

A JOURNAL OF LIBERAL AND RADICAL OPINION

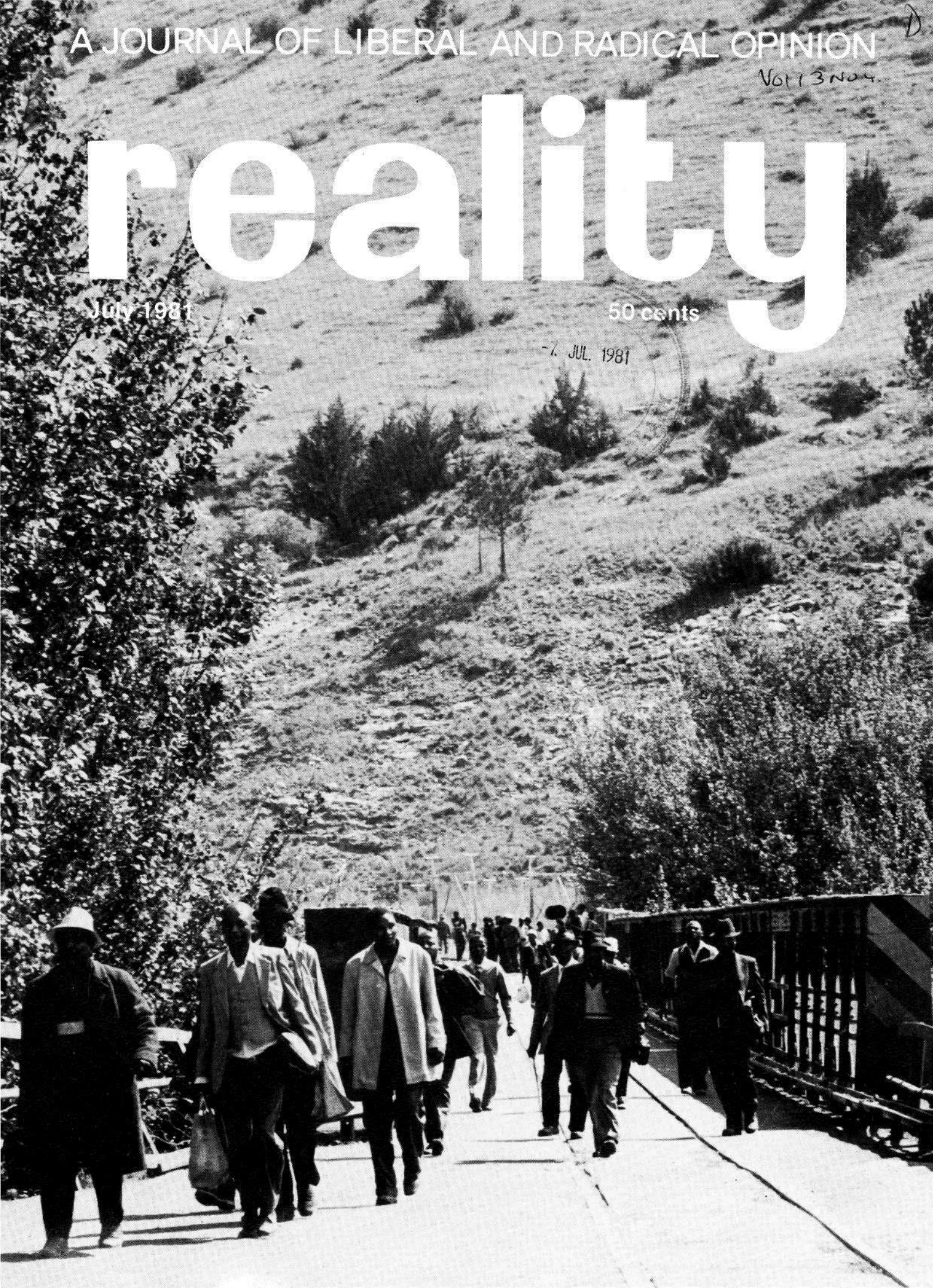
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EDITORIALS

1. THE ELECTION

It seems to be generally agreed that the 1981 General Election result was different in character from that of any other held since 1948. The Progressive Federal Party's gains in votes and seats were remarkable. The Herstigte Nasionale Party's gain in votes was sobering, to say the least.

It seems incredible that, in the year 1981, nearly 200,000 Nationalists should vote against Mr. P. W. Botha because they think his policies are too "liberal" — and this without his having taken a single important step away from "traditional" apartheid. The omens for the future from this direction are not good. The professional analysts tell us consolingly that HNP support probably has a ceiling of just over 25% of the present electorate, as if that wasn't enough to be the potential cause of havoc one day.

In the meantime what should one make of the PFP's performance? What is its potential to influence the future?

The Party retained its solid blocks of urban seats in Johannesburg and Cape Town, several in the face of quite extraordinarily unfavourable new delimitations. It took the prize of Gardens from the Nationalist Party's glamour

candidate, Dawie de Villiers. Having lost the only seat it previously held in Natal through redelimitation, it then proceeded to bring that Province into the mainstream of white opposition politics by winning a block of six seats covering an area from the centre of Durban to north of Pietermaritzburg. It won Greytown and it nearly won Mooi River, both seats including some of the more affluent suburbs of Durban and Pietermaritzburg, but each containing a strong farming and small-town element. It won seats in the Eastern Cape for the first time. It did well in many seats which it didn't win and showed that it had support, even if not much, in some of the most unlikely places. What happened to the PFP was that, in many constituencies where this had not previously been the case, it became acceptable to be identified with it. This is an important threshold to have crossed. It is significant that its gains were made despite the Nationalist Party's efforts (and the New Republican Party's, for that matter) to depict it as a party of boycotters (its refusal to be involved in the President's Council) and potential traitors (the support some of its members had given to the "Release Mandela" campaign).

It is certainly something quite new in Africa to find white people in such proportions (a quarter-of-a-million of them) voting for change based on a future worked out together with their black fellow-citizens.

But the Progressives should not let their natural feelings of jubilation run away with them. The fact of the matter is that the Nationalists hold over 130 seats in Parliament and the Progressives less than 30 and the threat from the Herstigtes is growing ominously. The PFP has made a breakthrough, but time is short, and the momentum must be maintained. The Party's task now is not only to win more recruits from outside its ranks for a programme of negotiated change but to keep reminding those within its ranks of what that change is likely to involve. In particular they must be conditioned to the fact that the constitutional

guarantees the party advocates for minorities, desirable as they may be, will only get support from a new National Convention if they are clearly seen as an attempt to guarantee rights and not to entrench **privileges**. For ultimately, as Dr. Slabbert himself has repeatedly stated, any guarantees written into a constitution will only last if the majority of voters feel they are necessary and good. In short, white voters must be prepared for the fact that, whatever constitutional guarantees the National Convention accepts, the society which it ushers in will be very different from today's.

Keeping this fact before white voters will help build PFP credibility in black eyes, and on that credibility, as much as on white votes, will depend its capacity to influence the future. □

2. THE RAND DAILY MAIL

Allister Sparks has described his sacking from the editorship of the Rand Daily Mail as a symbolic act. And it is. It symbolises many things, not least the blindness of business.

Can the businessmen who own the Mail not see that they have given a spectacular, uncontested victory to the Prime Minister's "total strategy" which will make every other redoubt in his opponents' lines of defence more difficult to hold?

Can they not see that they have dealt a terrible blow to those black people to whom the Mail, over the years, has given the feeling that, perhaps, after all, there are still white people who will put out their necks and fight on their behalf — and who, in turn, have continued to give their support, even if tacitly, to the principles of negotiated change and a non-racial future?

Can they not see that they have given a powerful boost to those who argue that, in a capitalist society, when it comes to a clash between principles and profits, it is the profits that will always win? The owners of the Mail tell us that they sacked Mr. Sparks solely because his paper wasn't profitable enough. This, if one knows anything at all about the arguments going on in the black community about the future shape of our society, seems to us to be the worst argument of all. It will surely convince many black doubting-Thomases, not yet persuaded that Marxism is the answer to their prayers, that capitalism and the free market system is not for them? And how will the owners of the Mail feel about that?

Maybe this time next year the Rand Daily Mail will be showing a profit. We hope that, if it is, somewhere in its Balance Sheet will be recorded that it was almost certainly achieved at the expense of all the rest of us. □

3. MORE DIVIDED THAN EVER

If the Republican Festival in May was supposed to be some sort of healing exercise, binding together the diverse elements in our society, even if only for one brief hour, it could hardly have been more of a disaster. Its final days were marked as much by the sound of exploding sabotage devices and vehement protest as they were by that of marching feet, martial music and the cheers of the crowd.

Long before that the Festival was being boycotted by all the major non-Afrikaner churches, the non-Afrikaner universities, a host of lesser organisations, many white individuals, and the entire black community of any consequence. And how could it be otherwise? Why should anyone celebrate with everyone else a republic imposed on him

without his consent, and founded on the principle that only by keeping apart from those other people could conflict with them be avoided?

Yet even intelligent Nationalists seemed quite unable to understand this massive rejection of their celebrations. During May Archbishop Hurley wrote a letter to members of the Catholic Church urging them not to take part. The main reasons he gave for this call were that the twenty years of the Republic we were being asked to celebrate had been marked by, and continued to be marked by, uprooting of whole communities, increasing rural poverty, widespread urban misery, "and the constant humiliation of being discriminated against in the matter of human rights,

in fact of being deprived entirely of certain rights, like the right of sharing in the political life of the country . . .”.

