

LIBERAL OPINION

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IN THIS ISSUE:

- 1 The "Vorster Bill"
 - 3 The "Black Spots"
 - 4 Our Traditional Way
of Life . . .
 - 5 Liberals' Role in
Transkei: "The
Morning After"
 - 6 Swinging Right
 - 7 Apartheid and the
Law (2)
-

The "Vorster Bill"

THE MAIN provisions of the "Vorster Bill" (General Law Amendment Bill) will probably be known to South African readers of *Liberal Opinion* by now, but they may not be known to overseas readers. They should be. So they are repeated here.

The Minister takes increased powers to ban gatherings. He takes increased powers to ban organisations. He can now ban individuals from attending particular gatherings or particular kinds of gatherings. The Minister may confine a banned person to a particular place. This could be his own home. While the banned person is so confined he may be prohibited from "communicating with any person or receiving any visitor". The Minister may order a banned person to report regularly to a police station.

Statements by banned persons

Section 10 makes it an offence for anyone to publish any statement made by a banned person. It also, as if as an after-thought, provides a minimum penalty of three years for certain offences under the Suppression of Communism Act. Offences under certain sections of this Act carry a maximum sentence of 10 years, others a maximum of three years.

An interesting provision in Section 16 is that

where a state of emergency has been declared in any area, and emergency regulations have been promulgated, any such regulations may be extended by proclamation to any area not falling under a state of emergency. An emergency in Pondoland could mean restriction of civil liberties in Johannesburg.

Threat to newspapers

Section 5 deals with the registration of newspapers. Any newspaper seeking to register its name will have to deposit up to R20,000. If he later decides that the paper has offended against the provisions of the Suppression of Communism Act, the Minister bans the paper and takes the deposit. If it then re-registers under another name it must renew its deposit and run the risk of losing it again. Obviously no outspokenly anti-Nationalist newspaper can hope to survive under a law like this.

Section 21 is the only section of the Bill which has anything to do with sabotage. It provides for the death sentence, extends the death penalty to juveniles convicted of sabotage and stipulates that the minimum sentence imposed shall be five years' imprisonment.

The medieval provisions of this last section have received wide publicity but it is the other twenty sections of the Act which add significant weapons to the already bursting armoury of the Verwoerdian police state.

Power to ban any meeting

It is anticipated that Mr. Vorster might specifically ban mixed political meetings in this Bill. He has not done so because he has given himself powers which make it unnecessary. He can now ban any kind of meeting any time he wants to. He need not stir up a fuss if in future he wants to emasculate Liberal Party activities. It will not be necessary to rouse overseas opinion through banning the Party. He can neutralise it indirectly, or so he hopes, through banning individuals and particular kinds of activities.

He has already announced that meetings on the Johannesburg City Hall steps and the Grand Parade in Cape Town will be stopped. The

Johannesburg City Hall steps are about the only place it is possible to hold a multi-racial meeting in Central Johannesburg. Late last year Nationalist thugs took to breaking up such meetings. Did somebody suggest to them that they should, so that the ban, when it came, could be justified?

The house-arrest provisions amount to virtual imprisonment without trial. The restriction on publishing statements by banned people means that the next time a Foundation importee visits Chief Luthuli he had better not publish what they talked about! More important, it will be quite impossible for Chief Luthuli to comment publicly on any question at all. His appeals for non-violence will no longer be heard.

Liberals' sacrifice

This Bill is a threat to everything the Liberal Party stands for. Its aim is to make it impossible for those who want a nonracial future for South Africa to work effectively for it. It is a futile aim. Whatever restrictions he imposes the things Liberals believe in will be much more durable than anything Mr. Vorster stands for. They will win in the end, provided those who profess them are unrelenting in their work for them and undismayed by this Bill's threats.

Liberals will still have to sacrifice a great deal before they get what they want for South Africa. Some may have to disregard the provisions of this new Bill. All will have to devise ways of carrying on the job of building their nonracial movements, whatever the difficulties placed in their way.

