

MR. JUSTICE RUMPF :

Well, is this based on the statement by Mrs. Joseph or also on this document Counter Attack?

MR. TERBLANCHE :

It is based on both, My Lord, that they did not aim to form a political party to go to the electorate.

MR. JUSTICE RUMPF :

No, this statement that pressure was to be extra-parliamentary as well as parliamentary.

MR. TERBLANCHE :

That is based on Mrs. Joseph's evidence. Her evidence is at page 14521, lines 5 to 18 : "Well it is for that reason that I am merely asking the question. Did the point of view regarding non-violence - was that not a point of view which depended on the circumstances? --- Not in my understanding of it, My Lord. I would make one point, My Lords, and that is that <sup>in</sup> the Congress of Democrats generally speaking, we were only concerned with the situation in South Africa. We did not I think ever have a foreign policy as such. In fact we made it clear from the beginning that we were not aiming to be a parliamentary party for which it would be necessary to put forward specific policies, the economic policy or foreign policy. We have a limited purpose, which was to assist in what we saw the liberation of South Africa and the granting of the universal franchise." That refers to not being a political party.

MR. JUSTICE RUMPF :

Where does she say that pressure was to be parliamentary pressure? Page 13924 presumably?

MR. TERBLANCHE :

Page 13924 : "What would you consider the effect on the struggle of voteless people if extra-parliamentary means are held to be illegitimate and unconstitutional? --- My Lords, I would say that if extra-parliamentary means are held to be illegitimate and unconstitutional, then the voteless people to my way of thinking will be condemned to remain forever voteless, and I say this for the reasons I have given already, and that is that I do not see any hope of the White electorate voluntarily conceding the rights of the non-White people. I only see that possibility arising through pressure, extra-parliamentary pressure being exerted on the White electorate. I don't/<sup>say</sup>that that excludes pressure on the White electorate by White voters I merely say that for a handful of sympathetic White voters to try to exert pressure on the White electorate is not enough. The end which I and so many others want and that is universal franchise, to my mind could only come through extra-parliamentary pressure being added to parliamentary pressure, and I believe that without extra-parliamentary pressure it won't come".

MR. JUSTICE RUMPF :

If that is the evidence which she gives, why do you make this submission in paragraph 9, "it is submitted that this statement about exerting parliamentary pressure is not correct", that SACOD never had any intention in that direction. She doesn't say that. She discusses - gives an analysis of the situation as that organisation saw it. It says look, it is not good enough

to have a few Europeans interested in the matter, perhaps through parliamentary pressure, that is not good enough. We like that of course, but that is hopeless, you must have extra-parliamentary pressure.

MR. TERBLANCHE :

My Lords, if I may explain. I said, My Lords, or I tried to indicate that the first portion is my submission, My Lord, that is what I submit on all the evidence. Her evidence only refers to when the South African Congress of Democrats was formed, it was stated in no uncertain terms and it was also admitted by the witness Helen Joseph that they were not forming a political party.

MR. JUSTICE RUMPF :

I am dealing with your submission No. 9. It is submitted that this statement about exerting parliamentary pressure is not correct. This statement by Mrs. Joseph that there would have to be or there might be parliamentary pressure, but that isn't enough. That was the evidence that you read.

MR. TERBLANCHE :

My Lord, my submission is that I say the inference to be drawn from all the facts, from what they did, what they said, and the fact that they were not going to be a parliamentary party ...

MR. JUSTICE RUMPF :

But Mrs. Joseph didn't say in that evidence which you read that the SACOD was formed in order to exert parliamentary pressure.

MR. TERBLANCHE :

No, My Lord. I didn't intend to indicate that.

MR. JUSTICE RUMPF :

Well, then I don't follow the position. The last sentence in paragraph 8 read : "This pressure was to be extra-parliamentary as well as parliamentary". Now that in your submission, is a statement by Mrs. Joseph. This pressure was to be extra-parliamentary as well as parliamentary. Then you go over to 9 and you say : "It is submitted that this statement about exerting parliamentary pressure is not correct, the SACOD never had any intention in that direction", and then you go on to say what SACOD had.

MR. TERBLANCHE :

That is my submission, My Lord.

MR. JUSTICE RUMPF :

Well then why do you say that the statement of Mrs. Joseph is not correct? She didn't say that SACOD was formed to exert parliamentary pressure. If that is the passage on which you rely, and if my memory serves me correctly, I think she said well obviously we don't exclude it, we help a party perhaps who view matters in a certain light, perhaps we also view matters in that light, we help that party along, we are prepared to support it, we don't enter politics ourselves as such, the political arena for parliament. But we don't exclude parliamentary pressure. She says in that very evidence which she gives that that is so minute that it is hopeless, it is ineffective. Why do you say that that statement is not correct?

MR. TERBLANCHE :

My Lord, because they were not a parliamentary

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party, and as I'll show further - My Lord, they never intended to be a parliamentary party...

MR. JUSTICE KENNEDY :

What does that matter? They were going to get the support of any person they could in parliament who might support their cause.

MR. TERBLANCHE :

For extra-parliamentary action. My Lord, when I deal later with ...

MR. JUSTICE RUMPF :

How does it help your case, if she says we wanted extra-parliamentary pressure, if there is a Member of Parliament or a person who stands for a particular party that may assist our cause in some way, well, we will support him. How does it take your case any further?

MR. TERBLANCHE :

My Lords, in this way, that in my submission they were only on the extra-parliamentary and unconstitutional path, and not on a constitutional path...

MR. JUSTICE RUMPF :

Assume that they are on the extra-parliamentary course and also if need be, if there is a person standing for a political party who may support their point of view, they will support him, indirectly, not as a party, but assume that to be the position, how does it effect your case?

MR. TERBLANCHE :

My Lord, in my submission it shows - it makes the possibility that this extra-parliamentary action may result ultimately in violence so much stronger, if they

are only on the extra-parliamentary course.

