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To D. Goldberg, Cape Town  
With all good wishes

E. S. Sachs

London

11.2.58



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FORT HARE



# THE SOUTH AFRICAN TREASON TRIAL



THE ACCUSED, FROM LEFT TO RIGHT [*see frontispiece*].

*Bottom Row:* F. Adams, M. Asmal, Y. Barenblatt, H. Barsel, L. Bernstein, P. Beyleveld, I. Bokala, A. Chamile, S. Esakjee, B. Hlapane.

*Second Row:* A. Hutchinson, J. Hodgson, Helen Joseph, Paul Joseph, F. Keitsing, Moses Kotane, Jerry Kumalo, A. Kathrada, Leon Levy, Norman Levy, S. Lollan, F. Madiba.

*Third Row:* A. Mahlangu, V. Make, P. Mokgofe, Tennyson Makiwane, J. Makue, H. G. Makgothi, E. Malele, S. Malupe, Nelson Mandela, S. Masemola, L. Massina, July Mashaba, Bertha Mashaba, P. Mathole, J. Matlou, J. Mavuso.

*Fourth Row:* T. Musi, J. Modise, P. Molaoa, J. Molefi, M. Moolla, Dr H. M. Moosa, E. P. Moretsele, O. Motsabi.

*Fifth Row:* M. K. Mpho, S. Nathie, P. Nene, L. Ngoyi, B. Ngwendu, J. Nkadimeng, D. Nokwe, P. Nthite, A. E. Patel, J. Poo, R. Press.

*Sixth Row:* James Hadebe, M. Ranta, R. Resha, B. Seitshiro, N. Sejake, P. Selepe, S. Shall, M. Shope, Cleopas Sibande, Walter Sisulu, G. T. Sibande, Ruth Slovo, Joe Slovo.

*Seventh Row:* Oliver Tambo, S. Tyiki, R. Tunzi, M. Tshabalala, Rev. D. C. Thompson, Sonia Bunting, J. Busa, F. Carneson, A. Dawood, L. Forman, I. O. Horvitch, A. la Guma, C. Makhohliso, D. Mgugunyeka.

*Eighth Row:* J. Morolong, L. Morrison, J. Mpoza, J. Mtini, G. Ngotyana, G. Peake, A. Sibeko, R. September.

*Ninth Row:* A. Silinga, B. Turok, L. B. Lee-Warden, M.P., F. Baard, D. Fuyani, Rev. S. W. Gawe, J. Jack, C. Jasson, L. Kepe, P. Mashibini.

*Tenth Row:* J. Matthews, Prof. Z. K. Matthews, W. Mati, Florence Matomela, C. Mayekiso, W. Mini, E. Mfaxes, S. P. Mkalipi, W. Z. Mkwai, B. Ndimba, J. Kampeni, B. Ntsangani.

*Eleventh Row:* B. Nogaya, T. Tshume, T. Tshunungwa, S. Vanqa, J. Arenstein, Dr C. Conco, S. Dhlamini, A. Gumede, J. Hoogendyk, G. Hurbans, Chief A. J. Luthuli, P. S. Manana, I. C. Meer, P. G. Mei, Bertha Mkize.

*Twelfth Row:* K. Moonsamy, Dr M. Motala, Dr G. M. Naicker, M. P. Naicker, N. T. Naicker, B. Nair, A. Ngcobo, D. Nyembe.

*Thirteenth Row:* E. Shanley, Dorothy Shanley, P. Simelane, M. B. Yengwa, G. Dichabe, Dr A. E. Letele.

*Fourteenth Row:* J. B. Mafora, Martha J. Motlhakoana, L. S. Monnanyana, A. Seochoareng.

*Absent:* L. Nkosi, S. M. Kumalo, Rev. A. J. Calata, Debi Singh, Stella Damons, T. Mqota, D. Seedat.





*The Accused*  
(see page ii for names)



# THE SOUTH AFRICAN TREASON TRIAL

LIONEL FORMAN AND E. S. [SOLLY] SACHS



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*THE AUTHORS*  
*BIOGRAPHICAL SKETCHES*

LIONEL FORMAN, *Accused No. 83* in the South African Mass Treason Trial, was born in Johannesburg on December 25th, 1927.

He graduated from the University of Cape Town in 1948, with a Master of Social Science degree, and later studied law at the Witwatersrand University. He took an active interest in student affairs and won the Best Speaker's Trophy and also a University Chess Championship. In 1950 he was elected to the Executive of the National Union of South African Students (N.U.S.A.S.) After spending two years in Europe he returned to South Africa, was called to the Bar in Cape Town and became editor of *New Age*, a progressive weekly with a circulation of over 50,000, mostly among non-Europeans.

Married, with two young sons, he had just begun to combine a career at the Bar with journalism when he was arrested for treason. He is collecting material for a book dealing with the struggles of the African, Indian and Coloured people which he hopes to publish in due course.

Lionel represents the truly progressive spirit of the two major South African universities, and the new South Africa.

E. S. (Solly) SACHS, left Witwatersrand University in 1928, when he was elected General Secretary of the Garment Workers' Union of South Africa. For twenty-five years he played a leading role in the South African trade union movement and was an uncompromising opponent of racial discrimination. In 1950 he was elected National Treasurer of the South African Labour Party.

In May 1952, Mr C. R. Swart, Nationalist Minister of Justice served him with Orders under the Suppression of Communism



Act, removing him from the Garment Workers' Union and prohibiting him from attending 'any gatherings whatsoever'. For twice defying the second Order he was sentenced to six months imprisonment on each of two charges. The Appeal Court suspended the sentence, and as life for him became untenable in South Africa he came to Britain in 1953. Manchester University awarded him a Simon Senior Research Fellowship and he wrote *Rebels Daughters*, which *The Times Literary Supplement* described as 'a significant and impressive story written by one of the most remarkable trade unionists of this century'. Solly Sachs is also the author of *The Choice Before South Africa* (Turnstile Press 1952) and is at present working at the London School of Economics on a book, *Labour Legislation and the Colour Bar in South Africa*.



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## CHAPTER ONE

### ‘YOU CAN HANG FOR TREASON’

*‘He believes in democracy because he so believed he is called by the Government a Kaffr Boetie and Communist but more those things are said he is more determined to side with the oppressed.’*

(Extract from a speech by accused No. 12, Jack Hodgson, as recorded in the notebook of Detective-Sergeant Isaac Sharp.)

AT DAWN one morning in 1956, twenty days before Christmas, police knuckles and police batons hammered at the doors of one hundred and forty homes all over the Union of South Africa; the doors of luxury flats and the tin entrances of hessian shanty pondokkies, the oak of a parson’s manse and the stable-openings of farm labourers; doors in comfortable white suburbs, in grim African locations, in Indian ghettos, in cities, in villages and on farms far out on the veld.

One hundred and forty families were wakened that morning—Africans, Indians, Europeans, Coloureds; doctors and labourers, teachers and students, a university principal, a tribal chief. And if the names and occupations were analysed, here was a complete cross-section of South Africa. Afrikaners, Englishmen, Jews, Zulu, Xosa, Basutho, Hindu, Moslem, young and old; sick and healthy; university graduate and illiterate. . . .

Those who asked for them were shown warrants of arrest.

The crime charged in every single case:

HIGH TREASON—HOOGVERAAD.

What does it feel like to be hauled out of bed at dawn and arrested for treason?



Here is how it was for accused number 83, cell number 13 and co-writer of this book.

\* \* \*

On the Monday before the arrests, *New Age*, the weekly newspaper of which I am the editor, went to the printers. The front page carried a warning that the Government was preparing 'some drastic action . . . The attack is likely to take the form of nation-wide arrests.'

And our editorial began: 'It is becoming increasingly clear that the Government is planning its own version of the notorious Reichstag fire trial of Nazi Germany as a means of eliminating the most consistent and determined opponents of its apartheid policy.'

If it is treason to demand these rights for all South Africans, then we are proud to plead guilty to the charge of treason.'

But one can know perfectly well that one is going to be arrested without really believing that it will happen.

'The maid's probably lost the key and wants us to open up for her,' I thought when the knocking woke me, two days after the editorial was written. But I knew perfectly well that the maid wouldn't hammer as loudly as that.

My wife went to the front door and let them in.

I had my gown and slippers on when the two Special Branch men came into the bedroom.

'I am Sergeant Du Pisanie,' said the uglier of the two. 'I have a warrant for your arrest.'

I looked at the warrant and saw the words High Treason, Hoogverraad. That relieved the first tension. I often break Strijdom's laws. I read and own illegal literature—books like Aldridge's *The Diplomat*, Richard Wright's *Native Son*, and even *Black Beauty*. I serve my African guests with liquor—maximum penalty three years. I invite Non-European friends to spend a week-end at my home—maximum penalty five years.

But High Treason!

'You can laugh,' said Sergeant Du Pisanie. 'But you get hanged for treason.' And having delivered this friendly thought the Sergeant and his companion from the Diamond Squad began to pull the books off the bookshelves.



The noises had woken our three-year-old Frank, and he toddled in to see what the visitors had to offer by way of entertainment.

Du Pisanie pushed him away. 'Get this thing out of here and leave us in peace,' he said to Sadie.

'This is my house and don't you tell me what to do in it.'

'You be polite when you speak to my wife,' I joined in, trying to speak like a barrister and a gentleman, and not like a prisoner in pyjamas.

'I'll go down on my knees to her,' said Du Pisanie a little defensively.

'Careful,' I warned. 'You just be careful.' But I'd pushed the attack too far. He rushed at me and held a big fist under my nose. 'Don't threaten me!' he shouted. 'Just don't threaten me! You're just a prisoner like any other prisoner and I'll break your bloody neck!'

I'm no hero. That was quite enough for me. I shut up.

'Mummy, why does that man say that this is not our house?' asked Frank. 'It is our house.'

The phone rang, Du Pisanie took away his fist, and I went to answer it.

It was an African National Congressman phoning from a public telephone in Langa Native Township. 'Sorry to get you up so early,' he said. 'The police have raided in Langa this morning and they've taken Ngugunyeko and Annie Silinga away. Can you go and fix their bail?'

\* \* \*

When I climbed into the police car I still had a vague idea that I would appear before the magistrate, kick my heels for an hour or two while bail arrangements were made and get to my chambers a little late.

I even suggested to Du Pisanie that I should drive down to the court in my own car so that I could go straight to town as soon as things were fixed up.

The idea didn't impress him. 'You'll ride with us,' he said. 'And you'd better pack him a suitcase and bring it to Caledon Square,' he told Sadie.

At the Court, three sets of fingerprints and palmprints were



taken and my physical characteristics were entered on to a card by a bored policeman.

My hands were black from the fingerprint ink. I saw some Africans in an adjoining room rubbing their fingers through their hair to get the ink off. My hair was the wrong colour. The third policeman I asked, took me to a tap and I got some of the ink off. He was astonished when I talked about a towel. 'Use your handkerchief,' he said. I did.

Then they took away all my worldly possessions. Cash, pen, watch, the notepaper I'd thoughtfully slipped into my pocket before leaving—everything.

Annie Silinga and David Ngugunyeko (President of the African National Congress in the Western Cape) were already in the dock when I was ushered into the court. We were the last batch.

I was not permitted to go into the dock with them. Apartheid.

The magistrate came in looking cross and weary. He'd also been pulled out of bed at dawn for this top-secret court.

'Are you Annie Silinga?'

'Eh—we,' answered Mrs Silinga in Se-Xosa.

'Are you David Ngugunyeko?'

'Eh—we.'

'Are you Lionel Forman?'

'Why, you old blighter, you know perfectly well I'm Lionel Forman. I argued a case in this court only three days ago and we had tea together during the adjournment,' I thought.

'Yes,' I said.

'I order your removal under arrest to Johannesburg to face a charge of high treason. The court is adjourned.'

Johannesburg is a thousand miles away from Cape Town. This thing was getting more unreal by the hour.

'Johannesburg better than Transkei,' said Annie No-sentence Silinga philosophically.

Mrs Silinga, a fat, jovial woman, chuckled delightedly at me. 'My lawyer is coming with me,' she said. 'That's good.'

This was far from being the first time we'd been in court together. The Native Affairs Department had been trying to deport Annie from Cape Town for three years now.

The enforcement of the hated pass system is a relatively new



thing to Cape Town, and when a few years earlier it was announced that in future all Africans in Cape Town would have to be in possession of a pass—a permit authorising them to remain in the area—there had been anger among the people. For the pass laws provide that any black person who stays without a permit for more than seventy-two hours in an urban area—and that includes the smallest village—commits an offence and can be sent to jail.

The women are particularly militant on the question of pass-carrying, and Annie Silinga, an almost illiterate Langa housewife, had come to the fore as one of the leaders of the women's anti-pass campaign.

'I will never carry a pass!' Mrs Silinga had told cheering men and women at meetings all over the Peninsula.

And so, inevitably, the police came at dawn to the home in Langa where Annie and her husband Matthew and their three children had lived for many, many years.

'Where's your pass?' the policemen asked Annie.

'I don't carry a pass,' said Annie. So she was bundled into the kwela, as the police vans are called, from the police cry 'kwela! kwela!'—jump in! jump in!

The next day she came before the court of the Native Commissioner.

'You are charged with being in the urban area without a pass,' said the prosecutor. 'Guilty or not guilty?'

'I do not carry a pass.'

'Enter a plea of guilty,' snapped the Native Commissioner.

But the Congresses had got Mrs Silinga legal representation and a long battle was begun.

A tiny group of people were at the time exempted from carrying permits—those who could prove to a court that they had lived lawfully and continuously in Cape Town for fifteen years before the Act was passed in 1952, and those who had worked for the same employer for the whole of the past ten years. These people, the bountiful Nationalists conceded, were entitled to consider Cape Town their home, as long as they broke no laws. (This concession smacked of liberalism and in 1957 the Nationalists amended the law so that *no* African can consider himself secure in an urban area.)



'We plead "not guilty," your worship,' said the attorney. 'Mrs Silinga has remained here lawfully and continuously for over fifteen years.'

'The onus is on you to prove that,' said the Native Commissioner.

And so Annie Silinga and her friends tried to satisfy the Native Commissioner that she had lived in Cape Town for the fifteen years before the Act was passed and the three years since.

The magistrate did not believe her or her witnesses.

On appeal, the Supreme Court found it clear that she had been in Cape Town at least since 1939—fifteen long years. But that was not enough. The key date was 1937, and the court having only the written record before it must rely on the Native Commissioner's findings on credibility.

The appeal was dismissed and the Appellate Division saw no reason to interfere.

So after fifteen years of residence in Langa, it was held that Annie Silinga had not established her right to remain—and she was sent under escort to her 'home', the area in the parched, famine-stricken Transkei reserve where she had been born, and where she no longer knew a single person or had a single relative.

In a phrase used by Annie herself, her three children in Langa were orphans whose mother lived and Matthew was a widower though his wife was alive.

Then one day Annie Silinga arrived back at her home. She made no secret of it. She came back and mothered her children and cared for her husband.

The Special Branch looked in their law books and scratched their heads. It seemed that they had to begin all over again.

A policeman went to the Silinga home. 'Where's your pass?' the policeman asked Annie. . . .

The second prosecution was still before the Appellate Division when Mrs Silinga was arrested for treason and taken to Johannesburg.

\* \* \*

Apartheid came into operation for the trip from Wynberg to Caledon Square, so we had to have two cars.



There were eighteen of us at Caledon Square and I was pleased to see them all. There's safety in numbers.

Then the kwela-kwela drew up and we all piled in. Now we were told for the first time that we were to travel by plane. By the time our bail applications to the Cape Supreme Court had been typed out we were in Johannesburg, well out of the court's jurisdiction.

There was no apartheid in the kwela-kwela and we all sat jammed together with nine armed policemen. The police were polite and restrained and everyone was in the highest of spirits. An African accused, Greenwood Ngotyana, even asked one of the white policemen for a match. And to the general surprise the policeman took out a box and handed it to him. Encouraged, Greenwood felt in his pocket and offered a fruit drop. But this was taking good relations too far and the policeman snorted and turned away.

At the airport we sat locked in the lorry for over half-an-hour, the policemen prisoners with us. The kwela had been locked from the outside and the Special Branch had the key.

When the Special Branch men arrived they had four more prisoners with them. First came old John Mtini, veteran African Congressman, walking along between the detectives, his back, as always, held as straight as it could possibly be. Uncle John is over seventy years old. He has been over seventy years old ever since I first met him about ten years ago, and he has not changed a scrap. His face creased into a happy toothless smile when he saw us all locked up in our cage.

What a rotten piece of work to drag old John Mtini out of his bed at dawn.

The other three new arrivals were from Worcester—Asa Dawood, a young Indian woman, Julius Busa, secretary of the Worcester branch of the Textile Workers' Union, and Joseph Mposa, another trade unionist.

Asa had been in the wars before. Two years ago the Worcester magistrate held that an anti-apartheid speech of hers amounted to the incitement of hostility between Europeans and Non-Europeans, and sentenced her to nine months. The Appeal Court disagreed.

Busa's last brush with the law was even more recent. He



and five other Textile Union leaders had been charged with the incitement of workers to go out on strike. It is a crime punishable by three years in jail for an African to go on strike for any reason whatsoever, and an even worse crime for a trade union leader to urge such a strike.

Coloureds, unlike Africans, may still, under very limited conditions, use the strike weapon, and the Coloured workers at the Worcester textile factory had come out for higher wages.

The African workers refused to cross the picket-lines of the striking Coloureds. Not a single African gave ground and the strike was won. In turn the Coloured workers refused to go back unless the wages of the Africans were also raised. The employers agreed.

But every one of the three hundred Africans who had refused to go to work was arrested and charged. Each was fined £16, of which £12 was suspended on condition that he never struck again! They were allowed time to pay off the £4. It was a carefully balanced punishment. The workers could not be sent to jail because the factory would then come to a halt. For the same reason the fine had to be within their ability to pay, otherwise the factory owners would have had to fork out to keep their labour. And the workers, for their part, were not distressed by their punishment. Their wage increases more than covered the loss.

But if the workers en masse could not be punished as they deserved, the trade union leaders certainly could. Busa and the other union leaders were jailed and held without bail for nearly a month before their case came on.

Four men were called to give evidence that at a public meeting Busa and the others had called on the workers to strike. They would all have gone to jail had the frame-up not been an unusually clumsy one. The factory time-clock showed that at the time of the alleged meeting Busa had been at his machine in the factory, and two white foremen came to court to swear that he had indeed been at the job. 'Case against all the accused dismissed,' said the magistrate.

In the course of the strike Mposa had also been arrested for 'obstructing the police'—but this case against him, too, had collapsed.



This time it was treason.

\* \* \*

On the aeroplanes, apartheid once more. Blacks in one plane, whites in another. Apartheid is quite expensive. We could easily have fitted into one aeroplane.

It was a bumpy journey and we bounced up and down in the air-pockets. We were too proud to vomit and watched with the greatest possible satisfaction as the young policemen dropped their guns one by one and ran down the aisle to retch their hearts out in the lavatory.

If only they had told us the name of the foreign power for which we were committing treason we could quite easily have taken the plane over and headed it for Accra or Cairo or Bombay or Moscow, whichever the case may be, and received a heroes' welcome there.

The military airport near Pretoria, where we landed, was bustling with soldiers and armed as for war. The Government was taking no chances with us eighteen Capetonians. The kwela-kwela pulled up right against the entrance to the plane and we jumped straight into it.

It was now late afternoon and most of us had had nothing to eat since the day before. So we were, perhaps, just a little less boisterous than we had been on our previous kwela ride, as we sped along on the thirty miles to Johannesburg.

As we entered the city we saw the first newspaper posters. '140 Arrested in Treason Swoop.'

At a robot an elderly gentleman ambled past the kwela with his newspaper. 'Give us your paper, sir,' Fred Carneson called out, dropping a tickey (a three-penny piece) into the gutter. Without any hesitation the man pushed his paper through the wire mesh, picked up the tickey and ambled back to the news-vendor to buy another.

We swarmed round. 'We certainly *are* front-page news,' said Fred, former Member of the Cape Provincial Council, elected by the Africans of the Western Cape and unseated in terms of the Suppression of Communism Act.

'The Nats. seem to have gone completely crazy. Chief Luthuli, Professor Matthews, Reverend D. C. Thompson,



Dr Naicker.' Cape Town land surveyor Ben Turok read out the names. During the course of the coming preparatory examination Turok was to stand for election to the Cape Provincial Council in Fred's old constituency as a treason trial candidate. He was to be elected, unopposed.

One thing stood out as clear as the pimple on the end of Strijdom's nose as we read through the astonishing list of names of the alleged traitors. The Nationalists had bitten off more than they could chew.

When we pulled up outside the Fort we got our smiles ready and held our thumbs high for the photographers who were milling around the kwela.

But the big gates of the Fort were opened and the kwela drove right in. The gates were slammed shut in the face of the photographers. The authorities had been playing a frantic game of hide and seek with the press the whole day—and within the week photographers were to find themselves assaulted by the police and placed under arrest for daring to take pictures.

We climbed out of the kwela and looked about us.

You get an unpleasant feeling when you go to jail for the first time.

\* \* \*

Alfred Hutchinson, a teacher until he was sacked because of his political beliefs, and one of the most talented of young South African writers, had moved to a new home shortly before the arrests and the police did not have his address. So for him there was a little extra suspense.

At the Indian School, where he is a teacher, it is December 5th, 1956. Let Hutch, tall, gangling African with a faraway look in his eyes, take up the story for himself:

December 5th, 1956. The newspapers scream: 'High Treason.' Dawn swoop and country-wide arrests. It is the talk in the bus, in the train, at the street-corner. . . . At school, it is a day of waiting; waiting for an unknown footfall and of silent preparation. Perhaps. . . . The next day comes the footfall. The tremulous 'Afrika' as the children say goodbye. I remember the unmarked examination scripts. . . .



Marshall Square. The key rattles in the lock and the heavy door swings open. Blankets in hand I stumble into the dusk and foetid smell. A number of men are lying or sitting on the grey smelly blankets, waiting for the morrow. Pass, permit, curfew, theft. . . . But mostly Pass. 'Things will come right. . . .' I marvel at the man whose fount of hope has not dried up. The cell is slowly filling, the rattling door announces a new arrival. A group of boys noisily recount their adventures in Bethal and the potato fields. They are afraid, for all their big talk. Slowly the cell takes on the appearance of a club, a rendezvous. Friends meet: I am alone.

The cement floor is a huge vampire, sucking all warmth from the body. You squirm but there is no respite; no respite from the cement, no respite from the lice. The cell is a tortured symphony of scratching. Perhaps lice are as much a part of gaol as the harshness, the bewilderment, the jog-trotting, the stench, the banging ponderous doors, the perpetual lining up, the counting and recounting. . . .

I am waiting in a cell at the Magistrate's Court. I used to think that pacing cells was theatrical stuff. Now I am doing the same. Will the waiting ever come to an end? It ends and I am among friends again. Is this another Congress of the People—drawing all South Africans together?

Now we are swinging in the huge kwela-kwela towards the Fort. They are singing, and I am singing too: 'Izokunyathela i Afrika' . . . 'Afrika will trample you underfoot'. Unrepentant. People seen through the mesh: surprise and dawning understanding. The thumb raised in reply. 'Mayibu'ye i Afrika!'

The Fort is in Johannesburg, but it could be anywhere in the land. The high walls, the locks and keys, cut off Johannesburg: its sounds, its life. There is a patch of sky . . . but men have no wings. From the General Hospital it resembles a mound, a huge molehill, a subterranean lair. Impregnable, a fastness of retribution.



## CHAPTER TWO

### INSIDE THE FORT

*'How can small men like Malan Swart stop the people of South Africa speak? The struggle of the people is a natural. Is it possible to stop a river? It will find its way in any other place like the people of South Africa. They cannot be stopped.'*

(Extract from a speech by Y. M. Cachalia as recorded in the notebook of Detective-Sergeant Isaac Sharp.)

THE PRISONERS were marched into a big hall. Inside it was like a great May Day picnic, or the most representative of national conferences. All the arrested men were together and there was elation and pandemonium. Here were men of all colours, shapes and sizes. From Johannesburg and Durban and Cape Town, Springs, Port Elizabeth, Germiston, Evaton, Kimberley—from everywhere in the country. They hugged each other and slapped each other and the hall resounded with 'Afrikas' and 'Mayibuyes'. And men who'd heard of other men and never had the opportunity of meeting them, met them here.

Warders wandered about with batons, not quite knowing what to do. White men and black men hugging each other. Black professors and doctors and lawyers. Ministers of religion, a member of parliament. Men being introduced to one another and formally shaking hands as if they were at a braai. Warders had never seen anything like this in the Fort before. They stopped wandering about and huddled together in a whispering group.

Then in strutted the superintendent, a fussy windy man who was quickly nicknamed Matron. Matron was obviously full of Special Branch instructions.



'Silence, please gentlemen,' he called out, and he was obviously startled at the swiftness with which the tumult died away. Everyone was eager to hear what he had to say.

'Now you play the game with us and we'll play the game with you,' said Matron. 'We don't want any trouble and you don't want any trouble, and if we all co-operate there doesn't need to be any trouble. If you gentlemen will line up and come forward for checking in when your names are called out, we'll be able to get through everything very quickly.'

The prisoners lined up and the checking began. Emboldened, Matron pulled himself erect and gave an order.

'There is a prison regulation against making any sort of foreign signs,' he said. 'I see that many of you have been giving this foreign salute. I have to enforce the regulations and I may take strong action if I see any more of it.'

The Afrika salute a foreign sign!

If ever there has been a symbol of unity native to this country it is the Afrika salute and the greeting 'Mayebuye i Afrika'—'Let Africa return to its people.'

How clearly the fussy little superintendent summed things up. It is the frightened little men with power who are the foreigners in our land. Dead to everything truly South African, these miserable creatures think that they are South Africa.

\* \* \*

In the prison there was complete separation between the Non-European and European prisoners. For the Europeans conditions were much as they are in British remand prisons.

But the Non-Europeans know the Fort as the Little Hell. From the hall the Non-European prisoners were taken to an underground cellar called the 'reception'. All the way prison guards snarled 'Spring, jong! Hardloop!'—Jump to it! Run!

Blue identification cards—'Charge—High Treason'—were flung at them by a surly official. Civilised behaviour seemed to be unknown.

From 'reception' they were led out into the big cement-paved courtyard, guarded by Africans armed with assegais.

'Take off your clothes! Jump to it! Don't be shy!' Everyone stood stark naked in the yard while warders went through all pockets, seams and folds.



'Dress again!' Then along another passage, across another yard, and up stone steps past steel grilles to the heavy iron-studded doors of the cells. The prisoners were divided into two groups of fifty-five, and each was lodged in a big dormitory cell, fifty paces long and twenty wide.

It was six o'clock before everyone had been finger-printed again, searched again, and put through the age-old and probably universal routines of prison admission.

A fortunate few had been allowed to prepare themselves a quick breakfast while the police were completing their house search that morning, but most had not eaten. The blueprint for the arrests, drawn up with military precision, had not included any provision for feeding the prisoners. That was no oversight. It is the way Strijdom's men think.

But with the first news of the arrests the ordinary people of Johannesburg had swung into action. Food committees were functioning well before midday.

For supper the prison authorities gave each accused a plate of cold saltless soup. From the food committee came packets of hot fish and chips, fruit and a slab of chocolate for everyone.

The European men were two to a cell, nine feet by nine feet. Each had a mattress on a straw mat on the floor, three blankets and a cushion. The furniture was a stool, a shelf and a chamber-pot.

The Non-Europeans had considerably less luxury. Their bedding consisted of rope mats and thin blankets on the concrete floors of the cells. A row of barred windows high up in two opposite walls gave light, and an open latrine stood in one corner next to the door.

For some of the men a mat on a hard cold floor was no new experience. But most of them have had the cheek to rise above the natural station of the black man in South Africa and they have become accustomed to beds and mattresses and lice-free blankets.

These 'soft ones'—the doctors, priests, merchants, students, the university principal, and indeed almost all of the city workers—found that sleeping on a straw mat on a concrete floor with thin lice-ridden blankets took a little getting used to.



The six white women charged with treason and lodged in the Fort were all women from comfortable homes. The rough work in their homes was done by African domestic servants. There was enough money for good books, for records, for outings to concerts and cinemas. And like all such women they were used to giving commands and not at all used to taking them.

For them the swift transition from their homes to the Fort involved a far bigger shock than was the case with the other prisoners. Nor were they able, like the men, to draw strength from their numbers.

The first women to arrive at the Fort were the Durban contingent, Dorothy Shanley and Jacqueline Arenstein.

Dorothy had been arrested together with her husband Errol, and the police had refused to permit them to make any arrangements for the care of their three small children. The sobbing, bewildered children had been left in the care of the next-door neighbour, and both parents had been rushed off to the waiting aeroplane.

Jacqueline, too, had had to say a hurried good-bye to her two uncomprehending daughters.

The first entry in the prison diary the women kept, recorded that the Durban women arrived depressed, demoralised—but not defeated. 'Fingerprinted, shouted at for breaking unknown rules, exhausted and hungry from the plane trip, we flung ourselves on two of the five beds in the cell. As time went on we were quite convinced that we had been forgotten and that everyone else had been bailed out.'

They must have looked the way they felt. For when, eventually, the two Johannesburg prisoners, Helen Joseph and Yetta Barenblatt were brought in, instead of embracing their Durban sisters they eyed them with the utmost caution. 'Yetta thought we had been held for soliciting' read the diary notes.

Recognition. Introductions. Celebrations.

More keys jangled and Sonia Bunting was brought in after her long trip from Cape Town. Three forlorn young Buntings far away could now be added to the three Shanley children, two Arensteins and one young Barenblatt who wept for their mothers that night.



Sonia's arrest was one of the many examples of strange caprice which ran through the whole round-up. It would be giving away no secrets to say that Sonia's husband Brian, who has been the king-pin of South Africa's left-wing press, from the long-banned *Guardian* to today, and a member of parliament, who was unseated as a Communist, was a much likelier candidate for the dawn swoop than the gentle Sonia.

But there she was, looking a trifle pale from the migraine she got on the bumpy air trip. And there he was in Cape Town, looking after the children.

Just time for the women to welcome Sonia and then she was whisked away and put into a cell by herself.

The women heard the wardress passing her her supper, with a cheerful, 'And here you are, love, a po to pee in.' And then Sonia was locked up all by herself.

So Sonia wept and wept until it sounded as if her heart would really break, and even the wardresses were moved. Two of them together opened her cell—they are cautious women, the wardresses, and they move in twos—and Sonia was taken to join the others and fill the bed that was waiting for her there anyway.

Together now, their diary became a common one, kept by Sonia. 'That night no one sleeps very well—there is a lot of chattering, some heart-ache, but all of us feel there was no other path to have taken, no other way to have lived, and morale is high.'

Even before it was dark the cell was invaded by mice. They came out of the skirting boards and scurried around the floor 'and to our horror even ran over the beds'.

\* \* \*

On straw mats in dormitory cells, on mattresses in cells for two, on cots in the white women's prison, men and women with clear consciences lay sleepless that Wednesday night.

But it was not only the prisoners in the Fort who did not sleep. Throughout the country people were holding small meetings to ensure that beheaded organisations would sprout new heads and continue functioning smoothly; people were packing their bags to make long trips to replace key figures;



people were planning for the care of prisoners and dependants; people were talking and waiting and typing and collecting and explaining.

Traitors are not usually popular with the public. Treason is a crime which arouses the most intense indignation and anger in the breasts of ordinary people.

And from the moment the news of the arrests flashed to the furthest corners of the country it became clear that these emotions had indeed been aroused.

Everywhere there was seething indignation.

Everywhere there was smouldering anger.

But the indignation and the anger were not directed at the accused people. They were directed at the accusers.

There is no doubt at all that the Government hoped that the wave of arrests would serve to smash the Non-European political organisations and intimidate white opponents of Government policies into silence.

The Nationalists were to be disappointed. The nation-wide reaction was, during the first days after the arrests, one of revulsion against the Government's methods, and sympathy for the accused people.

A National Defence Fund was brought into being on the day of the arrests and its sponsors came from those very sections of the white community who in the past years have been reluctant to be associated with 'political' issues. The list of people who identified themselves with the Fund could hardly have been more impressive. It included the Archbishop of Cape Town, the Bishops of Johannesburg, Natal and Grahams-town, the Dean of Cape Town, and a large number of other prominent Church leaders, The Hon. Richard Feetham, Chancellor of the Witwatersrand University and a former judge in the Appellate Division, The Hon. F. A. W. Lucas, another former judge of the Supreme Court, all the Liberal and Labour Party members of Parliament, Mr G. Heaton Nicholls, former South African High Commissioner in London, several distinguished university professors and even a general—A. R. Selby.

The Liberal Party issued an uncompromising statement urging the people of South Africa 'not to be intimidated by



these events nor to be misled into believing that there is something sinister about uncompromising opposition to apartheid and totalitarian rule'.

The Labour Party immediately offered its Trades Hall offices as the headquarters of the Treason Trial Defence Fund.

In Durban, Alan Paton, Liberal Party president and author of the best-selling *Cry the Beloved Country*, together with other Liberal leaders came together on the same platform with representatives of the Congresses—the very Congresses whose policies were being arraigned as treason. (Months afterwards, with the sort of fizzling anti-climax for which the Nationalists are famous, they were all brought to court and charged with the offence of holding a meeting without the permission of the city council.)

\* \* \*

On the day after the arrests Father Jarret-Kerr, who had come to South Africa to replace Father Huddleston as the head of the Community of the Resurrection, presided over a meeting of members of a number of organisations and a Stand By Our Leaders Committee was formed. 'Let us show the Government and the whole world that we, the people of South Africa, of all races, stand by our leaders in this hour of trial. As they have been faithful to us, so we shall be faithful to them,' Father Jarret-Kerr declared.

Over the week-end men and women bearing placards 'We Stand By Our Leaders' silently took up positions at bus stops and other public places.

And from the very day of the arrests food and gifts poured into the Fort. Three times a day full meals were brought for all the 'treason' prisoners; newspapers, books, clothes, washing materials—even special foods for prisoners on diet—were all sent in.

African, Indian and European women took turns at the catering. Groups sat up late through the night preparing sandwiches for the 6 o'clock breakfasts, and men and women together carried heavy steaming coffee urns into the Fort.

In Fordsburg, several Indian homes were all but converted into bustling kitchens where the gigantic task of turning out



hot meals for the 153 prisoners was efficiently carried out—an Indian woman doctor, Zainap Asvat, acting as O.C. Food. Africans in jail who had never before been introduced to curry had an education. Twice a day they ate curried fish or curried eggs or curried meat or curried beans. Water consumption at the Fort rocketed.

African washerwomen at Orlando offered to do all the prisoners' laundry, and stood singing at their tubs as the bundles piled up around them.

Non-European shop-keepers supplied the committees with generous quantities of fruit, vegetables and meat. A butcher supplied a whole sheep daily. And, anonymously, many white business-men—even one or two big wholesalers—made large donations.

It was surely a remarkable thing: 153 people were fed—well fed—for sixteen days, and not a single penny was spent on the food.

\* \* \*

Nor did the lawyers sleep that first night. They were at work preparing urgent bail applications to the Supreme Court. The test applicants were carefully chosen. Not only was it necessary to select people who had the strongest reasons for obtaining bail, but also it was important to see that there was a representative selection of applicants from each of the 'race' groups.

From the very beginning, and right throughout the long trial, the accused insisted that no steps be taken in the legal conduct of the defence without full attention being given to the stressing of the complete unity and solidarity of all the accused and the brotherhood of all races which that unity symbolised.

The first application was made on behalf of Dorothy Shanley. She told the court of her three children in Durban with no one to care for them. There was no likelihood of her absconding she said, for she was eager to stand trial and establish her innocence. Nor did she have a passport or any means of leaving the country.

Nelson Mandela, an African attorney, explained that both partners in his legal firm had been arrested and there was no



one to keep the offices going. They had a large amount of urgent work in the process of being dealt with and innocent people would suffer great prejudice if one of the partners was not given bail.

Dr G. M. Naicker, president of the Natal Indian Congress, and a very popular medical practitioner, told the court that he had a number of patients who needed care urgently and for whom he had not been given an opportunity to make alternative arrangements.

Application was also made on behalf of two of the accused, Lawrence Nkosi, an African suffering from tuberculosis in an advanced state, and Lionel Forman, who has a heart condition which is alleged to be serious. Medical affidavits were placed before the judge to show that imprisonment could lead to a deterioration in their conditions.

All of the applicants stressed that they wished to face their trial. All denied having committed high treason or any similar offence. All declared that they had no wish to tamper with Crown witnesses and could not do so even if they wished, because they did not know who the Crown witnesses were or what they would testify to. None was in possession of a passport or any other means of leaving the country. All offered to report to police stations as often daily as was desired.

In a very brief reply the Crown said that it opposed bail on the ground that 'there is the possibility that their being at large might handicap the police sources and investigation'. There was no reference to any danger that the accused might abscond.

The next day, Mr Justice Bresler, a judge appointed to the bench within the past few years, handed in a short written judgement in which he referred to the 'gravity of the crime' and the 'most difficult task of the police'. He said that 'in the circumstances it is not unreasonable to accept the probability that it is both difficult and inadvisable for the Attorney-General to take the court more fully into his confidence.'

As for the sick, said the judge, medical facilities are provided at the Fort. The health of the man with the heart condition he directed, 'should be a prime consideration of the jail authorities.'

Application dismissed.



The judge will, no doubt, be distressed to know that the prison authorities took no notice of his direction.

On the day after he gave it, the white men were taken for their medical examination.

It was a very quick affair, identical in each case.

'Take down your trousers,' said the prison doctor.

'Lower.'

'Stand more in the light.'

'All right—next.'

Forman got this extra attention:

'You're the man with the heart?'

'Yes.'

'How do you feel?'

'Fine.'

'What do you take?'

'Digitalis.'

'Got any with you?'

'Yes.'

'Give them to me. Can't have you taking an overdose. My responsibility. I'll send you a dose every day.'

He never did. Forman never saw or heard from him again. Fortunately he had another bottle hidden in the cell.

'Anyway,' said Jan Hoogendijk cheerfully as the men walked back from the medical examination, 'it's comforting to know that our privates are in good condition.'

\* \* \*

When Lawrence Nkosi came out of jail for the preparatory examination he was spitting big gobs of blood. Doctors certified that he would be a menace to other people in the court and could infect them—not only the other accused, but anybody.

So Nkosi was excused from attending and was taken to a tuberculosis clinic.

\* \* \*

Two days after the arrests, while Judge Bresler was still considering the bail applications, all the accused people who had been brought in from outside Johannesburg were taken by



kwela to the Magistrates' Court for formal remand. The spontaneous reactions of the people in the streets as the kwela drove past, and the huge crowds which massed at the court as soon as the word spread that the accused were there, gave a foretaste of what was to happen at the military Drill Hall when the preparatory examination began.

There was apartheid for the trip to the Magistrates' Court. The Non-Europeans sat in a big compartment at the back of the kwela and the Europeans sat in a little one at the front. The Non-Europeans were loaded first and when the kwela pulled up outside the European prison block, the waiting white men were greeted with shouts of 'Afrika!' and the sound of liberation songs.

On its way to the women's block the kwela drove past the medical school. African students standing in the entrance sprang forward as they heard the sound of singing and rushed into the street with their thumbs up in salute.

'Afrika!' they shouted.

'Mayebuye!' responded the kwela.

The women's prison stands on the road to the university and as the kwela pulled up there a white girl student walked past.

'Afrika!' the men called, and the girl's face broke into a delighted smile. She ran across to the kwela and shouted excitedly through the bars of the support the students were giving the arrested people.

'Is there anything I can do for you people while you're waiting here?' she asked.

What is the unlikeliest thing that you can think of asking a girl to get while you're sitting locked up inside a prison van? A tube of white lipstick? Well, that is exactly what Ike Horvitch asked for. He is a Cape Town architect who was arrested as the responsible director of the company which published the anti-Government newspaper *New Age*.

'What's wrong with asking for lipstick? My lips are all chapped,' protested Ike when everyone turned on him.

The girl darted off and was back in a trice with the lipstick and several slabs of chocolate.

Just then Matron came puffing across the lawn from the men's section and spotted the fraternisation.



'Get away there! You get away there!' he yelled.

'Whassamarrer you,' he roared at the white-faced guard.

He asked the girl for her name and address and wrote it down. 'All right, miss—you'll hear from us,' he said in his most ominous manner.

'*You'll* hear from *us*,' said the girl not at all perturbed, and calling out 'Afrika!' she walked down the hill to the university.

\* \* \*

At last the women, white and black, were brought out of the jail. This set the police a poser. There were only three compartments in the kwela, not enough for sexual as well as racial apartheid.

They had to choose between putting the white and black women together—and who knew what disaster this could lead to—or putting the white women in with the white men. And who knew what *that* could lead to?

They went into conference and came out with a decision that was cheered from all sides. The white women went in with the white men.

This was a stroke of good fortune for Errol and Dorothy Shanley. Sitting together in the kwela, they had their first opportunity to discuss what would be the best thing to do about their children. Soon everyone in the kwela was joining in with advice on whether they should stay in Durban where they were at school, or come to Johannesburg to be with their parents, or go to Dorothy's sister in Cape Town where they would be away from things.

As the kwela approached the city the Non-Europeans began to sing again in their deep, full-throated voices and picking up the frequently repeated African words, the Europeans joined in.

The kwela rolled along like a big black music-box, roaring out songs of liberation. As it approached, Africans in the streets stopped, saluted and shouted 'Afrika!' Indian store-keepers in Diagonal Street came out of their shops waving. Even white people, accustomed to seeing the kwela roll by in dead silence, turned to look, listen and wonder.

\* \* \*



The basement below the Johannesburg Magistrates' Court tells one a great deal about the city. It is one immense cage, large enough to hold thousands of prisoners. It speaks of the mass arrests—of the two thousand Africans who are convicted each day of the year for contravening one or other of the maze of apartheid regulations. One African in every ten goes to jail each year—a large proportion of them pass through this cage in the Magistrates' Court basement.

The accused climbed up from the depths into Q court. The place was crammed with enthusiastic supporters of all colours, and the prisoners were greeted with whispered encouragement and surreptitious Afrika salutes—the Magistrate had warned that if he saw anyone giving the salute he would send him to jail for contempt.

