

# 'VRYHEIDSVEGTER' AS 'N DIEF ONTMASKER



JOHN LANG

**DIT** het nou aan die lig gekom dat John George Fraser Lang, die groot „vryheidsvegter” wat nou in die Londense hoofkwartier van die anti-apartheidsbeweging 'n leidende rol speel en in 1961 uit die Republiek gevlug het om politieke redes — soos destyds beweer is — niks anders as 'n gewone dief en 'n verduisteraar van trustgeld is nie.

*Teen die 42-jarige Lang, wat in liberalistiese kringe voorgehou word as 'n groot idealis en wat nog in November verlede jaar die ontsnapping van politieke vlugtelinge uit Betsjoeanaland sou organiseer het, sal binnekort stappe gedoen word om hom as trustee van die bates van 'n 83-jarige weduwee van die stad te onthef.*

Só het die hele mandjie patats aan die lig gekom. Lang is in 1954 as mede-trustee aangestel om die weduwee se bates (aandeelde ter waarde van R46,000) te administreer, sodat sy uit die opbrengs daarvan kon leef. Hy was voorheen 'n Pretoriase advokaat en daarna 'n Johannesburgse prokureur.

Lang se politieke bedrywighede het daarna onder die aandag van die veiligheidspolisie gekom. In Augustus 1956 het kol. Att Spengler, destyds hoof van die Veiligheidsafdeling aan die Rand, vir Lang onder kruisverhoor geneem in verband met die uitsendings van die sogenaamde „Freedom Radio.” Hy is daarna deur die polisie kragtens die Radiowet in hegtenis geneem, maar hy is later deur regter Kuper R2,500-skadevergoeding toegeken vir wederregtelike arrestasie.

## Lugbrug

Onder groot reklame vlug hy uit Suid-Afrika in 1961, en die liberaliste het luidkeels lawaai gemaak oor nog 'n politieke slagoffer van regeringsbeleid. Teen die einde van verlede jaar het 'n berig in die plaaslike Engelstalige pers verskyn waarin van sy doen en late in Betsjoeanaland geskryf word. Hy sou 'n lugbrug vir vlugtelinge tussen Francis-town en Elizabethstad georganiseer het. Die Veiligheidspolisie

sou ook baie graag in aanraking met mnr. Lang wil kom, maar hy het hom nou permanent in Brittanje gevestig, waarvandaan hy teen Suid-Afrika opereer.

Onlangs het die oorblywende trustee glo agterdogtig geword, en 'n rekenmeestersfirma ongeveer vier maande gelede gevra om die ou dame se trustfondse te ondersoek. Hulle het vasgestel dat R14,000 van die aandeelde wederregtelik deur John Lang verkoop is en dat hy met die geld verdwyn het.

Dit is klaarblyklik 'n geval, so word verklaar, wat die aandag van die prokureur-generaal regverdige. Daar bestaan geen rede waarom Lang op só 'n ernstige aanklag soos diefstal van trustfondse nie deur die Britse owerheid uitgelewer behoort te word nie.

## Ruth Slovo Verlaat S.A.

**R**UTH SLOVO, die gelyste kommunist, wat volgens koerantberigte gisteraand per vliegtuig uit Suid-Afrika sou vertrek, het die land reeds laat gistermiddag verlaat — vermoedelik permanent.

Mev. Slovo, wat verlede jaar 117 dae lank kragtens die Algemene Regswysigingswet aangehou en op 2 Desember vrygelaat is, is die vrou van adv. Joe Slovo, ook 'n kommunist. Adv. Slovo het reeds uit die land gevlug. Haar vader, Julius First, is ook soos adv. Slovo in die Rivonia-saak genoem.

Mev. Slovo se kinders, Gillian (12) en Robyn (10), het gister saam met haar per vliegtuig van Jan Smuts-lughawe vertrek op die Sabena-vlug.



# HOW INSTITUTE WAS DRAWN INTO FISCHER CASE

**T**HE WAY IN WHICH the Institute of Race Relations came to be mentioned at the preparatory examination in the Fischer case was explained in a statement yesterday by Dr. E. G. Malherbe, president of the institute, and Mr. Quintin Whyte, the director.

The statement says that some newspapers featured the remarks by the prosecutor at the examination under "banner headlines."

"In his opening address at the preparatory examination of Abram Fischer the State Prosecutor stated that Fischer had 'handled party funds, moneys which had come into the Republic in devious ways — that is, through the fictitious Wilson account or through the agency of Defence and Aid and Christian Action, and even through the South African Institute of Race Relations,'" the statement says.

## BANNER HEADLINES

"The prosecutor says that at no stage did he intend to suggest that the institute had lent itself to any unlawful activity or that it had been a party to the misuse of moneys.

"Nonetheless, a number of newspapers featured these remarks by the prosecutor under banner headlines, with a consequent heightening of emphasis.

"As this appears to have caused disquiet and anxiety the institute wishes, now that judgment has been given, to summarize the circumstances which seem to have led to the reference to the Institute of Race Relations."

