

MR. VAN NIEKERK :

My Lords, I will be dealing now with the position of Lilian Ngoyi, Accused No. 14. On page 1 there is the Index, My Lord. I set out the overt acts. Now My Lord, there was no evidence led on overt act No. 2, so that falls away, My Lord. Then Section B on page 2, the usual positions and memberships, My Lord.

The Accused was active in the African National Congress during the years 1954/56. Sharp said that at page 10681. She was a prominent member of the African National Congress during the Indictment period, and that is what Conco says at page 11231. She was National President of the African National Congress Women's League. Ngcai, Luthuli, Joseph and Mandela testified to that fact. She was National President of the African National Congress Women's League for the years 1952-1956 according to Conco. She was elected member of the National Executive Committee, African National Congress in 1955. This is according to the Minutes of the Conference in possession of Nokwe, P.D.N. 144 and on record at page 2776. It was also testified to by Luthuli at 11817/8 and 13764. She also served on the African National Congress Transvaal Provincial Executive of the African National Congress Women's League, of which she was president according to Mandela, 16154. She presided at a meeting of the Women's Section African National Congress at Durban on the 19th December, 1954, and stated to be President of the Transvaal A.N.C.Y.L.

MR. JUSTICE RUMFFE :

What does that mean? "Stated to be"?

MR. VAN NIEKERK :

Stated in the Minutes of the 19.12.54 which was found in the possession of Mary Rantha a member of the African National Congress. She was a member of the African National Congress Transvaal Provincial Executive. This appears from A.59, Minutes of the Transvaal Executive A.N.C. 22.2.1955. This was found in the A.N.C. office by Sergeant Moeller. Mandela stated she was an Executive member of the Transvaal African National Congress, 1954-1955.

My Lord, in the Federation of South African Women she was active for the years 1954-1956, according to Sharp, and she was President of the F.S.A.W. according to Joseph, 14756 and witness Conco at page 11018. She was a member of the National Executive Committee of the F.S.A.W. Joseph and Mandela said that, but they don't say when, My Lord. Witness Joseph later on said that in - at the 1956 F.S.A.W. Conference 11-12th August, 1956 she was speaking as Vice President of the F.S.A.W. She as the National Vice President, now the National President of the F.S.A.W. That is from H.J. 51, 2516/7. This is the Report of the Transvaal Regional Committee of the F.S.A.W. That was the 1956 Conference, My Lord. It was stated by Joseph that she visited Communist countries, My Lord.

In the South African Peace Council she was a member of the South African Peace Council -

23062.

Witness Joseph said that, but she didn't say when. She represented the African National Congress on the National Peace Convention. E.L., page 1851, this document was found in the offices of the Transvaal Peace Council. Her name appears on the S.A.P.C. Ballot Paper. This document was found in possession of Levy, Secretary of the Transvaal Peace Council by Sergeant du Preez.

The World Peace Council. She was a representative of the F.S.A.V. at the World Peace Council. This appears from a carbon copy of a letter to the World Peace Council, 25.4.54, page 1796 of the record, E.34. This document was signed by Levy, and this document was found in the Transvaal Peace Council office. She was a Transvaal African National Congress member of the Resist Apartheid Committee. This is according to the Minutes of the Transvaal Executive Committee, 20.2.1955, page 344, A.59. This document was found in the African National Congress offices by Sergeant Moeller. According to Resha she served on the A.N.C. Committee for the Western Areas. My Lord, that is the same position that we had this morning in regard to Nkadimeng.

National Consultative Committee. She was a member of the National Consultative Committee according to the Minutes of the F.S.A.V. and A.N.C.W.L., 28th January, 1956, it was found in her own possession, L.I.N. 22, page 4386/7.

My Lord, Masokanye...

MR. JUSTICE RUMPF :

You set out the searches there. Is there anything that you want to say about them?

MR. VAN NIEKERK :

I have set out the searches, My Lord, and there is nothing that I want to say about the searches. She was properly identified My Lord. And then I set out the contents of the documents, My Lord. The documents I refer to again on page 31.

MR. JUSTICE RUMPF :

Are these the documents found in her possession?

MR. VAN NIEKERK :

These documents were found in her possession, My Lord. On page 31, My Lord, I am dealing with the contents of these documents by way of submissions. I just want to point out that the first document on page 5, L.I.N. 8 is the Sechaba, bulletin of the Transvaal African National Congress. The portion quoted here is really the summary of the speeches of the meeting of the 24th June, 1956, which has been referred to as the Congress of the People Anniversary meeting. Then Your Lordships will remember that there was some difficulty in regard to a certain passage in Sechaba, it is also L.I.N. 14, at the bottom of page 8 My Lord. I have checked up on the original exhibit, My Lord ...

MR. JUSTICE BEKKER :

Are you going to deal with the documents in the following fashion. You take your first submission and then you refer to the document.

MR. VAN NIEKERK :

As Your Lordship pleases. I just want to draw Your Lordships' attention to one aspect and that is

page 8 where we have the passage : "We believe that all vanguard fighters for freedom are led in the final analysis by the militant programme and actions of the A.N.C." My Lord, Your Lordships will remember that in the record it reads "We believe that all vanguard fighters for freedom and led in the final analysis by the...A.N.C." I checked up on the original document concerned, My Lord, and "are" is correct there. My Lord if Your Lordships will allow me to deal with these documents by way of submissions I will refer now to page 31 of the argument.

MR. JUSTICE RUMPF :

Well you can't rely - I take it you don't rely on any particular extract of any particular document for any purpose. You say that these are the documents that were found in her possession and you give a summary of some of the paragraphs, but you don't rely on any one of the paragraphs, do you? I take it you want to argue that she is presumed to know the contents or something like that.

MR. VAN NIEKERK :

as Your Lordship Pleases.

