His proposals for political rights in remote homelands will never meet the aspirations of African people outside his "Bantustans". The kind of spurious independence he is offering in the Transkei will not satisfy his critics in the outside world. Furthermore, it will not satisfy the aspirations of the Transkeian people themselves. That this is so, is clearly shown by the sharp division, already evident in the Transkei, between those chiefs who still do as the Bantu Administration Department wants them to do and those who are not interested in an ersatz independence restricted to Black Transkeians, but who want a democratic Transkeian Assembly open to all races as a first step towards a democratic all-South African Parliament open to all races. ★

Apartheid and the Law

by a lawyer

1. *IMPRISONMENT OF THE TENANT FOR FAILURE TO PAY THE LANDLORD'S RENT*:

The lessons that Charles Dickens taught about civil imprisonment are seen in the legislation of most civilised countries where imprisonment for debt is today greatly restricted. If anything the South African law is even more liberal than the English laws. By Act No. 21 of 1942, called the *Civil Imprisonment Restriction Act*, the Supreme Court has no power to order the civil imprisonment of a debtor because of his failure to pay a sum of money in terms of any judgment unless the claim enforced by the judgment arose from a wrong committed by a debtor or from his liability to maintain a wife, parent or child, or from the seduction of a girl committed by the debtor, or from the birth of a child of which the debtor is the father.

Of course, if any one is in contempt of an order of court he may be committed to prison but this is usually suspended on condition that the person concerned obeys the court's order. It also sometimes happens that if someone owes money and it is suspected that he is about to flee the country, he will be arrested and detained until he gives security for the amount claimed pending the decision of the action.

No one will quarrel with these rules and they are consistent with the average man's ideas of fair dealing. However, when one examines the implications of Apartheid legislation, one sees how the lessons of civilising reform in the law are ignored and replaced by the old harshness of earlier centuries.

Local Authority's Powers

A startling example is found in the legislation and regulations that govern an African's occupation of his home.

Most Africans who live in urban areas are required to reside in locations which are areas of land especially set aside by urban local authorities for the occupation and residence of such people. Ordinarily they may not live elsewhere in the town and this is how residential segregation is brought about.

The local authority provides housing in these areas and lets the dwelling to the Africans who must dwell in the area in terms of the Segregation Proclamation.

The urban local authority is given power by Section 38 (3) of the Natives (Urban Areas) Consolidation Act, No. 25 of 1945, to make regulations on various matters — among them tariffs of fees and charges for rent, water, sanitary and other services, and the collection and recovery of such fees and charges. It is also empowered by the same section to make regulations for the imposition of penalties in respect of the failure to pay any rents, fees or other charges and for the summary ejectment from the location of any resident failing within a reasonable time of due date to meet his obligations in respect of residence therein.

These powers already existed in the old Natives (Urban Areas) Act of 1923. The Johannesburg Municipality made its Location Regulations under this earlier Act. Regulation 14 is worth quoting in full:

"14. *Any person failing or refusing to pay any sum for which he is liable under these regulations within one month from the date on which it becomes due shall be guilty of an offence, and, upon conviction, shall be ordered by the Court to pay the amount which is found to be owing by him within such period as the order shall specify, and/or, in default of payment as ordered, shall be liable to be imprisoned with or without hard labour for a period not exceeding one month; provided that no fine or imprisonment undergone shall have the effect of cancelling the liability or barring an action for the recovery of the amount due by such person, and provided that no person shall be sentenced to a second term of imprisonment in respect of failure to pay the same debt.*"

The Municipality is permitted to prosecute for contravention of this Regulation and it does so. Large numbers of tenants who are in arrear with their rentals are brought before the courts and sent each year to prison for the offence that these laws have created. They are usually people who have fallen into arrear because their wages are below bread-level. Their imprisonment makes the financial problem worse and very often lack of administrative co-ordination results in the wage earner going to gaol even when the rent has been paid, because the prosecutor has not been informed and the bewildered and undefended accused does not know his rights.

It is rather a grim comment on the state of affairs that under the common law a landlord may only claim forfeiture of the lease for default of payment if the tenant is in arrear with his rent for more than two years.

Here is matter for a new Dickens. ★

Background to Transkei Self-government

IT IS DIFFICULT to say exactly when and why Government policy changed to "this year next year" from the "sometime, never" with which Government spokesmen met attempts, before 1961, to pin it down to an approximate date for the birth of a self-governing Transkeian state.

Even in May 1961, when a resolution of the Transkeian Territorial Authority set up a Recess Committee to "go into the implications of the granting or otherwise" of self-government, the Government was still avoiding any commitment to the most approximate date, though, after Sharpeville, "Africa Year 1960" and the East Pondoland disturbances, the resolution received a better hearing than several previous independence motions had done.

When they are Ready

After the resolution had been passed, the Government, with the co-operation of the presiding Chief of the Transkeian Territorial Authority, Chief Kaizer Matanzima, its trusted confidant and instrument in the Transkei, still successfully stalled the calling together of the Recess Committee. Self-government was kept vague as something for the future, "when the Bantu are ready for it".

Then events came in a rush. On 10th November, 1961, Chief Tutor Ndamase, heir to the Paramount Chief of West Pondoland, told the Minister of Bantu Administration at a meeting in West Pondoland, that the Transkei wanted "self-government by 1963 and complete independence soon after". On 8th December, 30 chiefs and advisers went to Pretoria to discuss Bantu Education grievances with the Minister. To their surprise, they met Dr. Verwoerd, who told them