The statement says that in June 1963 a "Dependants' Conference" was formed in Cape Town consisting of representatives of a number of organizations including the Institute of Race Relations, the National Council of Women, Social Services Association, Defence and Aid, the Christian Council and the Board of Aid, many of which had been dealing with the relief of distress among dependants of political offenders.

## DEPENDANTS

"The new conference was a co-ordinating body formed to provide material aid to these dependants. The Institute of Race Relations provided secretarial and bookkeeping services in an unpaid capacity to the Dependants' Conference and until September 1965 banked and disbursed its funds, which derived from a variety of sources, local and overseas, including Oxfam and the Rowntree Trust.

"In June 1965 a letter was received from the Defence and Aid Fund of Christian Action in England, informing the secretary of the Cape Western Region of the institute—who was also the secretary of the Dependants' Conference—that an amount of R20,000 was being remitted.

"Full instructions were given as to what amounts were to be paid to the various organiza-

tions dealing with dependants' welfare in the different regions of South Africa.

"Included in these directives was one instructing the payment of R2,000 to the Defence and Aid Fund for welfare work among the dependants of political prisoners. This amount was sent to the Defence and Aid Fund in Johannesburg," the statement said.

Shortly afterwards, on August 12, 1965, the secretary of the Johannesburg Defence and Aid Fund informed the regional secretary of the Institute of Race Relations in her capacity as secretary of the Dependants' Conference, that the Johannesburg Defence and Aid Fund was no longer undertaking any welfare work for political prisoners and their dependants.

"She returned to Cape Town the unspent balance amounting to R1,540.

## DONORS

"The secretary of the Dependants' Conference informed Defence and Aid in London, the original donors of this money, of the return of the money, and asked whether it could be kept and used at the conference's discretion for any other area which might be in need.

"The reply from London directed that the money be paid into the account of the Rev. J. D. Davies and Miss D. Tucker in Johannesburg, who had formed an *ad hoc* committee to deal with welfare needs.

"The institute's Cape Town regional secretary — in her capacity as secretary of the Dependants' Conference — after satisfying herself as to the identity of Father Davies, paid over the money as instructed.

The statement says that Miss Tucker and Father Davies were called as witnesses during the preparatory examination and gave evidence that a cheque from the Institute of Race Relations for the R1,540 referred to, had been deposited to their account in August, 1965.

"This was the sole context of reference to the institute in this case. At the trial of Abram Fischer in the Supreme Court no reference whatsoever was made to the institute."

"The institute adds with emphasis that it does not support nor has ever lent itself to any subversive or unlawful activity whatsoever. It utterly rejects subversion.

"In the words of the director, Mr. Quintin Whyte: 'The institute has always maintained that subversion perverts those normal processes by which changes are brought about in a civilized society.'"

# LAWYER'S

## FORM TRUST

16  
3  
64



## SHORT BY

### R14,000

Staff Reporter

**A** SHORTFALL of about R14,000 has been discovered in a trust fund which was administered by Mr. John Lang, a Johannesburg attorney and politician who left South Africa in 1961. Mr. Lang is living in London.

A senior partner in the firm of attorneys which employed Mr. Lang, said yesterday the trust fund accounts had been examined by auditors, who had confirmed the shortfall.

He added that the auditors had prepared a detailed report on the investigations.

The spokesman said arrangements were being made to ensure that the beneficiary of the trust fund would not suffer financially.

The trust is administered for an elderly Johannesburg widow, and the amount entrusted to the firm is about R46,000.

## DAMAGES

Mr. Lang, 43, was awarded R2,500 damages by the late Mr. Justice Kuper in an action he brought against the Minister of Justice and Colonel A. J. Spengler—then head of the Security Police on the Rand—for alleged wrongful arrest in August, 1956, unlawful detention and injuria.

He had been arrested on a charge under the Radio Act when police investigated illegal transmissions by "Freedom Radio," but was released after an urgent application to the Supreme Court.

He was subsequently charged under the Radio Act and acquitted.



# STAR Legal aid system <sup>25/6/66</sup> 1.

**S**OUTH AFRICA'S inadequate system of legal aid has for a long time disturbed conscientious people. Only the Department of Justice seems reasonably satisfied with it, and even it has not defended the system with the vigour of conviction.

Now a powerful voice has been added to those who want an improvement. The General Council of the Bar of South Africa has decided to ask Mr. Vorster for a judicial commission to consider legal aid, and in the meantime to res-

store the subsidies previously paid to voluntary legal aid associations.

Coming from this quarter, the suggestion is obviously free of political implication. In fact, Nationalists are strongly represented on the Bar Council. Like every other legal practitioner they are concerned simply with seeing justice done, and they know very well that the best way of ensuring it is to provide a legal defence for the hundreds of people who cannot afford one and yet have a good case *prima facie*.

## Political trial lawyers

# MAGISTRATE HAS PRAISE FOR DEFENCE COUNSEL

Cape Town.

THERE WAS AT PRESENT a tendency to look askance at lawyers who undertook the defence of people charged with political offences, and it was a tendency of which the courts could not approve, Mr. J. W. van Greunen, a magistrate, said in the regional court at Goodwood.

