

lectures you get certain aspects which fit in into your - into my view of a socialist state, and then there are some aspects which may not fit in, My Lords, so I cannot give just one reply and say these lectures fitted into this. 5

Can I put it this way, Mr. Luthuli, that these lectures were intended for the purposes of indoctrinating the people to advocate a certain type of state and to influence the demands that the people were going to send in to the Congress of the People? --- I think it was part of the education, not the whole of it. 10

And the purpose of it was to obtain demands along the lines of the suggestions made in these lectures? --- Yes, I think that would be a correct inference insofar as the writer... 15

You also agree that the person who was responsible for the lectures was somebody who knew a lot about economic and political theories? --- The lectures give one that impressions.

Can you tell me who actually drafted the terms of the Freedom Charter? --- That I do not know, I have already said I do not know. 20

Whose function was it? --- My Lords, it would be the function of the National Action Committee.

And was it their function to translate the contents of all the demands that were received, into this document, the Freedom Charter? --- What do you mean by "translate"? 25

They were receiving hundreds of demands from all over the country and those demands were reduced to the demands set forth in the Freedom Charter? --- That is correct, My Lord. 30

Now I take it the demands did not necessarily have the form and have the wording contained in the Charter? --- I think that would be correct, My Lord.

You say it was the function of the National Action Council of the Congress of the People to reduce these demands into this document, the Freedom Charter? --- That is correct, My Lords.

Do you know who did that? --- That I do not, My Lords.

Would it be the work of the Secretariat of the National Action Council? --- In the general setup of things I would say that a document like that would require a smaller group, after discussion by a larger group sorting out and sorting out

You never enquired as to who this was, Mr. Luthuli, who the people were that actually drafted the wording of the Freedom Charter? --- I never did, My Lords.

But you were concerned about the socialistic bias of the Charter. Didn't you try and find out who it was? --- My Lords, I don't know whether that is even a fair statement to say I was concerned, and not express to what extent I was concerned.

BY MR. JUSTICE RUMPF :

* Were you a member of the National Action Council? --- I was, My Lord.

How is it that you don't know who drew up the terms of the Freedom Charter? --- Well, My Lords, I must confess to say this, it might be an excuse, but it is just a fact.

What do you mean by an "excuse"? Don't you want to name the person? --- No, I can't name the people, I cannot for instance name all the people of the

National Action Committee nor the Secretariat, and of course I was not taking an active part. If I were taking an active part, certainly I would have been present.

Were you present when the terms were discussed by the National Action Council? --- No, My Lord, 5
I wasn't, and I couldn't be present.

Were you given the completed document - the completed terms by the other members? --- No, My Lord.

No, I don't follow then. Either you were present when the terms were discussed or you were not 10
present and afterwards you were given this document by the other members of the National Action Council? --- You mean the document the Freedom Charter?

Yes, the terms of the Freedom Charter? ---
What does Your Lordship mean by the terms? 15

The Freedom Charter came into being only at the Congress of the People, so I refer to it as the terms of the Freedom Charter before the Congress - the terms were drafted before the meeting, were they not? --- Yes.

Before the meeting at Kliptown? --- Yes, that 20
would be correct, My Lord, I would assume that that would be the position, My Lord. I say I assume, My Lord, because I wasn't present at all, and I did not see the draft that was sent to Kliptown, My Lord.

Didn't you see the draft? --- No. 25

Why didn't they send it to you? As Chief of the African National Congress? --- I don't know, My Lords, I can't explain. Maybe it was sent to the Deputy, X but I don't know, I didn't get any copy.

BY MR. TRENGOVE : 30

It would be correct to say that Executive members of the African National Congress represented the

African National Congress on the National Action Council of the Congress of the People in connection with the drafting of this Freedom Charter? --- That would be correct, My Lord.

COURT ADJOURNS.

COURT RESUMES.

ALBERT JOHN LUTHULI, under former oath;

CROSS-EXAMINATION BY MR. TRENGOVE RESUMED :

Mr. Luthuli, I want to put it to you that on the basis of these lectures, what was being advocated was the new type of state referred to in the lecture, and also the view that that state could only be achieved by the overthrow of the ruling classes? ---- My Lords, as that has been put to me I cannot say I accept that, because I have already expressed my views on some of these expressions. Certainly it would be a new state in the sense I have already explained. Certainly the present ruling group as such wouldn't exist, because it would be a multi-racial group, and in that sense I have already expressed myself, My Lord.

But Mr. Luthuli, the ruling classes, not this particular government only, but the ruling classes, the haves in this country, you have to work for the overthrow of the ruling classes because you - before you could achieve this type of state? --- My Lords, that is correct. You are left on the basis of interpretation which I can't go into. It is correct that the present ruling class or classes would have to go in the sense of change.

In this connection I want to put it to you that it was the policy of the African National Congress

to strive for the overthrow of the ruling classes? --- It never was, My Lord. Otherwise the African National Congress would never speak in terms of a multi-racial South Africa.

Do you say that it was not the policy of the African National Congress to strive for the overthrow of the ruling class? --- No, not in the - I have already explained myself, I can't repeat, otherwise I could give it. It was not the intention of the African National Congress to overthrow and do away with the ruling class in the sense of eliminating them. But changing them so that they become a changed people in a setup which we are striving for. 5 10

Mr. Luthuli, let us not beat about the bush. You know perfectly well what it means when one says you are striving for the overthrow of the ruling class? --- It is not beating about the bush, My Lord.

Do you understand that phrase? --- You must understand a phrase within the context, yes.

Well, in your liberatory struggle, you are striving to overthrow the ruling class in South Africa? --- In the sense in which I have explained it, yes. 20

What sense is that? --- I have already said it is My Lord that/the overthrow of a system, not a people. We still expect those people to be part of the South Africa as we visualise it. 25

But not in the same way? You want to overthrow the system we have here. Is that correct? --- Quite so, the system.

And the ruling classes, you expect them to be party to that overthrow? --- They couldn't be a party to the overthrow. We expect them to change. 30

But what do you mean then by overthrow? ---
I have already said, My Lord, by "overthrow" I understand
the overthrowing or overhauling of a system, the over-
hauling of a system, which would have nothing to do with
persons and individuals. 5

Now if that is so, why does the African
National Congress say that it is working for the overthrow
of the ruling class? --- My Lords, I am afraid I cannot
really carry the matter further or explain myself further,
because I have indicated my own interpretation in the 10
context of our policy.

