

that there is nothing there to make this document
admissible. My Lord, of course, one knows on this docu-
ment alone it may seem that we are making a fuss about
very little, but there are going to be quite a number of
other documents of this type, where one finds a reference 5
to Dr. Naicker or a heading like that, found in the office
of some other organisation, where it isn't relied on for
the policy of that organisation, either directly or by
reference, and I submit, My Lord, that if a ruling in our
favour on this document is given, it might save the record 10
being filled up with quite a number of documents of this
type and it is, I submit, an objection of substance.

BY MR. HOEXTER :

My Lord, in answer to the point about the
nature of the allegation at the top of page 100 of the 15
Particulars, it is true that thereit happens to be limited
by SACOD relating to the A.N.C., but as is well known,
co-operation is an element in the case....

BY MR. JUSTICE BEKKER :

Then you are met with the difficulty that 20
that is common cause.

BY MR. HOEXTER :

With respect not, My Lord, because the
Crown is still at pains to show the nature and extent
of the co-operation. 25

BY MR. JUSTICE BEKKER :

Well, the nature and extent is set out in
the admission, isn't it?

BY MR. HOEXTER :

The Crown isn't satisfied with that, My 30
Lord. The Crown will contend that it is necessary,
when one assesses the nature and extent of that

co-operation to scrutinise and perhaps minute the documents such as these, and there will be many of them.

BY MR. JUSTICE RUMPF :

Is B.99 the same document?

BY MR. HOEXTER :

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Yes, My Lord, I was about to put it to the witness.

BY MR. JUSTICE RUMPF :

If that is so, isn't the evidence in already what you want to....

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BY MR. HOEXTER :

Yes, My Lord, it is in.

BY MR. JUSTICE BEKKER :

You prove the capacity of Dr. Naicker through B. 99, so this is not the reason why this document is being handed in now. You are handing in this document only to show co-operation.

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BY MR. HOEXTER :

I am not jettisoning the capacity of Dr. Naicker, but primarily, as Your Lordship indicates, to show that a document having these contents already proved in another connection was in the possession of the South African Congress of Democrats.

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BY MR. JUSTICE BEKKER :

Yes, well on the question of co-operation, aren't you then burdened with the onus of showing that the admission made by the Defence is incomplete, and then you will have to read those passages out of the document which takes your case further.

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BY MR. HOEXTER :

30

My Lord, with respect, is there an onus when the Defence makes any admission in any terms - is there an

onus with respect, on the Crown to satisfy Your Lordships that the admission is inadequate? As a matter of fact, My Lord, if Your Lordship gives me time, I'll be pleased to assume that onus with reference to this specific document to give Your Lordship a fairly full analysis of the Defence admission to indicate to Your Lordship fully, in the light of this document, where in the respectful submission of the Crown this document falls short. 5

BY MR. JUSTICE BEKKER :

I just want to get the thing clear in my own mind. You say you are handing in this document to prove the capacity of Dr. Naicker? 10

BY MR. HOEXTER :

Inter alia, My Lord.

BY MR. JUSTICE BEKKER : 15

That is one point. You are also handing in the document to prove co-operation?

BY MR. HOEXTER :

Yes, My Lord.

BY MR. JUSTICE BEKKER : 20

You say that the admission made by the Defence with reference to co-operation is not sufficient?

BY MR. HOEXTER :

Yes, My Lord.

BY MR. JUSTICE BEKKER : 25

This document will show the scope and nature of the co-operation beyond what is common cause?

BY MR. HOEXTER :

As Your Lordship pleases.

BY MR. JUSTICE BEKKER. 30

Isn't it then necessary for you to satisfy us that what is common cause is -that this document goes further than that which is common cause.

BY MR. HOEXTER :

My Lord, at the end of the case yes. I am prepared to do it now, should Your Lordship so require.

BY MR. JUSTICE RUMFFF :

I don't understand this at the moment. Do you put in this document also for its contents?

BY MR. HOEXTER :

Yes, My Lord.

BY MR. JUSTICE RUMFFF :

I took it that the objection originally was that the document is put in for purposes of establishing what is contained in the headnote here.

BY MR. HOEXTER :

No, My Lord, the headnote merely - we are absolved from the necessity of reading the whole document because it is the same as - the contents are the same as that of a document already read in, to wit B. 99.

BY MR. JUSTICE RUMFFF :

Yes, but isn't that misleading, your list? If the Crown says what they really intended to do was to put in the whole document, by reason of its contents.

BY MR. KENTRIDGE :

My Lord, that was - my initial objection was to the heading. But on what my learned friend said later, My Lord, I did extend my objection to this, that if they were putting it in to show that the Congress of Democrats had possession of this document which emanated from - originally from the Indian Congress, then I submitted also My Lord, that that wasn't relevant, because with regard to general co-operation that was admitted, and further there was no allegation that the S.A.C.O.D. had specific knowledge or gave specific support to the

policy of the Indian Congress insofar as it was violent, and consequently, My Lord, my submission is that there is no basis at all on which it need be referred to or put in, whether for the heading or for the contents...

BY MR. JUSTICE BEKKER :

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What do you say about the point made by the Crown? The Crown says your admission, with reference to co-operation, doesn't go far enough, and this document the Crown will rely on to prove that your admission falls short.

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BY MR. KENTRIDGE :

My Lord, our submission is that with regard to co-operation - we have admitted co-operation on policies which we have set out. But My Lord, this document, as it comes in here, wouldn't be used by the Crown apparently to show co-operation in any other field. They would use it, if they want to use it at all, to show that the S.A.C.O.D. had knowledge of this speech. But the fact that they had knowledge of this speech has never been a fact which the Crown has put in issue, they have not alleged that the Congress of Democrats knew about the policy of the Indian Congress insofar as it appears from this document. And My Lord, in any event, as far as the document itself is concerned, we would respectfully submit that as a matter of fact, looking at the document, we think that our admission does cover whatever is in that document, even if Your Lordships were to say notwithstanding the pleading on page 100, they try to prove that the Congress of Democrats actually co-operated with regard to the policy of the Indian Congress, we submit that our admissions cover that. We submit that there is nothing - there is no policy statement in that

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document which our admissions don't cover, My Lord.

BY MR. JUSTICE BEKKER :

What is your admission?

BY MR. KENTRIDGE :

My Lord, we made the admission originally in 5
the first section

BY MR. JUSTICE BEKKER :

What I want to know is which is the particu-
lar admission?

BY MR. KENTRIDGE : 10

My Lord, the general admission 14 in the
first set, that they co-operated with one another generally
in the policies and activities above set forth, and then
if one looks at the previous admissions, from paragraph 5
to paragraph 9, even paragraph 10, 15

BY MR. JUSTICE RUMFF :

And the Congress of the People, where is
that referred to?

BY MR. KENTRIDGE :

Paragraphs 2, paragraph 3 and paragraph 4, 20
That is of the first lot. The Congress of the People and
the Freedom Charter, and then there is the opposition to
these various acts and campaigns against them, opposition
to the policy and legislation of the Government. And
then paragraph 9 particularly, "a new and radically 25
different Government, and in particular universal suf-
frage and abolition of all forms of discrimination,
acceptance of extra-parliamentary activity.." and My
Lord, as far as our submission is concerned, if the
Crown does want to say that C.100 shows that the 30
Congress of Democrats knew and co-operated in the
policy set out in B.99, we submit that it is covered

by this. It is quite true, as my learned friend says, that our admissions fall short of what the Crown would like us to admit, My Lord, but that is as may be. We submit that here our admissions do cover it. And My Lord, we have taken the stand up to now that we make the admissions, whether the Crown accepts them or not, but it is now our submission that in terms of Section 284, that if a fact is covered by an admission, it means it is so to speak removed from the forum and no evidence is to be led on it. And My Lords, our submission is that this document, whether in the form of C.100 or B.99 is covered as to its contents by the admissions, and as to the co-operation it is also covered by the admissions.

