

the example of the Son of God, and it states, "We have
 also followed this noble example of trial to provide for
 the security and prosperity of our generation", and the
 introduction is concluded by the words, "We do not know
 what course others may take but as for us, the African
 National Congress, give us freedom in our lifetime, or
 give us death." That attitude, Mr, Luthuli, would be
 consistent with African National Congress policy?-- With
 African National Congress view in the light of the remarks
 which I have already made several times in Court, my lord.

Either give us freedom in our lifetime, or death;
 one of the two?-- I have already replied.

Alright. Now, Mr. Luthuli, I want to refer you
 to this first -- to the document that was handed in on
 your behalf, AJL.1, which is a message to the 1955 Con-
 ference of the A.N.C. on the implications of the Freedom
 Charter. No, this booklet in your handwriting, Mr.Luthuli.

RUMPF J: Well, whose message is it?

MR. TRENGOVE: It's a booklet, my lord -- it's
 a note book which is in the handwriting of the witness;
 a message to the A.N.C. Conference at Bloemfontein . .

RUMPF J: Containing a message in the witness'
 handwriting?

MR. TRENGOVE: In his handwriting, yes, my lord.
 You gave that evidence in chief, not so, Mr. Luthuli?-- I
 did, my lord.

Was that message ever sent, Mr. Luthuli?-- My
 lords, as I read bits of this I think that the message
 was sent, maybe not ending as it ends here but I think . . .

RUMPF J: Maybe not? -- Maybe not as ending here, 30

think I did send a message to that Conference, my lord, 1
 but I cannot recall, as this is a draft, whether it was
 fuller or lesser than this; as I read this, passages
 there are mine, and I have a general impression that
 there are some roneoed copies of my comments in connection
 with the Freedom Charter, so that I would go on the basis 5
 that that did reach Conference; there, again, one cannot
 specifically recall every word - - but the draft is mine.

Is the position then that you don't know whether
 that draft was the document or the message placed before
 the Conference?-- That I wouldn't know, my lord; the 10
 draft is mine. It obviously would not have gone in this
 form, my lords; there must have been a final form.

MR. TRENGOVE: You were banned at the time, not so
 ?-- Yes, I was banned at the time.

Now what would you do with your message to Con- 15
 gress? Where would you send it?-- I would send my mes-
 sage to the officials, to the General Secretary; some-
 times, if I found I was late with my message, I would
 send it with my Natal Colleague, and so on. . . .

If it appears in roneoed form, you would have 20
 sent it to the General Secretary, and he would have
 embodied it in the Report for that Conference, to be pre-
 sented?-- Or presented just as a message by itself.

Yes?-- Without including it in the general report.

Now, Mr. Luthuli, you cannot recollect whether 25
 that happened? Whether that speech was ever sent through,
 or was placed before the Conference?-- My lords, I cannot
 specifically recall, but there are expressions there which
 make me believe that it did - - for instance, I make a
 cliche here to this effect 30

Well, it's all on record; you've read it in 1
already. Now you wrote it but you cannot remember whether
it was presented to Conference or not?-- That I don't
remember, no.

Did you send more than one message to that Con- 5
ference?-- No.

You would have sent a message in which that would
have been embodied in some form or another?-- Yes, that
would be correct.

And, Mr. Luthuli, that document was put in in 10
your evidence-in-chief for the purpose of showing that
you wanted Congress to know that you thought that certain
aspects of the Freedom Charter had a Socialistic tendency
?-- That is correct.

Now, you see, Mr. Luthuli, we have the Report of 15
the 1955 Bloemfontein Conference, LLM.81; also CM.35,
EPN.15, and according to that Report there is firstly
page 1(b), there is a message, a Fraternal Message from
the S.A.Congress of Democrats, in which the S.A.Congress
of Democrats, sending their greetings, go out of their
way to assure Conference that the Charter itself is not 20
necessarily Socialistic, and then at page 5 there is a
special message, a roneoed document, a special message
from Albert J. Luthuli to the Annual Conference, and
it deals with your introductory remarks, the A.N.C....
?-- I didn't quite catch that, I'm sorry. 25

There are certain introductory remarks that
give your message of the last seven years, and the sig-
nificance and background to present-day Congress activity
and then you refer at page 7 of this document - page 2
of your roneoed address - to the Freedom Charter which 30

was unanimously adopted at Kliptown, and your only com- 1
ments are that this document was adopted at Kliptown, it
was a basis for our struggle now and in the future, and
the Charter is placed before you for consideration and
ratification, and I don't find any criticism of any of
the provisions of the Charter in this Report that you sub- 5
mitted to Bloemfontein - this message.

RUMPF J: Well, you might want to look at that
message; I think it will be convenient to adjourn now.

(COURT ADJOURNED FOR 15 MINUTES). 10

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ON THE COURT RESUMING:

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MR. TRENGOVE: Mr. Luthuli . . .?-- My lords, before we carry on, I don't know whether the Crown has since heard from my doctor; I did see the Crown before. To me yesterday, after examining me, he said that he still felt unfortunately that I had to keep to yesterday's hours.

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RUMPF J: Yes.

MR. TRENGOVE: That is correct, my lords.

RUMPF J: Yes.

MR. TRENGOVE: Now, Mr. Luthuli, how do you explain this position, that that manuscript document, AJL.1 which is a message containing a criticism of certain parts of the Charter, that that message, if it wassent, appears in a different form, or on what you now know did you never send that message, but some other message which was published in this document?-- I didn't quite get the last part of your question?

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Well, you see, I read the message which was part of your Report; part of the A.N.C. Report?-- That is correct.

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The roneoed report. I gave it to you so that you could read it during the adjournment?-- Yes.

Now, that is something quite different to this manuscript document AJL.1, it is something entirely different in content; do you agree?-- I agree.

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Yes?-- The manuscript is much fuller.

BEKKER J: What was that?-- I say the manuscript expresses certain criticisms of the Charter, my lord. Certain views on the Charter are expressed there.

MR. TRENGOVE: Can you offer any explanation?--

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My lords, my explanation would be this -- although I don't know offhand just what happened -- what you have embodied in the Report would be a general message to Conference generally, and it is possible, my lords, that just a special message dealing with the Freedom Charter could have been sent. Now, I don't want to

X RUMPF J: The first point that I'd like to know is this: this AJL.1, does it purport to be the draft of a message to Conference?-- It does, my lord. A message to the Annual Conference A.N.C. Implications of the Freedom Charter.

