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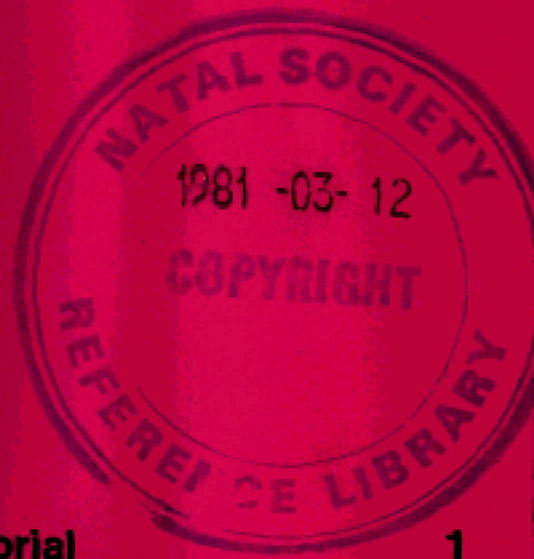
SASH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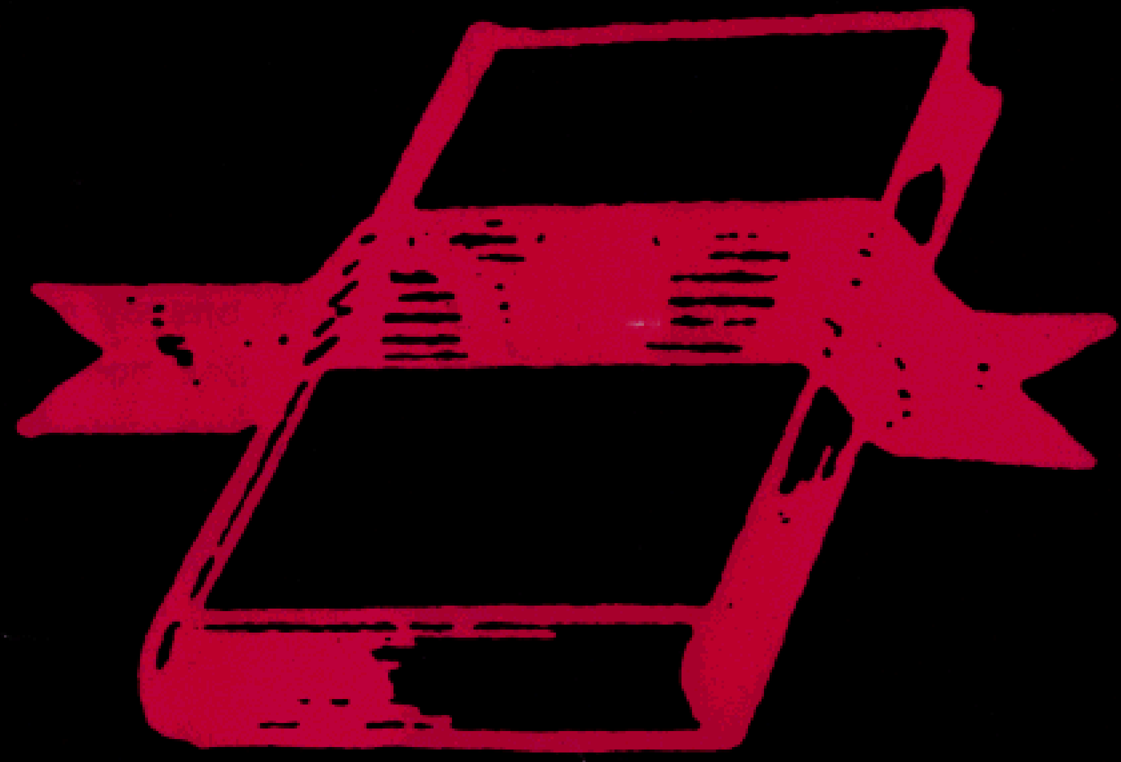

The Black Sash magazine

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Dedication...

IN pride and humbleness we declare our devotion to the land of South Africa, we dedicate ourselves to the service of our country. We pledge ourselves to uphold the ideals of mutual trust and forbearance, of sanctity of word, of courage for the future, and of peace and justice for all persons and peoples. We pledge ourselves to resist any diminishment of these, confident that this duty is required of us, and that history and our children will defend us.

So help us God, in Whose strength we trust.

Toewydingsrede...

MET trots en nederigheid verklaar ons ons gehegtheid aan die land van Suid-Afrika, ons wy ons aan die diens van ons land. Ons belowe plegtig die ideale te handhaaf van onderlinge vertroue en verdraagsaamheid, van die onskendbaarheid van beloftes, van moed vir die toekoms, van vrede en regverdigheid teenoor alle persone en rasse. Ons beloof plegtig om ons te verset teen enige vermindering hiervan, oortuig dat hierdie plig ons opgelê is en dat die geskiedenis en ons kinders ons sal regverdig.

Mag God ons help, op Wie se krag ons ons verlaat.

WHITE SOUTH AFRICA seems unperturbed at the erosion of democratic rights. Somehow white treatment of the majority, black, 'Coloured' and Indian, has created a shield against any form of caring among the majority of white South Africans. So without distress they enter the new 1981 Parliamentary session with their powers over that Parliament diminished and few care a hoot. They face a Parliament watered down by nominated members and a President's Council of entirely appointed members and one is left wondering at fairly recent history and the struggle of people for the right to control the Parliament which controls their destinies, let alone the attempts of the blacks and the browns to establish Parliamentary rights and control their own destinies now. White South Africa appears to stand aside dumb and uncaring.

What moves them, for they are not wholly asleep, not wholly wooden? Money? Yes. The price of gold and the price of food and the price of their houses and the price of petrol and the cost of living and the sheer joy of accumulation. Security? Yes. A sop to the boys on the border, but nearer home: guns and high walls, and police dogs and alarm systems, and gossip about Hillbrow and thuggery. Sport? Yes. Certainly this is a priority matter and worthy of heated attention. But the nub — the Parliament which controls all these matters and hundreds of others besides—doesn't even merit a dinner-time aside—it's almost as if 1984 were already upon us and white South Africans were cloned into accepting the political arrangements made for their own good.

Yet people talk of change in South Africa with pride and excitement. But what change? There is some in several restaurants and soon to be in several pubs, but the real change that is demanded by the disenfranchised, the right of participation in the control of their fate, the right to move freely, the right to a decent education . . . to a decent job and security; above all, the right not to be harassed and treated like a non-person, is not forthcoming.

What other changes have happened? There are tighter restrictions on movement and work opportunities for the majority, more controls over more people, more people conned into ceding their South African citizenship for a mess of pottage in a Bantustan.

GITA DYZENHAUS

What did you learn in school today?

80 years of educational protest

EDGAR MAURICE

DR EDGAR MAURICE is a former principal of Harold Cressy High School in District Six.

He resigned from the profession when 'Coloured' education was taken over by the Coloured Affairs Department, and has since been secretary of the Cape Town Terminating Building Society.

Dr Maurice was an active member of the Teachers' League of South Africa and the Non-European Unity Movement (NEUM).

With acknowledgements to Cape Argus.

FOR some six or more weeks now we have witnessed, and been involved in, a concerted, organised and well-supported protest by pupils and students against a discriminatory and inferior system of education. They are the front-line victims. And their position has evoked a unity of purpose, a sense of discipline, and a show of courage which has gained much admiration along a wide spectrum.

But in point of fact, in this area of so-called 'Coloured education', only TWO things are really new, and both are merely two sides of the same coin. In the first place, the pupils and students are now themselves involved in the protest and, in the second place, the nature of the protest, in the form of a boycott of classes and other forms of youthful demonstration, is in the nature of things a fresh development. In the belief that their parents are partly, if not wholly, responsible for the

grant of 50% of the total Provincial expenditure, the money to be spent as they pleased. The first formal change came in 1925. And it is a reflection of governmental thinking 55 years ago that it was agreed to pay a subsidy of Fourteen Pounds for each white child and Five Guineas for each 'Coloured' child in school. It was the first national monetary evaluation of the schooling of white and 'Coloured' pupils: *the ratio remains much the same today, and at R180 to R640 has in fact worsened to more than 3 to 1.* — (Editor's italics).

It required no prophetic vision to see that this subsidy arrangement could and would neither give an equal education to all, nor improve the situation in any real way. Ten years later, 32% of the children were still in Sub Std A; only 2,9% (as against the normal 12% for the white pupils) had reached Std VI and, worst of all, some 30 000 to 40 000 children, or one-third of the estimated school-going population, had never seen the inside of a school.

The Teachers' League begged and prayed for an increase in the subsidy. The resolution on the subject at its annual conference became a 'hardy annual,' and always elicited the terse 'Contents noted' reply from the authorities. At the outbreak of the Second World War it was clear that 'the vexed question of the subsidy for Coloured education' was the over-riding question to be answered.

