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and coming from the President you will realise our organisation is definitely committed to a programme of militant and uncompromising refusal. In the effected areas fascism have been displayed to the Africans. There is a growing body of serious men and women who feel that the effected areas are the place to call a halt, and all expect nothing else than a fight to death in defence of their homes and property. This is the essence of the fight that faces Congress." Just pausing there for a moment, My Lords, they expect nothing else than a fight to death in defence of their homes and properties. My Lords, who are going to be in this fight? And is this fight to death going to be merely a passive action on the one side in which people do nothing else than to stay in their homes up to the point when the policeman arrives and they then agree to go. If that is the case, how is this fight to the death going to arise? It can only arise, My Lords, if their attitude is one of two things, that there is going to be a clash in which people are going to physically defend their homes, or otherwise Your Lordships are going to be asked to accept the proposition that these people stay passively in their homes and the police or the army come along and mow down these people, shooting them to death. And then Vundhla explains, M_r Lords, and he says : "This is the essence of the fight that faces Congress today. On the one hand you have a fascist government which believed that the weaker must be put against the wall and destroyed. A group of people who are determined to push through the removal with force, blood and iron. On the other hand you

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have a group of people who are equally determined not to move. It is a situation - it is an ugly situation with which to deal. I said earlier that the Nationalist government got into power on the basis of the policy of apartheid." So that, My Lords, Your Lordships remember that document T.E.T. 50 which was a statement found in Tshunungwa's possession, it had typed on it the name of Luthuli, there was some doubt as to whether it was published to the press, this press statement, but be that as it may, My Lords, that document said you have here a government which was determined to push through the removal with force, blood and iron. And that is exactly the same attitude that Vundhla is expounding on behalf of the African National Congress in June, 1954.

MR. JUSTICE BEKKER :

Does that document T.E.T. 50 use the words "force, blood and iron", or is that the effect of it?

MR. TRENGOVE :

It is the effect - My Lords, "blood" and "iron" I know. As opposed to that Vundhla says you have an ugly situation because you have a group of people who are equally determined not to move. And then My Lords, he brings that into line with the rest of government policy, page 7417, in which he deals with the abolition of the Natives Representative Council, in which he deals with Bantu Education, and My Lords, then at page 7418 he says at line 19 : "The essence of apartheid thus stand clear before you. It is a fascist and dangerous policy which must be fought with all the resources at our disposal. Once you have fully grasped the meaning of apartheid well

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you will equally understand why the people of the Western Areas are being deported by the Group Areas Act and "ative Resettlement - Native Settlement of Disputes Act, and the Schoeman Trade Union Bill have been passed.

He brings in the Western Areas as part of this whole campaign against the people. And then after dealing with these general matters, he says at page 7419,

"We have also the issue of the Western Areas, which demand our very serious attention and our combined resources. It is an ugly situation, but the African National Congress yields to no one in its hatred of injustice, oppression and tyranny." He says he demands that "we shoulder the burden which our times have imposed upon us with courage and obedience to the leaders. On similar occasions in the past they have been faithful, in similar crises and tragedies, in the crises of May and June, 1950, and also June 1950 we faced a

similar crisis. Let us not be dispaired (?) from the difficulties which confront us, nor divert from the straight road. Our Congresses are comparatively stronger, than the - and the whole country as a whole is watching the progress of our liberatory movement with deep interest. Let us be true to our friends in the

Western Areas and be determined to rally to their assistance. I have confidence that in the forthcoming conflict Congress will come out mightier and stronger and that however difficult the road, victory will be ours". My Lords, what is this conflict? This conflict of force, blood and iron on the one side and a people who are not prepared to remove? My Lords, then after

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certain messages were read, Vundhla speaks again. At page 7421 at the bottom where he says at the bottom, "Ladies and gentlemen, I am still continuing with my speech. We have now reached the stage where we must decide what form of action must be taken by this Conference. If this Conference does not take a decision we shall have come here in vain. As a matter of fact all that was said here this morning was not in the nature of a decision, that is why some of the detectives have come back now. I hope they are sober this time. As I said this morning, there is no power, no power at all which is going to stop the onward march of the oppressed people, no sacrifice is going to be too great for us to achieve our freedom."

And then he reads, My Lords, what he calls a draft resolution. My Lords, after referring to the organisations that support this resolution, it reads : "It warns the government of the use of persistent provocation in viciously attacking the non-White people who are being goaded into a state of preparation. Never has injustice and inhumanity of apartheid been more clearly demonstrated than by the Minister of Native Affairs, Dr. Verwoerd and his colleagues, to carry through the mass deporation of - and the forcible removal of fifty-eight thousand people from the Western Areas, - from their homes in the Western Areas. They stubbornly persist with their plans in the face of opposition from the overwhelming majority of the people in South Africa, both White and non-White, who have protested against this barbaric measure which overrides the express desire of the people to remain in the homes which they have built with their sweat and toil

over the years." My Lords, they warn the government after persistent provocation and vicious attacks,

O.R.T. 29, My Lords, a document found in Tambo's possession said that is what the A.N.C. was out to do, to force the government to intimidate the people and to use force. And then he concludes, My Lords, that resolution by calling upon - by referring to Luthuli's call for fifty-thousand volunteers, at page 7423, line 30. He refers to Luthuli's call for volunteers, to organise opposition against the anti-democratic policy of the Nationalist government on a countrywide basis. My Lords, we say in that sense the volunteers were going to play an important part in this campaign. They were not there, My Lords, merely to see that the people went when the police came. They were there, My Lords, to create the conditions to make it necessary for the police to come, to organise this campaign of country wide resistance.

Now My Lords, may I in order just to dispose of this meeting, and because it is the only meeting that was taken down by shorthand writers, also deal with the evidence of Schoeman who took down the other portion of this meeting. My Lords, there was no cross-examination of Schoeman at all, except this that Schoeman said in his evidence that he couldn't guarantee that it was impossible for him to make a mistake, in the general sense, but on this particular meeting, My Lord, there was no cross-examination of Schoeman at all. After a number of people had spoken, the Chairman, Moretsele, calls upon Mathole to make an appeal for volunteers. My Lords, Mathole's appeal for volunteers is set forth

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- he is called upon at page 7769, line 25, and his appeal is set forth at page 7770. My Lords, at that time...

