status equal to that of a judge of the Supreme Court with consequent security of tenure.

11. The Institute therefore considers that the proposals contained in the Bill for the composition of such a Tribunal are unsatisfactory: the chairman alone is required to have legal training, the appointments, to be made by the Minister, are for five years, the Minister designates those unions and organizations which will participate in the appointment of members, the Tribunal has no representative of consumers interests, and has no clearly defined principles laid down to enable it to consider the wider interests of the country. The status accorded to the Tribunal is inadequate.

APPEALS.

12. Under the Industrial Conciliation Act of 1937, appeals from the Industrial Registrar's decisions could be made to the Minister and thereafter to the Supreme Court and, if desired, to the Appellate Division. The Courts were empowered to examine the facts. Under the Bill, there will be no appeal from any decision made by the Tribunal except on questions of law. The Institute is opposed to the suggestion that the right of appeal from bureaucratic decisions should be curtailed.

GENERAL.

Statement on Industrial Conciliation Bill (Cont.)

GENERAL.

13. The Institute is of the opinion that if the provisions of this Bill are passed by Parliament, racial friction will be increased and industrial unrest will have added to it racial animosities. The artificial fostering of sectional and racial approaches to employment and conditions of work will not only seriously hamper the full economic development of the country, but will also lead to greater racial unrest. In the Institute's opinion, the present labour and wage structure of the country already impedes its healthy economic development and the present Bill, in its efforts to impose an ideological pattern divorced from economic reality, is undesirable in the interests of Europeans and Non-Europeans alike. The rigid pattern which the Bill seeks to impose will render more difficult of achievement those adjustments which South Africa's continued industrial development will demand.

DEFINITION OF "EMPLOYEE" IN THE ACT.

Despite the passage of the Native Labour (Settlement of Disputes) Act, the Institute reiterates its belief that the interest of the country as a whole would best be served by bringing all workers, including all African workers, under the definition of the term "employee" as used in the Industrial Conciliation Act (1937).

Confidential

THE PROJECTED CHANGES IN THE INDUSTRIAL CONCILIATION ACT.

This evening I propose to deal first with the structure of labour institutions as it existed until last year; then with Nationalist theories of labour relations as exemplified in the Native Labour (Settlement of Disputes) Act 1953 and the present Industrial Conciliation Bill, and then to attempt an assessment of the economic consequences of the new legislation.

THE BACKGROUND.

In every democratic country, experience has shown that there is a certain legal framework that is essential for the healthy existence of employers' and workers' organisations. These necessities are corporate status, with limited liability for members and officials, the right to sue and be sued and to own property, and freedom from actions in tort-- that is, actions for the recovery of damages suffered in the course of strikes or lock-outs.

These requirements revealed themselves over almost a century of development in Britain, but, as a result of British experience, it has been possible to include them in one statute in South Africa -- that is, of course, the Industrial Conciliation Act, first enacted in 1924, then recast and reenacted in 1937.

In the 1937 Act, corporate status is granted to registered organisations in terms of Section 5; Section 79 prohibits legal proceedings being brought against any union or employers' organization or any member or official for any wrongful act committed in furtherance of a legal strike or lock-out.

There are also various other provisions that are valuable to trade unions. Section 78 makes it illegal for an employer to make non-membership of a union a condition of employment. Section 66 prohibits victimisation of a worker for trade union activities.

But the Industrial Conciliation Act was designed not only on the basis of overseas experience. The event that created enough political energy to get it through Parliament was the General Strike of 1922. After that strike, the Government appointed a commission, called the Mining Industry Board, to try and bring some order into labour relations on the mines. Their basic recommendations were afterwards incorporated in the Industrial Conciliation Act -- the principle that strikes and lock-outs were rights essential to employers and employees; that they should be resorted to only as a last resort; that disputes should be settled by negotiation and conciliation; and that a fixed period of negotiation should precede resort to direct action.

So the Act made provision for the setting up of Industrial Councils on the pattern suggested for the Mining Industry by the Board.

Industrial Councils have now become a familiar feature in South Africa. They exist for each of the major industries, on a regional, provincial or national basis. They are permanent boards of conciliation, on which sit equal numbers of union and employer representatives. They arrive at elaborate agreements for their industry, covering minimum wages and a variety of other things, from paid leave to sick funds and run for varying periods -- seldom less than a year or more than three years.

