

FIGHTING

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TALK

PASSES and PRISONS

THE AFRICAN WOMENS' PROTEST DEMONSTRATIONS



**The Treason Trial:
A Case of Scandal**

**UNITY AMONG
DEMOCRATS**

2 Discussion Articles

Johannesburg City Council and the Nationalists

Recently it has been a commonplace to open the daily newspaper and find some argument for or against the inclusion of Maoris in the New Zealand Team which is to visit South Africa in 1960. This is a revealing pointer to the extent to which people both here and elsewhere have become conscious of the problem of the colour-bar in sport, the one sphere where up to now the colour bar has been generally accepted as part of the natural order of things.

Round Table Conference

ference of National Sporting Bodies which was held in East London on the 5th October.

This Conference, which was reported to represent the voices of 65,000 sportsmen, was supported by a number of national sporting bodies such as Athletics, Cycling, Boxing, Netball, Table Tennis, Soccer and Weightlifting (the Convenors of the Conference).

The sequel to this Conference is to be another, probably in the first week of January at Durban, when many more national sporting bodies are likely to participate.

The net result of this is likely to be the formation of a sporting body composed of a number of national bodies, and with a total representation of something in the region of 100,000 sportsmen and women. The bargaining force of this body cannot be underestimated and it is bound to demand a hearing in the councils of the international bodies — and get it.

Federalism

One significant development of the fight for international recognition has been the realisation by Non-Whites and their sports administrators, that it is illogical to demand the abolition of racial barriers when they preserve them in their own ranks. It is possible that no factor has had a stronger impact on the internal situation in sport than the attempt to secure recognition internationally. One by one the national bodies are making haste to delete any racial bars which exist whether in fact or in their constitutions. And there has been increasing re-examination of two issues. First, the work of philanthropists who donated trophies for one racial group

exclusively and who spoke so eloquently of taking care of our "Own" group in the past. It is being seen that these people did us a disservice—even if with the best intentions. The second issue being re-examined is the disease of "Federalism". It is being realised that a Federal structure, with inter-racial matches has done nothing to promote good feeling between different groups, even if this was the original intention. Instead it has been the cause of much animosity and prejudice. And so the federal structure is being rapidly scrapped.

framework of Apartheid." Whether they will succeed will depend on the stand taken by the administrators of the open "non-racial" bodies and by the world bodies controlling the codes of sport. In some instances, attempts have been made to persuade non-white bodies to accept a second-class status with control by the officials of the white bodies. There will be more attempts of this nature and the open bodies will have to guard against it. On the other hand, there are attempts to make the world bodies believe that the administrators of "Whites only" sport are making a serious effort to give the Non-Whites a fair deal. This kind of duplicity must be exposed at every turn. Any concessions made will have to be wrung from the bodies which at present enjoy international recognition without being entitled to it. The issue of the Maoris is only one of many straws in the wind. The lesson it holds is that the rest of the world is determined to give us a fair deal. We must not be content with less.

What can be done to bring the sports issue to a head? It is up to the ordinary sportsman, the man in the street, to get the matter raised in the club. Gradually through the union, it will filter through to the national body. The demand for recognition for the Non-White bodies must come from all. From the white sportsman who is a true sportsman who recognises only merit as the criterion, and from the Non-White sportsman who does not dare yet to aspire to the highest things.

If there is a concerted and sustained demand, then a solution will have to be found. A just and lasting one. And a sporting one.

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OUR COVER PICTURE:

Close on 2,000 African women were arrested during demonstrations against pass books for women. The largest batch arrested was composed of 925 women from Alexandra Township some of whom are seen in a police truck on the way to prison.



Passes Lead To Prisons

Even as men waiting for their buses and trains home milled about those who had newspapers to read over one another's shoulders of the arrests of the women after protesting against passes the news had girdled all the townships in Johannesburg.

"These passes —" the men were saying. "It's going to be you, your son and now your wife who will carry a pass! And what if you are all arrested?!"

The women for the most part had little time to talk. Some brushed up their shawls and announced their readiness to go to jail. "We want to see this place where our sisters were arrested."

Whereas it had in past days taken several weeks to organise deputations to the Native Commissioner this time the women came forward spontaneously.

Those who were not coming forward to join the stream of protesters told you that their daughters or sisters or aunts were already in Number Four (The Fort).

You met no women opposed to what was being done. And no man held the floor in the buses or trains. "You who harbour passes in your jacket pockets had better shut up," they were told by the women.

The men were humbled. "But as for the government, it's in for trouble, interfering with our wives", they consoled themselves.

As batch after batch of women poured out of the townships and was arrested it was as if they were leaving prison and not going there. The police announcement "Now we are arresting you" was greeted with cheers and shouting of anti-pass slogans. Young and old, mothers with babies on their backs sang as they climbed into police trucks.

In a short time the sceptics who were saying "What's the use of protesting?" were silenced.

The charge by the Commissioner of Police that "agitators" were behind the women spluttered like a damp squib in the townships.

It was again a case of the Police Chief flipping up that well-worn police glossary to check under the entry

Problem: "UNREST — GRIEVANCES — PROTEST DEMONSTRATIONS".

Answer: LEAN ON THE OLD SCARE OF REDS (WHITES AND NON-WHITES TOO).

For three years African women have taken mass demonstrations to the authorities to protest against passes. Always they were given the glib, pat assurances: "The reference books are the same as the identity cards carried by White women". (Which White woman will be liable for arrest or endorsement out of the city if she cannot produce her card on the demand of a policeman?) "The books will help with identification in case of accidents." (Must millions of women be persecuted all their lives to help in the few odd cases where accident victims cannot be identified?) "The reference books will help you. Already passes have been abolished for men." (No doubt this explains how 1,740,392 men were detained under the pass laws in 1957).

Passes lead to prisons and the women know that only too well.

It sounds innocent enough for the authorities to plead — tongue in cheek — the advantages of a "national system of identity". But when pass books bring with them the roving pick-up van, the police knuckles hammering on house doors at midnight, families pulled from their beds and parents arrested in front of their children, nights spent in cold cells, summary trials and then imprisonment not for a crime but for not having the right entry in the pass book then this is no longer an identity system but the bitterest grievance the African people know. "We are merely carrying out the law" the official defenders of the pass system say. True, but the law is blindly harsh and punitive and has led to the break-up of family life, women deported from their homes, babies wrenched from their mothers.

The African National Congress has never made any secret of its opposition to the pass laws. Those who say the large scale women's protests against the passes are the result of 'agitation' and trouble-making by the Congress put the cart before the horse. The Congress movement reflects the bitter hatred of passes by the African people and speaks thus with their true voice.

THE NEED FOR UNITY AMONG ANTI-NATIONALIST ORGANISATIONS is a question being debated in the Liberal and Federal parties, the Black Sash and Congress movements and other democratic organisations. Discussion sparked off in the columns of the Rand Daily Mail dealt with the need for unity and some of the obstacles to it. In the belief that this problem is one of the most pressing of these times, FIGHTING TALK opens its columns to this discussion.

Three Levels of Co-Operation

By MARTIN JARRETT-KERR, C.R.

You ask me to comment on the suggestions by 'Owen Vine' in the Rand Daily Mail for a united front of the different sections of the 'White Opposition' in this country. I gladly offer my thoughts on the matter, for what they are worth.

It seems self-evident that some such unity must be achieved if there is to be any effective opposition at all. Even if all sections, Liberals, Labour Party, Black Sash, Federal Party, C.O.D., etc.) were added together the result would still be numerically negligible (though impressive in quality); separated and competing with each other, they remain merely absurd. But how is such unity to be reached?

3 Levels of Co-operation

In a recent speech to the annual conference of the Congress of Democrats (which was not reported in full, and therefore I make bold to repeat what I said there), I suggested that co-operation between groups which may be profoundly divided in principles and ultimate aims, could be suggested on three levels.

Firstly, the 'ambulance' level, i.e., sheer relief work. No one is likely to dispute the urgency of, for example, combating malnutrition especially in African children. And the strict politically-pragmatic attitude ('let them starve, as it will hasten the revolution') is likely to remain highly theoretical and academic in this country at present. It is not a question of 'let them starve'; it is rather 'there are plenty of White humanitarians to do this sort of thing; we must concentrate our energies elsewhere.'

More important than ambulance (picking up the bodies) is prevention. This indicates the second level: co-operation to achieve better sociological conditions.

Here there can still be a wide area of agreement and co-operation: the maintenance of family life, against ethnic grouping, migratory labour, race classification, minimum guaranteed wages; freedom from passes; etc, etc. Here perhaps we have the widest arena in which joint action is possible.

