

COURT RESUMES ON THE 23RD JANUARY, 1961.

APPEARANCES AS BEFORE.

MR. VAN NIEKERK :

My Lords, I ask permission from the Court to hand in a written argument on the remaining portion of the Crown's argument on the South African Congress of Trade Unions. My Lords, it is intended to deal with the remaining portion of the Crown's argument, that is from page 14 onwards as handed in originally, and now as redrafted under the following heads. Firstly under the heading New State : 1. Denunciation of the present state; 2. Clash between workers and capitalists; 3. Overthrow of the present state; 4. Support for the Congress of the People and the Freedom Charter; 5. People's Democratic State.

Then B, the Methods : Extra-parliamentary and violent action; volunteers and their duties, and sections 3 to 5, the Western Areas, the Bantu Education and the Pass Campaigns.

Then heading Heading C, Propaganda and Education : Schools and study classes; lectures; distribution of lectures; S.A.C.T.U. publications; and S.A.C.T.U. use of New Age, Liberation, Sechaba, Fighting Talk, et cetera.

D, Co-operation with and Support for Other Organisations : 1. Membership; 2. Mutual Co-operation between N.A.C.C.O.P. and N.C.C. Your Lordship will see that there are quite a number of small typing errors, and will Your Lordship kindly rectify

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these where they occur. I continue : Mutual co-operation including the National Action Council for the Congress of the People, and the National Consultative Committee; 3. Sending and receiving fraternal messages and delegates; 4. Possession of documents of other organisations; 5. Attendances by South African Congress of Trade Union members at meetings of other organisations.

Then there is a reference to the South African Congress of Trade Union meetings, and its association with the World Federation of Trade Unions, the World Peace Council, and the World Federation of Democratic Youth.

Now My Lords, in the first paragraph, in the first section, I am dealing with the denunciation of the government, and it is respectfully submitted that the South African Congress of Trade Unions, as part of its purpose of organising and mobilising the workers against the government, expressed the views that : (a) the government had no sympathy with the workers; (b) and on certain occasions mentioned had taken strong action against them; and (c) and that by virtue of certain legislation it was enabled to establish a fascist dictatorship.

Examples of these points of view are found in passages quoted hereunder in D.30, "What are Trade Unions". That, My Lord, Your Lordship will recollect is one of the lectures which has been referred to, lectures which the Crown states have been issued by S.A.C.T.U.

My Lord, I am now dealing with the point

that I was dealing with when the Court adjourned, and that is the references to this specific portion, the denunciation of the government, and the quotations that I quote in support of these. The first paragraph here really relates to my first submission, the trade unionists discovered however that a capitalist government whether consisting of English or Afrikaners could have no real sympathy with the workers. That is the ipsissima verba, and it is taken from page 3292, line 23 to 26 of the record, in the document D.30.

MR. JUSTICE RUMPF :

I take it that whenever you have put a sentence in inverted commas it is a quotation?

MR. VAN NIEKERK :

My Lord, I have tried to rely on quotations for the most part, it is very seldom that I have departed from that. In other cases, sometimes there is a quotation although not in inverted commas, it is still a quotation from the record, although not a quotation from the document.

My Lord, the second submission is really supported by the second and third extracts, also taken from the same document. In the railway strike in January, 1914, the government took drastic steps, drafted police, troops and commandos to the Witwatersrand and other big centres and proclaimed martial law in the Transvaal, Free State and Natal.

Referring to the strike of the Indian sugar workers in Natal the following appears in the record :
"once again the police showed their brutality by shooting

down plantation workers in cold blood." All these are taken from the same document as indicated.

And then My Lord, the last portion, the submission (c), I rely on the extract taken from D.30, page 3293, line 18 to 26 : "Parliament also passed the Riotous Assemblies Act, the first really vicious attack on civil liberties in this country. It was the forerunner of a series of Acts, including the Native Administration Act, the Suppression of Communism Act, the Criminal Laws Amendment Act and the Public Safety Act, which have established a police state and given legal powers for a fascist dictatorship."

I now proceed to the second paragraph under New State, which is clash between workers and the capitalists. In that connection it is respectfully submitted that the South African Congress of Trade Unions emphasised the clash between the interests of the workers and those of the capitalists; the role of the workers as "the pillars of the liberation struggle the spearhead and the vanguard without which their emancipation is impossible"; and the strong opposition that the workers would encounter from the exploiters with the object of preparing and organising them for determined struggle to overthrow the present system.

In support of this submission, the Crown refers to the following material: As regards the first submission I rely on an extract from lecture No. 6, How to organise unorganised workers, D.35, page 3311 of the record, lines 5 to 15, which reads : "They, i.e. the workers, must also understand their position

as a class, that the capitalists seduce them to squeeze tremendous and fantastic profits out of their labour... A capitalist does not give jobs because he sympathises with the workers and want them to be kept in decent living conditions, but he wants to make use of their labour power for his own benefit and to maintain his luxurious life at the expense of the workers and inflict miserable conditions of life on the workers."

As regards the third submission, I rely on the second portion of page 6 and the beginning of page 7 of the argument, wherein it is said that "The workers must be acquainted to the fact that their unhappy state of life is as a result of the disunity and disorganised position. When they are organised into powerful trade union organisations they will be in a very good position of strength, and can always give answer to the evils of the capitalists against them. They must be made aware that exploiters also will not take it lying down. They will try their level best to crush to pieces the workers' organisations so that they can exploit freely".

