

I don't remember very well.

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Right. What is, finally what is the African National Congress' attitude with regard to pass laws?-- We say that pass laws should go.

I just want to ask you this question; it is suggested sometimes - no doubt in good faith - that the Pass acts as some form of protection to the African. Do you accept that, and if not, why not?-- I don't accept that.

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Why not?-- I don't see what protection it gives one. I have not yet been convinced - no one has ever convinced me of what the protection is; for one thing, as I see it, it opens the way to one being harrassed by the police it restricts your movements - - I don't see where the protection comes in. In fact, sometimes they say "Well, when you're dead you'll be identified"; what does that mean to me?

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KENNEDY J: Mr.Luthuli, the word "passes" is a general word; it's used to cover a number of documents, or has it a specific meaning?-- My lord, it is used to cover a number of documents which do involve some kind of restriction; it would involve. . . .

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Would you tell me what documents an African male has to carry? By law?-- Well, he has to carry what is a tax receipt, then a document for service - to show that he is employed with so and so, which must be endorsed all the time . . .

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The reference book?-- The reference book has these documents classified. There is a receipt there, then a portion where your employer must always sign to say that you are still with him, and such things.

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MR. MAISELS: Is the pass an African's pass 1
to go to an urban area or not? If it is not suitably
endorsed can you go to an urban area with your pass?--
You couldn't go to work; you could go now to an urban
area to visit for limited times, subject to hours; then
after that you either have to get permission from the 5
local authority or go back home.

I want to deal with something I promised to
deal with yesterday, the so called International Libera-
tory Movement. Now the Crown says that there is an
International Liberatory Movement; it says so in its 10
Particulars and not in its Opening Address, so this is
more serious. It says: "There existed an International
Movement known as the Liberatory Movement." It's in
the Crown's Summary of Facts. Do you know, or have
you ever heard of an International Liberatory Movement 15
?-- I've never known or heard of any such Movement.

Is the A.N.C. part of any movement of that
kind, or of any other kind?-- No, we in A.N.C.circles
will speak for instance about a Congress Movement -
speaking of the alliance that we have with other orga- 20
nisations . . .

You see it in your addresses and in other
addresses, you speak of the A.N.C. being part of the
Liberation Movement which exists throughout Africa?--
Yes, that is correct. 25

By that what do you mean?-- By that we mean
to indicate the state of affairs that exists in Africa
in this, that there are many territories in Africa, like
ourselves, who are seeking freedom. In other words,
you have in some areas a Liberatory Movement trying 30

to liberate themselves, and when we in Africa speak in those terms we speak, recognising that we are not alone in this - - we have sympathy, as we have already indicated, with everyone struggling with freedom . . so we recognise this Movement in Africa, though not as a co-ordinated Movement, my lord. 1
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Not as a co-ordinated Movement?-- No.

As an organised Movement in any way; are you in any way connected for example with the Liberatory Movement in Ghana or Nigeria or the Sudan or Rhodesia, or Timbuctoo?-- No, my lords; all I can say in that regard is a year ago - and that was not really a Liberatory movement - there was the Afro-Congo Mass - the meeting of all the Liberatory Movements and other organisations interested in freedom, in Africa, and as a result of that we had a sort of a secretariat just to keep Pan-Africanism - - incidentally, I might say that really this is a question of Pan-Africanism, rather than a joint Movement - a Liberatory Movement. 10
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When was that conference, last year you say?-- In 1958, yes. But apart from that we each have our own Movement in our territories. 20

Would you describe Dr. Nkrumah's political organisation as a Liberation Movement?-- Yes, I would.

Would you apply this term to the movement say of Neyere (?) in Tanganyika?-- Yes, I would. 25

Have you any - - are you joined together in any way - do you act together, do you move together?-- No, my lords.

Do you know of any International Liberatory Movement?-- No. 30

Do you know of any International Liberatory Movement alleged to be inspired by Communists?-- I don't. 1

Is your Liberation Movement inspired by Communists?-- No.

Now, during your Presidency, have you yourself written to Rhodesia and Ghana?-- I have to Rhodesia. 5

Can you remember if you wrote to Ghana at all?-- We did write to Ghana congratulating them when they achieved their independence.

Not, when you wrote to Rhodesia, to what body did you write?-- I wrote to Rhodesia - it was the African - the Leader of the African National Congress there. 10

And what did you write to him about?-- I was writing him quite early - - it was just when I had assumed the Presidency of the A.N.C., trying to revive an idea which had long existed, of Pan-Africanism, feeling that in the Continent of Africa the Africans should come together and discuss the situation and their common problems. And so I wrote with that in mind. 15

Did it come to anything?-- No, it did not come to anything. 20

Now, I think it is common cause that events in Africa seem to be going in the direction of self government, or government given to African people - power to govern which they haven't had before; that seems to be the tendency?-- That is correct. 25

Do those events give you any encouragement, or satisfaction?-- They do.

Are you the only African political movement in South Africa, the African National Congress?-- We are not.

What other organisations do you know?-- There 30

is the Unity Movement, my lords, and now there is the 1
Pan-African Congress. I can recall those two.

In general, what is the difference - one of the
major differences between the policy of those organisa-
tions and your organisation?-- In general these orga-
nisations, particularly the Pan Africanists, don't share 5
our view of a multi-racial society in South Africa;
they emphasise more African Nationalism.

(COURT ADJOURNED)

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COURT RESUMES ON THE 25TH MARCH, 1960.

APPEARANCES AS BEFORE.

ACCUSED NO. 29, T.J. Tshunungwa still absent.

ALBERT JOHN LUTHULI, under former oath;

EXAMINATION BY MR. KENTRIDGE CONTINUED :

You were asked yesterday about the^{question}/whether -
you had connections with overseas governments and you gave
your reply that you did not have these connections. Do
you regard support of your cause or aspirations by over-
seas governments as important to you in the A.N.C.? ---
That is so, My Lord.

Why, Mr. Luthuli? --- Well, the support of
world opinion is important My Lord because it does indicate
to us that what we claim for, is accepted in the world.
In other words, My Lord, we are not asking something that
is repulsive to the world. We are on the right road,
and one feels that in the circumstances South African cannot
take the line of isolating itself from the world because
that would not be in the interest of the country.

