

record its presence and that it was found in this search.  
 Now I want to come to a document you handed in, "Minutes  
 of the Executive Committee of the Transvaal Indian Youth  
 Congress", M.M.126. Portions of that were read in by the  
 Crown. I just want to draw attention to other matters 5  
 dealt with in the Minutes, to show the scope of the activi-  
 ties of the organisation. On the first page there is a  
 reference to a dance, a film show, there is reference  
 lower down to typing classes, to the Booyens High School,  
 and on the next page there is reference to a tour to 10  
 Durban and various other matters like the hiring of a  
 projector. All those activities are dealt with in these  
 Minutes. And then I want to come, Sergeant, to the  
 procedure adopted by you in the course of your search. I  
 think you said, - correct me if I am wrong - that the 15  
 Accused Moosa Moolla claimed that the documents you took  
 were his documents. Is that correct? --- That is correct,  
 My Lord.

Now I am referring particularly to the  
 search on the 3rd June. Was that so on that occasion? 20  
 On the 3rd June, 1955? --- That is so, My Lord.

How did it come that he claimed these docu-  
 ments as his own? --- My Lord, there were three Indians  
 sleeping in the same room, occupying the same room, and  
 I specially asked him whether the documents belonged to 25  
 him or anyone else.

Do you know who the other occupants of the  
 room were? --- I am not quite sure, about one of them. I  
 know one is Peter Joseph, Paul Joseph's brother, but the  
 other one I don't know 30

Could one of them have been a relation of  
 the Accused E. Moolla, is that possible or can't you

remember? --- I don't know the other Indian's name.

Did you make any note of what you did in the room as to what was said? --- No, My Lord, I made no notes, except that I made a note of the documents that I took.

Have you ever been asked about this - since the date of your search in 1955, have you given any evidence to this effect before? --- I don't follow the question, My Lord.

Did you say this at the earlier proceedings in the Magistrate's Court, that these documents were claimed? --- I can't say now whether I said so.

You see, certain of the documents, my evidence is, are not the property of the Accused No. 11. I have some difficulty in understanding how he could have claimed them. Are you sure of this? --- I am sure. I specially asked him, because I found three Indians in the same room, My Lord.

I just want to put it formally, at any rate in regard to Exhibit M.M.139, and there may be others, but I am not instructed on them at the moment, M.M.139 is not the property of the Accused No. 11? --- He claimed all the documents that I seized that morning.

I should just indicate that that is the book of Minutes, M.M.139, My Lord.

The Accused will say that he claimed no documents, none whatsoever as being his property.

FURTHER CROSS-EXAMINATION RESERVED.

BY MR. JUSTICE RUMPF :

In connection with this particular search, on the 3rd of June, was it a flat or a house? --- It is a house, My Lord.

Do you know how many rooms there are in the house? --- My Lord, I am not quite sure, but there is the front room which is occupied by Paul Joseph and two others, and there is another room on the right - I am not quite sure - I am sure of three rooms, two bedrooms and the kitchen. I am sure of three rooms, there may be four. 5

Do you know who is the owner of this house? --- The actual owner is the mother of Paul Joseph. She occupies the house with her daughter and Paul Joseph, his brother and another man. 10

Apart from the documents that you have handed in, were there other documents that you didn't take away? --- There were documents I did not take away.

The documents that have been handed in, can you remember where they were found? --- They were all found in the one room occupied by Paul Joseph. 15

Were all the documents found in the house found in that room? --- In that room, My Lord.

Do you know which room was occupied by Moosa Moolla? --- Moossa Moolla never stayed at this house, My Lord, he stays in Kholvert House. He at no time stayed there. 20

When you searched this room, where the documents were found, was Moosa Moolla present? --- At Moosa Moolla's place he was present. That is a different address altogether. Moosa Moolla is in Kholvert House, and this is at Paul Joseph's, 74 Avenue Road. 25

I am sorry, I am dealing with a search on the 3rd of June? --- At Moosa Moolla's flat, My Lord? 30

Yes, I think that is a flat? --- Yes, My Lord. I may be wrong with the searches, but Moosa Moolla

and other Indians stay in the same flat in Kholvert House,  
and that flat also is occupied by a few other Indians  
whom I don't know.

BY MR. JUSTICE KENNEDY :

I thought you said on the 3rd of June you 5  
searched Kholvert House? --- That is correct, My Lord. I  
may have made a mistake with mixing up with Paul Joseph's  
house at 74, Avenue Road.

BY MR. JUSTICE RUMPFER :

Will you have a look at M.M.139? --- Yes, 10  
My Lord, this I took at Moosa Moolla's flat at 5 Kholvert  
House, 27 Market Street, Johannesburg.

Now was that a flat? --- That is a flat.

Can you remember how many rooms there were  
in that flat? --- I think there are only three, a bedroom, 15  
a sittingroom and a kitchen.

Was the occupant - was Moosa Moolla the  
occupant of that flat? --- He is the occupier of only the  
one room, My Lord.

Which room? Can you remember? --- The 20  
sittingroom.

Who, - if you can remember, who were the  
other occupants of that flat? --- Another Indian woman  
whom I do not know, My Lord.

Did you find this Exhibit M.M.139 together 25  
with other papers and documents and books in that flat?  
--- I did, My Lord.

Where? --- In the flat, in a sort of  
cupboard, My Lord.

Where was the cupboard? Can you remember? 30  
--- It is situated in the North side of the room.

In which room? --- In the sittingroom.

It is also used as a bedroom by Moosa Moolla.

On this occasion, was Moolla present? --- He was present, My Lord.

Were any other documents found in any other parts of the flat if you can remember? --- No, My Lord, I only took documents from this one room. 5

Was anybody else present in the room when you and Moolla were there? --- The Indian woman stood at the door, My Lord. I didn't allow her to enter the room.

Did you inform Moolla that you were looking for documents? --- I did, My Lord. 10

Can you remember what you said? If you can't remember then you must say so? --- My Lord, I only said "Moolla, you know me, I am from the C.I.D. and I am going to search your room for documents" and then I conducted the search, My Lord. 15

And then? --- Then I took the documents, sorted them out, and told Moolla that "These I am taking possession of".

Was anything else said about the documents? --- So he claimed the documents, My Lord, he said "All these documents belong to me". I told him, "You are occupying this room, and I see other people living in this flat, now who does the documents belong to", and he said, "They are all mine". 20 25

Can you remember whether he claimed some of the documents and disclaimed others? --- No, My Lord, he claimed all the documents.

Did you look for documents elsewhere in the flat? --- Yes, My Lord, I went to the bedroom of this Indian woman, and there I found nothing. 30

So these were the only documents that you found in the sittingroom? --- That is all, My Lord.

Do you remember if you went through the documents individually in front of Moolla? --- I did, My Lord, when I was sorting them out, My Lord.

Did you leave some documents behind? --- I did, My Lord. Some documents which I thought was of no value I left behind. 5

Did he see the documents that you were looking at? --- Yes, My Lord, I made a list of all the documents that I took, and I gave him a copy of the list.

What was written on that list that you gave him? Can you remember? --- If I remember well, My Lord, it was "Documents seized from flat No. so-and-so, Kholvert House" and the date, and I signed below. And if I am not mistaken, I - Moolla signed himself. 10

That doesn't matter. The point is, "Documents seized from flat so-and-so"? --- Yes, My Lord. So-and-so Kholvert House, Market Street, occupied by so-and-so. I wrote that down, "occupied by Moosa Moolla". 15

Did you add anybody else? --- No, I did not.

Have you got the original list? --- My Lord, the original list was with the documents, I don't know what happened to it. 20

BY MR. TRENGOVE :

We have the list here, My Lord.