This letter seemed particularly to enrage Professor Gerrit Viljoen, Minister of Education, one-time head of the Broederbond, hailed now by most of the press as some kind of super-verligte, and certainly one of the most intelligent Nationalists of them all. His reply to the Archbishop's letter was to describe it as a “one-sided, twisted, exaggerated, prejudiced and mischievous version of the alleged evils of the country” — hardly a reasoned reply to the charges contained in the letter.

This clash, between the archbishop and the professor, highlighted a growing division within the ranks of white South Africa. Of course there have always been such divisions but for years they were about issues quite irrelevant to our future, like the old Boer/British feud. Now they increasingly reflect different views on the nature of our society and its future. This difference was dramatically high-

lighted during the celebratory month of May, in the military trial of Charles Yeats for his refusal to answer his call-up to military service.

There is no need here to go again into the detailed reasons Mr. Yeats gave in that trial for that refusal. His statement of belief was carried fully in our last issue. What they amounted to, apart from their inherent pacifism, was his conviction that the “war” in Southern Africa, in which he was being told to play his part, was avoidable, if only the South African authorities could bring themselves to sit down and negotiate with their opponents.

But of course they can't ----- yet! That they will one day we have no doubt. Like Archbishop Hurley and Charles Yeats we think that day should be very soon. Out of those negotiations might come a republic that all of us could celebrate together.

Let's hope we don't have to wait another 20 years for that day. □



Republic Festival – Two Salutes

4. A CHALLENGE

We publish in this issue of REALITY, by courtesy of the Civil Rights League, a challenge to the Judges of South Africa to stand up and be counted, to refuse to continue to apply, **without comment**, laws which bear no relation to justice.

The arguments for Judges to make this stand are cogently argued by the League. And it can happen too. Witness the following review judgement given by Mr. Justice Didcott (with Mr. Justice Milne concurring) in the Natal Provincial Division not long ago.

IN RE DUBE

(Natal Provincial Division)

1979 May 1 Milne J and Didcott J

Bantu – Bantu (Urban Areas) Consolidation Act 5 of 1945 – “Idle person” – Declaration of by commissioner under s 29 (2) (a) (i) – Person incapable of being employed – Declaration not competent under s 29 – Declaration and consequent order for removal to, and detention in, a farm colony set aside on review.

The provisions of s 29 (2) (a) (i) of the Bantu (Urban Areas) Consolidation Act 25 of 1945, whereby unemployed male persons may, in certain circumstances, and subject to certain exceptions, be declared “idle persons”, do not extend to persons who are incapable of being employed.

Where a commissioner of the Department of Plural Relations and Development had declared a person an “idle person” and ordered his removal to, and detention in, a farm colony unless he got employment within 30 days or left Durban of his own accord within 35, it appeared that such person was an epileptic who suffered from frequent fits and received constant medication from King Edward VIII Hospital, and was only fit for light duties.

Held, that he was incapable of being employed and thus fell outside the ambit of the section. The declaration and consequent order by the commissioner accordingly set aside on review.

Review of a decision of a commissioner of the Department of Plural Relations and Development. The facts appear from the reasons for judgment.

Didcott J: If you happen to be a male “Bantu”, to use the terminology still found in the legislation, you are governed by the Bantu (Urban Areas) Consolidation Act 25 of 1945 as amended from time to time.

You are then an “idle person”, once you are capable of being employed but have no lawful employment and have had none for a total of 122 days or more during the past year. Section 29 (2) (a) (i) makes you one. True, there are some exceptions. Your unemployment is not held against you if you are younger than

15, or as old as 65, or a pupil or student at an educational institution, or someone *bona fide* engaged in an officially approved business, trade, profession or “other remunerative activity”, or a registered work-seeker who has had no offer of lawful employment for 122 days. Otherwise, however, it is, and your “idleness” is beyond question. It does not matter whether you actually need work and its rewards. Perhaps your family supports you adequately and is content to carry on doing so. That does not count. The section says so in as many words. Nor apparently do any other lawful means you may be fortunate enough to have.

An official who has reason to believe that you belong to the class of “idle persons” may arrest you at any time and in any place outside a special “Bantu” area. You are then brought before a commissioner of the Department of Plural Relations and Development. He calls on you to give a “good and satisfactory account” of yourself, whatever that may be. Unless you do manage to do so, he formally declares you to be an “idle person”. Nobody is required to prove that you match the definition. You must prove you do not.

Once you are officially “idle”, all sorts of things can be done to you. Your removal to a host of places, and your detention in a variety of institutions, can be ordered. You can be banned forever from returning to the area where you were found, or from going anywhere else for that matter, although you may have lived there all your life. Whatever right to remain outside a special “Bantu” area you gained by birth, lawful residence or erstwhile employment is automatically lost.

Perhaps you have never broken the law in your life, or harmed anyone, or made a nuisance of yourself by your activities or the lack of them. To complete our example, let us take that to be so. It makes no difference.

When the commissioner has finished with you, the papers in your case go on review to a Judge of the Supreme Court.

He is expected, if everything is in order, to certify that what happened to you appears to him to have been “in accordance with justice”.

The trouble is that it was not. It may have been in accordance with the legislation and, because what appears in legislation is the law, in accordance with that too. But it can hardly be said to have been “in accordance with justice”. Parliament has the power to pass the statutes it likes, and there is nothing the Courts can do about that. The result is law. But that is not always the same as justice. The only way that Parliament can ever make legislation just is by making just legislation.

I have before me the case of Jabulani Sydney Dube, an “idle person” by decree. The commissioner consigned him to a farm colony for two years, and sus-

pended the order on condition that he either got employment within 30 days or left Durban of his own accord within 35 days.

Dube is 24. He lives in Lamontville with his mother. Welfare funds support him. He is not a registered workseeker. Nor has he worked for some years. He would like to, so it seems. He is, however, an epileptic who suffers from frequent fits. One has not only his word for it. The district surgeon, having examined him, says the same, and adds that he is fit for nothing but light duties. He needs constant medication. King Edward VIII Hospital gives him pills and injections regularly.

The question is whether Dube is capable of being employed. If he is not, he falls outside the section altogether. That, in my opinion, is indeed the case. In the ordinary sense, he is not capable of being employed, he can tackle only special work of a sheltered kind, and none seems to be available.

This, at any rate, is what I infer. The commissioner specifically instructed an inspector to find such employment for him. There is nothing to suggest that the inspector succeeded, and it looks unlikely that he did.

The proceedings were therefore contrary not only to justice, but to the Act as well, with the result that, on this occasion at least, it is possible to apply the Act and to do justice simultaneously.

The declaration stamping Dube an "idle person" is set aside. So is the consequent order for his removal to, and detention in a farm colony.

But this kind of thing doesn't happen often. Most judges apply the most obnoxious laws without any public evidence

that they feel any qualms about it. As Advocate Sydney Kentridge argues, the South African judiciary's largely uncritical acceptance of its role in applying the mountain of discriminatory legislation which has gone on to the statute book since 1910, and particularly since 1948, will not stand our judicial system in good stead when black South Africans start to exercise real power. They will remember then that most judges applied, **without comment**, laws which, amongst many other things:

Destroyed title deeds which they had been told were inviolate;

Uprooted whole communities lawfully established and consigned them from the centre of our cities to places miles away;

Separated husbands from their wives and families as a matter of deliberate policy.

This is to say nothing of the Security laws, an area in which most Judges seem quite unable to appreciate the nature and consequences of our detention system and regularly accept the evidence produced by it.

How do black South Africans feel about preserving such a system, then? Unenthusiastic, one would guess.

But if Judges started, even at this late hour, to take the stand the Civil Rights League is asking for, they might indeed leave us with a tradition of fearless judicial independence sufficiently respected throughout our whole community to survive whatever traumas the future may have in store for us.



THE RESPONSIBILITY OF JUDGES IN APPLYING UNJUST LAWS IN SOUTH AFRICA

With acknowledgements to the Civil Rights League.

In all the painful clash of the forces and counterforces for change, is there any hope that the voice of the Judiciary may at last be raised in an attempt to influence the Legislature to amend or repeal laws which make it impossible for judges to carry out the terms of their oath of office, namely to administer justice?

JUDGE'S OATH

(Supreme Court Act No. 59 of 1959)

"I (full name) do hereby swear-solemnly and sincerely affirm and declare that I will, in my capacity as a judge of the Supreme Court of South Africa, *administer justice* to all persons alike without fear, favour or prejudice, and, as the circumstances of any particular case may require, in accordance with the law and customs of the Republic of South Africa." (Emphasis added.)

It is true that in our Parliamentary system, judges cannot challenge the creation of law, which is the prerogative of Parliament. And no judge can refuse to apply the existing law, however inconsistent it may be with any concept of justice. Yet there is an undeniable tension between the narrow test of validity, based on procedural formalities (the law has been passed by the requisite majority in Parliament, has been signed by the State President, and published in the Government Gazette) and the Christian basis of the Constitution.

THE CONSTITUTION not only acknowledges the sovereignty and guidance of God, but specifically declares that "we are conscious of our responsibility towards God and man." (Republic of South Africa Constitution Act No. 32 of 1961). Daily in Parliament legislators pray "... that we may, as in Thy presence, treat and consider all matters that shall come under our deliberation, in so just and faithful a manner as to promote Thy honour and glory. ..."

