

TREASON TRIALS DEFENCE FUNDPRESS SUMMARY

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This is the ~~twentieth~~ ^{twenty-first} issue of a regular bulletin giving a factual resume of the proceedings of the Treason Trial.

Period Covered: 2nd - 6th November, 1959

PROFESSOR MURRAY'S FINAL EVIDENCE-IN-CHIEF

When the trial resumed on November 2nd, Adv. de Vos explained that the remaining documents to be put to Professor Murray for comment had been classified into two parts: those which were covered by the doctrine already expounded by Prof. Murray, and would therefore not need any further explanation; and those which required some further comment. In reply to Mr. Justice Rumpff, Prof. Murray made the general comments on the first group that he had come to the conclusion that they were derived from Communist doctrine and were an expression of that doctrine.

THE SEMANTICS OF FREEDOM

Dealing with the second group of documents, Adv. de Vos began with a lecture on the International Trade Union Movement, asking the witness whether, from this document, he would be able to say anything as to the nature of the World Federation of Trade Unions on the basis of Communist doctrine. Adv. Maisels objected to this question on the basis that the witness would be interpreting the document to the Court. Mr. Justice Rumpff stated that the Court's view was that unless Professor Murray wanted to set out some new doctrine, it was not desirable for him to rely upon doctrine previously expounded "which we can do ourselves."

The Freedom Charter

After commenting on a number of other documents, and assessing them variously as following the Communist line or as restating Communist doctrine, Prof. Murray was questioned closely on the Freedom Charter. He pointed to the statement in the preamble, "our people have been robbed of their birthright to land, liberty and peace", as expressing a part of Communist doctrine (but to be found also in other doctrines), and to the criticism of the present form of government and the desire for a change as indicating Communism.

The Meaning of Democracy

Dealing with the "democratic changes" referred to in the pledge in the preamble to the Freedom Charter, Prof. Murray explained that the word "democratic" could have two meanings, the one used in Communism and the other used by the "Western Camp". There was nothing in the clause "The People Shall Govern" that could not be interpreted in either a liberalistic or a Communist way. "The People shall share in the Country's Wealth" could be interpreted in either a Socialist or a Communist way, according to the type of controls envisaged.

Liberalism, Socialism and Communism

Replying at this point to a request from Mr. Justice Rumpff for his meaning of Socialist, Prof. Murray explained that he had meant left wing socialism, which was not Communism, although references to "socialism" occurred in Communist doctrine. Asked by Mr. Justice Rumpff for the distinction between

Left Wing Socialism, Liberalism, and Communism, the witness explained that liberalism was based on free trade and the equality of people, the removal of all barriers and as little State control as possible. Socialist doctrine proposed different degrees of control of production by the people, while the Communist doctrine held that all production should be owned and run by the people, and that the function of government was merely the administration of production and its distribution. The "left wing" in socialism stretched from the people who wanted a certain amount of control right to the extreme form, i.e. anarchism, or complete Communism. Left wing socialism contained all shades of control of production. The clause "The Land shall be shared amongst those who work it", could be related to the Communist policy of expropriation of land, which formed part of the Communist doctrine of the peoples' democracy.

Cops and Robbers

The clause "All shall be equal before the law" elicited the comment that liberalist doctrine did not teach that the Courts should be representative of all people, but that the function of the Courts was to represent and to maintain the law. This clause could be associated with Communist doctrines, particularly the section maintaining that the police force and the army ought to be the helpers of the people; a Communist interpretation could be put on this paragraph.

Of the clause "All shall enjoy Human Rights" Prof. Murray stated that there was nothing here which could not come into Communist policy. "There shall be work and security" contained nothing that could not be left wing socialism or Communism. The State was recognised as a force for the benefit of the people, and this section suggested partial State control of trade, etc., therefore could not be classified as liberalistic. The following clause "The Doors of Learning and Culture Shall be Opened" could be taken as expressing both liberal and Communist policy. Dealing with the section "There Shall be Houses, Security and Comfort", Prof. Murray stated that the clause must be related to the implications of the rest of the Freedom Charter, from which it appeared that it ought to be interpreted as Communist doctrine. The last clause "There shall be Peace and Friendship" contained nothing that could not be either liberal or Communistic.

Mr. Justice Rumpff: "Consistent with both, inconsistent with neither?"

Commenting on the Freedom Charter as a whole, Prof. Murray declared that there were no points which should not be interpreted according to Communism; there were many which could also be interpreted according to liberal doctrine, but also some which could not.

