A SURVEY OF RACE RELATIONS IN SOUTH AFRICA 1962

Compiled by
MURIEL HORRELL
Research Officer
South African Institute of Race Relations

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POLICIES AND ATTITUDES

POLITICAL PARTIES

Parties with White membership

The policies of the main political parties, White, mixed and Non-White, were summarized in last year's Survey, as were the results of the general election held in October 1961.

It would appear that since that date White opinion as expressed in elections has tended to swing to the right. The general trend, at Parliamentary and provincial by-elections and municipal elections, has been that the Nationalists gained at the expense of the United Party, while the United Party did so at the expense of the Progressives.

South Africa has, during the past year, experienced some of the practical effects of overseas antagonism to its racial policies. Economic implications of the loss of Commonwealth membership are beginning to become clearer, and valuable cultural and sporting links with world organizations are being threatened, and in a few cases have been lost. But it would seem that, in spite of this, White South Africans are increasingly determined not to surrender their traditional position of privilege, nor to accept the possibility that the majority of voters may at some time in the future be Black.

The Government has taken various steps to strengthen its control of the situation: far larger sums are being spent on internal security, and laws such as the "Sabotage Act" have been passed. At the same time Dr. Verwoerd's plans for granting a measure of self-government to the Transkei and promoting the development of other African areas have been more specifically explained. The policy of separate Coloured and Asian administration, in which Coloured and Asian people would have more control, has been expounded but not clearly defined.

The National Union Party has almost completely disintegrated, in terms of the general election agreement its leaders, the Hon. H. A. Fagan and Mr. J. D. du P. Basson, were given safe United Party seats in the Senate and House of Assembly respectively. Both of them subsequently joined the United Party, as did some of their followers. Others left to join the Progressive Party.
The Progressive and Liberal Parties

At its national congress, held in August, the Progressive Party adopted a plan for a federal constitution for South Africa, in which defined human rights and fundamental freedoms for all would be entrenched. The provinces would enjoy sovereign powers in their own spheres, through bi-cameral provincial legislatures. Numbers of Non-White persons who qualify for the suggested common “A” or “B” rolls have joined this Party(9).

The Liberal Party, which considers that all adult persons should have the franchise on a common roll, has probably recruited a larger number of Non-White members than have the Progressives.

Coloured and Indian organizations

The Coloured National Convention set up at the Malmesbury conference in 1961(10) continues in being, but has engaged in few public activities during the year under review. Nor have the Coloured People's Congress (which associated itself with the convention movement) or smaller organizations such as the conservative Kleuringbond and Coloured People's National Union and the ultra-left-wing Non-European Unity Movement. The Coloured National Convention probably commands greater support than does a new organization, the Coloured People's Organization formed early in 1962 on the initiative of Mr. R. Fortuin, a leading member of the government-created Union Council for Coloured Affairs, and Mr. M. W. Holland, a United Party member who represents Coloured voters in the Assembly(10). This organization was set up with the object of calling periodic conferences of the many small Coloured bodies such as ratepayers' associations and vigilance societies.

At its meeting in January 1962 the Coloured Ex-Servicemen's Legion decided that it would no longer give official support to the National Convention movement, although members were free to do so as individuals if they wished. The Legion rejected the Government's plans for "Colouredstans"(10).

The Government Department of Indian Affairs, created in September 1961, has gained the support of certain leaders of the S.A. Indian Organization but is opposed by the S.A. Indian Convention movement, although members were free to associate themselves with the convention. As with the Coloured people, large numbers of Indians have no political affiliation.

RELATIONS: 1962

African organizations

During March 1962 the Government extended the ban on the African National Congress and the Pan-African Congress for a further period of twelve months(10). These bodies continue to operate underground. During the trial of Mr. Richard Galela, one of many who have been prosecuted for continuing the activities of a banned organization, the regional magistrate said that the Pan-African Congress was operating under the camouflage name of Poqo. Mr. Galela was sentenced to eighteen months' imprisonment(10). This organization Poqo was mentioned, without conclusive evidence, in a trial of Africans working on a farm in Stellenbosch.

It was recorded in last year's Survey(10) that Mr. Duma Nokwe and twelve other African men who had helped to plan the All-In African Conference held in March 1961 were arrested and prosecuted, under the Suppression of Communism Act and the Unlawful Organizations Act, on a charge of having promoted the aims of the banned African National Congress. One of the accused estreated bail and fled the country. The rest were tried in the Johannesburg Regional Court, found guilty, and each sentenced to twelve months' imprisonment. They were allowed out on bail pending appeal.

Their appeal was heard in the Transvaal Supreme Court during April 1962, and was upheld. The judge, Mr. Justice Trollip, said that there were probably many organizations in the country whose objects were similar to some of those of the African National Congress. The All-In Conference was one of these. But this did not mean that it was assisting the A.N.C. in the achievement of any of its objects. The A.N.C. had been banned, not because of its aims, but because its actual activities in trying to achieve these aims were considered to constitute a danger to public order and safety. It could not be said that the All-In Conference had promoted or had tried to revive the A.N.C. as such(10).

The State was granted leave to appeal against this judgment to the Appellate Division, but eventually decided not to do so(10).

At the All-In Conference, which was held despite the arrest of these men, a National Action Committee was elected, which planned demonstrations at the end of May 1961, to reinforce a demand for a national convention. As was described in last year's Survey(10), it was announced that Mr. Nelson Mandela was secretary of the committee, but the names of other members were kept secret. Mr. Mandela led an underground existence to avoid the police.

(1) See 1959-60 Survey, page 14, for the qualifications required.
(3) See 1961 Survey, page 25, for the attitude of Coloured voters to the election of Parliamentary representatives.
(4) Rand Daily Mail reports, 4 and 6 January 1962.
After the demonstrations a warrant was issued for his arrest, but for more than a year he eluded the authorities and led the underground A.N.C. He was known amongst many people as "the Black Pimpernel". Eventually, in August 1962, he was arrested: according to a Press report\(^{(0)}\) it was suspected that he had been betrayed by a member of a pro-Communist group that was making a bid to gain control of the organization. His trial is described later.

A few days after his arrest Mr. Mandela was elected honorary president of the Transvaal Indian Youth Congress—the first non-Indian to hold this position.

A business organization called the Bantu Federation of South Africa, which runs bus services and hopes to set up financial institutions, is a supporter of the apartheid policy\(^{(1)}\).

**Congress of Democrats**

As will be mentioned in a subsequent chapter, the White organization known as the Congress of Democrats, which had for some years associated itself with the A.N.C. and other members of the Congress Group, was banned during September 1962.

**THE CHURCHES**

**The trial of Professor Geyser**

An account was given last year\(^{(2)}\) of the publication of *Delayed Action* by eleven leading theologians of the three Dutch Reformed Churches, in which they denounced race discrimination and called for a new outlook on South African racial attitudes. Two of the authors were Professor A. S. Geyser and Professor A. van Selms of the Nederduitsch Hervormde Church (N.H.). At a subsequent Synod meeting these men moved that an article of the Church's principles which states that membership shall be confined to Whites should be tested according to the Scriptures. They were heavily outvoted. A motion was passed calling upon church members to abide by the church law as it stood, and to refrain from criticising it outside church meetings. Professor Geyser refused to give an undertaking to comply.

He was Professor of New Testament Theology at the University of Pretoria, a post subsidized by the N.H. Church. During September 1961 three of his students accused him of heresy against the Church's doctrines and of failing to comply with the terms of the resolution mentioned above. Professor Geyser was summoned before a Synodal Commission to answer these charges.

His trial dragged on until May 1962: on five occasions he protested against the conduct of proceedings. Eventually he was found guilty on one of three charges of heresy, but acquitted on the charge of failing to observe the order prohibiting criticism of church law outside church meetings: the commission stated that this charge had not been proved, but there were strong indications of guilt. Professor Geyser was then deposed as a minister of the N.H. Kerk\(^{(3)}\) and his post at the University of Pretoria was obviously threatened. Two weeks after the verdict he was appointed to a newly-created Chair of Divinity at the University of the Witwatersrand. He decided to contest the commission's findings in the courts of law.

The trial caused a deep rift between the N.H. Church and its "mother-church" in Holland.

A few days after the verdict Professor van Selms resigned from his position as lecturer in the theological faculty at the University of Pretoria, but will continue to be head of the Department of Semitic Languages there (an Arts Faculty appointment). He is reported\(^{(4)}\) to have said in his letter of resignation that conscience forbade him to allow any human being to dictate to him what the Divine Word meant. He is also reported to have stated that, in the verdict in Professor Geyser's case, all mention of the colour bar in the church had been carefully avoided in order to give the impression that the dispute had related to theological matters only.

Later, during September, Dr. C. Labuschagne, who had supported Professor Geyser, was dismissed as lecturer in the Pretoria Theological Faculty. He will continue to be senior lecturer in Semitic languages, a post which is not subsidized by N.H. Church\(^{(5)}\).

"**Pro Veritate**"

In May 1962 a group of ministers of various churches, including the three Dutch Reformed Churches, launched a new Christian monthly magazine named *Pro Veritate*, with the aim of approaching and discussing vital problems of the church and the community in the light of the Scriptures, and of fostering a deeper unity in fellowship. The editor is the Rev. C. F. Beyers Naude: acting moderator of the Southern Transvaal Synod of the Nederduitse

\(^{(0)}\) *Sunday Times*, 12 August 1962.
\(^{(1)}\) *World*, 10 July 1962.
\(^{(3)}\) *Star*, 10 May 1962.
\(^{(4)}\) *Rand Daily Mail*, 16 May 1962.
\(^{(5)}\) *Sunday Times*, 30 September 1962.
Gereformeerde Church. Among the members of the editorial board are a Coloured and an African minister. This venture has met with considerable opposition from the more conservative members of the Dutch Reformed Churches and sections of the Afrikaans Press.

Other work by the Churches

During the past year the churches have continued their efforts to foster greater unity and to promote better race relations. Much quiet, steady work has been done through meetings convened by the World Council of Churches and the South African Christian Council, and at local discussion groups in many centres. A few matters are especially noteworthy.

The Methodist Church has published two further pamphlets in its series on race relations. In one of these, issued in March, it set out six reasons why it rejects a policy which claims to be "the traditional South African way of life"—apartheid. One of the reasons is that this policy "over-emphasizes a man's race or colour as against his moral condition, and stresses his supposed inherent racial characteristics at the expense of his essential worth". In the next pamphlet, issued in September, the Church declared its determination to encourage multi-racial worship and fellowship and to work for the eradication of all racial discrimination as soon as possible. It announced that Church offices will be open to all who are capable of filling them.

The General Assembly of the Presbyterian Church has passed a resolution urging ministers and congregations to increase their inter-racial contacts and to organize conferences on a multi-racial basis. A Presbyterian minister in the Eastern Cape has started a multi-racial church society.

On 12 October 1962 the five federated synods of the Nederduitse Gereformeerde Church united into one body after a hundred years of division. The Rev. A. J. van der Merwe was elected the first Moderator of the General Synod. For some seventeen years previously he had been Moderator of the Church in the Cape.

It was reported later in October that the Rt. Rev. E. G. Knapp-Fisher, Anglican Bishop of Pretoria, had expressed concern over the fact that Mrs. Helen Joseph had been confined to "house arrest" without being given any opportunity of defending herself in court. This matter is described later. The Minister of Transport advised the Bishop "to keep his nose out of politics and, like a cobbler, to stick to his last".

Bishop Knapp-Fisher told a reporter that "the Christian's last is as wide as the world. The belief, reflected in Mr. Schoeman's speech, that Christians could and should be kept out of politics, or any other department of human life, is widespread but mistaken.

"There is no warrant for such a view in the Bible. The Old Testament prophets were outspoken in judgment over the social and political life, fearlessly condemning what they considered incompatible with God's righteousness". Christians are not only heirs to this tradition, but should have concern for every situation in which human interests are involved. "To fail in this response would justify the taunt of non-Christians that religion is only a means of escape and a vague promise of future compensation for present ills", the Bishop said.

S.A. INSTITUTE OF RACE RELATIONS

Council meetings, January 1962

The 32nd annual Council meeting of the Institute of Race Relations was held in Port Elizabeth. The Presidential Address was given by the Hon. O. D. Schreiner and a review of recent trends and legislation given by the Director, Mr. Quintin Whyte. They have both been published by the Institute. Other papers, and the findings on them, are described in subsequent chapters of this Survey.

The findings on recent legislation were:

In the context of the present state of the country, Council has examined the legislation of the past year, and the emergency regulations which have been applied in the Transkei.

"While welcoming the removal of some aspects of racial discrimination by the Liquor Amendment Act, some beneficial but minor changes in social benefits provided by the State, and certain relaxations in the Group Areas Act, Council reaffirms its conviction that the application of the Group Areas Act will continue to cause hardship and suffering. Moreover, Council deplores the assumption by the Government of further arbitrary powers, the ignoring of normally accepted processes of law, and the further invasion of the rights of individuals. Council is particularly distressed by the powers of arbitrary detention now exercised under the latest amendment to the Criminal Procedure Act of 1955 and under the emergency regulations in force in the Transkei.

"Council records its profound disagreement with the use of legislation as a means of silencing political opponents.

(1) See Race Relations News, April 1962.
(21) Ibid., 20 September.
(22) Race Relations News, June.
(24) Ibid., 20 October.

"..."
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"Council notes that recent legislation is concerned not only with maintaining stricter control over citizen activities, but also with the entrenchment and enforcement of previous legislation discriminating between different racial groups. It regards with dismay this manifestation of inflexible resolve to divide and fragment the Republic of South Africa.

"Council believes that recent legislation has failed in what should be a major function of government, namely, the creation of peace and goodwill and the achievement of that practical co-operation between various sections of the population which is fundamental to the building of a true South Africanism in which all can take pride.

"Council records its conviction that the direct representation of Africans on local government bodies is essential for the harmonious development of urban areas. It therefore finds the main constitutional provisions of the Urban Bantu Councils Act unacceptable in so far as they fail to provide for the government of an urban area as the single inter-dependent whole which it in reality constitutes.

"Recent legislation of a far-reaching nature includes the establishment of the Republic of South Africa. Council deplores the fact that the Republic was established without consulting the Non-White citizens of South Africa."

Proposed conference on “Human Relations and Communication To-day”

During 1961 and 1962 the Institute of Race Relations and the University of the Witwatersrand made plans for a conference to be held in Johannesburg in January 1963, based on the theme “Human Relations and Communication To-day”. The organizers stated, "The conference will enable South Africans to place the country's human problems into better perspective, and will give the outside world a greater understanding of the diversity of South Africans' creativeness and originality. Overseas delegates will take back to their countries a greater realization of the efforts being made in a variety of areas by all groups in South Africa to make South Africa a great country."

The programme was divided into six main heads: international co-operation; social and political structures; science, technology and economic development; culture and communication; race and nationalism; and religion. Leading authorities from various countries were invited to give theme addresses dealing with broad humanitarian and cultural issues; and then there would be section addresses by overseas and South African authorities and panel discussions during which local participants would endeavour to interpret South African problems against the wide background and experience provided by the overseas visitors. No resolutions or findings were proposed. The State President was asked to be patron-in-chief, and 3,450 people and organizations were invited.

At the end of April 1962, when much of the preliminary work had been done, including the sending out of invitations, Dr. Verwoerd suddenly announced the Government’s “unequivocal opposition” to the conference and said he trusted “that the public of South Africa will be on guard against this attempt to subtly undermine its traditional way of life”. The statement continued, “The reason for the Government's attitude is obvious. Under cover of allowing important and knowledgeable authorities to discuss various problems of human relationships, the objective is the most blatant propaganda against the Government’s policy—both in South Africa and in the world—and for the Liberal ideology . . . .

"The conference was quite maliciously arranged as a multi-racial one without any prior attempt to consult the Government, in spite of the possible problems that could arise . . . . It is a purposely organized attempt to drive a wedge to the benefit of multi-racialism . . . ." No support would be forthcoming from the Government, Dr. Verwoerd announced[20].

In a Press release issued the following day[21] the organizing committee said it felt that Dr. Verwoerd did not fully appreciate the true nature of the proposed conference, otherwise he would not have opposed it. His statement was regretted by the committee as a negation of the traditional way of South African life with its love of freedom. The committee believed that only by the free discussion of the human problems and difficulties present in any society could men find an acceptable way of living together. It expressed the hope that the Prime Minister would see in the conference a patriotic endeavour by loyal South Africans.

Consideration of “race” problems occupied a minor part in the programme, the committee continued. It was not intended that speakers from overseas should criticise or indict South Africa or offer solutions for its problems. The Institute of Race Relations was independent of any political party, stood by its own analyses and judgments, and rejected the use of “propaganda” as alien to its nature and purposes. The allegation of “malicious intent” in convening the conference was similarly rejected.

