

PC16/2/21/43



# CIVIL



# RIGHTS

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News Letter

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N.B. Annual General Meeting, Dec. 1 - Claremont Cong. Hall!

Draconian? It is worse than that (Cape Times, 15-17-23-30/10/80; 1-4/11/80)

In Roman times, the term draconian was used of the stern discipline of fathers over their sons: but it did not necessarily indicate injustice. The latest provincial "keys" legislation has not that mitigating feature. It is thoroughly bad, infringing the human rights of both servants and their employers. The latter have to keep a duplicate key to their servants' quarters which is to be made available to police or municipal inspectors on demand between midnight and 8 a.m. in any area in which the ordinance applies. Servants have no longer any guaranteed privacy and may not allow any relative or friend to be in their rooms during that time.

The Administrator has promised to investigate any "alleged abuse" of this ordinance; but, as the Cape Times comments, the law "does not have to be abused to turn the lives of domestic servants and their employers into a nightmare". We might hope that employers would not take on the degrading office of "servant-snoopers"; and yet if they do not, the lot of their domestics might well be even worse than if they did. Moreover, if the police or municipal inspectors do find any unauthorised people in the rooms, the employer as well as the employee may be charged with a criminal offence. We hope the Administrator will take any necessary steps to have this degrading ordinance repealed.

Just as much freedom? Cape Times, 31/10/80; 25/11/80 et passim)

Dr Koornhof is reported to have told a press conference with reference to the three Bills he published recently for comment:

"The proposed new measures will give blacks just as much freedom as whites... The new system is intended to do away with the kind of incidents in the past where blacks were subject to discrimination as far as their freedom of movement was concerned."



"But," the Minister added, "while the main aim is to remove hurtful discrimination, we cannot in our situation get away from the fact that the aim here should be more effective influx control."

It has been pointed out that while the position of the established urban élite may be improved, influx control will operate more stringently against the unemployed and unhoused masses in the rural areas. These will still be subject to harassment and demands for passes.

The new legislation has one very serious drawback. Under section 10(1)(a) of the Urban Areas Act it has been possible up to now for blacks to qualify for permanent residence in towns if they have lived there in lawful accommodation and employment for a continuous period of ten years. But apparently section 10 is now to disappear and no more blacks are to be allowed to qualify in this way. Any blacks not so qualified who are found in an urban area are liable to a fine of up to R250 and a three-months jail sentence for a first offence; and anyone employing and/or accommodating them is liable to a maximum fine of R500 or six months' jail for a first offence, and for a second offence, a fine of R250-500 and 3-6 months' imprisonment, or both, or imprisonment without the option of a fine. The onus of proving innocence is on the accused. Further, inspectors may be appointed by the Department or a local authority with all the powers conferred on the police by section 43 of the Group Areas Act to enter premises and demand passes.

Dr Koornhof has asked for comment and criticism. We hope that the black leaders will respond to this invitation.

The League has submitted representations on these measures, as, we are sure, have other like-minded organisations. We hope that the Minister will take seriously all the points made and give more reality to his claim that blacks are to be given "just as much freedom as whites..."

#### Franchise (Cape Times, 8/11/80)

One of the most interesting of recent developments has been the statement by Mr Ben Schoeman approving direct representation in Parliament for the coloured people and the Indians.

It is ironical that the National Party, which destroyed coloured and Indian representation in Parliament to ensure its own political supremacy, should now be seeing such representation as possibly being to its own advantage. Is the President's Council the first step?



If that Council can bring forward a plan which will be acceptable to the Government, it will have gone a considerable way towards justifying its existence.

This would be at least a step towards serious plans to extend the vote to all South Africans - one essential for lasting peace. How about it, Mr Botha?

#### Conscientious objectors to be released

We understand that Peter Moll is to be released on December 2 and Richard Steele in January. The League respectfully salutes them both, and hopes that their courage has contributed to a more enlightened policy in the future.

#### Extending detention (Cape Times, 16/10/80, 6-11/11/80)

Detention without trial is a serious infringement of human rights. Renewed detention without any charge being brought against the detainees is even more serious. A recent example concerns two men originally detained in April, 1980 under the Internal Security Act. Their first warrants expired in August; they were extended for a further three months; and they have now been renewed until December 9. One of the two detainees is a banned person; the other is a community worker in Mitchell's Plain.

Another detainee, Miss Zubeida Jaffer, a journalist, after seven weeks in detention, has been brought to court and released on R500 bail - on the charge of having possessed 19 banned documents on September 3!

In terms of the Publications Act, a first conviction carries a fine of not more than R500, or imprisonment not exceeding six months, or both.

These penalties are, in all conscience, excessively severe for such an offence. Why add seven weeks in detention - before the person concerned has even been charged?

#### Long overdue (Sunday Times, 23/11/80)

The pass laws, seen in terms of human rights, are bad: if unjustly administered, they become infinitely worse. We pay tribute to the Commissioner's Court prosecutor, Mr Adam Klein, who recently walked out of the Court, refusing to administer them any longer.

The Sunday Times was informed by a senior academic lawyer in Pretoria that, in 100 cases between January 2 and 21, 1980 \* the charge sheets in all 100 cases failed to allege that the accused had committed the offence either intentionally or



negligently (the Supreme Court had previously ruled that the accused's "criminal frame of mind" was an essential element of the offence).

\* Apart from this, only 39 of the 100 cases were technically correctly conducted.

\* In 25 cases, the accused were juveniles (under 18), but no parent or guardian had been warned to be present, as required by the Criminal Procedure Act, to assist them.

\* In 15 cases, there was evidence to suggest that the accused had a reference book available, but that pleas of guilty were nevertheless recorded without further examination.

\* The 100 accused spent an average of six days in detention before sentence was passed, and in most cases the trial was postponed for at least four days between conviction and sentence, for no apparent reason.

\* Bail was allowed in only one case, and in not one was the accused represented by a lawyer.

No wonder that the Department of Co-operation and Development has embarked on what the Sunday Times calls "a dramatic clean-up operation", and is to call a conference of all magistrates in these courts early next year. The Department has already sent out a circular to those concerned which states, inter alia:

"It is essential that the liberty of people be held in high esteem, and that officials perform their duty in such a way that justice can be seen to be done.

"In these difficult circumstances, it is especially important that people are humanly and sympathetically treated."

We hope Dr Koornhof will insist on attending the conference.

#### Our President

We are happy to report that Sir Richard Luyt is out of hospital and making good progress. After retiring at the end of the year from the Principalship of our University, he hopes to have more time for activity with the League. We know all our readers will join with us in wishing him a long and happy retirement.

#### That A.G.M.

So far we have had a rather meagre response to the request for information from those meaning to attend. For catering purposes, please let us know if possible.

BUT COME ANYWAY!