

FOR UNITED NON-RACIAL ACTION

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POLITICAL TRIALS

COMMUNIST PARTY TRIALS

Messrs David Ernst, Rowley Arenstein and Joseph Finkelstein were found guilty on one count of furthering the aims of Communism and were discharged on the remaining two counts of being members of the Communist Party and of engaging in its activities.

Mr Arenstein was jailed for four years, Mr Ernst for two-and-a-half years and Mr Finkelstein given 18 months, 15 months of which were suspended.

An application for leave to appeal is to be made for Mr Arenstein.

They appeared in the Rand Supreme Court recently on three charges under the Suppression of Communism Act.

Messrs Ernst and Finkelstein had pleaded guilty to one count under the Suppression of Communism Act. The

count referred to the performance of acts calculated to further the achievements of any of the objects of Communism.

Mr Jeffrey Rudin, a 180-day detainee and the first State witness in the trial, said that for four days and nights after his arrest he was forced to stay awake while members of the Security Police interrogated him.

Mr Rudin said that while Mr Fischer was underground, he (Rudin) acted as his emissary and as Mr Fischer's direct and only contact with the Communist Party. Politically, he was very close to Mr Fischer.

He said he made a statement eventually because he realised that there was no point in denying the party's activities. "As far as I could see, the Special

Branch had all the evidence required. They asked me questions which showed me they knew what was going on."

However, questioned further, he agreed that he had supplied the Security Police with a mass of evidence.

In his evidence-in-chief, Mr Rudin, who was warned as an accomplice, said that he met the three accused at the University of Natal, where they were studying.

On the instructions of a Mrs Schermbrucker, he went to an open field in Johannesburg last year and met Mr Fischer. He took Mr Fischer to a house in Knox Street, Bramley, where Mr Fischer went into hiding. Later Mr Fischer told him to get in touch with Mr Arenstein, which he did through Mr Ernst.

It was agreed that the first stage of the communist plan must be put into action. This included votes for all, the redistribution of land and the expropriation of industry.

Mr Rudin, described by the prosecutor as a 'former lieutenant of Mr Fischer', said he acted as a courier between Mr Fischer and Natal. To his knowledge, Messrs Ernst and Arenstein were not members of the Communist Party.

Another State witness, Mr Melville Fletcher, a 180-day detainee, said that Messrs Ernst and Arenstein made no secret of the fact that they were Marxists. Both men supported China in its ideological dispute with Russia. The dispute had aggravated a split among Marxists in Durban.

Mr Fletcher told the judge that Mr Arenstein was interested in political developments in the Transkei. Mr Arenstein had been in contact with people in the Transkei. These people had been his clients. On occasion they visited him in Durban.

Mr Fletcher said that Mr Arenstein had been violently opposed to Umkonto We Sizwe, 'militant wing of the African National Congress'.

Secret Agent, Q082, Det.-Sgt John Brookes, gave evidence of his association with Mr Ernst.

He said that Mr Ernst took him to a folk song club which he (Ernst) tried to get recognised by the Students' Representative Council at Natal University.

Mr Brookes was told by an alleged Marxist that when he became a student at Natal University he should 'look for good material' and get to know people with the right ideas.

Mr Brookes said that he planned to become a student at Natal University. He discussed his plans with Mr Ernst in Durban in January, 1966.

Mr Ernst advised him to keep out of politics during his first year at University.

But with his marxist training, Mr Ernst said that he could start 'working on people'. He made it clear that 'the movement' was represented on NUSAS (National Union of South African Students).

Mr Ernst had a poor opinion of communists in Johannesburg. He said that Gerald Ludi had not known much about Marxism, but was accepted by the Central Committee of the Communist Party simply because he was a nice fellow.

Mr Ernst had told him that 'the movement' had made phenomenal progress in the Transkei and was making life difficult for Chief Matanzima, head of the Transkei Government.

Mr James Dunn, another secret agent, worked for the Security Police under the pretence of being a crayfish trader in the Transkei, it was disclosed in court.

