

THE BLACK SASH

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by

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POWER, PATRIOTISM, PRINCIPLE.

Power is an essential ingredient of government. Inadequate state power can result in anarchy; but too much power can lead to tyranny. The manner in which power is exercised determines whether it is a force for good or a force for evil.

Good government demands that power be exercised in a manner which will ensure the greatest good for the greatest number, will protect the rights of the minorities and the inalienable rights of man - the right to life, liberty and the pursuit of happiness.

The American Constitution which aimed to reconcile the sometimes conflicting rights and needs of society and of the individual, and which is the prototype of modern constitutions, was based on the separation of powers. In the Reith Lectures of 1951, Lord Radcliffe quoted Washington, who said, "Remember especially that for the efficient management of your common interest in so extensive a country a government of as much vigour as is consistent with the perfect security of liberty is indispensable. Liberty itself will find in such a government with powers properly distributed and adjusted, its surest guardian."

Power in America is distributed. Each State has its own powers and the Federal Government has its province in which its power is exercised. I am not here concerned with the powers of the States, but will deal very briefly with Federal power. This is limited by distributing it between the Executive, the Legislature and the Judiciary. According to Lord Radcliffe, the Founding Fathers believed that "the very definition of tyranny consists in accumulating all powers in the same hands and that it makes no sort of difference for this purpose whether the hands are hereditary, self-appointed or elected."

There is a moral obligation and a responsibility on a state authority to limit its own power. It should be a matter of unalterable principle that no legislation may incorporate the transfer of power from another authority into the hands of the Executive. For example the Executive must not usurp powers which rightly belong to the Judiciary. A classic case in South Africa was the High Court of Parliament Act of 1952 which converted both Houses of Parliament, sitting jointly into a High Court to review judgements of the Appeal Court on matters affecting the South African Constitution. The effect of this would have been that Parliament would sit in judgement on its own handiwork. As you will remember this Act eventually was invalidated by the Courts.

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In South Africa today practically all power and authority are vested in the same hands - the hands of the Executive. There are many reasons for this, the foremost being the determination to secure the domination of the Afrikaner Volk and the implementation of the policy of Apartheid.

In a situation where only one fifth of the population is enfranchised and the vast majority of South Africans have no say in the laws which govern them, the unpopular policy of Apartheid can only be enforced by the use of excessive powers. The inevitable result of the accumulation of such powers by the Executive has been that it now exercises control over nearly every sphere of a man's activity. There is no liberty left for Black people, for those White people who dissent there is little liberty and the average White person is largely unaware of how his liberty has been eroded.

Rights have been removed from individuals, the Judiciary, Provincial Councils, Local Authorities, the Press, Publishers, Artists, Industrialists, Businessmen and others and the control over all of them is vested in the Cabinet.

From the earliest days of a child's life, power dictates his future. Education, which was formerly the concern of the Provincial Councils, has been taken over by the Minister of Education. He now controls every phase of your child's education which has to be Christian National. There must be conformity and no diversity. Individuality and the healthy scepticism which goes with it, must be subjugated. Our children are to be processed so that they will emerge all cast in the same mould.

African children have their own form of education. As a former Minister once said, the purpose of their education is to "keep the Bantu child a Bantu child."

The powers which the Minister has taken to control the lives of Africans, Asians and Coloureds is unreasonable and tyrannical. For all three racial groups there is no freedom and no respect for their aspirations.

I have so often before drawn attention to the immensity of the disabilities under which Africans suffer. In addition to all the previous controls, the Bantu Laws Amendment Bill of 1969, which has passed its second reading in the House of Assembly, provides, among other things, that the Minister may by notice in the Gazette, prohibit the performance of work by or the employment or continued employment of a Bantu -

- a) in a specified area
- b) in a specified class of employment
- c) in a specified trade
- d) in the service of a specified employer or class of employer.

This is a monstrous piece of legislation and there is worse to follow. The promised Bantu Administration Boards Bill will remove the coveted exemptions of Section 10 of the Urban Areas Act. In future no African will be able to qualify to remain in an urban area. He will be a contract worker,

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only allowed to enter a service contract for one year at a time. What is to happen to the natural increase in the urban areas fills one with apprehension.

These African workers provide the labour on which the whole of the Republican economy is based. Yet these workers are little more than serfs. They have no bargaining power; they are forced to be migrant; they are prohibited from becoming skilled workers; their wages are depressed and their family life is destroyed. They have no security of tenure and no hope.

