

M. Adair

I, as one of the Counsel for the Defence have tried to analyse the opening address by the Crown Prosecutor in an endeavour to ascertain what the Crown proposes to prove, and, it would appear that, crisply and in general terms, the following allegations are made by the Crown.

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First: That the various organizations mentioned by the Crown Prosecutor, which are alleged to constitute the National Liberation Movement, by resolutions taken, decisions made and by the conduct of their office bearers and followers decided jointly to associate themselves in convening a Congress for the purpose of adopting and thereafter implementing a Charter for the Union of S.A., in which, it is alleged, provision is made for a new form of government and state apparatus differing radically from that which presently obtains in our country.

Secondly: That in so preparing for such a Congress speeches were made by some of the accused and other members of these organizations, resolutions were taken, propoganda was put out, and lectures were given which, the Crown alleges, indicate that the alleged change in the form of government envisaged in the Freedom Charter would be brought about by force and violence and by violent revolutionary methods.

Thirdly: That, in so endeavouring to achieve these ends of bringing about changes in the political, industrial, social or economic spheres, guidance and/or assistance would be sought, and would be forthcoming, from outside countries or institutions whose object, it must necessarily be alleged and proved, is to establish a system of government in the Union based on the dictatorship of the proletariat with a one party system of government.

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Fourthly: That the accused in advocating the establishment of a different and new form of government encouraged hostility between the black and white races of this country.

* - The Defence, when it comes to deal with the Freedom Charter and its aims and objects will strenuously repudiate any suggestion that the terms of the Charter are treasonable or criminal. On the contrary the Defence will contend that the ideas and beliefs which are expressed in this Charter, although repugnant to the policy of present government, are such as are shared by the overwhelming majority of mankind of all races and colours and also by the overwhelming majority of the citizens of this country and are, in any event, unexceptionable both in the criminal and in the social and ethical sense.

It will readily be conceded that the implementation of those aspirations and ideals which are expressed in the Freedom Charter is the aim and object of the Congress Organizations - they do not apologise for this aim; on the contrary, they declare it.

We will endeavour to show that what is on trial here are not just 153 individuals but the ideas which they and thousands of others in our land have openly espoused and expressed.

Evidence will be adduced for the purpose of proving that it has at no time been an aim either of the so-called Liberation Movement, and the organizations which allegedly comprise it, to bring about changes in government by subversive means or by force and violence.

We will establish, I hope, to the satisfaction of this Court, that the advocacy of the use of extra-parliamentary methods to bring about desired changes does not mean that force and violence and subversion were intended or understood to be essential ingredients of such methods.

If indeed any statements advocating the use of force and violence are proven by the Crown to have been made by any of the accused or by any other persons outside the ranks of the accused then such statements, if submitted, are not indicative of the policy of the organizations named by the Crown, cannot be laid at their doors, and do not and cannot criminally implicate those accused persons who took no part in, nor associated themselves with, the utterance thereof. Towards the end of his address the Crown Prosecutor quoted a certain statement in which, inter alia, a call was made for money to buy machine guns, in which suggestions were made that there would be blood in Sophiatown and that the "Dutch" must be killed. Significantly no individual was cited as being the author of these sentiments, the time and place of their utterance were withheld. That being so it makes it impossible for the Defence at this stage to deal with this aspect of the Crown's allegations, other than to state that if these were the views of the speaker then they do not represent the views of the body of the accused nor of those organizations which they represent - and we shall, during the course of these proceedings, challenge the Crown to prove anything to the contrary.

In reply to the allegations that assistance was sought from countries outside the Union to bring about

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the changes envisaged I do not want at this stage to say more than that extracts taken from documents and speeches which have been already referred to have been inaccurately taken out of their context and as a result of not being fully quoted bear a meaning which is not justified. As an example I would refer to page 11 of the Crown Prosecutor's address "Quote". We shall ask you to compare this with what will be shown in evidence to be the complete and the accurate text - this reads as follows "Quote".

I am, of course, convinced that the Crown Prosecutor in so garbling the original text did so without knowledge of the true contents of the document and I say this on the assumption that his attention was never directed to the original and that he was in all good faith reading what had been prepared for him.

But if it is necessary to give the lie to the allegation that assistance was to be sought and would be forthcoming from outside countries then the document which I have just read fulfils that function.

Many other documents and statements will be referred to by the defence which will similarly negative the allegations made by the Crown and expose their falsity.

For some reason not quite clear to me it was stated that several of the accused had visited countries behind the so-called "Iron Curtain" and also the Bandoeng Conference. It is quite true that certain of the accused have visited such countries - it is also true that they visited countries in Western Europe. As far as I am aware it has not yet become a crime in this country to

make visits to such countries overseas. That is why I say the reason for this statement being made by the Crown Prosecutor is not clear to me - unless, of course, it is going to be said in evidence that the reason for these visits was to secure assistance and aid from overseas countries. If that be the Crown case then it needed to be said by the Prosecutor in his opening. If that is not his case then I can find no justification for, nor relevance in, his reference to these visits.