Political Action

But to achieve anything at the second level will require political action. So here too, those who are agreed at levels 1 and 2 will have to consider whether their agreement is not merely academic unless it can move to level three, that of political co-operation. Here we must face the fact that there is likely to be the greatest divergence among those who are in considerable agreement at the earlier levels.

Obstacle — Lack of Trust

For, let us be frank: you ask me 'What are the obstacles to unity up to the present?' And the reply must obviously be: 'Lack of trust.' Can those who disagree profoundly, not only on (e.g.) foreign policy (let us say, on the interpretation of recent events in Hungary), but on basic moral and ethico-political principles, really trust each other?

Can, say, a 'liberal democrat' have confidence in an adherent of, say, dialectical materialism, when the former believes (whether rightly or wrongly I

won't discuss) that the latter may be his ally until the revolution comes and then will at once become his executioner?

Can a believer in personal values make any kind of genuine and lasting alliance with one who seems (whether justifiably or not) to believe that 'the end justifies the means' and therefore any methods of injustice, torture, or deception are permitted if they achieve the 'historical goal of society'? The answer to this question must obviously come from those who are thus under suspicion and it will be an answer in deeds, rather than in words.

White Unity and the Congresses

You ask, finally, for suggestions about the form such co-operation should take. I do not know the answer; but I think that the answer must come from the Non-White organisations. For these, clearly, are more important than any of the White organisations we might wish to link together. There is evidently a need for unity among the Non-White organisations; but that unity must be achieved from within, by them: it must not be dictated by us.

So that in effect what I envisage is an immediate federation, on agreed and clearly defined (and at the moment limited) terms, between as many of the White organisations as are ready for it: and that this federation should then go to the 3 Congresses and say 'Here we are: use us as you wish. We are dedicated to the achievement of justice and true democracy; but we are a minority — you, the majority, must decide how we can best serve.'

UNITY IN ACTION

The Congress of Democrats View, by BEN TUROK, M.P.C.

Owen Vine, of the Rand Daily Mail, recently wrote a number of articles on the need for unity among "liberal" minded groups in South Africa. His articles shocked all of us out of our complacency and have stimulated a considerable

amount of discussion both within the organisations concerned and in the columns of the Mail itself. This discussion has centred around a possible unity among the various European liberal and democratic organisations. This move should

be considered first, apart from the wider unity we want to develop around the Congress movement.

The Congresses have for a long time been calling for the broadest possible front against the Nationalists. Although the unity of the liberal European groups,

as proposed by Owen Vine, is a long way from achieving this, such a consolidation should be welcomed as a potentially powerful force against rampant Nationalism. United action by these groups is of importance to us since it is clear that only opposition from the widest section of the people can stop Nationalist inroads on our liberties. But in addition, at a time when Verwoerd's propaganda machine is going into top gear, there is an urgent need for the liberal and democratic European organisations to counterpose to Europeans the feasibility of a democratic multi-racial society as the alternative to apartheid.

A great many thinking Europeans understand and accept this reasoning and many others who have been antagonised by the Government in one way or another are waiting for a lead. If this common opposition to the Nationalists, which is felt by large sections of the Europeans, could be co-ordinated in some way the Congress movement would have a powerful ally in the struggle for a democratic society. The successful campaigns of the Torch Commando serve as a reminder of just how powerful this section of the people could be.

Reservations about Unity

Unfortunately there are indications that Owen Vine's suggestions are not being taken up as willingly as they deserve to be. Many leaders of the organisations concerned appear to lack the broadmindedness and vision that will be needed to establish ties across party loyalties. Some leaders of the Liberal Party, for example, are staking their hopes of building their party on the collapse of the United Party.

They feel that if the Liberal Party remains untainted by "extremism" (a condition which joint mass action with the Congresses might engender), or if they can retain their identity and withstand a merger with other liberal organisations, the U.P. moderates will sooner or later drift into the Liberal Party.

Such reasoning is clearly false. Surely the best chances of a major Liberal Party advance lies in the creation of a liberal front which would be sufficiently imposing in strength and numbers to have a marked impact on the political scene.

If such a front were to take up the struggles of the Johannesburg Municipality against Government interfer-

ence, or the threatened ban on meetings on the City Hall steps, it would soon win many new adherents. Our primary concern should not be whether the U.P. moderates leave their organisation and join another but the mobilisation of these and many other people into active protest against the Government. Neither the Liberal Party nor any other organisation of liberal Europeans is strong or effective enough to attract these people at present, but by acting together they might well alter the position.

Unfortunately still other obstacles to unity among these groups have been raised. There is the desire on the part of some to be thought of as "middle-of-the-road" organisations — the Liberal Party recently referred to itself as being between Black and White nationalism. To achieve such a reputation one has to attack both those on the left and the right. This has led to frequent attacks on the Congress of Democrats — admittedly the most "extreme" European organisation — by the other groups, to attacks by U.P. moderates on the Federal Party, to attacks on the Liberal Party by Federalists and so on. All this is in an effort by the one group to whitewash itself so as not to offend potential recruits to the right of it.

Name-calling Tactics

Nothing could please the Government more than to see its opponents adopt its name-calling tactics against one another. Such a practice simplifies its task of persecuting its most militant opponents and laying them open to being banned. It also does not in fact protect the moderate organisations for if the Government should ban the Congress of Democrats there can be no doubt that the Liberal Party would be next on the list and so on down the line. The answer to Government persecution does not lie in saying 'I am not as extreme as so and so', but in presenting a solid front to its attacks and fighting jointly for the right to exist and advocate our points of view.

The Need for Joint Action

When considering the various liberal organisations — the Liberal Party, the Labour Party, the Federal Party, the Black Sash, C.O.D. etc, one must admit that each of them arose at a different time and for different reasons. Yet, in spite of this, all these organisations have something in common. Their public activities prove this.

But no attempt has been made to co-ordinate these activities and thereby make them more effective. Consider for example the ban on meetings on the City Hall steps by the Johannesburg City Council. The Black Sash, to their credit, were the first to take up the issue. They were followed by the U.N.E.S.S.A. applying for permission to hold a meeting. The Congress of Democrats sent a deputation to the Chairman of the General Purposes Committee. The Liberal Party sent a letter of protest. The combination of these protests had the desired effect and the ban was lifted, but who can deny that if they had been co-ordinated they would have been even more effective? One must remember that the way each organisation leapt into action in this case was exceptional. Usually when an issue arises only one of these organisations takes it up and no support is forthcoming from the others. The recent increases in tram and bus fares in Johannesburg is an example of such an issue.

First Steps to Unity

By calling for joint planned action we are not suggesting that these organisations should amalgamate. That would amount to trying to achieve too great a degree of unity at the first step. In any case it may be desirable to maintain separate organisations in order to give expression to particular points of view. C.O.D. members, for example, would not lightly jettison the right to advocate the Freedom Charter in an organised way, nor would they sacrifice their close alliance with the African National Congress and the other members of the Congress movement.

For these reasons co-operation on a consultative basis would be preferable. It may also be advisable to work for united action on issues which, while they affect all people, do not raise differences which tend to divide us. An issue such as the defence of free speech would not involve the contentious question of franchise rights. Another feature of this proposed unity which should be considered is the advisability of a positive platform, such as that of the multi-racial conference, being adopted as a basis for our joint work. If this could be achieved, the alignment of opposition forces would have a powerful positive appeal and would win support from

(Continued on page 10)

A Case of Scandal

The day after Mr. Pirow's sudden withdrawal of his massive three-volume, 406 page indictment in the treason trial, a Johannesburg daily paper reported an interview with the Attorney General. The report ended with the startling remark: *'The Crown will now undertake an exhaustive study of the case against the accused.'* At any other time, or in respect of any other case, the remark could be glossed over as a careless slip of the editorial typewriter. But on the very day of the withdrawal of the indictment, there had been another remark of the same nature. "It seems" said Presiding Judge Rumpff after following every word of the two months argument on the indictment intently, *"that the Attorney General, when drawing up the indictment, did not give full consideration to the implication of allegations of treason in peace time."* Mr. Pirow, naturally, protested hotly that the very fullest consideration had been given, and the Judge naturally accepted that assurance.

But the strong impression remains; however many man-hours have been spent on it, the prosecution produced an ill-conceived, deformed and misbegotten charge, and knowingly foisted the monster on the accused and the courts. I do not speak here of the facts of the case against the accused, of the question of whether the evidence can or will establish the guilt of any or all of them. That is a question for the courts alone to decide, and any comment on that issue would be both unlawful and undesirable. But of the conduct of what is politely termed 'The Crown, of the manner of behaviour of the prosecution and of the Minister of Justice who is the real head of the prosecution team, it is necessary to speak before a scandalous injustice is allowed to continue in the name of justice.

