

MR. MAISELS: Now the next matter was "All shall  
be equal before the Law". There is one phrase "The Courts  
shall be representative of all the people". I want to  
read to you clause 2 of the Bill of Rights in "Africans'  
Claims", page 8, "The right to equal justice in Courts  
of Law including nomination to Juries and appointment  
as Judges, Magistrates and other Court Officials." That's  
one of the demands of Africans' Claims. Do you see any  
difference between those two clauses, as I've read them  
out?-- I don't see any difference, my lord.

Does that mean that one must follow the exact  
racial ratio in the population, in the composition of  
the Bench - - in other words, if you have let us say a  
proportion of 10 to 3 Africans to White people, that  
therefore in the Courts which you visualise you must  
have 10 black Judges or 10 black Magistrates for every  
3 white Judges or 3 white Magistrates?-- No, I think  
that the clause relates to the fact that you would have  
Judges of any group on merit . . . naturally.

And if you have those appointments on merit  
as you say naturally, would that in your opinion make  
the Courts in due course representative of the people?--  
That is so.

Now let's be quite frank about this, Mr.Luthuli.  
Let's take the beginning of a situation in South Africa  
where all persons, whether black or white, would be  
available to be appointed Magistrates or Judges or Pro-  
secutors, or whatever it may be, and at the very begin-  
ning of such a state there would be two candidates for  
a position, one white, one non-white. What would your  
personal view in the matter be?-- Well, my personal view

would be this, that starting from where we would be starting, all things being equal - because at the present moment the non-Europeans cannot qualify for the Bench regardless of qualifications, there would be a tendency to try and equate things, purely from that angle. 1

To equalise things from that angle?-- Yes. 5

Therefore you would initially expect, all things being equal, to appoint a black man in that situation?-- Yes.

That would be your personal view?-- That would be my personal view. 10

And if things were not equal and the white man say was better qualified than the black man?-- The best qualified man, every time-- merit would come first.

My lords, may I say something?

Yes, please?-- A slight addition to what you asked me about land, my lord, I would like to add this, you must leave things in the hands of the government of course. Now, there is a peculiar situation in South Africa, my lord, so that when one says "open land", it wouldn't be open to the extent that I could say, "Mr. 15 20

Smith, go and buy land in that reserve" - - the reserves are a peculiar position in this country, my lord - - not because I would be secluding Mission Reserves, but I feel because of historical facts . . . it would seem to me that the government of the day, whilst still opening South Africa, including the Reserves, would have to do something about these depressed people, who are depressed and repressed not because of their own doings but because of the laws obtaining. Now, that isn't really a view opposing, or in any way modifying the ques- 25 30

tion that the land should be open to all - - I'm merely here making a plea for people who have become depressed over the years . . . . . (inaudible). I just wanted to make that personal explanation, my lord. I think I made it before.

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MR. MAISELS: Now, at the present moment non-white persons are not entitled to sit on Juries?-- It's the practice, I don't know what the law is.

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Well, you can take it that's the law. Now, do you consider that just?-- I don't.

Now there is a clause here about crimes against the people. It's under the heading "All shall be equal before the Law", Mr. Luthuli, from the first page, I think, of the Freedom Charter?-- Yes.

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In the middle of that, the fourth paragraph, "Imprisonment shall be only for serious crimes against the people and shall aim at re-education and not vengeance." Now would you mind explaining what is meant by that - what the reason for it is?-- My lords, this arises out of the present situation where the main thing seems to be to arrest people for petty offences and put them in gaol. They finish their period and go out; if they should again be guilty of another offence they go back and so on. Petty offences, my lord . . .

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Are you particularly referring to Statutory offences connected for example with the Pass Laws?-- That is so.

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Does that operate harshly on the Africans?-- Very harshly. I cannot quote from memory the figures one gets from the publications for example, but the

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publications give staggering figures of the numbers of Africans who go to gaol just for passes, and other petty offences, but particularly for passes. 1

RUMPF J: Luthuli, if the discriminatory laws were abolished and passes were abolished, then all that, shall we say, petty prosecution, would fall away?-- Most of it would fall away, yes, my lord. 5

Why then the clause 'Imprisonment shall only be for serious crimes against the people'; what is the meaning of that phrase?-- Well, I think, it is emphasising - there are some offences, crimes, my lord, where really I think a person ought to be put in custody because he is a danger . . . . 10

In your opinion is the crime of murder against the people, or against an individual, or is it included?-- It's included, my lord, because a fellow who has murdered somebody else - I wouldn't be too happy to be in his company. 15

Yes. I was only wondering why this particular type of phraseology?-- It's just to emphasise, my lord; I might stress that we mention the question of a system of educating rather than . . . . 20

Yes, that is in order?-- One is happy to say, my lord, the former Minister of Justice who is now Governor General, seemed in favour of this view - - I don't know how far he would have gone, my lord, but I was happy to see him confirming this view. . . . 25

No; I'm only interested in the phraseology, first of all that imprisonment should only be for serious crimes against the people - not for all crimes against the people - - that's what it appears to be, and that 30

imprisonment shall be only for serious crimes against the  
people, and not against anybody else; unless all crimes  
are considered to be crimes against the people?-- Well,  
my lord, I think I'd say that for petty offences, such  
as Passes - - they should be abolished, such petty things;  
but as I said, my lord, one wouldn't say that one should  
entirely eliminate petty offences. We say there is a  
possibility of educating people but when it comes to  
crimes against the people - I think there we are thinking  
of serious crimes, where a person is really endangering  
the lives of the people. Might I say, my lord, as I have  
already indicated, a man who is a murderer for instance  
is a danger to the community. May I also say, sir, that  
a man who does anything against the people's interests  
as the authorities would see them, should be regarded  
as a danger to the people also. . .in this particular  
case where I'm giving evidence, my lord, I think some  
people are regarded as a danger.

Yes.

MR. MAISELS: The crime of robbery....?--Robbery  
and so on - - all that.

Is that a crime against the people?-- Yes, cer-  
tainly.

Now, tell us about this other clause, "The Police  
Force and Army shall be open to all on an equal basis  
and shall be the helpers and protectors of the people."