Liberal Opinion

. . . is sent free of charge to newspapers, in South Africa and overseas, to representatives of foreign governments, to libraries and universities, to various organisations, and to all individuals and organisations who want to receive it

The "Black Spots"

IN DANGER of being hypnotised by the welter of apartheid propaganda which is pumped out at home and overseas, it does no harm occasionally to remind ourselves of just what the policy means at the receiving end, to those who feel the full weight of its practical effects.

Recently the Minister of Bantu Administration and Development announced that he was about to set out on a programme which would finally get rid of all "black spots" in white areas.

There are several hundred "black spots" in South Africa, but what precisely are they and why do they offend the Minister?

A black spot is an area in which Africans own land in freehold. Their title is on paper no different from that of the white people who are their neighbours. In most cases the freehold rights have been held and highly cherished by the African people concerned for several generations.

Black spots are of several kinds. In some cases they are farms owned by individuals. Some are farms bought by tribal communities at the beginning of the century. Some are areas bought by a group of individuals who combined their limited resources to buy land which they later sub-divided into residential plots. Some are suburbs of rural townships. Often these last have been encroached upon by later expansion of the "white" part of the town.

Affront to apartheid

But whatever its origins, the land in every black spot was *legally* bought by African people. In many cases white farmers in financial difficulties, and in some cases white municipalities desperately wanting more ratepayers, went out of their way to persuade Africans to buy their land. Over the years completely "westernised" communities have grown up in these areas. The old tribal society has been rejected. New democratic institutions have been developed and it is through these that the life of the community is managed. In all cases individuals or groups bought land under the complete assurance that the title deed

which was handed to them was the mark of absolute and perpetual security of tenure. How wrong they were the Minister is about to show them.

Black spots offend the Minister for two main reasons. The first is that they are situated in predominantly "white" areas and therefore don't fit in with the rigid separation of people that apartheid insists upon. The second is that these are communities of independent men who live a life quite different from that in the played-out tribal society the Nationalists try to revive. They don't conform. They are an affront to apartheid theory. So they must go.

What happens to them?

By the stroke of a pen

A man moved from a black spot sees destroyed, at the stroke of a ministerial pen, the absolute security of which he had been given absolute assurance. The same stroke destroys his faith in Government promises and white integrity generally. After all, who sold him the land and made all those promises? Were they not white men?

A man moved from a black spot will be given a different title elsewhere. "Elsewhere" may be fifty miles away. The "title", if it can be called that, will be hedged about by all sorts of rules and regulations devised by the Bantu Affairs Department. An examination of the kind of title offered in a rural African township shows that the title-holder's rights are hardly better than those enjoyed by an African tenant in a municipal location. If his title is to endure he had better behave himself.

A black spot dweller may be removed from an urban to a rural environment. His business, which may have been with his white neighbours, will be destroyed. His wife, who may have worked for them, will be unemployed.

The effect of black spot removals is to destroy completely a community life built up over generations. Its aim is to push people back into a tribal environment they have long discarded. These are the people whose grandfathers had the initiative to take the plunge into the new

way of life the white man brought, when they first saw it. But the most important effect of the black spot removal will be to build up a fund of fierce resentment against falseness of a white regime which has no respect for the rights of people who are voteless and black.

The Liberal Party has been involved in a campaign of opposition to black spot removals in Northern Natal—where most of them are found—since soon after the Party was formed. Many of its staunchest members are threatened. In the face of the Minister's new threat more of its resources will be thrown into this campaign.

Even if it proves impossible to stop the removals the world and South Africa must know what really lies beneath the gloss of the State Information Office's blurb. Only real resistance to such iniquitous proposals as this will draw attention to what they mean in personal suffering. And only resistance supported by people of all races can blunt the sharp edge of bitterness and store up some goodwill for a nonracial future.

Alan Paton on 'FREEDOM TO ASSAULT'

ANNOUNCING the cancellation of a meeting at the Johannesburg City Hall Steps which, it was felt, would lead to violence if held, after a week of attacks by white thugs on Black Sash women demonstrators, of which the police took little notice, Mr. Alan Paton, National President of the Liberal Party, said:

"Freedom of speech has lost a critical battle. It has lost a battle to the freedom to insult, spit upon, address obscenely and assault citizens of the Republic who are seeking to express and make known their views in a lawful and constitutional manner. Decent citizens may not freely assemble but hooligans may freely assemble. The right to make lawful protests has had to give way to those who menace that right by unlawful methods."