MR. JUSTICE RUMPF :

Why?

MR. VAN NIEKERK :

My Lord, I thought that point had been argued that a document that is in the possession of the person, especially when a person has documents in his possession and these documents relate to certain instances or to certain matters, or to activities of accused, or to

matters pertaining to activities, then if the same - if the contents of the documents are more or less the same as the contents of speeches at meetings and to a certain extent also contain portions or extracts or ...

MR. JUSTICE BEKKER :

If it is related matter, the authorities indicate that that is a factor which you may consider in deciding whether or not the person in possession of the documents had knowledge.

MR. JUSTICE RUMPFER :

Yes, now for purposes of that principle one must look at the whole document, you can't just pick out a few paragraphs, not so?

MR. VAN NIEKERK :

One must look at the whole document, My Lord. But there are certain aspects, My Lords, of these documents, such as they specifically relate to what I submit would be certain aspects of the Crown case, My Lords, such as referring to a new state, such as referring to the liberation movement, such as referring to campaigns, and I have tried to - although giving the whole summary of the documents in the first part, I have tried to limit my submissions in the first part to these aspects.

MR. JUSTICE RUMPFER :

Well then we don't think that you need read through your own summary. You set out the documents and the contents on page 5 to 31. What you set out from page 5 to page 31, at the top, is that all

that is in the record about these documents?

MR. VAN NIEKERK :

As Your Lordship pleases.

MR. JUSTICE RUMPF :

I see. This is the Crown's case on the documents. Then I think you can proceed to the other topics.

MR. VAN NIEKERK :

My Lord, on page 31 I come to the submissions on these documents. My first submission, My Lord, is that it is submitted respectfully that these documents contain a denunciation of the present form of state, demanding its destruction, and propagated therefore a new state based on the Freedom Charter as set out in Part A(i) of the Policy Schedule.

MR. JUSTICE RUMPF :

And you say it appears from certain extracts which you refer to.

MR. VAN NIEKERK :

It appears from extracts and I quote the numbers. The second submission is on page 32, It is submitted that these documents show support for the liberation movement as in Part A 2 of the Policy Schedule. Then on page 33 it is submitted that there is support in some of these documents for the Defiance Campaign. I specially want to draw Your Lordship's attention to the second statement where the Defiance Campaign is described in these terms : "The fire of the people's wrath swept the country. If the oppressors did not act, the weath of the people would have swept them

away to". Then it is submitted that these documents support - in them support is expressed for the Bantu Education, the Western Areas Removal and the Anti-Pass Campaign. My Lord, then with Your Lordship's permission I would like to alter submission D(iii)(6) ?? at the bottom of page 34 to read : "It is submitted that in these documents the...

MR. JUSTICE RUMPFER :

I take - You also refer to D.(iii)(5)...

MR. VAN NIEKERK :

I am sorry, My Lord, it is submitted that this one document gives particulars of the freedom volunteers. And then D(iii)(6) I ask leave to amend that. It is submitted that in these documents statements appear, reminding readers that in the liberation struggle persons have died, and it is the aim of the this movement to seize power over the whole country. My Lord, this appears from the particulars set out on page 35, where references are made to the supreme sacrifice et cetera. I ask Your Lordships to delete items (vi) and (vii) on page 35.

MR. JUSTICE RUMPFER :

Is there a reference to power being seized?

MR. VAN NIEKERK :

That is (iv) My Lord. Then on page 36 My Lord it is submitted, D(iii)(vii) My Lord, that these documents show support for publications issued by the Congress movement.

My Lord, there follows Section 3, which again is a catalogue of the meetings, up to page 42,

the meetings which the Accused attended, and at some of which she spoke. Then on page 42, My Lord, we get the particulars of the speeches at those meetings.

MR. JUSTICE RUMPF :

Speeches by her or by others?

MR. VAN NIEKERK :

These are the particulars of the speeches by her and by the other people who attended these meetings.

MR. JUSTICE RUMPF :

You haven't got a separate list of meetings at which she spoke?

MR. VAN NIEKERK :

I deal with that at page 75 by way of submission, My Lord, under the general heading, proof of overt acts. At the bottom of page 75 I deal with her own speeches, and from page 86 onwards I deal with the other speeches. My Lord, with Your Lordship's permission I then go over to page 74, that is the proof of the overt acts. It is respectfully submitted that overt act No. 1 alleged against the accused, namely the conspiracy as set out in Part B of the indictment has been proved, and it is further submitted that the hostile intent and her adherence to the conspiracy should be inferred from her activities.

Then I give a summary of her activities. She was an active and prominent member of the African National Congress, a member of the National Executive Committee of the African National Congress and African National Congress Women's League. I have dealt with all

that, My Lord. Then I come to 8, My Lord. At the meetings it is submitted the Accused expressed the following views, and then I give four views, My Lord. She denounced the present state form, demanded its destruction and replacement by a different state based on the Freedom Charter; she supported the Bantu Education, the Western Areas and the Anti-Pass Campaign; she advocated - My Lord, I ask leave to amend that. She advocated action which could lead to death and disaster - or rather she warned people that the action they were taking could lead to death and disaster. That is in substitution of paragraph (iii) there.

MR. JUSTICE BEKKER :

Is there any inference that you are asking us to draw from the fact that she warned that the action the Congress movement were taking could lead to death and disaster?

MR. VAN NIEKERK :

The inference is My Lord that they should be prepared to make the supreme sacrifice, that they must be prepared to be killed in this action.

My Lord, I turn to the new state, the denunciation of the present state. This appears from a meeting of the A.N.C. Women's League at Germiston on the 13th November, 1955. This is found on page 16 of the summary, My Lord. Your Lordship will see at page 16 there is a document headed Presidential Address delivered by Mrs. Ngoyi in Germiston Location on Sunday the 13th November, 1955, in which she states inter alia. I have dealt with that document as a meeting, My Lord.

