

without warrant if it is reasonably suspected that he has failed to comply with the law. Every registered recruit must notify the police of a change of address.

Recruits who are at school or the university, are in full-time employment, are apprenticed, or are physically or mentally unfit may (not "shall") be exempted from training. There will obviously have to be written proof of such exemption. **In practice, therefore, every Coloured youth of the apparent age of 18 to 24 may at any time** be asked by a policeman to produce a piece of paper — a certificate either of registration or of exemption — and if he fails to do so may be arrested and lodged in the cells pending trial.

**Those in any way familiar with what Africans have to endure will not easily agree to the extension of what is virtually the pass system to yet another section of the community.**

Cadets at training centres will be under rigorous semi-military discipline. Indeed, the language of the Bill — recruit, cadet, pay and allowance — creates the impression of a military establishment and is reminiscent of the Special Service Battalion of the 'thirties, with this vital difference: S.S.B. took white youths and turned them into efficient soldiers to serve their country; this Bill proposes to take Coloured youths to turn them into semi-skilled labour in the interests of private employers.

South Africans of all colours should be under no illusions about the effects of this Bill. It can only increase immensely the sense of insecurity of the Coloured people — of the tens of thousands of parents whose children will now for the first time be forced into contact with the police, of the tens of thousands of exempted youths who will, nevertheless, be compelled to carry pieces of paper, and of the thousands of displaced youths whose welfare the Bill purports to have at heart.

The Liberal Party of South Africa wishes to draw attention to the fact that Coloured people, apart from officially-nominated Coloured Affairs Council, have clearly not been consulted on what should have been a welfare scheme, but which has, in fact, all the features of a penal measure — and one, moreover, which seriously invades the parental rights of the Coloured population.

\*This provision subsequently altered to "within seven days" — an amendment put forward by Mrs. Helen Suzman. — Ed.

## ANOTHER TWIST OF THE KNIFE

by Prof. A. S. Mathews

IN moving the second reading debate in the House of Assembly, Mr. P. C. Pelser, the Minister of Justice, described the Suppression of Communism Amendment Bill as "an innocuous little Bill". There is only one sense in which this description has any meaning at all. The Bill, when it becomes law, need not be feared by Mr. Pelser or by any of his loyal supporters. People arbitrarily deprived of the right to professional practice or of the right to belong to lawful organisations on the Minister's *verboden* list, will not think the measure innocuous. It will not be thought innocuous by those who are un-South African enough to retain a respect for certain basic principles of justice which the Bill will destroy when it becomes law. In making his remark, Mr. Pelser showed no feeling for language, no awareness of the monstrous implications of his "little" legislative measure.

His justification of the measure is equally open to attack on account of an absence of particularity which is the more surprising for having come from a lawyer. He claimed that communists had infiltrated the legal profession and had asserted themselves "particularly vigorously" in it. This charge will not send shudders down the spines of any except the pathologically gullible. The Minister is also reported to have said that persons charged under the Suppression of Communism Act preferred a certain type of legal representation and that if they could not get it they preferred to go without. This cannot rank even as an excuse for depriving people of their professional livelihood because they hold unorthodox views.

When the Minister and his colleagues did become precise in argument they were unconvincing. Some lawyers, he charged, had been the spearhead in subversive activities and had planned the downfall of South Africa. This may be true, but it does not make Mr. Pelser's measure one whit more desirable. A lawyer who commits a crime may be convicted and imprisoned just like any other person, and the courts have power under the present laws to debar him from practice. If his offence falls short of a crime, he can still be punished for

unprofessional conduct. The machinery for dealing with the black sheep of the legal profession is impressively effective and does not require overhaul.

The Nationalist argument really boils down to the proposition that communists are *ipso facto* unfit to practise as lawyers. This proposition is refutable both in its general application and in its application to the specific facts. On the general level it is blatantly indefensible as a maxim for government in the Western tradition. Intellectual freedom is at the heart of that system and is violated by a law which deprives a man of the choice of his profession and means of livelihood on account of the beliefs to which he subscribes. It is precisely for a violation of this kind that the communist states are criticised by believers in the open society, and it would be a strange thing if we emulated those states in the heresy for which they are almost universally condemned in the West.

It is often said that communists have forfeited any claim to intellectual freedom because they themselves value it only as a weakness in the democratic system, to be exploited in the struggle for domination. This argument deserves short shrift. It demands that we surrender freedom in order to preserve it — a demand calculated to make the most ardent devotees of the paradox blench. Those who make it are at best faint-hearted allies of freedom; at worst, they constitute an insidious threat to its maintenance. In taking up this position, one does not necessarily underrate the communist threat to freedom. The point is that in resisting communism we must not allow ourselves to become communists in all but the name. There is impressive evidence to show that communism can be kept at bay by vigilant and civilised rule.

In any event, the argument that communists are unfit to be lawyers is only partially relevant in South Africa, where communists are those whom the Government chooses to name as such. The section of the Bill debarring lawyers from practice provides *inter alia* that the court shall not admit to practice, and shall remove from the roll if already admitted, any person who is a listed member of an organisation declared to be unlawful under the Suppression of Communism Act. It is well known that many listed members of unlawful organisations are not communists and that they never have been (or will be) communists. The fact that they are not communists will not constitute a ground for judicial removal from the list,

since they will have to prove either that they were not members of the organisation concerned or that they neither knew nor could have known that the organisation was doing things which "might render it liable to be declared an unlawful organisation". It is quite conceivable that many listed non-communists will be unable to produce proof of this kind. Therefore the argument that communists are unfit to practise is not a fully honest argument since it will be possible to debar non-communists from practice. Significantly the courts have never been entrusted with the responsibility of deciding who are communists and what organisations are communist-directed.

A disturbing consequence of Mr. Pelsler's Bill is the likelihood that the right of an accused to an adequate defence regardless of his beliefs or political convictions, a right so magnificently exemplified by Lord Erskine in his defence of Thomas Paine, will be weakened or perhaps even placed in jeopardy. Nationalist speeches identifying the defenders of unpopular clients with their heretical beliefs are likely to aggravate the position. This is a danger requiring the urgent attention of South African lawyers, who must act through their official associations to guarantee a vigorous defence to all who require it.

The Minister's "innocent" Bill also extends his powers to cripple the opponents of apartheid by arbitrary decree. He may by notice in the Gazette prohibit all persons who were members (whether listed or not) of an organisation declared to be unlawful, or who have been restricted under the Suppression of Communism Act, from being members of or from participating in any organisation designated by him in the notice. Such persons will be debarred from making or receiving any contributions of any kind for the direct or indirect benefit of the designated organisations. By one stroke of the Ministerial pen he may virtually end the public life of any inhabitant who displeases him. Needless to say, the Minister will not be under the control of the courts, which are condemned by the Act to a role of near impotence. In taking this power, the Nationalist Government has given another twist to the knife it has remorselessly driven into the heart of freedom. It may not be long before its feeble beat finally dies out.