

INSTITUTE OF CURRENT WORLD AFFAIRS

JCB-11: General Laws Amendment
The "Sabotage Bill"

16 Dan Pienaar Rd.
Durban, Natal
Republic of South Africa
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C O N F I D E N T I A L

Mr. Richard Nolte
Institute of Current World Affairs
366 Madison Avenue
New York 17, New York

Dear Mr. Nolte:

Under the terms of the General Laws Amendment now being hurried through Parliament I can be imprisoned for quoting ex-Chief Luthuli or the outspoken anti-Communist Patrick Duncan. And you, who will have my newsletter in your possession, will also be guilty of an act against the South African Government.

This is only one of the implications of the Amendment, popularly referred to as the "Sabotage Bill". According to the Minister of Justice, Mr. B. J. Vorster, the object of the Bill is to "close loopholes in the existing law aimed at combating Communism." It will make the Minister, who already has considerable power to outlaw groups and restrict people, the virtual arbiter of what one may and may not do in South Africa.

How the Bill came about

The laws contained in the Bill came as no surprise; they were forecast by three major events of the last few years.

First, the Government was quite embarrassed by the outcome of its Treason Trial which began as an indictment against 156 people in 1956. Charges were finally dropped against all but 30 and they were acquitted in July 1961.

Then during the Emergency, which began in 1960 as a result of protests against pass books, the Government found that its temporary emergency regulations were most effective in stopping those who threatened its stability at that time.



The Minister of Justice,
Mr. B. J. Vorster with
the Prime Minister.

Finally, Mr. Vorster was appointed Minister of Justice about ten months ago, indicating that the Government intended to do something to tighten security and to find ways of dealing effectively with "subversives". At the time of the appointment an MP who had known Vorster for some time told me that he was the kind of person who would make sure that no accused would be acquitted in the next treason trials!

What the Bill provides

Only one of the 22 clauses in the Bill deals directly with sabotage. Among the remaining 21, the following indicate the additional powers granted to the Minister of Justice.

The Minister may confine a person, from house arrest to outright imprisonment, without trial, sentence or appeal, and prohibit that person from communicating with anyone other than "an attorney managing his affairs", if said attorney is not also under some restriction. The length of confinement is at the discretion of the Minister. It can last indefinitely.

If the Minister is "satisfied" that any person:
"(1) Advocates, advises, defends or encourages the achievement of any of the objectives of Communism, or any act or omission which is calculated to further the achievement of any such object; or
(2) is likely to advocate, advise, defend, or encourage the achievement of any such object, or any such act or omission; or
(3) engages in activities which are furthering or may further the achievement of any such object:

"then that person may be prohibited during any period so specified from being within or absenting himself from any place or area mentioned in such notice, or, while prohibition is in force, from communicating with any person, or receiving any visitor, or performing any act so specified." (The "objects of Communism" are never clearly defined in the Bill. They are left to the determination of the Minister.)

He will have the power to restrain any person from holding office or membership in any organization and from attending meetings (political, social or religious) even if that person is not a Communist.

He may prohibit any meetings or gatherings for as long as he desires. No further meetings will be allowed on the Grand Parade in Cape Town or on the steps of the City Hall in Johannesburg, traditional places for free discussion and assembly.

If he finds it impossible to serve notice on a person of his restriction, authority is given him to ban the man legally

through a notice in the Government Gazette. If the thus-restricted man fails to notice the ban he cannot claim innocence if he inadvertently oversteps his restriction.

The Minister will have the right to outlaw any group which seeks to pursue the aims of an organization already declared illegal under the Suppression of Communism Act. Thus political groups unrepresented in Parliament such as the Liberal Party and the Indian National Congress, which seek a multi-racial political system, can be outlawed because their aims are also those of the banned African National Congress.

All newspapers will have to be registered with the Minister. He may demand a deposit of \$28,000 with the registration if he believes the newspaper in question might promote Communism. He is not only given the power to ban any paper if he suspects it of Communist inclinations, but also to determine how much of the deposit, "the fine in advance", will be returned in such a case. (The major newspapers which belong to the National Press Union have been assured that this provision would not affect them.)