BY MR. JUSTICE RUMFEE :

Mr. Kentridge, dealing only with the allegation at the top of page 100 of the Summary that the S.A.C.O.D. had knowledge of the policies and activities of the A.N.C., now this document is alleged to be found on the premises of the S.A.C.O.D. It purports to be a speech delivered by Dr. Naicker, acting President of the South African Indian Congress, at the opening of the Tenth Annual General Meeting of the Indian Youth Congress. But, in the speech there is a reference to the African National Congress, and the fact that its policy is the same as the Indian Congress. Surely that links it up automatically?

BY MR. KENTRIDGE :

My Lord, that might show, I suppose in an indirect way, that the Congress of Democrats knew that the Indian Congress supported the policies of the African National Congress, but My Lord....

BY MR. JUSTICE RUMIFF :

And were in possession of a document...

BY MR. KENTRIDGE :

I submit My Lord, that it could hardly be used to show that they knew of the policies and activities of the African National Congress. It is a link, My Lord, I concede that fully. But I submit, My Lord, it is a link that has only reference to those policies and activities which are already admitted.

BY MR. JUSTICE RUMIFF :

That is a question for argument, we can't say at this stage.

BY MR. KENTRIDGE :

My Lord, may we argue it on the document? Because we are somewhat concerned about the effect of our admissions, My Lord. We hoped that if we can show that a document is covered by our admission, then Your Lordships just won't allow it to be put in.

BY MR. JUSTICE RUMIFF :

We hope that you do get hold of a document that will entitle us to uphold your argument.

BY MR. KENTRIDGE :

My Lord, we may be wrong about this particular document, but as we understand it, it makes strong attacks on the Government, on certain laws, it refers to the Congress of the People. My Lord, it may be that our admissions aren't in exactly the form that the Crown would have put them in, but we made our submissions in order to try and cover just this sort of document, My Lord, and we submit they are rather extensive, and if they don't cover this sort of document, My Lord, well...

BY MR. JUSTICE RUMIFF :

We would like some further argument from

Mr. Hoexter on this.

BY MR. HOEXTLER :

My Lord, what I would suggest with respect
is that this particular document stands over until this
afternoon, say, and that the Crown be afforded a full 5
opportunity of indicating to Your Lordships in what
respect the Crown contends the admissions on page -
admission No. 14, which is couched in fairly general
terms, does not meet this particular document.

BY MR. JUSTICE RUMIFF : 10

Speaking for myself, I am not going to prevent
the Defence arguing that some effect ought to be given in
some way to the admissions...

BY MR. HOEXTER :

We are anxious to, My Lord, whence the fact 15
that from C.37 to C.90 we are only handing in 23 odd
documents.

BY MR. JUSTICE RUMIFF :

That is appreciated, Mr. Hoexter, very much
indeed. In any event, we will let the matter stand down. 20

BY MR. KENTRIDGE :

My Lord, I might say that in the - that in
our dealing with the Schedule which we have been given,
we will be telling the Crown that there are a number of
other documents which - to which we think that this also 25
applies, and they will be able to argue it all.

COURT ADJOURNS.

COURT RESUMES.

BY MR. HOEXTER :

My Lord, the Defence have given us a list 30
of further documents, there are some seven or eight in

all. Do Your Lordships desire the Crown to withhold these documents for the moment?

BY MR. JUSTICE RUMFF :

Yes, I think that will be a good idea.

BY MR. HOEXTER :

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The next document, then My Lord, is C.101. This comprises two pages. We rely on the first page merely - the whole, except the portion deleted by the Crown, that is to say we rely on the letterhead of the Transvaal Indian Youth Congress, 37 West Street, Johannes- 10 burg. The letter is dated the 3rd August, 1955. It is addressed to the Secretary, South African Congress of Democrats, Johannesburg, and it is signed by two people as joint Secretaries. Would you look at the signatures, Mr. van Paendorp and tell the Court what they appear 15 to be? --- One is Moosa Moolla and the other is Sulliman Esakjee.

C.102 will be challenged by the Defence and I pass that over. The next one is C.104, My Lord. This is a poster, it is an appeal for the calling of a world 20 assembly, adopted at the Stockholm session of the World Council of Peace, November 23rd, 1954, a document mentioned in column 3 of Schedule 2. The next document, My Lord, is C.105, which is a typewritten sheet, headed "Transvaal Peace Council", and it contains a list of 25 names, some under the heading "Executive Members", and some under the heading "Council Members". The only names on which the Crown...

BY MR. KENTRIDGE :

My Lord, before my learned friend reads 30 out the names, it is our submission too that this document on this ground is - not covered by admissions,

but that this document is inadmissible on groundw which
my learned friend Mr. O'Dowd will outline to Your Lord-
ships.

BY MR. O'DOWD :

My Lord, the argument is quite a simple one. 5
We presume that this document is tendered for the purpose
of proving that the persons whose names are mentioned in
this document were members or office holders of the
Transvaal Peace Council. Now My Lord, this document was
found in the office not of the Transvaal Peace Council, 10
but of the Congress of Democrats, therefore its admissi-
bility for the purpose of proving that those persons held
the positions mentioned is not covered by section 263(bis),
and in our submission it is hearsay insofar as it is
tendered for the purpose of proving the truth of its 15
contents. My Lords, we submit that there is no principle
at common law by which a document found in the office of
an organisation is by reason of that fact admissible
against any accused, even though that accused may have
been connected with that organisation, and all this docu- 20
ment amounts to is that it is a statement by some person
unknown of the fact that certain persons held office in
an organisation. And we submit, My Lord, that that is
hit by the ordinary hearsay rule, and indeed any document
tendered by the Crown on the basis that it was found in 25
the office of an organisation for the purpose of proving
the truth of its contents, in our submission My Lord is
really admissible only as insofar as it is covered by
section 263(bis). Therefore, My Lord, we submit that
this document, not being covered by the provisions of 30
that section, is inadmissible.

BY MR. HOEXTER :

May it please Your Lordships. My Lord, I

refer firstly to page 67 of the Summary of Facts, where the following allegation is made. It will be referred to again tomorrow in reply to the objection of my learned friend Mr. Kentridge. It reads as follows : - My Lords, if Your Lordships would look at two pages, pages 59 and 67, 5 written in ink, - page 59 we have the following allegation : "Each of the aforesaid organisations sought to advance and implements its policy aforesaid by (a)..... (b)....." and then on page 67 : "(c).....(d) By supporting the policies and activities of each of the other 10 organisations and by sending fraternal delegates and message to the Conferences of the other organisations." Now My Lord, at this stage all that the Crown contends is that it is anxious to show that in the possession of the South African Congress of Democrats there was found a docu- 15 ment which apparently is a list of Executive Members and Council Members of an organisation which the Crown links with the Congress of Democrats in a conspiracy. Now My Lord, that fact in itself is material to the Crown's case, but at a later stage, by independent testimony, My Lord, 20 the Crown may seek to prove and may in fact prove that these persons in fact held these positions, and then a further link is forged - the entire enquiry cannot be disposed of at this stage.

BY MR. JUSTICE BEKKER : 25

What is this document being tendered for?

BY MR. HOEXTER :

Well, at the moment, My Lord, it is merely being tendered for the purpose of showing possession by the South African Congress of Democrats. 30

BY MR. JUSTICE RUMEFF :

But then the names are not relevant.

BY MR. HOEXTER :

With respect they are, My Lord. This is a typewritten document, and My Lord, the Crown need go no further than to say this : You, the Congress of Democrats, had in your possession, whether the information is sub- 5
jectively right or wrong, and whether the information is admissible at this stage against the persons whose names are listed there, you the Congress of Democrats, had in your possession a list reflecting - apparently reflecting Executive Members of another organisation with whom the 10
Crown says you conspired. And that is all the Crown need do at this stage. As I have said, My Lords, at a later stage, further grounds may...

BY MR. JUSTICE BEKKER :

You are not tendering this document to 15
prove capacity?

