

Op Rug

JUDGMENT: RUMPFF

Voorblad

TREASON TRIAL 1957 - 1960
JUDGMENT J RUMPFF

IN THE SPECIAL CRIMINAL COURT
CONSTITUTED IN TERMS OF GOVERNMENT NOTICE
NO. 1701 OF 1958:

THE STATE

vs.

F. ADAMS AND OTHERS.

REASONS FOR JUDGMENT : RUMPF J.†.

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REGINA v. F. ADAMS AND OTHERS.

REASONS FOR JUDGMENT.

RUMPF, J:

The accused in this case were found not guilty of treason on the 29th of March 1961.

Certain essential findings of fact were given with the verdict and the Court indicated that written reasons for its decision would in due course be handed to the Registrar.

The reasons which now follow, are accompanied by a volume containing schedules consisting of copies of documents or portions of documents to which reference is made in these reasons. Schedule No. 1 is a copy of the Court's judgment and the findings of facts announced on the 29th March.

The evidence that has been led presents a picture of the activities of a number of organisations who made it their object to organise the masses of non-Europeans in South Africa to coerce the government to deviate from its policy of apartheid and to grant a general franchise irrespective of any educational qualifications.

The evidence indicates that it was the policy of these organisations to establish a new form of state possessing the qualities set out above and appearing in the so-called "Freedom Charter", that over a long period of time leaders, and also publications issued or supported by these organisations, had attacked the Government of the Union in intemperate terms, that the need for mass action against the Government had been stressed and that mass resistance against

the implementation of laws had been organised.

The evidence furthermore indicated that the international policy of the so-called Western Countries, particularly that of the United States of America and of Great Britain, had been condemned and that of Soviet Russia and China consistently lauded, that the non-European masses were being educated along leftist lines, that the necessity for "sacrifice" was stressed on almost every occasion, that the prospect of an inevitable "clash" between the suppressed masses and the State had on occasions been mentioned and that certain of the leaders on occasions had advocated violence.

As a result of **these activities** the State apparently contemplated taking action against the organisations and in November 1956 there were rumours among the members of the organisations that a large number of leaders were going to be arrested. To discuss this action by the State a special meeting of representatives of branches of the African National Congress on the Witwatersrand was held on the 22nd of November 1956.

At this meeting, which was private, a number of speeches were made and part of the proceedings was recorded on a tape recorder which the police had installed without the knowledge of those present at the meeting.

One of the speakers was the accused Resha who was at the time, inter alia, a member of the National Executive Committee of the African National Congress and the Volunteer-in-Chief of the Freedom Volunteers in the Transvaal.

His introduction by the chairman of the meeting and portions of the recorded speech which he made read as follows:

CHAIRMAN: So the one I am going to call upon to speak now is the Volunteer-in-Chief. You know that some time ago we said we want 50,000 volunteers, I think today we still want those volunteers, we want those volunteers to be there. The one I am going to call upon to speak now is the Volunteer-in-Chief. He is just going to speak in his capacity as a volunteer-in-Chief. (I am very sorry because I've got no means), if I had the means I would be taking you and showing you what actually we mean when we say a man is a volunteer. When I was at P.E. I saw exactly what is meant by a volunteer, by saying so I wouldn't like to waste his time. So Mr. Resha as the Chief Volunteer is going to address you, and he is the last speaker'.

RESHA: 'Afrika! (Audience - Mayibuye)
Afrika! (Mayibuye) Afrika! (Mayibuye) Afrika!
Mr. Chairman, sons and daughters of Africa,
war has been declared, war has been declared,
your leaders have spoken to you, but you
must not be afraid. When war has been
declared it is the duty of those to whom
war has been declared against not to panic.
War has been declared. The Government has
decided not only to oppress the African
people but to exterminate them from the
surface of this earth, their mother country.

Your leaders have told you what the position is. Your leaders have told you that among other things the Government of this country, the Strijdom, Swart and Verwoerd clique, want to arrest yet another 200.

.....
.....

The time has come for Congress to take the offensive. We are tired of the bluff of Strijdom and others, time has come now for Congress to tell Strijdom and others what to do. Time has come for Chief Luthuli, for Moretsele and for Rev. Gawe to say who must be arrested, who is this wanted. It must be Congress which must give those wanted, not these fools to come and choose amongst us who is to be arrested. How can that be done? How can Chief Luthuli decide who must be arrested and when?

Only when Chief Luthuli has...50,000 volunteers, then 200 will be a simple matter, out of 50,000 volunteers he can give Swart 200 and that will cost Swart the whole of the Union of South Africa.

Friends, my task this afternoon or this evening is not to speak to you about what is happening in this country, but my task is to give you duties. War has been declared and we must be ready.

.....
.....

Volunteers are those people who do and die.

Volunteers are those people who - who when they are given leaflets to do they go out and distribute those leaflets. Volunteers are those people who don't ask questions. A Volunteer is a person who has pledged himself to carry out the work of the African National Congress whatever is involved without questioning. A volunteer is a person who had dedicated his entire life to the liberation of his African people during the whole time. A volunteer is a person who is disciplined. This is the key of the volunteer - discipline.

When you are disciplined and you are told by the organisation not to be violent, you must not be violent. If you are a true volunteer and you are called upon to be violent, you must be absolutely violent, you must murder! murder! That is all.

.....
.....

Your leaders have told you that the Government of this country, amongst other things, is planning to arrest 200 leaders and is attacking every day today leaders of the people. My directions to you is, if this Government in its madness does one day arrest 200 leaders then - then 200,000 Congress members must emerge from those who are remaining in this country. You can only do that my friends if you are going to tell your brother.

The first thing that you are called upon to do today is, that every Congress branch from tonight must form or revise its volunteer corps.

The next thing you must do friends, it is the duty of every one of you who is a field worker, who is a volunteer never to go to bed unless you have reported to your volunteer chief in your area. When you go to your area in the evening, go to your volunteer-in-chief and say 'I have come, is there any work to do?' It is the duty of you all who are here tonight to tell the people what you have been told. I want to say to you once more that the main thing in a volunteer - the thing in a volunteer is discipline. The second thing in a volunteer is to be vigilant. You must be sensitive towards anything that is happening to the African people. The third qualification of a volunteer is madness, and you can never be a volunteer unless you are mad. Because if you are a gentleman, or if you are a lady, you can never get into the train and speak about Congress, you can never get into the bus and speak about Congress, only mad people and only volunteers can do that because they are mad, and we need mad people to get our freedom in this country.

.....

Well, friends, Mr. Nkadimeng has said 'We are meeting here this evening at a most critical time in the history of South Africa,

and, in explaining that, Mr. Duma Nokwe said: 'We are meeting at a time when it is in our hands to destroy or build our freedom'.

Mr. Masina showed us the way out when he said: 'Do unto your enemies as you would them do unto you'.

When you are a worker, the duty of an employer is to exploit you, and your duty to your enemy is to refuse the labour. If your leaders are going to be arrested it becomes the task of the volunteers, the task of those who are going to remain, what you are going to do with those who are remaining and those who have arrested our leaders. That becomes the task.

.....
.....

Friends, war has been declared, and I call upon you today to become volunteers, every one of you must go and sign in his branch, and I say to the leaders, that before you leave this meeting, please see the Provincial Secretary and tell him when you want me to get there. I will not be going there to discuss politics, I will be going there to find soldiers. I think we are called upon in this country to do direct the opposite of what is taking place in Egypt today. In Egypt it is the imperial forces that are moving into Egypt, but in South Africa we want the freedom forces to eradicate evil

in this, our mother country South Africa."

A replay of the tape recording indicates that the injunction to Volunteers to murder if called upon to be violent was received with a roar of approval by those present.

It may be inferred therefrom that the audience fully endorsed the sentiments of Resha on that occasion. Shortly after the meeting referred to above a large number of persons were arrested in various parts of the Union. After a protracted preparatory examination the Attorney-General indicted ninety-two of those arrested on a charge of high treason, in the alternative with a contravention of Section 11(b), of the Suppression of Communism Act, No.44 of 1950.

The allegations in the indictment covered a multitude of facts and events over a period of four years, from October 1952 to December 1956, and, inter alia, alleged a conspiracy involving the ninety-two accused and one hundred and fifty-two named co-conspirators.

Before the accused pleaded to the indictment a series of attacks was launched against it by the defence with the eventual result that the prosecution withdrew the indictment.

Thereafter the original accused were split up into three groups and a new indictment was framed in respect of each group, charging treason only.

One of these groups which consisted of thirty accused appeared before this Court. One of the accused in this group absconded and one died during the trial.

The indictments against the other two groups were set aside on technical grounds.

The present indictment, as amended, is found in Schedule No.2. With it must be read certain further particulars. The most important of these is a 'Summary of Facts', supplied by the prosecution, from which the existence of a conspiracy to overthrow the State by violence is to be inferred, (Schedule No.3) and a 'Policy Schedule' which lists the documents and reports of speeches on which the prosecution intended to rely for its allegation that violence was contemplated. This 'policy schedule' is not reproduced in the schedules.

In the indictment, read with the further particulars, the prosecution brings together a number of accused who belong to various organisations.

They are brought together on the basis that they entered into a conspiracy to commit treason in that they are said to have actively supported the policy of their organisations with the knowledge that this policy was one of overthrowing the State by violence.

The present indictment differs from the previous one mainly in that it specifically alleges that the accused intended to overthrow the State by violence. It covers the same period of four years and alleges, inter alia, a conspiracy by at least one hundred and fifty-nine persons including the accused.

The task which the prosecution set itself was to prove that over the period of the indictment the organisations that it had cited in the indictment had a policy to overthrow the State by violence, and that each of the accused and each of the co-conspirators actively supported that policy.

The particulars supplied by the prosecution indicated that the Court would be asked to return a finding that such was the policy mainly by way of inference from what had been published in thousands of documents consisting of bulletins, newspapers, minutes of meetings and other publications and from what had been said in hundreds of speeches, allegedly made by the accused and others, over a period of at least four years, from 1952 to 1956.

In addition, the Court would be asked, also by way of inference from all the facts, to find that the organisations had a policy of propagating communism, inherent in which is the theory of violent revolution, and that each of the accused with knowledge thereof supported that policy and intended thereby to achieve a violent overthrow of the State.

To anybody with a little knowledge of trial work the manner in which the indictment was framed and the contents of the further particulars foreshadowed a long and wearisome trial.

The true nature of the charge appears from Parts A and B of the indictment, which as a whole is reproduced in Schedule 2.

Parts A and B read as follows:

PART A.

"During the period 1st October 1952 to 13th December, 1956, while owing allegiance to Her Majesty Queen Elizabeth the Second and her Government in the Union of South Africa (hereinafter called 'the State') and at or near Johannesburg, Pretoria,

Bloemfontein, East London, Port Elizabeth, Durban, Cape Town, Uitenhage, Queestown, Cradock, Kimberley, Ermelo, Evaton and other places within the Union of South Africa, the accused, acting in concert and with common purpose and in breach and violation of such allegiance, wrongfully, unlawfully and with hostile intent against the State, namely, to subvert and overthrow the State or to disturb, impair or endanger the existence, or security of the State, did

- (a) disturb, impair and endanger the existence or security of the State, or
- (b) actively prepare to subvert and overthrow the State, or to disturb, impair and endanger the existence or security of the State each accused committing certain hostile and overt acts against the State, namely the hostile and overt act laid against each of the accused in paragraph 1 of Part B of this indictment, the hostile and overt acts laid against him or her in Part C of the indictment, the hostile and overt act laid against him or her in Part D of this indictment and the hostile and overt act laid against him or her in Part E of this indictment."

PART B.

"1. During the period and at the places aforesaid the accused did wrongfully, unlawfully, and with the hostile intent aforesaid conspire with each other with the person

mentioned in Schedule A hereto, and with other persons to the prosecutor unknown, to:-

- (a) subvert and overthrow the State by violence, and to substitute therefore a Communist State or some other State;
- (b) make active preparation for the achievement of the objects set out in subparagraph (a) hereof.

2. It was part of the said conspiracy that the objects set forth in paragraph 1 of Part B above, were to be achieved by the accused in their individual capacities and/or as members, or supporters of the associations and/or corporate bodies set forth in Schedule B hereto:

3. It was further part of the said conspiracy that the objects aforesaid were also to be achieved through the instrumentality and activities of the said associations and corporate bodies.

- 4. (a) It was part of the said conspiracy that whilst the objects set forth in paragraph 1 hereof remained constant throughout the whole period as aforesaid, the means for achieving such objects would be determined from time to time.
- (b) During the subsistence of the said conspiracy and at various times during the said period and at places to the prosecutor unknown it was

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agreed that the said objects should be achieved, inter alia, by the following means:

- (i) sponsoring, organising, preparing for and convening a gathering of persons known as the Congress of the People for the adoption of a Freedom Charter containing, inter alia, the demands set forth in Part E hereafter, and thereafter propagating the achievement of the said demands of such Charter, adopted at Kliptown, in the district of Johannesburg, on the 25th - 26th June, 1955 which said demands the accused intended to achieve by overthrowing the State by violence;
- (ii) recruiting, enlisting and preparing for acts of violence, a special corps of Freedom Volunteers, being a semi-military and disciplined body whose members were obliged to take an oath or solemn pledge to carry out the instructions, legal or illegal, of the leaders of the associations of persons and/or corporate bodies set forth in Schedule B hereto

14.

and administering the said oath
or solemn pledge to Freedom
Volunteers;

- (iii) advocating and propagating
unconstitutional and illegal
action, including the use of
violence as means of achieving
the aforesaid objects of the
conspiracy;
- (iv) organising and participating in
various campaigns against
existing laws and inciting to
illegal and violent resistance
against the administration and
enforcement of such laws and
more particularly -
 - (a) The Native Resettlement
Act, No.19 of 1954;
 - (b) The Bantu Education Act,
No.47 of 1953;
 - (c) Native (Abolition of Passes
and Co-ordination of
Documents) Act, No.67 of
1952;
- (v) promoting feelings or discon-
tent or unrest amongst and
hatred or hostility between
the various sections and races
of the population of the Union
of South Africa for the purpose
of the ultimate violent over-
throw of the State;

15.

- (vi) advocating, propagating or promoting the adoption and implementation in the Union of South Africa of the Marxist-Leninist doctrine in which doctrine there is inherent the establishing of a Communist State by violence;
- (vii) preparing and conditioning the population of the Union of South Africa, and more particularly the non-European section thereof, for the overthrow of the State by violence, and inciting it to carry into effect the means hereinbefore set out."

The "Summary of Facts", contained in Schedule 3 states that the existence of the conspiracy and the adherence thereto by the accused are to be inferred from the facts set out in the "Summary".

Paragraphs 5, 7 and 8(a) of the "Summary" contain the following facts:

"5. The existence prior to the 1st October 1952 and during the whole period of the indictment of the following associations or corporate bodies, including all their local and provincial branches within the Union, (hereinafter referred to as 'organisations') namely:

The African National Congress, with its

various sections.

The South African Indian Congress.

The Natal Indian Congress.

The Transvaal Indian Youth Congress.

The Natal Indian Youth Congress.

The South African Society for Peace and
Friendship with the Soviet Union (for-
merly known as the Friends of the Soviet
Union or F.O.S.U.)

The Transvaal Peace Council."

7. The formation and existence of the following associations of persons or corporate bodies, including all their local and provincial branches and organisations within the Union, (hereinafter referred to as 'organisations') as from the dates set opposite their respective names, namely:

The South African Peace Council - 21.8.53.

The South African Congress of - 8.9.1953.
Democrats.

The South African Coloured Peoples - Oct. 1953
Organisation.

The South African Indian - Dec. 1953
Congress.

The Federation of South - April 1954
African Women.

The South African Congress - 6.3.1955.
of Trade Unions.

8(a) It was part of the policy of each of the organisations mentioned in paragraph 5 and 7 above to achieve any one or more of the following objects, namely:

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- (i) to subvert and overthrow the State;
- (ii) to make active preparation for a violent revolution against the State;
- (iii) to disturb, impair or endanger the security or authority of the State;
- (iv) to hinder and hamper the State in the enforcement of laws and the maintenance of peace and order;
- (v) to oppose and resist the authority of the State, and in particular the power of the State to make and enforce laws;
- (vi) to support the 'Liberation Movement' (hereinbefore described) and more particularly the 'National Liberatory Movement' in the Union of South Africa;
- (vii) to establish a communist state or some other state in the place of the present state;
- (viii) to form a so-called 'United Front' with the other organisations for the purpose of co-ordinating the activities of the said organisations and their members, and to enlist, as far as possible, the support of any other organisations or persons, in furtherance of their policies set out herein."

Before the evidence was heard and in the course of an argument on the indictment, the prosecution stated explicitly that the indictment did not charge each accused with the overt acts of the other accused.

The Court subsequently indicated that it regarded itself bound by the attitude of the prosecution, notwithstanding the form of the indictment.

At this stage I wish to refer very briefly to some aspects of the law of treason.

The crime of High Treason (Perduellio, Hoogverraad) is committed by those who with a hostile intention disturb, impair or endanger the independence or safety of the State or actively prepare to do so. (South African Criminal Law and Procedure, Lansdown, Hoal and Lansdown, Sixth edition, Volume II, page 987).

An investigation of the history of this crime and a consideration of its essential features are to be found in the judgment of Innes C.J. in the case of Rex v. Erasmus, 1923 A.D., p.70.

The hall-mark of this crime, and the important feature which distinguishes it from lesser crimes against the State, is the existence of a hostile intent against the State.

An intention is of course a state of mind and can only be proved by inference from the acts and expressions of the accused and the surrounding circumstances.

In dealing with the question of proof Innes C.J. at p.80 of the case quoted above states as follows:

"Obviously however the question of proof of a hostile mind may sometimes present difficulties. In time of external war the matter is comparatively simple. Assistance rendered to the enemy would be

conclusive evidence of hostile intent. But perduellio may be wholly unconnected with external war (See Rex v. de Wet, 1915, O.P.D. P.157) and in such a case the test of intention to assist a foreign enemy would not be available. Under such circumstances another test is suggested namely the existence of a definite intention to overthrow the Government."

In this connection the learned Judge of Appeal also stated:-

"Boehmer (Med. Const. Crim Car. Art. 124.5) has some very practical remarks upon the point. Deeds, he thinks, speak for themselves, and it will not avail an accused person, who has set on foot a movement which necessarily tends to the subversion of the State, to set up the defence that he did not contemplate its overthrow; such acts he says amount to perduellio because they are pregnant with danger and cannot be undertaken without the idea of imperilling the State, whatever intention the accused may profess."

The learned Judge also came to the conclusion that the concept of a hostile intent should not be confined to an intent to change the form of the constitution or the personnel of the Government. He emphasised;

"There is no authority which approves that exact principle and it would be most inadvisable to adopt it. For the whole structure of society might be shaken by the

violent action of a body of men whose object was not to alter the constitution or change the Government, but to compel the latter to obey their behests."

Kotzé J.A. also delivered a judgment in the case quoted above. After a full and detailed analysis of the Roman and Roman Dutch Law he came to the conclusion that armed attacks upon the state or Government perpetrated with a hostile mind or intent constitute treason and that it is not necessary that the hostile mind of those who commit an act of treason should contemplate the total subversion or overthrow of the State or Government. He added:

"The principle of our law in regard to treason is not based on an antiquated notion but is founded in reason and justice, and in its main feature is in accordance with the English law, which depends largely upon statute."

In Rex v. Viljoen and others, 1923 A.D. p.90 Innes C.J. considered the crime of sedition, and in comparing the qualities of sedition and high treason indicated how the existence of hostile intent might lift an act of sedition into the category of treason. At p.93 of the report he states:

"I do not propose to go further into the authorities, because they were carefully considered in Rex v. Endemann and I agree with the conclusions reached by de Villiers J.P. in that case, that to constitute the crime of sedition there must be a gathering in defiance of authorities and for an unlawful

purpose. Those who incite and lead such gatherings and those who take part in them are both punishable, but the former more seriously than the latter. Seditio is a species of the crimen laesae majestatis, for it is committed in defiance of the authorities and against the public peace. But it does not imply the existence of a hostile intent against the Government as such. When that intent exists, the disturbance or the rising becomes high treason; it passes into a more serious category. A sudden rising or tumult accompanied by no hostile intent against the Government as such - no intent to treat the latter as an enemy - would be seditio, merely. But if it could be shown that such a gathering was accompanied by hostile intent, then it would become high treason. A local rising for the rescue of prisoners, for instance, would prima facie be seditio only; but it might be part of a wider and more general attack against the Government and be undertaken with hostile intent against the State. In that case it would amount to high treason."

In considering the nature of a hostile intent it is necessary to have regard to the position of a person who acts against the Government or the State in the belief that what he does is in the best interests of the State.

It will not avail him to suggest that because he honestly thinks that a new government or a different

form of state will be in the interests of his country he is entitled to subvert the existing state to achieve his end.

In a case in which the accused was found to have broadcasted propaganda from Germany to South Africa during the last war, Rex v. Strauss 1948 (1) S.A.L.R. p.934, at page 940, Watermeyer C.J., in dealing with such a suggestion remarked as follows:-

"I come now to counsel's second point, that there was nothing in the evidence from which the Special Court could arrive at the conclusion that the 'hostile intent towards the State', which is a requisite element in the crime of treason, accompanied the commission of the overt acts.

It was argued that the Appellant, so far from being animated by hostility towards the Union, was animated by a desire to benefit the Union by furthering what in his judgment were its best interests, that he thought the best interests of the Union lay in taking no further part in the war and consequently his purpose was to persuade the people of the Union to bring about a change in Government by constitutional means and thus put a stop to the war against Germany by the exercise of their legitimate rights.

The Special Court was not satisfied that this was his real or only purpose, but if it was, the ultimate end which the accused desired to bring about was the motive for his conduct and was not the decisive, or only factor

to be taken into consideration in determining whether 'hostile intent' accompanied the performance of the acts complained of.

I agree with that view. Though the ultimate end which an actor has in view is often spoken of as his motive, it is perhaps more correct to say that the desire or wish for that end is his motive, because it is the desire or wish which moves him to act.

But if, in yielding to that desire, the actor takes steps to achieve his end which as a reasonable man he must know or foresee are likely to cause some forbidden effect, other than the one desired as his ultimate end then in law he intends that effect and is responsible for it.

The requirement in the definition of treason that the actions complained of must have been done with hostile intention against the State does not mean that the accused must have been animated by feelings of hatred or ill-will towards the State but merely that he was intentionally antagonistic towards it. In time of war, if the subject of one state intentionally gives direct assistance to the enemy in his war effort he must necessarily, in ordinary circumstances, act with hostile intent towards his own country, because he must know, as a reasonable man, that such assistance to the enemy is an act which tends to hamper the cause of his own country in however small a measure, and therefore is an act hostile

or antagonistic towards it, in the cause for which it is fighting. He therefore intends to do a hostile act and consequently acts with hostile intent."

In the course of its argument the prosecution referred the Court to a dictum in the judgment of Schreiner J., as he then was, in the case of R. v. Leibbrandt, Special Court, 1943, where he said -

"Now in South Africa there is a lawful method of getting constitutional changes effected, that is by Act of Parliament, and there is a lawful method of changing the Government, that is by gaining a parliamentary majority through victory at the polls. These are the lawful, the constitutional methods and the only ones. No other method exists which does not rest upon the use of illegal force.

There is no intermediate course between constitutional action through the ballot box and treasonable action through the illegal use of force. Members of an organisation may not themselves desire to use bombs or other weapons. But this will not avail them if their purpose is to act outside the constitution to achieve their ends."

The above dictum gave rise to a submission by the prosecution in the present case that any action outside the constitution amounting to pressure on or coercion of the Government or the electorate, with the intent to change the Government or the

constitution, would be an illegal act and would be treason, even for example, a sit down strike embarked upon with that intent.

The suggestion was made in the following words:

"My Lords, you can't hold a pistol to a man's head and say I am giving you an option, you can either change your heart or you can take the consequences. And if he then changes his heart, that is not a change of heart. And that is why, My Lords, that is why His Lordship makes it quite clear that if your object is to use unconstitutional means, if you intend to act outside the constitution you are using a form of pressure, a force which is not permissible. And nobody, no voter, no government, no authority is expected to tolerate it. My Lords, I think it is quite clear when once free scope is given to unconstitutional action to change the Government, to change the constitution there is no end My Lord to the danger, the instability and the insecurity of the State in which that type of action were to be tolerated. I don't say My Lords that a strike or a passive resistance campaign, in itself, is treason - is in itself unlawful. But, My Lords, if that action is embarked upon with the object of coercing the Government with the object of overthrowing the Government with the object of bringing it to its knees, then it is treasonable."

Interesting, and important, as the suggestion may be, it is not the Court's duty to consider it because the entire case for the Prosecution was brought and conducted on the basis of a conspiracy to commit violence against the State. In this respect the record reads:

"MR. JUSTICE BEKKER:

This really isn't the Crown case on the Indictment, is it?

MR. TRENGOVE:

That is not our conspiracy.....

MR. JUSTICE BEKKER:

You are wedded to violence.

MR. TRENGOVE:

We have said, My Lords, that they wanted to overthrow the State by violence and they wanted to prepare the people for that. That is what we have said."

Turning to the nature of the evidence which was adduced before the Court by the prosecution, it must be mentioned that the bulk of the evidence consisted of the contents of documents and notes of speeches.

The notes were mostly taken down by non-European members of the Police in ordinary hand writing when the speeches were being made and the witnesses were allowed to refresh their memory from these notes. In the case of some meetings the proceedings were reported in shorthand and on two or three occasions a tape recording was made.

Certain admissions were made by the defence on two occasions during the trial and they are to be

found in Schedule No.4. The prosecution also called Prof. Andrew Murray, of the University of Cape Town to give evidence as an expert witness in political science, including communism. Some of the accused gave evidence under oath on their behalf and on behalf of the other accused, and some leaders like Luthuli, Matthews and others were called by the defence to support the case for the defence, more particularly to prove that the policy of the African National Congress and of the Congress Alliance was one of non-violence.

After all the evidence had been led the prosecution argued its case on the basis that whatever the constitution of the African National Congress contained and whatever had been formally decided by the Congress or publicly announced by it or its leaders on its avowed non-violent policy, should be tested by what the Congress had done by way of propoganda, instruction and campaigns over the period of the indictment.

It argued that such a test would show that irrespective of what it proclaimed, the policy of the African National Congress was to prepare the politically immature non-European masses for a struggle to achieve a new state and that the struggle which the African National Congress wanted was an unconstitutional struggle in which ultimately the masses would be brought into a violent conflict with the forces of the State. The prosecution submitted that because of its policy to bring about a violent conflict between the masses and the State the official declarations of the African National Congress, and its protestations that it was a non-violent organisation, were a ruse and should be rejected.

On the question of when the African National Congress intended violence to be used the argument for the prosecution can be summed up as follows.

It was the object of the African National Congress to organise the masses of non-Europeans against the State. By a process of campaigns, strikes or stay-at-homes the African National Congress would through the masses make its demands, and finally, if those demands were not met, and if the circumstances were favourable, in the sense that the masses were sufficiently politically conscious, they would organise a nation wide strike which would be the final clash between the people and the State. The African National Congress expected the State to repress the attack on it by force and it intended the masses to use violence.

The prosecution indicated that its case was not that the African National Congress wanted violence to be committed in the indictment period. Its case was that in the final result the African National Congress wanted a clash and violence. In the case of the campaign to oppose the removal from the Western Areas it was not suggested that the campaign was planned as the final insurrection. The argument on that issue was that the African National Congress was reckless as to whether violence ensued or not. On the issue of the "Freedom Volunteers" the case for the prosecution was not that they were intended to commit violence in the period of the indictment, but that they were being prepared to lead the people into violence at the final clash.

The argument for the prosecution, as put forward at the end of the case, required the Court to consider whether it had been proved beyond a

reasonable doubt that the African National Congress had a policy of ultimate violence as suggested by the prosecution, and if so, whether the case argued by the prosecution was the case set out in the indictment, and therefore the case which the defence had to meet.

In its judgment of the 29th of March the Court held that the prosecution had failed to prove that it was the policy of the African National Congress to overthrow the State by violence.

This alleged policy of the African National Congress was the cornerstone of the case for the prosecution and failure to prove such a policy of violence on the part of that organisation inevitably meant a collapse of the whole case.

The Court arrived at its decision after the prosecution had addressed it on all the issues and after the defence had made general submissions on the policy of the African National Congress and on the issue of communism.

The Court made no findings of fact on the policy of the organisations other than the African National Congress or on the positions of the individual accused and consequently those issues will not be considered in the reasons that follow.

In view of the Court's finding that the prosecution failed to prove a policy of violence it was not necessary to decide whether the case of violence as argued by the prosecution was the case set out in the indictment.

As indicated above the prosecution approached the evidence on the basis that although the African National Congress purported to have a policy of non-violence this policy should be compared with what

it published and taught and with the manner in which it conducted its campaigns.

In dealing with the meaning of word "policy" in this context the defence quoted the constitution of the African National Congress, which provided that the national conference should be the supreme body of Congress and should determine its general policy and programme; the defence contended that the Court, in enquiring whether the allegation that "it was the policy of the African National Congress to overthrow the State by violence" had been proved, was confined to an enquiry whether the constitution had been amended to that effect.

In support of this contention dicta in the cases of Wilkins v. Brebner and others, 1935 A.D. 175 and Kahn v. Louw N.O., 1951 S.A.(2)194, were cited.

In the former case Wessels C.J. said at p.183:

"...When we consider that we are dealing with the constitution of a political party it seems clear from the constitution that the individual member has abdicated to various committees and to Congress his individual right of determining what ought and what ought not to be done to further the political programme of the party. He has left it to the yearly Congress to say what the party thinks the political conditions of the country require the party to do...."

The defence accordingly argued that when the prosecution bases its case on the policy of any organisation it is not enough to establish the policy

of a member of individuals no matter how many there may be, or how influential they may be, in the councils, of the organisation. The policy of the African National Congress can only be proved, so it was argued, by showing the constitution and either a duly passed amendment of the Constitution or by the concurrence of all the members or a majority of members. As the members are bound only by the terms to which they have agreed the terms can only be varied by consent of all the parties to the agreement, Kahn's case, supra, and mere silence on the part of members cannot amount to consent to an unconstitutional alteration.

The prosecution submitted that where one is concerned with a political organisation which seeks to impose its demands by the use of illegal or unconstitutional methods different considerations applied. In such a case the real policy of the organisation is best gleaned from utterances of its leaders, its publications and propaganda. It would be unrealistic to turn to its constitution in an endeavour to ascertain its true policy and, if it is a treasonable policy, to expect any mention thereof to be made in its constitution.

I do not think that the meaning of the word policy raises any real difficulty. The policy of a political organisation or party is always a question of fact. One obviously looks to the constitution first, if there be one, with its amendments. One looks at resolutions taken at conferences, at declarations of responsible leaders and at any other relevant fact.

If responsible leaders or publications issued by the Party regularly or over a lengthy period of time

proclaim or announce a certain policy, directly or indirectly, and the Annual Conference or General Meetings of the Party confirm such policy, either expressly or tacitly, the policy so proclaimed will be held to be the policy of the party.

In order to draw a comparison between the professed policy of the African National Congress and its conduct it is necessary to consider briefly what the organisation claimed its policy to be.

In 1946 it formally decided that its objects would be the realisation of the demands contained in a document called "Africans' Claims". In essence this document demands a general franchise and the removal of every form of discrimination based on race or colour.

In 1949 a programme of action was adopted which, inter alia, described the methods or "weapons" to be employed to achieve its objects as being "immediate and active boycott, strike, civil disobedience, non-co-operation and such means as may bring about the accomplishment and realisation of our aspirations." According to the defence evidence the African National Congress took up the attitude that it was compelled to use these methods because petitions and protests had proved ~~ineffective~~.

The evidence also disclosed that the African National Congress in applying those methods, did not exclude the possibility of laws being breached and that it envisaged the possibility of the State using force to maintain law and order.

Neither the constitution of the African National Congress, Exh. MWS.34, rec. p.11426, Sched. No.5, which contains in broad outlines the objects of the

organisation set out above, nor "Africans' Claims" nor the "Programme of Action" makes any reference to violent means or methods, and the evidence showed that on many occasions, at conferences and in declarations by leaders and at meetings it was stated that the African National Congress was a non-violent organisation.

In his reasons my brother Bekker gives a short history of the African National Congress and quotes some of the evidence to indicate how this policy of non-violence was referred to.

It is with this background in mind that the argument for the prosecution has to be assessed.

In presenting a picture of what the African National Congress had propagated and had done over the period 1952 to 1956 the prosecution firstly confined itself to evidence other than the speeches of which members of the police had taken manuscript notes.

It referred to the "Summary of Facts" and commenced to deal with the so-called "Liberatory Movement" and the position of the African National Congress in relation thereto, the attitude of the Congress to the international situation and the form of the new state Congress wanted.

Thereafter the prosecution briefly referred to the so-called "Defiance Campaign", and then proceeded to deal with the evidence concerning the "Western Areas Campaign" and the "Freedom Volunteers."

The evidence about the speeches reported by the police on manuscript was dealt with separately as also the evidence concerning the allegation made in the indictment that the Congress Alliance had propagated the establishment of a communist state.

In these reasons it is proposed to follow more or less the same sequence except that at the outset it will be explained why the Court decided not to attach weight to the evidence of witnesses who made notes in "long hand". My brother Kennedy deals in detail with this branch of the case. My brother Bekker, in his reasons, considers in separate chapters the history of the African National Congress, the "Defiance Campaign", the "Western Areas Campaign", the campaign for the "Congress of the People" and the "Freedom Volunteers".

Save for questions of admissibility and interpretation, the documents put before the Court afforded no difficulty. Their contents could not be disputed.

The few speeches which were recorded by competent shorthand writers or on a tape recorder could not seriously be challenged.

The evidence however concerning the speeches recorded by members of the Police in ordinary **hand-**writing, stood on quite a different footing.

The majority of these speeches were recorded years before the trial, and at the trial neither the witness who made the notes, nor the speaker who made the speech, could possibly be expected to remember what had been said. In the circumstances, the witness could only give evidence by reading the notes and the speaker, if he disputed the correctness of the notes, could only make a bare denial.

The majority of speeches which were put before the Court were recorded by non-European members of the Police in the English language, although the speeches were not made in English but in a Bantu language. In most cases the witness made his own

translation into English as the speaker spoke. This he would do even if there happened to be an interpreter supplied by the organisation to interpret to the meeting. The evidence was that on a few occasions there might have been two interpreters, one to translate into English and one into another Bantu language. The presence of an interpreter naturally would give the recorder a little more time to record what the speaker said but the fact that he wrote in "long hand", and translated what he heard, inevitably caused him to miss most of the speech. In the result, only a fraction of the speech appeared in the notes.

The ability of the various police officers to take down accurate notes varied considerably, as did their knowledge of the English language.

In many cases full sentences were taken down, but in other cases what was taken down made no sense at all. In these circumstances, the Court considered it dangerous to accept on their face value, words, alleged to have been spoken by a speaker at a meeting.

There is a further factor which limited the value to be put on the speeches from which the prosecution sought to draw inferences in its favour on the issue of a violent policy.

Although the Court was referred to a considerable number of speeches, made over the period of the indictment, the actual number was extremely small compared to the total number of speeches which, according to the evidence, must have been made over this period, throughout the country.

According to the evidence, about fifteen thousand meetings were called by the various branches of the African National Congress over the period of the

indictment. The prosecution led evidence of what was said by some speakers at about two hundred and twenty-five meetings called under the auspices of the African National Congress. At eighty-five meetings of a total of two hundred and forty-nine meetings relied on by the prosecution for all purposes, it was suggested something was said from which violence could be inferred.

Of the eighty-five meetings, fifty-five were held in the Transvaal, mostly in the Johannesburg area, and thirty in the Eastern Cape, in the Port Elizabeth area. On the issue of violence no evidence was led in regard to meetings held in Natal, the Free State and in the Cape Province, other than the Port Elizabeth area.

If one considers that at some meetings a speaker either contradicted himself or was contradicted by other speakers and if one realises that the prosecution was in possession of evidence concerning what had been said at most of the other meetings, held throughout the country, one cannot decide that the notes made at the relatively small number of meetings are representative of African National Congress views or may safely be used to determine the policy of that organisation over the period of the indictment.

For these reasons and others, more fully set out in the reasons prepared by my brother Kennedy, the Court decided not to rely on the reported speeches in so far as the issue of violence was concerned.

The case for the prosecution as set out in the "Summary of Facts" was that before October 1952 and during the period of the indictment there existed in non-Communist colonial or semi-colonial countries an international movement known as the "Liberatory Movement" and that it was the object of this movement to achieve independence for the "oppressed peoples" and full political rights for its members, by the overthrow of those colonial and semi-colonial states; it was the duty of communists, whose primary object it is effect a world revolution, actively to support and participate in this "Liberatory Movement" and for many years before October 1952 the communist supporters of the movement supported the growth of liberatory movements in colonial or semi-colonial countries, particularly in Asia and Africa, such as the Union of South Africa, Kenya, China (before it became the People's Republic of China) Korea, Vietnam, Malaya and Indo-China. With the support of communists, national liberatory movements were formed in those countries, with the object of bringing about the violent overthrow of the existing regimes, and, such a national liberatory movement in fact existed in the Union of South Africa.

The "Summary of Facts" also refers to the establishment in 1949 of the World Peace Council and its executive Council, the Bureau of the World Peace Movement, which controls the policy of the World Peace Council, under the direction of Soviet Russia. It is stated that the object of the World Peace Council is to propagate policies and interests of Soviet Russia and to emphasize the indivisibility of the struggle

for peace and the struggle for liberation and to support the national liberatory movement in South Africa. The World Peace Council has sought to achieve its object through the activities of peace councils throughout the world, including South Africa, inter alia, by convening world peace congresses and by the publication and dissemination of pamphlets, brochures and magazines, and through the activities of international and communist sponsored organisations, such as the World Federation of Trade Union, the World Federation of Democratic Youth and the Women's International Democratic Federation.

The "Summary of Facts" also states that there existed a communist party in South Africa before 1950, with the object of overthrowing the State and establishing a communist state, that this party was dissolved in 1950, and that thereafter a number of its members infiltrated into the African National Congress and the other organisations mentioned in the indictment, and were appointed to executive positions in the associations.

It also states that in 1951 the Executive Committees of the African National Congress and the South African Indian Congress formed a Joint Planning Council to co-ordinate the efforts of the African National Congress and the South African Indian Congress to organise support for the "National Liberatory Movement" in South Africa, by mass action, and that it was part of the policy of the African National Congress, and the other organisations referred

to in the Indictment, to support the "International Liberatory movement" and more particularly the national liberatory movement in the Union of South Africa and to establish a communist state in place of the present State.

The "International Liberatory Movement", as described in the "Summary of Facts", was considered by the prosecution as the origin of the alleged treasonable conspiracy.

In its opening address the prosecution concluded by saying:

"In conclusion the Court will be asked to arrive at the following overall picture: There existed over the period of the indictment and for some time before, a country-wide conspiracy...to overthrow the State by violence and to substitute therefore another form of State. This conspiracy had its origin in the so-called Liberatory Movement, an international communist inspired and supported movement, pledged to overthrow by violence all Governments in non-communist countries where sections of the population did not have equal political rights. The Liberatory Movement had its counter part in South Africa where it sought to attain its objects inter alia by the communist method of stirring up trouble in disputes of national and local importance; it was inspired by communist fanaticism, Bantu

nationalism and racial hatred in various degrees. In June 1955 the Liberatory Movement led to the holding of the Congress of the People which formulated as a programme of action its less culpable objects. All the organisations unequivocally and emphatically supported the liberatory movement but the most blatant violent speeches were made by members of the African National Congress....."

The point of emphasis in the foregoing statement is the allegation that the alleged conspiracy had found its origin in an international and communist inspired movement, pledged to overthrow certain governments, including that of South Africa, by violence.

At the outset it must be stated that no direct evidence was led by the prosecution of the existence of an international liberatory movement. The evidence did disclose that the African National Congress considered itself part of the liberatory movement in South Africa, that it accepted that liberatory movements existed in other countries and that it had expressed solidarity with such movements.

Professor Murray, who gave expert evidence on communism for the prosecution, stated that he knew of no such "international" movement. Whilst he agreed that such a movement might be regarded, according to the tenets of communism, as an international phenomenon, the "liberation" (and not "liberatory") movements were separate and not part of any one movement

In the result, and apart from defence evidence to the contrary, there was no proof of the existence of such an "international" movement in which it could be said the present conspiracy had its origin. Whilst therefore it was common cause that a liberatory movement existed in this country, as also in other countries, the prosecution failed to prove that it formed any part of an "international" organisation, possessing the attributes contended for by the prosecution.

The importance of this feature lay in the fact that the Court would have to look elsewhere for the origin of the alleged conspiracy to overthrow the State by violence. If, notwithstanding the fact that its origin could not be said to be international, the prosecution had proved independantly that there was a conspiracy to overthrow the State by violence, the shortcoming might have been of course, of no consequence.

In addressing the Court on the issue of the liberation movement, the prosecution argued that the evidence consisting of resolutions and propaganda material and some of the reported speeches proved that the African National Congress considered the liberatory movement in South Africa as part of the liberatory struggle in the world. It supported, and expressed solidarity with, the liberatory struggles of the freedom forces throughout the world.

The prosecution submitted that the African National Congress, as a liberatory movement, had consistently propagated the view that on the world front there were two hostile and opposing camps.

On the one side there was the camp of the warmongering capitalist and imperialist oppressor, on the other side there was the camp which stood for peace, freedom and democracy. The African National Congress told its followers that the imperialist camp was headed by the United States of America and that it consisted of imperialist and colonial powers such as Britain, France, Belgium, Portugal, Spain and Holland. The object of this camp was to keep the oppressed peoples in the colonial countries in Asia and Africa in a permanent state of subjugation and oppression. South Africa was a capitalist country and had chosen to be in the Western camp.

The followers of the African National Congress were told that the camp of freedom, peace and democracy was fighting oppression, to end man's inhumanity to man. It supported the colonial peoples who were fighting to shake off the shackles of colonial oppression.

The African National Congress represented the imperialist powers as bent upon ruthlessly suppressing and crushing the national liberation movements by brutal wars, to forestall what the congress described as the revolutionary democracy in Africa and Asia. The imperialists were described as reactionary powers prepared to plunge the world into a blood bath and with this object in view they formed alliances such as the North Atlantic Treaties Organisation, (NATO) and the South East Asia Treaties Organisation, (SEATO). The African National Congress considered the liberatory movement in South Africa as part of the liberatory

struggle in the world. It propagated the view that liberation is inextricably linked with the fight for peace, and with the fight against imperialism, and that imperialism had to be destroyed because it was a threat to peace. It often referred to the struggles in China, Korea, Malaya, Vietnam and Kenya, describing them as struggles for freedom and liberation. In violent language the conduct of the constituted authorities ^{was} ~~were~~ condemned and invariably the conduct of the suppressed people was justified by suggesting that they were resorting to measures which were forced upon them by the oppressor. The African National Congress told its people that, in spite of the fact that the oppressor resorted to force in the end, the peoples movement would break through the net of imperialist oppression.

A consideration of all the evidence put before us showed that the above submissions by the prosecution on the attitude of the African National Congress towards the so-called liberatory struggle were justified.

In dealing with the issue of communism later on in these reasons I propose to refer to some of the evidence relevant to that issue and that evidence will include evidence which supports the submissions made by the prosecution on the "liberatory movement". From the attitude and conduct of the African National Congress as set out above, we were asked to draw the inference that in preparing the masses for a struggle against the State, and in placing South Africa in the capitalist imperialist camp, led by the so-called

warmongering powers of the West, the African National Congress was building up and fomenting hatred and resentment in the minds of the people towards the type of state found in South Africa and was undermining their allegiance and loyalty to the State and preparing the people to count no cost too great in their struggle for freedom and liberation.

On this issue I. do not think that it can be disputed that the natural and probable consequences of the propaganda of the African National Congress were to cause resentment towards the present form of State. That, by itself, could not, of course, help the prosecution, and we were asked to consider this aspect of the case together with all the other features in order to arrive at a verdict that the accused intended to overthrow the State by violence.

Coupled with the above argument must be considered the submission on the allegations in the indictment and in the "Summary of Facts" that the African National Congress denounced the present form of State as a fascist state and a police state, and that it demanded its destruction, and that it propagated the substitution therefor of a form of state, differing radically and fundamentally from the present state, namely a people's democracy, a communist state.

On this issue the prosecution argued that the evidence disclosed that the African National Congress denounced the present state as capitalist, imperialist and fascist, that it taught its members that

the root of all oppression was the Constitution of the Union, that it entrenched a white capitalist minority as a ruling class, ^{and} that the parliamentary political parties were all agreed on the necessity of maintaining white domination and upholding the exploitation of the masses.

It was argued that the evidence showed that the African National Congress told its followers that in a capitalist country the ruling class would in the long run maintain its power by force and brutal methods, that the Government would become fascist, but that the united action of the people would defeat the fascist demons. "

The prosecution submitted that the African National Congress, in propagating amongst the people the need to achieve economic and political freedom, knew that that would involve the destruction of the State, and that before it could be achieved the so-called oppressed people would be involved in a clash with the "enemy".

A further submission was that the evidence of the type of state which the African National Congress advocated, namely a people's democracy, and the provisions of the Freedom Charter, showed that the African National Congress expected to achieve its aims only by a seizure of power and by the overthrow of the present State.

On the issue of the form of state propagated by the African National Congress a further argument was addressed to us by the prosecution and it was

submitted that the African National Congress:

- "(a) Accepted and propagated the communist analysis of the present state and society in South Africa, more particularly by applying the communist concepts of, and attitude towards capitalism, imperialism (with which the liberation movement is associated in communist doctrine) and fascism.
- (b) Propagated and applied communist methods and tactics to replace the existing state in South Africa, in particular the methods of extra-parliamentary and unconstitutional action, including violence, the tactic of forming a united front, of making use of and mobilising the masses, of stressing the role of the workers and of the workers and peasants, of forming temporary alliances with groups who might not be permanent allies, of working through trade unions especially on an anti-reformist basis, of using the liberation movement as a weapon against imperialism and for the establishment of communism.
- (c) Aimed at the establishment of a Communist State in the form of a People's Democracy, the establishment of such a state being inevitably associated with violence."