However, the Bill will also make it an offense to print, disseminate or reproduce by any mechanical means the speeches or statements, or any extract from them, of people "prohibited from attending any gatherings". It will also be illegal to possess, without the Minister's permission, a banned publication. This will not only prevent an outlawed newspaper from being printed in any of the British Protectorates (Basutoland, for instance) and distributed in South Africa, but will also greatly restrict what any major newspaper may or may not print.

The Detention Law already in existence, whereby a person can be detained for twelve days without any charge, will be renewed. The Minister will also be given the right to extend emergency regulations to areas in which there is no 'emergency'. Thus, since Pondoland is still legally an emergency area, the restrictions applied there can be applied anywhere else in the Republic without proclamation. The Minister has explained that this will remove unnecessary court cases which might otherwise hamper the State from acting effectively.

These emergency regulations are not spelled out, but in the past they have



included:

the use of force to remove people who endanger public safety; authorization for the Minister to arrest without warrant, to detain a person indefinitely and proscribe his movements upon release;

the prohibition against the disclosure of names of those arrested or detained, against harbouring anyone who escaped and against the delivery of any unauthorized articles to or from a detainee; with no allowance for the detainee to consult with a legal advisor unless permission is granted by the Minister;

the censorship of any subversive statement in any form which might subvert Government authority or incite the public to resist the Government or aggravate feelings of hostility of people toward others or cause panic or fear among the public;

the seizure of any book, document or recording which might contain valuable information as well as the banning of any publication which in the opinion of the Minister has published subversive material.

The General Laws Amendment will give these temporary emergency regulations permanence; the Minister will be free to use them at any time, anywhere and on anyone.

What "Sabotage" will it allay?

"Sabotage" is defined in the Bill as "injuring, damaging, destroying, rendering useless, obstructing, tampering with, polluting or endangering: public health or safety; law and order; food, water, sanitation or medical or fire-extinguishing services; postal, telegraph, telephone or radio services or installations; free movement on land, sea or air; and any property." People can be charged for "attempting, instigating, inciting, commanding, aiding, advising, encouraging, or for being an accessory after the fact" in any of these acts.

A person accused of sabotage must prove that he did not intend to commit such an act and that it was not calculated to: "cause or promote general dislocation, disturbance or disorder; cripple or seriously prejudice any industries or undertakings; hamper seriously or deter any person from helping to maintain law and order; cause, encourage or further insurrection or forcible resistance to the Government; further or encourage any political aim, including those which might bring about social or economic change; cause loss to anybody or to the State; cause or encourage hostility between different sections of the population; interrupt seriously the supply or distribution of light, power, fuel, water or sanitary, medical or fire-extinguishing services; or embarrass the administration of the State."

The South African Bar Council has pointed out that if a person does something which the Minister calculates harmful to any of the ten things listed above, it won't matter if the accused did not intend harm; he will be guilty of sabotage even though no intention has been proved.

Under the Bill all cases, serious and minor, against juveniles and adults, will be treated the same. (The Minister has stated that "it is the practice of Communists to shield behind juveniles. I am hitting all out at them. If juveniles are used by adults it is up to them to tell the Court and the Court will take this into consideration.") Trials will be held immediately in the Supreme Court unless the Attorney General, who is under the authority of the Minister of Justice, orders a preparatory examination. There will be no jury. The trial can be held any time and place within the discretion of the court, and the location and time of trial need not be made public. The Bill lays down a minimum sentence of five years and a maximum of death, again at the discretion of the Court and without regard for the age of the offender. If a person should be acquitted on a charge of sabotage, he can still be prosecuted by the State for another charge arising from the same actions.

A prominent Government official told me that the Sabotage Bill should be judged on its intent, on how it will be used, rather than on its contents. Anyone could be arrested for almost anything under the loose wording of the Bill, he admits, but assures me that it won't be used to restrict a lawful person's freedom. It will only be used where the Minister of Justice feels it is needed to protect the Republic from "communism".

The man who will decide

Since so much depends on the man who heads the Justice Department and who will decide who is a "lawful" person, it is interesting to know something of his background.

