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CHARGE SHEET: REGIONAL DIVISION.

No. R.C. H 101 1962

Have finger-prints been taken? Yes

Police Station Marshall Square

R.C.A. No. 160A/8/62

IN THE COURT OF THE MAGISTRATE.

For the Division of South Transvaal, held at JOHANNESBURG.

Before G.B. JORDAAN, Esquire,

Magistrate for the said Division, on the 20th day of September 1962

STATE

REGINA versus

1. PETRUS ARNOLDUS BEYLEVELD - White male, 46 years, S.A. Born
2. EVE DIANE HALL - White Female, 25 years, S.A. Born
3. BENJAMIN TUROK - White male, 35 years.

Insert following particulars after each accused's name:—
 Sex.
 Race (whether South African born or otherwise).
 Occupation.
 Approximate age.

(hereinafter called the accused),

charged with the offence of Contravening Section 13 Act 32 of 1961

Violating the dignity or injuring the reputation of the State President.

in that, upon (or about) the _____ day of _____ 19____

and _____

in the said Division,

the said accused did wrongfully and unlawfully.

AS PER ANNEXURE

The accused, being arraigned, pleaded Accused 1, 2 and 3. Not Guilty 2/10/62

Judgment Accused 1, 2 and 3 GUILTY.

Sentence Each fined R350 or 175 (One-hundred and seventy-five) days Imprisonment.

G.B. JORDAAN
 Magistrate of Regional Division.
 24/11/62

FOR THE CROWN: T.B. Vorster

FOR DEFENCE: Dr. G. Lowen with Miss A. Chaskelson inst. by Kantor, Zwarenstein & Partners.

INTERPRETER: _____

KLAGTESTAAT: STREEKAFDELING.

No.	19
Is vingerafdrukke geneem?	
Polisiekantoor	
R.A.A. No.	

IN DIE LANDDROSHOF.

Vir die Afdeling _____ gehou te _____

Voor mnr. _____

Landdros vir voormelde Afdeling, op die _____ dag van _____ 19 _____

DIE KROON teen

Vul die volgende besonderhede in na die naam van elke beskuldigde:—
 Geslag _____
 Ras (of in Suid-Afrika gebore). Be-roep. Ouderdom (ongeveer). _____

(hieronder die beskuldigde(s) genoem)

beskuldig van misdryf van _____

deurdat genoemde beskuldigde(s), op (of omtrent) die _____ dag van _____ 19 _____

en _____ in voormelde Afdeling,

wederregtelik en onwettiglik _____

Die beskuldigde het by verskyning voor die Hof _____

gepleit.

Uitspraak _____

Vonnis _____

Landdros van Streekafdeling.

VIR DIE KROON: _____

VIR BESKULDIGDE: _____

TOLK: _____

Die Appel Klerk,
Landdroshof,
Johannesburg.

SAAK NO. :
CASE NO. : H.101/62

DATUM :
DATE : 20.9.1962

IN DIE LANDDROSHOF VIR DIE STREEK-APDELING SUID-TRANSVAAL
GEHOU TE:

IN THE MAGISTRATE'S COURT FOR THE REGIONAL DIVISION SOUTH
TRANSVAAL HELD AT:

ATTORNEY-GENERAL
5 -9- 1963
JOHANNESBURG,
PRETORIA
PROKUREUR-GENERAAL
G.B. JORDAAN, ESQ.

LANDDROSHOF
MAGISTRAT

VOOR
BEFORE :

DIE STAAT TEEN:
THE STATE VERSUS:

1. P.A. BEYLEVELD
2. F.D. HALL.
3. B. TUROE.

(AS PER CHARGE SHEET)

KLAGTE
CHARGE :

PLEIT
PLEA :

"NOT GUILTY" (ALL THREE ACCUSED)

VIR DIE STAAT
FOR THE STATE :

MR. T.B. VORSTER.

VIR DIE VERDEDIGING
FOR THE DEFENCE :

DR. G. LOREN

TOLK
INTERPRETER :

-

ORSKRYFSTER
TRANSCRIBER :

E.S. KUHN
I. PARSONS

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SAAK NO.
CASE NO. : H.101/62

DATUM : 12.11.1962
DATE :

IN DIE LANDDROSHOF VIR DIE STREEK-AFDELING SUID-TRANSVAAL
GEHOU TE:

IN THE MAGISTRATE'S COURT FOR THE REGIONAL DIVISION SOUTH
TRANSVAAL HELD AT: JOHANNESBURG.

VOOR
BEFORE : G.B. JORDAAN, ESQ.

DIE STAAT TEEN: F.A. BEYLEVELD & TWO OTHERS.
THE STATE VERSUS:

KLAGTE
CHARGE : (AS PER CHARGE SHEET)

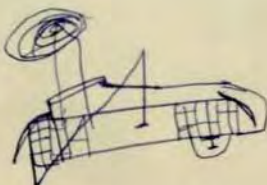
PLEIT
PLEA : "NOT GUILTY" (ALL THREE ACCUSED)

VIR DIE STAAT
FOR THE STATE : MR. T.H. VOORSTER.

VIR DIE VERDEDIGING
FOR THE DEFENCE : MR. A. CHARLISON.

TOLK
INTERPRETER : -

COESKRYFSTER
TRANSCRIBER : I. PARSONS.
L.S. KUNE.



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1.

ON 2.10.1962 - COURT RESUMES:JUDGMENT ON EXCEPTION.BY THE COURT:

The Accused are charged with contravening Section 13, Act 32 of 1961.

The Defence excepted to the charge sheet in that it does not disclose an offence in that the acts complained of as revealed in the annexures to the charge sheet do not amount to a violation of the dignity of the State President nor are they calculated to injure the reputation of the State President.

It was further contended to arrive at the real meaning of the section you must consider: (1) What was the law before the measure was passed (2) What was the mischief or defect for which the law had not provided (3) What was the remedy the Legislator had appointed and (4) the reason for the remedy.

Vide "Die Uitleg van Wette - Steyn" page 22 and Hleka vs. Johannesburg City Council, 1949 A.D. 852.

On this basis the Court can only come to one conclusion and that is that the section was passed to take place of the old offence of crimen laesae venerationis and for that reason the case of Rex vs. Roux and Another, 1936 A.D. 271 applied. Applying the principles laid down in that case, it is clear that the words complained of cannot amount to a contravention of Section 13 Act 32/1961. It was further argued that the word 'calculated' should be construed to mean with intent - vide Jaga versus Donges N.O. 1950(4) South African Law Reports 653 and other cases quoted by the

Defence/...

2.

Defence. That was in short the contention by the Defence.

Now it is clear that the charge sheet had been correctly drawn in terms of Section 315(2)(a) Act 56 of 1955, as amended, and also as laid down in ex parte Minister of Justice, 1940 A.D. page 90.

The Act under which the charge had been laid was only passed in 1961 and there had been no previous prosecutions under this Act. It is also clear that the old Roman Dutch Law crime of crimen laesae venerationis can be compared with this statutory offence. It is doubtful whether this crime of crimen laesae venerationis existed in our law - there is nothing to show that it had become obsolete, if it ever existed, or that it is still of force and effect.

The provision under which the Accused is charged is contained in the Republic of South Africa Constitution Act, 1961 and came into operation on the 31st. of May. 1961. According to the Act the State President is the head of the State and numerous powers were assigned to him, vide Section 7 Act 32 of 1961. The Legislators realised the dignity and reputation attached to the post and that the holder of that post must be protected and consequently this section was inserted. This Act was passed on the occasion of the change of the Constitution from that of a Monarchy to that of a Republic. There is no reference in the Act to any offence that may have existed at the time and it is clear that this was a new offence created to guard the dignity and reputation of the State President.

The Section in question reads as follows:

'Any person who commits an act which is
calculated/....

calculated to violate the dignity or injure the reputation of the State President shall be guilty of an offence.

The words used are plain and there is no ambiguity and this Court is bound to follow the wording of the section. There is no ground that the Legislature had some other intent than that is apparent from the section.

Steyn, in his "Uitleg van Wette", pages 21 and 22 puts it clearly:

'Nie 'n bloot veronderstelde bedoeling nie maar alleen die ontwyfelbare bedoeling van die Wetgewer kan 'n afwyking van die gewone betekenis van woorde regverdig.'

In ex parte the Minister of Justice 1940 A.D., 90, the learned Centlivere, J.A. puts it very clearly as follows:

'In my view it is not permissible in construing that section to refer to the law that was in existence prior to the enactment of that section, unless the section is so ambiguous that it is necessary to refer to such law in order to ascertain the intention of the Legislature'.

There is absolutely no evidence that the Legislature had any other intention when enacting this section as what is apparent from the section. There is also no ambiguity and consequently this Court is bound to interpret this section by following the wording of this section and is not allowed in constructing that section to refer to any law in existence prior to the enactment.

There is absolutely no reason why the word 'calculated' in the section should be allotted any

4.

other meaning than 'likely'. From the wording it is clear that intention on the part of the Accused is not an essential to this crime. If the Legislature intended that 'calculated' should have the meaning of 'with intention', these words would have been inserted in the section. It is clear that the word 'calculated' does not refer to wrongdoer, but to the act of the wrongdoer, whether it was committed intentionally or unintentionally and whether that act is likely to violate the dignity or injure the reputation of the State President.

The Court wishes to draw attention to the case of the State vs. Mokwe and Others, 1962, South African Law Reports.

Having now reached a decision on these points, the Court must decide whether the words complained of are likely to violate the dignity etc., of the State President. Turning to the Afrikaans version of the section it is clear that the word 'violate' has the meaning in Afrikaans 'te skend' or to injure or harm.

Scrutinising the documents attached to the charge sheet and reading them as a whole, it is clear that any reasonable person could only come to one conclusion, namely that the words used are likely to violate the dignity of the State President or injuring his reputation.

A few examples will suffice: 'We feel sure that this man is not worthy of being honoured by our city (i.e. Annexure "A"). 'While he was Minister of Justice the South African Police became notorious for brutality (Annexure "B").

| This can only be interpreted to mean that

he/...

he is a brutal man and responsible for the brutality of the Police Force. He is unfair, because he insisted on the right of the Police to shoot first and then ask questions. His brutality is further shown when he was questioned about children being injured in baton charges. He just brushed it aside with the excuse that the women borrowed children to carry on their backs. He is so cruel that he became known as the whipping Minister etc.etc.

Reading Annexure "B", the Court can only come to one conclusion namely that he, the State President is a brutal and dishonest man.

Annexure "C" reiterates some of the accusations in Annexure "B" and continues: 'It will be a disgrace if we allow the City Council to elect this man as a freeman of Johannesburg.'

Annexure "D": Lobby your City Councillors, write letters to the Press, and voice your objection in every possible way to prevent this man being undeservedly honoured.'

To summarize, therefore, the Court has come to the following conclusion:

(1) The offence created is a new offence and has nothing to do with any other crime that exists or might have existed in South Africa previously.

(2) The words used are unambiguous and in plain language and there is no reason that the Legislature had any other intent than what is clear from the section. 'Dis taal van die Wetgewer is absoluut.'

(3) The only meaning that can be given to calculated in the section is likely and there are no grounds for holding that the Legislature intended

it/...

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it to mean with intent or intentionally (doelbewus).

(4) The words complained of are calculated to violate the dignity or injure the reputation of the State President and that this section had especially been passed to protect that dignity and reputation, as it is clear that it was intended that the State President is above politics and not in the political arena.

(5) The case of Rex vs. Roux, 1936 A.D. is not applicable in this case.

Under these circumstances the exception is dismissed.

STATE PROSECUTOR PUTS CHARGE SHEET TO ACCUSED.

P L E A:

<u>ACCUSED NO.1:</u>	<u>"NOT GUILTY"</u>
<u>ACCUSED NO.2:</u>	<u>"NOT GUILTY"</u>
<u>ACCUSED NO.3:</u>	<u>"NOT GUILTY"</u>

(CASE REMANDED TO 12.11.1962).

G.B. JORDAAN.
REGIONAL MAGISTRATE.

Date: 12/11/62.

PART HEARD:

BY THE STATE PROSECUTOR (To the Court).

All the accused have already pleaded, Sir.
Before I continue to lead evidence in this matter, I apply
for an amendment of the charge. The date 7th of May, 1962,
to be substituted by the 10th of May, 1962.

BY MR. CHASKELSON : (Appearing for the Accused):

I have no objection, your Worship.

BY THE COURT:

Application granted.

DIE STAATSAANKLAAG HOEF:

HELGARD MICHAEL JANSE VAN RENSBURG: Beëdigd, Verklaar:
VERHOOR DEUR DIE STAATSAANKLAAG:

Mr. van Rensburg, u woon by Hillweg 75, Emmerentia,
in hierdie distrik? --- Ja, dit is reg.

U is n Stadsraadslid van Johannesburg? ---Ja.

Hou gedurende Mei, hierdie jaar, 1962, het u n
brief ontvang, gerig aan : "To Johannesburg City Councillors"?
---Ja.

Is dit die brief nou voer die Hof, Mr. van
Rensburg? ---Ja, dit is korrek.

Bewysstuk "A". By hierdie brief was daar n
aanhangeel? ---Ja, dit is reg.

Is dit die aanhangeel wat nou voor die Hof is,
Mr. van Rensburg? ---Ja, dit is korrek.

Bewysstuk "B". Hou die brief, is dit op n
briefhoof ? ---Ja.

Van wie is die briefhoof? --- Dit is "The South
African Congress of Democrats".

Word die adres van hierdie vereniging op die brief
aangegee? ---Ja, die hoofkantoor, neem dit hierop, 18

/Somerset...

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18 Somerset House, 2nd Floor, 110 Fox Street, Johannesburg, South Africa.

En die datum van die brief? ---Is 30 April, 1962.

Sal u asseblief die brief lees? --- (Getuie lees uit brief aan Hof - Bew. "A").

En die aanhangsel tot die brief, Bew. "B", sal u dit uitlees, asseblief? --- (Getuie lees uit aanhangsel tot die brief, Bew. "B")

U handig Bewysstukke "A" en "B" in.

Hou, die huidige Staatspresident, is Charles Robberts Swart? ---Ja, dit is reg.

GEEN VERDERE VRAE DEUR DIE STAATSAANKLAER:

KRUISVERHOOR DEUR MNR. CHASKELSON: (Tolk benodig: Hof verdaag).

HOF HEEVAT : (Verskyning soos voorheen).

DIE STAAT HOEF:

HELGAED MICHAEL JANSE VAN RENSBURG (Nog onder Eed). (Gaam voert met getuienis)

KRUISVERHOOR DEUR MNR. CHASKELSON:

Mnr. van Rensburg, vir hoe lank was u n Stadsraadslid? ---Ongeveer n tydperk van 5 jaar.

Voor dit was u aktief in politiek? --- Ek sal nie sê ek was doodaktief nie, maar ek het tog as lid van die Nasionale Party, byvoorbeeld, het ek in sy bedrywighede deelgeneem.

Ons teenwoordige Staatspresident, Mnr. Swart, was hy voorheen n lid van die Nasionale Party geweest? ---...

DEUR DIE STAATSAANKLAER (Maak beswaar).

Edelagbare, op hierdie stadium wil ek beswaar maak teen hierdie vrae - teen hierdie vraag, op grond daarvan dat dit nie ter sake is nie. Dit is ontoelaatbaar op grond daarvan dat dit nie ter sake is nie. Al wat daardeur bereik kan word is dat dit gesê kan word dat die verklarings wat /beweer...

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bewaar word deur die beskuldigdes gemaak is, moontlik die
 waarheid kan wees. En dit wil ek aan die hand doen, dit
 is nie ter sake nie, in hierdie saak nie. Dit is reeds
 op die eksepsie stadium beslis dat die woord wat in die
 Artikel gebruik word, beraken is en dit het niks daarmee
 te doen of dinge wel gesê is, of dinge wel so was nie.
 Dit is bloot op die dokumente self wat die Hof moet beslis
 of daar 'n oortreding van hierdie Artikel was. Daarom
 doen ek aan die hand dat dit ontoelaastbaar is omdat dit nie
 ter sake is nie.

BY MR. CHASELSON : (To the Court).

Your Worship, I gathered from my learned friend
 that it is not part of the State case, that the question
 of the truth does not really enter into this, and I don't
 intend canvassing the question of the truth, because I
 understand my learned friend's case, he does not allege
 truth or untruth - that is not his case. All that the
 purpose of these questions are, your Worship, is to
 establish the present State President's position in society;
 what the people know of the present State President and
 also, without going into the truth or untruth, having
 regard to the attitude taken up by my learned friend. The
 fact that the State does not say that the statements are
 true or untrue, and it does not base it's case on it.
 Simply to establish the contentiousness of the issues about
 which the pamphlet is. If my learned friend is prepared
 to accept that the State President was previously a well
 known political figure, who is associated in the eyes of
 the public with certain policies and that those policies
 were contentious, then there will be no need for me to
 develop the cross-examination ..

BY THE COURT:

It is admitted, I presume, that he was a member

/of...

of...

BY THE STATE PROSECUTOR (To the Court).

Your Worship, the State's contention is that it is irrelevant.

BY THE COURT:

At this stage, yes. I mean, I don't see what his politics in the past has to do with his present position?

BY MR. CHASKELTON : (To the Court).

Your Worship, the purpose of advancing this cross-examination, and if necessary, we are put to the position of leading evidence, is to show that the State President is associated in the eyes of the public with a certain policy. That that policy is a contentious policy and is a policy which has given rise to criticism, both before the State President was elevated to his present office and since he was elevated to this office. And simply to lay the foundation for the argument which was addressed to you at the exception stage...

BY THE COURT:

That is more a point for argument?

BY MR. CHASKELTON (To the Court).

Your Worship, my submission is that it is necessary that this evidence be placed on record before your Worship.

BY THE COURT:

I'll tell you, Mr. Chaskelton, I'll allow you to go on and I want to see what you are driving at and if the Court feels that it is irrelevant, it will be disallowed.

BY MR. CHASKELTON : (As your Worship pleases).

MR. CHASKELTON CONTINUES CROSS EXAMINATION:

Mr. van Rensburg, the present State President, before he was elevated to the rank which he now holds and

/before..

before he was Governor - General, which was a position he occupied before, was a member of the National Party? --- Al wat ek weet, is natuurlik dat hy leier van die Nasionale Party in die Vrystaat was.

He was a very prominent figure in the Nationalist Party? ---Ja, ek kan sê hy was een van die prominente mense.

And he was in fact, Minister of Justice, for a period of over 10 years? ---Ja, ek weet hy was Minister van Justisie, ek weet nou nie die tydperk nie.

And I think, it was well known to the public that he was, should we say, one of the leaders and one of the heroes of the Nationalist Party? ---...

BY THE COURT:

Well, I mean, is that .. a witness, can he give an opinion on that? It is all opinion? He is reckoned in the eyes.. as a hero.. and ..

BY MR. CHASKELTON: (To the Court).

Well, your Worship, it is a question of the witness' knowledge is a public knowledge? It is really a question of public knowledge, Sir? I want to lay the foundation for the argument which will be submitted to your Worship at a later stage. In fact, I could, I think Sir, ask your Worship to take judicial cognisance ...

BY THE COURT:

I think it is clear. Judicial cognisance can be taken of the fact that Mr. Swart was a leading politician before he was elevated to Governor-General and that he was Minister of Justice for a period of ten years?

BY MR. CHASKELTON (Continues Cross Examination).

Now, do you remember in the City Council that there was a proposal to confer the freedom of the City on the State President? --- Ja, dat hy die Ere - Burgerskap

moes aanvaar. Daar was so n ... n heelwat debatte is oor die saak gevoer.

And I think to fix the time, it was round about the time that this letter was received by you? --- Sovër soos ek kan herinner, ja.

Now, do the City Councillors consult members, their constituency members of the public in regard to actions which they take? --- Wat ek van weet idit nog nie gudoen nie. In die reel is die verteenwoordigers - daer is verteenwoordigers van die publiek, van hulle kiesers, en tree hulle op na goeiddunke. Dit moet baie kontensieuse sake wees as hulle hulle kiesers gaan raadpleeg oor n saak.

DEUR DIE HOF:

Maar jy sê jy weet nog van soiets nie? --- Ek weet nie van soiets nie.

BY MR. CHASKELSON :

But if your constituents want to put forward certain views, to you, you as a City Councillor would give them a hearing and listen to them? --- Ja, dit hang af deur watter organisasie hulle natuurlik werk.

All I want to get from you, is that it is quite a proper thing for a constituent to make representations to his local Councillor in regard to what he want the Councillor to do. You would not disagree with that? It is quite a proper thing, as far as you as a member of the City Council is concerned to have your constituents put forward their views to you? --- Daar is wedersyde raadpleging, in sekere gevalle mag daar wees.

Now, when the State President was Minister of Justice, there were occasions were there not when he had disagreements with the Johannesburg Municipality? --- Ja, ek weet nou nie waarna u op die oomblik verwys nie?

All right, well, let's refer to one of the incidents /mentioned...

mentioned in the pamphlet? Do you remember the occasion when the Johannesburg City Council appointed three Judges to constitute a commission to enquire into certain discrepancies? ---...

DEUR DIE STAATSAANKLAER (Aan die Hof).

Edelagbare, weer wil ek beswaar maak op grond van die ontoelstbaarheid, deurdet die vraag nie ter sake .. hierdie getuienis nie ter sake is nie. Soos ek voorheen aangevoer het, Edelagbare, kan daar alleen deur hierdie vrae bereik word, die feit dat dit moontlik die waarheid kan wees wat in hierdie dokumente staan. En dit is die Staat se houding dat dit nie ter sake is nie.

BY THE COURT: (To Mr. Chaskelson).

I feel too, that it is absolutely irrelevant.

BY MR. CHASKELSON:

As your Worship pleases.

NO FURTHER QUESTIONS BY MR. CHASKELSON:

GENE HERVENHOOR DEUR DIE STAATSAANKLAER:

PETER MEYER BOOS : Sworn, States;

EXAMINED BY THE STATE PROSECUTOR:

Mr. Boos, you are a City Councillor of Johannesburg?

---Yes.

Where do you reside? --Saxonwold. 2a. Avonville Road, Saxonwold.

And you are the Chairman of the Management Committee? ---I am.

Now, do you remember Mr. Boos, during May, this year, did you receive a letter from the South African Congress of Democrats? ---I received a letter through the post, together with an enclosure.

With an enclosure. Was that received at your

/residential...

residential address? ---I would be uncertain about that, whether it was at my residential address or at the City Hall, I am not certain.

BY MR. CHASKELSON: (To the Court).

Admits that the letter was received, your Worship, no matter where it was received?

BY THE STATE PROSECUTOR:

Will you just refer to Exhibits "A" and "B"? Is this the letter Exhibit "A" and the enclosure Exhibit "B", that you received? ---They look similar to what I received, it is a long time ago.

NO FURTHER QUESTIONS BY THE STATE PROSECUTOR:

BY MR. CHASKELSON : (To the Court).

It is Through your Worship's ruling that I may not ask questions designed to establish the correctness of the factual background set out in the annexure. I don't propose asking any questions. But it had been my intentions to traverse this with each and every witness that have been called and also to lead evidence. I assume that all...

BY THE COURT:

No well, I mean, I can't give a ruling to what may happen further in the case. But at this stage I felt that those questions are absolutely irrelevant to the issue?

BY MR. CHASKELSON (To the Court).

I accept your Worship's ruling, but I wish merely to make my position clear, I don't intend putting these questions to any other of the witnesses called and I am governing my conduct accordingly.