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The Councils have a permanent secretariat to administer the agreements and attend to the other business connected with industrial relations. They attend to complaints, give advice, their inspectors visit factories to check wages, their committees hear and settle disputes between individual employers and their workers and so on.

A significant feature of this system is that agreements arrived at on Industrial Councils are promulgated as legally-binding instruments by the Minister of Labour -- that is, civil contracts between unions and employers' associations are given the status of laws whose breach may be punished by the imposition of fines or imprisonment.

Having armed Industrial Councils with this power, the State not unnaturally felt it necessary to exercise some control over them. Accordingly, copies of minutes and audited balance sheets have to be submitted to the Department of Labour, Departmental inspectors are permitted to attend committee meetings in certain circumstances, and constitutions have to be registered with and approved by the Industrial Registrar.

But Industrial Councils, trade unions and employers' associations are given one powerful safeguard against bureaucratic interference: section 77 of the Act gives them the right to appeal to the Supreme Court against the way in which the Minister exercises the discretion that is given him by the Act. The Court is then empowered to examine the facts and then lay down the decision that the Minister ought to have given if he had been a reasonable man.

Now that was the position as regards all workers except African men. In the days when the Acts were passed they were not regarded as beings of the same order as other workers. Their relations with their employers were enmeshed in a complex of laws and usages which sought to bind servants to their masters, and provided punishments of lashes, fines or imprisonment for servants who were cheeky, who got drunk while on duty, who worked carelessly or with insufficient enthusiasm or who ran away before the contract had terminated.

None the less, even in 1924, fairly large numbers of African men were at work in the industries of the towns and thus in competition with other sorts of workers. And there was thus a weak chink in the industrial armour of those who had been embraced by the Industrial Conciliation Act. What did it help workers to make an agreement for increased pay if they could promptly be undercut by African workers who could work for as little as they pleased?

So in 1925, Smuts' government having been replaced by the Pact of Nationalists and Labour, the Wage Act was passed, which established a Wage Board with power to lay down conditions in industries or for workers not covered by an industrial council -- and the conditions that were laid down, so the law ran, had to be such as to enable the workers to whom they applied to maintain a civilized standard of life.

In 1930, the Industrial Conciliation Act was amended so that the terms of Industrial Council Agreements could themselves be extended to African men, if the parties felt that their objects might otherwise be defeated. The wage Act was at the same time amended so that the Minister could publish Wage Determinationseven though they did not lay down "civilized" rates of pay -- thus the law could be used for the benefit of African workers, not merely for their exclusion.

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And, that, with some minor variations, is where matters rested until last year. The agreements of many industrial councils were extended to African workers; Wage Determinations laid down minimum conditions for still others; registered trade unions existed with some half-million members composed of all races and sexes except African men.

For African men, on the other hand, there was no legal bar to trade unionism, no combination law that prohibited them combining. But at the same time, there was no legal protection for their unions. They were not bodies corporate, with power to own property -- not even their own funds. They could not legally strike, for breach of contract carried not only civil but also, as a rule, penal sanctions. An employer could victimize African workers for trade union activity (and this was frequently done, particularly on the mines) without fear of legal repercussions,

On the other hand, a number of employers recognised the African unions and some employers' associations even entered into agreements with them.

NATIONALIST THEORY:

Years before their accession to power, the Nationalist Party had set itself against the established system of labour relations.

The Nationalist sights had been set in 1939, when, at a National Economic Conference held in Bloemfontein in 1939, Die Vaderland reported Dr Albert Hertzog as saying, on the subject of labour organisation, that "the trade unions in this country collected £290,000 annually. He wished to embrace these organisations in the objects of the Congress and so put an end to the trade unions completely ruining the Afrikaner in the cities... he warned against the control of trade unions by foreigners who had considerable financial self-interest at stake. The Congress approved Dr. Hertzog's proposal that a 'large portion' of the Reddingsdaadfonds should be used for the reformation of the trade unions".

Thus the Reddingsdaadbond adopted as one of its aims: "To make the Afrikaans labourer part and parcel of the national life and to prevent the Afrikaans workers developing as a class distinct from other classes in the Afrikaans national life".