MR. JUSTICE RUMPF :

I don't follow that at all.

MR. TERBLANCHE :

My Lord, I cannot take it any further, that is the submission I make, and I leave it at that. Then I say in 10 My Lords that SACOD consistently attacked all parliamentary parties. The United Party, it said, differs from the Nationalist Party only in method. The Labour Party was incapable of breaking a long tradition of complete concentration on parliamentary elections and parliamentary struggle. The Liberal Party it said would campaign only by parliamentary and constitutional means. This My Lords is taken from C.41, Note on the Political Situation by the National Action - National Executive Committee found in the offices of SACOD. I am not reading those, My Lords. It is also taken from C.268, read in as F.A. 22, The Threatened People, My Lord, with which I have dealt. And the evidence of Helen Joseph where she admitted that they attacked or criticised the Liberal Party because of its constitutional attitude.

I further say that when SACOD did take part in parliamentary elections, it was only in order to use the opportunity to get its policy on extra-parliamentary struggle in alliance with the non-Whites before the people. That is taken, My Lord, in the first place from a press statement, C.250, found - the document reads as follows : "The South African Congress of Democrats was acting in the election as an independent organisation, presenting its own interpretation on the

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issues involved, while advocating to the voters that they vote for Dr. Friedman as a test against the many failures of the United Party, the Congress is challenging both the United Party and Dr. Friedman for the allegiance and support of the voters for its own principles and programme. We are calling upon the electorate for their support and allegiance for an extra-parliamentary struggle in alliance with the non-White peoples of the Congress movement for the aims of the Freedom Charter, to halt the Nationalist Party's march towards a fascist republic". My Lords, that is contained in the document C.250, which is a press statement. It is a typed document, a duplicate typed document found in the offices of SACOD dealing with the parliamentary bye-election in the Hillbrow area, and in my submission My Lords, it is admissible against the South African Congress of Democrats. The same is expressed in C.1017, My Lords, Counter Attack, November, 1956, in the editorial where it says the splitting of the official opposition shows clearly that the struggle must in essence be extra-parliamentary. We must not, however ignore the opportunity offered us by the parliamentary platform for exposing our present rulers and publicising our aims and policies.

MR. JUSTICE KENNEDY :

That just confirms what Mrs. Joseph said is correct.

MR. TERBLANCHE :

It confirms, My Lord, that they were only taking part in these elections with a certain object in view, and that is in my submission to get recruits for

the extra-parliamentary struggle which they were carrying on.

The South African Congress of Democrats further propagated the view that the parliamentary opposition had been eliminated as an opposition in the true sense of the word, "and had withered away." There was in fact no difference as far as SACOD was concerned between the government and the opposition. That is L.L.M. 81, African National Congress - that fraternal message with which I dealt, and at page 3365, line 27 dealing with the Nationalist Government's baasskap policy, it states that this policy had eliminated the traditional European parliamentary opposition as an opposition in the true sense of the word. This is mainly due to the fact that there is no real difference on this issue between the government and the opposition. And then in C.41, My Lords, Notes on the Political Situation by the National Executive Committee, it states that the parliamentary opposition has withered away. It then deals with the United Party and their attitude.

SACOD further held and propagated the view that there was little prospect of any change being brought about in or through parliament, as the government could not be defeated in the debating chambers of parliament, the Europeans would not bring liberty to the non-Europeans, and that it was a demonstrably false idea that parliament can be an instrument of political change for a better South Africa, and that it was a forlorn hope that a sudden change of heart or alignment in parliament will destroy the nationalists. This My Lord,



in my submission shows that - again I make the submission My Lords that this shows that whatever parliamentary pressure they may have intended, may have - **they** accepted at least that that would have no effect.

MR. JUSTICE RUMPF :

C.284 goes out, does it?

MR. TERBLANCHE :

C. 284 goes out, My Lord, but those submissions are also covered by the other documents mentioned here. I again refer to the evidence of Helen Joseph, My Lords, and to certain meetings. I specially refer to the meeting of the 15th April, 1956, a meeting of the South African Coloured People's Organisation at Cape Town, where the speaker was L. Forman, a member of SACOD, and he brought a message from SACOD. This is, in my submission, clearly admissible against SACOD.

My Lords, then I say it has been suggested to the Court in the evidence of Helen Joseph that the pressure, it was hoped, would bring a change of heart, that it was expected that the government would be forced by the electorate to negotiate. My Lords, I submit that the South African Congress of Democrats and its allies never intended such an eventuality to occur, but that they wanted to create by extra-parliamentary action of the masses throughout the country, such conditions that the state would be compelled to take action in the interests of the safety and security of the state. That is my submission, My Lord, on all the evidence which I have dealt with so far. Then I say further, My Lord, that it is submitted that the South African

Congress of Democrats foresaw that such action would result in a violent clash between the state and the masses. Now by this, I submit, they hoped would force the government to capitulate and grant all their demands. That too, My Lords, is my submission, and that is an inference from all the facts. The two submissions which I base on evidence and on documents is the first, that it has been suggested to the Court in the evidence of Helen Joseph that the pressure was hoped to bring a change of heart, that it was expected that the government would be forced by the electorate to negotiate. And then the second, it is submitted that they foresaw that such action would result in a violent clash between the state and the masses. Those two I based firstly on the evidence of Helen Joseph, and second on the document C.179, Where the Devil Drives, where it says the dictatorial powers of decree in the Native Urban Areas Amendment Act and Native Trust Amendment...

MR. JUSTICE RUMFF :

Wasn't Mrs. Joseph cross-examined about this?

MR. TERBLANCHE :

My Lord yes, and her evidence amounted to this, at page 14587, she first dealt with it at page 14001 to page 14002, but that only amounts to an admission that this booklet was issued by SACOD.

MR. JUSTICE RUMFF :

I am not concerned with the booklet for the moment. I am concerned about this statement of yours, your submission, it is submitted that they foresaw that such action would result in a violent clash between the

state and the masses. Was Mrs. Joseph not cross-examined on that or she - did she not give evidence in chief on that?

