1) na die omskrywing van "regspraktisyn" die volgende omskrywing in te voeg

" 'regtegeskille', geskille wat uit 'n ooreenkoms of arbeidskode voortspruit ten aansien van boerderybedrywigheede en die onbillike diensbeëindiging van 'n werknemer in diens in verband met boerderybedrywigheede," en

- (h) deur in subartikel (1) na die omskrywing van "skerdsregter" die volgende omskrywing in te voeg

" 'spesiale arbeidshof', 'n hof ingestel by artikel 17E,"

Wysiging van artikel 2 van Wet 28 van 1956, soos gewysig deur artikel 2 van Wet 57 van 1981, artikel 2 van Wet 81 van 1984, artikel 2 van Wet 83 van 1988 en artikel 2 van Wet 9 van 1991

2. Artikel 2 van die Hoofwet word hierby gewysig deur subartikel (2) deur die volgende subartikel te vervang

"(2) Hierdie Wet is nie van toepassing op persone ten opsigte van hul diens [in boerderybedrywigheede of] in huishoudelike diens in private huishoudings nie, nóg op amptenare van die Parlement ten opsigte van hul diens as sodanig, nóg, behoudens die bepalings van sub-artikels (3) en (9), op persone in diens van die Staat ten opsigte van hul diens as sodanig, nóg op enige werknemer van 'n plaaslike owerheid wat deur daardie owerheid as administratiewe hoofamp-tenaar van die plaaslike owerheid ingevolge een of ander wetsbepaling aangewys is, vir sover dit die vasstelling van beloning en ander diensvoordele waarvoor voorsiening in die Wet op die Besoldiging van Stadsklerke, 1984 (Wet No 115 van 1984), gemaak is, betref, nog op die

the performance of work in a charitable institution for which the persons performing it receive no remuneration, nor to persons who teach, educate or train other persons at any university, technikon, college, school or other educational institution maintained wholly or partly from public funds "

Amendment of section 17 of Act 28 of 1956, as substituted by section 8 of Act 94 of 1979 and amended by section 5 of Act 95 of 1980, section 18 of Act 57 of 1981, section 5 of Act 51 of 1982, section 2 of Act 2 of 1983, section 1 of Act 81 of 1984, section 5 of Act 83 of 1988 and section 4 of Act 9 of 1991

3. Section 17D of the principal Act is hereby amended by the insertion of the following paragraphs after paragraph (aA) of subsection (11)

"(aB) to make a determination in respect of a matter referred to it in terms of section 17E (2) (a) (iii),

(aC) to consider an application in terms of section 17D (1A) and to make an order which the industrial court deems to be fair under the circumstances."

Amendment of section 17D of Act 28 of 1956, as inserted by section 5 of Act 9 of 1991

4. Section 17D of the principal Act is hereby amended by the insertion of the following subsection after subsection (1)

"(1A) Notwithstanding any provision of this Act, an employer or employee who is engaged in farming activities, may apply to the industrial court, for an explanatory order that a strike or lock-out shall be unacceptable for a specified period where the strike or lock-out—

(a) has caused or is liable to cause serious damage to the property of an employer or endanger or is liable to endanger the health and safety of persons,

(b) could reasonably lead to the destruction of an employer's business or the viability of such a business, unless the strike or lock-out is functional to the collective bargaining process,

(c) is conducted in a violent manner, or is accompanied by threats of violence, or

(d) is or shall not be in accordance with a non-strike or non lock-out agreement or labour code "

Insertion of section 17E in Act 28 of 1956

5. The following section is hereby inserted in the principal Act after section 17D

"Establishment and functions of special labour court.

17E. (1) (a) A special labour court can by notice in the Gazette be established by the Minister and shall consist of persons

verrigting van werk in 'n liefdadighedsinrigting waarvoor die persone wat dit verrig geen beloning ontvang nie, nog op persone wat ander persone onderrig, opvoed of oplei aan enige universiteit, technikon, kollege, skool of ander opvoedkundige inrigting wat geheel en al of gedeeltelik uit staatsfondse onderhou word "

Wysiging van artikel 17 van Wet 28 van 1956, soos vervang deur artikel 8 van Wet 94 van 1979 en gewysig deur artikel 5 van Wet 95 van 1980, artikel 18 van Wet 57 van 1981, artikel 5 van Wet 51 van 1982, artikel 2 van Wet 2 van 1983, artikel 1 van Wet 81 van 1984, artikel 5 van Wet 83 van 1988 en artikel 4 van Wet 9 van 1991

3. Artikel 17D van die Hoofwet word hierby gewysig deur die volgende paragrawe na paragraaf (aA) van subartikel (11) in te voeg

"(aB) om 'n vasstelling te maak ten opsigte van 'n aangeleentheid wat ingevolge artikel 17E (2) (a) (iii) na hom verwys is,

(aC) om 'n aansoek ingevolge artikel 17D (1A) te oorweeg en so 'n bevel te maak as wat die nywerheidshof in die omstandighede billik ag;"

Wysiging van artikel 17D van Wet 28 van 1956, soos ingevoeg deur artikel 5 van Wet 9 van 1991

4. Artikel 17D van die Hoofwet word hierby gewysig deur die volgende subartikel na subartikel (1) in te voeg.

"(1A) Ongeag enige bepaling van hierdie Wet, mag 'n werkgewer of werknemer wat by boerderybedrywighede betrokke is, die Nywerheidshof nader vir 'n verklarende bevel dat 'n staking of uitsluiting onaanvaarbaar is vir 'n spesifieke tydperk wat die staking of uitsluiting—

(a) ernstige skade aan die eiendom van 'n werkgewer veroorsaak het of kan veroorsaak, of die gesondheid en veiligheid van persone in gevaar stel of kan stel,

(b) redelikerwys kan lei tot die vernietiging van 'n werkgewer se besigheid of die lewensvatbaarheid van so 'n besigheid, tensy die staking of uitsluiting funksioneel tot die kollektiewe bedingingsproses is,

(c) op 'n geweldadige wyse geskied, of gepaard gaan met dreigemente van geweld, of

(d) nie ooreenkomstig 'n geenstakings- of -uitsluitingsooreenkoms of arbeidskode is of sal wees nie."

Invoeging van artikel 17E in Wet 28 van 1956

5. Die volgende artikel word hierby in die Hoofwet na artikel 17D ingevoeg

"Instelling en werksaamhede van spesiale arbeidshof.

17E (1) (a) 'n Spesiale arbeidshof kan deur die Minister by kennisgewing in die Staatskoerant ingestel word en sal bestaan uit

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- who, in the opinion of the Minister, have experience of the administration of justice or skill in any matter which may be considered by the special labour court and can also be members of the industrial court
- (b) Members of the special labour court shall be appointed on the conditions determined by the Minister
- (c) The registrar of the special labour court shall be appointed by the Minister
- (d) A special labour court shall have jurisdiction in the magisterial district determined by the Minister by notice in the *Gazette*
- (e) The functions of the special labour court shall be performed by the persons appointed in terms of paragraph (a)
- (f) (i) Subject to the provisions of subparagraph (ii), the proceedings in a special labour court shall take place in open court
- (ii) A special labour court may in the interest of the administration of justice or of good order or of public morals or at the request of the parties to the proceedings for reasons considered sufficient by the special labour court, order that the proceedings shall be held behind closed doors or that specified persons shall not be present thereat
- (iii) If any person present at the proceedings of a special labour court disturbs the order of the court, the special labour court may order that such person be removed and detained in custody until the court adjourns, or the special labour court may, if in its opinion order cannot be otherwise maintained, order that the court room be cleared and that the public shall not be present at the proceedings.
- (g) If evidence is given in a language with which one of the parties is in the opinion of the special labour court not sufficiently conversant, a competent interpreter may be called by the special labour court to interpret that evidence into a language with which that party appears to be sufficiently conversant, irrespective of whether the language in which the evidence is given is one of the official languages
- (h) When by reason of absence or in capacity a presiding officer of the special labour court is unable to complete the hearing of a dispute, the hearing of the dispute shall be commenced *de novo* before another presiding officer
- persone wat na die oordeel van die Minister ondervinding van die regspleging het of bedrewe is in 'n aangeleentheid wat deur die spesiale arbeidshof oorweeg mag word en kan ook lede van die nywerheidshof wees
- (b) Lede van die spesiale arbeidshof word aangestel op die voorwaardes wat die Minister bepaal
- (c) Die griffier van die spesiale arbeidshof word deur die Minister aangestel
- (d) 'n Spesiale arbeidshof sal jurisdiksie hê in die landdrostdistrik wat die Minister by kennisgewing in die *Staatskoerant* bepaal
- (e) Die werksaamhede van die spesiale arbeidshof word verrig deur die persone kragtens paragraaf (a) aangestel
- (f) (i) Behoudens die bepalings van subparagraaf (ii) vind die verrigtinge in 'n spesiale arbeidshof in die ope hof plaas.
- (ii) 'n Spesiale arbeidshof kan in belang van die regspleging of die goeie orde of op versoek van die partye by die verrigtinge om redes wat die spesiale arbeidshof voldoende ag, gelas dat die verrigtinge agter geslote deure moet plaasvind of dat bepaalde persone nie daarby aanwesig mag wees nie
- (iii) Indien iemand wat by die verrigtinge van 'n spesiale arbeidshof aanwesig is, die orde van die hof versteur, kan die spesiale arbeidshof gelas dat so iemand verwyder en in bewaring aangehou word totdat die hof verdaag, of kan die spesiale arbeidshof, indien na sy oordeel die orde nie anders gehandhaaf kan word nie, gelas dat die hofsaal ontruim word en dat die publiek nie by die verrigtinge aanwesig mag wees nie
- (g) Indien getuënis afgelê word in 'n taal waarmee een van die partye na die mening van die spesiale arbeidshof nie genoegsaam vertrou is nie, kan die spesiale arbeidshof 'n bevoegde tolk inroep om die getuënis te vertolk in 'n taal waarmee daardie party genoegsaam vertrou blyk te wees, ongeag of die taal waarin die getuënis afgelê word een van die amptelike tale is
- (h) Wanneer die voorsittende beampte van die spesiale arbeidshof weens afwesigheid of onvermoe nie in staat is om die verhoor van 'n geskil te voltooi nie, moet die verhoor van die geskil *de novo* voor 'n ander voorsittende beampte 'n aanvang neem

(i) The messenger of the court appointed under the Magistrates' Courts Act, 1944 (Act No 32 of 1944) for the magistrates' court of a district, shall act as messenger of the court for a special labour court in that part of the said district falling within the area of jurisdiction of that court.

(2) (a) The special labour court—

(i) may, at the request of an employer or employee engaged in farming activities, give a hearing to a dispute of rights,

(ii) shall not be a court of record but the presiding officer shall take minutes or cause minutes to be taken of the judgment or award and sign it;

(iii) may at any time refer a matter submitted to it to the industrial court for a decision,

(iv) may only hear cases referred to it within 180 days from the date on which the dispute commenced or ceased,

(v) may not order reinstatement in the event of unfair dismissal but allow compensation at a rate of two weeks' wages for every completed year of employment with the employer concerned to a maximum of 30 weeks

(vi) may in the case of disputes of rights, other than an unfair dismissal, make such an order which the court under the circumstances may deem to be fair.

(b) (i) No person may represent another in the special labour court

(ii) If the presiding officer of the special labour court is of the opinion that justice shall not be done without representation, he shall refer the matter to the industrial court in terms of paragraph (a) (iii)

(c) A judgment or an award of the special labour court shall be final and there shall be no right of appeal

(d) The special labour court cannot make any order for costs.

(e) The Minister may, on advice of the Rules Board as contemplated in section 17 (22) (a), make rules for the special labour court in accordance with section 17 (22) (c) (i), (ii), (iii), (v), (vii) and (ix) and (d)

(i) Die geregsbode wat kragtens die Wet op Landdroshowe, 1944 (Wet No 32 van 1944), vir die landdroshof van 'n distrik aangestel is, tree op as geregsbode vir 'n spesiale arbeidshof in daardie deel van genoemde distrik wat binne die regsgebied van dié hof val

(2) (a) Die spesiale arbeidshof—

(i) kan op versoek van 'n werkgewer of werknemer betrokke by boerdery-bedrywighede 'n regtegeskil aanhoor,

(ii) sal nie 'n hof van rekord wees nie maar die voorsittende beampte moet die uitspraak of toekenning notuleer of laat notuleer en dit onderteken,

(iii) kan ter enige tyd 'n aangeleentheid wat by hom aanhangig gemaak is na die nywerheidshof vir 'n beslissing verwys,

(iv) kan slegs sake wat binne 180 dae, vanaf die datum waarop die geskil 'n aanvang geneem of ten einde geloop het, by hom aangemeld is, verhoor

(v) kan in die geval van onbillike ontslag, nie herindiensneming gelas nie maar skadevergoeding toestaan teen 'n skaal van twee weke se loon vir elke een voltooide jaar van diens by die betrokke werkgewer tot 'n maksimum van 30 weke

(vi) kan in die geval van 'n regtegeskil, anders as onbillike ontslag, so 'n bevel maak as wat die hof in die omstandighede bilik mag ag

(b) (i) Geen persoon mag 'n ander in die spesiale arbeidshof verteenwoordig nie.

(ii) Indien die voorsittende beampte van 'n spesiale arbeidshof van mening is dat reg en geregtigheid nie sal geskied sonder verteenwoordiging nie, moet hy die saak kragtens paragraaf (a) (iii) na die nywerheidshof verwys

(c) Die spesiale arbeidshof se uitspraak of toekenning is afdoende en daar sal geen reg op appel wees nie

(d) Die spesiale arbeidshof kan geen kostebevel maak nie

(e) Die Minister kan op advies van die Reelsraad soos bedoel in artikel 17 (22) (a) reëls ooreenkomstig artikel 17 (22) (c) (i), (ii), (iii), (v), (vii) en (ix) en (d) vir die spesiale arbeidshof uitvaardig

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- (3) (a) Subject to the provisions of this section, the rules of the law of evidence shall not apply in respect of the proceedings in a special labour court, and a special labour court may ascertain any relevant fact in such manner as it may deem fit
- (b) Evidence to prove or disprove any fact in issue, may be submitted in writing or orally
- (c) A party shall not question or cross-examine any other party to the proceedings in question or a witness called by the latter party, but the presiding officer shall proceed inquisitorially to ascertain the relevant facts, and to that end he may question any party or witness at any stage of the proceedings. Provided that the presiding officer may in his discretion permit any party to put a question to any other party or any witness.
- (4) (a) Subject to the provisions of paragraph (b), a party may call one or more witnesses to prove his side of the dispute
- (b) The provisions of paragraph (a) shall not affect a special labour court's power to decide that sufficient evidence has been adduced on which a decision can be arrived at, and to order that no further evidence shall be adduced
- (5) No person shall testify or be questioned in a special labour court unless the prescribed oath has been administered to him or the prescribed affirmation has been accepted from him by the presiding officer or by the registrar of the special labour court, or any person acting in his place, in the presence of that presiding officer, or, if the person concerned is to give his evidence through an interpreter, by the presiding officer through the interpreter
- (6) (a) Any person may at any time, whether before or during the hearing of his action, withdraw his application with the consent of the special labour court and on such conditions as the special labour court may determine, whereupon the proceedings shall be ceased
- (b) If proceedings are ceased as contemplated in paragraph (a), an applicant may bring a fresh action with the consent of the special labour court
- (3) (a) Behoudens die bepalings van hierdie artikel geld die reëls van die bewysreg nie ten opsigte van die verrigtinge in 'n spesiale arbeidshof nie, en kan 'n spesiale arbeidshof hom van enige tersaaklike feit vergewis op die wyse wat hy goed ag.
- (b) Getuïenis om 'n feit in geskil te bewys of te weerlê, kan skriftelik of mondeling aangebied word.
- (c) 'n Party mag nie 'n ander party by die betrokke verrigtinge of 'n getuie deur laasgenoemde party geroep, ondervra of kruisverhoor nie, maar die voorsittende beampte moet inkwistoriaal te werk gaan om die tersaaklike feite te bepaal, en vir dié doel kan hy enige party of getuie op enige stadium van die verrigtinge ondervra. Met dien verstande dat die voorsittende beampte na goëddunke 'n party kan toelaat om 'n vraag aan 'n ander party of enige getuie te stel.
- (4) (a) Behoudens die bepalings van paragraaf (b) kan 'n party een of meer getuies roep om sy kant van die geskil te bewys
- (b) Die bepalings van paragraaf (a) raak nie die bevoegdheid van 'n spesiale arbeidshof om te beslis dat voldoende getuïenis gelewer is waarop tot 'n beslissing geraak kan word, en om te gelas dat geen verdere getuïenis aangebied moet word nie
- (5) Niemand mag in 'n spesiale arbeidshof getuïenis aflê of ondervra word nie tensy hy die voorgeskrewe eed opgelê is of die voorgeskrewe bevestiging van hom afgeneem is deur die voorsittende beampte of deur die griffier van die spesiale arbeidshof, of iemand wat in sy plek optree, in die teenwoordigheid van die voorsittende beampte, of, indien die betrokke persoon sy getuïenis deur 'n tolk gaan aflê, deur die voorsittende beampte deur die tolk.
- (6) (a) 'n Persoon mag te eniger tyd, hetsy voor of gedurende die verhoor van sy aksie, met die instemming van die spesiale arbeidshof en op die voorwaardes wat die spesiale arbeidshof bepaal, sy aansoek terugtrek, waarna die verrigtinge beëindig word
- (b) Indien verrigtinge beëindig word soos in paragraaf (a) bedoel, kan 'n aansoeker met die toestemming van die spesiale arbeidshof opnuut 'n aksie instel

(7) (a) A special labour court may at any time before determination amend any document in connection with a case. Provided that no amendment shall be made if any party other than the party applying for the amendment may be prejudiced thereby in his case.

(b) The amendment may be made on such conditions as the special labour court may deem reasonable.

(c) In documents before the special labour court the name of any person or place as commonly known may be employed, and the special labour court may, on application, at any time before or after determination substitute the correct name for that name.

(8) (a) If a person, upon a document having been served on him—

(i) admits liability and consent to determination in writing, or

(ii) fails to appear before the special labour court on the trial date or on any date to which the proceedings have been postponed,

the special labour court may, on application by the applicant, make a determination

(b) If an applicant fails to appear before the special labour court on the trial date or on any other date to which the proceedings have been postponed, the special labour court may, on application by the respondent—

(i) dismiss the applicant's claim. Provided that the applicant may again institute an action for that claim with the consent of the special labour court, and

(ii) with regard to a counterclaim, make a determination

(9) The special labour court may, upon application by any person affected thereby or, in a case contemplated in paragraph (c), suo motu—

(a) rescind or vary any determination made it in the absence of the person in respect of whom the determination was made,

(b) rescind or vary any determination made which was void ab origine or was obtained by fraud or as a result of a mistake common to the parties,

(c) correct patent errors in any determination

(7) (a) 'n Spesiale arbeidshof kan te eniger tyd voor vasstelling 'n dokument in verband met 'n aksie wysig. Met dien verstande dat geen wysiging aangebring mag word nie indien 'n ander party as die party wat die wysiging aanvra in sy saak daardeur benadeel kan word.

(b) Die wysiging kan aangebring word op die voorwaardes wat die spesiale arbeidshof billik ag.

(c) In stukke voor die spesiale arbeidshof kan die benaming van 'n persoon of plek soos hy of dit algemeen bekend staan, gebruik word, en die spesiale arbeidshof kan, op aansoek, daardie benaming te eniger tyd voor of na vasstelling deur die korrekte benaming vervang.

(8) (a) Indien 'n persoon, nadat 'n dokument aan hom beteken is—

(i) skriftelik aanspreeklikheid erken en toestemming tot vasstelling verleen, of

(ii) versuim om op die verhoordatum, of op enige datum waartoe die verrigtinge verdaag is, voor die spesiale arbeidshof te verskyn,

kan die spesiale arbeidshof, op aansoek van die applikant 'n vasstelling maak

(b) Indien 'n aansoeker versuim om op die verhoordatum of enige datum waartoe die verrigtinge verdaag is, voor die spesiale arbeidshof te verskyn, kan die spesiale arbeidshof op aansoek van die respondent—

(i) die aansoeker se eis van die hand wys. Met dien verstande dat die aansoeker weer 'n aksie vir daardie eis met die toestemming van die spesiale arbeidshof kan instel; en

(ii) met betrekking tot 'n teeneis, 'n vasstelling maak.

(9) Die spesiale arbeidshof kan, op aansoek van enige persoon wat daardeur geraak word of, in 'n geval in paragraaf (c) bedoel, suo motu—


(a) 'n vasstelling deur hom gemaak in die afwesigheid van die persoon ten opsigte van wie die vasstelling gemaak is, nietig verklaar of wysig,

(b) 'n vasstelling wat gemaak is en wat ab origine nietig is of wat deur bedrog of as gevolg van 'n gemene dwaling deur die partye verkry is, nietig verklaar of wysig,

(c) klaarblyklike foute in 'n vasstelling regstel

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- (10) (a) When a special labour court has made any determination for the payment of money or for the payment of money in instalments, that determination, in the case of failure to pay the money within 10 days, or that order, in the case of failure to pay an instalment at the time and in the manner determined by the special labour court, shall be enforceable by execution against the movable property and, if insufficient movable property is found to satisfy the determination of the special labour court on good cause shown so orders, against the immovable property of the party against whom such determination has been made
- (b) Upon failure to pay an instalment in accordance with a determination, execution may be levied in respect of the whole of the judgement debt and costs then still unpaid, unless the special labour court, on application by the party that is liable, orders otherwise
- (11) The provisions of section 67 of the Magistrates' Courts Act, 1944 (Act No. 32 of 1944), shall apply *mutatis mutandis* in respect of a warrant of execution in terms of this section
- (12) Any person against whom a special labour court has made a determination and who has not satisfied in full to that determination, shall, if he has changed his place of residence, business or employment, within 14 days from the date of every such change notify the other party fully and correctly in writing of his new place of residence, business or employment
- (13) (a) If a special labour court has made a determination for the payment of a sum of money and the registrar of the special labour court is satisfied that such determination has remained unsatisfied that such determination has remained unsatisfied after the applicant has acted in terms of all the provisions of this section available to him, the registrar of the special labour court shall, upon the written application of the applicant accompanied by an affidavit specifying the amount still owing under the determination and how that amount is arrived at, transmit a certified copy of that determination, together with that affidavit, to the clerk of the magistrate's court of the district in which the respondent resides, carries on business or is employed, or, if the respondent is a juristic person, of the district in which its registered office or main place of business is situated

- (10) (a) Wanneer 'n spesiale arbeidshof 'n vasstelling maak vir die betaling van geld of vir die betaling van geld in paaierente, kan die vasstelling, in die geval van versuim om die geld binne 10 dae te betaal, of die bevel, in die geval van versuim om 'n paaierement te betaal op die tyd en wyse deur die spesiale arbeidshof bepaal, by eksekusie afdwing word teen die roerende goed en, indien onvoldoende roerende goed gevind word ter voldoening van die vasstelling of die spesiale arbeidshof om 'n gegronde rede aangevoer aldus gelas, teen die onroerende goed van die party teen wie die vasstelling gemaak is
- (b) By versuim om 'n paaierement ooreenkomstig 'n vasstelling te betaal, kan tenuitvoerlegging geskied ten opsigte van die hele vonnisskuld en die koste wat dan nog betaalbaar is, tensy die spesiale arbeidshof, op aansoek van die party wat aanspreeklik is, anders gelas
- (11) Die bepalinge van artikel 67 van die Wet op Landdroshowe, 1944 (Wet No 32 van 1944), geld *mutatis mutandis* ten opsigte van 'n lasbrief tot eksekusie ingevolge hierdie artikel
- (12) Iemand teen wie 'n spesiale arbeidshof 'n vasstelling gemaak het en wat nie ten volle daaraan voldoen het nie, moet, indien hy van woon-, besigheids- of werkplek verander het, binne 14 dae vanaf die datum van elke sodanige verandering die ander party skriftelik, volledig en juis van sy nuwe woon-, besigheids- of werkplek in kennis stel
- (13) (a) Indien 'n spesiale arbeidshof 'n vasstelling gemaak het vir die betaling van 'n bedrag geld en die griffier van die spesiale arbeidshof oortuig is dat daardie vasstelling onvoldaan gebly het nadat die aansoeker ingevolge al die bepalinge van hierdie artikel wat tot sy beskikking is, opgetree het, moet die griffier van die spesiale arbeidshof op die skriftelike aansoek van die aansoeker, wat vergesel moet gaan van 'n beedigde verklaring waarin uiteengesit word wat die bedrag is wat nog kragtens die vasstelling verskuldig is en hoe dit bereken word, 'n gewaarmerkte afskrif van daardie vasstelling, tesame met daardie verklaring, aan die klerk van die landdroshof van die distrik waarin die respondent woon, besigheid dryf of in diens is, of, indien die respondent 'n regs persoon is, van die distrik waarin sy geregistreerde kantoor of hoofbesigheidsplek is, stuur

 (b) Upon receipt of the documents referred to in paragraph (a) the clerk of that magistrate's court shall record the details of the determination concerned and the amount owing mentioned in the affidavit, whereupon the applicant may proceed as if it were a judgement granted in that magistrate's court in his favour for the amount mentioned in the affidavit, subject to the right of the judgement debtor to dispute the correctness of the amount

(14) (a) Any person who wilfully insults a presiding officer during the session of his special labour court, or registrar of a special labour court or other officer present at that session, or who wilfully interrupts the proceedings of a special labour court or otherwise misbehaves himself in the place where the session of a special labour court is held, shall be liable to be sentenced summarily or upon summons to a fine not exceeding R500 or to imprisonment for a period not exceeding six months, or to such imprisonment without the option of a fine

(b) When a presiding officer sentences any person under this subsection he shall without delay transmit to the registrar of the Supreme Court having jurisdiction for consideration and review by a judge in chambers, a statement, certified by him to be true and correct, of the grounds and reasons for the action taken by him, and shall also furnish to the person sentenced a copy of that statement

(15) Subject to the provisions of this section, the special labour court shall have the same jurisdiction as the industrial court to make and enforce a determination made in terms of section 46 (9) "

Amendment of section 31A of Act 20 of 1956, as inserted by section 3 of Act 81 of 1984

5. Section 31A of the principal Act is hereby amended by the substitution for the word following subparagraph (vi) of paragraph (b) of subsection (1) of the following words

"on the other hand, shall be enforceable in any court, including the industrial court but excluding the special labour court "

(b) By ontvangs van die stukke in paragraaf (a) bedoel, moet die klerk van die landdroshof die besonderhede van die betrokke vasstelling en verskuldigde bedrag vermeld in die beedigde verklaring, aanteken, waarna die aansoeker kan optree asof dit 'n vonnis was wat in daardie landdroshof vir hom gegee is vir die bedrag vermeld in die beedigde verklaring, behoudens die reg van die vonnisskuldenaar om die juistheid van die bedrag te betwis

(14) (a) Iemand wat 'n voorsittende beampte gedurende die sitting van sy spesiale arbeidshof, of 'n griffier wat by die sitting aanwesig is, opsetlik beledig of die verrigtinge van 'n spesiale arbeidshof opsetlik onderbreek of hom op 'n ander wyse aan wangedrag skuldig maak in die plek waar die sitting van 'n spesiale arbeidshof gehou word, is summier of na dagvaardiging strafbaar met 'n boete van hoogstens R500 of met gevangenisstraf vir 'n tydperk van hoogstens ses maande, of met daardie gevangenisstraf sonder die keuse van 'n boete

(b) Wanneer 'n voorsittende beampte iemand kragtens hierdie subartikel vonnis, moet hy sonder versuim aan die griffier van die Hooggeregshof met regsbevoegdheid vir oorweging en hersiening deur 'n regter in kamers, 'n verklaring stuur wat deur hom as waar en juis gesertifiseer is, van die gronde en redes vir sy optrede en ook 'n afskrif van die verklaring aan die gevonniste persoon verstrek "

(15) Behoudens die bepalings van hierdie artikel het die spesiale arbeidshof dieselfde bevoegdhede as die nywerheidshof om 'n vasstelling kragtens artikel 6 (a) te maak en af te dwing "

Wysiging van artikel 31A van Wet 28 van 1956, soos ingevoeg deur artikel 3 van Wet 81 van 1984

5. Artikel 31A van die Hoofwet word hierby gewysig deur in subartikel (1) die woorde wat op subparagraaf (vi) van paragraaf (b) volg deur die volgende woorde te vervang

"aan die ander kant, is in enige hof, met inbegrip van die nywerheidshof maar uitgesonderd die spesiale arbeidshof, afdwingbaar nie "

Amendment of section 35 of Act 28 of 1956, as amended by section 4 of Act 18 of 1961, section 6 of Act 95 of 1980, section 27 of Act 57 of 1981, section 3 of Act 2 of 1983, section 9 of Act 83 of 1988 and section 7 of Act 9 of 1991

6. Section 35 of the principal Act is hereby amended by the addition to subsection (1) of the following words

" Provided that in the case of persons engaged in farming activities, the dispute may be submitted directly by the applicant to the special labour court "

Amendment of section 42 of Act 28 of 1956, as amended by section 14 of Act 83 of 1988

7. Section 42 of the principal Act is hereby amended by the insertion of the following subsection after subsection (1)

"(1A) (a) Where a report as referred to in subsection (1) (a) relates to a dispute concerning an unfair labour practice between parties engaged in a farming activity, a copy thereof shall also be submitted to the registrar of the industrial court

(b) A member of the Industrial Court to whom the report, referred to in paragraph (a), is submitted, can whether the conciliation board has been discharged or not and notwithstanding any other provision of this Act, refer the dispute concerning an unfair labour practice between the parties engaged in a farming activity back to the conciliation board on such conditions as such a member may deem fair

(c) If a dispute is referred back to a conciliation board, referred to in paragraph (b), the chairman of the conciliation board shall endeavour to expedite the settling of the dispute by agreement between the parties

(d) If a dispute referred to in this section, which was referred back to the conciliation board and according to a certificate, issued finally for this purpose by the chairman of the conciliation board, can not be settled, the industrial court may determine the dispute in terms of section 46 (9) (c) Provided that no determination can be made in favour of a party who did not continuously attend the meetings of the conciliation board "

Insertion of section 51B in Act 28 of 1956

8. The following section is hereby inserted in the principal Act after section 51A

"Labour codes

51B. (1) The National Manpower Commission may submit proposals regarding fair or unfair labour practices or subject to the provisions of section 65, strikes or lockouts in respect of farming activities in a particular area in the form of a labour code to the Minister and request that the labour code referred to, be dealt with in accordance with subsection (2)

Wysiging van artikel 35 van Wet 28 van 1956, soos gewysig deur artikel 4 van Wet 18 van 1961, artikel 6 van Wet 95 van 1980, artikel 27 van Wet 57 van 1981, artikel 3 van Wet 2 van 1983, artikel 9 van Wet 83 van 1988 en artikel 7 van Wet 9 van 1991

6. Artikel 35 van die Hoofwet word hierby gewysig deur na subartikel (1) die volgende woorde by te voeg

" Met dien verstande dat in die geval van persone wat by boerderybedrywighede betrokke is, kan die geskil direk deur die applikant na die spesiale arbeidshof verwys word "

Wysiging van artikel 42 van Wet 28 van 1956, soos gewysig deur artikel 14 van Wet 83 van 1988

7. Artikel 42 van die Hoofwet word hierby gewysig deur die volgende subartikel na subartikel (1) in te voeg

"(1A) (a) Waar 'n verslag soos bedoel in subartikel (1) (b) betrekking het op 'n geskil aangaande 'n onbillike arbeidspraktyk tussen partye betrokke by 'n boerderybedrywighede, moet 'n afskrif daarvan ook aan die griffier van die nywerheidshof gestuur word

(b) 'n Lid van die nywerheidshof aan wie die verslag soos in paragraaf (a) bedoel voorgelê word, kan hetsy die versoeningsraad ontslaan is of nie en ongeag enige ander bepalings van hierdie Wet, die geskil aangaande 'n onbillike arbeidspraktyk tussen partye betrokke by 'n boerderybedrywighede na die versoeningsraad terugverwys op sodanige voorwaardes as wat so 'n lid billik mag ag

(c) Indien 'n geskil na die versoeningsraad terugverwys word, soos bedoel in paragraaf (b), moet die voorsitter van die versoeningsraad die beslegting van die geskil deur ooreenkoms tussen die partye probeer bevorder

(d) Indien 'n geskil soos bedoel in hierdie artikel wat na die versoeningsraad terugverwys is en volgens 'n sertifikaat, wat vir hierdie doel finaal is, deur die voorsitter van die versoeningsraad uitgereik is, nie besleg kan word nie, kan die nywerheidshof die geskil ingevolge artikel 46 (9) (c) vasstel Met dien verstande dat geen vasstelling gemaak kan word ten gunste van 'n party wat nie deurlopend by die versoeningsraadverrigtinge aanwesig was nie "

Invoeging van artikel 51B in Wet 28 van 1956

8. Die volgende artikel word hierby in die Hoofwet na artikel 51A ingevoeg

"Arbeidskodes

51B (1) Die Nasionale Mannekragkommissie kan voorstelle aangaande billike of onbillike arbeidspraktyke of behoudens die bepalings van artikel 65, stakings of uitsluitings ten opsigte van boerderybedrywighede in 'n bepaalde gebied in die vorm van 'n arbeidskode aan die Minister voorlê en versoek dat ooreenkomstig subartikel (2) met die bedoelde arbeidskode gehandel word

(2) After receipt of a labour code in terms of subsection (1), the Minister may—

(a) publish such labour code by way of a notice in the Gazette in which all interested persons are requested to submit within a fixed period written comment to the Director-General; and

(b) taking into consideration the comment received in terms of paragraph (a) and if he deems it expedient to do so, publish a notice in the Gazette which contains the provisions of that labour code

(3) (a) Subject to the provisions of subsection (2), the Minister may, at the request of the National Manpower Commission, from time to time by notice in the Gazette—

(i) as from a date cancel or suspend for a period, or

(ii) as from a date specified in that notice, amend or supersede, as he may deem fit,

any one or more or all the provisions of a labour code which has been published in terms of subsection (2).

(b) Subject to the provisions of paragraph (a), the provisions of a labour code which has been published in terms of subsection (2), shall remain in force until they are cancelled or superseded by a new labour code.

(4) Notwithstanding the provisions of subsection (1), any—

(a) employer,

(b) group of employers;

(c) employers' organisation;

(d) group of employers' organisations,

(e) group of one employer and one or more employers' organisations, or

(f) group of employers and one or more employers' organisations,

on the one hand and any—

(g) group of employees;

(h) trade union,

(i) group of trade unions, or

(j) group of employees and one or more trade unions

and which are representative of the employees of employers referred to in paragraphs (a), (b), (c), (d), (e) or (f) or which represent a certain interest there, on the other hand, which are engaged in farming activities and area, may at any time submit to the Minister proposals in regard to fair or unfair actions in farming activities or subject to the provisions of section 65, strikes or lock-outs in respect of farming activities in a particular area

(2) Nadat hy 'n arbeidskode kragtens subartikel (1) ontvang het, kan die Minister—

(a) sodanige arbeidskode by wyse van 'n kennisgewing in die Staatskoerant laat publiseer waarin alle belangstellende persone versoek word om binne 'n bepaalde tydperk kommentaar skriftelik by die Direkteur-generaal in the dien, en

(b) met inagneming van die kommentaar wat ingevolge paragraaf (a) ontvang is, en indien hy dit raadsaam ag, 'n kennisgewing in die Staatskoerant laat publiseer wat die bepalinge van daardie arbeidskode uiteensit

(3) (a) Behoudens die bepalinge van subartikel (2), kan die Minister op versoek van die Nasionale Mannekragkommissie van tyd tot tyd by kennisgewing in die Staatskoerant een of meer of al die bepalinge van 'n arbeidskode wat ingevolge subartikel (2) gepubliseer is—

(i) vanaf 'n datum intrek of vir 'n tydperk opskort; of

(ii) vanaf 'n datum in daardie kennisgewing vermeld, wysig of vervang soos hy goedvind.

(b) Behoudens die bepalinge van paragraaf (a), bly die bepalinge van 'n arbeidskode wat ingevolge subartikel (2) gepubliseer is van krag totdat hulle vervang word deur 'n nuwe arbeidskode

(4) Ondanks die bepalinge van subartikel (1), kan enige—

(a) werkgewer,

(b) groep werkgewers,

(c) werkgewersorganisasie;

(d) groep werkgewersorganisasies;

(e) groep van een werkgewer en een of meer werkgewersorganisasies; of

(f) groep werkgewers en een of meer werkgewersorganisasies,

aan die een kant en enige—

(g) groep werknemers;

(h) vakvereniging;

(i) groep vakverenigings; of

(j) groep van werknemers en een of meer vakverenigings

en wat verteenwoordigend is van die werknemers van werkgewers soos bedoel in paragraawe (a), (b), (c), (d), (e) of (f) of wat 'n bepaalde belang aldaar verteenwoordig, aan die ander kant, wat in boerderybedrywighede en 'n gebied betrokke is, te eniger tyd voorstelle aangaande billike of onbillike optrede in boerderybedrywighede of behoudens die bepalinge van artikel 65, stakings of uitsluitings ten opsigte van boerderybedrywighede in 'n bepaalde gebied in die vorm van 'n arbeidskode of

Farm labour document out

Political Correspondent

MAJOR changes to the rights of agricultural workers will be proposed in a draft bill published by the government today

The working document, which will appear in the Government Gazette and which arose out of the National Manpower Commission's report, entails

- The extension of the Labour Relations Act to the agricultural sector

- The establishment of a special Labour Court.

- Mechanisms to create labour codes for the agricultural sector

A government spokesman said it was hoped that a consensus bill reflecting the concerns of the government, Cosatu, the SA Agricultural Union and other interested parties would be tabled in Parliament next year.

Comment invited on Labour Act (166)

PRETORIA — A working document on the extension of the Labour Relations Act to the agricultural sector has been published in the Government Gazette and comment has been invited.

Manpower Minister Leon Wessels said the document flowed from a report by the National Manpower Commission recommending the extension of the Labour Relations Act to the agricultural sector.

It entailed the extension of the Act to agriculture, the establishment of a special labour court, and mechanisms to create labour codes for the agricultural sector.

Based on the comment received from interest groups on the working document, as well as further deliberations in this regard, the government will decide whether existing legislation should be extended or alternatively whether a single act to regulate labour relations in agriculture should be promulgated," Wessels said.

All interested persons and organisations were invited to submit comment on the working document, before February 26 1993, to the Department of Manpower, Private Bag X117, Pretoria 0001.

Copies of the working document are obtainable from the government printer — Sapa 31/12/92

Farm labour: Govt committed

MANPOWER minister Mr Leon Wessels yesterday reiterated the government's commitment to extending the Basic Conditions of Employment Act to farmworkers by March 1

He was responding to a DP statement on State President F W de Klerk's offer to meet farmers' unions to discuss the controversy over the extension of labour legislation to agriculture

DP MPs Mr Errol Moorcroft and Mr Robin Carlisle said Mr De Klerk's intervention should not lead to further delays in the process

CF 13/11/92
Mr De Klerk's announcement on Wednesday followed warnings by the South African Agricultural Union that farmers would not implement labour legislation which they did not support.

Cosatu spokesman Mr Neil Co-

leman said the union hoped that the government would not bow to pressure from minority interests

● The proposed extension of labour legislation to agriculture has been welcomed by the Human Resources Committee of the deciduous fruit industry, it was reported yesterday Chairman Mr David Gant said it would bring an end to uncertainty— Sapa



LABOUR

New labour deal with old problems

THE accord signed this week between the Congress of South African Trade Unions and the government is being hailed as a victory for negotiated labour policy but those left out in the cold can derail the hardwon agreement

The labour movement has always led the field with negotiated and co determined agreements that outstrip national political negotiations in sophistication as well as content. This week's agreement is no exception.

Concrete dates have been set for legislation to regulate the stepister sectors of domestic and farm workers and public servants. The more powerful National Manpower Commission (NMC) will begin work early next year and the new National Training Board will start negotiations this month.

Cosatu lawyers have, through concerted campaigning, won a promise for the revision of the controversial industrial court. In addition, the labour appeal court will now be a court of final appeal for all labour matters, ending problems both employers and unions have with supreme court judges with a scant knowledge of labour law. Judges to the appeal court will be appointed with the consensus of government, employers and trade unions.

Cosatu general secretary Jay Naidoo called the agreement a "major breakthrough for labour relations" while Leon Wessels said the agreement set the foundation for South Africa to get its labour law in line with international standards.

But their elation is tempered by the voices of discontent which have quickly made themselves heard.