RESPONSIBILITY OF JUDGES

What then is the responsibility of judges, when a succession of statutes has limited or removed the inherent jurisdiction of the Supreme Court, or when they are called upon to apply such blatantly unjust laws as the pass laws (which govern only certain people, because of their race, namely Africans) or the Group Areas and Mixed Marriages Acts, or Security laws which provide for banning and incommunicado detention without due process?

THE MEMORY OF NUREMBERG

Gustave Radbruch, prominent German jurist "was compelled by the experience of the Nazi Holocaust to argue that there is a stage at which a law ceases to be a law, when it sinks below a minimum level of humanity or justice. He contended that:

"positivism with its creed of *law is law* rendered the German legal profession defenceless against statutes of an arbitrary and criminal content", and declared:

"when laws consciously deny the will to achieve justice, for instance if they grant or retract human rights from people according to arbitrary caprice, such laws are devoid of validity, and the people owe them no obedience and even lawyers must then find the courage to deny them the nature of law."¹

Commenting on the South African situation, a professor of law has written: "It is almost as if the courts have invoked the contempt power to protect them from the memory of Nuremberg, to spare them the agony of deciding, or even considering, at what point a law ceases to be law on account of its immoral content and at what point confrontation or resignation becomes the lot of the judge".²

DETENTION INCOMMUNICADO

Section 6 of the Terrorism Act epitomises the erosion of the Rule of Law in South Africa.

- It provides for indefinite detention without trial for the purpose of interrogation.
- The Minister of Police is not obliged to give details about such detainees.
- The definition of terrorism is so wide that someone who cannot remotely be viewed as a terrorist can be held.
- The acceptance in court as valid evidence of statements made by people who have been kept in solitary confinement persists — in spite of widespread consensus that such imprisonment is a form of torture in itself. In no sense can people kept in such conditions be said to be making free statements. Such a detainee has no right of access to his own lawyer or doctor, channels that would serve to curb possible unlawful methods of interrogation. The judiciary should regard this type of evidence with profound suspicion and misgiving and be aware of the unjust nature of the pre-trial interrogation permitted under our Security laws.

BANNING UNDER THE INTERNAL SECURITY ACT

The system of restriction and house arrest orders is inherently unjust.

- Such restriction orders are based on secret reports made by Security Police, and this evidence is not tested in court.
- The Minister of Justice makes his decision in private. Justice is not *seen* to be done.
- There is no appeal to the courts from the Minister's decision, save on the grounds of his bona fides, an almost impossible case to prove.
- The banned person himself has no knowledge of the contents of information placed before the Minister, and is effectively silenced and prevented from defending himself, while the courts have no power to review the Minister's decision.
- When and if a banned person is charged with a consequent offence of having broken the restriction orders, the court has no knowledge of the grounds on which the person has already been banned.

The courts are, in effect, compelled to reinforce this administrative punishment without having any knowledge of the grounds on which it was imposed. Thus in cases involving banned people, it is impossible for judges to administer justice in terms of their oath, because a vital area of justice has already been excluded from the jurisdiction of the courts.

WHAT JUDGES COULD DO

"The only generalisation in which I shall indulge is that if one participates in a system that distorts justice, truisms about the limited functions of a judge will not necessarily save one's soul."³

Should judges not find ways of coming together to consider the implications of what to many is a manifest contradiction between the terms of their oath and their present hearing of cases under the above legislation? Parliament is sovereign, and judges hold office to enforce and uphold a system created by that body. But increasingly the bulk of the population now regard the legal order as "oppression" and a growing number of lawyers overseas, and of law students in South Africa, consider that the legal profession here is "collaborating with and lending respectability to a fundamentally illegitimate process."⁴

The Legislature has placed the Judiciary in an increasingly intolerable position. But between the extremes of acquiescence and resignation from the Bench lies a not inconsiderable area of action which judges could take.

- There is nothing to prevent a judge in a judgment from drawing attention to the unjust consequences of the application of a law, and indeed some have done this, to their credit. More judges could follow this example. They should firmly reject any criti-

cism that such judgments bring them into the political arena. Indeed the matter is much more fundamental than party politics.

- Just as evidence revealing criminal behaviour on the part of individuals or officials is sometimes referred by judges to the Attorney General for his consideration, so the unjust consequences of any law should be referred by judges to the appropriate Cabinet Minister for his consideration.
- Possibly only after discussion of these matters between brother judges has resulted in some approach to the judge President of each Division, and from them to the Chief Justice, will a degree of support be established for some stronger approach to the Prime Minister.

Unanimity about the occasion or justification for resignations is hardly likely to be achieved in present circumstances, but it is contended that the situation is a deteriorating one, and the prime concern is that future generations of South Africans should retain respect for the Rule of Law and the value of an independent judiciary. Resignations on grounds of conscience may, looked at retrospectively, then be seen as the sparks which kept alight a fundamental belief in the best traditions of our Western legal heritage.

LAWYERS' COMMENTS

SECTION 6 OF THE TERRORISM ACT

1. Prof. J. Dugard: "No statement obtained from a person held in such circumstances can truly be the product of his free choice." (P. 271). "Is the retention of fair procedural standards at the trial alone sufficient? Should they not extend to the pre-trial proceedings as well? Indeed are they not more important at this stage when the detainee is secluded from public scrutiny?" (P.273)

A trial in such circumstances becomes a mere appeal against the interrogation finding.

2. Adv. S. Kentridge also cautions wariness in accepting the type of evidence secured under Sec. 6 of the Terrorism Act, explaining why it is unreliable. "Perhaps equally important, many of the prosecution witnesses in these trials are persons who have been subjected to prolonged detention in solitary confinement under section 6. Often they too are brought straight from detention to court to give evidence. They will usually have made statements implicating the accused. These statements may be true, but even if they are not, the witness knows that if he retracts, the result may well be either his further detention under section 6 or a charge of perjury". . . . "It is therefore understandable that I have referred to the mode of procedure under this statute as a distortion of South Africa's traditional system of procedure, or as the pathology of a legal system." (A "profound distortion" in another reference).

RESPONSIBILITY OF JUDGES

3. Mr. Douglas Shaw: "I believe that the status of the Supreme Court and with it the whole foundation of the administration of justice in the country is in danger at this time."

4. Prof. A. S. Mathews: "It is quite clear in present-day South Africa that the rule of law in the sense of the legal protection of civil rights is no longer honoured. Anyone may be detained or banned and deprived of freedom of

FOOTNOTES:

1. Dugard, Prof. John: "Human Rights and the South African Legal Order". Princeton University Press, Princeton, New Jersey, p. 399
2. *Ibid* (commenting on the test enunciated for contempt of court in case against Prof. Barend van Niekerk, p. 300.
3. Kentridge, Advocate Sydney: "The Pathology of a Legal System: Criminal Justice in South Africa", University of Pennsylvania Law Review, Vol. 128: 544.
4. Didcott, Justice J.M. at Inaugural Meeting of Lawyers for Human Rights, reported in *Argus* editorial 23rd June 1980.

movement, speech or association on the mere 'say so' of a Government officer, and such a person has no legal redress. People are daily tried, convicted and imprisoned under broad and vague political crimes according to disturbing rules of procedure for activities that are frequently not criminal in most Western democracies."

5. Prof. J. Dugard: "Whites who prosper under laws designed to maintain their privileged position seldom pause to ponder on the image of the South African legal system among blacks . . . For blacks it is not a body of rules which their elected representatives have conceived in Parliament, but a repressive system imposed without consultation and enforced by an array of instruments of coercion — the army, the police, and the legal-administrative machine." (Pp. 401,2).

6. Prof. B. van Niekerk speaks of the "state of decay of the South African legal system vis-à-vis the civil liberties of the individual" and goes on to say "Judges, especially senior judges, are in a peculiarly well-placed social position to give leadership in matters where leadership will often not be forthcoming from other sources."

7. Prof. van Niekerk is quoted in Dugard's book above (P.296) when criticizing lawyers and judges for their failure to condemn the Terrorism Act: "No doubt they will tell you it is not their function to criticize the law, but to apply it . . . we must surely ask when will a point ever be reached when their protests would become justified?" . . .

"Surely we have reached the stage that we are no longer merely dealing with a nicety of jurisprudence but with the essential quality and survival of justice itself!"

" . . . has not the time come for them to stand up more dynamically in the defence of the hallowed principles of the rule of law in the Western sense?"

8. Prof. J. Dugard: "A more likely explanation for the adoption of the mechanical approach to statutory interpretation is that it absolves the judge from personal responsibility." (P.372).

"This enables judges to apply the harshest of laws obediently with an easy conscience and may result in a failure to realize the extent to which technical rules of interpretation may be invoked to moderate the laws' inequities." (P. 373).

THE FUTURE

9. Adv. S. Kentridge: "One day there will be change in South Africa. Those who then come to rule may have seen the process of law in their country not as protection against power but as no more than its convenient instrument, to be manipulated at will. It would then not be surprising if they failed to appreciate the value of an independent judiciary and of due process of law. If so, then it may be said of those who now govern that they destroyed better than they knew." (P. 621).

10. A Solzhenitsyn: "What is the most precious thing in the world? It seems to be the consciousness of not participating in injustice. Injustice is stronger than you are, it always was and it always will be; but let it not be committed through you."