NO QUESTIONS BY MR. CHASKELSON:

EBENEZER JUSTICE CUYLER : Beëdigd, Verklaard:

VERHOOR DEUR DIE STAATSAANKLAER:

Mnr. Cuyler, u woon by Mosleylan 16, Aucklandpark?

/in..

Aucklandpark, in hierdie distrik? ---Ja.

U is n Stadsraadslid van die Stadsraad van Johannesburg? ---Ja.

Nou, gedurende die periode Maart tot Mei, hierdie jaar, was daar besprekings in die Stadsraad gevoer oor die toekenning van die Ere-Burgerskap van die Stad aan die Staatspresident? ---Ja.

Is die toekenning van n Ere-Burgerskap aan enige persoon n eer? --- n Baie groot eer.

Nou gedurende daardie tyd, het u n brief ontvang van die South African Congress of Democrats? ---Ja.
n Brief met die bylae.

n Brief met die bylae. Is die brief bewysstuk "A" wat u nou voor u het? ---Ja.

En die bylae, bewysstuk "B"? --- "B", ja.

Nou, weet u van u sie kennis, of enige van die ander Stadsraadslede van hierdie briewe met bylae ontvang het? --- Wel, ek vermoed dat almal dit ontvang het, want ons kry baie keer sulke briewe van verskillende persone of van verskillende organisasies en dan bespreek n mens dit onder hulle.

Is dit ooit op n koudus vergadering bespreek, die ontvangs van hierdie briewe? ---Nie as n amptelike saak nie maar tog dat daar kennis van geneem is dat ons so n brief ontvang het.

GEEN VERDERE VRAE DEUR DIE STAATSAANKLAER:

GEEN VRAE DEUR MNR. CHASKELSON:

CHRISTIAAN FREDERIK DE WET : Beëdigd, Verklaar:

VERHOOR DEUR DIE STAATSAANKLAER:

Mnr. de Wet, u woon by Hillweg, No.90, Emerentia in hierdie distrik? ---Dit is so.

Jy is n Stadsraadslid van die Stadsraad van

/Johannesburg?..

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Johannesburg? ---Ja.

Gedurende Mei, hierdie jaar, het u n brief ontvang van The South African Congress of Democrats? ---Ja.

Het n aanhangsel daarby? ---Het n aanhangsel.

Is dit die brief wat nou daar voor u is? En die aanhangsel? ---Ja.

Dra u kennis van die feit of ander Stadsraadslede dieselfde brief ontvang het? ---Nie direk nie.

Was dit ooit op n koukus vergadering bespreek? Die ontvang van die brief? ---Nee, dit was wel bespreek waar ek by was, in ons biblioteeksaal waar n klompie van ons gesels het.

GEN VERDERE VRAE DEUR DIE STAATSAANKLAAR:

GEN VRAE DEUR MNR. CHASKELSON.

GERHARDUS PAULUS VAN PAPENDORF: Beëdigd, Verklaraar:
VERHOOR DEUR DIE STAATSAANKLAAR:

Mnr. v. Papendorf, u is n Speurder-Adjutant Offisier in die Suid Afrikaanse Polisie? ---Dit is.

U is verbonde aan die veiligheidsafdeling van die Suid Afrikaanse Polisie? --- Dit is korrek.

En u is op die oomblik gestasioneer te Germiston? ---Ja.

Nou gedurende 1955, was u gestasioneer te Johannesburg? ---Ja.

En u ken die organisasie bekend as "The South African Congress of Democrats"? ---Ja.

Op die 27ste September, 1955, het u die persele van hierdie organisasie, by No.8 Somerset House, 110 Foxstreet, Johannesburg, besoek? --- Dit is korrek.

U het daar gegaan op n laabrief tot huissoeking? --- Ja.

/Sou..

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Hou op die persele het u hierdie dokument gekry?

---Ja.

Bewysstuk "C". Hou hierdie dokument dra die opskrif : "Constitution"? --- Dit is korrek.

Sal u net vir ons die dokument lees, asseblief?

--- (Getuie lees uit dokument - Bewysstuk "C").

Hou, toe u die dokument gekry het, was daar 'n aanspraak van die organisasie teenwoordig in die kantore van die organisasie? ---Ja. Die Nasionale Sekretarisesses Mev. Yetta Barenblatt.

Wat daardie tyd Nasionale Sekretarisesses was? ---Ja.

Hou, u sê u ken die organisasie goed, en word dit dan beheer anderanders, deur die Nasionale President?

---Ja.

Nasionale Sekretaris? ---Ja.

En anderanders, ook die Streeks-Sekretaris? ---Ja.

GEEN VERDERE VRAK DEUR DIE STAATSAANKLAGER:

KRUISVERHOOR DEUR MEV. CHASKELSON:

What was the address at which you had carried out your search? ---It was 110 Fox Street, Somerset House, Johannesburg.

And do you know who occupied those offices? --- At that time?

Yes? ---It was occupied by the South African Congress of Democrats.

How do you know? --- There was a notice board in front of the door and when I entered also, Mrs. Barenblatt, who was the National Secretary,...

Well, just let's pause for a moment.. are you a member of the association? The Congress of Democrats? --- No, I am not.

And how do you know that Mrs. Barenblatt was the secretary? ---Well, she told me that.

I see. She told you? --- She told me and there were also documents and so on, that was signed by her as National Secretary.

Is that on which you base your knowledge? ---Yes.

Now, I take it that the affairs of the association are conducted as set out in the constitution? The control and affairs of the association are conducted as set out in the constitution? - which you have read? ---Yes, I take it to be that.

Well, I mean, you don't know who runs the affairs of the South African Congress of Democrats? ---Well, I, during the course of my duties I have been attending meetings, etc., organized by the Congress of Democrats.

You have attended meetings? ---Yes, I have attended several meetings.

But do you know how they take their decisions? ---I beg your pardon?

Do you know how they take their decisions? The Congress of Democrats, do you know how they took their decisions? ---Well, it was usually at meetings, it was by vote.

What were the meetings that you attended? --- Well, various meetings, like for instance, the Congress of the People.

General meetings? ---Yes.

Those were the only meetings you have attended? ---Yes.

Have you attended private meetings of The Congress of Democrats? ---No. No private meetings.

No private meetings. You have only attended public meetings? ---Yes.

And your knowledge is based on that? ---Yes. I attended for instance, meetings where the Congress of

Democrats was formed. It went under another name at first.

Yes, but your knowledge is based on what you have heard at public meetings? ---Yes, at 'C.O.D.' meetings.

And you don't know how the day-to-day affairs of the Congress are conducted? ---No, that I don't know.

NO FURTHER QUESTIONS BY MR. CHASKELSON:

HEVERHOOR DEUR DIE STAATSAANKLAAR:

Mnr. van Papendorf, weet u of die Nasionale President en die Nasionale Sekretaris en Streeks-Sekretaris enige sê het in die bestuur van die sake van die Kongress? --- Die Nasionale President, Mnr. Beyleveld, ken ek persoonlik goed.

Dit is Beskuldigde No.1? --- Hy is in beheer van die hele organisasie.

Ja? En die Nasionale Sekretaris? ---Die Nasionale Sekretaris, wat ek gesien het van dokumente, is, direk instruksies uitstaar aan ander Regents en takke, byvoorbeeld.

Ja. En die Streeks-Sekretaris, weet u of hulle deel het in die organisasie, in die beheer van die organisasie? ---Wel, ek ken dit aflei. Ek kan nie presies sê hoe daardie geldsake deur...

Die geldsake.. nee, ons is nie bekommerd juis oor die geldsake nie. Die Streeks-Sekretaris, kan u sê of die Streeks-Sekretaris deel het in die beheer van die organisasie? ---Ek kan dit aanvaar, van dokumente af, maar ek kan dit nie sê uit my eie kennis nie.

GEEN VERDERE VRAE DEUR DIE STAATSAANKLAAR:

CHRISTIAAN PETERUS KLEINGELD : Beëdigd, Verklaar:

VERHOOR DEUR DIE STAATSAANKLAAR:

U is 'n Speurder Sersant in die Suid Afrikaanse Polisie, verbonde aan die Veiligheidstak van die Suid

/Afrikaanse...

Afrikaanse Polisie, gestasioneer te Johannesburg? --- Dit is reg.

Nou, op die 5de Mei, hierdie jaar, omtrent 10 v.m., het onder magtiging van 'n lasbrief, die kantore van The South African Congress of Democrats, by No.8 Somerset House, Foxstraat 110, Johannesburg, deursoek? ---Dit is reg.

Was enige van die beskuldiges teenwoordig? --- Beskuldigde No.2 was teenwoordig.

Nou tydens die deursoeking, het u - wat het u alles gekry? --- Ek het beslag gelê op dokumente.

Nouja, die streekbiljet nou voor die Hof, Bewysstuk "D"?? --- Ek het op 'n aantal van hierdie dokumente op beslag gelê: "Swart does not deserve this honour".

Lees asseblief net die inhoud van die dokument? --- (Getuie lees dokument Bew. "D").

U handig die bewysstuk in? --- Ek handig hierdie bewysstuk in.

Nou, wat het u nog gekry? --- Die volgende dokumente wat ek gekry het, was : "Notes on the background of the State President."

Het u net een daarvan gekry, of 'n aantal? --- Nee, ek het 'n hele aantal daarvan gekry.

Sal u dit lees en inhandig? ---..

BY MR. CHASKELSON: (To the Court)

Your Worship, I am prepared to accept that this is similar to the one which has been read into the record already?

BY THE COURT: BY THE STATE PROSECUTOR: (To Mr. Chaskelson)

Thank you, then it won't be necessary for the witness to read it. You know the contents of this...? --- Yes, it is the same as the one .. I assume it is the same

/as...

as the one which the Councillor read out?

BY THE COURT (To Mr. Chaskelson).

I don't know, but looking at it from a distance..? ---
I am prepared to accept that it is exactly the same as the
one that has been read out.

BY THE COURT (To the witness)

Yes, then you just hand it in.

DEUR DIE STAATSAANKLAER (Gaan voort met verhoor).

Hand it in? U hoef dit nie te lees nie? ---Ja,
maar dit is nie dieselfde as die wat ek nou ingehandig het
nie?

See, nie die wat jy--- Ekkuus.

Verder, wat het jy nog gekry? ---Ek het twee
briewe gekry, wat deur die Streeks-Sekretaresse van die
S.A. Congress of Democrats geteken is. Dieseen brief is
gedateer 18 April, 1961, en die ander brief is gedateer
30 April, 1961.

Is dit die voorbeelde van die twee briewe?

'18 April' sal Ew. "F" wees? ---Ja, dit is die twee
briewe hierdie. Ek handig dit ook in.

Bewysstukke "F" en "G".

Sal u net Bewysstuk "F" uitles? ---..

DEUR DIE HQF: (Aan die Staatsaanklaer)

Is dit dieselfde? ... --- Dit is dieselfde..

BY MR. CHASKELSON: (To the Court)

I don't think we need read these, your Worship.
They have been read at length at the exception stage, I
am prepared to accept that these correspond with the
documents which are annexed to the charge sheet and to the
further particulars.

DEUR DIE STAATSAANKLAER (Gaan voort met verhoor).

Albei hierdie briewe is onderteken deur Ew. Ball,
as Streeks-Sekretaresse? - 'Regional Secretary?' ---Dit is

reg, ja.

En van hierdie briewe het jy ook 'n aantal van elk gekry? --- Dit is reg, ja.

Het u ook 'n verdere dokument gekry, met die opskrif: "Open letter to President Charles de Gaulle"? --- Dit is reg.

Bewysstuk "H". Sal u net kyk hierna? ---Ja.

Deur wie is dit onderteken? ---Dit is onderteken deur P.A.B. Beyleveld, National President of the S.A. Congress of Democrats. Beskuldigde No.1.

Het u ook 'n koolafskrif van 'n brief gerig aan The Chairman and Vice-Chairman, United Nations Committee on South West Africa, Pretoria, gekry? ---Dit is reg.

Bewysstuk "I"? --- Ja, dit is identies, ja.

Deur wie is dit geteken? ---Dit is geteken deur Ben Turok, National Secretary, The South African Congress of Democrats. - Beskuldigde No.3.

Beskuldigde No.3. En het u verder ook 'n brief gekry geadresseer aan: "Mr. Ben Turok, National Secretary, South African Congress of Democrats," en die adres deur.. geteken deur Secretary - General, The Organization for Afro-Asians Peoples Solidarity ? --- Dit is reg.

Bewysstuk "J".

Hou, ken u die drie beskuldigdes? ---Ja, ek ken hulle.

Hou, Beskuldigde No.1, is hy ook bekend as P.A.B. Beyleveld? ---Dit is reg.

Beskuldigde No.2 as Eve Hall? --- Eve Hall, ja, dit is reg.

En Beskuldigde No.3, ? ---Is Ben Turok.

Op 'n kennisgewing bord, in die kantoor, Mr. Kleingeld, wat het u daar gekry? ---Deur het ek gekry 'n kennisgewingtjie "Swart for Freeman" - en 'n lys van name van staderedelede.

Is dit bewysstukke "K" en "L"? ---Ja, dit is.

Nou, Bewysstuk "L", jy sê dit is n lys van name, van wat? --- Dit is n lys van name : "Names and addresses of Councillors".

En bevat dit die lys van name en adresse van Johannesburgse Stadsraadslede? ---Ja, ek neem aan dit is die name en adresse van stadsraadslede.

Is dit wat daarop staan? --- Dit is wat hier op staan.

Nou, by n afrol masjien in dieselfde kantoor, het u ook n wasvel gevind? ---Nie in dieselfde kantoor nie.

Nie in dieselfde kantoor nie. Waar was die wasvel? ---In die derde kantoor, die heel laaste kantoor, om dit so uit te druk - was n afrol masjien en teen die muur het van die - het wasvelle gehang waaronder ek n wasvel gekry het wat identies is aan een van die briewe wat gekryf is deur die Streeks-Sekretaresse van die S.A. Congress of Democrats.

Is dit die wasvel wat u daar gekry het? - Dit is nog op die persele van die ...? --- Dit is op die persele.

Bewysstuk "M".

Nou sal u dit net vergelyk met die twee briewe wat u gemeld het, bewysstukke "F" en "G", - Bew. "F", die brief gedateer die 18de; en bew. "G", die g brief gedateer die 30ste April? U sê dit kom ooreen met een van die briewe. Watter een is dit? ---Ja, dit kom ooreen met die brief gedateer die 18de April.

Gedateer die 18de April? ---Ja.

DEUR DIE HOF:

Dit is Bew. "F"? ---..

DEUR DIE STAATSAANKLAER:

Dit is Bew. "F", ja, Edelagbare. Bew. "M" kom dan ooreen met die brief gedateer die 18de April, dit is Bew. "F".

Jy het toe beslag gelê op al hierdie dokumente? ---

/Dit...

27.

Kleingeld.

Dit is reg.

U sê Beskuldigde No.2 was teenwoordig. Het sy enige te sê gehad toe u die dokumente gevind het? ---

Sy het geen kommentaar te lewer gehad nie.

GEEN VERDERE VRAG DEUR DIE STAATSAANKLAER:

NO QUESTIONS BY MR. CHASKELSON:

PHILLIP GABRIEL SLABBERT : Besëdigd, Verklaar:

VERHOOR DEUR DIE STAATSAANKLAER:

U is n Speurder Konstabel in die Suid Afrikaanse Polisie, verbonde aan die Veiligheidstak, gestasioneer te Johannesburg? --- Dit is reg.

Op die 4de Mei, hierdie jaar, as gevolg van n verslag ontvang, het jy na die middestad van Johannesburg gegaan? --- Dit is reg.

Op die hoeks van President - en Bissakstrate, Johannesburg, wat het jy gekry? ---Op my aankoms daar het ek gekry dat daar sulke klein pamfletjies op die straat lê.

Was die pamfletjies versprei oor die straat? --- Hulle was versprei oor die straat.

Het jy n kopie daarvan opgetel? --- Ek het ongeveer tien daarvan opgetel.

Nou, Bew. "N" voor die Hof is dit een van die pamflette wat jy opgetel het? ---Ja.

DEUR DIE HOF:

Dit is dieselfde as Bew. "D"?

DEUR DIE STAATSAANKLAER:

Bew. "D". Jy het beslag gelê op ongeveer tien daarvan en jy handig nou Bew. "N" in? ---Ja.

GEEN VERDERE VRAG DEUR DIE STAATSAANKLAER:

NO QUESTIONS BY MR. CHASKELSON:

JOHN HUNTER JAMES KENNEDY: Beëdigd, Verklaar:
VERHOOR DEUR DIE STAATSAANKLAER:

--- Ek is n Speurder Sersant in die Suid Afrikaanse Polisie, gestasioneer te The Grays, Johannesburg, distrik, verbonde aan die Veiligheidstak. Gedurende die oggend van die 29ste Augustus, hierdie jaar, om ongeveer 9 v.m., - 8.30 v.m., het ek op magtiging van n laebrief en vergesl deur Speurder Konstabel van Heerden, die woonplek van Beskuldigde No.2, te Frankenwold Universiteitspleas, deursoek.

Was Beskuldigde No.2 teenwoordig? --- Sy was teenwoordig. Bo-op n boekrak, aan die regterkant van die voorkamer soos n mens by die deur inkom, tussen ander dokumente, het ek gevind ...

Eerstens.. ons behandel hulle maar apart? ---n Dokument met opskrif: "Minutes of a meeting of The Johannesburg Regional Committee, held on the 18th of April, 1962."

U handig dit in, Bew. "Q"? ---Dit is reg.

Jy het ook gevind Bew. "P"? --- Dit is n dokument met die opskrif: "Minutes of a meeting of the Johannesburg Regional Committee, held on the 30th of April, 1962".

Is dit al wat jy gevind het? ---Ja...

Ja.. U het ook nog n verdere dokument gevind? ---Een dokument met opskrif: "Minutes of a meeting of the Council of The Congress of Democrats, held in April, 1962."

U handig dit in as Bew. "Q"? --- "Q".

Is dit al wat u gevind het? ---Plus die ander dokumente is dit al.

GEEN VERDERE VRAE DEUR DIE STAATSAANKLAER:

KNUISVERHOOR DEUR ME. CHASKELSON:

Who else occupied the house which - in which you conducted the search? ----accused No.2, her husband who is in Court, and her children.

NO FURTHER QUESTIONS BY MR. CHASKELSON:

PETRUS JOHANNES COETZEE: Beëdigd, Verklaar:

VERHOOR DEUR DIE STAATSAANKLAER:

Mnr. Coetzee, u is n Speurder-Adjutant Offisier in die Suid Afrikaanse Polisie, verbonde aan die veiligheidspolisie, gestasioneer te Johannesburg? ---Ja.

U is belas met die ondersoek van die bedrywighede van die organisasie bekend as The South African Congress of Democrats? ---Ja, ek is.

Hou, ken u die beskuldigdes? ---Ja, ek ken hulle.

Hou, Beskuldigde No.1, as wie en wat ken jy hom?

---Hy is P.A.B. Baylevald, ook bekend as 'Piet Baylevald', hy is die Nasionale President van die Suid Afrikaanse.. Congress of Democrats, terwyl dit bestaan het.

Beskuldigde No.2, Eve Hall? --- Sy is die Johannesburgse Streeks-Sekretaresse.

Beskuldigde No.3? ---Is Benjamin Turok. Hy is die Nasionale Sekretaris van die organisasie.

Hou, Beskuldigde No.3, is hy ook bekend as "Ben Turok"? ---Hy word so deur sy kollegas aangespreek.

Hou, die organisasie, word dit onderandere beheer deur die Nasionale President, die Nasionale Sekretaris en Streeks-Sekretaresse? ---..

BY MR. CHANKELSON (Objection).

That is a very leading question?

DEUR DIE STAATSAANKLAER (Aan die Hof).

Ek is jammer, Edelagbare?

DEUR DIE STAATSAANKLAER: (Gaan voort met verhoer).

Weet u hoe die organisasie nou beheer word? --- Volgens die konstitusie van die organisasie waarin ek insae gehad het, en ook vergaderinge en konferensies van die organisasie wat ek bygewoon het, het ek tot die slotson gekom dat die organisasie beheer word deur die Nasionale President, die Nasionale Sekretaris en n uitvoerende komitee /bestaande...

Coetzee.

bestaande uit etlike lede. Die organisasie was dan verdeel in streek en die weer in takke. Die streek was onderverdeel in takke en die Streeks-Sekretaris en Streeks-voorsitter het beheer gehad oor die streek en dan in die onderskeie takke was die mindere lede in beheer van die lede van die organisasie.

Op die 5de Mei, hierdie jaar, het u die persele van die organisasie by No. 8 Somerset House, 110 Foxstraat, Johannesburg, besoek? ---Ja, ons het 'n huissoekingbevel daar uitgevoer.

Het u die dokument Bew. "E" daar gekry? Die opskrif is "Press Statement"? ---Ja, ek het daarop beslag gelê op die perseel.

Dear wie is dit onderteken en in watter hoedanigheid? ---Dit is onderteken deur Ben Turok, National Secretary.

GEEN VERDERE VRAE DEUR DIE STAATSAANKLAER:

CROSS EXAMINATION BY MR. CHASKELSON:

Mr. Coetzee, you yourself were never a member of this organisation? ---No.

And your knowledge of what you have told the Court is based on documents which you have seen and meetings which you have attended? ---Yes.

Can you tell the Court which meetings you attended? ---I have attended very many meetings of the Congress movement in South Africa, where speakers spoke on behalf of the South African Congress of Democrats. I have also attended meetings of the South African Congress of Democrats, itself, where these people were announced as holding these particular positions. I have seen bulletins emanating from the offices during searches of the premises by myself and other members of the security police, where these people were or had signed these documents in that particular respect.

/What..

~~22.~~

Costree.

What I want really, is this, that the evidence which you are giving, is based on things which you have seen and read, and not the things which you know of yourself? ---Yes, which I have seen and heard, not that I know of myself.

MC

One other thing that you maybe able to assist us with, as far as details are concerned. You know that Mr. Boyleveld, Accused No.1, is banned from attending any gatherings and is not allowed to attend any meetings? ---Yes.

And I think the same applies to Accused No.3? ---That is correct.

And that this ban has been enforced for several years? ---Yes, I have attended meetings prior to Accused No.1 being banned, which he himself has attended.

But he has been banned for several years? ---Yes, he has been banned for several years.

And No.3 also? ---Yes, that is correct.

NO FURTHER QUESTIONS BY MR. CHASELSON:

GEEN BEVROEGING DEUR DIE STAATSAANKLAGER:

HOE VERDAG:

HOE HERVAI: (Verskyning sees voorheen).

DIE STAAT HOEF:

LUCAS JOHANNES MOOREMAN: SeWidige, Verklaart

BEHOOR DEUR DIE STAATSAANKLAGER:

Mr. Meelman, u is n Majoor in die Suid Afrikaanse Polisie, verbonde aan die veiligheidsafdeling van die polisie, gestasioneer te The Grays, Johannesburg? ---Dit is so.

Op die 10de Mei, van hierdie jaar, om ongeveer 11 v.m., het u, vergesê l van ander spouders, die persele van die organisasie South African Congress of Democrats, by 8 Somerset House, Foxstrant, 110, Johannesburg, deursoek? --- Ek het.

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Dit was op magtiging van u laasbrief? ---Ja.

Tot huissoeking. Was enige van die beskuldigdes teenwoordig? ---Beskuldigde No.3.

Hou, op die persele in u kantoor rak, wat het u gevind? --- Ek het daar u wasvel gevind - u getikte wasvel. Dit is die wasvel nou voor die Hof.

