

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

SALUB 82

Period Covered: 17th - 26th May, 1960.

Professor Matthews and Evidence:

On the resumption of the Court, on 17th May 1960, the cross-examination of Chief Luthuli was interrupted when Mr. Duma Nokwe, one of the accused, made a statement to the Court on the question of Professor Matthews and his evidence:-

"On May 2nd, Mr. Mandela addressed your Lordships on an allegation that the authorities had unduly interfered with Professor Matthews. Mr. Mandela gave Your Lordship details of the facts upon which this allegation was made.

"Your Lordship will further recall that Mr. Mandela stated that the Crown had given the impression that the version of the accused and Professor Matthews was untrue and he stated that the matter was serious and should be investigated by the Court by hearing evidence."

Mr. Justice Rumpff: "Who made that suggestion?"

Reflection:

Mr. Nokwe: Indeed My Lord, it was clear to us then that the Crown had suggested that the version of the accused and their witness was a fabrication. We regarded this as a serious reflection on both ourselves and our witness.

"On the 10th May, Your Lordship, I addressed Your Lordship and stated that Professor Matthews had informed us that he was not willing to give evidence during the State of Emergency.

Adv. Trengrove, for the Crown, then stated that the Crown did not accept the position as stated by us, that they did not accept the explanation for not calling Professor Matthews, He said:-

"the accused cannot hide behind the Emergency Regulations as an excuse for not calling Professor Matthews."

"On Wednesday 11th, the day after I had made that statement in Court, Professor Matthews, we are instructed, was driven from the gaol to this Court, not, My Lords, at his own request, but at the instance of the Crown.

"We are instructed, My Lord, that Professor Matthews met Advocate Trengrove who was later joined by Mr. van Niekerk. Adv. Trengrove told him that he had called him to find out about the question of giving evidence."

Letter Lost in Transit?

"We are instructed that Professor Matthews informed Mr. Trengrove that he had written a letter to the Registrar, whereupon Adv. Trengrove said that he was not aware of this letter and had not seen it. Professor Matthews told him the contents of the letter.

"Adv. Trengrove then told the witness that the accused could subpoena him if they wanted him to give evidence. Professor Matthews was returned to the prison.

"At no stage, My Lords, did Adv. Trengrove inform us that he was going to interview Professor Matthews, our witness, nor did he subsequently report that he had indeed so consulted or interrogated our witness....."

Mr. Justice Bekker: May I ask on a point of clarification here, I thought that he was not going to be a Defence witness. Why do you say "our" witness?"

Mr. Nokwe: "We say so My Lord, because we made it very clear at page 13,372 that we were not going to call Prof. Matthews during the State of Emergency."

Mr. Justice Bekker: "Well, we don't know how long the State of Emergency is going to last."

Mr. Nokwe: "That is so, My Lord, it might end tomorrow, it might end in the next six weeks. He nevertheless still remains our witness, and we are likely to call him as a Defence witness."

No Testimony During Emergency:

Mr. Justice Rumpff: "On this date, the 11th, Professor Matthews had indicated that he was not going to give evidence."

Mr. Nokwe: "During the State of Emergency, that is absolutely clear."

Mr. Justice Rumpff: "It doesn't matter, he says he is not going to give evidence. He also indicated that you could subpoena him. You haven't subpoenaed him?"

Mr. Nokwe: "We have not subpoenaed him yet, My Lord. But I think it is absolutely clear that Professor Matthews as an alleged co-conspirator in this case, My Lords, could certainly not be the Crown's witness.
"We say, Your Lordships, that this went on behind our backs. This investigation was obviously conducted by the Crown Your Lordship, because the Crown did not accept the explanation and it was done in our view with the hope of finding that statements were made in Court which were not true."

Two Visitors:

"On the same day, Your Lordships, Professor Matthews was visited in gaol and interrogated by a gentleman whom he believes to have been a policeman in plain clothes. This gentleman was accompanied by a prison official. Professor Matthews was asked why he did not accept the assurances of the Minister of Justice and whether he could put his hand on his heart and say that there was nothing behind the statement he had made that he was unwilling to give evidence in this Court.

"Professor Matthews was further told that he was a well educated man and should know that when the Minister of Justice had given an assurance it should be accepted."

Mr. Justice Rumpff: "Did you get all this information from Professor Matthews?"

Mr. Nokwe: "Yes, My Lord. This official told Professor Matthews that in his view he should give evidence.