Mr. van Greunen, addressing defence counsel at the end of a trial at which 13 African men appeared on charges of belonging to an unlawful organization (Poqo) and furthering its aims, said that they had acted in the best traditions of their profession.

The tendency to look askance at lawyers who undertook the defence of people charged with political offences could be due to the actions of certain organizations abroad which made money available for the defence of political offenders.

It was, however, a tendency of which the court could not approve.

### INTEGRAL PART

"It is an integral part of our system of justice that every man has the right to a legal representative," said Mr. van Greunen.

He told the 13 accused that had their defence not been so ably conducted it was possible that more of them would have been convicted.

Mr. van Greunen also congratulated the prosecutor, Mr. L. P. Smit, on his handling of the case.

Five men — Jacob Mandindi (31), Elias Mzamo (20), Mbulelo Syeko (29), David Myene (38) and Ngangato Lindwa (35) — were found guilty of belonging to an unlawful organization and of furthering its aims.

They were sentenced to three

years on each charge, with one year of each sentence to run concurrently. They will thus serve a total of five years each.

Three other men — Gideon Daweti (35), Wellington Tshetu (28), and Lennox Salweni (35) — were found guilty of being members of Poqo and were sentenced to three years' imprisonment of which six months were suspended.

The remaining five men — David Kangu (34), Siso Ncapayi (26), Lizo Gama (27), John Sibefu (33), and Amos Shishuba (23) — were found not guilty and discharged.

None of the men had previous convictions.

Mr. J. Immerman, with him Mr. P. Hodes, appeared for all the accused.

## In defence

A CAPE TOWN magistrate, Mr. J. W. van Greunen, underlined an important point of social ethics when he gave judgment in a political case recently. He said it was wrong to look askance at lawyers who undertook the defence of people charged with political offences, adding: "It is an integral part of our system of justice that every man has the right to a legal representative."

These words needed saying at this time, when the country is going through a period of almost hysterical condemnation by inference or association and when people are tending to shun anything or anyone connected with what have become known as "un-South African views."

It is happening to the Defence and Aid Fund and it has undoubtedly been happening in political cases where lawyers have taken on briefs they know will make them unpopular with their friends and countless people they have never met.



# LEGAL AID FOR POLITICALS: BAR COUNCIL IN THE DARK



## EXPRESS REPORTER

**N**ETHER the Johannesburg Bar Council nor the Johannesburg Legal Aid Bureau has yet been officially informed of the Government's decision to give free legal aid to political prisoners. Details of the scheme came to light **this week.**

Yesterday, the Acting Chief Magistrate of Johannesburg, Mr. O. C. Gush, told me that the scheme — the first provision for the defence of political prisoners since the Defence and Aid Fund was banned in March — had been in operation for some months.

"I cannot give you the exact date that it came into operation, but it was several months ago. It has already been in use in the Eastern Province," he told me.

## PROCEDURE

He confirmed that under the scheme the State would pay for the defence of any prisoners who could not afford their own lawyers.

"They will be able to apply to the court for legal representation in the same way as any other accused. The court will decide on the merits of the application. Naturally, this will not apply to trifling cases, he told me.

According to a court official, the accused will have to apply for aid to the magistrate hearing their case or to the local legal aid society, who would then make application to the Chief Magistrate of the district.

Should the magistrate agree to the application, he would ask either the local law society or the local Bar Council to appoint an attorney or counsel.

Their fees would be chargeable to the Department of Justice. I was also told that details of the scheme had been passed to all chief magistrates, who had passed them to their local law societies and bar councils.

But a member of the Johannesburg Bar Council told me yesterday: "This is the first I have heard of the scheme. I cannot comment on this until I have all the details. The council only started to investigate this after hearing a rumour about it on Tuesday."

A spokesman for the Legal Aid Bureau told me: "I know nothing about this. The first I heard of it is what I read in the Press yesterday. We have not been informed officially."



wait for  
Hansard  
to see  
speeches  
on Bill

## Legal aid

THE Legal Aid Bill looks less and less satisfactory as it goes along.

In introducing it, the Minister of Justice, Mr. Pelsler, disclosed that a means test is going to be applied. This was to be expected. But why, then, is it not written into the Bill? Its criteria and application are to be left, apparently, to the discretion of the Legal Aid Board and to the regulations that the Minister may himself from time to time issue.

What is even less satisfactory is that, included in the board's discretion, will be the power to say what kind of accused may get any legal aid at all. The Minister is quoted as saying that an accused person may qualify for legal aid under the means test—whatever it is—and still not get it because the board chooses to regard him as a professional criminal.

One can see what the Minister means. He very naturally does not want legal aid to devolve into something that will help to encourage crime. But has he no confidence in the courts to sort out the professional from the amateur, the guilty from the not guilty? That is what the courts are for, and the purpose of legal aid, even if every accused in the country got it, would not be to subsidize crime but to help the courts to do their job better.

