

that, I have already said so.

Mr. Luthuli, did the African National Congress hold the view that the establishment of military bases in Africa were directed against Soviet Russia? ---
--- My Lords, I do not recall, I cannot comment. I do not 5
know that we...

Just from your general reading, Mr. Luthuli?
--- Frankly I do not recall the A.N.C. view - the point
of view that was expressed in A.N.C. circles. I would be
reminded, I don't recall. 10

I just want to refer you to a document
containing resolutions adopted at the fifth annual
Conference of the African National Congress Youth League
in April, 1953. It is to be found, My Lords, in the record
at page 4259, Exhibit No. T.T. 28. There are a large 15
number of resolutions dealing inter alia with Kenya and
Mau-Mau, and I refer to resolution No. 12 and No. 13.
"Conference condemns the attempt by the U.S. and its
allies to make Africa a base in war against the Soviet
Union. Conference serves notice on all imperialist 20
powers, the Africans will never into war against the
Soviet Union, but on the contrary resolves to intensify
the struggle against all powers having colonies in
Africa." According to this document that was an
A.N.C.Y.L. resolution adopted at the Conference in 25
1953. Mr. Luthuli, that type of resolution, isn't it
clear to you that the African National Congress Youth
League had been indoctrinated by communist propaganda
to persuade them to pass a resolution to that effect?
--- My Lords, I wouldn't know what persuaded the Youth 30
League to pass that resolution, and the resolution
doesn't necessarily represent the views of the A.N.C.

BY MR. JUSTICE BEKKER :

Do you disapprove of this resolution? ---
My Lords, it is a mixed resolution. For instance that
last part where it says that we are determined to fight
colonialism I agree with. But now the part which says 5
we will never go into war with Soviet Russia, we don't
want to go into war with anybody. That is my point of
view, that is my argument.

BY MR. TRENGOVE :

Mr. Luthuli, let us take the first part of 10
the resolution. "Conference condemns the attempt by the
U.S. and its allies to make Africa a base in a war against
the Soviet Union". Do you agree with that? --- I think
My Lords I can only say there that I don't know exactly
what is actuated, but I can see the thought that led to 15
it, the very thought of taking the West as arming itself,
rightly or wrongly, against Russia, might lead to that
kind of thing. Now I personally would not particularly
favour it, but I can see the trend of that thought.

BY MR. JUSTICE RUMPF : 20

Could this have been a resolution passed
at the time by the African National Congress? --- No, I
do not think so.

You say that the African National Congress
at that time would not have passed a resolution in these 25
words? --- My Lord, let me put it this way. It would
have been debated, but I think it is so difficult to say,
but I don't think it would have been passed in those
terms. It would have been debated. One can't speculate
and say probably the final decision of the majority - 30
My Lord, I don't think I can go as far as that.

BY MR. TRENGOVE :

What do you think the National Executive would have thought of a resolution like this? --- It is very difficult to say except in discussion, My Lord. My Lord, I can only express a point of view. When you say what do you think the Executive would have said, it is extreme anticipation when you don't know what line the discussion would take. But I am saying in general the last part would certainly have approval. 5

Then the thirteenth resolution : "Conference on behalf of the youth of South Africa expresses its deepest sympathy with the peoples of the Soviet Union who have lost a leader and father in the death of Marshall J.V. Stalin. J.V. Stalin was not only an architect of the Soviet Union, but he pledged himself to the cause of world peace and national liberation of oppressed peoples throughout the world. In this respect the death of Stalin is a blow to all peaceful and freedom loving peoples of the world. The youth of South Africa hope that the noble ideals of Stalin have been left as a heritage for the Soviet Union and the world, and the greatest memorial to him would be to strive so that peace and freedom ultimately dominate the world". Now that you would support, wouldn't you Mr. Luthuli? --- 15 20

Yes, the sentiments I would support. 25

That J.V. Stalin is the architect, not only of the Soviet Union but of world peace and world liberation? --- I have already said I would support the sentiments.

BY MR. JUSTICE BEKKER : 30

What is the sentiment you approve of? That he is the architect of...? --- No, no, I will explain

myself, My Lord. I have already said in this Court My Lords that outwardly at any rate, and you must judge a man by his utterances, what his motives were I do not know, certainly he appeared to stand to peace, to work for peace. Now the man's motives and so on would not be one's concern, My Lord, and to the extent that it appeared to be so, therefore one would take him My Lord as one of the people who tries to work for peace. And only to that extent. 5

Was he the architect of world peace? --- 10
No, that is why I used the word sentiments, because I don't want to commit myself...

I am trying to find out to what extent you agree and what is sentiment. You do not subscribe to the view that he was the architect of world peace? --- 15
No, My Lord, I wouldn't agree to that because I don't know. Really I wouldn't say that he is the only one that started to work for world peace, I wouldn't go as far as that, no, definitely. No, I wouldn't. My Lord, if I may illustrate my mind, and I think it might be shared, 20 if I have not already said this, then we may understand the position. The United States, as you know, we are extremely critical of it, and I have said so here, that we are critical of the United States because it is allied with the imperialist powers and so on. But at 25 the last session of UNO or two, we were all heartened by the attitude that he voted against apartheid, when he condemned apartheid. Now I might now speak in favour - I want to speak in favour of that aspect, that wouldn't mean My Lord, therefore that I am therefore 30 approving of other aspects, in fact I won't even know the other aspects of a person's mind. I am trying to say

say, My Lord, so that when there is say an expression like this by a man who seems to stand for peace and seems to stand for the equality of people and seems to be against discrimination in his country, those aspects we appreciate, My Lord. 5

Yes, that I understand, but all I want to know is this. You do not subscribe to the view that he is the architect of world peace? -- No, I wouldn't My Lord.

That sentiment conveyed in that document, 10 you disagree with that? --- I disagree to the extent that I have no information to say that he is the architect. There may be many factors that are contributing to world peace. 1

BY MR. JUSTICE RUMPF : 15

I just want to ask you, Mr. Luthuli, about the so-called peace. You say that the African National Congress was favourably inclined towards Russia insofar as she sought peace, as she purported to seek peace? --- That is correct, My Lord, and the other things that I 20 have mentioned, My Lord.