My Lord, this is further on page 8 of the argument, this opposition that the workers will encounter from the exploiters with the object of preparing and organising them, that is the workers, for determined struggle to overthrow the present system. There it refers to the struggle : "Terror will not halt us the latest raids are justified by so-called investigations into treason. Is it treason to work for the demands of the Freedom Charter? To organise the workers

in Trade Unions? To fight the Industrial Conciliation Amendment Bill? To protest at the growing police state? Yet the Nationalists are trying exactly that: to have every anti-nationalist, every person or movement that proposed an alternative form of government to its own, declared a traitor. To be anti-nationalist, in the eyes of the government, is becoming subversive to the state. These are the ways of deperate men, fearful at the surge of democratic spirit among the great majority of South Africans, frightened by the signs that the trade unions are the liberation movement, far from being subdued are growing in strength, and influence and militancy." Then it gives the answer, My Lord : "Our Answer : Raids and terror can never quell the struggle of the workers for their rights. But to bring an end to the regime of raids and terror the trade unions, part of the liberation front, must be built as never before, our weaknesses overcome, the unorganised drawn together in mighty unions as a mighty force, the people ever vigilant for their rights, united and determined. The government shows, by those that it singles out for attack, that it sees the militant trade unions as an indispensable part of the liberation movement of the people. In truth, the unions join themselves inseparably with those movements fighting for the people's political rights and general freedom".

MR. JUSTICE RUMPF :

What is this quoted in support of?:

MR. VAN NIEKERK :

This is in support of the opposition that

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the workers will encounter from the exploiters, page 5, (a) to (c), My Lord.

MR. JUSTICE KENNEDY :

Does the same apply to pages 9, 10 and 11?

MR. VAN NIEKERK :

My Lord, the same applies to 9, 10 and 11,...

MR. JUSTICE KENNEDY :

All in support of A.2(c), that is your submissions in regard to the position as expounded by the S.A.C.T.U. concerning the clash between the workers and capitalists.

MR. JUSTICE BEKKER :

At the bottom of page 9, what is A.M. 93?

MR. VAN NIEKERK :

A.M. 93 is the Statement of Policy that I have referred to in my previous argument, the Statement of Policy, it was submitted to the National Conference held at Cape Town, and it was adopted there, My Lord. I just want to refer Your Lordships to the last portion of page 9, where it says : "Every struggle of the workers for higher wages,..... is immediately met by the full force of police state." My Lord, all these are taken verbatim from the extracts of the documents, and my submission is, My Lord, that these extracts that appear on these pages, up to page 11, support my contention on page 5, (a) to (c).

MR. JUSTICE RUMPF :

At the top of page 10, what is that in support of?

MR. VAN NIEKERK :

My Lord, it shows

MR. JUSTICE RUMPF :

What part of your submission does that refer to?

MR. VAN NIEKERK :

My Lord, with respect, I think that can be deleted.

MR. JUSTICE RUMPF :

And then you go on to quote speech?

MR. VAN NIEKERK :

Then I go on to quote a speech. It is a speech at a meeting convened by the South African Congress of Trade Unions on the 23rd September, 1956, testified to by Schoeman, the shorthandwriter, on page 7866, when John Nkadimeng, who is an executive member of the S.A.C.T.U. was introduced as Chairman of the Local Committee, and he said the following : "We have gathered here this morning because of that urge for freedom. Every witting of parliament we have seen these low bastards in parliament coming out with new acts to stop this upsurge of the people for freedom...." "When we have gathered here, friends, we have been listening to very good speeches. In fact we should have had music played and so on; because of the filthy mind of these people who call themselves the government, they went behind...."

MR. JUSTICE KENNEDY :

I don't know if that really supports your submission concerning a clash between the workers and the capitalists. Does it deal with that topic?

MR. VAN NIEKERK :

As Your Lordship pleases. It goes, on, My

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Lord, to say that : "Anybody who stands in front of us, we shall push him aside..... In the name of the liberation movement of the people of South Africa."

My Lord, my submission is that it supports the second part.

Then My Lord, after that I go to the third portion of the denunciation, the - the third portion of the New State which refers to the overthrow of the present State. My Lord, the Defence on page 643 have made an admission to the following effect that various organisations, including S.A.C.T.U. demand the substitution of a new and radically different government, and particularly advocated a system of government based upon universal adult suffrage and the abolition of all forms of racial discrimination. It is however submitted that S.A.C.T.U. aimed at the overthrow of the present state and did not merely desire a change of government. The extracts attached hereto are quoted in support of this submission. First is an article by Ben Giles in Workers Unity, which is the official organ of the S.A.C.T.U. Secondly, S.A.C.T.U. Lecture No. 1, Our Modern Society and How It Arose; which is D.31. Lastly a Memorandum on the Anti-Pass Campaign issued by the National Consultative Committee, 25th October, 1956 which is quoted fully under the paragraph on passes at page 42.

