

(4) 25.2.21

THE COLOURED PEOPLE

Statement by ex-chief Justice The Hon. A. v.d. Sandt Centlivres

I understand from Mrs. Matthews that the S. A. Institute of Race Relations has requested me to prepare a short memorandum on the above subject which may serve some purpose when the matter is further investigated by a sub-committee which it is intended to appoint.

There are undoubtedly indications that the Coloured people are becoming more and more disturbed by the progressive deterioration of their status since the establishment of Union and more particularly by the negative aspects of the policy of apartheid. Many prominent White people are also very disturbed about the lack of any clear policy in regard to the Coloured people. I do not think that Sabra has yet made up its mind on the matter, excepting in so far as it thinks, I believe, that the policy of apartheid cannot be applied to the Coloured people in the same manner as it is being applied to Africans. Even the Prime Minister admits that his ideas are, in certain respects, vague. In Parliament (1959 Hansard columns 5360 and 5361) he drew a distinction between Africans and Coloured people and went on to say:

"I was honest enough to say that in regard to the Coloureds we accepted the principle and the ideal of apartheid, but how precisely it would operate was not quite so clear, in view of the fact that there were various possibilities. To some extent we ourselves will have to evolve such methods, and for the rest successive generations will have to do so. We definitely do not accept, however, that there will be integration or intermingling of the political structure for the Coloured and the White man, neither in the municipal sphere nor in any higher sphere."

From what I have said above, it follows, I think, that no time should be lost in issuing a reasoned statement on what may be described as the Coloured question.

In the political sphere the value of the Coloured Parliamentary Vote has been steadily watered down since the establishment of Union as a result of the following legislation:-

- (1) The enfranchisement of White women (Act 18 of 1930).
- (2) The enfranchisement of all White persons of the age of 21 or over throughout the Union (Act 41 of 1931). This Act abolished the qualifications required for the franchise by the laws of the Cape in so far as Whites were concerned.
- (3) The placing of Coloured voters on a separate roll (Acts 46 of 1951 and 9 of 1956).
- (4) The enfranchisement of all Whites of 18 years or over (Act 30 of 1958).

We have had nearly fifty years of Union but during that period Parliament has done nothing to bring about uniformity in respect of the Coloured franchise. In principle there can be no reason why Coloured people in the Provinces of the Transvaal, Orange Free State and Natal should not have the vote at least on the same terms as they have the vote in the Cape Province. I should mention here that persons of Indian origin have the same voting rights in the Cape Province as Cape Coloured persons and to bring about uniformity in our franchise laws persons of Indian origin in the other Provinces would have to be enfranchised. I fully realize that such an extension of the franchise would be hotly contested in Natal and Transvaal. (In the Orange Free State there are practically no Indians.)

In addition to all this, the Coloured people are now threatened with the loss of the municipal franchise in the Cape Province - a franchise which they have enjoyed ever since municipalities were established in that Province. It

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is claimed that this will be the logical result of the Group Areas Act in terms of which it is proposed to establish Coloured local authorities. The feasibility of this proposal is open to grave doubt. It is difficult to understand how such local authorities can be viable in view of the fact that the Coloured people are almost entirely dependent on what they earn as employees of the Whites. The dismemberment of the Cape Peninsula under the Group Areas Act has not yet been completed but it is clear that it will not be possible to herd all Coloured people into one compact area. The Malay Quarter in Cape Town has already been proclaimed as a Malay Group Area. This area is a comparatively small island completely surrounded by a White area and it would be quite absurd to establish for that area a local authority separate from the area which comprises the Municipality of Cape Town. The City Council, on which Whites and Coloured have served amicably for many years, has condemned the proposal to fragmentise the Municipal area and to disfranchise Coloured municipal voters. The proposal was also condemned by a large mass meeting of ratepayers of all races which was held in the City Hall during the course of this year.

A large number of Cape Coloured people view with disapproval the establishment of the Coloured Affairs Department. They point out that the only civilisation that they know is Western civilisation, that most of them are Christians, that they speak the languages of the White man and that they share their homeland with the White man. They also point out that they have always championed the cause of White civilisation: they fought alongside the White man in many of the early Border wars and in particular they won laurels in the campaign in Palestine during the first World War. They did excellent service as non-combatants in the second World War. They were anxious to serve as combatants in that war but were not allowed to do so by the authorities. They object to being treated differently from the Whites and they are afraid that the Coloured Affairs Department may develop in much the same way as the Bantu Affairs Department.

The Registration of Population Act (No. 30 of 1950) now prevents Coloured persons from passing over to the White group. Such passing over was not infrequent in the past and it afforded some of the Coloured people a means of escape from the disabilities from which they suffered. It is common knowledge that many persons who now pass as Whites have some Coloured blood and are apparently none the worse for it.