Mr Dunn said that during a meeting in Durban, he had told Mr Arenstein that he was being persecuted and had been threatened with arrest because of his crayfish tra-

ding activities. He had asked Mr Arenstein to help him. Mr Arenstein had promised to do so.

Mr Dunn said that when he returned to the Transkei he conveyed Mr Arenstein's regards to Chief Sabata and Mr Jackson Nkosiyanane, who were leaders of the Transkeian Democratic Party.

He visited Durban again in August, 1965, conveying messages from Chief Sabata and Mr Nkosiyanane to Mr Arenstein.

Mr Dunn said that Mr Arenstein told him that he (Mr Dunn) should do all in his power to stay in the Transkei as he could be a great help to him and the Democratic Party. Mr Arenstein said that the Communist Party was well organised in the Transkei.

Mr Dunn said that during one of their meetings, Mr Arenstein had advised him to go to Eastern Pondoland and get in touch with Chief Botha Sigcau. Mr Arenstein said the chief was a Government supporter and Mr Dunn could get his blessing for a crayfish venture.

He went to see the chief but he was not available.

At the close of the State case, Mr Ernst pleaded guilty to one count and it was announced that Mr Arenstein,

who had previously conducted his own case, would be defended by Mr D. Kuny.

Mr Arenstein then gave evidence. He did not take the oath, but gave an affirmation.

He said he had practised as an attorney in Durban since 1947. He had been arrested on July 6 this year. He said his practice was 'not in a good condition at the moment'.

Mr Arenstein said he was married with two children. He joined the old Communist Party of South Africa in September, 1938, and was a member until the organisation was banned in 1950.

Mr Arenstein said that in 1960 he heard that a new organisation, the South African Communist Party, had come into existence. He had never been a member of this party.

In 1952 he was chairman of the Congress of Democrats, but the following year was banned for these activities.

Mr Arenstein said he regarded himself as part of the National Liberation Movement which consisted of organisations and people who were fighting for a democratic society in South Africa. He said this move-

ment was not an organisation.

Referring to his activities before 1950, Mr Arenstein said he had been opposed to a schools boycott and the resistance campaign. He had felt that there was no need to adopt unlawful methods.

In 1960 he and other 'Natal people' had opposed a Congress Alliance scheme to have 10,000 people sent to jail as part of a mass disobedience campaign. The scheme had never materialised.

Mr Arenstein said he had been very much opposed to sabotage. He told Mr Justice Cillie that when acts of sabotage were performed in 1961 he had tried everything in his power to persuade people that sabotage was wrong. As a result of his attitude, he incurred the wrath of people and was 'sent to coventry'. Many people refused to talk to him and attempted to isolate him.

During the trial, Mr Albert Dhlomo, a 180-day detainee, was sentenced for refusing to take the oath and give evidence for the State against the three accused.

He said he would be a traitor to his people if he gave evidence for the State.

Mr H.J. Liebenberg, S.C., appeared for the State. Mr F. Zwarenstein, S.C., with him Mr D. Kuny and Mr H.

Husted, appeared for the accused.

(1)

AFRICAN NATIONAL CONGRESS TRIALS

Two Port Elizabeth men, Messrs James Ngqondela and Philimon Sulumba, who appeared in the Humansdorp Regional Court recently on charges under the Suppression of Communism Act, were sentenced to five years and four years in jail respectively.

They were found guilty of activities involving the African National Congress (ANC).

Both of the convicted men refused pro deo defence.

Both men are prisoners on Robben Island, where they have been serving sentences for political crimes.

Mr James Ngqondela was convicted on three counts under the Suppression of Communism Act on September 8.

He was sentenced to five years' imprisonment for soliciting and contributing funds to the banned ANC; for allowing meetings of the organisation to be held in his home, and for carrying on the activities of the organisation.

Mr Ngqondela appeared in April, 1964, with ten others, and was convicted of being a member of the ANC and sentenced to two years' impri-

sonment. Seven of the accused were acquitted.

Mr Gilbert Yonke, who had been in custody with Mr Ngqondela since the preceding July, was also convicted, as were Messrs Charles Matshaba, Kolisile Willem and Daniel Stempa - all of whom have been convicted on further counts this year.

