

19467.

COURT RESUMES ON THE 5TH DECEMBER, 1960.

MR. TRENGOVE :

My Lords, at the adjournment we were busy arguing the question of the meetings, and the test to be applied in deciding to what extent the evidence in respect of specific meetings had to be accepted. My Lords, I intimated that we would not proceed with that, because the position of the meetings would have to be dealt with when the individual cases of the accused are being argued. My Lord, on that basis we have concluded our general argument on the African National Congress, subject to this My Lords, that the position of the African National Congress Youth League - certain evidence will emerge when the positions of Resha and Nokwe - their individual positions are argued, and the African National Congress Women's League, there certain argument will emerge during the argument on the position of Lilian Ngoyi, and subject My Lords further to this, that certain A.N.C. - Accused who are A.N.C. members gave evidence, Dr. Conco and Resha and others, when their individual evidence is considered, My Lords, and their position, we will ask the Court also to take that in consideration in assessing the role that the African National Congress played. My Lords, it was also intended at this stage to argue the general position as far as the South African Indian Congress is concerned, and we advised the Defence so. Unfortunately Mr. van der Walt who was going to argue that is indisposed and we ask the leave of the Court to proceed with the argument on the

19468.

South African Congress of Democrats. That will be argued by my learned friend Mr. Terblanche.

MR. TERBLANCHE :

My Lords, I will deal with the South African Congress of Democrats and also with the National Action Council for the Congress of the People, and with the National Consultative Committee.

My Lords in dealing with the South African Congress of Democrats, I have prepared certain schedules if I may call them that, in which is set out firstly in regard to every different head which I will deal with, in which is set out the portion or reference to the portion of the Indictment and the Policy Schedule and the other Further Particulars supplied at the request of the Defence. And then follows, My Lord, references to the admissions by the Defence, and then is set out the submissions which the Crown intends making on the evidence, and then follows all the documents set out, the pages and the lines, on which the Crown relies on. The same procedure has been followed with the meetings to which the Crown refers and which the Crown relies on. These I hand in to the Court, My Lord, and also to the Defence. I hope that this will assist the Court in this respect that not so many notes need be made as to the references to the documents.

My Lords, the first schedule I hand in - there are three schedules, and the first one deals with the Indictment, the second one with the formation of SACOD, that is the South African Congress of Democrats, and a short one dealing with how the Crown submits the South African Congress of Democrats disseminated its propaganda.

19469.

Your Lordships will see that under the Indictment, there is stated that the South African Congress of Democrats is first mentioned in the Indictment in paragraph 2 of Part B at page 3, read with Schedule B at page 11. So is stated every paragraph where this is referred to My Lord, and I do not propose reading all those references again to Your Lordships, because all the allegations in regard to the South African Congress of Democrats are, for all intents and purposes the same as those for the African National Congress to which Your Lordships have already been referred, except My Lords that as far as the South African Congress of Democrats is concerned, there is no reference to the Defiance Campaign, because at that stage the South African Congress of Democrats was not in existence. Your Lordships will also find that in this schedule, for example in the second paragraph there, paragraph 7 of the Summary of Facts, at page 57, and then in brackets "7", - My Lords, that "7" refers to the original page of the Summary of Facts. I put that in because I think that the Defence hasn't the numbering that Your Lordships have, and it has been put in to facilitate their reference to those pages.

My Lords, there is one thing in regard to the Indictment which I do wish to refer Your Lordships to, and that is at page 57 of the Summary of Facts, it is stated, My Lords, in paragraph 7 : "The formation and existence of the following associations of persons or corporate bodies including all their local and provincial branches and organisations in the Union, hereinafter referred to as organisations, as from the date set opposite

19470.

their respective names, namely..." and then the third one is "The South African Congress of Democrats", and the date given is 8th of September, 1953. That date, My Lords, should be 10th and 11th of October, 1953. That is the date of the inaugural meeting of the South African Congress of Democrats, and has - as has now emerged from the evidence.

My Lords, the second schedule there deals with the formation of the South African Congress of Democrats. It was formed at the Conference I have just mentioned, My Lords, and this Conference was sponsored by the Springbok Legion, the Congress of Democrats and the Democratic League. It was also decided, My Lords and there were in fact delegates from the African National Congress, the South African Indian Congress and the South African Coloured People's Organisations, as well as fraternal delegates from some of these. My Lord, this emerges from the document mentioned there. In this instance I haven't given the line references or the pages, My Lord, except for the last one, C.294. It also emerges from the evidence of Helen Joseph....

MR. JUSTICE RUMPF :

What do you mean you haven't given the pages?
The first one is C.7, 21.571.

MR. TERBLANCHE :

My Lord, that is the page where there is first reference to this document, but it doesn't follow My Lord that the portion which specially deals with the holding of this inaugural conference and the delegates appears on that page.

19471.

MR. JUSTICE KENNEDY :

What distinction do you draw between a delegate and a fraternal delegate?

MR. TERBLANCHE :

My Lord, I can't draw any distinction, the documents do. I take it My Lords the fraternal delegates could not take part in the actual proceedings. My Lord, then I wish to refer shortly to the purpose of the formation of the South African Congress of Democrats. I may state My Lords shortly that C.7 was a document, a circular letter dated the 24th September, 1953, from the Congress of Democrats, giving notice that the Democratic League, Springbok Legion and Congress of Democrats were convening a Conference on that date to form a union wide organisation, and this was signed - purported to be signed by a person Jack Hodgson, to whom reference will still be made further. Then C.8, My Lords, that is a document giving the proposed arrangement and composition of the Conference. These were all issued either by one of those three - either the Democratic League, the Springbok Legion, the Congress of Democrats or by this preparatory committee to which the witness Helen Joseph referred, My Lord, and this C.8 stated that the Springbok Legion, the C.O.L.D. and the Democratic League were making arrangements for a Conference, and that delegates from the A.N.C., S.A.I.C. and S.A.C.F.O. would be invited, as also the fraternal delegates.

