Joel Carlson is the incarnation of the ideals of civilization: he knows what is right and acts for the seeing of justice. He assesses the evils of his world, and though faced with enormous odds, fights with intelligence, competence, courage and faith. Such effort is frequently called the operation of the Christian conscience.

EPISCOPAL CHURCHMEN for SOUTH AFRICA
14 West 11th St., New York, N.Y. 10011

ECSA
July 1969
AN ACT OF SOUTH AFRICA'S PARLIAMENT, two inquest cases before South African courts and a sentence imposed on South Africa's leading anti-government newspaper editor mark a stage in the descent of that country into the pit.

The General Law Amendment Act, 1969, hastened through Parliament in a single fortnight in June, intrudes further into the dwindling freedom of the press and that of the courts and the legal profession. It makes unassailable in court or public the operations of the newly-created Bureau of State Security. The new act has fittingly been called the BOSS law.

Inquests into the deaths of two African men, James Lenkoe and Nichodimus Kgoathe, while in police custody, afforded a brief look at the reign of terror conducted by the security police.

Laurence Gandar, editor-in-chief of the RAND DAILY MAIL of Johannesburg, was convicted on July 10 of publishing articles on conditions in South African prisons without "reasonably verifying" the facts.

Impaled on these events is one of South Africa's unsung heroes - Johannesburg attorney Joel Carlson.

ON JUNE 13, during the course of both inquests in which Joel Carlson represented the widows of Lenkoe and Kgoathe and less than a week before the BOSS bill passed Parliament, the police seized Carlson's passport. The passport was at the office of the United States Consul General, Johannesburg, for a routine renewal of visa, where Carlson had to go to surrender the document to a police official. The attorney revealed to the South African press that a week before he had been asked by the Department of the Interior by phone to submit his passport for correction of an 'error'. "I examined it myself and found no 'error', so I did not hand it in".

Carlson also told the press he had reason to believe he was under surveillance and that both his office and home phones were tapped. On his return from America in 1967 and in 1968 he had been thoroughly searched at Jan Smuts airport and some papers temporarily removed, evidently for copying.
No reason was given for the passport seizure. "Punishment by administrative action has become part of the South African way of life," commented the RAND DAILY MAIL. The paper went on to say that the public would have to deduce the reason for the confiscation of Carlson's passport.

"The most relevant point that it will note is that he has, in his professional capacity, been concerned in a number of attempts to investigate allegations of ill-treatment of people in custody. In this he had the support and help, some financial and some on a highly technical level, of American lawyers, churchmen and other authorities."

This shrewdly assesses Carlson's cardinal sins: he unmasked security police torture and he threatened the South African regime's most coveted foreign relations - with the United States of America.

JOEL CARLSON is South African born, married, the father of four. He grew up, was educated and has conducted his law practice in South Africa. He has devoted much of the past 13 years to laying bare injustices in his native land and to the defense of political prisoners in court. He belongs to no political party and has no specific ideological persuasion. As racism and totalitarianism in South Africa grew, Carlson was more and more drawn into the increasingly lonely and difficult struggle to preserve civil rights and the rule of law.

He was deeply involved in exposing in the 1950's the callous system of apprehending Africans with small passbook discrepancies and farming them out to white landowners, without any evidence having to be produced in court. Carlson successfully disrupted this system with a series of habeas corpus applications. (see ECSA Lent 1969, page 4).

The Johannesburg attorney figured in the case of Looksmart Ngudle, the first man detained under the 90-day law to hang himself while in custody. In 1964, Carlson collected affidavits charging torture by the police during interrogation and called upon then Minister of Justice Vorster to set up a commission of inquiry. Vorster, now Prime Minister, refused.
Carlson represented Gabriel Mbindi, the 68-year-old South West African who was beaten while in detention in Pretoria Prison, and obtained his release. (see ECSA Lent 1969, page 10).

Carlson is an official observer for the International Commission of Jurists, and for the International Press Institute in which capacity he attended the Gandar trial.

THE CASE WHICH BROUGHT JOEL CARLSON to the attention of the world was the Terrorism Trial held in Pretoria in 1967 and 1968. He acted as solicitor or instructing attorney for the barristers who defended the 37 South West African (Namibian) men charged under terms of the retroactive Terrorism Act which emanated from South Africa's Parliament in 1967. (see ECSA Michaelmas 1968, pages 7,ff).

At the time, the Afrikaans-language press raised the question of where funds for the defense came from, hoping to implicate Carlson with the banned Defence and Aid Fund. But it was established that the defense had financial and moral support from a member of the House of Lords in Britain, a group of prominent American lawyers, and the National Council of Churches in the United States. A substantial amount was contributed by the Episcopal Church. The churches and others became in effect interested parties in this historic case.

