



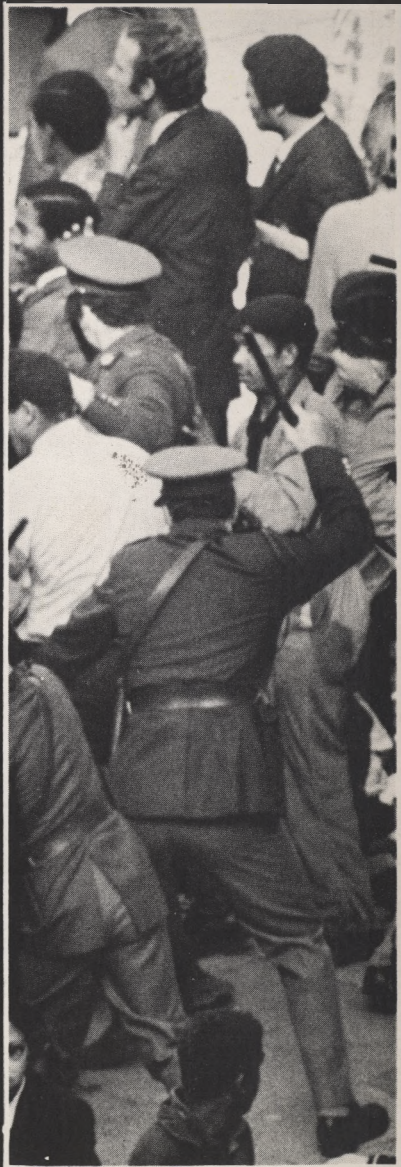
International
Defence and Aid Fund
Price 25p

ALEX HEPPLER

PRESS

UNDER

APARTHEID



Alex Hepple wrote the first major study of legislation affecting the South African press: *Censorship and press control in South Africa*, published in Johannesburg in 1960.

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PRESS UNDER APARTHEID

Alex Hepple

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International Defence and Aid Fund
London 1974

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Introduction

In September 1973 the South African Prime Minister, Mr. B. J. Vorster, declared his intention to take action against the press in 1974. He said he would give "certain press chiefs" until January 1974 "to put their house in order" and warned them that if they were seeking a confrontation with the government they would get it.

At the Cape congress of the Nationalist party on 5 September 1973 Mr. Vorster said some newspapers, individuals and organisations were doing everything in their power to bring about a confrontation between white and black and he asserted that some of these bodies would stand against the white man if such a confrontation came about. A fortnight later, at the party's Orange Free State congress, he directly attacked the *Rand Daily Mail*, saying that this newspaper had told him it would refuse to subject itself to self-censorship. This, he said, was clearly seeking a confrontation, and was what the *Rand Daily Mail* would surely get; he would even close down the paper.

Revealing more of his plans to restrict the press, Mr. Vorster said he was considering adding a clause to the Riotous Assemblies Act that would prevent newspapers from appearing on the streets if they contained "racial incitement". In his previous speech at the Cape congress he had said that the Riotous Assemblies Act would be amended in 1974 to make it possible for the courts to act against anyone who created bad blood between the race groups. He declined to give further details of the action he might take but the Minister of Information, Dr. C. P. Mulder, mentioned some possibilities in a speech in the Senate on 2 March 1973. Welcoming a motion by a Nationalist Senator expressing "concern at the biased reporting and comment of a certain section of the press in regard to racial matters" and requesting an official investigation, Dr. Mulder promised that the government would look at existing legislation and see whether the law should be changed "to curb irresponsibilities" and enable action to be taken against newspapers and periodicals "which incite racial friction in South Africa or destroy the image of South Africa abroad or which endanger state security".

Dr. Mulder repeated this warning in the House of Assembly on 16 May 1973, when he made an appeal to the press to realize its responsibility and not to make it necessary for the government "to decide against the freedom of the press". He stressed that South Africa could not tolerate "press irresponsibility through which South Africa's image abroad is marred; or acts by the press which could in any manner endanger the security of the country; or the press fomenting ill-feeling between the country's race groups".

He took the matter further at the Transvaal congress of the party in September 1973. He told delegates that the press could be made more

responsible, the status of the profession raised, and the abuse of press freedom reduced if certain conditions were imposed on journalists, viz. they should be South African citizens, fully bilingual in English and Afrikaans, qualified to certain minimum standards, formally registered, and made to put their names to all reports.

All this shows that the government has firmly decided to take action against the press. Newspapermen entered 1974 under the shadow of new curbs and restraints. As this pamphlet shows, South Africa already has a considerable number of laws which restrain and inhibit newspapermen in the performance of their duties. In addition to diligently checking reports and keeping a constant lookout for possible libel, the South African press must be on the alert not to infringe numerous statutes which embody some form of censorship or another. These laws are described in a later chapter.

The South African Society of Journalists, the organisation of working journalists, has underlined the plight of its members on many occasions. In August 1967 the Society said: "There must be few countries in the free world where the press is so beset by restricting legislation as in South Africa and the practice of journalism has become hazardous in the extreme". In 1969 the Society's president pointed to one danger in the situation when he said: "There are so many restrictive laws within which newspapers have to operate that some newspapers are avoiding trouble by 'playing it safe' rather than give readers the true position".

In spite of this it is generally claimed in South Africa that the country has a free press. It is true that thus far the press has enjoyed a measure of freedom — a measure which the government now intends to reduce. It is also true that such freedom as has existed was increasingly circumscribed by the laws and customs of apartheid. A free press can function freely only in a free society. Apartheid society is not free for four-fifths of the people. Political power and democratic rights are vested in the white minority alone. It is mainly to sustain this white oligarchy that laws have been devised to censor the press.

In its ceaseless efforts to maintain the apartheid system the Nationalist government recognises the fact that its position is not threatened by the white electorate but by the rising militancy of the voteless black masses, whose cause is supported almost unanimously by the outside world. Against such formidable forces the Nationalists desperately need a "responsible" press, that is, a press which will present apartheid and its works in the most favourable light and thereby discourage discontent at home and win friends abroad.

The chief difficulty is that South Africa's English-language newspapers are far more influential than the pro-government Afrikaans newspapers. Circulation figures show that 80 per cent of daily newspaper sales and 75 per cent of weekly sales are of English-language newspapers. This is a factor which probably provokes the government to see the English-language press as the culprits responsible for every upsurge of black resistance to white authority and for every unkind word said against apartheid in the councils of the world. It can be assumed, therefore, that whatever measures are taken

against the press, the main target will be the English-language section.

Finally, it is significant that Mr. Vorster, in preparing his plans for 1974, will have in his hands the report of the commission appointed on 15 June, 1973 to examine the Publications and Entertainments Act and recommend changes in the law to tighten censorship. All newspapers and periodicals which are not members of the Newspaper Press Union (the association of owners of the big newspaper groups) are subject to this Act and exposed to suppression by arbitrary decision of the Publications Control Board. It seems likely, therefore, that whatever action Mr. Vorster takes to control the press, publishers outside the NPU are in for an even more difficult time.

The long war against the press

South Africa's Purified Nationalist party has been at loggerheads with the country's English-language press ever since the party was formed in 1934. For 40 years Nationalist politicians have assiduously pursued a campaign of abuse against the English press, its proprietors, editors and reporters, accusing them of lies, distortions, misrepresentation, hatred of Afrikaners, incitement of blacks, disloyalty to whites, and defaming South Africa abroad.

During the war years, when the Nationalists fiercely opposed South Africa's participation on the side of the anti-Nazi forces, the patriotic exuberance of the English press embittered them still further. Throughout the war they intensified their campaign for a break from the British Commonwealth and the establishment of a republic. In one wartime document their leader, Dr. D. F. Malan declared: "That section of the press which up to the present has served foreign interests, will have to be kept within bounds. Should it try to cause the republic to be undone, this will be regarded as high treason and will be treated as such".

In spite of the vastly wider readership of the English-language newspapers, the Nationalists won the first post-war general election in 1948 and became the government, a position which they have held ever since. The 1948 election success was followed immediately by new threats to deal with hostile pressmen and every party conference since then has had before it resolutions demanding action against the press. At a victory celebration at Standerton Mr. W. C. du Plessis, who defeated Smuts, alleged that many newspapers had behaved irresponsibly, particularly in besmirching South Africa's name overseas and he threatened that the press would have to be directed into more responsible channels if it abused its freedom.

In October 1949, at the Orange Free State congress of the party, Dr. Malan described the English-language newspapers as the most undisciplined in the world and said journalists should be registered, like doctors, and struck off the roll for unethical conduct. Early in the next session of parliament, on 31 January 1950 a leading member of the party and former editor of its official newspaper *Die Volksblad*, Dr. A. J. Van Rhyen, proposed a motion requesting the government to appoint a commission to inquire into and make recommendations regarding:—

- (a) the existence of monopolistic tendencies, press combines and group interests in this country and their influence on the press;
- (b) the control over South African newspapers by overseas press concerns or by other interests or the acquisition of such control;
- (c) internal and external reporting and the general handling of news by the various newspapers, and the advisability or otherwise of the control of such reporting; and

- (d) any other matter which the commission may consider of importance in order to give effect to the request of this House.

The Press Commission

The commission was duly appointed in October 1950, with the following terms of reference:—

1. The measure of concentration of control, financial and technical, of the press in South Africa and its effects on editorial opinion and comment and presentation of news;
2. accuracy in the presentation of news in the press in South Africa, as well as beyond the borders of South Africa by correspondents in the Union, having particular regard to (a) selection of news; (b) mixing of fact and comment; (c) use of unverified facts or rumours as news, or as basis for comment; and (d) reckless statements, distortions of fact, or fabrication, and the use of any of these as news and as a basis for comment;
3. tendencies towards monopoly or the concentration of control in regard to (a) collection of news for internal and external dissemination and (b) the distribution of newspapers and periodicals; and generally the extent to which the publication and distribution of newspapers are inter-linked;
4. existing restraints on the establishment of new newspapers in South Africa and the desirability or otherwise thereof;
5. the adequacy or otherwise of existing means of self-control and discipline by the press over (a) editors, journalists and correspondents serving local newspapers and periodicals; (b) correspondents of overseas newspapers and periodicals; and (c) freelance journalists serving the local or overseas press;
6. the incidence of sensationalism and triviality in the make-up of newspapers;
7. the extent to which any findings under the above heads militate for or against a free press in South Africa and the formation of an informed public opinion on political issues.

In February 1962, almost twelve years after its appointment, the commission submitted its first report, a document of 2,376 folio typewritten pages. This dealt with only two of the seven terms of reference. The commission's second report, comprising 1,400 pages and 3,000 pages of annexures, was tabled in parliament on 11 May 1964. It was devoted to the subject of the collection and distribution of news, particularly the despatches sent overseas by foreign correspondents, local "stringers" and news agencies. It did not deal with the South African press, which it was really commissioned to investigate.

In an analysis of the reporting done by 51 "stringers", 39 full-time correspondents, 5 South African non-newspapermen correspondents, 3 unclassified correspondents, and the South African Press Association, the

commission came to the conclusion that 47.15 per cent of the reports on racial or political affairs were "very bad", 20.10 per cent were "bad", 25.85 per cent were "faulty" and only 6.90 per cent were "good". *The Times* of London and the *New York Times* and most other foreign newspapers were censured for their hostility to Afrikaners and their slanting of news about South Africa. The commission deemed that the "bad" and "very bad" reports gave a distorted picture of the South African scene and many appeared to have been written for the purpose of making propaganda against the white people of South Africa and especially against the Afrikaner and the Nationalist party. In the commission's view the English-speaking and the non-white points of view were "over-reported", as were the views of minor political groups and dissidents.

Although the commission explained that it did not have time to investigate the South African press, this did not deter it from recommending that a statutory press council should be established "for the self-control and discipline of the press". It proposed that this press council should have powers to impose penalties and fines, with no right of appeal to the courts against its decisions. Every newspaper and journalist would have to register annually with the council and would be subject to a press code, embodying commitment to the following principles: –

- to maintain the freedom of the press
- to encourage the greatest practicable accuracy in the presentation of news
- to encourage the free expression of opinion through the press
- to encourage the press to make informed and responsible comment
- to encourage the press to disseminate information and to make comment that can assist in the formation of an informed public opinion on political issues in South Africa
- to encourage the press to disseminate information that can lead to a better understanding between the race and language groups
- to encourage the press to behave in such a manner that it fosters goodwill and understanding between the race and language groups
- to encourage the press to assist in maintaining the general high standards of its publications, both as news and advertising media
- to receive complaints made by anyone in regard to infringements of the press code and to try such matters and give judgement thereon in terms of the code and its constitution
- to gather and supply information in regard to the control of the press or in regard to any aspect of the activities of the press.

South African newspapers came out strongly against this scheme for state interference. The S.A. Society of Journalists declared that it would oppose the formation of a press council for the same reason that it had opposed the Press Board of Reference set up by the Newspaper Press Union. (see page 19).

After a parliamentary debate on the Press Commission's report the Minister of the Interior said the Cabinet would study the matter during the parliamentary recess and decide whether to introduce legislation during the 1965 session. As it turned out, the government held back from further legislation and nothing further was heard about the commission's proposed statutory press council.

The abuse continues

The appointment of the press commission in 1950 brought no slackening of the Nationalist campaign against the press. Throughout the twelve years that the commission was busy with its investigations the ruling party continued to thunder against editors and journalists, blaming them for the rising vociferousness of black protest against the many steps being taken by the government to implement its policy of "separate development". The reporting of public protests and demonstrations, the expressions of angry discontent from the black masses, infuriated the government and its supporters. Prime Minister Strydom accused the English-language press of "playing the venomous game of inciting the natives, not only against the government but against the white man". The Minister of Transport, Mr. Schoeman, accused the press of deliberately encouraging African bus boycotters "as part of their campaign of incitement" and the Minister of Justice, Mr. Swart, added that newsmen were deliberately attempting "to stir up the non-whites against the police".

After the 1958 elections, at which the Nationalist party was returned with an increased majority, the *Rand Daily Mail* felt it necessary to publish an editorial on SOUTH AFRICA'S SILENT NEWSPAPER WAR, complaining that Nationalist leaders, from the Prime Minister downwards, were incessantly attacking the English-language newspapers in a calculated campaign of denigration extending far beyond the scope of normal newspaper competition. The *Rand Daily Mail* said there were several discernible motives for the campaign. One was the political aim of discrediting the English-language newspapers in the eyes of Afrikaners, to diminish the influence of these papers among Afrikaners; another was to soften up public opinion for some form of press control.

Success at the polls had left the government's press problem unresolved. Prime Minister Strydom took the earliest opportunity in the first session of the new parliament to attack the press which supported the Opposition, and obtained a vote recording parliament's strongest disapproval of newspaper attempts "to create strife between the two white language groups . . . as well as between white and black, and to undermine the good name of South Africa and its economic stability by publicising incorrect and misleading statements". Defending new apartheid measures the Minister of Bantu Administration and Development, Mr. de Wet Nel, declared that if the press would keep quiet for just one year there would be no trouble in implementing the separate development policy.

The Verwoerd era

In August 1958 Mr. Strydom died and was succeeded as Prime Minister by Dr. H. F. Verwoerd, a former editor of *Die Transvaler*, the Nationalist party's official morning newspaper, published in Johannesburg. Dr. Verwoerd was even more convinced than his predecessors that if the policy of apartheid was to succeed, the press would have to be controlled. As the chief architect of the promised "disciplined, Christian-National State" he wanted the undivided loyalty of all whites for apartheid. He looked upon the English-language press as a dangerous enemy to his plans. Those which gave space to criticisms of apartheid or to the activities of black political movements, or to the expressions of opinions disliked by the whites, he regarded as vicious and disloyal.

It was not unexpected, therefore, that when Dr. Verwoerd became leader of the Nationalist party, increased pressure would be put on the press. In 1960, the year of Sharpeville, parliament was debating the Unlawful Organisations Bill, a measure giving the State President power to outlaw the African National Congress and the Pan Africanist Congress. Government spokesmen used the occasion to blame the press for the disturbances arising from mass protests against the pass laws. Mr. Schoeman for example asserted that "British" newspapers in South Africa would rather that the natives governed than that the Afrikaner Nationalists remained in power.

The year 1960 was also the year of the referendum, when white South Africans were asked to choose whether to remain a monarchy or to become a republic. They decided by 850,458 votes to 775,878 in favour of a republic. In the midst of this triumph Dr. Verwoerd warned the press: "We cannot allow the future of the republic and the future welfare of the nation to be ruined by sensation-mongering, incitement, or the besmirching of our country's name, or that of its leaders".

In the years 1962-64, when the Press Commission was submitting its two voluminous reports, the Nationalists continued to threaten the press and showed their determination by bringing before parliament a Publications and Entertainments Bill, providing for strict censorship of all publications. This impelled the owners of the big dailies and weeklies to take avoiding action by undertaking to apply self-censorship. They drew up their own code of conduct and set up a control board to administer it. In return the government exempted them, as members of the Newspaper Press Union, from the Publications and Entertainments Act.