"My Lord, it seems to us that the Crown and the authorities are taking advantage of the State of Emergency in order to commit what in our view constitutes a gross irregularity.

"At no stage, My Lords, have we enlisted the assistance of either the Crown or the authorities to help us prepare our witnesses. Nor have we asked anybody to persuade Professor Matthews to come and give evidence."

Investigation of Witness Alleged:

"We resent, Your Lordships, the suggestion that statements made by us or on our behalf in open Court are false and require detective work, both by members of the Crown team and by the authorities.

"We also resent the suggestion made, Your Lordships, without foundation, that statements made by our witness to this Court are untrue and that there is something else behind them. As far as credibility and our honesty is concerned, Your Lordship, the Crown will have ample opportunity to test that during these proceedings, but most of all My Lord, we object in the strongest terms to members of the Crown team and the police authorities interrogating our witness...."

Mr. Justice Rumpff: "What do you mean by 'our witness'? It is obvious that you don't want him to give evidence."

Mr. Nokwe: "We don't say we don't want Professor Matthews to give evidence, Your Lordship. We say that it isn't the duty of the police authorities to assist us."

Mr. Justice Rumpff: "I am putting it to you that the impression is that you don't want to call him as a witness."

Mr. Nokwe: "During the State of Emergency, Your Lordships, which might end at any time. And we say this is done merely because, Your Lordships, Professor Matthews is detained."

JUDGE ASKS "WHY?"

Mr. Justice Rumpff: "Now why don't you want to call him to give evidence during the State of Emergency?"

Mr. Nokwe: "Because, Your Lordship, he has given us his honest opinion that he is not willing to give evidence during the State of Emergency."

Mr. Justice Rumpff: "So you don't want to call him because he doesn't want to give evidence?"

Mr. Nokwe: "Exactly, Your Lordship, that is the statement I made to this Court last week."

Mr. Justice Rumpff: "If he is willing to give evidence, would you subpoena him?"

Mr. Nokwe: "We wouldn't even have to subpoena him Your Lordship, he would just come and give evidence at our request."

CROWN EXPLAINS

Adv. Trengrove: "My Lords, to a certain extent the statement made by the accused Nokwe is a reflection on my integrity personally and also on the conduct of the Crown, and in view of that My Lord, in view of the fact that I am involved personally I do not wish to reply in the language which I would otherwise have done, and I will merely put the facts before your Lordships as they are available to the Crown and leave the matter in Your Lordship's hands.

"My Lords, the statement that was made by the Crown that it didn't accept the explanation of the Defence for not calling Professor Matthews was based on the fact that the unwillingness of a witness to testify is not excuse for not calling him. Many witnesses are unwilling and they are brought to court under subpoena.

"Professor Matthews, after the Defence had said that they were not calling him, was called and that question only was put to him: whether he

"wanted to give evidence as soon as the State of Emergency is lifted, which might happen any day, and in that event the Crown could keep him here so that he would be available at the shortest possible notice to the Defence."

NO INTERFERENCE:

"On the other hand, if he did not wish to give evidence at all, it seemed more practicable to send him back to his original place of detention. That position was explained to Professor Matthews and he accepted it. At no stage, My Lords, was there the slightest intention of interfering with the witness at all."

Mr. Justice Rumpff: "The only other allegation is that somebody visited him in the company of a prison officer and suggested to him that he might give evidence or should give evidence."

Adv. Trengrove: "My Lords, we have no knowledge of that at all."

Mr. Justice Bekker: "Mr. Nokwe, you have heard the Crown's explanation."

Mr. Nokwe: "I have heard, Your Lordship, but Your Lordship, Advocate Trengrove says he asked only one question. But this doesn't seem to tally with what Professor Matthews told us."

Mr. Justice Bekker: "There is an apparent conflict of fact. What do you suggest we do about it?"

Mr. Nokwe: "I leave it entirely in Your Lordship's hands."

Mr. Justice Bekker: "Mr. Nokwe, it seems to me certain things fall within the jurisdiction of this Court. To the extent that matters do fall within our jurisdiction we can deal with them."

Mr. Nokwe: "In the first place, Your Lordship, I find it very difficult to understand why the Crown should go and ask Professor Matthews whether and when he will be called."

Mr. Justice Bekker: "As I understand the Crown, the Crown wanted to know whether he is going to be called as a witness, then they will keep him here. If his desire is not to give evidence, he can go home. That was the purpose of the interview."

