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them, because the people have spoken..."

I also refer to the Congress of the People Anniversary meeting held at Kliptown on the 24th June 1956. On this occasion a message from Luthuli was read out to the people. It stated:

"In history...some dates assume national importance because this significant national event is associated with them; so it is with June 26th in our history of the Liberatory Movement - the movement beginning the day when for the first time the white man came into contact with the black man, ostensibly to civilise him but really to rob him of his all, including his land, his freedom and his manhood."

"....Let us here remember that we in this age are not the first the only ones have struggled for the liberation of our land, so that we can recall the many....of all ages today who, in defence of their freedom in an exalted and humble way, have voluntarily sacrificed most dearly for it, to the extent/.....

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extent even of making the supreme sacrifice."

At the meeting the accused L. Ngoyi told the audience:

"Friends, we all know that all nations who are free today freed themselves. We know that exploiters and oppressors will not succeed. Great King Pharoah in Egypt tried to kill the Israelites, the Czars in Russia tried to exploit the workers of Russia. In China Chiang Kai Shek failed to sell the workers of China. Late Hitler tried to oppress the German people. He failed, he is nowhere today. The exploiter's grave is unknown....I also call upon you Jomo Kenyatta and other leaders who are suffering under imperialists, you are not forgotten, we are with you, the oppressed people of South Africa, we shall give the last drop of our blood for the liberation of the oppressed people in South Africa....Long live the Freedom Charter/.....

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Charter. Long live the workers of the
Union of South Africa.

Although it would be possible to refer
to some further speeches made at this, as well as
other meetings, the above suffice to illustrate the
general trend, topics and theme of speeches.

The documents on which the prosecution
relied also followed the same pattern. In the
judgment of my brother Rumpff some of the documents
and the propaganda relating the the Congress of the
People and the Freedom Charter are mentioned.

A further example relied on by the prosecution
which illustrates the type of propaganda and
attitude adopted is to be found in a bulletin
of the Transvaal Branch of the Committee of the
Congress of the People (cf. Exhibit 141) dated
the 1st March, 1955; the following appears under
the heading 'Mobilise and Organise:'

"The time has already passed that the
world should know what a sham
democracy is in our country, and how
desperate are the needs of our people
The time has already passed that our
free people should have won their
freedom. The situation cries out for
something/.....

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something to be done. So let us all, members of the four Congresses and their allies, put ourselves at the wheel of the Congress of the People, and make it an overwhelming success. We must work fast and furiously. The date set for holding the Congress of the People is not later than June of this year. We have just four months."

Then, under the heading "What is to be done" it states:

"3. Demands to be incorporated in the Freedom Charter, which will be drawn up by the Congress of the People, are now pouring in. Are demands from your area included? You better check up.

4. A set of lectures notes are available which are entitled 'The World we live in.' It is your duty to get hold of a copy and study it. Also assist others to know its contents. If you would like a

speaker/.....

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speaker to address a group on this subject, make your application to the Transvaal Provincial Committee, and he or she will come right along."

Other documents also shew that the national provincial and regional branches of the organisation emphasised the necessity for the people, and especially the Freedom Volunteers, to become acquainted with and to understand the three lectures, 'The world we live in', 'The Country we live in' and 'A change is needed.' In addition these committees arranged for the holding of so-called 'study classes' for the Freedom Volunteers where these three as well as and other lectures were dealt with in order to raise the 'political consciousness' of the persons present.

The evidence shews however that during the course of this very campaign many speakers made mention of the fact that it was to proceed on a 'non-violent' basis. In this connection I refer firstly to the message of Dr. G.M. Naicker, the President General of the Natal Indian Congress read to the meeting of the 5th December, 1954, held at Pietermaritzburg. He stated that:

Whatever/.....

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"Whatever we do we must not veer from the path of non-violence. In the struggle we have launched against segregation and apartheid we are strictly against violence. Mahatma Gandhi, that great apostle and freedom-wisher gave us the lead. He said it is superior to all other methods and even more explosive than any hydrogen bomb.....Mr. Chairman and Friends, my message to you this morning is: Go ahead, although I am not with you in person, my spirit is with you. You must tell the Nationalist Government and all the anti-democratic forces in this country that we will not be dragooned into silence. I ask your conference to condemn most strenuously and vehemently the action of the Minister of Justice in indulging in mass bannings and deportations of the peoples' leaders. In conclusion let me reiterate. As loyal South Africans we have a real duty/.....