Jan Hofmeyr

Around this time Jan Hofmeyr, Minister of Education and Finance in the Smuts Government, opened one of those interminable annual bazaars at a rather large Mission school. He flattered his audience for a while in his inimitably eloquent way, complimenting them, in words and phrases that touched their hearts, on the wonderful spirit of sacrifice and co-operation they had displayed over the years. He told them he was fully aware of their problems, especially the matter of the subsidy. 'I said to myself last night,' he went on, 'as I was preparing this speech as Minister of Education, "I really must, I really must get more money for Coloured Education." And when I awoke this morning and spoke to the Minister of Finance, he said to me, "We can't afford it! We haven't got the money"!'

The New Road

But people were not so easily fobbed off. As part of the rejection in the late thirties of the old leadership and its methods, and signalling the rise of more militant and forceful attitudes, there developed a new movement among the teachers which came to grips with the situation in its own characteristic way. Its philosophy and outlook was based on three formal tenets. Firstly, that they wanted not reformism and petty concessions, but full democratic rights and equality in their country. Secondly, that since education in any country is merely the reflection of the prevailing political and social philosophy, the system of education could and would only be changed by changing the political system. Thirdly, and most importantly, that since, in the peculiar circumstances of the time, the teachers were the natural leaders of the people, they had of necessity themselves to gear the educational struggle to the political struggle, and become involved.

After 1940

And so, after 1940 they waged, in the revitalised Teachers' League and its political affiliates, the most concerted and meaningful struggle against the colour bar in education. They raised the political consciousness of everybody to a new level, organised and conducted campaigns throughout the country, especially against the establishment of the Department of so-called 'Coloured Affairs,' and, above all else, displayed an intransigent and implacable refusal to operate and become part of any of the machinery devised by the Government for the subordination and inferiority of the people they represented. Under a principled and articulate leadership, they moved along 'the new road' in the fight for full democratic rights, which

their unquestioned superiority and supremacy in this land.'

Four Bills

These were, of course, not mere words. For during the 1890s much time and energy was spent in the attempt to achieve the basic aim: to provide for all the white pupils a superior system of State schools in which education would be free and compulsory; and to exclude all 'Coloured' pupils from such a system. No fewer than four attempts were made in the Colonial Parliament to translate this aim into legislative enactment. While differing in details, the School Attendance Bill and the School Boards Bill introduced by J W Sauer (father of Paul Sauer, the original architect of apartheid) and by T P Theron (the MP for Richmond) in the session of 1896, and the School Attendance Boards Bill introduced by W P Schreiner (the Cape Liberal) in 1899, all restricted their provisions to white children by formal definition. Only the Bill introduced by Thomas Smartt, the Colonial Secretary, in 1898, while clearly imposing mandatory obligations on the State only in the case of the white children, did allow some permissive concern for the interests and welfare of Coloured pupils.

Objections

Although these were all abortive attempts, the sinister implications for their children certainly did not go unnoticed by the emergent, politically sensitive and enlightened leaders of the 'Coloured' people. Already in 1896 Imam Effendi (later to be an unsuccessful candidate for Parliament) had made it clear to a Select Committee on Education that he welcomed the compulsory education of Malay pupils to bring into the schools the large number still outside. Indeed, in response to the growing evidence of increasing discrimination against them from all sides, the 'Coloured' people were beginning to organise themselves for the struggle. In 1902, for example, they formed the African Political Organisation, later called the African People's Organisation (APO), which was to play such an important part in their political life for the next thirty odd years. Incorporated into its constitutional aims at its Conference in Somerset East in 1905 was the desire 'to secure better and more advanced education' for their children.

The Circular

The forces were obviously beginning to range themselves for the battle. Indeed, when Sir Lewis Michell, the acting Colonial Secretary in Jameson's Progressive Party government, who had lived in Cape Town for 20 years and had often canvassed Coloured voters for support, issued his notorious Circular No 33 on 12 July 1904, the reaction from the organised groups was immediate and clear. For Michell had asked all School Committees in the Colony (exclusively white) whether they favoured the introduction of compulsory education, free to indigent parents, in a system of schools restricted to pupils 'of European descent'. He made no reference whatsoever to 'Coloured' pupils.

We learnt that West is always best

and white is usually right,

Protests

Soon after the Circular became public news, a deputation from the Coloured People's Vigilance Committee placed their objections against the discrimination before the Government. And other represen-

tatives submitted their objections to three Mps in Cape Town. Further afield, at a protest meeting in Paarl, it was resolved that any law for free, compulsory education should apply to both white and 'Coloured' pupils. But by far the most demonstrative opposition, headlined by the *Cape Times* as 'A Strong Protest', was voiced at a very large public meeting held in Cape Town on 25 August 1904. The speakers made the grounds and the nature of their objection very plain: amongst other things, they were taxpayers; and they wanted the best system of education for their children to remove the stigma from 'Coloured' persons because of their lack of education. In Kimberley, people were equally upset, and sent a telegram of support to the meeting.

Were their protests and pressures successful? Quite definitely not. But they were not without some little effect. Michell, for example, publicly admitted that some phrases in his Circular were 'not very well chosen' and, clearly on the defensive, he was forced into equivocation and special pleading, finally conceding that he was not opposed to the inclusion of 'Coloured' pupils in the proposed new system.

Colonial Secretary

And when Colonel Crewe, the Colonial Secretary, on whom devolved Parliamentary responsibility for education, finally formulated the Government's policy and outlined its plans for the infamous School Board Bill, in a speech in Kimberley on 20 November 1904, he revealed that some little thought (albeit an afterthought) had been given to the needs of the 'Coloured' pupils. But he made the dichotomy in policy and provisions very plain. For the white section there was to be a planned and effective system of undenominational schools under the local control of School Boards established throughout the country, in which it would become the duty of the State to provide the schools and to overcome whatever difficulties there were in the way of the education of the children. And compulsory education would become a reality in accordance with a definite legislative and administrative programme in a fixed period of time.

As for the 'Coloured' pupils, their education, he said, was 'a question of great difficulty that had caused a good deal of heart burning and trouble.' In brief, the Mission schools, restricted to Standard 4, were to remain the main agency for their education. But if the 'Coloured' parents wished their children to go beyond Standard 4 they could, subject to certain conditions, including a petition from 50 parents able and willing to support such schools, have such schools established, provided the School Boards consented. Conditions required for some kind of permissive compulsion in certain areas made the prospect no more than a vain hope and, in the classic (and prophetic) words of Abdurahman, placed compulsory education for 'Coloured' pupils 'as far off as the Greek Kalends.'

That rich and poor will always be
and that's what makes us free.

Abdurahman

Colonel Crewe's speech, and the publication of the School Board Bill on 13 January 1905, gave Abdurahman the chance to show his mettle. He was then a young man in his early thirties, at the beginning of his political career, uncorrupted by the blandishments of office and not yet grown cynical from the futility of the political game.

The occasion was a packed public meeting at the old Clifton Hill School in District Six on 23 February 1905. According to the *Cape Argus* it was attended by some 500 people, with several hundred unable to gain admission.

In a brilliantly eloquent speech, which more than deserves its place in the annals of public oratory in this country, he lucidly analysed the details of the Bill and pungently exposed the obnoxious principle and policy inherent in the Bill. 'We are excluded,' said Abdurahman, '. . . not because we are disloyal, not because it has been proved that we are inferiorly endowed and unfit for higher education, but because, although sons of the soil, God's creatures, and British subjects, we are after all Black.' The resolution to oppose the Bill was passed unanimously, and a deputation was appointed to interview the Colonial Secretary.

The Deputation

The deputation was led by Abdurahman. What happened in Crewe's office that day caused quite a public furore and many letters to the Press. For, soon after Abdurahman had introduced the delegation and outlined their case, the Colonial Secretary, no doubt already incensed by the widely publicised reports of the Clifton Hill speech, turned his back on Abdurahman, ignored him completely for the rest of the meeting and gave his explanations and promises to the others. But they got no real redress, except insignificant concessions and assurances on minor details.

The School Board Act

While the Bill was before Parliament, where the debates showed substantial agreement between Government and Opposition (the Second Reading was passed without division) a further deputation of Coloured leaders interviewed the six MPs for Cape Town and repeated their objections. But still to no avail. The Bill passed through the House of Assembly on 10 June 1905, was promulgated on 30 June 1905, and became the legal framework on which was built the educational superiority of the white population in the years thereafter.

The Mission Schools

The years after 1905 were barren years in which, for the so-called Coloured people, the grass was always greener on the other side. They saw the erection all over the country of the many fine, whitewashed buildings of the 'Public' schools for white pupils, each with its distinctive architectural design and green playing-fields, neatly fenced and maintained (many of them still to be seen today).

And they saw themselves inevitably restricted and confined almost completely to the inferior and neglected Mission schools, which owed their origin largely to the wave of evangelical zeal which had swept Europe in the last few years of the eighteenth century, and had brought so many of the churches and missionary societies to South Africa. Dependent entirely for their establishment and maintenance on voluntary efforts, the Mission schools had first received Government recognition in 1841, in the form of meagre grants towards the salaries of teachers. But although these grants were slightly increased more than 50 years later, in 1897, the provision of the school buildings and equipment always remained wholly the responsibility of the churches and their supporters.