Our Traditional

Martyr for "white" civilisation

● *An Oudtshoorn citizen, hearing of threats of invasion from outside South Africa's borders and the call for white patriotism from Defence Minister Fouché, immediately set about cleaning his gun and accidentally shot his wife in the leg.*

★ ★ ★

State in a state in a state

● *Dr. Verwoerd said in the Assembly that if there were any doubt about certain white areas within the Transkei, like in the case of Port St. Johns, there was no basis for these doubts. Port St. Johns could not be regarded as a white spot in the Bantu state because it had the sea on one side, and was therefore not surrounded by Bantu areas.*

If the Opposition did not like this definition, he could not help it. It was the Government's definition and Government policy would be implemented on the basis of Government definitions.

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Schoolboy-saboteurs to hang

● *Under Mr. B. J. Vorster's new General Law Amendment Bill, a 14-year-old may hang for trespass if the Attorney-General thinks he has some political intention (in trespassing) which might embarrass the State. The onus is also on the accused to prove he is innocent.*

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Expensive honeymoon

● *An African girl, who wanted to leave the country with her Danish boyfriend so that they could get married, but whose application for a passport had not even been considered by the authorities, was deported back to South Africa by the Rhodesian authorities after she and her friend had managed to get out of South Africa. On the way back they jumped off the train and a charter plane picked them up and took them to Tanganyika.*

Way of Life . . .

Next time more luck

● *Players and officials of a Natal multi-racial professional soccer team were charged for contravention of the Group Areas Act, but were acquitted on a technical detail.*



A Welkom verdict

● *A man from Welkom, Orange Free State, was fined R10 (£5) for forcing three young African girls to undress, and beating them badly with a length of hose.*



Ping Pong in, Coloureds out

● *When it was announced that for a table tennis match in Bloemfontein in which a touring team were to compete, facilities had been made available to Coloured people, such a fuss was made (not by the authorities) that the local chairman declared he had no option but to cancel the arrangements for Coloured spectators. Only a few Chinese will be allowed in.*

N.B.: Table tennis is so far the only sport in S.A. where it is the nonracial "non-European" body which is internationally recognised. This apparently does not prevent international top-players from being a party to race discrimination.



Buy at Oom Hendrik's

● *It has been established that the Government has used taxpayers' money to purchase 250,000 copies of "Bona", an African-language magazine, owned by Dr. Verwoerd, for distribution to Bantu Education schools.*



Confined to township

● *Two African women, one in Johannesburg, the other in Port Elizabeth, have been confined to their township areas for the next five years.*

LIBERALS' ROLE IN TRANSKEI

"The Morning After"

"I, A.B., do solemnly swear to be faithful to the Government of the Transkei and the Republic of South Africa and solemnly promise to perform my duties to the best of my ability. So help me God."

THUS will every member swear on taking his seat for future sessions of the Umtata Bunga, once "self-government" has been granted to the Transkei by the Government of the Republic.

Such "faithfulness to the Republic of South Africa" will continue to oblige the Transkei's future M.L.A.'s and their electors to carry "reference books", the hated passes which annually bring about the jailing of over 300,000 Africans. They will probably also have to continue to suffer under the iniquities of the Native Administration Act, and to observe the provisions of its offspring, Proclamation R400 of 1960, the post-Pondoland "emergency regulations", which for the past eighteen months have effectively suspended *habeas corpus* and put out the last flickerings of liberty in the entire Transkeian Territories. The Transkei will remain the Republic's greatest labour reservoir, bled white by the migratory system now nearly a century old.

Cap in hand before Government

In spite of these things, the great majority of the 109 members of the proposed Transkei Legislative Assembly will, at any rate for a time, stand cap in hand before the Republican Government. How their attitude will alter towards the "self-government" Dr. Verwoerd has given to them will be largely determined by the reactions of the ordinary people of the Transkei, their electors and tribesmen.

What the people themselves will feel about this faithfulness to the Government of the Trans-

kei and the Republic of South Africa is more difficult to predict. Part of its heavy price to them is the continuation of their chief hardship — pauperism, made almost incurable by their lack of land and of freedom of movement.