It is proposed to deal with the above submissions and the relevant evidence in the following sequence. I shall first mention briefly the failure to produce evidence of individual knowledge by the accused of the principle of a violent revolution, inherent in Marxism-Leninism. Thereafter the evidence of Prof. Murray, the expert witness on communism, will be considered and what, in terms of his evidence, the yardstick is which one has to use in determining whether a communist state or something less has been propagated. The "Freedom Charter" will then be considered and evidence of how the "Freedom Charter" was interpreted. A reference will be made to the allegation by the prosecution that after 1950 members of the defunct Communist Party infiltrated into the ranks of the African National Congress, and to some of the evidence relevant to the submissions made above.

It must be remembered that the issue of communism is relevant only in so far as it is relevant to the issue of violence. On the issue of violence the prosecution not only had to prove that it was the policy of the African National Congress, and the Congress Alliance, to propagate the establishment of a communist state, but also, against each accused, that he or she knew the policy of the Congresses, with relation to communism, and with relation to the concept of violence being inherent in the doctrine of communism, and that he or she accepted the need for a violent revolution.

It is not necessary to deal with the evidence concerning the knowledge of each accused because the

Court found as a fact that although the African National Congress, and the other organisations mentioned on the indictment, were working together to replace the present form of state with a radically and fundamentally different form of state, based on the demands set out in the Freedom Charter, and that in the indictment period a strong left wing tendency manifested itself in the African National Congress, the prosecution failed to prove that the form of State, as painted in the Freedom Charter, was a communist state, or that the African National Congress had become a communist organisation.

As far as the personal knowledge of each accused is concerned it is sufficient to state that the prosecution failed to prove beyond a reasonable doubt that any of the accused possessed the required knowledge of the doctrine of violence inherent in Marxism-Leninism, accepted such doctrine and intended to apply it in the foreseeable future.

In regard to some accused the prosecution did not argue that they had any knowledge of this doctrine. In regard to others the argument was that because of possession of communist literature and, in the case of one or two, also because of what had been written by them, knowledge of the doctrine had to be inferred.

Even in regard to those accused who, according to the evidence for the prosecution, possessed communist literature, and had expressed political views in writing, the evidence of knowledge was insufficient and inconclusive and in the result personal liability for a

violent intent on this ground was not established.

On the issue of communism, the Court had to approach the evidence in this case in the light of what the expert witness on Marxism-Leninism told it. He was Professor Andrew Murray, of the University of Cape Town, who, as professor of Philosophy, was chiefly responsible for the work done at the University on political philosophy and political science. He had made a study of communism and had been lecturing thereon for many years.

Professor Murray explained to the Court what Marxism-Leninism is. The principles and ideas about which he gave evidence may conveniently be repeated in a summarised form. They appear in a separate document, Schedule No. 6. A few of them are given below so as to illustrate the approach to his evidence when his opinion on the difference between communism and bourgeois socialism is dealt with and when the contents of some of the documents on which the prosecution relied are considered.

Marxism-Leninism is the doctrine of Communism and the classics of Marxism-Leninism are in particular Marx, Engels, Lenin, Stalin, Mao-tse-Tung.

By Marxist-Leninist socialism is meant the type of society where private ownership of the means of production and production for profit is no longer the basis of the economic processes, when ultimately a position is achieved, strictly referred to as

communism when people receive according to their need.

Dialectical materialism is the world outlook of the Marxist-Leninist party. It is a materialist philosophy. The nature of matter is the basis from which the nature of life including society derives.

Historical materialism is the extension of the principles of dialectical materialism to the phenomena of the life of society and its history. The dialectical method holds that no phenomena in nature can be understood if taken by itself. Nature is not a state of rest and immobility, but a state of continuous movement and change. Dialectics regards the process of development as one which passes from small quantitative changes to open fundamental qualitative changes.

The qualitative changes do not occur gradually but rapidly and abruptly.

Dialectics holds that internal contradictions are inherent in all things and phenomena of nature. The struggle between these opposites brings about the transformation of quantitative changes into qualitative changes.

There is therefore a thesis, an antithesis, a strife between the two and then a qualitative leap leading to a synthesis.

This clash between thesis and antithesis is

also said to be a process of negation, the antithesis negating the thesis and producing as a result the synthesis, which is also said to be a negation of the negation (the antithesis).

This law of the negation (or clash between thesis and antithesis) is the philosophical basis for the communist idea of violent revolution and excludes the concept of conciliation.

To communism the class struggle is seen as an inevitable, always sharpening struggle leading to a decisive clash.

To bourgeois socialism the concept of class struggle is also known but it is not seen as an unbridgable contradiction, but as a method of producing co-operation, conciliation or collaboration. This idea of reformism or collaboration on a permanent basis is opposed by communism.

Marx's criticism of capitalism is based on his theory of value. The argument is that under capitalism the proletariat has nothing to sell but its labour. The owner of the instruments of production i.e. the capitalist buys that labour on his own terms. The labourer works more, produces more value than is necessary for his subsistence but is paid only a subsistence wage.

The remainder of value produced, called surplus value, goes to the capitalist.

The surplus value thus produced accumulates, in terms of the law of accumulation of capital and becomes concentrated in fewer and fewer hands, in terms of the law of concentration of capital. This process causes increasing misery among the masses. Ultimately this process taken to its logical conclusion causes the breakdown and death of capitalism.

By the bourgeois class is meant the class which owns instruments of production, which lives by the property it owns. The petit bourgeoisie is the smaller capitalist as distinct from the big capitalist who is represented by the bourgeoisie.

The communist criticism of capitalism is connected with the communist concept of revolution. The theory is that the growing proletariat must inevitably rise in revolt against the capitalists who have entrenched themselves in the institutions of state. This dogmatic acceptance of the inevitability of revolution is an exclusively communist concept.

According to communism the world is divided into two camps, inevitably opposing each other.

On the one hand the communist bloc, on the way, as it considers it, to final achievement of communism. This communism regards as a peace loving bloc. On the other hand the imperialist or capitalist bloc, referred to in communist literature as the warmongering bloc of countries where capitalism exists.

Only the destruction of classes, the elimination of the profit motive and the ultimate achievement of communism will bring peace. Peace is therefore preached by Communism. Peace in this sense will not be attained until imperialism is destroyed and war against imperialism is therefore necessary and justified. Imperialism entrenching itself in the machinery of the state can only be removed by the use of force, by a violent revolution.

The propaganda for peace and against imperialism is therefore identical.

The Communist doctrine on imperialism is inherent in communism and it is not so fundamentally part of any other doctrine.

Communists by supporting the liberation movements aim at the achievement of communism on the theory that only by achievement of the ultimate communist state through the stages of the dictatorship of the proletariat and the balance of the

theory of revolution can the oppressed be liberated.

Imperialism will only be removed by the use of force and therefore war and revolution aimed against imperialism is justified and necessary.

The aim of communism is to smash fascism. It must be fought by a united front of all the people. To achieve this communists should be prepared to combine in temporary alliances with the social democratic parties and other organisations prepared to oppose fascism.

The state according to communism is an instrument of oppression in the hands of the ruling class. It uses subordinate bodies such as the army, the police and others for the domination and oppression of other classes. Even parliament is used to promote the interests of the ruling class.

According to communism the bourgeois state should be destroyed. This is done during the period of the dictatorship of the proletariat which is a dictatorship of the Communist Party, based on revolution and using the tactics of force.

After the overthrow of the bourgeois state the dictatorship of the proletariat oppresses

all remnants of the bourgeoisie until gradually all classes disappear and the state then withers away. This final classless society is the end aimed at by communist doctrine. It is at that stage that people will receive not according to their labour but according to their needs.

The concepts of 'withering away of the state' and of 'dictatorship of the proletariat' are exclusively communist. The concept of a 'classless society' emerging from this process of the withering away of the state is similarly an exclusively communist concept.

The true communist state is strictly speaking in terms of Marxism-Leninism a misnomer because in the stage of perfect communism the state will then have disappeared. When the term however, is used it refers to the first two stages namely when the workers and peasants gradually take over control and the period when they have taken over control i.e. to the beginning of the dictatorship of the proletariat and the full blooded dictatorship of the proletariat.

According to Communism all morality is class morality, a by-product of the economic stage of society. Communist morality is therefore entirely subordinate to the interests of the class struggle and the cause of destroying

the old exploiting society. Therefore the use of all methods, legal or illegal, moral or immoral, constitutional or unconstitutional, including violence, is justified.

According to communist doctrine the Communist Party must lead the masses, must explain the theory to the masses and action must ultimately be mass action. The masses refer chiefly to the proletariat and the peasantry and small bourgeois elements in society, i.e. all the disaffected social groups.

Communism requires that the women and youth be organised in a manner subordinate to the party, to serve the party. In the case of the Communist Party subsidiary organisations are more of an integral part of the whole policy and philosophy of the party than in bourgeois parties. Discipline does not figure as strongly in the bourgeois organisations as in the comparable communist organisations.

Communism teaches that every communist should belong to a trade union, even a reactionary one. Communists should attack reformism in the trade unions, defend trade union unity nationally and internationally on the basis of the class struggle, subordinate all tasks to the struggle for the dictatorship of the proletariat. According to Communism trade

unions should therefore not merely take active part in politics but should aim at the defeat of reformism, i.e. the idea of obtaining reforms through parliament. They should insist on the working class unity even at the cost of loyalty to the national state. Thus trade unions should not support so-called imperialist wars. On communist theory, also, trade unions should not attempt to reconcile differences based on class, or to co-operate with capitalists, but should assume the inevitability of continuous class struggle leading ultimately to the victory of the proletariat.

The idea of trade unions taking part in political movements is communist but is not exclusively communist. The anti-reformist trade union policies as set out above are exclusively communist.

Communist theory teaches that people should be made aware of their own daily problems and should be organised on the basis of their grievances. In thus making them aware of their problems people become politically conscious. This is the particular task of the Communist Party.

Fronts (or transmissions) are organisations which are not professedly communist but are used by communists to spread communist doctrine

(which doctrine involves action) to reach people or spheres of public opinion which a communist acting directly or openly as a communist could not reach. These organisations therefore serve as transmission agents for communist ideas and communist policy and therefore serve to promote the ideas of Communism for world-wide action.

The first revolution viz. the revolution to destroy feudalism is called the bourgeois democratic revolution. It aims to bring about a radical revolution in relation to the ownership of landed property in favour of the peasantry and to establish democracy.

In the modern world the bourgeois revolution when led by the workers also liquidates big capital.

The revolution known to Communism as the socialist revolution (also called communist revolution or revolution of the proletariat) is a violent revolution aimed at the destruction of the capitalist or imperialist state. This revolution brings the elimination of the bourgeois class and private ownership of the means of production and leads to the dictatorship of the proletariat.

The view of Khrushchev and others that violence will depend on whether the Capitalist class shoots first, does not effect the doctrine

of violence.

Communism opposes other schools of socialist thought which advocate the achievement of improvement in society by process of gradual reforms or by making laws i.e. methods falling short of violence, and deprecatingly termed reformism, legalism or gradualism. This doctrine of the inevitability of violent revolution distinguishes communism from other schools of socialism.

The concept of a People's Democracy is a Communist concept and refers to a type of state arising from a people's democratic revolution, i.e. a revolutionary process consisting of a combination of the bourgeois (or national democratic) revolution with the socialist revolution. The communist concept of violent revolution is therefore part of the concept of a people's democracy. In a developed form a people's democracy has the same aims and function as a dictatorship of the proletariat.

The concept of people as used in the people's democratic dictatorship which is the same as people's democracy refers only to supporters of the leading group in the regime i.e. the Communist Party as leader of the workers and peasants in particular. The reactionary groups such as landlords, and the monopolists, capitalists and bourgeois bureaucrats are not part of the regime and must ultimately be

relentlessly eliminated on the principle that democracy is only for the people.

The Police force, the armies, the civil service of the bourgeois state must be disbanded as being instruments of oppression and replaced by representatives of the people so as to become a people's police force, people's army, people's civil service.

In the initial stages of its development a people's democracy may be in some ways indistinguishable from a bourgeois socialist state unless certain decisive factors are known such as e.g.:-

the form of government, who governs, whether the government party has obtained or is gradually obtaining centralized control, the use of a list vote or other decisive features.

All known people's democracies in existence are communist states.

After Professor Murray had dealt with the principles of Marxism-Leninism he was asked by the prosecution to state his opinion on a number of exhibits which he had studied and which had been put before the Court.

In respect of the contents of many of these documents or parts of the documents his view was that they were in line with communism. In cross-examination he explained that he was not accusing any person or

any document of being communist. His mandate had been 'to report on documents, on the full nature of the documents and to indicate where I thought there were communist associations, attitudes of mind in the document'.

He also gave the following answer to a question by the Court:

"Now when you use the word in line with communism - I think that is the expression you've used - do you mean the author knew something about Marxism-Leninism, without seeking to brand the author as a communist? He has some knowledge of Marxism-Leninism? ... 'No, I did not even go so far. I said that he picked up a certain phraseology, or a statement, or if you like an analysis shall we say of imperialism, which was in line with communism...."

Professor Murray also explained that from the point of view of political science a school of thought or a political party could take over many communist principles without becoming communist in the full sense of the word.

He showed that in theory there could be and in fact there are people and parties who go most of the way with communism but differ from it on limited but fundamental issues;

The difference prevents them from being communist in the eyes of the political scientist.

In dealing with the evidence of Prof. Murray

it must be stressed that, when Marxism-Leninism is made an issue in a case such as the present, the Court must be guided by the evidence of the expert. In the present case the evidence of Professor Murray as to what constitutes Marxism-Leninism stood unchallenged.

I think that it is correct to state that on his evidence communism must be considered as part of a spectrum of belief. This spectrum extends from the most moderate forms of socialism, through extreme forms thereof, to communism.

Somewhere in this spectrum there is a dividing line between communism and an extreme form of socialism but which falls short of communism.

The evidence of Prof. Murray indicates that this line should be ascertained by a consideration of whether or not the idea of the dictatorship of the proletariat, the rejection of reformism and the inevitability of the violent revolution have been accepted.

These must be considered as fundamental principles of communism. If a party accepts these principles, then, on the spectrum, it has crossed the dividing line and is a communist party.

If it has not accepted these principles it may be an extreme left wing party, ("left" in the sense of occupying a position on the spectrum of socialism) but not a communist party.

In view of the fact that communism refers to itself as socialism the term bourgeois socialism was at times used in this case to indicate a form of socialism which falls short of communism.

On the difference between communism and bourgeois socialism Prof. Murray, inter alia, stated:

"In theory the difference between what I would call left wing bourgeois Socialism and Communism centres round the theory of revolution, things like the historical interpretation, the development must go along certain lines",

He was then asked the question "Does the extreme left form of Socialism not adopt that view at all?"

His answer was:

"Not as Socialism, no. The difference is reformism on the one hand...putting it broadly, reformism on the one hand and revolution on the other.

Socialism will admit the class struggle, and decide to overcome it by trade union organisation, and the trade unions even co-operate with the Capitalists.

On the other hand class struggle must lead to the dictatorship of the proletariat and the break up of Capitalism."

Prof. Murray also gave the following answers to questions put to him:

"Does bourgeois socialism recognise the principle of the dictatorship of the proletariat?...Not bourgeois Socialism."

"Is that particular principle a particular communist doctrine?...That is a straight out Marxist-Leninist doctrine."

Is that, the dictatorship of the proletariat, to be found as a fundamental principle of any other political philosophy?...Not to my knowledge, no."

Elsewhere, in his evidence, and dealing with the interrelation of the role of the Communist Party and the dictatorship of the proletariat, Prof. Murray gave the following answers to questions put to him by the prosecution:

"Now this idea of the party, the importance of the party, the role it plays in Communist theory is really developed in this way, isn't it? That it links up, if I may use a phrase which appears in the evidence, it links up with the dictatorship of the proletariat and the idea of the revolution. The revolution must be prepared and guided by the Communist Party?....Yes."

"In fact that is what makes it the dictatorship of the proletariat?...Yes."

Finally, in reply to a question by the Court, Prof. Murray stated the following:

"Assuming a person accepts everything that the doctrine of communism prescribes, but he rejects the dictatorship of the proletariat and violent revolution and that the party must rule can you call him a communist?... If he openly rejects it?"

"He says to himself, I reject all that, but I

accept all the rest..No, then I would not call him a communist on doctrine, certainly not."
 "Not according to doctrine?....No."

In the light of the evidence of Professor Murray and having regard to the nature of the charge on the issue of communism, it was not sufficient for the prosecution to prove that the African National Congress, or the Congress Alliance, had propagated ideas which corresponded with communist ideas, or had applied an analysis to situations which was also a communist analysis.

The prosecution had to prove beyond reasonable doubt that the African National Congress intended to establish a Marxist-Leninist state, in the sense that it intended to establish a state, which would have the fundamental Marxism-Leninist attributes.

As previously stated, the Court found as a fact that the African National Congress, in the period of the indictment, had manifested a strong left wing tendency and had actively worked for a new state radically different from the present, but that it had not been proved that it had become a communist organisation.

The strong left wing tendency which the African National Congress exhibited in the indictment period is illustrated by its adoption of the "Freedom Charter" and by the expression of certain views preparatory to the Congress of the People, held in June 1955, and thereafter, and I shall now proceed to deal with some of the evidence which relates to these issues.

The evidence showed that the African National Congress, and most of the organisations referred to in the indictment, as well as the present accused, were working actively together to replace the present form of state with a state based on the demands of the "Freedom Charter", adopted at the Congress of the People on the 25th and 26th days of June 1955. A copy of the "Charter" is contained in Schedule No. 7. Some of the organisations, such as the South African Peace Council and the South African Society for Peace and Friendship with the Soviet Union, while not actively working to achieve the aims of the "Freedom Charter", supported the Congress Alliance in their preparations for the struggle.

The following evidence illustrates the manner of co-operation between these organisations and the others in relation to the "Freedom Charter." The South African Society for Peace and Friendship with the Soviet Union held a public meeting on the 6th November 1955 to celebrate the 38th Anniversary of the foundation of the Soviet Union.

The Chairman was the Reverend D.C. Thompson. Messages were read from various Peace Councils in South Africa, from the South African Congress of Trade Unions, the Transvaal region of the Federation of South African Women, the Natal Indian Congress, the Transvaal Indian Youth Congress, the African National Congress Youth League and the South African Congress of Democrats. The messages, the speeches and the resolutions all reflect praise and adulation of Soviet Russia and its achievements.

On behalf of the South African Congress of Democrats for instance, the following message was read:

"Dear Friends,

On the 17th November, 1917, the people of old Russia throwing off from their workworn shoulders the parasites of Czarism, slackened off and set out on their task of establishing their own Freedom Charter.

They set out to achieve this against apparently hopeless odds. But this made it possible for them to set out on the path which led them to astonishing achievements in every field of human activity. Today the people of South Africa know that if it had not been for the people of the Soviet Union we would not now be discussing how to implement our own Freedom Charter and make it reality. We send you our heartfelt greetings on this occasion.

Yours sincerely, Peter Beyleveld,
National Chairman."

The South African Peace Council wrote to the Transvaal, Natal and Cape Peace Councils on the 24th September, 1954, in regard to the Congress of the People, and, inter alia, said:

"As pointed out above we must utilise the preparations for the Congress in order to raise the level of peace work and to win the support of thousands for the peace movement. There are two ways of doing this.....

In the second place we have to publish our own material dealing with these aspects. It will be our special task to see that peace becomes an integral (part) of the Freedom Charter and in order to do this we will have to increase both our printed material and the number of meetings, conferences etc. which we hold." Exh. E. 26A, rec. p. 1868.

The South African Peace Council also arranged a so-called Peace Exhibition at the Congress of the People in June 1955.

Coming to the "Freedom Charter" itself the following provisions thereof are important from the point of view of judging the nature of the state envisaged therein.

"The People Shall Govern.

Every man and woman shall have the right to vote for and to stand as a candidate for all bodies which make laws:

The People Shall share in the Country's Wealth.

The National wealth of our Country, the heritage of all South Africans, shall be restored to the people: The mineral wealth beneath the soil, the Banks and monopoly industry shall be transferred to the ownership of the people as a whole:

The Land Shall be Shared Among those who work it.

Restriction of land ownership on a racial basis

shall be ended and all the land re-divided amongst those who work it, to banish famine and land hunger.

.....
And shall have the right to occupy land wherever they choose:

All Shall be equal before the Law.

.....
The Courts shall be representative of all the people:

Imprisonment shall be only for serious crimes against the people, and shall aim at re-education, not vengeance.

The police force and army shall be open to all on an equal basis and shall be the helpers and Protectors of the people.

.....
There Shall be work and Security.

Men and women of all races shall receive equal pay for equal work.

There shall be a forty-hour working week, a national minimum wage, paid annual leave, and sick leave for all workers and maternity leave in full pay for all working mothers:

.....
There Shall be house, Security and Comfort.

.....
All people shall have the right to live where they choose, to be decently housed and to bring up their families in comfort and security; Unused housing space shall be made available to the people:

.....

There Shall be peace and Friendship.

.....
 The people of the protectorates - Basuto-
 land, Bechuanaland and Swaziland - shall be
 free to decide for themselves their own
 future.

.....

The form of state based on the demands set out above is in our view radically and fundamentally different from the form of the present South Africa in regard to its political, social and economic structure. This difference was realised and emphasized by leaders of the African National Congress.

In an article 'In our Lifetime' written by the accused Nelson Mandela in 'Liberation' of the 19th June, 1956, it is stated:

"The Charter is more than a list of demands for democratic reforms. It is a revolutionary document precisely because the changes it envisages cannot be won without breaking up the economic and political set-up of present South Africa. To win the demands calls for the organisation, launching and development of mass struggles on the widest scale. They will be won and consolidated only in the course and as the result of a nation-wide campaign of agitation; through stubborn and determined mass struggles to defeat the economic and political policies of the Nationalist Government; by repulsing their onslaughts

on the living standards and liberties of the people.

The most vital task facing the democratic movement in this country is to unleash such struggles and to develop them on the basis of the concrete and immediate demands of the people from area to area. Only in this way can we build a powerful mass movement which is the only guarantee of ultimate victory in the struggle for democratic reforms.

Only in this way will the democratic movement become a vital instrument for the winning of the democratic changes set out in the Charter."

The whole of the article as read into the record, Exh. G.1114, rec. p. 3539, is contained in Schedule No. 8.

In a draft personal message which Luthuli originally intended to give to the 1955 Annual Conference of the African National Congress, but which, according to him, might not have been sent, he stated, inter alia:

"In discharge of my duty as Leader of Congress, I feel it necessary for me in guiding conference to point out the implications of the Charter as I see it. An awareness of the implications is necessary before one can decide intelligently on the proposition. What is the implication of the Charter? The Charter definitely and unequivocally visualises the establishment of a

Socialistic State. It therefore brings up sharply the ideological question of the kind of state the African National Congress would like to see established in the Union of South Africa."

See Exh. A.J.L. 1, rec. p. 11536.

In cross-examination Luthuli gave the following evidence:

"Mr. Luthuli, I want to put it to you that you and the whole Congress Movement, you accepted the position that the Freedom Charter was a revolutionary document, and that it couldn't be put into effect without breaking up the whole political and economic set-up, of the present South Africa, that is correct is it not?.....I think that is generally correct.

And that we would have, once the demands are put into effect, one would have a state which differs radically and fundamentally from the present State? My Lords, I think in some respects, I think that if you read the whole of the Freedom Charter, My Lords, you will find that the demands made in the Freedom Charter are such demands really, My Lord, that you get in any bill of rights. For example, I think that if you were to make comparisons with the Freedom Charter, you will find that----- I am not asking you to compare it with

the present political and economic structure of the Union?.....I am saying that in some respects there are radical changes, in others they wouldn't be so radical."

The difference between "Africans' Claims" and the "Freedom Charter" was emphasized by the National Executive of the African National Congress in its report for the year 1956. The report refers to the African National Congress and its struggle and says:

"But in no case has it ever defined in clear and explicit terms the type of future South Africa we fight for. It is true that in 1943 it published the "Africans' Claims" and demanded equality amongst all sections of the population based upon the existing economic and political set-up in the country."

The report compares "Africans' Claims" and the "Freedom Charter" and, in referring to the former, says:

"it left unanswered a vital question of how it is possible to achieve equality between Black and White, for example changing the character of the ownership of the gold mining industry."

The report further states:

"The Charter goes much further than "Africans' Claims" and after mentioning some of the demands thereon such as "the people shall govern, all national groups shall have equal wealth" concludes as follows:

"for the first time in the history of the African National Congress our aims and objects have been set out in the clearest and most unambiguous terms," rec. p. 13738.

Professor Murray stated in his evidence that there was nothing in the "Freedom Charter" which was not consonant with communism. He conceded, however, that each of the demands taken separately was not necessarily communist and could be socialist.

He made it clear that the "Charter" was not a constitution and that the final form of the state envisaged in the "Charter" was not determined and that on the implementation of the demands, as they appeared in the Charter, the state envisaged could be a bourgeois socialist state, before the dictatorship of the people; it would be such a socialist state if the democratic parliamentary form of government were retained.

In this connection Professor Murray gave the following answers to questions put to him:

"I take it the Freedom Charter, subject to certain inferences which must be made, is silent about the form of government?.....
Quite silent about the form of government.
If there were introduced in the Freedom Charter parliamentary form of government and the freedom of political parties, then that would indicate that the proletariat of the dictatorship is not aimed at?.....Yes,
and free trade and capitalism also of course.

If in the Freedom Charter were to be inserted a reflection of the dictatorship of the proletariat, then--- Then it would be Communist Socialist.

And not bourgeois Socialist?--- Yes.

(rec. p. 6821).

Because of this evidence by Professor Murray the prosecution could not and did not rely on the "Freedom Charter" by itself as a ground for submitting that the object of the African National Congress was to establish a communist state.

Before the "Freedom Charter" was adopted at the Congress of the People in June 1955, there had been a campaign by the Congress Alliance to educate their members and the masses to send in "demands" which were to be collected, crystalized and incorporated in the "Freedom Charter".

For this purpose the National Action Committee of the Congress of the People on which the African National Congress was represented, issued a series of lectures which were widely distributed, entitled The World we live in, Exh. A.84, The Country we live in, Exh. A.85 and A Change is needed, Exh. A.86.

When judgment was given the defence had not argued the lectures in detail. The defence had stated that it would admit that the lectures contained some traces of communist influence but that it would argue that they did not reflect African National Congress policy.

A comparison of the lectures and the principles of communism as testified to by Professor Murray would, of course, indicate to what extent communist analysis and theory are to be found in the lectures.

As a matter of policy, the lectures cannot take the case for the prosecution further than the "Freedom Charter" which set out the policy of the African National Congress after the lectures had done their work. They do, however, tend to show how the members of the African National Congress were allowed to be politically educated.

The lectures are reproduced in Schedule No. 9. The first chapter in the "The World we live in" deals with the topic "the world is a world divided". It firstly gives an historical approach, citing the slave system and the feudal system, and, in regard to capitalism, it states:

"There was a later division - which is the division of classes of our own time - the division of capitalists and workers - though some of the old serf and feudal lord division still lingers on in many countries, including South Africa."

In a chapter "Understanding the World" it states, inter alia:

"The world we live in is, then, a world divided into classes - into masters and men. It is a world in which one small class of men the masters, those who own the tools, the machines, the factories, the mines, the

forests, the farms, live from the work of many, the working people, who own nothing but their ability to work. This system of some living and growing rich through the work of others we call exploitation....."

In a chapter "What is your labour worth" the conclusion is arrived at -

"Our world is a world of class struggles - where the workers struggle against exploitation for the full value of their labour and the masters struggle to exploit the workers as much as possible for their own enrichment."

There are also short chapters entitled:

"Divisions by Nations", and "Conquering the Colonies". They state, inter alia, that "the struggle of classes in our world has led to the conquest and enslavement of some nations by others", that England, France, Holland and Germany conquered countries by force of arms, "forcing the local native population to work in grinding poverty and exploitation in the mines, forests and plantations".

In the chapter "National Oppression" it is stated:

"They were exploited in a new way - a double exploitation - exploited as workers and oppressed and exploited as inferior people, subject races. This is the exploitation we call "imperialism" and those who suffer from it we call the colonial people."

In the next chapter "Struggle for Liberation" it is stated that in this age of imperialism the people's struggle has grown strong enough

"to burst out of the net of capitalist exploitation, to overthrow the old system of private ownerships of tools and machines and factories and to replace it with a new system - the system we call socialism - where there are no masters and no exploited men, but where all the factories and farms and mines and machines are owned in common by all the people who work for their own benefit and are used not to make profits for a few".

In the last chapter it is stated :

"We live in a world divided into imperialist countries - England, America, France, Holland, Belgium - which oppress and exploit the colonial countries in Africa, Asia and South America. We live in a world divided into two sections - the section where capitalism rules and exploits the people; and the sector where the means of production have become the common property of all people and exploitation of man by man is being abolished - China, the U.S.S.R., Poland, Hungary, Rumania, Czechoslovakia. We live in a world aflame with the fight for freedom from imperialism and exploitation through which the people move steadily forward to a better life....."

It is the Congress Movement which organises South Africa for this great democratic struggle. Our Congress Movement is part of a great world brotherhood for liberty."

In the second lecture "The Country we live in" the form of government in South Africa is considered as an imperialist system of oppression.

The last phase of this form of government is said to be fascism and the lecture ends as follows:

"To challenge it, there is need for a close unity of all the oppressed people, together with all those democrats and liberty loving sections of the European people, whose future is threatened by fascism. Such alliance cannot hope to defeat fascism only by seeking to change the government of the day. For fascism is not a particular body of men. It is something that grows out of the economic and social conditions produced by imperialism and can only be defeated by such sweeping radical changes in those conditions as will destroy forever the breeding ground of fascism. Let us study what those changes should be, if the alliance is to destroy fascism, before fascism destroys the people."

In Lecture 3, "A Change is Needed" it is stated that the Congress Movement cannot be satisfied with

the type of changes the Parliamentary parties seek to bring about. The Congress Movement must seek the changes which will undermine and root out the system these parties seek to uphold.

In regard to co-operation with others the lecture states:

"It would be childish and foolish to say that because these others are not prepared to go all the way with us in seeking to end imperialism therefore there can be no shortlived alliances with them for the immediate things we all want for immediate changes, we can find allies outside the Congress Movement, who work together with us or work along our road for a short time. Such has been the case in the campaign against removal of the Western Areas, in the fight for recognition of African Workers' Trade Union, in claims for higher wages. It is from campaigns like this, in which we work with allies, who will not always be with us, that we build up our strength and our support for the great sweeping changes that must be made before imperialism is ended."

In dealing with the nature of the changes and with the position of parliament the lecture states:

"Clearly it has to be so completely changed that the type of parliament we know today disappears and a new kind of

parliament altogether replaces it. First, it must be a parliament elected by all the adults of all races, in the equal vote/ or vote basis. Then it must be a parliament freed from the South Africa Act, the so-called constitution - which enshrines the principle of white supremacy."

In asking "Is it possible?" the lecture says -

"Can such a radical sweeping change be made little by little, by one reform after another, by a long period of small concessions of the idea of race equality?"

It then states that parliament makes the laws for the ruling class and its authority as supported by the armed force, which consists of the police paid to uphold the laws of the ruling class, the army, the judges and the courts. The ruling class also controls the radio, the cinema, the daily press and the answer is then given:

"It is clear that such a rule as this cannot be set aside by minor concessions and reforms....The Congress Movement must build for itself a new kind of rule, a new kind of State - a State of people's equality and liberty. That kind of State we call a 'People's Democracy'."

In dealing with the question "How is it Possible" the lecture ends by stating:

"Only by gathering all the oppressed and the liberty-loving people together into a single mighty camp which will work to win, not only the small concessions and reforms, but which will work also to overturn the very basis of imperialist oppression. This is the task for which the Congress Movement exist. While organising the people in every little fight and struggle of their daily lives it must put forward to them a programme of sweeping changes which will unite all the different sections, all the different racial groups and classes, for the greatest changes of all. The Congress Movement must find the way to explain to the people in words they can understand, what a 'People's Democracy' is. This is a task that lies before the Congress Movement, and especially its national conference. If what is said in these documents is correct, then it is suggested that the following points at least must enter into the programme which will inspire people to make that sweeping change. These suggestions are only suggestions. They are put forward for the serious consideration and discussion of the Congress Movement. They must be further clarified, explained and formulated before they will fully serve their purpose.

WHAT IS A PEOPLE'S DEMOCRACY?

For South Africa it is suggested:-

- (i) Everyone must have an equal right to vote for and be elected to an official position in the State.
- (ii) Police force and army must be replaced by a genuine people's armed guard to uphold the rights of the people.
- (iii) The biggest, imperialist monopolies and industries, including mines and factories, must become the property of the people.
- (iv) The farming land of the country must be shared out on an equitable basis amongst all those who work on the land.
- (v) The equality of all races and sexes must be guaranteed by laws and all discrimination be declared a crime.
- (vi) The right to form trade unions, to enjoy living wages and security in old age, sickness and unemployment, must be guaranteed by law.
- (vii) The right of all citizens to speak, move, assemble and organise freely must be guaranteed by law.
- (viii) Housing must be provided for all the homeless, by a re-distribution of present housing, and schools and hospitals to be equally opened to all without discrimination."

.....

"Such a sweeping radical programme is a programme for a South African People's Democratic State. It can only be achieved, if the control and power of state is taken out of the hands of the old ruling class of exploiters, and held firmly by the workers and peasants, allied with all others who see that South Africa's future happiness cannot be won while the state is the property of the exploiters and the oppressors. To make such a sweeping change, needs a vigorous active Congress Movement, built up of militant, courageous men and women, whose lives have been dedicated to the greatest cause in the world - the cause of the liberation of mankind."

Luthuli in his evidence in chief was asked to comment on these lectures. He gave the following reply:

"With regard to the outlook in those lectures, the outlook on history and economics and politics, have you any comment to make?...It is a very general comment to this effect that as I have said we require a knowledge of history and economics. I would say they have a bias towards socialism or leftism, the degree I would not venture to say but they do have that bias.

In the lectures, as subsequently in the "Freedom Charter", the final form of state propagated is not delineated, although in the lecture "The World we live in" it is stated with obvious approval that the people's struggle has become strong enough to overthrow the old system and replace it with "a new system - the system we call Socialism - where there are no masters and no exploited men, but where all the factories and farms and mines and machines are owned in common by all the people who work for their own benefit and are used not to make profit for a few."

However, when in the last lecture the ideal state, the people's democracy, is held out there is no indication of the form of its government. Had there been a reference, in some way or other, to a dictatorship of the proletariat, it would have propagated a communist people's democracy.

In regard to the use of the word "people's democracy" generally, Luthuli, in cross-examination, gave the following replies:

"Mr. Luthuli, an imperialist and a capitalist country, would the African National Congress ever describe such a country as a people's democracy. An imperialist country and a capitalist country?
 ...My Lords, I wouldn't say the African National Congress. I think different people would use different expressions and attitude there My Lord.

Now the African National Congress does use the expression 'people's democracy?'.... It does use it, I cannot recall an instance, but it does use it.

And the African National Congress would never call an imperialist or a capitalist country a people's democracy, you accept that?....I would accept that?...I would accept that.

And that whenever the expression is used it is always used by reference to the so-called communist satellite countries, such as Poland, Hungary, Rumania, Czechoslovakia?...I think so, My Lords, as it is so in general use."

In regard to whether or not the African National Congress intended to propagate a communist people's democracy, attention must be drawn to the Suppression of Communism Act, No.44 of 1950, in terms of which the propagation of such a state would have been an offence.

Apart from the provisions of this Act, I think that on the evidence there is room for a conclusion that the propagation of a communist state would not have met with the approval of all the leaders of the African National Congress.

In his draft message to the 1955 Conference, portion of which has already been quoted above, Exhibit AJL.1 rec. p.11537, Luthuli says:

"Either deliberately, by design, or by a policy of laissez faire the ANC never faced the ideological issue of the kind of State Congress visualises. In general talk some leaders in Congress expressing personal opinions have said that having regard to the fact that the African National Congress is an omnibus organisation embracing people belonging to different ideological schools of though it is wise for Congress not to cause internal strife by fostering an internal ideological war. We must accept the fact that not only among the African people we seek to liberate, but among Congress members themselves, we have some people with a Capitalistic outlook, others with a Socialistic outlook, and yet others with a Communistic outlook. The question is what is the leaning of the majority of the African people, and also what is the leaning of the majority of the members of Congress? Congress can determine its policy in the light of what it thinks is best for the Africa it is working for, regardless of what Africans of Congress think."

Luthuli proceeded to state that in his view the majority of the African people were "mildly capitalistic in outlook," as a result of association with the British, that African economy was based on

family enterprise, and that his own personal leanings were towards the modified socialistic state along the pattern of "the present day Great Britain, middle of the road State between the extreme ultra-capitalistic State as we see it in the United States, and the ultra-Socialistic State as we see it in Communist Russia."

He went on to say:

"It is interesting to note that the people through their government and parliament have decided on a Socialistic State. My advice to Conference would be to accept the Charter with the qualification that it does not commit itself at present until further discussion on the principle of nationalisation, of means of production, as visualised in section 3 of the Charter."

Another indication that communism as such had not been adopted by the African National Congress is to be found in the attitude of a man like Mandela, who in 1956 foresaw a non-European bourgeois advance under the Freedom Charter; see his article "In our Lifetime", published in "Liberation" of 19th June, 1956, Schedule No.8 where he, inter alia, states:

"Whilst the Charter proclaims democratic changes of a far reaching nature, it is by no means a blue-print for a Socialist State by a programme for the unification of various classes and groupings amongst the people on a democratic basis. Under

Socialism the workers hold State power. They and the peasants own the means of production, the land, the factories and the mills, all production is for the use and not for profit. The Charter does not contemplate such profound economic and political changes...

The breaking up and democratisation of these monopolies will open up fresh fields for the development of a prosperous non-European bourgeois class. For the first time in the history of this country the non-European bourgeoisie will have the opportunity to own in their own name and right mills and factories and trade and private enterprise will form and flourish as never before."

On the other hand, there is the indication that a group in the African National Congress wanted the members to understand the state mentioned in the Freedom Charter to be a communist People's Democracy. It is to be found in a set of lecture notes prepared by the Transvaal Provincial Executive of the African National Congress, Exhibit LIM.137, rec. p.930.

The title, and the first three paragraphs of lecture 2, read as follows:

"The Transvaal Provincial Executive has prepared a set of lecture notes 'WHAT EVERY CONGRESS MEMBER SHOULD KNOW' to be

used in classes and discussions for new members. There are 8 lectures in all: here is the first one. It is planned to issue all the lectures in a small booklet to be used for Congress Education through the Province.

'WHAT EVERY CONGRESS MEMBER SHOULD KNOW.'

How South Africa is Governed:

Before the Europeans came, the country was governed on the tribal system. The Chief was the head of the tribe. But when laws had to be made or decisions taken, the chief called together the people in a 'pitso' or 'Lokgotla' etc. That was 'Government by consent'. The people agreed to the laws and obeyed them because they were consulted, and they helped to make the laws and run the government.

Today, the power of Government, of the State which makes the laws, is not held by the people. Power is held by the ruling classes of white mine-owners living both in South Africa and in Britain and America; it is held by the wealthy owners of large-scale factories and financial concerns; it is held by the Afrikaner farmers. These classes are represented by the Nationalist and United Parties. The power of state is not exercised for the benefit of the people. It is used to permanently subject the people. It is used against the people

to ensure the profits of the few.

Congress aims to replace this Government of the few, with a government of People's Democracy. In a peoples' democratic state, the power of state will be exercised by the people. That is by the working people of all colours, together with all other democratic classes who will work for the changes set out in the Freedom Charter. This will be a government of the people as a whole; of the present oppressed and exploited classes used to achieve their maximum well-being, and to prevent the 'few' exploiters from regaining state power."

The defence submitted that the passage of the lecture quoted above did not expressly say that a dictatorship of the people was aimed at and that if the word 'people' meant the proletarians loyal to the Communist Party, the description could be a veiled reference to a dictatorship of the proletariat but that the document as a whole did not indicate that one should give the 'word' 'people' that meaning.

It was also argued that, although one of the objects of the dictatorship of the proletariat was to prevent the old exploiting class from regaining power, it did not follow that if one said the old class should not regain power one was talking about the dictatorship of the people,

because, so it was said:

"Any political movement which aims to bring about changes in a country will naturally hope that the clock will not be put back in the future, that its opponents will not regain power."

In my view, the statement in the lecture that Congress aims to replace the present government by a people's democracy in which the power of state will be removed from the existing "ruling classes", and transferred to the "people" i.e. the "working people together with all the democratic classes who will work for the changes set out in the Freedom Charter", and that the government will be used to prevent the exploiters, i.e. the existing ruling classes, from regaining state power, is a clear indication that the "people" referred to in the lecture are only those who support the Freedom Charter. The "people" exclude the existing "ruling classes".

It follows that for the purpose of exercising state power, "the people" are those who support the Congress Alliance as the leading group in the state and as the group representing the oppressed masses.

According to the evidence of Professor Murray the concept of "people" in a communist people's democracy refers only to supporters of the leading group in the regime i.e. the communist party, as leader of the workers and the masses. The reactionary groups such as landlords,^{and} monopolists must be eliminated on the principle that democracy is

only for the people.

If this concept of "people" is compared with the concept of "people" in the lecture there is no doubt that what the Transvaal Provincial Executive envisaged in the "Freedom Charter" was a state having the pattern of a communist people's democracy.

Against the prosecution must be noted that this fact by itself, and in the absence of other evidence does not warrant the inference that the African National Congress as a whole viewed the proposed state in that light.

As far as the issue of communism is concerned we must mention at this stage that no evidence was adduced in proof of the allegation made in the "Summary of Facts" that after the South African Communist Party was dissolved in 1950, the organisations of the Congress Alliance were infiltrated by members of the defunct Communist Party and that such persons were appointed to executive positions in those organisations.

The evidence ~~did~~ ^{sd} show that when the party was dissolved a small number of executive leaders of the African National Congress were members of the party such as Moses Kotane, who was also General Secretary of the Communist Party, and D. Tloome and others. In addition, on the question of membership of the African National Congress, Luthuli in the course of his evidence declared that members did not share the same opinion on every topic; there were for instance "leftist" and "rightists", liberals,

conservatives, communists and nationalists in the organisation; the common link between all these people was "a desire to see the non-European people in particular free in this country." There was no interrogation of applicants for membership to ascertain their political views since, although - so he explained - the constitution made provision therefor, "in a mass movement for one thing...because we are a mass movement, it is extremely difficult."

In reply to a question whether he knew of any communist who joined the African National Congress, after the dissolution of the Communist Party, Luthuli said:

"I don't know of any communist who joined after it was dissolved in 1950. All I know are those that were members of Congress before then."

Apparently there existed degrees of Leftism in the African National Congress. This is referred to by Luthuli in his evidence on his own position and on the so-called "Hauser" letter, which he admitted he wrote. His evidence on this issue under cross-examination is as follows:

"What do you mean by leftist? - I think I have already said in my evidence in chief, I have no expert knowledge of what communism is, and when I use even the word leftist I use it in the - as it is used currently, generally. A person who has leanings towards socialism as

distinct from what we generally regard as capitalism. Now I am not in a position to say well leftism is communism, because I really don't know, I do not at all want to pose as an expert of communism, I don't know what communism is. But any person off the centre, I say is a leftist.

BY MR. JUSTICE BEKKER:

When you use the word leftist, exactly what have you in mind? - When I use the word leftist, My Lord, I use it to indicate that that particular person does not share the views expressed generally by what commonly we known as capitalism. For instance, My Lord, I would take the Labour Party in England as leftist. I would take to a limited extent the Labour Party when it existed here as leftist. I would take the - even the Liberal Party as leftist. That is the meaning that I personally attach to it. When I am asked whether or not leftism is synonymous to communism, - I don't really know what Communism really is.

BY MR. TRENGOVE:

On your explanation of leftist, you would also be a leftist, wouldn't you? - Yes, I think I am on the left. I am not in the centre, nor the right.

You are also a leftist? - I think so.

And a man like Mr. Tambo, would he also be a leftist? - My Lords, I wonder

whether I would really be able to describe people, but I would take Mr. Tambo to be, as far as I know him, I would take him to be a leftist in the sense that he -- I think he leans towards socialism just as I do.

And the A.N.C. as organisation would be leftist according to that definition of yours? - I would take the A.N.C. insofar as it faces the issue to lean more towards socialism.

So you would never be concerned to admit or to disclose to anybody that the African National Congress and its leading members are leftist, if that is what you mean? - I don't follow the question. It is not something that you would hide from anybody, that the African National Congress and its leading members are leftists in the sense that you have just explained? You wouldn't try to hide that facts? - No, I wouldn't My Lord. If that is so, how do you explain this letter, ORT.17, which bears your signature and which is marked 'Confidential?' 'Dear Mr. Tambo,' - it is dated the 8th June, 1956 - 'Dear Mr. Tambo, In connection with the question of my preliminary exploratory approach to the Hauser Group for financial aid to launch our newspaper, you will note that in his letter, that Mr. Hauser

raises even at this early stage the question of the editor. I suppose he wants to make sure that their money does not help leftist ascendancy in the African National Congress. Whatever we may do internally by way of editing the paper, could we not for their purposes say that you and I were editors. This would dispel American fears and suspicion. I do not like to raise this note sharply in my official letter on the subject, especially because I seem to propose myself, but if you have no strong feeling against my suggestion, you could pass on the suggestion to the Working Committee. Discuss the point with Dr. Blaxall. Yours sincerely, A.J. Luthuli.

Why were you prepared to be dishonest about the leftist ascendancy in the African National Congress? - I wasn't dishonest. Can you explain that letter? - Yes, I can.

If you were prepared to admit to the world that the African National Congress was leftist, the Executive was leftist, why do you want to hide that fact from the Hauser Group, why do you want to use your name and that of Tambo as the editors in **order** to allay the fears of the Hauser Group as to the leftist ascendancy? - I don't - My Lords, I think that the back-

ground here is necessary. I don't at all withdraw that I used the word 'ascendancy' there. Now I have already indicated, My Lords, that I don't run away from - if a person says I am leftist to the extent that I lean towards socialism, now there would be naturally degrees and degrees of leftism. Now what I was trying to convey there, My Lord, is this that there was the Hauser Group, which seemed to be prepared to help us in establishing - I think we were seeking money to establish a press. Now I knew that America is pretty sensitive about leftism, and I know, that even a group like the Hauser Groups knows that in the African National Congress there are people who have leftist tendencies in different degrees, and they probably would hesitate to support a venture where they were not sure of the views of the editor at least, and I was merely suggesting there, My Lords, that at any rate so far as I was concerned, I have already said that I am leftist in the sense that I am off the centre towards socialism, but that would not be offensive as I felt and still feel, with the Hauser Group. But they might feel that there are others in the African National Congress who might be more leftist than I was.

