

SOUTH AFRICAN LABOUR BULLETIN

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COMMENT
MANAGEMENT'S DILEMMA

Richard Hyman in his review of our book on the *Durban Strikes 1973* where we call for the legal recognition of African trade unions poses this problem: "Where class antagonism is overlaid by racial antagonism, the institutionalization of conflict through trade unionism alone may prove impossible It is hard to believe that the 'liberalisation' of labour relations which the authors advocate will suffice to curb the antagonism rooted in SA's elaborately institutionalized racism. It is hard to believe that such liberalisation is in any case seriously in prospect" (SALB Vol. 2 No. 2) This raises two separate but related problems. Firstly, are trade unions for Africans likely to be recognised? Secondly, what implications would their recognition have for the classic liberal demand for institutionalization of industrial conflict?

With regard to the first question, the Minister of Labour has indicated that the present legislation on African worker representation is to be amended. Taking into account previous legislation by this Government, we assume that it will be consistent with the principle of separate legislation for African workers. The most likely amendment would then be an amendment to the Bantu Labour Relations Regulations Amendment Act to extend the present scope of works and liaison committees onto an industry-wide basis and to allow them direct representation on Industrial Councils. The Minister would be unwise to do this as it will only delay the central problem of the need for the recognition of independent trade unions for Africans. It will simply create a cadre of coopted leadership easily manipulated by the Department of Labour and Management. These leaders will soon be seen as such by the workers and be rejected. It is not the same as trade union recognition and will, in the long run, be rejected by workers for that reason.

The second problem posed by Hyman is a more

Article 8

1. In exercising the rights provided for in this Convention workers and employers and their respective organisations, like other persons or organised collectivities, shall respect the law of the land.

2. The law of the land shall not be such as to impair, nor shall it be so applied as to impair, the guaranties provided for in this Convention.

Article 11

Each Member of the International Labour Organisation for which this Convention is in force undertakes to take all necessary and appropriate measures to ensure that workers and employers may exercise freely the right to organise.

"A genuinely free and independent Trade Union Movement can develop only under a regime which guarantees fundamental human rights."

(Digest of Decisions on the Freedom of Association.
International Labour Office.)

The articles in this issue all deal with a breakdown in industrial relations and the machinery that has been established to prevent and deal with such occurrences. When we began compiling this double issue we encouraged the authors to provide as much information as possible. The intention was to provide a number of very detailed illustrations of industrial disputes since we felt that this would lend substance to a stand we have reiterated on a number of occasions in the Bulletin. This is that it is only open, independent trade unions whose democratic structures bind them to their members, that can facilitate industrial peace and, ultimately, therefore, a peaceful society. This requires the right to freedom of association - by which we understand not only the right to organise freely but also that unions can use the strike as a last resort and possess sanctions, such as the peaceful picket, over their members. Further-

more, as the above extracts indicate the realisation of this right is in large part dependent upon the existence of other basic human rights.

Our experience in compiling this issue illustrates the difficulties confronting labour in the absence of these rights. In South Africa African workers in particular are severely limited in the industrial action they can take by very restrictive legislation. This has caused us to hold back two very significant articles that were to appear in this issue.

NATAL COTTON AND HEINEMANN

The first dealt with a confrontation between management and workers at Natal Cotton and Woollen Mills in Durban. This brought production to a standstill between Monday 27th October and Monday 10th November 1975. As the article would have indicated the causes of the dispute were complex but it was reported that the immediate grievance was the conduct of the newly appointed personnel officer, a Mr. Steenkamp (the brother of the head of Security Police in Durban). The confrontation was remarkable for the show of worker solidarity in difficult circumstances and not so remarkable for the predictable role played by the police and Security Police. After the dispute the police began investigating the matter but no action had been taken as we began to move into the final preparations for publication.

Then on April 14th four union organisers - Chris Albertyn, John Copelyn, Junerose Nala and Thizi Khumalo - were charged under the Bantu Labour Regulations Act for inciting a strike. The case was to be heard on June 7th. This immediately made the article and any interpretive editorial comment open to a contempt of court charge under the broad criteria that govern such charges. Rather than resort to a bland coverage of press reports we've decided to hold the article back.

The second article dealt with the brutal police baton charge on workers outside the Heinemann Electric

Company at Elandsfontein in the Transvaal. The entire Black workforce of 606 had been dismissed by management on Friday 26th March 1976. This was management's response to a petition for the recognition of the unregistered Metal and Allied Workers Union (M.A.W.U.) in the factory. On Monday 29th March the workers returned to the factory to see the managing director who did not arrive. They were met by an intransigent management and were in the process of dispersing when baton wielding police charged (*Financial Mail* April 2nd). As the article would have indicated crucial issues were involved - the role of liaison committees, union recognition, police action and the responsibility of foreign investors. Events subsequent to the incident involving labour and employer organisations are also crucial to an understanding of labour in contemporary South Africa.

However, Gavin Anderson (whose arm was broken by a pick-handle wielded by a policeman) and Siphon Kubheko, two M.A.W.U. organisers were charged under the whole gamut of restrictive legislation - the Bantu Labour Regulations Act; the Industrial Conciliation Act, the Riotous Assemblies Act and the Police Act. In addition four workers - Miriam Mohokare, Lilian Mashinini, Steve Moseko, Abraham Mkhabela - were arrested the next day and charged under the Riotous Assemblies Act. The cases were to be heard on the 7th and 9th June respectively. Once again we have held back the article because of the contempt of court charge that could result.

A similar problem confronted us with the Duens article but in this case slightly different circumstances decided us on publishing.

The irony of it is that by the time this issue reaches readers the outcome of the cases will in all probability be known.¹ However, our publishing schedule is already badly delayed.

1. On the 7th June the charges against Albertyn, Copelyn, Khumalo and Nala were withdrawn (not dropped) without the reason being made public.

What has this to do with freedom of association? Lots - what should have been workers rights became potentially illegal in terms of the legislation. In this context the law governing contempt of court - in itself a manifestly fair law - now has the objective function of suppressing a detailed, sympathetic and *contemporaneous* statement of labours case. At the time the participants and events are judged by a hostile ideological environment and this is seldom corrected since few people consult the court records months later and the newspapers are only interested in news not analysis of past events.

THE FAILURE OF EXISTING LEGISLATION

These two articles would have strengthened the argument that follows, however, we would argue that it's still clear from the contents of those that remain that factory based committees without trade unions are not the basis for industrial peace. Such committees can act as channels of communication in normal circumstances and as Maree's article points out African workers in Cape Town feel that they can operate within the works committee framework but they still regard it as *essential* to belong to an independent worker organisation that represents their interests.

These case studies should not be seen as examples of isolated incidents but as the manifestation of the structural inadequacy of factory-based committees. Yet as Horner shows the State has continually opted for this framework of industrial relations for African workers, although it's only comparatively recently that they received anything like serious attention from employers.

Managements perception of such committees is at best paternalistic and at worst outright cynical and manipulative. The evidence in the Mbali case gives a very useful insight into managements ambivalence toward these committees. However, their ultimate impotence becomes apparent as industrial relations worsen. Workers increasingly distrust the committees either because they were imposed at the outset

or because the crisis illustrates just how little effective power the committees have. The consequence is that they can no longer fulfill either the role of representing workers interests or effecting management control.

In all the cases dealt with here the police played a role. In the Conac case the role of the State is even more explicit. Here the police, Labour Department and management acted in concert to suppress workers grievances. The rapid failure of the liaison committee to provide a basis of negotiation made explicit those pervasive, persistent, but not always obvious supports to the whole repressive structure. The full extent of the impotence of factory-based committees is illustrated where progressive management also allow the situation to degenerate into overt repression by the police and Labour Department because in a crisis they cannot use a committee to control the situation. For workers the lesson is reinforced again and again - the police, Security Police and Labour Department intervene on behalf of management in "domestic" affairs but unions can't intervene on behalf of workers.

Out of the tragic turmoil of these failures at a reasonable resolution of conflict fly the accusations against agitators - those legendary beings who can mobilise hundreds, and at times thousands, of contented workers at a moments notice. We'd agree with Maree that it is no longer time to try and counter such facile shibboleths as the agitator thesis - more fundamental issues are at stake.

We would argue that a basis for industrial peace and genuine reform is the recognition of a conflict between employers and workers. Denying this apparently distasteful fact leads to inadequate legislation and a perpetuation of the conditions for confrontation. Stated in brief the conflict revolves around the fact that the forces of competition dictate that managements primary goal must be to maximise profit.¹ Given this goal then it follows that

1. For a more detailed account of what we mean by this see Vol. 1. No. 1. pages 5-7

wages and other expenditures on labour are costs that can erode that profit. The competitive system has been and is highly productive and has very distinct advantages. But this does not mean that we should ignore the possible point of conflict, which is that production is for profit in the first instance which does not meet the needs of workers in every case - a point that is often illustrated by the destruction of food to maintain prices amidst starvation.

However, most management just doesn't see it that way. They've been taught at university - in elaborate and esoteric detail - that profit leads to investment which in turn leads to employment. The interests of profit are coincident with those of workers. Not only that but in some vague way if we all act in our own interests we'll all be better off. There is no longer a basic conflict but a basic harmony. It is in the nature of an ideology that its purveyors cannot see beyond it despite the fact that actual events might indicate a definite lack of harmony. The result is that the latter fact is explained away by the existence of disruptive, self-interested and minority groups. Management perceive themselves, therefore, as the guardians of that cherished harmony and they don't want to lose control of the situation perceiving all solutions to industrial relations in terms of their interests and under the protective umbrella of their power.

We'd argue that such an approach based on the lack of appreciation of the conflict involved is fundamentally misguided. In the end resort what it amounts to is an attempt to co-opt and emasculate worker leadership by denying it any independent power base. The intention is to stifle opposition without in any way altering the balance of power between management and labour. In the sphere of industrial relations this is a dangerous cul-de-sac.

The only way to genuine reform and industrial peace is to acknowledge that there is a conflict between employers and workers. That the logic of profit is not always coincident with workers interests. This involves the acceptance that workers must be allowed their own independent organisations in the form of trade unions. As we've argued in previous Bulletins,

for such unions to be effective they must be open to all races. They must evolve democratic structures that make officials responsive to the members and allow those members to control the officials. They must be independent in that they are formed by workers rather than created in the interests of the State, management or other union bodies.¹

THE STATE AND THE FREEDOM OF ASSOCIATION

So we reiterate our call for open, independent trade unions and we hope that the contents of this issue make a serious and substantial contribution to an understanding of why they are necessary. It is not a question of the right tactic - a Hobson's choice between eroded bargaining power or African unions - it's a fundamental question of genuine reform. We've chosen to make our case once again because of very distressing action on the part of the State. It would appear that the State has chosen to perpetuate its repressive policies that act in the interests of employers and against workers.

They do this in two ways: firstly by refusing to recognise the necessity for open trade unions and secondly by denying other rights that underpin freedom of association. Yet at the same time they talk of winning the hearts and minds of the people. This paradox is explicable in terms of their conception of change. Like most management, they perceive change occurring entirely at their behest. In their self-defined position of guardianship they attempt to maintain a vice-like grip on events. So members of the government talk of the need for change and at the same time introduce draconian security laws such as the Parliamentary Internal Security Commission Act and the Internal Security Act. In this they make the same fundamental error on a grander scale to that of management at the factory level.

Rather than allow for the development of an independent opposition that will express its own goals and ambitions and reach these in a reasonable way they

1. We first made these recommendations in Vo. 1. No. 1. April 1974 pages 35-36.

fragment and isolate. But as in the case of liaison committees fragments of "freedom" are inadequate and their rationale misguided. Whether by intent or otherwise such a strategy that continues to deny basic human rights erodes the reforming potential of all areas of legitimate activity.

It is particularly the case that the right to freedom of association cannot exist in a social vacuum. Its very substance comes from the existence of a stable society and legislation that allows basic human rights. The experience of the unregistered unions in Natal bears testimony to this important consideration.

In February 1974 Halton Cheadle, David Davis, David Hemson and Jeanette Murphy (nee Cunningham-Brown) - four organisers working with registered and unregistered unions - were banned without any official reason being given.

On 1st December, Eddie Webster, a member of our editorial board and involved in educational projects for the T.U.A.C.C. unions, was arrested and subsequently charged under the Suppression of Communism Act for activities linked to the "Release Political Prisoners Campaign" undertaken by NUSAS in the first half of 1974. His case is still in progress.

On the 5th December 1975 Bekisisa Nxasana, a member of our editorial board and educational officer in the Institute of Industrial Education, was detained under Section 6 of the Terrorism Act. No reasons were given and no member of his family or a lawyer were allowed to see him. At the time of writing he has still not been charged, only cited in the indictment of 10 other men charged under the Terrorism Act in May. One of the charged men was Mr. George Ndebele the Vice-Chairman of the Transport and General Workers Union. He and the others charged had been detained without explanation for more than 5 months.

On the 18th May Junerose Nala, the Acting Secretary of the unregistered National Union of Textile Workers (N.U.T.W.), was detained under Section 6 of the Terrorism Act. On 20th May, Obed Zuma, an organiser in the N.U.T.W. was detained under the same act

and Section. No-one has seen them since and no reasons have been given for the detention of these dedicated union organisers.

These events are manifestations of that cynical use of power that follows from a self-defined role of guardianship. They are in effect an attack on all labour movements since they erode the freedom of association that is required for the existence of powerful and effective unions. Now is the time for *all* unions to take a stand on the basic rights of *all* workers. It is time for management and the State to realise that a peaceful society cannot be had unless workers views are taken seriously.

In managements case there is in fact nothing to stop them from moving in this direction by recognising and signing agreements with unregistered unions. Such an agreement has been signed in Natal and it works well. In effect what we have argued above is that it is to misplace the problem to wait for the State to lead the way with legislation since ultimately it is only management and labour that can resolve issues of conflict. We believe, therefore, that management should take positive steps towards stable industrial relations by not obstructing unionisation of African workers, by recognising unregistered unions when they have majority membership in a factory and then signing house agreements with the union. Such agreements are binding in law and what is crucial for social harmony is that it then becomes the duty of employers *and* unions to maintain them.

We realise that our proposals are against present government policy on industrial relations but we believe them to be well-considered and constructive. Our stand is both legal and public and such democratic opposition to government policy must be a right of South Africans.

AFRICAN LABOUR REPRESENTATION
AND THE DRAFT BILL TO AMEND
THE BANTU LABOUR RELATIONS
REGULATION ACT (NO. 48 OF 1953)

by Dudley Horner

INTRODUCTION

In South Africa the authorities have, for many decades, regarded the organisation of African workers in trade unions with suspicion. A wave of strikes by African workers principally in early 1973 but continuing into 1974 and 1975 brought this issue forcibly to the fore. Existing legislation was amended in 1973 and further changes are mooted for 1976. These are, perhaps, best considered in the light of past experience.

THE INDUSTRIAL LEGISLATION COMMISSION

In 1948 the Industrial Legislation Commission (commonly known as the Botha Commission) was appointed to report on:

- (a) "the desirability or otherwise of having separate trade unions and employers' organisations for Europeans, Coloureds and Asiatics
- (b) "the functioning of existing trade unions or similar organisations composed of Natives, and the desirability, or otherwise of regulating such organisations ...
- (c) "the setting up of machinery for the prevention and settlement of industrial disputes involving Natives"

RECOMMENDATIONS

The Commission sat for some three years and presented its report in 1951. Among its more important recommendations were:

- (a) existing trade unions and employers' associations with a mixed racial membership

should be separated on a racial basis, and further, in the case of mixed trade unions, this division should be into separate unions or into separate branches with white executive committees; (1)

- (b) African trade unions should be recognised in terms of separate legislation, subjected to a measure of reasonable control, and given sympathetic guidance. (2)

The first recommendation was accepted by the Government of the day and was later incorporated in the revised Industrial Conciliation Act (No. 28 of 1956). This led to the break-up of many formerly mixed unions into separate white and coloured unions or into separate branches of the same union. However, a large number of trade unions with mixed membership continued to exist at the discretion of the Minister of Labour who was granted powers to exempt them from the provisions of the Act. (3) At the end of 1973 for instance there were 41 unions of this sort with a combined membership of about 176 000 workers, of whom three-quarters were coloured(4).

The second recommendation was rejected by the Government which introduced alternative machinery in the guise of the Native (later Bantu) Labour (Settlement of Disputes) Bill which was presented to Parliament in 1953. The reason for rejecting the Commission's recommendation on African trade unions was plainly put by the Minister of Labour of the day when he commented that "whatever form of control is introduced you will not be able to prevent them being used as a political weapon" (5). Another goal mentioned by the Minister was that if this system were "effective and successful, the Natives will have no interest in trade unions, and trade unions will probably die a natural death".