However, this did not end government abuse and threats. In January 1963, the Nationalist MP for Middelland, Mr. P. S. van der Merwe, introduced a motion in parliament calling for a state press council, with statutory authority to try and to discipline pressmen. Later in the year, after delegates to the party congress in the Transvaal had delivered their usual tirades against the English press, the Minister of the Interior promised that the government would act as soon as the Press Commission's second report was received. In a comment, the Nationalist Sunday newspaper *Dagbreek en Sondagnuus* said drastic action was demanded and expressed the hope that the Press Commission would propose some way of dealing with "stringers who are

ready to sell their country at so many cents per inch”.

In April 1964, after the Press Commission's second report had been submitted to the government, Dr. Verwoerd told parliament that the government intended to act against the Opposition press if the commission's report revealed evidence that it was in the interests of South Africa to do so. He alleged that some newspapers “came close to treason” in their opposition to the government and its policy. A month later he warned the press and news agencies of their “very heavy responsibility in presenting a true image of South Africa to the world” and said the government took a deep interest in news gathering, especially in what was sent out of the country. The earnest of Dr. Verwoerd's intentions was confirmed some years later by the political correspondent of the *Sunday Times*, Mr. J. H. P. Serfontein, who reported (27/5/73) that in 1964-65 Dr. Verwoerd had secret plans prepared by a special Cabinet committee, assisted by certain Transvaal judges, for action against the English press. According to Serfontein, Dr. Verwoerd appointed the committee after the 1964 session of parliament, instructing the members to prepare draft legislation or submit concrete ideas for appropriate action. A law was drafted which included the crime of “defamation of the State”. One member of the committee, Mr. F. W. Waring, Minister of Information, did not agree with the proposals and eventually the idea was dropped.

An indication that something sinister was afoot at that time was the police raid on the offices of the Port Elizabeth English-language newspaper *Evening Post* on 29 January 1965. Three members of the security branch of the police, armed with a search warrant, searched the offices of the editor, Mr. J. G. Sutherland and his secretary. They went through filing cabinets and desks examining correspondence, reference papers, press clippings and books. Their warrant authorised them to look for a wide variety of publications, the possession of which might transgress various laws. In the end the police left with two small books. The following issue of the *Evening Post* carried its editorial on the front page, suggesting that the raid signified the first round in a new intensified government campaign of smear and intimidation against independent English-language newspapers. The editorial continued:—

“We will not be bullied out of doing our duty as an independent newspaper. This is, firstly, to report on public affairs of all kinds independently and honestly and as accurately and promptly as possible and, secondly, to comment on these affairs honestly and fearlessly within the limits of the law and help readers to do likewise.

If a couple of booklets did remain in our voluminous reference files after being declared illegal, they were not there for any sinister purpose . . . Great care is taken not to offend against the law by quoting from a banned document or a banned person. The lists of outlawed books and persons are regularly brought up to date.”

(The editor found it necessary to reprint this editorial on 25 October 1971, the day after the security police raided his offices and home for a second time and took away books and papers).

The Vorster era

When Mr. B. J. Vorster succeeded Dr. Verwoerd as Nationalist leader and

Prime Minister in 1966 he quickly showed that the war on the English press would not only continue but would be intensified. During the war Vorster had been interned because of his activities as a leader of the anti-British, anti-democratic, national-socialist *Ossewa Brandwag* movement. On 11 August 1967 he paid a visit to the Koffiefontein internment camp and used the occasion to assail the press, disclosing that the government's law advisers had been instructed to draw up a law against lies in South African newspapers. He said what he had in mind was a law which would provide not so much for the punishment of reporters but to make the publishing companies pay heavy fines for employing "these sort of people". Mr. Vorster took the matter further a week later in a speech in Durban. He said he wanted the press to understand very clearly that he would be forced to legislate against "ascertainable factual lies in newspapers and pamphlets".

In November 1968 Mr. Vorster intervened to stop the Argus group taking over South African Associated Newspapers (see page 59) saying that the Cabinet considered that the takeover would not be in the interests of the country and that he would legislate, with retrospective effect if necessary, to prevent it. He added that such legislation would also deal with foreign investment in, or control of South African newspapers.

In the continuing campaign against the press there were frequent diatribes by Ministers. On 3 September 1969 Mr. S. L. Muller, Minister of Police and of the Interior, accused the English-language press of "collusion with the enemies of South Africa" and allowing itself to be used to damage the image of the country. Mr. M. Viljoen, Minister of Labour, declared that the English-language press was engaged in a systematic and deliberate action to weaken the morale of South Africans in their "titanic struggle for survival". Mr. Coetzee, Minister of Community Development warned that the country's silent majority was being provoked by the liberal establishment, which included certain English-language newspapers. Mr. S. P. Botha, Minister of Water Affairs, complained of press enmity and mischievousness and asked whether South Africa could meet the future "with so much against us" if it could not get greater cooperation from the press.

On 6 October 1971 Mr. Vorster rebuked the press for the way it reported his sensational announcement at the Transvaal congress of his party that an armed body of South African policement had crossed from the Caprivi Strip into Zambia in pursuit of guerilla forces. The press, both English and Afrikaans, defended their handling of the story. After considerable argument a meeting was arranged and on 20 October Mr. Vorster met 40 executives and editors from leading newspapers at his office in Pretoria. Afterwards a non-committal statement was issued and a few weeks later Mr. Vorster told a press conference that he was not planning legislation to control or discipline the press "for the simple reason that I am still in the process of discussing this whole matter with the South African press." He added, significantly: "I am hoping, very seriously hoping, that the press will discipline itself and that it will not be necessary for me to do so."

This appeal to newspapers to subject themselves to self-censorship, sufficiently strict to satisfy the government, was repeated by Dr. Mulder,

Minister of the Interior, in the House of Assembly on 16 May 1973, when he urged the press "to act in such a way with the freedom they have that it will not be necessary for the government to decide against the freedom of the press".

These were perhaps the grimmest warnings yet. After being menaced by the government for more than 25 years and suffering the imposition of one statutory restraint after another, the South African press entered 1974 under the shadow of still more laws to shackle, punish and intimidate it.

Laws which restrain and control the press

For a proper appreciation of the limitations on press freedom in South Africa one must consider the existence of some 20 laws which inhibit pressmen in the gathering and reporting of news and in making comment on matters of concern to the public. These laws, which are described in this chapter, are:—

- Publications and Entertainments Act (No. 26 of 1963)
- Customs and Excise Act (No. 91 of 1964)
- Suppression of Communism Act (No. 44 of 1950)
- Riotous Assemblies Act (No. 17 of 1956)
- Criminal Procedure and Evidence Act (No. 56 of 1955)
- Public Safety Act (No. 3 of 1953)
- Criminal Law Amendment Act (No. 8 of 1953)
- Prisons Act (No. 8 of 1959)
- Bantu Administration Act (No. 38 of 1927)
- Defence Amendment Act (No. 85 of 1967)
- Official Secrets Act (No. 16 of 1956)
- General Law Amendment Act (the "BOSS" law) (No. 101 of 1969)
- Post Office Act (No. 44 of 1958)
- Newspaper and Imprint Registration Act (No. 63 of 1971)
- Indecent or Obscene Photographic Matter Act (No. 37 of 1967)
- Extension of University Education Act (No. 45 of 1959)

Provincial Laws

- Natal — Ordinance 14 of 1916
- Ordinance 19 of 1924
- Transvaal — Act 38 of 1909
- Orange Free State — Ordinance 21 of 1902

Publications and Entertainments Act (No. 26 of 1963)

The Publications and Entertainments Act of 1963 evolved from the Nationalist government's long search for an effective way of restraining South Africa's English-language press and at the same time satisfying the demands of its illiberal and hidebound supporters for stricter censorship of the public's reading matter. The problem was a difficult one because any measures to control the press would not only affect the English-language press but also the Nationalists' own newspapers. When the Nationalists were elected to power in 1948 there were already several laws providing for censorship but these were inadequate for their purposes.

The search for an effective law can be said to have begun on 31 January 1950 when Dr. A. J. Van Ryn MP, a former editor of the Nationalist daily *Die Volksblad* (and later Minister of Mines and after that High Commissioner

in London) put up a motion in parliament calling for the appointment of a commission to inquire into the press. Some months later, in October 1950, the commission was appointed. (see page 9).

While the Press Commission was busy with its investigation the government turned its attention to the subject of general censorship and on 17 November 1954 appointed a Commission of Enquiry in Regard to Undesirable Publications (the Cronje Commission). Its terms of reference were:—

“To inquire into, report on and make recommendations in regard to —

- (a) the most effective means of combating, in view of the particular circumstances and the composition of the population of the Union of South Africa and the territory South West Africa, the evil of indecent, offensive or harmful literature, lithographic, photographic or other similar material of whatever nature, printed or manufactured, published and/or distributed in the Union of South Africa and the territory South West Africa;
- (b) the desirability of co-ordinating any procedures recommended under (a) with the existing system of control of imported literature, lithographic, photographic or other similar material, and, if deemed desirable, the manner in which such co-ordination should be effected; and
- (c) any other related matters.”

The commission reported on 3 October 1956, while the Press Commission was still hard at work. Regardless of what might emerge from the Press Commission, the Cronje Commission recommended, *inter alia*:—

- (i) A single system of control of local and imported printed matter, to embody and replace existing state and provincial laws.
- (ii) Statutory provisions for the reporting of court proceedings by newspapers and magazines.
- (iii) Statutory provisions for advertisements depicting people, underwear, women’s sanitary requirements and contraceptives.
- (iv) That two authorities be vested with power to decide what printed matter is undesirable, viz. a publications board appointed by the government in regard to books and magazines, and the courts in regard to newspapers.
- (v) The compulsory registration of newspaper and magazine publishers and booksellers with the publications board; and the control of bookselling and publishing.
- (vi) The penalties that should be imposed for publishing, printing or dealing in undesirable literature, with a special recommendation that possession of such undesirable literature should be a punishable offence only in the case of communistic printed matter.
- (vii) That no copy or issue of publications classified as “excluded”,

“prohibited” or “communistic” by the publications board be imported, exported or consigned.

In addition, the commission recommended a detailed legal definition of “undesirable printed matter and other objects” and suggested a general, all-purpose identification of an undesirable publication as matter “deemed indecent, offensive, or harmful by the ordinary, civilised, decent, reasonable and responsible inhabitants of South Africa.”

Even the government-supporting press was startled by the commission’s recommendations and the report was shelved for more than three years. Then, in 1960, a Publications and Entertainments Bill was submitted to parliament. The Bill made it a criminal offence to print, publish, distribute or sell “any undesirable newspaper”, defined as “. . . if it, *or any part of it*, prejudicially affects the safety of the State; can have the effect of disturbing the peace or good order; prejudicing the general welfare; being offensive to decency; giving offence to the religious convictions of any section of the inhabitants; bringing any section of the inhabitants into ridicule or contempt; harming relations between sections of the inhabitants; promoting crime; discloses details of evidence given in legal proceedings regarding indecent acts, adultery or impotence; . . . or is otherwise on any ground objectionable.”

The Bill was referred to a select committee of parliament and in February 1961 the Minister of the Interior announced that it had been dropped. Three months later he introduced an Undesirable Publications Bill which, like its predecessor, was sent to a select committee. These moves to keep up the pressure on the press caused some newspaper proprietors to become nervous and eventually the major newspaper groups felt constrained to impose self-censorship to forestall direct state control. The Newspaper Press Union, the association of newspaper proprietors, drew up its own Code of Conduct and set up its own Board of Reference* to ensure that press reports were accurate and not offensive to decency. In obedience to the government’s policy of apartheid the final clause of the Code stated:—

“While the press retains its traditional right of criticism, comment should take due cognisance of the complex racial problems of South Africa and should also take into account the general good and the safety of the country and its peoples”.

In recognition of this gesture by the NPU the government drafted a new Bill and this was enacted during the 1963 session of parliament as the Publications and Entertainments Act (No. 26 of 1963). The Act excluded from its provisions all publications (about 30 altogether) belonging to members of the NPU. This meant that NPU members were exempt from censorship by the Publications Control Board but subject to their own Code of Conduct and Council. Non-members of the NPU, generally the small independent political weeklies and monthlies, were abandoned by the powerful press groups and left to the mercy of the Publications Control Board, making it easier for the government to censor, intimidate and suppress that section of the press which had bothered it most.

* The name was changed to the South African Press Council in December 1968.

The Board of Reference (Press Council)

Before considering the effect of the Publications and Entertainments Act, more should be said of the Press Board of Reference, or the South African Press Council as it was later named. The Council comprises a chairman, who must be a retired judge, and two members appointed by the NPU for three-year terms. At the outset the NPU declared that adherence to its Code and the jurisdiction of the Council were voluntary and any proprietor, editor or journalist could withdraw by written notice at any time. Journalists were not given a say in the appointment of members of the Council, nor were they invited to participate in the formulation of the Code. Obviously, once their employers accepted the Code, employees would be putting their jobs at risk, or at least putting their employers in an embarrassing position by contracting out. The South African Society of Journalists declared its unanimous opposition to any form of press control, voluntary or statutory, and it rejected the Code. The Society said the Council was purely an employers' body, with powers to reprimand journalists and to publish the reprimands in national newspapers, "which can only cause harm to the careers of their victims". Some editors gave reluctant support to the NPU's acceptance of self-censorship but others wrote strongly against it. The *Rand Daily Mail* wrote on 14 March 1962: -

"Some of our colleagues have managed to rationalise acceptance of this code by considering its merits unrelated to its background of political pressure. We find ourselves unable to divorce the two in our mind so easily. Others are franker and say it is preferable to statutory press control. But we have come to regard the 'lesser of two evils' approach as surrender by instalment."

Notwithstanding this initial opposition, editors and journalists of the country's major newspapers were eventually persuaded to go along with their employers' plan, and in 1971 the S.A. Society of Journalists extended its recognition to the Press Council.

The Hon. H. H. W. de Villiers, ex-Judge President of the Eastern Cape, was chairman of the Press Council from its inception until his death in 1973. In his first report he stated that there was justification for the accusation that sections of the press sacrificed objective truth and propriety for sensationalism. Yet in its first two years the Council received only about eight complaints, mostly of a political nature, alleging inaccuracies and misquotations.

On the question of objective truth, Mr. Justice de Villiers was himself criticised after the publication of his book on the Rivonia Trial, *Rivonia - Operation Mayibuye*. Under the headline THE DIFFICULTIES OF FACTUAL REPORTING: DISCREPANCIES FOUND IN EX-JUDGE'S BOOK ON SABOTAGE TRIAL, the Johannesburg *Sunday Times* wrote on 11 October 1964 that there were discrepancies between the judge's book and the official court record. Readers complained to the *Sunday Times* that a large part of the book was not about the trial at all but crude propaganda for the apartheid government. Mr. Justice de Villiers admitted that the book had

been written in the offices of the State Information Department with the help of officials. This fact was not stated anywhere in the book. One critic quoted several tendentious passages and said there was no end to the string of illogicalities, contradictions and inaccuracies.

As far as the Council itself was concerned, it soon became apparent that the government found no comfort in its performance. Within a year of its establishment the Council was under attack from members of the government. One MP, Mr. Blaar Coetzee (who was later included in the Cabinet) denounced the Council as "a useless body" and another MP, Mr. P. S. van der Merwe, tabled a motion in parliament calling for a state press council with statutory power to discipline members of the press. In November 1968, Mr. S. L. Muller, Minister of the Interior, told a Nationalist party meeting that he would recommend to the Cabinet that members of the NPU should not be exempted from the provisions of the Publications and Entertainments Act. His successor, Mr. T. Gerdener, declared in December 1971 that the Press Council was toothless and should be given increased powers to take the initiative or act as censor before publication; to fine newspapers; to recommend the dismissal of newsmen for serious breaches of the code of conduct; and to take even stronger steps.

Provisions of the Act

The Publications and Entertainments Act of 1963 provides for control of all newspapers and periodicals which are not members of the NPU. An appointed Publications Control Board exercises supervisory control over these publications, with power to deem any of them "undesirable" and therefore prohibited. The Board may also refer an "undesirable" publication to the Attorney-General for prosecution. Section 5 (2) of the Act defines an "undesirable" publication as follows:—

"if it, or any part of it, is indecent, obscene, offensive, harmful to public morals, blasphemous, offensive to the religious convictions of any section of the inhabitants of the Republic, brings any section of the inhabitants into ridicule or contempt, is harmful to the relations between any sections of the inhabitants, or is prejudicial to the safety of the State, the general welfare, or peace and good order."