BY MR. JUSTICE RUMPF : 25

I would like to see that.

BY MR. TRENGOVE :

Your Lordship will find that the second page of that list starts - on the back page are recorded the signatures. 30

BY MR. JUSTICE RUMPF :

The opening says this : "The undermentioned

literature taken from Moosa Moolla, at Flat 5".

BY MR. TRENGOVE :

Just before the signatures Your Lordship will find a reference there to "File Mathieson and Ashley", containing notes and minutes. M.M. 139 is a file, and it does bear the words "Mathieson and Ashley".

BY MR. JUSTICE BEKKER :

When did Moolla sign that? The same day or some time thereafter? --- He signed it the same day, My Lord, at the flat.

BY MR. JUSTICE RUMPF :

Did you give him a copy of the list? --- I gave him a copy of the list, My Lord.

Was it a copy in identical terms to this? --- I had a carbon inbetween, My Lord, and I gave him the carbon copy.

This is in ink? --- Yes, My Lord.

And it starts off, "The undermentioned literature taken from Moosa Moolla at Flat 5". Would that also appear on his copy? --- That is correct, My Lord.

This document will go in, as Exhibit X.1.

WITNESS STANDS DOWN.

-----  
JACOBUS HENDRIK LOOTS, verklaar onder eed;

EXAMINED BY MR. TRENGOVE :

You are a Captain in the South African Police, and you are stationed at Klerksdorp? --- Yes, My Lord.

On the 1st of December, 1953, where were you on duty? --- I was in charge of the Detective s

of the Jan Smuts Airport Police.

What were your duties there? --- Security work, My Lord.

On that day did you take possession of documents from anybody? --- Peace documents of a passenger Phillip Nokwe, My Lord. 5

You say this person was a passenger. Did he arrive by overseas plane? --- He arrived with the El Al Air Service, My Lord from Lidda, Israel, Flight number 101/30. 10

The person from whom you took the documents, do you see him in Court? --- (WITNESS POINTS OUT PERSON IN COURT).

You have certain documents in front of you, is that correct? --- Correct, My Lord. 15

Have you got a document marked P.D.N. 2? --- Yes, My Lord.

P.D.N. 5, P.D.N. 6, P.D.N. 24, P.D.N.29, P.D.N.30, P.D.N.31, P.D.N.32, P.D.N.33, P.D.N.34, P.D.N.37, P.D.N.38, P.D.N.57, P.D.N.58, P.D.N.63? --- Yes, My Lord. 20

Now those documents, where did you get those documents? --- Whilst the customs officers were examining the luggage of the passenger, I noticed these documents now before Court in his possession, and I therefore seized them after glancing through them, My Lord. 25

This passenger that you refer to, is that the one that you have identified? --- Yes, My Lord.

As P.P.D. Nokwe? --- Yes. 30

You saw the documents in his possession. How were they in his possession? --- In his suitcase, which

was at that time being examined by the customs officers,  
My Lord.

P.D.N.2 is the book "The Seventh All China  
Congress of Trade Unions", published in Peking, 1953.

You hand in this document for possession.

5

P.D.N.5 is a document, "A Guide to New China", 1953,  
Foreign Language Press, Peking, printed in the Peoples'  
Republic of China.

P.D.N.6 is a similar document, My Lord, I am not putting  
that in because it is the same.

10

P.D.N. 24 is what has previously in this case been refer-  
red to as "a Street Map of Bucharest", it is a brochure

"Bucharest, 1953", and it refers to the Fourth World

Festival of Youth and Students for Peace and Friendship,

and it contains references to certain buildings and public 15

places apparently in Bucharest. Under the heading

"Exhibition" there appears the following : "The Inter-

national Documentary Exhibition", the "W.F.D.Y. Exhibition",

the "I.U.S. Exhibition", and the "Museum - Revolutionary

Struggle of the Rumanian People", and the "V.I. Lenin and 20

J.V.Stalin Museum" amongst other exhibitions referred to

in the document.

P.D.N.29 is a brochure, "For Friendship and Co-operation",

27th August-3rd September, 1953 at Warsaw, the Student

Event of the Year.

25

P.D.N.30 is a booklet, "This is the I.U.S." 1953,

a publication of the International Union of Students.

P.D.N. 31 is a document "The British Road to Socialism",

published by the Communist Party, London, and in the

introduction it has the following contents :

30

"Introduction. Peace and friendship with all  
peoples. National Independence of the British

People and of all peoples of the British Empire.  
 Peoples' Democracy, the path of socialism.  
 Socialist nationalisation and the use of Britain's  
 resources.  
 Social and cultural advance. 5

The Communist Party and the Way Forward."

P.D.N. 32 is a booklet, "Peoples' Democracy for Britain",  
 by J. Gollan. It is published by the Communist Party,  
 London, April, 1952.

P.D.N. 33 is a brochure "Kenya - What are the Facts?", 10  
 by Philip Bolsover. It is published by the Communist  
 Party, London, May, 1953.

The next is P.D.N. 34, it is a booklet, "Problems of  
 Economic. The Academy of Sciences of the U.S.S.R." a 15  
 monthly Journal published by the Pravda Publishing House,  
 1952, and printed in the Union of Soviet Socialist Repub-  
 lics.

P.D.N.37, is a booklet "The Marriage Law of the Peoples'  
 Republic of China", published by the Foreign Languages  
 Press, Peking, China. 20

P.D.N.38 is a booklet "Young Builders of China", pub-  
 lished by the Foreign Languages Press, and printed in  
 the Peoples' Republic of China, 1953.

P.D.N. 57 is a printed document without a cover, - I  
 don't know whether it had a cover - but for purposes of 25  
 identification I read out the various chapters :

"Session 1. The Fruits of Imperialism."

Then there is a chapter,

"Session 2. The Crisis of British Imperialism".

"Session 3. The National Liberation Movement". 30

"Session 4. Right-wing Labour and Empire",  
 published by the Communist Party, London.

I ask Your Lordship's permission now to read portions of this document, P.D.N.57. Page 12, under the heading "The National Liberation Movement".

"Origins of the National Liberation Movement.

The freedom struggle and revolt of the colonial people against their oppression has developed continuously with the spread of colonial Empire. But it is only in the modern era, as conditions have ripened, first with the development of the colonial bourgeoisie and then with the development of the colonial working class, that the elementary popular revolt of the people has been able to advance to the stage of powerful national liberation movements capable of uniting and organising the great mass of the people.

The early forms of the modern national movements in the colonial countries, outside Europe, first took shape during the latter decades of the nineteenth century in some of the more advanced colonial countries such as India, China and Egypt.

These early stages of the organised national movement were led by representatives of the emergent national bourgeoisie...."

And then the article goes on in the next paragraph

"Effects of the October Revolution."

And then on page 13, there is a paragraph :

"The Effect of the Second World War.

The world war of liberation against fascism powerfully speeded up the development of the colonial revolution.

The rottenness of the old imperialist structure was shown by the collapse of the old colonial

Empires in Asia before the Japanese advance (Malaya, Burma, Indo-China, Indonesia, etc.), the myth of the military invincibility of Western imperialism was shattered in the eyes of these people. Thousands of colonial soldiers were drawn from their homes to fight for the freedom of conquered European nations and began, inevitably, to ask themselves why they should not also fight for the freedom of their own countries. Abandoned by their imperialist rulers the peoples of S.E. Asia, as in Malaya and Burma, built up their own national resistance movement which, under Communist leadership, conducted the heroic struggle against the Japanese invaders.

