

MANDELA'S DEFENCE

On November 8, Nelson Mandela, South Africa's "Black Pimpernel," was sent to prison for five years—three for inciting people to strike and two for leaving the Republic without permission. Mandela, the 44-year-old former lieutenant of Chief Albert Lutuli, leader of the African National Congress, turned the hearing into a political trial. The accused became the accuser. Owing to the Sabotage Act in South Africa his passionate defence was virtually unreported. These extracts are from his main addresses to the court.



NELSON MANDELA "driven to speak for what we l

IN the course of this application I am frequently going to refer to the white man and to white people. I want at once to make it clear that I am not a racialist and do not support racialism of any kind, because to me racialism is a barbaric thing whether it comes from a black man or from a white man.

I challenge the right of this Court to hear my case on two grounds:—

Firstly, I challenge it on the ground that I will not be given a fair and proper trial.

Secondly, I consider myself neither morally nor legally obliged to obey laws made by a Parliament in which I am not represented.

In a political trial such as the present one, which involves a clash of the aspirations of the African people and those of whites, the country's Courts, as presently constituted, cannot be impartial and fair. In such cases, whites are interested parties. A judiciary controlled entirely by whites and enforcing laws enacted by a white Parliament in which we have no representation—laws which in most cases are passed in the face of unanimous opposition from Africans—cannot be regarded as an impartial tribunal in a political trial where an African stands as an accused.

Surface rights

It is true that an African, who is charged in a Court of Law, enjoys on the surface the same rights and privileges as a white accused in so far as the conduct of his trial is concerned. He is governed by the same rules of procedure and evidence as apply to a white accused. But it would be grossly inaccurate to conclude from this fact that an African consequently enjoys equality before the law.

In its proper meaning equality before the law means the right to participate in the making of the laws by which one is governed; a Constitution which guarantees democratic rights to all sections of the population, the right to approach the Court for protection or relief for the violation of rights guaranteed in the Constitution, and the right to take part in the administration of justice as judges, magistrates, attorneys-general, law advisers and similar positions.

The white man makes all the laws; he charges us before his Courts and accuses us, and he sits in judgment over us. The real purpose of this rigid colour bar is to ensure that the justice dispensed by the Courts should conform to the policy of the country, however much that policy might be in conflict with the norms of justice accepted in judiciaries throughout the civilised world.

The existence of genuine democratic values amongst some of the country's whites in the judiciary, however slender they may be, is welcomed by me. I hate racial dis-

crimination most intensely and in all its manifestations. I have fought it all along my life. I fight it now, and will do so until the end of my days. Even although I now happen to be tried by one whose opinion I hold in high esteem, I detest most violently the set-up that surrounds me here. It makes me feel that I am a black man in a white man's Court. This should not be. I should feel perfectly free, at ease and at home with the assurance that I am being tried by a fellow South African who does not regard me as inferior, entitled to a special type of justice.

We regard the struggle against colour discrimination and for the pursuit of freedom and happiness as the highest aspiration of all men. Through bitter experience, we have learnt to regard the white man as a harsh and merciless type of human being whose contempt for our rights, and whose utter indifference to the promotion of our welfare, makes his assurances to us absolutely meaningless and hypocritical.

In order that the Court shall understand the frame of mind which leads me to action such as this [to call for a national strike on the day South Africa became a Republic], it is necessary for me to explain the background to my own political development and to try to make this Court aware of the factors that influenced me in deciding to act as I did.

Many years ago, when I was a boy brought up in my village in the Transkei, I listened to the elders of the tribe telling stories about the good old days, before the arrival of the white men. I hoped and vowed then that, among the treasures that life might offer me, would be the opportunity to serve my people and make my own humble contribution to their freedom struggles.

Unity of all

When I reached adult stature, I became a member of the African National Congress. That was in 1944, and I have followed its policy, supported it and believed in its aims and outlook for 18 years. Its policy was one which appealed to my deepest inner convictions. It sought for the unity of all Africans, overriding tribal differences amongst them. It sought the acquisition of political power for Africans in the land of their birth. The African National Congress further believed that all people, irrespective of the national groups to which they may belong, and irrespective of the colour of their skins, all people whose home is South Africa and who believe in the principles of democracy and of equality of men, should be treated as Africans; that all South Africans are entitled to live a free life on the basis of fullest equality of the rights and opportunities in every field, of full democratic rights, with a direct say in the affairs of the Government.