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duty to all the peoples of South Africa, we have to build up the tradition and spirit of non-violence!"

At this meeting, it must be noted, the speakers were unaware of the presence of the police or that the speeches were being taken down on tape-recording machines.

I refer next to his message sent to the meeting of the 12th June 1955, (supra) held at Durban when he said:

"Parliamentary opposition has proved a....failure and...we must rally the white and non-white people of South Africa round the banner of freedom. We have held this banner high... violence and hatred towards none. Let us march forward unitedly and liberate South Africa."

I have referred to Reshas utterances during the course of addressing the public namely

"Congress believes in non-violence but if the Government continued to ban leaders the organisation could

not/.....

not be responsible for what the people might do" - and again "our struggle is non-violent but if there is a pool of blood we will have to go through it."

So, too, might one refer to a speech made by E.P. Moretsele, a member of the National Executive Committee of the African National Congress, who on the occasion of the anniversary meeting of the Congress of the People on the 26th June, 1956 told the public that the organisation was non-violent and that it was not prepared to shed blood and that the people would be liberated without bloodshed. A further instance is to be found in the speech of Dr. Conco - also a member of the National Executive Committee - who told his audience on the 25th July, 1954 that the struggle of the Liberatory Movement was a non-violent one. At the same meeting the accused Kathrada, a highly placed official of the South African Indian Congress in making a 'Call' for volunteers said:

"It is my task this afternoon to speak to you about the task of volunteers -

of/.....

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of the freedom volunteers. If I want to describe in one word what the tasks of the freedom volunteers are, I would say that our freedom volunteers are going to be the top brigade - of the fifty thousand strong in the army of national liberation in this country.... Our freedom volunteers are going to provide that hard core of men in our army of liberation.....But ours is not going to be like the armies you know. Quite unlike the imperialists' armies known to the masses of Asia and Africa through the hundreds and hundreds of years of oppression. Quite unlike the armies of so-called Western civilisation who have perpetrated the most monstrous and hideous crimes in Korea and Kenya. Quite unlike the armies of the so-called enlightened nations who have left behind hundred thousand illegitimate children in Germany and Japan, quite unlike all these, in fact, in contrast to these. Ours is going to be a new kind of army with/.....

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with a new kind of religion. Ours is going to be the so-called torch burners of civilisation, what civilisation means, ours is going to carry light and truth to areas and to people who have been deliberately kept in darkness for years and years. Ours is going to be the four corners of South Africa, not with guns not with bombs and other weapons, ours is going to organise the people, not for rape, not for destruction, our volunteers are going into the field with a purpose far stronger than everything we have seen before. Ours is a non-violent army, we consider ourselves too civilised to resort to barbarism and our mission is to organise the greatest assembly in the history of South Africa on our march to freedom.

But one thing the volunteers must realise, that their task is not going to be an easy one. There will be many obstructions, they will meet

many/.....

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many difficulties and most important of all we must tell them again - constant provocation from all forces. They will come up against provocation with their own people who are openly in the hands - in the camp of the enemies, like those police who are sitting here this afternoon. And they will come across provocation by people - by dirty things who will go out to create suspicion and destruction. They must be a disciplined corps of men, our volunteers must never allow themselves to be provoked, and the volunteers must ensure by constant explanation that the people too are not unnecessarily provoked.

In all great movements such as ours and here we must learn a lesson from the National Liberation Movement in other countries, in all these movements the enemies will resort to all sorts of methods ranging from fights to open brutality in an attempt to crush our movement/.....

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movement. Volunteers must be ever vigilant and guard against these acts. Every time volunteers allow themselves to be provoked we must remember it is a victory for the enemy.

Foremost in our minds must be the goal for which we are striving and we must all behave in a manner that we do not in any way harm the progress of the movement, bear in mind that the enemies in its fears, in its desperations are trigger happy. Previous orders have been renewed by Blackie Swart to his police that they must shoot first and think afterwards. We do not want to waste a single drop of freedom blood unnecessarily.

In reviewing the evidence on this campaign there is no doubt that in the propaganda and speeches which were made, the present Government and form of State was condemned in no uncertain terms. At the same time however, it is equally clear that various highly placed officials remind their audiences that the campaign should proceed

on/.....

on a non-violent basis and that they should not allow themselves to be provoked into committing acts of violence. I am unable to reconcile these facts with the contention that the organisation as a matter of policy, / desired the masses to retaliate by violence or that they should resort the violent methods to achieve their 'Freedom' and cannot uphold the contention of the prosecution.