You tell us about that. We know that there are Afri-  
cans in the Police Force; there are some. We know there  
are some Africans in a sort of Auxiliary Army, but I  
want to know what the meaning of this is, "The Police  
Force and Army should be open to all on an equal basis

and shall be helpers and protectors of the people."?-- 1  
Firstly, on an equal basis, while it is true that we  
have non-Europeans in the Police Force, yet there is a  
limit insofar as promotion is concerned. I think that  
the highest office that an African may hold would be  
that of Sergeant; it might be 1st Class Sergeant, I 5  
don't quite know - - but somewhere thereabouts - so  
that there is a limit to promotion so far as an African  
policeman is concerned. There is also this other very  
marked difference, my lord, as I understand the situation,  
so far as an African sergeant even is concerned, where 10  
there would be a white policeman even if he were not a  
sergeant he is regarded as being superior to the African  
sergeant. There is, of course, the general pattern of  
South Africa of segregation and the African being regard-  
ed as lower - so far as officers are concerned. 15

Yes, I don't want you to concern yourself so much  
to the first part; the second part?-- I'm now coming to  
that, my lords.

Should be helpers and protectors of the people?--  
The second part, my lords: generally, the way that the 20  
police have dealt with the people - I don't want to go into  
detail on that, my lords - - but the attitude of the  
people seems to me to be one of fear, they fear the  
police. So that the position actually is this, if I were  
travelling in Johannesburg and I found myself not knowing 25  
where I was going, I would rather go to a house to ask  
for directions than go to a policeman because the first  
thing I'd hear might be "Where is your pass", when I'm  
merely asking for directions. There is that, my lord,  
that fear, that exists. I'm not going into the question 30

of how it arises, but there is that fear, and the general approach of the police is not inviting. 1

Not inviting, you say?-- I mean they don't invite you to go to them for help.

My lord, I think that a fair criticism of this clause should be that the draughtsman didn't do the usual thing - generalia non specialibus deroganti - - put the last first; if he had put the last clause first then the rest would have fallen into line, my lords. I think that's the difficulty here, that the draughtsman was not a very skilful draughtsman, my lords. Now just let's get on to the very last clause, "Peace and Friendship". Do you see any objection to this clause?-- Not at all, my lord. 5 10

What is your attitude in regard to this question of peace and friendship as between different nations, and between different races?-- Peace and friendship, as between groups in a country - peace and friendship as between nations? 15

I want you to deal particularly with the relationship between the African people and the Afrikaners, because very often you see in the speeches bitter references to people of Afrikaner descent or Afrikaners; will you explain why that is?-- My lords, I should say that I think from the point of view of historical developments in the country there has arisen a situation - I think - because the African people, a large number of them, come into contact with the Afrikaner on the farms - - in fact even before they went to war earlier a large number of people were on farms, and the experience over the years is that they generally meet 20 25 30

harshness and when you speak of farmers one generally 1  
 thinks of Afrikaners, and then you think of the harsh  
 treatment the African meets with on farms - - and so  
 you get this - - in other ways historical events have  
 brought this about feeling, arising out of certain  
 situations. So you'll find this expression used in a 5  
 general way, my lords, by people, to indicate any act  
 which is harsh on the people. You'll hear for instance  
 people saying, if I may use a Zulu expression, "Amabulu  
 Ayahluma"; actually, that doesn't mean Afrikaners  
 expressly; it has come to mean any white man who is 10  
 harsh . . . .

Is that a Zulu phrase that you used?-- I used a  
 Zulu phrase, I'm sorry, my lords.

Would you explain what that is, that phrase?--  
 It merely means "The Boers are . . . . ." (inaudible.) 15  
 but not necessarily the person you may be speaking of  
 is an Afrikaner - - somehow or other it has become a  
 general phrase used by the people when speaking of  
 the treatment they receive - - - I'm not saying whether  
 or not it is so, but on the farms people speak about 20  
 how they are thrashed and so on . . . . .

Now, there is another aspect in that connection.  
 You have given evidence before of the fact that you find  
 that the African people find the administration of laws,  
 particularly proclamations, particularly harsh and op- 25  
 pressive?-- That is so.

In whose hands is that practically administered  
 ?-- It's in the hands of the Civil Service which is at  
 the present moment of course largely Afrikaner.

And does that in your view have anything to do 30



with - - does that explain in some way why there is a  
reference very often in derogatory terms to the Afrikaner  
section of the South African population?-- That is so.  
The average man will not even bother to think about the  
Government, he says "Well, there's the chief, the chief  
is worrying me", and yet that chief might be carrying  
out some injunction of the government - - so it is also  
with the officials. They perhaps meet some harshness  
from Court officials - or what they regard as some  
harshness and they say - - even if it is in implementa-  
tion of some law - they say these things . . . .

Would you like to see this state of affairs  
continue or disappear?-- I would like to see it disap-  
pear.

And how in your opinion can it disappear?--  
I think it can disappear, if people adopted the right  
attitude. Firstly, at a personal level - - adopt  
the right attitude towards one another - - I think that  
sttitude would permeate the whole of the State. .

From your own experience, Mr. Luthuli, do you  
find friendship easy or difficult, as between white and  
black?-- From my personal experience I find it easy.

Is friendship encouraged or discouraged by  
the blacks - - friendship with the whites?-- Well, at  
the present moment I'm sorry to say that friendship  
is not encouraged because of certain Apartheid Laws  
which try to diminish to the lowest the contact between  
white and black; naturally the people live in differ-  
ent camps and they are suspicious of one another because  
they just don't know one another; and the Laws of the  
land at the present moment, I'm sorry, are turned in

that direction.

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Now, just let's go to the last clause, "The rights of all the peoples of Africa to independence and self government should be recognised and be the basis of close co-operation." Is that in line with Africans' Claims as set out in the document which has already been put before the Court?-- That is so.

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Do you think that apart from Africans, do you think that most South Africans to-day would agree with that? "The rights of all the peoples of Africa to independence and self government shall be recognised and shall be the basis of close co-operation"?-- I'm afraid I wouldn't say the majority of the people; I think if you take the white community, I'd say the minority would agree with that; a very small minority, my lords.

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Now I want to come on to freedom volunteers. In 1954 you made a call for freedom volunteers?-- That is so.

What were the volunteers in the A.N.C. to do?-- The volunteers in the A.N.C. were people who voluntarily came forward to perform organisational duties, and these are many, insofar as we are concerned. We do not have any paid organisers and to do our work we rely on voluntary work amongst our members. Now, you cannot rely on general membership, so we try and get people who themselves volunteer to say "I come forward to devote my services to doing the tasks that I'll be asked to do by my organisation, insofar as furthering the interests of Congress is concerned"; and as I've said it's largely organisational work that they assist us in.

