

In the result, and apart from defence evidence to the contrary, there was no proof of the existence of such an "international" movement in which it could be said the present conspiracy had its origin. Whilst therefore it was common cause that a liberatory movement existed in this country, as also in other countries, the prosecution failed to prove that it formed any part of an "international" organisation, possessing the attributes contended for by the prosecution.

The importance of this feature lay in the fact that the Court would have to look elsewhere for the origin of the alleged conspiracy to overthrow the State by violence. If, notwithstanding the fact that its origin could not be said to be international, the prosecution had proved independantly that there was a conspiracy to overthrow the State by violence, the shortcoming might have been of course, of no consequence.

In addressing the Court on the issue of the liberation movement, the prosecution argued that the evidence consisting of resolutions and propaganda material and some of the reported speeches proved that the African National Congress considered the liberatory movement in South Africa as part of the liberatory struggle in the world. It supported, and expressed solidarity with, the liberatory struggles of the freedom forces throughout the world.

The prosecution submitted that the African National Congress, as a liberatory movement, had consistently propagated the view that on the world front there were two hostile and opposing camps.

On the one side there was the camp of the warmongering capitalist and imperialist oppressor, on the other side there was the camp which stood for peace, freedom and democracy. The African National Congress told its followers that the imperialist camp was headed by the United States of America and that it consisted of imperialist and colonial powers such as Britain, France, Belgium, Portugal, Spain and Holland. The object of this camp was to keep the oppressed peoples in the colonial countries in Asia and Africa in a permanent state of subjugation and oppression. South Africa was a capitalist country and had chosen to be in the Western camp.

The followers of the African National Congress were told that the camp of freedom, peace and democracy was fighting oppression, to end man's inhumanity to man. It supported the colonial peoples who were fighting to shake off the shackles of colonial oppression.

The African National Congress represented the imperialist powers as bent upon ruthlessly suppressing and crushing the national liberation movements by brutal wars, to forestall what the congress described as the revolutionary democracy in Africa and Asia. The imperialists were described as reactionary powers prepared to plunge the world into a blood bath and with this object in view they formed alliances such as the North Atlantic Treaty Organisation, (NATO) and the South East Asia Treaty Organisation, (SEATO). The African National Congress considered the liberatory movement in South Africa as part of the liberatory

struggle in the world. It propagated the view that liberation is inextricably linked with the fight for peace, and with the fight against imperialism, and that imperialism had to be destroyed because it was a threat to peace. It often referred to the struggles in China, Korea, Malaya, Vietnam and Kenya, describing them as struggles for freedom and liberation. In violent language the conduct of the constituted authorities <sup>was</sup> ~~were~~ condemned and invariably the conduct of the suppressed people was justified by suggesting that they were resorting to measures which were forced upon them by the oppressor. The African National Congress told its people that, in spite of the fact that the oppressor resorted to force in the end, the peoples movement would break through the net of imperialist oppression.

A consideration of all the evidence put before us showed that the above submissions by the prosecution on the attitude of the African National Congress towards the so-called liberatory struggle were justified.

In dealing with the issue of communism later on in these reasons I propose to refer to some of the evidence relevant to that issue and that evidence will include evidence which supports the submissions made by the prosecution on the "liberatory movement". From the attitude and conduct of the African National Congress as set out above, we were asked to draw the inference that in preparing the masses for a struggle against the State, and in placing South Africa in the capitalist imperialist camp, led by the so-called

warmongering powers of the West, the African National Congress was building up and fomenting hatred and resentment in the minds of the people towards the type of state found in South Africa and was undermining their allegiance and loyalty to the State and preparing the people to count no cost too great in their struggle for freedom and liberation.

On this issue I do not think that it can be disputed that the natural and probable consequences of the propaganda of the African National Congress were to cause resentment towards the present form of State. That, by itself, could not, of course, help the prosecution, and we were asked to consider this aspect of the case together with all the other features in order to arrive at a verdict that the accused intended to overthrow the State by violence.

Coupled with the above argument must be considered the submission on the allegations in the indictment and in the "Summary of Facts" that the African National Congress denounced the present form of State as a fascist state and a police state, and that it demanded its destruction, and that it propagated the substitution therefor of a form of state, differing radically and fundamentally from the present state, namely a people's democracy, a communist state.

On this issue the prosecution argued that the evidence disclosed that the African National Congress denounced the present state as capitalist, imperialist and fascist, that it taught its members that

the root of all oppression was the Constitution of the Union, that it entrenched a white capitalist minority as a ruling class,<sup>and</sup> that the parliamentary political parties were all agreed on the necessity of maintaining white domination and upholding the exploitation of the masses.