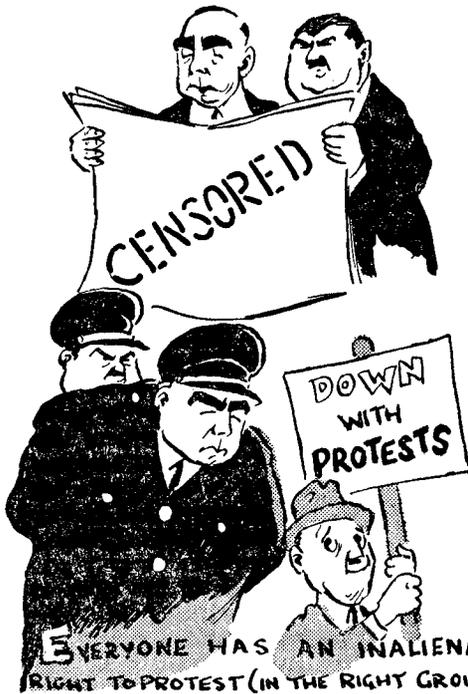
In 16 years Balthazar Johannes Vorster has risen from the position of war criminal (convicted because of his acts against the pro-British South African Government during World War II) to a position where he is able to sentence those whom he considers subversive to the present Government. In 11 years he has moved from fighting the Nationalist Party because he found it too moderate, to the position of its most powerful member, often named as next in line for the Prime Ministry.

It is the same Christian Nationalism that got him into trouble during the war that influences his life today. At that

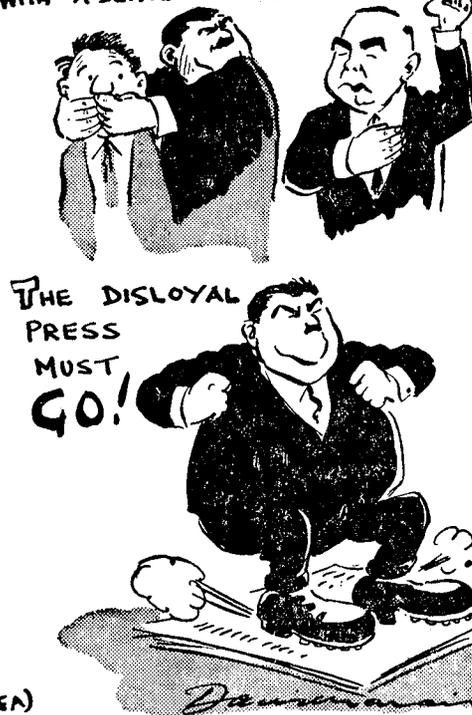
time he stated, "You can call this anti-democratic system dictatorship if you like.....in Italy it is called Fascism, in Germany, National Socialism and in South Africa, Christian Nationalism." While he does not often refer to those words today, his views do not seem to have changed to any great extent. He takes pride today in what he did in the past. "I landed behind bars because I was an Afrikaaner who fought for my rights.....I would do the same regardless of the consequences."

He considers unity far more important than freedom; the State more important than the individual. He is for free speech but "with control"; freedom of assembly "in lawful places with lawful aims"; freedom of protest if it is "proper". When he took his post he made it clear what his plans were. "I will act against White and non-White agitators with all the power of the law, and, if there are not enough powers, I will not hesitate to ask Parliament to give me more."

CALL ON THE PRESS TO SUPPORT LAW & ORDER



BELIEVE IN FREE SPEECH (WITH A SENSE OF RESPONSIBILITY)