Right at the beginning of my career as an attorney I encountered difficulties imposed on me because of the colour of my skin and further difficulty surrounding me because of my membership and support of the African National Congress. In the Courts where we practised we were constantly aware that no matter how well, how correctly, how adequately we pursued our career of law, we could not become a prosecutor, or a magistrate or a judge. We became aware of the fact that as attorneys we often dealt with officials whose competence and attainments were no higher than ours, but whose superior position was maintained and protected by a white skin.

Upholding dignity

I regarded it as a duty which I owed, not just to my people, but also to my profession, to cry out against this discrimination which is essentially unjust and opposed to the whole basis of the attitude towards justice which is part of the tradition of legal training in this country. I believed that in taking up a stand against this injustice I was upholding the dignity of what should be an honourable profession.

Your Worship, I would say that the whole life of any thinking African in this country drives him continuously to a conflict peculiar to this country. The law as it is applied, the law as it has been developed over a long period of history, and especially the law as it is written and designed by the Nationalist Government, is a law which, in our view, is immoral, unjust and intolerable. Our consciences dictate that we must protest against it, that we must oppose it and that we must attempt to alter it.

Always we have been conscious of our obligations as citizens to avoid breaches of the law, where such breaches can be avoided, to prevent clash between the authorities and our people, where such clash can be prevented, but nevertheless we have been driven to speak up for what we believe is right, and work for it and try to bring about changes which will satisfy our human conscience.

If I had my time over I would do the same again, so would any man who dares call himself a man.

We have been conditioned to our attitudes by history which is not of our making. We have been conditioned by the history of white Government in this country to accept the fact that Africans, when they make their demands strongly and powerfully enough for those demands to have some chance of success, will be met by force and terror on the part of the Government. This is not something we have taught the African people, this is something the African people have learned from their own bitter experience.

Government violence can do only one thing and that is to breed

counter-violence. We have warned repeatedly that the Government, by resorting continually to violence, will breed, in this country, counter-violence amongst the people, till ultimately, if there is no dawning of sanity on the part of the Government, ultimately the dispute between the Government and my people will finish up by being settled in violence and by force. Already there are indications in this country that people, my people, Africans, are turning to deliberate acts of violence and of force against the Government, in order to persuade the Government, in the only language which this Government shows, by its own behaviour, that it understands.

Striving for good

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Nor will the Court believe, say that, under the circumstances, my people are condemned for ever to say nothing and to do nothing. If the Court says that, or believes it, I think it is mistaken and deceiving itself. Men are not capable of doing nothing, of saying nothing, of not reacting to injustice, of not protesting against oppression, of not striving for the good society and the good life in the ways they see it. Nor will they do so in this country.

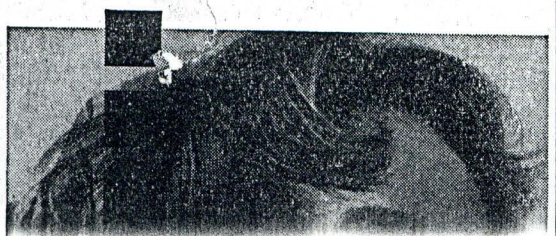
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I found myself trailed by officers of the Security Branch of the police force wherever I went. In short I found myself treated as a criminal, an unconvicted criminal. I was not allowed to pick my company, to frequent the company of men, to participate in their political activities, to join their organisations. I was not free from constant police surveillance any more than a convict in one of our gaols is free from surveillance. I was made, by the law, a criminal, not because of what I had done, but of what I stood for, because of what I thought, because of my conscience. Can it be any wonder to anybody that such conditions make a man an outlaw of society? Can it be wondered that such a man, having been outlawed by the Government, should be prepared to lead the life of an outlaw, as I have led for some months, according to the evidence before this Court?

Separation

It has not been easy for me during the past period to separate myself from my wife and children, to say goodbye to the good old days when, at the end of a strenuous day at an office, I could look forward to joining my family at the dinner-



Alarmed about Cuba

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I found myself trailed by officers of the Security Branch of the police force wherever I went. In short I found myself treated as a criminal, an unconvicted criminal. I was not allowed to pick my company, to frequent the company of men, to participate in their political activities, to join their organisations. I was not free from constant police surveillance any more than a convict in one of our gaols is free from surveillance. I was made, by the law, a criminal, not because of what I had done, but of what I stood for, because of what I thought, because of my conscience. Can it be any wonder to anybody that such conditions make a man an outlaw of society? Can it be wondered that such a man, having been outlawed by the Government, should be prepared to lead the life of an outlaw, as I have led for some months, according to the evidence before this Court?

