

and there is a paragraph "Is there no Hope"? "Is there
no way out of this seemingly hopeless situation in which
the people of South Africa find themselves? Is there no
effective answer to the Fascist onslaught that is daily
made upon the lives of the liberties of people? These
are the questions that torment the minds of all freedom
loving South Africans. Are the vast masses of this land for
ever to endure the status of hewers of wood and drawers
of water? Will it be for ever officialdom and slavery
for the vast majority? To each of these questions we
answer in the negative. No people have for ever endured
the shackles of slavery, nor is the present plight of
the people peculiar or unique in any way. People the
world over have fought and overthrown Colonialism, Fascism,
exploitation and oppression, and the people of South Africa
are no exception. We are quite convinced that Fascism in
South Africa can be fought and democracy achieved because
it is not Fascism that the people desire, but democracy,
for the simple reason that democracy is in the interests
of the people and not Fascism." "We can achieve demo-
cracy, but how is democracy to be achieved, and by whom?
It is patently obvious that the Nationalist Party cannot
achieve democracy in South Africa, for their apartheid is
the very antithesis of the concept of democracy. The
United Party obviously cannot achieve democracy for
their economic integration and social segregation policy
is no more than an appeasement of Nationalist Party(?)
Can the Liberal Party achieve democracy for South Africa?
The answer is in the negative, because they aim to esta-
blish democracy by bringing about a most elusive spon-
taneous change of heart in the white electorate, which in

essence means that it is the white electorate that will
 sooner or later establish democracy in South Africa, but
 in the 44 years since the Union - - but it is 44 years since
 Union and the morale and the change of heart has receded
 further and further. In fact the recent elections, Par-
 liamentary, Provincial, Municipal, if they are any
 indication, then the change of heart has been in the
 reverse direction. The swing of the white electorate is
 towards the anti-democratic end, so we come back to the
 question, who can achieve democracy in South Africa?
 The answer stares us in the face, the one and only force
 who can achieve democracy is the mighty force of the
 vast majority of the people of South Africa - whites,
 non-whites, Africans, Indians, Europeans, Coloureds."
 and he deals with that topic, my lords.

Now, my lords, this was accepted by Dr. Conco
 with this one qualification; he says he doesn't agree
 with the statement as to the morale and the change of
 heart. But, my lords, the whole article, this whole
 article is directed towards imprinting on the minds of
 the masses that the white electorate will not establish
 democracy; that the whole object of this article - neither
 the United Party, nor the Nationalist Party, nor the
 Liberal Party, because all those parties rely on the
 white electorate, and the white electorate has turned
 its back on democracy and has accepted Fascism as its
 creed.

My lords, this statement that these parties
 cannot do it because they aim to establish the democracy
 through the white electorate, this is the very negation
 of any suggestion that they wanted to persuade the white

electorate to a change of heart. They don't rely on the white electorate, they ignore the white electorate; the white electorate has turned its back, and if they don't rely on the white electorate for the implementation of the Freedom Charter, how are they going to get it? Dr. Conco's reply, my lords, through force and violence . . . that's what Dr. Conco realised, my lords.

And, my lords, the statement that he was shocked at the time when he read it, your lordships will reject that as unacceptable, because if he had been shocked and if this publication was being spread amongst hundreds of people, as the official view of the Natal Midlands Region of the Congress of the People - which includes the whole Congress Movement - then he would have done something about it, my lords. Did he do something about it? He says he cannot remember. Your lordships will reject that, of course, because if a man is shocked by a pamphlet which is directly opposed to the policy that he is representing, if he is shocked and if he did do something about it he would remember it, my lords.

And that is why, my lords, that is why . . .

BEKKER J: What is the evidence about Luthuli's position on the Midlands Regional Committee? Did he serve on that too?

MR. TRENGOVE: No, my lords. My lords, whether that had the blessing of the African National Congress or not is irrelevant at the moment. It had the blessing of Dr. Conco, and we hold this against him, although it's not A.N.C. document - it's a publication by a committee on which he was actively engaged. That's why, my lords, the very next document that was put to Dr. Conco was

TT.80, my lords. TT.80 was that Address by Luthuli to the 1953 Conference at Cradock where they refer to the struggle of the Africans; the statement was made that their disabilities will only be removed, as has happened with other people in other lands all through the ages - by the united struggle of the oppressed peoples themselves to exert pressure on the rulers to grant them their freedom. He accepted that fact, my lords.

He also accepted the statement in "Congress Voice" - a bulletin of November 1955 - which was the official A.N.C. bulletin; he agreed with the question put by the Court, that when there is pressure then it is hardly apt to speak about a change of heart. One should rather speak about a change of mind. And from that moment, my lords, everybody who went into the witness box took up this line, that what they were working for was a change of mind, not really a change of heart.

My lords, the distinction that they sought to make - a change of mind - is created by pressure, by force, by putting the pressure on the ruling class so that they would be put in the position of having either to face a bloody revolution, or to submit. But a change of heart by legitimate persuasion, to achieve it through the ballot box, that they rejected, my lords.

EPN.29, my lords, was the memo on the draft Constitution. Now that, my lords, is the same as the exhibit PDN.68. That was put to Conco and your lordships will remember that EPN.29 is that memo on the draft constitution which says, inter alia, "That we have got to realise that we are aiming at the seizure of power over the whole country, and that should be our outlook."

Now when this document was first put to him he said he 1
had not seen this memorandum before. That's at page
11168, my lords. When WC.20 was produced, found in his
possession, the same document, the Memo on the Draft
Constitution, he didn't deny that it was found in his
possession and he said "Most likely it came from the 5
A.N.C. head office", and he then agreed, my lords - -
not then but when it was put to him for the first time,
he agreed with the statement referring to the aims of
the African National Congress which said "We've got to
realise that our aims are to seize the power over the 10
whole country and that should be our outlook", and he
explained that seizure of power - that you seize power
by influencing the electorate.