Mr. Nokwe: "As your Lordship pleases. The suggestion seems to be that Professor told the Crown that he is not prepared to give evidence. But that has never been the attitude of Professor Matthews that he will not give evidence."

PERSUASION:

Mr. Justice Bekker: "It may be that the Crown isn't aware at all of the fact that there was a subsequent interview by certain people in an endeavour to persuade Professor Matthews to give evidence. Whoever interviewed him, if there was this interview, did so under the Emergency Regulations. Now if that is the position, can you bring it home to the Crown?"

Mr. Nokwe: "Your Lordship, if that is the position then that raises an entirely different point, and a much more serious point, namely that our witnesses are subjected to interrogation about matters which are before the Court."

Mr. Justice Rumpff: "Professor Matthews told you what happened between him and the person who interviewed him, that he was asked whether he wouldn't reconsider the question of his evidence."

Mr. Nokwe: "I have given Your Lordship almost a verbatim report of what went on. He was asked why he did not accept the assurance of the Minister, that he should accept the assurance of the Minister, and also if there was nothing else behind his unwillingness to give evidence."

"I did not see that it is the function, nor the right, of a police officer to go and interrogate a witness in this way, Your Lordship."

PRECOGNITION?

Mr. Justice Rumpff: "But he isn't a witness."

Mr. Nokwe: "He is going to be a witness Your Lordship. It is merely a question of time, he is not a witness now."

Mr. Justice Rumpff: "He may be."

Mr. Nokwe: "He may be, that is so, and he is being precognised by the Defence."

Mr. Justice Rumpff: "At the moment he is not a witness."

Mr. Nokwe: "Your Lordship, he is being precognised by the Defence - he has been precognised. A witness, surely Your Lordship, doesn't become a witness until he has given evidence. He is, moreover, a co-conspirator in this case, Your Lordship."

Mr. Justice Rumpff: "An alleged co-conspirator".

Mr. Nokwe: "I can only say that the simplest way in which the Crown could have found out what they wanted to know was to ask the Defence at what stage they intended calling Prof. Matthews, because this is going to be determined by the Defence."

Mr. Justice Rumpff: "We have heard the statement by Mr. Nokwe and the explanation by Mr. Trengrove. We don't think that any irregularity has been committed and we don't propose to take any steps in this matter."

Adv. Trengrove: "My Lords, the co-accused Nokwe has mentioned the matter that people may be interrogated under the Emergency Regulations, and that those people may turn out eventually to be their witnesses."

"If the accused Nokwe could give the Crown a list of witnesses they intend calling, the Crown may be able to assist the Defence in that respect."

WESTERN AREAS REMOVAL

Returning to Chief Luthuli's evidence, Mr. Justice Rumpff questioned him about a document entitled "Report of the Secretariat on the Western Areas". This document had been found in the offices of the A.N.C. and contained a lengthy review of the campaign against the Western Areas Removal Scheme. Chief Luthuli said that he had not seen this document before.

Mr. Justice Rumpff: "Whether you remember this document or not, I just want to read this paragraph again to you, because it may mean something, and I want your opinion on that meaning or that possible meaning. The paragraph reads - this is after the campaign: "We must keep clear in our minds the objective of the campaign. Simply stated this is to arouse the people and to organise them in a campaign of resistance to apartheid." Now the first campaign referred to is not the campaign in

regard to the Western Areas, apparently it is the Resist-Apartheid Campaign?--"

Chief Luthuli: "Of which the Western Areas was a part."

Mr. Justice Rumpff: "Yes, at that stage it included it. "The basis of such resistance is to take the form of non-collaboration of a quantity and quality which must compel the government to use all its resources to impose its will at any and every stage." Now "non-collaboration of a quantity and quality", would that include action similar to what took place at Meadowlands, in other words an unwillingness to go, and industrial action?--"

Chief Luthuli: "Yes, My Lord."

WHAT IS POSITIVE ACTION?

Mr. Justice Rumpff: "To use 'of a quantity and quality which must compel the government to use all its resources to impose its will." In this case police were necessary to remove the people from Meadowlands. Had there been industrial action, there would have been a straining of resources, I take it?"

Chief Luthuli: "That is so, My Lord."