As the prisoners came up from the depths they saw that everyone except the magistrate and police was standing.

When Magistrate Hartogh had come in a moment before, the orderly had shouted 'Rise in court!' And after the magistrate had taken his seat, everyone else had remained on their feet, in respect for the accused.

The prosecution called out the names one by one. The first few answered with a simple 'yes', but then one responded in deep and formal Zulu and the idea caught on at once.

In a variety of languages and in every form of subtle irony came the reply.

'I am here if it may please your worship,' said Archie Sibeko, Secretary of the Congress of Trade Unions in dignified si-Xosa.

'My lord, I have the pleasure to be in court,' said Cleopas Sibande in Sesutho.

'Ich bin do,' said Hymie Barsel in Yiddish.

'Ndi Lapa'—'I am here'—said Chief Luthuli.

For a long time there was no Afrikaans, the language of Strijdom, but the morning was not to pass without a symbol that there are Afrikaners in the freedom movement too.

'Ja, ek is teenwoordig,' came the reply when Jan Hoogendyk's name was called, and the magistrate's head snapped up.

Once again the roster had demonstrated that the 'traitors' speak in all the voices of South Africa.

\* \* \*



Jan Hoogendyk had some more fun when the prisoners were taken back into the basement where the lawyers were collecting their signatures for bail applications.

Among the lawyers was Shulamith Muller, an absolutely tireless woman who had worked without pause since the first news of the arrests. Shulamith was almost as pregnant as anyone can be, but she stood at her table as the long queue moved past and each of the accused filled in the many legal forms.

There wasn't a chair in sight and the police were lounging about in their habitual slouches and with their habitual scowls when Jan said very loudly in Afrikaans, 'You'll never find an Afrikaner who doesn't respect a pregnant woman.'

A policeman sent an African cleaner to bring a chair.



## CHAPTER THREE

### THE RULE OF LAW AND THE MONKEY CAGE

*'Lot of you went to Pretoria to see Verwoerd and carried their babies when the women were asked to keep silence all was quiet even babies were silent because they realised that it was their mothers' day.'*

(Extract from a speech by M. Goldberg, as recorded in the notebook of Detective-Sergeant Isaac Sharp.)

As the sky brightened after dawn each morning there came the clang of steel gratings and the rattle of keys. The heavy doors were flung open. The guards yelled orders. Blankets were quickly folded and the mats rolled up, and everyone filed out into the yard.

All meals were eaten squatting in the yard. Although the Government has not yet got round to dividing Non-European prisoners into the apartheid pattern, and the Africans, Indians and Coloureds were all mixed up together, this does not mean that there is no discrimination. For breakfast everyone gets mealie-meal porridge. But the Indians and Coloureds get black coffee with the mealie-meal. The Africans don't. Even in jail the Government tries a little bribery to keep the Indians and Coloureds from feeling that they have nothing to lose by uniting with the Africans.

The Congressmen, of course, shared out their coffee ration, and everyone had a taste of the bitter concoction.

Lunch for African prisoners, day in and day out, is a plateful of boiled hard mealies and beans. The Indians and Coloureds get a mess of boiled vegetables which looked and tasted as if they had been pulled straight out of the soil of the prison farm



and dumped without further ado into the pot. With this, there was a lump of bad-smelling meat. Although the latter meal was the privileged one, almost everyone preferred to eat the hard mealies and beans.

This was, however, rarely necessary. From outside jail the food committees sent in sufficient to make the prisoners almost completely independent of the prison kitchens.

After lunch each day the Non-European men were all locked into one big cell. And none of these afternoons was wasted. A committee elected on the first day planned a series of lectures and entertainments, making the best use of the considerable array of talent there was available.

The programme read like that of a vacation school:

‘African Music’—a talk by the Rev. James Calata.

‘The American Negro’—by Professor Z. K. Matthews, Acting Principal of Fort Hare University College.

‘African Medicine’—by Dr A. E. Letele.

‘The Indian People in the Fight for Freedom’—by Debi Singh.

‘And then’ (Hutch speaking) ‘the burst of song, beginning sometimes as a solitary voice and gathering strength until it is an irresistible torrent making the walls ring with sound.’

After a further spell in the yard, supper was brought at 4 o’clock. It was an exact repetition of breakfast—mealie meal. After supper, back to the two dormitories where discussion and the entertainment programme was continued.

\* \* \*

Locked up two in a cell, the white men prisoners lay straining their ears to hear even the faintest sounds of the freedom songs which they knew from the prison grape-vine were echoing from the section where their black comrades were held.

They lay on mattresses instead of straw mats. Their blankets were clean and warm.

Like the Non-Europeans, the white men were kept in a separate wing from the rest of those prisoners awaiting trial. They were given the whole of the first-offenders’ yard to themselves for exercise. The first offenders had to take their exercise together with the hardened recidivists in the other yard.



But the eating-hall and adjoining wash-house were common to both sections, so the political and non-political prisoners mingled three times a day.

The treason suspects were subjected to normal prison routine. Cell lights were switched on at half-past-five in the morning and cells unlocked at 6.15, when everyone went out to queue for the two lavatory seats.

There was a fearful stench in the first-offenders' yard where the men from all sections emptied out their chambers into an open drain and then rinsed them at a tap. The drain frequently became blocked and a flood of urine would spill into the yard. It was still possible, by a series of well-judged jumps, to get from the eating-hall to the lavatories, but you had to be very careful that you didn't slip.

Then another queue, together with the other prisoners, for a quick wash—six wash-basins for about eighty men.

Breakfast consisted of mealie-pap, bread, a dab of rancid lard and honey, and black coffee; lunch was a big plate of stew with a hunk of black bread. Supper, dished up at four, was a plate of soup (without salt) and another hunk of black bread. The food is free of salt, the prisoners were told, because the authorities consider salt to be a sex stimulant. Every day the food was exactly the same.

After polishing the cells and corridor, and folding the blankets into an intricate pattern standardised by the prison regulation, the prisoners were free to exercise in the yard until lunch at 11.30 a.m.

The yard was a big enclosure with a barbed-wire net stretched right across overhead. It was paved with cement slabs. Near the lavatories there were four special slabs of a different colour which were kept highly polished and it was forbidden to step on any of these. Why this was so no one was able to find out.

Unlike the other prisoners, the treason suspects were allowed to do pretty much what they liked while they were in the yard. Decorum had to be maintained only until Matron had made his early morning inspection, when everyone stood at attention with his prison-card held up in front of him.

A box of tennis balls was sent in by the Food Committee



and cricket became a regular feature of life in the white men's yard.

Two chamber pots were placed on top of each other to serve as a wicket, and a round chamber lid was used as a bat. The first few times the Reverend Douglas Chadwick Thompson went in to bat, wonderfully incongruous in his high collar, all the warders and most of the prisoners in the other yard crowded round the gateway to watch the spectacle.

Towards the end of the two weeks one of Thompson's wilder swipes broke a window-pane in the wash-house. The warder predicted that this would cost him at least three days in solitary confinement, but nothing happened.

After lunch everyone was locked up again until 2.30. Then there was another break until 4 when supper was served, and after supper back to the lock-up. Lights were put out at eight. Then they were switched on and off again every hour of the night while the warder peeped in to see if anyone had escaped.

\* \* \*

On the first morning in her part of the Fort, Sonia Bunting recorded in the communal diary, 'Bells clang and life starts up in the prison, but the five of us are dirty, we want baths before dressing. The wardress arrives and finds us lounging on our beds.'

The women explained that they like to bath before getting dressed. The wardress lets them know they are prisoners and don't bath.

From 7 in the morning lawyers began to arrive to interview the prisoners. Outside the Fort there was deep anxiety. No one knew how the accused were being treated. Everyone was braced for anything.

Among the early arrivals at the Fort was Jacqueline's husband Rowley, a Durban attorney, who had flown to Johannesburg as soon as the arrests took place.

'Everything's all right except for the mice,' Jacqueline assured him.

'Mice?' said Rowley, without showing the slightest trace of concern. 'I'll speak to the superintendent about it.'

Thursday was a prison visiting day, and long queues of



well-wishers streamed through the Fort all day. But during the afternoon Matron sprang a bombshell. The treason suspects were not to be allowed any further visitors. The police hinted darkly that the prisoners were interfering with the Crown witnesses.

In the evening the battle of the Mothers versus the Mice was begun. 'We are determined the mice are not going to disturb us again and triumphantly block up with a suitcase the hole from which we are certain they are emerging. We soon learn this is inadequate.'

Determined to be model prisoners, the women jumped out of bed at the first bell the next morning, dressed and tidied their cell. After an hour of puzzled waiting for the wardress to arrive and commend them for their zeal, they discovered that that was the men's bell and that it rang an hour earlier than the women's.

The three women from out of town were taken to court for their formal remand. When they got back they heard that all their effort had been in vain. Helen and Yetta had been reprimanded because their cell was not sufficiently spick and span.

The lawyers brought the news of the refusal of bail, and as compensation the food committee sent in a supper of strawberries and cream.

The second night there was a partial triumph over the mice. All the holes were blocked, but the women were kept awake by the incessant gnawing as the mice tried to eat their way back into the cell.

On the third night careful planning brought final victory, without undue hardship for the vanquished. 'The mice were given a good meal of cheese and biscuits and then locked into their holes, and we all had a wonderful night's sleep—the first!'

The fourth day was Sunday and word spread through the jail that it was Sonia's birthday. The women prisoners from the other sections of the jail came together and sang 'Happy Birthday To You'. Far away, the men, too, were singing their lungs out in a vain attempt to work up sufficient volume for Sonia to hear them.

\* \* \*



The conflict between the lawlessness of the police state, symbolised by the Special Branch, and the remnants of the rule of law as symbolised by the judges of the Supreme Court was dramatically highlighted on more than one occasion during the weeks after the mass arrests.

On the day after the arrests, preening himself with self-importance, Matron announced to the press that the arrested Congressmen would not be allowed to receive any visitors other than their legal advisers. This was to prevent them from tampering with Crown witnesses.

An urgent application was immediately made to the Supreme Court for an order forcing the authorities to admit visitors according to prison regulations, and secret preparations were made by the prisoners to go on hunger strike if the order was refused.

The application was made in the name of Helen Joseph, secretary of the Federation of South African Women, who had been one of the key figures in organising a mass march, a few months before, of thousands of women to Pretoria to protest against the extension of the pass laws to women.

The prison authorities backed down as soon as the urgent application was filed. Matron explained lamely that he had been acting on instructions from the Special Branch. The Government paid the court costs, and on visiting days crowds flocked to the Fort to see the prisoners.

The prisoners had won their first skirmish and there was rejoicing in the Fort.

Ironically enough, most of the accused came to dread being called out for visitors. They found arrangements for visits at the Fort to be a crude form of torture.

Five or six prisoners are called out at the same time and they line up in a row behind a wire mesh, like monkeys in a cage. In front of the mesh is a passage-way about three feet wide, and then there is an iron grille. Behind the grille stand the visitors.

\* \* \*

Each man talks to his visitor. Each visitor talks to his man.

Nobody can hear what anyone is saying. So each man shouts to his visitor and each visitor shouts to his man.



Soon all six in the monkey cage are screaming at the six visitors and the six visitors are screaming into the cage. (No exceptions were made. Even the Bishop of Johannesburg, when he paid a visit, was subjected to the same indignity.)

Some of the Congressmen considered this their most nerve-wracking jail experience.

'Visiting day is an institution, a fraud, a form of lung exercise,' Alfred Hutchinson wrote. 'Your visitor is three feet away, across a no-man's land. You stand in line and wait for the order to speak. Two dozen hearts are crying for expression, for news. It is Babel let loose. It is a question of the survival of the loudest voice, of talking your neighbour into submission.'

When the visitors were friends in the liberatory movement it was possible to treat the monkey-cage as a joke, although even then there was an undertone of degradation.

But when the visitors were relatives—weeping parents who did not understand what the arrests were all about and knew only that their sons were in jail on a charge for which the sentence could be death—the monkey-cage was a piece of horrible cruelty.

\* \* \*

There was a second quick victory when battle was joined over the censorship of the letters written by the prisoners in the Fort.

Matron was handing all the letters to the Special Branch for scrutiny before they were posted. There was nothing very much that could be done about that.

But the Special Branch men were sending the letters back to Matron as fast as they were written—with instructions to him that he must tell the prisoners that all criticisms of Government actions must be deleted.

Matron summoned several of the accused and pointed out to them that they were using rather sharp words about the Nationalists. The letters bristled with phrases like 'vile fascists' and similar blunt expressions of feeling.

'You're in prison now,' Matron explained angrily. 'You can't write that sort of thing here.'



An hour or two later the lawyers were busy drafting another urgent application to the Supreme Court.

And two or three hours later the prisoners were called back to Matron's office. The Special Branch had over-reached itself once more. The prisoners were allowed to write what they chose, limited only by the routine taboos of the prison regulations.

\* \* \*

Among the lawyers who worked most tirelessly during the first week of the arrests was advocate Joe Slovo. Briefed by the defence to appear at the preparatory examination, he visited Public Prosecutor van Niekerk on the Wednesday after the arrests to see if there were any outstanding matters to attend to before he went off with his family to the Cape for a short vacation until the examination opened.

'Sure,' said Mr van Niekerk. 'Go ahead and take your holiday. Have a good rest.'

So the Slovos got everything nicely packed that night and went to bed late.

At 4.30 next morning they got up to let the police in. Joe's dossier must have been on the Prosecutor's desk while they were talking.

He, and his journalist wife, Ruth First, were charged with high treason. And three more little children were left to the care of relations.

Thirteen people were arrested in the second wave. The police said that information obtained during the first arrests had led to the second plot. No one believed that. Modelling itself on the F.B.I., the Special Branch was out to keep the drama at a high pitch. It didn't want interest to flag.

\* \* \*

Not surprisingly, the other Non-European prisoners showed deep respect and the utmost friendliness to the arrested Congressmen, and messages of solidarity and support were frequently sent across from the criminal sections to them.



Whenever 'treason' prisoners, white or black, were led past groups of Afrikan convicts there were whispers of 'Afrika!' and salutes from the convicts. Africans caught doing this were kicked and cuffed by the warders, and to prevent this the 'treason' prisoners would whisper urgently as they approached, 'Hush, friends, hush.' But the convicts would not hush.

What was a little surprising, however, was the fact that the white prisoners showed no hostility at all to the 'traitors' in their midst. On the contrary, they went out of their way to be friendly and to hint darkly at their own opposition to the Nationalists.

The white prisoners were, on the whole, a depressing lot of down-and-outs, most of whom readily admitted that they were in jail more often than they were out of it. It didn't take long for one to realise the utter futility of the jail system. With very few exceptions the prisoners made no secret of the fact that when they got out—either through some stroke of luck at their trial, or when they had served their sentences—they would go back to a life of crime. Only next time they wouldn't be caught. It was them versus the law and that was the natural order of things.

In the remand yard it is the most brutal criminal, the man who has been in jail often and knows the ropes, who is most warmly welcomed by the warders. He is the man who is made the unofficial leader and it is he who keeps discipline for the warder and runs the show in exchange for the privileges that this power brings him.

The warders themselves do not like to have to get tough with prisoners. They do not carry guns and their batons are doubtful protection. They are locked in with the prisoners and have no way of getting out until the doors are unlocked from the outside. Naturally enough they prefer to leave it to the 'boss-boys' to do whatever knocking about is necessary.

During the two weeks the Congressmen were in the Fort the 'boss-boy' in the European section was a man being held on a charge of murdering a prostitute by cutting her throat six times with a broken bottle. He was a huge, hulking fellow and he kept order very well indeed.

Though he knocked the men in his section about a good bit,



he was very pleasant with the 'treason' prisoners. He was most indignant about the murder charge. 'Now if they'd shopped me for house-breaking I'd have nothing to say, I've been in jail five times for that. But they can't prove I killed that sheila,' he maintained. He was right, too. After he'd been held awaiting trial for four months he was let loose, and he sometimes came along to the Drill Hall to watch the progress of the treason preparatory examination.

The men in the remand yard were all awaiting trial. They were all presumed innocent. But they were allowed out in the fresh air only five hours a day and were locked up for the rest of the time. They weren't allowed to smoke in their cells. They could not even bath. And some of them were kept at the Fort for six months and more before the Attorney-General brought them to trial.

But as is the case in every sphere of South African life, as soon as one begins to work up a feeling of indignation at the conditions of the worst-off of Europeans, one is immediately sobered by the realisation that their lot would be considered by their non-white counterparts to be pretty close to Utopian.

The Non-European prisoner at the Fort is the victim of unceasing savage brutality. The 'treason' suspects stood horrified as they watched the non-political prisoners coming into the cell-blocks each evening. Their entrance was a terrified rush as guards and 'boss-boys' lashed out at them with belts.

The white warders have one firmly established little refinement of sadism. Whenever a warder hits an African convict the African is required to bow down low and say 'Dankie, baas'—'Thank you, baas'.

The Non-European cells are packed to capacity and their blankets and sleeping-mats are filthy and vermin-ridden. Just as with the Europeans, the 'boss-boys' are the long-term convicts, gangsters and killers, but here their savagery is quite unrestrained.

The 'treason' suspects were not treated in the same way as the other prisoners. Clearly the instructions were that they must be well treated and the warders must have suffered agonies restraining themselves. On the third day, in fact, the Non-European 'treason' prisoners raised a complaint against the



brutality of the handling of the other convicts and the conditions in the whole section improved for the rest of their sixteen-day stay. After complaints were made about the lice in the bedding, a fumigation squad was sent in to clean up the 'treason' blankets, though this service was not extended to the other prisoners.

When Democracy rules in South Africa there will be at least 156 earnest people with first-hand experience lobbying in Parliament for a revolution in the approach to the punishment of wrongdoers.

\* \* \*



## CHAPTER FOUR

### ‘STOP THAT SHOOTING!’

*‘Hitler acted the same way also Mussolini did. But where is Mussolini today? have long disappeared. But the Italians are there. You can silence an individual. But not the voice of people.’*

(Extract from a speech by Dan Tlume as recorded in the notebook of Detective-Sergeant Isaac Sharp.)

‘AND NOW we are in the swinging kwela-kwela again,’ Hutchinson wrote of December 19th, the day the preparatory examination began. ‘We have met our European comrades-in-arms after the days of separation. The world is lovely though seen through mesh. . . . There are crowds, huge crowds, outside the Drill Hall and their warmth beats on you like strong sunlight after rain—planting life. And you know, as you never knew before, that you could never be lost; that if you fell another would take your place: that the struggle could never be lost. It could never have been in vain.’

For the two weeks that the ‘treason’ prisoners had been held in the Fort, Johannesburg had looked forward to the opportunity it would have of welcoming them and cheering them on when they were brought out for the opening of the preparatory examination.

The queues for the seats in the public gallery began the night before the preparatory examination was to open. And long before there was any possibility that the kwelas would appear, the streets around the court were jammed with people.

Non-Europeans throughout the city were alert. As soon as



the kwelas were spotted they waved and cheered. The atmosphere along the whole route taken by the kwela from the Fort, first to the magistrate's court, and then to the military Drill Hall where the enquiry was to be held, was that of triumphal tour. Not even the grim-looking police vans could make it seem as though suspected criminals were being brought to justice, for the very kwelas were alive with the singing and the reverberation of feet stamping on the floor in rhythm.

The immense crowd outside the court was disciplined and orderly. There was a huge army of police present, and Congress leaders had been active all morning warning the people that they must be ready to bear the utmost provocation in silence.

When the prisoners arrived at court they were greeted with loud cheering, and there was a sea of 'We Stand By Our Leaders' placards to warm them.

Then began the tale of blunder, boorishness and brutality which characterised the whole of the first days of the trial—and which, in miniature, mirrored the whole Strijdom régime.

The Drill Hall is a large cheerless barn with a galvanised-iron roof unshielded by any ceiling. In summer—and the trial began during the warmest period of Johannesburg's summer—the iron roof blisters in the rays of the sun and the hall is converted into an oven. In the winter it is freezing and impossible to heat.

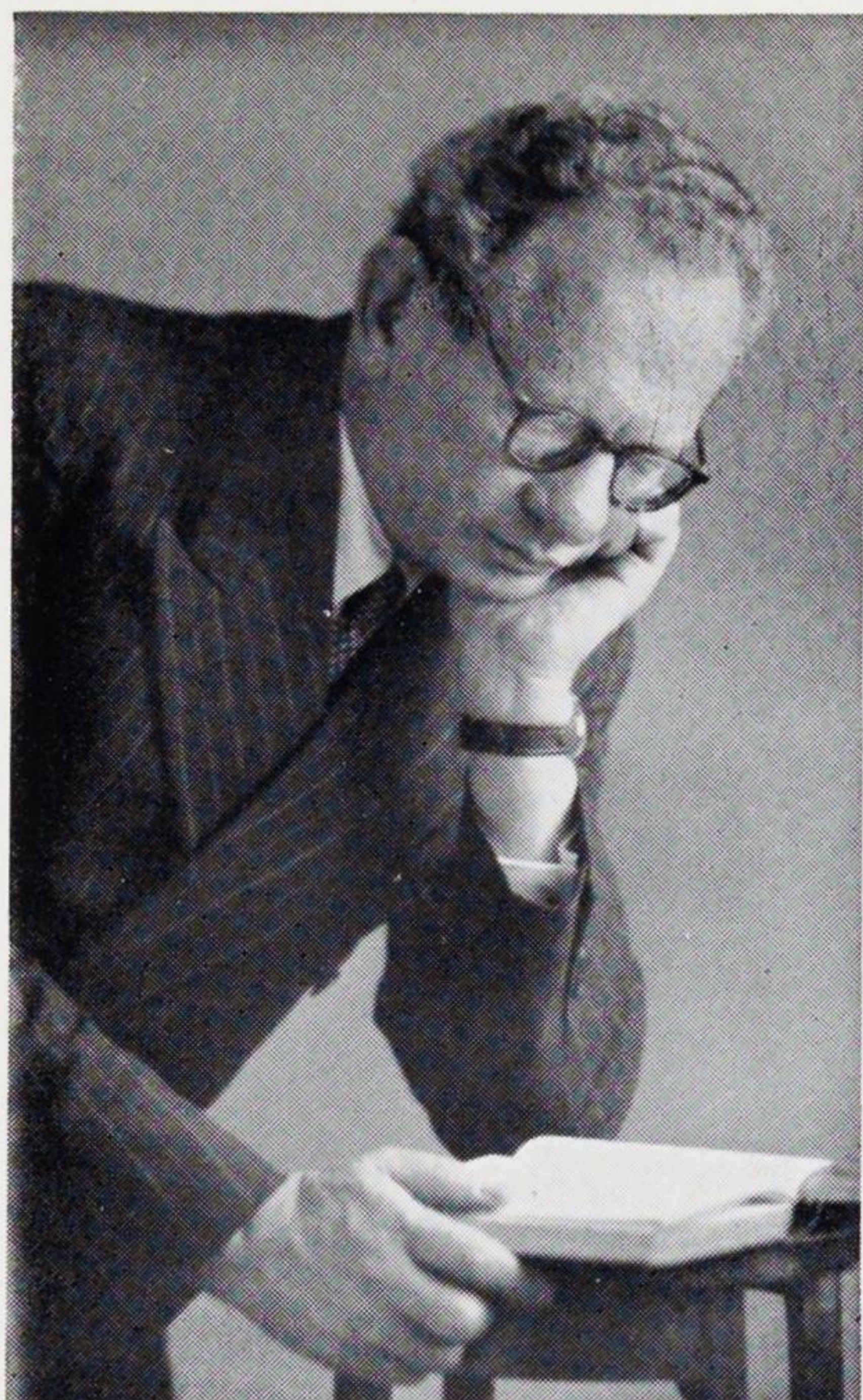
At a long table at the front of the hall, sat the magistrate, Mr F. C. Wessel, and the Crown and Defence lawyers. Alongside, facilities had been provided for the press.

In front of the magistrate's table were 156 chairs for the accused, in six long rows.

Behind the accused were about 150 seats provided for the public. These were divided into two groups—100 seats for whites, 50 for blacks. From the crowds outside it was obvious that there were about twenty blacks who wished to see the trial for every one white who wished to do so.

When they began to admit European spectators on the opening morning, the police found that there were more whites who wanted to get in than the number of seats provided for them. A problem of this nature is small beer for the South African police. The whites were allowed to take up all the seats





Solly Sachs



Lionel Forman



Moses Kotane & Walter Sisulu



Lilian Ngoyi & Helen Joseph





Chief Albert Luthuli—President General of A.N.C.



meant for the blacks. And the thousands of Non-Europeans who stood patiently in long lines extending round several city blocks—who had stood there for many hours—were left to stand.

When the accused were brought in, the spectators’ gallery was packed. But there was not a single Non-European in it.

\* \* \*

But although the Non-European public was not physically present in the court when the examination began they dominated the proceedings.

How word got out to the streets so quickly is a mystery, but the people out there knew of every move in the court as soon as it was made.

They knew the moment the court orderly called out: ‘Rise in court’, and the magistrate strode in. There was a hush outside, and with miraculous timing, just as he sat down there was the swelling sound of ten thousand voices singing ‘Mayibuye, Afrika’, and then silence once more.

From the opening moment of the examination the defence went on to the attack—an attack that was to be maintained for month after exhausting month.

Pointing to the rows of white faces in the spectators’ seats, Mr I. A. Maisels, Q.C., asked the magistrate: ‘Has your worship’s attention been drawn to the fact that no Non-Europeans have been permitted entrance to this court, which is open to all members of the public?’

And from outside came a chant. ‘We want to come in!’

The magistrate looked at the prosecutor.

The prosecutor considered for a moment or two. ‘They are entitled to come in,’ he said magnanimously.

The magistrate ruled that at the earliest opportunity arrangements must be made to permit the admission of Non-Europeans.

The case was ready to begin. The prosecutor cleared his throat. And then another small difficulty was discovered.

Hardly anyone could hear a word the prosecutor was saying. The magistrate and the defence counsel could pick up an occasional phrase if they strained their ears. But none of the



accused could. And the spectators didn't even know that he was talking.

The Special Branch had forgotten to provide for loudspeakers.

Mr M. Franks, Q.C., Counsel for the Defence, mentioned the matter.

The magistrate considered it.

'The accused are entitled to hear the evidence,' he said.

And so, after twenty minutes on the first day the case stood adjourned until after the lunch interval so that loudspeaker equipment could be installed.

The authorities had not given much thought to the question of eating arrangements. The prisoners were not permitted to leave the Drill Hall, but it was generally conceded that they should be permitted to have food. The result was a fairly jolly picnic. Piles of food were sent in from outside, and the prisoners, together with the fifty or so Non-European spectators who had been allowed in and a fair sprinkling of European spectators, joined together in a cheerful buffet.

At two-thirty the prosecutor cleared his throat once more and addressed himself to the microphone.

'One moment,' said the magistrate. 'Have interpreters been made available for those accused who do not understand English?'

The Special Branch had forgotten to provide interpreters.

So, two minutes after the afternoon session began, the court stood adjourned for the day.

The prisoners were loaded back into the kwelas, and the big prison lorries began to edge their way through the crowd. And then came the fifteen minutes which many of the accused will always remember as the most inspiring and moving of their lives.

The crowds swamped the kwelas. Hands were gripped through the bars. Men and women ran alongside shouting support and encouragement. Thousands of hands hammered support on the iron sides of the vans.

Inch by inch the vans snailed their way through the crowds. The police sitting in the kwelas shifted nervously in their seats and put on sickly smiles.



The people had taken over the streets.

They had refused to be provoked into disorder. They had been disciplined, good-natured and cheerful throughout. And they had taken over the streets around the court.

The police wore sickly smiles. But beneath the smiles stirred thoughts of violence.

\* \* \*

On the second day the police took vengeance. It was a day of swinging batons, of shooting, of terror.

From the moment the accused were brought into the court it was clear that, smarting under the nation-wide laughter at their first farcical day, the police were responding in the only way they understood. With viciousness and brutality.

There was an army of five hundred armed police around the court and the busy roads passing by had been closed to traffic.

And inside the court there had been erected during the night an immense wire cage. Into the cage the accused were ushered. Sixteen armed guards stood around them.

The stunned lawyers, seeking entry to the cage to consult with their clients, were turned back by the armed police. ‘Talk to them through the wire!’ they were told.

The defence counsel were furious. The spectators were white-hot with anger. But the prisoners were much more inclined to chuckle at the latest police absurdity. One of them fixed a little notice on the front of the cage: ‘Dangerous. Do not feed.’

In yet another little skirmish between Special Branch arrogance and the rule of law, the Special Branch was to be beaten down.

‘I want to make it clear that I am speaking on behalf of every member of the bar and the side-bar present here,’ said Mr Franks, Q.C., making no attempt to keep the anger out of his voice, ‘when I say that not one of us in all our experience has seen anything in a court of law like the fantastic structure that has been erected here.’

In addition, when counsel have sought to interview their clients the police have had the effrontery to refuse us access.

I say on behalf of all the legal representatives here that unless



this cage is removed we will walk out of this court in a body,' said Mr Franks.

It is unlikely that a threat of this nature had ever before been made in a South African court. The magistrate was obviously taken aback.

'Do I understand you to say that unless this structure is removed you will walk out of court?' he asked.

'That is the decision of us all,' said Mr Franks.

'It's only a dock. There has to be a dock. I don't know what the fuss is about,' said Mr van Niekerk.

Mr Wessel adjourned the court, and immediately afterwards it was announced that the cage would be pulled down at the earliest opportunity.

For the third time Mr van Niekerk cleared his throat and prepared to read his opening address.

But he had barely begun when there was a new—a dreadful interruption.

Again, massive crowds had gathered outside in orderly queues, hoping to gain admittance. The press had announced that additional seating was being arranged and that there would be a large space set aside for standing room. But of the thousands who waited outside only fifty were allowed in.

The murmur of the crowd outside had been an accompaniment to the whole morning's proceedings, and it formed the background to Mr van Niekerk's voice as, reading in an expressionless monotone, stumbling frequently over words, the prosecutor began his opening address.

But then suddenly the murmur outside changed to complete silence for a moment or two—and then it became a roar, broken by screaming.

'Baton charge!' someone at the back of the court shouted.

Then the frightening sound of a long burst of gunfire.

Everyone in the court stood up and the accused pushed forward in their cage.

The police were shooting the people outside. The police were shooting the people.

The magistrate went white. He bounded from his seat and half-ran to his room behind the court. The proceedings stood adjourned.



The Bishop of Johannesburg, who had been sitting with the defence counsel, rushed out of court into the street.

Inside the cage the accused clenched their fists in fury mixed with agony. For the people outside were their wives, brothers, sisters, comrades, and there was nothing they could do.

\* \* \*

The crowds had stood patiently in the streets near the Drill Hall all morning. There were many people packed against the gates who were unwilling to move away because they knew that there was still a great deal of room in the court and they hoped to be permitted to go in.

The rest were resigned to the fact that they could not gain admission, but they wanted the prisoners to know that they were with them in spirit. To do that they were ready to stand in the streets near the court all day.

It was an orderly crowd, an amazingly orderly crowd. When the police pushed, the crowd moved back. When the police swore the people did not retaliate.

Police Colonel Grobler gave the order that the people standing at the entrance, hoping to gain admission, must be cleared away.

Alex Hepple, parliamentary leader of the Labour Party, who was among the crowd at the entrance, appealed to the Colonel not to order a baton charge. He told him that although the noise of the crowd was audible in the court it was not disturbing the proceedings.

And as a last resort he asked the Colonel to permit him to address the crowd and request them to withdraw.

But the police wanted a baton charge. They began to push the crowd back. The first indication of serious trouble came when an elderly African woman, trying to avoid being knocked over by the advancing police, held out a furled umbrella in front of her. A policeman snatched it, broke it and threw it into the gutter, and as he did so the woman stumbled and fell.

There were angry shouts from people nearby, but the crowd continued to move back.

The crowd moved back, away from the entrance, right to the corner of the street. Stubbornly they gave the police no



excuse for the baton charge they were obviously planning to make.

At the corner the people continued to move back down the street.

Then an officer gave the order to charge.

The police drew their batons and swung into the helpless crowd. They hit everyone within reach. The nimble ones were able to retreat before the batons. But the old people and the women who did not move so fast were clubbed on the head and knocked down.

Press photographers rushed in, but the police were well aware of what the cameras would show. They turned on the press men and seized their cameras. Two of them were arrested.

On the fringe of the crowd, young men turned to face the law. From a vacant site nearby they picked up handfuls of stones and hurled them at the advancing police.

At once Strijdom's boys pulled out their guns and began to fire indiscriminately. As the people scattered the police continued, in the words of the *Cape Times* reporter, 'shooting at the remaining stragglers. Among these was a pregnant African woman who, stumbling on the rubble of the empty stand, fell on her hands and knees. The policeman caught up with her, stopped and kicked her three times in the side.'

At that moment Colonel Grobler came running down the street shouting: 'Stop that shooting! Stop that shooting!' For the firing on unarmed people, which was the same evening to hit the world headlines and to be shown on television to audiences all over the world, had not been on the Special Branch's publicity programme.

\* \* \*

On the day of the shooting at the Drill Hall, a new application for bail was made in the Supreme Court.

Mr van Niekerk asked for the sum to be fixed at £1,000 each for Europeans and £500 for Non-Europeans. In effect he was asking the court to satisfy the Special Branch desire to keep all the accused in prison for an indefinite time. Had the court agreed to his proposal the defence would have had to raise the fantastic amount of £85,000. This sum would have taken many



months to raise, and as the accused had shown from the very beginning that they were resolved to stand together under all circumstances, none of them would have left the Fort until all were enabled to do so.

No Supreme Court Judge would permit accused people to remain jailed indefinitely, and Justice Dowling asked Mr van Niekerk how long the preparatory examination was expected to last.

‘Six weeks to two months,’ Mr van Niekerk replied.

The judge was sceptical. ‘Experience has shown that these estimates can normally safely be doubled,’ he commented.

The judge’s comment was more than justified. The examination lasted over seven full months. It is very difficult to understand how Mr van Niekerk, who had presumably studied the evidence he was about to lead, could possibly have believed that the examination could conceivably be over within six weeks. The mere handing in of documents, before any oral evidence was led at all, lasted a full six weeks. And the examination itself only finished in the time it did because of strenuous defence efforts to shorten proceedings.

The applicants asked the judge to fix bail at £200 for Europeans, £100 for Indians and £25 for Africans.

To let a person facing a capital charge out on £25 bail was unheard of, snorted Mr van Niekerk.

The judge’s ruling was another victory for the rule of law over the police state. He fixed bail at a figure very close to that suggested by the applicants—£250 for Europeans, £100 for Indians and £50 for Africans and Coloureds.

That sliding scale alone, gives a sardonic picture of the Alice-in-Wonderland character of South African racial economics.

In addition, the bail conditions provided that the accused might not attend any gatherings other than those of a social, religious, educational or recreational nature, and that they must hand in all passports and report once a week to a police station. Lawyers were permitted to appear in courts, and Mr Lee-Warden in Parliament.

Reverend Thompson was allowed to continue to preach to his congregation provided that he first handed in all his sermons for censorship at his local police-station!



The same evening twelve Johannesburg magistrates came after hours to the cellar of the Magistrates' Court to sign and authorise the bail sureties, and by nine o'clock the 156 accused were relatively free men and women.

\* \* \*

Every one of the accused, without benefit of armed guards, turned up at the Drill Hall bright and early the next morning.

From now on, day in and day out, like business-men and women following a strict routine, the accused were to arrive from all parts of the city each morning to take their places in the dock. Their massed ranks in court, sitting in the torn-down remnants of the cage that had only the day before enclosed them, made a hollow mockery of the Special Branch's frenetic drama—the dawn arrests, the secret military air flights, the ban on visitors, the armed guards, the cage.

On this third day of the preparatory examination no crowds were allowed anywhere within two city blocks of the court. The accused could gain admittance only by showing their prison cards.

This did not prevent another baton charge. The mere gathering of the smallest group of Africans within a quarter-mile of the court was enough to drive the police into a frenzy. But the people were agile and kept their distance. The police added only five more hospital casualties to their tally.

Inside the court, Mr van Niekerk, taking turns with his assistant, Mr Liebenberg, finished reading the Crown's opening address.

The press clamoured for copies of this vital document which purported to explain what all the fuss was about. But the Special Branch had fallen down on the job again. Mr van Niekerk had only one copy, and that, he explained apologetically, was so badly typed that it would be of no use whatsoever to the press.

When he finished reading, the case was adjourned for two weeks. And after the court had risen, the Rev. D. C. Thompson, blissfully breaking his bail conditions in front of dozens of gaping policemen, addressed the accused, and, 'as a member of



the World Peace Council’, wished everyone a happy and peaceful Christmas.

\* \* \*

For almost everyone there was a need to make arrangements for the start of a new life. The accused were well aware that they were in for a long siege and they and their families spent earnest hours planning for survival while they were cut off from their jobs. All knew that there were tens of thousands of ordinary people—and not in South Africa alone—who would make sure that their families would not be allowed to starve. This heartened them as they planned their futures.

But they were determined that the first call on the money that came in should go to ensure the best possible defence. For the accused had decided without hesitation that they were going to go on the attack. Their aim was not only to prove that they were not traitors to their country. They wanted to prove who the real traitors were.

\* \* \*



## CHAPTER FIVE

### BEST DEFENCE IS ATTACK

*'The Government representatives when they leave our meetings they report that we speaking Treason and Seditious I think its because they don't understand us.'*

(Extract from a speech by J. Kumalo as recorded in the notebook of Detective-Sergeant Isaac Sharp.)

MR VAN NIEKERK, the prosecutor, does not read well at the best of times. And with a very badly typed and apparently incomplete address in front of him, and a packed court tensely aware of the mass of humanity outside, he stumbled over the words of the address, was frequently inaudible, and kept to a deadly monotone.

He said that he would set out to prove that all the people before the court were actively connected with certain organisations commonly called the national liberation movement, and, with a campaign for the holding of a Congress of the People. The African National Congress, the South African Indian Congress, the South African Coloured Peoples' Organization, the South African Congress of Democrats, and the South African Congress of Trade Unions were the main components of the liberation movement, he said.

\* \* \*

Mr van Niekerk began by telling the court how, in 1953, Professor Matthews put forward to the African National Congress a proposal for the holding of a national convention. This idea led to the Congress of the People, held in Johannesburg on June 25th and 26th, 1955, which framed the Freedom



Charter—a document subsequently adopted by all the Congresses.

The proposal was made in the Professor's Presidential address to a Conference of the A.N.C. of the Cape Province, and as a result the Conference resolved that, at the instance of the A.N.C. and under its leadership, such a Congress should be called and it should draw up 'a Freedom Charter, or Constitution, embodying a vision of the future South Africa, as we in Congress see it. . . . Such a Congress of the People would serve to unite all the democratic forces in South Africa of all races against the dangers of fascism and would enable the African National Congress to demonstrate in a practical manner its policy for the solution of the problems of this country.'

He went on to tell the court that the Congress of the People was held on June 25th and 26th, 1955, and the Freedom Charter adopted which 'will be referred to so often in the proceedings'. And he told of how the Charter had been adopted by all the organisations concerned and widely publicised by them.

In one brief sentence Mr van Niekerk said that during the bus boycott at Evaton 'it was stated that the bus boycott was a preliminary to the revolution and implementation of the Freedom Charter', but Mr van Niekerk did not disclose who had made this startling statement. Similarly in one sentence he disposed of the opposition to the forced removal by the Government of the people of Sophiatown from their homes when 'all the facts point to an insurrection having been averted by the anticipation of the date of removal and security measures taken by the police'.

After these two dramatic allegations, made in a single paragraph, Mr van Niekerk went back to the prosaic details of how the Congress of Democrats had decided to adopt the Freedom Charter, and its resolutions on peace and 'New Age' sales.

Mr van Niekerk then posed the question: 'Is it the aim to accomplish the state which these organisations have in mind by constitutional means or by reform?'

The evidence would be that the Congresses were dissatisfied with the policies of all the political parties in parliament. 'The evidence will therefore be that the existing state and state form cannot be altered by concessions and reform. The object of the



Liberation Movement cannot be achieved through Parliament, and therefore extra, arbitrary and unconstitutional action is advocated,' said Mr van Niekerk.

He then quoted from 'Communist authorities' to show that 'the aim of Communism is revolution'.

\* \* \*

'The case of the high treason charge will be the incitement and preparation for the overthrow of the existing state by revolutionary methods involving violence and the establishment of the so-called Peoples' Democracy on the basis of the Eastern European Communist Satellite States, and China.'

\* \* \*

This is how the conservative *Cape Times*, in its main headline to the report of Mr van Niekerk's address, characterised it the next morning:

'PLAN FOR ALL SOUTH AFRICANS TO HAVE VOTE ALLEGED.  
CROWN "TREASON" CASE OUTLINED.'

Mr van Niekerk sat down.

Mr Berrangé, one of the counsel for the defence stood up.

'Will it be contended by the Crown that the resolutions and statements quoted in the opening address as forming part of the conspiracy were made in secret or were they made at public meetings?' Mr Berrangé asked.

'I do not know what my learned friend is aiming at,' said Mr van Niekerk. And the first wave of laughter in court was recorded by the pressmen. 'Everything that was said, whether it was said privately or in public was said. I don't know what difference it makes.'

The magistrate made his first intervention. 'You do not propose to discuss that now,' he said.

But Mr van Niekerk went on. 'All I can say is that my recollection is that all the meetings referred to here were public meetings.'

'That is all I want to know,' said Mr Berrangé. But it was not all he wanted to know.

'It is clear,' he commented, 'that a great deal of reliance is placed by the Crown on the terms of the Freedom Charter. It



is not clear to us whether it is averred by the Crown that the terms of the Freedom Charter are treasonable or not.'

Mr van Niekerk: That is a question that could be decided after all the evidence has been led.

The Magistrate: Is the Crown going to contend that the contents are treasonable?

Mr van Niekerk: The Crown is not in a position at this stage to say what allegations are going to be made at the end of the preparatory examination.

Mr Berrangé: My only object in raising it is that this document, the Freedom Charter, has been circulated in tens of thousands, all over the country, in 1954, and if it has been treasonable, one would have expected action to be taken before.