The committee decided to go ahead with its plans. In the belief that the Prime Minister’s disapproval might flow from insufficient knowledge of the purpose and nature of the conference, [20] Statement published in all main newspapers, 30 April 1962.
[21] e.g. Star, 1 May.
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Numbers of distinguished persons from overseas accepted invitations to attend the conference, including Dr. Herbert Blumer, director of the Institute of Social Studies, University of California; Professor K. A. Bussia, a professor at The Hague and formerly of Ghana; Sir Kenneth Clark, British art historian; Sir John Cockcroft, the British physicist; Father Y. M. J. Congar, a Roman Catholic theologian; Mr. Alcuine Diop, director of Présence Africaine, Paris; Lord Francis-Williams, British author and journalist; Professor Erwin N. Griswold, dean of the Law School, Harvard University; Professor Oscar Handlin, also of Harvard; Mr. Albert Hourani of Oxford, an expert on the Middle East; Mrs. Elspeth Huxley, the British writer; Miss Noni Jabavu, the African author now living in England; Dr. Clark Kerr, president of the University of California; Professor Otto Klineberg of Columbia University; Dr. Gardner Murphy of the Menninger Foundation in America; Dr. F. D. Patterson, president of the Phelps-Stokes Fund; and Miss S. Rama Rau, the Indian writer. Numbers of others accepted provisionally.

On 26 July the organizers of the conference wrote to the Secretary for the Interior asking that necessary arrangements for issuing visas to the visitors should be facilitated. On 20 September the Secretary replied stating "... In the light of the declared attitude of the Government ... the Department is not prepared to assist your Institute in the direction desired. The entry into the Republic of the persons detailed in the enclosure to your letter for the sole purpose of attending the proposed conference cannot therefore be approved ... Should any of the persons concerned wish to visit the Republic for some other purpose ... they would be welcome to do so. Naturally each application for entry into the Republic will be considered on merit."

The organizers then decided to cancel the conference, for without the overseas speakers it would lose its main purpose and its international character.

Other activities of the Institute

Other activities of the Institute of Race Relations during the year under review are outlined in appropriate chapters.

S.A. BUREAU OF RACIAL AFFAIRS

As was described in last year's Survey(2) Professor N. J. J. Olivier, who for twelve years had been vice-chairman of Sabra, was anxious that this organization should remain an independent study-group, willing, if it thought right, to express views that were not in conformity with Government policies. At the meetings held in September 1961 he was defeated by a member who held conformist views. Those who agreed with Professor Olivier then withdrew from the executive committee elections.

During 1962 several prominent members have resigned, including Mr. J. W. Germishuys, the Director; Professor P. J. Coertze, the Transvaal vice-chairman; and the secretaries in the Transvaal and Free State.

At the annual meetings held in September 1962 speakers re-affirmed their belief in "total apartheid", including the removal of Africans from the Western Cape, a subject which is dealt with later.

UNREST AND MEASURES FOR GOVERNMENT CONTROL OF THIS

AFTERMATH OF DISTURBANCES DURING 1960 AND 1961

Claims for compensation

The disturbances that took place at Sharpeville and Langa during March 1960 and in Pondoland in 1960 and 1961 have been described in earlier volumes of this Survey(1). The Indemnity Act of 1961 protected the Government against actions for compensation in cases where persons had been killed or injured by the police; but in February 1961 a committee was set up to examine claims for compensation and to recommend the payment of ex gratia grants in deserving cases.

The Minister of Justice said in the Assembly on 9 February 1962(2) that there had been 232 claims from persons in Sharpeville, 3 from Langa and 25 from Pondoland, amounting to a total of R1,026,034. Because of delays on the part of the claimants'...

(2) Hansard 3 cols. 834-5.
attorneys the committee had not completed its investigations. Later, on 29 May\(^6\), he said that the committee's recommendations had been completed and referred to the Workmen's Compensation Commissioner for computation of the benefits payable. According to inquiries made by the writer during October, the Commissioner had by then completed this work, but no claims had yet been paid.

Assistance to victims and their families has, however, been given by the voluntary Sharpeville Relief Fund, which is reported to have spent R43,000 in helping 950 families. Some of those who were wounded in the shooting that occurred required treatment for many months. It was only in June 1962, for instance, that it proved possible for Miss Miriam Lepee, whose leg was amputated, to be fitted with an artificial limb\(^4\).

The Transkei

In reply to a question in the Assembly, the Deputy Minister of Bantu Administration and Development said in May\(^5\) that since 16 February 1960 there had been 281 people killed in the Transkei as the result of public violence, of whom 234 were killed in faction fights. Fifteen died as the result of police action, including a policeman who was involved in a motor accident. The Minister of Justice said on 9 March\(^6\) that only two Africans were then in detention under the special regulations for the Transkei that had been gazetted during November 1960\(^7\).

As was mentioned last year, special courts were set up in Kokstad to try people accused of offences during the 1960 and 1961 disturbances. According to the S.A. Defence and Aid Fund (a voluntary organization set up in 1960) by December 1961 there had been thirty Africans sentenced to death for murder. Nine of these subsequently lodged successful appeals. Five others, also found guilty of murder, received prison sentences for periods up to fifteen years. Thirty-eight people were convicted of arson, robbery or stock theft, some receiving suspended sentences and others terms of imprisonment of up to two years; and 101 were found guilty of incitement, holding unlawful gatherings or the unlawful collection of money. Their sentences ranged from three months to three years, with the option of a fine in some cases. About 434 persons accused of various offences were acquitted. No details were available about the many trials heard in other courts\(^8\).

RELATIONS: 1962

Warmbaths

A description was given last year of the rioting that took place in Warmbaths in April 1961\(^9\). The report of a one-man commission of enquiry was tabled in Parliament early in 1962. The Commissioner found that the Africans had justification for their grievances against the Location Superintendent; that the Advisory Board had not functioned effectively as a liaison between the Africans and the Town Council; and that the Chairman of the Non-European Affairs Committee, who attended Advisory Board meetings, had not referred complaints to the Council\(^10\).

Port Elizabeth

The 53 Africans who were charged with public violence and contravention of provisions of the Unlawful Organizations Act, as a sequel to the death of a police officer in June 1961\(^11\), were all acquitted. The judge said that the State had not proved its case\(^12\).

Other trials

The Defence and Aid Fund has provided legal assistance for numbers of Africans charged with incitement, carrying on the activities of a banned organization, violence, or intimidation. That such defence is very necessary is shown by the fact that of 83 accused assisted by the Cape Town branch between September 1961 and April 1962, 78 were acquitted\(^13\). Two Africans who were fined R400 with an alternative of twelve months' imprisonment had their sentences reduced to R4 on appeal\(^14\).

A disquieting feature of these cases is that most of the people who were acquitted had spent twelve days in gaol in terms of a provision of the Criminal Procedure Act, as amended in 1961, which empowers an Attorney-General to direct that an arrested person shall not be released on bail or otherwise for twelve days if this is considered advisable in the interests of public safety or the maintenance of public order. Some of these men, subsequently found not guilty, had meanwhile lost their employment and were endorsed out of the town concerned when they were released.

\(^{(3)}\) Hansard 5 col. 6673.
\(^{(4)}\) Star, 6 June 1962.
\(^{(5)}\) Hansard 3 col. 5625-6.
\(^{(6)}\) Hansard 7 col. 1803.
FURTHER DISTURBANCES

The Transkei

The terms of Proclamation R 400 of 1961, as amended, which laid down emergency regulations for the Transkei remain in force. The Deputy Minister of Bantu Administration and Development said in February that they would be retained until the African leaders themselves asked for the repeal of the Proclamation. The Minister added that the Bantu home guards, established to protect chiefs, had been issued with knobkerries and assegais.

As will be described later, more Africans have been banished from the Transkei. In addition, various chiefs have ordered people to move from one place to another within the territory, in terms of powers granted them under the emergency regulations. The Deputy Minister said in May that Chief Kaiser Matanzima had instructed five men to move. According to Press reports, by January 1962 Chief Botha Sigcau had ordered five men and their families to leave their homes, and Chief Gangata has also made use of these powers. In some cases kraals have been demolished to force the people to move.

Langa

During March 1962 a party of policemen drove in a van to the scene of a meeting called in the Langa Township, Cape Town. An angry mob set upon the men as they alighted, killing an African sergeant, injuring five other policemen, and overturning and setting alight to the van. Some of the policemen escaped and summoned a reinforcements, and various arrests were made.

Later, in September, it was reported that clashes had taken place several nights running between two rival groups of Africans, one of which was an "underground terrorist organization led by former members of the Pan-African Congress". Its members were alleged to have been intimidating residents and demanding cash. The police investigated they were attacked by one of the groups. The police opened fire, killing one man and wounding two others. At least 133 arrests were made during the next few days, these men being charged with public violence and furthering the objects of a banned organization.

Relations: 1962

The majority of these men were, apparently, subsequently released by the police. On 14 November, 57 appeared in court on charges of furthering the objects of the banned Pan-African Congress and two counts of public violence. Of these, 51 were acquitted, the rest being found guilty on one of the charges of violence. They were sentenced to terms of imprisonment ranging from 6 to 18 months. Notice of appeal was given.

Rustenburg area

There continues to be unrest at Mabieksral in the Rustenburg area. Following opposition to the Bantu Authorities system the regent of the Batlhako tribe, Jeremiah Mabie, was deported in 1956, being replaced by Mogatle Mabie. Since then there has been much ill-feeling between the rival supporters of these two men. The Press reports that the huts of some opponents of Bantu Authorities were set alight during May. According to a Ministerial statement disturbances that occurred that month were caused by "the attachment by the chief through his messengers of the property of a tribesman who failed to fulfil his obligations".

Proclamation 225 of 21 September 1962 stated that because of disunity the Batlhako tribe was unable to adopt resolutions regarding its contracts and liabilities. The Minister of Bantu Administration and Development was empowered to approve any contract entered into or liability incurred by the chief if he was satisfied that it was in the interests of the tribe. The Minister's decision to be deemed that of a majority of the adult males. This arrangement would be in force for a year, but the period could be extended.

Clashes have taken place also in Mamogali's Reserve, in the same area. Press reports state that Chief Mamogale bought a tractor for general use and imposed a levy to pay for it. When some tribesmen objected, the chief sent his messengers to take possession of property belonging to these men. Feelings ran high. About a hundred people gathered outside the chief's home to protest, stones were flung and four tribal policemen were injured. The South African police were then summoned. They arrested thirteen men, charging them with obstructing the chief; but these charges were subsequently withdrawn.

Dethunie location

During July there was a dispute in the Dethunie location, near Sibasa, following the deposition of one of his headmen by a
Bavenda chief, Mikosi. The clash ended in violence, two Africans being killed and ten injured[20].

**Paarl**

Serious rioting took place in Paarl on the night of 21 November. It was reported that at least eight African and Coloured men and women had previously been murdered in the vicinity of the adjoining Mbekweni township, where large numbers of African men live in hostels, away from their families. Seven men were arrested in connection with these murders. A mob of about a hundred Africans then marched into the town and attacked the police station, with the apparent object of freeing these prisoners. The police fired on the attackers, causing some fatalities.

The mob then swept through the main street of the White part of the town. They burned out two shops, tried to set fire to the post office and some petrol pumps, and broke the windows of other shops. Some of them attacked two private houses, smashed the windows, and tried to force the doors open. A young woman who tried to escape from one of these houses, and a man who attempted to rescue her, were both murdered, and three other White citizens were gravely injured. Neighbours fired on the Africans, and a group of policemen fired further shots later when they were attacked by a gang of about fifty men.

It was stated that five Africans were killed and at least four others were admitted to hospital with bullet wounds. Some 350 arrests were made. Large numbers of pangas and metal bars were confiscated by the police.

The Minister of Justice announced that a Supreme Court judge would be appointed as a one-man commission of enquiry*.

**CONTROL OF ENTRY INTO AFRICAN RURAL AREAS**

Proclamation No. 52 of 1958, as amended, enables the Minister of Bantu Administration and Development to impose control by permit over the entry of persons to, or their departure from, African areas where there has been unrest.

In areas to which Parts I and III of the proclamation have been applied, it is an offence to fail to report the unlawful presence of any African, or to make a verbal or written statement likely to interfere with the authority of the State or of a chief, or to threaten anyone on account of his loyalty to the State or to any of its officials or to any chief or headman. If Part II of the proclamation is applied to any area, it becomes an offence to leave that area without a permit.

In terms of Government Notice 1268 of 22 December 1961 Parts I and III were applied for a further six months to the Marico area of Zeerust, Sekukhuneland, Peddie, Matlala's and Moletje's locations near Pietersburg, 51 trust farms, 16 tribal farms and 3 African-owned farms in the Pietersburg area, and to 3 trust and 1 tribal farm in the Polgietersrus district. This control was, later, extended for six months from 22 June 1962 to all the areas mentioned except Marico.

The strict measures of control in force in the Transkei are mentioned earlier.

**BANISHMENT OF AFRICANS**

*Detention of Mr. Anderson Ganyile and others*

During the 1961 disturbances in the Transkei Mr. Anderson Ganyile was arrested and banished to Frenchdale in the Mafeking district. He escaped and fled to Basutoland with Messrs. Ingleton Ganyile and Mohlovoa Miseko, taking refuge in a hut at Qachasnek, subsequently said to be 638 yards within the border of the territory[27].

On 26 August 1961 members of the South African police crossed the Basutoland border and, after a struggle, arrested the three men, taking them to gaols in the Transkei. The Attorney-General of the Cape subsequently said[28] that they were detained for questioning under the emergency regulations for the territory. Their relations knew nothing of their whereabouts until Anderson Ganyile managed to smuggle a note to his mother from the Kokstad gaol.

His uncle then instituted a *habeas corpus* action which was heard by Mr. Justice Wynne in the Supreme Court, Grahamstown, on 13 and 18 October 1961. Judgment was reserved until 11 December, when the application was dismissed. Mr. Justice Wynne said that he was making no factual finding as regards the alleged kidnapping, but found that no case had been made out in the papers before the court[29].

The case was immediately taken to appeal. On 15 December a Full Bench of the Supreme Court in Grahamstown upheld the appeal, and ordered the Minister of Justice to show cause why Ganyile should not be released, or alternatively to give information

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(20) Rand Daily Mail, 24 July.

*See Addendum for subsequent developments.


(28) Ibid.

as to whether he was under arrest, and if so on what charge and where. The Judge President said that Mr. Justice Wynn's delay in announcing his decision was to be regretted. Moreover, Ganyile's escape from Frenchdale had been a crime which carried a maximum penalty of R100 or six months. He should have been brought before a magistrate without delay after his arrest. Had this been done he might by then have paid his fine or served his term of imprisonment. Then the authorities would have had to return him to Frenchdale where, although subject to restrictions, he would at any rate not have been confined in a cell\(^{(20)}\).

It was announced on 10 January that Ganyile was to appear in the magistrate's court, Umtata, at a preparatory examination of an allegation of attempted murder and incitement to commit murder. In an affidavit supporting an application for bail, Mr. Ganyile said that the only occasion when he had been involved in violence was when he had resisted arrest at Qacha'snek, and then he had acted in self-defence\(^{(20)}\). His request for bail was granted.

Meanwhile, there had been protests in the British Parliament against the arrest of Mr. Ganyile on British soil. The United Kingdom Government requested an explanation from the South African Government. The International Commission of Jurists and Justice appointed an observer, Mr. Peter Charles, Q.C., from Rhodesia. On 12 January Mr. Charles enquired what had happened to Ingleton Ganyile and Mohlovoa Miseko, who had been arrested at the same time as Anderson Ganyile\(^{(20)}\).

It was announced next day that these two men had been released from gaols in the Transkei. The local head of the Security Branch said they were freed because they had "answered questions satisfactorily"\(^{(20)}\).

Then, on 17 January, the Attorney-General for the Eastern Cape announced that all charges against Anderson Ganyile would be withdrawn since it had been established that he and his companions had been arrested within the borders of Basutoland. He said that the policemen responsible had acted in good faith, having crossed the border unwittingly during the night, in mist, while searching for a man accused of murder. Ganyile would be allowed to return to Basutoland. The Press reported, further, that the Minister of Foreign Affairs had told the British Ambassador that the South African Government regretted that the violation of British territory had taken place\(^{(20)}\). The Minister said later\(^{(20)}\) that no action was being taken against the policemen concerned because no contravention of the disciplinary code had been revealed.