I ask your lordships to reject that as an honest
interpretation of that document. It say, my lords, that 15
for an intelligent man, like Dr. Conco is, to say the
sentence, that they are aiming for the seizure of power,
"We are aiming - the African National Congress is aiming
at the seizure of power over the whole country, and that
should be our outlook" - - and for him to say that that 20
means they want to influence the electorate, and in that
way gain a victory through the ballot box, my lords, is
an explanation which is false and which your lordships
will reject. He had to explain it in that way, my lords,
because in this context the seizure of power can mean only 25
one thing; you seize it by force.

BEKKER J: Have we any idea of the basis of
this draft constitution?

MR. TRENGOVE: My lords, we can check it up
later on. I can get it from the date on which the 30

documents were taken, my lords. But your lordships will
remember that during this time, 1954 to 1955, the amend-
ment to the African National Congress was considered -
the African National Congress Constitution. Certain
draft constitutions had been submitted and this docu-
ment is a memo on a draft constitution, and we can get
the date for your lordships.

BEKKER J: Was it some time in 1954?

MR. TRENGOVE: Yes, some time after 1954 I think.

My lords, the next document which was put to this witness
was the document "Political Organisation", and your lord-
ships will remember that "Political Organisation" is
that document which deals with the various methods set
forth in the 1949 Programme of Action, and it deals
with the implications and the effectiveness of those
methods, and it deals with strike action, and it points
out that strike action would represent a direct clash
between the working class and the ruling class and this
often leads to rebellion and revolution and armed clash.

And Dr. Conco said that strike action was a political
weapon and could have that result, and that consequence.

Now, my lords, generally on the unconstitu-
tional means adopted by the African National Congress
in their struggle, I respectfully submit that Dr. Conco
realised the full implications of their struggle, that
he discarded the white electorate and the change of heart
on their part, that he accepted that they would by their
methods have to coerce the white electorate to changing
their minds, that the methods which they would use were
set forth in their Programme of Action and that those
methods include strike action, even the other lesser

methods, the other less severe methods - methods not on 1
that high level, such as defiance campaigns and so on,
could lead to violent conflict between the masses and the
State. He also realised, my lords, and he is the one
witness that made that distinction; after he gave evidence
that point was always avoided - that it is either a genuine 5
change of heart or force - the very point made by the
Appellate Division in Leibbrandt's case, my lords. There
is no other method. You either have a method which is
extra-parliamentary, unconstitutional which ultimately
results in force, or you legitimately try to persuade the 10
white electorate to change their heart. If they close
their heart, if they turn their back on you, the other
method ultimately leads to a violent clash.

My lords, I turn now to the consideration
of the Campaigns and we say the accused 30 supported the 15
various campaigns organised by the African National Con-
gress, and the Congress Movement, for their liberatory
struggle. I deal firstly, my lords, with the Defiance
Campaign. He took part in the Defiance Campaign, and
he agreed that the Defiance Campaign was just one of the 20
forms of struggle and that they had higher forms of
struggle; and he agreed that strike action, industrial
action, would in the view of the African National Congress
be such an advanced form of struggle. As far as the
other campaigns are concerned, my lords, we submit that 25
the effect of his evidence is that he agreed with all
the campaigns, although directed to specific Acts - that
should be Acts of Parliament, my lords, and Civic Laws -
which he says were intended as a means to achieve libera-
tion and true democracy. He also said that they used 30

these campaigns to focus the attention on their demands and a realisation of true democracy. He also agreed that the campaigns were linked with the Congress of the People and the achievement of their aims in the Freedom Charter. 1

My lords, just before dealing with the campaigns specifically may I just make this point. In his evidence-in-chief Dr. Conco wanted to hold out the real object of campaigns as being a means really to focus the attention of the public on their disabilities, their oppression and their suffering. Now, my lords, that might have been an object but it was incidental 5 10

BEKKER J: On what basis did he put it in his evidence-in-chief, as being the object or also an incidental object?

MR. TRENGOVE: Let me just refer your lordships to the passage. My lords, I'll give your lordships the pages to be read. . . 15

BEKKER J: You can give it later on.

MR. TRENGOVE: Page 10978, my lords, line 30, he was asked: ("Q) But now these campaigns were not intended merely to serve an ad hoc purpose, is that correct? They were not intended merely to be campaigns against Bantu Education or against the Western Areas. Those campaigns were used for a far wider purpose is that not so?-- (A) What purpose?" 20 25

("Q) Were not these campaigns an integral part of the struggle for liberation?-- (A) An integral part of the struggle for liberation?".

("Q) Yes?-- (A) I don't follow the question very well." 30

And then that is dealt with, my lords, and at page 10979
he says: "Take a campaign like Bantu Education. In
Africans' Claims there is stipulated quite definitely the
policy of the A.N.C. with respect to education. It is
pointed out that the African National Congress is opposed
to any system of education earmarked for any special
group". Then he deals with the Bantu Education Act and
the Programme of Action and he says: "As using this
Programme and to demonstrate our opposition as it was
then passed in 1951 we called upon the parents to with-
draw their children from school, as a way of demonstrating
not only to the Africans but to the whole of the people
in South Africa, to draw their attention to our opposition
to the Act". Then he repeats that as being an object,
my lords.

Now, my lords, the comment that I want to make
is, if these campaigns were merely intended to draw the
attention of the public to their sufferings, they would not
have embarked on the scale which they ultimately envisaged - -
the whole country would be involved in mass action to
paralyse the State.

BEKKER J.: I don't quite follow that

MR. TRENGOVE: My lords, I say that if you
take the opposition as stated in one of these A.N.C.docu-
ments - take a criticism of the African National Congress
towards the opposition to the Hertzog Bills in 1936.
There a number of people were engaged in a campaign against
those Bills, merely for the sake of drawing attention
to it. Now this document, "Political Organisation" shows
that that is a weakness because your campaign, merely as
a demonstration, gets you nowhere unless it galvanises

the people into action. So, my lords, when they try 1
to hide behind the consequences of mass action and when
they want to get away from their real object of under-
mining the State, the security of the State, then they
try to explain it by saying that these were demonstra-
tions to invite the attention of the electorate to their 5
struggles. That that, my lords, is not the object.
That may be incidental, my lords, but that as a means in
itself they reject, because they say that unless the masses
go into action - unless the State is brought to its knees,
these campaigns are ineffective, and that is what they 10
wanted.