Do you feel that people, the electorate in
this country will stand against world opinion? --- I don'tn
think so, My Lord.

I want to deal with one of the African
National Congress campaigns, one of the important cam-
paigns which I think has not yet been dealt with, and
that is the Western Areas Removal campaign. You have
already explained that the view of the African National
Congress on the general question of land and the right to
own land, and there is no need for us to deal with that
again, but I want to ask you this: The Western Areas
Removal Scheme was directed to a certain area on the Western

side of Johannesburg? --- That is so.

Was that not merely a local issue? --- It was not, My Lord, a local issue, because it touched on matters that were of general interest to the African people in more than one way, My Lord. I have already said, My Lord, 5 that it touched on the question of land. I will say that insofar as urban areas are concerned, the important point about land is this, that according to the policy of the present government, Africans are not taken as permanent residents in urban areas. They are temporary visitors, 10 and according to policy they may not buy land or even possess the land which they already have, so that the general policy as shown in Western Areas, would be applied to other urban areas, and I think already there are indications that other urban areas are going to be effected in 15 a similar way. For example, Lady Selborne, My Lord, has been mentioned as being on the map, and others of course in line with that policy will be effected. The other important point of wide concern, is this that the Western Areas Removal involved shifting people from one area to 20 another, adding on to the living costs of the African people, for in this particular case Sophiatown was nearer the town, and where they were going was quite some distance from the town. We noticed, My Lord, that in the siting of African townships, the tendency is to put them further 25 and further away from the centre of the city. I recall that in my own town Durban, the recently established township, Kwamashi (E), is quite some distance from the town, and there have been of course objections by the people there, not only the Africans but Europeans, not necessary 30 political. And also, My Lord, in this plan the removal in this particular area would give the authorities naturally

time to screen people and as a result there would be a lot of endorsements out of town, because people, it would be alleged, are not living legally. In that connection a point which is to me of great concern is, very often people who are endorsed out of town, are taken back to 5 rural areas. I happen to know, My Lords, from my knowledge as chief, that there is a general regulation that in a rural area, in a reserve, if you have been away from that reserve for a period of about two years, the land may be re-allocated. I have often wondered what has happened to 10 people who are in fact endorsed out of town, when they should find that even in the reserve in which they resided, if they were in a reserve, possibly the possibilities of getting a site are no longer there, having regard also My Lord to the congestion in the reserves already. Some 15 of these people no doubt, My Lord, come from farms. Way back the man was residing on a farm, he is endorsed out of an urban area, it doesn't follow My Lords, that his former landlord would have a place for him, and I am not sure on this point - I put it in the form of a question - whether 20 the state has any provision at all for such people. I have often wondered about it personally. So that the question of endorsement out of towns which generally goes with the change in the siting - with the removal of people from one part of town to another, does involve a 25 good deal of checking. I am not debating the question of the checking, My Lord, but I am merely saying I wonder in the interests of the people whether in fact the interests of the people aren't seriously jeopardised. Then there comes, My Lord, finally the question of costs. 30 The question of costs. I see it is admitted all round that African wages are low, and the cost generally in

municipal housing schemes keep on rising, My Lord, so that you are really adding to a man's expense rather than reducing his expense. Those are general reasons why we really felt, even some of us who are in urban areas, that it is a matter of serious concern what was taking place. 5

Was it present to your mind in the African National Congress, that it had been said and was no doubt a fact that there were slum areas in Sophiatown? --- Yes. We were aware that it was said that there were slum parts in Sophiatown, and I do not know Sophiatown so well as to be able to say. But I have no doubt personally that there may have been such areas. But I must say, My Lord, in the clearing out of some of these mass removals, it seems that sometimes the question of slum clearance disappears. 10

BY MR. JUSTICE KENNEDY : 15

Mr. Luthuli, may I ask you about one point. In practice, the chief in any - particularly the reserves, is in charge of the allocation of the land, he does it through the indunas, sort of? --- That is so, My Lord, but now the requirement is that - formally it used to be the chief and his indunas, but now he must get the endorsement of the Native Commissioner. 20

Has there been any interference as far as you know with the allocation of land by a chief or by an indunas in the reserve? --- Not - interference in what way, My Lord? 25

A refusal to sanction any allocation of - or any special allocation? --- Yes, My Lord. I think the general understanding now officially is that in any reserve you may not take in outsiders, that is the general policy now. I see it is realised that reserves are crowded so, that you don't crowd them anymore. That is official 30

policy now, My Lord.

Do you know of any actual change of an allocation caused through the absence of a Native while in the urban area? --- I know from my own reserve. At one time we had to undertake - in fact we tried to find out what plots were not occupied by people, but there were somany applications for land, we were simply forced to find out what plots were not used, although people were in Durban, Johannesburg and so on, but we went into the question and we were forced to re-allocate those to other Africans who were members of the tribe. What it did cause later, you found that man who was in Johannesburg suddenly remembered that he had a home at Groutville, and came running to say what has happened to my land? Then you see, with this two year regulation, we just sail well, so sorry, but we had to reallocate it to somebody else.

Was it a regulation or was it a factual application? --- No, I think there is - I can't quote it exactly, but it is by the Department that after two years a man might lose his land.(?)

BY MR. KENTRIDGE :

You have mentioned too the fact of the townships for Africans being moved some distance away from the centre of the town. Now according to the evidence given in this case, the Western Areas Scheme visualised that inhabitants of the Western Areas would be moved to a place called Meadowlands, which was some further distance away. Now has the African National Congress or did the African National Congress take into consideration the question of transport for the people who would be moved, their transport from their homes to work? --- It did, My Lord. When I said it adds to the cost of living,

I also had in mind transport, and higher rents that do obtain now.

The evidence has also been to the effect that whereas - that is the evidence in the documents - that whereas Sophiatown for instance was an ordinary free township, Meadowlands was to be under location regulations. Did the African National Congress have any views on that matter, on the question of people living in controlled locations? --- My Lord, it had a view and it is this: In a place like Sophiatown where people live in freehold land, you **certainly** have a good deal more freedom than you have in an urban township, and anything that interferes, My Lord, with the freedom of an individual is not to be welcomed.

