START

MICROFILE
(PTY) LTD.
JOHANNESBURG
REPUBLIC OF
SOUTH AFRICA

	MEETING NO.	DATE OF MEETING.	PLACE WHERE MEETING HELD.	NAME OF ACCUSED IN ATTENDANCE.	ACCUSED NO:-	
A.68	5	14th June, 1963.	In flat No. 305, Santa Barbara Court, Ockerse Street, Hillbrow, Johannesburg.	ABRAM FISCHER JEAN STRACHAN ANNE NICHOLSON SYLVIA NEAME	1 7 8 11	X
A.72	6	28th June, 1963.	In flat No. 305, Santa Barbara Court, Ockerse Street, Hillbrow, Johannesburg.	JEAN STRACHAN ANNE NICHOLSON SYLVIA NEAME	7 8 11	
A.73	7	5th July, 1963, at about 8 p.m.	In flat No. 305, Santa Barbara Court Ockerse Street, Hillbrow, Johannesburg.	ABRAM FISCHER JEAN STRACHAN SYLVIA NEAME FLORENCE DUNCAN	1 7 11 12	X
A.78	8.	18th November, 1963.	In flat No. 305, Santa Barbara Court, Ockerse Street, Hillbrow, Jonannesburg.	JEAN STRACHAN ANNE NICHOLSON PAUL TREWHELA	7 8 10	
A.79	9	25th November, 1963, at about 6 p.m.	In flat No.305 Santa Barbara Court, Ockerse Street, Hillbrow, Johannesburg.	JEAN STRACHAN ANNE NICHOLSON PAUL TREWHELA	7 8 10	
A.81	10	23rd December, 1963.	In flat No. 505, Tower Hill, Kotze Street, Hillbrow, Johannesburg. (PAUL TREWHELA'S flat),	JEAN STRACHAN ANNE NICHOLSON PAUL TREWHELA SYLVIA NEAME	7 8 10 11	
A.85	11	23rd January, 1964, at about 6.10pm. Taped	In Moulin Rouge Restaurant, Commissioner Street, Johannesburg.	JEAN STRACHAN ANNE NICHOLSON PAUL TREWHELA SYLVIA NEAME	7 8 10 11	

3/...

MEETING NO.	DATE OF MEETING.	PLACE WHERE MEETING HELD.	NAME OF ACCUSED IN ATTENDANCE.	ACCUSED NO:-
A.102 24	28th May, 1964.	In a car.	JEAN STRACHAN ANNE NICHOLSON PAUL TREWHELA	7 8 10
A.103 25	4th June, 1964, at about 8 p.m.	In ANNE NICHOLSON'S studio-flat No.5, Corner of Quartz and Pretorius Streets, Hillbrow, Johannesburg.	JEAN STRACHAN ANNE NICHOLSON CONSTANTINOS GAZIDES PAUL TREWHELA	7 8 9 10
A.104 25	18th June, 1964.	In the lounge of the Oxford Hotel, Rosebank, Johannesburg.	JEAN STRACHAN ANNE NICHOLSON CONSTANTINOS GAZIDES PAUL TREWHELA	7 8 9 10

MEETING NO.	DATE OF MEETING.	PLACE WHERE MEETING HELD.	NAME OF ACCUSED IN ATTENDANCE.	ACCUSED NO:-
18	18th March, 1964.	In a car.	JEAN STRACHAN PAUL TREWHELA	7 10
~~19~~ 20	13th April, 1964.	In a car.	JEAN STRACHAN ANNE NICHOLSON	7 8
21	21st April, 1964, at about 6.15 p.m.	In a car.	JEAN STRACHAN ANNE NICHOLSON PAUL TREWHELA	7 8 10
22	28th April, 1964.	In a car.	JEAN STRACHAN ANNE NICHOLSON	7 8
23	20th May, 1964.	In a car.	JEAN STRACHAN ANNE NICHOLSON PAUL TREWHELA	7 8 10

CASE NO. .....

A N N E X U R E "G"

THE STATE

versus

ABRAM FISCHER and 13 others.

SCHEDULE OF "STUDY CLASSES".

MEETING NO.	DATE OF MEETING.	PLACE WHERE "STUDY CLASS" HELD.	NAME OF ACCUSED IN ATTENDANCE.	ACCUSED NO.
1	28th January, 1964, at about 8 p.m.	In Flat No. 305 Santa Barbara Court, Hillbrow, Johannesburg.	JEAN STRACHAN CONSTANTINOS GAZIDES FLORENCE DUNCAN	7 9 12
2	29th February, 1964, at about 8 p.m.	In Flat No. 305, Santa Barbara Court, Hillbrow, Johannesburg.	JEAN STRACHAN CONSTANTINOS GAZIDES.	7 9
3	10th March, 1964, at about 8 p.m.	In flat No. 305 Santa Barbara Court, Hillbrow, Johannesburg.	JEAN STRACHAN CONSTANTINOS GAZIDES.	7 9
4	25th March, 1964, at about 8 p.m.	In flat No. 305, Santa Barbara Court, Hillbrow, Johannesburg.	JEAN STRACHAN CONSTANTINOS GAZIDES	7 9
5.	13th April, 1964, at about 8.27 p.m.	In flat No. 305, Santa Barbara Court, Hillbrow, Johannesburg.	JEAN STRACHAN CONSTANTINOS GAZIDES	7 9

2/...

MEETING NO.	DATE OF MEETING.	PLACE WHERE "STUDY CLASS" HELD.	NAME OF ACCUSED IN ATTENDANCE.	ACCUSED NO:-
6	21st April, 1964, at about 7.47 p.m.	In flat No. 305, Santa Barbara Court, Hillbrow, Johannesburg.	JEAN STRACHAN CONSTANTINOS GAZIDES.	7 9
7.	30th April, 1964, at about 8.36 p.m.	In flat No. 305, Santa Barbara Court, Hillbrow, Johannesburg.	JEAN STRACHAN. CONSTANTINOS GAZIDES.	7 9

CASE NO. .....

A N N E X U R E "K"

THE STATE

versus

ABRAM FISCHER and 13 others.

SCHEDULE OF SLOGANS PAINTED.

NO.	DATE.	PLACE WHERE PAINTED.	NATURE OF PAINTING.	ACCUSED RESPONSIBLE.	ACCUSED NO:-
1	18th March, 1964, at about 1.30 a.m.	On the wall of a Prison Warder's house at the corner of Empire Road and Queen Street, No.8 Married Quarters, Johannesburg.	Umkonto	JEAN STRACHAN PAUL TREWHELA [FLORENCE DUNCAN]	7 10 12
2	27th March, 1964, at about 1 a.m.	On a bridge between Edison Street and Main Reef Road, Industria, Johannesburg.	ANC	ANNE NICHOLSON	8
3	10th June, 1964, at about 1.33 a.m.	On the wall of the Johannesburg Goal Johannesburg.	FREE ANC	JEAN STRACHAN PAUL TREWHELA FLORENCE DUNCAN	7 10 12

ANNEXURE J

TIME FOR RE-ASSESSMENT.

1. Our organisation, the Congress movement and the whole liberation front have been through a time of great difficulty and suffering. We have been under the fire of a ruthless government which has declared open war on the people of this country and on their natural aspirations for human rights. We have endured tremendous losses. Large numbers of people are in prison, detained, awaiting trial, or convicted. Cruelty, violence and torture have been applied so thoroughly and consistently that it is clearly on instructions from the highest level. Banning orders and house arrests continue to be applied to any individual who shows any active resistance to government policies.

2. We must now consider where we stand today. How badly have we been weakened, what forces remain intact, what must be done.

3. We must assume that the government's assault will continue and will not lessen. Many courageous people are being prosecuted in long drawn-out trials. Heavy sentences must be anticipated, and those in power will probably keep people in gaol even when they have served the sentences imposed on them. We must also assume that having found that their methods have met with success, they will continue to use them in even more vicious ways.

4. Nevertheless we have reached a stage where we can survey the situation, examine the enemy and his weapons, and plan methods both to defend ourselves against those weapons and to take steps to defeat them. To do this will require hard work, clear thinking, patience and courage. But it can and will be achieved through the application of our

own scientific...../2.

own scientific methods, that teach us to learn from the past; to know that we live in ever-changing , not static, circumstances; to understand the forces at work; to make use of those which are emerging to destroy those that are dying. The new forces are those of liberation; the dying forces are those represented by the Nationalist barbarians. However powerful they may appear at any particular time, this is a fundamental truth which we must not forget when reviewing the past and future.

5. Lessons from the Past Partly as a hangover from the long years of legality, and partly because of the failure of police methods between 1950 and 1963 to achieve any major victory, bad habits developed. Our organisation up to 1950, and the Congresses up to 1960, worked openly and conducted their affairs without any secrecy. When we were banned, certain precautions were taken, but in truth we never really adapted ourselves to illegal conditions. We tended to believe that we were still governed by law, and that provided the police could not prove in court what activities were carried on, it did not really matter if they knew that activities were carried on, or who were active. Hence grave errors were committed.

a) We held too many meetings for far too long in the same places. A skilled underground must be constantly on the move, and use guards when necessary.

b) Full-time personnel operated without any real cover. By the time the police were armed with powers to strike they had all the information they needed, and could attack with accuracy. The fact that they

lacked power...../3.

lacked power to take action for so long produced corresponding indifference on the part of organisers to provide protective covering.

c) Written documents were kept in places where they could be found and could be connected with individuals. Documents were kept in places where people lived, worked or met. Once the 90-day law operated, such places became exceedingly dangerous.

d) Other evidence that could incriminate people and provide information to the police about individual activity was quite unnecessarily left in existence, e.g. documents in handwriting; fingerprints on machines or on paper, etc.

e) Too many people knew each other and knew what others were doing; and thus were in a position to endanger others when tortured in jail.

f) People were recruited to work, and sometimes very dangerous work, without adequate preparation, merely because they were willing, without regard to their ability in the future to resist solitary confinement and torture.

6. 90-Days. With such methods we could still survive and work easily while the State had to prove its case in courts by ordinary means. Our methods revealed their terrible weaknesses as soon as real police state tactics were applied. Our second principle error was that we failed completely to understand the power of the 90-day detention weapon when it was applied by cruel, ruthless and

often clever men...../4.

death on those with whom they formely worked. The names of such people, too, will go down in history. Even if they appear to go free now, their punishment will be far greater than any prison sentence. They will find it impossible in the future to live either with their own selves, or with their own people.

7. But the crises we have faced, and are still facing, teaches us positive as well as negative lessons. While some have been terrorised, others have met this time of fascism as a challenge to action. Even people without any political background have been attracted to our struggle. We need to find a place and useful, fruitful, activity for all those brave enough to be prepared to assist in such times.

8. Lessons. The grave errors outlined under paragraph 5. may appear to be simple things that everyone should have known. The fact that they were so widespread shows the need to set them out, emphasise and discuss them. We simply dare not assume that these lessons have been learned, and that the same errors will not be repeated in the future. Only by re-iterating such lessons over and over can we ensure that people will not make the same mistakes again.

a) RIGID DISCIPLINE - RIGID SECURITY.

Security must be carefully planned, constantly discussed, continuously revised. Every single individual must know from now on that he is not playing a game; he is not conducting a mere pretence; he is involved in what is truly a matter of life or death. The practice of having one person in every group or committee whose job it is to check

constantly ...../6.

often clever men. To resist torture people must be strong and brave, and must prepare themselves in advance to withstand it by realising what lies ahead of them if they are arrested; by preparing themselves mentally and resolving not to answer questions or make statements under any circumstances. We also failed to examine methods of eliciting information from people who are not new or original to South Africa, but standard police practice throughout the world. Because the police had shown themselves ignorant and stupid in the past, we did not even bother to study such practices. There are certain methods of interrogation (e.g. playing one person against another; using the 'sympathetic, kindly' investigator after the cruel, crude one; confronting the victim with isolated bits of information that appear to show someone else has given the whole thing away; irregularity of ways and times of questioning, thus causing uncertainty and confusion; etc., etc.) that people could better withstand if they had known in advance what to expect. Many freedom fighters have behaved in an exemplary way. These courageous comrades remained unbroken by any ordeal, and their magnificent stand will become an honourable part of the history of our country. Others gave way. Some gave, but gave the mimimum, resisting as much as possible and concealing a great deal. Others made restitution by refusing to give evidence against their own comrades. Others gave way and volunteered statements to save their own skins. To their unending shame, this cowardly conduct has led to numerous arrests, detentions and long-term gaol sentences. It may even lead to sentence of death on those...../5.

constantly on discipline and security must be applied rigidly. Such a person must go over matters after they have already been gone over; inspect pockets or handbags of members; question them regarding notes they take or documents of any kind they may have to transport; check on how they arrive and how they leave any particular meeting; and bring forward for discussion, censure or other action anything that they consider careless or that may possibly be harmful.

b) DETAILED PLANNING - SPLIT-SECOND TIMING. Every meeting, every act, must be planned to the last possible detail, to be carried out with split-second timing and efficiency. No evidence of any kind must be left. Nothing must be put down on paper unless absolutely necessary. Political documents, study books or leaflets must never be kept where police may possibly raid or search. Fingerprints must not be left anywhere - on paper, machines, glasses, furniture, doors, etc.

c) LEGAL COVER FOR ALL ILLEGALITY. All tasks must be carried out in such a way, whatever they are, that they appear ordinary and legal. People who have special tasks to do, particularly organisers, must assume proper occupations that are above suspicion. If investigated they must appear to be legally occupied earning legal wages. As far as possible activities must appear innocent. But units must discuss this as if not well-planned, it can be dangerous.

