

Page 268 my lord. "In spite of this victorious advance, the Communist movement still faces powerful enemies which must be completely crushed and wiped out from the face of the earth before a Communist world can be realised. Without a hard, bitter and long struggle against capitalism and exploitation, there can be no Communist world!" Is that a correct statement of Marxist philosophy?--Yes.

Does that not envisage then in this country that if the Government does not capitulate, it will be completely crushed and wiped out from the face of the earth? --My lord, I don't understand it as referring to a Government. It is referring to social institutions, capitalism, presumably National oppression.

It says here "But in spite of this victorious advance, the Communist movement still faces powerful enemies" Who are the powerful enemies of Communism?--I would say the upholders of capitalism, national discrimination.

The Nationalist Government?--It would be included in that yes.

And the policy of the Communist Party is to completely crush it and wipe it out.---Well, if you are talking about crushing, sir, I don't understand it that way.

I think it means to crush the institutions which it is talking about, which is as I say, in my view, white supremacy, capitalism, to be completely crushed.

Do you think you are going to crush out the powerful enemies of Communism by holding sit-down strikes, or burning passes, defiance campaigns? ---It is a possibility.

It is more likely to be crushed and wiped out by acts of sabotage and guerilla warfare?---Well sir, that depends entirely on the Government.

And if that is not enough, it could be completely crushed and wiped out by armed intervention by foreign countries?---Well, that is a possibility which I personally do not believe is feasible, but it is a possibility.

But it is a possibility within the terms of Marxist philosophy?---My lord Marxist philosophy, generally speaking, has taught for many many years that you can't import revolution by force of arms from abroad. It is a fundamental proposition which was stated at the time of the Russian Revolution by Lenin, and it has been upheld ever since, that revolution is not exportable by force of arms.

Communism, throughout the history of the world has not crushed and wiped out what it calls its enemies by military action?---Yes, sir, but not by a foreign invasion which is the point I make. By military action, inside the country, yes.

Aided and abetted by military assistance from without?---Yes possibly.

Let me read from page 269. Just two short paragraphs "Every Communist Party member must possess the greatest courage and revolutionary determination and must be prepared to put his part and carry out all political tasks without fear or hesitation." Right?---I think so sir.

The Communist Party has a code of discipline.--- That is correct.

To which every member is bound, hand and foot. ---To which every member is bound - I am not sure of the meaning of that.

And he is required to carry out his instructions without asking questions?---My lord he is required to carry out decisions of a higher organisation of the Party.

Belt 09C. entitled at all times to ask questions, but nevertheless he is expected to carry out the decision.

And he is required..and he must possess the greatest courage and revolutionary determination?---I think that is so.

Which is not necessary to distribute pamphlets? ---Well if distributing pamphlets can earn you a five year jail sentence, it is very necessary.

"In fighting to change the world, we must start from the very people in close contact with us. We must thoroughly study our own situation and problems, understand them completely and work out appropriate solutions."--That is correct.

That is correct?--Yes sir.

Have the Communist Party not studied the situation in this country?--It has been studying it ever since its inception.

Had it not come to the conclusion that this granite Government of South Africa ~~is~~ cannot be moved one inch?--No sir.

It has not come to that?--No.

Well it has been referred to in those terms, the Government has.---Well, I don't think you will find that in Communist Party documents generally. There might be one as I say which is..

A mistake?---A mistake, but generally speaking I don't think they will accept that any Government is completely immovable, not even the South African Government.

Right, the last quotation from this document, on page 27C: "To sacrifice one's personal interests, and even one's life without the slightest hesitation for the cause of the Party is the highest manifestation of Communist ethics!"

--Yes I think that is correct.

So whatever I have read from this document you have subscribed to?---Yes.

And these extracts, and there are more, were compiled by Accused No. 1, Part One on "How to be a Good Communist,"---That may be so sir. My lord, I only looked at the first one in the original, and although it is compiled by accused No. 1 it is a direct quotation from one of the people who is recognised to be a leading theoretician (?) of the Marxist Movement.

Because I understood you earlier this morning to suggest that it was not a very good account of how to be a good Communist.---Well, there are parts which are certainly not a good account, in my view.

Now let us turn very briefly to one extract from the following Exhibit, R.21. (Page 264). Now I want to read this paragraph by paragraph. "the policy of the Nationalist Government which forcibly suppresses the peaceful struggle of the people, has created new conditions under which non-violent and peaceful methods of struggle have become inadequate to advance the struggle of the people and to defend their rights. Under these new conditions it is easy to understand why the masses of the people are searching for a new formula of political struggle to enable them to hit back effectively and halt the violent and reactionary policies of the Government. Whilst in the past it was correct to preach non-violence, under present conditions it is not correct to go on stressing it as if nothing had changed. There is nothing ^{inherently} sacred or/superior about non-violent methods of struggle. So long as they are effective weapons to fight for freedom and democracy, they must be employed fully, but it would be wrong to persist with

them mechanically when conditions demand modifications." Now that is from a Communistic document dealing with the Communistic doctrine. It is Part 2 of How to be a good Communist.---Well as a statement, I agree with it.

You have always subscribed to it?--Yes I think so sir.

Personally, and because of your association in whatever form with the Communist Party?---That is so.

Is it not here openly advocating violence?--- No sir.

No?--No, I don't think so. I think it is saying, there comes a time, conditions change, when it is not longer correct to stick exclusively to non-violent methods when violent methods become correct and justifiable. That's as I understood it when you read it.

Has that time not arrived?---Oh yes I think that time had arrived.

In 1961?---Well round about that period, yes.

Round about the time when the Communist Party agreed to spend R25,000 on the purchase of Rivonia?--Yes, round about that time, I think that is correct.

Now then there is a reference over here, in the middle of the page "This is what happened for instance in Albania, Bulgaria, China, Czechoslovakia, East Germany, Hungary, North Korea, Rumania, Russia and North Vietnam. Is it a fact that changes were effected in these countries by revolutionary methods?---My lord, yes, that is a fact, but the methods I think - I am just trying to think over these various countries, seem to me to be very vastly different from one country to another. I don't think one can lump them all together like that.

"In all these countries" the author goes on to

say here "The capitalist system was overthrown, and replaced by socialism"----If that is what the lumping together means, it is perfectly correct.

"In our own country capitalism cannot and will not last indefinitely. The people of South Africa, led by the South African Communist Party will destroy capitalist society and build in its place socialism where there will be no exploitation of man by man." Mr. Bernstein, don't ~~x~~ you think it was rather presumptuous of the South African Communist Party to say that the people of South Africa, led by the South African Communist Party?---My lord, they are speaking about the destruction of capitalism and the building of socialism. It does not suggest it is going to happen this year, or even within the framework of what I would call the immediate programme of the Party. It is dealing with a long-term project, and it says that when socialism is going to be built in this country, it will be built under the leadership of the Communist Party. I think it is probably a correct statement, but that is a bit of historical prediction which might turn out to be wrong.

But you know to speak of the Communist Party, which at peak mustered 2000 members, leading the people of South Africa - it is being a little bit immodest in its claims, the Communist Party, to put it at ITS very lowest? ---My lord, I am not quite sure of the figures. I think the time the Russian Communist Party led the people of Russia it numbered some 300,000 members, if I remember correctly and the population was 180,000,000. The size of the party is not relevant, it seems to me. The problem is the support which it obtains amongst the population.

Perhaps the tenacity and the fighting revolution-
ary spirit of the leaders is more important?---That is a
very important factor.

And the degree of agitation?---And the amount
of activity they carry out, yes.

By the way, what is the population of Soviet
Russia?---Today I believe it is over 200,000,000.

How many non-whites?---I really could not say,
sir, but a very large proportion.

What do you mean by a large portion?--I really
don't know the statistics, but there are a large number of
Asian peoples in the Soviet Union, both Asian and Mongolian
people, and I would think they probably constitute a majority
but I am not quite sure.

Now the last passage I would like you to read
deals with the third proposition and is at the bottom of the
page. "Hence the transition from capitalism to socialism
and the liberation of the working class from the yoke
cannot be effected by slow changes or by reforms as reactionar-
ies and liberals often advise, but by revolution. One
therefore must be a revolutionary and not a reformist."
Is that correct policy of the Communist Party?--I think that
is correct my lord, and the sense in which it is used
makes it very clear that it is drawing a distinction between
a reformist who believes that you can bring about a change
in society from capitalism to socialism by small changes,
and a revolutionary, who believes you can only do it
by one radical transformation.

The last paragraph there "Finally, if develop-
ment and change in things take place by way of collisions
between opposite forces, then it is clear that the struggle
between workers and capitalists is natural and inevitable.

Hence we must not try to preach peace and harmony between workers and capitalists. We must stimulate and encourage class struggles. We must call upon workers to conduct a ceaseless war against the capitalist class and for socialism."

Is that a correct statement of Marxist philosophy?---I think perhaps it is a rather overbold statement, but generally speaking it is correct though yes.

"We must not try to preach peace and harmony between workers and capitalists."---That is correct.

"We must stimulate and encourage class struggles" agitate, in other words, Mr. Bernstein?---My lord I don't know agitate in other words - I approve of the formulation there, I think it is correct.

And in point of fact is that not the policy of the Communist Party throughout the world?--As stated there?

Yes.--Yes sir it is.

You know this book, Exhibit I.99...rather I.66 was found at Rivonia "Kill or Get Killed." At Travallyn. Do you know the book?---Never seen it before.

Have you any idea why..it deals with self-defence, doesn't it?---Well my lord, judging by the cover it says it is for police and military, the last word on mob control.

There were no policemen in hiding at Travallyn were there?---Not to the best of my knowledge.

The only people in hiding at Travallyn were, let us take them in turns - accused No. 2 at one stage---So I hear in evidence.

Accused No. 3?--Likewise.

Accused no. 4?--That is so.

Accused No. 7?---Yes.

Now what would any of those be doing with the t

book?---My lord I don't know - they might have been broadening their mind, or they might have had other reasons.

It says Secrets for Police and the military last word on mob control, but it also has this 'secrets of subduing individuals and mobs by a world authority, and hand to hand fighting and mob control . For defence and law enforcement agencies...(quotes)...controlling mobs, step by step illustrations and instructions" and then "Kill or Get Killed is a book which belongs in every institution charged with the training of police officers or soldiers." Was the M.K. not training soldiers?--According to the evidence it was.

Now there is an interesting Chapter 15 in this book and I would like to read it to you because of what is stated here in this paragraph I have read on page 286. You know 'we must stimulate and encourage class struggles' - and you have admitted that is Marxist philosophy?--That is right.

I am going to read from page 372: "Public incidents are used or fabricated to spark riots". By the way, this is under the heading of Communist Tactics and Strategy in Directing Mob Violence." "In the case of ...(quotes)...especially the case in Japan in 1960." Is that true?---My lord, I don't know the facts about the incidents in Bagota but I would say as a statement of Communist policy it is absolute balderdash.

Balderdash?---Absolutely!

"Elsewhere in the world similar tactics... (quotes)...frequent success in the past. The overall strategy is one of armed revolution and ...supported and fostered from outside the target nation. Guerilla warfare is co-ordinated with sabotage, espionage, terrorism and

mob violence. In actual fact violence in a planned mob action can be characterised as just another form of guerilla warfare, although wedged in urban areas." Do you accept that?---No sir.

You don't?--No sir.

This was found at Travallyn?--That may be.

It was not left there by the former owner of Travallyn. You see we had here sabotage?---Correct.

We have here espionage, people trying to get into the police, trying to get into the army, trying even to get into the public prosecutor's division?--I am not aware of any of those sir.

You are not! Terrorism and mob violence - has that not been tried, terrorism?--It has been tried by some people, not by Communists sir.

You have heard the evidence in this case of circulars issued in the Eastern Province, of people who must be got rid of?--I have heard that evidence.

Named, and we find them stabbed - is that not mob violence?--It may well be sir, I am just saying it is not by Communists.

Not by Communists?--No sir.

One last passage: "The discrediting of the ...regular police and military forces whose responsibility and the maintenance of law and order is a prime objective." Has an attempt not been made in this case to discredit the police?---My lord I think the police discredit themselves very satisfactorily, without assistance.

Without assistance?--That is so.

What have you in mind?--would you like incidents?

Yes.---Well my lord I can't help feeling that the recent case in Dulffontein was a very fine example.

I was hoping you would mention that - who investigated the charges in the Dufffontein case?---The police did.

The police? Did they fail in their duty to investigate that case properly?---No they didnot but the officers who were charged failed in their duty.

I am talking about those who investigated the allegations in that case - did they fail in their duty?---No I don't think they did.

The prosecutors department - did they fail in their duty to bring the case before the Court?--No sir they did not.

And did his lordship the learned judge fail in his duty to make a bold finding?--No he did not sir.

Does this not happen amongst every profession? We ~~have~~ have had dishonest attorneys and advocates?--It does so.

We have had evidence of advocates who have been planning sabotage?--That may be.

Does that discredit the whole profession of advocates?--No sir.

"When police and military forces....the Communists can move rapidly to power, and after power has been seized the new Government acts rapidly to disband and destroy professional military and policeforces...all other collected evidence of Communist activity are destroyed. Cuba under Castro is a classic example of this tactic." Is that a true record and account of Communistic strategy?--- Absolutely false, sir.

Did it not happen in Cuba?---What is said there certainly not.

How do you know?---Because I have read authori-

tative accounts by people who are on the spot, observers, who have studied the subject, and none of them would have substantiated that.

Right - and this is a book we find at Travallyn- not so?--Not an authoritative one.

Right. I don't want to argue with you. We come now to Exhibit R.35, page 379. Now this is a circular addressed to Young Comrades. By the way, let me just explain to you about it - that is a circular which was found at Rivonia in bulk in a storeroom complete with the envelope as it is attached there. It is addressed to "young comrades" and is that not the manner of addressing young Communists? --Yes.

In fact, it is issued by the Johannesburg District of the South African Communist Party?---Yes.

And it calls upon them "The South African Communist Party calls upon each and everyone of you to join in the fight for Freedom, for democratic rights for all the people and for socialism." Right?--Yes.

And then it says "Why the Youth?" And then at the last page the answer is given..the last paragraph on that page: "This attitude is contrary to the nature of the youth. In all countries the youth are the first to fight for freedom, to sacrifice their very lives for the noble cause of the people's liberation.

"That is what happened in Cuba when the young workers, peasants and students fought with a book in one hand and a rifle in the other. Now that they have won their liberation it is once again the youth in Cuba who are fighting another battle - the battle against illiteracy and disease." And then it says "Castro is the youngest Prime Minister in the world" Mr. Bernstein, is this not a

direct and blatant effort by the Communist Party of South Africa to incite the youth to take up arms?--No I would not accept that sir.

What does the party mean when it says "This is what happened in Cuba, when the young workers, peasants and students fought with a book in one hand and a rifle in the other"?--My lord, it has got to be read in its context. The context is that some of the youth are inclined to stand aloof in the struggles of their people. They would rather criticise from the safe and respectable side of the fence, as if they need not take part in the struggle. This attitude is contrary to the nature of the youth, as is shown by the experience of Cuba, where the youth in fact, far from standing aside, took a place in the forefront. That is all it is saying.

And are you not asking the youth in this country to do the same?--To take a leading position in the struggle of the people, certainly, sir.

And to follow the example of the young Cubans? --Insofar as they stood in the forefront of the struggle, yes.

And if necessary, therefore, to fight with a book in the one hand and a rifle in the other?--It does not say so, sir, and I don't think one can read that necessarily into it.

By mentioning it then?--My lord, it is saying this is what happened in Cuba - here is an example of the fact that the youth did not stand aside.

Let us just read now, in the light of what you have just told his lordship, on page 2 of that document, (page 380) "The youth of our country have shown that they can fight bravely for their rights. At Fore Harb, Turfloop, Healdtown, Lovedale, Kilmerton and the Both High School,

for example, they stood up and took militant action, regardless of the consequences. When nurses were caned, they went on strike. When the workers in a factory demand better conditions, the youth are with them." By the way, what is meant there by militant action?---I think militant means vigorous - that is the nearest word I can put to it.

You know of course, from Fort Hare, according to the evidence, some students were sent across the border for military training?--They were on their way but they were arrested?----- I don't remember that evidence, it may well be.

Now that document is the same as Exhibit 96, and now we come to Exhibit 36 (361). Did you draw this up, by the way? "Differences in the Communist Movement, a Summary for Information"---Yes my lord I did.

It is drawn up on your typewriter?--I don't think so, but..

Have a look at it,---I can't recall. You mean this actual typewriter here is not mine.

This is not typed on your typewriter?--This is not mine.

But you drew this up?--Yes sir I did.

Well I am not going to deal with that document, it deals with the differences in the Communist Party movement - who asked you to draw that up?--My lord, I think I was requested by..Bob Hepple sir.

When?---When I went out to Rivonia to discuss this question with Mr. Mbeki, which was April/May of 1963, and ~~xx~~ one of the discussions I/hav^{was}ing Mr. Hepple happened to drop in at Rivonia - I think he had come to see Mr. Mbeki for something. He entered into the discussion, and when we were having the discussion he said "Look, people are crying out for information on what this dispute is all about.

Will you summarise it for us" and I said yes, and I did so.

What were you doing at Rivonia?--I was discussing this very question with Mr. Mbeki.

Why?--My lord he had sent a message to me asking me to come out and bring documents about this thing because he was interested to find out what it was all about.

Mbeki of course was one of the leaders of the M.K?--So the evidence says, yes.

You did not know that before?--No I did not.

Mbeki during April/May of 1963 was in hiding? --That is so.

He, as far as you knew then, was just a member of the A.N.C?---As far as I knew, yes.

Did you ask him "What are you doing here?"--- No sir.

Why not?--Because I knew he was hiding there sir. It was not necessary.

Did you know what he was doing there?---No sir.

Was that not the time when the acts of sabotage were reaching a crescendo in this country, April/May of 1963?--I am unable to say, sir. It might be so, I don't know.

And he wanted you to come out?--He wanted some information, documents dealing with this stuff, and I took them out.

About this subject?---This very subject.

What was his interest in it?--My lord I take it he is interested - a major dispute on political questions between the Chinese Communist Party and the Soviet Communist Party is a matter of great interest to people.

Is he a Communist?---I am afraid you will have to ask him that question.

I am going to! But don't you know?--No sir, I am

not prepared to answer that question.

But you do know?--Yes I do.

You are not prepared to answer?--No.

And how long did you spend with him?--My lord, I discussed with him on two or three occasions, probably an hour or an hour and a half at a time, something like that.

Was he a banned person at that time?--I think that is correct.

And you had no compunction, despite the banning order served on you, in meeting up with a banned person?--My lord, perhaps I should explain that when I met Mr. Mbeki at Rivonia he was using the name Dhlamini. I have said in evidence that I had not met him before. At the time he used the name Dhlamini, and I accepted him as Dhlamini. As to whether I had any compunction about meeting banned people, sir I did not.

You had no compunction?--No.

You see you complained, I won't say directly, certainly implicitly in your evidence, that because of the action of the Government in banning you, house arresting you, restricting you, and all that, you had no time to eke out a living. You were confined to work during the day?--That is correct.

You complained very bitterly because of that banning nobody could come to you, you had to go to them in order to see them about building specifications?--That is correct.

And you stayed in Eksteen Street Observatory?
--Regent Street.

But you get a message from Mr. Goan Mbeki "Come out" and you comply with that, and you go out to Rivonia.---

Yes my lord, when I found that I had an hour or an hour and a half to spare.

You went out to Rivonia - by car, or were you taken there?--No by car.

And you spent some time with him - and all he wants to know from you is "Mr. Bernstein, what is all this trouble about differences in the Communist movement",--- A matter of great importance to him.

And you took the trouble to explain to him, and you wrote this 11 paged document?---Well when you say that you will see that it is practically all quotations from publications, it is just a matter of scissors and paste, really

He could have done it too?---Possibly.

If he had more time, but perhaps he was too busy with M.K. but you would not know that?--I could not answer that sir.

Now you knew he was a member of the A.N.C?---I had heard of him as a member of the A.N.C.

In Port Elizabeth?--In Port Elizabeth.

Did it never strike you to ask him "what are you doing here?"---My lord, it struck me, but as I said before I don't want to know the answers to these questions when it is none of my business.

But you do know the answers to quite a few questions I have put to you, and although you know the answers, you refuse to tell me?--when information came my way, sir, I could not help hearing. That is too bad, but
Selt 90E I never went out of my way to get information which is not my business

Now you know Mr. Bernstein by that time, April of 1963, the State alleges that over 100 acts of sabotage had been committed?---Yes.

Leading people from the Indian Congress or the Indian Community?---Yes.

Such as?---Mr. Kathrada I would see on occasions. Mr. Cachalia (?) I would see on occasions.

Jusuf Cachalia ?---And his brother.

And leading members of the Communist Party?--- Well people whom I regard as Communists, people like Ketane and Harmel and Marks and so on. I had discussions with all these people.

You still won't mention who the leaders were? ---No sir.

And you never stopped to ask with what they were committing these acts of sabotage, or where they were getting it from---I don't understand.

The material, the explosives?---No sir, it is not my business.

Or who was financing it?---No.