All this misery is being imposed in the name of separate development. All this power is being misused to attain the unattainable end of separate development. The last 21 years of Nationalist rule have shown that separation of the races is impossible and development is negligible.

How can there be any meaningful development in the homelands when every African man from the age of 15 has to register with his tribal labour bureau for employment in the white areas. When the whole of the economically active male inhabitants of the home lands are liable for recruitment to work in the economy of the Republic, how can they develop their homelands at the same time?

Those rural Africans who have lived in what are known as Black Spots are being forcibly removed to closer settlements. Peasant communities which have practiced subsistence farming are being moved to small plots, about half an acre in extent which is not sufficient land to grow enough for their own needs. They are not allowed to have livestock other than hens. Many of these settlements are far from a town and there are no employment opportunities for the women whose husbands are working as migrants in the white areas.

Thousands of Africans are being endorsed out of urban areas and many have to go to **Resettlement** villages. Some of these villages supply the labour for border industries; many of the villages, however have been built and settled before the industries have been established and in some cases there is no intention to establish industries at all. The people are poor, undernourished and have no employment, and the widespread malnutrition brings with it all the accompanying deficiency diseases.

The discriminatory apartheid legislation is causing such dreadful misery, insecurity and poverty. This is certainly not the exercise of power to ensure the greatest good for the greatest number.

It is not only in the field of apartheid legislation that the Executive has accumulated power. The role of the Judiciary has been curtailed and its powers and responsibilities have, through legislation, been vested in Cabinet Ministers. Detention without trial, banning orders, banishments, listing people as communists, confiscating and withholding passports are all punishment without trial. The unaccused have no recourse to the Courts to establish their innocence or guilt. The Prohibition of Interdicts Act prohibits an African who has been ordered to leave his home from appealing to the Court for an interdict to stay the removal order, until he has

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returned to the area to which he was sent. This makes it impossible for him to claim the protection of the Courts before the punishment comes into effect.

Banning orders for many appear to be punishment without end, for an unspecified crime, if crime there was. Many banning orders of 5 years duration have been re-imposed when the original orders expire as has happened in the cases of Helen Joseph, Peter Brown, Mrs. Sisulu who has now had 12 hours house arrest added to her banning order.

Bannings and banishments are a particularly vicious form of punishment. To keep a person incommunicado, to all intents and purposes, for 10 years on end is nothing short of persecution.

The new BOSS Act is a further erosion of the rule of law. It states that anyone in possession of any document or information which relates to any military, police or security matter and who publishes it or communicates it to any person, in any manner deemed to be prejudicial to the safety or interests of the State, shall be guilty of contravening this Act. And who can know what is deemed to be prejudicial to the safety or the interests of the State. This is a concept behind which many Ministers have taken shelter when asked in Parliament to reply to awkward questions. The maximum penalty is a fine of R1,500 or 7 years imprisonment or both. The Courts cannot help you because if the Prime Minister or any other Minister issues a certificate stating that evidence which you might bring in your own defence could be prejudicial to the interests or the safety of the State, that evidence may not be heard in Court. The Judge has lost his right to decide what evidence is permissible and what is not.

The Police too, wield excessive power over individuals. Presumably it is on the advice of the Security Police that the Minister issues banning orders. In order to protect State witnesses the Security Police are empowered to detain persons for a period of 180 days. In a recent murder trial a man was detained by the Railway Police as a potential State witness. He was interrogated for several days and for up to 12 hours at a time. He ended up in Court, not as a State witness but as the accused. In discharging the accused at the end of the State case Mr. Justice Irving Steyn said "there was not a tittle of other evidence against the accused" and he criticised the Railway Police for "third degree" interrogation. Mr. Justice Steyn also said: "It must have had a terrific psychological effect on the accused. If a witness is treated in this completely unsatisfactory way one can only pray for an accused"....."The State was trying to use statements made by the accused after these interrogations. The Court had no alternative but to reject the admissibility of statements made under these circumstances."

A month or two ago Major J. J. Swanepoel, the Chief Interrogator of the Security Police gave an interview to a member of The Star's Pretoria Bureau in which he was reported as saying: "that apart from getting information from the people he interrogated, his team of interrogators had managed to convert many a sworn Communist as well as sympathisers to another way of thinking.

"My department operates more like a psychiatric ward

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than merely a series of stark police officers. Everybody my department deals with is a Communist, a Communist sympathiser, or he is suspected of having some connections with Communists.

"The Communists use extremely effective indoctrination methods. They convert their people until they believe in the ideology like a religion.

We use counter-indoctrination methods to re-convert these people. In many ways our methods are the same as the Communists psychologically speaking - but for a different reason."