The People Who Spoke

Adv. Maisels objected to the handing in of the next document which consisted of notes of speeches made at the Congress of the People (at which the Freedom Charter was adopted) on the ground that these were merely notes on which witnesses giving evidence refreshed their memory. Prof. Murray read and commented upon some of the passages, and particular phrases and words from speeches on the various clauses of the Freedom Charter, evaluating them as either in line with Communist doctrine, part of Communist doctrine, or as using Communist language, e.g. the term "Comrades" was commonly used in Communist language. Adv. de Vos then indicated that, pending the Court ruling on the scope of the testimony of the witness, the Crown was unable to take this section of its case any further.

A Flood of Communism?

Adv. van Niekerk then put to Prof. Murray some 400 documents, upon which the Crown relied as showing possession by the accused or co-conspirators of documents which were Communist classics or contained Communist matter or propaganda. The Crown explained that the relevant portions of these documents, other than standard text books, would have to be read in to meet the question whether any part of a book could be directed against the accused if it were not part of the record.

On the following morning, agreement was reached between the Crown and the Defence that the remainder of these documents, as scheduled on a list compiled by the Crown, should be taken as read. When these documents had all been put to Prof. Murray for his comments, the Defence informed the Court that these documents would take several days to consider. Soon after the Crown had embarked upon the next part of Prof. Murray's evidence, which related to various journals and publications, beginning with Liberation, it was suggested by Mr. Justice Rumpff that, since the passages to be read in were all covered by previous statements by Prof. Murray on dogma, these passages and articles could be read in at some other time; Adv. de Vos then agreed that these selections might be abbreviated.

"Front" Organisations

The Crown then proposed to put to the witness certain material relating to "front organisations" for evaluation as to whether they contained Communist dogma.

Adv. de Vos asked the Court whether in the case of facts recognised by Communist doctrine, it would be necessary for the sources to be divulged. Mr. Justice Rumpff gave as the Court's opinion at that stage (pending judgment) that if the fact were accepted in Communist doctrine according to the classics, it might be put to the witness without the sources being first supplied.

Sobolev Left Out

Adv. de Vos informed the Court that he would be dealing with certain authorities on the People's Democracy, and commenced with a pamphlet by Sobolev, to which objection had been taken earlier by the Defence, entitled "People's Democracy, a new form of political organisation of Society." Adv. Maisels objected to the evidence on the contents of the book and proceeded to cross examine the witness on the admissibility of the book. Replying to questions, Prof. Murray stated that he had obtained the book about three years from a police officer of the Security Branch, and not from any scientific source. He had discussed the book with two political scientists overseas and had also been told by Prof. Bochensky, a Crown consultant, that he knew the book; the witness regarded Sobolev as an authority on the contemporary situation. Mr. Justice Rumpff stated the difficulty of the Court with regard to the work of Sobolev arising from the demarcation of authority. Prof. Murray admitted that he had not seen this book referred to in Communist literature, and could not say whether or not his opinion had been accepted as part of Communist doctrine.

Following the submission by Adv. de Vos that the witness was entitled to give his opinion supported by what he considered to be authoritative sources, Adv. Maisels protested that it was necessary to prevent all sorts of paper being put before the Court to support the witness' dogma: "Strictly speaking it could be said that the whole of Prof. Murray's evidence is inadmissible! He is really the librarian for your lordships!"

Mr. Justice Rumpff: "In a criminal case with consequences - possible consequences - the Court may require a stricter test than an ordinary scientist."

When the Court resumed next morning, 4th Nov., Mr. Justice Rumpff gave the ruling that the reasons advanced by Prof. Murray for regarding this book as an authority were insufficient.

The Crown then read in passages from a book "People's Democratic Dictatorship" by Mao Tse Tung as a further authority on People's Democracy, and also passages from various classical sources on the Third Communist International. Adv. Maisels objected to the introduction of the photostat copy of the Theses and Resolutions of the 1928 Congress and cross examined the witness on the

authenticity of the original of the photostat copy, establishing that it was a manuscript in English of what was assumed to be the Theses and Resolutions of the Congress. Replying to questions by Mr. Justice Rumpff, the witness admitted that the contents of the document had not been reproduced by any authority, but Adv. de Vos submitted that to the extent that any document could be vouched for scientifically, this document had been so vouched for. The Court ruled that this document could not be admitted.

