

PRESS SUMMARY

This is the tenth issue of a regular bulletin giving a factual resume of the proceedings of the Treason Trial.

Period covered: 2 March 1959

APR 3 1959

COURT REFUSES APPLICATION TO QUASH

WHEN the trial was resumed on Monday, 2 March, the Special Court announced its refusal to quash the indictment against the 50 accused. The main amendments to the indictment sought by the Crown before the adjournment were allowed.

The defence exception that alleged actions given in three major sections of the indictment (C, D and E) were incapable of constituting overt acts of treason as well as the objection to the sub-paragraph of para 4 (b) of part B were dismissed. The Court held that in a case of an alleged conspiracy to overthrow the State by violence, words spoken or written in pursuance of the conspiracy and alleged to be the means of the achievement of the conspiracy would constitute overt acts, even if there was no incitement to sedition or violence, provided that hostile intent was manifest and they tended towards the accomplishment of the criminal design.

The defence application to quash the indictment on the ground of misjoinder was also dismissed on the acceptance by the Court that the accused were charged (in parts C, D. and E of the indictment) on the basis of a course of conduct and the Court held that the accused were not prejudiced by the joinder.

Some Particulars to be given by the Crown

The Court refused the further defence application to quash on the grounds of lack of particularity, but ordered the Crown to inform each accused upon which facts, speeches or documents (or portions thereof) it relied for the inference that it was the policy or part of the policy of the organisations to use violence against the State. The Court held that the accused were entitled to obtain this information from the Crown specifically and not in general terms by referral to the whole of the Summary of Facts supplied by the Crown.

Immediately on hearing the decision of the court, Mr. Pirow requested an adjournment of three weeks, stating that the Crown would supply the particulars ordered in two weeks, thus giving the Defence one week in which to study them.

DEFENCE ASKS FOR APPEAL COURT DECISION ON SPECIAL COURT'S RULINGS

MR. MAISELS first commented on this offer by referring to the Crown's submission during previous argument, that six months would be required to furnish these details, and then applied for judgment to be reserved for the Appeal Court on the following points:-

- (1) Was the Court correct in holding that in the case of an alleged conspiracy to overthrow the State by violence, words spoken or written in pursuance of that conspiracy would constitute overt acts, even if they did not constitute incitement to violence or sedition?
- (2) Was the Court correct in holding that the accused were charged on a course of conduct basis and that they were not prejudiced by the misjoinder in Parts C., D. and E.?
- (3) Was the Court correct in holding that the amendments covered most of the arguments levelled against the unamended indictment?

Mr. Maisels asked for judgment to be reserved immediately and for the case to be postponed until after the judgment of the Appeal Court.

Mr. Justice Rumpff doubted the competency of the Court to reserve judgment preceding conviction, but emphasised that it would be useful for the Court to have a decision from the Appeal Court on these points. The Crown indicated that postponement of the trial would be opposed on the ground that judgment could not be reserved without a conviction.

Defence Argument in Support of Appeal Court Application

Mr. Maisels opened his argument on the Court's competency to reserve points for an immediate Appeal Court judgment by quoting Section 366 of the Criminal Code: "The Court may of its own motion or at the request of the Crown or the Defence reserve any question of law for appeal to the Appellate Division". He submitted that there was nothing in this wording to indicate that a point of law could be reserved only after the conclusion of a trial, and in reply to the query by Mr. Justice Rumpff as to whether there had not to be a ground of appeal against conviction, pointed out that in any case the Crown could appeal against acquittal.

Mr. Justice Rumpff: But there must be an appeal against something?

Mr. Maisels: Yes. In this case an appeal against the Court order.

The Defence agreed that it would not be desirable for interlocutory appeals to become routine, but it lay in the discretion of the Court to prevent this.

Crown's Counter-Argument

Mr. Pirow, in reply, argued that if Mr. Maisels were correct there could be an appeal every time that particulars were refused and submitted that it was inconceivable that the intention had been to allow the accused to run to the Appeal Court twenty times during a trial.

Mr. Justice Bekker: But in any case the Court would not allow this. The case is that the Court's decision on overt acts and on misjoinder may be wrong. We can't keep the accused on trial if this is so.

Mr. Pirow then argued that the Court ought not to be influenced by the possible length of the trial unless their dismissal of the Defence application had been made with reluctance. Unless there was more than a possibility of a successful appeal, the Court ought not to agree to the postponement.

Mr. Trengrove continued the Crown argument, submitting that before Section 366 of the Code could operate, there must be a conviction or acquittal. He agreed that there were no cases covering the Defence request for an interlocutory appeal, but claimed that there were a number of decisions which showed that the Appeal Court was not prepared to consider appeals unless there were likely to be concrete results, whereas in this case the results would be academic.

All three judges expressed their disagreement with this submission, pointing out that the appeal would not be purely academic as it was concerned both with misjoinder and with overt acts.

Mr. Trengrove repeated his submission that there was no authority to take matters of this nature on interlocutory appeal and argued that misjoinder could not affect the charge of conspiracy.

Mr. Justice Bekker: But if there is misjoinder, won't the whole case be set aside?

Defence Reply to Crown

Mr. Maisels then requested the reserving of a further point of law, i.e. the non-compliance by the Crown with the provision of the Criminal Code that counts should be numbered.

Replying to the Crown, Mr. Maisels dismissed the argument that the Defence ought not to be allowed to appeal every time that particulars were refused as unworthy of reply. The Court had discretion. The Crown had argued that the Court ought not to be influenced by the length of the trial. This might be all

(more)

right for the Crown but not for the Defence. Referring to Mr. Trengrove's argument that misjoinder would not affect the conspiracy, Mr. Maisels pointed out that if the case were based on conspiracy only, the treatment of the case would be quite different. In conclusion, he submitted that Section 366 of the Code gave the same right to the Defence and the Crown and that unless there were ambiguity or absurdity in the Defence submission as to how the section should be read, there was no reason to look for the intention of the legislature. "The Crown must be desperate for a theory! It was for the Court to decide on the interpretation of the Section.

DEFENCE APPLICATION GRANTED - TRIAL ADJOURNED

The Court then granted the postponement of the trial until after the decision of the Appeal Court and fixed May 18th for the resumption of the trial with leave for the Crown to anticipate on 14 days' notice.

Mr. Pirow requested the Court to re-establish the bail which had lapsed, and when Mr. Maisels opposed this, said that the alternative would be to re-arrest the accused.

Mr. Maisels: Is this intimidation? . . . In terms of the law, once the indictment was withdrawn by the Attorney-General, the accused were no longer on trial. The accused had been called to the Court by summons, and could be similarly called in future.

Mr. Justice Rumpff: Are they regarded as still in custody?

Mr. Pirow: They are still under arrest.

Mr. Pirow then indicated that he would not argue the matter further at that stage, but if he were to make an application later to have bail re-imposed, it would be on matter of substance. He had raised the matter because at least one of the 91 accused had disappeared.

During discussion of the second trial, that of the 61 accused which had been set down for April 20th, Mr. Justice Rumpff indicated that there would have to be a postponement unless a new Court were appointed, though the accused would have to appear before the present Court on April 20th unless the Minister of Justice proclaimed otherwise.

CORRECTION TO PRESS SUMMARY NO. 9.
(Issue preceding the present one)

It is regretted that an error occurred in quoting from a section of the indictment in Press Summary No. 9.

On page 7 of that Summary, under the heading Defence objects to New Amendments, the following appeared:

"Turning to the amendments brought by the Crown, Mr. Maisels opposed the second and third amendment, particularly that which sought to delete the words 'in their lifetime' from the first paragraph of part E and the whole of the following paragraph:

' . . . The achievement in their lifetime of the demands set forth in the said Freedom Charter, which included, inter alia, the following demands:

1. Every man and woman shall have the right to vote for and to stand as a candidate for all bodies which make laws;
2. The national wealth of the country, the heritage of all South Africans, shall be restored to the people;
3. The mineral wealth beneath the soil, the banks and monopoly industry shall be transferred to the ownership of the people as a whole;
4. Restriction of land ownership on a racial basis shall be ended, and all the land re-divided amongst those who work it, to banish famine and land hunger;
5. All shall have the right to occupy land wherever they choose;

(more)

This section of the Summary should read as follows:-

DEFENCE OBJECTIONS TO NEW AMENDMENTS

Turning to the amendments brought by the Crown, Mr. Maisels opposed the second and third amendment, particularly that which sought to delete the words "in their lifetime" from the first paragraph of part E. and to delete the whole of the following paragraph:-

The achievement in their lifetime of the demands set out in paragraphs 1 to 5 hereof would to the knowledge of the accused necessarily involve and was by the accused intended to involve the overthrow of the State by violence.

In place of the above, the following words were to be inserted at the end of the fifth demand as a substitution for the deleted paragraph: ". . . Which said demands the accused intended to achieve by overthrowing the State by violence."

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C O R R E C T I O N - THE SCOPE OF THE TREASON TRIALS DEFENCE FUND

4 MAY 1959

A report in The Star (31/3/59 - Salisbury) has given rise to the impression that the South African Treason Trials Defence Fund would now aid detainees in the Central African Federation.

This is not correct. The Fund deals only with the South African treason trials and, in terms of its constitution (which is registered under the Welfare Organisations Act), it cannot assist in any other field.

Treason

The/Trials Defence Fund has been confused with a quite independent body in Britain which is, of course, free to raise money for any causes, in addition to the treason trial, which its sponsors may decide to embrace.



This is the eleventh issue of a regular bulletin giving a factual resume of the proceedings of the Treason Trial.

Period covered: Monday April 20, 1959 (and including reasons for judgment on second indictment, given on March 2, 1959).

SPECIAL COURT QUASHES TWO INDICTMENT

The Special Court ruled that the Crown's indictments against 61 of the Treason Trial accused were defective and should be quashed. This puts these 61 accused into the same position they were in at the conclusion of the long Drill Hall preparatory examination hearing; the Crown could draft and bring against them a fresh indictment, but in the meantime these 61 persons face no charge.

Indictments Defective - Crown should have sought Postponement

The Bench upheld the Defence argument that the indictments were defective. It was insufficient to allege that the accused had joined a conspiracy and to expect them to know the case against them, and from the past judgments on previous indictments delivered by the Court the present indictments were clearly defective. The Crown had argued that the date for this appearance had been gazetted by notice of the Governor-General.

The Crown had not been ready with particulars for the indictment and had anticipated a postponement of the proceedings. In that case the Crown should not have served the indictments. It could have suggested to the Minister that the Governor General proclaim a new date for the appearance of the accused.

Only 30 of the 156 still Indicted

Thus of the original 156 men and women arrested in December 1956, only 30 (one in five of the 156) still face charges of Treason and these 30 at present await the outcome of the Defence appeal against the indictment to the Appellate Division. The appeal has been set down to be heard from June 15.

At the request of the Defence the Court ordered that the Crown supply further particulars to the indictment in the case of the 30 by June 1. August 3 has been fixed as the date for the re-appearance before the Special Court of the 30 accused, as the decision of the Appeal Court is expected to be known by that time.

61 Accused Split into 2 Cases.

The 61 accused summonsed to appear in Court on April 20 were split into two groups, one of 30, the second of 31 accused persons. The indictments served on the two groups were identical except in respect of evidence of speeches and articles on which the Crown relied, and the period during which the two groups are alleged to have entered the treason conspiracy. Both groups were called into the dock simultaneously.

The cases were referred to as Case number 2 (Rex v. Bernstein) and Case Number 3 (Rex v. Barsel.)

Mr. A. I. Maisels, Q.C., leader of the Defence team said the Defence knew of no cases 2 and 3 and the Attorney-General proceeded at his own peril.

Mr. Justice Rumpff/.....

Mr. Justice Rumpff asked Mr. O. Pirow, Q.C., leader of the Prosecution, if the splitting into two cases was permissible and Mr. Pirow replied that it did not matter at this stage.

Defence Opposes Postponement.

Mr. Pirow then formally applied for the cases to be postponed to August 3.

Mr. Maisels said the Defence wished to lodge an attack on the indictments which it proposed to argue immediately. The points to be argued were completely independent of any to be covered by judgment of the Appeal Court.

The Bench agreed to hear the argument of the Defence.

Defence attack on the Indictment.

Mr. Maisels said the two indictments before the Court were embarrassing and prejudicial to the accused as the charge did not set out the offence alleged to have been committed.

The Presiding Judge, Mr. Justice Rumpff, interrupted at this stage to ask whether, apart from matters already before the Appellate Division, and the point being argued by Mr. Maisels, there would be any other grounds for attack on the indictment. In past argument, he said, the Defence had deliberately attacked the indictment piecemeal. Perhaps the Defence was entitled to do that but it led to waste of money and time, and when the Defence knew there were a number of grounds for attack on the indictment, these should be argued together.

