

27.4 A

M E M O R A N D U M

submitted to

THE HONOURABLE THE MINISTER OF LABOUR

on the subject of

THE INDUSTRIAL CONCILIATION BILL

(A. B. 42, 1957)

(Select Committee)

S O U T H E R N R H O D E S I A

by the following Unions, registered in Southern Rhodesia

and the Union of South Africa:

Amalgamated Society of Woodworkers,

S. A. Boilermakers', Iron & Steel  
Workers' & Shipbuilders' Society,

S. A. Society of Bank Officials,

S. A. Typographical Union.

---

January, 1959.



INDUSTRIAL CONCILIATION BILL

(A. B. 42, 1957)

(Select Committee)

MEMORANDUM

submitted to

THE HONOURABLE, THE MINISTER OF LABOUR

I N T R O D U C T I O N

1. The Unions party to this Memorandum are :
  1. Amalgamated Society of Woodworkers,
  2. S. A. Boilermakers', Iron & Steel Workers' & Shipbuilders' Society,
  3. S. A. Society of Bank Officials,
  4. S. A. Typographical Union.
2. The total membership in Southern Rhodesia represented by the four Unions is approximately 3,500.
3. In April, 1957, a Memorandum was submitted to the Honourable, The Minister of Labour by these four Unions and the Amalgamated Engineering Union on the subject of the Industrial Conciliation Bill (A. B. 21, 1956).
4. In June, 1957, that Memorandum was submitted to the Select Committee appointed to examine the Bill, together with a more detailed document.
5. Since then, the status of the Amalgamated Engineering Union has changed, inasmuch as the South African section of the Union has become completely independent, the Southern Rhodesia membership remaining with the international Union which has its headquarters in Great Britain. The Amalgamated Engineering Union in the Union of South Africa is, for this reason, not directly concerned in the present matter.

/6. We ...



6. We take this opportunity to express our appreciation for the attentive hearing accorded us by the Select Committee and for the close examination by its members of the representations contained in our memoranda.
7. We note with gratitude that our representations in respect of a number of important matters were favourably received. Others, no doubt, have made similar representations. We specifically mention those in regard to multi-racial membership of trade unions, the deletion of the provisions as to compulsory works committees and statutory commission trade unions and industrial councils.
8. Where our representations on certain other important matters have not found favour with the Select Committee we shall make further reference thereto in this document in the hope of persuading the Hon. The Minister of Labour and other members of the Legislative Assembly to agree with our point of view.
9. We wish to reiterate that we are motivated by our consideration for the interests of workers generally and the members of our unions in particular, and by a desire to assist in establishing industrial legislation which will encourage the economic development of Southern Rhodesia and the peaceful development of all its peoples in this new era in the history of the country.

DETAILED COMMENTS.

SECTION 2. INTERPRETATION OF TERMS.

10. Sub-section (1).

- (1) "secretary". The definition of this term has remained as in the first Bill. We suggested that it should

/apply ...



10. (1)

apply also to the secretary of an industrial board. It seems that a stenographer employed by a trade union, employers' organisation, industrial council or conciliation board, who takes the minutes of a meeting, is performing one of the duties usually performed by a secretary. In view of the duties and responsibilities of a secretary in terms of the Act, it seems to us that to include such an employee in the definition of secretary is placing ~~an unfair responsibility on~~ such person. If, however, it is considered necessary in relation to the bodies mentioned, we again suggest that it is clearly necessary for this provision to apply to the secretary of an industrial board.

(2) "trade union". We wish to express our appreciation that the interpretation of this term will not now, as a result of the deletion of the words "one particular", restrict trade unions in the manner described in our memoranda to the Select Committee. On the other hand, we regret that we were unable to convince the Select Committee that paragraph (b) of the definition in the Act should be retained.

Section 117 of the Bill contains, in sub-section (1), the provision that a federation of trade unions

"which has as its object ~~or as one of~~  
its principal objects the promotion  
of the interests of employees"

may be registered. Of this we wholeheartedly approve, such being one of the main objects of every trade union. ~~Unless it were so,~~ a trade union could hardly function as such, much less properly regulate relations between its members and their employers.

/We ....



