

SOUTH AFRICAN LABOUR BULLETIN



Vol. 8 No. 1
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Editorial Board

Cape Town:

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**Charles Meth
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Johannesburg:

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**The views expressed in the articles are not necessarily those of the editorial board.
All contributions, comments and correspondence should be addressed to:**

**The South African Labour Bulletin
4 Central Court, P.O. Box 18109
125 Gale Street, Dalbridge
Durban 4001 Durban 4014**

SALB Publication guidelines

The South African Labour Bulletin is a journal which supports the independent labour movement in South Africa. It is a forum for analysing, debating and recording the aims and activities of this movement. To this end, it requires contributors to the Bulletin to conform with the following publication guidelines:

- Constructive criticism of unions or federations in the independent labour movement is welcome. However, articles with unwarranted attacks or of a sectarian nature which have a divisive effect on the labour movement will not be published.
- Contributions to the Bulletin must not exceed the following lengths:

Analytical articles	8000 words
Debates, reviews, Documents	3000 words
Briefings	800 words
- Contributions must be written in language which is clear and understandable.
- All contributions to the Bulletin must be typed and where applicable include proper footnoting and references.
- Except in the case of public documents, all submissions to the Bulletin will be treated in confidence.

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Introduction

Testing the Mettle

There is a two fold focus in this edition: the continuing surge of working class militancy and the continuing debates over appropriate independent trade union responses to the initiatives of the state.

More than 10 000 motor workers went on strike, closing down three large plants. Wage negotiations deadlocked. When the employers and the S.A. Iron and Steel and Allied Industries Union (white) opted for arbitration, NAAWU withdrew from the Industrial Council. This has occurred at a time when other unions are debating issues around industry wide bargaining. In this edition we print a speech given by John Copelyn of the National Union of Textile Workers (NUTW), in which he outlines the basic principles which cannot be compromised and which would determine the basis of entry of independent unions into Industrial Councils.

We also print a resolution on Industrial Councils passed by the FOSATU Central Committee. Nadia Hartman in a study of the Industrial Council for the Bakery Industry, argues that participation of established unions in this structure has furthered a process of union bureaucratisation, and acts as a barrier to trade union democracy.

These contributions will, we hope, stimulate debate around issues which have such a vital bearing on the development of the independent unions in South Africa, unions which are still at an early formative stage.

The independent unions are having to make these crucial decisions in the context of intensive repression. Some have argued that the repression spells an end to industrial relations procedures. The political question has to be faced more directly.

Also included are the replies of Duncan Innes and Bob Fine to the critics of their analysis of trade unions and the state. (See SALB Vol 7 Nos 1-2, replies in Vol 7 No 3). We will accept responses to specific points raised in these replies but will close the debate with these responses. (Responses should not be longer than the replies of Fine and Innes) .

There is a feature all our reports on recent strikes have in common: the direct and repressive intervention of the police on the side of management. Workers in Northern Natal charged under the Intimidation Act, tear gas and dogs dispersing the Sundumbili strikers, the massive intervention of police in the David Whitehead strike, and again worker leaders charged under the

Intimidation Act, the severe harassment of GWU railway workers. Some independent unions have accused management of 'union bashing' tactics - the reliance on police, victimisation of worker leadership which takes the form of retrenchments deemed necessary because of the downturn in the economy.

Fanie Botha, Minister of Manpower, is presently visiting the major industrial areas discussing labour issues with management. He warned employers not to 'bow backwards to the dictates of outsiders and militants'.

These trends give some insight into the social fabric of 'industrial relations' in the post Wiehahn period. The mettle of the independent unions is again tested in the fire.

Bulletin Evaluation

At our annual general meeting held in Johannesburg in July, we agreed that the Bulletin should reach a wider range of readers. In particular, we think it should be directed more towards workers in the trade union movement. At the same time, we want to retain our present readers. The Bulletin has therefore decided to make some changes which, we hope, will make it more interesting and accessible to worker readers, while still keeping space for, and encouraging, debate of a more academic kind. In future contributions to the Bulletin will be divided into various categories, and we hope to have a mixture of contributions from all categories in each Bulletin.

There will be

Analytical articles (up to 20 Bulletin pages each), which are detailed and well-researched.

Debate, which includes contributions which present particular points of view or responses to other articles published in the Bulletin.

Documents, such as statements issued by unions and other institutions, speeches and so on.

Briefings, which are short accounts of contemporary events, including contributions from our correspondents in various centres.

Book reviews.

Documents, Briefings and Reviews should not be longer than 8 Bulletin pages each. All contributions should, where possible, be written in language which is widely accessible.

We are publishing in this and future Bulletins, Publication Guidelines which set out the requirements to be met by contributions in each category

(see inside cover). We welcome comments from readers on all aspects of the Bulletin, and particularly on the changes we are introducing.

SALB Resolutions

That the SALB editorial Board

Noting

- i) The current attempts to establish greater unity within the labour movement;
- ii) the crucial importance of critical but committed intellectual support for this movement;
- iii) the role the SALB has played since 1974 in recording, analysing and providing a forum for debate about the aims and structures of this movement,

reconfirms

its non-sectarian support for this movement in South Africa and, in particular, the principles of

- i) non-racialism in theory and practice;
- ii) worker control both within the workers' movement and at the workplace;
- iii) the primacy of shop floor organisation;
- iv) the struggle for full political rights in the workplace and society as a whole.

Tribute to Merle Favis

Merle Favis became editor of the SALB over three years ago. She had completed her honours degree in Industrial Sociology in May 1979 and had written her dissertation on the Wiehahn Commission Report. It was at a time when State policy towards black trade unions was undergoing important change - change reflected in the tactical debates inside the unions. It was also a time of growing worker militancy. With her background, Merle was

well placed to respond to this challenge, being able to direct the Bulletin towards providing a forum for debating crucial issues, such as the arguments for and against registration.

Controversial struggles inside the movement such as the Ford dispute in late '79 were sensitively and comprehensively covered. Merle initiated the highly successful strike series (Vol.6 Nos.5,6 & 7) covering in depth strikes in 1980 among meat, cotton, media and municipal workers.

It was a difficult period of transition in the emerging labour movement - Merle recognised the importance of unity but left the Bulletin before it was achieved. She was editor when the Bulletin increasingly came to reflect the tensions inside the labour movement. At a time when loyalty to particular positions was asserted as paramount she defended fiercely the non-sectarian role of the Bulletin. We as editors are indebted to her for helping us develop the principles to which we are now publicly committed (See statement on principles in this edition).

Perhaps Merle's major achievement was to produce the SALB on time at the correct intervals, no easy task when one relies on voluntary contributions from people with pressing commitments, spread all over South Africa and beyond. She showed remarkable skill and determination in bringing out editions throughout the crises that are part of working in the labour movement.

Often torn between a university-based editorial board with its jargon and footnotes, and the day-to-day issues of workers struggle, Merle, through her commitment and willingness to make personal sacrifice became an example of the role an intellectual can play within the worker movement.

She has expressed a desire to continue similar work. As editor she has developed considerable skill, experience and knowledge of labour. The Editorial Board wishes her well.

The "smiling face of capitalism"

THE strike of about 1500 workers at David Whitehead and Sons (S.A.) Ltc (hereafter DWS) in Tongaat, Natal was one of many that have occurred in the Textile industry and elsewhere recently. The stoppage from July 1-5 was not particularly remarkable for its length or for the numbers involved but it did raise very important issues for the unions and workers generally.

Two central issues emerged:

- The fundamental imbalance of power in the collective bargaining process that arises out of the effective denial of the right to strike in South Africa.
- A clear indication that the large corporations in South Africa, are prepared to use their power and sophistication against unions and workers with to little regard for the long-run costs of their actions.

Collective Bargaining on the Company's Terms

The first issue is illustrated by the wage negotiations between NUTW and DWS prior to July 1. What emerged clearly was that collective bargaining for the company stopped when the union and its members were opposed to what the company wanted to achieve in the negotiations.

The buildup to the wage negotiations was extensive and the NUTW and DWS management had had a great deal of contact by the time the negotiations started.

The aim of the union was to simplify issues, to achieve a fair across-the-board increase for all and to raise the low minimum wages from 78 cents per hour (88c.p.h. with the housing allowance included) to 118c.p.h. (or 128c.p.h. with housing allowance). The union was also concerned to eliminate the male/female wage differential that existed at the company.

The company's approach was to deal with a number of issues in this first round of wage negotiations. They insisted on the inclusion of one issue in particular despite repeated warnings by the union that the matter should be delayed otherwise there was likely to be a strike.

The company had a few years earlier introduced a so-called housing allowance whereby non-staff categories of workers received R20 per month and staff were given either R100 per month or 25% of the basic wage, whichever was the lesser amount. In fact, all except one sub-grade in the staff categories received R100 per month. This allowance and in particular the wide discrepancy, continued to be the source of considerable discontent.

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The negotiations involved complex attempts at compromise - the final position was a basic disagreement on the question of the incorporation of the housing allowance into the basic wage.

The advantages and disadvantages of this were complex. The position reached, however, by June 30 was that workers were implacably opposed to the principle and, as a result, were also rejecting the basic wage increases. The company insisted on the principle and stated on a number of occasions that they would sit through a strike if forced to.

A clear confrontation had emerged over the principle as in pure cost terms the difference between the parties was reducible to a few percentage points of the total wage bill.

In the face of all this workers had recourse to what should be their strength in any collective bargaining situation - they stopped work on July 1.

The Strike

The train of events of the next four days followed the familiar strike pattern in South Africa.

From the outset the worker becomes a criminal no matter how just his case. The company enjoys the full protection, sanction and support of the police and the repressive laws that govern our lives in South Africa. DWS enjoyed the very considerable advantage of the use of the Tongaat Group para-military Security service which did everything the police could do without the company having to explicitly call in the police.

However, the police also appeared in large numbers. On the first afternoon some 1000 workers were walking peacefully to a meeting place - there just aren't enough buses available in Tongaat to bus that many workers and in any event the cost would be prohibitive - when the police tear-gassed the leading group.

During the next few days the police were a massive and constant presence. On the Friday five workers were arrested and charged under the new Intimidation Act. Buses were escorted by the police directly into the factory. Certain managers and certain supervisors swept far and wide in the Indian townships "encouraging willing workers to return to work under police escort".

On the morning of the fifth day these combined pressures, which relied heavily on racially dividing Indian and African workers, had broken the strike. By 8 a.m. all workers remaining outside the factory decided to return

to work little expecting what they were to encounter.

The Crack-down

The police - who had previously laughed and joked as they enjoyed the hospitality of a hot breakfast from the company whilst workers stood in the rain outside - now more or less withdrew and Tongaat Security took over.

Workers were herded onto a large field in the factory premises and told to come and sign off. At first workers resisted doing this and about 30 of them literally broke out. However, as the day wore on, workers eventually succumbed and went up one by one to where departmental managers and supervisors either re-employed or finally dismissed.

Somewhere between 130 and 150 workers, including 8 shop stewards, were told that they were dismissed since there were no longer any vacancies for them. Nearly all those dismissed were African and of the handful of Indians dismissed, one had 14 years service and the other 11 years.

But the crack-down was to be even more thorough-going. Workers had to sign a new contract of employment on the spot. Only a labour lawyer could see through all the subtle devices whereby workers now had to sign away rights previously enjoyed by them either by virtue of general statutory provisions or through earlier union negotiations.

In short the contract ensured that: the housing allowance was now incorporated into the basic wage; the annual bonus was payable only at the discretion of the company, overtime was no longer voluntary and the company could work short-time at its discretion without any legal obligation to its workers to provide work.

This was clearly pre-planned and ensured that any previously existing areas of freedom for workers, arising from the fact that they did not have signed contracts of employment, were eliminated.

On July 6 the next step emerged when an apparently organised and concerted campaign took place to require workers to resign from the NUTW. Pro forma resignation forms were handed out in the supervisors' instruction book and during working time supervisors and others acting on their instructions went around requesting workers to sign the forms.

At this stage the union began to prepare a legal action to stop this violation of section 78 of the Labour Relations Act and to declare the alleged dismissal of its 8 shop stewards (out of 16) as invalid being a violation of the agreement between the company and NUTW.

In response the company's personnel manager submitted to NUTW lists of

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those who had allegedly resigned. There were 614 names on the list but it appeared that the campaign had been so effective that some 81 persons had resigned from NUTW even though they were not members of the union.

However, this left some 720 members in the factory and it was quite apparent that the union still enjoyed considerable support and that the majority of the so-called resignations were prepared to remain as members. The company had effectively lost that round. Later all workers who did not strike got a personal letter from the managing director of Tongaat Textiles thanking them and pointing out that those who had, had lost service and been re-employed at lower wage notches.

At this stage (Aug 20) the company is refusing to talk to the union. The court case is set for Sept 20 and 21. Two very important issues will have to be decided on:

- the right of workers to have a dismissal declared invalid if it is in violation of a provision of a recognition agreement;
- the legal status of the recognition agreements signed outside the provisions of the Labour Relations Act.

The company's defence in the court action has been that the recognition agreement signed between DWS and NUTW cannot be binding in law and even if it can be, it was not the company's intention that it be binding. The fact that negotiations took nearly 6 months, that the company took legal advice and that the agreement was ratified by their Board nonetheless leads the company to now argue that the agreement is nothing other than a gentleman's agreement.

The "Smiling face of Capitalism".

DWS is a subsidiary of Tongaat Textiles Ltd, which is a subsidiary of the Tongaat / Hulett Group, whose chairman is Mr. Chris Saunders. There is also a substantial link, if not a controlling one, with the Anglo American Corporation. This pedigree must surely qualify for that epithet - the "smiling face of capitalism".

Yet in the case of the DWS strike one sees a close identity between company and police in breaking the strike, the use of racial divisions, sophisticated changes in working conditions and finally a complete disregard of the massive implications to labour relations of attempting to undercut the legal basis of recognition agreements.

If these so-called progressive corporations want to retain that image and thereby secure a future for capitalism in South Africa it appears they will

have to do some drastic re-thinking. In any event for a great many workers all their future efforts will be in vain.

NUTW, Dbn., Aug. 20

Footnote:

At the time of going to press the Company and the NUTW had entered settlement negotiations which it is hoped will re-establish a working relationship between DWS and NUTW. However, this has been at considerable cost to both parties and reinforces the message of the briefing - the large corporations should consider some of their actions very carefully and further reform in the strike legislation is essential to stable labour relations.

NUTW, Sept. 13.

Pensions Strikes again

A PENSION panic again gripped Natal in a sequel to last year's wave of strikes sparked off country-wide by the proposed pensions 'freeze' Bill.

Renewed worker concern for their pension contributions led to strikes at two Durban factories and to a near general strike in the Richards Bay area over June and July involving well over 3000 workers.

Although the draft Pensions Preservation Bill was dropped last year as a direct result of worker pressure, an address by Finance Minister, Mr. Owen Horwood, to the annual meeting of the Association of Pension and Provident Funds in Durban at the end of May sparked off widespread worker fears that the government planned to re-introduce it.

In the speech, Horwood said he had instructed the Registrar of Financial Institutions to discuss measures in last year's Bill, 'which need not be deferred' and to draft legislation 'as soon as possible'.

Workers had interpreted reports of the speech in a local Zulu newspaper as meaning that the government was planning to re-introduce the controversial Bill and 'freeze' their pension contributions. (Horwood and the Registrar of Pensions later adamantly denied this was the government's intention - but local employers said Horwood's speech was 'a bungle' and criticised him for raising the 'sensitive' issue of pensions in Natal).

Short stoppages were experienced in many industries in Natal as workers issued renewed demands for the repayment of their pension contributions but the first major strike was at the Romatex subsidiary, Van Dyck carpet factory in Durban on June 3.

About 800 Van Dyck workers stopped work on June 3 demanding immediate

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repayment of their pension fund contributions. Management offered to discuss the issue at a Romatex group meeting on June 17 but this was rejected by workers as a delaying tactic.

The company then issued a deadline notice which said workers who had not returned to work by 9 a m the next morning 'will be considered to have declared they no longer want their jobs'. The notice also said that workers could resign from the company to get their pension money - which would take six weeks to be paid out - but they would lose their long service benefits. Workers who resigned would still be 'eligible for re-employment' but there was no guarantee that they would all be re-employed.

On June 4 the branch secretary of the S.A. Allied Workers Union (Saawu), Isaac Ngcobo - who had been involved in negotiations with management - had tried to persuade workers to go back to work and wait for the group meeting but workers insisted that they wanted their pension money before they returned. After the company extended the deadline, workers discussed the issue with their worker committee and decided to return to work but said they would strike again if the pensions issue was not resolved.

The Romatex group have held talks with worker representatives from the different factories on the pensions issue but at this stage there has been no formal agreement. Saawu has not been recognised by Van Dyck and, although it was allowed to participate in management talks during the strike, it has not been invited to the subsequent meetings on pensions.

Ten days after the Van Dyck workers returned to work about 500 workers at the Richards Bay Coal Terminal demanded management refund their pension fund contributions. An organiser for the FOSATU-affiliated Transport and General Workers Union (TGWU) which represents the workers said Horwood's address had sparked off the strike.

At 12 p m that night the strike spread to Alusaf where 1700 workers (members of the FOSATU-affiliated Metal and Allied Workers Union (MAWU) staged a sit-in around two demands - the transference of the pension fund moneys from the Seifsa-controlled metal industries' pension fund to a private fund and that their wages be increased to a minimum of R2 an hour. The wage demand amounted to a rejection of the increases agreed on a month before in the metal industries' Industrial Council - the council had settled on a R1,36 minimum.

The company called in the riot squad to disperse the workers and a number were treated at the local hospital after being bitten by dogs.

Although the workers' sit-in had been sparked off by Horwood's address

the pension problem at Alusaf stretches back to last year's pension strikes. On Sept 30 1981, workers raised two problems they had with the metal industries' pension fund to which they were obliged to contribute as a condition of service. The first was that the retirement age of 65 was too high and more seriously the fund's preservation clause.

The metal industries' pension fund's preservation clause had much the same effect as the government's 'freeze' Bill in that workers were not able to draw their pension money until they reached retirement. Although the subsequent dropping of the Bill did not affect this clause, continued worker pressure has forced Seifsa to amend it to allow a worker to draw his contribution six months after leaving his employment but only if he is not re-employed in another metal factory during that time.

On Oct 15 Alusaf workers clarified their position further and pointed out to management that they were not opposed to the principle of a pension fund but they wanted a say in the administration and investment of their contributions. Management's response was that they were legally bound to the rules of the fund.

Early this year five workers, while visiting the Johannesburg head office of the fund, were advised by the general secretary of the S.A. Boilermakers' Society to join Alusaf's in-company Old Mutual Fund for white employees. This demand was presented to management on Feb 5.

By now the workers had spent months submitting proposals on the pension fund and making their views clear to management but nothing had changed.

At meetings in April and May the workers raised the wage demand and submitted a petition to management supporting their demands. By June 15 their patience had run out. The workers felt they had no alternative but to down tools.