Mr Yonke was sentenced to four-and-a-half years' imprisonment, Messrs Matshaba, Willem and Stempa to five years each.

Mr Philimon Sulumba was sentenced to four years' imprisonment on September 15, for soliciting and contributing to funds of the banned ANC, and for holding meetings of the organisation.

He previously appeared in Graaff-Reinet, in July, 1964, with 73 others, and was convicted of being a member of the ANC.

Others who appeared in the same trial were convicted of further counts at Humansdorp this year.

They were Messrs Holiday Jinta, Aaron Mahontsa, and James Hedashe - each sentenced to four-and-a-half years' imprisonment.

There are believed to be another eleven trials forthcoming this year involving about 80 accused.

(2)

The State recently paid for the defence of a political prisoner in the Johannesburg lower courts for the first time.

Mrs F.N. Kentridge was appointed to defend Mrs Susan Motsepe by the Bar Council at the request of the Chief Magistrate.

Mrs Motsepe, a 66-year-old housewife, was sentenced to twelve months' imprisonment suspended for three years for belonging to the Federation of South African Women.

The magistrate found that it was unlawful for Mrs Motsepe, who was a member of the African National Congress before it was banned, to continue to belong to the Federation of South African Women after a Government notice in December, 1962.

The notice barred people who had been members of the ANC from belonging to certain other organisations, one of which was the Federation.

Mrs Kentridge said that Mrs Motsepe had openly remained a member of the Federation for the last four years because she had not known of the Government notice.

The police, she said, had regularly attended the Federation's meetings over this period and had never drawn Mrs Motsepe's attention to

the notice.

The magistrate said that he was taking Mrs Motsepe's age into account in suspending her sentence. (3)

PAN-AFRICANIST CONGRESS TRIALS

The constitution of the banned Pan-Africanist Congress demonstrated clearly that the organisation envisaged the overthrow of White domination in South Africa by force and violence, a Durban Regional Court magistrate said recently.

He sentenced Mr Mandleni Mbele to six years' imprisonment after he had been found guilty of five counts of contravening the Suppression of Communism Act.

The first count, which related to Mr Mbele being an office-bearer or member of an unlawful organisation, was taken separately, but the other four, relating to his furthering and carrying on the aims of an unlawful organisation, were treated as one for the purpose of sentence.

Mr Mbele was sentenced to three years' imprisonment on each count.

The magistrate said the charges against Mr Mbele were so serious that the court was not prepared to consider the imposition of

(cont. on p.9)

Longview by

ALAN PATON

Recently there appeared three excellent articles on the wages of the poor by our National Chairman. This is a question to which Liberals have devoted some time, but not enough. The United States has taught the world the bitter lesson that the promise of civil rights and of political status, if not accompanied by an advance in other fields, notably the economic, can actually bring violence and death.

It is my belief that not only the peace of the United States, not only the peace of South Africa, but also the peace of the world itself, depends on the elimination of poverty. The problem of poverty is given a further and dangerous dimension by the fact that white people are with some exceptions much better off than black people, and that white nations are without exception much better off than black nations.

So to poverty is added colour difference, and to

them is added the heritage of slavery and the colonialist period, deep resentments and hates that are suddenly uglily bared in towns and cities that thought they were doing fine.

The policy of our Government is to prevent these explosions by a policy of racial separation, which may one day, we are now told, become a policy of total territorial separation of races, and by intimidating and restricting and punishing those who resist the policy with vigour.

Now there is a new school of thought, largely English-speaking, that argues that it is political realism to accept this policy as come to stay, and to work with it and to liberalise it as much as possible (which means, I assume, to try to remove its cruelties).

I do not belong to this school for reasons which I have set out before. Separate development will in my

opinion one day collapse in ruins, and I ask myself, what happens then? Of one thing I am certain, that if the present shocking disparity between white and black wages still obtains, the prospects will be grim. We shall have to pass through the same agonising experience through which the United States is now passing, but with only a portion of her hope of maintaining some measure of law and order for a period long enough to make change possible.