So that wherever the African National Congress
says that the ruling class must be overthrown, that merely
means that the system must be changed? --- I don't know,
My Lords, that it would mean anything else. I don't know 15
that it could mean anything else, because if there is one
point where the African National Congress has been very
clear it is from this point that we want a multi-racial
South Africa, consisting of all the people who are in the
land. 20

Can you refer to any ruling class anywhere
in the world which in the past had accepted a system such
as that based on the Freedom Charter by negotiation?
And without violence? --- My Lords, I will not profess
to know about the history of the world and struggles. 25
I have already said in my evidence, the oppressed people
in some lands have used violence to meet their ends,
there are instances where they have not. And My Lords,
there is no reason why we should not believe and hope
that in South Africa we can accept those changes the 30
way we believe. Well, if, My Lords, that does not
materialise,

Mr. Luthuli, I have dealt with the position up to the middle of 1955, and I just want to put a few more documents relating to the position up to 1956 and I put it to you that nowhere was that hope that you now testify to, nowhere was that hope and expectation ever 5 expressed or held out to the masses? --- My Lords, I cannot profess to know speeches made and what was said to the masses, but I am saying - if there is a thing that I am saying emphatically, as a basic policy of the African National Congress it is that. We have stated it from the 10 length and breadth of the country, that we have no desire whatsoever to see a single White man leave this country.

X BY MR. JUSTICE RUMPF :

That is not really the point, Mr. Luthuli. Counsel is not now on the policy of the African National 15 Congress in relation to White people who accept the policy of the African National Congress? --- Does Counsel mean those who...

Counsel is on the point which deals with the policy of the African National Congress - with the hope 20 which existed in the breast of the members of the African National Congress that they would achieve their aims through negotiation, and Counsel is not on the point as to what was in the breasts of the members or in your breast, but what was told to the people who were being 25 educated by the African National Congress? --- My Lords, I am saying this, that naturally I cannot testify to the many speeches made by leaders of the African National Congress, I do not know what was said, but I think I can say, although I cannot put my hand on a document now and 30 say this document, but I feel very certain that in reading speeches you will find that air breathed. I am not just

maybe saying now, My Lord, because I am giving evidence.

BY MR. TRENGOVE :

I want to refer you to A.M. 47, which is Bulletin No. 2 of Mayebuya i Afrika, published by the African National Congress, Natal, read with G. 812, a translation. Now there again, Mr. Luthuli, in the editorial - this was published sometime in 1955, because it deals with the A.N.C. Conference held in Natal in October, 1955. Now in dealing with the year 1955 and the Provincial Conference in Durban, the document states that what is appreciated in the conduct of these two conferences was the growth in the number of people who are prepared to fight and die for freedom. Mr. Luthuli, you have before you the original in Zulu or in an African language? --- Yes, I have it. 15

I am reading from a translation. You have the foreword there, and then a following sub-heading is "Through Congress let us try to build a powerful Afrika" It is this same thought, Mr. Luthuli, which has been expressed in prior years that for your struggle you want people who are prepared to fight and die for freedom? --- Whilst I don't see it here - yes, I have got it, My Lord. 20

Now it refers to 1955 and the Provincial Conferences that were held then? --- That is correct.

Then it refers to the - to a fact which is appreciated, which is the growth in the number of people who are prepared to fight and die for their freedom? --- That is correct. 25

If you just give that document here, I will find the other passage for you. At the end of that article, under the heading "Explanatory Note", there is a paragraph there starting, "There is not a single nation 30

from the very dawn of history which has achieved its freedom without having to struggle", and then you see it refers to the same theme which is expressed throughout the other years that the struggle results in the shedding of blood and tears?--- That is correct, My Lord. 5

Now I want to pass to some other document. T.M. 73, which is an Isizwe of March, 1956, there is an editorial, "Murder will Out"? --- I see it, My Lord.

And it starts off as follows : "The last two weeks have seen a few more of those incidents that 10 are becoming commonplace in the jungle that is nationalist South Africa. The pattern is regular and incidental in every case. A challenge of peaceful and harmless Africans by well armed and provocative police. The shooting of a few rounds from a Stan gun resulting in several deaths 15 and many wounded" Then it talks about the slant the radio puts on a version like that, whitewashing the aggressors and putting the blame on the Africans. And then that paragraph ends, "Finally there is the arrest of Africans on some ridiculous charges", and then it continues in the 20 next paragraph : "But murder will out sooner or later. Today a bankrupt and decaying social structure supports and sustains this type of incident and the trigger-happy neurotics that wield the Stan gun and the rifle. All this is but a symptom of the degeneration of the ruling 25 class." Then it compares it with the downfall of the Roman Empire. "Insofar as our people are concerned, these incidents emphasise the necessity for organisation, discipline and a complete victory for the Freedom Charter in our country. The creation of a People's Democracy will 30 be a sure guarantee of the people's safety from any form of legalised murder. It is then too, after the establishment

of the people's rule, that we can deal with those responsible for these crimes against the people. After all, proscription does not run in the case of murder". Do you agree with that? --- I don't agree with the last part.

Why not? --- I don't. 5

Why not? What is wrong with it? --- I don't agree with the part where the particular writer says "It is then too, after the establishment of a people's rule that we can deal with those responsible for the crimes against the people". My reason for saying I don't agree and I 10 would go so far as to say I have never heard the view expressed in Congress circles, if it means that after Freedom we will hold something of a trial and try people, I don't agree with that.

That is obviously what it means? --- I don't 15 agree with it, I have just said so.

Do you know why the editor of the Isizwe would publish this type of propaganda? --- I wouldn't know.

You agree that it is dangerous? --- I just don't agree with it. 20

But the rest you agree with? --- Well, My Lords, there may be a few expressions, I mean reading a thing for the first time, one can't say as you would if you sat down, but in general I think that would be correct, I generally agree. 25

Would you agree that the present system is maintaining and supporting itself by trigger-happy neurotics? --- My Lords, those are strong words, and I think that I wouldn't use those words, but now I'll go into the realms of interpretation. 30

Do you think it is advisable to use that type of language in trying to maintain the correct relations between the masses and the police? --- My Lords,

I have already expressed my personal view that I wouldn't use....