Examine any plans...../7.

Examine any plans for meeting people, going to certain houses, distributing leaflets, or whatever you must do, from this point of view as well. What can be done openly without damage should not be poorly concealed. What must be concealed must be completely hidden. It is easier to be followed on foot than in a car. The fact that you cannot see anyone watching you is no guarantee of safety. Your actions can be seen by someone hidden in a house or building quite a long way away from you. People watching or following others do not look like the usual SB types. The delivery man, the butcher-boy, the street-sweeper in overalls the neighbour, the woman shopping - you must be as careful of these as you would if they appeared in police uniform. You can be listened to by microphone hidden in houses or motor cars, or by instruments that can pick up your voice over long distances. Tiny transmitters can be concealed behind the lapel of someone's jacket, in a case or a book. Use disguises where necessary. Your unit must discuss and experiment. Sometimes something very simple, such as a hat or small item of dress may make the difference.

d) THE FEWER THE BETTER. The fewer people who come together, the safer it is; the less you know, the better off it is. Never try to obtain information that is not absolutely necessary to what you are learning and doing. Meet in the smallest possibly

groups...../8.

groups. Never tell anyone anything they don't need to know. Keep your mouth closed.

e) WHEN SOMEONE IS DETAINED. Even when all such precautions are taken, as soon as someone who knows you is arrested you must take special precautions. Your district must be informed immediately. Any place where you met the person concerned must be immediately abandoned. If he knows where anything - documents, machines, etc,- are kept, they must be removed. Do not rely on anyone who is arrested being 'safe'. Much human conduct is unpredictable. Sometimes the ones we think are the weakest prove the best; but sometimes the ones we thought the strongest crack most easily.

9. The Present Situation. It is not easy for us to lay down a complete programme of action for the coming months, particularly as a great many of our decisions are subject to discussions held outside the country. Co-ordination now means some unaviodable delay. It is quite clear, however, that the coming months will produce events that will greatly assist our work.

a) Internally. Economic Prosperity is producing enormous problems of the control, disposition and training of labour. These are problems that could find a partial solution - as has happened in countries of Europe - under a reasonably enlightened capitalist government, which then enters an era of comparative prosperity. Under South African conditions, industrial growth and economic activity only aggravate and

enlarge the ...../9.

enlarge the difficulties and contradictions that exist. The present situation in our country positively demands opening opportunities of skilled training to the mass of the people and lifting labour restructions on movements, etc. which must accelerate economic difficulties. Instead, we see the government determined to go ahead in coming months with rigid labour controls, job reservation, etc. The present industrial boom is mainly in the field of manufacturing, and South Africa's biggest outlet for manufactured goods in the past has been other African countries. With the constant extension of the economic boycott (the big market in Northern Rhodesia will be closed in a few months) industrialists are going to face a crises. In addition, the new oppressive laws will again stir up discontent, and by the very nature of the suffering they impose, will help end the inactivity that arises from fear and oppression.

b) In the Transkei. A situation is developing so full of contradictions for the authorities that whatever action they take can only make things worse for them. The results of the elections, where about 35 or more of 45 elected delegates are opposed to apartheid policies, were a very real defeat indeed for the government. The fact that Matanzima was elected Chief Minister means that the majority of Nominated Chiefs went against the expressed

wishes of their...../10.

wishes of their own people (although his majority was a very small one). The chiefs are in an uneviable position. They are supposed to express the wishes of their people, and they depend for their authority on the extent to which they do so. They are afraid of being deposed if they go against the wishes of the government. The government is backing an ambitious, self-seeking nationalist, who they know they may not be able to control. They have no alternative, once they have embarked on the creation of this so-called independent state. The way is open in the Transkei for the emerging of political parties, and for the development of political activity along organised lines, even although the emergency proclamation still stands. The boycott of activities relating to the new assembly is today both unreal and incorrect. It means withdrawal from the Transkei political scene. Even those among us who have in the past pursued the policy situation this is wrong.

c) The Indian minority find themselves in a rapidly worsening situation which must force them either into poverty, ruination and death, or else into increased resistance. As Group Areas are applied to larger centres such as Johannesburg, the path of resistance must be taken, and in co-operation with the majority, the African people.

d) As far as whites are concerned, material comfort has quieted manya conscience, and

given the appearance...../11.

given the appearance of a more solid and united front to white supremacy. The fact remains that the extent to which the government has been prepared to go to maintain white supremacy has given rise to revulsion among a minority. We must use every individual who has the spark of decency or conscience left in them. We must increasingly try to make contacts with such people - there must be many more.

e) Regarding our internal organisation, although there have been enormous losses all over the country, a considerable part remains intact. This applies particularly in the Transvaal, where our own and Congress machinery operates on various levels. In addition, despite all our grievous errors and despite so much betrayal, there are whole areas of activity and equipment that have been completely untouched by the police and the state. Rebuilding what has been broken, finding safe ways of using what we have, and educating and training new people to fill the gaps - these are all urgent tasks.

f) Externally. Of considerable bearing on all our discussions is the position of South Africa in the world context, and here the picture is a consistently bright one. From the time that the United Nations voted 106 to 1 to demand that South Africa drop the sabotage trials, the attacks on South Africa have been mounting. There is no area of international affairs that is un-

affected. ...../12.

affected. South Africa's biggest allies, Britain and America, have now voted against us. The expulsion from the world food organisation is to be followed by expulsion from the Clympic Games Committee, and possible soon from ILO. Another move of tremendous importance will be the enlarging of the Security Council, which now appears will take place, in which case resolutions against South Africa will stop being pious expressions of opinion, and become mandatory on all members. If we follow the events of the past few months, when vague talk of a possible arms embargo gradually turned into action, when this is taken even further with proposals to stop machinery and supplies for manufacturing arms; and if we see the extent to which South African affairs occupy the news overseas, we cannot be pessimistic. We have not room here to develop the repercussions of these events, but they are undoubtedly very large. However, activity overseas is always a reflection of events within our own country. If our people are quiet and passive for long periods, overseas interest flags. We must provide both the necessary information and the indispensible activity to step up pressure from overseas. This is both possible and essential.

10. Present Tasks. From this brief outline, certain tasks emerge:

a) Organisation on the economic front is a primary task. How this can be accomplished

with S.A.C.T.U. ...../13.

Contra Eli

with S.A.C.T.U. under constant and crippling attack must be carefully discussed by all units. A combination of open and underground activity is necessary. Those most concerned must immediately come forward with practical suggestions.

P.B

b) We must prepare for mass propaganda amongst the people on the forthcoming Bantu Laws Amendment Act and other new laws. Word of mouth campaigns, the issue of leaflets and news-sheets, and whatever other means we can use, will be needed on a big scale. We must prepare now the actual machinery for such work so that as soon as the need arises we can go into action.

c) Trained organisers must enter the Transkei; people must come here for training. The time is very ripe for political organising and activity. Remember, history has taught us that a country's liberation may begin with a peasant revolt.

d) For every person banned or put out of action, new ones must be found. The Indian community must prove to the government that their opposition does not rest on a few individuals, but is produced by the very conditions imposed.

e) Selective propaganda must be directed at the whites as constantly as is practical. Every area must build up a mailing list, which should be revised and added to all the time. We must explain, dissect and appeal. Where we have any new contacts, they must...../14.

i) We must use the favourable international situation in every possible way. We must provide constant information on internal events, send our articles, information and all types of material on every aspect of affairs here, particularly the extent of torture and brutality. We must help extend all weapons of boycott and other pressures. We must instruct associates overseas in types of activity.

j) Recently a document signed "The Hillbrow Study Group of the S.A.C.P." was sent to various people. The document appears to support the C.P. programme, but is obviously a fake, and very provocative. It is filled with meaningless 'party jargon', and with statements calculated to damage relations between Congress and the C.P. We must be on guard for such provocative things, and it is worth bearing in mind that A.N.C. members who might use this document to cause trouble will reveal themselves as police spies.

k) We ask all members to discuss all sections of this statement carefully and seriously; then to make their own criticisms; to send in practical suggestions and ideas; and finally to put into practice as much as possible.

UNITS MUST ARRANGE A SUITABLE TIME WHEN THIS CAN BE READ BY EACH MEMBER AND DISCUSSED. ON NO ACCOUNT MUST MEMBERS CARRY AWAY A COPY, WHICH MUST BE DESTROYED AS SOON AS THE DISCUSSIONS HAS TAKEN PLACE.

tacts, they must be nursed and developed.

f) Decentralisation of work is essential for our own organisation. More and more responsibility must rest on area committees and on other special committees; more and more initiative taken by units. Of course, there must be co-ordination and central direction. But members must not sit idly waiting for someone to tell them to do something, nor reject tasks that appear uninteresting. For example, one of our greatest needs is to obtain a widespread number of safe places for meeting or keeping things. Only individual members can see to this, and they must see to it,

g) Rebuilding congresses and extending them is a primary task, and must be carried out by all districts. With all our disastrous failures, we have demonstrated one thing very clearly to the people of this country; that the Congress movement has serious, intelligent, far-thinking leaders who are capable of planning action on a very big scale. Set against the futile individual murders and terrorism of Poqo, Congress activity must prove its worth and draw increasing numbers to its ranks. This is not long-term, but must be done with speed.

h) Education must be organised at every possible level. Political education, discussion classes, practical education in survival and methods of activity - all this must be discussed and organised.

i) We must ...../15.

(b) If the Communist Party of South Africa and the South African Communist Party are not alleged to be one and the same body, and the State does not rely on the facts specified in (a) (i) or (ii) hereof, is it intended to allege that the South African Communist Party is an organisation prescribed in Act 44 of 1950? If so, why is it so alleged?

2. (a) When is it alleged that the Accused became a member of the said unlawful organisation; in particular was it prior to or subsequent to the 12th May 1963?

(b) Where and in what manner did the Accused become a member?

(c) The State is required to specify whether it is alleged that the Accused was a member of the Communist Party of South Africa or the South African Communist Party or of some branch or section or committee, or local or regional or subsidiary body of the said unlawful organisation.

3. (a) If, in addition to being a member, it is alleged that the Accused was also an office bearer or officer of the said unlawful organisation, then the State is required to specify when it is alleged that the Accused became -

(i) an office bearer, and/or

(ii) an officer

and in particular whether it was prior to or subsequent to the 12th May 1963.

(b)/.....

Magistrate for the Regional Division of the Tvl.

IN THE ~~SUPREME~~ COURT ~~OF SOUTH AFRICA~~

Held at Johannesburg.

~~(WITWATERSRAND LOCAL DIVISION)~~

In re:

THE STATE

vs.

A. FISCHER & OTHERS

REQUEST FOR FURTHER PARTICULARS

In terms of Section 179(1) of the Criminal Procedure Act No. 56 of 1955, each one of the abovementioned accused requests the following further particulars to the charges, the State being required to particularise separately in respect of each of the accused where requested

AD COUNT 1.

1. (a) The State is required to specify whether it is alleged that the Communist Party of South Africa and the South African Communist Party are one and the same organisation, and/or whether it is alleged:-

(i) that the Communist Party of South Africa changed its name to the South African Communist Party, and if so, when; or

(ii) that the South African Communist Party is

(aa) a branch, or

(bb) a section, or

(cc) a committee, or

(dd) a local body, or

(ee) a regional body, or

(ff) a subsidiary body

of the Communist Party of South Africa.

(b)/.....

of the said organisation.

5. If, for the purpose of proving that any accused was or became an office bearer, officer or member of the said organisation and continued to be such, the State intends to rely on

(a) an inference from certain facts, it is required to specify the facts and circumstances on which it relies for this inference;

(b) on any document, book, record, pamphlet or other publication or written instrument, a copy of any such document, book, record, pamphlet, other publication or written instrument is required and the State is required to specify from whose possession, custody or control the said document or instrument was removed and/or in which office or other premises the said document or instrument was found or from which it was removed.

6. The State is required to state precisely what sub-section of Section 12 of Act 44 of 1950 as amended it relies on. in regard to this count.

B. AD COUNT 2.

1. (a) In regard to the allegation that the accused

acted /

(b) What office is it alleged that the Accused held or bore and in particular was it on the governing or executive body or on some branch or section or committee, or local or regional or subsidiary body?

