

# CIVIL



# RIGHTS



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News Letter

## Appreciation

It is so seldom that we can wholeheartedly approve of any action of the Minister of Justice, Police and Prisons that we feel constrained to give first place to the news that a number of banning orders have been lifted. These include Messrs Terence Beard, Norman Bronberger, Elliot Mngadi, Hammington Majija and Mike Ndlovu, all formerly active members of the Liberal Party: but the Minister himself says that restrictions in respect of 45 persons have been withdrawn and that "the cases of all restricted persons are at present under review", and that "a statement for general information will in due course be published, giving the exact number still restricted and the number whose restrictions have been removed".

While we would not go so far as to infer that the Minister finds he has "made a mistake" in these 45 cases, we would be most interested to know his reasons for lifting the bans. Most of the people concerned have been severely restricted for two or three years. (Anyone who doubts this is referred to an excellent article in the latest issue of the "Black Sash" magazine, which gives details that space precludes our reproducing here.) None of them has been brought to trial in a court - and from the number of cases that are brought to trial one may conclude that if there had been adequate grounds for doing so, the 45 would have been also. They have lost several years of living for which no compensation is possible; and one cannot but wonder what, if any, conditions have been imposed on their future activities. It all confirms the injustice of arbitrary banning. We can only hope that the Minister will continue the "lifting" process: he must have at least four to five hundred more cases to "review".

## Defence and Aid - a challenge - and a list

Four prominent Cape Town citizens have issued a challenge to Mr Vorster to charge them before a court, and have described as "flagrantly untrue" his allegation that the Defence and Aid Fund, in which they were active, was a "communist front organisation".

We doubt if the Minister will take up this challenge. On

the contrary, the "Sunday Times" (21/8/66) reports a statement that a list is now being compiled of "office-bearers, officers, members or active supporters" of the South African D & A Fund, under the Suppression of Communism Act. This could include not only these four but a considerable number of other more or less prominent citizens.

The "Sunday Times" points out that such listing could affect the careers of writers and lawyers under previous and pending legislation. Lawyers are likely to be precluded from practising, and writers could not be quoted or published.

"Listed" persons are by law given an opportunity of submitting reasons why their names should not be included in the list; but unless they could prove conclusively that they had had no sort of connection with the Fund, their representations would probably not be accepted.

So much easier than bringing people to trial in court ...

#### The State and defence ...

It must often be a temptation to those responsible for the administration of the Department of Justice (not, of course, judges or magistrates, but departmental officials) to feel that conviction and justice are synonymous. The Secretary for Justice in his recent report to Parliament ("Cape Times", 24/8/66) says that legal aid in all (criminal) cases would "undermine the administration of justice" and "be completely inconsistent with the general juridical and social pattern in this country" - an extraordinary assertion. He repeats the argument that "the prescribed rules of court procedure are such that an innocent person will normally not be convicted, whether he be defended or not", and asks whether "we do not already lean over backwards too much to assist accused persons".

Curiously enough, however, he also comments that "the Department welcomes (legal aid) schemes for various reasons, one being that it considerably facilitates the task of the court and the prosecutor if the accused is defended".

A pity he didn't advise Mr Vorster not to ban D & A!

On the other hand, a Nationalist M.P. in the Budget debate urged the Government to consider establishing a legal aid fund financed jointly with the legal profession, and to extend to the whole country the legal aid at present being offered in the Eastern Cape to people charged with political offences. The speaker (a Mr Kruger) also urged that legal aid should be extended to the middle income groups.

### Indoctrination ... and balance?

A Mr Geldenhuys in the Transvaal Provincial Council recently complained ("Cape Times", 24/8/66) that immigrant children could not be indoctrinated as well in English schools as in Afrikaans ones.

With unusual candour, he added that "if it had not been for the Afrikaans teacher, and even the Afrikaans minister, the Nationalists would never have come to power".

Now, he said, the "balance" between English and Afrikaans was being disturbed and this was likely to cause a lot of trouble.

(The "Cape Times" adds in a footnote that at the beginning of year 65 per cent of immigrant children in the Transvaal were being taught in English-medium schools.)

It is perhaps not surprising that the Minister of Education is intending to introduce legislation to remove education from the Provinces and produce a "uniform education policy" by central control (from the Transvaal, of course).

### Pending legislation

Prophecies that the Government's increased majority would spur it on to increasingly drastic legislation are being fulfilled. The proposed measures may not all be introduced this year, the session being a short one, but they include:

\* A Bill to amend the Extension of University Education Act, 1959 so as to prohibit non-white students attending (under permit) "white" universities being members of any club, student society or organisation containing members of another "ethnic" group.

\* A Bill amending the Universities Act of 1955, directing that no person or body at a university who promotes or maintains any sort of racial separation can be prejudiced or subjected to any form of discrimination for so doing. The Minister's decision on this is final.

\* A Bill to amend the Suppression of Communism Act giving the Minister power (a) to debar any person who has been a member of an "unlawful organisation" from being or becoming a member of any other organisation the Minister may specify; (b) to debar any "listed" advocate or attorney from practising his profession. (The Bar Councils of Johannesburg and the Cape have protested about this.)

\* A Bill (not yet published) to prevent the "interference" of one racial group in the "politics" of another (i.e. to prevent the Coloured people electing members of "white" parties to Parliament).

\* A Separate Amenities Amendment Bill which would give the Government far wider and more detailed powers to enforce apartheid.

### Separate (i.e. exclusive) Amenities

In an article on this last measure in the "Cape Times" (2/9/66)

Mr Hamilton Russell points out that the Act of 1953 empowered the owner, lessee or other controller of any "public premises" to reserve the exclusive use thereof for the members of any race or class, and that this in fact referred to "any place to which the public has access". It could have been applied to a church, a shop, a garage, a car-park, but this has not so far been done. The amending Bill seeks to compel the owners and controllers of premises "to reserve the exclusive use of the same not at the owner's discretion, but at the Government's". Mr Russell points out that under this Bill the Government could compel Stuttaford's or the O.K. Bazaar to exclude non-white customers even if they want to serve them (as for economic if no other reason they obviously do). The Government, he says, will no doubt argue that it will use these powers "reasonably": but in that case, why take them? (We have heard the argument of "reasonable" use on a number of occasions in the past eighteen years, and have ceased to have any confidence in it.)

As the Bill originally stood, it included churches. Mr Haak, the Minister responsible, has, however, apparently realised that here he would meet with really determined opposition, and has announced that he will specifically exclude churches: that is to say, "church buildings used exclusively for devotional purposes" (are rummage sales 'out'?).

We do not like living by permit: but we hope that other interests, such as commerce and industry, will also make strong representations and induce Mr Haak to reduce the scope of this totalitarian legislation.

#### Did they repent?

Speaking at a police luncheon at Port Elizabeth recently, Mr Justice Munnik referred to a visit to Robben Island, saying that he had "noticed no signs of repentance" among the (political) prisoners he saw there. This, he said, was "a problem which will have to be tackled in the future".

One may well share the Judge's hope that people might come to repent of (say) acts of sabotage: but does he expect them to repent of their political views as a result of imprisonment? Has he, we wonder, ever asked Mr Vorster or Dr Verwoerd if they repented of the view they held during World War II?

#### Still banned

The Minister of Justice has extended the ban on gatherings on the Grand Parade, Cape Town for another two years, except for "bona fide religious services and trading".