It was argued that the evidence showed that the African National Congress told its followers that in a capitalist country the ruling class would in the long run maintain its power by force and brutal methods, that the Government would become fascist, but that the united action of the people would defeat the "fascist demons."

The prosecution submitted that the African National Congress, in propagating amongst the people the need to achieve economic and political freedom, knew that that would involve the destruction of the State, and that before it could be achieved the so-called oppressed people would be involved in a clash with the "enemy".

A further submission was that the evidence of the type of state which the African National Congress advocated, namely a people's democracy, and the provisions of the Freedom Charter, showed that the African National Congress expected to achieve its aims only by a seizure of power and by the overthrow of the present State.

On the issue of the form of state propagated by the African National Congress a further argument was addressed to us by the prosecution and it was

submitted that the African National Congress:

- "(a) Accepted and propagated the communist analysis of the present state and society in South Africa, more particularly by applying the communist concepts of, and attitude towards capitalism, imperialism (with which the liberation movement is associated in communist doctrine) and fascism.
- (b) Propagated and applied communist methods and tactics to replace the existing state in South Africa, in particular the methods of extra-parliamentary and unconstitutional action, including violence, the tactic of forming a united front, of making use of and mobilising the masses, of stressing the role of the workers and of the workers and peasants, of forming temporary alliances with groups who might not be permanent allies, of working through trade unions especially on an anti-reformist basis, of using the liberation movement as a weapon against imperialism and for the establishment of communism.
- (c) Aimed at the establishment of a Communist State in the form of a People's Democracy, the establishment of such a state being inevitably associated with violence."

It is proposed to deal with the above submissions and the relevant evidence in the following sequence. I shall first mention briefly the failure to produce evidence of individual knowledge by the accused of the principle of a violent revolution, inherent in Marxism-Leninism. Thereafter the evidence of Prof. Murray, the expert witness on communism, will be considered and what, in terms of his evidence, the yardstick is which one has to use in determining whether a communist state or something less has been propagated. The "Freedom Charter" will then be considered and evidence of how the "Freedom Charter" was interpreted. A reference will be made to the allegation by the prosecution that after 1950 members of the defunct Communist Party infiltrated into the ranks of the African National Congress, and to some of the evidence relevant to the submissions made above.

It must be remembered that the issue of communism is relevant only in so far as it is relevant to the issue of violence. On the issue of violence the prosecution not only had to prove that it was the policy of the African National Congress, and the Congress Alliance, to propagate the establishment of a communist state, but also, against each accused, that he or she knew the policy of the Congresses, with relation to communism, and with relation to the concept of violence being inherent in the doctrine of communism, and that he or she accepted the need for a violent revolution.

It is not necessary to deal with the evidence concerning the knowledge of each accused because the

Court found as a fact that although the African National Congress, and the other organisations mentioned on the indictment, were working 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, and that in the indictment period a strong left wing tendency manifested itself in the African National Congress, the prosecution failed to prove that the form of State, as painted in the Freedom Charter, was a communist state, or that the African National Congress had become a communist organisation.

As far as the personal knowledge of each accused is concerned it is sufficient to state that the prosecution failed to prove beyond a reasonable doubt that any of the accused possessed the required knowledge of the doctrine of violence inherent in Marxism-Leninism, accepted such doctrine and intended to apply it in the foreseeable future.

In regard to some accused the prosecution did not argue that they had any knowledge of this doctrine. In regard to others the argument was that because of possession of communist literature and, in the case of one or two, also because of what had been written by them, knowledge of the doctrine had to be inferred.

Even in regard to those accused who, according to the evidence for the prosecution, possessed communist literature, and had expressed political views in writing, the evidence of knowledge was insufficient and inconclusive and in the result personal liability for a



violent intent on this ground was not established.

On the issue of communism, the Court had to approach the evidence in this case in the light of what the expert witness on Marxism-Leninism told it. He was Professor Andrew Murray, of the University of Cape Town, who, as professor of Philosophy, was chiefly responsible for the work done at the University on political philosophy and political science. He had made a study of communism and had been lecturing thereon for many years.

Professor Murray explained to the Court what Marxism-Leninism is. The principles and ideas about which he gave evidence may conveniently be repeated in a summarised form. They appear in a separate document, Schedule No. 6. A few of them are given below so as to illustrate the approach to his evidence when his opinion on the difference between communism and bourgeois socialism is dealt with and when the contents of some of the documents on which the prosecution relied are considered.