L.L.M. 1212 My Lord, is an Exhibit number - the L.L.M. series of the exhibits taken from Leslie Massina, that is the General Secretary of S.A.C.T.U. In support of this submission I quote from the Workers

Unity, an article by Ben Giles, on page 13 : "Because we often hear people ask 'Why should I be a member of Congress when I am already a member of my union'. The answer is that the Congress movement is the watch-dog of the rights of the oppressed peoples, and the leader of the peoples campaign for greater rights and liberties, for equality for the Freedom Charter. Your trade union has been built up with the aim of forcing your employers to concede better working conditions for you, better wages, shorter hours, paid holidays and things of that kind. It has been built up in the best way possible for that purpose, on the basis of one trade union opening its ranks only to workers in one single industry. But the Congress movement is wider than this. When the workers struggle must be fought not just against one group of bosses in a single industry, but against a whole system, against a government or against a whole ruling class, the best form of organisation is not one restricted to a single industry, but one which embraces everyone who can be encouraged to struggle against the government or ruling class."

Then My Lord, in the Lecture D.31, Our Modern Society and How it Arose, page 3290 to 3291, the following appears : "From the above picture, it will be seen that the basis for changing the capitalist mode of production to a better system already exists in the class relationships. There is already in existence the new class which in its own interests must wrest the means of production from the old class and must establish a new social order. This new class must have three

important qualifications in order to be able successfully to achieve its historic mission". And then these qualifications are set out on the top of page 6. I quote : "It must (a) have nothing to lose from a change-over, but everything to gain, i.e. it must be a revolutionary class; (b) it must be a production class, for it is not enough to destroy the old - the new has to be built; (c) to be able to act together in large numbers, in an organised and disciplined fashion." The lecture then considers how the various classes measure up to these requirements and it goes on to say : "It is clear from the above chart that the working class has the noble historic role of transforming society. Its closest ally in this struggle is the peasantry..." and then : "What kind of society is the working class aiming to establish? Will it again be a society, where one class will dominate others? No, that can no longer be. Our modern means of production are so advanced and so highly developed that they can no longer be adequately controlled and utilised by any individual class, but must ultimately pass to social ownership and control. This must lead to a society where the means of production are owned by society as a whole and where every member of society is in one form or another engaged in the productive process".

My Lord, from the same lecture, page 3292, it says : "But in addition to this kind of mass organisation, the working class must produce its own independent political party. This is a new kind of political party, the kind of party that will not so much be concerned with winning elections and seats in parliament,

but will concern itself with the struggle of the working class for emancipation. Such a political party must consist of the best and most sincere members of the working class, of leaders who are the most advanced and most class conscious amongst the fellow workers, who at the same time are prepared to devote their whole life to the noblest of all ideals, the emancipation of the whole of mankind."

My Lord, my fourth heading under the New State is Support for Congress of the People and the Freedom Charter. In that section my submissions are - it is further submitted that SACTU by supporting the campaign of the Congress of the People; by adopting the Freedom Charter; and by taking steps to popularise and implement the Freedom Charter gave its support for the establishment of a form of state as envisaged by the Freedom Charter. My Lord, this material is divided into three sections. It is submitted that the extracts attached hereto are quoted in support of this submission, and this material is divided into three sections :
 1. Support for the Congress of the People Campaign; and this is on page 17 to 18. 2. Is the endorsement, the adopting, the acceptance of the Freedom Charter, pages 19 to 20. Then 3, pages 21 to 26, is the popularisation of the Freedom Charter.

MR. JUSTICE RUMPF :

Yes, well, this is to some extent covered by the Freedom - covered by the admissions.

MR. VAN NIEKERK :

My Lord, I don't know whether the admission

by the Defence included SACTU. My Lord, I know the admission by the - about the Congress of the People did not include SACTU. But otherwise, My Lord, the other aspects of the associations of the Congress of Trade Unions and the admissions made by the Defence - My Lord, my submission is that these are given in support of my contention which I think really My Lord is common cause.

My Lord, then I go on to page 27 of the argument, and refer to the Fifth head, under state, that is reference to People's Democratic State. And here, My Lord, it is submitted that SACTU aimed at the establishment in South Africa of a "people's democratic" state. The extracts support this submission.

My Lord, on page 28, are statements taken from from D.33, Trade Unions as a Weapon in the Struggle of the Workers, it is one of the lectures referred to, lecture No.4. It states : "The aim of all the political activities of the capitalist class is political power...."

MR. JUSTICE KENNEDY :

Does your submission mean that the SACTU aimed at the establishment in South Africa of a People's Democratic state, as visualised by the Freedom Charter?

MR. VAN NIEKERK :

As Your Lordship pleases, that is my contention. My Lord, they say here as visualised by the Freedom Charter. My Lord, it also refers to that this will be the end of the system of exploitation for profits. And it also states that the only way in the end is to destroy the stranglehold of the capitalist class

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over the state machine. And that it is the task of trade unions in colonial countries to get rid of imperialists and establish a democratic state.

Page 29, My Lord, is a quotation, "the replacement of the present cheap labour colonial structure with a democratic people's structure as envisaged by the Freedom Charter".

Then on page 30, My Lord, they refer to "defeat fascism and " -they talk about the fascists are destroying the few liberties, and the last sentence refers to the defeat of fascism and replace it with a sane progressive people's government as enshrined in the Freedom Charter.

And then the last reference again shows that the government or the manufacturers will not give these things to us of their own accord.

Then My Lord, I proceed to the methods adopted by the South African Congress of Trade Unions, at page 31. It is submitted that SACTU adopted a distinct line of advocating the use of extra-parliamentary and violent action to attain its object of overthrow of the state. The undermentioned material is referred to in support of this submission. My Lord, in the lecture, Our Modern Society and How it Arose, D.31, refers to the fact that SACTU must produce its own independent political party, which will not be so much concerned with winning elections and seats in parliament, but will concern itself with the struggle of the working class for emancipation.