- 1, 5, 7, 8, Prof. J. Dugard: *Human Rights and the S.A. Legal Order*, Princeton University Press, Princeton, New Jersey.
- 2, 9, 10 Adv. S. Kentridge: *The Pathology of a Legal System: Criminal Justice in S.A.* University of Pennsylvania Law Review, vol. 128: 544. Solzhenitsyn quotation is from *The First Circle* (Fontana 1970) Chap. 55 p. 418.
3. Adv. D. Shaw, Chairman, General Bar Council of South Africa: *Judges must be free* — article in *Argus* 28th July 1980.
4. Prof. A.S. Mathews: *Bleak Outlook for Civil Rights* — article in *Argus* 7th January 1980.
6. Prof. B. van Niekerk: *Silencing the Judges* article in *Journal of Legal Profession*, University of Alabama School of Law, 1979, vol. 4

by Vortex

We organized our festival
and erected our flags
and unwound our bunting
to celebrate the past—
to proclaim the past.

But our flags wouldn't flutter
and our bunting was dull
and other voices and noises emerged
to celebrate the present —
to proclaim the future.

THE SACKING OF ALLISTER SPARKS

by Jill Wentzel

Rand Daily Mail readers in Johannesburg have been shaken by the firing of the editor, Allister Sparks, who has, after twenty two years of service, not even been offered another job with the SAAN group. Sunday Times editor Tertius Myburgh has been appointed joint editor of the Mail and Sunday Times, and Ken Owen is to be managing editor, which latter appointment means demotion for the current assistant editor, internationally respected Benjamin Pogrand.

The Mail readership is uniquely a community of all races which has been nurtured and supported by the Mail in a tradition of steady liberalism based on a diligence in knowing and evaluating facts and a willingness, not common among white South Africans, to face the truth.

This community now feels itself betrayed by the board of SAAN and is unconvinced by assurances that there will be no change in policy, which seems to be contradicted by the passing over of all the Mail's senior editorial staff and also the able and popular Express editor Rex Gibson in favour of two men who are not crusading journalists in the Mail tradition, whom one cannot be sure will continue the important Mail policy of bringing all sections of the community under the umbrella of one news service.

This feeling of betrayal is all the stronger because of a widespread belief that the Avowedson Trust, which owns 29% of the Mail's shareholding, and which was set up after the Louis Luyt takeover scare some years ago, had been expressly formed by enlightened businessmen to protect and cosset the Mail. Suspecting that Anglo American is the dominant force in this trust, and in the Argus Group's 30% shareholding and that Jim Bailey is the other large shareholder, Mail readers felt gratefully relieved.

The Mail readership has begun to wonder why the editor and not management has been held responsible for a financial loss, which is less than that of the other morning papers — Beeld, Die Transvaler and The Citizen. Furthermore, the drop in circulation seems more connected with a rise in the price of the Mail, which is now 5c dearer than the other Johannesburg papers except The Sowetan — and in any case the circulation is now beginning to recover from this setback. The SAAN group as a whole is profitable.

Editorials in Die Beeld and The Star have voiced widespread suspicion that this is a deliberate move to the right

to forestall Government action against the Mail, and community leaders have begun to emerge from initial puzzlement to express a similar alarm.

Fourteen academics from the University of Cape Town in a letter to the Cape Times said they suspected Mr. Sparks had been offered as a "sacrificial lamb" to pre-empt the imposition of more direct controls by the Government.

Speaking at a Wits campus meeting called to demand the release of the Nusas president and three other Republic Day detainees, Prof. John Dugard warned: "If one is correct that Allister Sparks was dismissed for political reasons as I suspect, the action of the SAAN Board will be judged not by their peers at the Rand Club but by the people of S.A. and history."

PFM spokesman on press matters, Mr. David Dalling, said "The suspicion has been created that under threat of Government intervention pursuant to the anticipated Steyn Commission report, the Management of SAAN - owners of the Mail — have bent their knees to the authorities and offered a sacrificial lamb in the form of Allister Sparks."

Helen Suzman commented forlornly, "I can only say that this is bad news indeed. (Mr. Sparks') editorials were always courageous and relevant and he has been an outspoken advocate of reform, a champion of just causes and one of the best investigative journalists in the country. I hope that the Rand Daily Mail will continue with its unique role of acting as a link between the race groups in South Africa."

The Black Sash is calling its members and other organizations to an urgent meeting to discuss the firing of Mr. Sparks and its implications. In a statement to the Mail, so far not published, its National President Joyce Harris said, "We feel we have been betrayed and that all those liberals who care about individual rights and freedoms and about justice for all have been likewise betrayed. We despair about freedom of speech, about freedom of the press, about the right to be informed, and see our country sinking into a totalitarianism from which we shall only be able to escape through the eruption of prolonged violence."

It seems fairly certain that publications like Reality will become increasingly important.

CROSSROADS : FROM CONFRONTATION TO CO-OPTION

(from Confrontation to Co-Op(era)tion)

by L. Platzky and J. Cole

Three years ago Crossroads was a household name.

What has happened to that united community which told the South African Government and the world "We will not move"?

It is a long, complicated story. Depending on who tells it, it could be concluded that the Crossroads people won, or that black South Africa lost. A little of each is true.

In July 1978 the Minister of Bantu Affairs, Dr. Connie Mulder said that Crossroads would be cleared. The Minister of Co-op(era)tion and Development, Dr. Piet Koornhof said in March 1980 "Crossroads is an unusual situation. Normal action was not suitable here."

The story of Crossroads has not ended. The people continue to struggle to remain in the Western Cape rather than return to starvation in the homelands. This article attempts to look at the process from resistance to confrontation to negotiation to co-option to diffusion and confusion to emerging realisation of Crossroads' place in the broader struggle. The article is not intended as an attack on those who participated in the process. It has been written in the belief that it is crucial to understand the new 'total strategy' of coping with resistance. Crossroads is a case study of a community under threat of forced removal. Dr. Koornhof has said there will be no more forced removals. This article examines the new more subtle enforcement of unchanged Government policy.

CROSSROADS – 1978 – 1981

'The fight was actually won with the April 1979 statement of Koornhof which laid down the general rules for resettlement' – Urban Foundation Reg. Director.

On April 5th 1979, Dr. P. Koornhof issued a public statement* of Koornhof which laid down the general rules for called 'the Crossroads problem'. The solution was a new township to be built between Nyanga and Guguletu. In it he made it clear that this was an 'ad hoc' decision for Crossroads and on the other hand stated that influx control measures would be increased to ensure that a similar situation did not re-occur

Two years later it appears timely and important to review not only the events which gave rise to the issuing of that statement, but also to review the implications of the process upon the community as a whole. This process demonstrates the confusion, division, co-option and organisational disintegration when community resistance is met not by the bull-dozer of the past, but the negotiation and co-operation politics of the Dr. Koornhof era. Crossroads is an example of total strategy at its best.

'The level of tension started high, but through **communication** this was lowered and they responded as any group under similar circumstances. They were not out of the ordinary' – Steyn Du Plessis, Urban Foundation.

Pre - April 5th Statement Period:

Since 1975 the people had been struggling to remain as a community in the area. During this time there were numerous pass raids, individual home demolitions and the women solicited the help of a lawyer, and a number of successful court cases were won. (This early legal history gave rise to the later dependence upon and high expectations placed upon lawyers and legal battles). In 1976 the camp was declared a legal Emergency Camp and with this timeous legality it escaped the 1977 demolitions which destroyed Modderdam, Werkgenot and Unibell. These demolitions and their effect upon the wider Cape Town public had implications for the Crossroads community, since many of the people who later committed themselves to 'help save Crossroads' did so out of an emotional response to the demolitions of 1977 and early 1978.

1978

In February 1978, Crossroads itself was threatened with demolition. It was at this point that the so-called 'struggle for Crossroads' began a new phase.

Through its existing committees the community let it be known that it was not willing to move. The women who up until then had been loosely organised, formalised their organisation electing a committee with a new chairwoman, secretary and treasurer. The Women's Committee took its place alongside the existing Noxolo and Sizamile Committees and all three met once weekly at a joint committee meeting to follow and discuss the issues affecting their community. (Tensions existed between various individual members of these committees at this time, but the threat of demolition forged a degree of co-operation and unity and buried the differences which were to emerge at a later stage).

The women played a particular key role in the community during 1978, tackling issues as they arose:

1. The threatened demolition of 400 homes by the Divisional Council for non-payment of rental arrears was successfully countered by the women. For a period of 2½ months they screened cases from 7 a.m. – 12 noon and helped subsidize hardship cases with money raised.
2. A painting project was organised in all 4 sections of the camp as an attempt to up-grade the community

and express resistance to the alleged temporariness of the camp. The women collected 50c from members of the community to buy the paint.

3. During the daily pass raids of June, the women organised a march of \pm 500 women to see Brig. van der Westhuizen, Chairman of BAAB, at Goodwood to demand an explanation and to protest against the raids.
4. Close links were established with local and overseas press and frequent press statements were released by women to publicise events and their interpretations of these to the public.

Whilst the other committees worked alongside the women, it was the women who took the lead and saw the threatened demolition as affecting them in particular.

Whereas many of the men had rights to be in Cape Town the majority of the women knew they were 'illegal' in terms of Government policy and felt they had nothing to lose in openly resisting.