The American Lawyers' Committee for Civil Rights Under Law, formed at the suggestion of the late President Kennedy, had instructed Carlson in the Terrorism Trial and the Mbindi case. They maintained this relationship in the Lenkoe inquest.

In a forthright statement after Carlson's passport was confiscated, the Lawyers' Committee pledged "to continue to instruct and support Mr. Carlson in carrying out his professional responsibility.... The Lawyers' Committee will seek to continue its interest in the above matters and its established professional association with Mr. Carlson in the interest of the preservation of the rule of law, which includes the right of any counsel to carry out his duties in dignity and protect the rights of his clients without intimidation."
The Lawyers' Committee is composed of some of the most distinguished men on the American legal scene: Arthur J. Goldberg, Arthur H. Dean, Louis F. Oberdorfer, Morris B. Abram, Burke Marshall, Whitney North Seymour, Cyrus R. Vance, Lloyd Garrison among them.

**THE BOSS ACT.** General Law Amendment Act, 1969 - became law on June 30 upon being published in the Government Gazette. It was introduced in Parliament on June 4, passed its final stage on June 18 and signed by the State President on June 20.

Its passage through South Africa's legislative houses during the closing days of the session was the stormiest in years. Helen Suzman, the Progressive Party member, was not alone in this instance in protesting the "grotesque and monstrous" provisions of the bill.

Clause 10 makes it an offense for anyone possessing information relating to a security matter to publish or communicate that information to anyone "in any manner or for any purpose prejudicial to the safety or interests of the Republic".

" 'Security matter' means any matter relating to the security of the Republic and includes any matter dealt with by or relating to the Bureau of State Security......or relating to the relationship subsisting between any person and the said Bureau."

Violation of this statute makes one liable to a fine of up to 1500 Rand or up to seven years in prison, or both.

Clause 29 forbids anyone from testifying in court, even in his own behalf, or otherwise to furnish any information if the Prime Minister, an official appointed by him, or any government Minister certifies that such a disclosure would "be prejudicial to the interests of the state or public security".

Clause 29 thus - as the Johannesburg Bar Council declared in a strong protest - "takes away from the courts their established right to protect the citizen from any unwarranted claims of privilege by the Executive, and to ensure that citizens' rights are maintained."
WASHINGTON, Saturday.

WITHDRAWING attorney Joel Carlson's passport the South African government has committed a big blunder which could persuade the new Administration not to soften its policy towards the Republic, according to informed diplomatic sources in Washington.

They pointed out this week to President Nixon, the Secretary of State, Mr. William Rogers, and the Undersecretary of State, Mr. Elliott Abrams, that Carlson's plight because, they too, are lawyers.

An action taken against Mr. Carlson has not only shocked the State Department and production of communications from the American Embassy, some of whom very influential in the camps of power in Washington, but it also comes at a time when Nixon's National Security Council is reviewing African policy in general, and Southern African policy in particular.

Until the Carlson incident became—again, the New York Times termed it, in an editorial, "South African justice," indications were that Mr. Nixon would adopt a "more flexible" approach towards South Africa.

In the policy review, the advice of ex-lawyers Dean Acheson and George Ball that South Africa should be treated "softly" was finding support among State Department and White House staff members. Today, however, the return of Mr. Carlson's passport, which has many American legal officials as a "united bid to mollify him and to send the signal that it is time to make progress on that talk about Mr. Vorder's "toward" or "verifiable" approach.

No match

The American official told me it is one of the worst examples of how South Africa's words do not match its actions. The Senate of Foreign Affairs puts out press releases saying the Republic is not in the least in agreement with the word, but it punishes efforts to find a way to root out the "relics of its duty.

He added: "I wonder if the South Africans realize that the American, Nixon, Rogers and Rice, are lawyers who ancient legal traditions were defeated in the Carlson case. The statement was issued by the committee's co-chairman, the Manhattan lawyer, Mr. Arthur A. H. Dean, who is famous for having negotiated the ending of the Korean War, and a Washington attorney, Mr. Louis B. Oberdorfer, a former top Justice Department official.

These two men have joined the former Supreme Court Justice and United Nations Ambassador, Mr. Arthur Goldberg, and Senator Edward Kennedy in informing key Nixon Administration officials of the implications of the action taken against Mr. Carlson.

I learn that overtures are being made to the Secretary of State, Mr. Rogers—next to Mr. Nixon the most important man in the review of South African policy. Mr. Rogers was a leading member of the Lawyers' Committee for Civil Rights Under Law until President Nixon gave him the most senior job in the Cabinet.

THE CAPE TIMES

WEDNESDAY, JULY 9, 1969

Blunder-BOSS

SIR DE VILLIERS GRAAFF said a few days ago, the controversy about clause 29 of the General Law Amendment Act has been settled before his death.