I mention it because in the Freedom Charter there is a clause calling for the abolition of fenced locations? --- That is so, My Lord.

Was that in accordance with the policy of the African National Congress? --- That is so, My Lord.

Mr. Luthuli, do you recall at what stage the National Executive Committee of the African National Congress came into the Western Areas Removal Campaign? --- It was round about 1954, about the middle of the year, I cannot be precise, My Lord.

What did the National Executive Committee decide in connection with the Western Areas Removal campaign? --- Up to that date, My Lords, the question of the removals in Western Areas was just purely a regional and provincial matter, but as things went on, the Executive took this correct view, which I have tried already to indicate that the removals were of such a nature that they did effect the general interests of the people in principle,

and that also this was a large area and it was quite a task of great magnitude, the National Congress couldn't just watch a subordinate body handling such a big question, so we decided to come in, My Lords.

In connection with the Western Areas, the evidence is that when you issued your call for Fifty thousand volunteers for the Congress of the People, you also called for volunteers to take part in the opposition to the Western Areas Removal? --- That is correct, My Lord. 5

What did you have in mind as regards the duties of volunteers in connection with Western Areas? --- We had this mind which I did explain yesterday, My Lord, in connection with other areas that in this area there would be greater need for intensive work amongst the people acquainting them of the issues involved, giving them all necessary guidance, mobilising them to resist in the Removal, to voice very strongly their opposition to the removal and in general do house to house work as I indicated yesterday, My Lord. 15

BY MR. JUSTICE RUMIFF :

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Do I take it that your view was that if there had not been this organisation through the A.N.C. in the Western Areas, the scheme might have gone through with less opposition? --- Obviously My Lord, I think that - I must say My Lord that there were other groups who were opposed to it, apart from the A.N.C., so that the A.N.C. was reinforcing forces that was already there, and naturally being a political body interested in the welfare of the people, we felt that our coming in was absolutely necessary at that stage to reinforce the forces that were already there, My Lord. 25 30

BY MR. KENTRIDGE :

But if the A.N.C. had stood aside from the Western Areas Removal, would there have been as much opposition? --- I think there would have been as much opposition, My Lord. There was already opposition, very 5
strong opposition before we came in. But we felt that we ought to come in you know to give guidance in a situation which could be tense, My Lord.

You have already given evidence of the fact that you flew to Johannesburg in July 1954 in order to 10
address a meeting in Sophiatown, but you were banned on your arrival? --- That is so, My Lord.

Did you address the meeting then? --- I did not, My Lord.

Did you visit the Western Areas? --- I did, 15
My Lord.

For how long were you able to stay there before you had to return to your home? --- I stayed about two days or so.

You then had to return to Groutville in terms 20
of the ban? --- That is so, My Lord.

While you were in Johannesburg at that time, did you have discussions with local executive men? ---
That is so.

I mean in connection with Western Areas? --- Yes 25

At that time, was the date of the removal known?
--- It was not known at the time.

In your Executive discussions, what was visualised as something which might be done on the day of removal? --- In my Executive, I think the particular 30
Executive was held in Durban - Claremont, the feeling was that this was a very important task, and when the removal

takes place, in the Western Areas, the African people and others who sympathise with the African people, should also participate in some other form of protest and demonstration, first to show solidarity with the people in that area, secondly as I have said to show that it affects us all. 5
The plan then arrived at was this, that concurrently with the removal of Sophiatown, we would call for a nation wide strike.

BY MR. JUSTICE KENNEDY :

Was this the Provincial Executive? --- No, 10
National Executive, My Lord, in Durban.

BY MR. KENTRIDGE :

With regard to the people of Sophiatown themselves, what in the view of the National Executive ought they to have done when they were called upon to remove? --- 15
Our view, My Lord, was this that when people would be called upon to remove, they should not do so voluntarily. They should only move unwillingly under the pressure of the police as representing authority.

BY MR. JUSTICE BEKKER :

What kind of pressure? --- Well, the police might come along and say, leave your house. A man would indicate that he didn't want to leave his house, and the police would say come along, and they generally are armed, and they say, come on, you go along. In that case 20 25
the men wouldn't resist not to go, because the police might start - they can charge them with committing a crime.(?) Then he would have to go where they tell him, or he might still show some resistance and possibly they might come and - whatever they do, he shouldn't resist by force not 30
to go.

BY MR. KENTRIDGE :

Was there any actual Executive decision on the question of the amount of pressure which any particular person should withstand before moving? --- No, it was just a sort of general understanding that people should not move unless there was pressure by the police. It was left to the individual. In a situation of this kind it is finally left to the individual, My Lord.

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Was there then no decision for instance as to whether a man should compel the police to carry him out to a lorry, or whether he should wait until a baton is drawn or whether he should move simply on the order of the police? --- There was no such a decision, it was left a personal leve, My Lord.

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BY MR. JUSTICE RUMIFF :

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Do you mean at the level of every occupier of a stand or a person living there? --- A person living there, My Lord. If the police came to the house and said now, you move, we didn't say ahead of time well, you know when the police come along you must never move. We said you must not voluntarily go. There must be an indication on your part that you don't really want to go. Now the police will come along and whatever pressure they use, then - you may then - I mean it was not actually said you must go when the police says this, it was left to the individual to decide just exactly when he will go, after how much pressure. In other words we didn't have any regulations which said now do this and now do that.

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BY MR. JUSTICE RUMIFF :

I take it you could have ordered the instruction for everybody to sit down and not move until they are carried? --- Yes, we could have given such an

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instructions, My Lord.

Why didn't you do that? --- My Lord, we felt that in a situation like that, after all people already knew that our view was that they should not go voluntarily. To what extent, at what point one would go, you leave to 5 the individual to decide. In one case the police might come along and say well, you leave this house. And this man might say, why should I leave my house. No, you have got to leave this house. Then he would go. Then another man, possibly a strong willed man, will say I am not leaving 10 my house, I like to be here. And the police will say no, you must go. And increase their pressure. This man then goes.

How increase their pressure? --- Well, they could increase their pressure by threatening to baton 15 charge him for an example.

Baton charge? --- Yes. They must increase their pressure in that way.

If that happens, did you think there was no possibility of a riot? --- I don't see how we could say 20 there would necessarily be...

