

CIVIL

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RIGHTS

Cape Town



News Letter

Vol. XIX No. 10
Issued 18/12/72

"Law, Justice and Society"

This report of the SPRO-CAS Legal Commission is described by a Sunday Times commentator as "quite horrifying". It is no exaggeration. We do most seriously commend it to all who wish to have a clear idea of the position of civil liberties in South Africa in relation to the law.

The Editor of the series, Mr Peter Randall, says: "These essays are directed at the public in general, and the legal profession in particular. Their common theme is the debasing effect apartheid has upon the law, the courts, the legal profession and the officers of the law ... Their aim is to create an awareness on the part of the legal profession and lay public of the incompatibility of apartheid's legal order with the ethical principles upon which Western legal systems are based."

Space precludes detailed comment, but we quote from the Sunday Times review, and from the report itself, a few points which give some idea of the quality of the authors' thinking.

* The South African common law reflects the ethical values of Western society in its detailed body of laws and customs which through the instrument of the law promote respect for the individual - his liberty, life, family and basic freedoms - and equality before the law.

* The law of apartheid is the produce of statutes, the creation of an unrestricted Parliament dominated by an authoritarian political party drawn from two-thirds of one-fifth of the population.

* The distinction of apartheid law is that it undermines the twin foundations of the common law - respect for the individual and equality before the law.

* The achievement of the apartheid society in the field of law has been to erode individual freedom and personal rights, to place the citizen more and more at the mercy of the political party in office, to diminish the rights of protest, association, occupa-

tion, freedom of employment and freedom of movement.

One contributor gives a thoughtful analysis of the potential and actual rôles of the judiciary, the legal profession, the police in administering the law. Another quotes a statement by the Hon. O.D. Schreiner in 1967:

"The real case against apartheid at the present day", says Mr Schreiner, "is not that there is inequality in the administration of the law, for in general there is not, but that it is harsh, unfair, and increasingly difficult to support in the light of the growing industrial development of our country and in the light of modern views on the treatment of other races."

This thoughtful and courageous report is a challenge to the legal profession and to the thinking layman. Give it to yourself and your friends as a Christmas gift. Obtainable from SPRO-CAS, Box 31134, Braamfontein, or from leading booksellers, price R1.

We are pleased to state that the Editor and five out of the nine contributors to this volume are members of the Civil Rights League!

Salutary

We are pleased to note that the Minister of Police, Mr S.L. Muller, recently warned members of the Force at a passing out parade that he "would not tolerate misconduct" in the Police Force, and that "when a member of the Force, no matter what rank he holds, makes himself guilty of conduct which is, or may be, prejudicial to the good order, efficient administration, control or discipline of the Force, he can expect no mercy" from the Minister or the Commissioner of Police.

Perhaps the Minister had, before this speech, seen Professor Barend van Niekerk's essay in the SPRO-CAS publication, which drew attention to the "relatively high incidence of misconduct in the force and apparent official indifference to it", substantiating this charge by figures from Hansard: for example, that out of 230 policemen convicted of crimes involving violence during 1970, 205 had continued in the service, and that of those convicted of assault and assault with intent to do grievous bodily harm during 1969 and 1970, 79 had previous convictions.

Foundations of stability

It is heartening that such prominent administrators as Mr Douglas Hoffe, head of Anglo American's property group, and

Mr J.C.E. de Villiers, director of Johannesburg's Non-European Affairs Department, should be calling for a policy allowing of urban African home ownership, and that Mr Justice Hiemstra should link the lack of this provision with the high incidence of crime in urban African townships. "How can you fight crime", asked the Judge recently, "in a community whose members have no stability, no loyalty to the area in which they live or towards each other?"

Another aspect of the question was stressed recently by our Chairman, Dr Oscar Wollheim, in relation to the recent stevedores' refusal to work overtime. While Dr Wollheim welcomed the Wage Board's recommended increase in wages, he pointed out that there was no provision for security in respect of contract labourers on a daily basis, who had to report for duty each day, not knowing whether there would be work for them or not. "... they are unable to plan their futures in any way", he said. "They cannot commit themselves to buying things by hire purchase. They cannot send regular money back to their families in the homelands and cannot even commit themselves to paying things like school fees."

Trade unions

It is again being urged by White trade unionists and others that part of the answer to this is to allow African trade unions to improve communications between employers and labourers. But the Minister has again declared he will not consider such a move. It may well be that, with even conservative white unions seeing the decline of job reservation, there may be pressure from their own supporters to improve the working conditions and scope of employment of other workers. We can see no other way to stability than the recognition of fundamental rights.

FORUM - a healthy sign

Because we have always regretted that our own contact with Afrikaans-speaking academics and others was so limited, we welcome heartily the news that a new group has been formed which aims to "achieve, promote and protect the rights of citizenship for all inhabitants of South Africa". We hope that the way will open for fruitful co-operation between this body and ourselves.

Quotes from Dr Connie

Dr Connie Mulder, regarded in some quarters as the most probable successor to Mr Vorster, recently told a Vereeniging audience, "There is no racial discrimination in South Africa". It is not reported that any of his audience queried this remarkable

statement, which is on a par with Mr Vorster's unawareness of there being "annoying aspects of apartheid".

Dr Mulder is also reported as having told a meeting at Ladysmith, Natal that "the Nationalist Government of South Africa are prepared to do everything - even to use military force if necessary to maintain the right of the White man to control South Africa". On this occasion he apparently did not explain which force he would use or against whom, and he also spoke of assisting and trying to encourage the Black people of South Africa in areas occupied by them and their forefathers", even to full independence, and membership, if they wished it, of the United Nations!

We hope that when Parliament reassembles questions will be put to Dr Mulder to elicit what he really did mean. As our Minister of Information (not to say prime minister-elect), he owes the country an explanation.

The soothing lullaby

Dr Mulder's Ladysmith statement was included in one about censorship, and here again he is less than explicit. Mr Gerald Gordon, Q.C., in an article in the Cape Times has warned us to be alert to what may lie behind his remarks about "a court" and "judges". After the High Court of Parliament Act, we must remember that, like Humpty Dumpty, our Government uses words to mean what it wishes them to mean ...

Mitchell's Plain and District Six

Professor S.P. Cilliers, talking of the 55000 homes urgently needed for Coloured people in greater Cape Town, called for the rezoning of District Six for Coloured occupation, which he said would provide up to 20000 dwellings. This would obviate heavy expenditure on providing transport and would have moral, economic and sociological merits. Coloured workers in the city, and especially the increasing number of white-collar workers, should be within reach of the central business district. Professor Cilliers also called for an end to the moving of adequately housed Coloured people from their homes to such areas as Bonteheuwel and the consequent limitation on availability of houses in new housing schemes.

The Department of Planning has rejected this suggestion, but we hope increasing pressure will be brought to bear on the Government to adopt it. It has the support of the Cape Town Chamber of Commerce, the Afrikaanse Sakekamer and others.