And you agree that this type of language doesn't promote good relations? --- My Lords, I would agree that such language would have the tendency of creating 5 ill-feeling.

You also agree that that was obviously the intention of the editor? --- My Lords, I can't altogether say that that was the object of the editor, because you have got to take into account quite a number of things when a person is writing, and whether one would say he set out with this as his object, I am not prepared to go as far as that, My Lord.

My Lords, I would just like to mention that this Mayebuye i Afrika, A.M. 47, - the place in the record where the translation G. 812 was read into the record, is at page 9973.

COURT ADJOURNS.

CASE REMANDED TO THE 10TH MAY, 1960.

13372.

COURT RESUMES ON THE 10TH MAY, 1960.

BY THE ACCUSED NOKWE :

May it please Your Lordships. I have been asked by the Accused to raise two matters, firstly this matter of Professor Matthews. Your Lordships, Professor Matthews has informed us that after consulting with Counsel and having considered the matter, he was not willing to give evidence during the State of Emergency. The Accused therefore will not require him for further consultation during the State of Emergency. The second matter, Your Lordships...

BY MR. JUSTICE BEKKER :

You are aware of course that you can subpoena him? You prefer not to subpoena him?

BY MR. NOKWE :

We prefer not to subpoena him during the State of Emergency, because it does concern what the Accused did. The second matter is in regard to facilities for consultation in the prison. Your Lordship will recall that last week Mr. Mandela raised a number of issues. We regret to have to report to the Court again, Your Lordships, that there has been no improvement whatsoever in the conditions ...

BY MR. JUSTICE RUMPFER :

But the consultations were to be held here at this Court.

BY MR. NOKWE :

My Lord, I think the Crown understands that Your Lordships' suggestion last week only referred to consultations with witnesses jointly, it did not refer to the preparation of the case which did not involve the consultation with witnesses. That is what I have been

informed. On Saturday Your Lordships, it was indicated to us that we might have to work in prison, and last Saturday we tried to go up to the cell, but found it in exactly the same condition as it was the previous time. Yesterday I am informed, Your Lordship, that there was difficulty in consulting here, because we are informed that we could only consult here if there was a witness who would have to be consulted by all the Accused. It was only after indicating that we would want to consult with one of the Accused to be called (E) that we were subsequently allowed.

BY MR. JUSTICE BEKKER :

Would it meet with your convenience if you could hold all consultations here?

BY MR. NOKWE :

That would definitely meet with our convenience, My Lord. Another point arises, Your Lordship. I understand the police have indicated to us that if we consult here it can't go beyond after four o'clock in the afternoon.

BY MR. JUSTICE BEKKER :

But as far as the Accused is concerned, it would suit them if instead of having to consult in the gaol, you could consult here.

BY MR. NOKWE :

The conditions here are much better.

BY MR. JUSTICE RUMPF :

That was obviously the intention. All consulting, either with witnesses or by the Accused amongst themselves, should be done here.

BY MR. NOKWE :

Yes, and could there be an extension of the

time too?

BY MR. JUSTICE RUMPF :

Is there any difficulty about the extension of time, Mr. Trengove?

BY MR. TRENGOVE :

The extension of the time arises about the supper time in gaol, My Lords, that is shortly after four o'clock.

BY MR. JUSTICE RUMPF :

I thought that the gaol authorities said that they - the arrangements could be made for the Accused to consult here almost as long as they want up to eleven o'clock or half past ten.

BY MR. TRENGOVE :

My Lords, as far as they were concerned, but with the question of the suppertime, it would mean transporting - taking the Accused away, transporting them up to gaol for supper, bringing them down again, and always having police available here, also after hours. And the..

BY MR. JUSTICE RUMPF :

What time do they have their supper?

BY MR. NOKWE :

At three o'clock Your Lordship.

BY MR. JUSTICE RUMPF :

Then everyday when we sit in the afternoon you don't get your supper?

BY MR. NOKWE :

We get our supper, it is cold, but we always find it in the cells already served.

BY MR. TRENGOVE :

My Lords, the position at the moment is that at one o'clock they have got to be taken up for lunch,

and they have got to be brought back at two o'clock. At three o'clock they have got to be taken up for the last meal of the day, and after that they have to be brought back again.

BY MR. JUSTICE RUMPF :

They can't have their lunch at one o'clock if they get there at quarter past one, and then their so-called supper at three o'clock.

BY MR. TRENGOVE :

I don't know what the position up at the gaol is, My Lord.

BY MR. JUSTICE BEKKER :

But it is a practical difficulty. Couldn't the gaol authorities make some other provision so serve their supper at say quarter past five for that matter? Will it upset the whole gaol system if that is done?

BY MR. TRENGOVE :

I don't think so, My Lord.

BY MR. JUSTICE RUMPF :

Well obviously the gaol authorities preferred the Accused to have their consultations here. It would be much easier for the gaol authorities, because they have to make all sorts of arrangements to have Whites consult with non-Whites and females with males, which makes it very difficult.

BY MR. TRENGOVE :

My Lords, the Crown's position is this. The Accused have not told us that they want all the consultations here. Those consultations that they have asked us for here, they have had here. They have asked us to make arrangements with the gaol so that they could have certain consultations there. As far as the Crown is

concerned, My Lords, we at all times have done everything possible...

BY MR. JUSTICE BEKKER :

You have no objection against the Accused meeting here for all consultative purposes.

BY MR. TRENGOVE :

Within reasonable bounds, My Lord, at reasonable times.

BY MR. JUSTICE BEKKER :

Now the question of what is reasonable depends on what happened in gaol.

BY MR. TRENGOVE :

And My Lords, the police officers available.

BY MR. JUSTICE RUMPFER :

That will have to be arranged, Mr. Trengove. In any event what you can do now is to find out during the course of this morning from the gaol authorities what arrangements could be made in regard to the last meal of the day for the Accused when they are here, whether it can be brought down here or whether they have to be taken up for the meal and if they want to come back whether they have got to be brought back. But we are going on the basis that the gaol authorities informed us that they could consult if necessary up to eleven o'clock here, and that is the basis upon which we went. Now if that is correct, then arrangements must be made for them to consult up to a reasonable hour, not necessarily till eleven o'clock. Mr. Nokwe, does the gaol serve lunch at one o'clock?