Mr van Niekerk was not in a position to say whether or not he would claim that the contents of the Freedom Charter were treasonable.

At the risk of placing a treasonable document before our readers, here is the Freedom Charter in full. You be the judge.

## THE FREEDOM CHARTER

We, the people of South Africa, declare for all our country and the world to know:

That South Africa belongs to all who live in it, black and white, and that no government can justly claim authority unless it is based on the will of all the people;

That our people have been robbed of their birthright to land, liberty and peace by a form of government founded on injustice and inequality;

That our country will never be prosperous or free until all our people live in brotherhood, enjoying equal rights and opportunities;

That only a democratic state, based on the will of all the people, can secure to all their birthright without distinction of colour, race, sex or belief;

And therefore, we, the people of South Africa, black and white together—equals, countrymen and brothers—adopt this Freedom Charter. And we pledge ourselves to strive together, sparing nothing of our strength and courage, until the democratic changes here set out have been won.



## THE PEOPLE SHALL GOVERN!

*Every man and woman shall have the right to vote for and to stand as a candidate for all bodies which make laws;*

All people shall be entitled to take part in the administration of the country;

The rights of the people shall be the same, regardless of race, colour or sex;

All bodies of minority rule, advisory boards, councils and authorities shall be replaced by democratic organs of self-government.

## ALL NATIONAL GROUPS SHALL HAVE EQUAL RIGHTS!

*There shall be equal status in the bodies of state, in the courts and in the schools for all national groups and races;*

All people shall have equal right to use their own languages, and to develop their own folk culture and customs;

All national groups shall be protected by law against insults to their race and national pride;

The preaching and practice of national, race or colour discrimination and contempt shall be a punishable crime;

All apartheid laws and practices shall be set aside.

## THE PEOPLE SHALL SHARE IN THE COUNTRY'S WEALTH!

*The national wealth of our country, the heritage of all South Africans, shall be restored to the people;*

The mineral wealth beneath the soil, the Banks and monopoly industry shall be transferred to the ownership of the people as a whole;

All other industry and trade shall be controlled to assist the well-being of the people;

All people shall have equal rights to trade where they choose, to manufacture and to enter all trades, crafts and professions.

## THE LAND SHALL BE SHARED AMONG THOSE WHO WORK IT!

*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;*

The State shall help the peasants with implements, seed, tractors and dams to save the soil and assist the tillers;

Freedom of movement shall be guaranteed to all who work on the land;



All shall have the right to occupy land wherever they choose;  
People shall not be robbed of their cattle, and forced labour  
and farm prisons shall be abolished.

ALL SHALL BE EQUAL BEFORE THE LAW!

No one shall be imprisoned, deported or restricted without a  
fair trial;

No one shall be condemned by the order of any Government  
official;

The courts shall be representative of all the people;

Imprisonment shall be only for serious crimes against the  
people, and shall aim at re-education, not vengeance;

The police force and army shall be open to all on an equal  
basis and shall be the helpers and protectors of the people;

*All laws which discriminate on grounds of race, colour or belief shall  
be repealed.*

ALL SHALL ENJOY EQUAL HUMAN RIGHTS!

The law shall guarantee to all their right to speak, to organise,  
to meet together, to publish, to preach, to worship and to educate  
their children;

*The privacy of the house from police raids shall be protected by law;*

All shall be free to travel without restriction from countryside  
to town, from province to province, and from South Africa  
abroad;

Pass Laws, permits and all other laws restricting these freedoms  
shall be abolished.

THERE SHALL BE WORK AND SECURITY!

All who work shall be free to form trade unions, to elect their  
officers and to make wage agreements with their employers;

The state shall recognise the right and duty of all to work, and  
to draw full unemployment benefits;

*Men and women of all races shall receive equal pay for equal work;*

There shall be a forty-hour working week, a national minimum  
wage, paid annual leave, and sick leave for all workers, and  
maternity leave on full pay for all working mothers;

Miners, domestic workers, farm workers and civil servants  
shall have the same rights as all others who work;

Child labour, compound labour, the tot system and contract  
labour shall be abolished.



## THE DOORS OF LEARNING AND OF CULTURE SHALL BE OPENED!

The Government shall discover, develop and encourage national talent for the enhancement of our cultural life;

All the cultural treasures of mankind shall be open to all, by free exchange of books, ideas and contact with other lands;

*The aim of education shall be to teach the youth to love their people and their culture, to honour human brotherhood, liberty and peace;*

Education shall be free, compulsory, universal and equal for all children;

Higher education and technical training shall be opened to all by means of State allowances and scholarships awarded on the basis of merit;

Adult illiteracy shall be ended by a mass State education plan; Teachers shall have all the rights of other citizens;

The colour bar in cultural life, in sport and in education shall be abolished.

## THERE SHALL BE HOUSES, SECURITY AND COMFORT!

*All people shall have the right to live where they choose, to be decently housed, and to bring up their families in comfort and security;*

Unused housing space to be made available to the people;

Rent and prices shall be lowered, food plentiful and no one shall go hungry;

A preventive health scheme shall be run by the State;

Free medical care and hospitalisation shall be provided for all, with special care for mothers and young children;

Slums shall be demolished, and new suburbs built where all have transport, roads, lighting, playing fields, crèches and social centres;

The aged, the orphans, the disabled and the sick shall be cared for by the State;

Rest, leisure and recreation shall be the right of all;

Fenced locations and ghettos shall be abolished, and laws which break up families shall be repealed.

## THERE SHALL BE PEACE AND FRIENDSHIP!

South Africa shall be a fully independent state, which respects the rights and sovereignty of all nations;

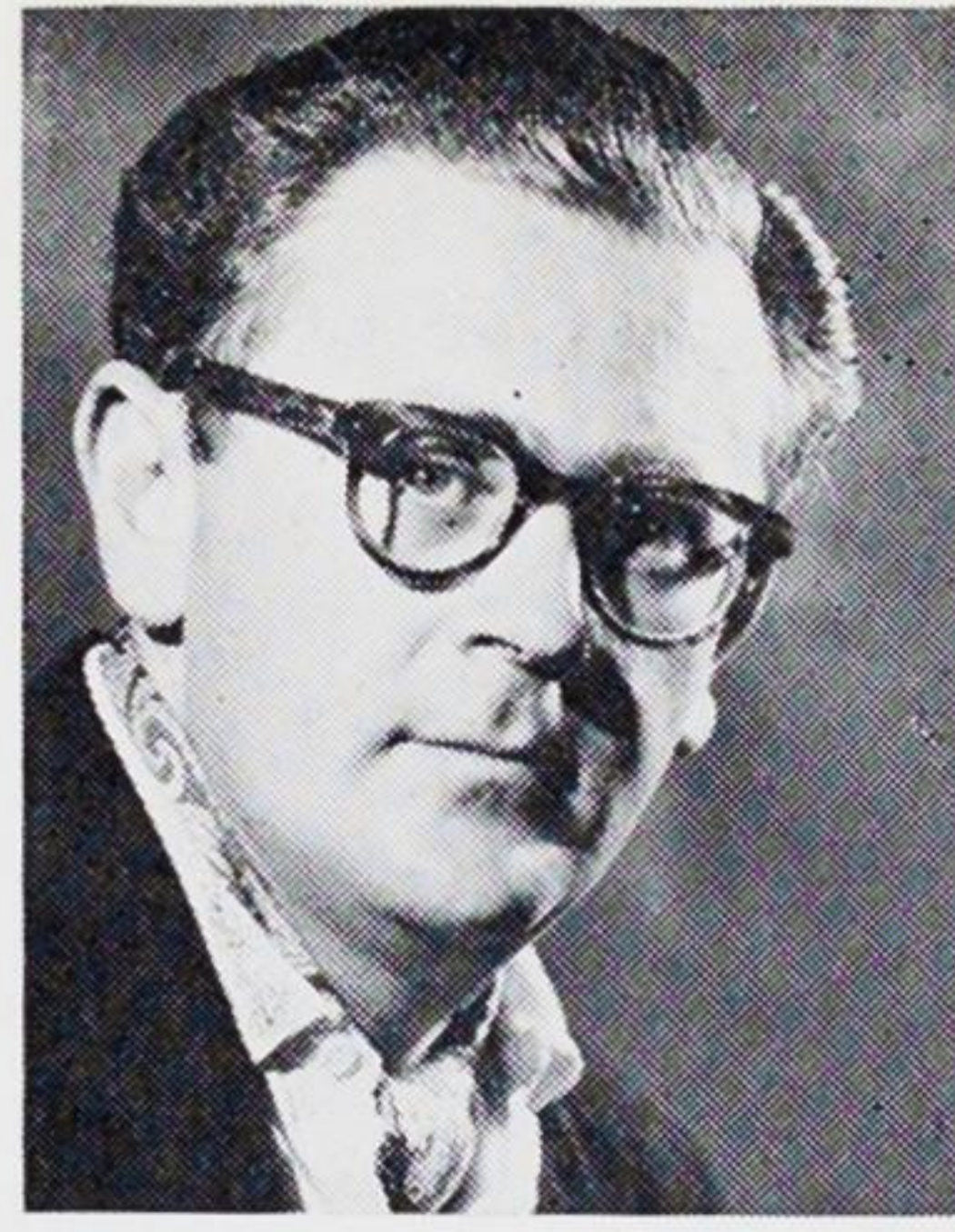
*South Africa shall strive to maintain world peace and the settlement of all international disputes by negotiation—not war;*

Peace and friendship amongst all our people shall be secured by upholding the equal rights, opportunities and status of all;





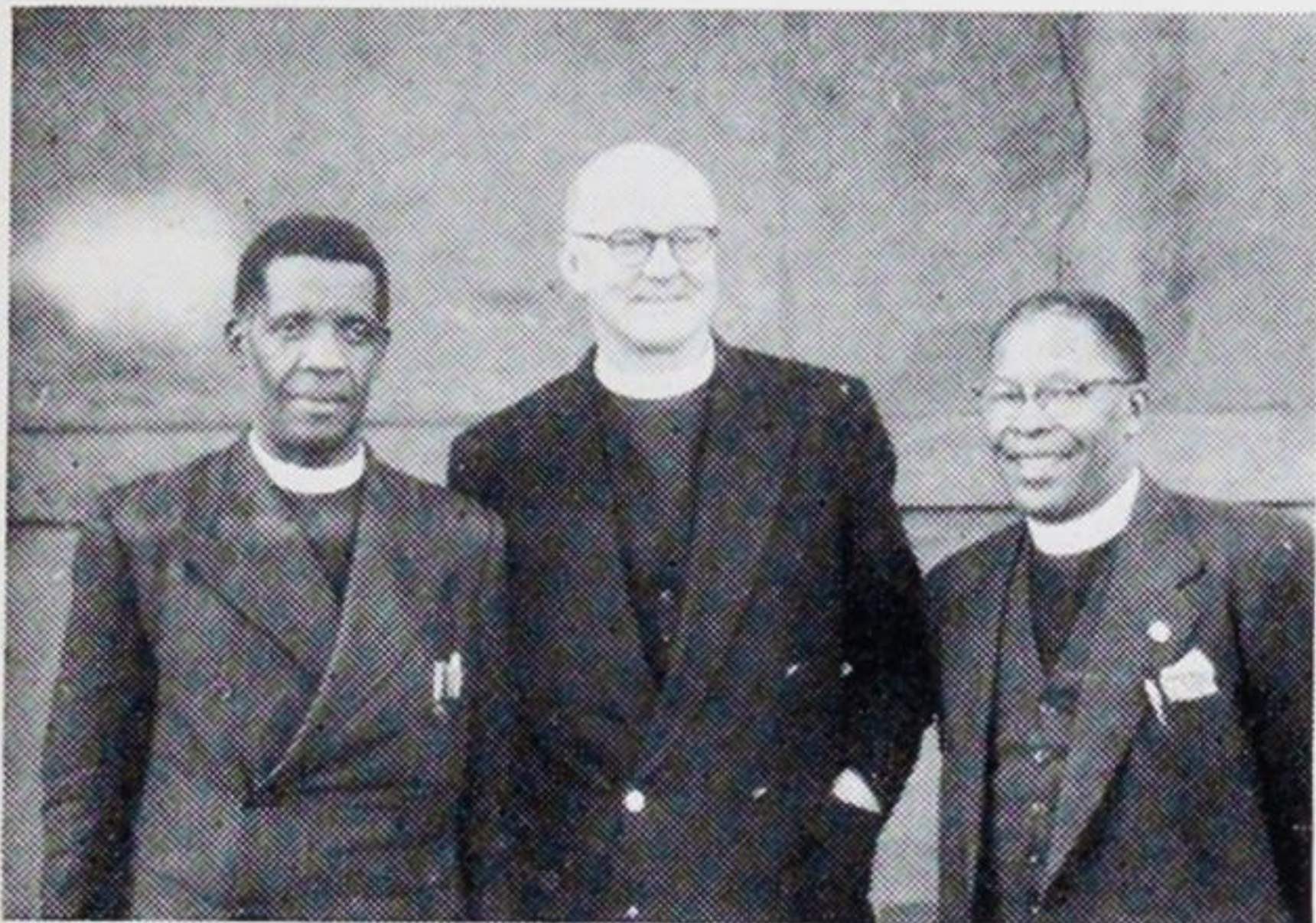
Ruth First—Journalist



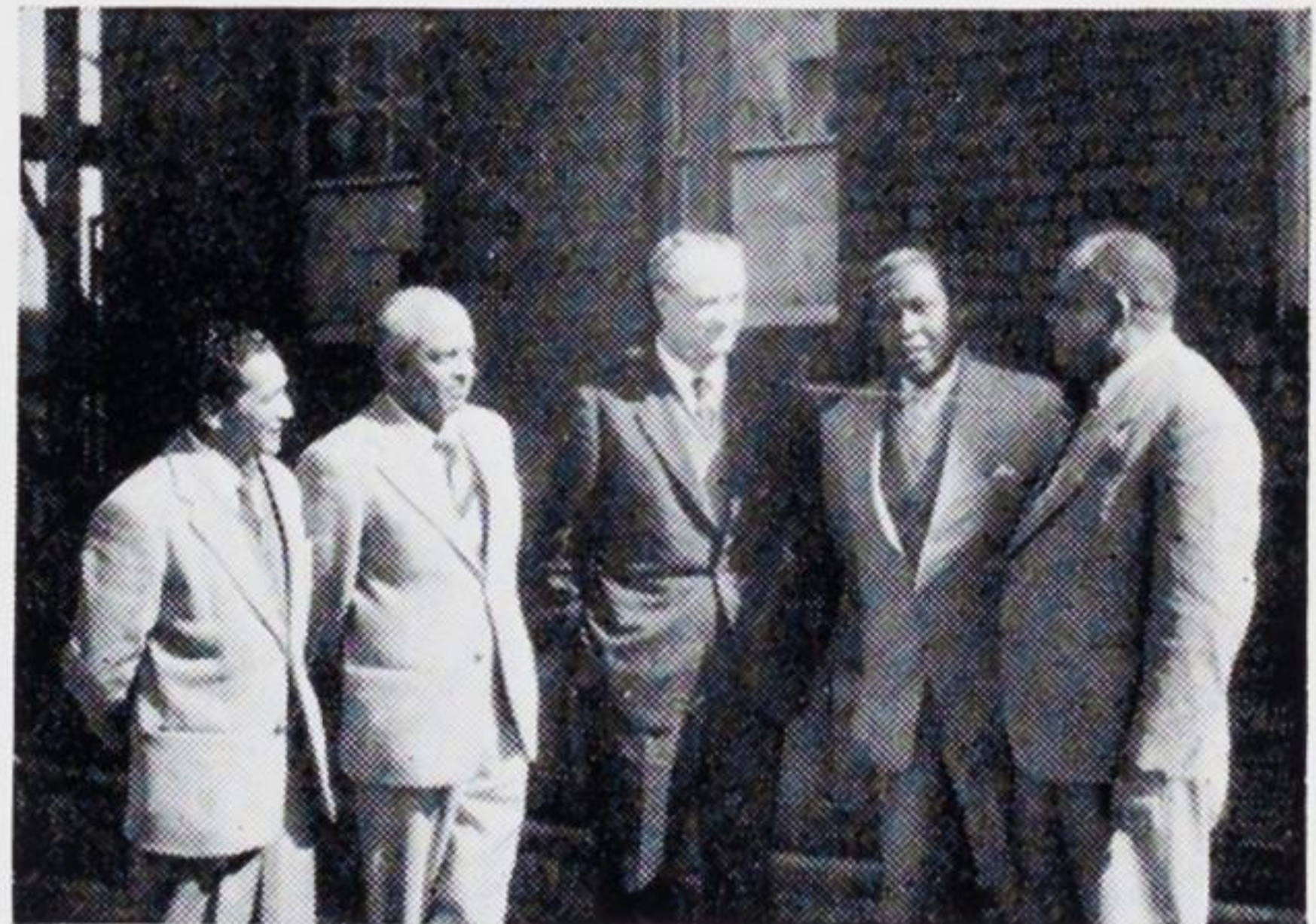
Joe Slovo—Advocate



Oliver Tambo



The Rev. Calata,  
Thompson & Gawe



Peake, Naiber, Beyleveld,  
Luthuli & Mathews





Women's Anti-Pass Demonstration outside Union buildings, Pretoria



Congress of the People—Father Trevor Huddleston, C.R., 3rd from left



The people of the protectorates—Basutoland, Bechuanaland and Swaziland—shall be free to decide for themselves their own future;

The right of all the peoples of Africa to independence and self-government shall be recognised, and shall be the basis of close co-operation.

*Let all who love their people and their country now say, as we say here: 'These freedoms we will fight for, side by side, throughout our lives, until we have won our liberty.'*

\* \* \*

It is unusual at a preparatory examination for the accused to disclose the line of defence he will adopt at the subsequent trial, or for defence counsel to cross-examine Crown witnesses at length.

The question of how the defence was to be conducted was put to the accused while they were still at the Fort, the opinion of most of the lawyers being in favour of adopting the customary procedure. But the prisoners, discussing the matter separately in each of their sections, decided unanimously and without hesitation that the case must be from the opening day.

Probably for the first time at a South African trial therefore, when the court resumed after the Christmas recess, defence counsel rose to reply to the prosecutor's address. After summarising the Crown case, Mr Berrangé had this to say:

'The Defence, when it comes to deal with the Freedom Charter and its aims and objects, will strenuously repudiate any suggestion that the terms of the Charter are treasonable or criminal.

On the contrary, the Defence will contend that the ideas and beliefs which are expressed in this Charter, although repugnant to the policy of the present Government, are such as are shared by the overwhelming majority of mankind of all races and colours and also by the overwhelming majority of the citizens of this country and are, in any event, unexceptionable both in the criminal and in the social and ethical sense.

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

We will endeavour to show that what is on trial here are not



just 156 individuals but the ideas which they and thousands of others in our land have openly espoused and expressed.'

The evidence would show that it had at no time been an aim of the Liberation Movement, and the organisations which comprised it, to bring about changes in Government by subversive means or by force and violence, Mr Berrangé continued. 'We will establish that the advocacy of the use of extra-parliamentary methods to bring about desired changes does not mean that force and violence and subversion were intended or understood to be essential ingredients of such methods.'

Referring to statements alleged to advocate violence in the prosecutors address, Mr Berrangé said that it was significant that no individual was named as the author of these sentiments, which were certainly not those of the accused people or the organisations they represented. The defence would also put in evidence documents showing that extracts alleged to be quotations from them in the prosecution address were garbled and inaccurate.

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

The Crown also alleged that the accused had advocated a system which aims at the encouragement of hostility between the black and the white races of the country. This, too, is an averment which the accused would show to be false.

'It has at all times been the policy of all the organisations mentioned by the Crown, Prosecutor to advance along the road which they have chosen in a body in which all races, all beliefs, and all creeds are united. Where certain persons may have sought a solution for their feelings of frustration and desperation by advocating a policy of narrow nationalism the leaders in the organisations affected have been speedy and vocal in their repudiation thereof.

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

Evidence will be led to establish that the accused and the organisations concerned have at all times done all that is in their power to draw the various racial groups together, to make each group understand that its interests cannot be furthered where a



spirit of racial antagonism exists, to make each group appreciate the needs of the other and not only its own needs—and, in short, to create race-harmony and mutual assistance and co-operation.

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

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

This is not the time to enter into a polemic as the meaning of such words as Communism, Democracy and Revolution.

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

\* \* \*

Then Mr Berrangé altered his manner of speaking. His voice had up to this stage been that of a lawyer marshalling arguments without passion.

Now he spoke with anger and vehemence.

The accused do not propose merely to defend themselves against the allegations made by the Crown.

'The accused will not only endeavour to establish their innocence but they will assert and, in due course, ask the court to hold, that they are the victims of political kite-flying on the part of those responsible for these prosecutions.

We will endeavour to show that these prosecutions, and the manner of their presentation, are for the purpose of testing the political breezes in order to ascertain how far the originators thereof can go in their endeavours to stifle free speech, criticism of the Government, and, in fact, all that the accused believe is



implicit in their definition of the oft-misused word "democracy".

That this is no ordinary trial can be gathered from the fact that the accused are in themselves no ordinary persons. They constitute a cross-section of the members of our population. In their ranks are to be found a Member of Parliament, clergymen, lawyers, journalists, students, clerical workers, and labourers. They come of all races, but all of them hold one thing in common, despite the fact that they have different and differing political affiliations, and that is a belief in the brotherhood of man and a desire to work for his betterment and towards his ultimate freedom.

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

The magistrate interrupted for the first time.

'What did you say?'

'I said jack-boot methods.'

'Jack-boot methods?'

'Yes, I use strong language intentionally,' said Mr Berrangé.

'That this is no ordinary trial is shown by the manner in which it has been set in motion. Many months ago the Minister for Justice in a debate in the House of Assembly was prophesying the arrest of two hundred persons on charges of treason.

But we will show that the preparations for the fulfilment of this prophecy were made even before—and they were made by the Security Police.

We will establish that before ever the Freedom Charter was drafted or the Congress of the People was held, the then Chief of Police, Brigadier Rademeyer, was reported as saying the idea of a Freedom Charter was treasonable. But he and the newspaper which published his remarks retracted quickly when a demand for damages was made by some of my clients.

We will show that as a prelude to these proceedings and that for the purpose of creating favourable conditions, the Security Police set out deliberately to create a fantastic atmosphere of treason around everything that the accused have worked for. They did this by endeavouring to intimidate the public with their attendances at open and legitimate meetings, by conducting mass raids and countrywide searches and by flourishing sten guns, fixed bayonets and truncheons.

The most fantastic allegations of plots to poison water supplies and to bomb power stations have been made by Ministers of the Crown which, we will allege, were made to provide a certain



justification for the activities of the police and to quieten the public alarm aroused thereby.

A battle of ideas has indeed been started in our country; a battle in which on the one side—the accused will allege—are poised those ideas which seek equal opportunities for, and freedom of thought and expression by, all persons of all races and creeds and, on the other side, those which deny to all but a few the riches of life, both material and spiritual, which the accused aver should be common to all.

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

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

The defence will therefore contend that this case is a political plot of the type which characterised the period of the Inquisition and the Reichstag Fire Trial. We believe that, in the result, this trial will be answered in the right way by history.'

'Yes. Thank you, Mr Berrangé,' said the Magistrate. 'Call your first witness, Mr Prosecutor.'



## CHAPTER SIX

### THE EVIDENCE BEGINS—SOUP WITHOUT MEAT

*'It is long that we have been demanding freedom from Europeans and they have been refusing and we are going to fetch it now.'*

(Extract from a speech by T. Mqotha as recorded in the notebook of Detective-Sergeant N. Sogoni.)

FOR THE first six weeks of the examination the prosecution did nothing but hand in the thousands of documents seized in the frequent raids on homes, offices and meetings.

A notice over the kitchen at the Congress of the People, 'Soup without meat', was solemnly read, marked as an exhibit and handed in. The next exhibit was, logically enough, 'Soup with meat'. Even Sergeant von Papendorp, who had seized this evidence of treason, and who had been brought to court to swear to that fact, could not restrain a shamefaced laugh. Perhaps those posters were really disguised Communist slogans? Almost as if the thought had crossed his mind, von Papendorp volunteered, as the magistrate studied the exhibit, 'There *was* two kinds of soup, your Worship.'

Most of the documents were newspapers, magazines and books which had been seized. And, handing them in, the prosecutor doggedly maintained the pace of the ox. When for example a two-year series of issues of the monthly *Fighting Talk* were dealt with, instead of having the whole collection identified as a single exhibit, he handed them in one by one:

'Is that *Fighting Talk* dated January 1954?'

'It is, your Worship.'



‘Do you now hand that in?’

‘I do, your Worship.’

Across the court walked the orderly to the magistrate. Across the court he walked to the prosecutor to collect another *Fighting Talk*. Across the court he walked and handed it to the witness.

‘Now is that *Fighting Talk* dated February 1954?’

‘It is, your Worship. . . .’

And as if that wasn’t enough to make a man scream, an identical pile of the identical magazines, seized from another accused, would be handed in in the same drip, drip, drip fashion.

Invitations to dinners and to weddings. Letters to girlfriends. Almost every kind of document you could think of finding in a person’s pocket. The rumour spread that the Government was determined to keep the affair going until right after the 1958 elections.

Some of the documents brought one up with a start as an illustration of the nature of this battle of ideas.

The United Nations Charter was handed in.

It was found on a table at the Congress of the People.

‘Read the opening section to the court,’ said Mr van Niekerk in the solemn tone normally reserved for “Show the jury the murder weapon”.

The detective read, stumbling over the words: ‘Whereas it is essential, if man is not compelled to have recourse, as the last resort, to rebellion against tyranny and oppression, that human rights should be protected by law. . . .’

The magistrate made a note.

Sometimes there were moments of compensation. When the Freedom Charter and the Call to the Congress of the People were read, the simple and clear language took life even on the tongues of the detectives, and, almost as if carried away, they read with feeling and expression.

But these moments were rare.

\* \* \*

Alfred Hutchinson was not the only fine writer in the court. Two seats away from me sat fellow Cape-Tonian Alex La Guma, Coloured leader and son of a Coloured leader, who is



on the staff of *New Age* and has blossomed into a first-rate journalist and story-writer.

This is how La Guma captured the atmosphere for *Fighting Talk*, sitting there a thousand miles away from his wife and baby, wondering if the baby will recognise him when he comes home!

The cop at the door looks bored. He tilts his chair back and eases his gun harness, stares at the hessian ceiling as if he sees something hypnotic up there. In front of me a ladybird crawls carefully up the back of Archie Patel's chair, hesitates about six inches from the top and decides to turn back. You can cut the heat with a knife. A hundred and fifty-six bodies stir uncomfortably in the diamond-wire dock. Somewhere voices clack metalically.

Duplicated copy of a speech by Lilian Ngoyi.

Yes, your worship, I hand in this document.

. . . Peace Council . . .

. . . Worship . . . document . . .

Do you know a man named Stanley Lollan?

I am surrounded by South Africa. Damons, Nthite, Hoogendyk, Horvitch, Moonsamy, Shanley. Workers, housewives, clerks, lawyers, journalists, doctors, priests, trade unionists.

Pamphlet called 'New Life In China', by Ruth First.

I hand in this document, your worship.

There is Dr Motala, who cannot find somebody to replace him, so many of the sick in Maritzburg must go unattended. And there is Sibande, the Lion of the East, whose home has been the country roads ever since he was deported from the area where he had lived and his house sold for ten pounds at a public auction.

The ladybird has reached a paling across the back of the chair and advances cautiously along it, waving its tiny antennae.

The court orderly is a youth in a khaki uniform, with a gun as big as a plough-handle at his waist. He carries the exhibits from the prosecutor across about twenty yards of floor to the witness in the wooden frame box.

Is this an invitation to a dinner . . . ?

Yes, your worship. I hand it in.

In the wire dock the accused spend five and a quarter hours each day. Five and a quarter hours taken from one hundred and fifty-six lives every day. Five and a quarter hours wondering whether the folks at home are alright. Whether the baby will



recognise his daddy when he gets back home. Whether the Defence Fund has collected enough money to support one hundred and fifty-six families.

One hundred and fifty-six families to feed.

The ladybird has encountered an obstacle in a projecting fold in Archie Patel's coat. The antennae feel forward cautiously. The tiny oval body goes into reverse for a few minute paces.

Did you, on the 26th September, search . . .

That's correct, your worship.

The heat beats down in waves. Heads nod. Eyelids struggle to keep open. Ears strain to listen. In Nazi Germany the Gestapo used a deadly, vicious and ridiculously simple method of torture in order to force confessions. They didn't allow the prisoner to fall asleep. Night and day. Day and night.

Twelve million people to liberate, and one hundred and fifty-six families to feed. What is the price of freedom? The thunder on the door in the early dawn? A ride in an aeroplane? The roaring, swaying drive in a steel truck? The roar of the crowds? Afrika Mayibuye! All these small instalments.

And one hundred and fifty-six families to feed.

The ladybird advances again, carefully, heaves itself on to the crest of the fold in Archie Patel's coat, crosses gently, and descends the far slope.

A pamphlet called 'Educating For Ignorance . . .'

I hand in this document.

In ordinary everyday life there is a variety of things which make life interesting. Here life has become a fixed pattern; a routine, a monotonous repetition like a machine turning out bottle-tops. The ladybird finds interest in its journey.

A copy of '*New Youth*.'

Correct, your worship. I hand in this document.

Overhead the skies protest. Thunder mutters menacingly. The heat is thick as cotton-wool. The thunder growls louder, then rolls out with the sound of an artillery barrage. The ladybird has disappeared now, as if it had been frightened by the enormous sound and has hidden itself.

One hundred and fifty-six people half-listening, wondering about homes and children and wives and hoping that they will be looked after. The price of freedom is great. Now it is the price of food for our families, and the rent, and the instalments on the furniture, electricity and food for the baby.

One hundred and fifty-six families to feed.



Do you hand in this document?

Across the skies the thunder rolls as the angry gods engage in mighty battle.

The magistrate is grey-haired and dapper, the prosecutor smooth-shaven and suave, and the defence counsel alert under the fluorescent lights. And beyond the battery of microphones, the recording apparatus and the gin-bottles full of drinking water, the accused perspire in their wire pen.

To the magistrate on his platform the 156 people in the dock form a conglomeration of faces, each one different, skin, clothes and hair forming an irregular pattern of colours, brown, black, white, tan, pink. Each face is a name and a number.

Lists of names and numbers have no hearts, no blood pumping through veins. Lists of names cannot feel the agony of separation, the anxiety over unpaid debts, the speculation as to whether the family had managed to hire the tractor to pull the plough over the ripe land.

\* \* \*

Let us put flesh and blood to some of those names and numbers. Stout, chubby, Bertha Mkize of Durban is accused No. 132. 'I'm sixty-seven years old. I hope they make this business short and sweet. I've got lots to do back home.' A member of the A.N.C. Mrs Mkize does sewing for a living. She is worried about the rent for the little shop she occupies. 'And the house rent, and the monthly instalments.' She clucks faintly, and then shrugs and her eyes are merry behind the spectacles. 'We shouldn't worry too much. I am prepared to take what comes. No, I have no regrets. Never.'

William Mini, New Brighton, Port Elizabeth, age 37. He is a magnificent bass and in the Fort his voice rolled above the combined effort of all the others, singing a song he himself had introduced: 'Iza unyatele Afrika, Strydom shoo. . . .' ('Strydom, beware, Africa will trample you.') Tall and hefty, with a tan-coloured, freckled face, he is a veteran of the Defiance Campaign, who served three months for breaking railway apartheid regulations. He has lost his job as a packer in a battery factory because of his arrest.

'I earned £3 15s. a week. I'm not sure about what is happening to my wife and three children.' Then he adds with a grin.



'But we have many friends. I am not sorry I'm here. Right now I'm taking part in the bus boycott. I walk to and from Sophiatown where I'm staying. Get a lift sometimes.'

In Newclare where he lives, and to everybody in the Congress movement, Andries Chamile is affectionately known as 'General China'. He is fifty-nine years old and sells *New Age* for a living. While he was in the Fort thieves broke into his home and stole all his clothes. 'There was nothing I could do about it. Anyway, I've got some other clothes, and many friends came to my assistance. That's life.'

Things are not so good with his family, and the Fund has promised to pay his rent. 'But,' he says, blinking and looking a little sad, 'it's my gramophone I'm worried about. I still owe some money on that and I don't want to lose it. I hope they'll agree to pay the instalments.'

Then he brightens as he tells with pride how he was arrested during the Bantu Education school boycott and again during a bus boycott. 'Now I'm ready to pass a higher examination.'

The youngest among all the 156 accused is Mosie Moolla. At twenty-two he is joint secretary of the Transvaal Indian Youth Congress, with a premature moustache and a perpetual grin on his baby-face. Mosie was expelled from school for participating in the Defiance Campaign, and now has lost his job as a clerk as the result of his arrest. A little worried about the fact that he cannot help to support the family, the grin nevertheless remains. In the cells he was one of the most enthusiastic singers, but with the worst voice.

Simon Nkalipe, intense face and burning eyes, finds the grim old Drill Hall a pleasant change from his normal surroundings. He has been serving eighteen months in the Grahamstown jail for addressing a gathering although banned by ministerial decree from doing so. 'A religious meeting,' he says, 'but even that was forbidden.' Now he travels in daily from the Fort, has a decent meal and a smoke with his friends. Treason has its silver lining.

At the other end of the scale are Bob Asmal, V. Maake and Joe Molefi, who were committed by a magistrate for trial on charges of murder exactly two days after they were arrested in the dawn 'treason' raids. They had been part of the leadership



of the boycott committee which had won transport improvements for the people of Evaton after a long and bitter battle, in which anti-boycott thugs had been let loose to terrorise the township into surrender, but had failed. Lives had been lost, and to nobody's surprise the terror gangs were not charged. The boycott leaders were.

During the June adjournment of the treason hearing, Asmal, Maake and Molife appeared in the Supreme Court, where charges were reduced to 'public violence'. Judge Kuper found them not guilty, which was an eminently just decision, because they were not guilty.

It must be quite a feeling to face separate charges of murder and treason, both hanging crimes. South Africa is an exciting country.

Flesh and blood. Lawrence Nkosi sits for a few weeks, coughing tuberculous blood into his handkerchief. Finally he is allowed to go to hospital for the duration of the case, as long as he undertakes to read the record of the evidence.

Even the magistrate looks concerned when he hears that one of the Stanley children, whose parents are accused numbers 133 and 134, has been taken to the Fever Hospital as a polio suspect. Everyone is happy when the boy is found not guilty of polio and is detained only a short time for 'flu.

Accused No. 111 is a lively, talkative, bespectacled woman, Florence Matomala of Port Elizabeth. She walks upright and energetically and as she chatters, arm in arm with her friends, she curls her lips in speech, as though to give full and proper effect to every syllable.

The many struggles in which she has participated, and her equally numerous arrests—for she has been in and out of gaol for one political offence after another—have not dampened her ardour. Yet strangely enough she first chose the quiet and sedate calling of a school teacher.

She remained sedate until 1950, when, full forty years old, she was aroused into action by the decision of the Port Elizabeth municipality to permit no African to remain in the area unless he or she was given permission by the town council.

That day, November 4, 1950, remains clear in Florence's mind, for she passed her apprenticeship then. The women,



singing 'Lizabise Idingalakho Nkosi' ('Lord, may thy promise be fulfilled'), marched to the superintendent's office, led by Florence Matomela, and on that day the permits were burnt.

In the Defiance Campaign she was the first woman volunteer and went to jail for two months. A year later, on the same campaign, she got nine months, suspended for three years.

As the evidence is led a faint smile flits across her face as she recalls her exploits as provincial organiser of the Women's League of the African National Congress, how she carried her message deep into the Eastern Province, her shawl tied around her waist and her bag containing her few belongings resting on her head, going from village to village, talking and explaining till the early hours of the morning. The secret police would be on her trail, but always too late. They would arrest her finally at her home in Korsten. 'Afrika! Mayibuye!' her little nine-year old daughter would cry, raising her thumb, and Mr Matomela would return from his job at the chemical factory and learn that the police had been there. . . .

For, besides her political work, Florence Matomela is a mother of five to whom she is devoted. She is a sick woman, too, suffering from diabetes. 'I was in bed for three weeks with pneumonia, when they came for me on December 5. And here I am. Ndilindele umayonzeke. They will never put out the fire that is sweeping through the country.'\*

In the middle of everything three of the accused, Oliver Tambo, medical student Syd Shall, and trade union secretary Doctor (of Chemistry) Ronnie Press, took the opportunity, on the same day, during a short adjournment, to get married. Never in the history of South Africa have so many people accused of high treason gathered together to celebrate a wedding of so many people accused of high treason.

Oliver Tambo, accused No. 74, is one of the new husbands. But let Father Trevor Huddleston tell you about Oliver Tambo (B.Sc.), one of the very few African attorneys in South Africa.

'Oliver was born about forty years ago in a little village called Bizana in Eastern Pondoland, deep in the heart of the Transkeian

\* From a profile on Florence Matomela, by accused Henry Makgothi, *Fighting Talk*, June, 1957.



Native Reserve. Both his parents were heathen and illiterate, his father was fairly wealthy, and according to custom had several wives. Oliver was, in fact, the second child of the third wife. This is significant to the story, for it is so often said, and I suppose believed, that the African cannot possibly make the jump from primitive to Western society in such a short span as a hundred or two hundred years. Indeed, Dr Verwoerd believes that he cannot make it at all, and that in fact tribalism is more important to African development than the Christian ethic. Oliver sat on the stoep of our library a few days ago telling me his story, and as he spoke, the sunlight fell upon and accentuated the marks of the knife upon his face, the marks of tribalism. It also fell upon the furrows across his forehead and at the corners of those bright, intelligent and alert eyes of his, and showed up the suffering and the sorrow that are in his face to-day.\*

Tambo's life, says Father Huddleston, 'shows not only the quality of Africans with ability and ambitions. It also shows, I think, the quality of faith, the Christian motive at its best. Indeed, it would be hard to find a more devoted churchman than Oliver Tambo.'

That is a good portrait of a South African treason suspect.

\* \* \*

Robert Resha, who worked very closely with Father Huddleston in the campaign against the Western Areas Removal Scheme, and who is now sports editor of *New Age*, is also hard at work on his note-pad. While the images are flowing easily from La Guma's pen, Resha works hard at his writing. But he gets his picture too: this matter-of-fact practical one (from *New Age*, February 1957):

The authorities have been at pains trying to implement apartheid. One entrance to the Drill Hall was reserved for 'Europeans Only', but this has failed. All prisoners use the 'Non-Europeans Only' entrance.

Attempts to separate the women prisoners in the use of lavatories have also failed. All the women are using the toilets originally reserved for 'European Women Only', and the officials have got used to the idea.

\**Naught For Your Comfort*, Collins, 1956, p. 139.



Seating accommodation for the prisoners is arranged alphabetically. You find Helen Joseph (European) sitting next to Paul Joseph (Indian); Isaac Bokala (African) next to Piet Beyleveld (European), Asa Dawood (Indian) next to Fred Carneson (European), Rev. Calata (African) next to Stella Damons (Coloured).

The messenger policeman who delivers documents from the prosecutor to the witness and then to the defence Counsel table and back to the prosecutor is the centre of amusement. He travels a distance of twenty yards to complete the delivery of one document. So that he walks two and a half miles each day and thirteen miles a week. The prisoners who stay in the areas that are boycotting the buses refer to him as a fellow boycotter.

Outside the Drill Hall there are now a hundred policemen on guard. Four hundred have been removed since the reopening of the trial. This mighty force has nothing to do all day except to stand as an advertisement of the strong men in the South African Police Force.

Outside the 'Non-Europeans Only' entrance people who have come to listen to the case are being forced to queue up before they come in. As they come in some have been stopped and asked to produce their passes. This is, of course, to intimidate and drive the people away from the Drill Hall. But the people still come—and their passes are in order.

Although the Drill Hall is an old building the authorities insist on a 'new look' inside. People who came to listen to the case and have no ties were refused admission until a protest was made on their behalf. Earlier in the week some were ordered out because they had no ties, and so they fastened handkerchiefs round their necks and improvised paper bow-ties. Now it is conceded that all Africans cannot necessarily afford ties but may be suitably dressed for court all the same.

\* \* \*

While the Congress leaders sat in court great things were happening outside. The arrests were the Government's show of strength. The people smiled and began to show *their* strength.

From out of the early morning mist which enshrouds Alexandra Township came an army to deal the Strijdom Government its first defeat.

Alexandra is a dreadful slum nine miles from Johannesburg.



In its one mile square are jammed over sixty thousand people, almost all of them Johannesburg workers and their families. Nearly all the men and most of the women make the daily eighteen-mile trip to and from the city, which would falter and die if they did not come.

The people of 'Alex' do not live there because they want to. They live there because the apartheid laws do not permit them to live nearer their jobs, and they must live somewhere.

Their earnings keep them well below the poverty datum line, so every penny counts.

Every penny counts. The bus fare to Johannesburg is fourpence each way. A fair price for nine miles, but all that the people can afford.

With effect from January 7th, 1957, four weeks and two days after the arrests, P.U.T.C.O., the bus company, announced that it was raising the fare by one penny. It had been trying to do this for fourteen years. In 1943, when Smuts was premier and the war was still on, 'Alex' had walked for nine days and the penny rise had been defeated. In 1944 the people had had to walk for seven weeks. But they won.

Now P.U.T.C.O. tried again. And this time the company had the whole might of the Nationalist Government behind it. Schoeman, the Minister of Transport, said flatly that the Government would see to it that the boycott was defeated. The people had no genuine grievance, he said, the whole thing was 'a trial of strength by the A.N.C.' The Minister was to regret his words. For if it was a trial of strength, the A.N.C. won hands down.

For three months nobody rode on the buses. And as a sign of nation-wide sympathy there were short spontaneous boycotts of the buses in centres all over the country.

Nobody planned for months ahead. There was no preparation or propaganda campaign. The people knew they couldn't afford the penny and they wouldn't pay it. They couldn't afford the penny so they walked their shoe-leather down. They couldn't afford the penny so they paid more for taxis. But, come what may, they weren't riding the buses at fivepence.