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Now, you say you had to rely on volunteers; is there canvassing, house to house canvassing to be done?-- A lot, yes. 1

Now you have meetings from time to time, branch meetings?-- That is so.

In your view, can they take the place of approach to individuals?-- Oh, no, meetings can never take the place of personal approach to individuals. 5

Now the A.N.C. has members?-- That is so.

Are all the members active?-- No, they cannot all be active. 10

And what is the special function of the volunteers insofar as the A.N.C. work is concerned?-- Well, specifically I would say that if, for example, we were having a campaign, there would be many leaflets to be distributed; we rely on volunteers to do that work. Generally, apart from the question of a campaign, we rely on volunteers going from house to house to try and explain to people about Congress, and there is no end to that type of work. 15

I want to read to you an application for enrolment of a volunteer, a pledge, which appears at page 1202 of the record. (Reads pledge). Is that the pledge that is required to be taken?-- That is so. 20

What is the reason for taking this pledge?-- Well, I think the reason is to get affirmation: this man voluntarily undertakes to give his services to the organisation and to say "I'm willing to do this work voluntarily." 25

Do you think such affirmation would have some effect on his conscience?-- Yes, I think so.

Now, are volunteers expected to obey instructions?-- They are. 30

In what sense are they to obey instructions?--  
They are to obey instructions insofar as the instructions  
are official instructions, lawful instructions.....

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BEKKER J: Constitutional, or do you mean law-  
ful?-- My lord . . .

You say volunteers have to obey Constitutional  
instructions?-- When I speak of the organisation, my  
lord, I mean lawful insofar as the organisation is  
concerned. Can I give your lordship an illustration?

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Yes. You see the volunteers carried out the  
Defiance campaign - now that wasn't lawful, was it?--  
That wasn't lawful, my lord, but as far as we were con-  
cerned it was . . .

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Constitutional?-- Constitutional, yes, my  
lord.

Is that what you mean?-- That's what I mean,  
my lord.

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MR. MAISELS: You mean within the terms of  
the 1949 Programme of Action?-- Quite so.

If a volunteer is told to go and do canvass-  
ing, is he to do that?-- Yes.

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If a volunteer is told - assuming you now  
have a boycott campaign - - if he is told to organise  
the boycott, is he to do that?-- That is so.

Is the concept of a volunteer having to  
murder any part of the duties of a Freedom Volunteer?--  
No, my lord, because that doesn't come into our pro-  
gramme at all. If ever there was a thing like that - -  
first of all I cannot conceive of him being told to do  
it, and even if he were called upon to do it I would  
expect him to say "Oh, no, I can't do that".

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RUMPF J: Did they wear uniforms?-- Yes, they do. 1

When do they wear the uniform?-- Generally, my lord, they wear the uniform at functions- at meetings - I do not know that the practice is followed very strictly. Sometimes you may get them out when they are out on general house tohouse work wearing uniforms. 5

It's not confined to a particular occasion?-- No, not particularly, my lord.

MR. MAISELS: While we are on the volunteers, I'm talking now of the Freedom Volunteers and not the volunteers under the Defiance Campaign. I think his lordship asked you a question relating to the Defiance Campaign. Go to the Freedom Volunteers for the moment. Now, were the Freedom Volunteers called upon to defy the laws in any way?-- Yes, they were. 10

The Freedom Volunteers?-- No, I'm sorry, I was thinking of the Defiance volunteers. 15

Were the Freedom Volunteers called upon to defy the Laws in any way?-- No, no, that was not a defiance campaign. The freedom volunteers were connected with the period of the C.O.P. and after. 20

RUMPF J: Is there a difference between the Freedom Volunteers and the Volunteers of 1952?-- Yes, the difference is this: we made a call at the beginning of the Defiance Campaign for people to come forward....

As volunteers?-- As volunteers, in order to defy certain laws. They were called volunteers too. Then, of course, they did defy the laws and were arrested and so on. 25

This call for 50,000 volunteers?-- That was the freedom volunteers. During the period of the 30

Congress of the People. And it is these volunteers that I called upon to do organisational work, first in connection with the C.O.P. and then later to continue with Congress work. But they were then freedom volunteers.

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MR. MAISELS: I want to make this absolutely clear. Were those people ever called upon to defy the law in any shape or form?-- No.

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Were those people ever called upon to commit any unlawful act in any shape or form? -- No, they were confined to organisational work.

Were those people ever instructed to perform unlawful acts, or told that they might at some future date have to do unlawful acts?-- My lords, it is as I have explained: they were being asked to volunteer to do purely organisational work, canvassing work, in the interests of increasing our membership, and increasing the number of people who would get to know about Congress. They were quite apart from the others.

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BEKKER J: Well, can we put it on this basis, if a Freedom volunteer, after 1954 - that type of volunteer - was ordered by a superior to do an act which was not lawful, he could refuse to do it?-- Oh, yes, he could refuse to do it.

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(COURT ADJOURNED UNTIL 2.15 P.M).

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ON THE COURT RESUMING AT 2.15 P.M

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MR. MAISELS: Just before the witness continues, my lords, the Particulars we had in mind were Particulars which were furnished on the 27th July, 1959, at pages 4 and 5 of that document. I was leading the witness positively in regard to what the volunteers were to do. Now, Mr. Luthuli, just before the Court adjourned, or just when the Court adjourned, you had explained to their lordships that the 1954 volunteers, unlike the volunteers in the Defiance Campaign, were not called upon to defy the laws?-- That is so.

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In this connection I wish to refer my lords to exhibit A.55, read into the record at pages 333 and following pages, which is a Presidential Call to the branches and officials of the African National Congress prior to the Congress of the African National Congress in 1954, and it reads, my lords, in regard to this particular aspect in this way: "

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RUMPF J: Are you putting it to the witness?

MR. MAISELS: Yes; unfortunately, my lord, I haven't got the exhibit itself in Court. I'd just like the witness to identify it as the speech that he read, unless the Registrar could obtain that exhibit A.55 please. My lord, may I in the meanwhile, on the assumption that the witness will identify it, for the sake of saving time, just read the passage.

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RUMPF J: Yes.