Clearly in the mid-fifties the National Party determined that labour relations in South Africa would be regulated by a dual system of control: trade unions engaged in collective bargaining through the industrial council system would be the proper instrument for white, coloured and Asian workers

while African workers would be provided for in a different way. It should be noted, however, that African trade unions were never outlawed, the authorities taking a somewhat cynical stance in this connection. For example, even after the wave of strikes by African workers in 1973 the Minister of Labour, Mr. Marais Viljoen, addressed the House of Assembly in the following terms: "If we had wanted to prohibit these trade unions, Minister Schoeman would already have done so in 1953. This has never been done; we felt that they could simply struggle on like that. I think the establishment of these works committees will really deprive those Bantu trade unions of their life's blood and any necessity for existence. I therefore think that such a prohibition is unnecessary." (6)

AFRICAN TRADE UNIONS

Official policy has obviously been directed at laying the spectre of an African labour movement, developing through organised trade unions, which would command considerable political as well as social and economic power. (7) Nevertheless, in spite of great difficulties African unions continued to exist through the 'fifties and 'sixties. This is understandable since their struggle for recognition dates back to Clements Kadalie's Industrial Commercial Workers' Union (I.C.U.) which was founded in 1918.

By 1928 a Non-European Trade Union Federation claiming 10 000 members had been established. Towards the end of the second World War a Council of Non-European Trade Unions claimed 119 trade union affiliates with a combined membership of 158 000 workers. However, the Industrial Legislation Commission concluded later that in 1949 there were some 38 251 paid-up African members of trade unions although membership figures shown on registers were considerably higher. It is true that in the late 'forties and during the 'fifties there was a great deal of dissension and many difficulties which led to a decline in the African trade union movement. These difficulties were compounded by that official attitude which viewed African unions with stern

disfavour. Numbers of leaders were either banned or prohibited from attending meetings under the Suppression of Communism Act.

Nonetheless, in 1958 there were 20 075 African trade union members and this increased steadily to 59 952 organised in 63 unions by 1961. (8) The 'sixties was a period of intense political turmoil with Africans confronting the dominant white group directly. It saw a grave decline in the numbers of African trade union members and by 1969 only 13 unions with 16 040 members were known to be in existence. (9) However, there has been a renaissance in the 'seventies and by 1975 some 24 unions with a claimed African membership of 59 440 were known to exist. (10) At the present time the majority of these unions are small and weak.

What then of the alternative machinery provided by the State?

THE NATIVE LABOUR (SETTLEMENT OF DISPUTES)
ACT (NO. 48 OF 1953)

The Government having set its face resolutely against trade union rights for Africans, translated its policy into legislation in the form of the three-tier system contained in the Native Labour (Settlement of Disputes) Act. This redefined the definition of 'employee' in the Industrial Conciliation Act, to exclude *all* African workers, and aimed to provide for the regulation of conditions of employment for African employees and the settlement of disputes between these workers and their employers. Previously, under legislation passed in 1924, only 'pass-bearing' or recruited African workers were excluded from the definition of 'employee'.

Essentially it provided for a works committee to be elected by the African employees of an establishment employing twenty or more workers; for regional Native Labour Committees appointed by the Minister of Labour from Africans (not necessarily workers) in the local community with a white Native Labour Officer in the chair; and a Central Native Labour Board consisting of white officials appointed by

the Minister. The machinery thus created allowed a very limited measure of direct representation to African workers and a larger measure of indirect bureaucratic representation.

WORKS COMMITTEES

The works committee was intended to be a front-line communication channel between African workers on the one hand and their employer on the other. It would be the first recourse if a dispute arose. It seems clear that neither African workers, nor their employers, nor, perhaps, the labour authorities set any great store by this system of representation during the twenty years of its existence. For example, only seven such *statutory* committees had been established by the beginning of 1957, ten by May 1960, nineteen by 1961, (11) twenty-four by 1969, (12) and by January 1973 when a wave of industrial unrest broke out there were still only twenty-four of these committees in existence. (13) At that time there were some 21 036 registered factories employing 818 012 Africans in the Republic. (14) There were, it is true, a number of non-statutory workers' committees in existence as well, but numbers were few. The authorities then took steps to overhaul the legislation.

REGIONAL BANTU LABOUR COMMITTEES

The Regional Native Labour Committees constituted the second tier and consisted of Africans appointed by the Minister from the local community in each region sitting under the chairmanship of the white Native Labour Officer for that area. Among the duties of a committee were:

- (a) to maintain contact with employees with a view to keeping itself informed of conditions of employment of employees in its area generally and in particular trades;
- (b) to submit from time to time reports on any labour disputes which exist or are likely to arise; and

(c) to assist in the settlement of disputes.

A Regional Bantu* Labour Committee in any principal industrialised area was obviously burdened with a very onerous task.

Ten of these committees, namely those for Johannesburg, Benoni, Vereeniging, Krugersdorp, Germiston, Pretoria, Durban, East London, Port Elizabeth and Cape Town were established on 30th April 1954, while a further two, for Pietermaritzburg and Klerksdorp, were established on 25th April 1969. (15)

At the time of the 1973 strikes, the 12 committees then in existence consisted of three white and five African members in Cape Town. In each case, the chairman of a committee was a white official on the fixed establishment of the Labour Department remunerated according to his rank in the public service. African members of regional committees were paid an allowance of R3,25 per meeting plus travelling costs and they were also reimbursed for the actual loss of wages incurred in attending to their duties. (16) An aspect of these regional committees which seems astounding is that prior to mid-1973 a single divisional labour inspector presided over no fewer than six of the seven committees in the Transvaal, Pretoria being the exception. His duties covered African workers in the magisterial districts of Johannesburg, Heidelberg, Benoni, Boksburg, Brakpan, Springs, Nigel, Delmas, Vereeniging, Krugersdorp, Roodepoort, Randfontein, Oberholzer, Germiston, Klerksdorp and Potchefstroom. Although it is true that he would have been supported by six different committees, it would appear that to charge a single State official with the task of furthering the vital interests of the majority of African workers in 16 magisterial districts in the industrial hub of the country was to demand of him truly heroic efforts. (17)

During this period of labour unrest, the only African member of the Johannesburg Regional Bantu Labour Committee who was an employee, rather than a self-employed or retired person, seriously questioned the efficacy of the system when he stated: "very few workers know of the existence of the

regional committees and fewer know that they have the right to form works committees. The only time we come in contact with workers is when there is already a dispute at a particular firm". (18)

By June 1975, however, the number of these committees had been increased from 12 to 17 by the addition of the following areas: Bloemfontein; O.F.S. Goldfields (Welkom, Virginia, Odendaalsrus, Kroonstad); Witbank (Witbank, Middelburg); Ladysmith (Klip River, Estcourt, Mooi River), and Newcastle (Newcastle, Vryheid, Utrecht). (19)

THE CENTRAL BANTU LABOUR BOARD

The upper tier provided by the machinery was the Central Native (later Bantu) Labour Board, consisting of white members appointed by the Minister of Labour after consultation with the regional committees. In early 1973 the Board was comprised of four white members, one of whom was the chairman, an official on the fixed establishment of the Department of Labour. The other members were appointed on a contractual basis at an annual salary of R5 100. As a full-time body the Board met daily. (20)

The Board was to attempt to resolve disputes which had been unsuccessfully dealt with by regional Bantu Labour Committees, but if it, too, was unsuccessful it had to report to the Minister of Labour stating whether it considered such a dispute should be referred to the Wage Board.

BANTU LABOUR OFFICERS

The Act also provided for white Native (later Bantu) Labour Officers whose duties were :

- (a) to acquaint themselves with the wishes, aspirations and requirements of African employees in their areas;
- (b) to maintain close contact with the Native (Bantu) Commissioners and Inspectors of Labour;
- (c) in collaboration with the Native (Bantu) Commissioners, to act as intermediaries

- between employers and African workers;
- (d) to keep the Inspector of Labour and the Regional Native (Bantu) Labour Committees (and, where appropriate, industrial councils) informed of any labour disputes;
 - (e) in collaboration with the Inspectors of Labour, to try to settle any such disputes, with the assistance of the Regional Native (Bantu) Labour Committees; and
 - (f) to chair such committees. (21)

In 1972 there were only seven white Bantu Labour Officers throughout the whole country but by 1975 this had increased to thirty and they were located in the following areas:

TABLE 1

LOCATION OF BANTU LABOUR OFFICERS

		<u>1972</u>	<u>1975</u>
Transvaal	Pretoria	1	3
	Johannesburg	1	6
	Witbank	-	1
O.F.S.	Bloemfontein	1	3
Natal	Durban	1	5
	Pietermaritzburg	-	1
	Ladysmith	-	1
	Newcastle	-	1
Cape	Cape Town	1	3
	Port Elizabeth	1	2
	East London	1	2
	Kimberley	-	1
	George	-	1
		<u>7</u>	<u>30</u>

Source: Hansard 4 columns 352-3, 25 February 1972.
Hansard 19 columns 1194-5, 17 June, 1975.

It is hardly necessary to labour the point that until 1972 too much was expected of the seven Bantu Labour Officers. For their duties were not confined only to those described earlier, but they also attended, upon the instructions of the Central Bantu Labour Board, Industrial Council meetings and public

sittings of the wage board. Since 1973 there has been an improvement and, as we have shown, the numbers of Bantu Labour Officers have increased four-fold.

MINIMUM WAGE REGULATION

A member of the Central Bantu Labour Board or a designated Bantu Labour Officer was entitled to attend any meeting of an industrial council where conditions of employment which could affect African employees were to be determined. This they have done consistently over the years. The issues at stake are often complicated and these Officers have, of necessity, to familiarise themselves with the structures of a wide variety of industries, trades and occupations, all of which imposes a yet heavier burden upon them. For example, in 1973 the Board and/or its Officers attended 188 industrial council meetings and also scrutinised 106 industrial council agreements and one conciliation board agreement. Approximately 407 000 Africans were affected by industrial council wage agreements published during that year and it was estimated that they benefited collectively by R60 million over a period of twelve months. (22) This would mean, on average, a weekly increase of R2, 84 per African worker.

Moreover, the Board and/or its Officers also submitted written representations in connection with 13 investigations by the Wage Board and attended 44 of its public sittings in that year.

DISPUTES AND STRIKES

Finally, one of the principal objectives of the Act was to settle disputes between African workers and their employers. Until 1973 all strikes by, or lock-outs of, African employees were prohibited as were the instigation or incitement of such strikes or lock-outs as well as sympathetic strikes or lock-outs. The maximum penalties for a contravention were severe and comprised a fine of R1 000 or three years' imprisonment, or three years' without the option of a fine, or a combination of both fine and imprisonment.

The Act defined a labour dispute as one between an employer and two or more of his African employees in connection with employment, conditions of employment or a refusal to re-employ an African. In other words, a rather narrow definition. However, where the African workers involved were covered either by an industrial council agreement, or an arbitration award, or a conciliation board agreement which was still in force, the machinery which the Industrial Conciliation Act provided would be preferred to settle a dispute provided the Central Bantu Labour Board had reported on the dispute to the Minister who was empowered thereafter to refer it to the Wage Board. In the case of a wage determination the conciliation machinery applicable to other racial groups would be used if the determination had been in operation for less than two years.

In 1973 there were 47 labour disputes with no stoppage of work involving 3 846 African workers. These were usually settled by Bantu Labour Officers. A further 115 disputes, where work stopped, but which could not be regarded as strikes occurred and these involved 22 744 Africans. There were also 246 strikes in which 67 338 Africans took part. (23)

It would not be unfair to infer that the alternative system of labour relations imposed upon Africans by the State was inadequate and that when it was subjected to stress it cracked. African workers eschewed it, employers showed a marked reluctance to use it in a meaningful way, and even the State implemented it without vitality.

THE BANTU LABOUR RELATIONS REGULATION ACT
(NO. 70 OF 1973)

During the 1973 labour unrest the Government moved quickly to overhaul the system and published a draft Bill embodying its aims in this regard. Its proposals, in the words of the Minister of Labour "... evoked wide interest, and comment as well as proposals for its improvement were received from most of the major employers' organisations, from trade unions, individual employers and other

bodies". (24) As a result the authorities altered the original Bill and later introduced the Bantu Labour Relations Regulation Amendment Bill. (25)

The new machinery retained the three-tier system, which had operated for twenty years, with certain important differences.

LIAISON AND WORKS COMMITTEES

Instead of simply providing for the in-plant works committees at the lower end of the pyramid, a dual system of works and liaison committees was introduced. A liaison committee in any establishment consists of some members appointed by the employer and others elected from the ranks of his African employees. At least half the members of a liaison committee must be elected by the African employees but the chairman may be designated by the employer and need not be a member of the liaison committee, or may be appointed in a manner determined by the committee itself. As we shall see, employers have preferred the liaison committee and it is true that it takes precedence over the works committee in the Act. The functions of a liaison committee are very simply defined. Its task is "to consider matters which are of mutual interest to the employer and his employees and to make to the employer such recommendations concerning conditions of employment of such employees or any other matter affecting their interests ..." The law does not limit the period of office of a liaison committee which would presumably be bound by the terms of its constitution.

The works committee, on the other hand, is a wholly elected body. In any establishment employing more than twenty African workers, *where no liaison committee exists*, such workers may elect a works committee consisting of no fewer than three or more than twenty persons. However, representation is limited to a quarter of the total number of African workers in the establishment or section of the establishment at the time of the election. The Bill extended representation in the sense that it allowed for more than one works committee in an establishment

and in larger firms, therefore, sections of the African labour force can now elect their own works committees.

A meeting convened to elect a works committee is held under the chairmanship of the employer concerned or his authorised representative. Obviously where the employees and their employer enjoy a reasonably harmonious relationship dissension on this score is unlikely. However, where relations are cool or even hostile, where distrust exists on one or both sides, this particular arrangement is inadequate for resolving what may be a fundamental conflict of interests. While the present definition of a labour dispute is far wider than that contained in the 1953 legislation, and a Bantu Labour Officer and/or Inspector, with or without the assistance of the Regional Bantu Labour Committee concerned, should intervene in an attempt to effect settlement there does seem to be a remarkable shortcoming in this connection. The Act presumes that labour disputes are very largely concerned with wages and working conditions. This may be true in most instances but not in all.

For example in an establishment employing, let us say, 100 African workers, if the employer were to be inflexibly resolved upon the introduction of a liaison committee while perhaps 80 per cent of his employees were resolutely committed to a works committee, there is no simple mechanism to break the impasse. Again, if the employer at an election meeting were to insist from the chair upon a secret ballot in the face of a decided worker preference for voting by a show of hands, there is no quick, effective instrument for reconciling so deep-rooted a difference.

FUNCTIONS OF COMMITTEES

A further difference between the liaison and the works committee is that the function of the former is "to consider ... and to make ... recommendations", while that of the latter is "to communicate the wishes, aspirations and requirements of the employees in the establishment or section of an establishment

in respect of which it has been elected, to their employer and to represent the said employees in any negotiations with their employer concerning their conditions of employment or any other matter affecting their interests". Evidently the legislature envisaged the liaison committee as a consultative body while the works committee was to enjoy negotiating rights limited to in-plant bargaining and thus falling short of collective bargaining as it is generally understood. The chairman of the works committee was to be the intermediary between the workers' elected representatives and the employer.

While the period of office of a liaison committee was not limited by statute, that of a works committee was limited to "not more than two years".

CO-ORDINATING COMMITTEES

As the new system permitted the election of more than one works committee in an establishment, provision was made for a co-ordinating works committee consisting of the chairmen and secretaries of each works committee where two or more such committees had been elected. The appointment of a co-ordinating committee was to be made after consultation with the employer concerned, and its duties were roughly the same as those of a single works committee.

THE LIAISON COMMITTEE IN PRACTICE

There can be no doubt that generally employers have shown a marked preference for the liaison committee rather than the works committee. According to the *Financial Mail* there were 118 liaison committees in existence at the end of 1972. (26) In effect these were non-statutory works committees which were covered later, by the new definition of 'liaison committee'. By the end of 1973 this had increased to 773, (27) while at the end of 1974 the number had reached 1 482. (28) Of these liaison committees, 750 were located in the Transvaal (50,6%), 376 in Natal (25,4%), 298 in the Cape (20,1%) and 58 in the Orange Free State (3,9%). By May 1975, 1 751 liaison committees had been registered. (29) This

fifteen-fold increase does appear remarkable.

In mid-1974, Ryno Verster, of the Personnel Research Division within the Department of Industrial Psychology at the University of the Orange Free State, conducted an investigation into the constitution and functioning of liaison and works committees. (30) His survey included questionnaires addressed to 1 064 organisations on the subject of liaison committees and he received a suitable response from 326 (roughly 30%) employing 164 995 African workers covered by 437 liaison committees. The organisations which participated in the investigation were grouped in the following industrial sectors: (31)

TABLE 2

INDUSTRIAL CLASSIFICATION
OF PARTICIPANTS

SECTOR	NUMBER OF ORGANISATIONS	%
Manufacturing	257	79,0
Mining	9	3,0
Construction	9	3,0
Commerce	13	4,0
Services	27	8,0
Local authorities	11	3,0
	326	100,0

Among the most significant findings of the investigation were that in approximately 91% of the sample the initiative for establishing the liaison committee had been taken by management. In about 9% of the sample the initiative had been taken by management and its African employees together. Rarely had the employees taken the initiative on their own. In fact from Verster's data it would appear that in only 2 of 326 organisations had this occurred. (32) Moreover, in determining African workers' needs for a liaison committee nearly 37% of the sample attributed the main factor to management's 'foresight', while some 24% had discussed the matter with African *supervisors* and obtained their views, and about 18% had held general meetings of all their African employees. In only some 4% of the organisations had

African employees themselves brought the question of the establishment of a liaison committee to management's attention.