Management at both Alusaf and the Coal Terminal immediately took a hard-line stance and issued notices declaring that the striking workers had dismissed themselves.

Riot police continually patrolled the townships and workers, gathered outside the Esikhawini hostels, had tear gas thrown at them. The police continued to threaten to disperse the workers and finally got the magistrates of both Mtunzini and Empangeni to ban public meetings over the weekend.

During the weekend about 300 construction workers at the Coal Terminal downed tools when D & H construction refused to re-employ 15 dismissed colleagues - the number of strikers was growing. By the end of the weekend

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picketing in the Enseleni township, north of Richards Bay, prevented buses leaving and workers staged a general stay-away in support of the strikers. Construction sites in the area reported a 100 percent stay-away involving more than 1 500 workers.

On Monday June 22, 47 D & H workers appeared in an Empangeni magistrates court where they pleaded guilty to attending an illegal gathering - they had been picked up by the Railway's police on Saturday while discussing whether they should continue the strike, although they had been unaware of the ban on all public meetings. The workers were fined R30 (or 30 days). All the D & H workers were taken back by the company except the 15 workers dismissed before the strike.

Meanwhile, in Durban, about 200 workers at Non Ferrous Metal Works downed tools demanding the repayment of their pension money - this Isipingo plant is also a member of the metal industries' pension fund. Saawu attempted to negotiate for its members at the plant but management refused to deal with the union because it was unregistered. The workers were all dismissed and a completely new workforce was hired.

In Richards Bay, by the end of the week, construction workers had begun to drift back to work. The Alusaf strikers, at a report back meeting, resolved not to return until after a meeting with metal industries' pension fund officials which had been arranged for July 13. Coal Terminal workers also elected to continue their strike.

The meeting with metal industries' pension fund officials, though, did not resolve the dispute. It became increasingly clear that the company had made little attempt to seek out a solution to workers' problems with the fund. The managing director, Danie van Vuuren, insisted that although it was possible to get an exemption from the pension fund the company was not prepared to do so before a new pension fund had been thoroughly investigated.

Workers remained united in their stand to continue the strike but by the end of the month attempts to stop 'scab labour' became more difficult. The company reported it had employed about 200 new workers and a few previous employees had trickled back. The riot police during this time had harassed shop stewards and union organisers and to date about 20 workers including shop stewards have been charged under the new Intimidation Act - a final trial date has not yet been set. Two senior Alusaf shop stewards had even been picked up by the police on company premises after a meeting with management.

As the deadlock between the company and the FOSATU unions continued, the federation's general secretary, Joe Foster, MAWU's general secretary, David Sebabi and FOSATU's Natal regional secretary, John Mawbey, were called on to intervene. Meetings were arranged with Alusaf and Richards Bay Coal Terminal for June 30 and 31.

At the meeting Richards Bay Coal Terminal agreed to re-employ all the strikers and also said that negotiations could begin towards recognition of the TGWU after which it was agreed the pensions issue would be discussed. The workers accepted this and returned to work on July 5. They were all re-employed including the shop stewards and workers charged with intimidation. Negotiations over recognition have begun.

But, Alusaf management refused to budge from their earlier position. A memorandum discussed at the meeting with FOSATU office bearers and shop stewards said the company was prepared to re-employ workers where their positions were still available - management were adamant in their refusal to dismiss the 'scab' labour. Management also said they would not re-employ those 'guilty of serious misconduct or criminal activity'. But, they agreed to give priority to those workers they were not able to re-employ when the vacancies became available. They undertook 'to continue investigations into the metal industries pension fund in order to find a mutually acceptable fund'.

At a report back meeting on July 9 workers decided to return to work.

Shortly before going to press, Alusaf had gone back on their agreement and had started to hire workers from outside the gate - management had previously said they would inform the union of any vacancies. As yet the majority of the shop stewards have not been taken back and about 300 workers have not been re-employed.

I. BISSELL, Dbn., Aug 23

NUTW sews up Hammarsdale

TWO recent strikes in the Hammarsdale 'border' area in Natal have demonstrated the major consolidation of the National Union of Textile Workers' position in the area.

Since the union opened an office in July last year it has broken the 7000 mark with majority membership in all 15 Hammarsdale Textile Clothing and Knitting factories. Its organising in the area has not been all plain sailing as a number of managements have taken a tough attitude towards the FOSATU

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affiliated union.

Earlier this year Progress Knitting mills management agreed to give stop order facilities but refused to grant further rights until the Textile Yarn Fabric Manufacturers' Employers Association (TYFMA) agreed.

In May, Progress management fired two workers for alleged 'low production' setting off a strike by an entire department of 28 who demanded the re-instatement of the workers. They returned to work after a short stoppage to find that management had fired another six for being 'trouble makers'.

The workers decided to send a delegation to management to discuss the dismissals which they felt were 'grossly unfair' but were told that 'the management reserved the right to hire and fire'. While the delegation reported back to workers the police were called in by the company to arrest two of the delegation.

Beauty Mdladla was later released but James Ntshingila (a senior shop steward) spent the weekend in police custody and appeared in Camperdown court, charged with inciting other workers to strike. (1)

On Tuesday May 5 the entire workforce of 1 500 workers refused to start work until the six workers had been re-instated. Obed Zuma, NUTW's general secretary, had approached the company to negotiate on behalf of the workers, the majority already belonged to the union, but had been told that management was only prepared to negotiate with the workers. Workers refused to succumb to this and continued to press management to negotiate with the union.

The next day, Progress affixed a notice to the main gate of the factory stating that all the workers in nine departments - all in the vicinity of the department which had initially downed tools - had been discharged because of their involvement in an 'illegal strike'. The workers rejected the dismissals.

On Friday May 7 the strikers decided to go to the factory and collect their wages. In order to pre-empt any police involvement in a march by the workers from their nearby Mpumalanga township to Hammarsdale, the union decided to bus the strikers to the factory. At the factory, management tried to divide the workers into two groups - those from the nine departments who would be paid off and the rest who would be paid their normal weekly wages. As soon as this was discovered the 'discharged' workers elected not to collect their pay and were bused back to the township.

The strike dragged on with Progress continuing in their refusal to

negotiate with NUTW. Finally, on May 12 the department of Manpower intervened on its own initiative and obtained from the company a written undertaking to meet the union provided workers returned to work. The company further undertook to accept all the strikers back without break in service. On this news the strikers decided to return to work.

At the later meetings between the union and Progress, the company agreed to recognise the union's shop stewards and negotiate with the union on house issues. Shop stewards have since been elected, and the union has been fully recognised by Progress.

More recently, about 1 000 workers at Dano Textile Industries downed tools on July 9 following the firing of a loom tuner after an argument with a factory manager. The workers demanded his re-instatement and recognition of NUTW. Management gave them until 9 am on Monday July 13 to return otherwise 'they will be considered to have dismissed themselves'.

The strike again highlighted the low wages paid in 'border' industrial areas. In a meeting one perceptive worker said the factory, which had originally been in Pinetown but had closed down and moved to Hammarsdale, had moved 'because it was a rural area where people do not know much about machines so they could be paid rural wages. But now we have had training but we are still paid rural wages'.

NUTW had approached Dano for recognition shortly before the strike broke but the company had avoided an introductory meeting saying it required written requests, copies of constitutions and names of people proposed to attend. The correspondence was rapidly brought to a head by the strike and a date was set for a meeting on Friday July 16.

The company busied itself for the whole week, trying to hire scabs and attract individuals to break the strike but without success. At the meeting of July 16, the company played its trump card. They told the union they proposed to cut back on staff due to 'production problems' which would affect 300 employees. They added that they were prepared to discuss the question of union recognition once the strike was over provided the union was then representative. In the meantime they insisted that the workers had terminated their contracts and suggested that they collect their wage packets.

In a report back meeting in Mpumalanga, workers withdrew their demand for the reinstatement of the dismissed worker since he stated he longer wanted to work there, but they insisted that they would not return to work unless they were all re-instated and the union recognised.

In the second week of the strike, with the number of 'scabs' still

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insignificant, another meeting was held between NUTW and Dano where the company cut its retrenchment figure to 70 and undertook not to take on any new workers before taking back all the retrenched workers; it also agreed to negotiate a recognition agreement with the union without delay. Workers on the strength of this declared an 'uneasy truce' and decided to return to work.

Recently Dano distributed a pamphlet to workers informing them of their right to join a trade union and that the company would not interfere. Dano also re-instated workers' service allowance which had been taken away during the strike. The company is presently processing stop order forms and has begun negotiations towards recognition of NUTW.

I. BISSELL, Dbn., Aug 23

Footnote:

1 The case against him was finally dropped and union is taking legal action against the police for holding him for longer than 48 hours without laying a charge.

OK workers push out personnel officer

A TOTAL work stoppage occurred at OK Bazaars KwaMashu, near Durban, closing the shop doors for five hours. This resulted in the removal of the personnel officer and the reinstatement of two retrenched workers.

There has been much dissatisfaction amongst workers at OK KwaMashu over a number of issues, mainly surrounding the actions of the Personnel Officer. On July 12 two salesmen were retrenched. On the morning of July 14 instead of starting work, the total workforce of about 100 went into the canteen and demanded to speak with senior management.

At 10 am two members of senior management arrived and met with worker representatives. A list of grievances was presented. This included grievances about having to start work early without being paid for it, the problem of being unregistered workers and included demands for the removal of the personnel officer and the reinstatement of the retrenched workers.

Negotiations continued until 1 pm, when management agreed to remove the personnel officer, to reinstate the two retrenched workers and to take action over the other grievances. Work then started.

However the workers at OK KwaMashu still have no effective channels of communication because of management's refusal to recognise shop stewards.

This is in line with OK Bazaars group policy of non recognition of shop stewards. As workers at OK KwaMashu have stated "This is a great danger and could lead to another strike". As with most large shopping chains, OK Bazaars is foisting liaison committees on their workers, which workers at OK KwaMashu reject describing them as "employer bodies whose representatives are trained by management, therefore we have no faith in them".

CCAWUSA, Dbn., Aug.

Motor manufacturers attempt to break union

IN the wake of the pay dispute by about 13 000 East Cape motor workers, there is mounting evidence that South Africa's major motor manufacturers are attempting to control the powerful National Automobile and Allied Workers Union (NAAWU) which represents the majority of motor workers in the Eastern Cape and Border areas.

Workers in non-unionised firms or firms with weak union membership, particularly on the Reef, have been given large pay increases while demands in unionised firms have been "firmly rejected" by management.

It is believed the Reef firms are attempting to squeeze out the union by awarding high pay rises to show that workers "don't need a union to get better wages". At the same time, in areas where the union is strong, employers are taking a tough stand to curb the power of the union.

The union represents workers at Toyota, Sigma, BMW, Datsun-Nissan, Ford, General Motors, Car Distributors Assembly, Volkswagen and Leyland. But membership and shop steward structures differ considerably.

In the Eastern Cape - where the union has traditionally been strongest with a large membership and developed shop steward structures - employers have adopted their toughest stand in wage negotiations in the past six years.

- Ford, General Motors and Volkswagen - the three employers on the Industrial Council (IC) for the Motor Manufacturing Industry in the Eastern Cape - are refusing to move from their offer of a 7,5 per cent increase in basic pay - from R2 an hour to R2,15 an hour. The union is demanding R2,50 an hour, rising 25 cents every six months to R3,25. The IC declared an official dispute at the end of July.

- At Car Distributors' Assembly in East London management came up with the same pay offer made by three Port Elizabeth motor firms - a R2,15 an hour minimum. (CDA is not a member of the East Cape motor manufacturer's IC and has an in-plant recognition agreement with NAAWU).

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- And at Sigma, where NAAWU has more than half the workers signed up with elected shop stewards in the plant, the firm increased minimum pay from R1,60 to only R1,91 an hour this year - an 18 per cent increase.

But at two other Pretoria motor firms - Datsun-Nissan and BMW - where membership is low and the unions are struggling to build up membership - employers have awarded high pay increases.

- At Datsun-Nissan, wages have increased from 90c an hour at the end of 1980 to R2 an hour in 1982 - a massive increase of 122 per cent.

- At BMW, where the union is not recognised and wages are discussed on an "Employee Council", minimum pay has increased from R1,80 to R2,30 an hour this year. This makes BMW the highest paying motor worker employer in the country, a position of which it is proud.

- At Toyota in Durban, NAAWU is growing with more than a quarter of the 4500 workers signed up and the union has recognised shop stewards and grievance procedures for members. The firm retains a liaison committee for the non-unionised members. When unions submitted wage demands similar to those presented in the Eastern Cape, Toyota said it was not prepared to enter negotiations over pay. Toyota subsequently awarded a pay rise from R1,75 to R2 an hour through the liaison committee.

Reef employers have denied they are paying out high increases to keep the union out in areas where it is attempting to build up membership. They said the motor industry on the Rand has had to catch up on a backlog of lower wages compared to the Eastern Cape. Having invested considerable sums to train workers for assembly line production, they are now in a better position to award higher pay. This would also help to "stabilise the workforce".

A spokesman for BMW, which is paying the highest wages in the industry, said their workers did not "see the need for a union". "We believe we have an internal mechanism to handle labour situations satisfactorily But we are not paying higher wages to keep the unions out, we are paying higher wages for the work done. The fact that the union is finding it difficult (to organise) is not our fault".

A spokesman for Sigma, S. Lemmer, denied the firm had lowered pay rises since NAAWU has strengthened on the shop floor to contain its membership.

However, it is believed that motor employers are co-ordinating strategy to control the union through the Automobile Manufacturers Employers' Organisation (AMEO). A spokesman for the organisation said AMEO did not

discuss wages and it was "not a good deduction" that there was a move to control the union nationwide.

"Obviously there has been an effort to bring wages closer together but how organised that was I'm not in a position to comment".

"At this stage, it (AMEO) is really a co-ordinating body to exchange information in general", he said.

NAAWU's national secretary, Fred Sauls, said the union had noted the trend to control the union in the past year. "The union has analysed employer strategies in order to counter them for the benefit of our members".

At a FOSATU central committee meeting last month, FOSATU condemned employers "for offering the pittance they have despite the record sales for the past two years".

And they added that it was clear that employers were co-ordinating on a national basis in an effort to check and even break the union.

B. GARDINER, P.E., July 24

NAAWU withdraws from IC

NAAWU membership of the Industrial Council for the Motor Manufacturing Industry in the Eastern Cape has often been seen as a matter of principle - rather than as a strategy in the bargaining process.

With this misconception, NAAWU's withdrawal from the council was widely perceived as a change in stance. However, the union has made it clear that its withdrawal was due to the specific direction negotiations in the council were taking.

When deadlock was reached on the issue of a minimum wage, NAAWU indicated it was prepared to have the issue go to mediation. However, the employers and the S.A. Iron Steel and Allied Industrial Union (white) opted for arbitration - and NAAWU withdrew from the council.

NAAWU's membership had mandated the negotiating team to withdraw in the event of the dispute going to arbitration as this would remove control of the situation from the hands of the parties concerned.

Throughout the talks in the IC the employers maintained a rigid stance and offered little compromise, increasing their original offer by 5 cents to bring their offer for a minimum hourly wage for current employees to R2.20.

NAAWU, on the other hand, dropped its demand for a minimum hourly wage of R3.50 to R2.50 increasing by 25 cents every six months of the two year agreement.

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From the time NAAWU first made its demands public, there were dire warnings that such a wage increase would lead to the collapse of the Eastern Cape economy. Industrialists outside the Auto Industry voiced fears that their employees would expect similar wages, which they said they could not afford. The auto manufacturers claimed they would have to increase the price of passenger vehicles by as much as R1 000.

More than 10 000 NAAWU members went on strike on July 15 when talks reached deadlock. The following day the three companies closed their plants, insisting that NAAWU representatives on the council give them an assurance that the union's members would return to work. They indicated that until they had received this assurance wage negotiations could not continue and the plants would remain closed.

NAAWU's negotiating team refused to negotiate a return to work and wage talks continued.

After the plant's re-opening and deadlock in the talks continued, workers launched their own strategy to pressurise their employers. The following weeks saw a series of work stoppages, walk outs and go-slows.

When NAAWU withdrew from the council, workers had indicated they now favoured individual in-plant bargaining. The employers are currently attempting to get the union to agree to negotiate with the Eastern Province Automobile Manufacturers Association instead of individually.

The IC continues to operate with Iron and Steel representing only about 2 000 white workers. While Iron and Steel has said it is not satisfied with the employers offer, with NAAWU's withdrawal it appears likely they will reach agreement.

The divided loyalties of Ford workers were once again highlighted when NAAWU members took strike action, downed tools and mounted a go-slow. Members of MACWUSA stayed on the job and the union released a statement saying it could not support NAAWU - mainly because NAAWU operated within the IC system. Two Ford plants - the Cortina and Engine plants - are MACWUSA strongholds although exact membership is difficult to determine. Because of the four Ford plants' dependance on one another, both unions have the capacity to close all of them.

NAAWU and Iron and Steel have both indicated they may sue the three companies for lost wages during the period their gates were closed. The plants closure, both insist, was an "illegal lock-out".

The companies maintain that NAAWU members took illegal strike action and that they were waiting for an indication from the union that the "strike"

was over. NAAWU says the strike lasted a day, after which workers arrived at the gates to find them closed. Iron and Steel feel they have an additional grievance in that their members were not party to the strike.

The employers have refused to pay any hourly workers for time not worked, regardless of their stand on the strike which prompted the closure of the factories.

M. BARKER, S. SMITH, P.E. Aug. 26

'Sweetheart' unions only

THE year-long dispute between South African Transport Services (SATS) and the General Workers' Union (GWU) has highlighted the battle of workers for one of the most elementary trade union rights - freedom of association. The removal of almost 900 workers from the Port Elizabeth docks is one of the issues in this dispute.

The workers, SATS employees in the P.E. harbour, were removed after 400 of them were dismissed for taking part in a go-slow in an attempt to push SATS to the negotiating table.

The workers, all members of the GWU, have been trying unsuccessfully for more than 10 months to hold discussions with SATS about the recognition of a local workers' committee representing SATS workers in the P.E. and East London harbours.

The GWU represents more than 1 000 railway workers in the two Eastern Cape ports.

Despite proof of their representivity and frequent requests for meetings with management by the GWU, SATS has consistently refused to negotiate with them, saying they will talk only to the in-company railway staff associations. At first SATS said they would not negotiate because the GWU only represented a tiny proportion of railway workers in the country. The GWU accused SATS of deliberately obstructing their attempts to organise railway workers in other ports by harassing the organisers (a Durban organiser was abducted for about 4 hours by armed men and Cape Town organisers were questioned by the Railways Police, while two East London organisers were charged with 'trading' in the docks when collecting subscriptions from stevedores).

SATS has since changed its argument. They are now saying they will negotiate only with their 'own' unions, with whom, according to the head of SATS, they have 'a gentleman's agreement'.

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Their 'own' union, in the case of African workers, is the Black Staff Association (BSA). Initiated some 18 months ago by SATS, the BSA claims to have 50 000 members - a remarkable achievement for such a young union, comment some sources.