I next wish to mention briefly the campaign directed against the Bantu Education Act and the Anti-Pass Laws Campaign. These two campaigns, as also the Western Areas Campaign, were made part and parcel of the campaign for the Congress of the People. - and in so far as the speeches and the propaganda are concerned, nothing new arises. The same pattern exists and the same themes are present - but directed more specifically to the provisions of the Bantu Education Act and the Anti-Pass Laws. The outcome again was that the Government was condemned in strong language and that achievement of the demands contained in the Freedom Charter was presented as the solution to all difficulties and as the blue print for a real and true democratic South Africa.

On/.....

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On the issue of violence, the evidence concerning these two campaigns carries the matter no further than any of the other campaigns I have referred to and I do not propose to dwell on them any further.

I now pass on to consider the "Freedom Volunteers."

In our earlier judgment we referred to the allegation contained in the indictment that the objects of the conspiracy were to be achieved, inter alia by:

"4(b)(ii) Recruiting, enlisting and preparing for acts of violence a special corps of Freedom Volunteers."

It is common cause that Volunteers were recruited and enlisted and received training in the course of which the need for self-discipline and rigid obedience to orders of superiors was constantly stressed and that they were enjoined not to become provoked or to retaliate but to remain calm in all circumstances.

The prosecution contended that the purpose underlying this type of training was to
prepare/.....

prepare them to commit acts of violence "when the time was ripe" - and that such training was necessary since any premature action or retaliation on their part would defeat the very purpose for which they were being prepared. In this connection the prosecution relied particularly on the speech made by Resha on the 22nd November, 1956 - to which my brother Rumpff has referred and also a speech made by the accused Ndimba on the first day of May, 1955 in somewhat similar terms, for which he was prosecuted, convicted and sentenced.

On the other hand, the bulk of the evidence including that of Luthuli, Professor Matthews and other defence witnesses, was to the effect that the Freedom Volunteers was a body of non-violent organisers, whose duty/^{it} was to make known the aims and objects of the organisations and of the various campaigns which were set afoot; to educate the masses in political affairs and to serve as an example to others by word and deed, not to retaliate violently at all to any form of 'provocation' which the State might use.

Luthuli, Professor Matthews and other witnesses rejected the suggestion of the prosecution as to

the/.....

the role volunteers would have to play, as unfounded and incorrect.

On this aspect the case for the prosecution is again based on inferences to be drawn from the proved facts. It becomes necessary to refer to the salient facts in so far as Freedom Volunteers are concerned.

I have referred to Luthuli's 'Call' for 50,000 Freedom Volunteers on the 5th September, 1954 when he told the people present at the meeting of the Natal Action Committee of the Congress of the People, that the Volunteers were to constitute 'an army of non-violent volunteering organisers' and that 'our people (must) in words, actions and attitudes respect the policy of non-violence so wisely adopted by our Congresses." I have also made mention of Kathrada's speech on the 25th July, 1954, when he asked for volunteers to come forward and to form the "Shock Brigade" of a non-violent army. In addition I refer to Exhibit B.32, the "Congress of the People Bulletin No.2 of August, 1954" and the article appearing therein, "Speaking Together." Under the heading "What it means to be a Volunteer" it is said:

Chief/.....

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"Chief A.J. Luthuli, President General of the African National Congress, has called for 50,000 volunteers....

Coming so soon when the tasks of the heroic Defiance Volunteers are still fresh in the minds of the people there is bound to be some misunderstanding as to the tasks of the Freedom Volunteersthe tasks of the Freedom Volunteers would be quite different to those of the Defiance Campaign.....we can't enumerate all the tasks the Freedom Volunteers will be expected to carry out. But simply stated this task will be to act as the 'Shock Brigade' of our non-violent army of Freedom... they will ensure that by their work, propaganda and careful explanation they will educate people not to be provoked into violence which will constantly be attempted by the enemies."

Again Exhibit B.35, a report from the National Volunteers Board deals with Freedom Volunteers as follows:

Our/.....

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"...Our Volunteers must meet the reckless violence of the Nationalist Government with discipline, a refusal to be provoked and a determination to carry on till liberty is won."