Mr. Justice Rumpff: "Then it goes on, "Non-collaboration from the masses and the individual, designed ultimately to strain the resources of the authorities and create a situation more favourable to the movement, and for more direct and positive action." Now assume you have a refusal to move or a refusal to pay taxes and you have a stay-at-home strike. Could it be then said that there is now a situation more favourable for direct action? If so, what action was contemplated?--"

Chief Luthuli: "Well----"

Mr. Justice Rumpff: "In other words, if I may repeat it, if you have a situation where you are straining the resources of the authorities, the police and everybody, through a variety of methods, then apparently this paragraph says a situation has arisen for more direct and positive action. Now what could that mean?"

Chief Luthuli: "I follow My Lords, I wouldn't - I really wouldn't-----"

Mr. Justice Rumpff: "You see, it might be argued that if read in the way I have done it, it means only one thing - that if you have the authorities or the state in a position of extreme strain, then the only direct and positive action may be open revolution?--"

Chief Luthuli: "I follow, My Lord. I wonder if My Lordship would allow me to exercise my mind a bit more to it."

Mr. Justice Rumpff: "I would very much like you to consider this."

Adv. Trengrove: Resuming his cross-examination:-

"Mr. Luthuli, while you are considering it, I want to suggest to you that that is exactly what the African National Congress had in mind?"

Chief Luthuli: "My Lords, regardless of what interpretation I might have had later, I am positive that it was not in the mind of the African National Congress to go outside its policy."

ADV. TRENGROVE: "Mr. Luthuli, you will agree that a campaign like the Western Areas, as contemplated by the African National Congress and conducted to the extent set forth in that memorandum, would seriously disturb and impair and endanger the existence and security of the state?--"

CHIEF LUTHULI: "I have already expressed my point of view regarding that, My Lords, but I think I had better repeat it, and it is this - that insofar as endangering the security of the state, the African National Congress doesn't work with that in mind. It does work to bring a stronger pressure on the government, but it has no intention, it has said so, of destroying the existence of the state."

Adv. Trengrove: "Mr. Luthuli, I didn't ask you the intention of the African National Congress. I asked you, I put it to you that that type of campaign constitutes a danger to the safety and security of the state whether it was intended or not?"

Chief Luthuli: "My Lord, speaking as a layman, I generally associate endangering the security of the state more with armed force."

Adv. Trengrove: "So your answer to that question is NO."

Chief Luthuli: "Yes."

Adv. Trengrove: "That type of campaign doesn't endanger the safety and security of the state? Is that your answer?"

Chief Luthuli: "That is what I would say, My Lord."

RESHA RECORDED

On the next day, 18th May, Adv. Trengrove asked Chief Luthuli to listen to a tape recorded speech made by the Accused Mr. Resha on 22nd November, 1956, at 37 West Street, Johannesburg, the office of the African National Congress.

Adv. Trengrove: "Mr. Luthuli, it was a secret meeting, at which only certain delegates who presented their credentials were allowed to be present. I am playing a portion of the meeting only, that is the whole of Resha's speech as taken down on the tape. Now I just want to give you this transcript. It was a secret meeting according to the evidence, called for the specific purpose."

The tape recording was then played. One sentence in the speech was:- "If you are a true volunteer and you are called upon to be violent you must be absolutely violent. You must murder, murder."

Adv. Trengrove: "Mr. Luthuli, you have listened to what the Crown alleges to be the voice of Resha. Do you agree that it is a subversive speech; a speech inciting people to violent action?"....

Chief Luthuli: "My Lords, I will not say subversive because I don't know the legal meaning, but it is a very violent speech."

Adv. Trengrove: "Did you hear the reaction of the people to whom he was speaking?"

Chief Luthuli: "Yes, I heard."

Adv. Trengrove: "And what was that reaction?"

Chief Luthuli: "They applauded."

Adv. Trengrove: "Is it inconsistent with your alleged policy of

non-violence?"

Chief Luthuli: "In part it is."

Adv. Trengrove: "Now Mr. Luthuli, did any of the members of the National Executive or anybody ever take any steps about this speech?"

Chief Luthuli: "My Lords, I wouldn't know to what extent the National Executive became aware of the speech. I was not aware of it; I don't know how many were aware of it, other than those who were at the meeting."

A FIGHTING SPEECH

Adv. Trengrove: "Now having listened to the speech, are you shocked to hear that a speech of this nature was made?"

Chief Luthuli: "There are some parts that shock me. There are parts that one might call a fighting speech, but there are some parts that I don't like at all."