The farmers' lobby, in the shape of the South African Agricultural Union (SAAU), reacted angrily to the announcement that the minister will promulgate the Basic Conditions of Employment Act for farmworkers by March next year. The SAAU said it was "shocked and indignant" at Wessels' promise.

Only a fortnight ago, Wessels agreed to withhold farmworkers legislation after receiving the SAAU's new proposals for labour legislation.

This week the minister set himself on a collision course with the farmers when he said the new proposals "did not even approximate the needs for reform and the need for timely and swift performance".

A determined Wessels said the country could not wait for the farmers to produce concrete legislation.

Despite the headstrong position of the SAAU, Cosatu indicated its willingness to continue negotiations with the organisation on the other labour statutes for farmworkers.

Wessels has agreed to publish the NMC proposals on the extension of the Labour Relations Act and the Wage Act to farmworkers by the end of the year and to introduce draft legislation into parliament early next year.

Basic conditions of employment for domestic workers will be promulgated by the middle of next year and a committee will soon be set up to deal with the difficult areas of dispute settling mechanisms and wages for domestic workers, with a view to extending this legislation to the sector by 1994.

The Domestic Employers Association opposes a minimum wage for domestic workers and wants to be extensively consulted about any legislation for this sector.

In addition to the housewives and farmers lobby, the public servants employer body — the Commission for Administration — could also put a spanner in the works.

Lucy Nyembe, of the Centre for Applied Legal Studies, has been centrally involved in drafting legislation for the public sector.

She says there is a subtle power play between the Commission for Administration and the government because the former wants to administer the Act and Cosatu would prefer that the Department of Manpower do the administration.

"Wessels may be a liberal and a pragmatist, but the CFA is not," she says.

Draft legislation for the public sector was finalised in September, but there are many problems with the legislation and Cosatu wants the legislation referred to the NMC for further negotiation.

The problems include

W/Mail 13/11-19/11/92
The new deal for public servants and domestic and farm workers has been greeted as a major breakthrough. But opposition from the agricultural and domestic workers lobby could put a spanner in the works

By **FERIAL HAFFAJEE**

●An unreasonably wide definition of essential services which effectively erodes the right to strike

●The criminalisation of the right to strike

●The requirement that trade unions give 20 days notice before a strike while employers can get a strike interdict in 48 hours

Cosatu assistant general secretary Sam Shilowa agrees that dates have been negotiated in the past with various manpower ministers and that they have gone by with no action.

"Minister Wessels is convinced that the acts should go through and we don't want to prejudge him," says Shilowa. "We want him to prove his bona fides."

Other features of the agreement include a resolution to form a high-powered committee which will work at implementing all the recommendations made by the recent International Labour Organisation Commission to South

Africa

In line with Cosatu's strategy to fashion a key role for itself in the labour market, two task forces have been set up to determine policy on training and the industrial court. The task forces are appointed by consensus and will include key union policy-makers whose appointment will only be rubber-stamped by the minister.

While the Laboria Minute, the foundation stone of this week's agreement, was negotiated by employer bodies, unions and the state, the latest accord is bipartite. Employers and politicians welcomed the accord but said it was essential that employers and other union federations be included in negotiations.

Farmers protest against extension of labour laws

8/10/92 18/11/92
PRETORIA — Organised agriculture told President F W De Klerk yesterday that the application of existing labour laws to its industry was unacceptable.

In a statement after a meeting between the SA Agricultural Union (SAAU), Agriculture Minister Kraai van Niekerk and Manpower Minister Leon Wessels, De Klerk said consensus reached would be taken further in a meeting on Friday between Wessels and the SAAU.

De Klerk said the discussions were constructive but he gave no details of the consensus.

The SAAU delegation said the industry had been appalled to learn that Wessels had reached agreement unilaterally with Cosatu to apply key legislation to agriculture. The lack of consultation was deplored, SAAU president Boet Fourie said.

He told the meeting the SAAU was not opposed in principle to labour legislation being applied to agriculture provided it did not have a disruptive influence.

A prerequisite was that it should accommodate the unique conditions in agriculture, which current legislation failed to do.

Dispute resolution on farms had to be at the lowest possible level — between farm-

er and worker.

Farmers, the meeting was told, saw what was happening in other sectors of the economy — strikes, stayaways and mass actions — and feared farm workers could be manipulated for political purposes.

Transvaal Agriculture Union president Dries Bruwer told the meeting unemployment, urbanisation and squatting problems would all be aggravated if current legislation was imposed on the industry.

Meanwhile Sapa reports from Cape Town that the Black Sash said it was encouraged that the proposed legislative amendments resulted from negotiations between government and credible labour representatives.

Black Sash national president Jenny de Tolly said yesterday minimum conditions of employment would place a check on exploitative labour practices in the agricultural and domestic sectors.

However, extensive education and monitoring were necessary if labour laws for farm and domestic workers were to be effective, she said.

GERALD REILLY

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Farmworkers' breakthrough

166
APR 19/1/92

Important law reforms back on track

KEY law reforms for farmworkers are again on track.

The South African Agricultural Union has approved a government-brokered plan to extend labour laws to agriculture next year.

This breakthrough towards workplace protection for about 1,3 million workers on farms followed the personal intervention of President De Klerk on Tuesday.

Guarantees that the laws would not be passed summarily, but would be placed "back in the negotiation process" rekindled qualified SAAU support for the reforms.

"Discussion and negotiation regarding the establishment of adapted and practically applicable labour legislation for agriculture will now be resumed," SAAU president Mr Boet Fourie said in a statement.

Welcoming the agreement, Manpower Minister Leon Wessels said it had cleared the way for SAAU to become involved in a

comprehensive labour deal for agriculture next year.

This was made possible because the parties agreed to a process whereby labour laws based on the principles of free association and collective bargaining would be submitted to parliament early in 1993.

As a first step, draft laws extending the Labour Relations and Wage Acts to agriculture would be published for comment before December 31.

Interested parties, including the SAAU, would then be given two months to comment on the proposed amendments submitted by the Department of Manpower.

"The 'bona fide' negotiations between the interest groups will be able to continue until March 31. The Cabinet will then decide which legislation is to be put to parliament.

"A comprehensive labour dispensation for agriculture will consequently be enacted during the next parliamentary sitting, and implemented soon after," Mr Wessels said.

Tuesday's agreement followed vehement SAAU opposition to the government's recent announcement that farmworkers would be drawn into the scope of labour laws by the end of next year.

Mr Wessels said he would be meeting the SAAU tomorrow as planned, thanks to the new momentum in the process of negotiations.

Mr Fourie said if consensus was not reached by the March 31 cut-off date, the government would still pass legislation next year.

The SAAU had to agree to this, but it did not commit itself to the contents of this proposed legislation which, in principle, had to provide for negotiation and dispute-resolution at the lowest possible level.

The SAAU this week said it could reconsider meeting Mr Wessels as scheduled, saying it had been excluded from the November 6 reform accord between the government and Cosatu — Sapa

Farmers relent on labour laws

5/0A4 19/11/97

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~~John~~ DIRK HARTFORD

MANPOWER Minister Leon Wessels and the SA Agricultural Union have reached agreement on a process to legislate labour law for farm workers based on freedom of association and collective bargaining.

The agreement does not contradict Wessels' earlier deal with Cosatu over which the SAAU had lodged a strong protest.

Wessels said yesterday he was "overjoyed" and Cosatu welcomed the agreement which, it believed, would lead to the extension of the Wage Act and Labour Relations Act to farm workers.

The Manpower Department will publish a concept law for the extension of the two Acts to farm workers by the end of the year. All interested parties will have two months to comment and negotiations between these parties on the law may continue until the end of March, when Cabinet will decide whether the existing Acts will be extended or whether new legislation will be put to Parliament.

The only significant difference between this agreement and the Cosatu agreement is that the deadline for consultation is now the end instead of the beginning of March.

GERALD REILLY reports that SAAU president Boet Fourie said yesterday the union had been forced to agree to government passing "fair and appropriate" legislation if parties failed to reach consensus by March 31, but he warned this did not bind the SAAU to unqualified acceptance.

ANC 'supports commission'

Political Staff

THE ANC has given its full support to Mr Justice Richard Goldstone's call for his commission to be given the authority to investigate the functioning and operations of the SAP, uMkhonto weSizwe, Apla, the KwaZulu Police and certain security firms

The government has said it is not opposed in principle to extending the commission's investi-

gative scope, but Constitutional Development Minister Mr Roelf Meyer said it would need to discuss with the judge "how far and exactly what kind of powers and authority he would need"

Judge Goldstone made the call after releasing information seized from a Military Intelligence (MI) establishment which indicated that convicted killer and former CCB member Ferdi Barnard had been employed by

MI to discredit the ANC

"The ANC will provide whatever assistance is necessary to enable the Goldstone Commission to carry out the above task," the ANC said in a statement last night.

However, the PAC yesterday expressed its opposition to the call, saying the only body capable of addressing the issues objectively was a transitional authority

Nixon set to receive millions

WASHINGTON — Former president Mr Richard Nixon is set to receive millions of dollars in compensation after a federal court ruled that he should be paid for the seizure of his private records of Watergate

Mr Nixon challenged a congress ruling impounding the documents and tapes, but lost

He has continued to fight for compensation, which led to a ruling by the appeals court here that he should be reimbursed — Telegraph

SADF admits using ex-Frelimo soldier

Political Staff

THE SADF admitted yesterday that it had "utilised" former Frelimo soldier Mr Jaao Alberto Cuna but only as a "casual source" for the collection of information on the smuggling of weapons and arms caches

Mr Cuna claimed recently he had taken part in the shooting of a house full of residents near Durban in March or April this year.

He told Vrye Weekblad newspaper he had been employed by a policeman, but subsequent Goldstone Commission investigations have revealed

that his hotel accommodation during a night in Maritzburg was paid for using a credit card linked to the Military Intelligence (MI) establishment.

The SADF said in a statement yesterday that it had only utilised Mr Cuna in July and August last year

"Mr Cuna's allegations are being investigated by the Goldstone Commission and the SADF therefore cannot comment on these allegations," it added. Asked if the Mr "Boy" Schultz who allegedly hired Mr Cuna was a MI member, an SADF spokesman said "We know nothing about Mr Schultz"

'Secret files not being guarded'

Staff Reporter

THE remainder of the files that the Goldstone Commission left behind at the Military Intelligence building it raided last Wednesday are not being guarded, according to commission secretary Mr Glen Cuthbertson.

Mr Justice Richard Goldstone yesterday declined to answer further questions about his startling report which implicated Military Intelligence in discrediting uMkhonto weSizwe (MK)

'R16m needed for returnees'

JOHANNESBURG — About R16 million is needed to help 4 000 exiles ready to return to South Africa, but the exile committee NCCR has no money

Repatriations have already cost R54m, with 14 000 former exiles and political prisoners now battling with unemployment and a housing shortage

The NCCR has accused the government of being uninterested in the repatriations. — Sapa

From page 1

SADF had lied when it said Barnard had never been in its employ

It was expected the cabinet would accede to Judge Goldstone's plea to give his commission more powers, authority and co-operation and resources to properly investigate all public and private security forces and armies inside and outside the country

With international and domestic pressure mounting, the cabinet, a source said, wanted to find the best way of being seen to act while keeping political heads out of the fray

Even within the government's ranks there was protest at the Goldstone Commission's findings

Ambassador to Washington Mr Harry Schwarz said he was "furious and outraged" The disclosures, he said, had undermined all the embassy's hard work.

The United States administration has called for the prosecution of those involved in the exposed covert operations

Meanwhile, Mr De Klerk and the cabinet face the National Party's parliamentary caucus in Cape Town this morning

Mr De Klerk, reeling under sharp attacks on the government's handling of the economy, will have to convince the caucus he is taking decisive action on the MI row as well as on the corruption in the independent states which was uncovered last week by the Parsons, De Meyer and Van der Heever commissions

● Hopes that obstacles are being cleared to make way for negotiations gained ground yesterday when the ANC's "cabinet" adopted a discussion document that opts for a five-stage process of change and possible power-sharing with the NP

This means the ANC plan and the government's proposals are now very similar and reinforces speculation that multi-party talks could resume soon

The ANC's proposals included the formation of transitional executive councils, as agreed at Codesa II, elections for a constituent assembly, the adoption of a new constitution and transformation of South Africa into a democracy

Farmers and govt agree

JOHANNESBURG — Manpower Minister Mr Leon Wessels and the SA Agricultural Union (SAAU) have reached agreement on a process to legislate labour law for farm workers based on freedom of association and collective bargaining

The agreement does not contradict Mr Wessels's earlier deal with Cosatu

Protest march: Bhutto arrested

RAWALPINDI, Pakistan — Police arrested ousted prime minister Ms Benazir Bhutto yesterday after she and supporters broke through police barricades to lead a banned anti-government protest

About 200 police surrounded Ms Bhutto and took her into custody along with other political leaders who once opposed but now supported her bid to oust the government of Prime Minister Mr Nawaz Sharif — Sapa-AP

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CT 21/11/92
**Farmers agree
on labour laws**

PRETORIA — The South African Agricultural Union has agreed to a practical programme of negotiating and implementing labour laws for farmworkers next year, Manpower Ministry spokesman Mr Johan Smit said.

(166)
The agreement followed constructive and cordial talks between the farmers' union and the Minister of Manpower, Mr Leon Wessels, yesterday. — Sapa



NEW LAWS COULD bring job havoc

TENS of thousands of jobs are at risk if labour legislation affecting domestic and farm workers is implemented next year.

About 3,5-million people — about 40% of the workforce — are not formally employed. Another 300 000 enter the job market each year. Trade unions are trying to extend minimum wages and other labour regulations to 1,9-million domestic and farm workers

Economists, the Small Business Development Corporation (SBDc) and the World Bank have warned that labour regulations which set minimum wages hamper economic growth

SBDc economist Edwin Basson says: "If present trends continue, we will be able to create only a fraction of the jobs we need to employ entrants to the market each year. Over-regulation raises barriers to entry for small businesses"

Dr Basson says rising labour costs force industrialists into capital-intensive industries

The Reserve Bank has identified the rapid rise in the cost of labour as a key cause of inflation

Labour practices in the formal sector of the economy are regulated by 12 industrial councils and 27 wage determination agreements

The industrial councils represent about 800 000 workers countrywide, down from 1,27-million 10 years ago

By CIARAN RYAN

The decline follows the closure of several councils, recession and the high cost of complying with regulation

Another 500 000 to 700 000 workers are covered by 27 determinations by the government-controlled Wage Board

The SBDc has called for reform of the industrial councils because they cause a class of worker elites at the expense of the unemployed

Sick

There was virtually no growth in formal-sector employment in the past decade because of rising labour costs, falling productivity and the cost of restrictive labour and business regulations

A World Bank report by economist Peter Fallon is critical of minimum wages, saying they "significantly reduce employment in labour-intensive sectors"

Employers of domestic and farm workers will have to comply with the Basic Conditions of Employment Act, the Wages Act, Unemployment Insurance Act and the Labour Relations Act

They will have to pay minimum wages, unemployment insurance, leave and sick pay and other benefits if the unions have their way

Dr Basson says "Depending on the level of minimum wages agreed on, there could be a disastrous impact on employment, particularly among domestic workers"

"With 40% out-of-work the last thing we need is more unemployment. We need to create jobs, not make those who have them richer"

Kosatu spokesman Neil Coleman says "Domestic and farm workers are the last remnants of feudal, apartheid employment practices"

"There may be some reduction in employment when these laws come into effect, but it has been happening for some time on farms"

"Why should these workers be barred from the same rights as other workers? You

Job threat

From Page 1

can deregulate all you like, but by not having these laws you are not creating jobs

"We need to raise workers' living standards while creating jobs elsewhere in the economy by investigating new growth paths"

The SA Agricultural Union says minimum wages will hurt employment on farms

Although figures cannot be accurately predicted, up to 10% — or 100 000 — farm jobs could at risk

National Manpower Commission chairman Frans Barker says nearly 34% of economically active people are subject to some form of minimum wage or statutory compensation

The percentage rises to 51% if the non-farming sector is excluded

A major problem in applying minimum pay to domestic workers is the inability of employers to pass on wage costs and increases in the same way a business can

Dr Basson says: "Another problem will be to enforce and police these regulations. It could result in a huge grey market for labour."

S/Times (Buss) 22/11/92

S/Times

(Buss)

22/11/92

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● To Page 3

CT 24/11/92
Month's delay
(165)
in Labour Act

THE extension of the Basic Conditions of Employment Act to farmworkers has been postponed by 30 days to allow further talks on adjusting its application to agriculture

The postponement follows government assurances last week that the South African Agricultural Union would have a fair say in drafting agricultural employment laws

A Cosatu campaign coordinator, said the union accepted the delay as it did not affect its November 6 accord with the government — Sapa

Govt to publish Bill for domestic workers

GERALD REILLY

PRETORIA — A draft Bill to adapt the Basic Conditions of Employment Act to cover domestic workers will be published this month for comment

The Bill makes no provision for minimum wages. Manpower director-general Joel Fourie said incorrect impressions on the extension of labour laws to domestic workers had been created in the media.

Comment on the Bill can be submitted to the department before February 28.

Provisions in the draft include determination of maximum daily and weekly ordinary working hours, meal intervals, pay-

ment of overtime, work on Sundays and public holidays and sick and ordinary leave (166)

Fourie said a committee would be appointed on the issue of a minimum wage and settlement of disputes. Proposals would be submitted to Manpower Minister Leon Wessels before September 30.

An independent investigation into unemployment insurance and workmen's compensation for domestic workers would report during May.

B12172
B12174



ANC concerned about farm labour issue

THE ANC yesterday expressed concern that government had reopened the debate on the provision of basic conditions of employment to farm workers

The ANC said the SA Agricultural Union (SAAU) had been less than impressive on the rights of farm workers, while other bodies

DIRK HARTFORD

— like Unifruco and the Cane Growers' Association — had welcomed the extension of the Basic Conditions of Employment Act to farm workers

It criticised the SAAU for its "badly conceived and incomplete proposals" and said Manpower Minister

Leon Wessels should not erode minimum standards for farm workers because of pressure from sections of the farming community

The ANC said the SAAU should depart from its "antiquated vision of employees" and develop a new vision of agricultural labour relations

Bester Homes under provisional liquidation

BLOM 4/12/92 **PETER GALLI**

BESTER Homes has been placed in provisional liquidation after an application in the Pretoria Supreme Court by its major creditor, Absa

This follows months of market speculation about the property developer's ability to meet its obligations

Bester Homes' issued share capital of R200 is held by JSE-listed Bester Investments, which was suspended by the exchange yesterday

Executive chairman Theunis Bester said yesterday total interest-bearing loans amounted to about R139m

Bester Homes owed Absa R68m through Trust Bank (R64,1m) and Volkskas (R4,15m) The firm was liable for another R35m, due on demand for sureties on behalf of companies in the Bester group, adding up to a total debt to Absa of R108,1m Boland and First National Bank are the other major creditors

"The Bester Investments 1992 annual report stated that the group was already technically insolvent and a scheme of arrangement was being considered by its creditors," Bester said As they were unable to reach agreement it was decided that the company would be placed in provisional liquidation

An Absa spokesman said yesterday that the Bester group had not paid interest on its debt since November 1991 "Most of its assets are non-income generating and the fear is that it could start to eat into its assets to service its debts eroding security held by banks"

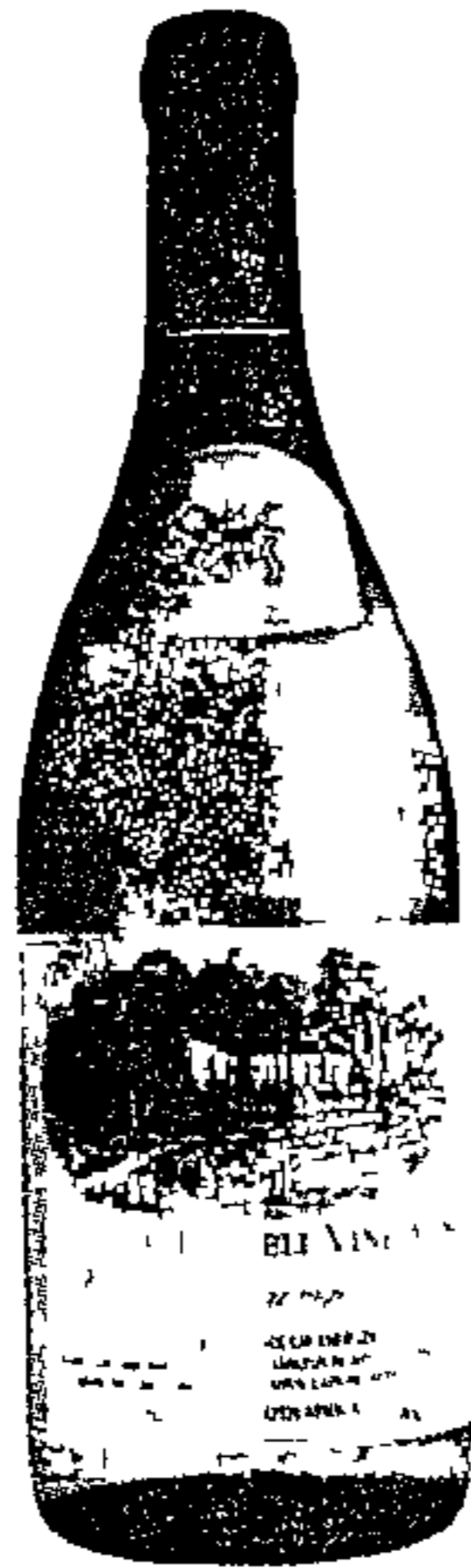
Bester said the group had stopped doing new business It was honouring existing obligations, including completion of two retirement homes in the Cape It was likely that the liquidators would have to use some of the company's unsecured assets as security for a loan or to sell to fund completion of the developments, Bester said

He was optimistic that a scheme of arrangement could be reached "We valued our land holdings at R350m, but present market conditions are making it almost impossible to sell"

Absa was awaiting a response to the provisional liquidation application, which was unopposed

The return date was set for January 12 Bester Homes' end-February balance sheet put current assets at R206m against current liabilities and provisions of R196m — R141,2m for overdrafts, loans and acceptances

UNIQUE
NEW WINE
FROM
HAMILTON
RUSSELL
VINEYARDS



*Chardonnay /
Sauvignon Blanc
1992*

Call for submissions

WRITTEN submissions on the Public Service Labour Relations Bill should be made to the Parliamentary Joint Committee on Home Affairs by the end of this month, the committee's chairman, Mr Patrick McKenzie, said yesterday. (166)

In a statement he said if possible 30 copies should be provided and all correspondence on the matter should be addressed to the Secretary to Parliament, PO Box 15, Cape Town, 8000

SDW
9/12/92



166 (166) 224 (224)
Draft laws
soon for
STAR 10/12/94
domestics

By Charlotte James

Following a meeting with the SA Domestic Workers' Association and other groups yesterday, Minister of Manpower Leon Wessels will publish draft legislation on conditions of employment for domestic workers this month.

All interested parties will be welcome to comment on the legislation, which will not include suggestions on minimum wages.

Two working groups were also set up, one to investigate extending the Labour Relations Act to cover domestic workers and the other to look at minimum-wage regulations.

The labour relations working group plans to submit a report to Wessels in March, when legislation will be drafted and published for general comment.

The wage regulation group will submit a report in September, and any resulting legislation will also be published.

Other groups present at yesterday's meeting were the SA Women's Agricultural Union, the Federale Vroue Raad, the Women's Bureau, the National Council for Women and the Women's Legal Status Committee.

It was noted at the meeting that little comment had been received from workers.

A curate's egg for civil servants

W/Mant 11/12 - 17/12/92
A DRAFT statute which covers civil servants was finally introduced into parliament last week, two years after the Labora Minute was signed

Unfortunately, there are many features which undermine any positive effects the Bill may have

But two features — the extension of the "unfair labour practice" jurisdiction and stop-order facilities — establish important basic rights. It is important that these features will now be a right rather than a privilege at the discretion of the director general of manpower.

This will allow unions in the public sector to establish their resource base and their ability to defend the rights and interests of their members.

The Bill intends "to regulate new labour relations in the public service, including collective bargaining at central and departmental levels and to provide the prevention and settlement of disputes .. between the state as employer, its employees and employee organisations"

At present there is only a forum for consultation between the Commission for Administration and employee organisations on wage or salary matters and on the proposed legislation

This is clearly unsatisfactory — the lack of proper collective bargaining rights and formal procedures for speedy dispute resolution were major contributory factors to the recent, lengthy hospital strikes

While the Bill establishes a bargaining council at central level, it also presents a number of impediments to concerted bargaining

LUCI NYEMBE argues
*that the Public Service
Labour Relations Bill gives
with one hand and
takes with the other*

ments to concerted bargaining

For example, an employee organisation has to prove that it represents workers affected by a particular issue if it wishes to negotiate that matter in the council

With 11 unions and staff associations presently recognised, the effect is that employee organisations would not be able to challenge or support each other unless an issue affected their members

It is generally accepted that disclosure of information is crucial in the bargaining process. In the private sector, unions often have access to company annual reports or interim statements.

This enables them to challenge or accept the validity of company claims about their "ability to pay"

In the Bill the definition of "classified information" is so broad that it can be used to withhold basic and necessary information from employee organisations

There are at least five separate procedures in the Bill for resolving disputes depending on the categorisation of the dispute. It can be a collective dispute of right, an individual dispute of right, an unfair labour practice, a dispute of interest which has financial implications in an essential service, or a dispute of interest which has no financial

implications in an essential service

Problems arise where a dispute may simultaneously be a dispute of right and of interest, for example retrenchments. Where the categorisation of a particular dispute is challenged (probably by the employer) the case could be thrown out on a legal technicality and the merits of the dispute would never be heard.

This bodes ill for the resolution of disputes in a sector where their resolution or escalation has a direct impact on the lives of ordinary citizens

Strike action is permitted for public service employees, following elaborate procedures and requirements, including balloting and 20 days' notice to the employer

The employer, on the other hand, can interdict a strike on 48 hours' notice. But even following these legal requirements to the letter does not indemnify "legal" strikers against dismissal

In addition, failure to comply with the legal provisions makes the "guilty" parties criminally liable. Criminal sanctions include a fine or imprisonment or both

Strikes are also prohibited in "essential services" and the definition of these goes way beyond the International Labour Organisation (ILO) definition of "services whose interruption would endanger life, personal safety or health of the whole or part of the population"

●Luci Nyembe is a research officer at the Centre for Applied Legal Studies specialising in the public sector.

BIDAM
11/12/92

~~(166)~~ (166)
Unions object to deal

TRADE unions representing more than 1-million workers — including Fedal, Fitu and Sacol — met Manpower Minister Leon Wessels yesterday to object to his agreement with Cosatu on farm, domestic and public workers.

New labour^{2*} bill published

A BILL intended to re-vamp labour relations in the public service and to set up a formal bargaining forum for state employees was published yesterday. (16b)

According to a memorandum on the Public Service Labour Relations Bill, the measure will establish a Public Service Bargaining Council consisting of a central chamber and subsidiary chambers at departmental level.

The bill was the result of talks with groups including Cosatu, but agreement had not yet been reached.

The labour relations system it proposes are restricted to Public Service Act personnel —
Sapa

Attackers warned (167)

MASERU - The Lesotho government will not allow its territory to be used as a springboard for attacks against its neighbours. *Sowetan*

It reserved the right to act in any manner it deemed fit to end the state of lawlessness on its border with South Africa

23/12/92 ~~SA~~
In a statement in Maseru, the Lesotho government said certain elements were bent on engaging in cross-border activities, referring to a weekend attack by gunmen on a Ficksburg farm which left a 14-year-old teenager dead and prompted the SA Government to rush police reinforcements to the area - *Sapa-Reuter-AP-AFP*

Govt steps up pressure over border raids

GOVERNMENT handed a formal protest note to Transkei and stepped up diplomatic pressure on Lesotho yesterday as right-wingers threatened to take the law into their own hands and strike at Apla bases in the two countries

The CP has vowed to take unilateral action against the alleged bases unless government implements strong measures against the PAC's armed wing within a week

The weekend slaying of a 14-year-old girl in Ficksburg, near the Lesotho border, has also prompted threats of arbitrary revenge attacks on blacks by right-wing extremists in the area

While the CP has welcomed the deployment of policemen on the 200 farms along the SA border with Lesotho, it has urged that hot pursuit operations be authorised into the country "Mere statements of co-operation with the Lesotho police are not enough," the CP said

A Foreign Affairs spokesman said "fullest co-operation" was being received from Lesotho, where the girl's killers fled

Another source said the attack was probably launched from within SA, and not from bases in Lesotho Law and Order Minister Hernus Kriel has mentioned Transkei and Zimbabwe as possible sites for Apla bases

Foreign Affairs said the diplomatic protest to Transkei demanded strong action against gunmen who attacked SA vehicles on a section of the Queenstown-Dordrecht road which passes through Transkei

Tonight, Ficksburg farmers, police,

RAY HARTLEY and DIRK HARTFORD

army and AWB officials plan to hold a meeting to discuss the spate of attacks against residents in the area Kriel and Justice Minister Kobie Coetsee — who is also the Free State leader of the NP — are expected to attend the meeting

At the same time, Sapa reports the Lesotho government has called a special meeting to discuss the deteriorating security situation along the border

Two more deaths occurred on a Free State farm yesterday, but police suspected the motive for the attack was robbery Koos Ward, 70, and his 34-year-old daughter were killed by an intruder on their farm near Heunissen yesterday

Foreign Affairs and police spokesmen have expressed fear that right-wing action might upset delicate operations, in co-operation with other governments, to stop the killings "While channels between the governments of SA, Transkei and Lesotho remain open, we believe any unilateral action by groups will be unfortunate," the Foreign Affairs spokesman said

Government wished to decide on a joint strategy with Transkei to counter the attacks, but would first evaluate the homeland's response to the protest note, he said

Police spokesman Col Louis Botha said heightened security, including additional Internal Stability Unit bases, permanent and mobile roadblocks, farm patrols and spot checks on vehicles, were being implemented. He said it was clear the perpetrators of incidents in the Border region were

To Page 2

Border raids

coming from Transkei and returning afterwards, "frustrating" police who could operate only in SA

Individuals were being advised at border roadblocks not to travel through Transkei, and Transkei police had begun escorting vehicles in some areas

Police would testify about the size and nature of Apla forces before a Goldstone commission hearing today and early in January, he said, adding that Apla was "not a very large grouping" which confined its attacks to within a couple of kilometres of the Transkei border

The latest attacks showed that slow-moving vehicles on isolated roads were being targeted

Boerestaat Party leader Robert van Tonder said right-wing organisations were co-ordinating efforts to defend SA's borders with Lesotho and Transkei An undis-

closed number of right-wing commandos were moving into the border areas, he said

Sapa reports that the Boere Weerstandsbeweging has warned its supporters to prepare for civil war The organisation said it had deployed a platoon of its military wing on the SA border with Transkei

Van Tonder said the time had come for people to defend themselves Urging the police and SADF to intervene before this happened, he insisted there were Apla bases in both Lesotho and Transkei, and that plans were being orchestrated there to get farmers off their land

Sapa reports that Transvaal Agricultural Union president Dries Bruwer said the union had confidential information that attacks on Free State and Cape farms could spread to the Transvaal at the weekend He called on government to use the SADF to restore law and order

From Page 1

B10M 22/12/92

Handwritten scribbles and circled numbers (167) over the main headline.

Handwritten scribbles and circled numbers (167) over the 'Border raids' section.

Sacked deejay slams SABC radio

CP News 29/11/92

By FRED KHUMALO

"I'm like a rat that is caught in a trap. I should warn the line of rats following me that the situation is tough upfront."

That's how erstwhile Radio Zulu deejay Victor Velaphi Mkhize - VVO to his fans - described himself after being booted out of his job last week.

Mkhize was sacked following disclosures that he had been involved in a fraudulent cheque transaction in which a radio play actor was robbed of R393,63.

But in a frank interview with City Press he said he was a victim of racism. He said the manner in which the disciplinary hearing was handled was

unsatisfactory.

"I'm seeking legal advice as I think I was dismissed unfairly," he said.

Mkhize said he felt he was short-changed by the SABC which seemed to have forgotten his commitment to his work.

During the month-long strike which nearly crippled SABC stations, Mkhize was one of the few non-strikers.

He said it was because of his immense contribution towards making Radio Zulu a force to be reckoned with, that he was singled out by white management for victimisation.

"Even before they went into the hearing they had judged me and found me

guilty.

"The misunderstanding over the cheque has been blown out of proportion and used by management to fire me. They have been trying to get rid of me as I've always been a threat to them because of my qualifications."

Mkhize, who finished his Masters degree at the University of Natal, recently submitted his Ph.D dissertation entitled *The Spoken and the Written Word: Stylistic Creations in Black Broadcasting*.

"Racism is still rife at the SABC and when they see a black person progressing academically and materially, they try to smear dirt on his face," said

Mkhize.

Mkhize - who owns a butchery, two minibus taxis and a sleek Mercedes Benz with car phone - said he had no reason to pilfer a paltry sum of money that could jeopardise his career.

He explained that his butchery and taxis were his main source of income. He is the proud author of four poetry books which have been prescribed at black primary and high schools.

Radio Zulu manager Rev Mbatha said he had no comment.

According to SABC human resources manager Kobie Coetzee, Mkhize gave up an opportunity to appeal against the findings.

While the provisions of the pathbreaking agreement between government and Cosatu on farm and domestic worker rights were generally expected, employers are concerned at the way in which the deal was done

In particular, it appears that the National Manpower Commission (NMC) was bypassed — and taken by surprise — at Monday's announcement of the agreement. It was signed exclusively — and suddenly — by new Manpower Minister Leon Wessels and Cosatu general secretary Jay Naidoo last Friday.

Cosatu only recently announced, after a great deal of discussion, that it is to re-join

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continue

CURRENT AFFAIRS

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the tripartite NMC (labour, business and government), having pulled out in part because government ignored the NMC's recommendations

Aside from the SA Agricultural Union, other employers are wondering whether this will set the pattern and bypass them. Puzzlement is compounded by the fact that Cosatu has hardly any farmworker members — except those in agri-business, who are organised mainly through its Food & Agricultural Workers Union in the Natal sugar and western Cape fruit industries. The inherent difficulty in organising farm labourers is a separate issue.

A "shocked and extremely indignant" SAAU said the decision to extend basic labour rights to agriculture was taken "without any consultation with organised agriculture." It said a meeting had been arranged with the Minister for next Friday to discuss an SAAU draft document (earlier sent to the Minister) outlining a separate labour Act for the sector. While much work had been done "to make the idea of practical labour legislation acceptable to farmers," said SAAU manpower committee chairman Chris du Toit, "I now expect strong opposition to the labour laws."

Indeed, observes labour consultant Duncan Innes, the worry is that SAAU, "which has dragged its feet on the matter," may prevent the effective implementation of the new laws, which will be difficult to police in any event.

While welcoming the envisaged new legislation for "extending protective rights to millions of workers exploited in the past," Innes hoped government would not renege or water down the agreement.

Its main provisions state that the Minister shall

- Promulgate the Basic Conditions of Employment Amendment Act (BCEA) to take effect on March 1 1993,
- Promulgate the Unemployment Insurance Amendment Act on January 1 1993;
- Introduce in parliament, with a view to passing it in the 1993 session, legislation to appropriately extend the Labour Relations Act (LRA) and Wage Act to agriculture and seek early Cabinet approval for this, and
- Before the end of the year, get his department to publish for comment the proposed legislation with due regard to the NMC's recommendations.

Regarding the BCEA for domestic workers, the Manpower department will submit to the Minister, by the end of next March, draft legislation to be introduced into parliament for passage not later than the second half of the year. It was further agreed that the LRA, appropriately amended and including effective dispute resolution procedures, needs to be extended to domestic workers.

Consideration is to be given to extending the Wage Act to domestics as well. A committee will be set up by Manpower including Cosatu, Nactu and Saccola, together with the Justice department in respect of dispute



Manpower's Wessels bold foray into the labour field

resolution procedures. It is hoped to enact this by the first session in 1994.

Extending unemployment and workmen's compensation benefits to this sector is agreed in principle and is to be investigated. So will labour law in the homelands. ■

Shock for organised agriculture

Labour deal extends rights to millions

AN AGREEMENT between government and Cosatu to extend basic labour rights to millions of previously unprotected workers was a major breakthrough for SA labour relations, Cosatu general secretary Jay Naidoo said yesterday.

Manpower Minister Leon Wessels said the agreement paved the way for all players on the labour terrain to work to establish reasonable and just labour relations compatible with international standards.

And DP manpower spokesman Robin Carlisle described yesterday's announcement as the most notable agreement for some time, which could have far-reaching consequences for economic growth.

However, organised agriculture greeted the agreement with "shock and indignation". The SA Agricultural Union (SAAU) said it had not been consulted on the plans for new legislation which will extend labour rights to farmworkers.

The Centre for Rural Legal Studies and Lawyers for Human Rights welcomed the "momentous nature" of the announcement and called on Wessels to immediately promulgate the Basic Conditions of Employment Act for farmworkers to prevent arbitrary dismissals before it was made law.

Naidoo said although much of the agreement had yet to be implemented, it represented major progress towards an equitable labour relations system.

DIRK HARTFORD

One aspect of the agreement, which involves government in the dispute over Bophuthatswana's proposed labour legislation, will be implemented immediately. Cosatu will attend a meeting today, convened by Foreign Minister Pik Botha and attended by Wessels, Finance Minister Derek Keys and Mineral and Energy Affairs Minister George Bartlett, with the Bophuthatswana government to discuss the proposed new law.

Other aspects of the agreement include:

Extension of the Basic Conditions of Employment Act (by March) and the Unemployment Insurance Amendment Act — by January — to farmworkers. Draft legislation to extend the Labour Relations Act (LRA) and the Wage Act to farmworkers will be published by the end of the year with a view to passing it next year;

Promulgation of the Basic Conditions of Employment Act for domestic workers by the second half of 1993, the extension of the Unemployment Insurance Amendment Act and Workmen's Compensation Act to domestics by 1994. Committees will investigate the extension of the LRA and Wage Act to domestics and report to the Minister by April and October respectively;

The establishment of a committee to consider how the recommendations of the

To Page 2

Labour deal From Page 1

International Labour Organisation's fact-finding mission — which made recommendations to bring SA labour law into line with internationally accepted standards — may be implemented;

Amendments to the LRA to enable registration of public and private sector unions by February; and

Allowance for Cosatu to make an input on the Public Sector Labour Relations Bill.

There was also agreement on processes and committees to investigate problems regarding industrial council agreements, the Industrial Court (including the appointment of court personnel), the harmonisation of labour relations in SA and the homelands and the introduction of a labour appeal court next year.

In addition, it was agreed the restructured National Manpower Commission should start working by February.

Naidoo said Nactu and Saccola were not part of the agreement because the "sticky points" in negotiations had been between Cosatu and government.

GERALD REILLY reports SAAU manpower committee chairman Chris du Toit said the decision had been taken without consultation with organised agriculture.

The SAAU had submitted its own draft legislation to the Minister and had arranged to discuss its document on November 20. "It was, therefore, with shock and indignation that agriculture learned that the Minister had, before his discussion with the agriculture sector, made a decision in consultation with Cosatu, especially in the light of the fact that Cosatu has virtually no members among farmworkers.

"All the good work of the recent past has now been rendered worthless by an ill-considered decision."

Labour law cannot wait for farmers' union ¹⁶⁶ Wessels

BLOM 11/11/92
 CAPE TOWN — The country could not wait for the SA Agricultural Union (SAAU) to produce concrete proposals for labour law for agriculture, Manpower Minister Leon Wessels said yesterday.

Justifying his announcement on the extension of key labour laws to agriculture, Wessels said he was surprised at the SAAU's reaction.

In terms of an agreement between himself and the SAAU, it was to have submitted its proposals for a "consolidated, agriculture-friendly" law by September 30

"What was eventually submitted to me did not even approximate the needs for reform and the need for timeous and swift performance in this process.

"(The SAAU) only spelt out principles regarding the Labour Relations Act and (the proposals) implied that the Basic Conditions of Employment Act would have to be substantively renegotiated."

Meanwhile, the Afrikaanse Handels-instituut said yesterday the accord between government and Cosatu on extending the Basic Conditions of Employment Act had again highlighted the need for

employer involvement in negotiating labour laws.

AHI vice-president P A Olivier welcomed the agreement and said it paved the way for creating and establishing a comprehensive labour dispensation.

However, the AHI regretted the perception that certain parties had been excluded from the process, illustrating the need for employer involvement

The PAC-aligned Nactu union federation said yesterday it cautiously welcomed the accord

The Domestic Workers' Association yesterday expressed concern that it was not consulted about the negotiations.

The association had been negotiating with government since 1974.

