

# CIVIL



# RIGHTS



Box 3807

Cape Town 8000

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## News Letter

### 146 days - and not even an apology

As we go to press, the Cape Times reports (3/4/75) that Mr Johnny Issel, 25, has been released from Pretoria Central Prison, 146 days after he was arrested at his home in Elsie's River. No reason has apparently been given for his detention, or for his release. During his detention his wife was allowed to see him once for half an hour - her only communication with him.

This in itself is sufficient condemnation of the system of detention without trial. Three other men from the Cape are still in detention.

Mr Issel is under a five-year banning order.

### SHAWCO

We join with the Cape Times (26/3/75) in commending most heartily the work of the Students' Health and Welfare Centres Organisation, which over the past 32 years has established a network of medical and welfare services helping some 21 000 people every year, as well as 55 clubs. To carry on and expand its work SHAWCO needs R150 000 a year, and it is now sending out 60 000 letters of appeal for funds. Do help if you can - even if you aren't one of the 60 000 recipients! A former Vice-Chancellor of the University of London has described SHAWCO as "the most remarkable and the most beneficent example of what can be done by student initiative that I have seen in any country in the world",

### Law, Crime and the Community (Argus, 2/4/75; Cape Times, 3/4/75)

Under the auspices of our University and NICRO a highly significant conference on this subject is being held this week. It includes specialists from all over this country and abroad, and we quote what space permits of some of their significant views.

Professor J.G. van der Vyver of Potchefstroom said that it had become "fashionable" to rely on criminal law as the only custodian of law and order. He referred to "the overreach of criminal law" in the area of race relations, and "the typical South African phenomenon that a person's race is in many cases a prerequisite for liability" for a variety of statutory offences.

Thus, "One has to be a Bantu (sic!) to be subject to curfew regulations. The many statutory offences provided for in the Bantu (Urban Areas) Consolidation Act can be committed by Blacks only." In the inter-relationship between the law and religion and morality, for example, "our legal system leaves much to be desired". A visitor from America, Professor Norval Morris, said that the over-reach of the criminal law was both its leading defect and a major obstacle to the creation of a humane criminal-justice system. Public drunkenness, for example, should cease to be a criminal offence, and there should be a more humane approach to drugs, gambling and other such offences. "Using law enforcement resources in a fruitless effort to promote moral virtue is wasteful and socially injurious," he said.

Mr R. Graser, Director of NICRO, said that at least 60 per cent of our prison population need not be there. Eighty-five per cent or more were not dangerous to society. "We are living under an illusion if we think that we are rehabilitating them in jail. Very often they come out worse than they go in." He felt he could say with authority that prisons were incapable of rehabilitating people.

Mr Justice Wessels, an appeal judge and national chairman of NICRO, confirmed this view. He said that a large number of prisoners in a jail he had visited recently were awaiting trial. "None of them was a danger to the community, and few would have run away if they had been free."

#### Parliament and State action (Cape Times, 3/4/75)

At the biennial conference of Law Societies also meeting in Cape Town at present Dr Marinus Wiechers, Professor of the Department of Constitutional and Administrative Law at UNISA, said that our system of Parliamentary control of State administrative actions was "totally inadequate to prevent most South Africans who are not directly represented in Parliament being victims of harsh and iniquitous State administration". Existing forms of parliamentary control, that is, questions by members and tabling of subordinate legislation, were, he said, "excessively formal and have no real impact".

It is interesting that Dr Weichers suggested as a possible solution of the problem the use of ombudsmen, which the Government had rejected in a parliamentary debate in 1937. "It sounds a note of unreality and obstinacy", he said, "when the majority

of members of our Parliament think they have that knowledge and influence to ensure the administrative processes are conducted fairly, reasonably, and equitably."

It would appear that no speaker at the Conference raised the equally important point that, increasingly, our laws expressly provide that there shall be no appeal to the Courts in such matters as banning, detention and other administrative actions against the liberty of the individual.

No wonder Professor Wiechers spoke of "a conspiracy of secrecy and faceless bureaucracy in relation to the citizen".

### Rethinking Group Areas?

The announcement of the deproclamation of part (unfortunately not the whole) of Sir Lowry Pass Village as White and its re-proclamation as Coloured inspired the League to send a letter to the Cape Times (21/3/75):

"The Civil Rights League does not consider that the Group Areas Act offers any solution to the problems of housing, slum clearance or human relations, and therefore is not in favour of the proclamation of any area for occupation by any group of people.

"If, however, the announcement of the Government's intention to reproclaim a large part of the Sir Lowry Pass Village for the present inhabitants is a forerunner of a general rethink on the efficacy of the Act, then the League would welcome this move, not only on humanitarian grounds, but also because it would indicate a growing respect for the rights of property and of people to choose where they wish and can afford to live.

"The League can only regret the years of desperate anxiety and uncertainty of those who were threatened with removals, as well as the fruitless weeks of research and representations to the board of inquiry undertaken by the then member of the Provincial Council for the area, Dr O.D. Wollheim, which were overridden by the Board, whose decision has now been reversed; not to mention the waste of taxpayers' money involved in the functioning of the Board.

The League would like to suggest that the authorities rethink some other areas which present opportunities for détente between Black and White South Africans without too much disruption. Examples are Raithby and Jamestown, mission lands occupied by Coloured people near Stellenbosch for more than a century; Maitland Garden Village, specially built for returned soldiers after World

War I; District Six, voluntarily evacuated by Whites over a period of a century, and still unoccupied after the demolitions; Kalk Bay, founded two centuries ago by Coloured fishermen; and large parts of Simon's Town, now derelict, to the great detriment of business men and the Town Council. Doubtless other examples will spring to mind.

"The withdrawal of the present proclamations in regard to these areas would demonstrate in a most tangible and visible form the stated intention of the Government to move away from racial discrimination, and would lend credibility to the Prime Minister's plea for six months to make real changes in our country."

#### Local option ?

In a recent speech at Ceres our Prime Minister denied that any pressure had been brought to bear on the Cape Provincial Administration to open the Nico Malan Theatre without restrictions. They had, he said, made their own decision, as the other Provinces would have to make theirs. It would be wrong for the Government to interfere.

The Cape Times (18/3/75) commends this support by the Prime Minister of the principle of local option, but suggests that he should "extend its practical application more widely" in such matters as censorship and petty apartheid. In the Cape Peninsula, for instance, before 1948 such matters were left to individual choice and there was no need for "insulting notice boards". We hope the Prime Minister will do something practical about this. There are fewer apartheid notices in Cape Town than there were, but we have a long way to go yet.

#### How can we believe you? (Rand Daily Mail, 20/3/75)

Mrs A and Mr B in Pietermaritzburg recently received letters from England. Mrs A's letter was in Mr B's envelope, and vice versa. The Minister has stated in Parliament that the Post Office has no right to open any letters except undelivered ones to be returned to senders, or in cases where State security is involved, in which case an approved Post Official is appointed to do it. In this case the Post Office knew nothing of the opening of the letters and had received no applications to open them. He regarded the question asked in Parliament about it as "scandalous".

Well ..... Is this how BOSS uses its R14 000 Budget allocation?