MR. JUSTICE BEKKER :

What was Mathole's position at that time?

MR. TRENGOVE :

My Lords, I'll check it up and give it later.

My Lords, Mathole's speech is contained at page 7770, and I refer Your Lordships particular to the passage appearing from line 25, where he says "Now we are going to appeal to you to become the aspostles. When I say apostles I don't mean apostles who are going to promise the people the kingdom of heaven," He says, "If you promise the people the kingdom of heaven, let me tell you Africans don't want to go to heaven anymore". And then he talks about the fact that it is here that they want their heaven, and he continues My Lord with that theme on page 7771, and he says "First of all you here must become volunteers, and please help me. Anybody who is a policeman, he must not volunteer. A volunteer force of many thousands. We shall greet them at this table. Everyone of you must volunteer to this noble and holy job of delivering the people of Africa into the kingdom of heaven on this earth. Friends, we are going to use another tactic. We know that the Government stopped our mouths to make us forget fighting for our rights on this earth, and they get a committee, they call them Preachers (?) (teachers ?), and the capitalists support these institutions and these preachers must do what the capitalist tell them. They tell you we have made a

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sin, we have killed Jesus Christ, therefore you must pray hard. Don't follow anything here on earth, your kingdom is in heaven. Now we are going to do is this, we are going to send you out to preach the truth." And then he talks, My Lords, of how the volunteers are going to educate, and My Lords, he is followed by Sibande, Sibande who is announced by the chairman as supporting the call for volunteers. My Lords, this speech of Sibande has been referred to in the evidence of Sibande himself, I just want to refer to certain passages.

At page 7773 - My Lords, Mathole's position, I am dealing now merely with the evidence of the Defence as we have it, Mathole's position in 1954 was that he was on the A.N.C. Secretariat with Tshunungwa and Vundhla. Your Lordship will find that at 11828, Luthuli's evidence. And My Lords, he was also co-opted to the National Executive of the A.N.C. in 1954. That also appears, My Lords, from the evidence of Luthuli at 11828. My Lords, he also represented the A.N.C. on the National Action Council of the Congress of the People, according to our note of Luthuli's evidence at 11822. He was on the committee of the African National Congress for the Western Areas according to the evidence of Resha, at page 17141. Your Lordship will remember that he signed that exhibit B.115 which was the message on China, he signed that, My Lords, as Secretary of the Transvaal A.N.C. His signature was identified by Conco at page 11100. My Lords, so he was what one might call a fairly prominent member of the African National Congress at the time. Now My Lords, then there is Sibande's speech, at page 7773, Line 15, he attacks the government as being

gangsters, as being a mad government, a power drunk government, who is mad and will not listen, as a government who will act against any non-European without consultation. And then, My Lords, at page 7774, he deals with people attending the meeting. "In that respect it shows that it is a bad government, a little dog, a dog from the department, you know they are barking. You know when they came they did not come like respectable people, they came like hooligans, in other words tsotsis. At this time we who are not mad, let us face the situation and save the world from these people, and if we who are not mad, we are not going to save this country, we shall have to answer for it." And he continues, My Lords, with this attack on the government, and he also attacks the Bantu Congress, which he says is a government inspired body, page 7774, he says that the Bantu Congress will end in gaol, because they, the Bantu Congress have declared a war against the people. And then, My Lords, at the bottom of page 7774, he refers to the action that the government has taken, the High Court of Parliament and so on, and then he deals specifically with volunteers. He says : "In connection with our volunteers.." - line 30 "let us know well.." - page 7775 - "... we cannot promise you money, we do not know where we are going, but we can only speak of this freedom we are going to. There is nothing that will stand in our way. When the Israelites left Egypt when they saw anything in their way, they just stepped aside, and at other times when they started going around Jericho, they were certain that the walls would tumble down. When we start our fight against this tyranny of

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the Malan government, we are sure that we shall destroy the government. The Israelites went round the walls of Jericho seven times, they did not stop after six times. The seventh time they started shouting and praying and after the walls of Jericho crumbled. We are in midst of our struggle, our holy war is still coming! Under these conditions we appeal for volunteers who shall obey the instructions of Congress." My Lords, in his own evidence, Sebade dealt with this portion of his speech at page 17365, and he says that this is merely a Biblical reference expressing their desire to be free. My Lords, whatever it is, whatever the reference might mean, they are bent upon destroying the government. The walls of Jericho My Lords, must collapse. That is what they want. There is no question of negotiating, there is no question of trying to persuade the government by pressure. This government must be destroyed, and for that they want their volunteers. And My Lords, at line 15 he continues, what are the qualities of these volunteers : "Where we are going we shall go in darkness, we shall work in the dark. We shall go through black forests. When we get into that river we shall start breathing." My Lord, that of course he explains by a biblical reference. "We don't know what that river is. There may be blood flowing in that river. There might be anything, but we are going there. These volunteers who are anxious to do this job, we must tell them this, whether they want to know, whether they want to be given orders now or tomorrow, that must not worry them. They must just wait for the call when the bell strikes, then we shall do something, then they shall get a call."

My Lords, he explained this took this black forest, he said at page 17366, that a volunteer must be prepared to go into anything, he must be in the movement with body and soul. You don't know what you are expecting if you go into a black forest. And the references, My Lord, to working underground and so on, those are the references to the difficulties that they will be faced with, because in the dark of night they have to go out to the farms and carry out their activities. And this reference to the blood that may be in the river, he explains, My Lord, that this is a phrase that he often used, page 17366.

He often used this example, and he says, My Lords, when we fight for freedom, we may even lose our lives because the government believes in killing. So again, My Lords, he falls back on the standard explanation of blood and bloodshed, that that was held out to the people because they knew that that was what the government was going to do. My Lords, our attitude is that even if that is the case, they know that the struggle they are embarking on will lead to bloodshed, they prepare the volunteers for that. And My Lords, what he didn't explain, what is this My Lords that the volunteers have to do when the bell strikes? What is this action that they must wait for?

