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REPLY by DEFENCE

THE POLICY OF THE AFRICAN NATIONAL CONGRESS.

1. The two outstanding leaders of the African National Congress during the indictment period were A.J. Luthuli and Z.K. Matthews.

2. Luthuli was the President General throughout the indictment period. The evidence is clear that he was regarded as by far the most important leader of the African National Congress. See

V. 57. p. 11424-5, 11457.
Moeller. V. 4. p. 984.
Truter,
Conco. V. 57. p. 11400.

and numerous references in speeches and documents.

3. Matthews is a man of unique eminence in the African community. He has known the African National Congress policy since 1913 (V. 85, p.17876), supported it since 1935 (p. 17829), has been a member since 1940 (p. 17876) and a member of the National Executive since 1943 (p. 17880). He was President of the Cape Province for six years (1949-55) and deputised as President General when Luthuli was ill. He was clearly an acknowledged leader. See his own statement at V. 86, p. 18031, and Ntsangani. V. 77, p. 16263.

4. The character and the utterances of these two men are of far more importance in judging the policy of the African National Congress than those of any other individuals. Their public statements constitute a vital part of the propaganda which was issued by the African National Congress to the public.

5. While they may not have known in detail what the African National Congress branches were doing in every part of the country, there can be no question of their not knowing African National Congress policy. They have both been named by the Crown as co-conspirators.

6. In order to present a fair picture of the African National Congress, one might have expected the Crown to have given considerable prominence in its case to the utterances of these leaders. There was no lack of material. In addition to the numerous documents containing their writings, there must be in the possession of the police hundreds of reports of their speeches. (See V. 57, p. 11441-2 for Luthuli's estimate of the number of speeches made by him).

The Crown has used none of these reports. As for the documents, the majority of those containing Luthuli's writings and all those containing Matthews's writings were put in by the defence.

The fair inference is that the Crown is unable to find any support for its case in the utterances of the two principal leaders of the African

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National Congress.

7. The defence submits that such of their utterances as are before the court clearly show Luthuli and Matthews as men of sincere and moderate convictions, unswervingly committed to a policy of non-violence.

8. The following documents contain speeches or writings by Luthuli, all of which support the above submission.

(i) AJL 30 or AJL 45, V.54, p.10860-5.

This is a particularly significant document, since it was published immediately before Luthuli's election as President General and was distributed at the Conference which elected him.

Conco. V.54, p.10859.

Luthuli. V.57, p. 11417.

It reflects the policy of the African National Congress precisely at the beginning of the indictment period. It deals expressly with the policy of non-violence.

(ii) A 37 (National Presidential Address, 1954). V.2, p. 234

V.57-8, pp. 11484-503.

(iii)/...

(iii) TET 55 (Address to C.O.P. Conference, 1954). V.58, pp. 11511-6.

(iv) Z 5 (Statement on Western Areas).
V.58, p. 11522.

(v) UU 3 (Address to Cape Provincial Conference, 1954).
V.58, pp. 11527-9.

(vi) ORT 55 (message to C.O.P.).
V.58, p. 3423.
V.58, p. 11532.

(vii) CM 43 (message to N.A.C.C.O.P.)
V.58, p. 11531.

(viii) AJL 1 (message to A.M.C. Conference - probably never sent).
V.58, p. 11535.
V.62, p. 13281, 13301.

(ix) SDN 98 (Natal Presidential Address, 1956).
V.58, p. 11543-504.
V.65, p. 13899.

(x) GD 23, LLM 81, EPM 15 (National Presidential Address, 1955-).
V.14, p. 2613-6.
V.58, p. 11555-6.

This is Lathuli's address to the Conference which elected him as President General for the second time.

(xi)./....

- (xi) A 35, A 24 (Natal Presidential Address, 1954).
V.58, p. 11558-60.
V.62, p. 13249.
- (xii) C 37 (Message to C.O.D., 1955).
V.58, p. 11561-3.
- (xiii) C 521 (Message for June 26th).
V.11, p. 2198.
- (xiv) A 83 (Address to S.A.I.C., 1954).
V.3, p. 445-51.
V.58, p. 11568.
- (xv) NTN 20A (Address to N.I.C., 1953).
V.22, p. 4221-5.
V.58, p. 11569.
V.62, p. 13204-6.
- (xvi) Z 6 (Article in "The Listener", 1956)
V.58, p. 11573-4.
- (xvii) Z 7 (Article in Congregational Church magazine, 1956).
V.58, p. 11580-2.
- (xviii) A 55 (Call to volunteers).
V.59, p. 11715-6.
V.61, p. 13040-4.
V.65, p. 13853.
- (xix) Speech reported in "Advance".
V.61, 13045-51.

(xx) /...

- (xx) A 200.
V.54, 10849(a) - (h).
- (xxi) TT 80 (Presidential Address, 1953).
V.61, p. 13132-4, 13141.
- (xxii) G 1122 (Message in "Advance").
V.19, p. 3633.
V.62, p. 13209-10.
- (xxiii) TET 50 (statement on Western Areas).
V.63, p. 13482.

9. The following are the writings of Matthews which are on record. It was not put to him in cross-examination that these statements reflect a violent policy, or that they do not reflect the policy of the African National Congress.

