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LIBERAL OPINION

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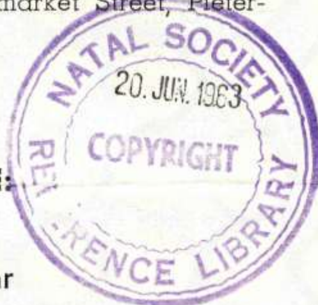

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1963 — So Far

From the Liberal Party point of view the first months of 1963 have been distinguished by a number of Government actions of different natures—administrative, legislative and intimidatory.

In the administrative field the most serious steps taken against the Party have been the bannings of Randolph Vigne, National Vice-Chairman, and of Peter Hjul, Cape Divisional Chairman, and the house-arrest "warning" which has been left hanging over the head of Adelaine Hain, Pretoria Branch Secretary, for five months. At another level, two applications to hold public meetings of the Party at Umtata have been turned down. The Umtata Magistrate's reply to the second of these applications stated that he was "not prepared to authorise the holding of such a meeting on the said date or on any other prior or subsequent date by the Liberal Party of South Africa . . ." Nothing equivocal about that—and coming on top of the persistent refusal of permission to the Party to hold meetings in other Transkei towns, even in the predominantly "white" East Griqualand, it must be taken as the Government's intention to try to prevent the Party from carrying on normal political activities in the Transkei.

Peter Hjul has for long been one of the Government's most energetic opponents in the

Western Cape, but Randolph Vigne's ban was at least partly due to the fact that he had a long association with the Transkei opposition to the Bantustan policy, and had been a most effective worker there. Opposition in the Transkei is something which terrifies the Government, and the Vigne ban must be seen also as an attempt to intimidate that opposition and particularly Liberals who were involved in it. It was not the only step the Government took.

Members of the Party have been held in gaol in the Transkei for over three months and have then been released without being charged. Others have been held on charges so flimsy that their appearance in court, after months in gaol, has led to their immediate discharge. Still others, notably the group headed by the Eastern Cape Chairman of the Party, Terence Beard, have been detained for questioning for up to a week while visiting Umtata on routine Party business.

All this is part of a process of intimidation not confined to the Transkei. Special Branch attendance at meetings is increasing. Police are paying more attention to Party members in isolated areas, confiscating literature and membership lists and generally trying to induce fear and uncertainty. But the intimidation campaign on the grand scale is the one that emanates from the safe precincts of Parliament and from the lips of Cabinet Ministers. Alan Paton had something to say in reply to this campaign in the last Liberal Opinion. It is a campaign based on smears and innuendoes and some details of it are produced elsewhere. Its aim is to isolate the Liberal Party from "respectable" white opinion, so that white South Africans will think twice about joining the Party, but will not think twice about its members being banned or detained. It is also designed to frighten members of all races out of the Party and into an inactivity which will suit the Government very well. Typical of the "smear" technique is the fact that every challenge to Government spokesmen to substantiate their allegations linking the Party with violence, has been met with stony silence.

In the legislative field the present session has plumbed depths lower even than the South African Parliament has previously managed to reach. This is not only the Government's fault. It is perhaps even more the fault of the United Party opposition. Only the heroic stand of Helen Suzman against the General Laws Amendment Act shone out as a beacon through the murk of Government sophistry and United Party equivocation which marked that dismal debate. This Act, which the United Party helped the Government rush through, is indefensible on any grounds. It destroys the rule of law, waives habeas corpus, provides for perpetual detention and makes a punishable offence an act which was committed **legally** as much as ten years ago. It is a Nazi measure, and there is no doubt that, like all Nazi measures, it will be used to the full.

The other two important legislative measures of the session have been the Transkei Constitution Bill and the Bantu Laws Amendment Bill—two sides of the same coin. The first offers to Transkeians limited local self-government (always subject, of course, to Republican veto); the second uses the myth of this Bantustan "independence" to justify taking away every right an African in "white" South Africa at present enjoys. What the Nationalists regard as "white" South Africa comprises some 87% of the surface area of the country and in it lives some 60% of the African population. These people are now to be reduced to rightless serfs, "work units" to be housed, fed and paid by white South Africa for just so long as the Republican Government feels that it is "in the public interest" that they should be. An African in "white" South Africa is to be offered a vote in a subsidiary legislature in a "homeland" which he may never have seen and may never wish to see. In return he must give up all claim to share in the wealth of the industrialised and highly-developed South African economy which he, as much as anyone else, has helped to build.

