state of harmony and peace.

On this logic, if everything is left to the market society will be ultimately harmonious, and resources will be allocated efficiently. It follows that all phenomena which disturb the market (or act as obstacles to the forces of supply and demand) are regarded as imperfections. Orthodox economics operates under very strict assumptions and conditions; if they do not exist, there are serious disturbances in this model of the way the economy works.

CHOICES AND CONSTRAINTS

To expand on some important neo-classical propositions, and to understand their implications, one has to examine the theory in greater detail.

Essentially the economy is seen as being made up of two interacting decision-making units. These are individuals (or households) and firms. Individuals supply their labour to firms who in return produce goods (or outputs) which people demand.

Since individuals supply their labour, they receive a return. This is the wage. On the one side, firms pay labour in terms of its productivity. This part of the theory claims that each individual will be rewarded in terms of the contribution they make to the firm's output. On the other hand, individuals choose freely between leisure and work (the choice of not supplying labour obviously implies the freedom to choose starvation). Finally, conventional economics attempts to integrate the demand for labour and supply of labour, and once again the market determines an equilibrium wage.

This theory of the way in which income is distributed is thus part of a general theory of prices. Distribution is determined by market mechanisms, and individual agents interact through markets. The theory assumes a competitive economy where different individuals have initial endowments, 'a polite and covert way of referring to property holdings'. Initial endowment refers to an individual's money income and other resources.

What conventional theory is really saying is that people make choices within certain constraints, and that the constraints are technical rather than social matters. Everything else, for example initial endowments, preferences and technology, fall outside the economic system and are simply taken as given.

If we take all these factors (initial endowments, preferences and technology as given), then the allocation of resources is determined by the market. This implies that we cannot change the real world. So the income of any individual depends on his/her initial resources and the price that they can command on the market.

More recently, neoclassical theory has suggested that individual earnings are determined by investment in education and on-the-job training. Through this it is argued that poverty and inequality result from the failure of individuals to invest in themselves.

In short, conventional economics bases itself on individual choice and markets which determine prices. Prices play a central role in deciding what is produced, how it is produced, and also how personal income is distributed. This results in a theory which 'relieves politics and property of any responsibility for the existing division of earnings and patterns of consumption, no small coup in the ideological fray'.

A CRITIQUE OF CONVENTIONAL ECONOMICS

Orthodox economics takes the existing social system for granted. It is basically a theory of how markets work and allocate resources. Within this framework it analyses tendencies towards equilibrium, which means it searches for harmony among different units, agents, classes, etc. It rules out class conflict and assumes that change is smooth and gradual. This stems from the subjective and individualistic nature of the theory.

If we take any given distribution of resources and income, it is possible to show within the logic of orthodox theory that the operation of the free market maximises the returns of different agents. The problem, however, is that unless you can show

that the existing distribution of income is fair, you cannot come to a moral justification of the market mechanism.

The distribution of income is supposedly determined by the market. Orthodox theory accordingly rules out specific institutional mechanisms or the relations between classes or the role of the state, which is assumed to play a passive role. 'Thus these economic phenomena are above politics, and beyond interference by the state or any other interested parties, and since the state cannot have much effect, it also has little responsibility for the present economic ills of society'.

Since orthodox theory takes individual endowment as given, it cannot explain where these endowments come from and how preferences are determined. Hence a serious answer to the problem of maldistribution of income cannot be found. Orthodox theory 'simply states that an individual chooses to do (and have) what he most prefers to do (or have) at any point in time. This is obviously completely circular. People do what they most prefer to do. What people most prefer to do is what they do. There is no way out of this circularity without a theory of what determines people's tastes and how they do or do not change over time'.

A more serious criticism of conventional economics suggests that it cannot analyse social change since it takes the existing social order for granted. Thus, changes in the global economy, the development towards monopoly capitalism are outside the bounds of orthodox economics and hence regarded as irrelevant.

Since orthodox analysis places emphasis on resource allocation, it is regarded as institution-free. 'In other words, the analysis can be given an organisational interpretation which can incorporate any desired framework; it is consequently immediately applicable both to present-day economies of complexly institutional persuasions, and to economies of the past whose institutional structures have long since disappeared'.

This a-historical approach of orthodox economics makes it unable to analyse change, how society is changing and what forces cause change. It's individualistic nature denies it the possibility of grasping why different societies exist, and transition takes place from one form to another (eg feudalism to capitalism). It has been suggested that 'individualism is a theoretical obstacle to the comprehension of the reality of classes, of the appropriation by one class of the unpaid labour of the other'. Individuals cannot be analysed in isolation from the society they live in. So-called units or agents are part of a social structure, individuals exist within classes. This brings up the notion of power (ie to extract wealth). The individual as an entity is unable to control the environment or variables around his/her existence.

Orthodox economics gives priority to exchange relations, ie to the buying and selling of commodities through the market. Orthodoxy is in this sense basically interested in understanding a certain aspect of social reality and not its totality. It fails to deal with the links between different spheres of society, ie production, exchange and distribution. It concerns itself with how consumers maximise utility, how firms maximise profits, how governments allocate resources.

These are not unimportant questions, but they involve only one sphere of social systems and relegate all else to outside forces. Orthodox or conventional economics thus results in a misconception of the inner reality, of the way in which society works.

ORTHODOXY: RELEVANT OR NOT?

How does this conventional way of looking at economics affect a racially-based society like South Africa? More specifically, what is the relevance of the neoclassical framework to altering the inequality in income distribution?

The burning question of income distribution confronts most societies. But South Africa is an unusual case because active state legislation has woven itself into the very texture and fabric of society.

What is of immediate interest is the relatively recent shift in

state policy whereby an offensive has been mounted to give more play to market forces within South African society.

Although the word 'income' has many meanings, it still represents the simplest overall measure of different standards of living between various population groups. Income differences represent differences in purchasing power (ie the ability to buy commodities in the market). However, it should be borne in mind that a single index like income cannot capture the impact of racism in all its forms, ie politically, ideologically, culturally, socially and economically. Nevertheless, racism does take on a dominantly economic form and is rooted in the economic system, especially when workers enter the labour market.

In so far as race discrimination is concerned, the standard neo-classical response is that it is a result of individual tastes or preferences. It is like saying that some people have a taste for cakes as opposed to bread. Discrimination is relegated to a simple choice-making problem - choosing one alternative means excluding the other.

Orthodox economists try to separate various forms of racial discrimination, such as pure wage discrimination, consumer discrimination, employer and employee discrimination. But this separation misrepresents reality because the different forms of discrimination are not independent of each other. 'The processes are not simply additive but are mutually reinforcing. Often a decrease in one narrow form of discrimination is accompanied by an increase in another form, since all aspects of racism interact in a unified manner'.