DEFENCE CROSS-EXAMINATION BEGINS

Curricula Vitae

Adv. Maisels then began his cross examination of Prof. Murray, dealing first with his qualifications and his scientific studies of Marxism Leninism. Prof. Murray, who is Professor of Philosophy in the University of Cape Town, had originally studied at the Afrikaner University of Stellenbosch, and had gained his higher degrees at Oxford for work unconnected with Communism. He claimed that he had been engaged in systematic and intensive study of this subject long before he had been engaged by the Crown for this case. He had written "odd articles" for the "Huisgenoot", a popular Afrikaans-language weekly. His writings had all been in this popular form except for one published lecture "Kommunisme." He did not read Russian or any Eastern language, and had not visited Russia or any Communist country. He did not consider the Cape Town University Library adequately equipped with Marxist Leninist books. His own library did not contain complete editions of the works of Marx, Engels or Lenin; he knew about Soviet scientific journals. He had read many classical texts on Communism and some modern texts, and kept up to date with his studies by reading Keesings and books by people on the western side - "Western journals are not always pro-western!" He kept up with modern political trends in South Africa by newspapers, journals and by meeting people. He did not agree that all his sources of current information were completely second-hand; articles in Western journals could be more reliable than those emanating from Russia. His own writings consisted mainly of articles written for Die Huisgenoot and his book on the Parliamentary system "Die Beginsels van Volkraad", published in 1938. He had contributed an article to "Economics" on the principles and theory of economics; his main interest was the study of pluralism in politics, the racially plural state.

Prof. Murray stated that he had also done some work for a correspondence college in the early '30s and had prepared some notes, purely scientific, on political theory for a summer school of the Nationalist Party during the war - it might even have been for the Jeugbond (the Nationalist Party's youth organisation). It was not political indoctrination, but a survey of his treatment of Parliament.

Fascism and the South African Government

Replying to a question on the term 'fascism' as applied to the South African Government, Prof. Murray said that he personally was not at all affected by what the government was called; the use of Communist jargon would not show that an author was Communist, but would show that he was acquainted with Communist jargon; the use of the term 'fascist' indicated that probably the author knew it was a Communist term, and that he might very well be a Communist. Prof. Murray agreed that it would be difficult for a layman to understand dialectical materialism without instruction; he had had no experience of translating these terms into Zulu or Sesuto; it might be difficult to explain these terms to uneducated people.

Following the question "would it be fair to say you are not a Communist?", Mr. Justice Rumpff asked whether the witness need answer, and Mr. Justice Bekker quoted the law "The question shall not be asked, and if asked shall not be answered!" Prof. Murray explained that he was a "one man party, chiefly centre," and had been so for most of his life.

Questioned on such Acts as the Suppression of Communism Act, the Bantu Education Act, the Riotous Assemblies Act, and the Public Safety and Criminal Laws Amendment Act, Prof. Murray stated that he accepted the first as inevitable with possible modifications, but the others as on the whole unnecessary.

He considered apartheid sound as a policy.

Fascism equals Communism?

Replying to questions on the use of the term fascism, Prof. Murray admitted after hearing his own evidence from the record, that he had said that the use of the term 'fascism' implied that a document fell in line with the Communist doctrine of fascism, and the Communist interpretation of the situation. He had not said anywhere that a man who used the phrase was a Communist, although he might have indicated that such a person understood Communism. He did not accept that 'fascism' could be correctly used in a wider sense than to indicate the form of government associated with Mussolini, but the left wing adopted a wider interpretation. He had not used it so himself. Confronted with his article written for Die Huisgenoot in 1941, Prof. Murray admitted that he had then adopted the 'left' way of interpreting the phrase 'fascism', but would not agree to retract his statement about the use of the term 'fascist' by ordinary people. At the close of the day's proceedings, Prof. Murray stated that the general popular conception of a Communist was one who believed and understood a certain number of the principles of Marxism Leninism and had to act accordingly.

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On the following morning, November 5th, Adv. Maisels gave Prof. Murray ten minutes to study the second instalment of his article for Die Huisgenoot, and then asked "When you referred to the existence of 'fascist forces in all big industrial states' did you mean Mussolini's agents?" The witness replied that he had referred to the tendency to copy Mussolini and to control the Trade Unions. After further close questioning, Prof. Murray agreed that in that article, which represented his own views at that time, he had himself used the Communist interpretation of fascism, and had adopted the Communist analysis of the situation. "For the moment, I gave this analysis but I criticized it later." He could not say when he had changed his mind about the Communist views he had expressed in the article: "Insight and argument develop as one grows older." He accepted that many people in Western Europe who were not Communists had described South African policies as fascist. "I accuse no one of Communism. I merely analyse the meaning of the term fascism."