\(^{(30)}\) Rand Daily Mail, 13 January 1962.
\(^{(31)}\) Ibid, 13 January. Mr. Charles died in late September 1962.
\(^{(32)}\) Sunday Times, 14 January.
\(^{(33)}\) Rand Daily Mail, 18 January.
\(^{(34)}\) Assembly, 23 January, Hansard 1 cols. 35-6.
Since July at least another 9 persons have been banished(39). Mr. Potlako Leballo, the former national secretary of the Pan-African Congress, was imprisoned for two years in 1960 on being found guilty of incitement during the anti-pass campaign which culminated in grave rioting. On his release from gaol, in May 1962, he was immediately served with a notice banishing him indefinitely to a Reserve in the Ubonmo District of Northern Zululand. He subsequently escaped from there to Basutoland and then went to London. Messrs. Metetonzima Ganyile and Richard Molete were also banished as soon as they had completed sentences of imprisonment(40). Messrs. Gilbert Hani and Jack Mpenbe were banished from Cape Town to the St. Marks District of the Transkei; but they escaped from South Africa via Bechuanaland.

A number of those who are still in exile are members of the Matlala tribe whose home is near Pietersburg. They were banished between the years 1952 and 1955 following a dispute in regard to the chieftaincy. The Minister of Bantu Administration and Development said(41) that murder occurred as a result of this friction and a group of people had to be removed to save their lives. They could not be allowed to return until peace had been restored. According to investigations by the Human Rights Welfare Committee 5 of these people have died in exile, 2 were allowed to return home but died within a very short time, and 16 are still in banishment.

The Human Rights Welfare Committee assists the exiles and their families by sending money, food-parcels, clothing, letters and reading material.

Mrs. Helen Suzman, M.P., pointed out in the Assembly(42) that if the banished persons had been brought before a court, charged for political offences and sentenced, most of those still in exile would already have been out of prison. She urged the Minister to consider the appointment of a judicial commission to investigate the circumstances of each case. He replied(43) that this was unnecessary as full investigations were made before an order was issued, and every case was reviewed periodically. "I do not like making my life impossible for setting up a machinery to test the circumstances of each case," he said, "but there are certain cases where I have no alternative but to do so."

The Star suggested(44) that it would be in the public interest if machinery were provided for the regular inspection of places of banishment, either by a representative Parliamentary committee or by an impartial organization such as the Red Cross.

(40) Rand Daily Mail, 4 May and 18 June.
(41) Assembly, 10 May 1962, Hansard 15 col. 5386.
(43)Cols. 221, 5388.
(44)20 July 1962.

AFRICAN EXILES IN OTHER TERRITORIES

In earlier issues of this Survey(45) accounts were given of the formation of the Pan-African Congress in 1959 as a rival to the African National Congress, of the A.N.C.'s decision not to support the P.A.C.'s anti-pass campaign in March 1960, and of the P.A.C.'s withdrawal from the "All-In Conference" held in March 1961 and its opposition to the demonstrations planned at that conference.

The A.N.C. accepts the concept of a multi-racial society in which all citizens will have equal political rights, and is prepared to cooperate with all groups that share this ideal. The P.A.C. rejects multi-racialism because it wishes to focus attention on individuals rather than groups, and considers that Africans should build up their own bargaining power before they negotiate with others.

Numbers of Non-White South Africans from both these bodies as well as from the Indian and Coloured Congresses escaped from the country at the time of the 1960 emergency and afterwards. Some of them took refuge in the High Commission Territories, mainly Basutoland, others travelled via Bechuanaland to Tanganyika, and a few leaders were assisted by sympathizers to go on to Accra, London or other places. Among these leaders are Messrs. Oliver Tambo and Robert Resha and Dr. Y. M. Dadoo.

Towards the end of 1960 the leaders formed the S.A. United Front with the object of enlisting assistance for Non-Whites in South Africa in their opposition to Government policies. But during 1962 this Front has split. First Mr. Philip Kgosana, who led the march into Cape Town in 1960(46), was expelled from the P.A.C.-in-exile, allegedly for "wilfully flouting the authority of the executive"(47). A little later the United Front Organization was formally dissolved, leaving the A.N.C. and the P.A.C. in open competition abroad as well as in South Africa (where they operate in an underground capacity).

It is reported that many of the refugees living in the High Commission Territories and Tanganyika are undergoing considerable hardship. An account of this was given in last year's Survey(48).

Funds have been raised from private individuals in Britain for the establishment of a High Commission Relief Committee, with headquarters in London, to assist exiles in these territories. It was stipulated in the South Africa Act, passed in Britain during 1962, that fugitives whose offences had been of a political character would not be returned to South Africa(49).

(48) Page 296.
(49) Rand Daily Mail, 2 May 1962.
Events that took place in Bechuanaland during November are described in the last chapter.

PASSPORTS AND VISAS

The Minister of the Interior said in February that during 1961 there were 72,169 applications for travel documents from South African citizens of all races. His Department had refused applications from 21 Whites, 12 Coloureds, 18 Asians, and 23 Africans. Information about some of these cases was given in last year's Survey.

According to various Press reports, those to whom passports were refused during 1962 included Mr. R. Matseke, a Pretoria journalist who wished to study in Addis Ababa; Mr. Nimrod Mkelt who wanted to visit Rhodesia on business; Mr. Randolph Vign, editor of The New African, who planned to attend a literary conference in Uganda; an African doctor who had been offered a medical post in Northern Rhodesia; and four members of the non-racial S.A. Table Tennis Board who wanted to compete in championships in Egypt. (This Table Tennis Board is recognized by the International Federation controlling the sport to the exclusion of the all-White Association).

At least two people had their passports withdrawn: Mr. Lewis Sowden, who earlier interrupted a speech by the South Africa Minister of Foreign Affairs at the United Nations' General Assembly, and Mr. Patrick Duncan, the editor of Contact—although Mr. Duncan had given an undertaking that while abroad he would give no interviews, address no meetings, and refrain from any public political activities.

As is mentioned in the preceding chapter, visas were refused to prominent people who had accepted invitations to visit South Africa in order to address the proposed conference on "Human Relations and Communication To-day". They were also refused to an international student delegation, sponsored by the International Student Conference, who wanted to have discussions with leading South Africans; to a group of Chinese actors who intended presenting a play about the struggle against Communism in China; and to representatives of the American publications Time and Newsweek.

Among the Non-White citizens who were granted passports are Professor Z. K. Matthews, to take up a post offered by the World Council of Churches in Geneva; Brigadier E. Zulu of the Salvation Army to visit the United States for fund-raising purposes.

RELATIONS: 1962

Dr. R. E. van der Ross to study education in America; Mrs. Lucy Mubelo to attend a conference of the International Confederation of Free Trade Unions (the non-Communist co-ordinating body); Mr. T. D. Nhleko to study criminology at Indiana University; Professor W. M. Kgware and Mr. George Golding to study educational methods in the United States; Mr. B. P. Morola to accompany White delegates from the S.A. Football Association to a meeting of the Federation of International Football Associations held in Chile; and Mr. Amos Langdown to study art in Amsterdam.

Mr. Tom Sharpe, an alien who was active in the Congress of Democrats, was deported.

BANNING ORDERS

The Minister of Justice said in the Assembly on 6 March 1962 that 64 banning orders had been issued during 1961, to 23 Whites, 15 Coloureds, 6 Asians, and 20 Africans. In the first two months of 1962, 2 more Whites, 1 Asian, and 2 Africans were banned.

During 1962, as previously, a number of people have been prohibited from attending gatherings for five years. They include Mr. M. W. Shope of the S.A. Congress of Trade Unions; Mr. Nelson Mandela; Mrs. Vera Poonen of the Federation of S.A. Women; and three lecturers—Miss G. E. Jewell of the University of Cape Town, and Messrs. E. L. Maurice and R. O. Dudley of the Cape Technical College. Miss Jewell may continue to lecture to her students but the two men, both members of the Teachers' League of South Africa, are prohibited from doing so.

Other people have been confined to specified areas: among them are Mr. and Mrs. Slovo of the Congress of Democrats.

In some cases both types of restriction have been applied, for example to Mr. R. E. Viljoen, a Cape Town City Councillor; to Mrs. F. Mkize, Natal secretary of the Federation of S.A. Women; and to Mr. A. N. Bennie of the Congress of Trade Unions.

The Government has, moreover, used its powers to order people to resign from specified organizations. Such orders have been issued to Mr. R. September of the Coloured People's Congress and Mr. Joe Francis of the Indian Ex-Servicemen's League. Mr. Francis was also prohibited from attending meetings of this body. He fled the country and went to London to join the campaign against apartheid.

An order confining Mr. I. A. Cachalia to Johannesburg has been rescinded; but he is still prohibited from attending meetings.
Some of the orders issued during 1962 are far more severe than any served in the past. A number of people have been prohibited from attending gatherings, from leaving specified districts, and from entering any African township, compound or hostel, or any factory. This number includes Mr. Piet Beyleveld of the Congress of Democrats; Mr. Stephen Segale, formerly of the A.N.C. Youth League; Mr. Leon Levy, president of the S.A. Congress of Trade Unions; Mr. Alex la Guma of New Age; Messrs. Cecil Williams, Jack Hodgson and “Rusty” Bernstein; and Mr. Stephen Segale, formerly of the Congress of Democrats; Mr. Stephen Segale, formerly of the A.N.C. Youth League; and Mr. Patrick Duncan, editor of Contact and a prominent member of the Liberal Party. (Further action taken later against Messrs. Williams, Hodgson and Bernstein is described in a subsequent chapter.)

The ban was particularly onerous in Mr. Segale’s case, since he is forbidden to leave Johannesburg city or the Emdeni township. As he is a salesman his work will be seriously affected.

Other people have been confined to specified African townships. Mrs. F. Matomela, for example, a former A.N.C. leader, may not leave New Brighton, and Mrs. L. Ngoyi of the Federation of S.A. Women may not leave Orlando.*

There were public protests against a number of these orders, but especially in Mr. Patrick Duncan’s case, since he is a vigorous opponent of Communism, and was nevertheless banned under the Suppression of Communism Act. It is mentioned earlier that he was refused a passport. Mr. Duncan decided to leave South Africa for Basutoland.

As will be described in a subsequent section, at the end of October 1962 there were altogether 105 persons prohibited from attending gatherings: 53 Whites, 36 Africans, 9 Coloured and 7 Indians.

An account is given later of the new penalty of house arrest. Of those on whom this penalty was imposed during the first half of November, there were three Whites whose names did not appear on earlier lists of persons prohibited from attending gatherings.

*Further banning orders are mentioned in the Addendum.
Commissioner. One African was killed and another seriously injured.

During December 1961 the police were called out in strength to guard key points, and since then they have been able to prevent some attempts at sabotage. In April 1962, for example, they defused home-made bombs that had been placed at the Bree Street post office and the Roeland Street gaol in Cape Town before damage had been done. An attempt to blow up the offices of the Bantu Affairs Commissioner at Evaton was foiled during July after a cleaner had raised the alarm.

Since then, and in spite of the legislation summarized in the pages that follow, further sabotage has occurred. This will be described later.

Some arrests have been made and a few people have been convicted. On 20 July Mr. Benjamin Turok, a member of the Congress of Democrats, was found guilty of trying to cause an explosion outside the Bantu Divorce Court in Johannesburg, and was sentenced to three years' imprisonment. Mr. George Peake, a Cape Town City Councillor, was also sentenced to imprisonment for attempting to cause an explosion.

More severe sentences may be imposed in future, in terms of the new legislation.

GENERAL LAW AMENDMENT ACT
No. 76 OF 1962

OBJECT OF THE ACT


The Minister of Justice said it was designed to render subversive elements and communists harmless and to punish saboteurs. As will be described later, there was very great opposition to some of its provisions.

1. SABOTAGE

Terms of the Act

Section 21 (1) of the Act provides that, subject to the provisions of Sub-Section (2), anyone will be guilty of the offence of sabotage if he commits any wrongful and wilful act whereby he obstructs, injures, tampers with or destroys:

(a) the health or safety of the public; the maintenance of law and order;
(b) the supply of water, light, power, fuel or foodstuffs; sanitary, medical or fire extinguishing services; postal, telephone, telegraph or radio services; or the free movement of traffic;
(c) any property;
or, if he attempts to commit such offence, or conspires with or encourages any other person to do so;
or, if in contravention of any law, he possesses any explosives, firearm or weapon, or enters or is upon any land or building.

RELATIONS: 1962

The principal matters with which the Act deals are listed below:

1. Sabotage (page 27).
2. Emergency regulations (page 31).
4. Listed and banned persons:
   (a) Attendance at gatherings (page 32).
   (b) Blanket prohibitions on membership of specified organizations (page 33).
   (c) Listed or banned people may be required to report regularly to the police (page 34).
   (d) Change of residence or of employment (page 34).
   (e) Names can be removed from the list (page 34).
   (f) Publication of names in the Gazette (page 35).
5. Restrictions on movement, and “house arrest” (page 35).
6. Detention without any charge having been proved (page 36).
7. Prohibition of gatherings or of attendance thereat (page 36).
9. Publication of statements by banned persons (page 38).
11. Offences and penalties (page 39).
No trial for the offence of sabotage will be instituted without the personal written authority of the Attorney-General or acting Attorney-General of the area concerned.

Anyone convicted of sabotage will be liable to the penalties for the offence of treason, which may include the death penalty. If a sentence of imprisonment is imposed this must be for at least five years, whether or not any other penalty (except death) is also imposed.

Sub-section (2) throws the onus on the accused, once the prosecution has proved that he did wilfully commit one of the acts mentioned, to prove that he was not guilty of sabotage. It provides that he will not be convicted of sabotage if he can prove that the commission of the offence, objectively regarded, was not calculated, and that such offence was not committed with intent:

(a) to cause or promote general dislocation, disturbance or disorder; or to hamper or deter any person from assisting in the maintenance of law and order;

(b) to cripple or seriously prejudice any industry or undertaking or the production and distribution of commodities or food-stuffs, or the supply or distribution of light, power, fuel, water, sanitary, medical or fire extinguishing services;

(c) to seriously injure or endanger the safety of any person, or to cause substantial financial loss to any person or to the State;

(d) to further or encourage the achievement of any political aim, including the bringing about of any social or economic change in the Republic;

(e) to cause or encourage feelings of hostility between different sections of the population;

(f) to cause or encourage an insurrection or forcible resistance to the government, or to embarrass the administration of the affairs of the State.

Anyone accused of having committed the offence of sabotage will be tried by a judge without a jury. If the Attorney-General so directs, there will be no preparatory examination. The trial may be held at any time and at any place within the area of jurisdiction of the division of the Supreme Court concerned. Persons who are alleged to have committed offences of sabotage at the same time and place may be tried jointly.

Acquittal on a charge of sabotage will not preclude the arraignment of the person concerned on any other charge arising out of the alleged acts on which the original charge was based.

Following representations by the Trade Union Council, particularly in regard to the provision in terms of which
Parliamentary debate

The remarks of the Minister of Justice on the Bill as a whole, and the attitudes of the Opposition parties, are given later. On the sabotage clause itself the Minister conceded(4) that it was worded widely, but said that this was necessary if effective action was to be taken against saboteurs. It was true that minor acts could technically be regarded as sabotage; but there was a safety valve in that prosecutions could take place only if an Attorney-General so directed. Before an accused was called upon to prove his innocence of sabotage, the State would have to prove that he had committed a wrongful act of the nature specified, and that it had been wilfully committed.

During the Committee stage both the United Party and Mrs. Suzman of the Progressive Party moved amendments to the definition of “sabotage”, with the object of making the whole clause less drastic, but these were rejected.

Comments by a Q.C. in Johannesburg

In a commentary on the Bill(5) a Q.C. pointed out that, in effect, the Minister would be the final arbiter in deciding whether or not anyone should be tried for sabotage. In terms of the Criminal Procedure Act(6), every Attorney-General is obliged to exercise his authority and perform his functions subject to the control and directions of the Minister, who may reverse any decision arrived at by an Attorney-General and may himself in general or in any specific matter exercise any part of such authority and perform any such function.

In trials for sabotage, the courts would be expressly deprived of the discretion which they normally had to suspend a sentence or any part of it. They were also expressly deprived of their normal powers to mete out special treatment to juvenile offenders (probation, reformatories, etc.).

The burden placed on an accused person to prove his innocence of sabotage, once the prosecution had proved that he had committed any of the acts mentioned in the legislation, was an unprecedented provision in relation to a capital charge. The accused would have to negative every item in a long, complicated and ill-defined list.

The provision that a person who had been acquitted on a charge of sabotage could be tried again in respect of the same acts on some other charge (e.g. trespass, theft or malicious injury to property) was a departure from the normal rule of autrefois acquit.

2. EMERGENCY REGULATIONS

The Public Safety Act (No. 3 of 1953 as amended) empowers the Governor-General (now the President) to make regulations applicable in any area where the existence of a state of emergency has been proclaimed.

The General Law Amendment Act empowered the President to declare that any such regulation will apply also outside the area concerned, to such extent and subject to such modifications as he may specify, in so far as he may deem it to be necessary in order to deal with a state of emergency.

3. BANNING OF ORGANIZATIONS

The General Law Amendment Act enabled the President to declare an organization to be unlawful if he is satisfied that it carries on, or has been established for the purpose of carrying on, directly or indirectly, any of the activities of an unlawful organization. This affected existing legislation in several ways.