Genesis

What are the facts? Almost two years ago, 156 people were arrested in the most abrupt and dramatic fashion. They were released on bail in the face of strenuous opposition from the police after some two weeks in the Johannesburg Fort. At the preparatory examination, they were told by the senior prosecutor that the crown case would be over in six weeks. With some short periods of defence cross-examination of witnesses it lasted thirteen months — the longest in the country's history. After almost a year of the Drill Hall hearings, charges against 61 of the accused were suddenly withdrawn without a single word of explanation, and without a penny of compensation for their lost year. Seven weeks later, another four were similarly released. Only 91—three out of every five of those originally arrested — stayed to the bitter end. All 91 were committed for trial.

The course of the preparatory examination itself was as remarkable. Though the warrants of arrest alleged 'High Treason' between 1953 and 1956, the crown presentation of evidence proved elastic. Evidence went back to 1952, to include the Defiance Campaign — and forwards to 1957 to include riots outside the Drill Hall while the accused were still imprisoned, as well as campaigns for their release. Matters which had not been mentioned in the prosecutor's

two-day opening address were conjured up suddenly in the middle of the hearings — evidence of mysterious school burnings, evidence of Mau-Mau atrocities in Kenya, evidence of 'brainwashing' in Korean prisoner-of-war camps, evidence of plots to smuggle in arms from China and a mysterious 'gas powder' from Russia.

Test of Faith

It was said — properly — by Magistrate Wessels, that it was legitimate for the prosecution to lead such evidence provided they undertook to link it up with the accused at a later stage. Repeatedly, over defence objections, the undertaking was given that it would be so linked. But there is a difference between what is legitimate, and what is fair to an accused person. The test of the crown's fairness is that there was not, at any stage, any such link or any attempt to prove any such link. It was from this that there arose the first real questioning of the prosecution's conduct. Had the crown made any attempt to sort the evidence dumped into its files by Special Branch policemen? Had any attempt been made to test the reliability and credibility of the gangster and convicted murderer, witness Ralekeke, who testified to events during the Kliptown bus boycott? Or of the life-long jail-bird and fraudulent B.A., witness Mgubasi, brought from a prison cell to testify about arms plots? Had there been any serious effort to sort from the police archives those documents and speeches which were relevant and to discard those irrelevant?

Perhaps, to this, there is only one answer. That is in the indictment, laboriously prepared over six months after the committal of the accused for trial. In it there is not a single word or reference to the Kliptown bus boycott, said by the prosecutor at the start of the preparatory examination to be "the prelude to the revolution." In it there is not a single word or reference to Kenya or its Mau-Mau, to the Korean war and 'brainwashing', to arms plots or gas powders. There is not a single allegation of school-burnings or assaults connected with school boycotts. Once again the dates have reverted to "the period 1st October 1952 to 13th December 1956." There is, accordingly, no possible reference to the Defiance Campaign, to riots in Port Elizabeth, Kimberley and East London, to riots outside the Drill Hall during the preparatory examination. Countless weeks of the Drill Hall prosecution have, mysteriously, melted away to nothing. Legitimate perhaps. But morally indefensible.

Retreat in Disorder

In Pretoria, stage two, the crown conduct of the trial has not got beyond the indictment. In the original indictment itself there was only one specific allegation of any practical and criminal result of the actions of the accused — that their speeches and writings ". . . did in fact create feelings of discontent or unrest and/or hostility between the various sections and races of the population in the Union of South Africa." The defence asked, simply, on what facts the crown would rely to prove that such discontent was created. And by way of answer the crown, simply, withdrew the whole allegation. Can the original allegation have been made on the basis of evidence and in the interests of justice? There was also an allegation of ". . . organising and participating

in various campaigns against existing laws . . ."; the defence asked for a list of the laws referred to; the crown replied simply "all laws." Could such a reply be the result of serious consideration, or merely wild talk? The indictment alleged — as the second alternative charge — a breach of the Suppression of Communism Act by means of ". . . acts calculated to further the achievement of one or more" of the objects of Communism. The court, after argument, directed the crown to state precisely which speech or document would be used as evidence of furthering which object of Communism. The crown, again, simply withdrew the whole allegation and the charge. Legitimate, perhaps. **But fair?**

Perhaps frivolous is the best description of the casualness with which the Crown mutilated the indictment — frivolous of the responsibilities of a prosecution, whose duty is not to persecute at the whim of the state, but to uphold justice and safeguard the interests of the accused.

Equally frivolous seemingly, was Mr. Pirow's sudden announcement in Court on September 29th — after lengthy, involved and serious argument on the meaning of the indictment — that "*If the Crown fails to prove a conspiracy then all the accused go free.*" Mr. Maisels had argued that the indictment was clearly drawn in such a way that, whether there was conspiracy or not, each accused stood charged with high treason in respect of each of his own speeches and writings. Mr. Justice Rumpff felt the same way. "As I understood it, the Crown claimed that it was entitled to find any accused guilty, conspiracy or no conspiracy." The defence had previously asked the crown to state, simply, whether the accused faced one charge or many charges. The crown had replied, simply, 'Read the indictment.' In the confusion caused by Mr. Pirow's statement, Mr. Maisels specifically challenged the crown, in open court, to amend that answer to put the matter beyond all doubt. The crown, simply, declined. Fair? The just way to set out clearly to the accused the case which they must answer? Perhaps the best summing up was made by Mr. Justice Rumpff. "*What sort of case is this?*" he asked. The question is still pertinent, as pertinent as its corollary: **what sort of a prosecution is this?**

Erroneous

But the real sensation was yet to come. On October 13th, after two months of argument, Mr. Pirow applied for leave to amend the indictment **for the fifth time!** This amendment, if granted, would have removed from the indictment all the extracts from 700 documents (which together make up 204 pages of Schedule D of the indictment) and all save eighteen of some 700 extracts from speeches (which make up 178 pages of Schedule C). **What sort of a case is this?** If eighteen extracts from speeches are sufficient on October 13th to acquaint the accused clearly and precisely with the case they have to meet, why were they not sufficient on August 1st when the trial opened? Were the 406 pages of indictment originally served necessary? Were they included to confuse? Or were they merely the "Drill Hall process" of stirring up indigested all the facts the police archives can spew forth, in the hope that somewhere, at some time they will fall into the shape of a comprehensible charge?

There have, doubtless, been other cases in our history where questions such as these have been made by prejudiced and partisan opponents of the crown. But the questions in this case are now being seriously asked not by the partisans but by all sober, impartial and judicial observers. The treason trial has proved to be something special.

Among its specialities are the listing in the indictment of 152 "co-conspirators." These people are not charged. **At its best, this is an easy device to enable the prosecution to**

use their acts and speeches as evidence against those who are accused, without the necessity of proving a case against each and every one of them. At its worst it is a device for making criminal allegations against them, and preventing them from answering those allegations — what is known across the Atlantic as "the smear technique."

Two months ago, in England, a similar listing of "co-conspirators" came before Mr. Justice Salmon, who delivered such a blistering attack upon the prosecutor for this way of conducting the case that the case was withdrawn; the prosecutor himself resigned from his post. Such scrupulous regard for the rights of persons to defend themselves in a fair trial does not apply in the prosecution team in the treason trial. For them the standard of conduct has been set by the leader of the team, the man who in terms of the law is the real controller of the prosecution, Mr. C. R. Swart, Minister of Justice.

Deus ex Machina

Mr. Swart's conduct has set a new standard of irresponsibility and immorality in South African legal history. Six months before any arrests were made, he told Parliament that some two hundred people were to be arrested and charged with treason. If the crown evidence then available were sufficient to justify the threat, why were no arrests made and no prosecution started? **Is it perhaps possible that the decision to arrest was taken first and the evidence accumulated and put together afterwards?** Such suspicion

is strengthened by the Minister's systematic course of conduct towards the treason accused. Four times, since the preparatory examination started, he has amended the law specially to assist the treason prosecution. There was an amendment to permit mass trials to continue even in the absence of the accused for illness or other reasons. There was an amendment to provide that documents such as those in this case shall be proof of the truth of their contents unless disproved by the accused. There was an amendment to allow himself to appoint a Special Court to try cases under the Suppression of Communism Act. And finally there was the indecent amendment by which he validated his illegal appointment of a 'Special Court' after the accused had elected to be tried by a judge without jury.

There comes a time when scandal blows up into an almighty stink. The fourth and final amendment to the law was such a time. Mr. Justice Rumpff in court openly contradicted Mr. Swart's statement, made behind the shield of Parliamentary immunity, that the members of the Special Court had been decided upon after consultation with Judge Rumpff. A leading national newspaper, in its editorial columns, openly accused Mr. Swart of lying about the whole matter, and challenged him to sue for libel. Elsewhere, anywhere else in the world, a Cabinet Minister so challenged, would either sue or resign. Mr. Swart did neither. He stayed in office; despite the stink, around his name, he has been reappointed by the new Prime Minister to control the country's "justice."