In its reaction the Domestic Employers' Association of SA said it was critical to the interests of domestic employers that any draft legislation concerning domestic workers be submitted to the association. Chairman Claire Read said the agreement with Cosatu was "very wide and general in its scope" and called on government to hear the association's views — Sapa.

Labour law anger FW calls for talks



JOHANNESBURG — President F W de Klerk yesterday called for a meeting with organised agriculture as soon as possible to discuss objections to the extension of labour legislation to farm workers

At a news conference earlier in the day, South African Agricultural Union president Mr Boet Fourie alleged that the extension of key labour legislation to agriculture could be used to disrupt agriculture for political purposes

He also alleged Manpower Minister Mr Leon Wessels had caved in to pressure from Cosatu, and said the proposed legislation could not be implemented

In a statement, Mr De Klerk said he was deeply concerned at the reaction to the proposed legislation "The controversy which has arisen in this regard is neither in the interest of the employers or employees involved, nor of South Africa as a whole"

The ANC insisted yesterday that the labour accord be translated into meaningful action to end what it termed the near-feudal conditions prevailing in the domestic and agricultural sectors

The proposed legislation was an advance through decades of bitter struggle by individual domestic and farm workers, the ANC said in a statement

— Sapa CT 12/11/92



Govt firm on March 1 for farm labour law

CAPE TOWN — Manpower Minister Leon Wessels yesterday reiterated government's commitment to extending the Basic Conditions of Employment Act to farmworkers by March 1, reports Sapa

He was responding to a Democratic Party statement on President F'W de Klerk's offer to meet farmers' unions to discuss the controversy over the extension of labour legislation to agriculture.

DP MPs Errol Moorcroft and Robin Carlisle said De Klerk's intervention should not lead to further delays.

Commenting on the DP appeal, Manpower Ministry spokesman Johan Smit said: "The employment Act for agriculture will be promulgated by March 1. This allows the various parties to continue negotiations meanwhile on a possible consolidated statute for agriculture."

Wessels called on the parties engaged in the negotiations to approach them with the appropriate responsibility, Smit said.

De Klerk's announcement on Wednesday followed warnings by the SA Agricultural Union that farmers would not implement labour legislation which they did not support.

Cosatu spokesman Neil Coleman said Cosatu hoped government would not bow to pressure from minority interests on this issue.

"While a long process of negotiations on the employment Act is over, our door is still open to discussions with the SAAU on the question of how the Labour Relations and Wage Acts should be applied to agriculture," he said.

GERALD REILLY reports from Pretoria that the SA Agricultural Union (SAAU) will tell De Klerk at a meeting next week of farmers' anger at the "cosy" deal between Wessels and Cosatu.

De Klerk said earlier this week he was disturbed at the reaction to the extension of the laws to farm workers. He invited the SAAU to discuss the issue with him.

SAAU president Boet Fourie said last night the union would again stress the imperative need for agriculture to have its own labour law.

Major changes in labour law

166
CT 10/11/92

Own Correspondent

JOHANNESBURG. — The agreement announced between the government and Cosatu yesterday, which will extend basic labour rights to millions of previously unprotected workers, is a major breakthrough for labour relations in SA, Cosatu general secretary Jay Naidoo said

Manpower Minister Mr Leon Wessels said the agreement paved the way for all players on the labour terrain to work together to establish reasonable and just labour relations compatible with international standards

And the DP manpower spokesman MP Mr Robin Carlisle described it as the most notable negotiating agreement for some time which could have far reaching consequences for economic growth

Mr Naidoo said although a lot of the agreement still had to be implemented, it was major progress towards an equitable labour relations system

The agreement made full provi-

Rights for unprotected workers

sion for consultation with, and participation of, all relevant parties in its processes and committees, he said

Other aspects of the agreement include:

- Extending the Basic Conditions of Employment Act and the Unemployment Insurance Amendment Act to farm workers and domestic workers. Draft legislation to extend the Labour Relations Act and the Wage Act to farm workers will be published by the end of the year,

- A committee will be established to see how the recommendation of the International Labour Organisation's fact-finding mission can be implemented, and

- Imminent amendments to the

Labour Relation Act to enable unions organising in both the public and private sectors to be registered

In addition, it was agreed the restructured National Manpower Commission should start working by February

GERALD REILLY reports that organised agriculture yesterday responded with "shock and indignation" to a joint decision by Mr Wessels and Cosatu that labour legislation was to be extended to the agriculture industry

Mr Chris du Toit, chairman of manpower committee of the SA Agricultural Union (SAAU), said in a statement last night the decision had been taken without consultation with organised agriculture

Mr Du Toit said at the negotiations with Mr Wessels the SAUU was asked to prepare documentation on what it considered fair and practical labour legislation for the industry

A meeting had been arranged for November 20 with Mr Wessels to discuss the issue

Farmers 'may scupper reforms'

SHARON SOROUR
Labour Reporter
and MICHAEL MORRIS
Political Correspondent

CONTROVERSY has erupted over the ground-breaking government-Cosatu accord, which extends basic labour rights to farmworkers next year, amid fears that farmers could be tempted to scupper the reforms.

The agreement — reached after talks last Friday between Minister of Manpower Mr Leon Wessels and Cosatu to extend the Basic Conditions of Employment Amendment Act and the Unemployment Insurance Act next year — has been welcomed in many quarters.

But the powerful farmers' union, the South African Agriculture Union (SAAU) said it was shocked by the decision and warned of strong opposition by farmers.

SAAU chairman Mr Chris du Toit said: "It was with shock and indignation that agricul-

ture learned that the Minister had, before his discussion with the agricultural sector, adopted a decision in consultation with Cosatu."

The government is under pressure to ensure the reforms are put into effect.

Stellenbosch-based lobbyists the Centre for Rural Legal Studies and Lawyers for Human Rights welcomed the accord but called on Mr Wessels to promulgate the Basic Conditions of Employment Amendment Act immediately "to prevent any action on the part of farmers to dismiss workers before the Act becomes effective".

They said this was critical in the light of threats by farmers, who already had to cope with the devastation of drought

"It would be tragic if the minister allowed conservative farmers the space to cut their losses through arbitrary dismissal prior to the promulgation of the Act," the lobbyists

said. ARG 10/1/92 (166)
Democratic Party manpower spokesman Mr Robin Carlisle added his voice to calls for the immediate promulgation of the legislation.

"The failure to promulgate this Act is now taking on the proportions of a national scandal and is a serious insult both to parliament and the many parties to its formation," he said

The government has undertaken to promulgate the Unemployment Insurance Act for the agricultural sector not later than January 1, while the Basic Conditions of Employment Amendment Act, passed by parliament in June, is to take effect not later than March 1.

In addition, in terms of the agreement announced yesterday by Cosatu general-secretary Mr Jay Naidoo, the Department of Manpower is to draft legislation to extend the Basic Conditions of Employment Act to domestic workers.

Labour law accord 'breaks new ground'

B/DAM 9/11/92
DIRK HARTFORD

COSATU and Manpower Minister Leon Wessels will jointly announce today details of a "ground-breaking" agreement covering the whole range of legislation and institutions affecting the labour market

Sources close to Friday's talks between the parties said the agreement was the biggest yet reached between government and labour and dwarfed the September 1990 Laboria Minute in its scope

The sources said that while the Laboria Minute laid down "broad agreement" on general issues, the latest agreement dealt with a host of specific issues — down to the clauses in legislation affecting workers

The agreement covers the Labour Rela-

tions Act, the Unemployment Insurance Fund Amendment Act, the Workmen's Compensation Act and laws affecting farm, domestic and public sector workers

In addition, agreement was reached to make the restructured National Manpower Commission a working body by the end of January. Agreement had also been reached to establish task teams to tackle "outstanding issues"

In terms of the agreement, Cosatu would be involved in preparing legislation for public sector workers. This would replace proposed legislation which Cosatu had not

been involved in drafting. A meeting has been planned between Wessels, Cosatu and National Health Minister Rina Venter.

A Bill on public sector labour relations, which Cosatu rejected, was withheld during the past parliamentary session

Agreement to extend the Basic Conditions of Employment Act to domestic workers was likely soon, as was draft legislation for farm workers. In addition, the year-end deadline for a report on the implementation of the recommendations of the International Labour Organisation commission, which visited SA earlier this year, was discussed.

Choose your forum

The drive by "progressive" unions in recent years towards centralised wage bargaining has suffered a setback. The Industrial Court has ruled that parties cannot be compelled to negotiate at a particular bargaining forum.

The judgment, in the case brought by the

* *Continued*

SA Union of Journalists against Times Media Ltd (owner of the *FM*), was delivered by Arthur de Kock, a senior member of the Industrial Court, on October 20.

The union had, under Section 43 of the Labour Relations Act, sought an order declaring TML's withdrawal from the SA Newspaper Press (Editorial) Conciliation Board an unfair labour practice. Further, that TML had unfairly breached a 1983 agreement (which appeared to cast the relationship in stone), and that TML's withdrawal notice should be rescinded.

The union's application was dismissed without costs.

The dispute involved not the obligation to negotiate, but rather the appropriate bargaining forum and the company's right to withdraw from the forum previously agreed and used. Respondents included Argus Newspapers and the SA Press Association, which, though no relief was sought against them, were cited as they had an interest in the matter.

TML had reached the conclusion that the board was no longer suitable for negotiations with its editorial staff represented by the union "to the extent that it was representative of them." (Representation was not at issue) The company believed that its attempts to negotiate changes to the board, or create a new forum, had failed. In April it informed the union that it would opt out at the end of July.

The employers had been unhappy with the old board for some time. They tried to pull out in 1982 but were checked by the union through the Industrial Court (*Bleazard vs Argus and others, 1983*).

That dispute was settled in terms of the 1983 agreement, which restricted the right of signatories to withdraw. They could not withdraw if it amounted to an unfair labour practice, unless a new forum was jointly agreed, if it breached the board's constitution; upon failure to agree, nor "solely upon notice."

The court found it difficult to determine precisely what the parties intended by this. Its interpretation, however, is that an agreement of indefinite duration could be terminated if reasonable notice were given.

Though the 1983 agreement says no party is entitled to withdraw at will, this did not mean a party could not withdraw for reasons other than those contained in the agreement — commercial reasons, for instance. The provision against withdrawing "solely upon notice" clearly implied that there may be good and sufficient reason for withdrawing upon notice.

Among TML's reasons for wanting to leave the board, or restructure it, was that it was disadvantageous to the process to bargain in the presence of its main rival, Argus. While TML preferred plant-level bargaining, it was not wedded to the idea. The court found that TML's efforts to seek a new agreement with the union were fruitless and would continue to be fruitless.

While the court would compel collective

bargaining where it is refused, it would not interfere as to where and when this should take place, because collective bargaining should always be voluntary to be effective. There was no universally correct forum that should be used.

The only effect of TML's withdrawal from the board, said the court "will be to stifle an agreement which is 'national' in the sense of providing minimum conditions of employment for English-language publications published by it and others."

That observation highlights a key reason why certain unions, notably those aligned to Cosatu, prefer centralised as opposed to plant-level bargaining. It gives the union greater leverage to negotiate wages and conditions of employment which can apply nationally, irrespective of whether these can be borne in all regions or by smaller companies.

New labour group coming

CT 710192
THE restructured National Manpower Commission will be operating by the end of January, Manpower Minister Mr Leon Wessels said yesterday.

This follows negotiations yesterday between the government and Cosatu. He said details of a formal agreement between them would be released on Monday.

A Cosatu source said Mr Wessels also reported on progress regarding the promulgation of amendments extending the Basic Conditions of Employment Act to farmworkers — Political Staff, Sapa (bb)

Court ruling seriously limits right to strike

A RECENT supreme court judgment "makes a national strike virtually impossible" and places international labour standards far out of South Africa's reach. This is the finding of labour analyst Bashier Vally in a post-mortem of the judgment in a case brought by the Steel and Engineering Industries Federation of South Africa (Seifsa) against the National Union of Metal Workers of South Africa (Numsa). In a paper to be published, Vally finds that the judgment effectively ended the strike in the metal industry because it "allows employers to allege irregularities and thereby frustrate the strike", says Vally.

The court approved Seifsa's request

for an interdict against Numsa members on the grounds that the balloting had been illegal. The clause in the Labour Relations Act which Seifsa relied on is the same one the recent International Labour Organisation (ILO) Commission to South Africa criticised and said needed urgent reform to comply with international freedom of association standards. The judge upheld the interdict without probing the employers' claims and in so doing severely limited the right to strike.

A supreme court judgment in the recent Seifsa-Numsa dispute has serious implications for any future national strike, an analyst claims. By FERAL HAJFAJEE

The court found problems with aspects of the balloting, although it accepted that "a trade union cannot be expected to conduct a ballot with the precision shown in a parliamentary election".

Some of these problems were:
 ● The union's inability to provide accurate membership figures.
 ● Denial that the ballot had been secret.

● The fact that Numsa could not ensure that each member voted only once

Vally criticises this "formalistic and rigid approach to strike ballots", saying that it doesn't take account of the realities involved in conducting strike ballots. He cites examples of employers

obstructing ballots by refusing to grant time off to workers or to providing access to trade unions. He also says unions have not always been vigilant about ballots.

In the interests of better labour relations, Vally suggests that "managements should inform the trade union of irregularities at the time they are committed so that the union can remedy them before costly legal remedies are sought".

Balloting laws should also be streamlined because they "provide a weapon too

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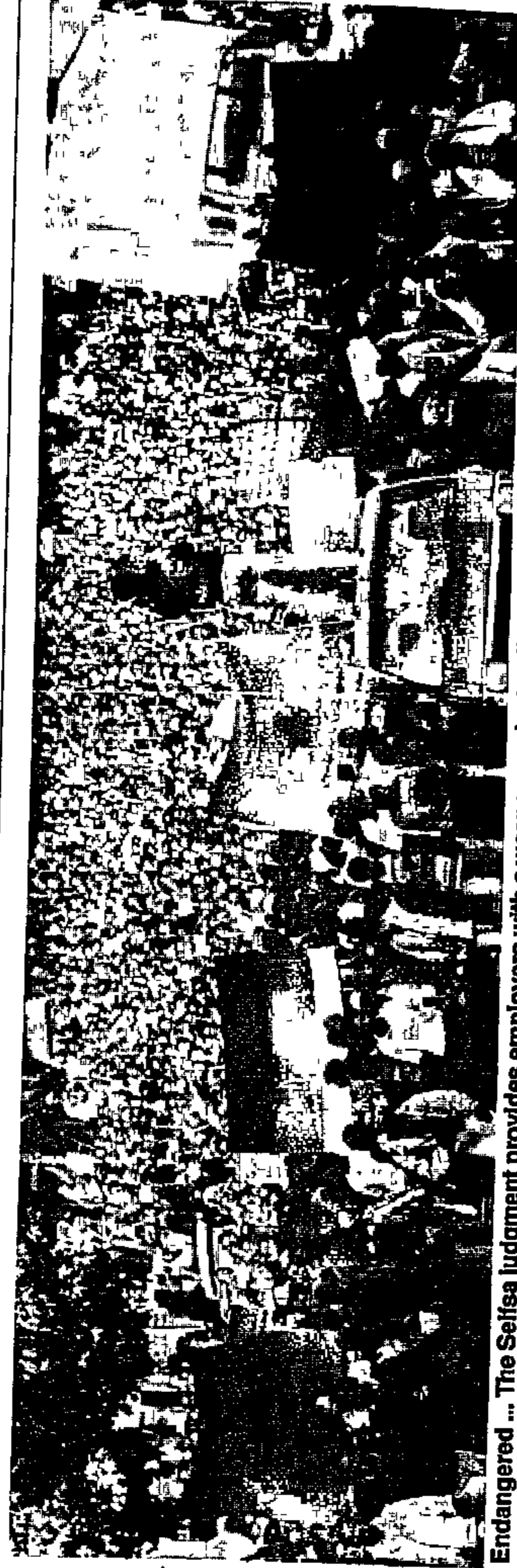
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employers to frustrate any strike that fails to strictly abide with the terms of the legislation".

Recently, the ILO's commission to South Africa suggested that the Labour Relations Act (LRA) be amended to remove all obstacles to the right to strike in order to bring the legislation into line with ILO principles on the freedom of association.

The commission specifically addressed problems in the LRA with regard to balloting.

It said that the requirement for an absolute majority of workers in an industry for a strike ballot ran the risk of "seriously limiting the right to strike".



Endangered ... The Sefisa judgment provides employers with a weapon against strikes

No progress made on farm workers rights

Sowetan 8/10/92
■ Cosatu to have another meeting with Manpower Minister:

By Joe Mdhlela

THE Congress of South African Trade Unions (Cosatu) is to have another meeting with Manpower Minister Leon Wessels on November 5 on legislation affecting farm workers

Cosatu this week said last week's meeting between the two parties yielded "no positive results"

"Virtually no progress was made in areas of legislation on farm and domestic workers and in giving effect to the recommendations of the International

Labour Organisation (ILO) fact-finding and conciliation commission," Cosatu said in a statement

Parliament had passed laws on the basic conditions of employment of farm workers and the extension of the Unemployment Insurance Act to cover them, but the laws had not been promulgated, said the statement

The department had still not drafted and published Bills on the extension of the Labour Relations and Wage Acts. This was nearly a year since the previous National Manpower Commission

(NMC) made its recommendations

The statement said the reason for the delay was the lack of political will within Government circles to create an internationally acceptable dispensation for farm workers

Cosatu had registered its objection to the Government's breach of the Labour Minute in failing to consult with the federation on the extension of basic rights for the public sector

The federation hoped the next meeting would see a resolution to these problems

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Protest at delay on farmworkers' rights

CAPE TOWN — Manpower Minister Leon Wessels has agreed to delay extending basic rights to farmworkers until he has tested the feasibility of a separate statute for agriculture, says the SA Agricultural Union (SAAU).

SAAU deputy director Kobus Kleynhans said this yesterday in response to allegations that government had held back on a revised labour law covering farmworkers because of "undue lobbying" by the farmers' union.

In a statement, he said: "The only agreement which we have with the

Minister is that he will hold back the Basic Conditions of Employment Act until he can determine if our proposals for a separate labour law are feasible or not".

Earlier, the Stellenbosch-based Centre for Rural Legal Studies and Lawyers for Human Rights (LHR) said the Basic Conditions of Employment Amendment Act still had to be promulgated despite being passed by Parliament in June.

They said they were seriously concerned that, at this late stage, Manpower Minister Leon Wessels had chosen to accept representations

from one party, the SA Agricultural Union, effectively stalling the Act.

Government's withholding of the Act "smacked of political dishonesty".

Meanwhile, about 1.4-million farmworkers remained without the barest minimum of legal protection against abuses in the workplace.

The LHR and rural studies centre said the amended Act had been passed after lengthy negotiations in the National Manpower Commission between a wide range of parties.

These included the SAAU and Cosatu. — Sapa.

SAAU acts after Cosatu talks stall

PRETORIA — The SA Agricultural Union has sent its own proposals to government after talks with Cosatu on the issue of labour legislation for farmworkers became bogged down.

SAAU deputy director, general affairs, Kobus Kleynhans said yesterday a document had been submitted to Manpower Minister Leon Wessels setting out provisions which should be included in a separate labour Act for the agricultural industry's 1-million workers. *B/DAY 6/10/92*

Kleynhans said the document was aimed at facilitating the drawing up of legislation, which it was hoped would be submitted to Parliament during the 1993 session.

Discussions with Cosatu on the issue started in February this year but have remained deadlocked.

Cosatu spokesman Lisa Seftel said discussions with the SAAU would be resumed once basic conditions for farmworkers had been legislated.

Kleynhans said Cosatu was opposed to organised agriculture's view that farmworkers should be the subject of separate and specific legislation, and instead wanted them covered by the Labour Relations Act.

GERALD REILLY

Efforts by the SAAU to persuade Cosatu to return to negotiations had failed so far.

"So we decided, taking into account the urgency of the issue, to go it alone and make proposals to the Manpower Minister," Kleynhans said.

Seftel said that after five meetings over several months, the SAAU had not presented any concrete proposals to Cosatu and were more concerned with the principle than the content of future legislation.

Kleynhans said the aim of the recommendations made to Wessels was to incorporate in legislation maximum self-governance for farmers and their workers.

"We want to keep disputes and negotiations to settle them inside the farm gate, and we believe the vast majority of disputes are and can be settled in this way."

Where a deadlock developed, mechanisms would be included in the legislation to resolve disputes outside the farm gate.

These mechanisms were still being formulated, Kleynhans said.

Wessels was not available for comment last night.

Watching over the industry

The Association of Personnel Service Organisations of South Africa (APSO) was formed in August 1977 out of The Association of Private Registry Offices, which had been in existence for about 10 years.

By 1976 personnel services in SA had undergone tremendous growth and diversification and it had become apparent that there was a need for a more representative body to safeguard all sections of the personnel service industry.

At the time representations were being made to both the Riekert and Wiehahn commissions, which were in hearing over labour legislation, to ban employment

agencies and temporary staff contractors. It was through submissions made by APSO to both commissions that provision was made for the industry in both the Guidance and Placement Act 1981 and the Labour Relations Act in 1983.

After careful study of similar associations in the United States, Britain and Australia, APSO adopted a constitution and code of ethics.

To make provision for the very varied sectors of the industry separate sections were formed, each of which draw up a code of conduct for members operating in that sector of the market.

There are at present seven sections within APSO:

- Personnel selection consultants — management staff.
- Personnel selection consultants — general staff.
- Temporary staff contractors — commercial staff.
- Temporary staff contractors — industrial and technical staff.
- Search.
- Computer and electronic staff.
- Student, temporary and permanent placement.

LABOUR LEGISLATION
1993

Decisions to be taken on farm labour laws

SHARON SOROUR (166)
Weekend Argus Labour Reporter

A WORKING document on extending the Labour Relations Act to agriculture, the establishment of a special labour court and mechanisms for creating labour codes for the agricultural sector was gazetted this week

The document flows from a report by the National Manpower Commission recommending the extension of the Act to the agricultural sector

Manpower Ministry spokesman Mr Johan Smit said the government would decide whether existing legislation should be extended or one Act on labour relations in agriculture should be promulgated.

The decision will be based on comment received from interest groups on the document and further deliberations

Last month controversy erupted when Manpower Minister Mr Leon Wessels entered into a ground-breaking agreement with Cosatu to extend basic rights to the country's 1,3 million farmworkers

The farmer's union, the SA

Argus 21/1/93
Agricultural Union (SAAU), threatened to scupper the plan because it was not consulted

In terms of the agreement with Cosatu the government undertook to promulgate the Unemployment Insurance Act for the agricultural sector not later than January 1 and to enact the Basic Conditions of Employment Amendment Act — passed in parliament in June — not later than March 1

The government agreed to introduce legislation to extend the Labour Relations Act and the Wage Act to agriculture.

Farmers were shocked by the decision and the SAAU warned it would oppose the agreement. However, it adopted a more positive stance after President De Klerk intervened and consensus was reached that the legislation would be "placed back in the negotiation process to develop practical applicable legislation adjusted to agricultural circumstances"

All interested parties are invited to submit comment on the working document before or on February 26 to the Department of Manpower, Private Bag X117, Pretoria, 0001

New Bill heralds a better deal for farmworkers

By SEKOLA SELLO

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THE government this week unveiled its long-awaited draft bill to bring the working conditions of farmworkers in line with the rest of the country. *CPA 3/11/93*

The working document on the extension of the Labour Relations Act which includes farmworkers under the Basic Conditions of Employment Act of 1983 is expected to bring about far reaching changes in the farming industry.

In terms of the proposals, child labour (15 years and under) at the farms is effectively eliminated, farmworkers are entitled to unionisation and collective bargaining, female workers are entitled to maternity leave, working hours are prescribed and wages determined.

The sweeping changes the government proposes are likely to overhaul the lot of farmworkers - generally regarded as the most underpaid, overworked and exploited employees in the country.

But as changes begin to take effect the government and trade union federations such as Cosatu and Nactu could find themselves on a collision course with the powerful SA Agricultural Union which is opposed to any changes in the industry.

A month ago when the government announced that it was considering extending the Labour Relations Act to farmworkers, the agricultural union expressed its opposition to the envisaged proposals, saying they were "unworkable" and that the legislation would not take into account the "unique circumstances of agriculture".

Farmers' representatives subsequently met State President FW de Klerk and Manpower Minister Leon Wessels to express dissatisfaction that there were no proper consultations with farmers on the implications of the Act.

To counter the swelling opposition to the envisaged legislation, Wessels proposed further discussions on the issue.

Farmers have until the end of Feb-

ruary to submit comments to the government.

Among the important provisions of the Act is the establishment of a special labour court to listen to disputes between the employer and employee and the appointment of inspectors to monitor the farmworkers working conditions.

If this draft Bill becomes law early next year as seems likely, it will be an offence for an employer to hinder an inspector in the execution of his duties. It will also be an offence for an employer to dismiss or alter the service conditions of a worker if such an employee has given evidence to an inspector.

Farmworkers will in future have the right to belong to trade unions and will also have the right to participate in the union's activities. It will be an offence for an employer to prohibit an employee from participation in union activities.

Farmworkers will also be entitled to annual leave and sick leave. They are also entitled to lunch periods while female workers will enjoy the right to maternity leave. In terms of maternity leave, a female worker is not allowed to work four weeks prior to her confinement and eight weeks after giving birth.

The summary dismissal of farmworkers which is common practice on the farms is prohibited and in future, if a worker wants to terminate his services, the farmer cannot keep him against his will. However, the worker is expected to serve notice.

Farmworkers will also enjoy all public holidays as paid holidays and working on Sunday will be considered overtime.

Cosatu has played an important role in drafting the working document. Nactu says the proposed legislation is long overdue and has rejected farmers' demands that they be exempted from industrial courts in cases of disputes with workers.

While the general thrust of the proposals is to bring about enlightened labour relations on farms, the expected opposition from the farmers could turn these areas into battlefields.



NEW DEAL The long-awaited draft bill protecting exploited farmworkers will bring about far reaching changes.

Labour codes could set trend

A NEW system of legally enforceable labour codes recommended for the agricultural sector could set a trend for the introduction of a similar system in other parts of the economy.

An investigation into the desirability of such a move is proposed in notes to the draft Labour Relations Amendment Bill published in the Government Gazette on Thursday. The draft Bill is designed to extend the Labour Relations Act to cover the agricultural sector.

In addition to labour codes, it also seeks to establish a special labour court to operate in the sector, legally recognises "no-strike" agreements, clarifies the grounds on which interdicts against strikes may be obtained and attempts to enhance the use of conciliation boards in the sector.

The draft Bill is in accordance with the November 6 agreement reached between Manpower Minister Leon Wessels and Co-satu that the department publish for com-

ALAN FINE

ment draft legislation on the issue "before the end of 1992". The agreement provides that the Bill, based on National Manpower Commission (NMC) recommendations, be passed through Parliament in 1993.

Notes to the Bill point out a number of areas where employee and SA Agricultural Union representatives on the NMC were unable to reach consensus, and are likely still to be hotly debated.

The Bill authorises the Minister to produce a labour code applicable to agriculture after recommendations have been received by interested parties.

The purpose of the code is to introduce clarity and certainty on unfair labour practice issues which have been adjudicated by the industrial and other courts.

It is seen as especially necessary for agriculture as "it would be unfair towards

To Page 2

Labour codes

both employers and employees to expect them to be au fait with the principles set out in the numerous decisions of the various courts".

A novel provision makes it possible for employers and employees — individuals, agricultural sub-sectors, or those in particular regions — to reach agreement on their own, legally binding labour codes.

The basis of operation of the special labour court is simplicity and speed.

The court would not, in cases of unfair dismissal, be entitled to order reinstatement (one of the matters of dispute between the unions and the SAAU). It would be able to order compensation only at a rate of two weeks' wages per year of service up to a maximum of 30 weeks. If a dismissed employee wanted reinstatement he or she would have to take the case to the Industrial Court.

Decisions of the special labour court would be final and the court would not be permitted to make orders on costs.

The Bill recognises contravention of "no-strike" agreements as a particular

From Page 1

ground for an Industrial Court interdict.

No-strike agreements are designed to recognise the seasonal nature of farming and minimise disruptions during peak farming periods.

Other grounds set down by the Bill for interdicts against strikes (and lockouts) are where the action

Has caused or is liable to cause serious damage to employers' property or could endanger people's health and safety;

Could destroy a business's viability, "unless the strike or lockout is functional to the collective bargaining process", or

Is conducted in a violent manner or is accompanied by threats of violence.

Before an agricultural sector unfair labour practice case is referred to the Industrial Court it will have to follow the usual conciliation board procedures. Once the case has reached the court, the presiding officer will be entitled to refer the matter back to the board prior to hearing the case, instructing the board to attempt to expedite the settling of the dispute.

Novel plans for future labour law being cultivated

By FERIAI HAFFAJEE

A LAST-minute parliamentary dash ensured a full set of labour law recommendations for the farming sector by the time the bells rang in the new year

The publication of draft Wage and Labour Relations Act recommendations on the day before Christmas and on New Year's Eve bodes well for passage of legislation in the agricultural sector in 1993

The Labour Relations Act proposals include a number of novel concepts, such as a special labour court and the capacity to introduce different labour codes in different regions and sub-sectors

W/mout 8/1-14/1/93
These recommendations recognise the particular circumstances of the farming sector, where conditions depend on the goodwill of individual farmers

The government has yet to decide "whether the existing legislation should be extended or whether a single Act to regulate labour relations in agriculture should be promulgated", said Minister of Manpower Leon Wessels

The special labour court will be similar to the small claims court in that it will provide quick relief and be easy to use because neither farmers nor workers are familiar with court

procedures

The working document suggests that farmers and their employees can enter into "no-strike" agreements and also recommends drawing the sector into the conciliation board system

Although farmworkers will not be brought under the ambit of the Wage Act, the Wage Board can pass recommendations for the various sectors and regions in the sector.

But the board will have to take into account the "special circumstances" in the sector, like distance from markets, transport costs, the value of board, food and other benefits with which farmers provide their workers

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JOB MARKET

Putting a new face on Labour's right to strike

By ADRIAN HERSCH
S Times (BUS) 10/11/93

STRIKE legislation, including the possible provision for no-strike deals, is set to become one of the most vigorously debated issues when the restructured National Manpower Commission (NMC) meets next month.

One of the main tasks of the revamped NMC — which includes representatives of government, business, labour and individual experts — will be to formulate a new Labour Relations Act (LRA).

Many other countries make provision for no-strike agreements to be enforceable. In SA, section 79 of the LRA makes such agreements unenforceable.

NMC acting chairman Frans Barker says that despite this "a number of no-strike deals are being concluded".

"Trade unions, in general, want as little interference as possible with the right to strike. The problem is that, where agreements that cannot be enforced are concluded, there may be some irresponsible parties that will take advantage of the situation."

But the most hotly debated issue concerning strike legislation is likely to be the International Labour Organisation (ILO) recommendation, in a report on SA, that workers be protected against dismissal when striking legitimately.

Dr Barker says, firstly, that many employers disagree with this principle because they believe the industrial court offers enough protection to strikers as matters stand.

Secondly, even if the principle is to be accepted, protection from dismissal cannot be "absolute".

Dr Barker says "A number of factors will have to be considered. For example, if violence is involved in the strike, or the strike threatens the viability of the company, then exceptions have to be made."

"Some are in favour of protection from dismissal for a certain period, such as 30 days, but unions often object to this, saying employers can easily get around this by ensuring

ment favourably, the door for our readmittance will be open."

But he adds "I don't think regaining membership should be our first priority. Our priority should be to ensure acceptable labour legislation — and once we've done that we will not, in any case, require that much technical assistance from them."

The restructured NMC will comprise 10 representatives from labour, 10 from business and 10 appointed by the Manpower Minister, all of whom will have voting rights.

Original recommendations were for representation to be divided equally between business and labour, with a Department of Manpower representative having one vote.

Dr Barker says the change was made in order to try and accommodate those who are not represented by big business and the major trade unions.

Rules

Those appointed by the Minister will be drawn "from a diverse group of people". They comprise a chairman and deputy chairman, two legal representatives, two Manpower Department representatives and four other experts.

Dr Barker says the NMC will hold an informal meeting towards the end of the month in order to promote consensus on who the four experts should be.

The NMC will establish rules of procedure, set up sub-committees, draw up an agenda and decide what interaction there should be with bodies such as the National Economic Forum (NEF).



Dr FRANS BARKER

legislation in each of the 11 home-lands was incompatible with the "international principles of freedom of association".

Dr Barker says the NMC has limited influence over this "The future labour legislation in these areas will largely be dependent on what will happen in the constitutional negotiations."

South Africa's regaining of ILO membership will also be dependent on how constitutional talks progress.

Dr Barker believes that the chances of admittance will be good once an interim government is in place. "Should the African bloc view the establishment of an interim govern-

Incompatible

Other ILO recommendations regarding strikes include widening of the strike definition to allow strikes over economic and social issues, amendment of the strike ballot provision, and provisions regulating strikes — simplification of the pre-strike procedural requirements.

"The strike issue is wide open for discussion. There's going to be a lot of discussion and, given all the complexities, it will take some time to resolve," says Dr Barker.

The ILO report recommended that full labour rights be extended to agricultural, domestic and public service employees, which is now taking place.

Dr Barker denies speculation that these changes are being made as a result of pressure arising from the report. "The processes were set in motion before the ILO made its investigation."

The ILO report said that labour

LABOUR

Farms get in on the Act

AFTER nearly three years of negotiation and politicking, 1993 seems set to be the year that labour legislation will finally be extended to cover workers on South African farms.

But there are fears that its implementation may be further delayed.

The draft legislation published at the end of December provides important basic rights to farmworkers, though in a weaker form than in industry. It also contains various concessions to the farmers' lobby which watered down earlier proposals agreed to by the National Manpower Commission.

This may be an attempt by the government to create the space for the South African Agricultural Union (SAAU) leadership and head office bureaucracy to save face by winning concessions on aspects of the legislation.

The SAAU — this week criticised by the Kasser Commission for receiving R20 to R30-million in compulsory levies through the marketing boards — is looking increasingly vulnerable.

A federal body, with key regions such as the Transvaal and the Free State dominated by Conservative Party politics, its supremacy over all things agricultural has been undermined by shifts in government economic policies in the mid-1980s and more recently by the political reform process.

The SAAU is demanding a single and separate consolidated labour Act, designed to suit the special conditions of agriculture, although it initially rejected any labour legislation for farmworkers.

But, since the much-publicised furore at the end of last year, when the state president intervened, the SAAU has been remarkably quiet and seems set to drop this demand, suggesting it will agree to the legislation if concessions are extended.

W/Mail 15/1-21/1/93

Legal protection for farmworkers may finally reach the statute books this year — but when will it filter down to the farms? By DAWIE BOSCH

W/Mail 15/1-21/1/93

However, there is fear among all parties that a righting breakaway from the Transvaal and the Free State branches will render any labour legislation almost impossible to administer in these regions.

The Congress of South African Trade Unions, for its part, may have to agree to some of these concessions if it wants to show the fruits of negotiation and claim victory in a notoriously difficult sector — only five percent of the country's farmworkers are organised.

Negotiations on the Basic Conditions of Employment Act (BCEA) were reopened in November — despite an earlier agreement between Cosatu and the government to put the legislation into effect — and will be on the table during negotiations on the Labour Relations Act (LRA) and the Wage Act.

An unfettered BCEA is essential, especially in small towns where unorganised farmworkers flock to advice centres and other service organisations.

Cosatu's immediate concern, however, is to gain effective rights around the LRA to organise farmworkers in undertakings where organisation is viable — such as bigger company-owned farms.

To achieve this, they will be under considerable pressure to agree to additional compromise on the BCEA and to drop their demand for immediate extension of the Wage Act.

In terms of the Wage Act proposals, no deter-

mination can be made on minimum wages or other conditions of employment, but the Wage Board will be able to make recommendations to farmers.

It is unlikely the procedure will be used much since the last decade has seen a drastic decrease in wage determinations.

If the LRA proposals are legislated they will provide:

- Legal incentives for farmers to ensure that labour practices are fair for the first time

- For the creation of a special labour court, available more locally and similar to the small claims court: easy to use, quick but without the right to representation and appeal

- That a strike can be declared "unacceptable" for a specified period if it could cause serious damage to an employer's property or threaten the viability of the employer's business.

Although special measures around strikes may be in order in some sectors of agriculture, farmers would be able to use this clause to interdict most legal strikes in agriculture, undermine the only real bargaining tool workers have.

The LRA proposals provide that labour codes can be drafted for the agricultural sector and in sub-sectors by the National Manpower Commission.

If the farmworkers or their employee organisations see the code as unfair, the onus of proof will rest on them.

The Department of Manpower recommends that the extension of the LRA should not be made effective until a code has been fully negotiated in the NMC.

This is of grave concern since such a negotiating process will delay the extension of the LRA to agriculture by months if not years.

● Dawie Bosch is a lawyer at the Centre for Rural Legal Studies in Grahamstown.

Crucial year ahead for farm workers

Legislation to be passed in the next few months may usher in a new era on South Africa's farms, writes Alan Morris. (166)

THIS year may bear witness to a profound shift in the balance of power in the agricultural sector.

For the first time farm workers will have the same legal rights as other workers and their capacity to challenge the unrestricted power of white farmers could be substantially enhanced.

Since the arrival of white settlers in the 17th century, black South Africans stuck in the farming sector have probably been the worst off of all workers.

In 1988, the 906 700 African agricultural workers received on average 15,6 times less than their white counterparts.

According to a survey of the South African Institute of Race Relations, African workers received an average annual income of R799 in 1988 or R66 a month (excluding rations), while whites employed in the agricultural sector earned on average R12 536 a year or R1 044 a month.

The wretched situation of farm workers is not only reflected in the pay they receive but also in their lack of legal protection.

There are four main acts which provide basic protection for most South African workers — the Wage Act, the Basic Conditions of Employment Act, the Labour Relations Act and the Unemployment Insurance Act.

Not one of these acts has covered farm or domestic workers and this has greatly facilitated the exploitation of farm workers.

However, this will soon change. In the next few months all four acts will be amended to cover farm workers and domestic workers.



HARD LABOUR. Farm workers are set to get a new deal when legislation is passed to extend labour rights to them.

Under the Wage Act minimum wages are set for certain industries and it is an offence to pay less than the minimum. Because agricultural workers are not protected by the Wage Act, farmers are able to pay the pitiful wages characteristic of this sector.

The Basic Conditions of Employment Act stipulates how many hours a worker is allowed to work in a day and in a week and makes the payment of overtime mandatory. If these limits are transgressed, it also provides for compulsory leave — workers are entitled to two weeks' leave annually on full pay.

The act also allows workers 10 days' sick leave a year. Another crucial feature of this act is that it makes it an offence to employ children under the age of 15.

Studies have shown that on most South African farms the provisions of the Basic Conditions of Employment Act are ignored.

The Labour Relations Act facilitates trade union organisation in that it makes it an offence to harass or dismiss workers because they belong to a trade union.

The Unemployment Insurance Act provides for the payment of unemployment benefits if a worker is dismissed or retrenched. The act provides minimal respite from the ordeals of unemployment. Farm workers, however, are immediately thrown to the wolves if they lose their jobs. Often losing their jobs does not only mean losing a regular wage, it also means losing their accommodation, access to land and their livestock.

But the number of Africans employed on white farms has dropped by close on 30 percent in the last 24 years. In 1968 there were 1 387 000 African farm workers. By 1988 there were 906 700.

The lifting of the pass laws in 1986, the more tolerant approach to the erection of informal housing, the harsh conditions on the farms and the stream of farm workers moving to the city has continued unabated.

The decision to extend basic legal protection to farm workers is long overdue. The key question is whether the legislation will have any effect on the lives of ordinary farm workers.

White farmers are one of the most conservative groups among the population and, not surprisingly, have expressed their virulent opposition to the proposed legislation.

They have accused the government of pandering to Cosatu and ignoring the "special circumstances of agriculture". There is no doubt that this powerful grouping will be lobbying to persuade the government to drop the proposed changes.

In the current context the farmers are unlikely to succeed. The government will be hard-pressed to go back on its declaration of intent as regards agricultural workers. However, the agricultural unions could issue a directive to its members to simply ignore the legislation.

The final question is how Cosatu will respond to the organisational space created by the extension of rights to agricultural workers. Will it move into agriculture in a major way or will agriculture continue to be the Cinderella of the labour movement? — AIA

Fines to cut job hazards

S Times [Cape metro]

By FRED ROFFEY

EMPLOYERS face fines of up to R100 000 or two years' imprisonment for major contraventions of the proposed Occupational Safety and Health Act (OSHACT) which is expected to replace the Machinery and Occupational Safety Act (MOSACT) towards the end of the year.