Above all, the inspiring example of the unbreakable strength of the U.S.S.R. which bore the main brunt of the war and shattered nine-tenths of the Nazi forces, together with the role of the national liberation movements in Europe under Communist leadership and the victory of the new People's Democracies in Eastern Europe, gave a strong impetus to the new movements of liberation in the colonial countries.

After the Second World War a new era opened for the colonial liberation movement. The strongest new influences in the general advance were victory of the Chinese Democratic Revolution and the establishment in 1949 of the Chinese People's Republic.

The outcome of the Second World War developed and extended the revolt of the colonial people into a crisis of the whole colonial system. A number of new and important features appeared :

(a) The victory of Chinese democracy over Chiang Kai-shek and Anglo-American imperialism transformed

the balance of world relations and exercised far-reaching influence on the advance of the colonial peoples in other lands.

(b) New independent states were constituted by former colonial peoples fighting to maintain their independence against the armed attacks of the imperialist forces (Republic of Viet Nam, Korean People's Republic).

(c) In other colonial countries, where independent states had not yet been formed or where imperialism had set up phoney 'independent' states, the liberation movement began to develop on a much higher level, including in certain places armed struggle (Malaya, Burma, Phillipines, India).

(d) The geographical range of the colonial movements extended far wider than ever before. Of special importance was the development in many countries of Africa.

(e) The Communist Parties began to play a leading role in the liberation movement of ever more colonial and dependent countries."

Then under the heading "Our Responsibilities to the National Liberation Movement" :

(i) Marxism has always taught that the liberation of the colonial peoples represents not only the interests of the colonial peoples themselves as the first condition for their own social and economic advance, but equally the interests of the mass of the people in the ruling imperialist country, and especially the working class in their fight for Socialism. The resolution of the First International in 1869 drafted by Karl Marx, and adopted by the

General Council with participation of representatives  
of the British trade unions, declared :

'A people which enslaves another forges its  
own chains'.

(ii) Lenin and Stalin carried forward the teaching 5  
of Marx and Engels on the national and colonial ques-  
tion in the era of imperialism, when the national  
liberation movements of the subject peoples were  
rapidly advancing in strength alongside the rising  
challenge to imperialism of the Socialist Working- 10  
class movement. In the era of imperialism, and still  
more with the development of the general crises of  
capitalism, the question of national and colonial  
liberation and its relation to the world fight for  
Socialism took on a most urgent and practical impor- 15  
tance.

Lenin explained that imperialism led to the division  
of the world into a number of oppressed nations and a  
very small number of oppressing imperialist nations,  
possessing colossal wealth and powerful military 20  
forces. He showed that the working class in the  
imperialist countries in order to win victory over  
capitalism and to achieve Socialism requires as an  
essential condition of victory, alliance with the  
national liberation movement of the oppressed peoples 25  
in a common battle against imperialism.

Lenin put forward ...."

And then the article goes on to deal with the views of  
Lenin, and in sub-paragraph (iv) it concludes :

"The Communist immediate objective of complete 30  
national liberation and national independence of  
all nations and the voluntary association of nations

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Lenin put forward ...."

And then the article goes on to deal with the views of Lenin, and in sub-paragraph (iv) it concludes :

"The Communist immediate objective of complete national liberation and national independence of all nations and the voluntary association of nations

in historically formed groups (for example the U.S.S.R.- is seen as an essential step towards the aim of closer international co-operation and association, developing at a future stage, under conditions of world Communism, to the final outcome in the merging 5  
or fusion of nations.

But such co-operation and association, developing eventually to fusion, must be at every stage voluntary. It is first necessary to end the imperialist forced association of ruler and ruled, in order to 10  
advance to the stage of voluntary association."

You hand in this document.

P.D.N. 58, - My Lords, P.D.N. 55 is on our list, but I haven't got it here at the moment, and may I proceed then to P.D.N. 58, is a daily news release, "October, 1953", 15  
and October 29th, 1953. You hand in this document.

P.D.N.63 is a brochure, "World Student News", published by the International Union of Students, Volume 7, No. 7, 1953. You hand in this document.

P.D.N. 55 - have a look at it and say whether you can 20  
identify that document as being one that you...? --- I cannot with certainty say that I identify this document, My Lord.

In the circumstances we are not putting in this document, P.D.N. 55. 25

BY MR. JUSTICE KENNEDY :

I don't think that the witness has mentioned any of the documents on the first page of your list. The note that I made when you were reading this out, was that he had not identified P.D.N. 24, 48 and 55. 30  
I should like Captain Loots to look at P.D.N. 24 and to

see if he found it on that day when he searched Nokwe.

BY MR. TRENGOVE :

I am sorry, My Lord, I was under the impression - but I think Your Lordship is right. Captain Loots, will you have a look at P.D.N. 24? ---This document here I do identify, My Lord, as one of those that I seized. 5

We are not putting in F.D.N. 48, My Lord.

NO FURTHER QUESTIONS.

CROSS-EXAMINED BY MR. NOKWE : 10

Mr. Loots, during this search you found a variety of documents, did you not? --- Yes.

Some of them were documents on politics, general science and art? --- Yes, I doubt whether these were all the documents that I took possession of, My Lord, there were many others. 15

Yes, but my point is that you seized documents on science, general science? --- It may be, My Lord. Those that I glanced through quickly, My Lord, were more of a political nature. 20

There were some plays among the documents seized from me, were there not? --- That is possible.

And some historical works? --- It is possible, My Lord. There were a number of documents, and I cannot remember exactly what they were. 25

I just want you to look at P.D.N. 24, the street map which has been put in by the Crown. I have summarised what is on it. Apart from the exhibitions referred to by the Crown, will you just confirm that that map indicates 26 entertainment halls? --- It appears to be so, My Lord. 30

Twenty-three picture halls, four parks,

nine sport bases and altogether twelve exhibitions. Is that correct? --- I see here picture halls, parks, open air cinemas, sport bases.

Then I wish to refer to P.D.N. 38, "Young Builders of China", and the contents, Mr. Loots are the "Birth and Growth of a Labour Hero", "Model Spinner (?) Ou Chen Su", "A Technician at An Chang", "Ku Fa Ming and his", "The Girl at the Switchboard", "To Build More Quickly", "Inventor of a Method of Wiping Out Illiteracy", "How Wan Yung Ping Manages a Warehouse", "A Model Peasant Tells his Story", "Young Builders of the Quarry". Those are the contents of this book. Then I wish to refer now to P.D.N. 63, which is "World Student News", and the contents of this magazine contains works of art and poetry, an article on bursaries, student bursaries, an article on the conditions of students in the Middle East, an article on ancient culture of Latin America, then places of interest in the Festival meeting at Bucharest, Flok Lore Institute in Bucharest, Ancient Glory of Mexico and Peru, Rumanian Folk Art and Folk Custumes, a Sketch of Chu Yuan, who was an old Chinese poet who lived in 340 B.C., a painting by Paul Gaugin, the famous painter. And then various matters relating to students generally.

NO FURTHER QUESTIONS.

CARL JOSEPH DIRKER, duly sworn;

EXAMINED BY MR. TRENGOVE :

You remember - You are a Sergeant in the South African Police at Johannesburg? --- Yes, My Lord.

Do you remember the 13th December, 1956?

--- Yes, My Lord.

On that day did you arrest anybody in connection with a charge of high treason? --- Yes.

Who was it that you arrested? --- Nokwe.

Can you identify the person that you arrested?  
--- Yes, My Lord. 5

Can you point him out? --- (WITNESS IDENTIFIES  
ACCUSED NO. 16)

Where did you arrest him? --- 7044(b) Orlando  
West.