After dealing with various matters concerning Freedom Volunteers, such as the functions of the National and Provincial Volunteer Boards, Procedure for Enrolment, Uniforms and the Volunteer's Pledge, it finally sets out the 'Code of Discipline' to be followed by all Volunteers, paragraph 6 of which provides:

"Volunteers must never allow themselves to be provoked into violent action."

On the 10th November, 1954, Luthuli in a pre-conference Presidential Call to branches and officials of the African National Congress, dealt fully with the duties Freedom Volunteers were required to perform.

A reference thereto (Exhibit A.55) will reveal that there is no suggestion that Freedom Volunteers were required to commit any acts of violence.

In/.....

In a speech made by Dr. G.M. Naicker the President of the Natal Indian Congress, delivered at the first Natal Conference of the Congress of the People held at Durban on the 5th September, 1954, the duties and functions of Freedom Volunteers were defined and set out in no uncertain terms.

This speech was subsequently published in pamphlet form and was distributed amongst members of the organisation. It was termed "Self Discipline for Volunteers of the Congress of the People" and was also used as a 'study' document for volunteers.

I shall quote a few extracts from the speech.

"....civil protest, disobedience and resistance, mass or individual is an aid to constructive effort for armed revolt...just as military training is necessary for armed revolt, training in constructive effort is equally necessary when occasion demands it, even so is the use of civil resistance.

There is no freedom or democracy without suffering and sacrifice.

And just as an army will acquire no success until it is disciplined, so will a civil resistance movement not

attain/.....

attain the fruits of its struggle without discipline....."

"Discipline in a non-violent struggle cannot be over-emphasised. The form of struggle we are wedded to, requires moral courage, determination and sacrifice apart from political understanding unity and co-operation. In violence the truth is the greatest sufferer. In non-violence truth is ever triumphant. In non-violence discipline is a vital necessity....

We know that in an army discipline is achieved by means of drill, regimentation and strict obedience to regulations and superiors in rank. In a non-violent struggle such as ours....we cannot think in terms of military physical training, physical mock combat, the strict adherence to military regulations and superiors in rank...."

The evidence placed before the Court cannot be easily reconciled, if at all, with the contention of the prosecution that Freedom Volunteers were being "prepared and conditioned" to
commit/.....

commit acts of violence 'when the time is ripe'. Indeed the prosecution conceded that 'many people might have been taken in by this alleged policy of non-violence' but it was submitted that it was a 'misrepresentation' on the part of the Congress Movements in order to get recruits to come forward as Freedom Volunteers and to gain the support of the masses. In this connection the prosecution emphasised the literature which was used for the political education of the Volunteers namely the **Three Lectures - The World we live in, The Country we live in and, A Change is needed;** it also pointed to The Summer School Lectures (Exhibit N.A. 81); Mandelas' "No Easy Walk to Freedom" (Exhibit A.309) and "What every Congress Member should know" (Exhibit W.356) and to other lectures as well, as also to the newspapers and bulletins volunteers were encouraged to read such as "Fighting Talk", "Liberation", New Age". Again, it was contended, that the use of such material could only lead to the inference that the organisation sought to instil or foster such a degree of hatred against the Government that Volunteers would not hesitate to commit acts of violence if and when ordered to do/.....

do so. Mr. Trengove pointed to a passage in the Presidential Address made by Moretsele to the 1954 Transvaal Conference of the African National Congress (Exhibit A.40) in support of his contention that the African National Congress would decide when the time was opportune or "ripe" for volunteers to proceed to the necessary action. The passage dealing with the Western Area Campaign reads:

"The Government has provoked and attacked but we have remained disciplined. In other words, we have not allowed the Government to choose the time, the place and the battleground for us. Today I say to the African People: Intensify your organisation and stand by awaiting instructions."

The evidence however of Luthuli, Matthews and other defence witnesses that volunteers were enjoined never to become violent is supported by the speeches and documents to which I have referred and which were made known to the public during the indictment period and that Freedom Volunteers were required to:

ensure/.....

"....ensure that by ~~their~~ work, propaganda and careful explanation they will educate the people not to be provoked violence into/which will constantly be attempted by the enemies." (cf. Exhibit B.32 supra).