External to the community was another organisation involved in this struggle – the so-called Crossroads support group. It had been called together by the Crossroads lawyer in February and consisted of a number of local individuals and organisations with a history of involvement in squatter and human rights issues. This group was eventually to play a major role in the events leading up to the intervention of Dr. Koornhof. The issues of concern for this group included family life, Christian concern, maintenance of a stable economically viable community (using the existing informal sector in Crossroads as an example), the spirit and unity of the 'model' community and those who wanted to raise the political cost of demolition. The underlying causes of Crossroads were hardly touched i.e. migrant labour system and many felt the issue should not be broadened and seen in its whole context if a solution was going to be found. (This allowed Dr. Koornhof to treat Crossroads in an 'ad hoc' manner and created tensions between Crossroads and the existing townships).

The support group met weekly with a small number of community leaders throughout 1978. There was no clear strategy. The lawyer was in most instances directive of group activity i.e. the petition, community statements, liaison with local authorities and felt strongly on what was or wasn't a good thing to engage upon if results were to be obtained from the authorities. The dynamics within the community were not understood or perceived as crucial, and often community workers in the area found themselves confronting the lawyer on community-development principles versus the success of the 'campaign'. e.g. he wanted to obtain funds to subsidize the women's painting project in order to have the houses painted in time for a public occasion and was upset by the community workers refusal to speed up the process.

Many in the support group did not recognise the existing divisions within the community and operated as though working with a verified and democratic leadership. Others fostered the individualising of local leaders e.g. paying people to interpret particularly in taking overseas visitors around. This caused resentment in others and led to difficulties in obtaining interpreters for community meetings.

The seeds for the later internal conflicts and divisions were being sown during this period of support group involvement.

Later in the year the harassment of the community intensified with frequent pass raids – the biggest and last on Sept-

ember 14th culminated in the death of a resident. Overnight Crossroads became a household word and an issue beyond the wildest expectations of all concerned. The raids were followed by local and international outcry. Pressure upon the community continued – they were already physically and psychologically worn down. Following the squashing of a plan drawn up by the SAP, BAAB and Military in the Castle to surround and demolish the camp – in November Dr. Koornhof intervened and indicated he wanted to come to Cape Town personally to solve the Crossroads 'problem'. He not only caught all concerned off-guard, he was welcomed by a community weakened and dependent upon an external solution to their situation.

During September and October the Urban Foundation had been becoming more and more involved in attempts to negotiate on behalf of the community, as they feared the international implications of Crossroads as well as the possible local political instability should it be demolished. They had been secretly meeting with chosen leaders from the community and were already discussing and proposing solutions prior to Dr. Koornhof's visit to the camp in November.

When Dr. Koornhof visited the camp in November it marked the end of the bulldozer tactics and ushered in a new era of co-operative politics and promises of humane solutions to the existing 'problem'.

"Let there be no misunderstanding. There is a policy and the law. That is why your co-operation is so important. With your co-operation it may be possible to find a solution to the problem. If I get the co-operation of the churches I will do everything to look at Crossroads as a problem in itself".

The year ended with a memorandum to Dr. Koornhof prepared by the Joint Committees, in which they put forward two proposals:

1. to remain on the present site and have the houses up-graded
2. as an alternative, permanent accommodation should be provided for all residents in Crossroads in the greater Cape Town area.

Dr. Koornhof rejected these proposals, but indicated that he was willing to enter into negotiations with an elected delegation in early 1979 in an attempt to reach a solution to the "problem".

1979

If 1978 had its own particular problems and difficulties, in some ways they were easier to deal with than the complex and sometimes more subtle struggle which ensued in 1979.

The negotiations promised by Dr. Koornhof in late 1978 began in earnest in 1979 and lasted until the end of March, ending in the April 5th statement already mentioned.

From the very beginning it was clear from the meetings that what was taking place was not a negotiated settlement but a solution in the interests of the government. The fact that Dr. Koornhof was able to manoeuvre the assistance of the community's own representatives in obtaining a solution was a stroke of political genius.

These meetings clearly showed that there was very little room to manoeuvre on the part of the Crossroads delegation. Dr. Koornhof indicated at the first meeting that he felt the solution to the Crossroads "problem" was a township and when questions concerning this were raised by the representatives he never gave direct answers. He merely

asked the delegation to co-operate and trust him.

"I am a preacher's son. I don't want to preach to you, but you must bear with me. I believe it is in your interest to do so. As I have said in the beginning. If you assist the officials to fill in these forms in a truthful way, we can solve this problem in a humane way. You have heard me say often that I want co-operation. I tell you now again that I want co-operation between the officials and you. If there is co-operation then things will go well. these officials have put up with a lot of difficulties which you don't know of, but I know of and I really request you to make it as easy as possible for them by co-operating. If I was preaching my message would be simple, it would consist of two words "please co-operate". You will not be sorry. That is the way in which this problem will be solved. I wish you God's blessings". (Dr. Koornhof, February 1979, in response to questions raised by community leaders given past experience and mistrust re co-operating with the officials on a survey).

The delegates became committed to a promise of confidentiality around the meetings and it was with a great deal of difficulty that meetings were eventually convened to review the negotiation process. These meetings were to include people outside of the negotiations to help debate and introduce objective criticism. Criticisms and advice were largely ignored, eg. at the meeting at which the blueprint was presented containing the categories which would supposedly cater for the majority of the community, there was concern and clear rejection of involvement in such a settlement using government categories. Despite these criticisms it was this very blue-print which appeared as Dr. Koornhof's categories for Crossroads in his statement of April 5th. Other criticisms concerning the speed of the negotiations, the confidentiality and its affect upon the broader community, the inadvisability of meeting individually with Dr. Koornhof, fell on deaf ears. The process was in the hands of a few and although the advisors argue that decisions were never their own by the time the 'negotiations' ended the struggle was completely out of the hands of the people. Throughout the leaders expressed unwillingness to agree to any plan which would divide the community and were unable to trust the promises of Dr. Koornhof. Negotiations in fact broke down in late March over these very points and in a last endeavour to persuade the community to accept the solution the advisors called in the Urban Foundation who spent an afternoon convincing the community 'to acquiesce as opposed to agree'.

It was under pressure from the advisors, the Urban Foundation, Dr. Koornhof himself and the reality of a position of weakness and poor political understanding that the community found itself 'acquiescing' to an agreement the implications of which they never fully understood.

These then were the events which preceded the April statement — a statement hailed by many as a major breakthrough on the part of the government with high hopes that all would qualify for the new township. Some were less optimistic since the policy remained intact. The fact that there was to be increased influx control of blacks in general in the W. Cape seemed to escape the general public. The difference of assessment and trust of Dr. Koornhof's promises set the tone of events which were to follow within the community and amongst those who had previously been relating to it.

In his public statement Dr. Koornhof had managed
a) to defuse a highly political local and international issue,
b) to set out a blue-print which would mean effective

stronger control not only of Crossroads but of all blacks in the Western Cape, c) to confuse and divide people further within and outside the community.

Post April 5th Period:

As stated above the immediate effect of the statement was to escalate already existing division and confusion within the community as people were forced to answer the question 'what were we really fighting for?' In reality nothing changed; the residents still found themselves arrested for pass offences and not free from the reality of being black and living in the Western Cape.

The first visible sign of a new process was the survey which Dr. Koornhof had indicated would take place in an attempt to ascertain who would qualify for the new township.

The period May to July was filled with meetings between the Urban Foundation, BAAB, the 'advisors' and the committee, in attempts to re-assure the leaders that they had nothing to fear in freely answering the questionnaires.

At one point a dead-lock was reached over resistance on their part to agree to particular questions concerning present employment qualifications and the lawyer was specifically phoned by Dr. Koornhof to obtain the trust of the committees. Crossroads had to be sorted out before Parliament adjourned and before Dr. Koornhof went overseas. Unless they co-operated, all would be lost was the message. The leaders were in no position to argue — much of their strength was already dissipated and dependence upon external advice firmly entrenched.

Despite the fears, the survey proceeded and a close working relationship between lay leaders and the local BAAB officials was initiated. This ear-marked a further disintegration of the community leadership.

This liaison eventually resulted in charges of fraud for both some committee members and some local BAAB officials for e.g. issuing permits for R10 and a bottle of brandy each.

The next significant event to take place in the community was an election. A new executive committee was ushered in during late July with Ngxbongwana as the elected chairman and his own hand-picked committee. The committee excluded women from the decision-making body and immediately dissolved all previously elected committees in Crossroads (from Sizamile to the school committees to the creche committees). Despite some resistance to the undemocratic handling of the elections, it went relatively unsupported by outside groups who chose to work with the elected body since it was felt to be expedient to do so if the Koornhof deal was to go through. A group was needed to make decisions and meet with, and internal dynamics of the community were largely ignored in an attempt to achieve the 'solution'.

The divisions could not, however, be contained, and 1979 ended with physical violence within the community as different interest groups clashed, leaving two dead and the executive committee in total control. All who questioned their authority were attacked and ostracised.

As the year ended Crossroads was already a different community with stark division, wholesale corruption and internal disorganisation. It also found members of the support group either withdrawing or confused as to what their role should be in the present situation.

1980

1980 began with the arrest of 6 Crossroads residents for fraud; with Mr. L. Fouche, the Secretary for Community Development, announcing plans for the new township in

Nyanga called Nyanga Two; (He indicated that the township would house Crossroads residents as well as others from neighbouring townships); and with reports that Crossroads residents applying for permit extensions at the Nyanga offices were being questioned by the Security Police - some were being given only 3 month extensions.

