

CIVIL RIGHTS

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News Letter

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The "Hanging Bill"

"Ilanga lase Natal" said recently that crime had "marched abreast" with the measures taken ostensibly to combat it, and that "this year has been remarkable for the appearance of a dangerous and vicious type of criminal who stops at nothing in achieving his aims".

Mr Swart's answer to this is a Bill to provide for the death penalty in cases of armed robbery. It has been freely pointed out, inside and outside Parliament, that, in the first place, the death penalty is being abolished in one country after another; and, secondly, there is no likelihood that it will in fact diminish crimes of violence. The penalties for crime have been increased year by year under the present Government and, as "Ilanga" says, crime has increased as well.

Hearsay evidence

But a more sinister feature of the Bill lies in other provisions which we are glad to find are being opposed by the United Party in its amendment to the Bill. One is the provision that the finding of an accused person's name on a list found in the office of any organisation shall be taken as evidence of the person's being a member of that organisation unless he can prove the contrary. A Cape Town Q.C. has pointed out that this infringes the rule, generally accepted in the Courts, against the acceptance of hearsay evidence. It opens the door to the "planting" of a faked list or the use of one which is out of date, as there is no requirement for the prosecution to prove such a list authentic.

Ministerial "discretion"

In the second place the Bill lays down that, after a person has served his sentence, he may, at the sole discretion of the Minister, be deported from his area for any period the Minister deems desirable. (The Minister has admitted that this is to him the most essential feature of the Bill.) This is a thoroughly bad provision - first, because it allows a man to be punished twice for the same offence; and secondly, because it adds to the long list of cases in which a Minister is given complete authority with no appeal allowed to the Courts.

We hope that not even the imminence of the election will prevent the United Party from fighting this measure with all possible vigour.

Group Areas

We would draw our readers' special attention to the Conference on Group Areas to be held in the Cathedral Hall, Cape Town on Friday evening, February 21 and all day on Saturday, February 22.

This Conference was initiated by the Group Areas Co-ordinating Committee and is being sponsored jointly by it, the Institute of Race Relations, the Civil Rights League and the Black Sash. Its purpose is to find out the facts about Group areas in the Peninsula and to explore (a) ways and means of bringing these facts home to the public; (b) ways of defending the homes and livelihoods of those affected by the Act. Friday evening will be a public meeting, but the Conference on Saturday is open to observers as well as official delegates. If you feel vague about how the Group Areas Act will work, here's the answer!

Dr E. H. Brookes said recently of the Act: "This horrible thing ... debases justice and law and all things precious to civilisation."

That blessed word 'Occupation' (with acknowledgments to "The Forum")

In the Group Areas Amendment Bill introduced at the end of the 1957 session Dr Dönges sought to redefine "occupation" to include the mere presence of a person in premises at any time, which (as we pointed out at the time) has enabled him to achieve the objects of Dr Verwoerd's "church clause" without any of the odium that measure incurred. The Governor-General may now declare by proclamation that any provision of the Group Areas Act relating to the occupation of land or premises would also apply to any person who at any time was present on land or in premises in the area concerned for

(i) a substantial period of time;

(ii) for the purpose of attending any place of refreshment or partaking of any refreshment at a place where refreshments are served; or

(iii) as a member of or guest in any club

as if his presence constituted occupation of such land or premises.

Provisions (ii) and (iii) were brought into force in November 1957.

The Minister in the debate admitted that his object was to "control" restaurants, bioscopes and mixed clubs, to prevent "this form of social integration". He was prepared to make exceptions "in proper circumstances" for restaurants and cinemas, "but not for clubs".

This permit business

Similar regulations (not yet in force) were drafted in 1955 to control "the mixing of race groups in business", at which time it was stated by a senior Group Areas Board official that "the ultimate aim

of the Act is that people should live and work among those of their own group"; but "if an employer can show that there is good reason why he should engage members of a race group other than his own, he may be granted a permit"! These regulations are likely to be revived as a result of the 1957 amendments.

So the Group Areas Act doesn't only affect the non-white groups! There is at least as much potential trouble in this as in Mr de Klerk's job reservation. During the debate Mrs Ballinger pointed out that under this clause the Minister was "taking power on the whole social front to separate off every single race group", and could even "interfere with the organisation of all the homes of the country" (by prohibiting the use of servants of another race group).

Survey of Recent Legislation

We commend very strongly to our readers the extremely able survey of recent legislation given by the Director at the Council meeting of the Institute of Race Relations in January, and would urge them to get the full text (obtainable from the Institute, No. 228/57) and study it. We quote briefly from it, within the limits imposed by our space.

"This past year the Government has continued to apply the logic of its own declared apartheid policy, and, in addition to further restrictions on individual liberty, it has sought to control or disrupt corporate inter-racial organisations. In the Native Laws Amendment Act, the Government has asserted the right of the State to control the work of Churches, to prohibit European and African meetings in white areas, to eliminate white control and voluntary white influence in African work; it also has extended its powers over local authorities. It has passed the Nursing Act, split the nursing profession and, in effect, lowered the status and dignity of the Non-European nurses. It introduced a Bill to eliminate Non-Europeans from the "open" universities, and it proposes in this year, 1958, to transfer the control of Fort Hare to the Department of Native Affairs. Through the Group Areas Amendment, it reinforces sanctions against all inter-racial social contact and compels commerce and industry to seek permission for the employment of certain categories of employees. In short, the Government has sought to undermine or destroy five categories of corporate institutions - the Church, the local authority, the professional organisation, the voluntary welfare association and the University. This it has done in terms of an ad hoc political philosophy, and in doing so it has raised issues far more fundamental to human living than its own concept of nationalism."

We quote this especially because we feel that our members should challenge all election candidates as to what stand they will, if elected, take on these matters. All are of the utmost importance to the civil rights of the South African citizen. Don't let us be put off by any soothing panaceas like "discrimination with justice". THERE IS NO SUCH THING.

Local Authorities

Mr Whyte quotes the Minister of Native Affairs as saying: "The local authority system is a means of executive organisation to apply the policy of the country in regard to Native Affairs"(!), and comments: "Local government authorities have always been regarded as bastions of freedom; but the assumption of powers by the Central Government under the Urban Areas Act, the Group Areas Act, the Native Laws Amendment Act, and others, taken together with the dependence of local authorities on central finance, has completely undermined this corporate defence of freedom."

"Community sense"...

"An Under Secretary of State", says Mr Whyte, "cast the blame for lawlessness on the African people's lack of community sense: but has the Under Secretary a real understanding of the meaning of the statistics of pass law, liquor and other offences? How does one build up a sense of community responsibility when there is inadequate education for children, when children can see their parents arrested for a dozen technical offences, when imprisonment for such offences carries no social stigma, when townships and their inhabitants are not given adequate police protection and there are few or no lights in the streets, too few telephone boxes and those few out of order, and when there is no confidence that the police are protectors?"

Law and Liberty

"Civil liberty is the rule of law, not the rule of individual Ministers or officials, and it is the rule of law in the sense of basic principles of right, not merely of any and every statute or regulation which has the force, but not the right, of the State behind it ... The advocates of civil liberty are not revolutionary protagonists of some new doctrine, but sober citizens defending rights transmitted through their forefathers as being essential to peace, order and good government." (E. H. Brookes and J. B. Macaulay)

"To live by law

Acting the law we live by without fear

And because right is right to follow right

Were wisdom in the scorn of consequence."