MR. TERBLANCHE :

My Lord, I was going to refer Your Lordship to her evidence, because this is taken from the booklet C.179. At page 14001 to page 14002, she admitted the issue of the booklet. Then at page 14587, line 8 to page 14589, line 13 it reads : "Mrs. Joseph, do you know the document Where the Devil Drives? --- I know it, but I have not seen it for some time, but I know the document".

Then there is a description of the document and where it was read in, and she says "I remember it generally".

Then she is asked, "Who prepared this document? --- My Lord it would have been prepared by the . . . . . Committee. I don't know whether it was prepared by one or more people."

"I want to put to you a passage on the last page of this publication. 'This is apartheid as it is affecting every section of the people with injustice, . . . . . poverty. We are moving towards a dark age, filled with the threat of fearfull racial strife and bloody clashes from which few South Africans of any colour can hope to emerge unscathed', and it goes on, 'All battles, it is true, are not immediately before it, but even lost battles in a good inspiring force encourage others to turn and fight'.." and then I skip a bit and it continues : "You see in this passage Mrs. Joseph I put it to you that your organisation again emphasises the bloody clashes that will follow in South Africa? --- My Lords,

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in this passage what is emphasised is the danger of racial strife and bloody clashes, unless we try to avoid it. It says it is time to take up the fight against it before the sands run out. The whole message in this is that every South African who fears the dark future must seek now to find a new fight (?) for his survival before it is too late." "It speaks of the battles that must be fought? --- That is so, My Lord, the battles against the possibility of clash. My Lords, there is a clear message in these four short paragraphs, the whole theme is to avoid these clashes before it is too late."

"Again I suggest to you that these passages - read the passage again Mrs. Joseph, it says that we are moving towards a dark age, not a statement that we might be faced with bloody clashes. The writer says we are moving towards bloody clashes? --- We are moving towards a dark age filled with the threat of racial strife, the threat, and the message in these paragraphs is absolutely clear." That is her evidence on this, My Lord. In my submission it does not show in this passage that SACOD indicated anything else but that such strife and bloody clashes would have come about in South Africa, unless of course My Lord the government, the fascist government, should alter its attitude and grant the people in the liberation movement what they demanded.

Then My Lords I say that any claim that there must be a guarantee that any campaign embarked upon can be carried out peaceably was rejected. My Lords, for this I refer to the Constitutional Fallacy by Ruth First, the article in G. 1150, and specially the evidence

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of Helen Joseph on that article, page 14149, where she is questioned by the Accused Adams on this article, My Lords. The question is : "Mrs. Joseph, would you look at the article, The Constitutional Fallacy - I think it would be better if you look at the Crown's Opening Address first. The first paragraph quoted by the Crown in its Opening Address..." then it goes on : "Would you tell Their Lordships whether this is in any way in conflict with the policies of the South African Congress of Democrats and the policy of the South African Federation - the Federation of South African Women? --- My Lords, I don't find that these passages are in conflict with our policy for the following reason. In the first paragraph the writer mentions a number of historical events such as the Cromwell uprising, the War of Independence in North America, the Paris Commune, the 1926 Strike in Britain, and the resistance movement of the people in Europe during the last war, and she points out that there was no guarantee that these events would have achieved their aims peaceably, but that nevertheless they are events of major historical importance, and she puts it to Mr. Price that 'You cannot ask such a guarantee in any campaign of a major nature, that it eventually will only be peaceable, because there may be all sorts of other factors.' That My Lord is not in conflict with our violent (?) policy. We have pointed out frequently in our speeches to people that even though ours is a non-violent policy, the people must realise that they may be called upon to suffer. We can give no guarantee, and all that the

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writer is doing is pointing out that history shows that such guarantee cannot in fact be given. Mr. Price had in his article, My Lord, suggested that such guarantee should be given. I don't find Miss First in her point here (?) at all in conflict with our policy."

I further say My Lord that the foregoing is further strengthened by the fact that the South African Congress of Democrats not only had its heart outside of parliament but also had its heart in the mass movement of the people. It is submitted My Lord that there never was any intention or attempt on the part of the South African Congress of Democrats to influence the electorate to vote for its policy, but only to win them for its type of struggle. That I have already dealt with, the last portion, My lord, and Your Lorship's comments on it, but the first portion My Lord, that they had their hearts outside parliament and in the mass movement of the people, that is from C.41, with which I have already dealt. It says in paragraph 4, "The anti-fascist movement now has its heart outside of parliament in the mass movement of peoples of all colours. It is a mass movement of the people headed by the Congresses which today determines the future of South Africa."

Then I say, My Lords, SACOD realised that for its type of struggle to be successful, the masses, non-White and White, had to be drawn into this struggle.

It therefore consistently propagated the need and inevitability of this struggle to achieve their aims, and that fascism could only be defeated by such a struggle involving the masses of the people. SACOD

propagated the view that it had to educate the people by means of experience and practical activity and by appropriate propaganda material to prepare them for appropriate action. My Lord, I submit that on this the SACOD did actually educate the people in this manner by all the propaganda which they issued. I rely on that, My Lord, on C.281, the Draft of the Immediate Programme of Action to which I have already referred, where it says that fascism can only be defeated by the defeat of the Nationalist government, and the Nationalist government can only be defeated by extra-parliamentary action involving the masses of the people. There are also other paragraphs mentioned. And C.268, The Threatened People, also shows that, My Lord. Then there is a document mentioned C.292, which is a Springbok Legion circular, My Lord, dated the 15th of June, 1953. My Lord, this document was not issued by SACOD, but it is a document issued by the Springbok Legion, who was one of the sponsors in the formation of SACOD, and as such My Lord, it is my submission that that is admissible against them, and also on the evidence of Helen Joseph, at page 13973....

