

# CIVIL



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# RIGHTS



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News Letter

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## Thank you, NUSAS!

The Civil Rights League extends its warm congratulations and its sincere thanks to the National Union of South African Students for its imagination, courage and determination in securing Senator Robert F. Kennedy to address its Day of Affirmation ceremony. The reports in the press have shown what an impact the Senator made on all groups in South Africa, and what he said on various occasions was an encouragement and a tonic to those of us who have been carrying the civil rights banner for over eighteen years. It is good to have the things in which we believe simply and uncompromisingly restated, and must have given many government supporters furiously to think. Indeed, "furiously" is hardly an understatement for many of their comments on the Senator, which showed how much they feared the effect he might have on their own rank and file.

To us, the encouragement came not only from Senator Kennedy himself. In some ways an even more heartening phenomenon was the conviction and enthusiasm of those thousands of students at our Universities who responded to the challenge the Senator gave to youth. Sometimes we of the older generation are tempted to think that, in matters of civil and human rights, there is a danger that "wisdom will die with us". Senator Kennedy's impact on our Universities effectively dissipated this fear. And we must confess to being almost more impressed by the courageous and forthright statements of the Vice-President of NUSAS and the President of the U.C.T. Students' Representative Council, undaunted by the presence of six members of the Security Police in the audience.

## Outstanding points

Although the Senator's speeches were so fully reported in the press, we make no apology for reproducing some of the points that seemed to us of especial value (space is lacking to do more).

## Our President

The audience in the Jameson Hall acclaimed the tribute paid

by Senator Kennedy, in the midst of a peroration about youth, to Mr Justice Centlivres, sitting a few feet away from him. Youth, he said, was "not a time of life, but a state of mind, a toughness of will, a quality of the imagination, the victory of courage over fear - a man like the Chancellor of this University".

Since Senator Kennedy's departure we have had some anxious thoughts about Mr Centlivres, who went into hospital a few days later and was reported seriously ill. Fortunately the operation performed on him seems to have been successful and his progress is now regarded as satisfactory. We know all our members will send him their heartfelt good wishes for full recovery.

### The South African Bar

Addressing the Johannesburg Bar, Senator Kennedy said, inter alia:

"I stand in the midst of a Bar which has maintained a clear head and an honest heart. Lawyers and judges alike, respected and honoured for your courage, your perseverance and your dedication to the fundamental tenets of the law. No Bar, anywhere in the world, holds a higher position. I am proud to stand here with you - and as a lawyer I extend to you my deep thanks for the honour you bestow on the legal profession everywhere....

"Seven of our last twelve presidents were members of the legal profession.

"We should not be surprised. By training and experience, the lawyer is uniquely fitted to play a great role in the leadership of democratic societies ...

"Above all, the lawyer understands the rule of law. He knows that law must begin with its observance by government... If the Government becomes a law-breaker, it breeds contempt for law, it invites every man to become a law unto himself, it invites anarchy. To declare that in the administration of the criminal law the end justifies the means ... would bring terrible retribution... This, the lawyer knows ... Only where the law protects all beliefs and all men is there safety for any belief or any man."

Senator Kennedy spoke of the American Bill of Rights, which he called "a series of guarantees against government interference with individual freedom". "The framers of the Bill of Rights", he said, "sought to prevent the criminal laws of the nation from being used to serve the political ends of those in power at a particular time." Security for change, he said, was essential in every land and nation. In the United States "performance

has not always equalled promise, nor always adhered to law ... But we have moved forward ... In times of stress and hysteria we have temporarily given in to the cries of those who have claimed that suppression can bring security. But each time the Bench and Bar have recalled us to the command of the constitution, and sanity and restraint have returned to public affairs. ... We recognise the teachings of history - our own not excepted - that change will come whether we like it or not."

#### Responsibility of religious leaders ...

Before leaving Johannesburg, Senator Kennedy said that South Africa's religious leaders had the responsibility of teaching people to accept the human dignity and rights of all men.

"I would say religious leaders have the major responsibility - not simply a responsibility. Their task is one of guidance. Where religious leaders abdicate this responsibility, a very difficult situation develops."

#### "Keep up the dialogue ..."

Mr Adam Small, lecturer at the University College of the Western Cape, commented that because he believes in free dialogue, Senator Kennedy "belongs to the best tradition of politics ... On the other hand, a strong politician who ... seemingly believes that another man has no right to ask fundamental questions in his presence, is a threat to free society... In so far as questioning is a definition of humanity, the rejection of it can only happen in the worst tradition of politics ..." ("Cape Times", June 24)

#### Legal aid and open courts

It is encouraging to note that the Bar Council is to ask the Minister of Justice for the appointment of a judicial commission into the question of legal aid, to support the formation of a national body for this purpose and meanwhile to ask the Minister to restart subsidies to voluntary legal aid associations.

The Bar Council has also considered representations made to it recently by the Civil Rights League in connection with the holding of courts on Robben Island, where access to proceedings by the public was all but impossible, and the same report ("Cape Times", June 20) says the Council is to make representations to the Minister to hold all courts in places freely accessible to the public.

This is in accordance with our best legal traditions, and we hope the Council's representations will have due effect.

No lawyer for the innocent?

One of the most extraordinary statements ever issued by a government servant emanated recently from Mr J. N. Oberholzer, Deputy Secretary of Justice. People charged in the magistrate's court, he told students of the University of the Witwatersrand, do not really need a lawyer if they are innocent. "If an accused person is guilty," he said, "his lawyer might be able to secure his release by introducing new complications to the issue. But if he is innocent, he will almost inevitably be found not guilty, even without a lawyer to defend him, because there is no doubt that our judicial officers (in court) realise their responsibility and do their best to hear both sides of the case" ("Cape Times", June 3).

Mr Oberholzer went on to say that, while legal aid might be justified in civil cases, in criminal cases it would be "paradoxical" for a Government to undo the work of its own departments (the police) by giving legal aid. The expenses undergone in detecting criminals, after all, were very considerable.

Our President, ex-Chief Justice Centlivres, has described this as "pure nonsense", and the vice-president of the Transvaal Law Society commented: "... The police may be right in 999 cases out of 1,000, but the thousandth case is of fundamental importance to a civilised society."

One of our members, writing to the "Cape Times", said: "The only possible foundation there could be for such a suggestion"(that the presentation of the case for the defence by a properly qualified lawyer is undoing the work of the police) "would imply that the object of the Government is to secure a conviction whether the accused is guilty or not guilty."

Another wrote: "I would ask Mr Oberholzer who decides whether an accused is innocent and not requiring legal aid, before the case has been heard. If he asks for legal aid, is that proof he is guilty, since he would not require it if innocent? It would seem so."

We hope Mr Vorster will convey firmly to his Deputy Secretary that he was Minister of Justice before he added the titles of "Police and Prisons".

And what of our Prime Minister, who has said publicly that it is the Government's policy to provide legal aid for those who cannot afford it?