My thesis is simply this, and I offer it to men of all political beliefs. Whatever policy finally triumphs, it will not triumph because of its own virtue; it will triumph only if the shocking disparities of white and black living have been wiped out, or are well on the way to being wiped out.

I am not a materialist offering a materialist solution. It is my belief that the deep resentments and hates that bare themselves so uglily in American towns and cities exist here too, and that one of the ways to cure them is to give men and women a chance to live decent material lives, a chance to forget past indignities and depri-

vations, a chance to forget that there was once a time when most of the black people of South Africa earned only one-quarter of what white people earned, when most of them lived below what is called the poverty datum line, which is a line on which people live simply because they don't die.

We'd better be starting on this job soon, Mr Vorster, because if you don't, none of your schemes will come to anything. It's no use boasting of our Christian civilisation when the average white income is four times the average black income. That's what the world sees, not the beautiful pictures in Panorama.

There are big problems in front of you, Mr Vorster, what with United Nations, and South West Africa and Rhodesia. And you may find some kind of solution for them, and you may find oil in the Karroo, but if you don't find some kind of solution of the problem of black poverty, you won't have found anything at all.

a lighter sentence; it would be failing in its duty if it did so.

He said he wished to point out that although the PAC was banned in 1960, Mr Mbele was still carrying on the activities of the organisation, both inside and outside the borders of the Republic.

The magistrate said that the court was shocked to read a circular issued by the PAC in January last year addressed to 'Dear Son of the Soil' and bearing the PAC war cry 'Izwe Lethu'.

The circular began with an alleged quotation by Dingaan, King of the Zulus, which, translated, read: 'Drink this cup, Nzobo, because tomorrow you will drink the White Man's blood'.

The circular ended: 'Forward ever, backward never. One man, one gun.' (4)

Mr Nimrod Dlamini, who incited labourers to join the militant Poqo organisation, and then embark upon a programme of public violence, including the killing of White overseers at a compound, the attacking of police and the cutting of telephone wires, was sentenced in the Durban Regional Court recently to a total of three-and-a-half years' imprisonment, but will serve only two-and-a-half years.

The State had alleged that, between November, 1965 and March this year, Mr Dlamini incited labourers at the Jimbela compound, Umzinto, to commit public violence.

The State also alleged that he incited the labourers to buy weapons and to kill Whites.

He incited them further to burn their passbooks and to join 'our organisation', Poqo, the militant wing of the Pan-Africanist Congress.

On this charge Mr Dlamini was sentenced to two-and-a-half years. On the second count of inciting others to join Poqo, he was sentenced to one year, the two sentences to run concurrently. (5)

Sixteen men from Bariaanspoort Prison are appearing in the Pretoria Regional Court charged with belonging to the Pan-Africanist Congress or alternatively furthering the aims of the PAC directly or indirectly.

The men are: Messrs Hendrik Bahole, Sam Malgas, Timothy Gumede, Dennis Maluka, Solomon Sesenye, Galat Mbata, Lefu Molefe, Bennett Molete, George Matseko, Benjamin Nzamo, Alfred Banny, Temb. Manga, Michael Daniso, Lenose Mugoma, Stanley Mbetha, and Eliot Dube.

They all pleaded not guilty to all the charges.

A long-term prisoner, witness 'A' from the Baviaanspoort Prison, told the court that he was imprisoned on Robben Island in 1962.

'A' said that on Robben Island he met members of the PAC and members of the ANC.

At a meeting held by the PAC in cell 12 on the island, 'A' said he saw four of the accused.

Mr Bahole was chairman of the meeting.

At another meeting, Mr Bahole discussed with various men how South Africa could be 'taken from the Whites'.

Mr Bahole told the men that the country would be 'taken from the Whites' by fighting and bloodshed.

A witness 'B' said the PAC plan was to replace the Whites with a purely 'Black Socialist State'.

The PAC recognised no minority rights, he added.

If the PAC succeeded in its aims the Blacks would be the legislators in South Africa and the country's industries would be nationalised, he said.