Those, and they are certainly the majority, who distrust “self-government” as a new form of white-backed chiefs’ rule, will be hardened in their hostility to the Government and the chiefs, as the tyranny of indirect rule intensifies, without relieving their poverty.

Soul-destroying subservience

Those, and their number may include the leading pro-Government man, Chief Kaiser Matanzima, who consciously or unconsciously seek, by collaborating with Dr. Verwoerd, to escape from the soul-destruction of perpetual subservience in the land of their birth, will learn too late that this “self-government” affords no such escape.

Genuine independence in African states has brought many post-uhuru “morning afters”, often gleefully highlighted by the white press in South Africa. They will appear as nothing to the “morning after” that awaits the Transkeians when they find that they still have acute land-hunger, police rule, passes, Bantu Education, “influx control” and the industrial colour-bar; and that the self-government that was to take the sting out of all these evils, is no uhuru at all.

Conjuring trick for world to see

Yet so intense has the Government’s concentration been on producing the rabbit out of the hat, that Liberal Party observers have gained the impression that the Afrikaner Nationalist politicians are not particularly concerned about the effect on the Transkei, even about the risk of open revolt, when the Transkeians find that this was a conjuring trick and not the arrival of freedom.

For the conjuring trick was for the world to see. The expertise with which it was carried out will keep pro-apartheid propagandists busy at home and abroad for some time to come. The

near-miss of the October 1961 anti-apartheid sanctions motion at the United Nations called for a dramatic display of the good intentions of apartheid, renamed “separate development”, and this has been performed with some success. Time has been bought, in fact, at the immediate cost only of heavier Transkei police and prison estimates. . . .

Liberal role of catalyst

But that time will run out fast. It is essential that in the difficult period ahead in the Transkei, the Liberal Party continue its role of catalyst among the anti-Government forces and as the sower of the ideals of liberalism and nonracialism. It must also continue to try and supply a clear South African national perspective and a world link-up to the Transkeians, as the time of their hardening and disillusionment comes.

Swinging Right

WE KNOW from everything that has happened in the electoral field since the General Election in October last year, that South Africa’s voters have turned sharp right. The Nationalist Party has gained votes from the United Party and the Progressives have lost ground to the U.P. Only Dr. Verwoerd can draw consolation from what has happened in the past nine months. The United Party is winning no converts from him. Its only cause for satisfaction is that it has been able to turn the drift to the Progressives and win back some of the votes it lost to them in October.

Progressives’ dilemma

The Progressive Party is in a dilemma. It clearly has substantial support in a number of urban seats but it has not got enough support to win them. It is quite possible that even Helen Suzman’s magnificent work in the Assembly this year would not keep her seat for her if there was to be another election in Houghton now.

But apart from the way elections are going, Dr. Verwoerd has further reason to be satisfied.

Militant opposition from urban non-voters has declined alarmingly. Perhaps the threat of the "Vorster Bill" will revive it. In the meantime the banning of African political organisations coupled with a relaxation of police pressure on African people in many urban areas has certainly affected African resistance to apartheid. As much as the bans and the police relaxation, this decline is due to the fact that the Government has successfully smashed every campaign launched against it outside Parliament since 1948. There is now a very natural reluctance on the part of African people to become involved in campaigns of whose success they have little hope. Even if one accepts the argument that it was the Government's precautionary measures which were mainly responsible for the failure of last May's stay-at-home, the fact remains that it was a failure—and a shattering blow to non-white morale.

Only worries outside Parliament

In spite of this the lesson of 14 years of Nationalist government is clear. The Nationalists are quite impervious to argument. No Parliamentary debate has ever deflected them from their course. They are delighted as long as the fight remains in the hands of the electorate because they know very well they can never lose it that way. The only campaigns which have ever worried them at all have been fought outside Parliament.

The size of the Progressive vote last year was at least partly due to the stir-up in white attitudes which was a hang-over from Sharpeville. The threat of the May demonstrations at least kept white South Africa thinking. But now Dr. Verwoerd has weathered these storms and emerged stronger from them. These successes coupled with war talk from the Minister of Defence and shallow appeals to patriotism are rallying white South Africans behind the Government. The polls show it.