Yes. I take it that was, as far as you were concerned, something important?-- That is so, my lord. X

Did you send, either by way of message or by way of memorandum, the contents of that book, AJL.1, to Conference?-- I was going to come to that point, my lord, to say that this gives me the impression of being a special message with specific reference to the Charter -- not just a general message to the Conference. Now, what I recall quite specifically, my lord, is that my views were expressed -- --

I wonder if you could just answer this question perhaps. Did you send to Congress, either by way of a document called 'Message', or a document called 'Memorandum', the criticism of the Charter which you had in mind?-- My lord, insofar as my memory serves me regarding the memorandum -- the memorandum that I recall specifically would be not merely a personal one, but one which I shared, which was a Natal memorandum on the subject, in which my own views concur with that . . . that I remember quite specifically. The fate of that memorandum

I wouldn't know. 1

No; my question was this: did you in your capacity as President-General send to the Congress - the Conference rather at Bloemfontein - the contents of that document AJL.1?-- My lord, I wouldn't know specifically, but I have in mind that I did send, not in that message but in separate form - - but I cannot be categorical on that, my lord. 5
I just cannot, I'm sorry.

Well, did you send to Conference the message which apparently is found in the Report, LMN.81?-- That is so.

Did you send that to Conference?-- That would be so. 10

Now, this was in 1955?-- That is so, my lord.

Now, what happened to the contents of the document AJL.1? When you drafted that document, did you intend that to be a message to Conference?-- I intended it, my lord, but now I cannot help the Court by saying specifically how that was conveyed - whether it was conveyed to Conference - - I'm afraid I cannot help the Court in that regard, my lord. 15

My difficulty is this, that this was the first message from you after the Congress of the People at Kliptown?-- That is correct. 20

Where the Freedom Charter had been drafted?--That is correct.

Now, you had certain points in connection with the Charter in your own mind?-- That is correct, my lord. 25

I take it that was a matter of importance?-- That is correct. 30

Cannot you remember what happened to the contents of AJL.1? Was it sent or was it not sent to Conference?-- My lord, my own impression - - again I can only go on

impression - - I cannot really be categorical - - I would 1
not be fair - - but I believe that my criticisms, my views
on the Charter, were not part of the general message, ex-
cept the reference made there.

Well, was there perhaps a meeting of the National
Executive before the Conference at which this document was 5
discussed? Or at which you discussed your views?-- No, I
don't recall. But what I do recall

Had there been a meeting, presumably you would re-
member that, because it would have been a meeting at which
your views vis-a-vis the Charter would have been discussed 10
?-- Yes, I would remember that, my lord.

Now, was there such a meeting?-- Not that I recall,
that I attended.

I thought perhaps at a meeting this might have been X
discussed and it might have been decided not to send the 15
message?-- No, I don't recall attending a meeting; I don't
think I did - I don't recall attending the last of the pre- X
conference Executive meetings.

But when you drafted AJL.1 - the manuscript - had
you already prepared the other message to Conference?-- 20
That I wouldn't recall, my lord. That I wouldn't recall.

Did you ever send to Conference two messages
separately?-- My lord, what I remember fairly well is this,
that I did send a message to Congress immediately after
- indicating and stressing the need for the ratification 25
of the Charter, and that without ratifying it it wouldn't
be Congress property - - I was emphasising that very much.
I remember that but I don't quite

No, that's not my point...?-- I don't recall, my X
lord. 30

Could I just have a look at AJL.1. 1

KENNEDY J: May I have LMN.81, the other one?

x RUMPF J: I see there is a date on this note
book; will you just have a look at that? Is that the 5th
August, 1955; I may be wrong?-- Either the 5th August or
the 9th month. 5

Yes, either 8 or 9?-- Yes.

Now, if that date is the correct date, either
August or September, then it was comparatively soon after
the Conference, the Kliptown meeting?-- That is correct,
my lord. 10

And I see that according to the heading when
you wrote this you intended it to be a message to the
1955 Annual Conference of the A.N.C?-- That's correct, my
lord.

That would be held in December?-- That's correct. 15

Yes. Normally, would you commence writing a
message for the Annual Conference in December in August
or September?-- Not so, my lord.

I take it you cannot remember when you actually
wrote the message that was delivered?-- No, I would not
remember, except merely to be general and say it was more
towards Conference. But it's not likely I would write it
x so far away from Conference time. 20

BEKKER J: Mr. Luthuli, while my brothers are
studying the document, I'd just like to refresh your
memory in regard to the evidence-in-chief which you gave
on AJL.1?-- Yes, my lord. 25

You said to Mr. Maisels "This is my own view
prior to Conference; the burden of the message was to
guide Conference. I highlighted certain ideas only. 30

It would be imperative for us to recognise the position and as Leader I wrote the document. In the African system they are not Socialistic." That is what you said with reference to AJL.1?-- That's correct, my lord. 1

If this document was one designed to guide Conference, can you offer an explanation why it didn't come before Conference?-- My lord, my difficulty at the present moment is this, that I have in mind - which I cannot substantiate - that this draft here was different from the general message to Conference, and that a separate message was sent through the Executive; quite apart from that general message to Conference. I have that impression but I cannot help the Court beyond that, my lord. 5 10

You see, if the burden of the message was to guide Conference, not the Executive Committee, but to guide Conference, one would expect the message to come before Conference?-- My lord, let me say this specifically. I mean, I would send it to Headquarters naturally as Conference was still a way off - - the Executive would, of course, naturally, in the course of things, send it to the Annual Conference, my lord. If I wrote it in August - if this draft did go - - most likely it would go to the Secretary and be filed, to be sent to Conference. Now my difficulty - - where I cannot help the Court - - is this, that I do not know exactly the fate of the message. 15 20 25

RUMPF J:That's besides the point. If you look at this draft in AJL.1, and you compare it to the manner in which you conclude normally your messages, it would appear as if that draft had not been concluded; would you just look at the end there. I didn't look carefully; I 30

would ask you to look at it?-- My lord, this looks as if
it was not concluded. 1

It would appear not to be concluded?-- Yes, my
lord, that's quite correct.

Yes. Is the position as far as you are concerned
that it might not have been sent; it might have been sent 5
but you don't know the fate of it?-- I think that is cor-
rect, my lord.

Yes, Mr. Trengove.

