

# contempt of court

On the 4th of February, Tim Dunne, a lecturer at the University of Natal in Pietermaritzburg had a letter to the Natal Witness published. On May 16 he was sentenced to a fine of R150 or 150 days imprisonment. Mr Combes, the magistrate, said that "the letter had affected the dignity, repute or authority of public prosecutors. Dunne had exceeded the legitimate criterion in the exercise of freedom of speech and in doing so had brought the court into contempt ..." (Daily News, 17/5/78).

Below we reproduce the letter that was used as evidence in the court case, as well as Tim Dunne's statement made in court.

The Witness  
postbag

## Backing for Donald Woods

NATAL  
WITNESS  
4-2-78

SIR, — Your editorial on the contents of Donald Woods's speech before the Security Council of the UN made some interesting points.

You pointed out that Woods's recommendations, though radical, were eminently reasonable.

They were aimed at one set of persons — those who constitute "the Pretoria regime." They sought a single practical objective — a national convention of all South Africans to discuss the future (not the naive objective of "change or peaceful change"). They constitute worst embarrassment and inconvenience to those particular White South Africans who are most in favour of the apartheid regime.

The prospects of all South Africans having to read aloud and sign a declaration of the abhorrence of apartheid at international ports and airports is delightful. Fancy Pik Botha or Eschel Rhoodie or Louis Luyt arriving at New York Airport! We won't see that on SATV.

In fact your newspaper mainly took issue with Woods on his suggestion of the black list of White South Africans whose activities and work for the

regime made them guilty of crimes against humanity. Your argument was that it is a system which must change here, not individuals who must be hounded into change.

Here I find you too reasonable, too forgiving! After all Cabinet Ministers do sign banning orders, do call for the bulldozing of homes, do turn a blind eye to police crimes, do subject Black people to untold embarrassment, insecurity, misery and poverty in the cause of an impossible ideal of White purity and White power. Similarly one could catalogue the activities of military leaders, police chiefs, security policemen, National Party members, Bantu Administration officials, the Community Development Department, public prosecutors in political trials, and many more. When people choose to stand behind the regime, they choose to be attacked when it is attacked.

I will certainly be evening up the score with a few security policemen, and a few National Party members, when the list opens.

TIM DUNNE  
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## STATEMENT BY TIM DUNNE

I admit that I wrote the letter which appeared in the Natal Witness on the 4th February, over my name and which was placed before this court. I cannot claim that it was an unconsidered act, though I can say that I did not in the least suspect that anything like a trial would follow in consequence. The worst I expected was the continued animosity of the Security Police.

Certainly it was my intention to draw direct parallels between public prosecutors amongst others, and Cabinet Ministers, whose moral outrages I had earlier listed in the letter. Certainly it was also my intention to throw a critical public spotlight on all those who by their formal choice of occupation or allegiance, deliberately set about maintaining the present inhuman regime, under the cloak of "preserving law and order".

I concede that I am guilty of contempt of public prosecutors in political trials. The legal definition of contempt of court is not what the ordinary man believes to be the case, and may affect the public image of the courts.

Indeed I think I can claim that the view of the man-in-the-street is that, ideally, the defence counsel is for him, the prosecutor is against him and the court is adjudicating. This was my own view until this case. It is a view that was consolidated by a number of events last year. When I read in the newspapers that both Mr Vorster and Mr Kruger had launched into attacks on a particular advocate last year, because he continually appeared as the defence lawyer in political trials, I formed the impression that defence lawyers were to all intents and purposes, fair game for political attacks, and that being so, it seemed to me that the converse held equally well. If it was going to be made difficult for defence lawyers, then I hoped to help make it equally difficult for prosecutors, in political trials.

The newspaper clippings of the events I have just mentioned were searched for unsuccessfully. But fortuitously over the weekend, both the Afrikaans and English language newspapers carried a similar attack by Mr Kruger on defence lawyers, photocopies of which I have attached to this statement, in an attempt to show the court that what I have described as the man-in-the-street's view of the courts, would be fairly well supported and reinforced by such reports.