They were going - it is clear that at this stage they were going to prepare the people for the Congress of the People, they were going out handing out bulletins and publications and getting people to send in demands.

MR. JUSTICE BEKKER :

Was he asked what he meant when he said when the bell strikes?

MR. TRENGOVE :

He wasn't asked, My Lord, either in Chief or in cross-examination.

MR. JUSTICE BEKKER :

Shouldn't he have been asked?

MR. TRENGOVE :

My Lord, by the Crown?

MR. JUSTICE BEKKER :

By somebody.

MR. TRENGOVE :

He might have been asked, My Lord. We say he should have been asked by the Defence. If they want to put...

MR. JUSTICE BEKKER :

Just read that phrase again.

MR. TRENGOVE :

After referring to the blood : "There may be blood flowing in that river, there might be anything. But we are going there. These volunteers who are so anxious to do this job, we must tell them this, whether they want to know, whether they want to be given orders now or tomorrow, that must not worry them. They must just wait for the call. When the bell strikes, then we shall do something, then they shall get the call. Somebody has been complaining that our people are being sent to farms. Now we are also going to send to those farms, we shall apply tactics openly, underground..." and so on. What is this, My Lords, the bell that is going to strike, when people have to engage in what is admitted to be, My Lords, unconstitutional, illegal action which could result in a river of blood. He goes on : "We shall apply

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all tactics, underground, openly. We shall do all this, you can believe, you can rest assured that we Africans are hard people. Don't think we just go with the people downstream." And then he comes back, My Lords, to the duties of volunteers. At page 7776, line 5, "We promise them that they must not be disappointed. We are going to fight the Nationalist government until democracy is established. Many people ask these volunteers should be regarded just go and organise, just for the removal scheme. Dr. Verwoerd knows very well that we are waiting for him. One thing with Dr. Verwoerd, he will be learnt a lesson. We are not going to do the things he expects. We have wasted time," .. 'hinting', this should be "thinking, and we should do things our own way. We therefore appeal to volunteers to wait and see what orders are given out. Don't cast your eyes only on the Western Removal Scheme. There are many other things where we can hit Malan hard, very hard. I don't know whether I should push you or whether I should pull you, but I shall be with you all the time." So My Lords, he says many people ask that these volunteers should be regarded just to go and organise, just for the removal scheme. It is not just organising, My Lord, it is not just removal scheme. He says, "We are not going to tell Verwoerd the things he expects", we are going to use all tactics, openly and underground.

COURT ADJOURNS.

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COURT RESUMES.

MR. TRENGOVE :

I was dealing with this speech of Mathole's on volunteers, and if one compared it, My Lord, this approach that volunteers shouldn't ask questions, they are going to be used - I am sorry, My Lord, this is Sibande's speech - where they decide without telling the enemy, if Your Lordships compare that with the statement by Vundhla, also during the course of this Conference at page 7426, where Vundhla says, in the second and fourth paragraphs, where Vundhla says that all we require is our quota, fifteen thousand volunteers. It is not up to this Conference to say you must fight there and not here and not there". Now of course, My Lords, that Conference couldn't tell the Conference what - they couldn't tell the volunteers what they are going to do, this was a joint conference of all the organisations. He says, as long as we have them, we will send them to spots where there is trouble. The record goes on : "Just after trouble, what did you note there? --- I have in parenthesis "applause". The volunteers must go to the spots where there is trouble". And then he goes on : "It is not a clever thing to forewarn our enemies and tell them that the volunteers will either go to Newclare, the man who will be commanding the volunteers will see it is fit to use them, - where it is fit to use them". My Lords, the African National Congress, the Defence, their approach to the volunteers is, sending volunteers to trouble spots, that is My Lords to ensure peace, not to

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have a conflict. But My Lords, if that is the case, why shouldn't one's enemies know that volunteers are going to be sent there? What is this information that you want to keep away from your enemies about the movements of volunteers? My Lords, this speech made in public, and subject My Lord to the limitations of expression that one has at a public meeting, as compared to a meeting like the one at 37 West Street on the 22nd November, this speech about tactics, blood, river of blood, underground tactics, all that kind of thing, My Lords, falls completely in line with the nature of volunteers being what the Crown alleges them to be, a real shock brigade, in a real army of liberation who will, when the bell strikes, have to be prepared to engage in physical combat. My Lords, Moretsele's statement at the outset of this Conference, non-violence, must be read My Lords with what his co-delegates, his co-A.N.C. executives say about the prospect of the struggle in the Western Areas, and their determination and the duties of the volunteers.

MR. JUSTICE BEKKER :

Sibande's speech presumably was interpreted?

MR. TRENGOVE :

Yes, My Lord.

MR. JUSTICE BEKKER :

Did Schoeman do his own interpretation?

MR. TRENGOVE :

No, My Lords, there was an official interpreter, from the platform. But My Lords, whether there was an interpreter or not, Sibande gave evidence on this speech and Sibande explained what he meant by these references.

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My Lords, dealing with the evidence of meetings of Schoeman in the Policy Schedule in chronological order, - of Coetzee, the next meeting, My Lords, is that of the 25th of June, 1954, - the 25th of July, 1954, My Lord. This meeting Coetzee gave evidence, page 7432 of the record. Now My Lords, in cross-examination Coetzee - the cross-examination of Coetzee as to this meeting is to be found at page 7944/45 of the record, and it was put to Coetzee and he admitted, My Lords, that this was a meeting to discuss ways and means of organising the Congress of the People Campaign. Your Lordship will see this is in July, 1954, the beginning of the organisation of the Congress of the People Campaign, and Coetzee's attention was also drawn to a note which he made in which a speaker said that Dr. Malan had been invited and the Nationalist Party and the United Party had refused to attend the Conference. That was read in by the Defence, that was admitted by Coetzee, and My Lords, it was also put to Coetzee in cross-examination that according to the Agenda Kathrada was to speak in volunteers. That, My Lords, is also admitted, page 7945. My Lords, there was no further cross-examination of Coetzee on this meeting. My Lords, a speech was made by Dr. Conco and in his evidence, My Lords, we will be dealing with Dr. Conco's position, he admitted having attended this conference and making this - making a speech.