It was, on the one side, a sordid story of official neglect and indifference. On the other side, amongst the poorest of the poor, it was a struggle against the most severe odds: they displayed the most admirable sense of devotion and purpose, and the greatest willingness to sacrifice in order to educate their children. Apart from the funds provided by the churches themselves, the parents paid the weekly school fees, profferred the monthly offertory, baked and bought the cakes at the school bazaar, accosted their friends and employers with their school collection lists, bought tickets for the annual school concert and, in a

hundred different ways, raised the money to keep the schools going.

The Crumbs

But they were never really (nor could they be expected to be) equal to the magnitude of the task. Abdurahman, in his famous 1905 speech, denounced the Mission schools as overcrowded, inadequately-staffed, ill-equipped, poorly-housed and scholastically ineffective. But in the years thereafter he could no more than advise his followers 'to pick up such crumbs as might fall from the table,' petition the School Boards and take advantage of the arrangements, however difficult, to secure Board schools (as they came to be called) for their children. Their chances were far from good. By 1911 only 5 of the 119 School Boards had taken any action, however limited, to provide schools for 'Coloured' pupils. And ten years later, when the school statistics for 'Coloured' pupils were first separated from the general 'Non-European' group, only 3 675 of the 48 309 pupils were not in Mission schools. The position never changed in any significant way.

The Act of Union

The reason was very simple. For in 1910 the Act of Union stripped them completely of any prospect of meaningful political power, and reduced them to the sale of their vote on the election market place in exchange for idle promises and deceptive offers by white politicians. And consequently, while they often proclaimed loud and clear that it was 'the duty of the State' to provide the schools, as for the whites, they had little alternative but, in the main, to make valiant attempts to ameliorate the Mission school system.

The Teachers' League

In this endeavour they were now ably, if perhaps vainly, assisted by the growing body of 'Coloured' teachers who had organised themselves in the Teachers' League of South Africa and held their first conference in 1913. The genesis of the organisation is interesting: while many of them had belonged, along with the white teachers, to the SATA, they now felt that, with the changed circumstances, the SATA was not helping to solve the problems of the Mission schools in which they were employed.

Resolutions

But the form and effectiveness of the requests and protests of the teachers was limited. They were strictly professional. Annual conferences were held; resolutions were passed and posted to the Education Department; deputations were sent and received; petitions were signed and submitted; they sat on and gave evidence to a never-ending stream of committees and commissions; public meetings were held and speeches were made. One such public meeting was held in the Cape Town City Hall on 17 September 1927, after which a widely representative Provincial Committee was formed whose purpose was to conduct an intensive publicity campaign and to give education 'a big push forward.' The Committee succeeded in securing the support of a large number of organisations, and arranged to hold a further series of meetings in Cape Town and the surrounding districts and, indeed, a mass demonstration on the Grand Parade!

Money

It all changed the situation in no fundamental way. True, it was not without its meliorative effect, mainly in the form of increases in grants-in-aid, including rent grants on buildings, cleaning grants, increasing responsibility for the salaries of teachers and for the provision of books and requisites. But the basic requirement remained: the provision of the capital sums required for the erection of schools. It was a simple question of money, always allocated to meet, first, the full needs of the white pupils and, as an afterthought, to do something for the 'Coloured' pupils.

The Subsidy

The availability of funds to the Provincial Administration was first determined by the Financial Relations Act of 1913, according to which the Central Government gave a

What did you learn in school today dear little friend of mine?

situation because they did nothing about it, the pupils are, of course, quite wrong. Their parents and grandparents might have failed (and, perhaps, in a sense, did fail) but they certainly tried and often tried very hard.

Early years

Indeed the whole history of 'Coloured education' is a story of dissatisfaction, objection and protest. And perhaps it will help everybody's perspectives — more especially those in authority who keep saying they haven't had enough time and always counsel more patience — if we take a look at the record. It goes back more than eighty years, some three generations. For history records that, particularly after 1890, there developed in the old Cape Colony a growing concern, more especially at official and Governmental level, at the large number of white children who were receiving either very little schooling or no schooling at all. There were no accurate figures. But the estimates varied between 20 000 and 400 000.

This anxious solicitude was motivated by three considerations. Firstly, the children were white and by that very token had to be educated. Secondly, increasing numbers of children who were not white, were in fact being educated, albeit in humble and inferior Mission schools. Thirdly, there were large numbers of white and 'Coloured' children being taught together in the same Mission schools.

Sir Langham Dale

But the concern went very much deeper than the mere provision of schools to educate all the white children: they had also to be given a superior education. The feeling on this aspect of the matter is perhaps nowhere better expressed than in the precisely measured and emphatic prose of Sir Langham Dale in 1890. He occupied the high office of Superintendent-General of Education (the SGE) in the Cape and, moreover, had by then had 31 years of experience in that position. Without doubt, he reflected the contemporary views and assumptions on which educational policy was based, and he obviously spoke with very great authority and much influence.

Dale was explicit and clear. He divided the population into two groups: the persons of European descent on the one side, and those who were 'Coloured' (including African) on the other side. Society, he maintained, had put a marked line of demarcation between them: white and non-white. But let Dale speak for himself: 'No legislation, no opinions about identity of origin, no religious sentiment about the effacement of the distinctions of black and white, can delete the line. It is drawn in bold, ineffaceable lines, and the demarcation will last because it is in accord with the natural instincts of the two groups of people.'

But not only that. This was not merely a difference *per se*. It had an important social significance, because it was to be reflected in a particular political ideology and geared to a corresponding educational system. Dale made it all very clear. 'The first duty of the Government,' he submitted, 'has been assumed to be to recognise the position of the European colonists as holding the paramount influence, social and political; and to see that the sons and daughters of the colonists, and those who come hither to throw in their lot with them, should have at least such an education as their peers in Europe enjoy, with such local modifications as will fit them to maintain

With acknowledgements to Cape Argus.

alone would bring equality of education.

As their movement gained momentum, the new Financial Relations Act of 1945 abolished the twenty-year-old differential subsidy and reverted to the 50% spent on all Provincial expenditure. In the event, the Provincial Council bound itself by Ordinance to spend a total of a million pounds on Board schools for 'Coloured' pupils, in equal instalments over a period of ten years.

Coloured Education Commission

But it was all not to be. Early in the 1950s the view was increasingly being advanced that 'Coloured education' was 'a financial burden' on the resources of the Province and, for several other reasons, required official scrutiny. In 1953, in the well-worn tradition, the Provincial Council appointed its Commission to consider the financial implications and, *inter alia*, whether 'the system with its emphasis on the academic side does not lead to a feeling of frustration,' and to report on 'the Coloured teacher and his training, his professional conduct and the uses he makes of facilities provided by the State.' Its Chairman (later appointed Ambassador to Italy) was de Vos Malan, SGE for many years, who had a few years earlier told white parents at Robertson that their children had to have a superior education to prepare them for baasskap.

The views of the Commission on the teachers engaged in the struggle are pertinent: there was a 'lack of professional attitude in certain groups of 'Coloured' teachers whose public appearances and utterances are such as do not conform with those commonly associated with educated and cultured people . . . they are certainly not fitted to be educators of the youth . . . the whole tone of the schools is poisoned by an attitude of bitterness and enmity towards the Provincial authorities in particular and the Europeans in general . . .' The Commission felt strongly 'that

it would be in the interests of education if such destructive elements were excluded from the profession.'

Transfer of the Schools

The Nationalist Party came to power in the Cape Provincial Council in August 1954, and thereafter provincial and governmental policy were completely aligned. The fight against the transfer of the schools to the central government was bitter and hard. But the attack on the teachers and their related organisations came from both sides. Victimisation and intimidation, dismissals, bannings and banishments followed in the wake of the report. And in the end, education was ignominiously transferred, by the Coloured Persons Education Act on 1 January 1964, to the Coloured Affairs Department, against whose very existence the teachers had fought so valiantly for 20 years since the days when Harry Lawrence called them 'a noisy coterie.' The Department was now to control and regiment every facet of the lives of the people classified as 'Coloured.'

Conclusion

Sixteen years have elapsed since that auspicious event. One thing is very clear. It was during this period, more than any other, that the concept of 'Coloured Education,' first revealing itself clearly at the turn of the century, was given its final shape and form: of schools restricted to 'Coloured' pupils taught by 'Coloured' teachers, financed in a special way, following curricula and syllabuses specially devised and adapted to meet their 'special needs,' and administered by a separate Department of State. Its political purpose was very clear: ideologically and administratively so to control their education that they would fit without difficulty into the social and political pattern devised by their masters.

The boycott of the schools effectively illustrates how it has all boomeranged; and presents the surest signal of the abject failure of 'Coloured education' to achieve its objective. It is all very sensitively epitomised in the plaintive little refrain sung by the pupils in their heroic demonstrations on the school grounds:

What did you learn in school today
dear little friend of mine?
We learnt that West is always best
and white is usually right.
That rich and poor will always be
and that's what makes us free.