The PAC wanted to unite all the Blacks in the four provinces of the Republic and induce them to revolt. Military installations were to be attacked and 'small,

young and old whites' would be murdered in order to break down morale among White South Africans, he said.

The PAC told Africans they must be prepared to sacrifice and suffer in order to achieve their aims, he said.

Songs were sung at certain PAC meetings. Among these songs was one which included words to the effect 'We are not afraid of Dr Verwoerd. We will hit him here in Africa'.

'B' said the PAC and the ANC differed in that the ANC was in favour of foreign troops coming to South Africa and the PAC was against it.

'B' said the first people he spoke to when he arrived on Robben Island were Mr Bahole and Mr Dube. Mr Bahole was working in the jail's kitchens and it was possible for him to smuggle letters between Robert Sobukwe and other members of the PAC on the island.

Among the methods used for smuggling letters was to place the letters between sandwiches delivered to Sobukwe for his meals.

Mr Sobukwe was able to issue orders to members of the PAC even while he was imprisoned on Robben Island, 'B' said.

Witness 'C', a former secretary of the PAC in Baviaanspoort Prison, said PAC members imprisoned in Baviaanspoort had plans to attack and kill the warders. The prisoners then intended to break into the prison armoury, arm themselves and invade Pretoria.

This would be the sign for a revolution, starting in Pretoria, he said.

A witness 'D', who is serving a prevention of crime sentence at Baviaanspoort Prison, told the court he had been present at various PAC meetings held in the prison.

At one of these meetings, Mr Benjamin Nzumo, one of the PAC prisoners, said that when he was discharged from the prison at the end of his sentence he would arrange for guns to be hidden at a spot near the prison where prisoners worked during the day.

The plan was for the prisoners to uncover the weapons when they began work in the morning and use them to kill the warders.

The trial is proceeding. Mr A.I. Labuschagne prosecuted.

(6)

Two men from Langa, Cape Town, Messrs Moshekile Beleni and Mpolose Mangqangwana, appeared at the Cape Town Criminal Sessions on three

charges under the Suppression of Communism Act.

The State alleged that the men conspired with 107 other men to overthrow the Government by acts of violence, including guerilla warfare and sabotage, and that they incited nine of the men to train for guerilla warfare and sabotage.

The two men were also charged with taking part in Poqo activities and having been office-bearers of Poqo.

Summarising the evidence, Mr van Schalkwyk, for the State, said the first witness, 'A', would testify that he joined the PAC in 1962. Two years later he was sent to Basutoland on PAC business.

Here, 'A' would say, he stayed at Thakalikoala, a hotel in Maseru, with a number of resident trainees of the PAC.

At the hotel they heard lectures by the 'Presidential Council' on the aims and ideology of the PAC and the principles of guerilla warfare.

'A' would also hand in a 'disciplinary code' of the PAC, Mr van Schalkwyk said.

'B' would describe how

he rose in the PAC to become chief organiser for the Western Cape. He would say parties were held in Langa to raise funds for the PAC.

'C' would say he was given tickets and money to go to Lesotho, where he stayed at the 'guerrilla hotel'. There, he would say, he was taught to make pangas.

'D' would say he was taught to make home-made bombs and bullets.

'I' would say the accused men told him to go to Lesotho via Port Elizabeth. After three weeks he was told to return to Cape Town.

Mr van Schalkwyk said 'I' would describe a meeting of the 'presidential council' where plans were discussed to derail the Blue Train in the Hex River Mountains.

'He will say he was instructed to take responsibility for this and use Mr Mangqangwana as an agent in Cape Town. He was told to ask whether Mr Mangqangwana had acquired the rail spanners for the operation', Mr van Schalkwyk said.

'Mr Mangqangwana said he had found these spanners and had sent someone to watch the Blue Train to ascertain the time when it would reach the point where it would be derailed.'

Witness 'K' would say he went to a railway tunnel in

the Hex River mountains and inspected it for possible sabotage sites, Mr van Schalkwyk continued.

'He was sent twice to Namaqualand to look for hide-outs for guerrilla fighters. On a third occasion he went to mountains near Paarl for a similar purpose.