Then C.292, My Lords, is a Springbok Legion circular dated the 15th of June, 1953, and this appears to be a for the forming of another organisation,

19472.

and is a forerunner to C.7. C.297 My Lords, is the report of the South African Congress of Democrats on 10.11.1953. This seems to be a report in regard to the inaugural conference. C.294 My Lords is again a Springbok Legion national conference report of 1953, and it deals with the formation of the South African Congress of Democrats and at page 1778, line 31, to 1779 line 4, it recalls "with pride the vital part played by the Springbok Legion in bringing the South African Congress of Democrats into being, and in assisting to cement the unity of the three Congresses as a forerunner to unity of all democratic South Africa."

Helen Joseph, My Lord, the witness at page 14491 stated that the SACOD was formed in October, 1953, at a Conference that was then held. Now the purpose of the formation of the South African Congress of Democrats, My Lords, also appears in a document issued by these three organisations, which form - which were instrumental in forming the South African Congress of Democrats. In that respect I refer Your Lordships to the documents listed in this Schedule after 'H', and the purpose of the formation of SACOD as appears from all those documents, were to fight oppression; to fight Nationalist dictatorship; to divert (?) the trend (?) co-operation of the A.N.C., S.A.I.C. and the S.A.C.O.D.; to mobilise the people in active opposition to the fascists and their programme, and to prepare the people for decisive action to defeat the fascists; to wage a militant extra-parliamentary struggle for democracy; to win support of workers, trade unions; to have a national or union wide organisation; to strive for world peace and the ending

19473.

of national oppression and discrimination. My Lord, that appears, as I have said from these documents listed, and also from that meeting. It is what was said by these organisations before the formation and also said by some of them, those who still existed afterwards, after the formation as well as by certain members of the South African Congress of Democrats.

Now My Lord, shortly I wish to deal...

MR. JUSTICE BEKKER :

The heading here 'Purpose of formation of the S.A.C.O.D.', is that what appears in the documents or is it your submission?

MR. TERBLANCHE :

My Lords, those are my submissions, but that appears from these documents that are listed there. Most of what is said there is taken directly from those documents. In most cases it is the ipsissima verba of the documents, My Lords. My Lords, I will deal with this more fully later, but it is submitted that the SACOD realised that the spreading of propaganda was a most important aspect of its work, and that appears from C.33 as listed there, and for this reason it supported the publication of Liberation, Fighting Talk, Advance and New Age, and their support of these publications will be dealt with more fully later, and it also encouraged members to read these publications and to distribute them. SACOD also issued an official bulletin, Counter Attack, that appears from C.32 as well as from the evidence of Helen Joseph, and SACOD also issued lectures, pamphlets, notes for speakers and other political matter as appears

19474.

from the documents listed there My Lords at the pages listed, as well as from the evidence of Helen Joseph. My Lord, most of these will be dealt with more fully later.

My Lords, next I deal with the headings as appear in the Policy Schedule, and the first I deal with is under the heading "New State".

MR. JUSTICE RUMPF :

Are these three that you handed in Schedules 1, 2 and 3?

MR. TERBLANCHE :

Yes, they can be marked that way, My Lord. Your Lordship will not mark New State at this moment as Schedule 4. It is a short - there is a short matter with which I wish to deal before I get to that, My Lord, and that is the membership of the South African Congress of Democrats. In that respect, My Lord, I have prepared two schedules. The one lists the members or the most prominent members of the South African Congress of Democrats. It not only lists the members as members of the South African Congress of Democrats, but it also shows their - whether they were members of any other organisations, and it also shows, My Lord the witness who testified and the page at which his testimony appears, and to go with that My Lord I have prepared a further schedule setting out the names and next to the names whether they were members of SACOD, whether that member held any position in the South African Congress of Democrats, such as president, secretary or a member of the National Executive Committee. That has been indicated only by N.E.C. My Lord, and then it

19475.

contains information as to the National Action Council of the People, the publication of Advance, the National Consultative Committee, the publication New Age, South African Congress of Trade Unions, the World Peace Council, South African Peace Council, Transvaal Peace Council, the Federation of South African Women, the South African Society for Peace and Friendship with the Soviet Union, Fighting Talk, the Communist Party of South Africa and the publication Liberation. My Lords, they have been indicated by letters, W.P.C. for World Peace Council, and S.A.S.P.F.U. for South African Society for Peace and Friendship with the Soviet Union and so forth. These will be Schedules 4 and 5 My Lords. Schedule 5 has been prepared from the information in Schedule 4, My Lord. The one on New State will be Schedule 6, My Lord.

My Lord, Your Lordship will see that the Schedule on New State first refers to paragraph 1(a) of Part C of the Policy Schedule, giving the page, then the admissions by the Defence, My Lord, these are all the same as in the case of the African National Congress.

MR. JUSTICE RUMPF :

Are you not dealing with 4 and 5?

MR. TERBLANCHE :

Not more fully, My Lord, all the information is on it, The evidence where the information can be found and so forth.

My Lord, then follows Paragraph 3, the submissions of the Crown, but I am not going to deal with that as 3, I'll first turn to the documents themselves, which can be found at page 6, My Lord, and deal with that and

19476.

then returned to the submissions after I have dealt with the documents.

My Lords, the first document I wish to deal with is C.54.

MR. JUSTICE BEKKER :

Are these documents in support of the submissions up to paragraph 8 on the top of page 6?

MR. TERBLANCHE :

Yes, My Lord.

MR. JUSTICE RUMPF :

Why do you deal with the documents first? Why don't you read your submissions and say that those submissions are the submissions of the Crown and then you deal with the documents?

MR. TERBLANCHE :

I can do it that way, My Lord. I thought it would perhaps be better if I first dealt with the documents and then give the submissions, but I'll deal with it in that way, My Lord.