MR. JUSTICE RUMPF :

What is particular in this Springbok Legion circular that is not in the other documents referred to that you particularly want to deal with?

MR. TERBLANCHE :

My Lord, there is the preparation, they say that they have got to prepare the people for decisive action. My Lord, there is says that the strategic need

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in the struggle against fascism is to mobilise the people in active opposition to fascists and their programmes and to prepare the people for decisive action against the fascists. It supports, My Lord, in a general way the other submissions made there.

MR. JUSTICE RUMPF :

What have you got to say about this C.292?

MR. TERBLANCHE :

My Lord, I want to refer Your Lordships to...

MR. JUSTICE RUMPF :

When was SACOD established again?

MR. TERBLANCHE :

In October, 1953.

MR. JUSTICE RUMPF :

And this was dated the 15th of June? It wasn't published by SACOD?

MR. TERBLANCHE :

No, My Lord, this was a circular issued by the Springbok Legion, in which they informed their members of the intended ...

MR. JUSTICE RUMPF :

But how does SACOD become responsible for this?

MR. TERBLANCHE :

It shows My Lord the reason why SACOD was formed.

MR. JUSTICE RUMPF :

Are you dealing with SACOD and its responsibility for publication of that, what it published and what was found in its possession and so on?



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MR. TERBLANCHE :

My Lords, I am dealing with documents which - for which I say - on which - from which their policy can be inferred. They didn't publish this document, but Helen Joseph said that this document is in accordance with the policy of the SACOD.

MR. JUSTICE RUMPF :

Yes, then it is on that which you rely?

MR. TERBLANCHE :

That is what I rely on, My Lord. I was about to refer Your Lordships to her evidence, page 13973. That evidence was given in chief. "We now pass on to the South African Congress of Democrats." Then a page is mentioned, and it continues : "There appears a circular issued by the Springbok Legion on the 15th of June, 1953." That is a quotation from the Opening Address, My Lord. "It is Exhibit C.292. The quotation from the exhibit is 'The strategic need in the struggle against fascism is to mobilise the people in active opposition to the fascists and their programme'. Do you know anything about the Springbok Legion? --- My Lords I must state at the outset that I was not myself a member of the Springbok Legion, but as a member of the Executive Committee of the Congress of Democrats in the period prior to the formation of the South African Congress of Democrats, we were very closely in touch with the Executive Committee of the Springbok Legion. I know it to be an organisation during the war of servicemen and woman and after the war of ex-servicemen and women. I know that the Springbok Legion itself came to an end

shortly after the formation of the Congress of Democrats,  
because it had realised...."

MR. JUSTICE RUMPF :

Why do you read all this?

MR. TERBLANCHE :

It leads up, My Lords to...

MR. JUSTICE RUMPF :

I thought you are going to read us the evidence  
of Mrs. Joseph where she says that what is contained in  
either the whole of the circular or that portion of the  
circular on which you rely is in accordance with the  
policy of the SACOD.

MR. TERBLANCHE :

My Lord, I am, but I didn't want to read only  
that portion, but I will now. On page 13974 she is asked:  
"Have you read the circular C.292? --- I have read the  
circular".

"Would you say that it expresses the policy of the  
Congress organisation? --- I would say that it is very  
closely in line with the policy of the Congress organisa-  
tion in that it stresses the need for extra-parliamentary  
action".

I refer to the next quotation, My Lord - My Lord, this  
next quotation is more definite, ...

MR. JUSTICE RUMPF :

Does it help you, Mr. Terblanche?

MR. TERBLANCHE :

But if it has to be read with the previous  
one, My Lords, then I don't think it makes the matter  
much further...

MR. JUSTICE RUMPF :

Let us take this reference to the Springbok Legion circular out.

MR. TERBLANCHE :

As Your Lordship pleases. Then My Lords, I also rely on C.980, which is a SACOD Resolution adopted at the Annual National Conference in 1956. On the face of it, those are the resolutions adopted at that Conference, and they were also found in the offices of SACOD. I also rely on C.1016, a Counter Attack issued - the official bulletin, October, 1956, also found in their offices.

Then I say, My Lord, it is submitted that by this propaganda the people were to be turned away from the constitutional path onto the unconstitutional, extra-parliamentary path which the SACOD knew would result in violence. That is my submission which I make on all those facts which I put before the Court.

My Lords, that concludes my submissions in regard to the unconstitutional action. I now turn to deal with the Freedom Volunteers, My Lord, and hand in a Schedule, 8(b), My Lords. This is also in connection with the SACOD. My Lords, the allegations in this regard are found in paragraph 3(b)(i) of Part C of the Policy Schedule at page 229, and the admissions by the Defence in paragraph 11, at page 642 of the record, and paragraph 14 at page 1399 of the record. My Lords, it has been admitted on behalf of the Defence that the South African Congress of Democrats supported the appeal of A.J. Luthuli, President-General of the A.N.C. for 50,000 Freedom

Volunteers. 2. Not only did the South African Congress of Democrats support this appeal, but it held enrollment meetings and recruited Freedom Volunteers.

That, My Lords, is from C.3, a Counter Attack, December 1954, and it was found in the possession of the South African Congress of Democrats. It states in the third paragraph, My Lords, under Volunteers, that "The C.O.D., Johannesburg region, has held its first enrollment meeting, and the response from the C.O.D. members has not yet been good enough." It then goes on dealing with the organisation of the Freedom Volunteers in regard to the Volunteer-in-Chief et cetera. And then, the meeting of the 25th July, 1954, My Lords, the speech of J. Slovo, in which there was also a call at this meeting for Freedom Volunteers.

These Freedom Volunteers were required in connection with the organisation of the Congress of the People, and for service in the Western Areas, where the campaign against the Western Areas Removal Scheme was then being organised. Now My Lord, this was dealt with under the African National Congress. It is from the document A.162, page 798 line 23 to line 29. My Lords, this was also stated at the meeting of the 27th June, 1954, which was an Anti-Apartheid Conference in Johannesburg, the speech of Vundhla at page 7416. This meeting, My Lords, I point out paragraph 4, was organised by SACOD together with the other Congresses. Then in the evidence of Helen Joseph she also admitted, My Lord, that these volunteers were required in the Western Areas and also the evidence of R. Resha on that point.