(c) If it is alleged that the Accused held more than one office or changed his office, then the State is required to specify precisely what office he held or bore from time to time during the period that he was an office bearer and/or officer of the said unlawful organisation.

4. The State is required to specify, in regard to paragraphs 2 and 3 above, until what date the Accused is alleged to have continued to be:-

(i) an office bearer; and/or

(ii) an officer; and/or

(iii) a member

of the said unlawful organisation.

5. If, for the purpose of proving that any accused was or became an office bearer, officer or member of the said organisation and continued to be such, the State intends to rely on:

(a) an inference from certain facts, it is required to specify the facts and circumstances on which it relies for this inference;

(b) on any document, book, record, pamphlet or other publication or written instrument, a copy of any such

acted "in concert with divers other persons in furtherance of a common purpose", the State is required to specify who the other persons to such common purpose are alleged to have been.

(b) Is it ~~intended to prove~~ alleged that the accused ~~were~~ was acting in pursuance of an agreement with each other accused and ~~any~~ such other persons? If so, the State is required to specify

(i) whether the accused and the other persons acted in concert with, or made common purpose with, each other in terms of an express agreement, and if so, to specify

(aa) when and where such agreement was entered into;

(bb) when each accused or other person agreed with each other accused;

(cc) whether it was verbal or in writing (and if in writing a copy of all documents embodying the agreement are required);

(dd) the precise terms of such agreement.

(ii) whether the accused and such other persons acted in concert with, or made common purpose with, each other in terms of an implied agreement.

If /

1. (b) Is it alleged that the "acting in concert and with a common purpose" was in pursuance of <u>an agreement</u> between all the accused and such other persons? If so, the State is required to specify whether such agreement was an <u>express</u> agreement or an <u>implied</u> agreement.

If such agreement was <u>express</u>, then the State is required to specify:-

(i) when and where such agreement was entered into;

(ii) when each accused or other person agreed with each other accused;

(iii) whether it was verbal or in writing (and if in writing a copy of all documents embodying the agreement are required);

(iv) the precise terms of such agreement.

If such agreement was <u>implied</u>, and the State intends to prove the existence of such agreement by inference from certain facts, and/or documents, then full and precise details are required of the facts and/or documents on which the State will rely for the inference that such agreement existed or that the accused and such other persons acted in concert and with a common purpose.

If so, and if the State is unable to furnish the particulars in (i) hereof, and the State intends to prove the existence of such agreement by inference from certain facts, and/or documents, then full and precise details are required of the facts and/or documents on which the State will rely for the inference that such agreement existed or that the accused and such other persons acted in concert and with a common purpose.

2. If the State intends to rely either in proof of the alleged common purpose or otherwise on the ~~fact that~~ existence of a conspiracy between one or other or all of the accused ~~or~~ other persons ~~acted in a conspiracy~~, then the State is required to specify

(a) ~~who~~ all the parties to the conspiracy were;

(b) precisely when ~~and~~ where, in what manner such conspiracy was entered into;

(c) the full terms of such conspiracy.

If the State is unable to furnish the particulars requested in (b) and (c) hereof and intends to prove the existence of a conspiracy by way of inference

from /

from certain facts and/or documents, the State is required to furnish full particulars with precise dates and places of the facts and/or documents from which the existence of the conspiracy, its objects and the adherence of each accused to such conspiracy is to be inferred.

3. Does the State, by the use of the words "inter alia" in annexure "B" to Count 2, intend to rely upon acts and/or activities other than those specifically set out in annexure "B" read with annexures "C", "D", "E", "F", "G", "H" and "J"? If so, full and precise particulars of each and every such act and/or activity are required specifying

(a) the nature of such act or activity;

(b) the place where, and the date when, such act or activity was committed or carried on;

(c) the person or persons who committed and carried on such act or activity;

(d) the capacity in which each such accused or person committed or carried on such act or activity - that is, whether as an office bearer, officer or member of the said organisation.

4. /

and scheduled in annexure "H", the State is required to specify whether the accused referred to in the schedule are alleged to have taken part in or carried on the said activity with any other person and if so, the name of each such other person in respect of each alleged incident.

(c) <u>AD ANNEXURE "B" : PARAGRAPH 7:</u>

The State is required to specify:-

(i) which of the accused took part in or carried on the alleged activity;

(ii) The names of any "other persons" who were associated with any of the accused in the carrying on of the alleged activity;

(iii) The place where and the date when each such accused and each such other person drafted, and printed and circulated and discussed, the said document;

(iv) The persons to whom and the manner in which the said document was circulated;

(v) Where the said document was found.

(d) <u>AD ANNEXURE "B" : PARAGRAPH 8:</u>

The State is required to specify:-

(i) Which of the accused took part in the preparation of copies of the article and/or the distribution thereof;

(ii) The names of any "other persons" who were associated with any of the accused in the preparation and/or distribution thereof;

(iii)/...

Insofar as it is alleged that the accused did "take part" in or "carry on" the activity or activities set out in annexures "B", lead with "C", "D", "E", "F", "G", "H" and "J", the State is required to specify in regard to each such act or activity, whether each accused took part in such act or activity or carried on such activity

(a) with any other accused, and/or

(b) with any other person or persons, and if so, the names of such other accused or person or persons.

4. (a) AD ANNEXURE "B" : PARAGRAPHS 1 TO 5:

In regard to the alleged meetings and study classes referred to in these paragraphs and particularised in the schedules in Annexures "C", "D", "E", "F" and "G", the State is required to specify whether the accused referred to in the schedules are alleged to have taken part in or carried on their said activities together with any other persons; if so, the name of each such other person or persons who were present at and/or participated in each and every alleged meeting and study class is required.

(b) In regard to the activities set out in this paragraph

and /

(iii) The place where and the date when each said accused and each such other person prepared and/or distributed the said article;

(iv) The manner in which the said article was distributed;

(v) The grounds upon which it is alleged that the preparation and distribution of the said article constitutes an activity of, or is in the interests of the said organisation;

(vi) Whether the whole of the said article is being relied on or only a portion thereof, and if the latter, what portion.

The State is required to furnish a copy of the said article.

(e) <u>AD ANNEXURE "B" : PARAGRAPH 9:</u>

The State is required to specify:

(i) Which of the accused is alleged to have taken part in the compilation of the lists;

(ii) The names of any other persons who participated in the compilation of such lists;

(iii) The place where and the date when each accused and each such other person took part in the compilation of such lists;

(iv) The precise nature and identity of the literature referred to in this paragraph.

(f) <u>AD ANNEXURE "B" : PARAGRAPH 10:</u>

The State is required to specify:-

(i)/...

(i) Which of the accused distributed the booklet;

(ii) The names of any other persons who participated with any of the accused in such distribution;

(iii) The date when and the place where and the manner in which each such accused and each such other person so distributed it.

The State is required to furnish a copy of the said booklet.

(g) <u>AD ANNEXURE "B" : PARAGRAPH 11:</u>

The State is required to specify:-

(i) Which of the accused is alleged to have distributed the said pamphlet;

(ii) The names of any other persons who participated with any of the accused in any such distribution;

(iii) The date when, the place where and the manner in which each such accused and each such other person so distributed it;

(iv) Why it is alleged that the distribution of the said pamphlet constitutes an activity of the said organisation, or is in the interest of the said organisation;

(v) Whether the whole of the said pamphlet or only portion thereof is being relied upon by the State; if the latter, which portions thereof are being relied upon.

The State is required to furnish a copy of the said pamphlet.

(h)/...

(i) AD ANNEXURE "B" : PARAGRAPH 13:

The State is required to specify:-

(i) Which of the accused is alleged to have received and which of the accused is alleged to have distributed any such publications;

(ii) The names of any other persons who were associated with the accused in the receipt and/or the distribution of the said publications;

(iii) The place where and the date when each such accused and each such other person so received and/or distributed any such publications;

(iv) The precise names of all such publications received;

(v) The manner in which any such publications were distributed;

(vi) The persons to whom any such publications were distributed;

(vii) What is it alleged are "cover addresses."

The State is required to furnish copies of all such publications.

(j) AD ANNEXURE "B" : PARAGRAPH 14:

The State is required to specify:-

(i) Which of the accused is alleged to have organised and/or financed and/or directed the activities of the said organisation;

(ii) The names of any other persons who were associated with any of the accused in the organisation, financing and/or direction of

the/...

(h) AD ANNEXURE "B" : PARAGRAPH 12:

The State is required to specify:-

(i) Which of the accused is alleged to have agreed to draft and/or print and/or distribute the said leaflet;

(ii) The names of any other person who were associated with any of the accused in any such agreement;

(iii) The place where and the date when each such accused and each such other person agreed to draft and/or print and /or distribute such a leaflet;

(iv) Whether the said leaflet was in fact drafted and/or printed and/or distributed. If so, which of the accused and which other persons drafted it, printed it and distributed it and when and where was it so drafted and printed and in what manner and to whom was it distributed;

(v) Why it is alleged that the drafting, printing and distribution of the said leaflet constitutes an activity or is in the interests of the said organisation;

(vi) Whether the whole of the said leaflet is being relied upon, or only a portion thereof. If the latter, which particular portion is being relied upon?

The State is required to furnish a copy of such leaflet (if such leaflet was in fact printed).

the said organisation;

(iii) The date when and place where each such accused and each such other person did each of the acts referred to above;

(iv) The manner in which the said organisation was organised, financed and directed;

(v) The nature, scope, object and activities of the said organisation and the purpose for which it was formed and carried on;

(vi) The reason why it is alleged that the organising, financing and directing of "the volunteers" constitutes an activity of the said organisation or is in the interest thereof.

(k) AD ANNEXURE "B" : PARAGRAPH 15:

The State is required to specify:-

(i) Which of the accused searched for and which of the accused rented the said room;

(ii) The names of any other persons who were associated with any of the accused in the search for and/or renting of the said room;

(iii) The date on which the said room was rented;

(iv) The name of the lessee of the said room;

(v) From whom the said room was hired.

(l) AD ANNEXURE "B" : PARAGRAPH 16:

The State is required to specify:-

(i) Which of the accused made the alleged arrangements;

(ii) The names of any other persons who were associated with any of the accused in making

the/...

the said arrangements;

(iii) The date when the said arrangements were made.

(m) AD ANNEXURE "B" : PARAGRAPH 17:

The State is required to specify:-

(i) Which of the accused is alleged to have taken part in the organisation of the alleged S.A. Communist Party in this Regional Division;

(ii) The names of any other persons who were associated with any of the accused in the said organisation;

(iii) The date when, the place where and the manner in which each such accused and each such other persons took part in any such organisation of the alleged Party.

5. The State is required to state precisely what sub-section of Section 12 of Act 44 of 1950 as amended it relies upon in regard to this Count.

AD COUNT 3:

The particulars requested above ad count 2 are repeated in regard to this count and should be treated as if specifically incorporated herein.

(4) AD COUNT 2. ANNEXURE "B" : PARAGRAPH 19.

By the addition of the following paragraph 19 :-

"did take part in the preparation and distribution of a pamphlet, entitled "Freedom Fighter".

(5) AD COUNT 2. ANNEXURE "F" : PAGE 3.

By the insertion between meetings Nos. 18 and 19 of the following :-

"19. 8th April, 1964. In a car. JEAN STRACHAN 7
PAUL TREWHELA 10"

and re-numbering the existing numbers 19 to 25 as 20 tot 26.

DATED this 4th day of November, 1964, at JOHANNESBURG.

_____

PUBLIC PROSECUTOR.

1. Messrs. Hayman & Aronsohn,
205, National Mutual Buildings,
JOHANNESBURG.

2. The Clerk of the Regional Court,
JOHANNESBURG.

D.K.

CASE NO. .....

ANNEXURE "L".

IN THE MAGISTRATES' COURT FOR THE REGIONAL DIVISION OF THE TRANSVAAL.

(HELD AT JOHANNESBURG)

In re:

THE STATE

versus

ABRAM FISCHER and THIRTEEN OTHERS.

NOTICE OF AMENDMENTS TO CHARGE.

Kindly take notice that the State intends amending the charge in the following respects :-

(1) AD COUNT 2. ANNEXURE "B" : PARAGRAPH 13.

By the insertion of the words "and other" after the word 'banned".

(2) AD COUNT 2. ANNEXURE "B" : PARAGRAPH 14.

By the insertion of the words "or the Youth" after the word "Volunteers".-

(3) AD COUNT 2. ANNEXURE "B" : PARAGRAPH 18.

By the addition of the following paragraph 18 :-

"did take part in the printing and distribution of leaflets, entitled "message of Rivonia".

2/...

CASE NO. .....

ANNEXURE "M".

IN THE MAGISTRATES' COURT FOR THE REGIONAL DIVISION OF THE TRANSVAAL.