But did you know the M.K. was drawn from the A.N.C?---I knew that a large number of their members were members of the AN.C. yes.

Did you know that the A.N.C. like the Communist Party was also not in affluent circumstances?--- never
It has/been in affluent circumstances to my knowledge.

Did you wonder therefore where the M.K. got its money from to finance this campaign of hatred?---Well, I had my suspicions sir.

What were your suspicions---That they were collecting money, both here and abroad for the purpose.

So this evidence about Mandela's visit abroad, collecting money, gave as no surprise to you?---Well I knew that he had been abroad on this tour sir.

Dr. Letile (?) you know him?--Yes I do.

Treasurer of the A.N.C?--I think that is so,
I am not absolutely sure.

Member of the Communist Party?--Not to the
best of my knowledge?

A Sympathiser?--Not even that to the best of my
knowledge.

Not even that?--As far as I am aware.

Turn now to Exhibit R.39 (page 391). Oh by
the way, to round off this conversation with Mbeki, you
promised to draw up this article, and in fact you went back
and set about it?--I went back two or three times to discuss
matters with him.

And you eventually gave him the finished article?
--No I gave the draft of the article to Hepple.

And what was he to do with it?--Hepple was
to circulate it amongst interested people in the political
movement.

Well you must have been a most important ad-
herent to the Communist Party if they called upon you to
draft ..make this exposition on the differences in the
Communist Movement?--I did not say that the Communist Party
asked me, sir, I said Hepple asked me.

I know!--And Hepple may have a high regard
for my ability, I don't know.

Now Exhibit 39 "Present South African Communist
Party" - you know that booklet?--Yes sir I have seen it.

Did you participate in its..in the drawing
up thereof?--My lord I was asked to comment at one time
when a draft of this document was circulating. I was asked
to make my comments on the draft, and I did so.

And you did so?--Yes.

Who asked you?---I am afraid I am not prepared to reveal that.

What drafts were you given?--My lord I was given a roneoed document, which was a draft of this one, that is all I can say.

And you are not prepared to tell his lordship who asked you to check the draft?---No sir.

But they asked you to check the drafts.---No, not to check the drafts, to make my comment on this draft document.

And you did so?---And I did so.

And this final product, is that a correct statement of the South African Communist Party?---I take it it must be.

You have seen this before?--Yes, oh yes. I take it it is a correct statement.

You must have known an awful lot about the Communist Party if they ask you to make your comments on the programme of the South African Communist Party?--My lord, I have said that I have been a Communist for a long time, and everybody knows it, and when they want opinions on a document of this sort, they are likely to ask opinions from people like me.

Now here is the Exhibit which goes with that, Exhibit 7B. This was found at Rivonia, and it is headed "On our new draft programme, a message from the Central Committee of the Communist Party." Isn't that so?---That is correct.

MR. BERRANGE: (to the Court)

My lord it seems to us apparant that the witness will at some stage wish to have a look at the Exhibits that have been placed before him for the purpose of giving further evidence in regard there, to if necessary, and could I,

through your lordship, ask the witness to make notes as he goes along of which Exhibits he would like to look at during the interval.

BY THE COURT (to the witness)

Well will you just bear in mind which you particularly want to see.--I will do that my lord.

DR. YUTAR: In fact Mr. Bernstein I am going to help you - I have got a list here of the Exhibits I am dealing with, and you can check with me, and then you can have them all.--- Thankyou.

Now that document R. 78 does that explain why R. 39 was brought into existence?--Yes, why a new programme has been drawn.

So I think it will be more logical to deal with R. 78 first. We are now dealing with R. 78 which you admit gives the reason why Exhibit R.39 came into existence? ---That is so.

And R. 78 just look at the reasons "A message from the Central Committee of the South African Communist Party" - that of course if the highest committee of the S.A. Communist Party?--That is so.

And you are still not prepared to tell us who constituted the Central Committee?---No.

Now look at that first page "Since our 1933 programme the world Communist movement of which the S.A. Communist Party is an integral part, has made a number of important theoretical advances." have you got that?--Yes.

Look at the last three lines "South Africa itself is ripe for, and is approaching the beginning of, a national democratic revolution." Do you know when this was drawnup?--My lord I don't know precisely - I know that this document, the programme itself, that is R.39

would think early in 1963. That is approximately right.

"South Africa is ripe for and is approaching the beginning of a national democratic revolution." What is meant by that?--My lord, this is an involved question. There is a chapter of this programme here which is headed "The national democratic Revolution" which attempts to explain what it means. I would not like to try and summarise it in one sentence.

What appears there on pages 53 to 55 are those the page references?--No 49 to 55.

That is right. And I am going to quote from pages 53 to 55 which sets out what is meant by this revolution.---This national democratic revolution.

Let us summarise it now) does it not mean violence and sabotage and guerilla warfare?--No sir - it has not got anything to do with the question of methods.

Nothing at all?--No sir not at all. It is dealing with changing society. When Communists talk about a radical transformation of society they call it a revolution and that is completely independent of any consideration of methods whatsoever - it has got nothing to do with methods at all.

Nothing at all?--Nothing.

Well then bear your answer in mind when I come to deal with that document, because this document R.78 gives us an answer over the next page. "The Verwoerd Government is isolated and hated by the people at home and in the entire world, the country is pregnant with mighty changes" - are you following me?--Yes.

"which cannot much longer be postponed. New problems arising out of the new situation face us with questions which we had to seek answers for beyond the scope of our old programme. Faced with ever-increasing rep

and terror against nearly every form of peaceful activity, the people have been compelled to seek and find new methods of struggle." What were those new methods of struggle which the people had been compelled to seek and find?--I think this is a clear reference, my lord, to sabotage.

A clear reference to sabotage?---Yes.

Right. And then we can miss the next two paragraphs and take two lines of the third: "The present draft is intended for publication on as wide a scale as possible." Is that right?--Yes that is what it says.

That was the intention?--I can't speak about the intention - that is what it says.

Distribute this publication as widely as possible, and then on page 518 my lord, it deals with eight sessions to be held in order to frame this draft and at the sixth session Section 5 of the draft under the heading "African Revolution" (page 518) look what is said: "Suggested reading: nearly all issues of the African Communist deal with this question. In addition discussion leaders are recommended to read the books by ? of Africa, The Roots of Revolt and the Lion Awakes, works of ? dealing with the Chinese Revolution, material on the Cuban and other anti-colonialist revolution would also be useful if available." Mr. Bernstein, did you hear the evidence of Mr. X?--I did sir.

Remember he told his lordship he was given this book by Jack Wallace(?) on Africa, "The Roots of Revolt".--Yes I remember that.

Why was he given that book, can you just tell us, if South Africa was not ripe for revolution?---My lord, one would have to look at the book "The Roots of Revolt" to answer that question. It deals with the origins

of the national liberation movement throughout Africa, taking practically every country in Africa one by one and listing the history of the development of the national liberation movement. The title, the "Roots of Revolt" is the origins of the National Movement - that is what this book deals with. Why he was given it to read, sir I can only say, to broaden his mind.

To broaden his mind, and possibly make use of it when similar revolution overtakes South Africa?--Yes possibly sir.

The Works dealing with the Chinese Revolution for the same purpose?---Possibly so yes.

And of course Cuban and others. This "African Communist" - we have got a lot of those booklets over here. Where were they published?--According to the imprint on them, they were published in Great Britain

Do you know who the publishers are, the authors are or the editors?--No.

You don't know. But it was received in this country?--It was received in this country.

By whom?--That I cannot say.

Did you receive that?--Occasionally I received, not always.

And you will notice some of those books came here under false covers, plain covers?--That is not the African Communist, sir, That is Africa.

And also the African Communist, blank white covers.--- White covers, not false covers.

Well blank white covers, and underneath that you get the "African Communist".---That is correct.

And that also dealt with the activity of the Umkonto Wesizwe?--Yes I think there were articles touching on that.

Where did they get their information on the Umkonto WEsizwe?---My lord, I assume they get their information from either members of Umkonto wesizwe or possibly from members of the Communist Party who themselves are members of Umkonto Wesizwe.

One last passage here, page 519. "Our proposals in the National Democratic Revolution. Suggested reading: not only discussion leader but all members of the group shall obtain and re-read the Freedom Charter to refresh their memory of its contents. Programmes of other Communist Party, particularly those in colonial countries, e.g. that of the Communist Party of India should also if possible be obtained and read by the discussion leader." You know we found about six copies of the Communist Party of India. What differentiates the Communist Party of India, that causes it to be read so carefully?--My lord, I don't remember - I may be wrong - I don't remember any exhibits of the programme of the Communist Party of India being put in - I may be wrong. I think there were some newspapers put in, published by the Communist Party of India.

Those are what I had in mind.---Presumably people, either Communists, or Indians, or Indian Communists, are interested in this sort of thing.

And their history is also one of bloody revolution.---No sir. Not at the stage with which we are dealing here. India is the country, I think, my lord, which you can say achieved its national independence, its national democratic revolution, if you like, by non-violent means.

Completely?--Not exclusively, but overwhelmingly by non-violent means.

There were violent means employed?--Occasionally there were violent outbreaks in the course of non-violent struggles.

Now having obtained the reasons for the programme let us go now to the programme itself, Exhibit R.39 and I would like to read to you just a few passages (page 53). Have you got that?--Yes I have.

"In the face of these provocations the liberation movement has had to reconsider its attitude towards non-violence as a universal principle. The patience of the people is not endless. They are determined to win freedom in our lifetime. They would prefer to achieve their liberation by non-violent means, but today they are left with no alternative but to defend themselves and hit back, to meet violence with violence. The Nationalists are forcing the situation in South Africa in which patriots and democrats will take up arms to defend themselves. Organised guerilla armies undertake various acts of armed resistance culminating in a mass insurrection against white domination. In such a conflict, however long and costly, the fighters for freedom must win, for they will enjoy the support of the overwhelming majority of the people of our country and the whole world." Is that a correct statement of the programme of the Communist Party?---Well I take it it must be, otherwise it would not appear in this document.

You see they speak there "The fight is for ~~the~~ freedom" and it is not the "fight is for freedom" about which so much is talked about in the ^Treason Trial; as his lordship pointed out to you this morning, at this stage already acts of sabotage were being committed. You say 'I take it this is the correct policy' - is there any doubt about it? Is it not an official document of the

Communist Party?--No I take it that this is an official document, and therefore this would be official policy.

And you, as a loyal Communist, support it.---I think it is a correct statement.

And you as a loyal Communist support it?-- As a Communist I think it is quite correct yes.

And I think you support it?--Yes.

This goes on then "The Communist Party considers that the slogan of non-violence is harmful to the cause of the democratic national revolution in the new phase of the struggle, ^{disarming} ~~disheartening~~ the people in the face of the savage assaults of the oppressor; damping their militancy, undermining their confidence in their leaders. At the same time the Party opposes undisciplined acts of individual terror....(quotes)..and continues to advocate the use of all forms of struggle by the people including non-collaboration, strikes, boycotts and demonstrations." Correct? --Quite correct.

"The Party does not dismiss all prospects of non-violent transmission to the democratic revolution. This prospect will be enhanced by the development of revolutionary and militant peoples forces." Let us pause there a moment: is that not what I was trying to tell you this morning, or suggest to you this morning? The official policy now of the A.N.C. - we are now dealing with the official policy of the Communist Party - was one of violence. The non-violent methods you had still in mind was 'to enhance the development of the revolutionary and militant peoples forces.'" Isn't that so, Mr. Bernstein?--No sir.

Doesn't this document say that?--I think you are reading it absolutely upside-down, sir. What it says is

that the prospect of non-violent transition will be enhanced by the development of militant peoples forces. In other words, the prospect of peaceful transition in this country has been improved by the emergence of militant and if you like, violent, peoples forces.

Sabotage?--That is right, but it improves the prospect of peaceful transition - that is the point that is made here.

Well you know we have a document of course which speaks about power comes out of the barrel of a gun. Do you call it peaceful..if you have a firearm, and you say 'Give me your money' to someone, and he hands it over peacefully - would you say that is a peaceful method of obtaining his property?---My lord, that is not the analogy. If the gun is being pointed at a man who is unarmed, it is being pointed by the Government at the unarmed non-white people. and what enhances the prospect of peaceful negotiation and settlement in this country is that, if one man is going to point a gun, the other man should have a gun to defend himself. Then there might be prospect of talk. That is what this document is saying.

If the Communist Party..or the M.K. units, let us put it that way, was to derail a train and kill innocent people, that would enhance your peaceful methods of pamphlet distribution and strikes?--No I did not say that sir. I said--that if the development of militant forces of the peoples movement to face the armed forces of the Government, to assist is likely/to bring about peaceful settlement of the dispute - more likely, than if the situation is maintained where one side is heavily armed, and the other side is completely disarmed. That is what I said.

What do you mean by the development of the militant forces?--I am speaking about for instance the growth of such an organisation as Umkonto.

Development of that?--The emergence of this the fact that it exists at all is in my view a help in this situation.

The fact that it embarked upon a policy of sabotage?--Also a help.

The fact that it was already employing guerilla war tactics?--No I don't accept that it was sir.

You don't accept that it was?--No.

And the fact that it planned the acquisition of arms from outside countries?--This is part of the process of building up the peoples forces as I understand it.

And that would enhance the peaceful methods? ---Not peaceful methods, sir. The prospect of a peaceful settlement in this country, the peaceful transition from what we have now to a democratic society. That is what I am saying.

Pointing the gun in effect?---I am saying that there is only one gun being pointed in this country, in the first place, and that was pointed by the Government. This is an attempt to even the situation up so that the sides will talk. That is all.

In other words, then, you agree then that the only way to force the Government to talk peacefully around a table is to embark on sabotage and guerilla warfare?-- It is not the only way sir. I think that this is a help.

Well we have 193 acts of those acted.--That is so.

Has it helped?--Unfortunately not sir.

What is the next stage?--My lord, as I said

before the next stage in the struggle is the continuation of what you have been doing.

I will read on "The crisis in the country and the contradictions in the ranks of the ruling classes will deepen...(quotes)...whatever its end, ~~what~~ whether its end is brought about by such a peaceful transition or by insurrection, the vicious type of colonialism...(quotes).. certain in the near future." I want to read one paragraph more: "The Communist Party unreservedly supports and participates in the struggle for national liberation, headed by the African National Congress in alliance with the South African Indian Congress, the Congress of Trade Unions, the Coloured Peoples Congress and other patriotic groups of democrats, women, peasants and youths....(quotes)...It considers that it is important and urgent for all the forces and movements for freedom to agree upon all their main goals and aims at this time." Is that a correct statement of the policy of the programme of the Communist Party of South Africa?---Quite correct.

You subscribe to it fully?--Yes I do sir.

You support it?--Yes I do.

And of course, not being a pacifist, but being a revolutionary, you actively supported it?---I am not quite clear what you..?

Well you are a Communist ?--Yes.

Therefore by nature a revolutionary?--Yes.

Not a pacifist?---Correct.

Belt 91E.

In fact not even a reformist. Therefore you as a loyal Communist supported this programme of the Communist Party?---Yes I supported it sir.

And how did you support it?--My lord I support it in my outlook and my opinions which I have expressed

through my writing.

And no other way?--My lord, I could have participated in movements in this direction - I can't think offhand.

Yes, writing articles encouraging people to revolt?--My sir, I have written articles calling for this very thing, a national convention of the South African people to settle the thing, I have written these articles.

You of course did not take part in any of the acts of sabotage?--No sir I did not.

No that was left to the rank and file of the natives in this country.--No sir.

Well who did it?--Members and units of Umkonto Wesizwe.

Any Europeans among them?--I understand there are Europeans among them.

Apart from Strachan who else?--I don't know who they are, sir, but I understand there are Europeans in their membership.

Name them?--I am unable to name any of the members of Umkonto.

Well how do you know there are Europeans among them?--I say I understand there are because I have been told so

By whom?--This is general discussion in the movement, and it is borne out by the statements issued by Umkonto itself that it is composed of people of all races.

But can you name anyone, apart from Casrils (?) of the Natal Regional Command and Strachan, of East London.. of Port Elizabeth?--Well my lord, according to the evidence there has been in this Court, one can add in Hodgson and Goldreich and Wolpe and a few more.

Oh no - those gentlemen were very careful. They merely taught the natives how to blow up, they did not do any blowing up themselves!---Well it seems to me you are jumping to conclusions sir, there is no evidence to that effect.

Did Hodgson blow up any places?---No, I say there is no evidence to the fact that they only taught Africans.

Well do you know of any places that they blew up?--I don't sir.

You don't! Do you know of any places that Goldreich blew up?--I don't.

Do you know of any places that Harmel blew up? --No sir.

Well then you cannot tell us of a single European who blew up anything?---And I cannot tell you of a single non-European who blew up anything either sir.

But the evidence in this case shows that apart from Casrils, all the non..only the non-Europeans were employed to do, and I must repeat the phrase I used the other day, to do the dirty work.--My lord, it might be according to the evidence in this case. I say it is not according to my understanding of the position.

And I forgot to mention one other, Benjamin Turok.--That is correct.

He placed a bomb in a drawer. Now we come to Exhibit R.40. This is a statement by the Central Committee of the South African Communist Party. I am not going to go into this in detail because I covered this with Kathrada in detail, but I must show it to you - that is a Communist document? We will come back to that later - turn to Exhibit 51. --Yes.

(Page 446). "New Problems of a Democratic Movement." Now this document, Mr. Bernstein, was found at Rivonia.--Yes.

In the fourth room. It was also, an exact copy of it, Exhibit R.81 was found in the studio of Goldreich in the main house - you get me?--Yes.

And then another exact copy of it, Exhibit D.E. was found in the Durban office of Naicker. Found in the wastepaper basket. So this document, therefore, we find in two places at Rivonia and in Natal. It is a document issued by the Communist Party, it does not say so expressly, but it is quite clear from the reading of it.--Yes I think it is clear.

Is it correct what is stated there on page 447, the first paragraph under The new Line of Congress: "All of us are probably by now well aware that the A.N.C. ["] has finally discarded the line of 'non-violence' which characterised the organisation for many years; that it has adopted the attitude that force must be met by force; that the African people must learn to defend themselves and hit back - an eye for an eye and a tooth for a tooth."---My lord, in my view this is not a correct statement.

How does it come about that the Communist Party prepares a document dealing with the new line of the African National Congress?--My lord it is quite clear that the communist Party produces documents which deal with all sorts of political matters in South Africa; matters of the Congresses themselves, matters of the United Party, of the Nationalist Party of the Progressive Party and so on,

so there is nothing peculiar, to my mind, that the Communist Party should be expressing itself on a new policy of the African National Congress.

But whoever wrote this, made a mistake?--I think he stated the position incorrectly.

Just one further paragraph "But the fact remains that the masses of the African people are not aware of this new line of the A.N.C. The many years of non-violence propoganda, which continued right through the Treason trial and even persisted after the emergency cannot be dispelled merely by one or two rather ambiguous statements. It has now become a matter of great importance that Congress should announce and campaign for its new line among the masses." A correct statement?---I think it is probably correct, yes.

Probably correct?--I think so.

So when Kathrada says..when Sisulu says it is wrong, it is a wrong statement? You disagree with him?---well my lord, as I understand what this statement is saying, it is saying that the African National Congress has discarded its former line of non-violence, which is what I have said here in evidence, and I have explained the context in which I make that statement. Then it goes on to say that the mass of the African people are not aware of this new line. I think that is probably correct, ~~if~~ they are not, because I cannot remember the African National Congress publicly proclaiming that its advocacy of positive non-violence had come to an end. I can't remember them doing so. So I think this is probably correct. Sisulu might disagree.

Might I just reinforce that by saying that throughout the treason trial the defence, including yourself, laid great stress on the fact that the policy of the A.N.C.

was one of nonviolence?--Correct.

And that policy was put across successfully?
And that defence was put across successfully?--That defence was upheld by the Court sir yes.

And that is what the whole bank and file, in fact the whole public of South Africa was led to believe to be the true position?--It was the true position.

I am not denying it - the Court found it to be so.---Correct.

I don't dispute a decision of our Courts.---Yes.

But now we find it is the leaders of the A.N.C. who have decided on the policy of violence and now the leaders are enjoined to put that across to the masses?--- My lord, what I think would be a better statement is that the A.N.C. has abandoned its former policy of positive non-violence. This is known to the members of the African National Congress and to the leaders of the African National Congress, but because that fact was not publicised, the African masses are not aware of that fact - the fact that the A.N.C. has abandoned that policy - the masses are not aware of it. That is what this is saying, and that is why I say I think it is a correct statement.

Of course this does not say the way you are interpreting it?--No but speaking of the new line, which I have explained is my understanding of the new line.

Now page 448 you will find under paragraph 3 "The Image of the Movement at Home and Abroad", the paragraph commencing "serious and harmful consequences" - have you got that?--Yes sir I have.