MR. TRENGOVE: Mr. Luthuli, your statement be-
fore the adjournment then, that you only sent one message, 10
you say that may be mistaken?-- Yes, that is so.

Now, of course, the sending of the message at all
at that stage was out of the ordinary, because you even
called this message that you actually sent in the Report -
you even call that a special message because Prof. Matthews 15
was really acting as President-General at the time on
account of your illness; so even this was a special mes-
sage?-- My lords, that is quite correct; I think that the
qualification 'special message' would or could have been
induced by the very fact that it was not a Presidential 20
message. It was being sent, well, as one who was in au-
thority but was not acting . . . a special message could
mean that, my lords.

Now, you see, I referred you to page 7 where
you say that the Charter is now placed before you for 25
consideration and ratification. There you specifically
deal with the Charter, but you don't give the people to
whom this message was addressed the benefit of the views
contained in AJL.1; that's correct, is it? You don't
mention that anywhere in this Report, although you refer 30

to the ratification of the Freedom Charter?-- My lords,
I don't in that message. 1

Now can you just say why not?-- I couldn't say
why not, except on the basis of I suppose I may have prior
to that sent a message - - the other, my lords - - I don't
know whether it would be regarded as relevant at this 5
stage, but the other is that I happen to know that at a
Provincial level, where my views were expressed . . .
I leave it at that.

And you conclude this message which was placed
before the Conference again by a reference to the Freedom 10
Charter, "Let us draw our inspiration from the Freedom
Charter, the People shall Govern", so there again you
refer to the Freedom Charter without any comment at all.
Now, Mr. Luthuli, you say if you did send that message
in AJL.1 it would probably have been sent to the Executive 15
well in advance?-- One should say to Headquarters - -
maybe it is not quite correct to say to the Executive. . .

To Headquarters?-- Yes.

With the object that they should place it be-
fore the Conference?-- That would be so, my lord. 20

Now you see, the Executive actually reported
on the Freedom Charter and they deal with it at page 4
of their roneoed report; it's a page marked 12 in this
exhibit, without any criticism or any suggestion of a
criticism in respect of the Freedom Charter; so I want 25
to put it to you, Mr. Luthuli, that it's unlikely that
the Secretary-General who frames the Report of the
National Executive - - it's unlikely that he got your
message, or that if he got it he disregarded it; do
you accept that?-- My lords, I think I put it on the 30

basis of the explanation I have already given. 1

Alright, we'll leave it there. You see, Mr. Luthuli, I want to put it to you that the organisation, the S.A. Congress of Democrats, that they had a greater influence on the thinking of the leadership of the African National Congress than you had in regard to the Freedom Charter?-- My lords, that I wouldn't know. 5

You wouldn't accept that?-- I said I wouldn't know.

You wouldn't know?-- Correct.

Do you remember when I asked you about that letter in which you referred to the Leftist ascendancy in Congress - - the letter that you wrote to Tambo in connection with the appeal to the Houser (?) group, that you then said "Do I mean Leftist ascendancy or ascendancy of the S.A. Congress of Democrats"; Do you remember, you asked me that question?-- I remember. 10 15

Were you ever concerned about the influence of the S.A. Congress of Democrats - the influence they were exercising in the African National Congress?-- Not particularly, my lords. 20

What do you mean not particularly?-- My lords, I think I held the opinion generally - - it might be right or wrong, I do not know - - that in the Congress of Democrats you probably had Leftists there.

And that on that account you felt uneasy about their influence?-- No, my lords, I think I explained myself in evidence-in-chief in connection with that particular situation. 25

But I'm not concerned with your evidence-in-chief; I'm concerned with this question that you put to 30

me, whether I meant Leftist ascendancy, or ascendancy of
 the S.A. Congress of Democrats. I want to know why you
 seemed to associate Leftist ascendancy with ascendancy by
 the South African Congress of Democrats? Are they the
 same thing?-- They are not the same thing.

Not?-- Not.

Why did you confuse the two then?-- My lords, I
 have already explained that we are talking about a parti-
 cular situation and I think at the time I wondered whether
 -- I have already said my own general opinion would be
 this, that in the Congress of Democrats you probably
 have Leftists, and there was that link which I made at
 the time, my lords. It wasn't because I was particularly
 concerned with the Congress of Democrats.

I'll leave it there for the moment. Mr.Luthuli,
 I want to refer you now to another document, TLM.1.

* RUMPF J: Just before you step off this one,
 Mr.Luthuli, did you ever enquire if you might have sent
 this AJL.1 to Congress? Did you ever enquire what hap-
 pened to it, and how it was received by Conference?-- My
 lord, definitely I don't recall enquiring from the Secre-
 tary-General.

If you had sent it, wouldn't you have enquired
 ?-- Unfortunately, my lord, I did enquire but unfortu-
 nately my enquiry was not at National level; I did en-
 quire.

What did you enquire?-- I enquired from the
 Natal delegate who went to Conference, just how things
 went on there, and in relation to my own views too.

Was this having regard to the message you sent
 ?-- My lord, all I can say is that with regard to the

sentiments expressed in that message, which I think I did send, but also the same sentiments . . . 1

What you say is you think you did send the message, E.J.L. 1?-- I have that in mind, my lord, but I can't be categorical. I'm afraid I cannot add to what I have already said. I'm not positive. 5

Well, did you ever get a copy of LMN.81? The proceedings of the Conference?-- Most likely I did, my lord; the natural thing would be that I did get it.

Well, did you then notice that your message was not in there? Your message of A.J.L.1 was not in there?-- The draft? 10

Yes?-- Well, my lord, I think I wouldn't say that I would read with that care, but as I have read it it is not there . . . 15

But you would have noticed it?-- I would have noticed if it was there, yes. But on the other hand my lord, if it was merely sent for example as a special message, just as a special message, it would not necessarily be embodied in the Report; it would not necessarily be embodied in the Report, my lord. 20

Why not?-- My lord, this was made before Conference, and it is likely that a special message like that, drafted earlier, would merely come in a separate form . . . that's very likely. 25

Did you ever enquire whether your message was put before the Conference?-- As I said, I definitely don't recall enquiring from the Secretary-General; that I don't recall. I don't even recall enquiring from the National Executive. My only memory 30

According to LMN.81 there was no such message 1
and no such discussion; wouldn't you have said "What
happened to my message"-- I suppose it is likely. . .