My Lords, this was a Congress of the People Conference, and it was held under the auspices of the four Congresses, the A.N.C., the S.A.C.P.O., T.I.C. and the S.A.C.O.D. Now My Lords, the Chairman is also Moretsele, and his evidence of his speech starts, My Lords,

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at page 7436, and he talks about the Conference which is going to build peace and create love, not like the Conference of the Nationalists which are to create race hatred and discriminatory laws. He refers to the fact that the United Party and Nationalist Party cliques have refused to come to this conference, at 7436, and then My Lords he deals with that topic, the two political parties up to line 10 on page 7437. My Lords, he makes this observation I mention here, he says - he talks about the Nationalist and United Parties, and he said : "If a member of the United Party are prepared to create any disturbances or cause bloodshed, Congress is not an organising which is for bloodshed, it is a peaceful organisation." The same theme. And then, My Lords, at the bottom of that page, 7437, he refers to the Africans not hating anybody, not hating anybody on account of their colour, and he says of course the Europeans in Parliament make laws, they are excluded, they are not going to accept that, which is detrimental to their progress. And then, My Lords, he deals on page 7438, with this topic of not being provoked, and on 7438, line 20, he says : "I want to tell you, the Affican National Congressis a people's organisation. We are assembled here, even in our Congress, we are not here to create trouble. What happened previously most of you know what happened. It is still going to happen. We know, they think we don't know. But we want to appeal to you, we did not call this meeting for the police. Just do what we tell you when they come to listen to us. We must not get excited, we must rule this country in a proper manner. (Applause).

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So I am appealing to you, show these people that you are better people than themselves. We did not come here for trouble. We came here to discuss ways and means, but let them know one thing, without bloodshed, like the Afrikaners took over this country without bloodshed, we are going to rule this country and make everybody happy and proud. We will go on with the discussion, we don't care who is going to stop us. They must tell Malan.." - that is at page 7439, line 5 - "...They must tell Malan and Verwoerd, of course Swart is sick. We might not get him. All the clique. We are going to rule this country, we are going to take it with our bare hands. They don't know the secret, but we are going to take it, and we are going to rule this country. I hope we shall have confidence in our discussions here. What you have to do, listen, listen people from this table we shall tell you what to do." So My Lords, one has this theme again, combined with the policy of not wanting bloodshed, with their object of taking over the government with their bare hands, they have the secret, the government don't know how they are going to do it. We will be referring My Lord in other speeches to the same theme, how can they take over the government, they haven't got arms, they haven't got ammunition. Your Lordships will be referred to speeches where they say, when the police meet the masses, we, the masses, will take their arms and turn their sten guns back to the owners. My Lord, saying that one is going to take over the government with bare hands, My Lords, does not mean that you are going to negotiate or that you are going to do it through the ballot box. How, My Lords, does one take over governments with bare

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hands? Then My Lords, Dr. Conco, his speech starts at 7349 and he deals My Lords, with the history of the campaign for the Congress of the People, at 7440, which he says is the outcome of the resolution of the African National Congress. He deals with that at 7440, and he deals with the fact that they want true democracy in this country. And then My Lords, at page 7441, line 15, I want to quote a passage, My Lords, from his speech to show how the things that are reflected in the documents, in the reports one finds repeated in more or less the same language in their speeches. He says, My Lords, at line 15 : "Apartheid has a grandfather, fascism in its last phase. The growth of the liberatory movement in South Africa, the liberatory movement in the East, the liberatory movement in Africa, cannot but take notice of the struggle for freedom in South Africa. It is for us to know the African National Congress and South African Indian Congress, whilst retaining their full identity as national organisations, are no longer isolated organisations, but stand together with the S.A.C.O.D. and the S.A.C.P.O., are part of other liberatory movements. The future object or aim of the whole liberatory movement is to awaken the political consciousness of the non-Whites, to fight the Nationalists and get the present rulers in the Union to accept the non-White on the basis of equality and no other, to give them full democratic rights with a full say in the government of the country. It is therefore very important that we must regard our liberatory movement in the Union as part of the liberatory movement in the whole of Africa and in

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fact in the whole world where there are oppressed people. We believe that all oppressed people in South Africa must be liberated if this country is to realise its full development. We in the Union have pledged ourselves to adopt a new method to attain our freedom, that is the non-violent method. The African National Congress has set in motion the liberatory movement, it can well be regarded as the father of that movement, of the movement in South Africa. Contrary to criticism of some of us, it was the A.N.C. which took the initiative in inviting other organisations to discuss the matter as joining (?) immediately to draw up a militant programme against the oppressive measures of the present rulers in South Africa. In 1949 a Programme of Action was drawn up and was received with approval by the Annual Conference of the African National Conference. It is proper to report it here that in this programme of action, many forms were discussed and a militant programme of action was agreed upon. Non-violence of participants became our aim, a non-violent campaign for the Defiance of Unjust Laws was organised by the leading organisations among the non-Whites. The A.N.C., S.A.I.C. and the Native Representative Council was raised as one of the most significant events in the political history of South Africa, many events followed in its wake." And then he deals, My Lord, with the effect of the Defiance Campaign and how it accelerated the political consciousness of the people giving them a new feeling of courage and a new feeling of confidence. And then My Lords, he deals at page 7443, in the middle of the page : "Ladies and gentlemen, we are on the road to

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freedom, the road to freedom is by no means an easy one, I can assure you all it is the correct road. There are three obstacles in our road, let us deal with them one by one". Then he deals with racial discrimination, segregation, which he says is a heritage not only of the Voortrekkers, but is the consistent policy of colonists and fascists. And he says that that is based on the 1910 Constitution. And then My Lords, he deals with the fact that the Union is ruled by a clique of dictators, and he deals with the effect of deportations, and he says at the top of page 7445, "We shall continue in the non-violent plan, and no amount of bans or deportations will stop us. We assure them that in this land of our birth we are pledged to go on with our campaign to full citizenship until we reach freedom". And he concludes his speech, My Lords, in that sense. He says, "Ladies and gentlemen, we are on the road to freedom, and for us in this road there is no turning back, we shall go forward and fight all difficulties that remain before us."

