

SECRET

MEMORANDUM FOR THE CABINET ON THE INDUSTRIAL
RELATIONS BILL BY THE HON. MINISTER OF JUSTICE
AND PARLIAMENTARY AFFAIRS AND BY THE HON.
MINISTER OF LABOUR, EMPLOYMENT AND WELFARE

This law provides for the better control and solution of trade disputes in Malta by improving the system of the regulation of relations between employers, employees and trade unions. Such relations have so far been catered for by the Trade Unions and Trade Disputes Ordinance, 1945, and the Conciliation and Arbitration Act, 1948. In brief the following are the improvements which are contemplated:-

RECOGNITION OF AND NEGOTIATIONS
WITH TRADE UNIONS

- (a) The Bill will make it compulsory for employers to recognise and negotiate with trade unions. All registered trade unions will enjoy the right of making representations whether orally or in writing to the employers of workers they represent, and where the Trade Union represents at least 51 per cent of the workers employed with a particular employer negotiations will have to be conducted by the employer with that trade union.

To ascertain the actual strength of the employees who are members of any trade union the Minister of Labour will be enabled through the registrar of Trade Unions to conduct a count and a review of such count (appeal) may be undertaken by the industrial court (to be set up in terms of this Bill). Once a count is carried out, a fresh count may not be called for before a period of at least six months has elapsed. Failure to recognise or negotiate with a trade union (as above) will constitute an offence liable on summary conviction to a fine (multa) of £1,000 or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

- (b) The Bill will not preclude the establishment of Works Councils in industrial undertakings. Where such Councils are set up it shall rest with the majority of workers in the undertaking to decide whether they wish to negotiate with their employers through these Councils or through a Trade Union.

INDUSTRIAL AGREEMENTS

- (c) The second major improvement contemplated by the Bill is that relating to the validity of industrial agreements between employers and representatives of workers. Such agreements will have to be drawn up in writing, will apply to all workers who work in the particular sector of employment contemplated by the agreement and will automatically exclude offensive action (strikes, lock-outs, etc.) during their currency. Failure to carry out the obligations imposed by an industrial agreement will make the contravenor liable for the damages which may result from his action.

OFFENSIVE ACTION DURING NEGOTIATIONS

- (c) The third major improvement in industrial relations contemplated by the Bill is that regarding the prohibition of offensive action (strikes, lock-outs, etc.), while proceedings relating to Conciliation and Arbitration are pending. The new law provides for serious penalties for persons who contravene these provisions: a fine of £1,000 in the case of an employer; and of £50 in the case of an employee and, when the offence is a continuing offence, for £150 (in the case of an employer); £75 (in the case of an official of a trade union) and £30 (in the case of a worker) for each day during which the offence continues.

WHEN NEGOTIATIONS FAIL

- (d) The Bill also provides for better regulatory machinery in the case of Conciliation and Arbitration. Thus, where the Minister has referred the matter for conciliation and no settlement of the dispute takes place within fourteen days thereafter, the conciliator will notify the Minister of the position and the Minister of Labour may then take such further steps of a conciliatory nature as to him may seem indicated or he may refer the matter to the Court for arbitration.

CIVIL SERVANTS AND INDUSTRIAL RELATIONS

The Bill also seeks to regulate the industrial relations of people in the employment of the Crown (civil servants). It sets up a National Negotiating (civil servants) Council composed of an official side (of seven persons) to be appointed by the Prime Minister, and a staff side of seven persons, six of whom to be appointed, one each to represent six of the largest unions and one the other unions representing people in the employment of the Crown. There will also be a co-opted member who will be appointed by the union which represents 51 per cent of the workers involved in any particular dispute. In general, the functions of the Council, which will supersede the present Malta Government Joint Council, will be to secure the greatest measure of co-operation between the State in its capacity as employer and the general body of civil servants in matters affecting employment under the Crown in Malta, with a view to increased efficiency in the public service combined with the well-being of those employed, to provide machinery for dealing with grievances and generally to bring together the experience and different points of view of all members of the civil service.

The Bill further provides for matters of procedure of the Council. It enables the Council to appoint various committees and to delegate its powers to them; decisions within the Council will be arrived at by agreement between

the two sides, will be signed by the Chairman (appointed by the Prime Minister) and the Vice-Chairman (appointed by the Staff Side), will be reported to the Cabinet and thereupon will become operative.