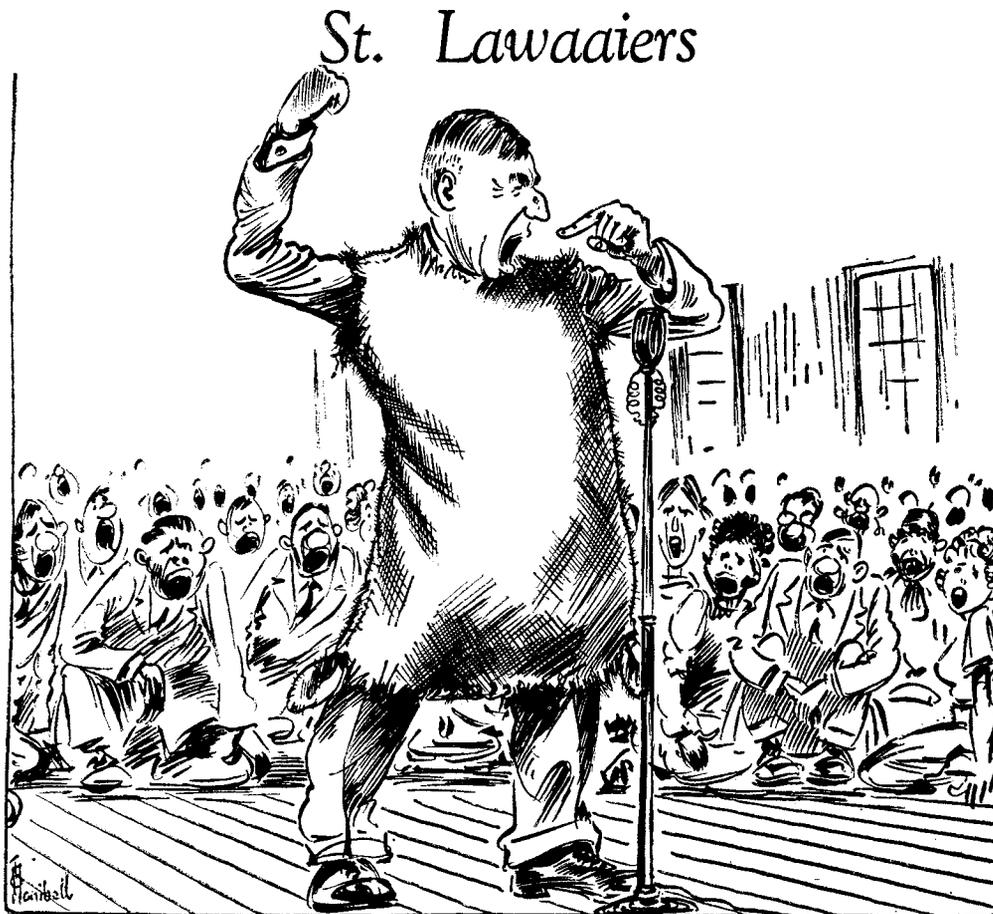


Above and opposite, the English and Afrikaans press look at freedom of speech.

Afrikaans cartoon: Ex-Chief Justice Centlivres says, "In this country you may no longer open your mouth"

In ten months he has banned more people (36) than his predecessor did in two years. And now he has presented this legislation that will give to him alone the power to ban almost anyone.

The South African Broadcasting Company (SABC) has always remained happily within the sphere of what the Government approves, and has indicated the trend of the future in their handling of news about the Bill. No really comprehensive study of what the Bill contains has ever been mentioned or discussed on the air. (At the height of the debate in Parliament, a weekly SABC editorial news show, highlighting affairs affecting the Republic, presented a show on the future of music in the Theatre). No protest meeting nor any news of discussion of the Bill other than what has taken place in Parliament has been heard on any broadcast. To anyone living in the Platteland where English speaking newspapers are a rarity there would be little to indicate in the news that this isn't legislation which everyone tacitly



„In hierdie land mag 'n mens nou nie meer jou mond oopmaak nie!”

accepts, except, of course, for the Opposition in Parliament who must oppose in the general course of things, and rabid Communists against whom the Bill is directed.

Die Burger has referred to "artificially induced" protests and it sometimes seems they are right. Not that those who are protesting are insincere, but that the general public doesn't seem to care or even to realize how the Bill will affect them. College students in Durban (five at a time, twenty feet apart, because a mass parade had been banned) filled the downtown streets a few weeks ago. Except for a few photographers the Saturday shoppers seemed to ignore completely the black-robed figures evident everywhere among them. (see picture below)



What is the Opposition?