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It has not been easy for me during the past period to separate myself from my wife and children, to say goodbye to the good old days when, at the end of a strenuous day at an office, I could look forward to joining my family at the dinner-

table, and instead to take up the life of a man hunted continuously by the police, living separated from those who are closest to me, in my own country, facing continually the hazards of detection and of arrest. This has been a life infinitely more difficult than serving a prison sentence. No man in his right senses would voluntarily choose such a life in preference to the one of normal, family, social life which exists in every civilised community.

Police persecution

But there comes a time, as it came in my life, when a man is denied the right to live a normal life, when he can live only the life of an outlaw because the Government has so decreed to use the law to impose a state of outlawry upon him. I was driven to this situation, and I do not regret having taken the decisions that I did take. Other people will be driven in the same way in this country, by this same very force of police persecution and of administrative action by the Government, to follow my course, of that I am certain.

I must place on record my belief that I have been only one in a large army of people, to all of whom the credit for any success of achievement is due. Advance and progress is not the result of my work alone, but of the collective work of my colleagues and I, both here and abroad.

I do not believe, Your Worship, that this Court, in inflicting penalties, will deter men from the course that they believe is right. History shows that penalties do not deter men when their conscience is aroused, nor will they deter my people or the colleagues with whom I have worked before.

I am prepared to pay the penalty even though I know how bitter and desperate is the situation of an African in the prisons of this country. I have been in these prisons and I know how gross is the discrimination, even behind the prison walls, against Africans, how much worse is the condition of the treatment meted out to African prisoners than that accorded to whites. More powerful than my fear of the dreadful conditions to which I might be subjected in prison is my hatred for the dread-

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Racial arrogance

I hate the practice of race discrimination, and in doing so, in my hatred, I am sustained by the fact that the overwhelming majority of mankind hates it equally. I hate the systematic incultation of children with colour prejudice and I am sustained in that hatred by the fact that the overwhelming majority of mankind, here and abroad, are with me in that. I hate the racial arrogance which decrees that the good things of life shall be retained as the exclusive right of a minority of the population, and which reduces the majority of the population to a subservience and inferiority, and maintains them as voteless chattels to work where they are told and behave as they are told by the ruling minority.

Nothing that this Court can do to me will change in any way that hatred in me, which can only be removed by the removal of the injustice and the inhumanity which I have sought to remove from the political, social and economic life of this country.

Whatever sentence Your Worship sees fit to impose upon me for the crime for which I have been convicted before this Court, may it be rest assured that when my sentence has been completed I will still be moved, as men are always moved, by their consciences; I will still be moved to dislike of the race discrimination against my people when I come out from serving my sentence, to take up again, as best I can, the struggle for the removal of those injustices until they are finally abolished once and for all.



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SIR,—Both Sir William Hayter and Mr. Strachey castigate the British public for being alarmed about Cuba. According to the latter it would have been more dignified to "assert our solidarity" (with our ally) "and, for the rest, to keep silence."

Solidarity, even if our ally had invaded Cuba, as was being urged (Mr. Strachey admits) by very powerful pressures? Clearly this could have led to a nuclear war; and we were even told that American generals were calling for the use of nuclear weapons against Cuba. Who could be so sure that President Kennedy would resist them, or that Mr. Khrushchev would resist equal pressure against him not to withdraw?

It seems to me reasonable that people (and politicians) in this country, all the more because we were so powerless, should have made their desperate protest against the apparently imminent prospect of "annihilation without representation."

Berkhamsted, **Oliver Coburn**

Neutralists

Sir,—Mr. Strachey's jibe at neutralists arises from the common notion that neutrality implies non-violence. Neither Mr. Nehru nor any other neutralist leader has ever believed in non-violence as an instrument of State policy. Neutrality is essentially a means of pursuing an independent foreign policy, and if the people of India have the will, their present difficulties should not deter them from continuing their non-alignment.

What in fact the Indo-Chinese conflict has proved is the fallacy of the assumption, usually made by people of Mr. Strachey's way of thinking, that India and Yugoslavia are protected by the "balance of terror."

E.C.4. **A. M. Abraham**

Miss Bell's book

Sir,—Mr. John Strachey in his article last Sunday mentioned a review by Mr. A. J. P. Taylor of "a book by a Miss Bell from which, he tells us, 'a wise American would draw the moral that the United States should get rid of nuclear weapons in their own interests.'" Mr. Strachey then says that he "cannot help imagining Mr. Taylor and Miss Bell calling at the White House in order to explain to President Kennedy that

Letters to the Editor

the possession of nuclear weapons had been a terrible handicap to him in his recent bargaining with Mr. Khrushchev.