- (i) Speech of April, 1952.
V.86, p. 18024-9.
- (ii) ZKM 2 (Cape Presidential Address, 1953).
V.87, p. 18264-74.
- (iii) ZKM 18, (Cape Presidential Address, 1954).
V.87, p. 18277-84.
- (iv) ZKM 32, ZKM 21 (Cape Presidential Address, 1955).
V.87, p. 18285-307.

10. We have now considered a large class of the individual utterances relied on by the Crown and we have weighed against these the utterances of two individuals far more important than those relied on by the Crown. We submit that the consistent position taken up by these two leaders is a far more significant fact than the sporadic and localised outbursts of irresponsible language which were all that the Crown's evidence on speeches was seen to amount to.

11. All individual utterances, however, are merely inferential evidence of policy. We now turn to consider the sources of African National Congress policy.

12. There is only one policy making body of the African National Congress and that is the National Conference. This is established by the Constitution of the African National Congress,

A 15, V.57, p. 11429

and by the evidence of witnesses who know the position and have not been contradicted.

Luthuli. V.57, pp. 11424-5, 11436-7.

Matthews. V.85, p. 17907.

V.86, p. 18032-3.

Yengwa, V.83, p. 17504

Mandela. V.75, p. 15912.

Conco. V.57, p. 11401-3.

13. Whatever inferences may be drawn from statements in "New Age", "Advance", "Liberation", "Fighting Talk", "African Lodestar" or the resolutions of the A.N.C.Y.L. (all of which will be considered in detail later), it is clear that none of these have any authority to prescribe the policy of the African National Congress.

The National Conference in fact initiated all major campaigns

Luthuli, V.58, p. 11437

and no other policy making authority was recognised.

14. The Crown has not seriously suggested that there is any other policy-making body in the African National Congress. The Crown case must, therefore, be that the policy of violent revolution was adopted at some annual or special National Conference. Yet the Crown is quite unable to point to a conference at which any such decision was taken. Not only is there a complete lack of direct evidence of such a decision (whether through the evidence of informers, eavesdroppers, minutes, correspondence or anything else), there is also in the actual activities of the African National Congress a complete lack of any pattern pointing to the adoption at a particular time of a decision to go over to violence.

15. There is, in any event, no need for any elaborate investigation into facts from which it might

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be inferred what the policy decisions of the National Conference might have been. There is a reasonably full record of the main decisions before the Court and in our submission it is perfectly possible to discover by the examination of the real policy documents of the African National Congress, what the policy in fact was.

16. It is submitted that the following are documents which provide direct and reliable evidence of the policy of the African National Congress:

(i) A 15, WS 34. The Constitution.

V.57, p. 11426-33.

This sets out only general objects, which are of no assistance to the Crown. For a comparison of this with the earlier Constitution,

ORT 37, see

Matthews. V.85, p. 17881,890,

933-5.

(ii) WS 99 "Africans Claims",

V. 54, p. 10716-40.

For its history and authority see

Matthews. V.85, p. 17881-2.

Luthuli. V.57, p. 11410-1.

It was regarded as the most important statement of African National Congress policy at least until the adoption of the Freedom Charter in 1956.

Cf. the mentions of it in A 37,

V.2, p. 267,

V.54, p. 10877

This document was not put in as part of the Crown case, and the Crown does not suggest that it displays either communist tendencies or tendencies towards violence.

Yet/...

Yet it contains most of the features which the Crown finds so sinister in later documents, such as

criticism of the economic disabilities of Africans,
an attack upon "fascism",
a call for "sacrifices of time, means and even life itself,
the phrase "mass liberation movement",
support for colonial emancipation,
a criticism of "the capitalist class",
a call for international peace, universal franchise, redistribution of land, and all the main features of the Freedom Charter except nationalisation of industry,
an attack on the ideas upon which Bantu Education is based.

The continuity between this document and all the activities of the African National Congress during the indictment period is apparent. There is no need to look any further for the policy and ideological basis of these activities.

Yet the document as a whole is so obviously moderate in tone and inconsistent with the idea of violent revolution that

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the Crown has been unable to make anything of it.

- (111) JDM 24, The 1949 Programme of Action.
V.54, p. 10878-80.

It is common cause that this was the basic statement of African National Congress policy on methods of struggle. It was adopted by the National Conference in 1949. For the history of its adoption, see particularly

Matthews. V.85, p. 17883-99.

On the face of it, the Programme does not envisage any violent action, but does envisage those forms of non-violent struggle upon which the defence relies. The defence evidence is unanimous that this was how the Programme was intended to be interpreted.

Matthews, V.85, p. 17890

(this witness is especially important, since he was involved in the drafting of the Programme).

Yengwa. V.83, p. 17500, 17509-10.

(he was not cross-examined on this statement)

Luthuli. V.57, p. 11476-82.

Mandela. V.74, p. 15774-5.

Resha. V.77, p. 16379.

Ramakhula. V.85, p. 17814.

(he also was not cross-examined on this).

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The Crown attempts to reconcile this document with its case by saying that it must be interpreted in the light of the alleged knowledge of the African National Congress that the methods envisaged in the Programme would inevitably lead to violence. This argument is an afterthought. The Programme was not relied upon in the Crown case as originally presented.

For this alleged knowledge, the Crown relies firstly upon two documents, B 25 and PDN 105.