Now that wasn't suggesting, My Lord, that there is an ascendancy as a fact.

Whose names were you afraid of having as editor, of submitting to the Hauser Group as editor? Whose names were you afraid of? - My Lord, I cannot give really specifically to say that I thought of so and so and so and so, but having regard to the general atmosphere and the attitude of the American public towards communism, I felt that - and it is a fact that in Congress we have leftists, one has already said that, I didn't have in mind specifically at the moment, but wanted to assure the Hauser Group that at any rate whatever they might think of some of us, I would take that responsibility, I didn't have at that moment any particular name. You knew according to what you say now that there were people who **might** qualify for the editorship of this paper on your Executive who were much further left than you were. You knew that, is that correct? - There could be. No, not there could be. You knew that there were? - Yes, some people whom I might think are further left than I. And so far left that the American Hauser Groups might refuse a loan? - Well, I am not prepared to go into the degree, but I didn't want to take any. I am not

prepared to go to the degree of saying that degree and that degree.

On the issues raised by the prosecution in this chapter and which are being considered, such as the attitude of the African National Congress towards world affairs, its reference to struggles elsewhere by so-called oppressed peoples, its attitude towards Soviet Russia and the issue of communism, a vast number of documents were put before the Court.

In dealing with the documentary evidence a distinction must be made between publications issued by the African National Congress itself and those issued by persons or committees not purporting to act on behalf of the African National Congress.

We have it for instance that publications like "Fighting Talk", "Liberation" and "Advance" (later "New Age") were issued in support of the liberatory movement in South Africa, but independently of the African National Congress.

The contents of these bulletins do not constitute the policy of the African National Congress by reason of the publication thereof. On the other hand the African National Congress and the Congress Alliance urged its members to read and study these publications.

In the bulletin "Call to the Congress of the People", a special issue of "The Call", May, 1955, the lecture "The Country we live in" appears, and in an article, "After C.O.P. what next", the duties of volunteers are discussed.

The following, inter alia, is stated concerning the volunteer:

"He must spread amongst the people understanding and knowledge by distributing to them the congress leaflets and pamphlets and the publications like "New Age" "Inyaniso," "Fighting Talk" and "Liberation" which support Congress aims".

A summary of some of the topics dealt with in "Fighting Talk", "Liberation" and "Advance" ("New Age") in chronological order appear in Schedule No.10. A few of the Summaries are quoted:

" THAT society has been changed for the better by using the philosophy of Marxism as a guide to action, and that Stalin, in particular, imbued with the teachings of Marx and Lenin, lent impetus to the movement. 'Fighting Talk', March 1954, record: 2976/8 Article 'Stalin, Leader of the New Type' .

THAT in order to cower an entire world which fails to bow before dollar penetration the United States of America is engaged in preparation for deliberate mass murder; it is helping to prepare atomic murder by claiming that it is acting in a good cause: the cause of anti-socialism. 'Fighting Talk', April 1954, record: 2978/9 : editorial.

THAT in South Africa today, many liberal-minded people are bound by outmoded, inappropriate and bourgeois concepts. They are tempted to compromise and to temporise because of their fear of revolution; they lack the determination to overthrow the tyrant.

'Fighting Talk', April 1954,
record: 2981/2 : article: 'An object Lesson
 a Reader' by R.J.R.

THAT the real opposition to the National Government is not constituted by the United Party, or any other parliamentary party; and that the Government itself recognises that the Liberation Movement, headed by the African National Congress, is its principal antagonist on the road to the totalitarian slave state which is the Government's goal.

'Fighting Talk', March, 1955.
record: 3006/7.

THAT there had been a time when the African National Congress suffered from European 'sympathisers' of the Race Relations type. Their advice was invariably in the unfortunate direction of counselling 'moderation', compromise and concession, and opposing outspoken demands for equality and militant forms

of struggle.

'Fighting Talk', March, 1955.

record: 3008.

THAT South Africa is an indispensable part of the war-machine today. We fit in completely as part of this so-called crusade against Communism which is led by the United States. In this connection it is to be noted how closely the American attack on civil liberties is followed in South Africa.

'Fighting Talk', August, 1955,

record: 3027 : author: Hilda Watts.

THAT while the war-cry is still against the Soviet Union, every military act of the preceding decade has been not against the U.S.S.R., but against the people of the colonial countries like Korea, Kenya, Malaya. The menace of aggression, so loudly proclaimed, is now tacitly admitted to be the menace of popular movements advancing within countries, especially colonial and semi-colonial countries. The world preparations for war and the restriction of civil liberties, here and elsewhere, go hand in hand. The military machine is being prepared for use against the people. Freedom and Peace are bound together.

'Fighting Talk', August, 1955,
record: 3027/8 : author: Hilda Watts.
Article: 'Don't look now - but...'

THAT in the space of little more than a generation, one third of the human race has been removed from the capitalist society, and the orbit of capitalism, and is today building a new type of society; a society in which the exploitation of man by man has been eliminated.

'Fighting Talk', September, 1955,
record: 3029 : author: Brian Bunting.

THAT the forces in the contemporary world were to be seen as two great camps: one camp fighting for independence and equality of all peoples, and the other camp bent on perpetuating the old inequalities between master and subject races and the exploitation and subjugation of colonial peoples.

'Fighting Talk', April, 1956,
record: 3054 : author : 'a leading member
of the A.N.C.'"

"LIBERATION".

"The true alternative to the Swart-Strijdom dictatorship which threatens us is a real and vigorous people's democracy, embodying the demands and aspirations of the

millions of subjugated people of our country for land, equality, and freedom. The only road to that democracy runs through the efforts of the oppressed people themselves; through mass education, mass organisation and mass struggle, untiring building of National Movements and trade unions.

'Liberation', June, 1953,
record: 3549 : editorial.

THAT for years the Capitalist countries have lived on raw materials and cheap labour from Asia and Africa. The rise of the National Liberation Movements in Asia and the Pacific regions has forced the Imperial Powers to turn their eyes to Africa. It is here that the Imperial Powers of Britain, Belgium, France, Holland, Portugal and Spain have their chief or only colonial dependencies.

The internal contradictions and conflicts within the imperial camp are broadening daily. The countries of the aggressive Atlantic bloc are in danger of losing their national independence as a result of American interference in their domestic affairs. In their mad lust for markets and profits these Imperial Powers will not hesitate to cut one another's throats, to break the peace, to drench

millions of innocent people in blood, and to bring misery and untold suffering to humanity.

'Liberation', September, 1953, Article:

"Africa and World Peace".

record: 3461/3 : author : Mandela.

The claim advanced in some quarters that there must be a guarantee that any campaign embarked upon 'can be carried out peacefully' is to be rejected out of hand. Such a form of insurance is unknown in politics. In any case, every demonstration of the non-European people that has ended in some bloodshed has so ended as a result of vicious ~~Station~~ actions.

'Liberation' November, 1953,

record: 3471/2 : author: R. First.

THAT for the Imperialists the writing is on the wall. We live in an era when white domination and colonialism are coming to an end.

'Liberation', No.8 of 1954,

record: 3483/4 : editorial.

THAT the 'war being waged throughout the world, when stripped of the newspaper ballyhoo about 'the free world fighting Soviet aggression', is not a war against 'Communism', but, broadly speaking, an

aggressive war by the Imperialists, led and directed from the United States of America, against the colonial people of Asia and Africa.

'Liberation', No. 8 of 1954,
record: 3481 : editorial.

THAT there are potent signs that the country is ready for democracy, and that the Congress of the People is indeed, as Moses Kotane has shown, 'South Africa's Way Forward'.

'Liberation', No.8 of 1954,
record: 3484 : editorial.

THAT the Liberation Movement cannot hope for victory without organising the six million non-Europeans engaged in agriculture, the poorest and most oppressed group. This has become an urgent, practical issue. The time is long overdue for the building of a mighty peasants movement in our country. If the non-European workers and petty bourgeoisie are the head in the present struggle, the peasants are the backbone without which no victory is conceivable.

With the memory of Witzieshoek fresh in our minds, who can doubt that, properly organised and supported by the democratic movement in the towns, our people in the country-side are ready to resist

oppression. Effective organisation of the peasantry will raise to a higher level the entire struggle for National Liberation.

'Liberation', No. 10 of 1954,

record: 3490/1 : author Marutle Mokgohlwa.

For the oppressed African people, and for all democrats, white and black, there is no doubt where they stand in this great struggle of our times. We are not spectators, we are participants. Every victory for our colonial brothers is a victory for us. The Imperialists have been forced to give back India and China. They will have to give back Africa too.

'Liberation', October, 1955,

record: 3515 : editorial.

The United and Liberal Parties ^{are} and futile and irrelevant, as are all the other unstable groupings which seek so desperately for some neutral area between the embattled armies of Freedom and Slavery. There is no neutral area.

'Liberation', November, 1955,

record: 3523 : Editorial.

In the political and ideological spheres the theoretical level of members of the African National Congress should be raised to a higher plane. Congress ideology

and propoganda amongst the broad masses should be increased. There is a lack of appreciation of unity of theory and practice, which could enable people to understand not only how and in what direction the Liberation Movement is moving at the present time, but also how and in what direction it will move in the near future.

'Liberation', November, 1955,

record: 3526/7 : author: "Banned Leader".

That in all their desperate efforts to reinforce and restore their disintegrating colonial System, the Western Imperialists come up against one hard and immoveable factor. This factor has transformed the heroic but ineffective liberation struggles in the past into a vast and invincible movement which has abolished colonialism from more than twelve hundred million people over the past decade. That factor is the existence of the U.S.S.R. The U.S.S.R. is a great power irrevocably hostile to Imperialism, and with an industrial and military potential second to none. That is why an intensive hate campaign has been unleashed against the U.S.S.R.

'Liberation', November 1956,

record: 3502/3 : editorial.

If carried out properly, United Front tactics can considerably advance the struggle; place it on a higher level, and enlarge the influence and power of the people's movement. Under conditions that exist in our country the policy of the United Front needs to be pushed vigorously and skilfully. The people must be drawn into active struggle against the acts of Fascists.

The application of United Front tactics is called for in every situation, however. In one situation it might be correct for the Progressive Movement to unite with the potentially treacherous 'national' bourgeoisie, for example, when a semi-colonial country suffers imperialist invasion. In a different situation, for example, when two imperialist countries are involved in a war for the division of colonies, the Progressive Movement in one such country might find it necessary to organise against the war, to reject collaboration with the bourgeoisie, and turn the Imperialist war into a civil war in which the working class, under its leadership, seizes power. 'Liberation', November, 1956,

record: 3506/10 : author: J. Matthews.

'Building a United Front'."

"ADVANCE AND NEW AGE".

"THAT to protect their markets and investments, to crush the liberation movements, and to forestall the rise of revolutionary democracy in Africa, America and her satellites have established military bases all over the continent, and have made Africa a war base of the Imperialists in their schemes for world war and domination. This is the true explanation of the barbarous and cruel manner in which liberatory movements all over Africa are being suppressed. In their mad lusts for profits, and in their war preparations, the United States and her satellites have jeopardised the rights of people to national independence.

'Advance', 3.9.1953.

record: 3574 : author : Mandela.

E.62: 1905/7.

'New Age', 31.3.1955,

record: 3935.

THAT for hundreds of years the British have been butchering native populations (as presently evidenced by the atrocities in Kenya, Nyasaland and Malaya) as a method of repression, and to conquer, pillage, and plunder the indigenous people of China, Asia, Africa and elsewhere.

'Advance', 10.9.1953,
record: 3577 : author: Sam Kahn.

'Advance', 28.1.1954,
record: 3604.

THAT the need of the hour in our world, and in our century, is for a common front of all elements striving for Liberation, and for the political supremacy of the working masses, and their allies, and therewith the abolition of every form of exploitation and the constitutional use of tyranny.

'Advance', 10.9.1953,
record: 3577/8 : author: Sam Kahn.

The liberation of 500 million Chinese people is a turning point in the history of mankind. It is an inspiration to a leader of the oppressed people in South Africa, and gives confidence that victory will be achieved here as well.

'Advance', 5.11.1953,
record: 3582 : author: Sisulu.

THAT in the countries of Capitalism the working people are no longer prepared to wait in poverty, insecurity, oppression and dread of war. In every country of the Capitalist and Colonial world, there is an overwhelming rising tide of action for the demands of

the workers. In the Colonial and dependent countries the National Liberation Movement is growing. In the Capitalist countries whose governments have embarked on the armaments race, unemployment is growing and living standards are declining, while the profits of the capitalists are reaching enormous figures.

'Advance', 5.11.1953;

record: 3583/4.

In the camp of democracy and socialism (for example, in People's China) brutal exploitation and repression of the workers has been banished. In the Soviet Union people of different races and nationalities live together in fraternity and in a common desire for peace and freedom.

'Advance', 19.11.1953,

record: 3586/7 : author: Sisulu.

THAT the path of Liberation for the colonial people in the twentieth century lies in the building of powerful national movements which, united with the progressive forces in the metropolitan countries, will defeat the Imperialists.

South Africa is both Colonial and Imperialist at the same time, the National Liberation Movement having to be built in close proximity with advanced elements in the

oppressor group. The formation of the Congress of Democrats is an important step in resolving the internal contradiction with the democratic camp. The South African Congress of Democrats is an organisation of Europeans who believe in and are committed to struggle for the principles of the African National Congress.

'Advance', 17.12.1953,
record: 3590/1.

THAT it is madness for millions of ordinary people to let a handful of criminals sit at the top of this Capitalist system and guide us to hell.

Working people should own the factories they work, and the things they produce should go to making our lives easier and fuller. Instead we allow this small group to line its pockets, and send us to war. If we allow them to go on much longer we must be crazy.

'Advance' 18.2.1954,
record: 3612.

The people's Democracies and the Soviet Union and China stand firmly for peace and friendship with all democracy-loving people. They are anti-imperialist and anti-oppression.

'Advance', 25.2.1954,
record: 3613 : author : Sisulu.

There is a fundamental contradiction in South African society which neither the Oppenheimers nor the Verwoerds can solve. The contradiction exists between the interests of the handful of exploiters whom they represent, and the needs of the working people of all races. The Liberal Capitalists are just as much bound up with the system of white domination as the Nationalists. The Oppenheimers demand the unlimited right to exploit African workers.

'Advance', 1.7.1954,

record: 3636/7 : author: Ray Alexander.

THAT the history of the liberation of people from man's inhumanity to man has always been through a terrific struggle involving much sacrifice on the part of the oppressed. The oppressed in South Africa can have no cause for believing that they can attain freedom otherwise. Thus did the United States of America come into being; and in Europe the struggle for liberty and equality was also won by sacrifice and suffering.

'Advance', 18.7.1954,

record: 4224 : report of speech by Luthuli.

THAT under the cloak of defending itself against Communism, the Government of the United States is devoting all its resources and its financial power to propagating war, mobilising its economy for war, and producing frightful weapons of mass destruction. These wars are specifically directed against the colonial and semi-colonial countries, and, therefore, against the Liberatory Movement itself.

'Advance', 7.10.1954,
record: 3649 : author: Sisulu.

The workers as a class have the greatest interest in the development of full democracy in South Africa. Militant trade unions will play the most important role in the liberation of the oppressed masses.

'New Age', 9. 6.1955,
record: 3956 : author : E. Braverman.

THAT the Parliamentary Opposition is not merely a useless ally of the democratic forces, but a positive enemy. It does not only let the democratic organisation down; it deliberately obstructs and undermines them.

'New Age', 16.6.1955,
record: 3957: author: Peter Meyer.

THAT the Freedom Charter does not propose merely a reform of the present system, a patching-up of its worst evils, an amelioration of some of its conditions.

This Charter proclaims that only a complete change of state form can result in the people achieving their aims. Some groups, like the Liberals, have the illusion that real democracy can be achieved within the existing constitutional set-up. They believe that the repeal of certain laws on the statute book is sufficient. Such a purely reformist attitude is unrealistic and takes no note of history.

Every state form has been moulded to serve a particular set-up, and through the centuries, as one order made way for another, the emergent ruling group had to erect quite new state forms to consolidate its power. It had to do more than that. It had to break the stranglehold which the old regime had on the economy of the country, and, through the economy, on the state apparatus. It would, for instance, have been impossible to do away with serfdom and feudal social relations without breaking the economic power of the land barons.

If tomorrow every discriminatory law on the statute book were repealed, but the mineral wealth, monopoly industry and financial empires were not transferred to the

ownership of the people as a whole, the system of white supremacy would in its basic essentials be perpetuated for many generations.

'New Age', 17.11.1955,

record: 4039/43. author: 'Inkululeko'.

Let the oppressors know that every drop of innocent blood of the suffering Africans goes far and deep in welding together the souls of the oppressed masses. Our tears, and indeed the blood of our blameless fellowmen shed by the oppressors for the sake of upholding the bitterly hated white supremacy ideology in this country, will be taken into account on the day of reckoning which is fast drawing nigh.

'New Age', 3.5.1956,

record:4071/2 ; author: J.J. Hadebe.

That the World Federation of Trade Unions is a genuine workers' organisation. It does not preach or practise collaboration with the Capitalists. It gives wholehearted support to the workers in socialist countries, as well as those struggling against Imperialism. It stands four-square in defence of working-class rights, trade union democracy, international solidarity, and peace.

'Advance', 31.12.1956,

record: 3596; author: Ray Alexander."

The anti-imperialist, anti-West and pro-Soviet attitude in these bulletins and the condemnation of the parliamentary opposition parties in South Africa are often reflected in the official publications of the African National Congress.

As far back as 1951 the "African Lodestar" of December 1951, official organ of the African National Congress Youth League Transvaal, Exhibit JDM.9, rec. p.3141, predicted that the African National Congress Conference to be held in December of that year would make far-reaching decisions which would shape the future of the liberatory movement for the next ten years. Already the "people's democracy" is held up as the State to come. In an article on the van Riebeeck celebrations it said, inter alia,

"Some time in 1952 White South Africa is to revel in the celebration of their ill-fated landing in the sacred soil of the mother continent, Africa -

.....

For from being a year of celebrations, 1952 must be for us and for our allies a year of sincere and serious efforts to make certain that the van Riebeeck celebrations are the last that a White Government will be privileged to organise. The next celebration of a truly national character will be organised under the auspices of a democratic African People's Republic, to mark the establishment of a true people's

democracy in South Africa..."

An "End of the year message to our Youth" by Deliza Mji, President of the African National Congress Youth League, Transvaal, in this issue, concludes by saying -

"Let our youth advance therefore in the new year with a full conviction that when White South Africa celebrates three centuries of our degradation we shall in ten years' time celebrate the first anniversary of a true people's democracy in South Africa. Let this be our slogan: 'Freedom in our time'".

The same "Lodestar" has an article, "The British Elections", in which it is stated:

"The Labour Government was merely the conservatives turned upside down. How otherwise can they explain the criminal work of men and material in Malaya, all in defence of Capitalist investments and profits. How can we explain the intensification of suppression of national movement in Colonial Africa. Massacre in Uganda and Enugu were ordered by the Labour Government...."

The African must prepare for a really stiff fight ahead and must remember that with Churchill and others of his ilk, there can be no compromise. A militant struggle

to enable the seizure of power to be effected in the shortest possible time, is the only way of handling imperialists. That is the task to which we are called by the issuing into power of the conservative mob."

The extracts from the "Lodestar" of December, 1951, which were read into the record appear in Schedule No.11.

In an article in "African Lodestar", October, 1951, Exhibit JDM.10, rec. p.3151, entitled "The South African Trade Union Movement" it is said:

"Also the struggles of our other colonial people are showing us to which side, we as a people should incline. When we see a struggle coming to a climax, through the eyes of history, we are able to see that a certain form of government is decadent and the other offers for humanity the hope of a fuller, creative life in which man's inhumanity to man will be a thing of the past.

It is intended in this article to point out briefly the opportunistic and chauvinistic role of certain groups in African Society. Most serious politicians agree that at this stage of our history, all the forces of the nation must combine in the national organisation to defeat white domination, rec. p.3152.

In "Bulletin of the Youth League", Vol. No.5 (1952), Exhibit JDM.63A, rec. p.2945, published by the African National Congress Youth League, Transvaal, there is this item:

"News Round up from the Press.

- (1) Russia has now come out in open support of Mau Mau terrorists in Kenya. They are described as a national liberation movement. The term national liberation movement is used by Moscow to describe a Colonial Movement of a revolutionary character seeking to liberate areas and set up an independent regime. (in the Sunday Times, 26th October, 1952).
Our comment: That is exactly what a National Liberation Movement is."
(Rec. p.2945).

In the beginning of 1953 Dr. Mji, presented the opening address at the Annual Conference of the African National Congress, Cape Province, Exhibit CM.34, rec. p.3860.

He stated that the year 1949 had marked the beginning of a new temper amongst the African people, that a young militant leadership had been thrown up by the struggle and that:

"The petit bourgeois leadership saw in Congress, an instrument whereby they could advance the interests of and gain concessions for the articulate amongst our people.

That time is past. Friends, our struggle has given our movement a fresh and virile orientation. A new orientation! It has become increasingly clear that exploitation is evil whether it is practised by an African to an African (Cries of down with oppression!) We can no longer tolerate or fight for a system in which the lot of the ordinary man is left to the fortuitous later action of selfish economic interests."

He thereafter condemned the Suppression of Communism Act on the ground that an attack on the liberties of any group was an attack on all the oppressed people and by exclaiming that the sons and daughters of Africa had broken through its mesh and in disciplined and non-violent demonstration of defiance had almost brought the nationalist regime to its knees.

The address dealt with a number of bills piloted by the government and continued:

"Again there has emerged from the White Camp, a large number of so-called liberals, who shaken by the strength of the black man, are so afraid for their future, that they must now try to win the favour of our people, or try to be in such a position in relation to the struggle, so that they can be able to guide it along their own lines. Now, our people must be aware of so-called Liberals. Liberals have for a very long time been the backroom boys of the African National Congress. Liberals have for

whole century, stumped the political growth of the African people. The time has arrived when these belly-crawling amphibians should be ruthlessly exposed ..."

After dealing with what a liberal is to him he continued:

"I want to warn the African leaders that the temper of the common man is against all that Liberalism stands for. The people want to participate fully in shaping the destiny of their country, these they do not conceive as coming about (materialising) through gradualistic make shifts which must take them another one hundred years. They want freedom now. Freedom in our lifetime!!"

In April, 1953, according to Exhibit TT.28, rec. p.4259, the African National Congress Youth League at its 5th Annual Conference adopted a number of resolutions of which the following were read into the record:

"This Conference of the C.Y.L. re-affirms its belief in the inevitable triumph of the African people in their struggle for national liberation under the banner of African Nationalism. The Nationalism of the A.N.C. and the Youth League is a healthy progressive democratic nationalism, aimed at the destruction of fascism, colonialism and war, and the creation of

a new Africa in which man's inhumanity to man will be a thing of the past.

The Conference realises that a strong self-reliant independent African leadership is the only guarantee of genuine co-operation between all groups in South Africa fighting for democracy.....

.....

The African people must prepare for renewed attacks on the Liberation Movement and its leaders, whatever the outcome of the present election force in South Africa. Only by uniting around the A.N.C. and its militant programme can these attacks be met.

.....

This Conference recognises the need for the C.Y.L. to develop strong links with other progressive movements in Africa and in other parts of the world who are engaged in struggles against colonialism and national oppression. The incoming executive is hereby instructed to do all in its power to foster, advance and strengthen such relations.

This Conference registers its horror at the anti-African war being waged by the imperialists, British Imperialists, in Kenya. Conference realises that the Mau Mau is an invention of the British Imperialists who are using this threat as an excuse to crush the Kenya African Union and its leadership.

Conference expresses full solidarity with the struggle of the people of Kenya led by the K.A.U. and its leader Jomo Kenyatta. Conference condemns the attempt by the U.S. and its allies to make Africa a base in war against the Soviet Union. Conference serves notice on all imperialist powers the Africans will never...into war against the Soviet Union, but on the contrary resolves to intensify the struggle against all powers who have colonies in Africa.

Conference on behalf of the youth of South Africa expresses its deepest sympathy with the peoples of the Soviet Union who have lost a leader and a father through the death of Marshall J.B. Stalin. Stalin was not only an architect of the Soviet Union, but he has pledged himself to the cause of world peace and national liberation of oppressed peoples throughout the world. In this respect, the death of Stalin is a blow to all peaceful and freedom loving peoples of the world. The youth of South Africa hope that the noble ideals of Stalin have left as a heritage for the Soviet Union and the world, and the greatest memorial to him would be to strive so that peace and freedom ultimately dominate the world.

The youth of South Africa express their solidarity with the peoples of Rhodesia,

who under the leadership of Congress are fighting against Federation."

Luthuli, who was the president-general of the African National Congress delivered a presidential address to the 41st Annual Conference of that organisation at Queenstown in December, 1953.

That part of the address which is in the record p.2896 Exhibit NRM.11, is to be found in Schedule No.12.

Luthuli in this address stated that the liberatory movement in the Union must be regarded as part of the liberatory movement in the whole of Africa. With reference to the programme of action he said:

"It was in 1949 that this militant programme took shape and received the approval of the Annual Conference of the African National Congress. It is as well to point out that in this programme of action, many forms of carrying on the militant programme of action were agreed upon in principle. The non-violent passive defiance campaign of great fame was only one of the forms of militancy."

Dealing with the liberation of the peoples in Africa he stated:

"Our active interest in the extension of freedom to all peoples denied it, makes us ally ourselves with the freedom forces in the world."

"It is a matter of great concern to us that most of the territories in Africa are still under the grip of the imperialist powers of Europe, who maintain colonialism that keeps the inhabitants of these territories in subjugation and poverty. There are encouraging signs that the people in some of these territories are becoming politically conscious. We condemn most strongly the imperialist powers controlling these territories, permeating the most progressive moves of the people by tyrannical suppression. I would cite here the indiscriminate shooting and bombing of the African people by the authorities in Kenya on the pretext of resorting law and order when in fact it is to maintain their imperialistic hold in Africa."

In the report of the National Executive to the Annual Conference of 1953, Exhibit ZHM.6 rec. p.4461, there is a reference to the fact that the Secretary General, had been on an extended tour of Europe and Asia and that he had left the country at the express invitation of the Festival Committee of the World Federation of Democratic Youth and the International Union of Students which held their celebrations in Bucharest, Rumania.

A variety of matters is dealt with in the report, and in connection with the transfer of native education to the Native Affairs Department the criticism is voiced that the intention behind the

move was to prevent the ~~African~~ from "drinking deep from science or the humanities. He must not learn about the age old struggles of man against man. He must not know of Rousseau and the French Revolution. He must not read Karl Marx and learn of a Lenin, or a Stalin or a Mao Tse Tung. He must be ignorant of the struggle of the Colonial people which culminated in the expulsion of imperial powers from Asia and the emergence of the independent States India, Pakistan and the United States of Indonesia,

We must close our eyes to the events now taking place in the Gold Coast, Nigeria and Tunisia and we must not be inspired by the heroic and determined struggle of the Kikuyu people against British Imperialism."

In a paragraph under the heading "Events in Africa as a whole" the report states, inter alia,

"The British are engaged in cold-blooded murder in Kenya. They are intent upon exterminating the Kikuyu. They have brought into action the military might of the United Kingdom. Innocent Kikuyu, men, women and children are being wiped out in one of the most barbaric punitive expeditions the British have been engaged in including precision bombing against defenceless people. The sentencing of Jomo Kenyatta and others to 7 year imprisonment with hard labour by a Kenya Court for alleged participation in what is infamously

called Mau Mau activities, was a definite travesty of Justice. It is becoming clear daily to the colonial people that they will gain their freedom not by constitutional methods but through the hard fight by revolutionary tactics."

Under the heading "World Affairs" the report states that the Korean Truce Treaty is welcomed "after months of filibustering by the U.S.A." but that the democratic forces of the world view with deep concern "the warmongering tactics of the U.S.A. in subsequent discussions to arrange a political peace conference." Under a paragraph "The Accession of Eisenhower to Power" the report states:

"When in November, 1952 the people of the U.S.A. elected General Eisenhower into the Presidency of the U.S.A., the reactionary forces in the West favouring a third World War appear to have gained ground. They put at the helm of the so-called Western Block a man sponsored by the most reactionary forces in the world. President Eisenhower and John Foster Dulles vie with Churchill in fomenting war. To the ordinary people of the world, the accession to power of this Party meant increased danger of a third World Conflagration.....The oppressed peoples of Africa are aware that with the next world war their country will suffer the ravages of warfare no less than the countries of Europe did

during the last war. With the increased exploitation of the mineral wealth of Africa, including radio-active elements like uranium and plutonium, with the growing dollar investments in Africa the African people from the Cape to Cairo are resolved more and more to banish imperialism and colonialism from Africa, be it the colonialism of the old world or the dollar imperialism of the U.S.A. War brings suffering and disaster. We oppose war. Africa wants peace."

Towards the end of 1953 the African National Congress Youth League Journal "Africa", Exhibit CM.30, rec. p.3851, discussed the new state to come and stated inter alia,

"The people's Republic will be prosperous. All land to the People! All mineral wealth and resources to the People! These slogans will be the watchwork of the new system."

It concludes the article in the following words:

"Our first task will be to transform the Democratic Afrikanist Republic into a modern industrial State. This stage will be the democratic one in which all the Peoples, Workers, Peasants, Intellogentsia will combine to transform Africa into an efficient and well-organised State. At this stage inequalities of wealth might still occur.

When a solid basis exists the time will have arrived for a step to Africanistic Socialism and finally to Africanism, which is the stage when man's economic inhumanity to man is finally eliminated."

In 1953 the accused Nelson Mandela wrote an article under the title "No Easy walk to Freedom" which the Executive of the African National Congress, Transvaal submitted to the Annual Conference as a Presidential Address. It was thereafter published with an introduction written by the accused Resha, in his capacity as President of the African National Congress Youth League, Transvaal. In this introduction Resha declares:

"This dynamic and historic address, which in fact is the best ever in the annals of the oppressed peoples movement in South Africa, should serve us as an inspiration to all those engaged in the struggle for freedom and the elimination of man's inhumanity of man."

The introduction and the article, Exhibit A.309, rec. p.945 is in Schedule No.13.

The article refers, inter alia, to the Defiance Campaign of 1952 and claims:

"It was one of the best ways of exerting pressure on the government and extremely dangerous to the stability and security of the State."

The article wrongly states that the Public Safety Act, No.3 of 1953 made provision for the whipping of women. It proceeds to deal with the measures taken by the government against the Defiance Campaign and states:

"These developments require the evolution of new forms of political struggle which will make it reasonable for us to strive for action on a higher level than the Defiance Campaign."

After dealing with conditions in South Africa and the attitude of the government it states:

"But there is nothing inherently superior about the herrenvolk idea of the supremacy of the whites. In China, India, Indonesia and Korea, America, British, Dutch and French Imperialism, based on the concept of the Supremacy of Europeans over Asians has been completely and perfectly exploded. In Malaya and Indo-China, British and French imperialisms are being shaken to their foundations by powerful and revolutionary national liberation movements. In Africa there are approximately 190,000,000 Africans as against 4,000,000 Europeans. The entire continent is seething with discontent and already there are powerful revolutionary eruptions in the Gold Coast,

Nigeria, Tunisia, Kenya, the Rhodesias and South Africa. The oppressed people and the oppressors are at loggerheads. The day of reckoning between the forces of freedom and those of reaction is not very far off. I have not the slightest doubt that when that day comes truth and justice will prevail."

Towards the end of the article it is stated:

"Here in South Africa, as in many parts of the world, a revolution is maturing: it is the profound desire, the determination and the urge of the overwhelming majority of the country to destroy for ever the shackles of oppression that condemn them to servitude and slavery. To overthrow oppression has been sanctioned by humanity and is the highest aspiration of every free man. If elements in our organisation seek to impede the realisation of this lofty purpose then these people have placed themselves outside the organisation and must be put out of action before they do more harm."

In his evidence before us Mandela explained that by the phrase "powerful revolutionary eruptions" he meant political struggles for reform and independence, and militant struggles such as, in South Africa, the Defiance Campaign, rec. p.15803.

By the use of the words "day of reckoning" he said he meant to convey that the Government would not be able to resist a demand by the oppressed people for the changes which they felt it their right to enjoy and the phrase "In South Africa a revolution is maturing" was meant to indicate that there was a movement for profound changes.

The article proceeds to deal with the fact that the author and others had been banned from attending gatherings and says:

"We are exiled from our people for we have uncompromisingly resisted the efforts of imperialist America and her satellites to drag the world into the rule of violence and brutal force, into the rule of the napalm, hydrogen and the cobalt bombs where millions of people will be wiped out to satisfy the criminal and greedy appetites of the imperial powers, we have been gagged because we have emphatically and openly condemned the criminal attacks by the imperialists against the people of Malaya, Vietnam, Indonesia, Tunisia and Tanganyika and called upon our people to identify themselves unreservedly with the cause of world peace and to fight against the war policies and her satellites. We are being shadowed, hounded and trailed because we fearlessly voiced our horror and indignation

at the slaughter of the people of Korea and Kenya. The massacre of the Kenya people by Britain has aroused world-wide indignation and protest. Children are being burnt alive, women are raped, tortured, whipped and boiling water poured on their breasts to force confessions from them that Yomo Kenyatta had administered the Mau Mau oath to them. Men are being castrated and shot dead. In the Kikuyu country there are some villages in which the population has been completely wiped out. We are prisoners in our own country because we dared to raise our voices against these horrible atrocities and because we expressed our solidarity with the cause of the Kenya people. You can see that there is no easy walk to freedom anywhere, and many of us will have to pass through the valley of the shadow of death again and again before we reach the mountain tops of our desires."

At the 42nd Annual Conference of the African National Congress held in Durban 1954 an opening address was delivered by Dr. M.G. Naicker, President of the Natal Indian Congress, in which he, inter alia, stated:

"Today we find a great bond of friendship and understanding that has grown between our peoples through the joint, heroic struggle for freedom launched under the banners of our Congresses, and it is my fervant hope and

prayer, that jointly we shall advance together with all true democrats in South Africa to the goal which we have set to achieve - freedom in our lifetime."

In surveying the international situation Dr. Naicker said:

"We in South Africa have no hesitation in making our stand clear on the international question. As oppressed people, believing firmly in the ideals of democracy, we totally reject all forms of imperialism and colonialism. We reject the exploitation of man by man. We make common cause with the world-wide movement for peace, and are pledged to make positive contribution towards this peace for which mankind yearns."

At this Conference messages were read, inter alia, from the Women's International Democratic Federation and The World Federation of Democratic Youth

Luthuli, as President-General, delivered the presidential address. He deplored the decline of Liberalism in South Africa and stated that Europeans should be applauded who worked for the liberation of Africans on the basis of making the Union of South Africa a "true democracy" for all people regardless of their colour, class or creed. He expressed his gratitude for the formation of the Congress of Democrats "with which the African National Congress is in alliance in the Liberatory

Movement especially in the campaign of the Congress of the People."

Dealing with the "ascendency of the force of reaction," the "baasskap" spirit in South Africa he stated:

"This accounts for the fact that every day the United Party is becoming indistinguishable from the Nationalist Party. The long-awaited for new Native Policy of the United Party can be described as being a mark-time order from the drill master, Mr. Strauss, with an occasional march backwards order, as in the case of their decision not to give recognition to African Trade Unions, whereas the Party at one time seriously considered giving recognition to African Trade Unions. After all, both the United Party and the Nationalist Party vie for the position of being guardians of the traditional Native Policy of South Africa and the essence of this policy is the baasskap spirit of the Boer Republics where each white farmer was a supreme lord of his African servants."

In the report of the Executive to the Conference, a number of matters was dealt with.

Criticising the legislation of the Government the report stated that the legal frame work of a naked police state had been prepared and -

"In the last Act, the Nationalist Government, following the Hitler pattern, prepared the legal machinery for crushing the most

militant opponents of their rule, the working class and national liberatory organisation. Fascism does not arise until conditions call for it. It arises when the ruling class can no longer look forward to unlimited profit and to acquiescent people willing to be exploited."

The report proceeded to state that fascism had indeed arrived in South Africa and that there had been no opposition at all to the Nationalists on the Parliamentary front. After summarising what the African National Congress had done the report continued:

"Fascism came to South Africa as a result of an electoral majority in an election in which non-Europeans have no say. From the point of view of the ballot box therefore the non-Europeans can do nothing to their overlords and tyrants yet all concerned can successfully resist and defeat these oppressors. They must be fought outside parliament, in the towns, on the farms, on the economic, political and industrial spheres. They must be fought everywhere."

On the "International situation" the report, *inter alia*, stated:

"Therefore the struggle to free South Africa and indeed all Africa is a serious problem that will mean a struggle against six major imperialist nations and their

satellites such as Malan, Roy Welensky, Blundell and others. This is a formidable prospect. And yet the dynamics of history say that the imperialists are doomed to ignominious defeat at the hands of the oppressed africans."

In dealing with possible allies the report indicated that an ally would be judged according to whether he was in the anti-imperialist camp, whether he was for equality, pro-african and anti-colonialism. The report proceeded:

"We have year in and year out expressed our great concern over imperialist wars in Indo-China and Malaya. We now not only enthusiastically salute the victorious struggle of the Viet Minh against the powerful imperialists of France and America but have every reason to celebrate this victory and the end of the war in this part of South-East Asia. Yet, friends, the brutal wars are still being waged in Malaya, Kenya, Algeria, Tunisia and Morocco - all of which are in the continent of Africa except Malaya. We express our solidarity and sympathy with these countries in bitter and bloody struggle not excluding the people of British Guiana and other oppressed peoples in other parts of the world...."

The speeches referred to above and the

report of the Executive as read into the record, are to be found in Exhibit A.37, rec. p.234, Schedule No.14.

At the Annual Conference of the African National Congress (Transvaal) in 1954, the presidential address was delivered by the accused Moretsele, Exhibit 40, rec. p.292, Schedule No.15.

He stated; inter alia,

"On the other hand we witness attempts by the reactionary imperialist powers under the influence and leadership of American imperialism to plunge the world into another bloodbath, that will bring nothing but death, misery and starvation to suffering humanity with this object in view, the imperialist capitalist powers are intensifying their oppression and exploitation of the colonial and semi-colonial masses. The enslaved masses everywhere are very much indebted to the progressive powers such as the U.S.S.R., China, the New Democracies and India for the role they are playing in international politics."

In criticising the Government's banning of leaders of the "progressive" organisations the speaker said:

The Malan Government derives its support from the most politically backward and reactionary section of the white electorate

in this country, the big farmers and landlords, and in commenting on the future he stated:

"In this triumphant march towards fascism the so-called white opposition has collapsed. So now the only effective opposition to the Government are the national movements and their allies. Theirs is to grapple with the potential fascist beast to the bitter end."

The address is concluded as follows:

"The Government has provoked and attacked but we have remained disciplined. In other words we have not allowed the government to choose the time, the place and battle-grounds for us. Today, I say to the African people: Intensify your organisation and stand by awaiting instructions."

In an article by the Editor of the "African Lodestar", of January, 1954, Vol. 6 No.1 Exhibit A.20b, rec. p.861, reproduced in Schedule No.16, the landing of van Riebeeck is referred to and the result is described as follows:

"Thus one of the numerous talons of the octopus, that is white civilization, found a foothold on our beloved motherland, Africa. Thus began an era of plunder usurpation, of looting and robbing of deceit and deception, as ever the world has known or is likely ever to know. Throughout two centuries the greedy and bloodthirsty nations of Europe,

led by the Islands of Britain, unleashed a campaign of subjugation that Africa shall never forget."

After describing the old order of African Society as consisting of "tillers of the soil the herdsmen and shepherds" the article states:

"It was against these paid murderers, coming from generations of professional debased human beings, the renegades and moral refuge of England, Spain, Holland, Portugal, Prussia, Belgium and France that the sons of Africa took up arms to preserve their way of life their homes and families and their religion, their green pastures that teemed with wild game."

In the "African Lodestar" Vol.6 No.2 Exhibit SAM.9 rec. p.3126, Schedule No.17, there appears an "open letter" to Sir Winston Churchill. The author suggests that Sir Winston Churchill is a product of the Victorian Era,

"that despicable and debased period during which hordes of mercenaries set off on a robbing and pillaging spree..."

The letter, inter alia, says:

"Having seen and tasted all this, we the African Youth, emphatically declare that we desire to see no extension of that rotten kind of life to any other people in the world. We would, therefore, you

leave the people of Korea, Vietnam,
Malaya and Guiana in peace."

In the same issue of the "African Lodestar" there is an article: "Why Colonial Day on February, 21st."

It states that on that day in 1946 Indian Sailors in Bombay took to arms and revolted against the British colonisers, that on the 21st February, 1947, students demonstrated in Cairo for the withdrawal of British troops and that on that day, in 1948, a conference convened by the World Federation of Democratic Youth and the I.U.S. proclaimed the date as "an international day of struggle against colonialism and solidarity with the youth of colonial countries."

It further states that during Colonial Youth Day week meetings of solidarity were held in support of the youth of Kenya, Malaya and Vietnam and that scores of postcards pledging solidarity were sent "to that venerable leader of the African people in Kenya, Yomo Kenyatta."

In the "African Lodestar", Exhibit A.206, Rec. p.871, Schedule No.18 there is an article entitled:
"1955 - The Year of Decision."

It purports to analyse the political situation, refers to the "Nationalist bandits" whose "Police State" has become a hindrance to the development of the country suggesting that:

"the elimination of the Nationalist fascists - hangmen of the people, is the major task of the day - it is a just cause in the interests of human dignity, justice and peace."

The article deplores the organisation's weakness of lagging behind the masses suggesting that:

"such issues like the fight against rent increases are clear examples of tailism on our part...."

The role of the youth is defined in the following advice:

"On the one hand serve as the spear-head and shock-brigade of the Liberation Movement and on the other hand broaden as wide as possible the base of the Youth Movement itself."

As far as apartheid is concerned the article suggests that

"the song of the fascist advocates, the Verwoerds and the Strijdoms, is echoed in a more or less disconsonant style by the Strausses, some ministers of religion, buffoons and downright criminals."

In regard to the Liberals, it is suggested:

"For all their tearfulness (Cry, Cry the Beloved Country) and sympathy the Liberals do not really believe that this system under which the people live and which has given birth to apartheid is evil and should be destroyed..... The ideology of Liberalism is doomed to fail."

It will fail because it is wrong; it is wrong chiefly because it is out of date. It is a political anachronism. It is a pipe-dream."

Another set of documents is exhibit FJ.92, rec. p.1434, consisting of documents relating to the 22nd Conference of the South African Indian Congress held in 1956.

An annexure to the Secretarial report was a report from the National Consultative Committee to the Joint Executive of the African National Congress, the South African Indian Congress, the South African Coloured People's Organisation, the South African Congress of Democrats and the South African Congress of Trade Unions. It is reproduced in Schedule No.19.

It deals with the struggle against passes, and the class struggle is stressed in the following paragraph:

"2. Can victory be won in a single battle? In such a long drawn out war as the war against the pass laws it would be foolish to expect that victory can be won by a single action of the people. The pass system is the foundation of the whole cheap labour system in South Africa; the ruling class will not easily be forced to give it up. It follows that victory in the struggle against pass laws must not be looked for in every minor skirmish against the enemy. In a long drawn out battle, there will be many minor victories,

minor defeats, many advances, many retreats. But final victory for the people means the end of the cheap labour system of South Africa, can only be achieved finally by the overthrow of the ruling class, and by the winning of the Freedom Charter as the ruling policy of South Africa."

So far I have referred to a few documentary exhibits the contents of which cannot be disputed.

As previously indicated the prosecution led evidence of the contents of speeches made on many occasions at various places in the country, and it regarded these speeches as an important source from which the policy of the African National Congress could be ascertained.

The evidence concerning the speeches taken down in longhand has been subjected to criticism earlier in these reasons. Notwithstanding that criticism, and without putting any reliance on the actual words said to have been used by the speaker, it is possible to judge from many of the notes of the speeches that the same topics that appear in the documentary evidence were dealt with in the speeches.

I propose to refer to one speech only, which was taken down in shorthand.

This took place in 1955, at a public meeting of the S.A. Society for Peace and Friendship of the U.S.S.R. when shorthand notes were taken by Det. Sergt. Coetzee, an official Police Stenographer, of the speeches made by various people.

Henry Magothe, who was president of the African National Congress Youth League in 1954 and 1955 and who was later elected to the National Executive of the African National Congress, made the following speech:

"Mr. Chairman and Friends, on this, the first day of the Union of the Soviet Socialist Republic I bring to this meeting and to this gathering the greetings of the African National Congress in particular, and the African people in general. Mr. Chairman, several speakers have already spoken about the great achievements of the U.S.S.R. and about the significance of the celebrations that we are attending here today. I would like to say a few words, Mr. Chairman, on what the meeting of this celebration is to the African people. What is the significance of the celebration that we are attending here today? The 38th birthday of the U.S.S.R. Mr. Chairman, I think it is particularly important because propaganda is made in our country today by people for reasons best known to themselves, and because they want to subdue us; they always try to point a finger at the struggles of the African people, the leaders of the African people and seeing that these people are endangering the country, are sabotaging this country, I would like to say that the struggles of the African people are directed towards nothing but

freedom. Briefly, Mr. Chairman, I would like to say that this is the meaning of the founding the significance of the foundation of the U.S.S.R. to the struggle to our people, to the Africans in particular and the oppressed people in general in this country. Firstly, Mr. Chairman, the U.S.S.R. is an example to us and it is an inspiration to us to look forward to the future, to see even in our day to day struggle that the people are making towards freedom for peace and for liberty, the great Soviet Union stands to us as an example, and an inspiration that lies even in our small struggle, Mr. Chairman, if we do not falter and we can also look forward with some confidence to a future of peace. We can look forward, Mr. Chairman, to a future in which there will be no hatred. I do not want to go into details to describe to you how our people today are oppressed. how the people are misguided, how the people in this country are misguided by the propaganda which comes from the Government, from the race maniacs, who are at the head of the country today. When we look at the Soviet Union then we see how the Soviet Union had struggled and achieved freedom. Then we see that even we in our multi-racial country can look forward to peace with confidence.