Rather surprisingly, African members of the liaison committee did not participate in selecting the chairman of their committee in 81,9% of the participating organisations. On the other hand, 79,1% of the respondents reported that African members of the liaison committee were elected rather than appointed by management. However, in only 16,6% of the firms could candidates be nominated without any restriction, for example, as to age or seniority. A representational spread from different departments was required by 78,1% of the respondents, while 46,2% required service (seniority) qualifications and 27,3% required a certain age limit. Voting was usually by means of ballot papers (57,1% of the respondents) or by a show of hands (33,4% of the respondents).

About 63% of the respondents reported that their liaison committees were elected for a period of one year while nearly 28% recorded a two-year period of office. In most instances, 72%, regular monthly committee meetings were held, but a further 12% met every two months and 5% quarterly.

There were 284 organisations which responded to a question as to why they had preferred a liaison to a works committee. The majority of 147 (nearly 52%) gave as their reason that the liaison committee was an 'anti-polarisation' device conferring benefits such as better guidance by management and prompt solution of problems, thus serving both parties' interests and improving two-way communication. In a further 38 instances (about 13%) either the liaison committee had existed before the Act was passed, or it was company policy to have one, or the firm was too small to qualify for a works committee. About 26 (9%) gave reasons connected with the low level of education among their African workers and their lack of experience with a system of negotiation, while a further 12 (4%) had established such committees on the advice of outside agencies such as the Department of Labour or the

Steel and Engineering Industries Federation of S.A. One respondent advanced the reason that works committees resemble trade unions too closely. This is not quite correct for the differences between an in-plant committee and a trade union are more marked than the similarities. Nevertheless, it does encapsulate the fear of collective bargaining which exists perhaps more widely than the Verster survey indicates. Yet another respondent stated bluntly that liaison committees are consultative rather than negotiating bodies. This is, I believe, the crux of the matter. The disparity in the numbers of the liaison and works committees established since the 1973 labour unrest seems to indicate that management perceives its interests to be best served by a system of control through consultation. Whether this is the case remains to be seen.

THE WORKS COMMITTEE IN PRACTICE

We turn now to a consideration of works committees. In January 1973 there were only 24 statutorily-constituted works committees throughout the Republic (33) but by the end of March of that year these had increased to 31 (34). At the end of 1974 the number of these committees had reached 207 (35) and of these, 98 (47%) were located in the Transvaal, 61 (30%) in the Cape, 45 (22%) in Natal, and 3 (1%) in the O.F.S. Later information put the number at 239 in May 1975, a ten-fold increase in a little over two years. (36)

The Verster investigation collected less satisfactory data on these committees than it had on liaison committees. This was due in part to the fact that management is not represented on a works committee and in many instances was not able, therefore, to complete the questionnaire satisfactorily. In some cases, apparently, the works committee members viewed the questionnaire and its purpose with suspicion. In June 1974 questionnaires were sent to 124 organisations of whom only 34 responded. These 34 had established 41 works committees and were employing 16 625 African workers. They were located in the following sectors of the economy: (37)

TABLE 3

INDUSTRIAL CLASSIFICATION
OF PARTICIPANTS

SECTOR	NUMBER OF ORGANISATIONS	%
Manufacturing	25	73,0
Services	6	18,0
Commerce	3	9,0
	<hr/> 34 <hr/>	<hr/> 100,0 <hr/>

In fifteen organisations (44%) management had taken the initiative for establishing the committee, while African employees had done this in five (15%), and management and employees together had taken the decision in fourteen (41%).

There was a tendency for older workers and those with longer service to be elected to these committees: in 80% of the organisations there were no restrictions whatsoever on the nomination of candidates, while in 20% there were certain requirements, mainly to achieve equal departmental representation. (38)

82% of the respondents reported that their works committees were elected for a period of one year. In most instances, 68%, regular monthly committee meetings were held, while a further 9% met weekly and 6% met at fortnightly intervals.

The most frequently mentioned reasons for choosing a works committee were that they were more effective than liaison committees, that they were more representative and acceptable to African workers, and that the workers preferred them.

In 1973 only three co-ordinating works committees (39) had been established.

RECOGNITION OF AFRICAN TRADE UNIONS

The Verster investigation indicated that while the majority of participating organisations with liaison committees (56%) were opposed to the recognition of African trade unions, the majority of those with works

committees (68%) were in favour of recognising them. (40)

REGIONAL BANTU LABOUR COMMITTEES

The second tier of the system, as we have seen, consists of the Regional Bantu Labour Committees. The 1973 Act empowered the Minister of Labour to appoint to the regional committees members selected from liaison, co-ordinating works or works committees in their areas of jurisdiction. It also made it obligatory for a regional committee dealing with a dispute in any trade to co-opt one or more African members from these subordinate committees in the relevant trade. Clearly, the 1973 legislation made a modest advance at this level towards more direct participation by African workers in labour relations. However, the chairmen of these committees remain white officials.

PARTICIPATION AT INDUSTRIAL COUNCIL MEETINGS

The chairman of a regional committee was always entitled to attend any meeting of an industrial council where conditions of work affecting African employees were to be determined. The 1973 legislation enabled African members of his committee to accompany him and this included members of any liaison, co-ordinating or works committee in the trade co-opted for this purpose. However, while these representatives of African workers may participate in the deliberations of the industrial council concerned, they have no voting rights. Their last resort if they have serious objections to proposals affecting their material interests is an appeal to the Minister of Labour. The latter is empowered to refuse his sanction to an industrial council agreement.

WAGE ORDERS

The 1973 Act introduced, too, a new method of minimum wage fixing aimed at accelerating the regulation of minimum wages for African workers. The Minister was empowered, after consultation with the Wage Board and the Central Bantu Labour Board,

to accept, at any time, proposals concerning African wages or other conditions of employment in their trade and area from a *sufficiently representative group or association of employers* and to make an Order embodying such proposals binding upon all employers and employees in the trade and area concerned. He was also entitled to extend the provisions of a wage determination or an order beyond the trade and area for which it was originally intended to other trades and/or areas. This approach clearly rests upon employer initiative and Ministerial discretion. African workers do not participate in the process. Its only advantage for African employees is that laggardly employers can be induced by their confrères to increase minimum wages at fairly regular intervals.

LEGISLATION OF STRIKES

Whereas the 1953 legislation had outlawed all strikes, the 1973 Act legalised strikes in certain circumstances. In effect, the definition of a strike in the Industrial Conciliation Act was adopted for the Bantu Labour Relations Regulation Act and the prohibition of certain strikes, too, was grafted onto the latter. This ignores the obvious difference between the two instruments: the former embracing the concept of collective bargaining as it is generally understood, the latter providing grievance procedures, largely consultative machinery, and a method of settling disputes.

The following prohibitions on strikes and lock-outs of African workers remain (as they do in most respects for other workers covered by the I.C. Act).

- (a) where a wage regulating measure or order is binding and where it has been in operation for less than one year;
- (b) during the period of currency of any agreement, award or determination made under the Industrial Conciliation Act, 1956;
- (c) where the African workers are employed by a local authority;
- (d) where the African workers are employed in

essential services providing light, power, water, sanitation, passenger transportation or a fire extinguishing service, within the area of a local authority;

- (e) where they are employed in the supply, distribution and canning of perishable foodstuffs, or the supply and distribution of petrol and other fuels to local authorities or others engaged in providing essential services, if the Minister has extended the prohibition on strikes to such industries;
- (f) where the Central Bantu Labour Board has referred a proposed industrial council agreement which it finds unsatisfactory to the Minister for a Wage Board recommendation;
- (g) where the Central Bantu Labour Board has reported an unresolved dispute to the Minister for a Wage Board recommendation.

In *all* other instances a dispute must be referred to the liaison committee, co-ordinating works committee or works committee, as the case may be, which exists in the plant concerned. If the committee is unable to settle the dispute, or where no committee exists, a report must be made to the Bantu Labour Officer for the area concerned. After thirty days from the date of such a report have elapsed a strike or lock-out may legally take place.

Finally, in 1973 a stronger provision prohibiting the victimization of African workers participating in the establishment, election or activities of liaison committees, co-ordinating works committees, or works committees was included.

The Verster investigation to which we have referred in this paper indicated that the majority of employers felt that the committee system was working well and was a useful means of communication in both directions.

STRIKES IN 1974 AND 1975

Nevertheless in 1974 there were 374 instances in-

volving 57 656 (41) African workers when work stopped. Of these 189 could be defined as strikes, (42) and in 1975 there were a further 119 strikes. (43)

Towards the end of 1975 the authorities published a Draft Bill incorporating their proposals for amending this legislation still further.

THE BANTU LABOUR RELATIONS REGULATION AMEND- MENT BILL, 1976

This Bill envisages certain fundamental changes, both in principle and practice, in the existing legislation.

DEFINITIONS AND AFRICAN MEMBERSHIP OF CERTAIN BODIES

If enacted the legislation would remove the definition of 'European' from the Act and this, together with several related amendments, means that Africans may be permitted to serve on the Central Bantu Labour Board (the chairmanship included), and as Bantu Labour Officers. Appointment to the ranks of the latter would permit them to be appointed chairmen of Regional Bantu Labour Committees as well.

Further, where earlier legislation had provided for consultation or negotiation in regard to "any other matters affecting their interests" the new proposals limit this function to matters concerning their conditions of employment.

LIAISON AND WORKS COMMITTEES

The Bill also presages the removal of the presumption favouring liaison committees over works committees and provides that a works committee may be elected irrespective of whether a liaison committee already exists. The Verster investigation had shown that some organisations were employing both forms of committee and that others felt that this was desirable. This would constitute modest progress from the African workers' point of view.

LIAISON COMMITTEES

Insofar as liaison committees are concerned the intention is to extend their functions beyond consultation to a limited form of in-plant negotiation. A new provision would also allow any employer with more than one establishment in an area to provide a single liaison committee for all the workers in his various establishments provided that at least one employee member from each establishment were elected.

WORKS COMMITTEES

The Bill would remove the lower limit of more than twenty employees for establishments entitled to elect works committees. This would allow smaller firms to introduce some system of representation.

INDUSTRY COMMITTEES

The most important change envisaged by the legislation would be the introduction of industry committees. A group of liaison, works or co-ordinating works committees in any trade or area would be entitled to apply to the Minister of Labour for the establishment of an industry committee. If the Minister deemed them sufficiently representative of the African employees in the trade and area he could sanction the application. The relevant inspector or Bantu Labour Officer in the area would preside over a meeting called to elect the members of the industry committee and would determine the number of members of the various committees allowed to attend. This obviously provides this State official with broad discretionary powers. Membership of the industry committee would be limited to no fewer than five or more than ten persons with an equal number of alternates. Their period of office would be limited to three years.

It is obvious that this provision would provide for a larger measure of African participation in industrial relations and at a higher level than heretofore. It may further be inferred that it also constitutes a serious attempt to forestall the

AGREEMENTS AND ORDERS

Where no industrial council is registered, an industry committee is to be empowered, in collaboration with the Regional Bantu Labour Committee concerned, to enter into an agreement on the minimum wages and working conditions of their African workers with a group or association of employers.

In the 1973 legislation the Minister was empowered to make an Order incorporating the proposals of a sufficiently representative group of employers with respect to the wages and working conditions of their African workers. The Bill envisages the repeal of this provision. Instead a group or association of employers may enter into an agreement with an industry committee or, where no such committee exists, with a Regional Bantu Labour Committee. The Agreement, if sanctioned by the Minister, would then be published as a binding instrument.

AGREEMENTS AND STRIKES

We have shown that the 1973 legislation introduced a limited right to strike in certain instances after the completion of rather complicated procedures. The 1976 proposal is that the provisions of an Agreement would remain in force until superseded by a new wage regulating measure. If this were to be enacted, it would effectively re-introduce the prohibition on strikes in any trade or area where an Agreement had been concluded and published in the Government Gazette.

In short, if African workers in a trade where strikes can occur legally at present were to establish an industry committee and enter into an agreement they would have signed away their admittedly circumscribed rights to a legal strike.

ADMINISTRATION OF ORDERS

Previously Africans were barred from serving on a body appointed by the Minister to administer an Order. The 1976 Bill would remove this restriction.

VICTIMIZATION

The prohibition on victimization by employers of employees carrying out their lawful functions in connection with committees would be extended to industry committees. Employers would be required, too, to afford such representatives reasonable facilities for performing their duties.

CONCLUSION

If the draft Bill is enacted in its present form it will eliminate certain of the more overtly racial aspects of the present law, it will extend a limited form of bargaining on an industrial rather than a plant basis to African workers, and it will be likely to reinforce the industrial bureaucracy while admitting Africans to that bureaucracy. Obviously the admission of Africans to higher levels of influence in the system of industrial relations constitutes a form of progress. The tacit admission of collective bargaining rights on an industrial basis, albeit circumscribed, likewise, shows a modest advance. However, the changes mooted for 1976 re-affirm the restrictions on freedom of association which have for so long been a prominent feature of labour policy in the Republic. Dualism in the market-place will be retained in spite of changes in occupational mobility which are undoubtedly taking place and despite the more militant mood shown by African workers in recent times.

It is true that in Europe systems of workers committees or councils have been devised and are being implemented. The proposed South African legislation has adopted certain features of these systems while denying their context and real content. Trade union rights to organise, bargain and strike are fully recognised there and committee systems complement these rights. In other words, trade unions like other institutions in modern society are capable of distancing themselves from grassroots support and conducting their business at levels which workers on the shopfloor find unsatisfactory. European experiments are aimed at re-introducing direct participation by democratic methods and circumventing the delay, obstruction and misunderstandings attendant upon bureaucratic

sclerosis. The South African effort is aimed in the opposite direction.

The dilemma confronting the authorities is that in a period of marked instability in Southern Africa their dual system of labour relations, its proposed changes not excepted, is overtly discriminatory. It depends ultimately for its effective implementation on acceptance by the African workers upon whom it is imposed. Whether an extensive committee system spread throughout thousands of factories, shops and offices will prove a successful technique for restoring industrial 'peace' seems doubtful.

FOOTNOTES AND REFERENCES:

- (1) In this respect the Commission itself noted: "The evidence presented to the Commission was overwhelmingly against the introduction of legislation compelling the segregation of the various races into separate unions, and the witnesses who advocated the retention of mixed unions included both employers and employees" (paragraph 1041 of the Commission's report).
- (2) Here the Commission was of "the firm opinion (that) it would be in the general interests of South Africa as a whole to grant Native trade unions recognition under separate legislation ..." (paragraph 1636).
- (3) Mixed means with white, coloured and/or Asian members. Africans were excluded.
- (4) Hansard 5, columns 359-368, 6 September 1974.
- (5) Minister Schoeman. Hansard 4 column 869, 1953.
- (6) Hansard 18 column 8779, 11 June 1973.
- (7) I am indebted to a forthcoming essay by Dr. Shiela van der Horst for a number of the points made above.
- (8) Muriel Horrell. *South African Trade Unionism*.

Johannesburg, S.A.I.R.R. 1961 pp. 59-86.
 (I am indebted to this valuable publication for all the data contained in this very brief historical survey).

- (9) Muriel Horrell. *South Africa's Workers*. Johannesburg, S.A.I.R.R., 1969, p. 145.
 - (10) Muriel Horrell and Tony Hodgson. *A Survey of Race Relations in South Africa, 1975*, Johannesburg, S.A.I.R.R., 1976, pp. 206-17.
 - (11) Muriel Horrell. *South African Trade Unionism*. *Op cit.* p. 94.
 - (12) Muriel Horrell. *South Africa's Workers*. *Op. cit.* p. 132.
 - (13) *Hansard* 7 columns 485-7, 20 March 1973.
 - (14) Report of the Department of Labour for 1973 (R.P. 33/1975) p. 24.
 - (15) *Hansard* 5 columns 355-60, 7 March 1973.
 - (16) Muriel Horrell and Dudley Horner. *A Survey of Race Relations in South Africa, 1973*. Johannesburg, S.A.I.R.R., 1974 pp. 273-275.
- *Official terminology used to describe the indigenous population changed from 'Native' to 'Bantu' in the 'fifties.
- (17) *Ibid*, pp. 274-5.
 - (18) *Drum*, 9 June 1973.
 - (19) *Hansard* 19 columns 1193-4, 17 June 1973.
 - (20) *Hansard* 7 columns 484-5, 20 March 1973.
 - (21) Muriel Horrell. *South African Trade Unionism*, *Op. cit.*, p. 93.
 - (22) Report of the Department of Labour for 1973 (R.P. 33/1975) p. 13.