B 25 is a lecture which was used in the Transvaal for purposes of discussion. The only evidence of its status is that of

Mandela, V.75, p. 15849

V.76, p. 16066-70

It is clear that this is not an official statement of policy, and as far as can be gathered from the evidence, its contents were not known at all outside the Transvaal. It cannot, therefore, be argued that the African National Congress as a whole interpreted the Programme of Action in the light of B 25.

In any event, the document does not support the Crown argument. The passage which comes nearest to supporting the Crown is that which states that in the past, strikes have sometimes led to bloodshed. This is a fact. It is also a fact that strikes have often passed off peacefully, and the lecture does not suggest the contrary.

Mandela was cross-examined at length on this document/...

document, p. 16070-86. The most that emerges from this cross-examination is that the document is not a very satisfactory reflection of African National Congress policy.

PDM 105 is a piece of paper containing rough notes by an unknown author. It contains a cryptic reference to armed conflict. No witness was cross-examined on it and it cannot be taken seriously as evidence of the knowledge of, or anything else about, the African National Congress.

17. It will be convenient at this stage to deal generally with the question whether the African National Congress foresaw violent conflict as an inevitable result of its activities.

The question of the African National Congress's attitude towards the prospect of violent action by the state was put to most of the defence witnesses. The evidence of most of them was that such violent action was regarded as possible, but not inevitable.

Conco, V.55, p.10989, 10990.

Luthuli, V.59, p. 11778,

V.60, p. 11951-4, 11958,
11960-1.

V.62, p. 13233.

Matthews, V.85, p. 17949, 17952.

V.87, p. 18251.

Mandela, V.75, p. 15816, 15974.

Yengwa, V.83, p. 17549,

V.84, p. 17634-6.

Resha, v.80, p. 16970, accuses the government of wanting violence, but does not deal with the likelihood or otherwise of such violence taking place.

Molaoa, V.82, p. 17253-4, and

Sibande, V.82, p. 17393 did not envisage any danger of bloodshed.

The Crown has not dealt with this evidence. It is submitted that there is no reason to disbelieve it/...

it. There is certainly no policy document which declares the contrary. The Crown relies for its contrary view firstly upon an inference from the language used in attacking the government in certain propaganda articles and lectures. This is a flimsy basis on which to infer the considered view of a whole organisation. Secondly, the Crown relies on what it submits to be the logic of the situation. This is dealt with in paragraph 19 below.

18. The African National Congress's expectation of violence on the part of the state is relevant only if it is further established that the African National Congress would be the cause of such violence and would expect its followers to retaliate. On both these points, there is defence evidence against the Crown.
See

Luthuli, V.60, p. 11955-8.
V.61, p. 13179.
Matthews, V.85, p. 17953-4.
V.86, p. 18065.
V.87, p. 18211.
Yengwa, V.83, p. 17550.
Resha, V.81, p. 17043.
Bhengu, V.84, p. 17743.
Magwaza, V.84, p. 17787.

Against this evidence, the Crown cannot point even to an article or lecture which declares the contrary. On this point, the Crown argument is pure speculation.

19./...

19. The Crown has strenuously argued that the nature of the African National Congress's admitted methods, together with the situation in South Africa as the African National Congress saw it, were such as to lead logically to the conclusion that the African National Congress must have intended

- (a) state violence as a result of African National Congress activities,
- (b) retaliation by the masses.

The first point to be made about this argument is that the application of logic to politics is something upon which opinions are apt to differ widely. What seems logical to the Crown, and even to the Court, may still not have seemed logical to the African National Congress. Even if the Crown's argument were logically unassailable, the possibility still exists that the African National Congress had an illogical approach to the matter.

In fact, however, there is no irrefutable logic in the Crown's argument. A government faced with a mass strike or defiance campaign may

- (a) capitulate,
- (b) negotiate a compromise,
- (c) rely on the ordinary processes of the criminal law, together with the expectation that such a campaign could not be sustained indefinitely,

(d) /...

- (d) introduce additional sanctions
calculated to deter the leaders
of the campaign,
- (e) use force on a large scale, in
which case the strikers may
 - (i) surrender
 - (ii) retaliate.

The Crown says that (e)(ii) is the only outcome. Obviously it is not, as a matter of experience or of logic. If the government is stubborn and brutal, the risk of violent action is no doubt greater. But there are degrees of stubbornness and brutality. The evidence is that the African National Congress believed that this stubbornness would not persist indefinitely in the face of mass civil disobedience. On this point, see especially

Luthuli. V.57, p.11479-80

This is a perfectly rational assessment of the prospects. It would be extremely irrational for an unarmed people to put its faith in violent revolution in preference to some such assessment as this.

20. The Crown relies on the constant references to "sacrifice" in the documents and speeches, to show that violence was regarded as inevitable. These references occur in individual speeches and writings, and the wording used naturally reflects the degree to which different individuals felt themselves called upon to warn their followers of the danger of violence from
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the side of the government. The defence evidence is clear that there was a general feeling in the African National Congress that such a danger existed and that people ought to be warned of it. The documents are perfectly consistent with this evidence. They do not establish either that government violence was regarded as inevitable, or that there was any thought of retaliation.