At page 38, My Lord, there is this meeting testified to by the witness Ngcai.

MR. JUSTICE BEKKER :

You have, "The following attended this conference", and you have got the name L. Ngoyi. Is there evidence that she spoke at this meeting? What reliance do you place on this document as the speech delivered by her?

MR. VAN NIEKERK :

My Lord, I ask the Court to draw that inference, because she was present ...

MR. JUSTICE BEKKER :

We have got evidence from a member of the police force that there was a meeting and Mrs. Ngoyi was present. Now what would be the position if she said she didn't speak? That is why I ask you, did she speak at that meeting? What did the policeman say?

MR. JUSTICE RUMPF :

You see, this document may have been handed out, I don't know, it may have been distributed. It is just on the question that you should allege that this is a speech made by her. You bring it under the heading of speeches made by her. It may have been. But you are now relying on a document which was published, apparently, it is a rounded document, purporting to contain an address delivered.

MR. VAN NIEKERK :

My Lord, the only evidence is that she attended this meeting. There is no direct evidence that she spoke at this meeting.

MR. JUSTICE BEKKER :

Is there any evidence from Ngcai who spoke at the meeting?

MR. VAN NIEKERK :

No, My Lord, there is no evidence at all. The only evidence of Ngcai is that the following people attended this Fransvaal African National Congress Women's League meeting on the 13th November, because he says they were refused admission, My Lord. And because there was this conference, and because she was the president, and because this Presidential Address was found in her possession, the Court is asked to infer from that that this Presidential Address was delivered there by her. It says, My Lord, that : "We, the African women, as part and parcel of the A.N.C. salute with joy and expectation, the South Africa of the future born of the Freedom Charter which was adopted at the historic Congress of the People on the - at Kliptown on June 25th and 26th, 1955. The fundamental principle of the Charter is : The people shall govern. Under the Charter the minority will not be permitted to rule the majority." "The Charter embodies the future of our country. It does not matter what difficulties are in our way, the Charter is to us the Ten Commandments of the future South Africa. The people shall govern".

My Lord, the next is taken from a Conference of South African Women, held from the 11th to the 12th August, 1956, at Johannesburg, and the Accused states inter alia, - this meeting was a Federation of South African Women Conference, Sergeant

Sharp identified the Accused, and a report of this meeting appears in a document C. 1004, H.J. 53 read into the record page 2131 to 2139. And then on page 65, My Lord, the last paragraph, according to Mrs. Joseph, page 14239 admits that Mrs. Ngoyi made the speech as Vice President of the Federation. It states : "In greeting the women in the name of the Federation Mrs. Ngoyi said that the time for mourning (?) is past, the time for action had come. The Federation had played a great part in bringing about increased activity of women. It work (?) strengthened (?) and had not weakened other women's organisations such as the Women's League of the African National Congress. We are not going to sit and wait as the years go by and our children grow up for some miracle to change their lives. We are going to make those changes - now - tomorrow. We must pledge ourselves, for the sake of our children, to build a mighty organisation of South African women that will, together with all progressive organisations and people of our country, bring an end to suffering and oppression and set our children forward on the road to happiness and world peace. "

MR. JUSTICE BAKKLE :

Now what portion of this speech do you think is relevant?

MR. VAN NIEKERK :

This portion, My Lord, "We are going to make those changes". The last paragraph : "We are not going to sit and wait as the years go by...", "We are going to make those changes".

MR. JUSTICE RUMPF :

In respect of what of your four headings at the bottom of page 75 ...

MR. VAN NIEKERK :

This is in respect of the first, My Lord. Denunciation of the present state form, demanding its replacement, My Lord.

Then My Lord, on page 78, a meeting of the South African Society for Peace and Friendship with the Soviet Union. You Lordship will see at page 64 under this meeting, that first of all Fatima Seedat speaks, and when she talks about the changes...

MR. JUSTICE RUMPF :

I am just trying to bring what is alleged to be contained in this speech or document under your heading she denounced the present state form, she demanded its destruction and she demanded its replacement by a different state based on the Freedom Charter. Now where do you get this?

MR. VAN NIEKERK :

My Lord, with respect, my submission is that what is demanded here is a change of a state form.

MR. JUSTICE RUMPF :

Where do you get that from?

MR. VAN NIEKERK :

My Lord, I am asking the Court to draw that inference from this portion, page 2134 lines 21 to 30. If that is read together with what Fatima Seedat said before Lilian Ngoyi spoke...

MR. JUSTICE RUMPF :

That may be, but then you must rely on what is said there. You can't just rely on this, because this by itself does not contain anything as alleged in paragraph 8(d). 8(d) says that she demanded the destruction and replacement, of the state. She says here that she is going to make changes, but changes doesn't necessarily demand the destruction of the state.

MR. VAN NIEKERK :

My Lord, with respect, my submission is that when all these are taken - all her statements are taken together, My Lord, these statements ...

MR. JUSTICE BEKKER :

Mr. van Niekerk, look at page 64. You say that Ngoyi's speech must be read in conjunction with Seedat's speech. Did Ngoyi speak after Seedat or before?

MR. VAN NIEKERK :

Ngoyi spoke before Seedat spoke, My Lord, because she gave the Presidential Address, My Lord.

MR. JUSTICE BEKKER :

Then if she spoke before Seedat, ...

MR. VAN NIEKERK :

Then I can't rely on Seedat's speech, My Lord, to interpret this.

MR. JUSTICE RUMPF :

But why have you put this on page 64 as if Seedat spoke and Ngoyi after her? That is what one would infer if you casually look at it, unless you look up and study the record, the impression that this paragraph 16 at page 64 gives one is that - you say a report

of this meeting appears in that document, there appears a report of a speech by Fatima Seedat, then you give us an extract, and then you say at page 65 that Ngoyi spoke at this conference, and then what she said or a quotation.