Businesses are being urged to prepare now for OSHACT because of its wide-ranging regulations, which are far greater in scope than MOSACT and will affect every concern, whether it employs one person or thousands.

Much more consultation will be required between management and the workforce and safety and health representatives will have to be elected or nominated after meaningful consultation.

Workers elected as representatives will have the right to investigate incidents.

Where circumstances warrant, employers will be entitled to go directly to an inspector.

"Greater responsibility for the safety of his workers will fall on the shoulders of the employer," said Ted Rowen, group

loss control manager for Cape Town-based Irvin & Johnson

"An employer will have to draw up a strategy to minimise risks

"He will have to ensure that the mandatory training programme is in place

"The onus will be on the employer to see that employees adhere to safety precautions

"It is also possible that a medical practitioner may have to report any occupational disease to the Department of Manpower"

Mr Rowen suggests that employers

● Start planning now and set time scales

● Decide what is to be changed in present procedures and to what extent

● Decide on the methodology to be employed

● Be definite about who

is to implement the various steps, as these cannot be left to untrained employees

● Decide where the resources will come from

"It is clear that the draft bill seeks to enlarge significantly the parameters of the legislation," says Ken Thom, a director of Corporate Liability Services, a risk management division of PFV Insurance Brokers

"Penalties to be applied under OSHACT should grab the attention of management.

"They are five times more severe than those under MOSACT

"The drastic penalties should be seen as an indication to the courts and the authorities just how

serious a view is being taken of transgressions in safety and health in the industrial workplace"

In another development, the Department of Manpower has published an Injured Employees Compensation Draft Bill, 1993, for information and comment

This is intended to replace the Workmen's Compensation Act, 1941, and to insure employees or their dependants in the event of disablement caused by accident or occupational disease

Under the present act only certain employees are protected, but the bill proposes that all employees should be protected irrespective of wages

It also proposes the establishment of a Compensation Board representing employers' organisations, trade unions, the state and the Medical Association of South Africa

Interested parties should submit comments by February 26 to Workmen's Compensation Commissioner (Attention Mr Louis van Assen), P O Box 955, Pretoria 0001

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NEWS IN BRIEF

Labour law may go

SPECIAL labour law dispensation which applies to Armscor employees may be scrapped in terms of legislation before Parliament

According to a Bill to be considered by Parliament this year, Armscor workers will fall within the ambit of the Labour Relations Act, placing them in the same position as employees of private sector organisations.

BIDM 19/11/93

(66)

It's business as usual in the House (for now)

STAN 21/1/93
PARLIAMENT as we know it will probably bid its farewell this year, but by the looks of things so far, it'll be business as usual until the brokers of the new South Africa prompt its metamorphosis

With 1993 being the critical year of constitutional change, the media spotlight will shift from graceful Cape Town to Johannesburg, leaving MPs the less exciting job of rubberstamping amendment Bills — mostly uncontroversial — largely left over from last year

Pioneers

If all goes well on the political front, however, Parliament's grandest gesture will be in passing legislation for the first laws basic to a transitional constitution

Indeed, it is possible a Government/ANC-agreed Transitional Executive Council could be written into law by June

But while Parliament awaits word from the new constitution pioneers, the show must go on with nuts and bolts legislation

Of biggest import will, of course, be Finance Minister Derek Keys's Budget, expected to introduce higher VAT and taxes to counter the rising national debt

Perhaps the most immediately controversial laws to be enacted during the pending session are those that constitute the new labour code

The Bills are aimed at introducing equity in labour conditions in all economic sectors. Most importantly, farm labourers will be legally protected for the first time

Predictably, the conservative farmer community, organised by the SA Agricultural Union, is opposing the new labour code

Hot debate is therefore expected before the deadline at the end of February, when the final drafts will be tabled

Also on the labour front is the Injured Employees Compensation Draft Bill, to replace the Workmen's Compensation Act. This law will tighten up insurance of employees or their dependants in the event of disablement. Most importantly, all employees will be insured, irrespective of their earnings, and compensation for occupational diseases will be more equitably provided

There are some laws on the cards designed to pull the reins in on those of us who live a little recklessly

The Road Traffic Amendment Bill of 1993, providing for a separation of the drivers' licence from the identity document, also provides for far more severe punishments for lawless driving, including automatic suspension

STAN 21/1/93
If all goes according to plan, the coming parliamentary session will be the last of its kind. HELEN GRANGE reports.

for serious offences

And in the Liquor Amendment Bill, higher penalties are proposed for liquor sales to minors and the opening of bottle stores on public holidays

Dog owners exercising little control over their pets will need to take cognisance of the Animal Matters Amendment Bill which, once passed, will enable the State to impose a fine of up to R40 000 or two years' imprisonment on the owner of a dog which attacks an innocent

The Department of Correctional Services will be tabling the Correctional Services Amendment Bill, designed to cover the loophole which saw the notorious Lucky Malaza erroneously released from prison as a political prisoner

The new law will provide "checks and balances based on sound legal principles", according to a department spokesman, although no details have yet been made known on exactly what these are

And gambling operators beware! Last year's Gambling Amendment Act, which caused such a stir that a moratorium on casino prosecutions was introduced, will probably come into effect in full force after January 31, the moratorium deadline

(The Act outlawed hard gambling, but the Howard commission into gambling has still to report on whether selective gambling should be allowed)

Other legislative changes on the agenda this year are geared toward deregulation

Civilians

The Department of Law and Order will table the Police Amendment Bill to replace the Police Act. The objective is to provide for the employment of civilians. This new development is aimed at exchanging ranked police officers in management/administrative posts with civilians, freeing policemen to fulfil normal duties

There is a strong possibility that the Marketing Act, which empowers the existing marketing boards, will be amended in line with recommendations of the Kassier Committee into the marketing system

The committee proposed deregulation of the marketing and control boards and the curtailing of the extensive powers currently afforded to the boards and the Minister of Agriculture

Farm labour law talks resume

PRETORIA — Negotiations on the application of labour legislation to the farming industry will be resumed tomorrow against a background of a demand from organised agriculture for separate legislation for farming.

Represented at the meeting will be the SA Agricultural Union (SAAU), the Manpower Department and organised labour, including Cosatu.

Negotiations on the issue have been in progress on and off for the past 12 months and government has given the negotiators until end-March to reach agreement otherwise government will decide on the issue.

There are more than a million workers employed on farms.

Only one of the three pieces of legislation — the Basic Conditions of Employment Act — has gone through Parliament.

Comment on drafts of the other two — the Labour Relations Act and

GERALD REILLY

the Wage Act — is still being submitted to the Manpower Department.

The SAAU's manpower spokesman Kobus Kleynhans said the unique conditions in the farming industry justified a separate Act.

The draft of a specific Act was being prepared and would be on the agenda of future meetings.

If government decided the three Acts would be applied to the industry "then amendments will have to be made before they are acceptable to organised agriculture".

Kleynhans said government intended to extend the Wage Act to farm workers during the coming parliamentary session "but on this the last word has not been spoken". Wage packages, he said, were not as popular among farmworkers as was generally believed.

26/11/73



brief

166

The amendments to the Wage Act were also a farce as they did not extend wage determination to farm workers *Guefan 1/2/93.*



Draft Bills flawed, says Cosatu

THE Congress of South African Trade Unions has expressed concern about the proposed changes and extensions to the Labour Relations Act as well as the Wage Act, both in relation to farmworkers ^{South}

Cosatu said in a statement ^{11/2/93} yesterday after studying the two draft Bills it found it had major problems with the contents of the proposed legislation. The draft Bills were "seriously flawed", it said. Cosatu said it did not approve of suggested limitations on the right to strike, the introduction of labour codes for agriculture and a special labour courts for farmworkers which would only "entrench the baasskap of farmers".



Restructured manpower body to play key role

TIM COHEN

CAPE TOWN — Fundamental restructuring of the National Manpower Commission will make the body the focal point of labour relations negotiations.

Government is likely to announce today the new functions and composition of the body, which will rival the economic forum in representativeness and credibility.

A likely announcement is that the revised commission will be composed of 10 members each from the trade union movement and employer organisations.

Also, 11 experts (including the chairman) will be appointed by government from the fields of labour relations and economics. Their inclusion is considered a major change from the composition of the old body, from which Cosatu withdrew in 1991.

The experts will include lawyers who have represented both labour and business, several high profile economists and representatives from business.

The new body's tasks will be wide-ranging and could include the complete revision of the Labour Relations Act. It is also likely to consider the results of studies on SA labour relations conducted by a fact-finding and conciliation committee of the International Labour Organisation.

It will have the authority to look into any issue on labour policy and practice.

It remains an advisory body and has no power to bind Cabinet or the Budget. However, given the composition of the commission, it will be extremely difficult to ignore its decisions and recommendations.

The exact relationship between the commission and the economic forum has not been discussed in detail, but officials place a high priority on communication between the two.

Manpower Minister Leon Wessels said in Parliament this week the commission's first meeting would take place on February 12.

It was pivotal to a new democratic dispensation that SA have a sound economy which satisfied all the reasonable expectations of the country's citizens. This ideal was not possible without a fair labour dispensation, he said.

B/D 8/2 11/2/93

Committee holds back public sector Bill

CAPE TOWN— A major political crisis had been defused with government's referral of a controversial draft public sector labour law for further negotiation, Cosatu general-secretary Jay Naidoo said yesterday.

Cosatu had earlier warned of a "massive storm" brewing over what it called government's unilateral bulldozing of the Public Service Labour Relations Bill. (166)

Standing committee on home affairs chairman Pat McKenzie said he had asked the committee to refer the

Bill for further talks between the Commission for Administration and interested public sector employee groupings in order for those parties to reach a compromise.

"I told Mr Naidoo I would do my utmost best to achieve consensus. I told him I would not pass the legislation through the committee today.

"The NP has had ample time to bulldoze this legislation. My job is to pass good legislation; not just to change it, but make sure it withstands the test of time." — Sapa.

Star 1112193
SA labour laws (166)
'hopelessly biased'

Property Editor

A major factor mitigating against foreign investment in South Africa is that labour laws are "hopelessly biased" in favour of a workforce which has one of the lowest productivity profiles in the world

So says William Hulscher, outgoing president of the Master Builders' Association (MBA)

Speaking at the southern Transvaal branch's annual meeting last night, he said research conducted for the California-based Institute of Management resources had shown that major firms did not regard South Africa as suitable for investment in the near future.

Among their fears were the threat of nationalisation, the possible introduction of a wealth tax, increasing levels of personal tax and high

mortgage rates, as well as inadequate productivity levels and management quality control

However, Hulscher said, the researchers had also found that large employers among potential investors were frightened off by labour law biased in favour of workers.

"The past year has also seen an increase in the number of mass action campaigns, politically motivated stay-aways and a general lack of interest and go-slow attitude among workers in industry

"It is time the unions came to realise that the wage must be linked to productivity."

Hulscher appealed for government funding for training programmes to raise labour productivity on building sites.

● Keith Elgie, the owner of WEB Construction, is the new MBA president

Star 11/2/93

Row averted by Bill's referral

CAPE TOWN — A major political crisis had been defused with the Government's referral of a controversial draft public sector labour law for further negotiation, Congress of South African Trade Unions general secretary Jay Naidoo said yesterday.

Cosatu had earlier warned of a "massive storm" that was brewing over what it called the Government's unilateral bulldozing of the Public Service Labour Relations Bill.

"The Standing Committee on Home Affairs has now correctly decided to resolve the matter through negotiations," Naidoo said.

Standing Committee chairman Pat McKenzie said he had asked the committee yesterday to refer the Bill for further talks between the Commission for Administration and interested public sector employee groupings.

"They must only come back to the committee when they are ready to submit certain compromises," McKenzie said. — Sapa

"SIGNAL"

New deal for farmworkers

W/Mail 12/2-18/2/93
By GAYE DAVIS Cape Town

WORKERS employed on an Elgin fruit farm have agreed not to strike and their employer has agreed never to lock them out in terms of a recognition agreement believed to be the first of its kind in the western Cape fruit farming industry.

The agreement, signed between Moltano Brothers Trust and the Farmworkers Support Committee (FSC), which represents more than 600 workers on the farm, anticipates pending changes to the Labour Relations Act to include farmworkers within its ambit

FSC general secretary Grant Twigg said because housing formed part of farmworkers' pay packages, a lock-out could mean families being summarily evicted from their homes. The clause would fall away if the Labour Relations Act extended protection for striking workers to farm labourers, he said.

Johann Hamman, a researcher for the Centre for Rural and Legal Studies in Stellenbosch, said the agreement's significance lay in a compulsory mediation and arbitration clause. "It tries to accommodate a farmer's fear of a strike during the height of the harvest season, and also protects workers who might find a farmer reopening negotiations during the winter season, when, if the talks failed, he could theoretically lock them out of their homes."

Hamman pointed out that while industrial workers in industry had a year-round capacity to strike, for farmworkers it was generally limited to the harvest season. However, farmworkers' vulnerability to a lock-out lasted all year long, he said.

Twigg said any disputes over dismissals or wages would be referred to a mediator if negotiations between management and shop stewards deadlocked. If mediation failed the matter would go to arbitration for final settlement. "We hope this agreement will encourage other farmers to forge similar recognition agreements," he said.

Frank O'Driscoll, general manager of Moltano Brothers Trust, said "We may have lost a certain amount of power in our labour relations but that's not necessarily a bad thing. The bottom line was we felt our employees wanted (the agreement) and that they should get it."

Up and rolling (165) (166)

The reconstituted National Manpower Commission (NMC) was due to hold its first official meeting this week under Frans Barker, now full-time chairman. The new deputy chairman, also appointed by Manpower Minister Leon Wessels, is former garment worker, veteran unionist and founder of the Commercial, Catering & Allied Workers' Union, Emma Mashinini.

Aside from having to determine rules of procedure and special committees to be set up, the commission will formulate comment on draft Bills on the rights of farm workers and domestic servants.

A minor snag could be the absence of SA Agricultural Union representation. The union has decided not to take part in the NMC "at this stage," though it would like its seat reserved because it hopes a separate Act will be forthcoming on farm labour issues. This would appear to be unlikely, however, as Manpower last year recommended their inclusion under the Labour Relations Act (LRA).

Among matters the NMC will tackle in the near future are the redrafting of the LRA and the right to strike, dismissal of striking workers, the extension of industrial council agreements, the Labour Court system, union registration and implementing the recommendations of the International Labour Organisation's fact-finding mission to SA last year. It criticised the absence of the right to strike — an issue that, more than any other, will test the ability of employer

and employee representatives on the NMC to reach consensus.

After a certain amount of bad blood, which saw Cosatu pull out of the NMC a year ago, the process of restructuring came to fruition at the end of last year, when the Cabinet gave its approval.

First set up in 1979, the reformed NMC is now constituted on a tripartite basis (government, employer and trade union representation) as an advisory body within the framework of the LRA. It follows the recommendations of a specially appointed working group drawn from employer and employee bodies as well as other interest groups.

The NMC's main tasks are to investigate any labour-related matter, including policy, and to make recommendations to the Minister. It is more concerned with structural aspects of the labour market than with day-to-day issues, explains Barker.

NMC advice will, as far as possible, be given on the basis of consensus. It will thus be a negotiating forum, though it has been agreed that such negotiations will not necessarily bind government. It will, however, have substantial influence, says Barker, because it consists of interest groups (rather than individuals as in the past) whose proposals will be difficult to ignore. Also, the Department of Manpower is now a full member, which wasn't the case in the past.

A potential problem for the employers' side could be the question of mandates; it will be a challenge not only to employer bodies to reach a common position, but to individual employers to participate in their business organisations.

All NMC recommendations with economic or financial consequences will be referred to the National Economic Forum or the State President's Economic Advisory Council for consideration, while recommendations from those bodies with labour implications should be referred to the NMC.

The NMC will consist of about 30 members — a third nominated by business, a third by employee organisations, and a third independent members appointed by the Minister after consultation. The emphasis has shifted from a body of experts to one that represents interests.

All members will have voting rights and all points of view will be reflected in NMC reports to the Minister.

Apart from the chairman and deputy, the independent members comprise: two legal experts (Halton Cheadle, of attorneys Cheadle, Thompson & Haysom, and Willem le Roux, of Bowman, Gilfillan), two representatives of the Department of Manpower (Deputy DG Joggie Kastner and Labour Relations Director Dennis van der Walt); and five independent experts: Rand Merchant Bank's Rudolph Gouws, Western Cape University's Pieter le Roux, Cape Town University's Francis Wilson, executive director of the Law Review Project Louise Tager, and Independent Mediation Services' Charles Nupen.

Employer bodies represented include the AHI, Chamber of Mines, civil engineers Safcec and Bifsa, Fabcos, the Federation of Employers' Organisations for Local Government, Nafcoc, Sacob, Seifsa and the SAAU (vacant).

Unions on the NMC are Cosatu, Fedisal, Fitu, Sacol and Nactu — which seems to be having difficulty nominating its representatives.

Call for stay on labour law

CAPE TOWN — The National Manpower Commission yesterday signalled its intention to press the Bophuthatswana government to stay the implementation of its controversial Labour Relations Act.

Manpower Minister Leon Wessels said the commission had noted "with concern" the possible implementation of the Act and he had conveyed this to government. The commission felt implementation would harm employees and employers and could lead to intensified labour conflict. The newly restructured commission had unanimously asked government to "prevail on the Bophuthatswana government to stay the implementation of the legislation"

Government plans to take up the issue with the Bophuthatswana government, but officials said they were not overly confident of their success.

The commission motivated its request

by saying that further discussions were necessary in the light of the proposed re-drafting of the SA Labour Relations Act and the discussions regarding a new political dispensation for SA.

Cosatu, a leading member of the commission, has long opposed the legislation, believing it to be aimed at effectively banning the federation from operating in the territory. A provision of the legislation holds that only unions registered in the territory will be recognised.

The legislation was due to be implemented last year but was held back after objections from labour and business.

The commission said labour legislation should have all role players' support, especially as the labour market and the economies of the two countries were interwoven

166
TIM COHEN

17/2/93
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TIM COHEN

8/10/87 17/2/93

Farm labour laws take effect today

ARG 22/2/93
166

The Argus Correspondent

DURBAN. — Farmers urgently need to gear themselves up for new labour legislation which comes into force today

Mr Dunstan Farrell, of Durban-based Shepstone Wylie's employment law and industrial relations division, says benefits of the new legislation will be felt by employers as well as farmworkers

Now clearly demarcated parameters of employment, leave and dismissal conditions "will provide the framework for higher work standards, production and efficiency within the agricultural sector"

The changes will see the Basic Conditions of Employment Act (BCEA) extended to the agricultural sector. The Wage Act and the Labour Relations Act

will be extended to this sector during 1993

The BCEA provides for

- A maximum of 48 working hours a week (with limited exception up to 52 hours made in a written agreement).

- Hours cannot be extended to more than 10 hours a day, nor can overtime exceed 2½ hours a day or six hours a week.

- A farmworker is entitled to at least one month's notice of termination of service and in this period retains rights to continue in accommodation, keep livestock on the land and harvest his crops planted on a farmer's land.

- A farmer may not pay a worker on the basis of work performed — piecework — unless this exceeds his normal remuneration

B112A-1
24/2/93

Armcor labour ruling

LEGISLATION to bring Armcor employees under the Labour Relations Act received unanimous support in Parliament yesterday.

Armcor previously had what Deputy Defence Minister Wynand Breytenbach called its own unique labour mechanisms.

16

Unions, farmers: 30 days to agree

THE South African Agricultural Union and the Congress of South African Trade Unions have 30 days left in which to settle their long-standing differences over labour rights for farmworkers

The deadline for comment on draft labour laws for farm and domestic workers expired on February 26, and interested parties had until the end of March to find consensus, Manpower Ministry spokesman Mr Johan Smit said on Friday

In a statement yesterday, Manpower Minister Mr Leon Wessels called for constructive negotiations to narrow the gap between the parties

"It appears from the comments received that there are still several differences between the role-players," he said. He hoped to give the cabinet a progress report by the end of March

Cosatu and the SAAU still disagreed on the role of labour codes, strike rights, a separate

consolidated labour law for agriculture, organisational rights, dispute procedures, wage measures and certain basic conditions of service

Cosatu has pressed for all labour laws to apply to all workers, while the SAAU submitted a draft law catering exclusively for labour relations in agriculture

Negotiations on extending labour laws to an estimated 1,3 million farmworkers followed shortly on the Labora

Minute, signed in September 1990

The amended laws under scrutiny were the Basic Conditions of Employment Act, the Wage Act, and the Labour Relations Act

Mr Wessels said that in terms of agreements with the SAAU and Cosatu, the government would determine the final form of the laws in question

The government has committed itself to implementing the laws by the end of 1993 — Sapa

cr 13/93

16b 14

Eleventh hour move on law

Sowetan 1/3/93

■ **CONFLICT CONCERN** Cosatu steps in to
prevent implementation of labour legislation:

By Ike Motsapi

THE CONGRESS OF South African Trade Unions has sent an urgent appeal to the Government and the chairman of the Goldstone Commission to force Bophuthatswana not to implement a controversial labour law today

Cosatu warned yesterday that a crisis situation was developing in the homeland regarding the unilateral implementation of unacceptable labour legislation

In letters to Mr Pik Botha, Mr Leon Wessels, ministers of foreign affairs and manpower respectively, and Mr Justice Richard Goldstone, Cosatu said it appeared that the homeland authorities were "intent on implementing the new Industrial Relations Act on March 1"

The legislation, if implemented, will ban trade unions from outside the homeland from

operating in Bophuthatswana.

Mr Sam Shilowa, Cosatu's assistant general secretary, said the trade union federation has in the past objected to the implementation of this legislation. "The legislation fails to provide workable and acceptable dispute resolution mechanisms and will accordingly not facilitate stable labour relations.

"In addition, it falls foul of the standards of the International Labour Organisation's Fact Finding and Conciliation Commission to South Africa which said the country is responsible for what happens in that homeland.

"Of immediate concern is the impact that the implementation of this legislation will have on labour relations in Bophuthatswana and South Africa, given the prohibition placed on the country's linked trade union," Shilowa said

He said Cosatu's concern was that the legislation will increase tensions and the possibility of violent confrontation if implemented

(166)

(166)

(166)



Tvl farmers reject strikes

PRETORIA — The Transvaal Agricultural Union has withdrawn from further participation in the SA Agricultural Union's actions on labour legislation.

The decision was prompted by the SAAU's acknowledgement of agricultural labourers' right to strike, the TAU said yesterday.

This was "unacceptable", it said.

"There are biological processes which have to continue, and a strike could totally ruin a farmer." — Sapa CT4/3/93

A new deal for domestics

CS/3/93

166

Political Staff

2357

LEGISLATION would be introduced this year to improve the working hours and service conditions of domestic workers, the Minister of Manpower, Mr Leon Wessels, said yesterday

He could not, however, say when legislation on the salaries of domestic workers would be introduced, because the committee investigating the matter had not yet reported back.

Mr Wessels, who was replying to a question tabled in Parliament by Mr

Robin Carlisle (DP, Wynberg), said he intended introducing the legislation on working hours and service conditions of domestic workers "during the 1993 parliamentary session"

The committee investigating domestic worker salaries would report back by September this year "on possible methods of wage regulation and the impact thereof on employment opportunities in the domestic sector."

"The tabling of legislation will be dependent upon this investigation and further consultation," he said

Star 5/3/93

**Better deal for
domestics mooted**

CAPE TOWN — The Government is considering the possibility of legislation to impose minimum wages for domestic workers, Manpower Minister Leon Wessels has indicated.

He said a committee was investigating the regulation of domestics' wages and the impact this would have on jobs.

Tabling of legislation would depend upon the committee's recommendations, due by September. However, other legislation would be introduced during the present sitting of Parliament to improve the working hours and service conditions of domestics. — Political Staff

5/3/73

Minimum wage for domestics

THE Government is considering legislation to impose minimum wages for domestic workers. Manpower Minister Mr Leon Wessels said tabling of legislation would depend on the recommendations of a committee probing the matter. Their report is expected in September.

(166)



Breakdown in farm talks

Own Correspondent

JOHANNESBURG — The SA Agricultural Union and Cosatu yesterday failed in an 11th-hour bid to reach agreement on labour legislation for the country's one million farmworkers

An SAAU spokesman said the deadlock was "absolute"

Both sides were warned by Manpower Minister Mr Leon Wessels that if there was no

agreement by March 31 the government would decide on the issue

The SAAU spokesman said disagreement on the application of the Basic Conditions of Employment Act was a major reason for the breakdown

The inflexibility of the 48-hour week in the legislation was unacceptable to the SAAU

Cosatu demanded that the

Basic Conditions of Employment, the Wage and the Labour Relations acts be applied to farm workers

Strikes at critical times in the farming cycle would have serious consequences, the SAAU spokesman said

Cosatu's view was farmworkers were entitled to the same rights enjoyed by workers in other sectors

(P) (166)

CT 24/3/93

Farm labour talks deadlock

THE SA Agricultural Union and Cosatu yesterday failed in an 11th-hour bid to reach agreement on labour legislation for the country's 1-million farm workers.

An SAAU spokesman said the deadlock was "absolute"

Both sides were warned last year by Manpower Minister Leon Wessels that if there was no agreement in the 18-month-long negotiations by March 31, government would decide on the issue.

The SAAU spokesman said disagreement on the application to farm workers of the Basic Conditions of Employment Act was a major reason for the breakdown. The inflexibility of the 48-hour week provided for in the legislation was unacceptable to the SAAU.

The SAAU had pleaded for separate legislation for agriculture because of the "unique conditions in the industry". This

GERALD REILLY

was opposed by Cosatu which demanded that the Basic Conditions of Employment Act, the Wage Act and the Labour Relations Act be applied to farm workers.

The SAAU spokesman said "We ended up miles apart. The break is complete and as the March 31 deadline set by Wessels for an agreement to be reached is only a few days away, government will now obviously have to decide on the issue."

He said the SAAU was not totally opposed to the three Acts being applied to the industry provided they were amended to suit the needs of farming.

The provision in the legislation permitting strikes was unacceptable. Strikes at critical times in the farming cycle such as planting and harvesting would have seri-

□ To Page 2

Deadlock

ous consequences, the spokesman said. Cosatu spokesman Neil Coleman said government had agreed in principle to the three labour Acts being applied to farming.

Cosatu's view was that farm workers were entitled to the same basic labour rights and privileges enjoyed by workers in other sectors of the economy.

"We have not been blind to the needs of the industry. Our approach has been flexible, but at the end of the day the core issue is that of ensuring farm workers have ef-

fective bargaining mechanisms and rights, including the right to strike."

He said the issue had been brewing for months and farm workers could not wait much longer for a settlement.

Manpower director-general Joos Fourie, who was at the meeting, said it was regrettable that it ended without consensus. Government would have to decide "within the next week or two" what labour legislation would apply to the agricultural industry.

□ From Page 1

Cabinet set to act on farm law

SHARON SOROUR, Labour Reporter

166 (14)

CONTROVERSY over extending labour law to farmworkers could come to a head next Wednesday when the Cabinet decides whether — or how — to apply the contentious Basic Conditions of Employment Act to agriculture by the end of March.

Minister of Manpower Mr Leon Wessels yesterday said he was obliged to present to the Cabinet a progress report on the labour legislation, even though the parties had not reached consensus.

He said the Cabinet would decide on the content of the law, as well as when and how it should be applied.

ARG 26/3/93

The Government has an agreement with Cosatu to extend the Basic Conditions of Employment Act to South Africa's 1,2-million farmworkers by the end of the month.

But the latest round of talks between trade union federation Cosatu and the powerful farmers' SA Agricultural Union ended in deadlock this week.

Cosatu spokesman Mr Neil Coleman said the parties could not reach consensus on applying the law to farmworkers by the end of March.

"The agricultural union said they needed the application date to be extended again, but this is totally unacceptable. The Act, as well as other laws, were supposed to be applied to the sector last year," Mr Coleman said.

Cosatu expected Mr Wessels to honour last year's agreement to extend the legislation to agriculture by the end of March.

He added that Cosatu had no plans for a last-minute meeting with the SAAU to resolve differences before the Cabinet meeting.

But Mr Wessels said that he and Department of Manpower officials would "still endeavour to narrow the matters at issue" between the parties in the best interests of employers and employees. He said he was disappointed at the outcome of the negotiations.

The two parties have had a 30-day extension — from March 1 — to settle their long-standing differences. Although the deadline for comment on draft labour law expired on February 26, the parties were given until the end of March to find consensus.

Cosatu has campaigned for four labour laws to be extended to agriculture — the BCEA, the Labour Relations Act, the Unemployment Insurance Act and the Wage Act — while the SAAU wanted a single labour relations law specifically geared to agriculture.

● The SAAU could not be reached for comment.

Ultimatum given over law for farm workers

Political Correspondent

MANPOWER Minister Mr Leon Wessels yesterday gave an ultimatum to Cosatu and the South African Agricultural Union (SAAU) on the extension of labour legislation to farm labourers

Mr Wessels said he was disappointed the talks between Cosatu and SAAU deadlocked

He warned the cabinet would decide on the extension at the end of the month

CJ 26/3/93

166

16

NEWS IN BRIEF

BIDAY 26/3/93
Cabinet to act on labour law

THE Cabinet would decide next week on labour legislation for farm workers, Manpower Minister Leon Wessels said in a statement yesterday (166)

The SA Agricultural Union and Cosatu have failed to agree on what the legislation should be, and Wessels has said government will have to decide for them

BIDAY 26/3/93
Transfer of Groot Constantia

INTRODUCING the Groot Constantia Trust Bill yesterday, Agriculture Minister Kraai van Niekerk told Parliament the measure authorised the formation of a non-profit trust which would take over the estate

He said the historic estate was being transferred to the wine industry, thereby relieving the state of a financial responsibility

BIDAY 26/3/93
Mandela meets delegations

ANC president Nelson Mandela met a visiting European Commission and Afro-Caribbean-Pacific Group delegation in Johannesburg yesterday ANC spokesman Carl Niehaus said they held "general discussions about the political situation"

At a separate meeting immediately before, Mandela met Azapo president Prof Itumaleng Mosala Both leaders said their talks, which were routine, had focused on "the unity of liberation movements"

Teacher cuts outlined

A TOTAL of 5 045 teachers were retrenched or retired early during 1992, House of Assembly Education and Culture Minister Piet Marais said in Parliament yesterday He said 486 teachers who qualified at the end of 1992 — and were bursary holders — could not be employed as they were unable to obtain posts However, 5 405 white student teachers had bursaries at present at a cost of R22,6m to the state

REPORTS Business Day Reporters Political Staff Sapa

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Interest on late VAT payments decreased

CAPE TOWN — Legislation was introduced in Parliament yesterday that decreases the rate of interest payable on late VAT payments by vendors from 1,5% a month to 1,2%

The amount payable according to the Value-Added Tax Amendment Bill by Inland Revenue to vendors when refunds are due is to be 16% per annum, a reduction of 4%

The legislation also empowers the Finance Minister to change the rates of interest from time to time, which may become necessary when prevailing interest rates in the financial sector increase or drop

The laws comes into effect as from the beginning of the calendar month following the month during which the amending Act is promulgated

The legislation also clarifies what VAT rate is applicable when the rate is changed, stating that according to the principle Act, liability arises on the date on which a supply of goods or services is made

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Legal bodies support ANC call on judges

~~24/8~~ GERALD REILLY ~~26/2~~

PRETORIA — Legal authorities yesterday supported the ANC's call for more black judges but stressed the dangers of an affirmative action programme which ignored essential qualifications and experience.

The ANC this week condemned the present system of appointments to the bench as "racist, sexist, illegitimate and non-representative".

Johannesburg Bar Council chairman Wim Tregrove said the council was encouraging blacks to obtain the needed qualifications to join the ranks of advocates as a background for possible appointment to the bench.

He said the number of blacks in the law profession had not kept pace with the substantial black student component at law schools.

Association of Law Societies (ASL) director-general Andre van Vuuren said part of the solution lay in granting attorneys the right of audience in the Supreme Court.

Concern over new child labour laws

KATHRYN STRACHAN

THE practice of child labour was on the increase in SA and proposed new legislation threatened to exacerbate the problem, the Network Against Child Labour claimed yesterday.

Jackie Loffell, the organisation's convenor, said proposed regulations covering the issue of labour in the Child Care Act would further entrench and expand exploitation.

She said a storm had broken between the Department of Health and the network, which had been fighting to block the practice and the introduction of new clauses in the Child Care Act.

The network comprises a wide range of welfare, legal, labour and church bodies.

In terms of guidelines approved by a working group, convened by the Department of Health, employers will be permitted to hire children aged 12 to 15 years for pocket money, subject to a set of restrictions on hours and conditions of work.

But the network has contested the clause on the grounds that it would allow too many loopholes.

The guidelines were unenforceable and the addition would exempt sectors, such as supermarkets, which had been barred from employing children under 15, Loffell said.

The organisation recently disassociated itself from the working group because, despite its objections, the controversial

clause was endorsed.

By far the most exploited were children working on farms, said Loffell.

"Farm children who stood to profit by the recent extension of industrial legislation to cover agriculture, will, if the guidelines come into force, remain completely vulnerable."

The SA Agricultural Union had been actively lobbying government to retain the practice, she said.

A Health Department spokesman said he could not comment because the matter was sub judice.

Loffell said it was difficult to establish the extent of the problem because employers, parents and children were reluctant to report the practice.

But in 1985 the International Labour Organisation reported the figure to be at least 60 000 and it had grown since then.

She said the issue of child labour was complicated, because many families depended on the wages brought in by children. The network was campaigning for adequate social security grants so that families would not have to depend on child labour, as well as universal free education.

Aside from being allocated on racial lines, social security grants were in practice difficult to obtain and only available to the destitute, she said.

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FINANCIAL RESULTS for the year ended 31 December 1992

up in respect of the year ended 31 December 1992 are as follows:

Eighteen months ended 31 December	
1992	1991
(673)	(8 624)
2 763	2 698
3 436	(11 322)
70	(275)
3 506	(11 047)
—	(1 431)
3 506	(9 616)
896	(8 211)
2 610	(17 827)
(31,2)	(87,4)
1 250	11 000

Consolidated balance sheet

ROOO's	1992	1991
Capital employed		
Shareholders' interests	17 827	20 493
Long-term liabilities and provisions	10 089	10 419
	27 916	30 912
Employment of capital		
Land and buildings	12 000	12 000
Fixed assets	14 410	16 319
Current assets	16 708	14 988
Current liabilities		
- interest bearing debt	6 169	5 156
- other	9 033	7 239
	15 202	12 395
Net current assets	1 506	2 593
	27 916	30 912
Net asset value per share (cents)	158,5	182,2
Number of shares in issue (OOO s)	11 250	11 250

SAP reassigns manpower to aid operations

GERALD REILLY

PRETORIA — Police would strengthen their operational manpower by transferring personnel from purely administrative duties to the operations division, police commissioner Gen Johan van der Merwe said yesterday.

He said the basis of a plan to use manpower more efficiently was to achieve a clear division between operational and administrative activities.

Operational division members engaged in purely administrative work would be transferred back to the operational division.

Civilians would take their place. The programme also applied to retired members re-employed as temporary workers. They were given the opportunity of transferring to civilian posts.

Labour ruling expected today

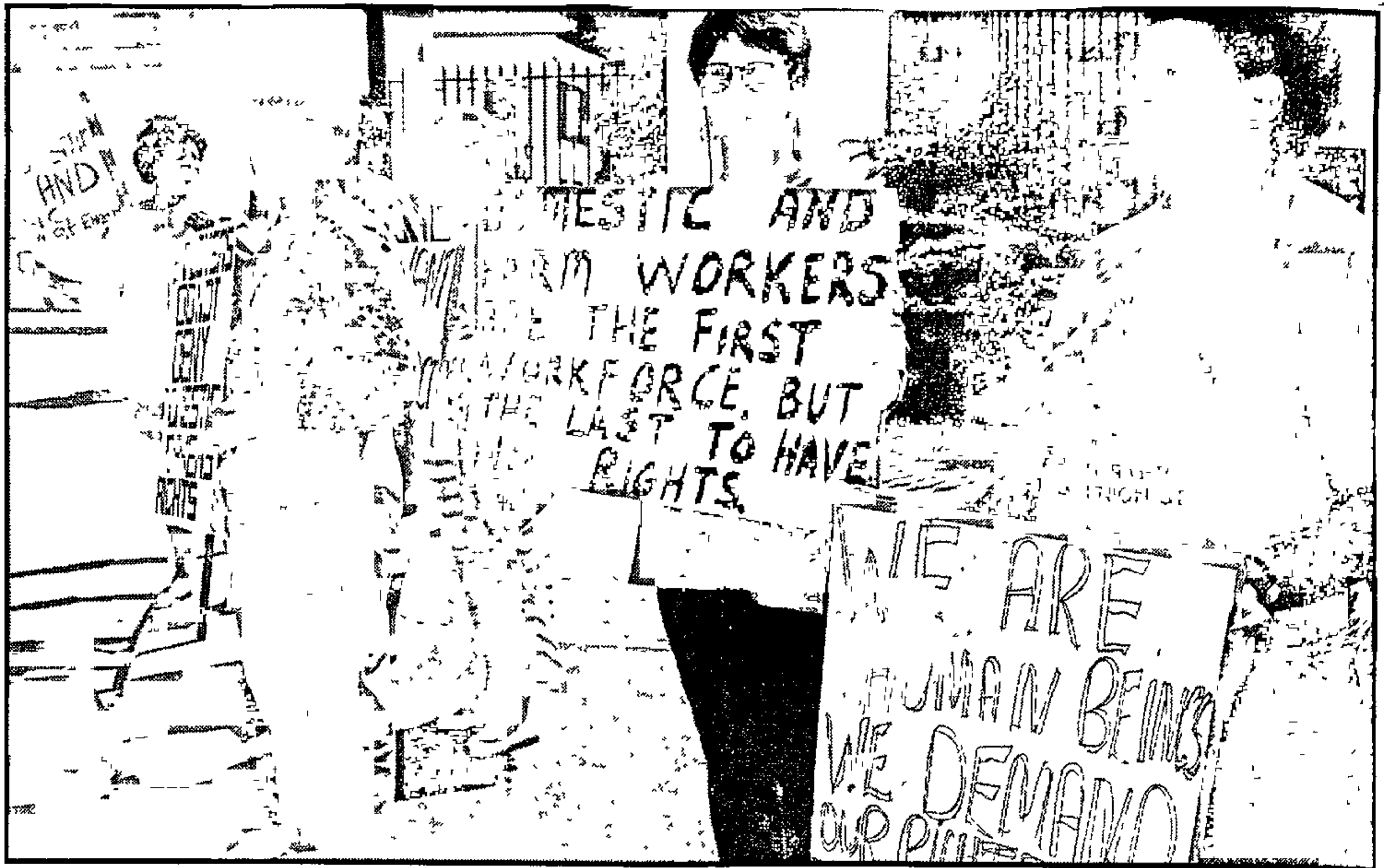
BLOM 3/13/93
PRETORIA — Cabinet is expected to settle the two-year dispute between Cosatu and the SA Agricultural Union (SAAU) over the extension of the Basic Conditions of Employment Act to farming at its meeting in Cape Town today.

Cosatu and the SAAU were given until today to reach a consensus on the content of the Act.

(166)
GERALD REILLY

As legislation now stands, the Basic Conditions of Employment Act will grant farm workers the right to strike.

The SAAU says strikes could cause chaos during critical farming periods, while Cosatu says farm workers are entitled to the same rights as others.



LABOUR PROTEST: Members of the SA Domestic Workers Union demonstrate outside parliament to demand that five labour laws — the Workmen's Compensation Act, the Basic Conditions of Employment Act, the Wage Act, the Labour Relations Act and the Unemployment Insurance Act — be extended to domestic workers.

Cosatu anger as farm labour law ruling is delayed

SHARON SOROUR
Labour Reporter and Sapa

TENSION over extending the contentious labour law to the country's 1,2 million farmworkers was heightened when the Cabinet failed to make a decision on when to apply the Basic Conditions of Employment Act to agriculture.

Manpower Minister Mr Leon Wessels was obliged to present the Cabinet with a progress report on the labour legislation at its weekly meeting yesterday, even though interested

parties had not reached consensus.

There were indications last week that the Cabinet would make a decision at the meeting on the content of the Act as well as how and when it would be applied.

But in a statement yesterday Mr Wessels said no decision was taken by the Cabinet on extending labour legislation to agriculture.

"The extension of the legislation to agriculture will receive the Cabinet's special attention

next week," Mr Wessels said.

Cosatu was expecting the government to honour an agreement made with the federation to extend the law to farmworkers by April 1.

The federation is to contact Mr Wessels immediately for an "explanation" as to why a decision was not made yesterday.

"The fact that the Cabinet did not regard this as of sufficient urgency to make a decision is disturbing," Cosatu spokesman Mr Neil Coleman

said. **166 ARG 1/4/93**
"We understood that April 1 was the deadline."