Time to Talk

For two years as these facts have multiplied, there has been silence about them. The country has rested confident that, in the end, justice would be done by the courts. But there comes a time when — as Mr. Maisels told the court — justice deferred is justice denied. Even now, two years after their arrest, when the prosecution indictment has collapsed like a pack of cards despite the new laws specially designed by chief of the prosecution Mr. Swart — even now

the attorney general is working on a new indictment. Is it not now time to ask whether Mr. Swart is pursuing justice or a private vendetta? There comes a time when continued prosecution — especially when conducted in the frivolous unfair and scandalous fashion of this trial — changes into persecution. That time is now at hand in South Africa's treason trial.

I have been told by one of the foreign observers at the trial that the crown in Britain also has the right to indict a second time after a first indictment has failed or been quash-

ed. But in all the history of the British courts, there has never been an occasion when it has, in fact, done so.

It is time now for decent men and women everywhere to speak out against any further indictment of the treason trial accused. They have suffered enough — more than enough, and for too long. The Minister of Justice has had his chance of proving that there is a charge for them to answer. He has failed. He must not be permitted to try again, and so add another chapter to the most scandalous abuse of our legal system ever recorded.

WHAT IS TREASON ?

By A LEGAL CORRESPONDENT

When the treason trial resumed at the end of September, there seemed to be an air of confidence in the Crown camp. The court's judgement in August had been in their favour on a number of important points. They had supplied further particulars at great length in response to the Court's order. Their reaction to the news that the defence intended to renew its attack on the indictment was an impatient "Let's not go into all these quibbles again."

It did not take very long for the atmosphere to change. Mr. H. C. Nicholas opened the attack on behalf of the accused, and everyone in court soon realised that this was to be an even more fundamental attack on the Crown case than that which had been launched in August.

The first part of the defence argument dealt with the basic question "What is treason?" The indictment charged as acts of treason a large number of speeches and writings which, on any interpretation, amounted to nothing more than statements of political ideas and beliefs. The defence contended that such things could never be acts of treason. Treason meant attempting the violent overthrow of the state, or making direct preparation for such an attempt. Thus treason could not be committed by words, unless the words amounted to an agreement or incitement to use violence. Even if a person had, at the back of his mind, an intention to overthrow the state, that did not mean that his every action became treason. Only such acts as bore a direct relation to the achievement of violent resolution were treasonable.

The second main division of the argument related to the allegations in the indictment which charged the accused with possession of documents. Here the defence argued that possession is not a positive act at all, but merely a static relationship between a person and a thing. It cannot, therefore, be an act of treason.

Thirdly, the defence renewed its argument on misjoinder. Persons cannot be brought together as accused in a joint trial unless they are charged with joint participation in the same offence. Now, although the Crown alleged that all the accused had conspired together, it said that they had joined the conspiracy at different times. There were numerous acts charged, for which not all the accused were to be held liable. In some cases, acts were included in the joint indictment for which only one accused was alleged to be responsible. These charges, according to the argument, had no place in a joint trial.

Lastly, the defence argued that the Crown had still not supplied sufficient particulars of its allegations. There were hundreds of pages of particulars, but these did not enable the accused to know what the case against them really was. The particulars referred to thousands of speeches and documents which were alleged to show the existence of a conspiracy, but no explanation of their relevance was given. In many cases, the defence was unable to see that they had any relevance at all.

When the Crown asked for an adjournment of a week, it was assumed that there would be a lengthy reply to all these argu-

ments. The Crown must surely have considered these points in preparing its case, and must be ready with an answer?

That was not how it turned out. The Crown used its adjournment to prepare, not a reply, but a fifth amendment to the indictment. By cutting out some 98% of the acts of treason which had originally been alleged, the Crown sought to concede and evade the first two sections of the defence argument. As for the other two sections, the attitude was "let's all co-operate to save time — we give in on half and you forget the other half."

When the defence would not bite, the Crown still would not face the task of replying to the arguments. Now it was "agree to our amendment, or else" Mr. Pirow announced that if his amendment was not granted, he would withdraw the charge and frame a new one. In the event, he did not even wait for a decision on that. The mere fact that his amendment was opposed proved sufficient to bring his threat into operation.

Thus the case approaches its second anniversary with nothing decided and the charge still awaiting final formulation. The Crown is now free to frame a new indictment, which may either be the old one as it would have been amended, had the fifth amendment been allowed, or an entirely new one. The alternative charges can be brought back, the number of accused can be changed, the number and nature of the treason charges can be changed. There is no time limit for this process, and the accused simply have to wait for the Attorney General to make up his mind.

Johannesburg City Council Surrenders to the Nationalists

The United Party controlled City Council of Johannesburg undertook last month to act as Verwoerd's agent to carry out Nationalist policy in Johannesburg. Not a single City Councillor recorded his Council vote against the surrender, and only one questioned its wisdom. Yet, at last year's Municipal Elections, U.P. City Councillors, opposed by the Liberal Party or Congress of Democrats candidates, vied with one another in their boasting that they would resist Verwoerdism in Johannesburg.

Humiliated by a group of questioning citizens, U.P. Leader Mr. Charles Patmore took his excuse out of Verwoerd's mouth. The Act of Union, he claimed, compels municipalities to carry out Government policy. This 1958 constitutional discovery of the "arm's-length" partners Patmore and Verwoerd has come too late for at least one purpose — the removal to Meadowlands of citizens living in the Western Area freehold townships. The new-found constitutional duty was unknown in 1954 to Patmore and Verwoerd alike, with the result that the Johannesburg City Council refused to do the job and Dr. Verwoerd had to create his Resettlement Board to carry out his policy. Does Mr. Patmore now contend that the U.P. breached the Constitution in 1954; — albeit through his party ignorance of its terms!

Confused U.P. Chairman of the Non-European Affairs Committee, Mr. Patrick Lewis, contradicted his leader. He explained that without abject surrender the Minister would stop housing loans. His reason was **housing loans not constitutional compulsion**. Yet Mr. Lewis, former executive member of the Institute of Race Relations, and one time successful opponent in Council Elections against Mrs. Jean Sinclair, National Chairman of the Black Sash, took his decision to administer Nationalist policy in order to get housing loans without consulting African opinion. By implication, he is saying, the need for African housing outweighs the danger of ethnic grouping (including ethnic regrouping of old townships), stricter influx control, municipal assistance in passes for women — in fact the whole gamut of disrupting apartheid laws.

Perhaps he believes this, perhaps he is even right, but if he was confident enough to take the decision for a city of a million people why was he not confident enough to consult with the Advisory Boards, who represent the section that will suffer if he should be wrong? Even his Party promises consultation with Non-Europeans, but this he ignores too. Is he perhaps in the wrong Party, or is he playing at "slim" politics:- believing that the best way to get rid of the Nationalists is to stifle opposition, co-operate with them and thus roll them on to the inevitable disaster of their policies. If the latter is his plan, let us warn him that every act of collaboration or concord between Government and Opposition in enforcing apartheid laws is likely to be regarded by Non-Whites as an ominous sign of White solidarity against legitimate Non-White interests.

A few questions arise:

Is there anything in the Constitutional argument that a Local Authority has no option but to act as an agent of the Central Government to carry out the Government's native policy?

The answer is emphatically "No." Nowhere in the South Africa Act, including Section 147, is such an obligation created. The Section merely enables the Government to administer its native policies throughout the Union. **No Constitutional compulsion can be brought against any City Council or other body to become the agent of the Central Government to carry out Government policies.**

On the contrary, by inference, a City Council is constitutionally entitled to decline to carry out the Central Government's policy and is thus constitutionally free to ignore departmental or Ministerial demands, even when accompanied by shameful threats. This does not mean that a City Council cannot be compelled to administer a law which provides that the Local Authority shall administer it. The obligation to administer the law is not, however, a Constitutional obligation but merely a statutory obligation that derives directly from the provisions of the particular Statute. Such a law is called "compulsive". But not all laws are compulsive; many are permissive, e.g. if a law merely provides that the power to administer the law may be delegated to Local Authority (e.g. the Locations in the Sky amendment), the Local Authority is not obliged to seek delegated power and is freely entitled to decline to administer the law. Save where there is a specific obligation under a "compulsive" statute, it is wrong to say that a City Council is obliged to administer any law or Government policy. **So far from there being any obligation it is, in fact, the democratic duty of a City Council to refuse to carry out policies or permissive laws that it has carefully and properly considered and found unjust or dangerous.** Its duty, in such a case, is to throw down the gauntlet to the Central Government by bringing the issue before the public, encouraging open debate (including public meetings) and thus demonstrating to Black and White alike that under our Constitution human rights can triumph over colour affinities.