In February, with the assistance of community workers a 14 point memorandum was presented to Mr. Timo Bezuidenhout, Commissioner for the Western Cape.

The memo referred to:

1. apparent break-down in relations between the authorities and the people
2. large security police presence at the issuing of extension permits resulting in intimidation
3. the committee demanded S. Police withdrawal and impartial observers to be present at the Nyanga offices (to be chosen by the committee)
4. regarding permit issuing, certain irregularities were taking place:- reports that some people were even required to sign for their wives and families to return to the homelands before being granted extensions - some were told that unauthorised lodgers were reflected in BAAB records and therefore only 3 month extensions were given.
5. Crossroads residents were charged for fraud, and questions were put forward about the officials involved and whether they too would be charged.
6. dissatisfaction with the name 'Nyanga Two' instead of the New Crossroads as promised.
7. difficulties were already occurring in the permit process and the Appeal Committee promised should already have been operating.
8. Crossroads residents were informally promised jobs in the building of the new township and this wasn't happening satisfactorily.
9. meetings between BAAB and the residents shouldn't just be to inform the committee of decisions already taken, but should be meaningful consultation in the true spirit of the word.

Some assurances were given on the points raised, but there was growing insecurity which intensified when BAAB announced that Crossroads would become a formal township at the end of March. What formerly had been an abstraction was becoming a reality and fears and doubts concerning this began to surface. As a result the executive took the issue to the broader community and were given a mandate to see Dr. Koornhof.

The meeting with Dr. Koornhof took place in April 1980 and he once again reassured them on all points raised and avoided direct answers to questions regarding their future position. It was a repeat of his earlier diplomatic performance and once again the tension was lowered through direct communication.

For the remainder of the year however things went from bad to worse. The advent of the new Chief Commissioner in the Cape (replacing hard-liner Frikkie Botha in September 1979) was a significant step on the part of Dr. Koornhof; he played an increasingly important role in co-opting the executive and playing off one power group against the other in the community.

With an executive which no longer reported to and therefore took no direction from the broader community, with the careful political manoeuvrings of the new commissioner and his local officials, with the women no longer able to

play a meaningful role and the increased presence of the Urban Foundation in the area (Mr. Kweza was sent in as a community worker) it became impossible for the community to change the direction of events. The support group including the advisors were nowhere to be seen. The only hope was that eventually the general community would resist the authoritarian nature of the executive under the leadership of Ngxobongwana, as they experienced the reality of being left off the survey for the new township or could take the financial exploitation by their leaders no more.

All during this period 'consultations' were being held over the new township and when the notices were delivered for the first families to move the women's committee (whose members had been monitoring and watching events) decided to re-engage in the decisions affecting their community and set up an appointment to see Mr. Bezuidenhout. (They had on a number of occasions attempted to speak to the executive, but without success). This they did and once again the Commissioner played off one group against the other. He phoned the executive to inform them of the meeting; this further polarised the men from the women.

In November 1980, the first families moved to the new township. The move found the community divided between those who wished to move, those who felt they couldn't move unless certain concrete guarantees were given, and those who wished to remain in Crossroads to explore the possibilities of a site and service scheme.

A clear demonstration of the degree of co-optation was the fact that 4 of the executive were paid employees of BAAB at the time of the move. One of the men even driving the truck to remove the zincs and belongings of the residents as they moved to the new area. The dismantling of the houses, the subtle demolition of Crossroads went relatively unnoticed, as Mr. Bezuidenhout stood at the side of the road overseeing what was clearly a victory on the part of the government.

Present Situation:

But the struggle is far from over. Confident that it was possible to continue making decisions with a select few of the leadership Mr. Bezuidenhout and his officials have made two decisions which could once again revive community resistance:

1. He made a deal with Mr. Ngxobongwana and two other executive members to re-house residents from nearby KTC squatter camp in the new township without informing the general community.
2. The children at the old schools in Crossroads were told to attend the new lower primary school without
 - a) consulting the existing school committees
 - b) continuing the employment of the present Crossroads teachers. — they were under the understanding that their services would continue.

In addition to this Mr. Ngxobongwana agreed that only 20,000 residents should obtain 'permanent' residential rights in the new township plus the name of the new school was arbitrarily decided upon (and is in fact Ngxobongwana's Xhosa name). Residents in the new township are already experiencing rental difficulties. An additional charge for water has been added to the already high rents and some people are finding themselves with 3 month permits when they move in and are told to return to the Transkei after this period.

The general community, largely motivated by those women who played key roles during the early Crossroads years, demanded public meetings and demanded answers to their questions.

At the time of writing the executive is in pieces, Mr. Ngxobongwana's power is seriously threatened, the women are actively re-organising, Mr. Bezuidenhout's role is being questioned and his influence appears to have diminished. A number of general meetings were held concerning the schools, decision was taken to refuse to send the children over to the new school. The schools continue as before with the same teachers.

As a result the school inspectors told the community in no uncertain terms that they had no say over the new township or facilities existing there. There was heated response as people began to realise that what limited control they had had over their own lives before, was now in the hands of the State. The reality is that New Crossroads means total control. It has taken two years for the full implications of the Dr. Koornhof deal to hit home.

The community demanded to see Mr. Scheepers (Chief Inspector of township schools) and he has refused to come to the community. He indicated they could send a delegation to him instead. At a recent report-back meeting the general community refused his request and the position remained one of dead-lock until Mr. Scheepers agreed to meet the community in mid-May. The children remain in their old schools.

Conclusion

Whether or not the community will be able to maintain their present resistance and re-organise remains an open question. How the community resolves the effective non-leadership issue will largely determine whether or not community strength can be re-built.

Whilst internal divisions still remain, the confusion amongst some appears to be less and there are clear signs that people are re-defining the struggle for themselves based on their experience of the last two years.

It would appear that once again a new phase has begun in the history of the Crossroads community. Crossroads has not been "won" or "lost", it continues to be a case study in the South African process of struggle against apartheid.

*Summary of the April 5th Statement/(1979):

1. A degree of co-operation achieved in order to obtain Dr. Koornhof's objectives.
2. 'ad hoc' arrangement for Crossroads whilst increasing control to avoid similar situations arising.
3. organised Commerce and Industry pledge to support his plan i.e.
 - a) implementation of new housing project
 - b) measures to prevent blacks not properly housed not to obtain legal employment.
Black labour to be made more expensive.
4. Rejected Crossroads Committees original proposals that
 - a) upgrade scheme on present site (noise-zone: D.F. Malan Airport)
 - b) if alternative resettlement is provided elsewhere in the Peninsula, it be offered to the entire community without exception.
5. Categories Dr. Koornhof is unable to allow include:
 - 5.1 Criminals convicted of offences jeopardising their Urban Areas Act Section 10 (1) (b) rights acquired through long employment.
 - 5.2 Those vagrants – with no visible and legitimate means of income.
 - 5.3 That substantial number voluntarily electing to return to the Transkei on offers of settlement and employment.
6. The balance of the community to be re-housed in the Cape Peninsula.
7. After agreement from cabinet, Urban Foundation to help build a new township between Nyanga and Guguletu consisting of 2,575 sites.
8. Those qualifying include:
 - 8.1 Those with 10 (1)(a) and (b) rights in terms of the Urban Areas Act
 - 8.2 Those with 10 (1) (d) rights in terms of the Urban Areas Act the following:
 - a) contract workers and their families
 - b) breadwinner not formally employed but earns legitimate living e.g. craftsman rendering service to community.
 - c) cases avoiding hardship
9. For those qualifying 10 (1) (a) or (b) temporary permits issued and maintained for as long as they qualify i.e. employed or fulfill criteria.

LABOUR

By Vortex

Something new is coming to birth
in our country.
And we must welcome it.
It is there, implicit within us,
and has to come forth.
We must allow
the movements of labour,
painful though they are.
To stifle them
or hold them back
would be the deepest sin.
We pray for an easy birth. □

MAIMIE CORRIGALL

TWO TRIBUTES

The Liberal Cause has suffered another cruel blow with the death of Maimie Corrigan, member of the Liberal Party, of the Black Sash, and of the Board of this journal.

Maimie started her political life off as a member of the Communist Party, drawn to it much less by its "communism" than by its non-racialism, one suspects. More than once she said that, if there had been a non-racial Liberal Party at that time, she thought that was what she and her husband would have joined. It is a sad commentary on pre-1950 South Africa that there was not.

I doubt if Maimie would have felt very much at home in the Communist Party for long, for if ever there was a totally uncompromising democrat, she was it. No number of arguments advanced by the "pragmatists" would ever have persuaded her to deviate one inch from her conviction that everyone should have the vote and that what most voters felt was right should prevail. Even thirty years of Nationalism did not blunt her faith that reason, not emotion, must ultimately prevail in the conduct of human affairs.

Thirty years ago Maimie was left a widow with four children to bring up, the eldest not yet eight, the youngest still to be born. Most people would have found just that a fulltime job. And indeed she did make it a fulltime and extraordinarily successful job, as anyone who knows the family would testify. But she was one of those people who seem to be able to manage more than one fulltime job, and so, apart from bringing up the family, she became deeply involved in other things. One of these was the Black Sash, of which she was a founder-member in Pietermaritzburg and in which she held office, in one capacity or another, almost up to the day of her death. The other was the Liberal Party, which she joined soon after its inception in 1953. For a long time she kept in the background of its activities — that is until the wave of detentions and bannings in the 1960s began to leave large gaps in its leadership and staff. She then came forward to take over much of the administration in the Party's National Office and went on doing so until, in 1968, the law closed the Party down because it refused to give up its non-racial character. And when REALITY was started, to try to keep alive the ideas for which the Liberal Party had stood, she was on its founding Board and it was she, more than anyone, who ensured that this journal appeared, more or less on time, year in and year out. "Coming out on time" was an obsession of hers, and nothing incensed her more than having to wait for contributions which didn't make the deadline, or hold-ups at the printers! What her death will mean to this small journal one hesitates to speculate.