(HELD AT JOHANNESBURG)

In re:

THE STATE

versus

ABRAM FISCHER and THIRTEEN OTHERS

THE STATE'S REPLY TO REQUEST FOR FURTHER PARTICULARS.

A. AD COUNT 1.

1. (a) The State is required to specify whether it is alleged that the Communist Party of South Africa and the South African Communist Party are one and the same organization, and/or whether it is alleged:-

(i) that the Communist Party of South Africa changed its name to the South African Communist Party and, if so, when; or

(ii) that the South African Communist Party is

(aa) a branch, or
(bb) a section, or
(cc) a committee, or
(dd) a local body, or
(ee) a regional body, or
(ff) a subsidiary body

of the Communist Party of South Africa.

2/...

(b) If the Communist Party of South Africa and the South African Communist Party are not alleged to be one and the same body, and the State does not rely on the facts specified in (a)(i) or (ii) hereof, is it intended to allege that the South African Communist Party is an organization prescribed in Act 44 of 1950? if so, why is it so alleged?

1(a)& (b) It is alleged that the South African Communist Party falls within the definition of the Communist Party of South Africa as provided for in Section 1(i)(xvi) of Act 44 of 1950 as amended. The exact date when the change of name occurred is not known to the State.

2. (a) When is it alleged that the Accused became a member of the said unlawful organization; in particular was it prior to or subsequent to the 12th May, 1963?

It is not known on what dates any of the accused became members but it is alleged that all became members or continued to be members during the period of the charge.

(b) Where and in what manner did the Accused become a member?

It is not known where and in what manner the accused became members.

(c) The State is required to specify whether it is alleged that the Accused was a member of the Communist Party of South Africa or the

South African Communist Party or of some branch or section or committee, or local or regional or subsidiary body of the said unlawful organization.

It is alleged that all the accused were members of the South African Communist Party in the district of Johannesburg.

3. (a) If, in addition to being a member, it is alleged that the Accused was also an office bearer or officer of the said unlawful organization, then the State is required to specify when it is alleged that the Accused became:-

(i) an office bearer, and/or

(ii) an officer

and in particular whether it was prior to or subsequent to the 12th May, 1963.

(b) What office is it alleged that the Accused held or bore and in particular was it on the governing or executive body or on some branch or section or committee, or local or regional or subsidiary body?

(c) If it is alleged that the Accused held more than one office or changed his office then the State is required to specify precisely what office he held or bore from time to time during the period that he was an office bearer and/or officer of the said unlawful organization.

It is alleged that certain of the accused, in addition to being members, were also office bearers of the South African Communist Party, subsequent to 12th of May, 1963, to wit,

No.1 accused)
No.2 accused) Members of Central Committee
No.3 accused)

The following accused were officers inad-

dition to being members :-

No. 4 accused - officer of Area Committee of South African Communist Party.

No. 5 accused - officer of Area and District Committee of South African Communist Party.

No. 6 accused - officer of Area Committee of South African Communist Party.

No. 7 accused - officer of Area Committee of South African Communist Party.

The exact dates when the aforementioned accu-

sed became office bearers or officers are not

known to the State.

4. The State is required to specify, in regard to paragraphs 2 and 3 above, until what date the Accused is alleged to have continued to be :-

(i) an office bearer; and/or

(ii) an officer; and/or

(iii) a member

of the said unlawful organization.

It is alleged that all the accused continued to be members, office bearers or officers for the whole period of the charge. no (9) too ??

5. If, for the purpose of proving that any accused was or became an office bearer, officer or member of the said organization and continued to be such, the State intends to rely on:-

(a) an inference from certain facts, it is required to specify the facts and circumstances on which it relies for this inference;

5/...

The State does not invoke the principle of vicarious liability in respect of the accused for acts committed by divers other persons. Their identity is therefore irrelevant to this charge.

(b) Is it alleged that the "acting in concert and with a common purpose" was in pursuance of an agreement between all the accused and such other persons? If so, the State is required to specify whether such agreement was an express agreement or an implied agreement.

If such agreement was express, then the State is required to specify:-

(i) when and where such agreement was entered into;

(ii) when each accused or other person agreed with each other accused;

(iii) whether it was verbal or in writing (and if in writing a copy of all documents embodying the agreement are required);

(iv) the precise terms of such agreement.

If such agreement was implied, and the State intends to prove the existence of such agreement by inference from certain facts, and/or documents, then full precise details are required of the facts and/or documents on which the State will rely for the inference that such agreement existed or that the accused and such other persons acted in concert and with a common purpose.

It is not alleged that the common purpose or concerted action rested on an agreement between the accused.

The existence of the common purpose or concerted action will be sought to be proved by inference from the following facts :-

7/...

(b) on any document, book, record, pamphlet or other publication or written instrument, a copy of any such document, book, record, pamphlet, other publication or written instrument is required and the State is required to specify from whose possession, custody or control the said document or instrument was removed and/or in which office or other premises the said document or instrument was found or from which it was removed.

The State does not rely on an inference from facts or documents for the purpose of proving the membership or other offices of any of the accused.

6. The State is required to state precisely what sub-section of Section 12 of Act 44 of 1950, as amended, it relies on in regard to this Count.

The State relies on sub-sections 4 and 6 of Act 44 of 1950, as amended. This does not, however, preclude the court from invoking any other sub-section, where necessary.

B. AD COUNT 2.

1. (a) In regard to the allegation that the accused acted "in concert with divers other persons in furtherance of a common purpose", the State is required to specify who the other persons to such common purpose are alleged to have been.

(i) the existence of the South African Communist Party;

(ii) the nature of its organisational structure which was based on a close inter-relation and inter-dependence of the different sections thereof and the close association of its members;

(iii) the preparatory education of members in the Marxist-Leninist doctrine as a pre-requisite to their being accepted as members thereof;

(iv) the continuation of the accused as members of the South African Communist Party during the period of the charge;

(v) the accused having been enjoined to ensure and preserve the continued existence of the South African Communist Party;

(vi) the participation of the accused in the activities of the South African Communist Party, already set out in annexures B,C,D,E,F,G,H and J.

2. If the State intends to rely either in proof of the alleged common purpose or otherwise on the existence of a conspiracy between one or other or all of the accused and all or some of the said other persons who acted in a conspiracy, then the State is required to specify:-

(a) who all the parties to the conspiracy were;

(b) precisely when and where and in what manner such conspiracy was entered into;

(c) the full terms of such conspiracy.

If the State is unable to furnish the particulars requested in (b) and (c) hereof and intends to prove the existence of a conspiracy by way of inference from certain facts and/or documents, the State is required to furnish full particulars with precise date and places of the facts and/or documents from which the existence of the conspiracy, its objects and the adherence of each accused to such conspiracy is to be inferred.

The State does not rely on the existence of a conspiracy in proof of the alleged common purpose as set out in paragraph B(1)(b).

3. Does the State, by the use of the words "inter alia" in Annexure "B" to Count 2, intend to rely upon acts and/or activities other than those specifically set out in Annexure "B" read with Annexures "C", "D", "E", "F", "G", "H" and "J"?
If so, full and precise particulars of each and every such act and/or activity is required specifying:-

(a) the nature of such act or activity;

(b) the place where, and the date when, such act or activity was committed or carried on;

(c) the person or persons who committed or carried on such act or activity;

(d) the capacity in which each such person committed or carried on such act or activity - that is, whether as an office bearer, officer or member of the said organization.

The State does not rely on acts and activities not set out in Annexures "B", "C", "D", "E", "F", "G", "H" and "J" as amended.

4. (a) Ad Annexure "B" : Paragraphs 1 to 5.

In regard to the alleged meetings and study classes referred to in these paragraphs and particularised in the

9/...

(iii) the place where and the date when each such accused and each such other person drafted, and printed and circulated and discussed, the said document;

(iv) the persons to whom and the manner in which the said document was circulated;

(v) where the said document was found.

Ad Annexure "B" : Paragraph 7. (Time for Re-assessment).

(i) It is alleged that all the accused took part in this activity.

(ii) the reply is the same as to paragraph B(1)(a).

(iii) the drafting, printing, circulation and discussion of the document took place in Johannesburg, during the period of the charge, one of the dates and places being the cell meeting No.13 set out in Annexure F.

(iv) circulation of the document took place among the members of the South African Communist Party by being handed over to them by "contacts" of the party, whose names are unknown to the State.

(v) the document was not found at any specific place.

schedules in Annexures "C", "D", "E", "F" and "G", the State is required to specify whether the accused referred to in the schedules are alleged to have taken part in or carried on their said activities together with any other persons; if so, the name of each such other perscn or persons who were present at and/or participated in each and every alleged meeting and study class is required.

Ad Annexure B Paragraphs 1 to 5 (meetings and Study classes).

The same reply as given to paragraph B(1)(a) applies to this request.

(b) Ad Annexure "B" : Paragraph 6. (Slogans).

In regard to the activities set out in this paragraph and scheduled in Annexure "H", the State is required to specify whether the accused referred to in the schedule are alleged to have taken part in or carried on the said activity with any other person and if so, the name of each such other person in respect of each alleged incident.

Ad Annexure "B" and H : Paragraph 6. (Slogans).

The reply is the same as to paragraph B(1)(a).

(c) Ad Annexure "B": Paragraph 7. (Time for Re-assessment.

The State is required to specify:-

(i) which of the accused took part in or carried on the alleged activity;

(ii) the names of any "other persons" who were associated with any of the accused in the carrying on of the alleged activity;

10/...

(d) Ad Annexure "B" : Paragraph 8.
K. Danziger article.

The State ~~is required~~ to specify:-

(i) which of the accused took part in the preparation of copies of the article and/or the distribution thereof;

(ii) the names of any "other persons" who were associated with any of the accused in the preparation and/or distribution thereof;

(iii) the place where and the date when each said accused and each such other person prepared and/or distributed the said article;

(iv) the manner in which the said article was distributed;

(v) the grounds upon which it is alleged that the preparation and distribution of the said article constitutes an activity of, or is in the interests of the said organization;

(vi) whether the whole of the said article is being relied on or only a portion thereof, and, if the latter, what portion.

The State is required to furnish a copy of the said article.

Ad Annexure "B" : Paragraph 8. K. Danziger Article.

(i) All the accused took part in the preparation and distribution of the article.

(ii) the reply is the same as to B(1)(a).

(iii) the preparation and distribution took place in Johannesburg during February, 1964, to April, 1964,

the exact places and dated being unknown to the State.

(iv) Distribution was done by post.

(v) the South African Communist Party through its members, decided to distribute the article as part of its propaganda against the 90 day detention clause.

(vi) the State does not rely on the contents of the document.

(vii) a copy of the article is not available.

(e) Ad Annexure "B" : Paragraph 9. (Mailing lists).

The State is required to specify :-

(i) which of the accused is alleged to have taken part in the compilation of the lists:

(ii) the name of any other persons who participated in the compilation of such lists;

(iii) the place where and the date when each accused and each such other person took part in the compilation of such lists;

(iv) the precise nature and identity of the literature referred to in this paragraph.

Ad Annexure "B" : Paragraph 9. (Mailing lists).

(i) All the accused took part in the compilation of mailing lists.

(ii) the reply is the same as to B(1)(a);

manual delivery, carried out by persons unknown to the State.

(iv) A copy of the booklet is attached, marked annexure "N".

(g) Ad Annexure "B" : Paragraph 11. Focus.

The State is required to specify :-

(i) which of the accused is alleged to have distributed the said pamphlet;

(ii) the names of any other persons who participated with any of the accused in any such distribution;

(iii) the date when, the place where and the manner in which each such accused and each such other person so distributed it;

(iv) why it is alleged that the distribution of the said pamphlet constitutes an activity of the said organization, or is in the interest of the said organization;

(v) whether the whole of the said pamphlet or only portion thereof is being relied upon by the State; if the latter, which portions thereof are being relied upon.

The State is required to furnish a copy of the said pamphlet.

Ad Annexure "B" : Paragraph 11. (Focus).

(1) All the accused distributed the pamphlet.

(ii) the reply is the same as to paragraph B.(1)(a).

(iii) the pamphlet was printed in Cape Town, despatched to the accused who then distributed

(iii) the compilation took place in Johannesburg at various places and dates unknown to the State.

(iv) the nature and identity of the literature referred to, are the publications mentioned in Annexures "B", and "J", and other publications unknown to the State.

(f) Ad Annexure "B" : Paragraph 10. (Programme South African Communist Party).

The State is required to specify:-

(i) which of the accused distributed the booklet;

(ii) the names of any other persons who participated with any of the accused in such distribution;

(iii) the date when and the place where and the manner in which each such accused and each such other persons so distributed it.

The State is required to furnish a copy of the said booklet.

Ad Annexure "B" : Paragraph 10 (Programme South African Communist Party).

(i) All the accused distributed the booklet.

(ii) the reply is the same as to paragraph B.(1)(a).