Last-minute talks between the powerful farmers' union, the SA Agricultural Union, and Cosatu to reach consensus on the issue and settle long-standing differences last week ended in "irreversible" deadlock.

● Cosatu is expecting the Labour Relations Act and the Wage Act to be extended to agriculture by the end of the parliamentary session.

Farm labour law delay surprises Cosatu

CAPE TOWN — The Cabinet's move to defer its decision on labour laws for farm workers came as a surprise to Cosatu, which expected the Basic Conditions of Employment Act to be implemented by today, Cosatu spokesman Neil Coleman said yesterday. *B/D/114193.*

He was reacting to Manpower Minister Leon Wessels's statement that the Cabinet had not decided on the issue yesterday. Wessels said the extension of the legisla-

tion to agriculture would receive Cabinet attention next week.

In terms of Cosatu's agreement with Wessels on November 6, the Act would be extended to farm workers by April 1, and the Labour Relations and Wage Acts by the end of the parliamentary session, Coleman said.

(166)
"The fact that the Cabinet did not regard this of sufficient urgency to make a decision is extremely disturbing." — Sapa.

NEWS IN BRIEF

BIDAY 1/4/93
Miners resume work

NORMAL underground work has resumed at Genmin's Beatrix Gold Mine. All workers, except for 400 Zulu speakers whom management moved to the St Helena Hostel after they clashed with Pondo, reported for duty on Tuesday. Gengold spokesman Albert de Beer said a peacekeeping committee of workers and management would monitor the hostels and mine main entrance.

BIDAY 1/4/93
Film subsidies returned

THE Home Affairs Department said in Pretoria yesterday film companies which misappropriated government subsidies had paid back more than R1m. Some companies, however, still faced criminal charges.

BIDAY 1/4/93
'Last post' sounds

THE SA Defence Force's first retrenchment parade took place at Cape Town Castle yesterday when about 400 Western Province Command members were bid farewell to the strains of Auld Lang Syne. Nearly 6 000 SADF personnel have been retrenched recently. The SADF budget has been slashed by more than a third in the past five years.

BIDAY 1/4/93
'Call up jobless only'

THE unemployed should be called up for national service to combat crime and violence and unionists who instigated labour unrest should be held criminally responsible, SA Iron and Steel Union manager Nic Celliers said yesterday. The suggestions are part of a security and commerce plan the AWB and the union want to discuss with President F W de Klerk.

BIDAY 1/4/93
Employment Act

WE REPORTED incorrectly yesterday that "As legislation now stands, the Basic Conditions of Employment Act will grant to farmworkers the right to strike." The Act does not deal with strikes. Business Day regrets the error.

REPORTS Business Day Reporters
 Own Correspondent Sapa

AHI wants ceiling on wages, prices

BIDAY 1/4/93
 THE Afrikaanse Handelsinstituut (AHI) has asked its members to hold wage and price increases to 5% or lower for the next two years in line with the declining trend in money supply growth and inflation.

TIM MARSLAND

the decline in inflation and money supply growth as well as the deepening recession.

The pressure on the balance of payments should rather be managed by mainly continuing the fluid exchange rate policy and the "overall laudable monetary policy flexibility" of the past six months.

In the current recession, a moderate real depreciation of the rand would have a minimal negative effect on inflation, but would actively encourage exports.

He said the AHI continued to support the Reserve Bank's focus on disciplined monetary expansion, which implied that interest and exchange rates were largely determined by the markets.

Once the balance of payments stabilised, he expected a further cut in interest rates in response to low credit demand.

This would partially offset negative effects the hike in VAT and other taxes would have on the business cycle and could help prevent a deepening of the recession, he said.

Talk of VW layoffs 'premature'

BIDAY 1/4/93
 VW SA said yesterday it was too early to say it would be retrenching more than 2 000 workers this year.

ERICA JANKOWITZ and EDWARD WEST

But up to 1 000 workers were in danger of being laid off in the near future. VW human resources director Brian Smith said 500-1 000 jobs at the Uitenhage plant were "currently under review" because of a sharp drop in exports and a declining local market.

the local market, the outcome of various export orders currently under discussion and the success of the new Golf and Jetta range.

Smith stressed the company would try to "achieve reductions through voluntary packages offered to all employees, early retirements, outsourcing and natural attrition."

He said VW SA was renegotiating a contract to supply Jettas to China. The future of workers involved with exports to China would depend on the outcome of the negotiations and on local market conditions.

Putco, Sabta pledge not to raise fares

THEO RAWANA

BIDAY 1/4/93
 PUTCO and the SA Black Taxi Association (Sabta) fares will not increase when fuel prices go up tomorrow.

Putco MD Jack Visser said yesterday the bus company would absorb the increase of 16c/l on diesel for three months. Sabta also said it would not increase its fares and was negotiating with the Mineral and Energy Affairs Department for a "special consideration" for taxis.

Visser refused to say how much it would cost Putco to absorb the increase. "We are so close to our annual increase on July 1 that we did not feel

it necessary to raise fares now."

Sabta public affairs manager Cyprian Lebeso said the organisation had given Mineral and Energy Affairs "a few options." The taxi organisation expected a reply today.

Postal tariffs and suburban train fares went up at midnight last night and petrol will cost 15c/l more at the coast, and 16c/l more in the interior.

Postal tariffs will cost an average of 30% more. A stamp for a standard

letter will cost 45c from today.

Suburban train fares will cost an average of 9,75% more, but the SA Rail Commuter Corporation has assured its customers that there will be no further fare increases this year.

Sapa reports that cheaper dialling times for overseas telephone calls will be introduced today.

Telkom said the standard rate to more than 100 countries would drop by about 7% and the new off-peak rate would be up to 20% cheaper than the standard rate. But VAT on calls would increase to 14% on April 7.

Cosatu surprised by delay on farms law

THE cabinet's decision to defer its decision on labour laws for farmworkers came as a "bolt out of the blue" for Cosatu, which expected the Basic Conditions of Employment Act to be implemented by today, Cosatu spokesman Mr Neil Coleman said yesterday. (166) CT 1/4/93

He was reacting to Manpower Minister Mr Leon Wessels's statement that the cabinet had not decided on the issue at its regular meeting yesterday.

Mr Wessels said agriculture legislation would receive special cabinet attention next week.

Mr Coleman said Cosatu would contact Mr Wessels immediately for an explanation.

Cosatu's weekend campaigns conference had resolved to campaign for farmworkers' rights. If an agreement ended in deadlock or was broken, action would follow if talking did not work, he said — Sapa

NEWS MI exposed

MI agents infiltrated IFP — MP

Sowetan 2/4/93

■ Agents were used against the ANC:

By Ismail Lagardien
Political Correspondent

GOVERNMENT was still using Military Intelligence to infiltrate its political opponents and had placed agents provocateurs in the administrations of homelands that were friendly with the ANC, Parliament has heard.

The DP MP for Umhlanga, Mr Kobus Jordaan, told Parliament on Wednesday that the covert operation had started during the '80s when it had relative success.

The programme was still active, he said.

Jordaan said he had anonymously received a "package of information" detailing the placement of certain people, notably Mr Rowan Cronjé of Bophuthatswana and Mr Walter Fellgate of the Inkatha Freedom Party, in homelands that were hostile to Pretoria.

Cronjé was first placed in Ciskei, after which he was "sent" to Bophuthatswana where he was an "absolute success". Success was also achieved in KwaZulu, where, it is alleged, Fellgate, a member of the IFP's central committee, had managed to bring Chief Mangosuthu Buthelezi back from closer co-operation with the ANC and towards Pretoria.

Jordaan named General Tienie Groenewald, former secretary of the State Security Council, as the person behind the strategy.

Jordaan said the State had also paid Professor Albert Blaustein, an American constitutional expert, to write constitutional proposals for Mr John Gogotya's Federal Independent Democratic Association. He spoke during the Budget Debate and defended a question he had put to President FW de Klerk last month on the placement of agents in opposition parties.

De Klerk was kept informed of developments, he added.

Cosatu warns of walkout

Sowetan 2/4/93

■ Laws for farm workers cause rift:

THE Congress of South African Trade Unions has threatened to review its participation in negotiation forums with the Government following the Cabinet's decision to defer the promulgation of labour laws for farm workers.

"Cosatu is extremely disappointed and angered by the turn of events. This move makes a mockery of the entire negotiations process," the union said yesterday.

The congress was reacting to Minister of Manpower Leon Wessels' statement that the Cabinet had not decided on the issue of basic rights for farm workers at its regular meeting on Wednesday. Wessels gave the assurance, however, that the extension of legislation to agriculture would receive special attention at a Cabinet meeting next week.

Cosatu said in terms of an accord signed by Wessels and Cosatu general-secretary Jay Naidoo on November 6, the Basic Conditions of Employment Act for farm workers would be promulgated by April 1.

Cosatu warning on farm workers

JOHANNESBURG, — Cosatu has threatened to review its participation in negotiating forums with the government following a cabinet decision to defer promulgation of labour laws for farm workers.

"Cosatu is extremely disappointed and angered by the turn of events. This move makes a mockery of the entire negotiations process," the congress said in a statement yesterday.

It was reacting to Minister of Manpower Mr Leon Wessels's statement that the cabinet had not decided on the issue of basic rights for farm workers at its regular meeting on Wednesday.

Mr Wessels said the extension of legislation to agriculture would receive special attention at a cabinet meeting next week.

Cosatu said that in terms of an accord signed by Mr Wessels and Cosatu general-secretary Mr Jay Naidoo on November 6, the Basic Conditions of Employment Act for farm workers would be promulgated by April 1.

"The agreement to extend basic rights to farm workers was in fact made in the Laboria Minute, signed in September 1990. Three years later farm workers are still denied basic rights such as sick leave, paid leave and limitations on working hours."

Cosatu said it had a written undertaking from the Department of Manpower's director-general that recent discussions between Cosatu and the South African Agricultural Union would in no way jeopardise the promulgation of the BCEA on April 1.

If nothing came of next week's cabinet meeting it would have to conclude that any agreements reached in talks with the government could receive the same treatment.

"The national office-bearers will thus be forced to recommend to our executive committee that it reviews Cosatu's participation in the various negotiation forums where we are present." — Sapa

No progress on farm law

■ **MANPOWER** Minister Leon Wessels failed to break a deadlock over the extension of legislation to farmworkers this week. (116)

Last week he told the Congress of South African Trade Unions and the South African Agricultural Union that he would have to end the logjam in their two-year talks by Wednesday. *Wed 24-7/1973*

But the cabinet did not have time to debate the issue this week. It will give "special attention" to the issue next week.



Farm strike rights 'explosive'

Own Correspondent

PRETORIA. — The Transvaal Agricultural Union (TAU) has warned that the government will risk an explosive situation if it gives in to Cosatu by incorporating the right to strike in labour legislation

The president of the TAU, Mr Dries Bruwer, was reacting to a meeting between Manpower Minister Mr Leon Wessels and the

South African Agricultural Union (SAAU). *CT 5/4/93*

At its meeting last week the cabinet was to have decided on the application to agriculture of the Basic Conditions of Employment Act as well as the Labour Relations Act and the Wage Act.

Nothing was decided and Friday's meeting with the SAAU was "final background" for a decision expected on Wednesday

Mr Bruwer said farmers would not stand by idly if farmworkers

were given the right to strike. He claimed Cosatu represented less than 1% of the country's 1,2 million farmworkers and therefore had no right to organise on farms.

He criticised the SAAU for submitting an alternative proposal to the government that acknowledged the right to strike.

Mr Bruwer warned the government that the overwhelming majority of white farmers opposed the right to strike.



Farm labour law decision likely today

ARG 7/4/93 (166) (75)

SHARON SOROUR
Labour Reporter

THE government is expected to make a crucial decision on extending contentious labour legislation to farmworkers at its weekly meeting today, after it overstepped a deadline last week in terms of an agreement with Cosatu.

At its meeting last Wednesday the Cabinet failed to decide on when and how to apply the Basic Conditions of Employment Act to the country's 1,2 million farmworkers

Cosatu has warned that if nothing comes of the meeting today, it will be forced to conclude that any agreements reached in bilateral or multilateral forums with the government could receive the same treatment

The federation said it was "extremely disappointed and angered by the turn of events", saying the move "made a mockery of the entire negotiation process".

Manpower Minister Mr Leon Wessels signed an accord with Cosatu general secretary Mr Jay Naidoo last November in which Mr Wessels committed himself to promulgating the Basic Conditions of Employment Act to farmworkers by April 1

Cosatu said it was "inconceivable that at this late stage, after the accord was signed last year, that the

Cabinet has not yet approved this agreement".

"If the government can't stick to its accord with Cosatu, where and when else will they not carry out their commitments?" the federation asked

Cosatu also threatened to review its participation in negotiation forums

"The agreement to extend basic rights to farmworkers was in fact made in the Laboria Minute, signed in September 1990. Three years later farmworkers are still denied basic rights, including sick leave, paid leave and limitations on working hours"

Cosatu said all "democratically minded South Africans" wanted to see basic rights granted to farmworkers and it was only the powerful white farmers' union, the SA Agricultural Union, which opposed this

The two parties have been at loggerheads over extending legislation to farmworkers and last-minute talks held recently to resolve long-standing disputes over the laws ended in "irreversible" deadlock

Cosatu said it had a written undertaking from the director-general of the Department of Manpower that its recent discussions with the SA Agricultural Union would in "no way" jeopardise the promulgation of the Act on April 1.

Better deal for farm workers

Star 8/14/93
166
By Kaizer Nyatumba
Political Correspondent

In a major move for South African farm workers, the Government yesterday decided to extend the Basic Conditions of Employment Act (BCEA) to people employed in the agricultural sector on May 1. Manpower Minister Leon Wessels announced yesterday

In a statement released by his office, Wessels said the Act — which was hotly opposed by the South African Agricultural Union (SAAU) after it was debated and passed by Parliament last year — was a result of “long-continued deliberations and consultation”.

He said all the major parties had the opportunity to present evidence to the relevant public committee which evaluated the Act in detail before submitting it to Parliament.

The implementation of the Act, which ends more than two years of wrangling and eventual deadlock between the SAAU and the Congress of South African Trade Unions, makes provision for maximum daily and weekly working hours for farm workers, their payment for work done on Sundays, and for annual leave and sick leave.

Act to set work hours, holidays

Govt opts to extend labour law to farms

8/10/93 8/14/93

166

PRETORIA — The Cabinet had decided to extend the Basic Conditions of Employment Act to the agricultural industry, Manpower Minister Leon Wessels announced yesterday.

The Act, with certain amendments, will be promulgated immediately and implemented from May 1. It will provide for maximum daily and weekly working hours, lunch hours and payment for Sunday work, as well as leave and sick pay.

To take account of the seasonal nature of the industry, legislation would permit the normal 48-hour week to be extended to 52 hours at peak times in the farming cycle such as planting and harvesting.

Wessels indicated that, in addition, administrative exemptions could be granted to the working hours law.

Wessels said it was hoped the door would now be opened for further discussions on the Wage Act and the Labour Relations Act and on the possibility of one consolidated labour Act for agriculture.

He said it was important for farm labour legislation that guidelines be created which took cognisance of the specific conditions in the industry.

Cosatu spokesman Neil Coleman said the new measure would give farm workers rights as workers for the first time. He opposed to the "serf-like existence in what was a feudal system".

GERALD REILLY

However, farm workers still did not enjoy organisational rights to ensure their rights were enforced in legislation.

Coleman said the acid test would come when the Labour Relations Act and the Wage Act were extended to them. He expected this to happen before the end of the current parliamentary session.

SAAU president Boet Fourie said his organisation would accept Cabinet's invitation to negotiate further on one consolidated Act for agriculture, including the issues of wage specifications and the right to strike. The union was disappointed that fluctuating working hours were not incorporated in the Act but Wessels' offer to regulate variations in working hours through exemptions had possibilities.

Annual leave has been fixed at 14 days and sick leave at 36 days over a three-year cycle.

Wessels stressed that the implementation of the Basic Conditions of Employment Act would not affect the SAAU's negotiations on a consolidated Labour Relations Act.

The amendments to the Basic Conditions of Employment Act were also aimed at a clearer definition of temporary and casual workers, simplifying regulations on Sun-

□ To Page 2

Farm workers

day work; and regulating inspections by the Manpower Department.

Wessels said working documents on the Wage Act and the Labour Relations Act had been published in December last year. Reactions to the documents would be discussed with the main role players and it was hoped to introduce the legislation in Parliament during the current session.

Wessels said attempts to reach consensus among the important role players (the SAAU and Cosatu) had ended in deadlock, although positions had narrowed.

An SAAU spokesman said a minimum wage would be determined only once the content of the Wage Act as it pertained to agriculture had finally been agreed. The industry did not expect the minimum wage provision to be applied for at least two

years, he said.

Coleman said Cosatu called on farm workers to organise and ensure their new rights were implemented. He also called on the SAAU to play a constructive role in implementing the law.

Fourie welcomed the amendment to the Basic Conditions of Employment Act but said it should have been done before the Act was extended to agriculture.

He said the Wage Act was obsolete. Agriculture's wage account was now greater than interest costs and the largest factor in farm production.

He said the right to strike was unacceptable as it could have a serious impact on food production.

● See Page 5

□ From Page 1

1,2 m farmworkers to get labour rights

SHARON SOROUR
Labour Reporter

HISTORIC reform will dramatically alter the working lives of South Africa's 1,2-million farmworkers when a far-reaching labour law is applied in May, following a major Cabinet decision on employment practices in agriculture

Manpower Minister Mr Leon Wessels announced yesterday that the first of three labour laws, the Basic Conditions of Employment Act, would be promulgated immediately and implemented on May 1

Mr Wessels emphasised in a statement that the decision to implement the Act was made after extensive "deliberations and consultation"

The Act provides for maximum daily and weekly working hours, payment for work on Sundays as well as leave and sick leave

The Cabinet decision has been hailed as a breakthrough by the Congress of South African Trade Unions (Cosatu), but has had a mixed reaction from the white farmers' union, the SA Agricultural Union (SAAU)

Mr Wessels hoped the implementation of the Act would "open the door" for further de-liberations on the Wage Act and the Labour Relations Act or one consolidated Labour Act for Agriculture

Noting the SAAU's concern about their bargaining position regarding the Wage and Labour Relations Acts — as well as one consolidated Labour Act — being affected when the Act was implemented, he said "The Cabinet has made its position clear that the implementation of the Basic Conditions of Employment Act will not affect the SAAU's further deliberations with the government on wage agreements, the right to strike as well as one consolidated Labour Act"

Reacting to the announcement, SAAU president Mr Boet Fourie said the union hoped that "further handling of the matter would result in a single labour law for agriculture", and the SAAU would take up the Cabinet's invitation to negotiate further for one consolidated law for agriculture, wage specifications and the right to strike

Mr Fourie said the union was disappointed that "the fluctuation of working hours" had not been incorporated in the Act, and that further amendments had not been made before the Act's implementation

However, Cosatu welcomed the "long-overdue" legislation as an "important breakthrough in recognising farmworkers as full industrial citizens, as workers with rights, rather than semi-feudal serfs, as in the past"

"It sends an important signal to the hundreds of thousands of farmworkers and their families

that the days of 'baasskap' on the farms are drawing to an end"

Cosatu said that, for the first time, farmworkers would be protected, but the ability to fully implement and defend these rights would be secured only once organisational rights, contained in the Labour Relations Act (LRA), were extended to farmworkers

Mr Wessels said the Cabinet had amended the Act to simplify regulations on Sunday work, to regulate inspections by the Department of Manpower and to further define the definition of temporary and casual workers

Mr Wessels said the Department of Manpower would hold seminars in different regions, write to each employer and hold discussions on local and regional level with farmers.

Any inquiries could be made to Dr Kobus van Zyl on (021) 461 6030 or (021) 439 1794

1166 ARG 8/4/93

Farmworkers to be covered soon

THE Basic Conditions of Employment Act will be extended to farmworkers on May 1, Minister of Manpower Mr Leon Wessels said yesterday

The Cabinet decision to implement the Act ends more than two years of wrangling and eventual deadlock between the South African Agricultural Union and Congress of South African Trade Unions

Wessels said the implementation of the Act would not affect the SAAU's approaches to the Government over wage agreements, strike rights and a consolidated labour Act for the country's

Sapa 8/4/73

■ Farmworkers to get set working hours for first time: 166

1.2 million farm workers.

The decision to promulgate the Act immediately was taken at a Cabinet meeting yesterday.

Wessels said the Cabinet had reaffirmed the importance of labour legislation for agriculture with a view to creating practical guidelines that took into account the specific conditions of the sector

Commentary on the application of the Wage and Labour Relations Acts to farm workers

would be discussed between the main role players. It was hoped that maximum support could be achieved for practical guidelines to be introduced in the current Parliamentary session

In terms of the Act, farmworkers will have legally set maximum working and lunch hours, payment for work on Sundays and sick and holiday leave for the first time

Farmers would also be advised how to apply for exemptions during critical periods — *Sapa*

New SABC board: Procedure approved

THE government announced last night that agreement had been reached on procedures to appoint a new SABC board.

A panel of four judges and four senior lawyers would appoint the new board, the Minister of Home Affairs, Mr Danie Schutte, said.

President F W de Klerk had invited Justices Schabert and Mahomed, ex-Justices Trengrove and Viljoen, Mr Louis Skweyiya SC, Mr S K Ndlovu, Mr N Erasmus and Ms Lillian Bagwa to be the panel. — Political Staff, Sapa

BUSINESS BRIEF

Gold (Ldn) (close)	\$336,50
Gold (NY) (close)	\$337,95
Dollar	R3,1925/40
BD 100	5635,4
FT index (100)	2822,1
Dow Jones	3397,0
Nikkei	19829,2

THE CAPE TIMES MON-FRI



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Experts probe fainting spells

CAIRO. — Army chemical warfare experts have joined the investigation of mysterious fainting spells which have affected about 1 300 Egyptian teenage girls, Health Minister Mr Ragheb Dewidar said yesterday.

But he said all medical and environmental tests so far had been negative. He believes mass hysteria is to blame for the week-old phenomena. — Sapa-AP

Protection for farmworkers

By ANTHONY JOHNSON
Political Correspondent

FARMWORKERS will be protected by labour legislation for the first time from May 1 — Workers' Day

The cabinet decided yesterday to extend the Basic Conditions of Employment Act to South Africa's 1,5 million farmworkers.

Top government sources said the same legislation would be extended to the country's 800 000 domestic workers — the last group not protected by labour legislation — during the current session of Parliament.

The act makes provision for worker rights, which include maximum daily and weekly working hours, lunch hours, payment for work on Sundays, as well as leave and sick leave

However, issues such as the right to

strike and minimum wages will fall under the Labour Relations Act and the Wages Act — both of which are still being negotiated with Cosatu and the SA Agricultural Union (SAAU)

The breakthrough in workers' rights comes after a year of intense haggling between the government, SAAU and Cosatu. The major stakeholders did not reach consensus on the rights to be extended to workers but the government decided that the process could be delayed no longer.

● Cosatu yesterday hailed the extension of the act to farmworkers, saying it was a long overdue step, reports Sapa. "However, the ability to fully implement and defend these rights will only be secured once organisational rights, contained in the Labour Relations Act, are extended to farmworkers," it said.

193 (274) | 27/8/93

About 1,5-million farm workers better off

(166) MARIANNE MERTEN

ABOUT 1,5-million farm workers would benefit from government's extension of the Basic Conditions of Employment Act to the agricultural sector, announced last week

Farm workers would now work a 48-hour week and be entitled to sick leave and paid holidays, among other benefits

The announcement did not resolve the deadlock between Cosatu and the SA Agricultural Union regarding a minimum wage for farm workers and the right to strike, which are governed by the Wage Act and the Labour Relations Act respectively

A Centre for Rural Legal Studies statement said the granting of these basic rights was a

"historic breakthrough" and an important step towards "meeting international standards in recognition of worker and human rights"

However, it also called on government to honour its commitment to implement the Wage Act and the Labour Relations Act in this year's parliamentary session

The Farmworkers Research and Resource Project welcomed the decision, but it was concerned about "threatening remarks" made by some farmers after the announcement

The Manpower Department should "give urgent consideration to the question of enforcement of the new conditions", it said

610AM 13/4/93

By Diane Coetzer

Rights battle begins

THE legislation may be through but the work is just beginning

Last week, the country's 1.5 million farmworkers were granted basic rights under the Basic Conditions of Employment Act (BCEA), the culmination of years of struggle by workers and their organisations for

protection against some of the worst abuses this country's labour force has suffered

However, say organisations involved in farm worker rights, only

a concerted education campaign will make this legislation effective for farm workers

Education organiser of the Stellenbosch-based Farmworkers Sup-

port Committee (FSC), Mr Paul Endley, said "The law by itself means nothing"

"We need to intensify the education programme we implemented some time ago to ensure that every farm worker is aware of his or her rights at every level and they know what to do and where to go if they are mistreated in any way or subjected to unfair labour practice"

The urgent need for education of both workers and farmers was also emphasised by the Centre for Rural Legal Studies (CRLS) in Stellenbosch.

CRLS spokesperson Mr Ben Schoeman said their education programme, which was already underway, would run for at least two years. Farm workers and farmers have been targeted for education

Until now, education has been a risky game.

Organisations like the FSC have had very limited access to farms — on many occasions organisers have faced armed farmers in the course of their work. Meetings have also often been conducted in a very clandestine way

"Hopefully, the new legislation will make it much easier to organise meetings on farms," the FSC's Endley said.

In the past the FSC — which has well over 3 000 members in areas including the Boland and the northern and southern Cape — has not been able disseminate information with ease except on the farms they have access to (among others, the Molteno brothers' farms, Vergele-

gen and Bonny Bird.)

Here information is distributed by pamphlets outlining what the act means for workers, posters and a quarterly publication called "Die Plaaswerker"

Once a month a group of farm representatives from farms which do not have recognition agreements meet at the FSC's offices

These workers go back armed with information and publications. Says Endley "It is at this grassroots level that we hope to further spread information"

Working with other organisations nationally, the Centre for Rural Legal Studies also has a full educational programme for farm workers

The Centre runs national education training programmes with farm workers, para-legal organisations, worker representatives and advice offices

In co-operation with organised agriculture, the Centre has extended its programme to include farmers themselves and a number of conferences are being planned

However, both the FSC and the CRLS stressed the May 1 implementation of the BCEA is not the end of the road of the struggle for rights for farmworkers

Just as the effectiveness of the BCEA is limited without education, so it is incomplete in the rights it gives farm workers.

To be fully protected, farm workers need to be covered by the Wage Act and the Labour Relations Act

The CRLS has called on the Minister of Manpower, Mr Leon Wessels, to honour his further commitment to extend the Wage Act and Labour Relations Act to farmworkers by the end of the 1993 parliamentary session



Bertie Feris



Jeffery Jaftha



Edgar Petersen



Paul Jordaan

Cape Investment Advisors

Business & Financial Advisors

Cape Financial Consultants

South 17/4 - 21/4/93.

CHRIS HANI'S DEATH

We mourn the tragic loss of Chris Hanı who strived for Justice and righteousness. He was one of the greatest leaders of our South African nation.

The sinister and repugnant way of his death has shocked the South African society and leaves us so much poorer.

We extend our deepest sympathy and condolences to the Hanı family, his friends and colleagues.

Furthermore we detest violence of any kind and from whatever source.

We support the process for peace and democracy in South Africa.

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Among the rights granted to farmworkers are:

- Every employer must post a summary of the BCEA at work where workers can read it.
- The maximum ordinary working week is 48 hours. A farmer may not allow a worker to work more than 48 ordinary hours a week without paying overtime.
- Overtime is voluntary and workers must be paid extra for it.
- Piece workers must get a wage that is at least as much they

would normally earn for a day's work.

• Sundays should be a rest day. Payment for Sunday work is higher — at least double pay for the time they work.

• Most farmworkers must get two weeks' paid leave a year and seven paid public holidays.

• Farm workers who are too ill to work must get their usual payment.

• Workers cannot simply be dismissed and must be given prior notice in writing.

Aspects of labour relations under review

sharing of information.

Stellenbosch law professor Barney Jordaan said only the broadest collective bargaining rights should be enshrined in a Bill of Rights to limit the role of judges in policy decisions concerning labour relations.

Jordaan said there was already so much uncertainty in Industrial Court decisions that increasing powers vested in civil law practitioners would add to the unpredictability of the legal process.

He said the incorporation of a Bill of Rights into the constitution would not have a major effect on the labour relationship as this was regulated by the Industrial Court, which was basically a court of equity.

Jordaan said the court tended to use human rights considerations and international labour standards in reaching its decisions and labour jurisprudence was infused with these concepts.

ERICA JANKOWITZ

Bardun said productivity improvement was a priority in SA as it was essential for international competitiveness since the end of the isolation era.

He said SA's readmission to the ILO had been discussed by the commission but was not a "burning priority". Cosatu had played a moderating role on this issue, Bardun said.

At the same conference, labour law consultant Prof Nic Wiehahn suggested the establishment of a regional wing of the ILO covering sub-equatorial Africa.

Wiehahn said countries in the region had much in common and could benefit from the setting of regional labour standards and the

THE restructured National Manpower Commission was investigating several aspects of labour relations policy, including minimum wage legislation, commission research and planning director Abe Bardun said yesterday.

Addressing a conference hosted by FSA-Contact, Bardun said present projects included the consolidation of the Labour Relations Act to include a code of conduct and aspects of a Bill of Rights based on the International Labour Organisation (ILO) recommendations presented last year.

He said the Act needed to be "totally overhauled" and Manpower Minister Leon Wessels had requested a report on policy considerations underlying the proposed new legislation as well as an assessment of its financial implications.

Other investigations included national or regional minimum wage legislation, affirmative action measures, guidelines on dealing with

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LABOUR *The extension of the Basic Conditions of Employment Act will benefit farm workers*

May Day joy over farm Act

Southern
WORKERS' COMPLAINTS Graft
30/4/93
may prevent serious policing of farmers: (166)

TAKALANI MADIMA of the Centre for Applied Legal Studies, University of Witwatersrand, focuses on the minimum conditions of employment of agricultural workers now protected by law

THIS YEAR'S Worker's Day is not only the day the ANC-led tripartite alliance launches its mother of all rolling mass action against the Nationalist Government and recalcitrant employers groups

It is also the day agricultural workers' right to decency comes into being. The Basic Conditions of Employment Act will be extended to the agricultural industry from May 1

The Basic Conditions of Employment Act makes specific provision for, among others, maximum daily and weekly hours, overtime, Sunday and public holiday work. These are working conditions that most of us take for granted but which were denied farm workers for a long time

The Act prohibits employers from working employees more than 46 hours in any week. This prohibition will no doubt have to be adjusted by way of administrative exemptions to the working hours law in the agricultural sector in order to accommodate the seasonal nature of the industry

Farm Workers will for the first time in

South African labour history be able to be paid the legal rate for working on Sundays and public holidays. Overtime work-rate is fixed at not less than ordinary time plus a third an hour

Meal intervals of farm workers will be legally protected as the Act makes provision for rest periods of not less than one hour in any five hours worked. This break has to be allowed to workers even where they are not partaking of a meal. Failure on the part of the employer to observe the provisions of the Act can result in a criminal prosecution

Minimum wage

The Act does not, however, make provision for the enforcement of a minimum wage in the industry. Minimum wages are regulated by the Wages Act, which for now does not apply to farm workers, although the matter is still under discussion between the labour movement, the Government and the farmers organisations

The Manpower Department is a Government arm that is charged with the responsibility of ensuring that the employer complies with the conditions of employment set out in the Basic Conditions of Employment Act

Each local Manpower Department has its own designated inspectors who perform specific functions which include among others, the right to enter without previous notice, and at all reasonable times, any premises used by an employer, and question any person therein on any matter which relates to any provision of the Basic Conditions of Employment Act

The inspector may have to examine any books, in this case, pay and time sheets or any other documents and demand explanation on any entry on such documents

If, in the opinion of the inspector, entries to documents indicate that an offence has been committed, he will seize such documents or books for use as evidence in a subsequent criminal trial of the employer

Although the inspector has the right to make unannounced routine inspections, empirical research indicates that the majority of these cases are triggered off by complaints made to the Department of Manpower by the workers themselves

From May 1 farm workers, who for example have not been paid their wages or overtime or leave pay will be able to



FLASHBACK ... Workers gather on May 1 last year.

approach their local Manpower Department and report the matter to the inspector

The inspector will then demand an audience with the employer. Research

again shows us that the majority of employers do not usually dispute the worker's claim. This will still have to be seen in the agricultural sector

Where however the claim is disputed, the inspector will seek further clarification from the worker and investigate the issue further. This can include the actual summoning of the employer by the inspector and failure to comply has the effect of contempt, although a warrant for his arrest cannot be issued.

Directive

The failure, refusal or neglect to comply with the inspector's directive is a criminal offence which carries a fine of not more than R1 000 or imprisonment for a period not exceeding 12 months or both

It is only after he is satisfied that the employer has a case to answer that he will be summoned via the industrial criminal prosecutor's office to appear in the industrial criminal court.

There will no doubt be problems at the beginning. One cannot help but doubt the efficacy of the implementation of some of the provisions of the Act in remote and conservative areas where the inspector attends weekly braais with the local farmers

Graft will also prevent the bringing to book of erring employers. There is however little doubt that the majority of farm workers will benefit from the extension of the Act of their sector

Approval of public service Bill 'likely to provoke clash'

B/D/M 3/5/92

GERALD REILLY

PRETORIA — The passing of the Public Service Labour Relations Bill in Parliament was likely to lead to a major clash between government and public service workers over a 5% pay hike, senior public servants said last week.

When the Bill was passed — which would probably be during the current session — government workers for the first time would have “real muscle” in bargaining for pay and service improvements.

The Bill provided for negotiations up to arbitration. Some workers in “nonessential” services would have the right to strike in support of demands.

The Bill, which had passed a first reading in Parliament, was with a parliamentary committee which had been hearing representation on its content from interested parties, including Codesa.

Earlier last week the public service said it wanted the 5% increase to be extended to allowances.

Caucus spokesman Anton Louwrens said President F W de Klerk’s “bad faith” display in cutting short negotiations — which had been in progress for months — with the Commission for Administration remained a major grievance.

Last month De Klerk bluntly told the Teachers’ Federal Council government would not budge on the 5% pay increase.

The TFC was pressing National Education Minister Piet Marais to agree to a new bargaining mechanism for teachers.

The Medical Association of SA had registered its dissatisfaction with the fact that the allowances of doctors in government service would remain frozen.

Their salary increases amounted to 3.7%.

This, Masa said, was totally unsatisfactory, especially in the light of the shortage of doctors in state and provincial hospitals.



IN THE field of labour and economic policy SA is fast becoming a corporatist society. But the corporatist goal works at cross-purposes to the existing industrial relations system. One or the other will have to give way.

The national economic forum institutionalises a role for business and labour in formulating state economic policy. The new National Manpower Commission (NMC) is official acknowledgement that labour law can be changed only with tripartite consent. Other established institutions are also changing — from the National Training Board to the Unemployment Insurance Fund. Parallel initiatives can be seen in some industries. Talks between unions and managements in the mining, clothing and motor sectors deal with long-term restructuring and go well beyond collective bargaining issues.

Love it or hate it — there are detractors on the left and the right — corporatism is the only realistic route forward. It is hard to imagine a scenario which excludes major economic actors from a key role in the formulation and regulation of socio-economic policy. Keys and De Klerk accept this, as do Manuel and Mandela. The corporatist vision proclaims the need for economic restructuring, without leaving this simply to the hidden hand of the market, or relying solely on the heavy hand of the state.

But if corporatism is to work it needs a compatible industrial relations system. Deals brokered at the highest level — between union federations, employer organisations and the state — must be reinforced, not undermined, on the ground.

Four aspects of our present industrial relations system are likely to undermine the corporatist endeavour. Problem one is the Labour Relations Act (LRA) which says little about how unions and management should relate. It grants immunity from prosecutions for certain behaviour (such as a legal strike). But it provides few positive rights. SA labour law, like its British counter-

Policy makers need a new body of industrial relations

Blomby STS73

JEREMY BASKIN

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part, makes little attempt to define a place for organised labour in society. Workers are permitted to form unions, but combination is not facilitated. Management and labour are allowed to negotiate, but nothing compels them to do so. Must an employer recognise a union — who knows? What rights and duties do shop stewards have? Here, too, the LRA is silent. Unfair labour practices are contemplated in the LRA, but barely defined. The result is a confusing mish-mash of contradictory Industrial Court decisions.

The LRA establishes a passive and voluntarist framework. The result? An unstable system, often unnecessary conflict, inconsistent and unfair conditions — and more labour lawyers than anyone needs. Hardly a foundation for building consensus around socio-economic policy.

The second problem is that there is no collective bargaining system in SA. For most workers "bargaining" remains a foreign concept, they are paid on a take it or leave it basis. In some sectors unions and employers bargain on the basis of recognition agreements or custom. In others, industrial councils operate. But these bodies — sometimes national, sometimes regional — cover less

than 10% of all employees. In general, only the threat of unrest compels an employer to bargain in a particular forum, or to bargain at all.

Even in the industries with centralised bargaining there is little to stop an employer withdrawing from the bargaining forum. A mine can withdraw from the Chamber of Mines, or an engineering firm from Seifsa and, hey presto, collective agreements often no longer apply.

We have many different bargaining systems. Not surprisingly, we have endless disputes about how, where and whether to bargain.

For some, especially free marketers, this laissez-faire approach to bargaining is not a problem. But for those wanting greater consensus around socio-economic policy, the absence of a comprehensive bargaining framework must undermine their efforts. How can difficult national economic deals be reached when the collective bargaining system encourages each employer, union and plant to go its own way?

Third, and relatedly, it is hard to see how deals reached at the national economic forum or NMC can be im-

plemented while employers remain poorly organised. To a lesser extent, the union movement faces the same problem. Certainly there are employer bodies in almost every industry, and chambers of commerce in every town. But at the national level, where the big issues are thrashed out, there is a confusing array of organisations. It is doubtful whether they can bind their members to any difficult deal. Attempts to avoid last August's stayaway mandate. And during the 1992 metal strike a number of employers broke ranks with Seifsa and went their own way.

At present nothing encourages employers to combine; our voluntarist LRA and laissez-faire bargaining system actively discourage combination. Co-operation on socio-economic issues is discouraged by the fact of commercial competition, and there are no incentives to cooperate. And the big conglomerates tend to bypass their employer bodies when they have something to say. But if meaningful economic strategies are to emerge (regarding international competitiveness, tariffs, productivity, industrial restructuring and so on) then it will require the existence of strong national

employer bodies able to look at the big picture.

The flip side of this problem is the lack of union centralisation. Even the strongest federation, Cosatu, lacks the muscle to enforce difficult decisions. Constitutional and financial power is vested with affiliates, which jealously guard their independence.

Could the union movement agree to a plan which promoted one industry at the expense of another? Cosatu and Nactu might agree, say, that Mossgas is a waste of resources and should be closed. But what would the Mossgas workers and their unions say, with their jobs on the line?

Fourth, there is no agreed system of plant-level governance. Some companies recognise shop stewards, others do not. Some stewards have extensive rights, others have nothing. A few firms grant majority unions exclusive representative rights. Most don't. Some companies leave non-unionised workers with little voice. Others actively encourage their own employer-employee channels, frequently as a way of bypassing unions.

On both sides of the industrial relations fence it is agreed that the plant level is the crucial interface. But the absence of a coherent system encourages adversarialism and sectionalism. Each side must be on its guard — protecting its backyard and always on the lookout for attempts to withdraw hard-won rights.

Without a strong, well-defined system of industrial relations (from national down to plant level) the corporatist project is unlikely to deliver. The existing system encourages protectionism, short-sightedness and needless conflict. Grafting a corporatist head onto an Anglo-Saxon industrial relations system can only lead to grief. It is time to review the Wiehahn model of unionism and industrial relations.

□ Baskin is a former unionist and author of *Striking Back* — A History of Cosatu. This is the first of two articles based on research conducted for the Centre for Policy Studies.

IS IT not strange how the old Wiehahn labour dispensation trundles on — at a time when the policies and underlying assumptions of every institution in our society are being questioned? Some changes are being debated, but these are little more than amendments. The basics of our industrial relations system remain largely unchallenged.

SA is moving in a corporatist direction. The national economic forum and other bodies are an attempt, for the first time, to give a meaningful role to organised labour. There are growing attempts to move beyond adversarialism and zero-sum approaches in industrial relations.

The corporatist route is the only realistic one. How else can we hope to tackle socioeconomic problems, restructure our economy, increase productivity and competitiveness if not by involving the key economic players? But there are many obstacles, not least the existing industrial relations institutions and system.

