

JUNE, 1957.

SUMMARY OF THE PREPARATORY EXAMINATION OF THE TREASON TRIAL(Issued by the Treason Trials Defence Fund Committee,
P. O. Box 2864, Johannesburg)Privately issued for background information.

The Preparatory Examination of what has come to be known as the Treason Trial started in December 1956 with 3 days of hearings. Outside Johannesburg's Drill Hall, converted into a Court for purposes of this Trial, stood thousands of people, predominantly Non-Whites. Guarding the Drill Hall and its entrances were hundreds of police. Tension mounted. On the second day of the Trial the police fired on the crowd, and 14 people were injured.

The Preparatory Examination started again on 9th January 1957. Again the court-house was crowded, and the surrounding streets filled. Now the Treason Trial has been in progress for seven months. "Present estimates", said the "Star" in May, "are that it is likely to be another four months before the Drill Hall preparatory examination ends. and even that will only mean - assuming the case is to go to the Supreme Court for trial - that proceedings have reached the midway mark. Meanwhile the marathon inquiry sinks deeper and deeper into the morass of monotony....All the drama of the inquiry's early days has gone, and so has nearly all the public interest."

The Outline of the Crown Case.

In his opening address the Crown Prosecutor said he would prove inter alia:

That the case arose out of the activities of certain associations which were commonly called the National Liberation movement; that this movement was composed mainly of the African National Congress, the South African Congress of Trade Unions, the South African Coloured Peoples' Organization, the South African Congress of Democrats, and that the accused were all office bearers or active members of the so-called liberation movement and the campaign known as the Congress of the Peoples.

That plans had been made to co-ordinate the efforts of various non-European multi-racial organizations; that in 1954 a national congress had suggested a joint meeting of several of the organizations; that it was decided to set up a planning committee and to draw up a Freedom Charter and a plan of campaign.

That resolutions had been passed calling for work for a truly South African Government, for the people to be mobilised for decisive action, the organization of a national liberation movement and the realization that the Nationalist Government could only be defeated by extra-parliamentary action.

That at meetings held all over the Union speakers "propagated and preached the Marxist-Leninist account of Society and the State", advocated the establishment of a peoples' democratic state based on the principles of the system in the Soviet Union, advocated the methods and tactics used by communism to achieve their aims.

That on June 25 and 26, 1955, the Congress of the People was held at Kliptown near Johannesburg and a draft Freedom Charter accepted; that the steps set out in the Freedom Charter were steps in the direction of a Communist State and, if necessary, a prelude to revolution; that what was aimed at was a change in the form of society and the abolition of the present state form; that the end of all discrimination and oppression was sought.

That in furthering these ends guidance and/or assistance

would be sought from outside countries.

That the accused, acting in common purpose, in advocating the establishment of a different and new form of government, encouraged hostility between the European and non-European races and incited members to revolt with the use of force and violence against the existing authority.

"The case of the high treason charges will be the incitement and preparation for the overthrow of the existing state by revolutionary methods involving violence and the establishment of the so-called peoples' democracy," the Prosecutor summed up.

In reply to Defence questions, the Prosecutor said that the resolutions and statements quoted by him as part of the conspiracy had been made in public and not in private. He was "not in a position to say" whether he would allege that the contents of the Freedom Charter were themselves treasonable.

The FREEDOM CHARTER is likely to form the centre of the Crown case. (As it is essential, for an understanding of the issues involved in the case to know its content, a copy of the Charter is annexed hereto.) The Charter demands for all in South Africa, regardless of race or colour, certain human rights resembling those in the United Nations Declaration on the same subject. It also speaks of the need for a better distribution of wealth, especially land.

THE DEFENCE CASE.

In reply to the Prosecutor's address, the Defence made these points, inter alia:-

That the Congresses would not merely admit, but positively affirm that they adopted the Charter and that they aimed and aim at the realisation of its principles. "They do not apologise - they declare it."