Adv. Trengrove: "Mr. Luthuli, at that meeting, according to the evidence of the Crown at this stage, nobody dissociated themselves with any part of that speech?"

Chief Luthuli: "That is possible."

Adv. Trengrove: "Would that type of conduct be consistent with an organisation which has a non-violent policy?"

Chief Luthuli: "I have already indicated that there are some parts which I condemn."

Adv. Trengrove: "Now the attitude of the other people there, who know the policy of the African National Congress?"

Chief Luthuli: "My Lord, naturally I cannot explain the reaction of people who were."

ADV. TRENGROVE: "You see, Mr. Luthuli, if the Volunteer-in-Chief makes that type of speech, who is in a better position to know what the duties of a volunteer are than the Volunteer-in-Chief?"

CHIEF LUTHULI: "Oh that doesn't follow. If I may make an illustration, My Lords. I don't know about army technique, but surely if a general were to do something that were not right, I don't think it could be said that therefore the whole policy would have to be aligned to what that particular general, who is wrong, did. I wouldn't accept that proposition."

Ad. Trengrove: "I am not asking you to approve of what he did. I want to know who was in a better position than Resha to know what the duties of a Volunteer are? Was there any person in a better position than Resha?"

Chief Luthuli: "No."

Adv. Trengrove: "And I put it to you, Mr. Luthuli, that Resha made this speech and he gave those instructions to the Volunteers because that was exactly what Volunteers were expected to do? And you know that."

Chief Luthuli: "I don't because Resha would be expected to lead the Volunteers along the policy of Congress. Now if Resha as a general departs, he departs as Resha. It has nothing to do with the policy of the African National Congress."

Adv. Trengrove: "And judging by the reaction of the people whom he addressed, do you think they thought he was departing from policy?"

Chief Luthuli: "My Lords, it is difficult to say about the whole meeting. It was a time when feelings were very high, and their applauding might be interpreted as approving. On the otherhand I wouldn't really go as far as to say that they are applauding the violent aspects. As I have already indicated, I don't approve, it would be contrary to Congress policy, and if they were applauding that part, then they were wrong."

THE MEANING OF "OVERTHROW"

Mr. Trengrove then cross-examined Chief Luthuli on the report of the National Consultative Committee on the Anti-Pass Campaign. He read the paragraph: "But victory for the people means the end of the cheap labour system of South Africa, and this can only be finally achieved by the overthrow of the ruling parties of South Africa."

Adv. Trengrove: "Now was it the purpose of the A.N.C. in conducting this campaign to overthrow the ruling class in South Africa?"

Chief Luthuli: "I have expressed myself in similar expressions. It depends on the interpretation you put on "overthrow"."

Adv. Trengrove: "Now, Mr. Luthuli, there can be only one interpretation of "overthrow" of the ruling class?"

Chief Luthuli: "I am not sure. I am not an expert in English."

Adv. Trengrove: "What explanations have you got for "overthrow of the ruling class?"

Chief Luthuli: "I mean democratically getting rid of the ruling class."

Adv. Trengrove: "By negotiating with them?"

Chief Luthuli: "By forcing them to negotiate or getting the electorate to get rid of the ruling class."

Adv. Trengrove: "But Mr. Luthuli, you have already said in your evidence that the people that have the vote are the ruling class in South Africa?"

Chief Luthuli: "I have, yes. I have also said that by applying pressure on the electorate, the white electorate...."

Adv. Trengrove: "On the ruling class?"

Chief Luthuli: "Yes, on the ruling class."

ADV. TRENGROVE: "By applying pressure on them?"

CHIEF LUTHULI: "By applying pressure on the ruling class we have good reason to hope that there will arise out of the ruling class a people who might induce the government to change. I have said that over and over again in my evidence."

ADV. TRENGROVE: "And you would describe that as the overthrow of the ruling class?"

Chief Luthuli: "Yes."

Adv. Trengrove: "If the ruling class is willing to extend the vote to the Africans, that would be overthrow of the ruling class?"

Chief Luthuli: "I indicated somewhere in my evidence that it is the overthrow, My Lords, of a system, not necessarily of persons."

Adv. Trengrove: "Mr. Luthuli, you visualise that ultimately parliament would pass the necessary legislation to give effect to your aspirations?"

Chief Luthuli: "Yes."