But what were the probabilities? --- Well, one might concede that the probability might have been there that there might have been a riot. Except that I add, My Lord, that of course we always must go on the 25 basis that so far as we are concerned and insofar as our instructions to the people are concerned, all along would have been along the lines of don't be violent under any circumstances, so that while the probability of a riot might be there, but you still rely on the fact that 30 people knowing our own stand in the matter, would at a point unwillingly go.

BY MR. KENTRIDGE :

With regard to the probabilities of people
- well, rioting, or let us say retaliating violently,
did you consider the possibility that quite apart from
anything that you might have said, a man who with his wife 5
and young children had lived for many years in his own
home and was compelled to move out, might be tempted to
react in a very positive manner? To react in a violent
manner? --- Well, such a possibility is of course always
latently there. 10

I just want to ask you, insofar as you can tell
us, about Africans in urban areas, do you consider that say
an African who had lived with his family in his own home,
would take it very lightly if he was thrown out and forced
to go to Meadowlands? --- I wouldn't think so at all, I 15
wouldn't think he would take it lightly at all.

The word "instructions" has been mentioned,
about the instructions given to the inhabitants. The
people who were living in Sophiatown, were they all your
members? --- No, My Lord, they were not all our members. 20

While we are on this point, I think I ought to
mention that according to the evidence the slogans used
by the African National Congress in the Western Areas
were very general and extreme in form. For instance,
one of the slogans, the evidence is, "We shall not move". 25
Are you aware of that? --- Yes, I am.

What is your view on the use of slogans of
that type, "We shall not move"? --- Well, My Lord, my view
is this that first of all slogans generally are intended
to highlight a particular idea, and they have to be 30
crisp to be striking, and sometimes they may indicate a
thing very sharply, but their main purpose is to highlight

very quickly to a person who reads that particular slogan. Well, the amount of reaction to it one can't say.

Well, there was another slogan, I think evidence has been given, such as "We shall not move an inch". What is your understanding of that as a slogan? --- My understanding My Lord of a slogan like that is that it was trying to get people to make up their minds in a determined way again stressing the question of "Do not move voluntarily", I mean stressing that aspect, a determination. That is how I personally would read that slogan. 10

There has also been some evidence that speakers spoke in terms of not moving at any cost, or not moving in any circumstances. --- How would you understand that? --- My Lord, it is a good thing to live up to what one says, but when a man speaks, often he speaks in a way metaphorically and he need not be interpreted literally. So that when a man would say in a situation like that, I shall not move. Or for that matter even saying, over my dead body. I wouldn't take it literally that that man in fact when the thing in fact comes, I will in fact find him dead there. To me it is a strong indication of a man's feeling that I don't want to do the thing. 15 20

Was it African National Congress policy to tell people to fight the police in the literal sense? --- No, My Lord, it wasn't. 25

When the actual removal date came round, was the plan for a strike put into operation? --- It was not, My Lord.

Did the African National Congress plan any violence? --- No, My Lord. 30

There is a document before the Court which is called "The Report of the Secretariat on the Western

Areas". It is A. 162, and I think it also appears under S.S.19. I wonder if you would just have a look at it. Now this was found in the offices of the African National Congress, and it appears to be a report, I might say a post-mortem of the Western Areas Removal Campaign of the African National Congress and there are a number of statements in it which I want to bring to your attention. This is in the record at page 797. Would you look at page 2 of the document in front of you? You see there is a paragraph near the bottom saying "The banning of the leaders which went on steadily throughout the period under review, was perhaps the most important factor in the A.N.C.'s inability to deal effectively with the situation". Now what have you to say about that with regard to your own knowledge of what was happening? --- My Lord, I would say that this paragraph describes the - correctly the position that obtained then. 5 10 15

Did you find that - were African National Congress leaders banned from Congress activity during that period? --- That is so, My Lord. 20

Did you find any difficulty resulting from that? --- There was much difficulty My Lord, arising from that, because it meant that one must use the expression, senior experienced men could not be on the scene, others took on, good men, but not having had the privilege of the administrative experience. And then I have indicated My Lords, there was a good deal of co-ordination required here, because there were other groups independent of Congress who were also carrying out agitation against the removals here, so that co-ordination became a very important thing, getting the views of others who were not with you, and that required a high degree of experience. So that in 25 30

general we did suffer as a result of this. And then depleted manpower must always be mentioned, My Lord.

Did the National Executive find it easy to obtain information about the state of affairs in Sophiatown itself? --- It was very difficult, My Lord. 5

I wonder if you would turn to page 3 of the document in front of you. You see a paragraph about half-way down the page which starts with the words "The Secretariat after assessing the position, attempted to strengthen the preparedness of the people to resist the removals, 10 the activities of the volunteers in the area were increased and the spirit of the people again aroused"? --- It see it.

"It was obvious during this period that the authorities were seeking a clash, numerous attempts at 15 provokation were made. The display of how the people were to be removed to Meadowlands being not least among them. Leaflets were distributed by the Supreme Council inciting the people to burn down Indian shops, and it was apparent that Asians were active among the people attempting to 20 provoke them into various acts of terrorism." Now do you know anything about the Supreme Council inciting people to burn down Indian shops? --- My Lords, I do not know about the Supreme Council beyond saying at this time they did appear in the Press that there was such a group. 25 Its personnel and what they did that I would not know, My Lord. But there was in the press at that time...

BY MR. JUSTICE KENNEDY :

Was there not a Supreme Council in the African National Congress? --- No, My Lord. 30

BY MR. KENTRIDGE :

Is there such a body in the African National

Congress as the Supreme Council? --- No, My Lord.

The next paragraph says, at the bottom of page 3, "The authority of the A.N.C. prevailed, and the work of the A.N.C. and its volunteers created a situation where the government was forced to abandon its plan of removing 5 the tenants on the 12th and to anticipate the date by three days". Now have you any comment on that? On what it was that the African National Congress had in mind that compelled the authorities to anticipate the date by three days?