## No legal aid for 'working' criminals

27 FEB 1969

THE LEGAL Aid Bill would provide for legal aid for indigent people in civil and criminal cases, but it would never be used to subsidize crime, said the Minister of Justice, Mr. Pelsler, in the House of Assembly last night.

Mr. Pelsler, who was moving the second reading of the Bill, said it would also not interfere with the existing system of pro deo defence in criminal cases involving capital punishment.

Legal aid would be subject to a means test.

"We know from experience that most people who habitually commit offences are idle and work-shy. In fact, crime is really their job. They will possibly all qualify in accordance with the means test. The question is whether such people should also be assisted.

"If legal assistance must result in the State's ensuring to the skollie element who are idle, snatch handbags, steal purses and pick-pocket that when they appear in court they will be defended by lawyers at the expense of the State, then the writing is already on the wall for the scheme and it will be stillborn."

### SELECTIVE

The Legal Aid Board established in terms of the Bill would have to determine what cases qualified for legal assistance. This meant that legal aid would be given selectively. It was not possible to define the scheme in detail by legislation. To do so would have an unnecessary restrictive effect.

MR. M. L. MITCHELL (U.P., Durban North) said the United Party would support the second reading of the Bill, but reserved the right to criticise the measure, if necessary, when it was in operation.

The Bill was read a second time. — Sapa.

### Legal Aid Bill

- |        |  |
|--------|--|
| 1493   | Min / Justice introduces - gives history of legal aid        |
| 1493   | pro deo defence will remain in capital charges               |
| 1496   | Min. will not "subsidize crime" - Skollies won't get defence |
| 1501   | Mitchell on Skollies - what are skollies?                    |
| 1507-9 | Mit. replies - again says aid won't be for Skollies          |
| c 2329 | <u>now passed by Senate</u>                                  |



# SILENCE OF LAWYERS 'DISTURBING'

29 APR 1969, STAFF REPORTER

THE SILENCE of the legal profession on the "broader issues" in South Africa was disturbing, John Dugard, writing in the latest issue of the "New Nation," says.

"The administration of justice in South Africa is of prime concern to lawyers. It cannot be left to the politicians. This places a heavy burden on all members of the legal profession to take stock of their activities and to question the ability of their leaders to represent their interests."

Mr. Dugard emphasises that most representative professional bodies had shown "extreme shyness" in putting forward the matters which could in any way be described as political. He cites the recent refusal of the South African Medical and Dental Council to espouse the cause of underpaid non-White doctors.

## DUTY

The law societies and the bar councils promoted the cause of their members when their pecuniary interests were involved and they sometimes participated in the legislative process when the interests of society were at stake.

Mr. Dugard quotes Mr. Charles Friedman, who said at last year's annual conference of the law societies: "It is the absolute duty of lawyers to speak aloud when fundamental principles of the rule of law of the due process of law are involved, for we, as lawyers, are and must be concerned with justice and the rule of law."

Mr. Dugard says Mr. Friedman's exemplary directive to "speak aloud" arises only in the last resort. In most cases there would be no need for open confrontation between the legal profession and the Government.

## ABOLITION

Mr. Dugard mentions the motion introduced recently by Mrs. Helen Suzman in the House of Assembly that the Government be requested "to consider the advisability of appointing a commission to inquire into the desirability of abolishing capital punishment."

Although the abolition of the death penalty concerned all, it concerned advocates most di-

rectly, as it was they who must witness the degrading imposition of the death penalty at the end of a trial in which they fought to preserve rather than destroy life.

Surely such a motion warranted the canvassing of views of members of the legal profession and the transmission of such views to the Minister of Justice before the debate started, he says.

But nothing was done and a National Party spokesman, Mr. Havemann, was able to discredit Mrs. Suzman's motion on the ground that the various branches of the legal profession had shown no interest in such an inquiry.

A recent private survey conducted by Dr. B. V. D. van Niekerk indicated that a majority of practising advocates would have favoured an inquiry into the abolition of the death penalty.

This failure on the part of the bar councils to convey the views of their members to the Government was hardly to their credit.

# Legal aid men for 24 MAY 1969 board

THE names of four attorneys appointed to South Africa's first legal aid board were announced in Pretoria by Mr. Eben Louw, secretary-general of the Association of Law Societies of South Africa. After years of negotiations with lawyers, the Government introduced legislation in February to provide indigent people of all races with legal aid.

The four attorneys appointed to the board are Mr. G. W. Cook, Johannesburg; Mr. J. H. F. Cawood, Cape Town; Mr. C. H. P. van der Post, Bloemfontein; and Mr. B. E. S. Agar, Durban. The alternate members are Mr. B. Mansell, Johannesburg; Mr. H. R. Murray, Port Elizabeth; Mr. G. R. Ashman, Bloemfontein; and Mr. B. J. Pistorius, Durban.

The General Bar Council has not yet confirmed the appointment of its board members.

Other members will be a judge appointed by the Minister of Justice, the Secretary for Justice, the Secretary for Bantu Administration and Development, the Secretary for Social Welfare and Pensions, the State Attorney and one other additional member.

The board will be subsidized by the Government.