We have heard a lot about "separate but equal treatment" of the different groups of the population. This is a conscience-soothing slogan: in practice it is often impossible to apply. Because of two Appeal Court decisions the Government of the day put through Parliament the Reservation of Separate Amenities Act (No. 49 of 1953) which provides that regulations in regard to separate facilities on public premises shall not be declared void "merely on the ground that the facilities are not similar in character, standard or quality." Thus by an Act of the legislature it is no longer possible to challenge regulations on the ground that a particular group of the populations has had unequal treatment meted out to it. Needless to say it is not the White group that suffers from inferior amenities.

The Coloured people are pretty concerned about the manner in which the Group Areas Act is being implemented. Their concern is justified. There have been so many cases in which the sacrifices to be made by non-Whites are much greater than the sacrifices to be made by Whites that it is not necessary to elaborate this point.

Another Act which hits the Coloured people is the Extension of University Education Act (No. - of 1959) which will prevent Coloured people from attending any university of their own choice.

I have left for the last the legislation which discriminates against the Coloured people in the sphere of employment. That legislation causes, perhaps, more ill-feeling amongst the Coloured than any other legislation on the Statute Book. The full effects of the Group Areas Act has not yet been felt in the Cape but the legislation concerning employment has already been carried into effect in some spheres of employment. The object of that legislation is

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apparently to protect the White worker. In this connection I may refer to paragraph 160 of the Report of the Industrial Legislation Commission (U.G.37/35) when its Commissioner said:-

"The European in South Africa must prove his superiority. Competition with the other races will be a stimulant, but artificial protection may ultimately lead to self-destruction."

One is often told that a member of a particular group should serve his own group. This idea is wholly unrealistic as non-Whites serve Whites in countless ways. Whites, of course, also serve non-Whites. If the two groups cease to serve one another there is no future for our country.

Sir James Rose Innes in his Autobiography, p. 306, described the Colour Bar Act (No. 25 of 1926) as a dark blot on our Statute Book. If he had been living to-day he would probably have condemned the Industrial Conciliation Act in even stronger language. That Act enables the Minister of Labour to reserve particular jobs for particular groups of the population and it is also designed to split trade unions consisting of Whites and non-Whites into separate trade unions of Whites and non-Whites, although Whites and non-Whites worked amicably together on one union.

As regards job reservations the Minister of Labour has already decreed that the City of Cape Town is not to engage the services of any Coloured person as a traffic policeman; Coloured traffic constables already in the service of the municipality can remain but when any of them retire their places cannot be filled by other Coloured persons. And this was done in spite of the fact that Coloured traffic constables had performed their duties efficiently and with great courtesy. The City Council intended to recruit Coloured persons for the Fire Brigade Service: the Minister has prohibited the Council from doing this. The Coloured people of Cape Town who pay rates on the same basis as Whites resent this interference with their livelihood and there are also many White ratepayers who regard this interference as being grossly unfair and un-Christian and who also resent interference by the Government in the running of local affairs. The whole principle of job reservation is very naturally deeply resented by the Coloured community and they fear that it will be carried to great extremes.

Another Department has been interfering with the means of livelihood of the Coloured people. That Department is the Department of Transport under whose aegis first and second class certificates are issued to taxi-drivers. The ultimate intention is that first class certificates for the carriage of Whites only should be issued to Whites only. At present it is impossible to implement that policy in the Cape Peninsula as the great majority of taxi-drivers are non-White but first and second class certificates are being issued. There is a Coloured taxi-driver who plies for hire at Kenilworth Station where his clientele, as may be expected, is almost entirely White. He applied for a first class certificate and was granted a second class certificate which was, of course, of no use to him. Taxi apartheid has come as a cruel blow to the Coloured community. Before the advent of motor cars practically all the cab drivers in the Cape Peninsula were Coloured and when motor cars came into use they naturally became taxi-drivers. In fact the plying for hire by Coloureds had become (to use a much abused word) "traditional" in the Western Province. There are, of course, many Whites who employ non-White chauffeurs: that is at present permitted but apparently it is humiliating for a White to get into a taxi driven by a non-White!

During the past few years there has been a very noticeable deterioration in the relations between the Whites and the Coloured community. This deterioration has gone to such lengths that there are numerically strong associations among the Coloured people which will have nothing whatever to do with the Whites. The Coloured people are or should be the natural allies of the Whites but now a considerable body of the Coloured people regards the Whites as their enemies.

I think that I have said enough to show that there is a growing resentment among the Coloured people against oppressive laws which affect them seriously both in the political and economic spheres. It is clear to my mind that the  
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whole policy in regard to the Coloured people requires careful revision. There are undoubtedly great difficulties in the way of such a revision but I hope that some useful purpose may be served by the appointment of a sub-committee to investigate and report on the matter.

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