

THE STATE versus ERNST AND TWO OTHERS

SUMMARY OF REPLY TO INDICTMENT

COUNT 1.

Denies membership of the S.A.C.P. at any time or that anyone ever endeavoured to recruit him.

COUNT 2.

There was no conspiracy to achieve the objects set out in the Indictment. There was a common purpose with some of the persons mentioned in the Indictment to promote the objects of the National Liberation Movement.

Ad Further Particulars Paragraph (a) & (b) p.3:

- (i) Existence of S.A.C.P. admitted.
- (ii) No branch of S.A.C.P. in Durban or group or cell.
- (iii) There was giving and receiving of an education to the extent that he discussed and tried to put over his views of Marxist-Leninist theory. This was not done as a member of the S.A.C.P. There were never organised or formal lectures or study groups.

The giving of books, literature to Brooks was the request of the latter.

(iv) Never a member.

(v) There was a conscious attempt made to prevent certain people from being drawn into the S.A.C.P. specially with certain Africans. With many of the European persons named in the Indictment the S.A.C.P. was a factor which did not enter into the activities. There was no ensuring the continued existence of the S.A.C.P., if anything an attempt to draw people away.

(vi) Denied.

DOCUMENTS.

Ad Further Particulars Paragraph (c), p.3:

- (i) Document prepared in 1963. Ernst never received this for transmission to Fisher.
- (ii) Was not aware that this document was prepared by Fisher and in fact doubts whether it was prepared by Fisher. Doubts whether he received this document.
- (iii) Does not know this document.
- (iv) Does not know this document. It was not handed to him for transmission to Fisher through Rudin.
- (v) Never seen this document.

(vi) & (vii)

These were theses by Rudin. These he had seen but this he had given back. Doubts whether these were found in his possession. These two items are not included on the list of articles taken from his flat.

(viii) This was prepared for Dome by Brooks.

(ix) Knows nothing of this. Apparently prepared by Barkham.

(x) This is dealt with elsewhere. He had knowledge of this document and had a copy in his possession.

(xi) Knows nothing of this. Contains information which was readily available from any source, for example, newspapers, nor did he supply information for this document.

RECRUITING.

Ad Indictment Paragraph (b) p.3: Further Particulars paragraph (e), pp. 5-6:

Denies any recruiting or attempt to recruit. Denies that he lectured anybody in Communist theory. No instruction given and no study groups were held. Untrue that he and Accused 3 questioned Brooks and explained Communist doctrine to him. Unable to understand how Barkham, Shanley or Lendrum can say that they became members of C.P. or that if they did he had anything to do with it.

CODE NAMES.

Ad Indictment Paragraph (c) p.3: Further Particulars paragraph (f), pp.6, 7:

(i) Hubel was cover name for letters posted to Ernst. G.G. was a code name for Arenstein. Issy could be either an abbreviation of Israel Arenstein's second name or for Issy Heymann, which appears in some of Fisher's letters. Not generally used with reference to Arenstein at any event. Pop was Finkelstein, but was not a code name. Charles could be anyone in Johannesburg. Vincent and William are names he knows nothing about. M.D. was Naidoo but was not a code name. Johnson and Victor were code names for Griffiths Mxenge and Alberts Dhlomo respectively. Neither Ed nor Paulus were known to him. Rudin used the name Dave Jackson when he was in Natal in his dealings with Fisher - it would seem that Rudin was known as Dave. Ernst infers from Violet Weinberg's statement that originally Dave may have been Pedro Ferreira.

CONTACTS.

Ad Indictment Paragraph (d) p.4:
Further Particulars Paragraph (h) pp. 7 & 8:

- (i) Correct.
- (ii) Denied.
- (iii) Denied.
- (iv) Louisa Coetzee was Fletcher's sister and did

/convey

convey messages.

REPORTS.

Ad Indictment Paragraph (e) p.4:
Further Particulars Paragraph (1) p.9:

- (i) Correct. Oral report to Rudin.
- (ii) Deny A.N.C. concerned with question of organisers for Zululand.
- (iii) Rudin raised this matter - sought information concerning Naidoo. We never wanted to work with M.D.
- (iv) Might have been mentioned.
- (v) Was interested in S.A.C.T.U. Was discussed orally. Particular question of banning the leaders, the question of whether it should be disbanned. Was not in favour of disbanning the organisation. The woman concerned came to work for S.A.C.T.U. and some of the people at S.A.C.T.U. were unhappy about her. Ernst asked Rudin if he knew anything about her, and Rudin reported she might be a spy. This information was passed back to the S.A.C.T.U. people who had by that time arrived at the same conclusion.
- (vi) See (ii) above.
- (vii) Related to (ii) and (vi) above. Not really significant.
- (viii) Denies.

- (ix) This was discussed generally. Ernst was opposed to it.
- (x) This event happened independently of the Accused.
- (xi) Mass action was envisaged but always on legal and legitimate lines, no question of overthrow. State of revolution arises independently.
- (xii) Did discuss with Rudin.
- (xiii) See detailed statement.
- (xiv) Certain information was sent from Rudin to Ernst in response to request by the latter.