(iii) Distribution took place in Johannesburg during the period of the charge, by post and

it by post to persons unknown to the State.

(iv) the South African Communist Party, through its members, decided to distribute the pamphlet.

(v) the State does not rely on the contents of the pamphlet.

(vi) a copy of the pamphlet is available for inspection.

(h) Ad Annexure "B" : Paragraph 12. (Bantu laws Amendment Bill).

The State is required to specify:-

(i) which of the accused is alleged to have agreed to draft and/or print and/or distribute the said leaflet;

(ii) the names of any other persons who were associated with any of the accused in any such agreement;

(iii) the place where and the date when each such accused and each such other person agreed to draft and/or print and/or distribute such a leaflet;

(iv) whether the said leaflet was in fact drafted and/or printed and/or distributed. If so, which of the accused and which other persons drafted it, printed it and distributed it and when and where was it so drafted and printed and in what manner and to whom was it distributed;

(v) why it is alleged that the drafting, printing and distribution of the said leaflet constitutes an activity or is in the interests of the said organization;

(vi) whether the whole of the said leaflet is being relied upon, or only a portion thereof. If the latter, which particular portion is being relied upon?

The State is required to furnish a copy of such leaflet (if such leaflet was in fact printed).

Ad Annexure "B" : Paragraph 12. (Bantu Laws Amendment Bill).

(i) All the accused agreed to draft print and distribute the leaflet.

(ii) The reply is the same as to paragraph B.(1)(a).

(iii) the drafting, was done in Johannesburg, during March, 1964, the exact dates and places being unknown to the State.

(iv) the drafting was done by certain members of the South African Communist Party. The drafts were handed to members of the Secretariat of the South African Communist Party by persons unknown to the State. The leaflet was not printed or distributed.

(v) the South African Communist Party, through its members, undertook to draft, print and distribute the leaflet.

(vi) no reliance is placed on the contents of the leaflet.

(vii) a copy of the leaflet is not available.

17/...

(j) Ad Annexure "B" : Paragraph 13.
African Communist Marxist Review.

The State is required to specify:-

(i) which of the accused is alleged to have received and which of the accused is alleged to have distributed any such publications;

(ii) the names of any other persons who were associated with the accused in the receipt and/or the distribution of the said publications;

(iii) the place where and the date when each such accused and each such other person so received and/or distributed any such publications:

(iv) the precise names of all such publications received;

(v) the manner in which any such publications were distributed;

(vi) the persons to whom any such publications were distributed;

(vii) what is it alleged are "cover addresses."

The State is required to furnish copies of all such publications.

Ad Annexure "B" : Paragraph 13. (African Communist and Marxist Review).

(i) All the accused received and distributed the said publications.

(ii) the reply is the same as to paragraph B.(1)(a).

(iii) the following addresses were used by the accused during the period of the charge for receiving and distributing publications :-

(aa) M.E. Turnbull, Box 17295, Hillbrow, Johannesburg.

(bb) J.C. Evans, Box 79, Mayfair, Johannesburg.

(iv) The precise names of publications received are the following :-

The African Communist.

World Marxist Review.

Marxism To-day.

Freedom Fighter.

South African Communist Party Programme.

South Africa on Trial.

The Collaborators.

Comments - South Africa Special.

Brute Force.

Peace, Freedom and Socialism.

Labour monthly.

Sanctions against Apartheid.

(v) the said publications were distributed by post or handed out by agents or members unknown to the State.

(vi) Distribution was done to members of the South African Communist Party and other unknown persons.

19/...

(vi) the reason why it is alleged that the organizing, financing and directing of "the volunteers" constitutes an activity of the said organization or is in the interest thereof.

Ad Annexure "B" : Paragraph 14. (Volunteers).

(i) All the accused organised, financed and directed the activities of the Volunteers or Youth.

(ii) the reply is the same as to paragraph B.(1)(a).

(iii) the exact dates when and places where the activities took place are not known save that they occurred during the period of the charge in Johannesburg.

(iv) and (v) all the accused took part in the organisation of the volunteers or youth and in the direction of their activities, by constant discussion of their activities and deciding on suitable means of carrying them out. The South African Communist Party, through its members the accused also provided the finance required for the carrying out of the activities of the volunteers ~~or~~ youth. The nature, scope, object, activities and purpose

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(vii) "Cover addresses" was a term used by the accused to connote the addresses of fictitious persons or post office box numbers which were hired by them under fictitious names for the purpose of receiving postal matter intended for the South African Communist Party and its members.

(viii) copies of the said publications are not available, but can be inspected by the defence.

(k) Ad Annexure "B" : Paragraph 14. (The Volunteers).

The State is required to specify:-

(i) which of the accused is alleged to have organized and/or financed and/or directed the activities of the said organization;

(ii) the names of any other persons who were associated with any of the accused in the organization, financing and/or direction of the said organization;

(iii) the date when and place where each such accused and each such person did each of the acts referred to above;

(iv) the manner in which the said organization was organized, financed and directed;

(v) the nature, scope, object and activities of the said organization and the purpose for which it was formed and carried on;

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of the organisation, were directed mainly at (aa) the painting of slogans, on public buildings or places, visible to the public;

(bb) the printing and distribution of leaflets, the identity of which is not known to the State;

(cc) the pasting of propaganda posters at places visible to the public;

(dd) and other work assigned to them by the accused, the precise nature of which is not known to the State.

(vi) the South African Communist Party through its members, the accused, decided to organise, finance and direct the volunteers or youth as a party activity and in its interest.

(1) Ad Annexure "B" : Paragraph 15. (Room).

The State is required to specify:-

(i) which of the accused searched for and which of the accused rented the said room;

(ii) the names of any other persons who were associated with any of the accused in the search for and/or renting of the said room;

(iii) the date on which the said room was rented;

(iv) the name of the lessee of the said room;

(v) from whom the said room was hired.

Ad Annexure "B" : Paragraph 15. (Room).

(i) All the accused participated in the search for suitable rooms. Accused No. 13 rented the said room.

(ii) the reply is the same as to paragraph B.(1)(a).

(iii) the room was rented on 29th February, 1964.

(iv) the name of the lessee was S. Clarkson.

(v) the room was hired from L.K. Jacobs (Pty) Ltd., Johannesburg.

(m) Ad Annexure "B" : Paragraph 16. Meyerson

The State is required to specify:-

(i) which of the accused made the alleged arrangements;

(ii) the names of any other persons who were associated with any of the accused in making the said arrangements;

(iii) the date when the said arrangements were made.

(iii) all the accused took part in Johannesburg during the period of the charge in the organisation of the South African Communist Party in the following manner :-

(aa) By payment and collection of subscriptions and fees from party members;

(bb) By grouping and re-grouping of members in various sections of the party:

(cc) by arranging meeting places for meetings and transport of members to and from the said places;

(dd) By discussions and taking of decisions in regard to party affairs and party finances;

(ee) by arranging for the typing and roneoing of party documents;

(ff) by purchasing stationery, envelopes, and other requirements of the organisation;

(gg) by investigating and solving complaints of members and by taking disciplinary action against members where necessary;

Ad Annexure "B" : Paragraph 16. (Meyerson).

(i) All the accused participated in the search for suitable rendezvous for holding of meetings. Accused Nos. 4 and 14 made the arrangements.

(ii) the reply is the same as in B.(1)(a).

(iii) the arrangements were made in January, 1964.

(n) Ad Annexure "B" : Paragraph 17. Organisation.

The State is required to specify:-

(i) which of the accused is alleged to have taken part in the organization of the alleged S.A. Communist Party in this Regional Division;

(ii) the names of any other persons who were associated with any of accused in the said organization;

(iii) the date when, the place where and the manner in which each such ac used and each such other persons took part in any such organization of the alleged Party.

Ad Annexure "B" : Paragraph 17. (Organisation).

(i) All the accused took part in the organisation of the South African Communist Party.

(ii) the reply is the same as to paragraph B.(1)(a).

(ii) no reliance is placed by the State on acts of persons, other than the accused.

(iii) the printing and distribution took place in Johannesburg on or about 28th December, 1963.

(iv) the South African Communist Party, through its members, the accused, decided to distribute the leaflets as part of its activities.

(v) distribution was effected by post.

(vi) copies of the leaflets are attached marked Annexure "O".

Ad Count 2. Annexure "B" : Paragraph 19. (Freedom Fighter).

(i) All the accused took part in the preparation and distribution of the pamphlet.

(ii) no reliance is placed on acts committed by persons other than the accused.

(iii) the preparation and distribution took place in Johannesburg during the period of the charge.

(iv) distribution was effected by post.

27/...

(hh) by ensuring and preserving the continued existence of the party;

(ii) by arranging lectures to lecture to members on the Marxist-Leninist doctrine;

(jj) by issuing instructions in regard to and ensuring strict secrecy in all their activities and party matters;

(kk) by ensuring the smooth functioning of the various sections of the party, the appointment of "contact" men through whose agency instructions were transmitted from the central committee to other committees, and messages, reports or documents were carried to the various accused;

(ll) by selecting or allotting code names, to members.

Ad Count 2. Annexure "B" : Paragraph 18. (Message of Rivonia).

(i) All the accused took part in the printing and distribution of the leaflets.

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ANNEXURE

THE MESSAGE OF RIVONIA.

"Thousands of hand-grenades, mines, time devices for bombs, chemicals - enough explosives to blow up Johannesburg." This, Dr. Yutar alleges, was what the Rivonia men planned to obtain, to be followed by guerilla activity and military invasion . . . . .

Why And how can such things happen in peaceful prosperous South Africa

Why Because 50 years of peaceful political campaigning - for which the A.N.C. leader, Chief Lutuli was awarded the Nobel Peace Prize - has achieved only indignities, assaults, imprisonment, banishment, banning orders, mass removals, house arrests and 90-day detentions. South Africa's rulers have answered the words and deeds of peace with acts of violence and war.

In 1958, Ben Schoeman stated: "Supremacy means that you have the political power in your hands and that you can be overthrown only by a revolution."

In 1958, after Eric Louw said at UNO that the South African Government would never permit the 'native races' to share in the control of the country, Mrs. Eleanor Roosevelt told him: "I have never heard anything quite so wicked, as to take from a people all hope, all possibility of ever peacefully acquiring some say in the government of their lives."

In 1960 the African National Congress and PAC were banned. Until then, the A.N.C. had always followed a non-violent policy - as testified beyond doubt by the police themselves in the 4½ year long Treason Trial.

When the rightful aspirations of people are forcibly suppressed, it is a declaration of war. South Africa is at war today. When the right to protest was taken from us it was inevitable that "we should rise up in the courage of our despair, against the authors of our agony. Only fools and cowards accept surrender, permanent inferiority and permanent oppression.

Read history - modern history. The Algerians spoke peace. The French offered them war; the Algerians answered with war - and won. You, the white South Africans offer only war. You know the answer.

The Government should be in the dock. "I am not guilty", Mandela said in Pretoria. "The Government is responsible for what has happened in this country," said Sisulu.

It is you, the white voters who put that Government into power and have maintained it since 1948. You voted for revolution in 1958 - as Schoeman stated.

Violence and civil war will not be averted by the trial of the Rivonia men nor all those others accused of sabotage. These trials will only make the struggle more relentless. We will never surrender - we cannot. We are backed by all Africa - and the whole world. Nationalist oppression is hated and despised by the majority of people inside South Africa, and every-one outside. White supremacy is doomed.

Making scapegoats of the Rivonia men will not end this situation. They will only become imperishable symbols of our resistance, the resistance which cannot be destroyed. The Government, the rulers have brought revolution to our country. And in the end it is they who will be defeated.

This is the message of Rivonia. This is the message of history and nothing will change it.

WE WILL NEVER SURRENDER. WE WILL NEVER ACCEPT PERMANENT INFERIORITY.

DO NOT SUPPORT THE GOVERNMENT AND ITS POLICIES. THIS IS YOUR CHOICE.

(v) the South African Communist Party, through its members, the accused, decided to distribute the pamphlet as part of its activities.

(vi) a copy of the pamphlet is available for inspection by the defence.

5. The State is required to state precisely what sub-section of Section 12 of Act 44 of 1950 as amended it relies upon in regard to this Count.

The State relies on sub-sections 4 and 6 of section 12 of Act 44 of 1950 as amended. This does not, however, preclude the court from invoking any other sub-section, where necessary.

C. AD COUNT 3.

The particulars requested above ad Count 2 are repeated in regard to this count and should be treated as if specifically incorporated herein.

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PUBLIC PROSECUTOR.

Messrs. Hayman & Aronsohn,
205, National Mutual Buildings,
JOHANNESBURG.

The Clerk of the Regional Court,
JOHANNESBURG.

ANNEXURE 0(2)

THE MESSAGE OF RIVONIA.