But Maimie was much more than a remarkable organiser. For one thing, she was very brave. As far as I know the only thing which really terrified her was making a speech. She would be in a state of jitters for days before it had to be

done. She would try to learn it off by heart. She would practise it aloud. And when the dreadful moment came, and she had to get to her feet, she would be shaking like a leaf. By contrast, the attentions of the Security Police and their sick, right-wing hangers-on, she treated with complete contempt. And contemptible they were — anonymous and threatening telephone calls at all hours of the night, attempts to set her flat alight, abuse at Black Sash poster stands. That is one group of people that will be glad it no longer has to contend with the sharp edge of her tongue.

For another thing she was totally honest; and unbending in her adherence to principle. She would say exactly what she thought about anything to anyone. And woe betide anyone who at a Liberal Party meeting suggested some course of action or change in policy which she felt was in any way a retreat or deviation from principle. She would never stand for that. She was an essentially political person and what energies she didn't direct towards her family and friends, she directed into political work. Social work she regarded as a waste of time, a prolonging of the agony.

Does all this talk of efficiency, bluntness and uncompromising commitment to principle leave an impression of a rather cold and austere personality? Nothing could be further from the truth. Maimie could certainly be fierce but she was mostly a very warm and caring person. She had a great sense of humour, as often as not directed against herself. During the years when I was banned and wasn't supposed to attend gatherings, a few of us used to meet, almost every week, for "drinks" at her flat. If any members of her family were in town, they would be there too. There was nothing dry or austere about these occasions. Much fun was had by everybody, sometimes at the expense of ourselves and our friends, more often at the expense of "the authorities".

Those, for me, were some of the most sustaining "events" of those years.

Peter Brown.

Her friends had for some time known in their hearts that Maimie was going to die as they watched her enduring ever more frequent spells of pain and acute discomfort, but her indomitable spirit and abundant life made the knowledge seem quite unreal, so that when death came and word of it spread among those many people all over South Africa who knew and loved her it was shockingly unbelievable.



Maimie Corrigan

Maimie was a rock, a seemingly indestructible source of strength to everyone who ever worked with her in the Liberal Party and in the wider Pietermaritzburg community.

Through all the years of her active work which continued until her death she held steadfast to those values of freedom and justice, public and private integrity, and the infinite

petition between Xhosa, Gonaqua and trek boer pastoralists for the regions around Port Elizabeth, becoming institutionalised when the British became involved in a numbered worth of all human beings, which values have been so assaulted and diminished in our country. It is because of people like Maimie and those others with whom she worked so closely that such ideas have survived at all. It has taken great courage to continue to state such convictions in the fact of Government action, public unconcern and the ridicule of those who no longer understand that just and peaceful societies can only be built on such foundations.

She was one of the founders of the Black Sash in Natal. She took part in its first and most striking national enterprise: the convoy of cars converging on Cape Town to demonstrate against the Senate Act — and returned to take the lead in the Natal Midlands. Besides working in Pietermaritzburg, during those early days of widespread and heady enthusiasm she travelled all over the area, starting or visiting branches in such unlikely or remote places as Matatiele, Kokstad, New Hanover and Cramond. But these and other country branches could not survive the Black Sash's growing recognition that political logic and political idealism in South Africa demanded more than a general adherence and loyalty to the terms and spirit of the 1910 constitution. Maimie was a vigorous advocate in the Black Sash of the pursuit of the most uncompromising principles; and when this resulted in the gradual collapse of most of her work in the country branches, she was disappointed but not deterred.

Maimie was a legend in the Black Sash, a leader whose wisdom and wit and acerbic style had much to do with the overall growth and development of the organisation from the beginning and whose strength and steady determination had everything to do with keeping us alive during the long, dead political years of the nineteen sixties.

She was beloved. Her monument will be the truth she held and handed on, and we will keep faith with her.

Sheena Duncan.

BOOK REVIEWS

1. **A roar on the other side of silence - two chronicles of the penultimate Xhose war.**

by M. G. Whisson

T. R. H. Davenport : **Black Grahamstown - the agony of a community**

S.A. Institute of Race Relations. pp. 65 including maps, photographs. R2,00.

M. Nash with N. Charton: **An Empty Table? Churches and the Ciskei future . . .**

S.A. Council of Churches. pp. 81 including maps, photographs. R2,50.

The history of the Eastern Cape might be seen as a series of attempts by white forces to roll back the Xhosa to the Eastern banks of the Great Fish River, and to return them there whenever a substantial breach was made. It began in the latter part of the 18th century with intermittent com-

series of "Wars" between 1811 and 1879. With the triumph of British arms, the military solution to the "problem" of Xhosa expansion became passé, and administrative solutions were sought instead. Sir Harry Smith, the colourful, courageous madman on the horse gave way to the faceless bureaucrat and the man in a safari suit and Administration Board bakkie. Sudden, glorious death in battle gave way to miserable, meaningless death in the resettlement camps.

But history is never quite as simple as that, and the dams built to contain the Xhosa flood were never dykes. From the early years of contact there was trade between white and black, and an ever growing and ever more regulated flow of blacks was welcomed into the regions west of the Great Fish. Among the earliest were Fingo refugees who had passed through the Xhosa dominated territory in flight from the expansionist Zulu. They allied themselves with the British and after 1835 established permanent settlements in Grahamstown, Port Elizabeth and Uitenhage,

as well as in Kaffraria itself. Following the cattle killing in 1857, the dam nearly burst as thousands of starving people sought food and work in the white controlled areas. With the development of commerce and secondary industry in Cape Town and Port Elizabeth, the flow increased once more, and the state endeavoured to control it with increasingly draconian legislation.

Davenport takes up the tale in Grahamstown in 1921 and briefly recounts the history of the black sector of the town prior to the advent of the Group Areas Act. To judge from the documentary evidence, there never was a golden age, only a time when inequity was not quite as obvious and painful as it later became.

What did exist was a paternalistic form of social contract, a sense of trust and the optimistic value associated with the "school" people who believed that they could earn equality by achieving white cultural goals.

From 1957, when the Group Areas Board appeared in the town for the first time, until 1980, the blacks of Grahamstown were a threatened community. Today the initial proposals look to be little more than a bureaucrat's urge to tidy what was virtually the *status quo*. At the time they were seen as an unwarranted intrusion and greeted with opposition from all quarters. In 1964 new Board proposals would have turned Fingo Village, where blacks had held freehold for over a century, into an Indian or white area, with most blacks moved either out of Grahamstown completely, or out of sight over the eastern hills. The eventual proclamation in 1970 made Fingo Village a "coloured" area, with "Bantu" areas on either side.

Pressure was put on black owners to sell to the Board, but the proclamation could not be fully implemented until an alternative place was found for the blacks. In terms of government policy that place should have been in or near the Ciskei, so that it could be incorporated in due course. While the government tried to solve that problem, the black areas were left to stagnate. No permanent homes or schools were built, but the population grew rapidly, boosted by refugees evicted from farms in the district as well as by natural growth. By the end of the decade, which saw the "Committees Drift" proposal for a vast new city dwindle into the pathetic Glenmore resettlement camp, the trust and hope that Grahamstown's blacks had had in their fellow citizens had largely gone and the young people in particular were angry. Conventional protests and appeals continued, but against a darkening sky filled with the smoke of burning schools. When the policy was changed in 1980, and pragmatism modified the "racist idiocy" (p.58) a little, what was lost may have gone beyond recall. Fire and violence seemed to have jogged the minister's elbow, where moderate appeals had continually failed — but such is speculation and Davenport does not press that gloomy argument, for he is, above all, a man of good sense and moderation, and in part this moving booklet is his testimony. Where there have been tensions, debates, arguments, Davenport has been present, quietly, courageously pressing for peace and justice. What hopes for peace remain in Grahamstown today are a tribute to his persistence in truth — to a decorous but always audible roar.

Nash and Charton have compiled a more vigorous *aide memoire* to those who are beguiled by the prospect of enlightened national party leadership in the years ahead. Where Davenport reports a glimmer of hope in the mess that has been made of Grahamstown, Nash and Charton see nought for anyone's comfort in the successful efforts of the state to hurl some of the Xhosa back across the

Great Fish. The S.A. Council of Churches, galvanised by its General Secretary, is attempting to inform all who will listen, of the extent of South Africa's Gulag. Solzhenitsyn wrote of

"that amazing country of Gulag which, though scattered in an Archipelago geographically, was in the psychological sense, fused into a continent — an almost invisible, almost imperceptible country inhabited by the zek people.

And this Archipelago crisscrossed and patterned that other country within which it was located, like a gigantic patchwork, cutting into its cities, hovering above its streets. Yet there were many who did not even guess at its presence and many, many others who had heard something vague. And only those who had been there knew the whole truth".

(The Gulag Archipelago).