Previously, under the Suppression of Communism Act of 1950 as amended, he was empowered to ban an organization if he considered that it professed to propagate communism, if its purpose was to further the spread or objects of communism, if it engaged in activities calculated to further the aims of communism as defined by the Act (these were very widely defined(7)), or if it was controlled by a communist organization. It was in terms of this Act that the Communist Party of South Africa was declared unlawful.

The Unlawful Organizations Act of 1960 enabled the President to declare the African National Congress and the Pan-African Congress, together with all their subsidiary bodies, to be unlawful if he was satisfied that their activities seriously threatened, or were likely seriously to threaten, the safety of the public or the maintenance of public order. As soon as the Unlawful Organizations Act came into force these two organizations were banned.

Moreover, the 1960 Act enabled the President to declare any other organization to be unlawful if he was satisfied that it was,

(4) Assembly, 21 May, Hansard 17 cols. 6073-6.
(5) HR 100/62.
(7) The Statutory definition of “communism” includes, inter alia, any doctrine or scheme which aims at bringing about any political, industrial, social or economic change by unlawful acts or omissions, or by means which include the promotion of disturbance or disorder.
directly or indirectly, carrying on, or was proposing to carry on, any of the activities of an organization declared unlawful under this Act, or any like activities, and that the safety of the public or the maintenance of public order was in consequence seriously threatened.

Any banning orders issued under the 1960 Act remained in force for twelve months only unless they were extended by Proclamation. The General Law Amendment Act deleted this provision. Under both the 1950 and 1960 Acts the President might issue banning orders only after an investigation by a person designated by the Minister. This provision, too, has been deleted.

The President's powers have been extended to cover the banning of organizations which he considers are carrying on the activities of bodies declared unlawful under the Suppression of Communism Act as well as those of the A.N.C. or P.A.C.

During the debate the Minister said(8) that it could be expected that when an organization was banned it would immediately reappear under another name. He wanted power to act without the delay necessitated by having to obtain a report on the facts in cases where he was convinced that any organization was, directly or indirectly, continuing to promote the objects of a banned organization and had the same officials and leaders(9).

4. LISTED AND BANNED PERSONS

(a) Attendance at gatherings

The Suppression of Communism Act empowered the Minister to impose various restrictions on persons who have been listed as members or active supporters of organizations declared unlawful, or persons who have been convicted of an offence under the Act, or named communists. He could require them to resign from any specified public body or office or organization, or not to hold any specified public office or become a member of a specified public body or specified organization, or while holding such office or membership, to comply with stated conditions.

He could also require them not to attend any gathering in any place within a specified area and period. The General Law Amendment Act amended this to enable him to instruct them not to attend any gathering, or any particular gathering, or any gathering of a particular nature, at any place, or during any period, or on any day, or during specified times or periods within any period, except in such cases as may be specified in the banning notice, or in terms of the 1962 Act the latter section will read (in summary) “of any number of persons having (except in such cases as may be specified in a notice forbidding a person to attend gatherings, or such cases as the Minister or a magistrate may expressly authorize) a common purpose, whether such purpose be lawful or unlawful”.

(b) Blanket prohibitions on membership of specified organizations

The General Law Amendment Act added a new provision to the Suppression of Communism Act enabling the Minister, by notice in the Gazette, to prohibit all listed persons, or all those who were office-bearers, officers, members or active supporters of an organization declared unlawful, or all those who have been served with notices prohibiting them from leaving certain areas or attending gatherings, from being or becoming office-bearers, officers or members of any other particular organization or organization of a specified nature, except where he or a magistrate grants written consent. No such notice will be issued in relation to membership of an employers' organization or trade union registered under the Industrial Conciliation Act except after consultation with the Minister of Labour. (African unions are not registered.) The Minister may withdraw or vary such prohibition notices.

A spokesman for the United Party pointed out(10) that few people read the Gazette, and that the penalties for the infringement of such a notice are very severe. He urged that individual

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(8) Assembly, 1 June, Hansard 18 cols. 6882-3, and 4 June, Hansard 19 col. 7011.
(9) In this connection see results of Supreme Court action described on page 3.
(10) Assembly, 1 June, Hansard 18 col. 6881.
(11) Col. 6884.
notices should be delivered to persons concerned. The Minister replied that it would be impossible to serve notices on all ex-members of the Communist Party, for example, since in many cases their addresses were not known. The Press was likely to republish information from the Gazette. He added that there were between 30 and 35 “communist” organizations, membership of which might be forbidden to the groups of persons mentioned in the legislation—“congresses, youth leagues, etc”.

Mrs. H. Suzman pointed out, and the Minister confirmed, that prohibitions of the kind envisaged might be published relating to all ex-members of the A.N.C. and P.A.C. as well as of the Communist Party, and said that many people might have joined these organizations without fully realizing the aims and objects which had caused the Government to ban these bodies.

(c) Listed or banned people may be required to report regularly to the police

The Minister has now been empowered to require any listed person, or person on whom a prohibition order has been served, to report to the officer in charge of a police station at such times and during such period as may be specified.

(d) Change of residence or of employment

It has been rendered an offence for a person whose name is listed, or on whom a current banning order has been served, to change his place of residence or his employment without giving notice forthwith to an officer in charge of a police station. If, in any prosecution under this provision, it is proved that the accused has changed his residence or employment, it will be deemed that he failed to notify the police unless the contrary is proved.

(e) Names can be removed from the list

The General Law Amendment Act stated that, if good cause is shown, the Minister of Justice may direct that the name of a person be removed from the list of members and active supporters of an organization that has been declared unlawful under the Suppression of Communism Act. There was previously no provision for the removal of names from this list.

RELATIONS: 1962

(f) Publication of names in the Gazette

Another new provision is that if the Minister is satisfied that reasonable but unsuccessful attempts have been made to serve or deliver any order or notice on or to any person, and that a copy of such order or notice has been affixed to the main entrance of such person’s last-known residence, he may cause the order or notice to be published in the Gazette, whereupon it will be deemed to have been served on this person on the date of publication.

The Minister has been empowered to publish the names of banned persons in the Gazette.

5. RESTRICTIONS ON MOVEMENT, AND “HOUSE ARREST”

The Suppression of Communism Act of 1950 provided that whenever the Minister was satisfied that any person was promoting any of the objects of communism, or was likely to do so, he might prohibit this person from being within any specified area during a specified period. Permission for temporary visits might be given.

This provision has been deleted. In terms of the General Law Amendment Act, the Minister is empowered to impose restrictions on the movements of persons whose names are listed as having been officers, members, or active supporters of an organization that has been deemed unlawful, or on persons whom he considers are promoting any of the objects of communism as defined in the Act, or are likely to do so, or are engaging in activities which may do so. Subject to such exceptions as he may specify, or as he or a magistrate may authorize, the Minister may prohibit such a person, during a specified period, from being within or absenting himself from any place or area mentioned in the notice. While the prohibition is in force, the Minister may also prohibit the person concerned from performing any specified act, or from communicating with anyone or receiving any visitor, except an advocate or attorney managing his affairs (unless the lawyer’s name has been listed or he has been banned from attending specified gatherings or from being in specified areas). No time limit is laid down.

The Minister may vary or withdraw such a notice. Before deciding to impose a prohibition of this nature, he may instruct a magistrate to warn the person concerned to refrain from engaging in any activities calculated to further the achievement of any of the objects of communism.

During the Parliamentary debate the Minister said that he would, unless circumstances made this inadvisable, issue warnings

(13) Col. 6925.
(14) Col. 6926, 6927.
before taking more drastic action. But if restrictions were placed on a person's movements, and he ignored these, he would be placed under house arrest, which would be preferable to being locked up (the course of action adopted in numerous cases in 1960). A person under house arrest could be permitted to go to his place of employment during the day, but might be forbidden to leave his home during stated hours or to receive visitors other than those stipulated, for example business partners or bank managers. Provision had been made in the legislation for visits by lawyers only because the Bar Council had urged that this be done. It would serve no useful purpose to specify other categories of persons in the Act itself: this would be done in the orders served on individual persons.

In a Press statement(13), the chairman of the Johannesburg Bar Council urged that no one should be deprived of his liberty unless after a full judicial investigation, at which the person concerned had been legally represented and afforded the opportunity of defending himself. It was pointed out that the objects of communism, as defined by Statute, included objects which were desired by persons and organizations opposed to Communism in its ordinary sense. Furthermore, the Minister would take action on information placed before him, which might be inadvertently or wilfully misleading or incomplete. Grave injustice might result.

6. DETENTION WITHOUT ANY CHARGE HAVING BEEN PROVED

Section 108 bis of the Criminal Procedure Act, as amended in 1961(16), empowered an Attorney-General, if he considered it necessary in the interest of the safety of the public or the maintenance of public order, to issue an order that a person arrested on a charge of having committed any offence shall not be released on bail or otherwise for twelve days. It was stated in the Act of 1961 that this provision would lapse on 1 June 1962 unless the period was extended by resolution of Parliament.

In terms of the General Law Amendment Act, this period was extended to 1 June 1963.

7. PROHIBITION OF GATHERINGS OR OF ATTENDANCE THREAT

The Minister's powers to prohibit gatherings, or to prohibit persons from attending gatherings, were extended and set out more expressly in the 1962 amendments to the Suppression of Communism Act.

The Minister said in Parliament that these powers were insufficient. All newspapers had to register under the Newspaper and Imprint Act of 1934, but certain of them registered under various names in order that, if their publication was forbidden under one of these, they might immediately re-appear under another name. He cited the Guardian, which after several changes of name was now called New Age. He made no secret of the fact, he said, that this publication would be banned.

The 1962 General Law Amendment Act prevented a newspaper from registering under more than one name by providing that, unless the Minister of the Interior in consultation with the Minister of Justice otherwise directs, the registration of a newspaper will lapse if it is not published at least once a month.

The Act also provided that no new newspaper may be registered unless the proprietor deposits with the Minister of the Interior such amount, not exceeding R20,000, as the Minister may determine, or unless the Minister certifies that he has no reason to believe that it will at any time be necessary for him to prohibit the paper.

Interest earned on such a deposit will be paid to the proprietor each five years, or when the deposit is refunded. It will be, refunded if the paper's registration lapses. If the paper is subsequently prohibited, the deposit and any interest not yet paid to the proprietor will be forfeited to the State, unless the Minister directs that a portion of it be refunded to the proprietor.

9. PUBLICATION OF STATEMENTS BY BANNED PERSONS

It has been rendered an offence, without the consent of the Minister of Justice, or except for the purposes of proceedings in any court of law, to record, reproduce, publish, print or disseminate any speech, utterance, writing or statement, or extract therefrom or recording or reproduction thereof, made or produced or purporting to have been made or produced anywhere, at any time, by a person who has been prohibited from attending any gathering.

The Minister maintained that a section of the Press gave a platform to banned communists, who were not allowed to attend meetings. He wanted to prevent this. The Afrikaans newspaper, Die Burger urged the Minister to amend this provision by drawing a distinction between the "factual and propagandistic" publication of statements. It pointed out that editors would have to keep a list of restricted persons and sift their words carefully from the news columns, even when these words included necessary information.

10. PRESUMPTIONS RELATING TO ABSENCE FROM THE REPUBLIC

The General Law Amendment Act states that any document on the face whereof it appears that a person of a name corresponding to that of an accused person has at any particular time been outside the Republic shall, on its mere production by the public prosecutor in any criminal proceedings, be prima facie proof that the accused was outside the Republic at such time, if such document is accompanied by a certificate purporting to have been signed by the Secretary for Foreign Affairs to the effect that he is satisfied that such document is of foreign origin.

These provisions will apply even if the alleged offence was committed before the commencement of the new Act. They will enable the State to take action against people who leave the Republic without the necessary documents.

11. OFFENCES AND PENALTIES

The most serious offences under the Suppression of Communism Act were previously: performing, advocating or encouraging any act or omission calculated to further any of the objects of communism; becoming or continuing to be an office bearer, officer or member of an unlawful organization; and printing, publishing or disseminating a prohibited publication. To these have now been added three new categories of offenders: persons whose names have been listed or have been served with prohibition notices who change their residence or employment without notifying the police, or who fail, when called upon to do so, to give their full names and addresses to a peace officer or who give false information, or who fail to comply with an order to report to the police at stated intervals.

On conviction for one of these serious offences, the sentence was, previously, imprisonment for a period not exceeding ten years. The new Act adds that there will be a minimum sentence of a year.

The next category of offences, in the 1950 Act as amended in 1954, included those of knowingly allowing premises to be used
for furthering communism, the objects of an unlawful organization, or the production or distribution of a prohibited publication; failing to comply with restrictions placed on an individual; and convening, presiding at or addressing a prohibited gathering. To these have been added: being in possession of a prohibited publication; publishing or distributing a notice convening a prohibited gathering; and publishing statements by a person who has been forbidden to attend gatherings. The penalty, on conviction, is imprisonment for a period not exceeding three years.

The final category of offences remains as before: failing to answer questions by an authorized officer, to comply with requirements stipulated by him, to furnish facilities required by him, hindering him in the performance of his duties, and without permission destroying or removing property or documents of an unlawful organization. In these cases the penalty, on conviction, is a fine not exceeding R400, or imprisonment for a maximum of a year, or both.

OPPOSITION TO THE GENERAL LAW AMENDMENT ACT

POLITICAL PARTIES

When introducing the Bill at its Second Reading(1), the Minister of Justice said that the country was calm and peaceful despite the "artificial agitation made outside". He wished to keep it that way, thus was introducing the legislation timeously. The A.N.C. and, the "Liberation Committee" overseas were planning the formation of sabotage groups, and acts of sabotage had already been committed.

It was not the Government's intention to restrict freedom of speech generally, the Minister continued. The Bill was designed purely and simply to render subversive elements and communists harmless and to punish saboteurs.

Sir de Villiers Graaff, leader of the United Party, said(2) that members of the Opposition were as anxious as anyone else to maintain law and order, and objected to sabotage and communism. But they nevertheless opposed the Second Reading of the Bill because, inter alia,

(a) it deprived citizens of the protection of the courts and put them at the mercy of arbitrary ministerial decisions in such a way as to threaten the freedom of law-abiding people;
(b) it created the new crime of sabotage and defined it so widely that the lives and liberties of people who were innocent of any intention to subvert the State could be endangered;
(c) it granted further extensive powers to the Government and ignored the fact that laws already existed which were adequate to deal with any crisis that might arise; and
(d) it would damage the Republic by creating the false impression that a permanent state of emergency existed.

Communism could not be fought by negative measures only, Sir de Villiers said. It was essential to tackle the root causes, to get rid of poverty, to create a sense of security for everyone, African nationalism would not be destroyed by calling it communism. No despotic powers which the Minister assumed in terms of the legislation would take the place of an acceptable ideology which was opposed to both communism and nationalism.

Mrs. Suzman, the sole representative of the Progressive Party, took the strongest action open to her by moving that the Bill be read that day six months. She found no seconder. The Government already possessed adequate powers to act against saboteurs and people who acted treasonably, she maintained(3). Its purpose in introducing the Bill was to intimidate its opponents. The measure would endanger civil liberties enjoyed in every normal democratic country. The Minister's assurances that freedom of speech would not be restricted provided no safeguard against the abuse of legislation on the Statute Book.

During the Committee stage the Opposition called for a division on nearly every clause. An all-night sitting of the Assembly was held on 24/25 May.

OTHER BODIES

General Bar Council

As is mentioned earlier, representatives of the General Bar Council of South Africa met the Minister of Justice to discuss the Bill. In a subsequent exchange of telegrams(4) the Bar Council informed the Minister that it could not and would not oppose any legislation necessary to preserve law and order. It was a professional body concerned only with legal effects. It objected to certain

(2) Cols. 6079—6114.
(3) Rand Daily Mail, 26 May, and Assembly, 28 May, Hansard No. 18 cols. 6579-80.
ACTION TAKEN UNDER THE GENERAL LAW AMENDMENT ACT

REMOVAL OF NAMES FROM THE LIST

The Minister of Justice announced on 3 July that persons whose names were listed as having been members or active supporters of an organization deemed unlawful under the Suppression of Communism Act would be given the opportunity of making representations for their names to be removed from this list. Such representations must be made before the end of the month.

According to Press reports(1), 113 persons applied.

PERSONS WHOSE SPEECHES OR WRITINGS MAY NOT BE PUBLISHED

As mentioned earlier, the Minister may prohibit persons whose names are listed as being members or active supporters of organizations declared unlawful, those who have been convicted of an offence under the Suppression of Communism Act, and persons deemed to be furthering the aims of communism, from attending any gathering or particular gathering or type of gathering during a specified period. It is then an offence, unless with the Minister's consent or for the purposes of proceedings in any court of law, to publish or disseminate any speech or writing by these persons; the penalty on conviction for this offence is imprisonment for a period not exceeding three years.