In 1952, the chairman of the Reddingsdaadbond, the Rev. Jac Conradie, in his chairman's address to the annual conference, put the matter thus:

"The Afrikaner worker will for many years to come still represent the largest number of white workers of our land. That means that they will still in the future form the kernel of our nation. That is why we must see the inclusion of the Afrikaner worker as one of the main objects of the Reddingsdaadbond".

"The Afrikaner worker is today forced to subject himself to the existing trade unions so that approximately half of the Afrikaner nation is today ensnared in the powerful machinery of the trade unions ... an enormous task awaits to rescue the Afrikaner nation from the claws of this unnational power".

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The organisation whose particular task it is to rescue the Afrikaner workers is Die Blankewerkersbeskermingsbond. This society declares itself a "Christian-National" organisation, membership of which is restricted to "White persons only, who are members of the Protestant Church". Amongst its aims are: To support and propagate the undermentioned relationship between European and non-European workers.

1. That there should be a clear determination of which occupations must be reserved for Europeans and which for non-Europeans.

2. That no undesirable contact between European and non-European workers should be tolerated in their employment.

3. That mixed membership of trade unions of European and non-European workers shall be prohibited.

The present Minister of Labour was a foundation member of the executive committ of the Bond.

In speeches in Parliament in 1942 and 1943, the present Minister of Labour gave a frank exposition of Nationalist policy. "Firstly" he said, "we contend that wage control and wage fixation should be entirely in the hands of the State and that the power should be exercised through the medium of this permanent board. (He was referring to a Government-sponsored national labour board).

"Secondly, and this is the most important principle -- self-government in industry must be eliminated.. Self-government in industry and collective bargaining are things of the past... the time has arrived that in the interests of the State, in the interests of employers and employees, self-government in industry and collective bargaining should be eliminated from our economic life...

"In regard to the non-Europeans, the unhealthy economic competition which is gradually arising and which will become more and more intense should be entirely eliminated. My party maintains that this can only be done by fixing a definite quota for Europeans and non-Europeans in unskilled, semi-skilled and skilled occupations in industry. We contend that only along those lines will the non-Europeans in industry problem be solved...".

And in 1943, "This system of collective bargaining has outstayed its usefulness entirely. It was an essential part of our economic life in the past, and it is still so under the present capitalistic system where the worker himself is responsible for his livelihood. Under the new economic system which we want to bring about, it will, however, be redundant. The body by means of which this so-called collective bargaining takes place is the trades unions, but if the State accepts full responsibility for the fixing of wages and the regulation of working conditions, the principal function of the present trade unions will disappear... under the new system the trade unions will be largely converted into actual workers' organisations which will be representative of the workers. These organisations will not so much be entrusted with the function of obtaining better wages and better working conditions by means of collective bargaining with the employers, they will be mainly entrusted with the task of regulating domestic matters as between the employers and the employees. And for the rest of looking after the spiritual welfare of the workers..."

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The Commission of Enquiry into Industrial Legislation, in its report, gives an exhaustive emunciation of Nationalist policy with regard to labour relations. In general, it appears to have sought for evidence to support its preconceived ideas, but where evidence was lacking, it expressed them without it. For example, in para 1040, the Commission states, "The evidence presented to the Commission was overwhelmingly against the introduction of legislation compelling the segregation of the various races into separate unions, and the witnesses who advocated the retention of mixed unions included both employers and employees". Despite this, the Commission dismissed the evidence and recommends in favour of uni-racial unions.

The Commission did deviate from the party line in one respect, however, and was censured by the Nationalist press for having done so. They recommended the recognition of trade unions of Africans, albeit with the most rigorous official control. This part of their report, the Government has rejected.

THE TWO NEW LAWS:

The terms of the Native Labour (Settlement of Disputes) Act are already well known, but it might be useful to recapitulate briefly. The Act does not illegalise African trade unions -- in fact it makes absolutely no mention of them. But it sets up alternative machinery for the settlement of disputes between Africans and their employers which, according to the Minister of Labour, will have the effect of making trade unions unnecessary and causing them to wither away.