With acknowledgement to the CAPE ARGUS which published a shortened version on 5 June 1980.

Obituary

Kathleen Bobbias

IT was a great shock to me to hear, on my return after being away for four months, that Kathleen Bobbias had died on September 4 1980.

Kathleen became Treasurer of Somerset West Branch in 1959, Treasurer and Secretary in 1964, and she carried on with both offices until two years ago. Even then she carried on being Treasurer.

It was said of Kathleen in the weeks of March 1969 that without her the Branch would cease to exist. This has continued to be the case ever since. The Branch has been, and will be, very lost without her.

MARY SCHURR

An adventurous Cinderella

CLIVE MILLAR

Education for blacks in South Africa is seen as both an individual opportunity and a political constraint.

THE RISE OF NON-FORMAL EDUCATION

Current conceptions of lifelong learning reflect commitments that are strongly egalitarian, strongly orientated to social development and strongly integrationist. Egalitarianism expresses itself not only as a basic commitment to an open society where freedom of access to education is unrestricted by race, sex or social class, but also to a further kind of openness consisting in the availability of educational opportunities throughout life for personal growth and for training in vocational skills. Such commitment finds expression both in **reformist** elements in current policy, of which compensatory education of various kinds is the main example, and in **radical-reconstructionist** elements which go well beyond compensatory education. A Council of Europe paper on 'permanent education' states:

> 'Whereas the aim of social advancement is to reduce individual inequalities while the social environment which produces them is left intact . . . the aim of collective advancement is to give individual education and at the same time influence the social context in which the individuals live . . . Without collective advancement there can be no genuine individual advancement, but only uprooting.'

This quotation highlights only one of the integrationist themes that characterise current thinking: that of the integration of personal growth and community development where educational policy is part of a broad development policy. Such statements only dimly reflect current realities. The present position nationally and internationally, as far as I am aware, is that the virtues I have been describing are given free rein **outside** the established structures of tertiary education, within the safety of what could be called the 'non-formal' sector of education. It is not unrealistic to define adult education administratively as non-formal education; the Centre for Extra-Mural Studies itself works outside the formal structure of university education. Though I have made it clear, I hope, that this is not an adequate conception of adult education and is one that reflects its depressed status, it is nevertheless one that encourages an adventurous Cinderella, a Cinderella who had to learn to look after herself and who may be a vocal critic of her sisters in the establishment. Non-formal education has the capacity to be critical, innovative and alternativistic, a capacity that becomes a duty when formal systems are judged inadequate or unjust. Indeed, one of the consequences of the current disenchantment with formal systems of schooling, reflected in a range of radical and reformist educational movements throughout the world, is the emergence of non-formal education as a highly valued phenomenon.

I take the view that the conceptions of lifelong education that I have been describing will **not** continue to flourish only in the gaps left by formal education, especially formal tertiary education, without effecting changes in formal structures. A range of factors is slowly changing our conceptions of what is normal in educational experience. These include:

- Population growth,
- Escalating costs of formal education,
- The problem of teacher supply,
- Radical questioning of the real benefits

of formal education from political, economic and cultural perspectives,

- The development of educational and communication media,
- The *growing visibility* of alternative models of educational provision.

In the absence of a 'new international economic order' Third World countries **must** explore non-formal alternatives in education. They, *in particular*, can afford no other option.

THE SOUTH AFRICAN CONTEXT

In South Africa the position is complicated by our uncertainty about whether we are in fact a Third World or an African country, in that we constitute a classic case of a population divided on racial lines into First World and Third World sectors and where our present policy of separate development, pared of all its rhetoric, attempts to confirm First World status for urbanised, and possibly white, South Africa and define quite different routes for economic development as appropriate for homelands or Bantustans. In such a situation the development of non-formal or open systems of continuing education is likely to be seen as a discriminatory Third World dispensation unless *such* provisions are introduced, not as alternative educational routes for some, but as part of normal educational provision for all.

EDUCATION AND CITIZENSHIP IN SA

Educational policy, like politics, is the art of the possible, and perhaps gives us some cause to question the viability of our own fragmented educational system. I am doubtful whether the provision of greatly extended opportunities for adult education will be acceptable to blacks in this country if they are perceived as alternative to white formal education or as compensating for the lack of it. In this country the issue of educational provision is inescapably the issue of citizenship.

Education for Blacks in South Africa should be seen — and I believe is seen by blacks — as both an individual opportunity and a political constraint. This is why their perception of the education they receive, and their resultant action of protest or co-operation, is sensitive to political events both inside and outside formal education. The death in detention of a political leader *or* the shooting of black school children will continually fan into overt rejection and protest the mild form of passive resistance, of working to rule, that attendance at ethnic universities constitutes for black students.

Education is for blacks an act of compromise in the face of overwhelming political realities, the cost of which in terms of collective solidarity, moral commitment and even intellectual development may, at times of crisis, be judged to be too great to be acceptable. (Editor's italics).

If the basis for this compromise is seriously upset by massive unemployment for black matriculants, as was the case in 1976 and is the case again now (ironically as the result in part of a more generous provision of high-schools in urban areas following the events of 1976), the situation becomes explosive.

ADULT EDUCATION

If education is a means of political control — as I take it to be — one can see why *Government monopoly* of black education is entirely rational and why initiatives in adult education concerned with the application of such ethics as social awareness, social criticism and social integration *have been, or are in danger of* being, severely restricted as subversive activities.

Adult education in South Africa, therefore, not only has to work within the gaps between *formal educational* systems but also within the gaps left open by restrictive legislation. At present we are experiencing a mild thaw: opportunities for adult education for blacks in urban areas are being accelerated by the Government, sometimes in co-operation with private organisations. However, the recent history of private enterprise in education in this country is a history of restriction, and I take little *comfort* from Clause 8 of the Education and Training Act, 1979, which sets out the penalties for those

who provide education for a black person (and this explicitly includes adult education) without their institution being registered by the Department of Education and Training or qualifying for exemption from such registration. Such a national context is by no means a congenial one for creative work in adult education. Nonetheless it is the only one we have, and it is our obligation, and in more senses than one our privilege, to work out policies and strategies that attempt to match idealism with realism.

(Greatly condensed extracts from the Inaugural Lecture of Professor Clive J Millar, Professor of Adult Education and Director of Adult Education and Director of Extra-Mural Studies at UCT).

The Government says:

MR HEUNIS said fingerprints were the only irrefutable proof of identity, and the new measure would also help prevent forgeries of various documents.

His department was now engaging in a four-month programme to decentralise the system to the point where every city and town, however small, would have its own representative of his department.

The representatives would be in constant contact with local offices of Government departments, other Governmental authorities and private sector organisations which provided services to the public such as banks, building societies, life insurance companies and estate agents.

They would all be used to assist with the immense task of keeping an up-to-date register of the population changes and the addresses of registered persons, he said.

Rand Daily Mail 15/1/81.

The Black Sash replies:

IF THE GOVERNMENT'S proposed plans to introduce uniform finger-printed identity documents for all people are indeed designed to 'limit, as far as possible, attempts to infiltrate strategic installations and key positions' (RDM 15/1/81) then it is tantamount to sending out an army to catch a mouse.

If they are further designed to prove to the world in general and South Africans in particular that the Government is sincere in its attempts to do away with discrimination, then Minister Heunis' statement that 'What measures the Department of Co-operation and Development will take for influx control is a matter for that department' (RDM 15/1/81), is an instant and total denial of the end of discrimination.

If they are an integral part of 'total strategy' to contain 'total onslaught,' then the baby is being thrown out with the bathwater. **All** citizens are now to be subjected to the restraints and humiliations that black people have been justifiably resenting and resisting over the years, and the curtailment of rights and freedom is being extended to protect — what? Liberty? Freedom? Democracy?

In our view these latest Government proposals present a 'total onslaught' on the privacy of all citizens, subjecting them to indignities like finger-printing that are generally reserved for criminals in Western societies. And we seriously question the motivation behind these moves. We resent the fact that our fingerprints, in addition to all the other data which the Government already requires about our persons, should be recorded in the depths of a computer in Pretoria, possibly to be used against us if and when the Government decides that we should no longer be permitted to express our dissent from its policies.

JOYCE HARRIS,
National President.

Is this Act really necessary?

THE Second Police Amendment Act 1980 ('the Act') amends the Police Act 1958 by inserting, after section 27B, the following provision:

Prohibition on the publication of certain information —

27C. (1) Subject to the provisions of subsection (2) no person shall publish in any newspaper, magazine, book or pamphlet or by radio any information in relation to —

(a) the constitution, movements, deployment or methods of any member or part of the Force concerned in any action for the prevention or combating of terroristic activities as referred to in section 2 of the Terrorism Act, 1967 (Act No. 83 of 1967);

(b) any person against whom or group of persons against which any action referred to in paragraph (a) is directed, or in relation to any action by such person or group of persons;

(c) any action referred to in paragraph (a) by any member or part of the Force together with any member or part of the South African Defence Force or the South African Railways Police Force;

(2) The provisions of subsection (1) shall not prohibit the publication of information released for publication by the Minister or the Commissioner or by a person authorised thereto by the Minister or the Commissioner.