BY MR. NOKWE :

No, My Lord, they serve lunch at eleven o'clock.

BY MR. JUSTICE RUMPFER :

But do you have your meals here?

BY MR. NOKWE :

For the last few weeks, My Lord, we have not relied on gaol lunch at all, we used to have our meals here.

BY MR. JUSTICE RUMPF :

Do you get your meals from other places?

BY MR. NOKWE :

Unfortunately that arrangement has broken down now, and we might have to rely on gaol lunch.

BY MR. JUSTICE RUMPF :

When did that break down?

BY MR. NOKWE :

It broke down on Friday.

BY MR. JUSTICE RUMPF :

What happened yesterday?

BY MR. NOKWE :

There was only an apple and two slices of bread here. They indicated to us that they couldn't continue.

BY MR. JUSTICE RUMPF:

Did other people supply you with that?

BY MR. NOKWE :

Yes.

BY MR. JUSTICE RUMPF :

You see, if ...

BY MR. TRENGOVE :

My Lords, the position with the lunch - well, that is not a difficulty, that is done every day in every gaol where people are held during trial food is provided during the lunch hour, either there or here.

BY MR. JUSTICE RUMPF :

Well, it seems to me that you should try and

arrange the matter on the following basis. Whatever happens in Court, whenever we adjourn, it depends on the witness and his state of health and other witness who may come, arrangements should be made, if the Accused do not get their lunch served by other people, arrangements should be made that the gaol lunch should be here by one o'clock or shortly thereafter, and the arrangements should be such that the Accused, even if we adjourn at one o'clock, for them to remain here until the afternoon, some hour in the afternoon, and that either their supper should be served when they get back at five or any time which is reasonable, or if that can't be done, if the supper is ready there at three, then it must be brought here.

BY MR. JUSTICE KENNEDY :

Yes, Mr. Trengove, the important thing if you will allow me to say so, is that the course of this trial should not be interrupted because there have not sufficient arrangements been made, and if you would impress that on the prison authorities, that it is the imperative wish of the Court that suitable arrangements should be made so as not to hold up the case, I am certain something could be done.

BY MR. JUSTICE RUMPFER :

That does not only apply about the consultations, also the preparation, the documents are here if they want to see the documents, and if they ask the Crown to see documents, the documents are here.

BY MR. TRENGOVE :

My Lords, the Accused Nokwe has made a statement about Professor Matthews. The Crown doesn't accept that position, My Lords. The Crown's attitude is, My Lords, that Professor Matthews' position is in no way

effected by the present State of Emergency. He is, Your Lordships noticed a co-conspirator, cited as a co-conspirator. In giving evidence, he would in any event have been entitled to avail himself of any of the rights of a co-conspirator to refuse or answer questions, and unless Professor Matthews is subpoenaed by the defence, called by them to give evidence, the Crown does not accept their explanation for not calling him. The Accused can decide not to call Professor Matthews, but they cannot My Lords, on the attitude of the Crown which is respectfully submitted, they cannot hide behind the Emergency Regulations as an excuse for not calling him.

BY MR. NOKWE :

May it please Your Lordships. There is one matter on which I do feel it is my duty to comment on behalf of the Accused and myself. Mr. Trengove has suggested that we are hiding behind the Emergency Regulations. There is no foundation for that allegation at all, My Lord. When Professor Matthews arrived here, without seeing the Accused and meeting them, he expressed his state of mind, he subsequently wrote a letter to the Registrar of this Court before he had even informed us of his intention, and it is not the Accused who are hiding behind anything. This is an honest expression of the state of mind of Professor Matthews. If the Crown doesn't want to accept that, then I don't know.

BY MR. JUSTICE RUMPF :

Well, the Crown's attitude is that you can subpoena your witness.

BY MR. NOKWE :

We are not prepared to subpoena people who have given us their honest opinion about the state of affairs.

BY MR. TRENGOVE :

My Lord, nothing the Accused has said has changed the attitude of the Crown in this regard.

ALBERT JOHN LUTHULI, under former oath;

CROSS-EXAMINATION BY MR. TRENGOVE CONTINUED :

Mr. Luthuli, I was referring yesterday to this bulletin Isizwe of March, 1956, and I was dealing with the first part of the editorial. Now I just want to deal with the second part of the editorial, and it deals with the Freedom Charter which the editor says in the second paragraph "has become the basic part of the A.N.C. policy and programme", and right at the bottom of the page, on a portion that I have marked there, you see the editor says, in propagating the Freedom Charter and in working for it, - in trying to work out this liberatory campaign, the writer says at the bottom of the page :
"Nothing is so difficult as planning a counteroffensive at a time when the enemy is attacking on all fronts"? ---
I have got it, My Lord.

"To fight a war of attrition which pins down the bulk of the enemy forces, to wear him down, to husband and consolidate your own forces during that time, and to plan for the counter offensive and final victory. All this is very difficult, and can only be done by the collective leadership of maturing organisations". Now Mr. Luthuli, that was exactly what the African National Congress was trying to do as regards the government. It was fighting a war of attrition and it was trying to wear down the government and trying to pin down the bulk of the forces that have to maintain law and order. That is what the African National Congress were doing

this period, were they not? --- My Lords, my reaction to that would be this, that the African National Congress in carrying out its campaign does follow the spirit which I will explain.

Now Mr. Luthuli, I don't want your reaction, 5
and I don't want any explanation which goes outside the question. That language is clear. Is that what the African National Congress was doing in 1956? --- My Lords, I don't know whether one would be pinned down to expressions without giving his own reaction to a thing. I 10
can't say that I would follow all of those expressions, but I think it would help the Crown if I were to say this that the spirit behind this in general is correct. The spirit behind it is correct.

Alright, Mr. Luthuli, that is all that I 15
want. Now I want to refer you to another document, B. 259. ---My Lord, may I ask for my own guidance when one says the spirit of the thing is correct, is one entitled to give examples and explanations of what one means?