21. The Crown relies on the Defiance Campaign as a fact from which the Court may infer the sort of activity which was envisaged by the Programme of Action. The defence has no quarrel with this; indeed, it relies strongly on the Defiance Campaign for the same purpose. The defence, however, relies on the official discussions of the Joint Planning Council which planned the Defiance Campaign, and upon what actually happened in the Campaign. The Crown relied at one stage on a speculative theory as to what the African National Congress believed would have happened if the Campaign had reached a stage which it never reached in fact.

The Defiance Campaign was inspired by the earlier Indian Passive Resistance Campaign

Mandela. V.74, p. 15783

The Indian concept of passive resistance was in turn derived from Gandhi and involved the renunciation of force. See Cachalia passim, and cf. Murray. V.32, p. 6324.

The objects of the Campaign are clearly set forth in the report of the Joint Planning Council, V.70, p. 14922, V.71, p. 15002.

Cf. Matthews. V.87, p. 18261
and Luthuli. V.58, p. 11637-10

Equally clear is the address of Professor Matthews in April, 1952, V.86, p. 18023-9.

These pronouncements envisage a non-violent
campaign/...

campaign and so, in fact, it was. See

Luthuli. V.57, p. 11420

V.58, p. 11636-53,

esp. p. 11640-1.

Matthews. V.85, p. 17927-8

V.86, p. 18023.

Mandela. V.74, p. 15781-2.

V.76, p. 16039.

Yengwa. V.83, p. 17509.

V.84, p. 17623-5, 17628.

Moeller. V. 6, p. 1002e - f.

In addition, the following defence witnesses testified that they had personally taken part in the Defiance Campaign: Conco, Mkalipi, Ntsangani, Resha, Sibande, Mokamede, Ramakhula.

All this evidence supports the defence view of the Defiance Campaign as a central feature in the African National Congress's non-violent policy. It is a strong factor in favour of the defence, whether it be viewed as a precedent for African National Congress activity, a fact bearing upon the interpretation of the Programme of Action or a fact bearing upon the total political situation as the African National Congress saw it.

The Crown made a short lived attempt to find something in the Defiance Campaign which could be used in its favour. This took the form of a theory that the African National Congress must have known that the "third stage" of the Campaign would lead to violent

clashes/...

clashes.

This was put in so many words to only one witness - Yengwa at V. 84, p. 17629 - and denied by him. Matthews was cross-examined upon similar lines at V. 86, p. 18060-71, though the expectation of actual violence was not expressly put to him. He denied that the Campaign was intended to create chaos.

This theory re-appeared in the Crown argument (V. 90, p. 18842) but was later abandoned (V.91, p. 18944-5).

The Crown was then forced to fall back on the submission that the Defiance Campaign supported its case merely insofar as it showed that the methods of the African National Congress were extra-parliamentary and sometimes illegal. This has never been disputed by the defence. The only issue is whether the extra-parliamentary methods of the African National Congress necessarily involve violence. The history of the Defiance Campaign affords strong support to the defence evidence that they do not.

22. Reverting to the policy documents of the African National Congress, we come next to the Freedom Charter. A 10, V.1, p. 157-162. This document became official African National Congress policy when it was adopted by the Special National Conference of 1956.

This is a statement of general aims, arising out of the actual grievances of the non-European peoples.

Matthews. V.86, p. 18009-10

Murray. V.32-33, p. 6365-6468.

Apart from the communist aspect, which is dealt with elsewhere, the Crown bases only one argument on the Freedom Charter. It is suggested that the changes envisaged by the Charter are so radical that the African National Congress could never have expected to obtain them by peaceful means. This argument is answered by Murray at V. 32, p. 6320. All the reforms envisaged could follow quite simply, if the universal franchise were once conceded. If that could be obtained peacefully, anything else which is desired could be obtained equally peacefully. In this respect, therefore, the Freedom Charter takes the matter no further than "Africans' Claims", or even the constitution.

23. Next come ordinary conference resolutions, of which there are several on record. It is not proposed to examine them in detail as a body, since
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the Crown has not done so, and does not argue that there are any of them which amount to the adoption of a policy of violence.

It is common cause that the National Conference did meet annually to consider the affairs of the African National Congress and its major campaigns. The Crown has not suggested and cannot suggest that there was any other policy-making authority, or that the resolutions of the conferences were passed for any other purpose than to determine policy. It is thus strange that conference resolutions play virtually no part in the Crown case.

The list of policy documents dealt with above is in accordance with the argument already advanced on the meaning of the policy of an organisation. The prominence given in this case to documents of lesser importance may create the impression that this is a technical approach. But how would the ordinary member judge the policy of the A.N.C.? One cannot assume that he reads "African Lodestar", or hears the speeches of Resha or studies "Change is Needed". One can assume that he knows and accepts the documents just dealt with. If one supposes the existence of a secret policy-making body, the question arises, who was in the secret? The documents just dealt with were held out to members as being the policy. Has the Crown proved that they also received secret instructions to ignore these documents and look elsewhere for policy?

It is not denied that inferences as to policy could be drawn from other documents, particularly such as are used to communicate policy, by the leaders to the members, or by the organisation to the public. In this category would fall Executive Reports, presidential addresses, the speeches of acknowledged leaders and publications which have the status of organs of the African National Congress.