10. (2)

We urge that paragraph (b) of the definition in the 1945 Act be retained in the new one, especially in view of the fact that the principle has been conceded in Section 117.

SECTION 4. APPLICATION OF ACT.

11. Sub-section (2) paragraph (e).

The Select Committee was apparently not impressed with our request for this paragraph to be clarified, perhaps because we did not explain our interpretation of its provisions fully. The paragraph reads :

"Work performed in or in connexion with any university, college, school or other educational institution maintained wholly or partly from public funds as part of the education or training of persons performing it."

To enable clarification of our interpretation we quote it thus :

"Work performed ..... in connexion with any ..... school (maintained ..... from public funds) as part of the ..... training of the persons performing it."

We say that the building of a school is work performed in connexion with such school. A person performing building work on that school as part of his training as a bricklayer is performing work in connexion with the school. Therefore, he will not be covered by the provisions of the Act while doing that work. Should such person move across the road to perform exactly the same work, as part of his training, on a private school which is not maintained from public funds, he

/will ....



11. will be covered by the Act. A qualified bricklayer, although performing work in connexion with a school, is covered by the Act because this work is not part of his training. There is no logical reason why a bricklayer in training should be excluded. The fact that some unions admit apprentices and trainees to membership strengthens our case if our interpretation is correct.
- We hope that, if we are right in this matter, this paragraph will be properly clarified so as to ensure that the type of person we have referred to will not be excluded from the application of the Act.

P A R T I.

INDUSTRIAL BOARDS.

SECTION 6. APPOINTMENT OF INDUSTRIAL BOARDS.

12. Paragraph (c) of sub-section (1) provides for the appointment of industrial boards in respect of any class or classes of employees who are not represented on the industrial council registered for their particular industry, etc. We assume that the intention is to provide conditions of employment for employees whose conditions are not covered by any agreement administered by such industrial council. However, it appears to us, as the paragraph now reads, that an industrial board can investigate and make recommendations in respect of a class of employees whose conditions are in fact governed by the industrial council agreement and who, as a class, are not represented by having a member on the industrial council. If this is so, it would constitute a grave interference in the affairs of the industrial council and the industry concerned.

/Reference ...



13.      Reference to the proviso to Section 48 - Duties of industrial council - appears to support the view that the paragraph under discussion is intended to deal with classes of employees who, while they are governed by an industrial council agreement, are not as a class represented on the council. If our interpretation is wrong, there can be no reason for a proviso which prevents an industrial council from dealing with a matter within the undertaking, industry, trade or occupation and area in respect of which it is registered.
14.      In any event, whether the provisions referred to above are interpreted as applying to a class of employees not represented by a member of the industrial council or whether they refer to a class of employees in the industry whose conditions are not covered by the agreement, we direct attention to the provisions of Section 87 in terms of which the Minister has the power to extend such an agreement to non-parties who are eligible for membership of the parties and to non-parties who are not so eligible.
15.      We submit further that it may be wise to encourage industrial councils to provide in their agreements for all classes of employees in the undertaking, industry, etc., concerned and not to leave the conditions of certain classes for an industrial board to deal with.
16.      If it is feared that some industrial councils may not cater adequately for certain classes of workers, we would suggest that a provision be included in

/Section 86.....



Section 86, which will allow the Minister, should he deem it necessary, to require the parties to an industrial council to satisfy him that all classes of employees are adequately covered by an agreement which the Minister is asked to publish in the Gazette.

17. Since it is the object of this legislation to make provision for the prevention and settlement of disputes and for the regulation by agreement and arbitration of conditions of employment and other matters of mutual interest to employers and employees, we urge that the provisions of paragraph (c) of sub-section (1) of Section 6 should apply only in cases where the employees concerned are not covered by the provisions of an agreement and, consistent therewith, that the proviso to Section 48 be deleted.

We regret having overlooked this matter in our representations to the Select Committee.

SECTION 15.    MATTERS TO BE TAKEN INTO CONSIDERATION BY INDUSTRIAL BOARDS.

18. The insertion by the Select Committee of paragraph (e), which provides that an industrial board shall take into consideration the ability of the employers concerned to carry on their business, etc., before making any recommendation, requires comment not only in respect of this paragraph but also with regard to paragraph (c). The latter paragraph requires that the board shall

/similarly ...