"Serious and harmful consequences have flowed from these departures. Since the A.N.C. is the senior

partner, representing the majority of the population who of necessity carry the brunt of the struggle, the C.O.D. and to some extent the S.A.I.C. have tended to adopt the role of mere auxiliaries and assistants to the senior partner, neglecting their essential and primary function of working among their own population groups." Miss the next paragraph and then go on to the final one: "we in the movement know very well that the A.N.C. is the senior and leading partner in the alliance, but also and mainly because it represents the cause of African national liberation which is the core and essence of the democratic struggle in this country. Because of this the question of numerical representation and 'voting' has never arisen at meetings of the Joint Executives, etc. " Remember I put to you this morning that you were all partners in this one scheme, is that not so?--Yes you did put that to me.

Is it not so? --I am not sure which one scheme, and who you 'all' is referring to?

The C.B.D.---The C.O.D. yes

The S.A.I.C.--Yes.

The Communist Party?--No sir - you see, if you read the paragraph before the one you started with, this document is dealing with something amorphous called the Congress Alliance. Now I said in evidence before that the Communist Party was not ever part of this Congress Alliance. The Congress Alliance is an alliance of Congresses, and does not include the Communist Party.

Yes?--And to the extent that you call those a partnership, they are partners, but it does not include the Communist Party.

The African National Liberation Movement?---
Yes the National Liberation Movement would in my view include the Communist Party.

And the Joint Executives?--The Joint Executives does not include the Communist Party.

Why was the Communist Party left out of the Joint Executives? ---My lord, for the precise reason that these were the Joint Executives of the Congresses, and the Communist Party was not one of the Congresses. It is a simple proposition.

Now let us turn to page 451 for a final reference on this document. You know my learned friend read this out to Sisulu in re-examination as if I had left it out deliberately. "An unreasonable proposal." "We have indicated above the undesirability of mixing up legal and illegal activities; ^a particularly harmful suggestion which seriously infringes this principle would be any suggestion that the U.W.S. as the military wing of the movement should place itself under the control and direction of the N.C.C." The N.C.C. of course if the National Consultative Committee?---That is correct.

Now if the author of this document not making U.W.S. the 'military wing of the movement.'--He clearly does, sir, yes.

Rightly or wrongly?--My lord I think I have answered this question before too. If the phrase is intended to mean that Umkonto has an organic link somewhere with the National Consultative Committee, then wrongly, because it clearly has not and what this document is saying is that the proposal that it should have such an organic link is a wrong proposal. If it just means it is a military group which falls within the ambit of the National Liberation

Movement then it is quite a correct statement sir.

On that let me show you Exhibit R.61. (Page 501).
Now this document - tell his lordship who the author of this document is, what movement or party?---I think I will have to read this document. I don't think I have read this before.

"The Crisis is Deepening in South Africa."
Well perhaps you can read it - might I just read to you one passage on page 2 (page 502). "The masses of the people on the other hand have also become impatient and desperate. The National Liberation Movement, led by the A.N.C. was engaged in extensive preparations as revealed by the ? Conference in Tanganyika for an armed struggle. It found expression through what the A.N.C. calls the military wing of the National Liberation Struggle, Umkonto WE Sizwe which has been deliberating one blow after another at Government installations and institutions, including an attack on the officers of the Minister of Agriculture." Mr. Bernstein, if this is a document drawn up by the Communist Party, then it has again made a mistake when it calls the M.K. a military wing of the A.N.C?---No I don't say that. I say if by this phrase military wing you are reading into it that therefore it has an organic connection, then I think it is a mistake. But if you can talk of a military wing, and not imply by that phrase an organic connection, then it is a perfectly satisfactory phrase, as far as I am concerned.

What do you mean by 'organic connection'?---
That is is not under the immediate direction and control of the African National Congress or whatever the document says..

BY THE COURT:

What do you mean by 'immediate direction' - do you mean it is under the general direction, but not under the day to day direction?---My lord, in a general sense Umkonto is under the direction of the African National Congress. If I can explain it this way sir : if Umkonto Wesizwe were to take a decision that in future it will conduct its struggle by the systematic assassination of white people, regardless of which white people, they would just systematically assassinate. My lord, there is nothing constitutionally which can prevent them taking such a decision. They can take it, and they can attempt to carry it out, but the minute they take such a decision, which runs clearly counter and contrary to the policy of the African National Congress, the African National Congress will inform all its members, both in the leadership and in the units of Umkonto We sizwe, that if you follow out this policy, you are breaking the policy of the African National Congress and you must choose: either you follow our policy, or theirs. Since the African National Congress is the older organisation, it has much longer and stronger loyalty from its members in my view than Umkonto, I think if such a situation developed, my lord, the members and those in the leadership of Umkonto who ~~have~~ owe loyalty to the A.N.C. would say 'In this situation we cannot persist in this decision, we have taken a bad policy' to So/this extent, as I understand it, the African National Congress exercises a virtual veto over the broad general policy of Umkonto.

Isn't there very much more, even accepting the evidence of accused No. 2, that there was a constant touch through him - he used to attend the meetings of the High Command?---On occasions, yes.

On occasions, on frequent occasions and on the question of policy, whatever you may mean by policy, the Umkonto was guided by the A.N.C?---Well, for this reason that I am expressing, my lord. Not because it had any constitutional provision which said they could not decide on their own, or that there was any obligation on them to report to the African National Congress.

Well any illegal organisation, Mr. Bernstein, which is not bound by any legal ties with another organisation obviously can't be controlled by that organisation.--- That is so.

I mean, you here have an illegal organisation which is either sponsored or allowed, which is the word which the accused preferred to use, to take its members, and draw its members from the A.N.C. members, and carry out a certain task.---That is so. But once they started doing something beyond that task, my lord, then they would be faced with the problem "Is the A.N.C. going to withdraw its members at this stage?"

Well that situation has never arisen?--No, but I say if one is speaking about the A.N.C. controlling this organisation...

In fact, what is the difference between this and a company which forms a sub-committee and allots a certain task to that sub-committee? What is the difference? ---Well my lord the difference is that it has formed the sub-committee, it has nominate the personnel, and presumably given it its terms of reference. That did not happen in this case, as I understand it.

Some people say it did not happen that way.--- I am going by the defence evidence which I accept, my lord, that it did not happen this way.

But the man who was one of the prime leaders, or the leader, of the .A.N.C. then became the prime leader of the Umkonto?--That is so sir.

So I mean, he was allowed to choose his own committee?---He chose his own committee..

He chose his own committee - he was allowed to choose his own committee!---Well I am not arguing that point!

AT THIS STAGE THE COURT ADJOURNS UNTIL
the 5th MAY 1964 at 10 a.m.

Belt 92E.

ON RESUMING AT 10 a.m. on the 5th MAY 1964.

FURTHER CROSS-EXAMINATION OF ACCUSED No. 6 BY DR. YUTAR (CTD).

Mr. Bernstein, yesterday you conveyed to his lordship whilst the South African Communist Party was a limb of the National Liberation Movement, it was not in fact a limb of the Congress Alliance?---That is correct.

as
And/you rightly pointed out, for the simple reason that the Congress Alliance was a Congress alliance of the African National Congress, South African Indian Congress, South African Congress of Trade Unions, South African Coloured People's Congress and the Congress of Democrats?--That is so.

When was the Congress of Democrats formed?---
I think it was formed in 1951 or 2, during the defiance campaign.

And by whom was it formed?---It came to be formed in this way: the African National Congress and the S.A. Indian Congress jointly invited several hundred Europeans in Johannesburg to a meeting at the Hall. They suggested there very strongly that it would be in the interests of South Africa as a whole that there should be a vocal and effective body of Europeans putting forward the view which they themselves were putting forward, that this country should become a non-racial society, and as a result of that a Resolution was moved at that meeting, which I myself moved, to found such an organisation, and it was adopted by the meeting.

All very interesting, but what I wanted to know is who was the leading figure in the formation of the Congress Alliance?--Of the Congress Alliance?

I beg your pardon, of the Congress of Democrats.

---My lord that is hard to answer. As I say, I moved the Resolution, if that makes me the leading figure, I don't know.

Who launched it?--A provisional committee was elected my lord. I can't remember now if it was at that meeting, or a subsequent meeting and that committee then set about the job of organising branches and units of this organisation in different parts of the country.

Who led it,?---Well I would say the Committee led it. I can't think of any single individual who one would describe as the sort of undisputed leader of the organisation.

Are you serious when you say that?--Quite serious. Quite serious. And you are telling his lordship the truth?---Yes that is my view of it.

Your view?--Yes.

Were you on the editorial board..when did you join the editorial board of "Fighting Talk"?--I am not very sure my lord but I think it would be about 1949 or 1950.

And you wrote articles under yourname?--Both under my name and under pseudonyms, and anonymously.

Such as?---On occasions I wrote under the name of Ben Giles(?) on occasions I wrote under the name of Elwood Cholmondeley (?) and on occasions anonymously.

And you sometimes signed your articles L.B?--- Very likely yes.

I am not trying to be familiar, but you are also known as Rusty?--That is so.

And you are married to Hilda Watts (??)?---That is so sir.

Now I don't want to embarrass anyone in this

Court. I am going to show you a document which has not yet been put in as an Exhibit, it is "Fighting Talk" of September 1963. I don't want you to mention names, but did you write that article?---My lord, it has the initials L.B. at the bottom, it is familiar, I think I probably did. I have not read the whole article to make sure.

I am not going to read out the title of the article, and when I refer to the party in question I am not going to mention his name, I will just call him MR. "A" (Not to confuse him with Mr. "X"). "For another man, that alone would be enough, but not for A. He has found time and enegery, made time and energy, to launch and lead the Congress of Democrats to carry on the struggle against South African racialism and to hold out a hand of comradeship alliance to non-white fellow-citizens who strive for democratic rights and liberty." Is that correct?--- Yes I think that is correct.

So when you wrote this article September 1963, you knew that it had been launched and led by Mr. "A"?--- Well I would say one of the group, Mr. A was one of the group who launched..

You did not say it in this article?---No sir I did not, but that's..

And Mr. A, shall we say that he is a listed Communist, and leave it at that?---That is correct.

In fact, when you speak for another man, you say just before that "Largely through his efforts and activities there emerged Transvaal peace council and now with wider support and more representative backing the South African Peace Council of which he has been elected Vice-president." So we find the Communists have a finger in the pie of the Transvaal Peace Council and the

South African Peace Council.---They participated in that.

High-sounding names, wonderful sounding names, but with Communistic interests?---I don't know how wonderful or high sounding the names are - they stand for what they say. They stand for the maintenance of world peace and Communists participated in them.

Mr. Bernstein, if you want to read this to refresh your memory you may. I am not putting it in as an exhibit---Well if it is not going in I ..

You can refresh your memory. You don't deny you wrote that article?--No sir I don't.

Mr. Bernstein, you are a listed Communist?--- That is correct sir.

So is your wife?---Yes, that is correct.

And according to your bail application addressed to this Court you made it perfectly clear that you were not prepared to have your name taken off the list of listed Communists?--Not under the conditions in which it was offered to me, sir, no.

And your name was listed in the Government Gazette Extraordinary of the 16th November 1962?---That is very likely sir.

And you are not prepared to have your name taken off the list of Communists?--Not on the basis on which the offer was made.

What was the basis of the offer?--That I should give reasons why my name should not be included on the list. I requested, or I don't know if I requested sir, or I objected to the fact that no hearing was given to those people who were being subjected to this form of punishment, that no attempt was being made to provide us with the

evidence on which the Government was acting, and I refused to participate in such a travesty of judicial procedure.

You could of course have said "I am not a Communist, because I am simply NOT a Communist and I don't belong to the Communist Party" but you did not do that.---- The question was not whether I belonged, but whether I had belonged prior to 1960 when it had been legal to do so.

You remember yesterday I referred you to an article..I asked you about the Assegai yesterday, and you said it was printed in London?--No I think that was about the African Communist.

Where was the Assegai printed?--My lord, I don't think I know - I have a feeling, I may be wrong, that one of the issues says 'Printed in France' but this is an impression.

And did you ever contribute to it?--Never.

Did the South African Communist Party pass on information to it?--To Assegai?

Yes.---I would not know. I would be very surprised if it did so.

Do you know who the editors were?--Only from what has emerged from correspondence read here in Court,

I prefer to put those documents to another accused, if he goes into the box. What about the African Communist where was that printed?---In Great Britain.

On behalf of?--On behalf of the South African Communist Party.

As a quarterly journal?--Yes I think so.

Who contributed to that journal?--My lord, there are a large number of names of writers listed in it.

Did you contribute to it?--No sir I did not.

At no stage?--No.

Right. Having said that - you remember the "Fighting Talk" I put in yesterday Exhibit 131 where under the heading "Going down in Blood" you took Mr. Fouche to task?--Yes.

The Minister of Defence, and you spoke about the large amount of money that he wanted out of the tax payers in order to contend with the military action which was being secretly planned?---Yes.

I want to refer you to "The African Communist" Exhibit R.227. that is the issue for July/August 1962.---Yes.

The Fighting Talk I referred to was April 1962, and this is now July/August 1962. And as it says here, it is published quarterly in the interests of African solidarity and as a forum for Marxist-Leninist thought throughout our Continent by the South African Communist Party." And we have an editorial note Fascist South Africa. I just want to read to you a short passage "The statement issued by the Congress Alliance, 50,000 copies of which were seized by the Special Branch of the Police before they could be distributed to the public, points out that if legal and peaceful means of struggle..(quotes)..the people will turn to methods which are neither legal nor peaceful. which "New Age" the fighting peoples' newspaper/for many years has kept the flag of freedom and equality flying in Cape Town, now itself under imminent threat of banning, links the new Fascist legislation with the decision of the Government to spend R120,000,000 on defence under cover of a fake scare of 'invasion'. The Government prepares to rule on war footing; as has been proved by the history of despotisms in all countries, this sabotage bill will not achieve its object and it will merely steel the opposition and encourage it to adopt new and better methods of achieving

its targets. Thousands of leaflets issued by the South African Communist Party on the passing of Vorster's new law are a vivid illustration of what is proclaimed by the text itself, that such laws cannot destroy Communism, because it is true and in the interests of the people. " Can you tell his lordship who wrote that, who conveyed that information to the African Communist in London?---No my lord I cannot.

You will agree that in essence it is in agreement with your article 'going down in blood' in Fighting Talk of April 1962?--I think it has much the same point of view on the subject.

And what is more, the leaflet, The South African Communist Party, the thousands of leaflets there referred to, is the one we discussed yesterday Exhibit C.0. "Vorster's Nazi Law can Never Destroy Communism."--- Yes, that is probably so.

Whilst we are on that - are ~~xxx~~ these the correct aims of the Communist Party, the same leaflet "Down with Nazi Rule, down with White Supremacy, for freedom of speech, of movement, of the press, of organisation for work, land and freedom, votes for all, power to the people?"--Those are slogans which express in a very short and summary way their aims.

Or as said in Exhibit C.P.1. "The right to vote for a share in the Government".--Yes.

"Equal rights and opportunities, regardless of colour"?--Yes.

"Enough wages or land for a decent life"?--Yes.

"A life of dignity, peace and freedom."--That is so.

Apart from those basic principles, I take it the Communist in Russia lives a normal way of life?---I am sorry, I don't follow that question.

Apart from these political and economic principles ~~and~~ for which the Communist Party stands, I take it the Communist in Russia lives a normal life? He buys his food in the shops?--He certainly does so, yes.

He either owns a house or he rents a house?--
Yes sir.

He pays taxes?--Yes he does.

And in that regard he has ^{the} ~~a~~ normal obligations of any human being in any country?---Oh yes.

Now I want to show you another document which has not been put in. I want you first to identify it - you see this document here? Is that a document issued by the South African Communist Party?--This is what it says.

This will be EXHIBIT "DM." This is now "A message to you from the S.A. Communist Party" and I think we can date this document. It must be at least November 1961. ---That would be so.

Because it is 44 years after the Socialist Revolution.---That is so.

Which took place November 7th 1917.---Correct.

So this is issued not before, possibly after. ---It would seem so yes.

Now look what this document says "For higher wages, land, freedom, equality, 44 years...(quotes) Socialist Revolution, free bread, free public transport, free education, free medical services, free holidays, free meals at work - no rent." Is that a true statement?---My lord, one has to

read the following paragraph, which says "Sounds like a dream, doesn't it, but that is what Communism is bringing to the 200,000,000 people of the Soviet Union" and I take it, sir, that what is said here is not a description of what actually exists, but of what is coming.

What is coming!--And I think as a description of what is coming in the Soviet Union it is probably accurate.

Probably accurate?--Yes.

For whose benefit was this dream issued in circular form?---My lord, apparently for the public.

For the public. European?--I could not say sir, I would have to read the document to see whether it makes that clear.

Well I can help you very simply. If you turn over the page you will find, also written in two different bantu languages.---Yes that is so.

Don't you agree that this is a wickedly false representation to convey to the native people of this people, telling them that under Socialist regime you can get free bread, free public transport, free everything? In fact, according to this document, the Government pays you to live!--My lord, if one reads on a paragraph further than the paragraph I read, it says "In the next 20 years the Soviet people will be building a Communist society, and by 1970 they will surpass in production per head of population the strongest and richest capitalist country, the United States."

Yes?--And it is dealing, as I say, with what is coming in the Soviet Union, and in my view, probably accurately.

And what is coming in South Africa, under Communistic regime?--Very likely, sir. In the long-distant

future, yes very likely.

But you know, you don't say it here 'in the long distant future' and if a banty reads this, - you know of course bread is one of his staple foods?--That is so.

"Free transport" - transport is a thing that he has got to use every day, and you are holding out to him wonderful bait?--I think it is wonderful bait.

Wonderful bait!--That is so.

And you think this is true?--I think this is capable of realisation, my lord.

But do you think the bantu, Jim Fish from Fish Hoek, or John Mhlaba from Port Elizabeth, or any bantu for that matter, when he reads that, will understand that this is something that is going to happen, not in his lifetime, but in the lifetime of his great, great, great^d grandchildren?--Well it is not telling him about his lifetime. It is telling him what is happening in the Soviet Union. And I think it is going to happen very likely in his lifetime.

You think it is likely?--Yes.

You see I put to you yesterday that in a number of documents the Communist Party has falsified the true position, or has misrepresented the facts to the public, and particularly to the non-Europeans.--I dispute that.

Now we can continue where we left off yesterday, and we were dealing with Exhibit R.61. Now you have had a chance to read this document?---Could I just see it again?

You know "The crisis is Deepening" ---Yes I have read that.

Is that a Communist document or an A.N.C. document?---My lord it is not clear to me that it is issued

by any organisation at all. It could well be a personal statement that somebody y has used in my opinion.

Alright - but it shows a fair knowledge of the political position in this country?---Yes, the person is fairly well-informed.

Well I don't want to quibble with words again and argue with you but whoever expressed this viewpoint certainly thought of the M.K. as a military wing of the A.N.C?--May I see it?

Yes sure - I have marked it.--(Handed to the witness). My lord, in fact the expression used here is "The Umkonto we Sizwe is what the A.N.C. calls the military wing of the National Liberatory Struggle."

Yes.--That is the phrase used here.

Now I want to put to you a simple proposition arising out of this: will you agree, Mr. Bernstein that the bantu population of South Africa are in general a very law-abiding population ?--Yes I think that is so.

And as a rule not given to violence? Taking a general cross-section?---Not more than most people.

The policy of the A.N.C. up til 1961 was one of non-violence?---That is correct.

And most probably that policy proved attractive to a large number of the 120,000 bantu who are alleged to be members of the A.N.C?--I should say to all of them sir, or they would not have joined.

Don't you think that if the A.N.C. publicly came out with a change of policy, that it was now going to resort to violence, it would lose a goodly percentage of that membership?--I think it probably would, my lord.

And don't x you think that this was then just a subterfuge to say that the M.K. was an independent or-

ganisation, and had nothing to do with the A.N.C. in order to prevent a split in the membership of the A.N.C?--- My lord, you say a subterfuge which implies that in fact the A.N.C. had changed its policy to one of violence?

Yes.--Which I have consistently denied here in the box. So I will not accept that that was a subterfuge.

Right.--If you mean that the African National Congress was aware of the fact that if it itself started conducting acts of sabotage it would lose a large proportion of its members, I have no doubt they were aware of that.

They were aware of that, and therefore it would be most impolitic to put it at its lowest, for the A.N.C. expressly to align itself, publicly and openly, with the acts of sabotage of the M.K?---No I don't even think that follows.

You don't think so?--No.

And is that not the reason why we find in some document they speak of the M.K. as the military wing of the A.N.C. and in other documents we find it deleted, or expressed differently?--No sir, I think the different expressions arise from the fact that there are different people writing, they are interpreting A.N.C. policy in different ways, and probably interpreting the phrase "military wing" in different ways too. I don't think they are attempting to conceal anything.

Alright - I don't want to dwell on that document any further. I want to deal now with a series of six documents which I passed over yesterday because they were being examined by an expert, and here they are. Exhibit R.40 (Page 392. Mr. Bernstein would you just look at this document in the meantime - I am not going to deal with it in detail, I did that with accused No. 5. I am going to show you in

connection with this document the following co-related documents, R. 83, R.84, R 85, R.94, R121B and R.143. Now I put to you the general proposition that you personally, and I will come to your document almost immediately after this and the Communist Party purposely misrepresented conditions in this country to people in this country and abroad. ---No I will deny that.