Bewysstuk "S". Hou, die wasvel is duidelik leesbaar? ---Ja.

Sal u dit asseblief f vir die Hof lees? ---Die aanhef van die wasvel is : "Who is this man? "

BY MR. CHASELSON: (To the Court).

Your Worship, if this corresponds with one of the annexures to the particulars, I am prepared to admit that that is the...

BY THE STATE PROSECUTOR:

I think it is annexure "B", your Worship.

BY THE COURT:

Annexure "D" to the particulars, you say?

BY MR. CHASELSON: (To the Court).

I'll admit that it corresponds.

BY THE STATE PROSECUTOR: DEUR DIE STAATSAANKLAER:

Denkie, u handig dit dan in? Die inhoud daarvan word erken?

Hou, het u hierdie persele voorheen besoek? --- Voorheen en daarna.

Voorheen en daarna. Het u dit meer as eenkeer besoek? ---Meer as eenkeer.

En wie het u op die persele gevind? ---Van die beskuldigdes in die beskuldigdebank het ek twee en drie (2 en 3) op die persele gevind. Dit is op verskeie geleenthede.

Op verskeie geleenthede. Hou toe u bew. "S" gevind het, of u beskuldigde No.3 was teenwoordig, en het u

/die..

24.

Moolman.

die een No.3 getoon? --- Ek het dit aan hom getoon.

Het hy iets omtrent Bew. "S" gesê? --- Ek het hom gevra of hy iets weet daarvan toe sê hy : "Ja, dit is die eiendom van die kantoor."

GEEN VERDERE VRAE DEUR DIE STAATSAANKLAAR:

CROSS EXAMINATION BY MR. CHASELSON:

How many offices are there? ---Dit is drie kantoortjies agter mekaar - dit is in n ry.

In which office did you find this particular exhibit? --- Dit was in die hoofkantoor.

In the main office? ---In the main office.

GEEN VERDERE VRAE DEUR MNR. CHASELSON.

NO FURTHER QUESTIONS BY MR. CHASELSON.

ABRAHAM THEODORUS SPENGLER : Beëdigd, Verklaar:

VERHOOR DEUR DIE STAATSAANKLAAR:

U is n Kolonel in die Suid Afrikaanse Polisie, hoof van die Veiligheidsafdeling en gestasioneer te Johannesburg? --- Dit is korrek.

Op die 7de Mei, van hierdie jaar, het u n brief geadresseer aan uself, per adres Suid Afrikaanse Polisie, The Grays, Von Wiellighstraat, Johannesburg, ontvang? --- Dit is reg.

Daar was n aanhangsel tot hierdie brief ook? ---Dit is reg.

DEUR DIE HOF:

Het u die brief self geadresseer? ---Die brief was aan my geadresseer.

DEUR DIE STAATSAANKLAAR:

U het dit ontvang. Hou sal u net kyk na Bew. "A" en "B"; asseblief? Is dit die brief met die aanhangsel wat u ontvang het? ---Dit is die betrokke brief, ja.

GEEN VERDERE VRAE DEUR DIE STAATSAANKLAAR:

GEEN VRAE DEUR MNR. CHASELSON.

STATE PROSECUTOR ADDRESSING COURT:

Your Worship, the Accused are charged with a contravention of Section 13 of Act 32/1961 in that certain acts were committed which were calculated to violate the dignity or injure the reputation of the State President.

I'll refer shortly- this is a short section, sir, and I'll refer to the section before I continue my argument. This section reads:

'Any person who commits any acts which is calculated to violate the dignity or injure the reputation of the State President or an acting State President, shall be guilty of an offence and liable on conviction to a fine not exceeding R2,000.00 or imprisonment for a period not exceeding five years.'

From the charge, your Worship, it will be noticed that the Accused- that it is not only alleged that the Accused committed these acts complained of personally, but it is also alleged that the Accused are guilty, by virtue of the provisions of Section 381, sub-section (7) of Act 56/1955.

Now, this section, your Worship, reads as follows:

'When a member of an association of persons other than a corporate body has in carrying on the business or affairs of that association or in furthering or in endeavouring to further its interests committed an offence, whether by the performance of any act or by the failure to perform any act, any person who was at the time of the commission of the offence a member of that association, shall be deemed to be

guilty/.....

guilty of the said offence, unless it is proved that he did not take part in the commission of the offence and that he could not have prevented it, provided that if the business or affairs of the association are governed or controlled by a committee or similar governing body, the provisions of the sub-section shall not apply to any person who was not at the time of the commission of the offence, a member of that committee or other body.'

From what I have said thus far, your Worship, it is clear that it is encumberant on the State to prove the following: (a) the existence of an association of persons known as the South African Congress of Democrats; (b) that the accused persons were members of this association of persons or members of a body governing the business or affairs of the association; (c) that the association has in carrying on the business or affairs of the association, committed the acts complained of in the charge.

Now, these acts are specified in the charge, your Worship, in the particulars on page 2 of the charge it appears- I am quoting from the particulars:

'It is alleged that the following acts were committed by the Accused: the printing, or causing to be printed, distributing, assisting in the distribution, causing to be distributed, circulating, assisting in the circulation of or causing to be circulated, pamphlets, leaflets, bills, circulars and other documents.'

In the alternative to (a), (b) and (c) which

I have/.....

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I have mentioned now, sir, the State must prove that the Accused, the one or the other of them, either personally or through their agents, or servants, committed the acts complained of in the charge, that is if Section 381(7) is not applicable.

Then, (d) (that is a further essential that the State must prove)- that these acts were calculated to violate the dignity or injure the reputation of the State President.

Now I submit, your Worship, that if all these essentials are proved, then the Accused must be convicted of the offence charged.

I will now proceed to deal with these essentials separately in order to show to the Court that the evidence satisfies each and every one of these essentials. Now, as to the first essential, and that is the existence of the organization in question, I do not think that this fact is in dispute at all; in any case, the constitution which was handed in, proves conclusively, taken together with the other documents, for example Exhibits "A" and "B" which are letter-heads or typed on letter-heads of the association, proves conclusively the existence of this fact; furthermore, the evidence of Mr. von Papendorf and that of Mr. Coetzee, is also very clear on this point, that this organization exists- or existed at the time of the commission of the offence.

As regards membership, your Worship, that is the second essential, I intend dealing with each Accused separately.

Accused No. 1: to prove the membership of
Accused/.....

Accused No. 1, the State mainly relies on the provisions of Section 263 bis of Act 56/1955; this section is headed 'Presumptions relating to certain documents' and reads:-

'Any document, which includes any book, pamphlet, letter, circular letter, list, record, placard or poster which was at any time on premises occupied by any association of persons incorporated or unincorporated or in possession or under control of any office bearer, officer or member of the association and on the face whereof a person on the name corresponding to that of an accused person appears to be a member or office bearer of such organisation or such association, shall on its mere production by the Public Prosecutor in any criminal proceedings be prima facie proof that the Accused is a member or such an office bearer of such association, as the case may be.'

It will be noted that before this section comes into operation it must be proved either that the document in question was at any time on the premises of the association or in possession or under the control of an office bearer, officer, or member of such association.

The evidence on this aspect, your Worship, there is that of Detective Sergeant Kleingeld, that on the 5th of May, 1962, he searched the premises occupied by the association, in the presence of Accused No. 2 and he found the document headed 'Open letter to President de Gaulle' now, that was handed in as Exhibit "H"; now, on the face of this document which is on a letter-head of the South African Congress of Democrats, a person of the name corresponding to that of Accused No. 1's name

appears/.....

appears to be the National President of the South African Congress of Democrats and in terms of the section, which I have quoted, that is prima facie proof that the Accused No. 1 is the National President of the association.

It might be argued that the name appearing on the document does not correspond, in terms of the section, with the name appearing on the charge; the name on the document was given as P.A.B. Beyleveld, the Accused is charged as Petrus Arnoldus Beyleveld. In this connection, your Worship, I refer to the decision, first of all, the decision of Thomas 'Sehlodi' versus the State; I couldn't find the report in the South African Law Reports, your Worship, this case was decided on the 13th of July, 1961, in the Supreme Court of South Africa (Transvaal Provincial Division) by his Lordship Mr. Justice 'Hill' and I quote from this case:

'In the case of Thomas 'Sehlodi', it was conceded by Counsel for the appellant that the same considerations as in the case of John 'Valasa' would apply, except that it was argued that the name of the appellant in the indictment is spelt 'Sethlodi' whereas in Exhibit "A" the surname is spelt 'Sehlodi'. In Exhibit "A" the said election was held and Mr. Stanley Ekore was elected chairman, Mr. Thomas Sehlodi secretary and Mrs. Ellen Nhlapo treasurer of the regional committee of the Pan-Africanist Congress.'

Then the learned Judge quotes: Section 263 bis (1) of Act 56/55, the section which I have quoted, and then continues:

'It was argued that the surname Sethlodi does not correspond to the name appearing in Exhibit "A". I am unable to agree with that contention. In the Afrikaans text which was signed by the Governor-General, the relevant ^{portion of the} sub-section reads: "Waaruit dit op die oog blyk dat iswari met 'n naam wat met die van die Beskuldigde

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corensten prima facie bewys dat die beskuldigde 'n lid van daardie vereniging is." It seems to me that on the proper construction of the sub-section exact similarity in the spelling of names is not necessary and that the presumption applies where the name appearing in the document is apparently the same as that of the Accused.'

But over and above this decision, your Worship, we also have the evidence in this case that Accused No. 1 is known as P.A.B. Beyleveld or Piet Beyleveld. I suggest then, your Worship, and I submit that it has been proved that Accused No. 1 was at the time the national president of this organisation. To prove the membership of Accused No. 2, the same argument applies.

Documents was found on the premises occupied by the association and these documents clearly establishes this Accused's membership, that is bearing in mind the provisions of Section 263 bis of Act 56/55 and the decision which I have referred to.

In this connection, your worship, I can only refer to Exhibits "A", on which it is clearly stated that Accused No. 2 signed as regional secretary of the organisation and there is also Exhibit "F" and Exhibit "G", your worship; documents found on the premises occupied by the association on which the name corresponding to that of Accused No. 2 appeared as being an office bearer of this organization.

As regards Accused No. 3's membership, exactly the same argument applies. Documents were also found on the premises occupied by the association, there were a number of these documents in which the Accused signed his name or the letters were addressed to the national secretary

of the organization in question.

We then come to the third essential and that is that the association has committed the acts complained of; the acts are set out in the charge and I have already referred to the acts complained of.

The first question then is, were these acts performed- and on this aspect we have the evidence, firstly of Mr. van Rensburg, that during May, 1962, he received Exhibits "A" and "B"; this letter was addressed to Johannesburg City Councillors and from its contents it is clear it was intended to be read by all the City Councillors of Johannesburg.

There is also the evidence of Mr. Guyler, Mr. de Wet and Mr. Kooz on this aspect, as well as the evidence of Colonel Spengler. This evidence, I submit your Worship, proves conclusively the documents marked "A" and "B", these are Exhibits "A" and "B" and which were attached to the charge sheet were printed and circulated or distributed to the persons mentioned in the charge and further particulars.

As regards the document marked "C", (i.e. the small leaflet, your Worship) we have the clear evidence of Detective Constable Slabbert, that on the 4th of May he picked up some of these leaflets on the corner of President and Rissik Streets, Johannesburg. This evidence, together with the evidence- or rather, the statements contained in the minutes of the meetings held on the 18th of April, 1962, and 30th of April, 1962, which was handed in by Detective Sergeant Kennedy as Exhibits "C", "F" and "G", makes it perfectly clear that the leaflets in question were

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printed and distributed.

If I may just refer to those minutes, your Worship, which is also admissible in terms of Section 263 bis; it must be remembered, your Worship, that these documents were found together in a room occupied by Accused No. 2 and apparently under her control; now, Exhibit "Q", the heading of this is: 'Minutes of a meeting of the Council of the Congress of Democrats held in April, 1962'; Exhibit "O" is 'Minutes of a meeting of Johannesburg Regional Committee held on 18/4/62' and in paragraph 3 of the Minutes, the following appears, under the heading of 'Propaganda':-

'A member was co-opted onto the Propaganda Committee. The first Boardsheet was accepted, and it was suggested that 3 members take charge of this in future. The fact paper on Defence was not yet under way. It was reported that the Afrikaans leaflet would be ready in a few days, that a letter would be written and sent to the U.S. delegation; that a letter and memorandum on Swart had been sent out to selected people urging them to lobby their councillors before the City Council meeting and that a leaflet. .'

and this is the important part in regard to this aspect:

' . . that a leaflet would be showered on that day and that our propaganda would be sent to the visiting Headmaster of Eton.'

Following on that, the Minutes of the 30th of April, 1962, 'Propaganda Report':-

'The Education Charter has been drawn up and will be brought out this week.

The memorandum and letter on Swart had had good results. A letter had been drawn up which was to be sent to all Councillors and a leaflet had been written. .'

Clearly referring to the various documents which were handed in.

Further, in paragraph 4, "Volunteers Report":

'There had been no activity this last week. A poster on "White Suicide" was waiting to go out. A leaflet on Swart was to be distributed soon.

Now, this I say, your Worship, taking the minutes, together with the evidence of Slabbert, clearly indicates that this document, marked "C", the leaflet, was distributed by the organization in question.

But, furthermore, your Worship, some of these documents, copies of these documents, were also found in the offices of the organization in question.

As regards document "D", the stencil of this document was found on the premises of the association and it is submitted that this evidence at least proves the printing of the document.

Now, as regards document "E", on this aspect we have the evidence of Detective Sergeant Kleingeld, that he found a number of these documents on the premises of the association; the stencil used in the roneo process of this document was also found on the premises occupied by the association and this, coupled with the most significant statements contained in the minutes, found in possession or under control of Accused No. 2, clearly proves that this document was printed and distributed or circulated by the organization in question.

I have now dealt with the question of whether it has been proved that the acts complained of were committed and the next question then is, by whom these acts were committed.

- 2 -

For the sake of convenience I intend dealing with the documents separately again.

Document "A", that letter appears on a letter-head of the South African Congress of Democrats and it is signed by the Regional Secretary of this organization; but apart from this fact, we also have the fact that a number of these documents were found on the premises of the organization in question. Furthermore, the circulation of this document is mentioned in the Minutes which I have referred to a few minutes ago.

Document "B", according to the evidence accompanied document "A", i.e. Exhibit "B" accompanied Exhibit "A" and copies thereof were also found on the premises of the association. If the Court finds that document "A" was printed and circulated, etcetera, by the South African Congress of Democrats, it follows that document "B" must also have been printed, circulated etc., by the same organization.

Document "C" (i.e. the small leaflet) clearly states, in the document itself, that it was issued by the South African Congress of Democrats; but apart from this, copies of this leaflet- of these leaflets were again found on the premises of the organization in question and mention is made of the 'showering of leaflets on Swart' in the Minutes- which I have referred to.

Document "D", again, states that it was issued by the South African Congress of Democrats and the stencil of the document was found on the premises of the organization.

As regards document "E", the same argument as in the case of "A" is applicable, except that over and above this, the stencil relating to the document was found on the premises of the South African Congress/.....

Congress of Democrats.

I submit that it is clear, then, that the association known as the South African Congress of Democrats was responsible for all the documents on which the charge is based.

I have already argued, your Worship, that it has been proved that all the Accused were members of this association and furthermore, that they were members of the governing body of this association.

According to the constitution, which was handed in, your Worship, the association is governed by a national conference; it says: 'The highest authority of the association shall be the National Conference which shall meet at least once in every year at such time and such place as shall be decided by the National Council.'

Now, it has been proved that Accused No. 1 is the National President and Accused No. 3 is the National Secretary; if the National Conference is the highest body in this association and Accused No. 1 is the National President, then he at least is a member of the highest body of the association.

The same with Accused No. 3, and the highest body- it follows, your Worship, that the highest body must have the control over the organization; but then it is not only controlled by the National Conference, it is also governed by a body known as the Executive Committee. It says clearly, in the constitution, 'that the National Conference shall elect a president, a vice-president and a secretary.'

Now again, your Worship, there we have it that Accused No. 1 is the National President, that Accused No. 3 is the National Secretary- those posts are mentioned in the

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ADDRESS/S.P.

constitution itself:

'The National Conference shall from time to time determine the situation of headquarters of the association of the National Council- and the National Council. .'

Now, we have evidence on record, we have it on the exhibits, that the headquarters of this association is situated at 8, Somerset House, 110 Fox Street, Johannesburg.

But then there are also the regions and branches'where three or more branches of the association are situated in close proximity to one another, the National Council may establish regions of the association which regions shall elect a regional committee at an annual regional conference. The National Council shall make such regulations in accordance with this constitution for the establishment, conduct and powers of regions and regional committees as it deems necessary and shall delegate to regions regional conferences and regional committees such of its powers under this constitution as it deems fit.'

In other words, your Worship, the whole organisation is controlled by the National Conference, a National Executive coming down then to the region and then different branches.

Accused No. 2 signed as Regional Secretary and therefore, she, also, is a member of the governing body of this association.

But in respect of Accused No. 3, another argument applies, your Worship, and that is- Accused No. 2, rather, and that is that she personally is responsible

for the distribution of at least Exhibits "A", "B" and the letter dated 18th of April, 1962.

Now, there is only one aspect that remains, your Worship, and that is whether the acts complained of was calculated to violate the dignity or injure the reputation of the State President.

Now, as to who the State President is, your Worship, the Court can take judicial cognizance but there is also direct evidence, the evidence of Mr. van Rensburg on this aspect.

But, the question whether the acts complained of did or did not or rather, were calculated or were not calculated to violate the dignity or injure the reputation of the State President, your Worship, I submit that this question was fully canvassed at the time of the exception and I reiterate my submissions which I made at the exception stage.

I submit therefore, your worship, that the State has proved, beyond any reasonable doubt, that the Accused are all guilty of the offence as charged.

MR. CHAGELSON ADDRESSING COURT:

May it please your Worship. Your Worship, in the charge sheet, the State relies specifically on the fact that the business or affairs of the association known as the Congress of Democrats were at all times relevant, governed or controlled by a committee or other similar governing body and goes further to allege that the Accused were members of that committee or similar

governing body.

Now, in view of that allegation, your Worship, the State cannot rely merely on a membership of the Accused; a membership of the association of the Accused, because the State has specifically alleged that the organization is controlled by a committee or similar governing body and in terms of the section, which is Section 381(7), the proviso says:

'Provided that if the business or affairs of the association are governed or controlled by a committee or other similar governing body the provisions of this sub-section (i.e. making the members liable for the acts of the organization) shall not apply to any person who is not at the time of the commission of the offence, a member of that committee or other body.'

So ex facie the charge sheet, the Accused were brought here to meet a case that this organization was controlled by a governing body and that they were members thereof, so the enquiry, in my submission, the first enquiry is whether the State has established that the Accused were members of the governing body of this organization and your Worship will be called upon to decide whether or not there is sufficient evidence to establish this point, because if there is not sufficient evidence, then the allegation being that the organization was controlled, the Accused can only be found guilty of control and not guilty qua member.

Now, your Worship, there is no direct evidence of how the affairs of the Congress of Democrats were controlled, no member of the Congress of Democrats was called to give evidence, no official of the Congress was called to give evidence and your Worship must then

base a finding entirely on the documents which have been handed in and the submission to your Worship is that these documents do not prove who the controlling committee of the organization- who were members of the controlling committee of the organization. I don't wish to go through in detail the various documents which have been referred to, some of the documents which was submitted in qua the Accused, hearsay; other documents will be admissible because they were found in the offices of an organization for instance, a document which was found in the office of an organization which describes the Accused- one of the Accused as president, will be admissible to show that the Accused was president, that is in terms of the Code, but no further- it doesn't prove that he was a controlling . . . so our submission to your Worship is this, that there is no direct evidence, other than persons' hearsay statements, to show that the three Accused were on a controlling body of the Congress of Democrats and for that reason alone I would ask your Worship to dismiss the charge against all three Accused.

But, if your Worship should be against me on this submission, the question which then arises is whether or not the body of which the Accused Nos. 1 and 3 are alleged to have been members, and that is the National body, was the body who - which controlled this particular act- in other words, was this an act of the National Committee or was this an act of the Regional Committee; my learned friend has told you, and there has been some evidence, that certain functions are carried out by Regional Committees, certain functions are carried out by National Committee- submission to your Worship is this, that at the most, the evidence for the State suggests that

the/.....

the Regional Committee is the committee responsible for this publication; the documents were signed 'Regional Secretary', not 'National Secretary.'

So, again, your Worship, if your Worship should find that there is sufficient evidence, admissible evidence, not hearsay statements and not inadmissible documents, but admissible evidence to link Accused Nos. 1 and 3 with the National Committee, it is my submission that that is not enough, because the State evidence has shown that the body which issued this was not the National Committee but the Regional Committee and there is no suggestion that Accused Nos. 1 and 3 were members of the Regional Committee.

Your Worship, that is as far as I intend taking my submissions in regard to the factual aspect as to whether or not the State has brought home against the various Accused the acts which they are alleged to have committed. I invite your Worship to study the sections referred to by my learned friend and to give careful considerations to the evidence which, in my submission, will show that most of the statements are hearsay and not admissible.

But, your Worship, assuming that it should be found that an offence committed by the- that the documents were published by a committee controlled by the three Accused; the question which your Worship then has to decide is whether those documents amount to the offence of violating the dignity or injuring the reputation of the State President.

Now, this question has already been argued fully to your Worship at the exception stage and it is not my intention to burden your Worship with unnecessary argument on this particular . .

I invite your Worship to consider carefully the argument which was addressed to you by my learned leader, Dr. Lowen, who appeared at that stage, and to give consideration to that argument in relation to the test which must be applied at this stage of the proceedings.

At the exception stage, your Worship, the test which your Worship was required to apply, was, whether the documents relied upon by the State, were capable of being read in the sense suggested by the State- were they capable of that interpretation, because if they are capable of that interpretation, then at the exception stage there is a case for the Accused to meet; but now, at the end of the case, the test is really reversed, the test is no longer whether the documents are capable of being read in the sense suggested by the State, but whether the documents are capable of being read in the sense suggested by the Defence; are these documents capable of the construction put on them in the argument at the exception stage by Dr. Lowen- if they are, then in my submission it cannot be said that the offence has been proved beyond any reasonable doubt, because if they are capable of the innocent meaning suggested by Dr. Lowen, then there must be a doubt as to their correctness- to their correct meaning, and that doubt must be exercised in favour of the Accused and indeed, your Worship, the authority for this proposition is to be found in the case of Bunting, which was relied upon, in some detail, in the argument at the exception- referred to by my learned friend, Dr. Lowen, and I wish to read merely two passages from Bunting's case to your Worship.

Bunting's case is 1916, (Transvaal Provincial Division) page 578 and the two passages which I wish to read/.....

to read are from the Judgment of his Lordship, Mr. Justice Wessels, as he then was, first at page 584, where his Lordship says- your Worship will remember that this was on a fairly similarly worded regulation, the prohibition was against publishing any words calculated to excite public feeling- 'calculated to excite public feeling' as opposed to 'calculated to injure the reputation' the phraseology, 'calculated to injure', 'calculated to excite' is similar and in my submission the test is the same, and his Lordship, Mr. Justice Wessels, says at page 584:

'If the Court says that certain language is calculated to excite public feeling, it must be certain that public feeling will be unduly excited by such language.'