MR. MAISELS: The particular passage, my lord, is at page 335, line 28 to page 336 - I'll read on a bit of that. It says: "Some time this year I made a Presidential Call asking for 50,000 volunteers. We were to be

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known as Freedom Volunteers. There is some confusion 1  
among people as to the task of these volunteers. Some  
think that these volunteers were called upon to defy  
the Laws as in the Defiance Campaign. This is not the  
case. It must be remembered that shortly after the  
Defiance Campaign we undertook to organise the Congress 5  
of the People which would culminate in a great assembly  
whereat our multi-racial nation with delegates elected  
democratically by the people in all four corners of the  
Union will write our Freedom Charter, South Africa's  
Declaration of Human Rights. In order to organise and 10  
propagandise the Congress of the People it became neces-  
sary to form a special corps of workers who we desig-  
nated as Freedom Volunteers. The task of these volun-  
teers is to visit men and women in their homes, in  
factories, and all over, to enrol them for the Congress 15  
of the People having duly explained to them the objects  
and significance of Congress of the People. It should  
be clear to everybody that freedom volunteers are field  
workers moralising the people for the great Congress  
of the People." Then it goes on to a new topic, "The 20  
resist Apartheid Call". My lords, when the exhibit  
comes I'd like formally to put it to the witness.

KENNEDY J: Yes, well, I think that state-  
ment has been read several times.

MR. MAISELS: Several times, yes, my lord. 25  
Mr.Luthuli, do you recall having issued that Call  
yourself?-- I do.

And does that Call truthfully represent  
what the freedom volunteers had to do?-- That is so.

Were there any secret instructions given 30



to freedom volunteers in regard to duties that they had to perform?-- No. 1

Would you mind just looking at this document. I'm afraid, my lords, we are free of police at the moment. A.55, is that the Pre-Conference Presidential Call issued by you in 1954, Mr. Luthuli?-- That is so. 5

10th November 1954, is the date of that, my lords?-- That is so.

Then, in the same document, just before you leave it alone, "I take this opportunity to reiterate my call for 50,000 freedom volunteers who will enable us to carry out effectively our present double task of organising for the Congress of the People and mobilising the people to oppose certain Apartheid measures. Every branch should have a respectable number of freedom volunteers". Now, let us consider another aspect in this connection. Were you expecting volunteers - - were you calling for allegiance from these volunteers, the kind of allegiance which is due only to the State?-- No, my lord. 10 15

Was there any drilling by the volunteers?-- No, my lord. 20

Did they carry any weapons?-- No.

You've already told us you had no weapons to give them anyhow?-- That is so.

Did you have any intention of giving them weapons?-- Not at all. 25

At any time?-- Not at any time.

Now, with regard to uniforms, were you against the idea of uniforms?-- No, my lord, not against the idea of uniforms at all.

What was the idea of giving persons uniforms?-- 30

Well, the idea of giving uniforms was just to sort of  
give a distinctiveness to this particular group that  
had to perform special organisational duties, as distinct  
from the general membership.

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In your own church, that's the Congregational  
Church of the American Board, do you have volunteers?--  
Yes, we have a group which we call volunteers.

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What is their duty?-- They are a group which  
undertakes in a special way to do work in the community.  
You have the general church membership, you might even  
have lay preachers, as we have them in our church, but in  
addition to that we have a group which is called volun-  
teers who say: "I dedicate myself to do more Missionary  
work in the community", than is demanded of an ordinary  
member of the church. They wear uniform - I think ours  
is khaki coat and black trousers.

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Those are the church volunteers?-- Yes, the  
church volunteers.

Are they inducted at a special service?-- Yes,  
they are; they are inducted at a special service.

And are they called volunteers....oh, yes,  
you've told us that already?-- Yes. And I don't think  
that that is peculiar to our church only. I've an idea  
there are others, and certainly you have the Salvation  
Army too who would have a similar group.

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Now, is it your hope that your volunteers will  
act in the same way, insofar as the activities of the  
A.N.C. is concerned?-- That is so. The idea is exactly  
the same.

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At meetings, do volunteers have special duties  
to perform?-- Yes, they have the duty of assisting in

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keeping order.

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I'm talking about volunteers of the African National Congress?-- I'm talking about them too now. They have the task of helping to keep order, to act as ushers, and to do duties of that kind.

In the Congress of the People Campaign, what did the volunteers have to do?-- They were supposed to go from house to house, everywhere in fact, to acquaint people of the fact that there was the suggestion of having this gathering, and what its purpose was, and then they would tell the community generally that there would be a meeting at such and such a time under the auspices of the A.N.C. or any of the congresses.

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Did they help to collect demands?-- They did.

Was there any military significance in the word "Corp", or "Unit", as far as you are concerned?-- No.

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Was the word "corp" used in connection with volunteers in the Defiance Campaign?-- I think it was, I'm not so sure.

The suggestion has been made that the volunteers - I'm just going to try and summarise it, I hope in temperate language, - were really a shock troops for a bloody revolution. Is there any truth in that?-- That is very far from the truth.

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Now, at the Preparatory Examination you heard a speech which it was said was made by the accused Resha about the duties of volunteers?-- I did.

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Did you actually hear it read, or did you read it?-- No, I heard it read; I didn't read it.

You didn't hear it played over on the machine or anything like that?-- No, my lord.

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Now that suggests that volunteers might be called upon to be violent. Do you remember that passage, "If you are called upon to murder, you must murder"; do you remember that?-- I do. 1

The idea that volunteers might be called upon to be violent, is that in accordance with Congress policy?-- It is not. 5

Is it contrary to Congress policy?-- Very contrary to Congress policy.

Was the use of violence by volunteers or anyone else ever proposed, or even discussed?-- It was never proposed, never discussed; personally I would go as far as to say I would be surprised if one would ever think of it. 10

Was there any idea of using the volunteers to commit violence?-- No, my lord. 15

Now, it was said, it has been said - you've said it too - that a volunteer is expected to be disciplined?-- Yes.

Although he is expected to be disciplined, if he were called upon to murder, to commit an act of violence, would he be - - what would his attitude have to be?--- My lords, I think I have already said that his attitude should be "I cannot respect that order for it is contrary to Congress policy and contrary in fact to the laws of the land for that matter of fact". 20 25

Would a person who gave an order to volunteers to do any such thing be entitled to remain in the A.N.C?-- He would not. He should be disciplined and asked to explain himself. Maybe in the light of explaining himself, in the circumstances, he might - - one cannot 30

say what the judgment would be, of the Committee - -  
unless he could show real signs of regret and so on  
he might be suspended - - certainly if he expressed such  
views he would have no place in the A.N.C.

