

IN THE SUPREME COURT OF SOUTH AFRICA
(WITWATERSRAND LOCAL DIVISION)

The Attorney-General of the Transvaal Province, who as such prosecutes for and on behalf of the State, presents and informs the Court that :-

DAVID ERNST
ROWLEY ISRAEL ARENSTEIN
JOSEPH VICTOR BEREL FINKELSTEIN

European males, hereinafter called the accused are guilty of the crimes of :-

- (1) Contravening section 11(c) read with sections 3(1)(a)(i), 1, 2(1), 11(i) and 12 of Act No. 44 of 1950 as amended;
- (2) Contravening Section 11(c) read with sections 3(1)(a)(iv), 1, 2(1), 11(i) and 12 of Act No. 44 of 1950, as amended;
- (3) Contravening Section 11(a) read with sections 1, 2(1), 11(i) and 12, of Act No.44 of 1950, as amended;

COUNT 1 :

Contravening Section 11(c) read with sections 3(1)(a)(i), 1, 2(1), 11(i) and 12 of Act No. 44 of 1950 as amended and read with Proclamation No. R 305 dated 13/11/1964.

In that during the period December, 1964 to March, 1966 and at or near Durban and Johannesburg, the accused did wrongfully and unlawfully, become or continue to be office bearers, officers or members of an unlawful organization, to wit, the SOUTH AFRICAN COMMUNIST PARTY.

COUNT 2 :

Contravening section 11(c) read with sections 3(1)(a)(iv), 1, 2(1), 11(i) and 12 of Act No. 44 of 1950, as amended, and read with Proclamation No. R 305 of 13/11/1964.

In that during the period from December, 1964, to March, 1966, and at or near Johannesburg, Durban and Pietermaritzburg, the accused, being office bearers, officers, members or active supporters, and acting in concert with divers other persons, to wit :

JEFFREY DAVID RUDIN,
CORNELIUS JOHN BROOKS,
DAVID MICHAEL BARKHAM,
GAIL MARION FLEAY,
ABRAM FISCHER,
COLIN BUNDY,
GRIFFITHS MXENGE,
ALBERT DHLOMO,
JACKSON NKOSIYANE,
NICODEMUS NOGCANTSI,
JETRO NDHLOVU,
ROSALYN SHANLEY,
MELVILLE J. FLETCHER,
and other persons to the prosecutor unknown,

in furtherance of a common purpose, did wrongfully and unlawfully take part in activities of an unlawful organization, to wit, THE SOUTH AFRICAN COMMUNIST PARTY, or carry on in the direct or indirect interest of the said SOUTH AFRICAN COMMUNIST PARTY, activities in which it was or could have been engaged during the said period, to wit :-

(a) did prepare the following documents for party purposes, to wit,

- ✓ (1) The Immediate Tasks of the Liberation Movement,
- X (2) National Liberation Front of South Africa,
- X (3) Statement on 90 day Detention,
- ✓ (4) Memorandum on Congress Activities,

- (5) Problems and Perspectives in 'African Communist',
 - (6) A Critical Analysis of the Role of the Urban Guerilla, July, 1965,
 - (7) A Critical Analysis of Marxist Theory on Socialist Revolution and its Application to South Africa, dated September, 1965.
 - (8) On Algerian War,
 - ✓(9) 'Crash Programme' for the study of Communism,
 - ✓(10) Memorandum on Transkeian Political Situation,
 - (11) Draft discussion statement dated 24/8/1965.
- (b) did recruit or attempt to recruit the undermentioned persons as members of the said Party, to wit,

X

DAVID MICHAEL BARKHAM,
DENNIS BRAMSKI,
CORNELIUS JOHN BROOKS,
GAIL MARION FLEAY,
ETIENNE MALAN,
ROSALYN SHANLEY,
GILLIAN LOMBERG,
LOUISA COETZEE,
ELIZABETH SIMPSON,
PATRICIA LENDRUM,

- (c) did make use of code names in letters or reports which were exchanged with one another, to wit,

No.1 was known as DAVE HUBEL,
✓No.2 as G.G. or ISSY,
No.3 as POP, or CHARLES, or VINCENT, or WILLIAM,
JEFF RUDIN as DAVE, or CHARLES, or WILLIAM,
M.D. NAIDOO as M.D.
✓GRIFFITHS MXENGE as JOHNSON,
✓ALBERT DHLOMO as VICTOR,
COLIN BUNDY as ED,
A. FISCHER as PAULUS. ✓

- (d) did make use of contacts in communicating with one another, to wit :-

No.1 was the contact between No.2 and other persons,
J. RUDIN was the contact between FISCHER and others,
G. MXENGE and A. DHLOMO were the contacts between No.1, No.2, and the non-white groups.