Publishers or other interested parties may appeal to the courts against a decision of the Board. The Act provides that in legal proceedings a publication will be deemed to fall within the above definition if, in the opinion of the court, it is likely to disgust or corrupt the minds of people likely to see it, or if it deals in an improper manner with matters subversive of morality.

It is an offence to publish or produce an undesirable publication or to distribute or display a publication which has been found by a court to be undesirable, or is deemed by the Board to be undesirable. Offences are punishable by a fine of not less than R300 or more than R500 or imprisonment not exceeding six months, or both fine and imprisonment, on a first conviction. A third or subsequent conviction carries a penalty of R2,000

or imprisonment for not less than six months, or both fine and imprisonment.

The Act was amended in 1969 (Act No. 85 of 1969) to extend the power of the Board to ban, by notice in the *Government Gazette*, not only current but all future issues of local as well as imported publications. In effect, this authorised the Board to permanently suppress any newspaper or periodical under its jurisdiction.

The Board at work

The Publications Control Board is a statutory body of not less than nine members (all white) appointed by the Minister of the Interior. At least six are required to have special knowledge of art, language, literature or the administration of justice. The Board sits in private and need not hear evidence before taking decisions. Publications, films and objects are examined by sub-committees, which include "readers" approved by the Minister. These sub-committees advise the Board, which decides whether to prohibit or not. Results show that the Board has not been sluggish in shielding the reading public from "objectionable" and "undesirable" literature. The Minister of the Interior admitted on 24 April 1973 that at that date there were 12,763 publications and 44 other objects on the prohibited list. Among these were a number of newspapers and periodicals, domestic and foreign.

Foreign publications are intercepted by customs officials at South Africa's ports of entry. Suspect newspapers, magazines, books, etc. are seized and held for examination by readers of the Publications Control Board. The following are examples of publications in this group which were examined and then prohibited:—

- A special issue of the American magazine *Time*, dated 29 April 1968 was prohibited because it contained an article on Martin Luther King, deemed to be objectionable.
- Two British Sunday newspapers, *News of the World* and *People* were deemed to be objectionable and permanently banned from sale in South Africa by notice in the *Government Gazette* of 24 December 1969.
- *The Times* of London, dated 26 October 1970, which carried a special supplement on South Africa, was prohibited because it contained advertisements by the International Defence and Aid Fund, Amnesty International and the Anti-Apartheid Movement.

Local publications, however, have been the Board's chief victims. The following examples illustrate how it wields a heavy hand in its treatment of newspapers and periodicals published in South Africa:—

- In 1968 three issues of the Cape Town Newspaper *The Telegraph* — July 6, August 10, and September 14 — were deemed to be undesirable and were suppressed.
- An issue of the *Cape Herald*, another Cape Town weekly, was also deemed to be undesirable and prohibited in 1968.
- The December 1968 issue of the magazine *Drum* was banned because of

an article on black power. The May 1969 issue of *Drum* was also deemed to be undesirable and prohibited.

- Two issues of the Durban magazine *Scope* were banned in 1970 and two more in 1971, on the grounds that they contained articles and photographs harmful to public morals. All four bans were set aside by the Supreme Court. Undeterred by the court's decision, the Board then banned the issues of 21 April and 5 May 1972 and all future issues of *Scope*. The publishers, Republican Publications, Ltd., obtained a court order compelling the Board to state its reasons for the bans. The Board then explained that the May 5 issue had been prohibited as undesirable because it contained a large picture of a black man embracing a white girl in a New York street. In addition, said the Board, the magazine showed pictures which dealt in an improper manner with scant or inadequate dress and physical poses, and was likely to deprave or corrupt the minds of young males. On 12 May 1972 the Supreme Court set aside the Board's ban and *Scope* was free to reappear. The chairman of Republican Publications disclosed to the press that in January 1971 he had been warned by the Board that if he published a theory about the origin of man radically different from the Adam and Eve theory, *Scope* would be banned as blasphemous.
- Five issues of *Wits Student*, the newspaper published by the Students' Representative Council of the University of the Witwatersrand, were banned in the two-year period 1971-72. On 26 May 1973 Mr. R. Louw, editor and Mr. F. Frescura, cartoonist of *Wits Student* were prosecuted for offences against the Act.
- The annual Rag magazine *Sax Appeal* of the University of Cape Town was prohibited by the Board in March 1971.
- *One for the Road*, the first publication of the University Christian Movement was prohibited by the Board in 1968. The movement was established in 1966 by white and black members of the Methodist, Roman Catholic, Anglican, Presbyterian and Congregational churches in the universities.
- In August 1972, *Pro Veritate*, a Christian monthly magazine had to be withdrawn from circulation and drastically amended when it was discovered that an article included quotes from *Essays on Black Theology*, which was banned by the Board after *Pro Veritate* had been released for sale.
- The first issue of *Dissent*, published by the National Union of South African Students and the S.A. Students' Press Association was prohibited by the Board because of articles on passive resistance and pictures of police beating African women.
- Issues of the Afrikaans magazine *Die Brandwag* dated 16 February 1973 and 16 March 1973 were prohibited as undesirable because of a nude female profile on the front cover.

Stricter control on the way

By 1972 it had become obvious that the government was bent on tightening censorship. It was made known on 21 May 1972 that the government had set up an inter-departmental committee to investigate the matter. The committee was composed of seven officials from state departments, with the instruction to inquire into and make recommendations on various aspects of the application of the Publications and Entertainments Act. Insofar as it affected the press, the committee confined its inquiry to newspapers and periodicals not affiliated to the Newspaper Press Union, i.e. to those already subject to control by the Board.

The committee's report was published on 22 December 1972. It made no recommendation regarding newspapers, stating that the existing provisions of the Act were adequate to prevent the occurrence of undesirable matter in periodical publications. It found that besides sex, violence and drug-taking, the undesirable matter most complained of was:—

“Revolt against authority and the fomenting of antagonism between national groups — (i) attempts to discredit the State and provincial and local authorities in the eyes of non-whites and the denigration of those authorities in the eyes of non-whites; and (ii) the fomenting of antagonism against whites and the making of propaganda for non-white pressure groups and extremist movements.”

Among its many recommendations regarding censorship generally, the committee proposed that in addition to the existing laws which made it an offence to possess certain publications, the Act should be extended to make it an offence to possess written pornography and publications “which are a danger to the state and foment anarchy, violence, etc. and cannot be combated under any other Acts.”

The government's next move was made on 2 May 1973 when the Minister of the Interior submitted a new Bill to parliament providing for (i) abolition of the right to appeal to the courts against decisions of the Publications Control Board; (ii) a completely new system of decision-taking in censorship. The Bill was referred to a select committee of parliament, which was empowered to bring in a new Bill, if desired. On the prorogation of parliament on 15 June 1973 the select committee was converted into a commission. As a continuation of the select committee the commission remained with a majority of its members belonging to the government and therefore committed to a policy of stricter censorship and control of the press. It can be expected, therefore, that the commission will provide Mr. Vorster with some useful suggestions in the drawing up of legislative changes which he will be making in 1974 to deal with the press.

The Customs and Excise Act (No. 91 of 1964)

The Customs and Excise Act makes special provision to prohibit the entry into South Africa of any publications or goods which are “indecent or obscene or on any ground whatsoever objectionable”. Sub-section 3 (a) of Section 113 invests the Publications Control Board with the power to decide

what is indecent, obscene or objectionable and the Board's decision is final, subject only to the right of appeal as provided in the Publications and Entertainments Act. Sub-section (c) provides that in deciding whether publications are indecent, obscene or objectionable, the Board must apply the definitions contained in the Publications and Entertainments Act. Sub-section (b) empowers the Board to deem any future issues, as well as a current issue, of an imported publication indecent, obscene or objectionable and therefore prohibited, by publishing a notice in two consecutive issues of the *Government Gazette*.

In practice, customs officials inspect newspapers, periodicals, books and other publications at the ports of entry and detain those suspected of being in violation of the law. Copies are sent to the Publications Control Board for examination and decision whether to ban or to allow into the country.

Section 79 of the Customs and Excise Act states the penalties for selling, offering or keeping for sale, distributing or exhibiting any issue of a publication deemed to be obscene, etc. and Section 83 states the penalties for dealing in, or knowingly being in possession of any goods liable to forfeiture under the Act. The latter offence is punishable by a fine of up to R2,000 and imprisonment up to two years.

Even government officials have been confused by the country's various censorship laws. The overlapping of the Customs Act and the Publications and Entertainments Act led to a curious situation in 1964. On July 10 of that year the Minister of the Interior published a notice stating that the January-February issue, and all ensuing issues of *Focus '64*, a political newsletter published in Cape Town, were prohibited as undesirable in terms of the Publications and Entertainments Act. This meant that *Focus '64* had been suppressed and had to cease publication. It was later discovered that the banning notice had been issued under the Customs Act, which applies only to imported publications, instead of under the Publications and Entertainments Act, which applies to domestic periodicals. Under the latter law the Minister did not have the power at that time to impose permanent bans, as was possible under the Customs Act. *Focus '64* was accordingly free to resume publication, which it did in October 1964. Naturally, the Minister took steps to bring the laws into line and the Publications and Entertainments Act was amended in 1969 to give him the power to ban all future issues of any locally-produced newspaper or periodical not affiliated to the Newspaper Press Union.

Suppression of Communism Act (No. 44 of 1950, as amended)

The Suppression of Communism Act constitutes the gravest threat to press freedom in South Africa. Within this Act reposes all the reserve power a government needs to resist social change. In spite of the outward appearance of press freedom in South Africa this Act invests the ruling political party with enough wide powers to enable it, whenever it feels the necessity, to take drastic arbitrary action to silence the people and the press.

The Act delegates ferocious powers to the executive; it gives the President (i.e. the Cabinet) and the Minister of Justice the right to suppress political opposition on the pretext of suppressing communism. The definitions of "communism" and "communist" are so wide as to embrace the objects of non-communist and anti-communist parties and groups. In the very nature of apartheid in South Africa, those who energetically or actively fight against apartheid are suspect and consequently liable, sooner or later, to fall foul of this law. Experts agree that in simple fact the Act's definitions mean that a communist is a person deemed by the President to be a communist.

The press is vulnerable under several provisions which impose a sinister form of censorship and press control.

Power to suppress

Section 6 gives the State President the power to suppress, without prior notice, any newspaper, magazine or other periodical which he considers to be conveying news or views calculated to further the achievement of any of the objects of "communism" as defined in the Act. He can suppress any publication which he believes is being published or disseminated by, or which propagates the views of an unlawful organisation or which replaces a publication already suppressed.

The first victim under Section 6 was the left-wing weekly *Guardian*. On 24 November, 1950 the offices of the paper in Cape Town and Johannesburg were raided by the police and a large quantity of files and papers seized. The police produced a document to show that the raid had been authorised in terms of Section 7 (1) (b) of the Act for the purpose of an investigation into "the purposes and activities of the organisation". In March 1951 the *Guardian* was informed that a committee of three had been appointed by the Minister of Justice, in terms of Section 17, to prepare a "factual report" on the paper. The *Guardian* was not told who were the members of the committee; its investigation was conducted in secret; and the *Guardian* was given no opportunity to appear before the committee or to challenge the information laid against it. The committee reported confidentially to the Minister and he sent the paper only a brief summary of its "findings of fact", giving it twentyone days to make representations, "if any".

Then, by proclamation dated 8 April 1952, published on 23 May 1952, the Minister prohibited the printing, publication or dissemination of the *Guardian*, on the grounds that it was under the control and direction of an unlawful organisation, viz. the Communist Party of South Africa. The Minister's act of suppression was final and could not be challenged in the courts.

The editorial staff of the *Guardian* then brought out another newspaper called the *Clarion* but the Department of the Interior refused to register it on the grounds that the name had previously been registered for a paper (which had become defunct). The new name *People's World* was chosen but this too was rejected because of an objection by another publication entitled *People's Weekly*. At the end of October 1952 the paper appeared under the name

Advance. It managed to survive two years before the Minister suppressed it by proclamation dated 22 October, 1954.

A new newspaper called *New Age* appeared the following week, under the editorship of Mr. B. P. Bunting, former editor of *Guardian* and *Advance*. For the next eight years *New Age* appeared regularly every week, in spite of financial difficulties, ceaseless harassment and intimidation by the authorities, and bans on employees and contributors.

In May 1962, when amending the Suppression of Communism Act to facilitate the suppression of newspapers intolerable to the government, Mr. Vorster, as Minister of Justice, declared his intention to ban *New Age* "because it is furthering the aims of communism and it makes no secret of the fact". *New Age* at once appealed to the public to defend the paper and the freedom of the press, responding to Vorster's allegation:-

"If the Minister is so convinced that we are furthering the aims of communism why does he not institute a prosecution against *New Age*? In terms of the Suppression of Communism Act it is a criminal offence, punishable by up to ten years' imprisonment 'to further the achievement of any of the objects of communism'. The Minister is resorting to banning *New Age* because he is satisfied that he would have no case if he took the matter to court".

The Minister ignored all protests and on November 30, 1962 he issued his proclamation prohibiting the printing and publication of *New Age*. As in the case of the *Guardian* and *Advance*, the publishers of *New Age* were not apprised of the appointment of an investigating committee nor given any chance to make representations. The Minister followed the procedure laid down in the Act and his decision to suppress was final, with no appeal to the courts. Not satisfied with this, as soon as the banning notice was published security police swooped upon staff members of the paper. They raided offices and homes in Cape Town, Johannesburg and Durban, taking possession of all available issues of *New Age* and large amounts of other material.

The English-language press generally condemned the closing down of *New Age* and the S. A. Society of Journalists issued a public statement saying:-

"In his decision arbitrarily to ban *New Age* the Minister of Justice has made it clear that he, and not the courts, will judge whether a newspaper should be published by closure for what it publishes. The drastic use of the wide powers conferred upon him in deciding the fate of newspapers shows that he has little regard for the freedom of the press . . ."

A new newspaper *Spark* appeared in December 1962 but it was quickly put out of business by the Minister. He had no need to resort to suppression by proclamation. He merely used his other powers under the Act to prohibit key staff members of *Spark* from being on premises where a publication is prepared, compiled, printed or published. He also prohibited all people listed or banned under the Act from having anything to do with the preparation, printing or production of any newspaper or from contributing to or assisting in the publication of any newspaper. These two bans came into effect on 1 April 1963, from which date it was impossible for *Spark* to carry on, and the paper was forced to cease publication.

The bans had further serious effects on journalists employed by *Spark*. They were forbidden to continue working at their professions in any capacity. Not only were they barred from employment on South African newspapers but also from acting as correspondents for foreign newspapers or news agencies, from writing articles for publication anywhere, and even from writing books.

Another publication suppressed under the Act was *Fighting Talk*, a monthly magazine published by the Springbok Legion, a war-veterans' action group established during the war to improve service conditions and further the interests of ex-servicemen. It was banned by the Minister on 1 March 1963.

Conditional licensing

Section 6*bis* was added to the Suppression of Communism Act by the General Law Amendment Act of 1962 (the Sabotage Act) to prevent the reappearance of banned newspapers under a new name. This Section provides that no new newspaper may be registered under the Newspaper and Imprint Act without a deposit of up to R20,000 (the precise amount in each case to be determined by the Minister) unless the Minister of Justice "certifies that he has no reason to believe that a prohibition under Section Six will at any time become necessary in respect of such a newspaper". In other words, if the Minister of Justice suspects that a new newspaper may express the views or a banned organisation or convey information which may be deemed to be furthering the achievement of any of the objects of communism, as defined in the Act, or is a continuation or substitution of a newspaper already banned, he demands a prohibitive deposit. If the applicant is able to raise the sum demanded, he is still faced with the terrible risk that at some future date the newspaper will be suppressed and the deposit confiscated on the arbitrary decision of the Minister that a criticism of government policy or an attack on the evils of apartheid constitutes the publication of views calculated to further the aims of communism.

Section 6*bis* also imposed an obligation upon licensed newspapers to appear within one month of registration and at regular intervals of at least one month. This was to make double sure that no banned newspaper could appear under a new name by taking out several licences in advance.

Regulations published on 1 April, 1972 under the Newspaper and Imprint Regulation Act require those applying to register a newspaper to describe its "intended nature and contents" and to submit the full names, occupational and residential addresses of proprietors, managers, editors, printers and publishers. The application form is prefaced with a warning that in terms of Section 6*bis* (5) of the Suppression of Communism Act "the registration of a newspaper shall lapse if printing and publishing are not commenced within one month after the date of registration". The regulations also warn that when a registered newspaper changes its editor, this fact must be communicated to the Department of the Interior, giving the names of any other newspapers with which the new editor is or was connected.