BY MR. HOEXTER :

I am not at this stage tendering this document in proof of the fact that these people in fact - whose names are mentioned here, in fact held the offices 20
here described. I am not doing that at this stage, My Lord. At a later stage the Court may in fact be invited to make such a finding, or - on independent testimony, as I said, My Lord, and then it will be important - the importance of this document is expanded because then 25
not merely did they have this document in their possession, but their knowledge of what has been demonstrated from other evidence is also of importance.

BY MR. JUSTICE BEKKER :

Mr. Hoexter, this document, as you say is 30
- was found in possession, disclosing certain names. You say it may become important at a later stage, after - by independent evidence the Crown has proved that these

persons in fact held these positions?

BY MR. HOEXTER :

With respect not, My Lord. I say that at this stage the Crown merely - as a simple allegation, it is trying to link the organisations, the South African Congress of Democrats and the South African Peace Council. Now, all that the Crown seeks - the only point that it seeks to make at this stage is that in the possession of organisation A there was a document which was headed - which apparently described a list of the office bearers of organisation B. The Crown is not concerned at this stage with proving as an objective fact that the details contained in the document were correct. All we want to show is that by SACOD, by their rights, rightly or wrongly they had and perhaps accepted this list of members of another organisation. At a later stage, if by independent testimony these details are proved correct, then it will be used - its force against - the probative value of the document will be increased, and it will be used in another way as well.

BY MR. JUSTICE RUMIFF :

That is what I would like to know, in what way?

BY MR. HOEXTER :

In this way. We say, not only did you have - the Crown will prove that there was in your possession a list apparently containing names of people, but that list was correct, so there was not merely apparent co-operation, but accurate knowledge.

BY MR. JUSTICE RUMIFF :

Of what?

BY MR. HOEXTER :

Well, My Lord, the mere fact of the possession of this document, whether the rights are right or wrong, whether the details are accurate or not, raises some presumption - I am not concerned with how strong it is at the moment - raises some presumption of interest or knowledge or co-operation between the two organisations. It shows a link, My Lord, and that is all we are concerned with at this stage, and on that basis it is entitled to go in.

BY MR. O'DOWD :

My Lord, insofar as the Crown relies on the mere presence in the one office of a document purporting to emanate from the other organisation, we cannot object to that.

BY MR. JUSTICE RUMFF :

If the Crown says look, at a later stage I am going to prove that those people that I want to read out, only that portion, that they were in fact members of the Peace Council, to show that this document is a true document.

BY MR. O'DOWD :

Well, My Lord, with respect I don't see how the link becomes any stronger.

BY MR. JUSTICE BEKKER :

I suggest you put this suggestion in cold storage, and wait until the Crown has shown what it says it will show.

BY MR. O'DOWD :

Well, My Lord, we do submit that no foundation has been laid for the admissibility of the

BY M.R JUSTICE BEKKER :

Possession. The Crown says, I have found a

document with this inscription and four names on it.
That I found in your possession. I am tendering this in
proof against you, the Congress of Democrats. Later on I
am going to prove something else, that these people in
fact were the office bearers, and from that I am going to 5
ask the Court to draw an inference.

BY MR. O'DOWD :

My Lord, there may well be a link when it is
shown that these people were in fact office bearers, and
perhaps if it is shown that they were also office bearers 10
in the Congress of Democrats, that may be a link....

BY MR. JUSTICE RUMEFF :

Mr. O'Dowd, if the Crown wishes to put in a
document to show co-operation, then the contents of that
document is admissible, the whole of the contents. 15

BY MR. O'DOWD :

Well, My Lords, that all depends. If the
point is the knowledge of the one organisation of some-
thing which is happened - which is happening in the other,
then that may be admissible to show co-operation. But My 20
Lords, ...

BY MR. JUSTICE RUMEFF :

Assume for argument's sake that there had
been found a document containing a heading Transvaal
Peace Council, but the contents had nothing to do with 25
the Peace Council or anything, the whole document would
have to be put in by the Crown, and one would have to
judge on the contents of that document whether any
inference could be drawn. It may be a genuine mistake,
that heading. If the contents has nothing to do with it, 30
the Defence may argue well, that is completely wrong,
it has got nothing to do with it. It must be judged by

the contents. The whole contents goes in.

BY MR. O'DOWD :

My Lord, if anything turns on the contents, then obviously the contents does go in.

BY MR. JUSTICE BEKKER :

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We don't know at this stage whether anything will or won't turn on it.

BY MR. O'DOWD :

Well, My Lords, I can only submit that the reasons given by my learned friend for saying that something may turn on the contents are not convincing. I can't take it any further than that.

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BY MR. HOEXTER :

I may just say, with regard to at least one of the names, the person First - I think the particulars allege that she was a member of the South African Congress of Democrats, and then pro tanto that would be really an admission by reference against her, in any case. I am just confirming that we have in fact alleged R. First as a member of the South African Congress of Democrats.

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BY MR. JUSTICE RUMFF :

Assuming you have, what is your argument?

BY MR. HOEXTER :

Then I say she is a member of the organisation, in the possession of the organisation a document reflects that she is also a member of another organisation, it is a link between herself and the organisation, and it is sufficient - it would be admissible on the....

BY MR. JUSTICE BEKKER :

And that may cover the name R. First?

BY MR. HOEXTER :

Yes. My Lord, I argue this on the broader basis that all the Crown seeks to do at this stage is

to establish a link between the Transvaal Peace Council and the South African Congress of Democrats.

BY MR. JUSTICE RUMFF :

Can I just have that document? (COURT
INSPECTS DOCUMENT). In this matter the Crown seeks to 5
put in evidence a document found on the premises of the
South African Congress of Democrats. It is a typewritten
document, with the heading "Transvaal Peace Council". It
contains a list of names and addresses under a sub-heading,
"Executive Members", and a further list of names and 10
addresses under a heading "Council Members". The Defence
has objected to the admission of this document, insofar
as the Crown seeks to put in evidence apart from the
heading, "Transvaal Peace Council", certain five names
of persons mentioned in the list of Executive Members and 15
Council Members. The Crown does not wish to have all the
names read, but only some. Now the Defence has argued
that this is inadmissible because it is not evidence against
the Accused, or for that matter against the persons men-
tioned by the Crown, that they were in fact members, 20
either Executive or Council Members of the Transvaal
Peace Council. If that is the purpose for which the
Crown seeks to prove this, so the Defence argues, this
document is inadmissible. Now the Transvaal Peace
Council is an organisation which has been referred to by 25
the Crown in its Summary of Facts as being an organisa-
tion which co-operated or with which the South African
Congress of Democrats co-operated in its alleged
treacherous activities. Now it seems to us that as far
as the link is concerned between the South African 30
Congress of Democrats and the Transvaal Peace Council,
the possession of this document by the South African
Congress of Democrats is a relevant matter, and may be

proved, and to that extent the document is certainly ad-
 missible. The names of the five persons, if they are
 read into the record, are not proved to have been names
 of members of the Transvaal Peace Council, but it seems to
 me that if a document is found dealing with the Transvaal
 Peace Council and which is a document which as far as
 possession is concerned is admissible, if that document
 contains the names of executive members or council mem-
 bers, it contains matter which relates directly to the
 Transvaal Peace Council, and to my mind relevant matter. 10
 To that extent, in my view, the reading out of the five
 names is evidence which is admissible. It constitutes
 prima facie evidence that the people who are mentioned
 according to this document, and to the knowledge of the
 South African Congress of Democrats, were members of the
 Transvaal Peace Council. They may in fact not have been
 members, but when the document is found in possession of
 the Congress of Democrats, then an inference may be raised
 that to the knowledge of this Congress of Democrats, these
 people were members, and it may be relevant - this evidence 20
 may be relevant to show the extent of co-operation, if at
 a later stage the Crown succeeds in bringing evidence or
 adducing evidence to link up any of these particular
 persons mentioned with any of the activities of the
 Congress of Democrats, and of the Transvaal Peace Council. 25
 For these reasons, the objection by the Defence is not
 upheld.