Marxism-Leninism is the doctrine of Communism and the classics of Marxism-Leninism are in particular Marx, Engels, Lenin, Stalin, Mao-tse-Tung.

By Marxist-Leninist socialism is meant the type of society where private ownership of the means of production and production for profit is no longer the basis of the economic processes, when ultimately a position is achieved, strictly referred to as

communism when people receive according to their need.

Dialectical materialism is the world outlook of the Marxist-Leninist party. It is a materialist philosophy. The nature of matter is the basis from which the nature of life including society derives.

Historical materialism is the extension of the principles of dialectical materialism to the phenomena of the life of society and its history. The dialectical method holds that no phenomena in nature can be understood if taken by itself. Nature is not a state of rest and immobility, but a state of continuous movement and change. Dialectics regards the process of development as one which passes from small quantitative changes to open fundamental qualitative changes. The qualitative changes do not occur gradually but rapidly and abruptly. Dialectics holds that internal contradictions are inherent in all things and phenomena of nature. The struggle between these opposites brings about the transformation of quantitative changes into qualitative changes. There is therefore a thesis, an antithesis, a strife between the two and then a qualitative leap leading to a synthesis. This clash between thesis and antithesis is

also said to be a process of negation, the antithesis negating the thesis and producing as a result the synthesis, which is also said to be a negation of the negation (the antithesis).

This law of the negation (or clash between thesis and antithesis) is the philosophical basis for the communist idea of violent revolution and excludes the concept of conciliation.

To communism the class struggle is seen as an inevitable, always sharpening struggle leading to a decisive clash.

To bourgeois socialism the concept of class struggle is also known but it is not seen as an unbridgable contradiction, but as a method of producing co-operation, conciliation or collaboration. This idea of reformism or collaboration on a permanent basis is opposed by communism.

Marx's criticism of capitalism is based on his theory of value. The argument is that under capitalism the proletariat has nothing to sell but its labour. The owner of the instruments of production i.e. the capitalist buys that labour on his own terms. The labourer works more, produces more value than is necessary for his subsistence but is paid only a subsistence wage.

The remainder of value produced, called surplus value, goes to the capitalist.

The surplus value thus produced accumulates, in terms of the law of accumulation of capital and becomes concentrated in fewer and fewer hands, in terms of the law of concentration of capital. This process causes increasing misery among the masses. Ultimately this process taken to its logical conclusion causes the breakdown and death of capitalism.

By the bourgeois class is meant the class which owns instruments of production, which lives by the property it owns. The petit bourgeoisie is the smaller capitalist as distinct from the big capitalist who is represented by the bourgeoisie.

The communist criticism of capitalism is connected with the communist concept of revolution. The theory is that the growing proletariat must inevitably rise in revolt against the capitalists who have entrenched themselves in the institutions of state. This dogmatic acceptance of the inevitability of revolution is an exclusively communist concept.

According to communism the world is divided into two camps, inevitably opposing each other.

On the one hand the communist bloc, on the other hand, as it considers it, to final achievement of communism. This communism regards as a peace loving bloc. On the other hand the imperialist or capitalist bloc, referred to in communist literature as the warmongering bloc of countries where capitalism exists.

Only the destruction of classes, the elimination of the profit motive and the ultimate achievement of communism will bring peace. Peace is therefore preached by communism. Peace in this sense will not be attained until imperialism is destroyed and war against imperialism is therefore necessary and justified. Imperialism entrenching itself in the machinery of the state can only be removed by the use of force, by a violent revolution.

The propaganda for peace and against imperialism is therefore identical.

The communist doctrine on imperialism is inherent in communism and it is not so fundamentally part of any other doctrine.

Communists by supporting the liberation movements aim at the achievement of communism on the theory that only by achievement of the ultimate communist state through the stages of the dictatorship of the proletariat and the balance of the

theory of revolution can the oppressed be liberated.

Imperialism will only be removed by the use of force and therefore war and revolution aimed against imperialism is justified and necessary.

The aim of communism is to smash fascism. It must be fought by a united front of all the people. To achieve this communists should be prepared to combine in temporary alliances with the social democratic parties and other organisations prepared to oppose fascism.

The state according to communism is an instrument of oppression in the hands of the ruling class. It uses subordinate bodies such as the army, the police and others for the domination and oppression of other classes. Even parliament is used to promote the interests of the ruling class.