What opposition there is has been started slowly and emanated from those groups who might be expected to contest a bill which would further curtail their activities: the Progressive Party, the Liberal Party, the Black Sash (a women's organization similar to the American League of Women Voters), the

Indian National Congress, NUSAS (National Union of South African Students), the National Council of Women, the Civil Rights League, and the African General Worker's Union. Roman Catholic, Anglican, Congregational, Methodist, Baptist and Presbyterian church leaders have come out strongly against the Bill, as have some Jewish leaders, and some Moslems in Cape Town. Perhaps the most distinguished opponent of the Bill and the one who has been least tainted with the label of liberalism in the past has been ex-Supreme Court Chief Justice, the Honorable Albert van der Sandt Centlivres (pictured in the Afrikaans cartoon). He has participated in protests in Cape Town and has been most objective in his criticisms.

Some time after the Bill had been introduced in Parliament, Sir de Villiers Graaff, Leader of the Opposition, decided with great hesitancy that his party would oppose the measure on principle. He said that the Bill showed a lack of confidence in the courts and in the citizens of South Africa. Courts would be restricted in their decisions and in the cases they could hear, and citizens would be treated as if they were all potential criminals.

Mr. Vorster insisted that the only purpose of a saboteur was to overthrow the lawful authority, to create chaos and to paralyze the country. Realizing the Communists threaten to do this, the Bill, in his opinion, did not have unfair provisions. It was also quite clear, he added, that the source of the agitation against the Bill was Communist. The country, he pointed out, is peaceful in spite of all the propaganda against the Bill from pulpits and elsewhere because the improvement and the uplifting of the standards of living for the non-White people introduced by the Government had borne fruit.

Outside of Parliament, as both sides became more heated, Roman Catholic Archbishop of Durban, the Most Reverend Denis Hurley, summed up why he and other religious leaders oppose the Bill. "...to our brothers who think we are doing wrong: For God's sake, have regard for Justice. For God's sake don't tamper any further with the rule of law....This Bill treats the ordinary every day life of society as one unending crisis. No one objects to the use of a swatter to deal with a fly that persists in soiling some precious and fragile ornament. But we object very strongly to the use of a sledgehammer. If the situation is so grave that the harsh legislation is necessary, then it must be accepted that we are living in a state of perpetual crisis. And if that is true, the time has surely come not only to engage in defensive and protective legislation but to ask the big question - Why? Many of us would be very glad to help in answering."

"Communism" and "Nazi-ism" fight it out

It was inevitable that the word "Nazi" would be applied to the Bill and that the tendency toward a police state would be made much of by the opposition; And equally inevitable that such goading of the Afrikaners would not remain unchallenged

The Afrikaans newspapers took the attacks upon the Bill as personal attacks on Afrikanerdom and labelled them "destructive of the improvement in White race relations."

During the demonstrations against the Bill, young hoodlums, unmolested by any police, have tried to start riots and have thrown eggs and fish at Black Sash women keeping watch over their symbolic "flame of freedom". Rather than deploring hooliganism, Afrikaans papers have looked on those who were attacked as the agitators who always make trouble. Peaceful demonstrators, merely gathering to protest, have been picked up by the police for "creating a disturbance".