And our argument to your Worship is, that if the Legislature says that punishment is to be meted out to words which are calculated to injure the reputation or impair the dignity, on this test your Worship must be satisfied that- must be certain, that the reputation will be injured or the dignity will be impaired and the test of certainty which your Worship has to apply, is stated at page 586 of Bunting's case, again from the Judgment of his Lordship, Mr. Justice Wessels. His Lordship says this:

'We must ask ourselves what effect it is calculated to produce on the man with a normal mind and normal human experience and then I feel sure that the answer ought to be- its effect will be nil. The appeal is therefore upheld.'

Now, the submission to your Worship is, that a man of normal mind, getting documents such as these, will/.....

will not think any the worse of the State President and will not feel that he is to be regarded at a lesser light than he was before that.

The submission to your Worship is, that the average man will simply look at the documents and say 'Oh, well, here is a remark of all these old statements' and throw it into the wastepaper basket- not going to read the documents and go away saying 'my word, I didn't know we had a State President like that', and if that is the impression- or if that is the feeling which your Worship has, that the ordinary man, not the sensitive man, would pay no regard to this document and would not think any the less of the State President, then, on the authority of Bunting's case, the offence has not been made out.

Now, your Worship, Roux' case was argued at great length and great reliance was placed on this case- I have argued to your Worship that 'calculated' must here be construed in exactly the same way as it was construed in Bunting's case and I wish again to read one passage from Roux' case which was relied upon by my learned friend very strongly in his argument and which, in my submission, was not correctly construed by my learned friend. My learned friend placed a great deal of reliance upon the passage from the Judgment of his Lordship, Mr. Justice Boyers, referring to the special enactment of the State and saying if the State says that a certain act shall be punishable, then the Courts must punish and my learned friend based his whole argument on the fact that here the State had said certain acts shall be punishable and therefore, Roux' case was irrelevant.

I would like again to read this passage,

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its context, in my submission, does not really support my learned friend but in fact lends very strong support to the arguments which have been advanced to your Worship and the particulars to the argument which I now advance to your Worship, and that is that your Worship must be certain of the effect which this will have on the ordinary man. His Lordship, Mr. Justice Byers, said this:-

'Die Unie is 'n demokratiese staat, en 'n mens sou so 'n prospekusie onder Kryggewet of onder 'n outokrasie kan verstaan, maar nie in 'n verligte een en geslag nie, waar die regering van die staat gegroend is op die vrye en onbelemmerde volkswil, en waar dit iedere burger vrystaan om sy mening omtrent die openbare staat van sake en die politiek vrylik te uiter. Natuurlik, as die wetgewing uit sy weg gaan om seker uitings strafbaar te maak, wat anders nie strafbaar sou wees nie, moet die Hof daaraan gevolg gee. Hier word ons egter gevra om 'n verouderde rubriek van die crimen laesae majestatis, naamlik die crimen laesae venerationis van vervloë eoue, op die gewaakte woorde toe te pas.'

Now, your Worship, the significance of this statement in my submission is this, his Lordship has said that one does not impute, one does not expect a prosecution for this type of offence, other than in an autocracy or under martial law; his Lordship has said in the modern day and age one feels that the individual is free to speak his will about the head of the State and public matters.

Now, the argument to your Lordship is this, that one cannot impute to the Legislature the intention

which Judge Beyers says must be necessary before such an utterance is punishable. Your Worship cannot impute to the Legislature the intention to create in South Africa a state of affairs termed by Judge Beyers as an autocracy or as martial law and unless your Worship imputes that intention to the Legislature, your Worship will give a benevolent construction to the words and once your Worship gives a benevolent construction to the words, albeit that it is a statutory offence, your Worship in my submission, will not find guilty, not find the Accused guilty of an utterance which in ordinary circumstances, would not be punishable, which at common law would not be punishable and which, in my submission, will only be punishable if the Legislature intends to create an autocracy or martial law.

Now, I invite your Worship to find that the Legislature did not intend that.

BY STATE PROSECUTOR (IN REPLY):-

Your Worship, on the legal Points- on which my learned friend argued now, I submit I have fully dealt with at the exception stage- I have nothing to add to it, sir.

(CASE REMANDED FOR JUDGMENT TO 24.11.1962)

G.B. JORDAAN.
REGIONAL MAGISTRATE.

SAAK NR:

DATUM:

OORSKRYFSTER SE SERTIFIKAAT:

Ek, die ondergetekende, sertifiseer hiermee dat die voorafgaande n ware oorskrif is van die oorspronklike getuienis meganies opgeneem in die saak van:

DIE STAAT teen: _____

.....
OORSKRYFSTER.

CASE NO.

DATE:

TRANSCRIBER'S CERTIFICATE:

I, the undersigned, hereby certify that the foregoing is a true and correct transcript of the original evidence recorded by mechanical means in the case of:

THE STATE versus: P.A. BEYLEVELD & 2 OTHERS.

PAGES 1 to 24: I. PARSONS:

..... *I. Parsons*
TRANSCRIBER.

PAGES 25 to 45: E.G. KUHV:

..... *E.G. Kuhv*
TRANSCRIBER.

Case No. H.101/62.

Date: 24/11/62.

BEFORE: Mr. G.B. Jordaan.

THE STATE VS: PETHUS A. BEYLSVELD
AND TWO OTHERS :

J U D G M E N T:

BY THE COURT:

The Accused, either personally or in their capacities as members of the governing body of an association of persons, to wit the association known as The South African Congress of Democrats, were charged with Contravening Section 13 of Act 32/1961, in that the Accused did upon or about or during the period 18/4/62 to 10/5/62 and at Johannesburg, wrongfully and unlawfully commit an act which was calculated to violate the dignity or injure the reputation of the State President as per particulars more fully set out in the annexure to the charge sheet and in the further particulars supplied to the Defence and attached to the charge.

The Defence, before plea, objected to the charge on the ground that the charge sheet does not disclose an offence in that the acts complained of as revealed in the annexures to the charge sheet, do not amount to a violation of the dignity of the State President, nor are they calculated to injure the reputation of the State President.

In terms of Section 166(1) Act 56/1955, as amended, the Court had to hear and determine the matter

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Judgment.

forthwith. After hearing arguments on both sides, the exception was dismissed. Vide judgment on the exception delivered by this Court. The charge was then put to the accused, and all three pleaded not guilty.

The first witness called was Mr. van Rensburg, a member of the City Council of Johannesburg. He handed in Exhibits "A" and "B" and said that he received these through the post and at the time he received these, the City Council was considering granting the freedom of the City to the State President, Mr. C.R. Swart. { The Defence in cross-examining the witness, went into the political past of Mr. Swart, the object being to show that Mr. Swart, while Minister of Justice, was a party to certain contentious laws that were passed and that some of the matters raised in the annexures to the charge, were true. The Court disallowed these questions, as it was clear to the Court that they were irrelevant as this Court was not concerned whether the matters mentioned in the annexures were true or not. The truth or untruth of the matters had nothing to do with the points in issue. The Court was also satisfied that Mr. Swart, the Minister for Justice is altogether a different person to Mr. Swart, the State President. The one had nothing to do with the other.) It is clear that the State President, as head of the Republic of South Africa, is above all politics. As a result of the ruling by the Court that these questions were irrelevant, the Defence did not cross-examine any of the other witnesses.

Similar evidence was given by Messrs. Roos, Cuyler and de Wet, all members of the City Council and by Mr. A.T. Spengler, head of the Security Branch of the South African Police. They all received letters similar

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Judgment.

to Exhibits "A" and "B" through the post.

Head-Constable C.P. van Espendorf told the Court that he searched the premises of the South African Congress of Democrats at 110 Fox Street, Johannesburg, on a warrant on the 27/9/55 and there he seized the document Exhibit "C", headed: "Constitution."

Detective Sergeant C.P. Kleingeld testified that he searched the premises of the South African Congress at No.8 Somerset House, 110 Fox Street, on 5/5/62, at 10 a.m. in the presence of Accused No.2 and there he seized the following documents:-

- Exhibit "D": Leaflet headed "Swart does not deserve this Honour".
- Exhibit "E": This is the same as Exhibit "B".
- Exhibit "F": Letter dated 18/4/62 and signed by Accused No.2.
- Exhibit "G": Letter dated 30/4/62 and signed by Accused No.2. This exhibit is the same as Exhibit "A".
- Exhibit "H": Open letter to President Charles De Gaulle and signed by Accused No.1.
- Exhibit "I": Carbon copy of a letter to United Nations Committee on South West Africa, Pretoria, and signed by Accused No.3.
- Exhibit "J": Letter from the Secretary, The Organisation for Afro-Asian Peoples Solidarity, addressed to Accused No.3 as the National Secretary.
- Exhibit "K": Notice found on notice board and headed: "Swart for Freeman".
- Exhibit "L": List of names and addresses of Councillors.
- Exhibit "M": Wax sheet corresponds to letter dated 18/4/62 - Exhibit "F".

Detective Constable Slabberts said that on 4/5/62 he went to C/o. President and Bissik Streets where he picked up about 10 pamphlets, Exhibit "N", which were the same as Exhibit "D".

/Detective...

[Handwritten mark]

Judgment.

Detective Sergeant J.J.H.J. Kennedy told the Court that on 29/8/62, about 9.30 a.m., he visited the home of Accused No.2; she was present and on a book shelve he found the following exhibits:-

- (1) Minutes of Johannesburg Regional Committee held on 18/6/62 - Exhibit "O".
- (2) Minutes of Johannesburg Regional Committee held on 30/4/62 - Exhibit "P".
- (3) Minutes of Meeting of The Council of the Congress of Democrats held in April, 1962 - Exhibit "Q".

Head-Constable P.J. Coetzee testified that he visited the premises of the South African Congress of Democrats at 8 Somerset House, on 5/5/62, where he seized documents Exhibit "R", headed : "Press Statemnt" and signed by Accused No.3. Major L. Woolman visited the same premises on 10/5/62 in presence of Accused 3 and there he seized the wax sheet, Exhibit "S". The writing thereon is headed : "Who is this man". The defence admitted the contents and the contents is the same as annexure "D" to the charge sheet.

This concluded the evidence for the State. The Defence closed the case for the defence without calling any evidence.

The Court at this stage wishes to re-iterate that the Court had again given serious consideration to the fact whether the words used were calculated to violate the dignity of the State President and the Court is satisfied that any reasonable man looking at them objectively, could only come to one conclusion and that is, that the words used were likely to violate the dignity of the State President or injure his reputation in the

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Judgment.

eyes of the public. It is clear from the evidence that everything was done to influence the City Councillors and the public to fight the intention of the Council to bestow the honour of a free man of the City on the State President. At this stage the Court wishes again to refer to the judgment given on the exception before plea and that that judgment should be read in conjunction with this judgment.

The Accused are charged that they either personally or in their capacities as members of the controlling body of the South African Congress of Democrats, committed these offences as set out in the particulars to the charges and the further particulars attached to the Charge.

The Court having decided that the writings concerned were calculated to violate the dignity of the State President and injure his reputation, this Court must decide whether the accused can be held responsible for the commission of these offences either in their personal capacities or in their representative capacities. When the Defence closed the case for the Defence without calling any evidence then what was a prima facie case, became final proof of the facts then. At no stage was the evidence for the State challenged by the Defence, either in cross-examination or by testimony and the Court has no reason whatsoever to reject any of the evidence for the State and without hesitation accepts that evidence. The Court is also satisfied that all the documents were rightly admitted as evidence.

The Constitution of the South African Congress for Democrats, Exhibit "C", was seized at the offices of the Association and according to this Constitution, it is a voluntary association of persons

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Judgment.

and the Association is governed by a Committee or Governing Body, called the National Congress, which will consist of a President, Vice President, Secretary and 12 members, who shall constitute the Executive Committee. The Executive Committee together with 20 members, shall constitute the National Council. It is therefore clear, that Section 381 (7) Act 56/55, is applicable and in order to hold the Accused liable, the State will have to prove that they are either liable in their personal capacities, or in their representative capacities, in which case the State will have to prove that they are members of the governing body of the Association. The Court has accepted this constitution as The Constitution of the Association.

The police witnesses told the Court that they knew the three Accused and that Accused No.1 is the National Chairman and Accused 3 the National Secretary. Exhibit "H", open letter to President Charles De Gaulle, is signed by Accused No.1 as National President, South African Congress of Democrats. Again, Exhibit "I", copy of letter dated 6/5/62, and Exhibit "R", Press Statement, dated 13/3/62 are signed by Mr. Ben Turok, who is Accused No.3 according to the police evidence, as National Secretary, South African Congress of Democrats.

Then there is a further letter, Exhibit "J" from the Organization for Afro Asian Peoples Solidarity and addressed to Mr. Ben Turok, National Secretary, South African Congress of Democrats. All these documents were seized by the police at the offices of the Association, and there is nothing to repudiate these facts.

The Court can only come to one conclusion, and that is, that Accused 1 is the National President and Accused 3, the National Secretary of the governing body

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Judgment.

of the Association and thus liable under the proviso of Section 381 (7) Act 56/1955, as amended.

It is further clear that Accused 2 is the Regional Secretary, but there is no evidence that she is a member of the Governing Committee, but it is clear that she personally signed letters dated 30/4/62, Exhibit "A", and letter dated 18/4/62, Exhibit "F" and Exhibit "B" was an annexure to Exhibit "A". There is also the wax sheet, Exhibit "M", that corresponds with Exhibit "F", this wax sheet is also signed by Accused No.2. It is therefore clear that although it is doubtful that Accused No.2 is a member of the governing committee she can be charged in her personal capacity as it is clear that she signed some of the documents forming the basis of this charge.

The Accused are charged with the printing, or causing to be printed, distributing, assisted in the distribution, circulating or causing to be circulated, pamphlets, leaflets, bills, circulars and other documents to wit, the letters and pamphlets attached to particulars to the charge.

It is clear that the documents attached to the charge sheet emanated from the Regional - from the office of the Association in Johannesburg. Vide minutes of the Council of the Congress of Democrats held in April, 1962, Exhibit "Q", page 4; Vide also para. 3 of Minutes of Johannesburg Regional Committee held on 18/4/62, Exhibit "O", and Para. 3 and 4 of Minutes of meeting of Johannesburg Regional Committee held on 30/4/62, Exhibit "F".

These three exhibits were found by the Police at the Residence of Accused No.2. and it is

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Judgment.

clear that the Regional Committee is a sub-committee of the National Council and may be taken as forming part of the governing committee, the Accused No.2 may also be liable in her representative capacity.

It is further clear that Exhibits "A", "B" and "D" must have emanated from the offices of the South African Congress of Democrats, as copies of all the documents were found in the offices as well as stencils of Exhibit "F", which is on the same lines as Exhibit "A", and also a stencil of Exhibit "S", which is the same as annexure "D" to the charge sheet.

Taking these facts in conjunction with the minutes Exhibits "O", "P" and "Q", into consideration, the Court can only come to one conclusion that The South African Congress of Democrats is responsible for the issue and distribution of these documents. Exhibit "A" is printed on the letterhead of the Association and Exhibit "B" is the annexure thereto. On Exhibit "D" it is stated that it is issued by the Association as well as on Exhibit "S". The only conclusion is, that these documents were printed by the Association and that Exhibits "A" and "B" were distributed through the post to Councillors, etc., whereas Exhibit "D" was showered on the public, vide para. 3 of the Minutes, Exhibit "O", vide evidence of Constable Slabbert.

Accused No.2 was practically always found in the offices of the Association when the Police visited the offices. She also signed the covering letter, Exhibit "A", that was sent to all councillors with the annexure Exhibit "B". The Court can only draw one conclusion, that she, not only assisted with the printing of the documents but also with the distribution, not only in her personal capacity, but also in her representative capacity as

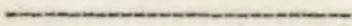
/ Regional...

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Judgment.

Regional Committee Secretary.

The Court is therefore satisfied that it had been proved beyond a reasonable doubt that all three Accused are responsible for the printing and distribution of these documents and they are therefore all three found GUILTY as charged.



There are no previous convictions against any of the Accused.

MR. LOWEN: ADDRESSES COURT IN MITIGATION OF SENTENCE:

May it please your Worship, may I be permitted to address your Worship in regard to the Sentence.

Sir, the Accused have been found guilty of an offence which no doubt is an offence of a political character. It has often been said in our Courts that, though perhaps not in law, but in fact, the most difficult task of the Court often is to find the proper sentence. And we have no doubt that your Worship will wish to take into consideration a number of facts which we are here to submit to your Worship in order to come to a Sentence which fits the Accused and which fits the occasion.

Sir, this is the very first time that an offence was charged under a Section which is a very new one, Section 13 which appears in The Constitution of the Republic of South Africa. For the very first time that an offence of this kind has been dealt with and there will be no precedence as far as that Section is concerned, to guide your Worship.

If one looks at the Section itself, one will find that the first punishment provided, is a fine and the second punishment provided in the alternative, is /imprisonment.

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imprisonment. We submit that the fact that the first punishment mentioned in this new Section is a fine, should indicate that in keeping with the character of the offence, a fine should first be considered.

BY THE COURT:

I may mention that I will consider a fine.

BY MR. LOWEN:

And Sir, we would like to mention that - your Worship has anticipated we shall be asking for a fine.

Now Sir, before dealing with the amount of the fine which we may only suggest, or in regard to which we may only make suggestions of course, we would like your Worship to consider that this was a peaceful - and I stress on peaceful - a peaceful protest. A protest to which the Accused - or rather, the organization, via which they are charged, thought that they are entitled to make.

We live in difficult political times. The Accused felt, and they are not the only ones who feel that, that there are matters in which they must be allowed to speak. If your Worship look at the documents which form the substance of the charge, all of them, except the last one which could not have this kind of opening, all of them start: "It has been reported in the press that the Johannesburg City Council is to grant the Freedom of the City to the State President." And the documents, the tend of these documents are, or is to the effect that "We, as citizens of South Africa and/or particularly of Johannesburg, we want our Councillors not to rush into the conferring of the Freedom of the City on the State President." That really is the substance of their protest.

Now, Sir, one will remember, that Johannesburg

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was, and I say this only for the purpose of mitigation, Johannesburg was the very first, and remains the only city, which considered the conferring of freedom. We are not concerned whether the State President deserves or does not deserve the freedom of the City and I don't wish to be understood as casting any doubt on any of these matters or casting any criticism on it, but the Accused or the Organization for which they stood, they thought the City Councillors had no right without consulting the citizens, there was no consultation, there is no evidence about that, just to confer the freedom of the City.

Sir, one is reminded of a similar protest which was made on a similar occasion, when the Doctor Honoris Causa, I think of Law, was to be conferred by one of the great Universities of South Africa. An occasion on which professors, lecturers, students, joined and opposed for similar reasons, the conferring of that honour. That is what was done in this case.

Now Sir, in addition to that, one would have to bear in mind that all criticism, all the facts submitted to the City Councillors by way of protest to the conferring of freedom, all these criticisms were criticisms not of the person of the State President, not of the way the State President conducted the highest office in the land, it was criticisms on the ground that the State President had been a political figure and as a political figure he was criticised. Politicians are subject to criticism and the Accused thought that if they keep out of any criticism of the State President in his present function, in his present high office, they would be entitled to criticise his political past. That is the

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unfortunate thing that if a politician submits himself to this high office, if a politician allows himself to go forward as a candidate for any other honour, people may criticise his political past.

What I want to stress is, there was no aspersion, there was no criticism on the high office. And Sir, Section 13 has first of all in mind to protect the State President in his position as the State President, that is to be seen by the fact that the Acting State President, whilst he is acting, is equally protected.

Now, I wish further to stress, there was no as one very often finds in pamphlets, there was no calumny, there was nothing said which could in any way be taken as an injury designed to be inflicted on the personality, the private personality of the State President. Sir, as far as truths is concerned, your Worship has ruled that truths was immaterial and in view of the fact that the Crown asked for this ruling, I may say, and justifiably say, that there is no proof of any kind that any of the statements referring to the political past were untrue. And that is why I say, no calumny, no untrue statements were made in these pamphlets. The occasion Sir, was a legitimate one and I again say this only in mitigation, that it has been done, the occasion was one of great importance and if the mark on the base of your Worship's judgment, was over-stepped, there still remains the fact that the occasion was one on which the Accused thought or on which the organization by which they are subjected, thought, to be allowed to speak.

Now Sir, another point to be considered is that this pamphlet was addressed to the City Councillors. It was in fact, also distributed to some students. One

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does not know how wide the distribution was, one may well say, that those who are against the Accused, probably never read it. And one can safely say, that certainly no harm was done to the State President or anybody else.

What must not be overlooked, is the fact that the Accused are really punished for an offence of the Congress of Democrats and the evocation of Section 381 sub-section 7 makes that perfectly clear. They are responsible in a representative capacity; they are responsible for an act done by the Congress of Democrats, and that is a fact which would have to be in our submission, may be considered at any rate, by your Worship, if regard was had to the decision of Rex. v. Limbada and Another, Appellate Division Case, decided in 1958, reported in 1958, Volume 2, S.A.L.R., page 481, and there I want to read only a very short passage from the judgment of His Lordship the Chief Justice, but then he was only Judge of Appeal, which appears on page 490. This is how it is how it is set out :- (Against the letter "P")

"Although there are indications in the evidence that she (it was a woman who was a director of something) may not have been entirely innocent, they do by no means conclusively show that she was particeps criminis in regard to any of the counts. Her guilt arises (and that is the passage) from the provisions of Sec. 381 (7) and is presumptive rather than positively established. "

In other words, the guilt established under 381 (7) read with the actual offence, is a presumptive guilt more than an actual guilt.

Sir, again with regard to the sentence, the Congress has disappeared in the meanwhile; the Congress of Democrats has been declared a prohibited organization. No..

No, if I may put it that way, harm can come from the Congress. As far as the Accused are concerned, the first Accused and the third Accused, Byleveld and Turok, they are banned from the attendance of meetings. No word out of their mouths can be published. If one looks at the object of the punishment, mainly, to deter the actual person who commits an offence or in this case of presumptive offence, the organization, one can safely say, that their mouths has or have been closed. And therefore, there is really no necessity to impose any severe sentence in order to avoid similar things to be done by them again. And as far as other organizations are concerned, just dealing with deterrent effect of a sentence, we have now Acts which make it practically impossible for any other organization to repeat this kind of offence. And therefore we would like to submit Sir, that as far as that is concerned, there is no danger in the future.

I would like to quote one or two very short passages furthermore in order to show that political offences should be and had been dealt with on a different basis from the basis of dealing with ordinary offences. If your Worship allows me, I would like to quote a short passage on an Appellate Division Case, going as far back as 1923. Now, there is no real comparison as far as this case is concerned except the political character. This was a case of Rex. v. Jolly and Others, reported in 1923 A.D. page 176. This was a very serious case Sir. It was a case for political motives, for political reasons. People had derailed a train and the charge was one of attempted murder. But the political background was not(?) And on page 183, about the second-half of the page, towards the end of the Judgment and concluding the Judgment, the then Chief Justice, Lord Mr. Justice Innes, the following appears:

/"But...

"But in the present instance the offence was committed under abnormal circumstances, and it is clear that the accused were not actuated by any personal motives, whether of gain or of revenge. Under these circumstances the observations of Van der Linden (Institutes, Book 2 Chapter 4, Sec. 4, Pars. 5) with reference to the crime of 'oproc'er' (sedition), embodying as they do the ripe experience of the ages, are very much in point: (And now his Lordship quotes): "As however, the origin of this crime is often found in the different opinions respecting the measures of the Government, especially when the latter has been affected by revolutions having taken place, there is hardly any crime in which greater caution is to be enjoined upon the judge, so as on the one hand to preserve the maintenance of peace and good order, and on the other hand not to render anyone the unfortunate victim of political dissensions by excessive severity."