A WORLD-FAMOUS PATHOLOGIST told the Pretoria Inquest Court that the President has assaulted him and to save him from being "verifiable approach.

PARTMENT OF THE PRIME MINISTER.

30th June, 1965

GANDAI
South African 'Justice'

While trying to maintain the trappings of proper legal procedure, South Africa's Nationalist Government adds steadily to its arsenal of police-state laws and practices. Legislation now in Parliament would make the country's notorious security police immune from any effective public scrutiny.

The Bureau of State Security is already shrouded in secrecy, but the new bill provides severe punishment for any disclosure of a 'security matter,' specifically including any matter related to security police activities. No evidence could even be given in court if the Prime Minister or anyone designated by him declared it prejudicial to state or public security.

The timing of this move to give security police even greater immunity is not accidental. It is unquestionably related to the Government's seizure last week of the passport of Joel Carlson, an eminent white civil rights lawyer, and to the trial of Laurence Gandar and Benjamin Pogrund of the Rand Daily Mail on charges of publishing false information on prison conditions.

Mr. Carlson is involved in a case which has produced sensational evidence of the use of electric shock torture by security police. This corroborated one Rand Daily Mail disclosure as well as some testimony at the Gandar-Pogrund trial.

James Lenkoe, a Lesotho national, was seized by security police at his home near Johannesburg and his wife was later notified that he had hanged himself in his cell. She contacted Mr. Carlson, who obtained a second post-mortem which aroused the suspicion that Mr. Lenkoe had been electrocuted. Now an eminent American pathologist, Dr. Alan Moritz, has told an inquiry that beyond reasonable doubt an injury on Mr. Lenkoe's body was caused by electric shock.

However the court cases turn out, this much is clear: Mr. Carlson has lost his passport, because he was too skilled, even when up against monstrous laws and the apartheid system, in protecting the rights of Africans and exposing police barbarism. Messrs. Gandar and Pogrund have been brought to trial not because their disclosures were false but for serving as alert and courageous critics of a tyrannical regime—an thus service to the cause of press freedom everywhere.

**APPEAL TO M.P. BY CARLSON**

Mr. Joel Carlson, the Johannesburg attorney whose passport was seized by the police on 30 June, has appealed to Mrs. Helen Suzman, M.P., to representations to the Minister of the Interior on his behalf.

Mr. Carlson is acting in two representation efforts into the deaths of two African men who were beaten to death by police. Mr. Lenkoe and Mr. Ntloko are.

Mr. Carlson handed to
A sub-section specifically applies Clause 29 to the South African occupied territory of South West Africa (Namibia), "including the eastern Caprivi Zipfel", where South African forces face African guerrilla fighters.

(An excellent study of South African legislation preceding and forecasting the BOSS law is provided in a new United Nations publication prepared by American attorney Elizabeth Landis:

**REPRESSIVE LEGISLATION OF THE REPUBLIC OF SOUTH AFRICA**

U.N. publication: E.69.II.K.8 - $2.00 each

obtainable from: U.N. Sales Section
New York, N.Y. 10017)

THE BUREAU OF STATE SECURITY was set up earlier this year to consolidate the various arms of South Africa's domestic and foreign intelligence apparatus. At the time, BOSS had the support of most opposition members of Parliament. BOSS is headed by Lt. Gen. Hendrik van den Bergh, former chief of security police - the dreaded Special Branch - and a comrade in arms of Prime Minister Johannes Balthazar Vorster since their detention together during World War II for supporting the Nazi cause. General van den Bergh reports only and directly to the Prime Minister.

JAMES LENKOE was a Lesotho national, a 35-year-old railway employee, living in Soweto, the huge peri-Johannesburg location.

As Mrs. Lenkoe relates, near midnight on March 5, 1969, she and her husband were awakened by police looking for someone named 'Mofokeng'. Nevertheless Lenkoe was beaten and taken away. Mrs. Lenkoe was denied permission to visit him at Pretoria prison. On March 10, James Lenkoe was found hanging by a belt in his cell. On March 13, Mrs. Lenkoe was notified of his death.

An urgent application for a second post-mortem, brought by Mrs. Lenkoe through her attorney, Joel Carlson, was granted. Lawyer David Soggott, who represented the widow at the inquest court, developed evidence about an injury found on Lenkoe's toe which could have been caused by an electric burn. Abnormal traces of copper were ascertained.
An American pathologist and authority on burns, Dr. Alan R. Moritz, Provost Emeritus of Western Reserve University in Cleveland, author of many scientific articles and textbooks on pathology and legal medicine and a member of the commission of inquiry which examined medico-legal findings on the death of President Kennedy, was flown to South Africa. He testified that he was satisfied beyond reasonable doubt that the copper deposit was the result of electric burn. Two South African pathologists concurred.