18. similarly take into consideration the cost of living in any area in respect of which the recommendation is to be made.
19. We submit that the main consideration to be taken into account when fixing wages and other conditions is the minimum required to enable a person to live a civilised standard of life. (Variations in the cost of living should thus only be taken into account when wages are above that minimum.) No provision is made in the Bill for the board to take into account any requirements for a civilised standard of life for the employees. Similarly, there is no provision giving an industrial board or any other body, for instance, the industrial court, the power to establish a minimum wage which would enable employees to live a standard of life which, if not civilised, would be above the poverty datum line.
20. We have to accept that business, of whatever kind, is conducted for profit, but we submit that any business which depends for its profit on payment of wages which do not permit of the employees living a civilised standard of life does not deserve to exist.
- Now is the time when fundamental changes should be made to enable the economic structure of Southern Rhodesia to be established on a firm and progressive basis, so that employees will be assured of a minimum degree of economic security and employers will know that they must conduct their business in such a manner that their profits will also be secured, but not at the cost of low standards of life for their employees due to insufficient wages. We should add that the payment of a civilised wage will also secure an internal market for the goods

/available ....



20. available in the country.

SECTION 19. EMPLOYMENT REGULATIONS.

21. In paragraphs 28 to 35 of our representations to the Select Committee we dealt with the provisions which permit of differentiation or discrimination in the making of any specification or definition of the term "class of employees". The second paragraph of sub-section (2) of Section 19, paragraphs (b) and (c) of sub-section (1) of Section 49 and sub-section (2) of Section 49 contain such provisions. (In the Bill that was referred to the Select Committee the relevant Sections were 26 and 61.) In view of the fact that these provisions are retained without amendment, it is clear that the Select Committee did not view our representations with approval. Since we regard the matter as one of great importance, we repeat hereunder the representations made in connection with the above-stated provisions giving, of course, the new numbers of the Sections concerned.

22. Section 19 - Sub-Section (2).

The second paragraph of this sub-section (2) is referred to in paragraphs (h) and (i) on page 10 of our April Memorandum. The provision permits differentiation or discrimination, in specifying or defining "class of employees", on the basis of age, sex, experience, length of employment, or type of work, or type of class of premises ..... or any other method.

23. In Section 49 the proviso to paragraph (b) of sub-section (1) permits an agreement to provide for a different minimum average rate of

/remuneration ...



23. remuneration for different sections of any class of employees. Paragraph (c) provides for a minimum rate of remuneration according to experience or any other standard. Sub-section (2) defines "class of employees" and permits of any method of discrimination or differentiation on the same basis as the paragraph referred to in Section 19, sub-section (2).
24. All these provisions permit of such discrimination or differentiation on the basis of race as also on those specifically mentioned.
25. We are naturally opposed to such discrimination being permitted on the basis of race and also of sex and age. As a matter of fact, it is difficult to understand why such race discrimination should be permitted in a Bill which seeks to apply equality in trade union membership and certain other aspects of our industrial life. The principle of "the rate for the job" is, if anything, more necessary for the advancement of the African worker than the sudden foisting upon him of all the responsibilities of trade unionism.
26. We may be permitted to express some surprise that in proposed legislation of an intended progressive character the outmoded theory of sex discrimination is to be perpetuated.
27. Our contention as to discrimination on the basis of age is based on similar principles.
28. We therefore urge that these three types of discrimination be eliminated in all labour legislation.