You deny that. Well, we find on page 399 (R.40) you will find this paragraph "No desperation, no adventurism but firm resolute revolutionary action, planned on local initiative in co-ordination with the national leadership of the liberation movement headed by the African National Congress and its fighting wing the Umkonto WeSizwe - this must be the watchword of the Western Cape and all other parts of the country. This is the policy of the Communist Party." Correct, or not?--Yes I think that is correct.

You see what it says, "The African National Congress and its fighting wing, the Umkonto Wesizwe."--Yes.

And that is the policy of the Communist Party. ---No sir, the policy of the Communist party is no desperation, no adventurism but firm resolute revolutionary action.

And in co-ordination?--Yes, in co-ordination with various bodies.

Headed by the African National Congress?--- That is correct.

And its fighting wing Umkonto Wesizwe.---That is what it says.

'This must be the watch^{wo}rd. This is the policy of the Communist Party."--That is right.

Now turn for one last reference page 406. I don't want to dwell on this longer: Now isn't what is

1t 93E

stated in the paragraph beginning with the words "What does this mean?" Is that not a shocking misrepresentation of the truth, the true position in this country?---No sir, I don't think so.

You agree with it?--- I think..

The reference to 'our Courts' - do you think that is a true exposition of the position?--I think the reference to judges who put the preservation of white supremacy before consideration of justice is farfetched. For the rest I think it is correct.

'Points of law and court procedure are thrown to the winds"--That is correct sir.

That is correct?---Absolutely.

Correct of this case, too?---Correct in general of the South African courts, sir, and of the procedure.

What courts have you in mind then?--My lord I had in mind procedure, for instance, which has been adopted in the South African Code recently where points of law have been thrown to the wind, such things as for instance holding a person under duress in order to force him to make a statement, which he then gives in evidence. I think this is a new point of procedure in South Africa. Such matters as not releasing a prisoner on the expiration of their sentence which is a new point of procedure in South African law.

That is what you had in mind here?--I don't know what the writer had in mind sir.

But you are justifying it?--As far as it goes, where it says 'points of law and court procedure' are being thrown to the winds' I think that is so.

But as far as the judges, you say that is far-fetched?--I think that is far-fetched.

Now when you elaborate that, that is what you have in mind when you think of points of law and court procedure?--Well those are some of the points that come immediately to mind, sir.

Have you not yourself personally misrepresented not only ~~ix~~ the legal position in this country but the events in this very case itself?--I don't understand what you mean..about the events in this case..?

Have you not expressed .. do you remember my learned friend Mr. Berrange cross-examining Mr. X? Remember that?--Yes I do.

And he suggested Mr. X was tailoring his evidence to fit in with the State case?--That is right, that is what he said.

Do you subscribe to that?--My lord, on the evidence which counsel produced of his testimony in previous hearings, compared with his testimony in this case, it seems to me it is quite a reasonable assumption.

You agree with it then?--I think so sir, yes.

Did you ever go further than that?--Me personally?

Yes, you personally?--In regard to..?

Witnesses in this case. Have you ever accused the State of 'coaching its witnesses'?--I possibly have said that sir.

In this case---Yes possibly.

Have you accused the police in this case of acting improperly?--I can't recall if I have sir, but I think it is possible.

What grounds have you for saying that the police in this case have acted improperly?--Well my lord,

I can only refer to the testimony of one police witness who himself said here under oath that when you have a 90 day detainee, and you want to get a statement out of him, you tell him what you know are the facts, and then he confirms them.

Then he confirms them?--that is what he said yes.

And he confirms it?---Well he says this is the only way you can get a statement out of a detainee, is when you tell him what you know, and then you put it to him like that.

And if the detainee denies it, are you suggesting that the police then force him to agree?--No they just keep badgering him.

Until he agrees?---Possibly until he agrees, or possibly they give up at some stage.

Any other examples of improper behaviour by the police in this case?---I am not sure that I can call any to ~~my~~ mind right now.

You say you might have said that the State coached witnesses?--I might have.

That is a reflection then on the State prosecutors?---I am afraid so sir.

Have you any evidence to support that wicked suggestion?--My lord, we did have one incident here in Court. I don't know if I am forced to deal with this question, sir.

It affects your credibility?--Well I would like his lordship to tell me whether this is all strictly relevant to the case?

BY THE COURT:

It is a relevant question, Mr. Bernstein. You can answer it.

WITNESS: Well my lord we did have one case of a witness

who testified here on Friday afternoon, who went away for the weekend, who came back on Monday morning, was asked precisely the same questions he had been asked on Friday afternoon, and gave different answers, from which I deduced that some coaching had taken place over the weekend.

CROSS-EXAMINATION BY DR. YUTAR (CONTINUED):

Who is that witness?--I am afraid that I can't recall.

That was a witness where we were having a certain measure of difficulty with the interpreter?--That is so.

But you don't ascribe it then to the difficulty of interpretation, you say directly that the witness was coached?--Well that is my deduction.

That is your deduction?---Yes.

Any other instances of witnesses coached?--- I am not sure that I can recall any others sir.

But notwithstanding that, you make these wild statements?---Well I could have made these suggestions. It is possible.

Did you ever say 'apart from police evidence and documents, all the substantial witnesses OTHER than people who gave purely technical evidence, about for example who bought a particular car, etc. ALL the substantial witnesses have been detainees who made statements under pressure and while subject to detention and solitary confinement, and subject certainly to threats of either indefinite detention or prosecution or both?' Did you make that statement?---Yes I did sir.

Is it true or false?--I think it is probably true sir.

You think it is true - what have you to support it?
---My lord, most of the witnesses have testified here that

they are 90 day detainees.

Most of them?---Most of the substantial ones, let me put it that way.

I am sorry that I am being diverted from my Exhibit 40, but I want to put this to you now at this stage: do you know how many witnesses the State led in this case? --No sir.

Any idea,---No sir.

Well the number is 173.--Yes.

Do you know how many of those were detainees under the 90 day law?--No sir.

Any idea?---No sir.

What makes you say then that substantially ALL the substantial witnesses have been detainees?--My lord a large number of the witnesses in this case have been giving what I regard as purely technical evidence, that an explosion took place, that a motorcar was bought, that an invoice was written out - this sort of thing. I don't doubt that the majority of the witnesses were not 90 day detainees.

You say ALL the substantial witnesses have been detainees.---Well that is my understanding of a substantial witness, a person who is testifying not just to some purely technical formality.

I will give you figures now - of the 173 who were witnesses for the State, 29 were detained under the 90 day detention - 29. Of the 29, now comes the process of elimination, 8 came..consisted of the bantu staff at Rivonia. I need not mention their names, we know who they are?--Yes.

Was any suggestion made to them that they were threatened?--My lord one of them testified here under oath that he was assaulted.

That is right. One of them offered that afterwards, and you heard his lordship ask me to investigate, and you heard what I told his lordship in open Court.--I did sir.

Was anyone of those asked, and that was my question, whether they had been coerced or threatened to give particular evidence?--I don't know if they were or not.

Right. Is it not a fact that the defence have, substantially, admitted their evidence?--Yes. That is so in large part.

So we take away 8. There are the two witnesses Emily Sebone and Eva Hlongwane, the two female witnesses from Mountain View. Has it ever been suggested to them that they were threatened or coerced to give false evidence?--I am not sure, sir. I don't remember.

Right. And in point of fact has the defence not agreed with their evidence, again, substantially as to who stayed at Mountain View and what happened?--Yes I think it has.

That makes 10. Now two others, Balph Sepple, the clerk in Attorney Furman's office and Ronald First - you remember those two gentlemen?--I do.

Two Europeans?--Yes.

Was it ever suggested to them that they were forced by the police or coerced by the police to give false evidence?--I am not sure, sir. I don't remember.

Well if you can't remember, then it satisfies me because his lordship has the record. I can tell you now that no such suggestion was ever put to them?--That may be so.

Right. Then we have this old lady Florence Ntombela - you remember her?--I do sir.

She was an active member of the A.N.C. a very

active member, and it was never suggested to her that she had been forced or coerced by the police, or coached by the State.---I don't know whether it was or not, my lord. Her evidence was certainly contested by the ~~police~~ defence.

Yes - she denied it?--Yes.

It was contested to this extent, that she said Sisulu said that the young must now hold parties to raise money, the young must now carry out instructions and burn down post offices and railway stations. ---Yes.

And bombs. So we will put her down on the list. You remember the witness Alfred Jantjies?--Yes sir.

This man who went across the border and gave his lordship a detailed study of what training he underwent? --Yes I do.

He was not even cross-examined?---That may be so sir.

Right, we will put him down on the list. And you remember his compatriot Isak Rani, who gave the same evidence, and who was hardly cross-examined at all - at any rate, no such suggestion made, right?---Yes.

Then we got Cyril Davids, who dealt with the Mamre Camp. He was cross-examined but it was never suggested to him that he was forced to give the evidence he gave?--- I don't think there is evidence that either Rani or Jantjies were 90 day detainees.

Oh yes. I am giving you an accurate list of the 29 detainees.---Sorry sir.

Now Cyril Davids, he was another 90 day detainee. He spoke about the Mamre Camp?--Yes he did.

It was suggested to him that this was a spiritual and health camp.--It was not suggested to him - he said it.

That is what he was told?--He said that is what

the camp was for when he was told what the camp was for.

That was suggested to him by Mr. Berrange.---
I don't think that is so sir.

Well I can tell you that definitely. Now he was corroborated completely by a man called Caswell - do you remember Caswell?--Yes I do sir.

Caswell, much to the surprise of my learned friend, said he had never been detained under the 90 days?---
Yes.

So we can rule out Cyril Davids?--Rule him out from what sir?

From being forced to give false evidence, or being coerced?---I won't accept that sir.

Why not?---Because he was held as a 90 day detainee, and his statement ~~was~~ was taken from him under conditions which I regard as conditions of torture.

Of torture?--Yes, having suffered it!

That does not happen in Soviet Russia?--I am not discussing that question sir. If you want my description of Soviet Russia, I will deal with it. I consider these conditions as torture.

You know of course that this one professor Danziger (?) gave ~~exix~~ evidence in Cape Town?--Yes I understand so.

Now we come to Essop Suliman - he was also another 90 day detainee?--That is so.

And he in effect, I won't go into details, spoke about the conveyance of over 300 recruits across the border.--Yes.

That has been accepted by the defence?--Ø I don't think a word of what Essop Suliman said has been accepted by anybody sir.

Oh?--As far as I am aware.

In fact has it not been admitted by your co-accused that recruits were conveyed across the border?--- Yes sir, but I don't think the dates, the arrangement, the payment or anything else testified to by Essop were accepted.

I am talking about the recruits?---The mere fact that recruits were carried across the border by Essop has been accepted.

That is all I want! You remember Harry Bambane, that is a recruit who is serving a two year sentence. It was never suggested to him - that he has been either coached by the State prosecutor, or forced by the Police to give false evidence.---That may be so) I can't be sure.

MR. BERRANGE: My lord, my learned friend is completely wrong, I don't know where he gets this evidence from - it was in fact suggested that he changed his evidence threetimes.

CROSS-EXAMINATION BY DR. YUTAR (CONTINUED):

You know Mr. X?--Yes.

You heard what he told his lordship?--I did sir.

That he decided, before he had been even arrested, let alone detained, to come out with the whole truth?--Yes I heard him say that.

Are you now suggesting that he was tortured to give the evidence he did?--No I did not say that.

Or coached by the State?--My lord, as to whether he was coached or not, I did not specify that he was coached. I think his evidence is subject to a great deal of suspicion.

I am not denying it, but I am dealing now with the allegation that evidence was forced out of him as a result of detention?--No I don't think in his case, according to his evidence he gave it voluntarily.

And what about Abel Mtambu, Mr. Z? Was he not in the same position?--My lord, he is a man who was not only detained, he was detained, released and re-detained, and then he gave his evidence. I think his is open to grave suspicion.

And you know why he was re-detained? He gave his statement the moment Mr. X pointed him out to the Police?---That may be so.

You remember this old bantu man, the herbalist?
---Yes I do.

He was detained?--He was.

He is a relative of accused No. 9?--He is sir.

It was never suggested to him that he had been forced to give the evidence he did?--I am not sure about that, I am not quite clear, but I think his evidence is very seriously contested by the defence.

Oh yes! Of course! Because he gave most important evidence, that No. 9 brought dynamite to his garage on three occasions, and buried it?--That is so.

But I am talking about - do you suggest he was coached by the State Prosecutors? that he was improperly forced by the police to give evidence?--My lord I have made it quite clear that I say that every detainee who gives his statement under duress and conditions which I regard as torture is being forced to make a statement, and his statement is subject to suspicion. I have dealt with one case in which I think that there was clear evidence in this court that coaching was taking place by somebody.

By somebody?---By somebody.

It could only be by the state prosecutors?--
Or by the police.

But you have got nothing to substantiate that?
----No I am drawing a deduction from the evidence in this Court.

You remember the witness Peter Mvombu who testified to the commission of two acts of sabotage?--Yes.

Do you think he was forced to say that he committed two acts of sabotage and not one?--My lord he was either forced or induced or he was persuaded by some fantasy but it was shown in court here that he made three different statements about the same subject, all under oath, at different times.

So the police must have been awfully inefficient in forcing him to make one statement - they got 3 different statements out of him!---Yes, and they have led all three in evidence!

We are left now with 5..no 7. Let me get another two out of the way. Dondashe Norman and Peter Peyise. Member those two gentlemen spoke about a conference in Lobatsi?--Yes.

Did such a conference take place?--It did.

They say that Oliver Tembo was there. Was he there?--I understand he was.

They say accused No. 4 was there - was he there?
---I understand he was, yes.

They say both these speakers, and they were only asked about both these speakers, said that recruits were obtained in South Africa and sent across the border for training?--They did.

Has that been admitted by the defence?--My lord I don't know whether it is admitted by the defence that that was discussed at Lobatsi, but if you are talking

about these two witnesses, they are both testifying my lord to a conference which lasted two days.

Yes?--They were both extensively cross-examined by the defence if they remember any other single fact in these two days other than this one factor which both of them testify to, and neither of them remembered another single thing.

But was it not an important item on the agenda, the recruiting of recruits?--I have no idea at all sir.

No ~~xxx~~ Idea?--No.

And to a raw bantu that would be an important thing wouldn't it?--My lord, to anybody it seems to me remarkable that his memory of a two day conference is precisely the same as the memory of the next witness of a 2 day conference.

And because of that are you suggesting that the Police coached them?--I am suggesting that somebody persuaded them that this is what happened.

Now of the 29 then who were detained I have eliminated 24 and we are left with the following 5: Bennet Mashiane, Reginald Mduli, let us take those two just for a moment. Is it not a fact that learned counsel have been quoting these two people, and saying that acts of sabotage were never discussed at the meetings of the A.N.C?--I think that is so.

So if the police were forcing them to make statements to suit the police, they were singly inefficient in not getting them to say that acts of ~~xxx~~ sabotage were in fact discussed at the A.N.C. meetings?--That is a deduction you are making, I am not.

You don't want to choose that deduction, you want to choose the reverse! And finally we are left with now

3 witnesses of the 29 detainees, and they are John Tshingane, the taxi driver, and the two Nkikelanes, Zizi and Sikumbuzo - who, between / the three of them testified to totally different facets of this case, from the Eastern Province?---I think these are the 30 witnesses of whom the police officer said that their statements were got from them by telling them what he knew. I think these were the three.

One of them.--Or one of them.

Card. And despite what I have done now, the analysis I have made, you still say that "all the substantial witnesses have been detainees who made statements under pressure, and while subject to detention in solitary confinement, and subject certainly to threats about indefinite detention, or prosecution, or both? Their behaviour runs completely according to pattern. All of them have lied or distorted or fabricated their evidence to a greater or lesser extent, some cunningly exculpating or hiding their own part in the events, some not." Is that a fair and honest description of events in this case?---That is my summary my lord. Other people might differ with me.

And you stick to it?--Yes it is still my opinion.

You stick to it? And you go on to say this:

BY THE COURT:

What document are you referring to now?

DR. YUTAR (to the witness)

You wrote this letter didn't you?---I did.

DR. YUTAR (to the Court)

I am referring to a letter my lord which this witness wrote to two other people on the 8th February 1964 (to witness) and it has not been put in my lord. /I don't want to embarrass anybody and say to whom you wrote it.

THE WITNESS:

Well perhaps you should embarrass people, sir, and say how you came into possession of the letter.

DR. YUTAR (Continued)

Yes - you know perfectly well!---I know sir. It was intercepted by the gaol authorities, to whom it was handed for censoring.

Yes! There is nothing wrong with that - all letters are censored?---That is right.

And this is what you go on to say "So this is now patently # the basis of operations. You arrest a man, hold him in solitary confinement, tell him that he will be held indefinitely unless he answers satisfactorily - that is the key word, and tell him what he knows are the right facts, and just keep at it until he answers satisfactorily." Is that a correct description of what occurred in this case?---I think it is a correct description of what occurs to 90 day detainees.

I am talking about witnesses in this case?--- Those who were 90 day detainees, I think that is very likely what happened.

And then you go on to say, pay me this compliment: "Here too Vernon did a great job exposing this very patent, blatant is a better word, coaching of witnesses." How dare you say that if you have got nothing to support it? ---My lord, I have explained the case on which I think it is an adequate statement.

You think so, and you could only quote one case?--That is the case I am quoting.

The witness where we had difficulty with interpreting?--That is so.

And one final extract from this letter "And yet the whole thing disgusts me, the unprincipled timidity of people and even the more unprincipled willingness, eagerness, of the authorities to use them."---Yes.

You adhere to that?--I adhere to that.

That is a condemnation of course not only of the investigating officer but also of the State prosecutors in this case?--It is a condemnation of the State, sir, which has provided facilities for witnesses statements to be taken from them under duress.

Have you told your friends overseas, to whom.. information this was, most probably for publication ..--It was not at all for publication my lord, and there is no possible suggestion that it was.

No!--Not at all sir.

Did you tell your good friends across the border that the defence have in fact admitted the major part of the State case in this case?--My lord..

Have you done that?---I have only written one letter dealing with this case at all, my lord, and that is the one, and it has been stopped by the gaol authorities. I have not written anything else about this case.

But in this letter did you tell them that the defence was in effect admitting the major portion of the State case?--I cant recall if I did or not.

Well I can tell you, no, and I can show you the letter, and did you perhaps tell your friends overseas that the documents in this case supported the evidence in a large measure, even of the 90 day detainees?--My lord my friends overseas read the newspapers, they see what the

evidence is and what is being admitted.

Yes - it all depends what newspapers they read doesn't it?---I take it that all newspapers which report the proceedings, report the proceedings sir.

Now let us carry on. I am not going to read anymore from Exhibit 4D, and I show you Exhibit R83, in support whose handwriting is that, Mr. Bernstein? Do you know the handwriting?--No my lord, I can't identify the handwriting.

Do you know a man called Howwitz, Cape Town?---
Yes I do.

He is an architect?--^Yes - he is no longer in Cape Town.

He was in Cape Town?--He was in Cape town.

An architect?--Yes.

Is that his handwriting?---It is possible, my lord, I just don't know.

Exhibit R84 - do you know whose handwriting this is?--No my lord.

It may be the same person?--Well that is possible.

And then R.85- do you know that handwriting?
--My lord they all appear to me to be the same handwriting, but I could be wrong about that.

In fact you are right, because that is the view of the expert - I can't call him now. And by the way, who is Archie?---I don't know my lord.

You speak of an Archie in this letter of yours, don't you?--Oh that is possible, if that is the Archie you are referring to. It would be Mr. A^Rchie Levitan.
Belt 94E.

Archie Levitan?--Yes.

Who is he?--He is an old friend of mine.

What are his political colours?---Reddish sir.

Because we have some documents which we found in the coalshed with Archie's name on top.---Well it might or might not refer to him.

Do you know any other Archie?--I know several, sir, yes.

Who? We know Archie Levitan, he is Red in colour, political colour. Yes, what other Archie do you know? --I know a man called Archie Dumede in Natal, I know an Archie Sibeko in Cape Town.

Red in colour too?--I think they were probably supporters of the African National Congress.

P.94, that is a typed document - do you know whose handwriting appears there on top?---On the document?

No the covering letter.---This here?

Yes.--That is my handwriting.

Mr. Bernstein, you know what questions I am going to ask you on this.--I am not sure if I do.

That is your handwriting. Now you write there "Have made a few notes on the first copy. Will be back for lunch 1.20 approximately." ---Be back approx. 1.20.

Who is Ed?---That is the name that I use on occasions sir.

Eddy?--That is right.

That of course is known to Sisulu isn't it?--
I very much doubt it my lord.

Who is Ethel? Who is Tony?--I am not prepared to answer that question sir?

And who is Ethel?--Likewise.

You are not prepared to answer those questions?
--No sir.

Who gave you this document 'Into 1963'?--Is that the document attached?

Yes. It is R.94, and it is headed "Into 1963."

---Who gave you this document?---My lord, I am not clear if anybody gave me this document, because although the first ..the note says "I have made a few notes on first copy" the notes that are in fact made on this document are not my notes at all. These are not my notes at all.