MR. JUSTICE RUMPF :

Well, from that it may mean that it doesn't exclude the party struggle.

MR. VAN NIEKERK :

That is so, My Lord. But what they seem to stress here, My Lord, is the need of the working class to produce an independent party, which will not be so much concerned with winning elections. In other words, will not act purely or primarily according to constitutional methods. But they must struggle for something more than can be achieved through parliamentary channels, and that sentence, My Lord, by implication, my submission is, advocates, although it doesn't say so, extra-parliamentary struggle for working class emancipation. My Lord, my submission is as I have stated it now, appears on the top of page 32, the second paragraph.

My Lord, my submission is that this submission of the Crown is also further borne out by the speech of one Mkwai at a meeting in Port Elizabeth, which is a SACTU meeting. My Lord, I must point out that there is no evidence on record that this man Mkwai is a member of SACTU. The submission is that he spoke from the platform of SACTU and it is submitted ...

MR. JUSTICE RUMPF :

Isn't he speaking on behalf of the Congress alliance? That they want volunteers? He doesn't mean that they want special volunteers for SACTU.

MR. VAN NIEKERK :

As Your Lordship pleases. And then, My Lord, at a meeting of the SACTUA on the 4th March, 1956, the witness is Vlok, it was a recording, and the speaker

was C. Sibande, the chairman C. Sibande was also elected at that Conference as life president, and on page 8073, line 20 to 8074 line 4, he says : "This day of today or this time of ours is the time where everyone has to decide. You are either for apartheid or you are against apartheid. Those people who stand in the middle saying that instead of saying apartheid we say separation, they better excuse us right now and stand away, because we will crush them. Instead of crushing our enemies the Nationalist Government, we will crush them first, because they are our obstacles. Everyone knows in every country what has happened to traitors and spies. The death penalty of a spy is the death sentence and nothing else. So those people who stand between us and the enemy and keep on saying that 'we ar with you' and yet they are only with you with their big eyes and big ears to carry the information to the enemies, they will be the first to go".

MR. JUSTICE KENNEDY :

That is really a tirade against the people who are in the middle of the road.

MR. VAN HILKERK :

My submission is, My Lord, that they are the middle of the road, and they also refer to the police who stand there and listen to what they have to say, My Lord. He then refers to the fact that these middle of the road people, they should crush the enemy, the enemy being the Nationalist government, My Lord. The Nationalist government, in my submission is the duly constituted authority. My Lord, then this is taken

a step further at a meeting of the South African Society for Peace and Friendship with the Soviet Union, 6th November, 1955, the witness is the shorthandwriter Coetzee, the speaking is Beyleveld, and he says, record page 7605 : "As President of the South African Congress of Trade Unions, I would like this opportunity to say to the Minister that we will, and do oppose the Bill, and not only that Bill but the whole labour policy of the Nationalist Government, and that we will not stop fighting that legislation, and in that fight we will mobilise the people and we will not only destroy those Acts, but the fathers of those Acts. The people responsible for putting them on the Statute Books".

With respect, My Lord, he spoke as President of SACTU, that they would mobilise the people, destroy the acts and the fathers of these acts. It is submitted that by using this strong language, this speaker as President of the SACTU was advocating the use of violent action.

And then My Lord, this same document that I have referred to, D.31, Our Modern Society and How it Arose, page 3290, it is a portion I have already referred to, My Lord, "there is in existence a new class which in its own interests must wrest the means of production from the old class and must establish a new social order". I refer to that, My Lord. I have also dealt with this fact that there must be the establishment of a new class, a revolutionary class, which must destroy the old, and they must build a new, and be able to act together in large numbers

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in an organised and disciplined fashion. This passage, My Lord, it is submitted, advocates the wresting or forcible taking away of the means of production from the old class, that is the capitalist class, and establish a new social order. This, the submission is, involves violent action which is aimed at the overthrow of the present state.

My Lord, on page 36, it is not a submission My Lord, really - it is a broad submission that these people nowhere in speech or document, as far as SACTU is concerned, that the aims and objects of the Freedom Charter were to be achieved by constitutional methods, nor My Lord, that the implementation of the Freedom Charter was to be coupled with constitutional methods. My Lord, with respect, I could not find it. My Lord, the third paragraph can be deleted, I do not think it is very significant.

My Lord, I proceed now to deal with the position of Volunteers. It is submitted that SACTU supported the call for volunteers, knowing that their duties would involve violent action. The Defence admitted, My Lord, that Chief A.J. Luthuli on behalf of the African National Congress called for 50,000 volunteers and that other organisations supported this appeal. My Lord, my submission is that "other organisations" there would include SACTU.

Then My Lord, I am referring Your Lordships to the letter of the Transvaal Consultative Committee to the Secretary, Witwatersrand Local Committee, SACTU, dated 11th June, 1956, where it states that : "The National

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Consultative Committee of the five Congresses have decided that from the most able courageous consistent and reliable Congress members, volunteers shall be selected and formed into volunteer groups". My Lord, at the Local Committee of SACTU, the Witwatersrand Local Committee, SACTU, held on the 12th June, 1956, this letter was considered, the chairman stressed the importance and magnitude of this task and that it be circulated amongst all members of Local Committees.