MR. JUSTICE BEKKER :

What kind of meeting was this?

MR. TRENGOVE :

This My Lords, is a joint meeting of the four Congresses inaugurating the Campaign for the Congress of the People.

MR. JUSTICE BEKKER :

Confined to members?

MR. TRENGOVE :

No, My Lords. It was, as far as I understand, My Lords, it was a Conference, it might have been - I think it was a delegates conference.

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MR. JUSTICE BEKKER :

Why should there be this non-violent....

MR. TRENGOVE :

This was the meeting, My Lords, where the interdict was granted against the police, Your Lordship will remember.

MR. JUSTICE BEKKER :

Why should there be non-violent talk at that meeting?

MR. TRENGOVE :

My Lord, I haven't completed this meeting, I will still deal with Kathrada's speech, but it is non-violence My Lords, based on their 1949 Programme of Action, and My Lords, at this part of the meeting of course the police were still there, an interdict was granted against them at a later stage during this meeting. Now I am not saying, My Lord, that because the police are there they emphasise non-violence, I am not saying that at all, My Lords, but what we say is that his statement that their campaign is a non-violent one, is linked up with their Programme of Action of 1949. And we say, My Lords, that that Programme of Action, we will be referring to other speeches, they regarded that as being non-violent only in the sense that they are not going to initiate or take violent action in the first instance themselves.

MR. JUSTICE BEKKER :

That I understand. But the criticism which you levelled at an earlier speech, doesn't hold water here, they weren't looking for recruits here?

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MR. TRENGOVE :

No, My Lords, they were not. My Lords, then the next speech is ...

MR. JUSTICE BEKKER :

As far as this speech is concerned, are you going to refer to other speeches which show that this isn't really - this is a bluff?

MR. TRENGOVE :

Yes, My Lord. I wouldn't say that in this instance it is a bluff, but what I say My Lords is when he speaks here of the non-violent campaign, it does not exclude a violent conflict with the state.

My Lord, the next speech that I want to mention in passing is a speech alleged to have been made by Slovo, a long, rambling speech on the Volkswil, and My Lords, I just want to refer to one portion of it at page 7454, line 15, in which the speaker Slovo refers to Malan and his representatives, and he says "I would say to them, in the past you have come down on the people's movements giving the excuse that what we have done is unconstitutional, is illegal and is leading to violence. Although I have my point of view about this, I do not want to argue about this now, but what I want to say is that the Congress of the People is the most constitutional, the most legal and the most democratic business that has ever been originated in the history of South Africa. All that we desire is that for the first time in South African history, the voice of the people must be heard in the great assembly." My Lords, how Slovo approaches this Congress of the People, he wants to divorce it completely

from the liberatory struggle, and he wants to divorce it completely from the whole Resist Apartheid Campaign, and Your Lordships saw in the A.37, the National Executive Report of 1954, is that for the liberatory struggle in 1954 they planned two things, the Resist Apartheid Campaign of which the Western Areas was going to be the focal point, that, together with the Congress of the People Campaign which was going to provide a mirror of the new South Africa.

MR. JUSTICE BEKKER :

I am afraid I didn't quite follow this. You say he sought to divorce in that speech the C.O.P. from the liberatory struggle? Where do you find that?

MR. TRENGOVE :

He talks about the Congress of the People Campaign, he says in the past - he talks to the police at this meeting "Let me just say one more thing to Malan and his representatives, and I will say this to him. In the past you have come down on the people's movement, giving the excuse that what we have done is unconstitutional, is illegal and is leading to violence." So he tells the police and the government that your attacks upon us in the past have been based as being illegal, unconstitutional and leading to violence. He says, now I have my own views about that. He says, "but what I want to say is that the Congress of the People is the most constitutional, the most legal and most democratic business that has ever originated in the history of South Africa". Now My Lord, if the campaigns in the past, based upon the Programme of Action of 1949, and if campaigns such as the campaign in the Western Areas have been campaigns

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which are illegal or unconstitutional or leading to violence, if they form part and parcel of the campaign for the Congress of the People, it is idle talk for Slovo to suggest in his speech that the Congress of the People should be regarded in isolation and as such it is the most legal, the most democratic and the most constitutional business ever organised. It is part, My Lord of the same plan, it is part of the same conspiracy, it is part of the same liberatory struggle.

MR. JUSTICE BEKKER :

Might it not just mean this, in the past where they have said we have been illegal, I have got my own ideas about that, but I am not going to worry about that, but as far as the C.O.P. is concerned, it is the most constitutional, the most whatever other adjectives he uses there, because this is a true democracy. Does it mean anything more than that?

MR. TRENGOVE :

That is what he is trying to convey.

MR. JUSTICE BEKKER:

That is clear.

MR. TRENGOVE :

But My Lord, he is ignoring the fact that this whole campaign is part and parcel of the liberatory struggle, and that this whole campaign is merely to draw up the constitution, to hold out to the people something...

MR. JUSTICE BEKKER :

I don't see where he ignores that.

MR. TRENGOVE :

May I put it this way, My Lord. Our case is that if one has, My Lord, an illegal conspiracy, and unlawful

conspiracy, and everything is - then everything is tainted by that illegality, and you cannot claim, My Lord, that certain actions, a certain part of your campaign divorced from the rest of your conspiracy becomes legal and constitutional if taken in isolation.

MR. JUSTICE BEKKER :

Yes, the only thing I am quarelling with you about Mr. Trengove is this, I don't see how in that speech Slovo says I am disassociating the Congress of the People from the liberatory movement. I don't find that idea at all.

MR. TRENGOVE :

My Lord, I say - I don't say he says that, but I am arguing, My Lord, we submit that you can only make that type of statement if you divorce it from the rest of the struggle in which you are involved.