Mr. Maisels said these remarks affected the Defence conduct of the case. He wished to make it absolutely clear that it was never the intention of the Defence to withhold points of attack on the indictment. Further points had become obvious during argument on the first indictment. The Defence was more aware than the Crown, and with much greater reason, of the time and expense involved in this case.

The indictments before the Court were patently defective and should be quashed. If the Bench did not quash the Defence had ready a draft order for further particulars.

The Crown Did not Use its Remedy.

The Crown should have obviated the current hearing and could have done so in a simple way, but it did not choose to. The Crown had no right to issue these indictments in the form they were issued, in the light of what had happened in earlier hearings in this court. It was not sufficient to make the bald statement that persons "did join a conspiracy". The accused were entitled to be told what they had actually done.

Asked by Mr. Justice Bekker if the Defence should not have applied for further particulars, Mr. Maisels said the accused were not obliged to do so. "This document is so vague I should not have to plead or ask for particulars."

Judgment has already been Given.

All these matters had previously been canvassed and judgment had been given on them by this Court. In drawing up the indictments the Crown had simply ignored the findings of the Court and had elected to repeat the bald allegations of violence as though there had been no previous judgment of the Court. The Crown had no right to expect a further application for particulars. There was no duty on the accused or the

Court/.....

Court to fill in gaps in a manifestly defective indictment. By now the Crown had had sufficient experience in drawing indictments in this kind of case. The Crown conduct was indefensible. The minimum requirements for an indictment had twice been laid down by the court. The first order had been seven months ago, the second about six weeks ago. It was wrong for the Crown deliberately to withhold its full allegations and to again expect the accused to embark on the wearisome job of getting particulars.

Mr.Pirow's Reply.

Mr.Pirow said these indictments had been drawn this way because of the Defence attitude in the first case. Details entailing a tremendous amount of work on the part of the Crown had been given for the Defence to say it did not want these particulars.

Mr.Justice Bekker said particulars had been ordered in the previous case, but none were furnished here.

Mr.Pirow said the Crown was not yet ready and had to get a postponement of the case.

Mr.Justice Kennedy asked whether the indictments should have been issued at all.

Mr.Pirow said the accused had to be present in Court because of the notice in the Government Gazette.

Mr.Justice Rumpff said if the Crown was not in a position to file the indictment in its completeness, the Governor General should have been asked to fix a different date for the appearance of the accused.

The Judgment

The Bench retired to consider their judgment and when the Court resumed Mr.Justice Rumpff announced that the two indictments should be quashed. The overt acts alleged in the indictment lacked particularity to such an extent that the accused could not prepare their trial. No particulars had been given as to how it was alleged the accused had joined the conspiracy. It was not sufficient to allege they had done so, and to expect them to know the case against them. Mr.Pirow said the Crown was uncertain what the accused would want to know, but it had been very clear from previous judgments on the indictments that in their present form they were defective. The indictments should not have been served in this form and if the Crown had not been ready it should have suggested the fixing of a new date for the appearance of the accused in Court, this date to be fixed by the Governor General.

The Court then adjourned.

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JUDGMENTS ON SECOND INDICTMENT

The Special Court's Reasons.

On March 2, 1959 the Special Court dismissed the exception and application to quash in which the Defence attacked the second indictment against 31 persons (See Press Summary No.10), but ordered the Crown to supply certain particulars of alleged violence.

The three judgments, 73 typed pages, are briefly as follows:-

Mr.Justice Rumpff found that the exception to the effect that the acts alleged were incapable of constituting acts of treason, would be good

if/.....

if the Defence contention that the change was based on words only, was correct.

Political Climate might be Created.

However, the charge alleges a conspiracy and words spoken and written in pursuance and furtherance of that conspiracy, so that the circumstances in which those words were uttered must be taken into account. If proved, the words alleged manifest a hostile intent and might be capable of contributing to the achievement of the ultimate object of the conspiracy: the overthrow of the State by violent means; i.e. each act alleged (e.g. convening the Congress of the People, drafting the Freedom Charter which was in view of its contents a potent weapon of propaganda envisaging, as it does, a completely different type of State from the present South African State), might be a link in the chain of events leading to that end.

A political climate and a mental state, without which the overthrow of the S.A. State might never be achieved, might be created by advocating illegal action, campaigns against existing laws, inciting violent resistance against the enforcement of laws and by promoting feelings of discontent and hostility between the races of South Africa.

The application to quash on the grounds of misjoinder of the accused in one indictment was refused as the provisions of Section 308 of the Criminal Procedure and Evidence Act allow the joinder of persons where there is a joint conspiracy and a course of action common to all, though each person is charged with separate overt acts, and is not alleged to be responsible for the acts of the other accused.

Mr. Justice Bekker agreed with the above view of the exception and associated himself with Mr. Justice Rumpff's criticism of the Crown concession that the accused were not, in terms of the indictment, vicariously responsible for the overt acts of each other.

Each Accused Alleged Responsible Only for Acts Committed by Him.

He accepted the position that the Court was bound by the Crown's attitude and that this meant that each accused is thus only alleged to be responsible for the acts referring to him. He also concluded that since the accused, though committing separate acts, were each acting in terms of a common course of action, the conspiracy, the joinder in one indictment was valid unless there was prejudice to the accused. On this latter aspect, Mr. Justice Bekker concluded there was no prejudice since the proof of the conspiracy was by inference from all the words of all the accused. The Defence contention, that in this manner the Crown sought to get round the statutory provision that treason must be proved on the evidence of two witnesses where one overt act is charged, was dismissed as the Crown was entitled to adopt this approach. He did not agree with Mr. Justice Rumpff in his conclusions on Section 328, though on his different reasoning the practical result was the same - the application to quash on misjoinder was dismissed.

Mr. Justice Bekker then dealt with the Defence argument, that the Crown furnish particulars of the allegation of violence which is the essence of the charge of treason. The Crown had furnished a general answer in the form of a "summary of facts" which was not confined to the issue of violence and involved the accused in matters not relevant to violence in order to acquaint themselves with the particulars of violence. In any event an accused is not obliged to examine a mass of particulars and then to surmise or to infer on theories as to the case he has to meet.

Furthermore, without allegations as to special facts and circumstances, many speeches and documents are not, prima facie, suggestive of violence or related to the issue of violence. Thus the Crown must disclose

such/.....

such details to the accused. Without these further particulars the accused cannot hope to become acquainted with the Crown case.

Mr. Justice Bekker could see no reason for the Crown attitude that it could not supply particulars requested. Accordingly an order has been made for certain particulars relating to details of violence to be supplied.

Mr. Justice Kennedy in his judgment dealt with the numerous amendments applied for and granted during the course of the long argument. He agreed with Mr. Justice Rumpff on the quality of an overt act and with Mr. Justice Bekker on further particulars and misjoinder.

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INDICTMENTS 3 & 4

Separation of Accused.

Early in April, the Crown served two indictments upon the Defence, together with notices of trial for April 20. There were two indictments because the Crown had quite unexpectedly decided to divide the remaining accused again, into groups of 30 and 31.

Differences between Indictments.

There were few differences between the two indictments, or between them and the indictment in the case of the first 30. The allegations that the accused wanted to achieve changes "in their lifetime, meaning thereby five years", which caused so much argument at the February hearing, were now dropped. The indictment against L. Bernstein and 30 others alleged that these accused had joined the treasonable conspiracy between October 1952 and October 1953. That against H. Barsel and 29 others said that the conspiracy was joined between October 1952 and December 1954. The result of this difference was that speeches made during 1954 could be included as overt acts in Bernstein's case, but not in Barsel's.

Apart from these differences, it was the same charge, based on a conspiracy, speeches, documents and the Congress of the People.

Particulars not Given.

None of the particulars which had been given in amplification of the old indictment were given now, neither was there any attempt to supply the additional particulars which the Court had ordered in the first case, in its judgment of March 2.

Crown Attitude

It was known that the Crown did not intend to proceed with the trial on April 20, but would ask for a postponement, pending the outcome of the appeal now under way in the first case. Under these circumstances, Counsel for the Crown apparently took the attitude that only the formal skeleton of an indictment was required at this stage.

Defence Argument

The Defence contested this attitude and contended that the Crown must either serve a complete indictment, with all necessary particulars, or serve no indictment at all. An application to quash the two indictments was accordingly made on April 20. A full report of that day's proceedings appears elsewhere in this issue.

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P R E S S S U M M A R Y

This is the twelfth issue of a regular bulletin giving
• a factual resume of the proceedings of the Treason Trial.

Period covered: 15 -- 17 June 1959 (Appeal Court Bloemfontein)
3 - 4 August (Resumption of trial, Pretoria)
10 August (Mr. Pirow's Opening address)

A P P E A L S T R U C K O F F

On 2 March, 1959, the Special Criminal Court allowed the Defence application to appeal on certain questions of law, (see Press Summaries Nos.10 and 11.)

The hearing began before the Appeal Court in Bloemfontein on 15 June, with the Crown arguing, as they had done in Pretoria, that on a proper interpretation of the relevant sections of the Criminal Code, the Court had no power to grant leave to appeal in mid-trial. The argument on the quashing of the indictment could only be heard after the conclusion of the trial if the accused were convicted. Alternatively, the Crown submitted that if the Special Criminal Court had the necessary power, its discretion should have been exercised in favour of the defence only in exceptional circumstances, and the present circumstances were not exceptional.

Mr.I. Maisels, Q.C., argued the contrary view which had been accepted by the Special Court. The Appeal Court, however (giving judgment on 17 June), upheld the Crown's main submission and the appeal was struck off the roll.

(The judges who sat were the recently appointed Chief Justice Steyn, Appeal Judges van Blerk, A. Beyers, Ogilvie Thompson and Acting Judge of Appeal Holmes.)

THE TREASON TRIAL RESUMED

Crown's Defence of Indictment and Information Supplied

When the Treason Trial of 30 accused resumed on August 3, the Crown objected to the Defence application for the quashing of the indictment. Mr.O. Pirow, Q.C., leading for the Crown, objected that

- a) the facts in the application did not support the exception to the indictment or the application to quash;
- b) neither the application to quash nor the exception to the indictment was permissible, in terms of Section 158 of the Criminal Code.

Opening his argument on the first point of the objection, Mr.Pirow stated that the Crown had been asked to disclose certain documents and speeches on which it relied for the purpose of inferring violence. A mass of evidence had been given, totalling over 1,000 items and including documents and reports of meetings. It had been made quite clear that the Crown relied upon the evidence as a whole, and Mr.Pirow submitted that at this stage, unless the Court was prepared to go through all the evidence, the Crown must be the sole judge of the relevancy of the evidence. From the notice of the application to quash, there was no suggestion by the Defence that the evidence as a whole was incapable of supporting the allegation of violence.

Continuing the argument for the Crown, Mr.Trengove claimed that the Defence had failed to comply with Section 168 in that reasonable notice had not been given to the Crown, and that full grounds for the application to quash had not been set out in the notice, nor had the Defence given any reasons for

their assumption that the accused were prejudiced. The reason why the Crown should be supplied with sufficient particulars was obvious.

Mr. Hoexter then outlined the compliance of the Crown with the Order of Court made on 2.3.1959.

- i. the policy of the organisations in relation to violence had been set forth;
- ii. in respect of each organisation, the Crown had set forth the particulars of the speeches and documents relied on, together with numbered references to the record of the preparatory examination, so that it would be easy for the Defence to refer to them. These particulars had been served on the Defence on 2.6.59; on 17.7.59 the Crown had received a request for further particulars of which some had been furnished by the Crown (others had been refused) on 29.7.59. Subsequently, the notice of exception and the application to quash had been served by the Defence.

In the notice of exception the Defence had complained that the further particulars furnished by the Crown did not comply with the Order of Court, in that the facts, speeches and documents were not confined to the issue of violence against the State, but the Defence had failed to inform the Crown which documents and speeches were objected to and the grounds for the alleged inadequacy.

The policy of reciprocal support of the organisations to which the accused belonged had been set out in the Summary of Facts, and at 1.0 stage in the prior hearing had the Crown been ordered to supply information as to the facts, etc. on which it relied for this allegation of reciprocal support. On 17.7.59, however, the Defence had asked for such facts in their request for further particulars.

The Crown had set forth the series of facts and circumstances on which it relied in relation to reciprocal support of policies, e.g. the Indian Congresses supported and co-operated with the A.N.C. in supporting the same publications, attending the same meetings. Executive members made speeches at meetings of each others' organisations.