In the case of final disagreement about any dispute the Chairman and Vice-Chairman conjointly will report the matter to the Minister of Labour for such further action under this Act as he may deem proper in the circumstances.

THE INDUSTRIAL COURT

- (g) The Bill also contemplates the setting up of an industrial court to replace the present Arbitration Tribunal and to decide issues of an industrial nature which could arise under the law. The court will be composed of one of Her Majesty's Judges who will be specifically appointed to deal with these cases and will also be able to help in other work of the Superior Courts. When considering industrial disputes the court will be assisted by two assessors drawn up one each from two panels: one representative of employers and the other of employees. In the case of industrial disputes relating to civil servants there will be a special panel of assessors to represent the Government.

The opportunity is being taken to consolidate the provisions of the Trade Unions and Trade Disputes Ordinance, 1945 with those of the Conciliation and Arbitration Act, 1948.

CONSEQUENTIAL:

Consequential provisions include:-

- (a) the provision that when an offence is committed by an association of persons any director or officer of the association will become personally liable, unless he shows that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of the offence. Such provision is necessitated by the fact that our criminal laws do not provide for offences committed by associations of persons.
- (b) The provisions that any valid agreement between trade unions and employees existing on the date of commencement of the Act which would have been deemed to be an industrial agreement if it were made at a time when this Act were in operation, will be considered as an industrial agreement for the purpose of this Act, if a copy thereof is sent to the Minister of Labour within a period of 30 days from such date by either of the parties thereto.

- 4
- (c) The provisions amending the Conditions of Employment (Regulation) Act, 1952, to provide that "recognised conditions of employment" under that Act will include such conditions as result from an industrial agreement, and the proviso that no discharge of an employee can take place, except for reason of redundancy, without a just cause.

Honourable Ministers are requested to approve the policy of the industrial relations Bill outlined above.

... The tentative outline of the Draft Bill is already in hand as can be seen from the attached Table of Contents showing the parts of the Bill and the marginal notes of the sections contemplated therein.

20 December, 1967.

INDUSTRIAL RELATIONS ACT, 1967

Arrangement of Sections

PART I

Short Title and Interpretation

Section

1. Short title
2. Interpretation

PART II

Registration of Trade Unions

3. Trade unions not criminal
4. Trade unions not unlawful for civil purposes
5. Trade unions prohibited from carrying on business unless registered
6. Registrar of trade unions
7. Registration of trade unions
8. Compulsory registration
9. Rules for registry
10. Refusal of registration
11. Annual reports
12. Cancellation of registration
13. Officers of trade unions to account
14. Ordinary accounts to be sent to Registrar
15. Rules of registered trade unions
16. Alteration of rules of trade unions
17. Registry of trade unions
18. Report by Registrar
19. Rules by Minister responsible for labour.

PART III

Trade Unions and Trade Disputes

20. Definitions
21. Immunity of trade unions from actions of tort
22. Conspiracy in relation to trade disputes
23. Removal of liability for interfering with another person's business
24. Intimidation or annoyance
25. Peaceful picketing and prevention of intimidation

PART IV

Relations between trade unions and employers

26. Recognition of trade unions by employers
27. Count of employees
28. Review by Court
29. Time limit for fresh count
30. Penalties

PART V
Industrial Agreements

Section

31. Industrial agreements
32. Extent of application
33. Validity of amendments
34. Effect of agreement
35. Notice of termination in writing
36. Cesser of operation of agreement
37. Damages for non-compliance

PART VI
Voluntary Settlement of trade disputes

38. Powers of the Minister for promoting conciliation and preventing trade disputes
39. Powers of Court of Inquiry in respect of witnesses, assessors and experts
40. Procedure for conciliation
41. Reference to Court excluded
42. Settlement binding on parties to dispute
43. Power to make regulations

PART VII
Industrial Court

PART VIII
Compulsory settlement of trade disputes

PART IX
Lockouts and Strikes

PART X
The National Negotiating (Civil Service) Council

- a) The National Negotiating (Civil Service) Council
- b) Duties and scope of council
- c) Procedure
- d) Malta Government Joint Council

PART XI
Consequential amendments

FIRST SCHEDULE
Rules for registration of trade unions

SECOND SCHEDULE
Consequential amendments.