29.            To conclude our remarks on this aspect of the matter we suggest that paragraph (o) in sub-section (1) of Section 49, which refers to special conditions of employment for females and juveniles, be enlarged upon so as to ensure that such special conditions shall not be less favourable than the minimum conditions established in any agreement. The same principle should, of course, apply in conciliation board agreements, arbitration awards and industrial board recommendations.
30.            Discrimination in wages and other conditions on whatever basis as between one class of employees and another performing the same work will lead to dismissal of those whose conditions are more favourable to them and therefore less favourable to their employers. We strongly urge that the principle of "the rate for the job" be established and maintained in this important legislation.
31.            Added to the above considerations, if these provisions should lead, as we fear, to wage discrimination on the basis of race, with one race receiving a lower rate for the same job and employers taking advantage thereof, relations between the races, instead of improving, will surely become more strained.
32.            In regard to sub-section (5) of Section 19, we suggest that a safeguard be provided in the sub-section so as to prevent deductions from wages for spoilt work or any other "set-off", e.g., against amounts owing to an employer for goods bought from him, or from anyone else, or such-like matters which have led to abuse and which for many years have been prohibited in most countries. The sub-section is much too wide.
33.            With reference to sub-section (6) of Section 19, we suggest that there may be reasons other than the existence of a dispute for the Minister to make regulations

/effective ....



33. effective retrospectively. There may, for instance, be cases where wages have been so low for so long a period or conditions so bad that even though there may be no dispute the Minister may consider retrospective application of the regulations to be warranted.
34. We heartily approve of the new Section 22 permitting appeals to the Industrial Court - a **matter** to which we shall make reference in the relevant place.

P A R T II.

REGISTRATION OF TRADE UNIONS AND EMPLOYERS' ORGANISATIONS.

SECTION 23. APPLICATION FOR REGISTRATION.

35. We note with approval the amendments to this Section, which will remove the compulsion on unions to apply for registration and which permit of the registration of a division, branch or section of members of a union which covers a variety of industries in respect of a group of such members in a particular industry.
36. The deletion from the definition of "trade union" of the words "one particular" with reference to "undertaking, industry, trade or occupation" lessens considerably the restrictions in terms of Section 29 and Section 25, especially in view of the new provisions of Section 23.

SECTION 26. VARIATION OF SCOPE OF REGISTRATION OF TRADE UNION OR EMPLOYERS' ORGANISATION.

37. While we have no particular objection to paragraphs (c) and (d) of sub-section (1), which are new, we are most definitely opposed to the provision that on the application of one employee the Registrar may vary the area or interests in respect of which a trade union is registered, even though

/it ....



37. it be "after consultation" with the union.
38. We do not know whether the employers approve of the similar provision in respect of their organisations, but we must oppose it on the grounds that the action of one employer can upset the functioning of an industrial council if such employer is a member of an employers' organisation party to the council or is an individual employer party to the council or is a non-party employer to whom the provisions of an agreement have been extended.
39. The provisions for an appeal against a decision of the Registrar to vary the registration of a union and, as a result, also of an industrial council concerned (under Section 44) will most likely be much used if such variations are made as the result of the application of one employee or one employer.

SECTION 30. TRADE UNIONS AND EMPLOYERS' ORGANISATIONS  
MUST HAVE GOVERNING BODY IN COLONY.

40. In paragraphs 46 to 61 on pages 22 to 24 of the Memoranda to the Select Committee we made our representations in regard to the provisions of this Section.
41. We are still of opinion that the restrictions proposed by the new provisions will be interference with trade union rights and that sub-section (2) of Section 7 of the present Act provides sufficient protection against what we understand is the Government's fear of outside political influences through officials and governing bodies, if such are resident outside the Colony.
42. In terms of the present Act there has to be a governing body in the Colony to represent a trade union which has members both in and out of the Colony and a governing body outside its borders. Surely this is sufficient protection against any mis-use of his position by a full-time official

/ who ....



42. who is resident outside the Colony.
43. In our representations to the Select Committee we drew attention to the fact that, although these provisions of the Bill would appear to apply equally to employers' organisations and trade unions, in practice the trade unions will be in a far more difficult position than the employers' organisations.
44. It is necessary here to direct attention to sub-section (3) of Section 46. We made reference to this matter in paragraphs 143 to 145 of the Select Committee Memoranda.
45. The term "official" is defined in Section 2 as "an employee employed as secretary, etc., whether or not such employee is employed in a full-time capacity". Thus, a trade union official who must be resident in the Colony may be a part-time official but, if he is a part-time official, but not a member of the union, he cannot be a member of an industrial council.
46. On the other hand, an ordinary member of a trade union whose activity in his union is limited, by virtue of the fact that he is employed at his occupation, to something less than that of a part-time paid official, is eligible for membership of an industrial council.
47. Furthermore, by the very nature of his work, a part-time trade union official must have more knowledge and experience of industrial and other laws, negotiations and all the other matters with which a trade union official has to deal.
48. If this is true of a part-time union official, how much more so does it apply to a full-time official - even though he be resident outside the Colony.
49. Sub-section (3) of Section 46 also provides that, in the case of a division, branch or section of the union, members and only full-time paid officials will be eligible to sit

/on .....