Within the limits of what we are discussing, the above statement accurately presents the duties of a Local Authority under the South Africa Act and other laws, and we invite Town Clerk Brian Porter to contravert any of our statements or conclusions. Moreover, we would ask him whether he has told Councillor Patmore that his (Cllr. Patmore's) interpretation of the South Africa Act as compelling the Local Authority to carry out all Non-European laws and policies is incorrect. Finally, we would ask Mr. Porter why he has not taken steps to contravert the wrong impression of Council duties that is being propagated in the Council's name by Mr. Patmore's statement.

Does the City Council want ethnic grouping?

This is a question we cannot answer. Nationalist Councillors would say "yes", but the vast majority of Councillors are U.P. In the light of contradictory incidents in the Council, the only truthful answer that U.P. Councillors could give is "ja—nee". Only this year, and at great expense to the citizens of Johannesburg, a three-judge commission, after hearing evidence, commented on the dangers of ethnic group-

ing in the townships. No U.P. Councillor has publicly repudiated the findings of the judges, and we must, *prima facie*, assume therefore that they do not disagree with them. However, they have now agreed, in the face of the findings of the commission, to carry out the Government's ethnic group-policy instead of refusing to do so as they are constitutionally entitled to do. One should remind our readers that the undertaking given to the Minister goes very much further than the provision of new homes and hostels on an ethnic basis. The Minister has called not merely for ethnic grouping of new townships and hostels, but ethnic regrouping of the old townships as part of the policy of the Government. He will in due course ask the Johannesburg City Council to implement their promise and unscramble the ethnic eggs:— to remove Tombele from his long-established home in Orlando because his father or grandfather, who came from Zululand, accepted a house next door to Simbulo's grandfather from Basutoland.

Does the United Party practise its policy of consultation with Non-Whites?

Here the answer is "no". It does not — not even when Advisory Boards are established by law for the purpose of consultation. The Non-European Affairs Committee did not consult with any African opinion and ignored the Advisory Board in taking their decision to surrender to the threats of Verwoerd. In admitting this, Mr. Patmore lamely explained that they could not consult about acts they were legally obliged to perform. This was the fallacious constitutional argument all over again, and reveals, moreover, that Patmore neither distinguishes between compulsive laws and permissive laws, nor between laws and policy. He merely assumes that what Verwoerd commands the City Council must do.

Is a City Councillor an elected representative of White citizens or is he a Civil Servant?

In theory and, until recently, in practice, he was an elected representative of the White citizens. But in Non-European affairs the United Party, confronted by Nationalist threats,

has allowed him to become a Civil Servant. The City Council have undertaken to act as the executive agents of the Central Government to carry out laws they are not obliged to carry out (i.e. permissive laws) as well as mere items of policy that issue from the Minister's office without having been subjected to the democratic scrutiny of debate (save perhaps behind the closed doors of the Nationalist Party Caucus). To undertake to carry out these laws and policy directives makes the City Council agents of the Government, but the Johannesburg City Council have gone further; — they have given another undertaking that puts them in the category of Civil Servants. They have agreed to shut their mouths — hold their tongues — and never to criticise Nationalist Party laws or policies in the presence of the African people who have to suffer them. In short, they have become the humble, obedient and submissive servants of the Minister.

Are Advisory Boards to be abolished? If so, by whom?

For some time the Nationalist spokesmen have referred to the Advisory Boards, created under the provisions of the Native Urban Areas Consolidation Act, as redundant or undesirable. One infers from such statements that it was only a matter of time before the Advisory Boards were abolished by the Nationalist Government. The recent decision by the United Party controlled City Council to undertake the administration of the laws and policies of the Government, without ascertaining the Advisory Boards' views, is an indication of the United Party's contemptuous attitude to the Advisory Boards. But by undertaking further not to criticise in the presence of Africans Nationalist laws or policies of which they may disapprove, the U.P. City Councillors have effectively broken down the statutory channel of communication established for the benefit of Local Authorities. Members of Advisory Boards cannot be expected to discuss with Councillors laws and policies which, notwithstanding the views of the African people, the City Council has undertaken to carry out in silence. Advice from the Boards is useless unless the free capacity to heed that advice exists. In our view the United Party, by their recent act, have treated the Advisory Boards as defunct even before they are abolished by the Nationalist Government.

UNITY IN ACTION (Cont. from page 5)

most intellectuals, the churches and decent-minded people throughout the country.

The Non-White Congresses

One cannot leave a discussion of this sort of 'entente' without dealing with its possible relationship with the Non-White Congresses.

Perhaps it is only C.O.D. members at the moment who realise it, but none of the Liberal organisations can achieve their aims without Non-White assistance. The truth of this will become clearer to them as the effects of Nationalist gerrymandering with the electoral system make representation in Parliament more and more of a sham, and anti-Nationalists are forced to resort to extra-Parliamentary methods of protest. At that stage co-operation with the Non-White Congress will be

the obvious development. United action together with the Non-White Congresses — whose only means of redress has all along been in this field — could make a great impact both on the Government and on the alignment of political forces in the country. It would create a polarisation of ideas, with those supporting a fascist dictatorship and apartheid on the one hand and those who rally for democracy and multi-racialism on the other.

At present the Nationalists have to a certain extent dissuaded liberal Europeans from co-operating with the organised Non-Whites by making it clear that to act thus is to betray the Europeans. The personal sacrifice such a step entails is often too great. Nevertheless events are moving to a stage where co-operation with the Non-White Congresses will be the only choice and where the colour bar will

be broken on the battlefield of civil liberties in South Africa. Certainly the emergence of a united European democratic opposition force would facilitate this process, for the more Europeans thrown into juxtaposition with the Non-White Congresses, the more obvious such joint action becomes, and the more difficult it is for the Government to isolate such Europeans.

While it may seem remarkable that the call for unity among liberal and democratic organisations of Europeans comes from outside their ranks, it would appear that others see us more objectively than we see ourselves. In the event let us all now tackle this problem seriously. For such unity may well cause a new surge of hope to sweep the country and rouse to their feet those people who up to now have been content to sit back and grumble under the Nationalist yoke.

The Freedom Charter and the 1949 Programme of Action

The "Africanists" hate the Freedom Charter as much as the Nationalist Government does. The great majority of Congress members, who support the Charter, they refer to contemptuously as "Charterists". They describe this noble document, which has won world-wide admiration for the clarity of its language and presentation, and which sums up the demands and aspirations of countless thousands of South Africans, as a "catalogue" of "ill-digested ideas and ill-defined statements."

Yet, apart from their objection to the statement that "South Africa belongs to all who live in it" — an objection which merely, as I have shown, exposes their own naked chauvinism — what is it that they really object to in the Charter? We may look for the answer in an article in "The Africanist" which claims, not very modestly, to be a "penetrative study and critical analysis."

As usual the article starts off with the sort of ranting and nonsensical abuse which is the trade mark of the Africanists. Pretending to describe who was at the Congress of the People, it says: "The Whites who were at Kliptown, from the Special Branch, were mainly members of the Congress of Democrats." Can you believe it? These people, who are persecuted day and night by the Special Branch, who have their homes raided, their telephones tapped, their letters opened, who are banned, arrested, vilified, victimised by the Special Branch — the "Africanists" tell us they were "from the Special Branch." Who will believe them? Only political simpletons and people who are as crazy as themselves. And what was their purpose at Kliptown — where they voted for the most radical manifesto in the history of our country? "They are in reality concerned with the maintenance of the status quo," says "The Africanist." Rather a strange way, isn't it, to "maintain the status quo!"

The members of the S.A. Indian Congress who were at the Congress of the People are described as "the Merchant Class," as "an exploiting alien group." The African leaders present, we are told, "were mainly elements receiving economic benefits from the 'Marshall Aid Plan' of the C.O.D. and the S.A.I.C."

The previous two articles in this series dealt with African National Congress co-operation with other bodies, the slander of so-called Congress of Democrats domination of the ANC, the 'inverted racialism' of the Africanists, and the Madzunya-Leballo expulsions.

This month the writer discusses the Freedom Charter and the 1949 Programme of Action.

None of the allegations or imputations is evenly remotely true. All of them have the same purpose — to prejudice the mind of the reader against the text of the Charter. For when it comes down to the actual text the critics have surprisingly little to say that is either intelligible or worth saying.

Looking for Points

They do not like the formulation: "That no government can justly claim authority unless it is based on the will of all the people." Why? It should have said "the will of the majority." But, as a matter of historical fact, all the great democratic documents, including the French and American declarations of the rights of man, say that government should be derived from the will of the people. Why, in South Africa, should we specify "all the people?" Precisely because the concept "will of the people" (or volkswil) has been narrowed down to imply a privileged minority which has a monopoly of democratic rights. Either the Africanists just don't understand this, or — more likely, they are just "looking for points."