Such material must be considered merely as part of a total picture from which an inference is to be drawn. In respect of any given statement, one must consider, inter alia:

- (1) the occasion on which the statement was made,

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- (ii) the importance in the organisation of the person or body responsible for the statement,
- (iii) whether that person or body was in the habit of expressing personal views or tentative views which might not reflect policy,
- (iv) whether the statement is consistent with other statements on the same subject,
- (v) If not, the reason for the inconsistency and the relative weight of the conflicting statements.

The following passages in the evidence deal with the weight to be attached to material of various kinds:

Murray V.30, p. 5823

Luthuli V.60, p. 11974

V.59, p. 11849

Matthews V.86, pp. 18133-4, 18169-71.

V.87, p. 18231, 18261-3.

In considering such statements, one must also bear in mind the tendency to use loose and exaggerated language in politics. Even the resolutions of a political organisation are unlikely to be drawn with the care that a legal draftsman would use. A fortiori in the case of ephemeral propaganda statements, for the wording of which one man alone is responsible.

Cf./...

Cf. Murray V.32, pp. 6207-10
Mandela V.75, p. 15806
Matthews V.86, pp. 18169-70.

We now proceed to deal with a number of documents relied on by the Crown. Two documents upon which particular emphasis has been placed will first be considered separately: Exhibits A.309 and A.84-6. Then follow a number of documents classified, as the Crown has classified them, under the headings "Liberatory Movement" and "Propaganda for a New State". Last come the publications "Advance", "New Age", "Fighting Talk" and "Liberation".

A. 309 is the address by N.R. Mandela entitled "No Easy Walk to Freedom", read in at V. 5, pp. 947-962.

It was written by Mandela about the time when he was banned as Transvaal President and was sent by him to the Provincial Conference in lieu of a Presidential Address. According to the introduction by Rasha, and also Resha's evidence (V.80, pp. 16893-4), it was highly regarded in the Transvaal. There is, however, no evidence that it was known in any other province. A document of this kind could not lay down any new policy for the African National Congress.

For the most part, it does not purport to lay down policy, but rather to express opinions about past events and the present situation. These opinions reveal a bitter hostility towards the Government and a generally extremist attitude. The Crown's suggestion that they reveal violent intentions is fully answered by Mandela's own evidence on the document.

Mandela V.74-75, pp. 15788-15806

V. 76, pp. 16045-16063

Several/...

Several defence witnesses were cross-examined on the document. The majority had not read it before the case began. Some agreed that the views expressed in it, while others raised points of disagreement. See

Conco. V.55, p. 10973.

V.56, pp. 11074-5, 11092.

Luthuli, V.61, pp. 13157-60.

Resha, V.80, p. 16893.

Molaoa, V.83, pp.17285-90.

Sibande, V.83, p. 17414.

Yengwa, V.84, pp. 17600-1.

Matthews. V.86, pp. 18053-8.

Motshabi, V.85, p. 17806.

The only definite proposal for African National Congress policy contained in the document is that the struggle should proceed "on a higher level than the Defiance Campaign". The meaning of this phrase has been adequately explained. See

Mandela, V.75, p. 15802,

V.76, p. 16048.

A 84, 85 and 86 are the three lectures, "The World we Live In", "The Country we Live in" and "Change is Needed", read in at V. 4, pp. 626-668.

In seeking to establish the importance of these lectures, the Crown relies on the importance attached by the African National Congress to political education. This subject was undoubtedly regarded as important, but in practice the African National Congress fell far short of the establishment of any universally functioning

system/...

system of education. Different material was used in different provinces, and in some branches there were no lectures at all. See

Resha. V.78, pp. 16469-70.
Yengwa. V.83, pp. 17471-2, 17479.
Bhenca. V.84, p. 17743
Sebolai. V.84, p. 17756
Monwabonno. V.84, p. 17775
Conco. V.55, pp. 11032-3
Ntsangani. V.77, pp. 16351-2.

The lecture "Political Organisation", Exh. B.25, was used in the Transvaal

Mandola. V.75, p. 15853

but was not known to any witness from any other province. Conversely, the Natal Summer School lectures are not referred to by any Transvaal witness.

The approval of the National Executive was not required for the issue of lectures

Luthuli. V.60, p. 11871

Defence witnesses repeatedly make the point that an African National Congress member was not required to agree with everything contained in lectures.

It is therefore clear that even those lectures which were prepared by the African National Congress itself cannot be regarded as policy documents. A fortiori, lectures not prepared by the African National Congress itself, as A 84-6 were not, cannot be so regarded. The defence evidence is that these lectures reflect the African National Congress policy in some

respects/...

respects, but go beyond it in others. There is no reason for rejecting this evidence.

The lectures are only indirectly relevant to the issue of violence, the Crown argument being that they reveal an acceptance of certain theoretical propositions which in turn suggest a belief in violence. There is, however, no evidence that these theories were known to more than a fraction of the African National Congress membership, or even the leadership. There is no suggestion that they were ever formally adopted by the African National Congress. Having regard to the nature of the African National Congress, it is unlikely that it ever could reach an agreed view on all the matters touched upon in these lectures.

The approval of the socialist system, as practised in certain countries, expressed in A 84, paras. 12 and 13 (p. 639-40) goes beyond the African National Congress policy

Luthuli, V.62, pp. 13325-6

Mandela. V.75, pp. 15937-9

The theory of the state expressed in paras. 11-15 of A 85, and repeated in A 86, goes beyond African National Congress policy

Luthuli, V.62, p. 13346

Matthews. V.86, pp. 18129, 18141

The description of "Peoples Democracy" in A 86, insofar as it goes beyond the Freedom Charter, goes beyond African National Congress policy.