Secondly, Mr. Chairman, the great Soviet Union has done away with exploitation of man by man. There is not exploitation of man by man in the Soviet Union, and we also in the African National Congress and the people of the entire country, are looking forward to that day when exploitation of man by man will be something of the past. Further, Mr. Chairman, when we look at the Soviet Union today we see the great peaceful constructions that are taking place in the Soviet Union; we see in the Soviet Union the creation of universities for their youth; the creation of facilities for the peoples of the Soviet Union. These people are creating better and better living conditions, creating a better life for the youth of the Soviet Union, creating huge wonderful universities and creating all kinds of places to enable the people of the Soviet Union to enjoy themselves and to live peacefully and without fear of war and without any desire to try and oppress other people. When we look at these achievements, when we look at the manner in which the people of the Soviet Union have achieved all these wonderful conditions, we also feel that there is hope in this world today because today, Mr. Chairman, if you will allow me, there is a great deal of pessimism, pessimism amongst people who say it is impossible for

governments to co-exists with different government systems. People go about expressing the evil propaganda that it is impossible to live in peace with Communism. The only time you can live in peace with Communism is when you can point a few guns at him and keep him in the position of handcuffed, but we do not believe that this is a good policy to pursue. We believe that it is possible for people with different government systems to live together in the world in peace. Many people today have told me that they support the Vienna Peace Appeal; they do not want to die needlessly - they don't want to die fighting wars for which they do not know the purpose. We would like to live in peace. Free men cannot live in peace. Progress, creating wonderful things and creating wonderful opportunities to lead a better life'. 'That is what we would like to achieve and all these are the things which we are prepared to fight for and determined to fight for. We want peace and we want to live in peace. If need be we shall die for peace and for the realisation of a better life. Thank you, Mayibuya."

The pro-Soviet attitude of the African National Congress is illustrated by the difference between what Luthuli personally thought of Russia's

intervention in Hungary and the official attitude of the National Executive of the African National Congress.

In an article in manuscript found in Luthuli's possession, Exhibit AJL.58, Luthuli had written as follows:

"We condemn the ruthless intervention of the Soviet Union in the affairs of the so-called people's democracy of Eastern Europe, especially her action in Hungary. We wish the so-called great powers in the world would stop dividing the world into spheres of influence and allow small nations to adopt their own way of life...."

The National Executive's report for the year 1956 inter alia contained the following:

"We believe that every nation is entitled to settle its own affairs, even the people of Hungary. The African National Congress feels a sense of disappointment and of regret at the bloodshed in Hungary and sincerely hopes that peace will be restored without delay in this country. We must point out that unlike the situation in Egypt, rational judgment of the Hungarian situation is made difficult by the undoubted hysterical whipping up of anti-Soviet feeling by the Western powers, as shown by the anti-Russian demonstrations in some of our universities in the Union, and by the manner in which the Union Government maintains neutrality in the Egyptian crisis caused by Great

Britain, France and Israil and has been quick to offer financial aid to Hungarian refugees when it did nothing and still does nothing about alleviating the sufferings of people in Egypt brought about by the wanton attack on the people of Egypt. Under these circumstances we reserve final judgment on the situation in Hungary until the air is cleared of obvious partisan charges and counter charges."

Some of the witnesses for the defence explained why, in the circumstances existing in South Africa, the African National Congress held Soviet Russia in high esteem. The effect of the evidence also was that it did not follow that, because the African National Congress had lauded Soviet Russia, the Congress had adopted communism. On the issue of communism the defence evidence was that the African National Congress had not acquired a policy, and held no view, on questions such as the classless society and a single party government.

These topics were dealt with, inter alia, by Mandela, the accused, in his evidence in chief. Extracts of his evidence on these points read as follows: rec. p.15821.

"Do you regard the Freedom Charter as envisaging a form of socialism? - My Lord, to a limited extent, in so far as it calls for the nationalisation of the mines and the banks, it does introduce a form of socialism. But, apart from those

industries the Freedom Charter does not call for socialism in this country.

Have you made any study of socialism? -

I have read some books on socialism, some classical works, others non-classical works, pro and against.

And are you interested in socialism? - I am very much attracted towards it.

Have you read anything about the system in the Soviet Union? - Very little, My Lords, but I have.

Do you find that system interesting? - I find it very interesting.

As far as you know what the situation is, is there anything about the Soviet Union that impresses you? - Yes. I am impressed by the entire absence of the colour bar.

Do you think that that is something which is likely to impress Africans in this country apart from yourself? - Most undoubtedly.

Secondly, I am impressed by the fact that the Soviet Union has no colonies in Africa and as far as I know in any other part of the world. I am also impressed by the stand which the Soviet Union has taken on the question of imperialism. I am impressed by the strides which she has made in the field of industry as well as of science.

Do you hope to introduce the system in the Soviet Union in South Africa? - No, My Lord.

All that impressed me is the ideal of a socialist society, but I have no intention of copying anything that has been done in any other country.

Now for instance, whatever the reasons for it may be, would you want to have a one party system in South Africa? - My Lords, I believe that it has been said that in the Soviet Union there is a one party system. From the reading that I have made, of the situation in Russia, which as I have said is very small, it may well be that the system in Russia was a response to both the external press (?) to the new state of socialism which was established in 1917 as well as to the internal conditions which prevailed in the Soviet Union at the time. And in a country where conditions are different, such as in South Africa, it may well be that there is no necessity for a one party system. I am inclined to feel that in a country where conditions are different, such as in South Africa, it may well be that there is no necessity for a one party system. I am inclined to feel that in a country where there has been some sort of parliamentary form of government, where you have had many parties, that that tradition might argue against the mechanical copying of a system in regard to this particular point of party (?) which has been applied in the Soviet Union

As far as I am concerned, My Lord, it is not a question of form, it is a question of democracy. If democracy would be best expressed by a one party system, I would examine the proposition very carefully. But if democracy would best be expressed by a multi-party system, then I would examine that carefully. In this country, for example, we have a multi-party system at present, but in so far as the non-European people are concerned, this is the most vicious despotism you can think of, I can think of, at the present stage of world history. And I would examine therefore the programme (?) in relation to our conditions here, the question of a form which would best express the wishes of the people and to enable them to participate full in the government of the country. But I am inclined to feel that I would not, having regard to our conditions here and the parliamentary tradition we have, I am inclined to feel that I would not insist on a one party system. And as far as the African National Congress is concerned, has the A.N.C. ever aimed at a one party system? - The A.N.C. My Lord, has never discussed the question as far as I am aware. During the time when I was a member of the Congress, certainly not, and I have not had any information since my ban that the question has ever been

discussed by the A.N.C. The Congress has no policy on this matter, it has no views on this matter, and what I am expressing is purely my personal view.....

.....
 At any rate you - are you attracted by the idea of a classless society? - Yes, very much so, My Lord. I think, My Lords, that a lot of evils arise as a result of the existence of classes, one class exploiting others.

However, on these matters of socialism and classes in society, as far as you are aware have the African National Congress any policy other than what is laid down in the Freedom Charter? - No, My Lords, the African National Congress has no policy in any shape or form of this matter."

In this chapter I have referred to evidence relating to both the African National Congress and the African National Congress Youth League. According to the evidence the Youth League was subject to the control of the senior body and it could not formulate a policy different to that of the senior body. The accused Mandela who was one of the foundation members of the Youth League, stated in his evidence that "the Youth League was a pressure group which was interested in bringing about a more militant policy in the African National Congress," rec. p.15761. Only members of the African National Congress could

become members of the Youth League. At first the age limit of members was forty years but later it was reduced to thirty.

I need not deal with the submission by the prosecution that the Congress Alliance and its leaders used propaganda material issued by the World Peace Council, the World Federation of Trade Unions, The World Federation of Democratic Youth and the Women's International Democratic Federation. Even if the evidence did show that material purporting to have been issued by some or all of these organisations were found in possession of the Congress Alliance, and its members, it does not take the matter any further as far as the policy of the African National Congress is concerned.

In its final argument on communism, and to prove that the African National Congress had a policy to establish a communist state, the prosecution relied on a total of forty documents, eighteen of which were said to be consistent with communism and twenty-two of which were said to be exclusively communist.

These twenty-two documents were the following: Two national conference reports, exhibits A.37 and ZKM.6; two provincial presidential addresses from the Transvaal, exhibit TT.36; one youth league branch secretarial report, VM.15; one set of Youth League resolutions Exh. TT.28; These seven documents contain official matter.

The remaining fifteen documents consist of three sets of lecture notes, A.84 to A.86, RF.71 and

LLM.137. There are six youth league bulletins, two of them "African Lodestar", exhibit A.204, A.206, JDM.9, JDM.10, 1JM.63(a) and MBY.6.

The remaining six are: a letter from the Transvaal Action Council to the African National Congress, exhibit A.111, a message from the African National Congress, Transvaal, exhibit B.115; a booklet by Kotane, exhibit MK.7 and two articles in "Liberation", exhibit WM.22 and exhibit G.1150.

Most of the extracts from these documents on which the prosecution relied are quoted above when I referred to the exhibits.

It is not necessary to deal with the argument on each exhibit.

In the case of all but one the prosecution failed to establish that what was written was fundamental communist dogma judged by the norms laid down by Professor Murray.

In concluding this chapter I must revert to the submission by the prosecution that the African National Congress, because of its attitude towards the present state and its object to establish a state so different from the present state, knew that the achievement of its purpose would involve the masses in a violent clash with the State and would be realised only by a seizure of power and the overthrow of the present State.

Here the case for the prosecution was that the African National Congress must be deemed to have had a knowledge of what eventually would happen in

relation to the masses of non-Europeans when it slated the present state and the "ruling class", and at the same time propagated a state of such a nature and so different that it would have to be forced on the "ruling class."

In my view the evidence indicated that the expectation of a violent clash as the culmination of the struggles of the African National Congress was an inference which might be drawn against certain leaders of the African National Congress and perhaps certain schools of thought in the Congress Movement. But that was not the case for the prosecution.

The issue was one of policy and the question was whether the evidence proved that the African National Congress, as a body, with some degree of universality should have expected a violent clash. The prosecution failed to prove that general expectancy and from the evidence as a whole, the inference could fairly be made that as a matter of "policy", the majority of the members of the African National Congress might well have thought that by economic pressure the "ruling class" would in the long run be compelled to surrender.

On the issue of communism the Court had to consider the evidence as a whole in the light of the criteria supplied by Professor Murray. On the evidence as a whole the Court was not convinced that the African National Congress had acquired a policy which caused it to cross the dividing line between non-communism and communism in the spectrum of socialist belief.

The next branch of the case which requires attention is the various campaigns conducted in the indictment period. As the particulars of these campaigns are dealt with fully in the reasons of my brother Bekker, my reference to them will be brief.

The first campaign, the so-called "Defiance Campaign" was undertaken jointly by the African National Congress, and the South African Indian Congress in the latter half of 1952.

"Volunteers" of both organisations in small groups deliberately contravened the provisions of certain laws by way of protest, in order that they might be arrested and gaoled.

The idea was that gradually more people would follow in the footsteps of the "Volunteers" and that finally, people throughout the country would be called upon to defy laws.

The campaign did not go beyond the initial stage because the government passed legislation which increased the penalties for the concerted defiance of laws.

The "Defiance Campaign" was not relied upon by the prosecution as an act of treason but only as an indication of the policy of the organisations concerned to hinder and hamper the State in the administration of its laws and to bring the masses into conflict with the State with the knowledge that the situation so created could result in bloodshed.

The "Western Areas Campaign", as part of the "Resist Apartheid Campaign" was a campaign directed against the gradual removal by the

Government of about fifty-thousand non-Europeans, living in certain areas in the western parts of Johannesburg, to a new township.

In April 1954 the National Executive Committee of the African National Congress decided that the removal scheme of the government was a matter of national importance to the Congress and that it would supervise the campaign against the scheme. The Working Committee of the Congress appointed the accused Resha and Sisulu and also one Tambo as a secretariat to conduct the campaign in the areas concerned. It was also decided if possible to have a national strike on the day of the removal and particularly a stay-at-home of all the people in the western Areas.

The Campaign was intended to persuade those who were to be removed not to go voluntarily and, generally, to raise opposition to the scheme. It was also regarded as a step towards the achievement of the ultimate aim of the African National Congress.

For many months public meetings were held regularly in the Western Areas and the people were urged not to move. The government was attacked, the scheme was condemned and the people were exhorted to make a stand and to defend their homes. There was, however, a singular absence of direction as to how the people should resist. That was left to the discretion of each individual. Apart from a few speeches suggesting violence, there was no evidence that the people were told to use violence or to retaliate with violence.

Nevertheless the evidence indicated that the African National Congress realised that the position in the Western Areas had become fraught with danger.

On the 26th of June, 1954, at an "Anti-Apartheid Conference" a man called Vundhla who represented the African National Congress spoke and his speech was recorded by a shorthand writer, Detective Constable Schoeman. According to this witness Vundhla said that the Government intended to turn the area into a bloodbath for its own political ends. He also said that on the one hand there was a group of people who were determined to push through the removal with force, blood and iron and on the other hand there was a group of people who were equally determined not to move. He said that it was an ugly situation but that the African National Congress yielded to no one in its hatred of injustice, oppression and tyranny.

Luthuli, in his evidence, stated that the view expressed by Vundhla on the determination of both parties reflected the spirit of the African National Congress at the time.

The accused Resha said in his evidence that in 1954 he believed that the Government would persist in its scheme and that what the Government was doing could lead to a bloodbath but that that would not deter the African National Congress although it did everything to avoid a bloodbath.

Resha conceded in cross-examination that they wanted to compel the Government to secure the removal

by "intimidation" and the employment of force, and "by bringing the police and threatening the people that if they stuck to their rights they would be shot..."

He indicated that that would be intimidation and that their aim was to compel the Government to use as large a force as possible to demonstrate that the scheme was not being carried out because the people were willing to be removed.

The evidence disclosed that the day fixed for the first removal was anticipated by the Government at short notice, that a state of emergency was declared in the Western Areas and that with a large armed police force in attendance the removal of the first batch of people took place without any incident. Although the evidence did not show that the people had been told to resist removal by violence, the prosecution contended that the manner in which the campaign had been conducted proved that the African National Congress had decided to act unconstitutionally and illegally, with the full realisation that violence might occur, and probably would occur, and with complete indifference as to whether it occurred or not, and that the leadership regarded this conflict as a prelude to action on a higher level later on.

In presenting this argument the prosecution was faced with a difficulty, a problem of inference. The difficulty arose as follows.

The issue before the Court was whether the African National Congress at the time of this campaign had a policy to commit violence against the State, through the masses of non-Europeans, at some undetermined time in the future.

How far that day of violent action lay ahead depended on how long it would take to educate the masses and to make them politically conscious, on whether boycott or strike action would be successful or not, on how the Government would act and how the masses would react to the alleged forceful suppression of their methods by the Government.

In effect, the argument for the prosecution amounted to this, that although no instructions were given in the "Western Areas Campaign" to commit violence, but because the African National Congress was reckless as to whether violence occurred or not, the inference must be made that it had, at that time, a policy, in terms of which it would instruct the masses to commit violence on some later occasion when the final clash occurred.

In my view the Court could not possibly make such an inference.

There was nothing in the evidence about the campaign, either standing by itself or taken in conjunction with the other facts of the case which linked the attitude of the African National Congress in 1954 towards the possibility or probability of violence occurring in the Western Areas, with a plan to instruct the masses to use violence at some future date, or which indicated that such an attitude was prelude to positive violence in the future.

Another campaign by the African National Congress which figured in the case for the prosecution was the campaign for the "congress of the people." This was a campaign to prepare the

people for a national convention and for the adoption of a "Freedom Charter" containing "demands" of the people. It was considered necessary to raise the "political consciousness" of the people and for that purpose a ~~class~~^{call} was made for 50,000 "Freedom Volunteers" as "an army of non-violent volunteering organisers."

The South African Indian Congress, the South African Coloured People's Organisation and the South African Congress of Democrats joined in the campaign and a "National Action Council for the Congress of the People" was formed with provincial, regional and local branches. It issued, inter alia, the three lectures, Exhibits A.84, A.85 and A.86.

On the 26th and 27th of June, 1955, at Kliptown, Johannesburg, a "congress of the people" was held and the "Freedom Charter" was there adopted.

The argument for the prosecution on this campaign contained the same points as those which were made when the African National Congress was considered as a "liberatory movement" and when the "Freedom Charter" was dealt with, and need not be considered separately.

The campaign against the Bantu Education Act and the campaign against the pass laws were conducted as part of the campaign for the "congress of the people" and on the issue of violence the evidence of what was allegedly said or written concerning those topics did not advance the case of the prosecution beyond the "congress of the people" campaign.

As far as the organisation known as the "Freedom Volunteers" was concerned, the final

argument by the prosecution was that the members thereof were not intended to commit violence in the indictment period, but that they were being prepared for violent action in the future.

The argument was that because they were a **semi**-military organisation, (even a type of uniform was supposed to be worn), subject to strict discipline, and, having regard to what had been said by Resha, the Transvaal volunteer-in-chief, on the 22nd of November, 1956, and before that by the accused Ndimba, in Court at Port Elizabeth, about the duty of the volunteers to kill when ordered to do so, the inference was irresistible that the "Freedom Volunteers" were intended by the African National Congress to lead the masses into violence on the day of the final clash.

Ndimba's statement about the "Freedom Volunteers" was made in a Magistrate's Court, in his own defence, and not in pursuance of a conspiracy. It was admissible against himself only and not against the other accused.

Resha's speech, parts of which are quoted in the earlier pages of these reasons, was stated by Luthuli and some other defence witnesses to be outside the policy of the African National Congress. In his evidence Resha said that the reference in his speech to murder by volunteers was meant to be an example of discipline and not an illustration of how they were supposed to commit violence.

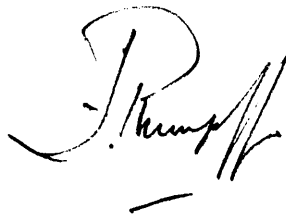
Even if one were to reject his explanation one is faced with a volume of evidence which showed that to the public at large, and in the organisation itself, non-violence was consistently held out to be

one of its essential attributes. In addition there was no evidence of parades, drilling or any form of military exercise or any other feature from which violence might be inferred.

Of course, a political organisation with members who are supposed to wear a type of uniform and who are liable to strict discipline and to the carrying out of orders without question, and who intend to bring the Government to its knees and to establish a new form of state through mass action, must not be surprised if it is regarded with suspicion by the State.

In the present case the prosecution proved the existence of such an organisation; it did not prove that the African National Congress had acquired a policy to use the "Freedom Volunteers" for violent action.

For all these reasons the Court's view was that it had not been proved that over the indictment period the African National Congress had, as a matter of policy, decided to use violence as a method to achieve its ends, or to establish a form of state having the fundamental attributes of a Marxist-Leninist state.

A handwritten signature in black ink, appearing to read 'J. Rumpff', with a horizontal line underneath.

Op Rug

JUDGMENT: KENNEDY

Voorblad

TREASON TRIAL 1957 - 1960
JUDGMENT J KENNEDY

IN THE SPECIAL CRIMINAL COURT
CONSTITUTED IN TERMS OF GOVERNMENT NOTICE
NO. 1701 OF 1958:

THE STATE

vs.

F. ADAMS AND OTHERS.

REASONS FOR JUDGMENT: KENNEDY J.

ooooOoooo

KENNEDY J: The prosecution, in order to establish the alleged violent policy of the Congress Alliance, led evidence, inter alia, of speeches made at various meetings held in South Africa between the dates 22nd February 1953 and 9th December 1956. These were itemised in the schedule of meetings handed in by the prosecution on 1st March, 1961, and of those detailed, 37 meetings were abandoned by the prosecution, which thus relied on 249 meetings in all to prove its case against the accused in as far as speeches were concerned.

Included in this total were eighty-five meetings on which the prosecution relied for the inference of violence which it invited the Court to draw.

Of these meetings, fifteen or sixteen were covered by the shorthand writers Coetzee, Schoeman White and Language; one was a tape recording by the witness Swanepoel, and the meeting of the 22nd November, 1956, at 37 West Street, Johannesburg, which played a prominent part in the case for the prosecution, was similarly recorded by means of a tape recorder by Detective Sergeant Diedericks. The
speeches/.....

speeches at the remaining seventy meetings were **recorded** by longhand writers, and I propose at this stage to examine their evidence in order to test the extent to **which** it can be relied on.

I shall deal firstly with Detective Sergeant Segoni, who said that he was stationed at Port Elizabeth, and that he had been attached to the Security Branch of the South African Police since January 1951. He attended meetings of the African National Congress and other organisations at Port Elizabeth and nearby from the years 1952 to 1956, and said that on an average one meeting per week was held.

He thus attended about two hundred gatherings, at which he made notes, during the indictment period; his evidence covers twenty-one speeches figuring in the violent schedule, mainly dealing with gatherings at Veeplaats, Korsten and Port Elizabeth. He was regarded by the prosecution as an important witness. No evidence was led as to what facilities he had for taking down his notes, which he recorded in a notebook in English, and in each case were
read/.....

read out in Court and were received in evidence. This was the general procedure for all the long-hand writers who testified during the trial.

Segoni is a Xhosa, and at all meetings which he covered, where a speaker addressed the gathering in English, a Xhosa interpreter provided by the African National Congress interpreted what the speaker said into Xhosa.

The manner in which Segoni gave his evidence reflected that his English vocabulary was fairly extensive, that his diction was bad, and his English somewhat ungrammatical. Under cross-examination, he said that the notes which he read out in Court constituted only a small portion of what he had written down, and that although he attended, on a calculation, some hundreds of meetings during the course of four years, he gave evidence at the preparatory examination and in this Court about sixty-six meetings only.

During the course of his cross-examination, apart from testifying about various utterances having been made concerning the non-violent policy of the African National Congress,

he/.....

he was questioned as to his ability to record what was said. His notes, Exhibit G.510, dealing with a meeting held on the 27th May, 1954, read:

"Tshume was the first speaker and inter alia, said..."

Thereafter the notes reflected that "inter alia" Matshe said...". At the same meeting, Segoni refers to one of the speakers who dealt with the moral re-armament movement, which the witness recorded as "morally armament movement".

Further on, the record reads (page 9802):

"Now what I am asking you, Segoni, is this: when you don't get down a sentence at all, do you then give any indication in your notes, or do you just go on with the next sentence? --- If I don't get down even the first word of a sentence then I don't worry about it.

You don't worry about it? ---- Yes.

And I take it in the same way that you miss out sentences, it is also possible that

you/.....

you miss out words occasionally in a sentence? --- Not in all cases.

No, not in all cases, but I said sometimes? -- Yes."

In regard to errors and omissions in his notes, apart from the grammatical errors which are apparent therein, the record at page 9803 reads:

"This Conference re-affirms its belief in the point programme adopted by the A.N.C. and its allies? --- I have got it. You have left out the word 'ten' haven't you? --- I have not got 'ten' in. I say you have left that word out? --- Yes.

Yes. Then if you look further on in your notes where Robert Resha is speaking; he says 'Mr. Speaker, sons and daughters of Africa, I wish to welcome you all. We are meeting here at a crucial of mankind'. That should read 'crucial time' should it not? You have left the word 'time' out? --- I haven't got the word 'time' here.

No/.....

No, I say it should be there though,
it does not make sense otherwise, does
it?"

After a further few questions
the witness stated that the sentence did not 'quite'
make sense.

And on the same issue, raised in
cross-examination, the following is an extract
from the record (page 9804):

"During the Defiance Campaign the leaders
of the A.N.C.Y.L. followed the steps of
the A.N.C. and as a result of that the
Youth League was disorganised. Surely
Segoni, that should read 'did not follow
the steps of the A.N.C. and as a result of
that the Youth League was disorganised',
otherwise it does not make sense, does it?---
I have got it like that here.
Yes, but I am suggesting to you that you
have left the word 'not' out, because it
doesn't make sense unless the word 'not' -
unless you put the word 'not' in?".

The witness agreed that this was
possibly correct.

The/.....

The following sentence in the witness's notes reads: (page 9805).

" 'In particular the Youth League should accept A.N.C. leadership without resolution' - that should be 'with resolution'?

BEKKER J: Without reservation?

MR. BERRANGE: May be, My Lord, I don't know what the witness has got, my note shows 'resolution' - what have you got there Segoni? --- I have got 'resolution'.

I see, that should be 'they should accept the leadership with resolution?--- I admit that error.

You haven't got much time to write? --- It all depends on how fast the speaker speaks."

In connection with a further meeting, the witness dealt with what he had recorded Dr. Jongwe had said. His notes read (page 9811):

" 'I believe in universality of people over 18 years irrespective of colour'; that's the way you have got it? --- Yes.

'I am making this statement deliberately because I believe every African has a right to vote'? --- Yes".

Quite/.....

Quite obviously what the speaker said was that he believed in a universal vote for all people over eighteen years.

And at page 9835, under cross-examination on the same topic, the evidence reads:

"Nobody is challenging you, that you are not doing your best, that you did not do your best, but I am suggesting to you, Sgt. Segoni, that you are quite incapable of taking down what speakers have to say at meetings which gives a true and accurate picture of the speaker's address? --- Not in all cases.

Not in all cases. Well, I take it you are unable to say in which cases you've been able to do so and in which cases you haven't been able to do so? --- I wouldn't remember which.

No. I want to suggest to you, Segoni, that your own English is so indifferent that you are unable to record a speech such as has been made by Mr. Sisulu and other people in the way they deliver themselves? --- I might admit it in this particular case, but

not/.....

not in all cases.

Not in all. You cannot say which you could and which you couldn't? --- Since I did not make a note that this one is correct and this one not, I cannot say.

No. You see, you will agree, will you not, that the Xosa language is the language which is particularly full of idioms and figures of speech, is it not? --- Correct.

And therefore when you translate a speech from Xosa into English you've got to translate those idiomatic phrases and give them their true sense, have you not? --- Some I can and some I cannot.

Some you can and some you cannot? --- Yes."

The witness agreed that in many instances the notes of speeches he recorded contained a number of ungrammatical phrases and sentences, and this emerged from Exhibit G.534 dealing with a meeting of the African National Congress, on 3rd April, 1954. The record reads:

" 'The Hymn that was sung by T. Mosaga and after that he was taken to overseas by Europeans and made him to marry a European woman' .

Then/.....

Then later Nkampené, "A leader who speaks the truth must have rivals against him. A good thing is brought by a person of inferiority." Then, "We pay poll tax, dog tax, and yet dogs do not do anything and we pay rent", "Egypt does not choose anybody and it can be demolished even tonight. We shall not accept standard ll education. It may be that we won't reach freedom because nobody knows where.....(?) grave is." And then Tshume: "We've got few people here and the majority is not here and they observing." "In the A.N.C. you can't make mistake which is touch me not and one could see the result". "The English people are clever fools and the natives carry big boxes". Does any of that make sense to you Segoni? --- There are sometimes people who stop and one tries to give a literal translation..... I'm asking you whether any of that makes sense, Segoni? --- Not exactly. No. And you suggest therefore that you are capable of translating an idiomatic language like Xosa into English in any accurate manner? --- Where a speaker is quite clear in his speech, not where/.....

where a speaker says something and you must form what he means."

But the prime test of his inability to give the Court a true picture of what happened at various meetings was demonstrated under cross-examination, when counsel for the defence contrasted the evidence based on his notes made of a meeting held at Veeplaats by the African National Congress on the 28th March, 1954, dealing with a speech by the accused Sisulu, (Exhibit G.509), and the text of the speech made by Sisulu, Exhibit TT.35.

This Exhibit, which was put in by the prosecution and from which portions were read out in examination in chief, was received in full in evidence under cross-examination on the basis that it was the text of the speech delivered by Sisulu at the meeting. Sisulu did not give evidence, but stated from the dock that Exhibit TT.35 was the speech which he made from the typed document Exhibit TT.35 on the occasion in question.

It is headed "Speech delivered by the Secretary General of the African National Congress, Mr. W.M.Sisulu, at Veeplaats on Sunday 28th/....."

28th of March, 1954", and the exhibit produced by the prosecution appears to be the duplicate original of a typed document.

The prosecution submitted that it was improbable that Sisulu (accused No.19) would have headed a speech which he yet had to deliver as "Speech delivered", and the prosecution suggested that it was probably a report of a speech prepared for publication in the bulletin "Advance".

The bulletin in question was put in as Exhibit G 1122, the "Advance" of the 8th April, 1954, under the heading "Build yet a mightier Congress - extracts from Walter Sisulu's Port Elizabeth speech", and it contains a great deal of the matter set out in Exhibit TT. 35.

In view of the accused's statement, and the general evidence on this point, there is no room, in my view, for the Court to find that Exhibit TT.35 was not in fact the text of the actual speech delivered by Sisulu at the meeting in question. The probabilities are that it was a copy of his prepared speech.

Because of the importance of this

witness/.....

witness, it will be necessary to set out in detail the notes and the text of Exhibit TT.35.

The prosecution framed what it purported to be a comparison between the two exhibits, and it is convenient to set this out in full.

SCHEDULE No. A - A COMPARISON BETWEEN EXHIBITS

G.509 AND T.T.35 FOLLOWS.

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Comparison between Exhibits G 509

and T.T. 35.

(i) SEGONI:

p. 9820 line 26 - p. 9821 line 5.

"It must come back. I am going to express myself in a foreign language because fellow 4 years ago I was privileged during 1950. I had to address a meeting informing the people to observe the 26th June protest. On that day the P.N. was leading in its action on the general. On the 31st May 1952 the A.N.C. and Indian Congress who met in Port Elizabeth took a decision to go into action. And the date was announced to defy unjust laws. Moses Kotane was appointed to be the first to defy the unjust laws".

T.T. 35:

p. 9824 line 11 - line 28.

"Fellow Africans, Friends, Comrades: Four years ago I was privileged to announce at a gathering of more than 15,000 Africans at New Brighton the decision of the African National Congress to stage a national day of protest on June 26th, 1950. In this nationwide political strike Port Elizabeth surprised

all other centres with a 100% observance of the A.N.C. call. On the 31st May, 1952, the Joint Executives of the African National Congress and the South African Indian Congress meeting at Port Elizabeth announced the decision to go into action on June 26th 1952, and issued from here instructions to Moses Mauane Kotane to be the first volunteer to defy unjust laws in South Africa. This marked the beginning of the now historic campaign for the Defiance of Unjust Laws which ushered in a new period in South African History. Needless to say the people of the Eastern Cape again led the country in this great campaign".

(ii) SEGONI:

p. 9821 line 8 - line 26.

"In this campaign. On the 3rd occasion. I have come to announce another decision. The A.N.C. resolution adopted in December last year. This is the resolution : Executive Committee empowers the A.N.C. to make preparation for all peoples conference. To the the Conference decided that that the A.N.C. executive calls upon the A.N.C. Indian Congress and Democratic. Decided to hold the general election of the representatives to attend the Conference. This decision is that all people

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from 18 years will be able to attend this conference. The aim is to have people to decide how they show the Government in the New Democratic country. We want the people to take part in this. The volunteers are expected to take an extensive action. In all previous campaigns the Eastern Cape has taken the lead in the whole country and I hope you will again do the same. The Defiance Campaign has raised the struggle. This campaign will raise and then there are dots to indicate that you omitted something? --- Yes".

T.T. 35:

p. 9824 line 29 - p. 9826 line 14.

"For the third time on the soil of Port Elizabeth on this 28th day of March, 1954, I am to announce yet another decision. During the last weekend the four National Executives of the democratic camp met in Durban in response to an A.N.C. resolution adopted at the last annual national conference at Queenstown in December. The resolution reads as follows: "Conference instructs the N.E.C. to make immediate preparations for the organisation of Congress of the People of South Africa whose task shall be to work out a Freedom Charter for all peoples and groups in this country. To this end Conference urges the A.N.C.

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National Executive to call a meeting of the South African Indian Congress, the S.A. Congress of Democrats, the S.A. Coloured People's Organisation and any other democratic organisation for the purpose of placing before them the Plan of Congress and obtaining their cooperation in creating a truly representative "Convention" of the people of South Africa. The Conference of the four executives of A.N.C. S.A.I.C., S.A.C.O.D., S.A.C.P.O. representing the Africans, Indians Europeans and Coloureds decided on the holding of a general election throughout the length and breadth of South Africa to elect representatives People's Representatives, to a Congress of the People. It is planned through this election to contact every person in every corner of South Africa over the age of eighteen, irrespective of race, sex, colour or creed. The purpose is to get the people themselves by means of a mass campaign in which they themselves participate, to say how they should be governed in the new democratic South Africa, they are all striving for. The aim is to get the people themselves to express their true aspirations and get them embodied in the Freedom Charter. We want the people to take active and direct share in the future destiny of South Africa. You will therefore realise what a great amount of work you have before you. The field workers, the volunteers are now expected to carry out extensive plans so as to get in touch with every

individual in the mines, on the farms, in the reserves and in the Cities. In all previous campaigns the Eastern Cape has enhanced the prestige of our organisation even in the international world. I have no doubt that in this campaign too you will be equal to the task. The campaign for the Defiance of Unjust Laws lifted the Freedom struggle of the oppressed peoples of South Africa higher than the 1950 campaign and higher than any previous struggle. This campaign will raise the level of political struggle still further".

(iii) SEGONI:

p. 9821 line 27 - p. 9822 line 1.

"There is wisdom in changing of tactics in the politics. It is important in the struggle. Ours is to defeat when the Minister of Justice, Mr. Swart, sponsored that he had destroyed the campaign of unjust laws he forgot that our wisdom was going further".

T.T. 35:

p. 9826 line 15 - p. 9827 line 3.

"There is wisdom in the change of tactics according to the objective conditions and circumstances of each given situation. The important thing in a struggle for liberation is to raise the level of political consciousness of the people to the highest possible

level through struggles, to mobilise and organise all potential forces and to create a clear vision of the future. It is by the use of superior methods of organisation that we have beaten and will beat the government in all future struggles. Ours is an honest and true effort to secure peace and happiness for all in South Africa. When the Minister of Justice, Mr. Swart, boasted that he had crushed the Defiance Campaign he was ignorant of the fact that tactics have to change and our gains and positions consolidated. Military strategists know that this is the A.B.C. of military art, and someone has said that 'War is the continuation of politics by other means', and conversely 'politics is the continuation of war by other means'.

(iv) SEGONI:

p. 9822 line 1 - line 16.

"It does not matter the Campaign changed the political affairs in South Africa. Whilst we have gained strength the rulers are divided. The Defiance Campaign created and raised the number of volunteers and members of the A.N.C. during 1952. This year we require everybody to become a member. The leaders of the Cape want 10,000 members before the 26th May. I hope that towards the end of April all Africans will be members of the A.N.C. Through all these 40 years of existence the A.N.C. has

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repeated said that all members should carry out the duties of unity. The policy of the A.N.C. is to work with other organisations of any section which agrees with it. On the other side there is the camp of Dutch people led by Malan, Strydom and others, and on the other side there is a camp of democratic progress led by A.J.Luthuli.

T.T. 35:

p. 9827 line 4 - p. 9829 line 5.

"No matter what anyone feels or thinks about the Defiance Campaign, the fact is that it changed the political life of South Africa. The vacillating elements both in our camp and in the ruling class have been exposed, they have been forced to make their clear choice. Whilst we have gained considerable strength the ruling class has been confused and divided. The coming into being of different parties is very significant. The change in their attitude on the question of the franchise however wild and unrealistic their suggestions may be is of great importance. Although the last election was won with a large majority by the Nationalists it gave a false impression of strength to the governing party. The very fact that a party with so warped and dangerous a policy should have won a victory in the world of today is a sign of the profound crisis that

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that exists within the oppressor group in the country. In this connection it is important that we must constantly expose the real motives of the Nationalists with regard to the future life of the people of South Africa. As far as we are concerned we know our friends and our enemies. We know the weaknesses of our organisation and its potential strength. The Defiance Campaign created strong and reliable voluntary workers. In 1952 the Congress membership shot up to more than 100,000 - an increase of more than 75% over the previous years. Although it must be said, however, that the quality of the membership was much improved last year. This year we will require an unprecedented increase in the membership of the A.N.C. The Cape leadership of the A.N.C. has called for 100,000 for the Cape alone by June 26th this year. I hope that by April 20th every single African in the Eastern Cape will be a member of the A.N.C. Another important factor is the strengthening of our ties as the major group in the country with the other national groups. Throughout its forty years of existence the African National Congress has patiently and tirelessly to explain to the people of South Africa that there was co-operation between all on a basis of mutual respect and complete

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equality. In this policy the A.N.C. has now been joined by organisations representing all groups who have unreservedly thrown in their lot with the Africans. These organisations, such as the S.A.I.C. and the S.A.C.-P.C. and the Congress of Democrats are not mere sympathisers or so-called friends of the African people, they are firm, sincere allies in the struggle, prepared to dare and to die, marching in the same mighty army of liberation that will soon turn the fascist darkness into the democratic dawn of a new age in South Africa. I particularly welcome the Congress of Democrats in the democratic camp because their presence challenges directly the contention of the Racialists from the Nats to the Liberals that the Liberation of all Africans is an express or implied threat to the Europeans in this country. There is now a clear division in the country which admits of no middle groups and fence sitters. On the one hand is the band of reactionaries led by Verwoerd and Strydom. On the other is the camp of Democracy and progress under the able and enlightened leadership of A.J.Luthuli, the

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President General of the A.N.C. firmly supported by our allies in all sections of the population."

(v) SEGONI:

p. 9822 line 16 - line 27.

"The resolutions taken by the A.N.C. are of importance. One of these resolutions is boycott. I also wish to say that the boycott policy has no distinction. I also wish to say that the economic boycott is to have skilled work for our African people and good treatment. Branches have been instructed to receive approval from the national Executive from time to time. Overseas capitalists are aware of this fact and they are not at ease. They will not allow themselves to be misled by the propaganda of newspapers. There will be no stability whilst the Government is still stubborn".

T.T. 35:

p. 9829 line 5 - 9830 line 5.

"The resolutions of our last annual conference may not appear spectacular, yet they are of far reaching importance. There are two of these which are already being implemented in the Eastern Cape. I refer to the implementation, first of all, of the Economic boycott
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resolution. I wish to say that economic boycott is non-racial. It is a form of legitimate pressure to secure specific demands of the people for skilled jobs, better treatment and higher wages. Our headquarters takes great care in the use of this weapon. The branches have been instructed to get the approval of the provincial headquarters in the application of the economic boycott from time to time. I think at this stage that I must correct the completely false concepts held by the South African Commercial and Industrial groups together with the mining and farming industries. The stability of any country economically does not and cannot depend on a minority even if it is temporarily in power, but on the vast majority of the people. The overseas investors are aware of this fact and are becoming more sensitive to it. They will not allow themselves to be misled even by the propaganda of a powerful monopoly press. There can be no stability in the country so long as the government does not enjoy the confidence of the masses of the people who form the main productive forces. So long as the government is adamant and stubborn about the political demands of the large majority of the people on whom the country's prosperity depends, the already unwilling productive forces of the country may become more unwilling even when an economic crisis is at hand".

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(vi) SEGONI:

p. 9822 line 27 - p. 9823 line 8

"I have already referred to the second resolution taken by the A.N.C. Conference. Another resolution is that the minimum of the African's wages should be £1 per day. Another resolution is that the people in the Reserves should be allotted more land. There is no need. Our womenfolk are being made to carry passes in Port Elizabeth under the guide of protection. We are given an inferior education and now that education is taken away. The Minister of Finance speaks of African contributions towards the revenue. Now we saying taxes and there is no land for us. The public meetings are no more permitted. We must now appeal to all Africans who are working at factories, mines and farms.

T.T. 35:

p. 9830 line 5 to p. 9832 line 13.

"I have already referred to the second important resolution which was taken at National Conference. Other resolutions I would like to refer to are the organisation of African workers and the demand of a minimum wage of a £1 per day. Then the organisation of peasants on the European farms and in the reserves and the general demands of the peasants for land and freedom from the crushing burden of

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taxes. There is no need for me to tell you about the disabilities of the African people. You know that thousands are arrested every week under the notorious pass laws, that our women folk are being made to carry passes here in Port Elizabeth under the guise of permits. Thousands are living below the bread level because of low wages. We are given an inferior education and the doors to even that are being closed. In a budget that has been hailed in the White press, this has perpetrated a blatant injustice in almost cynical manner by pegging the amount to be taken from general revenue towards our education. When the entire revenue derived from the mines, the farms and industry is due to the vicious exploitation of African labour, the Minister of Finance blandly speaks of Africans 'contribution' towards their own education. We say to the Minister that the lovely homes, the schools, playgrounds etc., of the European children in this country are almost entirely due to the sweat and toil of the African worker. Nothing can obscure that fact. Far from contributing to our education the people of South Africa must go down on their knees and thank the African worker for the lovely(and there is a word missing) they are all having. In any case in which are the poor taxed separately to provide for their education. If Mr. Havenga can use the budget whip, the Africans will perhaps

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consider using the withdrawal of labour whip, then no one will have incomes and revenues to talk about. The people do not need more taxes, what they want is land to live on and a means of livelihood. Now people are being evicted from the European farms to where nobody knows. Hundreds have no homes and yet Verwoerd intends to move them from their homes in the Western Areas of Johannesburg, to the open veld of Meadowlands, miles away from the city. Livestock in the reserves on which the people depend is being limited. Starvation and disease are causing a high mortality rate among the people. In short the social, economic and cultural life of the people is being ruined completely. We are driven from pillar to post and are expected to say nothing and have patience. Leaders of the people have been and are being banned. Chiefs are being dismissed like workers in any factory. Meetings at which Africans can gather are not allowed. What are we to do? The great tasks to be performed to solve these problems and of educating the people politically to be equal to these tasks belong to the people as organised in their national liberatory organisation. Bitter days lie ahead. Congresses and volunteers must realise that to fight against the well established system of domination and exploitation, which is supported by reactionary groups in the imperialist powers such as America, France and Britain is no easy 'go'. The Greatest

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sacrifice is demanded of us. The road we have chosen of liberating the people of South Africa is full of dangers and obstacles, yet it is the only correct path and no other. Therefore the central task today in the face of ever increasing repression, which in itself is the beginning of the end for the fascists is to mobilise the broad masses of the people in an unprecedented unity and to do a great deal of active and voluntary work in the movement".

(vii) SEGONI:

p. 9823 line 9 - p. 9823 line 20.

"If we could all follow the A.N.C. and canvass people we would succeed in our campaign. The volunteers men and women, who are members of the A.N.C. have a big task to do. They must preach to people and tell them what the A.N.C. and what it stands for. Your leaders are determined to listen to you when you tell them what to do; when you have elected the leaders you must follow them. These certain disturbances in the A.N.C. which recently occurred here in Port Elizabeth were caused by irresponsible people. As from now you must go and preach to all corners about the A.N.C." That is the end of Sisulu's speech? ---- Correct".

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T.T. 35:

p. 9832 line 13 - p. 9833 line 1.

"To do this we must rally the people around the A.N.C. through which we must implement our resolutions. We must tackle local issues affecting the people and should encourage local people in each area to guide us in tackling the problems and to get them at branch or local level to fight these issues. Only in this way shall we be able to build an unshakable foundation for a greater South Africa. Conditions are developing fast towards the point where the oppressed can no longer tolerate living in the old way and the oppressor can no longer go on ruling in the old way. We must be ready at all times. We here must pledge ourselves to save the nation and liberate our people. We will never relax in the fulfilment of our duty to our people and the nation. We shall with faith and determination stand solidly united with all those who struggle together with us for freedom and happiness in the country of our birth".

Thus, looking at all the evidence given by Segoni, it is clear that he was able to record only a small percentage of what was said, that some of his notes were ungrammatical and that many of his sentences which he noted down were nonsensical and contained a large number of errors and omissions.

It is apparent also, by the use of the words 'inter alia', that he selected portions of what individual speakers said. Finally, an examination of Exhibits G.509 and T.T.35 shows that large portions of Sisulu's speech were left out, that Segoni made a précis of what the speaker said, and that the innumerable discrepancies and the obvious shortcomings of Segoni's notes emerge on a cursory examination of the two documents.

I now propose to deal shortly with the evidence given by Detective Sergeant Ngcai; he was attached to the Security Branch of the police in 1952 and was stationed at Johannesburg. In that capacity he attended a number of meetings of the various organisations concerned during the period 1952 to 1956; he, following the general procedure of the longhand witnesses, took notes

at/.....

at meetings, and in some instances incorporated these notes into official reports which were submitted to his superior officers. Insofar as Ngcai is concerned, the majority of the exhibits produced by him were in the form of reports.

He gave his evidence in English, and his command thereof was good; he reported mainly in the Sophiatown and Newclare areas, and some of the meetings with which he dealt were also covered by shorthand writers. It is not necessary to detail the points of difference, but the evidence discloses (page 9314), that Ngcai made notes of what was alleged to have been said by various speakers which were not obtained by the shorthand writers Coetzee, (when these two witnesses attended meetings simultaneously) and in a large number of instances there is a deviation of wording between the transcription of the shorthand notes made by Schoeman and Coetzee when they are compared with the notes made by Ngcai. Some of the differences may be explained by the fact that Ngcai stated that he took down what the speaker himself said, whether he spoke in English or some Bantu language.

Nevertheless/.....

Nevertheless, he falls into the same category as does Segoni, and I do not accept his evidence insofar as it relates to words allegedly uttered by the accused themselves and which may tend to incriminate the accused, unless there is independent corroboration thereof.

In addition to the speeches contained in the violent schedule, of course, the longhand writers reported a number of other meetings itemised in the schedule handed in by the prosecution of all the meetings; amongst one of the reporters in the latter class was the prosecution witness Mredhlane, but insofar as he is concerned, the prosecution conceded during argument that unless there was extraneous confirmation of what he reported, it could not ask the Court to rely on his reports, save as to the nature of the meeting, the identity of the speakers and the subject on which they spoke.

Masilele's home language is Sesuto and he stated that his knowledge of Zulu was weak, although he understood it fairly well. His English was good, and he was a careful, honest and painstaking witness, but the defects in the

reliability/.....

reliability of his reports emerged clearly in his cross-examination (page 8905).

He stated that he attended meetings almost every week in the Alexandra township, and that these were very often held at street corners. He said that he did not rely on any interpretation of what the speakers said, and that when Zulu was spoken he translated into English what the speaker said in Zulu, and if he was unable to understand, he did not take notes.