I feel that it is clear that public opinion is very different from the legal precedents put forward in this case. Majority South African opinion can be reasonably assumed to be antagonistic towards prosecutors in political trials, regardless of the merits or demerits of the accused.

I therefore believed that I was entitled to regard as fair comment, any criticism of the public prosecutors in political trials, which was itself based on political questions.

As a Christian I am, like every other Christian, called to a two-fold inescapable responsibility to be a prophet and a peacemaker. The Christian has to be always one or the other, and if possible, preferably both. In consequence he can find himself in a situation when his duty as a citizen and his calling as a believer are in conflict. I find myself in such a situation at this moment. I believe what I wrote was the truth and that it should be said and should continue to be said. Though such a Christian position may not always be in itself a guarantee of the correctness of one's views or principles, truth can only be found when men cling on to what they see of it. The New Testament tells of the persistent

woman and the judge whom she pestered until finally justice was done. Every Christian is called to persevere in the struggle for justice, even to the point of pestering the courts for justice.

Consequently I ask that the court shall regard my actions as motivated by a sense of justice and reasonableness, and as undertaken as part of my Christian responsibility to work openly and forthrightly for peaceful change, and a truly humane South Africa.

# Kruger hits at 'erring' lawyers

CAPE TOWN—The Minister of Justice Mr Jimmy Kruger, said yesterday South Africa's legal system was being undermined by people using certain practices in security court cases and that he would investigate these during the parliamentary recess to determine what would be done to counter them

Replying to the debate on the Justice Vote, Mr Kruger listed the recurrent practices as delaying tactics in security cases, demonstrations in and near courts of law, the intimidation of witnesses, the frequent appearance of certain advocates and lawyers in security proceedings and the enormous amounts of money which were readily available to defendants in these cases.

"There has been wide consultation on this problem and various measures have been proposed as solutions, but the underminer has chosen his terrain well.

## Democrats

"As democrats we are vulnerable, because preventive measures must of necessity be of such a nature that it could be described as a negation of our basic legal principles, possibly even from respectable quarters," he said.

"On the other hand, we have to do with an important aspect of the onslaught, not on the Government, but on our system of government and our way of life. In a nutshell, we have to do here with the deliberate undermining of our democratic legal system and I will again look at the whole matter during the recess to determine what can be done about it.

"Meanwhile, I feel at liberty to request the cooperation of our whole legal society in our efforts to withstand the onslaught. I have the fullest confidence in the controlling bodies of the legal professions. Perhaps they can think of ways of preventing individuals from the legal profession from contributing to the undermining of the legal system we know and in which we believe," he said.

The Government always endeavoured to curtail

the activities of underminers by making use of the courts of law, but this policy had cost the country dearly on various occasions.

Explaining that revolutionaries regarded nothing but the revolution as sacred, he said South Africa had long ago become conscious of the fact that the legal system and court procedures were being abused, but that this problem had become so serious recently that it could no longer be ignored.

Five important aspects of the problem had become discernible recently.

Many policemen who could have been used more productively elsewhere were required to be present at these rallies in order to protect the public against possible violence.

## Intimidation

Intimidation of witnesses frequently occurred, and there had been instances where the lives of witnesses had been threatened from the public gallery. The normal pattern which followed from such actions was that the witnesses suddenly forgot vital aspects of their testimony, claimed they had been assaulted by the police or became unwilling to testify.

Turning to the regular appearance by certain advocates and lawyers in security cases, Mr Kruger said: "I want to state clearly that I am not referring to advocates and lawyers generally, and also not to all advocates and lawyers appearing in security cases. I am referring to those individuals who associate themselves with the case and aims of underminers to such an extent that it becomes questionable whether the trust vested in them as officials of the court is justified."

## Fees

Mr Kruger said he had been told that one advocate had received R10 000 per month as a standing fee for a certain case, and another had received R5 000 per month on the same basis.

The last aspect was the "enormous amounts of money" available to defendants in these cases, who never made use of pro deo advocates. He was in favour of people being properly represented, but this money came from political organisations with political aims and he was opposed to the use of money to undermine South Africa, he said.—Sapa.



MR J. T. KRUGER