My Lord, my further submission is that SACTU had knowledge of the nature of the Freedom Volunteers. I refer to "We promise Volunteers blood and tears", as referred to in the statement of Mkwai at the meeting of the 5th February, 1955, to which I have already referred. Mkwai spoke at the SACTU meeting at Port Elizabeth. I am sorry, My Lord, the Minutes A.M. 107(a) are the Minutes of the Local Committee SACTU, dated the 12th June, 1956, and the record is page 3407. This refers to the paragraph preceding it. And then I really go on to the second portion of my submission, My Lord, that the SACTU knew the duties of the volunteers would involve violent action. And then I refer again, My Lord, to this meeting, the SACTU meeting, 5th February, 1955, where the speaker Mkwai said that "we promise volunteers blood and tears".

And then, My Lord, on page 38 I go on to say the "duties of volunteers were explained by Resha at the African National Congress meeting held at West Street, Johannesburg, 22nd November, 1956, and the SACTU Executive Committee member, L. Massina, and

Nkadimeng were present." My Lord, there is no evidence that they were there in their capacity as SACTU members, but my submission with respect is, that being members of the National Executive Committee of SACTU, they had knowledge of the nature of the duties of volunteers. The one is the General Secretary, Massina, and Nkadimeng is a National Executive member.

MR. JUSTICE BEKKER :

If you are right, why is that to be implied as knowledge on the part of SACTU ?

MR. JUSTICE RUMPFER :

They may have the knowledge in their personal capacities, but why should the whole of SACTU have knowledge of that speech? The speech on which you rely was a speech made by a non-member of SACTU. Now, they sit there, they are members of the Congress alliance. Looking at the speech by itself, assume that it indicated a diversion of policy of the Congress alliance, just assume that for a moment, and the two who were there as members of the A.N.C. primarily, but who are also members of SACTU, heard the speech. In the absence of any evidence as to what happened afterwards, why do you say that the whole of SACTU knew that policy about the volunteers?

MR. VAN NIEKERK :

My Lord, the highest I can state is that there are members - executive members of SACTU, who had knowledge ...

MR. JUSTICE RUMPFER :

That is a different matter.

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MR. JUSTICE KENNEDY :

That is a different matter, personal knowledge as against organisational knowledge. Unless you have got evidence to connect the two.

MR. VAN NIEKERK :

The knowledge of an organisation, My Lord, my submission is, consists of the knowledge of the Executive Committee or members of the Executive Committee.

MR. JUSTICE RUMPF :

Assume one member attended the speech, and he said nothing at the next meeting of SACTU, do you still say that because he knew it the whole organisation must have known that?

MR. VAN NIEKERK :

No, My Lord. My Lord, I now proceed to deal with the campaigns. The Crown submits that SACTU supported the African National Congress in the Campaign against Western Areas Removal. Now, I must at the outset say, My Lord, that the South African Congress of Trade Unions was formed after the initial removal. The initial removal I think was on the 9th of February, '55 and the South African Congress of Trade Unions was only formed on the 5-6th March, 1955. In the Minutes of this inaugural meeting, My Lord, this reference is D.20, a document found in the office of the SACTU, page 2316 of the record, lines 2 to 20 : "Conference places on record its horror at and bitter opposition to the government's violent attacks on peaceful citizens as exemplified by the forceful removal of citizens of the Johannesburg Western Areas the the threatened

removal of people from other areas. No display of terror and force will intimidate us in our call to the people to oppose these unjust attacks on their freedom of residence, on their property rights and on their security".

MR. JUSTICE BEKKER :

What do you say one should infer from that?

MR. VAN NIEKERK :

That SACTU identified themselves with the A.N.C. in their campaign against the removal of the Western Areas. At this time, of course, My Lord, the removal was still in progress.

MR. JUSTICE KENNEDY :

Does it mean anything Mr. van Niekerk? Is there any evidence of - assuming the Crown has evidence of the tactics adopted, by the A.N.C., prior to the removal which took place on the 9th or commenced on the 9th of February, is there any evidence of any method of campaigning against the Western Areas Removal after that date?

MR. VAN NIEKERK :

No, My Lord.

MR. JUSTICE RUMPF :

SACTU didn't know the method...

MR. VAN NIEKERK :

There is nothing to show that SACTU knew the method, and I think that when SACTU was formed, the major agitation against the Western Areas Removals was a thing of the past. The first removal had taken place,

MR. JUSTICE RUMPF :

Does it go so far as moral support, this submission?

MR. VAN NIEKERK :

I put it no higher, My Lord. It shows of course My Lord that whatever is done by any of the other organisations, has the support of SACTU as a part of the Congress alliance.

I am now proceeding to the campaign against the Bantu Education, My Lord. Here My Lord we rely on a letter, A.179, which is a SACTU letter to "Dear Friend", dated the 7th April, 1955, record page 818 line 18 to 23. This was signed by Massina, Secretary, and the signature was admitted on page 10818 of the record. The letter says : "We would like to place on record our readiness to support any action which will assert in the fight against Bantu Education, and we realise that the fight against this vicious act required much hard work and much organising and explaining to parents and scholars about the effects of this act". And then at a meeting of the Congress of the People, My Lord, on the 21st of May, 1955, where the speaking is Nkadimeng, one of the Executive members of SACTU ...

MR. JUSTICE BECKER :

In what capacity did Nkadimeng address the meeting?