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The South African Congress of Democrats was represented on the Resist Apartheid Committee, which was set up in June, 1954 to campaign against apartheid legislation. This Committee's activities were mainly directed against the Western Areas Removal Scheme. That My Lords, is contained in C.32, the Chairman's Report to the First Annual Conference of the South African Congress of Democrats, 24th of June, 1955. I have already dealt with the admissibility of this document, My Lord. This, My Lords, Committee on which SACOD was represented, in my submission, My Lord, must have been aware of the duties of the Volunteers in the Western Areas, for which Volunteers there was a special call.

MR. JUSTICE RUMPF :

What duties?

MR. TERBLANCHE :

All the duties that may have been shown when the A.N.C. was argued. I am not going to refer to all those duties, again, My Lord. Certain submissions were made to Your Lordships in regard to the African National Congress. Now it is my submission, My Lords, that this Resist Apartheid Committee which was formed and which had the special duty - its activities were mainly directed against the Western Areas Removal Scheme, that through this Committee and their representation on that Committee, SACOD must have been fully aware of whatever was intended the duties of the Volunteers should be in the Western Areas in regard to the Removal Scheme.

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MR. JUSTICE RUMPF :

And then all - you mean all the members of the Congress of Democrats are supposed to know what the duties in fact were?

MR. TERBLANCHE :

My Lord, I can't say that all the members...

MR. JUSTICE RUMPF :

Who then?

MR. TERBLANCHE :

At least, My Lord, the National Executive Committee, through the representation it had on this Resist Apartheid Committee.

The South African Congress of Democrats was one of the organisers of the Conference held on the 27th June, 1954, in the Trades Hall, Johannesburg, when a special call was made for Volunteers. My Lords, this is from C.125, which on the face of it says that the Conference of - that the Conference Committee of the A.N.C. Transvaal, T.I.C., S.A.C.O.D. Johannesburg, S.A.C.P.O. Johannesburg, Transvaal Council of Non-European Trade Unions, dated the 31st May, 1954. It is at page 1634, line 31 to page 1635 line 6. I will deal with that Conference and the speeches made there, My Lords. It is a rounded document, and it says that "We are convening a mass conference to be held at the Trades Hall, 30 Kerk Street, Johannesburg, on Sunday the 27th of June at 10 a.m. to discuss plans for opposing the inhuman and unjust Western Areas Removal Scheme, The Native Labour (Settlement of Disputes) Act otherwise known as the Slave Labour Act, the Industrial

Conciliation Amendment Bill, the enactment of which will be the deathknell of all trade unions, and the Bantu Education Act.

Now My Lords, at this meeting of the 27th June, 1954, there was a special call made for volunteers by F. Mathole and G. Sibande. My submission No. 5, again refers to the knowledge which the SACOD had, must have had as sponsors of this organisation, of speeches made there.

MR. JUSTICE RUMPF :

Why? Have you got evidence in support of this submission of members of SACOD being there? While the speeches were made by Mathole and Sibande?

MR. TERBLANCHE :

I can't say that they were there while...

MR. JUSTICE RUMPF :

You may have, I don't know, but as you put it, you put it on the basis that SACOD knew what these men said in their speeches. There may be something in your argument if the whole of the National Executive was there.

MR. TERBLANCHE :

My Lord, there was a member of the South African Congress of Democrats there, Dr. R.E. Press. That is the only one we have evidence of who was present.

MR. JUSTICE RUMPF :

In your submission you are presumably quoting some words used by the speaker, and you say that SACOD knew the words that he quoted. You say that SACOD knew that the volunteers were expected to do a noble and holy job of delivering the people of Africa into the Kingdom

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of Heaven on earth. That SACOD knew?

MR. TERBLANCHE :

Well, members of SACOD knew.

MR. JUSTICE RUMPF :

A member knew that a speaker had mentioned a topic in those words.

MR. TERBLANCHE :

My Lords yes, this was a special Conference organised by SACOD.

MR. JUSTICE RUMPF :

Your submission is that they knew that the Freedom Volunteers were expected to deliver the people of Africa into the Kingdom of Heaven on earth. That is your submission. Do you say that they were in fact expected to deliver the people of Africa into the Kingdom of Heaven on earth?

MR. TERBLANCHE :

That is how it was described at this meeting.

MR. JUSTICE RUMPF :

That is how you submit it. You don't say that that is how it was described, that is your submission.

MR. TERBLANCHE :

I accept, My Lord, that as it was described there, that that is what the Congresses accepted to be the position.

MR. JUSTICE RUMPF :

No, I am looking at your submission No. 5, which contains no quotation marks, no qualification, this is your submission.



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MR. TERBLANCHE :

Yes, My Lord, the ipsissima verba as reported..

MR. JUSTICE RUMPF :

It doesn't say so. You submit to the Court that SACOD knew that the Freedom Volunteers were expected to deliver the people of Africa into the Kingdom of Heaven on earth. We would like to hear you on that.

MR. TERBLANCHE :

My reason for saying that, My Lord, is that this was stated at this Conference by people who were specially called upon to make a call for Volunteers at that meeting.

MR. JUSTICE RUMPF :

Do you say then that SACOD knew that a speaker had said that the African people were to be delivered by the Freedom Volunteers into the King of Heaven.

MR. TERBLANCHE :

My Lord, I will alter it to say that they knew that speaker who was specially called upon to make a call for Freedom Volunteers, had described the Freedom Volunteers...

MR. JUSTICE RUMPF :

SACOD knew that? How did they know that?

MR. TERBLANCHE :

It is by inference, My Lord.