(e) did submit reports to one another on the under-mentioned matters, to wit :-

- Jeff asked for legal advice*
- (i) No.2's criminal case in Durban and the position of state witnesses : BRIAN CHAITOW and MELVILLE FLETCHER,
- Not so*
- (ii) the re-organization of the AFRICAN NATIONAL CONGRESS, its strength, and the need for full-time organisers,
- On Jeff's request*
- (iii) M.D. NAIDOO being suspected as a spy by No.2,
- Not a report*
- (iv) H. STRACHAN'S intention of instituting legal action against the government in regard to his treatment in prison,
- Query*
- (v) the state of the S.A. CONGRESS OF TRADE UNIONS, and the suspicion about one African woman in that organization being a spy,
- Nat. Lib Movement*
- He had asked for suggestions*
- (vi) the scheme for AFRICAN ~~(NATIONAL CONGRESS)~~ members to contest URBAN BANTU COUNCIL elections, *7th Aug*
- get help asked Kapangani*
- (vii) the quarrel between the Mhlabas and Zungus in Northern Natal, *7th Aug*
- He asked*
- (viii) on the suggestion of Jethro NDHLOVU working underground for the Party, *Letter*
- 2nd discussion*
- (ix) On No.2 going underground to work for the Party, *April*
- Arising from June 26th*
- (x) On a meeting of 300 women in Durban on 26/6/1965. *7th Aug*
- Memos*
- (xi) On the need for mass organization and activity to overthrow the present Government.

5/12/66

After

(xii) On the political situation in the Transkei,

(xiii) On the proposed transfer of R20,000 from London to South Africa, 27/1/66

Left sent down information dealt only with

✓(xiv) On the internal political activities in the COLOURED PEOPLE'S CONGRESS, the PAN AFRICANIST CONGRESS and the ANTI-APARTHEID MOVEMENT.

(f) did select cover addresses for party correspondence, to wit :-

(i) No.1 and BROOKS procured the use of post office box No.130, Dalbridge, Durban, in name of BROOKS. Letters to No.2 were addressed to DAVE HUBEL.

(ii) No.1 and RUDIN selected the address of No.3 at Raleigh Court, Yeoville, Johannesburg, for correspondence addressed to RUDIN and No.3 under the name of CHARLES.

(iii) the address of DAVE WEINBERG at 87, Venter Street, Kempton Park, arranged by RUDIN.

(iv) the address of M. ROLLE at 12, Bezuidenhout Street, Highlands, Johannesburg, arranged by No.3.

(v) the address of post box No.15739, Siemend, Johannesburg, under the false name of WILLIAM PETERSON, c/o ANLAR HOTEL, Berea, Johannesburg, applied for by one P. SHAPIRO-STERN on request of No.3.

(vi) the address of E. WETHLI, Agricultural College, Potchefstroom, arranged by RUDIN.

(vii) the address of C.J. BUNDY, c/o NUX, Natal University, Pietermaritzburg, arranged by RUDIN.

(g) (i) did write letters to and did receive letters at the said addresses.

(ii) did write letters to the overseas branch of the Party submitting reports, asking for financial assistance or advice.

(iii) did write letters to No.1 on the instructions of FISCHER.

(h) did arrange for the use of certain books as code references in correspondence of the Party, to wit :-

Social Evolution by Gordon Childe.

The Nature of Prejudice by Gordon W. Allport.

Nausea by Jean Paul Sartre.

(i) did hand over or recommend for study by members or possible members, the undermentioned books on Communist theory, to wit :-

1. Marx on Economics by Robert Freedman.
2. Socialism and What is in it for You by A.B.Magill.
3. Marxism and Revisionism by V.I. Lenin.
4. Philosophy of Socialists by M. Cornforth.
5. Value, Price and Profit by K. Marx.
6. Booklet : The Sino Indian Border Dispute.
7. Booklet : Workers of the World Unite.
8. What is to be Done by Frederich Engels.
9. Handbook on Marxism by Emile Burns.
10. Culture in a Dying World by J.B. Jerome.
11. Studies in a Dying Culture by C. Caudwell,
12. History of the Communist Party of the Soviet Union.
13. Socialism by F. Engels.
14. Marxist Digests.
15. The Dictatorship of the Proletariat : Published by International Publishers, New York.
16. Thesis : A Critical analysis of the Role of the Urban Guerrilla : July 1965.
17. Thesis : A Critical Examination of Marxist Theory on Socialist Revolution and its application in S.A.
18. Booklet : On the Intrinsic Nature of Kruschev's Peaceful co-existence Line : Peking-publication.
19. Booklet : Vice Premier Chen Yi answers questions put by correspondents : Peking publication.
20. The Intelligentsia of Great Britain by Mirsky.
21. The Essential Left : Marx - Engels - Lenin.
22. Das Kapital : K. Marx.
23. Works of Marx, Engels, Lenin, Stalin, Mao Tse Tung.