But they would show that it had at no time been the policy of the Congresses to bring about the changes envisaged in the Charter by means of subversion or force and violence, and they would show the allegation that they encouraged hostility between the Black and White races to be false.

On the contrary they would show that they stood for racial unity, and had "at all times done all that it is in their power to draw the various racial groups together; to make each group understand that its interest cannot be furthered where a spirit of racial antagonism exists, to make each group appreciate the needs of the other and not only its own needs - in short, to create race-harmony and mutual assistance and co-operation".

The defence gave a "flat denial" to the charge that the Congress of the People and the Freedom Charter were steps towards the establishment of a Communist State.

In addition the defence would attempt to show that the whole charge was politically motivated in an "attempt to stifle free speech, criticism of the government".

The accused - a cross section of the South African population - held one thing in common, despite different political affiliations, and that was a belief in the brotherhood of man and a desire to work for his betterment.

"We will endeavour to show that what is on trial here are not just 156 individuals but the ideas which they and thousands of others in our land have openly espoused and expressed," said the defence. "A battle of ideas has indeed been started in our country; a battle in which on the one side - the accused will allege - are poised those ideas which seek

equal opportunities for, and freedom of thought and expression by, all persons of all races and creeds, and, on the other side, those which deny to all but a few the riches of life, both material and spiritual, which the accused aver should be common to all."

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High Treason which is a capital offence, consists of the impairment or endangering of the independence or safety of the state, with hostile intent. This offence is part of the Roman Dutch Common Law and is not defined by any Statute.

South African courts have held that the use of the threat of force and violence is an essential element of the offence.

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Under the Suppression of Communism Act introduced and passed by the Nationalist Government in 1950, "communism" is given an extremely wide interpretation. It includes any scheme to bring about any political, industrial, social or economic change by the promotion of disturbance or disorder, by unlawful acts or omissions, or any scheme which aims at the encouragement of feelings of hostility between Europeans and Non-Europeans; the consequences of which are calculated to further the establishment of a despotic system of government or to bring about political, industrial, social or economic change.

THE PROGRESS OF THE TRIAL.

A feature of the preparatory examination during its first seven months has been its extremely slow pace.

Months were taken up by the "Security Branch" of the police (the Political Police) with the reading and handing in of about 12,000 documents, seized by detectives when they raided the offices of the four Congresses and the homes of the accused persons. Further months have been taken up with the reports by detectives of speeches made at public meetings over the last three years.

The Defence has made a series of objections to the slow procedure. Among these objections have been:

To the presenting of speeches made at meetings as evidence against all the accused before a foundation showing common purpose has been established.

To the leading of evidence of speeches made by people who are not among the accused, and who have been shown by Crown evidence to be in conflict with the Congresses.

To leading of evidence of speeches recorded by detectives who, the defence claims, are too illiterate to make a proper recording or who are unversed in the language of the speeches.

To the protracted evidence of speeches and acts which the defence claimed "do not even show the contravention of a municipal regulation."

The documents and speeches show that the organizations and individuals concerned have been strongly opposed to the Nationalist Government and to racial discrimination in general. They have advocated complete racial equality.

They show that the Congresses supported the Freedom Charter and publicised it after it was passed.

THE USE OF FORCE AND VIOLENCE.

A survey of four months of evidence by detectives shows that 12 of the 29 detectives called have stated that the non-violent character

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of Congress policy was stressed at the meetings of the African National Congress they attended. The 12 detectives have reported in some detail on 94 of the 137 meetings so far described to the court. Here are some of their statements:

Detective Eric Monyamangene. "I will not deny that a speaker said that they must at all times be orderly and disciplined. At every meeting that is said, and also it is said at every meeting that the people will not resort to force and violence. "There is no talk about the people using force against the Government. At some meetings I heard it said 'Anybody who looks for help outside the country is no good to Congress'."

Det. Sgt. Helberg. "I have been to a large number of Congress meetings. I have heard the speakers there say 'This is a non-violent movement.' I have also heard at many meetings the exhortation by speakers not to use violence."