And Sir, the last case, just one sentence, a very recent one, if one can call 1956 in these fast moving times 'recently' - Rex v. Sibande, reported as a decision of T.P.D. in 1956 Vol. 4, S.A.L.R. at page 23. There I only wish to read one sentence on page 25 appearing against the letter "G" :

"The appellant in committing the offence of which the conviction is to stand was not committing an offence of dishonesty or anything of that kind. It is a political offence and is not to be regarded in my view in the same way as an ordinary person contravening the ordinary Criminal Code, of this Country? And Sir, if your Worship would allow me just to round the report off - I am afraid I have not got the report, it is not yet reported,
/but..

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but as late as the 10th of November, of this year, it was said - it was reported to have been said by the Supreme Court in South West Africa, the Court in Windhoek, by His Lordship Mr. Acting Justice de Villiers that: "A person who committed a political offence, and in particular where the offence was not of a serious nature, such as sabotage, should not be regarded as an ordinary person contravening an ordinary criminal code. Such political contraventions, they are crimes only because they are prohibited by law, but they are not crimes which one's conscience acknowledges similar to theft or fraud."

Sir, that is all I can say as regards the tendency in regard to political offences. And having submitted to your Worship that here, in view of the circumstances, there is neither need to deter other organizations, nor these Accused, nor the Congress which have been prohibited.

I only have to deal now, Sir, with the amount of fine, which perhaps, we submit, your Worship may consider suitable. Before doing so, I may say that certainly, this is not an offence by which the security of the State or anything like that was threatened or could have been threatened.

Sir, there is only one authority in regard to the fine which I would like to bring to your Worship's notice, and that is the case of Rex. v. Mhlapo, again a T.P.D. case, reported in 1954, Vol 4. S.A.L.R. page 56, and the passage to be quoted is on page 58, against the letter "F":

"As far as the sentence - (Says his Lordship, the late Mr. Justice Ramsbottom) - as far as the sentence is concerned the argument was that the magistrate, having decided to impose a fine, ought to have informed himself as to the Accused's ability to pay the fine - there ought to /have...

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have been an enquiry as to his means. Mr. Moodie, on behalf of the Crown, has not challenged that. That principle has been laid down in a large number of cases from Rex. v. Frans , 1924 T.P.D. onwards, and the Court is constantly having to remind magistrates that before they impose fines on native people, who are often poor, they should enquire into the means of the man to pay. The same applies also to Europeans. Where the court decides to impose a fine, the intention being to keep a person out of prison, the court should not stultify itself by imposing a fine which it has no reason to suppose the accused can pay."

I know your Worship doesn't have to be reminded, as far as that is concerned, as his Lordship says: "Many magistrates have to be reminded." In other words, a fine is useless unless it can be expected that the accused can pay it. And I said that in order to introduce as my last point, the personal conditions as applying to the accused.

The first accused, Bejeveld, is assisting his wife in the conduct of her Recording and Typewriting business. We have made enquiries, I don't think my learned friend can contest it, we understand that wife and husband together draw an income on this business of about £100 - £200p.m. They have a child that has to be educated and they certainly live in circumstances which cannot be called admirable.

Accused No.2, Eve Hall, she is a University student. She is married to man who has the honourable but not very profitable occupation of a reporter - If she doesn't mind my saying so and the other reporters does not mind my saying so - I understand her husband earns about £80 p.m. and they have to look after three small children. And your Worship /need...

need not be told what that means today.

As far as Turok is concerned, he is at present in custody and he cannot be employed. But he has, perhaps he hopes, some savings from which he has to withdraw to pay the fine. But in view of the circumstances, that he is prevented from earning, again his circumstances are such as to make me say that your Worship should, in considering a fine, to impose a fine which is within their means.

Sir, I have detained your Worship perhaps longer than one usually does when one addresses in mitigation. But I thought we are justified in making those points which we have made and we have no doubt, your Worship, will consider them, as they were made and accept them in the spirit in which they were made.

In these circumstances we ask for a lenient fine to be imposed on the accused.

Sir, very unwillingly I would like to add one remark, it has sometimes been suspected that an accused who can afford a consultation by Senior Counsel, can afford other financial sacrifices. A suspicion which has sometimes been uttered without knowing - not in this case - knowing that if Senior Counsel appears, it does not mean that Senior Counsel has been engaged with the financial means of the Accused. There are organizations which look after some people and if they find they have a case to be defended where new legal points arise, and difficult points arise, in order to assist the Courts too, there is no reflection on the very learned juniors that Senior Counsel should be briefed. I say it unwillingly, but having made these remarks, I want to assure your Worship that that is certainly a representation by Senior and Junior Counsel, not a factor which should be made against the Accused, I can give your Worship my assurance, that I have good

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consideration and the Court has also taken into consideration what Dr. Lowen told the Court as regards the financial position of the Accused. But the Court feels that an adequate sentence must be imposed. A sentence that will not only serve as punishment to the Accused, but also as a deterrent to others. This is a new offence, we live in difficult times and these laws should be carried out.

Each Accused is fined Three hundred and fifty Rand - (R350) or one hundred and seventy five days (175 days) imprisonment.

Before concluding, I wish to thank Dr. Lowen and Mr. Vorster for the tremendous assistance they had given this Court in this matter. It is a new matter and really, they gave the Court a tremendous amount of assistance.

.....

G.B. JORDAAN:
REGIONAL MAGISTRATE.

CASE NO: H101/62

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DATE: 24/11/63

BEFORE: MR G. E. JORDAAN.

STATE VERSUS: PETRUS ARNDUS NEYLEVELD.

S E N T E N C E .

BY THE COURT.

The accused has been found guilty of a new offence. An offence for which there is no precedent in the past, to which the Court can look.

It is as Dr Lowen rightly brought out, other cases are not on the same line as these. These cases were just mentioned to the Court for the purpose of assessing a penalty in this case. The report can always bring out whether it was politically or what was behind all this, as it is clear, the man being honoured by the Council by the City Council as a free man, surely doesn't bear much weight in the affairs of the county. But it is clear to this Court, that this was a well worked out campaign. It is true that, according to the council for the defence, Accused No 1 and 3 were prohibited to attend meetings etc., but it is clear from the exhibits before the Court, that all the accused took an active part, right up to the start of this case, in the affairs of the association, as the documents handed in, reveal that everyone must have known about it as this matter was mentioned, not only in the minutes of that regional committee, but also in the minutes of the highest authority, that this campaign has been launched against the State President. The whole object of this section was to put an end to this that mud should be slung at a State President, who holds a high and distinguished office in this country. And it is also clear that the intention behind this matter was, to make him out as a cruel dishonest/.....

dishonest man.

If the Court will have to allow then as mentioned previously, that section can be ruled out and this must have been considered in a very serious light, when they passed it - this Act, because a fine of R2000 or imprisonment for a period of 5 years has been provided for contravention of this section.

It is definitely not a case that the accused acted on the spur of the moment. This was a well worked out plan, going on from day to day, and doing everything in their power, to stop the Council, bestowing this honour on the State President.

The Court has given the matter of a finding - serious consideration. The Court has taken every factor into consideration. The Court has taken notice of the fact that not one of the accused has a previous conviction, but notwithstanding that, the Court still views this offence in a serious light, and the Court is satisfied that the accused must have known all along about this. As a matter of fact, it is so clear that they even sent copies of these letters to the head of the Security branch of the Police, as much as to say - now do as you like, we are doing it ... and he surely has very little say in who gets the honour of a free man, in the City of Johannesburg.

So the Court is satisfied that the accused did not act on or not knowing that they contravened this Section. Notwithstanding the Law - the Court cannot back if there is a Law, it must be carried out and it is the duty of the Court to enforce that Law. ✓

Taking all facts into consideration, and the Court has also taken into consideration what Dr Lowen told the Court as regards the financial position of the Accused, and the Court feels that an adequate sentence must

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be imposed, a sentence that will not only serve as a punishment for the accused, but that will deter others. We live in difficult times, and these laws should be carried out .

Each accused is fined R350 or 175 DAYS

IMPRISONMENT.

Before I conclude I wish to thank Dr Lowen and Mr Voster for the tremendous assistance they have given this Court in this matter. It is a new matter and really they gave us tremendous assistance.

G. B. JORDAAN.

MAGISTRATE.

M. V. KLOPPER.

TRANSCRIBER.

33-0977

Case No H.101/62. Bew. A. & G.

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P.O. BOX 4000

South African Congress of Democrats

ADDRESSER
 BOX 4552
 TOWN
 BOX 2299
 (AN
 BOX 1294
 ELIZABETH

HEAD OFFICE:

8, SOMERSET HOUSE, (SECOND FLOOR)
 110, FOX STREET.
 JOHANNESBURG.
 SOUTH AFRICA

30th April, 1962.

TO JOHANNESBURG CITY COUNCILLORS:

Dear Sir / Madam,

It has been reported in the press that the Johannesburg City Council is to grant the freedom of the city to the State President, Mr C.R. Swart. It would appear that this decision, which affects every citizen, was taken outside the Council Chamber and no effort was made to ascertain the views of the majority of Councillors on this important matter.

We are sending you the enclosed memorandum on the political background of the State President and his past relationship with our city. In our view such a man is not worthy of being honoured by the City of Johannesburg. Such a view is no doubt shared by the majority of citizens. We appeal to you, as a legally elected representative, to exercise your right and duty in ensuring that the views of your constituents are heard on this issue, and that the matter is debated at the next full session of the City Council.

The City of Johannesburg has a record of independence and respect for long-standing traditions. We urge you to do everything you can to ensure that this fine record is not allowed to go in default.

Yours faithfully,

Eve Hall

Eve Hall
REGIONAL SECRETARY

NOTES ON THE BACKGROUND OF THE STATE PRESIDENT, MR SWART.

Though Charles Roberts Swart was not elected to Parliament until later, he became a member of the Orange Free State provincial executive of the Nationalist Party in 1921, and he served on this committee until his retirement from politics.

Soon after he became Minister of Justice in 1948, he released from imprisonment Róbey Leibbrandt, who had been convicted of treason during the war. At about the same time, he lifted the ban on the Ossewa-Brandwag and the Broederbond, whose activities had been curtailed by law during the war, on account of their Nazi sympathies and affiliations. For some years, until 1941, Charles Swart had himself been a member of the Supreme Council of the Ossewa-Brandwag.

While he was Minister of Justice, the South African Police became notorious for brutality. It was he who continually insisted on the right of the police to shoot first and ask questions afterwards; it was his police force that protected Sergeant Arlow for so many years. In 1951, a Press photograph was radioed round the world showing South African policemen conducting a baton charge against garment workers who were demonstrating in protest against the banning of Solly Sachs, then the secretary of the Garment Workers' Union; this was Charles Swart's police force. In 1959, questions were asked in the House of Assembly about baton charges which had taken place in African townships, and about children who had been injured during these charges; Swart's reply was that African women often borrowed children to carry on their backs during demonstrations.

Swart became known as the 'whipping minister' after he had put before the House of Assembly the Criminal Laws Amendment Bill of 1952. This bill, when it became law, made flogging compulsory for certain crimes where previously the choice of flogging as a punishment had been left to the discretion of the magistrate. On one occasion, he brought a 'coat-o'-nine-tails into the House, and posed with it for a press photograph. In 1957, in reply to a question put to him in the House, he stated that in the previous twelve months, 15,526 prisoners had received a total of 69,198 strokes. In 1959, more questions were asked in Parliament - this time about the flogging of some schoolchildren in Pretoria. The incidence of crimes of violence continued to rise, and Swart's solution to this problem was to introduce the death penalty for such crimes.

Opening the first farm gaol in 1952, he claimed the farm prisons as his 'own particular baby.' As late as 1958, he stated in Parliament that the farm gaols were intended to help criminals to find 'a chance to rehabilitate themselves.' In 1959, after the scandal of the farm gaols had reached the public, and after typhus had broken out in the Johannesburg Fort, he introduced a clause into the Prisons Bill of that year, forbidding the publication of information about prisons and prisoners:

During the eleven years he spent as Minister of Justice, his approach to his task as Minister showed his affinity with the Nazis he had supported during the war. He labelled political opponents of the Nationalist Government as 'agitators' and 'subversive elements.' He used the cry of 'communist' to justify the presence of detectives at meetings and of informers in the ranks of the students; to justify the Riotous Assemblies Act and the Suppression of Communism Act, and the banning, under these acts, of people who were opposed to the Nationalist Party and its policies - including Albert Lutuli, later to win the Nobel Peace Prize.

As Minister of Justice, he called for 'stronger action' as the answer to South Africa's unpopularity abroad; and his answer to discontent within the country was to enlarge the police force. He seems to have regarded the people of his country, not as a body of human beings entitled to a say in the way in which they were to be governed, but as a difficulty which must be kept under control. It was he who presented the country with the Public Safety Act, which made provision for the regulations later used during the state of emergency in 1960; when

CONSTITUTION.

1. PREAMBLE

We South African citizens, united by a common belief in the right of all people to freedom and equality, proclaim our support for the "Universal Declaration of Human Rights" adopted by the General Assembly of the United Nations Organisation.

We are against all forms of inequality and discrimination and we repudiate as false the doctrines of racial inequality, of White Supremacy, "Apartheid", trusteeship and segregation.

We proclaim our conviction that racial conflict and national oppression are linked with international conflict and war which threatens the advancing standards of life and liberty of all mankind.

We therefore found this association to advocate the principles of equality and the brotherhood of men, to strive for the maintenance of world peace and the ending of national discrimination and oppression, and to win South Africans to support a programme of extending rights and liberties for all our people.

2. AIMS AND OBJECTS

(a) The Association shall work to secure for all South Africans, regardless of race, creed or colour, the rights laid down in the "Universal Declaration of Human Rights", with particular reference to

(1) Equal civil liberties :

the freedom of thought, speech and press;
the freedom of movement and assembly;
the freedom of organisation and religion;

(ii) Equal political rights:

the right to vote in and to stand for elections to state and local law-making bodies on the basis of Universal and Equal Adult Suffrage.

(iii) Equal economic opportunities without discrimination based on race or colour.

to qualify for and engage in all trades, crafts, occupations and professions;

to acquire and own land and property, and to freely form, join and administer Trade Unions.

(iv) Equality of social status

in every field of state and administration, public activity, education, culture and recreation, and the preservation of family life with no interference which would lead to its disintegration.

(b) The Association shall work to secure friendly international relations based on the equality and independence of all nations, and negotiation, to settle international disputes, in order to secure a prolonged era of world peace.

(c) The Association is empowered to give active support to, and co-operate with any individual, group, party or movement working for or having the same or similar aims and objects, and shall take such other action as it deems fit to further its aims and objects.

3. NAME.

The name of the Association shall be The South African Congress of Democrats.

4. MEMBERSHIP.

(a) Membership of the Association shall be open to all persons who

subscribe to the aims and objects of the association, support its policy and programme, abide by its constitution and rules, and are admitted to membership by any branch or committee of the Association and pay a monthly minimum subscription of 1/-.

(b) The applications for membership may be accepted by the Branch Committee subject to the approval of the Regional Committee or any other body authorised by the National Council.

(c) The Regional Committee or any other body authorised by the National Council may lapse a member or suspend or expel him for any breach of the conditions of membership, or for conduct detrimental to the interest of the association; provided that a person so dealt with shall be informed of the fact and shall have the right to be heard on appeal by the National Conference of the Association whose decision shall be final and binding.

5. LIABILITY OF MEMBERS

No liability shall attach to any member of the Association other than in respect of his or her unpaid subscription and any money he or she may be owing to the Association.

6. ORGANISATION

All decisions shall be reached by majority vote, except as provided in clauses 12 and 13 of this Constitution, after full and free discussion. All resolutions and committees of the Association shall be elected by secret ballot.

7. NATIONAL CONFERENCE

(a) The highest authority of the Association shall be the National Conference, which shall meet at least once in every year at such time and place as shall be decided by the National Council.

(b) The basis of representation at the National Conference shall be determined from time to time by the National Council so as to ensure fair and equal representation of the whole membership.

(c) A special session of the National Conference shall be convened by the National Council

(i) If such a session is deemed necessary by the National Council

(ii) On receipt of a resolution requiring such a session to be convened passed by any Regional Conference.

- 7. (d) The National Conference shall
 - (i) consider a report from the National Council on the affairs of the Association.
 - (ii) be empowered to decide upon the policy, programme and function of the association
 - (iii) elect office bearers of the Association for the ensuing year
 - (iv) make such decisions and establish such rules and standing orders as it deems necessary to further the aims and objects of the Association.
- (e) (i) The National Conference shall elect a President, Vice President, Secretary and 12 (twelve) other members who shall constitute the Executive Committee, all of whom shall reside within a convenient distance of the Headquarters for the ensuing year.
- (ii) The Executive Committee shall have the power to perform and exercise all the functions of the National Council in between meetings of the National Council.

8. HEADQUARTERS.

The National Conference shall from time to time determine the situation of the headquarters of the Association and of the National Council.

9. NATIONAL COUNCIL

- (a) The National Council shall consist of the Executive Committee together with twenty (20) additional members who shall be elected by the Region of the Association. The proportion of representation in respect of each region of the Association shall be determined by the National Conference.
- (b) The National Council shall be empowered to decide upon, manage, direct and regulate all the functions and activities of the Association, its committees, regions, branches and members, in accordance with the decisions and directives of the National Conference.
- (c) The National Council shall be empowered, as it deems fit, inter alia :
 - (i) to create committees and sub-committees of the Association ;
 - to delegate any of its powers and duties to such committees or individuals as it chooses ;
 - to appoint and discharge national officials other than those elected by the National Conference
 - (ii) to appoint and discharge employees and to fix the terms and conditions of their appointment;
 - to take action against branches or regions by way of expulsion, suspension or dissolution to enforce the policy, constitution and rules of the Association;
 - to co-opt members wherever a vacancy occurs amongst the members elected by the National Conference, and in addition to co-opt members from any region or area not represented on the National Council.

9. (c) (ii) (continued)

to receive and to authorize the expenditure of money on behalf of the Association;

to institute, defend, conduct or abandon any legal proceedings by or against the Association, its officers or members ;

to open and operate a banking account in the name of the association; and to keep such books of record as the National Council decides ;

and generally to do all such things as it deems fit and necessary to further the aims and objects of the Association.

(d) All decisions made and actions taken by the National Council shall be of force and effect unless and until set aside by the National Conference of the Association.

(e) A quorum of the National Council shall be one-third of its members.

(f) Nothing in this clause shall override the powers of the National Conference to exercise any or all of the functions of the National Council.

10. REGIONS

Where three or more branches of the Association are situated in close proximity to one another, the National Council may establish Regions of the Association, which Regions shall elect a Regional Committee at an Annual Regional Conference. The National Council shall make such regulations in accordance with this constitution for the establishment, conduct and powers of Regions and Regional Committees as it deems necessary, and shall delegate to Regions, Regional Conferences and Regional Committees such of its powers under this Constitution, as it sees fit.

11. BRANCHES

(a) Wherever five or more members of the Association reside or work in convenient distance of one another, the National Council shall establish a branch of the Association.

(b) Branches of the Association shall regulate and conduct their activities and affairs in accordance with the constitution, and in accordance with such regulations as the National Council may from time to time lay down.

12. DISSOLUTION

The dissolution of the Association may only be effected by a two-thirds majority vote of those present and voting at a National Conference of the Association. On dissolution the funds, effects and property of the Association shall be disposed of in a manner to be decided by the National Conference of the Association.

13. CONSTITUTION.

This constitution, or any part thereof, may be amended, re~~pe~~aled or added to by resolution passed by a two-thirds majority vote of those present and voting at a National Conference, provided however that one month's notice of all amendments to this constitution shall be given in writing to all branches before such National Conference.

14. PROPERTY AND STATUS OF THE ASSOCIATION

- (a) All movable and immovable property, finance, equipment, etc. of the Association shall be vested in the National Council, who shall stand possessed of the same and shall apply and dispose of the same for the benefit of the Association, in conformity with the Constitution.
 - (b) The Association shall have the power to institute, conduct, defend, compound or abandon any legal proceedings by and against the Association or its officers or otherwise, concerning the affairs of the Association; and also to compound and allow time for payment or satisfaction of any debts due, and of any claims or demands by or against the Association.
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4101/62 EM D²²⁰
SWART DOES NOT DESERVE THIS HONOUR! R N

The Johannesburg City Council will be meeting to consider the award of the freedom of our city to President Swart.

WHAT HAS HE DONE FOR JOHANNESBURG?
WHAT HAS HE DONE FOR SOUTH AFRICA?

DURING THE WAR HE SUPPORTED THE NAZIS!

While he was Minister of Justice:-

He introduced laws to stifle opposition to his government.

He made political offences punishable by flogging.

The police force became notorious for its brutality.

He claimed the form geol system as his "own particular baby".

He dismissed the findings of the Native Disturbances Commission set up by the Johannesburg City Council as "mere political propoganda".

IT WILL BE A DISGRACE IF WE ALLOW THE CITY COUNCIL TO ELECT THIS MAN AS A FREEMAN OF JOHANNESBURG.

LOBBY YOUR COUNCILLOR -
URGE HIM TO OPPOSE THIS!

Issued by the South African Congress of Democrats, P.O. Box 4088, Johannesburg.

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thousands of people were arrested and imprisoned without a warrant, without a charge and without a trial, and when any criticism of the Government was a crime punishable with five years' imprisonment or a £500 fine.

He was responsible for the notorious treason trial, where people who had organised public opinion against the Nationalist Government were tried for treason and found innocent after more than four years.

In April, 1958, the African National Congress was planning to call on the Africans of the country to stay away from work for three days, as a peaceful sign to the electorate - from a people who had not other way of showing their wishes in this matter - that they did not want a Nationalist government. Swart threatened 'very rough treatment' for those who took part in mass action. "I have given my promise that we will not stand any nonsense from them," he said. "They have been warned."

In September of the same year, Swart declared that he would prefer public meetings in Johannesburg to be held, not on the City Hall steps - where meetings are traditionally held - but in halls, where 'control could be easily exercised.'

Indeed, his relationship with the City of Johannesburg has not always been a very happy one. In 1958, he also refused an enquiry into riots which had taken place in the South-Western townships, saying that all previous enquiries had come to the same conclusion, and that such an enquiry would not reveal anything new. In 1959, he refused to allow the police to give evidence to the Native Disturbances Commission set up by the Johannesburg City Council; and then refused to take notice of the findings of the commission, saying that it was 'mere political propaganda.' A familiar phrase rising to his lips, he described the three ex-judges on the commission as 'political agitators.'

This is our State President, and whereas we have no control over who becomes State President, we should have a control over who becomes a freeman of the City of Johannesburg.

H101/62

EX H F

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South African Congress of Democrats

SEARCH ADDRESSES

P.O. Box 4552
CAPE TOWN
P.O. Box 1299
DURBAN
P.O. Box 1294
PORT ELIZABETH

HEAD OFFICE:

B. SOMERSET HOUSE, (SECOND FLOOR)
110, FOX STREET,
JOHANNESBURG,
SOUTH AFRICA

18th April 1962.

Dear Sir/ Madam,

It has been reported in the press that the Johannesburg City Council is to grant the freedom of the city to the State President, Mr. C. R. Swart.

We are sending you the enclosed memorandum on the political background of the State President. We feel sure that you will share our view that such a man is not worthy of being honoured by our city.