Communist Jargon - Not Quite, Not Yet

Adv. Maisels Questioned Prof. Murray on the use of the term fascist, as applied to South African policies, quoting from a speech in Parliament by Mr. J.S.N. Strauss, former leader of the United Party, giving what Prof. Murray described as "a Communist interpretation of fascism almost in Communist words." The witness replied that this analysis of fascism could be taken as a corollary of Communist doctrine, although not the Parliamentary motion itself. Referring to "The Guide to Communist Jargon" by Carew Hunt, Prof. Murray agreed that Hunt was a distinguished scholar, but said that he did not know that the word fascism was omitted from his guide. He admitted that Bertrand Russell, an anti-Communist, had used the term 'fascism' in the wider sense, in the same way that he himself had done in 1937 and 1941, and in the same way that the accused had used it in many documents. Adv. Maisels questioned Prof. Murray on the use of the word fascism by the well known non-Communist writer John Gunther, author of "Inside Africa" where he said in reply to a question as to whether South African legislation was fascist "Not quite; not yet!" Prof. Murray replied that this author might not have relied on the Communist interpretation.

Adv. Maisels: "We hope to establish at the end of this cross examination that you are about the only person who uses the word in this special fasion." The witness said that he would allow a student to use the word fascism only if he used it in this special sense. Adv. Maisels then read from the opening paragraph of the section on fascism in the Encyclopaedia Britannica, pointing out that this note was diametrically opposed to what Prof. Murray had said.

The Nationalists and Fascism

Turning to South Africa, Adv. Maisels referred to various supporters of Page 6/ the Nazis,

the Nazis, including the Ossewa Brandwag, which had been overtly fascist. Prof. Murray interjected "Overtly dictatorial!" He did not remember the description fascist." He did not agree that the Nationalist Party had sympathised with Germany, stipulating that this had applied to leading members: he did not know if the Party had done so, but agreed that it was a common thing that members might say and do things which might not be in line with the organisation. Replying to questions on "infiltration" of the Nationalist Party by the Ossewa Brandwag, Prof. Murray differentiated between people who might find some other party more suitable and join it, but would not necessarily convert the new party to their way of thinking, and the Communist for whom Communist doctrine must be applied in practice. He agreed that there was a tendency for the left wing to call the right wing "fascist" and for the right wing to call the left wing "Communist." Confronted with a quotation from a speech by "Sailor" Malan, leader of the Torch Commando "The leopard has not changed its spots. They are fascist," Prof. Murray stated that there were two possible interpretations of the word, the Italian and the Communist; if that quotation had been put to him, he would have said that the author accepted Communist doctrine. He knew "Sailor" Malan to be the leader of the Torch Commando, an ex-servicemens' organisation.

Smuts and Communism

Adv. Maisels then quoted from a speech by General Smuts in which he referred to the Broederbond as a "dangerous cunning political fascist organisation" and then put it to the witness that he had said in evidence that the wider meaning of the term fascism was only used by extreme left wingers.

Prof. Murray: "May be used by...."

Adv. Maisels: "You said "only". Now you say "may"."

Prof. Murray: "Others may adopt a different interpretation. The source is Communist."

Dealing with the term "Police State" on which Prof. Murray had given evidence, Adv. Maisels requested him to point out even one reference to the police state as enshrined in Communist doctrine.

Trade Unions and Politics - Comrade equals Communism

The cross examination was then directed towards Trades Unions and Prof. Murray's evidence that Communist doctrine taught that Trade Unions should take part in cultural and political activities of the people and not limit themselves to purely wage problems and conditions of labour. Prof. Murray had referred to this approach in the Presidential Address by Chief Lutuli to the A.N.C. Conference, and had said it was in line with Communist doctrine.

Adv. Maisels: "Have you ever taken up that attitude? "

Prof. Murray admitted that he had taken up that attitude during the attempt to establish a "Reform Movement" in the Trade Unions, and had probably expressed the same view in articles at the time of this agitation. Adv. Maisels pointed out that this was the same view as that expressed by Chief Lutuli and in many other documents. Further questions were addressed to Prof. Murray on British Trade Unions, in answer to which he referred to the support there for both the narrow and the wide view of Trade Union activities, but insisted that the idea of trade unions taking part in politics and political parties interested themselves in trade unions emanated from Communist doctrine. Questions on the use of the word "comrade" in the trade union movement drew the reply that this usage may occur overseas, but not in South African trade union circles. Referring to the use of this expression by the Chairman of the British Labour Party at the 1959 Trades Union Congress in England, the witness suggested that Mr. Gaitskell might want to be popular; policy had to consider the left wing movement.