According to Communism the bourgeois state should be destroyed. This is done during the period of the dictatorship of the proletariat which is a dictatorship of the Communist Party, based on revolution and using the tactics of force.

After the overthrow of the bourgeois state the dictatorship of the proletariat oppresses

all remnants of the bourgeoisie until gradually all classes disappear and the state then withers away. This final classless society is the end aimed at by communist doctrine. It is at that stage that people will receive not according to their labour but according to their needs.

The concepts of 'withering away of the state' and of 'dictatorship of the proletariat' are exclusively communist. The concept of a 'classless society' emerging from this process of the withering away of the state is similarly an exclusively communist concept.

The true communist state is strictly speaking in terms of Marxism-Leninism a misnomer because in the stage of perfect communism the state will then have disappeared. When the term however, is used it refers to the first two stages namely when the workers and peasants gradually take over control and the period when they have taken over control i.e. to the beginning of the dictatorship of the proletariat and the full blooded dictatorship of the proletariat.

According to Communism all morality is class morality, a by-product of the economic stage of society. Communist morality is therefore entirely subordinate to the interests of the class struggle and the cause of destroying

the old exploiting society. Therefore the use of all methods, legal or illegal, moral or immoral, constitutional or unconstitutional, including violence, is justified.

According to communist doctrine the Communist Party must lead the masses, must explain the theory to the masses and action must ultimately be mass action. The masses refer chiefly to the proletariat and the peasantry and small bourgeois elements in society, i.e. all the disaffected social groups.

Communism requires that the women and youth be organised in a manner subordinate to the party, to serve the party. In the case of the Communist Party subsidiary organisations are more of an integral part of the whole policy and philosophy of the party than in bourgeois parties. Discipline does not figure as strongly in the bourgeois organisations as in the comparable communist organisations.

Communism teaches that every communist should belong to a trade union, even a reactionary one. Communists should attack reformism in the trade unions, defend trade union unity nationally and internationally on the basis of the class struggle, subordinate all tasks to the struggle for the dictatorship of the proletariat. According to Communism trade



unions should therefore not merely take active part in politics but should aim at the defeat of reformism, i.e. the idea of obtaining reforms through parliament. They should insist on the working class unity even at the cost of loyalty to the national state. Thus trade unions should not support so-called imperialist wars. On communist theory, also, trade unions should not attempt to reconcile differences based on class, or to co-operate with capitalists, but should assume the inevitability of continuous class struggle leading ultimately to the victory of the proletariat.

The idea of trade unions taking part in political movements is communist but is not exclusively communist. The anti-reformist trade union policies as set out above are exclusively communist.

Communist theory teaches that people should be made aware of their own daily problems and should be organised on the basis of their grievances. In thus making them aware of their problems people become politically conscious. This is the particular task of the Communist Party.

Fronts (or transmissions) are organisations which are not professedly communist but are used by communists to spread communist doctrine

(which doctrine involves action) to reach people or spheres of public opinion which a communist acting directly or openly as a communist could not reach. These organisations therefore serve as transmission agents for communist ideas and communist policy and therefore serve to promote the ideas of Communism for world-wide action.

The first revolution viz. the revolution to destroy feudalism is called the bourgeois democratic revolution. It aims to bring about a radical revolution in relation to the ownership of landed property in favour of the peasantry and to establish democracy.

In the modern world the bourgeois revolution when led by the workers also liquidates big capital.

The revolution known to Communism as the socialist revolution (also called communist revolution or revolution of the proletariat) is a violent revolution aimed at the destruction of the capitalist or imperialist state. This revolution brings the elimination of the bourgeois class and private ownership of the means of production and leads to the dictatorship of the proletariat.

The view of Khrushchev and others that violence will depend on whether the Capitalist class shoots first, does not effect the doctrine

of violence.

Communism opposes other schools of socialist thought which advocate the achievement of improvement in society by process of gradual reforms or by making laws i.e. methods falling short of violence, and deprecatingly termed reformism, legalism or gradualism. This doctrine of the inevitability of violent revolution distinguishes communism from other schools of socialism.

The concept of a People's Democracy is a Communist concept and refers to a type of state arising from a people's democratic revolution, i.e. a revolutionary process consisting of a combination of the bourgeois (or national democratic) revolution with the socialist revolution. The communist concept of violent revolution is therefore part of the concept of a people's democracy. In a developed form a people's democracy has the same aims and function as a dictatorship of the proletariat.