'He also went to get spanners to be used on the bolts on the railway lines. He was with Mr Mangqangwana when he hid these spanners. He pointed out the place where they were hidden to the police, who found them there.'

'M' would say he worked on the railways, where he assisted in the obtaining of rail spanners, Mr van Schalkwyk said.

The first witness, 'A', said he was taught road work and exercises at the 'guerrilla hotel' in Lesotho.

They were taught five principles of guerrilla warfare, but he could remember only four - superior discipline, mobility, obeying the leader, and concealment.

The aims of the PAC were to overthrow the South African Government by means of guerrilla warfare and institute a social democracy, 'A' said.

A former 'chief organiser' of Poqo said that about 70 members of Poqo had driven from Langa to Gordon's Bay

in five buses to elect a Langa regional committee.

The man, witness 'B', also said a network of executive Poqo committees and cells was set up at Langa, Stellenbosch, Paarl and Eerste River.

Earlier a police photographer, Sgt. B.H. Geldenhuys, told the court of a journey to the main Cape Town-Johannesburg railway line where, in the Hex River Pass, a spot was pointed out to him by an African who said the rail could have been loosened. Sgt. Geldenhuys photographed four places on the line.

Answering the Judge, Sgt. Geldenhuys said that, in so far as he could observe, a loose outside rail at one point might cause the engine to topple.

Witness 'C' said that in late 1965 Mr Mangqangwana, one of the accused, asked him to go to Lesotho.

'I asked him what I was going to do there and he told me that I was to deliver a message about a certain man in hospital.

'I agreed to go but I was nervous. Mr Mangqangwana said I had better hurry to catch the train leaving Cape Town at 6 p.m.'

The witness said that at

Cape Town station Mr Mangqangwana met him and handed him a rail ticket to Elliot, R24 in cash, and a piece of paper on which there were certain writings.

He then travelled by various means to Lady Grey. Following instructions, he boarded a bus there with the intention of travelling to Quthing in Lesotho. But at Herschel he turned back as he had no permit nor passport to cross the border.

The witness then told of four Poqo meetings held at Langa in 1964 and 1965 in houses, and alongside a football field. At these meetings the Poqo salute was given.

'At one meeting, we were told to make pangas.'

He said he had first heard of members being sent to Lesotho for military training in July, 1963, when he attended a meeting in a house in Langa.

Mr Beleni, one of the accused, told another man at the meeting that he was to go to Lesotho as the organisation was determined that all task force leaders had to go to Lesotho 'to be trained as soldiers'.

At a subsequent meeting Mr Beleni told two other

men that they were to be sent to Lesotho. He told them: 'We want this country, Africa. We must be tough and fight the White man'.

He handed the two men R20 each and rail tickets. Mr Mangqangwana went to see them off at the railway station.

Asked by Mr van Schalkwyk, for the State, where the money came from to send Poqo members to Lesotho the witness said: 'We used to hold parties for the organisation.'

Cross-examined by Mr M. Seligson, for the accused, the witness said he was arrested on March 22 and had been kept in custody ever since. When arrested he had admitted to the police that he was a member of Poqo and firmly believed in the aims and objects of the organisation.

He was prepared to go against the oath of the organisation and divulge information because 'I wanted to tell the truth and get out of the organisation. I did not want to get into any trouble', he said.

Asked by Mr Tebbutt, the Judge, whether he was concerned about the fact that he had implicated the accused, he said: 'I am not concerned'.

Witness 'D' said that in

March, 1965, he went to Lesotho and learnt how to make a bomb. He described how he had made a bomb and said that he had also made six bullets.

The man then described a variety of powders which had been used with other components, all of which were fitted into a 'fish tin' to make a home-made bomb.

The trial is proceeding. Mr G.D. van Schalkwyk and Mr D. van Reenen appeared for the State. Mr J.B. de R. van Gend and Mr M. Seligson appeared pro Deo for the two men.

(7)

MISCELLANEOUS TRIALS

The political assassination of Chief Kaiser Matanzima was compassed, and blood money for the purpose was solicited, an Appeal Court found recently.