They say they do not agree that the people "have been robbed of their birthright to land, liberty and peace by a form of government founded on injustice and inequality." What, you may wonder, could anyone who pretends to be an African patriot and a democrat find to object to in this formulation? Do they think South Africans have no birthright to land or liberty or peace? Do they think our government is founded on justice and equality? No, the gentlemen raise no such objections. They say the Charter should have said, rather, "The African people have been robbed by the European people." They think

(what a petty quibble!) the word "freedom" should have been used instead of the synonym "liberty." Well, in the first place, let me say that the Charter should not have said anything of the sort. The "European people" as a whole have not been the robbers, but the minority of imperialists, land-grabbers and exploiters among them: most of them do not themselves possess land, liberty or peace, and never will until the New South Africa envisaged in the Charter has been won.

The merit of the Charter is that it exposes this great central truth of our country and enables us to see the struggle as it really is, under its outward forms, as one of the great majority of the people, White as well as Black, against a wicked form of government — not, as the Nationalists, whether of the Verwoerd or Leballo variety would like us to see it, as a clash between White and Black.

A Common Programme

Let me add to that, that persons with any pretence to intellectual integrity cannot take a document like the Freedom Charter, a broad common programme meant to unite all the democratic forces in the country, and attack it not for what it says but for what it does not say. The Charter is not and is not meant to be a programme for the African National Congress alone, or for the Congress of Democrats, or the trade unions. It is not meant to be a programme for the right, or the left, or the centre, for workers or peasants or businessmen or intellectuals alone. It is, and is meant to be, a common programme for all these elements, omitting those questions which we disagree about, which divide us, and outlining those minimum demands which we can all agree are **ESSENTIAL** for the building of a democratic South Africa.

An African nationalist, for example, might feel that in certain directions the Charter does not go far enough, that as a programme for African nationalism it is inadequate. Nevertheless, if he is a genuine African patriot, he will recognise that its realisation will carry our people a long stride forward; he will gladly and unreservedly accept the Charter, therefore, as a basis of co-operation with

other groups who do not accept his philosophy. If he does not do this he merely exposes himself, as do our "Africanists" as not a patriot, but a disruptive and mischievous person who in fact harms African freedom instead of advancing it.

Again, to take another example, a Socialist might also find the Charter quite inadequate as a statement of his aims and outlook. He might feel that as it does not call for socialism it cannot solve the long-term problems of the country. Nevertheless, he should recognise that the abolition of discrimination and national oppression, as demanded by the Charter, will mean an immeasurable step forward for our country, and will liberate the energies and minds of the people from their grim preoccupation with "racial" problems, to tackle the great social problems ahead.

Wide of the Mark

It is precisely because they do not even begin to grasp this concept of the Charter as a broad unifying basis for the alliance of all the progressive and healthy elements in South Africa that the so-called "Africanists" criticisms are so wide of the mark.

In fact, when it comes to the demands of the Charter itself they are unable to find a single one which they are able openly to object to; for if they did so they would finally expose themselves as obvious reactionaries and upholders of White supremacy. In a five-page "analysis" of the Charter (supposed to be "penetrative") there are four direct (out-of-context) quotations from the Charter itself. The rest consists of abuse. When the Charter says "The People Shall Govern" they do not say "We disagree with this"; they say that the Congress movement does not really mean it, it really means that the people must carry out "directives" from "the top leaders and their lackeys and flunkies." With this sort of swindling argument one cannot really carry out a reasoned debate at all. Here is the Charter, gentlemen, it speaks for itself; tell us what you think is wrong with it. But they do not really tell us what they think is wrong with it; they merely swear at us and tell us we do not mean what we say!

The Myth of the 1949 Programme

The "Africanists" keep on saying that they stand by the "Programme of Action" adopted by the A.N.C. Conference in 1949. They suggest that this document is somehow in conflict with the Charter and the Alliance, and moreover that the A.N.C. leadership has failed,

deliberately, to implement the Programme.

Both suggestions are false.

The 1949 Programme is not, like the Freedom Charter, a comprehensive list of concrete demands, but a plan of work for Congress. Thus the two documents are quite different in character.

The 1949 Programme, however, does start out by announcing certain principles and demands, such as the rejection of White domination, the right to direct representation in all governing bodies, abolition of differential political institutions, higher wages, education etc. Every single one of these demands and principles is fully covered by relevant sections of the Freedom Charter.

Considered as a plan of work — and it was a very ambitious one — most of the important tasks proposed in the Programme of Action have been carried out by the Congress leadership during the intervening years in a manner which many of those present at that Conference ten years ago would hardly have dreamed possible. Congress was then, after all, a comparatively small organisation, without much mass influence. When it decided upon "boycotts, strikes, civil disobedience," and "preparations" for a one-day national stoppage of work, many people must have thought that this was just "big talk."

Yet, when we look back at the past decade of struggle, at the Transvaal and National strikes of 1950, at the historic Defiance Campaign, at all the boycotts, campaigns and forms of action which Congress has initiated and carried out in the intervening period, which have built up the A.N.C. to a position of prestige, strength and influence previously unknown, and placed it at the head of a great multi-racial movement fighting for democracy in the teeth of the most terrible persecution and tyranny this country has ever known — we shall realise that the leadership has carried out the 1949 Programme with honour and credit. These have not been, as the Africanists maintain, years of failure. They have been years of great and proud achievement: the greatest, thus far, in the history of Congress, and the prelude to a yet greater decade ahead.

The 1949 Programme is of great historic interest and importance, as marking a turning point from former, useless methods, to a new period of militancy and mass action. Yet, like all plans of work and programmes of action, it was right in those circumstances and at that time, but it was not and could not be meant for all circumstances and all time. The Natives' Representative Council, which it set

out to boycott, has now been abolished by the Government, and similar institutions are fast being replaced by the even more undemocratic "Bantu Authorities" in country and in town. It proved impossible to set up educational centres, as envisaged in the programme, ten years ago; it is even more impossible today, under Bantu Education, when even Catholic mission schools are being closed.

New Era — New Needs

We are approaching 1959. It is a new era. Under the Prime Ministership of Dr. Verwoerd, a time of increased taxes, of passes for women, of ever new trials and persecutions, bans and threats of more bans, the outlawing of Congress in certain areas, and the threat of further illegalisation, we face a future of new, bitter and relentless struggles, with new problems, new conditions, new tasks. The 1949 Plan is no longer adequate for our needs; though we must preserve and extend its uncompromising and militant spirit in the new programmes of action that the present times call for

In these bitter struggles we cannot afford, within our own ranks, to harbour a malicious Fifth Column, which is ever anxious to magnify and inflame any disagreement or misunderstanding which arises among us; whose weapons are lies and poisoned slanders; which absorbs our energies in barren and fruitless disputes and quarrels; which brings techniques of gangsterism and rowdiness into our own meetings and conferences, which the Government is making it more and more difficult to hold at all; which disregards every rule of Congress discipline and fair debate.

We can deal with the Government's attempts to smash Congress. We know why they make these attempts, and how to defeat them. It is far more difficult to deal with those who seek to smash Congress from within, using the name and adopting the outward colours of Congressmen. How are we to deal with these people?

Why are they receiving the support of certain Liberals and Chamber of Mines newspapers like the "World"? Can we really tolerate them within Congress, or regard them as part of Congress any longer? These are the questions I propose to answer in the next, and final, article in this series.

Should 'Fighting Talk' reprint this series of article on The Africanists in booklet form?

See letter on page 16.

PLAYS of PROTEST

By
PHYLLIS ALTMAN

"The function of the artist is to disturb. His duty is to arouse the sleeper, to shake the complacent pillars of the world . . . He is at once the product and preceptor of his time. After his passage we are troubled and made unsure of our too-easily accepted realities." So wrote Dr. Norman Bethune from Spain of the Civil War of 1936.

And this month, Johannesburg theatre goers could not but be disturbed, aroused and troubled. Two South African plays, by South African playwrights, on South African themes — our "theatre" has arrived and we have two rich additions to our literature of protest. The Library Theatre was packed out for a month for performances of "The Kimberley Train" by Lewis Sowden, produced by Cecil Williams, and there have been two performances (with additional performances to come) of "No-Good Friday", written and produced by Athol Fugard with an all-African cast.

Simplicity of Theme

In both these plays there is an absolute simplicity of theme and in this lies their greatest virtue. "The Kimberley Train" is the story of a Coloured girl who plays white; "No-Good Friday" that of an African who chooses to die rather than live despising himself as the abject prey of petty Township gangsters.