SATS have since consistently said they will not deal with 'outside' bodies. If workers choose not to belong to the BSA, then they must express their grievances through other official 'channels' - the system managers or the supervisors.

The union has appealed to Eastern Cape industrialists, the Director General of Manpower (Dr. P.J. van der Merwe), and civic leaders in P.E. to intervene in the dispute and persuade SATS to talk.

The International Transport Workers' Federation (ITF) has telexed the head of SATS (Kobus Loubser) on at least two occasions, asking him to open discussions with the GWU members in the Eastern Cape ports.

Employers in the Eastern Cape are well aware of the consequences of a strike in the harbours. Apart from local disruption, it is likely that all the major ports in South Africa will be affected as the GWU represents the vast majority of the stevedores in Durban, Cape Town, P.E. and East London. In addition, several employers have expressed concern over the possible international ramifications of the dispute because of the ITF's promise of support.

However, SATS have shown no signs of being prepared to talk. On the contrary. In January this year the chairman of the workers' committee, Jeremiah Tolwana, was dismissed with 24 hours notice. Tolwana had worked for the railways for 13 years, but was classified by SATS as a 'casual' worker. When, backed by his union, he had threatened to take the matter to court, SATS paid Tolwana a month's wages. In June, 848 workers in P.E. wrote a letter to the Port Manager saying they had been severely harassed by Railways Police since joining the GWU. The names and clock numbers of 264 workers who said they had been questioned by the police were included in the letter.

The letter contained numerous allegations of torture and bribery, which workers said had become commonplace since the majority of them resigned from the Black Staff Association.

Meanwhile, 536 workers who had resigned from the BSA still had subscriptions deducted every month until June.

Under increasing pressure from the workers, SATS agreed to stop deducting subscriptions at the end of June and promised the ITF that the

allegations against the Railways Police would be investigated. However, SATS advised workers to go through 'official' channels if they had complaints as it was not prepared to deal with 'outside' bodies like the GWU.

Despite mounting national and international concern over the dispute, SATS has remained tight-lipped as far as the union is concerned.

After a deadline set by the workers for SATS to open discussions was ignored, the workers decided at a general meeting to engage in 'limited industrial action' and embark on a go-slow.

At the moment the situation is volatile. SATS have been accused by the GWU and other independent unions, and even by employers, of deliberately seeking confrontation. Other observers say SATS have pushed the workers into striking by dismissing half the workforce and (in the words of a SATS spokesperson) 'carting' them out of the docks.

Meanwhile, it seems unlikely that other organised workers can ignore the basic issue in the dispute - the right of workers to belong to the union of their choice.

C.T. Correspondent, Sept. 6

The new Intimidation Act

The Intimidation Act which became law on June 2 1982, is a result of the Rabie Commission which was appointed by the government to look at all security laws. The Commission said it was too difficult for the state to convict people for intimidation and suggested that this new law be made. Already the police have started to use this new law against striking workers. 15 people from MAWU and TGWU in the recent Northern Natal strikes have been charged with intimidation. A number of workers in the David Whiteheads strike have also been charged. The maximum penalty is 10 years in jail, a fine of R20 000 or both.

The Act makes it a crime for anyone to try to force or persuade someone else to do something, or not to do something, or to hold a certain opinion or to alter someone else's opinion. It is only a crime if this is done by somebody in one of a number of ways. These are:

- to attack or hurt somebody;
- to threaten to kill, attack or hurt somebody;
- to cause damage to somebody;
- to threaten to cause damage to somebody.

For example it is intimidation if you threaten an 'impimpi' so as to stop

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him scabbing either by-hitting him, threatening to hit him or kill him, causing damage to him, his home or tools, or by burning his home or breaking his tools, or by threatening his friends or relatives so as to intimidate him.

A worker will not be guilty of intimidation if he has a "lawful reason" to do what he has done. An example of this arises in consumer boycotts such as those against Fattis and Monis or Henkel - If I write to a company saying I will not buy their products if they do not recognise the union I am trying to get the company to change its opinion about the union by threatening to cause damage to it by not buying the products. The argument that a person has a legal right not to buy a company's products and so this action cannot be classed as intimidation. According to the papers police are at present investigating charges against the people involved in the boycotting of the recent soccer tour - this is an example of how the Intimidation Act can be used.

If you are charged with intimidation in court and you say you had a legal reason you will usually have to prove this. The only time you will not have to prove this is if you give the prosecutor a written statement saying what your reason was. It is clear that a number of things will definitely be intimidation. Hitting someone so that they will not go to work, or saying you will kill them if they do go to work is definitely intimidation. There is one possible defence in these cases: that would be to show that the act was not done with the purpose of stopping the person going to work. For example, if a striker hits a 'scab' at a meeting out of anger, and at the time does not think this will stop the person going to work, this might not be intimidation. For it to be intimidation, the purpose of the assault must be to try and stop the 'scab' going to work.

In the same way with the section which deals with 'causing damage' or threatening to cause damage', if a person warns somebody that if he goes to work he will suffer loss or be hurt it can not be classed as intimidation, since you are pointing out what might happen if he goes to work. However, this clause which deals with causing damage is the widest part of the definition of intimidation since it covers not only physical damage but also financial loss. For example saying I'll burn your house or I'll steal your son's car if you go to work is a threat to cause damage, and can be classed as intimidation.

Previously if a person warned somebody not to go to work since he would suffer loss or be hurt, he could be charged under the Riotous Assemblies Act.

Certain sections of this Act have now been repealed by the Intimidation Act and picketing will be legal in certain circumstances. A picket will be legal if:

- no threat is made to kill, assault, injure or cause damage to anybody;
- the workers do not break the ban on open air gatherings in terms of the Riotous Assemblies Act. If more than one worker stands together in the picket, it could be considered to be a gathering by the police.

If however, a single worker stands with a banner outside the factory gates this will not be illegal, provided he does not threaten the 'scab' workers. If a worker stands with a banner saying, for example, "don't take our jobs" this will be legal.

P. BENJAMIN, Jhb., Aug.

Sundumbili General Strike of March 1982

Jeremy Baskin and Ian Bissell

Thousands of workers from Kwa-Zulu-based Isithebe factories joined with 1 600 Sappi Tugela mill workers in a strike on March 29th and 30th. They demanded the release from police custody of two members of the Sundumbili township's vigilante group. The action affected more than 40 factories, and amounted to a general strike on a local scale.

What follows is a brief attempt to give the background to labour unrest and union organisation in the area and to explain how an issue which initially concerned only the Sappi mill workers sparked off support from the entire township community.

The Tugela paper and pulp mill - the largest of the Sappi mills, employing a total staff of 2 250 of which 1 600 are African workers - is situated in the town of Mandini, on the North coast of Natal. Until the development of the Isithebe industrial area, a few kilometres from the town, it was almost the only source of employment for people in the area. But in recent years Isithebe has grown as industrialists, attracted by major tax concessions, subsidies and exemptions from minimum wage regulations, have moved into the area. Most Isithebe factories are small, and the Sappi mill

remains easily the major employer in the area. The majority of workers from both areas live in Sundumbili township which lies between Mandini and Isithebe.

Trade Unionism Grows

During the time of the 1973 strikes in Durban the mill workers stopped work for four days, demanding that their wages be increased to R1 per hour - workers said they had been earning about 15c an hour. There was no union organisation at the mill at this stage and the mill induna had to put the workers' demands forward. Although there were fewer factories at Isithebe in those days the area as a whole was also affected. Workers recall that 'no bus was pulling off to go to Isithebe. There were strikes there too'. The workers returned to work at Sappi when management agreed to a 6cents an hour increase every six months.

Following this strike the company introduced a liaison committee which as one worker put it 'was working for the white man not for us. They are drinking tea with the white man, going everywhere, sleeping in hotels, but they don't report back and they don't gather information from us'.

It was against this background of dissatisfaction with the liaison committee and the fear of excessive reliance on the mill induna in presenting workers grievances, that organisation started in the factory. One older worker started organising in 1978. He had been a trade union member in the 1950's and so had some experience. In addition, he had been encouraged by the growth of trade unionism which was emerging in the country. The workers had had some contact with Thizi Khumalo's African Workers Association (AWA) in Durban, but essentially they organised themselves.

Not that everything went smoothly. The old man organised from 1978 to 1981. Many workers were scared to attend the first meeting held in his house. They were scared of the police, according to one worker, and scared that the old man would be arrested for trying to organise.

In March 1981, two organisers from the FOSATU-affiliated Paper Wood and Allied Workers Union (PWAU) came to the Sappi gates. They were chased away by management, but not before some of the workers had taken piles of joining forms. The organisers then held a meeting in the township with those workers who had already been organising in Sappi. PWAU made an impression. Sappi workers felt the need to link their organisation to a union.

At a number of meetings held in the townships in April, PWAU

explained to the workers the policies of the union. They told us, recalls one worker, that 'PWAU tries to organise the whole factory and not just a section of it. With the white unions, a boilermaker can't join the welders, but this is only one union while theirs is divide and rule'. Another concern of the workers was to get help in fighting unfair dismissals.

After the first meeting, the workers 'packed into the union'. Late in April, shop-stewards were elected, a number of whom had even been on the previous liaison committee. They met with management and told them, 'we're no longer the liaison committee, we're shop-stewards'. Only three workers remained on the committee.

In September 1981 a strike hit the mill over the question of pensions in support of the demand that workers' money be repaid. The strike occurred whilst the committee was trying to negotiate wages with management. At the time, a wave of strikes was sweeping the country (and Natal in particular) over the proposed Pensions Preservation Bill. Management told the workers they could only get their pension money back if they resigned. The union unsuccessfully attempted to get the company to agree to technical resignation which would enable workers to receive their money without losing their jobs. There was widespread suspicion that the company had reinvested this money for its own purposes. After two days the workers returned when Sappi promised to send a number of workers to Pretoria to 'see if our money was safe'.(1)

The March Strike

The origin of the March 1982 strike was connected with the issue of canteen food. Workers had been complaining for some time about the quality of the food, which they described as 'rotten, it's pigs food'. It was decided to organise a canteen boycott beginning on the 12th March. The demand was that the canteen should be closed and replaced by a 30c an hour food allowance.

For over two weeks the boycott was total. Then, one worker broke the boycott and was summoned to appear before the township vigilante group. He was tried and sentenced by them to 12 lashes. Apparently, according to the workers, he had then gone to Sappi and had told them he was resigning. Although he did not want to lay a charge, the company informed the police, who went to his home to take a statement.

On March 25th police arrested two indunas of the vigilante group, Thembinkosi Mgwaba and Mbongeni Zulu, who had authorised a third man to give the lashes. Some Sappi shop-stewards and indunas of the vigilante group went to the Inyoni police station where the men were being held, in an attempt to get them released, but bail was refused. They then went to Sappi attempting to get management to pressurise the police into releasing the men. 'We told him these pepole must be released from jail or something's going to happen. This fire you're putting on, you won't stop it', a shop-steward commented. Management refused to intervene, although they had originally called in the police.

On Sunday 28th at 9 p.m., a meeting of Sappi workers held in Sundumbili decided that they were forced to strike in order to get the three men released. Three hours later when the shifts changed at midnight, no-one went into the factory.

From early Monday morning workers began gathering not far from the mill at the township bus-station. They were joined by Isithebe workers. Union sources claimed that about 3 000 gathered, although police figures, surprisingly, said there had been nearer 5 000.

'The riot police arrived and we were given five minutes to disperse from around the bus ranks. The shop stewards went to them and said we want to speak to our bosses and not to the police. Then we were given two minutes and after that they threw tear-gas three times and started chasing us with dogs. Some of us were scared. We had ladies there and some didn't know what was happening. From Sundumbili right to the bus station there was gas. The police kept on chasing. They had sjamboks and even in your own yard they'd give you a sjambok'.

Shortly thereafter, Pat Horn, organiser of PWAU, went into the township to contact the shop-stewards. She said that police had gathered in the centre of the township square with people standing by in groups. 'The police would periodically chase one of the workers with dogs and sjamboks and workers would retaliate by throwing stones.'

Forty-two workers were arrested and charged for attending an illegal gathering. Some were also charged with the possession of dangerous weapons and causing malicious damage to property. The majority were released after paying R50 admission of guilt fines - the money for these fines immediately being raised by the community. On Monday afternoon a third member of the vigilante group, Bhekifa Mabaso, handed himself over to the police. He had

been sought for having administered the lashes on the worker who broke the canteen boycott.

It is difficult to give exact figures on the extent of the general strike which hit the Mandini / Isithebe area. No black workers were entering the Sappi mill. On Monday, police claimed that only 30% of Isithebe workers had reported for work. Many of these workers apparently lived outside of Sundumbili.

In addition, women employed as domestics in Mandini were not going to work. The strike was therefore extensive. One newspaper (Sunday Tribune 4/4/82) reported that there were more than 10 000 striking workers. The 'mayor' of Sundumbili, Mr. Gcaleka, was quoted as saying that the strike affected virtually all the 20 000 homes in Sundumbili and about 45 factories at the nearby Isithebe complex. Police and management felt that 'intimidation' was behind this highly effective community-based strike. If indeed there was 'intimidation', it was by the majority against a minority which was perceived as a threat to a united front.

The issue itself, the release of the detained vigilante group members, was not an unpopular one. Whilst the canteen boycott affected only the 1 600 Sappi workers, the issue of the vigilante group concerned all the residents of Sundumbili.

The reasons for the popularity of the vigilante group were straightforward - it had managed to curb the high crime rate. Workers said that for many years people in the township had been killed and pickpocketed when they returned from work. They said that 'tsotsis', even from as far afield as Durban, had travelled to the township on Thursdays in order to rob workers of their wage packets. In November 1981 the community decided to form a vigilante group which was first called 'Qonda' (meaning reservists), but later become known as 'Mbutho' (meaning to mobilise the masses). The police had been informed of the formation of the vigilante group and, according to workers, had originally supported it.

The vigilante group, which worked day and night without pay, would mostly disarm offenders and take them to the police station. But sometimes, before doing so, the issue would be discussed in an 'outside court' where the offender might be sentenced to lashes. 'Most people were happy with Mbutho', one member claimed, 'except the youth because it stopped ladies wearing trousers or school children lying with their boyfriends outside'. Workers interviewed said there were also other Mbutho groups outside Sundumbili. Interestingly enough, in the trial of the three members of the vigilante

group, a policeman admitted that since the formation of the vigilante group, 80% of the crime in the township had been eradicated.

For the workers there was no clear-cut division between factory and community issues. 'We are a community', explained one shop-steward. 'The majority are working for Sappi, some in Isithebe. We are the community of Sundumbili'. The demand of the entire community was for the release of the detained vigilante group members. In addition, the workers' grievance over canteen food at Sappi remained unresolved. Once the strike had begun, workers from other sectors also wanted their grievances aired. Isithebe workers demanded a minimum wage of R2.50 per hour (way above their present rates) and domestic servants demanded a minimum R60 per month (at present they earn about R40 p.m.).

Resolving the strike was no easy matter. The workers were extending their demands and were very angry at the police action against them. Police presence was making a mass meeting impossible and union officials were being prevented from entering the area. Representatives from different sectors of the workforce and the community were meeting to discuss matters at the shop of Mr. Gcaleka.

On Monday afternoon, according to one shop-steward, 'the police were still chasing people. We were trying to make peace. We phoned our government in Ulundi (KwaZulu) to get someone to intervene. We wanted the police to allow us to hold a meeting'. That afternoon police met a delegation of workers and agreed to release the detained men if the wanted third man, Mr. Mabaso, handed himself in. The workers were refusing to return to work until they had seen the men released.

Late on Monday afternoon Mr. Khanyile, from the KwaZulu Dept. of the Interior, arrived from Ulundi. He immediately caused unease by going straight to Sappi management thereby ignoring the workers who had summoned him. Khanyile was told later that he'd made a mistake. 'He was supposed to pass from us before going that side', one worker explained.

The following morning (Tuesday) it was decided to phone Prince Gideon Zulu. At lunch-time, whilst the leaders were briefing him on developments, a roar went up from the large crowd waiting outside. The three men, having appeared in court that morning, had had their cases remanded, and were now being released to the waiting crowd. They were given a heroes' welcome and carried shoulder high.

Sappi and Isithebe managements were then contacted. The union representatives were present at Sappi. Management was adamant that it would

would not offer more than 7cents to replace the canteen food. If all workers had not returned by the next day (Wednesday), they would be dismissed. The workers decided to accept this. 'Since the strike was caused by the arrest of the people we went back. But we were still not satisfied'.

The representative committee tried to meet the Isithebe employers so as to get an assurance that there would be no victimisation. They spoke to a Mr. Smith, but he refused to meet any people connected with Sappi or the union. Eventually Mr. Gcaleka, who had played an important role in facilitating meetings, met the employers together with Prince Gideon and a number of unofficial representatives. It was decided to return to work the following day.

Workers returned to Sappi with the commencement of the midnight shift on Wednesday 31st March. The general strike was over.



Striking workers give the three a 'heroes' welcome

Outcome

Were the Sundumbili workers correct in using their maximum weapon over this issue? And was the strike a victory or a defeat? These are difficult questions to answer. In the sense that the three men were released, the strikers achieved their demands.⁽²⁾ But none of the secondary demands were met. At Sappi the workers accepted the 7c per hour offer, which previously they had been adamant in rejecting. The domestic workers may see their conditions improving, but this is not yet known to have occurred. And the Isithebe workers are waiting to hear from Ulundi the outcome of their R2.50 per hour demand. They had been advised, by both Prince Gideon and Mr. Khanyile, that if they had any complaints they should write to Ulundi so that the KwaZulu government could take up the matter with the Isithebe employers.

How meaningful the no-victimisation assurances were, is uncertain. In at least one factory, Isithebe Nyoni Ceramic, 68 workers were dismissed for not coming to work during the stoppage. Workers from other factories were not similarly victimised, as far as is known.

What effects the strike will have on future union organisation is also unclear. Will the unions (particularly MAWU), which have already begun organising in Isithebe, find their work easier or more difficult? Will the PWAU be able to move ahead and make significant victories at Sappi? The answers to these questions will be the best indication of whether the Sundumbili general strike/stay-away was a victory or a defeat.

(June 1982)

Footnotes

This article rests heavily on the accounts of three Sundumbili workers, without whose help this article would not have been possible.

- 1 Discussions between the company and worker representatives have partially resolved the issue. Although management refused to accede to worker demands for a voluntary fund, they agreed to amend the fund rules in order to accommodate a number of the problems raised by the workers.
- 2 However, when their case was heard in April, two were sentenced to an effective fine of R50 each, whilst Mabaso received an effective sentence of eleven months imprisonment.