# Pelser establishes a Legal Aid Board

STAFF REPORTER

RDY  
29 AUG 1969

THE MINISTER of Justice, Mr. Pelser, announced in Pretoria yesterday the establishment of a Legal Aid Board in terms of the Legal Aid Act of 1969.

The board consists of: a judge of the Supreme Court of South Africa, appointed by the Minister of Justice; one practising advocate and four practising attorneys nominated by the General Council of the Bar of South Africa and the Association of Law Societies of South Africa and appointed by the Minister of Justice; the Secretary for Justice; the Secretary for Bantu Administration and Development; the Secretary for Social Welfare and Pensions; the State Attorney, and an additional member appointed by the Minister.

## ATTORNEYS

The Minister said in addition to the members who serve on the board by virtue of their office, the following had been appointed as members:

Mr. Justice C. D. J. Theron, of the Transvaal Provincial Division of the Supreme Court; Mr. D. Reichman, S.C., of Johannesburg, with Mr. W. H. R.

Schreiner, S.C., of Johannesburg as his secundus.

Attorneys: Mr. G. W. Cook; of Johannesburg; Mr. J. H. F. Cawood of Cape Town; Mr. C. H. P. van der Post of Bloemfontein, and Mr. B. J. Pistorius of Durban, with Mr. B. Mansell of Johannesburg, Mr. H. R. Murray of Port Elizabeth, Mr. G. R. P. J. Ashman of Bloemfontein, and Mr. W. G. T. Chaplin of Durban as their secundi.

Mr. W. M. van den Berg, S.C., Attorney General of the Cape, as an additional member.



30 AUG 1969

Star

# Legal aid: new start

D.T.A.

IT IS very important that the national Legal Aid Board, just appointed, should quickly capture the confidence of the public. Otherwise it might as well not exist at all.

The board begins with some obvious disadvantages. The Act under which it is created leaves it to the board to set up its own administrative machinery, fix who should get legal aid, decide what kind of case shall be defended and what test of means shall be imposed. Nothing is defined by statute. In the absence of definition the public is liable to assume that this new system of State legal aid will be run on the same parsimonious basis as *ad hoc* state aid has been given in the past. The public are also all too liable to be suspicious of legal aid from the same authority as prosecutes them. They already have an inherent fear of being sold down the river.

It will be necessary, therefore, for the board to establish offices in every centre within its means so that it will be accessible to all who may need it at all times.

It is important that it should supply effective legal aid to all who cannot afford to pay for it themselves, including those accused of crimes against the State like promoting Communism. This means that the board must be prepared to pay lawyers on the same scale as the private client does. It must divest the State of the reputation for meanness which its rewards for *pro Deo* counsel have generated.

And it is necessary that the board should so operate that its intervention is a genuine help to the courts and not merely a token one. The public need to be convinced, through the board, that what the State wants is justice and not merely convictions.

## Legal Board

Star

D.T.A.

# established

30/8/69

The Star's Pretoria Bureau

A LEGAL AID BOARD has been established in terms of the Legal Aid Act of 1969, the Minister of Justice, Mr. P. G. Pelser, announced in a statement issued in Pretoria.

It consists of a judge of the Supreme Court appointed by the Minister, a practising advocate and four practising attorneys nominated by the General Council of the Bar of South Africa and the Association of Law Societies, the Secretary for Justice, the Secretary for Bantu Administration and Development, the Secretary for Social Welfare and Pensions, the State Attorney, and

an additional member appointed by the Minister of Justice.

In addition the following persons have been appointed as members: Mr. Justice C. D. J. Theron of the Transvaal Provincial Division of the Supreme Court, Mr. D. Reichman, S.C., of Johannesburg, with Mr. W. H. R. Schreiner, S.C. of Johannesburg as his alternate, and the following attorneys:

Mr. G. W. Cook, of Johannesburg, Mr. J. H. F. Cawood of Cape Town, Mr. C. H. P. van der Post of Bloemfontein and Mr. B. J. Pistorius of Durban with Mr. B. Mansell of Johannesburg, Mr. H. R. Murray of Port Elizabeth, Mr. G. R. P. J. Ashman of Bloemfontein and Mr. W. G. T. Chaplin of Durban as their respective alternates, and Mr. W. M. van den Berg, S.C., Attorney-General of the Cape, as an additional member.



# LEGAL AID IN S. AFRICA

D.A.

19 FEB 1970 RSM

SOUTH AFRICA may soon be getting its own legal aid system which will enable many accused people in both civil and criminal cases, to be represented in court if they are unable to afford the services of an advocate or attorney.

Similar systems operate successfully overseas and provide a further protection for the individual caught up in the mysterious workings of the law.

It was about three years ago that the council of the Association of Law Societies in South Africa recommended that legal aid should be made available.

Under the scheme as envisaged by the council, legal aid would be financed mainly by the State, controlled by an independent body and administered through Law Society offices.

Lawyers have in recent years become more aware of the need for a permanent legal aid system in South Africa similar to systems overseas, particularly the very comprehensive scheme operating in Great Britain.