The concept of people as used in the people's democratic dictatorship which is the same as people's democracy refers only to supporters of the leading group in the regime i.e. the Communist Party as leader of the workers and peasants in particular. The reactionary groups such as landlords, and the monopolists, capitalists and bourgeois bureaucrats are not part of the regime and must ultimately be

relentlessly eliminated on the principle that democracy is only for the people.

The Police force, the armies, the civil service of the bourgeois state must be disbanded as being instruments of oppression and replaced by representatives of the people so as to become a people's police force, people's army, people's civil service.

In the initial stages of its development a people's democracy may be in some ways indistinguishable from a bourgeois socialist state unless certain decisive factors are known such as e.g.:-

the form of government, who governs, whether the government party has obtained or is gradually obtaining centralized control, the use of a list vote or other decisive features.

All known people's democracies in existence are communist states.

After Professor Murray had dealt with the principles of Marxism-Leninism he was asked by the prosecution to state his opinion on a number of exhibits which he had studied and which had been put before the Court.

In respect of the contents of many of these documents or parts of the documents his view was that they were in line with communism. In cross-examination he explained that he was not accusing any person or

any document of being communist. His mandate had been 'to report on documents, on the full nature of the documents and to indicate where I thought there were communist associations, attitudes of mind in the document'.

He also gave the following answer to a question by the Court:

"Now when you use the word in line with communism - I think that is the expression you've used - do you mean the author knew something about Marxism-Leninism, without seeking to brand the author as a Communist? He has some knowledge of Marxism-Leninism? ... 'No, I did not even go so far. I said that he picked up a certain phraseology, or a statement, or if you like an analysis shall we say of imperialism, which was in line with communism....'"

Professor Murray also explained that from the point of view of political science a school of thought or a political party could take over many communist principles without becoming communist in the full sense of the word.

He showed that in theory there could be and in fact there are people and parties who go most of the way with communism but differ from it on limited but fundamental issues;

The difference prevents them from being communist in the eyes of the political scientist.

In dealing with the evidence of Prof. Murray

it must be stressed that, when Marxism-Leninism is made an issue in a case such as the present, the Court must be guided by the evidence of the expert. In the present case the evidence of Professor Murray as to what constitutes Marxism-Leninism stood unchallenged.

I think that it is correct to state that on his evidence communism must be considered as part of a spectrum of belief. This spectrum extends from the most moderate forms of socialism, through extreme forms thereof, to communism.

Somewhere in this spectrum there is a dividing line between communism and an extreme form of socialism but which falls short of communism.

The evidence of Prof. Murray indicates that this line should be ascertained by a consideration of whether or not the idea of the dictatorship of the proletariat, the rejection of reformism and the inevitability of the violent revolution have been accepted.

These must be considered as fundamental principles of communism. If a party accepts these principles, then, on the spectrum, it has crossed the dividing line and is a communist party.

If it has not accepted these principles it may be an extreme left wing party, ("left" in the sense of occupying a position on the spectrum of socialism) but not a communist party.

In view of the fact that communism refers to itself as socialism the term bourgeois socialism was at times used in this case to indicate a form of socialism which falls short of communism.

On the difference between communism and bourgeois socialism Prof. Murray, inter alia, stated:

"In theory the difference between what I would call left wing bourgeois Socialism and Communism centres round the theory of revolution, things like the historical interpretation, the development must go along certain lines",

He was then asked the question "Does the extreme left form of Socialism not adopt that view at all?"

His answer was:

"Not as Socialism, no. The difference is reformism on the one hand...putting it broadly, reformism on the one hand and revolution on the other.

Socialism will admit the class struggle, and decide to overcome it by trade union organisation, and the trade unions even cooperate with the Capitalists.

On the other hand class struggle must lead to the dictatorship of the proletariat and the break up of Capitalism."

Prof. Murray also gave the following answers to questions put to him:

"Does bourgeois socialism recognise the principle of the dictatorship of the proletariat?...Not bourgeois Socialism."

"Is that particular principle a particular communist doctrine?...That is a straight out Marxist-Leninist doctrine."

Is that, the dictatorship of the proletariat, to be found as a fundamental principle of any other political philosophy?...Not to my knowledge, no."

Elsewhere, in his evidence, and dealing with the interrelation of the role of the Communist Party and the dictatorship of the proletariat, Prof. Murray gave the following answers to questions put to him by the prosecution:

"Now this idea of the party, the importance of the party, the role it plays in Communist theory is really developed in this way, isn't it? That it links up, if I may use a phrase which appears in the evidence, it links up with the dictatorship of the proletariat and the idea of the revolution. The revolution must be prepared and guided by the Communist Party?...Yes."