The police blocked the roads and stopped the walking men and women. Thousands were arrested for not having passes or



not paying taxes. Africans who gave their fellows lifts on their bicycles were fined, cyclists were trapped for a variety of traffic offences.

And the Europeans who rallied to give lifts were harassed and hunted. Their cars were stopped, their licences were examined, their names were taken, their passengers were bundled out and searched.

An Afrikaans-speaking university employee was stopped with Africans in his car. He lost his job.

Ironically, an African Security Branch man who had given evidence in the treason trial was caught operating a boycott taxi service and convicted.

The South African police force was used with the minimum of pretence as a P.U.T.C.O. strong-arm squad.

But 'Azikwelwa'—'We shall not ride'—the people said and they walked the daily eighteen miles.

Industry was dislocated. Workers cannot walk eighteen miles a day on a starvation diet and run the factories at top speed. Commerce went into a slump. No one dallied in town to buy—there was too long a walk ahead. And no woman was going to walk to the city just to do her shopping.

The Chamber of Commerce and the Chamber of Industries and the mayor set up a howl, and when Schoeman still would not listen, they sat at a round table with the A.N.C. agitators and worked out a solution. They put up the money themselves to subsidise the company and bring the fare down to fourpence.

The fare was fourpence. The people rode the buses.

And everyone knew that somehow the arrest of 156 people for treason had something to do with this first victory of the people against the Strijdom Government.

\* \* \*

Nor was the boycott victory the only evidence that the 'treason' arrests had not only failed to frighten the people, but that they had served as a spur to the anti-Nationalist upsurge.

In Johannesburg and Cape Town, almost the entire teaching staffs and student bodies of the universities, led by their principals and chancellors—in the case of Cape Town by the recently retired Chief Justice of South Africa, Centlivres—



marched gowned and hooded, in solemn procession through the streets of the city in the fight to stop the Nationalists from destroying the only two universities in the country worthy of the name, by prohibiting them from teaching Non-European students.

Nurses marched in the streets in the fight against apartheid in healing. It was to be a criminal offence for a white nurse to co-operate on a case with a black doctor, or even a black sister.

In the fight against the pass laws thousands of black men and women gathered on the City Hall steps while their leaders met the mayor. This was a terrible defeat for the Nationalists because the mayor, instead of refusing to see them, invited the delegation into the same parlour where he met white people, and instead of expressing horror, defended their right to gather outside. And police chief Boberg, instead of calling out his men to teach the Africans a lesson, ordered them to stay in their barracks, with the result that everything remained absolutely peaceful. A few weeks later he announced that he had resigned as police chief.

The African trade unions, spurred on by the evidence of economic hardship spotlighted by the bus boycott, began a campaign for a minimum wage of a pound a day, and the whole Congress movement backed them.

A man on trial for his life on a charge of treason was elected unopposed, by the Africans in the area in which he lived, to the Provincial Council. Unopposed!

All the bishops and prelates of all the Churches except the Dutch Reformed Churches came out fighting against the introduction of church apartheid, and bishops solemnly announced that they would go to jail rather than carry out the law. The Defiance Campaign of 1953, when ten thousand Non-Europeans went to jail, was being carried forward by the Anglican bishops.

The Springs Methodist Circuit passed a unanimous vote of full confidence in the Reverend D. C. Thompson.

The Congresses announced, more or less from the Drill Hall, that the people's economic might would be used in a boycott of companies whose directors were Nationalists, and the air became loud with frantic cries from boards of directors



that they had nothing to do with the Nationalists. Rembrandt, producers of cigarettes and tobaccos, even swore Supreme Court affidavits to that effect when they were the first to be named by the Congress as Nationalists.

Once it had been an advantage to have Nationalists on a board of Directors—now they were becoming economic lepers wherever the huge African market was a factor.

\* \* \*

There was an immediate result of immense significance. Chapman's, a tobacco firm, half of whose shares were owned by Rembrandt, was included in the boycott list. Its directors at once approached the Congresses and gave them the written assurance that theirs was a family company and that Rembrandt exercised no control at all over the policy of the directors—non-Nationalists—who had run the firm before Rembrandt bought the shares.

The boycott of Chapman's was withdrawn. And a week later there appeared in *New Age*—which has long been completely boycotted by advertisers although its large circulation makes it an acknowledgedly excellent medium—a large advertisement for Chapman's tobaccos. The firm had signed a long-term advertising contract. The dike of Nationalist intimidation which makes advertisers afraid to use the pages of *New Age* had been breached.



## CHAPTER SEVEN

### CLASHES IN COURT

SOME MAGISTRATES sleep. Some study racing form. A few intellectual ones do crossword puzzles. Frederick C. Wessel did none of these things. A good-looking man in his fifties, he breezed briskly into court at the beginning of each session, quickly covered the few yards from the door marked 'Officers' Mess' to his chair on a slightly raised platform, bowed, smiled and sat down. He took the case immensely seriously, remained alert throughout, writing full notes of the evidence, and showing in the frequent exchanges with counsel that he had a clear grasp of what was being testified to.

As the evidence droned on and the defence counsel found themselves unable to appreciate the relevance of much of it, defence applications and protests became frequent interludes in the monotony. For a few minutes the accused would put aside their crossword puzzles or chess problems, or snap out of an unrelaxing sleep, or look up from the treasonable literature they were reading or writing, and listen to the angry exchange, beaming at every hard blow their men got in. Then back the court would go into its ennui.

With a few exceptions (most notable of these were the objections already described on the first fantastic days) the protests were overruled, defence counsel were told to save their points for a later stage, the Crown rolled on and the defence lawyers muttered to each other.

The first objection came over a classic piece of contempt of court by the Nationalist afternoon paper *Die Vaderland*.

The attitude of the South African courts to press comments on cases in progress is similar to that of the British courts. Nothing which is calculated to prejudice an accused person



in the smallest degree is permitted, and the press is normally very careful to keep within both the spirit and the letter of this principle.

The Nationalists, of course, are not wedded to this principle at all, and at the commencement of the trial it became necessary for the defence to complain about speeches of Nationalist ministers, loaded with prejudicial comment. (Mr Wessel gave the defence his assurance: 'I would not permit such comment to influence my decision.')

The matter was taken to a head, however, when *Die Vaderland* printed a large front-page picture of one of the Court exhibits handed in that day—a map of the world, seized in the offices of the Peace Council—on which were indicated the countries which had branches of the peace movement. 'Moscow's Octopus Tentacles', shrieked a banner headline. And to add to the official atmosphere, the photo showed the clerk of the court standing pointing importantly at the map.

The defence decided that this could not be permitted to get past. Once a precedent was permitted, the Nationalist press would be only too eager to conduct the case—at least as far as its own readers were concerned—in the aura of hysteria which surrounded the American witch-hunt hearings.

Mr Berrangé did some detective work and discovered that the magistrate's permission had actually been obtained for taking the photograph. And that the clerk of the court had removed the map from court and taken it to a nearby pub for the benefit of the *Vaderland* photographer. This really did make the defence hackles rise, because Mr Berrangé himself could only obtain access to the court exhibits in the court strongroom with the eye of an armed policeman on him all the time he scrutinised a document.

When the court began the next day, Mr Berrangé handed in, with an air of distaste, a copy of *Die Vaderland*: 'this section of the yellow press which supports Government policy'. The photo caption, he said, 'bore no relation to truth, facts, or evidence'.

Mr Wessel glanced at *Die Vaderland* and said briefly: 'I am not prepared to take any action on any contempt of this court committed outside this Court.' If there was contempt, he said,



the attorney-general could take it up in another court. He undertook, however, to make enquiries about the matter as it affected the court officials, but he did not mention that he had given permission for the photograph to be taken.

John Coaker, defence junior counsel, stood up to argue.

Mr Wessel cut him short. 'I have given my ruling,' he said. Coaker sat down and Berrangé stood up.

'I don't understand,' he said. 'Are we to understand that your Worship is prepared to hear neither argument nor evidence?'

'That is what you are to understand,' said Mr Wessel very politely.

There was a brief sequel the next day when the magistrate reported on his enquiry. He disclosed that he had given permission for the photograph, but had not authorised the removal from the court. He asked the prosecutor who had gone into the matter to continue from there.

Mr van Niekerk explained that the map had been removed because the army would not allow a camera inside the Drill Hall. So the map was taken 'to a room around the corner'.

Mr Berrangé snorted. 'I must comment on my friend's rather naive statement that it was taken to "a room". It was taken to a pub. . . .'

Mr van Niekerk jumped up spluttering, but Mr Berrangé paused only for a second and went on.

'To the public lounge of a public house.'

'I object to being called naive. I did not know that it had been taken to a public house.'

Mr Berrangé smiled sweetly. 'I understood you to say you had investigated the facts.'

The editor of the Johannesburg *Star* seemed as puzzled as Mr Berrangé by the magistrate's decision, but, said a succinct editorial, it was wiser not to comment in case the magistrate changed his mind about punishing contempt committed outside the court.

*New Age* staff-writer Tennyson Makiwane took the matter to the Supreme Court. Like all African journalists, Makiwane is quite impecunious so there was no danger of his having to pay *Die Vaderland's* costs if anything went wrong. But in the



Supreme Court *Die Vaderland* admitted it was in contempt, and although the judge was of the opinion that it wasn't a very serious contempt, and ordered *Die Vaderland* to pay the costs of only one of Makiwane's two counsel, the main purpose of the defence was achieved. The policy of hitting back as hard as possible every time the Nationalists were off balance was proving effective. From then on the Nationalist press stepped more warily.

\* \* \*

Once the procedure for handing in documents was established, there was little to do but sink into a coma.

But when the detectives began to give their evidence of speeches made at meetings there was so much that seemed to the defence frivolous and irrelevant that they were frequently moved to protest.

At an early stage Mr Norman Rosenberg, Q.C., for the defence, made a plea to the prosecutor to give some indication of what his evidence would be to show that there was a conspiracy between all the 156 accused. Unless this was done, he said, surely it was a dreadful waste of time to make everyone listen to evidence of thousands of speeches by individuals in no way shown to be connected with one another.

'The Crown case depends on their proving that all the accused had a common purpose. In the absence of that proof, evidence of what was said by individuals is completely irrelevant,' he argued.

The magistrate disagreed. 'It would be better to wait for the end of the Crown case before putting such an argument,' he said.

Mr Berrangé took the argument a stage further. The first test a court applied before allowing evidence to be led was whether that evidence was relevant to show the commission of the offence with which an accused person was charged.

But none of the speeches being read out to the court indicated the commission of any offence. There was no evidence that anyone had broken even a municipal by-law.

'Save it up for your argument at the end of the case,' the magistrate said, overruling the objection.



The third objection of this type came a few weeks later after the first parade of Crown witnesses.

The evidence given by some of the detectives was incomprehensible, incoherent and illiterate. 'Surely,' objected Mr Slovo, *this* was inadmissible as evidence of treason.

'Save it up for argument at the end of the case,' the magistrate said.

Later the prosecutor produced a witness who read the court a mass of gibberish, which he claimed was an accurate report of a speech by Dr Press.

It was not the *actual* speech. The detective who was reporting it could not understand English well enough to write down the actual words. But fortunately the speech had been translated into Sesutho for the audience. The detective didn't understand Sesutho either, but the Sesutho had been translated into Zulu. And the detective understood that. But there was no point in him writing the speech down in Zulu because his officers didn't understand Zulu. So he had translated the translation of the translation of the speech into his own English while the speech was still on.

He was willing to swear that it was an accurate report of what Dr Press had said.

And the prosecutor was willing to lead the evidence on a capital charge.

'The bringing of this sort of evidence amounts to an abuse of the court,' protested Mr Slovo. 'Witness after witness is produced by the Crown to give evidence which is utterly worthless and the Court has to sit day in and day out to listen to it!'

That, said the magistrate, is a matter for argument at the end of the Crown case.

Then the prosecutor began to lead evidence of speeches by people who were not among the accused. Alex Hepple, leader of the Parliamentary Labour Party, Jessie MacPherson, war-time Labour Mayor of Johannesburg, Father Huddleston, liberal Party leaders Alan Paton and Leslie Cooper.

And finally people who at the time their speeches were made were in active opposition to the policies of the Congresses; most notable of these were the speeches of one Madzunya, who, the



detectives testifying admitted, had been expelled from the A.N.C. before the speeches were made, precisely because the policy he was advocating was contrary to that of the Congress.

'On what possible basis is this evidence relevant?' asked Mr Slovo.

'Wait and see,' advised the prosecution.

'Save it up for argument at the end of the case,' the magistrate said, overruling the objection.

But with the accused now in court for the fourth month listening to this type of evidence Mr Slovo did not wish to save it up. He began to address argument to the magistrate on the inadmissibility of the evidence.

Mr Wessel stopped him. 'I am not prepared to listen to your argument,' he said.

As Mr Slovo sat down Mr Coaker stood up to begin his own argument.

'I have already ruled. I am not prepared to hear you, Mr Coaker.'

'But you ruled before I had the opportunity to address argument.'

'I do not wish to hear further argument.'

'There are new points I wish to put.'

'I have ruled.'

'As your Worship pleases.'

Mr Coaker asked that the refusal to hear his argument be recorded, and Mr Slovo then asked that it also be recorded that a ruling had been given before he had been allowed to finish his address.

'Everything that is said goes into the record,' said the magistrate. 'There is no need to labour this point.'

'With respect, the point is important enough to labour,' replied Mr Slovo.

\* \* \*

In the early stages of the enquiry the prosecutor put his witnesses through a procedure described by Mr Coaker as 'this identification farce'.

If a name occurred in a document or speech, the witness in the box was asked if he knew anyone by that name. The witness



would then prowl through the dock and pick out the accused who bore that name. This was sometimes fairly entertaining.

There was the one-up-manship enjoyed in the dock whenever the detectives were wrong. A sympathetic Dingaka (medicine man) with a fat round shiny face sat in the gallery surreptitiously throwing the bones and delightedly claiming the credit in a loud whisper every time the detectives went wrong.

'Did you see! Detective Strachan had a "black-out" this afternoon, and you chaps still despise medicine men! But I want to see Stanley Lollan. Twice the detectives could not identify him. He be having a wonderful root.'

And there was the joke of picking out the Rev. D. C. Thompson, whose high clerical collar stuck out like a beacon.

But after the first few good-humoured forays into the dock, the atmosphere began to change and the revulsion felt by the accused for the Non-European detectives became tangible.

Many of the accused found it difficult to conceal their feelings as African members of the Special Branch appeared in the witness-box to give evidence against their own people. Blank-faced and cynical, these men moved among the suspects in the wire dock.

They could not but have been aware of the atmosphere of contempt, and they either hid behind mask-like faces and monotone voices, or, like Coloured Sergeant Sharp, were arrogant, aggressive and voluble.

At first the detectives offered no excuses for their misidentifications. But one may hazard a guess that after a while they became a source of embarrassment and harsh words, for the witnesses began to show signs of discomfort when they went wrong.

Monymangene: (identifying): This man is Makgothi.

Magistrate: That man is Nthithe, not Makgothi.

Monymangene: No, it is Makgothi.

Magistrate: No, it is Nthithe.

And then, one after another, in what the defence described as 'a deliberate plan', every time there was a mistake they complained that the accused were hiding behind their hands, or holding down their heads.



Finally, it was Isaac Sharp's turn to go into the dock. He strolled ponderously about, then stopped dead as though he had seen a snake, turned and ran back to the witness-box.

'Your Worship, the women are pulling faces at me,' he said breathlessly. 'One of them said "sies" when I went past. Your Worship, we detectives are branded as traitors by these people....'

Magistrate: 'I can quite understand the feeling of the accused towards these witnesses, especially when they are Non-Europeans.'

Sharp pointed out Bertha Mashaba as the woman concerned and she stood up at once and denied that she had pulled any faces.

Mr Berrangé then rose and accused the detectives of being parties to a scheme of making false accusations of bad behaviour against the accused. 'I invite the Court to try Bertha Mashaba for contempt so that we can see where the truth lies,' he said.

Magistrate: I am not prepared to take such action.

Mr Berrangé: Any rebuke of the accused is unjustified.

Magistrate: There is a distinct feeling of animosity against the Non-Europeans giving Crown evidence.

Sometimes tempers flared over small issues. The detectives followed the normal procedure of identifying the accused by tapping them on the shoulder.

When it happened, a solicitous neighbour would sometimes take out a handkerchief, and ostentatiously wipe clean the place where the detective's hand had been.

This drew a petulant outburst from the assistant prosecutor Liebenberg in reply to Mr Berrangé's defence of Bertha Mashaba. 'Well, does Mr Berrangé consider it proper for Forman to take out his handkerchief and wipe off his shoulder after a detective touches him for identification?'

I stood up and denied it. No one had identified me for weeks.

The prosecutor had a whispered conversation with a sergeant sitting next to him and then said that he had confused me with Dr Press. Dr Press explained that he had wiped his shirt because there were dirty marks on it. The magistrate accepted the explanation. But it brought the normally unexcitable Mr Rosenberg into action. 'It is ill-conceived and totally inadvisable that



where the accused object to this shoulder-touching it should be persisted in,' he said. 'I register my strongest protest. I identify myself with the accused. I would take the strongest objection to one of these detectives putting a hand on my shoulder.'

Mr Rosenberg sat down, breathing heavily.

'I am surprised at Mr Rosenberg's outburst,' said the magistrate. 'This is a recognised method of identification.'

But after that most detectives stood a little away and pointed their fingers. If they were new and stretched out their hands for the touch, they found their arms gently grasped and pushed away as the accused stood up to identify themselves.

Finally the whole process of 'identification' petered out and died. And this is how La Guma, in *New Age*, swears it happened.

'It is all due to the powers of the Reverend D. C. Thompson. The prosecution was dealing with the last of the Transvaal accused and the Reverend's documents were being handed in.

"Can you identify the Reverend Thompson?"

"Yes."

"Please do so."

The Reverend was pointed out. He rose in his seat, a tall, big, imposing figure with a genial, kindly face.

"Number seventy-eight," his voice rang out. And the heavens cracked. The lightning overhead split the sky, and the thunder rolled suddenly with the sound of a great avalanche, drowning the voices in the court-room. It was as if the sky wept and the angels had been angered. Thunderbolts hurtled across the sky and the court was forced to adjourn. After that the new procedure was adopted by the Crown.'

\* \* \*

During the first few days the magistrate was very concerned with 'maintaining the dignity of the court' and he did not permit the accused to read or write newspapers or books or to do crossword, bridge, chess or jigsaw puzzles. But as the days went by the discipline was relaxed. Better to have the accused busy on junior's homework or composing political leaflets than have someone go berserk and attack the nearest court official.

But on one subject the magistrate was very touchy, and



that was the mirth which greeted some of the prosecution evidence. In the first days of the trial he warned the accused that if there was indiscipline he would have them all locked up and continue in their absence.

In April—and again it was during the evidence of loquacious, eager-to-please-the-boss Isaac Sharp—Mr Wessel repeated the warning.

Cross-examining Sharp, Mr Berrangé had asked him:

‘Do you write your notes consecutively or do you leave gaps and then fill things in?’

Sharp replied: ‘I write consecutively.’

Berrangé: You have the time 2.30 noted?—Yes.

Berrangé: All the names of the people who arrived are written below the line on which the time 2.30 appears?

Sharp: Yes.

Berrangé: But some of those people actually arrived before 2.30?

Sharp: Yes.

Berrangé: So you could not have written everything consecutively?

Sharp: I filled in the time afterwards.

Berrangé: But did you not say you wrote everything consecutively?

Sharp: No.

Magistrate: You did say it.

Sharp: Well, then, I did say it.

*(Laughter in Court.)*

Sharp: There’s no need to laugh.

There was something so utterly pathetic in the defiant ‘There’s no need to laugh,’ that had there been a whit of sympathy for Isaac Sharp in the court, there would have been silence. But there was no sympathy for him, only contempt, and the laughter was intended to show that contempt.

The magistrate sensed this, and was apparently infuriated by it, for laughter in a court of law is not unusual, and this was no louder or longer than usual.

‘This is not a laughing matter,’ he said angrily. ‘If this is repeated I will consider having the accused removed, as I have



already once warned, and the trial will continue in their absence.'

Then he turned to Mr Berrangé.

'I have noticed that you are sometimes inclined to put your questions in such a way as to raise a laugh,' he said. 'I don't say you did it this time.'

Berrangé: Would your Worship be so kind as to tell me at the time?

Magistrate: It was not the present occasion.

Berrangé: Then I would appreciate it if the matter was raised at the time. Is Your Worship administering to me a rebuke?

Magistrate: That is so.

Berrangé: Then I wish your Worship would raise it at the time.

Magistrate: I found it convenient to do so at this stage.

\* \* \*

Clashes between defence counsel and the magistrate were rare in the first months of the preparatory examination. But in the final month of the crown case there was a sudden change in the whole atmosphere and the proceedings were punctuated by frequent sharp and bitter exchanges, not only between the defence and crown counsel, but also between the defence advocates and the magistrate himself.

There were complaints at alleged interference from the bench in cross-examination and the putting of leading questions by the magistrate to crown witnesses in the course of cross-examination, and there were frequent interjections by the magistrate that he did not think a particular line of cross-examination was proper or relevant. On more than one occasion the flare-up did not end until the magistrate had peremptorily ordered defence counsel to resume their seats.

If any particular point can be seen as marking the time when the change of atmosphere became pronounced, it was probably the ruling of the magistrate that any words or actions of any member of the African National Congress, whether an accused or not, and whether the words were uttered or acts committed in the presence of any of the accused or not, was admissible as evidence against all the accused. Every member of the African



National Congress can be taken, *prima facie*, to be acting in furtherance of the common purpose of the Congress, he said.

Mr Berrangé claimed that this was 'a ludicrous proposition.' The newspapers were headlining news of street brawls between Pretoria university students in the university colours and local hooligans, and Mr Coaker argued that on the same analogy all Pretoria students would be legally liable for the acts of the brawlers.

But the crown persisted in its attitude, and from then on a considerable amount of evidence was led which was strenuously objected to by the defence as 'irrelevant and time wasting.' In one angry outburst Mr Slovo charged the crown with 'scraping the bottom of the barrel for any sort of evidence whether it has a bearing on the case or not.'

When a woman from the Eastern Province was called to give evidence that her house was burnt down in 1954 by unknown arsonists because she refused to support a boycott of the schools, led by the A.N.C., Mr Slovo rose:

'I want to know from the Crown if it is going to allege that I burnt down or am implicated in burning down Lettie Ngaxa's house?'

'That seems to be the crown case,' the magistrate volunteered.

Slovo: That I was responsible for burning down . . .

Magistrate: That you were involved in a conspiracy . . .

Slovo: Might I hear from the crown, sir?

Magistrate: What is your attitude, Mr van Niekerk?

van Niekerk: I am showing what the result is of the agitation of these organisations.

Slovo: As a result of my agitation Lettie's house was burnt?

Magistrate: I don't know if you can put it in that form. The matter is of far greater import than that. If one organisation agitated in a certain direction that would be evidence against all the accused involved in a common subversive objective.

Slovo: I don't know what you mean by subversive. But the point at issue is: Is the crown going to lead evidence to connect me with this fire?

Magistrate: I am not prepared to ask the crown.

Slovo: Nor is the crown prepared to answer.

Magistrate: I don't think that remark is justified.



As it happened, when Mrs Ngaxa was cross-examined it transpired that her house had been burnt down several months before the boycott began!

Then the Crown called an old, terribly old, blind man, who was assisted to the dock.

His evidence was that a member of the A.N.C. had threatened *his mother*, aged 107 years, with violence if she did not support the boycott.

Another detective came to say that he had been assaulted in 1952. He hadn't the slightest idea who the people were who assaulted him, and they were not among the accused.

It was after this evidence that Mr Slovo accused the Crown of 'scraping out the dregs of the barrel bringing witnesses of this kind to testify to anything whether it is relevant to the case or not. The Crown may have all the time in the world but the accused have not!' He said that it seemed as if the secret police had gone to all the police stations to collect all the dossiers marked 'not solved' so that if they couldn't find anyone guilty they could pin it on the treason accused.

Then the Crown called its first criminal—Ralekeke Rantuba.

Ralekeke, a convicted killer, was the leader of a gang of terrorist thugs notorious throughout the Rand.

During the bus boycott, in Evaton, near Johannesburg, Ralekeke's gang had been turned against the boycotters and in bloody clashes which had followed, many lives had been lost. But the people of the township, magnificently led by their Transport Committee (whose leaders were among the treason accused) had won through and the fares had come down.

Now the Crown called Ralekeke to give its version of the Evaton boycott.

And the story which unfolded would make a wonderful study on its own. Police witnesses admitted under cross-examination that Ralekeke was a gangster and troublemaker. One of them told how he had stopped Ralekeke and his men as they were marching to Evaton and had taken from them:

Fifty knobkieries (heavy clubs).

Five assegais.

Two pangas.

And an axe.



Then the manager of the bus company casually admitted under cross-examination that he had employed Ralekeke 'to guard the buses.'

Slovo put it to him bluntly: 'Your company employed armed thugs to create the conflict which resulted in deaths?'

'Definitely not.'

Mr Berrangé took up the cross-examination:

'This we do know. The first persons murdered were boycotters. Second, your buses were used to transport these gangsters about the township. Third, your company employed Ralekeke.'

'I dispute the second point,' said the manager.

\* \* \*

On July 27th, 1957, seven months after the preparatory examination began, a man serving a three years jail sentence for fraudulently practising as an advocate, finding himself facing trial on yet another count of fraud, involving cheques, wrote a letter to a magistrate telling him that he had drafted the Freedom Charter and that he knew of an A.N.C. plot to obtain powder gas from the Soviet Union which would be used against the Europeans in a Mau-Mau campaign.

He was Solomon Ngubase and within a fortnight he was testifying in the Drill Hall.

In examination in chief he told the court that he had a Bachelor of Arts degree at Fort Hare. (The Crown could not have checked his statement very carefully, because Mr Ngubase had no degree at all.)

'It was decided,' he told the court 'that a plan which was prepared by the National Action Council would take the part of trying to form a sham of Mau Mau as the Kikuyus did in Kenya. As the Transkei is regarded as African territory it was decided that Europeans in the Transkei would be murdered in the same way as was done in Kenya. There were preparations for ammunition to come from Russia through Bechuanaland and Basuloland.'

'Who proposed the ammunition?' asked Mr van Niekerk.

'I've forgotten the names. I'll try to remember. It was pro-



posed that Mr Sisulu and Mr Bopape should go to arrange for ammunition and a certain gas powder.

To be used for?—To be thrown in European areas at a certain time. It was arranged that before it explodes the people throwing it should have left the town. The proposer was Robert Resha and he suggested the two men to go to Russia.

Ngubase said the secret gas powder was to be stored in the Transkei and it was to be used by secret soldiers to be trained in the Transkei. 'Mr Resha said so.'

The campaign, Ngubase continued, was to 'form up boycotts (sic) and strikes.' The official policy of the A.N.C., its open disclosed policy was to be that members did not believe in violence. It was left to the volunteers to carry on the campaign and to suffer the consequences on behalf of their leaders. Volunteers were to be paid amounts for their service in prison 'but I don't remember any volunteer being paid.' They were expecting money from Russia, China, India and the Gold Coast.

Did you assist in drawing up any document at this conference?—The Freedom Charter. Dr Letele, Mr Mji, Mr Mall and I drew it up.

Why were you asked to draw up the Charter?—It was during the time I was illegally practising as an advocate.

What sources of information did you have?—We quoted from the Charter drawn up by Negroes in America, the Freedom Charter drawn by Indians in India, also a copy of a Freedom Charter written by a Russian Blandex.

A loud laugh was heard in court.

The Magistrate asked who had laughed.

Slovo: The witness appears quite mad. I couldn't restrain my laughter at the dream world he is living in.

The Magistrate said if Adv. Slovo did not control himself he would have to relinquish his seat at the defence table and return to sit among the body of the accused.

The A.N.C., said Ngubase, got its instructions from Sam Kahn, Solly Sachs and Fred Carneson, and he could produce documents to prove it.

Mr Berrangé's first question scored a bull's eye:

When did you last do an honest day's work?—I can't remember.



You have lived a life of lies and deception?—I cannot be able to check that.

Ngubase admitted that his first jail term had been served in 1938 for forging a post office book. Since then he served three more jail terms. But he could not remember anything that happened before 1938.

After rigorous questioning he admitted that he did not have any degree from Fort Hare and had spent only four months there for the purpose of one of his frauds.

He had given evidence that he had been present when reports of rioting had been made to Professor Mathews.

‘Do you know that Professor Mathews was in the United States at the time?’

‘Oh, well, the reports could have been by correspondence.’

‘Have you ever had your head examined?’

‘No.’

‘This is the sort of witness the Crown brings here,’ said Mr Berrangé sitting down.



## CHAPTER EIGHT

### THE SECRET POLICE

*Berrangé: What is your rank?*

*Louw: Detective-Sergeant.*

*Berrangé: What branch are you in?*

*Louw: What has that to do with the case?*

*Magistrate: No! No! No! You are not here to ask questions. You are here to answer.*

*Berrangé: Are you shy?*

*Louw: No. I am in the Security Branch. I don't know your purpose in asking.*

*Magistrate: That is not for you to say.*

Extract from the Record.

THROUGHOUT the examination, a Secret Policeman called Kruger sat at the prosecutor's side, passing him the documents and whispering in his ear.

The case was the handiwork of the Secret Police and they knew that on its success depended their future.

In his opening address Mr Berrangé had given warning that the defence would take the opportunity to put the Secret Police themselves on trial.

These spies were particularly vulnerable to attack. They seemed well aware that they acted in a manner repugnant to most people and were sensitive about it.

Detective Nicholas Schoeman was quite shamefaced when he was forced under cross-examination to tell the court that he had hidden himself in a cupboard in the Johannesburg Trades Hall to spy on a trade union meeting there.

He admitted quite frankly that he considered this type of behaviour 'improper'. He agreed, too, that the reason he had



been ordered to hide there 'could have been' in order to evade a Supreme Court judgment in which a judge of the old school, declaring, to the horror of the Minister of Justice, that 'this is not yet a police state', had ruled that the police were not entitled as of right to be present at private meetings. (The law has now, of course, been changed to overcome this judgment and now the police are entitled to sit in on any meeting—or, in fact, to do pretty much anything else they like.)

Questioned by Mr Slovo on why he had acted in a manner he considered improper, Schoeman mumbled that he had only followed instructions.

Slovo: You suggest that your superiors gave you instructions to use improper means?

Schoeman: They told me exactly what to do.

Slovo: To hide behind the cupboard?—Yes.

You didn't choose the position yourself?—No, not at all.

Slovo: Who gave you the instructions?

Schoeman: I can't remember. Major Spengler was my superior officer.

Slovo: Did he have anything to do with the instruction?

Schoeman: He must have had.

Slovo: You understood the instruction to have come from Major Spengler?

Schoeman: Exactly.

Slovo: This was improper?—Yes.

Magistrate: What is the relevancy of these questions? Assuming that this was improper, this does not affect admissibility.

Slovo: I intend giving a whole picture of how the Special Branch is being used to tramp down on freedom of thought. The behaviour of Major Spengler, the Chief of the Special Branch, is highly improper in any allegedly democratic society. Ordering police to hide behind cupboards at trade union meetings!

Magistrate: Your argument seems far-fetched to me.

And after all Schoeman's trouble, the evidence of treason he collected seemed, to the defence anyway, somewhat unimpressive.

Mr Slovo interrupted, as the detective began to wade through the thirty typed pages of notes he had taken, to protest that 'the evidence was completely and wholly irrelevant to any charge.'



'I have read his notes, and I want to ask the prosecutor what there is in them that takes the speeches out of the category of ordinary trade union discussion? They deal with wages and working conditions and I cannot discover anything relevant to any offence.'

Magistrate: The sorting out of the chaff from the wheat must be difficult for the Crown. It seems that the Crown contends that S.A.C.T.U. and others co-operated in a scheme.

Slovo: Just because they contend this, the Crown can't bring evidence to court of everything I've ever said since I learned how to talk. We've been here five months reading speeches having no bearing on anything.

The accused were suffering great hardship as the proceedings dragged on, Mr Slovo said. The Crown should have sorted the wheat from the chaff before they laid any charge—that was not the function of a preparatory examination. This might be convenient for the Crown, but from the point of view of the 156 accused it was oppressive.

'This is something which I as an accused feel with deep resentment,' Mr Slovo continued. 'We have to listen to a report that a speaker said, "Comrades, we are serving two sandwiches and a cup of tea for sixpence".'

Magistrate: We can have no certainty that the only charge to be framed is treason. But I do appeal to the Crown and I think the prosecutor should make a statement.

Mr van der Walt: I assure my learned friend he will hear more about this speech. If we weren't selective they would sit here for two years. The whole of the speeches at this meeting is relevant.

Magistrate: This has a bearing?

Van der Walt: It fits in with the whole picture.

Magistrate: I don't think we can take this further.

On the previous day Mr Slovo had told the court that he intended to cross-examine witnesses 'to show not only that the police acted high-handedly, but also that the charge is in the nature of a frame-up to serve the ulterior political purposes of the ruling party'.

Mr Slovo was questioning a detective of the Special Branch,



Head-Constable Truter, on his evidence that he had seized a number of leaflets which were being distributed at the unveiling of a memorial to Chief Tashaka, by the African National Congress, the Liberal Party and other organisations in Natal.

What right had you to take away these leaflets?—I acted under the instructions of my superior officer.

Do you say that you are entitled to take someone's property simply because your superior officer gives you instructions?—No.

Slovo: Are you placing the responsibility for this seizure on your superior officer?

Magistrate: What is the purpose of this line of questioning? Would this affect the admissibility of evidence?

Slovo: I am not seeking to render this particular evidence admissible. The defence has already intimated in our opening remarks that we will lead evidence relevant to the whole nature of the behaviour of the Special Branch. If we can establish a general procedure which smacks of a trumped-up charge, we submit that this will affect your Worship's evaluation of the whole evidence. We aim to show that the Special Branch procedure is to act in a completely arbitrary and tyrannical manner.

Magistrate: But we are concerned here only with the facts. Tyrannical behaviour would not affect the facts.

Slovo: If we can show that the charge has been laid against the accused with motives other than the securing of justice, then the detailed evidence of the branch is immediately suspect.

Nor did the Special Branch refrain even from spying on the private legal consultations of the accused during the course of their trial.

At the very earliest consultations, when the Secret Policemen were seen at work, the defence protested to the prosecutor and were given the assurance that this would not happen again and that it was not the function of the Special Branch to harass and limit the accused in conducting their defence.

But, a few months later, a detective—one who was in fact a Crown witness in the trial—was caught by the accused attempting to spy on a consultation.

'We request the accused to obtain necessary instructions and we then find agents of the Crown listening to the proceedings!' exclaimed Mr Coaker in an angry protest to the magistrate.



'Our task is intolerable if, when such matters are being discussed, we are not assured of complete privacy.'

Magistrate Wessel said that he 'agreed entirely' that there should be no interference by the police. But he put forward the proposition that the defence should inform the police in advance of their intention to hold such consultations.

Slovo: That is very unusual.

Magistrate: This case is unusual.

Slovo: On the first occasion the Special Branch well knew of the nature of the meetings. They could see our counsel, Mr Coaker, present. I suspect that the Special Branch have gone out of their way to find out confidential matter affecting the conduct of the defence case.

Commenting on a remark by the magistrate that it was the duty of the police to keep the accused under observation, Mr Slovo said that he could not agree.

Magistrate: I had in mind the condition of the bail bond regarding the prohibition of their attendance at meetings. This does not of course affect their right to discuss their defence together, but the police may be suspicious about the nature of the meeting.

Slovo: They should not adopt this secret sneaking policy.

Magistrate: How else are they to find out?

By approaching the person in charge of the meeting. I am anxious that no word from your Worship's mouth should encourage the police in this activity.

At this stage the prosecutor intervened.

'I feel it unnecessary to drag out the trial by examining the functions of the Special Branch,' he said.

Magistrate: What do you suggest as a solution?

Van der Walt: The people in charge of the accused can inform the police and the police can decide what to do.

Magistrate: I am sure that with proper co-operation the difficulties can be smoothed. If the police want to be informed, I take it the defence would have no objection.

Coaker: If I considered that the Special Branch wanted notice



in order to make arrangements to find out what was happening at the meeting I would not be inclined to give it to them. If they required it in order to keep away I would be so inclined.

Slovo: I am not prepared to inform the police when I hold a legal consultation.

'Then,' said the magistrate, 'you are asking for trouble.'

A few minutes after this exchange, a detective was called to testify to the fact that he had spied, a number of times, on meetings held in the very hall where the legal consultation had taken place—No. 3 Trades Hall.

He had, each time, hidden in a cupboard placed across the door connecting the hall with the kitchen.

Coaker: Have you occupied this cupboard on a number of occasions?

Det. Schoeman: Yes.

Coaker: When were you last there?

The detective could not remember when he had last occupied the cupboard.

You did it on orders?—Yes.

Whose orders?—I can't say.

What do you mean you 'can't say'?—Major Spengler.

The take-it-for-granted inter-relationship between Secret Police and Government was illustrated by the case of the Prime Minister's correspondence.

A demonstration of twenty thousand women of all races and from all centres of the country converged on Pretoria last year to protest against the Government's proposal to extend the pass laws to women. The women marched to Union Buildings, where Mr Strijdom's office is, to present to him twenty thousand petitions expressing opposition to the pass laws. They piled up the bundles of petitions outside the premier's office, following Strijdom's refusal to meet them.

And then, Sergeant Johannes Vermaak told the court easily, 'I went and took charge of all the petitions handed in.'

He read out the names of some of the accused women, and their petitions were identified as court exhibits.



Slovo: Is it the normal practice of the Prime Minister to hand over his correspondence to the police?

Vermaak: No.

Slovo: Who instructed you to collect the petitions?

Vermaak: Captain Prinsloo.

Slovo: These petitions intended for the eye of the Prime Minister were handed over to you, without the Prime Minister even seeing them?

Vermaak: Yes.

Slovo: Have they since been returned to the Prime Minister?

Vermaak: No.

Slovo: Have you ever bothered to check with the Prime Minister whether he wants his correspondence back?

Vermaak: No.

If the Secret Police chiefs felt that things were not going as well as they had hoped, they responded in typical fashion.

Late one afternoon, just before the time for adjournment, Mr van Niekerk, without giving anyone any warning, applied for the estreatment of the bail of Len Lee-Warden, M.P.

Lee-Warden had just returned to court after having presented a medical certificate obtaining leave of the court to be away. He had taken advantage of his right as an M.P. to travel at a nominal fare and had flown to Cape Town to spend his leave of absence there.

Mr van Niekerk told the court that the air booking had been made long before Mr Lee-Warden fell sick, and that the Secret Police had trailed him in Cape Town all the time he was there, and Lee-Warden had not been ill.

The magistrate ordered that the doctor who gave the certificate be brought to court the next day.

There followed one of the shattering mix-ups which had been so typical of everything the secret police touched.

The other accused were given a day's holiday while the Court dealt with the accusation against the M.P. Lee-Warden produced:

- a. A certificate from a specialist saying that he was still ill and should not be in court.
- b. The indignant doctor to back this up.
- c. Evidence that the best place to get proper attention was



at home in Cape Town—there was no one in during the day at the house where he was living in Johannesburg.

- d.* The police evidence of what he had done when he was trailed fully backed up his assertions.
- e.* And most devastating of all, the Secret Police evidence that he had made his plane reservation before he obtained leave was incorrect, the result of a stupid blunder!

The application for estreatment was refused, the doctor cleared of having given a false certificate, Mr Lee-Warden was solicitously given leave to absent himself from Court for further recuperation, and Secret Police Prinsloo's ears looked very red.

\* \* \*

The South African Secret Police are on trial, and they know it. They are jittery, edgy, vicious. They do not like being under the microscope and they have good reason for their fear.

The Secret Police have humble origins. Long ago, some time in 1935, there was set up at Marshall Square a small group of five or ten detectives—a Special Branch of the C.I.D.—whose function was to keep track, secretly, of illicit gold and diamond dealings and tax and customs evasions.

The training the Special Branch men obtained in detective techniques at Scotland Yard fitted them for work during the Second World War investigating the Broederbond, the secret Fascist brotherhood of which many Nationalist Cabinet Ministers are members, and the Nazi Fifth Column in this country.

After the war, the character of the Special Branch was completely changed. The new spying techniques, which had been rapidly expanded during the war years, were put to use against the Communist Party, trade unions and the Congresses. In 1946, following a week-long strike of the Rand's African mineworkers, there came the first Special Branch raids, on the offices of the Communist Party, and the trial of the Central Committee of that Party, on a charge of sedition. In this first public effort the Special Branch failed miserably. After a long preparatory examination the Crown's indictment was thrown out by the Supreme Court, the prosecution, although given additional time, found itself unable to frame any charge.



When the Nationalists came into power, they had, already bequeathed to them by the United Party, an apparatus which could be built into the powerful Secret Police organisation which was essential to them if they were to retain power.

They wasted no time. The Special Branch was swiftly transformed on the pattern of Himmler's secret police. The Branch had previously been part of normal police organisation, answerable to the Commissioner of Police. Swart changed that. The Special Branch—which was renamed the Security Branch—was separated from all the other branches of the force, and made directly responsible to Swart himself.

By 1953 the secret force was so large that the *Rand Daily Mail* reported there were members even in little villages like Bethlehem in the Orange Free State.

Not only was the Secret Police force expanded and huge additional undisclosed amounts spent on its organisation and expansion, but, perhaps most important, under Swart's protection the Secret Police gained so great an aura of power that no civil servant dared question its dictates.

In spite of strict Post Office regulations forbidding postal officials to allow access to the mails, the Secret Police were allowed to intercept, read and copy letters in the custody of the Post Office. And the presentation in Parliament by the Liberal Party of clear proof of this illegal activity did not give Swart's Secret Police the slightest pause.

There are clear prison regulations requiring the admission of visitors, but the Superintendent of the Fort did not dare to question Secret Police chief Spengler's instructions that the 'treason' prisoners were not to be permitted visitors. Nor did he refuse to attempt to impose an illegal political censorship on the prisoners' letters.

Even magistrates can be influenced by the Secret Police. A magistrate who refused bail to trade unionists charged with incitement to strike—they were acquitted at the end of the Crown case—admitted quite frankly that he had felt that he had no option to grant bail 'if the Security Police are against it'.

