

RACIAL DISCRIMINATION

Paper by Mr. Gilmour

1. The main stated purpose of the proposals in the Government's White Paper is to strengthen the existing provisions of the Race Relations Act, 1968, for dealing with racial discrimination in the fields of employment, education, housing, the provision of goods, facilities and services, and advertising. For this purpose it is proposed that a new body, the Race Relations Commission, should be formed by the combination of the existing Race Relations Board and the Community Relations Commission and that this new body should have almost identical functions in race relations to those of the Equal Opportunities Commission which, under the Sex Discrimination Bill, is charged with the task of preventing discrimination against women.

2. There are a number of proposals in the White Paper which give cause for concern:

(a) Section 6 of the Race Relations Act, 1965, penalises crude verbal attacks if it is established that they have been made with the deliberate intention of causing groups to be hated because of their racial origins. It penalises the publication or distribution of written matter and words used in any public place or at any public meeting which are "threatening, abusive or insulting, being matter or words likely to stir up hatred ... on grounds of colour, race, or ethnic or national origins", provided that these actions are done "with intent". The White Paper proposes to withdraw the need to prove wrongful intent in proceedings under the 1965 Act. This would seem to be contrary to the normal assumption that a person is innocent until he is proved guilty.

It will be recalled that the Sex Discrimination Bill, which we did not vote against on Second Reading, introduced the principle of "unintentional" discrimination. We did, however, oppose the introduction of this principle during the proceedings on the Bill.

(b) Paragraphs 72-3 of the White Paper propose that, while clubs would still be enabled to apply a test of personal acceptability to candidates for membership, it should be illegal to discriminate on racial grounds. There would be exemptions for small bodies of a genuinely private or domestic character as well as for bona fide social, welfare, political and sporting organisations whose main object is to confer benefits on a particular ethnic or national group.

It was generally believed that Section 2 of the 1968 Act applied to clubs until the House of Lords decision in October 1974 to the contrary. The White Paper states that:-

"The Government believes that the relationship between members of clubs is no more personal and intimate than is the relationship between people in many situations which are rightly covered by the 1968 Act; for example, the members of a small firm or trade union branch, children at school, or tenants in multi-occupied housing accommodation."

On the other hand, it could be argued that a club is an extension of home with the members analogous to joint home owners who should, therefore, themselves be entitled to decide whom they would invite into membership.

(c) Paragraph 127 of the White Paper makes the point that the present law does not penalise the dissemination of ideas based on an assumption of racial superiority or inferiority or facts (whether true or false) which may encourage racial prejudice or discrimination. While admitting the argument that the criminal law might not be effective in dealing with such material and accepting that due regard must be paid to freedom of expression, this Paragraph goes on to state that the Government "recognises that strong views are held on this important question and will carefully consider any further reports that may be made to it". Clearly if any proposals in this connection were embodied in the Bill they would be open to criticism on the grounds that the Government was attempting to impose a form of censorship.

3. The question which we have to consider is whether we vote against the Bill, when it appears, on Second Reading by way of a reasoned amendment or, alternatively, whether we allow the Bill to go forward without a division, making our criticism during the Debate and moving appropriate amendments on Committee and Report Stages which would, if necessary, be carried to a vote.

4. We voted against the 1968 legislation by way of a reasoned amendment which read as follows:-

"This House, reaffirming its condemnation of racial discrimination and accepting the need for steps designed to improve the situation, nevertheless declines to give a Second Reading to a Bill which, on balance, will not in its practical application contribute to the achievement of racial harmony." (Hansard, 23rd April 1968)

We also voted against the earlier 1965 legislation by way of a reasoned amendment which read as follows:-

"This House deplores discrimination whether on racial or religious grounds but declines to give a Second Reading to a Bill which introduces criminal sanctions into a field more appropriate to conciliation and the encouragement of fair employment practices while also importing a new principle into the law affecting freedom of speech." (Hansard, 3rd May 1965)

5. The justification for voting against the Second Reading of a Bill is (a) that its aims and underlying principles are objectionable or (b) that, while the principle is acceptable, the way in which it is to be effected would be harmful rather than beneficial.

6. We are certainly against race discrimination and clearly, therefore, support the stated aims of any Bill stemming from this White Paper. The question, therefore, is whether we consider that our criticisms would justify voting against the Bill on a reasoned amendment which would make it clear that we supported the principle of racial equality but considered that the proposals would have harmful results.

7. Although we opposed by way of reasoned amendments both the 1965 and 1968 Acts, we made it clear during the 1970 General Election campaign that a Conservative Government would maintain this legislation with possible changes shown to be necessary in the light of experience. For example, our Questions of Policy No. 116 stated:-

"We shall maintain the (1968) Act and review it in the light of any difficulties that have emerged or might emerge in the future and any improvements which may be suggested. And we shall also take steps to remove anomalies which come to light."

In fact no changes were made during the period of Conservative Government between 1970 and 1974.

8. The machinery proposed in this Bill is almost identical to that embodied in the Sex Discrimination Bill for dealing with discrimination against women. We did not vote against the Sex Discrimination Bill but moved a number of amendments in Committee and Report Stages which were carried to a vote. Clearly, therefore, since we have accepted that the machinery proposed in the Sex Discrimination Bill is at least not unreasonable or unworkable for the purpose of preventing discrimination against women, it would be difficult to sustain an argument that almost identical machinery would be totally unacceptable for preventing discrimination on grounds of colour.

9. There is also the fact that the general public, and this would include the coloured community in this context, does tend to interpret a vote against any Bill as being an indication that the Party is utterly opposed to its aims as well as its provisions even though a reasoned amendment makes it clear that this is not so. There is some evidence that our votes against the 1965 and 1968 Acts were interpreted in this way by the coloured community and, on a totally different subject, it will be remembered that for a very long time our vote against the National Health Service Bill in 1946 was taken as a vote against the whole concept of a National Health Service.

10. The recent booklet published by the Community Relations Commission on the October 1974 Election shows that we got little support from the immigrant vote, which is now quite large in a number of marginal seats. Plainly a vote on Second Reading would not improve our electoral standing with the minority groups.

Moreover, it has for some time been the Party's policy that there should be strict control on immigration, but that once here immigrants should be given equal treatment, irrespective of colour.

11. I suggest, therefore, that we do not vote against the Second Reading of any Bill stemming from this White Paper but make appropriate criticisms during the Second Reading Debate and follow these up in the Committee and Report Stages by amendments which, if necessary, would be carried to a division.