(3) Any person who contravenes the provisions of subsection (1), shall be guilty of an offence and liable on conviction to a fine not exceeding fifteen thousand rand or to imprisonment for a period not exceeding eight years or to both such fine and such imprisonment.

The Act is in substitution for the amendment originally proposed by the Minister of Police which triggered immediate and

● Sketch by Anne Pogrund

vociferous public protest. The original proposal would have prohibited 'disclosure' (by word of mouth alone) of the fact of the arrest or detention of any person under the 14-day or indefinite detention laws.[1] The present Act is clearly more limited in ambit in that 'disclosure' has been replaced by 'publication' in any newspaper, magazine, etc; and this change is to be welcomed. However, it is strongly arguable that in other respects the changes made are purely cosmetic — and that the effect of the Act is still to prohibit publication (without authorisation) of the fact of the arrest or detention of an individual.

Looking at the provisions of the Act, it is clear that the words: '. . . the methods of any member . . . of the [Police] Force in any action for the prevention or combating of terroristic activities . . .' in subsection 2(a) are *prima facie* wide enough to cover arrest, interrogation and detention. Moreover, 'terroristic activities' (in sub-section

2(a)), fail to be defined by reference to section 2 of the Terrorism Act of 1967. The definition of 'terrorism' in this section is notoriously wide. The section is too long to quote *in extenso,* but its wide-ranging ambit has been emphasised by the Appellate Division in S v ffrench-Beytagh (1972) (3) SA 430 (AD)).[2] It is clear, accordingly, that the words 'terroristic activities' are wide enough to extend not only to incidents such as Sasol or Silverton, but also to participation in strikes and school boycotts.

Further, the clear provisions of the Act contain no limitation to action taken under the Terrorism Act itself:[3] all that is required is that the action be taken by the Police 'for the prevention or combating of terroristic activities'. (Note that this is even wider than action taken 'to prevent or combat').

The Act is, accordingly, clearly open to the interpretation that the media are now prohibited, without the consent of the Minister or Commissioner, from publishing any information (including, therefore, even the name) of any person against whom any action (including arrest and detention) is taken for the prevention or combating of terroristic activities — in the broad Terrorism Act sense.

If this interpretation of the Act is correct, it follows that the 'lacuna' in sub-section 6(6) of the Terrorism Act — which left possible the publication of information from an **unofficial** source of a person's detention — has now been closed.[4] And South African law has reached the point where people — like Steve Biko and Joseph Mavi — may simply disappear without the public being informed in any way.

INADEQUATE SAFEGUARDS

It is clear, therefore, that the interpretation placed on the Act is of crucial importance. In this regard, it is noteworthy that the possibility of the Act being interpreted so as to prevent publication of the names of persons arrested or detained was confirmed by the Minister of Police in Parliamentary debates on the Bill.[5] The fact that the Minister also undertook that the Act would be applied 'selectively' and would not be used to 'smother rightful criticism'[6] is a totally inadequate safeguard. First, unless written into the law, such assurances have no binding legal effect. Moreover, by virtue of the rules of statutory interpretation — which exclude reference to such 'travaux préparatoires' — they may not be referred to by courts of law faced with the task of interpretation. Further, our courts tend, in general, to the 'literalist' rather than the 'teleological' approach to statutory interpretation and are more inclined to give effect to the 'clear wording' of an act than the purpose underlying its adoption.[7] Hence, to avoid a wide-ranging interpretation of legislation, it is essential that appropriate limitations be incorporated within the statute itself. The present Act, however, contains no such restrictions upon its ambit.

It is true that a wide-ranging interpretation may not be correct and may not be adopted if the matter were to come to court. From the practical viewpoint, however, a newspaper editor (for example) faced with the decision of whether to risk unauthorised publication and weighing the heavy penalties imposed for contravention, is likely to 'err' on the side of caution. Moreover, given the broad terms of the Act, it will be extremely difficult to challenge the Minister's refusal to allow publication of particular information. This factor, coupled with the high cost of litigation, will inevitably militate against Court proceedings being brought to test the validity of any such refusal. Hence, the mere presence of the Act upon the Statute Books will undoubtedly have a stifling effect on publication. Freedom of the Press will most certainly be curtailed — and, with it, the right of the public to know the truth.

WHY WAS IT NECESSARY AT ALL?

The Act accordingly presents a serious threat to the democratic foundations of our society. It is therefore all the more disturbing that the need for the introduc-

tion of this further legislation is far from clear.

In the first instance, it would seem that the interests of the State are already adequately served by pre-existing legislation. In particular, subsection 3(2) of the Official Secrets Act, 1956, makes it an offence, subject to heavy penalties, to 'publish' or 'communicate' — 'in any manner or for any purpose prejudicial to the safety of the Republic' — 'information which relates to a . . . police or security matter'.

'Police matter' is defined in sub-section 3(2)(b) as —

> 'Any matter relating to the preservation of the internal security of the Republic or the maintenance of law and order by the SA Police'.

'Security matter' is defined as —

> 'Any matter relating to the security of the Republic'.

Prima facie, therefore, the Official Secrets Act is competent to regulate situations such as Silverton and Sasol — the alleged rationale for the new Act.

That the Official Secrets Act is apt to cover such situations was tacitly conceded by the Minister: who claimed, however, that further legislation was nevertheless required because —

1. the Official Secrets Act is so wide that both Police and Press find it difficult to apply; and
2. the Official Secrets Act requires proof (by the State) that publication is 'for any purpose or in any manner prejudicial to the safety and interests of the Republic'; and evidence of this may only be available after publication — when (to paraphrase his words) — the horse has already bolted and it is pointless to shut the stable-door.[9]

As regards the first point, the new Act is equally, if not more, wide-ranging. As for the second, the absence of any such burden of proof upon the State under the new Act means that, in this respect at least, different and additional power has indeed been conferred upon the State. But the change is one which undermines the Rule of Law and which should not have been countenanced without clear demonstration of the need for it.

Note further that the Act was introduced without first consulting the National Press Union,[10] or attempting to establish the liaison between Police and Press advocated by the Steyn Commission[11] (and which has operated so effectively in countries such as the United Kingdom with regard, for example, to the Iranian Embassy saga). Again, this inevitably raises a question-mark as to the need for the new Act.

DISREGARD OF STEYN COMMISSION

Finally, and perhaps most disturbingly, the Act goes far beyond the legislation proposed by the Steyn Commission itself. The Steyn Commission drafted and included in its Report[12] a new sub-section 27(c) in the following terms —

> . . . 27(c) Improper disclosure of information relating to the combating of terrorism.
>
> No persons shall publish in any manner whatsoever —
>
> (1) any information, which can be of use to any person or organisation participating in terroristic activities, whether directly or indirectly, relating to the composition, movement or disposition of —
>
> (i) that portion of the Police Force involved in operations for the prevention or suppression of terrorism, or
>
> (ii) any terrorists or terrorist group being the subject of such police operations.
>
> (2) any information, whether directly or indirectly, relating to any joint operations with the South African Defence Force and/or the South African Railway Police and conducted for the prevention or suppression of terrorism . . . .

The difference between this proposal and the wording of the new Act speak clearly for themselves. It is accordingly all the more disturbing that no explanation or

reason for the changes appear to have been given by the Minister in Parliamentary debates on the Bill, notwithstanding specific questioning on this point by the Official Opposition.[13]

DRACONIAN

In conclusion, the Steyn Commission also recommended, in paragraph 176 of its Report, that —

> '. . . The SADF and the SAP ought to make available as much information as possible and not as little as possible. The media, as well as the SADF and the SAP, are in favour of healthy relations based on respect and trust . . .'[14]

A draconian measure such as the Act will inevitably militate against the establishment of such a relationship. And this in itself — apart from any other considerations — is reason enough to regret the introduction of the Second Police Amendment Act of 1980.