(COURT ADJOURNED)

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COURT RESUMES ON THE 26TH JANUARY, 1961.

APPEARANCES AS BEFORE.

MR. TRENGOVE :

My Lord, one matter that was dealt with yesterday was the document E.P.M. 29, which is the Memorandum on the Draft Constitution. Your Lordships will find the reference to that at page 58 of the Summary. Your Lordships will remember it is that paragraph which says that we have got to realise that we are aiming at a seizure of power. His Lordship Mr. Justice Bekker asked whether we had the date of that document. My Lords, the whole document wasn't read into the record, but it appears from the document itself, more or less at what time it was published, but we can't rely on that, as it wasn't read in, My Lords, but I would suggest that it was round about the end of - somewhere between 1953 and December, 1956. A number of these documents were found with various people, and they were all found during the searches on the 5th of December, 1956. F.M.M. 22, page 4017, which is the 5th of December, 1956 - which was found then; T.A.M.7, page 4010, which was found in the search of the 5th of December, 1956; L.I.N. 30, 4391, which is 5th December, 1956; D.E.N. 4, page 3886, which is the 5th December, 1956; Conco's own document, W.C. 20, page 4576, which was found during the search of the 5th December, 1956; Similarly E.P.M. 29, at page 2611, 5th December, 1956. Then there was one search, My Lords, G.S.18, at page 2659, relating to the Accused Sibande. My Lords, there

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on the 27th of September, 1955, this document was found. But My Lords, that is obviously a mistake, because handed in with those documents alleged to have been taken on the 27th September, 1955, there were documents dated as late as the 18th of May, 1956 and November, 1956, so this date of the search is obviously a mistaken date.

Conco in his evidence on the Draft Constitution at pages 11285 to 11286, in referring to this Memo on the Draft Constitution, he says that as from 1953 to 1957 there were several of these drafts, and he then says that this Memo probably came from the head office. So My Lords, this is well within the period of the Indictment.

My Lord, before I continue, could I ask Your Lordships just to make one other note in the - in regard to Conco's positions. My Lords, the first note would be on the first page under the membership of organisations, in which he says at page 10946 that he always carried out his duties, as a member of the National Executive Committee and the National Action Council of the Congress of the People conscientiously. And when he was unable to attend meetings, the question was put to him:

"When you were not present at meetings, did you endeavour to inform yourself as to what was being done and what was being decided upon in your absence? --- Yes, they used to send me material, they would send me reports of activities". So My Lords, he kept himself informed of what was going on in the cases where he was unable to attend.

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And then My Lords, just on the next page, I refer to Minutes of the National Executive meeting on the 21st May, 1955, that is Exhibit A.64, now Conco in his evidence at page 10975 admitted that he was present at that Executive meeting. It arose, My Lords, out of a question put to him about the expulsion of Vundhla and the exercise of discipline, and he agreed that he was present when that matter was discussed.

My Lords, I was just about to deal yesterday with the question of the campaigns. I dealt with the Defiance Campaign and I made some general submissions about the other campaigns. My Lord, as far as the Bantu Education campaign is concerned, he said that that was also an integral part of the struggle for liberation, and My Lords that it was also a way of increasing the political consciousness of the people.

The next campaign, My Lords, is the Western Areas Campaign. Before dealing with the passages in this summary, Your Lordships will allow me just once again to refer to the fact that Exhibit A.37, the Executive Report, is a report to which he was party, and in this connection Your Lordship will also have regard to Exhibit T.E.T. 46, which are the Minutes of the National Executive committee meeting on the 27th November, 1954, where Conco was present, and where Resha and the Executive Members of the Transvaal gave a full report on the Western Areas situation, and where this Executive Report in A.37 was discussed and adopted.

MR. JUSTICE BEKKER :

Mr. Trengove, is there any evidence other

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than by way of inference, what Report Resha made?

MR. TRINGOVE :

What he said? No, My Lord. He supported - He is supported by Moretsele and others, and gave a full report of the situation in the Western Areas on the 27th November, 1954. Now Your Lordships will remember that at that stage the real campaign in regard to the Western Areas had been in progress already for about five months, and it was two months before the government order to vacate was to take effect.

My Lords, A.37 and A.162, the Report of the Secretariat on the Western Areas, which Conco said in his evidence really gives one the best statement of their attitude - we submit that is the effect of his evidence, it gives you the best statement of the A.N.C. attitude to the Western Areas Campaign....

MR. JUSTICE BEKKER :

Now A.162, that followed on the initial removal, not so? So that was about five months after the November meeting?

MR. TRINGOVE :

Yes, My Lord, some months after. And My Lords, before the removal, Your Lordships will see in A.37 and also in A.162, he talks of the meeting of the National Executive in March of 1954, so one has this position that as far as the Western Areas Scheme is concerned, as far as this particular witness is concerned, this particular Accused is concerned, My Lords, Your Lordships have the Minutes T.E.T. 51 of the 18th of April, 1954, where he was present, page 3789.

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Now My Lords, one has this position that in March, 1954, before the campaign gets going this matter is discussed at Executive level. In November, 1954, after the matter had been going for about six months, this matter was again discussed at Executive level. In March, 1955, approximately March, 1955, the Report of the Secretariat of the Western Areas is submitted to the National Executive Committee and again the matter is discussed at Executive level.