MR. JUSTICE RUMPF :

What evidence have you got to show that they knew that Mathole or Sibande had used the words Kingdom of Heaven on earth? Is your submission that Press, who was there, conveyed at a special meeting or at an

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ordinary meeting of SACOD that Mathole had used the words Kingdom of Heaven on earth? That is what your submission is.

MR. TERBLANCHE :

My Lord, my submission is that the way things are generally done, that information would have been taken to SACOD in regard to this Conference of which they were co-sponsors.

MR. JUSTICE KENNEDY :

Why don't you make a submission on what this means, first of all, and then say - make your submission as to what SACOD knew about it.

MR. JUSTICE RUMPF :

You say that the Freedom Volunteers were expected to do a noble and holy job, that SACOD knew that you say, Then we ask you why you say that, and you say Press was there, and one of the speakers used these words. That may have been so. But how does that give rise to SACOD knowing the words used? Unless there is evidence that the words were so exciting that Mr. Press reported the verbatim speech, and said now look, this is what we know now, we are going to the Kingdom of Heaven.

MR. TERBLANCHE :

My Lord, the way I look at it is this. Here is an organisation which specially convened this Conference with other organisations. Now is it absurd to infer from that that they would know what happened at that Conference?

MR. JUSTICE RUMPF :

You mean that they knew what the words were that Mr. Mathole or Sibande used?

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MR. TERBLANCHE :

My Lord, perhaps not the actual words...

MR. JUSTICE RUMPF :

You say so. You say the whole of SACOD knew that Mr. Mathole or Mr. Sibande had said that the Freedom Volunteers were going to deliver us into the Kingdom of Heaven.

MR. TERBLANCHE :

My Lord, that may be my fault of trying to quote the actual words as far as possible, not to use our own words.

MR. JUSTICE RUMPF :

You are perfectly entitled to quote.

MR. TERBLANCHE :

My Lord, may I make the submission that they at least knew the nature of the work to be done by the - what the Freedom Volunteers were required for.

MR. JUSTICE KENNEDY :

What does it mean? Looking at the words themselves, what does it mean? What were the duties, having regard to the actual words used?

MR. TERBLANCHE :

It means, My Lord, in my submission, that they had this job of freeing the African people from the oppression under which they were suffering.

MR. JUSTICE RUMPF :

Could that be the duties in the Western Areas?

MR. TERBLANCHE :

Generally and in the Western Areas, My Lord.

MR. JUSTICE KENNEDY :

That is your paraphrase of Noble and holy job of delivering the people of Africa into the Kingdom of Heaven on earth?

MR. TERBLANCHE :

Yes, My Lord. That the actual struggle was still ahead. That would be my paraphrasing of the second part. The actual struggle for that freedom was still coming. And they would not be told at that time what they had to do, but that they had to wait for a call.

MR. JUSTICE RUMPF :

Now you are coming to something. You say now that SACOD knew that the Freedom Volunteers would have to wait for a call, when the bell strikes, then something would be done. They didn't know what would be done, I presume.

MR. TERBLANCHE :

And they further knew, My Lord, that the Freedom Volunteers would have to work both openly and underground.

MR. JUSTICE RUMPF :

You say that because of the fact that the - that this was a joint conference, and according to the evidence Press was there?

MR. TERBLANCHE :

Press is one that we know was there, according to the evidence.

MR. JUSTICE RUMPF :

What evidence is there that it went to SACOD?

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MR. TERBLANCHE :

No, My Lord. there is no direct evidence.

MR. JUSTICE BEKKER :

Do you want to saddle SACOD with knowledge because Press was present, perhaps in a particular capacity?

MR. TERBLANCHE :

He was a member of SACOD.

MR. JUSTICE BEKKER :

Do you say that Press' knowledge is constructive knowledge on the part of SACOD?

MR. TERBLANCHE :

No, My Lord, but my submission is that the probabilities are in this instance, that Press was at least the representative of SACOD at that Conference which they organised, together with the other congresses.

MR. JUSTICE RUMPF :

That it was almost a certainty that he was there as a member of SACOD. We know that. That is alright.

MR. TERBLANCHE :

If he went there as a representative of SACOD - My Lord, in my submission...

MR. JUSTICE RUMPF :

The speakers on whom you rely were not members of SACOD?

MR. TERBLANCHE :

No, My Lords, they were not.

MR. JUSTICE RUMPF :

Now you say that Press heard what they said, - I take it he was there at the time when they made the

speeches, I don't know, but let us assume that. And then you say that he must have heard those words about the bell striking and the call, and he must have reported that back?

MR. TERBLANCHE :

My Lord, to me it seems inconceivable that an organisation such as SACOD would organise such an important conference together with all the other congresses, and not at least have a representative there in order to know what happens at that conference.

MR. JUSTICE RUMPF :

Well, assume they had not only Dr. Press but another one, you double your number. You go further then, do you say that Mr. Press must have gone back and reported to SACOD in full committee of the words used by Mathole or Sibande?

MR. TERBLANCHE :

Not the words, My Lord, but the gist of what they said.

MR. JUSTICE BEKKER :

If you have got to prove that, why wasn't Press called?

MR. TERBLANCHE :

He is an alleged co-conspirator, he can't be called, My Lord. The Crown certainly won't call him.

MR. JUSTICE RUMPF :

Anyway, that is your argument really, that is on what you base this submission.

MR. TERBLANCHE :

Yes, My Lord. The South African Congress of

Democrats was aware that the Freedom Volunteers had to be established as a shock brigade unit and that this was a matter of urgency. My Lords, that I take from an article in Liberation, which on the face of it was written by J. Slovo, and it will be shown that SACOD supported Liberation, and it will also be shown that one J. Slovo was a member of SAJOD, and that submission is taken from the article written by him.

MR. JUSTICE KENNEDY :

Can you impute this knowledge to the SACOD?

MR. TERBLANCHE :

My Lord, if they supported Liberation, as will be shown, then My Lords, I submit that I can impute this knowledge to that organisation.