Furthermore, with reference to the contention advanced by the prosecution, a perusal of the lectures and other material on which it relied for its submissions, does not reveal that violence as such, was advocated as a means to be employed by Freedom Volunteers in discharging their duties. With regard to Moretsele's speech, *as also* the speeches of Resha and Ndimba, even accepting that they on those occasions, advocated the use of violence, the weight of the evidence shows that Volunteers were being recruited, enlisted and trained for acts other than acts of violence, for which reason I held in our earlier judgment that it was impossible to find that the allegation in the indictment relating to Freedom Volunteers had been proved by the prosecution.

Having reviewed the more salient facts concerning the various campaigns and the
Freedom/.....

Freedom Volunteers, I finally revert to the contention advanced by Mr. Trengove. There are, so it seems to me, a few considerations of a general nature which affect the validity of his argument.

Whilst it is clear that the African National Congress appreciated that the application of the methods set out in the 1949 Programme of Action could result in the occurrence of mass breaches of the law, and that the Government might possibly be compelled to rely on its forces to put an end to the situation, the basic and important question which has to be answered is whether it has been proved that the African National Congress as a matter of policy intended the masses to retaliate by violence if such position arose.

If the evidence leaves this issue in doubt the prosecution obviously fails.

Witnesses for the defence stated that such was never the intention of the organisation.

I have here in mind inter alia, the evidence of Luthuli and Prof. Matthews. I have quoted relevant extracts from the evidence of Luthuli and now propose referring briefly to Matthews' evidence. In this regard the following emerged/.....

emerged:

"Did you believe that you could use the methods in the 1949 Programme of Action without the danger of your followers resorting to violence?---

Yes we very definitely believed that these methods could be used without leading to any violence on the part of our members."

"Did you have in mind the possible reaction of the Government to your methods?---Yes, we did."

"What did you think that the Government's reaction might possibly be?---Well, there was always the possibility that the Government might react towards the use of these methods by force."

"Were you prepared to face that?---
We were prepared to face that, yes."

"When you adopted the Programme of Action, was any violence intended
No violence was intended or contemplated "

"Did you expect your followers to resort to violence?---We did not expect our followers would resort to violence at any time."

Did/.....

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"Did you hope they would resort to violence?---Certainly not."

"But did you contemplate that there might be a forceful reaction from the Government?---Yes."

"In the face of that, did you think that your followers could be relied on to remain non-violence?---Yes, we thought that our followers could be relied upon, but we decided as an organisation to continue to stress both in meetings - small meetings and large meetings - the non-violent character of our campaign."

"Did you realise that your Programme might involve breaches of the law?--- We did realise that, but we looked at such breaches of the law as we might advise, not as mere lawlessness but organised protest against the laws we did not approve of."

The contention advanced by Mr. Trengove proceeded from an assumption that the application of the means set out in the Programme of Action would/.....

would compel the State to use force to restore law and order. This in my view is an incorrect assumption as it does not follow as a matter of inevitability that the State would be compelled to do so. The Defiance Campaign for instance, came to a sudden end simply as a result of legislation to meet the situation.

But the greatest obstacle to be overcome and which the prosecution in my opinion cannot succeed in doing, is the fact that during the indictment period non-violence was advocated generally and that the masses, who on the contention advanced were being "conditioned" to retaliate, were exhorted not to be provoked into such action but to remain calm. This difficulty was put to counsel and the question which was canvassed with him was: - why, if his contention was correct, did the organisation conduct itself in a manner which was calculated to defeat its very purpose. He argued that it would have been dangerous for the leaders to suggest violence or retaliation not only from a personal point of view but also in the sense that "if one has a peace loving and peace abiding mass of African people, as African people/.....

people are reputed to be, they would not get the support of those people if they tell them they want them for violent action against the State. They have to be subtle, they have to indoctrinate them and they have to elicit the support of innocent people, to draw them into the net and prepare them for the struggle."

The answer to this argument however, emerged in my opinion from the evidence of Professor Matthews. He was asked:

"Did you think it is possible that as a practical matter for an organisation like the A.N.C. to preach to the public a policy of non-violence, while it really wants to pursue a policy of violence?"

He said:

"As I said, it seems to me that to adopt an attitude like that would be futile, because you had a secret policy of violence, you would have at some time to tell your followers, amongst whom you have been preaching non-violence over a long period of

time/.....

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time, you would have to reveal to them this secret policy, and my own impression would be that they would regard you as somebody, who had deceived them all along and your following would fall away."