Treating preferences as given does not really explain much. It just results in circular arguments. Moreover, a major weakness of the orthodox response to discrimination is its inability to recognise the power factor exerted by the state, capital, institutions, and the role of classes.

To meaningfully understand the problem of racism one has to go beyond the individual and the market, and seek an analysis of wider forces shaping society.

While conventional economic thinking suggests that income is governed by individual worth and ability, the mode of economic development in South Africa tells us that the ability to accumulate wealth and income has been systematically curtailed from the dominated black population.

Conservative economists, the arch-guru being Milton Friedman, see racism as irrational, and argue that competition between employers eliminates race discrimination. Since employers are profit maximisers, race, colour and creed are unimportant. Thus the race factor is not a rational criterion in the decision to maximise profits. Employers, on this argument, think in terms of minimising costs only. If black labour was cheaper, employers as rational profit maximisers will hire more black as opposed to white labour. Capitalism is therefore the answer to race discrimination.

Liberal economists are more cautious about the ability and efficacy of the market and thus, in part, pin their hopes on state intervention to eliminate discrimination. The state, according to these theorists, should intervene as a last resort, when the market fails.

The difference between liberal and conventional economics is thus not substantial, but one of degree, for liberal economists do not see the state and private sector as antagonistic but as supportive of one another.

Friedman's philosophy suggests that all regulatory controls by government on behalf of the public should be abandoned and the market mechanism allowed to work freely. Government intervention merely usurps individual freedom and therefore capitalism and the market are necessary conditions for political freedom.

In contrast to this, Macpherson suggests that capitalism is not a necessary condition for political freedom since the market does not inherently lead to offsetting of political power by economic power. 'What can be shown is an inherent probability in the other direction, ie that the market leads to political power being used not to offset but reinforce economic power. For the

more completely the market takes over the organisation of economic activity, that is, the more nearly society approximates Friedman's ideal of a competitive market capitalist society, where the state establishes and enforces the individual right of appropriation and the rules of the market but does not interfere in the operation of the market, the more completely is political power being used to reinforce economic power'.

If Friedman's model of capitalism and freedom is viewed with respect to Chile, then one witnesses capitalism woven with repression. Similarly, with respect to South Africa where the dominated majority is excluded from the political process, the free market cannot resolve conflict. In terms of the conventional model, discrimination takes the form of free choice: the interests of the dominant minority are therefore maintained by their freedom to exclude blacks.

South Africa, as opposed to more advanced countries, is more reliant on blatant racism and repression. Thus, the freedom to exclude blacks from certain jobs, trading centres, residential areas, educational opportunities etc, is a freedom which the white minority uses to discriminate and turn the patterns of accumulation to their own interests. The free forces of the market function on their behalf.

STATE REFORM AND ECONOMIC ORTHODOXY

The state has certainly moved ahead with its reformist policy in a number of spheres; the labour market (Wiehahn and Riekert), education and training (de Lange), co-optation through the President's Council, etc. To tackle each of these on their own is not within the scope of this analysis. However, some of the general claims made by the free marketeers can nonetheless be questioned.

The central claim of the intellectual vanguard of conservative economic thinking is that the removal of government intervention in the economy will lead to rapid growth and a stable black bourgeoisie.

What needs to be noted is that South Africa's occupational structure includes only about 97 000 blacks in the top occupational categories (professional and administrative). Even within this category a sizeable number are teachers and nurses. Hence, with a mere 3% of blacks at the top end of the labour market, the growth of a viable middle class seems trivial.

What kind of impact can the proposals flowing from the Wiehahn, Riekert and de Lange reports - which give the appearance of de-racialising society - have?

Statistically, at a growth rate of 5%, no more than 8,7% of the economically active black population would occupy 'supervisory' or 'mental' positions by 1990. According to Rob Davies, this restructuring in the labour market 'will lead to a situation in which the "vanguard" of the black population "overtakes" the rearguard of the white population'. The ruling class in South Africa is a small cohesive group and since their domination has been historically rooted and asserted, there is no reason why some blacks cannot be coopted as partners without altering the logic and form of racial capitalism. In fact, this is in the interests of the state and capital so as not to disturb the equilibrium of the existing social order and thereby contain disruptive change.

It is also suggested that educational reforms can alleviate the earnings gap between black and white. Since blacks accumulate a lower stock of human capital, the market rewards them with lower earnings. However, this can only explain part of the earnings gap.

If we consider the implications of the de Lange proposals for income distribution, it is evident that the emphasis is shifting to the individual, the community and capital to finance education, thereby shortening the length of formal education. What this means is that income differences between races can increase instead of narrow since those that cannot be subsidised will be made more vulnerable. This kind of perception stems from the individualistic basis of human capital theory which fails to look at variables like race, class, sex, etc, which are outside of the

individual's control.

At this particular time, the domestic economy is going through one of its slow growth phases. This means high unemployment, inflation and a squeeze on living standards. What does this mean for those free marketeers whose hopes are pinned on the ideology of growth and non-discrimination? While it cannot be denied that economic growth provides a means to re-distribute income and absorb more workers into the labour force, it is equally true that years of unprecedented growth have not resulted in a significant material improvement for the black working class.

To change the pattern of income distribution or the share of the national cake requires fundamental shifts in political decision-making and priorities. And this is inconceivable within the present political power base.

IN CONCLUSION

Any theory which attempts to explain and understand the reality of society and not merely tinker with surface aspects has to look at the historical, institutional and structural development of that society. The very opposite has been the fate of conventional neoclassical economics which views racism as external to the economic system. It simply substitutes a psychological explanation such as 'tastes for discrimination' and thus renders orthodoxy quite tasteless.

Radical analysis has certainly cast greater light by attempting to provide a mutually interactive theory of race and class in its investigation of capitalism.

It has to be grasped that capitalism is a system of power enforced through the state and the market. And in a society where legal and political institutions give land, capital and the labour of the working class to one section of the population, market forces will only consolidate that power.

Capitalism is what it is because some have capital and others do not. Those without capital have to subordinate themselves and work for those that possess capital. This is the point that neoclassical economics misses.

For South Africa with its complex socio-economic order, the orthodox economist can offer very little apart from piecemeal tinkering with the economy. Orthodoxy relies on the maximum free play of market forces to enable individuals to enhance their earnings. But this merely shifts the burden. For to admit that racism and inequality are structurally generated means that their eradication involves uprooting the socio-economic structure of society. In this sense the conventional neoclassical position can be regarded as an apology for the status quo since it defends certain institutions and privileges.

If the alliance between the state and big capital believe that market forces can resolve inequality, it is treading a dangerous path. There is indeed a strong ideological offensive at work to show that capitalism provides the path to milk and honey. But honey is derived from bees that sting. Those stung by the state's bee will be the poor, the uneducated, the unemployed and marginalised workers.