--- Well, My Lords, as this review of the position indi- 10 cates, there were times during the campaign when the moral of the people was at a low ebb, and with an increase in our own propaganda it would rise, and there came a time apparently when the moral of the people was high and no doubt the government would become aware of it, because it 15 had its eyes and ears in the area, and I think even in the press at the moment with a person far away, he realised that the people in that area were very much agitated, and I am not surprised personally that the government naturally took a serious view of things and in order to attempt to 20 forestall us they would change the date. It is also possible because it was no secret My Lord, it was also possible that the government was already aware of our view that it is not only the Western Areas but other areas in sympathy would also participate on the date of 25 removal.

In view of the anticipation of the date, were you able to put any plan for industrial action or strike or stay-at-home into operation? --- No, My Lord, we could not. 30

BY MR. JUSTICE BEKKER :

Why not? Why couldn't there have been a

national strike three days after on the appointed date?
 Or within such time as it is possible? --- My Lord, according to our view really the plan had been on the day. But then also I must say this, My Lord, that it was an idea which we had, but because as I have said earlier we didn't 5
 get reports quick enough and precise enough to let us know the exact position, what in fact the position was, insofar as that aspect, we were not ready, My Lord, because of the state of unpreparedness that was indicated there earlier in this report. 10

BY MR. KENTRIDGE :

In the middle of page 4 the following is stated:
 "Plans had been made for I.A. (?) and for nation wide support in various forms. In the face of the situation which obtained and the unpreparedness of the people which 15
 became apparent at this stage, these had to be abandoned at the last minute"? --- Yes.

Now at the top of page 4 this Report says :
 "It."- that is the government - "... it was compelled to use a force of three thousand police and army personnel 20
 to effect the removals. It officially placed the responsibility for this situation on the Congress propaganda".
 Now what do you make of the fact, I mean you in the African National Congress at the time, why in your opinion then were the police compelled - were the government 25
 compelled to use a force - a large force of police to effect the removals? --- My Lords, I think that in the assessing of the extent of the propaganda that had been carried on by the A.N.C. and other bodies - I always mention that, My Lord - the government must have felt that 30
 the task of removing people was going to be an important and a taxing one, and so they got themselves ready to

do it.

As far as the African National Congress was concerned, why would the task have been a taxing one for the government? --- I think the government from our own utterances knew that the people were not willing to go to Meadowlands, it was not a thing that was desired by the majority of the people anyway. 5

Incidentally, did you know at the time in the African National Congress Executive, did you know whether it would be an offence if the people didn't move in the day 10 stated in their notices? That is a criminal offence? --- Speaking personally My Lord, I will say that I wasn't aware of the legal position.

BY MR. JUSTICE RUMFF :

You mean when the instructions were issued or the policy decided on in regard to the Western Areas, more particularly when it came to the actual date of removal, do I take it you weren't aware of the fact whether the failure to move on that date would be a criminal offence or not? --- No, My Lord, I cannot say precisely, but I have a vague idea that it was not a criminal offence. I think the position was that it would not be a criminal offence, and the authorities would have to seek further powers to do so. 15 20

Did the A.N.C. not enquire into that position at all? --- It could have been enquired into, My Lord, I cannot precisely say. 25

BY MR. KENTRIDGE :

Mr. Luthuli, this report of the Secretariat on page 4 goes on to say that the short notice threw the arrangements into confusion and that what the volunteers did was to evacuate some thirty families. Then in the last 30

paragraph on page 4, there is a reference to the contributions of other organisations. "We must acknowledge and assess the contributions of other organisations. The most important of them the Western Areas Protest Committee under the leadership of Father Huddleston.." and then it 5 says "The tremendous publicity given to the removal scheme in South Africa and abroad was largely due to this committee", and then it mentions two other organisations, the Anti-Expropriation Committee led by Dr. Kumah (?) and the Ratepayers Association, it says that they also gave limited 10 co-operation. Then, if you will turn over to page 6 of that document, there is a section headed "Failures and Weaknesses". Now in the second paragraph from the bottom of that page you find the following : "It is clear that we failed to assess adequately the intolerable conditions 15 under which some of the people in Sophiatown exist and failed therefore to attempt to improve those conditions or to find alternative accommodation". Now that is an admission of a failure to assess the conditions in Sophiatown adequately? --- That is so, My Lord. 20

Then the last paragraph reads : "It is apparent too that we have not yet been able to solve the basic organisational problems both in the A.N.C. itself and in respect of the volunteers. This is clear from the failures at different levels to convey and carry out 25 directives, the lack of sufficient means of checking up on the carrying out or implementation of resolutions and directives". Now this lack of sufficient means of checking up, did that accord with your experience on the National Executive at the time? --- That is so, My Lord. 30

Then it goes on, would you just look at the top of page 7, please : "The major weakness however would

seen to be the failure of the leadership to tell the people precisely what form of resistance was to be offered on the day of the removal. This information was requested time after time, and at no stage was a clear and unequivocal answer given. The masses were given an impression, however, that Congress had the answer and would give it at the appropriate time." Now this, the authors of this report state that the failure to tell people precisely what form of resistance to be offered was a weakness. Looking back at it, would you agree with that or not? --- I would agree to a certain extent it would leave people somewhat hazy. As I said earlier in my evidence, it was - there was a point where you left it to the person to decide. Some people might be too hazy to know exactly how to deal with the situation.

But is it correct or not, insofar as it says that the A.N.C. did not tell the people precisely what form of resistance to offer on the day of the removal? --- It is only correct to this extent that there were no precise instructions as I have already indicated. But of course, I wouldn't take it as correct in the sense that people knew at least all along we assumed that not only our membership but the people knew the stand of the African National Congress insofar as resisting the removal by violence.

As far as that is concerned, did there - was there any haziness in the African National Congress? --- There was no haziness in the African National Congress, and to stress, My Lord, we assumed that the other people generally would know so far as that is concerned.

The paragraph I have just read finishes : "The masses were given an impression however that Congress had

the answer and would give it at the appropriate time",
and then the next paragraph if you look at it, continues :
"While this was substantially the case in that I.A. was to
be brought into operation in the areas and possibly Johan-
nesburg as a means of lifting the struggle to a higher 5
plane, the A.N.C. itself was informed and organised adequately
and in time to permit of its being effective, as a conse-
quence it was not able to take the people with it into such
action when it was appropriate." Now it would appear that
the word "not" has been left out, in the context it would 10
appear that it should read "The A.N.C. itself was not
informed and organised adequately, as a consequence it was
not able to take the people with it into such action when
it was appropriate". It seems that there is something wrong
with the sentence. However, I just want to draw your atten-15
tion to this. The authors here, saying that "the masses
were given the impression that Congress had the answer,
and while this was substantially the case in that I.A. was
to be brought into operation in the areas," as far as the
day of removal was concerned, did the African National 20
Congress have any plan other than industrial action? ---
There was no other plan, My Lord.