The South African Congress of Democrats was also represented on the National Action Council as will be shown. It is admitted My Lord. It is submitted that through this representation, the SACOD was aware of the training that the Freedom Volunteers received, and this has been dealt with under the National Action Council.

The South African Congress of Democrats was also represented on the Transvaal Volunteer Board. That is the evidence of Resha, My Lord, at page 16527, line 24 to page 16528 line 13.

The South African Congress of Democrats was represented at a meeting at Fraser's Station on 15.8.1954, two members of SACOD were present, J. Slovo and Beyleveld. That is the evidence of Dr. Conco and the evidence of Detective Sergeant Swanepoel. At this meeting, the document G.478 was found, it was read into the record

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as B.35, the Report from the National Volunteer Board. That report has also been dealt with My Lord. It was also found in the possession of S. Shall under the number S.S.26, and of Ruth First, under the number R.F.35, both members of the South African Congress of Democrats.

The South African Congress of Democrats considered the role of the Freedom Volunteers of the utmost importance in the struggle. It propagated the view that the speed of the actual changes which it intended to bring about would be determined, amongst other things, by the extent of organisation of volunteer groups. That is from document C.41, it is a SACOD Notes on the Political Situation by the National Executive Committee, also found in the possession of the South African Congress of Democrats, and it states that it was a stepping stone to the changes that the Freedom Charter - it is a stepping stone to the changes that our programme calls for, the time and the speed of the actual changes will be determined by the extent of organisation of people, people's committees, of volunteer groups, which we ourselves bring into being.

My Lords, it is my submission that the South African Congress of Democrats not only supported the call for volunteers, they actually recruited volunteers and that they were aware of the nature of these volunteers.

CASE REMANDED TO THE 16TH JANUARY, 1961.

COURT ADJOURNS.



COURT RESUMES ON THE 16TH JANUARY, 1961.

APPEARANCES AS BEFORE.

Accused No. 10, Molife is not present.  
Accused Selepe is not present.

MR. TERBLANCHE :

My Lords, this morning I propose starting with the Campaigns. I ask leave to hand in Schedules which I have prepared. My Lord, references to the campaigns are contained in paragraph 3(c)(i) of Part C of the Policy Schedule, at page 231, and the admissions by the Defence are contained in paragraphs 5 and 6, at page 642 of the record, and paragraphs 10, 11 and 12 at page 1399. My Lords, it has been admitted that the South African Congress of Democrats, together with the other organisations, was opposed to the enactment and/or provisions of the Group Areas Act, the Bantu Education Act, the Natives Resettlement Act and the Pass Laws.

(b) That during the years 1954, 1955 and 1956, the African National Congress, conducted campaigns against the latter three Acts. In connection with (i), that is the Group Areas Act, - th Bantu Education Act, it advocated the boycott of schools by the people; and (ii) the Natives Resettlement Act, that the inhabitants of the so-called Western Areas should not voluntarily leave their homes; (iii) The Pass Laws, that the African women should not voluntarily apply for reference books.

(c) These campaigns constituted part of the policy of extra-parliamentary activities. These campaigns were conducted by many parts of South Africa, and the South African Congress of Democrats supported these campaigns.

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Now My Lords, the South African Congress of Democrats advocated the view that these campaigns were closely interrelated and also related to the whole liberation struggle which it, with the other Congresses, was carrying on. The South African Congress of Democrats went further and propagated the view that it must react rapidly to every single issue that arises, such as new legislation, cases of suppression and persecution, administrative injustice, bannings, budgets, refusal of passports, because the struggle could not be divided into compartments, but was inextricably linked with the day to day struggles.

For paragraph 2 I rely on C.1091, the National Executive Committee statement on Bantu Education at page 2816, line 20 to 24. This is also a document found in the possession of the South African Congress of Democrats in their offices, and on the face of it it was issued by SACOD and in my submission therefore admissible against them. Then I also rely on C.281, the Draft of the Immediate Programme of Action, with which I have already dealt, at page 1735 line 8 to 22, page 1736, line 18 to page 1737 line 3. And also on C.1014, My Lords, Counter Attack, June, 1956, the official bulletin of SACOD. Then also on C.32, My Lords, which is the Chairman's Report to the first annual conference of SACOD on the 24th of June, 1955, with which I have also dealt. And also the document L.L.M. 81, that is the fraternal message attached to the A.N.C. document, with which I also dealt and I have given my reasons for its admissibility. Then My Lords also on the evidence of

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the Accused Helen Joseph at page p4059, line 27 to page 14060 line 13, and page 14060 line 14 to 14065 line 21.

My Lords, then the South African Congress of Democrats considered it essential for the struggle for liberation to use the daily campaigns and to bring home to South Africans the understanding that only in a state such as SACOD was struggling for, could one live in peace, security and freedom.

My Lords, that I have already shown they described as one based on full equal rights for all. That is from the Draft of the Immediate Programme of Action which I have mentioned before, My Lords.

My Lords, then the South African Congress of Democrats described these laws against which it was campaigning as inhuman, unjust, apartheid, oppression, slavery, open terroristic racialism, vicious, tyrannical and fascist. It called upon people to put an end to this slavery. My Lords, the documents mentioned there describe these acts against - in these words, and also at the meetings mentioned, that is the 24th of June, 1956, the Congress of the People anniversary at Kliptown, in the speech of Helen Joseph she also describes these Acts as such. The first document, My Lord, C.32, I have dealt with that, that is the Chairman's Report to the First Annual Conference of 1955, and C.125, which is a circular by the African National Congress, Transvaal Indian Congress, the South African Congress of Democrats and the South African Coloured People's Organisation, and also the Transvaal Council of the non-European Trade Unions, dated the 31st of May, 1954. The Transvaal Council of

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Non-European Trade Unions My Lords, is not an organisation mentioned in the charge. That is at page 1635, line 7 to 21, and it is in that circular where they say that they call on people, we must put an end to slavery, after describing those different acts. Then C.162, My Lords, a Counter Attack, undated, and it is the editorial at page 1649 line 12 to 26.

