

**BRAM FISCHER, Q.C.**

*"Humanity is outraged in me and with me. Let us not dissimulate nor try to forget this indignation which is one of the most passionate forms of love."*

George Sand

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**BRAM FISCHER Q.C.**

The life of Bram Fischer is epitomised in George Sand's quotation. In South Africa there is a daily outrage against Man and Bram Fischer expressed his indignation in passionate identification with the millions of non-white South Africans. He refused to accept the tenets of a society which claims that one human being is of lesser value than another. He accepted no half truths nor half measures. In his judgement, *apartheid* is totally evil and his life is a total rejection of all that it stands for.

Who is Brain Fischer, caught after ten months *underground* and guarded by no less than 45 armed policemen for a brief appearance in Court? He is one of South Africa's most outstanding white barristers; an Oxford graduate; by birth the son of a Judge President and the grandson of a Prime Minister, by merit and ability entitled to the highest honours of his country; a man of 57, whose career at the Johannesburg Bar should logically have received the accolade of an appointment as a Judge of the Supreme Court.

This is the man whom the South African Security Police captured on the night of 11th November, 1965, thus ending his ten months as a hunted criminal with a price of £3,000 on his head. The story of these ten months is not known, other than that he lived alone and disguised, voluntarily separated from his daughters and his young son, himself ill with high blood pressure, subjected to the intolerable strain of a nation-wide unrelenting police hunt, but indomitably carrying on a life-long struggle against the theory and practice of white supremacy — a system which conducts mass terror against the non-white people and subjects them to degradation, poverty and brutality.

Mr. Fischer was born in the Orange Free State in 1908 of a family which has lived in South Africa since the 18th century, a family honoured and revered in Afrikaner society, with a tradition of legal and public service. His grandfather, Mr. Abraham Fischer was State Secretary of the Free State Republic and the only Prime Minister of the Orange River Colony. His father, Mr. Justice Percy Fischer, was a Judge President of the Orange Free State.

He received his schooling and University education at Grey College and Grey University College in the Orange Free State. After graduating with the degree of LL.B. he became Registrar for two years to Sir Etienne de Villiers, the then Judge President of the Orange Free State. In 1931 he was awarded a Rhodes Scholarship and from 1931-1934 read Jurisprudence and for a Diploma in Economics at New College, Oxford. He played rugby football and lawn tennis for New College and

was President of the Raleigh Club, a Commonwealth Society which still meets, as it did in his day.

On his return to South Africa he became a member of the Johannesburg Bar and rapidly established a reputation in cases of company law, mining law, mineral and water rights. He also appeared in many libel actions. From the start of his career he was prepared to accept briefs in cases of non-whites caught in the police net of pass laws and restrictions and in such cases usually acted *Pro Deo*. Shortly before his arrest he was the longest serving member of the Johannesburg Bar Council, serving also a term as Chairman. He has been a Q.C. for many years.

In the 1930s, at the time he was establishing himself as a barrister, he joined the then legal South African Communist Party; a fact unpalatable to many people who admire him both inside and outside South Africa. Yet it is a measure of the intrinsic honesty of his political career that he joined the only political party which opposed white supremacy. At no time did he keep secret his membership of this organisation. In 1946, after a strike of 100,000 African mine workers for a minimum wage of 10 shillings a day, a strike which was suppressed with intense brutality, at least eight mine workers being shot dead and hundreds injured, Bram Fischer and other members of the Central Committee of the Communist Party were charged with having incited the workers to strike and were fined £50. In the 1950s, after the Communist Party had been declared illegal, both Mr. Fischer and his wife Molly (a niece of Mrs. Smuts, wife of Field-Marshal Smuts) were *named* under the Suppression of Communism Act and forbidden to attend political meetings or to engage in political activity of any kind.

The many hundreds of non-white and white South Africans who worked with him as members of the Communist Party or of the broad mass political organisations found that he had the modesty and humility of the truly great. This busy and famous barrister was always accessible. No one who had a political or personal problem hesitated to consult him. The personal lives of Bram and Molly Fischer showed that they did not merely pay lip service to their cardinal political belief of racial equality. They adopted an African girl and brought her up in their home as their own child; an act of complete rejection of the *mores* of South African society. Today, in terms of race laws introduced by the Verwoerd regime, such adoption is illegal. They defied rigid social convention, by entertaining people of all races and their home was always available for mixed fund-raising parties and political celebrations. For many years Mrs. Fischer taught, without pay, at the Indian High School in Johannesburg, established in 1954 by the Transvaal Indian Congress. At that time, in order to coerce Indian South Africans to live in racial ghettos miles from city centres, in terms of the Group Areas Act, the Verwoerd Government closed down the Indian schools in the centre of Johannesburg and opened others in Lenasia, 22 miles outside the city. This school

was then established as a protest against this Act and remained in existence for ten years, until persecution of the staff (both white and non-white) and the students themselves, forced it to close down.