In this connection I want to turn to another
document, but before I place the document in front of you,
I just want to ask you one or two questions. Do you know 25
whether there was a branch of the African National Congress
Youth League at Orlando? --- Yes, there was and there is.

In 1954 and 1955, do you know what sort of
views were held in that branch? --- I know My Lord, that
there is a branch in that area which strongly held views 30
somewhat contrary to views held by the bulk of the organisa-
tion. I think already I have indicated that there is a

breakaway - it is a matter of history now, a group that is a breakaway from us, the Africanists, and they held this view as I have already said, that you are abandoning the 1949 Programme of Action; you are not carrying it out faithfully. Our view, especially as regards the question of nationalism was becoming too broad - I know of the existence of that group in one of the branches in that area. 5

Did you ever come across a roneod paper called "The Africanist"? --- Yes, My Lord. 10

Published by the Orlando Youth League? --- That is so, My Lord.

Now I want to show you a copy of The Africanist of May, 1955, it was an Exhibit at the Preparatory Examination that hasn't been put into this Court. It is A.A.C. 39, it was a document seized by the Police from A. A. Chamile, who is a co-conspirator, who is alleged to be a co-conspirator in this case. Would you look at this and identify it? --- I only saw some publications of this document, My Lord. 15 20

Now is that document in front of you headed "The Africanist, Volume 1, No. 3, May, 1955, issued by Orlando A.N.C.Y.L."? --- That is so, My Lords.

I want you to turn to an article on page 6, where one will find criticism, certain criticisms in this article of the African National Congress. It says, if you look at the fifth line : "The Congress of Democrats I said is there to apply the brakes to Congress. Read the statements by Patrick Duncan during the Defiance Campaign. The Congress of Democrats will ally itself with the Congress so long as she binds herself to a policy of non-violence, and what does that mean? It means pacificm, making doormats 25 30

of us. Non-violence is an expensive commodity for the African in South Africa. What is the use of calling on the people of Sophiatown to resist the removal non-violently? How is this possible? Is it not a contradiction in terms. One either resists violently, or submits 5 unwillingly, and the Congress of Democrats knows this very well. A liberatory movement should stop at nothing to achieve its independence. And since white domination is maintained by force of arms, it is only by superior force of arms that it can be overthrown." Now I just want you 10 to consider this criticism of the African National Congress and the other Congresses. The author here makes the point that it was no use calling on the people of Sophiatown to resist the removal non-violently because that was a contradiction. He said one either resists violently, or 15 submits unwillingly. Now as far as African National Congress policy is concerned, what do you say to this phrase with regard to Western Areas "submits unwillingly"? --- Yes, I agree with that. That is the view that we had in that situation, to say people must not submit to move 20 willingly.

The author of this article appears to think that all that the Congress Campaign in Western Areas amounted to was telling people to submit unwillingly? -- That is so! 25

Do you agree with that, with his view that the Congress campaign was really just to tell people to submit unwillingly? --- I agree that insofar as the campaign was concerned that was the point of view of Congress. 30

While we are on this article, just so that we don't have to deal with it anywhere else, would you just

turn to page 4 of this document, where we will find further criticism of the African National Congress. This article is called "Democracy in Congress" by Nzana. The author in the first paragraph says "We have to be sure whether Congress is a National Liberatory Organisation or not.." 5
 and then there is a criticism of co-operation with other Congresses, and a statement - there is the following statement : "A classic example of a national liberatory movement is the Mau-Mau in Kenya. Here the Africans are engaged in a life and death struggle to overthrow foreign domination 10
 and beg for no allies and seek nobody's approval for their methods. Unfortunately, the same cannot be said of Congress. She is wedded to the Congress of Democrats and the Indian Congress, the aspirations of both of which organisations are different from those of Congress." And 15
 then it says : "The Congress of Democrats exists in order to steer the liberatory movement along constitutional paths of struggle and non-violence. In other words, to put a brake on the struggle." And then the author concludes, for those reasons "Congress is not yet a liberatory 20
 movement". Do you know what happened to the Orlando branch of the African National Congress Youth League? --- The majority of the people who left are the Africanists, come from that branch, My Lord.

Do you know what became of them? --- Those who 25
 left us?

Yes? --- They formed the Pan-Africanist Congress.

BY MR. JUSTICE RUMIFF :

Who are the people that left the branch? --- 30
 The leader there that I know, I would not know the other members, is Mr. Leballo (?).

When did he leave the branch? --- About 1958,
My Lord.

BY MR. KENTRIDGE :

The views put forward here, the criticism of
the Congress for steering the liberatory movement along the 5
paths of non-violent.....? --- I am sorry, in connection
with Leballo I must say this, I have already indicated in
Court that he of course was expelled, he was of that
branch, he was expelled by the Africanist Congress, and
well the situation is finally others left, shortly after 10
he was expelled in fact.

This criticism here about Congress steering
the liberatory movement along the constitutional paths of
struggle and non-violence, what happened to the people who
were making this criticism? Did they win their view in 15
Congress, did they carry their view? --- No, My Lord. They
didn't carry their view. They left because they couldn't
carry their view. I think I must there add, My Lord,
that I have already said here in Court that I was aware of
the existence of this. Now and again one got it, but you 20
know when you get many publications you don't read them.
I must say that it comes to me for the first time that my
boys there even did agitate for this aspect. I knew that
they were agitating - that is, I didn't know that they
were agitating to absolutely alter the view of Congress. 25

This Nzana who signs this article, do you
know who that is? --- No, My Lord.

With regard to this view stated here, was it
ever put forward in a resolution at Conference? --- Not in
any of the Conferences that I attended, My Lords. I never 30
saw it either in any of the reports that I read.