FOOTNOTES

1. House of Assembly Debates No 16 Col 7803 2 June 1980: Mr R A F Swart.
2. At 457. See also C J R Dugard: 'Human Rights and the South African Legal Order': 176 and 348-9; and note that the Appellate Division in **S v Hosey** (1974 (1) SA 667 (AD)) appears to have retreated from the restrictive interpretation in **S v ffrench-Beytagh** supra and **S v Essack** (1974 (1) SA 1 (AD)).
3. House of Assembly Debates No 16 Col 7883 3 June 1980: Mrs H Suzman.
4. House of Assembly Debates No 16 Col 7884 3 June 1980: Mrs H Suzman.
5. House of Assembly Debates No 16 Cols 7834 and 7884 2 and 3 June 1980: Mr S van der Merwe and Mrs H Suzman.
6. House of Assembly Debates No 16 Col 7920 3 June 1980: The Minister of Police.
7. D V Cowen: Tydskrif vir Suid-Afrikaanse Reg': 1976 Vol 2 131 esp at 147-148.
8. House of Assembly Debates No 16 Col 7819 2 June 1980: Mr B W R Page.
9. House of Assembly Debates No 16 Col 7918 3 June 1980: The Minister of Justice.
10. House of Assembly Debates No 16 Col 7914 3 June 1980: The Minister of Justice.
11. House of Assembly Debates No 16 Col 7850 2 June 1980: Mr A B Widman.
12. At 193. quoted in House of Assembly Debates No 16 Col 7850/1 2 June 1980: Mr A B Widman.
13. House of Assembly Debates No 16 Col 7853 2 June 1980: Mr A B Widman.
14. At 113. Quoted in House of Assembly Debates No 16 Col 7847 2 June 1980: Mr A B Widman.

Which is my beloved country?

An Affidavit drawn up in the Johannesburg Advice Office

VUSI, born on 10th February 1969, and SETSEKA, born on 10th August 1971, both in Alexandra, are my sons.

For social reasons I procured a Travel Document for VUSI in 1979 so that he attends school in Umtata, Transkei.

In 1980, VUSI lost his travel document. I have tried to procure a duplicate travel document for him in vain from the same office, the Transkeian office in Tembisa.

Attached please find a 'REFUSAL DOCUMENT' from above office.

We were requested (ordered) to take attached document to the Commissioner's office Alexandra where the Transkeian citizenship was imposed on us.

I was greatly hurt by the rebuff, especially by the attitude of the officials who attended to us. They were blatantly rude. My mother is witness to the above.

I was born and brought up in Alexandra. I have never been to Transkei but only sent my child to school there for social reasons.

Since the Transkei does not want to accept us and I also do not want their citizenship, nor any other citizenship, except the citizenship I rightly possess — the South African citizenship. I now apply to retain my SA citizenship, together with my children, or rather remain stateless.

Attached please receive above two children's birth certificates. Please change their citizenship from Transkei to South African or stateless.

I will keep my son, VUSI, out of school until the citizenship matter has been settled.

Government Blackprint

THE NEW PASS LAW:

The Black Community Development Bill

SHEENA DUNCAN

THIS Bill was published on 31st October 1980 in Government Gazette, Vol. 184, No. 7282 as Notice 776 of 1980. There is a printing error on Page 1 where the Bill is mistakenly entitled the 'Laws on Co-operation and Development Amendment Bill.' Reference to 66(1) makes it clear that the correct title is the 'Black Community Development Bill.'

The current controversy and public debate on the Bill once more emphasises the fact that Pass Laws of any kind cannot be just. Pass Laws are designed to control the movement and presence of persons in certain areas and to exclude some from full and free participation in the common South African economy and society.

Dr Koornhof has announced that the Bill has been changed since it was first published and that it will be substantially different when it is introduced in Parliament. It seems that the new form will not be released until the Parliamentary session has begun. Whatever changes have been made there is no way in which such legislation can be acceptable. However, it is still of value to analyse the legislation as published, so as to be able to formulate some idea of what to look out for in the next version. There will probably be very little time for analysis and public discussion once the process of making it law has begun.

● THE REMOVAL OF LEGAL RIGHTS

Section 10(1) confers certain rights upon black people who have lived continuously in one town since they were born, or who have lived continuously and lawfully in one town for fifteen years or who have worked continuously in one town for one employer for ten years, and upon their wives and unmarried daughters and sons under the age of eighteen years. These are legal rights of permanent residence in urban areas and if they are unlawfully removed by bureaucratic action the aggrieved person can approach the Courts for redress.

Many attempts have been made in the past to remove Section 10 or to reduce the number of people who qualify — for example, through the 1964 Amendment Act and the 1968 Regulations for Labour Bureaux in the Bantustans which introduced the one-year contract system. In 1969 when the first draft legislation to establish Administration Boards was designed, Section 10 was removed, but there was such extensive public outcry from all sectors that the Act which was eventually passed did not include this provision. Then in 1978 an amendment to Section 12 of the Urban Areas Act was passed which removed Section 10 rights from the descendants of all black people whose nominal homelands had taken independence. Now the Section is removed altogether and no comparable rights are written into the new Bill.

● THE 72 HOURS PROVISION

Much has been made of the removal of this restriction which is also contained in Section 10 and reads: "No Black shall remain for more than seventy-two hours in a prescribed area unless . . .' Dreadful as it is, it at least provides a defence for those who are arrested and charged if they can prove that they have not been in the area

for that length of time. In the new Bill it is difficult to identify areas which will form the basis of a clear cut defence.

● THE DEFINITIONS

'A disqualified person means . . . a Black.'

The Bill provides that all black persons are disqualified persons in relation to any immovable property, land or premises outside a township (and outside a Bantustan). However, certain categories of disqualified people will not be prosecuted for being in a controlled area. These categories are bona-fide employees, bona-fide visitors and bona-fide dependants.

A bona-fide employee is:

(a) a person who is not a prohibited immigrant who is in lawful regular employment and has approved accommodation. The Minister decides what is regular employment. Approved accommodation is defined only as accommodation approved by a competent authority. *There are no legal rights here, only permits and authorisations.*

The availability of accommodation is already one of the major tools of the influx control machinery and will be even more so under the new legislation.

(b) a person who had permission as Section 10(l)(a) or (b) at the time the new Act comes into force. This excludes everyone born after that date and all those thousands of people who have not yet completed the full fifteen years' residence or the full ten years in one job.

(c) a person who qualified as 10(l)(a) or (b) when the Act comes into force and who is taking up lawful regular employment and has approved accommodation in another area. This is the clause that is claimed to provide freedom of movement. It does not introduce any new principle as the provisions were included in the amendments to the Black Labour Regulations gazetted on 13th June 1980. It is a curious definition of *freedom* which requires a person to prove that he is 10(l)(a) or (b), that he has regular employment (which will be defined by the Minister) and accommodation (which must be approved by a competent authority) before he is *free* to enjoy not being prosecuted for being disqualified.

(d) a person who rents a house or owns a house on lease-hold title in a township. At the moment the only people who are allowed to rent a house are those who are 10(l)(a) or (b) and have dependants in the area and this will remain the position under the new law until new Regulations are published.

(e) a person who is a prohibited immigrant who has a passport in which permission to work is endorsed and who has approved accommodation.

A Prohibited Immigrant in the definitions means a black person who is in possession of, or required to be in possession of, a passport. This includes all those people who are now in law citizens of Transkei and Bophuthatswana, as well as real foreigners. (It is such a wide definition that it would include South Africans who have South African passports and this is presumably something which will be altered in the final form).

As it is the policy that all the Bantustans shall eventually become independent, and as it is law that all black South Africans are citizens of one Bantustan or another, all black people will eventually be *prohibited immigrants.*

This legislation as it relates to being employed is in line with all that has gone before. Black people are not wanted in so-called 'white' South Africa unless their labour is required and those who are presently outside the urban areas will find it more and more difficult to obtain 'lawful regular employment' and 'approved accommodation.' Recruiting procedures are written into the new Bill and remain much the same as they were before in effect. Even the limited urbanisation which was controlled by the Section 10(l)(b) provisions will no longer take place by right.

A bona-fide visitor is:

(a) a person who has been given permission to be in an urban area or a township and to be in approved accommodation there.

(b) a person in a rural area who has the permission of the owner of the land to visit someone who is lawfully resident on that land.

(c) a prohibited immigrant who has permission stamped in his passport.

A person who is visiting someone lawfully resident in a township shall not require permission provided he does not visit for more than a total of 30 days in any one year, and provided suitable and adequate accommodation is available for the visitor. It is impossible to imagine how this will be enforced. Perhaps someone will decide to visit at weekends — two days at a time once a month with the odd bonus for public holidays.

How does he prove he has not been visiting for more than 30 days if he is arrested?

The onus of proof is on him.

Permission is also not required for visitors staying in hotels (international ones, of course), hospitals.

asylums, prisons or inebriate homes, or in educational institutions with boarding facilities.

Permission must be obtained for, but shall not be refused to, a visitor who is the dependant of a person who is not domiciled in a Bantustan and is not a prohibited immigrant, provided that there is approved accommodation.

Nor will commuters require permission to visit. A commuter is defined as being a person who commutes from his home in a Bantustan, or from land or premises he owns or legally occupies, and who noes not stay overnight.

A bona-fide dependant is:

(a) a person who has a 10(1)(c) qualification when the Act comes into force. That is, someone who is the wife, unmarried daughter or son under the age of 18 who is living with a 10(1)(a) or (b) husband or parent in an Urban township at the time the Bill becomes law. This does not apply to those wives who come to town after the new Act. In future wives and children will have no legal rights. They will be dependent on permission as in (b) below.