Maj. Swanepoel went on to say that interrogation is usually associated with Africans; but occurs with Whites as well. "Of course not all of them are charged."

The Terrorism Act goes even further than the 180 day detention law. It permits arrest without warrant and detention for an indefinite period for terrorist activity which is so widely defined that the most innocent action can fall within its scope. No person may visit and no person may obtain information about a detainee. He may however, be visited by a magistrate once a fortnight if circumstances permit. This Act gives the police absolute power over detainees who are held in secret. No one may ask or obtain any information about them. No one knows whether in fact, they have committed a crime prejudicial to the safety or the interests of the State. Only, if and when they are charged with an offence can they be protected by the court. These laws and the power used to administer them have no place in a civilised society.

Apart from the powers of detention the Security Police have many other functions. At Black Sash demonstrations we notice that a member of the Special Branch takes a photograph of each and every one of us. People attending meetings or even visiting friends sometimes have their car numbers taken. We know too, that an army of informers keeps tabs on all of us.

Other than the Security Police the ordinary policeman on the beat has tremendous power - particularly over Africans. An African who is not in possession of identity documents or who has not paid his tax, can be arbitrarily arrested. The police have power to raid private premises in the dead of night if they suspect that some unauthorised person may be sleeping in the servant's quarters. They even raid private houses in Soweto during the night for the same reason. Not long ago a child and a visitor who was staying with the family, were carted off to the superintendent's office at about 3 a.m. because their names were not listed on the family housing permit.

This, in my view, is a gross misuse of power and causes great distress and humiliation.

A further example of the Executive's arrogance is its growing contempt of Parliament. The parliamentary question, a cornerstone of parliamentary democracy, is the customary procedure whereby members of parliament can obtain information on matters of public interest and they have a right to expect a full and factual reply from the Minister concerned. It has become regular practice in recent years for Ministers to refuse to reply to awkward questions on the grounds that it is either not in the interests of the State or certain statistics are not kept; or to give an answer would involve too much work. For instance when Mrs. Suzman asked the Minister of Police on March 7, 1969, how many persons have been detained in terms of Section 6 of the Terrorism Act since June 21, 1967, and for

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what period each man was detained, the Minister replied: "It is not in the public interest to make the particulars known." Again on March 25 this year, Mrs. Suzman asked the Minister of Police whether the alleged Soviet spy who was arrested in the Republic during 1967 is still in detention; if so in terms of what law; whether he is to be brought to trial; if so when and on what charge? The Minister replied: "Except to confirm that the Russian spy is still being detained, I wish to refer the Hon. Member to my reply to her question in the House on 10 May, 1968, which was to say it was improper to furnish any other information about communists spies." Mrs. Suzman then asked arising out of the hon. Minister's reply whether this man had asked for political asylum in South Africa. To which the Minister replied: "I do not think it is in the public interest to reply to that question." It seems to me improper for a South African author to be allegedly given access to the communist spy when Parliament is denied any information on the grounds that it is not in the public interest.

The Executive has also assumed some of the powers and functions of the Provincial Councils and Local Authorities. I have already mentioned Education which formerly was the responsibility of the Provincial Councils. It is now taken over by the State. Local authorities have little control over their own affairs. They have no discretion in the administration of non-European affairs, but are delegated by the Department of Bantu Administration to carry out the law and regulations according to directives issued by the Minister.

The Community Development Amendment Bill gives the Minister of Planning wide powers over the municipalities with regard to municipal owned land. There has been State interference with the right of the Johannesburg City Council to build a power station, finance has been withheld for the building of urban expressways; the control over factory premises and the labour employed in the private sector is exercised by the Minister of Planning. Everybody and everything is hedged around with red tape, Ministerial controls and decrees. No notice is taken of representations made by the people concerned. The Minister of Planning made a statement recently that he would not allow another acre of land to be zoned for industrial purposes in the Witwatersrand complex. Factories in Johannesburg have had to close because they were refused sufficient labour for expansion.

It is interesting that our Government criticises all-embracing direction from the centre in other countries, yet, here in South Africa free enterprise is so controlled and stifled by a multitude of laws and directives that, in my opinion, it can hardly be called a free enterprise economy.

One realises that bureaucracy is a concomitant of a modern industrial society, but in present day South Africa the number of public servants is out of all proportion to the size of the population or to the extent of the industrial development. The latest figures, December, 1968 state that there are 322,096 persons employed in the government service, 171,183 employed by the Provincial Councils and 204,690 by the local authorities. The vast number of officials required to administer the apartheid laws, the numerous Government appointees sitting on Boards, Commissions and Advisory Committees, the ever growing numbers employed in government departments is an increasing strain on the country's manpower. It is said that many government departments are collapsing because of the shortage of personnel. It is not surprising, in fact with so much power to be exercised it is inevitable.