"Thousands of hand-grenades, mines, time devices for bombs, chemicals - enough explosives to blow up Johannesburg." This, Dr. Yutar alleges, was what the Rivonia men planned to obtain, to be followed by guerilla activity and military invasion . . . . .

Why And how can such things happen in peaceful, prosperous South Africa Why Because 50 years of peaceful political campaigning - for which the A.N.C. leader, Chief Lutuli was awarded the Nobel Peace Prize - has achieved only indignities, assaults, imprisonment, banishment, banning orders, mass removals, house arrests and 90-day detentions. South Africa's rulers have answered the words and deeds of peace with acts of violence and war.

In 1958 Ben Schoeman stated: "Supremacy means that you have the political power in your hands and that you can be overthrown only by a revolution." In 1958, after Eric Louw said at UNO that the South African Government would never permit the 'native races' to share in the control of the country, Mrs. Eleanor Roosevelt told him: "I have never heard anything quite so wicked as to take from a people all hope, all possibility of ever peacefully acquiring some say in the government of their lives."

In 1960 the African National Congress and PAC were banned. Until then, the A.N.C. had always followed a non-violent policy - as testified beyond doubt by the police themselves in the 4½ year long Treason Trial.

When the rightful aspirations of people are forcibly suppressed, it is a declaration of war. South Africa is at war today. When the right even to protest was taken from us "it was inevitable that we should rise up in the courage of our despair, against the authors of our agony." So South Africa produced a group of courageous and self sacrificing leaders who were prepared to plan seriously for the liberation of our people.

They made mistakes. But not the mistake of believing that by assassinating a few Whites - like the Poqo men - or creating enmity between the races - like PAC - that freedom would automatically arrive.

They have paved the way. Now we must take up where they had to cease. We must carry forward with care, courage and conviction the plans that they began. Because we have no other choice. Read history - modern history. The Algerians spoke peace. The French offered them war; the Algerians answered with war - and won.

The Government should be in the dock. "I am not guilty", said Mandela in Pretoria. "The Government is responsible for what has happened in this country," said Sisulu. The trial of the Rivonia men and of all those others accused of sabotage will only make the struggle more relentless. We will never surrender - we cannot. We are backed by all Africa - and the whole world. Nationalist oppression is hated and despised by the majority of people inside South Africa and every-one outside. White supremacy is doomed.

We are all Rivonia men! We are Rivonia men because

* We are guilty of desiring freedom, and wanting to end Apartheid.

* We are all prepared to do whatever is necessary to liberate our people.

The Government, the rulers have brought revolution to our country. And in the end it is they who will be defeated. This is the message of Rivonia. This is the message of history and nothing will change it.

AMANDLA! NGAWETHU!

ORGANISE - WORK - FIGHT FOR FREEDOM.

(1) GB

CASE NO: G. 375/64.

DATE: 16/11/1964.

1 — 41

RECORD OF EVIDENCE GIVEN BY

PETRUS ARNOLDUS BEYLEVELD

IN THE MATTER OF : THE STATE VERSUS -

ABRAM FISCHER AND 13 OTHERS.

EVIDENCE FOR THE STATE:

THE STATE CALLS PI TER BEYLEVELD:

BY THE STATE PROSECUTOR:

Your Worship, before he takes the oath, I would like to refer to Section 254 of Act 56 of 1955, which was amended in this year. Now, formerly the witness had to be warned that he was an accomplice and then he had to elect whether he was prepared to give evidence, and then if he took the oath and gave satisfactory evidence, he would be granted an indemnity, but the new Act only requies that it be recorded that the 'accused' is called as an accomplice, and then he must submit to be sworn. Thereafter at some later stage the Court consider recording on the record the granting of an indemnity if he answers the questions satisfactorily.

BY THE COURT: Very roughly then, Mr. Beyleveld, the State calling you as an accomplice. This Court has the right to grant you indemnity from prosecution if it regards your evidence as satisfactory; that immunity from prosecution would be recorded - placed on record, and would give you that immunity. I have already said that the Court must be satisfied that your evidence is satisfactory, and I take it the primary interpretation of the word, satisfactory, would be that the evidence is truthful in all respects. Satisfactory evidence would be truthful in every respect.

PETRUS ARNOLDUS BERNARDUS BEYLEVELD: Sworn, states:

EXAMINED BY THE STATE PROSECUTOR:

Mr. Beyleveld, you are at present a detainee under

the 90/.....

And what happened in 1960? --- I think it was 1961. I think I am wrong when I say 1960. It was exactly in 1961 when this group was dissolved, and I was then asked to go on what was known as the branch committee, and also an area committee, and I was also transferred to another group.

I think perhaps we should analyse the structure of this party. What was the Supreme Body? --- The Supreme Body would be a conference that during the time that conference are, of course not in session, then the central committee which sort of auxilled the function of the national executive committee .. the supreme body

Did you personally attend national conferences? --- I attended one national conference. It was either the end of 1960 or the beginning of 1962. It was over the Xmas holidays, and I am not sure now whether it was in 1960 or shortly after the new year.

And which persons had the right to attend the national conference? -- It was people elected or selected by the central committee on the recommendation or from nominations made by the groups through the district committee, which was a sort of committee who had jurisdiction in the particular area.

How many members were there on the central committee? --- At that time I don't know.

And what was the function of the central committee? --- Well, I would say it was a policy making committee, and it controlled the organization generally nationally.

And what was the nature of the co-operation between the central committee and the other bodies, the other committee? --- The party was devided into districts in such area as it had members. I am, of course, only aware of the existence of the Johannesburg district committee. I presume that there was district committees in other areas, as there were members. The district committee in turn in those days - I am talking about 1956, 1961 now, was devided into branches, which in

/4. turn.....

90 days detention clause? --- That is correct.

And you were a member of the S.A. Communist Party? -- I was.

When did you join? --- It was approximately some time in 1956.

Prior to 1956 were you engaged in any other political activity? --- Yes, I was. I w s during 1956 a member of the S.A. Congress of Democrats. Prior to that I was President of the S.A. Congress of Trade Unions. I was also a General Secretary of the Textile Workers Union. I was at some stage Chairman and a member of the executive of the Springbok Legion. That's about all I can recall at the moment.

No, that's sufficient. When you joined the S.A. Communist Party in 1956, at whose instigation was that? -- Mr. Jack Hodgson approached me at the time, and asked me if I would become a member.

And did you know something about the basic communist ..? --- I have been interested in politics for a long time, and I have read something about communist philosophy and ideology and I knew something about it .

Was there some - hat was the parties' policy in regard to accepting a person as a member? --- I think it has always been regarded in the party that somebody must know something about the policy and the ideology of communism.

Now, when you became a member, in what capacity were you given any specific office? --- No, I merely became a member of a group.

Group? --- A party group.

How many were there in the group? -- At the time there was - I became a .... member.

And did you remain in that same group for a number of - for some time? --- I remained in that group until some time in 1960, and the group was changed. The composition of the group was changed during that period, but I remained until 1960.

then consisted of central committee, district committee, area committee and branch committees and groups. Then at a later stage, some months after this the area committees were brought into field, the branch committees were dissolved. So you then had the situation where you had the central committee, the district committee, the area committee, and the groups. In other words the branch committees fell away, their functions were taken over by the area committee, who was in direct contact - or the members of which were in direct contact with the groups - with the members of the groups.

What was the reason for abolishing the branch committee? --- It was just felt that the organization was too cumbersome. There were too many committees, too many levels of organization.

And how did this area committee function? --- Well, the area committee was in contact with, the individual members of the area committe was in contact with the groups, and it also had a representative or a contact between them and the district committee. The idea was organizational. You know, to see that the groups function, to recruit new members, place them into groups, and to convey messages from the higher bodies of the organization to the members.

Was attention given to the various racial groups? --- I was told at the time that there was to be three different area committees ...

BY THE COURT: What the witness was told is not evidence.

EXAMINATION BY THE STATE PROSECUTOR: (CONT.)

Who told you that? ---- I was told that by the contact of the district area committee.

BY THE STATE PROSECUTOR: Are you satisfied, Your Worship?

BY THE COURT: Yes.

BY MR. BERRANGE: I submit that the evidence is not admissible.

BY THE COURT: Yes, carry on.

turn was devided into groups consisting of a couple of members, there weren't many, about three to five members.

Was this, may I call it an underground movement, or not? --- The Communist Party of S.A. is an illegal organization and obviously an underground organization.

So what was the relationship between the branch committee and the groups? --- Branch committee usually consisted of - I mean the one branch that I belonged to consisted of three members who were contacts between the branch committee and the groups. The function of the branch committee was merely to pass on information from the organization to the members in the group, and again back from the members in the group to the organisation generally, the district committee.

Now, how would you describe the control of the central committee their activities by the other group committees - how would you describe the control, was it a rigid one? --- It was disciplined control, and certain rules were laid down and members were required to adhere to it, such as keeping the existence of the organization secret, not doing anything which would expose other members of the organization which you were acquainted with.

And how did these different committees communicate with one another? --- By means of a contact. For example, between your group and the branch committee there would be a contact, which is a p rson merely who - let us say, who presented the group on the branch committee. Between the branch committee and the district committee and later on the area committee there was another contact. In other words, one of the persons on the branch would be a contact, who would represent that branch on a higher committee.

And between the district or area and the central committee? --- The area committees came into existence in - I think it was some time in 1961, before that it was only branches in districts. Then a couple of months after the - the structure

proximately the end of July, 1963 or the beginning of August, 1963, I was also asked to come onto the central committee, as well as on to the Johannesburg district committee.

And did you serve on those bodies until the time of your arrest? --- That is correct.

Now, I think it may be convenient if we start - confine ourselves to the accused before the Court. Do you know Accused No. 1, Abram Fischer? --- Yes, I do.

Was he a member of this party? --- He was.

In what capacity did he serve? --- I was together with him in a group in approximately, I think in 1962, and we were also together on the central committee from August 1963.

Yes. And Accused No. (2) Frederick Schermbrucker? -- Yes, I do know him.

Was he also a member? --- He was a member. We were on the central committee during the same period, Aug. 1963 to the time of my arrest.

And Accused No. (3) Eli Weinberg? --- I know him, yes.

Was he also a member? --- He was on that same committee, the central committee during that same period.

And accused No. (4) Esther Barsel? --- We were together on the area committee from 1961 until the time of my arrest.

Area committee? --- The European area committee.

And Accused (5) Norman Levy? --- I was together on the area committee with Mr. Levy from - it was the beginning of 1964, the beginning of this year, until the time of my arrest. I can't place the date any nearer than that. I think it was round about February or March possibly, and we were also on the district committee for about a month or two before the time of my arrest.

And Accused (6) Lewis Baker? --- We were together in a group from the time that I joined the party, which if I remember

/8. correctly .....

EXAMINATION BY THE STATE PROSECUTOR: (CONTD.):

Now how did the central committee transmit messages or reports or whatever it had, business, to the various committees? --- Repeat that question please?

How did the different committees transmit their messages and reports to the other committees? --- It was transmitted from the central committee to the district committee, and from the district committee to the area committees through the contacts between the area committees and the district committees, and then again through the contacts between the area committee and the groups.

Was attention given to the secrecies of the affairs of this party? --- Not besides the fact that the members were constantly warned that it was a secret organization and the necessary security must be given attention to. I think it was generally understood by members that security was of importance.

But now in order to safeguard the secrecy, how did you set about naming members? --- Members had code names or party names. For example, the contact in the group would know the members of his group. Members of other groups he would only know by code names, unless he was in personal contact with them for some reason or other. The idea was to allow a few people as possible to know the other members of the party.

Now, you served first of all in a group? --- That's correct.

And then? --- Well, in 1961, as I have already said, I then became a member of a branch committee and also a member of a European area committee, what was known as a European area committee.

For how long did you serve on the area committee? --- From 1961 until the time of my arrest, which was the 3rd of July this year, 1964.

And did you also serve on any other committees? --- Ap-

correctly was about 1956 until the group was dissolved in 1961. He was also for a period a member of the same area committee. I am a bit vague about the date that he became a member of that, but I will say it was roundabout 1962, possibly the end of 1961 until the time of my arrest.

And Accused 7, Jean Strachan? -- We were in a group together in ...

THE COURT INTERVENES:

I think there is a request for this accused to be known as Middleton?

BY THE STATE PROSECUTOR:

I thought my learned friend said Strachan.

BY MR. BERRANGE:

No, I asked that she be referred to in the way in which she is generally known and that is by the name of Middleton, if you don't mind.

BY THE STATE PROSECUTOR :

Yes, unfortunately the exhibits, certain documents will refer to her as Joan Strachan. I am just mentioning that now.

BY THE COURT:

Yes, that is quite clear.

EXAMINATION BY THE STATE PROSECUTOR: (CONTD.):

Yes, you said you and accused 7 were in the same group? --- I think roundabout the end of 1961 the beginning of 1962, yes, and she was also a member of the area committee. Here again I am a bit vague on the dates. I think it would be from some time in - roundabout the end of 1961 until the time of my arrest.