Adv. Trengrove: "Then I want to go on with the report. "There are

"other ways of struggle against the pass laws, each of which has its place. Pass laws can be fought by demonstrations and strikes, by petitions and meetings, by boycott and resistance and disobedience, by active struggle as well as passive. Which of these ways is the best? This can only be conceived in the precise circumstances in which we find ourselves in each area at any one time. Sometimes one and sometimes another. We must learn from the errors of the Bantu Education and the Western Areas Campaign not to be rigid.... We must be ready to use any and every means of struggle which is appropriate and possible - and which advances us to our goal."

Adv. Trengrove: "Are these the views of the African National Congress as to how the struggle should be conducted?"

Chief Luthuli: "My Lord, all I can say at this stage is that in any particular area you may use a certain method which may differ from that of another area. "

Adv. Trengrove: "Now can you by way of illustration, Mr. Luthuli, distinguish between active and passive struggle?"

Chief Luthuli: "My Lords, I stop because the illustration I might give to indicate active may not be quite good for me."

Adv. Trengrove: "I won't ask you if you approve of that. I just want to know by way of illustration."

Chief Luthuli: "Supposing I did give an illustration, won't that react against me in the case that I am facing?"

(Chief Luthuli was at the time facing a charge of burning his reference book.)

Mr. Justice Rumpff: "It might. You needn't answer that question."

THE ANTI-PASS CAMPAIGN

Adv. Trengrove: "Now Mr. Luthuli, you say that the passes was one of the things which worried the African people the most?"

Chief Luthuli: "That is correct, My Lord."

Adv. Trengrove: "That would also be one of the best ways of educating the masses politically?"

Chief Luthuli: "Yes, it could be a means."

Adv. Trengrove: "In building up the resistance of the people to the ruling classes, this would be one of the best ways of doing it?"

Chief Luthuli: "It would be one of the ways."

ADV. TRENGROVE: "And that is why the A.N.C. embarked on this nationwide Anti-Pass Campaign?..."

CHIEF LUTHULI: "No. The primary object is to get relief from the pass, not merely to use it as part of the campaign. It is true these campaigns are interwoven, but the stress is on getting rid of the pass."

Adv. Trengrove: "In your whole liberatory struggle, you say that this kind of grievance of the masses must be used to get them to participate in the greater struggle?--"

Chief Luthuli: "It is part of the struggle, but the immediate objective is against the pass."

On the 25th May, 1960 Mr. Trengrove questioned the witness on leaders of the Congress Movement who went to Russia and other countries.

- Adv. Trengrove: "Mr. Luthuli, Congress movement leaders, Sisulu, Nokwe, Paul Joseph, Lilian Ngoyi, Masina and others, went to Russia and its satellites and saw conditions there?"
- Chief Luthuli: "They did, surely".
- Adv. Trengrove: "They were met there by the leaders of other countries and discussed matters of common concern, and they came back and they reported. Do you deny that?"
- Chief Luthuli: "I wouldn't deny that."

INTIMATE KNOWLEDGE

- Adv. Trengrove: "Your organisation had an intimate knowledge of the political theories and practices of the East and of Soviet Russia?"
- Chief Luthuli: "I categorically deny that, because the fact that those people did go to the East, and they are merely a small number of the leadership, does not indicate that therefore the organisation had an intimate knowledge of the East.
- It doesn't follow that because they went there, they carried out propaganda for the East. That they didn't do, to my knowledge. They may have done so privately, but not through Congress machinery."
- Mr. Justice Rumpff: "If their knowledge is very small, would they not be more susceptible to propaganda?"
- Chief Luthuli: "My Lords. I...."
- Mr. Justice Rumpff: "Without knowing that it might be propaganda?"
- Chief Luthuli: "The ordinary people might be, but I said the leadership, My Lord, and I think the leadership wouldn't be. After all, a leader knows his mind; he knows what he wants and what he stands for."
- Mr. Justice Rumpff: "But if the members of an organisation would not know that a particular brand of political philosophy is to be regarded as communism then would it be easier for leaders - I am talking hypothetically - to convey communist propaganda without the rank and file knowing that it is communism?"
- Chief Luthuli: "Yes, I concede My Lords, it would be, because they wouldn't have a standard of judging. So long as that particular thing presented appeared to them to meet a need, they would be more susceptible."