MR. VAN NIEKERK :

My Lord, I don't think there is evidence that he stated that he addressed this meeting as a member of SACTU. No, My Lord, there is no evidence that he spoke

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as a member or on behalf of SACTU.

MR. JUSTICE RUMPF :

Then this goes out.

MR. VAN NIEKERK :

My Lord, I now go to the campaign against passes. It is submitted that SACTU supported the A.N.C. against the passes. And then I rely on D.34, which is one of the lectures, Trade Unions in the Struggle for Liberation in South Africa, these lectures having been found in the possession of - in the office of the South African Congress of Trade Unions. This appears on the record, page 3309, line 30 to 3310 line 9. It says that "a movement - such a movement can only be built up soundly if, rejecting the false slogan of 'no politics'" - that is the trade union movement - "... the trade unions enter actively into the political life of the country, taking up the political demands for freedom of the workers, and participating at the head of the national liberation movement. What does this imply in South Africa? It must fight against pass laws and the industrial colour bar".

MR. JUSTICE RUMPF :

In the reference to the - in the message to the F.S.A.W. there is also a reference the campaign against the pass laws.

MR. VAN NIEKERK :

It is the same idea, My Lord, and then on page 42 there is this Memorandum on the Anti-Pass Campaign issued by the National Consultative Committee on the 25th October, 1956. The SACTU at that time was a

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member of the National Consultative Committee - I will deal with that when I deal with the National Consultative Committee. My Lord, it says "In such a long drawn out war as against - as the war against the pass laws it would be foolish to expect that victory can be won by a single action of the people. The pass system..... the final victory for the people which means the end of the cheap labour system... can only be finally achieved by the overthrow of the ruling class..." My Lord, my submission is that these extracts prove the submission.

My Lord, I proceed now to page 43, Schools and Study Classes. My Lord, - this, schools and study classes with respect was to spread propaganda, education of the masses, education of the workers, and it is submitted that SACTU held the view that trade unionists and workers should be taught that their fight is not only for higher wages and better working conditions but for freedom. The submission is really a quotation from the Conference Minutes, 1956, SACTU Minutes, which is found in L.L.M. 150, which is a document found in possession of the General Secretary, Massina, and C.1005, the quotation in the record comes from C.1005, page 2146.

It is further submitted that in order to spread working class knowledge amongst the workers SACTU organised study classes.

MR. JUSTICE BEKKER :

On what do you base this, that they organised study classes?

MR. VAN NIEKERK :

That follows, My Lord, that is my submission and now what follows....

MR. JUSTICE RUMPF :

What is this "presumably lecture 7"?

MR. VAN NIEKERK :

My Lord, that is how it appears in the record. When we deal with the lectures later on, My Lord, on page 48, My Lord, and on page 47, My Lord, - My Lord, some of these lectures indicate that they are in fact - that this is in fact Lecture 7. Some of the copies that were found....

MR. JUSTICE RUMPF :

Just a minute. D.29, what is that?

MR. VAN NIEKERK :

D.29, my submission is, is one of the lectures found in possession of SACTU, distributed and used by them. D.29 hasn't got the number of the lecture on it, but it is a lecture.

MR. JUSTICE RUMPF :

And then that refers to study classes which could not have been organised without SACTU?

MR. VAN NIEKERK :

That is so, My Lord, that is what the lecture says itself. And then on page 44 it is submitted that SACTU organised study schools for the training of individuals and new leaders along the lines of trade unionism.

MR. JUSTICE RUMPF :

Is that the Executive Committee of SACTU?

MR. VAN NIEKERK :

As Your Lordship pleases. The Report -

On page 2320 it says : "Subcommittee of four members was elected to draft a syllabus for training of individuals along the lines of trade unionism". In the Minutes of the National Executive Committee, A.M. 96, it says the proposed Central Study School and the draft syllabus and that the school should be held in Johannesburg in Spetember, 1955."

And then in the General Secretary's Report fo the 1956 SACTU National Conference at Cape Town, 1-4th March, 1956, page 3378 it states : "In September 1955, a National school... was held.. and it was an oustanding success".

Then Exhibit C.3. 5 is the Minutes of the Management Committee of SACTU, which was found in the possession of Cleophas Sibande, a member of the Executive Committee of SACTU, : "Training of new leaders. After discussion on the most suitable time to inaugurate this school,..... that the training school commenced on the 7th May, 1956" - this is my submission My Lord, that it would probably be the second school, the first school was in September, 1955.

Then there are references to other schools.

Then I set out the lectures, My Lord, on page 47. The lectures, and my submission is that SACTU drafted and used in study classes this set of lectures, referred to below. This is to be inferred from what follows as well as from the fact that study classes and schools wer. held and lectures given as appears

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under the portion Schools and Study Classes with which I have dealt with. Then again appears the section in the General Secretary's Report to N.E.C. dated 27 June 1955, that a standing committee should be elected in order to facilitate the direction of activities, the "management Committee, a sub-committee of four members was elected to draft the syllabus". And then it is further submitted that the syllabus referred to in this report was in fact drawn up and it was found in the possession of Aaron Mahlangu, A.M.49. The syllabus to this Local Committee Training School, this syllabus, according to the record page 3392, "contains the lectures .." - I am reading, My Lord, as it appears in the record :
"..contains the lectures, the first two pages of lectures B.29 and B³⁸/which were read yesterday". My submission is that this passages should read : ".. contains the lectures on the first two pages the lectures D.29 to D.38 which were read yesterday". It is D.29 to D.38, not B as appears in the record. My submission is that the record is incorrect as far as that is concerned.

