

CIVIL



RIGHTS



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News Letter

Subscriptions

Our sincere thanks to all who have sent their subscriptions since our last news letter. Receipts are enclosed. If you have not yet attended to this matter, will you please give it your attention? We do not wish to "cut off" interested members - but neither do we wish to continue sending our material to any who no longer need it. And please let us know any change of address.

"Old Katie"

Recently there has appeared in the press an advertisement of a pension scheme for servants. Any of our readers who wish to follow this up should write for information to African Pension Trustees Ltd at Box 3172, Cape Town; Box 5919, Johannesburg; Box 226, Durban; Box 2143, Port Elizabeth; Box 3767, Pretoria (free booklet).

Black Review

We are indebted to SPRO-CAS for a most valuable and informative publication, "Black Review 1972", published by Black Community Programmes, 86 Beatrice Street, Durban. Though drawn up originally for the information of Blacks, it is a mine of information for White readers also on educational and economic aspects of Black development. Obtainable from the Durban address or the SPRO-CAS office (Box 31134, Braamfontein - price R2.50).

Torture in detention?

We still have available some copies of the pamphlet on "Torture in South Africa?" published in the December issue of "Pro Veritate" and reprinted in pamphlet form. These are available for 15 cents per copy, post free on application to us and contain evidence obtained from newspaper reports of court cases in this connection - a valuable summary of the matter.

Sea Point and Claremont - amenities for Blacks

Recently there has been considerable discussion in the press and elsewhere about the lack of amenities for Black and Coloured

people in the Peninsula. It has been pointed out that in spite of the high proportion of Coloured shoppers, for instance, in Claremont there is no place where they can sit down for a cup of tea. We hope that the recent proposal to establish a restaurant for them will speedily be put into effect and that no obstacles will be put in the way of it this by the higher powers.

More deplorably, there is an effort being made to expel Coloured people completely from the beaches at Sea Point to which they have at present "temporary" access. This has highlighted again the situation in which the labour of Coloured people is used but no facilities are provided for their leisure. In all the circumstances it is hardly surprising if there is misbehaviour. It is reported in the press that the Council is considering the establishment of a recreation centre and we hope that this, too will be done as soon as possible. But it is frightening to realise that in one of the better-class suburbs of Cape Town, there should be such a callous disregard for the rights and needs of people who give indispensable service to the community: frightening, because one realises the force of bitterness and resentment that must be growing in the face of such treatment.

Prevention and cure

We cannot refrain from quoting a pungent comment by our respected Patron, Mr Leo Marquard, in a letter to the Cape Times on the various reasons given (in particular by Mr John Wiley, M.P., Dr Connie Mulder and Mr Peet Pelsler Minister of Justice) for the banning of the sixteen students:

"It seems to me", says Mr Marquard, "that Messrs Wiley, Mulder and Pelsler between them believe:

(a) That the eight Nusas leaders were plotting a revolution;

(b) That if they had been charged in open court the judiciary would have allowed them unlimited scope to preach that revolution from the dock;

(c) That if they had been let loose on campuses they would have so inflamed the freshers as to cause them to drop their Rag and join the revolution forthwith.

"As the Duke of Wellington said on a famous occasion: 'If you can believe that, you can believe any damn thing!'"

We couldn't agree more.

The Cape Times sums up the position less pungently perhaps, but no less cogently:

"Dr Mulder alleges ... that student activity is endangering the safety of the State. This danger is either urgent and pressing or it is not. If it is, the Government is failing in its duty by neglecting to declare a state of emergency. If the threat is real and serious, there is no time to lose. Suspects must be detained and the immediate danger warded off. As the Government has not taken this course, the threat cannot be urgent. Hence there can be no justification for a breach of the rule of law..."

Bannings and the law

Because public memory is short and many people, perhaps, do not know the implications of banning under the Suppression of Communism Act, the article by "Judex" in the Argus is timely. It reminds us (March 22, 1973) that under this Act the Minister can

- * prohibit attendance at gatherings (even family ones);
- * prohibit the reproduction of any utterance or writing of the person concerned without the Minister's consent (even after death);
- * confine the individual to certain areas and places;
- * prohibit him from 'performing any act' (i.e. doing certain kinds of work);
- * prohibit him from 'communicating with any person';
- * compel him to report at specified intervals in person to a police station.

The writer points out that "all these powers are exercisable by a politician; the individual has no right to be heard in his own defence; there is no appeal; there is no recourse whatever to a court of law; a restriction may be imposed for life; most extraordinary of all, these powers may be used not only against a communist but against anybody who in the Minister's opinion 'further' any of the objects of communism."

"In its harshest forms," says Professor A.S. Mathews in his book "Law, Order and Liberty in South Africa", "it amounts to solitary confinement outside a prison."

This gives us some idea of the "prevention" (not punishment, according to the Government) that has been imposed on the leaders of NUSAS and SASO.

Says "Judex", "In the long run, the only way to beat ideas is to produce better ones ..."

Why this haste?

The Criminal Procedure Bill has passed its second reading.

This in spite of the attempts of the Parliamentary Opposition to have it sent to a Select Committee; in spite of a strong and lengthy memorandum from the Bar Council. The Council says that the Bill embodies changes "of a far-reaching nature. Some of these changes are fundamental and involve radical departures from long accepted principles ... While the Bar is not averse to necessary change it is opposed to changes which undermine the foundation upon which our criminal law is based and increase the danger of innocent persons being convicted."

The Council says that the new system of pre-trial interrogation "may not be far removed from compelling an accused to reply to questions which may incriminate him and thus to assist in building up the case against him, which is in conflict with the basic principles of our criminal justice that the onus to prove guilt beyond reasonable doubt rests throughout on the state".

The Minister of Justice bases the Bill on the recommendations of a "one-man Commission", Mr Justice Botha, and he has the impertinence to accuse the Bar Council of "playing politics". No doubt the Minister's account of Justice Botha's qualifications is correct. But with so weighty a body of opinion against the Bill, he should at least agreed to have the learned Judge's recommendations confirmed by a Select Committee of Parliament. We hope that, even in the Committee stages, there may be some improvement in what seems to us a highly dangerous measure.

Rights of prisoners

In a recent case brought by two prisoners on Robben Island, Mr Justice Diemont found that the action taken by the prison authorities was "within their rights" except for the imposition of solitary confinement for more than thirty days, which he ordered to be terminated. But he made strong comments on some of the authorities' decisions although agreeing that they had acted within their powers. In particular he criticised the refusal to allow these prisoners to undertake courses of legal study. Why the prison authorities should adopt such an attitude towards legal studies was, he said, beyond him.

It is salutary that the Judge reaffirmed the rights of the prisoners to bring their complaints to court. We hope this will not be tampered with.