But unless the citizens of Johannesburg express their opposition to this award the City Council will proceed with their plans. It is the duty of every one of us, regardless of political affiliations, to make our views felt in this matter. When the Johannesburg City Council meets on April 25th there will be an opportunity for us to voice our objections. We strongly urge you, and your friends and associates, to lobby your City Councillors on this day, to take up this issue in your local Ratepayers Associations and in your political parties. We cannot afford to allow the City Council to present an award of this importance without consulting the citizens of Johannesburg.

Although time is so short, we appeal to you to give this matter the attention it deserves. This is one issue on which we must all take a firm stand against the Nationalists and their policies of race-hatred.

Yours faithfully,

Eve Hall

Eve Hall.

(SECRETARY)

H101/62

EXH. "H" 225

South African Congress of Democrats

BRANCH ADDRESSES

P.O. Box 4522
CAPE TOWN
P.O. Box 2299
DURBAN
P.O. Box 1294
FORT ELIZABETH

HEAD OFFICE

B. SOMERSET HOUSE, (SECOND FLOOR)
110, FOX STREET.
JOHANNESBURG,
SOUTH AFRICA

C O P YOPEN LETTER TO PRESIDENT CHARLES DE GAULLE

23rd January 1962.

Mr. President,

The agony of Algeria weighs heavily on the heart of humanity. Who can keep silent when the slaughter continues unabated in this once peaceful land?

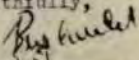
All Africa is struggling to break the bonds which held it captive for so long - the bitter struggle of the Algerian people for independence therefore touches every one of us. Here in South Africa, the farthest point on the continent, our eyes are on Algeria. For we too have a large and settled white community enjoying the status of a master race. Must our struggle take the shape of Algeria's? Must we too enter a prolonged and bloody war if we are to end white minority rule? Is there no other path?

We believe that the French Government is responsible for the seven year war in Algeria. The French Government has failed the Algerian people. Thousands are still being held in French jails, France is denying them fundamental human rights. What has become of your promise to grant full independence to Algeria? What steps are being taken to bring a speedy end to French rule?

It is clear to us, from the alarming number of casualties and acts of plunder this year, that the presence of French forces in Algeria is not improving matters. In fact, by conniving at the activities of the Secret Army Organisation, your forces are allowing this band of criminals to let loose an open reign of terror in Algeria. What is more, under the protection of French officers and troops, the Secret Army Organisation is preparing to seize control in the territory.

The time for empty promises is long past - your Government has failed to bring peace to Algeria. The only course now open to you is to quit the territory without further delay. The only authority with the confidence of the majority of Algerian citizens, the only authority capable of establishing peace in Algeria, is the Provisional Government of the Algerian Republic. We add our voices to the world-wide demand that the G. P. R. A. be recognised by the United Nations as the only legal government of Algeria.

Yours faithfully,



P. A. D. Beylveeld.
NATIONAL PRESIDENT

S.A. Congress of Democrats.

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EXH I

6th May 1962.

The Chairman and Vice Chairman,
United Nations Committee on South West Africa,
Pretoria.

Dear Sirs,

May we cordially welcome you to South Africa and express the wish that, while you are here you are able to take initial steps towards the implementation of the General Assembly resolution with regard to South West Africa.

You are coming here on a fact-finding mission, and we ask you not to be misled into thinking that Dr. Verwoerd or any other official of the South African Government is genuinely seeking a solution to the South West Africa issue. Only the tremendous growth of hostile criticism overseas during the past year has led them to agree to the visit by two members of your committee. In a statement to the press Dr. Verwoerd made himself very clear: "South Africa cannot in any way sacrifice the position it has taken up so far," he said.

Ever since the United Nations Organization was formed the South African Government has stubbornly refused to submit to the authority of that organization with regard to South West Africa. Under Article 7 of the Mandate for South West Africa the South African Government agreed to submit to the International Court of Justice any dispute with another member of the League of Nations regarding the interpretation or application of the provisions of the Mandate. In 1950, in an "advisory opinion" the International Court ruled that the Mandate was still in force, that the United Nations had succeeded to the supervisory functions of the League of Nations and South Africa was therefore obliged to comply with the terms of the Mandate. This ruling was disregarded by the South African Government and it has adopted the same attitude towards subsequent United Nations resolutions of censure, even going to the extent, last year, of threatening to arrest the nine-member United Nations Committee on South West Africa if they entered the territory.

Taking advantage of the delay in these legal proceedings, the South African Government is now claiming that any discussion on South West Africa is sub judice - Dr. Verwoerd has said, "The Republic does not want to compromise on its judicial position." But this is a hypocritical attitude. Since South Africa has completely disregarded both previous rulings by the Court on South West Africa, there is no reason to think that she will co-operate on this occasion. Should the Court's ruling go against her.

It is now clear that the United Nations General Assembly is no longer interested in a compromise with regard to South West Africa. The terms of reference of your committee are an indication that the United Nations intends to pursue the matter to the point where South West Africa becomes an independent self-governing territory, ruled by a democratic majority. Although all efforts in this direction are strenuously opposed by the ruling party in South Africa, the majority of our people, the non-whites and a significant section of the whites, support independence for the territory. There is no truth in the Government's allegation that it has the approval of all the white people for its policies. The South African Congress of Democrats is an organisation of white South Africans who wholeheartedly support the aspirations of the non-white people in our country for equality, as well as the demand by the people of South West Africa for self-determination. We believe that the policies of the Nationalist Government are leading not to the preservation of the white population, as it claims, but towards bloodshed, war and race-suicide.

With regard to conditions in South West Africa, there is no doubt that the South African Government is daily contravening the provisions of the Mandate. In open defiance of the United Nations resolution, troops are being moved into the territory. Air strips are being built in the northern part of the territory and units of the South African Air Force are to be permanently stationed there. On the pretext of "looking for Angolan refugees and infiltrators", aircraft are already patrolling from two airfields, one in the Caprivi strip and the other at Obopoho, in the west. The African people of South West Africa are under no illusions as to the real purpose of these troop movements and air manoeuvres - they maintain that South Africa has turned Ovamboland into an armed camp and that South African troops are in South West Africa as an army of occupation.

There is no doubt that the South African Government will go to great lengths to convince you of its genuine desire to grant self-government to the people of Ovamboland, as it claims to be doing for the people of the Transkei, in South Africa. But it has, in fact, taken steps to implement the Bantu Authorities Act in South West Africa - an act which turns African chiefs and headmen into employees of the South African Government, liable to be unseated or even banished if they fail to carry out Government instructions. It is this same unpopular measure that was the cause of the revolt of the people of Pondoland two years ago and has caused unrest and disturbances in many other parts of South Africa. The Deputy Minister of South West African Affairs, Mr J. van der West, has made no secret of the Government's intentions in Ovamboland - it would be a long time before the territory was self-governing, he has said. "The Ovambo's are not ready for it." But, in any event, the people of South West Africa are against the dismemberment of their country, they are demanding full independence for the whole country.

Mr Eric Louw has told the General Assembly that the African people in South Africa enjoy a better life than Africans elsewhere on the continent. This is not true. How can people be happy when they have no voice in the Government, when all the good things of life are reserved for whites only, or when their every movement is controlled by the hated pass laws? The position of the African people in South West Africa is even worse. They too are subjected to the laws of apartheid, curfews restrict their movements in the towns, they are forced to live in fenced locations, miles from the towns, their wages are pitifully low.

Contract labourers from Ovamboland live in compounds, surrounded by high walls topped with broken glass, "to keep African elements out that might cause trouble," is the official explanation.

The South African Government stands condemned before the entire world for its vicious policies of race domination and for its imperialist aims with regard to South West Africa. We address this earnest appeal to you to make every effort to see the true side of life in this country and the cruel subjection of the people of South West Africa. The tightest security net has surrounded your visit to our country. Officials of the Foreign Affairs Department have refused to disclose any details about the arrangements for your visit. It is clear that the Government intends to do everything possible to keep the truth from you, but unless you manage to meet the leaders of the non-white people, and to hear from them the realities of their sufferings, it will be impossible for you to obtain an accurate picture of our country and of the relationship with South West Africa.

With best wishes.

Yours sincerely,

Ben Turok
NATIONAL SECRETARY
South African Congress of Democrats.

4101/62

منظمة
تضامن الشعوب الأفريقية الآسيوية
THE ORGANIZATION FOR
AFRO-ASIAN PEOPLES' SOLIDARITY

THE PERMANENT SECRETARIAT

88, Abdel Aziz Al Saoud Street
Manshi, Cairo, U.A.R.

Cable Address: "AFROASIACO" Cairo

Tel.: 25147-26140

السكرتارية الدائمة

٨٨ شارع عبد العزيز آل سعود
المنيل - القاهرة

العنوان التلغرافي: أفروآسيانكو - القاهرة

تليفون: ٢٦١٤٠ - ٢٥١٤٧

Your Ref.:

Our Ref.: 2/47 (20110 - 60)

Serial No.: 45-4

رقم ملفكم:

رقم ملفنا:

رقم مسلسل

Cairo, 2/4/62.

القاهرة في

Mr. Ben Turok,
National Secretary,
South African Congress of Democrats
8 Somerset House (Second floor)
118, Fox Street,
Johannesburg.
South Africa.

Dear Sir,

In reference to your letter dated February 2, 1962, we would like to inform you, that we have already dispatched by registered Air Mail the set of resolutions adopted in Gaza, and the last issue of our Bulletin which may have reached you by now.

We have received with thanks the statement annexed to your letter.

We would like to assure you that any new information in connection with your membership in our organisation will be communicated to you.

Sincerely yours,

M. Saad el-Din
Youssef El Sebati,
Secretary General.

H101/62

SWART FOR FREEMAN!

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EXH. K.

Phone your Councillor
to Protect

and demand he raise objections
in the Council Chamber

See list below

H101/62

NAMES AND ADDRESSES OF COUNCILLORS.

<u>NAME:</u>	<u>BUSINESS ADDRESS:</u>	<u>RESIDENTIAL ADDRESS:</u>
<u>MAYOR:</u> FLEMING, Keith G. Member for Ward 22.	Executors' Bldg., (8th Floor), 102 Commissioner St., Jhb. P.O. Box 1143, Jhb. Phone: 33-1131.	9 St. Paul's Road, Houghton, Jhb. Phone: 43-2913.
<u>DEPUTY MAYOR:</u> OBERHOLZER, J.F., M.P.C., Member for Ward 39.		12 Barker Road, Unigray, Jhb. Phone 869-1600.
ATTWELL, I.E.B. (F.R.S.A.), Member for Ward 16.		37 Ocean Street, Kensington, Jhb.
BARNARD, S.P. Member for Ward 12 A2	Theo. Wassenaar Skool, Benjamin St. Phone: 32-1363.	1 Benham Road, Robertsham, Jhb. Phone: 33-9633.
BENSUSAN, A.D. (Dr.), Member for Ward 28.	11 The Avenue, Orchards, Jhb. Phone: 45-6171.	7 St. Paul's Road, Houghton, Jhb. Phone: 43-4832.
BOY, V.V. (Dr.), M.P.C., Member for Ward 40.	Rosettenville Centre, 184 Albert St., Rosettenville, Jhb. Phone: 26-3795.	12 Busschau Road, South Riding, Jhb. Phone: 32-4575.
CALDWELL, W.C. Member for Ward 6.	259-261 Stock Exchange Bldg., Hollard Street, Jhb. Phones: 33-6690/34-4080.	40 High Road, Bramley, Jhb. Phone: 40-2959.
CAPLAN, O. Member for Ward 18.	61 Norwich Union Bldg., Cor. Commissioner and Loveday Streets, Jhb. Phone: 33-0331.	2 West Street, Observatory Ext., Jhb. Phone: 43-2668.
CUTLER, E., J.P., Member for Ward 12.	Birchleigh Building, 15 de Villiers Street, Jhb. P.O. Box 9481, Jhb. Phone: 835-1261/23/4.	16 Molesey Avenue, Auckland Park, Jhb. Phone: 31-2645.
DE JAGER, P.R., Member for Ward 29	54 Stiensens Street, Braamfontein, Jhb. P.O. Box 11101, Jhb. Phone: 44-7323.	6 Gambia Road, Emarentia, Jhb. Phone: 41-1154.

<p>DE BLANK, A.P.J. Member for Ward 32.</p>		<p>106 Inver Avenue, Crosby, Jhb. Phone: 35-3138.</p>
<p>DENNIS, H.F. Member for Ward 7.</p>	<p>915 General Mining Building, 6 Holland St., Jhb. P.O. Box 1242, Jhb. Phones: 34-4101/33-9751.</p>	<p>15 Athlone Avenue, Sandringham, Jhb. Phone: 45-8129.</p>
<p>DE WET, C.F., J.P., Member for Ward 31.</p>	<p>210 Volksekas Building, 76 Market Street, Jhb. Phone: 835-5806.</p>	<p>90 Hill Road, Emmentia, Jhb. Phone: 41-4921.</p>
<p>EAGAR, B.D. Member for Ward 38.</p>	<p>Burman's Brickfields, 15 Shaft, Crown Minas, Johannesburg. P.O. Box 801, Jhb. Phone: 35-5029.</p>	<p>28 Nympe Street, Kensington, Jhb. Phone: 25-1609.</p>
<p>FIDLER, F.W. Member for Ward 5.</p>	<p>189 Oxford Road, Rosebank, Jhb. Phone: 42-2106.</p>	<p>54, 1st Avenue, Linden, Jhb. <i>81</i> Phone: 46-4382.</p>
<p>GOODMAN, W. Member for Ward 14.</p>	<p>301 Washington House, 68 Commissioner St., Jhb. P.O. Box 2507, Jhb. Phones: 835-4586/7; 33-0239.</p>	<p>"Rose Lodge", 76 Jan Smuts Avenue, Saxonwold, Jhb. Phone: 41-8760.</p>
<p>HURD, L.V., J.P., Member for Ward 17.</p>		<p>"Lamorby", Cor. Eildon & Rashler Roads, Kensington, Jhb. Phone: 24-5539.</p>
<p>ISMAY, H.B. Member for Ward 34.</p>	<p>502 Johannesburg Building Society Bldgs., cor Joubert and Commissioner Sts., Jhb. Phone: 23-5394.</p>	<p>36 Englewood Drive, Saxonwold, Jhb. Phone: 41-3382.</p>
<p>JAFFE, A. Member for Ward 20.</p>	<p>Ascot Clothing Manufacturers (Pty.) Ltd., 81/2 Moseley Bldgs., cor. President & Rissik Sts., Jhb. P.O. Box 11145, Jhb. Phone: 23-9446.</p>	<p>"Stoneways", 73 Observatory Ave., Observatory Ext., Jhb. Phone: 43-4662.</p>
<p>LEHNER, BRIG. J.C., M.C. Member for Ward 26.</p>		<p>"Sisu", 16 Langemann Drive, Kensington, Jhb. Phone: 25-5949.</p>

LEWIS, P.R.B., ^{WPC} Member for Ward 27.	Stakesby-Lewis & Lewis, 606 Union-Castle Building, Loveday Street, Jhb. P.O. Box 2543, Jhb. Phone: 34-1727/8.	25 Erlswold Way, Saxonwold, Jhb. Phone: 41-1384.
MARAIS, D.J. Member for Ward 3.	Dave Marais Diamond Cutting Works (Pty.) Ltd., MacKay Mans., Cor. Rissik and Jeppe Streets, Jhb. Phone: 835-5749.	16 Third Street, Parkhurst, Jhb. Phone: 42-7536.
MORRIS, A. Member for Ward 4.	Alex Pirie & Sons Africa (Pty.) Ltd., 26 Kruis St., Jhb. Phone: 23-7834.	9 Summit Road, Dunkeld West Ext. 2, Jhb. Phone: 42-4673.
MORRIS, T. GLYN, Member for Ward 9.	Fillan Chambers, 5th Floor, 108 Fox Street, Jhb. Phone: 33-2175.	80 Troon Road, Greenside, Jhb. Phone: 41-4611.
MOSS, S. Member for Ward 24.	Moss Packing Co., 40 Sherwell St., Doornfontein, Jhb. Phone: 23-6600.	26 Judith Street, Observatory, Jhb. Phone: 43-8954.
MYERS, I. Member for Ward 8.	P.O. Box 2092, Pretoria. Phone: 93-24188.	102 Eleventh Avenue, Highlands North, Jhb. Phone: 40-3550.
NEPPE, M.L. Member for Ward 21.	Daniel College, Empire State Building, Plein Street, Jhb. Phone: 22-1770.	53 MacDonald Street, Belgravia, Jhb. Phone: 42-7770.
O'CONNOR, J.J., J.P., Member for Ward 35.	O'Connor Hall, 476 Jules St., Malvern, Jhb. Phone: 25-3590.	138 St. Amant Street, Malvern, Jhb. Phone: 25-1371.
OTTO, J.S. Member for Ward 37.		2 Jonkershoek Road, Hill Extension, Jhb. Phone: 26-3722.
PIETERSE, H.C. Member for Ward 10.		18a, Fourth Avenue, Westdene, Jhb. Phone: 27-3802.
POWELL, J.A. Member for Ward 1.	Cor. 8th Street and Waterfall Road, Newlands.	34, Ninth Street, Linden, Jhb. Phone: 46-9538.

<p>WILL, ... Member for Ward 2.</p>	<p>211 Pinar, Century Buildings, Dur. Kruid and Middel Streets, Jhb. Phone: 23-2561.</p>	<p>21 Westmoreland Road, Sunnington, Jhb. Phone: 25-3545.</p>
<p>BOON, P.H. Member for Ward 13.</p>	<p>301 Harmsde House, 26 Harrison St., Jhb. Phone: 33-8916/7/8.</p>	<p>"Baya", 24 Avonwold Road, Saxonwold, Jhb. Phone: 41-8739.</p>
<p>ROSEN, A. Member for Ward 19.</p>	<p>801 New Marlborough House, Cor. Kloff and Commissioner Sts., Phone: 22-0030.</p>	<p>15 Fifth Avenue, Highlands North, Jhb. Phone: 40-1122.</p>
<p>ROOS-ROSENBERG, C.J. Member of Ward 25.</p>	<p>606 International House, 61 Loveday St., Jhb. P.O. Box 10269, Jhb. Phone: 835-1686.</p>	<p>5 Crescent Drive, Westcliff, Jhb. Phone: 41-4026.</p>
<p>SAMSON, V.A.J. Member of Ward 11.</p>	<p>Prudential Assurance Bldgs., 91 Fox Street, Jhb. Phone: 33-9633.</p>	<p>20 Wepster Street, Forest Hill, Jhb. Phone: 32-4482.</p>
<p>SCHLAPPOBENSKY, I. Member for Ward 15.</p>	<p>q/o Pacific Oil Co. (Pty.) Ltd., 298 Commissioner Street, Jhb. P.O. Box 10988, Jhb. Phone: 24-2255.</p>	<p>29 Gerard Street, Mountain View, Jhb. Phone: 43-2660.</p>
<p>SELAAR, N. Member for Ward 30.</p>	<p>Green's Pharmacy, 94 Central Ave., Mayfair, Jhb. P.O. Box 5555, Jhb. Phone: 35-2935.</p>	<p>21 Limpopo Road, Remarentia Ext., Jhb. Phone: 46-7055.</p>
<p>VAN RENSBURG, H.M. Member for Ward 11.</p>	<p>Birchleigh Buildings, 15 de Villiers Street, Jhb. P.O. Box 398, Jhb. Phone: 835-5370.</p>	<p>75 Hill Road, Remarentia, Jhb.</p>
<p>VENTER, C.P. Member for Ward 2.</p>	<p>Selstaff House, 230 Smit Street, Braamfontein, Jhb. Phone: 23-7161.</p>	<p>6 Ivydene Road, Blairgowrie, Jhb. Phone: 46-2279.</p>
<p>WIDMAN, A.B., H.P.C., Member for Ward 23.</p>	<p>4 Victory House, Cor. Harrison and Commissioner Sts., Jhb. Phone: 33-7146.</p>	<p>27 Eighth Avenue, Highlands North, Jhb. Phone: 40-1589.</p>
<p>ZAKAR, A.D., J.P., Member for Ward 33.</p>	<p>509 Palace Buildings, 52 Pritchard Street, Jhb. P.O. Box 1201, Jhb. Phone: 33-9375.</p>	<p>69 Forest Street, Turfontein, Jhb. Phone: 32-1356.</p>

MEMORIS OF A MEETING OF THE JOHANNESBURG REGIONAL COMMITTEE HELD ON 18/4/62.

1. COUNCIL MEETING

It was felt by the region that there was really no adequate reason for not calling the annual National Conference, and it was urged that one be called later in the year if possible.

Four delegates from the region were elected, and one delegate undertook to lead off a discussion on a "Refuse to fight for Apartheid League".

It was felt that certain members of the NBO were not really justifying their position and that this matter should be raised at the Council Meeting.

2. TOO Report.

The TOO would handle the matter of the U.N. delegation.

3. PROPAGANDA.

A member was co-opted onto the Propaganda Committee.

The first Broadsheet was accepted, and it was suggested that 3 members take charge of this in future.

The fact paper on Defence was not yet under way.

It was reported that the Afrikaners leaflet would be ready in a few days; that a letter and a memorandum on Swart had been sent out, to selected people urging them to lobby their councillors before the City Council Meeting; and that a leaflet would be observed on that day; and that our propaganda would be sent to the visiting Rector of Eton.

4. VOLUNTEERS.

A member undertook to take over responsibility as the present chief was not in a position to continue with this.

The CNE poster was to go out this week.

5. STUDIES.

This was well underway, and several good meetings had been held.

6. UNIVERSITY.

A very successful Ben the Bomb Week had been held, and plans were underway for the next quarter.

7. FINANCE.

The first night of the Jazz evenings was announced, and the region undertook to raise 26.0.0 to cover the costs of the first evening. The posters were ready, and it was still to be produced.

8. GENERAL.

The secretary was given permission to take two weeks' unpaid leave in May.

1. COUNCIL MEETING.

It was decided that a member of the Regional Committee present a report of the Council meeting to the Youth Branch.

2. BOO REPORT.

It was reported that badges would be handed out on May 1st. Johannesburg was not planning anything for the arrival of the UN Delegation, but it was announced that a memorandum was to be handed to the Delegation in Pretoria. Members were asked to contribute ideas for appropriate forms of celebrations for June 26th.

3. PROPAGANDA REPORT.

It was reported that the memorandum to guests of the S.A. Foundation was having very good results. Personal interviews wherever possible should follow the sending of the memorandum, which should now be brought up to date. The Education Charter has been drawn up, and will be brought out this week. The memorandum and letter on Swart had had good results. A letter had been drawn up which was to be sent to all councillors, and a leaflet had been written.

4. VOLUNTEERS REPORT.

There had been no activity this last week. A poster on "White Suicide" was waiting to go out. A leaflet on Swart was to be distributed soon. As there was real difficulty in providing the necessary transport for the Volunteers, the members of the Norwood branch were to be asked to have a standing arrangement for the provision of cars. A meeting of volunteers was arranged. It was decided that members of the Youth Branch, not necessarily Volunteers, could be asked to distribute the Broadsheet.

5. STUDIES.

This was going on well. The subject under discussion was that of Trade Unions in Africa.

6. NEW AFRICA YOUTH FORUM.

The convener of the NAYF had resigned, and a member of the region was nominated to take this over, subject to approval by the branches. It was felt that the Forum was not really fulfilling its function, and that its sphere be changed. Instead of only being a discussion club, the Forum should take over all COD social activities, and provide for recreational activities where non-members can be brought in.

7. UNIVERSITY.

Though there was a certain slackening off in activity, for more contacts, on a personal level, had been made.

