CHRISTIAN LIBERTY AT STAKE

DR. R. H. W. SHEPHERD
President of the Christian Council of South Africa.

TENSION between the Churches and Parliament was never so evident in South Africa as in the early months of 1957. The churches can never forget the injunctions of Scripture that "prayers, intercessions and giving of thanks be made for all men: for kings, and for all that are in authority; that we may lead a quiet and peaceable life in all godliness and honesty. For this is good and acceptable in the sight of God, our Saviour. (I. Tim. II. 1ff.)

The position for churchmen was not made easier by the fact that so many of them had worked in closest harmony with the State: for years they had toiled as unpaid servants of Government in the education field. How often, for example, in the almost forty years that have passed since the writer first became a manager of schools under the Cape Education Department has he heard it suggested that missionary managers were only unpaid clerks of the Education Departments. But the toil was believed to be worthwhile, because it was a means of helping the non-European peoples, and because there was something commendable in the companionship of Church and State in the field of education. Churchmen were not disloyal whatever parliamentary party was in power.

The passing of the Bantu Education Act altered the easy relationships. Many churchmen felt that Government measures were a mistake, not least in timing, and particularly did it seem a mistake when the Churches were given an ultimatum that the training of teachers could no longer be left in their hands. It seemed particularly desirable that men and women who were to be the teachers and leaders of their people should be nurtured in a warm, Christian environment, and not in the cold, official atmosphere that often marks government institutions.

Still, the vast majority of churchmen acquiesced, though probably not with a good grace, because they had no wish to see thousands of African children thrown out with only the education of the streets as an alternative, and because, though they believed church schools should be fostered by the State and not eliminated, they recognized that the education of its subjects is ultimately a duty of the State.

Further difficulties were created for the Churches when Government decreed that the sites of many church buildings would be held on a yearly basis and be subject to cancellation "if in the opinion of the Minister of Native Affairs the activities of the occupier or any of his representatives, whether on the site or elsewhere, are such as to encourage deterioration in the relationships between Natives and Governmental persons or bodies."

Again, in the Tomlinson Report were recommendations that caused the Churches uneasiness, despite the glowing tributes paid to the work of the Churches. Let us put matters in their context by quoting some of the Commission's findings:

> "The State and the Churches do not form an antithesis in South Africa. On the contrary, the one is the team mate of the other. In South Africa they are certainly dependent upon one another, especially as regards the spiritual and temporal elevation of the Bantu. Good mission policy is good government policy in South Africa and forms the basis of a sound racial policy.
>
> "Moreover, the State and Churches must accept the fact that it was by no mere accident that European Christianity established itself at the southern point of Africa, but that a high and exalted purpose was intended. In actual fact the Sovereignty and Omnipotence of God is accepted as an article of the Union Constitution, and an article which is entrenched also in the Christian conscience of the vast majority of the citizens. South African Christianity must be made and kept conscious of its vocation as regards the rest of Africa. . . . All this calls for sacrifice. The best of our European sons and daughters will have to serve as 'Missionaries' in every sphere of life."

Concerning this declaration it was said by the Government that it was completely at one with the Commission in its high estimate of the positive religious work of Churches performed in the right spirit, and the undertaking was given that the Government would render all the assistance which was fitting and within its power.

The recommendations that caused uneasiness were, among others, these:

(1) That the State should grant subsidies in connection with missionary work as such. Support of this kind, it was recommended, should, however, only be given to accredited churches in proportion to the number of European adherents.

(2) The registration *de novo* of all churches and missionary societies.

(3) The issue of permits to all missionary workers who wish to labour among the Bantu.

(4) The issue of special licences to missionary workers who wish to work in the Bantu areas.

It was noteworthy that the Government white paper declared:

> "Whether the State should . . . intervene, as suggested, by a system of licensing approved church workers and thereby possibly curtailing religious liberty, is open to very grave doubt. The Government is not prepared to approve of such steps."