And what address was that? --- The address of 10  
his residence.

On the same date and at the same place, did  
you search these premises where you found the Accused, for  
documents? --- I did, My Lord.

Did you take possession of certain documents? 15  
--- I did, My Lord.

Did anybody claim ownership of the documents  
that you took possession of? --- The Accused did.

Did he sign for possession of the documents  
as being his? --- Yes, My Lord. 20

Will you have a look at the following documents  
marked P.D.N. 133 and 134 - P.D.N. 137, have you got that?  
--- Yes, My Lord.

P.D.N. 140, 141, 142, 144, 145, 147, 151,  
152, 157, 160, 159, 161, 162, 164, 165, 167, 168, 171, 25  
and 172? --- Yes, My Lord.

Now would you just go back and look at P.D.N.  
140. Now these documents that you have mentioned, were  
they portion of the documents that you took possession of  
on this date at the home of the Accused when you arrested 30  
him? --- Yes, My Lord.

And you hand them in? --- Yes, My Lord.

P.D.N. 137 is a letter from the Fellowship of Reconciliation, dated the 5th December, 1956, and is addressed to the acting Secretary, African National Congress, Johannesburg. It comes from the Reverend Blackswell.

5

BY MR. JUSTICE KENNEDY :

Mr. Trengove, you did mention P.D.N. 133 and 134. I know the witness hesitated over them, but I don't know what the position is.

BY MR. TRENGOVE :

10

Those are to be handed in with others. P.D.N. 140 is a Bulletin " and Information Bulletin", September 10th, 1956, No. 22.

P.D.N. 141 is a booklet "New Life in China", report of a visit by Ruth First, with a foreword by Walter Sisulu.

15

P.D.N. 142, is a letter headed African National Congress, Cape Province Headquarter, dated the 1st December, 1956, to the Secretary-General of the African National Congress, and it is signed "T.F. Tshume, Secretary", and it deals with directives regarding the campaign against passes which have been sent to all branches.

20

The next document, My Lord, is a manuscript document, it is P.D.N. 144, "Minutes of A.N.C. Conference held at Bloemfontein on the 17th December, 1955". The second paragraphs of the Minutes read :

25

"Until the arrival of the acting President General Professor Z.K. Matthews, Dr. A. E. Letele was to officiate in lieu. Dr. Letele in his opening remarks also observed that for the first time in the 43 years of A.N.C.'s struggle for freedom, Conference was unable to commence its deliberations on the customary day, the 16th of December, which

30

Congress regards as the day of the Covenant."

Then at page 2, in paragraph 2 the documents states :

"Mr. Robert Resha, making an announcement pertaining to fraternal greetings intimated that Dr. Moosa, delegate sent by S.A.I.C. to convey the S.A.I.C.'s brotherly greetings was accosted by the police and denied entry to the Free State by the Special Branch of the C.I.D. of Bloemfontein." 5

And then the last paragraph on page 2 :

"Conference resumed at 2.30 p.m. The item to be considered was the Opening Address by Father Huddleston which was to be read on his behalf by Mr. Hutchinson." 10

Then My Lords, at page 3, at the top of the page :

"Mr. Molaoa seconded by Mr. Rakaoana (Transvaal) moved the subsequent motion". 15

That deals with the exclusion of the press. My Lords, then in the third paragraph it says :

"Mr. Hutchinson then proceeded with the reading of Father Huddleston's address." 20

Then at page 5 of the document, at the top of the page, the paragraph says :

"It became obvious from the discussions that the majority of the delegates favoured the exclusion of the press. Mr. Mqota defining the functions of the press said that the freedom of the press involved amongst other things reporting factual statements and not distorting the facts, as distortion misleads readers as to the matters which transpired." 25

Then in the second paragraph there is a passage which states : 30

"The Speaker announced that Mrs. Nokaya Luthuli, wife

of the President-General, Chief Albert Luthuli, wished to convey a message to Conference. The message was read on her behalf by Mr. T. Tshunungwa." Then at page 6 there is a paragraph, starting at the top of the page - at the bottom of page 5 : 5

"The Provincial President and the Treasurer-General constituted the Finance Committee, with the Treasurer-General as Convener. As the Treasurer-General, Dr. Conco was absent owing to the banning orders served on him by Swart, the Deputy General, Dr. Letele officiated as Convener. 10

Mr. Hutchinson, Mqota, Makiwane were elected to form the Resolutions Committee.

Mr. Resha explained that Commissions were introduced to train men and also to collect useful information for organisation. The National Executive had therefore decided upon a trial set of five Commissions to be set up to study problems relating to the life of the African. The following is the list of Commissions proposed by the N.E. and endorsed by Conference : 15 20

1. Labour - Mr. L. Masina.
2. Land - Mr. T. Tshunungwa.
3. Homes and Security - C.J. Mayekiso.
4. Education and Culture - R. Resha. 25
5. Law - Mr. A. Hutchinson.

A sixth Commission on Transport was added and approved by Conference on a proposal by Mr. A. J. Mahlangu, seconded by Mr. R. Khumalo. Mr. Makiwane, seconded by Mr. Resha, recommended that the Convener of the 6th Commission be appointed by 30

the National Executive."

Then My Lords, on page 9, at the top of the page :

"Mr. Mavuso thanked the President for the thought  
provoking message to Conference."

Then in the second paragraph :

5

"Messrs. Mqota and Matlou pointed out that the C.I.D.  
were unpredictable. They regretted the imputations  
levelled against the Secretary for a thing which was  
beyond its power to avoid."

Then My Lord, at page 10 it says :

10

"Mr. Molefi pointed out that what appeared in New Age  
was more than a preview, as 120 lines were quoted  
verbatim from the Report."

Then at the bottom of the page :

"Mr. Mahlangu seconded by Mr. Mlangeni moved that the  
report be accepted. 15

The Acting President-General, Dr. Letele informed the  
Conference that Dr. A. B. Xuma had asent a special  
statement.."

Then My Lords, at page 12, it refers to a report :

20

"Mr. Tshunungwa and Mr. Resha moved the adoption  
of the report."

At page 14, My Lords there is a reference :

"Mr. Mavuso and Mr. Ndzo moved that the statement be  
accepted".

25

Then at page 15 there is a passage which states :

"Conference also decided to postpone until December,  
1956 the consideration of the implementation of the  
clause or section of the Programme of Action relating  
to A.N.C. members in Advisory Boards and A.N.C.  
members campaigning of elections of Native Represen-  
tatives."

30

"Conference called a Special Conference to ratify the Freedom Charter and to decide on the action to be taken by Congress concerning women's passes.

Resolutions Committee moved Resolutions.

Election of Office Bearers for 1956.

1. President General - Chief A.J. Luthuli.
2. Secretary-General - O. R. Tambo.
3. Treasurer-General - Dr. A. Letele.
4. Committee :

Mrs. L. Ngoyi

J. Mavuso

Messrs. L. Masina,

Prof. Matthews.

G. Sibande,

O. Nkadimeng

C.J. Mayekiso

Nkosi

R. Resha

T. Mqota

A. Hutchinson

J.A. Calata

T. Tshume. "

COURT ADJOURNS.

COURT RESUMES ON THE 11TH SEPTEMBER, 1959.

APPEARANCES AS BEFORE.

No Accused Absent.

Affidavit handed in re Accused No. 11,  
Moosa Moolla.

-----

CARL JOSEPH DIRKER, under former oath;

EXAMINATION BY MR. T-ENGOVE CONTINUED :

The next Exhibit is P.D.N. 145, and it is a copy of a letter, "The Secretary, A.N.C. Women's League".