Although the public may not be aware of it there is extensive censorship of newspapers, publications, plays and films. The Press is censored in many different ways. Many laws such as the Suppression of Communism Act, the Prisons Act, impose restrictions on the Press. The S.A.B.C. censors the views of public opinion. Only views acceptable to the State and the S.A.B.C. are ever broadcast. We know the kind of propoganda which comes over the air every night in the Current Affairs programme. This programme and the selection of news in the newscasts is an exercise in thought control.

There is hardly a sphere of activity which is not controlled by Executive authority. It is fair to say that the lives of all South Africans are controlled by the State. They have little liberty left. All that they have are their thoughts, which as I have suggested, are conditioned by the skilful use of propoganda. The sequel to thought conditioning is a willingness to conform and a susceptibility to react to an emotional rallying cry.

In South Africa's present predicament of being unhonoured and unloved by most countries of the world, and with the threat of terrorism on her borders, the call to patriotism serves to divert public attention from the facts of South African life.

Patriotism is a call to submit. The White population is prepared to submit, in fact to do more than submit. It is prepared to go along actively defending government policy as long as their economic health and their privilege are maintained.

What is patriotism? Dr. Johnson said it is the last refuge of the scoundrel. The Oxford Dictionary defines a patriot as one who defends or is zealous for his country's freedom and rights. In times of war and in the days of imperialism, patriotic fervour was regarded as a virtue, but in modern times when the accent is towards internationalism, patriotism is sometimes used as an excuse for despotism and tyranny. There are obviously two aspects of patriotism - the one, a natural love of and loyalty to one's country, and the other a blind and bigoted dictum of "My country right or wrong."

Patriotism does not mean loyalty to an ideology or to a political philosophy. Nor does loyalty to a political party imply patriotism. Patriotism is not sectional and it does not exclude the right to criticise and to question.

Authority in South Africa places the narrowest construction on the meaning of patriotism. It has come to mean, in fact, the compulsion to accept the policy of apartheid and separate development without question. One who criticises the policy is considered to be an enemy of South Africa; to protest, however lawfully, is construed as subversion, to expose any abuse or scandal is almost traitorous and to hold liberal opinions is unSouth African and dangerous.

When the police van tragedy was raised in Parliament by the Opposition, the Minister of Police accused them of doing so for political motives. He said "while raising such matters for political gain he(Mr. Mitchell) will probably, and I think in fact will, cause major damage to his own country." There is no admission of culpability or of the fact that major damage could be caused to the country simply because conditions made the van tragedy possible

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It is a heinous crime to damage South Africa's image and one wonders what happens to our image when Mr. Froneman refers to the wives and children of urban Africans as "superfluous appendages;" or when Dr. Hertzog says "Maoris will sit at table with our men and girls."

Patriotism has become the public's refuge and its apology for its apathy, silence and acquiescence. There has been a moral corrosion of the public mind. It has made it easy for authority to depart from the accented principles of parliamentary government and even from accepted standards of humanity, decency and justice. Patriotism is not a valid moral basis for government. Neither is the acquisition of absolute power compatible with action based on moral principle. Authority requires a yardstick by which to measure its use of power. If power is exercised in such a way that individual rights are violated, parliamentary government gives way to tyranny, and tyranny has little respect for moral principle.

The principles laid down by Magna Carta in the 13th century have been cast aside. The abrogation of the rule of law; the total elimination of liberty of the African people; the restriction of the right of free speech and association; the gross inhumanity of enforced removals; the destruction of family life; the deliberate curtailment of employment and employment opportunities, and the control over every facet of human activity are indefensible, no matter whether the ultimate end is moral or could be achieved. So much cruelty is perpetrated and justified by the fallacious argument that the end result is necessary or desirable or better. The Government has exchanged principle for the use of force - force to implement its policy - force to maintain law and order. As Lord Radcliffe said "Order for the sake of order is a sterile use of power; in the end it can never be adequate as a justification of the State's authority."

The Government of South Africa is guilty of monstrous misuse of power to secure the domination of the one and a half million Afrikaner people, at the expense of the welfare of the other eighteen million inhabitants of South Africa. What is an urgent need in this country is a separation of powers and not a separation of races. Power limited and power distributed would make for a happier South Africa.