I'm really worried because of this part of your
evidence, whether you sent it or not?-- I appreciate that
my lord; I appreciate your difficulty. 5

In view of the importance of your views, subject
to what you may further say, the impression one gets is
that you may not have sent it?-- My lords, I really can't
tell the Court anything further - - there is, however,
a theme which I cannot touch now - - it is also likely, 10
as I have said - - I think, to enlighten the Court a bit
- - if I didn't send the message it could be that I re-
lied on the Natal aspect of it. Unfortunately that is
not before the Court now. Now, insofar as that is con-
cerned I have a specific and clear memory, because it 15
was from the Natal Delegate that I enquired about the
fate of my view; that I remember quite clearly, my lord.
X Unfortunately this is not before Court.

Yes.

KENNEDY J: Mr. Luthuli, in the ordinary 20
course of events, when you sent a message, would you
send it in manuscript?-- No, no, my lord, I would have
it typed. That would be the normal thing. I would
work it in draft and then have it typed.

And you'd keep a copy of it?-- Well, I would 25
rely on the office to keep a copy; generally they'd
type two or three copies and they'd keep one. What
happens, if I may say so, would be this: that I would
send my draft to my Durban office, because they have the
machinery to type there; then they would keep a copy. 30

Then I'd ask them to send it to Headquarters. 1

BEKKER J: Mr. Luthuli, you say you can remember distinctly that you asked the Natal delegate of the fate of your views?-- That I remember very clearly.

Now, if you had not sent AJL.1, that is the message that did not come before Conference - if you had not sent that message to Headquarters, you probably would not have asked this question of the Natal delegate?-- My lords, the confusion arises here - - to guide the Court - - it is possible I could have because the matter of the Freedom Charter was a matter that was discussed even at Provincial level . . . 5 10

I don't think you quite follow what I'm getting at. If you had not sent the message, the message AJL.1, there would have been no point in asking the Natal delegate what happened to your views; if you had sent AJL.1 one can understand you asking that question, "What happened to my views", "How were they received"?-- What I am trying to say to my lordship is this, that there is a second channel for the possibilities of my views, as embodied in the Natal discussion; maybe I'm wrong in saying my views because they are now the views of the Executive in Natal, in which I concurred, but there were my own views too expressed - - maybe I'm wrong in saying 'my views', but they would be my views, my lords, so I did enquire from him and ask what was the fate. 15 20 25

MR. TRENGOVE: Mr. Luthuli, you say there was a Natal stand on this issue, the Freedom Charter?-- There was a Natal view, a Natal expression of point of view.

Yes; now, you say that either because you might 30

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have sent this message, or because you might not have sent
it, but on the attitude of the Natal delegates you might
have enquired from them?-- In fact I did in fact enquire
from the Natal delegates what happened.

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But you don't know whether your enquiries re-
sulted from the fact that you sent your own views across
or whether it resulted from the fact that Natal took a
certain stand on the Freedom Charter?-- That is so.

You don't know?-- Quite so, I don't know.

x RUMPF J: AJL 1, that was prepared for Confer- 10
ence, not for any other Body?-- The roneoed copy?

x No, the draft copy? The manuscript?-- Yes, that
was for Conference.

BEKKER J: It was prepared for Conference?-- Yes,
it was intended for Conference, my lord. 15

Not perhaps for discussion with any other mem-
bers on Provincial level, or any other Body before Con-
ference?-- No; as the draft was prepared it was for Con-
ference.

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Can you remember whether having prepared this
draft you discussed it with any other Executive before
it got to Conference?-- What I remember specifically, my
lord, is this, that the views expressed in that draft
were discussed at Provincial level. I don't remember
discussing it at National level; that I don't recall, 25
because I don't recall having been at a meeting with my
colleagues at that time; all I remember is meeting the
Natal group.

And you discussed your draft?-- Yes....well,
I wouldn't remember if I discussed this draft, but the 30
ideas expressed in that draft were discussed.

And was the Natal view that view as expressed by 1
you in the draft?-- My lords . . .

In other words, did Natal approve of your ideas
in the draft, or did they reject them?-- My lords, I could
not specifically help except to say this, that in general 5
in many aspects I think the Natal view agreed with mine.
What is unfortunate - - I don't know whether the Defence
would be able to help - - is this, that I remember spe-
cifically that there was a draft sent by Natal on this
matter, where the views are clearly stated; unfortunately
that is not before Court. 10

Sent by Natal to whom?-- To Headquarters.

To Headquarters?-- By the Natal delegates to
present to Conference; it was a memorandum, my lords;
that I remember specifically.

Now, just to get the sequence of events clear, 15
this discussion you had with the Natal body, that I sup-
pose was before the Conference was held?-- That is correct.

And I take it that before the Conference was
held the A.N.C. representatives from other Provinces had
their preliminary discussion?-- That is correct. 20

So that in the normal course of events, correct
me if I'm wrong, one would expect the various Provinces
to meet for instance at Headquarters and then discuss all
these matters?-- No, my lord; no, the process unfortu-
nately - scattered as we are - is this: Provincial bodies 25
are supposed to send their messages, their resolutions,
their reports to Headquarters before Conference, and then
in addition to that we delegate members to go there to
Conference, and these delegates naturally go there armed
with the report of Natal for instance - I suppose in order 30

to find out to what extent it is coming up - -

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Well, then, this occurs to me, Mr. Luthuli. Might not that draft have been prepared by you to give to the delegates from Natal, to place that before the other Body for the representatives from the other Provinces, as representing the Natal view?-- At Conference?

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At Conference?-- That's very likely, my lord.

If that view, the Natal view, had been adopted by Conference, am I correct in supposing that one would have expected that view to have been embodied in the Annual Report of Conference?-- No, my lord; I think there's something rather - - I shouldn't say misleading

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MR. TRENGOVE: Perhaps I can assist the Court my lords; there was a further Conference, a special Conference in 1956, on the Freedom Charter, but the question of the adoption of the Freedom Charter is not set forth in this Report, my lords.

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BEKKER J: Yes, well, the draft is for Conference in 1955, is it not?

MR. TRENGOVE: The draft, yes, my lord. I merely brought the resolutions adopted at the 1955 Conference - - they do not appear in this Report, my lord. Is that correct, Mr. Luthuli?-- That is quite correct. This is a pre-Conference document, my lords.

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Mr. Luthuli, this book was out of your possession by the 27th September, 1955, when these documents were taken from you?-- That would be correct.