"Dear Madam,

On behalf of my Executive I wish to thank all delegates and observers who attended the Annual Conference of the A.N.C. Women's League, and hope that the co-operation which existed between the branches and the Provincial Executive will be strengthened and more people will be recruited into the struggle".

The last paragraph says :

"Here are the Transvaal Office Bearers whom you elected :

President - Mrs. Lilian Ngoyi.

Treasurer - Mrs. Bertha Mashaba.

Other members include Mrs. Mary Rantha."

I hand in this document.

P.D.N. 147, which is a document dated the 7th December, 1956, "African National Congress, Natal", to "The Secretary of the African National Congress, Johannesburg", and the second paragraph says :

"At an emergency meeting under the chairmanship of Dr. Conco, held on the 15th instant, the following were appointed to the Caretaker Committee".

I am only reading that paragraph. It is signed by the Acting Secretary.

P.D.N. 151, which is a document with manuscript writing. It is in English, and certain passages are in shorthand. It states at the top "Coming Struggle", and then two shorthand marks, and then "Polit. Movements".

5

"First Weapon. A.N.C. - appeasement. Peaceful talking Govt. Constitutional means of agitation - Reason. Movement led by intellectuals.

Methods - 1. Passive Resistance.

10

2. Boycott - refusal to co-operate.

Govt. " - short hand symbols - "laws set aside. Africans deceive." Then a few shorthand marks.

"Polit. rights, separate political institutions, e.g. Admin. Boards.

15

3. Strikes - due to unsatisfactory working conditions (a) economic strike (b) political strike.. then there is an arrow - "riots - uprising.

4. Agitation - call meetings and call.. - shorthand mark - ".. action."

20

The next is P.D.N. 152, My Lord, which is a letterhead of the African National Congress, Natal, Durban, 3rd December 1956, signed by P. H. Simelane as secretary, and it is addressed to the Secretary-General, African National Congress, Johannesburg. And the letterhead also states that the President-General is Chief A. J. Luthuli, and the Deputy-President is Dr. W. Z. Conco.

25

The next, My Lord, is a manuscript document, written in ink. It is P.D.N. 157. At the top there is some writing :

"Chief's telegram. National Executive - Telegram. Airmail letter card.

30

Mr. Sipalo,

2779..

(C.J. DIRKER)  
(P.D.N.157)

Mr. Sipalo,  
The Secretary General,  
African Liberation Committee,  
Cairo - Egypt.

Dear Friend,

I have been instructed by the National Working Committee of the African National Congress to advise that we regret that our organisation is unable to send a representative to the conference convened by your committee.

The Nationalist Government has created conditions which make it virtually impossible for any politically conscious African to be able to leave the country. It has not been possible for us at such short notice to make arrangements for a representative to leave the country. We wish your conference success in its deliberations. Kindly send us report of the conference."

The next, My Lord, is a booklet without a cover, P.D.N. 159. In the index to the book there are a hundred questions, apparently dealing with the U.S.S.R. It is handed in for possession only, My Lord.

P.D.N. 160, it is the South African Society for Peace and Friendship with the Soviet Union bulletin, "The Soviet Union and Hungary", November 17th, 1956. It is the same as H.B. 79 and D.C.T. 41. It contains an article "Situation in Hungary," by Advocate Duma Nokwe.

The next, My Lord, is a typed document, with certain pencil notes, P.D.N. 161, and this document My Lords, is on the policy Schedule at page 24. The document is headed "Memorandum on the Programme of Action Adopted at the Annual Conference of the A.N.C. December, 194.." -

it is either 1946 or 1949, but the evidence will be that it is 1949, My Lord.

"The memorandum deals with the following matters :

- (a) The content of the Programme of Action and the conditions which gave rise to it. 5
- (b) The extent to which it has been implemented and the effect of such implementation on the organisation.
- (c) The desirability or otherwise of retaining methods of struggle contained therein with specific reference 10 to the boycott of differential political institutions.
- (d) The Programme of Action and the Charter.

HISTORICAL BACKGROUND.

Internal Conditions. 15

Before 1949 the A.N.C. did not conduct many campaigns based on the activity of the masses of the people. The strength, confidence and courage of the masses of the people in liberating themselves had not yet revealed itself. The belief was prevalent 20 that changes in the conditions of the people could be brought about by relying on constitutional methods and explaining the effects of the laws and policies on the Africans to the authorities. The primary task of leadership was regarded to be more to speak 25 for the people than to speak to the people. These beliefs were created by the deceptive policy of consultation pursued by the United Party.

The result was that the A.N.C. despite its consistent denunciation of Government Policy, had no 30 programme of activities based on the masses and its organisational machinery and units were weak.

The next paragraph under that heading "Historical Background", is the paragraph "External Conditions", and next to that in the margin there is a paragraph :

"What about Trade Union struggles during the war?

We should not forget the economic side of the struggle - trade unions". 5

The paragraph itself in type reads :

"External Conditions.

After World War II the masses of the people under various organisations embarked on a number of mass actions and revealed thereby the strength of the unity of the people - the Mine Workers Strike 1946, the Alexandra Bus Boycott, the Squatters Movement. These actions revealed the concealed militancy of the people and the potentialities of mass action. 10 15

The deadlock in the N.R.C. in 1946 and its adjournment sine die was a serious blow to Constitutionalism.

Within the ruling circles too changes took place in 1949, the rise of the Nationalist Party to power in 1948 with its uncompromising attitude towards the African and its declared mission of maintaining White supremacy and White domination at all costs, made it clear that the days of consultation were gone and that the people would have to rely on their resources to effect changes in the country. 20 25

These changed conditions made it necessary to have positive changes in the character, activities and method of struggle of the A.N.C. They demanded a more militant A.N.C. which would lead the growing militant masses against the uncompromising reaction within the country. 30

It was therefore no accident that the A.N.C. should

at its Conference in 1948 consider the need for a programme of action which was subsequently adopted in 1949."

Opposite that paragraph in pencil there is a note :

"What do we expect of the war?' - 'the African claims' spirit is a general trend." 5

Then My Lords, the next paragraph on page 2 is "Content".

"CONTENT.

The Programme of Action deals with the Political, Economic, Cultural and Educational aspects of the struggle of the people. Under Political, the Programme states the demand for direct representation and the abolition of all differential institutions. 10

The Programme proceeds to enumerate various activities directed towards the attainment of the political objective, among which are the creation of a National Fund, organisation of Propaganda, immediate and active boycott, strikes, civil disobedience, non-co-operation and national stoppage of work. 15

The economic aspects of the Programme consist of commercial and industrial enterprises in urban and rural districts and the organisation of Trade Unions. 20

In the Educational section, the establishment of educational centres is proposed.

Under Culture there is a proposal to establish an Academy of Arts and Science. The Programme concludes that the people will be brought together under the banner of African Nationalism. 25

The striking feature about the Programme of Action is that it defines one object only and that is National Freedom. 'By National Freedom we mean freedom from White domination and the attainment of 30

political independence. This implies the rejection of the conception of segregation, apartheid, trusteeship or 'White leadership which are all in one way or another motivated by the idea of 'White domination or the domination of 'White over Black'. 5

The rest of the Programme enumerates activities whose purpose is to mobilise and unify the people for the achievement of this objective."

The next paragraph is "What has been done?", and opposite that, My Lord, there is a pencilled note : 10

"The Council of Action was to have named from time to time bodies to be boycotted".

The document then continues in type :

"WHAT HAS BEEN DONE?"