COVER ADDRESSES.

Ad Indictment Paragraph (f) p.5:
Further Particulars Paragraphs (m) & (n), pp.9 -10:

- (i) Admit. J.B. also wanted books for his own use. Ernst did ask him to get the books.
- (ii) Knows nothing of this address.
- (iii) Rudin arranged this address.
- (iv) Knows nothing.
- (v) Address given to Ernst in 1966 by Rudin. No letters sent there.
- (vi) and (vii)
Knows nothing.

LETTERS.

Ad Indictment Paragraph (g) p.5:
Further Particulars Paragraphs (o),(p),(q) and (r),
p. 11:

- (i) Did write letters. Only two in number.
Did receive letters at Box 130, Dalbridge.
- (ii) Referred to list of books found in possession of Accused No. 3. Ernst never wrote overseas. After Fisher's arrest Rudin said he was writing overseas and Ernst asked him to inquire about money. Assumed Rudin was communicating with Anti-Apartheid. Never submitted reports to or asked advice from overseas.
- (iii) Unaware of any instructions Fisher might have given.

CODE.

Ad Indictment Paragraph (h) p.6:
Further Particulars Paragraph (v) and (w) pp. 12 - 13:

Ernst used first code only. Did not know other two; Finkelstein used second code. Third was Fisher's code dealing with England.

BOOKS.

Ad Indictment Paragraph (i) p.6:
Further Particulars Paragraph (x) p.13:

Ernst had most of these books in his flat. They were borrowed rather than recommended. 9 and 12 were given to Brooks. He was asked not to leave them about. They were in different covers. Brooks often asked to have certain difficulties explained to him by

/Ernst

Ernst arising out of these books. Does not recall giving 6, 7, 18 or 19 to Brooks. 14 was received from Rudin and Ernst suggested that Brooks and Barkham should read it if they were interested. Never instructed them to read the books. Books lent to Gail Fleay would be through Brooks having read them first. Brooks was trying to convince her of his beliefs.

MONEY.

Ad Indictment Paragraph (j) p.7:
Further Particulars Paragraph (y) pp.13 and 14:

- (i) Correct. But see explanation in statement.
- (ii) Correct, but not for party purposes.
- (iii) Correct but not for A.N.C.
- (iv) and (v)
Correct.
- (vi) Refer to Accused No. 2.
- (vii) Gave money to Fletcher from time to time because he was destitute and needed money to live. Was banned, house-arrested and could not find work. No question of having given money to Fletcher in payment for his evidence. Money came from Ernst's own pocket and from No. 2 and given out of friendship. Ernst never gave Barkham money to give to Fletcher.
- (viii) Never requested assistance specifically for George Poonen. Simply mentioned to Rudin

/that

that various people were stuck in Bechuanaland and probably required some financial assistance. Poonen may have been mentioned as one of these people.

- (ix) Unaware that any moneys which came from Johannesburg originated from Fisher.

VISITS.

Ad Indictment Paragraph (k) p.7:

Further Particulars Paragraph (pp) p.20:

- (i) Ernst went up to Johannesburg more than five times with Brooks but it would be about on five occasions that he and Brooks saw Finkelstein and Rudin. Brooks was generally never aware who Ernst was seeing. These visits were not to report on party affairs or to discuss policy or seek advice. Brooks in fact purported to come to Johannesburg on his own business. On one occasion Ernst asked Brooks to find a flat in Johannesburg. This was in fact for Rudin but Brooks was not told the purpose.
- (ii) Denies going to Maritzburg to do party work. Often went to Maritzburg to visit friends. On one occasion Brooks took Ernst to Maritzburg to see Di Salter. On this occasion Ernst collected a psychology book and an innocent letter from Rudin not in any way connected with political activity.
- (iii) Rudin often went down to see Di Salter in

/Maritzburg

Maritzburg and often on these visits went on to see Ernst in Durban. Only on three occasions did Rudin go specifically to Durban to see Ernst. These visits by Rudin were not for the purposes mentioned in the Further Particulars with the exception of the question of organisation of the Non-Whites. (Not on behalf of the A.N.C.).

- (iv) During March, 1966 Ernst did visit Rudin twice in Maritzburg. Rudin was down in Maritzburg at that stage and Ernst went to find out what he was doing there, and principally to inquire about the money that he was wanting. These visits to Rudin in Maritzburg were not connected with party leadership or progress of party activity.
- (v) Ernst suspected that Rudin went to see Bundy in Maritzburg but does not know what about nor that Nux carried party propaganda, if in fact it ever did so. Nor does he know what transpired between Rudin and Bundy.
- (vi) Ernst did give Fletcher money. See p.8(vii). Fletcher had intended leaving the country after his release from 90 days and also again when the question arose of him giving evidence in Arenstein's trial. Ernst persuaded him not to leave the country, to give evidence and then leave on an exit permit. Ernst tried, in discussions with Fletcher, to point out that his evidence could not affect Arenstein adversely. He did discuss the question of giving evidence with Fletcher but rather for

the purpose of persuading him to give evidence than persuading him what to say.