By May 1971 deposits had been demanded from ten applicants:-

The New African	R10,000
Durban Civic News	10,000
Family Life	10,000
Artists Life	10,000
MRA Information Service	10,000
Concord	10,000
Hoefslag/Hoofbeat	10,000
Fototreffer	20,000
The Eye	20,000
Great (Tops)	20,000

After learning that they would have to pay these deposits none of the applicants proceeded with their applications. *The New African*, a liberal monthly review, decided to forego registration as a newspaper and to appear about every five weeks, as an occasional publication. In March 1964 its offices were raided by the security police who took away correspondence, subscription lists, address plates, account books and 2,000 copies of the current issue. As a result *The New African* was compelled to suspend publication.

Banning orders and the press

In terms of Sections 5 and 9 of the Suppression of Communism Act the Minister is empowered to impose restrictions on persons listed as communists, or who have been convicted of offences under the Act, or whom he suspects of engaging in activities calculated to further any of the objects of statutory communism. In other words, the Minister can ban anyone, irrespective of their political beliefs or affiliations, whom he suspects of advocating policies which are the same as those of the African National Congress or other outlawed organisations. The Minister has used this power to prohibit a large number of people, including non-communists and anti-communists, from attending gatherings and from engaging in various activities, and to confine them to specific places or areas.

These banning orders affect the press in several ways. In terms of Section 10quin read with Section 11 (g) *bis* of the Act it is an offence, punishable by up to three years' imprisonment, to publish any speech, utterance or writing, in whole or in part, made anywhere at any time by any person who has been prohibited from attending any gathering. This includes any person banned from attending a gathering under the Riotous Assemblies Act.

On 22 February 1963 the Minister issued a notice prohibiting all listed and banned persons and those who were former members of outlawed organisations from belonging to any organisation engaged in any way in the preparation, compilation, printing, publishing or dissemination of any newspaper, magazine, pamphlet, book, handbill or poster. In addition, he served individual orders on a number of people, prohibiting them from being on premises where any newspaper or other publication is prepared, compiled, printed, published or disseminated.

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When Section 11 (g) *bis* was added to the Suppression of Communism Act in 1962, making it a crime to record, reproduce, print, publish or disseminate "any speech, utterance, writing or statement or any extract thereof made or produced anywhere at any time by a banned person" without the consent of the Minister, there was no official list of such persons available. The anxiety of the press was relieved on 30 July 1962 when the first full list of 102 persons banned under the Suppression of Communism Act was published in a *Government Gazette*. Observing that the list would mean very little to most readers, the *Star* said:-

"... Its effect is to confirm that the impression that the government's desire to silence some of the more vigorous opponents of the established order in South Africa has been carried to extreme and in some cases absurd lengths. The publication ban goes far beyond the ostensible purpose of preventing persons banned from attending gatherings from propagating their views through newspaper interviews or statements, and extends to innocuous and in some cases necessary activities."

The *Rand Daily Mail* said that the real reason for the new law was the government's determination to protect the African from liberalism "which it equates with communism" and continued :-

"... editors and publishers will have to exercise the greatest vigilance in order to carry out their task of censorship without a slip. The whole conception of this is so foreign to the traditions of a free press that journalists will probably take some time to realise that it is now their responsibility to impose the gag on the government's behalf."

Over the years the list of banned persons has continually changed, with many new names being added every year and now and then a few being removed. Several persons whose names are on the list have left South Africa; others are in prison; and some have died.

A further amendment was made to the Act in 1965 extending the prohibition on quoting banned persons to include writings and speeches made anywhere at any time by former residents of South Africa who were under banning orders when they left the country. As the law now stands it makes no difference where banned persons are, or whether they are alive or dead: the press is forbidden to quote them.

With each amendment making the Suppression of Communism Act more savage, the government was able to silence more and more newsmen, photographers and writers. Reporters and editorial staff of the *Guardian*, *New Age* and *Spark* were early victims; besides editors B. P. Bunting and Fred Carneson, all the writers and photographers of these papers were banished from the world of publishing by banning orders. The Liberal newspaper *Contact* was deprived of editors Patrick Duncan, Ann Tobias and Jill Jessop in quick succession. The Cape Town weekly *Torch* suffered the loss of editor Joan Kay through a banning order. The founder and editor of *Africa South*, Ronald Segal was banned in June 1959 and the following year, during the state of emergency, he left South Africa and continued publishing the magazine as *Africa South-in-Exile* from London; the 1962 and 1965

amendments to the Act swept him into the band of journalists who could not be quoted.

Successive Ministers of Justice have used their banning powers ruthlessly to silence vehement opponents of apartheid, especially those openly sympathetic to the causes of the blacks. By imposing bans on the leaders of black organisations such as the South African Students' Organisation (SASO), the Black People's Convention and the Black Community Programme, soon after these movements came into being, the government has sought to prevent them from making known their policies. At the same time the press has been denied the right to tell the public what black leaders are saying. The *Star* reported on 20 October 1973 that nearly two-thirds of the 25 books published by Sprocas (Study Project on Christianity in Apartheid Society set up jointly by the S.A. Council of Churches and the Christian Institute) have had to be mutilated by excising or blacking-out quotes by people who were subsequently banned. One book, *Black Review 1972*, had to be withdrawn completely because of a ban imposed on its editor, Mr. Bennie Khoapa. The December 1973 issue of *South African Outlook** was distributed with pages 203-4 torn out and a slip inserted saying: "On legal advice following the banning of Dr. Manas Buthelezi, the editor regrets that a letter from Prof. A. M. Hugo has had to be removed from this edition. The letter criticised certain points made in the article 'Change in the Church' by Dr. Buthelezi in the August edition of *Outlook*".

In November 1973 Dr. C. F. Beyers Naude, the Rev. D. Van Zyl and Mr. Peter Randall, directors of the Christian Institute and Ravan Press, were charged under Section 11 (g) *bis* with having published a pamphlet containing an introduction by Mr. Paul Pretorius, a student leader who was banned in 1971. All three faced a separate charge of refusing to testify before a commission of MPs inquiring into the Christian Institute.

On August 1973 Mr. Patrick Laurence, a reporter on the Johannesburg *Star* was sentenced to 18 months' imprisonment, conditionally suspended for three years, for attempting to publish an interview with the banned Pan-Africanist leader, Mr. Robert Sobukwe. The court was told that Laurence posted an article based on the interview on 3 January, 1973 to Mr. John Cundill, Argus South African Newspapers, Fleet Street, London, asking him to pass the article on to Mr. Colin Legum of the London *Observer* for publication. Mr. Cundill did not receive the letter or article; the envelope was opened by some person unknown and redirected to the Commissioner of Police, Johannesburg. Commenting on the incident the *Observer* said the proceedings against Mr. Laurence were a gross interference with the liberty of the press. A week after the article arrived at the office of the Commissioner of Police, Johannesburg the security police raided Mr. Laurence's home. They seized a copy of the article and his typewriter. Another Johannesburg journalist, Mr. D. F. Mattera, was brought before a magistrate in March 1973 and ordered to tell all he knew concerning the alleged offence committed by

* *South African Outlook*, an independent journal dealing with ecumenical and racial affairs, has appeared uninterruptedly since 1870.

Mr. Laurence. The hearing was in private. Later Mr. Mattera was banned and thereupon subject to all the consequent restraints described above.

The strict application of the law in relation to quoting banned persons has still left some uncertainty but editors have shrunk from inviting prosecution to test the legal position in the courts. For example, the African National Congress leader, chief Albert Luthuli, died while under a banning order and it is not clear whether the press or anyone else can now quote anything he said or wrote in his lifetime and no newspaper has risked finding out by quoting him. Another example is that of Mrs. Helen Joseph, whose banning and house arrest orders were lifted in 1971, after being in force for eight years. Mrs. Joseph has spoken at several public meetings but no newspaper has risked reporting her, beyond stating the fact that she spoke, because of the legal uncertainty.

As Minister of Justice, Mr. Vorster showed how he could use his arbitrary power in a quarrel with the *Sunday Times* in 1964, when the paper ran a series of articles on the Broederbond, a secret Afrikaner organisation from which most Nationalist Cabinet Ministers have been drawn. Mr. Vorster alleged that a *Sunday Times* reporter had conspired with a banned person, Mr. Wolf Kodesh, to procure the theft of Broederbond documents. He said Kodesh had made a confession to this effect but when the *Sunday Times* asked his permission to quote a contrary statement by Kodesh, who was then overseas, Mr. Vorster refused.

In May 1963 the South African press thought it worthwhile to let South Africans know what the former leader of the Liberal Party, Mr. Patrick Duncan, had said in a letter to the *London Times*. The Minister, however, thought differently and refused to allow the publication of any excerpts from the letter. In 1968 Sections 10quin and 11 (g) bis were used to ban the American quarterly *African Arts/Arts d'Afrique* published by the University of California because it contained poems and stories by Mr. Dennis Brutus and other restricted South Africans.

Possession of banned literature

The Suppression of Communism Act also makes it an offence to be in possession of a banned newspaper or other publication. When security police raid the homes and offices of political suspects they make a point of searching for copies, however old, of banned newspapers and magazines for which they can bring a charge under Section 11 (e) bis of the Act. There have been a number of prosecutions for this offence, including the following:-

- In October 1963 the Rev. A. W. Blaxall was convicted of being in possession of three copies of *New Age* and one copy of *Fighting Talk*, and of taking part in the activities of the banned African National Congress and the Pan Africanist Congress. He was sentenced to two years and four months, all but six months being suspended.
- Alex La Guma, a Cape Town journalist and writer was sentenced in 1964 to one month's imprisonment for being in possession of 22 issues

of *Fighting Talk*. The Appeal Court upheld the conviction but suspended the sentence for three years on the grounds that the journal had been acquired when it was still legal and the offence was one of negligence rather than of misconduct.

- Mr. Benjamin Pogrud of the *Rand Daily Mail* was given a suspended sentence of nine months' imprisonment in February 1972 for possessing copies of the *Guardian*, *New Age* and *Fighting Talk*.

Riotous Assemblies Act (No. 17 of 1956)

The long title of this Act reads: "To consolidate the laws relating to riotous assemblies and the prohibition of the engendering of feelings of hostility between the European and non-European inhabitants of the Republic and matters incidental thereto, and the laws relating to certain offences."

The first Riotous Assemblies Act was enacted in 1914 after a general strike of white workers, during which martial law was declared and labour leaders, including Labour Party MPs were arrested. Nine union leaders were illegally and secretly deported to England by the government, without trial. General Smuts brought in the 1914 Act to prohibit strikes of workers in public utility services and to prevent strikers and their supporters from coercing non-strikers to stop work. Magistrates were authorised to prohibit assemblies if they apprehended that such gatherings would endanger public peace.

The scope of the Act was widened in 1930 to curb the activities of the Industrial and Commercial Workers Union (ICU), an African general workers union led by Clements Kadalie. After being consolidated in 1956, the Act was again amended in 1961 and 1962 to make it easier for the Minister of Justice to suppress protest meetings and demonstrations by blacks and to prohibit particular people from attending gatherings.

As it stood at the end of 1973 the Riotous Assemblies Act affected the press in several ways. Section 2(4)(a)(ii) made it an offence to print or publish or advertise or make known in any manner whatever an assembly which had been banned under Section 2. Thus, a newspaper which reported the fact that a meeting organised to take place at a specified time and place had been banned, could find itself in trouble with the law for making the meeting known.

Section 2(5) makes it an offence to reproduce or disseminate in any way, in whole or in part, "any speech, utterance, writing or statement made or produced... anywhere at any time by any person prohibited under sub-section (3) from attending any public gathering." To comply with this provision the press is obliged to determine, before reporting or quoting the words of a person that such person has not at any time been prohibited from attending a public gathering. For example, the Minister could prohibit an African from attending a multi-racial gathering on the grounds that that person's attendance would engender feelings of hostility between whites and blacks, i.e. it would infuriate some apartheid purists. It would thereupon become an offence for any newspaper to publish anything said or written by

that person at any time. A newspaper which published the African's comment on the ban would invite prosecution.

Section 3 of the Act empowers the State President to prohibit the publication or dissemination of "any documentary information" which he considers will create feelings of hostility between "the European inhabitants of the Republic on the one hand and any other section of the inhabitants. . . on the other hand". "Documentary information" is defined as "any book, foreign magazine, pamphlet, manifesto, foreign newspaper, handbill or poster, or any article or advertisement, cartoon, picture or drawing in any periodical publication or newspaper". Local newspapers do not fall within this provision, except that action can be taken to prevent them publishing or disseminating "any article or advertisement, cartoon, picture or drawing" if the President is of the opinion that publication could engender feelings of hostility between whites and blacks. It is interesting to note that this Act is not concerned with relations between the various black groups, viz. between Africans and Indians, Africans and Coloureds, Indians and Coloureds etc. Its purpose always has been to protect whites against black anger.

Despite its frequent amendment and extension, the government is still not satisfied with the effectiveness of the Riotous Assemblies Act. In September 1973 Mr. Vorster announced at the Cape congress of his party that the Act would be drastically amended in 1974 "to make it possible for the courts to act against people and organisations trying to create bad blood between the race groups". He threatened: "If there are individuals and newspapers who land in the net they will only be getting what they are looking for". He said the government would not allow extra-parliamentary pressure aimed at achieving changes in the country. Such changes could only be brought about through the ballot box (i.e. by the white electorate). He accused "some people, organisations and newspapers" of trying everything in their power to bring about confrontation between white and black.

In view of these warnings by Mr. Vorster the South African press can expect new provisions in the Riotous Assemblies Act in 1974 to further inhibit free reporting and comment on many issues of public concern.

Criminal Procedure and Evidence Act (No. 56 of 1955)

A number of journalists have been detained at various times for refusing to disclose their sources of information. Section 83 of the Criminal Procedure and Evidence Act, 1955 provides that a magistrate may at any time, upon the request of the public prosecutor, order any person to appear before him if it is considered that such person is likely to give material evidence on any alleged offence, whether or not it is known or suspected who the offender is. Failure to reply to any question renders the person liable to imprisonment for up to one year. Release is granted as soon as the person gives a satisfactory reply to police questions.

In October 1960 the S.A. Society of Journalists expressed its concern that Section 83 was being used against a number of journalists and publishers. The Society stated:-

"It is well known to the police and others that journalists would be betraying one of the basic principles of journalistic ethics all over the world – the determination not to dishonour a confidence – by disclosing such information given in confidence . . .

All journalists are well aware of their duties as citizens and obviously no responsible journalist would use this unwritten law in order to condone crime . . . It is in the best interest of the nation and of our free press, of which we are proud, that journalists should not be called upon to be false to the fundamental ethics of the profession."

Seven years later, in June 1967, the Society issued a further statement expressing alarm at the frequency with which journalists were being jailed or threatened with jail in terms of Section 83. Referring to three current cases, the Society said the facts indicated that the attitude of the police towards journalists in the exercise of their normal and legitimate duties was approaching one of intimidation.

A number of cases can be cited on the use of Section 83.

- It was invoked in 1960 against Mr. Patrick Duncan, editor of *Contact*. In the issue of 27 August 1960 Duncan, an inveterate anti-communist, published an article entitled "South African Communism", reporting the reappearance of a communist party in South Africa. The security branch served a subpoena on him, demanding disclosure of his sources of information and identification of the people referred to in the article. Duncan refused and was arrested and brought before a magistrate who sent him to jail for eight days for persisting in his refusal. He was committed for two further periods but was released after spending three weeks in prison, when the prosecutor stated that the police had obtained the information from other sources and it was therefore unnecessary to detain Duncan further.
- In 1960, at the height of the campaigning preceding the national referendum to decide whether South Africa should become a republic, a *Rand Daily Mail* journalist, Mr. Brian Parkes, wrote a piece in which he quoted a gambler whom he called "Billy the Book", as saying he was offering three to one against a republic and that he would "make a packet" out of Verwoerd's defeat at the referendum. After Parkes had refused to tell the police the identity of "Billy the Book" a magistrate ordered him to do so and when he refused, committed him to jail for eight days. Later it was found that the police already had the information and Parkes was released.
- The Cape editor of *Post*, Mr. Mike Norton, was sent to prison for three periods totalling 15 days for refusing to divulge the source of information for an article published by *Post* on 14 July 1963.
- In October 1963, Mr. M. A. Hall, a reporter on the Johannesburg *Star* was committed to jail for the customary initial period of eight days for refusing to testify in the case against the Rev. A. W. Blaxall, who was charged under the Suppression of Communism Act with aiding the African National Congress and the Pan Africanist Congress and with

being in possession of three banned publications. On legal advice Mr. Hall changed his mind and gave evidence the next day.