Not unnaturally the men of the Secret Police have tended to become drunk with power.



Since the Nationalists came to power the cases of underhand spying and crude intimidation are sufficient to make a long and revolting catalogue of the activities of the Secret Police. Some of the recent instances have been widely publicised as, for example, the painstaking plot to trap an East London newsagent, the 65-year-old Mrs MacGillicudy, who was heard criticising the Government, and the arrest by Spengler without a warrant of a Johannesburg attorney who was held prisoner. (This proved expensive. The Supreme Court awarded heavy damages.)

The day-to-day spying and intimidation which had gone on these long years has not been publicised, however—the visits to employers which have resulted in trade unionists being summarily sacked: the 'phone calls to parents warning them that they must stop their sons and daughters from participating in progressive organisations; the presence with notebook at every type of anti-Nationalist meeting—the continual, flagrant, cynical, conscienceless, bullying invasion of every remaining freedom; the preying on innocent people unsure of their rights.

Special Branch detectives resort to trickery, as though by second nature, to get their information.

'Your car was unfortunately involved in a slight collision last night,' a detective told a businessman on the telephone. 'Can you tell us who was driving it?'

'Oh, my son had the car last night,' was the reply. And the police had the name of the young man who had gone to an inter-racial discussion club meeting the night before. He had been involved in no collision. Lying in wait, the detectives had taken the numbers of all cars outside the house where the discussion was held and now they were filing a list of 'suspects'.

The Security Branch tries to get others to do its dirty work.

A householder in Johannesburg's northern suburbs was offered a fee if he would take the number of all cars pulling up next door, at their neighbour's house, on certain evenings, of which he would be notified in advance by the Security Branch.

Yet another householder opened his front door one evening to find two detectives armed with a warrant standing on his doorstep. The warrant was to enable the detectives to install themselves in his back garden so they could peer over the wall



and snoop on the social in progress in the grounds of the adjoining house.

Yet another householder, using his home for a meeting with Africans, was not only raided by a posse of Security Branch detectives, but was warned by the township owners—putting on the heat after they themselves had been under pressure from the Security Branch—that his occupation and bond might be prejudiced.

The arm of the law is long and police rule in South Africa vests great power in the hands of the Security Branch. But that Branch has grown an even longer arm, and what is it to stop short at the mere letter of the law?

There are many ways of intimidating people, or harassing organisations.

There is no law which prohibits a printer from publishing a legal journal. But a visit to a printer from two tall-hatted detectives, buff files under their arms, and the 'tip' that this publication is 'under investigation' is often enough to do the trick. The printer takes the hint: the Security Branch is going out of its way to suggest that his business might well steer clear of 'risky' undertakings . . . for his own good, after all. So he reluctantly informs the publisher that he is unable to print any further issues. . . .

At first the Security Branch kept tabs only on trade unionists, 'named' Communists, Congress leaders. But now the police photographers and the men with the official notebooks travel further afield. Once they took the speeches of the Lutuli's, the Dadoo's and the Sisulu's. Now Huddleston, Alan Paton, and former Chief Justice Centlivres himself are on police files. Once it was Congress demonstrations behind the green, black and gold flag that were watched by the Security Branch. Now the same force photographs and reports on an academic procession, led by the Chancellor of the largest South African university.

What is the purpose behind this wide-cast net? Partly, no doubt, it is that the Security Branch, like the Nationalist politicians who have let them loose, follows the standard fascist practice of dubbing all opposition 'Communist' and subversive, irrespective of the nature or content of the opposition. On this basis Professor MacCrone's participation in a



University protest is indistinguishable from a gunpowder plot. It is here that the Security Branch reveals its true character, as the strait-jacket of opposition to the Government, rather than guardian of the national security from subversion.

But part of the reason is to be found in the fact that the Special Branch is now more than a normal or even an extraordinary police force. It is now an open political arm of the Government, used for political purposes different from those of political party organisations, but supplementary thereto. Party organisations try to whip up enthusiasm for the party programme; but the Nationalist Party's Security Branch auxiliary tries to intimidate those who refuse to exhibit enthusiasm for the party. It is now apparent that the Security Branch aims as much to intimidate the population into silence and submission, as to keep tabs on the opponents of the Government.

It is not surprising that, once hell-bent on intimidation, the Branch should find the law a hindrance to it, and should then, regularly, go beyond the limits of the law to achieve its purpose. In search raids they seize books and material beyond the scope of their warrants. They secretly tap telephones without any legal authority. They order local town councils to prohibit meetings as a 'threat to the peace.' They invade meetings, illegally photograph all present for their files, press people for details of their occupations and place of birth to which the law does not entitle them. Microphones are hidden in hall ceilings to record the proceedings of conferences; spies and informers are sent into organisations. Gradually, in the eyes of the Government and in their eyes, they have risen to be above the law.

But, from time to time, following the best traditions of impersonal interpretation of the law, the Supreme Court has administered a salutary rebuff, as Justice Blackwell's forthright: 'This is not yet a police state,' when he ordered the police to get out of a meeting which they had illegally invaded.

The list of correctives applied to the Special Branch is a long one—from the Blackwell judgement to the recent payment by Spengler of heavy damages to attorney Lang, the lifting of the ban on visitors at the Fort, right back to the many



prosecutions against progressives initiated by the Secret Police which have collapsed in confusion as soon as they have seen the light of the Supreme Court.

For a time, precariously, the courts seem to control the worst and most flagrant excesses of the Security Branch, but the Government steps in to pass new laws which make legal what was formerly illegal. So, for example, Justice Blackwell's decision that the police cannot enter a private meeting without cause was speedily regulated by a new law which says in effect that the police can do what they like.

Strijdom's Government—hated by the great majority of the people, and facing a powerful and, in the long run irresistible liberatory movement—is forced to rely to a greater and greater extent on brute force to remain in power.

Such a government cannot exist without a strong and lawless Secret Police, with comprehensive dossiers on all the Government's political opponents and unbridled powers of intimidation.

But history has shown that when governments are forced into dependence on a Secret Police organisation, they find that they have created a Frankenstein monster which they can no longer control, and which, running wild, destroys both them and itself.





Treason Trial—the opening day. Crowds cheer some of the accused as they arrive in a pick-up van



More of the accused arrive at the Court





Demonstrations outside the Court



The Bishop of Johannesburg (Ambrose Reeves) and a young priest standing among the crowd which assembled to greet the accused at the opening day of the Preparatory Examination



## CHAPTER NINE

### NON-VIOLENCE, RACIAL HARMONY AND GIBBERISH

*'I hardly believe Parliament is men of responsibility. . . .  
Government preventing us to get our houses and political  
looks.'*

(Extract from a speech by Alex Hepple, M.P.  
leader of the Parliamentary Labour Party, as  
recorded in the notebook of Sgt. J. Hattingh.)

ASKING Justice Dowling of the Supreme Court to refuse bail, Mr van Niekerk had assured him that the examination would take only six weeks to two months.

Six weeks after the examination opened, Mr van Niekerk finished the preliminary stage—the handing in of documents—and the oral evidence, the meat of the case commenced.

The accused began to work out little arithmetic problems. The prosecution was rumoured to intend leading evidence of the speeches at six hundred meetings. They were averaging six meetings a day, say thirty meetings a week, that was five months. . . . Well, say they do ten meetings a day. . . .

The oral evidence was a little more bearable than the handing in. Now, at least, there was the opportunity for cross-examination. Vernon Berrangé, with a nation-wide reputation for tearing lying policemen apart in the witness-box and making them swallow the pieces, flexed his vocal cords and waited to pounce.

The first witness was Detective Eric Monymangene, and his evidence proved to be typical of that which was to follow.

He testified to speeches made in Sophiatown in March 1954 shortly before the Government's evacuation by force of residents living there.



Sophiatown, where Father Huddleston had his church, was the only area in Johannesburg where Africans had been permitted to own their own houses, and this right of ownership was, understandably enough, deeply cherished.

The Government's announcement—garbed in brazen hypocrisy about slum removal—that the people were to lose this right of home-ownership, sparked a huge protest movement among the residents of the area, with country-wide support. An unusually large number of Europeans, too, followed the lead of Father Huddleston in backing the residents' campaign, and when the time for removal came the Government was able to carry it out only by the mobilisation of an army of policemen, armed with sten-guns. In a dawn raid, prepared in secret with military precision, the police swooped, ordered the residents at gunpoint to pile their goods on to police lorries, and drove them to their new homes. Then the bulldozers moved in, walls were smashed. A 'slum clearance' project was under way, and another mass people's campaign (the slogan was 'We shall not move!') had been bulldozed into history. The Nationalists had won another 'victory'.

Monymangene told the court how he had stood in the audience writing down the speeches while Robert Resha, Advocate Nokwe and others addressed an African National Congress meeting in Sophiatown during the campaign against the removals.

Monymangene:

Confidently picked out the wrong man when he went into the dock to identify a speaker.

Agreed that there was 'a lot' that he could not follow or get down, and that his notes therefore did not fully reflect what was said.

Gave a version of the speeches quite different from the version of another detective who was also taking notes, and denied that the speakers had said what his colleague said they said.

Agreed that at every one of their meetings the A.N.C. called upon the Africans to be orderly and disciplined, and not to resort to force or violence.

The line of cross-examination adopted with Monymangene,



and the replies elicited, were to set the tone of the whole subsequent examination. Most of the witnesses were to agree that their reports of speeches were not verbatim and some of them were to be shown incapable of recording speeches made in court tests: some of the evidence of speeches was to be completely incomprehensible gibberish.

But, perhaps most important from the defence point of view was the unanimity of the detectives questioned on the incitement to force, violence and racial hatred, which Mr van Niekerk had said, he would prove to have been the aim of the Congresses.

\* \* \*

These are some of the extracts from the evidence of Mr van Niekerk's own witnesses.

Detective Eric Monymangene:

'I will not deny that a speaker said that they must at all times be disciplined and orderly. At every meeting that is said, and also at every meeting it is said that the people will not resort to force and violence.'

'There is no talk about the people using force against the Government.'

'At some meetings I heard it said: "Anybody who looks for help outside the country is no good to Congress."'

Detective-Sergeant Helberg:

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

'I agree that speaker after speaker may have urged refraining from force and violence.'

Detective Motsetsi Maselela:

'In all meetings including this one the A.N.C. has always said the people should not use violence or fight in any way whatsoever.'

Later he said that he had meant to say: 'At every meeting *except* this one. . . .'

Detective Wilson Gumisa:



'In the past four years I have attended many meetings of the A.N.C. At all the meetings an appeal has been made to conduct the struggle in a non-violent manner. There is also an appeal to co-operate with Europeans. The A.N.C. people say this at almost all meetings.'

Detective Gladwin Negai:

'At many meetings speakers said they don't want to fight the white man.'

Detective Josiel Mokwena:

'I have attended meetings almost weekly since 1954. I agree that I have heard A.N.C. policy outlined. It is to work together with all groups, whatever their colour. I also agree that people are usually exhorted against violence—that is A.N.C. policy.'

Detective Pete Nkhi:

'I often find speakers at meetings saying that the people must not be violent. This is more usual than not.'

Detective Joel Comone:

'At every meeting I have attended there is a reference to the fact that the A.N.C. is a non-violent organisation. Also a reference to the fact that the policy of the A.N.C. is one of co-operation with other races.'

Detective Solomon Dunga:

'Under the type of government they envisage there should be no racial distinction and there must be racial harmony.'

As the Crown witnesses testified to the continual stress on non-violent struggle, even in the face of a Government whose chief argument is the violence of machine-guns, of baton charges and night raids on houses, the accused became more and more intrigued at what, on the face of it, seemed a flaw in the Crown case.

Everyone in court sat up alertly, therefore, when early in March, Detective Mosilele reported that one of the A.N.C. speakers in the campaign against the Sophiatown removals had said: 'It is time to shoot Malan.'

Time to shoot Malan! No wonder the Prosecutor was looking a little smug.

But cross-examination went like this:

Berrangé: You say a speaker said, 'It is time to shoot Malan'?

Mosilele: Yes.



Berrangé: How do you spell shoot?

Mosilele: S-H-O-O-T.

Berrangé: Now read the letters you have written down in your notes. Is it not C-H-E-C-K?

Mosilele: Yes.

Berrangé: Does that spell 'shoot'?

Mosilele: No.

Berrangé: In fact your notes show that the speaker said 'It is time to check Malan'?

Mosilele: Yes.

Berrangé: Then why did you say 'shoot'?

Mosilele: It was a mistake.

And to cap the whole thing Mosilele readily agreed that far from calling on people to shoot people, he had heard A.N.C. speakers repudiating the use of force and violence at most of the meetings he had attended.

Another witness, Detective Majuta, gave evidence relevant to the Crown allegation in the opening address that speakers at meetings appealed for 'money to get guns'.

He explained to the Court that when collections were held the Sesutho word meaning 'spears' or 'weapons' was the same word as was used for 'money'. 'We are now going to make a collection to get weapons' would therefore be a normal colloquial way of appealing for funds!

\* \* \*

Evidence on 'violence' cropped up unexpectedly in the testimony of one of the few Crown witnesses who were not policemen, Mr P. J. Oosthuysen, a man who filled the triple role of location superintendent, police informer and reporter for the Nationalist newspaper *Die Burger*. He was, he explained, an unpaid informer because of his sense of duty to the State.

Mr Oosthuysen had made no reference to any advocacy of violence at A.N.C. meetings in the Stellenbosch Location where he was 'baas', but in reply to a question by Mr Coaker on whether or not violence had been advocated, he said: 'There is a continual stress on the idea of violence in the speeches.'

There was a hush in the court. Was this one of those moments



familiar in the nightmares of junior advocates, when an injudicious question to a witness whose evidence in chief has done no damage brings a reply which puts the noose about a client's neck?

'Could you give us some examples of this stress on violence from your notes?' asked Mr Coaker after the briefest pause.

'Certainly,' said Oosthuysen, reading the following extract:

'The time has come for us to elect a representative to tell the Government what is hurting us. We have chosen Lee-Warden from the group which will tell Parliament of our burdens and difficulties. Each step that we take is hated, because even if you put your foot forward, you are arrested. If you haven't a pass you are arrested. If you haven't a pass you must pay ten shillings or a pound.'

Coaker: Are you seriously suggesting that this is an appeal to violence?

Oosthuysen: Not to violence but to related matters like difficulties.

Coaker: If a man talks of hardship that is related to violence?

Oosthuysen: He is creating an atmosphere conducive to violence.

Mr Coaker left it at that.

Mr Oosthuysen was one of the least successful participants in the identification parade. He went into the dock to identify Len Lee-Warden, M.P. (whose face appears not infrequently in the newspapers), and he picked out Ike Horvitch. Then he went into the dock to pick out Ben Turok, whose face was just then appearing in the papers as unopposed candidate for the Provincial Council—and he picked out Leon Levy.

When a witness does that sort of thing he is begging for rigorous cross-examination, so when Mr Coaker sat down Mr Slovo stood up.

Mr Oosthuysen said that he had a fair independent recollection of what happened at the meetings, so Mr Slovo put him to the test.

'Who spoke at the first meeting described?' Mr Slovo asked.

'Turok was one of them.'



'Turok? And what did he say?'

'I think he expressed the idea of non-violence.'

'Uh-huh. Turok wasn't at the meeting at all.'

Mr Oosthuysen insisted, however, that he had a recollection of some of the things which were said, independent of his notes.

There was one phrase from a speech by Mr Greenwood Ngotyana which he could clearly remember because it had made a deep impression. 'When he said it, I thought to myself—"This is news". It awoke something in me and I decided to send it to my old paper, *Die Burger*.'

This was Mr Ngotyana's memorable alleged phrase:

'You are Natives. Malan and his gwagushas and Verwoerd are the bedbugs, which suck your blood.'

'"Gwagushas",' a Si-Xosa word, Mr Oosthuysen explained, 'refers to the Afrikaners.'

There was a flurry in court as several of the Xosas among the accused scribbled notes and passed them up to Mr Slovo.

'I understand that the word "gwagusha" doesn't necessarily mean "Afrikaner" at all?' he said to the witness, holding up one of the notes.

'Well,' said Mr Oosthuysen, 'it really means a person who wears clumsy clothes. The speaker *should* have said "dlagusha".'

'You say the speaker used the wrong word—not you?'

'Yes. The Xosas don't understand the usages of their own language.'

That is as good a place as any to leave Mr Oosthuysen.

\* \* \*

Detective Jeremiah Mollson was one of the very few Secret Policemen who aroused a sense of pity in his audience. While the others were seen as calculating Judases who have chosen to earn their silver as spies, Mollson was a man with staring eyes, wild hair standing up straight on his head, who strained with tortured face to hear the questions, stood vacantly as he



tried to assimilate their meaning, and replied in a voice that seemed pain-racked.

His first evidence-in-chief alerted Mr Berrangé at once to the fact that this was an unusual witness. Mollson reported on the speeches made at a  $5\frac{1}{2}$ -hour-long meeting. He had made no notes at the meeting, but had stored everything up in his head until he had got home. Then he had written it down. And he had written, mind you, not a general summary. He had put down the speeches in the first person as they had been made. Truly a feat to raise the hackles of an advocate far less experienced in these matters even than Mr Berrangé.

His cross-examination was merciless.

‘How old are you?’

Mollson remained silent.

Berrangé: I said, ‘How old are you?’

Mollson: (Silence).

Can’t you remember how old you are?—I can.

Then how old are you?—26.

When were you born?—1929.

How far did you go in school?—I did not pass standard six.

When did you leave school?—1937.

What did you do when you left school?—I worked three months at a dry-cleaner’s.

What else?—I worked two years in a garage.

What else?—That is all.

Is that all you did, or all you remember?—It is all I did.

When did you join the police?—1953.

So you worked only two years between 1937 and 1953?—Yes.

What did you do the other fourteen years?—Nothing.

What?—Nothing. I was loafing.

You were loafing for fourteen years?—Yes.

How did you live?—I lived with people.

Then you joined the police?—Yes.

Did you tell them you’d been loafing for fourteen years?—No.

Why not?—They didn’t ask.

It is possible that some prosecutors would not have chosen to continue to rely on the evidence of Mollson after that cross-examination, but not so this prosecutor. Mollson was to be called again and again to give his evidence of speeches.



A week after his first appearance he was back to read the court further notes of speeches.

Handed his notes, and asked to read them out, Mollson puzzled over them for some time and then said that there was a whole page that he could not decipher.

Mr Slovo: Do you understand English?

Mollson: Not so well.

Mr Slovo: Do you mean to say that you reported these speeches in English but you don't understand English well?

Mollson: Yes, your Worship.

Mr Slovo: Do you agree that your notes are a lot of rubbish?

Mollson: I don't know.

A month later Mollson was subjected by Mr Berrangé to the shortest spell of cross-examination in the record.

Here it is in its entirety:

'When you go to meetings, do you go with the object of seeing if any offences are being committed?'

'I don't understand.'

'No further questions. I just want the court to appreciate how much you do understand.'

Former constable Kunene was called to report on speeches made at a farewell party given by the Indian Congress to India's Assistant High Commissioner in South Africa, who was returning home. Kunene was another witness who reported speeches of which he had made no notes at the time.

No longer in the police force, this witness took the opportunity while in the box to exercise a sly sense of humour. Asked by the prosecutor if he could identify one of the speakers at the farewell, Mr Joe Slovo (who, Kunene reported, drawing a loud chuckle of disbelief from the Magistrate, had said at the farewell, 'Sir, I am very happy to say goodbye to you'), Kunene told the court that he would have no difficulty in indentifying Slovo.

'He is a very popular man in Johannesburg,' the former policeman said, looking with unconcealed approval at the accused advocate.



‘What do you mean by that?’ asked Magistrate Wessel.

‘We Africans always talk about him. He is always ready to assist the Africans.’

And that, the defence was to argue, was one of the very reasons that Joe Slovo had been arrested at dawn and charged with treason.

\* \* \*

Detective Dunga was another refreshingly frank witness. He readily agreed with Mr Berrangé that his notes could not be said with certainty to be an accurate account of what was said.

In fact, he said, evoking a ripple of laughter, he had written under one set of notes: ‘E. & O. E.’

With this detective, as with the others, even though the defence maintained that the notes of speeches revealed no sign of the commission or advocacy of any crime, cross-examination was conducted with the aim of showing that the reports of speeches were in any case unreliable.

Dunga was memorable as a witness because a small portion of his evidence was characterised by the magistrate as irrelevant—a unique event.

Led by the prosecutor, Dunga had told the court that two of the accused, Messrs Nene and Radebe, had been seen by him walking together with a number of others through the streets of Alexandra Township singing popular songs. ‘I think it was a protest against the passes,’ said Dunga.

‘This seems to have no relevance to the charge,’ frowned the magistrate.

\* \* \*

The accused and the gallery got their best entertainment when Mr Berrangé put the detectives through tests to see how accurately they were able to record speeches.

John Tabeta is the African counterpart of Coloured Detective Isaac Sharp. He is the ‘boss’ of the African Secret Policemen, while Sharp is the Coloured head man. Both, of course must take orders from the most junior white constable, but relatively speaking they are big shots and sometimes even drive around unchaperoned in a police Landrover.



Unlike Sharp, who waxed loquacious in the box, Tabeta was taciturn and gave, even, a superficial appearance of shiftiness.

When Tabeta came into court for what must have been the worst court ordeal of his busy life, he had already had warning of what was to come.

Cross-examination had begun the previous day. Tabeta had admitted that he was not able to write or speak English (the language in which his notes were written) very well, and Mr Berrangé had immediately told him what the cross-examination would aim at showing:

‘I put it to you,’ he said, ‘that the notes you have handed in were made after the meeting and not while the speaker spoke. I am going to put it to you that you are too illiterate to be able to record a speech in English even with the assistance of an interpreter.’

Before beginning his test, Mr Berrangé elicited the information that when Tabeta had made his notes he had been sitting on a motor cycle and writing in that position. The defence proposed, however, to permit him to sit on a chair. The prosecutor intervened to say that he did not think that such a test would be fair to the witness because the conditions would be different.

‘Very well, then,’ said Mr Berrangé, ‘we’ll bring a motor-cycle into court.’ And on that note the session adjourned.

Little wonder then that there was an air of expectancy in the court on the next morning. The proceedings are deadly monotonous and the idea of having a motor-cycle in the witness-box complete with detective perched on it, was one which appealed to everyone.

But we were disappointed. The orderly reported that the motor-cycle concerned was one with a side-car and that it wouldn’t come through the door.

If Tabeta came in keyed up for his test, he found the tension prolonged. Mr Berrangé wanted to ask a few questions first.

‘Do you remember anything about this meeting apart from what is in your notes?’ he asked.



'No,' Tabeta replied.

Berrangé: Do you remember from your own memory that the speaker Sejake spoke in English?

Tabeta: Sejake spoke in English.

Berrangé: I am asking you if you *remember* that?

Tabeta: Sejake spoke in English.

Berrangé: For the third time—do you *remember* that?

Tabeta: Sejake spoke in English.

The fifth time he put the same question and got the same reply, Mr Berrangé warned Tabeta that he was going to ask the magistrate to intervene. Tabeta was deliberately evading the question, he said. Or if he was too stupid to understand it, he was not fit to be in the police force.

Back came Tabeta's reply, 'I *know* that Sejake spoke in English.'

The eighth time the question was put, Tabeta at last answered, 'Yes, I do remember that.'

Berrangé: Then why did you tell his worship that you don't remember anything about the meeting other than what is in your notes?

Tabeta: I did not say that.

Magistrate: It is my recollection that he did say it.

Mr Liebenberg (the assistant prosecutor): I don't know. I wasn't here yesterday.

Magistrate: No, no, it was this morning.

Berrangé (continuing): What language did Hlangane speak?

Tabeta: Sesutho.

Berrangé: How do you remember that?

Tabeta: Because Sejake read from a document.

Berrangé: Don't talk nonsense.

Magistrate: Let him continue. It may make sense later.

Tabeta: The paper had the word 'Lincoln' on it.

Magistrate: I must agree that that doesn't make sense.

Tabeta: There were no Europeans present.

Berrangé: There were no Europeans present?

Tabeta: Then they always speak their own language.

Berrangé: Do you always make a note of such occasions?

Tabeta: Yes.

Berrangé: Show me your notes. Where did you write it?



Tabeta: I did not note it.

Berrangé: Why did you just say you always note these occasions?

Tabeta: I never said that.

Then all was set for the test. Tabeta was invited to make himself comfortable in a chair, and Mr Berrangé prepared to read him an extract from a speech, which he was to write down.

Berrangé (orating): Afrika! Sons and daughters of Africa, just as the sun rises in the east . . .

Magistrate: Does Tabeta understand? He mustn't sit there and gape. He must try and take it down.

Tabeta continues to sit, expression unchanged.

Magistrate: It may not be a fair test. He has just been through a severe cross-examination.

Tabeta: The speech was translated both into Sesutho and Zulu.

Berrangé: Very well. We'll have my speech interpreted twice to give you until after the tea interval to recover from the cross-examination.

Magistrate: Is the witness satisfied?

Tabeta: There were three interpreters.

Berrangé: Three!

There is a roar of laughter in the court in which the magistrate joins.

Tabeta: Also the speaker does not read from a paper.

Berrangé: What difference does that make?

Tabeta: A great difference.

Magistrate: Tabeta, are you ready to begin now or would you like to wait until after the tea adjournment?

Tabeta: I am ready.

Everything is prepared once more for the test.

Berrangé: Afrika! Sons and daughters . . .

Magistrate: Tabeta seems to be agitated.

Berrangé: I think he is very worried.

Magistrate: I know you think it is simulated.



Berrangé: No, no. Not at all. I'm sure it's genuine.

Tabeta: I would like another interpreter.

After considerable further discussion, during which Mr Berrangé reassures the witness that he will attempt to keep conditions as similar to those at a meeting as possible, the test begins once more.

Berrangé: Afrika! Sons and daughters of Africa. Just as the sun rises in the East it is sure that through all our vicissitudes we will achieve the aims of the freedom charter. (A pause here for applause.)

Joining in the spirit and trying to create the right atmosphere, the accused and spectators joined in giving the opening words a round of applause, and from the back came a deep call, 'Afrika! Mayebuye.' But everyone appeared quickly to have remembered where they were, and there were no further interruptions, Mr Berrangé simply pausing frequently and saying into the microphone, 'cheers, boos, interjections, applause.'

After each sentence he stopped and the interpreter translated. On the third sentence Tabeta stood up.

'Counsel is going too fast,' he said.

'Do the best you can. Don't stand up again,' the magistrate ordered.

Mr Berrange took twelve minutes over his 533-word speech. In the twelve minutes Tabeta was able to record 144 words. His notes were materially different from the speech.

To cap it all, Mr Berrangé told the court that three witnesses were willing to testify that Tabeta had, during the tea adjournment, told other policemen that he had been made to change his notes because they contained material favourable to the accused. This Tabeta vigorously denied when it was put to him in the box.

Two weeks later, when the detective appeared in the witness-box once more to testify to another set of speeches, Mr Berrangé made a somewhat similar suggestion.

After repeated protests by the defence at the slowness of



the procedure as the detectives stumbled and bumbled over their handwritten notes, the Crown had agreed to a procedure by which transcripts of the notes were made in advance and supplied to the defence, and the witness read his evidence from the typed pages.

Checking Tabeta's original notes with the typescript, Mr Berrangé found that there were material differences between the notes which the detective claimed to have written at the meeting, and what the typist had typed from the notes which he had taken at the meeting.

A suspicious man, Mr Berrangé deduced that the sergeant had not made the notes at the meeting as he claimed, but that he had written them at a later stage, possibly even after the typist's version.

Tabeta denied this, and Mr Berrangé said that he hoped that the prosecution would produce the typist as a witness to clear the matter up.

Looking at his notes, Tabeta agreed that they were written clearly and were easy to read. He could not offer an explanation of how a typist, copying from these notes, could have typed a version so different from that before the court.

Mr Liebenberg intervened to say that the explanation was that the typist's copy had been made, not from the notes themselves, but from a report made by the witness. 'I have checked it and the typist's copy tallies with the report,' he said, handing in the report.

But after a quick examination of the report, Mr Berrangé drew the attention of the court to major differences between that too and the typist's copy.

When cross-examination was resumed the following morning, Mr Berrangé asked Tabeta the meaning of a sentence in his notes: 'I greet you all under peace mouth of A.N.C.'

It means, said Tabeta, 'I greet you all under the peace of mouth of A.N.C. For example, if I were sent from a certain group to you I would say I come under the peace of that group.'

Asked to refer to his notes, Tabeta fumbled for some time and said that they were not in order.

'But they are stapled together in the order you read them yesterday,' said Mr Berrangé.



Tabeta turned his notes from side to side for several minutes, without success.

'Are you feeling quite well? You're not at all sick?' asked Mr Berrangé solicitously.

'I am quite well,' said Tabeta.

Asked who seconded a resolution at the meeting, Tabeta replied: 'There was no seconder.'

The magistrate told him to read what he had written in his notes.

Tabeta read, 'Bertha Mashaba seconded the resolution . . .'

He looked up. 'I must have made a mistake, your Worship.'

The typist who was to explain the mystery of the contradictory notes was never called.

\* \* \*

The opportunities for a little light relief to break the dreary ennui were few and far between, and both the accused and the gallery were always willing to respond with a chuckle or a restrained guffaw at any reasonable attempt at humour.

Judges are tolerant of such outlets to tension—magistrates less accustomed to the tense atmosphere of a big criminal case, more jealous of their own dignity, are less tolerant. Mr Wessel was no exception.

One of the trial's lighter moments was the poker-faced report by a European detective of a Kimberley speech by the accused A. Sechoareng:

'When I look to my right I see two white men (the detectives). They have no permit to be here. When you are in town they say to you: "Jou donderse kaffer wat soek jy hier."\* But no one here says to them: "Jou donderse boer wat soek jy hier."†

I want to tell you what happened to me this morning. Three big white bullies came to my house with a warrant. I wanted to know whether they can stand a practical joke. I told them I want to put my shirt on and they accompanied me to the bedroom. For the first time I was watched by a white man putting on my shirt. (*Laughter.*) Then I said I want to go to the lavatory and they went with me. (*Laughter.*)

\*'You bloody kaffir, what are you doing here?'

†'You bloody boer, what are you doing here?'





The police clear the crowd

Baton charge by the police







Crowd gathering outside the Court at the opening of the  
Preparatory Examination



The Monkey-Cage  
L. to R.: Jackie Arenstein, Yetta Barenblatt and Sonia Bunting



If we want to get freedom we must not fight these people. We must fool them. They'll get mad. (*Laughter.*)

Bantu Education is going to make us timid Africans. I'll be happy if Strijdom says, let us start a Dutch education, which teaches them how to dance Jan Pierewiet.' (*Laughter.*)

This last gust of laughter incensed the magistrate.

'The proceedings are not as funny as they may seem,' he said. 'I shall have to ask those accused concerned to step forward if this happens again.'

But there were occasions when even the magistrate could not restrain a quip.

Detective Alfred Satekge was called by the Crown to report on A.N.C. speeches, and after he had done so cross-examination elicited the fact that he did not understand the languages in which the speeches were made—his tongue, Venda, was quite different.

Called upon to elucidate this, he said that he simply explained his difficulty to the chairman of the various meetings and they provided him with a special interpreter.

The notion of the A.N.C. providing the police with special interpretation of their treasonable utterances seemed beyond Mr Coaker's powers of credence, but Secret Policeman Satekge was quite serious. 'They want us to give an accurate account of their speeches to the Government.'

Asked why a portion of his notes was in pencil, and a portion in ink, Satekge said that he used a pencil until his fingers perspired, then he changed to ink.

Coaker: Do you hold your notebook in one hand?

Satekge: Yes.

Do you hold your pencil in the other hand?—Yes.

Then where do you keep your pen?—In my mouth.

Slovo (continuing cross-examination): There are two different colours of ink in your notes?

Satekge: Yes. I can manage two pens in my mouth.

'Do you always carry your pens in your mouth?' asked Mr Slovo.

'Well,' said the magistrate. 'His mouth is big enough.'



And this time when the audience laughed appreciatively, Magistrate Wessel laughed, too.

Poor Alfred Satekge. Within the month an irate magistrate was to convict him for operating a 'pirate taxi', transporting bus boycotters to work in his car and pocketing their fares!

\* \* \*

Unexpected light was thrown on some of the country's less-known oppressive laws by the evidence of some of the detectives.

One of them, Detective Louw, surprised even the magistrate (who was formerly chief magistrate at Bloemfontein) with the information that in terms of the by-laws of that city Africans may not conduct their meetings in their own languages—an interpreter into English or Afrikaans must always be provided for the benefit of the police!

'If they did not have interpreters into English or Afrikaans I would break up the meeting,' he said.

Berrangé: Can you give me any details of this strange regulation?

Louw: No. You can buy it.

Magistrate: You say this is a Bloemfontein regulation?

Louw: Yes.

Berrangé: I put it to you that in fact the permits lay down only two simple conditions.

Louw: I don't know.

Magistrate: But what is your difficulty in answering? You have seen these permits.

Louw: I don't know exactly what is in the permit.

Magistrate: Well, what do you know?

Berrangé: I have the permit before me. The only conditions are that discussion must be limited to the topic set out in the permit and there must be no breach of the peace.

Louw: I don't deny it.

Berrangé: The condition about a breach of the peace is important, isn't it?

Louw: I can't say.

Berrangé: What is your rank?

Louw: Detective-Sergeant.

Berrangé: What Branch are you in?

Louw: What has that to do with the case?



Magistrate: No. No. You are not here to ask questions. You are to answer.

Berrangé: Are you shy?

Louw: No. I am in the Special Branch.

Berrangé: And you don't know if the condition about a breach of the peace is important!

Louw: I don't know your purpose in asking.

Magistrate: That is not for you to say.

Louw: It is important.

Magistrate: Then why must we struggle to get an answer?

Many times in the course of the trial the defence complained that the Crown was leading gibberish as evidence. It was not merely a matter of isolated sentences of gibberish in a speech, of the order of Secret Policeman Mokoena's: 'You police I can assure you that your life is always liminates,' or 'This slave education resigned he rejected,' but the prosecutor, without turning a hair, led whole reams, whole speechloads of the stuff.

Nor, let us hasten to add, was this type of reporting confined to the Non-European Secret Policeman. An example is this report by white Sergeant Hattingh of a speech by that most literate of M.P.s, Labour Party leader Hepple—a report of which the sergeant stoutly maintained: 'I put down the *exact* words used by the speaker.'

'C. R. Swart banned all meeting asked for adjournment to discuss this step—Swart wasting the time of Parliament (Uitroepe van "send him away"). I hardly believe Parliament is men of responsibility—Minister get books of Dick Tracy—What Blackie said—reports came from Special Branch—Swarts holding S.B. up to ridicule—Swart said I have report of head of Security Natives in Sophiatown, machine-guns, revolvers, grenades—why do police don't do something about it—Police prevent shootings—old cars with explosives to crash into lorries—if we are democrats as Strijdom says must we establish peace—I must deny people are wrong if against Government—it is the duty of everyone—press failures to report truth in this country—Government preventing us to get our houses and political looks—I am pleased to be at meeting—prepared to fight against terrorism—to show they attend—and is interested to fight.'



## CHAPTER TEN

### AND THE PEOPLE'S REPLY

THE MAIN African organisation—indeed, the country's only representative organisation of Africans—is the African National Congress, founded in 1912. Its counterpart among the Indians is the South African Indian Congress, whose oldest constituent section, the Natal Indian Congress, was founded by Mahatma Gandhi in 1894.

In their formative years the two bodies had very little contact with one another. But in the political upsurge of the war against Nazi Germany, a consciousness of their common interest developed. The Indians, in their passive resistance against the Smuts 'Ghetto Act' in 1946, had the moral support of the A.N.C., and in turn, in the post-war anti-pass campaign the Africans were supported by the Indians.

The move towards unity was signposted in 1947 by a formal pact of co-operation between the presidents of the Indian and African Congresses.

Both organisations gained immeasurably from their unity, and in the course of the continual state of hostilities between the Nationalists and the rest of South Africa, the South African Coloured People's Organisation, the Congress of Democrats (an organisation of Europeans) and the South African Congress of Trade Unions—the only non-colour-bar trade union federation—were formed and joined in the Congress alliance.

The Non-European organisations have adhered very strictly to a policy of non-violence in their opposition to the Nationalists.

Although their every striving for freedom is met by Government force, although every time a legal channel of activity becomes effective the Government makes it illegal, with ingenuity the Congresses have sought out new methods of



peaceful and lawful struggle. When the Government has blocked the last channel, new problems will arise, but the people will certainly not be kept in thrall.

At the annual conference of the A.N.C. in December 1949, faced with a stream of anti-African legislation, the leaders of the African people decided for the first time in their history to call for a one-day general strike as a protest against Nationalist tyranny. The delegates made it clear they that were determined to halt the Nationalists, and a new president, Dr Moroka, was elected to make a break with the somewhat somnolent leadership of the past.

In the months ahead, Dr Moroka, in all his speeches, spread the theme which was to be the basis of the new militant Congress policy—unity with the Indians and Coloureds in a common struggle. 'We are fighting for the freedom of the Indian people, of the Coloured people. We shall join hands even with those Europeans who are prepared to fight with us—and there are many of them,' he told an enthusiastic audiences.

With the spirit of unity shared by all it was not difficult to find an issue for its practical expression.

The Nationalists banned Dr Dadoo, President of the South African Indian Congress, from attending any meetings on the Rand and at once the Transvaal regions of the Indian Congress, A.N.C., African Peoples' Organisation (predecessor of the South African Coloured Peoples' Organisation) and the Communist Party came together to call a 'Defend Free Speech' Convention for the end of March, 1950.

Dr Moroka agreed to open the Convention.

The enthusiastic turn-out to greet Dr Moroka on the day of the Convention was the first mass turn-out of Africans in the streets of Johannesburg since the Nationalist elections—and probably one of the biggest until then.

Met at the station by a huge crowd, Moroka was festooned with garlands—an idea that the Africans had taken over from the welcome given by the Indians to their leaders every time they came out of jail—and conducted to a flower-bedecked carriage, flanked by horsemen. A huge crowd lined up behind and the procession marched to the city hall steps, bringing traffic to a standstill on the main streets of the city.



The Convention decided to appoint May 1st that year as Freedom Day, when the people would be called upon to stay away from work as a protest against unjust laws.

\* \* \*

The issue of the *Guardian*, the weekly newspaper later banned by ministerial decree, which came out on the Thursday before May Day, had a strange appearance. The main front-page headline, 'MASS RALLIES FOR FREEDOM DAY', could be read only if the paper was held up to a sharp light. Over it was pasted—the *Guardian* staff had glued feverishly through the night—a strip of paper headed 'IMPORTANT NOTICE':

It read:

'Transvaal political meetings and processions for April 29th, 30th and May 1st have been BANNED by the Government.

ALL SUCH MEETINGS HAVE BEEN CANCELLED.

All announcements of such meetings in this issue are CANCELLED. The public is PROHIBITED from attending.'

So, instead, the people stayed at home. The Rand's industries came to a standstill. It was estimate that eighty per cent of the Non-European workers struck.

Towards afternoon the police began to take revenge.

The offices of the Transvaal Indian Congress, with well-situated balconies on the first floor of the corner of Market and Diagonal Streets, Johannesburg, were the Freedom Day headquarters, and thirty or forty striking posters were displayed along the balcony of the street below, serving as a focus for small crowds all day.

The authorities had imported a chieftainess from Swaziland to condemn the protest day and had launched a terrific propaganda campaign to get the people to work—in the morning the radio reported falsely that everyone was at work as usual—and as the factories stood silent the rows of posters and jubilant crowds around them were too much for the police to bear.

Several squad cars screamed up in the afternoon, police poured into the Congress offices and tore the posters down and threw them into the street. For good measure they seized a Moslem priest who was in the offices and bundled him out



by the scruff of his neck. A few minutes later, without warning, a baton charge was launched against the crowd.

A *Guardian* reporter crouched in the roadway taking photographs as the batons swung at the heads around him—but they never swung at his. A white skin still gave one immunity in a baton charge.

Two police hustled the reporter to a squad car and the sergeant radioed headquarters.

'I have arrested a Jew communist,' he reported in Afrikaans. 'What for?' crackled a voice back over the radio.

'He is taking pictures here.'

'What?'

'Pictures.'

'Pictures?'

'He's taking pictures.'

'No, man,' the voice laughed in a superior manner. 'You can't arrest a man for taking pictures.'

Things have changed since then.

\* \* \*

That evening the police took their revenge on the people for their defiance. There were mass armed forays into the areas where the strike had been most complete.

In Benoni, when the police arrived, a small number of people gathered round them out of curiosity, and no hostility was shown by either side.

This small group of unarmed people was suddenly given three minutes to disperse. A woman who was an eye-witness described what followed in these words: 'I have never seen anything so horrible in all my life. The people were dispersing and walking unhurriedly away from the police in all directions. Some who had not heard the order were still standing together talking.

It was not three minutes—it was more like three seconds—when suddenly the order was given to charge into the people.

The police rushed into the crowd—some of them with fixed bayonets. They slaughtered the people like cattle, stabbing them from behind and shooting them in their backs as they ran. I swear that there was no provocation from the people.'



At Alexandra, Third Avenue, a very narrow lane was the scene of the shooting. A pick-up van and troop carrier were passing through and the people had dispersed. One solitary stone was thrown by a woman as the pick-up van passed. It bounced harmlessly from the roof. There was no other stone-throwing or threat. But immediately the police opened fire with sten-guns. In a few seconds eight people were dead, including one fifteen-year-old schoolgirl.

In Sophiatown the police instructed a small crowd which had gathered to disperse. An eighteen-year-old boy, Brown Mpome, stood leaning against a pole. A close friend of Brown told *The Guardian*: 'When the police told us to disperse we all ran away. Brown just stood there against the pole. The police opened fire and I got a bullet in my arm. When the firing stopped I saw Brown still standing there. I went to him and saw blood streaming from his neck.'

As I reached him a policeman struck me down with a baton and arrested me. He raised his baton to hit Brown but before he could do so Brown fell to the ground. The back of his head had been shot away.'

