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recording of a meeting held in the Regent
Cinema in Pietermaritzburg on the 5th December,
1954, (the evidence concerning thereof is set
out at pages 8017 to 8035).

SCHEDULE No. D, RESHA'S SPEECH AT A CONGRESS OF
THE PEOPLE MEETING HELD IN PIETERMARITZBURG ON
THE 5th DECEMBER, 1955, FOLLOWS.

SCHEDULE No. D...

Resha's speech. C.O.P. Meeting 5/12/55,
Pietermaritzburg.

"Friends we are meeting here today at a crucial time in the history of mankind. We are meeting at a time when the world is divided into two hostile camps. On the one side are the forces of progress, freedom and democracy, advancing day by day in their noble fight for laughter in the world, while on the other side the forces of reaction, oppression and fascism determined as they are to wage war notwithstanding the threat of extinction with the world's safety as the result of the existence of atomic bombs and hydrogen bombs. The latter forces of course, are shrieking for response. On the occasion, on occasions like this, we must not overlook the masses of people of Asia who have succeeded in driving imperialists out of their country and show solidarity with those who are still engaged in struggles to uproot imperialism in action, for through their victory, humanity stands to benefit. Even now the freedom loving people of China are threatened with another war by the imperialist America, under the pretence that they are defending Formosa, when in fact they are defending their stooge, a criminal, Chiang Kai-Shek. We hope and

pray that wiser counsel will prevail and that America will stop interfering with China. If of course America is still what happened to their forces in Korea will be repeated by the people of China in greater force, for let us be assured friends that there is no force in the world to stand before the marching force of the forces of freedom. While they rejoice over the victories over the people of Asia and other continents, and disregard their struggle for freedom and national independence, let us also realise that the driving away of the imperialists from Asia and other places will place into grips the markets of Africa with imperialists, if they allow them to make Africa another war arsenal. Already America is building war bases in many parts of Africa. France is definitely trying to destroy the liberatory forces in Tunisia and Morocco. Britain has for quite a year undertaken a war with our brothers in Kenya. It is here that some of the worst crimes have been committed by the British soldiers under the pretext that they are combating the so-called Mau Mau terrorists. A great son of Africa, Jomo Kenyatta and other leaders of the people are now languishing in gaol. Thousands of innocent souls are in the concentration camps forced on the ... Boiling water has been poured on the breasts of women because they refused that their husbands were, belong

belonged to the Mau Mau. Children have been shot. All these atrocities are committed of course in the name of democracy, for by democracy the imperialists mean the oppression of the Colonial people. They must therefore understand that this jungle method that employed Her Majesty's Air Force to make Africa the battlefield for future imperialist wars....."

"From the opening remarks you will realise that our struggle for freedom and democracy in South Africa is of which the struggle is veritable the world over. In South Africa the people are facing a crisis. Throughout their period of government the Nationalists have shattered completely in frantic determination implemented their policy of destroying every vestige of human rights which the African in particular, ever possessed. It's of the non-European people has taken the Nationalist nearer to their goal of crushing all the people of South Africa under Fascist terrorism. During the last six years of the Nationalist rule in this country, we have witnessed unprecedented racial discrimination, and sessions of parliament have been characterised by the pattern of legislation designed to oppress the non- Europeans to suppress their aspirations and their legitimate demands, and finally to one who do not accept apartheid. At the end of this process of course, South Africa will be a fully fledged Fascist State, along the lines of Hitler's Germany.

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It will be seen that the speech contains the familiar division of the world into two camps, and the condemnation of the Nationalist Government.

Against this speech, however, which was delivered at a meeting called for the Congress of the People, must be contrasted a message read by N.T.Naicker on behalf of the banned president of the Natal Indian Congress. While it too contains condemnation in strong language of the present Government, it clearly indicated that a non-violent course of action should be pursued.

SCHEDULE No. E, N.T.NAICKER'S SPEECH AT A MEETING
OF THE CONGRESS OF THE PEOPLE, HELD IN PIETER-
MARITZBURG ON THE 5th DECEMBER, 1955, FOLLOWS.

SCHEDULE No. E

N.T.Naicker's speech. C.O.P.Meeting 5/12/55,
Pietermaritzburg.