- (23) *Ibid.*
- (24) *Hansard* 17 column 8390, 6 June 1973.
- (25) Some of the comment elicited by these Bills is recorded in: Muriel Horrell and Dudley Horner. *A Survey of Race Relations in South Africa 1973*. Johannesburg, S.A.I.R.R., 1974 pp. 276-281 and 286-291.
- (26) *Financial Mail*, 22 December 1972 p. 1145. Cited in: R. Verster, *Liaison Committees in the South African Industry*, Bloemfontein, U.O.F.S., 1974, p. 9.
- (27) *Hansard* 3 columns 160-161, 22 August 1974.
- (28) *Hansard* 10 column 691, 15 April 1975.
- (29) *Rand Daily Mail*, 22 May 1975. Cited in: Muriel Horrell and Tony Hodgson, *A Survey of Race Relations in South Africa, 1975*. Johannesburg S.A.I.R.R. 1976, p. 212.
- (30) *Op. cit.* pp. 14-16.
- (31) *Ibid*, p. 17.
- (32) *Ibid*, p. 20.
- (33) *Hansard* 7 columns 485-7, 20 March 1973.
- (34) *Hansard* 10 columns 632-4, 10 April 1973.
- (35) *Hansard* 10 column 691, 15 April 1975.
- (36) *Rand Daily Mail*, 22 May 1975. Cited in: Muriel Horrell and Tony Hodgson. *Op. cit.* p. 212.
- (37) *Op. cit.* pp. 91-4.
- (38) *Ibid*, pp. 97-101.
- (39) *Hansard* 3 columns 160-1, 22 August 1973.
- (40) *Op. cit.* pp. 66-8, 108.

- (41) *Hansard* 1 column 50, 7 February 1975.
- (42) *Hansard* 6 columns 385-400, 9 September 1974 and
Hansard 3 columns 204-5, 21 February 1975.
- (43) *Hansard* 1 column 18, 29 January 1976.

CASE STUDY: THE FUNCTIONS, NATURE
AND EFFECTIVENESS OF THE STATUTORY
LIAISON COMMITTEE - PINETEX

Any person engaged in research on labour relations in South Africa is severely hampered in the study of the functions, operations and effectiveness of the new statutory committees, that have been promulgated for the African worker. The researcher can only approach and study the committee with the permission of management. The committee have no independent presence, with public access. Their existence is restricted largely to monthly meetings. Minutes of these meetings are largely unobtainable and sometimes are not even distributed to the worker representatives of these committees. Minutes are normally drawn up by management: if drawn up at all.

It is then with some interest that one discovers reliable information of the functions of these committees from court records.

The following extracts, from evidence in chief and cross examination, are drawn from the case, *State vs. T. Colgien Mbali*, in the Magistrates Court for the Natal Regional Division, held at Durban, from Nov. 1973 to Jan., 1974.

The accused, a trade union organizer, was charged with organizing and inciting a strike. His defence was based on the argument that the strike was lawful (1). In terms of the Bantu Labour Relations Regulations Amendment Act, a strike is lawful, conditional to the following requisites being met (Sect. 18 of Act 48 of 1952 as amended):

(i) That where there is a committee in existence,

(1) Judgement was handed down against Mbali and correctly so in terms of the law. The trade union concerned, while acting on instruction of the shop-steward committee (which at the time represented some 70% of the workforce at that particular factory) culpably misconstrued the provisions of the Act, and misdirected the complaints of its members.

the committee has failed to resolve the dispute;

- (ii) That the labour officer for the area has been notified of the dispute;
- (iii) That a period of 30 days expire after notification to the labour officer.

It was Mbali's defence that all three of the prerequisites had been complied with.

The evidence, accordingly went into some detail in respect of the committee, its general function and in particular, the meeting at which grievances were not solved.

MANAGEMENT'S ATTITUDE TO THE REPRESENTATIVES

EVIDENCE OF:

Mrs. Bisset, an employee and secretary to the Manager of the factory, attended these meetings as the minute secretary. It was from her shorthand notes that the minutes were drafted.

I see in the minutes for the 27th of March that certain names appear at the top as people who were present. ---- Yes.

Is that correct? ---- Yes.

Are those the people that were present? --- Yes.

And next to the names of the Bantus there is a Christian name? Next to each name. Is that correct? ---- Yes.

Were those men referred to in the meeting by their Christian name? ---- Yes, on the table they've got their names, little placards with their names on.

Would that be the Christian name or the Christian name and the surname? ---- The Christian name of the person.

And is he referred to by that Christian name? ---- Yes.

EVIDENCE OF:

Mr. Frame, who is nephew to Phillip Frame, the main shareholder and General Managing Director of the Frame Group. He used to manage a bicycle factory in a Kibbutz in Israel.

Did management regard the members as equal at these meetings? ---- All the members who were members of a Liaison Committee yes.

You see I read the attendance at the first meeting of the Liaison Committee members and I just read down the names to you. Fred, Isabel, Jeffrey, Lovecan, John, Judith, Columbus, Joseph, Michael, Alfred, David, Richard and Daniel. But no surnames. Can you explain why they didn't even warrant a mention of their surnames on the minutes of the first meeting? ---- (The Court intervenes)

By the Court: How is this relevant, Mr. Nicholson?

By Mr. Nicholson: Your Worship, the question of the status of the Liaison Committee members and their roles on the committee is a vital question in this case to decide what their roles were at the time of the meeting of the 27th of March. If it's established that theirs was merely an advisory and a secondary function, then it's clear that it can't be expected of them to come out and object violently to the very people who are employing them. So, with respect, this is of vital importance to find out what the role was of these workers at these particular meetings, and I think the very person who can answer them is in the witness box and, with respect, it's a fair question to continue and ask him about these meetings.

By the Court: Yes, what is your answer? ---- From the first - at the very onset of the meetings one of the objectives was also to establish a relaxed free atmosphere and in addition to the creating of a certain minimum formality about the - around the table. These were names that these people were called, in fact their names were written on cards and they carry a special identification card; the card was put on the table and in order to create this atmosphere that we are discussing things of vital importance and they should be free and easy to discuss things, their names were called

by the way they were called in the factory.

EVIDENCE OF:

Mrs. Bisset (see above)

How are they seated at this meeting? Can you illustrate? Is it a rectangular table or a round table? ---- No, it's a round table and the chairman and the secretary sit like that and then there's a long table of the committee members. They sit on either side.

The same as in a T? ---- Yes.

Referring to the cross-bar of the T, would that be where the chairman, yourself as secretary and the other European persons sat? ---- Yes.

ESTABLISHMENT OF THE COMMITTEES

EVIDENCE OF:

Mr. A. Frame (see above)

The establishment of the Liaison Committee in this factory, was it at the request of the workers or was it the idea of management? ---- I would say that the establishment of a Liaison Committee was the desire of management and request of some of the workers.

Did they ... (The witness intervenes) ---- May I just elaborate on that?

Sorry. ---- There were in the past various small little informal committees which had operated from time to time in the factories and it was decided at a particular stage to elaborate these into four recognised official Government Liaison Committees.

Why didn't you establish, instead of a Liaison Committee, a Works Committee? Do you have any reason for that? ---- We felt - this is - we felt at the time that it would be necessary to help these committees along, to do a lot of training of the people who were going to perform the functions of - representatives of the workers and in view of that it was felt important that some members of management should be present to assist these people. Incidentally our Liaison Committees vary slightly from the actual constitution of the Liaison Committee as laid down, in that all the workers are a hundred percent voted for and represented by - elected by the workers.

THE CONSTITUTION

EVIDENCE OF:

Mr. A. Frame (see above)

When the constitution was placed before them, was this the same constitution that had been placed before the other three mills? ---- Yes, it was the same constitution. It was more or less about the same period, time. It was first put to one mill and discussion took place and some changes were made and then requests for translation were made and these were translated and the discussion took place on the translations, and then it was presented to the others and that was the constitution that evolved.

And is this the constitution now for the four mills that are mentioned? --- That is the constitution in the four mills and that is the constitution as well even where we have one of the mills with a Trade Union present, and they abide by that constitution.

I read from page 4 of the constitution, which is Annexure H. "The Liaison Committee may submit to the managing director of the company or his deputy its recommendations for the amendment of this constitution and such recommendations shall come into effect only after acceptance by the managing director or his deputy." ---- That's right.

Does this mean, in essence, any changes to the constitution must be approved by management? ---- Must be approved by management because we must have some veto otherwise at this particular stage it may get out of control.

THE CHAIRMAN

EVIDENCE OF:

Mr. A. Frame (see above)

You see as I understand the Legislation - correct me if you think I'm wrong - in a Works Committee the workers themselves elect their own chairman and their own secretary from among their own number. Is that correct? ---- That is correct. And we have suggested to our Liaison Committees that we will reach the stage where they will elect their own Chairman of the committees

and, in fact, they do elect their own chairman for their own caucus meetings which they now started having.

I'm asking these questions because my suggestion to you is that on the Liaison Committee the workers or the members, call them what you like, played a subsidiary role to management on those committees.

---- On the contrary. They play a very very forceful part as spokesmen for the workers. I wish you'd be present at some of those meetings.

You see for example I'll point out certain points to you which I feel illustrate my point. Firstly - and I call for your comments. Firstly, in the Legislation it requires that the chairman shall be a person designated by the employer or in a manner determined by the members of the committee. So there is an alternative. Would you agree? ---- Yes.

EVIDENCE OF:

Mr. A. Frame (see above)

If one looks at the minutes of your first meeting and as I read the minutes of that meeting, at no stage was it put to them that there was an alternative that they could elect the chairman from their own number. Can you give us some comments on that?

---- Yes. You're jogging my memory now rather severely. However, if it wasn't mentioned in that particular meeting it was definitely mentioned in subsequent meetings. You must take into consideration that this is a system that is evolving. It is something that we are establishing. We are trying very hard to find the best way of operating with the Liaison Committees. Now one of the cardinal points that we know and we have found out in contact with our workers over the years is that the workers feel that when they have any discussions with any members of management, they want to talk to top management, they feel they do not want to talk through intermediaries and, therefore, that is one of the reasons why I personally make it a point of being available at nearly every one of these meetings. That is why, in order to get the thing off its feet, not off its feet onto its feet, and to train the people that - it may take weeks of being members of a committee and of a meeting, of showing them the simple procedures such as speaking through the chair, such as talking in accordance with an agenda, such as not deviating from the subjects which are being discussed,

and a certain amount of decorum at meetings - I'm sorry. That is why it was at the beginning decided that we would take the chair, we would get the things going and get them well-established. Once they were well-established we would slowly start changing the organisation in accordance with the wishes of the workers.

This was then a decision by management to begin them in this manner? Is that correct? ---- That's right.

And the alternative that they elect a chairman themselves was not put to the workers at the onset of the first meeting? ---- Not at the onset of the first meeting.

EVIDENCE OF:

Mrs. Bisset -(see above)

And how did they set about electing a deputy chairman for the meeting? ---- I think it's just automatic if Mr. A. Frame is not there then it's the administrative manager who takes the chair.

Now you say it's automatic; is it automatic - where have you heard that from? Do you just assume it? ---- I'm just assuming it, in order of seniority.

In seniority on this committee, what would you say the order would be? ---- Mr. A.-Frame, Mr. Setterberg, Mr. Karst and Mr. Ashwell.

And thereafter the Bantus? ---- Yes.

Were they ever chairman of this committee? ---- No, not yet.

So at the beginning of this meeting when Mr. A Frame was not present, what actually occurred? I imagine you convened together and sat round the table and then what announcements were made? ---- Well Mr. Setterberg started the meeting in the absence of Mr. Frame because we were expecting him any minute.

Did he explain to the members why he was in the chair? ---- Yes, when he said that Mr. Frame had been delayed and he was taking the meeting.

Did he say on whose authority he was taking the meeting? ---- No.

THE MINUTES

EVIDENCE OF:

Mrs. Bisset (see Above)

Did you attempt to take down every word that was spoken at the meeting? ---- No.

Is it correct then you attempted to sum up the sentiments of the meeting? ---- Yes.

I imagine you paused for some time and then wrote down something which you thought represented the gist of what was said? Is that correct? --- Yes.

And you don't reflect who actually raised the issue for the first time? ---- No

I know it's some time ago and it's difficult to remember exactly what was said. Do you know what the first reply then was of anybody who offered some answer to this query? --- It was probably the chairman.

Can you recall what he said? ---- I can't remember.

I don't want to be unfair to you. Your shorthand transcript - that would be EXHIBIT 'D' Your Worship. ---- Thank you. Well the person who got up and said that some people felt that they were being discriminated against, that their contracts weren't being renewed and that their security lay in the hands of the foreman, and then Mr. A. Frame went on to say that in a short period of time the wages had nearly doubled and people have got to be weeded out, but they must be warned that if they're not working satisfactorily their contracts would not be renewed.

When you compile the minutes do you actually draft them yourself, or do you draft them in conjunction with anybody else? ---- No, I draft them as I've got them down and then I give them to my manager and he corrects them for me.

And then they're circularised, are they? ---- Yes, then I type them and then they're circularised.

MANAGEMENTS VIEW OF THE COMMITTEE -
ITS ROLE AND FUNCTION

MRS. BISSET:

Could you tell me from your experience of the meetings what would occur if, in the following hypothetical example which I give to you, the workers have a complaint that their wages are too low, they want five-rand a week extra. The management then refuses the demand or the complaint and there is a deadlock as we refer to it? Would there then be voting as to whether this increase was to be allowed? --- No. The Liaison Committee and the chairman and the management here couldn't pass that at all and it would have to go to the directors.

So am I right, with that rather more concrete example, that the function of this committee would be merely a recommendatory function. That is a longish word. They just made recommendations? ---- Yes. Actually I don't know all the ins and outs of the committee. I'm only there to record what is said at the meeting.

But at the meetings you attended only recommendations were made? ---- Yes.

No concrete problems were solved at those meetings? ---- Well some concrete things are but wages and important things aren't. They have to go higher.

If, for example, the workers are not satisfied with the reaction of those representing the employers, do you know of any machinery that's open to them? Thereafter. ---- No.

MR. E.F. ASHWELL:

Mr. Ashwell is a member of the personnel department who recruited migrant labour from the Transkei and other so-called "home-lands". Throughout the court hearing, he refers to the workers as "boys" and "girls".

I quote to you from a paragraph that, "The members of such committees, contrary to what had been said outside, were democratically elected by the workers in a secret ballot and these committees were created

to bring the workers' problems to management and to discuss possible solutions with them. At the same time it was also up to these committees to present the management's views to the workers" (quoted from minutes of a meeting) ---- Correct. That's right, yes.

Would you just tell me what, in your opinion, the purpose is of the Liaison Committee? Is it to solve problems or merely to put forward recommendations? ---- Well, it's both. If they got a complaint from the workers they bring it to the meeting. They bring it to me and we put it on the agenda and then it's discussed at a meeting.

Take, for example, a hypothetical situation that the workers approach you and say they want five-rand a week more than they are receiving. Would you then put this on the agenda? ---- If the committee brings that to us yes, under "Wages".

And if the management thereafter said "No", how would this problem be resolved? ---- Well, that's up to management.

MR. A. FRAME:

Am I not correct in supposing though that there would be no method of democratically outvoting management for any resolution in the Liaison Committee? ---- It has happened that they had already objected - I'm thinking of a particular incident - they have outvoted a request by management, the management has had to go back and had to come back and abide by the decision of the Liaison. I forced management at that stage to abide by the decisions of the committee.

But in general, looking at the constitution and looking at the Legislation, can the members of the committee from the workers proceed with a resolution and gain effect for it simply by vote? ---- Yes. And they have done so. There have been cases, the opposite as well, if I may elaborate, I'm just trying to - once we are discussing it, where the Liaison Committee has voted against a particular procedure in the mill, management has felt that the decision wasn't a correct one, we brought a compromised suggestion to Liaison Committee that we have

a completely democratic vote throughout the mill. You mustn't forget that we are utilising this also as a training and teaching technique to explain and to train workers in utilisation of democratic means and processes and the result of this was a vote organised and supervised by the Liaison Committee in which, to the surprise of some of the members, there was a complete reversal of a decision taken by the Liaison Committee. This was part of the education process to show that .. (witness pauses to allow interpreter to interpret.) It was part of the process we used in order to train the Liaison Committee representatives that they must truly represent the feelings of the workers and not so much sometimes their own very very personal feelings.

Is it correct then that a member of the committee may raise any matter that doesn't only affect a single person which concerns the general body of workers and concerns the relationship between the employer and employee at a meeting as a resolution?

---- He may.

Now if there is disagreement from management, is the resolution voted on? ---- Yes.

What percentage of the votes will ensure that the resolution is carried? ---- We have decided a majority, a simple majority carries. Obviously as a matter of procedure we try not to reach stages where we have to vote, but it has happened and we have in the past utilised a vote on a simple majority.

To sum it up so far, resolutions can be passed on anything which affects the relationship between workers and employers. The procedure is that a simple majority will mean the resolution is effective? ---- That's right.

Correct? ---- Yes.

Will the resolution be carried out by management if it is voted for in the manner that I suggest? ---- I hope it will be. We've never come to - oh sorry, there has been a case as I mentioned before where the majority went against management and management accepted that and carried it out.

Would management feel legally bound to carry out a resolution effected in this way by a majority of the Liaison Committee? ---- We've never been put to the test.

If you were put to the test? ---- I would like to see the incident first. It depends entirely. If this was and we judged this as being to the good of the company and for the good of the workers and the worker/company relations, we definitely would. If, for example, to set a ridiculous situation, if the workers decided by majority to burn the factory down we would object and we would not carry it out because we would not be legally bound to carry it out.