The time has come to rethink the Wiehahn model. Current debate revolves mainly around amending the existing Labour Relations Act; extending coverage of the system to farm workers and others, the extent to which international conventions need inclusion, and the need to consolidate the Act. While these are valid concerns, they fail to tackle the root problem — the disjunction between the industrial relations system and the direction which society and labour relations is trying to take. Three aspects of the system need to be put under the spotlight.

The first is the approach. At present the system tolerates unions, it certainly does not encourage them. They are widely seen as distorters of the market, and blamed for a host of social and economic ills. Their exercise of collective power is rarely seen as positive, nor are they credited as a major source of black economic empowerment.

A changed approach needs to review this and define unions not as a necessary evil but as essential social

Time to bury the Wiehahn model of industrial relations

JEREMY BASKIN

B10M 6/8/93

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ly secure, defined existence, unions attempt to gain a legal monopoly as employee representatives.

Clearly, any trend towards industrial restructuring and devolved management requires greater employee participation. Unions (their officials and shop stewards) will struggle to remain involved at every stage, they simply do not have the capacity. In any event, the need is to involve all employees (even the most skilled), not simply union members. The present industrial relations system does not make space for such developments. Indeed, it encourages unions to see greater workplace participation by employees as an attempt by management to bypass unions. And, given the adversarial nature of our system, it often is.

The German model is worth exploring further. It involves a comprehensive system of workplace councils where the employer and all employees interact and take meaningful decisions. The rights and duties of employee representatives are clearly defined. And within this comprehensive system the unions operate — promoting their policies, nominating candidates for elections, providing logistical support. The system does not stand or fall as union fortunes fluctuate from one year to the next, although the packages negotiated are obviously affected

Of course, a radical rethink of our industrial relations system involves much more than is covered here. There are other questions. How to encourage strong employer organisation? Does one aim for unionism? What role for the state? Does one aim to institutionalise conflict, or consensus?

The state of the economy, and our history of conflict are already major obstacles in the corporatist path. Retaining the existing institutions and system of industrial relations only adds to chances of failure

□ Baskin, author of *Striking Back* — a History of Cosatu, is a writer and consultant in the fields of labour and development. This is the second of two articles based on research.

develop a system which accepts decentralised bargaining and plant-level concentration within a centrally guided framework.

But, to be effective, such a framework needs to be comprehensive, with a place for every employee in every industry. It is hard to imagine this emerging from the present Labour Relations Act, which simply encourages employers and unions to slog it out and develop piecemeal solutions about where to negotiate. This is hardly a recipe for long-term industrial peace.

Thirdly, a defined system of plant-level governance is needed. The present Act is silent on this issue, yet all sides agree the plant is the basic interface. It is the place where production happens, strikes take place, and where employer-employee relationships are either rocky or smooth. It is where corporatist deals are determined or accepted.

Under our system, recognition and rights have to be fought for plant by plant. And they are always under threat. Defensive approaches are the result. For unions, the key is to maintain representivity. It is no accident that the closed shop is found only within the Anglo-Saxon model of unionism. Unable to have a relative-

even encourages — the devolution of management and industrial relations decisions from corporate headquarters to the local plant.

In addition, centralised bargaining frequently has been inflexible, treating all companies alike. It can set conditions which some companies are unable to afford while simultaneously letting other, more profitable, firms off the hook. Centralised bargaining can also cause problems for unions. It often encourages a widening gap between leaders and members with negotiations far from the workplace and with little involvement from ordinary union members.

It will be difficult to achieve national socioeconomic goals without the discipline of centralised bargaining. At the same time one must accept the strong arguments for devolved decision-making. But to simply devolve collective bargaining within the present framework means little more than fragmentation of the industrial relations system.

The real choice is not between centralised and decentralised bargaining, but the appropriate relationship between the two. The challenge is to

institutions. Our legal framework needs to include a place for labour in society. In the industrial relations arena this means talking about positive rights, not negative immunities, and defining basic rights for all parties. It means finding a place in law for collective activity, not seeing union activities as an embarrassing exception to the individualism of contract law.

Secondly, the collective bargaining framework requires dramatic overhaul, otherwise it will remain a source of tension and instability. This means working towards centralised bargaining, without which employers and unions are unlikely to develop a pro-active approach to the future of their industries. It is no accident that talks on industrial restructuring are most advanced in the mining, motor and clothing sectors. Those sectors have relatively centralised structures and without some form of centralised bargaining it is difficult to see how tripartite macroeconomic deals can avoid being undermined.

However, it must be acknowledged that centralised bargaining has many unattractive features. Technological change enables more flexible production which allows —

Unions call for end to income ceilings

THE Federation of SA Labour Unions (Fedsal) yesterday resolved to apply to the National Manpower Commission for the equalisation or abolition of income ceilings in three major Acts regulating labour relations

Speaking at the federation's annual conference, president Johan du Plessis proposed that salary ceilings in the Acts either be abolished or one common ceiling be set and reviewed annually

Du Plessis said employees could be covered by one or more of the Acts and many moved into and out of the legislation's scope as a result of inflation-linked annual wage increases

The lowest ceiling is that placed in the Basic Conditions of Employment Act — ranging from an annual income of R27 000 in rural areas to R31 800 in major metropolitan areas

ERICA JANKOWITZ

In the Workmen's Compensation Act the ceiling is an annual income of R45 084 which may be extended by employers to cover higher earners. Finally, the Unemployment Insurance Act imposes a ceiling of R58 188 per annum for contributors

Du Plessis said these different levels led to inequality of treatment, confusion and economic hardship

Speaking at the same conference, National Manpower Commission chairman Frans Barker said he did not believe legislated affirmative action programmes would redress the inequality of opportunities in SA

He said a more viable approach would be voluntary programmes based on intensive company-run training for those who had suffered

from past discriminatory practices

On the question of industrial councils, Barker said there was an international move away from centralised bargaining. Barker himself was not opposed to the principle of councils as long as they displayed a degree of flexibility on the questions of small businesses and regional differences

Barker identified three developments in overcoming the obstacles to building social consensus

He said the major role players in the process — organised labour, business and government — had agreed the process was more important than the substance of discussions. Bodies such as the commission were well-placed to help the process since they were representative, acceptable and had mandates to reach agreement within parameters

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Labour law shake-up for public sector under spotlight tomorrow

ARCUT 17/5/93 (166)

□ Cosatu warns of opposition to Bill giving employers 'best of both worlds'

SHARON SOROUR
and MICHAEL MORRIS
Staff Reporters

CRITICAL talks are due tomorrow between Cosatu and an all-party parliamentary committee on amendments to labour legislation for public sector workers, including those in essential services such as hospitals. The Public Sector Labour Relations Bill could be passed during the present session of parliament if objections by Cosatu and the Medical Association of South Africa (Masa) are resolved.

Negotiations to have the public sector covered by labour legislation began about two years ago, and parliament's Joint Committee on Home Affairs has been grappling with the problem for about a year. Cosatu has warned that if the legislation goes through in its present form, it will campaign against it.

Cosatu's chief objection is that while the Bill limits the right to strike to certain categories of public servants, those excluded — workers in essential services — are being denied an alternative.

National Education, Health and Allied Workers' Union (Nehawu) general secretary (Phillip Dexter) said Cosatu proposed final and binding arbitration be included in the Bill to ensure employers did not have "the best of both worlds".

"Cosatu has always argued for one consolidated Labour Relations Act for all workers, even if it distinguishes between workers," he said.

Masa has been in favour of a separate, special agreement with the State, outside the provisions of the Bill.

However, the chairman of the Joint Committee on Home Affairs, Patrick McKenzie, was confident last night the Bill would be passed this session. He said the government was keen to tailor the legislation to meet the needs of all parties involved and that, as a result, the final Bill would differ markedly from the original.

"Many amendments have been proposed, and I am confident we'll be able to reach a win-win agreement with Cosatu and the other key role-players"

LABOUR

Planting the seeds for peace on farms

Wimac 21/5-27/5/93.

(166)

A STARK choice confronts South African farmers: a future ridden with conflict and insecurity, or one where a system is in place which regulates disputes arising with their farmworkers

This was the strongest message to emerge from the country's first-ever farm labour law conference in Stellenbosch last week. Convened by the Centre for Rural Legal Studies (CRLS) it came days after the extension of the Basic Conditions of Employment Act to 1,5-million farmworkers

The conference's message was not directed at those farmers who gathered at Potchefstroom recently to bay their defiance of the Act, or any attempts to extend labour legislation to farmworkers. Rather, it was aimed at those farmers who are able to change.

The two days of presentations and debate carried messages for other players in the agricultural arena too.

Chief of these was directed at trade unions, industrial relations experts and labour lawyers put simply, it was that the nature of farms — producing highly perishable products and dependent on inconstant factors such as the weather and biological processes — called for a different approach to that used in industry. Strategies that worked for trade unions on the shop floor could not be applied wholesale to farms, while industrial relations specialists and labour lawyers would have to develop new skills to meet the complexities of the agricultural scenario

As Johan Hamman, of the CRLS, put it, farms could not be seen as "factories in fields" that could be switched on and off

This in no way detracted from the need for collective bargaining on farms, Hamman said. But instead of a rigid labour relations model, agricultural production demanded levels of flexibility to cope with changing market and production conditions

As Hamman pointed out, it was "a

The country's first-ever farm labour law conference looked at how farmers can adapt to the new legislation and build good relations.

By **GAYE DAVIS**

simple demographic reality" that, once all South Africans had the vote, the majority of rural voters would be farmworkers.

"Unresolved grievances ... will constitute fertile ground for political mobilisation. Not only will this take labour relations into the political arena, political differences will have an impact on labour-management relations," he said.

For farmers, the message was that labour legislation was neither intended nor constructed to beat them into submission — but rather to set a framework for the regulation and resolution of conflict according to conditions prevailing on specific farms, and which would work to the benefit of both the farmer and his workers

In some sectors, farmers are ahead of the law-makers. The deciduous fruit industry supports the extension of labour legislation — which, Unifruco representative David Gant told delegates, would largely formalise practices already in place.

In an industry where labour was the largest single production input, economic performance depended heavily on the skills of its estimated 500 000 employees — hence the development of an industry code of conduct adopted a decade ago and expanding corporate social responsibility programmes, Gant said

The Labour Relations Act — which unions want extended to farmworkers while farmers' would rather see a separate act — does not stipulate details of an employment relationship. Instead it provides for structures to deal with conflict. Discussion should focus on making the Act work, rather than whether it should apply to agriculture, Hamman said in

his paper.

But making labour legislation work on farms presents the biggest challenge of all. Congress of South African Trade Unions general secretary Jay Naidoo's claim that the federation had organised 150 000 farmworkers was rebutted by Stellenbosch lawyer Dawie Bosch. "They may be signed up, but are not effectively part of a union which protects and informs them."

Labour legislation could not be extended or enforced without farmers' participation, Bosch said, and while the Department of Manpower was not fulfilling its monitoring role "even in the cities", the state could not be expected to achieve what farmers and their workers could not.

Keynote speaker Baldemar Velasquez, a former migrant worker who founded the Farm Labour Organising Committee (FLOC) which changed the face of farm labour relations in the American Midwest, offered a way forward

Battling to win basic rights for migrant workers excluded from US labour law, FLOC took the creative step of focusing not on the farmers, but the multi-national companies who bought their crop. At the bargaining table, tri-partite agreements between farmers, the companies and workers were hammered out.

It took 25 years of organising, strikes and stand-offs — but migrant workers not only won security but a solid alliance arose between them and farmers, who found their bargaining power with the food companies significantly boosted by the agreements

This new co-operation, coupled with incentive clauses, has seen productivity soar. Said Velasquez: "Unless people are made citizens and empowered around and within the economic institutions that affect their lives, no significant changes of lasting value will occur"

South African agriculture would do well to take his seeds and plant and nurture them.

Labour laws expected to be passed

PRETORIA — Parliament is expected to pass amendments to the Basic Conditions of Employment Act suggested by the SA Agricultural Union before the session ends in late June.

The Act lays down, among others, working hours, and annual and sick leave provisions for farm workers.

The amendments considered vital by the SAAU are clear definitions of "casual workers" and "seasonal workers". An SAAU spokesman pointed out that 40% of farm workers were employed seasonally.

Another amendment is for a simpler and clearer definition of Sunday work.

Organised agriculture, it is understood, is likely to accept the legislation provided the amendments go through.

Meanwhile, discussions between the

By Day 21/5/93
GERALD REILLY

SAAU and Manpower Minister Leon Wesels are continuing on the application of the Wage Act and the Labour Relations Act to the farming industry.

The SAAU remains adamant in its total opposition to the Wage Act and the strike provisions embodied in the Labour Relations Act, and is still pressing for a separate piece of legislation for agriculture.

Government is being tugged in two directions on the issue by organised agriculture, which fears trade unions could abuse both pieces of legislation, and by Cosatu, which is demanding that farm workers should have the same rights as workers in other industries.

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FRIDAY 21/5/93
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New labour Bill under scrutiny

**MICHAEL MORRIS
and SHARON SOROUR**
Weekend Argus Reporters

LEGISLATION extending labour rights to thousands of public servants — including those in essential services — is expected to be finalised early next week and could be passed by Parliament before mid-year.

Amendments are expected, but it is not yet clear whether they will satisfy the demands of Cosatu, one of the key objectors to clauses in the Public Servants Labour Relations Bill in its original form.

Disagreement centres on the definition of essential services, and limitations on their rights — particularly their right to strike.

Parliament's all-party committee on home affairs meets on Monday to decide on amendments and to approve the Bill for debate in Parliament.

Mr Phillip Dexter, general secretary of the Cosatu-affiliated National Education, Health and Allied Workers' Union (Nehawu), believed the present definition of essential services was not "fair".

"In our view, an essential service is any service which,

when interrupted, endangers the lives of ordinary people."

Mr Dexter said this meant, for example, that emergency operations at a hospital were regarded as essential, while other operations and medical services which were not "life-saving" were not essential.

"The same applies to other services, like air traffic control, which is not essential. It might be important for flights to take off on time, but it is not essential unless it threatens national safety."

Cosatu wanted a definition which clearly identified workers in essential services, but which "must also be flexible".

"Something which is essential today might not be essential in a while, and vice versa."

Cosatu is also concerned about the right of workers in essential services to arbitration.

Mr Dexter added that while talks held to clarify the issues were "promising ... we have no guarantees and this is what worries us".

Home affairs committee chairman Mr Patrick McKenzie said the parties represented in the committee were discussing their positions over the weekend prior to the committee's final meeting on the legislation on Monday

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ARG 22/5/93

'Update law on labour relations'

CAPE TOWN — It was urgently important that the current law on labour relations be modernised, Minister of Manpower Leon Wessels said yesterday. *Star 25/5/93*

Speaking during debate on the Manpower vote, he said it was desirable that the law be simplified and structured to be easily accessible to all parties.

A code of fair labour practices was seen by the Government as a necessity to create legal certainty and effectively prevent conflict.

Increased productivity was needed to heighten living standards for all South Africans.

Corrective action on the labour front also needed urgent attention.

The National Manpower Commission had been asked to advise him on policy actions regarding this. — Sapa. *(166)*

Jobs task group set up

(166) (162)

ET 25/5/93

Political Staff

THE National Manpower Commission has been given a host of tasks, including revision of labour legislation, the Minister of Manpower, Mr Leon Wessels, has announced

Mr Wessels said a task group had been set up to develop a national training strategy because huge sums were spent on training without visible return

Speaking in Parliament, he said the newly-reconstituted commission would examine, among other things

- "Modernising" labour laws
- A code for good labour practices
- The establishment of labour standards
- The question of increased productivity
- The principles that would give rise to legal actions in court
- The question of a minimum wage
- Dealing with Aids in the workplace
- Harmonising labour legislation
- Labour-related questions raised by the government's nor-

native economic model

- The ratification of international labour relations conventions
- The effect of not abiding by agreements on collective action
- The political involvement of unions
- Programmes for the unemployed
- Sapa reports that Mr Tony Leon (Houghton, DP) told Parliament that industrial councils should be scrapped as they were anachronistic and throttled small businesses

Non-members in labour council net

St. Trineo (Russ)

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(166)

By ZILLA EFRAT

THE right of industrial councils to extend wage and labour agreements to non-members has been reaffirmed in what is considered a watershed judgment.

The Cape Supreme Court has granted the National Industrial Council for the Iron, Steel, Engineering and Metallurgical Industries (NICISEMI) — South Africa's largest industrial council — an order compelling 12 employers to comply with its agreements.

The 12 refused to contribute to the industry's pension, provident and education and training funds on behalf of their employees.

They also launched counter-applications against the industrial council, alleging defects in its registration, misinterpretations of the Labour Relations Act and lack of representatives of employers on the council.

NICISEMI says the Supreme Court rejected the opposing applications on all counts.

It ordered the main respondent, Photocircuit, to

pay all costs. The counter-applications were also dismissed with costs.

In addition, Horst Pewsckes of Photocircuit gave the court a written undertaking that he would refrain from inciting or encouraging other people to refuse to comply with the industrial council agreements.

NICISEMI says the judgment has been welcomed by the engineering industry because it confirms the council's important role in regulating the industry collectively through agreements negotiated between employer organisations and trade unions.

Council general secretary David Levy says he is satisfied that the Supreme Court fully countered the claims against the council.

He hopes the judgment will encourage a more balanced perspective of industrial councils' important role.

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JOB'S

Council faces R2,5m claim from a prize-winning firm

By GIBRAN RYAN

WINNER of the 1992 Entrepreneur of the Year award, Annie's Creations of East London, plans to sue an industrial council for R2,5-million in lost profits, claiming unlawful harassment.

The managing director of the baby-clothing manufacturer, Tom Cawood, says he was forced to lay off 160 workers after the Port Elizabeth Industrial Council for the Clothing Industry (East Cape Province) extended its jurisdiction to East London. He says it sent fictitious applications by East London factories to the Industrial Registrar.

"I am one of the lucky ones," says Mr Cawood. "I survived. Two other budding entrepreneurs in the East London area, employing more than 1 000, were forced into liquidation because of the industrial council. Our three factories supported 15 000 dependants."

Industrial councils, in terms of the Labour Relations Act, regulate conditions of employment, minimum wages and other employee benefits and provide for the resolution of disputes. They are private organisations made up of employer and trade union representatives

Membership is voluntary, but agreements are binding on non-members.

The industrial-council system was given a shot in the arm two weeks ago when the Cape Supreme Court confirmed that agreements are binding on non-members. Twelve employers contested the right of the National Industrial Council for the Iron, Steel and Metallurgical Industries to extend its agreements to non-members. They were ordered to comply with the council's agreements.

Enough

Mr Cawood moved Annie's Creations from Rustenburg to East London because the Cape city had no industrial council for the clothing industry and wage rates were lower. But last year the council extended its jurisdiction to East London. It sent a representative to Mr Cawood's offices last August.

"In a very abrupt manner he demanded to see my books, so I threw him out. He returned with the police. We were treated like criminals. I was told that I was underpaying my staff and we had a

criminal case pending against us.

"We considered closing our business. I have had to delay buying more equipment because of the uncertainty about my business."

Mr Cawood alleges that Port Elizabeth-based clothing firms, jealous of his lower labour costs, instituted the action. Of the six employer representatives on the council, two are related and two are from the same company, says Mr Cawood.

Applications to the Industrial Registrar and former Manpower Minister Eli Louw for exemption from the industrial council agreements failed.

The council's records show its members are in the minority and therefore not representative of the industry, says Mr Cawood. In spite of publication of a notice in the Government Gazette by the Industrial Registrar that the council was no longer sufficiently representative, its agreements are still imposed on non-members.

Mr Cawood says "I decided enough was enough. I decided to go to war with the industrial council. I should have employed 800 people by now to fulfil the orders that were coming in, but I am down to 100. I know what it must have been like to own

your own business in Russia. "Now we are instituting legal action against the council."

Brian Topic, who runs a car valet service on the East Rand, says an industrial council official arrived at his premises to inspect the wage book. He was told some of his workers were underpaid.

"The official called all staff members into my office and told them that they would receive pay increases of 18%. Later, another inspector told me my original pay rates were correct."

Mr Topic says he may be forced to close his business after being summonsed to the industrial court for refusing to reinstate a driver found drunk at work.

Unfair

"Two months after firing this driver he turned up at my premises with a union official, claiming unfair dismissal because he was not given 24 hours' notice of the hearing. I was told to reinstate him as a driver, even though he was frequently drunk and a risk to life and property. I refused and must appear in court, placing my business and 33 jobs at risk."

Several employer federations blame industrial councils for strangling job crea-



TOM and ANNIE CAWOOD Enough's enough, we're going to war to save our business

tion because agreements are binding on non-members, regardless of their ability to meet the cost of compliance. The number of industrial councils declined from 104 in 1981 to 91 in 1990. The number of employees covered by industrial council agreements fell from 1,27-million in 1981 to 800 000 in 1990. "The system is blatantly undemocratic and immoral," says Hein van der Walt, director of the Confederation of Employers of Southern Africa, which has 120 000 members employing 2,4-million workers. "The industrial council system has a total disregard for the trade freedom of employers and the right to work."

NEW Labour

Rights for domestic workers

ARG 11/6/93
165

MICHAEL MORRIS
Political Correspondent
and **SHARON SOROUR**
Labour Reporter

BASIC rights for South Africa's more than one million domestic workers — including leave and limits on overtime — are being entrenched in law for the first time in terms of legislation tabled in parliament today.

This follows steadily increasing demands from Cosatu and domestic worker associations to provide protection for a sector widely regarded as one of the most exploited.

The Basic Conditions of Employment Amendment Bill — a further major step in post-1990 labour reforms — covers working hours and overtime, leave, meal times and written agreements on the terms of service between employees and employers

It will affect domestic workers, chargs, gardeners, chauffeurs and people looking after children, the sick, the aged or the frail in private homes

The Bill provides for:

- Limiting working hours to a maximum daily "spread-over" of 12 hours for regular workers, and 14 hours for live-in domestic workers.

- Limiting overtime to 10 hours a week, or 14 hours in the case of domestic workers who take care of children, the aged and the sick

- Giving one working day's leave and one working day's sick leave on full pay for every 26 days at work for regular domestic workers.

- Giving at least one month's notice by either party for termination of service in the case of workers paid other than weekly

- Regulating meal times, including shortening the period by agreement between employee and employer

- Extending ordinary working hours by written agreement between full-time domestic workers and employers

The Bill also provides that if there is a written service agreement on hours of service and pay between employers and employees.

The drafting of the Bill — which is based on recommendations by the National Manpower Commission — follows consultations with employers' federations, trade unions and trade union federations, business women's organisations and house wives

Bill alters public servants' rights

CAPE TOWN — The new dispensation provided by the Public Service Labour Relations Bill would enable SA's 420 000 public servants to take part in conflict resolution procedures, the Minister responsible, Sam de Beer, told Parliament yesterday

It was an exceptional piece of legislation which was the result of negotiations between state representatives and public service employee organisations, he said while introducing the Bill, Sapa reports.

"Behind us lie two years of intense negotiations, joint drafting and bilateral talks," he said

The Bill aimed to democratise the civil service further, establish collective bargaining structures and estab-

lish mechanisms to settle disputes. It would improve the position of Public Service Act personnel and create job security, as well as introducing the test of fairness against which all disputes would be measured.

Gordon Thomas (NP Matroosfontein) said the Bill gave public servants access to the legal world, like the Industrial Court

Jannie Momberg (Ind Simon's Town) said a new government would be urged to scrap the Bill. Cosatu had been unable to persuade the NP to extend protection to all workers

Roger Burrows (DP Pinetown) said the DP wanted to amend the Bill. Service personnel, magistrates and teachers were excluded from the Bill, and the question arose why everyone

else had to be cajoled into a central bargaining chamber

On this, Burrows and Louis Stofberg (CP Sasolburg) said medical practitioners should be granted a separate bargaining chamber

Medical Association of SA Federal Council chairman Bernard Mandell said in a statement the Bill would leave state doctors without bargaining powers and dispute resolution rights, GERALD REILLY reports

In a dispute involving finance the employee had to have the support of at least 50% of employees before having access to arbitration. Doctors were a minority among public servants and therefore their chances of obtaining the right to strike over issues affecting them were slight

B/Say 11/6/93 (15)

(23)

(166)



Star 12/16/93

Maid's rights defined

CHRIS WHITFIELD
Political Correspondent

CAPE TOWN — Domestic workers' working hours and leave rights have been defined in a Bill.

The Basic Conditions of Employment Act was tabled in Parliament yesterday after three years of negotiation and controversy.

It provides for live-in domestic workers to work a maximum daily "spread over" of 14 hours.

The ordinary working hours of a full-time domestic worker may, by means of a written agreement by the employer, conditionally be extended by not more than four hours a week.

Meal breaks may be shortened by means of an agreement with the employer. In terms of a memorandum attached to the Bill, a domestic worker who takes care of children, the aged or the sick may not work more than 14 hours' overtime a week.

A "regular day worker" — as opposed to a casual employee — would be entitled to one working day's leave and one working day's sick leave on full pay for every 26 days worked.

Termination of service would require a month's notice from employers, who would be exempted from keeping records on time worked and pay if written agreement were drawn up with workers

Domestics bill skirts wage issue

Si Times 13/6/93

PROPOSED legislation for domestic workers in South Africa has introduced a range of minimum job rights, but has skirted the issue of minimum wages, saying that they should be negotiated between employer and employee.

The Basic Conditions of Employment Amendment Bill, tabled in Parliament this week has not yet been passed and no date has been set for its implementation.

The rights will include a basic 46-hour working week and maximum overtime of three hours a day, or 10 hours a week. In the case of childminders or people caring for the sick, handicapped or frail, this can be increased to 14 hours.

Overtime rates will be "time-and-a-third" in the case of hours worked over the daily or weekly minimum.

Workers will be entitled to paid public holidays on New Year's Day, Good Friday, Ascension Day, Workers' Day, Republic Day, Day of the Vow and Christmas Day.

The proposed legislation says an employer has to give the domestic worker at least 14 consecutive days' leave on full pay for every 12 consecutive months of employment.

Provision is also made for sick leave, and pregnant domestic workers may not work in the four weeks before the expected date of confinement, and for eight weeks afterwards. *Sapa*

metro

Minimum pay 'threat to jobs'

Star 14/11/93

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Staff Reporter

Many domestic workers would have been out of a job if a new Bill covering their employment conditions had stipulated a minimum wage, Democratic Party MP Tony Leon said yesterday.

The DP held five meetings in Johannesburg and Sandton at the weekend to inform domestic workers about their rights under proposed new labour legislation tabled in Parliament on Friday.

Leon said yesterday that he agreed with the decision not to bring a minimum wage into the Bill.

Recommended

"If that happened, two-thirds of the people I spoke to could be out of a job," he said.

The Black Sash last year recommended a monthly minimum wage of R760 for skilled domestic workers and R580 for semi-skilled workers.

Black Sash national researcher Marj Brown said there was still much work to be done before domestic workers were properly protected by labour legislation.

Besides the absence of a minimum wage, the Bill makes no provision for unemployment insurance or compensation as a result of injury.

Domestic workers still have no access to recourse through the Labour Relations Act in the event of a dispute with their employers.

Brown said unemployment insurance and compensation for injury could not be introduced at this stage because of difficulties in enforcing payment of contributions by employers.

Some elements of the Bill are:

- A maximum of 46 working hours a week.
- A maximum of 10 hours overtime a week, or 14 hours if the worker is looking after children or the aged.
- Overtime may be worked only by mutual agreement between the worker and employer.
- Fourteen days of annual paid leave, as well as 36 days' sick leave (for six-day-week workers) in every three-year cycle.
- A minimum of one month's notice, or one month's wages.
- Employers must keep written records of hours worked and wages paid, unless the worker has a written contract.

Brown said the Bill allowed more flexibility in the relationship between the domestic worker and her employer than other labour laws.

This was "not such a good idea" since it weakened the worker's protection against abuse by the employer.

'Victory' for domestic workers

15/16/93
ERICA JANKOWITZ

COSATU has described the proposed amendment of the Basic Conditions of Employment Act to include domestic workers, as tabled in Parliament last week, as "a victory for all those who have been struggling for basic rights for domestic workers over the past years" (166)

Cosatu said some wording problems and "inappropriate provisions" on working hours existed in the present proposal, but it believed that these could be sorted out. (167)

It said the amendments are largely in line with what Cosatu proposed.

It also called for the extension of the Labour Relations and Wage Acts to domestic workers as present legislation "was very limited" in securing their rights. (168)

Sapa reports that Cosatu said this was the first step in implementing the agreement made between gener-

al secretary Jay Naidoo and Manpower Minister Leon Wessels to extend full labour rights to domestic workers by the end of 1993.

Cosatu said it was important that the Bill be steered through Parliament and implemented urgently.

"Although a significant advance, it must be borne in mind, however, that the provisions contained in the Basic Conditions of Employment Act are very limited and way below the standard achieved where workers have organisational rights. (169)

"This underlines the importance of extending the Labour Relations Act and Wage Act to domestic workers and others, including farm workers who have been excluded from protection by these Acts," the Cosatu statement said

Trio of works explains labour law

Reviewed by *John Grogan* in *Law* 186-2416/93

LEGAL publisher Juta & Co has rather dominated labour law publishing in South Africa with a number of important titles including two new ones, *A Guide to South African Labour Law* and *Rieker's Basic Employment Law*. Butterworths, Juta's rival, was left in the cold, with its labour law volume in Joubert's *The Law of South Africa* series, curiously absent. The imbalance in this field is now somewhat remedied by Butterworths' publication of the first section of Malcolm Wallis' loose-leaf work, *Labour and Employment Law*.

The three new works under review have been written for different audiences and with different aims in mind. Wallis' book is undoubtedly the most substantial, intended as an authoritative point of reference to aid judges, presiding officers of the industrial court and practising labour lawyers who must grapple with complex

LABOUR AND EMPLOYMENT LAW by Malcolm Wallis (Butterworths, R169,85). **A GUIDE TO SOUTH AFRICAN LABOUR LAW** by Alan Rycroft and Barney Jordaan (Juta, R105). **RIEKERT'S BASIC EMPLOYMENT LAW** by John Grogan (Juta, R60).

labour and employment law issues.

Malcolm Wallis SC is well placed to write such a labour law text. He has vast experience and knowledge of the field, having represented employers, and sometimes employees or trade unions, in many of the major labour disputes presented to our courts for decision. He provides a comprehensive analysis of the origins, content and controversies in our labour law. So far only the first section of his project has been published, that dealing with the individual employment contract between employer and employee — the relationship of subordina-

tion and domination — in which the worker must obey the reasonable requirements of the employer. His work in progress, yet to be published, concerns the collective relationship between employers and workers represented by trade unions — a relationship of relative equality.

Some labour lawyers regard labour law as beginning with the reforms to legislation which followed the Wiehahn Commission report and the introduction of the industrial court. Few texts have adequately analysed the common law heritage to which our unfair labour practice jurisdiction has been grafted. Wallis provides a detailed study of the common law contract of employment. He explains the impact of statutory provisions on the common law contract and how the contractual basis of the employment relationship has been varied by legislation. While labour lawyers are often tempted to

describe what the law should be rather than what it is, Wallis is careful to give readers a clear and unbiased explanation of what it is — even when he disagrees with a decision — before he presents his view of how and why it should be improved. His book is accessible with a structure that makes for easy reading. The index is rather sparse, however, and more specific information could be provided with forthcoming replacement pages.

This is currently perhaps the most comprehensive exposition of South African employment law, a superb book of reference, written in clear prose. Essential for labour lawyers, it is also highly recommended to all who have an interest in the law of employment.

Rycroft & Jordaan have produced an excellent second edition. The book has a less lofty purpose than Wallis'. It is designed to introduce students in particular to the issues of labour law. It covers the individual employment relationship and issues of collective bargaining. Although the facets of labour law are not considered in all their complexity, the book provides an ideal overview. It is the best work of first reference available.

Grogan's book is the first of a proposed trilogy. Like Wallis, he has started with the individual employment contract. This first book carefully sets out the state of the law concerning the employment relationship. The second volume will deal with industrial relations or the collective bargaining relationship between employers and workers, and the third is to be a book of law cases and materials, which is sorely needed in this growing field of the law.

The first volume lacks the weight of references which Rycroft & Jordaan provide to support their ideas. However, Grogan provides a solid basic overview of the state of our employment law with a particularly extensive and helpful index. The work will be of benefit as a textbook to students, particularly students of industrial relations who would not want the rigour of a legal textbook.

● The reviewer, who asked not to be named for professional reasons, is a labour lawyer who sits on the industrial court.

Arbitration, Mediation & Dispute Resolution

New & forthcoming titles from Juta Legal & Academic Publishers

ARBITRATION IN SOUTH AFRICAN LAW AND PRACTICE by David Butler & Ewald Finster

This book sets out and discusses principles of current South African arbitration law and practice in the light of recent trends in other countries, particularly England. The process of arbitration is systematically explained, from the conclusion of the arbitration agreement to the delivery and enforcement of the arbitrator's award, with practical advice to the arbitrator on dealing with problems which are likely to arise in the course of the proceedings. In discussing arbitration practice, the emphasis is on using the flexibility of the arbitration process to ensure that it achieves its object of resolving a dispute referred to arbitration in a just and cost-effective manner, with the minimum of unnecessary delay. The book is intended particularly for arbitrators, lawyers and other professionals.

PRACTICAL PEACEMAKING — A MEDIATOR'S HANDBOOK by Mark Anstey

This book is intended as a quick reference for practitioners and for use in the training of negotiators, mediators, peacemakers and facilitators in labour and community work. In the climate of political repression which prevailed through the 1980s, the introduction of alternative dispute resolution methods in the labour field was a difficult process. Nevertheless, remarkable progress was achieved in institutionalising collective bargaining and processes of mediation and arbitration as vehicles for labour-management dispute resolution. Work in the community field is more complicated and research indicates that mediation in communities may have quite different characteristics to that in the labour field, but it also has many process similarities. *Practical Peacemaking explains some of the differences and*

Farm labourers' rights must be given some meat

19/11/93
18/6-24/6/93
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Revised Law
18/6-24/6/93

ONCE farmworkers are accorded rights under law, what system should be in place to ensure they are enforced? As Congress of South African Trade Unions general secretary Jay Naidoo pointed out at the country's first farm-labour law conference in Stellenbosch recently, unless farmworkers' rights are enforceable, "they won't be worth anything".

Yet, as the conference — convened by the Centre for Rural Legal Studies — heard, the Department of Manpower is already unequal to the task of carrying out its monitoring duties even in urban centres.

Stellenbosch attorney Dawid Bosch told how a mere 136 people had been appointed in addition to the department's 4 000 employees "to deal with every aspect of labour legislation in agriculture".

This represented a three percent increase in the department's labour force, while agricultural workers accounted for 15 percent of South African employees.

"We will have to have much more resources regarding enforcement agencies. We need people coming in from outside, as in rural areas the existing establishment is very close to the farmer," Bosch said.

Dismissing the notion of a separate court to deal with agricultural disputes — something organised agriculture has been pushing for — as "unaffordable and nonsensical", Johannesburg attorney Paul Benjamin argued in favour of using the industrial court system.

While criticism of the industrial court was justified — it was "bogged down" and took too long to do its work — there was nevertheless consensus on its ills, Benjamin said.

Set up in 1979 to achieve the swift resolution of industrial disputes, by 1990 the industrial court was dealing with 6 000 cases a year, mostly concerning individual unfair dismissal cases. Despite its problems, it had helped transform industrial relations. For example, it was now standard practice to hold a hearing after an alleged unfair dismissal, Benjamin said.

Individual dismissals would fuel most agricultural actions and these could be dealt with by the industrial court a relatively simple

amendment to the Act could bring farmworkers under its aegis.

However, the system needed to change. More officials needed to be trained and mediation mechanisms set up which required a commitment to deploying more resources, Benjamin said.

Aninka Claassens, of the Centre for Applied Legal Studies, stressed the need for a court process.

"In the rural areas, people are evicted for going to a lawyer. The local policeman is often the prosecutor and the magistrate a farmer."

"Only when farmworkers can take a farmer to court can that arena be opened up."

Peter Harris, who worked as a labour relations officer in Zimbabwe, described the system operating in that country. Labour relations officers bypassed the need for lawyers and were thus "less threatening for someone who is under-educated or illiterate."

They were empowered to start investigating a case "within the hour" and could freeze the status quo, providing an effective, easily imposed fetter on a farmer's power to dismiss and then summarily evict a worker.

It was a "quick and easy" system, according to Harris, labour relations officers could collect facts, gather evidence and call additional witnesses. Dissatisfaction over any outcome could be referred, by way of appeal, to another court.

But, in order to bring about any real changes to their living and working conditions, farmworkers would have to be informed of their rights — which raised the thorny issue of access to farms.

"The Trespass Act blocks trade unions and parastatals from access to farms," Pane Moshonyane, of the Orange Free State Rural Committee, told the conference. "Our call is



Farm workers have little legal protection at present. But another problem exists. How to enforce their rights once they get them?

that the government must scrap this and other laws hindering the enforcement of rights extended to farmworkers.

Organised agriculture's standpoint on this seems unyielding.

According to the South African Agricultural Union's (SAAU) Kobus Kleynhans "Trade unions should earn their welcome on the farms."

While SAAU members supported the notion of a workers having access to a fair court, in a context where farms were being attacked at the rate of one a day, there was "no way" farmers would agree to the Trespass Act being scrapped.

"Legislation alone won't change attitudes," Kleynhans said.

"We still won't make headway if we remove the law and don't win the confidence of farmers."

Steps to ease delay at Industrial Court

By ERICA JANKOWITZ

MEASURES to address a serious backlog delaying the hearing of cases by up to nine months have been introduced in the Pretoria Industrial Court.

Writing in his first practice note since his appointment last month, Industrial Court president Adolph Landman said while the measures could inconvenience practitioners, the need to work off the backlog was "imperative and overriding". 14/7/93

One measure was the recent appointment of six additional members to preside in the Pretoria court. A motion court would be established as part of the Pretoria court from July 26 to expedite hearings which did not require the "presiding officer being seized with jurisdiction as regards the merits of the matter".

"In the case of opposed applications for a determination in terms of Section 46(9) of the Labour Relations Act, parties will be required to hold a proper pre-trial meeting and to file a pre-trial minute with the court three weeks before the date of hearing."

Landman said this step had been taken as "many cases are withdrawn at the last minute because they only receive the earnest attention of the practitioners involved at a late stage."

He also proposed that the rules board function as a national advisory committee to enable better communication and feedback on the functioning of the court.

SA fares poorly in health

WASHINGTON — Health statistics published in the World Bank's latest annual development report portray SA in a decidedly mixed light and in several key areas it fares the worst in Africa.

According to the figures, 53% of children aged two to five suffered from stunting — low height for age — due to malnutrition between 1980 and 1990, compared with a continent-wide average of 39%.

The annual incidence of tuberculosis in SA — 250 cases per 100 000 population in 1990 — is also nearly 15% above the African average of 220, and more than 10 times the rate in developed countries.

Many African countries also do a better job, though with considerable foreign assistance, of ensuring that infants are fully immunised against diphtheria, whooping cough and tetanus (DPT), and measles.

In SA, 63% of children younger than one received a complete course of DPT shots in 1990-91, compared with 89% in Zimbabwe and 79% in Zambia.

In all, 12 African countries had higher rates.

SA consumes more tobacco — 1,4kg per capita in 1990 — than other African countries for which there are statistics, but this may be a sign of relative affluence. Consumption in the developed world

poorly survey

SIMON BARBER

averages 2,4kg.

The SA fertility rate, at 4,3 in 1990, is well below the African average of 6,4, and roughly in India's league (4,0). The global average is 3,4.

In 1990 half of South Africans could expect to die before they reached 41, whereas half of all sub-Saharan Africans don't make it beyond five. Globally, the median age at death is 55.

Caring for the elderly is not a problem in Africa. Only 5% of the population is older than 60. In SA, the proportion is 6%, in the US, 22%.

In the developed world, 19% of the population is under 15, in SA 38%, in Africa generally 46%.

SA has 0,61 doctors for every 1 000 people — although the distribution is highly uneven — and 4,1 hospital beds.

For Africa as a whole, the figures are 0,12 and 1,4 respectively. The world average is 1,34 and 3,6.

Globally, the annual per capita expenditure on health care comes to an average of \$323. In 1990, SA spent \$158. The continental average was \$23.

The average developed economy devoted 9,2% of GDP to health care, SA 5,6%. This was well above the average in the developing world (4,7%).

Companies fight minimum wage

UMTATA — A minimum wage regulation implemented by Transkei's government is being challenged in court by six industrial companies which fear they may be crippled by the new financial burden.

The minimum wage which was announced by Manpower Minister D D Mdzawze, in terms of a government notice on May 7, was said to be substantially higher than wages negotiated with unions.