BY MR. JUSTICE RUMPF : 20

X Yes, Mr. Luthuli, if you want to give an example, do so? --- What I wanted to say, My Lord, to explain myself is this, it is true that when we carry out a campaign and as we have already said, we are exerting pressure, when there is a demonstration we will 25
say in Durban, from our point of view it helps if you could have demonstrations in other areas, because you don't have the whole force in Durban, that is quite true. You have the example for instance of the Western Areas. At the time of the Western Areas we did plan first to 30
sympathise with what was taking place, to show our association with what was taking place in the Western

Areas, but also so that you don't have the concentration of forces in one place, it is only My Lord, a question of common sense. That is what I wanted to say when I said in spirit.

BY MR. TRENGOVE :

Thank you, Mr. Luthuli. Is there anything 5
else that you want to add? --- No.

Now I want to move on to the next document, Mr. Luthuli, it is B. 259, and it is headed Presidential Address delivered by E. P. Moretsele, President of the A.N.C. Transvaal, at the Annual Conference of the A.N.C. 10
Transvaal, October, 1956. Was Moretsele President of the A.N.C. Transvaal at that time? --- Yes, he was, My Lord.

He was also a member of the National Executive? --- That is so, My Lord.

Now in 1956 in his Presidential Address at 15
page 5, according to this document, Moretsele - My Lord, this document is referred to for the first time at page 1303 - Moretsele in the course of his Address says at the bottom of page 5 : "The Congress does not conceal its violent hatred of the racial policies of the government 20
and has vowed to fight suppression to the bitter end. As Your President, I call upon you to dedicate yourselves unconditionally to the greatest cause for which we fight, the cause of freedom. I call upon you to participate fully and without reservation in this great task and 25
to reckon with death and disaster without flinching from the task. Only by doing this can we save the people from the ravages of Nationalist rule". Would that be a correct statement of the A.N.C. attitude towards the liberatory struggle? --- That would be. 30

Moretsele, E.P. Moretsele, the President,

also the Accused No. 12, is he a fluent speaker of English and does he understand and write the language well? --- My Lords, I honestly do not know his ability in English.

A speech like this, would this have been written for him or would he have done it himself, do you know? --- I don't know his ability in English. 5

While we are dealing with this, in the course of his Address, he refers to the Freedom Charter Campaign, and at page 6, in connection with the Freedom struggle he says, "All over the country people are astir and vital battles against exploitation are being fought and important victories won. In this connection I think it proper to refer to the wellknown and famous Evaton bus boycott, where the people have successfully carried on a stubborn and militant struggle for more than a year. This event has extremely significant lessons for us for it shows that important victories will be won by the movement once the people are united and determined. On your behalf, I wish to congratulate the people of Evaton and to wish them even more success in their future struggles against injustice." Now do you know anything about the struggle in Evaton, Mr. Luthuli? --- My Lords, I do not know sufficiently about the details there to be able to comment. 10 15 20

You know though that that struggle there developed into what one might call a riot where houses were burnt down, people were killed during the course of that struggle in connection with the bus boycott. That you know, don't you? --- Yes, there was a disturbance there, I know that. 25 30

A disturbance of a very serious nature? --- Yes, that is so, My Lord.

And you know too that places were burnt down and people were killed in the course of that struggle? Wherever the fault may lie? --- I think there were some people killed, but I am not so sure about the burning now, but it could have been, it was quite a disturbance. 5

And it was a struggle between two sections of the population of Evaton? Those in favour of the bus boycott and those against? --- I am not so sure about the details.

I put it to you that the President of the African National Congress praises the people of Evaton for struggling in the way they did, because that is exactly what the A.N.C. would like to take place throughout South Africa in the liberatory struggle? --- My Lord, that is most incorrect, insofar as the African National Congress is concerned, I do not know what the President of the Transvaal had in mind, My Lord, and I cannot really account for him, but when the Crown says that is the attitude of the African National Congress, I categorically say that is most incorrect. 10 15 20

Well, he praises it as a stubborn and militant struggle and he congratulates the people of Evaton for conducting that struggle? --- My Lord, I have already indicated that I cannot go into the details of that situation, because I do not know. Just for an example I vaguely recollect that at the time of the Preparatory Examination it did for example My Lord transpire that the bus authorities themselves, if I am not mistaken, I am subject to correction, did employ people who carried on violence there to protect their interests, so in that complicated situation, My Lord, I don't want to express an opinion as to what happened. 25 30

But My Lord, as one has said, one leaves it to the Court. It may be difficult to put a line where a person admires the struggle of the people and without necessarily approving of the violence. However, I will put it on the basis, it is the President of the Transvaal who must 5 explain himself. My own reaction first would have been that well, he probably was merely encouraging the people who were in this thing, that particular oppression, and not necessarily approving and giving a stamp of approval on violence, which he would know of course is against the 10 policy.

Are you suggesting that that is the way one approves of a campaign without approving of the violence that was part of that campaign? --- I am suggesting My Lords, that it is possible for one to speak of a campaign, 15 merely referring to the struggle. However, I can't explain for the President of the Transvaal, but I can explain for the African National Congress.

You see, Mr. Luthuli, I want to put it to you that the African National Congress has, as a matter 20 of policy, made use of strikes, and riots - well, I wouldn't say made use of, but wherever a strike and a riot has taken place, the African National Congress has used that event as part of their propaganda for the liberatory struggle, and as a matter of policy the African 25 National Congress has told the masses that the rioters are really giving their blood for the liberation of this country, without condemning their violent acts? --- My Lords, I don't accept that statement. Rather let me put it this way, My Lords. I accept the statement insofar as 30 strikes are concerned, the struggles of the people, to say that the African National Congress does in fact in certain

circumstances come in to give guidance to people, whenever it is given the opportunity. The position in fact is that generally the government won't even allow you to exercise your influence in the right direction, so that when the Crown says that we use rioters and strikes, one can't accept the proposition because the Government doesn't even allow you to exercise your influence in a situation like that. But, it may be true, My Lords, as I have already said, in our expressions afterwards you may say well, those people were reacting against a certain thing which they felt was an injustice. In the occasions, My Lord, that I know when the African National Congress has in fact come in, it has tried to come in with its view of non-violence in a situation, My Lords. And incidentally, I may go on to say, My Lords, that insofar as the Evaton incident that has been quoted is concerned, one is not even so sure whether it was the African National Congress in there as such. I am not familiar with the situation. 10 15

BY MR. JUSTICE RUMPF :

X That is not the point the Crown puts to you, Mr. Luthuli. The Crown suggests to you that on the evidence which has been given, whenever there has been an incident in which some violence occurred, the A.N.C. used that incident in order to laud the people who took part in that incident, without a specific condemnation of the violence that took place. That is what the Crown puts to you? --- My Lords... 20

In other words, to put it plainly, whenever there has been an incident with violence, the Crown says the A.N.C.'s attitude was, we like the people to struggle, we think it is a good thing that they have done so, and then the Crown says the A.N.C. never said it was wrong that

violence should have occurred? --- I follow, My Lord.