49. on an industrial council.
50. Thus, the divisions, branches or sections and the trade union as such will not only be deprived of the services of their full-time officials who are resident outside the Colony, but even of their part-time officials in the Colony if the latter are not members of the Union.
51. A trade union which is not registered is not bound by any of these restrictions.
52. Before submitting a proposal in the matter, we direct attention to Section 51, in terms of which both the chairman and the vice-chairman of an industrial council may be persons who are not members of such council and consequently need not be members of the unions or employers' organisations concerned, nor full-time paid officials thereof.
53. At the time of the Select Committee, there were five Unions affected, so far as South Africa is concerned, by these provisions. The Amalgamated Engineering Union has, since then, severed its connection with the Rhodesias and the international Union. We understand that the S.A.Boilermakers' Society is now arranging to separate from the Rhodesian membership and then (like the "Ten Little Nigger Boys" or the "green bottles"!) there will be three. The tendency clearly is towards reducing and not increasing the number of unions with such "outside" connections. Developments in other African territories have not shown any tendency towards amalgamation between trade unions there and those in the Colony, either in respect of Whites or Africans. To our knowledge the only other such "outside" connection is that of the Amalgamated Engineering Union in Southern Rhodesia with the international Union.

/54. In all .....



54. In all the circumstances we feel that our unions have a legitimate reason to propose, as we now do, that Section 30 be amended so that the relevant part thereof will not apply to unions with certain officials resident outside the Colony if such unions have been registered before the new Act is promulgated. The Section could well provide that in such cases officials of the unions other than head-office officials shall be resident in the Colony.

55. We feel that our claim for exclusion from part of the provisions of Section 30 is strengthened by the following facts :

- (a) most of our unions had branches or members in the Colony before there was any Industrial Conciliation Act either in the Colony or in South Africa;
- (b) we have always acted in a responsible manner;
- (c) we have complied with the requirements of the law regarding the nomination of a governing body in the Colony.

56. It seems grossly unfair that our unions should now be embarrassed by the further restrictions in the new provisions which, we believe, are proposed in order to prevent any irresponsible elements from exercising influence in trade unions in the Colony - an event which, as we have indicated in paragraph 53 above, seems unlikely to occur anyway. The exclusion of our unions on the basis we suggest will, in any case, not minimise the controls and restrictions on any such irresponsible elements.

SECTION 33. PROHIBITION OF USE OF FUNDS FOR POLITICAL PURPOSES.

57. The provisions of this Section have been lifted from that dealing with matters relating to the constitution of trade unions and employers' organisations. The effect thereof, however, remains largely unchanged. We are particularly concerned with paragraphs (d) and (e) of the new Section

/and .....



57. and again find it necessary to repeat the representations made to the Select Committee thereon, which appear in paragraphs 87 and 88 on page 28 of our representations to the Select Committee.
58. Paragraph (d) will prevent any of the unions being affiliated, for example, to the international departments of the International Confederation of Free Trade Unions and will likewise prevent any federation in the Colony from affiliating to the International Confederation of Free Trade Unions itself, even if the federation in the Colony does not have in its constitution a provision which permits it to use its funds for political purposes.
59. Paragraph (e) will prevent any trade union in the Colony from accepting financial assistance from the Trades Union Congress of Britain, even in the case, let us say, of large-scale unemployment caused by some disaster, economic or otherwise.
60. The constitution of the International Confederation of Free Trade Unions declares its aims to be :
- (a) to establish a powerful and effective international organisation, composed of free and democratic trade unions, independent of any external domination and pledged to the task of promoting the interests of working people throughout the world and of enhancing the dignity of labour;
  - (b) to seek the universal recognition and application of the rights of trade union organisation;
  - (c) to provide assistance in the establishment,

/maintenance .....