The submissions of the Crown on these documents on which the Crown relies for the policy of the South African Congress of Democrats in regard to its allegation of a New State, are the following : That it describes the present state as a fascist, police state; a fascist republic; and the policies of the state as fascism, nationalist fascism, full fledged nationalist fascism, fascist programme and fascist cancer (?). The South African Congress of Democrats further describes it as an unjust and dangerous system, which would bring disaster to South Africa; as a system of oppression, cheap labour

19477.

and semi-colonialist. It was also described as imperialist and capitalist. It propagated the view that the fascist laws under which the people suffer are made by the vile fascists in parliament. This system, it said, was the exact opposite of democracy. The South African Congress of Democrats with the other organisations wanted to rid themselves from this state and achieve in its place another state.

My Lord, I may state that most of these submissions are taken from the documents as the ipsissima verba of the documents.

2. The State which SACOD set out to achieve is described as a democracy, and a democratic people's government, a true democracy, a people's democratic government, and it describes the attributes of this state in various ways. (i) As having a constitution guaranteeing to all the rights embodied in the Freedom Charter. (ii) As a state in which the power of government would be entrusted to all people in South Africa. What this meant becomes clearer from the of formal independence achieved in India, where the form of imperialist domination has changed, but the domination still exists and the only hope there was the emerging of the leftist tendencies. My Lords, may I pause there for a moment to say that this part is taken from the document C.281(a), That document has been dealt with by the witness Helen Joseph, it is Liberation Struggles in Asia. My Lords, now when dealing with that document I'll make the submission that the document as a whole is really a criticism of the independence obtained in India, not

19478.

directly but indirectly.

This in my submission, My Lords, makes it quite clear that they wanted to achieve a totally different state. As the Accused Helen Joseph admitted, they wanted sweeping, radical and drastic changes effected. It is submitted that the State that the South African Congress of Democrats really wanted was a socialist state, such as the People's Democracies of Eastern Europe, or a Communist state such as the Soviet Union or China. This in my submission becomes more clear when it is considered that the South African Congress of Democrats propagated the view that the world is divided into two camps, namely the imperialists and capitalists on the one side, and those fighting for freedom on the other. It clearly indicated who were fighting for freedom or were free, namely the youth of the Soviet Union, and stating that the people in the U.S.S.R. and China are their brothers. It further praised the U.S.S.R. and the conditions there, and propagated the view that the youth in America is oppressed. It further propagated the view that the days of colonialism are waning fast, and that for imperialism and capitalism the crisis had begun, and that this is also happening in South Africa, where the capitalists will go the same way as Hitler. This, together with the speech made by Turok, member of the South African Congress of Democrats at the Congress of the People, clearly shows that the South African Congress of Democrats wanted to achieve a state as above described.

Then, who was to achieve these sweeping, radical and drastic changes which the South African Congress of

19479.

Democrats wanted? The South African Congress of Democrats propagated the view that it was a stark fact that it and the liberation movement alone could offer an alternative to the dark, grim and primitive future of fascism for the following reasons:(a) All the political parliamentary parties in South Africa in one way or another uphold fascism. (b) The South African Congress of Democrats challenged the whole basis and source of fascism directly. For these reasons the South African Congress of Democrats challenged all comers, including the United Party for the leadership of the militant White opposition, but not for their votes at the polling booths, but for an extra-parliamentary struggle in alliance with the non-Whites and for this reason it was only going to use the field of European politics as a means of getting its policy for such struggle to the White population.

As a part of this struggle the South African Congress of Democrats took part in the Campaign for the Congress of the People, accepted the Freedom Charter drawn at the Congress of the People at Kliptown, and resolved to do all in its power towards the achievement of the aims of the Freedom Charter. It considered that this campaign had opened the way for a new surge forward of the democratic movement, that it had united all democratic elements, and that it has given rise to a new spirit and enthusiasm because it has aroused the political consciousness of the people. The Freedom Charter the South African Congress of Democrats considered to be a manifesto in which its aims and objects were clearly and unequivocally stated. It could consolidate and extend the

19480.

link between it and the people which had been initiated by the Congress of the People Campaign, and for this reason the popularisation of the Freedom Charter was the immediate task. It further described the Freedom Charter as an inspiring document, the people's constitution and a new constitution that can never die. According to the South African Congress of Democrats, it represented the aspirations of the people of South Africa and laid down the basis for democratic government of the people, by the people and gave a picture of the South Africa of the future when the present is superseded. In its agitation for the Freedom Charter, it also attacked the present constitution of the Union of South Africa. It propagated the view that the demonstrations of the Black Sash had amounted to naught, because it tried, the Black Sash, to uphold the 1910 Constitution which was a fraud and doomed to extinction. It stressed the fact that the 1910 Constitution was not sacred, but that the principles of the Freedom Charter were and that the 1910 Constitution should be rejected because the people of South Africa wanted a new Constitution embodying the principles framed in the Freedom Charter.

My Lords, then I ask whether this is consistent with constitutional reforms through the ballot box and through parliament, as has been indicated in evidence before the Court, and my submission is that it is not.

Then it is also further submitted My Lord that in order to achieve this new state, the South African Congress of Democrats in its own words aimed at the destruction of everything responsible for the present

19481.

system, because as it said, it was necessary to overthrow and destroy this unjust and dangerous system if people were to be truly free. It was further made perfectly clear that this system to which it referred covered the whole field of government and human relations. In order to do this it propagated the view that the people be mobilised and prepared to unite and form an army of millions of South Africans, who could strike a decisive blow together to root out the fascist cancer in the political life of the country, because fascism could only be defeated by the mobilisation of all the people in some decisive action, and held out to its followers and others that if this happened, their aims would be achieved within a short time, which in once instance was put at five years.