"In fact that is what makes it the dictatorship of the proletariat?...Yes."

Finally, in reply to a question by the Court, Prof. Murray stated the following:

"Assuming a person accepts everything that the doctrine of communism prescribes, but he rejects the dictatorship of the proletariat and violent revolution and that the party must rule can you call him a communist?... If he openly rejects it?"

"He says to himself, I reject all that, but I



accept all the rest..No, then I would not call him a communist on doctrine, certainly not."  
"Not according to doctrine?....No."

In the light of the evidence of Professor Murray and having regard to the nature of the charge on the issue of Communism, it was not sufficient for the prosecution to prove that the African National Congress, or the Congress Alliance, had propagated ideas which corresponded with communist ideas, or had applied an analysis to situations which was also a communist analysis.

The prosecution had to prove beyond reasonable doubt that the African National Congress intended to establish a Marxist-Leninist state, in the sense that it intended to establish a state, which would have the fundamental Marxism-Leninist attributes.

As previously stated, the Court found as a fact that the African National Congress, in the period of the indictment, had manifested a strong left wing tendency and had actively worked for a new state radically different from the present, but that it had not been proved that it had become a communist organisation.

The strong left wing tendency which the African National Congress exhibited in the indictment period is illustrated by its adoption of the "Freedom Charter" and by the expression of certain views preparatory to the Congress of the People, held in June 1955, and thereafter, and I shall now proceed to deal with some of the evidence which relates to these issues.

The evidence showed that the African National Congress, and most of the organisations referred to in the indictment, as well as the present accused, were working actively together to replace the present form of state with a state based on the demands of the "Freedom Charter", adopted at the Congress of the People on the 25th and 26th days of June 1955. A copy of the "Charter" is contained in Schedule No. 7. Some of the organisations, such as the South African Peace Council and the South African Society for Peace and Friendship with the Soviet Union, while not actively working to achieve the aims of the "Freedom Charter", supported the Congress Alliance in their preparations for the struggle.

The following evidence illustrates the manner of co-operation between these organisations and the others in relation to the "Freedom Charter." The South African Society for Peace and Friendship with the Soviet Union held a public meeting on the 6th November 1955 to celebrate the 38th Anniversary of the foundation of the Soviet Union.

The Chairman was the Reverend D.C. Thompson. Messages were read from various Peace Councils in South Africa, from the South African Congress of Trade Unions, the Transvaal region of the Federation of South African Women, the Natal Indian Congress, the Transvaal Indian Youth Congress, the African National Congress Youth League and the South African Congress of Democrats. The messages, the speeches and the resolutions all reflect praise and adulation of Soviet Russia and its achievements.

On behalf of the South African Congress of Democrats for instance, the following message was read:

"Dear Friends,

On the 17th November, 1917, the people of old Russia throwing off from their workworn shoulders the parasites of Czarism, slackened off and set out on their task of establishing their own Freedom Charter.

They set out to achieve this against apparently hopeless odds. But this made it possible for them to set out on the path which led them to astonishing achievements in every field of human activity. Today the people of South Africa know that if it had not been for the people of the Soviet Union we would not now be discussing how to implement our own Freedom Charter and make it reality. We send you our heartfelt greetings on this occasion.

Yours sincerely, Peter Beyleveld,  
National Chairman."

The South African Peace Council wrote to the Transvaal, Natal and Cape Peace Councils on the 24th September, 1954, in regard to the Congress of the People, and, inter alia, said:

"As pointed out above we must utilise the preparations for the Congress in order to raise the level of peace work and to win the support of thousands for the peace movement. There are two ways of doing this.....

In the second place we have to publish our own material dealing with these aspects. It will be our special task to see that peace becomes an integral (part) of the Freedom Charter and in order to do this we will have to increase both our printed material and the number of meetings, conferences etc. which we hold." Exh. E. 26A, rec. p. 1868.

The South African Peace Council also arranged a so-called Peace Exhibition at the Congress of the People in June 1955.

Coming to the "Freedom Charter" itself the following provisions thereof are important from the point of view of judging the nature of the state envisaged therein.

"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:

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:

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.

.....  
And shall have the right to occupy land wherever they choose:

All Shall be equal before the Law.

.....  
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.

.....  
There Shall be work and Security.

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 in full pay for all working mothers:

.....  
There Shall be <sup>peace</sup> house, 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 shall be made available to the people:

.....

There Shall be peace and Friendship.

.....  
The people of the protectorates - Basuto-  
land, Bechuanaland and Swaziland - shall be  
free to decide for themselves their own  
future.  
.....