Luthuli, V.62, p. 13338

V.65, p. 13823

Mandela/...

Mandela. V.75, p. 15944

Matthews. V.86, pp. 18145-6

If the Crown seriously contends that all the views contained in the lectures were accepted throughout the African National Congress, why was this not put to the rank-and-file members who gave evidence?

THE LIBERATORY MOVEMENT.

The indictment alleged that an international movement existed with the aim of violent overthrow of existing regimes. See particularly

Summary of Facts, paras. 1, 2(b)(ii)
4(b)(ii), 8(a)(vi).

The Crown made no serious attempt to prove the existence of such a movement, which was denied by

Murray. V. 34, pp. 6696-7.

The defence evidence is that references to a liberatory movement, of which the African National Congress is part, are intended to mean a trend in world affairs, not an actual organisation. This is clearly the meaning of a document such as AM 47 (V.17, pp.3391-2), which also clearly indicates that the term "liberatory movement" has no violent connotation.

The Crown nevertheless relies on numerous documents in which support is expressed for liberatory movements in other countries. The Crown refers to those documents which deal with Kenya, Malaya or Viet Nam, but ignores those which deal with India, Ghana or Nigeria. If the full picture is taken into consideration, however, the documents are perfectly consistent with the defence evidence, that the intention was to express sympathy for the aim of colonial freedom, without reference to the methods used.

It is not disputed that there are documents

which/...

which express sympathy for persons who are engaged in actual warfare. From this, the Crown seeks to infer an intention to organise a violent rebellion. To expose the unsoundness of this argument, one need only ask, what inference would be drawn against a white man who expressed sympathy with the other side in these wars?

The Crown further relies on the "unbridled language" said to have been used in a few documents. If, however, one may express an opinion on the merits of foreign wars without committing treason, presumably one may also express a strong opinion. This argument is based on the choice of words of a few individuals. How can any inference be drawn against the African National Congress as a whole?

The following are the documents to which reference has been made under this heading:-

- (1) NTN 20(a). V.22, pp. 4224-5.

Luthuli's address to the N.I.C., 1953. By way of justification of the methods being used by the African National Congress in 1953, Luthuli pleads that people have always had to struggle for their rights. As an example, he cites the American Revolution. The Crown says that it is very wicked to cite the American Revolution. This argument is more than adequately answered by Luthuli's own evidence/...

evidence, V. 62 pp. 13204-7. The Crown ignores references to non-violence in the same speech at p. 4223.

(ii) B 17. V.6, pp. 1144-5.

A.N.C. (Cape) Secretarial Report, 1953.

The Crown read out a portion of this document in argument, without saying what it seeks to infer from it. It is difficult to see why it is referred to. It contains a statement that various countries are "marching forward". Most of them are countries which the Crown does not stigmatise as the scenes of violence.

(iii) ZKM 6, V.23, pp. 4461-3.

Secretarial Report, 1953.

The Crown's main complaint against this document seems to be that it criticises the United States Government. That has nothing to do with the case.

Reference is also made to Kenya and to "the hard fight by revolutionary tactics". The word "revolutionary" does not necessarily denote violence.

(iv) NRM 11, V.15, pp. 2903-4.

Luthuli's Presidential Address, 1953.

In this document, the British Government is criticised for using force in Kenya.

This is seen by the Crown as a way of "preparing the people for force" in

South/...

South Africa. There is nothing in the document to justify such an interpretation. Much energy was spent by the Crown in cross-examination in an attempt to show that the criticism of the British Government was based on inadequate evidence. Even if it was, it carries the case no further.

(v) TT 28, V.22, p. 4260.

A.N.C.Y.L. Resolutions, 1953.

These resolutions of the A.N.C.Y.L. are in no way binding upon the parent body.

On the status of the A.N.C.Y.L., see

Matthews. V.87, p. 18231.

The Crown relies on resolutions 8, 9, 12 and 13.

Resolution 8 calls for "strong links with other progressive movements". The Crown reads this and comments that a link was made with the World Federation of Democratic Youth. So it was, but what has that to do with violence?

Resolution 9 deals with Kenya. The Crown argument seems to be that the statements of the African National Congress on Kenya necessarily contain an implied prophecy of events in South Africa. Why should that be so? The resolution simply expresses a view of the events in Kenya. This is a view which was held by some people in the

African/...

African National Congress, though not by all.

See

Matthews. V.85, pp. 17988-91.

Resolutions 12 and 13 express views which are no doubt unpalatable to the Crown. There is nothing more to be said about them.

(vi) A 37, V.2, p.267.

Secretarial Report, 1954.

This document contains a full exposition of the "foreign policy" of the African National Congress, which should be read as a whole. It explains why the African National Congress sympathised with colonial peoples and it expresses such sympathy. There is no special emphasis on violent struggles, though these are mentioned. No reasonable reader would find anything sinister in it.

(vii) A 40, V.2., pp.293-4.

Transvaal Presidential Address, 1954.

The comment on international affairs is anti-American and anti-imperialist. The Crown may deplore this, but what is the relevance to violence?