I propose to pass a few general remarks concerning the evidence of Detective Sergeant Gaza.

He reported a large number of meetings in the Port Elizabeth area, and in cross-examination stated that he attended meetings about once a week **from some time in 1954** to the end of the indictment period. His home language was Xhosa, and his evidence is that he has a 'knowledge' of Zulu, and a 'good working knowledge' of English. He handed in the original notes made by him at various meetings, together with a typewritten copy thereof, and in common with all other longhand writers, had no recollection/....

of events at various meetings, and was unable to testify in regard thereto unless he refreshed his memory from the notes he made.

His notes did not indicate what language was used by speakers at various meetings, and although he said at the trial that he remembered that the speakers, with one or two exceptions, all spoke in Xhosa, this evidence differed somewhat from his testimony at the preparatory examination where it was put to him that he said that he could not remember whether any particular speech was made in English or in Xhosa. He said that sometimes he left out whole sentences in a speech, and that if he did not understand what was said, he did not record it. He agreed that if any phrase or sentence was complicated, he left out the whole sentence.

His notes were recorded in English and it is common cause in this case that the Xhosa language in particular is one full of idiomatic and figurative forms of speech, which were difficult to express in English. The witness stated that 'he formed up the sentence from Xhosa to English and then tried to take up what the speaker said, to try and convey exactly what he said. what/.....

what he meant'. He also conceded that large portions of his notes did not make sense, and that some of the phrases recorded by him were not the exact phrases used by the accused.

In addition to the longhand writers whom I have named, there were other African members of the police force who covered a few meetings; these were Fani, Nkhi, Mabuna, Gxumisa, Zondi and Madyuta. I do not propose to deal in particular with any of their evidence, as they suffered under the same disabilities as have already become apparent in my detailed examination of Segoni's evidence and in my remarks concerning the other witnesses with whom I have dealt.

I now pass on to a consideration of the reliability of the various European longhand writers, of whom we mention von Papendorff, Fourie, Viviers, J.M.Strydom, P.A.Strydom, Hellbert, Wessels and Moeller. The majority of the notes were taken in English, and most of the writers relied, in recording their notes, on an interpretation of what any particular speaker said; in some instances the police were unable to take
notes/.....

notes openly, and hid themselves behind partitions, or near the hall or room in which the meetings were held. The evidence as a whole reveals that none of the notes was made under circumstances tending to a full and complete recording of what was said, assuming, of course, that the witnesses could have recorded all that was said.

In general, the evidence discloses that at many meetings the various police reporters faced an inimical crowd, which resented their presence, and this was particularly the case in the Eastern Province, where it is common cause that the police were referred to as "traitors", "Judas Iscariots" and in other condemnatory and at times hostile, terms.

As a further note of introduction, none of the longhand writers was able to give evidence as to what was said, and by whom, without refreshing his memory from the notes which he took at the time of the meeting. This, of course, was understandable, particularly as some of the witnesses' reports extended over the full period of the indictment, and many of the witnesses attended meetings once or twice a week. In the result/.....

result, save on minor points, the witnesses relied entirely on the notes which were adduced in evidence.

In addition, the vocabulary of the African witnesses, while in general it was good, was nevertheless limited, and some of them had to go through the process of mentally translating and then physically transcribing the speeches into a language with which they were not fully conversant. In the ordinary course of human experience, this would add a further difficulty to the natural difficulties which confront any longhand writer attempting to take down a speech made at a meeting.

It is common cause that the notes were taken by the police of all speeches used by the prosecution, not for the purpose of the witnesses themselves gathering evidence which to their knowledge would be used in this case, but in order to compile reports for the consideration of their superior officers: it is also common cause that at all meetings not only was a portion of the meeting reported, but that often only parts of what any particular speaker said were recorded.

Finally/.....

Finally, it is common cause that the police witnesses were interested in obtaining only selected portions of what was said, and took extracts from various speeches which they regarded as important in order to compile their reports.

It is clear, therefore, insofar as all of the meetings are concerned which were reported by longhand writers, that innumerable difficulties faced the Court - there were at times incorrect recordings and the evidence discloses that under cross-examination on at least two occasions the witnesses said that their notes were wrong; there were incomplete recordings, some of the recordings were ungrammatical, and the Court was satisfied, that despite the truthfulness of all the longhand writers, their reports could not be relied upon as a sufficiently accurate report upon which to form a conclusion of the true feeling prevailing at any meeting covered by any longhand writer. In addition, not only was there selectivity throughout the longhand writers' recording, but there were the difficulties of reporting arising from/.....

from general conditions, and the physical inability to record anywhere near a fair percentage of what was said. Again, the Court was unable to say that the selected portions represented a sufficiently accurate and quantitative volume of the contents of speeches to form a true perspective of the nature of what was said.

But another and serious difficulty confronted the Court: this was the fact that of thousands of meetings held by various organisations during the period concerned, a minute percentage only has been recorded. The evidence reveals that the police attended the majority, if not all, these meetings, and made notes; the inference is irresistible, in my view, that where no evidence was laid before the Court as to what was allegedly said at these meetings nothing advocating the use of violence to attain their objects was uttered

So far as the number of meetings is concerned, the evidence of both the prosecution and the defence witnesses proves that during the indictment period approximately 15,000 meetings were held throughout the country. This was/.....

was the figure arrived at, by as accurate a calculation as was possible, by the defence, and the testimony of Sibande, Professor Matthews, Yengwa and others for the defence, and that of Coetzee, Swanepeel, Masilele and others for the prosecution, confirms this estimate. On the assumption that the Court was in a position to rely on all the 85 meetings at which violent speeches were allegedly uttered - which I have indicated that I am not able to do - the total percentage of meetings at which so-called violent speeches were made is under one percent, and on this basis alone, I would not be prepared to hold that the prosecution had proved that there was a nation-wide conspiracy based on a policy of violence by the African National Congress.

An analysis of the so-called violent meetings, and where they were held, is interesting. Approximately fifty out of the eighty-five emanated from the Transvaal, and of these nearly all took place in Johannesburg and its surroundings. So-called violent speeches were uttered at eleven places in the Transvaal, and the evidence establishes that there were approximately/.....

approximately eighty branches in that Province. About thirty meetings in the violent schedule came from the Cape Province, of which the great majority of speeches were allegedly uttered at Veeplaats, Korsten and New Brighton, with one at Adelaide, one in Queenstown, three in Port Elizabeth, and one in Uitenhage. It is interesting, too, to note the years when these speeches were uttered, as alleged by the prosecution - none was delivered in 1953, about ten in 1954, about twenty in 1955, and two in 1956. In Natal there was evidence of only two so-called violent meetings, one in 1954 and one in 1955, and there was no evidence of meetings under the violent schedule in the Orange Free State. Again, on an estimation of the meetings calculated on the evidence, the following figures appear: in the Transvaal the prosecution led evidence of about fifty so-called violent speeches arising out of about 8,000 meetings held there during the indictment period; in the Cape, thirty-six out of approximately 6,000 meetings in the same period; in Natal two out of roughly 2,000 meetings, and none in the Orange Free State.

Thus, assuming, as I have already
stated/.....

stated, that the prosecution has proved violent utterances at all eighty-five meetings, an analysis of the situation shows that the prosecution has failed to prove any nation-wide violent conspiracy. But on a rejection of the evidence given by the longhand writers on the so-called violent speeches, no testimony remains concerning any violent utterances made in the Western Province, in the Eastern Province, in the Orange Free State, and in Natal and only a few isolated ones in the Transvaal.

Apart from the difficulties which I have already enumerated, another faced the Court: this was the anomaly which existed as to difference of opinions expressed at various meetings. I have already mentioned that not only was the Court not given complete reports of what was said at all meetings, or even what was said by one particular speaker at any particular meeting, but considerable defence evidence was led to show that at many meetings including, at times, those where violent words were uttered, repeated themes of racial peace and harmony and of the organisation's belief in non-violence were delivered, and it was often said by various speakers that members of the organisations should not allow themselves to be

provoked into violent action by the police.

In broad terms, the prosecution submitted that where the notes of any longhand writer made sense, and were in conformity with what was repeatedly said by various speakers at other meetings, and with the documentary evidence, the Court could rely on the reporting as being a true reflection of a general theme of what was said.

There are two fatal defects in this submission. Firstly, where the verba ipsissima themselves constitute the treasonable act, no Court can rely on a "general theme". In this case, the prosecution laid the foundation of its argument, insofar as speeches were concerned, on the actual words which were spoken, but it is trite to remark that if this is the case, such words must be proved beyond any reasonable doubt. I have demonstrated that the prosecution has failed in this respect. Secondly, if expressions were commonly repeated by different speakers at different meetings, a recorder could easily fall into the trap of hearing a familiar opening gambit and then unwittingly conclude that it followed the usual pattern, and report accordingly.

There/.....

There were a few instances, not affecting any of the allegedly violent words, where there was independent corroboration of what longhand reporters recorded, but with these exceptions, the Court came to the conclusion that it could not rely on the reports of any longhand writers to prove the actual words uttered by the persons concerned, and that, in any event, the percentage of so-called violent meetings laid before it was so small that it could not be adjudged to be a true reflection of policy of the African National Congress throughout the country.

As a result of the elimination of the evidence given by the longhand writers in so far as it affects the main issues in this case, the prosecution is, in effect, left with approximately fifteen speeches recorded by shorthand writers which contain allegedly violent utterances, and I now propose to deal briefly with these.

I shall commence with the witness Detective Sergeant Coetzee, a qualified shorthand writer, whose evidence generally was not challenged/.....

challenged save insofar as inevitable errors occur during the reporting by a shorthand writer of any evidence or meeting.

The first meeting reported by him, in conjunction with Detective Constable Schoeman, also a qualified shorthand writer (each of the witnesses reporting a portion of the various speeches), was the Resist Apartheid Committee meeting held in Johannesburg on 27th June 1954. The witnesses did not identify the meeting as such, but the extraneous evidence, namely Exhibits A 19, A 20 and A 37, establishes that the meeting was held under the aegis of this Committee, which consisted of a number of organisations.

The chairman was the accused Moretsele, and I set out various extracts from his opening remarks as recorded by Coetzee:

"We here in South Africa have got a very big land, a land in which we can live with everybody and we want to live peacefully with everybody - the extremists who are trying to mislead the people here are the people who are not going/....."

going to go out. That is why you see today here we are all here, the freedom loving people, irrespective of their colour, we are not worrying about those extremists who are here. They are only here to represent Mr. Blackie Swart, to tell him what the people of South Africa think of him. We here are the non-violent army for the liberation of the people of South Africa - we want to make it fully clear to them that they are the people of violence, we are leaving these matters to Mr. Swart and he must know that we represent all the peoples of South Africa. We stand for them all in a non-violent army.

We are not going to support these apartheid laws, these laws which are the apartheid laws are being used to lower the people's standing and if it is the last thing we do, we shall fight for our liberty.

I said earlier that when you stand here where I am standing and look at the Conference, you will see that it is

fully/.....

fully represented by all nations of this country, and the day when we take over the government - all the nations will sit like this in the House of Assembly. We will not be like this when there are people like the police to teach other people to say we are traitors.

I have already explained to you that this mass Conference is a conference that is going to take over the Government and rule this country. Everybody will have the right to choose a certain suburb where to stay, and there will be no such thing as you because of your colour cannot live and reside here".

The next speaker was the alleged co-conspirator Vundhla, then a member of the African National Congress Executive. He stated that he was speaking on behalf of his Congress, and that one of the most important tasks of the Conference was its struggle against the Western Areas Removal Scheme and its action to defeat it.

At page 7414, the evidence reads:

"The/....."

"The Government has now passed the Resettlement Act in terms whereof the Minister is empowered to expropriate land and homes and to remove by force all peoples from the Western Areas. Dr. Verwoerd is the Minister in charge of this removal of the Government and has unleashed a reign of terror and intimidation in the areas - and his weapons are founded in the oppressive measures by the police, for its raids have been intensified in the vicious manner in which they are conducted, making it absolutely clear that the day of removal is not far off. For those who follow ^{events} very closely in the Western Areas it is clear that the National party Government intends to aggravate the already strained relations between the Government and the people with its rule of violence and brutal force. The Government intends to turn the area into a blood bath for its own political ends. On the other hand, the Congress
in/.....

in a series of resolutions, have condemned and rejected the removal; it has openly called upon people to refuse it (page 7415).

On the 4th April 1954, a call to the national organisations and other bodies to consider holding Freedom Day protests against the scheme was adopted at a mass meeting of over 800 people. This Conference was organised by the African National Congress. The meeting condemned the inhuman attitude of the Nationalist Government to uproot the people from their homes and resolved uncompromising and relentless opposition, it further resolved to defend the people's homes and properties to the bitter end and it called upon the residents of Sophiatown, Martindale and Newclare and upon landlords and tenants, Africans, Chinese, Coloureds and Indians to stand united and defeat this plan by consistent action".

And at page 7416, the record reads:

"In/.....

"In a statement issued by Chief A.J. Luthuli, President General of the African National Congress, attention was drawn to the possible removal of the people of the Western Areas from their present home. Never have the injustice and inhumanity of apartheid been more clearly demonstrated than by this action of the Minister of Native Affairs, Dr. Verwoerd, to put through this mass deportation in the face of overwhelming opposition from the citizens".

The speaker Vundhla then dealt with the call for 50,000 volunteers by Luthuli and he is recorded as having said:

"In the affected areas fascism has been displayed to the Africans. There is a growing body of serious men and women who feel that the affected areas are the place to call a halt, and all expect nothing else than a fight to the death in defence of their homes and properties. This is the essence of the fight that faces Congress today. On the

one/.....

one hand you have a fascist government which believes that the weaker must be put against the wall and destroyed, a group of people who are determined to push through removal with force, blood and iron. On the other hand you have a group of people who are equally determined not to move. It is an ugly situation with which to deal".

I quote an extract from another speaker, also an alleged co-conspirator, Paul Joseph (page 7428).

"Mr. Chairman I am slightly disappointed, I want this conference here to tell our leaders what line of action must be taken. I feel that the people must go from here armed. I have a proposal to put forward. I am not suggesting at this stage that we must use the supreme action of mass strike, but what I want to suggest is that the boycott be employed in the Western Areas. A boycott of the trains, the buses and the beerhalls. (Applause). The Johannesburg City Council makes/.....

make fifty thousand pounds every year from the beer halls. The Government makes millions of pounds from the workers of Orlando, Newclare and Jabavu. Thousands of pounds are raised from the people from the buses.

What I suggest Mr.Chairman is that the people be called upon to boycott the beer halls, the buses and the trains. I remember in 1943 when the people of Alexandra Township walked eighteen miles every day, they walked to victory. In this way we will drain the finances of the Government which they use to oppress us. The Western Areas must become the Dien Bien Phu of South Africa".

Other portions of what was said at the meeting were covered by Schoeman, and the following extract appears from his evidence. He recorded what one Sibande said, and the evidence given by the accused Sibande establishes that it was he who spoke. He referred to the Nationalist Government as 'gangsters', and said it was a 'mad' government which was 'power drunk'.

At/.....

At page 7775, Schoeman recorded him as saying (and Sibande does not dispute this evidence):

"We are also in the midst of our struggle, our Holy War is still coming. Under these conditions we appeal for volunteers who shall obey the instructions of Congress. Men and women who shall be faithful to the orders of Congress. Where we are going we shall go in darkness, we shall work in the dark; we shall go through black forests. When we get into that river we shall start breathing. We don't know what river is that. There may be blood flowing in that river. There might be anything but we are going there. These volunteers who are so anxious to do this job, we must tell them this: whether they want to know, whether they want to be given orders now or tomorrow, that must not worry them. They must just wait for the call, when the bell strikes then we shall do something. They shall get the call. Someone has been complaining that our people/.....

people are sent to the farms. Now we are also going to be sent to those farms; we shall employ all tactics, underground, openly - we will do all this."

Sibande, when he gave evidence, explained this speech. In general terms, he gave it a biblical background, and there was no reason, so far as I could see, to reject his evidence or to infer from the use of his words "we shall work in the dark", "we shall go through black forests", or "there may be blood flowing in that river", that he intended to convey to the volunteers that they were expected to use violence to attain their ends.

The meeting, when examined as a whole, cannot in my view be termed a violent one, in that the speakers uttered violence. Some of the terms used may be reprehensible and contemptuous, but cannot be taken further. Indeed, Mor tsele's opening remarks, read with what Paul Joseph allegedly said, indicate that the speakers did not intend any violence to flow from what they said.

The/.....

The next meeting dealt with by Coetzee is a meeting organised by the various Congresses held in Johannesburg on the 25th July, 1954. Coetzee stated in cross-examination that it was a meeting to discuss ways and means of organising the Congress of the People campaign, and he also stated that one of the speakers said that Dr. Malan, the Nationalist party and the United Party had been invited, but had refused to attend the conference. It was apparently a public meeting. The chairman was the accused Moretsele, and despite the prosecution's criticism of his remarks, the general trend of his speech appears to me to express a policy of non-violence by the Congresses. He said, inter alia,

"If a member of the United party is prepared to create any disturbance or cause bloodshed, Congress is not an organisation which is for bloodshed, it is a peaceful organisation,"

and at page 7438, he is recorded as having said

"I want to tell you, the African National Congress is a peoples' organisation. We are assembled here even

in/.....

in our Congress, we are not here to create trouble. What happened previously most of you know what happened. It is still going to happen. We know, they think we don't know, but we want to appeal to you we did not call this meeting for the police. Just do what we tell you when they come to listen to us. We must not get excited, we must rule this country in a proper manner.(Applause). So I am appealing to you, show these people that you are better people than themselves, we did not come here for trouble. We came here to discuss ways and means, but let them know one thing, without bloodshed, like the Afrikaners took this country without bloodshed we are going to rule this country without bloodshed we are going to rule this country and make everybody happy and proud. We will go on with this discussion, we don't care, who is going to stop us?

They must tell Mr.Malan and Mr.

Verwoerd/.....

Verwoerd, of course Swart is sick, we might not get him, all the clique, that we are going to rule this country, we are going to take it with our bare hands, they don't know the secret, but we are going to take it and we are going to rule this country,.....

There were a number of other speeches, including one admittedly made by the accused Conco, and the final one dealt with at length by the prosecution is that of the accused Kathrada (page 7463).

At that time Kathrada held a number of high offices in the various organisations and was one of the members of the Transvaal Volunteer Board, another member thereof being the accused Resha. Kathrada addressed the meeting on the duties of the volunteers. He is recorded as having said:

"If I want to describe in one word what the tasks of the freedom volunteers are I would say that our freedom volunteers are going to be the top brigade of the/.....

of the fifty thousand strong in the army of national liberation in this country. Every army in the world has got its hard core of men to rely upon under all circumstances, to perform a task that has great difficulties, that has greater hardships and tasks, that demands greater vigilance and sacrifices than the rest of the tasks.

Our freedom volunteers are going to provide that hard core of men in our army of liberation. In our army of national liberation led by the Congress Movement in this country, but ours is not going to be like the armies you know."

And shortly thereafter he said:

"Ours' is going to the four corners of South Africa, not with guns, not with bombs, and other weapons, ours is going to organise the people, not for rape, not for destruction, our volunteers are going into the field with a purpose

far/.....

far stronger than everything we have seen before. Ours is a non-violent army, we consider ourselves too civilised to resort to barbarism and our mission is to organise the greatest assembly in the history of South Africa on our march to freedom."

And at page 7465 the record reads:

"Volunteers must discuss with the people their conditions, their demands and have it carefully studied, they must bring back these demands - these details to the organisers who will then have the aspirations of all of us in South Africa and they can then record it in the Charter of Freedom. The volunteers must at all times bear in mind that we are going to the masses of the people of our country not with something we hope, something which is far, far away from their day to day life.

The Congress of the People must be made into a living movement taking into account each minute detail and ensure

that/.....

that these are conveyed to the proper committees for discussion....."

There will be many obstructions. They will meet many difficulties, and most important of all we must tell them again - constant provocation from all forces. They will come up against provocation with their own people who are openly in the hands - in the camp of the enemies, like those police who are sitting here this afternoon. And they will come across provocation by people - by dirty things who will go out to create suspicion and destruction. They must be a disciplined corps of men, our volunteers must never allow themselves to be provoked, and the volunteers must ensure by constant explanation that the people too are not unnecessarily provoked....."

"Volunteers must be ever vigilant and guard against these acts,(of brutality). Every time volunteers allow themselves to be provoked we must remember it is a victory/....."

victory for the enemy. Foremost in our minds must be the goal for which we are striving and we must all behave in a manner that we do not in any way harm the progress of our movement....."

Of this speech, Mr. Trengove submitted that while it could be regarded as a 'non-violent' one, it was "not inconsistent with an organisation having as its policy the violent overthrow of the State."

Presumably counsel was referring to the army of liberation and to the fact that Morctsele said that "Congress was going to rule the country - we are going to take it with our bare hands." But whatever meaning the prosecution has allocated to these words, it is clear, in my view, that in their context they are consistent also with a peaceful change over in the type of government in South Africa, and it is not possible to draw the irresistible inference therefrom that violence was intended by the volunteers.

The next meeting dealt with by Coetzee is a meeting of the African National Congress, at the corner of Morris and Victoria Streets in Sophiatown on 9th January, 1955. It/.....

It was presumably an open air meeting, and it was held after certain removal notices had been served on some people in Sophiatown, before the removal therefrom to Meadowlands.

The three main speakers stressed by the prosecution were Matlou, a member of the Executive Committee of the African National Congress branch, and volunteer in chief in Sophiatown, a woman named Karayi, an executive member of the African National Congress, Sophiatown, and a prominent member of the Congress, and the accused Resha.

Matlou (page 7474, and Mr. Trengove page 19,303) is recorded as having said:

"The time has now come; now the policemen, the detectives, the informers, the pimps - everyone must take up their position in the affairs of this country. In due course, in a matter of days, we shall see everyone taking up his due position in the affairs of this country and in the affairs of this township particularly.

It has been told to you for three years now that one day our houses are

going/.....

going to be stolen from us. It did seem as if that day was far off, but today that day is at hand. It is very clear that the Government of this country have for a long time now been asking for bloodshed and one must ask oneself whether bloodshed cannot be given to them....."

I want you to realize clearly that when you have made up your minds to defend your homes, there is going to be great suffering. I want everyone of you here to know what is going to happen if you fall into the hands of the Dutch who are standing here. There is nothing that they will not do to you. But we will do to them what they have done to the English in this country. They know that when people are ready to move forward there is nothing that will stop them..... we will have to fight our own brothers. People have to make a living somehow, and some sons of Africa are now policemen and detectives, but they will have to choose. Then only can they live. Nothing pleases me/.....

me more than that the African people are being driven into a position where they are being forced to take up position whether they like it or not. We are forced to take our freedom in our lifetime.....where ordinarily it would have taken us thirty years to achieve freedom it is now going to take us one fifth of that period to achieve freedom."

This speech was put to Resha, who stated that it was consistent with African National Congress policy. It was argued by Mr. Trengove that the speech in itself was "blatant violence" and he submitted that it was not the kind of language that an organisation whose policy was one of non-violence would use. I shall reserve my opinion about this speech until I have concluded with the two other speakers previously mentioned. Matlou was followed by Karayi, who is recorded at page 7477 as having said:

"It is a fact that the Afrikaners have come across to us to oppress us, they have come to step on us, and this business/....."

business must end; we must take our stand - man and woman. As the position is today we have come where every man must ask himself the question and that question is "Where is my place?" We must know that what we are going to do is foul, but we are going to kill these people. We know very well that what we have done in the past is nothing; what these people have given us is poison, and they are aware of it, let us place them where they have placed us all the time. They have killed us, now we will kill them. Every man must ask himself this question. The white people say there is a Commandment 'You must not kill', but they do not heed this Commandment. They are placing upon us difficulties which they are not prepared to bear, but we are not afraid to die for our freedom like the children of Israel....."

Resha was not examined about this speech when he gave evidence in chief, but he stated in cross-examination (page 16,777), that she could not/.....

not have made this speech, which he said was a violent one, because "She is an executive member of the African National Congress in Sophiatown and also a devoted Christian and a prominent member of the Dutch Reformed Church."

There was no cross-examination of Coetzee, and in view of Resha's fallacious reasoning and all the surrounding circumstances, I find as a fact that these words were uttered by her. It is clearly a speech amounting to incitement to commit violence.

Resha spoke at the meeting and said inter alia,

"We will not move. We will not move. We will not move." "I want to put a very pertinent question to you. If I say you will not move, and by saying that you mean you will sit down, you will not move. But a man who is determined to move you will lift you body and soul and put you outside and what will happen then? I can answer that question or perhaps you will answer it for me. I can answer that question, yes/....."

yes, but I cannot decide for you,
you must decide for yourselves.

Personally I have satisfied myself and
if you ask me what is my answer I say
you shall not move. The white man
considers himself next to God and when
he says move he expects you to move.
Therefore, friends, the decision you
must make must be one you must defend
to the bitterest end."

And at page 7482, the record reads:

"Why is it that we see today that
the police have seen fit to have two-
way radio cars in Sophiatown a few days
before removal, why is it that every day
your houses are being searched for dan-
gerous weapons every day - every night?
Ask yourselves friends, why is this big
police barracks being built. Why is it
that the Europeans come and write down
on Sundays what we dirty natives say.
They do it to kill you and rob you of
your own properties."

Resha/.....

Resha, when this passage was put to him, stated that he could not remember having said this, but that he could have been advocating at that time that people should not willingly move on the day of removal but should remain in their houses and when the Resettlement Board came to move them, they should refuse to do so.

There is much to criticise in Resha's answer, and the prosecution was justified in submitting, in my view, that of the three recorded speeches, one directly advocated violence, and the other two contain indications that the people should resist in whatever manner that they wish. The record does not indicate that there was any rejection by Matlou or Resha of what was said by Mrs Karayi, and in view of the nature of their own addresses, by implication they seem to have agreed with it.

This meeting therefore, in my opinion, can on the whole be classified as containing, at the minimum, elements of incitement to commit violence by prominent members of the Sophiatown branch of the African National Congress.

The/.....

The next meeting covered by Coetzee was 30th January, 1955 in Sophiatown, where the chairman stated:

"The kind of South Africa we envisage will be ruled by people qualified to do so, whether black or white; if the white man is qualified to serve the country he can by all means do so."

Resha spoke at some length on the pending removal from Sophiatown, and I set out extracts from his address:

"Friends if you say no, then you must mean it, and if you say no, then I am inclined to believe you mean it. Then you must agree that the removal of the Western Areas means that it will be decided once and for all whether South Africa will remain a white man's country or whether it is going to be a country where everybody can live. Yes, the Government will have lorries on the day of removal, so if the Africans fight they will have to fight Africans, their own/....."

own people. That is what they want to do, the big rascals. You will have to fight the African drivers of the lorries

"I stand here today not to ask you to defend me against these small boys, (he was referring to the police present) I can do that myself; you know that. I stand here to ask you to defend your homes to the bitterest ends, to the last ditch. Yes, friends, some of you are asking what is going to happen on that day. The answer is simple; when we had a conference at the Western Native Townships last Monday the police came with their guns merely to intimidate and frighten us. That shows you what they will do when they come to force you from your homes. When will the white man realise that we are prepared to fight and die for our Motherland. It is on that day that we must make the white man realise that if he comes to the African he must think twice. Friends, we have no guns; friends, we have/.....

have nothing with which to attack the white man, not because we cannot get them if we want to; the white man must realise that if we want guns we will get them from them today, because if we decide to do so every European who has a gun will have to give it up to us because we cannot take it by force. So it is simple. It is because we have decided not to kill the Europeans; that is why we do not take their guns. It is quite simple. If there is bloodshed on the day of removal it will be because of the ignorant police boys. We know that Congress does not believe in violence, but what are we going to do when we defend our homes and other people shoot at us?"

And at page 7497 the record reads:

"I want to tell you what you must do as from tomorrow. Every man, every woman, and every child must be ready to meet the enemy at the gate. When your enemy meets you in your own house, then

/you.....

you are placed in difficulties because you don't have enough space to move about. We are going to meet this Dutchman in the street."

There was no examination or cross-examination of Resha on this speech, and the cross-examination of Coetzee does not affect the quality of what was said.

It will be seen immediately there are contradictory elements in the various speeches delivered, and that Resha himself, while stressing the non-violent nature of their resistance, appears to suggest that their policy of non-violence would reach the limits of its existence if violence were used against them by the police.

On the whole, I am unable to come to the conclusion that this meeting should be classified as one where a clear line of violent resistance had been adopted insofar as the Removal Scheme is concerned, and I am therefore unable to draw any inference that the speeches, taken as a whole, are consistent with a policy of violence of the African National Congress.

There/.....

There is nothing of any special significance, in my opinion, contained in the report of the next meeting covered by Coetzee - a Colonial Youth Day meeting held in Sophiatown on the 20th March, 1955, organised by the Colonial Youth Day Committee consisting of the African National Congress Youth League, the Indian Congress Youth League and the Youth of the Congress of Democrats. The various speakers stressed the alleged evils and inhumanity of the removal scheme of Sophiatown, and of various other oppressive acts in South Africa, and dealt with the struggle for freedom which was being waged against the imperialist and colonial powers. One of the speakers, Press, is recorded as having said at page 7510:

"The youth of the Soviet Union are free. They are free to live the best life possible for any human being. The youth of China are marching forward in a great army. But the youth in America, the youth in Guiana, the youth in all these oppressed places, oppressed countries, they are taught to work in the mines, they are not allowed to go to school/.....

school , they are not taught to work like those in the Soviet Union."

The familiar tune is played again concerning the heroic stand of the people in Kenya and of the "British Imperialists slaughtering women and children under the guise of suppressing the Mau Mau".

There is nothing worthy of any particular further comment about this meeting.

The prosecution stressed the importance of the next meeting reported by Coetzee, which was a Freedom Charter Committee meeting held in Johannesburg on the 18th September, 1955. The evidence discloses that it was a widely advertised meeting.

The accused Lollan was chairman thereof; the main speaker upon whom the prosecution relied was the co-conspirator Sejake, and I shall set out in full his speech, which has been referred to often during the course of these proceedings.

Coetzee's notes disclose that Lollan stated:

"We/....."

"We will now ask Mr. Sejake to speak on the section of the Charter which says "The people shall share in the country's wealth."

In parenthesis, this was confirmed by Lollan when he gave evidence.

SCHEDULE No. B - SPEECH BY SEJAKE, 18th SEPTEMBER,
1955, FREEDOM CHARTER MEETING, JOHANNESBURG,
FOLLOWS.

SCHEDULE No..BSpeech by Sejake, 18th Spetember, 1955.Freedom Charter Meeting, Johannesburg.

The people shall share in the country's wealth. The land shall be shared amongst those who work it. Land must be used by man for his welfare. This service absorbs the following branches of cultivation : Agriculture ... " I have in parenthesis 'Horticulture'... "Forestry, Industrial, Commercial, Housing, Railway Sites and so on....."

Yes. Then the speaker deals with certain of these matters that he mentioned, referring to the conditions in South Africa? --- Yes.

Is that correct? --- Correct.

Now I want you to omit the next paragraphs in his speech until you get to the paragraph starting "The State which is the instrument of oppression"? --- "The State which is the instrument of oppression, that is the Government, which is the instrument of oppression, and which is financed by the money is set into operation. Machinery that restricts the movement of people by enforcing particularly the Pass Laws, and that is the great weapon used by the Government in South Africa today. It rests with us to say whether we are going to continue to carry passes, carry the reference books or not. Under this situation the people's purchasing power is

seriously reduced. The articles which they would otherwise have bought must be destroyed. That is the law of capitalism in South Africa as in other countries. Even food is destroyed in South Africa whilst there are millions of people who suffer from malnutrition, and actually die from hunger. This ownership of land becomes meaningless under the present system in South Africa, and you and I must correct it. If you don't God will not, for he has nothing to do with your conditions and omissions. He is not responsible to you. You must sit down and form the machinery for freedom. There is a burning need for a change. a progressive step is necessary to bring the shape of things to come. One million signatures alone are not sufficient. Action is the correct the Proletariat must shout not only from the political platform, because this merely explains the situation, but they must also create a theatre and they must fight tactfully in actual manouevre and employ a definite amount of energy for the freedom to come. This will give us some guarantee that the road to the re-division of land amongst those who work it has been found. We advocate the abolishment of prisons. They stand on land which could have been used for the construction of agricultural colleges. Now we don't find more teachers of land, we find more policemen; instead of finding more schools we find more prisons. Instead of finding a rising degree of happiness we find a mounting degree of misery in South Africa.

SCHD. No. B..

The State must provide tractors on the land and not handcuffs. There must be more sheep and no barren land. There must be more water reservoirs and less draught. More domestic animals and no culling of stock. Well paid agriculturists and not men ..." and I have in parenthesis 'who deport us with their fingernails to..... our prisons.' "There must be freedom of movement and no reference books. The day may come when the African women will be compelled to carry reference books, but I visualise that that will be the day when the Devil will be let loose. but we are fighting this evil today because it inconveniences the menfolk. They say our wives must carry the same devil; that will be the day". I have in parenthesis 'applause'. "There must be work and security. The period seems to be fast arriving when ..." I have in brackets 'all the people' -"will join the liberatory movement in this country and finally all workers who are in the grinding mill of misery and poverty should join hands for the determined achievement of the peoples' freedom. This start of the struggle cannot be won early enough, whilst there are other sections of the people who for one reason or another enjoy certain rights and concessions and feel they must stand aloof to protect and maintain their privileges whilst the rest are perpetually injured. It will be good therefore for the workers of all races to join a trade union and affiliate with one co-ordinating body of Trade Unions - an example is

the South African Congress of Trade Unions. It is all very well to say the State shall recognise the right and duty of all to work, and to draw up food" I have in brackets unemployment benefits" but we have got to make the State do these things. It requires hard practical work and sacrifice. One must be prepared to clash with the servants of the State, and if the struggle assumes very large and country-wide dimensions, one shall have to clash even with the armed forces of the country. That is the test we must pass before we can have work and security. Apparently the major opinion, that we are oppressed and must be emancipated is crystallising in the minds of the people. The working class understand, the working class is ready. The necessary conditions have arisen. The time is becoming more and more opportune. Someone must step forward in the presence of the police and armed forces. One million signatures must be to..... and bring South Africa and its enslaved people a million years of prosperity and freedom. Wage agreements will then follow; they will not drop from heaven; there shall then be equal work, irrespective of race or sect. There will be a forty hour week, a national minimum wage paid, annual leave and sick leave for all workers, and maternity leave on full pay for all working people. These things do not come to you when you sit down with folded arms. I will give you a practical example to you of what I saw a few weeks ago. I went to one very big

foundry in this City one day and workers there made demands. The employers refused to give them a hearing. They particularly wanted increased wages. When I was in the office the Manager told me my boys are happy. Not even had he the decency to say 'my workers are happy'. He continued to say he paid them very well. I went to the workers to report. The workers took a decision and said 'After lunch we will go in and just look at the machines'. He had told me that the factory belonged to him. I agreed with him and said even the machines belong to you, but the hands of the workers don't belong to you". I have in parenthesis 'applause'. "They are determined to sell their labour on the best market; they stopped work. The police were called. Three flying squads were called. They said to me 'You are just the person we are looking for'. I said to them 'I am the employce of the workers, I must do what my masters order me to do'. 'If they say I must leave then I will do it'. I was released on the spot. No one was arrested. Friends, don't fear the police; don't fear even the armed forces. Your powers of resistance are greater than even the atom bomb. Freedom in our lifetime". I have in parenthesis 'applause'.

After that the Chairman, Stanley Lollan, spoke?
--- Correct.

And emphasised the necessity of becoming familiar with the Freedom Charter and called upon the audience to repeat the section of the Freedom Charter on which Mr. Sejake spoke? Is that correct?
--- Yes.

SCHD. No...T.

Which the audience then did? --- Yes.

The testimony of Resha shows that at that time Sejake was an active worker in the African National Congress and also in the South African Congress of Trade Unions. Both Resha and Lollan gave evidence as to Sejake's speech. Resha stated that he was busy at the time with the credentials committee, and heard only portions of the speech, but that he took the matter no further as, as soon as Sejake had concluded his speech, the police rushed in and seized the notes made by Sejake of his address. Lollan stated that he thought at the time, and was of the same opinion when he gave evidence, that the speech 'was a bit wild', but that after the next speaker the police rushed the platform and seized notes and that he thereafter forgot to speak to Sejake about the use of his words "Clash with the armed forces."

In my view, both Resha and Lollan are untruthful and evasive about this incident; the evidence proves that there were several speakers after Sejake spoke and that it was not until later in the day that the police entered and seized the documents on the platform. The cause

for/.....

for evasion and untruthfulness is apparent, in my opinion. The speech itself is a violent one, and it is apparent that, on an analysis of the whole meeting, many of those present agreed with the sentiments uttered by the speaker.

The accused Ngoyi addressed the meeting after Sejake, and she is recorded as having said, inter alia,

In Europe there are countries which are free because of their liberation fighters. This Freedom trip is a very heavy trip. There are some people who are opposing us but the time will come when they will be taken alive and thrown into the fire. I think about an example in Germany under Hitler, Strijdom, the Lion of the North, the same will happen to him, but I am not making a speech today - the time is now to work together. It is our duty to teach these Afrikaners here. It is time for them to come together with us."

The accused's attendance at this
meeting/.....

meeting is laid as an overt act against her in that she was present and spoke at a meeting convened in furtherance of the objects of the treasonable conspiracy. There is doubt in my mind whether her speech was correctly recorded, or, more probably, whether it was correctly interpreted; the accused Joseph was examined by Ngoyi as to the speech attributed to her by Coetzee, and she said she did not recall it having been said; she stated that at the time Ngoyi was President of the Federation of South African Women and if she had heard such a statement, she would have discussed it with her, in order to enquire whether she intended to convey the impression that violence was to be used in the future. She stated that she paid particular attention to Ngoyi's speech, as she had recently returned from a trip overseas and it was her first public speech. She remembered that Ngoyi spoke "with horror of what she had seen in the remains of the concentration camps and she remembered a reference by her to the fact that people were thrown into the gas chambers and were burnt."

Joseph stated that the interpreter

at/.....

at the meeting had difficulty in interpreting, as Ngoyi spoke in English and Sesutu, switching from the one language to the other.

The fact that doubt has been cast on this utterance does not affect my view that Sejake's speech at this meeting contained a number of suggestions that violence would be used in the future in the attainment of freedom.

The next meeting covered by Coetzee can be shortly dealt with; it was a meeting of the South African Society for Peace and Friendship with the U.S.S.R., held in Johannesburg on the 6th November, 1955, and it contains the usual expressions of adulation for the Soviet Union and the manner in which it achieved its freedom, and on the other hand the (by now) common condemnation of the Western Camp.

The final meeting dealt with by Coetzee is an African National Congress meeting of the 3rd June, 1956, and it was a meeting in which the main references were to a government in South Africa based on the Freedom Charter.

Nothing/.....

Nothing special need be referred to at this meeting.

I propose next to deal at some length with an African National Congress Youth League meeting held in an open stand corner in Sophiatown on 29th April, 1956. A number of senior officials both in the African National Congress and the Youth League attended and spoke, namely Nthithe, who was then an executive member of the African National Congress Youth League and Provincial secretary of that body; Makgothi, then a member of the national Executive of the Youth League, and a past president of that league, and also, according to the evidence of Ntsangani, a member of the National Executive of the African National Congress about this period (the exact date is not fixed); the accused Maloao, then a member of the Provincial Executive of the African National Congress Youth League, whose position has already been dealt with. Maloao's speech was read in full, and he gave evidence on it and also on what Resha said at this meeting. I shall refer to this in greater detail/.....

detail shortly. Modise, an active member in the African National Congress Youth League, is recorded as having said this:

"Amongst these Dutch people who are in the Government today, we have clever people who know that the Africans are going to get their freedom. I say to those Dutch people that they must tell their people that it is not too late to make friends with the African people. I say to them, let them go and tell Strijdom, let them go and tell Verwoerd and Swart to change their minds because even if the black man is to get his independence by force he will get it.

Maloo's comment on the use of the word 'force' was that he understood pressure would be brought to bear on the Government to change its policies.

The Chairman Nthitso in referring to Modise's address said:

"Mr. Modise has expressed on behalf of the African people their eagerness to

see/.....

see a change in the policy of the
Nationalist today. Mr.Modise has come
up on this platform to try and change
the minds of the Nationalist. We
appreciate it because it is not our
desire to get our freedom with bloodshed
.....!!

The prosecution laid stress on
the speech made by Resha. The evidence is that
he spoke in some African language for about
fifteen minutes, which was not recorded by any
prosecution witness present, and thereafter spoke
in English, which was recorded by Schoeman.

SCHEDULE No.C, RESHA'S SPEECH AT AN AFRICAN
NATIONAL CONGRESS YOUTH LEAGUE MEETING HELD
AT SOPHIATOWN ON 29th APRIL, 1956, FOLLOWS.

SCHEDULE No.C..

Resha's speech. A.N.C.Y.L. Meeting

Sophiatown, 29th April, 1956.

"Why is it today that the Afrikaners are afraid to give the African people education? Why is it that the Afrikaners who came from Holland, people who do not know who their ancestors are, who do not know their own forefathers and mothers, do not want to give us education? The Afrikaners are afraid to give the sons and daughters of this world the correct education, because they are lazy people who want to live on the Africans. They are no better than bugs. The Afrikaners are afraid that if the African people achieve education they will remember the day of Blood River. They know that the Zulu blood which is inherent in every Zulu man - they will remember the day when Dingaan put his spears in the hearts of the Boers. They know that once the sons and daughters of this country are educated they will remember the day when that great man Sekekune" and I omitted something - "they know that once we are educated we will remember the days of those great sons of the Basutos, the days when on the mountain of Thaba Basegu (?) they stole the hearts of those hungry people. They will remember of course the Basuto people will remember that day the revolvers and the guns could do nothing; when the stones came running

everyone was killed. And, of course, if the African children are educated they will remember the day when that great gentleman Makana said to the Afrikaans tomorrow ---" and I omitted something there - something about Grahamstown - "the Afrikaners and Dr. Verwoerd know that if you are educated you will play on them the same trick that that great Dingaan played on the world when he called them to lunch because they are always hungry and they put the spears through their hearts. The Afrikaners know that once your children are educated under you and me they will not be afraid of the Afrikaners who are carrying the revolvers. The reason why Dr. Verwoerd doesn't want your children to be educated is because he knows the minute you are educated he knows that you will know that the grandfather of every Afrikaner was that thief, no other than Jan van Riebeeck. That is why, friends, I say to you this afternoon it is important that you must refuse to accept Bantu Education, because it is going to teach your children to look up at the Europeans just because his face is white. The Afrikaners under Dr. Verwoerd knows that once your children are educated they will know that these people unfortunately find themselves in that position today. Your children will know what they see and what they do. Yes, friends, I know that any of us here today can teach our children various

things that have been mentioned, but I want to call upon the youth of Sophiatown to see to it that our young brothers and sisters who are growing receive the right education. One day in China when the English people had refused education to the Chinese people in the same way as the Afrikaners are doing today, this is what happened. The Chinese people could not get paper, they could not get pens to write with, but they decided to use stones and in order to write they had to extract blood in order to sign messages to other Chinese in other Provinces. And I therefore want to say to the youth of Sophiatown, our first duty is to handle these people in the flying squad. They are nothing, we can handle them. For many years our great leaders of the African National Congress have been speaking to the various governments of South Africa. Still the governments could not understand the language our leaders have been speaking. This happened in Russia, in the 18th Century. When a son of Russia wanted to convince the Tzarist Government that they are oppressed the Government could not understand the language of the leaders of the Liberatory Movement in Russia, but it was only when the youth of Russia spoke; then they had to listen. The leaders of the French Government could not understand. Even the resolutions that the people took were not taken seriously but when the youth started to take action then the

Government began to understand. When the people of Sophiatown said to Dr. Verwoerd 'We do not want to be removed from Sophiatown' Dr. Verwoerd did not listen, but two weeks ago at the beer hall the youth of Newclare spoke a language, and since that day the police have not again come back to the beer hall. That language which the youth spoke at the beer hall is a language which many a white man in this country understands better, but I want to say to the youth that that language is better understood when you speak it in the streets of Sophiatown. When the people of Germiston said to the authorities 'We do not want your raw food, we do not want your horse meat' they did not understand and one day the people said 'There is one language that every man understands;' today let us speak that language, and today the horse meat is not cooked in that hostel any more. Friends, every day we say to you that it is important for the African people to achieve their liberation, and we must organise the youth and only then shall we achieve our liberation. The African National Congress in its national policy, it also says that we want to live happily with everybody in this country. That policy of the African National Congress must be carried out. Last month in Port Elizabeth these young and still well fed Afrikaner police were not ashamed to go to New Brighton with their sten guns and kill an

Thereafter the Chairman spoke, and there is no doubt that he associated himself fully with the remarks made by Resha; inter alia, he said:

"Mr. Resha has given us a clear picture of what the youth is and what the youth speaks of. Mr. Resha has made it clear that the language of the youth is not what they say, but the language of the youth is to do. He has also shown us that the blood of an African person - it does not matter whether it is Verwoerd, it does not matter whether it is an irresponsible son of Africa, we must consider it a serious crime and that particular person must be brought to judgment. I said to you last week that it is law in this country that if you have committed murder you must be hanged. These bastards of the white people every day murder us; why should they not hang? Who is going to do the hanging?....."

Maloao said in his evidence that

"Resha/....."

"Resha was very inciting, and his examples as we took them, were not very pleasant to the struggle, and many of us were a bit worried because taking them literally as he spoke, it would mean that he was inciting the youth of Sophiatown to be violent in the streets of Sophiatown, and that is one thing that we as the youth were a bit worried about."

He also testified that a member of the National Executive on the following Wednesday at an African National Congress meeting issued a general warning against inciting the youth to be violent.

Apart from no-one expressing disapproval at the meeting of Resha's sentiments, I have already indicated by what was said by the chairman and others, that there was in fact active support for Resha's opinions.

Resha's own evidence is that he spoke "outside the policy".

Mr. Trengove's submission is correct,
in/.....

in my opinion, that Resha's speech was an incitement to the youth to prepare themselves for violent action, and that despite the fact that his speech was reported to the executive committee, nothing appears to have been done, save the issue of a general warning against incitement. The senior officials present at the meeting closed their ears to a violently worded speech from one of the most highly placed members of the African National Congress, and they and the members of the National Executive, to whom the matter was reported, were content to pass this speech over, save for some vague warning.