The prosecution as mentioned previously did not rely on any "secret" policy which the organisation held. Its policy, in the present instance is determinable from its public utterances and actions. Its claim that it had and desired to work under a policy of non-violence is either genuine or dishonest. It is for the prosecution to prove that the latter is the case. The evidence taken as a whole, certainly does not in my view, justify such a conclusion.

It is true that propaganda which appeared in bulletins, pamphlets and lectures which the organisation either supported or made use of, was from time to time vitriolic in its attacks on the Government, condemnatory of Western forms of government and white supremacy in South Africa. These facts may of course be reconciled with an intention on the part of the organisation for the masses/.....

masses to become violent. But they are not consistent with only such a trend of thought. This type of propaganda could have been made to further the political aspirations of the organisation and to achieve its objects without it necessarily entertaining any thought of violence, be it direct or by retaliation.

The fact that some important members of the organisation, such as Resha for instance, did on occasion incite or encourage violent action, does not amount to proof that such was the policy of the organisation. Whilst it may show what he, on those occasions, perhaps desired the policy to be, his utterances can in no way be equated with, or change the policy of the organisation as a whole.

If there had been a scheme or plan afoot whereby the conspirators had hoped to achieve their objects by this form of retaliatory violence, I would have expected the evidence to reveal some consistency or pattern throughout South Africa, since it was alleged by the prosecution that the conspiracy was nation-wide. The only consistency or pattern that does emerge
from/.....

from the speeches and documents is the attack on the Government past and present the condemnation of the present and Western forms of state and of white supremacy generally. On the issue of violence however, as I have attempted to shew, such evidence is inconclusive.

If however one examines the speeches and documents with a view to discover some further consistency or a pattern, there is such a degree of preaching of the theme of non-violence present, that the case for the prosecution to say the least, becomes doubtful.

In the nett result the evidence does not in my view of the matter, justify a conclusion that the African National Congress had adopted a plan or scheme which revealed a general expectation of violence by the State and an intention to use the masses to retaliate.

I shall next deal with the further findings of fact set out in our earlier judgment: inasmuch as my brother Rumpff has in his judgment referred to the evidence relating to these issues it is unnecessary for me to do so again. I shall

accordingly/

accordingly confine myself to the reasons for those findings, the first of which was that all the organisations and the accused worked together to replace the present form of state with a radically and fundamentally different form of state based on the demands set out in the Freedom Charter.

It is common cause that the Freedom Charter presents the outline of the form of state sought to be achieved by the organisations and the accused. The political, social and economic demands made therein, are, in my opinion of such a nature, that once they are realised, a fundamentally different form of state must emerge.

In this connection I agree with the view expressed by Luthuli when he wrote in his message to Congress that the "Charter definitely and unequivocally visualises the establishment of a socialist state."

I also share the view expressed by Mandela that in order to achieve this state the present economic and political set up in South Africa will have to be broken.

The prosecution contended that the form of state envisaged by the Freedom Charter was communistic. Professor Murray however, stated that inasmuch as the Freedom Charter was silent

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on the question whether the dictatorship of the proletariat or in other words, a one party system would be put into operation, he could not determine whether a communistic form of government was contemplated or not. He agreed that nothing contained in the Freedom Charter would be inconsistent with a bourgeois socialist form of state. Counsel for the prosecution contended however, that the intention of the organisations was to create a communist form of state. This intention he argued, emerged clearly from the manner in which the organisations set about to gather demands for inclusion in the Freedom Charter; the people he said, were educated along communist methods and tactics; the communist analysis of the present state and society was propagated in the course of which Western democracies were condemned and the virtues of a state described in varying terms as a "Peoples' Democracy" or "True Democracy" were emphasised. In this regard the three lectures mentioned earlier on were put in the forefront of his argument.

The difficulty which confronts the
prosecution/.

prosecution is however, that the evidence does not disclose that the organisations ever propagated or advocated the need for, and desirability of the one party system. Here I want to mention that I am not concerned with what the ordinary man in the street may or may not regard as "communism." The evidence of Professor Murray makes it clear that no matter how many principles of communist dogma, tactics or methods may have been followed or adopted, unless it is shown that the concept of a one party system - the dictatorship of the proletariat, had been advocated, it would be incorrect to find that communism in the true sense of the word had been put forward. This evidence, in the circumstances, destroys the validity of the contention advanced by the prosecution and at the same time, apart from other considerations, shews why we were unable to find that it was proved that the African National Congress had become a "communistic" organisation.