Major Theunis Jacobus Swanepoel (see ECSA Lent 1969, page 10), security police officer who interrogated Lenkoe on March 10, denied detainees were ever administered electric shock treatment and heatedly stated that allegations to that effect were a communist plot to besmirch the security police and South Africa. A state witness asserted that copper is found on the skin in varying quantities and for many reasons. Mr. Soggott’s request for permission for former detainees, now serving terms at Robben Island prison, to testify to the fact of electric torture, was denied by the magistrate, Mr. J.J.H. Tukker. Mr. Tukker then ruled the cause or apparent cause of James Lenkoe’s death was suicide by hanging and no blame was to be attached to any person. Allegations that electric shock treatment contributed to the death were not proved.

Mrs. Lenkoe, through attorney Carlson, has notified Prime Minister Vorster, Minister of Police Muller and Major Swanepoel that she will sue them for 10,000 Rand for the "wrongful arrest" of her husband rather than the person 'Mofokeng'.

TWO DAYS BEFORE BOSS was gazetted and shortly before his own conviction of violating the Prisons Act, Laurence Gandar’s RAND DAILY MAIL published a full page report on deaths in detention, with this caution: "Under BOSS, it may be impossible for such questions to be raised again."

Laurence Gandar was fined $280 for publishing "unverified" articles about prison conditions; the offending reporter, Benjamin Pogrund, got a 6 months suspended sentence. The warning to the press in South Africa was clear.
The eight-month trial became, the London OBSERVER noted, "a clash of ideas" between "English-speaking South Africans, reared in a liberal tradition" and those "composed entirely of Afrikaners whose traditions are totally different, being founded upon deliberate isolation and the austere rules of a reformed religion". The regime's senior counsel stated in court: "It is the duty of a newspaper not to make public attacks on Government departments and their officials".

Gandar, in a post trial editorial, spoke of the need for press freedom for "the fullest possible disclosure of information, access to a variety of opinions, exposure of malpractices and the promotion of public discussion of matters of importance.

"Without this democracy would die. As Thomas Jefferson once said: 'Were it left to me to decide whether we should have a government without newspapers, or newspapers without a government, I should not hesitate for a moment to prefer the latter.'

HELEN SUZMAN REMINDED her constituency that BOSS was a logical development of the 1963 law authorizing detention without trial: ..."once a government had set its feet on the slippery slope leading away from habeas corpus, the temptation to go further along that road would be irresistible".

With BOSS, white South Africans feel the hot, rank breath of utter totalitarianism on their necks. Their support of the Vorster government should cool as the realization sinks in that they are now shoved deeper into the state of personal danger their black and brown countrymen have endured for decades. It has been observed that nothing so clears a man's mind of rubbish as the knowledge he would be hanged in two weeks' time. Disclosures of unrestrained police torture, practices protected by the BOSS law, drives the point home.

THE PERIL TO JOEL CARLSON IS IMMENSE. His passport is withdrawn. He is prohibited from visiting all prisons. Will he be served with a banning order? Or placed under house arrest? Will he disappear into detention - the victim of BOSS? His personal safety and that of his family, his clients, his close associates are in jeopardy.
Carlson keeps at his job. He knows that you don't fight evil by proclamation and hand-wringing, by sermonizing and declarations. You fight every inch of the way, at each turn, from instance to instance, with every resource at your command.

Joel Carlson is the incarnation of the ideals of civilization: he knows what is right and acts for the seeing of justice. He assesses the evils of his world, and though faced with enormous odds, fights with intelligence, competence, courage and faith. Such effort is frequently called the operation of the Christian conscience. The silence from the churches in South Africa over the threat to Carlson and those like him (as distinct from the churches' dismay in public and private over the BOSS law) is deadening. They know Joel Carlson has been and is doing what they long ago should have been doing.

The corrupt tree of the South African regime continues to bring forth its evil fruit, with an abundance that appalls and sickens those who have seen many evils in this century.

As mankind steps into an unprecedented epoch, the Republic of South Africa - a land which has the ingredients for the working out of promising human relations - moves backward once again into the slime. The corrupt tree flourishes, the good is cut down.

Do we on the outside have the acuity and the will to choose between them?

WHAT YOU CAN DO: Write your Congressman and your Senators.
Write your Church leaders.
Urge them to speak out in defense of civil rights, the freedom of the press, and the rule of law in South Africa.

EPISCOPAL CHURCHMEN FOR SOUTH AFRICA maintains a Human Needs Fund to help those suffering from the racist laws and practices of the South African regime. We invite your support.

Please send your checks to:
EPISCOPAL CHURCHMEN FOR SOUTH AFRICA
14 West 11th Street, New York, N.Y. 10011