The Umtata Supreme Court was told that the wage determination could result in loss of jobs, retrenchments and closure of certain industries and relocation.

One of the companies said that the new wage determination would force it to increase its wages by more than R2,2m in 1994, and this after having suffered heavy financial losses from four weeks of industrial action this year.

The applicants said they would not be able to afford to offer other benefits to employees such as 13th cheques, overtime and sick leave if they were obliged to grant the increments.

The applicants urged that the matter be dealt with as soon as possible as they would be committing a criminal offence if they did not comply with the determination, but would "suffer severe financial prejudice" if they did.

It was also feared that if the companies could not comply with the provisions it could result in widespread labour unrest.

The six industrial companies employ a total of more than 3 000 workers and all have wage agreements with unions.

Judge C White postponed the application for argument until July 30.

Retrenchment 'must be a matter of law'

By Day 2017/193

IT WAS time for retrenchment regulation to be removed from the realm of Industrial Court powers into explicit statutory regulation, Wits University's Centre for Applied Legal Studies' Prof Paul Benjamin has proposed.

Speaking at the annual labour law conference at Natal University, Benjamin said the Industrial Court was essentially a court of equity and, as such, was perhaps an inappropriate body to set substantive conditions of employment.

This could explain why the court had not ruled conclusively on the issue of severance pay, but had restricted itself to setting preconditions to retrenchment in the form of enforcing sufficient notice periods, consultation and objective selection criteria on employers. He said there was still much debate on whether severance pay was an appropriate form of compensation.

To date, the court had ruled that in the absence of a clear right to severance benefits, an employer's decision not to award them could not be deemed an unfair labour practice.

This, Benjamin contended, was the right decision, but for the wrong reason

objectives had not been the objective of mature debate, he said.

The burden of unemployment had always fallen on the employee, in stark contrast to western Europe, where the state bore the brunt, and Japan, where employers were major contributors to social welfare.

He also looked at the issue of insolvency, especially small businesses, and its impact on workers.

Currently the winding-up of insolvent companies was regulated by the Insolvency Act and not labour legislation, Benjamin said. As such, employees came third on the list of preferential creditors, after legal practitioners and state funds.

Also, protection of employees was limited to three months' pay to a maximum of R2 000, Benjamin said.

Last year, recommendations were made to the state to reconsider the protection of employee claims and to restructure the preference list, placing them higher than state funds.

Benjamin proposed the establishment of a fund to cover employers' liabilities to workers after insolvency. He also proposed

a restructuring of the Unemployment Insurance Fund to pay workers on short-time or those who have been temporarily laid off. This could shift some of the burden away from employers as it would extend their options by supplementing employees' pay in times of economic downturn.

This would mean employers could explore more sensible options to cope with recession than labour shedding, Benjamin suggested.

Both were being investigated by the National Economic Forum, Benjamin said. However, a more active form of regulation was required and should be looked at prior to procedural issues.

He said, at present unions were reluctant to consider short-time suggestions or job sharing because of the cost considerations for workers.

However, if a fund was established to allow a more equal sharing of the cost, unions might change their stand.

Benjamin said the fund could either consist of employer and employee contributions — as does unemployment insurance — or could be a payroll tax, which would not be out of line with international trends.

Refusal of bargaining rights gives state doctors the needle



SHARON SOROUR
Labour Reporter

DOCTORS at state health institutions were given a bitter pill to swallow when the government, passing a much-maligned Labour Bill for the public service, refused them the right to bargain for better wages and working conditions

The notion of doctors endangering the lives of the sick by exercising a right not to work is in apparent discord with their image as nurturers of human life

But were they fighting for the right to suspend their services through strike action? Or were they simply demanding the right to another form of bargaining power and a dispute resolution mechanism to address their own concerns?

The fact is, with the Public Service Labour Relations Act which has just become law, thousands of government-paid doctors are left virtually powerless to do anything to improve their working conditions

The Medical Association of South Africa (Masa) slammed the Labour Bill as "rigid and short-sighted" and warned that doctors

would have no option but to leave the public service

Masa federal council chairman Dr Bernard Mandell said the government was now in a position to abuse the traditional calling and integrity of the medical profession by doing nothing to improve working conditions, workload and salaries

"The government is well aware that doctors are legally, ethically and morally bound to continue caring for their patients, regardless of their own circumstances," Dr Mandell said

To resign from public service was their only remaining option.

"This will have a disastrous effect on state health care services, which are already barely coping in meeting the needs of the community," he said

Doctors who work long hours in overcrowded hospitals are not only leaving the public sector but the country, according to Masa's profession development director Dr David Green

The "brain drain" of medical talent was enormous, said Mr Mike Ellis, Democratic Party MP and spokesman on health and a member of the all-party stand-

ing committee that debated the Bill before it was passed

"The majority of doctors who are leaving are white or Indian South Africa is having to import doctors and, basically, they are making a mess of things, not having suitable qualifications or the language ability to do their work properly," Mr Ellis said.

"At a time when we are losing doctors for political or other reasons, we again fail to give them the recognition they deserve by catering for their needs in this Bill I blame the government 100 percent"

Masa's main objection to the legislation is that it offers no protection for the rights and interests of doctors through recognised dispute resolution mechanisms

Doctors are not necessarily unhappy about being denied the right to strike — the ultimate bargaining weapon — as the medical profession is deemed an essential service

"As an association we do not believe that doctors should strike, which is different from believing they should have the right to do so," Dr Green said

ARG 21/7/93

NEWS IN BRIEF

Business Day 21/7/93
Cane farmers hit
NATAL South Coast sugar farmers were again facing heavy crop losses because of drought and pests, including Eldana borer infestation, it was reported yesterday. In the Umzimkulu area the loss last year of R40m in cane-related income would almost certainly be repeated this year.

Award for Suzman

ANC president Nelson Mandela would deliver the keynote address at the national congress of the SA Jewish Board of Deputies in Johannesburg on August 21 when the Nahum Goldman Award would be presented to veteran politician Helen Suzman, a statement by the board said.

Concorde on safari

A CHARTERED British Airways Concorde will make the supersonic airliner's first comprehensive trans-African journey to SA with a leisurely 17-day flight via Kenya, Tanzania, Zimbabwe and Botswana from October 23 to November 10. Ninety passengers, mostly Americans, will pay about R40 000 each for the trip, which embraces some of the continent's most famous game reserves and ends with a Blue Train journey from Johannesburg to Cape Town.

Caption incorrect

A caption to a photograph depicting the handing over of a memorandum from the Seven Buildings Project to the National Housing Forum (NHF) in Business Day on Friday was incorrect in describing the people involved. Matthew Nell is the chairman of the Co-ordinating committee of the NHF and Saths Moodley is the senior co-ordinator of the NHF.

REPORTS Business Day Reporter Sapa

Tentative signs of recession's end

Business Day 21/7/93

KELVIN BROWN

THE recession was showing some signs of bottoming out but the signs were still not strong enough to indicate a definite end to the downturn, economists said yesterday.

Various indicators had shown some improvement recently with real gross domestic product increasing in the first quarter. This was carried through as mining production, agricultural output and exports had all shown increases in data released over the past few months.

Standard Bank chief economist Nick Cypionka said the current improvement was more of a statistical nature due to the better gold price, the ending of the drought and the upturn in the economies of the US and the UK. However, he added "We are not yet seeing it out on the street."

Other indicators that had shown some levelling out included motor car sales, manufacturing output and notes in circulation. Manufacturing production was up since the middle of last year and notes in circulation — an early indicator of higher spending demand — was also better.

Cypionka said a recovery would be visible only when the man in the street felt things were better, which would be reflected in an improvement in spending patterns. "This should occur when job security improves and people have more money in their pockets."

When SA gained greater access to overseas financial markets and the situation on the political front got better the economy should benefit even further, Cypionka said. "Until then the situation is unlikely to show definite signs of improving although there may be some bouncing back

statistically."

UAL economist Dennis Dykes said although there were some signs of a turnaround it was difficult to tell if it was just a blip or a sustained increase. "The question is whether it will continue or be held to ransom by the political process."

The position of consumers was still not good as disposable income had been knocked by higher taxes and lower wage increases. He said the indicator to watch for was credit extension. "When consumer confidence picks up it affects demand for credit even before GDP."

Old Mutual economist Dave Mohr said the improvement in the primary sectors could suggest a flattening out in the recession later this year.

"In the past all sustainable recoveries in SA usually started with an improvement in exports and the primary sectors."

Agricultural production was good but volatile as it was dependent on the weather while the mining sector was showing signs of improving. There were pockets of evidence that overseas demand was picking up.

Gold and platinum prices had improved, and this carried through to the steel and other markets.

The depreciation of the rand should also help improve exports in these and other areas.

Mohr said the evidence indicated the economy could approach a turnaround this year with a slow improvement next year depending on what happened politically. However, there was little room for growth in the economy given current fiscal and monetary policies.

Farmers 'must clear proposed labour laws'

ANY proposed labour legislation for agriculture would have to be cleared with farmers before implementation, Free State Agricultural Union president Piet Gous said yesterday.

"Government quickly talks to farmers, decides on its own what it wants to do and then calls it negotiations," he said.

At a congress Free State farmers had called for a referendum, or they would not accept new legislation, Gous said.

Chairman of the union's manpower committee Japie Grobler said a forum had already been established to inform farmers about their legal rights and the changes they would have to make should comprehensive new legislation be adopted.

Business Day 21/7/93
DIRK VAN EEDEN

The forum, with representatives of the Transvaal and Free State Agricultural unions, Nampo advisers, Boskop training centre and the Manpower Department, would also strive for better labour productivity.

Several information days were planned for farmers.

Gous said the Free State Agricultural Union opposed the planned legislation because it did not take into account the personal relationships between farmers and their workers, or the specific needs of agriculture.

He warned that many labourers would lose their jobs if a minimum wage was introduced. Farmers

would not be able to pay higher wages and would rather mechanise.

The union was also opposed to legislation legalising strikes. A farm could be ruined if it was not worked for a week or two.

"A farm is not a factory that can be shut down. When it is planting season you must plant, and a cow does not calve between eight and five either."

No other industry had provided housing and other social benefits for its workers to the same extent that farmers had.

Should strikes be legalised, farmers would have to allow unknown trade union workers on their farms. Because they could not know all the trade union organisers, it would create a serious security risk.

Star 29/7/93

New labour Act in place from Monday

By Brendan Templeton

Tensions in the looming nationwide municipal strike could reach boiling point when new public sector labour legislation comes into effect on Monday

The Public Service Relations Act will become effective on the same day that 72 000 municipal workers are scheduled to

go on strike

While the Act allows public sector workers the right to strike, it also prevents "essential service" workers such as municipal employees from downing tools

The Government yesterday labelled the new legislation as "progressive", but the Congress of South African Trade Unions

predicted it would provoke further conflict

Cosatu spokesman Neil Coleman said several public sector unions, including the SA Municipal Workers' Union, had long been opposed to the Act's "unilateral" introduction

Coleman warned that Cosatu would make the Act's abolition part of its election campaign

Cosatu rejects new law

JOHANNESBURG. — The Congress of South African Trade Unions (Cosatu) yesterday rejected the introduction of the Public Service Labour Relations Act, due to come into effect on Monday, saying the government was proliferating and fragmenting the labour relations framework.

There was a need for one labour relations act to cover all workers, public and private, the union said in a statement. *CF 30/7/93*

The union criticised the broad definition of essential services and said the limitations on the right to strike were so extensive that in effect public service employees had no right to strike.

The act also went against the recommendations of the International Labour Organisation's Fact Finding and Conciliation Commission, and violated standards laid down by the ILO for public sector workers, Cosatu said — Sapa

Call to alter Labour Act for new SA

■ BY ABDUL MILAZI
LABOUR REPORTER

The National Manpower Commission (NMC) has called for urgent amendments to the Labour Relations Act to make the law more relevant to the new South Africa.

NMC chairman Frans Barker said the commission would present its recommendations to the Minister of Manpower on September 6.

He also said he hoped the amendments would be approved at the next parliamentary session in November.

Barker said that the present Labour Relations Act would clash with the planned Bill of Rights.

The recommendations to be tabled before Parliament include the scrapping of the Act's prohibition on trade unions and employers' organisations to join political organisations, the introduction of a code of fair labour practice, the extension of the Act to tertiary-level educators and the redefinition of "employee" to include dismissed workers.

Other recommendations included the rationalisation and simplification of the Act's statutory dispute procedures to industrial councils and conciliation boards and the introduction of a new and separate section in the Act which dealt only with the determination of labour practice disputes.

BiDay 10/8/93

Labour Act changes proposed

PROPOSED short-term amendments to the Labour Relations Act were released at the weekend by the employment law working group of the National Manpower Commission

These were the first phase in a long-term project to eliminate anomalies and streamline and modernise the Act by mid-1994

They included the elimination of clauses which prohibited unions from affiliating to and granting financial and other support to political parties unless a closed shop existed

This would be in line with "expected amendments to the constitution regarding fundamental rights, including the right to freedom of political choice and association", the manpower com-

ERICA JANKOWITZ

mission said

The amendments also covered the introduction of a fair labour practice code to guide employers and employees and direct the Industrial Court ~~(165)~~

The new Act would be extended to cover dismissed workers who disputed their dismissal and those who worked for educational institutions ~~(166)~~

A system of precedents would govern labour courts Unfair labour prac-

tice dispute determinations would be covered by a separate section to simplify procedures.

Amendments would also rationalise the Act's interim relief mechanisms and simplify formalities for instituting statutory dispute procedures

It was proposed that the manpower commission be renamed the national labour commission.

Comment on the proposed amendments should be sent to the commission's offices by September 6



Collective bargaining but no strikes

Deal struck on draft farm labour laws

Biday 11/8/93

PRETORIA — The SA Agricultural Union and Cosatu have reached a breakthrough agreement on draft labour legislation for farm workers, making strikes illegal and arbitration of disputes compulsory, but allowing collective bargaining.

In a joint statement yesterday, the two organisations said Manpower Minister Leon Wessels would table the Agricultural Labour Act at the next session of Parliament. They expected the Act to reflect their agreement.

However, CP-linked Free State Agricultural Union president Piet Gous said last night the union suspected a government and Broederbond ploy aimed at appeasing the ANC before next year's election.

Until the regional agricultural unions had accepted the legislation at their congresses, due to take place over the next few weeks, it would not be enforceable. Gous also condemned the haste with which the SAAU was pushing the legislation.

"They say it is better to adopt the legislation before the ANC comes to power. But if the ANC is going to be a worthwhile government for its supporters, they will change it anyway"

Sapa reports Cosatu official Lisa Seftel said the agreement had been reached last Friday night after intense mediation. Cosatu's agreement to "certain limits on the right to strike" was its major concession

DIRK VAN EEDEN

SAAU deputy director Kobus Kleynhans said talks had lasted about three years

The proposed legislation would allow farm workers to participate in collective bargaining structures and would provide legal protection — including protection from unfair dismissal. It would also facilitate the formation of trade unions.

However, no agreement had been reached on minimum wages. Strikes would be illegal and farmers would be able to fire striking workers.

Disputes would be subject to mandatory arbitration. Care had been taken in the drafting of the Act to ensure all arbitration could be heard as speedily as possible.

A special division of the Industrial Court would be set up to handle arbitrations. Divisions of this court, manned by chairmen who understood agriculture, would be based throughout the country and complemented by circuit courts.

Costs would be kept low and the courts would operate like Small Claims Courts in that no legal representation would be allowed. Parties bringing trivial cases to the courts would be penalised.

The proposed legislation was based on the Basic Conditions of Employment Act and the Labour Relations Act.

Kleynhans said Cosatu and the SAAU would try to reach agreement on the principle of a minimum wage

Farmworkers' rights agreed

PRETORIA — The South African Agricultural Union (SAAU) and Cosatu have reached agreement on draft legislation extending collective bargaining and other rights to farmworkers.

Proposed legislation would make arbitration of disputes compulsory, rendering industrial action unlawful, but no agreement on a minimum wage was reached.

In a joint statement yesterday,

the two organisations said Manpower Minister Mr Leon Wesels would table the Agricultural Labour Act at the next session of Parliament. The parties said they expected the minister to ensure the legislation be enacted as agreed.

However, Conservative Party-linked Free State Agricultural Union president Mr Piet Gous said that until the regional agricultural unions had accepted

the legislation at their congresses, scheduled to take place over the next few weeks, it would not be enforceable. **CT118/93**

Sapa reports that SAAU deputy director Mr Kobus Kleynhans said Cosatu and the SAAU would continue to meet and would try to come to an agreement on the principle of a minimum wage within 12 months after the act had been promulgated. **166**

**CP warns on
labour, politics**

THE Conservative Party yesterday welcomed steps to streamline the Labour Relations Act, but warned yesterday that sensitive employment relationships might be jeopardised if trade unions were allowed to fund political parties

Official sanction for trade union involvement in party politics would spark uncontrollable fires in the labour arena, CP manpower spokesman Mr Frank le Roux MP said in a statement "The logical sequel is for employer organisations to obtain the same rights," he said — Sapa

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Deal reached on farm labour draft law

Cape Town — The South African Agricultural Union (SAAU) and Congress of South African Trade Unions (Cosatu) have accepted a draft law that extends bargaining and union rights to farmworkers

The agreement follows nearly three years of negotiation

The draft legislation acceptable to both sides was handed

yesterday to Manpower Minister Leon Wessels, who said he would submit it to the Cabinet. He expected it to receive a sympathetic hearing

Cosatu and the SAAU said the draft could be tabled in Parliament next month (166)

Cosatu campaign organiser Lisa Seftel said "We have agreed on an agricultural labour

Act that extends the Labour Relations Act (LRA) to farmworkers, with additional provisions about special agricultural labour courts, plus more amendments to the Basic Conditions of Employment Act (165)

"Nothing, in our view, undermines workers' rights. The SAAU and Cosatu also agreed to meet and negotiate on the Na-

tional Manpower Commission (NMC) "

The NMC negotiations would include debate on the possible exclusion of agriculture from the definition of essential services in the LRA. They would also deal with union access to farms

"We have agreed on certain limits on the right to strike," Seftel said — Sapa



Breakthrough as farmers and Cosatu agree on union rights for workers

THE South African Agricultural Union and the Congress of South African Trade Unions have reached a breakthrough agreement in Cape Town on a draft law that extends bargaining and union rights to farm workers

The agreement comes after nearly three years of interrupted negotiations

The draft legislation acceptable to both sides was handed to Manpower Minister Leon Wessels yesterday

"I am overjoyed that the SAAU and Cosatu have managed to achieve consensus on extending labour legislation, particularly the Labour Relations Act, to agriculture," Mr Wessels said

He would submit the draft law to the cabinet as soon as possible and said he expected it to get sympathetic treatment. Cosatu and SAAU spokesmen said the

draft could be tabled for enactment in the short session of parliament in September

Cosatu campaigns organiser Lisa Seftel said intense mediation had culminated in the agreement

"We have agreed on an agricultural labour Act that extends the Labour Relations Act to farm workers, with additional provisions about special agricultural labour courts, plus more amendments to the Basic Conditions of Employment Act," she said

"Nothing, in our view, undermines workers' rights. The SAAU and Cosatu also agreed to meet and negotiate on the National Manpower Commission"

The IMC negotiations would include possible exclusion of agriculture from the definition of essential services in the Labour Relations Act. They would also deal with union access to farms

"We have agreed on certain limits on the right to strike, our major concession"

SAAU deputy director Kobus Kleynhans said all six provincial farmers' unions and the National Maize Producers' Organisation had approved the negotiated compromise

"Neither party achieved precisely what they wanted, but have agreed to a package which can be taken back to their respective constituencies for approval

"We thought we had hit an unbreachable deadlock late on Friday, thinking it was the end of the road

"But one of the two facilitators, John Brand, remarked that no road has an end. That was our approach, never to accept a final obstacle" — Sapa

Agricultural law 'an interim step'

Biday 12/8/93

ERICA JANKOWITZ

COSATU said yesterday it saw the planned Agricultural Labour Act as an interim measure

The trade union federation justified its acceptance of the new legislation by saying that it at least provided basic rights to workers

Cosatu negotiator Mike Madlala said the organisation did not have sufficient membership clout in the sector to push for greater rights. Cosatu has about 100 000 farm worker members in three unions — the Food and Allied Workers' Union, the Southern African Clothing and Textile Workers' Union and the Paper, Printing, Wood and Allied Workers' Union

However, plans were afoot to consolidate these into one farm labour union by June 1994 as Cosatu affiliates had agreed in principle to estab-

lishing a single union. A co-ordinator would be appointed soon to facilitate this, Madlala said.

He said the federation would push for a single statute covering all workers and one labour department dealing with both public and private sector employees. The integration of statutes was a priority for Cosatu.

He said the federation would also dispute the essential service definition given to the industry. Meanwhile Cosatu would continue recruiting in the sector as the SA Agricultural Union had agreed to clauses granting access.

DIRK VAN EEDEN reports that the Centre for Rural Legal Studies

said in a statement yesterday the tag of unfair labour practices, which had hung around the neck of the agricultural sector, was now removed.

But it was now up to farmers and farm workers to make it a reality, said the group.

The provision that future changes to the Labour Relations Act and the Basic Conditions of Employment Act would not apply to the Agricultural Labour Act was unfortunate as these Acts were outdated and would be amended in the next two years.

The ban on strikes might be lamented and opposed by farm worker unions, while farmers might find compulsory arbitration an intrusion into the employment relationship.

● Comment: Page 6



New farm law: Something for everyone

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WM13-19/8/93

After three years of tough negotiations, organised labour and agriculture have agreed on a statute to cover farmworkers, writes **Ferial Haffajee**

IN a move that could put Kempton Park negotiators to shame, organised labour and agriculture have hammered out a labour statute that provides protection for the country's 1,3-million farmworkers

Concluding three years of often arduous negotiations, the Congress of South African Trade Unions and the South African Agricultural Union announced that the Agricultural Labour Statute of 1993 will be tabled at the next parliamentary session

It is a pinnacle of negotiation politics including something for everybody with no clear victors or vanquished. The farmers wanted a separate statute for agriculture they got it. Cosatu said farmworkers were entitled to the same legal protection as other workers they got it.

The statute, though separate, includes almost the entire Labour Relations Act (LRA) in its first chapter, while the Basic Conditions of Employment Act as extended to farmworkers in May this year makes up the second chapter of the statute. Both are amended for the peculiarities of farming operation like seasonal work, spreadovers (flexible working hours) and payment for Sunday work.

The major break with the LRA is the provision for compulsory arbitration and the establishment of a special labour court.

The new agreement is in some

ways a policy climbdown for Cosatu which had, until last week, clung steadfastly to its principle of a single labour statute for the country.

But Mike Madlala, who heads Cosatu's farm labour negotiators, said the agreement was the only way to break the deadlock of two years. He pointed out that organising workers into trade unions will be made much easier by the provision in the draft law which guarantees union access to farms. "It is also important in the run-up to elections," he said.

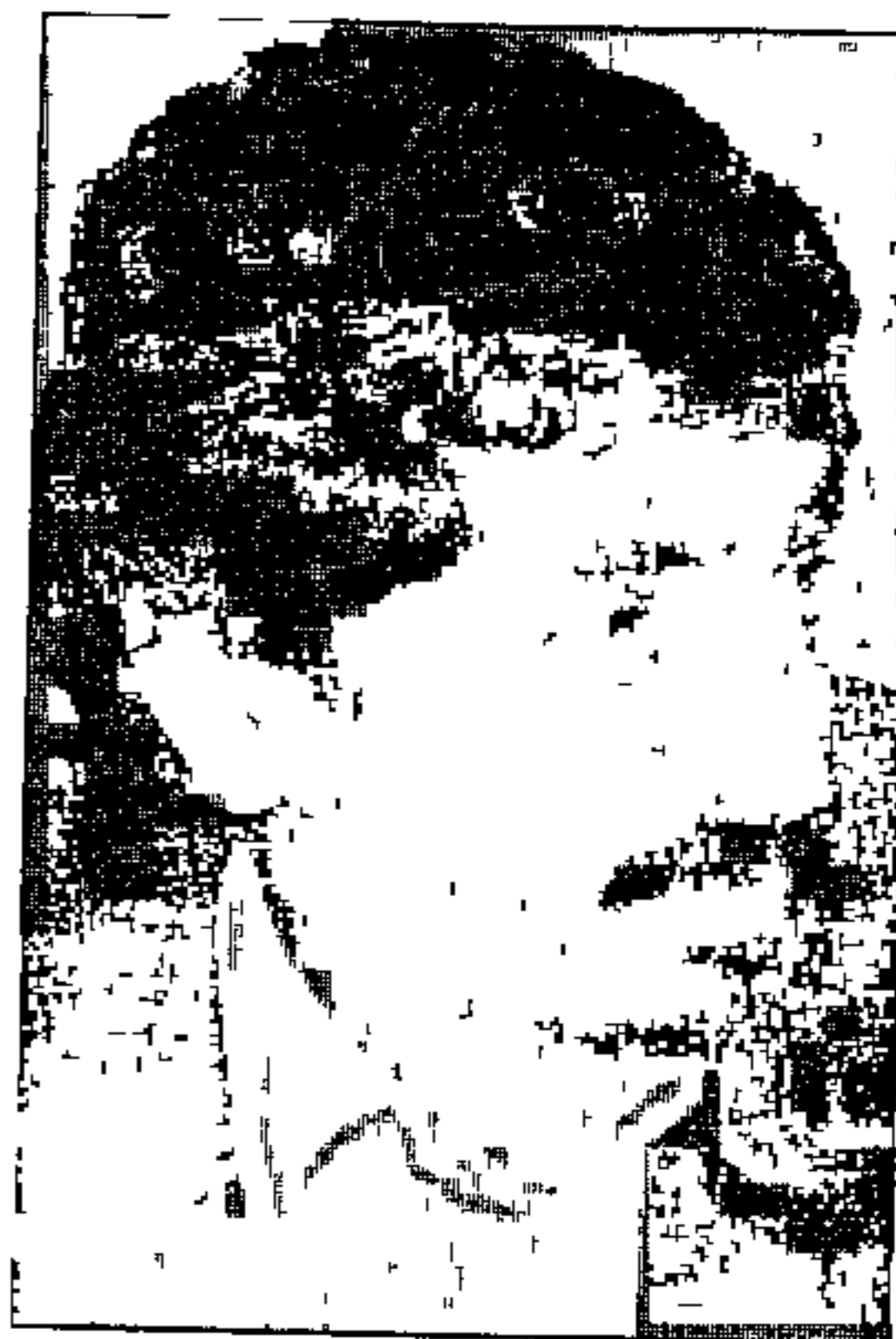
Labour lawyer Paul Benjamin says the compulsory legislation clause "is slightly unusual and means the sector is considered an essential service". This clause ensures that there will be no right to strike in the sector.

He adds "It is far better to have a single Act with chapters for special areas. This creates real splinters."

Cosatu says the statute is only a deadlock-breaking mechanism and not a permanent measure. The federation remains committed to "one body of legislation", says general secretary Jay Naidoo.

For this reason, the parties have agreed that a committee be set up at the National Manpower Commission (NMC) to consider the special interests of the agricultural sector.

The vision of Cosatu and the NMC is a single statute with different chapters for special sectors like the public sector, farming and domestic work.



Naidoo: "Not a permanent measure"

And, in a separate development this week, the NMC proposed wide-ranging changes to the LRA in a draft Bill.

The Act could soon be stripped of the provisions which prevent trade unions and employer organisations from funding or affiliating to any political party.

If the Bill is passed, it could make the country's governing labour Act more accessible.

The proposed changes go a long way to ironing out the anomalies and problems that have made the Act rather cumbersome and unwieldy.

If the LRA clause outlawing political funding by union and employer organisations is deleted, it will be replaced by a clause preventing the funds from closed shop agreements being used for party political ends.

Other changes to the LRA include the publication of a code of fair labour practices, a new section explaining how to determine an unfair labour practice as well as the introduction of a system of precedents in the industrial courts.

This will help "in the development of a consistent body of labour law", according to the NMC.

Farmers stall on draft labour law

Bill Day 19/8/93

DIRK VAN EEDEN

BLOEMFONTEIN — Free State farmers refused to accept the draft Agricultural Labour Bill at their annual congress yesterday until they had studied it.

The Free State Agricultural Union had resolved at its two previous annual congresses not to recognise any form of farm labour legislation until it had been accepted by farmers in the province, union president Piet Gous said yesterday.

Heated debate followed the introduction of the topic yesterday. Speaker after speaker made it clear they were opposed to any form of legislation, particularly under an ANC-led government.

However, Gous said he was sure the farmers would accept it at a special "mini-congress" within the next two months.

In his introductory speech, Western Cape Agricultural Union president and chairman of the SA Agricultural Union's labour law negotiations team, Chris du Toit, said farmers did not want labour legislation. However, they had to accept that it or the more stringent Labour Relations Act and Basic Conditions of Employment Act would be made applicable to agriculture.

Farmers warned they would have to dismiss many of their workers should a minimum wage be introduced. Du Toit, however, said this would not happen as the

Bill did not provide for a minimum wage.

Farmers also expressed concern about the possibility of illegal strikes and the financial implications this would have.

Du Toit said "Farmers are not prepared to subject themselves to others' whims in the name of affirmative action (166)".

Meanwhile, Bophuthatswana president Lucas Mangope said communism was the commercial farmer's worst enemy.

At the congress, he said unless South Africans were extremely careful, they faced a central government dominated by communists (167) (168).

"It is a matter of record that the individuals who wield the real power in the ANC owe their first loyalty to the SACP."

Free and fair elections could not be held in the current climate of violence and intolerance.

The April 27 date had been sold by the ANC and government on the basis that it would stem violence. The statistics proved the opposite had happened.

The violence SA experienced was not a natural phenomenon of change, but revolutionary chaos paving the way for total regional collapse and seizure of power by the masses.

Mangope said the present negotiations council had to determine boundaries and powers and write a final constitution.

Short session to introduce labour Bill

PRETORIA — Cabinet yesterday approved the introduction of a draft Agricultural Labour Bill to Parliament's short September session. *BNW*

Manpower Minister Leon Wessels said Cabinet had approved introducing the draft after three years of negotiations between Cosatu and the SA Agricultural Union ended in an agreement on its contents last week. *19/8/93*

The draft Bill makes strikes illegal, but arbitration of disputes compulsory. Wessels said it contained provisions

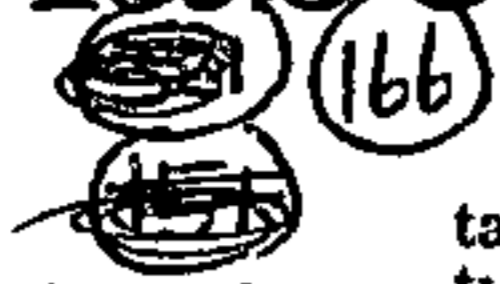
ADRIAN HADLAND

from the Labour Relations Act and the Basic Conditions of Employment Act, with certain amendments which accommodated the peculiarities of the agricultural sector. *(166) (165)*

It provided for a special labour court, defined seasonal workers and their rights, set working hours for farm labourers and provided for Manpower Department inspections of conditions in the sector.

Bill for labour, education council

By BARRY STREEK
Political Staff



CT 26/8/93

A NEW council to prevent labour disputes and conflict in education has been proposed in a draft bill

The Education Labour Relations Council (ELRC) would represent employers and employees and their organisations, but would not apply to private schools

The aims of the draft bill are to "maintain and promote labour peace in education, prevent labour disputes in education, provide mechanisms for the resolution of disputes between employers and employees and employee organisations, and regulate collective bargaining"

Educators would be allowed to join unions of their choice, and lawful strikes

or lock-outs would be allowed

Matters that could not be settled by the ELRC would be referred to the industrial court or arbitration

The ELRC would have powers to reach legally binding agreements on minimum wages, registration of professional educators and pension and medical funds and other job-related issues



Teachers to get own labour statute

(166) WM 27/8-2/9/93

A new labour Bill covering the education sector will be tabled in parliament, reports **Ferial Haffajee**

WHILE a teachers' strike continues to grip black schools around the country, a Bill which could solve many of the teachers' problems will be tabled in parliament next week

The bulky Education Labour Relations Bill, if passed, will bring teachers into the ambit of labour legislation by granting them the right to strike, introducing a bargaining council where wages and working conditions can be negotiated and by providing for dispute settling mechanisms

It is the third separate piece of labour legislation for a specific sector announced this month

A fortnight ago, the Congress of South African Trade Unions and the South African Agricultural Union hammered out an agreement for the draft agricultural labour statute to cover farmers and farmworkers, while the Public Servants Labour Relations Act came into effect on August 2.

Cosatu prefers only one labour statute with chapters for different sectors, but has agreed to the passage of the splintered legislation to push forward negotiations in the three sectors.

The proposed education labour Bill provides teachers with most of the rights contained in the general Labour Relations Act and defines the state as an employer

This is a key gain for labour, as the state has railed against such a definition in the public sector.

The Bill also proposes a new structure, the Education Labour Relations

Council, which will be a permanent bargaining forum. It is much like the National Manpower Commission and will make recommendations to the minister of education on labour policy and labour legislation in the sector.

The council will also mediate in disputes, continually survey and analyse labour relations while evaluating the application of labour legislation in the sector. The Bill makes provision for disputes that cannot be resolved in the council to be referred to an industrial court and the Labour Appeal Court.

It also establishes the right to freedom of association and to collective bargaining for teachers and establishes an unfair labour practice regime in the sector. Employers are also granted the right to join employer organisations, to bargain collectively and to be protected against unfair labour practices.

The attorney for the South African Democratic Teachers' Union, Barbara Adair, says: "The strike clauses in this Bill are in contravention of any strike clause of the International Labour Organisation."

They provide for dismissal after 30 days for a legal strike while teachers can be dismissed on one day's notice for going on an illegal strike. Adair says the fact that teaching is not classified as an essential service is good.

But, she says, "the functions of the bargaining council curtails the ambit of collective bargaining".

These functions are defined too rigidly "They should be able to negotiate on all matters of mutual interest, full stop," says Adair.

The chapter on fundamental rights of teachers and their employers is also restrictive, says Adair.

These rights are set out in the Bill, but they are also "subject to the provisions of other Acts"

Farmers likely to reject new labour law

PRETORIA — Transvaal farmers were likely to reject the recently proposed Agricultural Labour Act at their annual congress this week, Transvaal Agricultural Union (TAU) president Dries Bruwer said.

The TAU would probably adopt a resolution calling on members to defy openly provisions of the legislation, which would probably be passed by Parliament next month, he said.

Bruwer said Transvaal farmers were on record that they did not want any labour legislation.

Agricultural observers agreed at the weekend the congress in Pretoria on Wednesday would generate heated debate, particularly on the questions of labour legisla-

DIRK VAN EEDEN

tion, farm security and land redistribution.

The farmers were also expected to reject SA Agricultural Union recommendations that no career politicians should be elected to the boards of provincial agricultural unions. Bruwer, a CP MP and senior Afrikaner Volksfront member, said he would be available for re-election.

At the Free State Agricultural Union's annual congress held in Bloemfontein this month, farmers resolved to resist an ANC government in the region, particularly on the grounds of the ANC's "communist land policy". Bruwer said Transvaal farmers were likely to follow suit.

proposes leave for farmworkers • Two policemen in the d

Farm labour boost

DRAFT LEGISLATION TO EXTEND labour relations and employment conditions to include the agricultural sector was published yesterday

The Agricultural Labour Bill provides for the Labour Relations Act, 1956 and the Basic Conditions of Employment Act, 1983 to apply, with some amendments, to agriculture

This includes.

- Investigations and recommendations by the National Manpower Commission,

- Registration of employers' organisations, trade unions and industrial councils,

- The industrial court and the labour appeal court will also be competent to decide matters regarding the agricultural sector,

- Conciliation boards will also be able to settle disputes between employers and employees in agriculture;

- Disputes can be finalised through arbitration or mediation,

LOOKING AHEAD Proposed law will help workers on South African farms:

- Industrial council agreements for the agricultural sector.

- Labour brokers,

- Lockouts and strikes in the agricultural sector, but subject to compulsory arbitration,

- Provision for an agricultural labour court to decide disputes regarding, among other matters, unfair dismissals,

- When the industrial court makes an order regarding reinstatement or the payment of compensation, it must take the specific farming situation into account,

- Inspectors and designated agents must give farmers prior notice of intended inspections,

- The determination of the maximum ordinary daily and weekly hours of work, and of the spread-over for meal

intervals, payment of overtime and for certain work performed on Sundays, payment for work on certain public holidays, 14 days' annual leave, termination of employment contract, certificates of service, prohibition of victimisation, records to be kept by employers

The Bill also provides for defining "seasonal worker", resulting in annual leave provisions not applying to such workers and that under certain circumstances a certificate of service may be issued to them, inspections by inspectors of the Department of Manpower after prior notice to the farmer

According to an attached memorandum, the Bill is the product of numerous discussions between the SAAU and Cosatu at which full consensus on its contents was reached — Sapa

Wits and Sasco deadlock

NEGOTIATIONS between University of the Witwatersrand and South African Students' Congress deadlocked yesterday morning with both sides digging their heels in on the issue of violence on campus

The university authorities have demanded a public retraction of Sasco's commitment to violence

On Sunday, Sasco issued a statement threatening student action if its demands were not met. In the statement, Sasco said it did not condemn "student action" on campus

Deputy vice-chancellor Professor

June Sinclair said Sasco and the Students' Representative Council refused to retract its commitment to violence

The Sasco statement followed assurances last week that the organisation did not condone violence.

Nearly crushed

About 60 Congress of South African Students members yesterday covered the university's concourse with rubbish in their "Operation Litter" campaign

Moving along the corridors of Senate House, the students were nearly crushed as they panicked and ran towards exits

when members of the Internal Stability Unit wielding batons entered the building

Teargas was not used and no shots were fired by the ISU members, who arrested one student.

Earlier, Sasco members said they would continue with class boycotts, "Operation Littering" and "other forms of mass action never seen before at the university"

The announcement followed a deadlock in negotiations between university authorities and Sasco on a list of student demands. — Sapa

Farmers defiant (66)

■TRANSVAAL Agricultural Union president Dries Bruwer said the organisation was likely to reject the draft Agricultural Labour Act agreed between Cosatu and the South African Agricultural Union earlier this month. WM 3-9/93

The union was likely to approve a resolution calling for members to openly defy the provisions of the legislation, he said.

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Anger at reappointment of top manpower official

Weekly Mail Reporter

WIM 10-16/9/93
THE extension of the contracts of existing senior public servants is set to become a burning issue on the brink of elections

This week, the Congress of South African Trade Unions came out strongly against the extension of the contract of Manpower director general Joel Fourie for three years

The federation complained that neither it, the National Manpower Commission nor business had been consulted about the re-appointment of the most senior official in the Manpower Department

Fourie and Cosatu have been at loggerheads for many years and he has been the focus of charges of intransigence levelled at the department

Cosatu general secretary Jay Naidoo this week said the two had "a very uneasy relationship". The federation claims Fourie was instrumental in trying to force through the 1988 amendments to the Labour Relations Act and "has not

(166) ~~(167)~~
enthusiastically implemented agreements" on legislation for farmworkers and domestic workers

"I am committed to the labour relations principles as set out in the Laboria Minute," Fourie said this week

Cosatu representative Neil Coleman stressed it was not only the person but the policy of renewing public officials' contracts that the federation opposed. Cosatu expected to be consulted about the renewal of contracts of the minister of manpower and the head of the NMC too

Coleman said the positions of key officials across government were being renewed. He suggested this was a "deliberate process to make it difficult for a new government to remove them". It would be legally difficult to remove them from office and it would be financially difficult as their golden-handshakes would be very costly

"All renewals of key positions must be negotiated," said Coleman

Three bills overhaul labour law

Political Staff CT 14/9/93

THREE bills which will fundamentally change labour law concerning farm-workers, maximum hours for domestic workers and workman's compensation were tabled in Parliament yesterday, three years after negotiations to change the laws began.

The bills do not provide for a minimum wage for either farm or domestic workers, although this topic will be the subject of negotiations in the future.

The Compensation for Occupational In-

juries and Diseases Bill proposes a compensation council which will include representatives from the state, employers, employees, the insurance industry and medical practitioners.

The fund established in terms of the bill was essentially a compulsory insurance scheme and would remain under state control.

In exchange for losing the right to sue an employer, employees had won a statutory right to compensation without having to prove employers' negligence.

The bill proposes that employees have a statutory right to be covered for medical costs arising from injury and disease and employers were exempted from common law liability for injuries.

The Agricultural Labour Bill proposed that large sections of the Labour Relations Act would apply to farm workers.

A significant difference with the provisions of the Labour Relations Act was that farmworkers and their employers would have to engage in arbitration before a strike or a lock-out occurred.