The Crown submitted that the Defence contention that "they did not know what case they have to meet" was meaningless; it was clear from the judgment on 2.3.59 that violence was the only issue outstanding; the adequacy of particulars, other than violence, had already been argued in Court.

Defence Objections to Amplified Indictment

Replying to the objection by the Crown; for the Defence, Mr. H. Nicholas pointed out that the whole matter must be considered in its setting - which was the Order of Court which had prescribed what further particulars should be furnished. The Defence submitted that the Crown had failed to comply with the order, because the further particulars supplied had not been limited to violence as required by the Order of Court in terms of Mr. Justice Bekker's judgment. The accused should not be called upon to consider additional information.

Mr. Justice Rumpff, presiding, stated that the Court proposed to note the Crown objection to the application and to hear the Defence Argument, since to some extent the validity of the Crown objection would depend upon the argument presented by the Defence.

Continuing the Defence argument, Mr. Maisels protested that although the further particulars supplied by the Crown looked better, they were in fact nothing more than the "particularised policy of the A.N.C.". In two of the organisations, a microscope would be required to find any trace of violence in the quoted speeches. The Crown had still failed to give the particulars required by the Court on the issue of violence. The Crown must not merely establish co-operation, but show that each organisation wished to bring about political change by violence. For three of the organisations,

there was no allegation of support of the Freedom Volunteers.

The Defence contended that the Crown was seeking to establish conspiracy in an improper way; the same flaw remained as on the last occasion. If the blanket allegation of violence were removed, there were no speeches, facts, etc., to support the charge of violence against the State for several organisations.

Mr.S. Kentridge then continued the argument for the Defence, saying that he would illustrate the gaps between the policies of the organisations. The case against the A.N.C., for example, as set out in the documents, was entirely different from that set out for the S.A. Indian Congress. In the case of the S.A. Coloured People's Organisation, it was alleged that A.N.C. delegates attended S.A.C.P.O. meetings and explained the A.N.C. policy, but the Defence had not been referred to any occasion on which the A.N.C. delegate had "explained" A.N.C. policy.

The speeches relating to the Indian Congresses showed only a policy of non-violence. This Congress was being accused of violence only by means of a blanket allegation of support of A.N.C. policy. The Defence submitted that by relying on the blanket allegation, the Crown had still failed to make the point of violence and had substantially failed to comply with the Order of Court.

Resuming the argument on the second day, August 4, Mr.Kentridge referred to the Court objection that whereas formerly the Defence had complained of "too little information, it now complained of too much. Mr.Kentridge reminded the Court that the Defence had always complained of an undigested mass of facts from which they were supposed to infer violence; there was now a smaller and semi-digested mass of facts!

Mr.Justice Bekker commented that the Crown had committed itself by saying certain speeches were "violent"; it would merely be for the Defence to ask "Why?"

Mr.Kentridge went on to disagree with the claim of the Crown to be deemed the sole judge of relevancy, submitting that obvious irrelevancy could not be proper and repeated the Defence objection that the Crown had failed to comply with the Court Order.

The Court's Ruling - Rejection of Defence Applications

Mr.Justice Rumpff said that on 2.3.59 the Court had ordered the Crown to inform each accused on what the Crown relied for the inference of violence in relation to the policy of the organisations. The Crown had supplied a comprehensive document setting out the facts relied on, and in response to a request for further particulars, had supplied these on 22.7.59. The Defence was, however, not satisfied that the Crown had complied with the Order of Court.

The Crown had objected to the notice of exception on the grounds that it did not comply with Section 168 of the Criminal Code, which required adequate notice, but the Court did not find it necessary to consider this, as neither the exception to the indictment nor the application to quash could succeed. The Court was not called upon to consider the cogency of the evidence, the Crown had been called upon to supply information to the accused and had done so and, in the opinion of the Court, the accused now knew what case they had to meet and were not prejudiced by the information supplied by the Crown. The Defence had pointed out that the statement that organisations other than the African National Congress had had knowledge of and supported the policies of the African National Congress prejudiced the accused because the Crown had not supported this allegation with primary facts. The Defence had also submitted that the further particulars supplied by the Crown were of no assistance because the accused had once more been referred to the record of the preparatory examination. The Court did not agree with this view. Although all the primary facts had not been given, the gist of the case against the accused had been sufficiently set out. The application to quash was therefore refused.

THE TRIAL PROPER COMMENCES

Accused Plead 'Not Guilty'

By agreement, the procedure of reading the indictment to each accused was then waived, and the accused pleaded individually "I plead not guilty to the charge insofar as the overt acts are laid against me". On behalf of the accused, Mr. Maisels then made the following statement to the Court:

"It has already become apparent that during the preliminary stage of the case that the central issue is the issue of violence.

While no admissions are made in regard to any of the Crown's allegations, the Defence case will be that it was not the policy of the African National Congress, or any of the other organisations mentioned in the indictment, to use violence against the State. On the contrary, the Defence will show that all these organisations had deliberately decided to avoid every form of violence and to pursue their ends by peaceful means only.

The Defence will rely for its contentions as to the policies of these organisations upon their constitutions, the resolutions taken by them at their conferences, and the pronouncements of their responsible national leaders. If necessary, these leaders will be called as witnesses for the Defence. The Defence will place before this court the material relating to these organisations from which their policies might normally be expected to be deduced.

In its indictment, the Crown has relied upon certain speeches, most of them by persons of minor importance, which may seem to suggest the existence of a policy of violence. Insofar as such speeches were in fact made in the terms alleged, the defence will say that they may have represented the notions of individuals, and not the policy of the organisations."

Addressing the Court, Mr. Pirow stressed the importance of the opening statement by the Crown in which the case against the accused would be fully set out and the evidence would be preshadowed. On two occasions this opening address had been prepared and roneo'd, but the applications by the Defence for quashing of the indictment had thrown it out of focus, and on this occasion it was not yet ready for presentation to the Court and the accused.

Mr. Justice Rumpff: But, Mr. Pirow, why on earth could you not have had it ready for yesterday?

Mr. Pirow: The Crown could not anticipate the judgment of the Court. Although we believed in the rightness of our stand, it would have been a waste of time to have prepared the opening statement for yesterday.

Mr. Maisels then agreed, on behalf of the accused, that evidence of documents could be led pending the opening address by the Crown on Monday, August 10, and the Court then adjourned until the following day.

THE CROWN'S OPENING ADDRESS

As the opening address, summarising the Crown case, is of such importance, it is added here in full.

The early stages of evidence lead by the Crown (on 5, 6 and 7 August, before Mr. Pirow's opening address on 10 Aug.) will be included in the next Summary.

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OPENING ADDRESS

A. INTRODUCTION:

The case here presented by the Crown is an intricate one. The Crown will seek to bring within the scope of a single prosecution the developments of some four years or more, covering the entire country and requiring frequent reference to events in other countries; involving a score of organisations, many individuals, innumerable events, and, last but not least, an excursion into the complex phenomenon known as Communism.

Before I deal with the essential facts of the case, and the evidence to be produced by the Crown, it will be useful to refer to a few aspects of the law of Treason applicable to this case.

B. THE LAW OF TREASON APPLICABLE IN THIS CASE:

In Roman-Dutch law High Treason is committed by those who with a hostile intent disturb, impair or endanger the independence or safety of the State or attempt or actively prepare to do so. Save for the words "or attempt or actively prepare to do so" this definition is that of VAN DER LINDEN (2.4.2.), which has been accepted by our Courts as authoritative.

The ingredient of "hostile intent" is not to be derived only and exclusively from acts connected with an external enemy of the State. *Majestas* has a dual aspect. The State defends itself against domestic attack (among other ways) by enforcing the criminal penalties for High Treason.

In our system of law, as in the legal systems of most communities, it is not criminal to seek political reform. Constitutional changes, however radical and farreaching, may be lawfully sought. But they must be sought by legitimate and constitutional means only. When the methods become unlawful and unconstitutional the individual using them commits High Treason. The Crown will ask the Court to apply to the facts of the instant case the principles long recognised by our law and tersely stated by SCHREINER, J., (as he then was) in delivering the judgment of the Special Court in the case of *Rex v. Leibbrandt* in 1943. His Lordship said (see page 19 of the typewritten certified copy of the judgment):

"Now in South Africa there is a lawful method of getting constitutional changes effected. That is by Act of Parliament. And there is a lawful method of changing the Government. That is by gaining a parliamentary majority through victory at the polls. These are the lawful, constitutional methods and the only ones. No other method exists which does not rest upon the use of illegal force. There is no intermediate course between constitutional action through the ballot-box and treasonable action through the illegal use of force. Members of an organisation may not themselves desire to use bombs or other weapons, but this will not avail them if their purpose is to act outside the constitution to achieve their ends."

Although it is clear that "hostile intent" is the essence of the crime, there must be an act which shows the existence of this intent. In the present case it was contended on behalf of the defence that in the absence of an external enemy the Crown is able to rely only on such "overt act", which, without anything further, might endanger the State. As a corollary to this argument it was urged by the defence, that where the Crown relies on words, spoken or written, as constituting the overt act, such words should at the very least amount to an incitement to sedition. These contentions were rejected by this Court in its judgment dated 2nd March, 1959, (Page 1281-2), the Court deciding "that in a case of an alleged conspiracy to overthrow the

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State by violence, words spoken or written in pursuance and in furtherance of that conspiracy, and alleged to be the means employed for the achievement of the object of the conspiracy, in law constitute treasonable overt acts, even if they do not constitute an incitement to violence or sedition, provided the words, in the circumstances, manifest the hostile intent and provided they tend towards the accomplishment of the criminal design."

C. THE INDICTMENT:

The accused are charged with Treason, the allegations against the accused being set out in the indictment, which is divided into Parts A - E, with Schedules A - D, read together with the Further Particulars, and numerous and detailed Schedules furnished from time to time.

It is not necessary to deal at length with the indictment as this has been done during the course of the argument on the various applications of the Defence.

It is only necessary to draw attention to the following:-

- (1) The fact that the actual charge of Treason against the accused is laid in Part A of the indictment. Parts B,C,D and E are overt acts of the Treason charged in Part A.
- (2) Although the Crown alleges that it was the policy or part of the policy of the various organisations mentioned to use violence against the State, it should not be lost sight of that this allegation is only a fact from which the violent nature of the conspiracy, which is the overt act set out in Part B of the indictment, is inferred. In paragraph 2 of Part B it is clearly stated that the objects set forth in paragraph 1. of Part B, i.e.
 - (a) to subvert and overthrow the State by violence, and to substitute therefor a Communist State or some other State;
 - (b) to make active preparation for the achievement of the objects set out in sub-paragraph (a) hereof,

were to be achieved by the accused in their individual capacities and/or as members, or supporters of the named associations.

D. SUMMARY OF CROWN CASE:

The gist of the Crown's charge of High Treason is that the accused, acting in concert, and through the instrumentality of their organisations, prepared to subvert the existing State by illegal means including the use of force and violence; and to replace the existing State with a State founded on principles differing fundamentally from those on which the present State is constituted.

The description in terms of political science and philosophy of the precise structure and complexion of the State at which the accused aimed is not necessarily an essential element of the Crown's case. The Crown does ~~not~~, however, that such State was to be a State differing radically and fundamentally from the present State. The accused themselves described their goal to be what they called, inter alia, "a People's Democracy," "True Democracy" etc. and it will be the Crown's case that such a State would entail the destruction of the existing State and its machinery; its Parliament; its Judiciary; its Police-Force; its Defence Force; it would involve, in a word, p.5 the smashing of the entire apparatus of State as we know it in this country today.

As to the manner and means by which the accused would achieve their

aims, the Crown's case is that the accused foresaw and were bent upon no legitimate constitutional struggle for political reform but a violent and forcible revolution or that in any case they must have known that the course of action pursued by them would inevitably result in a violent collision with the State resulting in its subversion.

E. NATURE OF THE EVIDENCE:

- (1) In support of its charge of High Treason against each of the individual accused the Crown will lead evidence which the Crown will contend proves:
 - (a) that each of the accused had the requisite hostile intent against the State e.g. the intention to subvert and overthrow the State or to disturb, impair or endanger the existence or security of the State;
 - (b) that each of the accused conspired with each other with persons mentioned in Schedule "A" to the Indictment and with other persons to the Prosecutor unknown to subvert and overthrow the State by violence and to substitute therefor a Communist State or some other State and to make active preparation for the achievement of the aforementioned objects;
 - (c) that in pursuance of the said conspiracy each of the accused committed the overt acts alleged against them in Parts C, D and E of the Indictment.

The Crown will contend that by committing the said overt acts each of the accused did disturb, impair and endanger the existence, or the security of the State, or did actively prepare to disturb, impair and endanger the existence or security of the State.