8. FINANCE.

There had been several hitches in the planning of the Jazz concert. It was felt that if it was at all possible, the venue for the first concert should be changed, and that a different venue should definitely be found for the following concerts.

9. GENERAL.

It was found that it was not possible to hold a Joint Branch meeting as it clashed with a previously arranged meeting, but that one should be held soon. The agenda for the coming Youth Branch meeting was discussed. It was suggested that a letter, or a telegram be sent to the Institute of Race Relations, urging them not to be intimidated by the attitude of the Government.

H/101/62 EXH. Q

MINUTES OF A MEETING OF THE COUNCIL
OF THE COMMISSION ON NON-COOPERATION
HELD IN ARLA 1952.

MEMBERS: Members of the National Executive Committee, and representatives from the Johannesburg, Cape Town, Durban and Pietermaritzburg Regions.

AGENDA The agenda adopted for the meeting was as follows :

1. Review of the Campaign for a National Convention.
2. The volunteer corps.
3. The campaign for the strengthening of the Trade Union movement.
4. The anti-laager campaign.
5. Regional reports.
6. Press censorship.
7. The possibility of a ban on C.O.D.

THE CAMPAIGN FOR A NATIONAL CONVENTION.

A reporter reviewed the background to the demand for a National Convention, referring to such major political events as the Republican Referendum, the Pietermaritzburg Conference, the Coloured Convention Movement, the May 29th Stay at Home, and other milestones in the past two years.

He emphasised that in all these instances the question of the shape of the South African constitution had come to the forefront and that we had propounded as our solution the convening of a Sovereign National Convention.

The reporter stated that the Non White people had put into practice the policy of Non Cooperation as a means to highlighting their demand for a Convention. The C.O.D. should no less find ways and means of using the tactic of Non Cooperation for the same purpose.

He pointed out that C.O.D. had in fact put forward this demand in our work on various issues such as the award of the Nobel Prize to Chief Lutuli, Human Rights Day, Afrika Day, Sharpeville Day, the Transkei issue, and others.

He further urged that attention should be given to the creation of united action on the White anti-Nat front, similar to that which had been achieved in the days of the Bishop's Committee.

The following speaker stated that we had not sufficiently put forward the idea that consultation between the races could bring about a solution to the country's problems. He felt that the Demand for a National Convention had not been brought to life, and was generally treated as a dead formula.

He proposed a folder be brought out and that people be encouraged to write letters to the press.

He felt that we should seek to bring well known personalities into the campaign for a National Convention.

It was then decided to bring Item 4 of the agenda forward so that the two could be considered together.

A reporter urged that we should be continually doing our utmost to stop people moving into the Nationalist Laager. He felt that cooperation between anti-Nationalist individuals and organisations was most important. He suggested that a Refuse to Defend Apartheid League might be timely. This might be linked with the demand for a National Convention. He felt that far more propaganda was necessary on the issue of the White Laager was necessary.

We should use the press far more frequently. Such letters were even read by draftees for the army and this was the only way that they could be reached.

Another speaker said that the liberation movement was not making sufficient impact on the public at present. Our work must be stepped up, and made more dramatic.

A speaker suggested a leaflet to High School students and University students on the question of White militarisation.

Another speaker suggested that the womens organisations should take up the issue as it affected them greatly.

A speaker stated that one of the problems in Cape Town was that of the extent of cooperation with other organisations. It was sometimes found that Liberal and other speakers ruined the spirit of mass meetings. The question of cooperation with other organisations was a thorny one and generally the Cape Town branch felt that "while being in favour in principle, it was difficult to operate in practice and the results did not seem to warrant the effort."

There was also a general feeling in the branch that the Whites were steadily moving into a laager and that work on the white front was losing its importance. As the struggle sharpened, C.O.D. work would become increasingly more difficult, some members even feeling that it was a waste of energy. These people also felt that cooperation with the Progressive Party was wrong, particularly in view of the arms factories being built by Oppenheimer.

The speaker urged that we should not wait for some outside person to lead the campaign against white militarisation, but should take the lead ourselves. Others would follow.

He suggested that individuals might become conscientious objectors and refuse to fight to defend apartheid. He stated that the army was using wholesale indoctrination on the recruits and that this should be taken up. He also suggested a declaration of conscience by personalities on the refusal to defend apartheid. He asked the meeting to consider the Cape Town views on the tendencies among whites to close their ranks.

After some discussion it was put to the meeting, and it was unanimously felt that the Cape Town branch was being defeatist and that their approach was too negative.

A speaker stated that we must do everything we can to avert the emergence of an Algerian situation. We must not resign ourselves to it. She also felt that there was some danger in narrowing down the anti-laager work by linking it with the demand for a National Convention.

Another speaker stated that a considerable section of White S.A. will not go into the laager. They do not know what alternative to put forward and support. We should not abandon them. We are always looking for allies.

Another speaker stated that the Cape Town attitude was inimical to the demand for a National Convention which meant cooperation of all races. He urged that we use the idea "Talk it out, don't shoot it out". He also suggested that we have more large conferences on the National Convention.

A speaker stated that we should draw in the youth such as those which support C.N.D. overseas into the anti-laager campaign.

A speaker suggested that Liberal and other speakers should be drawn in to some meetings but not to others. It was advisable to have some purely Congress meetings where a good spirit could be engendered and where, if necessary, Liberals and Progressives could be criticised.

Joint meetings were however also most useful. He endorsed the view expressed earlier that at joint meetings, Congress speakers inevitably stand out.

He also felt that C.O.D. should in its own work definitely link up the anti-langer work with the Demand for a National Convention, but that when cooperating with others we should not make this combination a condition of cooperation.

VOLUNTEERS.

A reporter stated that the character of the membership had changed completely in Johannesburg over the last year. Young members now dominated the region, and there was a great demand for intense activity. A volunteer corps grew naturally out of this and they had done a great deal of work. There were errors in the thinking in the volunteer corps, such as a too great demand for the dramatic, nevertheless it was a great help. Although some of the volunteers had been arrested, there was no sign of intimidation, and the volunteers were ever ready for work.

After some discussion it was felt that a volunteers corps may possibly not be an advantage in a small branch, and that each region should consider this carefully. The volunteers will later work together with the corps created by the other Congresses.

THE TRADE UNION CAMPAIGN.

It was reported that the campaign was not going well but that it was most necessary that it be taken seriously. C.O.D. in Durban had been useful in a recent strike there.

REGIONAL REPORTS.

Cape Town.

An impressive report was given on work in this region. The branch has grown and a better spirit was prevailing. Inter-Congress relations were also much better, and efforts were being made to bring greater variety into the propaganda work done.

Activity had centred around such issues as - French arms for S.A., Urban Bantu Councils, assault on Congress men in jail, Deputations to the Chambers of Commerce and Industry, Coloured Representation in Parliament, Group Areas, Press censorship, Ganyile etc etc.

A total of 115,000 leaflets had been issued throughout the past year and about R1,000 had been collected.

Durban. It was reported that the branch had been rather quiet this year, but that things would improve. New members had been brought in, and strenuous efforts were being made to reactivate the older members.

There was much activity aimed at the University. The branch had been hit by bannings, and a slackening off in Joint Congress work.

Meetings had been held with youth from various sections of the population. C.O.D. is very well known and enjoys a very good reputation with the public generally.

Pieter Maritzburg.

This branch has been too quiet, although new members have been brought in. Much more public work will be attempted in the future.

Johannesburg.

The region had been completely reorganised with young, new people taking the lead. Various committees had been created for special functions. Among these were studies, work at Wits, and others. The New Afrika Youth Forum was meeting monthly. A Jazz club was being formed. Lunch hour discussions had been taking place weekly for a long time, and was often highly successful.

The branches were taking finance much more seriously, and no member was now paying less than R1-00 per month.

The propaganda committee was doing good work, and was working on a monthly broadsheet, and trying to bring out more lively material.

A meeting had been held on the City Hall steps. There had also been a Lutuli Meeting, and a Afrika Day Meeting.

Members were doing useful work in the Human Rights Welfare Committee, as well as at the University.

Future plans included a campaign against the granting of the Freedom of Johannesburg to Mr. Swart, and anti-lager work. NB

It was suggested that the Durban branch should go into what could be done about immigration from Kenya etc.

FINANCE

A full report was presented to the meeting.

It was pointed out that the other regions were not making the necessary contributions to Head Office. Also, finance should be regarded as a vital political task. The Finance Committee felt that the office personnel were not doing enough in this connection.

New pamphlets were required, and more cash was required for propaganda generally.

It was pointed out that the whole Congress Movement used our office in some way from time to time.

WOMEN'S FEDERATION.

A plea was made for greater participation of C.O.D. women in this organisation.

ANNUAL CONFERENCE.

It was agreed that the N.E.C. had erred in calling a Council Meeting instead of a Conference, and it was resolved that this would be made good later in the year.

PRESS CENSORSHIP

It was reported that the Cape Press was censoring news extensively. A proposal that a bulletin "Censored News" be brought out was turned down, but it was suggested that this be considered by C.T. Branch as an experiment.

POSSIBLE BAN ON C.O.D.

C.T. had drafted a fact paper on C.O.D., but this had not been received at Head Office. It was suggested that this be brought out nationally. Also that a leaflet on our Right to Exist be kept in readiness.

South African Congress of Democrats

Postal Addresses:

P.O. Box 4001
CAPE TOWN
P.O. Box 1339
DURBAN
P.O. Box 1234
PORT ELIZABETH

Head Office:

B. SOMERSET HOUSE, (SECOND FLOOR)
110, FOX STREET,
JOHANNESBURG,
SOUTH AFRICA

13th March 1962.

P R E S S S T A T E M E N T

The Minister of Defence, Mr Fouché, made a speech in the Senate on March 12th in which he put forward the plans and reasons for the militarisation of South Africa on a scale never before contemplated.

The plan includes the expansion of the Permanent Force, the setting up of Afrikaans and English "skiet commandoes", rigorous training of the Citizen Force, the purchase of modern fighter aircraft and helicopters and new, modern ships with the latest equipment for the Navy. Research is to be carried out on the possible manufacture of the latest weapons in this country.

Mr Fouché ended his speech with this comment:

"The most important factor is still the man behind the weapon. Because the morale of our Defence Force is correct and because our nation will not allow itself to be frightened and because its morale is also correct, I have the fullest confidence that these spiritual qualities, supported by our modern weapons, will strengthen us in the struggle for our existence."

All this extensive preparation, we are given to understand, is necessary because "communist trained" armies of liberation are being built up in "Afro-Asian" countries (Mr Fouché is not specific here), which intended marching on South Africa.

This statement is significant enough, but what is even more indicative of the laager of fear into which White South Africa is retreating, is the fact that the United Party (the main Parliamentary opposition party) has pledged its full support to the Government's aggressive intentions, promising full co-operation in combating fifth column activities, putting down anti-war movements and helping to "put the saboteurs in concentration camps".

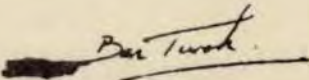
"We support each and every step mentioned by the Minister, but we are not satisfied that they are sufficient to make sure that we can win," said Senator Henderson U.P.

No-one, after reading this, can harbour any illusion that the United Party is not as equally determined as the Nationalists to retain White Supremacy at all costs. For, to anyone who reads between the lines of Mr. Fouché's speech, this is what his military preparations are designed to maintain - not to defend South Africa against vague and unspecified invaders. The very words "struggle for our existence" at the end of his speech, are a give-away and obviously mean "our existence as white dominators". In point of fact, a year ago, on 17th March 1961, Minister Fouché stated that "South Africa must prepare for internal trouble in the same way as the major powers are continually preparing for war."

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The South African Government is building up the most massive military machine in Africa which, at some future date, may well be used in aggressive action against neighbouring states. But it is clear that the immediate purpose is to entrench the Government and the vicious system it upholds, against the Non-European people of this country, whom they greatly fear, as well as against those white South Africans who have joined them in the struggle for liberty and human rights.

These are the people, Nationalist and United Party alike (and indirectly the people who voted for them), who would rather see South Africa drown in a sea of blood than lose even a fraction of their iron-heeled baaskap foothold. These are the tactics of pure fascism. Fascism is bloodshed, torture, concentration camps, starvation and degenerate brutality, and it is for this that White South Africans must hold themselves responsible if they allow these measures to continue. Let dissenting whites now protest and demand the resignation of the Minister of Defence, the defeat of the Nationalist Government and the substitution of a policy of reason and justice. To remain silent is to condone these suicidal policies.



Ben Turok

NATIONAL SECRETARY

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IN THE COURT OF THE MAGISTRATE FOR THE DIVISION OF
SOUTH TRANSVAAL, HELD AT JOHANNESBURG.

CASE NO. H 101/62.

REASONS FOR JUDGMENT AND SENTENCE.

THE STATE versus P.A. BEYLEVELD AND 2 OTHERS.

A. INTRODUCTION:

The three accused either in their representative or personal capacities were charged with contravening section 13 Act 32/1961. The Defence before plea excepted to the charge on the ground that the charge sheet does not disclose an offence. The exception was dismissed. The accused then pleaded not guilty, but was found guilty and each one was fined R350.00 or 175 days Imprisonment.

B. FACTS FOUND PROVED:

1. The acts complained of as revealed in the charge sheet and annexures do amount to a violation of the dignity of the State President and are calculated to injure the reputation of the State President.
2. The documents that formed the basis of the charge were printed, distributed etc. by an Association of persons, to wit the S.A. Congress of Democrats.
3. Accused No. 1 was the National Chairman and Accused 3 the National Secretary of this Association and of the governing body of the association. Accused 2 personally signed some of the documents and it is clear that she is the Regional Secretary. There is a strong presumption that as Regional Secretary she is also a member of the Governing body.

That/...

That she was personally liable is clear.

4. The section is specially intended to protect the dignity and reputation of the State President and the Court decided solely on the documents before Court whether the section had been contravened and the fact whether the writings in the documents are true or likely to be true or false, is irrelevant. Mr. Swart the State President is altogether a different person to Mr. Swart, the Minister for Justice, because if these documents were distributed etc. while he was still the Minister for Justice, there would not have been any offence.

C. REASONS FOR JUDGMENT AND SENTENCE:

The Honourable Court is referred to this Court's judgment on the exception dated 2/10/62 on pages 138 to 143 of the original record and to the judgment dated 24/11/62 on pages 191 to 209 of the original record. This Court has nothing further to add.

G.B. JORDAAN
REGIONAL MAGISTRATE.

JOHANNESBURG.
22/12/62.

[Handwritten signature]

IN THE MAGISTRATE'S COURT REGIONAL DIVISION OF THE
SOUTH TRANSVAAL, HELD AT JOHANNESBURG.

IN RE:

THE STATE

VS

1. PETRUS ARNOLDUS BEYLEVELD Accused No. 1.
2. EVE DIANE HALL " " 2.
3. BENJAMIN TUROK

NOTICE OF APPEAL.

BE PLEASED TO TAKE NOTICE that each of the abovenamed accused hereby notes an appeal against the conviction and sentence by the Regional Magistrate, Johannesburg, in "P" Court on the 24th day of November 1962, on the following grounds:-

A. RE: THE CONVICTION.

1. The Regional Magistrate erred in holding that the State had proved beyond a reasonable doubt that the alleged printing, distribution and circulation by the accused of the documents annexed to the charge sheet was calculated to violate the dignity or injure the reputation of the State President.
2. The Regional Magistrate erred in holding that the truth of the facts set out in the documents alleged to have been printed, circulated and distributed by the accused was irrelevant to the charge against the accused.
3. The Regional Magistrate erred in holding that evidence which would establish.
 - (i) The truth of the facts set out in the said documents; and/or

- (ii) That such facts were common knowledge; and/or
- (iii) The previous political activities of Mr. Swart, and the factual background against which the pamphlets were issued was not relevant, and that cross-examination which was aimed at establishing such facts was not permissible.
4. The Regional Magistrate erred in holding that the State President, Mr. Swart, was a different person to Mr. Swart, the former Minister of Justice.
 5. The Regional Magistrate erred in holding that a reference to Mr. Swart's political activities on the occasion of the proposal to elect him a "freeman" of Johannesburg constituted a breach of Section 13 of Act No. 32 of 1961.
 6. The Regional Magistrate erred in not having regard to the fact that the accused were entitled to voice their objection to the proposal to make Mr. Swart a freeman of Johannesburg.
 7. The Regional Magistrate erred in that he should have held that an accurate reference to Mr. Swart's political activities did not amount to a violation of the dignity, or an injury to the reputation of the State President.
 8. The Regional Magistrate erred in convicting the accused in the absence of any evidence that the distribution, or circulation, or printing of the documents had violated the dignity or injured the Reputation of the State President, and/or that the distribution, or circulation, or printing of the said documents was calculated to cause such violation or injury.
 9. The Regional Magistrate erred in holding that the said accused were members of the South African Congress

of Democrats.

10. The Regional Magistrate erred in holding that the accused were on the committee or other similar governing body of the South African Congress of Democrats.
11. The Regional Magistrate erred in holding that the State had proved by admissible evidence that the governing body of the South African Congress of Democrats included the National President and/or the National Secretary of the said Congress, and/or the Regional Secretary of the said Congress, and in particular erred in relying on the contents of exhibit "C" in making such finding.
12. The Regional Magistrate erred in holding that the State had proved that exhibits "O" and "P" were copies of the minutes of meetings of the Johannesburg Regional Committee of the South African Congress of Democrats, and erred in relying on the contents of the said documents.
13. The Regional Magistrate erred in holding that exhibits "O" and "P" had been found in the possession of accused No. 2, and erred in relying on the contents of the said documents.
14. The Regional Magistrate erred in holding that exhibit "Q" had been found in the possession of accused No. 2 and erred in relying on the contents of the said documents.
15. The Regional Magistrate erred in holding that all the exhibits had been rightly admitted in evidence.

B. RE SENTENCE:

16. The Regional Magistrate erred in sentencing the

accused/...

accused to make payment of a fine of R350.00 or to undergo imprisonment for 175 days, more particularly because

- (a) The sentence was excessive in the circumstances;
- (b) The sentence was imposed without due regard to the financial means of the accused.
- (c) That due regard was not had to the fact that this was the first occasion on which persons had been charged under Section 13 of Act No. 32 of 1961, and that in the circumstances a warning by the Magistrate might have served as a deterrent to future offenders.
- (d) The sentence was based on the following misdirections:-
 - (i) That each of the accused took an active part in the campaign to distribute the circulars and pamphlets;
 - (ii) That the intention of the circulars and pamphlets was to represent the State President as being a cruel, rude and dishonest man;
 - (iii) That the accused sent one of the pamphlets to Colonel Spengler;
 - (iv) That the receipt of a pamphlet by Colonel Spengler was a factor which aggravated the offence;
 - (v) That the accused knew the law and deliberately chose to ignore it.
 - (vi) That the fact that the accused were campaigning against the election of Mr. Swart as a freeman of Johannesburg was a factor which aggravated the offence.

DATED AT JOHANNESBURG THIS 6th DAY OF DECEMBER, 1962.

HAROLD WOLPE
JAMES KANTOR & PARTNERS
Appellant's Attorneys
2nd Floor Provident Assurance
House.
Simmonds Street,
JOHANNESBURG.

TO: THE APPEALS CLERK
MAGISTRATE'S COURT;
JOHANNESBURG.

THE STATE versus:-

1. PETRUS ARNOLDUS BEYLEVELD.
2. EVE DIANE HALL.
3. BENJAMIN TUROK.

THAT the said accused are guilty of contravening section 13 of Act 32 of 1961.

IN THAT WHEREAS at all times relevant to this charge the said accused were members of an association of persons to wit the association known as The South African Congress of Democrats carrying on business or affairs of the said association at Somerset House 110 Fox Street Johannesburg in the district of Johannesburg and WHEREAS the business or affairs of the said association were at all times relevant governed or controlled by a committee or other similar governing body and the said accused were members of the said committee or similar governing body;

NOW THEREFORE the said accused through their servants or agents to the Public Prosecutor unknown, or the said accused the one or the other of them either personally or in carryin on the business or affairs of the said association or in furthering or endeavouring to further its interests, by virtue of the Provisions of Section 381(7) of Act 56 of 1955, did wrongfully and unlawfully commit the offence as set out in the Annexure hereto.

ANNEXURE.

THAT the said accused did upon or about or during the period 18th April 1962 to 7th May 1962 and at Johannesburg in the district of Johannesburg in the Regional Division Division of South Transvaal wrongfully and unlawfully commit
an/...

A

South African Congress of Democrats

Branch Address
 P.O. Box 4287
 CAPE TOWN
 P.O. Box 2295
 DURBAN
 P.O. Box 1224
 PORT ELIZABETH

Head Office
 8, SOMERSET HOUSE, (SECOND FLOOR)
 110, FOX STREET,
 JOHANNESBURG
 SOUTH AFRICA

18th April 1962.

Dear Sir/ Madam,

It has been reported in the press that the Johannesburg City Council is to grant the freedom of the city to the State President, Mr. C. R. Swart.

We are sending you the enclosed memorandum on the political background of the State President. We feel sure that you will share our view that such a man is not worthy of being honoured by our city.

But unless the citizens of Johannesburg express their opposition to this award the City Council will proceed with their plans. It is the duty of every one of us, regardless of political affiliations, to make our views felt in this matter. When the Johannesburg City Council meets on April 25th there will be an opportunity for us to voice our objections. We strongly urge you, and your friends and associates, to lobby your City Councillors on this day, to take up this issue in your local Ratepayers Association and in your political parties. We cannot afford to allow the City Council to present an award of this importance without consulting the citizens of Johannesburg.

Although time is so short, we appeal to you to give this matter the attention it deserves. This is one issue on which we must all take a firm stand against the Nationalists and their policies of race-hatred.

Yours faithfully,

Eve Hall

Eve Hall.

(SECRETARY)

① If it's not worthy being
 known because he
 has not; was
 born in 1900-19,
 1901-1902
 A
 government
 - Personal Papers
 we offer you to

② Letter Shows effect of protest -
 Don't make protest a [unclear]
 because he is [unclear] [unclear]
 Make sure [unclear] [unclear]
 has your identity [unclear] [unclear]
 Plans of [unclear] [unclear]
 1962

South African Congress of Democrats

A

BRANCH ADDRESSES:
 P.O. Box 4552
 CAPE TOWN
 P.O. Box 2299
 DURBAN
 P.O. Box 1294
 PORT ELIZABETH

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8, SOMERSET HOUSE, (SECOND FLOOR)
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Eve Hall
 Eve Hall.

(SECRETARY)

8

NOTES ON THE BACKGROUND OF THE STATE PRESIDENT, MR SWART.

Though Charles Roberts Swart was not elected to Parliament until later, he became a member of the Orange Free State provincial executive of the Nationalist Party in 1921, and he served on this committee until his retirement from politics. *Notes*

Soon after he became Minister of Justice in 1948, he released from imprisonment Róbey Leibbrandt, who had been convicted of treason during the war. At about the same time, he lifted the ban on the Ossewa-Brandwag and the Broederbond, whose activities had been curtailed by law during the war, on account of their Nazi sympathies and affiliations. For some years, until 1941, Charles Swart had himself been a member of the Supreme Council of the Ossewa-Brandwag.

While he was Minister of Justice, the South African Police became notorious for brutality. It was he who continually insisted on the right of the police to shoot first and ask questions afterwards; it was his police force that protected Sergeant Arlow for so many years. In 1951, a Press photograph was radioed round the world showing South African policemen conducting a baton charge against garment workers who were demonstrating in protest against the banning of Solly Sachs, then the secretary of the Garment Workers' Union; this was Charles Swart's police force. In 1959, questions were asked in the House of Assembly about baton charges which had taken place in African townships, and about children who had been injured during these charges; Swart's reply was that African women often borrowed children to carry on their backs during demonstrations.