Now My Lords, A.37, there is a portion which was read into the record at page 264, part of the Executive Report. I mention this, My Lords, as the starting point, because it shows also this accused was a party to this report, and he regarded 1954 as a crucial year in their unconstitutional activity. The Report states at page 264, "The year 1954 was the year for the preparation for a new period, for the changing of tactics. A period for an advanced form of organisation to prepare for advanced forms of struggle. The Congress of the People and the Resist Apartheid Campaign are two campaigns on which we are going to base our future struggle. The Resist Apartheid Campaign was the issue on which we mobilise our forces in defence of our rights and our organisations. On the other hand, the Congress of the People Campaign will open a new phase and another turning point in the history, when for the first time a people's charter will be drawn up by the masses from all walks of life, a Charter for a new South Africa". That was their view of 1954. Then My Lords, at page 273, this - this 1954 Executive Report

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deals with the Western Areas Campaign, a portion read in on the second half of page 273 : "The Western Areas Anti-Removal and Resist Apartheid Campaign. At a meeting of the National Executive on the 17th to 18th April, 1954, in Claremont Township, Natal..." - that refers to T.E.T. 51 - "... the National Executive carefully considered, after a full report by the Working Committee, the gravity of the situation created by the decision of the Nationalist Government to forcibly remove the non-European people from the Western Areas of Johannesburg. It came to the conclusion that the matter had assumed dimensions of national importance, and the responsibilities of the Anti-Removal Campaign must be under the supervision of the National Executive itself working through its agencies." So that Your Lordships have the fact that a full report by the Working Committee, which was a small group of the National Executive, with headquarters in Johannesburg, was carefully considered and they decided on this campaign. It made an appeal to all sections of South Africa, Black and White, to unite and oppose by all means possible the cruel scheme of Dr. Verwoerd. On the 8th of May, 1954, the National Executive of the A.N.C., the S.A.E.C., the S.A.C.C.D. and the S.A.C.P.O. approved the plan of campaign known as the Resist Apartheid Campaign in terms of which the 26th and 27th of June was the Western Areas Day for campaign and solidarity throughout the country. On these days meetings and conferences were held in Natal, Transvaal, and the Cape Province. The President-General, Chief A.J. Luthuli made a clarion call to the nation for

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fifty-thousand Freedom Volunteers both for the Western Areas as well as for the Congress of the People. The response of the people and their very high spirit shocked the government and showed a clear demonstration of the people's solidarity. Now, that Western Areas Day, the 26th and 27th of June, Your Lordships will remember the meeting was held subsequently in Johannesburg, the Anti-Apartheid meeting, lead by Vundhla, arranged by this Committee, Your Lordship will remember it speaks of Conferences here of the A.N.C. Cape and the A.N.C.Y.L. National Conferences were held at that date at Uitenhage and there Chief Luthuli made his call for Volunteers.

Now My Lords, then this Report deals with one further matter in connection with the Western Areas Scheme, and that is at page 276, 275 and 276, under the heading Activities of National Officials. It refers to - at page 275 - firstly to the Provincial Conference at Uitenhage, where Chief Luthuli made his call for fifty thousand volunteers, and at which the Secretary-General opened the National Conference of the A.N.C.Y.L. at the same time. Then it says : "By far the most important visit of the year was that of the President-General to the Western Areas of Johannesburg, which is threatened by the forcible removal by Dr. Verwoerd. On his arrival on the 10th July, at the Jan Smuts Airport, he was served with a banning order, which prohibited him from attending public gatherings as from the time he received the order. Nevertheless, close to ten thousand people assembled in Sophiatown on the 11th of June (?) to meet the people's leader. On the

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advice of the Working Committee he did not personally address the gathering, but his message was enthusiastically received, in which he said that the removal of the Western Areas was a testing ground in the implementation of the outrageous tyrannical apartheid policies of the Nationalist Government. He called upon all South Africans to consider no sacrifice too great in opposition to this scheme. Then it talks of other activities, Dr. Conco's visit to the Transvaal, and Moretsele's visit and Dr. Njongwe's visit to the Western Areas. My Lords, this matter was discussed at top level. Plans were made at top level, and Your Lordships can accept that the way in which the Western Areas Campaign was conducted, - it was conducted in accordance with what was decided at the top level. And My Lords, the essence of the campaign was that there was going to be mass resistance to the enforcement of law, in order to make this the Waterloo of apartheid. That Dr. Conco knew, and that he accepted.

My Lords, may I against that background deal with his evidence. Your Lordships will also bear in mind for the moment - I'll be dealing with that just now - what Dr. Conco said about A.162, in which they afterwards complained that no clear lead was given. Dr. Conco, in his evidence at page 11376, line 27 - there he was asked :

"Do you remember any document, any pamphlet in connection with this removal scheme and the policy of the A.N.C. in which it was specifically stated that if the police come to move you, you must move without resisting the police? --- I can only remember a document, a Report by

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the Executive Committee, which clearly stated what the policy was and what the campaign was intended to be, the 1955 Report".

"Can you remember any document or any pamphlet which corresponds with what you say the policy of the A.N.C. was? --- No, I can't. As I say, I remember the Executive Report of 1955, which puts quite specifically what the campaign was about, what was to be done and so on".

"Is that the Report of the Secretariat on the Western Areas? --- Yes", and then that report was dealt with.

Now My Lords, Dr. Conco said that the people had to be prepared to resist the lawful orders of the government, they had to resist being removed voluntarily. He agreed that they were placing the government in the position of having to remove the people by force, but he said that an injunction to the people to resist the removal, even at the cost of their lives, would have been contrary to A.N.C. policy, because it would indicate a policy of violence. Now, quite right, My Lord, we say to tell the people that they must resist at the cost of their lives would be indicative of violence. We say it is not contrary to A.N.C. policy, that that was said in the A.N.C., it was said over and over, because it was the policy of the A.N.C., because the policy of the A.N.C. was that they were not going to be baulked by the prospect of a violent conflict.

May I just refer Your Lordships to what he says at 11240 in this connection.

"Dr. Conco, the campaign in the Western Areas, Johannesburg, you said yesterday if I understood you correctly,

that if the people were told to resist removal even at the cost of their lives, that would be contrary to A.N.C. policy, because that would indicate a policy of violence? --- Yes, in the Western Areas, the policy was that the people should not move voluntarily, but if they are moved, they would have to move, but they should not do so voluntarily." "The instruction to the people was to resist removal, is that correct? --- Yes."

"How many people were there in the Western Areas? --- I can't remember now,"

"Was it not that about fifty thousand, fifty thousand had to be moved? --- Yes, I think that is the number."

"The government had decided to remove fifty-five thousand people and orders had been given, legal orders for their removal had to be given - had been given, and as a result of that the African National Congress, to further its ends, encouraged and incited fifty-thousand people to resist the lawful orders of the government? --- Yes, to resist being moved voluntarily, not to agree to being moved voluntarily. That would be a demonstration, as I have already explained, of the determination of the people against the particular measures that were being meted out to them".