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That would be correct?-- At the time of the search . . . I forget when that was.

The 27th September, 1955 ?-- Yes.

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So that anything that had to be prepared was sent 1
or handed over before that date, before the 27th September
?-- I don't quite get you, my lord.

This was a draft which was taken from your pos-
session on the 27th September, 1955. . .

RUMPF J: What is the date given there? 5

MR. TRENGOVE: 5th of either 8 or 9 . . 1955, my
lord?-- That is correct, except to say this, my lords,
that it would not rule out of Court the possibility that
being a draft, it might have a fuller message . . .

You could have made copies, or anything of it and 10
sent those?-- Yes.

But everything that you did pursuant to this Re-
port, to get the views to Congress, your drafts had to be
prepared before the 27th September, 1955 - your copies,
because on that date this book was removed from your pos- 15
session?-- I don't quite get it - - they had to be prepared
because . . .

Well, you didn't have this at your disposal after
the 27th September, 1955?-- Yes, quite so.

X RUMPF J: Well, that seems to explain a lot then. 20
Presumably when this book was taken from you, you had not
finished this draft in AJL.1?-- That is another possibi-
lity, my lord.

Yes; well it's not a possibility, it seems to be 25
so?--Yes.

The police took this on the 27th September?--That
is correct.

1955?-- Yes.

Yes, as you have said, that was not concluded then? 30
-- That is so.

Well, it seems then that that message contained 1
in that draft was not sent to Congress; there may have
been a message in similar terms but that particular mes-
sage was not sent?-- Except for this possibility, my
lord, with respect, that I could have made that draft,
which is a draft, and it's not complete, and you know, one 5
does make several drafts, and when the police came and
found this draft and took it away, I don't know whether
it would rule out the possibility that one could have
completed the message . . .

I'm not suggesting that you may not have draft- 10
ed another message in similar terms?-- I follow, my lord.

But this particular message apparently was not
sent?--What I'm trying to say . . .

You may have, after the 27th September, sent
a message in similar terms?-- Or even before, my lord; 15
what I am trying to say to your lordship is this, that
I may have had that draft -- well, it is a draft, and
then I may have completed it, not necessarily in the
same book, but I may have completed the message and
sent it; I mean, that's why I say it is in the realms 20
of possibility . . . but I don't dispute the fact that
that . . .

Well, now, if this had been taken away from
you and if you had prepared another message on similar
terms, would you not remember that? That you had to 25
draft the thing again?-- You know, my lord, how one
prepares speeches; sometimes you have a draft and
even with that draft you leave it and start working and
completing it, and it doesn't follow in my view that it
would be the same - necessarily the same exercise book 30

No, no, I'm only asking you, cannot you remember 1
 whether you had to re-draft the message, because the police
 took away your original draft?-- No, I don't recall that I
 had to re-draft it, my lord.

Yes...?-- No, I don't recall.

MR. TRENGOVE: Mr. Luthuli, I refer you now to 5
 document TMN.1, it's the same as G.1066A, "The Congress
 Voice of November, 1955", and in the Editorial it states
 that the purpose of the bulletin is to give the official
 policy of the African National Congress?-- That is correct.

Now, then at page 2 under the heading of "Orga- 10
 nisation", "On the Road to Victory", the last two para-
 graphs, the document states that the last forty years of
 Congress' existence have been almost devoted to agitation-
 al and propaganda work, the complete negligence of the
 organisational aspect; then it says "agitational and 15
 propaganda are essential ingredients to our work, they
 raise the political consciousness of the masses and dispel
 illusions about the false hope that a change will come by
 a change of heart of the rulers. The people have become
 convinced that freedom does not come as a gift, but that 20
 they shall have to pay a high price for it." Then it re-
 fers to the fact that "times have changed and therefore
 out methods must also change", and it refers to the fact
 that the enemy has perfected the machinery of oppression.
 That is official Congress policy, is that correct?-- That 25
 would be correct. What's the date of that?

November, 1955. And in the Editorial it also
 refers to the fact that the Freedom Charter is a state-
 ment of basic aims for which the African National Congress
 is fighting?-- That would be correct. 30

You recognise that as the A.N.C. Bulletin?-- I do. 1

Then, Mr. Luthuli, just two further documents before we get to the lectures. RF.76, it's a letter which you wrote on the 2nd September to Dr. Dadoo; do you recognise that letter, it bears your signature?-- This signature is mine. 5

RUMPF J: Date?

MR. TRENGOVE: 2nd September, 1955, my lord.

It's a birthday message to Dr. Dadoo. In the second and third paragraphs you say, "In sincerely wishing you good health, strength and longevity of life, both for your sake and for the sake of the successful prosecution of our struggle for freedom, I wish to say that we are under no illusions as to what the attainment of freedom would cost us in pain and suffering before victory is gained. We know that those who directly or indirectly support the maintenance of the status quo will subject us to untold brutality, slander and abuse. In their efforts to fulfil their baaskap apartheid policy the Nationalist Party, supported by supporters of their policy, will unleash against us all the fury and ferocity, all deadly and diabolic measures in an effort to cow down to submission the masses of the oppressed people, but these efforts are sure to meet with ignominious failure for already we are witnessing heartening times of the awakening of the people", and then you talk of the resistance in the ranks of the liberation army; you are forming a mighty inner corp; and then you conclude "The days ahead will see the growth of an effective army of liberation which will grow in strength and gain in momentum to become an avalanche that will strike a death blow to 10 15 20 25 30

oppression in South Africa." That is how the African National Congress viewed the political situation in 1955?-- That's correct, my lords.

Now, when you say, Mr. Luthuli, "That the Nationalist Party will unleash against us in all fury and ferocity deadly and diabolic measures, to cow down the people", that unleashing of these furious and ferocious measures, do they refer to physical suffering that will be brought to bear upon the people, to cow down the people; that unleashing of these methods, ferocious measures, do they refer to physical suffering that will be brought to bear upon the people?-- My lords, it would cover the field I have already indicated, the ferocious laws - by that date there were already indications of such laws, and cover the views I have already expressed as to what one would expect to arise as an implementation of those laws.

What is that? Violence?-- I have already indicated, my lords, that in the course of a struggle you can meet physical suffering.

Does that mean that the Government would also have resort to physical action against the people in the army of liberation?-- That is so; I have already indicated that in the course of carrying out law and order the Government would or might . . .