BY MR. JUSTICE BEKKER :

I agree.

BY MR. JUSTICE KENNEDY :

I agree.

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1620. (G.I. VAN FAIENDORF)
(C.108, C.109, C.110)

BY MR. HOEXTER :

My Lord, the names are the Reverend D. C. Thompson, J. B. Marks, R. First, Y. Kashadia (?) and Ida Mtwana. The next document, My Lord, is C. 108. This is a printed bulletin headed "Congress of the Peoples for Peace" and issued by the Information Service at Vienna, and it bears the date 13th October, 1952. One of the documents mentioned in Column 3, Schedule 2. The next document is C. 109, My Lord. This is a pamphlet bringing the greetings of the World Council of Peace to Your National Council. It is a printed pamphlet, bearing no date. This too is mentioned in Column 3 of Schedule 2. The next document, My Lords, is C. 110. This is the bulletin of the South African Peace Council called "South Africans for Peace". It is a printed bulletin bearing the date July, 1954. I read from page 1, a paragraph entitled "Resolution on Security":

"The threats of the U.S.A. military intervention in the conflict in Indo-China; the pressure brought to bear to set up the European Defence Community, which would sanction the re-armament of Germany; the division of Europe and Asia by the policy of military pacts; the repeated H-Bomb experiments, one aim of which is intimidation and blackmail - all these have given the peoples, in whom hopes had been aroused by negotiation, fresh reasons for anxiety.

Pressure of world opinion states the resolution can secure :

A cease fire in Indo-China;
Rejection of E.D.C. and resumption of negotiations for the peaceful solution of the German question;
Agreement by the Governments to forbid the use of the H-Bomb."

The next paragraph, headed "All Peoples have Common Interests" :

"Despite differences of political or social system, all peoples have common interests. These cannot be protected and the independence of the peoples cannot be guaranteed by atomic blackmail and the division of the world into military blocks. 5

Likewise, these common interests are harmed by repression of national liberation movements or by the intervention of any state in the internal affairs of any other. 10

A nation can only guarantee its own security by ensuring that of every other nation."

Also on page 1, an article entitled "Geneva Report", which reads as follows : 15

"A warmonger's life is not a happy one, nowadays. Mr. Dulles did his best to wreck the Geneva Conference before it started. He failed and left Geneva boasting of his victory in refusing to speak to the Chinese delegates. He had lost the first round, but he was not yet beaten. His faithful stooge, M. Bidault, was still at the Conference, and the Conference could not succeed unless France was willing to negotiate sincerely. At one stage, it looked as if Mr. Dulles' second line of defence was going to hold. Bidault was intransigent, the Conference dragged on inconclusively, and its failure was being openly prophesied. 25

France Speaks Out for Peace.

But Bidault was not speaking for France. The pro-war elements in France had been maintaining their 30

position with ever greater difficulty during recent months. From Communists to Gaullists, both people and politicians were ranging themselves in an ever more powerful peace camp. It was only Laniel's refusal to hold a full debate on Indo-China that enabled 5 Bidault to go to Geneva at all. The Dien Bien Phu surrender, followed by the threatened breakdown of the Conference, at last broke the patience of France with its existing leaders. M. Bidault, who had remained Foreign Minister through a dozen previous changes of 10 Government, was dismissed. M. Mendes-France immediately arranged a meeting with Chou En Lai, and the threatened breakdown of the Conference was forgotten overnight.

Mr. Dulles has been very quiet about all this. 15 According to Reuter, "Washington wished to have no responsibility whatsoever for the next phases of the Franco-Communist talks on Indo-China". Talks on American "aid" in the event of the failure of the Geneva Conference are apparently to be abandoned. 20 No doubt the warmongers will attempt a comeback through the South East Asia Organisation but for the present they have undoubtedly been defeated more decisively than for many years past. The forces of peace must follow up this success and turn it into 25 total victory."

Page 2, an Article entitled "The War in Kenya". I read firstly a paragraph entitled "Crush the Liberation Movement", which appears at the top of the second column :

"That the intention was to crush the liberation move- 30 ment and trade unions was clearly revealed by a letter written by the Executive Officer of the

Electors' Union in August 1952 and published in the Election Union Newsletter : 'In general the executive Committee were of the opinion that unless immediate and drastic steps were taken by the Government effectively to combat the present wave of crime and sub- 5
versive activity, it was very probable that the European communities in the areas most affected would themselves feel that the time had come for them to act in default of government intervention... .. The Executive Committee were very strongly of the opinion 10
that the first task of the Government should be the neutralisation of all known leaders of subversive organisations or any African leaders who are suspected of being leaders of subversive organisations.... this action should be given first priority'. 15

There followed the banning of trade unions, the Kenya African Union, suppression of newspapers, political organisations and the arrest and imprisonment of the leaders of the African people including many who had been condemned Mau Mau. 20

That the alleged widespread terrorism was not the cause of the war but only the official propaganda excuse is revealed in the figures of the Kenyans killed up to October 1953, a year after the emergency began. Whereas Government forces had killed nearly 25
4,000 Africans a total of 57 Europeans had been killed and of these a number were later shown to have had nothing to do with the Mau Mau.
Fovery and Oppression.

What is the reason for Mau Mau and why have the 30
people of Kenya been resisting the heavily armed forces of the British Government. The answer is to

be found in the poverty, racialism and oppression suffered by the people. While huge monopolies have been drawing tremendous profits and while hundreds of thousands of pounds are spent in - are spent to turn Kenya into a war base, the people have been 5 living in indescribable poverty. Wages for skilled workers are from £2. 10. 0. to £15 per month and for unskilled workers from £1 to £3. 10. 0. Unemployment is widespread. While £100 per year is spent on education for each European child, £2 is spent for 10 each African child. While 42,000 Europeans have 14 elected and 29 nominated representatives in the Legislative Council, 5,500,000 Africans have 6 nominated and 2 official members. While by 1942 the Land Board had dispossessed Africans of 4,388,502 15 acres of land, the settlers took over the best and most fertile lands.

These are the reasons why the Kenya people are today struggling courageously against British troops in a war started by the British Government to make Kenya 20 safe for the monopolies, European settlers and as a future war base.

The fighting and bloodshed must be brought to an end. The legitimate demands of the people must be met and democratic rights guaranteed. On this basis 25 peace must be restored in Kenya."

I read from page 4, My Lord, and article entitled "Communist Aggression, or struggle for peace and independence."

"Wars now rage on three continents. They are rela- 30 tively small-scale wars, but in every one of them one of the great imperialist powers is involved -

and in each case it is involved against a people who live under conditions of colonialism or semi-colonialism. And in each case the press of our country describes the conflict in terms of war against 'Communism'. 5

But the facts behind the press smoke-screen reveal that the wars are not between 'Communists' on the one hand and 'anti-Communists' on the other. They are all between people struggling on their own territory for their national independence against invading armies from foreign countries. 10

In Viet-Nam the biggest war being fought today, the Viet-Minh forces under President Ho Chi-Minh are led by a united front of Socialist, Democratic, Nationalist and Marxist parties, of Catholic, Buddhist, Confucian, landlord and non-party organisations. It was formed during World War II to fight the Japanese invasion at a time when Bao Dai was collaborating with the Japanese Fascists. In August 1945, Viet Minh overthrew the Japanese puppet government of former Annam Emperor Bao Dai, proclaimed a Republic. 15 20

After Japan's surrender, Anglo-French forces tried to reconquer the colony.

But after six months' warfare France, in March 1946, was forced to recognise the Free Republic of Viet Nam within the French Union. Ho had been elected President on January 6, 1946. His government had Bao Dai's official blessing. Bao moved to the French Riviera to concentrate on having a good time. 25 30

The U.S. loan to France in June, 1946, bolstered

its colonial ambitions. France broke the March agreement, pouring - poured troops into Viet Nam and attacked Viet Nam troops.