Now what was the peace of Soviet Russia as the African National Congress understood it? What is meant by peace? --- Well, My Lords, I cannot be specific, but I think at UNO, her pronouncements were 25 in favour of peace and I think that also My Lords the general pronouncements of the Russian leaders were to that effect.

I know that they may have been in favour of peace, but what was the peace that Soviet Russia 30 aimed at? What was peace? What do you understand by peace? As far as the African National Congress is

concerned? --- I think My Lord we would understand it as a stage where there is co-existence, the common phrase, co-existence, each country living peacefully and working out its own destiny in its own way without wanting to attack or even making attempts to attack other countries. 5
I would understand it that way, My Lord.

My question was, how did the African National Congress understand the peace that Soviet Russia wanted and propagated? --- I don't know that I follow, My Lord.

Well, you have indicated that insofar as 10
Soviet Russia exclaimed itself to be in favour of peace, the A.N.C. supported that point of view? --- Yes, and I thought My Lord..

Now I want to know from you, what is the meaning of the peace that Russia exclaimed to be in favour 15
of? In the minds of the African National Congress? What did the African National Congress understand by the word "peace"? --- I am afraid...

I'll tell you why I ask you ...? - - I may not be able to satisfy you because I may not be clear 20
because I thought that when I indicated that she seemed to stand for peace in her pronouncements and also as I indicated earlier, My Lord - again I must say that one's motive's one cannot be able to tell, even in the situation that is discussed, and there she didn't take the initia- 25
tive of forming war pacts and so on, and that seemed to indicate that ...

Is it just that Russia didn't appear to be desirous of engaging battle? --- Yes, I would say so.

Or is it something more? --- No, I think we 30
were thinking more in terms of world wars.

Why I ask you is because if my memory serves

me correctly, there have been references to certain conditions for instance that there can be no peace without liberation? --- Yes, that is correct, My Lord.

Now that is why I am asking you, what is the or was the idea of the African National Congress 5 in regard to the peace which Soviet Russia claimed it wanted? --- It was My Lord in this context - it would be more peace in the sense of not engaging or provoking war, like world war. Now in the expression that Your Lordship just quoted now, when we say that there can be 10 no peace without freedom or liberation, I think I explained yesterday, My Lords, that we mean this that so long as in the world you have oppressed people who are struggling, there will always be a tension in the world, and whenever there is tension in the world, you 15 have a situation there which could start to violence (?).

And would the same apply to imperialism?
--- In what way, My Lord?

As long as there would be imperialism in this world, there would be tension? --- My Lords, 20 as we see it, honestly we think so. Because we have suffered so much under imperialism.

Now if that is so, and that is really what I want to enquire into, into the meaning of peace, is it correct to say that peace as the African National 25 Congress sees it is not a mere state of non-war, not the mere state of parties not fighting, it is the state in which a certain political change has taken place over the world? --- My Lords, I think it would cover that, but I think that generally in regard to the earlier 30 question which Your Lordship asked, I think it is more thinking of actual war when we say peace. Although,

your extension to that would be quite valid, but I would say that normally when we say that Russia stands for peace and so on, one would be thinking more really of actual armed clashes.

Or the lack of, the absence of armed conflict? - - Yes. 5

Now I take it that - is it correct to say that the African National Congress did not worry about other countries who expressed themselves in favour of peace? --- Well, My Lords... 10

I'll tell you why I am asking you that question, because it knew or it thought that the peace suggested by Soviet Russia was a peace based on the absence of oppression. In other words, if a Western country without any colonial ties or interests, let us take Denmark - if Denmark had it - had expressed itself as a peace loving nation and in favour of peace, that would not really have been of interest to the African National Congress, because that type of peace was an obvious type of peace, the absence of war. But when Soviet Russia...? --- Just repeat about Denmark, My Lord, I don't follow? 15 20

I say if Denmark had expressed itself in favour of peace, the African National Congress would not have been concerned with that very much...? --- We would have been glad, My Lord. 25

Yes, you would have been glad, because it would be a people expressing a desire for peace, but now the African National Congress did not go out of its way to quote Denmark as a country in favour of peace or any other country...? --- That would be correct, My Lord. 30

Except Russia? --- That would be correct.

Now I am trying to find the reason. Is it

because whereas Denmark might have suggested only peace in the sense that there should be no conflict, no armed conflict, when Russia expresses itself in favour of peace the Soviet means a peace without oppression as it sees it? --- My Lord, I don't know whether the thinking 5 would have gone as far as that, but it would cover it, My Lords. I think that would add naturally to an appreciation of Russia's stand, I think.

Well, did the A.N.C. agree with Russia that there could be no peace with oppression? As long as 10 there exists oppression there can't be peace? --- Yes, I think so, My Lord. I agree with it.

Did the African National Congress agree with that? --- I say so, My Lord, that I can't see that where there is oppression in the world you can truly say that 15 there is peace. There would be peace, but there is a situation where any time you may have a disturbance of peace.

So that unless an until the world picture is such that there is no oppression in any country of 20 the world, true peace cannot exist? --- My Lord, I think that I would underline your last adjective, to say "true" peace cannot exist.

I am trying to find the meaning...? --- I would underline it really, there can be no true peace. 25

Is that the peace that Soviet Russia sees? ---On the surface, My Lord, as I have already said, it would appear so.

Well, is the view then of the African National Congress or was the view that until and unless there is no oppression in any country of the world, true peace cannot exist? --- Well, My Lords, I would

merely say generally I don't know that we discussed it so fully to the extent that I could say that was the view, but I would say My Lord that speaking for myself I would go as far as that. I don't know whether I would say we discussed the subject as fully to say this 5 and that.

Would the result be of that attitude that one would require a political change throughout the world to remove oppression before true peace could exist? --- I think one would say My Lords quite fairly and rightly 10 that we should move in the direction of removing oppression. There should be signs that oppression is being removed, to give hope to oppressed people. So long as there are nonsigns of removing oppression, My Lords, I can't just see how you really can speak in terms of 15 true peace.