It dismissed the appeal of two members of the Transkei Legislative Assembly against sentences of seven years each for incitement to murder.

The two, who were Opposition Democratic Party members, were Messrs Jackson Nkosiyanane and Nicodemus Nogcantsi.

The judge found that the purpose of making incitement

a punishable offence was to discourage persons from seeking to influence the minds of others towards the commission of crimes.

It was clear that R100 was to be paid in blood money.

More ~~than~~ a loan, it was a request to a fellow Opposition member of the Assembly that he assist in the payment of blood money in order to compass a political assassination', the judge said. (See Contact July, 1966)

(8)

Dr Gangathura Naicker, a medical practitioner, was sentenced in the Regional Court, Durban, recently to a total of fourteen months' imprisonment on two counts of contravening banning orders served on him under the Suppression of Communism Act.

Dr Naicker noted an appeal against his conviction. Bail of R100 was allowed pending the outcome of the appeal.

The first count on which he was found guilty was that he attended a social gathering. He was found guilty on the second count of failing to give notice of a change of address after being evicted from his home by a court order in terms of the Group Areas Act.

Mr Alan Paton, who gave evidence for the defence, said that he had been invited by Dr Naicker to his home in order to discuss Dr Naicker's son's education. There was nothing sinister in the meeting. (See Contact September, 1966)

(9)

A proclamation by the State President in the 'Government Gazette', declaring the South African Defence and Aid Fund to be an unlawful organisation, led to a civil action in the Supreme Court, Cape Town recently.

The Minister of Justice, defendant in an action by the Fund and by Dr Raymond Hoffenberg, who was chairman of the Fund's management committee when the proclamation came into force, delivered an exception to a combined summons by both plaintiffs.

This exception has been dismissed by the Court with costs.

The Fund and Dr Hoffenberg said in papers that the proclamation R77 of 1966 appeared in the 'Government Gazette' on March 18 this year.

It declared the organisation to be unlawful.

The plaintiffs averred that in order to be able validly to issue such pro-

clamation the State President had to be satisfied about a number of points.

These included: That the Fund professed by name or otherwise to be an organisation for propagating the principles or promoting the spread of Communism.

The Fund and Dr Hoffenberg contended that there were no grounds upon which the State President could have satisfied himself as to these matters.

If grounds were placed before him they were without foundation.

The State President had failed to satisfy himself; in purporting to satisfy himself he did not apply his mind to the relevant facts.

The plaintiffs asked for an order setting aside the proclamation, alternative relief and costs.

The Minister supported his notice of exception on a number of claims, among them that the matters set forth in law had been left to the subjective opinion or personal satisfaction of the State President.

The decision of the State President could not be impugned in a court of law on the grounds that to persons other than the State President the decision might appear erroneous, inequitable

or unreasonable.

Other averments did not contain any allegation that the State President, in satisfying himself, acted mala fide or dishonestly or was actuated by an improper motive.

The combined summons did no more than to invite the court to substitute its decision for that of the State President.

The Minister asked that the combined summons be set aside with costs.

The Minister will now have to file a plea, after which the matter will go to trial.

Mr L.R. Dison, instructed by Frank, Bernadt and Joffe, appeared for the Fund and for Dr Hoffenberg.

Mr G.G. Hoexter, S.C., and Mr J.D.M. Swart, instructed by the Deputy State Attorney, appeared for the Minister of Justice.

(10)

A 44-year-old labourer, Mr Majesane Malafetsane Geel-boo, was found guilty in Bloemfontein recently of inciting farm labourers to destroy their pass books and burning the pass books of three.

He was fined R50 (or three months) on the charge of incitement, and for destroying

the pass books he was sentenced to 18 months' imprisonment, of which 12 months were conditionally suspended for three years.

Mr Geelbooi was found not guilty of promoting hostile feelings between Africans and Whites.

(11)

The Appeal Court recently allowed the appeal of Mr Isaac Heyman against his sentence of 12 months' imprisonment imposed upon him by the Rand Supreme Court for having refused to give evidence in the trial of Mr Jackson Fuzulu and others in November last year.