It doesn't deal with whether the A.N.C. participated or whether or who committed the violence, but that is the point now? --- My Lord, the Crown of course would have evidence to show, but I wonder whether My Lord 5 that would be taken as general? I mean, I cannot recall, I cannot at the moment recall instances where some leader may have said, don't indulge in violence in a particular struggle, and I am wondering My Lords, whether it is not a question of where you might get some leaders saying so 10 and others being silent, whether you can take it really as A.N.C. stand. I wouldn't put it on that basis at all, as A.N.C. stand. I can quote for instance that is not within the period of the indictment, so I suppose it would not be correct to quote it, where actually the struggle 15 was appreciated, but the people were told no, don't indulge in violence.

BY MR. TRENGOVE :

Mr. Luthuli, I referred you to A. 37, the Annual Executive Report of the A.N.C. National Conference, 20 in December, 1954, and the report of the executive, page 2 of the Report, the last paragraph, where you refer to a number of events, including the Witzieshoek clash, where people were killed. And you say that what happened at Witzieshoek was the result of resistance from forces 25 allied to and under the leadership of the African National Congress. Now the Witzieshoek riots, there people were killed, rioters received long sentences of imprisonment. Was that done as a result of the action of allies to the African National Congress? --- My Lord, I would not be in 30 a position My Lords to say to what extent the African National Congress and at what stage it came into that

situation. I am afraid I wouldn't be able to be in that position.

Your Report says...? --- I don't question the Report, I am merely making that statement.

The Report contains official A.N.C. policy 5 and views? --- I am not disputing the report, but I am merely saying this that I do not know to what extent and at what stage the A.N.C. came in, that is all I am saying.

I am not asking you as to what stage and what extent. You say categorically in this report, and you refer as an illustration to the Witzieshoek clash, that that was as a result of resistance from forces allied to and under the leadership of the African National Congress. Is that so or is that not so? --- My Lords, the Crown has already said that it is an official report. 15

That is so. Why didn't the African National Congress condemn the violence used in the clash in Witzieshoek, and why does it make itself a party to it? --- My Lords, I have already said that I do not recollect the circumstances surrounding that, and I would prefer just to 20 leave it at that.

In your evidence in chief you handed in a statement that you issued when certain women in Natal demonstrated against passes, and you mentioned that to show that the African National Congress is against 25 irresponsible demonstrations which might involve violence. That took place after the period of the indictment. But in that regard I just want to ask you one or two questions. You remember the clash at Zeerust in the Transvull in 1957? --- I recall, My Lords. 30

Now the African National Congress Report for 1957, referring to that clash, says that twenty-three

were charged on various charges equivalent to high treason, and he talks of the fact that the African National Congress had the services of lawyers and advocates to defend these people, and the reference to the Zeerust riots in your Report is under the heading of 5
The Struggle in the Transvaal, and then there is not a word of condemnation of the violence in Zeerust. On the contrary, the whole tenor of this part of the report is to support and laud the activities of the people in Zeerust. Do you remember that? --- My Lord, I do not recall the 10
tenor of the report, I do not.

Do you know that you never condemned the violence that was used in Zeerust? --- My Lords, I have already indicated that I do not recall the tenor of that report, but it is correct to say that in the Zeerust 15
situation the African National Congress with its limited resources and ability did try to get defence for the people there, that is correct. And two, My Lords, in a situation if my memory serves me correctly, a situation like Zeerust where there was in fact violence, undenied, but where 20
you do not again My Lords know the full story and history of a thing, I think one would hesitate, I think the position must be appreciated that you would hesitate to enter there with a word of condemnation. I don't know My Lords that it is peculiar to the A.N.C. But I consistently 25
refuse to admit that because you have not condemned, therefore you are approving of violence.

You see, the only thing that the African National Congress and you in particular, the only thing that you ever do is you regret that violence has to take 30
place, you would much rather have your - achieve your aims if you can do so without violence, you regret violence,

but you don't condemn violence? --- I think My Lords I have explained to the Crown...

Do you accept that? --- I have explained to the Crown.

You know of the riots of Sekukuniland in 1958? --- I heard of them, My Lord. 5

Do you know that sixteen people were sentenced to death for their activities in that riot, on a charge of murder? --- I know that some people were, I do not know the number. 10

Would you say that they, in paying the supreme penalty, they were sentenced to death on a charge of murder, that they are giving their lives in the liberatory struggle? --- My Lords, situations like that are very complicated situations, because you must go to the basis as to how the thing started, and I am not in a position to explain to this Court how the thing started. All I know generally is that people there, I think, were resisting against Bantu Authorities or something if I am not mistaken, and in the course of that violence took place and so on. 15 20

Now, Mr. Luthuli, do you remember addressing an Africa Day meeting on the 15th April, 1959, at the Gandhi Hall in Durban? --- Yes, I do, My Lord.

It was a meeting at which the African National Congress, the South African Indian Congress, the Congress of Democrats were all represented. Do you remember that? --- I remember that. 25

Do you remember that in the course of your speech you asked the audience to stand up as a tribute to the people who had been found guilty and sentenced to death as a result of their activities in the Sekukuniland clash? Do you remember that? --- I would not recall, but 30

it is quite possible that I did.

You say you won't recall? --- That is what I am saying, but it is quite possible that I did. At the moment I cannot say when I made a call to remember what groups I included there, that I don't recall, but as I 5 say it is quite possible I did.