As the people gathered during the weekend at the funerals of those who had been killed it was clear there was very great bitterness in their hearts. At the funeral in Alexandra Township, where Mr Boroka, President-General of the African National Congress, addressed the enormous gathering, one speaker said: 'We have not made this a political funeral, but the people know that those whom we are burying did not die of taking poison.'

\* \* \*

There was mourning but it was not enough to mourn.

Meeting three weeks after the killings, the A.N.C. national executive decided to call upon the other Congresses to set aside a day of mourning and to couple it with protests against Government oppression, and particularly against the 'Suppression of Communism Bill, Group Areas Bill and all discriminatory laws in South Africa.'

The Suppression of Communism Bill was then passing through its last stages in Parliament, and was seen by all the



Congresses as an attack not only on the Communists, but on all expression of democratic opinion.

The day fixed was June 26th, the week in which the Communist Party dissolved itself, banned by the Suppression of Communism Act.

In centres where there had been no violence on May Day, the strike on June 26th was most solid. In Port Elizabeth, Durban and most Natal areas there was a complete work stoppage. On the Rand, scene of the recent bloodshed, it was less complete this time, but about fifty per cent of the workers heeded the call.

June 26th, day of mourning for those killed on the preceding May Day, day of protest against unjust laws, became a national day of the Non-European people. With the years ahead it was to take on enhanced significance.

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The 1951 Conference of the African National Congress decided, after consultation with the other Congresses, that the time had come to embark on a mass campaign of peaceful civil disobedience.

In a letter to the Prime Minister, informing him of the decision, Dr Moroka, and A.N.C. Secretary Walter Sisulu, said: 'The struggle which our people are about to begin is not directed against any race or national group but against the unjust laws which keep in perpetual subjection and misery vast sections of the population. It is a source of supreme satisfaction to us to know that we have the full support and sympathy of enlightened and honest men and women, black and white, in our country and across the seas, and that the present tension and crises have been brought about not by the African leaders but by the Government themselves. . . . Posterity will judge that this action we are about to begin was in the interest of all in our country and will inspire our people for long ages to come.'

The letter was not ignored. A gentleman by the name of Aucamp, the Prime Minister's secretary, answered it. 'Resolutions adopted by the African National Congress at its annual meetings were, in the past, he said, sent to and dealt with by the Minister of Native Affairs and his Department. On this



occasion, however, there has been a definite departure from the traditional procedure inasmuch as you have addressed yourself directly to the Prime Minister in order to present him with an ultimatum. This new approach is probably accounted for by the recent rift or purge in Congress circles, after which it is doubtful whether you can claim to speak authoritatively on behalf of the body known to the Government as the African National Congress.'

However, the Prime Minister would waive this point so as to explain to Congress 'that it is self-contradictory to claim as an inherent right of the Bantu, who differ in many ways from the Europeans, that they should be regarded as not different, especially when it is borne in mind that these differences are permanent and not man-made.

' . . . It should be understood clearly that the Government will under no circumstances entertain the idea of giving administrative or executive or legislative powers over Europeans to Bantu men and women.'

To describe the 'differentiating' laws as being of an oppressive and degrading nature was to be guilty of a 'totally incorrect statement. The laws are largely of a protective nature. Even those laws which are regarded as particularly irksome by the Bantu population have not been made in order to persecute them, but for the purpose of training them in the performance of those duties which must be fully observed by all who wish to claim rights.'

Mr Aucamp advised the A.N.C. leaders to reconsider their decision, because the Government would 'deal adequately with those responsible for initiating subversive activities'. Instead they should decide to 'work for the welfare of the people in a constructive way by helping the Government to carry out its programme'.

The A.N.C. considered this magnificent epistle and found itself unconvinced.

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On April 6th, 1952, while white South Africans were celebrating the third centenary of the arrival of Jan van Riebeeck, 'Founder of White Civilisation in South Africa' with



extraordinary apathy, a crowd of fifteen thousand people of all races at a mass rally in Johannesburg repeated after Dr Moroka the pledge and dedication to struggle against unjust laws. Similar huge meetings were taking place all over the country.

The campaign was on. The registration of volunteers began. June 26th, second anniversary of the day of mourning and protest which had followed the Rand May Day killings, was the day chosen for the commencement of Defiance.

A week before the conference the Government carried out a long-standing threat to ban the *Guardian* by a ministerial decree in spite of a massive freedom of the press campaign backed by most English-language newspapers in defence of that paper. The *Guardian* had acquired the status of unofficial spokesman of the whole Congress movement, and its absence as an organiser and morale-booster would have been a disaster for the Defiance Campaign. But, without a week being missed, from the same offices and the same printer the same editor issued through the same circulation organisation to the same subscribers and readers a new newspaper called the *Clarion* without an issue being missed. It sold eight thousand more copies that week than the *Guardian* had sold the week before. The *Clarion* was the forerunner of the *New Age*, most of whose staff—some of them *Guardian* veterans—are now on trial for treason.

The six months from June 26th were among the most glorious in South Africa's history. In disciplined groups, inviting arrest and imprisonment the defiance volunteers went about the business of breaking South Africa's unjust laws.

Eight and a half thousand had gone to jail for varying terms during those six months—serving probably one thousand man-years in the cause of freedom. They sat on benches in post offices and stations marked 'Europeans Only'. They walked the streets without passes. They went into locations without permission. They sat in 'white' coaches on the trains. And in every case they first made certain that they would be caught red-handed, making their appointments with the police as meticulously as they normally would with their dentists.

In Worcester the nine volunteers were nearly frustrated.



After standing for half an hour in the European queue at the post office, all that happened was that the white post office clerk served them on that side! They had to repeat the performance the next day before the police could be made to co-operate and put them in jail.

There were some unexpected results of the campaign. Seventy-three Port Elizabeth defiers, also arrested for standing in the white queue at the post office, were set free when the magistrate held that there was no law authorising post office apartheid. In Cape Town it was similarly held that apartheid on railway waiting rooms had no legal foundation. The resisters had to find other means of defiance.

In the first month one thousand two hundred volunteers defied the unjust laws.

The next week the police launched raids on all Congress offices and those of Congress leaders, dwarfing any raid that had gone before. Simultaneously, sentences became more vicious. Some magistrates, having no power to order whippings for adults, began to make a point of sentencing all volunteers under twenty-one years old to be whipped. In jail, solitary confinement and spare diet was imposed at the slightest opportunity and prisoners were beaten up by the warders.

In the middle of August the members of the Campaign's national action committee, headed by Moroka and Dadoo, were arrested. They were charged with having contravened the Suppression of Communism Act, by attempting to bring about a change in the country's social structure through unconstitutional and illegal means.

And on December 2nd, Justice Rumpff gave his verdict. To call upon the people to defy the law was Communism, said the judge, and was punishable by the full rigours of the Act.

All the men were sentenced to nine months imprisonment, suspended on condition that they did not commit another breach of the Suppression of Communism Act.

And at the same time the Nationalists and the United Party united to pass new legislation providing for the most vicious punishment of defiers.

With the political wisdom which has been a feature of the Congress alliance, the Defiance Campaign was brought to a



close, with the progressive forces still intact and enthusiastic.

The fortieth Conference of the A.N.C., meeting in Johannesburg in December was already charting new campaigns.

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In the course of six months the Defiance Campaign transformed the entire South African scene. There was no Congressman now who did not know that it was direct action and nothing else, which brought strength and new membership to the organisation.

The paid-up membership of the A.N.C. a few months before Defiance was seven thousand. Less than a year later it was a hundred thousand.

The campaign gave birth to two new organisations which took their place in the Congress alliance, the Congress of Democrats, an organisation of Europeans, and the South African Coloured Peoples' Organisation.

Above all the complete unity between the leaders of these groups—steeped under fire—was an accomplished fact.

For the December Conference of the A.N.C. it was a matter of 'The Defiance Campaign is over. Long live the Campaign for the Freedom Charter!' At once the plans were begun for the next great campaign.

Within a week of the A.N.C. Conference—at which Albert John Luthuli, Nationalist deposed chief of the Amakholwa tribe, was elected president—the three other Congresses had all intimated their support for a Congress of the People to draw up a Freedom Charter.

The determination of the Congress leaders that there should be no break in the continuity of mass activity is shown by the fact that although the Defiance Campaign had only just ended—it was at its height in October, 2,354 people being arrested that month—the report of the National Action Committee to the A.N.C. Conference on December 5th, recommending the Congress of the People, is already complaining of the 'lull in Congress activities'.

After a lull of forty years too much time had already been wasted, too much agony suffered, to permit a lull of six weeks!

The sense of urgency was shared by the other Congresses.



By the end of March they had already accepted the A.N.C. invitation to them to act as co-sponsors, and their delegates had met at the little town of Tongaat in Natal to make the first preparations. Tongaat was chosen because Chief Luthuli was confined to that district by a ministerial decree.

A National Action Committee was appointed, and it at once tried to win support from other organisations. Letters were sent to trade unions, churches, sports bodies, to the Liberal, Labour, United, and even Nationalist parties inviting them to appoint representatives to the Action Committee and to co-sponsor the Congress.

An almost poetic 'Call to the People of South Africa' was issued in tens of thousands of copies and in all the main languages informing the public of the Congress and inviting them to participate in its preparation. A wheel with four spokes, symbolic of the four sponsoring organisations and the four main racial groups, rolling swiftly along, was adopted as the C.O.P. symbol. Soon the symbol was to be seen chalked and painted on walls in all of the cities, and the owners of the walls were giving evidence, against young men charged with malicious injury to property, of 'a thing like a hot cross bun', or a 'nought crossed out' or a 'shield with a cross on it,' which had appeared on their walls. (Sentences were not light. Worst was four months imprisonment without the option of a fine imposed on two Coloured youths in Cape Town.)

The main emphasis of the campaign was the call for demands which were to be incorporated into the Freedom Charter. The Charter was not a document prepared in advance—it was based on thousands of ideas and suggestions forwarded from all over the country.

On the fourth anniversary of the first Day of Protest and Mourning—June 26th, 1955—nearly three thousand delegates gathered beneath a great green four-spoked wheel in Kliptown—a village just outside Johannesburg specially chosen because it was not within an urban area and people of all races were therefore entitled to be there without permits. It was on specially leased private ground, open to delegates only so that it could not be banned as a public gathering.



The delegates came from every centre of the Union, converging on Kliptown by car, cart, lorry and bus. The national roads into Johannesburg were blockaded by the police, and delegates were stopped for pass and tax inspections. The Western Cape's ninety delegates fared worst. Two lorries in their convoy were found not to have the necessary transport permits, and sixty delegates were held up at Beaufort West and had to organise their own little C.O.P. there. Delegates from little country dorps in the Northern Transvaal were simply refused train tickets by the railway clerks.

At the Congress itself each section of the Freedom Charter drafted on the basis of the demands submitted, was introduced, opened for discussion, and voted upon. Throughout the Congress scores of plain-clothes detectives lined the hessian fence surrounding the meeting site, recording the speeches and photographing the delegates.

Shortly before four o'clock, when the last sections of the Charter were under discussion, C.O.D. President Piet Beyleveld jumped on to the platform and announced: 'Armed police are approaching. We don't know what they want. Please keep your seats.'

The crowd rose as one man, and standing still in their places, began to sing 'Nkosi Sikelole, Afrika'.

Armed with sten-guns, the police mounted the platform and began methodically to stack up for removal every document, book, and paper in sight, even the kitchen posters marked 'Soup with meat' and 'Soup without meat'. Cordoning the Conference square, they then moved in among the delegates, searching them and taking down their names and addresses, after announcing from the platform that they were acting on the suspicion that treason had been committed.

'Shall we proceed?' said the chairman, and he called upon women's leader Helen Joseph to introduce the section dealing with houses, security, and comfort for the people.

And so, while the police methodically interrogated and searched the delegates in groups, the Congress of the People continued its work, the creation of an affirmation of faith, hope, confidence and freedom from police intimidation—the Freedom Charter.



It was not until eight at night that the police finished and permitted the delegates to leave.

One year and six months later, when the Freedom Charter had spread to the four corners of the land, came the dawn raids, the imprisonment without bail, the solemn declaration by the prosecutor that he intended to prove treason.



## PART TWO



## CHAPTER ELEVEN

### BACKGROUND TO RECENT WAVES OF OPPRESSION

PEOPLE ABROAD, as also within South Africa, and including many Nationalists, are bewildered by the new waves of oppression which are sweeping the country. December 5th, 1956 saw mass arrests on charges of high treason, carried out in a Gestapo manner. On January 1st, 1957, the new Industrial Conciliation Act came into force. Under this measure all trade unions lose their independence, real control being placed in the hands of the Minister of Labour, Mr Jan de Klerk, whose only association with trade unionism has been some years of leadership of the Blankewerkers Beskermingsbond, (White Workers' Protection League), an organisation created by the Nationalists to disrupt and capture the trade union movement. Apartheid is imposed upon trade unions and trade unions of white and non-white workers will become unlawful. The most pernicious provision in the act is the one which gives the Minister power to exclude any racial group of workers from any industry, trade or occupation. Hitherto a legal colour bar operated only in the mines under the Mines and Works Act of 1912, as amended in 1926; a colour bar could be applied to the building industry under the Native Building Workers Act of 1953. In future every Non-European worker will have no security of employment and his livelihood will depend entirely upon the whims and caprices of the Minister.

Having 'saved' 'White Civilisation' in the trade unions and in industry, the Nationalist Government then proceeded to preserve it in the field of higher education and the Universities. Apartheid Bill was introduced, excluding Non-Europeans from all universities. Now we have the Native Laws Amendment



Bill which gives the Minister of Native Affairs the power to ban black Christians and white Christians from worshipping in the same church or Africans and Europeans from mixing together socially. Nationalist Government tyranny has not had its fill yet. Already furious attacks have been made upon the English press and sinister hints thrown out that when the Press Commission issues its report a censorship might be introduced. Even the right to criticise the Nationalist Government will be taken away.

A clear understanding of Nationalist Party policy and tactics is impossible without an examination of South African developments over the last fifty years, more especially the rise of Afrikaner Nationalism, and the influence which international events in the last twenty-five years have exerted upon the country. It will also be useful to examine and analyse the background and psychological make-up of some of the men in charge of Nationalist policy. Who are these self-appointed champions of civilisation, what makes them tick, what is their real aim?

Afrikaner nationalism has its roots in the 'Century of Wrong', in the incessant bitter struggle between Boer and Briton in the nineteenth century and the tragic war of 1899-1902. The end of the Boer War saw the Afrikaner people prostrate. Defeat not only brought the destruction of the Transvaal and Free State Republics but with it national humiliation and economic ruin. The war left a legacy of bitterness and despair, and for a time it seemed that the Afrikaner people were destined never to recover but to become absorbed and 'Anglicised' as a result of the policy pursued by Milner. History marches on and time heals many wounds. The national and cultural aspirations of the Afrikaner people could not be stifled and both made much progress in the years that followed. In the economic and social spheres, however, disaster was beginning to overtake the overwhelming majority of the Afrikaner people.

A modern capitalist economy had been imposed upon South Africa with great suddenness, by the discovery of diamonds and gold and the development of the mining industry. The new economy, however, was almost entirely foreign—the mine-owners, the capital to develop the mines and even the workers



were all 'uitlander', mostly from Britain. The mass of Afrikaners had been accustomed to a primitive subsistence form of farming and in no way benefited from the new wealth. Indeed, in some respects the development of the mining industry had a harmful effect upon them. Land which had been plentiful before had become more scarce and expensive. The standard of life of the country rose considerably, but the income of the people on the land did not rise commensurately; it continued to decline.

In the first twenty years of gold-mining on the Rand, due to several factors, hardly any Afrikaners entered the industry, even as workers. The policy of the mining companies was to operate the mines with a small group of skilled workers from abroad and masses of unskilled labourers drawn from the African Reserves, and from other African territories. Immediately after the Boer War some sixty thousand Chinese from Hong-Kong were imported. On the other hand, the Afrikaners who considered themselves as 'landowners' had no industrial tradition and no wish to become mineworkers. Only in 1907, after the repatriation of the Chinese and the defeat of the white miners who came out on strike, did the poverty-stricken Afrikaners begin to take employment in the mining industry.

Thirty years after the end of the Boer War the position was roughly as follows:

In the political sphere the aspirations of the Afrikaners had become fulfilled. With the passing of the 'Westminster Statutes' of 1931 South Africa attained complete national independence with the right of secession. The Nationalist Party formed by General Hertzog in 1912 had developed from a splinter organisation into a mass party, and in 1924, after the defeat of Smuts, he formed the Pact Government in co-operation with the Labour Party, with himself as Prime Minister. In the cultural field, too, the Afrikaner people had made progress; they evolved their own language and literature and there were unlimited prospects for further cultural development.

In the sphere of economics, however, there was an entirely different picture. Of  $1\frac{1}{4}$  million Afrikaners, about a third were 'Poor Whites' living on a pauper level in an abyss of misery and degradation. An equal number eked out a bare existence



and probably not more than five per cent. could be considered prosperous. Some tens of thousands flocked into the cities to escape the poverty of the Platteland. Some of these found employment in the mining industry, but the majority were forced to live in slums, in privation and squalor. The skilled trades were closed to them, as they had no industrial training. In the field of semi-skilled and unskilled labour they had to compete with the Africans, whose wages were a mere pittance. Some thousands were taken on as unskilled labourers on the railways and roads and other public undertakings, more as an act of charity, their wages being subsidised from public funds. The 'Poor White' problem which had been much discussed and investigated for over sixty years was in essence a 'Poor Afrikaner' problem, and by 1930 threatened the very existence of the mass of Afrikaner people. Like a creeping paralysis it was dragging them more and more into the abyss. As the Afrikaner population grew, the number of poor whites increased.

After nine successful Kaffir wars, dispossessing the Africans of ninety per cent. of the land and degrading them to the position of helots and devoting generations of effort to build a Master and Servant society, the majority of the members of the White Master Race were living in abject poverty, misery and despair from which no escape seemed possible. It has been said that history teaches us that history teaches us nothing, but 150 years of South African history has demonstrated with absolute clarity that all attempts to build a Master and Servant state must inevitably lead not only to suffering for the Servants but to national tragedy for the Masters. Numerous factors have been responsible for Poor Whiteism, but the basic cause is to be found in the backwardness and parasitism inherent in the theory and practice of the Herrenvolk philosophy.

Material prosperity cannot be secured by fantasies and the only hope for the Afrikaners was to abandon completely the policy of 'Baaskap', to introduce land reforms, to reorganise production on a modern basis and to learn to work.

Here was a glorious opportunity for national leaders and true patriots to rescue the Afrikaner people from the morass of poverty into which they were rapidly sinking. Semi-feudal, semi-slave agriculture could not provide employment at



reasonable standards for landless Whites, as farmers preferred the docile cheap labour of the African, Coloured and Indian workers. The mining industry could absorb at most about thirty thousand White workers, employing as it does approximately half a million indentured African labourers, recruited from all parts of Southern Africa at an average wage of less than one-tenth that of European miners.

There were great prospects, however, of solving the poor Afrikaner problem and of building a healthy balanced national economy by industrial development, which began to make headway in 1925, when the Pact Government introduced certain fiscal and other measures to encourage the development and expansion of the manufacturing industries. But the productive forces of a nation and a healthy national economy must be retarded and even crippled in a society where national policy is based upon parasitism and where the overwhelming majority of the potential workers are denied elementary education and opportunities for vocational training. South Africa, and more especially the Afrikaner people, needed desperately an Abraham Lincoln, someone with the necessary vision, courage and understanding of how to build an industrial civilisation which would secure living standards and prosperity for all sections of the people.

The industrial revolution which South Africans have witnessed in the last thirty years clearly indicates the national policy which the country should have followed to safeguard and promote the interests of, the people. During this period the national income of the country rose more than sixfold, due mainly to the growth of the manufacturing industries. Several hundred thousand Afrikaners who previously had carried on a miserable existence in the poverty stricken rural areas and in the slums of the big cities have had their incomes raised from under £50 a year to over £500 a year. In the same period over a million Africans who have been forced to leave the overcrowded impoverished Reserves found employment in industry, commerce, transport and ancillary occupations at wages ranging from £100 to £300 a year. Most Whites believe that the influx of masses of Africans into industry and improvement in their skill must lead to the dismissal of Europeans and



the lowering of their standards. But thirty years of hard economic facts proves conclusively how utterly baseless these beliefs are. The industrialisation of the Africans and their advancement, far from constituting a threat to the employment opportunities and standards of the white workers, has resulted in creating more employment avenues for Europeans and helped to raise their standards. Nor has the ingress of several million Africans into the urban areas caused the slightest threat to White civilisation. All honest people whose minds have not been befuddled with race prejudice will admit that the mixing of poor Whites and poor Blacks in industry has not created any problems and if the incitement to race hatred would stop, black workers and white workers would work together harmoniously and by their co-operative efforts create prosperity for all. Black hands and white hands have erected buildings, produced machines, textiles, clothing, food, power and many other commodities without in any way lowering the dignity of any racial group or threatening anyone's security and prosperity. Everyone benefited from this co-operation. Fortunately there was no legal colour bar in industry, as there is in mining, and masses of poor whites and poor blacks were able to escape from their poverty by finding employment in the new undertakings. There is not the least doubt that had the Africans been provided with opportunities for education and vocational training and granted full citizen rights the annual national income of South Africa would have been not £1,500 million, as it is at present, but probably three times as much, without in any way endangering any of the numerous brands of civilisation which the Nationalists and their supporters are so determined to protect.

The tragedy of South Africa is that, whilst the country has in the last three decades made tremendous progress economically, ideologically and politically it has been forced backward by the leaders of the Nationalist Party. A bitter civil war is raging between industrial development and apartheid, between the economy of the country which urgently needs expansion of productivity, more skilled workers, a broader local market and more capital investment and the politics of terror of Mr Swart and the repression of Dr Verwoerd.



## CHAPTER TWELVE

### NAZIFICATION OF THE NATIONALIST PARTY

THE NAZIFICATION of the Nationalist Party began about 1930. The rise of Nazism in Germany had an immediate effect on South Africa. For years there had been a spiritual affinity between the Afrikaners and Germany and in their hatred of Britain many Nationalists turned to Germany as a friend to help them to obtain national independence.

Indeed, during the war of 1914-1918 groups of Afrikaners rose in rebellion and looked to Germany for military and political assistance to restore the Boer Republics. Some of the rebels actually joined the German forces in South West Africa. Many Afrikaner students received their education in German universities and imbibed much of the Nazi spirit. The first to introduce Nazi ideas in South Africa was Oswald Pirow, Minister of Justice in the Nationalist Government, the man brought out of retirement by Swart to prosecute in the current trial. German by origin and a politician who could mix freely with the Afrikaners and the English, admired by both and trusted by neither, a successful barrister, very ambitious, he was the pioneer in spreading Hitler's doctrines in South Africa.

After 1933 the Nazis intensified their campaign in South Africa where they found fertile ground. Where no progressive lead is given to people, Nazism thrives on mass bitterness and disillusionment. In a land tormented by race hatred they had no difficulty in rousing the baser instincts of the people against the Africans, the Indians and the Coloured people, and for some years they also exploited anti-semitism. As for a past national wrong, they had not far to seek. The Boer War and



the Treaty of Vereeniging were ready at hand. It did not take them long to master the entire gamut of Nazi technique and from 1935 onwards the Nationalist press and Nationalist speakers began to employ even the language of the Nazis. The Afrikaners became the Volk and the Volk was endowed with a Divine mission to preserve white civilisation and to save South Africa from Communism. Only the true Afrikaners could be members of the Volk; all the others were foreigners. Any Afrikaner who dared to disagree with the Nationalist Party was not considered as an opponent entitled to a different point of view but as a traitor, as an enemy of the Volk, as an agent of imperialism or communism or a hireling of the Jews.

The Nationalists copied the Nazis not only in language but also in their actions. In *Mein Kampf*, Hitler laid it down as a fundamental principle that all mass organisations must be disrupted, destroyed or captured in the interests of national socialism. From 1935 onwards the Nationalist Party began to apply that policy to the trade unions, the cultural organisations, the universities and in all other spheres. The three Dutch Reformed Churches immediately placed themselves at the disposal of the Nationalist Party and began to campaign actively against Communism, against the trade unions and against the non-European people. Slander, abuse and vilification supplanted reasoned arguments and to verbal attacks was added physical violence. For over twenty years now it has been almost impossible for opponents of the Nationalists, such as the United Party, the Labour Party and the trade unions, to hold public meetings without gangs of Nationalist hooligans trying to break them up. Individual violence against opponents has also become a common practice.

It has been the misfortune of South Africa in that although the forces opposed to the Nationalist Party even among Europeans are potentially much stronger than the Nationalists, they lack that fighting spirit and that unity which are indispensable for the defeat of reaction. Democracy in South Africa never had deep roots, except among a comparatively small section of the population. Whatever possibilities there were for rallying the whites against Nationalist tyranny were whittled away by the policy of cowardice and indecision of the leaders of



the major opposition party, the United Party. The failure of the United Party to adopt a vigorous democratic policy and its pandering to Nationalist reaction must be explained not only in terms of subjective factors, the lack of sagacity on the part of the leaders, but also by the objective conditions of the country. The mine-owners, who are nearly all British, profess to be liberals, but many of them have not been able to see beyond the immediate short-term advantage to themselves of cheap African labour.

The question is often asked—what is the difference between the policy of apartheid of the Nationalists and ‘Christian Trusteeship’ of the United Party, the major Opposition party.

The oppression and degradation of the non-European people has been intensified by the Nationalist Party since it came to power in May, 1948; however, the basis for a Master and Servant society was laid by the United Party long before. Immediately after the formation of the Union in 1910 the Botha-Smuts Government passed three major laws which formed the pattern of a semi-slave society. In 1911 the Native Labour Regulation Act was passed, a law which deprived the Africans of the elementary right to sell their labour freely. This was followed by the Works and Mines Act of 1912 known as the ‘Colour Bar Act’, which prohibited the half-million African mine-workers from ever being employed in skilled occupations. In 1913 the Native Land Act was passed which dispossessed the Africans of the right of acquiring land in ninety per cent of the land area of the country and forced millions to live in the overcrowded and impoverished Reserves. The first Urban Areas Act forcing Africans out of the towns into the squalor of the shanty towns, was passed by the Smuts Government in 1923. The massacres of Bulhoek and Bondelzwart are monuments to the barbaric policy pursued by Smuts towards the non-European people. Smuts’ policy which he labelled ‘Christian Trusteeship’ fundamentally differed in no way from the apartheid policy of the Nationalists. That policy was not designed to spread Christian love and charity but to supply a vast reservoir of cheap labour to farmers and mine owners.

Yet there are several very important differences between the



policy of 'Christian Trusteeship' and the Nationalist policy of apartheid. The first is an expedient which could be changed in the case of new circumstances arising. So long as the South African economy was based on agriculture and mining and farmers and mine owners were employing backward methods of production and required large masses of African labourers, the policy of 'Christian Trusteeship' operated, but in the event of the country developing industry on a modern basis and the industrial capitalists demanding more educated and trained workers, that policy would have been modified or changed.

The apartheid policy of the Nationalist Party has been enshrined in a national philosophy blessed by Providence, immutable and eternal. Circumstances may change, the needs of the country may urgently require the granting of rights to the African people, disaster may overtake South Africa—it all makes no difference—the kaffir must be kept in his place.

Apartheid also means depriving the African people of even the slightest hope of ever obtaining relief. Their position as inferiors is fixed and will never be altered. Smuts oppressed Africans and often shot them down, but he felt a measure of guilt; the Nationalists are proud of their brutal repression.



## CHAPTER THIRTEEN

### MEN OF HATE

THE NATIONALISTS have few supporters but many apologists abroad. Within South Africa there are also those who dislike apartheid, yet are always ready to find some excuse for the architects of that policy and even for the policy itself. There is a widespread belief that the leaders of the Nationalist Party are a group of honest, sincere, fanatical people influenced by Calvinistic doctrines and dedicated to furthering the material and cultural interests of the Afrikaners. An examination of the backgrounds of most of the leaders of the Nationalist Party, and more especially of their actions and speeches, will prove how wrong are those who seek to make excuses and apologies for them.

The second quarter of the twentieth century saw the emergence of a declassed, lumpen, middle-class in many parts of the world. Masses of disillusioned, embittered people, whose ambitions had not been realised and whose personal lives had been a failure, all 'angry men', with a grudge against society, began to give vent to their personal bitterness and disappointment through political action. They were men of hate, with enmity for those above them and contempt for those below. Psychopathic, they fed on all the hatreds they could exploit. Real and imaginary wrongs committed against the nation to which they belonged, even wrongs of the distant past, were all turned into fuel to feed the flames of hatred. Accepted civilised standards of conduct, traditions, respectability, became anathema to them. They feared but admired the strong and were utterly ruthless towards the weak and defenceless. If there were not enough wrongs in history and in actual life to feed their hatred they invented new ones. They learned how credulous



masses of disillusioned desperate people could be, and exploited this credulity with great cunning.

Most of the leaders of the Nationalist Party are fanatics; their fanaticism, however, is not directed towards the good of the Afrikaner people, but only to further their own ends. They skilfully exploit the sorrows and sufferings of the Afrikaner people, their national aspirations and religious feelings. They are ruthless and brutal and often desperate, but do not know the meaning of real courage and heroism. They are shrewd but not clever, and determine right and wrong not on the basis of generally accepted moral standards but only in the light of their own interests. Anyone who dares to disagree with them or oppose them is vilified and slandered, beaten up, imprisoned or even shot. They proclaim all sorts of myths as faiths while they themselves remain cynical and believe in nothing except satisfying their own ambitions. They are vehement anti-communists to gain the support of the propertied classes and rile against capitalism to attract the poor and dispossessed to their ranks.

Fascist political adventurers have succeeded only where the democratic forces have become divided and demoralised. Hitler and Mussolini drew their strength mainly from the weaknesses of their opponents. Similarly, and even to a larger extent, the Nationalist Party draws its strength not so much from its own resourcefulness but rather from the lack of vision and courage of the United Party.

Swart, Verwoerd, Louw, de Klerk, Schoeman and most of the other leaders of the Nationalist Party have not the slightest interest in the material and cultural progress of the Afrikaner people. To them the poverty of the Afrikaner people has always been a source of gaining votes and not a national calamity which needed remedying. In the bitter struggles which the masses of Afrikaner men and women workers have waged to obtain better conditions the leaders of the Nationalist Party have always taken sides against the workers. Ben Schoeman, the former Minister of Labour, and Jan de Klerk, the present one, have always been more interested in disrupting the trade unions and gaining votes for the Nationalist Party than in helping the Afrikaner workers to secure living standards. As for



culture and Christianity, it would be absurd to associate the leaders of the Nationalist Party with these.

The Afrikaner people had a perfect right to try to escape from poverty, to seek entry into the spheres of mining, finance, commerce and industry. The mass of Afrikaners could attain material prosperity only by helping in the development of the productive forces of the country, building a true industrial civilisation, ridding South Africa of backwardness, feudalism and colonialism and introducing true democracy for all sections of the community. These disciples of Hitler resolved, however, to feather their own nests, ignoring entirely the needs of the mass of the people whose interests they are supposed to champion. The overwhelming majority of the leaders of the Nationalist Party have been failures in the past and enjoy a great measure of comfort and influence today only by exploiting the misery and fears of the Afrikaners. Biographical sketches of a few of the most prominent leaders will prove interesting:

Charles Robert Swart, Nationalist Minister of Justice, was born of a poor family in the Free State in 1894. He studied law and in 1914 he participated in the abortive rebellion for which he was imprisoned for a few days—apparently the law of treason was different in 1914 to what it is today.

In 1920 he went of all places, to Hollywood where he appeared as an 'extra' in several small pictures; his biggest role was that of a sheriff in a wild west film. He wrote later:

'I even slept on park benches, stood in bread queues, mingled with criminals and all the flotsam and jetsam of the underworld. I've been warned to clear out or take a slug of lead, and I have walked with the fear of a knife in my back.'

He returned home in 1921 and became private secretary to General Hertzog but left him in 1924, when Hertzog formed the pact with the Labour Party. He practised law without distinction until 1933, when he was elected to parliament as a supporter of Dr Malan's 'purified' Nationalist Party.

In May, 1948, when the Nationalist Party came to power, Swart became Minister of Justice—Minister of Police or 'Minister of Lashes' would be a more appropriate term. One



of his first acts was to introduce a 'Whipping Bill' providing for the compulsory infliction of lashes for various offences. On the day he introduced this monstrous measure he arrived in parliament carrying a cat o' nine tails which he proudly displayed in the House and posed for photographs smilingly handling it. In 1953 when he introduced the Criminal Law Amendment Act, imposing lashes, imprisonment and fines for anyone participating in passive resistance campaigns, this 'Christian' gentleman, upholder of European culture, remarked in accepting an amendment from the Opposition which reduced the number of lashes from 15 to 10: 'What are 5 strokes between friends?'. It should be observed that the lashes provided in that Act are meant not for criminals but for people like the Rev. Michael Scott, Father Trevor Huddleston, and leaders of the African, Indian and Coloured people in their non-violent struggle for freedom. Since Swart has become Minister of Justice, the number of lashes in South Africa has risen from 26,000 a year administered to 4,000 wrongdoers to 78,000 given to 13,000—an average of 220 lashes are administered to the bodies of 40 men daily for which the State pays at the rate of 3d. per lash.

On the 20th April, 1953, in an address at Kroonstad, Mr Swart said:

'Overseas critics and their misdirected sentimental supporters in the Union did not realise yet that the Union was the only stronghold of Western civilisation on the African Continent.

It would be far better for the country if those people who enjoyed its hospitality while criticising it shook the dust of South Africa from their feet and went to their real and spiritual homes in Russia or Asia.'

This upholder of civilisation, in addition to his love for lashes, is also proud of his introduction of the system of private gaols on farms. Some years ago photos were splashed in South African papers of Mr Swart and a prison warder standing behind the iron bars of one of these gaols, his face expressing pleasure and delight. He describes the system of farm gaols as 'my personal baby'. The system permits farmers to club together to build a gaol which Mr Swart fills with convict



labour—not a difficult task in South Africa—and these convicts are hired out to farmers. In 1953 there were 14 such gaols, three in the Cape, one in the Free State and ten in the Transvaal, of which six were in the Bethal District, three in the Middleburg District, and one in the Witbank District. In 1952 farm prisoners brought the State an income of £59,000 from the hire of labour to farmers at 2s. per day.

Swart has always rigorously enforced the maintenance of law and order in cases where non-Europeans show their resentment, however peacefully, against oppression. Since 1950 it has become a regular feature for large masses of police with rifles and sten guns at the ready to attend peaceful meetings of non-white opponents of the Nationalist Government.

Yet, when it comes to enforcing law and order against Nationalist hooligans, Mr Swart remains completely indifferent, as the following incident will illustrate:

On the 16th October, 1948, some 3,000 members of the Garment Workers' Union, mostly women, assembled at the City Hall, Johannesburg, to receive a report on the 40-hour week which the Union had secured for the members through arbitration. Several hundred Nationalist hooligans from all over the Rand, led by a notorious criminal, came to the City Hall to break up the meeting. The Railway Administration had placed a special train at the service of the hooligans to bring them to Johannesburg. In the presence of Major Grobler and 15 police this criminal, brandishing a revolver, led the mob and shouting 'Today blood must flow, Anna Scheepers and Solly Sachs will be taken to hospital in an ambulance', they smashed the doors of the hall and armed with bicycle chains, knuckle-dusters and other weapons began to assault innocent people. The citizens of Johannesburg were astounded and many remarked, 'This is like Nazi Germany'. The following day Anna Scheepers, President of the Garment Workers' Union, sent a telegram to Mr Swart asking him to take action against the hooligans. Subsequently information was received by the Union that at a meeting of Nationalist supporters in Germiston, a woman urged the listeners to come to the Johannesburg meeting armed with revolvers to shoot Solly Sachs (Charlie Harris, Secretary of the Mine Workers' Union, was



shot dead by a Nationalist fanatic in 1939) and to say that it was all a mistake.

Mr Swart took action—not against the mob but against the Union. A few weeks later his colleague, Mr Ben Schoeman, appointed a Commission to discredit the Garment Workers' Union. The criminal who had led the assault on the City Hall and whom the Nationalist Party had built up as a hero and martyr was the chief witness against the Union but his garbled evidence proved of little value to the Nationalist Party in its effort to discredit and destroy the Union. Under cross-examination the long list of crimes committed by this Nationalist hero was made public, and Swart and Schoeman suffered a defeat.

Early in 1955 Mr Swart attended the Commonwealth Prime Ministers' Conference in Britain and on his return to South Africa he held a press conference, in which he said *inter alia*:

'It is noteworthy that newspapers in England which have attacked South Africa, the Prime Minister and myself in a most atrocious way, constantly publish letters from readers who are strongly in favour of our colour policy.

These letters sound a warning that England will soon have the same irritating problem.'

He also reported that he had visited Brixton, a suburb of London, where a candidate used the slogan K.B.W. (Keep Brixton White) for his election campaign, and he had constantly heard how worried people in England were about their own rising problem. Apparently Swart was more interested in finding supporters for apartheid in Britain than in Commonwealth affairs.

His love for display of violence is notorious. On the 24th May 1952 a crowd of some 30,000 people assembled outside the City Hall, Johannesburg, to protest against the banning orders he issued against certain trade union leaders, including myself. The meeting was peaceful and orderly but as soon as I started speaking over 50 police suddenly rushed the meeting and assaulted scores of people, many of whom had to be taken to hospital by ambulance. My arrest could have been effected without any police violence.

To remove 150 African families from Sophiatown in 1954



he sent some 2,000 police armed to the teeth to supervise affairs. Early this year he had 25 Africans who had been sentenced to death executed in one day, an act which all decent people found revolting.

Eric Louw, Minister of External Affairs, was born and brought up in a small dorp, Beaufort West, in the Cape. He practised law without great brilliance and later became a professional politician. In his younger days he was friendly with the Jews of the town but became viciously anti-semitic when Hitler came to power. Political expediency however demanded a change of attitude towards the Jews, and when the Nationalists came to power, anti-semitism was dropped. In the event of an economic crisis overtaking South Africa, Louw might find it expedient once again to blame the Jews.

Jan de Klerk, the Minister of Labour, is Strijdom's brother-in-law. A school teacher, he became organiser of the Nationalist Party of the Transvaal and for many years was the leader of the White Workers' Protection League, an organisation whose sole aim was to disrupt the free trade unions. He knows nothing about industry or industrial organisation but is an expert on apartheid. In 1956 he passed an Industrial Conciliation Act in the face of most bitter opposition from the trade unions and employers. The Act is designed to give Nationalists power to deprive trade unions of all independence and split them into different racial groups and finally to give the Minister power to exclude non-Europeans from any industry, trade or occupation.

Swart is the dictator over the liberties of the non-Europeans and Europeans, whom he can ban, banish, arrest, search, ruin at will. Verwoerd, Minister of Native Affairs, determines how and where the African people should reside. He has the power to expel any African from his home. He determines the kind of education Africans shall receive. Under his tyranny masses of Africans have been deported from their homes to distant parts and more deportations are threatened. De Klerk controls the livelihood of the workers and their organisations and a more infamous trio can hardly be found anywhere.

Another member of this group is Ben Schoeman, the typical band-wagon man. For a short period he worked as a fireman on the railways but soon exchanged this job for politics. He joined



the United Party and was a U.P. M.P. for a time. Stoking fires in a boiler was no occupation for Benito Schoeman and so like many other Nationalist politicians he became an estate agent. In 1948 he was made Minister of Labour and immediately started an assault upon the Garment Workers' Union and the free trade union movement generally. He met with little success and was later supplanted by de Klerk. As Minister of Transport he tried to act the dictator during the African Bus Boycott early in 1957 but failed miserably to break the unity and courage of the 'marchers'.

The Nazi technique is so infectious that even the more respectable J. H. Viljoen, who is responsible for the University Apartheid Bill, was soon smitten by it.

The Honourable J. H. Viljoen is presented in South Africa's 'Who is Who' as 'a farmer and a breeder of pure-bred Afrikaner cattle', a most eminently suitable person to be appointed as Minister of Education, Art and Science in the Nationalist Government. When he asked leave to introduce the Separate University Education Bill in the Union House of Assembly and met with opposition from the United Party he made the following statement:

'I hope the House will not be unduly perturbed by the protest which has been lodged here this afternoon. It struck me that the first protest against separate universities was made by way of a demonstration in the streets. Then the matter received attention and pamphlets were distributed by the secretary of a certain left-wing supporter—I might say "Communist". I immediately asked myself what was behind this agitation. The only possible inference is that this agitation is taking place under the influence of a leftist movement in our country. I am convinced that this Bill seeks to serve the best interests of the non-Europeans in this country and also the interests of the Europeans and knowing what the position is I am convinced that also at the mixed universities there are strong influences which welcome this Bill.' (Hansard No. 8 of 11/3/57, Col. 2498.)

Protests against this infamous Bill poured in from the professors, staffs and students not only from all over South Africa but also from all the Universities of Britain. The demon-



stration of 3,000 people in Cape Town against University apartheid was led by, among other leftists, the recently retired Chief Justice of South Africa, almost the entire teaching staffs of the university, the chancellor, principal, vice-principal, members of the Senate and Convocation, as well as the whole student body.



## CHAPTER FOURTEEN

### ATTACKS ON THE COURTS

THE FURIOUS attack of Eric Louw and other Nationalist leaders upon Mr Gerald Gardiner, eminent British Q.C. who visited South Africa when the preparatory examination of the Treason Trial opened and spent five days watching the proceedings, could be treated as a joke if it were not so tragic. The Nationalist leaders have nothing but contempt for law and justice, as their actions prove, yet have the impudence of presenting themselves as guardian angels of law and justice.

The law which is supposed to be a fiery sword of freedom has been turned by them into a political instrument of the Nationalist Party's policy of oppression.

