

# HOEXTER STARTS HIS REPLY

**M**R. G. G. HOEXTER began the Crown's reply to the defence exception to the alternative charges and the application to quash, when the treason trial was continued yesterday afternoon.

He said that in his argument in support of the application Mr. A. Fischer, Q.C., had read into the Suppression of Communism Act words and meaning that were not in the Act.

There was an underlying principle in regard to all statutes, penal and non-penal, that a court would rely on the clear and unambiguous meaning of the Act if it was clear and unambiguous. The court would not try to arrive at a motive for the passing of the Act.

## WELL STATED

Mr. Hoexter said the matter had been well stated in "Maxwell on Statutes" quoting the dictum of Lord Mersey who had said it would be wrong to read into an Act of Parliament words that were not there.

"This can be applied to my learned friend's argument."

The Act did not say that advocacy (of Communism) must be revealed to a defined person or group of people. "It does not in so many words stress the necessity for some direct communication between the same encourager and encouraged.

"The Crown will submit that my learned friend's chief arguments rest on some addition — the chief points raised involve an interpretation that do not involve the section at all."

## ADVOCACY

The contention of the Crown would be that advocacy or encouragement may be put forth to the world at large.

Mr. Justice Bekker: But it must reach the world at large. Mr. Fischer has put the question of

the man who writes a speech and puts it in his drawer. And take the case of a man who makes a speech in the Kalahari with no audience. Can it be said he said that he has contravened the section.

Mr. Hoexter: If a man pens a document intending to attack an act and to publish it tomorrow — then is arrested before he publishes it — he is guilty of advocacy.

Mr. Justice Rumpff: Then you say attempted advocacy is advocacy?

Mr. Hoexter: Yes my lord.

The defence could not say that in those circumstances the mere writing or printing could never be advocacy. Writing, with a necessary intent, could be advocacy.

Mr. J. Trengove, for the Crown, continuing his reply yesterday dealt with the defence attack on the use of certain documents as exhibits in the trial.

The defence had asked what relevance the matrimonial suit of one of the accused had to the trial.

Mr. Trengove said it showed the association of the accused with the African National Congress.

## MAGAZINE

Another document was an essay on the Vienna settlement.

"We allege it will be relevant because it is in conformity with the modern Communist interpretation of history."

Certain receipts Mr. Maisels had referred to related to the distribution of "Fighting Talk" — a magazine concerning which a file was found in the offices of the Congress of Democrats.

Mr. Trengove said that the whole matter could be investigated only at the end of the trial when the judges had seen each document in its right perspective.

It was unnecessary for the Crown, at this stage to show where these documents fitted into the pattern of its case.

For all the reasons he had advanced, he submitted that no order should be made in regard to the defence's exception to the main charge and its application to quash.

When Mr. Trengove concluded his argument, he had been speaking for nearly 12 hours.

The trial was adjourned until today.