- In the first half of 1967 three journalists were brought before magistrates and ordered to reveal their sources of information. The co-editor of *Die Transvaler* Mr. J. J. van Rooyen, was asked to give the name of a policeman who gave the paper information about a hit-and-run accident. After a postponement of the hearing the prosecutor decided to drop the matter.
- A senior *Sunday Times* reporter, Mr. Bob Hitchcock, was questioned by police for five hours before facing a magistrate on 16 May 1967 in an effort to get him to disclose the names and addresses of four persons who gave him information about neo-Nazi activities in South Africa and about a clash between Jews and Germans outside a beerhall, which he used in articles in the *Sunday Times* (9.4.67, 7.5.67). The magistrate sent him to jail for six weeks for refusing to cooperate with the police. He was released at the end of three weeks after one informant authorised him to divulge his name and two others had made themselves known. The name of the fourth informant was obtained by the police from another source.
- Another report of the same neo-Nazi affair resulted in the imprisonment of Mr. Desmond Blow, deputy news editor of the *Sunday Express*. On 16 June 1967 he was sentenced to six weeks imprisonment for refusing to disclose his sources of information. Three days later he was released on bail, pending appeal against the magistrate's decision. A law student then revealed himself as Blow's informant but the police refused to release Blow until he himself had named the informant. When he did so the action against him was dropped.

Public Safety Act (No. 3 of 1953)

In addition to all its other powers to control the press, the South African government has an ultimate weapon in the Public Safety Act of 1953. This law was enacted at the height of the campaign of defiance against unjust laws, launched by the African National Congress on 26 June 1952 after the government had rejected numerous appeals for an end to various laws discriminating against them, and had declared that it had no intention of abolishing any apartheid legislation. The Defiance Campaign took the form of deliberate technical offences against the pass laws and apartheid regulations, committed by volunteers. By the end of 1952 more than 8,000 volunteers had been arrested. In some areas police action led to violence. To counteract the spread of the campaign the government devised two laws, the Public Safety Act and the Criminal Law Amendment Act (which see below). The Public Safety Act empowers the executive to declare a state of emergency at its own discretion, without recourse to parliament, and then to govern by decree. The Minister of Justice is thereupon authorised to exercise unlimited powers of control over everybody and everything, including the summary

arrest and detention of persons and the confiscation of goods and property. If he is so minded, the Minister may close down newspapers, suppress all news, and prohibit the printing, publication and dissemination of any matter.

South Africa suffered the experience of emergency rule under the Public Safety Act after the shooting down of African pass protestors at Sharpeville on 21 March 1960, when 69 Africans were killed and 178 wounded by police gunfire. Nine days later the executive invoked the Public Safety Act to declare a state of emergency. The police, invested with wide powers by emergency regulations, raided homes and offices and arrested without warrant hundreds of office-bearers and members of the Congress Alliance (African National Congress, S. A. Indian Congress, the Congress of Democrats, the S. A. Coloured People's Organisation, and the S. A. Congress of Trade Unions), the Pan Africanist Congress and the Liberal Party. In the weeks that followed some 18,000 people were detained and at least 400 were kept in prison without trial for five months.

A number of journalists were among those detained, including Brian Bunting, editor of *New Age*, Myrna Blumberg, Cape Town correspondent of the London *Daily Herald*, Norman Phillips of the Canadian *Toronto Star* and Alfred Every, editor of *Africa X-Ray Report*, a business intelligence service.

The comprehensive emergency regulations promulgated on 30 March 1960 empowered the Minister of the Interior to suppress any newspaper or periodical if he considered that it had systematically published matter of a subversive nature. This power was used on 5 April 1960 when the Minister of Justice issued a notice ordering *New Age* and *Torch* to cease publication.

The press in general was subjected to strict control in its reporting by a sweeping provision in the regulations making it an offence to publish any "subversive" statement, broadly defined to include any statement likely to have the effect of subverting the authority of the government or the legislature; of inciting persons or the public at large to resist or oppose the government or government officials in the enforcement of the regulations; or of engendering or aggravating feelings of hostility between sections of the public or between classes of people.

Security police were thus enabled to swing into action against publications which were openly critical of apartheid and sympathetic towards black political movements. The offices of *New Age*, *Contact*, *Torch*, and *Drum* were raided, as were the premises of two Cape Town and three Johannesburg printers. Newspapers, files, records and documents were seized. Detectives confiscated about 200 copies of the current issue of *Contact* and warned the Central News Agency and the Post Office not to distribute the paper, which managed to survive only by making new arrangements for its publication and distribution.

New Age and *Contact* also fell foul of the regulation dealing with the publication of subversive statements, as did the editor of the *Evening Post*, Port Elizabeth. In the case of *Contact*, Patrick Duncan, the editor and Joseph Daniels, the secretary were convicted in the Cape Town magistrate's court on charges of publishing during the emergency two "subversive" statements, within the meaning of the regulations. Duncan was fined £100 on one charge

and £350 or 350 days on another. Daniels was fined £50 or 50 days.

The case against John Sutherland, editor of the *Evening Post* and the publishers, Eastern Province Newspapers, arose from an interview with two Canadian visitors, published in the issue of 7 May 1960, during the state of emergency. The report, under the headline A COUNTRY SCARED TO TALK and sub-titled CANADIANS SEE FEAR IN SOUTH AFRICA, quoted the Canadians as saying that wherever they went in the country after Sharpeville, they found people were afraid to speak and say what they thought of the affair. Referring to official attitudes on apartheid the Canadians posed the question: "How can the Africans be satisfied with apartheid if they have to continue living under rigid restrictions and in fear, as they do now?"

The magistrate dismissed the charge on the grounds that the regulations ceased to have force and effect with the ending of the emergency on 31 August 1960 and no new prosecutions could be instituted after their expiry. The Attorney-General insisted that although proceedings were commenced after the emergency had ended, offences against the regulations could still be tried and punished after the ending of the emergency. He appealed, first to the Supreme Court, Grahamstown, where he lost, and then to the Appellate Division, Bloemfontein, where the judges found in his favour. The Appeal Court remitted the case to the magistrate for further hearing and on 23 June 1961 Sutherland and Eastern Province Newspapers were found guilty on one count of contravening the emergency regulations and each fined R10. The magistrate decided that the report published on 7 May 1960 contained a statement "likely to stir up feelings of hostility between certain sections of the South African people." He acquitted the accused on what he described as "the more serious aspects of the four-pronged charge, namely of subverting the government, inciting the people to resist authority, and spreading panic, alarm and untrue rumours", saying that there was no question of these offences having been committed.

In the case of *New Age*, Fred Carneson and Wolf Kodesh were charged on 28 October 1960 as directors of the Real Printing and Publishing Co., it being alleged that the issue of *New Age* dated 31 March 1960 contained subversive statements which violated the emergency regulations. The magistrate took the same view as his colleague in the *Evening Post* case and ruled that he had no jurisdiction to try any person under the emergency regulations after these had fallen away. Actuated by its successful appeal in the *Evening Post* case the State took the matter to the Supreme Court, where it was decided that as the Appellate Division had already declared in favour of the State in the previous case there was nothing more to say but to refer the *New Age* case back to the lower court for further hearing. At this second hearing the accused were acquitted on a technicality.

The cases quoted above show what can be done by means of the Public Safety Act to suppress or control or intimidate the press when the government finds itself in a crisis situation. The Act is a powerful reserve weapon in the government's armoury of laws, to which it can resort whenever it chooses.

Criminal Law Amendment Act (No. 8 of 1953)

While the Public Safety Act armed the executive with absolute power to declare a state of emergency and then to rule by regulation, its sister measure, the Criminal Law Amendment Act, 1953, provided for ferocious punishment of persons who at any time defy the law in way of protest or in support of any campaign against or for the repeal, modification, variation or limitation of application of any law.

Its immediate purpose when enacted in 1953 was to stop the non-violent civil disobedience campaign against the pass laws, the Group Areas Act and other unjust, discriminatory measures. But, like many other laws in the apartheid state, the Criminal Law Amendment Act has a much wider impact. Section 2 makes it an offence to advise, encourage or incite any person to commit an offence by way of protest or in support of any protest campaign. It is also an offence to use any language calculated to cause any person to commit such an offence. Section 10 authorises the postal authorities to open and examine mail suspected of containing matter intended to assist any protest or anyone who has committed any offence relating to a protest campaign.

The wording of the Act presented a new hazard for the South African press, which feared pitfalls in some of its widely-drawn provisions. Lawyers advised editors to take care in reporting or commenting upon criticisms of apartheid made by people and groups hostile to the government's racial laws and regulations.

In their *Civil Liberty in South Africa* (Oxford University Press 1958) Edgar H. Brookes and J. B. Macaulay say of the Criminal Law Amendment Act:-

“A minister of the church, counselling his flock to continue their worship in his church in protest against the recent law empowering the Minister of Native Affairs to prohibit joint worship by Europeans and Africans in urban areas, would render himself liable to suffer the penalty, inter alia, of a whipping of ten strokes. Small wonder that the enactment of this law has caused the press and individuals to be extremely guarded in their protests. That these conditions have inhibited freedom of discussion and speech is certain. Direct censorship of political opinion becomes an unnecessary and clumsy weapon with which to silence criticism, when by indirect means such as these such an atmosphere of caution and fear is infused that the voice of public protest, although not silenced, ceases to have that clarion note of warning that is necessary where fundamental liberties are threatened. ‘If the trumpet sound an uncertain note who shall prepare himself for battle?’”.

Prisons Act (No. 8 of 1959)

The Prisons Act, 1959 affects the right to publish stories or pictures relating to prisons and prisoners.

It has long been the practice of South Africa to hire black convicts to white farmers at little more than a token charge. Over the years a businesslike

arrangement has developed between the Prisons Department and farmers' associations under which the farmers construct prisons to official requirements and are then allocated a quota of black prisoners to work on their farms. These convict farm workers are kept under guard and the farm prisons are subject to official supervision and inspection. There are more than 20 of these "prison outstations" in the main farming areas of South Africa.

Before 1959 several harrowing stories had been published in the newspapers of brutal treatment of convicts by farmers and their "boss boys". It was revealed that large numbers of Africans arrested for alleged contraventions of the pass laws were being hired out to farmers in the Transvaal. In one case a newspaper published a picture of Africans crowded in cages on an open truck being transported to the farms.

The prison system came in for further bad publicity when *Drum* magazine published pictures and comment on the treatment of African prisoners in Johannesburg's city prison, The Fort. An enterprising *Drum* photographer positioned himself on top of a building overlooking the Fort and took pictures of Africans in the prison yard being made to dance naked before warders to show they had no contraband, such as drugs and knives, concealed on their persons.

It was to prevent exposures of this kind that the government devised Section 44 (e) and (f) of the Prisons Act, 1959. Sub-section (e) of Section 44 makes it an offence to sketch or photograph any prison or prisoner or to publish any such sketch or photograph without the authority in writing of the Commissioner of Prisons. Sub-section (f) makes it offence to "publish any false information concerning the behaviour or experience in prison of any prisoner or ex-prisoner or concerning the administration of any prison, knowing the same to be false, or without taking reasonable steps to verify such information (the onus of proving that reasonable steps were taken to verify such information being upon the accused)".

The definition of a prison was extended in 1965 to include the seashore adjacent to a prison and the sea beyond this to a distance of one nautical mile. This was to prevent publicity regarding Robben Island, off Cape Town, where Black political prisoners are incarcerated. Soon afterwards, in June 1965, the police seized an issue of the London *Sunday Times* because it contained an article with photographs on prison life on Robben Island.

The 1965 amendment also widened the definition of "prisoner" to include convicted fugitives and persons who had died or were executed in custody.

The Kiley case

There are several examples of how this law has been applied against journalists and the press. During the state of emergency in 1960 Mr. Denis Kiley, a "stringer" for the *News Chronicle* of London sent two press telegrams through the GPO describing alleged ill-treatment of prisoners (whom he described as "political prisoners") in Modder B prison, about 20 miles from Johannesburg. He was prosecuted under the Prisons Act and convicted. The magistrate found that the information published by Kiley was

false and that he had not taken reasonable steps to verify the story. On appeal the Supreme Court upheld his conviction but reduced his fine to R200 in respect of each telegram. The Court ruled that the mere handling of the telegrams to postal officials amounted to publication. Kiley did not give evidence in his own defence so the court did not have to decide the vexing question of what are "reasonable steps" which must be taken to verify information. Some indication was subsequently given in the *Rand Daily Mail* case (see below) which left no doubt that the Prisons Act does have a paralysing effect on the press, as the government intended.

The Rand Daily Mail case

On 30 June, 1 and 2 July 1965 the *Rand Daily Mail* published three articles by a former political prisoner, Mr. Harold Strachan, after his release at the end of a three-year sentence, a large part of which he spent in solitary confinement. His detailed account alleged assaults, electric shock treatment, humiliation, mental torture, unhygienic and crowded conditions and inadequate protection from heat and cold.

In publishing the third article the editor, Mr. Laurence Gandar stated: "We went to considerable lengths to check and cross-check the accuracy of the material we obtained and having satisfied ourselves completely on that score, we felt strongly that it was in the public interest for this information about prison conditions to be published." He said the allegations made by Strachan were so serious that an urgent and thorough investigation was called for and added that unless the authorities took speedy action "we shall publish further evidence".

This further evidence appeared in the *Rand Daily Mail* of 30 July 1965 in a report which included sworn statements by prison warders and ex-prisoners.

Instead of appointing a commission of inquiry, the government took action against the *Rand Daily Mail* and its informants. The newspaper's offices were raided, the police taking away written articles, tape recordings, sworn affidavits and photographs. The Department of the Interior withdrew the passports of editor Laurence Gandar and reporter Benjamin Pgrund. Strachan was put under house arrest and served with a five-year banning order, which meant that nothing he had said or written in the past or might say or write in the future could be published. The home of head warden J. A. Theron was searched and he was suspended from duty, being ordered not to leave his home or to communicate with other warders or prisoners.

Strachan was charged with making false statements regarding prison conditions and sentenced to 2½ years' imprisonment. The sentence was later reduced by the Appeal Court by one year on the grounds that some of his statements had not been proved, beyond reasonable doubt, to have been falsely made. Head warden Theron, after a trial lasting eighteen months, was convicted of having made false affidavits and causing false information to be published in the *Sunday Times* and *Rand Daily Mail*. One warden, said to be of subnormal intelligence, was convicted of making false statements about the treatment of prisoners and sentenced to three years, later reduced to eighteen

months. A third warder was charged and convicted of being in possession of marijuana and of having dealings with prisoners.

Then came the turn of the press. On 29 June 1967, just two years after the articles were published, Gandar and Pogrund were charged under Section 44 (f) of the Prisons Act with publishing false information about prisons without taking reasonable steps to verify the information. Joel Mervis, editor of the *Sunday Times* was also charged but the case against him was dropped after the publication of a cautious editorial retraction. Pogrund was granted bail of R1,000 and was ordered to report to the police every Saturday between the hours of one and two p.m.

The trial of the two pressmen began in the Rand Supreme Court on 1 November 1968 and concluded on 11 July 1969. At the opening of the trial Gandar, addressing the court on behalf of Pogrund and himself, said the *Rand Daily Mail* had acted "in accordance with the role of the free press around the world". The articles published in 1965 had been the result of a deep interest going back many years. It was an essential part of the newspaper's tradition to seek to safeguard the interests of the public by exposing injustices and malpractices. "It would seem a dereliction of our duty and a suppression of a matter of public importance not to have published the articles."

Judgement was delivered on 10 July 1969. The judge found both accused guilty on two counts, saying that they had failed to prove that they had taken reasonable steps to verify the information which they published. He added, however, that there was no direct evidence that either of the accused knew of the falsity of the information and it had not been shown that there was a conspiracy to publish false information. Gandar was fined R100 or three months' imprisonment on each count and Pogrund was sentenced to three months on each count, without the option of a fine, suspended for three years. South African Associated Newspapers Ltd., the publishers, were fined R150 on each count. The case was reckoned to have cost the *Rand Daily Mail* £116,000.

The press generally was very disturbed about the trial and its implications. It clearly illustrated the serious threat to free reporting and criticism in the Prisons Act. The Johannesburg *Star* said:-

"... Clause 44, in effect, protects not prisoners but the reputation of the prisons. In so doing it demands a standard of accuracy which is still undefined. Neither the Act nor the courts have spelled out what the words 'reasonable steps' mean. There is, as a result, a great uncertainty over an important area of public duty - to disclose prison abuses if they occur... Because of Clause 44 the prisons system has tended to vanish behind a curtain of secrecy which has deprived it of the benefit of public scrutiny..."

The *Sunday Times* wrote:

"... we doubt whether any South African editor will ever again publish reports about alleged abuses in prisons. Mr. Gandar's experience is enough to warn everybody off. In practice the effect of Section 44 (f) of the Prisons Act is to impose a serious restraint upon press freedom in South Africa..."