SOME READING

Those interested in exploring some of the issues in this article will find some of the following of interest:

R. Davies, 'Capital Restructuring and the Modification of the Racial Division of Labour in South Africa', Journal of Southern African Studies, 5 (2), April 1979.

F Green, 'Ideology, Knowledge and Neoclassical Economics: a critique', in Issues in Political Economy, (ed) F Green and P Nore.

S Himmelweit, 'The Individual as a basic unit of Analysis', in Economics: an anti-text, (ed) F Green and P Nore.

CB Macpherson, Democratic Theory: essays in retrieval.

E Nell, 'Economics: the revival of political economy', in Ideology and Social Science, (ed) R Blackburn.

M Reich, 'The Economics of Racism', in The Capitalist System, (ed) RC Edwards et al.

FORTHCOMING

THE REPORT OF THE SURPLUS PEOPLE PROJECT

The most up-to-date and comprehensive account of forced removals in South Africa yet published.

Since the early 1960s the South African state has uprooted and relocated well over 3,5-million people in the name of apartheid. It is estimated that at least 2-million more face the threat of removal. The people who have been moved have, with the exception of a tiny number of whites, been black: debarred from participating in the government that enforces the regulations which govern these removals.

Despite the massive scale of these removals, and their devastating effect on so many South Africans, by 1980 only one detailed study on relocation had been published: Cosmas Desmond's 'The Discarded People'. And while the press was playing an active role in high-lighting issues such as the Crossroads affair, there was little coverage of the rural areas, where access was difficult and removals were often taking place with no publicity at all.

The Surplus People Project was initiated in February 1980 in an attempt to investigate and publicise removals on a national level. Their five-volume report, shortly to be released, is the most up-to-date and most comprehensive account of forced removals in South Africa yet published.

VOLUME ONE contains a brief overview of forced removals, a historical background to the process, a detailed section on removals and the law and a section on the questionnaires used in the SPP fieldwork.

VOLUME TWO covers the eastern Cape and concentrates on the Ciskei, where some of the worst conditions in the country occur - extremely high unemployment, little economic activity, a very dense population and a particularly reprehensible bantustan administration.

VOLUME THREE covers the western Cape, northern Cape and Orange Free State: thousands of people are endorsed out of the western Cape alone every year in an attempt to implement the Coloured Labour Preference Area policy.

VOLUME FOUR covers Natal, where farm evictions and group areas removals have already been very extensive, but removals for the consolidation of KwaZulu have barely begun, and there are still some 189 black spots to be moved.

VOLUME FIVE covers the Transvaal with its six bantustans, where the position is so confusing that in some areas even the people living there are unsure whether they live in Gazankulu or Lebowa, Venda or Gazankulu, Lebowa or KwaNdebele.

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INFORMATION labour legislation

PAUL BENJAMIN discusses some important changes in labour legislation during 1982; and CLIVE THOMPSON looks at the implications of recent decisions made by the Industrial Court.

By the standards of recent years there was little change in the labour statutes in 1982. In both 1979 and 1981 the Labour Relations Act was extensively overhauled, but in 1982 only one amendment of consequence was enacted. Proposed further changes to the Act were published for comment late in the year and the National Manpower Commission circulated two memoranda which indicated its thinking on further changes to the industrial relations system. 1982 also saw the publication of the Rabie Report which had direct consequences for the labour field with the enactment of the Intimidation Act.

THE 1982 LABOUR RELATIONS AMENDMENT ACT

The major part of this Act was devoted to altering certain of the powers of the Industrial Court. The Court was established as a result of the recommendations contained in the first part of the Wiehahn Commission Report. It was envisaged by the Commission as being a quick and cheap way of resolving industrial disputes. The Court was to be chaired by Wiehahn himself, but he resigned before he could hear a case and was replaced by one Parsons, a magistrate.

The Court, in its judgements, has manifested a singular view of its powers and functions. It held, in a 1981 case, that it was not a Court of the first instance, that is, that it could not be approached directly but only on appeal. In the Court's view, the correct procedure for parties wishing to resolve disputes by legal means, is to refer it to the appropriate institution under the Labour Relations Act. In an industry with an Industrial Council (IC) the Council would have to be approached. In other industries the party would have to apply for the establishment of a Conciliation Board. Only once an attempt has been made to settle the dispute at this level can the Court be approached.

This clearly makes nonsense of the Court's role as a convenient means of resolving labour disputes. It has made itself a court of appeal that can only be approached once the involved procedures in the Act have been exhausted.

One effect of this view is that the Court cannot give interim relief while the matter is being resolved in one of these bodies. For instance, if a dispute concerns the dismissal of workers the Court could not order the reinstatement of the workers until the resolution of the dispute.

The Minister of Manpower has previously possessed the power to grant such relief in the form of a 'status quo' order. Where the dismissal of workers is in dispute he could order the re-employment of the workers, pending the resolution of the dispute. Where the dispute concerns a change of conditions of work, the employer can be ordered to restore the previous conditions.

These powers have now been given to the Industrial Court. Once a dispute has been referred to an Industrial Council or application has been made for the establishment of a Conciliation Board, a party may ask the Court to grant such an order.

This change is clearly a response to the unsatisfactory development of the Industrial Court and the fact that it has been so infrequently used in the last three years. For the strategy initiated by the Wiehahn Report to succeed it is essential that unions utilise the statutory mechanisms for dispute resolution.

A well-functioning Industrial Court is viewed by the state not only as a means of avoiding industrial unrest, but as a flexible institution allowing for swift responses to changes in the labour climate. This is not to say that the potential use of these new remedies will not have the effect of acting as an important threat to employers not to take certain actions in particular industrial disputes.

PROPOSED AMENDMENTS TO THE LABOUR RELATIONS ACT

Far more interesting are the changes contained in a Bill published for comment in August 1982. In terms of this Bill unregistered trade unions will be able, for the first time, to apply for Conciliation Boards.

A Conciliation Board is a meeting held between management and labour under the chairpersonship of a Manpower Department official and, generally, in respect of a particular dispute.

A party to a dispute may apply to the Minister for the establishment of such a Board. If the application is granted, the other party is obliged to participate in the Board. If the Board cannot settle the dispute the work force will be able to stage a legal strike. The Minister enjoys a discretion as to whether to grant the application. If the dispute is in an essential service or if it concerns an unfair labour practice, the Minister must grant the application, provided certain criteria are met. In all other cases the Minister may establish, or refuse to establish, the Board. Where the Minister is aware of a dispute, but neither party applies for a Conciliation Board, he may require the parties to participate in one.