60. (c)

- maintenance and development of trade union organisation, particularly in economically and socially under-developed countries;
- (d) to promote activities designed to organise mutual assistance among national centres;
- (e) to co-ordinate the defence of free trade unions against any campaign aiming at their destruction or at the restriction of their rights or at the infiltration and subjugation of labour organisations by totalitarian or other anti-labour forces;
- (f) to further the economic, social and cultural interests of the people of countries suffering from the ravages and after-effects of the war, assisting by all practicable means in the rebuilding of their economies and developing measures of mutual economic aid over as wide an area as possible;
- (g) to aid in the establishment of full employment, the improvement of working conditions and the raising of the standard of living of peoples of all countries of the world;
- (h) to encourage the development of the resources of all countries in order to further the economic, social and cultural progress of the people of the world, and particularly of under-developed countries and non-self-governing territories;
- (i) to advocate, with a view to raising the general level of prosperity, increased and properly-

/planned ....



60. (i)

- planned economic co-operation among the nations in such a way as will encourage the development of wider economic units and freer exchange of commodities and to seek full participation of workers' representatives in official bodies dealing with these questions;
- (j) to protect, maintain and expand the system of free labour and to eliminate forced labour everywhere;
- (k) to represent the free trade union movement in all international agencies which exist or may be set up to perform functions affecting the social and economic conditions of working people and to further the implementation of their decisions whenever desirable;
- (l) to establish and extend association with international organisations, both governmental and non-governmental, in work which will further the aims of the International Confederation of Free Trade Unions in protecting and advancing the interests of the people generally and guaranteeing human rights;
- (m) to support the establishment of a world system of collective security, but, pending its attainment, to further and support within the Charter of the United Nations all measures that are necessary for assuring the defence of world democracy and the freedom of nations against any totalitarian aggression;
- (n) to engage in and foster educational and publicity work with the object of increasing the knowledge

/and ....



60. (n)

and understanding of national and international problems confronting the workers so as to enable them to make their struggle more efficacious; to further the objectives of the Confederation; and to realise the widest unity of the workers in the International Confederation of Free Trade Unions - the home of free trade unionism;

(o) to furnish the affiliated organisations with information about the organisational conditions and the development of the trade union movement in the member countries and about the regulations of wages and working conditions, the labour legislation and other kindred matters in these countries.

61. Many of the provisions of the Industrial Conciliation Bill will give or cause effect to be given in Southern Rhodesia to some of the aims of the International Confederation of Free Trade Unions, notably paragraphs (b), (c), (h), (j) and also, surely, paragraph (g).

62. Others of those aims clearly fall into the category of "political purposes", for example, paragraphs (e), (i), (k), (l), (m) and (n). Naturally, the International Confederation of Free Trade Unions may use its funds for carrying out its aims.

63. Despite the facts stated in paragraph 41 above, because of the aims of the International Confederation of Free Trade Unions mentioned in paragraph 42, trade unions in Southern Rhodesia will be prohibited from affiliating with the International Confederation of Free Trade Unions or accepting monies from that source.

64. We do not need to stress further our reference to the Trades



64.     Union Congress of Great Britain.
65.     In terms of paragraph (d), any federation of trade unions in Southern Rhodesia can also not affiliate to the International Confederation of Free Trade Unions since the monies of trade unions which are members of such federation would be used for the payment of affiliation fees. Similarly, a federation of unions in Southern Rhodesia could not accept monies from the International Confederation of Free Trade Unions or the Trades Union Congress of Great Britain to assist any of its affiliates.
66.     In addition to the restrictions already mentioned, the Amalgamated Engineering Union in Southern Rhodesia which is part of the Amalgamated Engineering Union with headquarters in Britain - the international organisation - will be especially affected. The Union in Southern Rhodesia will not be able to accept any monies from its own head office or other branches nor will it be able to send any of its monies to its head office or other branches since the constitution of the Union contains a "political clause". While the Southern Rhodesia Union may be able to amend its constitution, it seems unlikely that the international Union would wish to do so. The position would be the same for the Amalgamated Engineering Union in Southern Rhodesia, even in the event of this branch amending its constitution, if this Section of the Bill remains.
67.     If the Government insists on retaining any such provision, then we again urge that paragraph (c) of sub-section (1) of Section 8 of the existing Act be retained in the new legislation instead of the drastic new provisions, the effect of which we have described.