The Johannesburg *Sunday Express* pointed out that the *Rand Daily Mail's* legal advisers had considered that the taking of sworn statements and the questioning of informants constituted "reasonable steps" but the judge decided this was insufficient. It said uncertainty existed about the whole matter. Instead of initiating a frank examination of the prison system and what more could be done to improve it, the government had instituted a series of cases, mainly punitive in their scope, at which witnesses for the state had given a complete and unsatisfactory denial that anything was wrong. Referring to the heavy legal costs in the case, the *Sunday Express* said: "It would be a very foolish editor indeed who took it upon himself to involve his newspaper in the risk of similar legislation in the future".

Pitfalls

Although the press has tried not to transgress the Prisons Act, newspapermen have not been able to avoid all its pitfalls. In March 1961 a *Sunday Express* photographer came across two badly injured African prisoners who had escaped from their guard and jumped from a train. He took photographs of the incident and these were published in the *Sunday Express*. The editor, Mr. H. H. Huxham and the publishers, South African Associated Newspapers Ltd., were prosecuted and each fined R30. The magistrate rejected a defence argument that the escaped men could not be defined as prisoners in terms of the Act. Doubt on this point was removed by the 1965 amendment which extended the definition of "prisoner" to include convicted fugitives.

In 1962 press photographer Mr. Brian Semana took pictures of a group of handcuffed Africans on Johannesburg railway station. They had been rounded up for being in the urban area without permits and were being deported to their homes in the African reserves. Semana was arrested and charged with photographing prisoners without written authority. The magistrate agreed that the handcuffed Africans were not prisoners according to the Act and Semana was acquitted. However, the prosecution itself was a warning to the press to beware of the Prisons Act.

In May 1963 six newspapermen were arrested after five of them had taken photographs of a multi-racial demonstration against the 90-day detention law outside Johannesburg police headquarters. The men were freed but later charged under Section 44(e). A few weeks later the state withdrew the charges. On the day of their arrest the South African Broadcasting Corporation (SABC) broadcast a report on the incident, which the pressmen considered defamatory. They each demanded R2,000 from the SABC and the action was settled out of court, the SABC publicly acknowledging "These men were not guilty of any offence and were doing no more than carrying on their profession as news cameramen".

On 13 December 1970 a police van carrying 25 African prisoners overturned on the road between Johannesburg and Kempton Park. Seventeen prisoners were injured. The Commissioner of Police refused to allow the *Rand Daily Mail* to publish pictures of the overturned van on the excuse that in terms of the Prisons Act the van was a "lock-up".

In October 1973 the *Star* and *Die Transvaler* paid admission of guilt fines for publishing a photograph of Mr. Philippe le Roux, a banned leader of the National Union of South African Students, who at the time was serving a six months prison sentence for trying to leave the country illegally. The photograph was taken on 5 June 1973 when a number of photographs of banned NUSAS leaders were displayed on the campus of the University of the Witwatersrand to mark the hundredth day of their restriction. Mr. Adam Klein, the president of the Students' Representative Council was also charged and paid the admission of guilt fine.

Official use of the Prisons Act to intimidate the press was exemplified in the warning letters sent by the Department of Prisons on 27 June 1972 to several newspapers which had published pictures of police action against demonstrating students in Cape Town. According to the authorities, among the crowds were some students being arrested and once in custody these students became prisoners. The Department of Prisons told the newspapers they would not be prosecuted but warned that future contraventions would be handed to the police.

Another instance of the unsuspected scope of the Prisons Act was the case brought against a Port Elizabeth medical practitioner, Dr. Geoffrey Dean. A warrant for his arrest was issued in Cape Town on a charge of publishing false information about prison conditions in a letter to the *South African Medical Journal*, published in the issue of August 1965. Dr. Dean was allowed bail of R200. When he appeared before a Cape Town magistrate on February 2, 1966 the prosecutor asked for the charge to be withdrawn, without stating reasons. After the magistrate had ordered the withdrawal, Dr. Dean's counsel said that his letter to the *South African Medical Journal* was written with no political intention, nor with malice; it was not meant as an attack on the police, the prison administration or officials or district surgeons. Counsel said Dr. Dean, besides being a physician, was a research worker in the fields of lung cancer, multiple sclerosis and porphyria, which prompted him to suggest that district surgeons should maintain their alertness and not relax their vigilance.

From the government's view the Prisons Act is working well in shielding the prisons and prison system from the prying eyes of the press. It ensures that the only information about prisons and prisoners which the public is allowed to know is that which the authorities are pleased to release in official statements when it suits them.

Bantu Administration Act (No. 38 of 1927)

The Bantu Administration Act is another example of how free reporting can be prevented by Ministers and government officials through powers delegated to them by parliament. There is almost no limit to which they may go to prevent newsmen from gathering information and reporting on events in African areas.

Originally enacted in 1927 as the Native Administration Act this law was aimed *inter alia* at curbing the activities of the Industrial and Commercial

Workers' Union (ICU), which had succeeded in organising considerable numbers of Africans in a general workers' union.

The Act constitutes the State President as Supreme Chief of all the African people and empowers him to rule African areas by proclamation. No court can pronounce on the validity of anything done by him as Supreme Chief. In 1960 his dictatorial powers were invoked to pacify the Transkei, where the government was having difficulty in enforcing Verwoerd's Bantu Authorities Act. Widespread opposition by the people of the territory developed into violence between pro-government chiefs and their home guards, aided by South African police, on the one side and rebellious tribesmen on the other. Many Xhosas were killed and injured in fighting and several villages and huts were destroyed.

Such of the national press which was inclined to report on the actual events in the Transkei found difficulty in getting past official barriers and reporters from the radical periodicals found it necessary to gather the news by covert communication lines. In June 1960 police opened fire on a gathering of tribesmen near Bizana, killing eleven and wounding thirteen. Hundreds of arrests were made and special courts were set up for their trials. At least eleven tribesmen were banished and 30 were sentenced to death. In view of tight security around the territory it was not surprising that newspaper reports were scanty and lacking in essential facts. To make matters worse for the press, the chief magistrate for Bizana, Mr. J. H. R. Myburgh announced on 13 September 1960 that because of "twisted reports", information on events in Pondoland would be issued only by the Commissioner-General for the Transkei, Mr. Hans Abraham and released only to one press representative, the S.A. Press Association. The chief magistrate said reporters would not be allowed to approach magistrates or judicial officers for information. (As mentioned in Chapter I, Mr. Abraham was known to be a firm advocate of press control).

On 30 November 1960 emergency regulations were proclaimed for the Transkei. Proclamation 400 and its amendment No. 413 of 14 December 1960 prescribed detailed regulations for the administration of the territory. Among other things these regulations banned meetings, gatherings and assemblies; empowered the Minister of Bantu Administration and Development to prohibit anyone entering, leaving or being in the Transkei; and authorised chiefs to banish individuals and their families. Most of these regulations were still in force at the end of 1973, in spite of so-called "Bantustan independence".

Reporting or comment on politics, government and administration in the Transkei was made difficult, if not hazardous by regulation 11, which reads:—

"Any person who —

- (a) makes any statement, verbally or in writing, or does any act which is intended or likely to have the effect of subverting or interfering with the authority of the State, the Chief Native Commissioner, a Native Commissioner or any other officer in the employ of the State or of any chief or headman;

- (b) makes any statement, verbally or in writing, or does any act which consists of or contains any threat that any person will be subjected to any boycott, or will suffer any violence, loss, disadvantage or inconvenience in his person or property or in the person or property of any member of his family or household shall be guilty of an offence."

Questioned in parliament in January 1961 the Minister of Bantu Administration and Development said some representatives of the press had been permitted to enter Pondoland after the emergency regulations had been introduced but their activities were restricted to the reporting of court cases. He said the chief information officer of his department was authorised to make statements on the activities of the police and military in the area, after consultation with the departments concerned. Two weeks later the Minister alleged in a debate that journalists had been involved in the disturbances in Pondoland. The Durban branch of the S.A. Society of Journalists immediately issued a statement: "As the branch of the S.A. Society of Journalists to which most of the reporters assigned to Pondoland belong, we reject as outrageous and misleading this charge, together with the totally unfounded implication that South African newspapers' reporting contributed in any way to the troubled situation in that area."

On 19 February 1961 Mr. Brian Rudden of the *Natal Mercury* was ordered out of Pondoland by the Chief Bantu Commissioner for the Transkei, after Rudden had reported that there appeared to be widespread disturbances in the territory.

Under Regulation 11 of Proclamation 400 three whites from Durban, Dr. Graham Meidlinger, Mr. R. Kasrils and Mr. R. Fletcher, were arrested and charged in October 1961 with distributing a pamphlet entitled *National Crisis in Pondoland*. They were charged in the Flagstaff magistrate's court and remanded in custody to the Kokstad Circuit Court where, seven months later, they were found not guilty and discharged.

In September 1962 Mr. Peter Hjul, director of the company which published the Liberal fortnightly *Contact* was fined R200 for publishing an article "intended or likely to subvert or interfere with the authority of the state or one of its officers, viz. Headman A.J. Yengwa". The article criticised the activities of the chief's home guards. An appeal to the Supreme Court, Bloemfontein by Mr. Hjul was dismissed.

Mr. Patrick Duncan, the editor of *Contact*, had been charged jointly with Mr. Hjul but fled to Basutoland. A further case against *Contact* followed in March 1964 when Mr. Randolph Vigne, a journalist and vice-chairman of the Liberal Party, appeared in the Umtata magistrate's court on two charges under the emergency regulations. The charges were based on a press telegram which Vigne sent from the Umtata post office in January 1962 and which was published in *Contact* on January 25, 1962 under the headline TRANSKEI TYRANNY. It was alleged that the article was intended or likely to subvert the authority of the state or Chief Kaiser Matanzima. The case was adjourned *sine die*.

Charges under Proclamation 400 were also brought against the owner, the editor and a journalist of *Drum* magazine, but all three were acquitted. The magistrate said that although the article on which the charges were based contained some exaggerations, inaccuracies and untruths, it had not been shown that the accused were responsible for the distribution of the magazine in the Transkei. A state appeal against the acquittal failed but in May 1963 *Drum* took the precaution of printing a warning on its front cover that the issue contained an article "Transkei: The Land of Frightened Men" and should not be sold or distributed in the Transkei.

Apart from the unlimited powers it confers on the State President, the Bantu Administration Act (Section 29 (1)) provides that "Any person who utters any words or does any other act or thing whatever with intent to promote feelings of hostility between Natives and Europeans shall be guilty of an offence", punishable by a fine of up to R200 and one year in prison. The original purpose of this provision in 1927 was to stop leaders, organisers and members of the Industrial and Commercial Workers' Union making "inflammatory" speeches against low wages, ill-treatment and job discrimination. Its effect upon the press was described by Benjamin Pogrund of the *Rand Daily Mail* (23/11/68):—

"... in deciding what may be interpreted as promoting hostility between the race groups, editors are faced with an extremely difficult task. They can be left in a state of uncertainty as to whether or not they should suppress a particular news item. Where the possibility of a prosecution exists, the natural tendency is for editors to drop the report. The newspaper exercises its own censorship."

The Department of Bantu Administration and Development is loath to admit pressmen into African areas and newspapers find it particularly difficult to gather news and first-hand information because of official restrictions. Permits are granted to pressmen only if the Minister or top officials are satisfied that the purpose of any newsgathering or reporting is not hostile to apartheid or its enforcement. Newsmen who are known to be critical of government policy are unlikely to be issued with a permit.

In February 1963 the Johannesburg *Star* asked for permission to send a reporter into the resettlement camp at Mondhlo where 2,500 Zulu had been transported from the Vryheid area, about 23 miles away. The *Star's* application was turned down. The following May the *Star* was refused permission to send a reporter and photographer into Vendaland in the northern Transvaal, to report on conditions there, following upon alarming stories of famine and starvation caused by an exceptionally severe and prolonged drought. Government spokesmen described the reports as exaggerated but refused to allow the *Star* to find out what was actually happening in the area. Another application by the *Star* in September 1964 for a staff member to be allowed to tour African areas to gather information for a series of articles on development progress was also refused.

The press was not allowed to attend a meeting of Zulu chiefs at Nongoma, Zululand in 1963 and in the same year the Howick (Natal) Town Council barred a *Natal Mercury* reporter and photographer from visiting its two

locations where more than 5,000 Africans were crowded in 522 rooms and shacks and others were living in the open.

Recent reports show that the Department of Bantu Administration and Development has not slackened the exercise of its powers to keep newsmen out of the vast areas under its jurisdiction. In October 1973 the *Star's* staff correspondent in Namibia, Mr. Clive Cowley, ran into difficulties when he applied for a permit to cover the visit of the South African Prime Minister, Mr. Vorster, for the opening of the second legislative council of Owambo. Mr. Cowley was told that in addition to the usual 20 conditions attaching to press permits for visits to African areas, he would be subject to the following:—

- he would be allowed to report only on the opening of the legislative council;
- he would not be allowed to write any general reports;
- all his reports and articles would have to be submitted to the Owambo Secretary for the Interior for approval before publication;
- his residence and movements in Owambo would be restricted to the guest house at Oshakati and to Ongwediva, where the legislative council sits.

The *Star* informed the Bantu Affairs Commissioner in Windhoek that the conditions were “unreasonable and unacceptable” but were told that the conditions were imposed at a high level in Pretoria and were applicable to all journalists. Because of the restrictions, Cowley was prevented from accompanying the Prime Minister’s party to the opening of the R115-million hydro-electric construction site at Ruacana on the Owambo border with Angola.

In November 1973 a dozen white reporters were refused entry into the Transkei Hotel, Umtata, where black leaders from South Africa’s eight Bantustans were holding a summit conference. Chief Jeremiah Moshesh, the Transkei Minister of the Interior, apologised to the pressmen and explained that the laws which barred them were not of the black leaders’ making. The restrictions were, of course, imposed by regulation under the Bantu Administration Act.

Finally, it is worth noting that the government is able to exercise censorship in all African areas by way of proclamation. Proclamation 110 of 1957 directs appointed African chiefs and headmen to watch out for undesirable newsvendors and pamphleteers. The proclamation says the headmen should report promptly to the Bantu Commissioner “the activities of persons who disturb or obstruct the peace, order and good government by the holding of unauthorised meetings, the distribution of publications and pamphlets, or in any other manner.”

Another proclamation makes it an offence to distribute or exhibit to Africans any cinematograph film or to publish any film advertisement in any African area without first obtaining the written permission of the official in charge. This means that even those films which have been approved by the Publications Control Board must pass the test of an official of the Department of Bantu Administration before being shown in African areas.

This enables the authorities to prevent the showing of film documentaries and news reports which are unfavourable to apartheid or which depict racial intermingling or discrimination against Blacks.

Defence Amendment Act (No. 85 of 1967)

Section 57 of the Defence Amendment Act, 1967 added a new section 118 to the principal Act to prohibit the publication in any way of any information relating to the movements or dispositions of armed forces, ships or aircraft, or to the defence of the Republic, or statements calculated to convey such information directly or indirectly.

Previously these were offences only in time of war but the new section made them offences at any time. In addition, the prohibitions were extended to cover the publishing of information about movements or dispositions of nursing services established under the Act, transport services or requisitioned supplies over which the Defence Force had assumed control; and statements or rumours relating to armed forces which might cause alarm or prejudice foreign relations. The 1967 Act also extended the powers of the Minister of Defence to define areas within which photographs, plans, models or notes may not be taken.

The Minister may grant permission for the publication of any item but he emphasised in parliament that only he may determine when it is in the public interest to release news concerning the military forces and in what way such news should be released. He said he was seeking control over reports which might jeopardize the security of South Africa or alarm the public or cloud relations with other countries. He added: "sometimes this prejudices us in important trade transactions", presumably referring to the acquisition or disposal of armaments.

At its annual congress in May 1967 the S.A. Society of Journalists adopted a resolution condemning Section 57 as an invasion of the legitimate field of reporting, giving the Minister of Defence blanket powers to ban the publication of news about the Defence Force, whether or not it concerned security. The pro-government weekly *Dagbreek* (4/6/68) protested that the new law placed severe restrictions on pressmen and the *Star* (27/9/69) complained that it had been used to prevent the reporting of the fact that two trainee soldiers had died after twelve of them had been deliberately exposed to gas in a training exercise.

A recent prosecution under this law was that of the editor of the *Star*, Mr. John Jordi, who was charged in August 1972 with contravening Section 118 by publishing in the issue of the *Star* of 18 November 1971 a report speculating on a visit to Lisbon by the Minister of Defence and the possibility of the purchase of warships for the South African Navy. At his second appearance in court the State unconditionally withdrew the charge against Jordi. When asked in parliament about the matter the Minister of Defence said the case was not proceeded with because it was considered not to be in the interests of South Africa. The *Star* thereupon disclosed that Jordi had been asked to apologise to the Minister of Defence in return for a withdrawal of the charge but he had refused.