This has been a grim session, and a grim year so far, but the compensations are there, even if they are not obvious. As far as the

Liberal Party is concerned these come from the refusal of members to be intimidated either by what the Nationalists are saying or by what they are doing. This refusal has been reflected in two excellent Provincial Congresses held in April and May in the Transvaal and Natal—the one just before the General Laws Amendment Act was passed, the other just after. But it is not only members who have not been intimidated. Far from frightening potential members off, the Government's smear campaign has been accompanied by an inflow of members, a surprising number of whom are white.

Detention "This Side of Eternity"

(The General Law Amendment Act, 1963)

1963 has seen the introduction into the South African Parliament of a law which stabs at the very heart of justice in South Africa. Stripped of its obscure title, the General Law Amendment Act is yet another amendment to the Suppression of Communism Act.

The Suppression of Communism Act (No. 44 of 1950) is the piece de resistance in the armour of arbitrary powers steadfastly stockpiled by the Government. The Act does not contain a satisfactory definition of Communism, and on close examination it will be seen that the fact that any definition at all is given is entirely irrelevant as far as a victim of ministerial action is concerned. **Stripped of its legal language, the Act provides that a Communist is a person who is deemed by the Minister to be a Communist.** And courts have held that they will not usually look behind the Minister's decision where a discretion is vested in him. Generally the courts will not independently weigh the facts on which a Minister's decision is based and arrive at their own and perhaps different conclusions. **Unless it can be proved that the Minister did not apply his mind to the facts or was actuated by malice—and in almost all cases this is not possible—the courts will not intervene.**

UNFETTERED POWERS

It was thus true to say, even before this year's law, that the Minister had unfettered, arbitrary powers of an alarming character over an individual in South Africa. He could ban meetings; ban publications; ban individuals from attending gatherings (including social gatherings); restrict an individual to a particular area; cause an individual to resign from an organisation; or house arrest him.

All these things the Minister can do, has done and is doing in South Africa. In doing so he acts on his own say-so. There is no machinery for supervising him, no appeal to a court.

Such powers have a fascination for those who, like Mr. Vorster, rule by them. Their appetite is never satisfied. It is thus not surprising that the Suppression of Communism Act has been regularly amended and that Mr. Vorster has promised that, should he require even more powers, he will introduce further laws. As Mr. Vorster himself is the judge of when more powers are needed, there is little doubt that 1964 will see yet another Bill being introduced.

What are the more obnoxious features of the 1963 law?

A person convicted under the various laws creating political offences—the Suppression of Communism Act, Public Safety Act, Criminal Laws Amendment Act, Riotous Assemblies Act or Unlawful Organisations Act—can be kept in prison by the Minister after he has served his sentence. The Act has been law now since May 2nd. Already Robert Sobukwe, formerly president of the now banned Pan-Africanist Congress, is imprisoned on Robben Island, although his sentence has been served.

Recently three young Indians were sentenced to ten years each for sabotage, being convicted of blowing up a railway shed. In the court argument was addressed to the judge by both the State and the defence on the question of sentence. But under this law, whatever sentence the court imposes, it is still open to the Minister to imprison the accused

for whatever period he likes after that accused has served the sentence imposed by the court.

The new law also provides that, whenever a commissioned police officer suspects a person upon reasonable grounds of having committed, or intending, or having intended to commmit. any offence under the Suppression of Communism Act or the Unlawful Organisations Act, or that such person has information about the commission of such an offence, or the intention to commit such an offence, then such officer may have that suspect arrested and detained for 90 days at a time. There is no limit on the number of occasions on which the person may be detained. He is detained until, in the opinion of the police, he has replied satisfactorily to all questions put to him.

The jurisdiction of the courts is totally removed.

The person in custody is visited weekly by a magistrate in private.

This provision has already been used and a number of persons have been detained.

PARLIAMENTARY OPPOSITION

The response of the United Party's opposition in Parliament must have whetted Mr. Vorster's appetite for 1964. Unlike the lone Progressive M.P., Mrs. Helen Suzman, who fought the law courageously, the United Party lent the Government its support for the passage of the Bill and voted for both the second and third readings. In the Senate, Col. Pilkington Jordan, of the United Party. was extravagant in his praise of Mr. Vorster. Senator Jordan apparently wore spats to the debate—perhaps to keep his political cold feet warm!

The correspondence columns of the English press seem to show a preponderance of letters in support of the United Party's action. It seems that there is a good majority of English-speaking white South Africans who support Mr. Vorster's new measures. The muted protests against the law suggest that the Nationalists have correctly gauged the temperature of white South African opinion. The "Poqo threat" has thrown white South Africa into a panic.