Well look at page 3 - whose handwriting is that? Page 3 in the column?--I think it is of the same handwriting as the documents you have just given me sir.

That is right. And on page 4, the word "Security"? ---It looks as though it is also probably the same.

Now what document was given to you if it is not this? That is how it was found in the coalshed?--My lord I really cannot remember what document this refers to where I say "Have made a few notes on the first one?".

Well it is possible that there was another copy of it attached, and you made your notes on that?--It is possible sir. I just can't remember what document..

But it is attached nevertheless to this document?--Yes it is.

Now here I just want to read two very short extracts, page 5 (page 611). Paragraph xxix: "Umkonto we Sizwe. This organisation assumes prime importance in such a time as this when the people are turning to direct and violent forms of struggle, seeking for leadership in such a struggle, and when violent upheavals are imminent. Thus far Umkonto has to some extent stood apart from the general political movement, conducting its activities of sabotage in a way which did not closely and directly link these acts with the political organising and agitation of the rest of the liberation movement. Just as the people's movement does not stand still, but advances constantly to new struggles and new fields of action, so

Umkonto cannot stand still in the position it now holds." Correct, Mr. Bernstein?---I am not sure if I understand it at all, sir.

There are no corrections made!--No the sense of it rather..I don't understand what the meaning is so I could not really say if it is correct or not.

Would you like time to consider it, because I want to read to you the next paragraph, and then the summing up on the next page?--Well I think if you want me to comment on it I will have to read the document. I can't understand the sense of it

But now let us make it perfectly clear - can you indicate to the Court when Tony asked you to go over this.."please run over this redraft in the meantime." It is obvious that somebody had drafted it, it had been redrafted, and you were asked to cast your eyes over it.---That is apparent, sir, from the note.

And can you recall having cast your eye, or run over such a redraft?--Of this document?

Yes?--Not that I can recall my lord.

Is it possible?--It is possible yes, I can't recall it now.

I would like you to read paragraphs xxix and xxx, and then the last page, particularly the summing up. ---I will do that sir.

And now finally I want to put it to you that all these documents I have put to you so far, Exhibit R.40, R.83, R84, R85 and R94 is the one we are dealing with, ~~are~~ compilation ~~ix~~ drafts which culminated in the final ~~xxxxxxxixixix~~ of Exhibit 121B. You can check on that. You can perhaps do that at leisure?--Yes I think that better.

You will find it deals with the same subject

matter, higher wages, the pass laws, into 1963 - some of the words are even the same, as that document I have given you, Exhibit R.121B - that was found at Rivonia, and Mr. Dirker said he roneped it from a wax sheet found over there, and the identical copy of it, Exhibit R.143 was found in Goldreich's motorcar.---These that you say are drafts of this document, how far back do they go? Do they include R.40?

Yes, starting with R.40, and you can have the whole series. And not only was this found in Goldreich's motorcar but it was also recovered in Natal, the identical copy. Can you recall when Tony asked you to cast your eye over these documents?--I can't my lord. It would be sometime in the second half of 1962 to 1963 - I could not say when.

In fact you often did this sort of work at the request of people whose names you are not prepared to divulge?--I did a lot of this sort of thing.

Because you were regarded as a propaganda expert? ---No I would not say that, my lord. I was regarded as one of the writers in the movement.

And you knew the facts of the case so well that you were asked to check the drafts?--And make comments, yes.

And if necessary delete anything which was false or wrong?---Or which I did not agree with.

AT THIS STAGE THE COURT ADJOURNS.

ON RESUMING AT 11.30 a.m.

CROSS-EXAMINATION BY DR. YUTAR (CONTINUED):

Well Mr. Bernstein, you have had a chance now of going through this set of Exhibits?--Yes sir.

Now paragraph xxix, is it not clear to you what it means?---That is of R94 is it?---

R.94 - is it not clear to you now what paragraph xxix means?--My lord, when I read it together with the following paragraph, it seems to me to be saying that what Umkonto should be doing is that it should be co-ordinating its activities very closely with such things as for instance the struggle against the pass laws and against bantu authorities.

Right. Well, we have read paragraph xxix, I would like to get paragraph xxx on record in these words: "In the main, focal points of political struggle during the coming period - the fight against the pass laws and the fight against Bantu authorities - the work of the Umkonto groups needs to be closely co-ordinated with the work of the liberation movement. In the types of activities derived above" is that right?---Well it seems to have been amended to say "described".

"described above in both the pass and Bantu Authorities campaigns, Umkonto units can be a tower of strength and a source of inspiration to the people. Disciplined, effective and determined actions by Umkonto designed to bolster and support the peoples political struggles can also serve to head off reckless and desperate schemes of the Poqo type and give the whole people an important object lesson in how to fight, not to use violence, not for its own sake and blindly, but for the cause of liberation and as a part of the liberation struggle." I notice I have marked part of the following paragraph, which is terribly important Mr. Bernstein, you have read this too? ---Yes I have.

It is paragraph xxxi: "Umkonto's aim is the aim of the liberation movement - the overthrow of the state of white supremacy. That aim, as has all along been understood, cannot be achieved through acts of sabotage, however helpful such acts might be in raising the morale of the people, and undermining the confidence of the enemies. Ultimately the aim of Umkonto will have to be reached by the turn from sabotage alone to the mounting of a full-time armed struggle against the forces of the state. Such a turn does not take place according to a timetable of Umkonto's leadership. It takes place according to the tempo of development of the struggle, and in a way and at a time determined by the course of our history. It is apparent that present developments in the South African situation may well proceed faster than Umkonto's planning, and burst out in directions not contemplated at present by us. It is thus necessary for Umkonto to advance speedily with its preparations for full-time armed military operations against the government, and at the same time to be ready to seize unexpected unforeseen opportunities for entering on such struggles which might arise in the course of political campaigns.

To Sum Up: we are approaching a period filled with revolutionary possibilities, in which new militant and violent forms of peoples struggles become possible and likely" And it continues to sum up, I am not going to read it all, and the last one "The direction of Umkonto's work must be designed to merge with and complement the political struggles of the people, in preparation for the establishment of a full-time peoples armed force for liberation." Can I just sum up Mr Bernstein by saying that these documents that I have shown you, Exhibits 40, R.83,

R.84, R85, R94 have culminated in Exhibit 121B "The Revolutionary Way out" a statement by the Central Committee of the South African Communist Party?---That appears to be the position, my lord.

DR. YUTAR (to the Court)

My lord, after consideration, very deep consideration, in view of certain legal difficulties which I need not put now, I am obliged to put in the two exhibits I referred to this morning. One is "The Fighting Talk" September 1953, an article by L.B. (Exhibit D.N.) It deals with the formation of the Congress of Democrats, and article by yourself, Mr. Bernstein.--WITNESS: Yes sir. (to witness) And then my lord the letter which I have referred to, Exhibit DQ, a letter by L. Bernstein, yourself?--That is so, sir.

To two parties staying in London?--In London.

The address is given here. Exhibit D.O.

Now Mr. Bernstein, I think we can very quickly go through what is left. The next one I want to deal with is Exhibit R.92. (page 596 in the third volume). Mr. Bernstein this is another Communistic document, atleast, to put it more correctly, another document of the Communist Party of South Africa?--I think that is so.

Headed "The new Year, some ~~Tax~~ and Perspectives"

In the second paragraph it refers to the new programme of the Soviet Union which was adopted at the 22nd congress held in October 1961." Is that right?--Yes.

And we have got Exhibits dealing with that congress, including the speech by Mr. K?--That is correct.

Not accused No. 5 this time?--No.

And now we come to page 598 and that is paragraph 5 and it is headed "Some local problems." "The recent period

in South Africa has had the appearance of comparative calm without any major mass struggle. Already last May in summing up the experience of May 31st the General Strike we recognised that a combination of overwhelming force and emergency rule by Government had brought the legal mass movement to a turning point in its history. We recognised then that the prospects of legal mass actions were growing more and more remote, and that the way forward lies through illegal actions of both a non-violent and a violent character. Since then illegal actions of a new type, acts of political sabotage against the Government and its installations have been carried out in different parts of the country. The most widespread, coordinated ~~xxx~~ and planned of these actions have been carried out under the direction of the new organisation which has come into being Umkonto We Sizwe." That speaks for itself, not so?--Yes I think it does, sir.

Clearly!--Yes.

No doubt about that! Miss out the next paragraph and I will just read the first part of paragraph 6. "In political statements in the past we have ourselves pointed out that in the conditions existing in South Africa the liberation movement dare not assume that the struggle can necessarily be won by non-violent tactics. Government policy makes it increasingly likely that in the long run the liberation movement will have to resort to arms against the Government. It is for this reason that we welcome the appearance of Umkonto. We regard it as a valuable weapon to supplement the work of mass agitation at present and also a valuable field for the training of militant liberation fighters in the techniques of armed struggle which they may well have to carry out in the future." May I stop there, Mr. Bernstein, and just point out to you that the

liberation fighters are not used in the same context in which the liberation fighters was used in the treason trial?---I am afraid I amnot following you sir. I don't see those liberation fighters here?

Oh yes they are! "The training of militant liberation fighters" ---Oh.

Have you got that?--Yes.

Used in this document, it assumes quite a different connotation to that which applied to that phrase during the treason trial and up to the treason trial?--- Well it says quite clearly, sir, this is a new field, they will be taught the techniques of armed struggle.

That is right. Now page 599, you will find the last portion of paragraph 6. "Umkonto's Manifesto states that it will act under the general inspiration and in accordance with the line of policy of the established national liberation alliance." In brackets, may I say that included the Communist Party.---Well it is a rather odd phrase sir. I have never used it used, the national liberation alliance. I think it probably does include the Communist Party.

Well it is the same as the national liberation movement?--Yes I think that is what it means.

"It is correct and should do so. It is in our view always bad for the control of political decisions to be in the hands of military leaders selected less for their political than their military ability. Umkonto is not a substitute for the established mass political organisations . It is a specialised organ for a specific and limited purpose." Mr. Bernstein is it not a fact that according to this document of the Communist Party, the M.K. was established to commit acts of sabotage, under the

guidance and direction of the National Liberation movement, from whom it had to receive its instructions in the political field?---When you say under the direction, sir, I would not say that. Under the guidance, certainly, yes.

And if the National liberation movement said to the Umkonto's leaders "Now I don't think you should attack the old Synagogue where the treason trial was held, where accused No. 1 was tried for political reasons" then M.K. would listen to it?--I think it probably would sir, although there is no legal obligation on it to do so.

And if conversely the political leaders of the National liberation movement said to the M.K. military leaders "From the political psychological point of view, it would be desirable that you blow up the old synagogue, the symbol of apartheid and oppression" then it would so do? ---Very likely sir yes.

Paragraph 7, just the first two lines: "We are in full agreement with the need for these new methods to supplement and inspire our traditional methods of mass action." I am leaving out the rest for no other reason than that I want to get on, and likewise the first 3 lines of paragraph 8. Oh I am sorry, I missed that one part in paragraph 7, the lines beginning with the word "Naturally." "Naturally our units will be interested in discussing the part which Umkonto plays in relation to the main political problems of the country."---Yes.

And then 3 lines in paragraph 8 "There are that signs/in our recent activities our whole organisation has tended to focus too much of its attention on discussion of political sabotage and too little on the development of our mass political work." Is that not an admission that

up to this time when this document was drawn, the Communist Party was saying, according to the author of this document, 'too much attention to political sabotage, and too little attention, by comparison, to mass political work'?---Well, if you mean too much attention to committing acts of political sabotage, it does not say that, sir, and I don't think it even suggests it.

Well, what were the discussions then of political sabotage, if not perhaps selection of targets? ---My lord, this is a matter of speculation, and I cannot answer that question.

CONTINUED ON PAGE 197.

No. Well, I shall argue about it. I think it is all I need to worry about that concerns you about this document. You can go on now. 92. The next one is 95, my Lord, page 614. This is a lengthy document, I don't propose to read a single portion of it except the heading. It is entitled "A Syllabus on fundamental principles of Marxism for advanced YCL education and for party branch members." Here it is R.95. And then it deals with contents under quiet sessions, not so? --- Yes, that is correct.

Another document drawn up by the Communist Party? --- My Lord, I couldn't say that. I don't know whom it is drawn up by unless I read it.

Well, syllabus on the fundamental principles of Marxism, that's your philosophy? --- That's the International philosophy of Communism.

For advanced YCL, what does that stand for? --- Young Communist League.

Young Communist League education and for party branch classes? --- Yes.

BY THE COURT TO DR. YUTAR: Is there any date on this document? --- No, my Lord, I was going to ask the witness that.

MR. BERNSTEIN: My Lord, I don't doubt that it is drawn up by somebody somewhere in the Communist movement. Whether it is a South African document or not I just can't say unless I read it. That I don't know.

CROSS-EXAMINATION BY DR. YUTAR (CONTD.) Well, just take the heading then. 'Historical materialism, capitalism, development of capitalism to the stage of imperialism, socialism, communism the transition to socialism. All subjects very near and dear to the hearts of Communists? --- Yes. A Communist just any where in the world, that is the point I'm making.

Well, that was found at Rivonia. Have you ever seen that document before? --- No, my Lord, I don't think I have.

That is why I said it had reached its crescendo. Did you not stop to find out "Now who is directing this?"--- But my lord who was directing a lot of it, and that was Umkonto We Sizwe.

Who told you that?--I saw their original Manifesto, it was common talk in Congress circles sir. People in the political movement were all aware of this.

Name some of the people who spoke about it?-- My lord, people one meets in politics, discussing political events in this country, were all aware of this.

Name some of the people?---People one meets in politics were all aware of Umkonto we Sizwe who said it was going to conduct acts of sabotage, and from time to time claimed actual acts by statements in the press and so on. There was no secret about it.

When did you first hear about acts of sabotage committed by H.K. units?---After the 16th December sir.

And it was discussed in political circles?--- Yes certainly.

Would you mention some of the people with whom you discussed it?--My lord, there are lots and lots of people I have discussed politics with. I can't remember any precise person I discussed this particular question. I have had discussions with most of the leaders of the African National Congress who were in Johannesburg; I have had discussions with leading people in the Indian Congress and in the Congress of Democrats, Communists, all sort of people. I could not say who talked about this.

Now you discussed it with leading members of the A.N.C?--Yes.

Such as?--People like Nokwe, people like Sisulu, I used to meet these people from time to time.

2.

.LG. BERNSTEIN.

You don't think you have. So you can't tell us where it was drawn up? --- Neither when nor where, sir.

But the purpose, of course, speaks for itself. The heading makes that clear? --- Yes.

All right then. Now, 96 is the next one, page 638. No, that we have dealt with already. 96, that is a copy of EXHIBIT 35. We dealt with that yesterday? --- Yes, we dealt with that yesterday.

We need not delay in that at all now. R.96 it corresponds to R.35. EXHIBIT R.105. Now, Mr. Bernstein, R105, that is the rules as revised by the sixth National Conference, and it is the constitution of the Communist Party South Africa? Fifteen copies hereof was found at Rivonia? --- Yes, my Lord, I think that is so.

Yes. That deals with membership, organisation, confidence due to the Central Committee, the District Committee, funds and discipline? --- Yes, sir.

We need not delay on that then. It speaks for itself, not so? --- Yes, I think it does from what I see here.

And then 121(a) page 650. You will recall this is a document entitled the Central Committee of the South African Communist Party. Mr. Dirker told his Lordship that this was roneed from a wax sheet which he found at Rivonia in the fourth room. That document too speaks for itself? --- That's right.

Now, doesn't this document ring a bell? --- In what respect?

Who drew it up? --- No, that I couldn't answer, sir. It appears to be a resolution from the form of it, I would say.

It deals with the dispute between China and India, you were regarded as the expert on it? --- Yes, it deals with the dispute between China and India.

It deals with the People's Republic of China, Asian African unity, unity between Communist and non Communist and the second last paragraph: "It further directs all members to

3.

L.G. BERNSTEIN.

do their utmost to see that the National Liberation Movement and Working Classes Movement in South Africa throw its full influence into the task of securing a speedy negotiated settlement in the cause of world peace for Afro Asian .. in the liberation of South Africa from white domination." Can't you tell us who drew that up? --- My Lord, it is obviously a resolution from the Central Committee of the South African Communist Party.

And does it coincide with your view? --- Well, I would have to read it. (Witness reads document) Yes, I think it does.

It does? --- Yes.

Could you have drawn it up? --- You mean am I capable of it, sir?

I'm sure you are. I wasn't asking that? --- Oh, I thought that was what you were asking.

Could you have drawn it up? --- No, I did not draw it^{up.}

Were you consulted about it? --- Not as far as I can recall, my Lord, no.

121(a). That is 121(a) isn't it? --- Yes, that is 121(a)

121(b) We have dealt with, that is the document entitled "The Revolutionary Way Out". 121(c) That is differences in the Communist Movement. We've dealt with that. That corresponds to EXHIBIT R36. We don't have to worry about that. And then we come to a new document, EXHIBIT R130, Page 676. That is the document I'm sure you drew up, R130? --- Yes, this is a document I drew up, my Lord.

China and India the Border dispute, and it is a lengthy document. It speaks for itself. I won't delay his Lordship on that.

BY THE COURT: What is the date of this? --- MR. BERNSTEIN: My Lord, the Border Dispute, as far as I can remember, was about the end of 1962. This document, I think, was drawn at the time

that fighting had actually broken out at the frontiers, my Lord. I have to re-read it to be quite sure.

BY THE COURT TO MR. BERNSTEIN: Beginning of 1963? --- Possibly, my Lord, about that time. I'm not quite sure.

If you look at page 3 you get down to August, 1961.

DR. YUTAR: And there is October, 1962, my Lord. The same paragraph, my Lord.

BY THE COURT: So it must have been after that.

GROSS-EXAMINATION BY DR. YUTAR (CONTD.) And, Mr. Bernstein, it is obvious from the document that you have in front of you, an original, that it was run off on wax sheet and reneod? --- Yes, I think that is obvious.

Now, 143 we have already dealt with, that is the "Revolutionary Way Out" document, we've dealt with that. 147 we've dealt with, that is also the differences in the Communist Party and now we come to 171, which I'm going to suggest to you is a document which you drew up yourself. 171 Page 709. Now, that, Mr. Bernstein, is on your typewriter? --- That's quite possible, sir.

In fact, if you have any doubt about it I would like to show you this. What do you mean it is quite possible? --- I mean it is quite possible it was drawn up on my typewriter.

Did you draw it up? --- My Lord, I could have. I can't remember doing so, but it is possible I could have done so.

How long have you had your typewriter? --- Years.

You know the type? --- Yes.

Let me show you this document over here. It's a photostatic copy of that document - part of that document - and the bottom part is a sample taken from your typewriter, and there are various point of similarity marked out? --- That is so, my Lord.

Are you prepared to admit that in fact it was your typewriter? --- My Lord, I'm not prepared to deny it. I'm not an expert on this thing, I think it could well have been my

typewriter.

Right. Now, let's read this document. What date do you think we can give to this document, Mr. Bernstein? Perhaps if we read it then you can give us, because the contents is rather important? --- Yes.

"The South African Government is becoming increasingly subject to attacks in the International fields. The recent I.L.O. conference - that is the International Labour Organisation? --- That is so.

show to what extent it is possible to obtain unanimous agreement on action to condemn and isolate South Africa. An arms embargo has now become a matter of urgent importance. It must be borne in mind that arms to South Africa menace not only the struggle for liberation of South African people, for which they are primarily intended, but are also a possible source of intervention in Rhodesia and Portuguese African territories. We believe, the time is opportune for mass campaign for the application of a complete arms embargo on South Africa." When was a campaign started to obtain a complete arms embargo in South Africa? --- I'm not very certain, my Lord, 1962 or 1963. I'm not very precise about that.

"Certain countries are most directly concerned with supplying arms to South Africa. England, France, Italy, West Germany and the United States of America. Mass pressure of the people of these countries directed towards ending this supply is vital. At the same time campaigns in other countries could substantially influence the issue." Mr. Bernstein, you are here suggesting a complete arms embargo, embargo arms coming to South Africa? --- That is what is suggested, yes, sir.

At a time when we know that Goldreich had been overseas and was endeavouring to make enquiries about explosives and according to these documents arms, in order to equip the revolutionary army in preparation of the final overthrow of the South African Government by force? --- I'm not sure, it might

well have been before Goldreich was overseas.

You were trying to bring a supply of arms to South Africa, whilst the rebels in this country were going to arm themselves as much as possible? --- My Lord, I was certainly in favour of an arms embargo on South Africa, yes.

And have you anything against the supply of arms to the forces of the National Liberation Movement? --- No, my Lord, I don't think I have under these circumstances.

"Through Trade Unions, Political parties and other organisations direct action can be taken. Factory workers, dockers can be drawn to such campaign. Pressure on members of Parliament, deputations, demonstrations to South African Consulate and other forms of activity could be utilized." Were you in fact not just doing that what the document says? --- You mean putting pressure on people to...

Yes? --- Certainly.