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- (2) In view of the large mass of particulars and evidence already furnished in amplification of the Indictment the Crown proposes to set forth in broad outline only the nature of the evidence which it intends to lead in support of each of the foregoing matters. In referring to speeches and documents, such references will be quoted as examples only and are not intended to be exhaustive of the speeches and documents on which the Crown intends relying.

I. Hostile Intent:

In proving the hostile intent of each accused the Crown will rely on all the activities of the said accused as set forth in the particulars to the charge which are already before the Court.

II. Conspiracy and the adherence thereto:

The Crown will prove the existence within the Union of South Africa of a country-side conspiracy as alleged in Part B of the Indictment. The Crown will further prove that each of the said accused adhered to and participated in the activities of the said conspiracy.

The Crown alleges a conspiracy of a very wide and extensive nature. The accused and the co-conspirators have acted on a country-side scale at different times, in different places, and by means which were not always the same. In a case of these dimensions it is obviously impossible for the Crown to demonstrate (and the Crown submits that it need not demonstrate) that each conspirator participated in the carrying out each detail. Nor is it necessary for the Crown to prove that each conspirator was acquainted with every other conspirator; or that each conspirator knew the exact role to be played by every other confederate. But

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the Crown does allege and will seek to prove that all the conspirators had in view the same criminal plan and purpose whose accomplishment was the object of all; the violent overthrow of the State; and making preparations therefor.

The Crown intends to prove the existence of the conspiracy by way of inference from the facts set forth in the Summary of Facts contained in Annexure "I" of the Further Particulars to the Indictment as amplified by the further particulars furnished in terms of the order of the Court dated 2nd March 1959.

Although many of these facts, taken by themselves, may appear to be of an innocent character the Crown will contend that if they are read together with all the other facts it will lead to an irresistible inference that there was a conspiracy of the nature alleged by the Crown. The Crown therefore proposes to set forth the nature of the evidence which it intends to lead as proof of the facts set forth in the Summary of Facts as amplified by the Further Particulars.

(A) The National Liberatory Movement in South Africa:

The Crown relies on the fact that prior to 1952 and throughout the period of the indictment, there existed in South Africa a "National Liberatory Movement". This "National Liberatory Movement" is part of the international "Liberatory Movement" which chiefly aims at the achievement by violence in non-Communist countries of full political rights for such national groups as have not yet attained them. The Crown says that it is the duty of Communists (whose primary object is to effect a world revolution) to give active support to this movement, and that they have done so in South Africa and elsewhere, such countries being regarded by the Communists as "colonial" or "semi-colonial" countries.

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In China, Korea, Vietnam, Indo-China, Kenya and Malaya the revolutionary activities of the Liberation Movement resulted in the case of each such country in actual armed conflict between the so-called "oppressed peoples" and the duly constituted authorities in such countries.

The Crown will prove that the accused, co-conspirators and the organisations mentioned in Schedule "B" of the Indictment, supported the Liberatory Movement; that they identified themselves with and expressed solidarity with the struggle of the so-called "oppressed peoples" in the countries aforementioned; that they lauded the violent acts committed by the so-called "oppressed peoples" in the course of their struggle for national liberation; that they stressed that their struggle could not be isolated from the national liberation movements in the aforesaid countries and that they advocated and encouraged the adoption of the same violent methods in the Liberatory Struggle in South Africa. The accused further considered the Congress Movement as the vanguard of the Liberatory Movement in South Africa.

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The Crown says that the essence of the case against the accused is to be found in the existence in South Africa of this so-called Liberatory Movement. This was the unifying element in the conspiracy. There is no facet in the Crown case which can be isolated from this Movement and the Crown will show that the aims and activities of the accused are always referable to this Movement. In this Movement the accused and the organisations used every grievance or local issue, even such as bus fares and bus boycotts, which one would not normally associate with revolutionary activities and aims and make it part and parcel of their struggle for so-called Freedom and Liberation.

(B) The World Peace Council and the Peace Movement:

The World Peace Council was established in Paris in 1949. Its objects are to advance the policies and interests and defend the actions of the U.S.S.R. whenever and wherever possible, and more particularly in the sphere of international relations. The World Peace Council emphasises the indivisibility of the struggle for peace and the struggle for liberation. It therefore supported the Liberatory Movement and more particularly the National Liberatory Movement in South Africa. The World Peace Council functions through p.10 peace councils established throughout the countries of the world, and there is in this country a South African Peace Council whose activities will be examined more closely at a later stage of this address. The World Peace Council has the co-operation and support of certain other international communist-sponsored organisations such as the WORLD FEDERATION OF TRADE UNIONS, the WORLD FEDERATION OF DEMOCRATIC YOUTH and the WOMEN'S INTERNATIONAL DEMOCRATIC FEDERATION. These are all "transmission belts" or disguised mass organisations, which are used by the Communist Party to spread or transmit Communism to the masses of the people. The South African Peace Council was established for the purpose of carrying out and promoting the policies of the World Peace Council.

(C) The existence of the Communist Party in South Africa (C.P.S.A.):

The C.P.S.A. was affiliated to the Communist Party of the U.S.S.R. and existed in South Africa until 1950. Its object was the undermining of the South African State to prepare for the overthrow thereof and it supported the National Liberatory Movement for its own purposes and to hasten the so-called "Liberation" of South Africa by the violent overthrow of the existing regime. The Crown further relies on the infiltration of certain organisations already referred to by members of the C.P.S.A. after the dissolution of that party. The role of Communism will be dealt with more fully later.

(D) The existence before 1st October, 1952, and throughout the whole period of the indictment of the AFRICAN NATIONAL CONGRESS and the SOUTH AFRICAN INDIAN CONGRESS (with all their provincial and local branches) and the SOCIETY FOR PEACE AND FRIENDSHIP WITH THE SOVIET UNION. p.11

The evidence will show that the first instruments of cohesion in the conspiracy were the A.N.C. and S.A.I.C. In July 1951, the executive committees of A.N.C. and S.A.I.C. formed a JOINT PLANNING COUNCIL to organise support for the National Liberatory Movement in South Africa. The Joint Planning Council recommended a mass campaign for the defiance of so-called "unjust laws" and this led to the formation in June 1952 by the executive committees of A.N.C. and S.A.I.C. of the NATIONAL ACTION COMMITTEE and NATIONAL VOLUNTEER BOARD to direct and co-ordinate a defiance campaign. The "DEFIANCE CAMPAIGN" was launched on the 26th June 1952, and members of the Defunct C.P.S.A. then holding executive positions in S.A.I.C. and the A.N.C. were appointed as the first volunteers to defy laws. The campaign was waged on a country-wide scale and lasted until January 1953. The Crown will prove from speeches and documents that the accused and co-conspirators subsequently on many occasions referred to this campaign and considered it as the main precedent for illegal and unconstitutional action in their struggle for so-called Liberation or Freedom.

(E) The formation in the latter part of 1955 for the purpose of gaining further segments of the Union's population for the Liberatory Movement, of the SOUTH AFRICAN PEACE COUNCIL, the SOUTH AFRICAN CONGRESS OF DEMOCRATS, the SOUTH AFRICAN COLOURED PEOPLES' ORGANISATION, the SOUTH AFRICAN INDIAN YOUTH CONGRESS, the formation in April 1954 of the FEDERATION OF SOUTH AFRICAN WOMEN, and the formation in March 1955 of the SOUTH AFRICAN CONGRESS OF TRADE UNIONS. p.12

(F) The role played by some of the abovementioned organisations:

The policies and activities of the A.N.C. and S.A.I.C. as well as the organisations created in 1953, 1954 and 1955, are fully set forth in the Summary of Facts. The nature and extent of the early collaboration between A.N.C. and S.A.I.C. make clear that these two organisations took the initiative in the adoption of unlawful and extra-parliamentary action. The evidence will show that before the beginning of the period alleged in the indictment these two organisations were committed to some form of revolutionary activity; revolution not seen as a sudden episode, perhaps, but revolution as the consummation of a long and flosible process involving boycotts, strikes, civil disobedience and stoppage of work. It is desirable, however, to consider more precisely at this stage the important roles played by the above organisations that came into being during and after 1953.

(i) THE SOUTH AFRICAN PEACE COUNCIL:

The S.A.P.C. was formed at Johannesburg at a conference p.13 held on the 22nd-23rd August, 1953. Resolutions passed at this conference show its objects to be profoundly anti-capitalist, anti-imperialist, and anti-colonialist. It condemned the South African Government's policy internally and externally. The S.A.P.C. regarded South Africa as a member of the war-mongering bloc, eager to plunge the world into the devastation of further wars. Its policy can be gained from the report of the 1st National S.A.P.C. Congress:

" . . . If we want peace we must support national liberation movements of colonial peoples. We are concerned with the prevention of war, and if we can put our finger on colonialism as a definite cause of war then it is common sense to throw in our lot to resist imperialism."

The evidence will show that the S.A.P.C. regarded the struggle for peace and freedom in South Africa as indivisible, and, in consequence, that the greatest concern of all those working for peace (as they proclaimed it) was the destruction of the present government and its replacement by a very different one. In anticipation of the Congress of the People, the S.A.P.C. produced a pamphlet in which the role of the Peace Council in the conspiracy is well revealed. The pamphlet is called "The Peace Movement and the Congress of the People" and in it the following occurs:-

" . . . While the peace movement must not usurp the functions of the liberation movement nor lose its independent character, it p.14 must start from the viewpoint that every conquest won in the course of the struggle for national liberation constitutes an advance of the peace forces over the forces of aggression and oppression . . ."

The Crown will lead evidence to show that many of the accused

and co-conspirators who were leading members of the other organisations were also leading or executive members or supporters of the S.A.P.C. such as for instance E.P. MORETSELE (12), J. NKADIMENG (15), R. RESHA (17), A. KATHRADA (3), H. JOSEPH (2), and M. Moolla (11); that the S.A.P.C. was part of the World Peace Movement, and that the S.A.P.C. slavishly followed Communist policy in respect of foreign relations.

(ii) THE SOUTH AFRICAN CONGRESS OF DEMOCRATS:

S.A.C.O.D. was formed in Johannesburg on the 10th and 11th November, 1953. The new body represented an amalgamation of three previously existing ones: the Springbok Legion, the Congress of Democrats (Transvaal), and the Democratic League (Cape Town).

On the 15th June 1953 a Springbok Legion circular advocated the formation of an organisation to defeat the Government through extra-parliamentary struggle. It said:-

"The strategic need in the struggle against Fascism is to mobilise the people in active opposition to the Fascists and their programme and to prepare the people for decisive action to defeat the Fascists. In the situation which obtains in South Africa where the non-White peoples are being effectively mobilised by the A.N.C., S.A.I.C. the need is for a national organisation among whites capable of mobilising all who are prepared to wage a militant extra-parliamentary struggle for democracy in South Africa and who will accept the non-White organisations and peoples as allies."

It was this need amongst the accused that led to the formation of S.A.C.O.D. At the inaugural conference mentioned above a paper - "Draft of the Immediate Programme of Action", prepared by the co-conspirator, P.J. HODGSON, was read, in which it was stated, inter alia, that only extra-parliamentary action involving the masses of the people could defeat the Nationalist Government, and that the alternative to the Nationalist Government was no longer a government of any of the white parliamentary political parties, but a Democratic Peoples Government, elected by direct, universal and equal suffrage. p.15

The evidence will show that S.A.C.O.D. soon became a very vigorous partner in the enterprise. The Chairman's Report to the First Annual Conference of S.A.C.O.D. held at Johannesburg on the 24th June, 1955, states, that during the 20 months preceding the conference S.A.C.O.D. had taken its place as an equal partner with the A.N.C., S.A.I.C., and S.A.C.P.O. in the people's struggle for freedom, and that the future of South Africa would inevitably be decided by the struggle of the Liberatory Movement. It urged its listeners to join with the named congresses in all struggles affecting the masses, and that no issue should be regarded as too small or insignificant in their struggle.

(iii) THE SOUTH AFRICAN CONGRESS OF TRADE UNIONS:

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S.A.C.T.U. was formed at a conference held at Johannesburg on the 5th and 6th March, 1955. Its declaration of principles states that in South Africa only the working class, in alliance with other so-called progressive minded sections of the population are able to build a happy life for all.

At this inaugural meeting the co-conspirator, P. BEYLEVELD, who was the chairman warned the meeting that their struggle would not be an easy one, but that while the enemies of the workers were strong, they had exhausted their potential. The potential of the workers, however, lay in the masses of the people, who were chafing against the yoke of oppression, and were waiting for a lead.