INTO THE LAAGER

When Mr. Leballo announced from Maseru that he had established a movement in South Africa, organised into cells and totalling thousands of members, the S.A. police were quick to respond. It is believed that a parcel of letters carried by a messenger from Mr. Leballo to members of his movement in South Africa was intercepted by the S.A. police. As a result of this and other information, there have been widespread arrests and thousands of Poqo suspects have been imprisoned. Mr. Leballo has apparently vanished.

This threat, together with the killing of white people at Paarl and at the Bashee River, has tended to shift a body of white opinion even further to the right and into the Nationalist laager. Nationalist propaganda has been skilful in playing on white fears, and the United Party in Parliament—ever a faithful mirror, never a leader, of white opinion—confirms that there is this trend among the white people.

Many white people see Poqo as a real terrorist threat to their position, and they are prepared to support the Government in the measures that it is taking to crush it. They regard the rule of law as an academic theory, possibly suitable for homogeneous societies like Britain, but quite irrelevant to South Africa. The fact that these laws can be used against any South African and the fact that there is no safeguard against abuse has been ignored in the panic of the moment. The Government's own responsibility for any crisis that may exist has similarly been ignored.

There is a crisis in South Africa today because all normal means of political expression for non-white people have been abolished. Responsible leaders have been banned and restricted, and in desperation a growing number of non-white people are listening to the violent counsels of new leaders.

While white Nationalist South Africa and its hangers-on continues to be determined to hold its position of privilege by force, it will, of

course, have no triuck with the rule of law. The rule of law presupposes a society ruled by consent. There will be peace in South Africa only when the social order commands the loyalty and respect of the people of the country. Such a social order will only come after apartheid has been defeated. When it does, the Government of the day will have no need to fear civilised standards of legal practice.

Smear

"The Liberal Party is cleverer than the United Party and much cleverer than the Progressive Party . . . it has fetched its weapons from the camp of the Communist . . . the Liberal Party wants to do battle with us in the Transkei . . . it uses all the weapons with which Communism fights: treachery, murder, conflicts, lies, false reports and the creation of incidents . . . it is a deadly sting . . . we shall have to restrict the Liberal Party."

All this was part of a tirade in Parliament by a prominent Nationalist speaking during the second reading debate on the Transkei Constitution Bill. This member, Mr. Cas Greyling, is known best for the extravagant incoherence of his speeches, but this time for once he did express a dominant theme in recent Nationalist Party propaganda.

Liberalism has never been a popular idea among adherents of narrow Afrikaner Nationalism, and the South African Liberals' clear call for a fully integrated non-racial society has made them an obvious target among the declared enemies of apartheid.

For years, however, the abuse and criticism was spasmodic and was directed more against well-known and outspoken individuals than against the Party. When the idea came under fire the target was "liberalism". But last year the attack became more concentrated, and from February this year it has been directed right at the Liberal Party. After the exaggerated menace of Poqo—used by the Minister of Justice to ease his latest General Law Amendment Act through Parliament—organised Liberals are high up among white racialism's favourite bogeys.

The reason for this attack and the inspiration behind it will have to be sought in the dingy corridors of Nationalist thinking. Fear of any group of people who see hope in the breakdown of the colour bar is an obvious motive. So too is the resentment of any White South African who will not go behind the barricades. Cape Liberal leaders Randolph Vigne and Peter Hjul were banned, said Party President Alan Paton, because they refused to move into the white laager.

DIE BURGER

Not so long ago the official version of the liberal danger was that liberals "wittingly or unwittingly" assisted communists. In its editorial comment at the time of the banning of Peter Hjul, Cape Town Nationalist newspaper Die Burger expressed a different view. Explaining that the focal point of Liberal Party policy is universal franchise, it said that, with the slogan "one man, one vote", Liberals were attempting to outbid the communists and were building up "Bantu pressure". This, it warned, was bound to bring Africans into direct conflict "with the overwhelming majorities among the other population groups". Then, with peculiar disregard for the record of its own Party during the last war, it compared this "urge for a sell-out" with the actions of pro-Nazi traitors in Holland and Norway in 1940.

THE PAARL INQUIRY

From the editorial columns of Die Burger and the banning edicts of the Minister of Justice, the attack quickly entered a new phase.