The Government also declared that it did not see its way clear to subsidize missionary work, as there were recognized denominations whose outlook on the Bantu and his development was not in accordance with the requirements of the Commission itself, and if they were to be assisted the object of the recommendation would be defeated. At the same time, it would not be in the interest of the State or of the Churches if the State were to discriminate between denominations by granting subsidies subject to certain tests, as the latter might be regarded as based on political or other partisan considerations. The same objection, it was declared, applied in the case of contributions by the State towards the training of missionary workers.

The comfort of such a declaration, which seemed wise and statesmanlike, was considerably modified, however, when it was stated that the Native Affairs Commission, in collaboration with the Department of Native Affairs, would thoroughly investigate the implication of the recommendations on the registration anew of all churches and societies as well as the recommendations on the issue of permits to missionary workers, and in particular to those who desired to work in Bantu areas.

No attack on the autonomy of the Churches was so direct as that contained in clause 29 (*c*) of the Native Laws Amendment Bill which was read in Parliament for the first time on 20th February, 1957. The clause was as follows: "No church, school, hospital, club or other institution or place of entertainment which was not in existence on the first day of January, 1938, to which a Native is admitted or which is attended by a Native, shall be conducted by any person on premises situated within any urban area outside a location, Native village, Native hostel or area approved by the Minister for residence of Natives in terms of paragraph (*h*) of sub-section (2), nor shall any meeting, assembly or gathering to which a Native is admitted or which is attended by a Native, be conducted or permitted by any person on such premises without the approval of the Minister given with the concurrence of the urban local authority concerned, which approval may be given subject to such conditions as the Minister may deem fit and may be withdrawn by him after

consultation with the urban local authority concerned, or if he is satisfied that any such condition has not been observed."

It is of special significance that legal experts hold the view that the second part of the clause—after the words "in terms of paragraph (*h*) of sub-section (2)" right on to the end is not limited by the reference to the first day of January, 1938.

The publication of the clause provoked a sharp reaction from various churches, but most notably from the Church of the Province of South Africa (Anglican). The Archbishop of Cape Town, Dr. Geoffrey H. Clayton, after consultation with some of his brother bishops, addressed a letter to the Prime Minister. In that letter, made all the more impressive by his death on the following day, the Archbishop spoke for many of the Churches when he declared:

> "We desire to state that we regard the above-mentioned clause as an infringement of religious freedom in that it makes conditional on the permission of the Minister of Native Affairs (*a*) the continuance in existence of any church or parish constituted after January 1, 1938, in an urban area except in a location which does not exclude Native Africans from public worship; (*b*) the holding of any service in any church in an urban area except in a location to which a Native African would be admitted if he presented himself; (*c*) the attendance of any Native African at any synod or church assembly held in an urban area outside a location.
>
> "The Church cannot recognize the right of an official of the secular Government to determine whether or where a member of the Church of any race (who is not serving a sentence which restricts his freedom of movement) shall discharge his religious duty of participation in public worship, or to give instruction to the minister of any congregation as to whom he shall admit to membership of that congregation.
>
> "We recognize the great gravity of disobedience to the law of the land. We believe that obedience to secular authority, even in matters about which we differ in opinion, is a command laid upon us by God. But we are commanded to render to Caesar the things which be Caesar's, and to God the things that are God's. There are, therefore, some matters which are God's and not Caesar's, and we believe that the matters dealt with in Clause 29 (*c*) are among them. It is because we believe this that we feel bound to state that if the Bill were to become law in its present form we should ourselves be unable to obey it or to counsel our clergy and people to do so.
>
> "We therefore appeal to you, Sir, not to put us in a position in which we have to choose between obeying our conscience and obeying the law of the land."

This declaration and others like it, from the Roman Catholic, Presbyterian, Baptist and other Churches, led the Minister of Native Affairs to denounce the action of the bishops of the Church of the Province as "most unnecessary agitation," and to declare that church leaders should have waited for clarification as to the scope and intent of the clause when the second reading took place in Parliament and for the possible amendment of the wording. To this the retort was given that the Government had already issued a lengthy "Explanatory Memorandum" with a view to clarification of the Bill, and this Memorandum in no way qualified the terms of the clause but repeated them.