"This conference you are holding today is one of the most significant in the history of our liberatory movement in Natal. It is significant because of the fact that it is the inaugural conference to mark the campaign of the Congress of the People in the Midlands Area of the province of Natal. It is an encouraging sign of growth of our liberation movement when Indians, Africans, Europeans and coloured people have become through their respective national organisations co-sponsors of the multi-racial all-South African assembly. For the first time thousands of ordinary men and women will elect their representatives to attend the Congress of the People. For the first time they will have the opportunity to discuss their own people's solution to the problems of our country. Problems of the workers, farmers, housewives, professionals, miners, teachers, students and others that make up our multi-national community. How South Africa

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should be governed, who should elect the men and women who make the laws of our country, how these laws should be administered, these, and other questions will be discussed not only in the Congress of the People, but in the countless discussions and meetings they will hold throughout the country. It is these true expressions of the voice of the people of this country, which will finally find its expression in the people's freedom charter. The people can write into this charter their claims to equality of opportunity, political, social, economic, cultural and intellectual of all men and women. Drunk with the power as a result of successive victories, the nationalist government has marched on arrogantly along the road of domination, using the undemocratic measures it has passed, viciously and indiscriminately to stifle democratic forces in South Africa. Banning orders have been issued by the dozens throughout South Africa. Underlining these banning orders the government has attacked five native freedoms;

freedom of speech, freedom of movement, freedom of association, freedom of assembly and freedom to a free and fair trial. Now is the time for each and every individual who loves these precious freedoms to speak out clearly and without hesitation against the wrongs that are being perpetrated in this country. Our voices in the defence of the democratic traditions must be heard far and wide. Mr. Strydom's succession to Dr. Malan does not alter our attitude. In fact it must increase our vigilance and demands.

We cannot afford to be robbed of our organisation and leadership and be denied the right of planning There is turbulence in the air. Every section, every man and woman is deeply imbued.....to action. Let him who considers himself a free man..... that he is a free man, for there can be no compromise on the demands of the people for freedom. We must proclaim these basic freedoms that I have mentioned and other freedoms in the freedom charter."

"What ever we do we must not veer from the path of non-violence. In the struggle we have launched against segregation and apartheid we are strictly against violence. Mahatma Gandhi, that great apostle and freedom-wisher gave us this lead. He said it is superior to all other methods and even more explosive than any hydrogen bomb. It is a weapon of

self defence, self-expression, and liberation of the people. Not of territorial aggression or exploitation of another. In the process of mass-education the most expensive gift, offering an inherent guarantee of the permanence of its achievement, in that it strengthens each individual participant by bringing to him a consciousness of his latent power and a realisation of his unity of interest with his fellow man. Mr. Chairman and Friends, my message to you this morning is: Go ahead although I am not with you in person, my spirit is with you. You must tell the Nationalist Government and all the anti-democratic forces in this country that we will not be dragooned into silence. (Applause). I ask your concurrence to condemn most strenuously and vehemently the action of the Minister of Justice in indulging in mass bannings and deportations of the peoples' leaders. In conclusion let me reiterate. As loyal South Africans we have a real duty to all the peoples of South Africa, we have to build up the tradition and spirit of non-violence.

This concludes a brief summary of the shorthand writer's notes and the one tape recording by Detective Sergeant Swanepoel.

I desire, however, to deal at further length with the meeting held at 37 West Street, Johannesburg on 22nd November, 1956, of which mention has been made by the learned Presiding Judge. The full tape recording thereof is set out at pages 8141 to 8162 of the record; I do not propose to repeat it, as it has figured prominently in the case for the prosecution and the Court is familiar with it.

The roll call indicated that delegates from roughly thirty branches of the Transvaal African National Congress attended, and that amongst those present were leading members of the African National Congress, including the accused Moretsiele, Nkadimeng, Nokwe, Masina, Mathole and Resha. All of these named accused were then, or had been, members of the Transvaal Executive of the African National Congress, and some were on the National Executive; Resha appears to have been called upon to speak in his capacity as Volunteer-in-Chief for the Transvaal.

The/.....

The meeting was confined to the Transvaal branches of the African National Congress, but, despite the presence of leaders of that Organisation, there is no reason for the Court to conclude that the utterances represented the policy of the African National Congress as a whole, regard being had to all the evidence in this case.

Resha, when he gave evidence, said that his admonition to volunteers to be violent and to murder, if called upon to do so, was inconsistent with the policy of his organisation. He stated that he gave this example 'merely to illustrate the importance of discipline'. I find this quotation from his evidence difficult to accept; the prosecution was correct, in my view, in classifying Resha's speech as one in which he exhorted volunteers to commit violence if called upon to do so.