The meetings about which White gave evidence and which are mentioned in the Policy Schedule were meetings held in support of the forthcoming Congress of the People; George Peake, one of the speakers at the first meeting of the 13th February, 1955, and who is a co-conspirator, was recorded by White as describing the present regime as a "Police State in which oppression was maintained/.....

maintained by the baton and sten gun", and he cited the Western Areas Removal to show that South Africa was a police state. I do not propose to deal with the next meeting of the 13th March, 1955, as per se it contained no violent utterances.

The witness Language dealt with one meeting mentioned in the Policy Schedule.

It was a Durban regional meeting of the National Council of the Action/Congress of the People, held in the Bantu Social Centre on the 12th June, 1955, at Durban and it dealt mainly with the Congress of the People in Johannesburg. Apart from the usual expressions that freedom would not be obtained without sacrifice, the only extract I propose to set out (page 8737) is from the speech of one Robert Resha; he was not identified by either of the prosecution witnesses who have evidence concerning this meeting (Language and Swanepoel), but presumably he is accused No.17. He is recorded as having said:

"The Government of this country is going to regret when the people of South Africa/....."

Africa decide to move forward and before them will be passing Chief Luthuli, for when people move forward without their leaders no-one knows what they are capable of doing. The Congress believes in non-violence, but if the Government is going to take them away from us then we shall not stand responsibility for what the people will do in the absence of their leaders, and I want to say that it is not any absence of Chief Luthuli which will discourage us but it is his absence which will make us forge ahead."

While this may contain a possible indication that the people might take violent action in the absence of their leaders of the African National Congress, it cannot, in my view, be held against either the African National Congress or the accused as indicative of a violent policy or of any incitement to commit violence by Resha himself.

Detective Sergeant Swanepool made a
tape/.....

recording of a meeting held in the Regent
Cinema in Pietermaritzburg on the 5th December,
1954, (the evidence concerning thereof is set
out at pages 8017 to 8035).

SCHEDULE No. D, RESHA'S SPEECH AT A CONGRESS OF
THE PEOPLE MEETING HELD IN PIETERMARITZBURG ON
THE 5th DECEMBER, 1955, FOLLOWS.

SCHEDULE No. D.

Resha's speech. C.O.P. Meeting 5/12/55,

Pietermaritzburg.

"Friends we are meeting here today at a crucial time in the history of mankind. We are meeting at a time when the world is divided into two hostile camps. On the one side are the forces of progress, freedom and democracy, advancing day by day in their noble fight for laughter in the world, while on the other side the forces of reaction, oppression and fascism determined as they are to wage war notwithstanding the threat of extinction with the world's safety as the result of the existence of atomic bombs and hydrogen bombs. The latter forces of course, are shrieking for response. On the occasion, on occasions like this, we must not overlook the masses of people of Asia who have succeeded in driving imperialists out of their country and show solidarity with those who are still engaged in struggles to uproot imperialism in action, for through their victory, humanity stands to benefit. Even now the freedom loving people of China are threatened with another war by the imperialist America, under the pretence that they are defending Formosa, when in fact they are defending their stooge, a criminal, Chiang Kai-Shek. We hope and

pray that wiser counsel will prevail and that America will stop interfering with China. If of course America is still what happened to their forces in Korea will be repeated by the people of China in greater force, for let us be assured friends that there is no force in the world to stand before the marching force of the forces of freedom. While they rejoice over the victories over the people of Asia and other continents, and disregard their struggle for freedom and national independence, let us also realise that the driving away of the imperialists from Asia and other places will place into grips the markets of Africa with imperialists, if they allow them to make Africa another war arsenal. Already America is building war bases in many parts of Africa. France is definitely trying to destroy the liberatory forces in Tunisia and Morocco. Britain has for quite a year undertaken a war with our brothers in Kenya. It is here that some of the worst crimes have been committed by the British soldiers under the pretext that they are combating the so-called Mau Mau terrorists. A great son of Africa, Jomo Kenyatta and other leaders of the people are now languishing in gaol. Thousands of innocent souls are in the concentration camps forced on the ... Boiling water has been poured on the breasts of women because they refused that their husbands were, belonged

belonged to the Mau Mau. Children have been shot. All these atrocities are committed of course in the name of democracy, for by democracy the imperialists mean the oppression of the Colonial people. They must therefore understand that this jungle method that employed Her Majesty's Air Force to make Africa the battlefield for future imperialist wars....."

"From the opening remarks you will realise that our struggle for freedom and democracy in South Africa is of which the struggle is veritable the world over. In South Africa the people are facing a crisis. Throughout their period of government the Nationalists have shattered completely in frantic determination implemented their policy of destroying every vestige of human rights which the African in particular, ever possessed. It's of the non-European people has taken the Nationalists nearer to their goal of crushing all the people of South Africa under Fascist terrorism. During the last six years of the Nationalist rule in this country, we have witnessed unprecedented racial discrimination, and sessions of parliament have been characterised by the pattern of legislation designed to oppress the non- Europeans to suppress their aspirations and their legitimate demands, and finally to

one who do not accept apartheid. At the end of this process of course, South Africa will be a fully fledged Fascist State, along the lines of Hitler's Germany.

It will be seen that the speech contains the familiar division of the world into two camps, and the condemnation of the Nationalist Government.

Against this speech, however, which was delivered at a meeting called for the Congress of the People, must be contrasted a message read by N.T.Naicker on behalf of the banned president of the Natal Indian Congress. While it too contains condemnation in strong language of the present Government, it clearly indicated that a non-violent course of action should be pursued.

SCHEDULE No. E, N.T.NAICKER'S SPEECH AT A MEETING
OF THE CONGRESS OF THE PEOPLE, HELD IN PIETER-
MARITZBURG ON THE 5th DECEMBER, 1955, FOLLOWS.

should be governed, who should elect the men and women who make the laws of our country, how these laws should be administered, these, and other questions will be discussed not only in the Congress of the People, but in the countless discussions and meetings they will hold throughout the country. It is these true expressions of the voice of the people of this country, which will finally find its expression in the people's freedom charter. The people can write into this charter their claims to equality of opportunity, political, social, economic, cultural and intellectual of all men and women. Drunk with the power as a result of successive victories, the nationalist government has marched on arrogantly along the road of domination, using the undemocratic measures it has passed, viciously and indiscriminately to stifle democratic forces in South Africa. Banning orders have been issued by the dozens throughout South Africa. Underlining these banning orders the government has attacked five native freedoms;

freedom of speech, freedom of movement, freedom of association, freedom of assembly and freedom to a free and fair trial. Now is the time for each and every individual who loves these precious freedoms to speak out clearly and without hesitation against the wrongs that are being perpetrated in this country. Our voices in the defence of the democratic traditions must be heard far and wide. Mr. Strydom's succession to Dr. Malan does not alter our attitude. In fact it must increase our vigilance and demands. We cannot afford to be robbed of our organisation and leadership and be denied the right of planning There is turbulence in the air. Every section, every man and woman is deeply imbued.....to action. Let him who considers himself a free man..... that he is a free man, for there can be no compromise on the demands of the people for freedom. We must proclaim these basic freedoms that I have mentioned and other freedoms in the freedom charter."

"What ever we do we must not veer from the path of non-violence. In the struggle we have launched against segregation and apartheid we are strictly against violence. Mahatma Gandhi, that great apostle and freedom-wisher gave us this lead. He said it is superior to all other methods and even more explosive than any hydrogen bomb. It is a weapon of

SCHD. No. F...

self defence, self-expression, and liberation of the people. Not of territorial aggression or exploitation of another. In the process of mass-education the most expensive gift, offering an inherent guarantee of the permanence of its achievement, in that it strengthens each individual participant by bringing to him a consciousness of his latent power and a realisation of his unity of interest with his fellow man. Mr. Chairman and Friends, my message to you this morning is: Go ahead although I am not with you in person, my spirit is with you. You must tell the Nationalist Government and all the anti-democratic forces in this country that we will not be dragooned into silence. (Applause). I ask your concurrence to condemn most strenuously and vehemently the action of the Minister of Justice in indulging in mass bannings and deportations of the peoples' leaders. In conclusion let me reiterate. As loyal South Africans we have a real duty to all the peoples of South Africa, we have to build up the tradition and spirit of non-violence.

This concludes a brief summary of the shorthand writer's notes and the one tape recording by Detective Sergeant Swanepoel.

I desire, however, to deal at further length with the meeting held at 37 West Street, Johannesburg on 22nd November, 1956, of which mention has been made by the learned Presiding Judge. The full tape recording thereof is set out at pages 8141 to 8162 of the record; I do not propose to repeat it, as it has figured prominently in the case for the prosecution and the Court is familiar with it.

The roll call indicated that delegates from roughly thirty branches of the Transvaal African National Congress attended, and that amongst those present were leading members of the African National Congress, including the accused Moretsele, Nkadimeng, Nokwe, Masina, Mathole and Resha. All of these named accused were then, or had been, members of the Transvaal Executive of the African National Congress, and some were on the National Executive; Resha appears to have been called upon to speak in his capacity as Volunteer-in-Chief for the Transvaal.

The/.....

The meeting was confined to the Transvaal branches of the African National Congress, but, despite the presence of leaders of that Organisation, there is no reason for the Court to conclude that the utterances represented the policy of the African National Congress as a whole, regard being had to all the evidence in this case.

Resha, when he gave evidence, said that his admonition to volunteers to be violent and to murder, if called upon to do so, was inconsistent with the policy of his organisation. he stated that he gave this example 'merely to illustrate the importance of discipline'. I find this quotation from his evidence difficult to accept; the prosecution was correct, in my view, in classifying Resha's speech as one in which he exhorted volunteers to commit violence if called upon to do so.

There is much room to accept that those present understood Resha's remarks in this light, but it is idle for me to pursue this issue further, in view of the Court's findings of facts, and the mass of evidence which indicated that, in fact, Resha spoke outside the policy of the

African/.....

African National Congress.

I shall now deal with certain evidence led by the defence.

Mr. Moeller, a retired detective sergeant, had handed in numerous exhibits on behalf of the prosecution, and given evidence concerning a number of meetings. Through him, in cross-examination, Exhibit A 327 was put in. It is a carbon copy of a letter on the letterhead of the African National Congress dated 2nd August, 1955, and over the heading 'SECRETARY', at the end of the exhibit, is typed 'Robert M. Resha'.

The second paragraph thereof reads:

"In the report the Commission deplores the use of violence as a means of settling disputes and reminds members of the policy of the A.N.C. which is non-violent. In regard to Mr. Vundhla's political activities, the Commission has recommended expulsion of Mr. Vundhla from the membership of the A.N.C."

The/.....

The subsequent evidence is that Vundhla was expelled.

Exhibit A 328 was also put in by the defence. It is a carbon copy on the note-paper of the African National Congress, 38, Market Street, Johannesburg, but dated at Groutville, May 21st, 1955, of a suggested draft statement or resolution. The first paragraph reads:

"The National Executive of the African National Congress **Council sitting** in plenary session at Groutville, Natal, on 21st May, 1955, issues the following statement through the President General Chief A.J.Luthuli, to the African people and to all freedom loving peoples in South Africa

Here follows a portion of the message:

"We firmly believe that our cause is just and that therefore, although the campaign will call for great sacrifices on the part of both leaders and people/.. .."

people we place our faith on the mass support of the people and indeed on all freedom loving peoples throughout the world. We wish to remind our people and particularly our membership, of the kernel of our policy which is disciplined non-violence. In the face of provocation by the Government and its agents, we must remain calm and conduct our struggles in accordance with Congress policy. We are determined to follow a policy that relies entirely on the mass pressure of organised strength of the people of South Africa for its success."

Mr. Moeller also put in Exhibit A 24, with which Exhibit A 25, a document taken by Moeller from the offices of the African National Congress on 27th September, 1955, when he made a search there, appears to be identical. It is headed "A Message to the 1954 Annual Provincial Conference of the African National Congress, Natal, from A.J. Luthuli, Provincial President, African National/....."

National Congress, Natal, President General,
African National Congress." It contained a
long message - see pages 985 to 991 - and
concludes:

"The vote is the fundamental key
issue in any democratic state. History
shows us that the acquirement of economic
status may not facilitate the obtaining
of franchise rights as the following
examples show:

1. In the Boer war Transvaal Republic
of Kruger, the Uitlanders contributed
handsomely to the revenue of the State
and had economic status, but did not
enjoy political rights despite their
demanding them. This precipitated
the Anglo-Boer War of 1899 to 1900.
The Anglo-Boer War was a struggle for
recognition by the English. Congress
does not advocate a bloody struggle,
but has wisely chosen the way of non-
violent struggle."

The witness was then asked:

"Would/....."

"Would you regard that as in line with the statements of policy which were constantly and consistently made by the heads of the African National Congress throughout the period? --- I have often heard this said that the struggle should be a non-violent one",

In Exhibit A 83, also found by Moeller in a search of the African National Congress offices in Johannesburg, is contained a memorandum submitted by the various Congresses to the United ~~States~~ ^{Nations} Commission on racial discrimination in South Africa. Insofar as the South African Indian Congress is concerned, the memorandum concludes (page 995):

"For the past sixty years constituent member organisations of the South African Indian Congress have maintained a policy of principled opposition and non-violent resistance to the many acts of discrimination levelled against the Indian Community in South Africa."

Moeller's evidence reads:

"Question/....."

"Question: Now, as the Indian Congress is one of these revolutionary, conspiratorial bodies, Mr. Moeller, is this a correct statement, so far as you know, that the Indian Congress has maintained a policy of non-violent resistance to the acts of discrimination levelled against the Indian community in South Africa? --- That does appear here and I accept that to be the position.

How long have you been in the Special Branch? --- Since 1948.

And prior to that time Mr. Moeller, I think you were a detective sergeant of many years standing? --- Yes."

And on the same topic of the non-violent policy, evidence of which was led by the defence, the same witness said at page 1,002(c):

Question: "And I think you remember, Mr. Moeller, that you gave certain evidence in the preparatory examination dealing with this question of the Defiance Campaign? --- Yes.

Now would it be correct to describe the

Defiance/.....

Defiance Campaign, and I want to use these words carefully, as a well-disciplined and non-violent struggle for the removal of unjust laws? --- It was said to be so at the time.

And it was in fact well disciplined? --- It was.

And it was in fact non-violent? --- That is so."

And at the conclusion of the cross-examination the evidence at page 1043 reads:

"I just want to put - to ask you a few general questions not. You have already said that you attended hundreds of meetings of the African National Congress. You were always a member of what is called the 'plain-clothes' section of the South African Police were you Mr. Moeller? --- I was.

And I suppose you were pretty well known to the people who were speaking at these meetings? I mean they know who you were? --- Yes.

And/.....

And you were accompanied by other plain-clothes men? --- Yes.

Members of the Special Branch? --- That is so.

You always took up a fairly prominent position and everybody could see that you were there? --- Yes.

And these meetings were conducted in this way and you were there to see what was going on? --- Yes.

In some cases you would take notes, and in other cases other persons would take notes? --- I very seldom took notes.

Well, other people did? --- Yes.

I understand, Mr. Moeller, that you also have a certain knowledge of Bantu languages? --- Yes, I do speak it.

I am told that these gatherings at which you were present were peaceful gatherings, speeches took place and you would observe what was going on? --- Yes, I had no trouble at any of the meetings."

And a little later on:

"Did/....."

"Did the presence of the armed police officers cause a certain amount of resentment among the people there? Did they seem to resent the presence of these armed police officers? --- The general attitude was to resent the presence of the police in toto....."

"And they went on holding their meetings and you people went on being there? --- That is so."

Moeller then gave evidence concerning the Congress of the People and of the raid thereon by a large police force on the second day of the meeting, that is, on the 26th June, 1955. The record reads (page 1,045):

"Up to that time there had been certain police officers taking notes and observing the whole of the proceedings? --- That is so.

During the whole of those two days was it a perfectly orderly and peaceful gathering by these people? --- Yes.

How/.....

How many people would you say were present at this meeting? I am not talking about the police now? --- I estimate it at about three thousand.

And on the afternoon of the second day, a substantial police force, I am told arrived there, armed with guns, sten guns some of them, and conducted - surrounded the place and started searching various people for papers, and seizing certain documents? Is that correct? --- The meeting was surrounded by police on that day.

And they did conduct a search of certain persons? --- A search was conducted.

Was that a search of everybody there? --- Almost everyone in the enclosure.

And also a seizure of documents on the platform? --- That is so.

And during the whole of this proceeding, these people remained quietly while the police carried out their duties? --- Yes, they did object in some terms, but generally it was quiet.

They/.....

They objected in a minor way? --- Yes.
But otherwise the police got ahead with
their job, and did it? --- That is so.
And that was the general picture, not
only on this occasion when the police
raided a meeting, but on other occasions?
--- That is so."

There is further evidence from
police officers to corroborate the general state-
ment made by Moeller that at numbers of meetings
attended by the police officers concerned, con-
stant references were made to the non-violent
policy of the organisation.

To sum up, then, on the speeches:

1. The evidence of the longhand writers fell
to be rejected on the issue of violence.
2. The evidence as to the non-violent policy
of the African National Congress far out-
weighed the isolated instances of speeches
which indicated that certain members or
branches of the African National Congress
were/.....

were prepared to adopt violent means, if necessary, to achieve their aims.

In the face of this conglomeration of evidence, the Court was not able to find that the African National Congress had changed its avowed policy for one of violence.

For these reasons, therefore, I came to the conclusion that the case for the prosecution had failed in as much as it was based on the evidence of the speeches.

Since preparing my judgment on this somewhat particularised aspect of the case, I have had the opportunity of reading the full judgments of the Presiding Judge and of my brother Bekker.

Some of my findings as to the nature of various speeches and of the credibility of witnesses, have gone further than those expressed by my brother Rumpff; subject to this, I respectfully agree with his judgment.

My brother Bekker has made a

departure/

departure in his judgment in regard to our Finding of Fact No.1(f) (pp. 24901/2) concerning the type of state envisaged by the Transvaal Executive of the African National Congress. With respect, I find myself unable to agree with my brother's changed views, and adhere to the Court's Finding delivered on 29th March, 1961.

With this reservation, I agree with his judgment.

Op Rug

JUDGMENT: BEKKER

Voorblad

TREASON TRIAL 1957 - 1960
JUDGMENT J BEKKER

IN THE SPECIAL CRIMINAL COURT
CONSTITUTED IN TERMS OF GOVERNMENT NOTICE
NO. 1701 OF 1958:

THE STATE

vs.

F. ADAMS AND OTHERS.

REASONS FOR JUDGMENT : BEKKER J.

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BEKKER J: The case for the prosecution as presented by the Indictment is that the accused conspired to overthrow the State by violence because they individually took an active and leading part in the activities of the organisations of which they were members, with full knowledge and in support of the policy of that organisation. In each instance the prosecution attributed to the respective organisation a policy to overthrow the State by violence. This is the cornerstone of its case and if it fails to establish such an organisational policy on the part of the African National Congress, then for reasons mentioned in our earlier judgment, the whole case against the accused collapses. The prosecution did not suggest or contend that this policy of the African National Congress stood to be ascertained from any secret acts or activities but from what it did or advocated openly or publicly.

In our earlier judgment we held that the prosecution failed to prove that it was the policy of the African National Congress to overthrow the State by violence. In furnishing my reasons for that conclusion, it will be found convenient, in the light of the massive volume of

evidence with which we were confronted if I set out the sequence which I shall follow in dealing with the various issues raised and canvassed during the trial.

I shall commence with a brief historical review of the African National Congress as a political organisation in the course of which I shall make reference to its 1949 Programme of Action, its constitution and other documentary evidence relating to its aims and objects.

I shall thereafter consider the direct evidence of two of its acknowledge leaders namely A.J. Luthuli and Z.K. Matthews and of other less important officials in so far as they testified to the non-violent aspect of the policy of the organisation and enquire to what extent, if any, this testimony enjoys support from other quarters or considerations.

In conclusion I shall review the evidence on which the prosecution sought to justify its contention in support of the policy of violence which it attributed to the organisation and which will bring into perspective the various campaigns organised by the African National Congress and its activities in the fields of "communism."

I commence/.....

I commence accordingly with a brief historical survey of the organisation. The African National Congress came into being in 1912 shortly after the Act of Union. At the time it had as its objects the unification of the various Bantu tribes in South Africa, and the general advancement of the Africans in social, economic and political fields. To that end it sent two deputations overseas, the first in 1913 to lodge protest with the United Kingdom Government against the 1913 Native Land Act and again in 1919 where, at the Peace Conference it made representations to secure some measure of self determination for the people.

In South Africa meetings were held from time to time; various topics, political and otherwise were canvassed; in addition protests and petitions were submitted to the Government of the day in an effort to secure relief and greater political and economic rights for the people. This State of affairs continued until 1943 when a committee of leading members of the organisation met at Bloemfontein under the Chairmanship of Prof. Z.K. Matthews, where, after deliberations,

the/.....

the Committee formulated certain demands, which were later published in a pamphlet known as "AFRICANS' CLAIMS". This document set out what the organisation termed its "Bill of Rights" and "The Atlantic Charter", from the standpoint of the Africans. The findings of the Committee were unanimously adopted at the subsequent Annual Conference of the organisation at Bloemfontein in December 1946 and accordingly became the official policy of the Congress.

Amongst others, the demands included the extension of the vote to all adults, regardless of race and the right to be elected to Parliament and to other legislative or representative institutions; the right to be appointed to judicial and to public service offices; the right to own, buy, live in, lease or occupy, in unrestricted fashion, all forms of immovable property; the right, with reference to land, to an equal share in all "the material resources" of the country; the right of every child to enjoy free and compulsory education and of admission to technical schools, universities and other institutions of higher education. It condemned in no uncertain terms, all discriminatory legislation/.....

legislation and demanded the repeal of all discriminatory laws, policies and practices.

In the preface to "AFRICANS' CLAIMS", Dr. A.B. Xuma, the then President-General of the African National Congress wrote:

"...In South Africa, Africans have no freedom of movement, no freedom of choice of employment, no right of choice of residence and no right of freedom to purchase land or fixed property from anyone or anywhere.

Under the guise of segregation, they are subjected to serious educational, political and economic disabilities and discriminations, which are the chief causes for their apparent slow progress....."

".....We urge that if fascism and fascist tendencies are to be uprooted from the face of the earth, and to open the way for peace, prosperity and racial goodwill, the Atlantic Charter must apply to the whole of the British Empire, the United States of America and to all nations of the world and their

subject/.....

6.

subject peoples....."

".....As African leaders, we are not so foolish as to believe that because we have made these declarations that our Government will grant us our claims for the mere asking. We realise that for the African this is only the beginning of a long struggle entailing great sacrifices of time, means and even life itself. To the African people the declaration is a challenge to organise and unite themselves under the mass liberation movement, the African National Congress. The struggle is on right now and it must be persistent and insistent. In a mass liberation movement there is no room for divisions or personal ambitions. The goal is one, freedom for all....."

At the time there existed a statutory body, known as the Native Representative Council. It had been in existence since 1936. Amongst other duties this council was required to advise
the/.....

the government on proposed legislation affecting the rights of Africans. Although the African National Congress had initially been opposed to the legislative enactment which created this council, it subsequently decided to give the Council a trial with the result that a number of leading African National Congress members, for example, Z.K. Matthews and A.J. Luthuli, served as members of the council from time to time. During the 1946 miners' strike on the Rand, a deadlock ensued between the Council and the Government of the day as a result of which Dr. Xuma the President-General of the African National Congress called an emergency conference of the organisation. This conference was held at Bloemfontein in 1946; the general consensus of opinion at the Conference was that the Native Representative Council could no longer be looked upon to satisfy the needs of the people and that the African National Congress should build itself up to emerge as a stronger political party to safeguard and further the rights of the people.

Although suggestions were made at that Conference and at the next Annual Conference held

in/.....

in 1947, that members of the African National Congress should resign from the Native Representative Council, they were rejected for the reason that there were then certain negotiations pending between the Government and members of the Native Representative Council which envisaged an improvement in the functioning of the Council.

In 1948 however, a change of Government followed on the general election of that year, as a result of which the Annual Conference of the African National Congress decided that a programme of action should be drafted to meet the new situation. Such a programme was formulated and was duly adopted at the Annual Conference of the African National Congress held at Bloemfontein in 1949. The more relevant portions of the 1949 Programme of Action made mention of the means or "weapons" to be employed as being "immediate and active boycott, strike, civil disobedience non-co-operation and such means as may bring about the accomplishment and realisation of our aspirations."

Both Prof. Z.K. Matthews and A.J. Luthuli agreed in their evidence before us,

that/.....

that these new forms of action were adopted because the organisation held the view that the previous methods employed, namely petitions, protests and 'supplications' to the Government brought about no results; they also agreed that the new 'weapons' to be employed were directed towards coercing the Government and the electorate to recognise their demands; furthermore, and this is not unimportant, they stated that the application of the means mentioned, contemplated or envisaged breaches of the law by the masses.

"We hoped" - said Z.K. Matthews -
 "by the use of these methods, if they were supported by a sufficiently large number of people, and were sustained over a sufficiently long period of time, that we would influence both the Government and the electorate by drawing their attention to what we consider to be our unsatisfactory position in this country....our aim was to put pressure upon them."

He explained that the strength of the African people, as seen by the organisation, lay in their labour power and in the fact that the country's/.....

country's economy rested upon them and to a lesser extent, on their buying power.

On the question of the Government's reaction to the application of these methods he said:

"There was always the possibility that the Government might react towards the use of these methods by the application of force....we were prepared to face that....The alternative as we saw it, was for members and the African people generally merely to resign themselves to their position in this country, to fold their arms and do nothing, and that seemed to us unthinkable..."

Luthuli again gave the following answers to questions put to him in cross-examinations:

".....did you conceive the possibility that the State would be compelled to use violence as a result of the liberatory struggle in which your people were engaged?--My Lord, the possibility was there."

"And if the State is compelled to use violence/.....

violence what is it that compels the State to do that?--My Lord, I have already said that in the course of carrying on, we engage in activity which according to the laws of the country, are not legal activities, and the State in the circumstances of performing its duty....and I cannot judge now the degree of how far the State would go, but I am suggesting that it is right for any organisation ...to acquaint the people of what they are going in for, and one cannot rule out death in the struggle."

"You have not answered my question. Why would the State be compelled to use violence? To suppress the liberatory movement?---One has heard pronouncements from government members that we shall in keeping law and order use the police and if necessary the army."

"So that it would be in the interest of preserving law and order?---That is so."

That/.....

"That the State would be compelled to use violence to suppress the liberatory struggle?---That is so."

"And that is the view you spread amongst your people?---Quite so."

With reference to "strike action" as a means of exerting pressure on the Government (which on the evidence had been described by some members of the African National Congress as "ruthless") the following emerged during Luthuli's cross-examination:

"And what would this ruthless Government do if you organise a nationwide strike in which the masses refuse to work?---The Government that has been described as 'ruthless' would take steps to see that it does its duty as it sees it and that would involve... it might involve...the question of the State using the police and using the army."

"And that might result in a bloody conflict throughout the country?---
My Lord, in so far as we are concerned,
...we would not visualise a clash from

the/.....

13.

the point of view of violence on our part, because we say we will carry our struggle...along these lines 'non-violence' even in the face of a clash that would take place, if there should be a clash. It would not be a clash of the African National Congress!"

Elsewhere he replied as follows to further questioning:

"Under your Programme of Action you could organise a mass strike on country wide scale?---That is so."

"Against whom would that strike be directed?---Against the ruling class."

"Is that the type of pressure?---It is part of our programme."

"Is that the type of pressure you would be applying to get the ruling classes to change their minds?---

What type of pressure? Because I have already indicated that we would use Strike Action."

"You know very well we are talking about a mass strike on a country wide scale?---Yes, I concede that."

Directed/.....

14.

"Directed against the ruling classes.

Now, is that one of the types of pressure?---It is quite right."

"Now the ruling class consists inter alia of the banks, the industries, the mines on which the whole economy of the state is based. Do you agree? ---I do."

"Do you agree that in a strike like that the whole economy of the state would be undermined?---I agree."

Although there are many more similar references to be found in his evidence, the foregoing are sufficiently clear to indicate that the African National Congress as a matter of policy sought to achieve its aims by coercing the Government or the electorate to accept its demands by employing methods which envisaged illegal action on the part of the masses and the possible undermining of the economy of the State and that it was realised that the State might, in order to maintain law and order, have to rely on its police or other armed forces. Whether this justifies the contention of the Prosecution in the light of all the other evidence that the organisation intended/.....

intended to overthrow the State by violence, will be dealt with later on; at the moment I am concerned only with the evidence in so far as it throws light upon the Programme of Action and the possibilities which could arise from its application and which were known to or realised by the organisation or the leading members.

By 1949 then, the organisation had clearly formulated its aims and the methods to be employed for the achievement of those aims.

Before proceeding further with the historical review of the organisation, I now turn to consider its constitution (Exh. MWS.34.)

The Constitution contains inter alia the following objects:

- "(a) To protect and advance the interests of African people in all matters affecting them.
- (b) To attain freedom of the African people from all discriminatory laws whatsoever.
- (c) To strive and work for unity and co-operation of the African people in every possible way."

It/.....

It also provides that any person over the age of 17 years, who is willing to subscribe to the aims and to abide by the constitution and rules, may become a member and that any other organisation whose aims are in harmony with those of the African National Congress may become an affiliated body. It further provides for the creation of provincial branches, as opposed to the national body, for the holding of provincial conferences and the election of provincial executive officers. Clause 7 of the constitution states:

"The national conference shall be the supreme body of congress and shall determine its general policy and programme."

After stipulating that a national conference shall be held once every year, it makes provision for the establishment of a National Executive Committee charged with the duty inter alia of preparing an annual report for submission to national conferences on the organisational, executive and financial affairs of the organisation.

The National Executive Committee is also required to appoint seven persons to serve

on/.....

on a Working Committee to carry into effect the policy and programme laid down by the National Conference. Luthuli stated that the Working Committee was a sub-committee of the National Executive with administrative powers only.

The constitution in setting out the nature and functions of the Working Committee provides as follows:

"that not less than seven persons, who shall be resident within 50 miles of the national headquarters (which were at Johannesburg) shall be appointed to be committee. Between meetings of the National Executive Committee, the Working Committee shall enjoy full executive powers and shall carry the policy and programme of the organisation into effect. At every meeting of the National Executive Committee the Working Committee shall report on its activities, and of the work, organisation and finances of the congress and shall publish a report of the proceedings of all national conferences within three months after the termination of such

conference."

Before stepping off the constitution of the African National Congress, it should be mentioned that it remained unamended during the indictment period and that the subsidiary branches, including the African National Congress Women's League and the African National Congress Youth League were bound by the constitution, the policies and the aims of the African National Congress.

I shall now review the evidence concerning the policy of the African National Congress. The importance of this issue is self apparent since the inability of the prosecution to persuade me that the organisation possessed a policy to overthrow the State by violence, led to the collapse of the whole case against the accused.

In this connection it is however, necessary first to deal with an argument advanced by the defence concerning the question of what is meant by the 'policy' of an organisation, how it is to be proved, and its criticism of the manner in which the prosecution sought to prove the policy of the African National Congress.

Counsel for the defence referred to clause 7 (supra) of the constitution of the

African/.....

African National Congress which provides that the National Conference shall be the supreme body of Congress and that it shall determine its general policy and programme. The argument then proceeded as follows:

In terms of its constitution the African National Congress had decided to adhere to its 1949 Programme of Action and the methods therein set out, which were non-violent; the constitution was the sole memorial of the terms upon which the members agreed to work together: any variation of those terms required the consensus of all or at least a majority of the members to be evidenced by a formal and constitutional amendment; in no circumstances could 'silence' on the part of members authorise any unconstitutional alteration. Accordingly, so it was said, in order to determine whether the African National Congress had acquired the policy attributed to it by the prosecution, the Court was confined to an enquiry whether the constitution had so been amended. Counsel referred to the following passage appearing in the judgment of Wessels C.J. in Wilkens v. Brebner and Others 1935 AD 175 at page 183

When/.....

"When we consider that we are dealing with the constitution of a political party it seems clear from the constitution that the individual member has abdicated to various committees and congress his individual right of determining what ought and what ought not to be done to further the political programme of the party. He has left it to the yearly congress to say what the party thinks the political conditions of the country require the party to do...."

and submitted that the individual utterances of members of the organisation, no matter how important or how many they were, whether spoken at meetings or appearing in documents, could never have the effect of changing the policy of the organisation as adopted or approved of by its national conferences; what the prosecution invited the Court to do, however, was to infer from the various speeches made and documents published by individual members, that the African

National/.....

National Congress had acquired a policy to overthrow the State by violence; in the absence of evidence shewing that the constitution had been duly and properly amended to embrace such a policy, it would not be permissible, urged Counsel, for the Court to uphold the contention of the prosecution.

Mr. Trengove, for the prosecution, contended that the approach to the problem, as suggested by the defence, was too narrow and in any event erroneous. He submitted that in enquiring whether an organisation sought to overthrow the State by violence it would be unrealistic to turn to its constitution in the hope of discovering such a policy, and least of all, that it would be duly and properly recorded therein. If an organisation had such a policy it would only be discoverable from the utterances of its leaders, its propoganda and its activities.

Subject to certain qualifications which I shall mention there appears to be merit in this contention. In the present instance the enquiry turns on the policy of the African National Congress. Its 'policy' is a question of fact and if, for instance, the evidence

shews/.....

shews that a particular trend manifested itself in the rank and file of its members to an extent that it would be safe to conclude that it had become a matter of general knowledge, enjoying the approval and support of its membership, that trend may with justification be declared to be the policy of the organisation, even if its constitution is silent thereon. Obviously the constitution lays down the policy of an organisation. But if circumstances such as have been mentioned are present, a policy could be moulded dehors the constitution. Whether such a policy has come into being would depend entirely on the circumstances of each case, for instance on how often, in what manner, on what occasion and by whom such a trend is suggested or advocated and on the reaction of its members thereto. It is on this basis that I shall now proceed to analyse the evidence and to deal with the question whether it has been proved that the African National Congress had acquired a policy to overthrow the State by violence.

Direct evidence to the contrary and that the African National Congress had **embraced** a policy of non-violence was given by Luthuli,

Matthews/.....

Matthews, Mandela, Dr. Conco, Resha and a number of less important officials of the organisation. The nature of the onus which rests on the prosecution requires it to prove that this testimony is false; if it fails in this respect it fails altogether; it is not for the accused to prove that their evidence is true; if their evidence might reasonably be true it suffices to secure their acquittal. I make mention hereof because of the documentary support which Luthuli and Matthews, the two acknowledged leaders of the organisation enjoy in regard to their exposition of its policy and which also brings into true perspective the task which the prosecution has set itself.

In so far as Luthuli is concerned I commence with the reference to Exhibit AJL.45, an article written by Luthuli after he had been dismissed as chief of the Abutawakelweni tribe. This document, called "Our Chief Speaks" was, according to Dr. Conco, widely distributed amongst members of the organisation; thereafter Luthuli was elected President-General of the African National Congress, an office which he holds to the present day. After reviewing certain aspects/.....

aspects and conditions in South Africa, the article continues:

"It is with this background and with full sense of responsibility that ~~under~~ the auspices of the African National Congress, Natal, I have joined my people in the ~~new~~ spirit that moves them today, the spirit that revolts openly and boldly against injustice and expresses itself ~~in a~~ determined and non-violent manner. Because of my association with the African National Congress in this new spirit which has found an effective and legitimate way of expression in the ~~non-violent~~ passive resistance campaign, I was given a two week limit ultimatum by the Secretary for Native Affairs, calling upon me to choose between the African National Congress and the chieftainship of the ~~Grassville~~ ^{Grootville} Mission Reserve...."

"He alleged that my association with Congress ~~in its~~ non-violent and passive resistance/.....,

resistance campaign was an act of disloyalty to the State. I did not, and do not agree with this view; viewing non-violent passive resistance as non-revolutionary and therefore a most legitimate and humane political pressure technique for people denied all effective forms of constitutional striving, I saw no real conflict in my leadership of my people, leader of the tribe as chief, and political leader in Congress...."

"....The African National Congress in its non-violent passive resistance campaign may be of nuisance value to the Government, but it is not subversive, since it does not seek to overthrow the form of machinery of State but only urges for the inclusion of all sections of the community in a partnership in the government of the country on the basis of equality...."

".....As for myself, with a full sense of responsibility and a clear conviction/.....

tion, I decided to remain in the struggle for extending democratic rights and responsibilities to all sections of the South African Community. I have embraced non-violent and passive resistance technique in fighting for freedom because I am convinced it is the only non-revolutionary, legitimate and humane way that could be used by people denied as we are effective constitutional means to further aspiration. The wisdom or foolishness of this decision I place in the hands of the Almighty. What the future has in store for me I do not know; it might be ridicule, imprisonment, concentration camp, flogging, banishment and even death."

Again, Exhibit A.328, a document found in the possession of the African National Congress contains certain draft resolutions, one of which reads:

The/.....

"The National Executive of the African National Congress, sitting in plenary session at Groutville, Natal, on the 21st May, 1955, issues the following statement through the President General, Chief A.J. Luthuli, to the African People and to all freedom loving people."

"We firmly believe that our cause is just and that, therefore, although the campaign will call for great sacrifices on the part of both leaders and the people, we place our faith on the mass support of the people and indeed on all freedom-loving peoples throughout the world. We wish to remind our people, and in particular our membership, of the kernel of our policy, which is disciplined non-violence. In the face of provocation by the Government and its agents, we must remain calm and conduct our struggle in accordance with Congress policy.

We/.....

We are determined to follow a policy that relies entirely on the mass pressure of organised strength of the people of South Africa for its success."

A reference to Exhibit A.35 reveals that Luthuli in his message to the Annual Provincial Conference of the African National Congress, Natal, in 1954 said:

"....In the Boer Transvaal Republic... 'uitlanders' did not enjoy political rights. This precipitated the Anglo-Boer war of 1899-1900. The Anglo-Boer war was a struggle for recognition by the English. Congress does not advocate a bloody struggle. but has wisely chosen the way of non violent struggle."

Exhibit PJ.92, again, sets out Luthuli's opening address to the 22nd Conference of the South African Indian Congress, held at Durban in October 1956, during the course of which he said:

"The parliamentary opposition has proved itself impotent, hence we who constitute the extra-parliamentary front, have a very important and decided/.....

decided role to perform in these days when darkness threatens to engulf the country we love so dearly. I am personally a great believer in non-violence. The non-violent army of freedom in South Africa will and must triumph and daily our ranks are swelling."

Exhibit PDN.98 again, sets out Luthuli's speech to the Natal Provincial Conference of 1956, during the course of which he said:

".....it (the organisation) stands for outlawing of war and violence as an instrument of settling disputes. That is why in our situation in the Union, whilst regretting and condemning in the strongest possible terms the mass police raids, and the arrogance of some police, all of which combines to provoke our people to anger and confusion, we strongly urge our people not to resort to violence even in the face of extreme provocation. We shall win the esteem of the world if we do so."

Exhibit/.....

Exhibit Z.6 is a further document to which

reference must be made. It contains an article written by Luthuli on the 20th September 1956 and which appeared in "The Listener", published by the British Broadcasting Corporation. In the article, after having reviewed the political situation in South Africa, Luthuli wrote:

".....from that time (1936) we gained in our determination to fight..... for there was no other way in which we could gain recognition except to show that we were becoming militant. When I say militant I must quickly explain that the policy of the African National Congress is to be militant as much as we can be militant and yet non-violent. That is really the most important cornerstone in our programme at the present moment. We do not wish to be doubted in the matter. We have come to the conclusion that we can gain nothing by just peaceful weak representation to the Government

In/.....

In so far as Prof. Matthews is concerned, apart from his evidence that he regularly explained to his audiences that the African National Congress was wedded to a policy of non-violence, there is one document to which I must refer in particular and which secretaries of all branches were required to read to all their members and others who could be of assistance in 'the struggle'. This document contained a speech made by Prof. Matthews on the 12th April, 1952 at a special conference of the Cape African National Congress held at New Brighton. This speech I consider to be of some importance on the issue of policy, not only for its contents but also because it was published and circulated amongst various branches of the organisation. In it the following appears:

"..... the struggle upon which we are entering will be long and bitter and it would be foolish to underestimate the forces ranged against us. This campaign (Defiance) cannot be entered upon lightly, without calm reflection, without due consideration of the consequences to ourselves and to our people. Any idea of looking upon

this/.....

this as a sort of picnic cannot be too strongly condemned....the question may be asked as to what form the campaign will take and what we have at our disposal for the struggle. It is obvious that in our present unarmed state it would be futile and suicidal for us to think of an armed struggle against the powers that be in this country. They have a monopoly of the death dealing weapons devised by modern science. With our bare hands we cannot hope to stop aeroplanes, tanks, machine guns and atom bombs, although history has shown again and again that the mere possession of force is by no means a decisive one in which moral issues are involved. Our struggle in the circumstances will have to be a non-violent struggle. The Mahatma in recent decades taught oppressed peoples that non-violence is not an easy form of struggle; it requires a degree of self discipline and self control

surpassing/....

surpassing that required of the man who fights from behind the shield of modern armour. The only shield of non-violence is moral principle and personal conviction, a shield which is impervious to modern instruments of coercion but is not sufficient to protect the body from pain and suffering...."

A further document to which attention must be directed is Exhibit A.327, a carbon copy of a letter signed by accused Resha on behalf of the African National Congress, dated 2nd August 1955. This letter deals with a private or domestic matter of the organisation namely an enquiry into the activities of and an assault committed on one Vundhla and his expulsion from the organisation, and reads as follows:

"I am directed by the Transvaal Provincial Executive Committee of the African National Congress, to inform you that the commission appointed to enquire into the assault and political activities of P. J. Vundhla has since reported. In the report the/.....

the Commission depllores the use of violence as a means of settling disputes and reminds the members of the policy of the African National Congress which is non-violent...."

I next turn to Exhibit PJM.18. It contains the following resolution passed at the Annual Conference of the South African National Congress, Natal, on the 30th-31st April, 1954.

"This conference reaffirms its fullest confidence in the National policy of the ANC which is to militantly fight for the freedom of all peoples of South Africa, and calls on all branches of the South African National Congress to take all possible steps subject to our policy of non-violence to implement this programme. The conference recognises that the basic task confronting the ANC is to build a broad united anti-Nationalist front comprising all sections of the South African population. We call upon the African people and their allies to rally to the call of the
Congress/.....

Congress of the People."

Finally, I refer to an article appearing in "New Age" - a publication which the organisation encouraged its members to read. In an issue of the 20th June, 1956, the Presidential address made to the South African Indian Congress, Natal, by Dr. G.M. Naicker was published, and the following was said:

".....Conference knows only too well my fervent belief in non-violence and knows my abhorrence for violence. I am satisfied that violence cannot achieve the objectives of freedom that we hold so dear and I realise that on the colonial front a great deal of violence that exists today is violence which has been imposed on the oppressed people by the very nature of subjugation."

These references are by no means exhaustive. As will be seen when I deal with the evidence concerning the various campaigns which the African National Congress conducted from time to time, numerous documents containing the utterances/.....

of the leaders of the organisation and of others, reveal that a policy of non-violence was advocated on behalf of the organisation. Although I have found it more convenient to make detailed mention of those documents when dealing with the respective campaigns they must presently be borne in mind.

But the difficulty confronting the prosecution is not to be confined only to the documentary evidence. Indeed, three of its own witnesses, who attended various meetings in different provinces, furnished direct evidence that a policy of non-violence was propagated by the organisation. The prosecution called Detective Sergeant Moeller of Johannesburg whose evidence in my opinion is above suspicion. In cross-examination he was asked whether the theme that "Congress does not advocate a bloody struggle, but has chosen the way of a non-violent struggle" had come to his notice during the period of the indictment. His answer was:

"I have often heard this said that the struggle should be a non-violent one."

The/.....

The prosecution also called Detective Head Constable Truter, who was attached to the security branch of the South African Police at Durban from 1952 to 1958. During that period he too, attended many meetings of the organisation, and I have no reason to doubt his evidence that he often heard Luthuli, who in his opinion enjoyed the respect of his followers, say that the African National Congress worked on a policy of non-violence. Finally, Sergeant Mavubu also a witness called by the prosecution, who attended meetings in the Queenstown area, agreed that speakers defined the policy of the organisation as one of non-violence.

In this connection too I must refer to the evidence of a number of other witnesses called by the prosecution who purported to repeat in their testimony speeches made by various members of the organisation. These witnesses made manuscript notes of the speeches, and for reasons I will mention later on, were unable to give any correct or reliable account of the actual words used by any one speaker. Nevertheless, their evidence shews that the theme of non-violence was often mentioned by various

speakers/.....

speakers and without giving details of the meetings or the manner in which the utterance was made, it will suffice, I think, merely to refer by way of example to some of these speakers, namely: Patel, Mall, Gumede, Nene, Sulu, Molewa, Nthiti, Tunsi, Sogibu, Peak, Mai, Mathuli, Mayekiso, Jack, Singani, Tshabalala, Hlapane and Matibela.

In reviewing at this stage, the evidence concerning the policy of the African National Congress, the following emerges:

It appears that leaders of the organisation openly proclaim the policy to be non-violent and exhort members to observe it; that National Conference, by way of a formal resolution, reaffirms and endorses such a policy; that in a domestic enquiry, a warning note is sounded that the policy is one of non-violence and that it is to be observed; that in a publication supported by the organisation violence is condemned; that speakers at meetings held by the organisation define its policy in terms of non-violence and that three witnesses for the prosecution confirm by their direct testimony that the theme of non-violence was often preached.

For/.....

For what reason then may it be asked, is the evidence for the defence that the policy of the organisation was one of non-violence to be rejected as false? Why, in the light of the above mentioned facts might the evidence not reasonably be true?

The abovementioned evidence certainly does not support the allegation set out in the indictment that it "advocated and propagated.....the use of violence" on which the case for the prosecution was based in the first instance. In fact, as will be seen from the judgment of this Court delivered on the 2nd March, 1959, we then construed the indictment as meaning that the prosecution alleged that it was the policy of the organisations "to use violence against the State" - and we accordingly directed the prosecution to supply the particulars on which it relied for such its conclusion. I assumed then, and indeed still assume, that the allegation means that the organisations suggested that the masses should proceed to direct acts of violence against the State, and that the conspirational plan was based on such a scheme.