The South African Congress of Democrats stated that in this struggle the Congresses stood poised against the government, and that no force on earth shall prevent them from winning freedom. It considered that a turning point had been reached, that the people were becoming more determined and the government and its henchmen were trembling in their boots. The South African Congress of Democrats however warned that the struggle would not be easy, it foresaw an intensification of the struggle, because South African affairs were moving to a decisive clash between the forces of reaction and the forces of democracy and progress. The South African Congress of Democrats realised and propagated the view that the present state would do everything in its power to maintain itself against the onslaughts of the Congresses. It stated that the state would use force, naked, dictatorial rule

19482.

and rigid repression as in time of war, and that there would be increased police state measures and that power mad rulers would resort to greater suppression and oppression. It warned that the government would use the police, the army, the might of the government and that South Africa would be turned into an armed camp based on permanent police rule and fascist policies. The government could do this because they had the power which consisted in South Africa of the police, the army and the big business men. The South African of Democrats - the South African Congress of Democrats also declared that conditions in South Africa had reached an inflammable and explosive condition, yet in spite of this and with the knowledge of how the state would react, it still decided to carry on a serious uncompromising, united extra-parliamentary mass struggle. And then SACOD itself still poses the question, can open conflict be averted? Its answer is that it can only be averted if the demands of the liberatory movement are acceded to.

My Lord, in my submission these facts - these are facts emerging from the documents, and these facts prove the allegations made by the Crown in the Policy Schedule, and the inferences to be drawn from this My Lords, have already been dealt with when the African National Congress was dealt with, and I am therefore not repeating those, My Lords, except for saying that this proves beyond any doubt that the SACOD was determined to get a new state in South Africa. Not a change in government, My Lords, but to get a new state, new in all its forms, which was either a state based on the

19483.

Freedom Charter, which I say My Lords, was as far as the South African Congress of Democrats was concerned, only a stepping stone towards a people's democracy. Not a people's democracy described here by Helen Joseph, or by some of the other witnesses, My Lord, but a people's democracy as generally understood in the world today.

The documents on which the Crown relies for these submissions, My Lords, are firstly - My Lords, before dealing with the documents, may I just briefly refer Your Lordships to the evidence of Helen Joseph. She admitted that she was a prominent member of the South African Congress of Democrats...

MR. JUSTICE BEKKER :

Mr. Terblanche, I am just a bit puzzled about the Crown approach. Is it going to be the submission of the Crown that on these documents the Crown has established apart from anything else, that the Congress of Democrats had its own policy of the violent overthrow of the state, or are you going to contend that the Congress of Democrats knew the policy of some other organisation which had in mind the violent overthrow of the state and supported that policy? On which basis are you putting it? Or do you put it on both? I don't know.

MR. TERBLANCHE :

My Lords, I am really putting it on both bases. The Policy Schedule in regard to the South African Congress of Democrats, - Your Lordship will remember that there was inserted a paragraph 4 which alleged that SACOD had a policy to use violence against the state, and one of the facts on which the Crown will rely....

19484.

MR. JUSTICE BEKKER :

You needn't go into details, what I want to know is this, you are going to contend on these documents that irrespective of the - of any other consideration, this organisation in itself had a policy to overthrow the state by violence?

MR. TERBLANCHE :

Not necessarily, My Lord, I may go as far as that but it is not necessary that - our allegation was that one of the factors to be taken into consideration was that the South African Congress of Democrats worked in close co-operation with the African National Congress and knew its policy.

MR. JUSTICE BEKKER :

That I know. Are you going to contend - is the Crown's submission that this body had - was a conspirator to overthrow the state by violence because it knew what the policy of the African National Congress was and supported it, which in the Crown submission was a policy leading towards the violent overthrow of the state. Is that the basis on which you approach this body?

MR. TERBLANCHE :

Not solely on that basis, My Lord. I'll also contend that if taken - if all the facts taken in regard to the policy of the South African Congress of Democrats, without reference to the policy of the African National Congress, then all those facts will also prove that the South African Congress of Democrats had a policy to use violence against the state.

MR. JUSTICE BEKKER :

On the first basis you are going to give us the

19485.

facts from which you are going to ask us to infer that the Congress of Democrats full well knew the policy of the African National Congress?

MR. TLRBDANCHE :

My Lords, I'll deal with that at a later stage. I must state that I'll deal with the co-operation between all the Congresses, and in that I'll deal specifically also with the co-operation and knowledge from certain facts, My Lords - I won't say that I will be able to give Your Lordships one document and say now this document proves this, but from all the facts which I'll place before Your Lordships, I'll ask the Court to infer that that is so.

My Lords, now before dealing with the documents, I wish to refer shortly to the evidence of the witness Helen Joseph on this issue. Now My Lords, Helen Joseph testified to the fact that she was a prominent member of the South African Congress of Democrats, she said that she was on the National Executive Committee, she was on the preparatory committee which worked on - which worked for the formation of the South African Congress of Democrats. Now My Lord, Helen Joseph in her evidence denied that they wanted to overturn the state, but she admits that they wanted to modify the state. That is found at page 13928. Then she admits - these are very short extracts My Lord which I say bears this meaning. She admitted that they wanted sweeping, radical and drastic changes to be effected, but, she says, those were to be effected through the parliamentary system. That is found at page 13928, and also at page 14769.

19486.

Then she further admitted, My Lord, that the Freedom Charter reflects the type of state they want, but says it is not a blueprint, it is an idea of the kind of state which - to which they seek to modify the present state. That is found at page 13932 and 13939. Then My Lord she defines a people's democracy as one in which all adults will give their active consent to government - to the government that is going to control them, such as Great Britain. That is at page 13930, and also France, Western Germany and China, page 14254. Then she admits that she can't recall any reference to Great Britain or any Western country as a people's democracy, at page 14251. Then she admits, My Lords, that it may be so that the references in the documents to people's democracy always have an additional element to universal franchise, namely socialism. That is found at page 14252/3. She further admitted that the Freedom Charter state probably in many ways would not be greatly different from the Chinese state and would be very close to that in China, page 14258/9. She further said that the South African Congress of Democrats did not stand for destruction of the whole capitalist system in South Africa, page 14508. Then she admitted that the Freedom Charter was the ultimate goal of the Congress movement, page 14015/6. She admitted that the Freedom Charter contains democratic changes of far reaching nature, page 14019/20. She admitted that they stood for redistribution of land, but had given no thought to how the land was to be redistributed and the details, page 14772/3.