Detective Gladwin Nogai. "At many meetings the speakers said that they do not want to fight the 'white man.'"

The end of this preliminary inquiry is expected to be reached by about October this year. The presiding magistrates will then decide whether to commit the accused for trial and if so, what the charges will be.

THE ACCUSED PERSONS.

The accused persons include most of the national leaders of the African National Congress and associated Congresses. Of the 156, 104 are Africans, 21 are Indians, 23 whites and 7 Coloured persons (of mixed descent). There are 138 men and 18 women. There are amongst them lawyers, doctors, clergymen, architects, journalists, and many clerks, labourers and housewives. The accused include such well-known personalities as

Chief Albert J. Lutuli, President-General of the African National Congress, who was deposed as chief of his tribe in 1952 when the Nationalist Government ordered him to choose between chieftainship or participation in Congress activities. Chief Lutuli has served as an executive member of the Christian Council of S.A. and has visited both India and America on church and missionary work.

Professor Z.K. Matthews, acting Vice-Principal of the Fort Hare University College and noted African scholar and educationalist. Professor Matthews was the first graduate of the Fort Hare University College, the first African law graduate from the University of South Africa and did post-graduate work both at Yale and the London School of Economics. In 1936 he was appointed a member of the Royal Commission on Higher Education for Africans in British East Africa and the Egyptian Sudan, and in 1952 was the Luce Visiting Professor of Theology at the Union Theological Seminary, New York.

Advocate Duma Nokwe, the first African barrister in the Transvaal, refused permission by the Minister of Native Affairs, under the Native Urban Areas Act to set up practice in advocates' chambers in Johannesburg because of his race.

Dr. G. M. Naicker, President of the South African Indian Congress, a leading Gandhi-ite who has played a prominent role in Indian passive resistance struggles in South Africa, and in 1947 toured the Indian riot areas with Mahatma Gandhi.

Mr. L. B. Lee-Garden M.P. elected to the Union House of Assembly as Native Representative for the Cape Western seat.

The Reverend Douglas G. Thompson. Methodist Minister in Springs, Transvaal.

THE TREASON TRIALS DEFENCE FUND.

Shortly after the arrests a Treason Trials Defence Fund was opened, sponsored by two former judges, leading churchmen, Labour and Liberal Party Members of Parliament, and other men and women, European and African, active in public life - 45 in all. The trustees of the Fund are the Anglican Bishop of Johannesburg, the Rt. Rev. Ambrose Reeves, who is the chairman, Mr. Alan Paton, the novelist, ex-Justice F.A.W. Lucas and Dr. Ellen Hellman.

A public appeal for funds was made on 13 December, the sponsors saying "It is not within our province to express an opinion on the guilt or innocence of the persons charged with committing this grave crime. We believe, however, in view of the unique significance of the impending trials that all the accused should be able to secure the best legal representation available. We also believe that during the course of what probably will be lengthy proceedings, the families and dependants of the accused should be protected from hardship and suffering."

Public sympathy with the accused has been widespread. The appeal for money has met with a generous response not only in South Africa, but also in Britain, other parts of the Commonwealth and the United States. Nevertheless the fund is not yet within sight of its minimum target of £100,000. Bail was provided for all without using the resources of the Fund.

The Fund is shortly to make a renewed drive for funds to pay the costs of legal defence, which will be heavy, despite the fact the fees charged are far below those normally made, and to assist the dependants of the accused who are in need - and the calls on the Fund in this regard are increasing. Recalling Mr. Adlai Stevenson's remark that "a free country is one in which it is safe to express unpopular opinions", the Committee urges support of the Fund. The address of the Fund is P. O. Box 2834, Johannesburg.

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"It is the South African Government, as well as the accused who is on trial." commented the ECONOMIST, LONDON.

"If they have to go to prison in the end," said the TRIBUNE, LONDON, "it will be for the atrocious crime of demanding racial equality. South Africa can be proud of these 'traitors' to White supremacy."

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