Would you agree with the communist point of view that if every country in this world became a communist country there would be true peace? --- I wouldn't go as far as that, My Lord, because in the first place... 20

I am not suggesting that you should. I am merely asking you whether you agree with the communist point of view that until every country in the world is communist there cannot be true peace? --- No, My Lords, I cannot agree with that because of my ignorance of what 25 communism really stands for. I have already indicated in this court that there are some aspects of what I know of communism which I don't like. I can never say I agree with that point of view. For instance now if I were to find myself in Soviet Russia, My Lord, if I may say so, 30 I find myself battling against some aspects of life in that country.

Yes, but what was the view of the African National Congress in these years? Did it consider that if every country in the world became a socialist country, in the leftist sense, a people's democracy, that there would be world peace? --- Definitely the African National Congress had no view as far as that is concerned. 5

Why I am asking you these questions is *inter alia* because of the use of the words, a particular word in this resolution which was quoted to you. I think it is - in one of the phrases I think there is a reference to peace that dominates the world. How does that read, Mr. Trengove?

BY MR. TRENGOVE :

"The youth of South Africa hope then that the noble ideals of Stalin have been left as a heritage for the Soviet Union and the world, and the greatest memorial to him would be to strive so that peace and freedom ultimately dominate the world."

BY MR. JUSTICE RUMPF :

You see, after referring to the ideals of Stalin, there is the hope expressed that peace and freedom will ultimately dominate the world. Now how does peace dominate in the world? --- Well, My Lords, does it not mean that when you have reached a situation, maybe a dialectic (?), where countries are living in peace with one another with no threat of war, and you can think of the world really as being at peace, and you say peace is dominating the world, I would more or less - my mind would turn in that direction.

I am just interested in the use of that word? --- My Mind would turn in that direction, My Lord.

BY MR. TRENGOVE :

Mr. Luthuli, oppression must be removed before there can be world peace? --- I have already indicated that.

That means political and economic oppression? 5
--- That is correct.

So that political oppression in itself would not secure world peace, the removal of political oppression? --- Well, My Lords, I think that political oppression and economic oppression as we know it, in fact are 10
so interwoven, certainly insofar as the oppressed people are concerned, that you must think of the two almost, and the key really My Lords is the political aspect.

The African National Congress together with the other Congress movements hold the view that economic 15
oppression can exist even in a society where people are politically free? --- Relatively so, My Lord, I think that you would take countries where there is democracy, it is true that there are levels of economic welfare, but the intensity of economic oppression isn't really as 20
great in countries where the electorate has pressure on governments.

Now Mr. Luthuli, was the Russian Revolution a revolution which ensured up to a point world peace? ---

My Lords, I must profess ignorance. 25

The Chinese revolution, and the establishment of the People's Republic of China, was that a contribution to world peace? --- What little I know My Lords of the Chinese situation is this that the Chinese were trying to ward off oppression from within and without. 30

Who was oppressing from within? --- My Lords, I cannot as I said with limited information, but

I think it is correct that the peasants in China were oppressed by the landlords and other capitalists one may say, but I am not so familiar with the situation as to be able to;...;

Would you regard that as a country where oppression had ceased to exist? --- I don't know about the situation there now. When it comes to situations in Eastern countries I am not prepared to express an opinion because I don't know the conditions there, I cannot say. 5 10

No, but the African National Congress knows the conditions? --- Maybe.

What was the attitude of the African National Congress? Did they regard that as a country where oppression had ceased to exist? --- My Lord, in the sense that the government of the country is in the hands of the people. To that extent, yes. 15

Only in a political sense? --- My Lords, I have already said that you cannot really make a sharp division. Supposing as in the case of China, the government is now in the hands of the people, they have the political power. Then over a period - you cannot remove sufferings of years in a minute, but you have a situation where one would think the government would work out schemes now to relieve economic poverty. 20 25

You see, the African National Congress in its message that I read to you yesterday, B. 115, said that China was now the country where the exploitation of man by man had ceased to exist. Do you accept that? --- My Lords, I think that would be a superlative of a situation. I mean it is true as I have just indicated My Lord that where you have a government really 30

that is bent on removing a situation, the Crown will not play about with words, this is merely a superlative of a situation.

Now Mr. Luthuli, Stalin who pledged himself for world peace and the national liberation of oppressed 5 peoples throughout the world, you said that for peace countries should decide their own destiny, is that correct? For world peace each country must be allowed to decide its own destiny? --- I said My Lords that as I view it and I think it would be the view in the African 10 National Congress, when we say co-exist, we mean each country should be allowed to live the kind of life which it thinks it ought to live without interference by other countries.

Now this constant reference to other coun- 15 tries supporting the liberatory struggles throughout the world, Stalin's supporting of national liberatory struggles, you know that the communists were the inspiration behind the liberatory struggles in the East, in Malaya, in Korea, in China, in Vietnam, you know that, don't you? 20 --- I know, in general.

So that the communists would have no qualms about supporting a liberatory struggle which involves violence? ---- That I wouldn't know, My Lord. I wouldn't know - if the communists do not hold the view which the 25 A.N.C. holds mainly we shall fight on non-violence then they would have no qualms, because sofar as they are concerned, their policy would not exclude violence, so they would have no qualms. I think they would hold the view which we hold. 30

You don't know what the communist view in that respect is? You have never heard of it? --- My Lords,

not specifically. I have not known them to hold the non-violent policy as we hold it, that I must say. I can put it on that level.

As far as you know and as far as the African National Congress knew, the communists were not concerned 5 about whether a liberatory struggle was violent or non-violent? --- I think that would be correct.

And that would also be the view of Stalin, who supports world peace and national liberatory struggles in other countries, as far as you know? --- That would be 10 the case. I would take it that insofar as he would be concerned, not being opposed to struggling by violence and not opposed to struggling by non-violence, he would appreciate the very fact of people seeking liberation. Now people who seek liberation by one method, he would 15 appreciate it. People who seek liberation by the other method of violence, he also as far as he is concerned would see no objection.

And Mr Luthuli, have you ever found communists in South Africa differing with Stalin and communist 20 policy on that aspect? --- My Lords, I really do not know much about the shift of the communist party for me to be able to say and the utterances of the communist party, At the time when it was in existence I don't know that I knew much about it, so I cannot really go as far as that. 25

But some of your closest associates have been communists? --- Yes.

And they were with you in the liberatory struggle? ---- Yes, they are.