In May, 1966, Mr. Sam Gross,

vice-president of the Cape Town Side Bar Association, presented a paper on an entirely new State-financed legal aid system to be controlled and organised by the legal profession. This paper was given at the national conference of the Association of Law Societies held at Kimberley.

Mr. Gross said: "As a modern Western state, providing welfare services such as hospitalisation, health services, economic and sub-economic housing, third party insurance, workmen's compensation and so on, we cannot by-pass the need for machinery to provide legal aid in its broad definition to those in need of it."



It was mainly as a result of Mr. Gross' paper that the Association of Law Societies formulated its suggestions. The putting into practice of these recommendations was delayed by differences of opinion between the Department of Justice and the Law Societies, as

to the administration and control of the proposed scheme.

However, in June, 1968, the Minister of Justice, Mr. Pelsler, was able to tell Parliament that the Cabinet had approved in principle an amount for legal aid being included in the estimates the following year.

In March 1969 the Legal Aid Act was promulgated, thus introducing legislation to provide indigent persons of all races with assistance in legal matters, both civil and criminal.

This Act provides for the appointment of a legal aid board with power to institute the whole legal aid scheme — no small task — with Government financial backing. In the wording of the Act, the main source of funds will be "moneys appropriated by Parliament in order to enable the board to perform its proper functions."

Mr. G. W. Cook, who is both a member of the now legal aid board and chairman of the Public Relations Committee of the Association of Law Societies, has answered several questions relating to present developments.

On the composition of the board, Mr. Cook said he considered it well balanced and representative, and he was pleased to say that the recommendations of the law societies in this respect had been followed.

The board consists of a Supreme Court Judge appointed by the Minister of Justice; one practising advocate and four practising attorneys nominated respectively by the General Council of the Bar and the Association of Law Societies and appointed by the Minister of Justice; the Secretary of Justice, the Secretary for Ban-

tu Administration and Development, the Secretary for Social Welfare and Pensions, the State Attorney and an additional member appointed by the Minister.

The Judge acts as chairman and has a casting vote. Of the other 10 members, five are practising lawyers nominated by their councils, and five are Government officials or Government nominees. Mr. W. M. van den Berg, S.C., Attorney-General of the Cape, has been appointed as the additional member.

The board has already met and a director is being sought whose work will initially be to investigate and advise on details of the scheme.

It is the intention of the legal profession to contribute towards making the scheme a success by working on legal aid cases for fees at special low rates, and both attorneys and advocates have agreed to offer their services on this basis.



It is an important fact, says Mr. Cook, that the board has complete freedom of action on its method of working and the selection of persons to whom aid will be given. Therefore, although the board is financed mainly by the State (other sources being donations, bequests and contributions), it is not controlled by the State. This independence is necessary, particularly in criminal cases where the State is in fact the prosecutor.

The board is authorised to engage lawyers and to lay down conditions for giving legal aid, and will be entitled to stipulate

in certain cases that the person receiving the assistance make some contribution towards costs. The Legal Aid Act refers to persons to whom assistance will be given as "indigent," but a means test will be applied, and both indigent and partly indigent persons will receive assistance.

Not every case will be met. Petty statutory offences, for example, may not necessarily merit legal representation. Moreover, those who have become habitual offenders, and who might certainly qualify for aid in accordance with the means test, are unlikely to be granted perpetual resort to skilled legal knowledge through this scheme.

The system of Pro Deo defences in capital charges, where the court appoints an advocate to appear on behalf of the accused for a nominal fee, will not be done away with. The principle of the right of every accused in a criminal case to be equally well represented as the State, which is prosecuting him, has always existed, and therefore the accused appearing on a capital charge must be allowed the protection of legal representation.

It is unlikely that any other organisations, such as the legal aid bureaux, will either need or be able to function once the State-aided legal aid scheme is on its feet. At present the only active legal aid bureau is in Johannesburg, and this relies entirely on municipal funds and public support for its existence. Those lawyers who give their services do so free of charge.

The future of the new legal aid board, with the tremendous possibilities and scope of its work, seems promising, provided that it is adequately financed by the Government in proportion to the scheme's growth and demands.



Legal Aid Board

15 Sep 1970 4163  
\*13. Mr. M. L. MITCHELL asked the Minister of Justice: D.M.A.

- (1) Whether it is anticipated that the Legal Aid Board will render aid during the next year in every centre in the Republic where there is a magistrate's or a Supreme court; if not, in which centres will aid be rendered by the Board;
- (2) whether it is anticipated that the Board will render aid in both civil and criminal cases; if not, why not;
- (3) whether it is anticipated that *in forma pauperis* cases in the Supreme Court will in future be governed by the activities of the Board; if so, from what date; if not, why not.

The MINISTER OF JUSTICE:

- (1) The Legal Aid Board approved of a scheme aiming at the appointment of an agent at every magistrate's office to deal with applications for assistance on behalf of the Board. It is intended to bring the scheme into operation as soon as possible. The most important obstacle still to be bridged is an agreement with attorneys and advocates regarding a tariff of fees to be paid to them in legal aid cases.
- (2) Yes.
- (3) The Board has decided that where *in forma pauperis* rules provide for adequate assistance action should be taken in terms of those rules but that, as the scheme develops, the matter should be reconsidered.