"In other words, doctor, the African National Congress was placing the government in a position of having to remove these people by force? --- Yes, I mean that is implied when they were told not to move voluntarily unless they were forced to move."

"And you were placing the government in that position that they would have to use force? --- Yes, I think it was

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implied in our decision, don't move, you only move when ordered to move."

"I don't want to say it is implied, I want to say it was intended? --- Yes."

"Because I want to read to you a document found in the possession of Tambo who was Secretary-General of the A.N.C. at the time? --- Yes, Oliver Tambo".

"Dealing with the Western Areas Removal, this document says, paragraph 3, O.R.T. 129 : 'To begin with, it is wrong to imagine that the National Congress could have defeated the government on a single issue, the removal of the people. The government will be defeated by the entire people of South Africa on the general policy of apartheid. The objectives of the campaign against Removal was to foster a mental attitude of non-collaboration with the government, and to compel it to secure the removal of the people by intimidation and the employment of force.' Doctor, does that set forth what the purpose of this campaign was, that it wanted to force the government to secure the removal of the people by intimidation and force? --- Yes, as is expressed there".

"Do you agree with that? --- Yes, I mean it is implied even in our decision. It is implied when we say the people should not move voluntarily, but they must move if they are moved by force." And he says that they must not retaliate.

Now My Lords, Dr. Conco quite correctly says this statement in O.R.T. 129 is implied in their attitude. Of course, My Lords, it is implied, because when they tell the people, don't go voluntarily, they

don't mean My Lord go when the law requires you to go, go when an order is served on you. That is not the point at which the people must go. They must disobey the law, their resistance must become illegal, and they want the government to achieve the removal by intimidation and force, and the force that they want, My Lord, is not the force of law, but physical force. That is what they want. And that is what he says is intended, and that is what he says is implied, that they want physical force to be applied to those people before the removal takes place. And now, My Lords, the Accused himself thereupon refers to the 1955 Report. At 11243, dealing with this document, O.R.T. 129, he is told :

"It is a typed document found in the possession, alleged to have been found in the possession of Tambo", and then the witness replies : "I would like to say, this is very clear, the question of the Western Areas by the Executive Report of 1955, that states what the African National Congress policy was". So he says our 1955 Executive Report shows exactly what our policy was in the Western Areas. Now the 1955 Executive Report, My Lords, is L.L.M. 81, and My Lords, that Executive Report was submitted to the 1955 A.N.C. Conference at Bloemfontein, the 16th December, 1955, which Conco couldn't attend, because at that stage he said he was banned from attending public meetings. But My Lords, at page 10929, Conco says, referring to L.L.M. 81, he said he remembered the Conference but he couldn't attend because he was banned for twelve months, November 1955 to 1956, and then he is asked : "Now can you remember if you still at that

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time approved of this Report, to be submitted to the Conference?" and he said "Yes". The question was, My Lords, "Now can you remember if you still at that time approved of this Report to be submitted to the Conference?" and he said "Yes".

"Did you approve of the Report? --- I saw the Report".

"You saw the report? --- Yes."

"At that time." And he makes the Report his own by saying that that clearly expresses their attitude.

Now My Lords, the portion of the Report dealing with the Western Areas, is then put to Conco, at page 11244, line 24. It is put to him :

"I'll read the Annual Report to the National Executive of 1955 to you on this point, doctor, L.L.M. 81. This is what the Report says : 'In the field of resistance to apartheid, we are faced with the removal of the Western Areas in Johannesburg from the very beginning of the year (?), when the government was forced to change its tactics in the face of strong opposition to their plans. On the early morning of the 9th of February, the militia, more than two thousand police with military force standing behind, were used in the forcible removal of the people. A state of emergency was declared for twenty days in Johannesburg and Roodepoort, and great indignation was aroused amongst the residents in that area.' And then Dr. Conco would you just look carefully at the next passage : 'Thanks to the guidance of the A.N.C. leadership a bloodbath was avoided which the government had intended to bring about by its provocative action. Despite the forces, out of a hundred and fifty families, forty refused to go

to Meadowlands. Great care is due to the Sophiatown people and our beloved volunteers who remained calm whilst struggling against the evil forces at the same time.' Dr. it is quite clear that the African National Congress says in this paragraph that the government wanted to create a bloodbath in removing the people?

--- Yes, the statement puts it quite openly, the attitude of volunteers was there was no violence, congratulating the stand and the organisation of the African National Congress".

And then it deals with the passage where they say that the government wanted to create a bloodbath, and he says that the government had created (?) a state of emergency.

My Lord, I made this the subject of comment during the argument on the African National Congress attitude towards the Western Areas, and I submit My Lords, that Your Lordships will find that Conco was not only aware, My Lords, in the essentials of what exactly was going on in the Western Areas, but that he was part to this hypocritical and provocative attitude which was incited amongst the people in the Western Areas towards the government. On the one hand it is their object to compel the government to secure the removal of the people by intimidation and force, and on the other hand they attack the government for using force in removing the people and they criticise the government for wanting to create a bloodbath. Now My Lords, the very opposite is true. They, My Lords, were out to create the explosive situation in the Western Areas which

compelled the government to take precautions and which enabled the government to secure the removal in that area without incident.