It requires courage to make one of the ugly realities of our society the theme of a play. It requires talent and artistry to put this across in the theatre, the most difficult of all mediums. The unprecedented booking for "The Kimberley Train" reveals that Lewis Sowden is endowed with all three qualities. His play is excellent theatre. Act II is almost unbearable in its tension and poignancy. Most of the dialogue is extremely effective, without wordiness or proseletysing — it makes the characters three-dimensional and alive.

The plot is simple. Elaine Miller, a Coloured girl, is born 'fair' by a genetic chance and her parents use this as her passport to the 'good' things of life; a good school; a good job where she falls in love with John Powers, the son of her employer. He introduces her to his parents; she is received by his mother with icy disdain, his father with dismay. To show them that he is serious he takes his parents to her home in Malvern, where her mother and father masquerade as her servants and her Aunt (who is 80% White) pretends to be her mo-

ther. Unnerved by the visit of the rich Whites from Killarney, Aunt Paula, in a tremendous scene, gives her away.

The story is unfolded to the accompaniment of violence from the "Kimberley Train" — a gang who protect "play-whites" and beat up Coloureds who give them away.

Colour Mix-Up

One of the criticisms of the play is that the violence should not have been so open — it should have been a sinister undertone. I feel that this is valid for Act II, where the entry of Phillips, the leader of the Kimberley Train, seemed a forced device to forward the progress of the play. But in Act III, where a policeman erupts into the home of the Powers, it was very effective. He has found Elaine's father trying to get her into a taxi and arrests and assaults him for molesting a White girl. In desperation they go to the Powers to explain the situation and when the policeman discovers that Elaine is 'coloured' he reveals the face of authority known to all Non-Whites; not the chivalrous protector of womankind, but the insulting, sneering brute. He slaps Elaine's face, calls her a prostitute and humiliates her by looking behind her ears to confirm that she is Coloured (one of the many 'race tests' designed by our Civil servants). The Powers learn dramatically that once you are mixed up with "colour" this is how the law behaves.

The play ends on a note of frustration and there has been a great deal of criticism of this too, but it could not have ended otherwise for it is a frustrating, bitter problem. Elaine is pregnant; she and her White lover cannot marry. She decides to bring up her baby as White, but to make no secret of her Coloured blood; her lover is confused, bewildered and lost. Her mother is delighted that she will have another White baby to cherish; her father hopes now to give up his life of deceit and to live in a Township. And the Powers — their complacency is shattered and they can no longer live the secure, comfortable, gracious, unseeing life they had built up. The lid of a sewer has been lifted and they have been confronted by the "colour-problem" in terms of the human beings whom it affects.

No Solution

There were other possible endings to the play. Elaine could have killed herself; she and John could have fled overseas, but these too are not solutions. Implicit in the play is the fact that there is no solution, other than the destruction of all barriers.

One of the weaknesses of the play is the dialogue of Elaine and John. There is nothing to indicate in their early scenes that they are lovers and that she is pregnant and possibly for this reason their confusion and unhappiness in Act III does not come over with the force and effectiveness it might otherwise have had.

Cecil Williams' production — acting, decor, grouping, pace — had a harmonious unity. There were outstanding performances from Bruce Meredith Smith and Valerie Phillips as the White parents, Kita Redlinghuys as the Coloured mother; Jennifer Gray as Aunt Paula; Ann Aldred as Elaine. But it is difficult to give these credits — the acting was consistently high.

"No-Good Friday" has many faults.

Act I dragged interminably with forced dialogue to introduce the theme. The production needed an experienced hand; often the players had their backs to the audience; their voices were inaudible, there was an irritating extravagance of gesture. But despite all this it "came across" most effectively.

Willy (Stephen Moloi) a scholar, a thinker, groping for a larger life, finds himself a silent spectator while the local Township gangster kills Tobias (Ken Gampu) newly arrived from the country, who refuses with a natural dignity to pay the tribute demanded of him. The rest of the play is Willy's conflict. He cannot live with himself unless he stands up to the gangster. He makes a futile gesture by going to the police, to the dismay of his fellow victims and the contempt of the gangsters. The police, to the Non-Whites, are never protectors, but always oppressors.

Waiting for Death

When the next weekly payment is due, Willy has decided to stand firm. His girl friend has walked out on him; his friends have fled. The gangster (played with aplomb and verve by Bloke Modisane) reasons with him and gives him two hours to change his mind.

The play ends with Willy standing

against the wall of his home awaiting death. An old blind neighbour is with him to comfort him. The footsteps of the gangster and his henchmen are heard off stage, the lights fade. There were faults in production here too and something just missed in this final scene, but the audience was stunned and moved.

Such is one man's life. Already frustrated by a society that does not give him the right to release his potentialities, he elects to die. He is the victim of that society which manufactures criminals and exposes the people to brutality and endless violence. There seems to be no justice, no appeal. Willy's problem is presented as a highly individual one, but all problems are solved on the personal level. In this play too, it is

implicit that the society portrayed carries within it the seeds of its own destruction. Willy is trapped, unable to look at himself for he did not lift his hand to help Tobias, and he says. "I am a man. I will no longer submit. If I die for this — let me die."

Strong Conflict

It is a great tribute to the conception of the play that despite all its weaknesses and crudities, Willy's conflict came across so strongly. It is not easy for an inexperienced actor to convey such inner torment — to internalise and not externalise it. But it was very well done. When Willy's girl friend states that she is leaving and then hesitates, waiting for one word from him, regret,

a plea, he neither sees nor hears her. He is deaf to his friends. He is looking at his own soul.

Daniel Poho was excellent comic relief — the comedy that is near to tears, for he has the choice of swallowing a gratuitous insult offered him because he is Black and keeping his job, or standing up for himself and losing it. He capitulates — so humanly, with so much rationalisation. Tobias, in his brief appearance, brought dignity and simplicity to his part and the poetry of his lines was very moving.

And I think that with these two plays we need not only be aroused and troubled but exultant as well. Let Governments decree and stifle, separate and suppress, men find the way to speak to men.

Here's a Marvellous, Convenient Place . . .

When the Athenian mechanic, Quince, appointed himself producer of 'The tedious brief scene of young Pyramus and his love Thisbe' to be played before the Duke on his wedding day, it was easy for him to stroll into the forest, find a clearing and exclaim, 'Here's a marvellous convenient place for our rehearsal . . . this green plot shall be our stage, this hawthorn-brake our tiring-house (dressing room)'. These are not the easy words that spring to the lips of a theatre-manager in South Africa when he sets about finding a theatre which, on purchasing their tickets at the box-office, Non-White patrons may enter. Take my experiences with **THE KIMBERLEY TRAIN**, a play I was more than usually keen for the Non-European public to see, enjoy and criticise.

Weeks before I started rehearsals I wrote to the Johannesburg Library Theatre Committee and asked them to permit Non-Whites to come to the play at this municipally-owned and controlled theatre. I pointed out that the Committee could authorise entry in one of three ways:

Admission to all seats at all performances

admission to segregated seating at all performances

admission to all seats on evenings when Whites would not be admitted.

The Committee replied that it was their policy to reserve the use of the theatre to Whites only. I

then asked on what considerations such a policy was based, when it was arrived at, and might they not think the time was ripe to revise their policy. They replied I couldn't admit Non-Europeans. I wrote repeating my questions and requesting that my proposal be passed to higher committees, if necessary. They replied I couldn't admit Non-Europeans. I wrote asking for replies to my questions. I wait.

An application was made to the Witwatersrand University for use of the Great Hall. Came the reply professional companies are not permitted to hire the Great Hall. I would perform for charity, I said. Outside organisations are not permitted to use the Great Hall during term-time, too distracting for all those swotting students, came the reply.

I invited the principal and certain committee members of the Coloured Teachers' Training College at Coronationville to see **THE KIMBERLEY TRAIN** with a view to their allowing performances at the fine theatre-hall at the College, proceeds to go to College funds. Next day they were enthusiastic about the play, it had been a most enjoyable evening, I had done a splendid job etc., etc., but . . .

The charming-voiced official of the Non-European Affairs Depart-

ment of the City Council gladly informed me that the Municipal Hall in Coronationville was indeed vacant on the 20th and 21st but only Coloureds were to be allowed in, no Africans, no Indians and there must be no fraternisation whatsoever between the company and the audience and did I think it a suitable play to present to Coloureds, not that it had anything to do with her, but I must admit that the Coloured girls were extremely attractive!

A date was available at the Bantu Men's Social Centre but the stage is not designed for straight plays: our play, so carefully mounted and meticulously dressed so painstakingly lit, was to be flung on, like a slut in deshabille. We were to offer to our Non-White patrons something inferior — and expect them to be enthusiastic about 'theatre' . . . damn silly.