My Lords, now in this respect I wish to make this

19487.

submission to the Court, My Lords, that Helen Josqh's evidence shows firstly that the Freedom Charter was not the ultimate goal of the South African Congress of Democrats. Secondly, My Lords, that her description of a people's democracy was such that the Court will not accept her evidence in that respect, but that the people's democracy referred to in the documents was, as I have said, a people's democracy as generally accepted in the world today.

My Lords, the first document I wish to refer the Court to, because it has already been dealt with and will still be dealt with further in other portions of the case, is C.54. Now C.54 My Lords is the same as A.84 to A.86, the three lectures. They were read in from pages - the pages are given there, My Lords. It had been admitted that these lectures were issued by the National Action Council of the Congress of the People, and the South African Congress of Democrats as a constituent member of the National Action Council, and being represented on that Council by two of its members, Bayleveld and Press, the South African Congress of Democrats was also responsible for the preparation and distribution of these lectures. But My Lords, the South African Congress of Democrats however went further, because according to the document C.365, which are Minutes of a National Executive Committee meeting, it is clear that they made use of these lectures for their own purposes. The reference to this Exhibit is 14488, it was read in during the cross-examination of Helen Joseph. My Lord, the reference to these lectures in this document

19488.

falls under the heading Propaganda, and it reads as follows, My Lords. On page 2 under the heading of Propaganda, the following appears : "It was agreed that in terms..." - this is on page 2 of the original exhibit, page 14488 in the record. I am now reading as it appears in the record. "It was agreed that in terms of resolution 5(2)(a), (b) and (c), regions and branches should be urged to make full use of the five lectures, The World We Live In, which should be issued in booklets- in a booklet, and they be asked to make a regular feature of study courses at branch meetings and a period in which a study course should be concluded should be stipulated."

Now My Lords, Helen Joseph did testify that as far as the use to be made of these lectures is concerned, the Congresses themselves had to do it, it wasn't part of the work of the National Action Council for the Congress of the People, and that this is an instance in which the South African Congress of Democrats made use of these lectures and instructed their regions and branches accordingly. My Lords, in my submission it is clear that the South African Congress of Democrats did in fact make use of these lectures. My Lords I don't want to deal fully with these lectures, they have been dealt with, but I wish to make the following submissions on them, My Lords. These lectures show that the South African Congress of Democrats was making propaganda for a new form of state, namely a people's democracy as generally understood and not as witnesses tried to make the Court believe, a democracy in which there was universal adult franchise. The lectures also show that the South African Congress

19489.

of Democrats was supporting the national liberation movement in South Africa, as set out in paragraph 2 of the Policy Schedule. They also show that the South African Congress of Democrats accepted and propagated extra-parliamentary, unconstitutional and illegal action as set out in paragraph 3(a) of the Policy Schedule. Also My Lord these lectures confirm the policy set out in paragraph 8(a)(viii), (8)(a)(vi) and (8)(a)(iii) and 8(a)(iv) of the Summary of Facts. The means herein made use of are those set out in 4(b)(iii) and 4(b)(vii) of Part B of the Indictment.

My Lords, Helen Joseph also gave evidence, rather lengthy evidence on these three lectures. I do not wish to burden Your Lordships at this stage with her evidence in that respect, I give Your Lordships the reference to that evidence, but that will be dealt with more fully, My Lord, when her personal position is considered. I may just give Your Lordships the references to her evidence. She deals with these lectures at page 13999, line 13 to page 14000 line 23. Then again My Lords at page 14002 line 13 to page 14011, line 25. Then again at page 14479, line 27 to page 14483, line 4. And then again My Lords at page 14851, line 30 to page 14852, line 27.

My Lords, the next document is C.2, that is the Constitution of the South African Congress of Democrats, My Lords. The portions I wish to refer to are listed on the Schedule. In the preamble and in paragraph 2, Aims and Objects, is set out what the South African Congress of Democrats wanted to achieve. This is set out

19490.

in terms which one could almost call vague generalities. Those things may apply to many different forms of state, and all I wish to say on this document is that all those aims and objects - if they were all achieved, then one would have in South Africa a state differing radically from the present state. What they themselves had in mind can and should be judged by their acts, that is their speeches and other published documents. I may perhaps read to Your Lordships this portion at page 1522 line 28 to page 1532 line 32, : "Aims and Objects. (a) The association shall work to secure for all South Africans regardless of race, creed and colour the rights laid down in the universal declaration of human rights, with particular reference to (i) equal civil liberties, the freedom of thought, speech and press; the freedom of movement and assembly; the freedom of organisation and religion. (ii) Equal political rights, the right to vote in and stand for elections in state and local law making bodies, on the basis of universal and equal adult suffrage. (iii) Equal economic opportunities without discrimination based on race or colour. To qualify for and engage in all trades, crafts, occupations and professions; to acquire and own land and property and freely form, join and administer trade unions. (iv) Equality of social status, in every field of state administration, public activity, education, culture and recreation, and the preservation of family life, and no interference which would lead to its disintegration. (b) The association shall work to secure friendly international relations based on the equality and independence

19491.

of all nations, and negotiation for settlement of international disputes in order to secure a prolonged era of world peace. (c) The association is empowered to give active support to and co-operate with any individual, group, party or movement working for or having the same or similar aims and objects and shall take such other action as it deems fit to further its aims and objects."

My Lord, the next document is C.32, which is the Chairman's report to the Third Annual Conference of the South African Congress of Democrats, held on the 24th June, 1955. I first refer to lines 10 to 21, the Campaign for the Congress of the People. This shows, My Lord - I do not intend reading it fully My Lords, but it shows that the South African Congress of Democrats considered itself part of the progressive movement in South Africa, and of the Congress movement. It considered the Freedom Charter as a manifesto in which the aims and objects are clearly and unequivocally stated, and urges the Congress movement to work for and mobilise the people for the realisation of the aims and objects. This report My Lords, was submitted to the Conference the day before the Freedom Charter was adopted at Kliptown. It therefore in my submission shows that the South African Congress of Democrats was pledged to work for the acceptance of the Freedom Charter, which would have meant the creation of a state radically different from the present state.