My Lords, the next - in this Summary Your Lordship will see that a number of speeches were put to Conco which were made in connection with the Western Areas Campaign. My Lords, at that stage the Crown was establishing inter alia A.N.C. policy, I have quoted them here for the sake of having the references complete, and it is not necessary to refer to all these particularly. My Lords, I would invite Your Lordships attention particularly to the first speech, the first meeting which was an Anti-Apartheid meeting, and at which Vundhla spoke. Now at that stage, My Lords, Vundhla was with the Accused on the National Executive Committee. This meeting on these dates were arranged, specifically decided upon by the National Executive Committee, throughout the country the people were going to be rallied to resist in the Western Areas, and My Lords, at this Anti-Apartheid meeting top A.N.C. Executive officials were present. It was at that meeting, My Lords, that Vundhla said inter alia - he made a speech, the passage was quoted and put to this witness. Page 11244, the passage starts there where he is referred to L.L.M. 81 - at 11247. Now Vundhla represents the African National Congress, he speaks on their behalf, at a specially arranged Conference decided upon by the National Executive in connection with the Western Areas Removal Scheme, and as far back as June, 1954, Vundhla says, at page 11248, line 20 : "For those who followed events very closely in

the Western Areas, it is clear that the Nationalist Party intends to aggravate the already strained relations between the government and the people with its rule of violence and brute force. The government intends to turn the area into a bloodbath for its political ends. On the other hand the Congress, in a series of resolutions has condemned and rejected the removal. It has openly called upon the people to refuse to remove." That paragraph was put to Conco. "In a statement issued by the President-General, fifty thousand volunteers were called for immediately service in the Western Areas. From the President that came, and coming from the President you will realise that our organisation is definitely committed to a programme of militant and uncompromising refusal. In affected areas fascism has been displayed to the Africans. There is a growing body of serious men and women who feel that the effected areas are the place to call a halt. All are expecting nothing else than a fight to death in defence of their homes and properties. That is the essence of the fight that Congress faces today." Dr. Conco, in conclusion Vundhha says 'We also have the specific issue of the Western Areas which demands our very serious attention and our combined resources. There is an ugly situation. The African National Congress yields to no one in its hatred of injustice, oppression and tyranny. It demands that we shoulder the burden which our times have imposed upon us, with courage and obedience to the leaders. On similar occasions in the past

in similar crises and tragedies", and then he goes on and at the bottom of the page Dr. Conco is asked :
"Dr. Conco, the mobilisation of fifty thousand volunteers for immediate service in the Western Areas and the injunction to the people to call a halt to the policy of the government, to expect nothing else than a fight to the death in defence of their homes, do you agree with that, that that was the correct attitude?
--- No, we didn't (?) mobilise fifty thousand volunteers for action in the Western Areas", and he deals with that, at page 11250 line 5 :

"And this incitement to resist removal and expect nothing else than a fight to the death in defence of their homes? --- Yes, it was expressed, it could have been expressed, I don't know what the question was about".

"Would that correctly represent the attitude of the African National Congress to the removal of the people in the Western Areas? --- Well, the question that people were expected to fight to the death in defence of their homes and properties, it is ruled out by the policy. They will not fight a physical fight, but a political fight, I don't deny that, but to say a physical combat, no, it would not be consistent with A.N.C. policy".
And then Sibande's speech is dealt with and he says he can't understand it.

Now My Lords, Conco didn't hear that speech, but My Lords, Your Lordship will be asked to decide what the probabilities are that on an occasion like that Vundhla makes a speech, which if the policy

is really and truly a non-violent policy, is out of line with policy. On that occasion A.N.C. Executives are present, he is speaking on behalf of the A.N.C. and nothing is done about it. It is not as if that meeting didn't have any publicity. Or whether that is a speech made by a Congress member and which is indicative of a certain Congress policy decided upon by the National Executive, that they were going to tell the people at that stage of the campaign that you would have to be prepared, as Luthuli said, to count no sacrifice too great in your resistance, or to be prepared to resist to the point of death.

Now other speeches of the same nature were made. My Lords, we say - we refer Your Lordships to this, all the references are there. Speeches in the Western Areas right from this day, June 1954 towards January 1955 all have the same tendency, all have the same theme, and we suggest My Lords that that theme is consistent with A.N.C. policy. and if it is consistent, A.N.C. policy is not non-violent. Your Lordships are entitled to infer that throughout the reports no criticism is directed to the way in which the campaign was directed in the Western Areas Campaign - Your Lordship will infer that it was directed in accordance with the National Executive Committee decision. And that, My Lords, to that Conco was a party. My Lords, he also comments on

MR. JUSTICE BEKKER :

Mr. Trengove, was Conco ever asked what in his view was the non-violent policy? What it meant?

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I have in mind Luthuli's explanation, that they can embark on lawlessness, but if the government uses force it is the government who is violent. Now did Conco explain the non-violence of this non-violent policy in that way too?

MR. TRENGOVE :

Well, Conco's attitude was, My Lord, that non-violence means that they were not going to - even if attacked they were not going to retaliate. The people in the orbit of the A.N.C. Outside the orbit...

MR. JUSTICE BEKKER :

What I mean is this, does he explain that in his view the non-violent policy accorded with what Luthuli said?

MR. TRENGOVE :

My Lord, what he did was, he called Luthuli as his witness on A.N.C. policy. Luthuli was his witness, called on his behalf to explain the A.N.C. policy of non-violence. Luthuli's explanation was not challenged by him, it was accepted by him. He knew the A.N.C. policy of non-violence, and he called - his first witness was Luthuli, and it is a point that I was coming to, Your Lordships will have regard to the fact that, although I am not dealing with it at the moment specifically, in assessing Conco's position, Your Lordship will have regard to the fact that he called Luthuli as his witness to speak on his behalf as to A.N.C. policy.

MR. JUSTICE BEKKER :

This Anti-Apartheid meeting on the 27th

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was that in Sophiatown too?

MR. TRENGOVE :

No, My Lords, it was in the City Hall - in the Trades Hall in Johannesburg. It was a joint meeting of the Anti-Apartheid Committee.

My Lord, I have two other references, there is that speech of Resha's at Sophiatown on the 7th of November, 1954, which was put to him, and I put it, My Lord, not Resha's speech, but his comment at page 11261, where Resha where - where Resha referred to a clash. The witness says : "It really depends on what the speaker had in mind there regarding the removal of the Western Areas. If the speaker meant that there would be a clash where the Congress would go into attack, that is outside the policy of the organisation. But if the speaker meant that it was likely that Congressmen would be attacked during the removals, that there would be some bloodshed through attacks, then I think it falls in line with the warnings we sometimes give to people." And he agreed that the real interpretation of the speech My Lords was that Congress must be prepared to attack (?) on that day. Here Your Lordship gets an indication of what his attitude was to the Western Areas. We were not going to initiate the attack, we were going to expect to be attacked and there could be bloodshed. But that prospect doesn't concern him, My Lord, if that is necessary to make it the Waterloo of apartheid, then he accepts that.