And you never asked them what their views 30 were as communists? --- Oh no, I have never. I don't see why I should. I mean we are an assorted group in Congress

and quite honestly as a matter of actual fact I never worry myself very much to say how look, so and so, what are your political views. We have so much work to do in Congress in fact that I think it would be almost wasting time. Quite honestly. Except for those people that I 5 knew were members of the Communist Party, I do not know the political views of members of Congress, even leading members.

Mr. Luthuli, take a man like Kotane, who goes to Bandung to represent the African people, and out 10 and out communist. You are not concerned about ~~sending~~ a man like...? --- We didn't send him, he went on his own, we didn't send him, he was not sent by the A.N.C.

Well, you claimed that he represented African people there? --- Yes. Well, in a sense, when I 15 go to the United States, although I may not be sent by the African people, in a sense I am a representative of the people.

And you regarded Kotane at Bandung as the spokesman of the African people? --- So in a sense I was 20 taken as the spokesman of the African people in the United States.

I am not concerned about...? --- I am giving you an illustration.

And you say Mr. Luthuli that with these 25 communists in your organisation, you never tried to ensure whether or not they had abandoned their views that freedom could be achieved by violent methods? --- It would be impertinent of me to do so. I am not there to spy on the political views of people. 30

Mr. Luthuli, I am putting it to you that it was very convenient for you to have those people in your

organisation, because they were preparing the masses for the revolution? --- My Lords, I think the Crown is running wild. The Communists had been in Congress almost from its inception. In fact at that time My Lord, when nobody even ever suggested that Congress was as is being suggested now, driven by communists, 5

Mr. Luthuli, when Moses Kotane, before 1949 - you know that he was active as a member of the Communist Party in a much greater sense than as a member of the African National Congress? --- I have already said that I do not know the activities of the Communist Party. But I know that Moses Kotane, at least I didn't know him at the time, he was an active member of the African National Congress, and I have a mind he was even in the Executive of the African National Congress. 15

And when he signs "Africans' Claims", he signs it as a communist, not as a member of the African National Congress? --- But he was a member of the African National Congress.

He signs "Africans Claim" as a member of the Communist Party, is that correct? --- I wouldn't recall how he signed, but however he may have signed, he was a member of the African National Congress. 20

Mr. Luthuli, I just want to conclude this matter by putting it to you that throughout this period 1952 to 1956, through its publications and its speeches at public meetings, held for the purposes of educating the masses politically and raising their political consciousness, the African National Congress was spreading unadulterated Communist propaganda? --- That is most incorrect. 25 30

And going out of its way to hold up the

Soviet Union and its satellites as examples of what states should be like in order to ensure world peace? --- Individuals may have had that view, but not the African National Congress. A most incorrect statement.

And you used the liberatory struggles in 5
Kenya, in Korea, in Malaya, in Indo-China and the violence
committed there - the African National Congress used those
liberatory struggles to prepare their people for a violent
struggle in this country? --- Maybe the Crown has evidence,
I can't help it, but that is not the case. If you have 10
got evidence, you will succeed to prove it, I can't go
beyond that.

Do you agree that speeches were made consistently referring to those struggles and praising the way in which the people were seeking to throw off the 15
shackles of imperialism in those countries? --- I have
already expressed my view regarding struggles, and that
you can appreciate a struggle without appreciating the
method.

Mr. Luthuli, I want to ask you a few ques- 20
tions on the Freedom Charter. Mr. Luthuli, the 1956
Annual Conference of the African National Congress was
held at Queenstown, do you remember? --- Yes, I remember.

And I just want to hand you a copy - it is 25
the Constitution of the African National Congress, and
also a draft Report of the National Executive which I
put it to you was taken from your possession on the
5th December, 1956. Do you recognise these documents?
The Exhibit No 1 is A.J.L. 71? --- My Lords, I certainly
recognise the top one, it has my signature and so I 30
assume the others too.

Now Mr. Luthuli, that Report, - that top

document you speak of, that is the copy of the Constitution.

COURT ADJOURNS.

COURT RESUMES.

ALBERT JOHN LUTHULI, under former oath;

CROSS-EXAMINATION BY MR. TRENGOVE CONTINUED :

✓ Mr. Luthuli, I had referred you to this document A.J.L. 71 which contains this draft Constitution of the African National Congress and the draft Report of the National Executive for the year 1956. You have that in front of you? --- I have.

Now it deals with the Freedom Charter, and it refers to the fact that the Freedom Charter was adopted at the Special Conference of the African National Congress in 1956, in April of 1956? --- That is correct.

And then it says that the Charter now constitutes the basic policy of the African National Congress and its Programme of Action? --- That is correct.

I am reading from the final report, so there may be slight differences. It then deals with the difference between the Freedom Charter and the claims set forth in "Africans Claim", does it not? --- Well, My Lords, I haven't ...

If you will just follow, it says, after referring to the struggle of the African National Congress, it says, "But in no case has it .." - that is the African National Congress - "... ever defined in clear and explicit terms the type of future South Africa we fight for. It is true that in 1943 it published the 'Africans Claims' and demanded equality amongst all sections of the population based upon the existing economic and

political setup in the country". Then it goes on, and deals with the document "African Claims". "It did not deal with the question of exactly in what manner equality could be achieved under a system of government which vested 87% of the land to a White minority of two million 5 and which forces ten million non-Europeans to share the remaining 13%." So it criticises "African Claims" because it says that that does not say exactly how the inequality of land ownership can be changed. Then it goes on : "It left unanswered a vital question of how it is possible 10 to achieve equality between Black and White, for example changing the character of the ownership of the gold mining industry". That is correct? --- That is correct.

Then it goes on and it says : "The Charter goes much further than African Claims", and then it sets 15 forth various provisions of the Charter, "the people shall govern, all national groups shall have equal wealth", "shall have equal rights", and "the people shall share in the country's wealth"and so on. And then that paragraph concludes : "For the first time in the history of the 20 African National Congress our aims and objects have been set out in the clearest and most unambiguous terms." So that Mr. Luthuli, that was the view of the National Executive, that there was a vital difference between "African Claims", in the respects set forth in this 25 report and that the Freedom Charter for the first time sets out the claims and objects of the African National Congress in the clearest and most unambiguous terms. That is correct, is it not? That is what the National Executive thought of the Freedom Charter? --- I think 30 that is correct, subject to any explanations one may make.