On 21st March the Minister submitted his redrafted clause to the House of Assembly in a two hours' speech. The clause as redrafted was found to contain over 140 lines, as against the 20 of the original. The main section affecting the Churches read:

> (*b*) the Minister may by notice in the *Gazette* direct that no Native shall attend any church or other religious service or church function on premises situated within any urban area outside a native residential area, if in his opinion:
>
> (i) the presence of Natives on such premises or in any area traversed by Natives for the purpose of attending at such premises is causing a nuisance to residents in the vicinity of those premises or in such area; or
>
> (ii) it is undesirable, having regard to the locality in which the premises are situated, that Natives should be present on such premises in the number in which they ordinarily attend a service or function conducted thereat,
>
> and any Native who in contravention of a direction issued under this paragraph attends any church or other religious service or church function, shall be guilty of an offence and liable to the penalties prescribed by section forty-four:
>
> Provided that no notice shall be issued under this paragraph except with the concurrence of the urban local authority concerned, and that the Minister shall before he issues any such notice, advise the person who conducts the church or other religious service or church function of his intention to issue such notice and allow that person a reasonable time, which shall be stated in that advice, to make representations to him in regard to his proposed action: and provided further that in considering the imposition of a direction against the attendance by Natives at any such service or function, the Minister shall have due regard to the availability or otherwise of facilities for the holding of such service or function within a Native residential area."

The rest of the lengthy amendment makes similar regulations applicable to schools, hospitals, clubs or similar institutions; also to places of entertainment, meetings, assemblies or gatherings (including social gatherings).

The Churches are bound to give the redrafted clause careful consideration, but the first reactions were in the form of declarations that the redrafted clause was more objectionable than the original, since its main feature was to remove responsibility for observing the law from the Churches and their leaders to the voiceless and voteless Africans.

Two days before the redrafted clause was published, the Christian Council of South Africa, which represents twenty-three affiliated bodies, including all the principal Churches, except the Dutch Reformed and Roman Catholic, held a representative conference in Cape Town and issued the following statement:

> **"1. The conference associates itself fully with the statement issued by the bishops of the Church of the Province contained in the letter from the late Archbishop to the Prime Minister.**
>
> **"2. The conference further takes its stand on the following basic rights of religious freedom:**
>
> **(a) The right to assemble for unhindered public worship;**
>
> **(b) The right to freedom of association and fellowship;**

(c) The right to preach the Gospel publicly.

"3. The conference further affirms the right of the individual to worship where he pleases and the right of the Church to admit any individual to its services or fellowship.

"4. In making these statements the conference affirms that it would act in exactly the same manner irrespective of any political party in power which sought to pass a law on the lines of clause 29 (c) of the Native Laws Amendment Bill.

"5. With great regret the conference asserts that the Christian Churches would have to disregard any laws or regulations which they believe would infringe these fundamental principles.

"6. The conference declares that the denial of freedom of association and the enforcement of compulsory apartheid in any sphere of our life is a denial of the law of God and a repudiation of the teaching of our Lord Jesus Christ."

After the redrafted clause was made known, the Council, through its action committee, declared it was more objectionable than the original draft, and added: "We shall be forced to disregard the law and to stand wholeheartedly by the members of our Churches who are affected by it."

At the time of writing the parliamentary debate continues. But the issues are plain. For the Churches the invasion of the State on the sphere of worship—any attempt to dictate where or with whom men are to worship—is an issue that admits of no compromise.

Nothing is more familiar in Church history as recorded in Holland, France, Germany, Britain and other lands, than the resistance of the Church in such situations. Guthrie, the Scottish Covenanter, in face of similar decrees by the authorities of his day, declared: "This poor body, I submit to you, to do with it whatsoever you will. But, my lords, this conscience I can never submit." Beza spoke for the Church of the ages when he said to the King of Navarre: "Sire, it belongs in truth to the Church of God . . . to receive blows and not to give them, but may it please you to remember that it is an anvil that has worn out many hammers."