The evidence will show that S.A.C.T.U. issued a bulletin called "Workers' Unity". In the third issue of "Workers' Unity" there is an article entitled "Trade Unions - Yes - and Congress too" by Ben Giles, in which the following appears:-

"when the workers' struggle must be fought not just against one group of bosses in a single industry, but against a whole system, against a Government, or against a whole ruling class, the best form of organisation is not one restricted to a single industry but one which embraces everyone who can be encouraged to struggle against the Government or ruling class...."

At the annual National Conference of S.A.C.T.U. at Cape Town in March, 1956, the co-conspirator, P. BEYLEVELD, made a speech in which he said that the conference would be called upon to consider and endorse the Freedom Charter. He said further that although S.A.C.T.U. was bound to pursue an independent policy in the interests of the workers, it should also participate unreservedly in the struggle to mobilise the people behind the demands in the Freedom Charter and that there should be co-operation with all other organisations engaged in this struggle. p.17

The evidence will show that S.A.C.T.U. laid particular stress on the link between the trade union and liberatory movements. In the bulletin, "Workers' Unity", of August, 1955, there appeared an article by the accused, W.M. SISULU, (19) stating inter alia:

"The victory can only be won and imperialism uprooted by forging strong ties of alliance between the liberatory movement and the trade union movements....The coming into being recently of a real and true trade union co-ordinating body in South Africa, the S.A.C.T.U.....which is led by people who are themselves in the forefront struggle in the liberatory movement, such as Leslie Masina and Peter Beyleveld, will no doubt bring about the desired alliance and thus hasten the downfall of the ruling class".

The Crown will lead evidence to show that many of the accused and co-conspirators, who were leading members of the other organisations were also leading or executive members or supporters of the S.A.C.T.U. such as P. BEYLEVELD, L. MASINA (7), J. NKADIMENG (15), L. LEVY (4), C. MAYEKISO (22).

(iv) THE SOUTH AFRICAN COLOURED PEOPLE'S ORGANISATION p.18

S.A.C.P.O. was formed during 1953 in order to organise the Coloured people, as distinguished from the Natives and the Indians, for the so-called struggle for freedom and liberation. This organisation became part of the National Liberatory Movement in South Africa, joining forces with the A.N.C., S.A.I.C. and the other organisations mentioned.

(v) THE FEDERATION OF SOUTH AFRICAN WOMEN:

F.S.A.W. was formed in April, 1954. Its object appears from a speech made by the accused HELEN JOSEPH (2) at the F.S.A.W. National Conference held in August, 1956.
She said:-

"From the outset it was realised that any women's organisation that stood outside the struggle for National Liberation would stand apart from the mass of the women..."

F.S.A.W. had affiliated to it inter alia the A.N.C.W.L., S.A.C.O.D. and S.A.C.P.O.

All the leading members and executive members of F.S.A.W. were members and executive members of the other organisations, such as: H..JOSEPH (2), L. NGOYI (14), B. MASHABA, F. MATOMELA, M. RANTA.

(G) The formation during or about March 1954 by A.N.C., S.A.I.C., S.A.C.P.O., S.A.C.O.D., and F.S.A.W., of the NATIONAL ACTION COUNCIL OF THE CONGRESS OF THE PEOPLE.

The N.A.C.C.O.P. was formed with the object of creating a central co-ordinating body consisting of representatives of each of the constituent organisations to ensure common policy, strategy and tactics for the Liberatory Movement. S.A.C.T.U. became a member of N.A.C.C.O.P. in 1955. Representatives of N.A.C.C.O.P. met at various places and times during the period March 1954 to August 1955 in preparation for the Congress of the People to be held at Kliptown in June 1955, and to co-ordinate the linking of various campaigns (such as the Opposition to the Bantu Education Act, the Western Areas Removal Campaign, and the campaign against passes) with the Congress of the People and the achievement of the demands of the Freedom Charter. N.A.C.C.O.P. was also concerned with the activities of the "Freedom Volunteers", a corps whose duties will be explored later on. P.19

N.A.C.C.O.P. was responsible for the publication and distribution of many brochures, bulletins, pamphlets and circulars, to which frequent reference will be made in the course of the case. N.A.C.C.O.P. further organised and conducted study classes, more particularly for Freedom Volunteers, to prepare them for their part in the struggle for liberation. The basis of study and discussion at such classes was a series of lectures including the three lectures entitled "The World we live in", "The country we live in" and "Change is needed". The evidence will show that the accused and co-conspirators attached great importance to these lectures and were bent on the wide dissemination of their contents. P.20

The first lecture depicts our world as an arena of the class struggle, where workers struggle against exploitation for the full value of their labour, and the masters struggle to exploit the workers as much as possible for their own enrichment. The two basic classes in capitalist society are in constant and inevitable conflict, and this struggle is a continuation of the age-old conflict, so the lecture says, between the exploiters and the exploited; the rulers and the ruled; those who own the means of production and the great masses of people who possess nothing but their capacity for labour. In the early days this class struggle was between slave-owner and slave, later between feudal lord and serf. In the later days of capitalism a new kind of exploitation developed in the conquered lands of Africa and Asia; the workers of the colonies were subjected to a double exploitation - exploited as workers and oppressed and exploited as an inferior people. This double exploitation the lecture calls imperialism, and the people who suffer from it "colonial people". Imperialism leads to wars. The lecture concludes by saying that in every land workers have banded together to fight with all their resources against imperialism and exploitation, and that in South Africa it is the Congress Movement which organises for this great struggle.

The next lecture "The country we live in" gives an analysis of the position in South Africa, and says that in South Africa imperialism has perfected a cheap, semi-rural system of labour, and that such a system, by which a small group of men grow rich at the cost of misery, slavery and poverty of many, is always in danger of overthrow by the oppressed people. Imperialism can only survive by the use of force on the one hand and on the other by dividing the oppressed people. The lecture goes on to say that in South Africa imperialism has built up a vast network of force - police, commissioners, superintendents and armies and workers to suppress by force the national struggles and revolts of the oppressed. But imperialism is only a stage in the development of mankind. Before it have gone slavery, feudalism, merchant capitalism. And imperialism is a passing phase. In its beginnings it manages to put up a show of democratic freedom. As the discontent of the oppressed rises it is forced to strip off its democratic pretences and yields to a terrorist dictatorship called fascism. This, says the lecture, is the system rapidly growing up in South Africa, and this system cannot be defeated only by changing the government of the day. P.21

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The third lecture "Change is Needed" says that none of the parliamentary political parties seeks to make the type of change that the national liberation movement needs. It says that for immediate changes allies can be found outside the Congress Movement, allies who P.22 will go along the same road for a short time, and from this tactic the Congress movement will built up its strength and support for the great sweeping changes that must be made before imperialism is ended. The lecture then poses the important question whether such a radical sweeping change can be made little by little, by one reform after another, by a long period of small concessions to the idea of race equality. The lecture looks at the current picture of South Africa and decides that the whole apparatus of State, founded on exploitation and oppression, can never serve the ends of the Congress movement and must go. The Congress movement must build for itself a new kind of State - a People's Democracy. And such a great and sweeping change can only be brought about by gathering all the oppressed and the liberty-loving people together into a single mighty camp which will work to win not only the small concession and reforms, but which will work also to overturn the very basis of imperialist oppression. This is the task for which the Congress Movement exists.

- (H) The formation in August 1955 of the NATIONAL CONSULTATIVE COMMITTEE by the A.N.C., S.A.I.C., S.A.C.P.O., S.A.C.O.D and S.A.C.T.U.

the
After/holding of the Congress of the People and the adoption of the Freedom Charter at Kliptown on the 26th of June 1955 the following organisations, A.N.C., S.A.I.C., S.A.C.P.O., S.A.C.O.D., and S.A.C.T.U. formed the N.C.C. At a later stage representatives P.23 of F.S.A.W. also joined the N.C.C. N.C.C. had to co-ordinate the activities of the member organisations and to provide a common policy and strategy in the post-Congress of the People period. After August 1955 there took place meetings of the N.C.C. and the various provincial consultative committees at which were considered campaigns for the implementation of the terms of the Freedom Charter, and the linking of such campaigns with the campaigns against the administration and enforcement of the laws already mentioned.

The N.C.C. also convened and organised meetings at which those present were exhorted to pledge themselves to work and campaign for the achievement in their lifetime of the demands set forth in the Freedom Charter. The N.C.C. published and distributed brochures, bulletins, pamphlets, circulars and other printed matter to which reference will be made in evidence.

- (I) The conspiracy also embraced certain committees which were created from time to time. The precise status, composition and degree of permanence of such committees cannot always be clearly ascertained, but the evidence will show that at various stages they were all actively functioning as cogs in the machinery of the Liberation Movement. A few of the more important committees are the following:-

P.24
The National Action Council of the Congress of the People,
The various Provincial Action Councils,
The Resist-Apartheid Committee,
The Anti-Permit Committee,
The "New Youth" Committee,
The "Call" Committee,
The "Liberation" Committee,
The "Fighting Talk" Committee,
The "Let the People Speak" Committee.

- (J) New State, Congress of the People and Freedom Charter.

The Crown will lead evidence to show that the aforementioned organisations, the accused and co-conspirators renounced the present form of State, demanded its destruction and propagated as an immediate object the substitution therefor of a form of State differing radically and fundamentally from the present State. This form of State was commonly referred to by the said Organisations, accused and co-conspirators,
in/.....

speeches and documents, as a "People's Democracy", "People's Republic" a "True Democracy", and so on.

One of the most important aspects of the agitation for a new State was that it resulted in the holding of the Congress of the People at Kliptown on the 25th - 26th June, 1955 and the adoption thereof of the Freedom Charter as alleged in Part E of the Indictment.

The Congress of the People was attended by many delegates from all parts of the country. The proceedings and speeches thereof will be fully described in the evidence. The Freedom Charter, so the P.25 Crown will allege, marks an important step in the accused's struggle for a people's democracy. The evidence of the Crown's expert witnesses will be that the demands contained in the Charter fit perfectly the intermediate programme of the Communist Party in a country described by them as a "colonial" or "semi-colonial country". And the Crown will lead evidence to show that the accused themselves interpreted and understood and propagated the Freedom Charter as a revolutionary document in the sense that the achievement of its aims involved not merely reforms but the complete smashing of the entire State apparatus in its present form. The Crown will seek to prove for example, that the accused, N.R. MANDELA (6), wrote and published an article called "In our Lifetime" in the journal "Liberation", June 1956, in which he said:-

"The Charter is more than a mere list of demands for democratic reforms. It is a revolutionary document precisely because the changes it envisages cannot be won without breaking up the economic and political set-up of present South Africa"

And in the newspaper "New Age" of the 17th November 1955, there appeared an article entitled "Does the Freedom Charter Mean Socialism?", which states, inter alia;

"The Charter does not propose merely a reform of the present system, a patching-up of its worst evils, an amelioration of some of its conditions. This Charter proclaims that only a complete change of State form can result in the people P.26 achieving their aims. Some groups, like the Liberals, have the illusion that real democracy can be achieved within the existing constitutional set-up."

- (K) Advocating and propagating unconstitutional and illegal action, including the use of violence; and
Preparing and conditioning the population for the overthrow of the State by Violence.

The said organisations, accused and other conspirators at all times accepted and propagated the view that the new state desired by them was to be achieved by extra-parliamentary, unconstitutional and illegal action including the use of violence. They therefore readily resorted to the use of extra-parliamentary, unconstitutional and illegal action to achieve their ends. The evidence will show that in accordance with communist doctrine the accused propagated the view that in Parliament the opposition had collapsed, had withered away or was completely impotent, that the only real and effective opposition to the Government resided in the Congress movement and that therefore the struggle for liberation would have to be waged on the extra-parliamentary front and by unconstitutional and illegal means. At a S.A.C.P.O. meeting, Parade, Cape Town, 13.3.1956 the co-conspirator A. LA GUMA made a speech in which he said:

"... the only alternative for the Non-European people of South Africa is to organise a struggle for liberation outside of Parliament, not through Parliament, but outside of Parliament, that is where the struggle lies. And it is for the non-European people to realise, if they have not done so in the past, that the time is drawing near for them to get up on their hind legs and gird themselves for battle....."

The Crown/.....

The Crown will also lead evidence to show along what lines the accused planned their offensive on the extra-parliamentary front. Their strategy which will be revealed in the testimony to be considered hereafter, in connection with the various campaigns, was at all times directed and coordinated towards the achievement of their ultimate object, namely the subversion of the State. They regarded the use of extra-parliamentary action as a prelude to the ultimate revolutionary offensive, namely the violent conflict between the forces of the so-called democracy and the forces of so-called fascism or reaction.