Currently, a registered trade union may apply for a Conciliation Board in a dispute where it is representative of the workers. Groups of employees who are not members of a registered union could make such an application but the Board could only deal with the dispute in respect of the workers who had actually made applications. In terms of the proposed changes an unregistered union may now apply for a Conciliation Board, if it represents more than half the workers.

The Conciliation Board, together with the Industrial Council, forms the basis of the South African industrial relations system. These structures were both created by the initial Industrial Conciliation Act of 1924.[2] While the Industrial Council allows for ongoing negotiation and dispute resolution, the Conciliation Board is intended for the resolution of particular disputes. A recent illustration of its use is found in the recognition dispute in 1981 between the Chemical Workers' Industrial Union and Colgate-Palmolive. Here the union used the Board as a way of forcing a recalcitrant employer to meet with the union. The outcome of the dispute was that the union gained recognition from the company. More recently, the Mine Workers' Union applied for a Board in its dispute with the Chamber of Mines.

While it is dangerous to read too much into legislative changes, what this represents in state terms is a significant change to one of the key institutions of its industrial relations framework. In 1979 unions with african membership were allowed for the first time to register. In return for the advantages of participation in, inter alia, the Industrial Council system it was assumed they would register and thus submit to the 'controls' in the Act. This did not occur to the extent that the state had counted on and in 1981 many of these 'controls' were extended to unregistered unions.

In one way this proposed change is a logical consequence of the changes made in 1981. As the 'controls' in the Act apply to unregistered unions, the potential use of the Conciliation Board is no longer needed as a means of inducing unions to register.

THE INTIMIDATION ACT

One of the findings of the Rabie Commission into security legislation was that the law dealing with acts of intimidation, particularly in situations of political and industrial unrest, was not severe enough. As a result the new Intimidation Act was passed in 1982 which defined a wide range of actions as being intimidation, making perpetrators liable for imprisonment of up to ten years and/or a fine of up to R20 000.

Intimidation covers a number of acts committed with the intention of getting somebody else (not necessarily the person to whom the act is done) to do something or not to do something, or to change his opinion or to adopt a certain opinion. It will amount to intimidation if this is attempted by violence or threats of violence or by causing damage or threatening to do so. The damage threatened need not be physical and can, for instance, be financial. These types of actions will not amount to intimidation where the person involved can prove he has a 'lawful reason' for committing the act.

The state has not been slow to use this legislation in industrial

situations. By the end of 1982 numerous cases were pending against union activists in northern Natal and on the east Rand for alleged acts of intimidation committed during strikes. (To date - March 1983 - only one of these cases has resulted in a conviction. In most cases the charges were withdrawn - often even before the case began. In the Transvaal Donsie Khumalo, charged with intimidation during a strike at De Luxe Laundry, was acquitted. In the eastern Cape two workers were charged under the Act - one received a suspended fine of R200, or 120 days, and the other was acquitted.

Lawyers defending workers in these cases have commented on the lack of convictions. Speculation is that the state has insufficient evidence for the charges to stick. Their experience has been that managements have used 'impimpis' (informers) to testify as to having been bribed or threatened to go on strike. When the case reaches the court the impimpi is often no longer prepared to testify.)

This is not the limit to the Act's potential use. It has, clearly, been designed to cover a wide range of activities, such as the threat of economic boycotts against particular employers. At this level, the Act can be seen as a response to the significant number of boycotts launched by unions and conducted with community support.

DEVELOPMENTS IN CASE LAW[3]

One particularly significant development took place in the interpretation by the South African courts of labour legislation. A dismissal of a worker for trade union activity is victimisation and an act of victimisation has no legal force or effect.

This has been part of our law for a considerable period of time but in a number of judgements since 1975 the courts have held that despite this they could not order the employer to re-employ the workers. The ironic situation, therefore, existed that if an employer threatened to victimise the workers a court could restrain him from doing so, but that once the victimisation had taken place the courts could do nothing to assist the workers.

This situation has now been altered by a judgement in the Transvaal Supreme Court. The courts will be able to order employers to take back into employment workers who have been dismissed in circumstances amounting to victimisation. In addition, the employer may well be liable for the workers' wages for the period during which they were unemployed.

The irony of this situation is that this right was accorded to workers in a case involving an individual white worker in the early 1950s. It has taken the courts another 30 years to accord this right to black workers.

NOTES

1. That is, of course, not to say that the use of the court per se by unions represents any victory for the state. The possibility does exist for gains to be made through the selective and strategic use of the court. The strategy of the state can only succeed if the use of the Court, or any other institution, is seen as a substitute for organisational struggle.
2. On this see Davies, R - Capital, State and White Labour in South Africa (Harvester, 1979:162-9).
3. National Union of Textile Workers v Stag Packings (Pty) Ltd. The judgement was an appeal from the case reported in the 1982 Industrial Law Journal at 39.

RECENT LABOUR CASES

In the past few months there have been three cases decided in the Industrial Court with important labour implications. Two have involved the new section 43, or 'status quo', provision in the Labour Relations Act (see previous article by Paul Benjamin, p 46), while the third involved an unfair labour practice.*

In Southern African Society of Journalists (David Bleazard) v Argus, SAAN and others, the SASJ applied to court for an interim order requiring the newspaper companies to remain members of a negotiating forum which the parties had been using for the past 40 years, and to negotiate in

good faith towards the conclusion of a 1983 agreement covering the journalists' terms of employment. The newspaper companies had given notice of their intention to leave the forum because they were unhappy about the way it was functioning, and intended to bargain instead with journalists on an individual and regional basis.

The court found for the journalists and the effect of the decision was that an employer was ordered to bargain with an unregistered but representative union on terms of employment. As the court qualified its findings, the decision is of procedural rather than substantive importance. The court noted that a section 43 order lasts for a maximum of 90 days only and does not finally determine the issues between the parties. Accordingly, although at a full and final hearing it might not decide that a failure to negotiate constitutes an unfair labour practice, the court was prepared to restore the status quo which existed before the dispute arose (and therefore the established bargaining practice) on an interim basis. The dispute has yet to be finally settled.

In Metal and Allied Workers' Union (MAWU) v Stobar Reinforcing Pty Ltd, 50 workers had been dismissed for allegedly participating in a 'go slow' (which falls within the definition of a strike in the Labour Relations Act).

Although the decision is not unequivocal, the court intimated that dismissals in a collective context should be for just cause only (ie because of incompetence or misconduct by the worker, or because of the operational requirements of the enterprise). The court also found that the onus of establishing just cause lies with the employer. In the event, the court found that Stobar had not established the misconduct which it alleged and all those dismissed were reinstated in their jobs pending a final settlement.

Read with the SASJ decision, it appears that the court has made it procedurally easy for an applicant to get status quo relief if the other party (usually management) has changed the employment relationship unilaterally.