On 30 July the Department of Justice issued a list of persons whose speeches or writings may not be published (with the provisos mentioned above). There were 102 names on the list—52 Whites, 35 Africans, 9 Coloured, and 6 Indians(2).


RELATIONS: 1962

It was stated that further lists would be issued from time to time. During October the names of Mr. Nelson Mandela, Mrs. Helen Joseph, and Mr. A. D. Katherda were added.

There was much confusion, in South Africa and elsewhere, as to the exact implications of this Government Notice. To some extent the confusion still exists. Theoretically, librarians and booksellers were faced with the stupendous task of reading all the books and periodicals they possessed to ascertain whether these contained quotations from statements or writings by listed persons. Importers of publications had to devise a system of checking the contents of all books and periodicals acquired by them from overseas.

After numerous enquiries had been made, the Minister of Justice clarified two points which had caused particular perplexity to editors of newspapers. He announced(3) that they might publish evidence, cross-examination, and argument advanced in a court case concerning persons whose names were on the list, provided that this concession was not used to circumvent the intentions of the Act. He also said that they might not publish speeches made at City Council meetings by councillors whose names were listed, for example Messrs. G. E. Peake and R. E. Viljoen in Cape Town. (Mr. Peake was subsequently disqualified from continued membership of the Council on being sentenced to terms of imprisonment for inciting people to contravene provisions of the Group Areas Act and for attempting to cause an explosion).

The Minister was asked whether remaining copies of ex-Chief Luthuli's autobiography Let My People Go might be sold. This had been published simultaneously in South Africa and Britain. As the local edition was quickly sold out, several hundred copies were imported. The Minister replied that, in view of the fact that the book had been on sale before the Act came into force, copies already in the country could be sold, but no more might be imported.

Mrs. Helen Joseph had completed writing a book entitled If This Be Treason, which is to be published in Britain. It gives the personal stories of the accused at the Treason Trial of 1956-1961(4), at the end of which they were acquitted, and contains records of personal conversations as well as statements made in court. Numbers of these people, including Mrs. Joseph herself, are prohibited from attending gatherings, thus it will not be legally possible for the book to be sold in South Africa without the permission of the Minister. Mrs. Joseph had said previously that all royalties would be donated to the Defence and Aid Fund.

(1) Issued in November.
(2) The list was published in Government Gazette, No. 302 of 30 July.
(3) Star, 3 August.
BANNING OF THE CONGRESS OF DEMOCRATS

In terms of Proclamation R 218 of 14 September 1962, the S.A. Congress of Democrats was proclaimed an unlawful organization. This was a White body which had been associated in the Congress Group with the African National Congress, Coloured People's Congress, S.A. Indian Congress, S.A. Congress of Trade Unions and Federation of S.A. Women.

BANNING OF MEETINGS ON THE JOHANNESBURG CITY HALL STEPS

A further proclamation, published on 7 September, prohibited the assembly of any public gathering other than a divine service in the open area to the east of the Johannesburg City Hall for a period of twelve months. Exceptions may be made if special permission is granted by the Minister or a magistrate.

ORDERS SERVED ON MRS. HELEN JOSEPH

The first person on whom a “house arrest” order was served, in terms of the new legislation, was Mrs. Helen Joseph of Johannesburg, national secretary of the Federation of S.A. Women, a former treason trial accused (like the others, she was acquitted), and a former office-bearer of the banned Congress of Democrats. Mrs. Joseph had previously received five-year banning orders under the Suppression of Communism Act. An order restricting her movements to the district of Johannesburg expired in mid-1962. She then undertook a journey of some 7,000 miles to visit Africans who had been banished to remote areas and to report on their circumstances.

On 13 October 1962 Mrs. Joseph was served with orders which stated that, for the next five years (unless she has permission from a magistrate or from the Minister to do otherwise):

(a) she must remain in her home, where she lives alone, from 6.30 p.m. to 6.30 a.m. every day during the week, from 2.30 p.m. on Saturday until Monday morning, and on all public holidays;

(b) she may have no visitors there except her doctor (unless the doctor's name has been listed or he has been banned from gatherings or from being in specified areas);

(c) she must report to police headquarters between 12 noon and 2 p.m. every day except Sundays and public holidays;

(d) she may not attend any gathering, including gatherings at which the persons present have social intercourse with one another (a result is that her writings or statements may not be published);

(e) she may not communicate in any way whatsoever with anyone whose name has been listed or who has been served with a banning order;

(f) she may not leave the magisterial district of Johannesburg, nor may she enter any African township, compound or hostel, or any factory premises.

Protest demonstrations were held by the Black Sash and the Liberal Party, and by private individuals in several centres; and statements of protest were issued by the Civil Rights League, the chairman of the Cape Peninsula General Council of the United Party, the chairman of the Cape Western Region of the Progressive Party, the Anglican Bishop of Pretoria, and others. These statements condemned the punishment of Mrs. Joseph for an undisclosed offence, without trial, and without any opportunity of defending herself.

On 30 October 1962, in part of a series of talks entitled "We present facts", the S.A. Broadcasting Corporation commented on the reasons for the order served on Mrs. Joseph. It was mentioned, inter alia, that she had undertaken a tour to visit banished Africans and had entered certain Reserves without permission. Her connection with certain left-wing organizations was described. Contentions about her by the Crown during the treason trial were repeated, but it was not mentioned that these contentions had never been tested against defence arguments because the case was dismissed, and the accused found not guilty, before that stage had been reached. Moreover, the S.A.B.C. omitted to mention that, after she had been questioned for a week during the treason trial, leading counsel for the Crown said that he did not propose to direct any argument at Mrs. Joseph's personal position in relation to communism. (It should be noted that, in the treason trial, the Crown based its argument on the wide definition of communism in the Suppression of Communism Act).

Mrs. Joseph has had no opportunity to reply to the serious implications contained in this broadcast because it is illegal to publish any statement by her.

APPEARANCES IN COURT OF MR. MANDELA AND MR. SISULU

It was mentioned earlier that Mr. Nelson Mandela was secretary of an African National Action Committee which planned...
demonstrations at the end of May 1961, to reinforce demands for a national convention; that a warrant was issued for his arrest; and that for more than a year he eluded the authorities and, reputedly, led the underground A.N.C. He was eventually arrested in August 1962. It has also been mentioned that on 12 October, while he was in gaol awaiting trial, he was banned from attending gatherings. This meant that his writings or speeches might not be published.

His case had been remanded to 15 October. Meanwhile, a "Free Mandela Committee" was set up which distributed thousands of leaflets describing him as "the fighting underground leader of the freedom struggle". Demonstrations were planned for the day of his trial.

On 13 October the Minister of Justice banned all meetings throughout South Africa for the next two days which might relate to Mr. Mandela.

Not until 15 October was it announced that the trial would take place in Pretoria, instead of in Johannesburg as originally planned. This meant that Mr. Mandela's attorney, Mr. J. Slovo, could not appear for him, since Mr. Slovo had previously been served with an order prohibiting him from leaving the Johannesburg district.

Mr. Mandela was charged with incitement and with leaving the country unlawfully. At his request the presiding magistrate agreed to adjourn the proceedings to enable fresh arrangements to be made for the defence. A period of a week was granted, although Mr. Mandela had asked for two weeks. A few days later it was announced that the order confining Mr. Slovo to Johannesburg would be relaxed to allow him to appear for the defence.

Meanwhile the "Free Mandela Committee" made plans for demonstrations at the resumed trial.

On the same day that Mr. Mandela's trial began in Pretoria, another former executive of the banned African National Congress, Mr. Walter Sisulu, appeared in the Johannesburg magistrate's court on a charge of incitement. The hearing was adjourned to 3 December, Mr. Sisulu being allowed out on R1,000 bail.

**BAN ON PROTEST MEETINGS**

On 20 October the Minister of Justice banned all protest meetings against the arrest, custody, trial or conviction of any person, for any offence, in South Africa and South-West Africa, until 30 April 1963.

**FURTHER "HOUSE ARREST" ORDERS**

(a) October

That same day orders were issued for the "house arrest" of Mr. Sisulu and of Mr. A. D. Kathrada: the latter was secretary of the "Free Mandela" movement. The police were, at first, unable to serve these orders because the two men were not at their homes, but two days later they found Mr. Kathrada at the resumed trial of Mr. Mandela.

Mr. Kathrada has been confined to his flat, which he shares with Mr. E. Gani, an Indian lawyer, from 6 p.m. to 7 a.m. during the week, and from 2 p.m. on Saturdays to 7 a.m. on Mondays. He may not go out on public holidays. He may receive no visitors other than his doctor or lawyer, provided that their names are not on the banned list. He may not leave Johannesburg; is banned from attending meetings; and must report to the police between noon and 2 p.m. each weekday. At the time of writing it was not clear whether or not Mr. Gani may receive visitors.

Mr. Kathrada may not communicate in any way with anyone on the banned list. At the time when the order was served he was being represented in court proceedings of a political nature by an advocate and an attorney, both of whom have been banned. His business will be affected in that much of it was conducted outside Johannesburg, and also in that he used his flat as an office which was visited by his clients in the printing industry.

When Mr. Sisulu returned to his home a few days later similar orders were served on him. If visitors call on his wife he may not receive them.

Mr. Sisulu's mother died on 5 November. A friend who had allegedly come to sympathise was with him that evening when detectives raided his home. He was arrested and charged with disobeying the house arrest order and assaulting the police. He appeared in court next day. The hearing was adjourned to 3 December, on which date he was due to appear in court on other charges. Bail was allowed. Mr. Sisulu was allowed to attend his mother's funeral.

(b) Early November

During the first 25 days of November house arrest orders were served on 13 more people.

Orders similar to those described earlier were served on Mrs. Rica Hodgson, Mr. Lionel "Rusty" Bernstein, and Mr. Cecil Williams of Johannesburg; Mr. Brian Bunting and Mr. Jack D. Tarshish of Cape Town; and Mr. R. I. Arenstein of Durban.
More severe orders still, prohibiting the persons concerned from leaving their homes at all, were served on Mr. Michael Harmel, Mr. P. Jack Hodgson (husband of Mrs. Rica Hodgson) and Mr. Moses Kotane of Johannesburg; and on Mrs. Sonni Bunting of Cape Town (wife of Mr. Brian Bunting).

Husbands were informed that they could communicate with wives whose names were on the banned list, and vice versa.

Three of these people, Mr. and Mrs. Hodgson and Mr. Williams, live in flats. Mr. Hodgson, who is confined to his home for 24 hours of every day is, thus, unable to take any exercise in the fresh air (unless the Minister or a magistrate should decide to relax the terms of the order), and the others may do so on weekdays only.

As Mr. Harmel's statements cannot be published, he is prevented from continuing his employment as a journalist. Mr. Bunting is an employee of *New Age*. He is prohibited from communicating with the editor of this journal, whose name has been "listed" under the Suppression of Communism Act.

Mr. Williams is an actor-producer, yet was forbidden to leave his flat in the evenings. Shortly after the order was served on him, Mr. Williams left the country secretly. He held a British passport.

The Minister announced on 10 November that magistrates had been instructed to make concessions when this was considered necessary. If, for example, persons under 24-hour house arrest orders obtained full-time employment the terms of these orders would be reconsidered. Those who might want to change their places of residence could apply to a magistrate for permission.

In the statement referred to earlier, the Minister said that if any of those who had been subjected to house arrest orders wished to leave the country for good they could apply for special visas, which would be granted.

During the early part of November three young women in Johannesburg, Mrs. Diana Schoon, Miss Anne Nicholson, and Miss Molly Andrews, were summoned to the office of the Chief Magistrate and warned that they would be served with house arrest orders unless they abandoned their present political activities.

Later, on 25 November, Messrs. Alfred Nzo, Thomas Nkobi, and MacDonald Maseko of Johannesburg were placed under 24-hour house arrest. All three are married men with children.

**MR. MANDELA'S TRIAL**

When his trial was resumed, Mr. Mandela elected to undertake his own defence, and to call on Mr. Slovo merely for consultations.

*This journal was subsequently banned.*

A further report on orders of house arrest is given in the Addendum.
areas, but without bringing down the high tension wires, and petrol storage tanks were attacked. New anti-government slogans were painted on walls.(6).

On the eve of Kruger Day (10 October), when several Cabinet Ministers were to address meetings, the police sealed off main roads in all provinces, and stopped and searched cars.

Widespread attempts at sabotage were made during the following weekend. Extensive damage was done to an electrical substation in Johannesburg: again the Star was anonymously informed that the "Spear of the Nation" was responsible. Three bomb attacks were made in Durban—on a railway coach and offices of the police and Bantu Administration Department. One bomb exploded causing but minor damage, and the others were discovered in time and were rendered harmless. Bombs were thrown through the windows of administrative offices and a post office in African townships of Cape Town, and a post office in Paarl. Negligible damage was done. In one case only was there an arrest: the police fired on two Africans in Paarl, wounding and capturing one of them. Pro-Mandela slogans were painted on buildings. Once more, after this, the police set up road-blocks.

On 20 October an explosion wrecked the offices of the Minister of Agricultural Economics and Marketing in Pretoria. The Sunday Times received an anonymous telephone call to the effect that this was the work of the "Spear of the Nation".

A few days later a "proclamation", purporting to come from this organization, was sent to the Sunday Times, stating that the policy of the "Spear of the Nation" was to be "an eye for an eye, a tooth for a tooth, and a life for a life". It would "meet force with force, and fight until White domination is ended".

Attempts were made, on 1 November, to blow up pylons carrying high tension wires in the Durban and Pinetown districts. The explosions interrupted the supply of electricity to parts of these areas for up to an hour. Railway lines near Port Elizabeth were tampered with during the week that followed, without causing accidents. On 10 November a telephone cable was severed at Athlone, Cape Town; and telephone lines in Port Elizabeth were cut on 13 November.

At the time of writing several arrests had been made in Port Elizabeth. The police had offered special rewards for information leading to the apprehension of saboteurs.

(6) Ibid, 8 October.

*Subsequent developments are described in the Addendum.
enable any Bantu woman married by customary union to recover damages that may be awarded under the Act in the event of her husband's death having been caused through the negligence of a third party.

The Commission stated that representatives of the General Committee of the 1942 Motor Vehicle Insurance Act Agreement said in evidence that they would have no objection.

TAXATION OF AFRICANS

Native Laws Amendment Act, No. 46 of 1962

This Act amended the Native Taxation and Development Act of 1925 by providing that, subject to such conditions as may be prescribed, any person may at the request of a Bantu in his employ retain, for the payment of any tax or rate to which the Bantu is liable, such part of his emoluments as may be requested by him.

The Secretary for Bantu Administration and Development was empowered to authorize any Bantu authority, council or board, or any chief, headman or other person, to collect any tax or rate levied. The Minister was empowered, out of moneys appropriated by Parliament for the purpose, to remunerate a Bantu authority, council or board (but not any individual) for its work in this connection.

The Minister said that such an arrangement would assist greatly in making the collection of taxes more satisfactory.

At a conference on Bantu Education held in Johannesburg during July 1962 the Regional Director of Bantu Education for the Southern Transvaal said that the taxes collected from Africans were about R5-million a year short of what should be paid.

Further reference to the Native Laws Amendment Act is made under the administration of the Ciskei; the extent of the Reserves; commercial development in the Reserves; and the legal status of African women.

Taxes paid by Africans

According to the report of the Controller and Auditor-General for the year ended 31 March 1961, during that year Africans paid the following sums:

<table>
<thead>
<tr>
<th>Section</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>General tax</td>
<td>R 7,278,008</td>
</tr>
<tr>
<td>Local tax and quitrent</td>
<td>R 489,196</td>
</tr>
<tr>
<td>General levy in the Transkei</td>
<td>R 204,990</td>
</tr>
<tr>
<td>Regional levies in the Transkei</td>
<td>R 3,536</td>
</tr>
<tr>
<td>Tribal levies</td>
<td>R 568,286</td>
</tr>
<tr>
<td></td>
<td><strong>R 8,544,016</strong></td>
</tr>
</tbody>
</table>

These figures do not include amounts paid in normal and provincial income taxes, hospital levies, large contributions towards the costs of education, stock rates, or by way of indirect taxation.

The Minister of Finance said in the Assembly that in the year 1959-60 a sum of R96,000 was paid by 2,603 Africans in normal and provincial income taxes.

COLOURED AND ASIAN AFFAIRS

THE DIFFERENT "NATIONS" IN SOUTH AFRICA

In the Assembly on 13 April 1962 the Prime Minister said, "One must distinguish between . . . citizenship of a country and . . . what the components of a homogeneous nation are. There is no doubt that the Coloureds are citizens of this country. There is just as little doubt that they are not part of this homogeneous entity that can be described here as 'the nation' . . . In South Africa . . . various groups of the population who in the nature of things are different nations possess citizenship . . . For a long time we (Whites) regarded ourselves as English and Afrikaners, etc. With the establishment of the Republic the unification of these two components into one nation became a possibility, and it is for that possibility that I plead. But, after all, the unification of both White population groups into one nation need not necessarily be accompanied by a further unification into one nation together with the Bantu".