Official Secrets Act (*No. 16 of 1956*) and the “BOSS” law (*No. 101 of 1969*)

The Official Secrets Act, 1956 made it an offence to publish “any secret official code or password or any sketch, plan, model, article or note or any other document or information which is likely to be directly or indirectly useful to an enemy”.

The Act was amended by Act 65 of 1965 and by Act 101 of 1969, making subsection (2) of Section 3 read as follows:—

“(2)(a) Any person who has in his possession or under his control any sketch, plan, model, article, note, document or information which relates to munitions of war or any military, police or security matter and who publishes it or directly or indirectly communicates it to any person in any manner or for any purpose prejudicial to the safety or interests of the Republic, shall be guilty of an offence and liable on conviction to a fine not exceeding one thousand five hundred Rand or to imprisonment for a period not exceeding seven years or to both such fine and imprisonment.

(b) For the purposes of paragraph (a) —

- (i) “police matter” means any matter relating to the preservation of the internal security of the Republic or the maintenance of law and order by the South African Police;
- (ii) “security matter” means any matter relating to the security of the Republic and includes any matter dealt with by or relating to the Bureau for State Security referred to in Section 1 of the Public Service Act (Act No. 54 of 1957) or relating to the relationship subsisting between any person and the said Bureau.”

The Bureau for State Security (popularly referred to as BOSS) was set up by the government on May 1, 1969 “to investigate all matters affecting the security of the State, to correlate and evaluate the information collected and, where necessary, to inform and advise the government, interested government departments and other bodies; and to perform such other functions and responsibilities as may be determined from time to time.”

Section 29 of Act 101 of 1969 authorises the Prime Minister or his nominee or any Cabinet Minister to prohibit the giving of any evidence or the production of any document to any court or any statutory body if the evidence or document is, in their opinion, “prejudicial to the interests of the State or public security”.

Newspapermen recognised the sinister possibilities of the BOSS law and protested against it. The S.A. Society of Journalists described it as the most serious curtailment of the freedom of the press in South Africa and said it would prevent free inquiry in many fields of public importance, with the public having no means of knowing how much information was being suppressed. A deputation from the Newspaper Press Union met the Deputy Minister of Justice to discuss the possibility that the press might unwittingly report on matters deemed by the Bureau for State Security to be security

matters. The Deputy Minister gave the assurance that innocent disclosure would not be a punishable offence and said that if members of the press were in any difficulty or doubt they could always consult officials of the Department of Justice.

This did little to dispel the anxiety of the press. In the first place the Minister's verbal promise had no legal force; in the second place, to have to seek official approval before publishing a story could well have the effect of inviting suppression of a matter of public concern; and in the third place, seeking official approval as an obligation would be submitting to censorship by government officials.

One difficulty seen by the press was how it would be possible to know what matters were being dealt with by the Bureau: the Act says it is an offence to disclose the facts of a case if the Bureau is dealing with it, yet no one is entitled to know exactly what the Bureau is doing or what relationship subsists between any person and the Bureau.

The first case involving the BOSS law arose in 1970. In February of that year a dissident Nationalist MP, Mr. Jaap Marais, complained that the Prime Minister had authorised the tapping of his and other telephones. He circulated a statement on the matter to the main newspapers, quoting from a letter issued from the Prime Minister's office. The police immediately visited the newspaper offices and ordered editors not to publish the statement as it was a contravention of the Official Secrets Act in that it dealt with the security police. The newspapers were warned that if the statement was published all copies of the newspaper would be confiscated.

The statement was not used by the press and the following June Marais was convicted of publishing the letter and fined R300. He appealed against the conviction and sentence and on 14 December 1970 the Appeal Court, Bloemfontein decided that the disclosure made by him did not contain a single fact about state security procedures which was not common knowledge. The conviction and sentence were set aside. By appealing against his conviction Marais had been able to demonstrate how the Act could be used by bureaucratic officials and how the press had been intimidated by the security police into suppressing a political statement by a Member of Parliament.

Post Office Act (No. 44 of 1958)

From the beginning of its first term as government of South Africa the Nationalist party made no secret of its attitude to the use of the postal authority to control the flow of news. In November 1949 the Minister of Posts and Telegraphs, Mr. F. C. Erasmus told a party rally:—

“As Minister of Posts and Telegraphs I want to say to those people who send reports overseas slandering South Africa that they must not expect of me that all their reports will reach their destination. It is time the government put its foot down and it is doing so.”

Later he declared:—

“If it appears that the Post Office Act is not sufficiently strict to prevent

the transmission of material of this nature abroad, the government will not hesitate to consider an amendment to the Act”.

However, no action was then taken.

During the 1960 state of emergency the Post Office intercepted a despatch from foreign correspondent Mr. Norman Phillips of the *Toronto Star*. He was detained in a Durban jail for three days under the emergency regulations before being allowed to leave the country. The matter was raised in parliament and the Canadian Prime Minister, Mr. John Diefenbaker, made an official protest to the South African government.

Newspapers have always had to exercise care in their use of South Africa's postal services. It is an offence under Section 24 of the Post Office Act, 1958 to send through the mails anything “with profane, blasphemous, indecent, obscene, offensive or libellous matter on the outside or any indecent or obscene matter inside”. Section 27 of the Act provides that any postal article, other than a letter, may be opened in the post for examination to ascertain whether it has been posted in contravention of the Act.

The authority to seize postal communications was seriously widened in 1972 by the addition of a new Section 118A to the Post Office Act. Section 118A provides for the interception of postal articles, telegrams or communications by telephone to or from any person, body or organisation, on the order of a functionary designated by the Bureau for State Security (BOSS). If security officers attached to BOSS decide that telephones should be tapped, mail examined or telegrams checked on the ground that this is necessary to protect state security, a Bureau functionary has merely to order the Post Office to obey his instructions.

This new provision directly affects the press. All press messages are exposed to interception by BOSS. The newspapers most vulnerable are those like the *Rand Daily Mail* and the East London *Daily Despatch* which have particularly annoyed the government by giving prominence to reports showing the ugly side of apartheid. It is fair to make this assumption because when the white South African parliament legislates to protect the security of the State it is in fact thinking of the maintenance of white authority and the preservation of apartheid.

Newspaper and Imprint Registration Act

(No. 63 of 1971)

The Newspaper and Imprint Registration Act, 1971 was enacted to replace an Act of 1934 and to consolidate and amend pre-Union laws and ordinances relating to newspapers and other printed matter.

Regulations under the Act, published on 30 March 1972 require those applying to register a newspaper to describe its intended nature and contents and to submit the full names, occupational and residential addresses of proprietors, managers, editors, printers and publishers. When a registered newspaper changes its editor the Department of the Interior must be informed and given the names of any other newspapers with which the new editor is or was connected.

Indecent or Obscene Photographic Matter Act *(No. 37 of 1967)*

After a special showing of two films and a collection of photographs to Members of Parliament and Senators in 1967 the Minister of Justice received unanimous support for the Indecent or Obscene Photographic Matter Act, a law to overtake those who escape the provisions of the Publications and Entertainments Act and the Customs and Excise Act.

While the stated purpose was to prevent the purveying or possession of pornographic material its reference to "undesirable publications and objects" raises some doubt regarding its possible application to political literature.

Extension of University Education Act *(No. 45 of 1959)*

The Extension of University Education Act, 1959 was primarily intended to exclude Blacks from the established universities and provide separate university colleges for African, Coloured and Asian students.

The white universities were prohibited from enrolling Black students and strict regulations were issued for the control of Black students at the segregated colleges. African students at the new "Bantu" colleges were restricted in the right to produce student newspapers and magazines. One regulation provided that "No magazine, publication or pamphlet for which students are wholly or partly responsible may be circulated without permission of the Rector, in consultation with the Advisory Senate and the Senate and no statement may be given to the press by or on behalf of the students without the Rector's permission".

Provincial laws

South African publishers are also affected by certain ordinances enacted by the Provincial Councils.

Transvaal

Act 38 of 1909 lists as criminal offences the writing or transmission of any communication containing indecent or obscene matter; selling, making, printing, circulating, exhibiting or publishing any indecent book, paper, pamphlet, photograph, card picture etc.

Natal

Ordinance 14 of 1916 and Ordinance 19 of 1924 empower borough councils and local authorities in Natal to prohibit the exhibition or sale of "any postcard, picture, book, article or thing which in the opinion of such councils are of an indecent, offensive, unseemly or objectionable character".

Orange Free State

Ordinance 21 of 1902 (Police Offences) makes it an offence to sell, distribute or exhibit any profane, indecent, or obscene book, paper or other publication.

Distributors as censors

The maze of censorship laws in South Africa has obvious effects on booksellers. Distributors, in addition to securing themselves against possible actions for defamation, must be constantly vigilant to ensure that the newspapers and other publications which they offer for sale do not contain anything which contravenes the various censorship laws.

Most of the distribution of daily and weekly newspapers is in the hands of the Central News Agency (CNA), which has a near monopoly of the trade, with a national chain of bookshops and newsagents, through which it employs a large number of street sellers and deliverymen.

The Central News Agency has always been controlled by the big newspaper groups. In 1972 the Argus group became the biggest single shareholder, with 37.75 per cent of the company's shares, after paying South African Associated Newspapers and the *Cape Times* R3.2-million for their holdings. The deal followed a bid by Slater Walker Securities (South Africa) for controlling interest in the CNA. Under a long-standing arrangement between Argus, SAAN and the *Cape Times* the Slater Walker offer was turned down in favour of Argus, which matched the Slater Walker bid.

The CNA is also the biggest distributor of British newspapers and periodicals in South Africa. In this role it has the responsibility of ensuring that none of these overseas publications contains matter which infringes the country's censorship laws. In performing this function the CNA sometimes finds it necessary to act as censor, as the following examples illustrate:-

- Before distributing the 9 May 1963 issue of the British weekly *The Listener*, the CNA deleted quotations from *Into Exile* by Ronald Segal, because of the law against quoting banned persons.
- An article on the interrogation methods of the South African Police was deleted from the 8 June 1966 issue of the *New Statesman* before it was put on sale.
- In April 1968 the CNA excised a letter by Mr. Walter Hain, a banned South African, from 8,000 copies of the American magazine *Life*, before releasing it for sale.
- In May 1971 the CNA blacked out a passage in an article on South Africa in the 9 May 1971 issue of the American magazine *Newsweek* because of a possible violation of the Publications and Entertainments Act in an article on black unemployment and politics.

Railway bookstalls

The South African Railways and Harbours and Airways are State-owned and all station and airport bookstalls are part of the state enterprise. When

seeking reading matter travellers are limited in their choice to those publications made available by the administration. Left-wing papers are automatically excluded. Soon after the Nationalist party came to power in 1948 the Railways administration banned the weekly *Guardian* from all railway bookstalls. In February 1957 the publishers of *Africa South* received a curt notification from the administration "It has been decided not to accept copies of the publication *Africa South* for sale at the Administration's bookstalls". When questioned in parliament on this ban the Minister of Transport replied:-

"There is a committee consisting of officers who read all publications before they are accepted for sale at the bookstalls. Of course, they don't read everything but only when it seems suspicious. . . We cannot allow pornographic literature to be sold there, neither do we allow communist literature to be sold there. Of *Africa South* I have no personal knowledge. I have only heard that it has a bad smell and a bad reputation and that is probably why they have decided not to sell it in the railway bookstalls. This committee reads the publications and if they cannot decide, such a publication is submitted to the management to decide whether it should be sold or not".

Police and the press

During the early stages of the Treason Trial which began in December 1956 and lasted for almost five years, newspaper reporters and photographers found themselves in frequent conflict with the police when they tried to cover the big public protests and demonstrations against the trial. As a result the South African Society of Journalists decided in 1957 to send a deputation to the Minister of Justice and the Commissioner of Police.

Among other things, the SASJ complained that the police had seized and spoiled films and had obstructed and even assaulted pressmen. The Commissioner's reply was that pressmen among rioters must expect to be treated as rioters and that there was no reason for a newspaperman to be present during a riot, as information could be obtained afterwards from a senior police officer. The deputation was assured, however, that the agreement between the press and police (the Police-Press Agreement) would be scrupulously adhered to and all policemen would be instructed accordingly.

In the disturbed years which followed, with numerous demonstrations, mass arrests, the shooting at Sharpeville, the state of emergency, detention without trial and new laws to check rising black revolt, journalists had to exercise extreme care in the gathering and presentation of news. Most newspapers decided it was expedient to clear items affecting the behaviour of the police with the police authorities.

In 1967 the organisation of newspaper owners, the Newspaper Press Union, accepted a new Police-Press Agreement, in terms of which editors were obliged to check with a senior police officer before publication "any information concerning crime or state security which has been obtained by the newspaper independently from the police to enable such officer to advise whether the information should be published, where such publication may interfere with the investigation of any crime".

In addition, where information relating to "a crime of extraordinary seriousness or to state security or where the publication thereof may defeat the end of justice" the Commissioner of Police or a senior police officer designated by him may request any editor not to publish or to delay publication of any such information.

In the 1967 agreement the NPU also agreed that if any statement or comment is attributed to a policeman not identified in the story, the editor must divulge the name to the Commissioner of Police, if so requested.

Notwithstanding the new agreement, the press still had problems with the police. In June 1967 the S.A. Society of Journalists, referring to the prosecution of journalists under the Criminal Procedure Act (see page 33) said the cases indicated that the attitude of the police towards journalists in

the exercise of their normal and legitimate duties was approaching one of intimidation. Five years later incidents between the press and police were still occurring. In May 1972 the SASJ complained that at a rugby match between an English touring side and a Coloured team at Athlone Stadium, Cape Town on 23 May the police seized cameras and film, forced cameramen to expose film, placed their hands over lenses and ordered that no pictures of demonstrators should be taken. The SASJ again complained after reporters and photographers were assaulted and two arrested during student demonstrations against apartheid at the universities.

Over the years the pressmen who have suffered most from police harassment are those attached to the smaller political newspapers and periodicals. Their sympathy and support for the cause of the voteless black millions and their exposures of injustices, discrimination and the evils of apartheid have made the independent radical and liberal newspapers prime suspects of the security police. Papers like *New Age*, *Spark*, *Contact* and *Forward* all experienced police interference of one kind or another. Their premises were kept under constant surveillance, their offices bugged, their telephones tapped, their visitors photographed and their mail intercepted. Police agents, under all kinds of guises, would make frequent calls on specious pretext and ask questions about political affairs, individuals and groups which they believed to be associated with these newspapers, presumably expecting to uncover some sinister conspiracy. Sellers would be stopped and questioned by policemen and their licences or passes demanded to be produced there and then. Sometimes whole consignments of a radical newspaper would mysteriously disappear in transit on the railways or though the post. This constant harassment not only hampered the radical and left-wing press but also infused the press generally with unusual caution in the handling of matters dealing with political activity on the extra-parliamentary front.

The press owners

There are three major newspaper groups in South Africa. The biggest is the Argus group, which owns seven dailies and four weeklies. It also has a controlling interest (31¼ per cent) in South African Associated Newspapers, publishers of four dailies and two weeklies (see Appendix II). The total circulation of the eleven dailies is 837,000; seven have special weekend editions with a total circulation of 667,000. The weeklies have a circulation of 1,084,000. SAAN also publishes the weekly *Financial Mail*, in which the British *Financial Times* held until recently a 45.5% share.

All these newspapers, with the exception of one (*Ilanga*) are in the English language. Three other English language newspapers are independently owned — the *Natal Mercury* (76,000 daily), *Natal Witness* (18,000 daily) and the East London *Daily Despatch* (26,000).

Ownership of the Afrikaans language press lies with two groups, both of which have close ties with the Nationalist government. The greater, Dagbreek Trust, controls four dailies (circulation 140,000) and the weekly *Financial Gazette* (11,000). The smaller is Nasionale Pers, which controls three dailies (114,000) one of which has a weekend edition of 64,000 copies. These two groups are linked in a joint venture for the publication of the Sunday newspaper *Rapport* (450,000), each holding a half share in Perskorporasie van Suid Afrika Bpk. The link was established in December 1970, when Nasionale Pers agreed to close down *Die Beeld*, its rival to *Dagbreek en Sondagnuus*, which came into being in May 1962 after Dagbreek Trust bought out *Sondagblad*, published by Afrikaanse Pers.

As the circulation figures show, English language newspapers attract 80 per cent of the daily and 75 per cent of the weekly total circulation. This major share of the newspaper readership is remarkable in view of the fact that the home language of nearly 70 per cent of white South Africans is Afrikaans and little more than 30 per cent English. From their beginning South African newspapers have catered almost exclusively for the white minority of one-fifth of the country's inhabitants; only in recent years have some English language newspapers sought a black readership. With more blacks reading the English language newspapers the government has become increasingly concerned about the content of these newspapers. This is what lies behind the government's warnings to the press about "incitement" of racial friction.