- (vii) Ernst did visit Arenstein frequently, but not for the purposes set out in the Further Particulars. The question of relations with Johannesburg was discussed by them.

Ad Indictment Paragraph (l) p.8:

This was done on Rudin's own initiative.

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Ad Indictment Paragraph (m) p.8:

Did desire to organise the masses in opposition to the Government but not in co-operation with the A.N.C. or the Congress Movement. More particularly

Ad Indictment Paragraph (tt) p.22.

- (i) The circumstances of the meeting with G.M. and A.D. are dealt with in Ernst's statement. The association with the above two people was not for the purpose of A.N.C. work. Ernst was not Arenstein's contact with the said people.
- (ii) There was no memorandum to Fisher concerning AN.C. future policy or financial assistance for the A.N.C. Has no knowledge of Fisher's dealings with the overseas branch or using the alleged Memorandum in the Draft Discussion Statement.
- (iii) The Congress Movement does not embrace the

Communist Party. Ernst at no time reported to Fisher. Ernst did, however, tell Rudin of the meeting of 300 women in Durban on the 26/6/65. Has no knowledge that the said meeting dealt with the question of a pamphlet on the subject of passes for women.

(iv) This is dealt with above.

(v) No knowledge.

(vi) Arenstein did not draft memoranda and the memoranda which were drafted were not for Fisher. The question of Zululand-Transkei elections was dealt with above.

Ad Indictment Paragraph (n) p.8:

The question of Transkei Democratic Party relates principally to Arenstein and Ernst was not party to those activities (see Arenstein's statement).

Ad Indictment Paragraph (o) p.9:

The question of Chief Buthelezi is dealt with in Arenstein's statement.

Ad Indictment Paragraph (p) p.9:

(i) Subscribes to Marxist-Leninist doctrine.
No writings and no lectures.

/(ii)

(ii) Subscribes to Freedom Charter. Does not subscribe to South African Communist Party programme. Did not lecture Brooks.

(iii) Did propagate the Chinese standpoint to Sino-Soviet ideological disputes and on a theoretical level. Did discuss this with Brooks and with Fleay. Did not have contact with the Chinese Communist Party. Did listen on one occasion with Brooks to Radio Peking. This was not for the purposes of receiving information or any communication from China, but merely out of curiosity. Arenstein had a certain amount of literature, the distribution of which had nothing to do with Ernst.

Ad Indictment Paragraph (r) p.9:

Rudin had inquired about the escape route and Ernst believed that this was possibly for the use of Weinberg. He never knew of the route. He had considered the prospect of using it when Fletcher was wanting to leave the country. Fletcher wanted to leave the country at three stages. Firstly, after his release from 90 days; secondly, when faced with the prospect of giving evidence against Arenstein and, thirdly, after giving evidence. Prior to Fletcher testifying, Ernst and he had almost finalised plans for him to leave the country but Ernst finally persuaded him to remain and give evidence.

The question of Poonen was dealt with in Ernst's statement. Ernst is unaware of the code name

McDougall's Safaris. The use of McDougall might possibly have some reference to Naidoo because of the initials M.D.

Ad Indictment Paragraph (r) p.9:

This is dealt with above.

Ad Indictment Paragraph (s) p.9:

Ernst did make inquiries in regard to de-bugging techniques and whether the necessary apparatus was obtainable. This was not at the instigation of Fisher. The inquiries were to one Robin Anderson who informed Ernst of the methods used but stated that he would be unable to make or obtain the necessary equipment. Ernst's interest in this was from general point of view of security.

Ad Indictment Paragraph (t) p.9:

As a student was member of Nusas but was never active in the organisation. Frequently told people to avoid becoming involved in Nusas as it often tended to attract attention from the Security Branch. When Brooks started at Natal University he asked Ernst whether or not to join Nusas and Ernst advised him against it. More particularly Ad Further Particulars Paragraph (ooo) p.32.

(i) No knowledge of Fisher's attitude to Nusas.

(ii) Shanley and Robertson were office bearers

/who

who were known to Ernst and he probably introduced Robertson to Brooks. Simpson was on the Durban S.R.C., not an office bearer to Nusas. Ernst frequently criticised Robertson on personal grounds to others. He told Brooks that Nusas had a very limited field and felt that it was on the decline.

(iii) Relationship with Nusas was, if anything, the opposite of what the particulars make out.

(iv) Did not tell Brooks and Fleay that Nusas would be used for Communist Party purposes in the future.

(v) Discussed Nusas generally with many people including Friedlander and Simpson.

Ad Further Particulars Paragraph (ppp) p.32:

Never used Nusas to disseminate Communist Party propaganda.

Ad Indictment Paragraph (u) p.9:
Further Particulars Paragraph (qqq) p.33:

Security measures were taken. Reasons already explained.

COUNT 3.

At no time acted in concert with persons named on p.10 in furtherance of a common purpose to perform acts calculated to further the achievement of any of the objects of Communism.

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