Then My Lords, the South African Congress of Democrats allied itself with the African National Congress against Bantu Education and resolved to give full support to whatever action the African National Congress decided on in connection with the boycott of Bantu Education, and to stand by the African National Congress in whatever action was planned to defeat the Bantu Education. That is from C.163, My Lords, Counter Attack dated the 18th of April, 1955, at page 1745 line 8 to 17. Perhaps I may mention at this stage, Your Lordships will note that where I deal with a document for the first time I also give the information that the document is the same as certain other documents which I mention there, My Lords. That is to show the distribution of the documents et cetera. Then I also refer My Lords to C.164, again a Counter Attack, undated, at page 1746 line 30 to page 1748 line 26. My Lords, the extract there I may point out is not as long as it appears because page 1747 is left out, there is no page 1747. Then C.16 My Lords, Minutes of the National Executive Committee dated the 4th of April, 1955, also found in the possession of SACOD, page 1525, line 18 to line 21. And also C.18, My Lords, which are also Minutes of the National Executive Committee dated the 18th of

April, 1955, at page 1525, line 26 to line 32. And then also the evidence of the witness Helen Joseph, My Lord, at page 1486 line 16 to line 30, and page 14725 line 19 to line 28. The last one is her comment on C.16. In that evidence she agrees with what is stated in C16.

Then My Lords the South African Congress of Democrats considered the Bantu Education Act as a vicious poison for indoctrinating African children to accept a position of permanent inferiority. It considered that the Act was so harmful that it was no better than no education at all, and that if the government should succeed, then it would destroy the very hope of achieving freedom. The South African Congress of Democrats also agreed that it was the sharpest point of conflict between the forces of freedom and democracy and the forces of fascism. My Lords, according to the evidence there were certain people who thought that the education should be accepted, although the campaign should take some other form, but the education should be accepted, because half a loaf was better than nothing at all, and this is the reaction of the SACOD to this suggestion that this act was so harmful that it was no better than no education at all.

Then it propagated the view that the struggle against Bantu Education was/a struggle for the very life of the liberation movement. That is stated in a document, My Lord. There I rely on C.33, the resolutions adopted at the National Conference of SACOD in 1955, at page 1538 line 23 to page 1539 line 1. The evidence of the witness Helen Joseph at page 14092 line 3 to line 30.

My Lords C.42 I ask the Court to delete, those are only resolutions to be submitted to the Annual Conference. Then I also rely on C.164, a Counter Attack, undated, and with which I have already dealt, page 1746 line 12 to page 1748 line 5. And also on C.1012, again the bulletin of SACOD, Counter Attack, dated the 11th March, 1956, page 2152 line 15 to line 25. And C.1091, National Executive Committee's statement on Bantu Education with which I have already dealt, My Lords.

Then the South African Congress of Democrats itself had stated that it had joined on all levels with the other Congresses in several campaigns to mobilise the people against tyrannical and oppressive measures, and thus one finds it supporting the A.N.C. in the Pass Campaign. My Lords, before turning to that, may I just make this submission that the foregoing proves that SACOD co-operated fully with the African National Congress in the campaign on Bantu Education.

MR. JUSTICE BEKKER :

Is there any fixed date as from when you can mark the co-operation?

MR. TERBLANCHE :

My Lord, in the evidence of Helen Joseph I think she stated that it was in February of that year. I'll check it and give it to Your Lordship later. My Lords, for paragraph 7 which I have already read, I rely on C.32 which is again the Chairman's Report to the First Annual Conference, and on C.1092, Report of the National Executive Committee to the Annual National Conference which was to be held on the 31st of March to

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the 1st April, 1956. My Lords, the document on the face of it is a document prepared by SACOD, and found in their offices.

The South African Congress of Democrats described the Pass system as intimidating the African workers and keeping his wages down. It approved of the statement that it exerted pressure, and was similar to a system of forced labour. In its propaganda it linked the campaign against passes with the Freedom Charter, and it warned the government that it was loading too much on the oppressed people. My Lord, I rely on C.996, Speakers Notes, on the face of it prepared by SACOD. It deals with other matters, for instance the Freedom Charter and it was found in their possession in their offices. My Lords, I rely on....

MR. JUSTICE BERKER :

I just want to understand something here. It occurs in other paragraphs too. In paragraph 8, there is an attack on the pass system. Now leaving aside for the moment the - should one leave aside the merits of the attack? Do you say it is incorrect that they should attack the pass system? What is the point you are making?

MR. TERBLANCHE :

The point is, My Lord, the way in which they attacked it and the linking of the pass campaign with the Freedom Charter. That is the point which we make in regard to the attack on the pass system.

MR. JUSTICE BERKER :

Is it part of your submission that the attack is unwarranted?

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MR. TERBLANCHE :

The method of the attack, My Lord.

MR. JUSTICE BEKKER :

Strong language? I can understand the attack being made, and then your submission linking it up with the liberation movement for instance, that I understand. But insofar as the merits of the attack are concerned, what do you say about that?

MR. TERBLANCHE :

My Lord, I am not saying that the pass system cannot be attacked. It can be attacked, My Lord, there is no doubt about it.

MR. JUSTICE BEKKER :

Nothing turns on that?

MR. TERBLANCHE :

I am not holding that against SACOD. But, it is the linking, and that warning to the government which follows on the attack. They warn the government. That is from a speech made by .R.L. Press at a meeting of the African National Congress at Ermelo on the 4th March, 1956. I dealt with that meeting, My Lord, when I dealt with New State.

MR. JUSTICE KENNEDY :

What point do you make of a warning issued against something which S.A.J.O.D.D. thought was wrong?

MR. TERBLANCHE :

My Lords, they warned the government that they are loading too much on the oppressed people, which in my submission is - this warning is not addressed specifically to the government, it is only addressed



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