My Lord, then I deal with the material, firstly the lecture which I have quoted above, and it is submitted that this reference in this lecture that these schools could not have been held without SACTU, it is submitted that this reference shows that these lectures were used by SACTU. Then I set out the ten lectures, My Lord, and on page 49 I set out the distribution of lectures, and I must refer to A.M. 108, that is Minutes of Management Committee of SACTU, 2nd May, 1956, page 3407, "Then there is a further

paragraph 'Training of New Leaders', and the 'Secretary reported that lectures had been sent to all local committees". Then I say that in addition to these lectures, - in addition to the above, these lectures were found in the possession of the following persons and organisations and I give them, My Lord, which shows that there has been a certain degree of distribution.

My Lord, page 52, My Lord, which deals with publications, and it is submitted that Workers Unity was the official bulletin of SACTU and was published and distributed by SACTU. My Lord, the submission is supported by the General Secretary's Report to SACTU L.L.M. 151, found in possession of the General Secretary, the Conference was held on the 1-4th March, 1956, record page 3378 : "A monthly bulletin, Workers Unity, has been issued since April 1955 and has appeared regularly. The bulletin has a circulation of 1,000 readers and the January 1956 issue will appear in printed form."

MR. JUSTICE RUMPF :

Is the inference that SACTU published and distributed it?

MR. VAN NIEKERK :

It is a submission that it is an inference to be drawn, My Lord. And from the part of the speech there of Massina, and then from the evidence of H. Joseph, on the first portion of the submission, My Lord, that - the record is 14406, "only Workers Unity could be described as an official organ, but that the other publications were not in any way official organs

of the Congresses or of the Congress movement as a whole".

COURT ADJOURNS.

COURT RESUMES.

MR. VAN NIEKERK :

My Lord, the reference to the evidence of Helen Joseph at page 14406 is not complete, My Lord, as given there. It reads : "My Lord, I think I stated that I considered that only Workers Unity could be described as an official organ, but that the other publications were not in any way official organs of the Congresses or of the Congress movement as a whole". That is how it reads in the record, My Lord.

MR. JUSTICE RUMFF :

Did she state previously to this part of her evidence - did she in fact state that Workers Unity was an official organ?

MR. VAN NIEKERK :

I believe she did, My Lord, but I have not got the reference. I will check up on that and give it to Your Lordship.

MR. JUSTICE KENNEDY :

This is a qualified personal statement.

MR. VAN NIEKERK :

It was qualified as far as the others were concerned, My Lord. I don't think it is really qualified, My Lord. It says, "I think I stated that I considered..." - We will try and get the prior reference. I have it now, p. 14118 : "Did the Congresses use certain

publications as a medium of making known their policies, activities and aspirations? --- Yes, My Lord, that is correct. The Congresses always considered the press to be a vital part of the political struggle, but we did not have a Congress press as such, and therefore we did make use of sympathetic publications for the expression of our views, and policies, and welcomed them for the reportage (?) of our activities."

"Can you name some of these publications? --- Yes, My Lord, in weekly newspapers there was Advance, which was then followed by New Age, and then of what I would call periodicals, there were the journals Liberation and Fighting Talk. And then there were some other publications which really belonged or emanated from specific congresses, such as Workers Unity from the South African Congress of Trade Unions. And then there were one or two more important journals such as The Call and New Youth". That is the reference, My Lord.

Then My Lord, it is submitted that SACTU encouraged its followers to support, study and sell New Age. It is submitted that this appears from Minutes of the Management Committee of SACTU, 11th April, 1956, C.S.5, found in possession of Cleophas Sibande, and A.M. 78 which was found in possession of Aaron Mhalangu, both executive committee members, at page 3250, and there it says that "It is..." - they were referring to an appeal for funds - for New Age, a fund raising campaign, and it says : "It was agreed that this appeal be circulated to all affiliated unions, who are to be urged to support the campaign. The completed appeal forms are

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are to be returned to the head office of SACTU".

My Lord, and then in the lecture D.34,
- it deals with certain specific aspects of the societies,
capitalist and socialist, and then it refers the students,
the readers, to certain New Age articles. And then on
page 55, I am referring to a letter of the Transvaal
Consultative Committee, 11th June, 1956 to the Secretary
of the Witwatersrand Local Committee of SACTU. My Lord,
in terms of the Defence admission No. 4 at page 642,
and No. 8 at page 1400 of the record, read with the
document A.M. 100, that is the Minutes of the Local
Committee of SACTU, of the 15th of May, 1956, page
3403 of the record, in which it is stated that Nkadimeng
was elected as a delegate to the Transvaal Consultative
Committee and Sejake as alternative, SACTU was a member
of and represented on the Transvaal Consultative
Committee on the date of this letter. In this letter
it states, My Lord, at page 3388 : "The National Consul-
tative Committee of the five Congresses has decided..."
and then it goes on, "... the volunteers will be required
to perform the following tasks." Amongst those tasks,
My Lord, will be - Your Lordship will see, it is all
set out verbatim, that Task three is "Each - every single
volunteer must sell at least 12 copies of New Age every
week; and three copies of Liberation every month.
Task Four : Every single volunteer is required to read,
carefully, to study and to discuss in his group every
issue of the following publications. 1. New Age, (weekly);
2. Liberation (monthly); 3. Workers Unity, SACTU
bulletin,(monthly); 4. Congress Voice, A.N.C. bulletin

5. Sechaba, Transvaal A.N.C. bulletin; 6. Peace Council Bulletin, 7. Fighting Talk... et cetera. Each volunteer group will meet once a week and every volunteer will attend this meeting, which will be a study circle to discuss the building of strong trade unions, national liberatory organisations, the Freedom Charter and national liberation."