With due respect that doesn't fall into the relationship with workers in ... (The witness intervenes) ---- You'd be surprised at some of the suggestions that do come up.

Is it correct then that your answer amounts to this, that the final say is with management? ---- Yes. As long as we are acting as the interim period, as we are building these Liaison Committees up.

So in fact the committee has no power apart from making representations to yourself? ---- It has a lot of power, a lot more power. He makes representations, he makes decisions, it carries out these decisions, it represents - it has a very very strong voice in representing the opinions and feelings of workers in the factories. It has vetoed decisions of management in terms of conduct and operations inside the factories and I think that he's generally extremely surprised at the activities of the Liaison Committee.

I put a concrete hypothetical case to Mr. Setterberg and I put it to you now. If the Liaison Committee put forward a resolution that their wages be increased by five-rand a week, approved it democratically, would management acquiesce in that resolution or not? ---- No, but it would negotiate with the workers. In fact there are even negotiations taking place with one of the Liaison Committees at the moment on adjustment of wages.

Mr. Frame, without labouring the point, let's be reasonable? Can't you concede that if you wanted to be nasty you could reject any resolution that they put forward? Isn't that correct? Just yes or no. ---- There's no objection - either we want this thing to work and we want to have communications and we want to have some sort of relationship between the - we can decide anything. We can decide not to have a Liaison Committee. I mean that's a rather - I don't know, it's very hypothetical.

You see and I put this to you that this is very relevant, because try as the workers might to raise the question of renewal of contract labourers' contracts, they have no manner of forcing your hand on this business. They can merely put forward representations. Isn't this correct? ---- No, we have the - you have the situation already, as I mentioned after that particular discussion at Pinetex Mill, where the question of contract labour and the dismissal of contract labourers was discussed. The representation was made about the dismissal of one or two workers and in a particular case management's decision was reversed and in others, where the full facts were fully aired with the Works Committee and with the foremen and with the managers concerned, management's decision remained. Mr. Nicholson, the most important thing to remember is that we are still managing the factories, we are still the bosses.

(An important discrepancy between the evidence of Mr. Frame and Mrs. Bisset, is displayed. In her evidence, there was no voting in the committee. This is confirmed by Ashwell's statements that everything has always been "satisfactorily resolved". Frame's evidence creates the contrary impression: the independence; the use of the majority vote, etc. ... - Editor's note)

THE MANAGERMENTS ATTITUDE TO THE TRADE UNION

SETTERBERG: He has subsequently left the Frame Group and is now employed in the staffing section of the University of Natal.

Was it the policy of Pinetex at the time that you were there to discriminate against any workers for being members of any Union, Trade Union? ---- No, never.

Would it have been the policy not to speak to the workers via a Union? ---- We were only prepared to speak to the workers via our Liaison Committee.

Can you then tell us what is the attitude of the company with regard to Unions and Committees formed by the workers? ---- (Silence)

Firstly - I'll make it simple - are they against them or are they for them? ---- Yes I was hoping to

was because the Liaison Committee fulfilled the full requirements that Trade Unions would fulfill. Would you agree with that? ---- At this particular stage the Liaison Committees are performing a much more of a function within the confines of the factories than a Trade Union ever could, because all Trade Unions in all probability grew up from Liaison Committees.

Is it your thesis then that the Liaison Committee are more effective than Trade Unions would ever be? ---- At this particular - not - possibly not in the long run, I'm not talking about the twenty/thirty years in advance, I don't know and I'm not prepared to comment on that.

In the short run. ---- In the short run the Liaison Committee definitely is.

This constitution for Pinetex, this also serves for four other - or does it serve for three other factories? ---- For three other companies.

MR. SELIGMAN

Mr. Seligman is a director of the factory.

"The management of the cotton mills in New Germany is at all times ready to talk to the workers through the Works Committee but not through outside organisations" (quoted from the minutes dated the 25th of January, 1974).

MANAGEMENTS' EMPLOYMENT OF SPIES

J.J. DINANI

What is your job at Frametex? ---- I am a driver.

You spy for management as well? ---- I was told to report whatever occurred, Sir.

By? ---- By Mr. Walker and by Mr. du Toit.

Before this day? ---- Before this day.

Did you get extra money for it? ---- Yes.

Do you know Mr. Ashwell sitting here, the gentleman with the very grey hair? ---- I know him.

By the Prosecutor: I don't wish to object to the questions but I'm wondering whether this doesn't

affect the security of the firm in question, whether the Court shouldn't be cleared if my learned friend wishes to continue along this trend. In fact I make such an application.

By the Court: What application do you make?

By the Prosecutor: That the hearing should be held in camera. This is cross-examination of the witness concerning matters which might well affect the security of the firm. If my learned friend is not pursuing it then of course my application will fall away.

By the Court: Do you wish to say anything Mr. Nicholson?

By Mr. Nicholson: Your Worship, I have heard about proceedings held in camera because of young girls, and I've heard about the safety of the State where the Minister provides a certificate, but with respect to my learned friend I have never heard about the security of a factory demanding that Your Worship hear a matter in camera and, with respect, I think that the application should be dismissed and I think it very relevant if someone is spying for people that this should come out and it's a very essential part of the evidence, especially as far as what his interest is in telling the truth, whether he has a financial interest in incriminating the accused, and I think it would be tantamount to giving him an easier passage in cross-examination I ask that the application be dismissed.

By the Court: I haven't got the Code here. The Section lays down public morals ... (The Prosecutor intervenes)

By the Prosecutor: I unfortunately don't have it with me, Your Worship. I would have to give you the exact Section. If the Court is prepared to adjourn for a few moments. To my recollection it uses the words, "Or for any good reason".

By the Court: The Court will adjourn.

The Prosecution's application was refused and cross examination continued.

Are you paid then the same amount each month? ----
(The court intervenes)

By the Court: For what? Do you mean his salary or wages?

By Mr. Nicholson: His salary. I should have made it clearer. ---- Yes.

And the extra amount, do you get that every month? ---- Yes.

Since when have you got this? ---- From January.

How much is it? ---- Do you mean my wages?

How much extra is it that you get over and above your salary? --- Ten rand (R10,00)

And what is your - is that ten-rand a week? ---- Ten rand a week Your Worship.

By the Court: What is that for, the ten-rand a week? ---- This money is in respect of my being an eye of the firm in whatever wrong occurs in the firm.

By Mr. Nicholson: What is your ordinary salary, without that extra amount for spying? ---- It is twenty-five rand a week.

Now starting from January, did you then make reports back about what you saw? ---- It is so.

And did you actually report something every week or were there weeks when you didn't report things? ---- I do not report anything except when I see that that thing is wrong.

S.S. MCUNU:

Dinani and Mcunu - state witnesses employed by Frame Group.

Do you get paid extra money for reporting on the activities of your fellow-workers? ---- That is a confidential affair between myself and my employers. I am not prepared to disclose that to you, Sir.

Well you see I'm asking you and unless His Worship rules that the question should not be answered I want you to answer it. ---- I do not get anything for that.

Why were you unwilling to answer the question then? ---- You were asking me a question in connection with something that is confidential between myself and the factory.

You see I want to put to you that people who are paid to spy have an interest in making reports back

to the people who pay them, so that their evidence may be coloured to the extent of their financial interest in making reports. I am just putting that to you. ---- That is known by you. I do not know anything about that.

Do you or do you not receive money for spying on your fellow-employees? ---- I am not employed together with the accused, Sir.

Do you or do you not receive payment for spying on your fellow-workers? Yes or no? ---- I am being paid for seeing whether there is anything wrong at the factory or not. I am a registered employee of the factory. Do you want me to produce documentary proof of that fact?

Do you get ten-rand a week then extra for spying on your fellow employees? ---- I already told the Court that I do not get anything.

Why were you keen then to write down the number when you were at a nice social gathering enjoying drinks? ---- Those were the terms of my actual agreement between myself and my boss that when I was still under his employ I had a right to report anything which I saw going wrong or endangering the factory.

Did you have the right to or did he tell you that it was your duty to do that? ---- He told me that it was my duty to do that. That is something endangering the safety and not something else.

And you weren't paid anything extra for work you did outside office hours? ---- I didn't get anything, Sir, except the witness fees since I came here to Court.

I just don't understand if your job was the security of the place why you were unwilling to tell me about your relationship with your employer when I first asked you these questions. ---- You can see for yourself that I am in uniform.

CONCLUSION

It is clear from the above excerpts, that there is valuable information to be gleaned from court records. The published S.A. Law Reports, only publish Supreme Court cases. Most of the cases, dealing

with labour relations, tend to be heard however, in the Magistrate's Courts.

A research grant should be established to make available funds to researchers, that these records, kept on tape, be transcribed.

NAUTILUS MARINE:

A CASE STUDY OF WORKER-MANAGEMENT CONFLICT

INTRODUCTION

The aim of this report is to give a detailed account of worker-management conflict in a factory Nautilus Marine, situated in Cape Town docks. The factory employed about 286 Africans at the time the conflict started. The conflict can be divided into two stages: the first stage was a struggle on the part of the African workers to obtain a registered works committee, the second part was a conflict between the works committee and management that terminated in a complete breakdown between the two sides and the dismissal of all the African workers.

This report gives a detailed account of the events that took place at Nautilus Marine. It seeks to describe what happened initially and how the conflict between workers and management built up to the level that it did. Out of necessity it is incomplete and some of the workers or the management's arguments may well have been omitted. It is mostly based on verbatim accounts of former employees of Nautilus, except for the section on an employer's perception of the conflict.

STRUGGLE FOR A WORKS COMMITTEE

Events started when the African workers of Nautilus held a meeting some time in June 1974. At this meeting it was decided unanimously that the African workers would like to obtain a registered Works Committee; at this meeting they elected a provisional Works Committee which subsequently requested management to call a formal meeting at which a registered Works Committee could be elected. The provisional committee had 12 members and they approached management under Section 7(a) of the Bantu Labour Relations Act which lays down the conditions under which a Works Committee can be formally elected. The management at first refused but then reluctantly agreed to call a meeting.

A meeting of all the African workers was eventually called on 27th June, 1974. Mr. Lambrecht, the Bantu Labour officer, was also in attendance. A Nautilus worker's account of this meeting is as follows: the management asked the workers whether they wanted a Works Committee, the workers thereupon all raised their hands to show their approval. Management then asked the 12 people who had already been informally elected to come forward and asked if the workers chose these people as their representatives. Again the workers indicated their approval.

The management's next step was to declare that they would not allow a Works Committee to be formed, in defiance of the clear wishes of the workers and the provisions of the Bantu Labour Relations Act. The management wanted a liaison committee. It is not clear what Mr. Lambrecht's role was at the meeting. The workers however stood together and refused to agree to a liaison committee. None would come forward to serve on such a committee, then the management allegedly told the workers that a Works Committee would be illegal; thereupon the meeting broke up.

The next step on the part of the African workers was to send a petition signed by all the workers to the Nautilus management, requesting the formation of a Works Committee. At this stage, relationships between management and the African employees had deteriorated considerably. This is indicated by the case of an African employee, Mr. Maqula, who was a "boss-boy" and sand-blaster at Nautilus. On a day in mid-August Mr. Maqula started work at 7.30 as usual. At about 11 am., the foreman called him and took him to the office. At the office Mr. Klopper, the foreman, called Messrs. Williams, Nel and Nixon. Mr. Williams asked Mr. Maqula how long he had been working for Nautilus; he replied 19 years. Mr. Williams then replied that the management had decided that despite his record Mr. Maqula must leave because he had been criticizing the firm including the management. Another account of this episode was that Mr. Maqula was alleged to be giving the firm

a bad name; he was paid off and received R102,49 holiday pay and R36,89 as his final week's wages (this included a substantial amount of overtime).

At this stage, Mr. Maqula and other employees of Nautilus approached the Western Province Workers' Advice Bureau. They outlined their problems and the response of the Advice Bureau was to approach a firm of attorneys: Frank, Bernadt and Joffe. Mr. Kawalsky, an attorney at the firm, wrote a letter to Nautilus requesting Nautilus to call a meeting at which a Works Committee could be elected as laid down in the Bantu Labour Relations Act. The response of Nautilus management was to send one of the managers to Mr. Kawalsky. He arrived at his office and angrily said that he would appreciate it if Mr. Kawalsky would keep his nose out of the private affairs of Nautilus. Mr. Kawalsky thereupon showed the memorandum signed by all the workers indicating that he was acting on behalf of the African workers at Nautilus. In spite of this, the Nautilus employer departed leaving the attorney's letter behind.

At this stage the workers decided to take affairs into their own hands. They turned up one morning at work and simply refused to get into their overalls. They were approached by management who enquired why they were not getting dressed for work. The workers unanimous response was that they wanted to know why Mr. Maqula had been dismissed. Management said that he had been giving the firm a bad name. The workers then asked whether it was not the case that Mr. Maqula had been working for Nautilus over the last 19 years. Management affirmed this. Then the workers asked when was it that Mr. Maqula had commenced giving the firm a bad name; management could give no reply to this. The workers then made two demands: the first was that they insisted that Mr. Maqula should be reinstated and the second was that they should be allowed to elect a Works Committee. The work stoppage lasted only three hours. In that time management completely capitulated; they sent a car to fetch Mr. Maqula from the township,

he was reinstated with a public apology and presented with a new overall. In addition to that, management conceded that a registered Works Committee could be formed and that such a Works Committee could be affiliated to the Workers' Advice Bureau.

This concluded the struggle of the African workers to obtain a registered Works Committee at Nautilus Marine. The Works Committee was formed in the beginning of September 1974, and at this stage it was already clear that relationships between management and the Works Committee were extremely strained.

CONFLICTS BETWEEN THE WORKS COMMITTEE AND MANAGEMENT

The first encounter of major importance between the Works Committee and management happened on Friday 20th September, 1974. It appears that what happened was that the Works Committee had either its first, or one of its first, meetings with management. The Works Committee put forward the demands of the workers, these demands included the reinstatement of a former practice whereby workers could take six months unpaid leave while they returned to the Homelands. Another demand was for a minimum wage of R35 per week for all African workers. At that time the basic wages were in the region of R16 - R25 per week. Another problem that was fundamental to the workers was the question of four "boss-boys". The exact nature of the conflict between these four "boss-boys" and the Works Committee is not apparent. However, it appears that particularly three of them worked against the Works Committee. On the one hand they tried to turn the workers against the Works Committee, and on the other they carried stories to management. It was claimed by the workers that these "boss-boys" had advised management not to pay the workers R35 per week, because the workers would not then return after six months leave of absence. In addition, the workers claimed that these "boss-boys" exaggerated the stories of the decisions taken by the workers.

At the meeting between management and the Works Committee on the 20th September, the Works Committee decided to ask Mr. Nel to remove three of the "boss-boys" from the rest-room used by the other workers; they told him that these three "boss-boys" were working against the interests of their fellow workers and they were also accused of presenting a very unfavourable impression about the Works Committee to their employers. A dispute arose between management and the Works Committee over the role of the three "boss-boys". The exact nature of the dispute is not completely clear, but it became very heated with workers threatening to leave the firm. As a result of this dispute the workers decided among themselves that they would not be prepared to work overtime, night shifts, or over the weekends.

It is quite clear that by this stage relationships between management and the workers had deteriorated considerably. An event that took place over that weekend led to yet more deterioration. One of the Nautilus workers, a Mr. D. Ganzana, who lived in Nyanga township, died a violent death early one morning while going to work. On the grounds of this, the South African Railways police entered into the fray.

The Works Committee stated that on Monday 23rd September, at about 9 am. they were assembled by Mr. Nel who told them that the Railway Police desired to find out from the Committee what all the trouble was about. The police asked the Works Committee members to accompany them to the Railway Police headquarters in Cape Town. The Works Committee were detained all day in separate cells and questioned individually. Interrogation of the workers by the police (and the Special Branch who were also present) did not however concentrate primarily on the death of the Nautilus worker. Instead the interrogators concentrated on the formation of the Works Committee and on the events at the factory the preceding Friday. The police wanted to know where the workers got the idea to form a Works Committee and how they formed it. They also questioned them about training courses

that were run on Saturday afternoons at Athlone by the Workers' Advice Bureau.

The workers responded that they had two basic demands: they demanded 6 months unpaid leave for contract workers and R35 per week minimum for all African workers. The head of the police that was conducting the interrogation, Major van Heerden, was alleged to have informed the Works Committee that as the firm was situated on railway property the workers should in future come to him whenever there was any disagreement with the management, he himself would represent the workers to management and to the Labour Department. The workers, he said, should stop creating trouble. They were also told to stay away from Athlone which is where the Advice Bureau is situated. The workers reply was that the railway police had done nothing in the past to help them while their wages were low, while, on the other hand, the Advice Bureau had been trying to help them. A worker alleged that Major van Heerden warned the workers that if they repeat in future what they had done he would have them prosecuted.

Relationships between management and the workers were now straining to breaking point. Management claimed that the workers had now become impossible since the strike. They claimed that the workers refused to obey the commands of management; the workers on the other hand felt themselves intimidated by management who did not appear to hesitate to call in the police. In addition to that, management seemed to pay no attention to the desires of the workers. The events now came to a head.