It should be noted, firstly, that the Act amended the Industrial Conciliation Act to exclude all Africans from its operation --- females as well as males -- and thus plucked African women out of the registered unions of which they had been members.

For union organisers, it substitutes white officials, known as "Native Labour Officers", whose task it is to ferret out disputes, mature or incipient, and to try to bring the parties into agreement. For the trade union committee, it substitutes a local board of Africans, picked by the Minister of Labour, under the Chairmanship of the Native Labour Officer. For the T.U.C. it substitutes a Central Board, composed entirely of whites, also picked by the Minister of Labour. Disputes then travel up the hierarchy like mercury up a thermometer. Minor disputes it is assumed can be settled by the Native Labour Officer, with or without his local committee. More difficult ones will be submitted to the Central Board, which, if it itself fails to settle them, it can submit to the Wage Board for compulsory arbitration. Once the Wage Board has made its award, nothing in that award can form the subject of a dispute for a period of two years.

During the committee stage of the Bill, the Minister made one concession to the Labour Party -- he made provision for the election, by workers in any establishment with twenty or more African employees, of shop committees, which would become the official channel between the workers and the Native Labour Officer.

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Now we turn to the Industrial Conciliation Bill. In view of the policy statements that I have quoted, it is not surprising to find that its provisions aim at the break-up of multi-racial trade unions. In the present Act, no new unions or employers' organisations may be registered if there is an existing one that is adequately representative of the industry and area involved. Section 4(5) of the Bill, however, empowers the Registrar to register a uni-racial unions that have broken away from multi-racial unions, provided that the membership of the former is equal to not less one third of the membership of the latter of the relevant race. The splinter group may carry with it a share of the union funds, if a closed-shop clause has been in operation at any time during the previous five years.

These uni-racial unions may be composed of whites only, Coloureds only, Asiatics only or Coloureds and Asiatics.

Further, Section 4(8) of the Bill prohibits the Registrar from registering any new bi-racial organisation, unless the Minister of Labour has expressed his approval.

In existing bi-racial unions, only whites may serve on executive or similar committees, while the different races must be separated into separate branches and must hold separate meetings.

The twin measure to the above is contained in section 77(1) which empowers the Minister to lay down that in any undertaking, industry trade or occupation and in any area, work of any particular sort shall be performed exclusively by employees of a specified race, which, for this purpose, shall mean white persons, coloured persons or natives. In differentiating types of work, the Minister, may use any sort of division that he deems fit.

Those are the two most startling provisions of the Bill, but there are other proposed changes that deserve mention. The Minister is empowered to extend the prohibition on strike action beyond the present limit. He may declare any industry an essential industry (thus prohibiting strikes and enforcing arbitration) if it deals with the processing, supply and distribution of petrol and other fuels, supply of goods and services to hospitals and similar institutions OR THE MAINTENANCE OF OTHER SUPPLIES OR SERVICES WHICH HE CONSIDERS TO BE ESSENTIAL TO THE LIFE OF THE COMMUNITY. (Section 46(7)). Further, the Bill will make it illegal to strike within one year of the promulgamation of a Wage Determination, if the Determination deals with the matter under dispute.

Thus, for instance, if the Wage Board has made a determination in terms of the Settlement of Disputes Act, with reference to the African workers in a particular industry, it will be illegal for the white or coloured workers in that industry to strike for higher pay, shorter hours, etc., until a year has elapsed.

Whereas the present act enshrines the right to strike or lock-out for all except a limited number of services, the Bill empowere Industrial Councils to waive that right and introduce a provision for compulsory arbitration into their constitutions.

The difficulty of striking is further increased by a provision that a union may call a strike only if not less than two thirds of its members vote in favour of one in a secret ballot.

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Whereas in the present Act, the Minister may extend an Industrial Council Agreement to Africans only if the parties to the Agreement believe its objects will be defeated unless it is so extended and make application accordingly, the Bill empowers the Minister to extend its provisions on his own initiative.

The Industrial Registrar is given much wider discretion to refuse the registration of constitutions and, indeed, he may even alter constitutions against the wishes of the organisations concerned if he believes that their provisions are unreasonable in relation to the members or the public.

This is a significant claim that the Registrar is better acquanited with the interests of members than the members themselves and that he has some peculiar capacity to gauge and protect the interests of the public.