MR. JUSTICE KENNEDY :

Who is Fatima Seedat?

MR. VAN NIEKERK :

My Lord, she is a person who spoke at this Federation of South African Women Conference.

MR. JUSTICE KENNEDY :

I gather so, but what has she got to do with the case?

MR. VAN NIEKERK :

The Accused Ngoyi if I remember correctly was President, Vice President of this ...

MR. JUSTICE KENNEDY :

I am not querying that, I just want to know what relevance Fatima Seedat said has on this case? If it has none, then let us take it out.

MR. VAN NIEKERK :

As Your Lordship pleases.

MR. JUSTICE RUMPF :

Well, if she had said something and if Ngoyi had connected her speech with what was said by Seedat, then it doesn't matter who Seedat was, it may have been relevant. But now you say there is nothing in Seedat's speech - well, she spoke afterwards.

MR. VAN NIEKERK :

As Your Lordship pleases, I can't rely...

MR. JUSTICE BEKKER :

Does the speech of Ngoyi show what was meant

by the words "those changes", what changes were contemplated. What does that refer to, "those changes"? Is it a change to change our lives or something else?

MR. VAN NIEKERK :

On page 2134 of the record, Mrs. Ngoyi, page 2132 My Lord says that the time for action has come the time for mourning had passed. Then she goes on to say My Lord that the Federation had played a great part in the bringing about increased activity of women. And then she says that "Our Federation is a link with other parts - with women in other parts of Africa, part of a fight to lift not just ourselves but the whole African Continent out of illiteracy, backwardness, disease and hardship towards a new level of development". And then she says that the hardest lay ahead. It was not enough to cry, we will never carry passes, and then she deals with the passes, My Lords, and then on page 2134 she says : "In some areas it might be necessary to set up broad anti-pass committees, in others it could be done by existing groups. Let us be as flexible as the government is when they attack us." And then she goes on, "we pledge ourselves", and then she spoke of the sufferings of war, the atom bomb. Now leading scientists were saying that the experiments themselves may cause untold harm to future generations without ever having a war. Then women of South Africa must join with the women of the world in demanding an end to atom bomb experiments and the outlawing of war between nations. Let us sink our personal differences and measure every action and work by whether or not it helps our cause as

women and mothers. We must learn to co-operate with others who have different attitudes. We must be patient with others and impatient with the future. We are not...

MR. JUSTICE RUMPF :

Why do you read all that?

MR. VAN NIEKERK :

I am just giving Your Lordships - now I am coming to the part which I have quoted, My Lords.

MR. JUSTICE RUMPF :

We have what you quoted. Is there anything in the speech from which one can infer that she is referring to a change of state?

MR. PLEMAN :

My Lord, I don't know if I can be of assistance. That line 14 on page 2134, she says "Women of South Africa must join women of the world in demanding an end to atom bomb experiments and the outlawing of war between nations". Then follows the portion from which this extract - this extract is taken, and subject to anything my learned friend says, it seems to me that when she talks about "those changes" it is related to the atomic bomb.

MR. VAN NIEKERK :

There is nothing else in the speech, My Lord.

MR. JUSTICE BEKKER :

Well now, how do we stand with this speech?

MR. VAN NIEKERK :

My Lord, as far as this submission is

concerned, My Lord, I think Your Lordships can disregard it.

MR. JUSTICE KENNEDY :

at page 65 and where else?

MR. VAN NIEKERK :

My Lord, I will refer to page 65 again, to the speech of this Seedat when I deal with the speeches...

MR. JUSTICE RUMPF :

Well, the point is that this does not - at page 77 it does not support your submission under 8(b).

MR. VAN NIEKERK :

As Your Lordship pleases. Then My Lord, the third item that I have got on page 78 is the meeting of the South African Society for Peace and Friendship with the Soviet Union, where she said ...

MR. JUSTICE RUMPF :

Yes, you give us a long quotation. Now in support of what is that?

MR. VAN NIEKERK :

This is in support of the new state, that she wanted a new state, My Lord, because she says ...

MR. JUSTICE RUMPF :

All this lauds Russia, not so?

MR. VAN NIEKERK :

This lauds Russia, My Lord, and holds out Russia as an example, "after the revolution there was plenty for everybody". And "There is no oppression of man by man".

MR. JUSTICE BLIKKLE :

Well, Mr. van Niekerk, I would like to draw

your attention to something. It is perfectly harmless to laud any type of state, as opposed to the other concept, lauding that type of state and suggesting that as the ideal type of state for this country - that may be a different point. Now where in this speech do you find that it is lauding Russia with a view to suggesting that that is the type of state which must be brought into this country?

MR. JUSTICE KENNEDY :

Or where it supports any of your three statements in 8(a)?

MR. VAN NIEKERK :

My Lord, the general tenor at that meeting was one stating that colonialism means poverty and exploitation. And My Lord, at nearly all these meetings there were expressions to the effect that the people in South Africa are being exploited, and there is always this example drawn between the oppression ...

MR. JUSTICE RUMPF :

That may be, Mr. van Niekerk, but we are asked to infer from this passage produced on page 78 one of four submissions or facts on which you rely in 8(a), (b), (c) or (d). Now I take it you say this is the allegation that she denounced the present state, demanded its destruction and replacement by a different state based on the Freedom Charter. Now it is true that four lines from the top of this quotation she says "We went on Mr. Chairman, to the Mausoleum where we were shown the Mausoleum of one of the leaders of the Soviet Union. I then really felt that we should fight for our

rights in this country. You know the Czar of Russia fought against the people..." and then she goes on and tells them about the church bell and so on. Then she lauds Russia. Now do you say that from this statement here, she felt that she had to fight for their rights in this country, that she demanded - she denounced the present state, demanded its destruction and replacement of a different state?