The book in question, "Negotiation from Strength" (Chatto and Windus), by Miss Coral Bell, of the University of Sydney, is a distinguished and scholarly study of recent American foreign policy; and Mr. Taylor's review of it in the *New Statesman* (October 26, 1962) was a grotesque misrepresentation. Its theme is a subtle one which I shall not attempt to summarise. But it may safely be said that nothing in the book suggests that Miss Bell would wish to accompany Mr. Taylor on such a journey.

Hedley Bull
London School of Economics, W.C.2.

Condemned to live

Sir,—After the acquittal by a Belgian jury of Mrs. Coipel-Vandeput, has not the time come for giving the parents of a gravely deformed baby a legal right to decide its future?

Has enough consideration been given to how such a child will feel in later years, as distinct from what it ought to feel (in other people's estimation)? Will it be grateful to society for having condemned it to live?

If no human being has the right to say to another, "You must die," has anyone the right to say "You must live"—whatever the suffering entailed?

W.2. (Mrs.) Pamela Walton

A child's place

Sir,—As the mother of a mentally handicapped little girl I would be grateful if you could publish a point of view that I have seldom seen expressed.

We are parents who were blessed in being able to keep our daughter in the midst of her family. She was very severely handicapped. But she

anxieties, sadness and problems of fighting to overcome her handicaps, were far outweighed by the deep joy and the example of simple courage she gave not only to us, but to those who knew her. She died recently.

It is not easy for parents to withstand the pressure put upon them to regard such children only as a problem or a tragedy. Not long ago a famous and humane child specialist told me that my child would never make a useful citizen and that I must not sacrifice to her my life and that of my husband. Mercifully we always knew her place was with us in her own home, as is the place of any young child, to give us the rare qualities she had to offer and to receive our love and efforts of help.

If only more parents could be given the encouragement, and where necessary the practical assistance, for coping with these situations, then, if the time came when it was better for the child to go to a home or, as in our case, to die, at least the child would have had what is every child's birthright, and the parents would have received something of that which their child was put into the world to give.

Dorset, **Susan Williams**

Deaf and blind

Sir,—In my last Sunday's letter about deaf/blind children (victims of the mother having caught rubella during pregnancy), I criticised the paucity of help from official sources.

I omitted to say, and would like now to add, that two voluntary bodies, the Royal National Institute for the Blind and the Royal National Institute for the Deaf, have given much help and support to the small group (the Rubella Group) of parents of these children.

E.4. **G. M. Williams**
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Eden in the thirties

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FIVE-YEAR TERM FOR MANDELA

Pretoria sentence

Guardian 3/11/62
By our Legal Correspondent

[Lately in Pretoria]

Nelson Mandela, the African lawyer and former leader of the now banned African National Congress, has been sentenced in Pretoria to five years' imprisonment by the regional magistrate, Mr A. van Halsdingem.

Mandela was convicted of inciting African workers to come out on general strike for three days in May, 1961, in protest against the Act making South Africa a republic outside the Commonwealth; for this offence he received three years' imprisonment. The second offence, for which he was sentenced to two years' imprisonment, was for having departed from South Africa to a territory other than one of the High Commission territories—in this case to attend the conference of independent Africa States at Addis Ababa in February—without a valid travel document.

The findings of the magistrate, which were reserved from October 25, were never really in doubt. Mandela, throughout the trial lasting four days, never contested the State's evidence which clearly disclosed that he was the guiding light behind the organisation for the general strike.

Effective line

Instead Mandela pursued the line which most politicians engaged in a non-violent campaign of defiance against unpalatable and immoral laws nowadays adopt. He extracted testimonies from several of the 59 witnesses for the prosecution demonstrating the discriminations of apartheid under which Africans suffer. So successful was this line of cross-examination—which contended that what Mandela did was the only reasonable thing for a politician in his position to do—that the prosecution reverted to re-examining these witnesses thereby seeking to justify the South African Government's policy.

The one startling revelation of the case was the evidence which came to light about the effectiveness of the strike called by Mandela. An official of PUTCO (Public Utility Transport Corporation) testified that on the days of the strike on four major bus routes running from the African townships into Johannesburg no less than 107,000 people stayed away from work. The estimate is that 60 to 65 per cent of Africans responded with a strike call—a striking fact in view of the Government information announced publicly at the time that the strike had been almost a total failure.

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