My Lord, it is further submitted that the SACTU encouraged its followers to sell, read and study Liberation, as I have quoted in the above example.

And further that SACTU encouraged its followers to study and discuss the publications Workers Unity, Congress Voice, Sechaba, Peace Council Bulletin and Fighting Talk as I have indicated.

My Lord, the following Schedule D, if Your Lordship will refer to page 1 of this argument, it says Co-operation with the Support of Other Organisations. I am now trying to indicate to the Court the extent to which the South African Congress of Trade Unions had co-operated with the other organisations, including the National Action Council of the Congress of the People, and the National Consultative Committee. I have set these out fully, My Lord. In the first instance ...

MR. JUSTICE RUMPF :

You have set that out on the pages up to 60.

MR. VAN NIEKERK :

As Your Lordship pleases. Then I say at page 61 My Lord, - the submission is that there was mutual co-operation between SACTU and the other organisations

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in the Congress movement. That is fully set out, but I just wish to draw Your Lordship's attention again to the last item on page 62, My Lord, which is the extract from the formal Declaration of Policy of SACTU as accepted at the Conference in 1956 at Cape Town, and which can be seen from A.M. 93 and A.M. 50.

Then my next submission is that SACTU was represented on the National Action Council of the Congress of the People, at the top of page 63, and that is according to the evidence of Luthuli at page 11930.

It is also submitted that the SACTU was represented on the National Consultative Committee. My Lord, this is covered at the bottom of page 63 by an - a formal admission by the Defence, that after 1953 organisations including SACTU were represented on the National Consultative Committee, after July 1955. My Lord, the other references really only go to substantiate what the Defence admission states. The next heading is fraternal messages and delegates between the various organisations, and that is set out on pages 64 to 67. I have set them all out, including invitations that were sent out by SACTU. And then page 68, is the receiving of the fraternal delegates and messages from organisations, My Lord, and that is also set out, which really shows the interrelationship of these organisations. And then a further aspect of this, cooperation, on page 70 I set out documents of other organisations which were found in the possession - documents other than SACTU documents which were found in the offices of the organisation, that is page 70 and 71.

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Then on page 72 it illustrates to what extent the South African Congress of Trade Unions National Executive members associated themselves with or assisted or co-operated with other organisations. I have set forth the date and the meetings at which Executive Members of SACTU attended, these meetings being meetings of organisations other than SACTU.

And then on page 73, to show the activities of SACTU, I have set forth a list of meetings which were sponsored by SACTU.

I am now referring to the World Federation of Trade Unions. What follows now, My Lord, is an attempt to show that SACTU were associated to a certain extent with the World Federation of Trade Unions, the World Peace Council, and the World Federation of Democratic Youth. Argument has been submitted, My Lord, by Mr. de Vos at page 19955 of the record in regard to this world organisation and its character as understood by SACTU. The following documents on which he relied can be used against SACTU.

D.28(d), Workers Unity, June, 1955, the official organ.
D.32, Trade Union lecture entitled Short History of the International Trade Union Movement; L.L.M. 74 and 73 which are two Workers Unity - issues of Workers Unity which are official organs of the organisation.

D.28B, L.L.M. 73 and L.L.M. 74 are three issues of Workers Unity, described as SACTU bulletin on the front page. My Lord, the other paragraphs are just dealing with these documents.

Paragraph 6, I say on the question of whether

SACTU was affiliated to the World Federation of Trade Unions, which apparently was not dealt with by Mr. de Vos, My Lord, record 19955, it is submitted that authoritative statements of SACTU indicate that a decision was taken by SACTU to effect an affiliation and that reasons for such decision were given.

These reasons are - we give the references, of the decision to affiliate in D.21, which is Minutes of the Meeting of the Management Committee of SACTU, 13th April, 1955, which states that "it is agreed that SACTU should affiliate", and the same with L.L.M.151, My Lord, and A.M. 96, Minutes of the National Executive Committee, 27th June, - My Lord, from the other inferences to be drawn it would be the 27th June, 1955,

"the President stated that it was important to recognise the role assumed by W.F.T.U. and that our decision to affiliate would be to our advantage." And then reasons were given why SACTU should affiliate to W.F.T.U.

Apart from the decision to affiliate to W.F.T.U., the undermentioned factors indicate, it is submitted, an association between SACTU and W.F.T.U. I give those, My Lord, and on page 76 I state that various documents apparently emanating from the World Federation of Trade Unions have been found in the possession of SACTU.

My Lords, on page 777 I deal with the World Peace Council. Mr. de Vos dealt with the association between SACTU and the World Peace Council and indicated on schedule International I, in what respects of the policies of the World Peace Council was supported by SACTU. The documents relied upon are enumerated, Workers Unity, official organ of SACTU, and then certain

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documents were found in the possession of SACTU offices, which documents apparently emanate from the World Peace Council. And then certain World Federation of Democratic Youth documents were found in possession of the organisation as set out on page 78.

That concludes the argument on the South African Congress of Trade Unions, My Lord.

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