MR. VAN NIEKERK :

I would say, My Lord, that what she advocated here was that ...

MR. JUSTICE RUMFF :

You see you bring in now another matter, you say you must look at the atmosphere of this meeting, and if you want to tell us that you must tell us where to find it. You must refer to other speeches, and then we must look at this speech in conjunction with other speeches. Then we want to know which speeches, where. We just can't create the atmosphere. There may have been an atmosphere. We want to know where to find it. You see, this passage may be relied upon to say well look this speaker, according to what she said, she had been in Russia and she liked it very much, she lauds it, she lauds the achievements of the Russian people. Well, you may make some inference on that. I don't know what...

MR. VAN NIEKERK :

My Lord, if Your Lordship will refer to page 92, where other speakers lauded Russia too, My Lord. "... and they have a society in which the whole of the

country and its products are theirs". My Lords, if one turns over the page, you see that there is the speech of Nokwe : "In conclusion I want to deal with the question of colonialism. Mr. Chairman, we people of South Africa, the people of Africa, we know what colonialism is. We know it and we feel what colonialism is. It means poverty and exploitation, the removal of the wealth of one's own country to some other country - incidentally that charge has not yet been laid at the doorstep of the Soviet Union - I must also say that we know very little about what actually happened in Hungary". My submission is, My Lord, that whenever there is a lauding and praising of Russia, it is only done with one object and that is to hold Russia out as an example of what state they would like to have in South Africa.

MR. JUSTICE KENNEDY :

Well, how can you say that, when the question is posed in the very quotation which you put to is "Can a socialist country like the Soviet Union exist side by side with the capitalist countries", and the answer apparently is given, "and the policy of the Soviet Union has been 'we can at least exist side by side with the capitalist countries'. They believe in peaceful co-existence."

MR. JUSTICE BEKKEH :

I would like you to consider this passage in this judgment quoted by the Crown, the case of the United States versus Schneiderman (?), on this very point, at page 935, and I would like you to tell

me whether our system of law is different on this topic, where the learned Judge said "The Defendants in common with other persons living under our constitution, have the right protected by the First Amendment, to criticise our system of government and the government itself, even though the speaking or writing of such criticism may undermine confidence in the government or cause or increase discontent. They have the right also to criticise the foreign policy of the United States and the role being played by this country in international affairs, and to praise the foreign policy of other governments and the role being played by those governments in international affairs". Does our law vary in this regard or not?

MR. VAN NIEKERK :

No, My Lord.

MR. JUSTICE BEKKER :

Now if that is so, then I suppose the mere fact of praising Russia in itself cannot be relied on by the Crown unless there is something else. Unless the fact of praising Russia, plus whatever else it is, suggests to the people that that is the form of government which must be brought about in this country as opposed to the desirability of it. Now what is the something else in this speech...

MR. VAN NIEKERK :

In this speech there is nothing else, My Lord.

MR. JUSTICE BEKKER :

Well then, it doesn't support it.

MR. VAN NIEKERK :

It doesn't support it, My Lord. Now My Lord, my second submission refers to the support of the various campaigns, page ...

MR. JUSTICE KENNEDY :

Does that conclude your argument under (a)?

MR. VAN NIEKERK :

That concludes my argument under (a), My Lord. Then (b) on page 79, My Lords. The submission is that this quotation supports the Western Areas Campaign.

MR. JUSTICE RUMPF :

What meeting was this and what is the evidence of the speech. Who reported that?

MR. VAN NIEKERK :

A shorthand writer, My Lord. This is found on page 48. Coetzee is the reporter, the shorthand writer. There she refers to the struggle in connection with the Western Areas.

The next meeting, My Lord, was the 10th October, 1954, and this meeting was testified to by the witness Ngcai. My Lord, according to my note there was no cross-examination of Ngcai on this meeting. It refers to the Bantu Education and the removal of Sophiatown.

The next My Lord is the meeting at Germiston on the 13th November, 1955. This is again that document that was found in her possession, the Presidential Address at Germiston Location, and it is referred to on page 16 and 17 of this summary.

This is on the passes, My Lord. That is an extract.

The next, My Lord, is at the meeting of the 25th March, 1956, at Alexandra to which the witness Dunga testified, My Lord. He was cross-examined My Lord at page 10055 of the record and he was asked to read in a portion of the speech of one Mqotha(?). My Lord, that is the only cross-examination on that meeting.

MR. JUSTICE RUMPF :

What does this mean at page 60, referring to this meeting, 25.3.56. There was criticism by Defence on notes taken at this meeting.

MR. VAN NIEKERK :

My Lord, in fact there was no cross-examination...

MR. JUSTICE RUMPF :

I am just looking at page 60. You refer to this meeting in paragraph 12. It says : "25.3.56. A.N.C.W.L. Alexandra. Page 9967. Witness Dunga. There was criticism by the Defence on notes taken at this meeting."

MR. VAN NIEKERK :

No, criticism. No criticism My Lord, I am sorry.

COURT ADJOURNS.

COURT RESUMES.

MR. VAN NIEKERK :

My Lord, on page 80 there is a fifth paragraph, the meeting of the African National Congress at Daveyton on 25.3.56, she supported the campaign

against Bantu Education and Pass Campaign. My Lord, at this meeting, it appears on page 60 of the notes, My Lords, - there was no cross-examination of the witness Nkhi. Then My Lord, item No. 6 is crossed out. Item No. 7 is that the African National Congress Women's League Conference, Jabavu...

MR. JUSTICE RUMPF :

Just a minute. May I take you back to No. 5. Are you not going to deal with the reporter, the evidence, the cross-examination?

MR. VAN NIEKERK :

I said My Lord there was no cross-examination of the reporter on this meeting. That also appears from my notes on page 60, My Lord.