There is much room to accept that those present understood Resha's remarks in this light, but it is idle for me to pursue this issue further, in view of the Court's findings of facts, and the mass of evidence which indicated that, in fact, Resha spoke outside the policy of the

African/.....

African National Congress.

I shall now deal with certain evidence led by the defence.

Mr. Moeller, a retired detective sergeant, had handed in numerous exhibits on behalf of the prosecution, and given evidence concerning a number of meetings. Through him, in cross-examination, Exhibit A 327 was put in. It is a carbon copy of a letter on the letterhead of the African National Congress dated 2nd August, 1955, and over the heading 'SECRETARY', at the end of the exhibit, is typed 'Robert M. Resha'.

The second paragraph thereof reads:

"In the report the Commission deplores the use of violence as a means of settling disputes and reminds members of the policy of the A.N.C. which is non-violent. In regard to Mr. Vundhla's political activities, the Commission has recommended expulsion of Mr. Vundhla from the membership of the A.N.C."

The/.....

The subsequent evidence is that Vundhla was expelled.

Exhibit A 328 was also put in by the defence. It is a carbon copy on the note-paper of the African National Congress, 38, Market Street, Johannesburg, but dated at Groutville, May 21st, 1955, of a suggested draft statement or resolution. The first paragraph reads:

"The National Executive of the African National Congress Council sitting in plenary session at Groutville, Natal, on 21st May, 1955, issues the following statement through the President General Chief A.J.Luthuli, to the African people and to all freedom loving peoples in South Africa

Here follows a portion of the message:

"We firmly believe that our cause is just and that therefore, although the campaign will call for great sacrifices on the part of both leaders and people/.....

people we place our faith on the mass support of the people and indeed on all freedom loving peoples throughout the world. We wish to remind our people and particularly our membership, of the kernel of our policy which is disciplined non-violence. In the face of provocation by the Government and its agents, we must remain calm and conduct our struggles in accordance with Congress policy. We are determined to follow a policy that relies entirely on the mass pressure of organised strength of the people of South Africa for its success."

Mr. Moeller also put in Exhibit A 24, with which Exhibit A 25, a document taken by Moeller from the offices of the African National Congress on 27th September, 1955, when he made a search there, appears to be identical. It is headed "A Message to the 1954 Annual Provincial Conference of the African National Congress, Natal from A.J. Luthuli, Provincial President, African National/.....

National Congress, Natal, President General, African National Congress." It contained a long message - see pages 985 to 991 - and concludes:

"The vote is the fundamental key issue in any democratic state. History shows us that the acquirement of economic status may not facilitate the obtaining of franchise rights as the following examples show:

1. In the Boer war Transvaal Republic of Kruger, the Uitlanders contributed handsomely to the revenue of the State and had economic status, but did not enjoy political rights despite their demanding them. This precipitated the Anglo-Boer War of 1899 to 1900. The Anglo-Boer War was a struggle for recognition by the English. Congress does not advocate a bloody struggle, but has wisely chosen the way of non-violent struggle."

The witness was then asked:

"Would/....."

"Would you regard that as in line with the statements of policy which were constantly and consistently made by the heads of the African National Congress throughout the period? --- I have often heard this said that the struggle should be a non-violent one".

In Exhibit A 83, also found by Moeller in a search of the African National Congress offices in Johannesburg, is contained a memorandum submitted by the various Congresses to the United ^{Nations} ~~States~~ Commission on racial discrimination in South Africa. Insofar as the South African Indian Congress is concerned, the memorandum concludes (page 995):

"For the past sixty years constituent member organisations of the South African Indian Congress have maintained a policy of principled opposition and non-violent resistance to the many acts of discrimination levelled against the Indian Community in South Africa."

Moeller's evidence reads:

"Question/....."

"Question: Now, as the Indian Congress is one of these revolutionary, conspiratorial bodies, Mr. Moeller, is this a correct statement, so far as you know, that the Indian Congress has maintained a policy of non-violent resistance to the acts of discrimination levelled against the Indian community in South Africa? --- That does appear here and I accept that to be the position.

How long have you been in the Special Branch? --- Since 1948.

And prior to that time Mr. Moeller, I think you were a detective sergeant of many years standing? --- Yes."

And on the same topic of the non-violent policy, evidence of which was led by the defence, the same witness said at page 1,002(c):

Question: "And I think you remember, Mr. Moeller, that you gave certain evidence in the preparatory examination dealing with this question of the Defiance Campaign? --- Yes.