On Monday, the 30th September 1974, at knocking-off time management decided to sack 10 of the workers, some, but not all of whom, were Works Committee members. The next morning, Tuesday 1st October, the workers of Nautilus held a meeting with management. The purpose was to discuss the expulsion of 10 workers which, according to the workers, was without any reason. They also voiced their disapproval of management for the latter's

failure to inform the Works Committee or to bring any complaints against these workers to the attention of the Works Committee. The initial argument by management was that these workers had been laid off for economic reasons and management had decided to reduce their staff. More than one account exists of the reasons given by management subsequently for the dismissal of the workers. Mr. Nel was alleged to explain to the African workers that management had started to dismiss those workers with short service but the eventual aim was to dismiss also those with long service because management wished to employ new workers who would not listen to certain "agitators" among the workers. Another account claims that management said they were not prepared to give reasons for the dismissal of the 10 workers but that they threatened to carry on dismissing 10 workers daily if the workers continued to be difficult and "cheeky". Management claimed they would continue to do this until all the workers had been sacked. The workers tried to persuade management to reinstate the dismissed workers but management refused to budge. Management also said that the workers could go if they wanted to, but they did not themselves fire the workers. The workers response was they were not prepared to work under such conditions. Thereupon the workers laid down their tools and left the firm. Technically it therefore appears as if the workers had gone on strike.

The next morning the workers decided to return to the factory and enter the premises, but they decided first to draw up a list of their complaints and demands which they wanted to present to management. Some of these were:

1. The reinstatement of the sacked workers.
2. No further victimisation of workers.
3. Management must be prepared to negotiate with the Works Committee and not call in the police whenever there was disagreement.

4. A minimum wage of R35 per week.

When the workers arrived at Nautilus the South African Railway police were present and watching the developments. The workers were firstly led into a large hall so that the Coloured workers would not see them. The Works Committee thereupon deliberated with management. Mr. Nel apparently said to the Works Committee that they were adamant about the dismissal of the 10 workers and that, because of the lack of obedience on the part of the workers, the management had decided to terminate the services of all workers.

The Works Committee presented the list of grievances to Mr. Nel but he responded by saying that it was now too late for it as the management had already made up their minds. However he did read the list of complaints and said that many of the allegations were false. Management told the workers that they had to return the next day, Thursday, in order to collect their pay packets. In their pay packets the workers would find a slip of paper on which they could re-apply for employment at Nautilus and management would then consider each application individually. On Thursday, the 3rd of October, the workers arrived to collect their wages. They found that there were a lot of shortages in their pay because they had, in fact, worked during Monday, but their pay only went as far as the previous Friday. Workers also claimed that they were not given their holiday pay; they remained behind at Nautilus in order to draw up a list with all the particulars. The police arrived and told them to leave since they had now been paid. In the pay packets there was a slip which workers who wished to return to Nautilus could fill in. The following day, Friday the 4th, the contract workers returned to Nautilus but management told them that they had in fact also been dismissed and were not being re-employed either. At this stage management had thus decided to dismiss all African workers whom they had in their employment before.

EMPLOYER'S PERCEPTION OF THE STRIKE

In trying to understand the causes of the conflicts

at Nautilus it is valuable to understand an employer's insight into the problems. In a telephonic interview with Mr. Williams of Nautilus Marine his first reaction was that the strike was completely due to NUSAS or the students on the Wages Commission. He did not really distinguish carefully between these two bodies. He alleged that politics had crept into it and that he did not know what it was all about, but there were some nasty things going on. He often repeated that there were nasty things going on and that he did not know what it was all about. Mr. William's account of their labour relations was that initially harmonious relationships had existed at Nautilus. He claimed that they had employed a "boy" for 33 years. He said, "we are one of the best payers from here to Cairo", the minimum wage was R25 per week but that workers took from R45 to R60 a week home with them. But then, he claimed, a new element crept into the situation. He said that they tried to negotiate with the Works Committee which was not properly elected, but was elected at Athlone (thereby referring to the Advice Bureau). The workers demanded R35 per week and a couple of weeks beforehand they did not even work overtime. Mr. Williams stated that the workers were getting too much money and if they get too much money they do not work the whole time, they stay away for a day or two, they do not save money and they only want to buy a pair of shoes or a shirt or so. He also asserted that management were threatened by the workers, the chairman of the Works Committee was alleged to have said that the workers knew where they lived. In addition Mr. Williams claimed that certain workers were threatened that they would have their throats cut. As regards the cause of the workers downing their tools Mr. Williams said that the workers would not give a straight answer for this, they had to go to their Advice Bureau. As far as the police was concerned it was all the responsibility of the students, according to Mr. Williams. The situation at the end of November 1974 at Nautilus was satisfactory to Mr. Williams. He said that they had taken back between 50 and 60 of those workers whom they really

wanted. In addition they had augmented their staff with Coloured workers. Mr. Williams said, "he is a different kind of worker; migrant workers come and go and they stay away from work, but they can't be fired because this involves Native Commissioners".

SUBSEQUENT EMPLOYMENT PROBLEMS OF NAUTILUS WORKERS

The dismissed Nautilus workers proceeded to seek employment after their dismissal. It appears that many of them had relatively little trouble finding employment. On the other hand those who had been branded by management as "agitators" had considerable difficulty in finding alternative employment. The experience of 12 ex Nautilus workers who were employed by Trident Marine is a case in point. They started their employment on Tuesday the 8th of October, 1974. The following days these workers went to the Bantu Administration offices in Langa where they were told that they could start working at Trident Marine before their passes were fixed up. On returning to Trident Marine the workers alleged that they found that the Special Branch were at the firm and had told management that they could not employ these workers because they had been at Nautilus. The management of Trident then called the workers and told them that they could not employ workers from Nautilus. The workers alleged that the Trident manager said that he had been to Nautilus to speak to their management. On Friday, the 11th of October, the former vice-chairman of the Nautilus Works Committee, Mr. Ndingane, and another worker were called to see the Trident management. Mr. Ndingane said that management had a list of workers names in front of them. They said that they could not employ these workers from Nautilus particularly Mr. Ndingane.

Other Nautilus workers also experienced a problem. One worker was employed by Globe Engineering, but he was dismissed after two days when it was known that he came from Nautilus. At African Oxygen a young worker had the experience of starting work on Wednesday the 9th of October, 1974, at

and use in all situations. In the first strike the workers achieved everything they desired within three hours. It was therefore not unreasonable for them to think that they could settle additional problems by means of strike action. Management's attitude had however in the meantime been hardening considerably. The result was that when the workers downed their tools and staged a walk-out the second time management decided to dismiss all the workers. It would however appear that the workers had been provoked into such action by management: ten of their colleagues had been dismissed and as far as the workers could perceive their dismissal was purely a case of victimisation. A further threat of dismissal hung over their heads as well. The workers had no assurance that they would not be dismissed as well. At that stage workers had no alternative way of registering their protest: their walk-out was therefore the final form of action left open to them.

THE DUENS BAKERY DISPUTE

In the early mornings of August 12th and 13th, 1975, 100 to 150 African workers from Duens Bakery, Cape Town, gathered on the premises of the company. In both cases they indicated that they wanted to elect a works committee. On the second morning 19 of them were arrested, 14 of whom were subsequently found guilty of striking. This is an account of the events that led up to the dispute and the court proceedings.

Duens Bakery Co., a subsidiary of Bokomo, employs about 370 African employees of which 106 work in the bread department and 130 are delivery personnel. The other large department in Duens is the confectionery department, the remainder being relatively small.

Around May, 1974, the management of Duens, comprising Mr. J. Geyser, general manager, and Mr. F. Fouche, administrative manager, decided to institute a liaison committee. The reason for doing so 'was to have communication between management and the workers'. The method adopted to obtain the *workers'* representatives was to ask the foremen in the two large departments to each select two members from their departments while the delivery personnel could appoint one member. The liaison committee met once a month and functioned until March 1975 when it was abandoned.

The first indication management received that the workers were unhappy with the state of affairs was in November 1974, when about 30 workers told Management at a meeting held at the request of the workers, that they were unhappy with the liaison committee. They complained that the committee members did not communicate the discussions taking place at the meetings to the workers.

In December of the same year the workers made their wishes clear. In a letter dated 9 December, 1974, to management they stated: '... The actual request of the workers is getting rid of the

existing liaison committee and it being replaced by the works committee under the Bantu Labour Relations Regulation Act of 1973, as liaison committee has not been serving the workers' interests at all and therefore want a committee that will truly represent that interest of the workers'. A month later the workers wrote another letter as a reminder. Both these letters were signed by slightly over 60 workers. In response to these two letters Mr. Fouche gave a written reply:

"Dear Workers,

In reply to your letter dated the 9th January, we are not prepared to consider a works committee because we already have a liaison committee. It is the only committee permitted by law. Liaison meeting is being held on Monday, 20th Jan., at 8.30 am. and if there are any proposals for new membership of this committee, their names must be handed in to my office before 8.00 am. on Monday, 20th January. If nothing further is heard before 8.00 am., Monday morning, we assume you are prepared to accept the existing liaison committee members".

Further agitation from the workers caused management to change their uncompromising attitude and they decided that the workers should choose, by means of a ballot, between a liaison committee and a works committee. Management's reason for determining that the vote should be by secret ballot was that they claimed that only a minority of workers wanted a works committee and that they could intimidate the other workers when it came to voting by a show of hands. This decision of management carried the approval of the local Bantu Labour Officer. The workers rejected voting by means of ballot because many of them are illiterate and they feared that they could be misled. The method of voting remained a source of conflict throughout the whole period. The workers then took the initiative to vote by themselves. In a letter dated 15 April, 1975, and signed by 82 workers, the workers claimed that at a meeting

'the majority of workers at Duens Bakery' decided on a works committee. Nevertheless management organised a vote by ballot in May. Even though notices were posted on the notice boards and the election period was 12 hours only one worker cast his vote.

After this deadlock was reached the Western Province Workers' Advice Bureau wrote to the management of Duens stating: 'We have been instructed by Bantu employees of Duens Bakery, to advise you that the majority of the Bantu employees employed in your establishment wish to elect a works committee in terms of Section 7(A) of the Bantu Labour Relations Act ...'. A petition requesting a works committee and signed by 240 Duens employees, a clear majority, was included.

Another election was planned and held by Duens management - again by means of ballot. Twenty nominations were received, but when it came to the election only one vote was cast once more. This took place early in August.

On Tuesday morning at about 6.00 am., August 12th, 125 to 150 Duens workers gathered on the premises of the company. Between 6.00 and 6.30 am. a change in shifts occur. As a result, workers from two shifts can meet together and it is more or less the time that the delivery staff are also present. Mr. Fouche, who was called to the scene, asked Mr. Shasha, a worker who had previously emerged as a spokesman, why they had gathered there. His reply, according to Mr. Fouche, was 'we are here to elect a works committee'. Management thereupon summoned the police who arrived shortly after 7.00 am. After conversations and consultation with Mr. Fouche, Captain Kroukamp of the South African Police persuaded the workers to return to work and disperse after they had been promised that two of their delegates could see Mr. Fouche at 2.30 pm. in his office. The workers promptly chose Mr. Shasha and Mr. Balfour as their representatives. Meanwhile management, who viewed the events in a serious light, decided to promptly dismiss four of their

employees who had 'previous behaviour records'. They thereupon dismissed Messrs. Shasha, Balfour, Maholwana and Majube without supplying them with any reasons for their dismissal. As a result no workers' representatives turned up at the scheduled 2.30 pm. meeting.

The next morning, Wednesday, August 13th, about 100 workers again gathered on the premises of Duens Bakery at about 6.00 am. On this occasion they made two demands. They demanded the reinstatement of the four dismissed workers and the summary election of a 10 member works committee. A new spokesman, grey haired, 73 year old, Mr. Mqago, emerged. He said to Mr. Geyser, the general manager, according to the latter's evidence at the trial that subsequently ensued, 'we want works committee, baas, sign for it. Otherwise we rather go to jail'. Mr. Louis Botha, Bantu Labour Officer of the Department of Labour, and members of the South African Police also turned up, but neither what Mr. Botha or Colonel Niewoudt said, could persuade the workers to disperse or to return to work. At about 9.45 am. Colonel Niewoudt informed the workers that it was illegal to strike and, if they did not return to work, they were guilty of committing an offence. He gave workers 10 minutes or so to disperse and, when they did not do so, proceeded to arrest 19 of them. The method adopted in arresting workers was as follows: the police requested those workers who did not want to go to work to stand to one side. Different foremen then identified workers who should have been on duty at that time. It appears that some confusion reigned at that time because some workers who had been put into the police vans were subsequently taken out again.

During the court case the counsel for the defence investigated in depth the reasons for the dismissal of the four workers on August 12th. Many reasons were advanced for their dismissal. Mr. Maholwana had worked at Duens Bakery for two years and, prior to that, had worked for Selected Products, the former owners of Duens, for over 20 years. He was dismissed on account of a decision taken in

June 1975 to reduce staff. No further reductions in staff had subsequently taken place at Duens. Instead, the African employees at Cadora Bakery in Epping and which is also managed by Mr. Geysler, had increased since then. It was also argued at some other stage that all four workers had been dismissed because of staff reductions. Reasons were advanced for the dismissal of each of the other workers as well. Mr. Shasha was alleged to damage dough in the bread department from time to time. He was thus transferred to the confectionary department where he did not know the work. Mr. Majube, a driver or 'shunter', was dismissed because he had allegedly stolen flour bags from Cadora Bakery. The behaviour of Mr. Balfour could not be tolerated. Mr. Fouche said about him: 'I don't let any worker tell me that I am a liar'. Other reasons were also given. The dismissed workers were called undisciplined and Mr. Shasha did not listen to them. Mr. Fouche also agreed with the counsel for the defence that they were not 'the kind of workers' that management wanted.

The accused were charged with contravening section 18 (1) (d) read with sections 18 (2) and 18 (5) of the Bantu Labour Relations Regulation Act of 1953 as amended. The relevant sections of these clauses read as follows:

"18.(1) No employee ... shall instigate a strike ... or take part in a strike ...

(d) ... unless the matter giving occasion for the strike or lock-out has been referred to a liaison committee ... or works committee which exists in the establishment concerned and, if such committee has been unable to effect a settlement or where no such committee is in existence, then, in either event, until a report on the said matter has been submitted by or on behalf of the employees or employers who are or would be concerned in the strike or lock-out, to the Bantu labour officer for the area concerned and a period of thirty days reckoned from the date of such report has expired.

(2) Any person who contravenes any provision of sub-section (1) or who commits any of the acts ...

of the definition of strike ... with the object of lending support to or expressing sympathy with persons who are taking part in a strike or lock-out ..., shall be guilty of an offence ..."

Section 18 (5) defines 'strike' and 'lock-out' in very elaborate and detailed ways.

The major arguments put forward by the defense in their submissions were that 'the state has not proved that no report on the matter was submitted by the employees or employers to the Bantu Labour Officer for the area concerned. In fact, from the evidence of Fouche, it would appear that such report was in fact submitted, bearing in mind that there is no requirement that a report must be in writing ... it would appear probable that more than 30 days had in fact expired from a report by the employers to the Bantu Labour Officer'.

Defence went on to argue that the state had not tendered evidence to show that the object of the accused was 'lending support to or expressing sympathy with persons who are taking part in a strike'. Finally, defence argued that the action of the accused did not fall within the ambit of the definition of strike as set out in section 18 (5).

In his judgement, the regional magistrate, Mr. A. van Z. Cilliers, disagreed with the defence. He concurred with the prosecutor that the accused's demand that the four workers be reinstated was not submitted 30 days earlier. The defence's argument was that the accused had desisted in that demand 'long before 10 o'clock that morning'.

The magistrate also ruled that sections 18 (2) and (5) were applicable and that a 'conspiracy relationship' existed between the accused 'with the object of compelling the employer to concede to their demands'. Mr. Cilliers thus found all the accused guilty with the exception of five of them, because the state could not prove that they had to be at work at the time of their arrest. In passing his sentence the magistrate said that he believed the ambition of the accused is to make a living and supply food and clothing for themselves and their wives and children. He fined

them each R100 or 90 days, suspended for three years. The accused have noted an appeal and at the time of writing the case was still sub judice.

POSTSCRIPT:

The court has subsequently decided in favour of the workers and the judgement contained some significant comments. We will cover this aspect of the events at a later date.

CONAC ENGINEERING
AND THE DEPARTMENT OF LABOUR

State officials, particularly the ex-Minister for Labour have often argued that it is not State policy to legislate against the practice of African workers forming themselves into independent, un-registerable Trade Unions. It has been argued that the Bantu Labour Settlement of Disputes Act (1953, amended 1973) provides for the establishment of adequate factory based institutions in the form of liaison and works committees through which African workers and their employers can negotiate on matters of "mutual interest". The accompanying settlement of disputes procedures mediated through the Department of Labour will afford workers and employers the means for settlement of production-based problems. Taken together with the regulation of minimum wage levels as established by the Wage Boards, the argument concludes that there is no need to legislate against the formation or existence of African Trade Unions, "they will simply die a natural death". In this article we will explore the adequacy of these institutions to the dynamics of industrial relations by way of an examination of a dispute which occurred last year between the management and African workers of Conac Engineering Mkondeni, Pietermaritzburg, Natal.