Now My Lords, I turn next to the speech of Kathrada, in which the Chairman asks Kathrada to make a speech. He says, "It is my task this afternoon to speak to you about the task of the volunteers, the freedom volunteers." That is at page 7463. "If I want to describe in one word the task of the freedom volunteers, I would say that our freedom volunteers are going to be the top brigade of the fifty-thousand strong in the army of national liberation in this country. Every army in the world has got its hard core of men to rely on under all circumstances, to perform a task where there are great difficulties, great hardships, and tasks that demand greater vigilance and sacrifices than the rest of the tasks." Now My Lords, before going further I want to ask Your Lordships to consider this speech in the light

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of a statement that Kathrada makes later on in his speech, that this hard core is going to be a non-violent army of liberation. He says, "Our freedom volunteers are going to provide that hard core of men in our army of liberation.

In our army of national liberation led by the Congress movement in this country, but ours is not going to be like the armies you know. Quite unlike the imperialist army, known to the masses of Asia and Africa through hundreds and hundreds of years of oppression; quite unlike the so-called Western civilisation; quite unlike the armies of the so-called Western civilisation, who have perpetrated the most monstrous and hideous crimes in Korea and Kenya; quite unlike the armies of the so-called enlightened nations who have left behind the hundred thousand illegitimate children in Germany and Japan; quite unlike all these, in fact in contrast to these." Now I want to stop there for a moment, My Lord. Your Lordships sees that what he does is he opposes - in his comparison he opposes the army of liberation with the imperialist armies, the armies of the oppressors in Asia, the armies of the oppressors in Korea and Kenya, and the armies of the enlightened nations that took part in wars in Germany and Japan. Now why, My Lords, are these armies different? My Lords, he doesn't say our army is different from the oppressed people fighting the imperialist oppressor in Malaya, or from the liberation movement of the oppressed people in Kenya, or from the liberation movement in Korea, he takes the imperialist armies and he says, our liberation movement is not going to be that type of army. And he says why not? He says : "Ours

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is going to be a new army with a new kind of religion. Ours is going to be the so-called torch burners (? bearers) of civilisation. What civilisation means. Ours is going to carry the light and truth to areas and to people who have been deliberately kept in darkness for years and years. Ours is going to the four corners of South Africa, not with guns, not with bombs and other weapons. Ours is going to organise the people, not for rape, not for destruction, our volunteers are going into the field with a purpose far stronger than everything we have seen before. Ours is a non-violent army, we consider ourselves too civilised to resort to barbarism and our mission is to organise this great assembly in the history of South Africa on our march to freedom! He says: "Previously, Mr. Chairman, I explained what the Congress of the People is, what its aims are, and do not wish to cover the same ground again, but there is one point that I feel I must emphasise. In the great Defiance Campaign we have been dividing this country into two distinct camps, the camp for peace and freedom led by the African National Congress, and the camp for reaction and oppression led by the Malan government. The Congress of the People must provide the next opportunity to emphasise democratic South African demands and to take our struggle to a higher level." That is what the Congress of the People was, inter alia. "And it is for carrying out these aims that our freedom volunteers will have to play a great part. There are a great number of tasks which the volunteers will be called upon to perform, tasks that the oppressed South Africa is looking upon them to perform with determination, courage and confidence.

On our path there is no turning back. The important thing therefore is, that these freedom volunteers must realise that this does not just mean finding another form of joining another society. All of us should realise that our path is not going to be smooth and full of roses. The primary task of the freedom volunteers as has already been explained from the platform, is to carry the call, the message, to bring the Congress of the People to every new corner of South Africa." And then he deals with carrying out the message, and he says at page 7465 : "Volunteers must discuss with the people their conditions, their demands, and have it carefully studied, and must bring back the demands, these details to the organisers who will then have the aspirations of all of us in South Africa, and they can record that in the Freedom Charter. The volunteers must at all times bear in mind that we are going to the masses of our country, not with something we hope, something that is far, far away from their daily life. The Congress of the People must be made into a living movement which will take into account each minute detail and ensure that they are conveyed to the proper committees for discussion." And then he talks about the things that the volunteers have to explain to the people, Bantu Education, Pass Laws, local complaints. And then he carries on, My Lords, at page 7466, dealing with the instructions issued to volunteers, he says : "There will be many obstructions, they will meet many difficulties, and most important of all we must tell them again, constant provocation from all forces, They will come up against provocation with their own people who

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are openly in the hands - in the camp of the enemy, like those police who are sitting here this afternoon, and they will come across provocation by people, by dirty things who will go out to create suspicion and destruction. They must be a disciplined corps of men, our volunteers must never allow themselves to be provoked, and the volunteers must ensure by constant explanation that people too are not unnecessarily provoked." And then he goes on, My Lords, "In all great movements such as ours, and here we must learn a lesson from the national liberatory movements in other countries, in all these movements the enemies will resort to all sorts of methods, ranging from fights to open brutality in an attempt to crush our movement. Volunteers must be ever vigilant, and guard against these acts. Everytime volunteers allow themselves to be provoked, we must remember it is a victory for the enemy. Foremost in our mind must be the goal for which we are striving, and we must all behave in a manner which does not in any way harm the progress of our movement. Bear in mind that the enemy in its fear, in its desperation are trigger happy. Police orders have been renewed (?) by Blackie Swart to his police, they must shoot first and think afterwards. We do not want to waste a single drop of freedom blood unnecessarily." And then he deals with Luthuli's Call, and he says after referring to Luthuli's Call at page 7467, he says at line 10 : "As a freedom volunteer you must teach your pupils the true history of South Africa, the history of great men of Africa like Dingaan and their great sacrifice against aggression.

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You must teach the children to remember and to love these people and to learn from them. The teachers must instil in the young minds not the poison but the patriotism and love for South Africa. They must instil into the young minds the spirit of revolt against Bantu Education and all, everything that carries with it the stamp of inferiority. They must build up a strong and upright people, people ready to fight, just like the leaders, the teachers have the same tasks to perform. You must carry the call of the Congress to every congregation throughout the length and breadth of South Africa." And then he deals, My Lord, with the propaganda they have to carry on to carry through the message to sports-fields and all other places.

Now My Lords, on the face of it, taken by itself, one may argue that if this speech was the only indication of what volunteers had to do, that Kathrada was telling the volunteers that they were non-violent and had to avoid violence - but My Lords, we say that Your Lordships will take this speech in conjunction with the others on the tasks of volunteers, and one will ask, My Lord, what is this great vigilance...