The attitude of the accused can be gauged from an article found in possession of accused A.M. KATHRADA (3) in which under the heading "Immediate Tasks" it is stated:-

"A revolutionary offensive at this stage is probably out of question, although we cannot be dogmatic even about that. The headlong collision is not to be yet. The strategy for the advanced elements now is to work for the rapid build-up of the forces of the democratic camp as represented by the A.N.C., S.A.I.C., Congress of Democrats, etc. A shifting war, to harass the enemy, hamper him, spoil his laws and plans, disturb his timetable, pin him down and tax his resources as much as possible"

The Crown will set out to prove that the accused throughout preached the inevitability of, and the necessity for violence in their struggle to overthrow the State. The Crown will lead evidence to show P.28 that the accused believed the substitution of their ideal state for the present one incapable of achievement by specific or constitutional means, and that the accused were dedicated to the proposition that accomplishment of their aims would involve the use of criminal violence. They sought not merely a "revolution" but a violent revolution. In a speech at a "Let the People Speak" committee meeting, Sophiatown, on the 7.3.1945 the accused N.R. MANDELA (6) said:-

"Those who want freedom are those who are prepared to support a violent rebellion and militant action ... People like General Hertzog and General Smuts who were famous lawyers, took up arms and fought for their people. That is the only way to be prepared in South Africa, is to prepare the people for a violent rebellion. We are in a better position to fight against the forces of reaction than the Afrikaner people were, when they fought the British Imperialists. I say we have 10 million people against 2 million whites. We can force a mental hatred against the oppressors and any one who stand against freedom. I know as I know that the sun will rise in the East tomorrow that a major clash will come and all the forces of reaction will collapse against the forces of liberation.... The writing is on the wall when we will crush the forces of reaction"

And at an A.N.C. meeting, Sophiatown, on 2.5.1954 the accused, A.M. KATHRADA (3) made a speech in which he said:

"We have been talking to the white people in this country for many years. We have been passing resolutions, signing petitions, begging them to please stop the injustices against our people. They just don't want to listen to us. Now we must talk to the whites in the only language that they understand and repeat the defiance campaign. That spirit will liberate our people...."

The Crown will endeavour further to show that the form of criminal violence contemplated by the accused was not limited to minor street-corner skirmishes or beerhall brawls. The evidence will show that the accused did not shrink from the idea of military operations on a considerable scale. At a Freedom Charter Committee meeting, Trades Hall, Johannesburg 18.9.1955 co-conspirator N. SEJAKE made a speech in which he said:

"The period seems to be fast arriving when (all people) will form the Liberatory Movement in this country and finally all workers
who/....."

who are in the grinding mill of misery and poverty should join hands for the determined achievement of the people's freedom ... It requires hard practical work and sacrifice. One must be prepared to clash with the servants of the State, and if the struggle assumes very large and countrywide dimensions, one shall have to clash even with the armed forces of the country ... That is the test we must pass before we can have work and security...."

The evidence will show that insistence upon violence runs through the case in an unbroken thread, and that the speeches made by the accused bristle with references to the spilling of blood. The accused believed and taught that they, as oppressed people, were prepared to sacrifice with their bodies or blood if freedom was to be achieved in that manner, as it was expressed by R. RESHA (17) at a Colonial Youth Day meeting, on 21.2.1954.

It will appear from the evidence that while incitement to violence was an almost invariable technique of nearly every speaker at meetings its boldest exponent was the accused R. RESHA (17). The Crown will seek to prove that this accused advocated violence in many ways. At one meeting he would content himself with roundabout allusions P.30 merely. For example, at a S.A.C.P.O. meeting, Korsten, Port Elizabeth, on 27.11.55 the accused R. RESHA (17) made a speech in which he said:-

"Moet ons die boere gaan vat en doodskiet, moet ons die boere in die see jaag, is dit die goed wat ons moet doen? Die vrae wat ek nou gevra het sal 'n man nog vir homself moet antwoord...."

But the Crown will show that on other occasions this accused used incitement to criminal violence which left nothing to the imagination. A good example of such a speech is afforded by the accused RESHA's speech on volunteers to which reference will be made hereafter.

From the speeches and writings of the accused and their co-conspirators it will appear that they are fond of referring to commission of large-scale acts of violence in countries such as Kenya, Korea, Malaya etc., They would emphasise that the struggle of the people in those countries was also their struggle, and they made clear that the forms of struggle adopted in such countries would necessarily and inevitably be adopted by those engaged in the Liberatory struggle in South Africa.

On the 8th of June 1955, and at a meeting of the Congress of Democrats in Cape Town the co-conspirator S. BUNTING made a speech in which she said:-

"Our struggle for freedom and liberation is part of the struggle throughout the world for peace and freedom. War breaks out whenever the people are stopped from marching forward to freedom. That has been the case in Korea, in Kenya and even in China today there are people from outside who want to impose their will on the people of China. And that is why our struggle for a better life here is linked with the struggle for peace throughout the world."

On the 13th of December 1953 and at a "Let the People Speak" Committee meeting, the co-conspirator MALIBA said:-

".... The day is coming when you will get your freedom through your blood. Those people who are dying in Kenya and other parts of the world are fighting for their freedom"

The accused NTSANGANI (27), in particular, was prone not merely to predict but to advocate the adoption in this country of the tactics adopted in Kenya. Speaking at an A.N.C. meeting at Korsten on the 13th of June 1954 he said:

"The /....."

"The present government of this country has caused Africans to be wild. What is happening in Kenya has been caused by the British Government. What Malan is doing in South Africa will drive us to be the same as Kenya people."

On the 1st of August 1954, at an A.N.C. meeting held at Veeplaats, Port Elizabeth, the accused NTSANGANI (27) said:

"We are going to say something, what is happening in Kenya will happen here."

And speaking at an A.N.C. meeting at Korsten on the 20th March 1955, the same accused said:

"The African nation in South Africa is going to act as Kenya people did and achieve freedom."

The Crown will lead evidence of suitably qualified witnesses to explain these frequent allusions to Kenya and Korea. The testimony of such witnesses will be to the effect that what took place in Kenya and Korea was nothing less than open warfare. P.32
In calling such witnesses, however, the Crown will have no concern with the merits of the disputes which resulted in open warfare in such countries. The Crown's only concern will be to show that references by the accused to such countries carry the necessary and inescapable implication of violence.

In many speeches the flowing of blood is referred to in lurid terms, but the impression is sought to be created that this bloodshed would be the result of uncalled for and illegal steps by the Police and at the same time the speaker conveys to his audience the suggestion that the Police victims would be entitled to retaliate, thereby initiating a country-wide struggle which would result in the achievement of Liberation.

The evidence will also show that the claim was made by some of the accused, and upon different occasions, that their struggle was a "non-violent" struggle. It will be the submission of the Crown on all evidence, however, that such non-violence slogans were used either as a camouflage, and a palpably transparent camouflage, or, perhaps more often than not, in such a contextual setting as in fact to constitute a veiled incitement to violence.

At an A.N.C. meeting at Kimberley on 26.10.52 J.G. MATTHEWS, a co-conspirator said:

P.33
"The African people of this country demand that they should rule this country ... We demand that it is on our own terms that what should happen not on the terms of the people who had left their own countries and come to Africa ... I would like to warn Strydom and the rest of them that inasmuch as the African people were able to fight against a large empire like Great Britain, we will be able to get our freedom with a few million. We are prepared to sacrifice a few of the million, because we know history and time is on our side, and justice is on our side. Finally, I would like to issue a warning to those people who like to speak of breaking this country Out of the 200,000,000 Africans we are prepared to lose a few, but white South Africa cannot afford to lose five. Therefore let violence be put aside. It is not a solution. The sten guns and aeroplanes are not a solution. It is a social problem. Let them try one thing they had not tried so far, to create a true people's democracy in South Africa, in which all men, irrespective of race, creed or colour can live together. That day we describe you will have peace and harmony."

And lastly the Crown will lead evidence to show that the accused advocated the use of violence as an instrument of terror. Violence

would/.....

would be directed in the struggle not merely against those in outright opposition to the accused in their struggle, but also against those who vacillated and temporised. At a S.A.C.T.U. meeting, Parade, Cape Town, on 4.3.1956 the co-conspirator C. SIBANDE made a speech in which he said:-

"Those people who stand in the middle saying that instead of saying apartheid we say separation, they better excuse us right now and stand away, because we will crush them. Instead of crushing our enemies, the Nationalist Government, we will crush them first, because they are our obstacles. Everyone knows in every country what has happened to traitors and spies...."

The Crown will attempt to show, furthermore, that the accused threatened violence against the oppressor (meaning thereby the present holders of duly constituted authority) even after the destruction of the State. Evidence will be led that at an A.N.C. meeting at Alexandra on 30.1.55 certain MOLEWA, alleged by the Crown to be a co-conspirator made a speech in which he said:-

"Those who are standing in our way, white or black, when we P.34 get our freedom they will come to the people's court; we shall start from the cabinet and sentence them to death...."

Also instructive is a letter dated the 16th January, 1953, to one Limbada, and alleged by the Crown to be written by the co-conspirator B. NAIR in which the following passage occurs:

".... In the struggle for Liberation any person who goes against the majority decision, and who appears to be a traitor trying to sell his people or organisation for his own gain deserves to be shot or tortured. Your names will go on the list of Traitors and opportunists, you will be tried by the people's court for your actions. To traitors, I say, there's room to man your ways now, before its too late"

(L) The Freedom Volunteers

P.35

(i) Origins:

The Crown will lead evidence to show that during the first half of 1954 certain A.J. LUTHULI (alleged by the Crown to be a co-conspirator) President-General of the A.N.C., issued a call for 50,000 volunteers to organise for the Congress of the People and to assist in resistance to the Western Areas Removal Scheme. Thus was set afoot the recruitment of a militant corps which the Crown will urge must be regarded as a semi-military shock brigade in the so-called army of national liberation.

(ii) The oath administered to Volunteers upon enlistment.

The Crown will lead evidence of the oath to be taken by volunteers upon enlistment. Such evidence will make clear that complete obedience was required of the Freedom Volunteers and that the idea was to get recruits who were ready in conviction and temperament to perform unquestioningly whatever deeds legal or illegal their leaders considered necessary to advance the common programme.

(iii) Actual recruitment of Volunteers

In the evidence of speeches the Crown will further cite instances of actual recruiting in the form of appeals by speakers to the audience to join up as volunteers.

(iv) Duties of Volunteers

The Crown will offer testimony to prove the nature and scope of the role which the accused conceived for their elite corps. The evidence will show/.....

show that the volunteers were shock troops to be ready for action at a given signal - and action which was to be legal and illegal, pacific and violent, as the occasion demanded and committed to unquestioning and unswerving obedience to the commands of their leaders.

At an anti-Apartheid Conference, Johannesburg, on 27.6.1954, the accused G. SIBANDE (20) made a speech in which he said:-

".... We are also in the midst of our struggle. Our holy war is still coming. Under these conditions, we appeal for volunteers who shall obey the instructions of Congress. Men and women who shall be faithful to the orders of Congress. Where we are going, we shall go in the darkness. We shall work in the dark. We shall go through black forests. When we get into that river we shall start breathing. We don't know what river is that. There may be blood flowing in that river. There might be anything but we are going there. These volunteers who are so anxious to do this job, we must tell them this, whether they want to know, whether they want to be given orders now or tomorrow. That must not worry them. They must just wait for the call. When the bell strikes, then we shall do something, they shall get the call we shall apply all tactics, underground, openly, we will do all this we are going to fight the Nationalist Government until democracy is established."

At a Congress of the People meeting, Sophiatown, Johannesburg, on the 25.7.1954, the accused A.M. KATHRADA (3) made a speech in which he said

"Mr. Chairman and Friends, it is my task this afternoon to speak to you about the task of volunteers, of the freedom volunteers. If I want to describe in one word what the task of the freedom volunteers are, I would say that our freedom volunteers are going to be the top brigade, of the 50,000 strong in the army of national liberation in this country....."

One of the tasks assigned to the Freedom Volunteers was to comb the whole country for demands for inclusion in the Freedom Charter. But this was one of their less spectacular duties. The Crown will contend that the Volunteers were also intended for more offensive tactics, and in particular the use of violence under semi-military discipline. At a secret meeting of the African National Congress, at 37 West St., Johannesburg on 22.11.1956, the accused R. RESHA (17) who was volunteer-in-chief made a speech in which he said:

P. 37

"Volunteers are those people who don't ask questions. A volunteer is a person who has pledged himself to carry out the work of the African National Congress, whatever is involved, without questioning. A volunteer is a person who has dedicated his entire life to the Liberation of his African people during the whole time. A Volunteer is a person who is disciplined. This is the key of the volunteer, discipline. When you are disciplined and told by the organisation not to be violent, you must not be violent. If you are a true volunteer and you are called upon to be violent, you must be absolutely violent, you must murder! murder! That is all"

(M) Organising and Participating in Campaigns against Laws and Inciting to Illegal and Violent Resistance against the Administration and Enforcement of Such Laws:

The Crown will seek to prove that this abstract idea of "a shifting war to harass the enemy, to hamper him, to spoil his laws and plans, and to pin him down as much as possible", was translated into practical terms by the accused in various ways which included the organisation of and participation in campaigns against existing laws and the administration and enforcement of such laws.