You don't know whether in the Orlando Branch

this was a majority or a minority view in the Branch? ---
I wouldn't know, My Lord.

You have seen or heard reports of some of the
speeches which the Crown alleges were made by members of
the African National Congress during the period of the 5
Indictment. I just want to refer you to some of those
speeches in a general way. There has been evidence by
the Prosecution that a member of the African National
Congress made a speech, calling upon people in effect to
use the language of the beerhall, and evidence was given 10
that there had been a riot at the beerhall. Now if that
speech was made as alleged and if there was a riot at the
beerhall, assuming that the speaker was calling upon
people to use riotous behaviour, calling upon people to
riot violently, what would you say about that? --- Well, 15
I would say that that man would be calling upon people to
do a thing he knew Congress would not approve, and person-
ally I would discipline that man, call him to answer,
explain himself, and if he does not explain satisfactorily
I would say he could have no room in Congress. 20

Then there is a speech alleged in which the
indication is that a speaker told the audience that in
certain conditions they must decide themselves whether to
use their knives. Now assume that that speech was made
by an A.N.C. member. What would you say to that? --- 25
My Lord, I would take up the same attitude, as in the
instance that you have just referred to.

Would you in any circumstances approve of it?
--- No, My Lord.

Would the A.N.C. National Executive approve of 30
it? --- No, My Lord.

Would it be an accordance with the policy of the

African National Congress? --- No, My Lord.

Now there have also been reports of speeches in which speakers say - in which speakers talk about - they talk of blood. Now there are allegations made by the Crown of various speakers talking about the shedding 5 of blood. Now there are various speeches made in various ways, and I won't trouble you with the details. But just suppose for the moment that some of these speeches mean that people must kill, must shed the blood of others in order to win freedom. What would you say about that, 10 as regards African National Congress Policy? --- That is actually kill?

Yes? --- It - I would take up the same attitude, My Lord, as I said would be the case in the two instances you have already put before me. 15

Now according to the evidence given, there have been speeches in which speakers apparently speaking on behalf of the African National Congress, and in fact African National Congress members, have stated that the people who join in the African National Congress struggle 20 must be prepared to face hardships and even death; that they must be prepared to shed their own blood. Now what would you say to that type of speech? --- My Lord, I would say that there is - there could be a place for such a type of speech. In fact - personally speaking, 25 I think I have made remarks of a similar kind, not the same words, but I think the sentiment would be the same. My view with such remarks is that first of all it does take account of the facts that in a movement of this kind when you are struggling, you must gear your people 30 to the struggle to the point that they become determined and they must realise - I think I said some time back they

must realise that when you struggle you are not just out on a picnic, it is a serious business, you must be determined to meet the difficulties that come. But also, My Lords, one realises that in a struggle of this kind your policy is non-violence, but it doesn't follow that you will avoid meeting death. Instances can come when you may have to face death, you must be aware of death. 5

Evidence has been given in this court that members of the African National Congress have expressed the fear that although their struggle is non-violent, they may be met with violence and even that they might meet death. Did members of the A.N.C. have that feeling to your knowledge? --- My Lords, inasmuch as I have that feeling I will describe it from a personal angle, and I would have no reason to feel that others wouldn't feel as I personally feel. I mean it isn't a kind of a thing that you say well, I am talking about such-and-such a day. I must say this that one knows something, maybe very sketchily, of such passive defiance movements in other countries. I will cite the case of India, My Lords, which in a way is an inspiration to us. But although the struggle there was on a non-violent basis, there are instances that the authorities did not meet the situation there in a non-violent way. I recall one instance, for example, in one of the towns in India where people were shot, I think it was the army in this case. There might be other instances, this one just comes to my mind. 15 20 25

Do you claim to have firsthand knowledge of what happened? --- Yes, insofar as this particular incident that I cited is concerned, I have firsthand knowledge by reading. I recall reading the autobiography 30

of Mr. Nehru, where there is a description of the struggle in India.

In African National Congress...

BY MR. JUSTICE RUMEFF :

Why were these people shot by the army? --- 5
There was a meeting which they were holding, and well, the authorities didn't want them to have their meeting and they dismissed them. And then finally the authorities were compelled to shoot them.

The authorities were compelled to shoot them? 10
---I suppose in carrying out their - afterall, one must say My Lord that insofar as the authorities are concerned, they carry out what is lawful insofar as the state is concerned.

I was just wondering, you say you know of this 15
incident from reading, I thought you might tell me exactly why the people were shot by the army? --- My Lord, as I say they were having a meeting, and in the usual way the authorities wanted to disperse the meeting. The people did not move, and the authorities were then compelled to 20
use force, My Lord.

Just because they didn't move? --- Yes, My Lord.

Was there no violence on the part of the crowd?
--- No, My Lord.

Is that the information? --- That is the infor- 25
mation, My Lord. No violence at all as far as the crowd.

They were merely resisting - they were refusing to remove? --- That is correct.

And they were shot? --- They were shot.

How many were shot? --- Round about one hundred 30
and fifty, My Lord.

BY MR. KENTRIDGE :

What was the name of the town? --- I think Amritza(?).

I think the witness must be referring to the famous Amritza (?). Are there any other reasons why you yourself have this feeling? --- Then My Lord, coming to the theme nearer home, there have been instances in the history of South Africa, longlong before there was any sort - any thought of the struggle in the manner in which we are carrying it out, where people were shot down by the police or the army. I will cite, My Lord, what took place in the place near Queenstown, I think a place called Bulhoek. There was a group of people residing - stayed in - I think it was trust there, I am not so sure about the tenure of land - they were a religious sect, and conditions developed there which were unhygienic I think, and so the authorities wanted those people to move. They would not move when the authorities wanted them to move, until finally the then government sent the army to go and remove those people by force, and in the process a large number of people were killed, My Lord.

BY MR. JUSTICE RUMIFF :

Why were they killed? --- They wouldn't move.

Did they just sit down? --- Yes, they just sat down, they wouldn't move.

And they were shot as they sat down? --- They were shot as they sat down. They resisted. They just didn't want to move at all.

BY MR. KENTRIDGE :

Let us just get this clear. This was some time ago? --- Yes, quite some time ago, about - in the 'thirties or there about, I can't precisely remember.