(viii) A 204, V.5., pp. 856-60.

"African Lodestar", May 1954.

The portion relied upon purports to be a statement by the Provincial Executive of the A.N.C.Y.L., in reply to one Leballo,

a/...

a member of the A.N.C.Y.L. who had apparently criticised the organisation's interest in international affairs. The reasons for this interest are given, and they are entirely consistent with the defence case. If the Crown theory is correct, this statement should have made the point that international affairs are relevant to the struggle because they prove the violent nature of imperialism.

(ix) LLM 81, V.17, pp. 3361-5.

Executive Report, 1955.

This is another lengthy review of the world situation, from an anti-imperialist standpoint. On Kenya, Malaya and Vietnam, it records, in a single sentence, the fact that there are wars in those countries. Far more attention is devoted to the Bandung Conference.

(x) JDM 22, V.16, p. 3154.

Transvaal Presidential Address, 1955.

There is nothing here but another general statement of the anti-imperialist sentiment of the African National Congress.

(xi) A 49, V.2, pp. 317-8.

A.N.C.Y.L. Provincial Conference, 1955.

The presidential report contains another statement of the organisation's opposition to imperialism. The ending of the wars

In/...

in Korea and Indo-China are hailed as "victories". There is a reference to India which the Crown interprets as an oblique reference to a violent mutiny in that country. If the African National Congress attached the importance to this mutiny which the Crown suggests, why does it receive only an occasional oblique reference?

The Crown relies also on a resolution in which the Youth League strikes a posture on a large assortment of international issues. This has nothing to do with violence.

(xii) B 259, V.7, pp. 1337-9.

Transvaal Provincial Conference, 1956.

The portion relied on comes from a document entitled "New World Unfolds" which was found attached to a copy of the Conference programme. It is not clear what status this document has.

The document refers to the hard struggles which have to be waged to obtain liberation. Different examples are given, including India as well as Malaya and Algeria. This does no more than to imply what is expressly stated in many documents - that "sacrifice" may be expected in the struggle.

(xiii) B 115, V.7, p.1300.

Message/...

Message on the Anniversary of the foundation of the Peoples Republic of China.

We do not know in what way this message was published, if at all. It reveals admiration for China. This indicates violent intentions, says the Crown, because somebody other than the person who signed this message possessed the constitution of China, which reveals that there was a revolution in China. Such possession, of course, proves nothing relevant to this exhibit. But assume that P. Mathole did know about the Chinese revolution, what then? If someone sends a message to President de Gaulle on the 14th of July, does that prove that he intends to imitate in South Africa the storming of the Bastille, or the coup d'etat of 1958, or both?

(xiv) A 9, V.1, p. 154.

"The Significance of World Youth Day".

This outpouring of anti-imperialist emotion is not proved to have any connection with the African National Congress.

For the African National Congress attitude towards China, see

Luthuli. V.58, pp.11607-8

V.64, pp.13686-70.

(xv) A 102, V.4, p. 691.

"People on the March to Freedom".

The/...

The status of this document is unknown.

It might be a draft secretarial report, or an article by some individual.

It contains the usual sort of review of the world situation, with the main emphasis on the Bandung Conference.

(xvi) SAM 9, V.16, p. 3126.

"African Lodestar".

Articles in "African Lodestar" do not necessarily reflect African National Congress policy. It was a publication of the Transvaal Youth League and the articles were not vetted even by the Youth League Provincial Executive.

Molaoa. V.82, p. 17219

For defence evidence on this article and matters mentioned in it, see

Resha. V.80, p. 16920

Molaoa. V.82, pp. 17327-8.

This document takes the case no further.

There are the usual anti-imperialist sentiments, emotional attacks on British policy in Kenya, and a brief reference to the mutiny in India in 1946.

(xvii) AMK 66, V.13, p. 2581.

"Lodestar", October 1954.

This is another article on Kenya. Insofar as it consists of attacks on the British Government, it is irrelevant. It also

contains/..

contains a statement that "in the age of imperialism, murder and violence become the order of the day". Assuming that this generalisation is intended to convey a serious opinion of the situation in South Africa, as well as elsewhere, it remains the opinion of an individual writer.

(xviii) JDM 9, V.16, pp. 3141-3.

"Lodestar", December 1951.

This was published before the beginning of the indictment period. The Crown again refers to irrelevant anti-British propaganda. There is also a reference to "seizure of power". Is it seriously contended that the policy of the African National Congress from 1952 to 1956 is to be inferred from a possible interpretation of a phrase used by an anonymous writer in a Youth League magazine in 1951?

(xix) B 18, V.6, pp. 1148-9.

"Afrika".

This is another Youth League journal. It contains nothing which throws any light upon the question of violence.

(xx) 1 JM 1, V.62, p.13307.

Message to Luthuli.

The origin of this message is unknown. The Crown apparently wishes to infer African National Congress policy from what an

unknown/...

unknown person felt that Luthuli symbolised.
The only point in the document is the use
of the word "revolt".

(xxi) AM 47, V.17, pp.3390-2, V.18, pp.3345-6.
"Mayibuye Afrika".

This document supports the defence case
on the liberatory movement. It expresses
sympathy for colonial peoples, then goes on
to say (p. 3392, line 13):

"The methods may be different. Our
method in South Africa...is non-violent".