PROPOSED COLOURED "PARLIAMENT"

The constitution of the Council of Coloured Affairs, which has twelve elected and fifteen nominated members, was described...
A SURVEY OF RACE

in the 1958-59 issue of this Survey(2). It is an advisory body, although statutory provision does exist for administrative functions to be assigned to it.

In a statement made to this Council on 12 December 1961(3) the Prime Minister said that it was his intention to create a more representative body which could be described as a Coloured parliament. It would have full executive and legislative powers over certain affairs of the Coloured people. There would be an executive committee, which might be termed a cabinet, with four members controlling, respectively, rural settlements and technical training; local authorities; education; and welfare and health services. The Coloured parliament would have its own civil service, and the taxes, both direct and indirect, paid by Coloured people would be made available to it.

The Department of Coloured Affairs, which was to take over the control of Coloured education from the provinces, would act as a channel through which rights and powers would pass to the Coloured community. The duties of the Minister of Coloured Affairs would in time become analogous to those of a Minister of External Affairs.

It was announced in October 1962(4) that the Government had briefed a Cape Town advocate, Mr. J. A. F. Nel, M.P., to draft a constitution for the Coloured "parliament".

INDIANS TO BE REGARDED AS PERMANENT INHABITANTS

Two important policy statements were made by the Minister of Indian Affairs in Parliament during 1962(5). It had become clear, he said, that the repatriation scheme had failed. The Government had, accordingly, decided that it had no choice but to regard the Indians as permanent inhabitants of the country.

DEPARTMENT OF INDIAN AFFAIRS

A specific policy, and planned action, were necessary, the Minister continued. A Division of Asiatic Affairs had been set up early in 1961. But it soon became obvious that the problems of the Indian and Chinese people differed. It was then decided to leave Chinese affairs under the control of the Department of the Interior and to create a separate Department of Indian Affairs, which was established in August 1961.

RELATIONS: 1962

The Minister said that he had held discussions with a number of Indian leaders in their personal capacities. The Indian National Congress had been willing to co-operate, but its support was "very limited". Consultative committees were being set up throughout the country with members appointed by the Indians themselves. The only requirement was that they must be representative of workers as well as of commercial interests. From these bodies a central consultative committee would be constituted. There was a sufficient number of Indian leaders who, even if they disagreed with certain aspects of the Government's policy, nevertheless realized that there was adequate common ground for co-operation in consultations.

The difficulties Indians experience when wishing to travel within South Africa were described in last year's Survey(6). The Minister said that restrictions had recently been eased. Provision had been made for Indians to obtain travel documents in emergencies on Sundays and public holidays. Men who often undertook business trips across provincial boundaries no longer had to obtain permits on every occasion; documents valid over a period were obtainable. Furthermore, when a family was travelling together, instead of applying for a separate permit for each member the head of the family could now obtain a document covering them all.

The Bureau of Social Research of the Department of Education, Arts and Science, in co-operation with the Indian university college, was to undertake a socio-economic survey of the Indians, the Minister continued. In addition, his Department, working with the Department of Labour, was investigating employment opportunities. About one-fifth of the Indians were directly dependent on trade. Amongst the rest of the working-age population, numbering some 400,000, there was serious unemployment. No reliable statistics existed, but it had been estimated that there were as many as 25,000 unemployed Indians in Durban.

In the semi-skilled and unskilled spheres of work employers tended to give preference to the Bantu; but the Tamil community had sprung from people who were known throughout the world for being good manual labourers. The Department would have to investigate what could be done to eliminate factors such as poor housing or feeding which might be hampering the employment of Indians as labourers.

Indians would be given the opportunity of investing money in industries, the Minister said. His Department was investigating the possibility of absorbing more of them into the government and municipal departments to render service to their own people.
Attention would be given to the speedy development of Indian residential areas and housing, making the maximum use of Indian building workers. In such areas all public services and tertiary activities would be undertaken by the people themselves.

The control of Indian education would in due course be transferred to the Department of Indian Affairs, and, eventually, to the proposed Indian Council.

His Department would take over welfare services for Indians as from 1 April 1963, the Minister announced. A training scheme for Indian social workers would be provided.

Laws affecting Indians were to be revised, he added. Amending legislation would probably be introduced in Parliament in 1963.

Departmental offices have been opened in Durban and Johannesburg.

LOCAL GOVERNING BODIES IN COLOURED AND ASIAN GROUP AREAS

Consultative and management committees

The Group Areas Act previously empowered the responsible Minister to establish governing bodies in Non-White group areas, to consist wholly or mainly of members of the race concerned. The Minister could not exercise these powers without the concurrence of the appropriate Administrator, who was required to consult any local authority concerned. If a group area for which a governing body had been set up was wholly or partly within the area of jurisdiction of a local authority, the body would exercise its powers subject to this local authority's supervision and the latter would retain any powers that were not vested in the governing body.

The Group Areas Amendment Act, No. 49 of 1962, elaborated these provisions and increased the Minister's powers.

When introducing the Bill at its Second Reading the Minister of Community Development said that it provided for the creation of machinery for the training of Non-Whites (other than Africans) to a stage where full responsibility for local government in their own areas may be bestowed on them.

The new measure provides that the Minister may, after consultation with the Administrator of the province concerned (no longer with the Administrator's concurrence and after consultation with any local authority involved), establish, for any Non-White group area or for any two or more such areas, either a consultative committee, or a management committee, constituted in accordance with regulations issued by the Minister, and consisting wholly (no longer "wholly or mainly") of members of the racial group for which the area has been set up.

The regulations will lay down what matters must be referred to consultative committees. No local authority exercising jurisdiction in the area concerned may take any decision in regard to such matters unless it has consulted the committee and given due consideration to any comments it may wish to make.

Alternatively, or at later stage, a management committee may be set up. The Minister may make regulations (which may differ in different areas) as to the manner in which any management committee is to be constituted, including the election of some or all of its members, the qualifications required for voting or becoming members, the powers and functions of the management committee, and, in consultation with the Administrator (who must consult the local authority), as to the powers, functions and duties of a local authority in any portion of its area of jurisdiction in which a management committee has been established. An Administrator may be authorized, after consultation by him with a local authority concerned, to confer additional powers on consultative or management committees.

A management committee will exercise its powers and functions under the supervision and control of the local authority, subject to such conditions as the Administrator may determine.

The Minister may make regulations providing that persons who become qualified as voters for a management committee, and who at the date on which they become so qualified were not registered as municipal voters, shall not be registered as municipal voters.

The Minister said in the Assembly that the rights of Coloured persons who were already registered as municipal voters at the date when a management committee was established would not be affected so long as they retained their qualifications, but the expansion of Coloured and Asian municipal franchise rights would have to be limited to their own group areas.

It appeared from the Minister's remarks in the Senate, when the Bill was being debated there, that if a registered Coloured voter in Cape Town, for example, disposed of all his property there and transferred his residence and business interests to the Coloured township of Athlone, after a management committee was established.

(*) Assembly, 1st May 1962, Hansard 6 col. 1638.

(*) Senate, 25 April, Hansard 11 col. 2792.
at Athlone he would lose his vote for the election of members of the Cape Town City Council.

The Minister said that the number of Coloured men on the municipal voters' rolls in the Cape was unknown, since the race of voters was not indicated on the rolls. It was estimated that there were about 7,650 in Port Elizabeth, East London, Beaufort West, Goodwood, Grahamstown, and King William's Town, but no estimate for Cape Town could be given. In Natal, where no further Coloured or Asian people had been enfranchised since 1956, only about 500 were on the municipal rolls. In the whole of the Cape Province there were only 12 Coloured City Councillors, 6 of them in Cape Town.

The Minister gave the assurance that draft regulations framed under the Act would be submitted to the four Provincial Executive Committees and the four Municipal associations before they were finalized and published.

**Coloured and Asian local authorities**

The 1962 Act provides that the Minister may appoint a committee to investigate the desirability or otherwise of establishing a local authority for any area for which a management committee has previously been established. Such an investigating committee will consist of not less than five persons, of whom one will be nominated by the provincial Administrator, and one by a local authority with jurisdiction in the area (provided that the local authority makes the nomination within ten days after being requested to do so).

After the committee's report has been received, the Minister, following consultation with the Administrator, may direct that a local authority of a type specified by him be established in a Coloured or Asian group area.

The State President may in such cases repeal or amend any law relating to the requirements for membership of local authorities. Such proclamations must be tabled in Parliament, and unless approved within ninety days will cease to have the force of law.

**Parliamentary debate on these clauses**

Before the Second Reading Debate was commenced, the United Party contended that Parliament was not competent to consider the Bill, since the provisions described above were a breach of the powers of provincial councils. In terms of South Africa's constitution, provincial councils were empowered, with the State President's consent, to make ordinances dealing with municipal institutions, and it was laid down that Parliament might not abolish or abridge the powers of provincial councils except by petition of a council concerned. No such petition had been received.

The Speaker of the House of Assembly and the President of the Senate in turn ruled that Parliament was the sovereign legislative authority. In their opinion, provincial councils did not possess the exclusive right to legislate in regard to municipal institutions.

Mr. J. D. du P. Basson, then of the National Union Party, maintained that the Coloured people of the Cape did not need, as the Minister had asserted, to be trained in the art of local government, proceeding by stages from consultative committees onwards. Many of them had for years served with distinction on various government bodies.

Mr. D. E. Mitchell (U.P.) and Mrs. H. Suzman (Progressive) pointed to the difficulties that were likely to be encountered in the sub-division of responsibility for municipal services. Coloured group areas, they said, were likely to be mainly dormitory areas, deriving little revenue from business premises (the main source of revenue of local authorities). How would Coloured management committees or municipalities be able to finance the provision of services, industrial development, etc.?

These speakers objected to the wide powers to make regulations which were being conferred on the Minister. Such regulations could easily be altered unilaterally. Government ought to take place by legislation and not by regulation, they maintained.

Earlier, when the Prime Minister was addressing the Council for Coloured Affairs, he said that Coloured local authorities would be able to contract with existing suppliers for power and water, as many White towns did. Undertakings which provided local community services would be established in the Coloured residential areas, but provision would be made for Coloured people to establish industries in the general industrial areas of the towns.

**INDIAN AND COLOURED TOWN COUNCILLORS**

At the Natal municipal elections in September 1962 Mr. E. M. Moolla of Stanger defeated his White Nationalist opponent by 100
votes to 28 in an 80 per cent. poll. Only 12 of the voters were Indians, the rest being White. Mr. Moolla is the only Indian town councillor, and has served, at different periods, for 15 years. As is mentioned earlier, there are 12 Coloured councillors in the Cape.

**COLOURED DEVELOPMENT CORPORATION ACT, No. 4 of 1962**

This Act provided for the establishment of a Coloured Development Corporation to encourage and promote the advancement of Coloured people, in Coloured mission stations and Reserves and Coloured group areas, in the fields of industry, trade and finance. The State President was empowered to appoint a Board of Directors.

The Board may itself establish undertakings, or acquire them from non-Coloured persons. It may give financial or technical help to Coloured people, and establish or assist in establishing Coloured companies. Except if the President so authorizes, the share capital will be R500,000, divided into 500,000 ordinary shares. Only the State may become a shareholder. The Corporation may accept donations and may raise or borrow money.

The Hon. S. F. Waterson of the U.P. urged that Coloured people should be helped as part of the general community, and not as a separate group. Mr. A. Bloomberg (Coloured Representative) said that he and his colleagues would support the Second Reading. Nevertheless, they regretted that the measure was not part of a plan to assist small businessmen of all races. Mrs. H. Suzman (Progressive) said that the Bill tackled a symptom and not a cause; she suggested that restrictions on Coloured people caused by job reservation, group areas, etc. should be removed, and the R500,000 be used to provide further vocational training projects for Coloured students.

The Minister of Coloured Affairs maintained that there was no danger of creating a separate economy and said that the directorate of the Corporation would consist of Whites with the necessary experience, business knowledge and acumen.

The names of members appointed to the Corporation’s Board of Directors were announced on 10 April. The chairman is Dr. M. S. Louw, head of a number of financial institutions.

**COLOURED MISSION STATIONS AND RESERVES**

A description of the Coloured mission stations and reserves was given in last year’s *Survey*.

Further information about development schemes was given in a publication entitled *The Coloured People of South Africa*, issued by the Departments of Information and Coloured Affairs.

In the Steinkopf Reserve in Namaqualand the people have raised capital to establish a co-operative. Many of them are small stock farmers; some cultivate dates; but a majority of the men have to earn a living outside. The Department of Coloured Affairs is providing more boreholes and concrete dams at Steinkopf and the other reserves in this area.

In the Ebenezer Reserve, further to the south, the dune-veld is used for cattle farming. The Department has irrigated 150 two-morgen plots where intensive cultivation is practised. Some residents are fishermen and others work in rock lobster factories at Lamberts Bay and Doorn Bay. More boreholes have been sunk in the Mier settlement, where the residents are stock farmers or grow lucerne and vegetables.

Most of the younger people from the Mamre and Genadendal Reserves, in the south-western Cape, work outside the reserves. The Department has begun to lay out villages where the people will eventually have property rights. At Enon, near Port Elizabeth, some of the men make a living by selling poles and firewood from indigenous forests, but most heads of families work in nearby industrial centres.

Mixed farming is possible at Thaba Petchoa in the Thaba 'Nchu district. Many Coloured farmers supply milk to the cheese factory at Tweespruit, and an area of 400 morgen of fertile land is used for maize and wheat production.

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(20) Cols. 395-4.

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Dr. Louw is reported to have said at a Press Conference in London during September that the Corporation had already made loans to Coloured people to start bottle stores, butcheries and general dealers’ businesses in Coloured areas. He had suggested, Dr. Louw added, that this Corporation should be given the prospecting and mining rights in certain diamond-bearing Coloured reserves in Namaqualand. He envisaged the establishment of a mining company in which Coloured people would hold about 25 per cent. of the shares. All profits would be used for the advancement of their community.
During 1960 and 1961 the Department erected 73 miles of cattle-proof or vermin-proof fencing and 57 miles of camp fencing in various Coloured areas. The total area of all these reserves is just under two million morgen.

The Preservation of Coloured Areas Act of 1961 provided that any area which has been granted to or set aside for Coloured people, or which is a traditionally or locally acknowledged Coloured area mainly occupied or owned by them, may be brought under the provisions of the Mission Stations and Communal Reserves Act. Proclamation 68 of 30 March 1962 stated that the rural area of Suurbraak in the Swellendam area, which is traditionally a Coloured area, would be reserved for them.

LEGISLATION RELATING TO INDIANS

In October 1962 the Institute of Race Relations submitted a memorandum to the Department of Indian Affairs, describing certain legal disabilities experienced by Indians and urging that these be removed. The Institute pointed out that some of the relevant legislation was enacted as a protective measure, but was now anachronistic.

The distinction made in Natal between “Indian Immigrants” and “Passenger Indians” was no longer of practical value. In the schedule for the birth of Indian immigrants, no provision was made for a surname. This caused complications which had multiplied over the years, with the result that many births remained unregistered because the information required was unobtainable. A child of Immigrants who was adopted by Non-Immigrants could not automatically take their surname.

The laws relating to the marriages of Indian immigrants, too, were confused. It had become evident that the validity of many such marriages was virtually impossible to determine unless tested by a court. Rights of inheritance and of compensation in the event of death were affected. One of the parties to a marriage like this could evade responsibilities by applying for it to be nullified.

The Institute recommended:

(i) that the distinction between Indian Immigrants and Passenger Indians no longer be maintained;

(ii) that legislation relating to the registration of births, marriages, and deaths of Indians be consolidated and brought into line with that for Europeans;

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(iii) that a law be enacted to validate all marriages between Indian Immigrants and Passenger Indians not covered by previous validation acts, and that provision be made that no marriage can be invalidated on grounds of status;

(iv) that all new births be registered according to the European method of nomenclature, and that provision be made for an interim period (not less than 5 years) during which each former Immigrant family should re-register and establish a surname. This should be done by family applications covering all the members of the family, and such registration should be free of charge.

The Institute recommended, also, that a South African Indian who married outside the country should be able to bring his wife and children to the Republic. It considered that free interprovincial movement should be allowed, between the Cape, Transvaal, and Natal as a first step. If this was not acceptable, permits of longer duration should be issued to professional and businessmen.

Indians born in the Native States of India and domiciled in South Africa were stateless persons: this and related anomalies should be removed. In view of the introduction of identity cards, Transvaal Indians should no longer be required to take out separate registration documents. The payment of Government grants and pensions should be decentralized, on the same basis as for members of other racial groups.