In the 1960 State of Emergency (following the Sharpeville massacre) when many thousands of both white and non-white were gaoled (Mrs. Fischer among them) and held without charge for many months, Bram Fischer visited those imprisoned, made arrangements to care for the families, comforted the children, many of whom had had both parents snatched from them, while continuing the intensely exacting work as one of the Defence Counsel in the Treason Trial, at that stage in its fourth year.

It was during this 4 1/2 year Treason Trial that Mr. Fischer became known beyond the confines of South Africa as a *political* barrister. In the defence team, led by Mr. I. Maisels, Q.C., he worked unceasingly to break down the prosecution case. Every one of the 156 accused can testify to his meticulous attention to detail and to the patience with which he discussed and rediscussed the evidence. He could be found at his Chambers at 5 o'clock in the morning. The final verdict of *Not Guilty* was a victory and a milestone for the liberation movement, and Bram Fischer's role in achieving this victory was a major one.

Two-and-a-half years later came the Rivonia Trial, where Nelson Mandela, Walter Sisulu and other leaders of the African National Congress, together with their white and Indian allies, were charged with sabotage and faced the death sentence. In this case, Mr. Fischer led the defence team and again gave of himself, not only as a barrister, but as a person and fellow political worker. It is no exaggeration to claim that the fact that the seven men, finally convicted, were not sentenced to death was due to the inspired defence led by Mr. Fischer.

Immediately after the verdict, Mrs. Fischer was tragically killed in a motor car accident. A week later, still shattered and shocked, Bram Fischer visited the Rivonia trial prisoners on Robben Island to discuss the question of an appeal in their case. He did not tell them of his wife's death, as he did not wish to distress them. A few days later he was arrested, held in solitary confinement for three days and then released. On 23rd September, 1964, he was again arrested and joined the 12 white men and women facing charges of being members of the now illegal Communist Party of South Africa.

But the barrister, Bram Fischer, had been acting continuously since 1955 in a Patents case in Southern Rhodesia and had given this case the same meticulous care as the political cases, during the preceding 9 tumultuous years of South African political life. At the time of his arrest, the dispute had been taken to the

Privy Council and he had been briefed to appear. He applied for bail and such was his reputation that **it** was granted — the figure being set at £5,000. In his appeal to Court in the bail application he stated:

“I am an Afrikaner. My home is in South Africa. I will not leave my country because my political beliefs conflict with those of the Government.”

He won his client’s case and returned to South Africa. It is ironic that after appearing in the highest Court in the British Commonwealth as a barrister and member of that Court, he returned to his own country to stand in the dock, on trial for his political beliefs.

A few months later, on 25th January, 1965, he disappeared from his home and his Counsel read a letter to the Court in which he stated that he was going underground to continue the struggle against *apartheid*.

(He repaid the bail so that his guarantors did not suffer). In his letter he stated:

“If in my fight I can encourage even some people to understand and to abandon policies they now so blindly follow, I shall not regret any punishment I may incur.

"Unless this whole intolerable system is changed radically and rapidly, disaster must follow and appalling bloodshed and civil war become inevitable. As there is oppression of the majority such oppression will be fought with increasing hatred. I can no longer serve justice in the way I have attempted to do during the past 30 years—I can do it only in the way I have now chosen."

*“I can no longer serve justice in the way I have attempted to do during the past 30 years”* — this is the kernel, the heart of his story. A lesser man might have said that in the context of the South African situation he had done all he could do. As a white intellectual he had used his special skill and training as a barrister to defend not only the leading opponents of *apartheid*, but the nameless thousands persecuted for the crime of being black. He had been persecuted and hounded by the Security Police for 15 years, his home and his offices had been constantly watched, he lived under continual surveillance. With justification he could have said that he had done all that it was humanly possible for a man in his position to do.

However, when the Verwoerd Government began to destroy the law, when they

introduced the 90 day no trial clause of the General Law Amendment Act, which, in Mr. Fischer's words *legalised*

*torture*: when *sabotage* was so widely defined that the painting of a slogan on a wall could be defined as such and could be punishable by death, Bram Fischer did not delude himself that he could continue to fight the Verwoerd Government in the Courts of Law. When the law has been prostituted, it is difficult to serve justice. So he chose the role chosen by thousands of anti-fascists in Europe who opposed the Nazis — he went underground to fight a tyranny as monstrous as that of the Nazis. And by so doing, he kindled the flame of hope in the hearts of South Africa's 8,500 political prisoners and their families; in the hearts of millions of non-white second-class citizens. To those who today still fight apartheid, he is a symbol of courage and staunchness.

He is in gaol and it is likely that he will receive a long prison sentence. He has sacrificed wealth, fame, comfort, high position, a privileged life in an already privileged white society for a prison cell. But his spirit cannot be immolated behind prison walls. He is one of that small group of white South Africans, of all political and religious beliefs and persuasions, who refuse to become evil by silent acquiescence in a society which is basically evil. Humanity is outraged in them and with them by a system which dehumanises both whites and non-whites and make a mockery of every value of a civilised society.

The life of Bram Fischer is a distillation of that living spirit of MAN which no tyranny can destroy.