"While democratic South Africa greatly appreciate the morale effects of boycott and actions in other fields, we would like to emphasise that the stopping of the arms supply is now a key issue. We, therefore, direct this request to your organisation to do whatever is possible within your own country to further this aim." Now, Mr. Bernstein, to whom was this document sent? --- My Lord, I don't know, I don't know if it was sent. It appears to be directed to organisations in other countries.

And it speaks for itself? --- Yes, I think it does.

Then EXHIBIT 217 page 729. Oh yes, by the way, that previous document, I forgot to mention to you R171, do you know where that was found? --- No, sir.

In room No. 1 at Rivonia? --- That's possible.

Where you were found by the police on the afternoon the police raided it? --- Yes.

Does it merit discussing again? --- No, sir.

Strange that it should be found there, because the

only people there were the six we know? --- Yes, that is so.

All right. EXHIBIT 217 page 729. Who is Basil Ntsikana? --- My Lord, I have never heard of the gentleman.

But he is writing from Dar-es-Salaam, and the letter is addressed to 'Dear Comrades'? --- That is so.

You can't tell us who he is? --- No, I can't.

Now, I've completed the R exhibits and we come to just one exhibit in the T Travallyn exhibits. EXHIBIT T.74 page 149. Now, this document was found at Travallyn, and it is headed "Some thoughts on the situation confront the National Liberation Movement in the final challenging/of the power of the power South African Republican State." Now, we'll go through this document very quickly. You'll find in the fourth paragraph is says: "N.L.M., however, has chosen to stand by its basic principle", have you got that? --- Yes.

The N.L.M. stands for the National Liberation Movement? --- I think it does, my Lord.

And then the next paragraph, the sentence beginning: 'These are the whites who see it clearly that the policy of the Government is leading to a situation where only armed conflict can result.' Do you agree with that? --- Yes, I'm figuring out the contents.

Quite right? --- Well, I think perhaps saying 'only armed conflict can result' is over stating it, but I think it is likely that armed conflict will result.

And then the very next paragraph "The N.L.M. has foreseen this situation and constantly warned the Government." Is it a fact that the N.L.M. have foreseen the situation and constantly warned the Government? --- My Lord, the preceding paragraph says that the ensuing bitterness which must inevitably arise out of such a struggle - that is an armed struggle - will make the - something of building - of a non racial democracy in a multi racial State an ever more difficult task, the N.L.M. has foreseen this situation - and if that's what it

refers to then I think it is so, they have foreseen it, that situation.

You notice the bottom of that page 'and the people'?
--- Yes.

Whose handwriting is that? --- No, I don't know.

You don't know the handwriting? --- No.

Page 2. Just the two short little paragraphs in the middle of the page. "It is apparent, therefore, that the situation has reached impasse - you remember I told you yesterday that I quoted documents where that word is used? --- Yes.

and can only be resolved only by resort to armed conflict. It is the ultimate situation which horrifies everyone and from which we cannot and must not flinch. Having arrived very briefly at the conclusion that only armed conflict will resolve the present political deadlock, we must ask ourselves what the objectives of the struggle will be. It is necessary to establish our objectives in more than superficial terms." Is that what the National Liberation Movement has been doing? --- You mean to establish its objectives in more than superficial terms?

That's right? --- I'm not even sure what that means, sir, what does it mean?

Take the two paragraphs together? --- Well, taking them together, my Lord, I would read it to mean that the only possible action which can be taken in this particular situation is to resort to armed conflict. I don't think the National Liberation Movement had arrived at that conclusion at all, sir.

Because an impasse had been reached? --- Yes, I'm sure that an impasse had been reached, sir, but I don't think this conclusion is justified even by that fact.

Does that explain why Accused No. 3 went and made enquiries about orders, about shutes, in order to make 48,000 land mines to be equipped with five pounds of dynamite each? --- My Lord, I can't testify as to why accused No. 3 did any of these

things, I have no knowledge of it.

The next page 3, you will notice there the third paragraph "It is vital that the objectives of this problem be clearly defined before the final stage is commenced", have you got that? --- Yes, I've got that.

And now I skip the next two lines and read the last paragraph on that page "Time has come for we Communists to clearly state our beliefs and objectives. We are aware that our .. objectives that we believe are right and are aware that we have the support of the vast numbers of oppressed people, aware that we have the ability to win successful struggle, aware that we have the ability to organise the building of a new society, aware that we are assured of a large measure of International support, we should openly, loudly and proudly proclaim our purpose to the people of South Africa including our organisational partners, and in preferences our organisational partners included the MK."? --- I don't know who it includes, sir. I don't know what this phrase means 'the organisational partners.'

"Because we know the National Liberation Movement and their flag needs a lot of wagging which it has not been getting lately." That speaks for ..(inaudible..)? --- Yes, it doesn't speak for me, sir.

No? --- No, sir.

And page 4 "In achieving State parties clear the final a show down with the forces of the present State must be reached. This is what the struggle must lead up to. It is not a situation which can be achieved by wishing for it, it is going to take hard grinding and selfless work and many lives unfortunately to achieve our objectives." In fact, Mr. Bernstein had not the sabotage movement already claimed a few lives? --- I understand it has.

And is it not a fact that if the transition had been completed through armed invasion, many more lives would have been

10.

L.G. BERNSTEIN.

claimed? --- My Lord, warfare must claim lives. I'm afraid that's so.

And look what the third line of the next paragraph says "Only by the careful choosing of our people, careful and understanding study/of their needs can they be effectively won and organised into a massive and powerful military and political force." That is what the Communists envisaged, not so? --- No, I don't think it is.

All right, I'm not going to argue with you. Then we come to the last three lines of the fourth paragraph, commencing 'it would be short sighted of us if', you've got that? --- Yes.

'It would be short sighted of us if we were to depend on economic stagnation and learn to bring about the downfall of the regime. We must plan and prepare for a long drawn-out struggle in which the present ruling group will continue until their forces are routed in the field of battle.' That's not metaphorical language, is it? --- No, I don't think it is.

"It is this latter situation which must be gradually worked towards to acquire ultimately the ability of the people to put and maintain an army in the field. This is beyond the resources of the people at this stage. It would appear that the only way to build the required military strength is by starting with military operations of a guerrilla nature, in which it is the intention to hit at the forces of the Government and economic targets of a strategic nature. In all guerrilla operations Government forces will only be attacked when victory is certain. There must be no intention to stand and fight against superior forces. There is ample literature on the tactics and strategy of guerrilla warfare which should be referred to." Mr. Bernstein, had the first stage not been reached, had South Africa in fact not find itself in the midst of the first stage? --- The first stage of what?

Sabotage of Government economic target of a strategic nature? --- No, I don't think so, my Lord, not when you add the

11.

L.G. BERNSTEIN.

words 'of a strategic nature' as I understand what that means.

What does it mean? --- I take it, it means of a military strategic nature. Airfields, bullet installation and so on. I think that's what it means.

Are not lines of communication targets of a military nature - strategic nature? --- Yes, they could be, sir.

And you know the document here says - this is clearly a Communist document prepared by the Communist party..? --- No, I don't accept that, sir. Prepared by a communist, I think

We Communists, right? And we know who stayed at Travallyn. Does it not bear a similarity to 'Operation Mayabuya' when the document also says now 'we don't fight against the superior forces, we attack first targets' In other words, as 'Operation Mayabuya' says 'Shamelessly attack the weak and shamelessly ~~ply~~ flee from the strong' Is it not in keeping with that philosophy in 'operation Mayabuya'? --- I think the same sort of thinking.

Belt 96E

'Operation Mayabuya' found at Rivonia, the same sort of thinking found at Travallyn. And now we come to the last paragraph there. "The remaining decision to be made is the defiance of the forces required to commence the action. Also to be considered - whose handwriting is that? --- I don't recognise it, my Lord.

is the degree of self sufficiency the raising material required to ensure success. This last method is closely related to what the literature calls the essence of guerrilla tactics surprise." Now, the very last page and here I have to dwell just a wee bit longer. Page 5. Mr. Bernstein, I will tell you in advance that my suggestion to his Lordship will be that what I'm about to read now, there is a striking resemblance to Operation Mayabuya. Let's take the first paragraph. "For the same reason it is suggested that the operation should be commenced by numerous small forces of 10 to 30 men, depending on conditions, political and terrain, in concentration of

Government forces in many areas simultaneously, these men to be in their zones incognito before the action is first joined" Have we not got that in Operation Mayabuya? --- Something of the sort, my Lord.

Keep 'Operation Mayabuya' in front of you. Look at part 3, the plan, simultaneous landing of four groups of 30 based on our present resources. Look at paragraph 2 'at the initial it is proposed that 30 are split up into platoons of 10 each. Isn't there a remarkable resemblance between the two documents? --- Yes, there is.

And I haven't stopped yet. Let's go on "If it is held that the internal material self sufficiency is a tip off ~~was~~ instead of a pay off in the commencing stages, then other sources of supply must be obtained. In such a situation the enemy forces must provide the bulk of the supplies." Does that not appear in 'Operation Mayabuya' that you must steal and take arms and ammunition from your enemies when you've overrun them? --- I think it does, my Lord, but I'm not terribly clear on that.

"When ensure success it would appear that .. to enable units to be supplied from outside" and read on "with a higher degree of ^{development of} communication it seems at least superficially that overland supplies, assuming supplies available in the Borders, will be extremely difficult" This leaves then supply by airdrop, is that not what is suggested in Operation Mayabuya? "Simultaneous landing of four groups of 30 based in our present resources, either by ship or air, armed and properly equipped to be self sufficient in every respect for at least a month"? --- Is there not a surprising similarity there? --- My Lord, there is similarity in the thinking of these doc....

Yes. "This might work well in the opening stages. The efficiency of the Government Air Force must not be underestimated. Conclusions must be drawn that both overland supplies and air drops will have to be resorted to. This can only be in

L.G. BERNSTEIN.

addition to your regional stocks of material before action is commenced, and the capture of supplies arter." Exactly what Operation Mayabuya says. And then "Trading with supplies from beyond the Border is usually dependend on having a common Border with the ~~people~~ country friendly to the people's forces. This does not apply at present in our case. The use of a coastal land supplies by sea also presents tremendous problems, having regard to the stationing of C.F. units on a usable coast and the degree of long range naval patrols carried out by the airports." Do you recognise that, Mr. Bernstein? --- Well, only the reference to landing supplies, sir...

"Suggest then the establishment to be investigated of a true base area at the commencement of the action in the most North West point of Transvaal adjacent to the Bechuanaland Border and within flying distance of Northern Rhodesia and East African States. This establish to take place/with the ^{simultaneously} commencement of operation in other areas and zones, so as to ensure the maximum diversed employment of the Government forces from the outset. Simultaneously there should be a maximum effort extended ~~in and~~ ^{in and} between the main industrial centres to sabotage communications and ~~major~~ ^{major} ~~industries~~ industries which serve the military organisation of the Government. An advantage of the base areas is simplification of diplomatic problems and supply of materials from abroad, assuming that a provisional Government is declared." And we find, Mr. Bernstein in Operation Mayabuya under the plan, part 3, this reference: "Visualise that this authority will in due course of time develop into provisional revolutionary Government." Remarkable coincidence between the two documents? --- Yes, there is.

DR. YUTAR:NO-FURTHER QUESTIONS.

LIONEL G. BERNSTEIN. (s.u.o.)

RE-EXAMINATION BY MR. FLSCHER: Mr. Bernstein, I want you to have a look first of all at T.74? --- I have it here.

Now, first of all, ever seen this document before it was put into this court? --- No, my Lord, I have never seen this document before.

Have you ever seen any document issued by the Communist Party which resembles this? --- You mean resembles it in thinking, in contents?

In contents? --- No, my Lord, I have never seen such a document either.

I'm not sure where the first passage was which my learned friend read to you, was it on page 1? --- Yes, it was sort of a little insert right at the top of page 1. "Some thoughts" is that the thing....

No, there was something which suggested that there was no other possible method other than an armed struggle? --- Oh, let me see if I can find that.

I think perhaps it comes later? --- Is that "It is apparent, therefore, that the situation has reached impasse, and can be ^{resolved} ~~resolved~~ only by resort to armed conflict"?

Is that on page 2? --- That is on page 2.

Well, then I'll come to it. Whereabouts on page 2? --- It is the fourth paragraph on page 2.

Thanks. Yes well now, Mr. Bernstein, have you ever seen a Communist document which suggests that there is nothing, but to resort to armed conflict? --- No, my Lord, I think that it will be fair to say that the majority of the documents which I have seen in the preparation of this case or that come from the Communist Party suggest, in fact, that there is great possibility of non violent transition in this country.

Yes, I'll come to that later on, because there is a certain document which I'll ask you to read and which I'll put to you later. Now, Mr. Bernstein, I haven't the original, does it appear as if this was issued by anyone to anyone? --- My Lord,

there is nothing to indicate it was issued, and I would say looking at the document it is quite clearly either a first draft or a copy that wasn't intended to be issued. There is a large amount of material that has been x out on the typewriter, there are words that have been written in and corrections made in ink. Page 3 is half a page long and then the rest of the page is blank and it goes on to page 4, and so on, it is clearly not a finished document.

And the title seems to suggest that it was somebody's meditations? --- That's the suggestion there, yes.

Now, I would like you to have a look at EXHIBIT 171, which was the one dealt with, I think immediately prior to this, except for 217 which you didn't recognise at all? --- Yes I have 171, yes.

Just before you look at that, could you pass us 217, which we haven't got, and we'll just have a look at that during the adjournment. I wonder, Mr. Bernstein, whether if you read this carefully, you could fix the date more accurately. There was an I.L.O. conference this year, was there not? --- I'm really not sure, sir. I think there is an I.L.O. conference every year, my Lord, as far as I can recall. I think it is an annual event.

Is there anything just glancing through it again, to enable you to fix this date? --- My Lord, the first paragraph might be a reference to the decision of I.L.O., I can't remember the precise nature of the decision, whether it was to refuse South African delegates or - there was some decision taken by I.L.O. in the last few years, doesn't help me to fix the date.

You said you thought it was possible that this was done on your typewriter? --- That's possible, yes.

Can you remember whether you did it or whether somebody else did it? --- I didn't do it, but I'm inclined to say I don't think I did it, sir, but it is just possible. I don't remember doing it.

Now, Mr. Bernstein, it was suggested to you that this might have some reference to the journey which seems to be common cause which Mr. Arthur Goldreich took, which apparently he had discussions about arms, did you know about that journey? --- No, my Lord, I didn't know about that until the case started.

You had no knowledge of his journey at all? --- I knew he had been overseas, but I didn't know that he had had any discussions about arms or explosives for that matter.

What did you think he had gone over about? --- My Lord, he did tell me on one occasion when I saw him during 1963, he discussed with me a trip to, I think East Germany or West Germany, and he was telling me about buildings he had seen and I thought he had been on a holiday trip.

Now, Mr. Bernstein it may be better to start at the beginning and try and go systematically to some of the points made by you in your evidence. When you were giving evidence, at the beginning of the cross-examination, you said that you had not seen Operation Mayabuya before this trial started? --- That is correct, my Lord.

Then you said that the topic did not come to you as a surprise? --- That is so.

I would like you just to explain briefly why that is so? --- My Lord, the topic is guerrilla warfare ~~and~~ is far from being a new topic in the political circles, the National Movement. It has been discussed on and off as a possibility. A theoretical discussion for many years, sir. I think there were documents in the treason trial in this matter, as a matter of fact some of the ^{exhibits by some of the individual} accused writing about guerrilla warfare, that will be prior to 1956. I don't think that anybody who pays any serious attention to the liberation of colonial and dependant countries, in the twentieth century at any rate, can discuss this question intelligently without also discussing the prospects of guerrilla warfare in that situation. I've

heard this sort of discussion over the years, my Lord, perhaps a bit more in recent years than in the past, but it didn't come to me as any surprise at all.

Now, from there I would like you - have you got Operation Mayabuya before you? --- Yes, I have it, sir.

Since the case started and since we've been consulting, you've studied that? --- Yes, I have, my Lord.

And I would like you to say what you personally think of the feasibility of that document, of that so called clan? --- Well, the feasibility of it, my Lord, I think is very very remote indeed, I would say it is probably in the field of fantasy this part of the document. I don't claim to be an expert, however, on this, so that is my opinion.

Now first let me go back to the beginning? --- Yes.

There is - it says obtains a lot from reason? --- Yes.

And you have studied that? --- Yes, I have, my Lord.

I want to know whether you accept that? --- No, My Lord, I think it is extremely confused and illogical, and I think the conclusions it comes to are wrong.

If you would look at the last sentence of paragraph 1 it says "it can now truly be said that very little of any scope exists for the smashing of white supremacy other than by means of mass revolutionary action, the main content of which is armed resistance and leading to victory by military means. There are really three ideas contained in that? --- I think so, my Lord.

Now what about the first idea, that is, very little, if any scope exists in the smashing of white supremacy, other than by means of revolutionary action? --- I think that is a correct statement, sir.

What do you understand that to mean 'Massrevolutionary ...? --- My Lord, I understand by 'mas revolutionary action' to mean mass action taken by large sections of the population who

designed to bring about radical changes, revolutionary changes in society, not minor at all.

I will ask you to deal with the meaning of revolutionary changes later on? --- Yes.

But as far as the second part is concerned 'the main content of which is armed resistance', what do you say about that? --- Well, my Lord, I personally don't agree with that, I don't think that is the main content at this time of the mass revolutionary action which is required in this country, I don't find that that argument is taken further in the rest of the document or proved anywhere, sir, and I regard that as being a wrong statement.

And then finally 'this should lead to a victory by military means'? --- My Lord, I take it that that means that what is visualised is a direct confrontation of the military forces of the State by the opposition's military forces and that that struggle can only be resolved finally by military victory. I don't accept that either, it's a political aim.

Well, if you had any say in the matter as to whether this was to be adopted as a policy for National Liberation Movement or not, what would you say? --- My Lord, I would not accept this document as a policy at all, such policy as it states is the wrong policy.

Now, the next question I want to raise with you, Mr. Bernstein, is this question of the journal Assega? --- Yes.

Mr. Bernstein, have you seen this journal before? --- I have seen copies, I'm not sure if I've seen these particular copies that are exhibits in court, I would have to read it. But I have seen copies of this journal before.

You know anything about the publication, who published it? --- My Lord, it is a subject of considerable questioning amongst people that I met. Nobody was quite clear who published it, since the correspondence that has been placed here as an exhibit in court dealing with this, suggest that

certain people in London are responsible for it, I don't know of my own knowledge whether that is true or not.

So you have no knowledge of who published it? --- No, sir.

And that is then all you know about it, what appears in the correspondence in this case? --- Of the publishers, yes.

There is something to suggest, Mr. Bernstein, in one or other of these copies this journal purported to be a journal for Umkonto? --- My Lord, in the copies that I saw, I don't know as I say whether it is one of these exhibits in court, I think the organisation that publishes this magazine certainly tries to give the impression that it is responsible for or directing activities of Umkonto. It certainly gives that impression.

Yes, I see all that one can ascertain from this is that subscriptions and correspondence should be sent to Michael Turner, Hadison Road, London. Have you ever heard of a gentleman called Michael Turner? --- No, my Lord, I have no knowledge of him at all.

Were these people with whom you discussed this matter prior to the trial, this journal, were they unable to inform you about its source or origin? ---- Well, there was speculation, my Lord, but nobody seemed to know who it was coming from.

Incidentally, Mr. Bernstein, at the early part of the cross-examination some mention was made about the restriction placed on one Byleveld? --- Yes.

Does the restriction placed on a person means that he is a communist? --- No, my Lord. Restriction can be placed under one of two acts, I think. Either the Suppression of Communism Act or the Riotous Assemblies Act. It doesn't require, as far as I'm aware, for you either to be a listed communist or an actual communist in order to be restricted under the act.

216

And of course people have been listed as communists under the Suppression of Communism Act, who are not communists at all? --- That is so, my Lord. I think the Act provides that anybody whoever attended a meeting of the Communist Party can be listed on that list - even a public meeting.

And tell me, Mr. Bernstein, do you know of people who are listed who are in fact anti communist? --- I know of people who have had restriction orders served under the Act, who are anti communist, I'm not sure if they are listed members. Listed or on the list.

Patrick Duncan was listed? --- I think he was restricted, sir, under the Act, but I'm not sure if he is listed.

As far as you know, is he sympathetic to communism? --- He is a fanatical anti communist, my Lord.

And now, Mr. Bernstein, just to deal with one general matter before we proceed to some other specific topics. You declined to answer a number of questions. For instance, you declined to say who you met when you went out during 1962 at Rivonia? --- That is so, my Lord.

Did you realise in declining to answer you might prejudice yourself? --- Yes, my Lord, I'm aware of that fact.

I just want to get it quite clearly why you refused to answer? --- My Lord, the reason why I refused to answer is because I fear that anybody whose name I mention in this respect will be subject to persecution, and I'm not prepared to open anybody with whom I've ever associated up to persecution at all.

The next thing, Mr. Bernstein, also about Rivonia As I understood the cross-examination, it was suggested to you that that was a hide out for communists only. Do you think from what you know that that was the case? --- Well, from what I know of who hid there, I would say the reverse is the case in general. But when I was told about it, it was

only said it was a hide out for political people who wanted a hiding place, that's all.