And Accused 8, Anne Nicholson? -- We were together in a group from about - I would say the middle of 1961 until the beginning of 1962.

And after that? --- When I left that group she was there. I know, of course, from my contact with the area committee that she remained a member of that group until July, 1964.

MR. KUNY OBJECTS:

Your Worship, with respect, what the witness has now said relates to something that he was told, and no basis has been laid to lead this evidence.

EXAMINATION BY THE STATE PROSECUTOR (CONTD.):

Did you say that you were on the area committee? --- That correct.

And was it your business on the area committee to discuss the various members? --- Not necessarily the various members, but the groups, and I knew, of course, of the existence of this group.

Having been a member of it before? --- Yes. And I knew that Miss Nicholson was a member of that group.

And did the area committee have to discuss the names, identities and business of the various members? --- No, not necessarily. It wasn't necessary that a member of the area committee would know members of a particular group. I knew the members of this particular group, because I myself was in that group at a certain stage.

And did that knowledge of yours continue until the time of your arrest? --- Yes.

I submit, Your Worship, that that's sufficient.

BY MR. KUNY:

Your Worship, with respect, the basis of this witness' evidence is still hearsay. He said that he didn't necessarily know the members of ... or they weren't necessarily discussed, and it still appears from his evidence that the only basis on which he knows is because he was apparently told.

BY THE STATE PROSECUTOR:

With respect, the witness is explaining - I understand his evidence to mean that he was in this group where this .....

BY THE WITNESS:

Your Worship, may I explain it this way. Having been a

/10. member.....

member of that group, I knew the members of that particular group.

The members of that particular group could not have been changed unless it was changed by the area committee, which was the committee who had jurisdiction over the members, and I know that during that period the accused was never taken out of that committee. I myself recruited the accused into that particular group.

BY THE COURT:

Does that satisfy you, Mr. Kuny?

BY MR. KUNY:

Yes, Your Worship.

EXAMINATION BY THE STATE PROSECUTOR: (CONTD.):

Now, Accused 9, Constantinas Gazides, for how long have you known him? --- I have known him for some years. I would say since about 1960, I think. It could be 1959.

In Johannesburg or where? --- Yes, in Johannesburg.

Was there a time that he left Johannesburg? --- He was for some time away from Johannesburg.

Where did he go? -- I think he was in Durban. I heard that he was in Durban.

Did you do anything about him when he left for Durban? --- He was in a study group, that was arranged by the area committee, or that the area committee had knowledge of. Shortly before he left for Durban, one of the groups, I can't remember now which group it was, recommended that he should be recruited into the party. The area committee approved of his recruiting ...

MR. KUNY OBJECTS:

Your Worship, again I raize the same objection if this Court will bear with me, that the witness is now talking about what somebody apparently did.

/11. BY.....

BY THE COURT:

I think we have to have the foundation first.

BY THE STATE PROSECUTOR:

Your Worship, Mr. Beyleveld has been talking again of the area committee.

THE COURT ADJOURNS.

THE COURT RESUMES: APPEARANCES AS BEFORE.

PETRUS ARNOLDUS BERNARDUS BEYLEVELD: (Still under his former oath)

EXAMINATION BY THE STATE PROSECUTOR: (CONTD.)

We were dealing with Accused No. 9, Gazides? --- What I know about Accused No. 9 I know purely from my knowledge of being in the area committee.

THE WITNESS IS REQUESTED TO SPEAK UP IN ORDER THAT THE INTERESTED PARTIES MAY HEAR WHAT IS BEING SAID.

BY THE WITNESS:

I said that my knowledge about Mr. Gazides purely derived from my membership of the area committee.

EXAMINATION BY THE STATE PROSECUTOR (CONTD.):

Was the study class to which he belonged a body subordinate to the area committee? --- It was run by one of the groups. The area committee knew about it.

And did the area committee have some sort of control over the activities of the groups? --- Yes, the activities of the groups were usually reported to the area committee.

And did the area committee have to issue instructions about the activities of the groups? --- Yes, when required.

And when it was a question of the various members of groups, where group members .....

MR. KUNY INTERVENES:

Your Worship, I am sorry to keep interjecting, but my learned friend is putting very leading questions to the witness, and with respect, the questions should in my submission be framed quite differently.

Yes, but what was studied at these classes? --- Marks' literature, Marks' policity and objectors, aims, principles.

And what philosophy did the party follow? --- Marks' Leninist philosophy, the general communist philosophy.

Now, you say Gazides was where? --- Gazides was recommended to be recruited by one of the groups to the area committee, and at the same time as this recommendation was made, it was reported to the area committee by the group that he had left for Durban. The area committee recommended to the district committee that the district committee in Durban should be written to say that he could be recruited there.

During what year was this? --- It must have been round abou - some time in 1962, I think. I can't be very certain of the dates though.

When next did you see or get to hear about Gazides? --- Some time in 1964, the beginning of 1964, one of the contacts in one of the groups reported that he was back in Johannesburg.

MR. KUNY INTERVENES:

Your Worship, again we have to cope with hearsay evidence. If the witness can confine himself only to what he himself knows, then there won't be any further objections on this point.

BY THE STATE PROSECUTOR:

With respect, Your Worship, again I would suggest that we have this evidence of this witness which shows how this party was put together, how it functioned; what was their go-between, what was their intermediary, and how this body to which he belonged controlled the affairs of the body immediately below. I submit when this witness has occupied an executive position, and he on that body had to be party to the taking of decisions in regard to the affairs of the subservient bodies, then everything that was conveyed to that body becomes very relevant, and - because the body had then to issue instructions about the affairs.

BY THE STATE PROSECUTOR:

With respect, I am not trying to lead the witness at all.

EXAMINATION BY THE STATE PROSECUTOR (CONTD.):

In regard to the personnel of the various groups, did the area committee have to issue instructions .....

BYMR. KUNY:

Your Worship, I am sorry, but with respect it is the same question put also in a leading form in my submission.

BY THE STATE PROSECUTOR:

I ask Your Worship, and I would like this cleared up right here now. I asked the witness whether the area committee had to give instructions. I fail to see that that is a leading question. It does not permit of an answer, yes or no, because I want to know what sort of instruction it is.

BY MR. KUNY:

Your Worship, if my learned friend wants to know from the witness evidence on this aspect, he can put in quite a different form. This question is simply a question which admits of an answer yes or no. That in my submission is a leading question.

BY THE STATE PROSECUTOR:

I will frame it differently.

EXAMINATION BY THE STATE PROSECUTOR (CONTD.):

Did all the members remain in the same group all the time? --- No, not necessarily.

And how did it come about that they changed? --- It could only be changed by the area committee.

Yes? -- Members that were recruited could only be recruited if they were approved by the area committee.

And, whose prerogative was it to move members from one group to another? --- That of the area committee.

And you say the groups organized the study classes? --- Yes.

And what was the purpose of the study class? --- The purpose of the study class was to try and recruit members.

/13. Yes.....

analysis of gold output, gold production from mines, and in that case the Court permitted evidence by a person who collected the data from the various sections under his control, and the Court there decided that it was an impossible - it was a matter of impossibility to expect every section or every person who contributed to the preparation of the various data to come and give evidence, and the correlation of those data. There is also the case if I remember correctly of Fergusson in 19 - I would like to give Your Worship the reference, where in 1950 - round abou '49,'48,'49, where a mine manager was permitted to give evidence about the number of employees on the mine, on the grounds that he being in control, in charge, would collate all this data, and the Court accepted his information as reliable.

BY THE COURT:

Yes, but now say somebody had told that Mine Manager what the figure was, would that have been admissible?

BY THE STATE PROSECUTOR: That would have been admissible because the mining manager would have a duty, and I submit it is mainly on principle and to a large extent on that principle that where a person has a duty in regard to verifying certain facts, then there is an additional safeguard in regard to it's reliability. I submit that on that same basis - we are here dealing with a person who is in charge of, and who is in a superior body, where information is being connected and transmitted to, and this body has to take decisions about these matters. The question of moving members, the question of control generally.

BY THE COURT:

Does your objection stand, Mr. .....

BY MR. KUNY: My objection stands, and I submit in reply to my learned friend that there is only one rule relating to the admissibility of hearsay evidence, and it is no different

BY THE COURT:

It is relevant, but can we regard it as accurate if it is hearsay? And is it admissible?

BY THE STATE PROSECUTOR:

Your Worship, I submit that it is something which was known and accepted as common cause in this organization, and we cannot apply too strict a test when we are dealing with an underground organization. The position is this that each group or section operated under the control and supervision of the body immediately above, and insofar as the witness becomes aware of activities in the organization, I submit it is evidence which the Court can accept.

BY THE COURT:

Do you think that it constitutes an exception to the rule regarding hearsay evidence?

BY THE STATE PROSECUTOR:

I submit so.

BY THE COURT:

Any authority?

BY THE STATE PROSECUTOR:

That is an extension on the grounds of necessity, where the court can extend the principle of the hearsay rule. I can argue it. There are cases which .....

BY THE COURT:

Have you got authority there?

BY THE STATE PROSECUTOR:

I do not have them available, but there is the Vulcanizing Rubber case where an exception was made to the State - an application of the principle of hearsay on the grounds of necessity, and I submit that very much the same principle applies. There is a case of Price, Judge Price gave a decision in connection with the preparation of certain data, certain schedules,

whether one is dealing with an illegal organization or an underground organization. The position at the moment is that this witness has given evidence of the contents of a report alleged to be made to him, and it is to prove proof of the contents of that report that he has given the evidence. It is a pure hearsay statement, and with respect, it is prima facie inadmissible, and my objection still stands. There is no basis on which we can test that statement in any way.

BY MR. HANSON:

Having regard to the nature of this objection to the evidence. Even though I don't appear for the accused, the principle of this matter concerns me, and it concerns me throughout this case. If my learned friend has authority of a somewhat startling proposition, I do suggest he produce it in Court and we can deal with it. I know what my learned friend is referring to when you refer to the managing director of a company. Getting evidence from the records of the company, not giving evidence of what some manager told him, because there are certain safeguards, and although it is a disputed point some courts admit that evidence, but if my learned friend wants to lead evidence in this court from this witness, this witness is limited to what he knows, to what instructions he gave and to what anybocy may have said to him if that person happens to be ..... but it is not permissible to lead evidence in my submission about information, guarded by the four corners of the year, by other people.

BY THE COURT: Do you wish to produce these authorities?

BY THE STATE PROSECUTOR:

I can produce them.

THE COURT ADJOURNS.

THE COURT RESUMES: APPEARANCES AS BEFORE.

PETRUS ARNOLDUS BERNARDUS BEYLEVELD: (Still under his former oath)

THE STATE PROSECUTOR ADDRESSES THE COURT, BUT IT IS NOT RECORDED THROUGH A MECHANICAL FAULT.

THE COURT ADJOURNS.

THE COURT RESUMES: APPEARANCES AS BEFORE.

R U L I N G.

BY THE COURT:

Objection has been lodged by Mr. Kuny, for Accused No. 9, to certain evidence tendered in this case. The evidence indicated that this particular accused had been down in Durban for a certain period of time, and a question put by the State, to which exception has been taken, is as follows (according to my records):- "When next did you see or get to hear about Gazides? --- Some time in 1964, at the beginning of 1964".

The objection was taken rather to what the witness heard about this particular accused rather than when this took place, and the State has advanced the cases of THE GARMENT WORKERS UNION, 1941 (1) S.A.L.R. (1128), and the case of REX VERSUS FERGUSSON, 1949 (3), page 69. In both these cases there was evidence giving the number of employees or persons under the supervision of the witness. Those are the only authorities quoted, and I am asked to rule that we have a similar position in this case. My view is that I must distinguish between the cases quoted and the present case. As I understand it, the position is that the cases quoted did not offend against the best evidence rule. The present case does seem to offend against the best evidence rule. If information has been obtained from someone who has personal knowledge of the whereabouts or of the activities of this particular accused, then, of course, that person should be called, and the witness should not be allowed to give hearsay evidence as to what he - as to the information he received from that witness. I do appreciate that the State may be in certain difficulties in a case of this nature, but my duty

/18. is.....

else, how he regarded this witness, in what - whether he accepted him as a member of the party or what?

BY THE WITNESS:

Your Worship, I find it a bit difficult. From my own knowledge I did not know him as a member of the party. From my knowledge as a member of a committee, I knew that he was a member of a party.

BY MR. KUNY:

Your Worship, with respect, this is really going too far. When an objection is taken to a question on this bases, my learned friend then proceeds to put the very sort of question which is being objected to and elicits the answer to the question which is being objected to.

BY THE COURT:

Yes. I think, of course, that the State has the right to find out what the true position is, and from where the information is obtained, but as the reply is at present, I do not think it is admissible. I don't know what the State's view is.