Then Mr. Luthuli, this report of the National Executive says that the 1949 Programme of Action must be examined and revised in such a way that it corresponds in every essential with the attainments and demands set out in the Charter. That is what the National Executive thinks 5 should be done to the Programme of Action? --- That is correct.

And I don't want to read the whole of that paragraph, although they say they have no intention of discussing the Programme of Action at this Conference, 10 they go on to say after referring to various specific matters, "A rapidly developing and changing situation requires a review of former decisions which were taken under different conditions and which are not in accord with the prevailing situation. A change of tactics 15 dictated by concrete conditions is not opportunism but a sign of political maturity. It is permissible to change our tactics as long as such action does not in any way vary or qualify the main principles of our struggle - 'the fight for equality and a democratic South Africa' 20 based on the will of the people". Now that was also the view of the National Executive? --- That would be correct.

And that - actually that draft report was submitted to you? --- Yes, inasmuch as it was found with me. 25

And do you agree with those views? --- I do. I do in general, they require discussion.

You do that the tactics and the Programme of Action of 1949 requires further discussion? --- I do.

And Mr. Luthuli, this is the final report, 30 could you just identify it? --- My Lords, I would say this that well, in the form of the cover and generally

as the prosecutor has been reading, I would not dispute that it would be an A.N.C. report, but of course I can't say that I recall this particular report. But it is the form of our reports. Personally I would accept it as our report.

5

My Lords, this could go in together with A.J.L. 71, and this could be A.J.L. 71(a). Now Mr. Luthuli, this Africans' Claims, was of course the work of or the result of the labours of a number of individuals on a committee? --- That is correct.

10

I must just correct an impression that I wrongly created this morning. Kotane signs as Secretary of the Communist Party and as member of the African National Congress, so you were correct there, Mr. Luthuli. Now the Freedom Charter differs in that respect from the Africans' Claims in that it is based upon demands collected from the people, demands specifically sent in and a report then founded on those demands, is that correct? --- That would be correct, My Lord.

15

And Mr. Luthuli, you have read the three lectures and you have seen A. 86, the lecture "Change is Needed"? --- I have, My Lord.

20

And you see there what they say, that - what a People's Democracy for South Africa should be. If one compares that with the demands of the Freedom Charter as finally drafted, would you concede that these lectures undoubtedly must have influenced the type of demand which was being sent in? --- If my memory serves me correctly insofar as the - my reading of the lectures is concerned, there is something in those lectures that did go in into the Charter. To what extent that was influenced by those lectures or by the actual feeling

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30

of the people, My Lords, I am not in a position to say.

Now Mr. Luthuli, the Charter as adopted expressing in the opinion of the National Executive Committee and in clear and unambiguous language what the African National Congress wants, I just want you to explain one or two matters which you already dealt with but which I am still unable to follow. The first one was that the people shall govern. According to that the attitude of the African National Congress was that everybody should have the vote, irrespective of sex, irrespective of colour? --- That is correct. 5 10

And there was to be no - apart from perhaps a qualification as to age, there was to be no other qualification? --- That is correct, My Lord.

So that every person would be entitled to participate in parliamentary elections? --- That is correct. 15

Now that was a claim on which the African National Congress was not prepared to compromise in any way? --- That is correct, My Lord. 20

So that if there were any negotiation at any stage, that had to be conceded as fundamental? --- I wouldn't go as far as that, My Lord, because when you come to negotiation, My Lords, there are several factors to consider, and I could not here from the witness box anticipate and say now this might happen. But let me illustrate a possibility, just a possibility, to indicate how difficult it would be in a witness box to say it would be this, a thing that has not been discussed. Supposing the government of the country came along and said look, we now accept in principle your demand for universal adult franchise, we accept it. But, we cannot 25 30

implement that next year. We will have to consider certain factors because the country has been run after all on this basis, we will have to consider. Now My Lords, I take it that negotiators there would have to sit down or rather go and report back to other leaders, and the leaders would consider in the light of what the government says, so that I cannot say My Lords that - what will take place, but it is definitely a clear goal that we are striking for, uncompromisingly. On the other hand, supposing the government had to say now well, we have called you here, we want to improve wages and things like that...

We are just dealing with the vote? --- Yes, but I am just giving an illustration, you touched on negotiation. And then they were to say well, insofar as the vote is concerned now we don't feel we can. I think the negotiators would simply say right away oh no, so far as that is concerned, we think that is a fundamental issue. Thank you for whatever you may do in the economic field, we are not throwing that away, but insofar as this is concerned, - so you see, one really can't anticipate and say what will happen at negotiation.

Mr. Luthuli you never thought of compromising on the vote at any stage, you know that? --- I have already indicated Mr. Prosecutor...

By MR. JUSTICE RUMPFER :

Mr. Luthuli, the first example which you gave, you went on the assumption that the government accepted the claim for universal franchise in principle, that is an acceptance. I think Counsel wanted you to deal with the negotiations in regard to political rights. You see, in the first example there is an acceptance of

the principle by the government, and it is only a question then of negotiating the - giving effect to it. But I think Counsel wants to know your view in regard to any negotiation on this very principle of universal franchise?

--- My Lord, what I am trying to say, I may be poorly saying it, is this that it is really extremely difficult to anticipate for an organisation a situation that has not arisen. Now, when the government of the country starts negotiations, naturally it would say now this is the basis of discussion, and then whoever are called to negotiate, would naturally go back to other leaders and say now this is what the government says...

BY MR. TRENGOVE :

Mr. Luthuli, we know how negotiations take place..? --- But I don't understand then.

Well, if I didn't put it clearly, have it this way. The government is not prepared to accept the principle of universal adult franchise as a basis for negotiation? --- We would go on...

When the negotiations would break down? Unless that principle was accepted. You were not going to compromise on that principle? --- My Lords, I really don't know whether it is really fair now for an individual on an important question like that to speak for an organisation, I don't know.

What did the African National Congress have in mind? That is what I want. This must have been discussed by the whole Congress movement on numbers of occasions, this question of adult franchise? --- Yes. We have discussed that. That is our stand. But we have never at any stage, insofar as I remember, discussed the question of well if this offer is given, it will be this,

if that offer is given it will be that. It - in my view that is premature.