I want to refresh your memory, Mr. Luthuli. You made your speech in English, do you remember? --- Yes, it was in English.

And just before asking the people to stand 10 up, do you remember whether you made the following remarks: "I would also, sons and daughters of Africa, take this time now in solemnity to ask you later when I give the sign, to stand as a sign of respect for the Sekukuni daughters of Africa who were found guilty and sentenced 15 to be killed by a Judge of the Supreme Court in the Transvaal for their activities in the liberation movement in Sekukuniland. We have to take the decision of the Judge of course as a legal and correct decision, but nevertheless we are not debarred from saying that these sons and 20 daughters of Africa indeed will be the victims of struggle for freedom. However much we regret the violence, which it is alleged they were found or are alleged to have indulged in, yet we do know that they were struggling against the imposition of laws they didn't like, and 25 which many in that country still don't like. It is fitting that in solemnity we stand." Then you say, "While we stand in solemnity on their behalf, we will again take the Afrika salute." And then you introduced Dr. Hathorne as representing the Congress of Democrats. 30 Now do you remember, Mr. Luthuli, making a statement to that effect? --- My Lords, I stand by that.

BY MR. JUSTICE BEKKER :

What does that mean? You say I stand by that? --- I say, My Lords, I couldn't recall all of the words, but it is...

Is that your speech or not? --- It sounds 5
like it.

BY MR. TRENGOVE :

I have quoted the latter half of page 5 of that document, Mr. Luthuli? --- My Lords, the document of course as I see is not my speech, I think it is as it was 10 taken, maybe by the security police. But My Lords, I am saying this that...

BY MR. JUSTICE RUMPFER :

X The question is whether you made this speech or that part of the speech which is quoted to you by 15 Counsel about the Sekukuniland people? --- My Lord, as I said earlier, I wouldn't recall that I did, but at the same time I wouldn't deny it, it is quite possible that I did, so that when I said that there was that possibility, the chances are that I did. 20

Can't you remember calling upon the people to stand in honour of those convicted by a Court in the X Transvaal? --- I think I do recall, My Lords. When the document was read by the Crown, I thought maybe it was an occasion where I was referring to several people who may 25 have participated during that period in the struggle. That is why I say, My Lord, that I would accept a thing which I did make that day. And My Lords, I would go so far as to say that whilst I can't say word for word, this is of course a report by the security police, but I 30 think the sentiments - I would say yes.

BY MR. TRENGOVE :

Mr. Luthuli, people are convicted for murder. You call upon your audience to stand in honour of the people convicted for the murder of their own fellow beings in Sekukuniland. That is what you did, is it not? 5
These people murdered their own people, that is what happened in Sekukuniland, do you agree? --- That is so, My Lord.

And you called upon your audience to stand in honour of the murderers, that is so, is it not? --- My 10
Lord, that is not so if the Crown leaves out the circumstances surrounding the whole situation. One wasn't praising murderers in that sense. I have already explained myself.

You can explain just as you like, but you 15
asked the people to get up in honour of people who were convicted of a brutal murder, is that right? You knew that was the position? --- I have already said, My Lords, that these people were committed of murder. But I refuse to be pinned down to murder and leaving out the 20
circumstances.

I'll get to the surcumstances now. You say that the people who committed the murder and were likely to be hanged for their crime, that they were giving their lives in the struggle for freedom? --- My Lords, in 25
that situation people were resisting against what they regarded as injustice, that is correct.

So that although you regret violence, you accept it as an integral part of your struggle? --- I don't agree to that. 30

Didn't these people commit acts of violence for which they were sentenced to death? --- They did.

Did the people who were killed by them, did they give their lives in the struggle for freedom? --- My Lords, I cannot go further than what is indicated there, because you had a section - I mean in that situation, it is true that situation it is true that in the process of 5 people resisting law, then some of the people were killed by the others. Now I was merely referring to the resisters.

Were those that resisted, were they the ones that committed the murder? --- I probably wouldn't go as far as that. 10

Well, you say now you are asking people to stand up in honour of the resisters? --- My Lords, I think that in that situation in general, it would be correct to say that the people who were opposing the laws came into a clash with the local authority in the person of Chief, 15 I presume, and in that course they may have murdered - now I am not so sure of the details, but they have murdered people, I am not disputing that at all.

You accept the fact that they murdered? --- Yes, I mean the Court found them guilty. 20

I put it to you that this statement that you made here is one of the most dangerous and irresponsible statements ever made by any politician from any public platform. Do you accept that? --- I don't accept it. The Crown will put it that way, I don't accept it. I 25 have my explanation, I have made it,

I put it to you that you made this statement because the African National Congress policy as regards the means to be used by the masses is an entirely irresponsible policy, and that you encourage violence without 30 yourselves necessarily indulging in it? --- The Crown may put that, but I deny the allegation of the Crown, because

that was not the intention, but as I have said repeatedly in this Court, My Lords, in a situation where people start off struggling against what they regard as an injustice, and as I have already said, repeating myself, the people who were found guilty, were obviously people who were resisting⁵ and it is on that aspect, and in fact as the Crown itself has said, one regrets the violence very much, I cannot accept the proposition that therefore one approves of the violence. It can put its own interpretation, but certainly that never was in my mind at all, and I don't accept the 10 interpretation, personally.

Can you just explain to me before we step off this point, explain to me how you commit a murder if you merely resist a law? --- My Lord, in a situation like that, I have already said it is a mixed up situation, you cannot¹⁵ altogether rule out the start of the thing, and during that process - it is true that in that process violence did take place which even although the Crown says - I do say we regret that violence, indicating that we don't like that violence. 20

Is this an example, what happened in Sekukuniland, is that an example of what can happen when people resist the enforcement of laws? --- My Lords, I have already said I think in my evidence that that is a possibility, but I must say that that Sekukuni incident 25 which the Crown has quoted, is a very good example of what does take place when the African National Congress is unable to go to an area and exercise its influence. It is a good example of that.