- (a) National Day of Protest, June 26, 1950. 15
- (b) Civil disobedience - Defiance Campaign June 1952 - January 1953.
- (c) Co-operation with the Trade Union Movement.
- (d) Boycott of N.F.C. and Advisory Boards in certain areas. 20
- (e) Regular issue of propaganda material to raise the political consciousness of the masses.

No specific activities have been undertaken to implement the rest of the Programme for various reasons. Firstly, campaigns which in the Programme appear in two words only - Civil disobedience - engaged every ounce of the energies of the Movement for at least six months. Secondly, concrete experience has shown that not every aspect of such a varied Programme could not be implemented 30  
simultaneously. It is essential to concentrate on an activity for which conditions are suitable.

There can be no doubt that the Programme of Action brought the organisation into closer contact with the masses of the people and inspired the people with confidence in themselves and in the Congress. The upsurge of political consciousness during the Defiance Campaign clearly indicated this. This was so, primarily because the basis of the Programme was contact with the masses, reliance on the militancy of the masses, and mass activity. This certainly was an advancement in the movement, but it could by no means be claimed to have reached perfection.

Whilst the Programme defines the activities and 'means as may bring about the accomplishment of our aspirations', it failed to define these aspirations with any precision, and all we have is the general demand for National Freedom.

It should be stressed that the Programme of Action.."  
- and then there is an insertion in pencil - "laid down methods of struggle to be followed by the A.N.C. and" - "clearly stated that the boycott, civil disobedience, and strikes were 'weapons' and 'means'.." - in pencil "to be used" - "for the realisation of our aspirations.

What should our attitude be towards the differential institutions?

In order to discuss this question it is essential to realise that mere membership of participation in the political, social, cultural and other institutions established by the oppressor does not necessarily imply collaboration with the oppressor. Collaboration must depend on the nature and function of the institution and also the activities of

the members within the institutions. It is possible under certain conditions to use the institutions of the oppressor as an auxiliary force for the downfall of the ruling class." Then there is a note in pencil : "Why not explain aims of these institutions?". 5

"It is also important to bear in mind that the boycott of the institutions may not assist us to achieve our aspirations.

In order to realise them we require the force of the people behind us, in order to mobilise that force 10 we require contact with the masses of the people.

The primary question therefore must always be how can we achieve greater contact with the people in order to expose the oppressor to them, to unite them and so overthrow the oppressor." Then there is 15 a note in pencil "prefer oppression". Then it continues : "If we have adequate means of keeping contact with the people let us confine ourselves to them. But if the institutions of the oppressor can serve our purpose even in some small way, not to 20 advance his interests but advance the interests of the people, then it would be unwise to deprive ourselves of the opportunity of using them." Then there is a pencilled note : "Use them to expose the system and educate the masses in their futility". 25 Then it continues : "

WAS THE ACCEPTANCE OF BOYCOTT CORRECT IN 1949?

Because of the condition which then prevailed, particularly the deception of the masses of the people by promising them gradual maturity to full 30 constitutional rights, and also the faith which the people had in these limited institutions, it

was correct to ask them to turn away from them in order to launch the spirit of resistance, and ultimately to struggle for our aspirations.

It was also correct because then the A.N.C. was.."  
and then the words "a legal organisation" which is 5  
put in brackets, and instead of that the words :  
"the A.N.C. was free to and capable of holding its  
meetings whenever and wherever it wanted to and was  
thus in a position to transmit its message to the  
people. 10

HAVE CONDITIONS CHANGED?

They have changed. Firstly, the spirit of resistance, the political consciousness and confidence in the A.N.C. of the people has grown as never before.

Secondly, in direct proportion to the confidence 15  
which the people have in the movement the Nationalists  
have introduced laws and practices which have virtually  
made the A.N.C. an illegal body. We rely on the  
people - and for that reason we must keep in contact  
with the people. How can we in the present circum- 20  
stances?

We must allow ourselves the flexibility of tactics  
and means. We are not faced with the blind opposition  
of the Nats. We must ask ourselves in every situa-  
tion : 25

**(a) What can we manage?**

(b) What can we convey to the masses of the people?

(c) How can we convey it?

(d) Is what we do in the interests of the people  
or not? 30

That is how we must approach our problems. If  
Port Elizabeth has boycotted the Advisory Boards

and crushed them and yet can keep in contact with the people, congratulations.

Let us learn to think not only of our successes but also how we can remedy our failures, step by step taking into consideration our own general and peculiar 5 position. Let us not be rigid and yet let us not be unprincipled. Our task is to achieve our principles by adopting the most flexible means." Then in pencil, in brackets, "Summarise them here".

AFRICAN NATIONALISM.

10

The Programme of Action merely refers to African Nationalism but does not suggest its content and implications. Its content has been determined by the exposition and practice of the A.N.C. (See 1953 Presidential Address). In pencil, "(Quote 15 here relevant portions or parts)". Then in pencil in the margin, "Undue emphasis has been laid on the question of African Nat. ad the boycott. It is necessary to elaborate on them." Then the end of this page there is the following paragraph :

20

"THE PROGRAMME AND THE CHARTER.

The Charter and the Programme of Action are neither redundant nor in conflict with one another."

Then the document ends there, My Lord.

The next, My Lord, is P.D.N. 162. This has been read into 25 the record as P.D.N. - sorry, B.259.

P.D.N. 164, an A.N.C. membership card, and it is signed by J.P. Motshabi, General-Treasurer for the A.N.C. It is not a membership card in respect of the Accused.

P.D.N. 165, a Report of the National Executive Committee 30 at the African National Congress to the Annual Conference held in Queenstown in December, 1956. My Lord, on this

note on Your Lordship's list, there is a note which says, "Two envelopes to Rhodesian A.N.C. and Basutoland National Congress". My Lords, these documents have been handled by a number of people. Will Your Lordships disregard that note at this stage. I only have P.D.N. 165. 5

P.D.N. 167, a bulletin issued by the South African Society for Peace and Friendship with the Soviet Union, "Hungary, Poland, U.S.S.R.". It is the same as B.267.

P.D.N. 168, it is a bulletin "Isizwe", (The Nation), October, 1955. On page 2 there is an article "Is South Africa a Police State?", and I quote from the eighth paragraph : 10

"The new Bantu Education Syllabuses for the Higher Primary School Course which reveal the Verwoerd plot against the African people, in all its heinous nakedness, has not received a line of comment from the White Press. There is a conspiracy of silence designed to conceal from the people the dangerous implications of the Bantu Education System. The Congress movement must break through this veil of silence. Let us tell the people the truth which the government and its agents are trying to hide." 15 20

Then, My Lords, on pages 8 and 9 there is an article, "This Tin of Paint Cost Eleven Lives". We have to read a portion of this, My Lord. When we get to the speeches, reference is made to this incident. 25

"It was an unusually warm day for Fort Elizabeth, was that October day; the calm sunshine had temporarily subdued the arrogance of the uncontrollable South Easter. It was indeed a day to justify the hilarious laughter and happiness of the hardworking men who gathered every Saturday at the many 'games'." 30

Then My Lords I move to the next paragraph :

"Sotewu had not yet arrived in New Brighton, so that the police were absent from the entire scene where a macabre act was about to take place. There were still pretensions of liberalism on the part of Port Elizabeth's City Council; who was to dream that this Eighteenth day of October would result in the unmasking of the Council's liberalism and expose the ugly face behind the mask? It was the day that would be chosen by the fascists of South Africa to allow their filthy minds to run amock, their vicious iron heel to stamp its ugly mark over the graves of eleven innocent lives and tragically affect hundreds of other lives. On this day even Masabalala would be put in the shade. 5 10 15

The defiance of unjust laws campaign had been gaining momentum for weeks. Thousands of freedom loving patriots had been imprisoned for their participation in a glorious undertaking whose impact was being felt by the tyrants of the nationalist regime. The fire of the people's wrath swept the country. If the oppressors did not act, the wrath of the people would sweep them away too. 20

Racial oppression, that filthy disease of decadent men, was alarmed at the progress of the defiance of unjust laws campaign; fascism was panicky. An avalanche of retribution appeared constantly to be following it, spelling its ultimate doom, as more and ever more Africans threw in their lot with the progressive movement. Tyranny threatened, insulted, intimidated and victimised and still the freedom volunteers refused to yield to apartheid. 25 30

The freedom Volunteers refused to betray the glorious cause they had solemnly pledged to fulfill. The imprecations of the hate filled sadists who were in control of the gaols could not break the discipline nor the spirit of the determined freedom volunteers 5 who were serving long imprisonment sentences.