Mr. Luthuli, you didn't discuss any compromise? --- It is premature.

Because your attitude was, no compromise? 5
That will be the Crown's submission? --- That is your submission..

Alright, Mr. Luthuli, I don't want to take that any further? --- You can't take it any further because if negotiation means anything at all, it means you go 10
there with an open mind.

Mr. Luthuli, negotiation was never contemplated, and you know that? --- It has been all along anticipated. My Lord, even at this moment, we would be very, very happy if the government would take up the 15
attitude of saying, come let us discuss. We would be extremely happy, in fact even to discuss, even if at the end of the discussions we didn't agree.

Mr. Luthuli, it is sheer hypocrisy to make a statement like that and you know it. That was never 20
your attitude? --- You may be allowed in Court, I don't know what your rights are, but to call one a hypocrite, really it does hurt. And I will defend myself, My Lords, although if I recall at the time when I was being led by Counsel, reference was made to the fact that I wrote 25
as President-General of the African National Congress a letter in 1957 with - to the Prime Minister, pleading exactly for what I am saying here now, and for me to be called a hypocrite, publicly be called a hypocrite, well Counsel has the right to say so, but it does hurt one. 30

Mr. Luthuli, I am passing on to the matter of the land.

BY MR. JUSTICE BEKKER :

Before you do so - Mr. Luthuli, on this question of universal franchise, did or did not the A.N.C. discuss the question whether there was any real hope of attaining universal franchise in this country? 5

--- My Lords, we felt that and we still feel that under ordinary - an ordinary expectation, when that would come one can't say, but we think that it can come. For an example, My Lord, if I may take your time to illustrate...

No, I just want to know whether that was ever discussed? --- Yes, it was an expectation and it remains an expectation. 10

That in the circumstances prevailing in this country there was a hope of attaining universal franchise? --- Yes, My Lord. With pressure applied we honestly expected and still expect that White South Africa would change. 15

On the basis of one man, one vote? --- Yes, one man, one vote.

BY MR. TRENGOVE : 20

Mr. Luthuli, your expectation of universal adult franchise was based on the hope of applying pressure to such an extent that the White government was overthrown? --- That would be contrary to our policy which we have declared. 25

Mr. Luthuli, the land. All the land re-divided amongst those who work it. Now, this is said to be clear an unambiguous language as to what you want in regard to land. Does that mean that the 13% of the land held by the African people and the 87% held by the Whites, that that now has to be divided equally amongst the individuals who work on the land? --- 30

My Lord, I think I have already said this that the actual details, My Lord, would naturally be worked out by the government of the day, but it is true that in this respect the Freedom Charter differs from Africans Claims. If you read African Claims.. 5

That is not my question, how the government of the day was going to do it, that is also another thing, the mechanics of the thing. But was the intention that the 13% and the 87% would be divided equally amongst individual people who work on the lands, so that every person who works on the lands would in future have a piece of land belonging to himself? --- My Lords, as to the question the details in fact of equality of plots and this and that, I think that is a real detail, but the point is, people who are going to work on the land, must be given sufficient land to work, equally divided amongst the people who are going to use the land. 10 15

Well, Mr. Luthuli, assuming that there are eight million people who are going to use the land, does it mean that the present 13% and the 87% at present held in ownership respectively by non-Whites and by Whites, that that would be divided amongst say the eight million people who are going to work on the land? --- In principle yes, that would be the case. 20

So that the White population would be expected to sacrifice for this purpose a very large portion of the 87% of the land which they now hold? --- That is correct. 25

So that the ratio of land would really be reversed? --- But there is a fundamental stand which you debarred me from going into, yet it is so fundamental in this discussion, very fundamental indeed, namely this, 30

that whereas in the Freedom Charter the outlook, if you read it, was we Africans, and then it asks for an increase of land for Africans, but by the time when the Freedom Charter was drafted, there was a fundamental change in outlook in Congress, very fundamental indeed, namely 5 of accepting the fact that South Africa was multiracial and so we talk of the population as a whole without dividing and saying Blacks this side and Whites this side, and that colour - the entire Freedom Charter, My Lord - in fact that is the one fundamental difference in 10 outlook between the Charter and African Claims.

That we know, Mr. Luthuli? --- Well, when you say for instance now...

The position at the moment is..? --- I don't understand you when you say that now the portion 15 for Europeans would be less, but so far as we are concerned... - from that point of view there would be no..

BY MR. JUSTICE RUMPF :

Counsel didn't suggest that the portion for Europeans would be a block set aside for Europeans, 20 he didn't suggest that? --- I may have misunderstood him.

BY MR. TRENGOVE :

Mr. Luthuli, I am just thinking that the change which would - that the country would have to undergo, the Whites are holding rightly or wrongly, they 25 are holding 87 % of the land according to the African National Congress? --- According to fact.

I don't know what the facts are? --- I mean at any rate as we have said, so far I think it is generally agreed... 30

Mr. Luthuli, I am just asking you on your own documents, not going into the merits, that is quite

a different thing. You say that the - I am dealing with your expectation, what was in your heart and in your mind, the Whites own 87% of the land, How much of that land do you think they would have to forego in order to enable the Freedom Charter in this respect to be put into operation? --- I can't go into that, that is really expecting too much of one to go into a detail like that. 5

Are you afraid to? --- I am not afraid. I can't. I have just told you that if I were to be part of the government of the country at the time, then things will be measured(???). I am not afraid to. 10

Well, Mr. Luthuli, you people say in your documents, the African National Congress, two million own 87%, nine million own 13%. Now in order to remedy that situation, so that the people who work on the land each have a piece of land, do you concede that a very, very large portion of the 87% would have to be taken away from the Whites, or don't you concede that? --- Yes, I concede that. 15

A very large portion? --- A large portion. 20

So that one...? --- But you see, the difficulty, My Lords, is this that in a sense merely discussing this particular clause, unrelating it for instance to the economic situation, for instance the Prosecutor has said that eight million people. Now I think that really we visualise that some people would go into industry, they won't all go to the land.