In National Union of Textile Workers (NUTW) v Braitex Pty Ltd, the company had attempted to push through a number of labour changes unilaterally: several retrenchments, elimination of a bonus system, and others. The union, which had a limited recognition agreement, resisted these actions and brought a number of alleged unfair labour practices to the industrial court. The company acceded to the claims under court pressure and agreed to a deed of settlement, which was made an order of court. This involved a number of interesting provisions. These included an undertaking by the company to inform the union of any proposed changes in the terms of employment one month in advance, and also to afford bargaining rights to the majority union at the company only. The court has therefore sanctioned bargaining at plant level, despite the existence of an industrial council in the particular industry. The company also agreed to reinstate the retrenched workers and to pay R40 000 to those affected by the company's actions.

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* 'Unfair labour practice' means
(a) any labour practice or any change in any labour practice, other than a strike or a lockout which has or may have the effect that
(i) any employee or class of employees is or may be unfairly affected or that his or their employment opportunities, work security or physical, economic, moral or social welfare is or may be prejudiced or jeopardised thereby;
(ii) the business of any employer or class of employers is or may be unfairly affected or disrupted thereby;
(iii) labour unrest is or may be created thereby;
(iv) the relationship between employer and employee is or may be detrimentally affected thereby;
(b) any other labour practice or any other change in any labour practice which has or may have an effect which is similar or related to any effect mentioned in paragraph (a).

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labour action

EASTERN CAPE

Company: Britas Bakery
Date: 25 February
Workers: 240
Union: Food, Beverage and Allied Workers
About 200 van assistants were asked to work overtime due to a power failure. They refused and went home, leaving 40 drivers without their delivery crews. The drivers also decided, under the circumstances, to go home.

The Port Elizabeth/Uitenhage area was hit by a scarcity of bread during the weekend. On Monday morning the workers were still on strike. Retailers arrived to collect their bread, and the drivers again decided to go home.

The following day, however, the strikers returned to work. According to management the dispute had been amicably settled and promised that no disciplinary action would be taken against the workers.

Company: Eastern Cape Agricultural Co-op Creamery (Queenstown)
Date: 9 March
Workers: 179
Union: African Food and Canning Workers' Union (AFCWU)
The entire workforce downed tools in protest against management's refusal to recognise the AFCWU. All workers were dismissed, and management stated that new workers had been employed. Two members of the AFCWU have been charged under the Intimidation Act as a result of the strike (see section on labour legislation).

The union has drawn attention to the working conditions at the creamery. In addition to workers being insulted there have been several cases of assault. One worker's jaw was broken when he arrived late for work. Another was shot in the leg at work, and then dismissed. Foremen at the creamery carried guns (RDM, 16.03.83).

Company: Fry's Metals (near East London)
Date: 24 February
Workers: -
Union: South African Allied Workers' Union (SAAWU)
A work stoppage occurred at this firm, previously owned by Chloride (SA). Chloride was the first company ever to recognise SAAWU. The new owners at Fry's decided to honour the recognition agreement on Chloride's advice. Both management and the union have declined to comment on the reasons behind the stoppage, although it has been suggested that it is over union recognition (RDM, 26.02.83).

Company: OK Bazaars (Port Elizabeth - Walmer, Main Street and Greenacres branches)
Date: 20 February-9 March
Workers: over 100
Union: Commercial, Catering and Allied Workers' Union (CCAWUSA)
Workers at the OK Main Street cafeteria stopped work in protest at the dismissal of one of their colleagues, Betty Dali. Staff at the Greenacres and Walmer branch cafeterias joined the strike shortly afterwards. OK Bazaars and CCAWUSA were in the process of negotiating a recognition agreement when the strike began. Management was under the impression that an agreed appeal procedure over dismissals was already valid, although the agreement had not yet been signed.

According to management, workers agreed to return to work on 23 February pending an official appeal over the dismissal. The workers did not return on that day. By 26 February OK suspended recognition talks pending the outcome of the strike. This put future bargaining relationships between OK and the union in serious jeopardy.

The union denied that it had promised OK that the strikers would return to work pending an appeal. CCAWUSA claimed that the fact that it had not lodged an appeal was not a breach of any agreement between itself and the company.

According to CCAWUSA there had been no agreement providing for implementation of any part of the talks until the final recognition agreement was signed.

By 9 March management was still adamant that it would not reinstate Betty Dali. The workers decided at that point to end their three-week strike. That day 66 of the 113 strikers returned to work. CCAWUSA's Emma Mashinini said that she was confident that the recognition talks were not in danger.

The following day all of the workers returned to work. They were not paid for the period during their strike. Their dismissed colleague, Betty Dali, was being treated for nervous stress after she had heard of management's decision not to re-employ her.

According to a union spokesperson, however, the strike had shown management 'the role a union plays'. He said that Betty Dali's case would still be pursued by the Johannesburg office.

TRANSVAAL

Company: Gallo (Bedfordview)
Date: 1 February
Workers: 100
Union: CCAWUSA -

Following two brief strikes during October and January (see WIP 25:46) a further week-long strike occurred at the warehouse of Gallo Africa (a subsidiary of the Premier Milling Group) during the first week of February.

It was sparked by the retrenchment of four workers, including a union shop steward - most of the workers are members of CCAWUSA. Workers had previously asked that they be consulted over retrenchments and they felt that the motive behind these was victimisation.

The strike, which took place during recognition talks with CCAWUSA, began on Tuesday 1 February. After refusing to return to work the 100 strikers were dismissed.

Later in the week, after talks with the union, Gallo agreed to reinstate the workers - other than the four who had been retrenched. The return to work was delayed as workers initially refused to accept the condition that they sign 'final warnings'. However, they returned to work the following Wednesday.

Preparations are now being made for a referendum amongst workers at three Gallo plants where they will vote on whether they wish CCAWUSA to be recognised as their representative union.

Company: Glendower Golf Course (near Johannesburg)
Date: early March
Workers: ?
Union: -

Two greens at this golf course were dug up during the night by dissident caddies. According to notes left near the greens the caddies were dissatisfied because some competitors in the R40 000 Kodak Classic golf tournament had brought their own caddies, a number of them being white. The damage was extensive. About 200 shovelfulls of turf had been dug up and workers spent about two hours patching up the greens (N Witness, 03.03.83).

Company: Landdrost Hotel
Date: 22 March
Workers: 100
Union: CCAWUSA

Employees stopped work in protest against management's appointment of a worker outside of the hotel staff to a position. When management agreed later that day to transfer the newly appointed employee and give the job to a Landdrost staff member, the strikers returned to work (RDM, 24.03.83).

