

CIVIL RIGHTS

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ALAN
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LWF

News Letter

(Box 3807, CAPE TOWN)

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Vigilance Committees

We thank those of our members who have returned the slips indicating in which committees they are interested. Please now regard yourselves as members of these committees, with the responsibility of drawing our attention to any infringements, actual or proposed, of the rights falling under your particular headings. We would particularly appreciate this help from our up-country members, but it will be helpful from Cape Town members too.

Mr Swart and the Jury System

We are glad that the Minister of Justice at least did not commit himself to abolishing the jury system, as requested by one of the members of the Senate recently. Mr Swart said that the jury system was gradually dying out in any case, but added the rather extraordinary argument that it was not now as necessary as formerly because we now had South African judges who were familiar with South African law and conditions! The "Capo Times" summed up the true facts of the situation aptly by saying: "The fallacy is the idea that the jury system is intended to make good the deficiencies of the bench, whereas its real purpose is to restrain the lawmakers." This, the paper pointed out, is all the more necessary in South Africa, where the power of Parliament to make arbitrary laws is not limited either (as in Britain) by convention and tradition or (as in the United States) by "a rigid constitution which prohibits any legislature from making 'laws' which infringe certain elementary principles of individual and class liberty .. The effectiveness of any law is thus made directly dependent on public opinion, that is, the law must be of a kind which the community in general accepts as a necessary rule of community conduct."

This suggests that it would be wise for South Africa not only to retain but to extend the jury system, at least until such time as we can establish a constitution, based on the Declaration of Human Rights, which will automatically preclude any legislation infringing such rights.

More Light on the Police!

The news items regarding police behaviour recently have been such as to suggest that the League should add to its list of vigilance

committees one to deal specially with this matter. Volunteer members will be welcomed!

There was the case of a Free State distributor of a Cape Town newspaper ("New Age"), who was visited by members of the Security Branch from Bloemfontein, interrogated and searched, and his correspondence with the African National Congress impounded. The managing director of the paper says that many of its agents in other parts of the country have been subjected to similar police interference. The Minister of Justice, questioned in Parliament, has refused to give any information about the activities of the Security Branch.

Recently a detective constable, charged with assaulting African prisoners under arrest, stated in court that it was an everyday occurrence for prisoners to be beaten by the police with a view to getting them to admit an offence. Usually, he said, a garden hose was used, but sometimes a stick. The thrashings were given in order to create an atmosphere of terror because in this way information could be more readily obtained (italics ours).

The policeman was found guilty and sentenced to two months on each count, half of which was suspended for three years. He was allowed bail of £15 pending an appeal against the severity of the sentence!

It was further stated that the Head Constable, on hearing what was going on, had said, "If they are housebreakers, then give them third degree and thrash them."

We are glad that the Commissioner of Police, Major-General Rademeyer, is "personally stepping in" and has issued "urgent instructions" to the police warning them not to ill-treat prisoners. But it would appear that this action is long overdue, and that the "many instructions, regulations and standing orders" forbidding ill-treatment of prisoners have ceased to have the desired effect. The Commissioner says: "It is a very serious thing for a man to say that it is an everyday occurrence for the police to beat prisoners. It is also serious to say that this was done to solve cases: this is not the way to solve cases."

We couldn't agree more. But even if the Commissioner's allegation, that the accused policeman had "apparently lied to make things look better for him" is true (and if it were, surely evidence could have been brought to prove this), we still feel that a judicial commission should be appointed at once to inquire into the relations between police and public. As Senator Rubin comments:

"A heavy responsibility rests on Mr Swart. Co-operation between Police and public is essential to the proper administration of justice. His obstinate refusal to have the growing volume of complaints investigated can only have the effect of confirming public suspicion that there is much to hide, and - what is more important - lending support to an uneasy feeling that all is not well with the administration of justice in South Africa."

(Note: Senator Rubin says in the same article that as far as practising lawyers are concerned, and others whose activities bring them into contact with police investigation of crime, "the majority of them would, in the light of their own experience, have no hesitation in believing that it is a common practice for policemen to assault African prisoners". We have not seen any comment by the Minister or the Commissioner on this statement.)

Preventive Detention and Preventive Protest

It is satisfactory that strong protests by both the Salisbury Bar Council and members of the public have resulted in the withdrawal of the Preventive Detention Bill recently brought before the Southern Rhodesian Parliament. The Council said, inter alia:

"Personal liberty is the most important fundamental right because any threat to personal liberty inhibits the free exercise of freedom of speech, religious freedom and political freedom.

"For this reason it is a fundamental principle that people should be detained only on conviction after a fair hearing before properly-conducted and independent courts for offences which are defined in clear terms in advance.

"Preventive detention is objectionable in principle in that detention is based, not on the detainee's having committed any defined offence, but simply on the Governor's - that is, the Cabinet's - view of what is necessary in the public interest.... The existence of powers of preventive detention completely destroys the conditions in which free political institutions can function... We think that there is a very real danger that the existence and exercise for a substantial period of the powers contained in the Bill will create conditions that will make the restoration of normal life impossible."

We commend the example of such vigilance to our own members.

Mr Naudó and the Press

Even "Die Burger" has reacted to the announcement of the Minister of the Interior that in future information of public importance

concerning his Department will not be given to press reporters, but must be sought by questions in the Assembly or Senate. "I have decided this myself", the Minister declared.

The "Cape Times" points out that under this rule the Press will no longer be able to get information direct from official sources on such important subjects as group areas, population registration, Coloured affairs or electoral matters. The Department also controls immigration, passports, the Government Printer and the Board of Censors.

"Die Burger" has commented that newspapers have to get their information, almost at any price - even more so when they are obstructed in what they consider to be their rightful activities. If, says, the Minister or an authorized official does not want to give the news, incorrect information is sent throughout the world.

Like "Die Burger", we hope that Mr Naudé will change his attitude.

So much for Bantustan!

Mr De Wet Nel, introducing in the Assembly the "Promotion of Bantu Self-Government Bill", produced a White Paper in which he stated that, by presenting this Bill, "the Government is giving an unequivocal assurance of its intention to create self-governing Bantu units", and that the "European guardian" must "meet his obligations on the basis of creative self-withdrawal". This appears to mean the abolition of representation of Africans in Parliament, which he calls the greatest impediment to Bantu development! The Minister says that under the Bantu Authorities system the Africans "realize that the European is prepared to grant them full freedom of progress within their own sphere of life, that it is not the European's intention to retard the assignment of powers to them on the ground that the time is not ripe", and so forth, including as a climax "the exercise of legislative powers by the Bantu in respect of Bantu areas... with every intention of gradually extending this power".

But Dr Eiselen (Secretary of Bantu Administration and Development), writing in "Optima", says, inter alia: "The two basic principles of Government policy are that the Bantu cannot expect to obtain the same rights in the European areas as in their own areas and the recognition of clearly distinguished ethnic groups territorially separated from each other ... The utmost degree of autonomy in administrative matters which the Union Parliament is likely to be prepared to concede to these areas will stop short of actual surrender of sovereignty by the European trustee... The maintenance of White political supremacy over the country as a whole is a sine qua non for racial peace and economic prosperity in South Africa." Well...!