Trade Unions and the State:

Rebutting our Critics

Duncan Innes

It is encouraging to find that the article by Bob Fine, Francine de Clercq and myself ("Trade Unions and the State: the Question of Legality" in SALB, Vol.7, Nos. 1-2 and also published in Capital and Class, No.15) generated sufficient interest that there were three separate responses to it in the following issue of the Bulletin. It is particularly encouraging that one of these responses was from an emerging union, the General Workers' Union, since this provides further evidence that this Union at least is committed to debating its strategies and policies in public and one hopes that other emerging unions will not be shy to follow this praiseworthy lead. If in the pages which follow one finds certain criticisms of that Union's position, it should be stated categorically that such criticisms should in no way be interpreted to mean that I do not respect the Union for the openness with which it presents its policies for public scrutiny.

However, while it is encouraging to note that there is a real interest in the issues which we raised for debate in our article, the tone of those who replied to us is far less encouraging. In going through those replies I found more than fifty words and phrases which, in one way or another, abused

Francine de Clercq, Bob Fine, and myself personally. (Words and phrases like: "malicious smear", "basest variety of propaganda", "rampant sectarianism", "opportunists", "fainthearted", "spurious confluations and imputations", "wilfully misleading", "malicious" (used a number of times), "devious style of argument", "devious and illegitimate tactics of debate", etc.). While one can understand that certain positions are deeply held by people, I think it is quite wrong to respond with such language to those who challenge those positions. At a time when we should be encouraging as wide a participation as possible in important debates of this kind it should be recognised by all the participants - especially those who want to defend the principles of democracy and freedom of expression - that using language which is personally abusive can only restrict those debates and discourage people from participating. Certainly the registration debate which began in the SALB with articles by the WPGWU and Nicol and was continued by de Clercq, Fine and myself was sharp and at times polemical - but it was never personally abusive and never threw doubts on the integrity of the individuals involved. It is the introduction of this latter element in the most recent replies (in SALB, Vol.7, No.3) that I find destructive and I would appeal to the editors of the SALB, in the interests of maintaining a decent standard of debate in their journal, to ensure that it does not recur in the future.

Importance of the Debate

Let me now turn to the content of the replies. The first point to note here is that in general the replies do not characterise our position accurately. There are far too many misinterpretations of our position to actually give rise to a meaningful debate between us. As a first step, then, let me briefly summarise some of the more important aspects of our argument before responding to a few of the misinterpretations of our position.

In our article we were concerned to show inter alia: that the recent struggle of black workers has been the key element in forcing the state to significantly change its industrial relations strategy; that the main element of this change has been the granting of statutory recognition through registration to trade unions for black workers; that while such a strategy undoubtedly involves an attempt on behalf of the state to try and co-opt and therefore weaken the black labour movement this in no way implies that the state need necessarily succeed in its aim; that the contradictory nature of the state means that the concessions which it makes, such as statutory union

recognition, can be used by black workers to their own advantage as a weapon against the state and employers; and that therefore at the moment it may well be tactically correct for these unions to accept registration.

That in essence was the argument which we put forward in our original article. Unfortunately, as will become clear as I proceed, it was not usually the argument to which our critics addressed themselves. However, of all the responses to the debate which I have heard so far, the one that in a sense worries me the most is the one which says: 'since the debate appeared in the SALB last year the state has extended the restrictions contained in registration to all unions regardless of whether or not they are registered events have therefore superseded the debate which is now redundant and should be dropped since it is divisive and could disrupt present moves towards trade union unity'.

What worries me most about this argument is that it fails to understand that underlying the registration debate is a deeper theoretical question: that of the nature of the relationship between the state and trade unions in South Africa. In many ways this theoretical question, about which much of the registration debate actually turns, is of far more consequence than the registration debate itself, since the registration debate is only an expression of deeper and more significant theoretical differences which exist among different trade union groupings over the nature of the above relationship. To argue for the suppression of debate around this crucial issue in the interests of promoting trade union unity could result only in the most transparent form of unity being achieved - and one which would inevitably be blown apart as soon as the state made its next significant move. For a meaningful unity to be achieved within the union movement it is absolutely crucial that the widest possible debate be undertaken by those in and related to the labour movement so as to explore and attempt to overcome the important theoretical / strategical differences which exist within the movement. This is the only path to real trade union unity and it is primarily for this reason that I believe the debate must go on and necessarily widen in scope. It is as a contribution to this process that I offer the following remarks.

Rebutting our Critics

a) General Workers Union

This "reply" does not substantially advance the debate, since it consists

simply of a rather more vitriolic restatement of the GWU's earlier position. There are, however, three points in the GWU article on which I would like to comment. These revolve around questions of internal union democracy, the nature of South Africa's laws and the notion of compromise.

According to GWU:

"Fine et al have no qualms about dismissing any argument based upon the primacy of democracy because they are cynically dismissive of the possibility of democratic practices at all. In the final analysis, herein lies the difference between the authors and the General Workers Union. We do not accept that internal democracy is an unattainable "principle", an ideal state to be achieved on liberation day.... In fact, free and open discussion at the union, is a precondition for the growth of progressive organisation". (SALB, Vol.7, No.3, p.22)

Subsequently, the GWU go on to reassure us that: "Not only does our union engage in full and open discussion of all issues, but it is mandatory when the issue is 'delicate'" (p.23).

The first point I would make in reply is that I am glad to know that the GWU engages "in full and open discussion of all issues" and I therefore hope that the membership fully debated our original article around the "delicate" issue of registration before rushing (collectively?) in to print. If, perhaps, a "full and open discussion" of our article by the membership was not possible for some reason, then at least one hopes that the membership was given the opportunity to study and approve the reply before it was issued in their name. Underlying this issue is the difficult relationship between the principle of mass participatory democracy and its practice. Regardless of what GWU may claim, invariably elements among the leadership take on specific tasks on behalf of their membership, such as replying to articles, and the problem is to ensure that what the leadership does is controlled by the membership. To gloss over the need for a division of labour within a union - and to gloss over the possible problems that this leads to - is to fail to tackle one of the major problems involved in the creation of truly democratic organisations.

Secondly, on this question of internal union democracy I would like to make it absolutely clear that I agree wholeheartedly with the statement made by the General Secretary of the GWU, Dave Lewis, when he said at Neil Aggett's funeral that: "Neil Aggett knew that there could be no democratic unions without political democracy in South Africa". That, in a nutshell, was

precisely the point we were trying to make in our article! The point is not that one does not try to establish the most comprehensive democratic practices in the unions; of course one does - that is indeed a "precondition for the growth of progressive organisations". The point is that under current conditions of political repression it is, as Lewis points out in contradiction with the GWU article, just not realistic to claim that one has achieved this goal already!

Regarding the nature of South Africa's laws, GWU argues that:

"... the contrast between the cavalier attitude adopted by Fine et al to the Industrial Relations legislation and their paranoid attitude towards the repressive laws is in itself indicative. Whenever a law is capable of complex legal interpretation, and whenever the institutions established by such laws lend themselves to apparent manipulation by "experts", then the letter of the law is of no significance. When, however, the law is in the hands of the security police (who are less susceptible to the sophisticated guiles of "experienced negotiations") and when the institutions established by the law are prison cells, then the respect of Fine, de Clercq and Innes for the law is absolute. One is tempted to think of them as merely fainthearted". (SALB Vol.7, No.3, p.23).

Apart from the unwarranted smear of cowardice against us, the problem with this formulation is that it fails to recognise the important distinction which is involved in the two forms of law under discussion. What distinguishes the "Industrial Relations legislation" from the "repressive laws of the security police" is precisely that the former can be challenged in the courts whereas the latter cannot be. This distinction may seem to the GWU to be a matter of "no significance", but it basically represents the difference between democracy and tyranny, between the Rule of Law and rule by torture and intimidation. The right to challenge the application of the law in the courts - a right on which the GWU pour such scorn - is a fundamental democratic right which the working class throughout the world has fought long and hard to win. If Neil Aggett had not been denied basic legal rights such as habeas corpus and access to the courts, then perhaps he would still be with us today!

Finally, GWU describe our position on "compromise" within the labour movement as follows:

"Fine et al argue that one compromise means that we might as well compromise on anything" (p.24, my emphasis)

Our actual position on "compromise" as stated in our original article was

as follows:

"... the rhetoric of 'no compromise' confuses the issue of the fight against opportunist compromises and that of compromises demanded by the objective conditions of the struggle". (p.56, my emphasis).

As I said in the introduction to this article, our critics have not always interpreted our arguments correctly.

b) Hirsch and Nicol

I was more encouraged when I began reading the Hirsch and Nicol "reply" in that I thought their starting point - that the "flaws" in our position "extend from our theory of the state, law and politics" (p.42) - at least raised the possibility that a serious theoretical critique of our position was in the offing. Alas, it was not to be. Their attack on our theory of the state rapidly revealed its tired old Poulantzian underpants and it soon degenerated from there into a discussion on the structure and form of the jelly-fish. The confusion inherent in this characterisation of our position was matched interestingly enough by Haysom who saw a spider in our conception of the state.

Now I am strongly committed to the idea of an inter-disciplinary approach to the study of the social sciences, but I do feel that it is stretching a point to try and analyse social and political relations in terms of zoological categories. Such an approach may be rather witty, but unfortunately it leads Hirsch and Nicol to miss the point of our argument about the state entirely.

We are accused of characterising the state either as "an absolute repressive force" or as "mouldable clay in the hands of the class struggle" (p.43) when we explicitly reject both positions (have you ever tried to mould a jelly-fish)? We are also accused of dismissing the law as "irrelevant" (p.43) because we argue that "it is only by linking the terms of the legislation (not dismissing the legislation but "linking" it) to the social context.... that we can satisfactorily explain its implementation" (see pp.47-8 of our original article) (my emphasis). Subsequently, we are informed that "it is formalistic to maintain that politics is limited to formal relations with the state" (p.46). Of course it is - and who would disagree with this statement? We certainly don't say anything in our original article which could warrant such a response. What we do argue is that worker organisations should "take up struggles around the state" if they want to

influence it. But it would be sheer nonsense to argue that this position implies "that politics is limited to formal relations with the state". To "take up struggles around the state" means utilising every desirable method at one's disposal - both formal and informal - to resist the state's attack on various aspects of workers' lives.

Underlying this attack is a rather confused Poulantzian theory. This emerges most clearly when the authors accuse us of "consistently identifying" the "forces acting upon the state to win concessions" with "the working class or 'the workers' movement". (p.47). This representation of our position is not strictly correct. We are concerned in our article to analyse the most important source of pressure on the state to reform its labour policy and we identify the black working class, utilising their trade unions, as being this source. Now to argue that this is "the most important source of pressure" is not the same as to claim, as do Hirsch and Nicol, that we argue that "there may be no pressures on the state in South Africa other than from the working class". (p.47) (my emphasis). Of course, there are "other" pressures! We specifically refer to populist struggles (on p.62 of our article) and to this may be added pressure from the black petty bourgeoisie and from employers. But these latter are not the most important pressures and that is why we did not refer to them. Without the fundamental pressure arising out of the struggle of the black workers' movement there is no doubt in my mind that those gallant advocates of the workers' movement, the petty bourgeoisie and employers, would no longer seek to champion the workers' cause.

Implicit in the Hirsch-Nicol argument that "changes in labour legislation might be provoked by pressure from other classes and their organisations" (p.47) is a Poulantzian analysis in which different fractions of the capitalist class are seen to be struggling for hegemony over the state. It is this struggle - between fractions of capital - which is the key to understanding the changes in state policy, since it is these fractions which have the major influence over the state while the workers' struggle occurs only "at a distance". It is their adherence to this reformist thesis which leads Hirsch and Nicol to attack our identification of the primary and fundamental role played by the working class in the struggle to change state policy.

In conclusion I might mention that whereas the authors' Poulantzian theory sees fractions and divisions everywhere within the capitalist class, it also sees the state encouraging the formation of divisions and factions within the working class - which according to Hirsch and Nicol is as a result constantly being disorganised. In fact, so strong is this tendency, according

to the authors, that by the end of their article I was left in some doubt as to whether they felt a working class movement even existed in South Africa at all. For instance, at one point they actually accuse us of "assuming that proper trade unions are pure working class organisations" (p.46) - an assumption to which I immediately plead guilty. But apparently this is not so! Instead we are told that "trade unions involve class alliances" because, according to the authors, a sprinkling of "members of the petty bourgeoisie are involved in all union organisations" (p.46). Such a view is clearly absurd but its absurdity does, nonetheless, help us to understand why Hirsch and Nicol are so keen that the workers should seek alliances with other "popular" classes - because for them the working class is so weak and divided, so thoroughly infiltrated by petty bourgeois elements, that it is incapable of organising itself independently as a class. The logic of their Poulantzian analysis leads the authors inevitably to disregard the potential power of the working class movement.

c) Haysom

Although at times he tries, most of the time Haysom is not actually replying to our article but is concerned to rebut someone else. Early on in his article he attempts to link us with what he dubs the reformist-workerist position in the labour movement and suggests that our article was not innocent but was inspired by some mischievous intention (pp.26-7). Haysom here seems to be accusing us of having been set up by the "workerist-reformist clique" in FOSATU to do a hatchet job on the anti-registration unions. I feel somewhat annoyed at even having to rebut such a charge, but for the record let me state categorically that it is not true. In order to clarify the situation, let me say that our article originated in a working paper which was written independently by Bob Fine in consultation with Francine de Clercq and myself, and presented at a CSE seminar held in London in late 1980. This paper then served as the basis for a new article which was jointly written by the three of us. The origins of this article thus have nothing to do with any organised grouping, either inside or outside South Africa.

The problem with Haysom's conspiratorial approach to the way in which our article was produced is that he seems to spend a good deal of his time in his "reply" to us actually criticising the so-called "FOSATU clique" which he thinks inspired it. For instance, at one point in his article he develops a long critique of our theory of the state which he characterises as that of

(with apologies to zoologists and other animal lovers) a spider resting in its web. However, he then adds in fairness to us (sic!) that such a position is only embryonic in our article and that he is actually referring to something else which is called the Primary Contradiction Thesis. This Thesis apparently asserts that the primary contradiction in our society is that between wage labour and management and it occurs only on the shop floor. According to this view, politics is taboo for the workers' movement and the key role played by the state in holding back the workers' movement is ignored (pp.29-30).

Now while this is all every interesting, I really fail to see what the Primary Contradiction thesis has to do with our argument which states the complete reverse (never mind any embryos)! In our introduction we argue that "the state.... represents one of the major obstacles to union growth" (p.39); on p.64 we argue that "the state poses an immediate and constant threat to black unions"; and two pages later we argue that workers must co-ordinate and centralise their struggle "in the face of the co-ordinated and centralised policy of the state". In addition, we have a whole section devoted to "Politics" (pp.64-68) which, according to Haysom's argument, should be a taboo topic. Perhaps if Haysom had been less concerned to find non-existent conspiracies in our article he might have been more responsive to what we actually wrote and we could have developed a more constructive debate.

This obsession with conspiracies leads Haysom at the start of his article to fail to summarise our argument correctly. Of the five key propositions on which, according to him, our argument rests he only gets two right! (p.28).

1. Haysom says we argue that it is the workers' struggle which has forced the state to make its concessions to the trade unions - and this is a correct representation of our position.
2. Haysom then argues that we claim that the concessions involve both rights and restrictions (here he is correct) but that because the state has declared this to be a control strategy does not mean that it is such (here Haysom is incorrect). Our whole argument is that the state's concession of rights to the unions is an attempt to control them; but we then go on to argue that just because the state's spokesmen claim that the state will succeed in this does not mean that it will succeed. But because the state's control strategy may fail does not mean, as Haysom seems to think, that it is not a control strategy!
3. Haysom argues that we then propose that unions must ask themselves

whether registration advances working class interests and must approach this question tactically, seizing those "rights" which are offered. Here he is correct as far as he goes - but unfortunately he omits to mention our argument that the seizure of rights must be accompanied by a struggle against the restrictions (see pp.60-62 in our article where this position is elaborated on). This regrettable omission leaves the reader with a rather one-sided view of our argument which creates the distinct impression that we are concerned only with winning the smallest "rights" and not with resisting restrictions.

4. Here Haysom presents our supposed critique of boycottism which he claims we see as an automatic reflex whereas we specifically argue that it is a conscious (although perhaps confused) strategy (see pp.64-67). According to Haysom, we argue that nothing, including internal democratic practices, is too sacred to be compromised. I have already shown in relation to the GWU that, in our original article, we explicitly pointed out the need to "fight against opportunist compromises" (p.56). To ignore our argument in this respect leads to a distortion of our position.
5. Haysom concludes by correctly representing our argument that registration implies state recognition.

Given this failure to understand correctly the basic planks in our argument, it is not at all surprising that Haysom should be so hopelessly wide of the mark in his subsequent and more developed criticisms of what he seems to think is our view. For instance, on the important issue of "rights" he accuses us of treating them unambiguously, as though they were simply the other side of control (p.30). By quoting Sol Picciotto he correctly points out that collective struggles need to go beyond and around these legal forms to succeed and that rights are themselves contradictory. According to Haysom, we seldom look at collective struggles.

However, we made plain our awareness of the contradictory character of legal rights when we stated in our original article that:

...it cannot be assumed that rights are merely a veil for power or a mystification which hides the brutal realities of class domination. The existence of rights constitutes a vital resource for the oppressed and an inhibition on the power of the oppressors. (p.50, our original emphasis).

The contradictory nature of rights is immediately apparent in the above quote when we point out that rights are more than just a mechanism for control (rights are not "merely" a veil for power). But while we did not deny

that rights are a mechanism for control, we also wanted to draw attention to the other side of their contradictory aspect - that of being "a vital resource for the oppressed" - which may help workers to win the political space within which to organise and educate themselves. As we put it: through using these rights workers can "afford to themselves the direct experience of winning struggles on the basis of their collective effort" (p.58) (emphasis added). This quote from our article makes it quite clear that we are not, as Haysom claims, putting forward an argument for "formal expansion" but rather that, along with Picciotto, we are arguing for reliance on collective struggles as the only basis on which the workers' movement can advance. To the extent that the granting of rights - with all the necessary provisos about their contradictory character - facilitates that process, the use of rights as part of the armoury of the workers' movement should not be ignored.

In concluding this rebuttal of our critics, I would like to make one general point. In our original article we sought to criticise a particular strategy (boycottism) which had evolved in South Africa and abroad in response to the state's labour reforms on the grounds that it was based on an incorrect understanding of the nature and form of state power. We thus developed a theoretical critique of this strategy by focussing on the legal and political forms of the state's labour relations. In their replies our critics have all argued that we have failed to "prove" that the black unions will not lose their independence if they accept registration. This is of course true - but then it is equally true that our article never intended to do so!

The point is that articles, such as ours and those of our critics, which focus largely on the form of the struggle can never adequately answer questions which relate to the content of that struggle - and the question about whether or not the state will actually destroy the growing power of the unions through registration is a question which indisputably relates to the content of the struggle as much as to its form. In other words, this question can only be answered by supplementing our analysis of forms with an assessment of the relative strength of the contending parties on the ground, i.e. by examining the actual content of the struggle. Probably the weakest aspect in our critics' combined position is the way in which they collapse the content of the struggle into its form.