In every sphere of South African national life, in the political, the social, cultural, religious, sporting and trade union, there has always been bitter racial division between White and Black or between English and Afrikaners. The one institution which had remained singularly free from the scourge of race hatred has been the South African Supreme Court. British and Afrikaner judges have, over generations, built up a great tradition equal to the best in the world. Rose-Innes and de Villiers, Solomon and Greenberg, and including men who had been active in politics like Tielman Roos and Beyers of the Nationalist Party and de Wet of the United Party, have all contributed their share in maintaining the proud tradition of the South African Bench. However, since South Africa has no written constitution guaranteeing all its citizens individual liberty and democratic rights, and the courts have no judicial supremacy and can only interpret Acts of Parliament (but not invalidate them except in the case of the Entrenched Clauses of the South Africa Act) the administration of justice in the



country does not depend solely on court proceedings and judgements.

Only white men can serve on a jury, and in a land where race prejudice is deep and widespread an African appearing on a criminal charge, more especially where a European is involved, and before a jury of nine white men, will not always receive justice. There are numerous cases on record of white men charged with serious crimes against Africans, including murder, and white juries returning verdicts of not guilty or of common assault. Africans may however select to be tried by a judge sitting without a jury.

Both the common law and the statutory enactments in South Africa do not differentiate between white and non-white in the imposition of penalties; yet in actual practice the penalties imposed upon non-Europeans are generally much heavier than upon Europeans. For instance an African found guilty of murdering a European is generally sentenced to death and executed, but rarely has a European been hanged for killing an African even if the crime was committed in a most brutal fashion. Many Africans have been executed for committing the crime of rape against Europeans but there's no record of a European being so punished for committing a similar offence against a non-European.

Apart from these defects in the administration of justice, non-Europeans have been treated in the higher courts with the same consideration and due respect for law as Europeans; but whilst Africans are equal before the law so far as the Courts are concerned, they are of course 'less equal' under the 'Baaskaap' system of the country. The laws passed by the Union Parliament have deprived them of the most elementary rights of land tenure, franchise, education, the right to travel freely, the right to organise into trade unions and sell their labour freely, and many others. Inroads on the individual liberty of Europeans and non-Europeans have been made years before the Nationalist Government came into power. Under the provisions of the Riotous Assemblies Act of 1930 any citizen, black or white, can be banished from any district of the Union by the Minister of Justice without trial or hearing if the Minister of Justice 'is of the opinion' that such person is promoting racial hostility.



It does not matter if the victim had devoted all his life to promoting racial amity, the Minister's opinion is final as I know from bitter experience (*Sachs v. The Minister of Justice* 1934, A.D.P.11).

For leaders of the Nationalist Party to present themselves as guardians of law and justice is a piece of hypocrisy with hardly any parallel. Their actions show that they spurn liberty and democracy and have nothing but contempt for the rule of law. They have employed ruthlessly the sovereignty of Parliament to destroy representative government, and the Minister of Justice combines within himself the role of legislator, executive and judge.

Respect for conventions are of the utmost importance in any society where the principles of liberty and democracy are esteemed. Once Ministers begin to disregard conventions, Parliament, the Executive, and even the Courts become radically transformed from instruments guaranteeing people rights, to institutions depriving them of liberty.

A detailed description of all the lawless acts of the Nationalist Government would fill several volumes. Here are a few showing the utter contempt in which the government of Swart, Louw, Verwoerd & Co. holds individual liberty and the Rule of Law.

In 1950 Swart introduced the Suppression of Communism Act and this was amended in 1951. Employing the usual Nazi tactics he told Parliament that the Communists were plotting to poison the wells of the country and blow up power stations. Later, when pressed for some factual information to substantiate his allegations he admitted that he was not telling the truth. Under this Act Swart can prohibit any person from attending any gathering whatsoever if he, Swart, 'is of the opinion' that such a person might further the aims and objects of Communism. Masses of people who have not engaged in any Communist activities but have merely shown opposition to Nationalist Government tyranny have been banned by Swart. He can also banish people from any area and many have been banished by him. There is no trial or hearing—Swart alone decides.

In modern times a passport to travel abroad is necessary and every citizen should be entitled to obtain a passport as a right.



The Nationalist Government has not only denied citizens the right to travel abroad by refusing them passports but in 1954 passed an Act making it a criminal offence for anyone to leave the country without a passport and a special permit. A minimum penalty of three months imprisonment—maximum two years—is provided for convictions under this Act.

Even Import Control permits are used to terrorise opponents and many merchants and manufacturers are afraid to voice their opposition to the Government for fear that they will not get import permits.

The most shameful attack on the South African Bench was made after the Appeal Court gave a unanimous judgment against the Nationalist Minister for the Interior in the case of the Coloured voters. The Court held that Coloured voters could not be removed from the Common Voters roll except as is provided in the South Africa Act, namely by a majority of two thirds at a joint meeting of both Houses of Parliament. When the Nationalist Government abolished the right of appeal to the Privy Council in 1950, Swart said:

‘Our Appellate Division is the most competent Court in the whole world to adjudicate on South African law’.

but when ‘the most competent Court in the whole world’ invalidated an Act of the Nationalists, the Nationalist Ministers hurled threats and abuse at the judges. They did not stop there but proceeded to pass the High Court of Parliament Act which declared that Parliament may hear appeals on constitutional matters from decisions of the Appellate Divisions of the Supreme Court. Thus ‘the most competent Court in the whole world’ was supplanted by semi-literate cattle breeders, estate agents, Nationalist Party organisers and other members of Parliament and Senators who have no knowledge of law whatever. The Appeal Court judges however were not intimidated and again by unanimous decision declared the High Court Act invalid. During the General Election 1953, Nationalist Ministers conducted a regular campaign against the Judges of the Appellate Division of the Supreme Court. Eric Louw referred to them as ‘liberals’ which in South Africa is almost as bad



as being called 'communists'. Paul Sauer, another Minister, delighted his audiences by talking about the 'six old men'. In the House of Assembly, August 21st 1953, Mr Harry Lawrence, United Party M.P., accused the Nationalist Government of conducting a campaign of calumny against the courts to win votes. Dr Donges, Minister for the Interior, tried to justify the action of the Nationalists and was rebuked by the Speaker, Mr J. H. Conradie, who is himself a Nationalist.

In 1931 in the course of a Parliamentary debate Swart stated:

'The Entrenched Clauses are a matter of honour and I cannot imagine any Government altering them with a simple majority.'  
(Hansard 22/4/31. Col. 2757)

The Nationalist Government, however, was determined to get its way by hook or by crook and passed a law which enabled it to pack the Senate to secure a two-thirds majority. To ensure that there will be no more nonsense from the Appellate Division, Swart introduced a law reorganising the highest Court of the land. Hitherto six judges sat in the Appellate Division; Mr Swart decided that eleven would be more useful.

The removal of judges in South Africa involves a complicated procedure, but their appointment is made by the Minister of Justice. From time immemorial judges have been appointed from among the senior and leading members of the Bar who had distinguished themselves at their profession. They were endowed with two indispensable qualities; first, through their long years at the Bar they had acquired a thorough knowledge of the law; second, after 20 or 30 years of practice lawyers acquire that spirit of objectivity and impartiality which junior members of the Bar cannot possess. Swart entirely ignored the traditional conventions in the appointment of judges so essential in maintaining the high tradition of the Bench, and in 1951 appointed a judge who had practically no experience at the Bar, but who acted as legal adviser to the Government. The Johannesburg Bar was so incensed at this insult that for a period of three weeks they refused to appear before the newly-appointed judge. The senior barristers of Johannesburg are highly successful men at their profession and felt indignant,



not because they were overlooked but because they considered the Minister's action a mortal insult to the tradition which to them was fundamental to the proper administration of justice. Between the 1st January 1954 and the 28th January 1956, Swart appointed eighteen advocates as judges of the Supreme Court. Of these only three had taken silk before 1946, one was appointed a judge a fortnight after becoming a Q.C. and another four months thereafter. The average term as Q.C. for these newly appointed judges was six years; the average previously had been over fifteen years. There were any number of senior barristers with twenty and more years practice, who had distinguished themselves at the Bar and who could have been appointed as judges.

Why the age-old procedure was not adopted by Swart only he can explain. The overwhelming majority of the members of the South African Bar, however, and all who have a deep respect for the proper administration of justice, justifiably felt suspicious of Swart's actions.

Recently when the Chief Justice of South Africa retired through reaching the age limit of 70, the next senior judge to fill the position was Mr Justice Schreiner, but Swart refused to appoint this judge as Chief Justice although he is known as one of the most able jurists South Africa has had.

Swart, Verwoerd, Louw & Co. have turned South Africa into a police state and in a police state the law and individual liberty are held in contempt by those in power. The decision therefore of the Bar Council in Britain, the Inns of Court Conservative and Unionist Society, the Association of Liberal Lawyers, the Society of Labour Lawyers, the International Commission of Jurists and Christian Action, to sponsor the visit of Mr Gerald Gardiner, Q.C., to South Africa to watch the proceedings will be heartily welcomed by lovers of liberty the world over. Those who rule South Africa today may feel indignant at this 'outside interference'—they always feel indignant when their despotic acts are subjected to scrutiny. The 10 million non-European citizens of South Africa, the overwhelming majority of the members of the South African Bar and all who treasure liberty will forever be grateful to Mr Gardiner and to those who sponsored his trip.



On the 30th January 1957, the *Sunday Express*, Johannesburg, made a violent and unseemly attack on Mr Gardiner. Mr Gardiner sent a reply which the paper did not see fit to publish. For the edification of people abroad and within South Africa we print the following:

- (a) Letters from Mr Eric H. Louw, Minister of External Affairs of the Union of South Africa. (*The Times*, 7/1/57.)
- (b) Minister's Protest Answered. (*The Times*, January 10th, 1957.)
- (c) Reply of Mr Gerald Gardiner, Q.C., to *Sunday Express*, Johannesburg (1st February, 1957).

*The Times*, 7/1/57.

### A MINISTER'S PROTEST

#### JUSTICE IN SOUTH AFRICA

TO THE EDITOR OF *The Times*

Sir,—In the issue of *The Times* for Friday, December 28, under the heading 'Civil Liberties in South Africa', you published statements by Canon Collins and Mr Gerald Gardiner, Q.C.,\* on the arrest and trial of a number of persons in South Africa who are accused of subversive activities against the safety of the State. Mr Gardiner was hastily sent to South Africa on behalf of three British organizations—namely, 'Christian Action', the Bar Council, and an organization which calls itself 'Justice', and which represents 'the three main political parties'. (One wonders why the British Communist Party was excluded? After all, this party

\* *The Times* news item went as follows:

#### Q.C.'s WATCH ON TREASON TRIAL

The Johannesburg treason trial, which opened on December 20 and is to be resumed on January 9, is being followed closely by lawyers and legal bodies in Great Britain, and by Christian Action, whose legal defence fund for the 153 accused persons and their dependants has already reached £800.

Canon L. J. Collins, chairman of Christian Action, announced in London yesterday that the organization were determined to reach an immediate target of £10,000, although it is estimated that costs throughout the protracted proceedings may reach £100,000. The fund will provide for legal defence for the accused and give practical assistance to the dependants of those arrested (of whom 23 are Europeans).

The fund's panel of advisers and sponsors so far includes the Bishop of Birmingham, Lord Faringdon, Professor Max Gluckman, Mr Victor Gollancz,



is taking a particularly keen interest in the happenings in South Africa.) The purpose of Mr Gardiner's mission was to keep a watch on the South African Courts of Justice, and to act as a guardian of civil liberties.

At the outset I wish to protest against this calculated insult to our magistrates and judges. In South Africa the standards of justice and equity maintained by the courts have always been of the highest—as high as in any British court of law, and higher than in some countries that pose as the guardians of civil liberties and of fundamental human rights.

In view of the action taken by the three above-mentioned bodies, I presume that observers will immediately be sent also to Northern Ireland and British Malaya, where, according to Press reports, steps were taken last week which would appear to constitute an interference with civil liberties—as seen by these self-appointed guardians of such liberties. Why pick on South Africa?

In his statement, Mr Gardiner commences by saying that he does not wish to comment on proceedings which are still *sub judice*—and he then proceeds to do so, in the concluding paragraph of his statement! Ever since the arrests took place British newspapers have published a large number of news dispatches loaded with comment which grossly contravened the *sub judice* rule—a rule which is apparently far more strictly observed in South Africa than in the United Kingdom. In fact, after reading these dispatches, and also some of the editorial comment in British papers, I am wondering whether the *sub judice* principle is known in England.

To return to the sending of observers to South Africa for the purpose of watching the trial on behalf of the Churches, the Bar Council, and 'the three main political parties', may I ask what business it is of these bodies to concern themselves with the

Father Trevor Huddleston, Mr David Low, Sir Compton Mackenzie, Mr William Plomer, and Earl Russell, O.M., F.R.S.

#### ACTION BY POLICE

Mr Gerald Gardiner, Q.C., has just returned from Johannesburg, where he has been watching the trial on behalf of Christian Action, the Bar Council, and 'Justice', the new joint law organization representing the three main political parties.

While declining to comment on the proceedings, which are still *sub judice*, Mr Gardiner said yesterday that he thought the recent police action outside the court was fairly represented by the British Press. 'It was a situation,' he said, 'which could have been easily handled by a fairly small number of London policemen.'

The use of the baton was much more extensive in South Africa than in Britain, and the real trouble, he thought, was an unnecessary baton charge. This led to some stone-throwing by the crowd; the police then got frightened and some opened fire.



*internal affairs* of a sovereign independent State? Would they dare to send observers to watch court proceedings in, say, Clinton, Tennessee? If this impudent interference in our internal affairs is sought to be justified (as has been suggested) by the fact that South Africa is a member of the Commonwealth, then the sooner we get out of the Commonwealth, the better!

The attitude of certain British newspapers, organizations and individuals is not so much due to concern about civil liberties as it is manifestation of the campaign of hate that has been conducted against South Africa for the past eight years by a section of the British Press, by the Communists and Socialists, and also by individuals like Canon Collins, Father Huddleston, and Rev. Michael Scott. This campaign of ill-will towards the Government and the European population of South Africa is the more surprising in view of the good will shown to Britain during the past eight years. Valuable financial assistance was rendered during Britain's time of financial stress—particularly during the time when the Socialist Government was in power. Mr Butler has publicly acknowledged this, and I was also personally thanked by Mr Gaitskell when he was in charge of the financial negotiations. The present Government of the Union has given such generous support to the British export trade that South Africa is today Britain's second-best customer in the world. British motor manufacturers can testify to the assistance given in the matter of import quotas.

And during these days the South African Government is doing everything in its power to facilitate and to expedite the servicing of British ships which are being re-routed round the Cape of Good Hope. The money earned by no means compensates for the dislocation of our harbours, the strain on our railways, and the adverse effects on certain aspects of South Africa's economy, such as a rise in the cost of food-stuffs to the local consumers. The Union's harbour and railway authorities will be thankful when the Suez Canal is cleared.

I conclude by once again protesting against the calculated insult to our Courts of Justice. Civil liberties and the administration of justice are safe in their hands. At the same time I wish to state clearly that the British public is being misled by the one-sided and prejudiced reports appearing in their newspapers. This applies also to Mr Gerald Gardiner's account of what happened when at least 4,000 persons (mostly Natives) staged a rowdy and provocative demonstration outside the building where trial is being held. His account is a travesty of the truth.

Yours sincerely,

ERIC H. LOUW, Minister of External Affairs of the Union  
Excelsior Hotel, Rome, Dec. 31. of South Africa.



*The Times*, 10/1/57.

## A PROTEST ANSWERED

### WHY Q.C. VISITED SOUTH AFRICA

TO THE EDITOR OF *The Times*

Sir,—The organizations which we represent were among those which sponsored the visit of Mr Gerald Gardiner, Q.C., to observe the preliminary proceedings of the treason trials in South Africa.

Mr Eric Louw is mistaken in thinking that we were inspired by ill-will towards his country. Our sole preoccupations were with the administration of law and that we should be fully and correctly apprised of the facts by a colleague in whose judgment and discretion we had confidence.

The main activities of our societies are domestic, where indeed we generally oppose each other. But we cannot remain indifferent to legal events abroad where fundamental principles of justice are concerned, any more than our predecessors could in relation to the trials at, say, Rennes, Moscow, Scottborough, or Nuremberg.

More recently an English lawyer attended the Polish trials; and we attempted but failed to secure observations of the current trials in Hungary, the Kadar Government feeling no doubt that they did not bear inspection. We ourselves would welcome, not resent, similar interest by foreign lawyers in the administration of justice in this country as, again for example, our predecessors accepted foreign observation of and comment on the Jameson or Casement trials.

As Lord Chief Justice Russell of Killowen wrote to Queen Victoria on his return from observing the proceedings of the Dreyfus trial, and referring to complaints similar to those made by Mr Louw: 'France has not yet realized that every great drama whether in Court of Justice or elsewhere is now played before the whole world as an audience, and is therefore subject to the criticism of the whole world. . . . It is quite impossible to treat, as a purely domestic concern, any question which, like this one, appears to touch the very foundations of justice.'

Yours faithfully,

ARTHUR COMYNS CARR, Chairman, Association of Liberal Lawyers.

GEOFFREY DE FREITAS, Chairman, Society of Labour Lawyers.

J. E. S. SIMON, Chairman, Inns of Court Conservative and Unionist Society.

January 8.



Sir,—The visit of Mr Gerald Gardiner, Q.C., to South Africa, to which the South African Minister of External Affairs takes exception in your issue of January 7, was supported not only by Christian Action, by the all-party group 'Justice' and by the Bar Council but also by the International Commission of Jurists with its headquarters at The Hague. The concern of the commission in the South African situation in general and in the trials now taking place in Johannesburg in particular neither arises from a desire gratuitously to 'insult' the administration of justice in South Africa nor is it based on 'onesided and prejudiced reports' of the position in that country.

Lawyers in many countries, however, by virtue of their training and the common traditions which they have inherited cannot be indifferent to the interpretation and application of laws which:

(1) By the generality of their definitions may endanger the certainty of the criminal law. I venture to suggest, for example, that no lawyer who has studied the definition of 'Communism' and 'Communist' in the Suppression of Communism Act, 1950, as amended in 1951 and 1954, would be surprised at our concern.

(2) By the distinctions which they seek to establish between the treatment of different racial categories, appear out of harmony with the political and moral idea of equality underlying and inspiring the conception of the rule of law.

(3) By the wide discretion which they give to the Executive may reduce control by the Courts and by Parliament and thus in the long run weaken the legal framework of a free society.

Yours, &c.,

NORMAN S. MARSH, Secretary-General, International  
Commission of Jurists.

47, Buitenhof, The Hague, Netherlands.

Sir,—Mr Louw asserts in his letter of January 7 that 'In South Africa the standards of justice and equity maintained by the courts have always been of the highest—as high as in any British court of law.' I cannot agree. When I was in South Africa in October, 1954, two cases in the course of one month attracted my attention. A farmer was tried for beating an African convict labourer to death. The Judge said: 'Your actions were shocking. They were brutal in the extreme and amounted to pure slave-driving.' The jury found this murderer guilty of 'common assault' on which the Judge commented, 'this remains the most serious case of common assault in my experience.' The sentence was 18 months. Eminent counsel for the defence alleged that those with whom a convict was put out to work were charged with responsibility for 'making him work, by force if necessary.'

In another case a farmer was charged with beating an African youth of 19 to death. The Judge said: 'I am compelled to send



you to gaol', and sentenced him to three years' imprisonment, two suspended! The man's son, a police constable, was involved. He was not even tried. All that happened to him was that the Judge told him 'that is not the way for a police constable to behave.'

In an editorial dated October 6, 1954, the *Cape Times* had these remarks to make on the first case. 'The comments of the presiding Judge will lead the public to share (his) surprise that the jury brought in a verdict of nothing more serious than common assault. This fact raises an important legal question. The verdict can be a consequence only of the cultural environment of the jurymen. It brings into question the effectiveness of a system in terms of which a jury can come to a decision which surprises the Judge by its leniency and will equally surprise and perhaps disquiet the public. The White man is failing in his trust if the same set of facts can produce one verdict when the accused is Black and the victim White, and another, and more lenient, when the accused is White and the victim Black. This case must, in the interests of civilized administration of justice, compel the Government to review the validity of the jury system in cases of violence involving members of different races.'

In other words, the *Cape Times* believes that in South Africa there is one law for the White and another for the Black. If this is so Mr Louw cannot put British and South African courts on a par in the administration of justice. It may be, however, that the two cases I have cited did not come to his notice.

I am, Sir, your obedient servant,

WINSTER.

Fivewents Way, Crowborough, Sussex.

1/2/57.

The Editor, *The Sunday Express*, Johannesburg, South Africa.

Sir,—My attention has been drawn to the article on the front page of your issue of the 13th January under the heading 'Treason case observer openly attacks Union's Judges. Impugns their integrity'; and your leading article in the same issue headed 'Vilification gone mad'; and I should be grateful if you would allow me space to reply to these personal attacks upon me.

It is quite untrue that I have made any attack whatever on the integrity of any South African Judge, and your headlines are a complete distortion of what I wrote. I set out accurately the common law definition of 'high treason', and the Statute definitions of 'communism' and 'communist'. I then said 'When there are borne in mind the number and nature of the judicial appointments made by the Nationalist Government of South Africa, the



fact that the Government is entitled to order such a case to be tried without a jury before a special court, the width of the above definitions and the fact that the accused, both European and Non-European, include a number of prominent members of the Christian community in South Africa, it is perhaps not surprising to find that these treason trials are a matter of deep concern to all those in Britain, to whatever political party they may belong, who care for civil liberties'.

When I referred to 'the number and nature of the judicial appointments made by the Nationalist Government of South Africa', I had in mind:

(1) The fact that the increase in the number of Judges made by the Nationalist Party was made:

(a) after their Minister of the Interior, Dr Donges, had said, 'Unless Parliament can be assured that its Acts will not be declared invalid, it will be compelled to use the American expedient of appointing Judges who share its views'.

(b) in circumstances in which the Leader of the Opposition had said, 'The new Judges have been appointed in a manner which will result in making them focal points of political controversy and this will undermine the respect in which the judiciary has always been held'.

(c) in face of a resolution by a majority of the members of the Johannesburg Bar, 'We are forced to conclude that the Government is moved solely by the hope that it will obtain the decision it desires on the constitutional question from the new 11-Judge Court. This conclusion is confirmed by the fact that there are several Judges whose eminence, ability and experience are such that it is incredible that all of them should be passed over in any genuine attempt to strengthen the Appeal Court. Political considerations alone can account for their exclusion'.

(2) The fact that since then leading counsel of great experience and high repute have been passed over in favour of some, lately junior counsel, whose practices would not ordinarily have justified an application for Silk. I met no advocate or attorney who was not gravely disturbed at the resultant effect on what used to be universally regarded as the finest Bench in South Africa before whom the Bar had been proud to appear.

It does not in the least follow from any of this that any of such Judges would in fact be in any manner influenced by any motive which may have led the Government to appoint them. They were nearly all members of a Bar with as high a record of integrity as that of any Bar in the Commonwealth.

But are not the above facts, which are without parallel in the history of any part of the Commonwealth since the eighteenth century, together with the other facts to which I referred in my letter, a matter of legitimate concern to all those interested in



civil liberties? If a political party openly announces their intention to appoint Judges who will decide cases in their favour, who is to blame if, when a political trial occurs, anxiety is occasioned? And as long as any form of free speech remains in South Africa, are not those interested in the preservation of civil liberties entitled to express such anxiety?

Yours faithfully,  
GERALD GARDINER

Either the *Sunday Express's* idea of free speech was to publish the attack on Mr Gardiner while denying him the opportunity to reply, or it was too afraid of the Government to publish it.



## CHAPTER FIFTEEN

### REACTION ABROAD

FROM THE day the Nationalist Party came to power in May 1948, its leaders have tried desperately to sell apartheid to the world. At home, this philosophy is always presented in a manner calculated to inflame the basest instincts of the Whites, especially of the Afrikaners; 'Die kaffer op sy plek en die koelie uit die land' ('The kaffir in his place and the coolie out of the country') is the slogan habitually employed by the Nationalist politicians. Race hatred is preached and oppression of non-Whites is practised with a savage crudity and pleasure, to instill in the minds of the Whites the idea that they are Masters and in the African that they are inferiors and slaves. Anyone who dares to question the morality or logic of this insensate policy is abused, vilified and often subjected to physical violence and persecution.

The Nationalist leaders hate the world outside South Africa. They hate Britain, they hate America, they hate Western Europe, they hate Asia and of course they hate Russia. Like the burglar engaged in his felonious pursuit they do not want to be interrupted by outside 'interlopers'. Obsessed with a 'laager' mentality, with a feeling of the besieged, they would gladly see the rest of the world go up in flames so that they might be allowed to carry on their oppressive activities undisturbed.

Since South Africa is not self-sufficient and with rapid industrial development is becoming more dependent for capital, machinery and trade upon the rest of the world, the Nationalist politicians are compelled to pay attention to world opinion. To tell the world the truth about apartheid would be



disastrous; so learning from Hitler they have perfected the system of 'double talk' and the 'Big Lie'.

When they address themselves to the world beyond the Limpopo, the Nationalist statesmen present themselves as inoffensive, innocent lambs who are only doing their best for all the people in South Africa—white and black—and are prompted solely by the highest motives such as saving civilisation, Christianity, etc., etc. They complain bitterly that people abroad do not understand South Africa's problems and brand every critic as an enemy of South Africa engaged in spreading lies and slander about the country.

Thus in his speech at Stellenbosch in March 1953, Dr Malan, after presenting apartheid as 'a policy of parallel progressive development along separate lines in the interests of both White and Black', made an impassioned plea to the world to endorse this policy. Apartheid, he said, was not a specific South African product, nor the creation of the Nationalist Party for party purposes. Europe itself knew it too. Europe was a patchwork quilt with approximately twenty-five divisions of nationality, race, language and culture. Who dared maintain that Europe would be a happier or better place if these natural differences were ignored and all the inhabitants were herded together in one and the same territory? Apartheid was accepted by Europe itself and throughout the world as natural, obvious and right. Why, then, should it be regarded in South Africa, which was almost as large and diversified as Europe, as a deadly sin? In spite of the all too outspoken episcopal wisdom and authority, apartheid was not unchristian. Every Christian would readily accept the proposition that all men were equal before God and should therefore be regarded and treated as human beings with human rights. He maintained, however, that apartheid was founded on 'another almighty deed of creation', which the critics seemingly ignored completely—on natural differences of race, colour, nationality, language and culture.

Of course the fact that Frenchmen do not compel Italians to carry passes and Hollanders do not force Swedes to live in miserable ghettos does not concern Dr Malan, nor is he worried by the knowledge that although God has created people with different colours, nowhere has He given the right



to people with white skins to humiliate and degrade people with brown or black skins. Whilst Malan was engaged in telling the world how 'Christian', 'natural' and 'beneficial' apartheid is, the Nationalist Party issued an election manifesto which presented apartheid in its naked brutality. Exhorting the electors to support the Nationalist Party, the manifesto ended with the slogan:

'Save South Africa from disaster. Vote National and ensure White domination.'

In Afrikaans: 'Red Suid Afrika van hierdie gevaar. Stem Nasional and verseker blanke Basskaap.'

Over the years Eric Louw, Nationalist Minister of External Affairs, and the Information Offices of the Union Government abroad, have been presenting apartheid to the world as being beneficial to the Africans. But the world knows the truth and obstinately refuses to accept Nationalist lies.

Civilised humanity was moved by Father Huddleston's book *Naught For Your Comfort* which appeared early in 1956. On the 27th April, 1956, Eric Louw, in a debate in the Union Parliament after denouncing Father Huddleston as a religious fanatic whose book was doing incalculable harm to South Africa, said:

'It is almost impossible to believe that a man can say the things he has said there. He makes no difference between parties. His actions are directed against the white man in South Africa. He sees the whole of South Africa through the eyes of Sophiatown. Father Huddleston has given a completely false representation of South Africa.' The Nationalist government reply, *You are Wrong, Father Huddleston*, published by Mr Alexander Steward, South African Director of Information, London, proved a complete fiasco.

Other tactics had to be found to placate world opinion, and the spiritual mentor of the Nationalist leaders, the late Adolf Hitler, provided the necessary guidance.

Taking advantage of the world anti-Communist crusade started as a result of events in Hungary, Swart quickly produced a 'Communist Plot'—not one of those tame, insipid affairs, but a vast conspiracy, extending from Cape to Cairo



and thence to Moscow, Peking and Delhi. The African National Congress exchanged messages with Nasser, Chou En-lai and Indian leaders. South Africans visited Peking and Moscow (*vide* evidence produced by the prosecution during the preparatory examination). Here is the international Communist conspiracy, the plot to subvert South Africa!

There are several reasons which prompted Swart to choose December, a period when all South Africans are getting busy to celebrate Christmas, to stage his Reichstag Fire Trial. He had been talking about treason trials for several years, not in a spirit of anxiety but rather in exultant expectation, and was no doubt holding this trump card up his sleeve until the general election in 1958. The following factors, however, precipitated matters.

First, as mentioned previously, the events in Hungary. Second, South Africa received a whacking at United Nations in November 1956 and Mr Louw, who left New York in a great huff, accused the world and more especially Western Europe and India of helping the spread of Communism on the African continent. The production of a Communist conspiracy in Africa was bound to put sense into the heads of United Nation delegates who would thereupon instantly abandon their criticism of South Africa.

But coming events in South Africa itself also forced Swart to act. A vast programme of repression had been prepared for the New Year; the University Apartheid Bill, the new Industrial Conciliation Act, the Natives Laws Amendment Bill and the many other tyrannical measures that had been adopted by Strijdom's Cabinet.

A big dose of anti-Communism would be just the thing to cover up the hideous crimes the Nationalist Government was going to put into operation against the people of South Africa.

## NAUGHT FOR YOUR COMFORT, MR SWART

Not all who have tried to ape the Nazis have met with the spectacular success of Adolf Hitler, and even the Fuehrer himself often miscalculated.

In his younger days Swart had worked as an 'extra' at Hollywood and now he combined the ideas of Hitler with the



technique of Hollywood to produce a spectacular, dramatic, stupendous, staggering plot of treason and subversion, a plot which would not only shake South Africa but the whole world. Few countries have attained the great heights of having 156 people charged with high treason in one group in times of peace. All the victims could have been brought to court by summons or arrested during the day. But to provide the truly dramatic atmosphere, Swart mobilised the entire 'Special Branch' and dragged 150 men and women out of their beds before dawn and rushed them to the Johannesburg Fort, not in trains but in military planes especially commandeered for that purpose. A film producer will often put all his talent into a film which proves to be a flop, and this is what happened to Mr Swart's venture.

Supporters of the Nationalists within South Africa were not startled but quietly proceeded with their preparations for Christmas. Freedom-loving White South Africans felt shocked and the masses of Africans, instead of becoming frightened, openly and courageously demonstrated their indignation. Abroad, Swart's stunt misfired completely.

*The Times* in London wrote objectively and without passion, in its leader of December 7th, 1956:

'In a sudden swoop the South African police have pounced upon 140 men and women, Europeans, Africans and Asians, who it is safe to say are all politically distasteful to the party in office.'

'On the face of it, the Government's action belongs to a type recently familiar in many countries, the violent outburst of an authoritarian régime in a panic. Whether that is an unfair description on the present occasion may be left to be decided when the cases come to trial and the evidence is produced to justify the Government's evident suspicion that a dangerous conspiracy is afoot.'

'Here, as in South Africa, the trials must not be prejudged; but they deserve to be watched with a vigilant eye by all who care for civil liberty, and especially for the rights of unprivileged races.'

The *Manchester Guardian* of the same day wrote:

'The arrests made this week in South Africa remain as puzzling as they are extraordinary.'



'The proportion of Indians among the prisoners is surprisingly large—just over half. But it is known that the Union Government looks with great suspicion on political links between Indian and African associations, and members of the Indian Congress played quite an important part in the Passive Resistance campaign of 1952.'

and ended with urging people to support the appeal for funds launched by Christian Action and the Movement for Colonial Freedom.

Even the conservative *Daily Telegraph* said in its leader, December 8th:

'... Rightly or wrongly, the outside world tends to assume that there is something fundamentally rotten in a State which has to defend its constitution and its policies against whole sections of its own citizens. . . .'

'There is an ominous ring about the way in which the arrests were carried out. It appears that men and women have been seized at dawn, flown some hundreds of miles by military aircraft and have now been imprisoned in the Johannesburg Fort. They have little hope of bail. They have before them the prospect of a mass trial unprecedented in South African history, with its inevitable long delays, legal complications and political repercussions. A General Election is due within not much more than a year, and heightened political tension will not improve the atmosphere of a political trial.'

'Some of the names, too, of those reported to have been arrested will cause dismay. They include those of Mr Lee-Warden, one of South Africa's three M.P.s who represent natives. . . .'

The *Irish Times* was more blunt, and, in its leader of December 7th, said:

'The South African Minister of External Affairs, Mr Louw, has described this week's wave of arrests in his country as "no great surprise". He spoke more truly than he knew; for there is nothing surprising about a police-State that keeps its policemen busy.'

'... The South African Government has a heavy hand with all dissenters and critics. In the grossly unbalanced community



which it rules there are tensions of exceptional severity, arising from the simple fact that a handful of white people are striving desperately to maintain control over an enormous, restless, non-white population. The Government has held consistently to the belief that it is wiser to increase its oppressive measures than to attempt creatively to come to terms with its problems. . . . The wide police powers which are available to the authorities also must act as a temptation to silence critics whose criticism is too near the knuckle and too inconvenient to be answered effectively. Mass-arrests, as the world well knows, are a sure sign of an unhealthy body politic. . . . The South African Government continues to complain—through Mr Louw at the United Nations General Assembly this week—of the attacks made on South African domestic policy in the last ten years. It can only complain, however: it has made no serious or reasoned attempt to refute the attacking arguments.'

Father Trevor Huddleston, writing in *The New Statesman and Nation* on the 23rd February, 1957, said:

'A new and sombre chapter has opened in South Africa's history. By altering the structure of the constitution, by packing the Supreme Court, and by using the Suppression of Communism and Treason Acts as instruments of political attrition, the Strijdom régime has already placed effective power exclusively in the hands of the white minority.'

The *Observer* on the 16th December, 1956, said:

'The Government's main motive for its swoop is probably to create an excuse for breaking up non-white political organisations.'

The Government's excuse for this action will almost certainly be that these organisations are controlled by Communist agitators. Some former communists and fellow travellers have been included among white treason suspects arrested to give a pinkish colour to the militant anti-apartheid front.

The treason charges may be difficult to sustain, but the suspects are all being held on alternative allegations under the Suppression of Communism Act—a piece of legislation which casts such a wide net that almost any militant Liberal could be convicted of some contravention of it.'



*The Scotsman* summed up Swart's plot as follows: (Leader of the 7th December, 1956):

#### POLITICAL ARRESTS

'The arrest of 140 people in South Africa on charges of high treason and of contravention of the Suppression of Communism and Riotous Assemblies Acts is a logical step for a Government which has long pursued a course of intolerable oppression of the majority of the people of the country. The South African Government, when it is being honest and not trying in vain to assure people outside South Africa that its policy is of benefit to the Natives, is quite frank about its aim—racial domination. It will stick at nothing to ensure it, and already the Minister of Justice has powers under the Suppression of Communism Act and other legislation to silence or persecute any group which really puts up a fight for African rights. If many people did so, the Government could not act thus, but they can rely on the lukewarmness of the great bulk even of their opponents where African rights are concerned.

The United Party has certainly opposed all the dubious expedients whereby the Government has managed to pursue its racist policy, but, hamstrung by electoral considerations, it has never come out fair and square, as the Liberal and Labour Parties have, for the only real alternative—a multi-racial community working towards equal citizenship for all races without barriers to the natural advancement of any of them. The Government at least have the merit of recognising that this is the alternative, though they hate it and do not recognise that their own policy will result ultimately in a disastrous black-white struggle. The real opposition is therefore left to the few people who fight with as much passion for right and justice—such people as have now been arrested—as the Nationalists do for oppression. The African and Indian leaders in South Africa have eschewed an anti-white policy, partly no doubt because they have white men at their side who support their cause. But if the Government persists in its course, it is the extremists who will gain, and the unreal bogey of Communism which the Government constantly raises will become a real one.'

*The Economist* of December 15th, 1956, wrote:

'During the trial of 140 South Africans, including the white Member of Parliament for native interests and the principal of the African university college, who were arrested in South Africa



last week under the Treason, Suppression of Communism and Riotous Assemblies Acts, it will be the South African Government which stands trial, as well as the accused. The immense powers taken by the Union Government under these and other Acts to crush all opposition not only to its racial policy, but to its methods of enforcing it, will receive world-wide publicity. Whether the accused have in fact transgressed the law will be the main issue in South Africa; to many in the world at large the issue will be whether such laws so applied, to such persons, can be regarded as law in any sense understood by a free and civilised community, or whether they are not the instruments of a police state. South African Nationalists will think this monstrously unfair, and will point to the parliamentary forms and to the observance of legal procedure in open court. But in staging a mass trial at this stage, South Africa has opened its peculiar institutions to a degree of world scrutiny which may have results very different from those intended.'

and again on the 12th January 1957:

'There is a good deal of cynicism in South Africa over the present mass trial of 153 men and women of all races on treason and other grave charges. This feeling is strengthened by a conviction that the Government has overplayed its hand and blundered. It hoped to produce drama by the pre-dawn swoops on private homes, by fleeting court appearances outside normal hours, by the use of military aircraft to rush the suspects to Johannesburg for a mass trial, and by the wholesale refusal of bail, followed by a wholesale granting of bail some days later. Instead it produced only melodrama and anti-climax, aggravated by inept crowd-control by the police in the early stages of the trial.

Inevitably South Africans are asking why the Cabinet felt it necessary to go to these elaborate lengths to squash its more outspoken opponents. There are some obvious explanations: it finds ideas and arguments easier to handle (and exploit) than real problems; it is determined to deprive the politically conscious non-Whites of leadership; and it hopes to intimidate all who might wish to participate in multi-racial movements aimed at gaining political rights for non-Whites. And finally, by a mass prosecution it hopes to generate some pre-election enthusiasm among unattached voters and waverers. It can hardly hope to



embarrass the United Party, which is already so frightened of being accused of being "soft" to Communism that it bends over backwards to avoid the charge. . . .'

The *Daily Herald*, writing on the 19th December, 1956, in an article headed 'FREEDOM IS ON TRIAL', said:

'Today 150 people will appear in a khaki, makeshift court on a mass trial for their lives. They are charged with "treason and hostility to the State". But they are not in pre-war Nazi Germany or Eastern Europe. They are in our OWN Commonwealth. The 150 are South Africans of all races who have dared to speak openly against racial oppression in that country. . . . These mass arrests by the semi-Nazi Government in South Africa come at the same time as the most ruthless racial persecution in the country's history.'

Canadian newspapers carried reports of the mass arrests as follows:

'South Africa mounts Tiger of Oppression.'

'Mass raids in Johannesburg, Durban, Port Elizabeth and Cape Town are uncomfortably reminiscent of Hitler's Reich.'

'South Africa presents the picture of a kettle seething with racial animosities and with no safety valves . . . because of the doctrines and methods popular there now.'

'Step by step the country's democratic rights of opposition have been reduced.'

Swiss newspapers said:

'In the Union of South Africa . . . we are witnessing the oppression of a people on a tremendous scale. . . .'

But what must have been the biggest disappointment of all to Mr Swart is the response from the American Press. The *New York Times* on December 6th, 1956, reported the police swoop in South Africa with the following headlines (front page):

'SOUTH AFRICA SEIZES 140 IN RACE DISPUTE'

The heading on another page read:

'140 ARE SEIZED IN SOUTH AFRICA AS REBELS UNDER THE  
RACIAL LAWS'



The following are extracts from *Time* magazine of December 17th 1956:

‘Like the vague charge of “vagrancy” in the hands of a determined U.S.A. cop, South Africa’s Suppression of Communism Act provides Premier Johannes Strijdom with a handy gimmick for arresting anybody he deems undesirable. The difference is that a hoodlum pulled in by a U.S.A. cop can usually get free in the morning.’

After describing the ‘swoop’ in detail, the magazine continues:

‘The one “crime” they had in common was bitter opposition to the apartheid racist policies of the Strijdom régime.’



## CHAPTER SIXTEEN

### 'THE "NOTORIOUS" JOHN COLLINS' CHRISTIAN ACTION 'SWINGS INTO ACTION'

STRIJDOM AND CANON COLLINS

MR DURRANT (*for Mr Lawrence*) asked the Prime Minister:

- (1) *Whether his attention has been directed to press reports of a letter by the Minister of External Affairs which appeared in the London 'Times' on 7th January 1957; if so,*
- (2) *Whether he approved the contents of the letter;*
- (3) *Whether this attention has been directed to press reports of letters in reply which subsequently appeared in the London 'Times'; if so,*
- (4) *Whether the Government granted a request by certain bodies and persons for certain English counsel to attend as observer at the preparatory examination of 156 persons upon an allegation of high treason at present being conducted in Johannesburg;*
- (5) *Whether such request was made in writing and granted in writing; if so, when and by whom; and*
- (6) *Whether he will lay such correspondence upon the Table?*

The PRIME MINISTER:

- (1) *Yes, I have seen the letter written by the Minister of External Affairs, in which he took strong exception to what can only be regarded as a calculated insult to the South African Courts of Law, namely the action of certain bodies in England, one of which*



*operates under the Chairmanship of the notorious Canon Collins.*

*I base my accusation of calculated insult on the declaration by these bodies that Mr Gerald Gardiner, Q.C., was sent out to the Union to watch the trial of certain persons here on charges of high treason and because, according to these bodies, 'civil liberties here are in question' and on their further plea that they 'could not remain indifferent to legal events abroad where fundamental principles of justice are concerned' and that they wanted 'to ensure as far as possible that the conscience of the world is kept fully alive to what is happening'.*

(2) *Yes, I fully approve thereof.*

(From *Hansard*—No. 2,  
28th January to 1st February 1957)

STRIJDOM EMPLOYED more polite language in describing an enemy of apartheid than his brother-in-law Jan de Klerk, Minister of Labour, who referred to the illustrious Mrs Pandit as 'that coolie woman'.

Yes, John Collins is 'notorious' in many ways.