Swart became known as the 'whipping minister' after he had put before the House of Assembly the Criminal Laws Amendment Bill of 1952. This bill, when it became law, made flogging compulsory for certain crimes where previously the choice of flogging as a punishment had been left to the discretion of the magistrate. On one occasion, he brought a 'cat-o'-nine-tails' into the House, and posed with it for a press photograph. In 1957, in reply to a question put to him in the House, he stated that in the previous twelve months, 13,526 prisoners had received a total of 65,198 strokes. In 1959, more questions were asked in Parliament - this time about the flogging of some schoolchildren in Pretoria. The incidence of crimes of violence continued to rise, and Swart's solution to this problem was to introduce the death penalty for such crimes.

Opening the first farm gaol in 1952, he claimed the farm prisons as his 'own particular baby.' As late as 1958, he stated in Parliament that the farm gaols were intended to help criminals to find 'a chance to rehabilitate themselves.' In 1959, after the scandal of the farm gaols had reached the public, and after typhus had broken out in the Johannesburg Fort, he introduced a clause into the Prisons Bill of that year, forbidding the publication of information about prisons and prisoners.

During the eleven years he spent as Minister of Justice, his approach to his task as Minister showed his affinity with the Nazis he had supported during the war. He labelled political opponents of the Nationalist Government as 'agitators' and 'subversive elements.' He used the cry of 'communist' to justify the presence of detectives at meetings and of informers in the ranks of the students; to justify the Riotous Assemblies Act and the Suppression of Communism Act, and the banning, under these acts, of people who were opposed to the Nationalist Party and its policies - including Albert Lutuli, later to win the Nobel Peace Prize.

As Minister of Justice, he called for 'stronger action' as the answer to South Africa's unpopularity abroad; and his answer to discontent within the country was to enlarge the police force. He seems to have regarded the people of his country, not as a body of human beings entitled to a say in the way in which they were to be governed, but as a difficulty which must be kept under control. It was he who presented the country with the Public Safety Act, which made provision for the regulations later used during the state of emergency in 1960; when

8

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2 Soon after he became Minister of Justice in 1948, he released from imprisonment Róbej Leibbrandt, who had been convicted of treason during the war. At about the same time, he lifted the ban on the Ossewa-Brandwag and the Braederbond, whose activities had been curtailed by law during the war, on account of their Nazi sympathies and affiliations. For some years, until 1941, Charles Swart had himself been a member of the Supreme Council of the Ossewa-Brandwag.

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thousands of people were arrested and imprisoned without a warrant, without a charge and without a trial, and when any criticism of the Government was a crime punishable with five years' imprisonment or a £500 fine.

8 He was responsible for the notorious treason trial, where people who had organised public opinion against the Nationalist Government were tried for treason and found innocent after more than four years.

9 In April, 1958, the African National Congress was planning to call on the Africans of the country to stay away from work for three days, as a peaceful sign to the electorate - from a people who had no other way of showing their wishes in this matter - that they did not want a Nationalist government. Swart threatened 'very rough treatment' for those who took part in mass action. "I have given my promise that we will not stand any nonsense from them," he said. "They have been warned."

10 In September of the same year, Swart declared that he would prefer public meetings in Johannesburg to be held, not on the City Hall steps - where meetings are traditionally held - but in halls, where 'control could be easily exercised.'

11 Indeed, his relationship with the City of Johannesburg has not always been a very happy one. In 1958, he also refused an enquiry into riots which had taken place in the South-Western townships, saying that all previous enquiries had come to the same conclusion, and that such an enquiry would not reveal anything new. In 1959, he refused to allow the police to give evidence to the Native Disturbances Commission set up by the Johannesburg City Council; and then refused to take notice of the findings of the commission, saying that it was 'mere political propaganda.' A familiar phrase rising to his lips, he described the three ex-judges on the commission as 'political agitators.'

12 This is our State President, and whereas we have no control over who becomes State President, we should have a control over who becomes a freeman of the City of Johannesburg.

COULD BE NO OBJECTION TO REVELATION OF THESE FACTS IN DIPLOMATIC LANGUAGE -

THE PURPOSE OF THE HISTORY OF THE CITY OF JOHANNESBURG IS TO RECORD THE FACTS WHICH HAVE MADE OUR CITY WHAT IT IS TODAY -

COMPLAINT IS NOT SUCH AS CONTENT OF DOCUMENTS AS AN OFFENSE OF OFFICER'S NEEDS OF EXPRESSION

Substance

Language ~~is~~ ~~not~~ ~~the~~ ~~same~~ ~~as~~ ~~the~~ ~~words~~ ~~of~~ ~~the~~ ~~document~~ - Strong & Sharp, Clear & Distinct to other same property - DOES NOT mean the same as the document -

IT IS NOT THE STATE'S BUSINESS TO INTERFERE WITH A FREEMAN'S RIGHT OF EXPRESSION

IT WOULD NOT BE THE STATE'S BUSINESS TO INTERFERE WITH A FREEMAN'S RIGHT OF EXPRESSION

3

WHAT DOES IT MEAN, THIS HONOUR! C

The Johannesburg City Council will be meeting to consider the award of the freedom of our city to President Suerst.

WHAT HAS HE DONE FOR JOHANNESBURG?
WHAT HAS HE DONE FOR SOUTH AFRICA?

DURING THE WAR HE SUPPORTED THE NAZIS!

While he was Minister of Justice:-

He introduced laws to stifle opposition to his government.

He made political offences punishable by flogging.

The police force became notorious for its brutality.

He claimed the farm goal system as his "own particular baby".

He dismissed the findings of the Motiv. Disturbance Commission set up by the Johannesburg City Council as

"mere political propaganda".

IT WILL BE A DISGRACE IF WE ALLOW THE CITY COUNCIL TO ELECT THIS MAN AS A FREEMAN OF JOHANNESBURG.

LET US KEEP OUR COUNCIL -
AND NOT ALLOW HIM TO OPPOSE THEM!

Issued by the South African Congress of Democrats, P.O. Box 4089, Johannesburg.

SMART DOES NOT DESERVE THIS HONOUR! | c

The Johannesburg City Council will be meeting to consider the award of the freedom of our city to President Swert.

WHAT HAS HE DONE FOR JOHANNESBURG?

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DURING THE WAR HE SUPPORTED THE NAZIS!

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LOBBY YOUR COUNCILLOR - URGE HIM TO OPPOSE THIS!

Issued by the South African Congress of Democrats, P.O. Box 4088, Johannesburg.

WHO IS THIS MAN ?

- . Who made flogging legal punishment for political offences ?
- . Who posed for press photographers with a cat o'nine tails ?
- . Who opened up the first farm jail ?
- . Who banned all publications on conditions in our jails after the farm slave labour scandals and the typhus epidemic at the fort ?
- . Who was minister of justice when the police beat up garment workers demonstrating against the banning of their secretary ?
- . Who was Minister of Justice when informers were placed among university students ?
- . Who was responsible for the banning of the African National Congress ?
- . Who refused to allow policemen to give evidence to the "Native Disturbances Commission" set up by our city council and at the same time labelled ex-judges on the commission as "political agitators".

THE MAN WITH THIS RECORD IS OUR OWN STATE PRESIDENT,
WAR-TIME NAZI SUPPORTER SWART !

And now the City Council of Johannesburg make him a freeman of our city ! If we allow this to happen we, the citizens of this city, are allowing our values and sense of justice to be sadly disgraced !

We, the students of this University, fought bitterly for academic freedom and we have not yet forgotten it. If we allow the city council to confer this honour on Swart we will be condoning all that the Nats have done, even the Separate Universities Act.

LOBY YOUR CITY COUNCILLORS, WRITE LETTERS TO THE PRESS, AND VOICE YOUR OBJECTION IN EVERY POSSIBLE WAY TO PREVENT THIS MAN BEING UNDESERVEDLY HONOURED !

2

WHO IS THIS MAN ?

- 1. Who made flogging legal punishment for political offences ?
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South African Congress of Democrats

BRANCH ADDRESSES:

P.O. Box 4552
CAPE TOWN
P.O. Box 2299
DURBAN
P.O. Box 1294
PORT ELIZABETH

HEAD OFFICE:

8, SOMERSET HOUSE, (SECOND FLOOR)
110, FOX STREET.
JOHANNESBURG.
SOUTH AFRICA

30th April, 1962.

TO JOHANNESBURG CITY COUNCILLORS:

Dear Sir / Madam,

It has been reported in the press that the Johannesburg City Council is to grant the freedom of the city to the State President, Mr C.R. Swart. It would appear that this decision, which affects every citizen, was taken outside the Council Chamber and no effort was made to ascertain the views of the majority of Councillors on this important matter.

We are sending you the enclosed memorandum on the political background of the State President and his past relationship with our city. In our view such a man is not worthy of being honoured by the City of Johannesburg. Such a view is no doubt shared by the majority of citizens. We appeal to you, as a legally elected representative, to exercise your right and duty in ensuring that the views of your constituents are heard on this issue, and that the matter is debated at the next full session of the City Council.

The City of Johannesburg has a record of independence and respect for long-standing traditions. We urge you to do everything you can to ensure that this fine record is not allowed to go by default.

Yours faithfully,

Eve Hall

Eve Hall
REGIONAL SECRETARY

South African Congress of Democrats

E 124

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Eve Hall
REGIONAL SECRETARY

13

in the manner as set out in the charge and further particulars and also on the statements contained in the document attached hereto and marked E

- (i) Documents marked A, B, C, and D are attached to the charge and document E attached hereto.
- (ii) The State does not rely on any specific statement, but relies on all the statements contained in the said documents read together.
- (iii) The State is not obliged to reply to this request, and maintains that full particulars to cover this point have been given in the charge and the particulars thereto.

DATED AT JOHANNESBURG THIS 18TH DAY OF SEPTEMBER, 1962.

J. V. 1962
PUBLIC PROSECUTOR:
REGIONAL COURT.

To: Messrs. Kantor, Zwarenstein & Partners,
2nd Floor- Provident Assurance House,
Simmonds Street,
JOHANNESBURG.

HELD AT JOHANNESBURG

BETWEEN:-

THE STATE

vs

1. PETRUS ARNOLDUS BEYLEVELD
2. EVE DIANE HALL
3. BENJAMIN TUROK



NOTICE OF EXCEPTION IN TERMS OF SECTION 168 OF ACT NO.
56 of 1955

BE PLEASED TO TAKE NOTICE that at the hearing of the above trial an exception will be taken on behalf of the three accused to the charge against them on the ground that:

The Charge Sheet does not disclose the offence alleged to have been committed by the accused in that:

The acts alleged to have been committed by the accused as set out in the particulars to the Charge Sheet, do not constitute the offence charged for the reason that the words appearing in the documents relied upon by the State and attached to the Charge Sheet are not ex facie the said documents calculated to violate the dignity or injure the reputation of the State President within the meaning of Section 13 of Act 32 of 1961.

BE PLEASED TO TAKE FURTHER NOTICE that in view of the fact that the Request for Further Particulars to the charge sheet dated the 11th September 1962 has not been complied with, further grounds of exception may have to be added and notice of further application may have to be given after the receipt of the particulars requested.

THIS NOTICE takes the place of the Notice dated the 17th day of September 1962 previously served on the State.

DATED AT JOHANNESBURG THIS 18th DAY OF SEPTEMBER 1962

Harold Woddy

KANTOR ZWARENSTEIN & PARTNERS
ATTORNEYS FOR ACCUSED
2nd floor Provident Assurance House
Simmons Street,
JOHANNESBURG

17
S

TO: THE PUBLIC PROSECUTOR
"H" REGIONAL COURT
MAGISTRATE'S COURT

AND TO:

THE CLERK OF "H" REGIONAL COURT
MAGISTRATE'S COURT
JOHANNESBURG

12/1/62
15
IN THE MAGISTRATE'S COURT REGIONAL DIVISION

OF THE SOUTH TRANSVAAL HELD AT JOHANNESBURG

BETWEEN:-

THE STATE

VERSUS

1. PETRUS ARNOLDUS BEYL EVEL DE

2. EVE DIANE HALL

3. BENJAMIN TUROK



REQUEST FOR FURTHER PARTICULARS W

The accused in the above matter require the following

Further Particulars to the charge:-

1. The State is required to identify each of the documents annexed to the charge sheet by number or letter and to specify in respect of each such document:-

- (a) Which of the said accused is alleged to have printed the document and the date when and place where such document was printed by such accused;
- (b) Which of the said accused is alleged to have caused the document to be printed and the date when, the place where and the manner in which such accused caused such document to be printed;
- (c) Which of the said accused is alleged to have distributed the document, specifying in respect of each accused the manner in which it is alleged that he distributed the document, the date when, the place where and the person or persons to whom the document was distributed by such accused;
- (d) Which of the said accused is alleged to have assisted in the distribution of such document, specifying in respect of each accused the person or persons whom he assisted, the manner in which it is alleged that he assisted in the distribution of the document; and the date when and the place where such assistance was given;
- (e) Which of the said accused is alleged to have caused the document to be distributed, specifying in respect of each accused the manner in which it is alleged that he caused the document to be distributed and the date when and the place where he caused such distribution to take place;

- (f) Which of the said accused is alleged to have circulated the said document, specifying in respect of each accused the manner in which it is alleged that the document was circulated by such accused, the date when and place where such circulation took place and the person or persons to whom the document was circulated;
- (g) Which of the said accused is alleged to have assisted in the circulation of the document, specifying in respect of each accused the person or persons whom he assisted, the manner in which it is alleged that he assisted in the circulation of the document; and the date when and the place where such assistance was given;
- (h) Which of the said accused is alleged to have caused the document to be circulated, specifying in respect of each accused the manner in which it is alleged that he caused the document to be circulated and the date when and the place where he caused such circulation to take place.

2. Full and precise details are required of the respects in which it is alleged that the printing, distribution or circulation of the documents annexed to the charge sheet were calculated to violate the dignity of the State President, specifying:-

- (a) Whether the State relies solely on the statements contained in the said document, and if not upon what additional facts it relies in support of the allegation;
- (b) Insofar as the State relies on statements contained in the said documents, particulars are required of:
- (i) The documents which are alleged to contain statements which were calculated to violate the dignity of the State President;
- (ii) The specific statements in each document which are relied upon by the State as being calculated to violate the dignity of the State President;
- (iii) The way in which each such statement is alleged to have been calculated to violate the dignity of the State President;

3. Full and precise details are required of the respects in which it is alleged that the printing, distribution or circulation of the documents annexed to the charge sheet were calculated to injure the reputation of the State President, specifying:-

- (a) Whether the State relies solely on the statements contained in the said document, and if not upon what additional facts it relies in support of the allegation;

State does not rely on any additional facts in support of the allegation. It relies on the statements contained in the said documents.

Documents are not specified in the charge sheet.

State does not rely on any additional facts in support of the allegation. It relies on the statements contained in the said documents.

- (b) Insofar as the State relies on statements contained in the said documents, particulars are required of:-
- (i) The documents which are alleged to contain statements which were calculated to injure the reputation of the State President;
 - (ii) The specific statements in each document which are relied on by the State as being calculated to injure the reputation of the State President;
 - (iii) The way in which each such statement is alleged to have been calculated to injure the reputation of the State President;

DATED AT JOHANNESBURG THIS 11th DAY OF SEPTEMBER 1962

Howard Wolpe

KANTOR ZWARENSTEIN & PARTNERS
ACCUSED'S ATTORNEYS
2nd Floor Provident Assurance House
Simmonds Street,
JOHANNESBURG

TO: THE PUBLIC PROSECUTOR
"H" REGIONAL COURT
MAGISTRATE'S COURT
JOHANNESBURG

HELD AT JOHANNESBURG: 11

BETWEEN:-

THE STATE

VS

1. PETRUS ARNOLDUS BEYLEVELD
2. EVE DIANE HALL
3. BENJAMIN TUROK

NOTICE OF EXCEPTION

BE PLEASED TO TAKE NOTICE that at the hearing of the above trial an exception will be taken to the charge against all three accused, on the grounds that the Charge Sheet does not disclose the offence alleged against the accused, in that the printing, distribution, etc., of the documents attached to the charge and relied upon by the State do not constitute the offence charged.

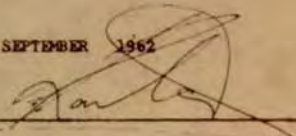
BE PLEASED TO TAKE FURTHER NOTICE that in view of the fact that the Further Particulars to the charge requested on behalf of the accused have not yet been supplied by The State, further grounds of exception and/or a further application may be added when the said particulars have been supplied.

DATED AT JOHANNESBURG THIS 17th DAY OF SEPTEMBER 1962

TO: THE PUBLIC PROSECUTOR
 THE REGIONAL COURT
 MAGISTRATE'S COURT
 JOHANNESBURG

AND TO:

THE CLERK OF THE REGIONAL COURT
 MAGISTRATE'S COURT
 JOHANNESBURG


 KANTOR ZWARENSTEIN & PARTNERS
 ACCUSED'S ATTORNEYS
 2nd floor Provident Assurance House
 Simmonds Street
 Johannesburg



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IN THE MAGISTRATE'S COURT REGIONAL DIVISION OF THE SOUTH TRANSVAAL
HELD AT JOHANNESBURG.

THE STATE

VERSUS:

- 1. PETRUS ARNOLDUS BEYLEVELD
- 2. EVE DIANE HALL
- 3. BENJAMIN TUROK.

The State hereby furnishes the following further particulars in reply to a request for further particulars dated 11th of September 1962.

- 1 (a) It is unknown which of the accused or their servants or agents personally printed the documents referred to in the charge. The exact date when and exact place where the said documents were printed are unknown.
- (b) It is unknown which of the accused or their servants or agents personally caused the documents referred to in the charge to be printed. The exact date when and exact place where the documents were caused to be printed are unknown.
- (c) i It is alleged inter alia that accused No.2 personally distributed the documents marked A,B, and E, in that the said accused did on the 18th April 1962, and on the 30th April 1962 and at Johannesburg sign the documents marked A & E (copy of E attached) but it is unknown whether she personally distributed document marked C.
 - ii It is unknown whether accused Nos. 1 and 3 and whether the agents or servants of all the accused did personally distribute any or all ~~or all~~ the documents.
 - iii It is alleged that the documents marked A,B, and E were distributed through the post during the period and at the place mentioned in the charge; the exact date or dates and place or places being unknown.
 - iv It is alleged that the document marked C was distributed by strewing copies thereof in the street to wit at the corner of President and Rissik Streets, Johannesburg on 4.5.1962.
 - v It is alleged that the documents referred to were distributed to members of the public to wit inter alia Col. A.T. Spengler and City Councillors, Johannesburg, to wit inter alia the following persons P.M. Roos,

/E.Cuyler

thousands of people were arrested and imprisoned without a warrant, without a charge and without a trial, and when any criticism of the Government was a crime punishable with five years' imprisonment or a £500 fine.

He was responsible for the notorious treason trial, where people who had organised public opinion against the Nationalist Government were tried for treason and found innocent after more than four years.

In April, 1958, the African National Congress was planning to call on the Africans of the country to stay away from work for three days, as a peaceful sign to the electorate - from a people who had not other way of showing their wishes in this matter - that they did not want a Nationalist government. Swart threatened 'very rough treatment' for those who took part in mass action. "I have given my promise that we will not stand any nonsense from them," he said. "They have been warned."

In September of the same year, Swart declared that he would prefer public meetings in Johannesburg to be held, not on the City Hall steps - where meetings are traditionally held - but in halls, where 'control could be easily exercised.'

Indeed, his relationship with the City of Johannesburg has not always been a very happy one. In 1958, he also refused an enquiry into riots which had taken place in the South-Western townships, saying that all previous enquiries had come to the same conclusion, and that such an enquiry would not reveal anything new. In 1959, he refused to allow the police to give evidence to the Native Disturbances Commission set up by the Johannesburg City Council; and then refused to take notice of the findings of the commission, saying that it was 'mere political propaganda.' A familiar phrase rising to his lips, he described the three ex-judges on the commission as 'political agitators.'

This is our State President, and whereas we have no control over who becomes State President, we should have a control over who becomes a freeman of the City of Johannesburg.

E. Cuyler and C.F. de Wet and other councillors to the Prosecutor unknown.

- 1(d) (1) It is alleged inter alia that accused No.2 personally assisted in the distribution of the documents marked A, B, and E in that the said accused did on the 18th April 1962 and on the 30th April 1962 and at Johannesburg sign the documents marked A and E but it is unknown whether she personally assisted in the distribution of the document marked C. The persons whom she personally assisted are unknown.
- (ii) It is unknown whether accused Nos. 1 and 3 and whether the agents or servants of all the accused did personally assist in the distribution of any or all of the documents.
- 1(e) (1) It is alleged inter alia that accused No. 2 personally caused the distribution of the documents marked A,B, and E in that the said accused did on the 18th April 1962 and 30th April 1962 and at Johannesburg sign the documents marked A and E but it is unknown whether she personally caused the distribution of the document marked C.
- (ii) It is unknown whether accused Nos. 1 and 3, and whether the agents or servants of all the accused did personally cause the documents to be distributed.
- 1(f) (1) It is alleged inter alia that accused No.2 personally circulated the documents marked A,B, and E in that the said accused did on the 18th April 1962 and 30th April 1962 and at Johannesburg sign the documents marked A and E.
- (ii) It is unknown whether accused Nos. 1 and 3 and whether the agents or servants of all the accused did personally circulate any or all the documents.
- (iii) It is alleged that the documents marked A,B, and E were circulated through the post during the period and at the place mentioned in the charge; the exact date or dates and place or places being unknown.
- (iv) It is alleged that the documents referred to in the charge were circulated to members of the public to wit, inter alia Col. A.T. Spengler and Johannesburg City Councillors to wit inter alia the following persons;

P.M. Roos, E. Cuyler and C.F. de Wet, and other councillors to the prosecutor unknown.

- 1(g) (i) It is alleged inter alia that accused No.2 personally assisted in the circulation of the documents marked A, B, and E in that the said accused did on the 18th April 1962, and 30th April 1962 and at Johannesburg sign the documents marked A and E. The persons whom she personally assisted are unknown.
- (ii) It is unknown whether accused Nos. 1 and 3 and whether the agents or servants of all the accused did personally assist in the circulation of any or all of the documents referred to in the charge.
- 1(h) (i) It is alleged inter alia that accused No.2 personally caused the circulation of the documents marked A,B, and E in that the said accused did on the 18th of April 1962, and 30th April 1962 and at Johannesburg sign the documents marked A and E.
- (ii) It is unknown whether accused Nos. 1 and 3, and whether the agents or servants of all the accused personally caused the circulation of any or all the documents referred to in the charge and further particulars
- 2(a) The State relies on all the statements contained in the documents attached to the charge sheet and the fact that the said documents were printed distributed or circulated in the manner as set out in the charge and further particulars, and also on the statements contained in the document attached hereto and marked E.
- (i) Documents marked A,B,C and D which are attached to the charge, and document E attached hereto.
- (ii) The State does not rely on any specific statement, but relies on all the statements contained in the documents read together.
- (iii) The State is not obliged to reply to this request, and maintains that full particulars to cover this point have been given in the charge and particulars thereto.
- 3(a) The State relies on all the statements contained in the documents attached to the charge sheet and the fact that the said documents were printed, distributed or circulated

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**SOUTH AFRICAN INSTITUTE OF RACE RELATIONS, Security trials Court
Records 1958-1978**

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