In a subsequent article to be published in a future issue of the Bulletin, I intend to look briefly at the way in which the trade union struggle has progressed over the last half year since our article appeared. Thus by focussing more closely on the content of that struggle, I hope to be

able to extend the arena of the debate into a more fruitful and constructive area.

Conclusion

In conclusion I would like to refer back to a point I made right at the beginning of this article when I commented on the tone of our critics' replies and noted the large number of abusive phrases that were used against us in those replies. Perhaps if that were all I would have been prepared to let the matter pass without comment but regrettably that was not all.

In addition to their general abuse, the GWU saw fit to tell Fine, de Clercq and I in no uncertain terms that we had no right at all even to comment on the workers' struggle in this country:

If any of the authors had ever been actively involved in the union movement (indeed, if any of them had merely lived in the country in the past ten or more years) they might find the workers less susceptible to manipulation and more committed to democracy. That they never have worked in the union movement has not prevented them from commenting upon the most detailed and concrete aspects of workers organisations, nor has it prevented them from glibly asserting what the workers want and what they do not want; what they should and should not do; of what they are capable and incapable of achieving. This attests not only to an extraordinary degree of personal arrogance on the part of the authors, but it is also a monumental expression of the utterly patronising and contemptuous light in which they hold the workers. (p.18)

This outburst of narrow chauvinism - I always thought the notion of worker internationalism meant that worker organisations welcomed interventions from those with experience of labour movements in other countries - clearly has the effect of discouraging anybody (and not just us) who is not "actively involved in the union movement" from commenting on its development. This seems to me to be an unfortunately sectarian position which can only isolate the union movement from sympathetic elements in South Africa and abroad.

Not content with telling us to keep our noses out of "the union movement" the GWU then went one step further and accused us of being "the most vicious propagandists of the state" (p.17). The reason for this attack was that we had dared to criticise a policy which they had made public while developing their own critique of other independent unions. Following on from this Hirsch

and Nicol managed to take the matter even further and accuse us of furthering the interests "of the state, security police and employers".(p.48)

These are harsh words indeed. In my opinion, such words do nothing to promote a debate around the key issues facing the labour movement at the moment. If we are to have such a debate - and I believe it is imperative that we do - then it is important that people, wherever they are placed, should feel free to enter that debate and not feel that they will be torn apart and maligned simply for daring to differ from the "conventional wisdom". It is only if people are prepared to respect the right of others to disagree that this debate can go forward. It may be a bourgeois right but it is one that must be preserved.

Trade Unions and the State once more:

a Reply to our Critics

Bob Fine

I wish to thank the SALB for publishing our article and more generally for continuing to provide an invaluable source of information and views on South African trade unionism. In our contribution we put our oar into the choppy waters of debate around registration in order to take up wider questions concerning the legalisation of trade unions. We focussed our critique on a broad tendency, encompassing diverse organisations in varying degrees and forms, which we characterised as 'boycottist'. We argued that the 'boycottist' opposition to having anything to do with the state's registration proposals revealed a deeper and misplaced commitment to a politics of boycott. We expected and hoped for a robust response from those who either wished to defend a boycott perspective in general or who wished to deny that boycott of registration was anything more than a tactic based on the poverty of the state's proposals. We were not disappointed and I should now like to offer some personal comments on the highly critical replies which you published, focussing on the general question of legality.

Let me begin by saying that I find it regrettable, that the replies placed such heavy emphasis, not on a critical analysis of our position, but

on impugning our motives. It would be unfortunate for democratic debate if comrades in the labour movement were dissuaded from speaking their minds for fear of being branded with the most sinister anti-labour movement motives by others who disagree with them. There are already enough constraints imposed by the apartheid state on what we can and cannot say.

For debate to be useful it is necessary to address what one's opponents actually say. Our critics misrepresented our views so badly that I can only presume that they were attacking not so much our article as their idea of a legalistic, bureaucratic, manipulative, undemocratic and economistic unionism which has nothing whatsoever to do with what we wrote. The issues dividing us were accordingly obscured rather than clarified. It was not the case that our critics maliciously distorted our argument in order thereby to provide themselves with an easier target. Rather their perspective leads them to see our argument in their own particular way. They see us as bureaucratic when we insist that workers need to create their own leadership cadre. They see us as cynical of democracy when we say that there are limits to the internal democracy possible in unions under the present repressive conditions. They see us as legalistic when we say that legalisation can be to the advantage of unions. They see us as faint-hearted in the face of security laws when we seek ways of countering the threat of these laws. They see us as recognising the legitimacy of the state when we say that the state must be forced to recognise the legitimacy of the unions. They see us as unprincipled when we say that the realisation of principles is a task to be accomplished rather than an achievement already secured. They see us as compromisers when we say that certain compromises are inevitable because of an unequal balance of forces. They see us as economistic when we say that the trade unions can usefully make political demands of the state. When we pay heed to the consciousness of workers who reject their line, they accuse us alternately of ignoring worker consciousness or asserting dogmatically what that consciousness is. These misrepresentations are systematic; they display in themselves a 'logic'. That logic is the one which we originally criticised: the logic of boycottism. They deny following this logic when their every argument displays it.

The real issue under debate is that of the legalisation of trade unions: how should the unions respond to the attempts of the state to legalise them? Should unions themselves take up the fight for legalisation? The worst aspect of our critics' replies is not that they vilify us, but that they obscure the issue.

The Question of Legality

It is clear that the advances made by the black working class movement are encouraging attempts at legalisation, proceeding in the most part from supporters of the existing order, in part from liberals and in part from the workers themselves. The question we pose is how to relate to this tendency. Our position is this: we need to expose the part played by the Wiehahns and the Bothas, whose only interest in legalisation is to neutralise the growing power of trade unions. We need to counter the honeyed rhetoric of the liberals who see in legalisation a means of achieving harmony between the apartheid state and black workers.

We need to uncover all the traps which the state will set in the path of black workers by legalising their movement: whether they be devices to split leaders off from workers, or to deflect industrial militancy into a morass of bureaucratic conciliation procedures, or to dull the unions' nerve of political outrage against apartheid. But all this should not make us forget, in our view, that the existing quasi-legal status of non-racial unions is equally or more dangerous and that overall union legalisation will, in the present context, be to the advantage of black workers and not the Bothas, Wiehahns or Oppenheimers.

The boycotters' case is that the legalisation of trade unions - at least in its present form - can only be achieved at the expense of internal democracy and political independence. We agree that the state by opening up registration to African workers is doing its worst to achieve these results and that this poses a real threat which needs to be countered. What we argue, however, is that the boycott tendency denies or at least obscures the importance of legalisation for the growth of democratic and independent unionism.

In general, the extension of legality creates a more favourable environment for unions to build up their organisations, to undertake strikes and other forms of direct action, to win real benefits for their members in negotiation with management, to draw in ever larger numbers of black workers including the backward sectors (both those who are afraid of joining an organisation that is only quasi-legal and subject to state terror and those who are too vulnerably placed to form their own unions under existing conditions of state repression), to extend the scope of issues which workers can openly discuss without endangering themselves or their organisation and to extend union activity into the wider political realm.

The form of legalisation from which trade unions can derive advantage is not one in which the unions accommodate to the state, but in which the state accommodates to the unions; not one in which the unions compromise their independence from the state and accountability to workers for the sake of 'legitimacy' and 'respectability', but in which the state must be forced to concede ever wider legal rights to free unions. When those whom we characterise as 'boycotters' hear of 'legalisation', this word rings in their ears only of concession, compromise, timidity, respectability, bureaucracy. They blind themselves to the potential of trade union legality for consolidating and extending existing forms of struggle.

In numerous labour movements throughout the world the development of trade unionism meets at a certain stage with efforts to legalise the unions, coming from the state, employers, liberals as well as some workers and their leaders. This was true equally say of Britain (at the turn of the century), of Russia (under the Czar), of Poland (under the Stalinists), of Brazil more recently. Though the effects of legalisation were different in each case, the imperatives behind it were not dissimilar: to draw the unions' teeth from the perspective of the old order and to alleviate the threat of state repression from the perspective of workers. In all these cases an understandable opposition to legalisation grew up among many class-conscious workers and intellectuals. They equated legality with respectability and were rightly wary of the unions being trapped in a state-supported labyrinth of conciliation procedures which would sap their will and capacity for direct action and political radicalism. In all these cases, however, over time the mass of organised labour became well aware of the shackles the state imposed on their movement and hence the pressing need for the legalisation of their unions. To the extent that class-conscious workers and radicals boycotted legal avenues in favour of direct action alone, they left the legal arena open for compromisers who did substitute conciliation for struggle. Consequently, they tended in the longer run to cut themselves off from the mass of workers who were unwilling to forego the advantages of legality. They furthermore lacked perspective to turn direct action and militancy into political advantage for the working class. South Africa today obviously has its own peculiarities, but no reason has been offered to show that it is exceptional in this respect.

In Britain today workers are being made painfully aware of the significance of legality as the Tory government introduces legislation designed to restrict hard-won trade union rights. Their threat in effect to go

down the path of Taff Vale and withdraw the unions' immunity from damages for breach of contract is a measure that at once attacks the capacity of the unions to take action (including sympathy action of the kind that British workers can take in solidarity with black workers in South Africa) and puts pressure on the union officials to tighten their grip on the rank and file, since the union will be legally held responsible for unofficial strikes by its members. In this context an active fight for trade union rights in South Africa at the level of the state, would both highlight the struggles of particular unions for management recognition and would fall on fertile soil as far as solidarity is concerned. For British workers face analagous problems in reverse: not the gaining of rights never before possessed, but the loss of rights already won.

Our critics' boycottist stance toward legalisation manifests itself in the very ways in which they replied to us. Consider for example their theory of law. They accuse us of ignoring the form of law and in particular its destructive effects on collective labour. "All extensions of rights", they say, "go hand in hand with attempts at disorganisation". Our problem is supposedly that we fail to see this contradiction despite the fact that I personally wrote about the class character of the form of law itself in a prior publication. However we have not forgotten this argument about the limits of bourgeois legality. It is our critics' characterisation of the form of law that is hopelessly one-sided.

First, they neglect the content of law and so lose sight of the fact that the capacity of the law to disorganise the labour movement is less when it concedes the right to strike, to political affiliation, to receive funds from abroad etc. than when it only hands out repression. Second, the form of law itself is more contradictory than our critics allow, since the extension of rights serves not only to disorganise labour but also as an inhibition on the power of the state, as a means of defence for labour against the power of capital and as a way of consolidating and generalising gains made through shop floor struggle.

Legality is not the only means of checking state power and must remain secondary to the collective organisation of labour if the unions are not to become dependent on the state. As a means of inhibiting state power the law shows distinct limitations: it tends to work through individual cases and after the event, for example by turning collective struggles over employment into an individual's right not to be unfairly dismissed. And the state and capital are capable of violating or jettisoning their own law when pushed

(but not without difficulty). None of this, however, should blind us to the fact that legalisation of the non-racial unions could represent a serious inhibition on state power and a significant resource for black workers. The strategic lesson to be drawn from the 'contradictions' in the form of law is on the one hand to prepare workers to fight against the limitations of the law (e.g. by not allowing legal cases to replace collective organisation) and on the other hand to extend and exploit legality as far as possible.

Our critics show their 'boycottist' colours when they say that legalisation will necessarily lead to "the substitution of legal methods of organisation for grassroots work" and to "dependence on legal experts". Such legalism may be the outcome and clearly needs to be resisted. But our critics confuse legalism with legality. If unions confined themselves to legal methods allowing legal experts to dominate, then such legalism would be at the expense of workers' control and direct action. However, if a union uses all the legal opportunities open to it, employs legal experts to carve out as wide a legal space as possible and fights for the extension of this legal sphere - without sacrificing grassroots work or direct action or illegal activities like most strikes - then it is surely correctly taking advantage of legality and not succumbing to legalism. It is because our critics slide from one to the other that they misconstrue our advocacy for legalisation as an advocacy for legalism.

The same confusion leads our critics to make the absurd charge that we encourage 'absolute obedience to the security laws'. We never of course said anything of the sort. We argued rather, what our critics must know better than I, that it is foolish bravado to ignore the threat which state repression has represented and continues to represent to democratic and independent unionism. Does not the history of South African trade unionism clearly show that repression has been effective in its attacks on the unions: either directly or more subtly by undermining the militancy of unions and accountability to workers of their leaders?

In this context our argument was that the 'boycotters' idealise the existing quasi-legal status of the unions and their capacity to develop regardless of the state.

Unions are forced to make compromises with the state, just as they are with management, not because of treacherous leadership (though fear of repression as well as hope of inducements can corrupt), but by virtue of an unequal balance of forces with their adversary. Under present conditions of quasi-legality unions do temper illegal activities like political affiliation or

overt organisation of strikes. Those which do not temper their activities risk confrontation with the state for which they may not be prepared. We are not saying that therefore the state should be respectfully obeyed, or that illegal strikes should not be organised, or that unions should be immune to criticism for undemocratic practices. Clearly trade unions should - and in some cases do - push internal democracy and militancy as far as they can, given the difficult conditions they face. We are striving rather to understand the obstacles in the way of furthering the fight for workers' control and political independence in order that we might contribute to unions learning to counter these limits. Our critics tend to idealise the degree to which democracy and independence are possible under the present conditions of apartheid repression and they thereby obscure what needs to be done to realise these principles. Their rhetoric of 'no compromise' spirits away the real problem of state power.

The struggles for legalisation on the one hand and for democracy and independence on the other are not opposed: they go hand in hand. Legality can provide a degree of protection from immediate dangers of state repression and a wider space within which the pursuit of democratic and independent trade unionism is possible. We do not say that legalisation might not also provide new conditions for the incorporation of union officialdom: only that this risk is present also in quasi-legal unions, that it can be fought against by insuring that grass roots organisation, education and direct action are not sacrificed, and that it should not - especially in the context of the militant and democratic unions which exist in South Africa - provide a reason to boycott measures to legalise the unions.

The Wiehahns and the Bothas do not grant legality to independent unions easily. They hedge concessions around with conditions and traps; they make cautious offerings, withdraw them and offer them anew, conscious at once of their pressing need to make reforms and their inability to do so; their need to assuage the organised anger of black labour and their realisation that free trade unionism is at odds with all that apartheid stands for. Our argument is that whenever the state offers scope for workers to take a real step forward, that is, whenever it extends the capacity of unions legally to take industrial action, to contact unorganised workers, to raise funds, to address political issues etc., such a step can be turned to the advantage of the unions.

Our critics re-iterate their distrust of legality by refusing to have anything to do with legalisation unless certain 'minimal conditions' are met.

In the general boycott literature these minimal conditions range from - at the absurd end of the spectrum - the abolition of capitalism to the repeal of all apartheid laws or the lifting of all restrictions on free association. In effect these 'minimal conditions' mean a boycott of any concessions which the apartheid state can be forced to make in the immediate period. Our basic difference with our critics is not over our relative assessments of the state's registration proposals; we can debate whether or not they in fact extend the unions' legal sphere of activity and detailed on-the-spot information is clearly required as the state shifts and turns. Our differences concern rather the terms of reference within which such proposals are assessed. Our basic proposition is that any genuine extension of legality is advantageous to workers (though a temporary tactical boycott of concessions may well be able to force more out of the state); for our critics the extension of legality is so dubious a benefit that they will only touch it under conditions which mean that they are hardly likely to touch it at all.

Our critics say that they are "not opposed per se to recognition by the state". However, this non-opposition is not balanced by any positive design about how the unions themselves can take up the struggle for state recognition. We argued that state recognition of free trade unions would represent a serious defeat for a state which has made every effort to do away with independent trade unionism. If this is true, then the theoretical ground is there for unions to adopt a perspective on state recognition akin to its perspective on management recognition: not merely one of non-opposition but of active commitment.

Trade Unions and Political Struggle

Fink Haysom is surely correct in his argument that given the centrality of the state's existence in any struggle, those unions attempting to exclude questions of state power and politics may find themselves unable to confront or answer political challenges; similarly he is correct in arguing that trade union growth cannot be measured in terms of stop orders or paper membership. There is however nothing here at odds with what we stated in our article. It is barely credible that he charges us with - albeit 'embryonically' - treating struggles between workers and management, geographically confined to the shop-floor, as the only authentic struggle or with ignoring the state's centrality or with presenting politics as taboo. Our entire article is concerned with the centrality of the political question of

state power for trade unions. Our dispute with our critics is not over whether unions should take up political questions. As many observers have commented, under apartheid politics enters trade unionism willy-nilly through the destructive intervention of the state. Rather it is over how unions can and should effectively address the question of the state.

The fight for the legalisation of trade unions, that is for state recognition of unions that are independent of the state, is one such avenue for expanding the economic struggles of trade unions into the political realm. It involves putting demands on the existing state. To use Fink Haysom's analogy, the fact that the state offers the workers a room full of shit should not prevent workers from demanding the pony. And if the state tries to assuage workers who are angered by their shit-offerings and ever more capable of fighting back, by voluntarily placing a pony amidst the shit, it would be foolish not to take the pony as a means of strengthening resistance. The fact that some people might be satisfied with a pony as the limit of their ambitions is no reason to spurn it as a resource for those with higher ambitions to rid themselves of the whole room full of shit. Those who neither raise demands for the legalisation of independent unions, nor show willingness to use any expansion of legality voluntarily offered by the state, only block themselves off from this avenue of politics.

What our perspective implies is the idea that the apartheid state, like any capitalist state, is not a monolithic and purely functional instrument of capital, but a force which workers can affect by their struggles and one that is itself torn by the contradictions of the capital-labour relation. Reforms under apartheid are in a word possible and this opens the way for a workers' movement to take the initiative in demanding reforms. There are doubtless limits to the reforms that can be won; the state may find great difficulty in living with the reforms that are achieved; black workers may not rest content with the reforms they secure. Nevertheless the struggle for trade union reform is viable, especially given the militancy of the unions and the tensions which the state and capital face in maintaining the existing system of labour regulation. When the boycotters say that we have no political perspective, what they mean in my view is that they reject this kind of political struggle. It is true that such an avenue may lead to a politics which goes no further than what we in Britain call 'labourism': that is, a politics which merely underwrites trade unionism. But this is only one of the political possibilities which such a strategy opens up.

Our critics say that "the fight for democracy is the political question of

the day". Our perspective does not contradict this, but it does attempt to make it more concrete. First, the fight for the legalisation of free unions is a crucial component of the fight for democracy. Second, if the struggle for democracy is not to be put off till the day of reckoning, then it can be built up here and now by imposing demands on the state. Third, the demand for extending the legal sphere of trade unionism is one which has the organised power of black workers behind it and can therefore be put from a position of relative strength. Fourth, the fight for state recognition of independent unions can be built without diffusing the unions' industrial base and without substituting democratic for economic demands - an important consideration if the fight for democracy is not to be counterposed to the economic struggles of black workers as workers for improved conditions and wages. Fifth, while all blacks in South Africa clearly have a common interest in the fight for democracy, the character of the struggle varies widely depending on which class directs and shapes the struggle. The trade union fight for state recognition is one way by which black workers can put themselves at the head of this struggle (in my view a condition of the struggle's success in the South African context). This is not to say that we see the trade unions as 'pure' working class organisations; only that they are at present the principal form of workers' organisation.