You see, Mr. Luthuli, what I don't understand is that when the Government unleashes fury and ferocity it would include physical force and violence against people, but when the oppressed people, after having gained their object, unleash fury against people, it merely means keeping them out of jobs?-- My lords, I don't know that I

can help the Crown very much except to say this, that
 my view is, as I have indicated, and it arises out of
 experience too, my lords. Now, with reference to what
 you are now directing me to, I think this was in connec-
 tion with some document, and I have stated my view as
 to what that might mean.

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I'm just pointing out that it is a strange
 situation that one gets in the African National Congress
 where language is used against the oppressor in a cer-
 tain meaning, but that same language, when applied to
 the oppressed, has a completely innocent meaning?-- My
 lords, it is because insofar as I am concerned, and
 insofar as I believe Congress members are concerned, in
 the framework of our minds I cannot see us inflicting
 and subjecting people who don't agree with us to torture
 of any kind, and one can only speak of one's feelings in
 the matter and the stand that he would take; and so
 I replied naturally from the standpoint of what I have
 in mind and the view that Congress has.

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Yes, but the white man is prepared to do that
 ?-- My lords, I have repeatedly said in this Court the
 Government in the course - - I don't say the Government
 in a sense deliberately does it, but as it sees the
 situation, to keep law and order - in the course of
 carrying out its duties people have suffered; that is
 a fact.

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Mr. Luthuli, I want to put another document
 to you, LJM.1. It's a printed document, "Forward to
 the Congress of the People" to Chief A.J. Luthuli,
 President General, African National Congress, Durban.

30

Just turn to the other side first and you will see it is 1
addressed to you. It appears to be a letter that was
printed for the purpose of getting people to send that
to you care of the African National Congress, Durban.
Do you remember that document, headed "Forward to the
Congress of the People"? It states that you symbolise 5
Colonial Africa in revolt?-- My lords, I cannot say that
I remember this particular document, but as I have said
in my evidence already I know of the existence of the
celebration of this particular day; I recall it.

What do you know of it?-- Not this particular 10
paper.

Not this one, but similar letters presented to
you?-- My lords, there could have been; I wouldn't deny
or dispute it, there could have been.

Do you think this is a proper description, that 15
you as leader of the people, deciding to establish a free
and happy future for the people - more than that, you
symbolise Colonial Africa in revolt, unfettering its
chains of oppression?-- My lords, I think it's a fair
description., in the light of what I have already said. 20

(COURT ADJOURNED).

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30

COURT RESUMES ON THE 6TH MAY, 1960.

ALBERT JOHN LUTHULI, under former oath;

My Lord, before the Crown carries on, I appreciate that you did say that I must note certain points, but this seems to me fresh from yesterday in connection with that draft. I don't know whether I should reserve that, but I was thinking over it - when I tried to think over the events in connection with it, My Lords, I recalled also this, that there was an Executive meeting held just before Conference, I did say yesterday that there wasn't, and I don't know whether I was categorical about it, but I recall that there was an Executive meeting, a national meeting. It was a short one, it was combined with a joint meeting of the Executives to wind up the business of the campaign, and my own recollection My Lord, is that at that Executive meeting the matter of the charter merely came to be placed on the agenda, noting the need for rectifying it, but I don't recall much discussion. They were already there in the agenda, in the Natal memoranda, all that wasn't discussed, My Lords. That is all I would like to add, which doesn't really help insofar as my own impression would be is this, that what communication I may have sent, may not necessarily have been a communication that is an exact copy of that draft, that is quite possible, My Lord.

BY MR. JUSTICE BEKKER :

Mr. Luthuli, is your impression that this draft you had available at this national.....? --- No, My Lord. My impression is this that the substance of that draft was known by the Executive, and I am still under the impression that there was some communication which I

had with the Executive, which I sent headquarters before, not necessarily that draft, My Lord.

BY MR. JUSTICE KENNEDY :

I gather that you have the recollection that the draft was put into the Natal memorandum? --- That 5
is correct, My Lord.

Not necessarily in that form? --- Not necessarily in that form at all, My Lord. And then of course as I said yesterday, which was not of course the subject under discussion, the question of what happened at 10
Conference. That is all I have got to add, My Lords.

CROSS-EXAMINATION BY MR. TRENGOVLE CONTINUED :

Mr. Luthuli, on that point just this, nothing is said in the report of the National Executive to this Conference that the Freedom Charter was socialistic 15
and on that account the Congress had to consider very carefully whether they should adopt it. There is no mention about your doubts about the Freedom Charter and the advisability of accepting it in that form? Nothing is said in the Executive Report of any doubts that you have or that you had about the advisability of accepting the 20
Freedom Charter in that form? --- You mean the pre-Executive report - the pre-conference Executive Report?

My Lords, it is part of this L.M.N. 81, which speaks for itself. You know when you had this talk with the Executive? --- My Lord, it would be round about October or November, just before our own Annual Conference in December.

And what was the attitude of the Natal Provincial Congress towards the Freedom Charter in view of its socialistic basis? --- My Lords, the view of the Natal Congress, with which I am fully associated, was that of accepting the Freedom Charter, and merely being critical

of certain expressions detailed there, that is all. And then merely calling for debate on certain aspects, so that people are clarified, That was the main...

They were not against the socialistic...?

--- No, no, definitely not. I wasn't, they were not. 5

I just want to refer again to two documents I referred to yesterday, B. 29 , a Call to the People of the Natal Midlands, you remember that was the document which starts off with the statement that South Africa is on the brink of a disaster? --- I recall it, My Lords. 10

And you said that could either mean an economic disaster or a disaster. You remember you said yesterday that could be read either as an economic - on the brink of an economic disaster or a disaster in the sense of a physical clash? --- That is so, My Lord. 15

Now I just want to put this to you, Mr. Luthuli, that it is quite clear from that paragraph and the next one that the writer did not have in mind an economic disaster. What the writer intended to convey is that South Africa has reached the point where there could 20 be a physical clash between the oppressed people and those who want to maintain the fascist state? --- My Lords, I cannot carry it further, it is a matter of interpretation there.

No, I want you to carry it further. Can 25 you see anything in that paragraph to suggest that the writer might be referring to an economic disaster? --- The writer here said "Never before have the people of South Africa stood on the brink of such disaster as they do", and it must be remembered My Lord, that in general 30 the writer is speaking about the struggle in SouthAfrica which was becoming intense in comparison with past years.