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He would have no place in the A.N.C?-- No.

Would it be right or wrong to give the impres-  
sion that volunteers could be used for acts of violence?--  
It would be wrong.

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Now, do you recall that the then Minister of  
Justice, prior - some time prior to the arrest of some  
156 people on a charge of High Treason - threatened to  
arrest some 200 people; do you remember he made a state-  
ment to that effect?-- Yes, I remember.

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Did you take that seriously?-- Yes, quite  
seriously, very seriously.

Did you make any special plan in consequence  
of that threat of the Minister's? Did you resolve on  
a special campaign, or special action of resistance, or  
anything of that nature?-- Well, we did take note of it,  
to the extent that we had to see what we could do to  
strengthen our own movement from the point of view of  
organising; we did realise that if the leadership was  
arrested there would be people who might not carry on  
the work and we had seriously to think about replacing  
men for leadership, and things of that kind.

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Was there any other special plan to be put into  
operation in the event of your arrest? That you know of  
?-- I cannot recall specifically with reference to the  
Minister, because about that time there was also the  
campaign on Western Areas and things like that, and  
there were certain plans directed to that.

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No, I don't want to deal with Western Areas. 1  
No, no, I'm talking about the Minister's threat to  
have all the people arrested. Did that throw the A.N.C.  
into a panic?-- Well, it didn't throw us into a panic  
but we took serious note of it. And as I said, we did  
try to take steps to ensure that if the leadership was 5  
arrested then the machinery must not break down.

Yes. Now, I want to deal specifically with  
the campaign of Bantu Education. Now you've already  
told their lordships in dealing with the document  
"Africans Claims" that the question of Bantu Education 10  
as distinct from ordinary education was an old one.  
Remember, you pointed that out?-- I do remember.

And you remember you told their lordships about  
a particular Director of Education in Natal many, many  
years ago?-- I remember. 15

Now when the Bantu Education Act as a Bill  
first came before the public, what was the reaction of  
the African people to that?-- The African people ob-  
jected to the Bill and voiced themselves through their  
organisations, including the church. 20

I think you've already stated, your objections  
to Bantu Education?-- That is so.

In your view was this scheme of education de-  
signed to give you a better type of education than that  
accorded to whites?-- In my view, in our view, we felt 25  
it was designed to give us an inferior education. I  
might add, that in fact our objection dated even beyond  
that date; it dated back to the time when there was a  
Commission appointed by the Government to enquire into  
African education. 30

Was that the Eiselen Commission?-- The Eiselen Commission; it brought out a report which in fact gave birth to Bantu Education, almost as recommended by the Eiselen Commission. There was Union wide objection to that Commission, right round - - among Africans, Missionary groups and so on, expressing their views against that Commission, so when Bantu Education came, implementing almost in toto - almost, I cannot say precisely - that Commission's recommendations, the agitation against Bantu Education was continued intensely.

BEKKER J: Mr. Luthuli, in what sense: the subjects to be taught, or was it a lower standard, or not enough subjects taught, or having regard to what was taught that it wouldn't fit you to take your place with the European community?-- That is so, my lord. As regards standard - - well, my lord, may I briefly state our objections: (1) We objected to the standard and stood for universal standards of education, but I must say that the Minister, the then Minister for Native Affairs in introducing this Bill in Parliament, used the expression which left us in no doubt as to the purpose; for instance, I recall in that statement in Parliament where Dr. Verwoerd said "We are going to give the Africans an education which will fit them for their station in life. Now, at the present moment I know our station in life - - I don't like it. But this was going to give me an education to fit me for my station in life, and that was repeated in different ways. For instance, indicating that a school like Bishops - - **this** is a school in Cape Town - - is not for

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for Africans - - they are not to pasture in European 1  
 pastures - - expressions like that, my lord, created in  
 my mind - and I think in the minds of others - that the  
 intention behind it was to bring in an education that  
 would make me a separate status quo. As against that,  
 if I may repeat myself, standing as we do for universal 5  
 education, my lord. Now, the question of standard - -  
 some of us fear although I've got no strong evidence of  
 this, but even in standard it's bound to be lower. You  
 take for instance the lower classes, there is the class  
 II system of education where in the lower classes, I 10  
 think the first two years, children attend for 3 hours  
 and then others come in . . . .

Well, could I put it this way. If you take  
 say Std. VI examination?-- Yes, my lord.

And if you take the European child who passes 15  
 his Std.VI examination, and you take the African child  
 who under this Act passes his Std.VI examination, would  
 they be equally well equipped or not?-- They couldn't.

Because of what?-- Because first of all,  
 the subjects themselves are not quite the same, so that 20  
 a standard VI child for instance could not straight away  
 take a University course - he couldn't. That is why  
 there is in process of preparation a Bantu JC; as they  
 say with the eventual Bantu Matric. So you see it's a  
 different course. Then also, my lord, the syllabuses 25  
 are already out - - I'm not going to go into the subjects  
 but you'll find the syllabuses very much overweighted so  
 far as distribution of time is concerned; they are very  
 much overweighted with manual work - - that's alright  
 as far as it goes, my lord, but it should not outweigh 30



the academic work. My feeling is this, that people should 1  
 have a general education; if a man specialises to go to  
 a Technical school, well, he'll go to the technical school  
 afterwards, but it's definitely overweighted from the point  
 of view of distribution of time, in favour of manual work.  
 In fact, the very fact that they are planning for Bantu 5  
 JC and Matric . . . . .

You see, I have not studied the Act so I don't  
 really know what is entailed, but leaving aside Ministerial  
 utterances, have you studied the Act from the point of view  
 of deciding whether or not that Act would render the 10  
 African child less equipped than the European child?--  
 In this regard, my lord, I would suggest that reading the  
 Act itself might not indicate the position; but I think  
 one has got to read the Act now in the light of the syllabus.  
 If you read the Act in the light of the syllabus one must 15  
 come to that conclusion. Then another thing that I must  
 point out, my lord, is this, that whereas heretofore in-  
 struction was given in English up to Std.II - then after  
 Std.II it was a mixture of English and the Vernacular.  
 Now, instruction is given in the Vernacular up to Std.VI 20  
 and according to the plan instruction in the Vernacular  
 is supposed to go up to JC and so on. Now, we love our  
 language but at the same time we do realise that certain  
 languages are important from the point of view of utility,  
 and from that point of view, to instruct a man in the 25  
 Vernacular is not suitable for certain subjects. The  
 end result is that they cannot match up with the others;  
 apart from the fact that the syllabus is broadly different,  
 my lord.