MR. JUSTICE KENNEDY :

That is how it is reported, is it, "You must shed blood and not accept Verwoerd."

MR. VAN NIEKERK :

Yes, that is correct, My Lord. It is at page 61, My Lord, where the reference is - I am now dealing with the speeches of Mrs. Ngoyi, and on page 61 she said that she supported the Bantu Education Act Campaign and also the pass campaign.

MR. JUSTICE KENNEDY :

Is that a summary? Is that how the record reads? Or is that your comment?

MR. VAN NIEKERK :

That is how the record reads, My Lord.
Then My Lord, ...

MR. JUSTICE RUMPF :

Where is the evidence of Ngoyi - the speech

of Ngoyi on the 25th March, 1956 at Daveyton?

MR. VAN NIEKERK :

The middle of page 61, My Lord. The meeting starts at page 60, it shows that there is no cross-examination, and the meeting goes on to page 61, and in the middle of page 61 there is the summary.

MR. JUSTICE RUMPF :

Who gave that summary? You say Ngoyi then spoke, she supported the Bantu Education Act Campaign, 9098, and also the Pass Campaign. Is that how the record reads?

MR. VAN NIEKERK :

Yes My Lord. "Is it correct that she supported the Bantu Education Campaign and supported the Pass Campaign". And then Your Lordship says : "I take it the campaign against Bantu Education? --- Yes, My Lord, that is correct".

Now I am dealing with (vii) My Lord. At the African National Congress Women's League Conference, 11th November, 1956, Accused stated inter alia, in referring to passes she said it is a device to ensure cheap labour. My Lord, that is found on page 69 of the summary, the last paragraph, and it goes on onto page 70. This all refers to passes, mobilising the masses of the people affected to stand up and fight those injustices. And then at the top of page 82 the record reads "only direct mass action will deter the government and stop it from proceeding with its cruel laws. It is in recognition of these women of South Africa who have launched a national campaign against

the extension of the pass laws." And it goes on at page 71 : "Strijden stop and think for you have aroused the wrath of the women of South Africa and that wrath might put you and your evil deeds out of action sooner than you expect". This document was found in the possession of Bertha Mashaba, B.D.M. 15, it is given at the bottom of page 68 My Lord, where this document was found, and it is a Presidential Address by Mrs. L. Ngoyi and was read into the record at page 1369/1374 as F.24.

My Lord, then at page 82 she goes on condemning and rejecting the passes and then she goes on to say: "We strongly condemn and reject the passes and we shall fight it with all the resources at our disposal to the bitter end,.." that is fully set out there, My Lord. My Lord, in this Presidential Address she refers the audience to the Presidential Address delivered by - delivered at the African National Conference Pretoria the previous week. My Lord, that was read into the record at page 1335, and it refers - it is referred to at page 73 to page 74 of the summary. This Presidential Address of the Conference at Pretoria. These documents are the same as B.259, also A.M. 6, 3384 and P.D.N. 93, read into the record at page 2815, and it occurs on page 73 and 74 of the summary, My Lord. It is in this that the Presidential Report stated that the Conference "of the South African Indian Congress held in Johannesburg.... also resolved to fight the removals to the bitter end. As the vanguard of the liberation movement in South Africa, it is our sacred duty

to arouse the people of South Africa to stand up and fight against the removal of people from their homes..." And then it goes on on page 84 : "The Congress does not conceal violent hatred of the racial policies of the government and has vowed to fight repression to the bitter end..... As Your President, I call upon you to dedicate yourselves unconditionally to the greatest cause for which we fight, the cause of freedom. I call upon you to participate fully and without reservation in this great task and to reckon with death and disaster without flinching from the task. Only by doing this can we save the people of South Africa from the ravages of Nationalist rule."

Then My Lord, my next item is item (c) which I have amended. There is a reference that the - to the African National Congress Moroka which really refers to - which says at page 58 of the summary to the ...

MR. JUSTICE KENNEDY :

Are you dealing with the first meeting now, the 10th of October?

MR. VAN NIEKERK :

The 10th October, 1955, My Lord. The witness was J. Makoena. My Lord, on page 9596, the Defence criticised the witness that great deal of material in notes make no sense at all. The witness is asked to look at these notes during the luncheon interval and Counsel said that he would return to these notes later on. My Lord, apparently the matter was left there

and it was never pursued any further. This appears My Lord at page 9596 of the record. My Lord, as I have redrafted my submission now, there is only one of these ...

MR. JUSTICE KENNEDY :

What is the relevance, would you mind telling us, of your (c)(i), page 84.

MR. VAN NIEKERK :

My Lord, as I have amended my submission, My Lord, (c)(i), the whole of (c)(i) falls away, and the only one that remains would be at the bottom of page 84, item (iv), My Lord, page 85 to 86. That is the portion I have just read, My Lord, about the death and disaster. I must point out, My Lord...

MR. JUSTICE KENNEDY :

The oft repeated theme of sacrifice, the supreme sacrifice. Or is it worse?

MR. VAN NIEKERK :

It is the same, in my submission, My Lord. And then My Lord, page 86, item (d)...

MR. JUSTICE BEKKER :

Mr. van Niekerk, I just want some clarity here, at page 83, dealing with the Presidential Address you say in your Heads of Argument, "She also referred the audience to the Presidential Address delivered..." , and again at page 85 she referred the audience to the Presidential Address delivered. In what way did she refer? Did she read that portion or not?

MR. VAN NIEKERK :

It appears in the Presidential Address, My Lord.

MR. JUSTICE BEKKER :

That was the week before. Now when she made her speech, did she say I also ask you people to read the Presidential Address, or did she quote...?

MR. VAN NIEKERK :

No, My Lord, she said you must read the Presidential Address. And then this portion appears in the Presidential Address.