The form of state based on the demands set out above is in our view radically and fundamentally different from the form of the present South Africa in regard to its political, social and economic structure. This difference was realised and emphasized by leaders of the African National Congress.

In an article 'In our Lifetime' written by the accused Nelson Mandela in 'Liberation' of the 19th June, 1956, it is stated:

"The Charter is more than a list of demands for democratic reforms. It is a revolutionary document precisely because the changes it envisages cannot be won without breaking up the economic and political set-up of present South Africa. To win the demands calls for the organisation, launching and development of mass struggles on the widest scale. They will be won and consolidated only in the course and as the result of a nation-wide campaign of agitation; through stubborn and determined mass struggles to defeat the economic and political policies of the Nationalist Government; by repulsing their onslaughts

on the living standards and liberties of the people.

The most vital task facing the democratic movement in this country is to unleash such struggles and to develop them on the basis of the concrete and immediate demands of the people from area to area. Only in this way can we build a powerful mass movement which is the only guarantee of ultimate victory in the struggle for democratic reforms.

Only in this way will the democratic movement become a vital instrument for the winning of the democratic changes set out in the Charter."

The whole of the article as read into the record, Exh. G.1114, rec. p. 3539, is contained in Schedule No. 8.

In a draft personal message which Luthuli originally intended to give to the 1955 Annual Conference of the African National Congress, but which, according to him, might not have been sent, he stated, inter alia:..

"In discharge of my duty as Leader of Congress, I feel it necessary for me in guiding conference to point out the implications of the Charter as I see it. An awareness of the implications is necessary before one can decide intelligently on the proposition. What is the implication of the Charter? The Charter definitely and unequivocally visualises the establishment of a

Socialistic State. It therefore brings up sharply the idealogical question of the kind of state the African National Congress would like to see established in the Union of South Africa."

See Exh. A.J.L. 1, rec. p. 11536.

In cross-examination Luthuli gave the following evidence:

"Mr. Luthuli, I want to put it to you that you and the whole Congress Movement, you accepted the position 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?.....I think that is generally correct.

And that we would have, once the demands are put into effect, one would have a state which differs radically and fundamentally from the present State? My Lords, I think 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 demands really, My Lord, that you get in any bill of rights. For example, I think that if you were to make comparisons with the Freedom Charter, you will find that-----  
I am not asking you to compare it with



the present political and economic structure of the Union?.....I am saying that in some respects there are radical changes, in others they wouldn't be so radical."

The difference between "Africans' Claims" and the "Freedom Charter" was emphasized by the National Executive of the African National Congress in its report for the year 1956. The report refers to the African National Congress and its struggle and says:

"But in no case has it ever defined in clear and explicit terms the type of future South Africa we fight for. It is true that in 1943 it published the "Africans' Claims" and demanded equality amongst all sections of the population based upon the existing economic and political set-up in the country."

The report compares "Africans' Claims" and the "Freedom Charter" and, in referring to the former, says:

"it left unanswered a vital question of how it is possible to achieve equality between Black and White, for example changing the character of the ownership of the gold mining industry."

The report further states:

"The Charter goes much further than "Africans' Claims" and after mentioning some of the demands thereon such as "the people shall govern, all national groups shall have equal wealth" concludes as follows:

"for the first time in the history of the African National Congress our aims and objects have been set out in the clearest and most unambiguous terms," rec. p. 13738.

Professor Murray stated in his evidence that there was nothing in the "Freedom Charter" which was not consonant with communism. He conceded, however, that each of the demands taken separately was not necessarily communist and could be socialist.

He made it clear that the "Charter" was not a constitution and that the final form of the state envisaged in the "Charter" was not determined and that on the implementation of the demands, as they appeared in the Charter, the state envisaged could be a bourgeois socialist state, before the dictatorship of the people; it would be such a socialist state if the democratic parliamentary form of government were retained.

In this connection Professor Murray gave the following answers to questions put to him:

"I take it the Freedom Charter, subject to certain inferences which must be made, is silent about the form of government?.....  
Quite silent about the form of government.  
If there were introduced in the Freedom Charter parliamentary form of government and the freedom of political parties, then that would indicate that the proletariat of the dictatorship is not aimed at?.....Yes,  
and free trade and capitalism also of course.

If in the Freedom Charter were to be inserted a reflection of the dictatorship of the proletariat, then--- Then it would be Communist Socialist.

And not bourgeois Socialist?--- Yes.

(rec. p. 6821).