Mr. M. L. MITCHELL: Arising out of the Minister's reply, is an amount of R150,000 going to be enough for the ensuing year to meet the matters he has mentioned?

The MINISTER: The Board has only just arrived at a conclusion on the way in which it should set about the matter. They have spent hardly any money yet. In the circumstances I consider R150,000 to be sufficient for the moment.

Legal aid plan still not off ground  
D.M.A.  
22 AUG 1970

Political Correspondent

THE GOVERNMENT'S scheme to provide legal aid to indigent people has still not got off the ground although legislation providing for such aid was passed early last year.

This was revealed in the House when the Minister of Justice, Mr. Pelsler replied to a question from Mrs. Helen Suzman.

Mrs. Suzman asked what progress had been made by the Legal Aid Board, in which centres the services of legal practitioners had been obtained, and in how many civil and criminal cases these practitioners had given legal aid to indigent persons.

The reply was that the Legal Aid Board — for which provision was made in the 1969 legislation — had approved a scheme only on July 17 this year, and was now taking the necessary steps to implement it.

The services of legal practitioners had not yet been obtained, said Mr. Pelsler, since negotiations with the Association of Law Societies and the general council of the Bar were still taking place.

"The Legal Aid Board was to fill the gap caused by the banning, in March, 1966, of the Defence and Aid organisation," said Mrs. Suzman later.

"There has been a long period where no free defence has been available to indigent people, including people charged with political crimes.

"This is very serious because the sentences can be very heavy in these cases.

"One does not know how many political cases have been heard since Defence and Aid was banned. Some have had defence, but I think one can say that there must have been a number which have not."

"I cannot imagine why it has taken all this time to set up the board and make the necessary arrangements."



Legal Aid Board and agreement with legal practitioners *DTA. 90*

\*15. Mr. M. L. MITCHELL asked the Minister of Justice: *9 FEB 1971*

- (1) Whether the Legal Aid Board established in terms of Act 22 of 1969 has reached an agreement with attorneys and advocates in regard to the tariff of fees to be paid to them;
- (2) in which centres are Legal Aid Bureaux now operating with properly constituted boards and with appointed legal aid officers;
- (3) at what level has the means test been fixed for members of each of the racial groups.

The MINISTER OF JUSTICE:

(1) No, but considerable progress has been made and it is expected that finality will be reached in due course. The management committee of the Board will meet on 12th February, 1971, and it is trusted that the scheme will soon thereafter be put into operation on a country-wide basis.

(2) None.

(3) The means test is too elaborate to be dealt with in a reply of this nature. Full particulars will be made avail-

*- able to all interested persons as soon as the scheme is put into operation.*

Legal aid *ROM DTA*

scheme

10 FEB 1971

still not operative

Political Correspondence

THE GOVERNMENT'S scheme to provide legal aid for indigent people has not yet started operating, although legislation providing for it was passed early in 1969.

Replying yesterday to a question from Mr. Michael Mitchell (Durban North), the Minister of Justice said considerable progress had been made in reaching agreement with attorneys and advocates on the tariff of fees, and that finality would be reached "in due course."

TAKING STEPS

The Legal Aid Board would meet on Friday, he said, and it was hoped that the scheme would come into operation on a countrywide basis soon.

Last Year Mr. Pelsler told Mrs. Helen Suzman that the board had only approved the scheme in July, but was taking the necessary steps to implement it.

The Legal Aid Board was set up in terms of legislation in 1969, after the Defence and Aid Organisation had been banned.

*ST* Church aid ban feared *DTA.*

28 FEB 1971

SUNDAY TIMES CORRESPONDENT

LONDON, Saturday.

THE MOTIVE behind the wave of South African Security Police raids on the homes and offices of churchmen and religious groups is seen in London as the eventual banning of the South African Council of Churches and all other channels of overseas aid to the victims of apartheid.

Canon Collins, president of the International Defence and Aid Fund, whose committees in South Africa were banned in 1925 believes that the present "traumatic" situation over funds stems from the Dutch Government's offer of a gift to the Defence and Aid Fund in 1964 and the more recent allocation of World Council of Churches money to African terrorist movements.

"The South African Government is determined to stop the whole process of what the Defence and Aid Fund stands for," he told me.

A similar view is held by other churchmen who, in addition, see the disturbing character of a "police state" in the deportation of several church figures and the Security Police raids.

LAWYERS

RESPOND *DTA*

TO LEGAL

SCHEME *ROM*

31 MAY 1971

Staff Reporter

THE State-financed legal aid scheme, which came into operation in March, has been received with great enthusiasm, the secretary of the Association of Law Societies, Mr. Eben Louw, said in Pretoria.

"The response of attorneys has been very encouraging," he said. "Although some details of the scheme are still being worked out, many attorneys, particularly in the cities, have already helped poor people under the scheme."

It is run by an independent legal aid board with the help of 350 legal aid officers at magistrate's courts and Bantu affairs commissioners' offices throughout the country.