MR. JUSTICE BEKKER :

Just pause there please. Take this speech in conjunction with other speeches?

MR. TRENGOVE :

On volunteers.

MR. JUSTICE BEKKER :

Made by?

MR. TRENGOVE :

Made, My Lords, by the Congress movement. My

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Lords, this is a joint meeting of Congresses. My Lords, one may in the case of an individual say well, that is the only speech that he ever heard about volunteers, that is the only knowledge of it. He may not regard it as a violent speech. But when one deals My Lords with the organisation and their volunteer brigade, which the African National Congress was conducting the campaign jointly with others, then at meetings organised by the African National Congress with other organisations, Your Lordships would be entitled to have regard to all these speeches dealing with volunteers in deciding what was the nature of the duties of the volunteer brigade. My Lords, this is a meeting not only of the T.I.C., but a joint meeting on the Congress of the People.

MR. JUSTICE BEKKER :

Shouldn't this be regarded as a speech setting out on behalf of all the organisations what the duties of the volunteers happen to be?

MR. TRENGOVE :

This is a speech setting out by Kathrada what the duties of volunteers are at a joint meeting. And My Lords, the African National Congress, -Your Lordships will have to consider that together with other speeches of the African National Congress in regard to volunteers. My Lords, we are arguing - and we can't have it both ways, we have to have regard to the fact that at other places other speeches were made which the African National Congress must assume responsibility for, and this My Lords is one of those speeches. Either they get the credit for it, or they have to take the responsibility for it.

CASE REMANDED TO THE 22nd NOVEMBER, 1960.

COURT ADJOURNS.

MR. TRENGOVE: My lords, at the adjournment yesterday I was dealing with the speech of Cathrada in connection with the volunteers.

Now, my lords, this type of speech may serve as an illustration of how one does find in certain circumstances that an accused would make a speech which is not per se violent. My lords, it's not a speech which should be considered in isolation, either the speech itself or apart from the other speeches of the particular speaker; it's a speech, my lords, which one must consider having regard to the circumstances, and, my lords, having regard to the fact that circumstances do arise where even an organisation which has a policy of violence may find it expedient to represent that policy in a particular way.

Now, my lords, in this case the Crown readily concedes that there may be many speech which on the face of them appear to be non-violent but, my lords, we say there are many reasons why at certain times these organisations would make speeches which would have the effect of being non-violent. One has to have regard, my lords, to the fact that in many cases the presence of the Police may serve as a factor which may influence a speaker not to express himself as strongly as he would like to. And the presence of the public in general, my lords, may have that effect. It may be at a stage when the organisation is still looking for other Allies. Your lordships will remember that in this case, when they embarked on the Congress of the People Campaign up to a certain point the organisations were still hoping to have the support not only, my lords, of the United Party and the Nationalist

Parties, but up to a very late stage also of the Liberal Party.

Now, my lords, in order to enlist the support of those organisations for a particular campaign, people who support them on specific issues, it would be most imprudent, my lords, to represent their policy in a way which would frighten people who fight by legitimate and constitutional means.

BEKKER J: As far as these Parties are concerned, haven't they burnt their bridges?

MR. TRENGOVE: Pardon, my lord?

BEKKER J: As far as these Parties were concerned and having expressed their views on the United Party and the Nationalist Party and the Liberal Party . . .

MR. TRENGOVE: My lord, it's on record that for the Congress of the People they were still seeking the support of the Liberal Party; they were still seeking their support, my lord.

BEKKER J: Yes, but the Liberal Party refused.

MR. TRENGOVE: Yes, my lord; at what stage, my lord?

BEKKER J: I don't know.

MR. TRENGOVE: They refused, my lords, not at the stage when the Congress of the People idea was first mooted, when this speech of Kathrada was made in June of 1954; the Liberal Party withdrew their support, my lords, at a much later stage. But, my lords, there are other factors, too. Even though one gets many such meetings evidence was given in this Court of delegates who came from the country - for instance to Pietermaritzburg - and those delegates had to be persuaded, my lords, to

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join these campaigns, and it doesn't necessarily follow, my
lords, that the delegates themselves know at the stage when
they are sent to these Conferences, know what the real pur-
pose is and what the real object of these meetings is.
My lords, that is one consideration. There may be many
5 reasons, my lords, why one on occasion expresses your
policy to be non-violent, but, my lords, as opposed to
that what reason is there to express as a policy of your
organisation a policy which is either violent or suggestive
of violence? What reason is there for that, my lords,
10 and that is the thing - - that is what the accused and
what the organisations in this case have to explain.
Why, my lords, on many occasions did they make speeches
which were either violent or suggestive of a violent
policy?

15 And your lordships will have to consider if
the explanation that was offered in this Court, and which
is the only explanation that was offered, my lords, namely
that on those occasions the particular members of the orga-
nisation were speaking outside the policy, whether that,
20 my lords, is a satisfactory explanation for their conduct.

But, my lords, take this speech of Kathrada.
Take the speech of Kathrada, on the 25th June, 1954, which
we say may be in a sense non-violent, but which is not
inconsistent with an organisation having as its policy
25 a violent overthrow of the State. Now, your lordships,
I want to use this illustration because it might arise
time and again, how the speech of a particular speaker
must also be seen against the background of what that
very same speaker, my lords, said on other occasions.
30 Now take Kathrada. My lords, on the evidence - and I'll

be dealing with this under the evidence of Magalele,
the witness Magalele; on the 22nd February, 1953 evidence
was given of a Colonial Youth Day Rally. This is in
vol.44, at which Kathrada made a speech, and that speech
is on page 8768 to 8770 of the record. I will be deal-
ing with that - after referring to Liberatory struggles
in other countries, after referring to people who were
shot by the police at East London, Port Elizabeth and
Denver, according to the evidence here he concludes his
speech - "That we like to live but not to die; we want
to make everybody happy. In order to achieve this we
are prepared to do anything", and he says: "If death is
the price we accept it".

My lords, on the 5th May, 1954, also prior to this
meeting, at an African National Congress meeting in Sophia-
town . .