Because of this evidence by Professor Murray the prosecution could not and did not rely on the "Freedom Charter" by itself as a ground for submitting that the object of the African National Congress was to establish a communist state.

Before the "Freedom Charter" was adopted at the Congress of the People in June 1955, there had been a campaign by the Congress Alliance to educate their members and the masses to send in "demands" which were to be collected, crystalized and incorporated in the "Freedom Charter".

For this purpose the National Action Committee of the Congress of the People on which the African National Congress was represented, issued a series of lectures which were widely distributed, entitled The World we live in, Exh. A.84, The Country we live in, Exh. A.85 and A Change is needed, Exh. A.86.

When judgment was given the defence had not argued the lectures in detail. The defence had stated that it would admit that the lectures contained some traces of communist influence but that it would argue that they did not reflect African National Congress policy.

A comparison of the lectures and the principles of communism as testified to by Professor Murray would, of course, indicate to what extent communist analysis and theory are to be found in the lectures.

As a matter of policy, the lectures cannot take the case for the prosecution further than the "Freedom Charter" which set out the policy of the African National Congress after the lectures had done their work. They do, however, tend to show how the members of the African National Congress were allowed to be politically educated.

The lectures are reproduced in Schedule No. 9. The first chapter in the "The World we live in" deals with the topic "the world is a world divided". It firstly gives an historical approach, citing the slave system and the feudal system, and, in regard to capitalism, it states:

"There was a later division - which is the division of classes of our own time - the division of capitalists and workers - though some of the old serf and feudal lord division still lingers on in many countries, including South Africa."

In a chapter "Understanding the World" it states, inter alia:

"The world we live in is, then, a world divided into classes - into masters and men. It is a world in which one small class of men the masters, those who own the tools, the machines, the factories, the mines, the

forests, the farms, live from the work of many, the working people, who own nothing but their ability to work. This system of some living and growing rich through the work of others we call exploitation....."

In a chapter "What is your labour worth" the conclusion is arrived at -

"Our world is a world of class struggles - where the workers struggle against exploitation for the full value of their labour and the masters struggle to exploit the workers as much as possible for their own enrichment."

There are also short chapters entitled:

"Divisions by Nations", and "Conquering the Colonies". They state, inter alia, that "the struggle of classes in our world has led to the conquest and enslavement of some nations by others", that England, France, Holland and Germany conquered countries by force of arms, "forcing the local native population to work in grinding poverty and exploitation in the mines, forests and plantations".

In the chapter "National Oppression" it is stated:

"They were exploited in a new way - a double exploitation - exploited as workers and oppressed and exploited as inferior people, subject races. This is the exploitation we call "imperialism" and those who suffer from it we call the colonial people

In the next chapter "Struggle for Liberation" it is stated that in this age of imperialism the people's struggle has grown strong enough

"to burst out of the net of capitalist exploitation, to overthrow the old system of private ownerships of tools and machines and factories and to replace it with a new system - the system we call socialism - where there are no masters and no exploited men, but where all the factories and farms and mines and machines are owned in common by all the people who work for their own benefit and are used not to make profits for a few".

In the last chapter it is stated :

"We live in a world divided into imperialist countries - England, America, France, Holland, Belgium - which oppress and exploit the colonial countries in Africa, Asia and South America. We live in a world divided into two sections - the section where capitalism rules and exploits the people; and the sector where the means of production have become the common property of all people and exploitation of man by man is being abolished - China, the U.S.S.R., Poland, Hungary, Rumania, Czechoslovakia. We live in a world aflame with the fight for freedom from imperialism and exploitation through which the people move steadily forward to a better life....."

It is the Congress Movement which organises South Africa for this great democratic struggle. Our Congress Movement is part of a great world brotherhood for liberty."

In the second lecture "The Country we live in" the form of government in South Africa is considered as an imperialist system of oppression.

The last phase of this form of government is said to be fascism and the lecture ends as follows:

"To challenge it, there is need for a close unity of all the oppressed people, together with all those democrats and liberty loving sections of the European people, whose future is threatened by fascism. Such alliance cannot hope to defeat fascism only by seeking to change the government of the day. For fascism is not a particular body of men. It is something that grows out of the economic and social conditions produced by imperialism and can only be defeated by such sweeping radical changes in those conditions as will destroy forever the breeding ground of fascism. Let us study what those changes should be, if the alliance is to destroy fascism, before fascism destroys the people."

In Lecture 3, "A Change is Needed" it is stated that the Congress Movement cannot be satisfied with

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