The evidence will show that these campaigns which were waged on a large scale throughout the country, were an integral part of the extra-parliamentary struggle embarked upon by the accused as a means towards their/.....

their ultimate objective. The campaigns were deliberately planned and carried out with determination. Broadly speaking the campaigns had a two-fold purpose namely

- a) to hinder and to hamper the Government and to coerce it into submission by inciting and exhorting and mobilising the population to participate in mass agitation against laws passed by Parliament and thereby creating a state of unrest on a national scale and P.38
- b) to prepare and mobilise the masses for struggle on wider basis by relating the wider struggle of liberation, conducted by the accused, to the smaller or local issues in which particular sections of the population might be involved.

The campaigns were directed primarily and chiefly against legislation affecting the Western Areas Removal Scheme, Bantu Education, and Passes; but not exclusively so, and the evidence will reveal campaigning against other statutes as well. In the journal "Advance" of the 2nd September, 1954, the accused W.M. SISULU (19) wrote a farewell message under the heading "Fight until the Dawn", in which the following occurs:-

"... you are called upon to recruit our fine youth and women to the struggle in a manner never before achieved. You are called upon to defeat Apartheid, the Removal of the Western Areas, Bantu Education, the Anti-Trade Union Schoeman measures, Group Areas and many others. You are called upon to make the greatest sacrifices in the preparation for the Great Congress of the People, in the building of a united South Africa by which means you can crush finally and for all times the reactionary rulers of the present day"

Before any consideration is given to some of the individual campaigns, it is necessary to stress their interrelation. The Crown will show that in their speeches and writings the accused were forever warning against the tendency to think of issues and campaigns as a distinct and separate from each other. In a speech at a Congress of the People meeting, Johannesburg, on 21.5.55 the accused J.M. NKADIMENG (15) made a speech in which he said:-

"Now on the Congress of the People I think whenever we speak of this P39
campaign, we should try our very best not to consider this campaign as a
separate campaign. We should regard the campaign against Bantu Education,
and we should regard the campaign against the western Removal Scheme as but
just separate aspects of the same struggle. - Of our great struggle for
freedom in South Africa..... we have no doubt that through the united
action of the people we shall stop the Nationalist Party from implementing
those laws.

In a roneod document found in possession of the accused L.MASINA (7)
the first paragraph of which is entitled "the People on the march to freedom"
the following appears:

"It is our task to make known to the oppressed people of South
Africa the fact that our movement is not an isolated and lone one,
but only one arm of the great struggle of people every where to
live out their lives in peace and freedom..... The mass of the
people in South Africa are beginning to realise that there can be no
compromise with the system of baaskap and that nothing less than the
complete liberation of all the peoples of our country can lay the
basis for an advance towards a better life for all Link all
campaigns and relate them to the Freedom Charter."

Discussing the signature campaign for the Freedom Charter the
article states further:

"There is a tendency often to think of issues and campaigns as
distinct and separate from one another, to concentrate on one
pressing issue but at the same time to neglect other equally
important issues in the struggles of the People. We must over-
come this tendency to think of our campaigns as though each were
in a separate 'compartment' - Congress must give a lead on all
these issues. All these campaigns must be carried forward. Each
one is connected to the others. Apartheid breeds all those evils.
Congress will grow and become strong, the people will be tempered
in the struggle on all these fronts. - And all must be linked and
drawn into the campaign for the Freedom Charter which is our answer,
our alternative, our policy for the country....."

The accused, as the evidence will show, were at pains to stress that
the campaigns would form part of a long drawn out struggle in which there
was little hope of an easy victory. The accused made clear to their
followers that careful preparation should go into their attacks, and that P40
their forces should not be wastefully dissipated. Blows should be
timed for critical moments to achieve their greatest effect. For example,
the Crown will show that in her presidential address to the African National
Congress Women's League, (Tvl.) at Johannesburg on the 11th November, 1956,
the accused L.NGOYI (14) sounded the following warning:

"The immediate issue facing us, therefore, is to organise all the
various organisations of African women and individuals against
this inhuman and wicked decision of the Government and stop it
from proceeding with its cruel laws.... Action taken in one
isolated place and without sufficient work being done and with-
out proper co-ordination may be disastrous to the movement. It
may give the Government the opportunity to concentrate all its
resources in crushing resistance in that local place, in the
victimisation of the active fighters in that area and the crush-
ing of resistance before it begins in other areas. We must
learn to place and to co-ordinate beforehand so that we might
strike fatal blows at the enemy when the time comes....."

* only direct mass action will deter the
Government,

....(i)

(i) Western Areas Removal:

The crown will lead evidence to show that the accused regarded their campaign of resistance to the Western Areas Removal Scheme as being of critical importance in their struggle against constituted authority. This was to be their show of strength. It will be recalled that the then intended resistance to the removal was one of the considerations which prompted LUTHULI's call for 50,000 volunteers. In resistance to the scheme the accused foresaw the possibility of a major victory against the Government, and one which would appreciably hasten its destruction and downfall. In a booklet: "South Africa's Way Forward" by the co-conspirator M.KOTANE, there appears under the heading "We shall Win":

"The People of South Africa will prevail over their oppressors. We have a long tradition of resistance to oppression. Provided we take P41 up every issue, big and small, with courage, efficiency and unity, we need not fear the future. We must see to it that a united and uncompromising opposition makes the Western Areas battle the Waterloo of the Nationalist Party"

And at a "Let the people speak Committee" meeting Sophiatown, Johannesburg on 7.3.1954 the accused N.R.MANDELA (6) said:

"If we refuse to be removed (meaning from the Western Areas) there will be major clash against the Africans and the forces of Fascism. I have moved amongst African people in Sophiatown and other parts of Johannesburg. I know what they say. I know that solidarity exists. I know that when we are forced to clash between the forces of liberation and fascism, the forces of liberation will triumph. On that day all of us will be in Sophiatown...."

In a typed document entitled "Report of the Secretariat on the Western Areas" found in possession of the African National Congress, it is stated under the heading "WHAT MUST BE DONE":

"We must keep clear in our minds the objective of the campaign: simply stated. This is to arouse the people and to organise them in a campaign of resistance to apartheid. The basis of such resistance to take the form of non-collaboration of a quantity and quality which must compel the Government to use all its resources to impose its will at any and every stage. Non-collaboration both from the mass and the individual, designed ultimately to strain the resources of the authorities and create a situation more favourable to the movement and for more direct and positive action.

The immediate task in the Western Areas is that of ensuring that resistance grows; that nobody collaborates with the authorities and that those who are removed to Meadowlands are removed by force and that the M-Plan is put into operation. The aim should be to make it necessary for the authorities to employ ever more and more forces to effect the removals.

The organisation of volunteers should be improved to ensure that the people have leadership at all times; that they cannot be easily isolated by police cordons, etc. Tactics and strategy must be explained to volunteers to ensure that they are able to make correct decisions when cut off from leadership."

The evidence will show that despite the most violent agitation throughout the country the removal scheme was carried out successfully and serious clashes and disturbances were averted by anticipating the P 42 date of removal and by taking other precautionary measures.

The evidence will also show that the accused were not unduly dependent about the outward failure of their resistance. In a S.A.C.O.D. Bulletin "Counter Attack" published or printed by the co-conspirator YETTA BARENBLATT there appears an article entitled "Western Areas Campaign -

An Analysis" in which the following occurs:-

".....There can be no single isolated act, which of itself, will defeat the Government. Such a strike as the one proposed for the Western Areas, is, at best, only a part, a small part, of a long, complicated and many sided struggle. It is appropriate, not on any day selected by the Government, but when people have been prepared for such action through active political campaigning, through smaller and less dramatic, less open challenges to the Government....."

The Crown will lead evidence to show that the accused intended to resist the removal of Natives from Sophiatown and the Western Areas to Meadowlands by violence.

At a meeting organised by the "Let the People Speak Committee" on 28.2.54 the accused S.TJIKI (21) in referring to the removal said:

"I want to ask you this, do you want freedom? If yes, are you prepared to fight for freedom? Are you prepared to die? I ask you again. If freedom is only obtained through death, are you prepared to die?..... We want to know what our leaders are going to say to us about this Malan's removal. If they say we must not move from here, then we are prepared to die here."

At an African National Congress meeting, at New Clare, on 9.5.54, accused R.PESHA (17) said:

"Won't it be good my fathers and mothers, when the blood of the youth of African people is spilling for a good cause..... We do not move from the Western Areas." P43

At an African National Congress meeting on 26.6.54 the accused P.WENE (13) said:

"The resolution of the African National Congress say Sophiatown will be moved under the dead bodies of the Africans. Do you agree? The audience shouted "Yes."

(ii) BANTU EDUCATION.

The Crown will lead evidence to show that the accused agitated on a very large scale indeed against Bantu Education, and that during or about the beginning of April, 1955, being the date determined by the African National Congress (with the support and approval of the other Congresses) for the Boycotting of Bantu Education Schools native children in many centres stayed away from Bantu Education schools; or, if they tried to attend them, were prevailed upon to leave by bands of threatening Natives.

Here again the Crown will endeavour to show that the accused were less concerned with the defects in Bantu Education and more concerned with the possibility of a victory for the Liberation Movement. In a S.A.C.O.D. bulletin "Counter Attack" distributed by the con-conspirator YETTA RAREBLATT, there appears an article "Bantu Education", in which the following occurs:-

".....the fight against Bantu Education is the sharpest point of conflict between the forces of freedom and democracy and the forces of fascism. The struggle against Bantu Education is not merely a struggle for better or improved education but a struggle for the very life of the liberation movement."

(iii) PASSES.

The Crown will lead evidence to show that the campaign against passes - the introduction of reference books for Native women, and, indeed, the whole pass system in general - was waged unremittingly and P 44

...../on

on a large scale. The accused saw in this campaign an excellent opportunity for mobilising a mass of people for action. In the National Consultative Committee's "Memorandum on Anti-Pass Campaign" the following passage appears:

"Although the African National Congress has been the bitterest opponent of the Pass System and has carried out a struggle against the system in one form or another, never until now have the people been so indignant, never has the opportunity of mobilising for action been so ripe. But the harnessing of the great potential force will depend largely on a systematic campaign and on a systematic organisation which must be undertaken, a house to house campaign.....

In such a long drawn out war against the pass laws it would be foolish to expect that victory can be won by a single action of the people. The pass system is the foundation of the whole cheap labour system in South Africa and the ruling class will not easily be forced to give it up. It follows that victory in the struggle against the pass laws must not be looked for in every minor skirmish against the enemy. In a long drawn out battle there will be many minor victories, minor defeats, many advances, many retreats. But final victory for the people which means the end of the cheap labour system of South Africa, can only be achieved by the overthrow of the ruling class, and by the achievement of the Freedom Charter as the ruling policy of S.Africa."

The evidence will further show that the accused were anxious that as many forms of struggle as possible be used in this campaign. In the Bulletin "Forward to Freedom" of Transvaal Consultative Committee of A.N.C., T.I.C., S.A.C.P.O. and S.A.C.O.D., dated 1.3.1956, the following appears:-

"MANY FORMS OF STRUGGLE. The struggle against the pass laws must take every form possible, in order that the maximum number and strongest blows shall be delivered in the fight against the Government's policy. There must be meetings, demonstrations, petitions, resistance, and other forms of struggle which the people are sure to develop themselves."

And in "Fighting Talk" January 1956 there appears an article P 45 "Forward with the Freedom Charter" of which the accused HELEN JOSEPH (2) was author, in which it is said:-

"This struggle against the pass laws is not a matter for African women alone, not a matter for the African people alone. It is part and parcel of the struggle for liberation....."

The Crown will further lead evidence of specific incidents in the campaign against passes, and more particularly of what is known as the 'Winburg' incident, where on the 9th April, 1956, a number of native women gathered at Magistrate's Court in Winburg and, having poured paraffin over their reference books, set fire to them. Evidence will also be led of an incident in Newclare on the night of the 24th November, 1956, when certain native policemen were induced by threats of violence to release persons in their custody for alleged pass offences.

(M) Promoting Feelings of Discontent, Unrest, Hatred and Hostility.