- (j) did make requests to one another or the overseas branch of the Party for financial aid, did provide financial aid, or undertake to provide such aid, to wit :-
- (i) No.1 requested BROOKS to arrange for transfer of R20,000 from England to S.A.
 - (ii) No.1 informed RUDIN of a deposit of R3,000 in the Trust Bank in Durban and available for Party use pending the deposit of R20,000 in London.
 - (iii) No.1 requested aid for employment of full-time organisers in Zululand for the AFRICAN NATIONAL CONGRESS.
 - (iv) No's. 1 and 2 provided money for the accommodation and expenses of RUDIN in Durban, and No.3 for the same purpose in Johannesburg.
 - (v) No.1 paid money to BROOKS to proceed to Tzaneen in connection with the proposed scheme of securing money from England.
 - (vi) No.2 provided money to BROOKS to proceed to Cape Town to evade the Police.
 - (vii) Monies paid to Melville FLETCHER by No.1, No.2 and DAVID BARKHAM whilst former was waiting to give evidence, and thereafter.
 - (viii) request for aid for one George POONEN, a political refugee, who was unable to proceed beyond Bechuanaland.
 - (ix) A. FISCHER through agency of J. RUDIN did provide financial aid to No.1 for party purposes.
- (k) visits made by one person to another, to wit :-
- (i) No.1 and BROOKS proceeding to Johannesburg to see RUDIN and No.3.
 - (ii) No.1 proceeding to Pietermaritzburg to do Party Work.
 - (iii) RUDIN proceeding to Durban to see No.1 and No.2.

- (iv) No.1 visiting RUDIN in Pietermaritzburg re Party matters.
- (v) RUDIN proceeding to Pietermaritzburg to see BUNDY.
- (vi) No.1 visiting Melville FLETCHER in Durban.
- (vii) No.1 visiting No.2 in Durban.

X (l) did instruct RUDIN to evade the Police and did assist him in regard to travel, accommodation and expences.

X (m) did co-operate with the AFRICAN NATIONAL CONGRESS and the CONGRESS MOVEMENT with a view to organise the masses in opposition to the Government.

(n) did make contact with non-white leaders in the Transkeian Legislative Assembly, to wit, JACKSON NKOSIYANE and NICODEMUS NOGCANTSI, who were also members of the Transkeian Democratic Party;

did support the principle of participation in elections;

did prepare a memorandum and data as a guide to action for the said Transkeian Democratic Party in opposing the Transkeian Government's policies;

did devise methods for making contact with the said persons;

did advise the said persons to co-operate with persons opposing the present Government in Zululand;

did undertake to supply the name of a Party contact in Eastern Pondoland to one JAMES DUNNE; and

did claim that the SOUTH AFRICAN COMMUNIST PARTY was well represented in the bodies of the Transkeian DEMOCRATIC PARTY;

did request ~~information~~ as to the strength of the PAN AFRICAN CONGRESS in the Transkei.

- (o) did send a message to Chief GATSHA BUTHELEZI in Zululand that he should make contact with No.2.
- (p) (i) did ~~subscribe~~ to the Marxist-Leninist doctrine and did apply the said doctrine in their writings and did lecture to one another on aspects of the said doctrine.
 - (ii) did propagate the view that the aims of the FREEDOM CHARTER should form a basis for the national democratic revolution in effecting the overthrow of the present State.
 - (iii) did propagate the view that the Chinese standpoint in the Sino-Soviet ideological dispute was the correct one and did maintain contact with the Chinese Communist Party by securing literature from that Party.
- (q) did make enquiries from No.1 in regard to the escape route used by political refugees from Natal.
- (r) ~~did~~ store Communist books, documents and correspondence.
- (s) did request that investigations be made in ~~regard~~ to the availability of 'de-bugging' devices for Party use.
- (t) ~~did~~ maintain contact with the NATIONAL UNION OF S.A. STUDENTS (N.U.S.A.S.) for party purposes.
- (u) did take security measures in regard to meeting one another, or in taking part in the activities of the Party.

The common purpose referred to in this count is the organization of the non-white masses to

take part in mass action for the purpose of bringing about the social, political and economic changes in South Africa envisaged by the Programme of the SOUTH AFRICAN COMMUNIST PARTY. The existence of the common purpose is inferred from the association of the accused in the aforementioned activities.

COUNT 3 :

Contravening Section 11(a) read with section 1, 2(1), 11(i) and 12, of Act No. 44 of 1950, as amended.

In that during the period December, 1964, to March, 1966, at Johannesburg, and Durban, the said accused, acting in concert with diverse other persons, to wit :-

JEFFREY DAVID RUDIN,
CORNELIUS J. BROOKS,
DAVID MICHAEL BARKHAM,
GAIL MARION FLEAY,
ABRAM FISCHER,
COLIN BUNDY,
GRIFFITHS MXENGE,
ALBERT DHLOMO,
JACKSON NKOSIYANE,
NICODEMUS NOGCANTSI,
JETRO NDHLOVU,
ROSALYN SHANLEY,
MELVILLE J. FLETCHER,

and other persons to the prosecutor unknown, in furtherance of a common purpose, did wrongfully and unlawfully perform an act or acts which were calculated to further the achievement of any of the objects of communism, which acts are more fully set out in COUNT 2.

The object referred to in this count is the organization of the non-white masses to take part in mass action

for the purpose of bringing about the social, political and economic changes envisaged by the Programme of the SOUTH AFRICAN COMMUNIST PARTY.

The existence of the common purpose is inferred from the association of the accused in the aforementioned activities.

In the case of conviction the said Attorney-General prays for judgment against the accused according to law.

R.W. REIN.
ATTORNEY-GENERAL.
(TRANSVAAL PROVINCE).

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