(b) a person who is a dependant of a person resident in a township and in accommodation approved for him and his dependants. The critical shortage of family accommodation in urban areas, which is the direct result of the Government's policy between 1968 and 1978, is not showing any signs of being resolved on the necessary scale. Legal rights in terms of Section 10 cannot be denied merely because a person does not have accommodation. In future people will have no rights to residence and will be entirely dependent on housing being provided if t ey are to get permission to live as families. This will prove to be a much more effective control than any which have gone before. There will be no more KOMANI judgments because there will be no more legal rights. There will only be dependency on some official's agreement to approve accommodation specifically for a person and his dependants on an individual basis.

(c) in a rural area a person who is the wife of, or who is wholly dependant upon, a man who owns the land on which he lives or is in the regular employment of the owner of the land.

A disqualified person is someone who is not authorised to be in a township.

Those who are authorised are those who now hold Site or Residential Permits or Certificates of Occupation or Accommodation Permits together with those dependants who are listed on those permits, and people who live in the hostels.

There is nothing in the new Bill which confers a right on any person to demand authorisation and it remains to be seen who will be so authorised in the future.

● THE PENALTIES

Any black person who is in a white area and is not exempted from the disqualification conferred upon him by his blackness, and who is found in unauthorised employment or in unauthorised accommodation, can be fined up to R250 or sentenced to three months imprisonment for a first offence. The person who employs him, or introduces him into the area, or allows him to remain or to be accommodated is liable to a maximum fine of R500 or imprisonment for six months for a first offence, and for a second offence to a minimum fine of R250 (maximum R500) or at least three months imprisonment (maximum six months), or to both the fine and the imprisonment, or to the imprisonment without the option of the fine.

The onus of proving himself innocent is on the accused person.

The Court convicting a person who is found guilty of 'unlawfully occupying' may suspend the penalties on condition that he is repatriated to his home, or renders such community service as may be determined, or is enrolled to be trained as an artisan for a period stipulated by the Court.

● ENFORCEMENT

To enforce all this, inspectors may be appointed by the Department of Co-operation and Development, by a Development Board (the new name for an Administration Board), by a Village or Town Council (the new name for Community Councils). *Such inspectors shall have all the powers conferred on members of the South African Police* in terms of Section 43 of the Group Areas Act to 'without warrant at any time during the day or night without previous notice enter upon any premises whatsoever and make such examination and enquiry as may be necessary; at any time and at any place require from any person who has in his possession or custody or under his control any book, document or thing, the production to him

(Continued on page 24)

Legislated oppression

Black housing in Natal

JACQUELINE WILLIAMS

THIS paper will focus on three areas in Natal which cover a spectrum of housing concerns, while each is the manisfestation of the oppressive structures of our society.

RICHMOND FARM

Richmond Farm is a squatter area situated north-west of Durban adjacent to KwaMashu Township. The historical development of Richmond Farm has never been documented and is therefore largely unknown. Present day residents suggest that the land on which Richmond Farm now stands was once owned by a white farmer and when the land was bought by the state for township developments, the farm labourers stayed on. Gradually other people moved onto the land as the pressure for accommodation near the urban centres became greater and the area grew increasingly to its present size.

During 1979 Diakonia and the Black Sash assisted the Richmond Farm Residents' Committee in carrying out a survey of the residents. The results of this survey indicated clearly that 'the commonly held view of squatters as unemployed vagrants is not true for Richmond Farm'[1]. There were 816 respondents in the survey and some of the results are detailed below:

- 75 per cent of the respondents are married,
- 42 per cent of the 816 households were found to have at least one adult with legal status to live in Durban,
- 48,4 per cent of the respondents have lived in Richmond Farm for five to nine years,
- 66,9 per cent have lived in Durban for 15 years or more,
- 76,21 per cent of the survey households have at least one adult in employment,
- 28,79 per cent have both the respondent and the respondent's spouse in employment.

A newspaper report quoted Professor Lawrence Schlemmer (Director of Centre for Applied Social Sciences, University of Natal, Durban), as saying that the survey had covered a 27 per cent sample of the households in Richmond Farm.

'There seems to be ample evidence that this is not an unstable population of drifters and semi-vagrants. Richmond Farm is integrated into the economy of the greater Durban area and it has a settled and stable core.'[2]

The residents of Richmond Farm are entirely dependent on their own resources and those of KwaMashu for transport and water. Night-soil and garbage are disposed of in pits. Like most other urban squatter areas Richmond Farm is conveniently, but not incidentally, close to a formal township.

Two conflicting committees exist in the area. One is a Residents' Committee elected by the residents themselves having the support of the majority of the residents. The other is a committee of Inkatha members, which has the ear of the authorities but not the support of the community. There has been news of the authorities' intention to organize an election early in 1980 to clear this conflict; however, as yet nothing has come of this.

Official responses to Richmond Farm have indicated quite clearly that the residents are being merely tolerated and that, in line with official policy, they are not wanted there. A spate of arrests during 1979, in terms of the Prevention of Illegal Squatting Act No. 50 of 1951, is proof of this. During the first half of the year approximately twenty people were arrested, found guilty and fined R60 or 60 days, fifty of which was suspended on condition that they leave the area within two weeks. In the latter half of the year in two dawn 'raids' over fifty people were arrested. From thirty statements taken from squatters awaiting trial, indications are that the majority (21) had been living in Richmond Farm for over five years. Three of those arrested were visiting friends or family at the time of the arrests and had papers to prove that they had legal residence elsewhere.

Legal defence was found for these squatters and money to pay for bail. Eventually the state withdrew the charges against these squatters which appears to be the result of the influence of the presence of an attorney and an advocate acting on behalf of the squatters.

Contact with the Commissioner for Co-operation and Development in Durban has been fraught with difficulties including the following:

1. his apparent confidence in the Inkatha Committee at Richmond Farm and disregard of the Residents' Committee,
2. his refusal to see a delegation of Richmond Farm residents that includes any Black Sash representatives or in fact any 'white' people.

In November last year a comprehensive memorandum was submitted to Dr Piet Koornhof, Minister of Co-operation and Development, from the members of the Richmond Farm Residents' Committee, Diakonia and the Black Sash. The following suggestions were put forward:

1. An area be demarcated for a site and service scheme for Richmond Farm residents.

2. All people including contract workers with families who have resided in Richmond Farm for five years or longer should be eligible for a site in such a scheme.

3. Such a scheme should not require large deposits or housing specifications beyond the means of the people for whom it is intended.

4. People with Section 10(1)(a) or (b) qualifications under the Urban Areas Act of 1945, should be allowed to put their names on the waiting list at Ntuzuma township. At present they are not allowed to because they live illegally at Richmond Farm.

5. Anyone who has lived in Durban, including Richmond Farm for 15 years or more should be eligible for a house.

6. Children born at Richmond Farm should be able to get Durban reference books and work seekers permits.

7. Section 10(1)(d) people from Richmond Farm should be allowed to continue as such and not suddenly made contract workers and forced to return to their non-existent homes in the Homelands.

Receipt of the memorandum has been acknowledged and there has been no further response. In the meantime there is word of a site and service scheme being planned by the Urban Foundation but this is still in the stage of discussion with the authorities.

CHATSWORTH

A number of residents' organisations in Chatsworth have come together to form one body, the **Chatsworth Housing Action Committee.** The establishment of this committee has been precipitated by the price set by the Durban City Council for the sale of sub-economic houses in Chatsworth. The selling price ranges between R4 245 and R4 880 for houses estimated to have been built at a cost of R1 500 to R2 000. The Chatsworth Housing Action Committee has been given a mandate by a significant proportion of the people of Chatsworth to fight, on their behalf, to lower the selling price!

Chatsworth is a large area south of central Durban which houses Indian people. The implementation of the Group Areas Act required the establishment of an area like Chatsworth, to house in one area the thousands of people resettled from settled communities elsewhere. For the majority of the people so resettled Chatsworth 'was symbolic of unjustified interference with the right of man to be free to live where he chooses'[3].

The security that people had had in their settled communities was lost with the enforced move to Chatsworth. 'They were forced to meet payments they had never contemplated. Faced with rising inflation, cost of living and cost of transport spiralling and wages generally low our people live in anxiety — the constant fear that one day they might not be able to meet their commitments and be forced out of their homes'.

At no stage has the City Council consulted the people of Chatsworth as to their feelings on the selling price for sub-economic homes. Consultation did take place with the Southern Durban Indian Local Affairs Committee. However this body is unacceptable to the Chatsworth residents as it precludes **direct representation** for Indian people on the Durban City Council. The Southern Durban Indian Local Affairs Committee itself did not consult the community and approved the prices set by the Durban City Council.

In a memorandum to the Minister of Community Development, the Croftdene Residents' Association, one of the first to protest on this issue, made the following recommendations:

1. That the decision of the National Housing Commission determining the sale price for these sub-economic homes be rescinded.

2. That the profit element be excluded in the determination of the sale price of these buildings.

3. That the sale price of these dwellings be determined on the basis of original costs at the time of construction plus a fair percentage for costs of land and servicing thereof.