State President to decide on pensions

Political Staff

A BILL tabled in Parliament will allow the State President to determine by a notice in the Government Gazette, what pension and other benefits will go to ministerial representatives.

The positions of the 20 ministerial representatives — who serve as a link between own affairs administrations and the people — are to be scrapped at the end of this month.

The Pensions for Ministerial Representatives Bill is currently before the standing committee on finance, al-

though no date has yet been set for it to meet.

The bill will give the State President the right to determine what pension and other benefits they receive. Normally pension benefits are determined by a formula.

The bill also gives the State President the right to amend any law by proclamation in the Gazette to give effect to these benefits.

What the benefits are will only be known once they appear in the Gazette, which means the State President will effectively be given a blank cheque.

Civil service for affirmative action

Political Staff

AFFIRMATIVE action directives had been issued to make the civil service more representative, Education and Training Minister Mr Sam de Beer said yesterday.

He said the Commission for Administration had issued directives based on merit and efficiency principles to create a public service "more representative of the groups served by departments/administrations".

He was replying to a question tabled in Parliament by Mr Roger Burrows (DP, Pinetown).

Mr De Beer — the minister responsible for the Commission of Administration — said it was impossible to obtain a breakdown of the numbers of each "population group" employed by the civil service as the Population Registration Act had been repealed.

Relief for farmhands

By Ismail Lagardien *Sowetan* 14/9/43

THE provisions of the Basic Conditions of Employment Act will be extended to domestic and farmworkers as soon as Parliament has passed the enabling legislation.

The enabling legislation for farmworkers, the Agricultural Labour Bill, was tabled in Parliament yesterday.

Domestic workers have been included in the jurisdiction of the Basic Conditions of Employment Act.

Farm and domestic workers will, among other things, be protected from working long hours without compensation, work fixed daily and weekly hours, have regular meal times, receive annual leave and receive certificates of service and notice of termination of service.

(166)



Bills aim to revamp laws for farmers, domestics

B/Dag 14/9/93

CAPE TOWN — Three Bills which will fundamentally change labour law concerning farm workers, domestic servants and workers' compensation were tabled in Parliament yesterday, three years after negotiations to change the laws began.

The Bills, the subject of extended negotiations between employers and labour representatives, are the culmination of the Labora Minute agreement signed three years ago.

The Bills do not provide for a minimum wage for either farm or domestic workers, although this topic will be the subject of future negotiations.

Manpower Minister Leon Wessels said in an extended public committee debate that the occupational diseases listed in the new Compensation for Occupational Injuries and Diseases Bill exceeded those defined by the International Labour Organisation.

The Bill would replace the Workmen's Compensation Act of 1941, but would continue to partly compensate employees or their dependants for injuries or diseases arising from work.

The Bill proposed to give employers and employees more influence

TIM COHEN

over its application by establishing a compensation council which included representatives from the state, employers, employees, the insurance industry and medical practitioners.

The fund established in terms of the Bill was a compulsory insurance scheme and would remain under state control as privatisation would narrow the contributions base.

Wessels said in exchange for losing the right to sue an employer, employees now had a statutory right to compensation without having to prove negligence on the part of employers.

The Bill also proposed that employees would have a statutory right to be covered for medical costs arising from injury and disease and employers were exempted from common law liability for injuries at work.

On the Agricultural Labour Bill, Wessels said large sections of the Labour Relations Act would apply to farm workers.

The most significant difference with the provisions of the Labour Relations Act was that farm workers and their employers would have to engage in arbitration before a strike

or a lock-out. However, important provisions of the Labour Relations Act would also apply to agriculture.

Wessels said about 830 000 domestic servants would be affected by the legislation, which mainly regulated their minimum working conditions.

The regulations stipulated that domestic servants should not work for more than 12 hours on a single day. They should also not work for more than five hours without a break.

At least 14 consecutive days' leave had to be permitted for every 12 months' employment, and at least 30 days of paid sick leave for every three years in employment.

Wessels said the legislation provided protection for the last group of employees not yet covered by existing legislation, which was the attainment of a long-sought goal.

Sapa reports that during debate on the Agricultural Labour Bill, Frank le Roux (CP Brakpan) said the Bill was a foot in the door for trade unions wanting to paralyse the sector.

Robin Carlisle (DP Wynberg) said the DP supported the Bill although it was messy. Mike Tarr (IFP Maritzburg) said the Inkatha Freedom Party supported the Bill.

ANC lashes govt over mobile phone services

LLOYD COURTS B/Dag

GOVERNMENT could not privatise mobile telephone services and lock SA into the world's most sophisticated telecommunications technology while the country needed schools, housing, health services and basic telephones, the ANC said yesterday.

It was responding to an announcement last week that Telkom had sold off its C450 car phone network to Vodacom, one of two companies guaranteed rights to operate a cellular telephone network. Vodacom is jointly-held by Telkom and UK-based Vodafone.

The ANC said by "giving away" the existing mobile telephone network, government was continuing to privatise the telecommunications network.

It said the only possible reason Vodacom could have taken on the C450 system, which it described as a "white elephant", was because it did not wish to offend government after being granted a licence to operate the Global Systems Mobile (GSM) network.

"The ANC has raised the question of GSM mobile licences as a major political issue because the apartheid way of doing business cannot be tolerated, especially when we are entering the transitional period."

The ANC said government and Vodacom could not promise the GSM mobile system would service townships with public telephones when they had no idea of real township needs for telecommunications.

It said preliminary studies suggested a local call on the GSM network would cost 10 times as much as a local call on the ordinary phone network.

□ Draft legislation aimed at authorising the postmaster-general to act as licensor of cellular telephones was published yesterday. Sapa reports. The Posts and Telecommunications Amendment Bill proposes to amend the Post Office Act and the Radio Act.

● Comment: Page 10

Farmers told to prohibit

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Survey on domestics' pay sought

Star 15/9/93

Cape Town — A nationwide survey should be conducted on the basic conditions and wages of domestic workers, Rob Haswell (Ind-ANC Pietermaritzburg South) said yesterday. (166)

Speaking in the debate on the Basic Conditions of Employment Amendment Bill, he said improved conditions for domestic workers did not lie entirely in the realm of legislation. That was why he had called for a national survey.

Haswell added that suburban communities should look at ways of improving the living conditions of their workers by using vacant land for

low-cost housing, or upgrading domestics' quarters into family units.

To argue, as the DP did, that setting a minimum wage of, say, R450 a month was unrealistic was to avoid facing up to the legacy of apartheid.

That the Bill made no provision for maternity leave for domestic workers made a mockery of the Government's commitment to gender equality, he added. (204)

Robin Carlisle (DP Wynberg) said Haswell's call for a minimum wage was in direct contradiction to Cosatu policy. A minimum wage would lead to massive unemployment. — Sapa.

They keep a still tongue

Start 17/19/93



Lulu Mokane was only one or two days old when her mother left her with her grandmother. She was not dumped because she was unwanted, her mother was not allowed to go on maternity leave.

Before she could learn to walk, her mother died, leaving Mokane and eight other siblings with their father at the western Transvaal Bushbuckridge rural settlement.

Mokane said her sisters had to drop out of school and look for work on Randfontein's vegetable farms to augment the family income. She joined them when she was 13, earning as little as R30 a month.

In her new job at a Randfontein farm, Mokane works nine hours seven days a week and earns R300 a month. She lives on the farm and gets only one day off a month.

Mokane is one of thousands of farmworkers countrywide who work under the severest of conditions but do not dare complain for fear of dismissal. Their stay on the farm depends on their employment.

Until recently, farmworkers were not protected by any law.

This is about to change with the tabling in Parliament this week of the Agricultural Labour Bill. When it becomes law, farmworkers will be guaranteed some rights like sick leave, maternity and annual leave; maximum working hours will be stipulated and the issue of overtime pay will be addressed.

tations.

Cosatu general secretary Jay Naidoo said his union had to trade off the farmworkers' right to strike to break the three-year deadlock.

Transvaal Agricultural Union spokesman Laurie Bosman said although farmers were initially opposed to the law because of issues like the minimum wage and the right to strike, the new Bill met the union's bottom-line requirements.

But, on the ground, has anything changed? Farmworkers — including Lulu Mokane — interviewed in Randfontein, Tarlton and Krugersdorp were not aware of the new law, but they said they were excited about the prospect of being able to join trade unions for the first time.

To them, unions meant better wages and an end to exploitation.

Solomon Molete (25) is another disgruntled worker who thought the new statute was a "blessing from above".

Every day at 7 am for the past year, Solomon is at his boss's stall selling vegetables and fruit to passing motorists, and he is still considered a "temp". He supports his two sisters and their six children on his R80 weekly wage.

Molete said: "I think the new legislation will help us a lot. There is a lot of exploitation on the farms."

THOUSANDS of farm labourers work under appalling conditions but dare not complain. A Bill being tabled this week will change this. Abdul Millazi reports

The Bill includes most of the provisions that are found in the Labour Relations Act and the Basic Conditions of Employment Act. These two laws have been amended in their application to farmworkers to accommodate the special circumstances of farming like seasonal work, flexible working hours (spreadovers) and payment for Sunday work.

One major difference between this new Bill and the Labour Relations Act is that, to discourage or stop strikes, there is compulsory arbitration in a case of a threatened farmworkers' strike and there is a special labour court for farming matters. The Bill makes it very difficult for agricultural workers to down tools.

The Bill follows a landmark agreement between Cosatu and the South African Agricultural Union after three years of tough nego-



NEWS New Act a breakthrough for workers ● Policemen still in

Labour rights for over

two million workers

By Joshua Raboroko

LONG STRUGGLE Farm and domestic

employees covered under new Act:

MORE than two million farm and domestic workers countrywide will now enjoy labour rights such as paid sick and annual leave, over-time and notice of dismissal

In terms of a *Government Gazette* published last week, farm and domestic workers have been included in the provisions of the Basic Conditions of Employment Amendment Act of 1993.

This is the culmination of a long struggle by trade unions and the Government to include these workers in the Labour Relations Act.

Trade unions, labour experts and employers have hailed the legislation as an important step in labour relations in South Africa. It covers 1.1 million domestic workers and 1.4 million farm

labourers.

Cosatu information officer Mr Neil Coleman said the Act was an important step

The Act, however, had certain limitations in that it precluded employees from taking industrial action although there was compulsory arbitration to resolve problems.

According to the Act, farm and domestic workers can now enjoy the following rights

● Domestic workers: 46 hours a week or nine hours and 15 minutes a day in the case of a five-day week and eight hours 15 minutes where a

six-day week is worked

● Farm workers 48 hours a week or nine hours 36 minutes a day in the case of a five-day week and eight hours 36 minutes where a six-day week is worked

● Workers will be entitled to a meal interval, paid overtime and holidays including New Year's Day, Good Friday, Worker's Day, Ascension Day, Republic Day, the Day of the Vow and Christmas Day

● No employer is allowed to refuse to employ or dismiss an employee, reduce his-her wage,



New law protects private teachers

By CARMEL RICKARD

NOW that farm and domestic workers have legal job protection, the most vulnerable employees in the country are the 23 000 teachers at private schools.

Excluded from labour laws and other legal protection, they have had to rely on a sometimes illusory ethos of fair play. In reality a number of teachers have found themselves at the mercy of principals and governing boards, with no means to ensure their rights.

A new law, published a week ago, will end this anomaly, ensuring that private school teachers have no fewer rights than their colleagues in government schools.

Under the Education Labour Relations Act, a new council is to be set up, representing school employers and staff. It will try to resolve disputes between teachers and employers, but if it fails, the problem may go to the Industrial Court.

This is a major breakthrough for teachers, and follows growing militancy at some schools by staff who do not have a suitable forum for grievances.

However, it will not immediately apply to private schools. Under a special "moratorium" clause it will apply only when the state president says so.

Officials of organisations representing private schools said they strongly supported the right of teachers at these schools to have legal protection.

However, they had been brought into negotiations only at the last minute. While they were aware that some of their members needed to "get their house in order" by, for example, implementing proper grievance procedures, this "moratorium" was not likely to last beyond next March.

For many it will be too late. Retrenched or dismissed under circumstances they believe unfair, they will not

be able to challenge the principal or the governing board because the new law is not retrospective.

For example, the law will not help Pat Kiernan, former senior teacher in the English department at the posh Durban Girls' College (166)

According to Mrs Kiernan, she was sacked after an annual year-end farewell dinner, attended by 12 matric pupils, three teachers and a matron. She said that when the principal found out that the girls had drunk a bottle of champagne and wine at the function (as they did every year), Mrs Kiernan was told to go.

She was unable to ask any independent body to review what she felt was an unfair decision. When she took the matter to the Industrial Court, the school had the press barred. The Industrial Court later ruled that it could not even consider her case because teachers were excluded from the Labour Relations Act.

Mrs Kiernan said that because the law had not provided protection for private school teachers, she was unable to clear her name or obtain a fair hearing.

Nor is she alone. The Sunday Times is aware of a number of teachers at private schools in a similar position. Many were senior English teachers; most were retrenched or dismissed soon after a new head took over their schools.

Lawyers acting for several of them said this week that if the new law had been in operation when their clients lost their jobs, the fairness of the dismissals or retrenchments could have been challenged.

Durban Girls' College headmistress Gwen Williams commented: "I am sure that all educators, including those in senior managerial positions, welcome the new legislation."

S/Times 7/11/93

Govt ordered to consult union on retrenchments

ERICA JANKOWITZ

GOVERNMENT has been on the receiving end of the first court decision taken under the new labour legislation.

In terms of the Public Service Labour Relations Act, the Industrial Court ordered government, as an employer, to consult fully with a recognised trade union when retrenching workers.

The order, handed down on October 29, said the director-general and Minister of Agriculture had committed a prima facie unfair labour practice in their handling of the Abacor takeover of meat inspection functions at three abattoirs.

The court found that, in terms of Commission for Administration guidelines, there was "a unilateral, firm commitment to security of employment for employees in the public sector. This commitment appears to be a great deal stronger than that generally prevailing in the private sector".

The court decided to take cognisance and give effect to this finding.

The case arose as a result of the privatisation of abattoirs and subsequent legislative changes requiring specific job categories to be filled by designated personnel.

As a result, Abacor refused to employ meat inspection staff who did not meet these requirements and, without proper consultation or exploring alternatives, retrenched 35 National Education, Health and Allied Workers' Union members.

The union challenged the retrenchment of workers and the principle of privatisation of abattoirs.

The union held that though the department had agreed to negotiate aspects of privatisation, it had already decided which jobs would be made redundant. This was a unilateral and unfair alteration of terms of employment.

The union demanded the suspension of retrenchment procedures and consultation on the reversal of pri-

vatation, selection criteria and alternatives to retrenchment.

The court found privatisation plans could reasonably be foreseen to result in retrenchments. However, as the decision had been made before the implementation of the new Act and without retroactive effect, the Minister was allowed to make unilateral decisions.

In terms of the new Act, the court said the Minister would "at least be obliged to consult" on the implementation of such a decision.

The Abacor privatisation came about after the Act came into effect. Therefore, the manner of implementation had to "accord with good labour relations practice".

The court found, however, that the department had not complied with the provisions of the Act, or with prescriptions laid down by the Commission for Administration which placed an obligation on government departments "to deal with its employees even more equitably than the guidelines laid down by this court".

SAP honoured and slated

VEREENIGING — Internal stability unit members had to stay outside Sebokeng's zone 11 soccer stadium on Saturday while their SAP colleagues received the freedom of the Vaal Triangle township.

Deputy regional SAP commissioner Brig Floris Mostert said they had remained outside to avoid a confrontation with the 1 000 residents inside.

As organisers of the freedom award honoured the SAP, companies, journalists and doctors, they stressed the internal stability unit was not wanted in the townships.

Unit head in the Vaal, Col Johan Deyzel, told a Goldstone committee hearing last week he had been told by ceremony organisers, in particular ANC Youth League regional chairman Morris More, that the unit was welcome to take part in Saturday's ceremony. But More on Saturday denied he had offered such an invitation and said he had told Deyzel the unit was not wanted.

More's sentiments were echoed by Police and Prisons Civil Rights Union president Gregory Rockman.

At the ceremony, Mostert stood his ground to receive the freedom of Sebokeng despite ridicule from Rockman and award organisers.

Minutes before the handing over, cere-

mony organiser Mthobi Xaba told Sapa the deputy commissioner would not receive an award. But Mostert arrived in time to hear Rockman say police could be accepted only if they joined his union.

"We know who's the third force — the SA regime in the clothes of the SAP," he told the crowd.

An apparently upset Mostert, who later described the incident as embarrassing, was pacified by ceremony organisers. The deputy commissioner said afterwards organisers had told him Rockman had "gate-crashed" the ceremony.

The award-giver called on the SAP to collect its prize as a show of support for Popcru. Mostert did not go up until the call was repeated, this time just asking the SAP to collect its award. The deputy commissioner went up amid chuckles by organisers and residents. But he stressed afterwards, "I am not a supporter of Popcru. It's an illegal organisation".

Mostert nevertheless described the day as the beginning of a new era of co-operation between black communities and the police.

Other organisations and people to be honoured were Telkom, Eskom, SA Breweries, doctors and journalists. — Sapa.

Law change on witnesses

PRETORIA — The contentious section 205 of the Criminal Procedure Act, which makes it an offence for a witness to refuse to give information in court, is to be amended by Parliament later this month.

Announcing this on Saturday, Justice Minister Kobie Coetsee said the decision followed his recent discussions with the Press Council of SA and other media interests.

Section 205 was of interest to the media, he said.

A person who appeared before a judge or magistrate and refused to give required information would not be found guilty of being a recalcitrant witness under the amendments unless he had no just excuse for the refusal, or the information was necessary in the interests of justice or law and order. — Sapa.

...tributing to ... require ...

Reconstruction accord

will be enforced

THE SACP will insist on any new government abiding by the reconstruction accord, spokesman Jeremy Cronin says in the latest issue of Barometer.

The accord is a Cosatu-initiated project that calls for massive reconstruction and efforts to redress apartheid imbalances, funded by the state.

Cronin says there will be mass organisation and mobilisation if necessary if a new government is reluctant to stick to the accord. However a wide range of participatory forums in which civil society and government interact will be the preferred method of getting the accord off the ground, he says.

"Reconstruction is not an effort to squeeze change from a reluctant state but is rather a broad parliamentary and extra-parliamentary effort."

He says the accord is expected to be adopted next month at an ANC convened conference involving a wide range of extra-parliamentary forces.

Cronin says the accord will not create unrealistic

GAVIN DU VENAGE

expectations. Millions of people already had legitimate hopes that democratisation would change their lives. The function of the accord is to translate their hopes into reality.

On the SACP's relationship with the ANC, Cronin says the alliance will be maintained in the future. Nor does he anticipate an ideological rift developing between the alliance partners.

Cronin says there may be a "real tendency towards elitism" within an ANC government. He says the ANC will have to remain a broad-based movement if it is to protect itself against bureaucratisation.

Farm labour

INDUSTRIAL Court president Adolph Landman has strongly criticised technical weaknesses in the new Agricultural Labour Act.

Writing in the latest edition of Contemporary Labour Law, Landman said there were many confusing and "terminological inexactitudes in the Act, which bears the marks of compromise and undue haste".

One apparently unintended consequence was that any changes to the Labour Relations Act would not apply to farming activities. A further complication was that the Industrial Court would have to ascertain which of the two statutes would apply according to whether the litigants were involved in a farming operation.

In terms of the Act, an agricultural labour court, or agricut, would be established to adjudicate unfair labour practice disputes. It may order compensation, reinstatement or a monetary settlement as a remedy.

Awards may be enforced by criminal proceedings if the party concerned refused to comply with the order.

Act 'flawed'

ERICA JANKOWITZ

Landman contended it was unclear when an aggrieved party may approach this court, as the Act specified compulsory arbitration for the resolution of all disputes be they of right or interest. His interpretation was that parties may contract out of this provision by mutual consent and prosecute disputes in the agricut.

The statute stipulates that the agricut would be similar to the Industrial Court in composition and its Inquisitorial powers.

"This means that the court, rather than the parties, will be in control of proceedings," Landman said.

Legal representation of parties would be allowed and the agricut would have discretionary powers to allow employer and worker organisation office bearers or officials to fulfil a similar function.

If a party wished to take an agricut decision concerning reinstatement or compensation on appeal, it may do so via the Industrial Court. Other orders would have to be challenged in the Supreme Court.

East Daggafontein Mines, Limited

(Reg No 05/04237/06)
("East Dagg")

NEWS Trade union federations in

Clash over envisaged labour bill

Sowetan 16/11/93

1109 116

■ **VERBAL WAR** Nactu is not happy with the bill, Cosatu affirms it.

By Ike Motsapi

A WAR of words has broken out between the country's two trade union federations regarding the extension of the Labour Relations Act to farm workers.

The National Council of Trade Unions has accused the Congress of South African Trade Unions of collaborating with the South African Agricultural Union in extending some provisions of the labour legislation to farm workers which, Nactu says, "do not grant but regulate collective bargaining rights."

Mr Cunningham Ngcukana, general secretary of Nactu, said: "The LRA envisaged for farm workers does not provide for a duty to bargain."

"Collective bargaining under the existing Labour Relations Act is not a right hence the issue is still debated in the Industrial Courts

"The Bill, which is awaiting the signature of State President Mr FW de Klerk, also fails to provide for the right to collectively bargain and its corresponding duty to bargain."

"It essentially fails to justify Cosatu's concession of accepting the agricultural sector as an essential service."

"The International Labour Organisation does not categorise the agricultural sector as an essential service," said Ngcukana.

He said the third point is that the Bill did not include other sectors of organised labour and agriculture.

"We are talking here of Anglo American Farms, Tongaat Farms, Sappi Forests, Mondi Forests and others who were not party to the envisaged deal for farm workers," said Ngcukana.

Mr Sam Shilowa, general secretary of Cosatu, said the federation had a mandate from its affiliates and members to negotiate the deal for farm workers.

Cosatu claims 'delaying tactics' on farm Act

COSATU yesterday expressed alarm at government's apparent lack of progress in promulgating the Agricultural Labour Act, due to be operational from January 1, and said farm workers needed maximum protection in the run-up to the election.

Cosatu suggested government had been lobbied by agricultural interests intent on protecting their own rights and was using delaying tactics. (16b)

It said the Act had been designed as a temporary measure to prevent labourers being coerced to vote for a political party.

ERICA JANKOWITZ

The issue would be raised at a National Manpower Commission meeting scheduled for next week and with the Manpower Minister and Manpower Department.

"Failure to promulgate the Act as a matter of urgency will jeopardise the Cosatu-SA Agricultural Union agreement," Cosatu warned.

Cosatu also called on the National Council of Trade Unions to join it in its campaigns and negotiations.

New row looms over law for farm workers

ARC 19/11/93

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□ Cosatu accuses government of stalling tactics

NEW wrangling erupted yesterday over the application of labour laws to farm workers, with the Congress of SA Trade Unions accusing the government of using technicalities to delay promulgation.

Failure to promulgate the Agricultural Labour Act urgently could jeopardise its labour rights agreement with the South African Agricultural Union, said Cosatu.

Reacting in a statement, Manpower Minister Leon Wessels said he found Cosatu's allegations peculiar and unfounded.

Cosatu, expressing its alarm at the lack of progress in promulgating the Act and the Basic Conditions of Employment Act for domestic workers, said it would raise the issue at a National Manpower Commission meeting scheduled for next Wednesday.

It also criticised the National Council of Trade Unions for its late objections to the Agricultural Labour Act, claiming Nactu had left negotiations midstream without ever making its views known.

Besides clinching the Act as an interim, but significant, advance

on the present situation in agriculture, Cosatu said it also had succeeded in getting the SAAU to agree on access to farms, extending the Wage Act to agriculture and setting up a bargaining forum for the sector.

"The Agricultural Labour Act itself was a transitional measure, precisely designed to extend basic rights to farm workers during the run-up to the elections.

"Further delays will undermine the spirit and letter of the agreement."

Meanwhile, Nactu general secretary Cunningham Ngcukana said he had met Mr Wessels yesterday to discuss Nactu's problems with the Act.

"The Act is not yet promulgated due to technicalities relating to regulations," he said.

According to Mr Ngcukana, Mr Wessels had agreed promulgation would not be delayed.

Nactu's reservations — hinging on a strike ban in agriculture and access restrictions to trade unionists — would be dealt with by the National Manpower Commission and amendments taken to the Parliamentary sitting in February.

"It was agreed that a meeting with Cosatu, the SAAU and Saccola to deal with technicalities relating to promulgation be convened urgently."

Cosatu said government talk of alleged technical problems was "a thinly-veiled delaying tactic" to prevent farmworkers getting their rights.

It also alluded to lobbying by unspecified agricultural unions as contributing to the delay.

Mr Wessels said he was not aware of any lobbying and asked Cosatu for proof of this.

He said Cosatu knew of the government's intentions to extend the Basic Conditions of Employment Act to domestic workers with effect from January 1.

A Cosatu representative at the NMC was to have liaised with the SAAU on amendments to the Labour Relations Act being reflected in the Agricultural labour Act, but nothing had materialised.

Mr Wessels said the Industrial Court also had advised Cosatu and the SAAU that specific shortcomings in the Act had to be clarified before it could be implemented. — Sapa.

THE PRIVATE agreement remains the best way farmers and their workers can regulate their labour and social relations in a manner that is mutually beneficial, says Stefan Raubenheimer.

Despite increasing inclusion under labour legislation, farmworkers remain peculiarly vulnerable to exploitation and abuse.

The past 18 months has seen crucial changes in the labour regime applicable to the country's more than one million farmworkers, who have hitherto existed in neo-feudal conditions and extreme poverty

Within this period five important labour-regulating statutes have been extended to farmworkers

By far the most important of these are the Basic Conditions of Employment Act (BCEA) and the Labour Relations Act (LRA)

Mr Raubenheimer explains that "until now the only rights farmworkers had were under common law — rights stemming from the contract of employment which in most cases were mostly verbal"

"The farmer had free reign to decide what rights his employee would have and the farmworker would receive rights entirely at the whim of his employer."

Gradually, and after a "long and hard battle", the government and the South African Agricultural Union (SAAU) had been forced to extend labour legislation to long-neglected farmworkers.

The only Act currently not applicable to farmworkers is the Wage Act, due to what Mr

Crucial changes in farm labour law

ARC 29/11/93

2 (166) (15)

Stefan Raubenheimer is a director of Lawyers for Human Rights' Western Cape rural office and the organisation's farmworkers project. Staff Reporter **DAVID YUTAR** spoke to him about the "private agreement" as a means of creating a mutually acceptable labour regime between farmers and workers

Raubenheimer calls "tremendous fear in the industry of a minimum wage"

"By far the most controversial statutes to be extended to farmworkers were the BCEA and the LRA.

Where previously workers had been working 60 to 65-hour weeks without overtime, the BCEA limited this to 48 hours and made it compulsory for employers to pay workers overtime

Inclusion of the Agricultural Labour Act (ALA), (a modified version of the LRA) and "the last big hurdle" took hours of negotiation between the SAAU and COSATU and has yet to become law.

"It attempts to create a special regime for farmers and workers," says Mr Raubenheimer

The small labour court created by the Act enables farmworkers for the first time to resolve disputes with employers, without the expense of consulting lawyers

"This will be the first time workers can go to court and contest their dismissal or any other labour practice as unfair

The more controversial as-

pect of the ALA and one which Mr Raubenheimer predicts will still set the cat among the pigeons is that it "virtually outlaws strikes on farms since farming is defined as an "essential service".

By anyone's standards these structural changes in the agricultural sector have been enormous, says Mr Raubenheimer

"I don't think any other industry has cleaned up its act so rapidly

"But the question remains how much have these changes tangibly affected the lives and day-to-day realities of poor and economically powerless farmworkers who remain exploited and vulnerable to abuse"

"The inability of the state apparatus to adjust to these changes and the physical isolation of farms remain serious problems"

"What is there to stop a farmer miles from anywhere from simply ignoring the law?"

"Remember he also has a very powerful weapon in the form of the Trespass Act, which he can invoke to keep any unwanted third parties or dismissed workers off the farm.

Mr Raubenheimer says the best way to overcome this problem is for farmers and their workers to enter voluntarily into private agreements regulating their labour and social relations

Lawyers For Human Rights recently helped a large fruit farmer in the Western Cape do just this

The farm with 460 employees now has an "entirely privatised system of labour and social relations"

"Farms are really little villages with a complex set of social structures and private agreements are a viable alternative to the old system of paternalism and unilateralism whereby farmers had an unfettered power to determine the rights of their workers

These negotiated agreements cover a range of vital issues starting with the basic contract of employment and extending to discipline and grievance proceedings as well as to the cardinal problem of dispute resolution

The latter, says Mr Raubenheimer, is vital because it is a way of reducing the potential for wildcat strikes — something most farmers can do without

Also it means that in settling disputes farmers and workers do not have to resort to expensive and bureaucratic state procedures but can rely instead on their own "home-baked" system of dispute resolution.

Labour code set out in new Bill

Star 3112193
Cape Town — A Bill that introduces a code of fair labour practice, and compels employers and unions to divulge funding by political organisations, was tabled in Parliament yesterday.

The Labour Relations Amendment Bill, also extends the Labour Relations Act to university and technikon teachers. (166)

It extends compulsory arbitration to air traffic and air navigation services.

According to an explanatory memorandum, the Bill sets out to consolidate the provisions in the LRA regarding interim and urgent interim relief.

It also simplifies statutory dispute procedures relating to industrial councils and conciliation boards.

It consolidates provisions regarding the determination of unfair labour practices by the Industrial Court.

While the Minister of Manpower may issue a code of fair labour practice, it is not binding on any court, including the Industrial Court.

The annual statements of trade unions and employer organisations must include details of any financial assistance from any political party.

The Bill lays down that trade unions with security agreements shall not require any employee to grant financial assistance to any political party or any candidate nominated for election to any political party or legislative body — Sapa.

NP 'stokes fires'

Sowetan 3/12/93

CLAIMS by the National Party that Umkhonto we Sizwe members were joining its ranks should be treated with "contempt and disgust", African National Congress national spokesman Mr Ronnie Mamoepa said yesterday.

Mamoepa was reacting to earlier claims by the NP's federal council that an unspecified number of MK members were joining the NP because of "deep dissatisfaction with the ANC leadership".

Mamoepa said the NP's claims were "malicious propaganda against the ANC".

"The ANC and the public in general are aware that people joining the NP do so not out of convictions, but for pecuniary gain.

"For the NP to make allegations of

corruption against the ANC is an absurdity considering its own track records of maladministration and mismanagement over the past decades and its direct responsibility for fraud and corruption in the homelands," Mamoepa said.

He said the NP statement was yet another attempt by it to "stoke fires within the ranks of MK".

"Instead of making unfounded allegations, the NP should clean the ranks of the South African Defence Force, which are riddled with CCB (Civil Co-operation Bureau) and hit squad elements, and lend its weight behind efforts to create a new and non-racial defence force."

"The ANC rejects with contempt the allegations contained in the statement," Mamoepa said. -- Sapa.

Venda crippled

GOVERNMENT services in Venda have ground to a halt because of a work-stoppage by about 22 000 civil servants, commission for administration deputy director-general Mr Willy Nemaconde said yesterday.

The work stoppage, which took the form of sit-ins by civil servants who are members of the National Education, Health and Allied Workers Union, started on Wednesday 3/12/93.

They demand the implementation of agreements entered into during the general strike which ended four weeks ago.

All the departments are almost at a standstill with the Internal Affairs Department being the hardest hit.

The government garage and computer centre have also been affected as official vehicles cannot be refuelled and cheques to companies contracted by the government cannot be issued.

What the new Act means

Sowetan 3/12/93

By Ike Motsapi

THE Basic Conditions of Employment Act of 1983 on domestic workers come into operation tomorrow, the Department of Manpower announced yesterday.

Mr Francois de Villiers, head of public relations for the department, said as from January 1 the basic conditions of employment for domestic workers will be regulated by prescribed legislation.

He said this meant that domestic workers would be paid minimum wages,

allowed to take lunch periods and also be entitled to be off on certain days.

De Villiers said "The definition of wage in the case of domestic workers includes payment in kind and includes the provision of food, quarters and any other payment in kind."

"Payment in kind in the case of a domestic worker means any payment other than cash."

"The value of the payment is determined as R100 a month or an amount agreed to in writing by the employers and employee, whichever is the larger

amount."

He said an employee who had worked on a Sunday for four hours or less must be paid not less than a day's wage.

If a domestic worker has worked for longer than four hours he or she is entitled the following benefits:

- Be paid wages for two days or at double his/her wage rate for the whole time worked or whichever is greater; or
- Be paid at one-third time his/her wage rate for the time worked and also be granted one day's leave on full pay with seven days of such Sunday

Labour laws switched by bill

LEGISLATION ^{of 3/12/42} was
tabled in parliament
yesterday which will al-
low trade unions to
finance political parties,
— reversing the current
prohibition (166)

The omnibus Labour
Relations Amendment
Bill, the first legislation
from the new National
Manpower Commission,
proposes numerous
changes to the existing
Labour Relations Act

These include a rever-
sal to the existing proce-
dure of the Industrial
Court, thereby making
the courts subject to the
principle of precedence

Law on domestic workers gazetted

BIDON 13/12/93

GAVIN DU VENAGE

BASIC work conditions for domestic workers were gazetted on Friday and come into force on January 1.

The Basic Conditions of Employment Act was extended to cover domestic workers earlier this year (166) (31/12/93)

The Act sets down minimum working conditions for domestic workers as well as gardeners, drivers for private households and people who look after the sick and elderly.

It provides for a maximum 12-hour day, including meal and rest times, for workers who do not live in, 14 hours for those who do, and a maximum of five hours' work before a one-hour break or, if both parties

agree, a 30-minute break.

Ten hours of overtime a week are allowed if both parties agree.

Overtime pay is one and one-third times normal wages except for Sundays and public holidays, when double wages must be paid. Workers are entitled to 14 consecutive days' paid leave a year, and 36 days' sick leave over three years. A minimum of one month's notice is required to end employment or a month's pay in lieu of notice.

The SA Domestic Workers' Union suggests a R500 a month salary or R6 an hour for part-time workers.

Gambling loopholes to be closed soon

BIDON 13/12/93
ADRIAN HADLAND

CAPE TOWN — New legislation on gambling, including a clampdown on illegal casinos, would be tabled in Parliament soon, Justice Minister Kobie Coetsee said at the weekend.

The new legislation would follow the introduction of the Lotteries and Gambling Bill last week, and would seek to close the loopholes that had allowed more than 100 backyard gambling dens to thrive across the country.

The tabling of the Lotteries Bill followed the Howard commission on gambling, and was aimed at regulating the industry. It provides for the establishment of a gambling board.

The board's duties will include advising government on how to implement the Howard commission's recommendations, the control of fundraising activities such as scratch card games, the management of future legislation and the regulation of all existing lotteries and gambling in the TBVC states.

The board will also advise government on the creation of a state-regulated lottery and the establishment of a body to control casinos and bingo halls, and will formulate a national policy on betting at sports events.

Tourism pl

THE Natal Parks Board is waiting for a Cabinet decision on the St Lucia mining before launching its plans to extend to facilities.

Conservationists greeted with joy the review panel's unanimous decision against Richards Bay Minerals' plan for titanium mining in the area.

Review panel chairman Judge R Leont at a Cape Town news conference that the net, perhaps in co-operation with the National Executive Council, would have to be the final decision.

Natal Parks Board CE Dick Parris said week the board welcomed the panel's decision and was ready to develop ecotourism in the area.

Plans to expand tourism facilities had delayed because of the uncertainty surrounding the mining dispute. Finance was available, as were initiatives to include communities in the running of St Lucia, he

RBM communications GM Barry Clier said the panel's decision was disappointing.

The review panel seemed to have placed more emphasis on "intangible factors" than

LABOUR

Fm 24/12/93
Big test ahead

(166)

An early test for the new, democratically elected (ANC) government after April could come from the unions — specifically those in the State sector — empowered as a result of the Public Sector Labour Relations Act that was passed in August. The new law allows for relatively unfettered, true collective bargaining in this sector. Labour specialists expect that as these unions increase their influence they will more readily resort to strikes

Fm 24/12/93

to back demands

"It is likely, therefore," says labour consultant Andrew Levy in his strike report for the year to December 30, "that we will see increased activity (in the public sector) in the immediate future in an attempt to redress past imbalances and forestall any rationalisation attempts on the part of government"

The difference will be that if the unions do flex their muscles it will be not against the apartheid regime of yore, but against a popular government composed chiefly of the ANC, with which union federation Cosatu is in alliance. Whether this will restrain union action, or precipitate a parting of the ways between the ANC and Cosatu, is a pressing question

Of the total 3,6m man-days lost through strikes this year — 14% down on last year's 4,2m — the State sector accounted for the highest proportion (67%). This is a remarkable jump compared with last year, when it was responsible for 12% of man-days lost

Next comes the retail sector with 17%, textile 5%, food 4%, mining 2,5%, chemical industry 1,5% and transport and other with 0,8%. The main reason for the 14% decrease in man-days lost is put down to the long recession

There were several big strikes. Most notable was the prolonged SA Democratic Teachers' Union stoppage which accounted for the loss of 895 000 man-days. Municipal wage strikes around the country lost a further 162 994 and the Shoprite/Checkers strike in May, over the unilateral withdrawal of a recognition agreement, resulted in 240 000 man-days lost

As usual, wages were the main trigger, causing 69% of all strikes, but down on last year's 78%. The report says "This does indicate a degree of restraint on the part of the negotiating parties in this harsh economic climate"

Wage bargaining in the main sectors — mining, steel & engineering and vehicles — was completed on schedule without resort to industrial action, thus helping to set the standard for their respective industries

The report says a large percentage of strikes (16%) took place as a result of grievances ranging from the enlistment of subcontractors to charges of assault and tax deductions from bonuses. These were followed by retrenchments at 13% (last year 0,2%) "Though major retrenchments have taken place over the past few years across the board, it is apparent that companies are still cutting back, though on a smaller scale, and this is meeting with resistance"

Dismissals and disciplinary action accounted for 1,7% and recognition disputes for a mere 0,2% of strikes

The year saw an increase in the number of strikes involving 1 000 workers or more, from 31% last year to 38%, and a decrease in those involving fewer than 200 workers (32% to 18%). Most strikes (36%) lasted two to four days, with 29% having lasted five to nine days

Seeking middle ground over dismissal

By Day 24/12/93

ERICA JANKOWITZ

TO ENSURE that dismissal decisions for continuous absenteeism due to ill health were legitimate, employers should first have explored all alternatives aimed at helping such workers secure their jobs, Anglo American labour law advisor Andre van Niekerk said.

Writing in the latest edition of Contemporary Labour Law, Van Niekerk criticised a recent Industrial Court decision which upheld dismissal decision based on the employee's in-

ability to fulfil his contractual obligations

"To argue that it is absence from work rather than physical incapacity due to ill health which occasions dismissal, and thereby excuse an obligation to properly appraise the employee's situation and consider alternative employment, is to focus on the employer's operational needs to the exclusion of the employee's interests (16)

"The function of unfair dismissal law, it is suggested, is to strike a balance between those interests," Van Niekerk said

In past Industrial Court decisions, for the sanction to be upheld, an employer had to prove he had adopted a sympathetic and compassionate approach.

Van Niekerk emphasised that in cases where an injury was work-related, the obligation to seek and provide alternative employment would be greater.

Domestic workers' last Christmas

BIDON

ERICA JANKOWITZ

FROM 1994, domestic employees may work on Christmas Day only by mutual agreement and if they are compensated in terms of the provisions of the Basic Conditions of Employment Act, which will be extended to cover them on January 1.

And, as New Year's Day is another of the seven paid public holidays in terms of the Act, some employers may fall foul of the law the first day it comes into effect.

Labour consultant Jan Smit, in his book *A Fair Wage - 176 Fair Labour Practices*, says there are three rules covering Sunday and public holiday pay for domestic workers. They are: 24/12/93

Hours worked must be compensated for at one-and-a-third times the ordinary hourly rate plus the equivalent time off the following week; (24/12/93) (166)

If the employee works four hours or less, a day's compensation must be paid, and

If more than four hours are worked, double the hourly rate may be paid without the additional time off being given.

As compensation will include payment in kind, all overtime pay, leave pay and pay in lieu of notice must be calculated to include the value of such items, usually food and accommodation.

He warns that the Act stipulates a maximum 46-hour working week for domestic workers, after which overtime, up to a maximum of 10 hours a week, must be paid. Overtime is calculated at one-and-a-third times normal pay, plus the cash equivalent of payments made in kind.

No minimum wage is stipulated in the Act, but "the wage paid must be fair in relation to the work performed and what the employer can afford", Smit said.

