

# CIVIL



# RIGHTS



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News Letter

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## Thanks

Our warm thanks to all our members who have paid their subs for this year, whose receipts should come with this issue. We are also grateful for the names of possible members sent in by many members, and will deal with these as soon as possible.

## Church and State

Some of our members have expressed concern about our comments under this heading in our last issue, one accusing us of approving what he calls "W.A. de Klerk's totally distorted attack" on the political views of SPRO-CAS. We hope that they will realise, on consideration, that this is a misunderstanding of our attitude. We have the highest admiration for the work of SPRO-CAS, and the courageous thinking involved in it, and have in fact repeatedly commended its publications to our readers. This does not necessarily mean that we agree with every word in these booklets, but, like Voltaire, we are certainly prepared to fight for their right to say it, and we value its challenge to more conservative thinkers like ourselves (!). We are not concerned with Mr de Klerk's motives and did in fact consider his articles somewhat ill-timed. But he did make a point which we felt was important, both for the Government and for its opponents, when he called on political thinkers in a situation like ours "to discover the true limits of civil government and find a new clarity about the relationship between Church and State". And we felt it necessary to emphasise this because we believe that, in our present grave situation, we must see it very clearly, and discipline our thinking (and the Government its action) accordingly. The Government, especially, with its radical policies, needs Mr de Klerk's warning against "trying to do the work of Providence".

## Removing the foundations (Cape Times 20/2/74)

In October 1972 Mr Justice van Zyl, allowing the appeal of eleven persons against a conviction under the Riotous Assemblies Act, said that freedom of speech and of assembly were part of the democratic rights of every citizen of South Africa. "Parliament", he said, "guards these rights jealously for they are part of the

very foundation upon which Parliament itself rests. Free assembly is a most important right for it is generally only organised public opinion that carries weight. It is extremely difficult to organise it is there is no right of public assembly." The learned judge further pointed out that the Riotous Assemblies Act "restricted neither the right of free speech nor the right of free assembly". What it did do, he said, was grant to a magistrate or a minister of justice the right to prohibit under certain specific circumstances the assembly of public gatherings in a public place.

The Riotous Assemblies Bill just steamrollered through Parliament now enables the authorities to ban any gathering, at any place, of two or more persons, if such gathering is "suspected" of posing a threat to peace and order. Any people so gathered need be warned only once in each official language, to disperse before force can be used. In terms of the Bill the police must in the first instance (italics ours) use weapons which are not likely to "kill" or cause "serious bodily injury"!)

A magistrate may now ban any gathering at any place or area in his district for 48 hours (presumably renewable) without prior authority from a magistrate.

The Minister may, "if he deems it necessary or expedient for the maintenance of public peace", ban "any gathering in any area during any period or on any day ..." He can also deal similarly with any specified gathering.

A warrant officer may ban any place or area to the public if he "has reason to believe" that a prohibited gathering will take place.

The Deputy Minister introducing the Bill and other government speakers have made no bones about asserting that the main purpose of the measure is to prevent silent protest by students on university property and by people standing on the steps of St George's Cathedral. The dismissal of charges in so many cases in 1972 obviously could not be allowed to happen again.

The League has pointed out (Cape Times, 25/2/74) that the measure constitutes a grave invasion of the rights of private property and association through administrative action, against which there is no appeal to the courts.

The Cape Times (23/2/74) says the Bill's general effect is "to undermine the very foundation of parliamentary government, to

basic rights of legitimate assembly and public expression".

"Afflicted Organisations"

The Affected Organisations Bill has as its ostensible purpose the prevention of organisations in South Africa from obtaining funds from other countries to be used for political purposes (the word politics is not defined in the Bill, nor, as far as we have seen, by the Minister during the debate). But the Cape Times (20/2/74) has pointed out that the Bill gives arbitrary power to the State to harass and intimidate organisations which the Nationalist Government disapproves of, without the ordinary processes of law being invoked. The Minister must consider a report from a committee of three magistrates (appointed by himself) but is in no way bound by such a report. "By proclamation, any organisation can be deemed an 'affected' organisation and hence become subject to searches and interrogations - with fines or imprisonment on conviction for refusing to co-operate."

Powers of entry, search and confiscation of documents are to be vested in a Registrar of Affected Organisations appointed by the Minister, and money he suspects to have been raised abroad may be confiscated.

The Minister will also have power to instigate inquiries into the activities of any organisation or any person connected with it if he "has reason to suspect" that their activities are such that the organisation should be declared affected (i.e., presumably, that their activities fall within the undefined area of "politics"). Shades of the Suppression of Communism Act!

The Cape Times (22/2/74) has pointed out that the real purpose of the Bill is to destroy organisations and agencies working for change, and, as such, that it undermines the foundations of the country's resistance to terrorism - is, in fact, a blow FOR terrorism.

Mr Gerald Shaw comments: "Neither of the two Bills is remotely necessary to deal with subversion and threats to security. Ample powers exist." Mr Shaw refers to such organisations as churches and schools, the Institute of Race Relations, the Christian Institute, the Civil Rights League and others as necessary instruments of change in fundamental attitudes through education of the electorate, and quotes Van Wyk Louw as saying that the circulation of ideas in a society is as essential as unimpeded circulation of the blood in the human body.

Says the Sunday Times (24/2/74): "If the Government suspects that certain South African organisations receiving funds from abroad are putting these funds to unlawful purposes, it should prosecute them in the courts; if not, it should leave them alone."

We couldn't agree more.

### "Black" amenities

While the reaction of White communities to the various suggestions for amenities for African and Coloured workers in and near Sea Point is deplorable (though understandable), it is heartening that the subject is not being allowed to drop. Between public concern, municipal conscience and the opportunities for private enterprise, something should happen.

But the caustic comments of the Deputy Minister of Bantu Administration and Development should be taken with a touch of cynicism. After all, it is the policy of his own Government in imposing group areas and apartheid generally that has removed some amenities formerly available and prevented the natural development of others as the need arose.

And - on a higher level - what about the quite shocking comment of a Minister the other day that he could never allow Coloured people to be admitted to the Nico Malan Theatre because "it was impossible for him to provide separate toilet facilities"

Meanwhile, our bigger municipalities deserve all support for their endeavours to remove "petty" apartheid restrictions. To those who doubt we say "Try it - and see what happens"!

### Logical

It is encouraging to see that the Trade Union Council of S.A. has decided to ask its member unions whether they feel ready to readmit African trade unions. This follows on the decision taken at last year's annual congress that affiliated unions should examine ways of organising African workers in their work sectors. Quite rightly, the TUCSA president sees no point in this unless such African unions are admitted to TUCSA.

But it is shocking that three leading trade union organisers in Durban should recently have been banned for five years because of their work in organising African trade unions. A prominent trade union leader says they were all doing "genuine trade union work" and that everything they handled they referred to the Department of Labour.

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