This is a dark picture but there is no point in pretending it isn't so. We must face the fact that white South African voters in general will

only start to move left again when things quite separate from the conventional electoral struggle persuade them to do so. Some of these things will happen outside South Africa. Others will happen inside South Africa—but outside Parliament.

Peaceful pressures

In the present state of opposition to the Nationalists some people have turned desperately to violence. The Liberal Party's rejection of violence is well known. We do not want, or see a solution to our problems through, a second Algeria. But what we do see very clearly is the need to build a nonracial extra-parliamentary force capable of exerting the necessary peaceful pressures to make white South Africa change. We hope that, in the light of recent election results, the Progressive Party will realise that its chances of electoral support depend largely on building up this same force. And we hope that Progressive leaders will accept that one of their tasks is to help build it.

Apartheid and the Law by a lawyer

2. *PUNISHMENT OF THE SPOUSE FOR SEXUAL INTERCOURSE WITH THE MARRIAGE PARTNER.*

IN WESTERN society the institution of marriage is carefully protected by the law-maker. Only monogamous unions are recognised, and religious teachings about this reach back for centuries.

South Africa shares a Western culture and its rules, of course, are similar in respect of marriage to the ordinary civilised practice of all Christian countries.

A famous judge, in defining marriage in the Roman-Dutch Law, has said: "With us marriage is the union of one man with one woman to the exclusion, while it lasts, of all others."

Once upon a time adultery was a crime in our law and to-day it is a ground for divorce and for an action for damages by the aggrieved spouse against the adulterer. And, of course, it is implicit in the marriage relationship that each party shall accord the other full marital privileges. In this way the law tries to give effect to the injunction pronounced at the marriage ceremony: "Those whom God hath joined together, let no man put asunder."

Common body of ideas

When the Courts have to decide whether or not a marriage contracted in a foreign country should be recognised, it applies the law of that country, unless such law is repugnant to morality or public policy. This recognition has been called a part of the comity of nations and reflects a common body of ideas on these matters in the Western world. Because of this, a polygamous marriage celebrated in India is not recognised in South Africa. But marriages entered into in Christian countries outside South Africa have always been accepted as valid by our Courts.

The doctrine of apartheid, as expressed in statute in South Africa on this aspect of human relations, contradicts both the religious precepts and the international understanding to which I have referred.

Unmarried unless otherwise proven

Section 16 of the Immorality Act No. 23 of 1957 makes it an offence for any coloured male person to have unlawful carnal intercourse with a white female person or for a white female person to have such carnal intercourse with a coloured male person. Section 1 of the Act defines a coloured person as any person other than a white person, and unlawful carnal intercourse as carnal intercourse otherwise than between husband and wife. Section 21 states that a male and female shall be deemed to have been unmarried at the time of such intercourse, unless the accused proves the contrary.

If two people, husband and wife, each of different race, afford each other the marital privilege

of intercourse in South Africa and they are discovered in this act, they are required, in order to escape conviction, to prove that at the time of such intercourse they were married to each other.

Proof of marriage not enough

But it is not enough to prove only this, because mixed marriages are prohibited in South Africa by Act No. 55 of 1949. Two people who fall in love and are of different race cannot marry in South Africa and there is no means whereby, within the borders of the Republic, they can have their union blessed or sanctioned. Whereas the rest of the Western world prohibits incestuous or polygamous unions and others that offend against an accepted morality, South Africa has added a category hitherto unknown in church or state.

Can a couple then invoke the doctrine of the comity of nations and contract their marriage in a country where this prohibition is not part of the law? The answer depends upon the domicile of the male; his domicile is the place which he regards as his permanent home, either because he was born there and has not changed it or because he came there and accepted it as his permanent home.

Legal marriage not recognised

Obviously, in the case of a man living in South Africa and regarding it as his permanent home, his marriage with a woman of different race in another country would not assist him. On his return with his wife, lawfully wedded to him in terms of the law of that country, he would find himself exposed to the risk of prosecution if he lived with her, and it would not avail him to plead that he was married to her, because the Court would not recognise that marriage.

The apartheid doctrine engrafted upon the civilised Roman-Dutch Law thus disregards what another Christian state has recognised and puts asunder those whom God hath joined together.

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