The appeal of Mr Philip Sello against his sentence of 12 months' imprisonment in the same matter was dismissed.

At an earlier hearing, Mr Soggot, who appeared for the appellants, argued that the Supreme Court had erred or alternatively committed a misdirection in refusing to allow Mr Heymann the services of an attorney and/or an advocate. This refusal resulted in a failure of justice. Mr Sello's request to have the services of a representative was also not granted.

Mr Soggot said the appellants had found themselves in the case very much in the

position of an accused. They were brought to court from imprisonment incommunicado.

A person in such a position might be in dire need of professional assistance.

No person other than an advocate or an attorney could be of true assistance to a recalcitrant witness who might seek the advice of a privileged consultation.

Mr Soggot said that sentence was in all the circumstances excessive and there were insufficient or no grounds justifying the imposition of the maximum penalty.

Miss van den Heever, for the State, argued that Mr Heymann had been regarded as an accomplice and was required to testify in a criminal trial. He said he did not intend to give evidence and indicated that he desired to consult counsel.

With regard to Mr Sello, Miss van den Heever said he had also been regarded as an accomplice and after being sentenced to five days' imprisonment for refusing to testify again refused. The court found that he had no just excuse for refusing.

It might be conceded that an accused person has a fundamental right to the assistance of legal advi-

sers, but a witness has no such right.

There are no issues to be resolved as between him and another litigant and an advocate briefed on his behalf would have no locus standi to participate in proceedings.

(12)

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ANTI-ANTI-ANTI-COMMUNISTS

The conference on Communism provided the expected amount of entertainment for the sceptical and irreverent. And irreverence, at the least, is the only attitude reasonable people can adopt to that kind of discussion. For statements like 'Communism is the highest form of Capitalism', or 'Those who believe in the Virgin Birth should be segregated from those who do not', there is no proper response but a guffaw.

To leave it at that, however, would be dangerous. The belief that reason will inevitably and of itself have more power over men's minds than unreason, though one of the basic democratic ideas, is not valid. Reason, like all other virtues, demands vigilance and effort if it is to survive. We should remind ourselves

that the ideas of Hitler, insane and ridiculous though they were, took hold of Germany for a generation and ultimately convulsed the whole of Europe; and that the 'thought' of Mao Tse Tung, which seems to us sheer raving idiocy, controls the minds and actions of millions of enthusiastic Chinese.

In South Africa we have to be very much on our guard. The men here who create syllogisms like 'Jews are capitalists; but Jews are also Communists; therefore communists are capitalists' or who consider 'enlightenment' as an 'enemy', are not the lunatic fringe - not the Birchers or Mosleyites of happier democracies, but people at the centre of power who command great public support. Here, if anywhere, the temptation to believe that what is preposterous need not be taken seriously, must be resisted.

Our contempt and mockery of what is manifestly unreasonable has to be expressed publicly and often. We must not feel a lofty unconcern with what is beneath the notice of sensible people, or be paralysed with helpless

exasperation. Reason is a potent though not invincible force, and we must be conscious of upholding it and vindicating it whenever we can. We, also, must 'know our enemy'; and for Liberals the enemy is the power of unreason as much as the power of prejudice and greed.

KATE

Q U O T E S

Major-General van den Bergh is reported as having said, "You know when a Jew gets scared, he gets very scared."

He is also reported as having said "Communism is an extreme form of capitalism".

(Sunday Times, 9/10/66)

Letter to Editor, Rand
Daily Mail: (14/10/66)

Apartheid may be immoral, but it is unchristian only in a spiritual sense. On a material and worldly plane, at least according to the New Testament, it is eminently Christian.

QUOTES (cont.)

Mr Vorster (Newsweek Interview): "Has Europe ever worried about the fact that the Netherlands is smaller than Germany or Belgium smaller than France It is true that the Whites have 87 per cent of the land and they have 13 per cent, but they have the best land in Southern Africa."

"It is also unfair just to look on the 13 per cent in South Africa because adjacent to that you have the protectorates where they (the Africans) came from."

(Sunday Times, 16/10/66)

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