I think we had better make it clearer, it was earlier, it was under the first Smuts government in fact? --- Yes. Then another instance, My Lord, that comes to my mind, before there was anything like this struggle, in my own town of Durban people decided to - there was a 5
general move to ban passes, here and elsewhere. Now people in Durban congregated at a place in order that they might burn their passes. The police came onto the scene to dismiss the people, the usual order was given, and one Nkosi was standing on the table - I don't know exactly 10
what he was doing on the table, I couldn't say - but in the process of dismissing people shooting took place, and Nkosi was shot and he died.

How do Africans look on this man Nkosi? --- This was about 1930. The African people insofar as those 15
who are aware of these things, regard Nkosi as a hero of the struggle against passes.

BY MR. JUSTICE RUMIFF :

Why did the police start shooting? --- I must say this, My Lord, that I wasn't present, but it was a 20
matter that became widely known. But they called upon the people to dismiss, and it was a large crowd, and the people couldn't move away as fast as the police wanted them to move, and they may have taken that as a resistance, but...

Were the police met by any violence? --- No, 25
My Lord.

None whatsoever? --- None whatsoever, so far as I know.

BY MR. KENTRIDGE :

Mr. Luthuli, are there any other reasons why 30
you have this feeling? --- Well, another striking instance that comes to my mind, My Lord, - I have already referred to

this I think in evidence - there was the 1946 Native miners' strike in Johannesburg. In this case the police had to use force to get people to go to work. I think the story goes to say that they even went down to the mines to see that the people did work, and in that process of compelling 5 people, there again there was shooting. I am not an eye-witness of this, My Lord.

BY MR. JUSTICE RUMIFF :

Yes, you say the "story goes". This is the story in the A.N.C. or amongst...? --- Amongst the people. 10 I think My Lord I did say in evidence in some other connection, the Natives Representative Council was in session then, and it in fact did ask that they should be permitted to come and inspect this.

BY MR. KENTRIDGE :

15

This account of it, the account that came back to the Native Representative Council, I mean unofficially, was it different from the account you have just given? --- No, My Lord.

This account you have just given, was it only 20 in A.N.C. circles or...? --- No, the thing of course was publicised widely in the press.

You are dealing with the question of why you had a particular feeling about the way the police might behave in certain circumstances. Are there any other 25 reasons why you have this feeling? --- My Lord, there are feelings of say general nature, but before I come to those, there is just one other instance I think I would like to bring to the attention of the Court, and here again a story became known in Congress circles and 30 generally in the country - in 1950 in connection with the May Day - the May 1, 1950, Congress called for a day of

protest and in the course of the demonstrations there - I must say immediately it became known to the authorities, the meetings were banned, but then apparently people in other centres - it was in Johannesburg - some people were not aware that the meetings had been banned, and in two 5 centres, one of them being Benoni, and I think also in Alexandra, some people came to the meeting, the police came to disperse them, and in the process there was shooting. Some people I think were killed, I am not so sure of the details there, My Lord, but there was shooting 10 there again. But generally, My Lord, one must say that the general attitude of the people arising out of some experiences with the police in other connection, makes them to be cautious and afraid. I repeat again the question of police raids for liquor, generally they are asso- 15 ciated from what one gathers, with a certain amount of harshness in approach by the police. I would not say baton charges, but harshness in approach on the part of the police, and even where police go out for the pass raids, stopping people at strategic points, there is that 20 feeling of general harshness insofar as the police are concerned. I should say, My Lords, that even in the question of baton charging, lawful baton charging by the police - but insofar as one getting injured, one must always take into account the fact that even in a baton 25 charge you can get hurt, and it might even result in your death, not even as a result of direct police action. You might be running, you would fall. So that even from a general point of view people take the attitude, well, anything can happen to me. 30

With regard to the general attitude of the police to Africans, apart from your own knowledge, have you

in the A.N.C. ever considered the reports of various government or municipal commissions on the behaviour of police towards Africans? --- I cannot precisely recall any such commission, but in informed circles, for instance you get the Institute of Race Relations and other bodies investigating these bodies, and it becomes known. I recall very vaguely that sometimes you get Magistrates in enquiring into cases, pointing out that there had been undue and unjustified harshness in that particular case.

Have you any statistics - have any statistics ever come to your notice in connection with shootings by the police? --- Yes, My Lords. I cannot again quote, but I think that the Institute generally will give some of the particulars. I cannot precisely say now in such and such a year, but generally they keep publications of these things, number of arrests of people during the year and so on.

Now with regard to these statistics, of course the fact that the police have shot or shot at people doesn't mean that they are acting illegally? ---No, My Lord, I have said that the police might be carrying out a lawful order.

But in fact what do Africans think about the use of firearms by the police in African National Congress circles? --- The feeling, My Lords, is this, that there is too free use of firearms. I must say personally I have often wondered why the police here don't use more of the other methods like for instance - some other methods other than merely starting off by baton charging people, tear gas, and things like that first, but one doesn't know. I must say also under general, while it comes to my mind, we have not been very much reassured

in this regard by the utterances of responsible people, even at ministerial level. I recall a pronouncement which became quite current and which appeared in the press, I cannot quote it again word for word here, but this was about the time of the Defiance Campaign, My Lord, where the then Minister of Justice, now Governor-General, said - indicated that I think there was a clamour for enquiries about certain happenings, he indicated that the police should never be afraid of doing their duty because he will join their side. 5 10

How did the African National Congress interpret that? --- Well, my interpretation of that is that in effect it seems as though the minister was himself encouraging the police to be careless in carrying out their duty.

That brings me to another question. You have spoken now and previously in connection with other matters - about the attitude of the police to Africans and of Africans to the police. Now there has been mention in this case of disturbances or riots, it doesn't matter what one calls them, which have taken place in which Africans have been shot by the police. Now there is no question in this Court of fixing the blame one way or another, but I want to ask you in general when there are reports of disturbances in which Africans are shot by the police, whose versions are Africans prone to accept? --- The people are more prone to take the version as expressed by the people themselves rather than the police. 15 20 25

Of course in fact they may be quite wrong?

Yes, they may be quite wrong.

From your knowledge of your people and particularly in the African Congress, do you think that this attitude of accepting the version against the police is a 30

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