While it is surely true, as Fink Haysom says, that unions which exclude questions of state power will be vulnerable to political challenges, the new breed of independent unions in South Africa has taught us that unions which subordinate the specific economic demands of workers to a broad democratic campaign directed by forces outside the working class and for political ends other than those of the working class, will have difficulty in maintaining the support of workers in the face of a determined state onslaught. This is the lesson which has been drawn in the pages of the SALB from the decline of SACTU. It seems to me that the fight for state recognition, for all its traps, does offer one means by which black workers can take up effectively a key democratic issue without sacrificing their economic organisation or without subordinating themselves to other forces. It is an avenue which black workers through their unions have opened up by virtue of past struggles and one which they can take advantage of precisely because of the level of democratic and independent unionism which has already been achieved.

Our critics say that we misrepresent the boycott position; boycott was a tactical decision, they argue, and not a principle. The 'blind beast of boycott', they say, is a figment of our imagination. It seems to me certainly

true that the independent unions inside the country do not blindly follow a fetish of boycott that marked the Unity Movement in the past or some exile groups today. What we have tried to show, however, is that their tactical assessments of this issue at least are based on a perspective in which the heritage of boycott is still very strong. It seems to me that the blind beast has been shaken, but he/she is showing a remarkable capacity to survive.

It is clear that legalisation does lead unions to amend their forms of organisation and forms of struggle. Forms appropriate to one stage of trade unionism are not necessarily appropriate to another. For example, the posing of demands by black workers en masse without representation and without formal organisation, as I understand it, served black workers well in the early days of the mass strikes of 1973. But growth in the scale and structure of trade unionism can make these same forms inappropriate or even destructive. Our critics fear that the specific changes in the form of union organisation which legalisation brings in its wake will undermine workers' control. They recoil at the prospect of the unions sprouting forth a body of negotiators, full-time officials, legal experts, financial advisers etc. and present it as a kiss of death for internal democracy. They counterpose workers' self-activity to leadership; workers' participation to union representation. Workers, they say, can speak for themselves; they don't need union officials to do it for them.

We do not deny that legalisation speeds the growth of formal union organisation and expands the need for full-time officials, negotiators, shop-stewards and experts. Nor do we deny that this development is accompanied by dangers of bureaucratisation, whose ugly face we know too well in Britain. We agree that the main thing is that workers control their own organisations; in Britain this lesson is driven home every time the labour movement's leaders sell the workers short and has given rise to the current struggles to democratise the Labour Party and trade union movement. However, we reject the idea that changes in the form of organisation which legalisation brings about are inherently undemocratic.

First, our critics idealise the form of organisation in which worker participation takes the place of union representation, in particular down-playing the hidden authoritarianism which can lie beneath the surface of participative democracy. Workers need to know precisely who their leaders are and what they are responsible for, in order that they might hold them to account and replace them if necessary. They present it as an ideal democratic model rather than a stage of development of union organisation

with its own strengths and weaknesses. This is not a criticism of any particular union inside South Africa, a separate question that is not the topic of this or our previous paper. Second, our critics obscure the need which workers have to build up a strong leadership cadre as a crucial part of their self-activity and self-organisation. Third, by treating leadership itself as tantamount to bureaucracy on the one hand and a passive workforce on the other, they confound the issue of whether workers should have leaders, with what kind of leadership workers can secure. The issue as we see it is the formation of a leadership that is accountable to the workers themselves, politically independent of the state, and capable of performing the functions - negotiation, organisation, education, representation etc. - which workers demand of them. In no way does this imply a view of "cowering, timid workers who possess neither the courage nor the intelligence to speak for themselves". Active participation and strong leadership are not on opposite poles. Our critics, instead of countering bad leadership with good leadership, counter leadership in general with mass participation. Accordingly, they can only see the organisational consequences of legalisation as unremittingly dire; they do not see the new and extended forms of union democracy which legalisation can facilitate.

Notes

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Industrial Councils:

Barriers to Labour Democracy

Nadia Hartman

Introduction

The controversy surrounding the issue of entry or refusal to enter into Industrial Councils (ICs) is based on two issues: What are the consequences for democratic trade unions of participating in ICs, and whether ICs, as institutions of collective bargaining, promote or undermine workers' interests.

The aim of this article is an attempt to contribute to this debate by providing empirical data on the building IC for the Cape Peninsula region and the Bakery and Confectionery IC for the Western Province region. An attempt is made to analyse the data and draw tentative conclusions since this article is based on ongoing research.(1)

Industrial Council for the Bakery Industry (Western Cape)

Representivity of the Bakery Industrial Council

The bakery industry as a whole comprises nine plant bakeries and 134

confectioneries involving 4036 employees. However, the total number of employees falling within the ambit of the IC is 2984.

The IC was formed in 1945, the two parties being: the Western Cape Bakers' Association (WCBA) and the Bakery Employees Industrial Union (BEIU). The employers' association (WCBA) represents the nine plant bakeries and approximately five of the 134 confectionaries. This represents 2155 of the 2984 employees, or 72% of the workforce falling under the ambit of the IC.

The Union states that it has organised all the workers covered by the IC Agreement plus about another 1 000 workers in the Bakery Industry who do not fall under the ambit of the IC (2) The parties to the IC of the Bakery Industry are therefore highly representative of the industry.

BEIU

The BEIU is a non-racial union founded in 1911. Since then it has 'represented' black workers, in all negotiations. A unitary wage system for all workers, the only stratification being wage differentials between job categories, has always existed. According to the secretary of the union, black workers have participated in negotiations but have had no vote because they were not defined as employees in terms of the Industrial Conciliation Act; furthermore, the BEIU never formed a parallel union for blacks because it was 'unethical'. However, not until 1975 were black workers permitted to attend IC meetings and participate in the discussion. They had no vote until 1980 when black workers could be legally organised. Of the three worker representatives one is 'white', one 'black' and one 'coloured'.

The IC Constitution

Sociologically interesting aspects of the IC constitution are the objectives of the Council of:

- promoting a good relationship between employers and employees;
- using its endeavours generally in the direction of maintaining industrial peace;
- securing for employees regular employment, and minimising unemployment. (3)

The objectives of the council suggest an approach to industrial relations characterised by a single focus of loyalty and a striving toward a common goal which would exclude the possibility of conflicting interests. Such an

approach ignores the fundamental objective of capitalist production in capitalist societies, viz. that the owners of the means of production are profit-oriented for capital accumulation and expansion. This is particularly so in an industry such as Bakery where prices are controlled by the Wheat Board and Marketing Council, profits would seem to be largely the result of keeping wages as low as possible. This fundamental objective does not seem to suggest one focus of loyalty or a common purpose. The profit vs wage battle indicates that conflict is inherent in the collective bargaining process. The implication of the unitarist approach in the objectives of the IC suggests co-optation of the trade union rather than a recognition that collective bargaining is not only a rule-making process but also a power relationship between two different organisations.

The Council consists of twelve members, providing equal representation for the trade union and employers organisation. The IC constitution makes provision for the appointment of committees consisting of an equal number of employer and employee representatives 'for the investigation and reporting on any matter referred to them by the Council'. (4) One such committee consisting of 2 employer and 2 worker representatives, investigated working hours and conditions with a view to stopping night work, and implementing a five-day week. Another committee on health matters is to be proposed and attempts will be made to include someone from the South African Medical Association. The chairman and vice-chairman of the union sit on all such committees. In the case of the Training Committee, a highly graded union member, e.g. foreman confectioner, is called in an advisory capacity if necessary. This committee deals with matters relating to the Bakery Training School.

There seems to be an implicit recognition by the Council of an element of 'distance' from the rank and file, and such committees appear to be an attempt to bridge the gap between IC representatives and the rank and file. The committees are based upon a unitarist approach to industrial relations which assumes that management and workers have the same interests with respect to working hours and occupational health. In contrast, democratic shop floor unionism and consequent participation of workers in decision making, stimulates a sense of control. Such experience of control is alien to a unitarist approach to industrial relations, and challenges employers as the single source of authority.

IC Agents

The Constitution empowers council agents 'to question any employer or

employee and inspect the records of wages paid, time worked and payment made for piece-work, and overtime, for the purpose of ascertaining whether the terms of any such agreement are being observed'. (5)

An IC agent's task differs from that of the Designated Agent (in terms of the Labour Relations Act) in that the latter has investigatory powers concerning only employers in the industry and thus cannot inspect trade unions or the Bakery IC itself. An IC agent may only inspect employers party to the IC agreement.

The system of IC Agents needs to be questioned. Given that industrial relations are power relations between opposing parties, is the notion of impartiality viable? Can the agents have anything more than a very superficial grasp of industrial relations, seeing that one agent is responsible for 9 plant bakeries, 134 confectioneries involving 4036 paid up members. Does not dependance on agents usurp the role of the shop steward?

The practice in the past has been for the worker concerned to report a contravention to the secretary at the union offices who is the only union organiser. The secretary telephonically reports it to the agent, who then investigates the allegation. Alternatively the union secretary deals directly with the employer concerned. Such practices could limit the necessity for the union organiser to go to the bakery or confectionery concerned, thus inhibiting worker contact with the union official and active union participation by the general members.

Disputes and Strikes

The IC Constitution contains two clauses dealing with disputes and strikes. All disputes have to be submitted in writing to the Council for investigation by the agent who reports back. The matter is discussed by the IC. If it is not resolved, the constitution states the parties may consider applying to the Minister of Labour for mediation or arbitration.

No strikes or lock-outs are permissible unless the matter has been dealt with according to Section 11 of the IC constitution. A strike or lock-out during the currency of an agreement is considered a contravention of the agreement arrived at by both parties.

However, in the case of a walk-out by contract workers at Silverleaf last year, the issue was dealt with independently of the Council, by the union and company in question. They were all re-employed after the company had received permission to raise its quota for contract workers from the Department of Manpower. The secretary of the union claims that grievance

resolution is only possible at this level because of the 'good relations that exist between the union and employers'.

This deviation in practice from the formal IC rule (that all disputes be dealt with at the Council) would seem to suggest an implicit recognition by both employers and the union that the IC dispute procedure is time-consuming and inappropriate for a volatile industrial relations situation. According to the union secretary, this is the preferred method of dealing with such matters. Pay, and leave queries and unfair dismissals ought to be referred to the IC, but the union deals directly with the employers concerned in such matters. In the words of the union secretary: 'dispute procedures can be prolonged. Only once did we involve a conciliation board but it was drawn out and a waste of money'.

Most companies have their own grievance and dismissal procedures. The IC constitution or the main agreement does not provide for a grievance procedure. Clause 15 of the main agreement deals with termination of contract. It stipulates the periods of notice to be given by either the employer or employee, i.e. during the first month of employment: twenty four hours notice; weekly paid, not less than one week's notice; and monthly paid, not less than two weeks notice. Clause 2 grants both employer and employee the right to terminate the contract without notice 'for any good cause recognised by the law'. Clause 3 permits termination of contract by either party without notice provided the employer pays wages according to the period of notice or the employee pays or forfeits to the employers wages equivalent to the period of notice. Clauses 2 and 3 appear to negate the concept of equality before the law. They stipulate both parties have the right to terminate contract of employment but they do not provide a 'safeguard' for the employee, especially in Clause 3. The unemployment crisis, makes job security crucial for the employee. In this context the working of Clause 3 is vastly different for the two parties. Again the unitarist approach raises the question of whether 'safeguards' for employees will / can be dealt with at the IC.

A member of the union executive claimed that in some companies the union executives were part of the company's administrative staff and dealt with grievances at the plant as union representatives. On the other hand the workers involved may report the matter to the union and take it up either with the agent or the plant manager depending on the nature of the grievance.

This does not seem to be the practice in some companies, but in those

companies that have 'representative committees', workers tend generally to take their grievances to the committee. The committee system was introduced in the Attwells, Lakeside and Premier Foods Companies. The representative committees consist solely of elected workers; one representative from each department on the bakery, who meet on a weekly basis with the personnel manageress and plant manager. The following types of issues are dealt with by these committees: (i) female employees wanted time off for shopping before Christmas; (ii) employees felt that the company should offer more financial compensation for long-serving employees in addition to the existing service bonus; (iii) employees should not have to pay for their tea.

It would seem that the committees have tried to usurp the role of the union on the shop floor and would carry on trying once the shop stewards have been elected. However, it is the opinion of the union secretary that the committees will become ineffectual once the shop stewards have been elected. At the time of writing 44 shop stewards had been elected.

The fact that management found it necessary to introduce such committees, suggests that a degree of dissociation exists between union officials and the rank of file. Almost a year has passed and shop steward elections have not yet been finalised. At a shop stewards' training course held at UCT in October / November 1981 at the request of the union, poor attendance by those shop stewards already elected was held by the secretary of the union to be the result of: long distance travelling to attend the course; the danger of mugging when going home late at night; the language barrier for Africans and reticence on the part of the shop stewards because it was being conducted by 'University people'. The result was that mainly union executive members attended the course so that they could themselves instruct the shop stewards.

The reason offered by the union for delay in elections was that the task fell on the shoulders of the general secretary, who was also involved with many other administrative matters.

Thus it would seem that the concentration of union organisation in the hands of a few people inhibits grassroots contact between the union organisers and the rank and file. Such bureaucracy also appears to be inefficient and slow to adapt to a system of worker participation in decision and policy making within the union.

Negotiations of Agreements

The negotiation of the main agreement occurs annually and deals with

wages and working conditions. Nothing has yet been written into the main agreement negotiated in November/December 1981 concerning shop stewards, since the elections are still in progress.

Wages are negotiated annually. The WCBA requests that the union makes its proposals by 1 October - the agreement expires in March of the following year. The timing is due to the Wheat Board and Marketing Council controlling the price mechanism. These two bodies publish their findings in August, thus setting the parameters for wage negotiations at the Council.

The WCBA

The WCBA holds a caucus meeting before negotiations take place where the employers' proposal and suggestions are discussed. This caucus consists of the 6 employer representatives at the Council. The proposals are sent to the secretary of the IC to place on the agenda. The employers also discuss strategy for negotiations which vary. According to the chairman of the association, the variations are determined by prevailing conditions and the limitation set by the Wheat Board and Marketing Council.

The BEIU

The BEIU starts preparations for negotiations approximately three months before actual negotiations at the Council. The secretary of the union sends circulars to all the bakeries and confectioneries notifying the members of the impending IC negotiations and general meeting.

The newly elected executive obtains a mandate to negotiate wages on behalf of the workers. When adjournments occur at the IC, union representatives consult the executive only. If it is a contentious issue a general meeting will be called. According to the secretary this has never occurred.

On interviewing eight union members and their shop steward from Excelsior Bakery, Paari, (at their homes), it was found that: (i) only the shop steward and one member had ever heard of the IC; (ii) nor were they aware that an IC agent had visited their bakery a few months previously to investigate a reported contravention of the IC agreement; (iii) nor does the shop steward know who represents him at the IC. At the shop stewards' training course last year four to five of the shop stewards present did not know who represented them on the IC. According to the secretary, it has been

the policy of the union since 1975 to publish a comprehensive annual report in which is stated inter alia the office bearers of the union, the executive members, IC representatives and members of the management of the sickfund committee. One copy is sent in booklet form to the shop steward or liaison officer per bakery. According to the secretary, the latter 'is a kind of shop steward elected by the workers'. Liaison officers only operate where shop stewards have not yet been elected.

The shop steward and one of the workers had attended one of two of the general meetings in Salt River at the end of last year. They stated that no notice had been sent to their bakery asking union members for contributions to the agenda. They only received circulars of notification, specifying the date, time and venue of the meeting. However, according to the secretary an item exists on the agenda permitting discussion from the floor.

The meeting had been poorly attended, according to 2 workers only about one hundred members were there. Because of the working hours in the industry, meeting attendance has always been a problem according to the secretary.

When asked why they did not attend the meetings, members replied that it was very far for them to travel and expensive. Three of the members interviewed had been at the bakery since the union started organising there (1978) and in that time they knew of no transport arrangements that had been made by the union to assist them in attending meetings, although transport had been arranged for 1981.

When explaining to them how their wages had been negotiated at the IC, the majority expressed resentment at the fact that people who did not work at their bakery were negotiating on their behalf. They felt their wages were far too low. A breakdown of monthly expenditure revealed that after essential payments (rent, food, etc.) some had no money left, others not more than R2. When explaining to them that three of the union representatives were bakery employees their reply was: 'hulle wat in die groot stad werk, werk nie en ly nie soos ons hier in die Perel'.

Clause 23 of the IC agreement states that every employer shall place in a conspicuous place readily accessible to his employees a legible copy of the Agreement in both official languages. None of those interviewed, apart from the shop steward, had ever read an IC agreement. Reasons ranged from it being too difficult to shrugging of the shoulders. It would seem that the technical language of the agreement makes it inaccessible to a large number of workers.

In summary, the combination of the following factors: (a) the fact that

the executive elects representatives exclusively from among its ranks; (b) the chairman, vice-chairman and secretary having the full authority to act on behalf of the executive and the general body at all times being written into the constitution; (c) the responsibility of union organisation falling solely on the shoulders of the Secretary; (d) the absence of shop floor representation; (e) the large number of bakeries and confectioneries in question, all tend to divorce the IC representatives from the mass of members.

IC meetings are held once every three months. Matters that do arise between meetings are dealt with by an executive committee consisting of the chairman (chairman - WCBA), vice-chairman (secretary of the union) and the secretary of the IC.

It would seem that the nature of decision-making on the Council inhibits active participation by union representatives at the Council. This is supported by the fact that interim decisions are made by only two people, of which one is the union representative acting unilaterally. Exemptions relating to employees being checked out with their employers, but not vice versa suggests bias in favour of the employers.

The executive members of the union and the employers interviewed thus far report that they consider the IC system to be the most effective way of representing workers' interests. The chairman of the IC was of the opinion that the IC would have to be reformed once shop steward elections had been completed but he was not sure what pattern the reforms would have to take. One of the union executive members also foresaw the necessity of reforms to the Council once the shop steward system had been 'properly implemented'. He regarded shop steward militancy, especially among the blacks, as an inevitability and thus attempts would have to be made to incorporate them into the IC. His view was that it could be done by a Joint Shop Stewards' Committee meeting with the Council, but whether they would have negotiating powers at the Council was debatable. This would seem to be an admission that formalised and centralised collective bargaining is a means of controlling the rank and file.

Conclusion

This case study illustrates that the Bakery Union, lacking in democratic practices (lack of rank-and-file participation in decisions and policy making) has been further weakened by participation on the IC. The IC tends to promote bureaucratisation. This has the effect of eliminating any need for

rank and file participation.

Footnotes

- 1 Research thus far has involved: examining and analysing the IC constitution, main agreements and amendments, interviews with members of the employers' organisations who are representatives at the IC, their executive committee members, IC agents, and representatives of the trade union at the IC, their executive committee members, union organisers, shop stewards and general members. The trade union representatives at the council were also members of the union's executive committee.
- 2 Statistics obtained from the General Secretary of the BEIU
- 3 Bakery IC constitution pp 1-2
- 4 *ibid* p6
- 5 *ibid* p 4.