Is that what you were told? --- Yes, it wasn't said that this was a hiding place for communists.

Now, Mr. Bernstein, do you claim that you would have known all who hid there, who might have been there for hiding and you never knew about it? --- Well, there might well have been people living there that I never knew about at all.

97(E)

RE-EXAMINATION BY MR. FISCHER: Now I would like Mr. Bernstein

to deal with some of the subjects which arise from the documents, and if you will give me some general statements first then we can perhaps examine the documents to see whether they bear out what you've put as general propositions. First of all, I want you to state just briefly, what is the Marxist connotation of the word "revolution". Does that mean that the revolution must be violent?---I think the understanding of /the way in which Marxists choose this word "revolution" is to describe a change so radical that it changes the entire social and economic basis of society. It has 10 nothing to do with the question of how that change takes place, whether it is violent or non-violent, it would be a revolution.

So that one could have a revolutionary change which was entirely non-violent?---Yes, one could have for instance, the position where a Parliament sitting decided overnight to Nationalise entirely all private ownership of the means of production in the country. Such a thing could take place quite without any upheaval or violence at all, but such a change would transform 20 the whole social and economic basis of society, and in my view would be a revolution.

That would be a revolutionary change?--Yes, I want to go to the documents in a moment, Communist to see whether insofar as they recognised to be/documents, / They substantiate that point of view, but just before I do that, I want to ask you about another aspect of the theory, and that is whether the Marxist approach regards any political situation as a static and fixed situation?---It's fundamental to Marxist theory that all human and social phenomena are continually in a state of change, and Marxists 30 always in viewing any situation, attempts to view it as a situation in a state of change, not to be regarded as fixed and unchangeable, but to regard it as something

which is in the course of change while it is being discussed.

Now has that any bearing of importance on the view which a Marxist would take, for instance, of the situation in South Africa?—Yes my lord, it certainly has. I would say for instance, that a Marxist looking at the South African Government would say well granite walls are capable of shifting and being shifted and changing and crumbling. So the fact that it is a granite wall or that it appears to be a granite wall, at this precise moment does not mean that therefore, it is going 10 to remain completely unchangeable, inflexible for all time. A Marxist looking at such a thing as a Government which is inflexible, would say well in certain circumstances in different circumstances it will be forced to become flexible or it will fall over. It cannot stand where it is inflexibly forever.

So you say that is of practical importance?—Very much so, because it determines one's policy and tactics. If for instance, one were to regard the South African Government as being so inflexible, so immovable 20 that nothing whatsoever could be done to shift it ever, or to change it's policy ever then one would have as a logical conclusion of that to give up political activity, because you'll have quite a useless proposition. If one does not accept that survey, obviously one visualises that in certain circumstances this seemingly immovable object will move.

Now in the ... that of course is part of the basic theory isn't it?—Absolutely basic to all Communist thinking, on every subject. 30

That is one of the essential foundations of Marxist philosophy?—That is so.

Now let's turn to a completely practical view

of the situation. Let's take Africa Mr. Bernstein. You mentioned one or two of the countries which had obtained freedom by peaceful means?---Yes, I did.

If one casts one's mind back about ten years, did it appear likely that there would be a mass of new independant states in Africa?---I would say, well, thinking about the time at the end of the war, which is slightly further back, it seemed extremely unlikely that there would be a mass of new states without a mass of local wars, major international wars, and so on, to bring them 10 into being.

In fact, just cast your mind back for a moment to 1952/1953, when there was fighting in Kenya?---That is so.

What appeared to be the prognostication /for ^{at that stage} that?---My lord the prognostication at about that stage, was that British Administration there ^{had entrenched itself} ~~entrenched~~ itself by severely smashing the local liberation movement and that Kenya would remain a British Colony for an extremely long time. 20

And in fact, was there then any question were there plans known to readers of newspapers to make it a military centre?---It did in fact become I think the major British military base in Africa for a short while.

Now the change which has occurred in so many States in Africa, would you describe that change as a revolutionary change or would you not so describe it?--- Yes, I think when you have a change from dependant people ruled completely by foreign administration, to self-Government, I would describe that as a revolutionary change in the nature of the country. 30

Now you mentioned three countries, ^{Ni}Algeria, Ghana and I forget for the moment what the other one was?

---I don't remember either.

In fact would you be prepared to cast your mind over the Continent and tell the Court where has there been violent revolution in order to achieve freedom?

---I think there are, as far as I can recall, only two countries in Africa which have achieved their national independence by violent military means, that is Algeria and Angola. Well Angola hasn't yet achieved, so it is in fact only one which has achieved by violent means, that's Algeria. One might possibly describe Egypt as a violent revolution, although this was in the nature of a coup de ^{etat} ~~theatre~~ rather than a popular revolution I think. 10

For the rest?---For the rest my lord, the transfer everywhere in Africa I think, has been non-violent.

That would cover about thirty States?---Yes, cover practically the whole of Africa down to the Limpopo.

Mr. Bernstein, what about a country like India?---My lord India achieved it's national independence by what I would describe as a non-violent insurrection. The circumstances were that there was a mass upheaval, uprising of the population, not with arms in their hands, but non-violent methods of one kind or another which forced the British Government to transfer power to the Indian population. 20

So that Mr. Bernstein, if the last ten years of history serve us at all, they serve to show that the, what is commonly called, the national democratic revolution can take place in a completely peaceful fashion?---It can. 30

Leaving aside altogether the question of

Socialism?---Yes that is so.

Mr. Bernstein, I wonder if one could give an illustration of a sudden change of that kind in South Africa itself? You've no doubt read about the period when this country went off the Gold standard?---Yes.

Was there any sudden change, perhaps of not so great a character, a sudden change there?---A sudden change?

In the form of Government? In the Government itself, a sudden coalition which no one expected?---Oh 10
yes, you mean?

Possibly have foretold the year before?---Oh I think I was too young at that stage to be taking an intelligent interest in the subject sir, but I should think only very few people could have predicted the coalition which followed, in that period.

And that came along Mr. Bernstein, as a result of economic pressure?---As a result of economic circumstances largely outside this country, and which this country was completely incapable of controlling. 20

Do you exclude the possibility that sort of thing happening again?---Not at all, I think it's highly likely.

AT THIS STAGE THE COURT ADJOURNS UNTIL 2 P.M.

ON RESUMING:

RE-EXAMINATION BY MR. FISCHER (CONTINUED):

Mr. Bernstein, we were talking at the adjournment about the possibility of States..the historical fact, that States in Africa have gained there freedom without having to fight. Just one or two points. You know you've 30 described what is meant in Marxist language by a revolutionary change. Now that is usually described as a condition for a transformation from Capitalism to

Socialism?---That is so.

Is that necessarily so with regard to an extension of the French franchise?---Do you mean would that necessarily be a revolution?

That would that necessarily be a revolutionary change, or could it be done, to use another technical term ~~phrase~~, in a reformist fashion?---Yes, I think that change could be brought about by piecemeal reform over a period, sir. It would not require a sweeping change all at one time.

In other words a franchise could be gradually extended?---Yes certainly sir.

And if it were seen by the people to whom it was being extended as something which was on the way, then naturally that would have a considerable effect on their view of what action to take? ---Yes I think it certainly would.

Then another matter which was mentioned by my learned friend was the suggestion that the Congo achieved its freedom by violence - what do you say to that?---My lord, I don't think that is historically correct. Independence of the Congo was achieved without any form of military struggle at all. There had been political activity of a non-violent character for some time, and it was against that background that the Belgian Government decided to concede independence to the Congo. What violence took place, took place thereafter as a result of disputes between warring factions of the Congolese people themselves.

So that that would not be an illustration of obtaining freedom by violence?---No, far from it sir.

Just one further word about this Mr. Bernstein. You will remember that yesterday you argued that the danger

lies in one man holding the gun? WHEREas there is more chance of a round table conference and ability to agree when both hold the gun?--Yes sir.

Could you just expand on that for the moment?

---My lord, what I was trying to convey was when one side of a dispute is heavily armed, and the other side unarmed, there is always a very strong temptation on the part of those who hold the arms to settle the dispute by force. When both sides are armed, I think there is less of a temptation in that direction, and I think in fact, if one looks at the field of international disputes, one will see that this is in fact the point of view which is followed up by diplomats on both sides of what is at present referred to as The Cold War, where each side claims that only by having atomic weapons of parity or near parity with the other side will they be able to negotiate a peaceful settlement of whatever disputes lie between them.

Well now Mr. Bernstein I want to turn to some of the documents that were put to you. First of all I would like you to have a look at these Exhibits which my learned friend treated as a bundle, that was 83,84,85, 94 and 121B. and R.40. I had a rather hurried look through them during the adjournment, and if you just look at the first paragraph in each one, leaving out 85 which I can't make out, it is probable that they were written in the following order, 84, which the whole of which is in manuscript, so presumably that was an early draft,- the whole of that is in manuscript?-- Yes the whole of that is in manuscript.

Then if you look at 83 I think you will see signs that that probably follows on 84.---Yes quite likely.

I don't think this is of great importance, we can do it in argument, but I think that is correct. Then

R.40

in all probability/is the next one. ---Yes, that seems to be a much more advanced stage of the document.

And then 94?---Well I am not quite clear if your order is correct. It is quite possible.

It is possibly correct?--It seems so yes.

I don't think it is of great importance. What is of importance is that 121B would appear to be the last draft?--That I think is clear. That appears to be the finished document. The order of the draft I am not very clear on.

Actually I will take you into that in a little greater detail presently. I just wanted to ask you this: did you ever see R.40 in the form of a document that would be circulated, R.40 itself?--No sir I did not ever see it.

Do you know R.40 at all? Had you known it before this case?--Not before this case sir. I have read it prior to today.

Yes, during the preparation?--That is right yes.

But you had never seen R.40 before?--No sir.

Now I want you, having established that, I would like to take you through certain of the documents which are of importance, apparently, in relation to the position of the Communist Party, the A.N.C. and Umkonto we Sozwe. I want you to start with R.92. What we will need is R.92, R.104, R.51, R39, and we have got R.40 and R141 here. Now I want you to take R.92 first. It is not dated, but you will see that there is certain internal evidence dating it. First of all, paragraph 2 on page 1 speaks of the.. "For the first time....(quotes' ..adopted in October 1961" so this is post October 1961?--That is so.

And then May 1961 is mentioned on page 3 and on page 2 there is the date December 1961 in the first part of paragraph 3. I think we can safely say that the

new year referred to here is the new year of 1962. Will you just assume that that is so?---Yes I think that is fair.

Now then I want you to turn first of all to paragraph 5. This has been read by my learned friend, but I want to read it with slightly different emphasis. You see the second sentence starts "Already last May" summing up the experience of the May 31st general strike "we recognised that the combination of overwhelming force and emergency rule by the Government brought the legal mass movement to a turning point. We recognise that the prospects of further legal mass actions are growing more and more remote." That is further LEGAL mass actions.--That is right.

Would That refer to such things as processions, demonstrations, plakards?--Yes. I think that must be what is intended.

then
"We recogni sed/that ~~at~~ that the prospects of further legal mass actions were growing more and more remote, and that the way forward would lie through illegal actions of both non-violent and of violent character. Since then illegal actions of a new type acts of political sabotage against the Government and its installations have been carried out in different parts of the country." And then it refers to the most widespread being that of the new organisation.
I want to take the next paragraph which my learned friend skipped. It is dealing with these operations, and the organisation: "Umkonto stated in its first Manifesto that its purpose was political, the liberation of non-white people. It will confine itself to direct military-style attacks on Government installations and apparatus. It will not attempt to supersede existing political organisations." So that expresses the point of view that has been put by various

witnesses, that Umkonto was not to be a political force?---
That is correct sir.

And then in paragraph 6 is set out the sort of thing Mr. Sisulu spoke about when he gave evidence "In political statements in the past we have pointed out that in conditions existing in South Africa, the liberation movement dare not assume that the struggle can necessarily be won by non-violent means. The Government policy makes it increasingly likely that in the long run the liberation movement will have to resort to arms against the Government. It is for this reason that we welcome the appearance of Umkonto. We regard it as a valuable weapon" and then it seems to me that the emphasis is placed on "to supplement the work of mass agitation at present, and also a valuable field for the training of militant liberation fighters, in the techniques of armed struggle which they may well have to carry out in the future." Then there is another portion which was omitted by my learned friend. "Umkonto provides the basis for the rapid establishment ..(quotes)..liberation army should such a step become necessary in the future." So one can say fairly, Mr. Bernstein, that this contemplates something in the future?--Yes very clearly.

"it also ensures that the liberation movement will have ready at hand its own peoples armed force to take over the defence of the country from its enemies when power has been wrested from the white state." Then follows the portion that my learned friend read, I don't need to read that again. It quotes from the Manifesto, but paragraph 7 is of some importance. "We are in full agreement with the need for these new methods to supplement and inspire our traditional methods of mass action, but we must take care

both at leadership level, and in our groups, to see that we are not diverted from our main tasks of mass political work by focussing attention on the new theme." Now there is reference to the phrase which you have discussed, Mr. Bernstein, "mass political action",---Yes sir.

And the document clearly says that that is the main task?--That is correct.

"Our membership must not be drawn off in an unplanned fashion from vital tasks of maintaining our organisation, spearheading the mass movement.s" Presumably that refers to non-violent tasks?---Spearheading the mass movements, you mean?

Yes the main tasks of mass political works.---
Yes, of agitation on political subjects.

* You don't know of any mass violent movements?
---No sir, clearly this refers to mass movements against the pass laws and bantu authorities, and that sort of thing.

"Naturally our units will be interested in discussing the part which Umkonto plays in relation to the main political problem, but they should not divert their attention to details of its work and actions." And then my learned friend has read the most important part of paragraph 8 but just beyond that, the second sentence, the document proceeds "This wrong emphasis has been seen, for example, in our reaction to the new Verwoerd plan for the Transkei. Our organisation and to some extent the Congresses is sternly critical of this scheme, but the fact that we are critics does not and should not mean that we do not enter into a mass campaign of struggle against the scheme. We have tended to sit back as critics, almost as spectators. The issue of the Transkei's future

we have left to the Government and to the Chiefs without attempting to rouse the masses to participate in the decision." Does that suggest to you anything in the nature of violence?--No not at all sir. I think it suggests agitation against the Bantustan scheme.

Lastly I want to refer to the second part of paragraph 9 on the next page. "All our leading organs must start the new year in the new way. They must turn their attention constantly to the main problem of our movement, the mobilising of the masses to political activity, and seek at all times to make our line the line of the people. We must throw ourselves into the job of putting new life and drive into the second phase of non-collaboration campaign, and the campaign for mass recruitment into trade unions. Let us fight tooth and nail against the mood of apathy and hopelessness, of waiting to see what will happen, which seems to affect some supporters of the movement. New methods by umkonto for solidarity action outside this country may inspire and assist us, but they are no substitute for mass action by the people of our country, the key to national liberation." Now there again is there any suggestion, in your view, of any violent action? ---Well only the new methods by Umkonto which are described as secondary and auxilliary, as I understand it.

Belt 98E

Do you know to what the phrase refers, the "second phase of non-collaboration"?--My lord, I think I am correct in saying that the Pietermaritzburg Conference, which took place in 1961, to which there was reference here in evidence, decided on two things, one was the General Strike ^{which} a great deal of attention has been payed in this case, which took place at the end of May, and the other was to follow that up with a campaign of non-

collaboration with the Government in all sorts of activities; that people should not serve on Government boards, participate in institutions set up under Bantustan scheme and Group Areas schemes and so on. I think that is what is referred to here as the second phase of the non-collaboration campaign. That was the phrase they used at the time, non-collaboration.

Right Mr. Bernstein - now those are the relevant parts of the document which is the first part of 1962?--That is so.

Now I think we will take Exhibit R.104, that is the April/May edition of the 'African Communist.' It is also Exhibit Y my lord. Now Mr. Bernstein, I don't want to take up much of the Court's time. You will see that at page 44..43 just states an adherence to the Freedom Charter; then 44 to 45 refers to the condition of non-violence, and gives practical reasons why that has been followed, as a sound policy; practical reasons rather than the somewhat mystical Ghandi-ism.---Yes.

Then if you turn to pages 45 to 46 I gather the author tries to describe the change in the situation. He says at page 46 though the policy of non-violence appears not to have achieved much, in the third paragraph "It would be incorrect to asset that these struggles have been fruitless. Far from it. In the course of defiance, pass-burning and other campaigns, strikes, demonstrations, boycotts and other forms of non-violent mass action, the political consciousness of the masses has been tremendously raised. Steele d and disciplined fighters for freedom have been developed and trained." That of course would also not refer to soldiers?---No sir, I think that is just referring to politically active people.

In the last paragraph of that section, the Situation has Changed, there also is this said, that all these things add up to a major shift in the political situation, "where no further progress is possible along the traditional paths by adhering rigidly to non-violent slogan.. quotes...where every democratic demand is treated as an act of rebellion." And then there is a section which deals with the question of power and says that the demand from the Maritzburg Conference for a National Convention was a demand for revolution. That appears in the last line but one.--Yes I have that.

Now that is in the same way in which you were describing the use of that word?---That can be the only possible meaning to it, sir. There was no demand for armed uprising.

It was a demand for a convention?--Yes.

I want you now to turn to page 49 - incidently, just before you go there, at the foot of page 48 that emphasises that the Manifesto makes it clear that this is the first move in a long-term plan of campaign. I want to refer particularly to the last paragraph just before the section "Approval of the Masses".---Yes I see that.

It quotes from the Manifesto "We of Umkonto have always sought, as the liberation movement has sought, to achieve the liberation without bloodshed and civil clash. We hope even at this late hour that our first actions will awaken everyone to the realisation of the disastrous situation" and expresses the hope that matters will not reach the desperate stage of civil war. Now then Mr. Bernstein, at the foot of that page again is expressed the view that political action remains at the present stage the

main form of the freedom movement.--That is so.

And if you turn to the next page, the last page I want to refer to, at the top it says the Government will have to reckon with the knowledge that future violence will meet with stern reprisals, and then in the second paragraph "Until now it has been the Nationalist Government alone which has taught and spoken of settling the future of this country by violence. The sort of violence they had in mind was the suppression of every peoples movement for liberation and democratic change, by means of the army and militarised police, with the aid of a mass mobilisation of part-time white civilians armed and organised for civil war by the State." I skip the next sentence, and then proceed "It is very doubtful whether this enthusiasm of the white colonialists for forcible solutions would continue in a situation where the people were organised and equipped to fight back, to conduct a protracted guerilla war which would exact casualties not on one side only, and have profound effects on the economy of the country and aggravate immensely its already grave international relations. There indeed lies the sole prospect of forcing the colonialists to re-consider their adamant and intransigent attitude towards peaceful transition to a non-racial democratic society. In a word, before the racist oppressors can be made to listen to reason, their ears must be opened by speaking to them in the only language they can understand. So long as the prospect of such re-consideration remains open, the armed struggle of Umkonto will remain the supplementary, not the main, force..form of struggle." So that takes it up to June.---Yes.

No April/May of that year. Then there is the document R.51 which has been referred to on several occasions,

and about which I think you have expressed an opinion too?

---Yes I think I did.

There are passages on page 2 in paragraph 2 which suggest that the A.N.C. itself has adopted a policy of violence.---Yes I think I said I thought that was a wrong statement when it was put to me sir.

I don't know what this document/^{is,}-- it does not appear to have been issued to anybody at all ---That I could not say.

You don't know what it is?--No.

Well, if one follows that up - first of all, I want to try and fix the date of this, I have an idea I found somewhere that it was approximately July or August. --I think from page one the paragraph numbered 1, it suggests that the campaign against the Sabotage Act has been completed. In other words, it gives me the impression that this is shortly or sometime after the passing of the Sabotage Act.

That is right. And then you will see at the foot of page 2 the last paragraph but one says "The main content of the South African democratic revolution, as formulated in our own draft programme, is the national liberation." So apparently this preceded the publication of the Communist Party programme?--Yes it would appear to come between the publication of the draft and the publication of the finished document.

And then if you will look at the programme itself, briefly, I want to investigate whether it contains any formulation similar to this which we have just seen in R.51. This is a matter very much for argument, so I don't

want to quote at length. This programme deals in Section 5 with the National Democratic Revolution. And I want to refer only to page 4..at page 53 the programme refers to the long and difficult struggles..national liberation organisations..in which they have always sought peaceful methods?--Yes.

Then 54 really contains the summing up of the situation. At the top there is the usual warning that the Government policy will lead to open organising of guerilla armies, etc.--Yes.

Then in paragraph 2 the programme expresses the view that the slogan of non-violence is harmful, and it proceeds in the second sentence as follows:"At the same time the Party opposes undisciplined acts of individual terror; it rejects theories that all non-violent methods of struggle are useless or impossible, and will continue to advocate and work for the use of all forms of struggle by the people. The Party does not dismiss all prospects of non-violence transition to the democratic revolution. Its prospect will be enhanced by the development of revolutionary and militant peoples forces. The illusion that white minority can rule for ever over a disarmed majority will crumble before the reality" and then that paragraph concludes "The possibility would be open of a peaceful and negotiated transfer of power to the representatives of the majority."--Yes.