Thus began the war in Viet-Nam, a war between the people of that land against aggressor troops which have to be brought across the seas. 5

Kenya is a land of 5,724,000 people. 5,500,000 are Africans. There are 42,000 Europeans there and they elect 14 members to the Legislation Council. The 5½ million Africans elect none. 10

African Trade Union meetings are banned, independent African schools are banned, the Kenya African Union - the only representative African body is banned, and its leader Jomo Kenyatta is in prison.

The Africans have been steadily driven from the best farm land and this has been seized by the Europeans. 15

It would have been surprising if a strong African resistance movement had not developed. Under the leadership of Kenyatta the Kenya African Union went from strength to strength. 20

To destroy this opposition the campaign against 'mau Mau' was launched. Every organisation and every individual who stood for freedom was 'Mau Mau'. Kenyatta and the Kenya African Union was 'mau Mau', every act of crime was a 'Mau Mau' crime (for example after the murder of a European woman near Nairobi had been widely publicised as a 'Mau Mau' murder, her husband was found to be the murderer). 25 30

An invading British army with bombers, tanks and machine guns was brought to destroy every trace of organised activity for liberation, and to take a

a heavy blood toll even of those not involved in the struggle. For every European killed and wounded - including those who died as a result of 'normal' crime, eighty Africans paid with their life-blood.

This is no police action against 'terrorists'. It is a war between the people of that land against aggressor troops which have to be brought across the seas. 5

In Guatemala when the democratically elected government nationalised part of the property of the United Fruit Company, which used to run the country and in which leading members of the U. S. Government have a financial interest, U. S. Secretary of State Dulles breathed fire and fury. 10

Without any pretence he worked for intervention against Guatemala. Shipments of arms which the Guatemalan Government had ordered to defend itself against such threats were seized, and Nicaragua and Honduras were openly armed for invasion. 15

When this invasion came, the press at once described it as a war between Communists and anti-Communists. 20

But the facts here are clear as well. The Government of Guatemala is not 'Communist' but a united front of a number of different groups. The war is one between the people of Guatemala and aggressor troops from foreign nations. 25

Peace can be won in three continents where wars rage today. It can be won by agreement between the French and the Vietnamese, which recognises the right of people to independence from foreign rule. 30

It can be won in Kenya by recognition by the British that the African people there are entitled

to live and to organise the winning of their freedom.

It can be won in Guatemala by the withdrawal of support for aggression by the countries from which the attack is being launched.

5

The forces of peace have won great victories. The eight year war in Viet-Nam is within sight of being ended. As in Viet Nam, so everywhere else in the world, the organised demand for peace, for national independence and democracy can and must triumph."

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The next document, My Lords, is C.111. This is a booklet, the Session of the World Council of Peace, dated at Stockholm, 18-23rd November, 1952, being the address, appeals and resolutions. This is also mentioned in the third column of Schedule 2. The next document, My Lord, is C. 112. Mr. van Papendorp, have a look at this Exhibit, and tell their Lordships in what condition you found it with reference to the envelope? --- The document was inside the envelope, My Lord.

15

Was the envelope still sealed, or had it been opened, or don't you know? If you can't remember, just say so? --- I am not sure, My Lord.

20

To whom is the envelope addressed? --- The envelope is addressed to Mrs. Y. Barenblatt, c/o Springbok Legion, Somerset House, Fox Street, Johannesburg.

25

And the bulletin you found inside the envelope? --- Yes, My Lord.

My Lords, this is again a bulletin of the South African Peace Council entitled "South Africans for Peace", dated December, 1954. I shall not read from it. It is the same as Exhibit A. 254. The next

30

document, My Lord, is C. 113, again mentioned in Column

3. This is a printed pamphlet, My Lord, and it bears the date "Paris, January 13th, 1955", and it is signed in the printed pamphlet by Frederick Joliot-Curie. It is a statement by Professor F. Joliot-Curie, President

5

of the World Council of Peace. The next document is C. 114, also mentioned in the third Column of Schedule

2. This is a printed pamphlet bearing the date "Vienna, January 17th-19th, 1955", and it is the "Cession of the

Bureau of the World Council of Peace Declaration and

10

Appeal". The next document, My Lord, is C. 115, also

mentioned in the third column of Schedule 2, and this

is - in what condition did you find this? --- It was

inside the envelope, My Lord.

Can you remember whether the envelope was

15

sealed or had been opened or can't you remember? --- I am not prepared to state definitely, My Lord.

Is there a date on the envelope? --- 4th May, 1955, My Lord.

Is that the postmark? --- Yes, My Lord.

20

You hand in the document? --- Yes, My Lord.

The envelope is addressed to the Springbok Legion, P. O. Box 4088, Johannesburg, My Lord, and the

bulletin is a printed one, which is a supplement to the

bulletin of the World Council of Peace, and it bears the

25

date May 25, 1955. The next document, My Lord, is

C. 116. This is again "South Africans for Peace",

bulletin of the South African Peace Council. It bears

the date May, 1955. Page, 1, I read the article

entitled "The 1955 World Peace Assembly", Helsinki,

30

June 22-29:

"A great world Assembly for Peace will be held in Helsinki from June 22 to 29. The Assembly will include representatives of all forces and tendencies that make for Peace.

The World Peace Council has invited supporters of peace from every country to meet at Helsinki to discuss freely questions affecting peace and the action urgently needed to preserve peace. 5

The call to this Assembly reads :

'The open threat of an atomic war from now on hangs over every country, every home, every man, woman and child. 10

Instead of atomic energy being made to serve mankind, terrible weapons are being piled up. Instead of disarmament, fresh military blocs are being put together. Instead of negotiation and agreement, there are threats and hate-propaganda. 15

But threats and force are the road to war, not to peace.

The rearmament of Germany, the Taiwan (Formosa) situation, interference with the independence of peoples, are multiplying discord and anxiety. If mankind should go further along this path, there will be no safety anywhere. 20

Mankind will not allow this to go on. Its conscience is revolted by the idea of atomic slaughter. 25

The abolition of nuclear weapons, general disarmament, the security of all, respect for the sovereignty and rights of every nation, these must be pursued by the peoples with the energy needed where life itself is at stake." 30

I read from page 3, My Lord. In the first column, a

portion is framed :

"China must be admitted to the United Nations, said the Natal Peace Council in a press statement.

Despite recent settlements over Korea and Indo-China, the admission of China as a member of UNO 5
remains an urgent necessity. The People's Republic of China, with a population of over 600 million people, occupies a very important position in world affairs and it does not help the cause of peace to refuse her admission to UNO. 10

Recent events have shown that China's influence has been a great factor in the settlement of world problems and it should be clear that as a member of UNO she can play a more effective role in the settlement of problems which still give the peoples of the 15
world cause for anxiety. The recognition of the People's Republic of China and her admission to UNO will pave the way for a peace pact between the five major powers and at the same time strengthen the cause of peace, security, and of the right of self- 20
determination of nations.

China must be admitted to UNO now."

I read from page 4, My Lord, an article entitled "Query and Answer". It says :

"On the campaign of the World Council of Peace for the 25
banning of atomic weapons, it is sometimes argued that it is not atomic weapons that must be banned, but war itself.

The present campaign for the destruction of all stocks of atomic weapons and a ban on their manufac- 30
ture arises from the grave threat expressed in the decisions of the North Atlantic Treaty Organisation

of December 1954. At this session it was decided that member states of the Atlantic Pact should base the whole 'Atlantic' military system on the use of atomic weapons. They decided on the complete strategic re-organisation of the N.A.T.O. armies with this aim. This decision to accept atomic weapons as conventional weapons creates the danger that any war in any part of the world would be transformed into an atomic world war. Mankind is therefore confronted with the threat of a war of extermination.

To meet this threat, the World Peace Council launched the campaign against the preparations for atomic war.

Is there anything in the argument that the campaign should demand not the abolition of the bomb, but of war itself?

Of course, the World Peace Movement stands for the elimination of war as a means of settling international differences: that is why the movement exists. It does not, however, believe that this can be done through any merely formal and symbolical ban on war.