CONGRESS AND CHINA

- Adv. Trengrove: "Take Communist China, for instance. What was the attitude of the African National Congress towards Communist China?"
- Chief Luthuli: "One can't stop the Crown using the expression, the attitude of the African National Congress. I have already indicated that our attitude was not an overall one, but was determined by a particular situation. Say that Communist China had now struggled and freed itself, we admire communist China to that extent,
- Adv. Trengrove: "Did you express that admiration?"
- Chief Luthuli: "I think we did."
- Adv. Trengrove: "Did you regard communist China as one of the countries that was struggling for peace?"

- Chief Luthuli: "It was a country that was struggling to free itself."
- Adv. Trengrove: "But after it had freed itself?"
- Chief Luthuli: "There again, My Lords, there would be no Congress mind, but leaders might express themselves in that direction."
- Adv. Trengrove: "Mr. Luthuli, you held out those countries as examples of what real democracies are, because you wanted the people in this country to accept that type of democracy, and you know that?"
- Chief Luthuli: "I don't know that, because I don't recall a single resolution of the African National Congress which says that we uphold China as an example of a republic that ought to be established here."
- Adv. Trengrove: "Because you had not yet sufficiently indoctrinated the masses?"
- Chief Luthuli: "We are not indoctrinating the masses. The African National Congress was not indoctrinating the masses to accept China or any state. It never did."

DISTRIBUTION OF LAND.

Chief Luthuli was then cross-examined at length by Mr. Trengrove on the chapter of the Freedom Charter which deals with land ownership.

- Adv. Trengrove: "Chief Luthuli, we were dealing with this paragraph in the Freedom Charter which says that the land shall be shared amongst those that work it, and you said that that meant that the land should be distributed amongst all the people that make a living out of the land, is that correct?"
- Chief Luthuli: "That is correct."
- Adv. Trengrove: "And that that should be done on a basis of equality between the people, irrespective of race or colour?"
- Chief Luthuli: "That is so, My Lords. I don't know what the Prosecutor means by equality."
- Adv. Trengrove: "That it should be shared equitably amongst all the people that work on the land?"
- Chief Luthuli: "Quite so, My Lord."
- Adv. Trengrove: "And Mr. Luthuli, you said in your evidence-in-chief that you were in favour of a free economy as far as land was concerned?"
- Chief Luthuli: "That would be correct."
- ADV. TRENGROVE: "Now at the moment the complaint of the African National Congress is that the distribution of land is approximately 13% in respect of the nine million non-whites, and 87% in respect of the two or three million whites. Now Mr. Luthuli, would you concede that the ratio of people actually employed on the land is about one white to ten non-whites? "
- Chief Luthuli: "I wouldn't know the ratio, My Lord."
- Adv. Trengrove: "Has the African National Congress never investigated that matter?"
- Chief Luthuli: "Not to my knowledge."
- Adv. Trengrove: "Well, the statistics are available?"

- Chief Luthuli: "I have no information".
- Adv. Trengrove: "You have no idea at all what the ratio is?"
- Chief Luthuli: "I personally have no idea."
- Adv. Trengrove: "And the African National Congress?"
- Chief Luthuli: "It is possible that there may be material in our offices, but I have no information personally."
- Adv. Trengrove: "You haven't even got an approximate idea of the ratio?"
- Chief Luthuli: "No."
- Adv. Trengrove: "Well, Mr. Luthuli, have you got any idea of what extent or percentage of the land at the moment held by whites would have to be released in order to comply with this demand by the Freedom Charter?"
- Chief Luthuli: "My Lords, I think I said last time when I was questioned by the Prosecutor that it would be difficult and not even realistic to expect that one would give details. The Freedom Charter did not set out details, but general principles, and I think that question would imply that we are in fact now carrying out our plans."
- Adv. Trengrove: "Mr. Luthuli, the 1955 Report of the A.N.C. states that for the first time the demands of the people have been stated in unequivocal and unambiguous language, and one of these demands is that the land shall be shared amongst those who work it. Now in order to comply with that demand, do you concede that the whites should release a very large percentage of the land at the moment held by them? Do you concede that?"
- Chief Luthuli: "I concede that."
- Adv. Trengrove: "Mr. Luthuli, you and the whole Congress movement stressed the fact that there are two forms of oppression, political and economic?"
- Chief Luthuli: "Yes, that is correct and I did say that those were interwoven."
- Adv. Trengrove: "And assuming that you expropriated 80% of the land held by the Whites, the white people would still be economically the stronger group, if they were paid compensation for their land, not so?"
- Chief Luthuli: "They would be, My Lord."
- Adv. Trengrove: "And you would have to prevent them from using their financial resources to repurchase the land taken from them?"
- Chief Luthuli: "In the interests of the country as we visualise it, it would be necessary to do that."
- ADV. TRENGROVE: "Mr. Luthuli, I want to put it to you that the Freedom Charter was a revolutionary document, and that it couldn't be put into effect without breaking up the whole political and economic set-up of the present South Africa, that is correct, is it not?"
- CHIEF LUTHULI: "I think that is generally correct."