Once again, militant there does not mean military does it?--No I don't think it ever means military, sir. It means vigorous.

And then the demand is stated on page 55, viz. for the summoning of a sovereign national convention. --Yes that is so.

Mr. Bernstein, that leaves the document R.40 and R.121B. Now I think we shall be able in argument to point out to his lordship the clear reasons for saying that R.140 precedes R.121.--R40.

Yes, R.40. One can see for instance that the paging is such that it was still in the stage of preparation, there is a page 6a and a page 6b---That is right.

And then I think there are directions for the typist at the top of page 6.--Yes.

New section to be added, about 2 pages.--Yes.

I want to deal just briefly with some of the important omissions. Take page 1 on R.40. I have asked you to examine these documents, haven't I?--Yes I have examined them.

The last sentence in the first paragraph "More and more the oppressed masses are seeing violence and retaliation as their only answer". That is a passage that has been omitted altogether hasn't it?---As far as I can see, sir, yes.

Take page 2 paragraph 2: there is a paragraph which reads "Without doubt these measures have taken heavy toll of the freedom movement. They have greatly narrowed the area of legal opposition and ~~xxxx~~ demand for change. They have closed to road to peaceful democratic progress."---Yes.

Now if one finds the relevant passage in R.121 you will find instead of using the phrase "~~closed the road~~" the phrase is "greatly narrowed any hope" which is used. ---That is correct sir, I have got it here in front of me.

And then lastly I would just like to refer you to the last paragraph on page 8. That is the paragraph which the State has placed great reliance on, but "such acts of sabotage are not enough and have never been considered

enough by themselves to achieve the common aim of Umkonto and the rest of the liberation movement, the overthrow of the white supremacy state. These activities can only be of ultimate effect if they are regarded as a preparatory stage intended to broaden out into a full-scale campaign of armed full-time guerilla and military operations to engage and eventually defeat the forces of the state." You have that?---Yes I have that.

I
Now that does not appear in R.121?--No/don't think it does.

There is a completely different formulation I think right at the end?--Yes near the end of the document.

And R.121 makes it quite clear that these drastic revolutionary proposals are only made in the event of the Government persisting in its attitude, only then, says the fifth paragraph, on page 11, 'the only effect can be that the present outbreaks of sabotage will develop into full-scale war.'--Yes I don't think they are even proposals at that stage, sir. They are a prediction of what is going to happen inevitably.

So if I can produce evidence that it was the latter of the two that was issued, then that would be the final statement?--It would appear so, my lord.

Now I turn briefly to some of the documents which were put to you. Mr. Bernstein in C.R. for instance, which is also called CO. one of the first documents which was put to you, you remember this pamphlet:--I remember it was put to me.

"Vorster's Nazi Law" and ends up "Let us all, Communists and non-Communists alike unite in a stern and dedicated fight for freedom."---Yes.

Have you any doubt as to how members of the Congress Alliance would read that?--No sir, I think they will understand that means a political campaign, a political battle fought with political means, meetings, demonstrations and so on.

This word is very frequently used, isn't it?
---Oh it is a standard word, not just to the Congress Movement, let me say sir, but I think in practically all political parties and organisations this word is used.

Now it has been suggested to you Mr. Bernstein that the average Congress member whoever it might be would read this in a different fashion because of the establishment of Umkonto. What do you say about that?---My lord, I would be inclined to dispute that. I think that this sort of leaflet which is issued to the public, issued to the ordinary man in the street. The ~~xxxx~~ people who write them are well aware that the ordinary man in the street does not sit down and study the document, or attempt to find a hidden meaning, and interpret it in the light of some other circumstances or something he has heard at some other time. He would take it at its face value, he will take the simplest meaning of the word, the obvious meaning of the word, and not attempt to interpret it in the light of a lot of of conundra of other circumstances. And I think it is written in that way and it is intended to be read in that way.

You see, it was also suggested Mr. Bernstein, that in ~~xxx~~ R.158, where you wrote ...I know there was a reference there to fighting, or sooner or later disturbances would take place like Zeerust - that was in an article on the Bantu Homelands.--Yes.

And then in the next Journal referred to which R.131, an article in "Fighting Talk" Going Down in Blood,

which referred to...that was the phrase in an article?---

Yes, it was the heading put on an article.

Is it conceivable that anyone would recommend in public journals that there should be armed insurrection? --My lord, it seems to me one must distinguish between journals or documents issued by organisations which are functioning quite openly and legally and organisations which are functioning secretly and illegally. If you take a document like "Fighting talk" or "New Age" or any of these documents which are issued from offices which are known to the authorities; they have got their address on them; the people working on these journals are known, such organisations certainly would never issue calls to people to plant bombs or to conduct guerilla warfare operations. But when one comes to documents like these, issued by the South African Communist Party, or by the African National Congress when it is unlawful, now there I believe my lord that if these people wanted to say "Go and plant bombs in pass offices" they would say it, just like that - because they are not known, they are secret organisations and the purpose of being secret organisations is so that they can say what they think without having to go into circumlocution and so on. So I would say that when one deals with documents issued by illegal organisations, one cannot read into them hidden meanings. If they intended to say to people "Commit Sabotage" they would say it - as in fact Umkonto did say in the documents it issued.

Now Mr. Bernstein, I want you - I don't know whether it is a long task or a short task, I would like you to make it as brief and simple as possible - you remember that you

made the statement yesterday that the Exhibit R. 20, R.21 and R.22 were not sound Marxism.---Those are "How to be a Good Communist?"

Yes. Now I have not naturally been able to discuss this with you, but possibly - you have had these copies?--Yes.

I think if you can avoid giving the Court a lecture on these documents you should Perhaps you could make, you know, half a dozen clear points.---Well I don't even know if I will make as many as that, sir, but I would take the first paragraph of Lecture 1 my lord, which says that "A Communist is a member of the Communist Party who understands and accepts the theory and practice of Marxism-Leninism as explained by Marx, Engels, Lenin and Stalin." Now this is a wrong statement. There is a document before the Court which gives the rules for the South African Communist Party which makes it clear that a member of the Communist Party is not required to understand the doctrine. The requirements for being a member of the Communist Party, is that one supports of the policy of the Party and undertakes to do active work under the direction of a leading committee of the Party. Whether you understand and accept the theory and practice of Marxism-Leninism is completely a matter which is outside the scope of whether you are a member of the Party or not. The Party encourages people to do this, but it never lays down anywhere in the world, not even in the Soviet Union where they teach Marxism-Leninism to people as a matter of policy, not even there is it laid down that to be a Communist must you understand. And you will find that interpretation of what constitutes a Communist running right the way through Lecture One sir, and in my opinion it is a completely incorrect statement. You will find it repeated for

instance on page 3, under the heading (a) "One's something I don't know what, 'in the practical struggles of the oppressed people." It repeats the same thing. It says that it is not enough to understand Marxism. In addition to that, to be a Communist, you must participate in the struggles of the people. I think this is an exact reversal of Marxist and Communist policy. If one wanted to say anything at all, one would say "It is not enough to participate in the

active political struggles of the people - to be a Communist you must also understand Marxism." On lecture one I think this thread runs all the way ^{through} ~~though~~, I won't burden the Court with it, but it seems to me this is a fundamental misunderstanding which indicates to me that the person who wrote these did not understand the position of the Communist Party on the Question. If I turn to ~~Chapter~~ Chapter Two, sir, the second paragraph says "Dialectical materialism was founded by Marx and Engels. " I think it is a very odd word - it might just be a matter of English, but I don't think it is a word any Communist would use at all, sir. It is a system of philosophy which was put together, perhaps, by Marx into a coherent whole, but dialectics date back to ancient Greece and materialism probably just as far, or further. In paragraph 3 it says that the philosophy of Marxism 'is a dialectical philosophy because it studies things concretely and objectively, and because its approach on all things in nature is always based on data established through scientific investigation and experience.' Now my lord, this is not so at all. A dialectical philosophy,

Belt 99E.

as is said correctly that a dialectical philosophy is one which attempts to establish truth by exposing contradictions. I think that is the basis of it. What this says is that a dialectical philosophy is nothing of the sort, it is what I would say a concrete approach, or perhaps it might even be described as a materialist philosophy. I don't know how long I should carry on?

Just deal with the Third. Have you found similar...---I have found similar things, my lord, which indicate to me that the person who wrote these has not got a profound understanding of Marxist theories.

Or of the Communist Party. Now I want you.. Mr. Bernstein I don't know if you have had an opportunity of looking at this book (T.66). --No I have not. Not at all.

I think perhaps if you just look at the inscription on the flyleaf...---Riot control techniques.

Yes, and then it says by whom it is issued. --- It says "Riot control techniques, manhandling and close combat for the police and the military by Liet.-Col. Rex Applegate, U.S.A. (Retired) and apparently issued by the military service division of the ? Company, Pennsylvania.

It does not purport to be a Communist Journal describing how Communists should work?

BY THE COURT:

I don't think that was the suggestion. The suggestion is you must study that to see how you can counter the police methods. That I think is the suggestion that the State makes.

MR. FISCHER: No, it was suggested by my learned friend, that Mr. Bernstein, as I understood him, terrorism and mob violence was part of Communist methods.---Well I disputed

thatat the time.

Now I want to turn to Exhibit R.35 which is
sorry, 96.
the same as R.69. / I have the original here, might I just
unpin this for the moment to give you one copy and keep one
for myself. Now this was said to be, I am quoting my learned
friend, a "blatant incitement to take up arms." I can't
remember from what he inferred that - oh it was the reference
to Cuba?--Yes it was the top paragraph on page 2 actually.

Oh yes that was it, where the students fought
with a book in one hand and a rifle in the other. Now
Mr. Bernstein, this refers in the third paragraph on page
2 ; "The youth of our country have shown that they can
fight bravely for their rights. At Fort Hare, Turfloop,
Healdtown, Lovedale, Kilnerton and the Botha High School
for example, they stood up and took militant action, regardless
of the consequences. When nurses were caned, they went on
strike. When workers in the factories demand better con-
ditions, the youth are with them." Do you know what
happened at any one of these colleges? ---My lord, I don't
know if that is what this document is referring to,
but there have been from time to time student protest strikes
at I think most of these places. And I think a large number
of students got expelled as a result of that.

From time to time that does happen?---^Yes.
I am not sure if that is what this document is referring to.

Have you ever heard of the students of these
colleges taking up arms?--No sir.

Or taking violent action?---Apart from the one
case that was quoted to me by the prosecutor of a student
who has been charged with sabotage, I don't.

Well anyway the document sets out what it calls

on the youth to do, at the foot of page 2.--Yes.

Which include such things as building students and youth organisations to look after our interests, building factory committees and trade unions, fighting the colour bar and sports clubs.))That is right.

Oh then the next document referred to Mr. Bernstein was referred to apparently for a different purpose. That was your document "Differences in the Communist Movement"R.36.---Yes.

And how it was that you would find time to go out to Rivonia with this document and other documents as well. Had you any particular reason for going in that direction?--Well my lord, as I said, I was asked on these occasions to go out with this material. At the time, sir, I was supervising a building operation job in Bryanston. From my house to Bryanston via Rivonia is not much longer than any other way round, and so on occasions either to or from Bryanston I used to take the opportunity, being in the district, just to drop in there. It was not as far out of the way as it sounds.

Yes. Incidentally, there were these two topics, the Chinese/Indian dispute, and the theoretical dispute between the Soviet Union and the Chinese Communist Party. ---Yes.

Were those matters which were very keenly discussed?---Yes my lord, very keenly discussed indeed. I would say the second one was more of interest to people of a Communist bent, or interested in Communism, but the first one, the dispute between China and Indian over the frontier was a matter of tremendous interest to everybody in the liberation movement, regardless of his political ideology.

QDO RE-EXAMINATION BY MR. FISCHER (CONTINUED):

Mr. Bernstein, you know that certain things are free in the Soviet Union.--Yes certain things are.

Amongst these that are mentioned here, free bread, free public transport, free education, free medical services, free meals - do you know which are free?--Medical services, sir are free, and there is one other that you read.

Education?---Education is free. I don't think any of the others are yet free.

But that is the object, is it?---That was the point of this plan. The Communist Party of the Soviet Party at that time produced a plan for the building of Communism, which they hoped to achieve..I can't remember when it is now, 1970 or 1980 and by that time they hope to have all these other things free as well, as part of their Communist society.

Now Mr. Bernstein I turn to a slightly more personal subject - this letter which you wrote, you wrote openly and handed to the prison authorities to transmit?-- That is correct.

To your sister and her husband?---That is correct.

My learned friend has read only criticism which you make?--Yes.

But in fact, if the letter is read as a whole, you give your reasons, including those which you gave this morning, for thinking that certain witnesses had not told the truth?--- I think I refer, if I remember sir, I have not seen the letter since I wrote it, but if I remember I think I referred to specific witnesses in making those allegations.

You referred to the two who were at Lobatsi.---

That is right.

You referred to the taxi driver and his minute description of a whole days travelling, in which he hears one sentence and one sentence only.---That is correct.

And so on - you set it out?--Yes, as far as I can recall.

Your statements are substantiated as faras you can substantiate them?--Well I think they are fair conclusions, sir, other people might not agree.

Mr. Bernstein, I want to ask you something else. You were a 90 day detainee?--Yes I was.

Were you asked to make a statement?--I was asked to give information, sir.

Were you offered any rewards? were any threats made? I would like you to give this fully, for if it applies to you one assumes it might well apply to others. ---Well my lord, so far as threats are concerned, I was told repeatedly, in interrogation sessions by the police, that if I didnot give the information they required satisfactorily I would be detained indefinitely for 90 days and 90 days and another 90 days. One of the interrogating officers in fact told me he had got 23 years to go in the service, so he can afford to wait longer than I can. That sort of threat was made repeatedly. Towards the end of my detention continued reference was made to the fact that very serious matters, charges, were going to be brought against me in which the death sentence was very, very likely to be brought on, and this question was harped on repeatedly, sir. Suggestions were made, not directly, but slightly obliquely that perhaps I could name my price for

giving information, if I felt that interested me. I was told about people who got considerable sums of money for giving information.

What sort of sums?---The sum of R6000 was mentioned about one person who gave a very, very important piece of information. So to that extent, inducements and threats were held out to me.

And is that why you called it torture?--No sir. What I called torture is the actual conditions under which we were kept for 90 days. One has to go through it, to spend 90 days without talking to a solitary human being at all to be locked in a tiny room, grey walls, only able to see a piece of light through a very high window, and spend 23 hours a day contemplating those walls, because you are not allowed to read or write, and you have got no work to do and nothing to occupy yourself at all. These conditions, coupled with the interrogation sessions, in my view amounted to a form of mental torture which is very, very severe indeed.

Mr. Bernstein, can you say whether it has affected your memory or not?--I can only speak about the symptoms I observed in myself, and I don't know if I have got a complete record of them. I developed an extremely severe handshake after about 60 days, a tremble in my hands, which lasted for some weeks after the end of my detention. I found at the end of my detention, sir, that I was utterly unable to concentrate. If I sat down to write a letter, I could write two sentences, and then I would have to get up and walk around for 5 or 10 minutes before I could write a third. Extreme anxiety, my lord, about absolutely ridiculous things which a normal person would not feel the least anxiety about at all, I found making me extremely

anxious and reducing me to a state of nerves under certain conditions. These things I observed.

Incidentally, Mr. Bernstein, when the interrogators were not issuing open veiled threats, was the interrogation a relief from the loneliness?---Yes sir, I think it was a great relief to have somebody to talk to. I am not a person, as ~~has~~ there has been evidence in this box here sit, that I am not a person who likes talking to policemen, and I found it a relief.

What does one do to occupy oneself Mr. Bernstein?

---Well sir, I suppose everybody..

BY THE COURT: (to Mr. Fischer)

What is the relevance of this Mr. Fischer?

You are now trying to get evidence in at the back door which I excluded from the front door? ---Well, this is personal experience, my lord.

Well, he has given us.---As your lordship pleases.

Are you suggesting I should not believe any of his evidence, because he has been ..at one time was confined? --No my lord. This witness did not make a statement.

RE-EXAMINATION BY MR. FISCHER (CONTINUED):

Mr. Bernstein, I want lastly just to refer to the Exhibit D.L. which was put in. As I understand it, this expresses a good deal of your political philosophy.

--Yes sir I think it does.

You deal with..could the witness have acopy?

---(Handed to the witness).

In writing about South Africans facing the future, you were addressing White South Africa?--Yes, the whole document is addressed to White South Africans.

You start by saying that they become immured to shock?--Yes.

You give a picture of a South African who can even, shall I say, can even take Sharpeville?--Yes.

You then describe changes in Africa - I am doing this very briefly?--That is so.

And you start on..at the foot of 4 under the heading "Floodtide, 1960" to characterise the changes which have come about.--Yes.

You mention all the states, or a large number of the states who have achieved freedom without any bloodshed at all,?--Yes.

You set out the features, under the next paragraph "Looking Closer Home", the ..you characterise the features of the South African situation?--That is so.

The future of South West hanging in the balance, Bechuanaland negotiating for self-rule, and so forth.--Yes.

Then you ask what price are we prepared to pay for our right to keep out of step with what you call the floodtide of 1960?---Yes.

You count up the cost as being a state of virtual martial law, this referred, I think, to the emergency?--Yes I think so.

Then you proceed to say "The future is now."
Mr. Bernstein, I don't want to read much of this. Would you like just to summarise it, briefly?---You mean the rest of it from there on?

What you are standing for?---My lord, what I was trying to say from here on was that a situation is being reached in which white South Africans have got only two choices for the future, the one choice, which is the one which is being proposed and advocated by the Government, and followed out by them, is the choice of attempting to

hang on to their present positions of power, by shooting it out with the non-European people when it becomes necessary; and the other, or perhaps 2 further choices, for the white people to pack up and leave this country, or alternatively to try and reach a settlement with the non-white people on the basis of recognising their rights to equality of rights and opportunities. I then deal with Algeria, which I say is the writing on the wall for South Africans.

You have written quite a considerable amount on Algeria?--Yes sir I have, because I think it is the closest..well not the parallel, it is the best lesson which South Africans can draw from the history of Africa, and that is that there you have a not dissimilar breakdown in the population as between white and non-white, you have the same monopoly of power in the hands of the white population, who attempted to hold it by a military process which finally practically broke the back, not just of white Algeria sir, but of France, and finally failed, as I predicted in this document it must inevitably fail. I then make the point that this is the lesson which white South Africans must draw, that even if they choose to shoot it out, in the long run they are going to fail, and when they do fail, they will then have no further option. By that time there will be such bitterness in this country that white South Africans, even if they then choose to want to live here, very likely will find life as intolerable as many whites in Algeria found at the end of the Algerian war, and became refugees. And that is I think a summary of what I was trying to say.

Would you be prepared to say Mr. Bernstein, would it be fair to say that you spent many years of your life trying to prevent South Africa coming to a stage where it

had to shoot it out?--I think almost all my political life has been spent in that direction.

Mr. Bernstein, one or two other questions: it was put to you that..or you suggested that the police discredited themselves. Now I just want to know - what have you in mind?--Well my lord, I think there are many occasions on which the police behaved in a way which is no credit to a responsible body of men, entrusted with the tremendous powers that they are entrusted. I mentioned one example.

You mentioned Bultfontein?---That is right.

There have been other assaults?---There have been many other assaults on people.

And we know that the Minister made a statement quite recently about the number of police who have committed assaults and were still in the police?--That is so.

That does not mean to say that all policemen commit assaults?---No, far from it.

It does not mean to say that our police force is particularly bad?---No I don't think I said that .

It means that these things do exist?--Yes, certainly do.

Do you think the existence of the many discriminatory laws affects this position?--I think very definitely, sir. I think people who are brought up in the tradition of regarding non-whites as inferior, seem to treat them in a much rougher and less responsible fashion than if they were brought up to believe that they are not inferior.

MR. FISCHER: No further questions.

Collection Number: AD1844
State vs Nelson Mandela and 9 Others (Rivonia Trial)

PUBLISHER:

Publisher:- Historical Papers Research Archive

Location:- Johannesburg

©

LEGAL NOTICES:

Copyright Notice: All materials on the Historical Papers website are protected by South African copyright law and may not be reproduced, distributed, transmitted, displayed, or otherwise published in any format, without the prior written permission of the copyright owner.

Disclaimer and Terms of Use: Provided that you maintain all copyright and other notices contained therein, you may download material (one machine readable copy and one print copy per page) for your personal and/or educational non-commercial use only.

People using these records relating to the archives of Historical Papers, The Library, University of the Witwatersrand, Johannesburg, are reminded that such records sometimes contain material which is uncorroborated, inaccurate, distorted or untrue. While these digital records are true facsimiles of paper documents and the information contained herein is obtained from sources believed to be accurate and reliable, Historical Papers, University of the Witwatersrand has not independently verified their content. Consequently, the University is not responsible for any errors or omissions and excludes any and all liability for any errors in or omissions from the information on the website or any related information on third party websites accessible from this website.

This document is part of a collection held at the Historical Papers Research Archive, The Library, University of the Witwatersrand, Johannesburg.