Cosmos Desmond revealed a little of the scale of the removals and the situation in the "resettlement" areas in 1969. So did David Russell. They cannot be quoted, but the "resettlement" goes on, and the Ciskei is one of the major receptacles of the people driven out of the "white" areas of the Cape.

Nash and Charton's booklet begins by arguing the case for Christian involvement in the plight of those who have been moved to the Ciskeian and other resettlement areas, and suggests ways of becoming involved. That such should be considered necessary, and that self-styled Christians should feel the issue to be in any way contentious is itself an appalling reflection on the moral state of a professedly Christian society.

Nash sharpens the focus with a regrettably unedited address on the "Ciskei Ghetto". The literary presentation may remove the enamel from the readers' teeth, but there is no escape from the hard facts. Despite losing Hershel and Glen Grey districts to the Transkei, the Ciskei *de facto* population has risen from 265,000 in 1950 to 660,000 in 1980 (p. 18), and the dormitory town of Mdantsane grown from virtually nothing to about 250,000 in the last twenty years.

Charton's estimates of the *de jure* and potential population of the Ciskei make even more shattering reading. In addition to the 660,000 currently resident in the territory there are over 1,4 million potential Ciskeians living in South Africa. Of these no fewer than 432,000 are liable to be resettled in the Ciskei in the foreseeable future as they are "illegals", living in "black spots" or are "surplus" residents on white owned farms.

These are not fanciful estimates, but figures provided by the Quail Commission on the future of the Ciskei. The Eastern Cape Administration Board's estimate of potential removees is closer to half a million.

The accommodation provided for the resettled people ranges from tents to three roomed sheds made of flimsy wood with asbestos roofs. Employment in the area of the camps is almost impossible to find — so people subsist on pensions and the erratic flow of remittances from those who can get work as migrants. Schools, even in the relatively favoured Glenmore, operate on the platoon system and do not take children beyond the primary stage. In most areas the land on which the camps are sited is unsuitable for the intensive cultivation which would be necessary if the people were to begin to feed themselves, and agricultural water unobtainable.

Mdantsane, Zwelitsha, Dimbaza and Sada have developed as towns to accommodate the population explosion. Mdantsane acts as a dormitory for East London but has little economic activity within its borders apart from essential services and retail trade. Zwelitsha has benefited both from its proximity to King William's Town and from being the administrative centre of the Ciskei, but has little more to offer its growing population, Dimbaza, the industrial showpiece, with 28 of the 31 factories in the Ciskei, developed in part in response to the publicity it got as a dumping ground, remains unable to employ many of its work seeking residents. Sada is little more than the pathetic centre of the largely destitute "village of tears" nearby.

Most who become Zeks and enter the Gulag archipelago may well die in captivity, but they do have determinate sentences and can hope to return to a normal life eventually. The "resettled" people have no such hope to sustain them, and many have no confidence that they will be able to stay where they are.

But what, in the long term, is to be done? "An Empty Table?" is a challenge to the Christian and indeed any humane conscience to become more involved; develop and extend caring ministries; strengthen the whole body; and make representations to those in authority. However the reader is left to work out his own alternatives to the iniquitous process of resettlement as there are few concrete proposals about what the authorities should be doing, as opposed to what they should not do. Is it too much to hope that the voice of protest can become the voice of prophesy and authority in spelling out the detailed implications of advocating the claims of the rural poor to a full share in the privileges and duties of all inhabitants of South Africa?

Davenport, Nash and Charton have made it more difficult for us to pretend that we do not know the enormous human cost of the homelands and resettlement policies. Theirs is a roar on the other side of silence — the silence of fear and of the conspiracy of ignorance.

RACE AND ETHNICITY — SOUTH AFRICAN AND INTERNATIONAL PERSPECTIVES.

reviewed by Jack Unterhalter.

Edited by Hendrik W. van der Merwe and Robert A. Schrire.

Published by David Philip.

Professor Johannes Degenaar has written an important article for this valuable collection of papers many of which were given at the 1979 UCT Summer School — a lecture

series entitled "Group Identity and National Interests". The title is "Normative Dimensions of Discrimination, Differentiation and Affirmative Action." In examining the problem of the justifiability of the use of the term "Group Rights", he makes reference to the paradigms of liberalism and pluralism and says this:-

"In reading the human rights documents and the interpretation of those documents one is struck by the fact that two main frames of reference are used; a liberalist or individualist paradigm and a pluralist paradigm. These two paradigms rest on a commitment to two basic values which are irreducible to one another; the value ascribed to man as an individual or the value ascribed to a group as an association to which man belongs. In liberalism priority is given to the rights of individuals while in pluralism a concern for the rights of individuals is complemented by a concern for the reality and rights of groups or ethnic communities and for the way in which groups can protect the rights of individuals".

This summarizes the trend in the papers. Dr. Robert Schrire writes of the nature of ethnic identities and gives a detailed definition of an ethnic group some of the elements of which are a self-conscious social grouping, the key criterion for membership being an assumed common descent real or mythical. He adopts Knutson's statement that ethnic distinctions become important when they form part of the individual's or group's strategies for preserving or increasing control of resources, social status or other values in a State. It is important to note the stress on ethnicity because it takes the discussion beyond the groups referred to by Harold Laski in his *Grammar of Politics* and mentioned by Professor Degenaar as having moral quality.

This is how Laski puts it:-

"The variety of group life is almost bewildering in its profusion. Political parties, churches, trade unions, employers' associations, friendly societies, golf clubs, research bodies like the Institute of France, dramatic societies, are only instances of their place in social organisation. They do not of course exhaust the allegiance of the individual. He is a centre from which — there radiate outward lines of contact with the groups to which his experience calls him. They determine, quite largely, his choice of friends, of opportunities, of career".

It is clear that Laski is concerned with voluntary associations. But ethnic groups are not voluntary associations. Men and women are born into them, and in South Africa legislation provides that membership of such groups has legal and often burdensome consequences that the individual cannot escape. Too often in South Africa membership of a group has meant the denial of human rights rather than the realisation of human values.

This being so one reads Professor Nathan Glazer's article "Individual Rights Against Group Rights" rather grimly. It is a scholarly excursus which poses among other problems, the question as to why do we in effect assert that justice in the face of discrimination is justice for the individual, rather than a new and equal status for the Group. The individual rights approach is seen in the United States, the United Kingdom, France and Australia, whereas the approach in terms of rights for groups is seen in Canada, Belgium, Lebanon, Malaysia and India. The writer says that "one may also add South Africa as a State committed to group rights — though the use of the term will certainly sound ironic here".

The problem of group rights is linked of course with the problem of affirmative action as underlined in the Bakke case. Professor Glazer puts it this way: "there are two notions of justice in conflict here, one which says justice is apportioning rewards to groups on the basis of proportionality, the other which says justice is to be colourblind, to consider only the individual. Bakke can say: 'I don't care how many Black and White doctors there are, I want to be considered for admission on my individual merits, independently of race. I want to be a doctor; it is not the White race that wants another doctor'".

If one accepts the concept of group rights, then, in South Africa, a theoretical foundation has been laid for Group Areas legislation, Homelands, Prohibition of Mixed Marriages, Influx Control, and, indeed, the whole pattern of discrimination in South Africa. There are eloquent and forceful comments on this by Professor Mlahleni Njisane, a former Transkeian Ambassador to South Africa, by Mrs. Ellen Kuzwayo, an original member of the Committee of Ten in Soweto, and by Mr. Gibson Thula, a Kwazulu Government Urban representative and Publicity Secretary of Inkatha. Professor Njisane records among his conclusions that unequal participation in decision-making in an open political atmosphere in which all individuals could be working towards the organisation of a humane and just society, can only continue at the risk of the survival of all. He ends his paper as follows "Finally is it too much to invite all South Africans to accept responsibility for the tragic waste of human talent involved in this long history of denial of justice and opportunity? No nation is so rich in human resources that it can afford to impose artificial restrictions based on race, ethnic affiliation, language or culture."

There is much else besides, of great interest.

Professor Gerhard Tötemeyer writes of Namibia and of the astonishing number of ethnic groups assembled into political alliances. Professor D.A. Kotzé describes structural violence and discrimination in South Africa, Professor Eddie Brown of the Faculty of Theology at Stellenbosch and Cape Chairman of the S.A. Bureau of Racial Affairs, outlines his organisation's philosophy and justifies a policy of racial separation. Mr. René de Villiers, President of the South African Institute of Race Relations, explains the Institute's commitment to an open society; and there are contributions by Professor J.L. Boshoff, Professor Hendrik W. van der Merwe and Associate Professor David Welsh.

Finally, as to international perspectives, there is a description of the use of mediation and conciliation to resolve racial disputes in the USA, this being presented by Mr. Richard A. Salem, the Midwest Regional Director of the Community Relations Services of the United States Department of Justice; and Mr. Lionel Morrison, Principal Information Officer of the Commission for Racial Equality in England, provides a parallel analysis of Government policy designed to improve Race Relations in the United Kingdom.

Professor Gwendolen M. Carter, contributes a broad overview of the major themes and findings of the conference. Scholars will say, that save for passing references by Professor J. L. Boshoff and Professor van der Merwe, there is no discussion of the class system in South Africa and no reference, for example, to the thinking of Legassick and Wolpe. The learning of the latter, today a distinguished sociologist, is of course prohibited from publication because of the provisions of the Internal Security Act. Nevertheless what the Centre for Inter-Group Studies has published in this collection of papers is a series of valuable studies of central importance to South Africa.

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