BEKKER J: What date?

MR. TRENGOVE: The 5th May, 1954, my lord. It's
a meeting reported by Hattingh; this will also be dealt
with, my lords, when we come to Hattingh. Vol. 43,
at page 8438 there is a speech made by Kathrada at an
A.N.C. meeting in which he referred, my lords, to the
Removal Scheme, in which he refers to Korea, Vietnam,
the struggles elsewhere - in which he says that this
Government will kill them as they are doing elsewhere
in their struggles. He refers to Hungary, my lords,
he refers to China and then he concludes his speech,
"You must be prepared for this struggle; it will be a
hard struggle. Many of us will go to gaol, many will
die, but we will only rest when Luthuli is our Prime

Minister." And, my lords, another speech of Kathrada 1
18/11/56 reported by witness Ngcai, vol. 46, page 9230
in which he points to what happened to the traitors in
Hungary, and he asks the audience "What will we do with
people like these?" and the audience says "We will kill
them", and then he concludes his speech by supporting 5
the Soviet Army, and "Down with American and English Im-
perialists."

My lords, that will be dealt with when
Kathrada's personal position is dealt with, but I sub-
mit, my lords, that his speech - taking it in conjunction 10
with other speeches he made, was after all -- he was, my
lords, one of the members with Resha on the Transvaal

Volunteer Board. Now, when one has a look at this
speech, my lords, the question that I suggest with respect
my lords, that one must ask oneself is "Is this the type 15
of speech that would be made about the duties of volun-
teers if they were merely going to be what one might call
a group of people organising for the Congress of the People."

Collecting demands, telling the people of the Congress of
the People and, my lords, getting them to send in their 20
demands.

Now he starts off, my lords, by referring to the
Freedom volunteers as the top brigade in the Army of Na-
tional Liberation. Now, your lordships have had the
evidence, your lordships have heard what the Liberatory 25
struggle in this country is, and these 50,000 volunteers
are going to be the top brigade in that National Libera-
tory struggle.

Now, my lords, it's not merely a question of
collecting demands or spreading information. The Libera- 30

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tory struggle, we have submitted, my lords, it is clear
from the documents that the Liberatory struggle in this
country is placed by the A.N.C. and the other organisa-
tions on a par with the Liberatory struggle in other
countries, which they mention themselves. I'm thinking
5 at the moment of A.M.K.66, my lords, the "Lodestar"
which was found in Kathrada's possession, which refers
specifically to the meaning of the Liberatory struggle
in Kenya to the people of South Africa.

My lords, he says that this army has got to
10 perform a task with great difficulty, greater hardships,
greater sacrifices, greater vigilance than the rest of
the tasks, and my lords, what greater hardships, what
greater vigilance, what greater sacrifices is he referring
to if it's merely spreading the demands?

15 Then, my lords, he finds it necessary in re-
ferring to this Army of Liberation - he finds it neces-
sary to point out that this Army of Liberation is dif-
ferent from the - - and I make that point again, my
lords - - different from the Imperialist Army; he does
20 not say, my lords, that "Our army of liberation is going
to be different from the liberatory armies that fought the
Imperialist armies in Korea, Malaya, Kenya and Indonesia
- the only distinction that he makes, my lords, is to dis-
tinguish them from the Imperialists. And then he says:
25 "It's a new kind of army which is going to be non-violent",
but having done that, my lords, he immediately divides
the struggle in this country - he divides it, my lords,
into two camps; there are the same two camps that he's
divided the world into, the camp for peace and freedom
30 led by the African National Congress, and the camp for

reaction and suppression.

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And then, my lords, he points out that the National Liberatory Movement in other countries must be looked to because they give them the lesson, and what lesson is that, my lords? It's the lesson that everywhere the enemies of the Movement will resort to brutality in an attempt to crush the Movement.

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And then, my lords, he concludes in this reference by saying: "The people must not allow themselves to be provoked because we do not want to waste a single drop of Freedom blood unnecessarily." That's what his attitude is, my lords. He sees that in their struggle just as in the struggles of other liberatory struggles they will be brought into contact with the oppressors of the National Liberatory Movement, and, my lords, the injunction to his people is not to be provoked because freedom blood must not be spilled unnecessarily.

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KENNEDY J: Are you reading from A.M.K.66?

MR. TRENGOVE: No, my lords, I'm reading from his speech of . . .

KENNEDY J: Of the 18th November?

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MR. TRENGOVE: No, my lords, I am dealing now with the speech I dealt with yesterday of the 25th July, 1954, in which he says "We do not want to waste a single drop of freedom blood unnecessarily." In that context, my lords, we submit that it's quite clear that Kathrada, although on this particular occasion he was merely explaining what the functions of the volunteers would be in connection with the Congress of the People - because, my lords, that was the object of the meeting - - he was not referring to the other duties of

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the volunteers in connection with the "Resist Apartheid Campaign" - - although, my lords, he was dealing with a limited aspect of the duties of Freedom Volunteers in the Congress of the People he nevertheless foresaw that as in other liberatory struggles this army of liberation could become involved in a violent conflict because they were up against a ruthless oppressor and so they had to reserve, or conserve their forces, so as not to waste a single drop of freedom blood unnecessarily.

Therefore we say, my lords, that if properly analysed; if one has regard to the persons who made the speeches, this speech is not inconsistent with the speech that Resha made, the Murder-Murder speech - - it is not inconsistent with the speech of Ndimba and with many other speeches dealing with the duties of volunteers.

RUMPF J: Mr. Trengove, as far as I have been able to follow you up to now in regard to the A.N.C. generally, is it correct that you have submitted that the A.N.C. wanted to organise the masses against the State? I think you've submitted that by a process of campaigns, strikes, stay at homes, the A.N.C. would through the masses make its demands, and finally, if those demands were not met and if the circumstances are favourable in the sense that the masses are sufficiently politically conscious, that they would organise a Nationwide strike which would be the final clash?

MR. TRENGOVE: Yes, my lord.

RUMPF J: A final clash between the people and the State.

MR. TRENGOVE: Yes, my lord.

RUMPF J: I think you have submitted that in

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