REGISTER OF ASIATICS

The Minister of Indian Affairs announced a few days subsequently that during the next Session of Parliament the Government would repeal Transvaal laws which required male Asians to apply for their names to be included in a register. Identity cards issued under the Population Registration Act would meet the requirements. Meanwhile, no further Transvaal registration certificates would be issued.

(24) RH 146/1962.
(25) Star, 23 October
LIQUOR

LIQUOR AMENDMENT ACT, No. 72 of 1961

The provisions of the Liquor Amendment Act of 1961 were described in last year's Survey. Briefly, it removed restrictions on the purchase of alcohol by Coloured people and Asians, made it lawful for Africans of the age of 18 years or over to buy liquor from bottle-stores, and empowered the Minister of Justice to grant licences for the sale of liquor in African townships, for on- or off-consumption. It stated that Non-Whites would commit an offence if they consumed or were in possession of liquor on private premises without the consent of the owner or lawful occupier.

BANTU BEER ACT, No. 63 of 1962

In moving the Second Reading of the Bantu Beer Bill, the Deputy Minister of Bantu Administration and Development said that the measure consolidated all laws relating to Bantu beer, and brought the provisions into line with those of the Liquor Act of 1961. It would no longer be an offence to be in the possession of this beer (except on certain private premises without the consent of the owner or lawful occupier). Police raids would become unnecessary except in relation to offences similar to those existing under the Liquor Act.

The Bill does not apply in rural Bantu areas, where existing regulations issued under the Native Administration Act remain in force.

Upon the request of a local authority, made after reference to advisory boards and/or urban councils, the Minister may declare that this local authority has the exclusive right, subject to exceptions mentioned below, to manufacture and sell Bantu beer. Domestic brewing is then not allowed, but off-sales for home consumption are permitted. If a local authority already had such a monopoly when the Act came into operation, this was deemed to be an exclusive right under this Act. The Deputy Minister said that 59 local authorities already had monopolies and had incurred much expense in providing breweries and beerhalls.

Permits for off-sales have been rendered unnecessary, and there is no limitation on the quantity that can be bought.

It is mentioned above that there are certain exceptions to a local authority's exclusive right to manufacture and sell beer. The Minister, after consultation with the local authority, may authorize an employer who regularly employs and houses 25 or more employees of or over the age of 18 to brew on his premises reasonable quantities of beer to be supplied to them free of charge. An employer already so authorized when the Act comes into operation could continue to do so. Any employer may acquire beer from a local authority for sale on its behalf to his employees.

Nominees of employers may be authorized to sell beer to the employees, obtaining it either from the local authority, or, if the employer has been authorized to manufacture beer, from the latter.

The Deputy Minister said he anticipated that if numbers of employers or their nominees did sell beer as agents for the local authorities, the provision of beerhalls in business areas would become unnecessary.

A second exception is that even if a local authority has an exclusive right to manufacture beer, licensed liquor dealers may acquire beer from the local authority for sale to members of any racial group. No special trading licence is required for this.

The Deputy Minister said that Bantu beer cannot be bottled or stored like other liquor, for it turns sour and becomes stronger. Private enterprise would, at the present stage, be unable to gauge correctly what the demand was likely to be, and, actuated by the profit motive, private brewers might brew excessive quantities. Local authorities had considerable experience in this field. For the time being, therefore, private enterprise (except for certain employers) could not be allowed to manufacture beer for sale.

Beer brewed for sale by a local authority or an employer must, when manufactured, not exceed the strength of 3 per cent, by weight of absolute alcohol. A local authority may sell it only on a site or in premises approved by the Minister; may not sell to persons under the apparent age of 18; and, with the Minister's approval, may debar women from the whole or part of the premises. The maximum selling price is fixed by the Minister after an enquiry at which the local authority is entitled to be heard.

If the nominee of an employer has been authorized to sell beer, the Minister, after reference to the nominee and the employer, may fix the maximum selling price. Previous provisions in regard to the disposal of profits apply. The Deputy Minister said that

(1) Page 346.
(2) This is what is more usually and correctly known as kaftir beer.
(3) Assembly, 3 May 1962, Hansard 14 cols. 4921-2.
(4) Col. 4925.
(5) Col. 4928.
(6) Col. 4923-4.
the motive was not to make large profits but to remove restrictions on the availability and possession of the Bantu's traditional drink.

He added that in cases where local authorities, under the new Liquor Act, had applied for permission to sell White liquor to Africans in the townships, the Department had stipulated that Bantu beer must also be on sale. Some of these authorities had not previously sold beer, but it would be unnecessary for them to establish breweries, since they could buy beer from other local authorities; moreover, there was now a commercial preparation that could be used as a basis for the brew. If a local authority so requests, the Minister may withdraw the exclusive right to manufacture and sell beer. The Deputy Minister said that in various towns—Durban, Kroonstad and East London, for example—the dual system operated, home brewing being allowed side-by-side with municipal sales, and this system worked well. Other local authorities might wish to adopt it.

If the dual system operates, or if the local authority does not sell beer at all, anyone is entitled to brew Bantu beer for domestic consumption, and so, too, is any employer for supply free of charge to his employees. No permits are needed. There is no control of the strength of this beer (nor of beer sold by licensed liquor dealers). But no one is permitted to sell the beer unless he has been authorized to do so. The control of the sale of sprouted grain is abolished.

No one may be in possession of Bantu beer on private premises without the consent of the owner or lawful occupier (other than an occupier who is an owner's employee). This does not apply in African townships or hostels, or on premises where the sale of beer has been authorized.

The Minister may make regulations dealing with the following matters: the powers and duties of the police and officials in regard to the search for beer manufactured or sold in contravention of the Act; the confiscation of such beer; the control of premises where beer is manufactured or supplied; and the manufacture and composition of beer.

It is an offence to sell beer unless authorized to do so; to manufacture or sell beer in contravention of the Act; to sell it in contravention of conditions laid down; to hinder the police in the execution of their duties under the Act; and for women to enter premises which are closed to them.

Maximum penalties for a first conviction are a fine of R50, or three months' imprisonment, or both, or such imprisonment without the option of a fine. For second or subsequent convictions they are R100, or six months', or both, or imprisonment without the option.

LIQUOR AMENDMENT ACT, No. 89 of 1962

The Liquor Amendment Act of 1962 made it possible for Coloured persons and Asians to hold licences for the sale of liquor from premises in their own group areas, or in areas predominantly occupied by persons of their own racial group. Such licences, to be granted by the Minister of Justice or someone acting under his directions, must be renewed annually.

Numerous conditions apply:

(a) The granting of a licence must be recommended by the National Liquor Board after consideration of all relevant information, representations, objections and police reports.

(b) The Minister of Justice must first consult with the Minister of Coloured Affairs or the Minister responsible for the interests of the Asians concerned, as appropriate.

(c) No authority is issued in an urban area unless the local authority has first been consulted.

(d) A licence may be granted only to the nominee of any association having not less than 10 Coloured or Asian persons as shareholders or members, and on condition that no single shareholder or member holds or has contributed more than 40 per cent. of the capital.

(e) Authority may be granted for sales for on- or off-consumption; but off-sales may be conducted only by persons who are also holders of authority to sell for consumption on the same premises.

(f) The Minister may specify what kinds of liquor may be sold, and may lay down conditions or restrictions, which he may subsequently alter. It is an offence to fail to comply with the conditions or restrictions. The Minister may revoke an authority he has granted, and his decision will be final.

(g) The holder of an authority must pay to the Receiver of Revenue such fee, not exceeding R140, as the Minister of Justice, after consultation with the Minister of Finance, may in each case determine.

(h) Lists of all authorities granted must be tabled in Parliament.
ACTION TAKEN IN TERMS OF THESE LAWS

The Minister of Justice said in February\(^{(9)}\) that the National Liquor Board had received 2,005 applications to sell liquor in African areas. According to the Press\(^{(10)}\), about 500 licences were issued, in the main to local authorities, mines and other employers of large numbers of Africans. The Taung Regional Authority was authorized to sell liquor in its area of jurisdiction (Taung and Barkly West), and Africans were granted licences for hotels at Zweilishsa and Mtunzini, bottle stores at Mahlabatini and in a reserve in the Potgietersrus district, and an hotel and bottle store at Umlazi. It was stated that four applications from Africans were refused because they did not comply with the provisions of the Act.

The Minister said in May\(^{(11)}\) that 80 per cent. of the net profits made by local authorities would have to be paid to the Department of Bantu Administration and Development for use in the general interests of Africans, and the remaining 20 per cent. spent by the local authorities on social or recreational amenities or social welfare services for Africans\(^{(12)}\).

The Brewers' Institute of South Africa ran courses for municipal and other officials, who in turn trained African barmen and salesmen, with the object of promoting civilized drinking habits.

It was pointed out by the Rand Daily Mail on 27 July that Section 94 of the Liquor Act of 1928 as amended had not been repealed. This renders it an offence for anyone except a licensed dealer to supply liquor to an African. The effect is that a White host may not offer a drink to an African guest, but may permit this guest to bring his own supply and to offer it to persons of any race except, presumably, another African. It would appear, if the law is interpreted strictly, that Africans in their own areas may not offer drinks to other Africans, but may do so to persons of other racial groups who have permission to be in the area concerned.

The Liquor Amendment Act of 1961 and Bantu Beer Act of 1962 came into operation on 15 August 1962. There had been much speculation about the likely results; but the Non-White people are reported to have bought liquor, and to have consumed it, in moderation.

Government Notice 1510 of 21 September removed the restrictions which had existed in the northern provinces on the sale of methylated spirits to Coloured people and Asians. Africans still require permits.

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GROUP AREAS AND HOUSING

GROUP AREAS AMENDMENT ACT, No. 49 OF 1962

The provisions of the 1962 Group Areas Amendment Act which deal with the establishment of local governing bodies in Coloured and Asian group areas have been described in an earlier chapter. Other Sections are described below.

Functions of Department of Community Development

The Amendment Act provides that the Group Areas Act and the Group Areas Development Act will be administered by the recently created Department of Community Development instead of, as in the past, the Department of the Interior.

The Minister of Community Development said that the two boards would function as organs of his Department, all their administrative work being carried out by the Departmental Secretary. His Department would undertake township planning and would concern itself, in co-operation with other departments, with job opportunities and social, cultural and education facilities; but the actual provision of housing would be undertaken by the Housing Commission in co-operation with local authorities. Housing and Community Development fell under the same Ministry\(^{(1)}\).

General provisions in regard to group areas

It is provided in the Amendment Act that a permit authorizing the occupation of land or premises may be issued subject to a condition that the person to whom it is issued shall, on or before the date upon which he commences to occupy such land or premises, vacate any other land or premises specified in the permit.

The Minister said\(^{(2)}\) that this was really a concession. It would enable a businessman likely to become a disqualified occupant of an area to apply voluntarily beforehand for a permit to operate in his own group area or in a special central trading area, if this existed. Otherwise, when he eventually became disqualified, he would have no means of livelihood. Permits would be given on condition that the applicant vacated his present premises.

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\(^{(*)}\) Assembly. Hansard 4 col. 1203.
\(^{(9)}\) Assembly. Hansard 6 cols. 1634-5.
\(^{(10)}\) Assembly. 3 May, Hansard 4 col. 4720.
\(^{(11)}\) Assembly. 27 February 1962, Hansard 6 cols. 1634-5.
Hockey

During 1962 a Chinese women’s hockey team in Port Elizabeth applied for membership of the Women’s Hockey League. The League’s secretary asked for the Government’s views; and as a result the application was refused.

Motor racing

The Metropolitan Motorcycle and Car Club in Cape Town arranged races to be held at the Killarney track, in March, and proposed including an event for Coloured drivers. The opinion of the Group Areas Board was sought. A reply was received from the Minister of the Interior who said that the Government could not give its blessing and would prefer the event to be removed from the programme.

This caused considerable public concern, especially as Coloured drivers had spent weeks preparing for the race. The Club decided to carry on with its original plan and to allow the Coloured participants use of the circuit for a preliminary practice. Officials pointed out that the Non-White community was at present unable to provide the organizational machinery necessary for separate race meetings.

HOLIDAY RESORTS AND FACILITIES

The Digest of South African Affairs for 25 June 1962 reported that an inter-departmental committee had recommended the provision of seaside amenities for Coloured, Indians, and Africans at Strandfontein on the coast of False Bay, to the east of Muizenberg. The African area would be fairly near to the African township of Nyanga. A ten-year development programme, to cost R1,200,000, was suggested. Sanitary and camping facilities, and children’s playgrounds, had already been provided at Strandfontein for Coloured people.

This beach area is a considerable distance from the city of Cape Town and from all of the Non-White residential areas except Nyanga.

The Government has recently altered decisions by the Cape Town City Council and the Administrator of the Cape, respectively, to develop beaches for Coloured people at Granger Bay, Cape Town, and at Hartenbos, near Mossel Bay. In the latter case a White organization which owned adjoining land had lodged objections with the Minister. A less conveniently situated beach than Hartenbos is to be allocated to Coloured people. Woodstock beach in Cape Town will be set aside for Coloured bathers: this is not as attractive as Granger Bay.

During the year under review the Institute of Race Relations published Holiday and Travel Facilities for Non-Whites in South Africa, by Carl Ketyer. This gives information about available hotels, hostels, beaches, sports fields, parks, camping sites, swimming baths, cinemas, social centres, organized tours in various centres; and travel facilities.

EXTERNAL AFFAIRS

MOVEMENT TO AND FROM THE HIGH COMMISSION TERRITORIES

On 18 May the Minister of Foreign Affairs stated that it was the Government’s intention to take the necessary measures for controlling or regulating the movement of persons between the Republic and the High Commission Territories.

It was announced in October that tourists visiting Basutoland required passports. Strictly speaking, they should have visas too, but this was not yet being enforced. A special “pass” system might be introduced to regulate the movements of the thousands of Basotho who crossed the borders of their territory daily to shop in towns within the Republic.

Tourists visiting Swaziland or Bechuanaland were advised to take passports or some other documents of identification.

POLITICAL REFUGEES FROM SOUTH AFRICA

Early in November a Coloured man and two Herero from South-West Africa, who are reported to have been offered scholarships to study in America, left without travel documents and tried to reach Dar-es-Salaam by an overland route. They were arrested in Southern Rhodesia and sentenced to a fine of R20 or 2 months’ for illegal entry. After serving half the prison sentence they paid R10 each, and were then sent back to South Africa by train under Rhodesian police escort.

(1) Assembly, Hansard 16 col. 5922.
(2) Rand Daily Mail. 3 October.
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Coast, because certain African states had threatened to move, during the meetings, that the Republic be expelled from this body.

About a month later the South African Government decided that it would not send delegates to a meeting at Addis Ababa of the United Nations' Economic Commission for Africa, on the ground that the inclusion on the agenda of an item dealing with racially discriminatory practices "would undoubtedly be seized upon to undertake protracted and hostile discussions of domestic political issues".(9)

It was mentioned last year(8) that at its meeting in 1961 the International Labour Organization passed a resolution asking South Africa to withdraw from membership until such time as it abandoned the apartheid policy. (The constitution of the Organization does not provide for expulsion.) The presence at the 1962 meeting of a Coloured delegate from South Africa(7) probably caused some member countries to modify their view on this matter for the time being; but it is reported(9) that Ghana again, without success, called upon South Africa to withdraw.

South Africa terminated its membership of UNESCO in 1956 because the Government objected to certain publications issued by this body which dealt with the question of race. Hence the Republic was not invited to a UNESCO Pan-African meeting, held in Madagascar in September, to discuss higher education in Africa.

A regional conference of the United Nations' Food and Agricultural Organization was held in Tunis in November. When an official from South Africa rose to speak on the agricultural situation in the Republic the delegations from Ghana and Guinea left the conference hall. On their return a resolution was passed calling for the expulsion of South Africa. Eighteen states under African rule voted in favour of this resolution; Tunisia abstained; and Britain, France, Rhodesia and South Africa opposed it. The Director-General of the FAO pointed out, however, that a regional conference had no power to expel a member state: if the sponsors of the motion so wished they could raise the matter at the general conference in 1963.

After a temporary withdrawal to consult with the Government in Pretoria the leader of South Africa's delegation announced that he and his colleagues were fully entitled to remain and intended doing so. Representatives from the eighteen states that had voted for the resolution walked out as the South African delegate rose to speak, and, on their return, stated that if the South Africans did not leave they would withdraw.

SOUTH AFRICAN MEMBERSHIP OF INTERNATIONAL ORGANIZATIONS

In January 1962 the Senegal Government refused to grant visas to South African delegates to a meeting in Dakar of the International Telecommunications Union. On the following day it was announced that South Africa would not attend a forthcoming session of the Commission for Technical Co-operation in Africa South of the Sahara (C.C.T.A.), to be held at Abidjan in the Ivory

1) Ibid, 8 November.
2) See page 21.
3) Rand Daily Mail, 20 February.
4) Page 294.
5) See page 163.
6) Rand Daily Mail, 12 June.
The chairman then decided to close the conference, five days before it was due to end. He is reported(9) to have said that these events had proved that co-existence between delegations from South Africa and other African countries had become impossible.