Appeals from the decisions of the Registrar go, as heretofore, to the Minister -- but after that there is a radical change. It has been mentioned that at present, the Supreme Court is empowered to change the decision of the Minister into what it ought to have been. Now that right is removed. Appeals will lie to a Labour Board which I understand will consist of three people (it is put somewhat differently in the first draft of the Bill). One person chosen as representative of employer interests; one of employee enterests and an impartial chairman representative of the Minister's interests. Since the Minister reserves to himself power to replace the members at any time, the Board will have sigularly little independence. Appeals from the decisions of the Board may be solely on questions of law.

There are several other changes in the same direction, but they are of minor importance compared with the others, and I shall not mention them.

THE CONSEQUENCES.

What will the economic consequences be? Will the Government succeed in unscrambling the races, in drawing the sting of the trade unions and introducing us to a paternalistic regime where pa knows best and the children are happy in that knowledge?

It is difficult to conceive of workers in multi-racial unions voluntarily sorting themselves out. The overwhelmming fact is that the preservation of their standards depends precisely on working-class unity as opposed to racial exclusiveness.

If the Minister is determined that sorting-out shall take place, he will be forced to implement the second part of his policy and proclaim certain industries to be racial preserves in the way indicated by the Industrial Legislation Commission. On that point, the Commission said, "It is conceivable that the Labour Board may, in considering an agreement for a trade, such as the timber trade, which is already practically 95 per cent non-European, find that the wages proposed, because of the pressure exercised by a small proportion of Europeans, are too high for the 95 per cent of the employees. In view of the fact that the bulk of the workers are non-Europeans and that the wages proposed would affect them or the economy of the country detrimentally, it would seem equitable that the National Labour Board should decide that the wages are too high for the majority of the workers and recommend that the wages be reduced to levels which would result not only in the retention of the non-European workers, but in the gradual elimination ultimately of those Europeans who are not engaged in key positions and compete with non-Europeans. ... The reverse may be the case in another industry where mainly Europeans are employed ...".

Now what would happen in an industry that was compelled to use

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only white labour, with concomitantly high wages? As the productivity of non-white workers increased with industrial experience, the white industry would become less profitable than other industries and ~~they~~ it would decline in size. I need not expand that argument, except to say that this process would be accellerated in times of depression. It would then be necessary for the Minister to chase employment on behalf of the white workers. Once an industry has acquired its capital equipment, a white invasion could follow and it would take some time for the employers to extricate their capital.

It is interesting to note that the new industries that have been established by foreign firms since the war have almost all been on the basis of non-white labour. It would be discouraging for foreign investors to feel that, having sunk their capital in South Africa, their wage structure might be upset by Government decree.

But another possibility is to make the most skilled jobs the preserve of white workers, as is already the case in the building, engineering and mining industries. But here again, a progressive extension of the white preserve would be needed in the long run, for the higher the labour cost, the greater the incentive to mechanisation.

But what of occupations protected from outside competition and enjoying inelastic demand--municipal transport, the railways, power supply? It is conceivable that the white proletariat might, as it were, be pensioned off into these industries at the expense of the community as a whole. But the difficulty is that, in times of expanding trade, it becomes necessary to dilute the highly-paid labour by larger and larger doses of cheap labour.

In the short run, the Minister's plan might meet with considerable success -- he might temporarily provide full employment for white workers in a depression and shift all the unemployment on to the non-whites. But how long could he preserve such a policy? In the first place, it would make the depression worse and in the second it would set up social stresses that might end in the break up of society.

One must conclude that Nationalist theory represents the abrogation of the facts in favour of a racial phobia and the desire for unlimited political power.

Finally, let me mention that I have taken my statements of Nationalist theory either from the Report of the Industrial Legislation Commission or a booklet entitled "Trade Unions in Travail" by A. Hepple, M.P., which has just been published by Unity Publications at 3s. 6d.

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SOUTH AFRICAN INSTITUTE OF RACE RELATIONS (INC.)
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FULL TEXT OF STATEMENT ON THE INDUSTRIAL CONCILIATION BILL

The South African Institute of Race Relations points out that labour was for many years a coherent force of considerable significance in South African affairs. Recent industrial legislation, however, has caused a fragmentation of the trade union movement.