Company: Putco
Date: 16 February
Workers: 250
Union: Transport and General Workers' Union and the Transport and Allied Workers' Union

Putco bus drivers went on strike in protest against the fact that management refused to transfer or dismiss a senior company official from the Wynberg depot. Bus services from Alexandra to Sandton, Johannesburg and Ferndale, and from Johannesburg to Randburg and Sandton were affected by the strike. Thousands of passengers had to use alternative means of transport that day. The drivers returned to work the following day after management agreed to hold talks over the matter.

No further news.

Company: Screenex Wire Weaving (Alberton) (For previous coverage see WIP 25:47)
Date: 10 December 1982
Workers: 140
Union: Metal and Allied Workers' Union (MAWU)

MAWU has declared a dispute with Screenex over the dismissal of workers who struck in protest against retrenchments. The union alleges that the company is guilty of 'an unfair labour practice' in dismissing the workers. In terms of the Labour Relations Act the dispute must be referred to the Industrial Council before it can be heard by the Industrial Court. If the Industrial Council fails to settle the dispute within 30 days, it may be referred to the Court.

However, Screenex is refusing to participate in the Industrial Council over the matter. It is unlikely now that the matter will be settled within the stipulated time, which leaves the Industrial Court as the only alternative for resolving the dispute (RDM, 10.03.83).

Company: The Star
Date: 24 March
Workers: About 150
Union: Media Workers Association of South Africa (MWASA)
More than 150 workers at the Star newspaper went on strike on Thursday 24 March in protest against the dismissal of a colleague. The dismissed worker had been given a final written warning in September last year for allegedly threatening the life of a black supervisor. Management promised to suspend their decision pending the outcome of an appeal lodged against the dismissal, but refused to allow the worker involved to resume work.

The following day, Star management informed the strikers that they were considered to have dismissed themselves by going on strike.

Company: Sunnyside Park Hotel
Date: 22 March
Workers: 30
Union: CCAWUSA
Workers struck in sympathy with workers at the Landdrost Hotel (see above).

Company: Towers Hotel
Date: 22 March
Workers: 50
Union: CCAWUSA
Workers struck in sympathy with the demands of other workers at the Landdrost Hotel (see above).

Company: Unilever (Boksburg) (For previous coverage see WIP 22:31; 23:54; 24:51)
Date: September 1982
Workers: about 1 000
Union: Food, Beverage and Allied Workers' Union
Negotiations, resulting out of the strike, reached deadlock. An independent arbitrator was called in in January 1983 to settle the dispute. As a result of this intervention the company has promised to pay increases from the end of March (Star, 09.02.83).

NATAL

Company: Natal African Blind Society
Date: February 1982
Workers: 56
Union: -
The workers were charged as a result of a strike last year. They were found guilty of trespassing when they returned to work after having been fired. The workers won their appeal against the suspended sentences they had been given.

Company: Ninian and Lester
Date: 9 March
Workers: 300
Union: National Union of Textile Workers (NUTW)
For previous strikes see WIP 21:55 and 23:51.

The workers downed tools because they objected to the dismissal of a senior shop steward. A further grievance was that the police had been called in to remove the man from the premises (N Witness, 10.03.83).

No further news.

Company: Safeguard (a Grindrod subsidiary)
Date: 28 February
Workers: ?
Union: CCAWUSA
Workers downed tools on Monday in support of a R350 per month minimum wage. They returned the following day after management had promised that an announcement about their demands would be made on Wednesday 2 March. This did not occur. On Friday management offered a R5 increase but workers refused this. The following Monday the workers decided to call off their strike pending a meeting which management was expected to address.

CCAWUSA was unable to hold talks with management as the company twice refused a request by the union to do so (RDM, 08.03.83).

Company: Turnall Ltd
Date: 10 March 1982
Workers: 50
Union: SAAWU
For background see WIP 22:32.

A settlement between the firm and the workers was reached after lengthy negotiations. The talks were the result of a strike over recognition when management fired 50 workers. The settlement was reached with neither side conceding the validity of the other's case (Star, 12.01.83).

Company: Vleissentraal
Date: July 1982
Workers: 85
Union: Sweet, Food and Allied Workers' Union
Workers struck in protest against the

dismissal of three shop stewards. According to the workers the shop stewards had been dismissed because of their union activity. Management denied this and said that the workers were being retrenched.

The company agreed to re-employ 30 of the dimissed workers in early March 1983. The workers have hailed this as a tremendous victory for them over their employers.

The union had referred the matter to the Industrial Court but the employers decided to re-employ the workers before the matter reached the Court.

According to union sources management was swayed by a recent judgement against Stobar Reinforcing (see WIP 25:48 and section on labour legislation above), compelling employers to reinstate workers who had been dismissed unfairly. Management has denied this (Star, 03.02.83).

MINING

Company: Winkelhaak Gold Mine (Evander)
Date: May 1982
Workers: 29
Union: National Union of Mineworkers

Eleven african gold miners were convicted for their involvement in an illegal strike which occurred at the mine in May 1982. Five men received three-year jail sentences, half suspended for five years; and one man received another two-year term, with nine months suspended.

Charges were withdrawn against 13 workers, one other was in hospital and four men did not appear. Warrants were issued for their arrest.

SOUTH AFRICAN TRANSPORT SERVICES (SATS)

Company: SATS (for background see WIP 24:46-8)
Date: 30.08.82 - 10.02.83
Union: General Workers' Union (GWU)

In August last year hundreds of Port Elizabeth dockers began a go-slow in an attempt to force SATS to meet with their representatives to discuss local working conditions. Union officials and members of a workers committee had unsuccessfully attempted to meet with SATS representatives for nearly a year.

Union members were questioned and harassed by Railway Police after they resigned from the in-company Black Staff Association, and some even alleged assault.

The workers were all sacked a few days after starting the go-slow and ejected from their hostels. For six months they refused to collect money owing to them, and regularly met to discuss their position.

They gained hope from the setting up of a committee by the Department of Transport Affairs to investigate the SATS, and submitted written evidence in support of their demand for talks between their representatives and SATS.

The International Transport Workers Federation (ITF), which had corresponded with SATS and government officials on the dispute for months, also submitted evidence, and attempted to do so in person as well.

By February this year the committee had not released its findings and it was clear nothing was to be gained from continuing the strike.

The international slump in shipping had hit South African ports and the trickle of traffic passing through Port Elizabeth meant the strike may have been a blessing in disguise to SATS. There was no reason for SATS to alter its position on the dispute, and the workers therefore decided to collect their money and accept their dismissal.

General Workers' Union secretary, Dave Lewis, says the organising of railway workers in the future - which represents the taking on of the state - will only be possible within a broader federation of unions. This is one of the motivating factors for the GWU'S interest in unity talks.

STATISTICS

The official figure for the number of strikes which occurred during 1982, was released by the Minister of Manpower early in March. There were 338 strikes involving african workers during 1982.