Liberals had been accused of having wrong ideas and of exerting wrong influences. Then on February 28, before the one-man commission of enquiry into the causes of the Paarl riots in November last year, counsel for the police, Mr. Jan Steyn, and the pro-Government Emigrant Tembuland Chief Kaiser Matanzima

both implied that Liberals had been involved in murder and other violence in the Transkei. Challenged on his insinuations a few days later, Mr. Steyn said: "When I used the phrase 'persons who are referred to as liberals' the persons are, in fact, described by the deponent as members of an organisation called the Liberal Party. There is no evidence to suggest that in this case they were Europeans."

None of this evidence has, however, been made public; neither have the reasons behind an allegation made later in March in a special interim report by the Paarl Riot Enquiry commissioner, Mr. Justice Snyman.

In this report, which was mainly a warning about the danger of the Poqo movement, Mr. Snyman said: "Although the objectives of Poqo are aimed particularly at the Whites, it would appear that there are Whites who use the Poqo movement for their own purpose. Communistic agitators have been mentioned in this connection as well as White people who, according to the evidence, pretend to be liberals and even members of the Liberal Party . . . It is remarkable that visits to the Transkei Territory by certain Whites have time and again been followed by murderous assaults on tribal chiefs, headmen and others by bands led by members of Poqo."

Mr. FRONEMAN

With this clause of the report to work on and forgetting the important word "pretend" in it, Nationalist Party M.P. for Heilbron, Mr. G. F. van L. Froneman, was able during the budget debate nearly to reach the vehemence of Mr. Greyling's earlier tirade. Referring to a challenge by the Leader of the Opposition calling on the Minister of Justice to try Peter Hjul in court and there attempt to prove that the ban was justified, Mr. Froneman asked: "Who are those people (Hjul and Vigne)? Do you know that the Snyman report points to those people on whom a limitation has been placed as possibly being connected with the undermining activities of Poqo. The report says that strangely enough, if those people move about in a certain area of the Transkei a murder is committed there the next day . . . I want to put it this way that the liberals and the Poqo have the same objective to-day."

A similar accusation by implication was made in the same debate by the Minister of Justice. Trouble in the Transkei was, he said, caused by people from outside: "Who sends them? Certain Whites, as is stated in this report. And if action is taken against those Whites, and it suits the Leader of the Opposition to do so, he issues pious statements to the press."

This evasion of the challenge was later criticised by Sir de Villiers Graaff.

Finally, in the Senate Debate on the Transkei Constitution Bill on May 13th, Mr. de Wet Nel, Minister of Bantu Administration and Development, announced that there was a "White brain" behind the killings and unrest. He went on to make the extraordinary statement that he knew who the people responsible for the killings were and "wished he could reveal their names".

So do we. In fact, we feel there is a clear duty on Mr. Nel to reveal these names at once. If he will not do so voluntarily, perhaps 90 days' detention for questioning will persuade him to do so—or to admit that there is no basis for his allegations whatsoever.

Apartheid and the Law **No. 3**

By a Lawyer

SOLD TO A FARMER
AN IMPLICATION OF THE BANTU LAWS AMENDMENT BILL, 1963

In 1959 the public was told something of an arrangement that had been made between the Department of Justice and the Department of Bantu Affairs in regard to a scheme for the employment of petty offenders. In his general circular No. 23 of 1954, the Secretary for Bantu Affairs said in effect that Africans arrested for offences such as failure to pay tax and contraventions of Section 10 of Act No. 10

of Act No. 25 of 1945 (being in an urban area without permission), if so arrested between 2 p.m. on Sundays and 2 p.m. on Fridays, should not be charged immediately after arrest but merely detained by the police. They should be removed under escourt to the district labour bureau and handed over to the employment officer at times to be arranged between him and the South African police. The employment officer was to sign a roll, prepared by the police in respect of Africans sent to the labour bureau, which was to serve as a receipt for the prisoners handed over. The Africans were to be offered employment, priority being given to farm labour, and if any declined they were to be returned to the police for prosecution.

This scheme apparently led to the most widespread abuse, and families in areas such as Alexandra Township, near Johannesburg, when their menfolk disappeared, began saying that their husbands and fathers had been sold to a farmer.

In some cases applications to court were made by members of affected families, one of these matters being that of Dorcus Sadika, who petitioned the Supreme Court at Pretoria for an order calling upon a farmer to produce the body of her husband to the court and to show cause why her husband should not be released from the farm. The labourer was in due course released by order of the judge.