It is a signed article by a National Execu-
tive member, thus a good deal more weighty
than the "Lodestar" articles referred to
above.

It is submitted that these documents show no
more than

- (a) that the African National Congress felt
a natural satisfaction at the emancipation
of non-white peoples in other parts of
the world,
- (b) that the actions taken against such peoples
by imperial powers roused strong emotions
among African National Congress members,
- (c) that some members believed that the violence,
which in their view, had been employed by
other governments might also be employed
by the South African government.

Only the last point is relevant to this case. There are
many/...

many documents and speeches which deal expressly with the African National Congress view of the South African Government, and they are a more reliable source of information on this point.

The African National Congress view of the liberatory movement has been dealt with by several defence witnesses. See particularly

Conco. V.55, p. 11024.

V.57, p. 11327

Luthuli. V.59, p. 11742-4.

V.64, p. 13781-2.

Mandela. V.76, p.116117

Molaoa. V.82, p.17273

Yengwa. V.83, p. 17517-8

V.84, p. 17676-7

Matthews. V.85, p. 17980-4.

It is submitted that this evidence is not contradicted by any of the documents referred to by the Crown. It is positively supported by some documents. See

SD(N) 98, V.57, pp.11321-2

PHS 72, V.57, pp.11319-20

WB 51, V.57, pp. 11323-4.

It is also supported by the fact that in their references to other countries, the African National Congress did not concentrate only upon those countries where violence was taking place. The contrary impression created by the Crown's selection of documents is incorrect. See, e.g., the following references:

A 203. "Lodestar" November, 1953,

Vol.5, p. 841; Vol.6, pp. 1042-3.

This contained long extracts from
Dr. Nkrumah's speech in the Gold
Coast Assembly.

TT 51. Vol. 20, p. 3841.

PJ 92. Luthuli's message to S.A.I.C.,

Vol.8, p.1475. References to
Ghandi and Nehru.

A 37. Vol.2, p. 251, Luthuli's address.

Reference to West Africa.

A 83. S.A.I.C. Agenda Book, Vol.3, p. 442.

Skomolo's message. Vol.3, p. 442 refers to
India's way.

Luthuli's address. Vol.3, p. 450, refers to
Nehru.

B 259. "New World Unfolds", Vol.7, p. 1338.

The long struggle of India is stressed.

TT 28. Youth League Resolutions 1953, Vol.22

p. 4261. Note that the resolution
on Stalin is followed by a Resolution
on Rhodesia.

B 17. Vol.6, p. 1145. This was used by the

Crown, but the references to Gold Coast
and Nigeria in it are unexplained.

The same appears from speeches. Thus:-

Vol.40, p. 7893 Masina - Gold Coast strike.

Vol.44, p. 8747 Dhlamini mentions Nehru and
Ghandi.

Vol./...

Vol. 44, p. 8751 Selepe mentions Gold Coast.
Vol. 45, p. 8867 Selepe mentions India.
Vol. 45, p. 8908 Det. Masilela cross-examined
admits frequent references to Ghana.
Vol. 45, p. 8919 Moretsele mentions Dr. Nkrumah.
Vol. 45, p. 8937 Press mentions Gold Coast.
Vol. 45, p. 8994 Keitsing mentions India.
Vol. 45, p. 9026 Mathoholie mentions India.
Vol. 46, p. 9132 Makwo mentions Nkrumah.
Vol. 47, p. 9301 Bokala mentions Nigeria.
Vol. 47, p. 9327 Malupe mentions India.
Vol. 48, p. 9571 Masina mentions Gold Coast.
Vol. 49, p. 9796 Mkalale mentions Uganda.
Vol. 50, p. 9947 Meti mentions Gandhi.
Vol. 51, p. 10213 Moliwa mentions India.
Vol. 52, p. 10386 Mogati mentions India.

Indian Congress speeches and documents show
the same pattern. See, for example:

A 32. Vol. 3, pp. 414, 416, 422

Det. Strachan cross-examined, Vol. 8, p. 1488.

PDN 98. Vol. 15, p. 2831.

NIC 130. Vol. 19, p. 3688 - references to
Nehru and Bandung.

NTN 20A. Vol. 22, p. 4231 - references to
Gold Coast and Central African Federation.

DM 31. Vol. 24, p. 4602, reference to Nkrumah.

Kathrada's speech. Vol. 39, p. 7667 - references
to Nkrumah and Nehru.

Kathrada's speech. Vol. 43, p. 8482, similar
references.

Seedat's/...

Seedat's speech, Vol. 44, p. 8758 - references
to Gold Coast and India.

The importance attached by the African National Congress to the Bandung Conference affords a good illustration of what they really meant by "the liberatory movement". This conference symbolised the process of the emergence of new African and Asian states, and it was this process which inspired the African National Congress. For the nature of this conference and its meaning for the Congresses, see

Murray. V. 34, pp. 6687-94.

Cachalia. V. 71, p. 15037

Luthuli. V. 58, p. 11551

Mandela. V. 75, p. 15885

Matthews. V. 85, pp. 17986-7.

All that emerges from this part of the case is that the African National Congress reacted in a normal manner towards events which inevitably engaged their interest and their emotions. The worst that can be said against them is that some members allowed their emotions to run away with them.

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