It has always based its action on definite proposals designed to prevent recourse to war. For example, in previous campaigns, it worked to stop the wars in Korea and Indo-China, and to force the powers to settle their disputes by negotiations.

A few years ago the World Peace Movement conducted a great campaign for a Peace Pact between the Five Great Powers, which, if it had been signed, would have been the best guarantee against the outbreak of another world war. Atomic war is the most immediate threat today and the one that people

must eliminate first.

Abolition of atomic weapons would be an important step towards general disarmament, which would make resort to war as a way of settling international differences much more difficult. 5

The specific campaigns of the World Peace Council, instead of vague pacifist talk of a general nature, mobilise the people of the world for action in concrete measures against war."

The next document, My Lord, is C. 117. This document 10
bears the title - it is a revised document, "Document 2, Problems of Organisation. Peace Circles Must Strengthen the Peace Movement". I shall not read it, it is the same as A. 249, My Lord. The next document, My Lord, is C. 118. My Lords, this is a cheque dated the 15th of 15
April, 1955, drawn by the Transvaal Peace Council, and signed on its behalf by Leon Levy. Will you look at this cheque and see what the signature is on that cheque? --- One of Leon Levy.

The next document, My Lords.... 20

BY MR. JUSTICE KENNEDY :

In whose favour is the cheque?

BY MR. HOEXTER :

The payee is one S. Horvitch or bearer.

The next document, My Lords, is C. 119. This is a type- 25
written letter or a copy of a typewritten letter, headed "South African Congress of Democrats, Head Office, P. O. Box 4088, Johannesburg". It bears the date 11th May, 1955. It is unsigned, and it is addressed to The Secretary of the South African Peace Council, Johan- 30
nesburg, and it says :

"Dear Friend. I have been asked by the National

1634.

(G. F. VAN FAFENDORF)
(C.119. C.120)

Executive Committee of this organisation to ascertain from you the best manner in which we could draw our membership into assisting with your campaign. We are anxious to help with your work on a National basis, and we could advise our regions in other centres as soon as we hear from you. 5
With best wishes, Your fraternally, " - signature blank, "National Secretary".

The next document, My Lord, is C. 120. How many copies of this document did you find Mr. van Fapendorp? --- Six 10
copies My Lord.

This is a roneod document, My Lord, headed "Transvaal Peace Council, P. O. Box 10528, 110 Somerset House, Fox Street, Johannesburg." It is not dated. The first paragraph is as follows : 15

"Dear Friend. As a delegate to the gr at Congress of the People, you were one of those who took part in the historic Freedom Charter. May we recall to you these words 'There shall be Peace and Friendship'. South Africa shall strive to maintain world peace 20
and the settlement of all international disputes by negotiation - not war."

The concluding portion is : "Yours sincerely, Leon Levy, Secretary, Transvaal Peace Council".

The next document, My Lord, is C. 124. This is listed in 25
the Policy Schedule, but My Lords, it is also a document against which the Defence are supposed to object, and therefore I ask it to stand over. The next document, My Lord, is C. 125. This appears on page 98, of the Policy Schedule, My Lord, item 6, and also item - I beg 30
YourdLordship's pardon, item 7 only. This is a roneod document, My Lord. It is headed "Conference Committee,

African National Congress, Transvaal; Transvaal Indian Congress; S. A. Congress of Democrats, Johannesburg; S. A. Coloured Peoples' Organisation, Johannesburg; Transvaal Council of non-European Trade Unions.

P. O. Box 9207, Johannesburg". The date is the 31st of 5
May, 1954. The opening paragraph reads as follows :

"Dear Sir/Madam. We are convening a mass conference to be held at the Trades Hall, 30 Kerk Street, Johannesburg on Sunday the 27th June at 10 a.m. to discuss plans for opposing the inhuman and unjust 10
Western Areas Removal Scheme, the Native Labour (Settlement of Disputes) Act, otherwise known as the Slave Labour Act; the Industrial Conciliation Amendment Bill, the enactment of which will be the death knell of all trade unions; and the Bantu 15
Education Act."

The last two paragraphs of this letter, read as follows :

"This is apartheid. It is oppression. It impoverishes, humiliates and degrades us, it is slavery. We have been bearing these attacks, but now we cannot bear 20
them any longer. We must put an end to slavery. We must make a stand, and fight for our rights. This conference is convened to devise ways and means of defeating apartheid, which is the common enemy of the people of South Africa. We therefore 25
sincerely appeal to you to send four delegates to the Conference from your organisation, factory, street or area. Your sincerely,.. " and then the names appear of five people who are described as "Secretaries". The Crown draws attention to two 30
only, the names are F. Morris, A. E. Latel, V. Weinberg, S. S. Lefere (?) and L. Masina.

1636. (G.F. VAN PAPENDORF)
(C.127) (C.138)

The Crown is interested in the names of A. E. Fatel and L. Masina only. The next document, My Lords, is C. 127. This is a printed pamphlet, entitled "We shall Not Move", and I shall not read it, because it is the same as A. 157, My Lord. The next document, My Lord, is C. 138. Tell 5 the Court in what condition you found this Exhibit, Mr. van Papendorp? --- What is contained in the - this was contained in the envelope, My Lord.

To whom is the envelope addressed? --- It is addressed to D. A. Seedat, Box 700, Durban. 10

Are there any postmarks on the envelope? Does it appear to have passed through the post? --- No, My Lord.

How many copies? --- There are two copies of Fighting Talk, Volume 2, No. 2, April, 1955. 15

Here the Crown relies on three items, My Lord, the envelope which has been described to Your Lordships; secondly the bulletin "Counter Attack". Here the Crown relies on the entire document, except the portion deleted, and except again an article entitled "Branch 20 News". This is Counter Attack, bulletin of the South African Congress of Democrats. It has the headline, "Peace Campaign. Destroy the Bomb". I read the editorial, and the first paragraph is headed "Act for Survival" : 25

"As part of the world-wide campaign, the South African Council - the South African Peace Council has launched a national petition campaign demanding the destruction of atomic weapons everywhere. This campaign is a chance for all mankind to 'speak with 30 one voice for survival'.

The world 'Appeal Against the Preparations for

'Atomic War' was adopted at an enlarged meeting of the World Peace Council held in Vienna in January. It sounds a new and compelling note of urgency.

What is the background to this appeal and its importance?

5

The Background : The Nato Decision.

It was in December that the North Atlantic Treaty Organisation took an official decision to base its military strategy for the future on the use of atomic and hydrogen weapons, irrespective of the action of the enemy, i.e. to use these weapons first. The A and H Bombs are now counted as conventional weapons in the military planning of the armies and nations subordinated to the American war drive. The final responsibility for the use of these weapons is, in terms of the N.A.T.O. decision, to rest with the governments of the 14 Atlantic Pact countries. —

10

But, in the words of one of its spokesmen 'the United States does not intend to permit its hands to be tied regarding the use of atomic weapons', and the 14 countries will in truth have no choice. For military planning is not improvised at the moment nations must be consulted in a crisis; military strategy is prepared over years, and the moment war is declared that strategy comes into play. The December decision has determined already the nature of that strategy : atomic war.

25

An Act of Desperation.

Events of the last few years, not least the Geneva Conference, the growing strength of the organised peace movement, the Bandung Conference last month.. all these show that the majority of mankind is

30

is rallying to the cause of peace. The imperialists have more and more been revealed as a tiny minority which places all its hopes in horror weapons because it has no hope of the support of the people.