Yes.

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MR. MAISELS: I'll explain, my lord. The Act 1  
itself is only 15 clauses. All the regulations lay  
down - it has power to regulate, it has power to make  
any syllabuses in terms of that regulation, so that  
the people can only infer at that stage what the regula-  
tions are going to contain in the light of the . . . . 5  
we'll produce that, my lord, at a later stage of the  
case.

KENNEDY J: Mr.Luthuli, would you mind telling me  
what the position was. Did the African, say, write the  
same subjects in the Matriculation paper as the Euro- 10  
peans?-- From Junior Certificate up it was the same  
examination.

The Junior Certificate and the Matric was the  
same where there was a common subject?-- Yes. As a  
matter of fact I think you'll find it in the choice of 15  
subjects, English, Afrikaans, the Sciences, "A" language,  
and Maths and so on. Those would be the popular choice.

MR. MAISELS: I think it was made clear - I  
think evidence has already been given in this Court in  
cross examination of Prof. Murray that it was stated 20  
specifically with regard to Natives or Bantus in the  
Urban Areas, that they would have to realise that they  
would remain -- to use the abssisima verba of the Minister-  
hewers of wood and drawers of water. Do you remember  
that phrase?-- I don't specifically recall it as having 25  
been said by the Minister; I cannot recall just now.

But you put it, to fit you for your station in  
life?-- That is so.

Now, the opposition to the Bantu Education Act  
- was that opposition just for the sake of having an 30

imaginary grievance?-- My lords, it was and still is a  
 real grievance. One of the things worrying us at pre-  
 sent is just Bantu Education. To show you how greatly  
 it does worry people, to me is this: you'll find that  
 even some of our people who are on the Education Board -  
 the Act provides for the establishment of Education  
 Boards - - there are Africans operating on these boards -  
 you'll find that in some cases - - I know of one or two  
 instances, when it comes to one child you'll find the same  
 man looking for other places where he can send his child  
 to avoid the very education that he is implementing as  
 a member of the Board.

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Where do Africans who can afford to send their  
 children to school - some of them?-- Well, at present  
 the Protectorates still have an open door.

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And is this a matter of strong feeling among  
 the African people?-- It is.

Is it as strong as the feeling about carrying  
 passes, which is said to be an imaginary grievance as  
 well?-- It is as strong as that, my lords. It is as  
 strong also as the Native Land Re-Settlement Act.

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Now, one of the aspects which you were dealing  
 with in reply to his lordship Mr. Justice Bekker - -I  
 want to clear one point up - - is the question of mother  
 tongue instruction?-- Yes, my lord.

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And I think you made the point - you called it  
 the Vernacular - I take it that's mother tongue instruc-  
 tion, is it not?-- Yes.

And you made the point that now-a-days the  
 policy is to have mother tongue instruction until the  
 6th standard?-- At the present moment; it is stated

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it will go as far as JC and Matric. 1

Now, do you agree that mother tongue instruction is important?-- I do, yes.

Are you yourself a great lover of your own Zulu language?-- I am.

Do you want to preserve it?-- I do, indeed. 5

You don't want to see it disappear?-- No.

Now why is it that you object to mother tongue instruction? As high as it is proposed to go?-- I object to mother tongue instruction because it is bound to limit the ability of a person to reach educational standards as required universally in South Africa. 10

At the present moment it's a question even of the technical terms to be used - - but even if you had the technical terms in your mother tongue, the question of proficiency in what I earlier called a utility language comes in - - 15 that becomes extremely important.

What is the utility language?-- At the present moment it is English and Afrikaans.

And in your view this mother tongue instruction, what effect would that have in regard to the African relationship with Western culture?-- It would divorce us almost completely from Western culture. 20

Now you've made the point already, Mr.Luthuli, that the Africans have been influenced by Western culture and civilisation; you've already made that point?-- I did. 25

Your own culture, is that always the same as Western Civilisation?-- In certain aspects it is.

Is it antagonistic to Western civilisation?-- Generally it isn't. 30

You you, or do you not think that anyone in South Africa has an exclusive claim to the benefits of Western civilisation?-- Oh, no. 1

What do you think is the best way of preserving Western civilisation in South African?-- The best way of preserving Western civilisation in South African is to widen the scope of its acceptance by all people. Create opportunities whereby people shall have an opportunity of acquiring it. 5

And do you say that the Bantu Education Act is designed to help you to claim the benefits of Western civilisation?-- It limits the opportunity. 10

Now there is a great deal of talk -- when you talk this way of a desire to acquire Western civilisation, do you speak for yourself, or do you speak as leader of the African National Congress?-- I speak as leader of the African National Congress, and as one also who knows the general feeling of the Africans. 15

And you speak for yourself as well?-- Yes.

Now there is a great deal of talk of encouraging Africans to develop along their own lines; one hears that credo or philosophy expressed; what have you to say about that?-- Well, my lords, first I would say this, that I have heard that expression used; I have criticised it. I must start off by saying one never really understands what is meant by developing along your own lines because with my limited knowledge of history I don't know of any group that has really developed along its own lines. After all one has to go back centuries - even Western civilisation is indebted to past civilisation, so when you come to me and say 20 25 30

"You must develop along your own lines" - - what does it mean? I don't understand it. I'm prepared to, on the basis of Western civilisation that I have, decide whatever I might feel does not quite suit the situation as it should, but I'm not one who says "Swallow holus bolus everything you hear"- - but you do build on the value of this civilisation which is indebted to many sources.... so I don't understand that expression. The very best construction that I could put on it would be this, that it gives me the right to determine what I shall take of any civilisation, and I am one of those who believes that in South Africa we can take something from all civilisations and build maybe a type, or add to the the values that we have - - that is in a moderate South Africa.

Now you've mentioned that the A.N.C. has a policy of equality of a multi-racial society?-- That is so.

Is that the basis of your opposition to Bantu Education?-- That is.