Well, then, what about the special marquee made and erected for the old boys of St. John's College for their fund-raising dinners? What about Wilkie's Circus tent? Either would have necessitated the construction of a stage, a proscenium, hiring a portable lighting board, hiring chairs — and where, in any case, could we find a site for the marquee? Best suggestion was Red Square in Fordsburg — but would the municipality lay on power for lighting? and what about lavatories?

At the Zoo Lake there is an arti-

Nadine Gordimer's Worlds Again

By GEOFFREY HUTCHINGS

There are more things in heaven
and earth, Horatio,
Than are dreamt of in your philo-
sophy.

The sheer insensitivity of Mr. Stanley Uys's remarks on Nadine Gordimer's latest novel* does not, in itself, deserve the anger it provoked in me. But I feel bound to reply; partly because of

*"Stanley Uys on Nadine Gordimer's Worlds" — *Fighting Talk*, September.

ficially made island which served as a stage for Margot Fonteyn and for the Children's Theatre company when they presented 'The Merchant of Venice'. But the City Council decided last year that Non-Europeans are not to see shows at that convenient outdoor theatre site.

My blood pressure went up by thousands of inch-pounds: my temperature was so high I could boil an egg in two minutes and my duodenal ulcers were bursting into 'Nearer my God to Thee' in four-voiced harmony when sympathetic friends said, 'What about the Selborne Hall?' — have they never seen the matchbox stage?: 'What about the Great Hall?' — a sickly grin of horrible forbearance: 'What about the Temple Shalom?' — their licence is for club members only, I patiently point out with a kind of corrosive acid dripping from my lips: 'What about the BMSC?' — something between a laugh and a snort comes right down my left nostril: 'Ah! the Lyric bio!' — a shriek as I sharpen my knife.

Anyway, I'm still hoping that before THE KIMBERLEY TRAIN returns to the Reps Theatre in December, there will be multi-racial performances at the Great Hall OUT OF TERM TIME.

In February or March I hope to do the play in Cape Town. The quest for the right theatre will start all over again, with the added complexity of the Coloured boycotters.

Why didn't I stick to selling buttons at the O.K. Bazaars?

CECIL WILLIAMS.

the injustice done to the most serious work Miss Gordimer has yet attempted, but mainly because the questions raised in the novel and in Mr. Uys's article are vitally important to our understanding of ourselves.

This is not a great novel; its faults have been fairly well dealt with by some reviewers. They include, what is relevant to this discussion an unsatisfactory drawing of a key character—Anna Louw. Like Mr. Uys, I cannot see the purpose of giving Toby Hood a gratuitous affair with Anna; I am left utterly unconvinced by it. This is unfortunate for the reason that she is a key character and because the persons whom she represents in character and background hold a key to the whole problem of human relationships in South Africa. Mr. Uys has no understanding at all, however, on the aspect of that problem with which Miss Gordimer is most intimately concerned. His lack of understanding is profoundly disturbing, for it is symptomatic of the diseases that attack so many of us who consider ourselves liberal.

Crossing the Colour Line

The question revolves around a self-consciousness of Toby Hood's relationships across the colour bar. Mr. Uys finds himself holier in this respect than any of the characters in the novel, indeed, holier than most of my friends and acquaintances. How is it possible, given the circumstance of South African society, to have an unselfconscious friendship across the colour line? How, in other words, can you cross the colour line unless you acknowledge its existence? If we indulge in ordinary social pleasures like eating and drinking together, the very laws of the land exercise a severe constraint upon us. There is the consciousness of breaking these laws — that glow of defiant pride which makes our very being together as men and women into a political act.

There is the consciousness that our host is committing a criminal offense either in having, or in supplying to Africans, a bottle of some wine which the country proudly exports. There is the consciousness that one may be arrested at any moment and charged under any number of acts containing the words ". . . if, in the opinion of the police . . ." And finally, there is the consciousness of simple economic inequality among persons of the same cultural class, which our surroundings must remind us of, whether we are in

Orlando or Observatory; the necessity to translate some of our values — is this meal sumptuous "for an African" or "for a White man?" Mr. Uys sneers at self-consciousness. He does not accept it enough to be able to ignore it and get on with the job.

Self-Conscious Slip

This brings us straight back to Steven Sitole and Toby Hood. Miss Gordimer is presenting a relationship in which self-consciousness is recognised and forgiven by both parties. Their relationship is far too deep for them to be concerned whether or not they are being of use to themselves or to their people. In suggesting that this is necessarily wicked Mr. Uys is denying an essential humanity to relationships between Black and White. Must they only associate if and when they are of use to one another? This is the ethic of apartheid. Mr. Uys seems to have been caught showing a very self-conscious slip.

So Steven and Toby drink together. Does Mr. Uys not know the sheer animal pleasure of being drunk with another person? Does he not grant that drinking is a means of escaping for a few hours the horrors of our politics and even of that self-consciousness which he so deprecates? An inadequate means perhaps, a means upon which there operates a law of diminishing returns; but it does work in the beginning at least. And has Mr. Uys no compassion with those who feel the necessity to make such an escape? It is neurotic certainly — but then who is not neurotic who cares for human beings in South Africa? Neurosis seems to me a prime condition for any honest thinking by South Africans about South Africa. The tragedy of Steven Sitole is the tragedy of great energies and talents being misdirected; the tragedy, if you like, of selfishness. But Steven's selfishness is far too close to a social reality in South Africa to be loftily dismissed as "merely pathetic". If one is to follow Mr. Uys's example by calling another suffering human being "unstable, neurotic, frustrated and unreliable," and then ignoring him, one is going to ignore all the images of human suffering that art can offer us.

Political Paranoia

Mr. Uys is not a racist; he has as much contempt for any signs of common humanity among Whites as among Blacks. He dislikes Toby Hood's rich acquaintances in the mining world because he cannot see them as anything

more than ciphers. He cannot understand Toby Hood's liking for any of them; he cannot even see Toby Hood's fascinated contempt for many of them. This is political paranoia: if you are a capitalist you are an ogre, if a worker you are a god. Of course it is easy and expedient to stigmatise your enemies in this way — and who shall deny that the mining magnates are our enemies — but it is downright dishonest. Mr. Uys objects to Miss Gordimer's detail in portraying the set that gathers at the home of a mining magnate; he complains that "Miss Gordimer does not satirise her characters for what they represent, but for their individual idiosyncracies." Apparently Miss Gordimer's sin is to try to see her characters as human beings. It ought to be reasonably obvious that what a man represents is only revealed by his individual idiosyncracies. If Mr. Uys cannot learn this from Nadine Gordimer let him go to Jan Austen, George Elliot, and Henry James.

Mr. Uys concludes his article by quoting with approval a passage from the novel in which Miss Gordimer expresses her "disgusted pity . . . by one of these old bulls of finance". He decides that "Anyone who can write like that is adequately equipped to deal with Johannesburg's northern suburbs and all they represent." So it seems that Miss Gordimer has failed to impress Mr. Uys more consistently because she does not echo his own prejudices. If there were more persons in South Africa today who exercised the imagination to shift their point of view occasionally, we would not be in the mess that we are.

(Footnote: Mr. Uys was asked by *Fighting Talk* whether he would like to answer Mr. Hutchings, but he replied: "No. I have had my say; now let Mr. Hutchings have his. The more opinions the better!").

Readers' Views

The Editor,
Fighting Talk.
Dear friend,

Allow me the hospitality of your columns to thank Mr. Dan Tloome for his clear, forthright articles; also for the way in which he manages to be firm but always charitable — when the series are finished I venture to hope they will be available in the form of a pamphlet which can be easily distributed.

While I am writing may I mention another matter. I refer to the most unhappy, childish dispute in Parliament over terminology. How otherwise intelligent people can make themselves the laughing stock of the world is more than I can understand. The fact that the translation of African in the second official language is *Afrikaner* is just too bad: I am sure the great majority of Africans in this part of the continent are prepared to recognise that *Afrikaners* are now as much indigenous to the continent as themselves. During the All Africa Church Conference, held in Ibadan, Nigeria, early this year, I heard one speaker (I think he was from Northern Rhodesia) say "coming to this conference has taught me one thing — there are white Africans, brown Africans and black Africans", so why should we not develop an habit of describing ourselves as *Wit-Afrikaners*, *Bruin-Afrikaners*, *Swart-Afrikaners*, if that makes it easier when we are talking *Afrikaans*.


Perhaps when the day comes (of which I dream) that the A.N.C. will

open its membership to all who claim citizenship in our land — or if a new organisation is born with such open membership — then no doubt the problem of nomenclature will solve itself, and we will all work together for the development of the whole country for the use of all who call it Home.

Mayibuye!

Yours sincerely,
Arthur W. Blaxall.

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