Conac Engineering is a private company operating in the iron and steel industry. The company is almost entirely Swiss owned. All areas of this company's activities are covered by the Iron, Steel, and Metallurgical Industries Industrial Council Agreement of 1972. The definitions of this agreement have been extended so as to include work performed by African workers in the industry. The operations of Conac Engineering are divided into two sections. There is a factory section where White, Coloured, Indian and some Africans are employed to variously design and manufacture structural steel products. The majority of African workers at the factory site are employed to stack the manufactured product and operate pressing and

forging machines. The second section is that of sub-contract work. Here work involves the erection of structural steel and factory buildings.

From the beginning of 1974 there was a marked increase in the manufacture of steel at the factory as well as an increase in the number of sub-contracts. This expansion was accompanied by a minimal increase in the number of African workers employed but a sharp increase in overtime worked by them. African workers constituted by far the majority of productive workers employed at Conac. In the case of White, Indian and Coloured workers there was a written contract which clearly stated that overtime was voluntary. While a 'conditions of employment' memorandum handed out to African workers made no mention of overtime at all, the overtime clause in the Iron and Steel Agreement clearly states that overtime work is voluntary, and this clause covers African workers.

In mid 1973 the management at Conac set up a system of liaison committees in the factory. Separate committees were established to represent White, Indian and Coloured, and African workers. In the case of the former two classes of workers, representatives elected by workers would meet with the manager, Mr. Ege, and another member of management who acted as secretary. African workers elected four representatives while management appointed three indunas (boss-boys). Minutes of the African workers' liaison committee meetings, as well as comments made by workers in discussion illustrate clearly that the White, Coloured and Indian workers had clashed with management over the issue of wage increases. It is also clear that African workers were encouraged by these clashes, while management attempted to steer interest away from wage increases.

The committee meetings for African workers usually took the form of the manager working through a pre-prepared agenda, and then instructing the committee members on the importance of transmitting the information to workers. Where the minutes indicate an issue raised by workers, the recurrent issues were those of wages and overtime work. The issue

of overtime work on the weekends was the dominant issue. In 1973 and 1974 the worker-elected members of the committee persistently asked the manager to reduce the amount of overtime work on the weekends. At first they were told of how fortunate they were to be employed at all. Later the manager agreed to set aside one Saturday per month when workers would not work overtime. From the minutes it appears that this policy was openly welcomed by the committee members as well as all the other workers. From comments by workers this policy was most reluctantly accepted. The other issue concerning overtime, which was never reflected in the minutes, was that the committee members complained of being *forced* to work overtime. If a worker did not report for weekend overtime work, it was very likely that he would be fired. In fact a number of workers had been fired for not working overtime. In 1974 a number of workers did not work overtime on one weekday. The manager immediately called a meeting, told the committee members that those workers had acted illegally, criticised the committee members for not informing him that workers were dissatisfied with overtime work and said that if workers had a grievance they should immediately call for a meeting. He then pointed out that a meeting could take at least two weeks to organise! It had been the practice of management to call a liaison committee meeting once every three months. At each of these meetings the manager had stressed the need for co-operation and close contact between himself and the workers. At an "emergency" liaison committee meeting in January of 1975 the manager announced his decision to hold a joint management-worker meeting every two months. This policy would preclude the calling of any emergency meetings in the future. The manager also stated that it was time for workers to elect a new committee, and that he would organise for the holding of a new election as soon as was possible.

In July of 1975 some African workers from Conac Engineering visited the offices of the Metal and Allied Workers' Union, an unregistered open Trade Union affiliated to the Trade Union Advisory and Co-ordinating Council (T.U.A.C.C.). After a few

weeks about one quarter of the 110 African workers employed at Conac had joined this union. A shop-steward group had been formed but consistent overtime made regular meetings very difficult. When these shop-stewards did meet they discussed their problem of overtime hours and rates, and also complained that they had not had a liaison committee meeting since the meeting in January. Workers were highly suspicious of the manager, arguing that it was he who had emphasised the importance of close contact through the liaison committee, and yet had blatantly broken his own policy. Also a number of workers had been fired for not working weekend overtime, and the workers considered these firings to be unjustified. A Union organiser pointed out to the shop-stewards that the maximum overtime hours for a working week (5 day week) as laid down in the Iron and Steel Agreement was ten hours. A company would be allowed to extract more than ten hours overtime work from its workers only if an exemption was granted by the Industrial Council. The shop-stewards decided to attempt to call a liaison committee meeting with management to discuss this issue. This was in September of 1975.

On 22nd September seven African workers were fired for not working overtime on the previous Saturday. The workers' general grievance at being forced to work overtime was exacerbated by this incident. On the same day, one of the liaison committee members received a note from the manager, announcing that a liaison committee meeting was to be held on 6th October. All the African factory workers, and the majority of the sub-contract workers held a meeting at the factory on the following morning. They instructed the liaison committee members to inform the secretary of the liaison committee, Mr. Baxter, that the workers wished to have the issue of overtime discussed at the forthcoming meeting. Mr. Baxter informed the representatives that it was time to elect a new liaison committee. He referred to the minutes of the last liaison committee meeting in January. A new committee was immediately elected.

At the liaison committee meeting the worker representatives asked the manager what overtime rates he was paying. He replied that workers were paid 7 cents more than the basic rate for all overtime work. The basic rates were between 45 and 62 cents per hour. The committee members requested permission to speak to the workers. This permission was granted. At the general meeting on that afternoon the committee members discussed the overtime rates and hours with workers. The workers instructed the committee to inform the manager that they would not be working overtime on the coming Saturday. The manager's reply was: "You can do what you like, I have already taken steps". He did not elaborate on this remark. On Saturday 11th October the majority of African workers at the factory, and about half of the sub-contract workers boycotted Saturday overtime work.

Workers believed that the manager was breaking the Industrial Council agreement apropos overtime rates and overtime hours. But their grievances also went beyond the limits of a possible illegality in this specific instance. They argued that an increase in overtime rates would not substantially alter their problems as workers. Workers said the fact of overtime work, the way it was enforced, and the distribution of overtime, amongst *all* the workers at Conac (including White, Indian and Coloured workers) could not be altered through attempted negotiation at liaison committee meetings. The power relations in the factory were such that African workers had no control over their working lives. Also the workers expressed frustration at the way in which these conditions at work directly affected their familial and social lives.

On the following Monday morning the manager summoned the committee members to his office and accused them of arranging an unauthorized meeting in his factory. His reference was to the post-committee meeting of the previous week, which he had authorized. He also told these representatives that they were not to communicate at all with the workers; a reversal of statements made at previous meetings where he emphasised the importance of contact between the

representatives and their electorate. The manager also drew attention to a notice which had been placed on the notice board on Friday of the previous week. This notice read: "Resulting from a liaison committee meeting this week the management notes that where a workman *is asked to work the weekend* (italics ours) and that man has a good reason not to do so the foreman will accept this reason and tell the workman he is not required to do so. The management does not accept excuses that are untrue nor accept a situation where a workman says he will work and does not come" (4).

From that time until the end of normal working hours, the two indunas (management appointed) from the committee moved through the factory telling workers that those who did not wish to work overtime on that afternoon need not do so, and those who did wish to work overtime should sign to that effect at the paymaster's office at the end of ordinary hours. The majority of African workers left the factory as overtime work was about to commence.

When the African workers arrived at the factory on the following morning they were met by a group of White foremen and the two indunas on the liaison committee. They were instructed to remain outside of the gates as the manager wished to talk to them. A few workers were already in the change rooms and they were ushered outside as well. When the manager arrived, the two indunas ordered workers to take their helmets off their heads and throw them on the ground. This was evidently to indicate respect for the boss. Workers ignored this sychophantic gesture. The manager then accused a few "agitators" from among the workers of creating conflict at the factory. He considered that he was good to the workers, citing as a specific example the sale of food at lunchtime to save workers a long walk to the shops. African workers had also stopped making use of these facilities, and the manager attributed this fact to the work of "agitators" as well. In fact, workers considered the quality of food to be bad, and expensive, and so had stopped using these facilities. He finally instructed workers to divide up

into two groups: Those who would accept the overtime practices and those who would not. Sixty-four workers decided not to continue working overtime under the prevailing conditions. They were instructed to wait outside the factory gates for pay-off wages. An hour later officials from the Department of Labour arrived at the factory. Shortly afterwards an induna approached the group of workers saying that the manager wanted to speak to the liaison committee representatives. These representatives said that the manager should come to speak to them personally, as he had fired them. Whether the induna misrepresented the workers' reply or whether the manager received an accurate reply but refused to comply with the workers' request is not clear, but he did not speak to them. After a while the induna reappeared and told workers that they would receive their wages sometime before lunch-hour. The reply from workers was that they would under no circumstances accept their wages as they considered the nature of the dismissal to be illegal. At this point the Department of Labour officials left the factory and one of the shop-stewards phoned the Union offices.

On arrival at the factory the Union officials and the workers discussed the events of the morning. The meeting decided that the three committee representatives (the fourth elected member of the liaison committee decided to return to work) should immediately contact the Department of Labour to report the existence of a lock-out situation at the factory as well as to demand the implementation of the Settlement of disputes procedure with the overtime issue as its object.

When the committee members arrived at the offices of the Labour Department they received an astonishing reception. They were intercepted in the corridor by an official who, on seeing the inscription on the workers' overalls, said: "You're from Conac, go away from here, you are drunk"! Directly after this incident, the union officials and the worker representatives contacted their attorney. First the officials telephoned the manager of Conac. He refused to consider negotiations and said that all

workers were fired. The attorney then phoned the divisional Inspector for Labour, Mr. Stocks, informed him of the treatment afforded by one of his officials to the committee members, and further stated that there appeared to be a lock-out situation at the factory. He called on Mr. Stocks to investigate this matter and the possible grounds for a dispute. Mr. Stocks' reply was that there was no lock-out, or dispute, and that his inspectors were investigating the possibility of a strike. He also accused the committee members of being "agitators". He then conceded that he did not have all of the "facts" and would "keep in touch" with the attorney apropos the investigations. Statements were then taken from the workers and they returned to the factory.

On arrival at the factory they found a group of Department of Labour officials and special branch agents at the factory gates. They learned that workers had been approached by these officials, questioned on what had happened and then told to go back to work. The workers refused to be drawn into an attempt at negotiation. Their question as to whether these officials had met with the committee members went unanswered. Workers also told these officials that they were unknown to the workers and any negotiation must take place with the Union. The officials replied that the Union was unable to help, because Union officials were from outside of the factory and so had nothing to do with factory problems. The workers promptly replied that the argument applied to the Labour Department as well. Finally, in the presence of the committee members the officials told workers to return on the following morning when selective re-employment would take place. The workers replied that they would only go back to work on condition that all were re-employed. They decided to discuss the issue further and moved off to hold a meeting with Union officials.

The following morning when workers arrived at the factory they were addressed by Department of Labour officials, who said they were all fired and should wait to collect their wages. No mention was made

of re-employment. An attempt by workers to meet with union officials, to discuss the situation was closely followed by the special branch agents who filmed and recorded the incident while management and Department of Labour officials looked on. All the workers then left the factory site and met at the union offices in Pietermaritzburg. The Union attorney and officials drew up affidavits from workers setting out the events leading up to and including the events of the Monday morning. Schedules setting out the excess overtime which workers had worked were also drawn up. In some cases as much as 38 hours overtime had been worked involving week-day and weekend work. The affidavits and schedules were then delivered by the attorney to the department of Labour. This was done on the Wednesday. On Wednesday workers returned to the factory and again refused to be paid off. A department of Labour official is alleged to have threatened that if they did not collect their wages and leave the area immediately then they would all "see something". Presumably this was a reminder of possible police action as had been witnessed on the Monday afternoon. Workers once again left without collecting their wages.

That evening the manager of Conac issued a statement to a meeting of the Pietermaritzburg Chamber of Industries, that there were "trouble makers" operating in the Industry and "this time they have chosen my factory" (Daily News 16/10/75). He warned members that one of them could be next. This statement was obviously intended to answer an article which appeared in the *Natal Witness* (a Pietermaritzburg newspaper) on the Tuesday morning. The reporter had interviewed workers and had also quoted from the Iron, Steel and Metallurgical Industry Agreement, specifically emphasising the issue of overtime and its voluntary status. He also quoted from a written contract between White, Indian and Coloured workers and the Conac company which stressed that overtime was voluntary. Included in the article was a statement from a Welsh artisan at Conac who said that if he had known that African workers were forced to work overtime he would have resigned. He said: "Conac is an 'open

shop' - in other words they do not hold with trade unions - I can now see why" (Natal Witness 15 October, 1975).

By now it was quite obvious that the Department of Labour officials were not prepared to assume a position independent of management and so there was no chance of workers being re-employed. All further procedures would have to be channelled through the unions' attorney. When the attorney did contact Mr. Stocks of the Department of Labour to enquire about the investigation he was told that the dispute over overtime hours was not a Department of Labour matter and was to be referred to the Industrial Council for the Iron, Steel, and Metallurgical Industries. As to the question of investigating a lock-out situation Mr. Stocks had nothing to report. The schedule indicating excessive overtime was then sent to the Industrial Council. The Unions' Durban attorney then contacted the Industrial Council requesting to know whether Conac Engineering had been granted exemptions by the Council to allow business to exceed ten hours overtime in any one working week. The Industrial Council Inspector replied that he was bound by the secrecy clause in the Industrial Conciliation Act not to disclose this information. The secrecy clause prohibits an Inspector from divulging any "trade secrets" of any company within the scope of the Council's jurisdiction. The inspector suggested that he would meet with workers in Pietermaritzburg to investigate the case. Up till the time of writing this article, no such investigation has occurred.

Union officials drew up reports of the events at Conac, detailing Department of Labour officials' treatment of worker representatives and sent these to the Secretary to the Minister of Labour, as well as to selected members of Parliament, who were requested to raise the issue in Parliament.

At the beginning of the following week the workers went to the Bantu Administration Department to apply for work. They were told to return together on the following day. On Tuesday they were addressed by an official who told them that if they did

not accept re-employment at Conac they would be endorsed out of the urban area. It is not clear whether this applied to all the workers or to a possible selection of them. A superior official then appeared. He disclaimed the previous official's threats and said that Conac workers were free to seek employment elsewhere in Pietermaritzburg and would not be endorsed out. These contradictory statements are very suggestive of behind the scenes contact between Conac Management and the state departments. We shall return to the point after considering managements position once workers had made it clear that they would not seek re-employment directly.

Clearly Conac management was anxious to maintain their rates of production. Three days after the lock-out a number of new workers were employed after arriving in a truck from the Bantu Administration Department. However, these workers were wholly unfamiliar with the work so that other workers, including Coloured and Indian workers, found themselves performing the new recruits functions. This produced the possibility of new conflicts arising in the factory: a situation which management must surely have wished to avoid. It seems likely therefore that the Bantu Administration Department was asked to direct the experienced workers back to Conac.

This strategy of managements was however in conflict with the interests of the Labour Department who did not want fired workers to be re-employed because of their membership of the Metal and Allied Workers' Union. This became clear from later statements made to the union's attorney by Mr. Stocks (see below). It seems likely therefore that the Labour Department issued a contradictory directive to the Department of Bantu Administration which would ensure that workers did not return to Conac with such ease.

After two months of non-committal statements from the Department of Labour, the Unions' attorney received a letter from Mr. Stocks stating that the Senior State Prosecutor had declined to prosecute manage-

ment for a lock-out. (On the other hand, no workers have to date been charged with striking). The attorney then arranged a meeting between Mr. Stock and the Liaison Committee representatives to discuss possible action in terms of the clause in the Bantu Labour Relations Regulation Act which affords protection against victimization for such representatives. This party was accompanied by a Union official who was to act as an interpreter. Mr. Stock ordered him to leave the room and did not call in any other interpreter. The worker representatives were thus excluded from discussion. Mr. Stock explained to the attorney that it was the policy of his department not to be of any assistance to those industrial workers who were members of unregistered Trade Unions. He said that the Union officials were all "sea-lawyers", and out to cause trouble. He then said that the Bantu Labour official for Pietermaritzburg, Mr. Smith, was performing a competent job in maintaining close contact with workers, and maintaining good relations between workers and management.

At present those workers fired from Conac are still awaiting an investigation by the Industrial Council, and their attorney is working on possible civil action against the Conac management. There has also been no reply from the Department of Labour apropos the victimization of committee members.

CONCLUSION

Before the workers at Conac came into direct conflict with management they had had no direct contact with the Department of Labour. Their first contact was when the Liaison committee representatives went to the Department's offices after workers had been fired. This conflict hardly reflected an alliance of interests. African workers in Pietermaritzburg as well as elsewhere in South Africa are by now accustomed to the practices of the Department. There are many other examples of worker-employer disputes which illustrate that Department of Labour officials have only become visible to workers when a dispute has already occurred. These examples invariably illustrate the inability of these officials to

mediate such conflict. In some cases management may be forced into a position where the Labour Department represents the only possible means of settling a dispute. In other cases they may have had the option of negotiating with the workers' union, but chose rather to call on the Department of Labour. Irrespective of such circumstances, however, it should by now be clear to management and the Department of Labour that workers are extremely reluctant to negotiate through Department officials. In practice this situation leads to a confrontation between officials and workers. Often this leads to the mobilisation of other repressive state machinery such as the police and security branch. These occurrences only reinforce workers every day political experiences.