Do you think that Bantu Education was really an attempt to encourage you in your own culture?-- Not particularly.

Would you like to rest for a few minutes, you seem to be tired; are you alright?-- I'm quite alright, thank you.

What do you say was the purpose of Bantu Education?-- Well, I would say the purpose of Bantu Education is more or less as I have indicated. It's to keep me where I am.

In an inferior position?-- In an inferior position.

Now, in 1954, according to the records that have been put in, according to the evidence of the Conference, the Durban Conference of the A.N.C. decided that Bantu Education schools should be boycotted?-- That is so.

And that is, of course, according to the terms of the resolution that has already been placed before the Court, that parents should be urged to keep their children away from schools; Africans generally should be urged not to participate in School boards or school committees to be set up under Bantu Education; that was the resolution?-- That is so.

Now, what happened after this resolution, Mr. Luthuli?-- This was the development: the Conference set a date when the resolution would be put into effect. The National Executive found that when the date was approaching it could not implement that resolution because sensing the response of the people throughout the country it felt that that resolution could not be implemented.

My lords, there are two documents which were issued which regrettably are not on the record.. I'm sorry, A.181 - would you look at this document. Now that's a document which sets out that there had been a decision to boycott . . .

RUMPF J: What is the document?

MR. MAISELS: I'm sorry, my lord, it's A.181 to the Provincial Secretary, it's headed; it's a directive issued by the African National Congress-- the National Executive Committee I assume; could you tell me that, Mr. Luthuli?-- Yes, I recognise it.

Yes, the resolution of the ban could not be implemented 1  
and the Executive immediately called a conference to  
be held in Port Elizabeth, and this is the result of  
the final decision on the matter.

Just before that there was a Press release,  
A.212 which you might just look at and identify please 5  
- it's also not on the record, my lords, found by  
Sgt.Moeller in the A.N.C. office?-- My lords, I cannot  
definitely say I saw this personally . . .

Well, if you didn't, it doesn't matter. Just  
give it back to me please. Was the position that it 10  
was decided to defer the boycott?-- That is so.

What was the reason for that?-- The reason  
was because the Executive and the second conference  
were satisfied that the state of preparedness of the  
people for the implementation of the resolution was 15  
not there.

Now, did you say anything with regard to  
boycott of school boards and committees?-- Yes, we did.

What was the attitude of the A.N.C. in  
that connection?-- The attitude of the A.N.C. in that 20  
connection was this: that the African people should  
not assist, they should not co-operate in the imple-  
mentation of an education which is not in their in-  
terests.

Now, Mr.Luthuli, you know in the Transvaal 25  
the Government, in certain parts of the country there  
was a boycott - children did not go to school?-- That  
is so.

You say, of course, that that wasn't gener-  
ally organised throughout the country?-- That is so. 30



You know that there was a reaction by the Govern- 1  
ment that children who weren't at school on a certain  
date would be permanently deprived of the right to attend  
school?-- That is so.

If the boycott had been universal throughout 5  
South Africa, would that in your opinion have been the  
attitude of the Government?-- My feeling is this, that  
the Government would have thought otherwise, if the  
boycott had been universal. I don't think they would  
have taken that line.

Was it your object to intimidate parents into 10  
not sending their children to school?-- No.

What was your object, what was your intention 15  
?-- Our intention, my lords, was first to highlight the  
objection to Bantu Education, which we knew was shared  
by many, and then to get the parents in particular to  
do all they could do in conjunction with the organisations  
to make an impression on the Government that they didn't  
like this type of education.

Now, do you deny that in some areas some people 20  
may have attempted to intimidate parents?-- No, I would  
not deny that.

Was this A.N.C. policy?-- No.

Would it be allowed by the A.N.C.?-- No.

Would any A.N.C. man go in for burning of 25  
schools?-- Not to my knowledge.

Would he do so if he is a loyal A.N.C. man?--  
No, he would not if he's a loyal A.N.C. man.

Has the A.N.C. ever ceased to protest against  
Bantu Education?-- No, we have continued with our protest.

Apart from the A.N.C. protesting against Bantu 30

Education did other organisations protest against it?-- 1  
 Yes, I recall Church groups did.

Do you recall any other bodies?-- Either church  
 groups or groups allied to the church-- then, of course,  
 later, when Bantu Education was being extended to uni-  
 versities, there were mighty demonstrations by stu- 5  
 dents . . .

I'm not sure, Luthuli, whether that part of  
 our history didn't only start after 1956?-- Oh, I'm  
 sorry....

Were there other African political organisa- 10  
 tions who opposed Bantu Education?-- Oh, yes, we had  
 for instance the Unity Movement which strongly opposed  
 Bantu Education.

Institute of Race Relations?-- Institute  
 of Race Relations too. 15

Now I want to go on to the Pass Laws. What  
 has been the policy of the A.N.C. for years in regard  
 to passes and pass laws?-- The A.N.C. has always ob-  
 jected to Pass Laws.

Has the A.N.C. been in favour of influx 20  
 control?-- No.

Has it opposed it?-- Very strongly.

The projected extension of the Pass system  
 towards African women, what was the consequence of  
 that? What result did it bring about among the Afri- 25  
 can people?-- It stirred the African people to a  
 greater opposition to passes generally, and in this  
 case in particular to the extension of the Pass sys-  
 tem to African women.

In what way do African men regard the pass?-- 30

We regard it as a sign of slavery; it ties us down. 1

Would you like to see it extended to anybody else?-- I would not.

Would you like to see it extended to white people?-- I would not.

What effect has the Pass system had on the life 5  
of the African people?-- Many affects: (1) It has tended to make them antagonistic to the police, to the authorities who have implemented the pass laws. (2) It has tended to restrict their movements and therefore limited their opportunity of participating freely in the economic life 10  
of the country, and in that way the passes have a lot to do with decreasing the means by which people earn a living.

Has the Pass system had any effect on domestic life, on the life of the African people - on the home life of the African people?-- It has, very much so, for 15  
apart from the fact that one might be arrested and stay in gaol for quite some time, and thereby be separated from the family, there is this position insofar as influx control is concerned, and the Urban Areas Act is concerned - - what little I know of it - - you might find 20  
a man qualifying for staying in an urban area and his family, his wife and children not being allowed to come to the Urban area.

Are there from time to time police raids for passes?-- Literally, from time to time, I would say 25  
that this happens weekly . . .