The Minister told parliament that 174 of the strikes arose from wage demands, while 21 strikes arose from wage demands coupled with other demands. Causes for the remainder were demands for the reinstatement of dismissed workers; conditions of employment; and recognition demands (RDM, 08.03.83).

Figures released by the Stellenbosch University's Professor Willie Bendix and Eddie Nicholson, put the number of strikes at over 200, involving 120 000 workers and occurring over 323 000 workdays. 45% of the strikes were over wages and 48% were closely related to wages (RDM, 15.01.83).

Industries which were most strongly affected by strikes were metal, motor, and textile. Strikes in the metal industry in the Transvaal represented 31% of the total number of strikes, while 11% of the strikes were in the motor industry and 9% in the textile industry.

Yet another source has put the number of strikes during 1982 at 281, involving 189 022 workers. It is pointed out that the number of strikes decreased from 342 in 1981. However, the number of people who took part in strike action has increased since 1981, with 92 842 being involved during that year.

The level of union involvement in strike activity during 1982 was dominated by the Metal and Allied Workers' Union (MAWU), the Commercial and Catering Workers' Union (CCAWUSA), the National Automobile and Allied Workers' Union (NAAWU), and the National Union of Textile Workers (NUTW). MAWU was involved in 46 strikes, CCAWUSA in 43 strikes, NAAWU in 28, and the NUTW in 11 strikes during 1982. There were 64 strikes where no union was involved. (The figures in the last two paragraphs were given in a paper on 'State, Reform and Working Class Resistance' in the forthcoming SARS Review of 1982 - see advertisement in this WIP).

courts

TREASON TRIALS

Cedric Radcliffe Mayson (53).
The accused faces a main count of high treason, with alternative charges under the Terrorism and Internal Security Acts.

The state alleges that Mayson conspired with the ANC to commit certain acts with the aim of overthrowing or coercing the government of South Africa.

Inter alia, Mayson is charged with having discussions with ANC officials; with distributing a tape of a speech made by ANC leader Oliver Tambo; and assisting various people to leave South Africa illegally so that they could undertake ANC or SACTU activities.

During July 1981 Mayson allegedly met ANC member Thabo Mbeki in London, where he received the following instructions: to investigate the setting up of area political activities in South Africa to co-ordinate ANC activities; to obtain information about churches and other bodies with a view to infiltrating them on behalf of the ANC; to encourage a boycott of government-created institutions; to advise people to refuse to serve in the SADF; to recruit people for the ANC; to determine targets for sabotage; to examine the possibility of storing weapons in churches; to obtain information about various people in South Africa and supply this to the ANC.

During September/October 1981 Mayson allegedly held discussions with Jabu Ngwenya, Frank Chikane, Auret van Heerden, CF Beyers Naude and someone referred to as Norman on the possible formation of ANC political committees within South Africa.

At his trial, Mayson pleaded not guilty to all charges. Former BOSS spy and now security policeman Karl Edwards testified for the state. He claimed that he joined the ANC in 1977, and set up an escape route to Botswana, established a courier network and gathered intelligence for the ANC.

During 1976 he assisted a banned person, Chris Wood, to escape from South Africa, and the following year delivered a letter from Wood to Mayson. This letter urged Mayson to make use of the escape route to help people leave South Africa illegally.

Edwards claimed that Mayson had admitted that he had assisted Horst Kleinschmidt to leave South Africa illegally.

Mayson disputed the validity of a confession he made while in security police detention on the grounds that it was not made freely and voluntarily. He told the court that before he made a statement, security police forced him to strip naked, handcuffed his hands behind his back, and he was then verbally abused in this position. His hair was pulled out during an interrogation session, leaving him with a bald spot. The magistrate who took Mayson's statement admitted in court that he had noticed a red patch on Mayson's head, but had not

inquired about it because Mayson had said that he was making the statement voluntarily.

Mayson told the presiding judge that he believed there was a possible role for the ANC in South Africa, and that it should be unbanned. He said that where the aims of the ANC concurred with the gospel, he supported the ANC. However, it had never been his intention to further the aims of the ANC.

The state called 13 police witnesses on the circumstances in which Mayson came to make a confession. Twelve of these witnesses denied that Mayson had been kept naked in security police offices on the first weekend of his detention. However, one police witness admitted that Mayson had been kept in security police offices over the weekend.

Presiding judge Van der Walt ruled that Mayson's statement was inadmissible as evidence.

At this stage, the state applied for a six week adjournment, but this was opposed by the defence. The state argued that they needed the time to locate a key witness, Auret van Heerden, who had disappeared. Van Heerden is alleged to have received ANC material from Mayson, and discussed the creation of ANC committees with him.

Mayson had been in custody since November 1981, first as a detainee and subsequently as an awaiting trial prisoner refused bail by the attorney-general. After a defence application for bail was made, he was released on bail of R1 000, and the trial was postponed until mid-April.

TERRORISM ACT TRIALS

Lillian Keagile (24)

The accused in this trial faced two charges under the Terrorism Act, with a further count in terms of the Internal Security Act. The state alleged that the accused was an ANC member who furthered the aims of that organisation by acting as a courier between members in Botswana and people in South Africa. In particular, it was claimed that Keagile carried messages from Roller Masinga, Joyce Diphale and Martin Sere, delivering them inter alia to Philip Dlamini, Buti Thlagale, Jabu Ngwenya, Sam Mabe, Frank Chikane, Baby Tyawa, Ernest Diphale, Joseph Mavi and Raymond Mabiletsa.

Keagile was also charged with conveying money from Botswana to the Black Municipal Workers' Union (BMWU), informing certain people to travel to Botswana to see ANC members there, and arranging transport for them. She was also alleged to have recruited Steve Thupae, Mpho Masethla and Wandile Zulu to undergo military training under the auspices of the ANC.

The state further claimed that an ANC cell was formed consisting of Ernest Diphale, Baby Tyawa, Felix Ngwenya, Joseph Mamasela, Ben Singo and Keagile.

The second charge against Keagile involved the reconnaissance of the Inhlazane power station for the purpose of sabotaging it. Keagile allegedly made a sketch of this power station, having kept it under observation to establish its exact location, size and layout.

Finally, the accused was charged with undergoing military and other training in Botswana during January and February 1981. This training included cyphering, coding and decoding of messages, communications, surveillance, the working of Tokarev and Makorov pistols, theoretical training in handgrenades and other explosives, the making of pamphlet and bucket bombs, timing devices, map drawing, practical pistol shooting, and the workings of the AK rifle. This training took place under the auspices of George Twala, and three others identified only as Thele, Pieter and Karen.

