

Sub-leader
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A bad and vicious bill

THERE is a savagery about South African bureaucracy which emerges from time to time and is inimical to sound government.

An example is the Orderly Movement and Settlement of Black Persons' Bill which was introduced to Parliament at the close of the last session and has now been referred to a commission for further consideration.

Its provisions reflect undisguised the frustrations of officials who cannot make bad legislation work and turn, therefore, to harsher penalties to enforce discipline.

Take the provision relating to the employment of "illegal" blacks in white areas. At present an employer who fails to get permission to employ a black faces a fine of R500. The new measure proposes increasing this fine to R5000.

Another clause seeks to limit the jurisdiction of the courts. It proposes that when orders are issued relating to the removal of blacks from an area no court shall have the right to stay the order.

Both these clauses are repugnant. The first because it ignores the incompetence of officials in the administration of the labour bureaux system and the high rate of black unemployment. The old penalty was far too high. The new one is vicious.

The second clause is a deliberate move to protect officials against the consequences of their own mistakes.

The courts do not lightly interfere with legitimate state administration. They stay actions only when these are taken outside the law itself or when mistakes are made by officials interpreting their powers. The courts are there to safeguard people against illegal orders. There can be no circumstances ever that justify the removal of the right of anyone to seek redress from the courts.

These are only two points in what is a thoroughly bad bill. As PFP member of Parliament Nic Olivier says, the only way to improve legislation which is so bad is to withdraw it.

That is what the Government should do.

If you wish to submit
Comments on the bill,
note the procedure below.

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GOVERNMENT NOTICE

DEPARTMENT OF CO-OPERATION AND DEVELOPMENT

No. 1192]

[16 June 1982

PARLIAMENTARY SELECT COMMITTEE ON THE CONSTITUTION

It is hereby notified for general information that the House of Assembly, on the motion of the Honourable the Minister of Co-operation and Development, has referred the subjects of the *Black Communities Development Bill* and of the *Orderly Movement and Settlement of Black Persons Bill* to the Select Committee on the Constitution for inquiry and report, the Committee to have power to take evidence and call for papers and to have leave to bring up amended Bills.

The Select Committee desires all persons and institutions who wish to submit representations on the subjects of the Committee's inquiries to submit such representations, in writing, to the Committee by 31 August 1982, in twentyfold.

All correspondence in this connection should be addressed to the Secretary to Parliament, P.O. Box 15, Cape Town, 8000.

The Honourable Dr. P. G. J. KOORNHOF, D.M.S., M.P.
Minister of Co-operation and Development

Sunday Tribune

DURBAN, JUNE 27, 1982

Koornhof's new deal is a raw deal—PFP

By PETER MANN,
Political Correspondent

MASSIVE night raids to catch "illegal" black people and fines of up to R5 000 and 12 months in jail for their employers could result from Dr Piet Koornhof's latest "new deal" for black people.

The "new deal" like the one which preceded it, appears to make the life of black people in South Africa worse, not better — but there are hopes that it will be improved by a parliamentary commission before it comes back to Parliament to become law.

It is embodied in the complex Orderly Movement and Settlement of Black Person's Bill introduced into Parliament in the dying hours of this year's session.

Parliament decided after a first reading of the Bill to refer it to the Select Committee on the Constitution under the chairmanship of the Minister of Internal Affairs, Mr Chris Heunis. The select committee functions as a commission when Parliament is not sitting and will meet to discuss the Bill in September.

The Bill was the third in a trilogy

designed to give legislative content to Dr Koornhof's stated intention "to improve the quality of life of black communities outside the homelands in conformity with the Government's declared policy to move away from hurtful discrimination, to grant recognition to settled urban (black) dwellers and to regulate the process of urbanisation and rural settlement."

Analysis

Professor Nic Olivier, nominated PFP MP and the party's expert on laws affecting blacks, said this week he "felt physically ill" when he analysed the Bill and realised its implications.

"I hope it will be withdrawn because the new provisions are actually worse, more draconian than those contained in existing legislation. And although the select committee has shown itself willing to try and improve legislation, this law is structured in such a way that changes to various clauses will not help.

"The only way to improve it is to withdraw it and start again," Prof Olivier said.

Some of the main provisions of the new Bill are:

- Black people will no longer have the right to remain in the urban areas for 72 hours without permission. This time is now reduced so that if they are in urban areas between 10pm and 5am without permission they can be prosecuted. Professor Olivier regards this as "a seriously retrogressive step."

- This has the effect of maintaining a curfew in "white" and urban areas.

- Employers "illegally" employing black people may be liable to a fine of up to R5 000 and 12 months in jail — a tenfold increase of the present penalties.

- In addition, anybody convicted of "introducing, inducing or assisting any unauthorised person to enter an urban area. If

he forsee or ought to forsee that his conduct will result in that person being present ... present contrary to the provisions of ... (the Bill)" "may be forced" to pay the cost of the removal of such black, his dependants and has personal effects together with any costs incurred in the detention of such a person".

- Even though Dr Piet Koornhof has said he has "declared war on the dompas", black people will still have to produce documents of "a certificate stating his status" to an "inspector or peace officer who may at any time call upon any black person to produce to him for examination any authority or certificate granted to him under this act." If a satisfactory certificate is not produced the black person may be fined up to R500 or six months in jail. A massive increase on the present penalty of R20 or two months or both for a first offence and R50 or three months for second or subsequent convictions.

- The Minister, Dr Koornhof, is given the power to act against squatter settlements in clause 31 which provides that if black people settle unlawfully (in the minister's opinion) on land and reside thereon in such conditions that the minister may be of the opinion that their conduct: is calculated to canvass support for a campaign for the repeal or amendment of any law ... or its variation or limitation ... or is calculated to endanger the maintenance of law and order or threatens their health or social welfare or the health of the public in general: he may order their summary removal.

- The Government retains the right to remove any black convicted of being in an urban area without permission between 10pm and 5am or of residing illegally in a rural area.

- The jurisdiction of the courts to intercede is limited. Clause 50 reads: "No court of law shall be competent to interdict, suspend, postpone, prevent or prohibit or in any other manner to interfere with the execution of an order ... or a warrant ... and any such order or warrant shall, pending the decision of the court concerning any matter in connection with such order or warrant or the execution thereof, remain in full force and effect and be fully executable"

- The Bill also deals with black people living in rural areas — defined as all non-black rural (farming) areas outside urban areas — and says that no black may reside there without permission. The minister may also order owners of such land to reduce the number of black people living there and creates "farm tenement boards" to regulate the numbers of blacks present in such areas. Blacks illegally in rural areas are subject to fines of up to R500 or imprisonment for six months and in the case of a continuing offence a fine of R20 per day of the offence. They can be deported or "repatriated" and no court can interfere. Rural blacks will also have to carry certificates of their status and the curfew 10pm to 5am will apply to them as well.