And it is also a good example of the point 30 that I was making, that if the resistance takes that form, the perpetrators of the violence are regarded as heroes

in the struggle for liberation, is it not? --- My Lord, I do not know whether we have said - I know that the word "heroes" has been used on occasion, but I don't know My Lords that we always associate such incidents and laud the people as heroes. But, I have already said what our attitude is, I needn't go any further. And even on that occasion, My Lord, you can in solemnity remember people who have died. You are not necessarily lauding the methods that they used at all, far from it, nor are you putting them up as examples of how people should struggle. You are merely in solemnity - in solemnity you remember those people.

BY MR. JUSTICE BEKKER :

What knowledge did you have of the events in Sekukuniland at the time you made the speech? --- My Lords, my knowledge didn't go beyond this : 1. That people in Sekuniland started off by resisting Bantu Authorities. I am not so sure whether the issue of passes to women came into it, I am not so sure about it, but I think it was more Bantu Authorities. And (2), in that process there was a clash between those people who resisted and the authority in the persons of chiefs I think who were upholding of course the law as Bantu Authorities required them to do. I do not know, My Lord, beyond that general picture, and I do know that in the process some people were killed, and My Lord, I will accept the proposition that the people who did kill were the resisters. Now I am not so sure whether it was as one-sided as that, but I will accept the proposition. I cannot go beyond that, My Lord.

BY MR. TRENGOVE :

You see, Mr. Luthuli, what the resisters did

there seems to be in accordance with a remark that you
make in a speech later that day during this meeting,
after Dr. Hathorn had spoken and made the point that one
must be prepared to die for freedom, he introduced you
again. Now I want to know if you can remember making 5
the following observation : "Mr. Chairman, sons and
daughters of Africa before I come to what I intended to
say I just want to make two observations, two remarks
rather. One arises out of what the last speaker said,
I think it is still within the orbit of non-violence 10
if when a person kicks you, you hold that leg that
kicks you and just hold it and say look here, boy,
Well, the method of how you hold him of course will
depend exactly on how he kicked, but of course we are
committed to a policy of non-violence and I think the 15
generations of the future will win freedom on the basis
of non-violence. I am not yet inciting you. When I do
incite, I will do that openly." This is at the bottom
of page 18 and the top of page 19. Now do you remember
giving that illustration of what activity still falls 20
within the orbit of non-violence? When a person kicks you
you hold onto that leg, and the way you hold him depends
on the way that he tries to kick you. Do you agree with
that statement? You made it? --- My Lord, I cannot re-
call really the exact nature of the words that were used, 25
I can't commit myself to that, but I do recall the inci-
dent of saying when a person kicks you, you hold his leg.

And the way you hold it depends on how he
kicked you? --- My Lords, I have already said I don't
remember the words, but I remember the incident when I 30
was indicating that if a person kicks you, well, hold
his leg, and say boy, look, don't do that. I remember

saying that.

So that when the government tries to enforce its laws, the resisters would be entitled to resist that enforcement? --- My Lord, it is part of the struggle, it is part of the struggle. It is merely method, where 5 people resist what they regard as an injustice, the African National Congress, My Lord, cannot be had to say that it condemned people resisting, because we are resisting oppression, and in that illustration, M^r Lords, as I say the words are not mine, they are special branch 10 words, but I was merely saying, if you are kicked, hold the leg and say don't do that.

And the way in which you resist would depend upon the way in which the government tries to enforce its laws? --- No, but you have a policy. You 15 seem to think that we work as we like anytime. We work within a policy.

Just this final thing on the Sekukuniland riots. The resistance...? --- My Lords, may I add this, although I don't recall the words at all, but I 20 even on that occasion, as the Crown was reading it, my memory is correct, I did say to the people look, I am not inciting at all, I am not. If we come to a point when we change policy - afterall, A.N.C. is democratic, it can change - then that will be done openly, that is 25 all my interpretation of that means.

The resistance to the enforcement of the Bantu Authorities Act in Sekukuniland, the resistance was organised by the African National Congress, was it not? --- That I do not know. My belief would be the 30 other way around. It is one of those incidents where the local people on their own as in Zeerust starts to resist.

I can go as far as this to say that my knowledge is that the African National Congress never was in that struggle as African National Congress at all.

Could one put it that your attitude towards the Sekukuniland riots as it appears from that statement, 5 that that would be the attitude of the African National Congress towards any similar clash in this country over the whole period 1950 to 1959? --- My Lords, I don't know that a generalisation like that would be accepted. It is true that when we have a meeting you recall certain inci- 10 dents and then say now in solemnity let us do this, but I don't know that you would now take that as a general attitude of the African National Congress. On occasions you do that.

Mr. Luthuli, your attitude towards riots 15 and clashes, the African National Congress attitude is in accordance with what you set forth in that statement on Africa Day in regard to the Sekukuniland clash? --- I think My Lords, I have already explained, even before this our attitude, without reference to Sekukuniland. I have 20 explained our attitude towards a situation where there is a disturbance, and there is rioting. I have already explained that several times in this Court.

You remember the riots at Port Elizabeth, East London, Denver and Kimberley? --- What period would 25 that be?

That would be between the period 1950 to 1953? --- When did the riots take place that you are referring to now?

Do you know the riots in Port Elizabeth? 30 --- I know that there were riots during the Defiance Campaign, about that period.

October, 1952? --- I don't know the date,
but about that time.

Do you know that there were riots in East
London? --- I do, My Lord.

Do you know that there were riots in Kimber- 5
ley? --- I do, My Lord.

Do you know that there were riots in Denver
in the Transvaal?--- I don't recall.

Now the African National Congress attitude
towards those riots was that innocent Africans were kil- 10
led as a result of government oppression? --- I do not
know, My Lords, unless the Crown were to remind me really,
because insofar as the East London riots and the P.E.
riots were concerned, our general attitude was that those
riots were not connected with the Defiance Campaign at 15
all.

I am not concerned with that at the moment
at all. Will you listen to the question, Mr. Luthuli.
In those riots the African National Congress adopted a
certain attitude towards the riots, is that correct? 20
--- I have already indicated one attitude which they
adopted.

The African National Congress did not con-
demn the actions of the Africans who were involved in
those riots? --- It is very likely. 25

The African National Congress condemned
the government? --- Very likely.

And said that those riots - the lives that
were lost was as result of the government oppressing the
people? --- I have already said it is very likely. 30

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