Among the affidavits filed with this petition was one by the released man in which he said under oath that at the farm labour bureau the official in charge said that the arrested men had to wait for farmers who wanted "boys" to work for them. When he protested the official struck him across the face and said that it was not for him to choose. Later he was taken into an office with others and ordered to place his thumbprint on a document, which he did.

The affidavit also gives a description alleging dreadful conditions of work and virtual imprisonment on the farm to prevent escape.

When several such applications to court led to serious criticism by the public and in the press, the Minister announced in Parliament that the scheme had been discontinued.

Section 17 of the Bantu Laws Amendment Bill now proposes to give legislative sanction to something that may lead to the same abuses. It proposes to amend the Native Labour Regulation Act, No. 15 of 1911, by providing in Section 28 bis that an African arrested or convicted on a charge of contravening the Urban Areas Act or the Passes Act may be detained in a depot established by a labour burea. Such depot is to be managed by an approved officer, who is given the powers of a magistrate to impose suspended sentences, a depot being a place where a court may be held.

This is what sub-section 5 says:—

> "The officer . . . may . . . in respect of any Bantu convicted and detained in a depot . . . if such Bantu agrees to enter and enters into a contract of employment with such an employer and for such a period as such officer may approve, permit such Bantu to enter into employment in accordance with the terms of that contract, and if he deems fit, order that such Bantu be detained in the depot pending his removal to the place at which he will, in terms of that contract, be employed."

In view of the unfortunate history of these so-called voluntary contracts of employment, what safeguards are there to prevent the African in detention at a depot from having his thumbprint forcibly impressed on a paper that he does not understand to be a contract whereby he engages himself to work for a farmer?

The Bill takes away any right of any African to be in any urban area if officials consider that the supply of labour is such that Africans should be moved out of that area. Failure to obey an order to move is an offence exposing the person concerned to conviction and in due course to the procedure described above.

Is the future to be that whole communities may one day be sold to farmers?

The Budget

South Africa intends to spend R157,000,000 on defence during the current year. The previous year the figure was R122,000,000. To gain a picture of what this means, it should be compared with the total expenditure of R102,000,000 on defence in 1944-45, when South Africa was fully engaged in the intense struggle of a World War. It is clear, therefore, that Sharpeville has taught no lessons—the only effect is that three years afterwards the counry is spending more on armaments than it was during the war. The status quo is being maintained by force, and not by a realistic attempt to solve problems.

TOMLINSON REPORT

When the Tomlinson Commission suggested that a figure of R210,000,000 should be spent on developing the reserves over a period of ten years, it was said that the country would be hard pressed to find this amount, yet the current expenditure on armaments absorbs three-quarters of this amount in a single year, and most of the defence expenditure would be unnecessary if the Government were attempting to solve its problems in justice and equity.

The country is already feeling the effects of this expenditure. There is a minor boom, particularly in the steel industry, which may well extend into a major boom once the full effect of the spending has worked its way through the economy. White labour is scarce so that once again African workers are being absorbed into jobs which would normally be barred to them by the industrial colour bar. In its direct results this is all to the good. Not only does it benefit those people directly concerned, but it helps to improve living standards in the country as a whole. The pity is that the chance is being largely wasted for the following reasons:—

(a) *If there were no economic colour bar, and every member of the community conuld contribute his services to his full abilities, there would be a much more rapid rise in living standards for all the people of South Africa.*

(b) *The money spent is producing no permanent results. It is a wasted effort—money poured down the drain simply to maintain a system of injustice. Were the same amount spent on developing the rural areas, the immediate effect on the buoyancy of the economy would be the same, and there would be a lasting improvement which would generate further wealth in the future.*

DEVELOPMENT EXPENDITURE

What is really needed is expenditure on African education, both in regard to schools and in regard to salaries, on farm development, including loans and irrigation, communications, particularly roads, and on housing in rural areas. Were this to be done, the emphasis would be switched from expenditure in areas where industrialisation is already intense and where sufficient skilled workers are not available, towards those areas where it is essential both to have long-term improvement and to pump more money into the economy so as to bring them nearer to viability. There is very little money indeed circulating in the reserves, and what there is comes mainly from money sent back by workers in urbanised areas who are forced to leave their families behind. Were there heavy expenditure on development in these areas themselves it would generate a money economy in the most backward parts of the country, and would give employment to people who have no employment whatsoever. This is what South Africa needs. This is what could be done without any marked burden financially were there sound policies instead of the policies of racial oppression which force the country to divert its energies towards massive armaments and other wasted expenditure that will bear no fruits other than mounting tension, and will solve no problems in South Africa.

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