What forms do these raids take?-- Well, they take the form of police sometimes going into the townships and asking for passes, but sometimes the police will be at strategic points where they know people go to 30

work in the morning and are bound to pass that spot; then  
the police stop the people and ask for passes. 1

Are people, once they are in their homes, safe  
from being asked for a pass?-- No, they are not; I have  
already said, my lords, that sometimes the raids taken  
are inside the township. 5

You mean into the homes?-- Into the homes.

Into the houses themselves?-- Well, I wouldn't  
go so far as to say into the houses themselves.

Right, that's good enough for my purpose. Now,  
do African men resent this constant harrassing, or in- 10  
terference by the police demanding passes?-- Oh, they do,  
very much. I might just add, sir, that generally asso-  
ciated with these raids are the beer raids -- in such  
cases the police do, of course, enter the houses and  
you cannot separate these things - - sometimes a beer 15  
raid goes together with "Where is your pass?".

Yes. Now, it is suggested that when the A.N.C.  
was opposing the extension of this system to women, it  
was merely exploiting some sort of grievance, or creating  
a grievance or agitating for a non-existent grievance; 20  
actually, Africans really love passes; what do you say?

RUMPF J: Where was that said?

MR. MAISELS: No, my lord, not in Court; that's  
been said elsewhere, in regard to the activities of the  
A.N.C. and I think I can refer to it. 25

RUMPF J: There is such a lot that has already  
been said in Court.

MR. MAISELS: Your lordship is quite right,  
I apologise. I'm quite content with what has been said  
in this Court. It has been said that you exploited the 30

grievances in regard to pass laws; that the African National Congress makes an agitation when there really is no grievance, no real grievance by the African people?-- That is not so. 1

Or that you misrepresent the position of the Africans in regard to their objections to pass laws?-- That is not so. 5

You have a real fear as to the position of African women if the pass laws are extended to them?-- That is correct.

What in your view would be the position if African women have to carry the pass?-- My view is this, that they would be subjected to the same indignities that the men are subjected to, and having regard for the respect towards women which any group ought to have, I dread to think of women being accosted by the police, and maybe even arrested at any time of the day, and so on, my lords. 10 15

Now, what were you trying to do when you started your opposition to passes for women? What were you trying to do?-- We were trying to get the Government not to extend passes - at least not to women, my lord. 20

Were you trying to influence and educate white opinion?-- Public opinion, yes.

Do you think that the white person fully realises what the pass, and the carrying of the pass means to the African?-- I do not think so; there are some who do appreciate it, but even the best of them really cannot understand fully what a pass means. 25

Now you say you hoped to bring pressure on the Government to abandon the scheme?-- That is so. 30

As part of this campaign was there a  
large gathering of women who marched to the Union Bldgs.  
to present a petition to the Prime Minister?-- That is so

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Then, did you endeavour to dissuade women from  
applying to take passes?-- That is so.

And at that stage was it yet compulsory, or  
is it yet compulsory - - at that stage was it compulsory  
for women to have passes?-- It was not.

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Was the Government at that stage carrying out  
a campaign to persuade women voluntarily to accept the  
passes, or the reference books?-- That is so.

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Were you opposed to that campaign?-- We were.

Did you advise men or women to burn their passes  
?-- We did not.

In Wynburg in the O.F.S. according to some  
evidence that was given, women did burn their passes?--  
They did.

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Have you an A.N.C. branch in Wynburg?-- I don't  
think so.

Now, what is your own attitude in regard to  
the women having burnt their passes there; do you see  
anything wrong in it?-- Yes; we have expressed this,  
that people should not burn passes. For one thing it  
is not really a solution of the problem. I must hasten  
to say that properly organised I would have no objec-  
tion to passes being burnt, but the thing, if it is  
done, must be in an organised form - not just here and  
there. In other words, it's no solution to the problem,  
the fact that I take my pass and burn it. There must  
be a campaign against passes by the majority of the  
people.

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(WITNESS): I must say that I have no objection to a pass being burnt. 1

Do you see anything morally wrong in an African burning his pass?-- No.

And may it be that one day African people will decide they will not carry passes?-- Oh, yes, that is possible. 5

And morally what do you say in regard to their attitude in that connection?-- There is no moral wrong.

You mean there is no moral law which says you must carry passes?-- No moral wrong. 10

No moral wrong; I didn't hear.

KENNEDY J: Was there a Bill before parliament that women would have to carry passes?-- I think it arises out of the Abolition of Passes and co-ordination of Documents Act, my lord. I cannot precisely say, but that same Act now has provisions bringing in women. 15

Has it included women?-- It includes women, my lord.

Is that through. . .

MR. MAISELS: It's law, my lord, but it has not yet been applied in all areas. The position was that some years ago, many years ago, there was a case of Rex vs. Dedite (?) - 1920 Appellate Division, where it had been claimed that according to the Statute it was possible to compel women as well as men to have passes. 20 25

That matter went to the Appellate Division. The Appellate Division decided, having regard to the history and the intention of the Legislature, that it could not be so. But in recent years there was introduced this Bill which as usual was called The Abolition of Passes and Consoli- 30

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dition of Documents Act, 1956, and it was then stated in Parliament that there was no present intention to extend the clauses to women, but then it became apparent that the contrary was the case. The situation now is, my lord, that passes are issued to women in certain areas, but it has not yet been made compulsory in all parts of the country. I think that's the legal position, my lord. There has to be a Proclamation, my lord, for each area, but as soon as there is a Proclamation that is the position. Now, the A.N.C. campaign of 1956, Mr. Luthuli was that directed to getting women to refuse to take the passes originally?-- That is so.

Now, apart from the A.N.C. campaign, was there a spontaneous reaction by women against the passes?--There was. It differed, of course, in different areas.

Now, in its opposition to the Pass Laws, is the A.N.C. alone?-- No.

Has it had the support of white as well as other non-white political organisations?-- It has that support my lords. The C.O.P, the Liberal Party - I think even the Progressive - the Black Sash - - but not only that, occasionally you'll find that contributors to the Press for some reason or other will express themselves. White contributors to the Press will express themselves and say that the pass system should go.

Do you recall the Fagan Commission of 1948?-- Yes, I recall that commission although I don't know if I remember fully what was the result - - but I do recall the Fagan Commission.

Do you remember its report in connection with the operation of the pass laws? If you don't, say so?--



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