One of the purposes of the new Industrial Conciliation Amendment Bill is to increase this fragmentation, to make it even more difficult than it is at present for White and Coloured workers to meet to discuss their common interests. The "mixed" trade unions that still exist will not be permitted to extend their interests unless they do so in respect of one racial group only (either White or Coloured). Those unions are already prohibited from having mixed branches (unless exemption is granted). In terms of the Bill, mixed conferences within a union will also be prohibited.

A second purpose of the Bill is to place still further difficulties in the way of African trade unions. Employers may be prevented from collecting subscriptions to these unions by means of stop-orders; and Africans will be prohibited from appearing before industrial councils or conciliation boards to represent the views of their fellow-workers.

Thirdly, there will be tighter control of the affairs of industrial organisations and of further groups of workers. Inspectors are to be empowered to enter the offices of trade unions or employers' organisations at any time, to question officials and to demand the production of documents, in order to ascertain whether the provisions of the Industrial Conciliation Act are being observed. The Minister of Labour is to be given power to prevent strikes of both White and Non-White workers in the food canning, processing and preserving industries by directing that any disputes shall be referred to compulsory arbitration.

Finally, drastic alterations are to be made to the "job reservation clause". One change for the better is that interested persons are to be given the opportunity of making representations before a proposed investigation is commenced. But, as against this, there are new clauses which will give the authorities greatly increased powers. One that gives cause for grave concern is that in making a recommendation to the Minister the industrial tribunal need not concern itself with whether, for example, there are enough White workers to carry out a job that they suggest should be reserved for Whites : the numbers of any racial group employed or likely to become available for employment in the job concerned may be deemed irrelevant.

Another most perturbing matter is that the Minister will in future be able to override the opinions of industrial councils - the power of these bodies to veto the application of determinations, as was done last year in the clothing trade, is to be removed. Furthermore, the methods by which reservation of work may legally be brought about are to be widened so greatly that it appears the Minister's powers in this regard will become well-nigh unlimited and incontestable.

The Institute of Race Relations urges most strongly that this legislation be not proceeded with. Firstly, its effect will be to foster an even more sectional, racial approach to employment and conditions of work than that which obtains at present. The various groups are likely to become still further competitive; and the real interests of workers, which are interdependent, will undoubtedly suffer as a result.

Secondly, the legislation is likely to have disasterous consequences for many Coloured, Indian and African workers. At best, the security of all those in semi-skilled or skilled jobs will be completely undermined; while at worst, large numbers of them are likely to be thrown out of work during periods of depression. African trade unionists will have additional cause for resentment in that still further obstacles are to be placed in their way. Particularly at

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the present juncture in Africa, it would, to put it mildly, seem unwise in the extreme to introduce legislation which will intensify Non-White discontent.

And thirdly, even the White workers, in whose interests the Bill is presumably framed, are likely to find it injurious, as has been demonstrated by recent events in the clothing industry. It will not be to their advantage to have jobs reserved for them if these jobs then disappear because urban employers are unable to compete with concerns in the uncontrolled wage areas.

The Institute has long maintained that it would to the interests of all that wages and conditions of employment should be related to ability, education, experience, responsibility and value to the employer, irrespective of race. Representatives of workers of all races should be free to meet together, if they so desire, to discuss such matters, which are of common interest. The imposition of an ideological pattern that is divorced from economic reality will not only intensify friction between workers, but also will impede economic development - or may even cause economic regression.

B/L/10/1

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5 March 1959 PRESS BULLETIN 49/59

INSTITUTE OF RACE RELATIONS CALLS FOR WITHDRAWAL OF NEW INDUSTRIAL CONCILIATION BILL

Likely to Increase Racial Tension Whilst Safeguarding No Section

THE South African Institute of Race Relations strongly urges the Government, in the interests of all racial groups, to withdraw the Industrial Conciliation Bill now before Parliament.