CHARTER "A BILL OF RIGHTS"

- Adv. Trengrove: "And that one would have, once the demands were put into effect, a state which differs radically and fundamentally from the present state?--"

Chief Luthuli: "In some respects. I think that if you read the whole of the Freedom Charter, My Lords, you will find that the demands made in the Freedom Charter are such as you get in any bill of rights. For an example, I think that if you were to make comparisons with the Freedom Charter, you will find that...."

Adv. Trengrove: "I am not asking you to compare it with anything else. I am asking you to compare it with the present political and economic structure of the Union?--"

Chief Luthuli: "In some respects there would be radical changes, in others they wouldn't be so radical."

Adv. Trengrove: "Mr. Luthuli, I also want to put it to you that you never expected that the White oppressor would ever accept and concede your demands?"

Chief Luthuli: "My Lords, I wouldn't be in Congress if I didn't expect that White South Africa would some day reconsider. That is my honest belief. When, My Lords, I cannot say."

Adv. Trengrove: "But you were not prepared to wait for that day. You were telling the people now, not next year or any other year. Leading members of your organisations said within a matter of five years. You weren't going to wait for the white electorate to change their minds and you know that, Mr. Luthuli?"

Chief Luthuli: "The Prosecutor, in my view, is really putting a wrong construction into a phrase or motto intended to gear the peoples' determination."

Chief Luthuli was questioned on a speech made by Nimrod Sejake, a co-conspirator, at a meeting called by the Freedom Charter Committee in Johannesburg on the 18th September, 1955.

Mr. Sejake said:-

"One must be prepared to clash with the servants of the state and if the struggle assumes very large and countrywide dimensions one shall have to clash even with the armed forces of the country."

ADV. TRENGROVE: "So that I put it to you that at this meeting, Mr. Luthuli, the Congress movement told the people that in order to achieve the aims of the Freedom Charter they must be prepared to clash not only with the police, but even with the armed forces of the country, once the struggle assumed country-wide dimensions. That was the attitude of the Congress in regard to the implementation of the Freedom Charter?"

CHIEF LUTHULI: "No, My Lord, that is not correct. If by clash with armed forces the Prosecutor reads violence, very definitely that would not be the attitude of the African National Congress, and if the speaker meant that, I would without hesitation condemn it."

Mr. Justice Bekker: "I am rather interested in the phrase used by the speaker "One must be prepared to clash with the servants of the state."

Chief Luthuli: "The word 'clash', might mean violence or merely meeting, but there is a greater leaning towards violence in the meaning of the word 'clash'".

THE THREE LECTURES

Referring to the three lectures, Mr. Justice Bekker asked whether they had anything contrary to A.N.C. policy, and whether there

was anything in the lectures the A.N.C. would not want the public to accept.

Chief Luthuli replied:

"One aspect contrary to A.N.C. policy is in Lecture 3, where the writer, describing a peoples' democracy, mentions complete nationalisation. But at that time the Congresses hadn't legislated on the matter, so it was not against any policy. We had stressed time and time again that we hold different views, and that is not a question of being contrary to A.N.C. policy. I would not personally like to have Lecture 1 circulated in the form in which it is, because it might confuse some people about A.N.C. policy, but not because it is against policy. I readily concede that many items listed under "What is a People's Democracy" are found in the Freedom Charter. But the rights and freedoms listed there are such as you would get in almost any Bill of Rights for any group of people."

On the 25th May, 1960 the Crown concluded its cross-examination of Chief Luthuli. He had been under cross-examination for 28 court days. The trial was adjourned until 1st June to allow for the accused to prepare their re-examination of Chief Luthuli.

Shortly after he concluded his evidence-in-chief for the defence, Mr. Luthuli became ill and for most of his cross-examination his time in the witness box was limited to two hours a day.

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