At the level of the factory, workers are conscious of the conflict of interest between themselves and their employers. It is obvious to workers that the state and employer -sponsored works and liaison Committee system is hopelessly inadequate to mediate this structural conflict between employers and employees. Employers may believe that the liaison committee system is adequate to their interests, but the inherent tendency in this type of practice is precisely towards what happened at Conac Engineering. It is obvious that employers do not like production to be disrupted. But the alliance which employers establish with the Department of Labour, by operating the liaison committee system and by relying on the Department to settle disputes can only stimulate the tendency towards open conflict between employers and workers in the form of work stoppages and lock-out situations.

SEEING STRIKES IN PERSPECTIVE

REVIEW ARTICLE OF "THE DURBAN STRIKES 1973"

(INSTITUTE FOR INDUSTRIAL EDUCATION, 1974)

by Johann Maree

From January to March 1973 Durban was rocked by a wave of strikes by African and Indian workers. At least 160 000 workers at 146 firms went on strikes of fairly short duration lasting about two days. The average weekly wages for African workers were about R12 to R13 at the time. A group of interested people undertook a study of the strikes and matters relating to the strikes. The result of this collective work was a book jointly published by the Institute for Industrial Education and Ravan Press.

"The Durban Strikes 1973" is a book that every South African, whether White or Black, should read. It is not only a book that contains a wealth of information, but also a great deal of wisdom that South Africans would be well-advised to learn. At the same time it has shortcomings which any book that attempts to research such a topic in South Africa is bound to have. What follows below is a fairly detailed chapter by chapter investigation of the book pointing out the valuable and important findings of each chapter, but also providing criticisms of the weaknesses and inadequacies.

Chapter 1 provides a brief account of the strikes, their patterns and how they spread, the reactions of the police, press and unions and the immediate results of the strikes. An important aspect of the strikes is made clear by a distinction that Richard Hyman introduced in his book, "Strikes"¹. Hyman distinguishes between "trials of strength" and "demonstration stoppages". The former is "the industrial equivalent of war between nations" (Hyman, p. 20) while "the latter are short, and usually spontaneous in origin: the decision to stop work is often virtually spontaneous - though the

dispute will probably still centre around, or at least reflect, long-standing grievances which peaceful application has failed to remedy" (Hyman, p. 23, also quoted in "Durban Strikes", p. 43). "Durban Strikes" concludes: "it is clear that most of the strikes that we have been considering were demonstration strikes. They did not develop into a major trial of strength between the two sides. The main reason for this is probably the poverty of the workers, who simply did not have the financial reserves to stay out of work for long." (p. 43)

Other important points which also emerged about the strikes are the following: in most factories where workers went on strike the workers refused to elect negotiating teams. Two reasons are advanced for this: "Firstly, the workers did not trust management sufficiently. They considered it likely that elected committee members would be construed as agitators, and marked for later victimisation. Secondly, a work stoppage only becomes a strike when it is in aid of specific demands. Thus workers who simply stop work and wait for employers to do something about it are not technically striking. ... Apparently they felt that the protective ambiguity of this situation could be better maintained if they refused to organise themselves around a committee presenting specific demands." (pp. 39-40).

One factor that could have led to the spreading of the strikes is the fact that workers returned to their factories every day in the shorter strikes. They were thus visibly on strike and workers in nearby factories could thus have been induced by their example to go on strike as well.

Chapter 2 is valuable in casting more light on the reasons for the strikes. It comprises four sets of interviews with African workers, Indian workers, members of the White public, and a number of employers who were affected by the strikes. Of the 95 African workers interviewed about half took part in the strikes. In response to the

question "What was the aim of the strike?" 98% of all African workers interviewed replied that the aim was to get higher wages. Just under 80% of the sample said that workers tried to talk to their employers before the strikes. Of those workers who actually did go on strike this figure rises to nearly 90%. A deeper probing question, "What gave the workers the idea that a strike would help them?" was given "situational" responses. These were that all other methods had failed (17%), that it was the only effective way (24%) and that it was the result of poverty (26%). From this the authors conclude "that what was required to get the strike going was a particular situation" (p. 50) and *not* outside organisers or intimidators.

A relatively unknown fact about the Durban strikes is that Indian workers also went on strike, although it was in more limited numbers. Just over one half of the Indian workers who were interviewed said that everybody (excluding the Whites) at their firms went on strike. Where this fact was reported it was suggested that Indian workers failed to turn up because of fear. This appears to be only a half-truth because half of those workers who actually did go on strike and gave reasons for doing so said that they struck because they wanted higher wages, the other half said that they were scared of African workers. Although this evidence and further findings tempt the reader to conclude that Black worker solidarity is a reality such temptations should be treated with care. Racial stratification, ideological conditioning and vastly different legal rights do act as very real wedges between African and other Black workers.

White public opinion was remarkably sympathetic towards the Black strikers. Just under 90% of the total sample thought that African wages were too low at the time and nearly 65% thought that African workers were justified in striking!

A completely different picture of the situation is obtained from the employers. Eleven of the 19 firms interviewed, all of whom had had strikes,

the same conditions that must also create very deep feelings of resentment and frustration? By tracing out the coercive aspects operating on African workers, the host of legislation that controls virtually every aspect of their lives, the vigilance of the police and the insidious presence of the ubiquitous unknown informers, the factors that prevent African workers from going on strike could have been traced out. The question that then remains is what sparked the Durban workers to overcome all these inhibitions.

In spite of this chapter 3 contains some good solid analysis that many South Africans would do well to read carefully and digest inwardly. It analyses the agitator theory cherished by so many people and deals it a firm death-blow. The analysis includes a good conceptual framework by distinguishing between agitators, activists and influences. "By 'agitators' we shall mean people unconnected with the work-situation who organise a strike for reasons equally unconnected with the work situation. ... A classic example of an agitator in this sense would be the young Albert Hertzog, who played an important role in organising White workers into trade unions with aims which were clearly political ... By 'activist' .. we mean individuals in the work situation who take the lead in worker action, either as formal shop-stewards or as informal leaders and decision-makers. By 'influences' we mean people who played no role whatsoever in calling the strike, and had no direct influence over the strikes but whose presence, activities and words in the public arena may have had an affect on the level of consciousness or of information of the workers .." (p. 91).

The agitator theory is knocked down by pointing out the paucity of evidence which was offered (p. 103), the statement of Brigadier H.J. Shroder, Port Natal Divisional Commissioner of Police, "There was still no definite proof that agitators were behind the stoppages. Had there been we would have taken action" (S. Times 4/2/73 as quoted on p. 90), and the fact that "it seems

highly unlikely that an organisation large enough to co-ordinate the actions of nearly 100 000 workers in one hundred and fifty factories could survive undetected at the present time." (pp. 94-5).

A further analytical distinction is made in order to explain how and why the strikes occurred. A distinction is made between action taken as a result of intimidation, planned action and spontaneous mass action. Spontaneous action excludes intimidation and planned action and "occurs when a group of people subject to the same set of pressures and influences suddenly react in common to those pressures ... somebody has to be first to say 'Let's strike', but what distinguishes a spontaneous action from organised action is the way in which that idea spreads from the first person. Spontaneity occurs when each listener says 'of course, why didn't I think of that first'." (p. 92)

Although many government spokesmen and employers made allegations that intimidation played a major role in the strikes, "no real evidence was offered to back up the allegations. Despite the massive police presence at most strikes, only one case of intimidation came to court" (p. 93).

The conclusion of the authors why the strikes took place and spread are so important that they are worth quoting at length:

"Our conclusion is that the strikes were a series of spontaneous actions by workers, which spread by imitation, and that the spread was 'multiplied' by the fact that three quite independent factors happened to coincide. The first factor was the initial strike at Coronation Brick. The second factor was the existence in Durban, strategically placed in each of the major industrial areas, of a number of factories belonging to one organisation characterised by particularly low wages and bad labour relations - the Frame Group. The third factor was the rise in transport costs and the rumoured train boycott. What precisely sparked off the strike at Coronation Brick is not clear ... However, once the strikes did occur, the sight of large crowds of workers out on strike encouraged

workers in neighbouring factories, and the strikes spread geographically, road by road ... Crucial to this process was the form which the strikes took. The workers tended to strike at the plant, rather than to stay at home, and were thus concentrated and highly visible.

"The spontaneity of the strike wave was also the main reason for its success, as compared with the relative failure of mass strikes by African workers in the period of high political activity in the 1950's. When the strikes were visibly led by one group making specific demands, it was relatively easy for police action to dispose of the leadership" (pp. 99-100).

These are extremely important insights and findings, but they are open to criticism. The first is the annoying ignorance displayed about the cause of the strike at Coronation Brick. Surely it would not have been beyond the ability of the authors to conduct an inquiry from employers and workers at Coronation Brick (even if it was well after the strike took place) to establish what the points of friction and conflict were that finally caused the workers to go on strike. Instead, we are left with the lamest of accounts that has its own agitator ring about it: "it seems to have been connected in some way with the visit of Prince Goodwill to the factory" (p. 99). This irresponsible blind spot of the authors might well be responsible for the fact that many readers of the "Durban Strikes" may well come to the conclusion that the strikes must have some "other" explanation after all and in this way agitators and intimidators creep in again. People do tend to generalise from the specific to the general and if the readers had been given a detailed account of the reasons for the strike at Coronation Brick they may realise that other factories also tend to have festering sores that could burst open any moment. Instead, the same theme haunts this book: the authors do not know what the reasons were for a strike starting at a particular factory. The dynamics and details of management-labour conflict within each and every

factory remain a mystery to the authors and hence the reader as well. The preoccupation of the authors to disprove the agitator allegations and to prove that the strike wave was spontaneous unfortunately made them omit other vital aspects of the strikes. To make my point clear it is necessary to refer to a 7 week strike at Pilkingtons, the British glass corporation, in their St. Helena branches in early 1971 and the careful study of this strike by two social scientists, Tony Lane and Kenneth Roberts. They wrote a book "Strike at Pilkingtons"² based on their careful research carried out while the strike was in progress.

The strike certainly was spontaneous: it started in one department as a result of an error in wage calculations, but within 48 hours the workers were demanding an increase of 5 shillings an hour and over 8500 were out on strike. Two weeks later the union which the workers belonged to had negotiated a £3 a week increase on gross earnings, but the workers still stayed out for 5 more weeks before they finally returned to work. One feature of the strike is that a Rank and File Strike Committee evolved entirely as a result of the strike. Its formation was spontaneous and it took control of the strike three weeks after the strike commenced. Lane and Roberts made an extremely careful study of the Rank and File Strike Committee which was entirely composed of workers from Pilkingtons who were out on strike.

The point of referring to all this is because even a spontaneous mass action does require some element of organisation and leadership. Lane and Roberts put this extremely well: "For rank and file opinion to lead to decisive action it must be mobilised into an effective force; rank and file opinion must become visible and achieve some degree of social organisation. The mobilising agent may be a spontaneous movement (as when the strike began) or a leadership group ... Leadership groups themselves constantly respond to the indications that they receive regarding the state of rank and file opinion. Mass opinion is involved

in a continuous and reciprocal process of interplay with the policies and actions of leadership groups. In a strike the rank and file can never become mere puppets. But there are circumstances in which large sections of rank and file opinion can be rendered impotent. The absence of an appropriate leadership group can prevent a dormant body of opinion being mobilised as an effective force. This happened during the Pilkingtons dispute amongst those who favoured a return to work but who were not mobilised to become a visible and effective group." (Lane and Roberts, p. 108).

Thus, while conceding that the Durban strike wave was spontaneous, it is quite conceivable that some leadership and organisational patterns amongst the striking workers were emerging. Granted, the strikes were very brief in comparison with the Pilkington strike, but for workers to be mobilised into action some mobilising force is required. The most sad omission of the "Durban Strikes" is a study of the leadership and organisational patterns that most probably existed during the strikes.

Although there certainly is value in disproving the agitator theory it has the immense disadvantage that it is defensive. It is an approach that implicitly accepts the ideology of the elite, i.e. the government and the employers. The authors could have taken a more aggressive stance by refusing to use this ideological framework, but to look at strikes from the point of view of the workers instead. If they had done this, they would not have conceded that the term agitators is even applicable to workers. To call a leader of workers an agitator, whether that leader is even part of the working class or not, would sound as strange to a worker's ears as calling Mr. Voster an agitator would sound to an industrialist's ears. Alternatively, industrialists fly in experts from overseas to tell them how to utilise and control their labour force more efficiently, but these experts are not called agitators even though they are telling the employers how to behave in their own best interests. But when

workers consult outsiders how they as workers should behave in their best interests these outsiders are branded as agitators. By taking a defensive attitude and proving that there were no "agitators" the authors of "Durban Strikes" played into the hands of the workers' opponents. Another danger of this approach is that trade unionists and educationalists involved in organising and training workers in completely legitimate activities can also be branded as agitators instead of being called organisers and educationalists as they would be if they were performing the same services for the Chamber of Industries.

Chapter 4 is an interesting chapter indicating the way our politicians responded to the strikes. What stands out like a sore thumb is how shockingly out of touch some of the government spokesmen are when it comes to the labour scene. In spite of the most slender of circumstantial evidence the Minister of Labour, Mr. Marais Viljoen, even saw inciters behind the agitators, and Mr. P.R. de Jager did not even need any evidence at all: "Sir, from my knowledge that I have of that kind of Bantu, I want to say that the organisation did not come from them alone; it came from someone else" (Col. 15483, 1/5/73, as quoted on p. 104). On another occasion the same honourable Member of Parliament maintained: "I know them and I am convinced, as regards the labour done by the Bantu in Natal and the level at which they move, that they do not have it in them to come together and to agree that a thousand of them should strike. There are other influences behind those strikes. I am as convinced of this as I am of anything in the world." (Col. 90-91, 5/2/73, as quoted on p. 105).

It is clear that in their heart of hearts they knew that this was not the truth. The Prime Minister, in the no-confidence debate, asserted that: "Employers, whoever they may be, should not only see in their workers a unit producing for them so many hours of service a day. They should also see them as human beings with souls." (Col. 346,

9/2/73, as quoted on p. 106). The irony of the situation is that the government is firmly committed to maintaining a system that views workers as production units whose labour is to be bought as cheaply as possible! The action the government subsequently took also indicated that they were aware that workers had legitimate grievances. The Minister of Labour ordered new Wage Board enquiries into the lowest paid categories. Furthermore, the Bantu Labour Settlement of Disputes Act was amended to try and improve "communication" between workers and management.

Chapter 5 is entitled "Political Economy of Labour" and covers a wide range of topics. Its value lies in the fact that it manages to put across sophisticated and technical concepts in language that the layman should have no difficulty in comprehending. This is done at a cost though because some topics are oversimplified.

A major point that this chapter makes is to challenge the assertion that wages in South Africa are related to the productivity of wage earners. Strictly speaking, neo-classical economic theory, the predominant theory in capitalist societies supporting the ideology of capitalism, would maintain that wages are a measure of the marginal productivity, that is, the productivity of the last labourer employed by a firm. The authors deal with this assertion quite well. They point out, in the first place, that political factors definitely play a hand in determining wages. Secondly, there is the fact that labourers produce the final products by combining with physical capital, i.e. machinery. This immediately creates two problems that are baffling economists to this very day: the one is how to measure labour productivity when a large number of workers work at different stages in the production of the same goods, the other is that the type of machinery used and the organisational skill of management effect the productivity of the labourer. The productivity of the labourer is therefore dependent on factors completely beyond his control. For

employers and their economic theorists to argue that they cannot increase wages until labour productivity rises when they themselves are responsible for the fact that it is low is therefore a logical trick. In fact, in a situation where a powerless labour supply is in abundance it is economically rational for employers to increase employment to a point where the productivity of the last labourer employed is equal to his low wage because profits are maximised at this point.

"Durban Strikes" points out, very correctly, that "White South Africans have been so blinded by racial thinking that they have lost the ability to think historically and sociologically" (p. 139). The authors set out to rectify this defect and give an extremely good historical account of why Zulu labour in Natal is at present abundant and cheap. It rests on the same pattern observed in other regions of our country: conquest of land by Whites thereby reducing the land available to the local African tribes. The simultaneous imposition of a cash tax thus had the effect of forcing the Africans to seek cash wages. Their inadequate rural production thereupon left them with no alternative but to accept low wages.

The lesson in sociological thinking spreads over chapters 5 and 6. It concerns the legitimacy of authority. The essential argument here is that for a worker to submit himself to the authority of his employer by working for the employer, he has to accept the legitimacy of the system that makes him work for an employer. This legitimation of authority comes about voluntarily if the worker thinks he is receiving a fair wage for his labour and takes a part in the decision-making of his society by becoming integrated into the new social order. "But in South Africa this has not happened. African workers are still essentially excluded from the society, and therefore to a considerable extent still refuse to recognise the legitimacy of their employers. Thus they still tend to practice ... a 'conscientious withdrawal of efficiency'." (p. 143). This "conscientious withdrawal of efficiency" is a form of private