During/.....

During the course of his argument however, Mr. Trengove, whilst not seeking to challenge the fact that the African National Congress through its leaders, from time to time pronounced its policy as being one of non-violence, contended that they, in doing so were guilty of "double talk", and that they were putting forth a "ruse", a "bluff" and a "misrepresentation". This contention was based mainly on the fact that the methods set out in the 1949 Programme of Action envisaged breaches of the law on a mass scale. The argument proceeded on these lines.

The African National Congress intended to create and foster such a degree of hatred and contempt amongst the masses for the present form of state and the Government, that they would not baulk at its violent overthrow; when the "time was ripe" the African National Congress would, by putting its 1949 Programme of Action into operation, compel the Government to call out the forces to restore law and order, at which stage the organisation desired and intended the masses to retaliate by violence; the African National Congress, said Counsel, would then formally

register/.....

register its regret for such violence, would continue "preaching non-violence" and seek to wash its hands in innocence. Counsel contended that non-violence was not the true policy of the organisation, which he said was clearly proved by what it said and did during the various campaigns which it launched and against which its pronouncements of "non-violence" should be tested. The African National Congress, in the circumstances mentioned, would not only be responsible for the consequences, said Counsel, but must be held to have intended to bring about such a violent overthrow of the State.

If the above was in fact the true conspirational plan or policy, I am unable to discover it in the indictment. As will readily be appreciated, the 1949 Programme of Action, of which the prosecution was aware and which it possessed at all material times, provides the basis for this "scheme"; yet, despite references to many other documents, the indictment as read with the further particulars, makes no reference to it at all and it was left to the defence to produce and prove the document. In my view of the matter, this "scheme" was not charged
against/.....

against the accused. But if this is an erroneous conclusion, the facts, with which I will now proceed to deal, do not justify a conclusion that the organisation had as a matter of policy, adopted a plan which revealed a general expectation of violence by the State and an intention to use the masses in retaliation.

The facts which the prosecution relied on, concern speeches made and documents published during the various campaigns which will be dealt with in the following order: The Defiance Campaign, the Western Areas Campaign, the Congress of the People Campaign, the Anti-Pass Laws and Bantu Education Campaigns. In conclusion I shall also consider certain aspects concerning the Freedom Volunteers.

I shall, when dealing with the campaigns and again when all the campaigns have been reviewed, have the occasion to revert to the contention advanced by Mr. Trengove.

In so far as the evidence concerning the speeches is concerned, I have however, certain comments to pass which are of a general nature.

The prosecution, in its opening address and during the course of argument, stated

that/.....

that the speeches constituted a vital factor from which the policy of the African National Congress could be inferred. "It is very very important", urged Counsel, "to consider what was said at these meetings in order to determine what the policy was."

If this is correct, as indeed it appears to be, then apart from the difficulty that the "non-violent" theme was often present in speeches, a further obstacle presents itself to the prosecution.

In any criminal trial a doubt may arise on the evidence placed before the Court; but it often happens that a doubt arises because of the lack or absence of evidence before a Court. In the present instance, both these considerations apply to the case for the prosecution.

Admittedly the number of speeches to which we were referred was great - but this number fades into insignificance when the evidence of the total number of speeches made during the indictment period is brought into perspective. As will appear from the judgment of my brother Kennedy an analysis of the evidence shews that

the/.....

prosecution in support of its allegation that a nation-wide conspiracy to overthrow the State by violence existed, relied in the nett result on alleged violent utterances made by some, but not all the speakers, at 85 meetings out of a total of some 15,000 meetings which were held by the organisation during the period of the indictment - in other words, the total percentage of meetings relied on is under one percent. The analysis also reveals that there is no reliable evidence to support a finding that any form of violence was advocated in the Cape, the Orange Free State and Natal provinces. Furthermore, that even at meetings where alleged violent speeches were made, a speaker on occasion either contradicted himself or was contradicted by other speakers in advocating "non-violence" in some form or another.

In the nett result, I have available and am accordingly confined to, an infinitesimal fraction of the total relevant and necessary material from which the prosecution asks me to infer that the African National Congress had acquired this "violent" policy.

In these circumstances I venture to suggest that it would be rash to come to a

conclusion/.....

that the speeches, said to be a "vital factor" in determining the policy of the organisation, are sufficiently representative to prove that the African National Congress possessed a policy to overthrow the State by retaliatory or any other forms of violence. I am, in this connection, not unmindful of the fact that some members of the organisation made speeches of a violent character, and that others criticised the Government, past and present, in vitriolic and extravagant terms. Nevertheless, having regard to the lack of evidence, it would be unsafe to infer therefrom, that the prosecution's contention is correct. In so far as the documents are concerned not a single one advocated the use of violence in plain language or direct terms. The prosecution however, argued that terms such as a "clash", a "conflict", a "fight to death", a "bloodbath", "supreme sacrifice" and the like, appearing in many of these documents were in the circumstances consistent only with the idea of a physical clash. Naturally if these terms are to be construed in a literal sense, there might be some merit in the suggestion;

but/.....

but I am unable to find any valid reason for doing so. It is perfectly clear that these and like terms are capable of being used and were often used in a metaphorical sense. At most, from the prosecution's point of view, it can be said that the terms were capable of a literal interpretation, but to find that they were used in that sense only and not in a metaphorical sense, would be incorrect.

With reference to speeches and documents generally, I think it is also convenient to mention here an argument addressed to the Court by Mr. Kentridge. In so far as political language is concerned, used either in public documents or from public platforms, counsel contended the Courts have been slow to infer that catastrophic results would follow from strong political language; furthermore that the Courts have been careful in the past not to curtail the right to express unpopular political views, even when expressed in strong language; furthermore, that the Courts have always made due allowance for emotional and metaphorical language. These submissions are fully supported

by/.....

by a number of authorities to which counsel referred, in particular Rex v. Roux 1936 AD.270, Pienaar v. Argus Printing and Publishing Company, 1956 (4) SA 310, and Rex v. Bunting, 1916 TPD 578 in which Wessels J. said at p.586:

"we must not judge of an article of this kind ('political') by its possible effect on a few super-sensitive individuals. We must ask ourselves what effect it is calculated to produce on the man with a normal mind and normal human experience.

I now pass on to consider the evidence relating to various campaigns and commence with the Defiance Campaign.

This was the first campaign which the African National Congress embarked upon under its 1949 Programme of Action, and in which it was joined by the South African Indian Congress.

In this connection the Defence admitted:

"That during the year 1952, the African National Congress and the South African Indian Congress decided to conduct a campaign against unjust laws and/.....

and did conduct a campaign involving the deliberate contravention of certain laws by way of protest and in order to bring about political and social changes in South Africa"

The Defiance Campaign was directed against the following laws:

- (a) Pass Laws
- (b) Stock Limitation Regulations
- (c) Group Areas Act
- (d) The Separate Representation of Voters Act
- (e) The Suppression of Communism Act
- (f) The Bantu Authorities Act.

The Campaign was carried on in several parts of South Africa from 26th June, 1952 to December, 1952.

The evidence shows that the Campaign was to have been conducted in three stages. In the first stage Volunteers were called for and directed to contravene one or other of the laws aforementioned. Thereafter a greater number of people would have been called upon to do the same thing and finally, the third stage would

have/.....

have been reached when all the people in the Country would have been exhorted to defy these laws in order to produce a state of mass defiance of these laws throughout South Africa. Neither the second nor the third stage of the Campaign was ever reached since the Government, after some 8,000 volunteers had been arrested for defying laws in various parts of the Country, and in order to meet the situation, passed the Public Safety Act of 1953 and the Criminal Laws Amendment Act of 1953. The first Act inter alia enabled the Executive authority to declare a State of Emergency when it deemed it necessary and the second Act increased the penalties to which such defiers would become liable.

In this connection I refer firstly to the evidence of Luthuli. During his cross-examination the following emerged:

"Now the Government did take severe measures to suppress the Defiance Campaign; do you agree with that? - That is so."

"And Mr. Luthuli do you know why they took those measures? - Yes I do."

Why/.....

"Why? - They were people engaged in breaking the laws of the country and as a Government they could not just fold their hands and see people defying the laws of the country."

I also refer to the accused Mandela's article "No **Easy** Walk to Freedom" (Exhibit A.309). At the time Mandela was the President of the African National Congress, Transvaal Province, and a member of the National Action Committee set up to conduct the Defiance Campaign. As National Volunteer in Chief, he was in charge of all the Defiance Campaign Volunteers. Furthermore, he and the accused Sisulu had first discussed the idea of such a campaign and as a result, it eventually came up before the National Executive Committee which formally decided to conduct the Campaign on a national basis, with the assistance of the South African Indian Congress. I mention these matters to indicate the authority with which Mandela could speak on this campaign. In his article, which, was later published as his Presidential address to a Youth League Conference, Mandela said, with reference to the Defiance Campaign:

Workers/.....

"Workers lost their jobs, chiefs and teachers were expelled from the service, doctors, lawyers and business men gave up their practices and businesses and elected to go to gaol...."

"Defiance was a step of great political significance. It released strong social forces which affected thousands of our countrymen. It was an effective way of getting the masses to function politically; a powerful method of voicing our indignation against the reactionary policies of the Government. It was one of the best ways of exerting pressure on the Government and extremely dangerous to the stability and security of the State. It imposed and aroused our people from a conquered and servile community of yes-men to a militant and uncompromising band of comrades in arms...by the end of July the campaign reached a stage where it had to be suppressed by the Government/....."

Government or it would have imposed its own policies on the country."

Mandela was questioned on this article; he said that the stability and safety of the State would have been endangered if the third stage of the campaign had been reached; "...we should", he said, "have created a position whereby the Government would not be able to administer certain laws, "...and he considered that when large masses were disobeying a large number of laws, the Government would have had to "capitulate".

"The Government" said Mandela "would capitulate to the people of South Africa, black and white." He stated that there would not have been any chance of such capitulation unless the **third** stage had been reached and then **only** when the organisation had stepped up "pressure". In this connection the "likelihood" of ensuing violence was canvassed by cross-examining counsel and the following emerged:

"Mandela, you said on many occasions that your understanding of Congress policy was that Congress would not initiate violence.

What/.....

What I am trying to explore with you at the moment is not whether Congress would initiate violence, but the mere likelihood of violence being initiated by whomsoever? - Well, we can't rule out the possibility of violence.... but as far as I am concerned, we say it won't come from outside."

"We would not be blamed" he continued, "because we took precautions. In fact we tried to remove even the opportunity of the Government using violence in the sense in which I have explained it, we were trying to avoid that. As I have said that was the very aim of the Defiance Campaign, to deprive the Government of the opportunity to use violence. But we did contemplate it because in the past it has happened, Africans had been shot."

Mandela added that the African National Congress regarded the Government, so far as Africans are concerned, as being ready to "beat them down and drown the country in blood."

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The Defiance Campaign was not pleaded as an overt act of treason, and in reply to questions put to him by the Court, counsel for the prosecution stated:

"I have perused the pleadings in the indictment in this case; I have also considered the evidence and it will not be our case that the Defiance Campaign, when planned, was planned to overthrow the State by violence."

If the campaign was one not "planned to overthrow the State by violence" it cannot in my opinion be relied on as affording proof of a conspiracy which had such a plan in mind, and renders the campaign of little value in any attempt to discover the policy of violence which the prosecution attributed to the organisation.

Counsel for the prosecution however, suggested that the campaign revealed the state of mind of the accused and the co-conspirators, namely to hamper and hinder the State in the administration of its laws not only in protest against these laws, but also to achieve the other aims and objects the organisation had in mind.

Much/.....

Much of this is of course common cause,

but he went on to say:-

"...Whilst we cannot prove that the African National Congress desired that people defying would resort to violence - we can say they embarked on a campaign which created a situation which would involve the masses of the people coming into conflict with the State on account of their lawless conduct and that situaion they knew from their own experience could very easily result in bloodshed."

Even assuming the correctness of this contention for purposes of argument, it still does not shew that in the suggested situation the conspiratorial plan or policy was that the masses should retaliate by violence. The evidence concerning this campaign certainly does not warrant such an inference; on the contrary, the campaign, as far as it went, came to an end as a result of appropriate legislation and without any necessity on the part of the Government to rely on its forces. Whether such a necessity would have arisen if the second or third stage of the campaign/.....

campaign had been completed remains, on the evidence, a matter of conjecture and speculation. But there is in any event no evidence on which it may be said with any measure of justification, that if the Government was forced to rely on its forces, the conspiratorial plan or policy required the masses to retaliate by violence, and I shall accordingly pass on to consider the Western Areas Campaign.

During the years 1954 to 1956, the African National Congress played the leading role in campaigns which it launched against the Bantu Education Act, the Native Resettlement Act and the laws relating to the carrying of passes by Africans, in the course of which it advocated:

1. The boycott of Bantu Schools by the pupils thereof,
2. That in an attempt to frustrate the efforts of the Government under a scheme to remove the inhabitants of the Western Areas to a new township known as "Meadowlands" they should not move 'voluntarily'.

That/.....

3. That African women should not voluntarily apply for reference books.

During this period a further campaign, known as the campaign for the Congress of the People which culminated in the formulation and adoption of the Freedom Charter, was launched. These Campaigns were conducted in many parts of South Africa and constituted part of the organisations' policy of extra-parliamentary activity in protest against these laws and also a step towards the achievement of its aims and objects.

The Western Area's campaign and the campaign for the Congress of the People, were regarded by the African National Congress as the more important or major campaigns. both of which, according to Luthuli, fell within the "orbit of decided policy" namely "the Constitution of the African National Congress and its 1949 Programme of Action."

These two campaigns played an important part in the case for^{the} prosecution and the Court was invited to take particular note of the Western Areas Campaign which, it was submitted,

exp . . . Exposed/

exposed the alleged "non-violent" policy of the African National Congress in its true colours and as "a vicious and brutal policy." Counsel contended that from the outset the organisation was determined to bring about a physical clash between the people of Western Areas and the Government; that the organisation sought to provoke a bloodbath in the area, regardless of the consequences to the inhabitants or the rest of the country, or the safety and security of the State; these things it was said, would, in the eyes of the organisation, have provided an example of innocent people shedding blood at the hands of a "vicious, ruthless and sadistic fascist State" and would have provided further material to "gear" the masses to action.

The evidence concerning the Western Areas Campaign will accordingly have to be considered in some detail.

The Western Areas, consisting of a number of townships on the outskirts of Johannesburg, were inhabited by some 58,000 non-European people. The wisdom or otherwise underlying the Government's decision to remove these/.....

these people to a new township, is not an issue in this case and is not one for me to determine. It suffices to state that there were two sides to the question. On the one hand the evidence shows that overcrowding existed, resulting in the creation of slum conditions in certain parts of the townships; that rent racketeering was not unknown and that the desirability of removing people from the area had been on the agenda book of the City Council of Johannesburg for many years. On the other hand, the removal scheme entailed the loss of freehold title on the part of some two percent of the people, the loss of certain well built homes without, so it was said, fair or adequate compensation, for which reasons, as well as others, a number of outside bodies and persons joined in protesting against the removal scheme.

As early as June 1953 the Transvaal branch of the African National Congress had voiced its protest against the scheme. In that month its conference adopted a resolution calling upon the people of Western Areas to resist the scheme. Furthermore, the Working

Committee/.....

of the African National Congress submitted a report to the National Executive Committee, as a result of which this body decided at a meeting on the 18th April, 1954, that the removal scheme was one of "national importance" to the African National Congress and that a campaign should be launched against the scheme, to be conducted under the supervision of the National Executive Committee. The view was held by the Committee that the scheme contemplated by the Government was one in furtherance of its "apartheid" legislation. For this reason, it decided inter alia, to embark on the campaign. On the 8th May, 1954, the South African Indian Congress, the South African Congress of Democrats and the South African Coloured Peoples' Organisation joined in the campaign and decided with the African National Congress, to launch what was called the "Resist Apartheid Campaign" and to set aside the 26th and 27th of June 1954 as the "Western Areas day for campaigning and solidarity throughout the Country."

The National Executive Committee of the African National Congress stated in its report to the 1954 Annual Conference:

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"...the Congress of the People and the Resist Apartheid Campaign are the two Campaigns on which we are going to base our future struggle...

The Resist Apartheid Campaign is an issue on which we will mobilise our forces in defence of our rights and our organisation....

The Congress of the People Campaign is a Campaign in which we will for the first time draw up a Peoples' Charter...we must therefore organise the people, politicise and activise them and lead them against the forces of fascism and reaction."

With reference to the Western Areas Campaign, the National Executive Committee decided upon the following plan: the inhabitants of the area were to be persuaded not to co-operate with the Resettlement Board which was to effect the removals and to refuse to give any information which would render the scheme easier of application; furthermore, that they should, on the day of removal (fixed for 12th February, 1955), not move/....

move "voluntarily, and should stage a nation-wide strike.

"Our view" - said Luthuli - "was that when the people should be called upon to move, they should not do so voluntarily. They should move unwillingly under pressure of the police as representing authority... and that concurrently with the removal of Sophiatown we would call a nation-wide strike."

The accused Resha and Sisulu and one Tambo were appointed by the Working Committee to a secretariat to conduct and further the Campaign in the Western Areas.

In its endeavour to bring its plan to fruition, the African National Congress furthermore held meetings not only in the Western Areas, but in many parts of South Africa. It also made use of various newspapers which enjoyed its support to disseminate suitable propagandist material.

Generally speaking the speeches made at the various meetings, as also the propaganda, followed much the same trend as appears in a speech/.....

speech made by one Vundhla on the 26th June 1954 when the campaign was formally opened at the "Anti-Apartheid conference" held in Johannesburg. This speech was recorded in shorthand by Detective Constable Schoeman. Vundhla, who was at the time a member of the National Executive Committee together with Resha and one Ngwendu represented the African National Congress on this occasion. According to Detective Constable Schoeman, Vundhla said:

"...one of the most important tasks of this conference is its struggle against the Western Areas removal scheme and its action to defeat it...For those who follow events closely in the Western Areas it is clear that the National Party Government intends to aggravate the already strained relations between the Government and the people with its rule of violence and brutal force. The Government intends to turn the area into a bloodbath for its own political ends. On the other hand the Congresses in a series of resolutions have condemned and/.....

and rejected the removal; it has openly called upon the people to refuse it...it has expressed its belief to the people that they must remain in the area and defend their homes... Last Sunday the second Congress of the African National Congress (Transvaal) reiterated what it had said in the past; namely to fight to the bitter end and to mobilise all the progressive forces at our command on a programme of total rejection and an uncompromising refusal of the scheme.In the affected areas fascism has been displayed to the African. There is a growing body of serious men and women who feel that the affected areas are the place to call the halt; and all expect nothing than a fight to death in defence of their homes and properties. This is the essence of the fight that faces Congress today. On the one hand you have fascist Government which believes that

the/.....

the worker must be put against the wall and destroyed, a group of people who are determined to push through the removal with force, blood and iron. On the other hand you have a group of people who are equally determined not to move. It is an ugly situation with which to deal....It is an ugly situation but the African National Congress yields to no one in its hatred of injustice oppression and tyranny.... Let us be true to our friends in the Western Areas and be determined to rally to their assistance. I have confidence that in the following conflict Congress will come out mightier and stronger and that however difficult is the road, victory will be ours."

In his evidence Luthuli stated that Vundhla, at the time, correctly reflected the 'spirit of the African National Congress towards the removal scheme in so far as he (Luthuli) agreed that whilst it was thought that the Government was determined to go through with its scheme at all costs, the African National Congress

was/.....

was equally determined to defeat it. This view was also shared by Resha who said in his evidence that by the middle of 1954 he believed that the Government would persist in its scheme, regardless of the consequences and even if it involved violence and bloodshed. At the time he also held the view that what the Government was doing could lead to a bloodbath and that it was inciting into the people of the Western Areas 'a mood for a bloodbath', a feature which did not deter the African National Congress in its efforts, so he said, to make the Western Areas the "Waterloo" of apartheid. The African National Congress however, did everything in its power to avoid a bloodbath," he said.

The evidence of both Luthuli and Resha makes it clear that the question whether it was lawful for any individual to refuse to obey a Court order directing him to vacate any dwelling, was of no concern to the African National Congress

The following are a few excerpts taken from Luthuli's evidence:

"Mr. Luthuli, the African National Congress of course knew that the inhabitants/.....

of Western Areas would be acting unlawfully if they refused to go after an order had been issued against them --- That would be correct, My Lords."

"So that the African National Congress was prepared to incite the people to resist removal by illegal action?---

My Lords, the Crown may use the word incite, but the African National Congress made it quite plain that in the course of carrying out its campaign, starting with the Defiance Campaign, it comes to a point where it violates the law. That is why the State has to take action. I have said so several times." "Yes, and if the fifty-eight thousand people respond to your call and illegally resist removal the law would be unenforceable against them, the State would be hampered in its enforcement of laws?

---That is correct."

"...if they resist removal and the State in enforcing its laws removes them forcibly, that situation may endanger the safety and security of

the/.....

the State, do you agree with that?---

I agree, My Lords, with 'may', but it is not our expectation in the light of what I have said several times."

This "expectation" of Luthuli was according to earlier evidence the following:

"we work on the basis, that certainly it was never in our minds to bring about insecurity of the State, but to bring the authority to a position where they might retreat - we never start off by saying we are anxious to bring about the insecurity of the State, that is not our desire."

"Mr. Luthuli, whether you desired it or not, surely you must have realised that that type of action would endanger the safety and security of the State? ---I have said, the possibility might be there but we have two propositions. There is a possibility, but there is also the possibility that the authorities may give in. Why do you rule out the other possibility? Would it be correct then, to say that
you/.....

you would carry on regardless of that possibility? --- My Lords, we carry on our campaigns."

"Regardless of that possibility?---My Lords, we would carry on."

Elsewhere this topic was again reverted to during his cross-examination and this emerged:

"When members of the Resettlement Board come along in terms of the notice and tell them to go, what was the attitude of the African National Congress? Would they have to go?---No, the attitude of the African National Congress there was clear, they would expect the people not to go.

"Now what form of force would the law have to apply before the people had to go according to the African National Congress?---My Lords, in anticipation of what normally a Government might do, we anticipated they might send the officers of the law to compel them to go."

Who/.....

"Who were the officers of the law?---

The police."

"And if the police came, the attitude of the African National Congress was that they must not go willingly?----

Unwillingly. They must indicate their unwillingness. And if the officer of the law comes along and shows force, then there comes a point where the individual goes. He has already indicated his unwillingness to go then he may go. That was the attitude of the African National Congress."

"Or could he resist?---That was his own matter. My Lords, the African National Congress would not encourage people to resist in the manner in which they as individuals apply force. But supposing now in the process of saying, well I am not leaving my house and for some reason the policeman finds it necessary to baton charge the man to leave, and in the process he suffered, well, he chose that way."

"Is your attitude then that the

African/.....

African National Congress's responsibility for what happened, or what could happen, ceased the moment the armed policemen arrived on the scene to affect the removal, from then on it was a matter for the individual?---I think that is correct."

In his evidence in chief, Luthuli stated that the people were not told by the organisation to what point they were required to resist - it was left to the discretion of the individual concerned. He conceded that a baton charge 'might give rise to a probability that there might have been a riot,' but added that all along the African National Congress propaganda to the people had been not to be violent under any circumstances,

"so that the probability of a riot might be there, but you still rely on the fact that people knowing our own stand in the matter, would at a point unwillingly go."

"With regard to the probabilities of people - well rioting or let us say retaliating violently did you con-

sider/.....

consider the possibility that quite apart from anything that you might have said, a man who with his wife and young children had lived for many years in his own house and was compelled to move out, might be tempted to react in a very positive manner? To react in a violent manner?---Well such a possibility is of course always latently there."

Resha, in his evidence, said that the inhabitants were expected to disobey an order to vacate even if this were to constitute an offence. In the course of his cross-examination it was put to him that, notwithstanding the accusation by the African National Congress that the Government wanted to create a "bloodbath" and to force the scheme through by violence and against the wishes of the people in Western Areas, one of the objects of the campaign was to compel the Government to remove the people by 'intimidation and force'. His reply was clear:

"My Lords, that is absolutely incorrect and unfounded."

He was then confronted with

Exhibit ORT. 29, a document found in the possession/.....

Possession of one Tambo, paragraph 3 of which reads:

"The objective of the campaign was to foster a mental attitude of non-corroboration with the Government, and to compel it to secure the removal of the people by intimidation and the employment of force....

The cross-examination then proceeded as follows:

"Now Mr. Resha, why did you want to compel the Government to secure the removal of the people by intimidation?--
--Because we wanted to demonstrate to the country that the people were unwilling to move. We were not taking it lightly. The only way by which the Government could succeed was by intimidating the people as was done long before this statement."

"And you wanted the Government to intimidate them?---Certainly."

"Certainly what?---To compel them to intimidate the people."

"In what way?---By forcing them to go

by/.....

by bringing the police, and threatening the people that if they stuck to their rights they would be shot. That is intimidation, my Lords, by bringing 2,000 Police."

He added:

"It was, My Lords, our aim to compel the Government to use as large a force as possible in order to demonstrate clearly that this scheme was not being done because the people were willing to be removed. But it was being done to do so against the wishes of the people, and they could only do that by bringing fully armed men to helpless and peaceful people."

The question was then canvassed as to whether or not the aim of the organisation would not have been achieved if a single policeman or a handful of them had gone to a householder and ordered his removal under threat of force, since, so it was pointed out, the African National Congress would have been satisfied if the householder intimated an unwillingness to go.

Resha's attitude was that "if the

Government/...

did that, they would have failed; the African National Congress wanted them to use 2,000 and even a greater number." Although, despite various explanations offered by Resha, it is not clear to me why the Government would have failed in that event, the fact of the matter is that the African National Congress desired the Government to make use of a great show of force. This desire on the part of the organisation is also revealed in a review prepared by the Secretariat, of which, as has been mentioned earlier on, Resha was a member. The review was prepared after the Government had embarked on its scheme and had succeeded in removing a number of families without any trouble. The review, Exhibit A.162, was approved by the National Executive Committee. In a chapter under the heading "What must be done" - the review states:

"....The basis of such resistance"
 (to apartheid) ..." to take the
 form of non-collaboration of a
 quantity and quality which must compel
 the Government to use all its re-
 sources to impose its will at any
 and every stage; non-collaboration
 both/.....

both from the masses and the individual, designed ultimately to strain the resources of the authorities and to create a situation more favourable to direct and positive action. The immediate task in the Western Areas is that of ensuring that resistance grows; that nobody collaborates with the authorities and that those who are to be removed to Meadowlands are removed by force. The aim should be to make it necessary to employ even more and more forces to effect removals...."

The evidence of Resha makes it clear that any show of force by the Government was regarded by the Africans as an 'act of provocation directed towards them. It was then asked of him:

"If this is regarded as an act of provocation, would not the object of forcing the Government to use greater force be a greater act of provocation?"

"My Lord, the position as we saw it is this:

if/.....

....if the Government is forced to employ even more and more forces to affect removal, it meant to us that 4,000 or 5,000 police would be sent to Sophiatown and that the public of South Africa would fight against such a thing. I have no doubt that the European electorate in this country would say to the Government.

"Look, that is the position in which you want to affect the removal - we refuse - that so many police should be necessary and concentrated in one area to force the people who are unwilling to go, negotiate with the people."

Whatever the underlying reason might have been for this desire on the part of the organisation, the presence of a large concentration of forces, would, so it seems to me, at least have had the salutary effect of damping any desire or enthusiasm on the part of the inhabitants to resort to violent means in opposing the scheme. Resha however, notwithstanding his evidence that they desired such a great show of force and that the police should threaten and intimidate the people/.....

even including a threat to shoot them 'if they stuck to their rights' interpreted the action of the Government in having sent some 2,000 police to effect the initial removals as proof that the Government was not prepared to remove the people "without bloodshed."

"the Government" - he said - "was never prepared to do that - sending 2,000 police armed. Do you call that a preparation to remove people without bloodshed."

It was also put to him that they desired the 58,000 people, who had been subjected to months of African National Congress propaganda, to 'stay at home' on the 12th February, because the organisation realised, in those circumstances, that the arrival of 2,000 police would be the spark to set off a conflagration. He replied:

"My Lords, we wanted 50,000 people to stay at home on Saturday the 12th. We did not want the Government to send 2,000 police - in fact the Government did not tell us they were going to send 2,000 police - had we made an arrangement that 50,000 people

would/.....

would stay at home and 2,000 police would come, that would have started a conflagration. But here we were concerned with our own method of resisting removal and we had made arrangements to defeat the Government in using its brutal methods to effect removal and we succeeded in spite of the fact that we did not know that the Government was going to send 2,000 police with a view to start a conflagration."

In the Exhibit LLM.81, the 1955 National Executive Committee report, a somewhat similar claim is made. With reference to the Western Areas Campaign, it stated:

"....Thanks to the guidance of the African National Congress a bloodbath was avoided which the Government had intended to bring about by its provocative action."

This passage was canvassed with Luthuli in cross-examination. He said that if the Government was "forced" to shoot people, a bloodbath would result even if there was no

violent/.....

violent retaliation by the people. If in such a process a large number of people lost their lives, one could correctly describe the situation as a "bloodbath." He added that it would be reasonable to expect that a large number of people might be killed before the removal was completed if they shewed a desire not to respond. The Government he said would naturally use force. The cross-examination then proceeded on these lines:

"Mr. Luthuli, who was building up that desire in the hearts and minds of the people not to respond to the Governments' orders?---The African National Congress... It might have been the African National Congress. Incidentally there were other groups agitating against the removals... but it was the African National Congress."

"And Mr. Luthuli, if that is so, who was provoking the bloodbath, the African National Congress or the Government?---My reply is this, it would amount to this, that the African National/.....

National Congress should never at all carry out any campaign, should never at all carry out its programme or try to resist apartheid."

He added that the organisation did not seek to provoke bloodshed because the basis on which they worked was in the expectation that when the Government met strong opposition to a scheme, it would be persuaded either to abandon it or to open negotiations. The prosecution contended however that the evidence shewed that the African National Congress did not expect the Government to negotiate at all but on the contrary that the Government would push the scheme through, regardless of the consequences. In this connection the prosecution pointed to Vundhla's speech in which he stated that an "ugly situation" had arisen because of the determination of the Government to enforce the scheme and the equal determination on the part of the organisation to defeat the Government. The prosecution also argued, and I agree, that the general trend of the speeches to which we were referred and also some of the documents used for propaganda purposes was to exhort the people 'not to move',
to/.....

to defend their homes to the last ditch, coupled with the warning that the Government would be ruthless in its methods to put the scheme through and that the people had to be prepared to make many sacrifices, even the "supreme" sacrifice, in order to defeat apartheid.

I propose by way of example, to refer to some of Resha's speeches which were ~~taken~~ ~~down~~ in shorthand and which illustrate the point made by the prosecution.

The first is a speech made by him at a meeting held in Sophiatown on 9th January, 1955. Detective Coetzee repeated Reshas' speech in the following terms:

"Sons and daughters of Africa, - today the removal of the people of Sophiatown is not merely a matter which we talk about but something which is going to happen. Before Christmas -- before Christmas Eve Mr. Strijdom over the radio wished the African people a most happy Christmas. I told you that the Afrikaners are the biggest enemies of our people and I am very happy that the

detectives/.....

detectives are taking notes. Whilst Mr. Strijdom was saying happy Christmas to the Africans he issued removal notes on the same Christmas eve, that is his happy Christmas, that is the Christmas he wishes you. On the 28th of December when the people were away, Strijdom's boys were saying that you must vacate, and the Dutchman Prime Minister says that he is very happy and he wishes you happiness. But I do not want to tell you what Strijdom has said, I want to tell you what the people of Sophiatown must do and finally I am going to tell you what Congress are going to do....Now you have seen the forms sent to us during the Christmas period. Now some of the people who received these forms went to Meadowlands to see what the Government have done who loves the Natives so much. What did they see? They saw beautiful three and four roomed houses, beautiful in comparison with the

howels//.....

hovels which we live in in Sophiatown, some of them came back pleased; meaning that they will no longer be victims of the never satisfied landlords of Sophiatown. They came back pleased and they thought for the first time, me and my families will live for the first time in a three or four roomed house. We are going away from these dirty landlords to our own homes in Meadowlands.

My friends, I agree not all the landlords in Sophiatown have been good to the tenants, I agree. Therefore some tenants have every right to feel that it is freedom to go away from Sophiatown so therefore I understand their anxiety to go. So they decided to go saying that let us see and examine these houses where Africans are going to be housed.

Now are we ready to go - but before we go let us pause, let us see whether it is the land of Canaan. Yes Dr. Verwoerd in the notices he has sent

to/.....

the people say that you have been given a house at 741 Fourth Street, Meadowlands. It is a very nice and we are going to live in this beautiful house, at such a date we are going to move. It is all very nice. But what are the circumstances? A nice house is one which you buy and one which is your own, but these beautiful houses do not belong to you? To every notice sent to you there is an extra note attached to the first one and this form you have to give to your boss, your boss will complete this form and send it to the Native Affairs Department who will then tell you how much rent you will have to pay. That is what Dr. Verwoerd will say to you, you might have to pay £5 per month. If the rent is going to be one pound five, why is he ashamed to tell us? It is alright we are getting £20 but for how long are we going to get £20? Now it is alright, but what about later? You cannot pay five/.....

five pounds if you loose your job, if you are kicked out, and it has happened everywhere, in Western Native Township, and they don't give you time till next month you must pay now, that is what they say.

So that in fact you will be leaving a small house for a big house but one which you might not have after a while. It is like a man who buys a third class ticket and then goes into a second class compartment and sit down and is kicked out. So what about these four roomed houses in Meadowlands?.....

Sons and daughters of Africa, show your worth. I want to put a very pertinent question to you. If I say you will not move, what will you say? You will say you will not move and by saying that you mean you will sit down, you will not move. But a man who is determined to move you, will lift your body and soul and put you outside and what will happen then? I can answer that question or perhaps

you/.....

you will answer it for me. I can answer that question, yes, but I cannot decide for you, you must decide for yourselves. Personally I have satisfied myself and if you ask me what is my answer, I say you shall not move. The white man considers himself next to God and when he says move, he expects you to move. Therefore, friends, the decision you must take, must be one you defend to the bitterest end.

Yesterday Mr. Prinsloo, Chief Information Officer of the Native Affairs Department, telling lies as he usually does, said that if you fail to move on the date stated on the notice it is an offence. He is lying, it is not an offence. Or perhaps even if it is an offence and the Magistrate say six months, what then? But it is lies. I want no answer from anybody, I have answered it for myself, I want no bluffing. I want to show you, sons and daughters of

Africa/.....

Africa, that you can go to goal for six months. How many Africans are serving goal sentences for kissing European women, serving perhaps fifteen years for that. So what, if you serve six months for your own property. Why is it that we see today the Police have seen fit to have two-way radio cars in Sophiatown - a few days before the removal, why is it that every day your houses are being searched for dangerous weapons every day - every night? Ask yourselves, friends, why is this big police barracks built? Why is it that the Europeans come and write down on Sundays what we dirty Natives say? They do it to kill you and rob you of your own properties. We have been running away for three hundred years, we must turn back and face it. And the only difference will be that we shall see their backs for a turn. The second difference will be that whilst their bullets are coming towards us, we shall be getting nearer
and/.....

and nearer. They may bring all the police they like to Newlands but we will not be outnumbered, we the African people must stop running away. You must be determined and say if I die I must die for a good cause, otherwise every man will despise me. Many people say Congress is wasting time, they are lying. I have met many young men playing dice instead of coming to this square. Yes, yes, friends we have been wasting time, we have been wasting time because it was never our intention to attack anyone, but Africa's freedom is being attacked. I want to agree with the sons who say Congress is wasting time, but I and you will now go into action. But I want you to understand, no stone throwing and running away, standing on corners and throwing stones at Police vans. No, Congress will show the way. We will go to the enemy in broad daylight and face them. I have
lived/.....

lived long in Sophiatown and know what material we have here.

Dr. Verwoerd did not tell us what he is going to do, so we are not going to tell him what we are going to do and on what day. I shall be there, my friends, and if I am arrested it does not matter.

When you go back to your houses, you must mark in red ink from the first of February. February will show whether in fact the Africans are cowards. Some time in February it will be decided whether South Africa is going to be a white man's country or whether for us. If the Government succeeds in moving us, we must do something to make us remember Sophiatown."

The next is the speech made by Resha on the 30th January 1955, also at Sophiatown to which Detective Coetzee testified. Resha said:

"....Friends, if you say (No!), then you must mean it, and if you say No!, then I am inclined to believe that/.....

you mean it. Then you must agree that the Removal of the Western Areas means that it will be decided once and for all whether South Africa will remain a White man's country or whether it is going to be a country where everybody can live. Yes!..."

"The Government will have lorries on the day of the removal, so, if the Africans fight, they will have to fight Africans, their own people. That is what they want to do. Big Rascals! You will have to fight the African drivers of the lorries.....

.....

"I stand here to ask you to defend your homes to the bitterest end, to the last ditch.....Friends, we have no guns. Friends, we have nothing with which to attack the white man, not because we cannot get them if we want to. The white man must realise that if we want guns, we will get them from them today. Because if we decide to do so, every European who

has/.....

has a gun will have to give it to us because we can take it by force. So it is simple. It is, because we have decided not to kill the Europeans, that is why we do not take their guns. It is quite simple. And if there is bloodshed on the day of the removal, it will be because of the ignorant police boys. We know that Congress does not believe in violence, but what are we going to do when we defend our homes and other people shoot us?.....I want to tell you what you must do as from tomorrow. Every man, every woman and every child must be ready to meet the enemy at the gate. When your enemy meets you in your own house, then you are placed in difficulties because you don't have enough space to move about. We are going to meet this Dutchman in the street....."

Finally I refer to Reshas speech on a Colonial Youth Day Rally, in Sophiatown on the 20th March, 1955, where according to Detective Coetzee,

Resha/.....

Resha said:

".....Sophiatown is going to be very important in the history of South Africa, for it is here that the Nationalist Government of South Africa has decided to practise its legalised robbery of the homes of the people of South Africa. It is here in Sophiatown that the vileness and the inhumanity of apartheid are being exposed. It is here that the forces of democracy on the one hand, and the forces of fascism on the other hand, meet."

".....Strijdom has to follow those people whom he succeeded. But where is Botha, Hertzog, Malan, Smuts? Dr. Malan said he will remove the people from Sophiatown but the people of Sophiatown have removed him from the throne. My people, I want to assure you that long before you leave Sophiatown, Strijdom will be removed not by us, but by his own people....."

I ♪ / . /

It has been pointed out that the Government had fixed the 12th February 1955 as the date on which removals would be started. It decided however to anticipate that date by three days and accordingly commenced its operations on the 9th February, 1955. At the same time it declared a state of emergency in the Western Areas.

On the 8th February however, when it became known that the Government would commence its operations the next day, O. Tambo, the Acting Secretary General of the organisation prepared a document, Exhibit ORT. 66, which according to Resha, was a press statement, issued as a directive to the people. The document states:

"The African National Congress strongly deprecates the action of the Minister for Justice in banning public meetings in Johannesburg and Roodepoort.

The allegation that hostility will be created between Europeans and non-Europeans if public meetings are held is a calculated inaccuracy on the part of the Minister designed to obscure the fact that the oppressive policies

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of the Nationalist Government and more particularly the forcible removal of the people of the Western Areas, has already created acute racial tension of an extremely dangerous kind. In registering our strongest protest against this despotic action, we wish to place on record our unshakable determination to oppose and fight the removal scheme, notwithstanding the severe ordeals this decision might entail. The struggle, like all others will be concluded in a disciplined and peaceful manner and the people are called to remain calm in the face of provocation. Any disturbance or violence which may occur will have been initiated by the Government or its agents....."

I should also point out that at or about the time when the organisation had first decided to launch its two major campaigns, Luthuli issued a call for 50,000 Freedom Volunteers to assist in the campaigning. On the day 9th February, 1955, when the Government embarked on

its/.....

its removal scheme, a number of volunteers were present in the area. Luthuli was asked what they were doing there and he said:

"You would expect volunteers to be present on the scene in order to be able...in fact they had to see in so far as the African people of that area was concerned, they would not do anything that would....I mean anything that would arise, the volunteers would be there to see to it."

"Did you expect trouble to arise?---
My Lords, I think in a situation like that one would say that it would be possible for someone to riot, but one's education and the very presence of volunteers do all in their power to see that nothing amiss is done."

The assertion by Tambo in Exhibit ORT.66 that "...the forcible removal of the people of Western Areas" contributed particularly to "an acute racial tension of a dangerous kind" was echoed back in Exhibit A.162 (supra) the Review prepared by the Secretariat of the Working Committee/.....

Committee on the Western Areas Campaign.

It was there said that:

"....The people have had to be moved by force of about 3,000 and a state of emergency had to be declared in Johannesburg and Roodepoort because the hostility of the people against the removal was growing."

Resha was questioned on this statement appearing in the review - to which he had been a party - and he agreed in his evidence that a State of Emergency had to be declared to suppress the hostility of the people, who he said were indeed hostile 'because they had been robbed of their rights.' He claimed that it was an achievement on their part that the people had become so hostile that the Government regarded the proclamation of a state of emergency as necessary as it indicated "to the people of South Africa, black and white, that the Government was prepared to do anything to force its will on the people of South Africa."

A further document which casts some light on the campaign is Exhibit A.102, a roneod document found in the possession of the

organisation/

organisation's office in Johannesburg inside a cover of the 1954 Annual General Conference, and copies of which were found in the possession of two members of the organisation namely one J.D. Matlou (cf. Exhibit JDM.23) and of the accused Masina (cf. LLM.23). It is headed: "The People on the March to Freedom" and after dealing at length with various activities of the organisation, under a chapter headed - "Learning from Mistakes" it proceeds to state:

"....our propaganda against the removal, for instance, did not take sufficient account of the different interests of the people in the area. Congress issued the same appeal to both landlords and the tenants as if their interests were identical. While the landlords were affected by the loss of their freehold rights, the tenants in the majority of cases lived under bad housing conditions and longed for decent accomodation. The offer for alternative housing was therefore very tempting to a great number and could only be resisted by those/.....

those who were more politically conscious. This factor could not be overlooked. The purpose of the campaign was to oppose removal and to show that even if the people did move, the removals were carried out by the Government force and not by the free will of the people. The impression was created in propaganda that come what may, the people would not move, and this did not take into sufficient account the fact that the Congress was not sufficiently organised and the people sufficiently prepared to physically oppose removal. We must recognise that the campaign is by no means over. In fact it has just begun. The majority of people are still to be removed....."

"While we are not opposed to better housing for the people and this is one of the aims of Congress, the people must shew in a manner that none will doubt that they are against the removal of the Western Area as part

of/.....

of the Apartheid plan; that they go against their will."

Before proceeding to take stock of the Western Areas Campaign as revealed by the evidence there are further and no less important matters to which reference must be made. The African National Congress Youth League members of the Orlando Branch, who later left the organisation to form the Pan Africanist Society, issued a news bulletin from time to time known as 'The Africanist.' In the issue "Volume 1, No.3" of May, 1955, (Exhibit AAC.39) it criticised the African National Congress in the following manner:

"The Congress of Democrats.....
is there to apply the brakes to Congress.
Read the statement of Patrick Duncan during the Defiance Campaign. The Congress of Democrats will ally itself with Congress so long as she limits herself to a policy of non-violence, and what does this mean? It means pacifism, making doormats of us. Non-violence is an expensive commodity for the African in South Africa. What is the use of calling
on/.....

on the people of Sophiatown to resist the removal non-violently? How is this possible? Is it not a contradiction in terms one either resists violently or submits unwillingly and the Congress of Democrats knows this very well. A liberatory movement should stop at nothing to achieve its independence. And since white domination is maintained by force of arms, it is only by superior force of arms that it can be overthrown...."

"....A classic example of a national liberatory movement is the Mau Mau in Kenya. Here the Africans are engaged in a life and death struggle to overthrow foreign domination and beg for no allies and seek nobody's approval of their methods. Unfortunately the same cannot be said of Congress. She is wedded to the Congress of Democrats and the Indian Congress, the aspirations of both of which organisations are different from those of Congress. The Congress

of/.....

of Democrats exists in order to steer the liberatory movement along constitutional paths of struggle and non-violence. In other words to put a break on the struggle....

Congress is not yet a liberatory movement."

In so far as the Western Areas Campaign itself is concerned I must here also refer to Luthuli's call for volunteers to assist in that and in the campaign for the Congress of the People. In making his call at the meeting of the Natal Action Committee of the Congress of the People held at Durban on the 5th September 1954, he said:

"I would at the outset of my talk reiterate with all the force at my command my call for 50,000 Freedom Volunteers.....an army of non-violent volunteering organisers and propagan- dists whose twin task is to be to interest and enrol people for the Congress of the People meetings, and, under the call of 'Resist Apartheid', the volunteers will educate the
people/.....

people on the evils of apartheid....

I must however enjoin our people in words, actions and attitudes to respect the policy of non-violence wisely adopted by our Congresses.

Non-violent resistance in any provocative situation is our best instrument."

In the Western Areas itself, the evidence of speeches made at meetings held there shews that speakers from time to time made mention of the organisation's 'non-violent' policy. Indeed Resha himself reminded his audience thereof at the meeting held on the 30th January 1955 - which I have dealt with earlier on. He stated:

"We know Congress does not believe in violence but what are we to do when we defend our homes and other people shoot at us."

If this is to be construed as an invitation by Resha to the people to retaliate, it would on his own shewing amount to one to depart from what he said Congress believed in, namely, non-violence.

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It is also necessary, I think briefly to state what occurred in the Western Areas on the 9th February, 1955. According to Reshas' evidence, which was not challenged in this connection, about 2,000 armed policemen invaded Sophiatown; at the corner of Meyer and Victoria Roads, where the Volunteers usually foregathered, he found a crowd of 3,000 to 5,000 people, with about a score of policemen in attendance. A police officer asked him to direct the crowd to disperse. After reading Tambo's directive (Exhibit O.R.T.66) "in summarised form", he told the people to go home and^{to} do nothing until they were given further instructions from the African National Congress. The people complied with his request. Volunteers were then instructed to advise the people not to congregate in the area where people were being moved but to remain in their homes. The police succeeded in removing 150 families without any incident. Resha said that the volunteers

"when they saw what the situation was, instead of instructing the people to remain, they felt it was better

for/.....

for the people to get into the lorry and go, because of the number of police that were there and the intimidation that was being displayed by the police."