Then the next portion of this document to which I refer as listed in the Schedule is The Task Ahead. Now this says that the South African Congress of Democrats

19492.

had played an important part in the struggle of preventing the government from turning South Africa into a fascist police state in the full sense of the word. Again My Lords, in my submission, these are the words which in the general submission I listed there, and this calling the state a fascist police state and these other names, My Lords, together with the approaching conflict which they foresee shows, My Lords, in my submission again that they desired a new form of state, not a change of government, My Lord. They foresaw an intensification of the struggle, the disintegration of the middle of the road group. Then on page 1532 the document refers to the fight for freedom and democracy, and says that inherently there is no difference between the fascism of Strijdom and that of Hitler and Mussolini, and it further says that the days of colonialism and its accompanying oppression are waning fast. Your Lordships will again see that those are the words which are - which I used in my general submission and that they are taken directly from this document and other documents.

My Lords, then a further portion to which I wish to refer Your Lordships is a portion, Liason with other Organisations, again listed in the schedule, My Lords, and it states : "We must continue to join with the other Congresses and the South African Coloured People's Organisation in all struggles effecting the masses of the people. The people can only be mobilised for freedom and democracy through struggle, and no issues must be regarded as too small or insignificant for our organisation to give and maintain a clear and unequivocal lead. The

19493.

working class must of necessity be in the vanguard of the people's struggle. Our organisation has in the past paid too little attention to this aspect. All our branches should detail personnel whose task it should be to assist the trade unions, and especially the African trade unions in their work. We should also offer to give assistance to the South African Congress of Trade Unions to organise and educate the masses and unorganised workers. The people can only be mobilised for freedom and democracy through struggle". My Lords, this is what they say, and that all issues - no issue should be too small to bring in under their struggle, that is to prepare the people for the struggle, for the decisive act (?) which they expect.

Here again My Lords, they call a new state a democracy, and as I said it shows their method of preparing the people to struggle for this democracy. My Lord, in regard to this document, I wish to draw the Court's attention to the fact that this document is the same as H.J. 22, I think that is listed on the Schedule too, My Lord, R.B.59, S.B.31, N.R.M.17(a) and G.B.2. It was therefore distributed My Lord to members and also to members of other organisations.

My Lords, the witness Helen Joseph also dealt with this document in her evidence, the first reference is on page 14001, line 17 to page 14002 line 23. That - there she admits that - she admits the preparation and circulation of this document. Then the next reference is page 14571, line 28 to page 14573 line 12 and she says this, My Lords : "We might have stated in this that the days of colonialism were waning fast, but it is a general expression

19494.

and not specifically related to South Africa. We mean that in South Africa we have imperialist characteristics and colonial characteristics because oppressed voteless people are exploited." That is her explanation My Lord of the reference to colonialism waning fast. Then there is a further reference My Lord at page 14745, line 8 to page 14747, line 11. There she says that the South African Congress of Democrats has never held the view that it had to give a clear and unequivocal lead to the Congress alliance, and she explains that what was meant was that it was important that they give a lead to the European population, which seems to be correct, My Lords, because these different Congresses all dealt with people of different racial groups. The African National Congress with the Africans, the Indian Congress with Indians, the Coloured People's Organisation with Coloured people, and the South African Congress of Democrats with the European section. She says that we consider the South African Congress of Democrats in the forefront, together with the other Congresses in the struggle against Nationalist oppression. That My Lords is her evidence on that document, so that her evidence does not in my submission effect any of the submissions which I made to Your Lordships on this document.

The next document, My Lords, is C.41, and this document is Notes on the Political Situation by the National Action Committee of the South African Congress of Democrats,= the National Executive Committee, My Lord, of the South African Congress of Democrats. I wish to refer Your Lordships first to paragraph 9. This refers to

19495.

the Congress of the People. It shows support for the Congress of the People, and it sees it as opening the way for a new surge forward of the democratic movement. My Lord, I do not propose reading the whole. Those are the actual words of the document, opening the way for a new surge forward of the democratic movement, and those are the words which I used in my submission, My Lord. And also, we speak for the overwhelming majority of South Africans of all races. It further says that they are prepared - they are to prepare for a bold challenge to the whole conception of White supremacy by making their ideas ~~the~~ ideas of the people through the Freedom Charter. It also says that it can consolidate and extend the organisational link between them and the people which had been initiated by the Congress of the People Campaign.

My Lords, I wish to refer the Court to paragraph 10. This says, "While our own Conference will have to pay great attention to the question of what policies and programme for the future are to be advocated at the Congress of the People, it is clear that the Congress of the People is not an end, but a beginning". Now My Lords, firstly this shows that - in my submission - if a member of the South African Congress of Democrats made a speech at the Congress of the People, then what he would advocate there would be the South African Congress of Democrats' policy. I refer - I will refer Your Lordships later to speeches made by members of the South African Congress of Democrats at the Congress of the People, and I'll submit that those speeches show definitely the kind of state which they wanted to achieve in South Africa.

COURT ADJOURNS.

19496.

COURT RESUMES.

MR. TURBLANCHE :

My Lords, at the adjournment I was dealing with document C.41. My Lord, I dealt with paragraph 10 of this document in regard to the policies which they had to consider which should be advocated at the Congress of the People. This document further states, My Lord, in the same paragraph that the South African Congress of Democrats has been a tower of strength in the whole preparatory work of the Congress of the People, and it then says that the Congress of the People will not of itself bring about radical change in South Africa. 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 the people, of people's committees, of volunteer groups which we ourselves bring into being.