The accused was detained by police at the South African - Botswana border on 18 November 1981, and held in custody as a detainee and awaiting trial prisoner until her trial ended. Shortly after her detention, she made a statement to a magistrate, but in her trial contested the admissibility of this, claiming that she had been coerced into making it. In particular, she told the court that she had been sexually assaulted by a security policeman, and that three children in her custody when she was arrested

were used to pressurise her into making a statement. However, the presiding magistrate disbelieved Keagile, and admitted the statement as evidence.

In this statement, Keagile explained that her husband was an ex-executive member of the BMWU, and had left the country in 1980 and settled in Botswana. She subsequently learned that her husband, Martin Sere, had joined the ANC.

She visited her husband in Botswana, and as a result of this, met ANC members Roller Masinga and his wife, Joyce Diphale. Diphale was a cousin of hers.

Subsequently she agreed to carry messages from the ANC in Botswana to various people in South Africa; she also conveyed R2 000 to Philip Dlamini, at that time an official of the BMWU.

Dlamini, who was held in detention for a lengthy period, was called as a witness against Keagile, but refused to testify. He was sentenced to 18 months imprisonment, and also faces charges in another trial (see the trial of Harrison Nogqekele and others, below).

It was alleged by the state that the accused had conspired with, inter alia, her cousin Ernest Diphale (a brother of Joyce Diphale). It will be recalled that Ernest Diphale died while held in security police detention. Just prior to his detention, an assassination attempt was made on Ernest Diphale. At much the same time, a similar attempt was made on the life of his sister, Joyce, in Botswana.

After 83 days in detention, the accused was seen for the first time by a doctor. She informed him that she had been assaulted while under interrogation . However, subsequent to this, and while still in detention, Keagile signed a statement saying that she had not informed the doctor involved of any assault.

The state called a number of witnesses in the case, including certain of the people named as accomplices of the accused. One witness, who testified for five days, was a member of the ANC who infiltrated on behalf of the security police. However, his evidence was heard in camera, and nothing said may be reported.

The defence called a brother of Martin Sere, Ben Sere, as a witness. He testified that when he had visited his brother in Botswana, there had been no discussions concerning the ANC. Another defence witness, Rev Graduate James Shongwe of the International Assemblies of God church, told the court that he had visited the flat of Joyce Diphale in Botswana, but had seen no ANC posters or literature there. Both defence witnesses were, however, not believed by the presiding magistrate.

Verdict: Guilty on all three counts.

Sentence: Two years for the Internal Security Act contravention, and four years on each Terrorism Act count. (The minimum sentence under the old Terrorism Act was five years. However, with the repeal of the Act, the magistrate was not obliged to impose it). Because sentence on the Terrorism Act charges is to run concurrently, effective sentence is six years.

The defence has noted its intention to appeal against conviction.

(Johannesburg Regional Court, 18.03.83).

Stanley Radebe (27), Ephraim Mthuthezde Madalane (24), Ernest Lebana Mahakalala (23), and Innocentia Nankululeko Mazibuko (20). The accused face charges relating to the South African Youth Revolutionary Council (SAYRCO). They are alleged to have joined the organisation, recruited others for it, travelled to Botswana and Lesotho on SAYRCO business, and infiltrated the Azanian Students' Movement (AZASM) with the aim of furthering SAYRCO's objectives.

The trial follows the conviction and imprisonment of SAYRCO president Khotso Seathlolo, who was arrested on a clandestine visit to South Africa. In his trial, Innocentia Mazibuko refused to testify, and was subsequently charged in this trial.

Evidence against Mazibuko was given by two witnesses who told the court that they had been recruited to SAYRCO by her. The first claimed that she had told him about SAYRCO at school and the second that he had been recruited on a bus they were travelling on. The second witness subsequently admitted to giving false evidence to avoid detention,

saying the he had lied when he testified that Mazibuko had recruited him for SAYRCO.

Madalane admitted that he was a member of the Azanian Students' Movement (AZASM), but claimed that he met two of his co-accused for the first time when they were charged.

A statement made by Radebe while in detention was rejected by the presiding magistrate as evidence. While the magistrate found that Radebe had not been tortured - as was alleged - he ruled that the confession was made in a desperate attempt to get out of solitary confinement.

In his evidence, Radebe said that he thought SAYRCO was a youth club, and admitted that he often ran errands for its members. Documents which he collected were not, in his opinion, of a political nature. He admitted being approached by two people from Lesotho with a request for nitrate and alcohol. However, he learnt for the first time from police that those who approached him were from SAYRCO, and that the chemicals were for the manufacture of explosives.

During the course of Radebe's evidence, the state attempted to make use of a tape recording of conversations between Radebe and his mother. These recordings were made while Radebe was an awaiting trial prisoner at Modder Bee prison. Defence Counsel have argued that the tapes are inadmissible because (a) the state has already closed its case; (b) they were unfairly obtained; and (c) the defence would be unable to prove whether the tapes had been tampered with.

The trial continues in the Kempton Park Regional Court.

INTERNAL SECURITY ACT TRIALS

Simon Cyprian Nomvalo, George Xoleliswe and David Sibisa.
The accused in this trial were charged under section 54 of the Internal Security Act, the state alleging that they attempted to leave the country with a view to undergoing military training. They were part of a group of ten arrested on the South Africa - Lesotho border in December 1982.

The remaining seven members of the group testified against the accused, who first appeared in court in February 1983. At the end of the state case, counsel for the accused applied for a discharge on the grounds that the state witnesses had materially contradicted each other. This was granted by the presiding magistrate, and all three accused were acquitted.
(Ladybrand Regional Court, ?.03.83).

Andrew Mokone (19), Vulindlela Mapekula (22), and Reginald Mzwandile Nkosi (21).
The accused, all from the Springs township of KwaThema, faced a charge of taking part in ANC activities. The state alleged that they conveyed messages and information from the ANC in Botswana to South Africa; formed an ANC cell; carried ANC literature from Botswana to South Africa; distributed this literature; and received money from the Botswana ANC for various projects.

A confession allegedly made by Mokone in detention and tendered by the state was rejected as evidence by the presiding magistrate after Mokone alleged that he had been tortured while in police custody.
Verdict: Guilty
Sentence: Mokone - 2 years. Mapekula and Nkosi - 3 years.
(Springs Regional Court, 25.03.83).

Lazarus Mmoledi (27).
The accused was charged with furthering the aims of the banned African National Congress by playing and possessing a tape of a speech by its president, Oliver Tambo.

According to a state witness, the accused visited him in June 1982, and played him a tape recording of a speech made by Oliver Tambo. There was evidence that Mmoledi played the tape to three other people.
Verdict: Guilty.
Sentence: 4 years. The presiding magistrate dismissed a defence plea for a suspended sentence, asked for because the accused had spent 5 months in custody already. Bail of R2 000 was allowed pending an appeal.
(Johannesburg Regional Court, 11.03.83).