Next day the Department of Foreign Affairs in Pretoria stated that South Africa would not permit itself to be expelled from any organization in which it had the right to participate. Should it decide to resign from any international body it would do so of its own choice, for reasons which it considered to be in the interests of the country(10).

In a paper given at the Council meeting of the Institute of Race Relations in January 1962(11) Mr. G. G. Lawrie talked of the distressing loss of opportunities. Although South Africa's technical and scientific achievements in many fields were outstanding, he said, the country was, for political reasons, unable to make the contribution to the advancement of other African territories which these achievements justified.

POLITICAL AND ECONOMIC BOYCOTTS

The Minister of Economic Affairs stated in the Assembly on 23 January(12) that boycotts of South African goods had been imposed by Soviet Russia, Communist China, India, Malaya (excluding Singapore), Antigua, Barbados, Jamaica, British Guiana, Surinam, Ethiopia, Ghana, Liberia, Nigeria, Sierra Leone, and the Sudan.

Since January Tanganyika and the Somali Republic have decided to do so too. Like certain others of these countries, the Somali Republic has barred South African ships and aircraft from its territory and has stated that no South African citizens except political refugees may enter.

On the other hand, it is reported(13) that Egypt rescinded an earlier decision to ban the entry of South African goods and their trans-shipment at Egyptian ports.

It would appear that the boycotts have not been strictly enforced in all cases, and that most of the South African exporters who have so far been affected have found alternative markets for their goods. In other circumstances, however, South Africa might have looked to a large increase of trade with the developing African states to the north.

(9) Rand Daily Mail, 6 November.
(10) Star, 6 November.
(12) Hansard 1 col. 38.
(13) Sunday Times, 21 January.

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UNITED NATIONS' CONSIDERATION OF SOUTH AFRICA'S RACIAL POLICIES

It will be recalled(14) that in April 1961 two motions were placed before the United Nations' Special Political Committee and, subsequently, the General Assembly. The first, introduced by African states, condemned the apartheid policy and called for diplomatic and economic sanctions against South Africa. The second, originally submitted by Afghanistan, Ceylon, India, Indonesia, and Malaya, sought to condemn South Africa for continuing with policies based on racial discrimination and to call upon member states to take what separate and collective measures they considered appropriate and in conformity with the Charter to bring about an abandonment by South Africa of these policies.

The first motion was passed by the General Assembly by 42 votes to 34, with 21 abstentions, thus failing to gain the necessary two-thirds majority. The second resolution was passed by 95 votes to 1. South Africa and two other states did not participate in the voting.

Two similar motions were debated in November 1961. This time the sponsors of the sanctions resolution added a clause requesting the Security Council to consider expelling South Africa from the United Nations. Various clauses were added to both motions by way of amendments, for example one by the U.S.S.R. calling on member states to refrain from supplying arms or military assistance to South Africa.

Supporters of the sanctions motion tried to obtain a two-thirds majority for it by proposing that there should be no separate votes on individual clauses, the motion being considered in its entirety. This move was defeated by a narrow margin of five votes. This time the sanctions resolution obtained more support but still did not gain the required majority: the voting was 48 to 31, with 22 abstentions. The second motion was passed by 97 votes to 2 (South Africa and Portugal), with 1 abstention. Amending clauses did not gain adequate support, and fell away.

In September 1962 South Africa's Minister of Foreign Affairs announced(15) that his delegation would not attend the debate on his country's policies by the Special Political Committee but would be present for subsequent discussions in the General Assembly.

Again the African states called for sanctions and for South Africa's expulsion, while other countries sought support for a motion similar to that adopted the previous year: that member states should take such separate and collective action as was open to them to induce South Africa to abandon its racial policies.

(15) c.f. Star, 25 September.
A SURVEY OF RACE

In the Special Political Committee, and, subsequently the General Assembly, there was a move led by Latin America to thwart the plan of the African states to have the sanctions motion considered as a whole. A motion by Colombia that there should be separate voting on individual clauses was rejected by 52 votes to 49, with 5 abstentions, in the Assembly (4 delegations were absent). The Assembly adopted the sanctions motion by 67 votes to 16, with 23 abstentions.

This motion deplored “the failure of the Government of the Republic of South Africa to comply with the repeated requests and demands of the General Assembly and of the Security Council and its flouting of world public opinion by refusing to abandon its racial policies”.

It strongly deprecated the “continued and total disregard” by South Africa of its Charter obligations and its “determined aggravation of racial issues by enforcing measures of increasing ruthlessness involving violence and bloodshed”. The Assembly affirmed that the continuance of these policies seriously endangered international peace and security.

The resolution recommended that member states should:

(a) break off diplomatic relations with South Africa, or refrain from establishing such relations;
(b) close the ports of each state to all vessels flying the South African flag;
(c) enact legislation prohibiting the ships of each state from entering South African ports;
(d) boycott all South African goods and refrain from exporting goods, including all arms and ammunition, to South Africa;
(e) refuse landing and passage facilities to all aircraft belonging to the South African Government and companies registered under laws of the country.

The Security Council was asked to consider the expulsion of South Africa from the United Nations.

The resolution also called for the establishment of a special committee, to be nominated by the President of the Assembly, to keep South African racial policies under review when the Assembly is not in session and to report to the Assembly, the Security Council, or both, as might be appropriate from time to time.

Those who voted against this resolution were: Australia, Belgium, Britain, Canada, France, Greece, Ireland, Japan, Luxembourg, the Netherlands, New Zealand, Portugal, South Africa, Spain, Turkey, and the United States.

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Abstentions were cast by Argentina, Austria, Bolivia, Brazil, Chile, Colombia, Costa Rica, Denmark, Dominican Republic, El Salvador, Finland, Guatemala, Honduras, Iceland, Italy, Nicaragua, Norway, Panama, Peru, Sweden, Thailand, Uruguay, and Venezuela.

Absent were the Central African Republic, Ecuador, Gabon, and Paraguay.

Speakers from Britain and other countries that opposed the motion made it clear that they disapproved of South Africa’s racial policies but did not agree with the imposition of sanctions.

The resolution is not mandatory on member states.

SOUTH-WEST AFRICA

Development plans

It was reported in February(16) that, provided final details could be settled satisfactorily with the Portuguese authorities, a R2,400,000 scheme would be undertaken to bring water from the Cunene River, on the Angola border, to the arid Ovamboland Reserve, which is occupied by about 240,000 Africans. Eventually there would be 170 miles of waterways, pumping stations, and a hydro-electric plant: canals 60 miles long had already been dug.

The Government planned to set up a full system of Bantu Authorities in this Reserve. Seven tribal authorities were already functioning. Links might be established with the Africans of the Kaokoveld, to the west, and of Okavangoland, in the east.

On 7 September the Prime Minister announced(17) that he had appointed a commission of experts to draft a five-year plan for promoting the material and moral welfare and the social progress of the people of South-West Africa, and more particularly the Non-Whites. The background, traditions, and habits of the Africans would be taken into consideration.

This commission would submit recommendations on agricultural, mining, and industrial development; on health services and education; on the participation by Africans in the conduct of their own affairs; and on any other matter considered to be of importance. It would report from time to time on tasks that it would like to see undertaken immediately.

The chairman of this commission is Mr. F. H. Odendaal, the Administrator of the Transvaal, and its members are Dr. H. J.

(16) Rand Daily Mail, 2 February.
(17) Ibid, 8 September.
van Eck, chairman of the Industrial Development Corporation; Professor H. W. Snyman of the Faculty of Medicine of the University of Pretoria; Professor J. P. Bruwer of the University of Stellenbosch for his knowledge of African education and ethnology; and Dr. P. J. Quin, an expert on agriculture and nutrition. Mr. H. J. Allan, a former Chief Bantu Affairs Commissioner of South-West Africa, is to give special assistance to the Commission.

Proceedings at the International Court of Justice

As stated in last year's Survey(19), in November 1960, in their capacities as former members of the League of Nations, Ethiopia and Liberia instituted an action against South Africa in the International Court of Justice. They accused South Africa, inter alia, of failing to promote to the utmost the material and moral well-being and social progress of the inhabitants of South-West Africa, thus violating the terms of the mandate. In administering the territory, they stated, South Africa had practised apartheid, and had applied legislation and administrative decrees which were arbitrary, unreasonable, unjust, and detrimental to human dignity, and which suppressed rights and liberties of inhabitants which were essential to their orderly evolution towards self-government.

The Court was asked to rule that the mandate is a treaty in force; that South Africa remains subject to the international obligations set forth in the Covenant of the League of Nations; that the United Nations' General Assembly is legally qualified to exercise the supervisory functions previously exercised by the League; and that South Africa is under an obligation to submit to the supervision and control of the General Assembly regarding the mandate, to submit annual reports, and to transmit petitions.

A preliminary hearing was commenced in October 1962 to consider a contention by South Africa that the Court has no competence to decide on these matters. The four prime objections raised by South Africa are as follows:

(a) Because of the dissolution of the League of Nations, the mandate is no longer a treaty or convention in force.

(b) Neither Ethiopia nor Liberia is any longer "another member of the League", as the mandate required if they are to have any legal standing.

(c) There is no dispute, in the sense contemplated in the mandate.

(d) There is, in any event, no dispute which cannot be settled by negotiation, within the terms of the mandate.

Appointments of new United Nations' Committee on South-West Africa

It was reported in last year's Survey(19) that in July 1961 South Africa refused access to South-West Africa to the United Nations' Committee appointed by the General Assembly. This committee had been instructed to make investigations and to report back with recommendations for granting the territory a wide measure of self-government, leading as soon as possible to complete independence. In November, however, South Africa's Minister of Foreign Affairs told the Trusteeship Committee that his Government intended inviting three people of international standing, probably past presidents of the General Assembly, to visit South-West Africa in their personal capacities. Their impressions and opinions of conditions in the territory would be published in full by the South African Government.

The General Assembly decided in December 1961, by 90 votes to 1, with 4 abstentions, that a seven-nation committee, appointed by the President of the Assembly, should visit South-West Africa before 1 May 1962 to investigate conditions and to prepare for general elections to be based on full adult suffrage and held under United Nations' supervision. This committee would be charged, in consultation with South Africa, with achieving the repeal of all apartheid legislation, the release of political prisoners, and the evacuation of all South African troops. It was stated in the resolution that an increasingly explosive situation was being created which, if allowed to continue, would endanger international peace and security.

The President of the Assembly nominated Brazil, Burma, Mexico, Norway, the Philippines, Somalia, and Togo to serve on the committee. Appointed representatives of these countries met in April and elected Mr. Victorio D. Carpio of the Philippines as chairman and Dr. Salvador Martinez de Alva of Mexico as vice-chairman. Members of the committee then applied for visas to visit South-West Africa.

Visit of Mr. Carpio and Dr. de Alva

Later in April Dr. Verwoerd announced that, without in any way compromising South Africa's contention that the matter was sub judice, he would be prepared to enter into an informal review of the question at issue between South Africa and the United Nations. He would invite the chairman and vice-chairman of the United Nations' committee to visit South Africa as guests of the Government. If, as a result of discussions, it appeared to be
changing conditions required a more rapid advance in economic

Mr. Carpio and Dr. de Alva welcomed this invitation as a first practical step towards finding a way out of the impasse. They arrived in Pretoria early in May and held long discussions with Dr. Verwoerd, Mr. Eric Louw (South Africa’s Minister of Foreign Affairs), Mr. Brand Fourie (the Republic’s Ambassador to the United Nations), and other senior officials. On 7 May Dr. Verwoerd placed an official aircraft at their disposal to enable them to visit South-West Africa “to see whatever they wished and to meet whomever they pleased”.

After a ten-day tour of this territory the United Nations’ representatives paid a brief visit to the Transkei, returning to Pretoria for further discussions with Dr. Verwoerd and others. Thereafter, on 27 May, a joint communiqué was issued. Because of illness Mr. Carpio did not attend the final stages of the talks; but, according to numerous reports, he was kept fully informed and he approved the draft communiqué.

It was stated, in this document, that Mr. Carpio expressed to Dr. Verwoerd and Mr. Louw the appreciation of the visitors for all the arrangements made and for the free and uninhibited opportunities given to them to meet with all sections of the population of South-West Africa desiring to contact them.

On the question of further visits, particularly by all the members of the special committee, Dr. Verwoerd said that before the matter was considered it would be best to await the report by Mr. Carpio and Dr. de Alva, and its reception by the General Assembly. He added that, as was indicated in the invitation extended to Mr. Carpio and Dr. de Alva, South Africa could not be expected to receive a committee that had instructions to act in a way that would compromise the juridical position of the Republic.

Mr. Carpio and Dr. de Alva “stated that in the places visited they had found no evidence and heard no allegations that there was a threat to international peace and security within South-West Africa; that there were signs of militarisation in the territory; or that the indigenous population was being exterminated”. No case of detention of political prisoners had been brought to their attention during their visit. “They had, however, received allegations that a few persons had been repatriated to Ovamboland or elsewhere because of political activities.”

Dr. Verwoerd agreed with suggestions by the visitors “that changing conditions required a more rapid advance in economic

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and social development of the Non-European population”. He described the Government’s five-year development plan. “As regards the problem of insufficient land for the increasing Non-European population in the southern portion of South-West Africa, the Prime Minister outlined the methods by means of which additional land could be made available”.

“In reply to an inquiry whether South-West African political exiles would be allowed to return to the territory, the Prime Minister stated that no person had been exiled by the Government. Inhabitants of South-West Africa who left the territory would be at liberty to return. If, however, any of them should have contravened the law, the appropriate judicial authorities would have to consider, on their return, the relevant circumstances in each case.”

The remainder of the joint communiqué dealt with possible assistance from overseas experts with development plans and possible financial assistance from international agencies. It concluded, “Other matters were raised and, after discussion, were noted for further consideration”.

Subsequent statements by Mr. Carpio and Dr. de Alva

Immediate reactions in South Africa, as summed up in the Star of the following day, were that the statement had been carefully drafted to avoid any suggestion of a difference of opinion on matters of principle, such as the political future of the Non-Whites of the territory. The report of Mr. Carpio and Dr. de Alva to the General Assembly might well contain conclusions going far beyond the terms of this statement, it was said. But Dr. Verwoerd’s action in extending the invitation was welcomed as a possible first step towards breaking the deadlock that had been reached with the United Nations.

Mr. Carpio spent a few days as a patient in a Pretoria hospital, then left to take up a new post as Ambassador for the Philippines to Egypt. Shortly after his arrival in Cairo he denied that he had approved of the joint communiqué; said that his visit to South-West Africa had been too short for definite conclusions to be drawn; and rejected reports that he had said the situation in the territory was not a threat to world peace. Later that month the Philippines Foreign Office instructed Mr. Carpio to resign as chairman of the United Nations Committee on South-West Africa. Mr. Jacinto Borja was appointed in his stead to represent the Philippines on this body.

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(29) Prime Minister's statement as reported in the Rand Daily Mail, 8 May.
(27) Star, 8 June.
A report to the committee by Mr. Carpio and Dr. de Alva was made public on 28 July. Briefly, they stated:

(a) Because of the vigorous application of the apartheid policy in all aspects of life, the Africans of South-West Africa were racially segregated, discriminated against, and deprived of all basic human rights and fundamental freedoms.

(b) The South African Government had evinced no plans to change its policies in this regard.

(c) African people of the territory would like the United Nations to take over the administration and to make preparations for the granting of freedom to the indigenous population as soon as possible.

(d) Short of the use of force or other compulsive measures within the purview of the Charter, there seemed to be no way of implementing the resolutions of the General Assembly.

(e) If within a short space of time the South African Government did not comply with these resolutions, consideration should be given to the revocation of the mandate, if need be by imposing sanctions to induce South Africa to agree to this.

Decisions by the United Nations

In August the Special Committee, by four votes to three, declared the joint communiqué issued in Pretoria to be of "no binding effect" on the United Nations. Although reservations were expressed by the representatives of Norway and Brazil, the committee approved the recommendations for the revocation of the mandate, if necessary by the application of sanctions against South Africa.

These recommendations were subsequently endorsed by the United Nations' 17-member Committee on Colonialism, in spite of objections by Britain and Italy to the sanctions clause.

The matter then passed to the Trusteeship Committee. The African and Asian delegations tabled a draft resolution which excluded reference to sanctions: in any case, the General Assembly, after debating South Africa's racial policies, had recommended about a week earlier that member states should apply diplomatic and economic sanctions against South Africa.

In a slightly amended form the Afro-Asian resolution was passed by the Trusteeship Committee by 96 votes to nil. Portugal abstained, South Africa did not take part, and 12 countries were absent.