68. What explanation can be made for introducing such provisions, bearing in mind that the International Confederation of Free Trade Unions has over 54 million affiliated members throughout the world and that it has consultative status in the International Labour Organisation and other United Nations agencies such as the Economic and Social Council, the regional Economic Commissions for Europe and Latin America, the Food and Agricultural Organisation and Unesco?

69. Frankly, it seems that these aspects of the matter were overlooked by the Government, which claims - with justification in regard to some aspects of the Bill - to be introducing progressive legislation to meet the requirements of an advancing society.

SECTION 34. MATTERS RELATING TO THE CONSTITUTION OF  
TRADE UNIONS AND EMPLOYERS' ORGANISATIONS.

70. In paragraph 35 on page 12 of this Memorandum we expressed our approval of the provisions in Section 23 of the Bill which permit of the registration of a division, branch or section of a union, the membership of which is not confined to one industry. Unfortunately our approval in this matter must end there in view of the provisions contained in paragraph (b) of sub-section (1) of Section 34.

It would be convenient to refer here also to sub-section (6) of Section 37.

71. It is to be regretted that the said paragraph (b) will make it compulsory, on the type of union referred to therein, to confer complete autonomy in respect of all matters under the Act on a division, branch or section.

72. The wording of paragraph (b) seems to us to require some amendment so as to clarify one aspect thereof. To simplify our explanation in regard to this aspect we quote hereunder

/the .....



72.

the wording as it relates to a trade union :

"Where membership of a union is not confined to persons all of whom are employees in the same industry, those members of such union who are employees in the same industry from a separate division, branch or section thereof having autonomy in respect of all matters under this Act."

This appears to us to be capable of two interpretations, viz.:

(1) those members of such union who are employees in the same industry from a separate division, branch or section of the industry;

(2) those members of such union who are employees in the same industry from a separate division, branch or section of such union.

73. If the first of these interpretations is correct, it means that every union which would be covered by this provision would be compelled to establish a separate division, branch or section.

74. If the second interpretation is correct, then a union will not be compelled to establish such separate division, branch or section, but if it does the provision in regard to autonomy will apply to such division, branch or section.

75. Sub-section (3) of Section 34 allows these divisions to be established on a number of bases, including that of race or colour. To give racial divisions, branches or sections complete autonomy will give particular encouragement to those members to break away entirely. We understood that the Government's policy was the opposite.

76. Other factors would also encourage the complete separation of such autonomous divisions, branches or sections. These could apply also to employers' organisations. A division

/of .....



**Collection Number: AD1715**

**SOUTH AFRICAN INSTITUTE OF RACE RELATIONS (SAIRR), 1892-1974**

**PUBLISHER:**

*Collection Funder:- Atlantic Philanthropies Foundation*

*Publisher:- Historical Papers Research Archive*

*Location:- Johannesburg*

©2013

**LEGAL NOTICES:**

**Copyright Notice:** All materials on the Historical Papers website are protected by South African copyright law and may not be reproduced, distributed, transmitted, displayed, or otherwise published in any format, without the prior written permission of the copyright owner.

**Disclaimer and Terms of Use:** Provided that you maintain all copyright and other notices contained therein, you may download material (one machine readable copy and one print copy per page) for your personal and/or educational non-commercial use only.

People using these records relating to the archives of Historical Papers, The Library, University of the Witwatersrand, Johannesburg, are reminded that such records sometimes contain material which is uncorroborated, inaccurate, distorted or untrue. While these digital records are true facsimiles of paper documents and the information contained herein is obtained from sources believed to be accurate and reliable, Historical Papers, University of the Witwatersrand has not independently verified their content. Consequently, the University is not responsible for any errors or omissions and excludes any and all liability for any errors in or omissions from the information on the website or any related information on third party websites accessible from this website.

This document forms part of the archive of the South African Institute of Race Relations (SAIRR), held at the Historical Papers Research Archive at The University of the Witwatersrand, Johannesburg, South Africa.