MR. JUSTICE BEKKER :

Did she say for what purpose the people had to read the Presidential Address?

MR. VAN NIEKERK :

My Lord, I shall return to this a little later and give Your Lordship the reference. Then on page 85, My Lord, page 86, My reference there My Lord to - she recommended political education for the instruction of the people, that is on page 76, my reference on page 86. At a meeting of the African National Congress Women's League at Germiston on 13.11.55 she stated under the heading Lectures : "It is of utmost importance that all women in the A.N.C. receive political education". My Lord, that is found on page 17 (?) ...

MR. JUSTICE RUMPF :

This is again the Presidential Address? Now at page 17 you have got the reference, "She also refers to political education of the women and stated under paragraph 'Lectures' as follows : 'It is of the utmost importance....'" et cetera. Then the last sentence : "These lectures will be provided in various languages". If you refer to the record containing the

part of the Presidential Address, does it show what type of lecture she is referring to?

MR. VAN NIEKERK :

No, My Lord.

MR. JUSTICE RUMPF :

Is it just headed "Lectures"? Is there anything more said under "Lectures" than is said on page 17?

MR. VAN NIEKERK :

I don't think so, My Lord. The record reads the same way as the extract, My Lord. My Lord, regarding this Presidential Address, African National Congress, she said this, My Lord, page 1369 of the record: "The Presidential Address delivered at the Annual Conference of the Transvaal Branch of the African National Congress, Pretoria, last week, as well as the Executive Report discussed several issues of vital importance to the liberatory movement. The savage attacks that are being made by the Nationalist Government on the democratic movement, the deportation of leaders, the disastrous effect of the Group Areas Act on the economic and progress of the non-European people, the wholesale removals of vast numbers of Africans all over the country, the urgent and vital need for a broad united front of the oppressed people and other democratic ..." - My Lord, she says that several issues of vital importance are to be found in the Presidential Address and the Executive Report, and then she says - then she goes on to say: "I suggest that you read the Conference Report most carefully so that you should be fully informed of these matters. In the Address I propose to deal very briefly

with the emphasis (?) of some of these things."

Then My Lord, I have dealt with the question of lectures, and then I am dealing My Lord on page 86 with the speeches made by other speakers. Item 9, it is respectfully submitted that these meetings attended by the Accused, speakers inter alia, and my first submission is, My Lord, supported the people in colonial countries, for instance Kenya et cetera. Will Your Lordship kindly alter that. And then, denounced the present state, demanded its destruction and replacement by a different state founded on the principles of the Freedom Charter; supported Luthuli's call for Freedom Volunteers; supported the Bantu Education Act, the Western Areas Removal and the Anti-pass Campaign; advocated the use of unconstitutional and illegal action, which would lead to^a violent clash between the state and the people. My Lords, I further state that at none of these meetings did the Accused dissociate herself from these speeches. In regard to support of the people in colonial countries, I quote from a resolution...

MR. JUSTICE RUMPFER :

Yes, that is only at one meeting. You had better deal with (b).

MR. VAN NIEKERK :

As Your Lordship pleases. At the Anti-Apartheid Conference held on the 27th June, 1954, at Johannesburg the chairman expressed the view that the government of this country has no policy. Their policy is to obstruct and oppress Africans, that is the policy of the Nationalist Party and the United Party.

They are against these parties. It was further stated at this Conference - that this Conference was going to take over the government and rule this country. Lilian Ngoyi addressed the Conference after Vundhla had spoken, and did not dissociate herself from his remarks. Sibande stated that they will never respect a Nationalist Government because they are gangsters. And then : "The Nationalist Government is regarded as a mad government, a government that is mad. If it was not a government which was power drunk and mad it would listen to the people who talk to it." At this meeting also the book of Moses Kotane, South Africa's Way Forward was distributed. This book was read into the record at page 1235 as B. 79. This appears at pages 44, 45,, 48 and 52 of the summary. And then at a Conference of the African National Congress, Orlando, on the 8th October, 1955 ...

MR. JUSTICE RUMPF :

This was taken in shorthand, was it? This Anti-Apartheid Conference?

MR. VAN NIEKERK :

This meeting was taken in shorthand, My Lord. Then at the meeting of the 8th October, 1955, My Lord, Moretsele spoke. Now before dealing with that, My Lord, I refer Your Lordships respectfully to page 57 of the summary. I say at page 893/4 My Lord, there was no criticism in cross-examination on the notes taken at this meeting, except the Defence stated that Labalu's (?) speech was obscure, that one can get the meaning of it at page 8924....

MR. JUSTICE RUMPF :

I don't understand that. If it was obscure

then how can you get the meaning of it?

MR. VAN NIEKERK :

I shall read it to Your Lordship, the cross-examination. "This meeting was addressed by Labalu when we discussed.." - this is page 8923 - "at the beginning of your cross-examination? --- Yes".

"I would like you to look at page 4 of his notes, because your taking down of Labalu's speech is somewhat obscure, though I think one can get the meaning of it. You told the Court that he was now a member of the Pan-Africanist Congress. Now I will read this, but I want to interpolate (?) it if you will correct me if I am wrong in any way. He says this 'condemned the present' - I take it

And then he goes on and he says : "The people to follow the programme...."

MR. JUSTICE RUMPF :

Mr. van Niekerk, is the Defence reading in there a portion of Labalu's speech?

MR. VAN NIEKERK :

After that, My Lord.

MR. JUSTICE RUMPF :

If it is reading in it wants to get Labalu's speech on record, is that correct?

MR. VAN NIEKERK :

Apparently, My Lord.