Attorneys will be paid less for legal aid work than by private clients.

A special tariff is still being drafted. Meanwhile, many attorneys have voluntarily undertaken to give their services at a lower rate.



*Dr A*  
*Edwards*

## The right to representation

AT its annual general meeting in Cape Town to-day the Cape Town Attorneys' Association will consider a report on the state of legal aid which provides grounds for grave disquiet. The report, drawn up by the Association's convener for legal aid, Mr. S. L. Gross, says that nothing substantial has been achieved towards the provision of legal aid and advice where it is needed, in spite of the promulgation of the Legal Aid Act in 1969. It appears that funds have not yet been allocated by the Government to work the machinery of a national legal aid scheme. And it is forecast that any provision in this year's Budget will be limited and inadequate. All that has happened since the promulgation of the Act has been the constitution of a National Legal Aid Board. But the Board cannot function without funds. As Mr. Gross sees it, it is up to the Association of Law Societies to bring home to the Department of Justice the urgency and importance of a National Legal Aid Scheme, operating on a viable and practical basis. In the interim, legal aid is available in Cape Town in a rather limited way, through the voluntary co-operation of members of the Attorneys' Association.

It should hardly be necessary to argue the need for decent legal representation in the maintenance of an effective and efficient system of justice. Yet the objective is far from realization in practice. A heavy onus is on the Minister of Justice to explain. Why was a scheme set up on paper, enshrined in legislation, if it was not intended to give it practical effect? Discussion of the Justice vote in committee of supply in the Assembly will provide an opportunity for the Minister to explain why virtually nothing practical has been done. If the State has a duty to see that people of limited means do not go undefended, there is also an onus on the legal profession to play its part. In a Pretoria address, Mr. Justice J. H. Steyn mentioned the acute scarcity of legal manpower and suggested that there were not enough willing, competent criminal lawyers available to serve

even those who could afford proper representation. It appears that criminal work is not particularly popular in the profession. Then there is also the fact, cited by Mr. Justice Steyn, of the existence in many of our larger cities of a small but distinct group of criminal law practitioners of low legal and dubious ethical quality. And accused persons often have no choice but to accept representation from these lawyers. Mr. Justice Steyn believes the universities and other bodies concerned with the training of lawyers could play an important role in harnessing the idealism of youth and stimulating interest in criminal practice. As he points out, the criminal court is a valuable training school for serving an apprenticeship in the development of a trial practice.

The question of legal aid is also pertinent in civil actions, especially where citizens cannot invoke the machinery of *in forma pauperis*. To qualify as a pauper, a citizen involved in litigation must demonstrate that he does not own property, other than clothing or tools, in excess of R100 and that he has no prospect of saving such an amount in a reasonable period. There are a great many people who are not paupers in terms of this definition, yet do not command the means to secure proper representation in a costly and protracted civil action.

It is common cause, thus, that there is still no effective system of legal aid in the Republic, in spite of the fact that statutory machinery exists. While this state of affairs persists, the administration of justice in South Africa must suffer grievously. And the status and prestige of the legal profession must be in question. In his report to the Attorneys' Association, Mr. Gross argues that the present situation reflects badly on the image of the profession. The voluntary scheme operating in Cape Town is a gesture in the right direction. But is it much more than a gesture? In the national interest, it is time that the whole question of legal aid should be given the urgent attention of the responsible Minister.

municipal 152



# Legal Aid Bureau gave help to 2810

18 JAN 1973

STAFF REPORTER

DFA

IN THE 20 months since its inception in April 1971, the Government's Legal Aid Bureau has provided aid in 2676 civil cases and 144 criminal cases — about two-thirds given to Whites.

The board has a Government allocation of R210 000 for 1972-3, with R20 000 for use in South West Africa

Yesterday the Board's director, Mr. J. J. A. Mostert, a retired magistrate, released figures of the board's activities up to November last year.

Of the aid given in the 144 criminal cases, 95 involved Whites (66 per cent), 29 involved Africans (20 per cent) and 20 cases involved Coloureds or Asians (14 per cent).

The Legal Aid Board also acted in 2676 civil actions: 1674 (62,5 per cent) involving Whites, 194 (7,2 per cent) Africans, and 798 (30,3 per cent) Coloureds and Asians.

## INTERVIEWS

During the same period the board conducted 6641 interviews which did not lead to cases being passed on to attorneys to act on. Of those interviewed in various parts of South Africa, 3656 were Whites, 710 Africans and 2275 Coloureds or Asians.

After the board's establishment in 1971, 480 serving officials of the Department of Justice or the Bantu Administration and Development, were appointed as part-time legal aid officers in magistrate's courts and Bantu Affairs Commissioners' courts (including the Transkei), while 21 were appointed in South West Africa.

The legal aid officer may

refuse help too, if he decides that the applicant leads an idle dissolute or dishonest life.

The attorney to whom a case is referred may refuse aid if he considers the matter to be trivial or such that legal aid will give the applicant no real benefit.

A means test is applied to all applicants for aid.



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