Now would it be correct to describe the Defiance/.....

Defiance Campaign, and I want to use these words carefully, as a well-disciplined and non-violent struggle for the removal of unjust laws? --- It was said to be so at the time.

And it was in fact well disciplined? --- It was.

And it was in fact non-violent? --- That is so."

And at the conclusion of the cross-examination the evidence at page 1043 reads:

"I just want to put - to ask you a few general questions not. You have already said that you attended hundreds of meetings of the African National Congress. You were always a member of what is called the 'plain-clothes' section of the South African Police were you Mr. Moeller? --- I was.

And I suppose you were pretty well known to the people who were speaking at these meetings? I mean they know who you were? --- Yes.

And/.....

And you were accompanied by other plain-clothes men? --- Yes.

Members of the Special Branch? --- That is so.

You always took up a fairly prominent position and everybody could see that you were there? --- Yes.

And these meetings were conducted in this way and you were there to see what was going on? --- Yes.

In some cases you would take notes, and in other cases other persons would take notes? --- I very seldom took notes.

Well, other people did? --- Yes.

I understand, Mr. Moeller, that you also have a certain knowledge of Bantu languages?

--- Yes, I do speak it.

I am told that these gatherings at which you were present were peaceful gatherings, speeches took place and you would observe what was going on? --- Yes, I had no trouble at any of the meetings."

And a little later on:

"Did/....."

"Did the presence of the armed police officers cause a certain amount of resentment among the people there? Did they seem to resent the presence of these armed police officers? --- The general attitude was to resent the presence of the police in toto....."

"And they went on holding their meetings and you people went on being there? --- That is so."

Moeller then gave evidence concerning the Congress of the People and of the raid thereon by a large police force on the second day of the meeting, that is, on the 26th June, 1955. The record reads (page 1,045):

"Up to that time there had been certain police officers taking notes and observing the whole of the proceedings? ---

- That is so.

During the whole of those two days was it a perfectly orderly and peaceful gathering by these people? --- Ycs.

How/.....

How many people would you say were present at this meeting? I am not talking about the police now? --- I estimate it at about three thousand,

And on the afternoon of the second day, a substantial police force, I am told arrived there, armed with guns, sten guns some of them, and conducted - surrounded the place and started searching various people for papers, and seizing certain documents? Is that correct? --- The meeting was surrounded by police on that day.

And they did conduct a search of certain persons? --- A search was conducted.

Was that a search of everybody there? --- Almost everyone in the enclosure.

And also a seizure of documents on the platform? --- That is so.

And during the whole of this proceeding, these people remained quietly while the police carried out their duties? --- Yes, they did object in some terms, but generally it was quiet.

They/.....

They objected in a minor way? --- Yes.
But otherwise the police got ahead with
their job, and did it? --- That is so.
And that was the general picture, not
only on this occasion when the police
raided a meeting, but on other occasions?
--- That is so."

There is further evidence from
police officers to corroborate the general state-
ment made by Moeller that at numbers of meetings
attended by the police officers concerned, con-
stant references were made to the non-violent
policy of the organisation.

To sum up, then, on the speeches:

1. The evidence of the longhand writers fell
to be rejected on the issue of violence.
2. The evidence as to the non-violent policy
of the African National Congress far out-
weighed the isolated instances of speeches
which indicated that certain members or
branches of the African National Congress
were/.....

were prepared to adopt violent means, if necessary, to achieve their aims.

In the face of this conglomeration of evidence, the Court was not able to find that the African National Congress had changed its avowed policy for one of violence.

For these reasons, therefore, I came to the conclusion that the case for the prosecution had failed in as much as it was based on the evidence of the speeches.

Since preparing my judgment on this somewhat particularised aspect of the case, I have had the opportunity of reading the full judgments of the Presiding Judge and of my brother Bekker.

Some of my findings as to the nature of various speeches and of the credibility of witnesses, have gone further than those expressed by my brother Rumpff; subject to this, I respectfully agree with his judgment.

My brother Bekker has made a

departure/

departure in his judgment in regard to our Finding of Fact No.1(f) (pp. 24901/2) concerning the type of state envisaged by the Transvaal Executive of the African National Congress. With respect, I find myself unable to agree with my brother's changed views, and adhere to the Court's Finding delivered on 29th March, 1961.

With this reservation, I agree with his judgment.

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