Adv. Maisels: "I am going to suggest that this reply is due to tiredness on your part."

Prof. Murray: "On the contrary, it is due to experience and knowledge!"

Questioned again on the "S.A. Reform Movement", Prof. Murray agreed that the Nationalist Party, as it was entitled to do, had tried to draw the Mineworkers' Union into its ranks, but stipulated that in Lutuli's speech the meaning would depend upon the context. It could be quite in order, but must be interpreted in the light of other remarks. In many parts of the world, it would be a result of Communist doctrine.

"I was not Asked"

Adv. Maisels: "And in many parts of the world also non-Communist doctrine"

Prof. Murray: "That is so."

Adv. Maisels: "Why did you not make that distinction in your evidence in chief?"

Prof. Murray: "I was not asked".

Adv. Maisels: "You are here to tell the Court what it ought to know, but you expected the Court to know that this was also in line with non-Communist doctrine?"

Prof. Murray: "I expected the Court to know that it might be in line with Communist doctrine and it might not be."

Questioned again on his article "Wat is liberalisme?" Prof. Murray agreed that he had said that the "second revolution" demanded an economic revolution.

Adv. Maisels: "This "Second Revolution" - you were not thinking of a violent revolution?"

Prof. Murray: "Not necessarily".

Adv. Maisels: "Not at all, surely?"

Prof. Murray agreed that the word "revolution" did not necessarily connote violence.

No Withdrawal of Stigmatisation

The following morning, November 6th, Adv. Maisels asked the witness whether he now wished to withdraw the stigmatisation he had placed on the speech of Chief Lutuli, but the witness replied that his comments had been made on the speech as part of the whole Conference Report. Adv. Maisels suggested that Prof. Murray was taking this view only because he had been unable to find any trace of Communism in the document by itself.

Mr. Justice Bekker: "Did you try to assess Lutuli's speech by itself?"

Prof. Murray replied that the words did not hang in the air; their meaning depended on the situation.

Adv. Maisels asked the witness whether where he had said "is" he actually meant "could be". Prof. Murray replied that there were sometimes alternatives.

Adv. Maisels: "When did you mention alternatives, except with reference to the Freedom Charter? Never!"

He then invited the witness to draw the attention of the Court to any word, phrase, sentence or paragraph of Chief Lutuli's speech which was in any way indicative of the political doctrines or beliefs allegedly to be found in the document or of the political belief of the author.

The Court adjourned for 20 minutes at this stage.

Fatal Phrases - "Not One!"

After the adjournment Prof. Murray pointed to expressions relating to the liberatory doctrine and active policy, the united freedom front, the theory of co-operation between trade unions and political parties, and to comments on the world scene. Further comments which he could make were covered by his previous evidence. Adv. Maisels reminded the witness that he was giving evidence on a capital charge, and asked again what he had found in the document. The witness repeated his previous statement. Adv. Maisels then asked Prof. Murray what indications there were of "characteristic and exclusive Communist doctrines - if any?" and replied himself to the question: "NOT ONE !" He added that with reference to Christian beliefs, it was one of the plainest contra-indications to Communism that one could ever hope to get.

Christianity No Counter Indication of Communism?

When Adv. Maisels suggested that an impartial reader would see a strong religious streak running through Chief Luthuli's speeches, Prof. Murray replied that he had not examined the speeches of Chief Luthuli in that connotation; he had examined them for signs of Communist influence or doctrine so as to report whether those elements were present or not. He had watched out for contra-indications but had not included religion, because he had not considered the references to Christianity so strong as to affect the significance of Communist phraseology. Asked if he had ever found any positive contra-indications, Prof. Murray replied that if he had, they would have been pointed out; they might have occurred in documents not before the Court. Mr. Justice Rumpff asked the witness if he could remember any document which had contained a positive contra-indication of Communism or any in which Communism had been criticised, but the witness was unable to refer to any specific document. Replying to Adv. Maisels, the witness admitted that the policy of non-violence had been mentioned, but stated that it was a neutral phrase and not incompatible with Communism, since it might at some stage be regarded as an expedient measure. His evidence was to indicate Communist influence, but he would have noticed strong positive contra-indications, e.g. where violence and non violence occurred in one document, but he would have made no reference in a case where only non violence was mentioned.

Reverting to religion as a contra-indication, the witness asserted that although religion had no place in pure doctrine, it was allowed at some stages on the passage towards Communism.

The Court then adjourned.