MR. JUSTICE RUMPF :

But then this thing that we have written down is completely irrelevant. That is merely by way of introduction. Counsel told the witness look, I am

referring you to Labalu's speech, the report which you made of Labalu's speech. Now it is somewhat obscure, Counsel said, but I think one can get the meaning of it. In other words, I think you can gather what he meant. And then he goes on. The point is that they want some more of Labalu's speech or they want it clear what Labalu's said. That is the point. It is completely irrelevant for our purposes that in that case it was stated that Labalu's speech is "somewhat obscure, but one can get the meaning of it". Why have we got to write that down?

MR. VAN NIEKERK:

My Lord, with respect, I thought it my duty to bring to Your Lordship's notice any cross-examination of this witness.

MR. JUSTICE RUMPF:

Yes, it is your duty, certainly, it is just how you put it Mr. van Niekerk.

MR. VAN NIEKERK:

I have tried to put it as it is a matter of record, My Lord. My Lord, page 89, paragraph 6 My Lord: There it refers to the Congress of the People and the Freedom Charter, and it says that "We of the A.N.C. are determined that we shall go to gaol willingly for freedom. If we die, then for freedom". Ngoyi was present at this conference, My Lord.

At the meeting of the African National Congress at Daveyton, 25th March, 1956, Molewa spoke, My Lord. His speech is found towards the top of page 61. This is a quote, My Lord, from the record. "Strijden

are running away from Parliament. Teach these Boers that they are fools. We are the people of South Africa. We will fight till late. People shall govern. People shall share the inheritance of the country. People shall be equal at laws. 'There shall be work and security'. My Lord, there he refers to portions of the Freedom Charter. Ngoyi spoke, My Lord, at this meeting and did not dissociate herself from his remarks.

At the meeting of the African National Congress on the 3rd June, 1956, - this meeting was reported by Coetzee, a shorthand writer. At the bottom of page 61 and up to page 64. Dr. Salanki referred to the Freedom Charter and the Freedom Charter Anniversary meeting of the 24th June, 1956, and he stated that the Freedom Charter contained the principles they were fighting for, and then he quotes from Nehru 'Success comes to those who dare and act; it seldom comes to those who are timid'. My Lords, Dr. Salanki referred the audience to a meeting that would be held, the Anniversary meeting on the 24th June. Then Adams spoke and said that Cecil Rhodes a bad man wanted to conquer the land from African people for Britain and the capitalists. He says that in South Africa we will take the Freedom Charter as the Constitution. "Each and everyone of us here will have the right to go to parliament and say what we feel like. Then the laws shall be passed to educate our children and not to make them into slaves". And then : "For the Freedom Charter to become the Constitution of South Africa it will take a lot of work from each and every one of us. We will not

get the Freedom Charter as our Constitution my merely coming to meetings here; we will have to fight for it and we will have to die for it". The first resolution taken at the meeting stated that the South Western Region of the A.N.C. agreed to endorse the Freedom Charter and to fight against the passes for women, to fight all measures in connection with passes because the pass system is creating reservoirs of cheap labour. Ngoyi spoke after Morrison.

MR. JUSTICE RUMPF :

Is this a resolution at this meeting?

MR. VAN NIEKERK :

That is a resolution taken at this meeting, page 7651, My Lord, of the record.

And then there is a meeting of the Federation of South African Women held at Johannesburg on the 11th and 12th August, 1956, where Fatima Seedat - that is a document, My Lord. "Let us draw inspiration from the dramatic changes that are taking place outside our country - changes in our favour, one third of the world population have decided to build a new society free from exploitation. Another twelve hundred millions have freed themselves from foreign domination in Asia and Africa within the last decade. Only three hundred million are still under the subjection and bondage. We are part of them. But the day is not far off when we will also claim our rights. The piccanin Hitlers of South Africa are not willing to learn from history... we will teach them."

MR. JUSTICE RUMPF :

Would you just mind refreshing our memories -

23098.

you say that this document is C.1004, H.J. 53. What is the document?

MR. VAN NIEKERK :

The document is a Report on the meeting - a report on the Conference of Federation of South African Women, 11th to 12th August, 1956.

MR. JUSTICE RUMPF :

Did Mrs. Joseph give evidence about it?

MR. VAN NIEKERK :

This is a report of this meeting. My Lord, Mrs. Joseph, oage 14239 gave evidence on this Conference.

CASE REMANDED TO THE 28TH FEBRUARY, 1961.

COURT ADJOURNS.

CONTINUED ON PAGE 23101.

28/2/1961MR. VAN NIEKERK

MR. VAN NIEKERK: May it please your lordships, 1
 this is the meeting of the S.A. Society of Peace and Friend-
 ship of the 7th November, 1956, page 92, my lords; your
 lordships will remember we dealt with this meeting yesterday.
 There are the speeches of Joseph and Nokwe. Now, Joseph
 speaks of conditions in the Soviet Union and Nokwe then 5
 spoke on Colonialism, and suggests there should be a change
 in the State form.

My lords, that concludes the argument, on the State.

The next is on page 87, item (c), and it submitted 10
 that at these meetings there was support for the Call for
 Freedom Volunteers, and the first reference is to the
 Anti-Apartheid Conference held in Johannesburg on the 27th
 June, 1954, where Vundla calls for volunteers; he said
 this was a call for 50,000 volunteers for the Western Areas.
 He said "And coming from the President you will realise 15
 that our organisation is definitely committed to a programme
 ofreads on

RUMPF J: It's a call for volunteers, isn't it?
 Is there anything in these references to the volunteers
 that you want specifically to mention? Prima facie they 20
 support the call for volunteers.

MR. VAN NIEKERK: They speak for themselves, my lords,
 they all call for volunteers. The only portion . . .no, my
 lords, they all speak for themselves. I will be referring
 to these speeches later on again, my lords. 25

Now, my lords, then on page 97 we deal with
 Campaigns - that is that at these meetings there was support
 for the various campaigns. At the conference at Johannes-
 burg of the African National Congress Youth League on
 the 23rd May, 1954, there was a resolution which referred 30

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