DOCUMENTS

Problems in Collective Bargaining

The following paper was given by John Copelyn, National Organiser of NUTW, in Durban in April 1982, at a seminar organised by the Natal Chamber of Industries.

This paper is intended to briefly analyse the development of the collective bargaining arena in South Africa. I clarify at the outset the perspective is one from the viewpoint of the non-racial union movement rather than of unions which have historically excluded various race groups from membership of their union for the 'benefit' of participating in the official system of collective bargaining.

I hope in particular to make some comments on the problem increasingly in the foreground as the non-racial union movement expands rapidly, namely the issue of industrial bargaining.

In order to deal with this question realistically, however, it is necessary to note the strategies that unions and employer groupings have adopted toward each other over the last few years, for it is out of that very interaction that the future structure of collective bargaining will emerge in this country.

THE FORGING OF UNION POLICIES

The current independent union movement was born into a world intensely hostile to its existence. It lived in a twilight world continuously under attack from both the state, and employers, who right from the start seemed to cooperate remarkably well together.

Virtually every single approach for employer recognition was flatly turned down. This is true even of companies owned by the British state during the period of office of a Labour Government.

These unions were subjected to continual smears by the state, employers and the national press who used every opportunity to accuse them of being political subterfuges, cliques led by left wing students and of being dangerous institutions easily 'infiltrated' by exiled organisations.

The state brought all manner of retribution upon the new movement. Unions were charged with running 'unregistered friendly societies' when they offered small funeral benefits; they were raided by Group Areas inspectors (ably assisted by the Security Police) for occupying offices in 'white' areas; Bantu Administration Boards followed with raids looking for unregistered labour in the form of union officials who heralded from the Transkei and were unable to get permits to seek work in the area; passports of several union officials were denied. More importantly, large numbers of union officials were 'removed' for substantial periods of time by the relatively indiscriminate use of banning orders coupled sporadically with detentions in solitary confinement without trial for months on end for others.

Inside factories, union leadership was, one way or another, worked out of their jobs in a great many cases. While a few years later employers may like to shake their heads in disbelief, these facts are the simplest common knowledge among trade union activists. For those who need it, proof can be found almost anywhere. In the National Union of Textile Workers, for example, only three out of eighteen members elected to Executive office at the Inaugural meeting of the union remained in the same factories a mere eighteen months later. Of the three that remained, two were employed by the single company which decided to recognise that union in its early stages. Whilst I am not familiar with the details of other unions, I have no doubt their records are very similar in this regard.

These facts are important ingredients in the thinking of the non-racial trade union movement and the present wave of detentions makes it hard to underestimate their centrality.

It is in fact against the backdrop of this repression that the practices of the movement were, over the years, formulated. These practices grew fairly rapidly into coherent principles of operation directing unions in their day to day development.

In emphasising the necessity of the movement adopting certain practices for its own survival, I do not want to underestimate the importance of the conscious adoption of definite policies by the movement. I certainly believe the union movement has forged its own direction as much as it has been forged out of the limits and opportunities available to it.

It is however, the fact that the union movement formulated and pursued its approach to trade unionism under such difficult circumstances and at such great cost to its leadership at a personal level, that gives it the moral fibre to resist employer initiatives in more recent times which intentionally or otherwise seek to sweep away and remould the principles upon which the movement has sustained itself to date.

In order to understand the challenges which the movement sees itself as facing at the present time, it is first necessary to sketch out the principles which have characterised the formation of union structures and the principles which have characterised its operation to date.

Structural Policies

I deal firstly with the structural policies relevant here.

Membership

Perhaps the most important decision any worker association must make is the question of who to admit as members.

In 1973 when the present non-racial union movement was beginning to emerge there virtually was not a single worker association which admitted all workers to membership irrespective of race. Most were registered under the Industrial Conciliation Act and accordingly excluded Black workers; the balance were virtually without exception Blacks only associations which were surrogate bodies highly dependent on the Registered union under whose guidance they operated, and so aptly named 'parallel unions' by TUCSA.

To its great credit the present union movement broke fundamentally with this long standing tradition among South African unions and organised workers in factories without reference to race.

Leadership Structures

Given both the vulnerability of union leadership and the drive to create genuinely democratic associations, unions spread their leadership as widely as possible in their organised factories.

The movement invested a tremendous amount of effort in building up traditions of shop steward control over all aspects of the organisations. Shop-steward committees and their meetings became the central pivot of the movement. The structuring of these committees and their incorporation in the constitution of the union was a significant innovation of the movement.

It is interesting to note for example, that the Labour Department model constitution for a trade union, which forms the basis of most union constitutions, in fact does not even mention shop stewards at all.

The extent to which the movement has already succeeded in building up a shop steward movement can be seen in many ways. In FOSATU, for example, that Federation reported in its recently published report that its affiliates had established between them shop steward committees in some 138 organised factories, involving some 3 000 shop stewards around the country. Whilst this figure is still small in relation to the objectives of that Federation it is already the beginning of a sizeable structured factory leadership.

Operational Policies

Whilst there are other structural policies of great importance not dealt with above, such as the calling of frequent factory meetings of general membership and a sophisticated system of democratically structured rights to call ballots, the abovementioned policies suffice to discuss the operational policies which flow naturally therefrom.

The operational policies of the non-racial union movement are essentially bound up with the problematic of participatory democracy. The rights needed to effectively develop such democracy within the union movement have emerged fairly clearly in claims made upon employers. Such rights have in fact now become commonplace in many factories and are the standard content of all 'recognition agreements' suggested by unions to employers. These include:

- a) Collection facilities for membership dues - by and large a request for stop order facilities - in order to stabilise majority membership.
- b) Shop steward recognition, including grievance procedures and time off

work for union business.

- c) House bargaining machinery involving shop stewards and officials in meetings with management to negotiate changes in wages and conditions actually applicable in the plant, together with rights of report back to members.
- d) Access to the plant, both in the form of officials being granted access to company premises and the use of company notice boards for union purposes.

No doubt as these agreements advance they are likely to incorporate additional features common overseas, such as joint union - company safety committees, grading committees, full time shop stewards and the like.

As can readily be seen from these rights unions are seeking active factory based unions which operate in a manner consistent with its structural policies.

The recognition agreement is tightly grounded within the structural policy commitments of these unions as enunciated above. They are designed in the first place to advance majority unionism through stabilising membership; secondly, but no less importantly, they are steeped from head to foot in the traditions necessary to the growth of both a widespread shop steward movement and for the development of the participatory democracy among membership so essential to maintaining active unionism.

EMPLOYER POLICIES

Having noted the nature of what unions want and why they pursue their objectives so avidly, we turn to employer positions.

Prior to 1979 virtually all employers in South Africa had clear and farsighted views on unions. Basically their policy amounted to sitting tight and hoping workers at the plant concerned wouldn't organise themselves into a union. Employer ignorance about unions, collective bargaining rights and the trend of the world immediately around them was abysmal and they were completely ill equipped to deal with them when they did emerge as majority supported associations. They could always be relied upon to say 'no' to whatever rights were asked by non racial unions and certainly never gave the impression of thinking much about the image such negative attitudes would create towards the company among workers in the company's employ.

Subsequent to the changes in the Industrial Conciliation Act in 1979 there was a flurry of employer seminars and efforts of one kind or another

attempting to analyse how company interests might best be served following the changes, and to formulate company policy accordingly. All too soon most major employer groups had decided on an issue which was to become a central dispute between the new unions and such companies across several industries - namely the question of Industrial Councils.

As is not infrequently the case in serious labour relations matters, employers moved too quickly, with too much stick and too few carrots.

Not one of the most ardent supporters of Industrial Councils suggested union members would get better increases through Industrial Councils. All that was really emphasised was that it was company policy that recognition arrangements were dependant on acceptance by the unions that substantive wages and conditions would be determined by the Industrial Councils.

CLASHES OF APPROACH: 1979 - 1981: The Question of Industrial Councils

The result has been a mass of tensions right from the start.

Employers in the Iron and Steel Industry resisted fiercely all worker pressures for house bargaining. SEIFSA made it clear to the FOSATU affiliate Metal and Allied Workers Union (MAWU) that it would 'crack a few heads', as they put it, if MAWU did not tow the line as far as the Industrial Council went. The council in its turn was then used to attempt to extract from MAWU an undertaking to enter it in exchange for an exemption permitting stop order deductions.

In the paper industry the two major employers got together and tried to insist they would only sign house agreements negotiated in respect of their establishments if the agreements contained a clear and unambiguous undertaking by the union to enter an existing Industrial Council. Similarly an important dispute developed in the Chemical industry where an employer whose factory was partially covered by an Industrial Council 'required' a stipulation that wages would be negotiated in this Council.

A while later the same issue arose in another major sector - the textile industry - where a newly formed employer association wandered on stage and opened its negotiations with an attempt to renege on all existing house arrangements by its members in an attempt to oblige the union concerned to form a new Industrial Council in the Industry. As may readily be anticipated the results of these clashes have been a simple disaster from the employers point of view. No self respecting movement can allow itself to be bullied into structures of bargaining which cut across all the features of the union being

developed by it.

In the Paper Industry one of the employers conceded house rights at the eleventh hour and narrowly averted a strike at the plant concerned. Thereafter the other employer saw the light of day and followed suit.

In the Chemical industry the factory allowed the dispute to develop into a full confrontation before reconsidering the matter. It took a legal strike coupled with a product boycott to force the reconsideration. The campaign launched against this factory securely associated Industrial Councils with evil incarnate in the minds of thousands of unionised workers.

In the Metal industry there have been more wage strikes in the last few months than ever before. The pressures on SEIFSA and the union parties to the Council are now so great that it seems inconceivable that that Council will remain intact for much longer unless some serious accommodation is made in the near future to the demands of those outside it who still remember, but no longer fear, the 'head cracking' threat. Unions in the Council represent only a fraction of the number of workers organised in unions outside the Council in virtually all but highly skilled and Artisan categories. One wonders for example, how long "non-party" organised workers will take to break the attempts to bind them to minority party agreements. I suspect shorter than many employers might hope.

In the Textile industry the result is much the same. The employer association was unable to freeze out the union from its factory bases and its attempts to do so came to an abrupt halt when it encouraged one of its members to renege on an agreement negotiated to conclusion causing a strike at the member's establishment. The member concerned, as it turned out, was not prepared to pay itself for the fight of the whole industry and conceded the issue. Since then virtually nothing has been heard of the association and union members are simply left with the overall impression that the union should have nothing whatsoever to do with that association in the future.

In summary the disputes mentioned in the above four cases amount to a simple statement of disaster from the employer point of view. The bulldozing has not only failed in its objective - in the two years since the Act was changed to allow non-racial unions to register not a single Industrial Council has been established and no serious union has joined an existing one - it has in fact been completely counterproductive. Workers unionised into non-racial unions, with few significant exceptions, are virtually unanimous that Industrial Councils are institutions especially designed to weaken the movement that should be avoided like the plague.

Perhaps the most perceptive statement on the problem developing has been made by Dr. P. van der Merwe, the Deputy General of the Department of Manpower, in November last year when he put it this way in a speech to an Industrial Relations Seminar:

'Levels of collective bargaining are, in future, going to be determined very largely by the objectives of emerging trade unions, and by internal and external pressures on individual employers to recognise, for bargaining purposes, any organisation which is representative of all or a particular group of workers employed by them. At the present moment, there are clear indications that a number of trade unions favour enterprise-level bargaining above industry-level bargaining through the Industrial Council system...'

Union Formulations of Industrial Bargaining

If Dr. van der Merwe is right in his above quoted comment it is important for employers who take industrial relations seriously to stop thinking only in terms of company policy and to start asking some questions as to what forms of industrial bargaining might be acceptable to the union movement.

In an attempt to answer this basic question it is necessary to deal with the criticisms of existing Industrial Councils which have been raised by unions. These amount to the following:

a) Industry bargaining no substitute for factory bargaining:

Unionists do not see industry bargaining as being something that should replace factory bargaining. They believe they are complementary forms of negotiation. What it amounts to is that unions are not prepared to give up the rights they have taken so long to secure in order to acquire industry wide bargaining rights.

It is instructive to consider here how precisely the present Industrial Council practices cut across each of the four basic rights sought by non-racial unions at a factory level as set out earlier in this paper.

i) Collection Facilities: it is the standard practice of Industrial Councils to prohibit the deduction of union dues from wages of workers for all unions other than members of the Industrial Council agreement. To the non-racial union movement this is completely

unjustifiable. It amounts to employers declaring an alliance with those unions who hail from the "racially exclusive" tradition in order to frustrate as far as is possible the wishes of the workers concerned and to make as difficult as possible the stabilising of membership for the emerging movement.

Perhaps the above accusation appears harsh, but what other justification can there be for why prohibitions are agreed to by employers. Certainly no employer association has ever tried to offer any explanation whatsoever.

- ii) Shopsteward recognition: the essence of the Industrial Council approach to industrial relations in this country has been to regard the "Council" as an independent, neutral third party in the situation. Accordingly I.C. Agreements are regarded as law which must be enforced by persons other than unions and employers.

In consequence the notion is that any worker who is aggrieved should feel free to go to the Industrial Council offices and make his complaint to people especially employed for that purpose - namely Council Inspectors.

This tradition can be demonstrated most easily by looking at the operation of the Clothing Industrial Council in Natal and the National Iron and Steel Council. The former have offices next door to the union offices and as far as can be ascertained from outside, the Council's function is to attend to all grievances from workers in the industry. The union has virtually no existence whatsoever in the minds of the vast majority of clothing workers, except to agree from time to time minimum conditions and rates of pay.

In the latter case the Council has gone so far as to prescribe precise procedures for pursuing a complaint of unfair dismissal. The procedure in essence is that the worker must lodge his complaint with the Council in a certain period. Thereafter the Council agents investigate the matter (in the course of which they may take statements from workers or the employer) and thereafter "the Council" makes a ruling on the matter.

In short nowhere is there any use for active shop stewards of the union at the place of work. In fact a steward taking up such a case with his employer is virtually seen to be interfering with "the Council's" work and more particularly the work of its agents.

This is perhaps not a necessary feature of industrial councils but it is

certainly the practice of most unions involved in them.

The emerging movement is most unlikely to agree to a system of operation which undermines its shop stewards. It is not interested in creating joint third parties which develop a life of their own. On the contrary it believes it is the responsibility of shop stewards to police agreements between their union and employers. It believes what is needed is for employers to extend the rights of shop stewards and agree they should have the same powers as Council agents have - that is powers to take statements from line management and powers to check whatever records have to be kept of wage payments etc.

iii) House Bargaining: Industrial Councils cut across house bargaining for two reasons. The first is that once agreements are Gazetted it becomes "illegal" to strike in regard to any matter determined by such Council. Like the stop order issue this amounts in practice to employers trying to rely on bargains reached with one union to prevent others (namely their own workers) from pursuing grievances keenly felt by them.

The reason most Industrial Councils operate in this way appears to be in consequence of the strength of employers in relation to the union parties to such Councils.

Employers have invariably tried to discuss matters such as wages only in forums well away from the collective power base of workers. In "Guidelines" produced by the F.C.I. towards the end of 1980, it was suggested that such forums are more desirable because bargaining there "tends to become more de-personalised and to acquire a more professional and rational character".

From the point of view of emerging trade unions this is pure escapism. It means busying oneself talking miles from the point of mobilisation, overextending limited resources greatly, and in no time losing track of the points where employers can be legitimately pressurised. In fact the guidelines give fair support to the view that it is the intention to overextend unions for they state quite categorically that the Chamber supports the view that the bargaining units should be as big as possible - "the larger the bargaining unit, the better".

Emerging trade unions certainly do not want to stray into such areas. They are determined to retain direct worker control over the union side of the bargaining table and to keep the unit in respect of which bargaining is taking place, down to a size where there can be effective report backs on negotiations, democratic channels for the workers affected to state their

attitude to proposals made in the course of such negotiations and generally to ensure by the time one concludes any bargain, that the majority of workers affected thereby are in favour of an agreement being concluded on the terms finally proposed.

- iv) Access: While it is perhaps a smaller point it remains a fact that some unions who have faithfully been parties to Industrial Councils established in the 1940's, still do not have any rights in this regard. The Textile Industry is perhaps the finest example in this regard.
- b) The second problem with Industrial Councils is that they perpetuate racist minority unionism. It is the heritage of such councils that agreements negotiated in them have been negotiated by entirely unrepresentative unions. In the Textile Industry for example a national agreement covering 10 000 workers or so was traditionally made by a union having perhaps 1 000 members or less in the industry. In the Transvaal Knitting Industry it appears the union party had about 30 members in an industry of 2 500 workers.

Worse than that, the rights accorded to such unrepresentative unions in order to make sure they retained enough life in them to sign the next agreement, when the previous one expired, cut across factory rights of majority unions.

While it is common practice to state in "recognition agreements" that union rights such as shop steward recognition, negotiating rights and stop order rights will cease if the union loses its majority support in the plant, just the opposite applies to Industrial Council unions. They retain their stable presence in factories even if they have only 10-15% membership or less.

The emerging unions believe employer retention of minority unions is both destructive and short sighted. The collective rights enjoyed by unions at factory level ought to be a function of having and retaining majority support. Such unions should in fact be the only unions "recognised" to represent such factories and the only way for other unions to acquire such rights should be to acquire majority support.

In effect this means that at industry level unions would represent establishments rather than individual workers from here and there in random fashion.

Conclusion

It is not the intention of this paper to speculate on whether or not Industrial Councils are capable of undergoing sufficient reform to be attractive to emerging trade unions. Primarily it has been my intention to suggest to employers the following things:

1. If employers seriously want to have industrial bargaining at all it is now growing late in the day to resist the complementary development of factory bargaining structures. To the extent that employers continue to frustrate such factory developments by relying on technical powers of existing Industrial Councils they will discredit them irrevocably to the point where reforming them becomes impossible for unions seeking seriously to bargain industrially.
2. Rather than forcing matters further at this point it is time to reflect on the fact that bulldozing strategies will not succeed in diverting unions from a path being forged by them out of highly repressive circumstances. All that will be done thereby is to further associate yourselves with the various forms of repressiveness already being encountered by these unions.

What is needed is to sit back for a while, let unions have their day. In the near future some unions will definitely enter the arena of industrial bargaining. They will do so not because they have been bullied into doing so, but out of the needs of their situation as they expand. Probably they will insist on terms loaded more favourably to their members than the present dispensation, but once they clarify their stand on industrial bargaining and once you have made the adjustments that are necessary to accommodate them, I believe there will be less need for "cracking each other's heads" on procedures and we can both get down to bargaining over substantive conditions of work in a way which has some prospect of creating a more just society for us all.

Principles of Collective Bargaining

The following resolutions reflect FOSATU's current position on the Principles of Collective Bargaining.