It is clearly implied that there is something sinister in the fact that some of the accused have travelled abroad and have visited countries such as China, the U.S.S.R. and other places in Eastern Europe. This is a matter of public record and the defence will show that no attempt was made to conceal these visits. - nor will any apology be made for such visits. My clients believe in the need for closer friendly relationships between the people of all countries in order to preserve world peace. The defence will show that in the period covered by this trial they have acted in the light of these beliefs.

The Crown also alleges that the accused have put forward a scheme or advocated a system which aims at the encouragement of hostility between the black and the white races of the country. This, too, is an averment which the accused will show to be false. It has at all times been the policy of all the organizations mentioned by the Crown Prosecutor to advance along the road which they have chosen in a body in which all races, all beliefs, and all creeds are united. Where certain persons may have sought a solution for their feelings of frustration and desperation by advocating a policy of narrow nationalism the leaders in the organizations affected have

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been speedy and vocal in their repudiation thereof. My clients have one and all adopted and advanced a policy of racial unity in the struggle for democratic rights and freedoms. The text of the Freedom Charter is in itself sufficient corroboration of this statement.

Evidence will be led to establish that the accused and the organizations concerned have at all times done all that is in their power to draw the various racial groups together, to make each group understand that its interests 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 - and, in short, to create race-harmony and mutual assistance and co-operation.

And not only did my clients and the organizations to which they belong preach race harmony - they went further and assiduously called for world peace and the settlement of all international disputes by negotiation - not war. If this be treasonable or criminal then my clients already stand convicted.

It has been alleged by the Crown Prosecutor that the holding of the Congress of The People and the adoption of the Freedom Charter were steps taken in the direction of the establishment of a Communist State and a necessary prelude to revolution.

How the Crown proposes to prove this allegation has also not been made clear to us, and until we are told what evidence is alleged to be probative thereof we cannot comment on this statement other than to give it a flat denial. This is not the time to enter into

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a polemic as to the meaning of such words as Communism, Democracy and Revolution. One thought, however, immediately occurs - How does the Crown make consistent its suggestion that it was intended to establish a Communist State with the statement which alleges that it was an aim of the accused to encourage hostility between the black and white races? The Crown Prosecutor himself stated that the communist credo is based on the antagonism between classes and not between races. However the Crown may know better and in due course we shall see how the Crown disposes of this conflict in its presentation of the case.

I desire to say no more now as to which allegations made by the Crown will be disputed and repudiated by the Defence. But I may as well at this stage make it clear that the accused do not propose merely to defend themselves against the allegations made by the Crown. The accused will not only endeavour to establish their innocence but they will assert and, in due course, ask the Court to hold, that they are the victims of political kite-flying on the part of those responsible for these prosecutions. We will endeavour to show that these prosecutions - and the manner of their presentation, are for the purpose of testing the political breezes in order to ascertain how far the originators thereof can go in their endeavours to stifle free-speech, criticism of the policies of government, and, in fact, all that the accused believe is implicit in their definition of the oft-misused word "democracy".

That this is no ordinary trial can be gathered from the fact that the accused are in themselves no ordinary

persons - they constitute a cross-section of the members of our population - in their ranks are to be found M.P.'s, clergymen, Lawyers, Journalists, Students, Clerical Workers and Labourers. They come of all races but all of them hold one thing in common, despite the fact that they have different and differing political affiliations, and that is a belief in the brotherhood of man and a desire to work for his betterment and towards his ultimate freedom.

This is no ordinary trial if one has regard to the crude and jack-boot manner in which the arrests were effected.

And evidence will be led to show that this is no ordinary trial by reason of the manner in which it has been set in motion. Many months ago the Minister for Justice in a debate in the House of Assembly was prophesying the arrest of 200 persons on charges of treason. But we will show that the preparations for the fulfilment of this prophesy were made even before - and they were made by the Security Police. We will establish that before ever the Freedom Charter was drafted or the Congress of the People was held, the then Chief of Police, Brig. Rademeyer - was reported as saying the idea of a Freedom Charter was treasonable. But he and the newspaper which published his remarks retracted quickly when a demand for damages was made by some of my clients.

We will show that as a prelude to these proceedings and that for the purpose of creating favourable conditions, the Security Police set out deliberately to create a fantastic atmosphere of treason around everything that the

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accused have worked for. They did this by endeavouring to intimidate the public with their attendances at open and legitimate meetings, by conducting mass raids and country wide searches and by flourishing sten guns, fixed bayonets and truncheons. The most fantastic allegations of plots to poison water supplies and to bomb power stations have been made by Ministers of the Crown which, we will allege, were made to provide a certain justification for the activities of the police and to quieten the public alarm aroused thereby.

* 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. The defence will allege that this trial has been instituted in an attempt to silence and outlaw the ideas held by the accused and the thousands whom they represent.

* The defence will also show that the political activities of the accused, the views they hold and the ideas they have expressed are matters of public record, and that no attempt has ever been made to conceal their aims from the world or the manner in which they hope to achieve them.

The defence will, therefore, contend that this case arises out of a political plot of the type which characterized the period of the Inquisition and the Reichstag Fire Trial. We believe that, in the result, this trial will be

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answered in the right way by history.

I am authorized to state that my learned friends, Mr. Rosenberg and Mr. Coaker, who appear for those accused who I do not represent, associate themselves with the remarks made by me in my reply to the Prosecution.

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