As the peace forces grow, so do the war-mongers become more desperate. 5

Both in Asia and in Europe there are explosive situations which, unless peaceful negotiation is successful, could lead to a world atomic war. A danger of the present situation is the multiple character of the present war offensive. First Western Europe, then Formosa, then the N.A.T.O. decisions: as the danger shifts from one world centre to another there is the risk of the dispersion of peace forces having to fight on all these fronts. 10 15

So, for example, the N.A.T.O. decisions for thermo-nuclear war were carried through almost without major public discussion, and the people now find their governments discussing how to use the tactical bombs, then strategic bombs, and then the thermo-nuclear weapons while the principle of whether or not the bomb should ever be used has been obscured and over-ridden. 20

Professor Joliot-Curie has called the recent N.A.T.O. decisions the final touch to the preparations for the unleashing of atomic war, 'preparations which bear within themselves - and I am weighing my words - the possible annihilations of the human race'. 25

This open threat of atomic war hangs over every country, every home, every man, woman and child. 30

The abolition of nuclear weapons must be fought by

- must be fought for by all with the energy needed where life itself is at stake, here in South Africa, among our people too.

The campaign of the South African Peace Council now launched includes signature collections for the Appeal Against atomic war; this - the sale of peace stamps; public meetings and the showing of a mobile exhibition on horrors of atomic war; as well as other activities. 5

C.O.D. members willing to sit at petition tables and help with other activities are asked to hand in their names to the office." 10

Then My Lord, thirdly, there is the bulletin Fighting Talk, April, 1955, of which there was found two copies. This I shall not read, My Lord, it is the same as G. 1132, to which reference will be made at a later stage. 15

BY MR. JUSTICE RUMFEE :

are you going to read portions of this Bulletin, Fighting Talk at a later stage?

BY MR. HOEXTER : 20

Yes, My Lord, the Fighting Talks will be dealt with as a group. For the sake of convenience we propose referring to the Exhibit number as it comes up. The next document, My Lord, is C. 139, which is the bulletin Fighting Talk, June, 1955. How many copies of this document did you find, Mr. van Faendorp? --- Five copies found, My Lord. 25

This again, My Lord, is the same as G. 1132, and I merely hand it in at the moment. My Lord, our general policy is to hand in one copy merely. The next document, My Lord, is C. 140. Tell their Lordships in what condition you found this Exhibit? --- These documents 30

1640. (G.F. VAN FAFENDORF)
(G.140)

were found contained in the envelope.

Does the envelope show any signs of having been through the post? --- No, My Lord.

It is merely addressed to someone? --- It is addressed, My Lord. 5

Was - first of all we have the bulletin Fighting Talk, July, 1955. This is the same as G. 1132, and secondly there is the bulletin Counter Attack. This is the same as the Counter Attack which has been dealt with under C. 138 a few moments ago. The next document, My Lords, is C. 141, which is the bulletin Fighting Talk, August, 1955. I merely hand it in, it is the same as G. 1132. The next document, My Lord, is also a Fighting Talk, September, 1955, No. C.142, and it is the same as G. 1132. The next document is C. 143. Tell the Court in what condition you found this, Mr. van Fafendorp? --- These documents were contained in this envelope, My Lord. 10 15

Has the envelope been through the post? --- No, My Lord, it has only been addressed.

How many envelopes are there? --- Only one envelope. 20

The first document, My Lord, is a roneod document headed "The South African Coloured Peoples' Organisation, Transvaal, P. O. Box 9207, Johannesburg 31st August, 1955." It is a circular addressed to "Dear Sir/Madam" and there is no signature, but it emanates from the Secretary. The second document again is roneod, headed Fighting Talk, P. O. Box 1355, Johannesburg, bearing the date 25th August, 1955. It is a circular letter. The third document, My Lord, is the bulletin Fighting Talk, issue of June, 1955. This will be referred to later, it is the same as G. 1132. 25 30

1641.

(G.I. VAN PAPENDORP)
(C. 143)

Fourthly, My Lord, there is the bulletin Counter Attack, again the same one as C. 138, which has already been dealt with. My Lord, the next batch of documents with which we deal cover C. 145 to C.220. Mr. van Papendorp look at the documents before you and tell the Court whether the following documents are there, please, the documents bearing the following Exhibit numbers :
C. 145, 146, 149, 150, 151, 154, 155, 157, 160, 161, 162, 163, 164, 166, 167, 168, 170, 173....? --- They are all here, except the last one, 173. 5 10

174? --- No, My Lord.

Very well, your last Exhibit you have there is 170? --- The last one is 171, My Lord.

Anyway, these documents that you have identified inbetween C.145 and C. 170, where were these documents found? --- These documents were found in the office of the South African Congress of Democrats, My Lord, on the 27th September, 1955. 15

In part of the same search about which you testified yesterday? --- Yes, My Lord. 20

BY MR. KENTRIDGE :

My Lord, with regard to the next few documents, about ten or twelve of them, I rather think that during the lunch hour my learned friends and ourselves can come to an arrangement. 25

BY MR. JUSTICE RUMFEE :

The next documents mentioned or the next objectionable documents?

BY MR. KENTRIDGE :

No, My Lord, I mean the next documents just mentioned by Sergeant van Papendorp. 30

COURT ADJOURNS.

THE COURT RESUMES.

BY THE PROSECUTOR (MR. TERBLANCHE) :

My Lords, during the interval the Crown and the Defence have come to some arrangement in regard to the first documents which the Crown intends to prove 5 in this case now, and certain admissions are to be prepared, and my learned friend, Mr. Kentridge, will read out those admissions.

BY MR. KENTRIDGE :

My Lord, the Defence admits that the effect 10 of the documents with numbers from C.145 to C.157, inclusive, which Head-Constable van Papendorp has deposed that he found in the C.O.D. offices, is to show on their face the following :

1. That copies of the bulletin 'Fighting Talk' were 15 despatched from the offices of the S.A. Congress of Democrats;
2. That certain persons, namely Benny Turok, N.P. Nair and B. A. Nair were subscribers to 'Fighting Talk' for a number of copies of each issue; 20
3. That the newspaper 'New Age', purchased 150 copies of 'Fighting Talk' of April, 1955; 4r that a person, Y. Barenblatt, signed receipts on behalf of 'Fighting Talk', during 1955;
5. That a person, Y. Barenblatt, signed receipts on 25 behalf of the S.A. Congress of Democrats during 1955;
6. That a person D.A. Seedat ordered or received a number of copies of 'Fighting Talk' during March and April, 1955; 30
7. That a person Nimrod Sejake ordered and received a number of copies of 'Fighting Talk' of the issue of

1643. (G. VAN PAPENDORP)
(C.154; C.160)

June, 1955;

8. That certain accounts, invoices received and circulars, relating to 'Fighting Talk' and a list of subscribers and donors from Durban were kept in the office of the S.A. Congress of Democrats. 5

BY THE PROSECUTOR :

My Lords, we also undertook to argue the admissibility of certain documents now, but with the arrangement with the Defence I ask Your Lordships to allow us to argue those documents tomorrow morning as we have received a further list of documents? 10

BY MR. JUSTICE RUMPF :

Yes. That I take it is by arrangement?

BY MR. KENTRIDGE :

That is by arrangement, My Lord. 15

GERHARDUS VAN PAPENDORP, under former oath;

EXAMINED BY THE PROSECUTOR (CONTINUED) :

My Lords, the documents in regard to which certain admissions had been made, will now not be proved, except one of those documents, and that is C.154. This document is only proved, because at the Preparatory Examination certain admission was made in regard to this document. It is a short letter - "Congress of Democrats, P.O. Box 4552, Cape Town, 14/6/55. 20

Dear Friend, Please send another 24 Fighting Talk as soon as possible. Yours fraternally, Ben Turok. (Signed) B. Turok." 25

EXHIBIT C.154 IS HANDED IN.

The next is C.160, My Lords. "Counter-Attack, Bulletin of the S.A. Congress of Democrats. No. 1, November, 1953." Mr. van Papendorp, how many copies did you find? --- Nine copies were found, My Lord. 30

My Lords, I read from page 1, the whole Editorial, entitled "Build the New Organisation" :-

"The groundwork for the establishment of our national body, the South African Congress of Democrats, has now been laid. 5

The Johannesburg Congress of Democrats has been constituted a regional committee of the organisation, and a recent general meeting elected a committee to which every branch is appointing a representative. 10

The Democratic League of Cape Town decided unanimously at a members' general meeting to apply to SACOD for recognition as a region. The Constitution was approved, and new Cape Town branches are to be formed. 15

In Port Elizabeth and Durband the COD provisional committees agreed to convene general meetings to constitute SACOD branches.