On this warm afternoon, however, there was nothing to indicate that the borrowed tranquility of the people would be disturbed, least of all by the spectre of death. 10

Emanating from the local train was, among the passengers, an African who was connected with a tin of paint ... This tin of paint cost eleven lives, thousands of pounds of property and even more in incalculable pangs of remorse, injury and pain. 15

This then was the tin of paint which enabled fascism to demonstrate its power and seize the initiative as the Government opposition of white South Africa vacillated and ignominiously betrayed its alleged principles. On this day, as the mask was 20 ripped off, so the opposition of the so-called United Party and Liberals capitulated to the extent where they competed with each other in vilifying the people's movement and leadership in its struggle against the unjust laws; The struggle for freedom, 25 peace and happiness. Thus the hypocritic policies of white baasskap and apartheid were strengthened by the unholy marriage between the supposed opponents of apartheid and its apostles.

An African, who it was alleged carried a tin of 30 paint, was shot. The Minister of South Africa's version of justice who had for years inculcated

into his 'boys' of the South African police, the virtues of itchy fingers and trigger happiness, must have patted himself on the back as the pop-pop of his men's sten guns sounded in New Brighton, destroying and maiming men, women and children. 5

This day, fascism had good reason to feel triumphant, it rode on a wave; its filthy mind was content with its work of destruction; that being its fulfilment, thus its satisfaction.

The eighteenth of October 1952 would give new life 10 to fascism. It would enable the rascists and white supremacists to strut and ride in their huge black Packards for a few more years and, with the protection of their mercenaries to do their duty work to attempt to subjugate all opposition. 15

Thus 'Sotewu' arrived in New Brighton. It became criminal to be in the city (the friendly and liberal city) of Port Elizabeth after the curfew toll at 9 p.m. The liberal City Councillors of Port Elizabeth co-operated with the reactionaries, pledging their support for any and all measures which Verwoerd, Swart and the other white supremacists desired. So hundreds of African youth were sent to the potato farms of Bethal and further, following the pattern in other towns, Port Elizabeth made it a criminal offence 25 for Africans to exist outside the will of apartheid. Africans had to be registered and all the pass laws were implemented with a ruthlessness of madness. Pimps, informers, compromisers and sell-outs were created and given a lease of life; they might 30 prosper and - at the expense of the people's freedom. The evil mockery of degenerate tyranny

believed itself to have established its supremacy at last.

The inhuman insanity of fascism had however, made a grave error in assessing its victory, for the day of reckoning is still to come. Bullets and whips, 5  
as they will no doubt learn one day, do not win wars. These only enable temporary but cheap victories in the battle field of progress to those who depend for their strength on force. Against an idea however, and an idea whose time has come, fascism's days are 10  
numbered and its destruction inevitable. The growth and consolidation of the progressive elements menace the ferocity of fascism. Thus the desperation of the Strijdom-Verwoerd clique is matched against the confident people's movement which manifested its right 15  
to the future in the mighty demonstration at Kliptown recently.

Mankind has a long memory and will not forgive the fascists who shall be made to pay for the full measure of their crimes against humanity. For the 20  
people to achieve this it is imperative that they re-dedicate themselves daily to the cause of freedom; resolving to give and contribute their utmost in the holy and just struggle for freedom, happiness and peace. 25

All glory to those who have perished in this noble struggle; all glory to those who remain true to those martyrs who have made the supreme sacrifice in the battle against the evil forces of fascism." Then there is a quotation from De Valera which I don't 30  
read, My Lord.

Then at page 10 there is an article, "Those who are not

with us are against us". The last paragraph at the foot of page 10 :

"After decades of struggle the Movement for Liberation in this country has come unto its own. The policies and aims of what is now known as the Congress Movement find clear and comprehensive expression in the Freedom Charter which is a blueprint for the future government of the People, by the People, for the People. Our leadership is tough, disciplined and incorruptible. 5 10

In the face of all attacks the people and the Movement grow more determined and gain more adherents among the millions of anti-imperialists in Africa and the world.

TO OUR PEOPLE AND TO ALL DEMOCRATS WE SAY - 15  
 MAKE EVERY HOME A BRANCH OF THE CONGRESS MOVEMENT,  
 A CITADEL WHEREIN THE SPIRIT OF LIBERTY WILL BE KEPT  
 GLOWING BRIGHTLY UNTIL THE DAY OF FREEDOM DAWNS.  
 FAITHFULLY CARRY OUT THE DECISIONS OF THE PEOPLE'S  
 ORGANISATIONS; PLACE NO TRUST IN THE GOVERNMENT 20  
 AND ITS AGENTS WHO DESIRE TO SPREAD LIES AND SLANDERS  
 AGAINST THE MOVEMENTS AND THEIR LEADERS; LEARN BY  
 HEART EVERY LINE OF THE FREEDOM CHARTER!  
 TO THE SHORT-SIGHTED TYRANTS WE SAY -  
 WHEN THE WHOLE PEOPLE SIGH THERE IS A STORM, 25  
 WHEN THE WHOLE PEOPLE STAMP THEIR FEET THERE IS AN  
 EARTHQUAKE."

There is another portion in this passage which I don't read. Then at page 12 the journal says :

"Support these journals : New Age, Fighting Talk, 30  
 Liberation, Mohlabani, The Call, Workers' Unity.

DEDICATION.

This Journal (Isizwe) is dedicated to the men and women who are daily persecuted for their active participation in the struggle for mankind's freedom."

My Lords, the next document is P.D.N. 171. It is also a 5 memorandum on the Programme of Action adopted at the Annual Conference of the A.N.C. December, 1956. It is the same as P.D.N. 161, except that it doesn't contain pencil notes. I therefore don't propose handing in this document.

The next document is P.D.N. 172, "Some Aspects of Soviet 10 Education". I just read the first paragraph E

" 'Citizens of the U.S.S.R. have a right to education'. Article 121 of the Constitution of the U.S.S.R. This is a RIGHT of every Soviet citizen enjoyed by every member of the 59 nationalities of the Soviet Union, 15 and vests inalienably in every child from the moment of its birth, whatever its physical or mental condition might be. Today there is not a single illiterate person in the Soviet Union. Like the principal of a Girls' Middle School in Moscow told us in 1953. 20 Like the scourge of poverty, the blight of ignorance which was the lot of the toiling masses is buried forever with the Tsars and their minions."

Then it goes on to deal with the merits of Soviet education. 25

NO FURTHER QUESTIONS.

CROSS-EXAMINATION RESERVED.

WITNESS STANDS DOWN.

BOONZAALIER DU PREEZ, under former oath; 30

CROSS-EXAMINED BY MR. FISCHER :

Lieutenant, just a few questions about

this search which you made on the 5th of December. I think it was very early in the morning, wasn't it? --- It was very early in the morning, yes, My Lord.