Then My Lords he was also referred to the meeting of the Freedom Charter Committee, 18th September,

1955, and Sejako's speech which he said wasn't in accordance with the policy. Now My Lords, then the accused, page 63, paragraph F, the Accused commented on the Report A.162., pages 1377. Now My Lords, the whole of A.162 is of course accepted as setting forth correctly their attitude, and Your Lordship will remember that A.162, a portion read in at page 798, gives the history of how the Western Areas Campaign was initiated, and the Report also says, My Lords, at page 799 the portion was read in, "The removal scheme is part of the Group Areas Act. Considering the serious nature, the President General Moses Kotane called upon the people to make the campaign the Waterloo of apartheid.

Now My Lords, this Report is dealt with by him at page 1377, where various passages are put to him.

MR. JUSTICE BEKKER :

When he says it sets it out correctly, at that time was he party in any way to this report? I think you gave us a reference?

MR. TRENGOVE :

Yes, My Lord.

MR. JUSTICE BEKKER :

That came before the National Executive?

MR. TRENGOVE :

He says so, My Lord.

MR. JUSTICE BEKKER :

And there is evidence to show that he was present when that report was presented?

MR. TRENGOVE:

Yes, My Lord, I'll give Your Lordship that

reference now. At page 11379, line 29, he is asked :

"Did this report come before the Executive, the National Executive of the A.N.C.? --- It did, naturally".

"Did you read it? --- It is such a long time ago, I might have read it, I think I did read it".

My Lords, that was after he had already said that this is the report which really sets out what the campaign was intended to do. My Lord, certain passages are put to him, starting at page 1377, and at page 1378 a passage is put to him : "The activities of the volunteers in the area was increased and the spirit of the people again aroused". He is asked, "Do you concede that that was the position? --- Yes that is correct".

"It is obvious that during this period the authorities were seeking a clash, is that correct? --- That was during the period when the volunteers were being sent to the area".

That would be the period November, and December. Then a further passage is quoted to him :

"The activities of the volunteers in the area was increased and the spirit of the people again aroused. It was obvious during this period that the authorities were seeking a clash. Numerous attempts at provocation were made". Is that correct?", and he says he thinks it is correct. And then this matter is then canvassed as to what the provocation was and the Supreme Council was dealt with and the burning of Indian shops. And then, My Lords, may I ask Your Lordships to refer to page 11381, where the following passage was put to him :

"The authority of the A.N.C. prevailed, and the work of

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the A.N.C. and its volunteers created a situation where the government was forced to abandon its plans for removing the tenants on the 12th and to anticipate the date by three days". He is asked what that meant, and he says : "The way I interpret it, is that there was a change of date". Then the passage is put to him again, and he says : "The Report claims, My Lords, that the A.N.C. by its organisation, its authority in the Western Areas, and getting hold of the people for resistance, the government had to change the date", and then he is asked "Why", and he is asked what this means, "The work of the A.N.C. and its volunteers created a situation", what the situation was that was being referred to, and he said well, that was a bit difficult to know. Then My Lords, that matter is then canvassed, and then he is asked, "If it was the policy of the A.N.C., which was the policy explained to the people there, that they must not move, but when the people come they must move, If that was the policy of the A.N.C., why did the government have to anticipate the date?" He says : "The government had different views to the plans of the A.N.C. It didn't think of our policy that we were asking the people not to move voluntarily, that is why there were statements circulated that we had gunpowder and dynamite. And then he is asked, My Lords, because his explanation is obviously out of line with the document, he is asked what this means that "The A.N.C. created a situation whereby the government was forced to anticipate the date", and he is asked about the statement that the government was compelled to use three thousand police.

And My Lords, my submission to Your Lordships is that the witness explanation that that claim in A.162 is entirely unsatisfactory, if his explanation of what they were preaching in the Western Areas is correct. Because they claim, My Lord, in this Report that they had created a situation in which the government was forced to use these large forces, and it was the government who was forced to anticipate the date of removal. And he cannot explain, My Lord, what that situation is, and he doesn't say My Lords it is because he didn't have the facts on the Western Areas. He is - he has never, My Lords, alleged ignorance of facts as a basis for his unsatisfactory replies. My Lords, he also agreed that the plans had been made for industrial action on a nation wide scale, to co-incide with the Western Areas Removal, that throughout the country they were going to have industrial action in order to support this campaign. My Lords, I respectfully submit that the acceptance of this Report by Dr. Conco as setting forth the position correctly, and particularly My Lords the portions of the Report relating to the pressure applied to the government, to their failure, My Lords, to tell the people what they had to do, - this statement in the Report that this information was requested time after time, what the people were going to do, the major weakness however - page 841 - "the major weakness however would seem to be the failure of the leadership to tell the people precisely what form resistance - what form of resistance was to be offered on the day of removal. This information was requested time after time and at no stage was a

clear and unequivocal answer given. The masses were given the impression, however, that the Congress had the answer and would give it at the appropriate time". So he knew, My Lords, exactly what type of propaganda was being put forward in the Western Areas, and My Lords, this latter part of the Report, this latter part which says "What must be done. The basis of resistance to take a form of non-collaboration of a quantity and quality which must compel the government to use all its resources to impose its will at every and any stage. Non-collaboration both from the mass and the individual, designed ultimately to strain the resources of the authorities and to create a situation more favourable to the movement for more direct and positive action", and the concluding statement that even industrial action was - must not be represented as decisive, but rather as a tactic of obstruction and resistance which can lift the struggle to a higher level. That, My Lords, that he made his own. My Lords, that being the case, I respectfully suggest, My Lords, that whatever Your Lordship decides about the Western Areas Campaign, also falls to the account of Dr. Conco who at all times fully supported that campaign and was one of the people who designed the strategy in the Western Areas. And My Lords, just finally on that issue, a lot has been said about these street corner meetings at Sophiatown and speeches not being in line with Congress policy, but the one statement that is very clear from this Report, My Lords, after having assessed the position, the statement makes

special mention of Sophiatown. The Sophiatown branch of the A.N.C. is the largest in the Transvaal, the Sophiatown branch has created a very solid local leadership, Congress ideology dominates in Sophiatown. So, My Lords, if there is one place where the National Executive felt that the people know what Congress ideology was, it was in Sophiatown. And how did the people of Sophiatown know it, My Lords? They knew it from the meetings which were held week after week, Sunday after Sunday in Sophiatown, inciting the people to resist this removal to death.