In our earlier judgment we held, with reference to the Freedom Charter that "the type of state as seen by the Transvaal Executive Committee of the African National Congress is a dictatorship of the proletariat, and accordingly is/.....

is a Communist State, known in Marxism-Leninism as a peoples democracy." We based our conclusion on the contents of a certain lecture which this committee made use of and which reads as follows:

"Before the Europeans came, the country was governed on the tribal system. The Chief was the head of the tribe. But when laws had to be made or decisions taken the chief called together the people in a 'pitso' or 'Lokgotla' etc. That was 'Government by consent'. The people agreed to the laws and obeyed them because they were consulted, and they helped to make the laws and run the government. Today, the power of Government, of the State, which makes the laws, is not held by the people. Power is held by the ruling classes of white mineowners, living both in South Africa and in Britain and America; it is held by the wealthy owners of large-scale factories and financial concerns; it is held by the Afrikaner farmers. Those classes are represented/.....

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represented by the Nationalist and United Parties. The power of state is not exercised for the benefit of the people. It is used to permanently subject the people.

It is used against the people to ensure the profits of the few.

Congress aims to replace this Government of the few, with a government of peoples' democracy. In a peoples' democratic state, the power of state will be exercised by the people.

That is, by the working people of all colours, together with all other democratic classes who will work for the changes set out in the Freedom Charter. This will be a government of the people as a whole; of the present oppressed and exploited classes used to achieve their maximum well-being, and to prevent the "few" exploiters from regaining state power."

I have since come to the conclusion that our earlier finding is erroneous, for reasons which follow immediately. The test to be/.....

be applied in construing the document is in the light of Professor Murray's evidence a simple one, namely, does it advocate the concept of a one party system or not.

The suggested "peoples' democratic state" is defined as being one consisting of the oppressed and exploited classes and other democratic classes who will work for the changes set out in the Freedom Charter and in which the "few exploiters" namely the "white mine-owners", the "wealthy owners of large-scale factories and financial concerns" and "the Afrikaner farmers", who are represented by the Nationalist and United Parties, will be excluded from regaining state power. This definition does not in my opinion necessarily imply that a one party system was being put forward since in the classes which remain after the exclusion of the "few exploiters" as defined, there may very well be room for instance, for a communist party on the one hand and a socialist party on the other working for "the changes set out in the Freedom Charter....and to prevent the "few exploiters" from regaining state power.

The/.....

The definition of the "peoples democratic State" as contained in this lecture does not in my opinion exclude such a result as a reasonable possibility and I am accordingly unable to agree that the one and only inference to be drawn from the document is that a dictatorship of the proletariat was being advocated.

With reference to our finding that a strong left wing tendency manifested itself in the African National Congress, the Freedom Charter of course makes it clear to what extent socialism would arise once the demands are achieved. The mines, the banks and monopoly industry would be transferred to the ownership of the people and the land would be redivided amongst those who work it. These demands are far-reaching and in my opinion cannot be reconciled with the idea that a 'mild' form of socialism was being put forward.

The evidence furthermore shews that during the years under review the organisation condemned Western Democracies for a variety of reasons and at the same time held Eastern forms of state in high esteem and extolled the virtues and advantages of a state described as Peoples' Democracy or True Democracy. The lectures and propaganda/.....

propaganda which it placed before its members for their political education were in my opinion along socialistic lines. Insofar as its attitude towards Russia is concerned, the resolution taken on the Russian 'intervention' in Hungary, an incident which Luthuli condemned in no uncertain terms indicates in my opinion the extent to which the organisation sought to shield the action of the Soviet Union.

In conclusion and with reference to the argument advanced by Mr. de Vos in support of the allegation that the organisation possessed a policy to overthrow the state by violence and which he based on the alleged knowledge of some but not of all of the accused of the communist theory of violent revolution, it has not been shown in my opinion that any of the accused even assuming that they enjoyed this knowledge ever advocated that theory as a means to achieve the aims and objects of the organisation. The evidence shows that the organisation sought to achieve its objects by means of the 1949 Programme of Action and, as my brother Rumpff has correctly indicated in his judgment, that the accused might reasonably have believed that by exerting/.....

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exerting the forms of pressure therein set out
the Government and the electorate could be co-
erced into accepting their demands.

Collection: 1956 Treason Trial
Collection number: AD1812

PUBLISHER:

Publisher:- Historical Papers, The Library, University of the Witwatersrand

Location:- Johannesburg

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