I think the Reverend Thompson took you round his house and showed you where his things were kept and 5  
so on? --- In the library, yes. I didn't search any other part of his house except the library.

Didn't you search any other part? --- No.

I think you found everything that you wanted in the library, didn't you? --- Yes. 10

Very well filed? --- Yes.

In shipshape order? --- Yes.

There were files with all the documents as far as you could see in regard to all the activities which the Reverend Thompson had undertaken over a number 15  
of years? --- Yes, sir.

And you could therefore immediately get at that material which you were looking for? --- Yes, sir, that is so.

And of course there was very large library, 20  
wasn't there? --- Yes.

I think there was a whole room with all its walls - or most of its walls lined with book cases?

--- That is so.

Containing a large variety of books? --- 25  
Yes, sir.

Political books of all kinds. A very large library of religious books, books on religion? ---  
Yes, sir.

And a large number of journals of every 30  
conceivable type? --- That is so.

And it was kept perfectly openly, all

this material in such a way that anyone could lay his hands on it at a moment's notice? --- Yes, with the exception of documents referring to the Congress of the People and the Freedom Charter which he had in his bedroom.

5

Did he have those in his bedroom? --- Yes.

But you didn't search his bedroom? --- No, I didn't. He handed over those documents himself.

He brought them to you? --- Yes.

NO FURTHER QUESTIONS.

10

BY MR. TRENGOVE :

Yesterday a witness, My Lord, Sergeant

Loots, who gave evidence in respect of documents falling within the series P.D.N. 1 - 68, the documents alleged to have been taken from Accused No. 16 at Jan Smuts

15

Airport in 1953 - there was one document, My Lord, which he was unable to identify yesterday. It is a document

P.D.N. 55, and in view of his inability to identify that

20

document the Crown wishes to submit the document in terms of the admission made at the Preparatory Examination.

BY MR. JUSTICE BEKKER :

What was the admission?

BY MR. TRENGOVE :

25

The admission, My Lord, is at page 1408 of the Preparatory Examination Record :

"By the Prosecutor (Mr. Liebenberg) :

I now deal with Accused No. 56, P.F.D.Nokwe, He was searched on three occasions. The first occasion was on 1.12.53 when he alighted from a plane at Jan Smuts Airport, when the following documents were seized

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from his person by Lieutenant J.H. Loots of the South African Police now stationed at Klerksdorp, P.D.N. 1 - 68. They are now handed in, omitting Nos. 4, 11-22, 25, 26, 27, 36, 39, 41, 42, 43-47, 65-68. I tender the remaining Exhibits in accordance with the admissions made by the Defence. I take it that the admission will apply to all three searches, or does my learned friend wish to record the admission from this search only at this time." 5

Then the record states :

"By Mr. Coaker : 10

The Defence admits the facts set out by my learned friend and consents to the documents going in with the same reservations I have already made."

The reservations made, My Lord, were reservations which are set out at page 1390 of the Record, where Mr. Coaker states : 15

"May it please Your Worship, the agreement between the Crown and the Defence and to enable these documents to go in speedily to save time and expense, is that the Defence is prepared to make certain admissions of the bare facts which the witness will in any event testify to, if they were present in Court. In other words, the Defence will admit in each instance that certain documents which are now handed in were taken from a certain place upon a certain day by a certain person, whether or not the Accused was present at the time, whether or not the premises concerned were occupied by the Accused at the home, office or any other way and the Defence will consent to the handing in of those exhibits, - documents and exhibits. The Defence will reserve the right to cross-examine a searcher in any case when the Defence thinks fit on giving due notice to the Crown. It will 20 25 30

reserve the right to contest at a later stage the admissibility of any document so handed in against any of the Accused and it will also reserve the right to contest any other facts, other than the bare facts admitted, for instance the right to contest the ownership or possession of the document by the Accused or to lead evidence to explain the ownership or possession of the document, or the presence of a document at a place where it was found. Naturally I suppose the Crown will have the right in the event of any matter being contested to call evidence, or in any case where the Crown thinks fit to call the witnesses rather than resort to this procedure."

My submission is that this Exhibit P.D.N. 55 was handed in at the Preparatory Examination in terms of that admission, and that in the circumstances it is an admitted document which we can hand in without calling the person who took possession of the document, subject to the reservations.

BY MR. JUSTICE BENKER :

Is that an admission in terms of the Code?  
What does the Code say?

BY MR. TRENGOVE :

My Lords, the Code in Section 284(ii) says "An admission made by an accused or his representative in his presence at a preparatory examination with the Magistrate presiding thereat, as noted on the record, may be proved at the subsequent trial of an accused by the production by any person of the documents purporting to constitute that record."

So the admission, in terms of the Code, can be qualified or unqualified. The question is whether what the Crown is entitled to do in terms of the admission...

BY MR. JUSTICE RUMPFER :

I am just puzzled about one matter. Will

you just read the admission again?

BY MR. TRENGOVE :

The admission pertaining to this particular document is at page 1408 of the Record, My Lord.

BY MR. JUSTICE RUMPFER :

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There is a statement on 1408 by the Prosecutor that "the following documents were seized from his person by Lieutenant Loots" and that includes P.D.N.55.

"I tender the remaining exhibits according to the admission made". Then Mr. Coaker says the Defence admits the facts set out "and consents to the documents going in with the same reservations". Now the facts are that the documents were seized from his person, that is admitted and he consents to the documents going in with the same reservations, and those you say are at 1390.

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BY MR. FISCHER :

My Lord, I have never thought of this problem. I was not in the trial at the preparatory stage. I doubt however very much whether there was ever an intention to admit the documents, to admit the facts for the purposes of the trial. It seems to me, My Lord, that this was a desperate effort to shorten proceedings at the preparatory. That is how I read 1390. "The agreement between the Crown.." - says my learned friend Mr. Coaker - " and the Defence to enable these documents to go in speedily to save time and expense is as follows..". This seems to be the governing admission.

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BY MR. JUSTICE RUMPFER :

But to make certain admissions of bare facts. For instance, that certain documents were found on a particular day at a particular house, with the reservation that there could be cross-examination in

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regard to possession by anybody, ownership by anybody.  
 Now, that would particularly apply to documents having  
 been found in a house - the bare facts of them being  
 found in a house. The admissions made from this state-  
 ment onwards would certainly be conditional to these 5  
 reservations. Then we find this admission of a bare fact  
 - apparently a bare fact at 1408, which says that it was  
 seized from his person, and the Defence then says they  
 admit the facts as set out, subject to the reservation.  
 Now the ownership could of course be challenged, but the 10  
 fact that these documents were found on the person of  
 the particular accused, that is admitted.

BY MR. FISCHLER :

That is so, My Lord. If it applies to this  
 trial, it is quite clear that the Defence at the prepara- 15  
 tory has reserved the right to lead evidence, even evi-  
 dence that it was not found there, because there is this  
 strange reservation "or to lead evidence" - it is at the  
 foot of 1390, it goes further, My Lord - "or even the  
 presence of a document at the place where it was found". 20

BY MR. JUSTICE RUMPF :

That means "to lead evidence to explain  
 ownership or possession of such document or the presence  
 of the document in the place where it was found". To  
 lead evidence to explain the presence of the document 25  
 at the place where it was found. Obviously, if the  
 admission related to documents being found in a certain  
 room and further evidence was led by the Crown as to  
 the occupant of the room, the Defence still wanted the  
 right to lead evidence to show why these documents were 30  
 present at a particular place.

BY MR. FISCHER :

Well, taking it at that meaning only, My

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