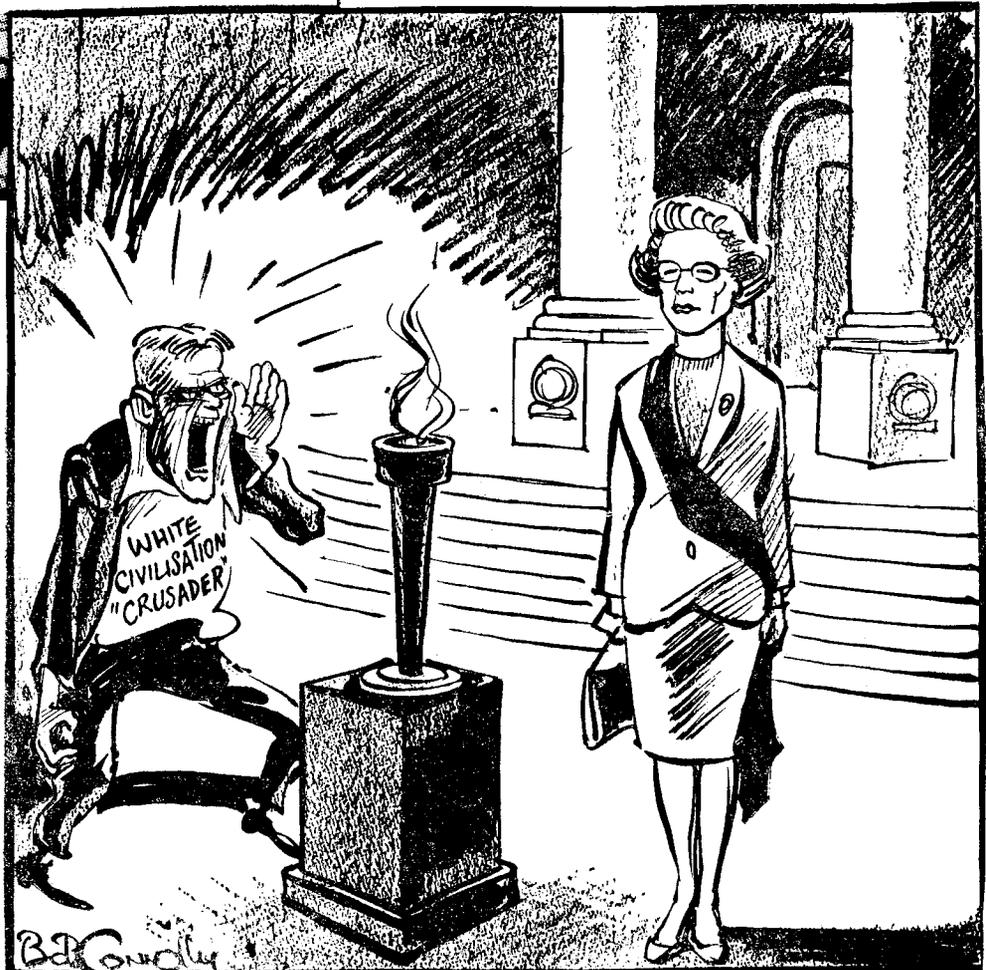
Nationalists contend the law is no worse or more far reaching than the War Measures Amendment under which some of them were restricted during the last war. The previous bill dealt only with sabotage, however, and contained only temporary regulations dealing with a hot war. It also carefully listed and defined crimes of sabotage as those acts and intentions which were violent and sought to hamper the South African war effort.

Mrs. Helen Suzman, Progressive Party MP, suggested that a Sabotage Bill in time of war was more acceptable than one that would be used during peacetime. She pointed out that sabotage during World War II affected the lives of thousands of South African boys who were fighting in the north. One Nationalist responded that after all, those who fought against Germany were actually giving aid to the Communists.

Each opposition group appears somewhat reluctant to have anything to do with the other, which has considerably hampered the force of their protests. The United Party has expressed itself solely within Parliament and has never participated in a public protest. Mrs. Suzman was unable to find a second for her motion to table the Bill. The Natal Mercury, from the heart of United Party country, pointed out that Sir de Villiers Graaff could not be found seconding a Progressive since he had to remember the conservative element of his party. It put the blame on Mr. Jappie Basson, National Union Party MP, saying that he would have much less to lose by doing so.



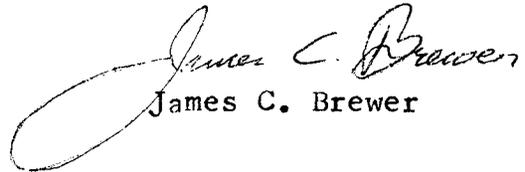
THE CONTRAST



Most of the protesting groups realize that the Communists are also vigorously opposed to the Bill. Objectors are therefore torn between their horror at the implications of the Bill and their unwillingness to further the Communist cause.

They are equally aware that if forced to leave the country or otherwise effectively silenced the opposition will have to go underground. In any such move the power of the moderates will diminish and extremists emerge in leadership roles. And nothing could help the Communists more.

Sincerely yours,



James C. Brewer

Pictures courtesy of The Natal Mercury and Die Burger

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