THE COURT, MR. TRENGOVE AND THE WITNESS DISCUSS

THE QUESTION OF AN ADJOURNMENT, IN ORDER

TO ALLOW THE WITNESS TIME TO STUDY SOME DOCUMENTS.

CASE REMANDED TO TUESDAY, 24TH MAY, 1960.

COURT ADJOURNS.

COURT RESUMES ON THE 24TH MAY, 1960.

ALBERT JOHN LUTHULI, under former oath;

CROSS-EXAMINATION BY MR. TRENGOVE CONTINUED :

Mr. Luthuli, we were dealing with this paragraph in the Freedom Charter that the land shall be shared amongst those that work it and you said that that meant that the land should be distributed amongst all the people that are employed on land, make a living out of land, is that correct? --- That is correct, My Lord.

And that that should be done on a basis of equality between the people, irrespective of race or colour? --- That is so, My Lords. I don't know what the Prosecutor means by equality.

That it should be shared equitably amongst all the people that work on the land? --- Quite so, My Lord.

And Mr. Luthuli, you said in your evidence in chief that you were in favour of a free economy as far as land was concerned, amongst other things? --- That would be correct.

Now at the moment the complaint of the African National Congress is that the distribution of land is, as we said on Friday, approximately 13% in respect of the nine million non-Whites, and 87% in respect of the two or three million Whites. Now Mr. Luthuli, the people actually employed on the land, would you concede that the ratio is about one to ten, one White to ten non-Whites? --- I wouldn't know the ratio, My Lord.

Has the African National Congress never investigated that matter? --- Not to my knowledge.

Well, the statistics are available? --- I have no information, and I can only say that.

You have got no idea at all what the ratio is? --- I personally have got no idea.

And the African National Congress? --- 5

It is possible My Lord that there may be material in our offices, but I have no information personally.

You haven't even got an idea by approximation what the ratio is? --- No, I wouldn't, My Lord.

Well, Mr. Luthuli, have you got any idea 10
of what extent or percentage of the land at the moment held by Whites would have to be released in order to comply with this demand by the Freedom Charter? --- My Lords, I think I said last time when I was questioned by the Prosecutor that it would be difficult and not even 15
realistic to expect that one would give details - the Freedom Charter did not go out to set out details, but general principles, and I think that question would imply that one would have to say now we are in fact carrying out our plans and we are doing this and that and that. 20

Mr. Luthuli, the 1955 Report of the A.N.C. states that for the first time the demands of the people have been stated in unequivocal and unambiguous language, and one of these demands is that the land shall be shared amongst those who work it. Now in order to 25
comply with that demand, do you concede that the Whites should release a very large percentage of the land at the moment held by them? Do you concede that? --- I concede that.

You have no idea what the percentage is? 30
That they would have to release in order to put this demand into operation? --- No, My Lord, and as I have

said, I don't know that really one could be expected to or even the Congress could be expected to. And I might take the opportunity of remarking about...

You can remark at any other later stage if you want to pass remarks. Would you just reply to this question? --- It is in connection with your remarks when you referred... 5

Have you any idea what amount of land would have to be released? --- No. You did make a remark about for an example the report of 1955 saying we have made clear demands. I just wanted to explain... 10

Do you deny that your report says that? --- No, I don't deny that. It depends upon what construction you put into that.

Mr. Luthuli, land and the demands in respect of land was one of the things on which the African National Congress was not prepared to compromise. It was fundamental, was it not, in your liberatory struggle? --- I don't like the first phrase, "not prepared to compromise". If by that the Prosecutor means that we would not sit down and discuss it with the government, but of course our demand was made quite clear, it is true. 15

Your demand was made quite clear and any negotiation would have to be on the basis of that demand being acceded to? --- I have clearly stated in this Court my view, My Lord, regarding negotiation. You cannot, you cannot say when we negotiate theoretically it would be this and that and that. I am not prepared at all to go to that extent. I have made that point very clear. 25

Mr. Luthuli, is it correct that in many of the documents and in many of the speeches made at public meetings the African National Congress emphasised 30

the fact that just as in Kenya the land question was one of the main sources of the conflict, so in South Africa the land question was also one of the main sources of the Freedom struggle in South Africa? --- My Lords, I wouldn't be able to say that I draw... 5

I don't know what you do. Do you - I put it to you that at public meetings and in documents that comparison is made that in Kenya the land question was one of the main causes of the conflict in Kenya, so in South Africa the land question was one of the fundamental 10 issues between the oppressor and the oppressed? --- My Lord, the Prosecutor stopped me when I was going to say that it is so, but I wouldn't say that I recall this document and that document, but it is so.

Mr. Luthuli, I want to pass to another 15 division of the Freedom Charter and that is dealing with "The people shall share in the country's wealth". The paragraph says : "The National wealth of our country, the heritage of all South Africans shall be restored to the people". Now in your evidence in chief you said 20 that national wealth there meant national income, is that correct? --- Well, it would include - of course I don't remember precisely but it would include.

You can have a copy of the Freedom Charter, just have a look at it? --- My Lords, I was saying this 25 that I do not recall precisely what I said in my evidence in chief, but naturally income would be included there.

The national income you say would be included in the national wealth? --- That is so, My Lord.

And what else would be included in 30 national wealth which has to be restored to the people? --- Well, My Lords, you would have as the Charter itself

indicates, My Lord, mineral wealth.

"The mineral wealth beneath the soil, the banks and monopoly industry shall be transferred to the ownership of the people as a whole". Is that what you mean is to be included under national wealth? --- Yes. 5

Now Mr. Luthuli, has the African National Congress ever considered what that would involve in the present economic structure of South Africa? What the implications of that would be, and what the possibility would be of persuading the capitalists and the oppressors 10 to agree to that demand being put into operation? Did it ever consider that possibility? --- My Lords, I don't know exactly what the Prosecutor means by "have we considered the possibility". We realise that it would be a change in some ways in South Africa, but not a new 15 change in the world. There may be certain difficulties to be overcome.

BY MR. JUSTICE KENNEDY .

Perhaps the question could be put in another way. If the - Did the African National Congress 20 consider how it would put into effect this demand? --- No, My Lords, I think it is the principle of the thing rather than the details of how you would apply it, that was put in the forefront.