A Grahamstown Branch is to be formed.

The start has now been made. Now it is for our organisation to prove itself the most zealous guardian of our peoples' rights; to permit no attack on the government to pass unchallenged; to forge a militant unity of all South Africans for Democratic rights for all. 25

New issues face us daily: the bannings under the Suppression of Communism Act; the Group Areas Act; the Western Areas Removal Scheme; the Bantu Education Act; the threat to the Coloured franchise. All about us the faint-hearted are compromising their principles and giving way before the Nationalists. 30

1645.

(G. VAN PAPENDORP)
(C.160 : C.161)

SACOD must show there is a way to stop fascism in our country; together with the powerful forces of the non-European National Movements a mighty united peoples' alliance for freedom can be built."

Then on page 3, My Lords, column 1, under the heading : 5

"WORLD YOUTH DAY.

The Joh'burg COD was one of the sponsors of the World Youth Day Celebration which welcomed home South African participants to the Bucharest Youth and Students Festival, and expressed solidarity with the people of British Guiana." 10

EXHIBIT C.160 IS HANDED IN.

The next document is C.161. "Counter-Attack, Bulletin of S.A. Congress of Democrats. Mid-March, 1954." How many copies did you find Mr. van Papendorp? --- Nine copies were found My Lord. 15

My Lords, I read from page 2 :

"GIVING A LEAD. Points from SACOD'S National Council Meeting.

SACOD'S NATIONAL COUNCIL met in Johannesburg during February. (Resolutions of this meeting have been circularised to all C.O.D. branches.) the Meeting opened with a comprehensive report by the ActingSecretary. Here are some of the points from this report: 25

"We have failed so far to make the real influence of the anti-Government opposition heard. We still persist in the habit of waiting for others, holding back for 'more popular' bodies to lead and act. There are no more popular bodies; the Congress movement represents the entire democratic section of the South African people, and is 30

strengthening its support and affirming its unity at a time when opposition to the Government in Parliament and outside is gradually collapsing for lack of fundamental democratic principles to guide it.

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The central problem of arresting the rot which is setting in among other democratic groups is for the Congress movement to enter everywhere, into every field of South African life as the real opposition to the Government's trend, and to wind its leadership of the whole democratic camp from those who have failed. We must break away from the narrow concentration on a legalistic concept of 'politics' and enter into every field of South Africa life; into politics, elections, but equally into cultural, scientific and educational fields. For people of our fundamental views there are no 'non-ideological' questions. Every aspect of South African life and activity is being deformed by the racial theories of discrimination; and we must challenge these theories everywhere, not just in the field of party politics and legislation.

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Never has a better opportunity been presented for the Congress movement to establish itself as the real spokesman of democratic South Africa than that offered by the Peoples' Congress called for by the African National Congress. The Peoples' Congress will bring into dramatic and open opposition the two main streams of South African ideas and policies - ours, and that of the Government. The summoning of the Congress is not an end in itself. In the course of winning people everywhere

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1647. (G. VAN PAPENDORP)
(C.161)

to take part, to draft and accept the Freedom Charter, we will be able to canvass our ideas everywhere, and win people for our policy.

Does the Peoples' Congress cut across other, more pressing tasks? No. It can only be successful if at every stage of its organisation, it is related to the immediate needs, conflicts, desires and claims of the people. To students, it must epitomise the struggle against University apartheid; to peasants, the struggle for land and security, to urban workers, jobs, trade union rights and decent wages. Properly organised, the Peoples' Congress can weave together all the multifarious threads of all our peoples' activities, uniting them in a fight towards a common goal - the Freedom Charter, to be brought to living reality by the united freedom struggle of all sections together."

Then under "Discussion Notes for the Branches" -

"The Propaganda Committee is continuing the issue of Discussion Notes designed: 1) As a speakers' guide; and 2) to provide those taking part in a discussion with the main facts and arguments. Notes already issued are on: 'The History of Segregation', 'The Western Areas Removal Scheme', 'The History of the Non-European Franchise', 'The History of the Liberation Movement in South Africa'. Notes to be ready this month will be on: 'The Implications of the Anti-Communist Legislation', 'Explanatory Notes on Nationalist Legislation, 1948 to 1954', 'The Races of Mankind', and 'The Background to the Bill Amending

1648.

(G. PAPENDORP)
(C.161; C.162)

the Industrial Conciliation Act'. Other notes being prepared are on 'The History of the A.N.C.8, 'The Struggle for Liberation in Africa and Asia', 'The History for Racial Groups in S.A.', and 'The Pass Laws.'"

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Then on page 3, My Lord, the last column, under "Briefs from Branches" :

"PEACE CONFERENCE.

The National Executive Committee has issued a statement supporting the convening this year of the World Peace Conference."

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"COLONIAL YOUTH DAY.

The Youth Branch and the Bellevue Branch helped to organise Colonial Youth Day this year."

Page 4, under the heading :

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"CHINA FRIENDSHIP SOCIETY.

A Society to further the aims of peace and friendship with Peoples' China has been launched. A Provisional Committee was appointed to arrange a public meeting in the near future."

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EXHIBIT C.161 IS HANDED IN.

The next is C.162, My Lords. Mr. van Papendorp, in what condition did you find that exhibit?

--- I found it contained in the envelope was post-marked, My Lord, but apparently returned, endorsed "Address unknown".

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It contained, My Lords, "Counter Attack, Bulletin of S.A. Congress of Democrats", undated. How many copies did you find in that envelope? --- Three copies, My Lord.

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My Lords, I read page 1 :

"WESTERN AREAS CAMPAIGN An Analysis!"

Was the campaign worth while? This question is being asked by many people who took part in it. It can perhaps best be answered if the campaign is considered in two parts - firstly the campaign up to 5
passing of the Resettlement Act, and secondly the campaign thereafter.

What was the aim of the first campaign? Obviously its aim was to prevent the whole removal scheme. And equally obviously, in this the campaign failed. 10
Does it then follow that the campaign was not worth-while. It does not. The campaign was highly valuable, both to the people in the Western Areas, and to the whole democratic cause. In the first place, it forced the Government to abandon its 15
'site and service' plan, and to build houses at Meadowlands, together with a school and some amenities. Without the campaign, none of this would have been done. Secondly, the campaign drew dozens of new, democratically minded people into political 20
activity against the government for the first time, and awakened the democratic opposition of thousands more. Thirdly, the campaign focussed world attention on the South African government, exposing the hollowness of its claim that apartheid is not open, 25
terroristic racialism.

It is therefore clear that the campaign, even though it failed to attain its objective, was well worthwhile. It did not halt or reverse the policy of the Government, But it did force the Government 30
to give way on some, perhaps not vital, matters. What it did achieve was that it moved the whole

people's opposition closer to the day when government policy can be fully reversed by the total defeat of the Government.

What was the aim of the second phase of the campaign? It was to encourage the people of the Western Areas themselves to resist forcible removal. Clearly, such resistance requires greater understanding, greater courage and greater solidarity than the simple opposition of the first phase. Can it be said that in this the campaign failed? Clearly it cannot, until the removals have been completed without resistance by the people. At present, removals have only started; but it is still a long way from the end. The state of seige, deemed necessary by the Government to effect the first removals, testifies to the government's awareness that there was, and continues to be, a strong spirit of resistance to forcible deportation, which can still express itself in acts of resistance.

Why, then the feeling of despondency about the whole campaign? Firstly, there is the misconception in many minds that a single act of resistance in the Western Areas could, by itself, halt the removal scheme, and prevent its fulfilment. This would imply that a single act of resistance in a local area, could, by itself, master all the power and authority of the Government. This is clearly not the case. The Government can only be halted in its course by a most strenuous, sustained and drawn out struggle on a wide scale. Such a struggle could, perhaps, be set in motion by a single

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