Endowed with a warm heart and practical mind, he has championed many 'unpopular' causes, such as international understanding, world peace, abolition of capital punishment, and is an implacable enemy of race hatred and intolerance anywhere, not only in Johannesburg but also in Nairobi, Bulawayo, Clinton and Birmingham. Being a Christian who believes in applied Christianity, he cannot tolerate cant and hypocrisy and has never hesitated to criticise and denounce the 'high and mighty', whoever they may be.

When the history of the struggle for African emancipation comes to be written, two Anglican ministers among many others will have a place of honour—Canon L. John Collins and Father Trevor Huddleston. The value of the lasting services these two Anglican priests have rendered to African freedom may be gauged from the deep hatred and contempt in which they are held by the Nationalist leaders.



When Father Huddleston, that fearless champion of the African people, was about to be recalled to England, Mr H. Biermann, one-time Chief Information Officer in the South African Information Office, London, wrote him a letter in which he said:

'I write to say how glad I am that you are leaving my country. . . . If ever a man deserved to be ignominiously deported as an undesirable immigrant or in the last resort to be strung up from the nearest lamp-post as a renegade, it was you.'

Since none of the Nationalist ministers had the decency to disassociate themselves from the sentiments expressed by a servant of the Union Government it may be presumed that they warmly supported the suggested deportation and hanging.

The uncompromising stand of these two eminent Churchmen on behalf of the lowly and oppressed in the face of threats, insults, abuse—often even from so-called friends—their audacity and their boundless energy have earned them the execration of Strijdom, Verwoerd, Swart, Louw and company—but the love and admiration of millions.

Here is what Strijdom's victims have to say about the 'notorious' John Collins:

South Africa's biggest danger comes from those who piously profess sympathy for the non-Whites but urge them to do nothing while the Nationalists press ahead with attacks on their rights.

We cannot rely on the goodwill of pious gentlemen who sit with folded arms while our liberties are destroyed.

The attitude of some members of the Anglican Church toward Canon Collins is inexplicable. How can true Christians reconcile belief in the Fatherhood of God and the equality of man with apartheid?

Canon Collins appreciated his duty as a true Christian, and it would be disastrous if the Christian Churches in South Africa ignored the situation in the country. They should face the future boldly.

South Africa's salvation lies in co-operation between all sections on terms of mutual self-respect and equality. That is what Canon Collins preached, and it is the truth.

We in the national liberatory movement know that only men



like Canon Collins, who is a true friend of the oppressed people of this country, can help us in our just struggle against tyranny and race hatred.'

(Extract from joint statement issued by the African National Congress and the South African Indian Congress, 6/7/1954.)

In outward appearance and personal lives these two Churchmen bear little resemblance to each other. John Collins, the husband of a beautiful and talented wife Diana, who helps him in his work, and the father of four adorable youngsters, would hardly be taken for a minister of the Church if not for his priestly collar which he discards when not on duty. Always exuberant, bursting with energy, gifted with an alert mind, the mischievous glint in his eyes seems to indicate an invitation to all evil men to a 'scrap'. He looks more like a busy, efficient 'executive' than a cleric, genial, a good mixer, free from rancour and bitterness. Father Huddleston, with his ascetic, benign countenance, slow dignified movements, quiet manner, seems the typical representative of Christ on earth. His adorable children whom he loves and who love him are the ill-fed, ill-clothed 'picanins' of the slums of Sophiatown and Martindale. Yet both have much in common. Both have the passionate fire of the Prophets when they denounce evil; both employ simple direct language, clearly understood by both friend and foe; both are dedicated men, caring nothing about gibes from friends and abuse from enemies. One can easily observe the warm friendship and mutual respect which binds these two fearless champions of human decencies.

They are the 'cranks', the 'fanatics', of which our present-day society has not enough. By their deeds and words, by their unfailing constancy, they are distinguished from those who pour out endless streams of platitudes, try to find excuses for the oppressors or retire into the seclusion of respectability. They are tireless, relentless warriors, who remain unmoved by sophistries, slander and the backbiting of petty-minded 'friends'. Both came to the fore as champions of liberty and enemies of cruel oppression during the Passive Resistance Campaign in South Africa in 1952, Father Huddleston fearlessly fighting within South Africa and John Collins organising support for



the Resisters in Britain. On the Rand Father Huddleston presided at meetings of Africans surrounded by police with sten-guns and rifles at the 'ready', desperately anxious to provoke trouble so that they could open fire. His calm dignity and scorn made Swart's guardians of 'law and order' look silly and inspired all who came to the meetings with a spirit of confidence and security.

And what a brilliant organiser the 'notorious' John Collins is! Some of the biggest meetings held in London in recent years have been organised by him.

At a meeting called by Christian Action in 1953, the Central Hall, London, was packed to capacity by people who came to express their sympathy with the eight thousand victims the Nationalist Government sent to gaol for daring to protest peacefully against racial oppression. The 'notorious' Canon not only organised a great meeting, he also raised thousands of pounds to help those who had taken part in Passive Resistance and their families. In 1954 he paid a visit to South Africa to see things for himself. Needless to say, his 'intrusion' was not welcomed by the Nationalist leaders and they and their press poured out all the abuse they could against the Anglican priest who was meddling in South African affairs. He did not make a superficial tour of the land of gold, diamonds and cruel oppression, but probed deeply into the lives of the people, met representatives of all sections and saw things at first hand. His impressions are described in a letter which was published in the London *Times* of the 26th August, 1954:

Letter Reprinted from *The Times*, 26/8/54.

### A VISIT TO SOUTH AFRICA

To The Editor of *The Times*

Sir,—May I be allowed to comment on my recent visit to South Africa? I am indeed grateful to Mr Shave, my host at Durban, not only for his making my visit possible but also for the kindness he showed me while I was his guest, and for the trouble he took to enable me to see the things he wished me to see and to meet the people he wished me to meet. In view of criticisms which my visit has evoked I would like to make the following points:—



(a) Throughout my stay in South Africa I tried to keep an open mind. But I was not willing to throw away my 'prejudice' that every racial intolerance and every discrimination on grounds of colour are an offence to the Christian way of life. And the facts are even worse than I had previously supposed.

(b) It is true that something quite substantial is being done to tackle the vast social problem created by the white man's economy and his need for non-European labour—I saw evidence of this in well-equipped hospitals, new schools, new housing, &c. It is also true that most Europeans treat their African servants decently—though I very much doubt whether the majority of African servants are paid at the rate of £8 a month. The fact remains that the vast majority of non-Europeans endure terrible living conditions: and the master-servant relationship is one of the evil manifestations of the present situation.

(c) But my critics miss the real emphasis of my comments. In spite of what 'good is being done for the African', the shocking contrast between the conditions of life for a white man and those for a non-European is a scandal: but the greater scandal is the insistence of white South Africans, high-minded as well as indifferent, English-speaking as well as Afrikaans-speaking, upon a way of life whereby the African is treated more as a beast of burden than as a human being—kindly treatment, of course, on the part of animal lovers.

(d) In view of the history of South Africa a solution of the racial problem out there is not a simple matter. I understand why it is that almost every European suffers from the 'disease' of racialism; and I sympathize with men who are afraid. But to understand and to sympathize are not necessarily to agree.

(e) A ferment of controversy goes on under the surface in South Africa; consciences are stirring. Criticism from outside can stimulate this useful process. And such criticism gives renewed hope to that small but growing number of liberal-minded persons who, against tremendous odds, strive valiantly for racial equality—these persons need our support and they merit our unstinted praise.

(f) The United Party on racial issues is basically no more worthy of the support of non-racialists than is the Nationalist Party—they both stand for white political domination.

(g) It is contended that my visit 'chafed the bonds of the British Commonwealth'. But a failure on our part to criticize racialism in South Africa may lose us the friendship of India, of Pakistan, and of all those Colonial peoples who look to Britain to implement its support of the Charter of Human Rights.

(h) My critics would seem to ignore what the Africans themselves are thinking and doing. The Africans will, I believe, no longer tolerate benevolent paternalism, let alone blatant domina-



tion. Their patience is magnificent: but he would be unwise who should dare to presume upon this African virtue any further.

(i) There is a large minority of Africans who on any showing must be regarded as responsible civilized persons. This minority, as well as vast numbers of as yet 'uncivilized' Africans, looks to the African National Congress as its political instrument. They delude themselves who think the Congress represents only a handful of ambitious extremists.

(j) Congress is committed to a policy of non-violent resistance. I was deeply impressed by the wisdom and moderation of its leaders—the majority of them Christians. But time is not on the side of those who hesitate: the situation deteriorates daily, and soon the leadership may be driven into the hands of less wise and less moderate men.

(k) The Church has today a unique opportunity to bring about a solution of the racial tensions in South Africa. But unfortunately she does not practise what she preaches. If she is to regain the confidence of Africans she must turn theoretical attitudes and the passing of resolutions into practical support of the oppressed in their non-violent resistance to unjust racial legislation and practice. She must stand uncompromisingly for equality of status and equality of opportunity for all South Africans regardless of race or colour.

Those who would silence criticism of South African racialism do a grave disservice, I believe, to the cause of Christ in the world.

2, Amen Court, E.C.4

Yours truly,  
L. JOHN COLLINS

The mass arrests were carried out on December 5th, 1956, and within twenty-four hours, with his usual energy, the 'notorious' John Collins got busy mobilising support for Swart's victims. A comprehensive statement was immediately prepared for the press giving the real reasons for the mass arrests and calling upon the people of Britain to show their sympathy in a positive manner. Donations began to pour in from all over Britain, from Ireland, the U.S.A., Canada, Australia, New Zealand, Germany, Holland, Switzerland and other countries. The letters accompanying the donations clearly show that all sections were stirred by Swart's outrage—businessmen, and miners, professional men and old-age pensioners, Christians and Agnostics, financiers and labourers.

In early 1957 the following appeal was published by leading papers in Britain:



Sir,—We, as sponsors, welcome the encouraging response already accorded to the fund established by Christian Action, in connection with the recent arrests and trial in South Africa of 156 of the leading opponents of apartheid on charges of subversive activities against the State. But more money is urgently needed. The purposes of the fund are (a) to provide for legal defence of the accused; (b) to aid their families and dependants; and (c) to help ensure that the conscience of the world is alive to the issues at stake.

Many persons here in Britain and elsewhere who are sensitive in face of tyranny and human suffering see in the South African Government's policy of apartheid a disregard for Christian and liberal principles in human relationships. We invite all such to give practical expression to their convictions by subscribing as generously as possible to this special Christian Action Fund. Christian Action is in the closest touch with the committee now raising a similar fund in South Africa, the trustees of which are the Bishop of Johannesburg, Mr Alan Paton (author of 'Cry the Beloved Country'), the Hon. Frank Lucas, a former judge, and Dr Ellen Hellman of the Institute of Race Relations.

As Britain's contribution to the total sum required, we set our preliminary target at £10,000; up to date we have received nearly £3,000. Donations should be sent to the Secretary, 2 Amen Court, London, E.C.4.

Yours &c.,

LEONARD BIRMINGHAM, VIOLET BONHAM CARTER, PHYLLIS BOTTOME, FENNER BROCKWAY, JAMES CALLAGHAN, TOM DRIBERG, FARRINGDON, DINGLE FOOT, MARGERY FRY, GERALD GARDINER, MAX GLUCKMAN, JO GRIMOND, TREVOR HUDDLESTON, C.R., BEN W. LEVY, ROSE MACAULAY, COMPTON MACKENZIE, LUCAN, WILLIAM MANCHESTER, ROBERT O. MENNEL, HENRY MOORE, NATHANIEL MICKLEM, LESLIE SHEFFIELD, RUSSELL, RAYMOND RAYNES, C.R., WILLIAM PLOMER, DAVID SHEPPARD, DONALD O. SOPER, G. O. SUTHERLAND, LESLIE D. WEATHERHEAD, HAROLD WILSON.

Contact was established with various lawyers' associations and on the 16th December, Gerald Gardiner, Q.C., flew to Johannesburg to watch the proceedings. On the 4th February, 1957, the Central Hall, London, was packed out by people who came to hear Father Huddleston, Fenner Brockway, M.P., Chairman of the Movement for Colonial Freedom, J. Grimond, M.P.,



Leader of the Liberal Party, Gerald Gardiner, Q.C., and J. Callaghan, M.P.

John Collins was in the chair and £1,500 was collected for legal defence.

By the end of July 1957, Christian Action had raised over £20,000 and John Collins was getting busy to reach his next target.

In April 1957 a South African Defence Fund was established in New York. The Fund is sponsored by well-known public men and women from all walks of life, the Universities, Churches, Trade Unions and so forth. The well-known author John Gunther, became co-chairman of the Fund. In a letter appealing for support, Mr Gunther says:

9/4/57.

Today it is a crime in South Africa for black and white to talk together in a public meeting, study in the same school, live in the same neighborhood, or sit in the same restaurant, movie or hotel lobby. It is high treason to attempt to alter this system in any way, even by democratic means. Any man, woman or child, black or white, who advocates democracy based on equality of rights may be branded, according to a South African law, a communist or a traitor.

Millions of South Africans understandably find these conditions intolerable. Recently, 160 persons—black and white—who have been outspoken in their denunciation of the government's racial policy were arrested and charged with treason. This story is told in the enclosed reprint from the *Christian Century*. Among them were such outstanding persons as Z. K. Matthews, 'Henry Luce Visiting-Professor' at Union Theological Seminary, in 1952-53, who is widely known in the United States. If moderate men are suppressed, there is little chance for democratic evolution in South Africa.

We have been urged by the Bishop of Johannesburg, The Right Reverend Ambrose Reeves; Alan Paton; Father Trevor Huddleston and others to establish a defense fund here to be used in two ways: first, to help provide those under arrest with the best possible legal defense. Second, to help meet the critical needs faced by their families.

The American Committee on Africa is uniquely equipped to deal with this appeal and has accepted the task of establishing a special South Africa Defense Fund. Because I believe the crisis in South Africa to be so dangerous and the situation there so obnoxious to all people of good will, I have accepted the Co-



chairmanship of this Defense Fund together with the Very Reverend James A. Pike.

The tragic urgency of this situation demands our immediate attention. There is much more at stake than the guilt or innocence of 160 persons in South Africa; we are witnessing a test of enormously important values to the free nations of the world. For what better distinguishes democracy from tyranny than the right of free men to seek change constitutionally? I urge you to help us with your generous contribution, whether it be \$100, \$20, or \$5. Let us not fail those in South Africa who stand at the front lines in this struggle.

Sincerely,  
JOHN GUNTHER,  
*Co-chairman.*



## CHAPTER SEVENTEEN

### PROLOGUE AND EPILOGUE TREASON IN SOUTH AFRICAN HISTORY

THE prologue to the drama which began to unfold with mass arrests at dawn, December 5th 1956, has been spectacular. The vast audience watching the stage responded with boos and catcalls for the producers and directors who expected applause.

The first act proved boring. For over six months the arrested 156 men and women, representing all races and all progressive opinions in South Africa, have sat in the Drill Hall, Johannesburg, listening to dull speeches from the prosecution, the evidence of numerous illiterate and semi-literate witnesses, and watching the handing in by the prosecution of thousands upon thousands of documents, to swell the Court record. Their tedium was enlivened only by the challenging speeches of Counsel for the defence and the sparkling cross-examination of Vernon Berrangé.

During the same period, however, events outside the Drill Hall have been much more exciting. For the first time in the history of South Africa, university chancellors, vice-chancellors, professors, lecturers and students, marched in procession through the streets of Johannesburg and Cape Town in protest against the introduction of apartheid in the universities. A little later Anglican, non-Conformist and Catholic Bishops courageously served notice on Dr Verwoerd that they will defy his law which prohibits black Christians and white Christians to worship in the same church—and defying the law in this instance means incurring the penalties of the monstrous Criminal Law Amendment Act, 1953: five years



imprisonment, ten lashes and £500 fine. Tens of thousands of African women throughout the length and breadth of South Africa are demonstrating with the slogan, 'African Women Will Never Carry Passes'.

But the most dramatic and effective demonstration of resistance to tyranny was seen during the bus boycott. The silent, dignified march of 150,000 pairs of African feet to and from work sent the shivers down the spines of those who are dreaming of establishing a permanent slave state in the southern part of the African continent. The echo of marching feet can often be more terrifying than the crackle of machine-gun fire.

Nothing lasts for ever and the long-drawn-out preparatory examination will soon come to an end and the real drama will then begin.

The Criminal Procedure Act, Act 56 of 1955, provides the steps which will follow. Section 74(1) reads:

'When it appears to a Magistrate upon the conclusion of a preparatory examination that there is sufficient reason for putting the accused on trial for any offence, the Magistrate shall commit the accused for trial by such a Court of competent jurisdiction as the attorney-general may decide. . . .'

The magistrate also has power to discharge the accused, but the final decision rests with the attorney-general who under Section 79 may (*a*) decline to prosecute the accused; (*b*) if the magistrate has committed the accused for trial indict them before a superior court; (*c*) even if the magistrate has discharged the accused indict them for trial before a superior court on a charge of any offence disclosed by the evidence taken at the preparatory examination and direct the magistrate to commit the accused for trial, if, in the attorney-general's opinion, the accused ought to have been so committed; (*d*) direct the magistrate to re-open the preparatory examination and take further evidence generally or in respect of any particular matter; (*e*) take such measures and give such directions for the trial of the accused before a competent court as he may deem most expedient.

According to the latest available information the accused



will be indicted before a Special Criminal Court. Section 112(1) provides:

‘Whenever an attorney-general decides to indict an accused upon a charge of treason, sedition or public violence, or of an attempt, conspiracy or incitement to commit such an offence and is of the opinion that if the accused were tried by jury, the ends of justice are likely to be defeated, he shall state in writing to the Minister such his opinion and the facts upon which it is based and specify the offence for which he proposes to indict the accused.’

Thereupon the Governor-General may constitute a special criminal court consisting of at least two and not more than three judges of the Supreme Court, thus depriving the accused of any right to trial by jury. What is more disturbing, however, is why must a special criminal court be established; why could not the accused be tried before the ordinary Provincial or Local Division of the Supreme Court, even if the number of Judges is to be increased to three and the verdict to be unanimous? Is there not bound to be widespread suspicion that the purpose of the special court is to enable the Government to ‘select’ judges? Provisions for the setting up of special criminal courts to try cases of treason, sedition and public violence are not new; they existed already under the Smuts Government. Their history, however, does not recall happy memories, as those who remember 1922 on the Rand will be able to testify. The special criminal court has the same power as the Supreme Court in inflicting punishment but the decision of the court must be unanimous.

Punishment for treason is dealt with under Section 329(1) which reads:

‘Sentence of death by hanging shall be passed by a Superior Court upon a person convicted before or by it of murder, and sentence of death by hanging may be passed by a Superior Court upon a person convicted before or by it of treason or rape’.

An accused convicted of any offence before a special criminal court may, not as a right, but only by obtaining leave to appeal from the court itself, or any judge who is a member of that court or if no such judge is available, from any judge of the Provincial or Local Division of the Supreme Court within



whose jurisdiction the special criminal court sat, appeal to the Appellate Division of the Supreme Court. Should such an application be refused the accused may petition the Chief Justice for leave to appeal. The Appeal Court may allow the appeal on the ground of a wrong decision of any question of law or that on any ground there was a failure of justice or give such judgement as ought to have been given at the trial or impose such punishment that ought to have been imposed at the trial or make such other order as justice may require. The Appeal Court may not impose any punishment more severe than the sentence imposed by the Court below.

No special criminal court has as yet been constituted, but if the accused are committed for trial, it has been reported in the Press that Mr Oswald Pirow, Q.C., will lead the prosecution and with him will be: Mr Japie de Vos, Q.C., who was a member of the Government's team in the constitutional case; Mr M. S. Louw, a son of Eric Louw, the Minister of External Affairs; Mr G. C. Hoexter, a son of the Judge of Appeal, and Mr Trengove, a Pretoria barrister.

Who is this man Pirow? The following article reprinted from *New Age*, the South African progressive weekly, of the 11th July 1957 describes the leader for the prosecution.

OSWALD PIROW is no longer practising at the bar. Most of the time he is busy producing pineapples and bananas on his farm at Bushbuckridge, in the Transvaal, so that for all practical purposes he would be emerging from retirement to conduct the prosecution in the treason trial.

Pirow's name is little known to the new generation of South Africans. But in the 20s and 30s he was a leading member of the Union Government, Minister of Justice and Minister of Defence, well known as an admirer of the Nazis abroad, one of the authors of the Riotous Assemblies Act as we know it today.

Pirow was born in the Transvaal in 1891, of German descent. In his youth he was a champion boxer and weight-lifter, won swimming competitions and was a formidable wrestler and a competent horseman.

#### ENTERED CABINET

He started his career as an advocate, and eventually became a K.C. In June, 1929, he entered Hertzog's Nationalist Government



as Minister of Justice in place of Tielman Roos, who had resigned on account of ill-health.

One of his first acts as Minister was to frame amendments to the Riotous Assemblies Act giving him the power to ban meetings and deport 'undesirables' from one area of the Union to another, without trial—provisions which were later taken over and expanded in the Suppression of Communism Act by the present Minister of Justice Swart.

As a measure of the esteem in which he was held in the democratic movement, his effigy was burnt by Africans at a public protest meeting at the time.

He also had a hand in framing the 'Native Bills', eventually passed in 1936, which deprived the Cape Africans of their vote on the common role.

As Minister of Justice, the man responsible for the conduct of the police force, Pirow always took a 'tough line' against the people's organisations.

#### DEFENCE MINISTER

When the Hertzog-Smuts coalition was formed in 1933, Pirow became Minister of Railways and Defence, and was responsible for the preparation of South Africa's military strength for the war which eventually broke out in 1939.

His first contribution to the army was the special service battalion (S.S.B.) organised on the Nazi model as an auxiliary to the permanent force. Each unit consisted of 1,200 men, mostly poor whites who had little prospect of other employment at a time when tens of thousands were workless as a result of the great economic slump.

His second contribution to the army was the bushcart, South Africa's 'secret weapon'. Just how effective it was may be gauged by the following quotation from the *Monitor* of March 22, 1946:

'The country will never forgive Pirow for his pro-German stand. As Minister of Defence he was voted a fairly large sum of money shortly before the war broke out. Nevertheless, some six months later his new army was found by General Smuts, who succeeded Pirow at the outbreak of the war, to be a "paper bushcart" army. . . . In these days of giant tanks and armoured cars, it seems incredible that in 1939, after Pirow had seen the German military machine with his own eyes, he still toyed with



wooden bushcarts pulled by oxen. He explained that these bushcarts would be a powerful weapon in bushveld warfare.'

Only 40 of these carts had been built by the time war broke out, though a further 400 were under construction.

'During the war these bushcarts did see service in military camps. They were reinforced with corrugated iron and used as dirt removers!'

The racialists did, of course, forgive Pirow his Nazi sympathies; but the country could never forget his bushcart fiasco. A great gust of laughter accompanied Pirow's departure from the political stage, and must have haunted him in his years of wandering in the wilderness thereafter.

#### ADMIRER HITLER

Just how Nazi-minded was Pirow?

He visited Germany twice in the thirties, and met the leaders of all the fascist countries during his tours of Europe.

Writing in his paper *Die Nuwe Orde* of February 14, 1946, of his meeting with Hitler in 1938, Pirow said:

'His words came in a flood, but the ideas were logical, crystal clear and strong. No, strong is not the right word. They were as gigantic as the mountains outside (at Berchtesgaden) and like the mountains they stretched to the horizon. It was the language, the philosophy of the 20th, the revolutionary century.

When we left a few hours later, I said to my friends: "He is the greatest man of his age, perhaps the greatest of the last 1,000 years." *That is still my opinion today!*'

Similarly he described Mussolini as 'one of the greatest men of his time. . . . He introduced the Revolution of the 20th Century and later generations will honour him for it.'

When Soviet troops marched into Berlin, and Hitler was killed, Pirow mourned: 'Adolf Hitler has fallen in the van of the fight against Bolshevism. He was the greatest man of his age, and one of the greatest of all times.'

When Goering and his pals were executed after the Nuremberg trial, *Die Nuwe Orde* printed a special edition. The whole of the front page was devoted to a memorial 'in memory of the martyrs of Nuremberg' whose names were printed in huge type inside a heavy black border.

Even Tielman Roos, who had been Pirow's first political leader, was forced to repudiate him in the 30s as a 'Little Hitler'.



## THE NEW ORDER

After his disappearance from the front rank of politics, Pirow devoted himself to the spreading of fascist ideas in South Africa through his New Order movement.

This is what he had to say about the Jews in his newsletter of October 1945:

‘I firmly believe that if every Jew could vanish from the earth, the world as a whole would be a better place.’

During the war, when brave South Africans were dying to save the world from Nazism, Pirow had the effrontery to publish his fascist blue-print for our country, entitled ‘The New Order for South Africa as revealed to Oswald Pirow.’ It was described by the late E. B. Dawson in the *Sunday Express* at the time as ‘an exact model of the Nazi constitution’.

Note the use of the word ‘revealed’. Pirow claims divine guidance for his fascism.

The first aim in this document is:

The rejection in form and character of democracy and the establishment of a South African Christian European National Socialistic Republic founded on state authority and civilian discipline.

Think of the Freedom Charter’s promise of equality, and read this from Pirow’s charter:

‘No influence which might create the possibility, even in the remotest future, of any form of equality between European and Non-European will be tolerated.’

As for immigration into the country, he stipulated that ‘The entrance of Jews and other undesirable persons will be prevented.’

Naturally, in Pirow’s Nazi state there could only be one function for the Non-Europeans to fulfil: ‘The Non-Europeans will be subject to compulsory labour service.’

## USE OF VIOLENCE

Pirow has not always been so keen on constitutional methods of struggle as he appears today. *Die Transvaler* (October 5, 1944) quoted him as saying that ‘there were more than half-a-dozen ways of getting into power. Although force was stupid at the present time, he did not bind himself to exclude unconstitutional and illegal methods if the interests of the volk should demand it.’

While South Africans were fighting on the battlefield, Pirow was praising ‘the disciplined youth, the Ossewa Brandwag, who



will be for us the stormtroopers of South Africa'. And being greeted at public meetings with cries of 'Heil Pirow'.

In 1947 he even forget himself so far as to lay himself open to a charge of public violence. Incensed by the refusal of the students of Wits to introduce apartheid in their Rag procession, he wrote in *Die Nuwe Orde*:

'The time has come for firm action from the nation itself and physical violence. The young men of white South Africa shall remove from the public these outgrowths of a spiritual destruction. Although it is an offence to incite people to public violence, today we offer this advice: where Non-Europeans intrude among Europeans, throw them out on their necks. Where Europeans entice them, and play with them, throw these renegades out with them. There are many occasions when a blow of the fist is a sign of vitality and not of lack of refinement.'

He was fined £10 or two months.

#### ANTI-COMMUNISM

Pirow spent his last few years in Parliament trying to persuade the Government to fight against the Communists instead of the Nazis. The *Star* described the speech with which he introduced his anti-Communist Bill as 'this rather worn-out attempt to ape the Nazi scare technique. . . . Mr Pirow's attempt to make the flesh creep with a Communist plot failed rather dismally from the start.' (February 11, 1952.)

Said the *Sunday Times*: 'A damp squib.'

The war had no sooner come to an end in Europe than Pirow called upon the Western powers to launch an immediate attack on the Soviet Union. The *Cape Times* commented: 'The most charitable comment one can make about Pirow, who has been making speeches again, is that his head ought to be examined.'

The paper added: 'Can democracy reasonably allow its freedoms to be abused by people whose declared purpose is to subvert democracy and eliminate freedoms? In other words, how much longer is any half-witted Nazi who feels so inclined going to be allowed to carry on with the work of undermining all for which South Africa fought?' (*Cape Times*, August 20, 1945.)

Is there any more to say? This is the man who has been chosen, from amongst all others, to present the Government's charge of treason against the 156. Perhaps it would be fitting to end this profile with Oswald Pirow's own definition of treason contained in the final paragraph of his New Order: 'Our party will have



to develop into a wide and embracing National movement, and all other parties will have to disappear. We can dispute the actual form of the republic, but he who wants to strike a compromise over its nature commits treason.'

High Treason in South Africa is a common law offence under Roman-Dutch Law and is defined as follows:

'High Treason is committed by those who with a hostile intention disturb, impair, or endanger the independence or safety of the State or attempt, or actively prepare to do so'.

The turbulent history of South Africa has produced an unusual number of treason trials. The first of such a trial of which a record is available arose out of the Slagter's Nek Rebellion.

In 1815 a group of Dutch settlers revolted against British rule in the Cape. According to the prosecution, the evidence showed that the rebels sent a message to the Xoxa chief, Gaika,

'in order to request help and support in the projected rebellion against His Majesty's troops and to entice their assistance by promises, not only of such trifles as these barbarians are fond of, but also of the cattle both of the troops and peaceable inhabitants, and finally the district of the Zuurveld from which the Kaffirs have been driven now four years ago with so much trouble and expense.'

The leaders were tried for treason and six were publicly executed. In the case of the seventh the court ordered that he was

'To be made fast around the neck to the gallows and exposed to the public view, and, together with the other prisoners, to witness the execution.'

The gallows broke under the weight of the six men and this caused a terrific commotion among those who had assembled to witness the execution. One by one the condemned men were lifted up and hanged again.

This ghastly episode left a trail of bitterness among the Afrikaners and it is not yet forgotten.

In 1818 a Xoxa chief, Makana, rose in revolt against a

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renegade chief Gaika who had been appointed by the British after they had taken by force much land and thousands of head of cattle from the Xoxas. Gaika was defeated and Makana attacked Grahamstown. He in turn was defeated by the British, charged with high treason and sentenced to life imprisonment. He was sent to Robin Island, near Cape Town, and a year later he was drowned whilst leading a group of prisoners in a bold attempt to escape.

Dinizulu, descendant of the famous Zulu warrior Chaka, has the distinction of being the only South African ever to have been convicted of treason *twice*. In 1887 he was sentenced to ten years imprisonment when he tried to resist the seizure of his land by the British. Some thirty years later, during the Zulu revolt led by Bambata, Dinizulu was again charged with treason. The Bambata revolt was ruthlessly suppressed and for a time Dinizulu gave shelter to Bambata's wife and children and for a little while to Bambata himself. Had Dinizulu been tried by a Natal court he would have been sentenced to death, but after a public campaign led by the Bishop of Colenso, Natal, he was transferred to the Cape where he was tried by a special court and sentenced to four years imprisonment.

Not only Afrikaners and Africans engaged in 'treason' but also imminently 'respectable' British adventurers, associated with mining interests. In 1897 the Jameson Raid was organised with the object of destroying the Transvaal Republic. The Raid ended in a fiasco and several people, including Sir Lionel Phillips and other members of the Reform Committee which helped to organise the Raid, were charged with treason and some were sentenced to death. Millionaires don't hang so easily and Phillips and his friends were released on the payment of a heavy fine.

During the Boer War of 1899-1902 many Afrikaners in Natal and the Cape, which were British territory, rendered assistance to the Boers of the Transvaal and the Free State. A number of British citizens considered the cause of the Boers just and helped the 'enemy'. Several Afrikaners were summarily executed by Courts Martial and others were convicted by civil courts. More bitterness resulted.

After declaration of war in 1914, groups of Afrikaners rose



in revolt to re-establish the Boer Republic, and some made contact with German troops in what was then German South West Africa. Botha and Smuts speedily crushed the rebellion and trials for treason and sedition followed. Most of the rebels were treated leniently by the courts, but one poor Afrikaner, Jopie Fourie—he was no millionaire—was tried, sentenced and hanged. Like the men of Slagter's Nek, he is an Afrikaner martyr and hero.

Numerous treason trials followed after the strike of the white miners on the Rand in 1922. As a result of the provocative action of Smuts, the strikers took up arms and for a week commencing the 10th March 1922 the Rand was in a state of civil war. The strikers were defeated and scores were charged with treason, sedition and public violence. The decisions of the Appellate Division in the cases of *Rex v. Erasmus* and *Rex v. Viljoen* (Erasmus and Viljoen were miners' leaders) are the main decisions in South African law defining treason and will be quoted time and again if the 156 people who are undergoing preparatory examination at present are committed for trial.

The most recent case for treason is that of Robey Leibrandt, a former member of the South African Police Force, who went to Germany and joined the Nazi army during World War II. He was landed in South Africa by a German submarine, but was caught, put on trial for treason and sentenced to death. His sentence was commuted to life imprisonment and the Nationalist Government passed a special law exonerating Leibrandt and others who had been convicted for subversive activities on behalf of Germany.

Needless to say that the present trial differs fundamentally from all previous trials for treason. South Africa is not at war, nor is the country threatened with industrial unrest or civil commotion. The large group of accused who represent every racial group in South Africa carried no arms, their only weapons being the Freedom Charter and similar documents.

The legal definition of treason in South Africa is vague enough to include all sorts of actions which are not even remotely connected with treasonable activities as understood in civilised countries. In this connection it would not be out of place to quote from the famous judgement of *Rex v. Roux*



and another (1936 A.D.271) Dr Roux and a colleague were charged with a crime known in Roman-Dutch Law as *laesae majestates* (a crime closely allied to treason) and were sentenced by a Natal Court to four months imprisonment with hard labour. Roux appealed and the Appellate Division upheld the appeal and set the conviction and sentence aside.

After a lengthy examination of the Roman and Roman Dutch Law on the subject, Chief Justice Curlewis in the course of his judgement said:

‘So too, we, under the conditions of our modern civilization and development, and our political liberty and freedom of thought and speech, cannot be expected to accept the narrow and restricted views of the sixteenth to the eighteenth centuries, as regards criticism of the monarch, as applicable in the present state of our political advancement.

We have travelled a long way on the road of freedom of speech and of political criticism since the days when it was a crime *laesae majestates* to enter a house of ill fame or a latrine with money in one’s possession or a ring on one’s finger bearing the image of the Princeps; or even since the days when it was *laesae majestates* to throw stones at or to melt down the statue or bust of the Princeps, or to urinate in close proximity thereof. We must interpret the language complained of by the light of modern thought and freedom of speech, and not by the light of the restricted ideas of the Middle Ages.’

In the last nine years when Mr Swart has been in charge of freedom of speech and of political criticism, South Africa has moved back not to the sixteenth and eighteenth centuries but to the tenth. The principles enshrined in the Magna Carta are held in contempt by Mr Swart. Many leading nationalists have repeatedly proclaimed that the State is the Volk and the Volk of course is the Nationalist Party; the leader of the Nationalist Party is God-appointed and carries out the will of the Volk. In South Africa Adolf Hitler has supplanted John Locke. Perhaps the prosecution will argue that ‘majesty’ is vested in Mr Strijdom and the Nationalist Party and those who oppose them are guilty of treason. The law of treason in Germany underwent a complete change after 1933.

It is hoped, however, that the judges of the special criminal



court will be guided by the principles enunciated by Chief Justice Curlewis in the Roux case admirably supported by Beyers, J.A. and not by the political theories of the Nationalist politicians.

There is a strong possibility that the accused will not be charged with High Treason but with contravening the Riotous Assemblies and Suppression of Communism Acts which give the Government very wide powers. Here it is worth while quoting from a speech by Mr Gerald Gardiner, Q.C., delivered at a public meeting at the Central Hall, Westminster, on February 4th 1957:

We know what we mean by Communism in this country; we may think it means the same in South Africa, but that is not so at all. Let me read you the definition of Communism as defined in the Suppression of Communism Act, 1950:

“‘Communism’ means the doctrine of Marxian Socialism as expounded by Lenin or Trotsky, the third Communist International (the Comintern), or the Communist Information Bureau (the Cominform), or any related form of that doctrine expounded or advocated in the Union for the promotion of the fundamental principles of that doctrine and includes, in particular, any doctrine or scheme—(a) which aims at the establishment of a despotic system of government based on the dictatorship of the proletariat under which one political organization only is recognized and all other political organizations are suppressed or eliminated; or (b) which aims at bringing about any political, industrial, social or economic change within the Union by the promotion of disturbance or disorder, by unlawful acts or omissions or by the threats of such acts or omissions or by means which include the promotion of disturbances or disorder, or such acts or omissions or threats; or (c) which aims at bringing about any political, industrial, social or economic change within the Union in accordance with the directions or under the guidance of or in co-operation with any foreign government or any foreign or international institution whose purpose or one of whose purposes (professed or otherwise) is to promote the establishment within the Union of any political, industrial, social or economic system identical with or similar to any system in operation in any country which has adopted a system of government such as is



described in paragraph (a); or (d) which aims at the encouragement of feelings of hostility between the European and non-European races of the Union the consequences of which are calculated to further the achievement of any object referred to in paragraph (a) or (b).'

So if the Government passes a law which discriminates against the non-European, and, therefore, causes a feeling of hostility between the European and the non-European, that is not Communism. But if anybody protests against the law in a manner likely to cause disorder, that is Communism.

The original definition of Communism in the Suppression of Communism Act of 1950 was replaced by the following definition:

'A "Communist" means a person who professes or has at any time before or after the commencement of this Act professed to be a Communist or who, after having been given a reasonable opportunity of making such representation as he may consider necessary, is deemed by the Governor-General or, in the case of an inhabitant of the territory of South West Africa, by the Administrator of the said territory, to be a Communist on the ground that he is advocating, defending, or encouraging or has at any time before or after the commencement of this Act whether within or outside the Union, advocated, advised, defended or encouraged the achievement of any of the objects of Communism or any act or omission which is calculated to further the achievement of any such object or that he has at any time before or after the commencement of this Act been a member or active supporter of any organization outside the Union which professed, by its name or otherwise, to be an organization for propagating the principles or promoting the spread of Communism, or which engaged in activities which were calculated to further the achievement of any of the objects of Communism.'

So if you were a Communist 40 years ago you are a Communist to-day. And, whether you are a Communist or not, you are a Communist if the Governor-General says that you are. The Governor-General is the ex-Minister of Native Affairs of the party in power.



### NOTE BY E. S. SACHS

THIS book has been written jointly by Lionel Forman, accused No. 83 in the mass Treason Trial now proceeding in Johannesburg, and myself. I have never met Lionel personally but have followed his activities in the cause of African freedom, first in the universities of Cape Town and the Witwatersrand and later as editor of *New Age*, with the deepest admiration. Lionel and I have one thing in common: we both want to see South Africa free, prosperous and happy; yet we probably have some differences in regard to policy and tactics. I have found his story, based as it is on first-hand information and told with sparkling vigour, fascinating. I must add however that he is in no way responsible for the views I express in the second part of the book which I wrote. The readers, I hope, will forgive us for any shortcomings. We were anxious to produce the book as quickly as possible in the interests of liberty. We make no apologies for writing with passion. We are both not 'outside observers' but active participants in the struggle against tyranny. We might have produced a better book if we had not been separated by a distance of six thousand miles and Lionel did not have to spend so much of his time in the dock in the Drill Hall.

It is our intention to continue with our co-operation and to write the second book which will deal with the trial itself.

The General Election in South Africa is due to be held in 1958—no fixed date has yet been announced. No doubt certain people in South Africa will seek to relate the Treason Trial to the election, but whether they will be anxious to get a verdict before or after the election no one can tell.

At all events the case is not likely to end before the middle of next year. If the accused are found not guilty an extraordinary chapter in the history of South Africa will come to



an end but the history book will by no means be closed—freedom will still be a long way off. If on the other hand the accused are found guilty, there is almost certain to be an appeal to the Appellate Division and a final decision will not be reached probably before 1959.

Many people prophesy inevitable disaster for South Africa. We reject all prophecies of doom and firmly believe that if all the liberty-loving people within South Africa exert themselves to the utmost and will not allow themselves to be intimidated, freedom and security for all racial groups will be attained peacefully.

Both Lionel and I express our deep appreciation to the publishers not only for publishing our book but for their decision to donate all the profits to Christian Action South African Legal Defence Fund.

E. S. SACHS.

*London, August 15th, 1957.*



11 February 1999

To Sadie Forman

***The South African Freedom Trial by Lionel Forman and E.S. (Solly) Sachs***

Solly Sachs who sent the book to me from London inscribed it to me. Coincidentally he dated the inscription on my Mother's 59<sup>th</sup> birthday, 11 February 1958. Lionel was of course not able to inscribe it.

During the long years in prison from July 1963 to February 1985 I had no thought for most of the things I had left behind at home when I went underground in May 1963. In truth I had no exact recollection of exactly what I had left behind. When I was released and joined Esmé, my wife, in exile in London I knew she had moved home a number of times after she had left Cape Town to go into exile. We had never made lists of the things we owned and books were things to be used rather than to be kept in pristine glory. We lent books to friends and comrades.

Sometime in about 1992 Ray Alexander, while visiting London, phoned me at home one evening. She insisted I go at once to see her at the home of her niece Zelda. She was very insistent. It seemed to me I was back in the old days of underground politics in South Africa in the nineteen fifties. Once Ray had me woken at about one in the morning to fetch Dora Tamana from the Blaauvlei squatter settlement because she was leaving to go overseas and the Security Police had already stopped Dora once for trying to leave without a passport. Dora was going to an International Women's Conference. Now there was the same insistent urgency. Anyway, one didn't argue with Ray.

I arrived at her niece's home in Northwest London. Ray seemed tired. I knew she had a serious heart condition. She told me she had something for me and gave me the book on the treason trial like a magician producing a rabbit out of a hat. Amazing! I had forgotten that we had had the book. "But Ray", I asked, "how did you come to have the book." She explained that Muff Anderson was working on her biography in Lusaka. Muff's mother, when visiting her daughter in Lusaka had stopped over in Gaborone, in Botswana. Walking down the street she had seen a table of books for sale on the sidewalk. Out of curiosity she looked at the books and on picking up this one recognised it and my name in it. She bought it and entrusted it to Ray to return it to me. What a series of coincidences!

In January 1999 Sadie Forman told me that she no longer has a copy of the book co-written by her husband Lionel.

Dear Sadie,

Esmé and I would like you to have this copy of the book, forty-one years after it was sent to us, and on the hundredth anniversary of my mother's birth, to complete your collection of Lionel's writings. That you intend to place it in the archive at the University of Fort Hare pleases us even more. One of our comrades must have taken the book with him when he slipped out of the country into the exile-underground in the nineteen sixties. Now it is returning home. It is returning to a library where it will not only be preserved, but it will once again be available for people to use. After all, books are for use, not merely to be preserved. But I do hope it will be well looked after so that it can be used for a long time to come.

*Love Denis Goldberg*