Insofar as the Afrikaans press is concerned the government has little worry. These newspapers loyally support the Nationalist party and their close ties with the government are strengthened by the inclusion of Cabinet Ministers on their boards of directors. All Nationalist Prime Ministers since 1948 have been directors of the Afrikaans newspaper groups. After the death of Dr. Verwoerd in 1966 Mr. Vorster succeeded him as chairman of Dagbreek

Trust, the parent body of Afrikaanse Pers, Voortrekker Pers and Perskorporasie. He resigned in October 1967 because the Premiership demanded his full attention. At the end of 1973 the Dagbreek group had six Ministers and the President of the Senate on its 14-member board of directors, viz.

B. J. Schoeman, Minister of Transport (chairman)

M. C. Botha, Minister of Bantu Administration and Development
(Vice-chairman)

N. J. Diederichs, Minister of Finance

Dr. H. Muller, Minister of Foreign Affairs

M. Viljoen, Minister of Labour and of Posts and Telegraphs

C. P. Mulder, Minister of Information and of Social Welfare and of
Immigration

J. de Klerk, President of the Senate.

Nasionale Pers has among its directors Mr. P. W. Botha, Minister of Defence and Mr. P. C. Pelser, Minister of Justice and of Prisons.

In the years 1967 to 1969 the two Afrikaans press groups were drawn into a conflict within the Nationalist party between *verligte* and *verkrampste* ("moderate" and "extremist") sections. The disagreement was sharpened by persistent attempts on the part of the Nasionale Pers of Cape Town to extend its sphere of activity to the northern provinces, previously regarded as the preserve of the Dagbreek-Voortrekker-Afrikaanse Pers newspapers. In September 1968 Mr. Schoeman, as Transvaal leader of the party, announced the establishment of a special committee of the party to hear complaints from party members against their newspapers. Mr. Vorster appealed to members that differences between the party and its newspapers should be settled in private. After the ignominious defeat of the *verkrampste* faction in the April 1970 general election, amity was restored between the two Afrikaans press groups, culminating in the closing down of Nasionale Pers's Sunday *Die Beeld* at the end of that year. However, Nasionale Pers made it known at the end of 1973 that it was planning to launch an Afrikaans morning newspaper in Johannesburg in 1974, much to the chagrin of the Dagbreek group.

While the Afrikaans press belongs to the ruling political party, the English language press is firmly in the hands of the big mining finance houses. Of the eight directors of the Argus Printing and Publishing Company, two are nominees of the Rand Mines group and two of the Johannesburg Consolidated Investment Co., which together hold 13.2 per cent of the capital. The Anglo American Corporation holds a further 3.6 per cent. Its chairman, Mr. Harry Oppenheimer is looked upon, by government supporters at least, as being in ultimate control of the Argus newspapers and their policies. There is no evidence that he has ever interfered with the editors and he stoutly denies that he would use his power to apply pressure to any newspaper. At a symposium on "Newspapers and Society", held in Cape Town in January 1973, he said: "In the South African oligarchy, where a completely white parliament, with a white government and a white opposition, the view presented of South African society by white politicians

is to some extent onesided, and white South Africans in general do not like to be reminded of the fact, but the English language press continually and obstinately and courageously does remind them."

It was only in 1971 that the Argus group succeeded in getting hold of South African Associated Newspapers. An earlier attempt in 1968 was thwarted by the government. On 11 November 1968, it was announced that the Argus group had acquired an option over 65.9 per cent of the one-and-a-half million ordinary shares in SAAN, held by the Abe Bailey Trust and Estate. This takeover would have given Argus control over 98 per cent of the English language weeklies' circulation and 77 per cent of the English language dailies' circulation. The S.A. Society of Journalists objected to the takeover and establishment of a monopoly. The government was also against it and on 19 November 1968, the Prime Minister declared his intention to block the deal. He said: "The Cabinet feels that newspaper takeovers to this extent are not in the interests of the country and is, therefore, considering legislation which already exists in other countries, to prevent such takeovers, if need be with retrospective effect."

The Argus group issued a public statement giving its reasons for exercising its option on the SAAN shares but after discussions between the Argus chairman and the Prime Minister, the deal was called off. (In passing, it is worth recording that the Afrikaans press refused to publish the Argus statement, so the company booked half-page advertisements in *Die Transvaler*, *Die Vaderland* and *Die Burger* to explain its attitude. *Die Transvaler* refused to accept the advertisement).

Two years later Argus succeeded in arranging a tie-up with SAAN. In February 1971 the boards of the two groups approved a share exchange giving Argus 18¼ per cent interest in SAAN and SAAN 7 per cent interest in Argus. In addition, Argus acquired by purchase a further 12½ per cent interest. In terms of the arrangement the chairman of Argus was appointed to the SAAN board and the chairman of SAAN was appointed to the Argus board. To meet the earlier objections of the S.A. Society of Journalists, Argus gave an assurance that the independence of SAAN newspapers and magazines would not be impaired by their acquisition of the 31.25 per cent interest.

The Argus domain was increased in 1972 when the Cape Town morning newspaper, the *Cape Times*, was acquired by SAAN.

The group is now pursuing a systematic plan to build up readership among Blacks. The *Cape Herald* is projected towards the Coloured community in the Cape, *Post* towards the Indian community in Natal, and *World* towards Africans in all provinces. In addition to these three English-language newspapers for Blacks, the Argus group publishes *Ilanga* in the Zulu language. All these newspapers are showing a rapid growth in circulation. *World* has doubled its circulation in a few years by giving emphasis to the popular features of sport, crime and sex, and by playing down politics. The *Cape Herald*, on the other hand probably owes its growing popularity to its political reports and commentaries.

With the growing literacy of South Africa's African, Coloured and Asian people this is the obvious market for all newspapers and could be a major

factor in the future role of the press in South Africa. It is significant, however, that today there is no newspaper owned and written by Africans. At one time there was a Black press, albeit small and financially weak, but this press has completely disappeared and there are no signs of its revival.

The role of the press in the apartheid society

The numerous laws and regulations which muzzle or inhibit the South African press are products of the country's political system, in which an elective despotism of whites holds sway over four-fifths of the population which is not white and is denied the vote. The white minority of less than four million, i.e. about 18 per cent of the population, alone elects the government to rule not only them but also the 18-million blacks.

The all-white parliament is based on the Westminster model. It consists of a House of Assembly of 166 members elected by whites and an all-white Senate of 54 members, ten of them nominated by the party in power. Elections are normally held every five years.

The Nationalist party, which has been in power since 1948, had 118 seats in the House of Assembly at the first session of 1974, before the April 1974 general election. The Opposition United Party had 47 seats and the Progressive Party one. The Nationalists have won all six elections since 1948 and parliamentary elections have now degenerated to the level of a routine formality in terms of the constitution, with the outcome always a foregone conclusion.

As a substitute for shared democratic rights the Nationalists have created eight separate "Bantu" governments for the African people. The "Bantustans" or "homelands" have legislative assemblies consisting of chiefs, headmen and some elected members. The assemblies have no power to legislate on defence, foreign affairs, immigration, banking, customs and excise, railways, harbours, national roads, civil aviation, posts and telecommunications, radio, or the control, organisation, administration, powers or movement of any police force of white South Africa "charged with the maintenance of public peace and order and the preservation of internal security". Lawmaking on all these matters is reserved for the white parliament.

About seven million Africans live in the homelands. Another eight to nine million live in the white areas but are deemed to be citizens of one homeland or another. On the apartheid principle Africans cannot have democratic rights in white South Africa, i.e. in 86.3 per cent of the country. Instead, they have been designated as migrants from tribal areas, even if they and their forebears were born in a white area and have never seen a homeland, and have been told that civil rights and liberties are available to them only in the homelands, not in the white areas where they live and work.

The Bantustans are undeveloped and poverty-ridden, unable to provide work for the people already living there and certainly not for those presently employed as industrial and commercial workers in white-owned factories, shops and offices in the white urban areas. Only eight per cent of the country's workers on white farms are white – 82 per cent are Africans and nine per cent are Coloured.

Apart from the whites and the 15-million Africans there are two million Coloured people and 620,000 Asians (mostly Indians). Like the Africans, the Coloured people and the Asians are denied the franchise and are given no say in the election of the government. Instead, they have been given separate puppet councils — the Coloured Persons' Representative Council and the National Indian Council, neither of which has legislative powers.

Against this background it can be seen that the South African press has a particular responsibility. Its role must be far greater than that of the press in an ordinary democratic society. Both in providing news and disseminating views it must not forget to reflect the affairs and the opinions of the voteless majority. It could, of course, pretend that the affairs of the black masses call for nothing more than superficial mention, except where they provide sensation, and that their political views are insignificant or irrelevant. This has been the way of most Afrikaans newspapers and a few of the English language newspapers, which at best have pursued a paternalistic attitude towards Blacks.

By and large, however, the English language press in South Africa has recognised its special task in the apartheid society and has attempted to use its limited freedom to present the news and views in the widest possible way. This is why it has been incurring the constant displeasure of the government for the past 25 years. The enforcement of apartheid would have been much easier for the Nationalist government if the press had remained silent or passive. With four-fifths of the people excluded from the elective process and parliament it was necessary for the press to ensure that the widest publicity be given to the activities of the white rulers and their officials, especially as most of these activities deeply affected the lives of the voteless. The very nature of the white parliament, with its weak and generally acquiescent opposition, imposed upon journalists the obligation to report the facts and explain their full significance, even at the risk of being abused by the government and scorned by most of the whites.

It should not be thought, however, that all South Africa's English language newspapers have fulfilled this special responsibility. They are too deeply rooted in the white community, catering for the affairs of the whites and concerned with white political loyalties, rather than the aspirations of the black majority. Their constant support for the United Party, in parliamentary opposition since 1948, has prevented a large section of the English language press from being too critical of this party's own apartheid policy. Some newspapers like the *Rand Daily Mail* (which backs the small Progressive Party) have boldly attacked apartheid and crusaded against the evils of the country's racial laws and practices. Others have maintained a policy of extreme caution in the handling of sensitive issues or have too often vacillated in the face of fierce government warnings. Their behaviour has obviously been influenced by the restrictive laws described earlier and by the constant threats of press control. As the press should now see, the government is not satisfied with mere docility; it wants overall discipline and a common obedience to a press code which satisfies its demands.

An unhappy aspect of the current situation has been the conspiracy to

isolate the *Rand Daily Mail* and others like it in the hope that if they are thrown to the wolves the rest of the press will escape government action. According to the *Star* (25.9.73) there have been advances, overt and surreptitious, from Nationalist quarters for a ganging up against the *Rand Daily Mail* to offer it as a sacrifice to appease Mr. Vorster. Rejecting the idea "with deep contempt" the *Star* said there was no salvation, only cowardice, in this kind of operation.

After Mr. Vorster's ultimatum to the press to put its house in order by January 1974, the president of the Newspaper Press Union, Mr. Slater, issued a public statement, saying:-

"I am sure that, as in the past, all the newspapers of South Africa, through the Newspaper Press Union, will resist any further erosion of the freedom of the press, which incidentally means no more than the freedom of the individual.

I see no reasons for further restrictions to be written into the laws of this country which would have the effect of inhibiting further the freedom which the newspapers enjoy . . .

I would therefore appeal to the Prime Minister to discuss the points that are worrying him with either the NPU as a whole or individual newspapers."

At the end of October 1973 Mr. Slater made public a letter he had received from Mr. Vorster in reply, in which the Prime Minister declined a meeting, saying that the matter was one for the boards of certain newspapers to put right and was not a question for general discussion with the NPU. Mr. Vorster reiterated that newspapers must desist from publishing material which could incite racial hatred. He said he was not going to impose "what is commonly called press censorship" but he had no option but to finalise his contemplated legislation and to proceed with his plans.

As this is written it is not known in detail what these plans are, but there can be no doubt that the already limited freedom of the South African press will be curtailed further.

Weekend	26,000	Weekend	31,000
Charity	14,000	Weekend	10,000
	13,000		
	139,000		539,000

*Source: Financial Mail, 17 August 1973.

Appendix I

South African Newspapers: Circulation (January – June 1973)*

English-Language

Dailies (15)		Weeklies (14)	
Star	187,000	Sunday Times	465,000
Rand Daily Mail	142,000	Sunday Express	182,000
Cape Argus	117,000	Sunday Tribune	175,000
The World	110,000	Weekend World	170,000
Daily News	106,000	Weekend Argus	148,000
Cape Times	78,000	Weekend Star	133,000
Natal Mercury	76,000	Weekend Cape Times	109,000
Eastern Province Herald	29,000	Cape Herald	84,000
Pretoria News	28,000	Post	69,000
Daily Despatch	26,000	Weekend Daily News	52,000
Evening Post	25,000	Weekend Evening Post	48,000
Natal Witness	18,000	Financial Mail	21,000
Friend	8,000	Weekend Pretoria News	17,000
Diamond Fields Advertiser	7,000	Financial Gazette	11,000
Daily Representative	2,000		
	<hr/>		<hr/>
	959,000		1,684,000

Afrikaans-language

Dailies (6)		Weeklies (5)	
Die Burger	65,000	Rapport	450,000
Die Vaderland	61,000	Weekend Die Burger	74,000
Die Transvaler	40,000	Weekend Vaderland	34,000
Volksblad	36,000	Weekend Volksblad	31,000
Hoofstad	24,000	Weekend Hoofstad	10,000
Oosterlig	13,000		
	<hr/>		<hr/>
	239,000		599,000

*Source: *Financial Mail*, 17 August 1973.

Appendix II

South African Newspapers: Ownership*

Argus Group

	Daily	Weekend	Weekly
The Star	187,000	133,000	
Cape Argus	117,000	148,000	
World	110,000	170,000	
Daily News	106,000	52,000	
Friend	8,000		
Diamond Fields Advertiser	7,000		
Pretoria News	28,000	17,000	
Sunday Tribune			175,000
Cape Herald			84,000
Ilanga			108,000
Post			70,000

South African Associated Newspapers (in which the Argus group has a 31.25% interest)

Rand Daily Mail	142,000		
Eastern Province Herald	29,000		
Evening Post	25,000	48,000	
Sunday Times			465,000
Sunday Express			182,000
Financial Mail			21,000
Cape Times	78,000	109,000	

Nasionale Pers group

Die Burger	65,000	74,000	
Oosterlig	13,000		
Die Volksblad	36,000		

Dagbreek Trust group

- Afrikaanse Pers

Die Vaderland	61,000		
Hoofstad	24,000		
Financial Gazette			11,000

- Voortrekker Pers

Die Transvaler	40,000		
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- Hoofstadpers

Hoofstad	24,000		
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- Perskorporasie van Suid Afrika

Rapport			450,000
(owned equally with Nasionale Pers)			

Independents

Natal Mercury	76,000
Natal Witness	18,000
Daily Despatch	26,000

* Source as for Appendix I (All prices garage free in UK)

(Faint text, likely bleed-through from the reverse side of the page)

South Africa

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South West Africa

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South West Africa (continued)

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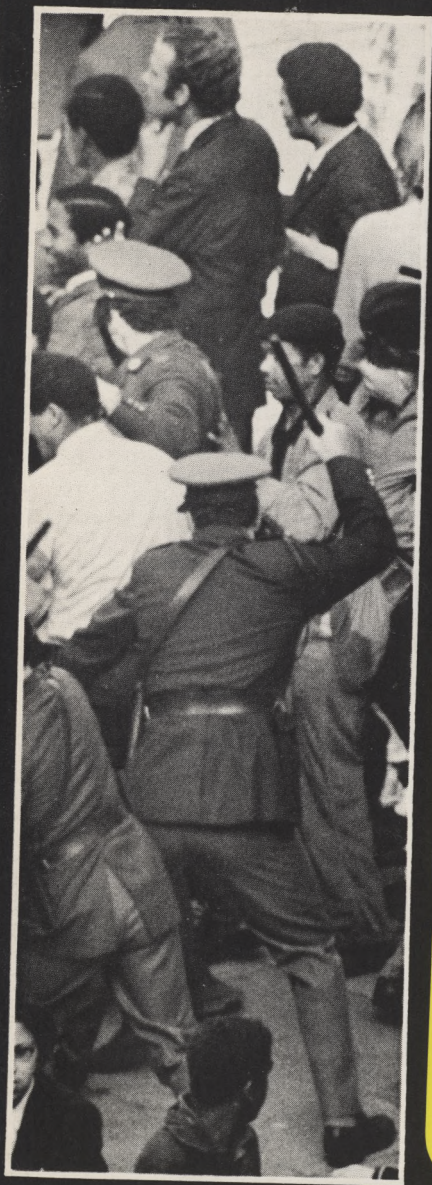
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Collection Number: A3393

Collection Name: Bob Hepple Papers

PUBLISHER:

Publisher: Historical Papers Research Archive, University of the Witwatersrand

Location: Johannesburg

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