Now although it would be possible to refer to the Western Areas Campaign in much greater detail, the foregoing references, I think, will suffice to enable one to follow the argument which Mr. Trengove based on this campaign.

The speeches and documents shew very clearly, he said, that the minds of the leaders in the African National Congress were not running along lines of persuasion or legitimate pressure or a change of heart on the part of the electorate; their minds were running along the lines of unconstitutional action, illegal action, coercion and intimidation; they were aware of but indifferent to the likelihood of a violent conflict and the consequences thereof. Counsel contended that although the Western Areas Campaign was not necessarily directed towards a violent overthrow of the State on the day of removal, it was, in the minds of the leaders, a prelude to a struggle

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on a higher level both as to the scope and the forms of action to be taken throughout the country in order to achieve their ends.

With reference to this argument it seems to me that the evidence does shew that the African National Congress, whilst recognising - in the words of Luthuli himself - that the Government had the undisputed right to enforce its laws and whilst it believed from the inception of the campaign that the Government would implement its scheme, regardless of the consequences, nevertheless exhorted and encouraged the inhabitants of Western Areas to resist the removal scheme to the bitter end and in an attitude of indifference to the question whether such resistance on the part of the individual would constitute unlawful conduct. Indeed Luthuli accepted the position that a refusal to obey a Court order directing the individual to vacate would be unlawful.

This attitude justifies in my view that part of the argument of Mr. Trengove that the policy of the organisation was running along the lines of illegality as envisaged by the 1949 Programme of Action and with the object of coercing the

Government/.....

Government to abandon its removal scheme.

In developing his argument as to the likelihood of a riot and violence occurring in the Western Areas, and the reckless or indifferent attitude on the part of the African National Congress towards such an occurrence, counsel contended that the following were considerations which the Court should bear in mind:-

The organisation sought to aggravate an existing 'tense' situation prevailing in the area by planting further seeds of hatred amongst the inhabitants through medium of its propaganda; it vilified the Government and condemned the Removal Scheme in various superlatives of language; it sought to compel the Government to use 'force and intimidation' against the householder to secure his removal; it exhorted the householder to resist to the 'last ditch' but left the method and degree of resistance to his own discretion; it desired the whole population in Western Areas to 'stay at home' on the day of removal and well knowing that Africans regarded any show of force on the part of the Government as an
act/.....

act of 'provocation' towards them, the organisation sought to compel the Government to make use of a maximum number of armed policemen to secure the removals. Finally, counsel pointed to the fact that both Luthuli and Resha admitted that the possibility of a riot occurring was present to their minds and could not be excluded.

These factors, it was submitted, could lead to only one conclusion, namely, that as a natural and probable consequence of the manner in which the campaign was conducted, not only a possibility but a probability of violence arose, and that it would be idle for the African National Congress to suggest that this result was not intended since it is deemed in law to have intended the natural and probable consequences of its acts.

Even if it is to be assumed for purposes of argument, that because of the manner in which the campaign was conducted, violence might have ensued as a natural and probable consequence, the question which arises is whether the evidence justifies a conclusion that as a matter of policy, or whether in terms of any conspiratorial plan/.....

plan, present to the mind of the African National Congress in May, 1954 when it decided to launch the campaign, or at anytime thereafter, it intended the masses to retaliate by violence if the State should seek to secure the removal of inhabitants by compulsion and force. Unless there is evidence to shew that such had been the policy or the plan of the organisation, it would not be safe to conclude simply from the suggested result that such indeed was the prior 'policy' or the plan for reasons which follow immediately:

The evidence to which we have referred shews that during the years 1954 and 1955, when the campaign was at its height, the theme of non-violence was expounded by the African National Congress in various parts of the Union, including the Western Areas itself, as a result of which for example, the organisation brought on itself the criticism offered by the 'Africanist' (supra) These facts I cannot reconcile with a 'policy' or 'planned' intention that the masses should retaliate by violence. If such had been the intention, the mere fact of advocating non-violence to the masses would in itself have tended to defeat

the/.....

the plan.

As has been pointed out the National Executive Committee delegated the duty of conducting the campaign to the Working Committee and it, in turn, appointed a Secretariat to work out the methods to be adopted. Even if some or all of the individual members on these committees should have been aware of the natural and probable consequences of their actions, that fact does not afford sufficient proof, in the circumstances mentioned above, that the 'non-violent' exhortations in Western Areas and the rest of the Union amounted to a 'ruse' a 'misrepresentation' or the like and that the 'policy' or the 'plan' of the organisation was to encourage the masses to retaliate by violent means.

Furthermore, the aim of the organisation was to compel the presence of the maximum number of armed forces possible on the day of the removal which could only have had a dampening effect on any desire or enthusiasm on the part of the inhabitants to retaliate by violence. These considerations, which I cannot reconcile with a 'policy' or 'plan' that the organisation intended

the/. . . .

the masses to retaliate with violence, renders the contention advanced by Mr. Trengove unacceptable.

I accordingly pass on to consider the campaign for the Congress of the People.

The idea of convening a congress of the people first occurred to Professor Matthews. On his return, in 1953, from a visit to America he discussed the matter with Luthuli. It was agreed that steps should be taken to put the idea into practise.

It was thought that as the Defiance Campaign had come to an end, a campaign of this nature would serve the purpose of "keeping the political field alive" and of reminding the people of the aims and objects of the organisation. Accordingly Professor Matthews suggested the launching of such campaign during the course of his Presidential address at a Cape Provincial Conference held in Cradock in 1953. Thereafter the matter was taken up by the National Executive Committee and a scheme was worked out. It was decided to issue invitations to various congresses and political parties in the Union to join in the campaign. In response thereto, the South African Indian Congress, the Coloured Peoples Organisation and the Congress of Democrats joined in the campaign; and whilst --

at/.....

at a later stage - the South African Congress of Trade Unions also allied itself with the other organisations, the Nationalist, the United and the Liberal Parties refused the invitations.

The Campaign had as its object the calling of a national convention of the people of South Africa to consider demands to be included in a 'Freedom Charter' and thereafter to propagate and popularise these demands amongst the masses. In order to enable the people to present demands, it was regarded as a pre-requisite that their political 'consciousness' and education should receive close attention and be raised to a higher level. To this end many public meetings throughout the Union were called where speakers addressed their audiences on a variety of political and other subjects; it was also decided to issue a call for 50,000 Freedom Volunteers, (to which I have referred previously) in order to have at the disposal of the organisations, a body of persons who, after having received political education, could in turn move amongst the masses and explain the objects of the campaign and the principles involved and to gather such demands as the people might then put forward.

In/.....

In addition it was also decided to make use of bulletins and pamphlets and printed matter to educate the masses and popularise the Campaign. To this end a bulletin named "The Call" was issued and the people were encouraged to read it and other publications which enjoyed Congress support such as "New Age", "Fighting Talk", "Workers' Unity", "Liberation".

In the course of the campaign mention was made of the Bantu Education Act, the Western Areas Removal Scheme, Pass and other laws, in order, as Luthuli explained, for all aspects of "apartheid" to be considered. In so far as the organisational aspect of the Campaign was concerned a body known as the National Action Council for the Congress of the People was created, with various provincial, regional and local branches all over the Union. On the national and provincial and local bodies, representatives from the various Congress movements were appointed as office bearers; Luthuli however, was appointed the president and volunteer in chief of all these bodies. The various branches gathered in the demands, attended to the political education

of/.....

of the masses and arranged for the holding of meetings and the dissemination of propagandist material. Eventually, the demands were co-ordinated and were set forth in the Freedom Charter which was duly adopted by the Congress of the People, held at Kliptown on the 26th and 27th of June, 1955.

The facts set out above explain how the Campaign came to be launched and what was sought to be achieved. As far as the prosecution is concerned, it made use of this campaign for two purposes: firstly, to prove that the Congress Alliances intended to replace the existing state by a new and fundamentally different form of state. The extent to which it succeeded in this direction I shall deal with later on in my judgment. It also relied on this campaign in its endeavour to persuade the Court that it was the intention of the organisations ultimately to overthrow the State by violence. The argument proceeded on these lines:

The propaganda and speeches which were made were intended to create a mental attitude of hatred towards the State which would not baulk at its overthrow by violent means/.....

means if necessary. Constant reference was made, so it was argued, to other countries in the world where 'Freedom' had been obtained by violent means e.g. Russia, China, Vietnam and Korea and it was argued that this was in effect an invitation and a suggestion to the masses, that such means should be employed by them to achieve their own 'freedom'.

Again, the general trend of the speeches and propaganda made followed the same pattern in all the provinces namely - a condemnation of Western Democracies, including South Africa, and laudatory remarks passed in respect of other forms of Governments where 'Freedom' had been obtained by the struggling masses; the need for determination to fight for the achievement of the demands, to make sacrifices and to spare no effort to advance the liberatory movement, were common themes.

By way of example I turn to consider a few of the speeches. These speeches were all based either on the evidence of a shorthand recorder, or were taken down on tape recording machines. These speeches furthermore, were all

made/.....

made at meetings to advance the cause of the Campaign for the Congress of the People or to popularise the demands which had been adopted at the Kliptown meeting.

The first meeting to which I turn is one held at Pietermaritzburg on the 5th December, 1954 where Resha said:

"Friends we are meeting here today at a crucial time in the history of mankind. We are meeting at a time when the world is divided into two hostile camps. On the one side are the forces of progress, freedom and democracy, advancing day by day in their noble fight for laughter in the world, while on the other side the forces of reaction, oppression and fascism determined as they are to wage war notwithstanding the threat of extinction with the world's safety as the result of the existence of atomic bombs and hydrogen bombs. The latter forces of course are shrieking for response. On the occasion, on occasion like this, we must not overlook the masses of people

of/.....

of Asia who have succeeded in driving imperialists out of their country and show solidarity with those who are still engaged in struggles to uproot imperialism in action, for through their victory, humanity stands to benefit. Even now the freedom-loving people of China are threatened with another war by the Imperialist America, under the pretence that they are defending a stooge, a criminal Chiang Kai-Shek. We hope and pray that wiser counsel will prevail and that America will stop interfering with China. If, of course America is still....what happened to their forces in Korea will be repeated by the people of China in greater force, for let us be assured friends that there is no force in the world to stand before the marching force of the forces of freedom. While they rejoice over the victories over the people of Asia and other continents, and disregard their/.....

their struggle for freedom and national independence, let us also realise that the driving away of the imperialists from Asia and other places will place into grips the markets of Africa with imperialists.....Already America is building war bases in many parts of Africa. France is definitely trying to destroy the liberatory forces in Tunisia and Morocco. Britain has for quite a year undertaken a war with our brothers in Kenya. It is here that some of the worst crimes have been committed by the British soldiers under the pretext that they are combatting the so-called Mau-Mau terrorists. A great son of Africa, Jomo Kenyatta and other leaders of the people are now languishing in gaol. Thousands of innocent souls are in the concentration camps, boiling water has been poured on breasts of women because they refused to admit that their husbands were, belonged to the Mau-Mau.

Children/.....

Children have been shot. All the atrocities are committed of course in the name of democracy, for by democracy the imperialists mean the oppression of the Colonial people.....

In South Africa the people are facing a crisis. Throughout their period of government the Nationalists have shattered completely in frantic determination and implemented their policy of destroying every vestige of human rights which the African in particular, ever possessed. It's of the non-European people has taken the Nationalists nearer to their goal of crushing all the people of South Africa under Fascist terrorism.

During the last six years of the Nationalists rule in this country, we have witnessed unprecedented racial discrimination, and sessions of parliament have been characterised by the pattern of legislation designed to oppress the non-Europeans to suppress their aspirations and their
legitimate/.....

legitimate demands, and finally to...

one who do not accept apartheid.

At the end of this process of course

South Africa will be a full fledged

Fascist State, along the lines of Hitler's

Germany. This....suppression of

Communism Act which has had us in

suppression of the liberatory movement

in this country, many of us here have

fallen victims to this damning piece

of legislation They have been

prescribed banned from attending

gatherings, banished and confined

to certain areas...."

At another meeting, held on the 12th

of June 1955, Resha again addressed a gathering

in these terms:

"We are meeting at a time when great

powers are deciding whether it is

wisdom on their part to use atomic

bombs for the destruction of mankind.

We are meeting at a time when the

oppressed peoples throughout the

world are marching ahead in a manner

unknown in the history of mankind.

The/.....

The forces of oppression and reaction are shrinking. Yes, we are meeting in a crucial time in the history of our mother country, South Africa. We are meeting at a time when a minority group in this country has brought in a Government, a Party which is determined to make South Africa not only a Police State but a fully fledged Fascist State. (~~U.I.F.~~)..... ..

..... ..

At this stage I wish to project before you Chief Luthuli, by quoting his words. In his presidential address in this hall last year when he said: 'Freedom comes only to those people who are prepared to pay dearly for it.' Freedom will never come to people who will stand in the middle of Grey Street and ask them to go without it..... ..

I want to close with the words of my leader, for I want the Government to know this, that wherever we meet in the meeting places or halls of

South Africa/..

South Africa, I always think of Chief Luthuli. The Government of this country is going to regret when the people of South Africa will one day decide to move forward and before them will be passing Chief Luthuli for when people move forward without their leaders, no one knows what they are capable of doing. The Congress believes in non-violence, but if the Government is going to take them away from us then we shall not stand responsibility for what the people will do in the absence of their leaders, and I want to say it is not any absence of Chief Luthuli which will discourage us, but it is his absence which will make us forge ahead.....

Chief Luthuli says that the highest relationship between God and men is the preparedness of the man to work and die in the service of his people

Another speaker Dr. Motala, an office bearer in the organisation said:

Now/.....

"Now the all-important question arises: who is going to change the state of affairs? Well, I must say that this is not a condition that is unique to South Africa itself; the people of Asia and throughout the world have suffered under similar conditions, only as recently as ten years ago: but those days, so far as India, so far as Burma, so far as China - and a number of other countries, not excluding the Gold Coast - those things are past, and who is it who brought it, those things, about in those particular countries? The people themselves. That is the answer. We must be convinced that the power of disturbing the status quo, the power to change the type of society lies within ourselves. I have no doubt whatsoever in my own mind that the non-Europeans are quite capable of changing the status quo in South Africa. They have the means, they have the power."

On/.....

On the 18th September 1955 after the Freedom Charter had been adopted, and at a Freedom Charter Committee Meeting, held in Johannesburg, one N. Sejake made a speech to which the prosecution invited particular attention. Amongst other things, Sejake, whilst addressing the audience on the subject of "The people shall share in the Country's wealth" said:

"The proletariat must fight not only from the political platform, because this merely explains the situation, but they must also create a theatre, and they must fight capitalism in actual manoeuvre, and employ a definite amount of energy for the freedom to come. This will give us some guarantee that the road to the re-division of land amongst those who work it, has been found....."

"They say our wives must carry the same devil - that will be the day. The period seems to be fast arriving when (all the people) will join the liberatory movement in this country, and/....."

and finally all workers who are in the grinding mill of misery and poverty should join hands for the determined achievement of the peoples' freedom. This part of the struggle cannot be won early enough, whilst there are other sections of the people who for one reason or another enjoy certain rights or concessions and feel they must stand aloof to protect and maintain their privileges, whilst the rest are perpetually injured. It is all very well to say the state shall recognise the right and duty of all to work - and to draw up full employment benefits, but we have got to make the state do these things, It requires hard practical work and sacrifice. One must be prepared to clash with the servants of the state and if the struggle assumes very large and country-wide dimensions, one shall have to clash even with the armed forces of the country. That is the test we must pass before we

can/.....

can have work and security. Apparently the major opinion, that we must - that we are oppressed, and must be emancipated is crystallising in the minds of the people - the working class understands - the working class is ready - the necessary conditions have arisen - the time is becoming more and more opportune - someone must step forward in the presence of the Police and the armed forces. Friends, don't fear the police, don't fear even armed forces - your powers of resistance is greater than even the atom bomb, freedom in our lifetime."

At the same meeting Resha said:

"The more Police there are, the nearer we are to our freedom. We will live to see them tried before the bar of history.....we know that the Government of this country remain in power in order to suck the blood of the people....It is the duty of the Freedom Volunteers to impose freedom and/.....

and friendship in South Africa against the forces that are against it. Our struggle is non-violent, but if there is a pool of blood, we shall still have to go through."

Leon Levy, an accused in the present trial also addressed the gathering in the following language:

"I have been given the honour to speak about this section of the Freedom Charter which representatives of the people of South Africa at Kliptown on June 25th and 26th 1955 pledged themselves to work for and to win. And that section is, friends, that there shall be peace and friendship. Those words 'There shall be peace and friendship' are really the aims and the hopes of all freedom fighters, in South Africa as well as all over the world. It is the desire of all of us to ensure that South Africa shall be a fully independent State. We don't want any Imperialist to come here and dominate us. We don't want any Imperialist to/.....

to come and exploit our workers, and rob us of our food or minerals or rights. We don't want any Imperialist to use our soil for war bases, or to force us to buy armaments to kill others with, or for that matter to buy warships or military equipment. We don't want to be forced into wars with people with whom we have no quarrel. What we want is South Africa to be free so that all our peoples can develop our country in peace. We wish to be free of all interference from Imperialists; we want to live peacefully and to respect other nations."

"...We in South Africa know that the soil of Africa is rich; it is rich with minerals and gold; we know it very well because many of us have dug it. We know, too, that as in our country there are freedom fighters; they are oppressed - there are oppressed people all over Africa who are daily fighting for their liberation. They are/.....

are fighting for self government and independence. And we salute them for their efforts, we draw enthusiasm and courage and encouragement from them. We want to co-operate with all the peoples of Africa: we wish to make the Freedom Charter known to the people of Africa, so that they will see that we recognise the right of all the people of Africa to independence and self government. The Freedom Charter is the greatest peoples' document in South Africa's history. It is South Africa's greatest contribution to peace, because it speaks of freedom and friendship. Friendship is the twin sister of peace, without which freedom cannot be won. Africa."

One Hutchinson a further speaker said:

".....The people have spoken, another milestone has been reached, the path is short for the racialists - the people must crush them aside on the road to freedom - the people must crush them/....."

them, because the people have spoken...."

I also refer to the Congress of the People Anniversary meeting held at Kliptown on the 24th June 1956. On this occasion a message from Luthuli was read out to the people. It stated:

"In history...some dates assume national importance because this significant national event is associated with them; so it is with June 26th in our history of the Liberatory Movement - the movement beginning the day when for the first time the white man came into contact with the black man, ostensibly to civilise him but really to rob him of his all, including his land, his freedom and his manhood."

"....Let us here remember that we in this age are not the first the only ones have struggled for the liberation of our land, so that we can recall the many....of all ages today who, in defence of their freedom in an exalted and humble way, have voluntarily sacrificed most dearly for it, to the

extent/.....

extent even of making the supreme sacrifice."

At the meeting the accused L. Ngoyi told the audience:

"Friends, we all know that all nations who are free today freed themselves. We know that exploiters and oppressors will not succeed. Great King Pharoah in Egypt tried to kill the Israelites, the Czars in Russia tried to exploit the workers of Russia. In China Chiang Kai Shek failed to sell the workers of China. Late Hitler tried to oppress the German people. He failed, he is nowhere today. The exploiter's grave is unknown....I also call upon you Jomo Kenyatta and other leaders who are suffering under imperialists, you are not forgotten, we are with you, the oppressed people of South Africa, we shall give the last drop of our blood for the liberation of the oppressed people in South Africa....Long live the Freedom Charter/....."

Charter. Long live the workers of the
Union of South Africa.

Although it would be possible to refer to some further speeches made at this, as well as other meetings, the above suffice to illustrate the general trend, topics and theme of speeches.

The documents on which the prosecution relied also followed the same pattern. In the judgment of my brother Rumpff some of the documents and the propaganda relating to the Congress of the People and the Freedom Charter are mentioned. A further example relied on by the prosecution which illustrates the type of propaganda and attitude adopted is to be found in a bulletin of the Transvaal Branch of the Committee of the Congress of the People (cf. Exhibit 141) dated the 1st March, 1955; the following appears under the heading 'Mobilise and Organise:'

"The time has already passed that the world should know what a sham democracy is in our country, and how desperate are the needs of our people. The time has already passed that our free people should have won their freedom. The situation cries out for something/.....

something to be done. So let us all, members of the four Congresses and their allies, put ourselves at the wheel of the Congress of the People, and make it an overwhelming success. We must work fast and furiously. The date set for holding the Congress of the People is not later than June of this year. We have just four months."

Then, under the heading "What is to be done" it states:

"3. Demands to be incorporated in the Freedom Charter, which will be drawn up by the Congress of the People, are now pouring in. Are demands from your area included? You better check up.

4. A set of lectures notes are available which are entitled 'The World we live in.' It is your duty to get hold of a copy and study it. Also assist others to know its contents. If you would like a

speaker/.....

speaker to address a group on this subject, make your application to the Transvaal Provincial Committee, and he or she will come right along."

Other documents also shew that the national provincial and regional branches of the organisation emphasised the necessity for the people, and especially the Freedom Volunteers, to become acquainted with and to understand the three lectures, 'The world we live in', 'The Country we live in' and 'A change is needed.' In addition these committees arranged for the holding of so-called 'study classes' for the Freedom Volunteers where these three as well as and other lectures were dealt with in order to raise the 'political consciousness' of the persons present.

The evidence shews however that during the course of this very campaign many speakers made mention of the fact that it was to proceed on a 'non-violent' basis. In this connection I refer firstly to the message of Dr. G.M. Naicker, the President General of the Natal Indian Congress read to the meeting of the 5th December, 1954, held at Pietermaritzburg. He stated that:

Whatever/.....

"Whatever we do we must not veer from the path of non-violence. In the struggle we have launched against segregation and apartheid we are strictly against violence. Mahatma Gandhi, that great apostle and freedom-wisher gave us the lead. He said it is superior to all other methods and even more explosive than any hydrogen bomb.....Mr. Chairman and Friends, my message to you this morning is: Go ahead, although I am not with you in person, my spirit is with you. You must tell the Nationalist Government and all the anti-democratic forces in this country that we will not be dragooned into silence. I ask your conference to condemn most strenuously and vehemently the action of the Minister of Justice in indulging in mass bannings and deportations of the peoples' leaders. In conclusion let me reiterate. As loyal South Africans we have a real duty/.....

duty to all the peoples of South
Africa, we have to build up the
tradition and spirit of non-violence!
...."

At this meeting, it must be noted,
the speakers were unaware of the presence of the
police or that the speeches were being taken down
on tape-recording machines.

I refer next to his message sent to
the meeting of the 12th June 1955, (supra) held
at Durban when he said:

"Parliamentary opposition has proved
a....failure and...we must rally the
white and non-white people of South
Africa round the banner of freedom.
We have held this banner high...
violence and hatred towards none.
Let us march forward unitedly and
liberate South Africa."

I have referred to Reshas utterances
during the course of addressing the public namely:

"Congress believes in non-violence
but if the Government continued to
ban leaders the organisation could

not/.....

not be responsible for what the people might do" - and again "our struggle is non-violent but if there is a pool of blood we will have to go through it."

So, too, might one refer to a speech made by E.P. Moretsele, a member of the National Executive Committee of the African National Congress, who on the occasion of the anniversary meeting of the Congress of the People on the 26th June, 1956 told the public that the organisation was non-violent and that it was not prepared to shed blood and that the people would be liberated without bloodshed. A further instance is to be found in the speech of Dr. Conco - also a member of the National Executive Committee - who told his audience on the 25th July, 1954 that the struggle of the Liberatory Movement was a non-violent one. At the same meeting the accused Kathrada, a highly placed official of the South African Indian Congress in making a 'Call' for volunteers said:

"It is my task this afternoon to speak to you about the task of volunteers -
of/.....

of the freedom volunteers. If I want to describe in one word what the tasks of the freedom volunteers are, I would say that our freedom volunteers are going to be the top brigade - of the fifty thousand strong in the army of national liberation in this country.... Our freedom volunteers are going to provide that hard core of men in our army of liberation.....But ours is not going to be like the armies you know. Quite unlike the imperialists' armies known to the masses of Asia and Africa through the hundreds and hundreds of years of oppression. Quite unlike the armies of so-called Western civilisation who have perpetrated the most monstrous and hideous crimes in Korea and Kenya. Quite unlike the armies of the so-called enlightened nations who have left behind hundred thousand illegitimate children in Germany and Japan, quite unlike all these, in fact, in contrast to these. Ours is going to be a new kind of army

with/.....

with a new kind of religion. Ours is going to be the so-called torch burners of civilisation, what civilisation means, ours is going to carry light and truth to areas and to people who have been deliberately kept in darkness for years and years. Ours is going to be the four corners of South Africa, not with guns not with bombs and other weapons, ours is going to organise the people, not for rape, not for destruction, our volunteers are going into the field with a purpose far stronger than everything we have seen before. Ours is a non-violent army, we consider ourselves too civilised to resort to barbarism and our mission is to organise the greatest assembly in the history of South Africa on our march to freedom. But one thing the volunteers must realise, that their task is not going to be an easy one. There will be many obstructions, they will meet
many/.....

many difficulties and most important of all we must tell them again - constant provocation from all forces. They will come up against provocation with their own people who are openly in the hands - in the camp of the enemies, like those police who are sitting here this afternoon. And they will come across provocation by people - by dirty things who will go out to create suspicion and destruction. They must be a disciplined corps of men, our volunteers must never allow themselves to be provoked, and the volunteers must ensure by constant explanation that the people too are not unnecessarily provoked. In all great movements such as ours and here we must learn a lesson from the National Liberation Movement in other countries, in all these movements the enemies will resort to all sorts of methods ranging from fights to outright brutality in an attempt to crush our movement/....

movement. Volunteers must be ever vigilant and guard against these acts. Every time volunteers allow themselves to be provoked we must remember it is a victory for the enemy.

Foremost in our minds must be the goal for which we are striving and we must all behave in a manner that we do not in any way harm the progress of the movement, bear in mind that the enemies in its fears, in its desperations are trigger happy. Previous orders have been renewed by Blackie Swart to his police that they must shoot first and think afterwards. We do not want to waste a single drop of freedom blood unnecessarily.

In reviewing the evidence on this campaign there is no doubt that in the propaganda and speeches which were made, the present Government and form of State was condemned in no uncertain terms. At the same time however, it is equally clear that various highly placed officials remind their audiences that the campaign should proceed

on/.....

on a non-violent basis and that they should not allow themselves to be provoked into committing acts of violence. I am unable to reconcile these facts with the contention that the organisation as a matter of policy, desired the masses to retaliate by violence or that they should resort the violent methods to achieve their 'Freedom' and cannot uphold the contention of the prosecution.

I next wish to mention briefly the campaign directed against the Bantu Education Act and the Anti-Pass Laws Campaign. These two campaigns, as also the Western Areas Campaign, were made part and parcel of the campaign for the Congress of the People, - and in so far as the speeches and the propaganda are concerned, nothing new arises. The same pattern exists and the same themes are present - but directed more specifically to the provisions of the Bantu Education Act and the Anti-Pass Laws. The outcome again was that the Government was condemned in strong language and that achievement of the demands contained in the Freedom Charter was presented as the solution to all difficulties and as the blue print for a real and true democratic South Africa.

On/.....

On the issue of violence, the evidence concerning these two campaigns carries the matter no further than any of the other campaigns I have referred to and I do not propose to dwell on them any further.

I now pass on to consider the "Freedom Volunteers."

In our earlier judgment we referred to the allegation contained in the indictment that the objects of the conspiracy were to be achieved, inter alia by:

"4(b)(ii) Recruiting, enlisting and preparing for acts of violence a special corps of Freedom Volunteers."

It is common cause that Volunteers were recruited and enlisted and received training in the course of which the need for self-discipline and rigid obedience to orders of superiors was constantly stressed and that they were enjoined not to become provoked or to retaliate but to remain calm in all circumstances.

The prosecution contended that the purpose underlying this type of training was to

prepare/.....

the role volunteers would have to play, as unfounded and incorrect.

On this aspect the case for the prosecution is again based on inferences to be drawn from the proved facts. It becomes necessary to refer to the salient facts in so far as Freedom Volunteers are concerned.

I have referred to Luthuli's 'Call' for 50,000 Freedom Volunteers on the 5th September, 1954 when he told the people present at the meeting of the Natal Action Committee of the Congress of the People, that the Volunteers were to constitute 'an army of non-violent volunteering organisers' and that 'our people (must) in words, actions and attitudes respect the policy of non-violence so wisely adopted by our Congresses.' I have also made mention of Kathrada's speech on the 25th July, 1954, when he asked for volunteers to come forward and to form the "Shock Brigade" of a non-violent army. In addition I refer to Exhibit B.32, the "Congress of the People Bulletin No.2 of August, 1954" and the article appearing therein, "Speaking Together." Under the headnote "What it means to be a Volunteer" it is said:

Chief/.....

"Chief A.J. Luthuli, President General of the African National Congress, has called for 50,000 volunteers....

Coming so soon when the tasks of the heroic Defiance Volunteers are still fresh in the minds of the people there is bound to be some misunderstanding as to the tasks of the Freedom Volunteers

.....the tasks of the Freedom Volunteers would be quite different to those of the Defiance Campaign.....we can't enumerate all the tasks the Freedom Volunteers will be expected to carry out. But simply stated this task will be to act as the 'Shock Brigade' of our non-violent army of Freedom... they will ensure that by their work, propaganda and careful explanation they will educate people not to be provoked into violence which will constantly be attempted by the enemies."

Again Exhibit B.35, a report from the National Volunteers Board deals with Freedom Volunteers as follows:

Our/.....

"...Our Volunteers must meet the reckless violence of the Nationalist Government with discipline, a refusal to be provoked and a determination to carry on till liberty is won."

After dealing with various matters concerning Freedom Volunteers, such as the functions of the National and Provincial Volunteer Boards, Procedure for Enrolment, Uniforms and the Volunteer's Pledge, it finally sets out the 'Code of Discipline' to be followed by all Volunteers, paragraph 6 of which provides:

"Volunteers must never allow themselves to be provoked into violent action."

On the 10th November, 1954, Luthuli in a pre-conference Presidential Call to branches and officials of the African National Congress, dealt fully with the duties Freedom Volunteers were required to perform.

A reference thereto (Exhibit A.55) will reveal that there is no suggestion that Freedom Volunteers were required to commit any acts of violence.

In/.....

In a speech made by Dr. G.M. Naicker the President of the Natal Indian Congress, delivered at the first Natal Conference of the Congress of the People held at Durban on the 5th September, 1954, the duties and functions of Freedom Volunteers were defined and set out in no uncertain terms. This speech was subsequently published in pamphlet form and was distributed amongst members of the organisation. It was termed "Self Discipline for Volunteers of the Congress of the People" and was also used as a 'study' document for volunteers.

I shall quote a few extracts from the speech.

"....civil protest, disobedience and resistance, mass or individual is an aid to constructive effort for armed revolt...just as military training is necessary for armed revolt, training in constructive effort is equally necessary when occasion demands it, even so is the use of civil resistance. There is no freedom or democracy without suffering and sacrifice. And just as an army will acquire no success until it is disciplined, so will a civil resistance movement not attain/.....

attain the fruits of its struggle without discipline....."

"Discipline in a non-violent struggle cannot be over-emphasised. The form of struggle we are wedded to, requires moral courage, determination and sacrifice apart from political understanding unity and co-operation. In violence the truth is the greatest sufferer. In non-violence truth is ever triumphant. In non-violence discipline is a vital necessity.... We know that in an army discipline is achieved by means of drill, regimentation and strict obedience to regulations and superiors in rank. In a non-violent struggle such as ours....we cannot think in terms of military physical training, physical mock combat, the strict adherence to military regulations and superiors in rank...."

The evidence placed before the Court cannot be easily reconciled, if at all, with the contention of the prosecution that Freedom Volunteers were being "prepared and conditioned" to
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commit acts of violence 'when the time is ripe'. Indeed the prosecution conceded that 'many people might have been taken in by this alleged policy of non-violence' but it was submitted that it was a 'misrepresentation' on the part of the Congress Movements in order to get recruits to come forward as Freedom Volunteers and to gain the support of the masses. In this connection the prosecution emphasised the literature which was used for the political education of the Volunteers namely the **Three Lectures - The World we live in, The Country we live in and, A Change is needed;** it also pointed to The Summer School Lectures (Exhibit N.A. 81); Mandelas' "No Easy Walk to Freedom" (Exhibit A.309) and "What every Congress Member should know" (Exhibit W.356) and to other lectures as well, as also to the newspapers and bulletins volunteers were encouraged to read such as "Fighting Talk", "Liberation", New Age". Again, it was contended, that the use of such material could only lead to the inference that the organisation sought to instil or foster such a degree of hatred against the Government that Volunteers would not hesitate to commit acts of violence if and when ordered to

do/.....

do so. Mr. Trengove pointed to a passage in the Presidential Address made by Moretsele to the 1954 Transvaal Conference of the African National Congress (Exhibit A.40) in support of his contention that the African National Congress would decide when the time was opportune or "ripe" for volunteers to proceed to the necessary action. The passage dealing with the Western Area Campaign reads:

"The Government has provoked and attacked but we have remained disciplined. In other words, we have not allowed the Government to choose the time, the place and the battleground for us. Today I say to the African People: Intensify your organisation and stand by awaiting instructions."

The evidence however of Luthuli, Matthews and other defence witnesses that volunteers were enjoined never to become violent is supported by the speeches and documents to which I have referred and which were made known to the public during the indictment period and that Freedom Volunteers were required to:

ensure/.....

"....ensure that by their work, propaganda and careful explanation they will educate the people not to be provoked violence intc/which will constantly be attempted by the enemies." (cf. Exhibit B.32 supra).

Furthermore, with reference to the contention advanced by the prosecution, a perusal of the lectures and other material on which it relied for its submissions, does not reveal that violence as such, was advocated as a means to be employed by Freedom Volunteers in discharging their duties. With regard to Moretsele's speech, the speeches of Resha and Ndimba, even accepting that they on those occasions, advocated the use of violence, the weight of the evidence shows that Volunteers were being recruited, enlisted and trained for acts other than acts of violence, for which reason I held in our earlier judgment that it was impossible to find that the allegation in the indictment relating to Freedom Volunteers had been proved by the prosecution.

Having reviewed the more salient facts concerning the various campaigns and the

Freedom/.....

Freedom Volunteers, I finally revert to the contention advanced by Mr. Trengove. There are, so it seems to me, a few considerations of a general nature which affect the validity of his argument.

Whilst it is clear that the African National Congress appreciated that the application of the methods set out in the 1949 Programme of Action could result in the occurrence of mass breaches of the law, and that the Government might possibly be compelled to rely on its forces to put an end to the situation, the basic and important question which has to be answered is whether it has been proved that the African National Congress as a matter of policy intended the masses to retaliate by violence if such position arose.

If the evidence leaves this issue in doubt the prosecution obviously fails.

Witnesses for the defence stated that such was never the intention of the organisation.

I have here in mind inter alia, the evidence of Luthuli and Prof. Matthews. I have quoted relevant extracts from the evidence of Luthuli and now propose referring briefly to Matthews' evidence. In this regard the following

emerged/.....

emerged:

"Did you believe that you could use the methods in the 1949 Programme of Action without the danger of your followers resorting to violence?---
Yes we very definitely believed that these methods could be used without leading to any violence on the part of our members."

"Did you have in mind the possible reaction of the Government to your methods?---Yes we did."

"What did you think that the Government's reaction might possibly be?---Well, there was always the possibility that the Government might react towards the use of these methods by force."

"Were you prepared to face that?---
We were prepared to face that, yes."

"When you adopted the Programme of Action, was any violence intended
No violence was intended or contemplated "

"Did you expect your followers to resort to violence?---We did not expect our followers would resort to violence at any time."

Did/.....

"Did you hope they would resort to violence?---Certainly not."

"But did you contemplate that there might be a forceful reaction from the Government?---Yes."

"In the face of that, did you think that your followers could be relied on to remain non-violence?---Yes, we thought that our followers could be relied upon, but we decided as an organisation to continue to stress both in meetings - small meetings and large meetings - the non-violent character of our campaign."

"Did you realise that your Programme might involve breaches of the law?---We did realise that, but we looked at such breaches of the law as we might advise, not as mere lawlessness but organised protest against the laws we did not approve of."

The contention advanced by Mr. Trengove proceeded from an assumption that the application of the means set out in the Programme of Action would/.....

would compel the State to use force to restore law and order. This in my view is an incorrect assumption as it does not follow as a matter of inevitability that the State would be compelled to do so. The Defiance Campaign for instance, came to a sudden end simply as a result of legislation to meet the situation.

But the greatest obstacle to be overcome and which the prosecution in my opinion cannot succeed in doing, is the fact that during the indictment period non-violence was advocated generally and that the masses, who on the contention advanced were being "conditioned" to retaliate, were exhorted not to be provoked into such action but to remain calm. This difficulty was put to counsel and the question which was canvassed with him was: - why, if his contention was correct, did the organisation conduct itself in a manner which was calculated to defeat its very purpose. He argued that it would have been dangerous for the leaders to suggest violence or retaliation not only from a personal point of view but also in the sense that "if one has a peace loving and peace abiding mass of African people, as African people/.....

people are reputed to be, they would not get the support of those people if they tell them they want them for violent action against the State. They have to be subtle, they have to indoctrinate them and they have to elicit the support of innocent people, to draw them into the net and prepare them for the struggle."

The answer to this argument however, emerged in my opinion from the evidence of Professor Matthews. He was asked:

"Did you think it is possible that as a practical matter for an organisation like the A.N.C. to preach to the public a policy of non-violence, while it really wants to pursue a policy of violence?"

He said:

"As I said, it seems to me that to adopt an attitude like that would be futile, because you had a secret policy of violence, you would have at some time to tell your followers, amongst whom you have been preaching non-violence over a long period of

time/.....

time, you would have to reveal to them this secret policy, and my own impression would be that they would regard you as somebody, who had deceived them all along and your following would fall away."

The prosecution as mentioned previously did not rely on any "secret" policy which the organisation held. Its policy, in the present instance is determinable from its public utterances and actions. Its claim that it had and desired to work under a policy of non-violence is either genuine or dishonest. It is for the prosecution to prove that the latter is the case. The evidence taken as a whole, certainly does not in my view, justify such a conclusion.

It is true that propaganda which appeared in bulletins, pamphlets and lectures which the organisation either supported or made use of, was from time to time vitriolic in its attacks on the Government, condemnatory of Western forms of government and white supremacy in South Africa. These facts may of course be reconciled with an intention on the part of the organisation for the masses/.....

masses to become violent. But they are not consistent with only such a trend of thought. This type of propaganda could have been made to further the political aspirations of the organisation and to achieve its objects without it necessarily entertaining any thought of violence, be it direct or by retaliation.

The fact that some important members of the organisation, such as Resha for instance, did on occasion incite or encourage violent action, does not amount to proof that such was the policy of the organisation. Whilst it may show what he, on those occasions, perhaps desired the policy to be, his utterances can in no way be equated with, or change the policy of the organisation as a whole.

If there had been a scheme or plan afoot whereby the conspirators had hoped to achieve their objects by this form of retaliatory violence, I would have expected the evidence to reveal some consistency or pattern throughout South Africa, since it was alleged by the prosecution that the conspiracy was nation-wide. The only consistency or pattern that does emerge
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from the speeches and documents is the attack on the Government past and present the condemnation of the present and Western forms of state and of white supremacy generally. On the issue of violence however, as I have attempted to shew, such evidence is inconclusive.

If however one examines the speeches and documents with a view to discover some further consistency or a pattern, there is such a degree of preaching of the theme of non-violence present, that the case for the prosecution to say the least, becomes doubtful.

In the nett result the evidence does not in my view of the matter, justify a conclusion that the African National Congress had adopted a plan or scheme which revealed a general expectation of violence by the State and an intention to use the masses to retaliate.

I shall next deal with the further findings of fact set out in our earlier judgment: inasmuch as my brother Rumpff has in his judgment referred to the evidence relating to these issues, it is unnecessary for me to do so again. I shall

accordingly/.....

accordingly confine myself to the reasons for those findings, the first of which was that all the organisations and the accused worked together to replace the present form of state with a radically and fundamentally different form of state based on the demands set out in the Freedom Charter.

It is common cause that the Freedom Charter presents the outline of the form of state sought to be achieved by the organisations and the accused. The political, social and economic demands made therein, are, in my opinion of such a nature, that once they are realised, a fundamentally different form of state must emerge. In this connection I agree with the view expressed by Luthuli when he wrote in his message to Congress that the "Charter definitely and unequivocally visualises the establishment of a socialist state." I also share the view expressed by Mandela that in order to achieve this state the present economic and political set up in South Africa will have to be broken.

The prosecution contended that the form of state envisaged by the Freedom Charter was communistic. Professor Murray however, stated that inasmuch as the Freedom Charter was silent

on/.....

on the question whether the dictatorship of the proletariat or in other words, a one party system would be put into operation, he could not determine whether a communistic form of government was contemplated or not. He agreed that nothing contained in the Freedom Charter would be inconsistent with a bourgeois socialist form of state. Counsel for the prosecution contended however, that the intention of the organisations was to create a communist form of state. This intention he argued, emerged clearly from the manner in which the organisations set about to gather demands for inclusion in the Freedom Charter; the people he said, were educated along communist methods and tactics; the communist analysis of the present state and society was propagated in the course of which Western democracies were condemned and the virtues of a state described in varying terms as a "Peoples' Democracy" or "True Democracy" were emphasised. In this regard the three lectures mentioned earlier on were put in the forefront of his argument.

The difficulty which confronts the

prosecution/

prosecution is however, that the evidence does not disclose that the organisations ever propagated or advocated the need for, and desirability of the one party system. Here I want to mention that I am not concerned with what the ordinary man in the street may or may not regard as "communism." The evidence of Professor Murray makes it clear that no matter how many principles of communist dogma, tactics or methods may have been followed or adopted, unless it is shown that the concept of a one party system - the dictatorship of the proletariat, had been advocated, it would be incorrect to find that communism in the true sense of the word had been put forward. This evidence, in the circumstances, destroys the validity of the contention advanced by the prosecution and at the same time, apart from other considerations, shews why we were unable to find that it was proved that the African National Congress had become a "communistic" organisation.

In our earlier judgment we held, with reference to the Freedom Charter that "the type of state as seen by the Transvaal Executive Committee of the African National Congress is a dictatorship of the proletariat, and accordingly
is/.....

is a Communist State, known in Marxism-Leninism as a peoples democracy." We based our conclusion on the contents of a certain lecture which this committee made use of and which reads as follows:

"Before the Europeans came, the country was governed on the tribal system. The Chief was the head of the tribe. But when laws had to be made or decisions taken the chief called together the people in a 'pitso' or 'Lokgotla' etc. That was 'Government by consent'. The people agreed to the laws and obeyed them because they were consulted, and they helped to make the laws and run the government. Today, the power of Government, of the State, which makes the laws, is not held by the people. Power is held by the ruling classes of white mineowners, living both in South Africa and in Britain and America; it is held by the wealthy owners of large-scale factories and financial concerns; it is held by the Afrikaners farmers. Those classes are represented/.....

represented by the Nationalist and United Parties. The power of state is not exercised for the benefit of the people. It is used to permanently subject the people. It is used against the people to ensure the profits of the few. Congress aims to replace this Government of the few, with a government of peoples' democracy. In a peoples' democratic state, the power of state will be exercised by the people. That is, by the working people of all colours, together with all other democratic classes who will work for the changes set out in the Freedom Charter. This will be a government of the people as a whole; of the present oppressed and exploited classes used to achieve their maximum well-being, and to prevent the "few" exploiters from regaining state power.

I have since come to the conclusion that our earlier finding is erroneous, for reasons which follow immediately. The test to

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be applied in construing the document is in the light of Professor Murray's evidence a simple one, namely, does it advocate the concept of a one party system or not.

The suggested "peoples' democratic state" is defined as being one consisting of the oppressed and exploited classes and other democratic classes who will work for the changes set out in the Freedom Charter and in which the "few exploiters" namely the "white mine-owners", the "wealthy owners of large-scale factories and financial concerns" and "the Afrikaner farmers", who are represented by the Nationalist and United Parties, will be excluded from regaining state power. This definition does not in my opinion necessarily imply that a one party system was being put forward since in the classes which remain after the exclusion of the "few exploiters" as defined, there may very well be room for instance, for a communist party on the one hand and a socialist party on the other working for "the changes set out in the Freedom Charter....and to prevent the "few exploiters" from regaining state power.

The/.....

The definition of the "peoples democratic State" as contained in this lecture does not in my opinion exclude such a result as a reasonable possibility and I am accordingly unable to agree that the one and only inference to be drawn from the document is that a dictatorship of the proletariat was being advocated.

With reference to our finding that a strong left wing tendency manifested itself in the African National Congress, the Freedom Charter of course makes it clear to what extent socialism would arise once the demands are achieved. The mines, the banks and monopoly industry would be transferred to the ownership of the people and the land would be redivided amongst those who work it. These demands are far-reaching and in my opinion cannot be reconciled with the idea that a 'mild' form of socialism was being put forward.

The evidence furthermore shews that during the years under review the organisation condemned Western Democracies for a variety of reasons and at the same time held Eastern forms of state in high esteem and extolled the virtues and advantages of a state described as Peoples' Democracy or True Democracy. The lectures and propaganda/. . .

propaganda which it placed before its members for their political education were in my opinion along socialistic lines. Insofar as its attitude towards Russia is concerned, the resolution taken on the Russian 'intervention' in Hungary, an incident which Luthuli condemned in no uncertain terms indicates in my opinion the extent to which the organisation sought to shield the action of the Soviet Union.

In conclusion and with reference to the argument advanced by Mr. de Vos in support of the allegation that the organisation possessed a policy to overthrow the state by violence and which he based on the alleged knowledge of some but not of all of the accused of the communist theory of violent revolution, it has not been shewn in my opinion that any of the accused even assuming that they enjoyed this knowledge ever advocated that theory as a means to achieve the aims and objects of the organisation. The evidence shews that the organisation sought to achieve its objects by means of the 1949 Programme of Action and, as my brother Rumpff has correctly indicated in his judgment, that the accused might reasonably have believed that by

exerting/.....

exerting the forms of pressure therein set out
the Government and the electorate could be co-
erced into accepting their demands.