What was until recently only a threat...

Just indicate when you are reading from the document or when you are giving your own views? --- "What was until recently only a threat of totalitarianism has now become a reality." In other words, before this 5 date, before the coming into power of the Nationalist Government, there might have been signs of totalitarianism but now, according to the writer, no one could doubt that we were in fact, insofar as non-Europeans were concerned, in a police state. So in that light, My Lord, I interpret 10 "brink of disaster", and as I said, there is - it could be possible to have there the interpretation - I mean it depends on one's interpretation, My Lord, but it is possible to have those two interpretations.

The reference to the "millions of lives 15 that were lost in an endeavour to destroy the Nazi fascist State", and the millions of people that gave their blood and made the supreme sacrifice, and the reference immediately after that to the fact that South Africa is now really on the brink of a disaster, does that indicate to 20 you that we are on the brink of an economic disaster? --- My Lords, I really and honestly cannot carry it any further than that, because there are references there, "the minority government of the country stands - it bent upon establishing a police state on the lines of Hitler's 25 Nazi regime complete with all bestiality". Now the writer there could fairly be interpreted as meaning that the government are becoming extremely ruthless, like the Nazi regime, and there were signs to that effect, My Lords. And in that light then, My Lords, the oppres- 30 sed people, led by the National - by the African National Congress, unless they stopped their struggling,

if they carried out their programme of action fully, as I said, in all likelihood there would be economic disaster. That is why I brought that in in my interpretation. I think it is a fair one, My Lord.

Is it also a fair interpretation to give 5
the document the other meaning? --- My Lords, I think one in that case honestly would have to leave it to the Court. If a person honestly felt that was the meaning, then he would be entitled to, but my own feeling is this that if he compares the Nationalist Government with the Hitler 10
regime in its ruthlessness in oppressing...

I submit to you that it is quite clear from that document that the writer had in mind a disaster in the sense of a revolt in this country. You say you don't accept that. You don't accept that? -- My own view 15
wouldn't accept that.

Then just one other reference to a document referred to yesterday, R. F. 76, the letter that you wrote to Dr. Dadoo. In your concluding paragraph, you say "the liberation which will grow in strength and gain in 20
momentum will become an avalanche that will strike a death blow to oppression in South Africa". Now what do you mean the "liberation movement will become an avalanche that will strike a death blow to oppression"? --- My Lords, I was speaking there, quite frankly, metaphorically.²⁵ Meaning that the struggle will grow stronger and stronger and pressure would grow stronger and stronger to the point when White South Africa, whatever its views might have been before, would in the interests of the country say no, let us give in to the consideration of the demands of 30
these people.

You mean the deathblow would be the fact that

White South Africa would be placed in the position of having to negotiate in order to save themselves? --- I would prefer to say, My Lords, in order to save South Africa.

I now want to refer to the three lectures 5
that you have been studying, A. 84, A.85 and A.86. You have them? --- I have them, My Lord.

I think you said, when you were first referred to these lectures, that you were not aware of them until the Preparatory Examination? --- That is correct, My Lord. 10

And I think you also said that you didn't make any enquiries as to who was responsible for the drafting and the publication of these lectures? --- I think that is correct, My Lords. 15

Now today, Mr. Luthuli, are you satisfied that these lectures were published by the National Action Council of the Congress of the People? --- I am, My Lord.

And today you are also satisfied that they were designed for the political education of Volunteers 20
and active Congress workers? --- I am My Lords, the introduction says so.

You accept that? --- Yes.

And Mr. Luthuli, you also know, I take it, that they were in fact used for that purpose? --- That I 25
would not know.

If the National Action Council of the Congress of the People issued them for that purpose it is quite likely that they would be used? --- The assumption would be a correct one. 30

Now, Mr. Luthuli, can you explain why until the Preparatory Examination, why you didn't even know about

the existence of these lectures and their publication, being a member of the National Action Council of the Congress of the People yourself? --- My Lords, I have no explanation to offer, save to say this, it is necessary for me to repeat myself in connection with these lectures, 5 that they may have been sent to me, that I would not dispute at all, it is possible that they were sent to me. But, as I have said in this Court repeatedly, which is a fact, sometimes these things come to one and you leave them aside and you think you'll read them and then you 10 never read them. But I just don't recall seeing the lectures. I wouldn't be telling the truth if I said I do recall seeing the lectures. At the same time I can't say they were not sent to me.

As far back as 1953, Mr. Luthuli, and 15 ever since that date, the African National Congress regarded the political training and instruction of its members as a most important task? --- My Lords, as one. As one of the important tasks.

Without that political education, and 20 instruction, the African National Congress could never hope to train the masses to support them in the campaigns which they had in mind. That was an essential prerequisite to invoking the aid of the masses? --- No, My Lord, I wouldn't go to that extent at all. I wouldn't go to the 25 extent of saying that without political education we could not carry on propaganda amongst the masses and enlist the support of the masses.

If Congress members were not instructed and educated politically, how would they know what views 30 to propagate to the masses? --- Now what I mean there, My Lords, is this, that political education is necessary, and

13315.

of course they - there are degrees to it. There is the question of local conditions, for example, local issues. The issues that come before the people at any time, and you explain to the people the basis of those issues.

I don't want to waste any time on this, 5
if you have a look at A.37, the Annual Report to the 1954 National Conference, and if you look in that document at the report of the National Executive Committee, under Part 4, "Organisational Problems", you see that the Reports talks about the adrop in the membership of the 10 National - the African National Congress. Have you got page 12 there? --- I have it.