Preamble

FOSATU believes that the principles of negotiation which underly most collective agreements in South Africa have been negotiated by unions representing a minority of skilled workers. Accordingly, because a minority of workers are always in a weak position against workers, and because these workers have at times struck up an alliance with employers against the majority of unskilled and semi-skilled workers, these agreements work in the interests of employers against unskilled and semi-skilled workers in the first place, and ultimately against all workers.

FOSATU therefore resolves:

- Not to accept the system of Industrial Relations that has been thus far developed in South Africa.
- To negotiate plant based and industry wide agreements based on the following principles.

- a) That agreements should be negotiated in a situation where the two parties face each other as equals.
- b) That negotiations be entered into between representative but independent bodies of employers and workers.
- c) That procedures for negotiation should be simple and short.
- d) That agreements should be negotiated at a level where the two parties are representative and where such agreements can be effective.

In the present circumstances this means that agreements should first be reached at plant level and then move onto regional or industry wide levels.

- e) That all aspects of labour relations should be open to negotiation.
- f) That the two parties involved should be able to bargain on the basis of knowledge in that information pertaining to company policies and finances and procedures should be available.
- g) That the agreements should be policed by the two parties concerned and no third party pretending to be a neutral agent should be involved.
- h) That workers should at all times have a control over the monies they pay into contributory benefit schemes.
- i) That agreements should follow as closely as possible model agreements approved by all FOSATU affiliates as amended from time to time.

FOSATU believes:

- Industrial Councils were established and have been developed to serve the interests of employers and a minority of workers.
- That most Industrial Councils are presently unrepresentative of the majority of workers and therefore undemocratic.
- That the constitution and structure of most Industrial Councils reflects this unrepresentativeness and authoritarian base and it would be difficult for any small and democratic union to have an effect on Industrial Councils as they presently exist.
- That some Industrial Councils, because they are dominated by employers, misdirect workers' money collected either in the form of a levy or in benefit funds.
- That some Industrial Councils have blocked speedy solution to industrial

problems by placing cumbersome procedures and bureaucratic structures in the way of direct negotiation between employer and workers.

FOSATU further believes:

That most unions sitting on Industrial Councils, are unrepresentative of workers and;

- Have allowed themselves to be seduced into bargaining through their negotiating and debating skills and the good will of management, rather than on the power of the organised workers they represent. They have not looked for mandates from their members, nor sought to use negotiations to establish and strengthen their unions.
- Have negotiated, bad agreements where conditions are good for a minority of workers at the expense of the majority.
- Have negotiated benefit schemes which in the end benefit management by putting at their disposal large amounts of workers' money.

Accordingly FOSATU resolves:

- a) That the Industrial Council system in its present form is unacceptable.
- b) That its affiliate unions should not enter into such councils on terms which are disadvantageous to them.
- c) That FOSATU affiliates should jointly begin to negotiate a system of plant based and industry wide negotiation within the framework of FOSATU's principles of negotiation.

That the Congress resolves that:

The entry to or formation of any Industrial Council or other industry bargaining system should be based on the following principles:

- a) Industry negotiation should not preclude plant level bargaining.
- b) The system should not in any way interfere with or restrict the rights and functions of shop stewards as determined by the union concerned.
- c) The granting of organisational rights at plant level such as stop order facilities, shop steward recognition and plant bargaining

should be based solely on the representivity of the union at the plant, and such rights should not be granted to or perpetuated for minority unions in the face of a majority union in the plant.

- d) It should not restrict the right of workers to join the union of their choice.

What is a Trade Union?

The following document is the full text of a speech given by Mr. Z. A. Khanyile, Kwa Zulu's Chief Labour Officer, at the official opening of FOSATU's Northern Natal branch in February 1982.

A trade union is an organisation which is established by a group of workers who have joined forces to protect and further their common interests.

In Western countries the capitalist system ensures that employers with their money power are always much stronger than the workers, who really have only their labour to sell. Despite this superior power, employers have always realised the value of collective action, therefore they have established organisations such as chambers of commerce and chambers of industry in addition to trade and other associations to be better able to exert their power.

Employers have therefore in effect also formed "trade unions". While the need for this type of organisation among employers is not of great importance, it is of dire necessity for the workers.

The individual worker is generally completely unable to improve his pay and working conditions if he stands alone, but with the support of his fellow workers he can obtain improvements. The employer can no longer easily subject all his workers to unfair treatment because collective dissatisfaction and complaints are also much more effective than any individual's

approaches in efforts to improve the situation.

On his own a worker has no real chance of successfully protecting himself, but a group of workers acting together can.

The strength born from unity or collective action forces employers to listen. An employer could easily exert pressure on - or even sack and replace - a single worker, but it is far more difficult to act against his entire staff.

You need a trade union so that you can unite your voice and strength with those of your fellow workers to ensure that you will continue to receive a fair wage and decent working conditions.

You need a trade union because the Industrial Conciliation Act cannot successfully operate without trade unions. Under this act employers and workers in all industries covered by it are entitled to form industrial councils where they negotiate on an equal footing and thrash out agreements on fair wages, fringe benefits and working conditions. Trade unions are also essential when conciliation boards are constituted to resolve disputes involving management and labour. If there were not trade unions there would be no negotiations - and you, the worker, would suffer.

Your union has a big say in the appointment of the industrial councils' inspectors and accepts the responsibility for seeing to it that the terms of agreement are observed by the employers in your interest. You owe it to yourself and your fellow workers to belong to your union and to see to it that industrial agreements are meticulously adhered to by reporting breaches of the agreement to your union, which will put a stop to them. Your shop steward, as an active trade unionist, can be a powerful help to you.

You need a union even more urgently if you are working in an industry that has no industrial council. Only if you have a union can a conciliation board be set up when a dispute occurs between the workers and the employers to ensure a fair deal for both sides. Where your working conditions are determined by a wage board or some other authority, your union is the only body for putting your welfare.

You need a trade union, quite apart from negotiating salaries and wages, to protect your interests under the various other Labour Laws in force in this country. Your union sees to it that you get the benefits to which you are entitled under laws such as the Unemployment Insurance Act, the Workmen's Compensation Act, the Factories Act, the Shops and Offices Act, the Apprenticeship Act, the Training of Artisans Act, and the Mines and Works Act.

You need a trade union to fight for your unrealised goals such as a

five-day week if you do not already have them; for employer supported retirement and medical aid schemes, and for job security guarantees in a period when swift mechanisation and automation is rapidly bringing fundamental changes to factory floors and offices.

You need a union because it represents you, as an individual wage earner, together with your fellow workers, thus speaking with your combined and therefore powerful voice in all matters affecting your vital interests.

Without your union you are weak. With your union you are strong. You owe it to yourself and your family to support it actively because without you and your fellow workers' active support your union cannot become the force it ought to be.

What is the degree of unionisation of workers in South Africa?

Of the total employed workforce throughout commerce and industry, the following percentages for the different population groups represent the workers that have been organised:

Blacks - fewer than 3 per cent (However, if workers in the mining and agricultural sectors, as well as commuters and migrant labourers from the independent neighbouring states are excluded, this figure rises to about 10 per cent).

Whites - about 28 per cent.

Coloureds and Asians - 33 per cent.

Almost nowhere else in Africa and the Third World are such large percentages of workers organised into trade unions. The exceptions in Africa are Kenya, Nigeria and Zambia, and to a lesser extent Egypt.

The figures for South Africa exclude those for Blacks, which are expected to increase significantly over the next few years, now that Black workers can form or join legally recognised trade unions, compare fairly well with some of the major Western industrial countries such as Britain (39 per cent) the United States (23 percent) and West Germany (34 per cent).

Here in KwaZulu the Government acknowledges and protects all workers' rights and freedoms because it is committed to the free enterprise system, under which every worker through his trade union may decide and negotiate under what conditions his labour and skills are offered. As a member of a trade union you and your fellow workers are able to do this to the maximum benefit for yourself and the country. You know exactly what your situation is in regard to your rights and your responsibilities as a worker.

IT IS IMPORTANT TO REMEMBER THAT THE WORKER STANDS ON TWO LEGS - THE LEG OF RIGHTS AND THE LEG OF RESPONSIBILITIES.

The KwaZulu Government supports the formation of trade unions because it believes that harmonious relationships will be guaranteed by the co-operation of industrialists and trade unionists. But, I wish to sound a warning that if trade unionists do not train their subscribers on how to go about in negotiations with the employers, strikes will never cease to occur.

I also wish to advise the employers to train their workers on what to expect in an ideal trade union that will perfectly suit their requirements.

OBITUARY

"A Man of the People"

1938-1982



In the early hours of the morning of June 8 1982, Mr. Joseph Mavi, president of the Black Municipal Workers Union, died tragically in a car crash just north of Bloemfontein while returning to Johannesburg from Port Elizabeth. He was travelling with Mr. Gatsby Mazwi, the acting union secretary who has since been elected as the union's president, and two other passengers, none of whom were seriously injured in the accident. He led the biggest strike ever to hit an employer in S. Africa's labour history. 10 000 municipal workers joined the strike. A Rand Daily Mail obituary described Mavi as "The man who shook Jo'burg".

Mavi was born in 1938 in the Transkei. His father died soon after his birth and he was brought up by his father's brother who was a headman. When once talking about this period in his life Mavi described his uncle as "having certain Books". "He always had cases (magisterial)", said Mavi, "and on my holidays I used to read these. I read books on Bantu Law and I read what Dr. Verwoerd was saying in Parliament". This introduction to the law seems to have laid something of the basis of what was to become his passionate concern for 'justice'.

Mavi left the Transkei and came to Johannesburg in 1957/8 at the age of 20, and got his first job as a recorder in The Johannesburg City Council's (JCC) water department. He soon left the JCC and obtained a heavy duty driving licence. In 1963 he went back to the JCC and in 1964 he became one of the first black drivers in the transport department. His colleagues chose him as their 'spokesmen'. But in 1968 Mavi once again left the employ of the JCC and joined the Bantu Federation of S.A., involving himself in Black civic issues. His first real test came in Bethlehem in the Free State where members of the Federation were having their houses demolished without compensation. Mavi, with a 21 man delegation, went to Bethlehem, confronted the town clerk and obtained compensation for the residents.

In 1970 he went back to work as a long distance truck driver. It was then that he was first introduced to trade unionism. In 1973 the African Transport Workers Union (ATWU) was formed as a parallel union of the Motor Transport Workers Union and the Johannesburg Municipality Transport Workers Union (both affiliated to TUCSA). The ATWU joined TUCSA in 1974 when it decided to allow African trade unions into its ranks. Mavi was voted onto the executive of the ATWU. He was elected vice-president, and in 1978 was elected president. It was as president of the ATWU that Mavi entered the South African Labour scene. He stood up against the racist practices of the parallel union, its white secretary, and the financial corruption that was widely alleged to be taking place within it. The issue was dragged through the courts, but Mavi had succeeded in exposing parallel unions for what they are. Moreover, he had shown that he was a man of uncompromising integrity who was not afraid of being taken to court in his attempt to defend his colleagues from the racist abuse and alleged financial corruption that they suffered at the hands of the parallel union. In 1977 Mavi returned to the employ of the JCC as a bus driver and was elected secretary of the transport department's works committee.

The origins of the BMWU lie in the JCC attempts to thwart its employees' desire to organise themselves. In an attempt to counter their black employees' increasing awareness of their rights, following the report of the Wiehahn Commission, and their desire to organise themselves, the JCC set about forming an 'in-house' union. The organisers of this 'stooge' union were members of the existing liaison committee for monthly paid (graded) employees which was 50% council nominated. This 'company' union, the Union of Johannesburg Municipality Workers (U'JMW), began organising in Oct 18, 1979. Members of the steering committee of the UJMW kept well away from the

transport department, ostensibly because it already had its own works committee. The real reason was because members of the Transport Dept. works committee were fully aware of the Council's strategy and had actually approached the organisers of the UJMW in an attempt to forestall it. Mavi, twice approached the organisers of the UJMW and proposed that the formation of the union should be agreed upon by all departments, and that its constitution should be drafted and approved by all departments before the inaugural meeting of the union.

Not only were Mavi's proposals rejected but the Chairman of the inaugural meeting of the UJMW tried to stop him from speaking on the grounds that he "belonged to another organisation". Mavi nevertheless spoke, saying, in effect that workers had had enough of attempts to force certain types of unionism on them and that they were not really inclined to stay and hear what this particular attempt was all about. Mavi then left the meeting beckoning to the 3 000 workers in the hall to join him. All but 113 walked out with him.

The origins and early organisation of the BMWU have been discussed in detail in the SALB, v.6.no.7. It was officially formed on June 23, 1980, with Mavi being elected its President. The Council, for its part, did everything in its power to prohibit and inhibit the formation of the BMWU. Mavi was elected as president on the basis of the fact that he was the one member of the steering committee with experience of trade unionism; the workers were impressed with the way that he had addressed them and by the way in which he had stood up and challenged the formation of the Council's 'tame' union earlier in the year; and furthermore, many of the workers identified with him, not only as a fellow worker who had stood up and spoken on their behalf on several occasions, but also because many of them knew him from the Transkei, where his uncle had been a headman.

Mavi's leadership of the union was therefore legitimised at several levels, and it was the way in which he was able to articulate these various levels, amongst the varying constituencies that made up the fourteen or more thousand Black employees of the JCC, that gave him a unique style of leadership. Many of the migrant workers from the Transkei saw him in somewhat traditional ways as their leader and representative while his background as a worker and a former unionist gave him credibility, legitimacy and authenticity amongst most of the other sections of the labour force. His leadership of the union was extremely personal. Many workers spoke of the union simply as 'Mavi's union', and many people outside it

knew it more in that vein than through its proper name, the BMWU.

His leadership has been referred to as both populist and charismatic, which it was, but that is not to say or give the impression that it was in any way autocratic or without organisation. While his leadership was legitimised through the various ways just mentioned, it was perhaps above all his own personal qualities that gave him such a following amongst the JCC's workforce. As a man, Mavi was soft-spoken, polite, gentle, sympathetic and always ready to listen. Many more such qualities could be attributed to him. Several of his close associates have mentioned that they cannot recall him speaking ill or violently against even his worst adversaries. No matter what injustice, hardship, brutalisation, and sorrow, he suffered, and Mavi had more than his fair share of these, his response was more often than not as a question. - 'Why have they done this?', or 'What are they trying to do to us?' Behind these sorts of questions, no matter whether they were addressed to the police, the JCC, or whoever, was the expression of his belief in some sort of ultimate 'justice'. To some, this personal quality of Mavi may have been seen as a weakness and a naivete. But it was what made him stand out and be remembered, (his defence attorney once decribed him as 'the perfect gentleman') and was perhaps the main reason why the workers followed him to the point where several referred to Mavi as 'being the union'. He was approachable and sympathetic, and talked and listened to them on their terms, and understood them, because he was one of them.

It has often been intimated by the press and others that Mavi's style of leadership was at the expense of basic organisation, and that with the smashing of the strike the union more or less ceased to exist in anything much other than name.

It is true that the union had never developed strong grass-roots organisation and that Mavi's style of leadership was to some extent a substitute for such organisation. But what is often not realised is that the union was prevented from developing such organisation. The union was faced with the strike within 5 weeks of its formation, at a time when the initial organisation was only just being developed. After the strike the state's tactics of drawing out legal proceedings against the leadership potentially crippled the union to such an extent that it was unable to divert its resources and time to the important tasks of reinstating workers and re-organising itself. With the acquittal of the leadership more than six months after the strike, union members continued to be detained by the police, harrassed and victimised by the JCC to the extent that organisation

was made almost impossible. Under these conditions, his style of leadership was perhaps the only way in which the union could have survived that period in its history.

In spite of internal dissension within the union which led to its secretary, Phillip Dlamini breaking away to form another union, workers did not desert the union. Although paid up membership was not high, the union was still able to handle a number of worker grievances and begin, during the first half of this year, to re-organise and reconstitute itself. At the time of his death the union was rebuilding itself and now has a membership approaching 3000, far higher than at any time in its history. The greatest tribute to Mavi has been given by many of the 1000 or more workers who were physically removed from Johannesburg in the strike. Many of these workers have since found employment in other industries and other regions, but still refer to the BMWU as their union. For example, in the recent strikes in the metal industry on the E.Rand, a group of former JCC workers who had been endorsed out and later found employment in a metal company, insisted that their union, the BMWU, come and take up their case. The changing of the union's name to The Municipal and General Workers Union of South Africa at its annual congress, held shortly after Mavi's death, so that workers such as these could remain members of the union, is a tribute to Mavi himself. He was, as another unionist said at his funeral, "not just an ordinary man - he was a man of the people".

It was almost exactly two years from the time of his election as president of the BMWU to his death. About half of that time was spent in prison, in court, or awaiting charges to be brought in court.

On the night of Thursday 31 July Mavi was in the corridors of the supreme court seeking an urgent application for an interdict seeking to restrain or prevent the JCC and Minister of Police from wrongfully detaining, restraining and assaulting members of his union; and from wrongfully and unlawfully depriving them of their possessions and personal effects contained in their lockers and in the dormitories of the hostels in which they were residing. While lawyers for the union and the JCC sought an agreement, Mavi was identified to the security police, seized and taken into detention. When the police colonel concerned was asked by one of Mavi's lawyers about the section under which he was being detained, the colonel was reported to have replied, "Under Section 50". "Section 50 of which Act?" asked the lawyer. "Section 50 of the usual Act", was the reply. Mr. Johan Kriegler, SC, commented that this action, in his opinion, "appeared to have been

interference with the fundamental right of a litigant to free access to a court of law".

On August 14, Mavi, along with the union secretary, was charged under what is commonly known as the "Sabotage Act" which carries the maximum of the death penalty. On October 19 the state withdrew the Sabotage charges, and charged them under the Black Labour Relations Act. The trial did not begin until February 18, 1981. The defence, led by Mr. Ernest Wentzel, SC., called no witnesses. In argument for the defence, Mr. Wentzel stated that the onus was on the state to prove the charges, and that it was "not even worth discussing the quality of the State's evidence". Mavi (and his co-accused) were acquitted on all charges.

While on bail awaiting trial Mavi was assaulted by railway 'workers' at a station. Mavi laid charges of assault and the three were convicted. In May 1981 he was back in prison, detained under the Internal Security Act after addressing anti-Republic Day meetings. He was not charged, and was released in August on 'compassionate grounds' because his month-old daughter, whom he never saw, had died.

Mavi was soon back in court, defending the union against civil actions. Mavi won and the secretary, Phillip Dlamini split from the union.

Even in death he was not freed from police action. At a memorial service on Sunday 13 June, held for Mavi and two ANC members, Mr. Petros Nzima and his wife Jabu who were killed in a bomb blast in Swaziland, police swooped and arrested about 250 mourners. And neither was his funeral free from State interference, with whites not being granted permits to enter Soweto to attend his burial.

J. KEENAN

Note: A detailed account of the 1980 strike is given in the SALB Vol. 6, No 7. See also W.I.P. 17 for an account of the trial. A more substantive article looking at the BMWU two years after the strike will be published in the SALB in the near future.