In discussions with the Chatsworth Housing Action Committee and with a City Councillor it would seem that the price was set fairly arbitrarily without giving due consideration to all the factors and implications involved. The response of the Chatsworth residents has put the City Council, by and large, on the defensive and irrational and emotive statements have been made by members of the City Council.

One or two councillors have made themselves available for informal discussions with the Chatsworth Housing Action Committee, and with other interested groups, and, on this level, some of the issues are being clarified. However, once again a community of people which is 'voteless and voiceless' is being further deprived and exploited.

WEENEN

The village of Weenen lies some 30 kilometres north-east of Estcourt in Natal. Although there are a large number of white-owned farms in the district, many belong to absentee landlords who use these farms chiefly as labour reserves for other, commercial farms in the Natal Midlands. One can drive for miles through these lands without seeing any signs of white inhabitation.

The overwhelming majority of the African population, likely to number 15 000 or more, knows no home other than this district. Zulu-speaking people have been settled in the area for generations. During the course of the 19th century, title to the land passed to the incoming white settlers, the African occupants of the land becoming farm labourers and

'squatters' on what had once been tribal land. Nevertheless, their identification with the land as theirs has not been broken. Many present-day farm labourers can point to their fathers', grandfathers' and even great-grandfathers' graves near to their homes, as proof of their families' deep roots in the area.

Yet despite their historical and emotional ties to the area, today these people have no security of residence, no legal claim to the land on which they live.

Abolition of Labour Tenancy and Mass Removals — 1969:

In 1969, as part of a concerted drive by the government to modernise white agriculture and eliminate old, feudal practices, the labour tenant system was outlawed in the Weenen district. Henceforth a farmer was entitled to have a maximum of five families only living on his farm, all of whom had to be in full-time employment with him. If he wanted more labourers, he had to apply to a Labour Control Board for permission. All unauthorised families living on his land had to leave, to be resettled in KwaZulu. These were the 'surplus appendages', the marginalised workers of the rural areas.

The drive against labour tenancy got under way in the early 1950s. In 1961, a Departmental Commission of Enquiry called for the complete abolition of the system within seven years. Then in 1964, in terms of an amendment to the Bantu Trust and Land Act (Bantu Laws Amendment Act, No. 42, 1964), the Minister of Bantu Administration and Development was empowered to abolish entirely or limit labour tenancy in any district in the country.

The extent to which labour tenancy was entrenched in South African agriculture was indicated by figures put out by the Natal Agriculture Union in 1967. It estimated that if labour tenancy was to be abolished overnight, about one million Africans would have to be moved off white farms and settled elsewhere (Rand Daily Mail, 27th February, 1968). Yet despite the magnitude of the undertaking and despite strenuous opposition from many farmers, concerned at the effects on their labour supply, by the late 1960s labour tenancy had been outlawed in most of the Transvaal and all of the Orange Free State and a start made in Natal where the practice was most widespread.

Weenen was the third district in Natal to be affected by the ban, but the first where a large population was involved. It has been estimated that between ten and twenty thousand people were removed from their land, at times forcibly, and settled elsewhere. The large scale removals, the destruction of established communities and the crowding together of disparate desparate people in hastily erected 'Closer Settlement' villages on Trust land have left scars that are still clearly visible in the district today.

For most of 1969, 1970 and 1971 the district was in turmoil. 'Concern over farm labour policy' (Natal Mercury, 16-7-69), 'Africans' homes and families are forced out' (The Star, 9-10-69), 'Shortage of farm labour in Weenen' (Natal Mercury, 31-1-70), 'Tractors demolish kraals — 200 homeless' (Rand Daily Mail, 9-11-71) — newspaper headlines tell the story succinctly.

Mass evictions began to get under way in the second half of 1969. Frequently they were accompanied by hutburnings and bulldozers to force out recalcitrant tenants. Many tenants who resisted moving were prosecuted. A press statement issued by the Bantu Affairs Commission in October, 1969, listed convictions for '291 kraalheads (2 246 souls)'. Because of a blanket ban on any stock entering KwaZulu from outside (a conservation measure that takes no account of the thousands of people resettled in the Homeland), tenants destined for KwaZulu had to get rid of all their stock. White farmers flocked to the forced sales from miles around and hundreds of head of cattle and goats were sold, often for a third or a quarter of their actual value.

Originally the government intended to resettle the bulk of the redundant tenants at Madadeni, a resettlement camp near Newcastle. These plans were thwarted, however, by the resistance of the tenants, many of whom returned to Weenen as soon as the government trucks (the notorious GG lorries) had offloaded them at the camp. Many hundreds crowded into the adjoining KwaZulu districts at Keates Drift, Tugela Ferry, Mhlumba, Mashunka, etc. Thousands more were finally accommodated in a "temporary" resettlement camp acquired by the Bantu Trust on land adjoining Tugela Estates (now a BIC enterprise). Here several 'Closer Settlement' camps were pegged out and each family allocated a half acre plot on which to build their huts.

'A bad man gave me a stand which had four poles at the corners and said that was where I could build my house. I was given a tent to erect on the stand. As soon as we had put a roof on the first hut, the tents were taken away for someone else. A water tanker was parked nearby so that we could get water to make the mud walls of our huts. The moment the tents were taken away, the tanker was also taken elsewhere.

'There were no latrines . . . We came from homes where the nearest neighbour was half a mile away and there were thick bushes to give one privacy. Now we were all living right on top of each other.

'When we were moved we were told that we could not take our cattle and goats with us and that there was no land for us to cultivate because there were already too many in the location. They told us not to worry about this because we would soon be moving to a place of our own. Our buildings must be temporary because this was a transit camp.' This is how one woman remembers the move to the camp.

That was ten years ago. Today the people are still there. Since the mid-1970s this area has been repeatedly devastated by a series of deadly 'faction fights' between rival clans, jostling for space, competing for inadequate resour-

ces, resentful, frustrated and, increasingly, hungry. In 1969/70 most of the ex-labour tenants could become full-time migrant labourers in Johannesburg, Kimberley, Durban to support themselves and their families. During the 1970s, mounting unemployment in the cities has closed this safety value for many.

LABOUR TENANCY TODAY

In this way labour tenancy was formally ended in Weenen in 1969. Yet the system has not been eradicated. Both farmers and tenants have clung to it tenaciously and, despite its prohibition, it continues to operate under different guises throughout the district. In the ten years that have elapsed since the first removals many of the former tenants have drifted back to their previous homes or to farms nearby. The number of homesteads on many farms has crept up from the limits imposed in 1969/70. Some tenants are working full-time for their landlords, but many are working some variation of the old 'six months' system. Sometimes the whole family is under an obligation to work for the farmer, sometimes only one member is required to do so. In some cases only the children of the tenant are taken on as labourers. There are also instances where a family hires a substitute to work for the farmer to pay for their rent, while they work elsewhere or stay at home.

The people living at Weenen are currently struggling to bring permanence and stability into their lives. Under present conditions they have no security of residence at all. They are completely dependent on the good intentions and well wishes of the farmer. If he chooses to evict them, they have no means of contesting this, no matter how arbitrary or unfair the notice may be. Their presence on the farms is illegal, their 'contracts' outside the law. Many tenants have alleged that they have been able to stave off threatened evictions in the past only by paying their farmer a 'fine' in the form of a cow or a goat. Others recite a story of constant removals. Evicted from one farm, they approach the neighbouring farmer for permission to settle on his land, only to be forced to move on again at some later date.

The details vary but the general predicament remains the same. And so does the response of tenants when asked what they want — the right to live on the land and in the communities that they know, the right to keep their cattle and their fields and build for themselves a future where they are now.

CONCLUSION

The above report on three different areas in Natal, serves to highlight the broad spectrum of housing issues which require a just and humane response in Natal and, indeed, throughout the country.

At the same time, it is as well to remember that unless the structures of our society are changed situations such as these will not disappear. They are a result of **planned, ordered** and **legislated** oppression.

REFERENCES

1. Report on Richmond Farm Survey. Diakonia and Black Sash, November 1979.
2. Daily News, November 19, 1979.
3. Memorandum presented to the Honourable Minister of the Department of Community Development, Mr Marais Steyn, on the sale price of homes in Croftdene, Chatsworth, by the Croftdene Residents' Association.

(Continued from Page 19)

of that book, document or thing then and there or at a time and place fixed by him . . .'

● RULE BY REGULATION

The trend in South Africa whereby the making of law is removed from Parliament to the Executive, which has been particularly evident since Mr Botha became Prime Minister, is inherent in legislation. The Minister is given wide powers to make Regulations, and the Bill leaves the majority of people at the mercy of the rules he may choose to make because so few legal rights are specified in the law itself. In addition the State President is given wide powers which in effect would allow him to amend the law by proclamation.

Editor's Note: We welcome the announcement that Dr Koornhof has withdrawn the Bill for referral to a committee for revision. We trust that it will bear no resemblance to the above.

POST

SUNDAY POST

We mourn and deplore your passing

With acknowledgements to Rand Daily Mail.

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