So My Lords, on that issue the Crown respectfully submits Dr. Conco must accept full responsibility.

I turn My Lords, now to the next heading, that is the Volunteers and Study Classes. My Lords, here the evidence of this witness becomes even more unsatisfactory. It becomes even more obvious, My Lords, that he was trying to hide or he was trying to play down anything which he knew would land him in an embarrassing position. In his evidence in chief the allegations in the indictment relating to the Freedom Volunteers were put to the accused, and he denied that they were being prepared for acts of violence. He said, he denied..... that that was contrary to A.N.C. policy. He denied that they were a semi-military body, and he denied that they had to take an oath. Now he admitted, My Lords, that he himself was a Freedom Volunteer and that he took part in the organisation of Volunteers in Natal. He

also admits, My Lord, that he was present at that meeting at Fraser's Station which was a Joint Executive Meeting, where G.478, those instructions to volunteers, were taken by the police. My Lords, he was meeting thereon behalf of the African National Congress with the other organisations, which people included Slovo, Resha, Luthuli, Beyleveld, Naicker, Moretsele, Patel, Yengwa, Tshunungwa. Now My Lords, it is just a small matter, but may I just - I would like Your Lordships to note this type of reply he gave. He was asked about the Volunteer organisation, and how they had a Volunteer-in-Chief for the Union, and how each Province had a Volunteer. My Lords, at page 10953, at the bottom of the page, he was asked about this organisation of Volunteers : "Provincial Volunteers, yes, the idea was there, as is mentioned in the document, to have Volunteers-in-Chief in the various provinces, and I think some provinces might have had them or had them, and some provinces might not have followed the scheme properly. Well now I recall for instance in Natal we had a Volunteer-in-Chief", and then he says that man is Yengwa. And then he is asked : "Do you know whether the Transvaal had a Volunteer-in-Chief? --- I think it had, I cannot really recall the Volunteer-in-Chief's name, but I think the Transvaal had one". And then he is pressed, and he says he thinks it was Resha who was Volunteer-in-Chief. My Lord, if there was one man that was known as a Volunteer-in-Chief and that was prominent in the organisation, and who was with him on the Executive it was this man Resha. And he comes along, My Lords, and he is afraid to point

out Resha, because he knows what an important man Resha was, having regard to the speeches he made. That has been his attitude all along, My Lords.

My Lords, he deals with the organisation of the Volunteers, and My Lords, in paragraph B we say - The duties of volunteers stated that Volunteers had to organise, recruit new members into the A.N.C., they had to popularise the idea of the C.O.P. and organise the people to bring in the demands for the Freedom Charter. He also agrees, My Lord, that they had to mobilise resistance against the policy of the Nationalist government, that is campaigns against the Bantu Education, Group Areas, Native Resettlement, Western Areas Removal Scheme and so on. My Lords, it is quite clear from that report, A.37, that I read, that the Volunteers are going to play a very important part in this Resist Apartheid campaign of which the Western Areas was the focal point. Now My Lords, then he was asked about the political training of these Volunteers. May I refer to page 10944. Before I deal with that, may I refer Your Lordships to 10934. He is asked about the three lectures, The World We Live In, The Country We Live In and Change is Needed, 10934, line 5 to lines 15, - line 25. There he says, My Lords, that he heard of these three lectures for the first time in this case. He says he thinks this was the first time. Then afterwards he says well, it might have been that they were amongst his papers, he can't remember them very well. Now, My Lord, if that is read with 10944, where this matter crops up again - 10944, line 22. Now My Lords, that

arises out of the political education of volunteers, and how they gave lectures to their people in terms of their Programme of Action, and My Lords, that the political education was an important factor.

"I want to come back to the question of lectures that were given to the people. Who appointed the people to give lectures? Who were actually to deliver the lectures, Dr. Conco? Who arranged that? If lectures were given to people to prepare them for the Congress of the People, who arranged for speakers at lectures? --- The Committee".

"What Committee? --- The National Action Committee or the Secretariat of that Committee".

"And a person who delivered the lecture, what material did he have to use? --- I wouldn't know what material he would get to use. As I have already said, I didn't see these lectures, those that you referred to".

"I am not referring to those lectures at the moment, Dr. Conco, I am referring to your Regional Committee which arranged lectures or study classes for the people. I want to know what material was to be used as a basis for these lectures, or was that left entirely to the discretion of the particular lecturer? --- The Committee would determine the material to be used."

"What Committee was that then? --- For instance the Natal Regional Committee".

"The Natal Midlands Regional Committee, would they for instance decide on the material to be used? --- I believe so".

"Were you chairman of the Regional Committee? --- I acted as Chairman in the sessions of the Regional Committee".

"Were you a chairman of the Regional Committee? --- Yes".

"Which Regional Committee? --- I will just try to explain, My Lords, it is a little bit confusing. There was a Midlands Regional Committee. Now my branch in Ixopo belonged to the Midlands Region of Natal Action Council. First of all....." and then he explains the setup there. Then My Lords, at page 10946, line 7 :

"Now I represented the Ixopo branch and in the Natal Midlands Region I was a member of that Committee, and I acted as chairman at some of the meetings, and owing to distances, because I am about seventy miles away from Maritzburg and a hundred miles from Durban, I did not attend every session of the Region, my own Region, and also the Natal Action Council. I just received reports of meetings." And then that paragraph dealing with the duties is set forth, and then at the bottom of the page, My Lords :

"Now I want to ask you, Doctor, at no stage did you know what material had been decided upon as the basis for the lectures to be delivered? At no stage did you know what material? --- I didn't."

"And at no stage did you try and find out what was being used as a basis for these lectures? --- Well, I knew in general, lectures on educating the people about the Congress of the People in general, but specifically I didn't know". And that is just after saying that he carried out his duties conscientiously and he got the

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