Then I also referred Your Lordships to paragraph 11, which says "There has never been a time when the European population have had so clearly before them the stark fact that we all ne offer them an alternativeto the dark future of fascism which all political parties in South Africa in one way or another uphold." My Lords, in my submission this shows clearly that it was not a change of government they wanted but a new state. The SACOD was not fighting the Nationalist Party, although they may have said so, but the state as it exists at present. They were not out to win votes, because that would not have suited them. It would only have meant that

19497.

another party upholding fascism would have been in power. Again My Lords, Your Lordships will see that these actual words have been incorporated in the submissions which I made at the start. Again My Lords I wish to point out that this document was also found in the possession of other persons as listed there, not only members of SACOD, but also in the possession of members of the other organisations.

My Lords, the next document is C.52. C.52 is The Road to Liberty by L. Bernstein. This was a document presented to the inaugural conference by Bernstein and Helen Joseph has given evidence on that document, My Lords, and her...

MR. JUSTICE RUMPF :

Was he a member of the South African Congress of Democrats?

MR. TERBLANCHE :

My Lords, that was at the inaugural meeting and he became a member of the South African Congress of Democrats.

MR. JUSTICE RUMPF :

It doesn't say so in your Schedule, does it? It says he took an active part. Does that mean that he was a member as well? I am sorry, I should have been - I should have referred to Schedule 5.

MR. TERBLANCHE :

He was a National Executive Committee member. My Lords, the attitude adopted by Helen Joseph in regard to this document is that this was a paper delivered at this inaugural conference, that no decision was taken on

19498.

it, except that it should be referred to the branches and regions for discussion, and that it therefore did not represent the policy of this newly formed organisation. As far as she knew this document was in fact never discussed, at least not at her branch, and being a member of the National Executive Committee, she didn't know of any other steps taken in regard to this document. My submission is, My Lords, that this paper was delivered at this inaugural conference, and the person who delivered this paper was actually elected to the National Executive Committee at that stage, showing at least confidence in this person and his approach to these matters which he dealt with. Certain parts of this document were actually taken over in another publication which Helen Joseph herself admitted was a publication - an official publication of the South African Congress of Democrats. That My Lords is the document, The Threatened People, read into the record as F.A.22, and C.268. Helen Joseph was referred to these portions and she admitted that they were the same. My Lords, I further wish to point out that this document was not only found in the possession of the South African Congress of Democrats, or only in the possession of members of the South African Congress of Democrats, but it was also found in the possession for instance of the South African Peace Council, E.23.

MR. JUSTICE BEKKER :

What do you say is - is it suggested that because only portion of this speech or article by Bernstein found itself in the subsequent document of SACOD that to the extent that the speech is not found

19499.

in that document, to that extent it should be rejected as policy of SACOD?

MR. TERBLANCHE:

No, My Lord, because My Lord according to Helen Joseph this document was only to be referred to Congress branches, that is South African Congress of Democrats branches for discussion. But I say, My Lords, that much more was done with this document by the South African Congress of Democrats. Not only did they publish certain extracts from that document in other official documents which were admitted to be official documents, but they also distributed this document, not only to members of the South African Congress of Democrats, they for instance distributed it to the South African Peace Council. A copy of this document was found in the possession of the South African Peace Council, E.23.

MR. JUSTICE RUMPF :

Do you say that the distribution took place by the South African Congress of Democrats?

MR. TERBLANCHE :

It could only have been, My Lords, that is what I submit.

MR. JUSTICE RUMPF :

There is no evidence that it was?

MR. TERBLANCHE :

There is no evidence that it was, My Lord, but there is evidence that it was in the possession of the South African Congress of Democrats, and according to Helen Joseph, the decision taken was that it should be distributed to branches of the South African Congress of

19500.

Democrats for discussion, but I say My Lords that much more was done with this document, because not only did they publish extracts from that document, they distributed it to other organisation, for instance the South African Peace Council, they distributed it to members...

MR. JUSTICE RUMPF :

Do you submit that the inference is that they did. You say there is no evidence except that it was found in possession of those organisations?

MR. TERBLANCHE :

Yes, My Lord. I ask the Court to infer that the South African Congress of Democrats distributed it to the South African Peace Council, for instance to a member of the Indian Congress, D.A. Seedat, D.A.47, and to a member of the African National Congress, Dlamini, S.D.N.86.

MR. JUSTICE BEKKER :

Assuming it is suggested that these people were present at this meeting and this document was dished out to them and they took it home?

MR. TERBLANCHE :

There is no evidence to that effect My Lord, that this document was distributed at this meeting.

MR. JUSTICE RUMPF :

Well, there is no evidence that SACOD distributed it.

MR. TERBLANCHE :

No, My Lord, only inference, because...

MR. JUSTICE RUMPF :

Why can't the inference be made that these people were at the meeting and got a copy of this document there?

19501.

Why is that a less stronger inference?

MR. TERBLANCHE :

My Lord, there is no evidence on any of the documents or anywhere that the South African Peace Council for instance was represented at this meeting.

MR. JUSTICE RUMPF :

Why couldn't they have got it from Mr. Bernstein?

MR. TERBLANCHE :

My Lord, those are possibilities, but my submission is this, My Lord...

MR. JUSTICE RUMPF :

You have made your submission. But why couldn't they have got it from Bernstein?

MR. TERBLANCHE :

My Lord, my submission goes further. My submission is that this was a paper which was read at the conference for the first time. There is no evidence that it was distributed at the Conference. It was a paper read there. My Lord, those others are possibilities, I admit them, My Lords. My Lord, this document - Helen Joseph dealt with this document at pages 14542 line 12, to page 14553 line 14. Her evidence amounted to this, she said "this document may have been discussed at Conference, but I cannot remember what form that discussion took. We all agreed on working for democratic government, whether the phrase people's democracy was used I don't recall. We are working for a democratic people's government. This document was not a policy statement adopted by the Conference. The author was elected to the Executive. It was not rejected by the Conference. A description of the forces of reaction and democracy would

19502.

agree with the policy of the South African Congress of Democrats....."