Now if you will look at that paragraph dealing with "The Africans are still very much interested in the struggle for freedom", the fifth paragraph from 15 the top of that page, the writer gives some of the - the National Executive gives the reason for the drop in membership, and it mentions a number of reasons, and one is the lack of political education and training for members, sub-paragraph (c). Will you turn then to page 20 13, and you see they have a paragraph there, "Scheme Envisaged" , it is a re-organisation of the African National Congress on the lines of the Mandela Plan, and then if you turn to the next page, after paragraph (j) there, the Report states : "Now how are we going to begin? 25 How are we going to start remedying the weakness mentioned above? The answer to this question lies in the hands of the delegates to this Conference. The Executive offers the following recommendations." The first is that there must be a re-organisation scheme, the second is that 30 every Secretary of the A.N.C., from the highest to the lowest, must undertake a compulsory courseof training for at least three months, that every member of the

Executive must undertake a course of theoretical, political organisational training for at least two months; that every Freedom Volunteer must undertake a course of political and organisational training for at least one month; that before elections are conducted, 5 members must be informed of these conditions, and then it says that the branches must be in possession of African's Claims and this report and any other reports and so on, and then at the bottom of the page, a passage already quoted, "lectures for courses mentioned above 10 already available, and the provinces are asked to place their orders". So that the political training, Mr. Luthuli, in the light of that report, was regarded as one of the important tasks of the African National Congress? --- I have already agreed with that, My Lords. 15

Now I want to put it to you, Mr. Luthuli, that the African National Congress used these lectures for that type of political training? --- My Lords, I am not disputing that, to the extent if they were circulated to the people, they would be used for that purpose, 20 particularly My Lord, as the lectures themselves do say in reference to the Volunteers - what I was trying to say earlier was that when one got the impression from the Crown that you couldn't carry on a struggle without what I thought was formal political education, I said no, you 25 can carry on a struggle.

And I put it to you, Mr. Luthuli, that the views expressed in these lectures are the views that the African National Congress wanted the people to accept? --- My Lords, I wouldn't accept that proposition because 30 I would have to know My Lords the extent to which the lectures were distributed. As I said, My Lord, I am not in a position to say about these lectures the extent to which

r
I assume they were distributed. But to the extent that they were distributed/^{it} would be quite clear that the African National Congress would be wanting people to study and know about the contents.

And accept them? --- Not necessarily, no. 5
Far from it.

Why not? --- When you educate a person you do not necessarily educate a person in order that he may accept. You broaden a person's point of view. He may or may not accept that. And My Lords, I think that should 10
be taken in the light of the African National Congress setup, that there are people of different views in the African National Congress. Definitely.

You agree, Mr. Luthuli, that these lectures give an entirely onesided view of the matter to which they 15
refer? --- My Lords, I am in this difficulty. You might help me, My Lords. I have read the lectures through. I have certain opinions. Now I agree for an example that Lecture 1 is of that nature. Now my comments are that with regard to lectures 2 and 3, there are certain 20
aspects of the lectures I would have commented on if I was just commenting ordinarily, and there is a bias.

We will deal with them specifically. You like to speak generally, so just speaking generally, the lectures propagate the view that the people must strive 25
for a socialist state. Generally speaking, is that correct? --- Generally I think, especially in lecture 1.

And it condemns capitalism and imperialism and any other form of state? --- No, My Lords, I wouldn't go to the extent of saying "any form of state". It 30
condemns capitalism, imperialism, in very strong terms indeed. But now I wouldn't go to the extent of saying

any form of state.

And it shows that the socialist state can be brought about only by - that the oppressor will use all the forces at its disposal to prevent the socialist state from coming into being? --- My Lords, to maintain the status quo, I think that would be my reply.

They would use all the forces at their disposal to maintain the status quo? --- That is correct.

And the lectures do not suggest that the oppressor will ever negotiate with the oppressed? They suggest precisely the contrary? --- My Lord, I wouldn't there again go to the extent of saying that then- whilst the lectures do not mention negotiation, there is nothing mentioned about negotiation, it speaks about the masses struggling, but I wouldn't say that I read in these lectures there anything forbidding negotiation, because I think the Crown would itself agree that in the lectures there is question of trying to win the support of other groups not in Congress, in support of the struggle.

May I put it to you this way, Mr. Luthuli, that if the policy of the A.N.C. is to exert pressure with the object of inviting negotiation, if that is the policy of the African National Congress, that idea is not expressed in these lectures at all? --- My Lords, I think on the point of negotiation I have already expressed myself, I needn't do it again.

x BY MR. JUSTICE RUMPF :

The question is a simple question. It is as to whether that policy to exert pressure in order to obtain negotiation is expressed in the lecture or not? --- No, I didn't find it. My Lords, may I ask just for enlightenment, you see, sometimes you get a combination of

ideas. Now negotiation isn't a policy, that is my difficulty. It is an expectation. When you get that combined, then one finds difficulty to entangle it, one is inclined to ...

BY MR. JUSTICE RUMPF :

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Then the question could be differently put. Was the expectation of negotiation expressed in these lectures? --- No, I didn't read that, My Lord.

BY MR. TRENGOVE :

So that, Mr. Luthuli, these lectures give 10
a very onesided approach to the political problem in South Africa, do they not? --- The extent to which they do that, My Lord, the way one qualifies - of course it depends on the individual, I have already said that there is a bias in the lectures. 15

Do you know of any other lectures that were prepared for this purpose which gave the other point of view? --- Not to my knowledge. But throughout the struggle, whether in formal lectures or not, the other point of view is given, My Lords, but I don't know 20
of any specific lectures.

You see, Mr. Luthuli, you said in your - in support of your document A.J.L. 1 in your evidence - in chief, you said that the Africans were by the nature of things inclined to favour capitalism. Do you remember? 25
--- I remember, My Lords.

Why doesn't one find any lectures giving expression to those sentiments of the African people?
--- You mean in these lectures?

In any lectures that the African National 30
Congress at any stage issued? --- Well, My Lord, I cannot really speak for the lectures issued, there are so many.

But I can say, My Lord, one can for instance in addressing a meeting express a point of view at a particular meeting. I don't recall any specific lectures, I have already said so.

Leave out what is said at meetings? --- Yes 5
I have already said I do not recall any specific lecture given.

And you don't know of any document that was drawn up for the political training of your people which gave the other point of view? --- My Lords, I have 10
already said in this Court several times, that there are so many bulletins issued by the African National Congress I cannot say that such and such a thing never happened. I would not be correct.

Well, I'll be satisfied if out of the many 15
you can point to one? --- I cannot, My Lord.

And I put it to you that you can't because it doesn't exist? --- I wouldn't accept that.

Is it possible that you as President-General of the African National Congress are not in a position to 20
point to any document in which a view opposite to that expressed in these lectures, is propagated? And was used for the political training of your people? --- My Lords, I would be repeating myself insofar as that is concerned. I don't know whether... - I don't know whether the Court 25
would regard this as relevant, but by way of illustration - now the African National Congress is a very broad organisation. For instance, you spoke yesterday - the Crown referred me to the Summer School that was organised by the Youth League in Natal. Now I can say for an 30
example, My Lord, there was a weekend Summer School, it is not on record, which was organised and I was chairman

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