BY MR. TRENGOVE : 25

But Mr. Luthuli, you say you were not going to force your principles on the oppressor, you were going to negotiate with the oppressor to agree to your principles. Now did you consider what the implications were and whether the oppressor could ever be per- 30 suaded to agree to the implementation of such demands? Did you consider that? --- I think that the picture that

the Prosecutor is creating is not altogether a correct one, because going along with it I have emphasised it we have assumed that by then a large part of the electorate would be bringing pressure to bear on the state. Naturally if the government of the day at negotiations would not give in - as I have said, we would just simply carry on our struggle. I think that the principles laid out here in the Freedom Charter are the principles which we envisage we would carry out, normally when freedom has been attained and we are able to carry out the programme which we visualise.

Mr. Luthuli, can one put it in this way that you never considered as a matter of practical economics what would be involved in order to give effect to this demand, restoring the mineral wealth to the ownership of the people as a whole and transferring monopoly industry to the people as a whole. You never considered what that would really involve as a matter of practical economics? --- It would mean quite a change, it would mean quite a radical change insofar as South Africa is concerned, I say so. But it would be expecting too much of the African National Congress at this stage to have worked out detailed plans to say this and that and that.

I am not sure that it would be expecting too much. You were telling the people that these demands were going to be put into operation within your lifetime? Some of your people said within a matter of five years. Did you ever consider the practical implications of this? --- My Lords...

Did you or did you not? --- I have told you that we did not.

Did you ever consider...? --- And I have

told you the reasons too why we did not.

Did you ever consider how long it would take to persuade the oppressor to agree to these demands being put into effect? --- My Lords, I don't think I have anything more to add, really on the question than what I have already said. 5

Mr. Luthuli, you know there could be no free economy if these demands were put into operation? You know that, don't you, as a man of common sense? --- My Lord, I don't know whether it would be within my province - the Prosecutor has stopped me at times, required me to say no and yes, but I think the Prosecutor - if he were to read the whole of that, you would find that each clause does not exclude at all free economy. It only specifies certain specific undertakings, so that I don't accept the proposition that the clause rules out free economy. 15

Take the question of land, Mr. Luthuli. The White people would have to release about eighty per cent of the land held by them at the moment, and if there were a free economy they would be able to repurchase that land the very next day, because they have the money. Were you going to allow that? --- If I were, the government of the day, I don't think I would. 20

Yes, you would limit the rights of the Whitepeople or the oppressors to acquire land in order to maintain this distribution of land amongst the people who work it? --- Incidentally, at the time visualised here they would no longer be oppressors, because we would have attained freedom, so that we would be working out our programme, not as oppressors but as people who have gained freedom. 25 30

Mr. Luthuli, you and the whole Congress movement stressed the fact that there are two forms of oppression, political oppression and economic oppression? --- Yes, that is correct and I did say that those were interwoven, it is sometimes so difficult to separate. 5

And assuming that you expropriated 80% of the land held by the Whites, the White people would still be economically the stronger group, is that not so? If they were paid compensation for their land, not so? --- They would be, My Lord. 10

And you would have to prevent them from using their financial resources to repurchase the land taken from them? --- In the interests of the country as we visualise it, it would be necessary to do that. I think all governments have the right really to a certain extent to curb... 15

I am not talking about the right or wrong. I am putting it to you that there would be no free economy in land if you want to maintain this principle that it should be shared amongst those who work it? --- I would like to suggest that there would be free economy. It is not a suggestion at all when the land is distributed there would not be enough land for people to use the land, those who would have to use the land, so that people would be free insofar as the land distributed is concerned, there would be no restriction. When you come now to the question of people rebuying that land, what would have been the purpose at all? They might invest their money in some other direction. 25

But they would not be allowed to repurchase the land, is that correct, Mr. Luthuli? --- Yes. 30

And people who do not work the land, would

they be entitled to purchase land? --- My Lords, I think I indicated last time when I was questioned on that that we visualise a balanced economy, so that there would be some people engaged in industry, and people who are engaged in industry, would concentrate their 55 efforts in those directions. They might just have small plots like gardens, but they wouldn't live on the land, so that a good number of the people would be engaged in industry, My Lord.

Mr. Luthuli, that is not the question. 10
People who make their money in other ways, not on the land, they would not be entitled to buy large tracts of land for themselves, would they? Because they don't work on the land? --- My Lords, again it is a detail where I would express my personal view. If I were the 15 government, I think I would make restrictions.

Mr. Luthuli, I want to put it to you that you and the whole Congress movement, you accepted the position that the Freedom Charter was a revolutionary document, and that it couldn't be put into effect without 20 breaking up the whole political and economic setup of the present South Africa, that is correct, is it not? --- I think that is generally correct.

And that one would have, once the demands are put into effect, one would have a state which 25 differs radically and fundamentally from the present state? --- My Lords, I think in some respects. I think that if you read the whole of the Freedom Charter, My Lords, you will find that the demands made in the Freedom Charter as such demands really My Lord that 30 you get in any bill of rights. For an example, I think that if you were to make comparisons with the

Freedom Charter, you will find that...

I am not asking you to compare it with anything else. I am asking you to compare it with the present political and economic structure of the Union? --- I am saying that in some respects there are radical 5 changes, in others they wouldn't be so radical.

Mr. Luthuli, I also want to put it to you that you never expected that the White oppressor would ever accept your demands and concede your demands? --- My Lords, I wouldn't be in Congress if I didn't expect 10 that White South Africa would some day reconsider. That is my honest belief, and one has grounds for it, I think I have already indicated them, but I firmly believe that White South Africa will one day reconsider. When, My Lords, I cannot say. 15

But you were not prepared to wait for that one day. You were telling the people now, not next year or any other year, now. Your - leading members of your organisations said within a matter of five years. You weren't going to wait for the White electorate to change 20 their minds and you know that, Mr. Luthuli? --- I think that the Prosecutor in my view, My Lords, is really putting a wrong construction into a phrase or motto intended to gear people's determination.

Well, could I refer you to a meeting on 25 the 18th September, 1955, three months after the Charter was accepted, and it was a Freedom Charter Committee meeting, organised by the Congress movements. Do you know that such a meeting was held in Johannesburg? --- I would not recall, but it is quite possible. 30

You haven't heard of it? --- I may have heard of it, I have forgotten.

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