The Crown will lead evidence to show that in their attempt to mobilise the people for mass action the accused relied strongly on such forms of agitation as were calculated to promote feeling of discontent, unrest and hatred amongst the population of the country, and more particularly among the non-white section of the community. The evidence will go to show that the accused created unrest among people in a variety of ways, and not least of all by rousing hatred between segments of the population; chiefly between black and white, and almost

...../invariably

invariably by depicting the white man as the plunderer, robber, oppressor and murderer of the black man. In short, the accused taught their followers to regard the white man as the traditional and implacable enemy of the black man.

For example, on the 14th March, 1954, and at an A.N.C. P.46 meeting, Sophiatown, the accused, TYIKI (21), said:

"All the small boys must be taught that the Europeans are their enemies."

Speaking at the same place on the 16th May, 1954, the same accused observes: "The Boers are bad people. I hate the Boer. I can't help it. I would like the Boers to leave the country."

At an A.N.C. meeting held at the Western Native Townships on the 24th March, 1954, the co-conspirator, NJONGWE, made a speech in which he said:

"Every person who is not against the European should be looked upon as a spy."

And on the 19th June, 1955, at an A.N.C. meeting at Dube, the accused, SELEPE (18), remarked:

"Let us know that our enemies are the white people."

On the 4th September, 1955, the co-conspirator, KEITSING, made a speech at an A.N.C. meeting at Newclare, in the course of which he said:

"You must know a European is a killer. You must know that a European got us by means of the Church using the Bible."

Such examples all on the same theme, can be endlessly repeated.

(0) The Adherence to the Conspiracy. P.47

The facts on which the Crown will rely to prove that the accused and the co-conspirators adhered to the conspiracy are systematically set forth in Part B of the Summary of Facts, read with the Schedules thereto. This evidence shows the extent to which the individual accused participated in the conspiracy which has just been described.

III. The other overt acts in Parts C, D and E.

It is not proposed to deal separately with all the overt acts charged. It is alleged in the indictment that all the overt acts charged in Parts C, D and E were done "in pursuance and furtherance" of the conspiracy charged in Part B. However, the overt act charged in Part E, i.e. the Congress of the People, has been dealt with in dealing with the conspiracy.

(4) Evidence to show the susceptible condition of the bulk of the Union's Native population: P.48

In the present case the evidence will show that the accused looked in the main to members of the non-European races (and chiefly the natives) as the instruments to be worked upon for the achievement of their subversive aims. If mass action was to be the order of the day, then, of necessity, the masses would have to be drawn from the natives. In such a case the enquiry as to what was intended, or what could reasonably have been intended by the accused in their propagation of certain ideas - and more especially in their reference to violence and bloodshed - must, in part at least, be determined by the Court through gauging the probable reaction of the people who

...../formed,

formed, for example, the bulk of the audience at meetings of the A.N.C. addressed by the accused. The Crown will ask the Court to infer from certain evidence e.g. the happenings at the Beerhall, Johannesburg, that the bulk of the country's non-European population is likely to respond more quickly, more irresponsibly, and more violently to illegal agitation than would be the case with a group whose general standard of civilisation was higher. Expert evidence for the purpose of confirming this will also be tendered. It will be the contention of the Crown that these susceptibilities of the large bulk of the people who constituted their following were wellknown to the accused, that they contrived to exploit the stronger passions of their followers, and that they succeeded in so doing. The Crown will contend, in a word, that by the time of the arrests in this case, the accused had deliberately created an explosive situation. The Crown will lead evidence to show that there was found in the possession of co-conspirator A. LA GUMA a document entitled "A single spark can start a prairie fire." The Crown alleges that the co-conspirator, A. LA GUMA, was the author of this document or that he possessed it for the purpose of disseminating the contents thereof. P.49

This document speculates upon the date of the revolutionary upsurge in South Africa. It concludes with these words:

".... Once we understand all these contradictions, we shall see how desperately precarious is the situation. South Africa is littered all over with dry fire-wood which will soon be kindled into a conflagration. We need only to look at the development of the militancy(?) of the people, the Defiance Campaign, the strikes of the Non-European workers, the Congress of the People to see that it will not take long for these sparks to become a 'prairie fire'".

The Crown will contend that this is an accurate description of the prevailing conditions in this country.

(5) Evidence

The evidence which the Crown will place before the Court as proof of the aforementioned facts will consist largely of documents and of speeches made at meetings. The large bulk of the documents on which the Crown relies were found at various times in the possession either of the respective organisations or of the respective accused or co-conspirators. There are a large variety of documents consisting of minutes, reports, agenda, correspondence, bulletins, pamphlets and so on. In many instances a document relied upon by the Crown may relate only to a single relevant fact which the Crown is obliged to prove, such as for instance that a particular accused held a certain executive (position?) in a certain organisation during a particular period - a fact which may be of great importance regard being had particularly to the statement made on behalf of the accused immediately after they pleaded namely most of the speeches relied upon by the Crown in support of its allegation of violence were made "by persons of minor importance". In other instances a multiplicity of facts will emerge from a single document for instance that an accused was a member of a certain organisation; that the organisation co-operated with some other organisation on issues such as the Western Areas Campaign, the Bantu Education campaign and the Freedom Volunteers; that the said campaigns were regarded as part of the National Liberatory struggle; and so on. The Crown will also prove that in many cases an accused or co-conspirator was the author of a document relied upon; in respect of other documents the Crown will show that the same document was found in the possession of a number of organisations and conspirators in order to prove the publication and distribution of such a document and knowledge of the contents thereof by a number of persons and organisations, for instance the S.A.I.C. Annual Report, 1954 which was found in the possession of the S.A.I.C., the A.N.C., M. MOOLLA (11), W.M. SISULU (19),

...../ G.M. NAICKER

G.M. NAICKER, A.E. PATEL. In other instances a document will P.51 be handed in as evidence where the Crown intends relying on the mere fact of possession to prove knowledge of the contents thereof, a fact which may be relevant to the issue of hostile intent.

As regards meetings the Crown will lead evidence of witnesses who over a long period attended meetings which were held at various parts of the Union, and who made notes of speeches made at such meetings. The evidence of meetings extends over a period of about 4 years, and it will be shown that they were held throughout the Union mainly in centres such as Johannesburg and the Rand, Port Elizabeth, Durban, Pietermaritzburg and Cape Town. The Crown will also prove that such meetings were usually organised by one or more of the aforesaid organisations or held under their auspices, and that the speeches on which the Crown relies were either made by the accused and co-conspirators or in their presence. This evidence will show that at certain times, speeches to the same effect, and relating to matters hereinbefore set forth, were made at different places throughout the Union. The speeches, just like the documents, may in some cases relate only to one issue, whereas in other cases a speech may refer to a large number of facts which the Crown has set out to prove.

Although many speeches and many documents may relate to the same subject-matter, the Crown will nevertheless have to rely on such evidence as being relevant to issues such as the country-wide extent of the conspiracy; co-operation between organisations and accused; the conditioning of the people on a mass scale; the P.52 extent to which the organisations and accused went to create unrest and discontent; that the accused were not busy with normal political activities. In certain cases a speech or document, which relates to a fact which may be self-evident from other speeches or documents, will have to be proved by the Crown to connect a particular accused or co-conspirator with the conspiracy.

Evidence will also be tendered of certain publications which were either official organs of the aforesaid organisation or were publications which were expressly supported by the organisations. The said publications were used by the organisations and their executive members as a medium of making known their policies, activities and aspirations. The Crown will lead evidence to show that the accused considered the use of a press to be a vital part of the agitation accompanying their struggle for so-called liberation and freedom. Some of the best-known newspapers and journals which were employed by the accused to discharge this important function were:

(a) "NEW YOUTH"

Published by the Transvaal Indian Youth Congress. In the first three issues it was described as the official organ of the T.I.Y.C., but from the fourth onwards as an "independent youth monthly." It was still published by members of the T.I.Y.C. however.

Strongly anti-imperialist and anti-colonialist, it sponsored Congress of the People. It opposed the Western Areas Removal, and supported the Peace Movement. It also advocated the study of "S.A.'s Way Forward" by co-conspirator P.53 M. KOTANE. It advocated extra-parliamentary action.

(b) "CALL"

The "Call" was issued by a "Call" Committee of which the co-conspirators, S. DHLAMINI and N.T. NAICKER were members. It sponsored the Congress of the People. It accentuated the class struggle, and published the two communist lectures "The World we live in" and "The country we live in". It opposed Western Areas Removal.

...../(c) "WORKERS' UNITY"

(c) "WORKERS' UNITY".

This was the bulletin of the South African Congress of Trade Unions. It accentuated class struggle between workers and employers and stressed the need for strong links between the trade union and liberatory movements and was affiliated to World Federation of the Trade Unions - an international front Communist organisation. It supported Congress of the People and the Freedom Charter. It supported the Peace Movement.

(d) "FIGHTING TALK"

This was the official journal of the Springbok Legion. Upon the dissolution of the Springbok Legion "Fighting Talk" became an independent journal. The Springbok Legion, so the evidence will show, played a leading role in the formation of S.A.C.O.D. The co-conspirator YETTA BARENBLATT was one of the members of the "Fighting Talk" Committee. For a period the co-conspirator RUTH SLOVO was its editor, and the co-conspirator L. BERNSTEIN was also associated with it. The P.54 edition of March, 1954, stated that the journal was edited and managed by an independent committee of supporters of the Congress Movement, and that the journal was to be the "voice of the Congress Movement." This was no idle boast. Its political orientation was Communist and it advocated revolution in subtle ways. It advised extra-parliamentary action, and sponsored Congress of the People, hailing the Freedom Charter as a basis for a new South Africa. It accentuated the class struggle and followed Communist policy in its analysis of the contemporary international scene. It supported all the campaigns against South African laws mentioned elsewhere. Its articles reveal all the usual Communist slogans and jargon.

(e) "LIBERATION"

The evidence will show that the co-conspirator P.J. HODGSON and S. BUNTING were responsible for the distribution of Numbers 12-21 of this journal, and that the accused F. ADAMS (1) gave instructions for the printing of numbers 5-11. Its policy was strongly anti-imperialist and pro-Communist. It warned its readers that revolutionary changes in the Union's political structure could only be obtained by revolutionary means, and saw a vigorous People's Democracy as the only possible true alternative to the "Malan-Strydom dictatorship". It described the Freedom Charter as the people's programme of action and dismissed the South African constitution as "that rotten P.55 leaky compromise." It stressed the need for mass action and the building of a united front.

(f) "ADVANCE"

Followed contemporary Communist policy in praising everything done by Socialist countries and denouncing everything done by capitalist countries. It accentuated the class struggle between workers and employers.

Together with its successor, "New Age" was described as the mouthpiece of the Liberatory Movement.

(g) "NEW AGE"

Upon the banning of "ADVANCE" mentioned above the "NEW AGE" appeared in the following week with the co-conspirator F. CARNESON and I.O. HORVITCH as directors, the accused F. CARNESON as manager, and the accused L. FORMAN as editor. Its policy represented no departures from that of "ADVANCE". It was Communist in outlook and used the same slogans as the other papers already described. It was strong in its praise of the Soviet and ranted against imperialism. It sponsored

Congress of the People and proposed mass action as a means towards the attainment of a People's Democracy in South Africa. It advocated the building of a United front to frustrate the plans of the ruling class, and said that the Nationalist Government should be checked and frustrated.

Finally, as regards the quantum of evidence which the Crown will adduce in support of any particular issue or fact, the Crown has to bear in mind the provisions of section 268 of the Code, P.56 which requires the evidence of two witnesses where one overt act is charged; and all that this section implies.

F. CONCLUSION

P.57

In conclusion the Court will be asked to arrive at the following over-all picture.

- I. There existed over the period of the indictment and for some time before a country wide conspiracy between the accused, the co-conspirators and persons to the Crown unknown to overthrow the State by violence and to substitute for it another form of State.
- II. This conspiracy had its origin in the so-called Liberatory Movement, an international communist inspired and supported movement pledged to overthrow by violence all Governments in non-communist countries where sections of the population did not have equal political and economic rights.
- III. The Liberatory Movement had its counterpart in South Africa where it sought to obtain its objects inter alia by the communist method of stirring up trouble in disputes of national and local importance. It was inspired by communist fanaticism, bantu nationalism and racial hatred in various degrees.
- IV. In June 1955 it led to the holding of the Congress of the People which formulated as a programme of action its ostensibly more innocent objects.
- V. All the organisations unequivocally and emphatically supported the Liberation Movement but the most blatantly violent speeches were made by members of the African National Congress.
- VI. The accused participated fully in the activities of their respective associations and associated themselves with the attitude of the said associations in addition to committing the overt acts with which they are charged in the indictment.

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