MR. MAISELS :

My Lord, I don't want to interrupt my learned friend, but it is now convenient to raise a matter which I mentioned to him in the adjournment. My learned friend is summarising the effect. I pointed out to him earlier that the summary was quite unwittingly misleading.

MR. JUSTICE RUMPF :

To which summary are you referring?

MR. MAISELS :

There was an earlier one he gave, My Lord, and now this is another example, that is why I am interrupting.

MR. JUSTICE RUMPF :

Yes, it wasn't clear...

MR. MAISELS :

Your Lordship will remember one summary that he gave, that Mrs. Joseph said she was not in favour of the destruction of the whole of the capitalist system. If you look at the record, you find a question is put : "I put it to you that you are in favour of the destruction of the whole of the capitalist system? --- No." Your Lordship appreciates that a different sense is given. Here my learned friend has just referred - he says there was no question - he says that this document was not repudiated, this Road to Liberty. The record is "It wasn't a question of repudiating or rejecting or accepting, it was a question of wanting further discussion", which is a completely different sense.

19503.

MR. TERBLANCHE :

My Lord, I still submit that that is the meaning I place on the evidence. My reading of the evidence is that...

MR. JUSTICE RUMPF :

Well, if you deal with the evidence from now on, I would suggest that if you make a submission on the evidence, then you can say that I submit that the effect of the evidence is this, that and the other. Otherwise quote the evidence, and say this is the evidence as it is down on record. If you want to deal with a specific portion of the evidence, we think you had better quote it.

MR. TERBLANCHE :

As Your Lordship pleases. I am sorry, My Lord, if I did not indicate that this was my submission as to the meaning of her evidence. I intended to do so. My Lord, on what my learned friend has said, there is one other point which he referred me to, and that is that when Helen Joseph said that her idea of a state which would be the result of the acceptance of the Freedom Charter, would be very much like China, she also indicated that her knowledge of China was rather limited. If I may add that, My Lord. And then there is the other that my learned friend drew the Court's attention to. I still submit My Lords that that is what she said.

My Lords, her evidence at 14542, line 12, has been included in this extract quoted, and although it deals with some other pamphlets, it leads up to her evidence which she gave on C.52. She says "Now in this

19504.

article or paper of Hodgson's he again speaks of the decisive action that is mentioned in that Springbok Legion pamphlet C.292. Now wasn't this aspect of the policy discussed at this Conference? --- My Lords, it may have been, I do not really recollect the discussion that took place, this was seven years ago. Perhaps papers were read, and as I remember it there was some discussion on them, but I really cannot remember what form that discussion took."

"But you were all agreed on the principle of establishing a people's democracy in South Africa? --- We all agreed on the principle of establishing for - for working for democratic government. Whether the phrase ~~people's~~ democracy was specifically used I really don't recall. But the principle of establishing democratic government with all that it implies, representation of all the people, was certainly accepted". "You see, in this article of Hodgson he says the following on page 3, that is on the national liberation movement. 'It has to deal with the situation which requires the defeat of the government and its replacement with a democratic people's government.' I put it to you that that was a factor that was prominently discussed at this inaugural conference?"

--- My Lords, the defeat of the Nationalist Government is certainly prominent in our policy, that is not in dispute for a moment. I cannot recall whether this was featured in the discussions, I really am quite unable to recall what line the discussion took on these particular papers."

"And its replacement with a democratic people's government?"

--- My Lords, I am sure that the Conference ~~would~~ agree on that, that the present government should be replaced by a

19505.

democratic government. To me that is so obvious. That is what we were working for, a democratic people's government." "Now you gave the impression in your evidence in chief that you wanted to repudiate the paper presented by Mr. Bernstein at this Conference? --- My Lord, may I ask which paper that was?" "The Road to Liberty, Exhibit C.52, and it appears on page..." - and then the pages are given, My Lord. "My Lords, I really want to dispute the suggestion that I wanted to repudiate that document. That is not so at all. I confined myself to pointing out that these were not policy statements adopted by the Conference because they were presented through the extracts that appeared in the Crown's opening address. There was the impression given that they were policy documents. I was trying to clear it up on a factual basis, My Lords." "Those two documents were presented by people who were elected to the Executive? --- That is so, My Lords." "And it was there decided that those two documents should be circularised among the branches for discussion? --- For further discussion, that is correct". "And that would be a sort of indication to the branches of what line the new organisation was proposing to follow? --- I don't think it can be strictly speaking construed in that way. If that had been the actual line that had been adopted, then I imagine they would have been adopted at Conference and circulated to branches more for information". "But they were not rejected at the Conference? --- No, I have not suggested that they were specifically rejected, but they were not adopted as policy statements. They were referred to the branches for

19506.

further discussion."

My Lords, in my summary of Helen Joseph's evidence, I nowhere give the impression as far as I can see, My Lords, that there is a suggestion that they were ever adopted as policy statements, but I do give the impression that they were not rejected by the South African Congress of Democrats, and that in my submission is what Helen Joseph says here. "Now the question is then because they were approved of? --- I understand that they were referred (?) because it was felt, and I do now seem to recall more clearly that the Conference itself did not provide sufficient time for full discussion of these documents. My Lords, that happens very frequently at Conferences, when the pressure of time becomes a factor. No resolutions were passed on their contents, merely a resolution that they should be for agreement - I don't even know that that was the resolution, that they should be referred for further discussion and the implication to me is that they required further discussion. It was not a question of repudiating or rejecting or accepting, they wanted further discussion on that." "No amendment to either of them was suggested at the Conference? --- My Lords, they were not resolutions that called for amendments. I cannot really see how that would arise." And then there is a general question in regard to this document and C.292, "You see these articles, both these articles I put to you saw the South African scene as outlined in the Springbok Legion pamphlet, C.292? --- That may be so. I haven't studied the Road to Liberty". "And both these papers suggested an organisation of the

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