This legislation will benefit neither white workers nor the country's economy, and is likely to damage non-white workers and increase inter-racial tension. The Institute has five main reasons for these conclusions:

1. The real interests of the country's workers are interdependent. The fate of the Rand clothing industry's white workers has already illustrated how illusory the security of job reservation is. White workers will not benefit if reserved jobs disappear because established employers in towns and cities are forced to compete with concerns in rural, uncontrolled wage areas. It might well be that racial competition and undercutting, and not protection, will be the result of the new Bill.

2. South Africa's economy must suffer from this attempt to force it into an irrational racial pattern. The Minister's powers are to be completely arbitrary: in "reserving" jobs he can fly in the face of reality. He can reserve jobs for groups even if these groups are unable to supply a sufficient number of workers to fill the jobs.

3. The security of the Coloured, Indian and African workers on whom the country now depends for much of its semi-skilled and even skilled labour will, at best, be completely undermined. At worst, during any economic depression, large numbers of them are likely to be thrown out of work.

4. African trade unionists are to have still further obstacles placed in their way. This Bill must increase non-white discontent. In view of current developments in other parts of Africa it seems, to put it mildly, an extremely unwise measure.

5. Finally, this Bill will deprive members of all racial groups of some of the few civil liberties they still have. A Minister will decide whom individual workers may associate with, and his agents are to have sweeping powers to examine the affairs of both employers' and workers' organisations.

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The Institute of Race Relations has long maintained that, in everybody's interest, wages and conditions of employment should be related to ability, education, experience, responsibility and value to the employer, irrespective of the worker's race. The right of workers to meet freely is basic to democracy.

The attempt to impose on our economic affairs an ideological pattern which is divorced from their reality will not only intensify friction between workers, but will also impede economic development - it may even cause economic regression.

ends

/ = changes from 1st draft of Bill

CONFIDENTIAL.

TERMS OF THIRD DRAFT OF INDUSTRIAL CONCILIATION BILL, 1954.

This Bill sets out to repeal the Industrial Conciliation Act of 1937, to re-enact many of the provisions, and to make some very significant changes. Procedures for framing of constitutions, keeping of records, formation of industrial councils, mediation, etc. have been revised, and in most cases set out in greater detail. The main objects of the Bill, however, are firstly, to separate European from Coloured and Asiatic workers in trade unions and, if the Minister of Labour so decides, in various occupations too, and, secondly, to increase the powers of the Minister and the Industrial Registrar and to diminish the right of appeal from their decisions.

The Bill provides that all Africans are to be excluded from the definition of "employee". They are not altogether excluded from the provisions of the Bill, however, which sets out to guard against their undercutting European wages (clause 48(3)) and against interracial competition for jobs (clause 77).

The new features introduced in the Bill are as follows:

1. Separation of European and Non-European workers in trade unions.

Because all Africans are now excluded from the definition of "employee" (this has already been effected through Section 36 of the Native Labour (Settlement of Disputes) Act), Africans may not be members of registered trade unions. In this respect, the new Bill deals only with White and Coloured workers, and "Coloured persons" are defined as all those who are not Whites nor Natives. It provides, firstly, that no new trade unions or employers' organizations shall be registered if membership is open to more than one race, unless the Minister's permission is obtained. (Clause 4(9)).

Separate unions may be registered for Whites and Coloured persons for the same undertaking or occupation in the same area (4(5)). If an "original" union has mixed racial membership, a "new" union which limits its membership to persons of one racial group may break away from it and be registered separately (4(10)), provided that over half the total number of persons of that race in the industry and area involved are paid-up members of the "new" union. (4(5)). If, within 12 months from the registration of the new union, mutual agreement has not been reached on the division of the assets of the original union, the new union may appeal to the Industrial Registrar, who will decide the matter after giving both unions the opportunity of stating their cases. (4(10 and 11)). These provisions apply also to employers' organizations (4(12)).

If membership of a registered union or organization is open to persons of more than one race, the constitution shall be amended to provide for the establishment of separate branches according to race, and for separate meetings for the separate branches (unless Ministerial exemption is granted). (9(5)).

If the constitutions of unions or organizations are deemed by the Industrial Registrar to be inconsistent with the terms of the Bill or of any other law or to be unreasonable in relation to members of the public, he may require them to be altered within one year. (2(4)). In the register of members, which must be submitted periodically to the Registrar (12(2)) the racial group of each member must be shown (9(3j)).