EXAMINATION BY THE STATE PROSECUTOR (CONTD.):

Now, can you be more precise, Mr. Beyleveld, and tell us what knowledge you had? --- The knowledge that I had was purely derived from my membership of the area committee. As I explained previously, before the accused went to Durban, he was proposed as a member by a group. I do not remember now which group it was. The area committee considered that recommendation and decided to recommend to them that they should recruit him, and whether the Durban committee did so or not, I don't know.

But now tell us, did he return to Johannesburg later on? --- Yes, he returned to Johannesburg some time during this year, and again the recommendation was made to the area committee that he should be recruited, and on that occasion it was approved of, and a group was instructed to go ahead and recruit him.

/20. Now.....

is to apply the existing rules of evidence, and not to create fresh rules of evidence.

I rule that the witness is not entitled to say what he got to hear about Gazides.

PETRUS ARNOLDUS BEYLEVELD (still under his previous oath):

EXAMINATION BY THE STATE PROSECUTOR (CONTD.):

Mr. Beyleveld, did you know Accused No. 9 personally? I am sorry, I should have mentioned the name. Did you know Constantinas Gazides, Accused No. 9, personally? --- Yes, I knew him personally.

Did you ever speak to him? --- I have spoken to him, yes.

Where did you see him? --- Years ago before he went to Durban I saw him on a couple of occasions. I saw him the last time I think it was round about June in Miss Middleton's flat.

June of this year? --- Yes.

Now on the occasion that you saw him in Accused No. 7's flat, did you have some discussion with him? --- It was just a general discussion.

Yes, but what I want to know is, was it discussions in relation to party affairs or otherwise? --- No.

And, were you introduced to him there? --- I knew him when I met him there. I have known him as I say some years ago. I have met him some years ago.

How did you regard him in relation to the organization? How did you personally as office bearer regard Accused No. 9?

BY MR. KUNY:

Your Worship, I must object to that question as to how this witness regarded Accused No. 9.

BY THE COURT:

Could you perhaps explain the question .....

BY THE STATE PROSECUTOR:

I want to know from the witness, irrespective of anything

/19. else.....

Now which group was instructed to recruit him? --- It was the group of which Miss Middleton was the contact.

Accused No. 7? --- That's right.

And what was the procedure after a person was recruited, was that fact reported back to the area committee again? --- Normally, yes.

Now, can you remember whether it was done in this case? --- In this particular case it was done, as I said, not long before my arrest, and as far as I remember the group never reported back whether he was, in fact, recruited or not.

Then we come to Accused No.10, Paul Trewhela, do you know him? --- I know the accused.

And do you know him in what capacity? -- I personally introduced him also to Miss Middleton and the two of us together asked him whether he would go into that group, and as far as I know he became a member of that group.

And Accused 11, Sylvia Neame? --- There again the only knowledge I have is again derived from my membership of that particular committee, the area committee.

Yes, now can you ....? --- At some stage, I think it was sometime in 1963, round about the middle of 1963, the district committee sent a report through the contact that Miss Neame was previously a member in Cape Town, and that she is now living in Johannesburg, and it was suggested that we enter her into a group.

What did your area committee decide about her? --- My area committee agreed to do this, and she was put again in the same group that we have been talking about. That is the group of which Miss Middleton was the contact.

BY MR. BERRANGE:

Your Worship, the only part of that evidence I can object to is that part where he says that a report was made, I take it it was in the absence of Miss Neame, that she had been a member

of this group in Cape Town. Again it is against the same principle which has already been argued, and in regard to which Your Worship has already given instructions.

BY THE STATE PROSECUTOR:

With respect, Your Worship, I accept the ruling, but I don't know whether we are at cross purposes somehow. The witness does no more than to say that in his official capacity as an area committee member certain matters had to be discussed, and a matter like this, the position of Accused No. 11, was reported to his committee. It had to be dealt with and a decision had to be taken. But surely, this witness, by virtue of his position is the best person who can say what decision was taken. I am not going any further than that. They had certain information placed before them and the area committee, they had to decide on that, what was to be done with this particular person. I submit that is so very relevant, such integral part of the activities of the organization that the witness can testify that.

BY THE COURT:

Purely as regards the activities and the proceedings?

BY THE STATE PROSECUTOR:

Purely as regards, about the activities of the organization I should have made that ...

BY THE COURT: Yes, I will accept that evidence.

BY MR. BERRANGE:

I objected only to that portion which dealt with the fact that a report was made to the committee stating that she was a member of the communist party in Durban - in Cape Town. That was the part objected to.

BY THE STATE PROSECUTOR:

Well, as long as you understand that that ....

BY THE COURT:

Well, I rule that that particular part is not admissible.

of this group in Cape Town. Again it is against the same principle which has already been argued, and in regard to which Your Worship has already given instructions.

BY THE STATE PROSECUTOR:

With respect, Your Worship, I accept the ruling, but I don't know whether we are at cross purposes somehow. The witness does no more than to say that in his official capacity as an area committee member certain matters had to be discussed, and a matter like this, the position of Accused No. 11, was reported to his committee. It had to be dealt with and a decision had to be taken. But surely, this witness, by virtue of his position is the best person who can say what decision was taken. I am not going any further than that. They had certain information placed before them and the area committee, they had to decide on that, what was to be done with this particular person. I submit that is so very relevant, such integral part of the activities of the organization that the witness can testify that.

BY THE COURT:

Purely as regards the activities and the proceedings?

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BY THE STATE PROSECUTOR:

Well, as long as you understand that that ....

BY THE COURT:

Well, I rule that that particular part is not admissible.

EXAMINATION BY THE STATE PROSECUTOR (CONTD.):

Yes, you have already said that then an instruction was issued that she was to be taken up in the group of Accused No. 7? --- That's correct.

Then Accused No. 12, Florence Duncan, do you know her? --- There again, I think in approximately 1962 - it must have been the beginning of 1962, a recommendation was made to the area committee that Miss Duncan be recruited, and the area committee approved of the recruiting of her.

Did you have any dealings with her? --- Personally no.

Do you know her? --- I know her personally, yes.

And did you ever attend any meetings where she was present? -- No.

And Accused 13, Mollie Doyle, do you know her? --- I know her personally, yes.

And do you know anything about her position? --- No.

And Accused 14, Hymie Barsel? --- I also know him personally. I do not know anything in relation to the party about him.

Yes. How long have you been associated with Hymie Barsel? --- I have known him for possibly about 14 years.

And do you know whether he occupied any position in this party? --- No.

Then I want to ask you about the code names. What was your own code name? --- It was Van and at a later stage Rick.

And Accused No. (1?) --- Jan.

Accused (2?) --- I think it was Peter.

And Accused (3,) I am sorry I should give you the names. Accused 3, Eli Weinberg? --- No, I don't know.

Accused (4,) Esther Barsel? --- That was Sandy and at a later stage Junie.

Accused (5,) Norman Levy? --- Bentley.

Accused (6,) Lewis Baker? --- Smitthy.

BY _____:

Once again, I don't know why the witness should be so timid not to want to speak up.

BYTHE COURT:

Do you think you could double the strength of your voice so that the people at the back could hear you as well, please? --- I will try.

EXAMINATION BY THE STATE PROSECUTOR (CONTD.):

Yes, we were dealing with the requirements of secrecy firstly, that it was the duty of each member to maintain secrecy in regard to the activities of the party? --- And to further the aims and objects of the party.

Now, what did you understand was the real aim of the party? --- To bring about in a long term, a Socialist Society in S.A. That as I understand is the general aim of all communist parties.

And how did you see the position of the present S.A. Communist Party ideologically speaking in relation to the old communist party of S.A? --- I think it had the same aims and objects, although I don't know if it can be said to be the same organization. The old party as far as I know was dissolved in 1950, and another one was sworn in in 1953, I think.

And was there any difference in the basic philosophy? --- No, I don't think so, not that I am aware of. I was not a member of the old party.

And members who were in the old party, have you ever met any of them? --- Yes, I know of certain people who were members of the old party. Again not from my own personal knowledge.

But did they cease their activities, political activities after that party was dissolved or what did they do? --- I don't really know, I mean I don't know who all the members were of the old party. There were some people in the new party who professed to have been members of the old party.

/25. And .....

Accused 7, June Middleton? --- Clara and at a later stage Kena.

Accused 8, Anne Nicholson? --- Richard.

Accused 9, Gazides? --- No, I don't know.

Accused 10, Trewhela? --- Jackson.

Accused 11, Sylvia Neame? --- I think it was Rosy, I am not very sure.

And Florence Duncan, Accused 12? --- No, I don't remember it.

Do you know perhaps - do you perhaps know who were known by the name of Hendrik? --- No.

And Biddy? --- No, I have subsequently found out who was referred to as Biddy, but I didn't know the name.

And Jane? --- No.

Geraldene? --- No.

And Julia? --- I think Julia was Miss Duncan.

Why do you say that? --- Well, mentionin the name now to me I remembered it.

Now, what was the code name of the party? --- It was sometimes referred to as "The Family".

And how did you understand, what was the function of the party in the Marks' Leninist theory? --- I am not quite sure if I understand the question correctly.

How did your basic theory regard the party, did you attach any importance to a party, to the existence of a party? --- Yes, I think like every political party trying to impliment the policy which stands, the policy to which it adheres.

And was there any duty imposed on any member in regard to the existence of the party? --- In the particular case the duties were in the first instance to keep the existence of the party secret.

Yes? --- Apply security.

We have supplied a copy to the defence in the further particulars.

What did you say about this ... ? --- I said that is the document.

And what was expected of members in regard to this programme? -- Well, it was supposed to outline or to write down the policy of the partics and such members were obviously required to know its contents, and to adhere to it.

And, did this programme have any binding effect, or was it left to the discretion of members what to accept and what to reject? --- I don't know. Normally in any political party and like the communist party too, I mean members are supposed to subscribe to the policy of the party. There may, of course, be people who disagree with the aspects of it. I don't know if I am in a position to say whether they did or not.

Now, you say a long term - was this programme annunciate a long term policy of ... ? --- If I remember it correctly it annunciates a short term and long term policy.

What is the short term policy? --- The short term policy was support for the aims and objects of the contress movement, which was the achievement of a multi-rational society in which people will have equal political rights.

Could you look at - I think page 55 of the programme. What is the immediate proposals of the communist party? --- Do you want me to read the whole page?

Yes? --- (The witness reads from page 55 of Exhibit "N"). (At the botton, referring to the immediate proposals). "The party stands for ..... The Senate and all institutions based on property or other undemocratic qualifications must be abolished"

Yes, now pausing there, this reference to the destruction of the State, what is that, what policy is that, a long term or the short term? -- In this particular context as I read it, it merely says that the present institutions must be so changed that there will be no racial discrimination; that they be open to all parties irrespective of race. That's how I understand this particular

/27. section.....

And again speaking ideologically, is there any link or relation between the present S.A. Communist Party and the World Communist movement? --- Only in so far again, I think that it has the same or similar aims and objectors.

What sort of assistance did this party derive from being ideologically associated with World Communist movement? Did it derive any assistance? --- I don't know. I don't know how to answer that, except that, of course, the party as a communist party would be able to take part in international communist gatherings.

Yes. Were there many such gatherings? --- I know of one, that is the gathering of 81 communist parties that was held in Russia in 1960, I think it was.

And was the S.A. Communist Party represented? --- Again I don't know of my own personal knowledge if it was represented, but I know from what was stated in documents and from what I was told, that it had a representative.

And did your party prepare a programme, did it prepare and issue a programme? --- Yes, in 1962, I think it was round about the latter part of 1962, a programme was drafted. / A draft of that programme was sent round to groups and was discussed by groups. It was discussed by the group that I was in then. Groups were asked to comment on it, on the draft. Comments was to be submitted in written form, which was done. We were informed that after written recommendations had been received, a final draft would be prepared. / I personally after that, some time after that, some months, I think early in 1963, received printed copies of the programme, or a printed copy of the programme by post, and I have also at the earlier committee meetings seen some of the printed copies.

Is that the document, Exhibit "N", before the Court? --- Yes, that's correct.

Annexure "N" to the charge. We make it Exhibit "N".

section.

Yes, now is that the long term or the short term objection? --- No, I think that is the short term objection.

Now, can we look at page 3. I just want to understand the actual policy of your organization. Page 3, about the middle of the page, there is a sentence which begins with "The main organs of people's resistance"? --- Yes, I have got it.

Could you read that passage? --- (The witness reads from Exhibit "N", page 3). "The main organs of ..... Communism stands for the peace, freedom, democracy and national independence".

Yes, is that how you understood the policy of the party? --- Yes.

Now page 4, there is another passage. I think the third paragraph? --- Yes. "As intermediate and foremost task....." (The witness reads from Exhibit "N") "As intermediate and foremost task ..... The establishment of a socialist South Africa, laying the foundations of a classless communist society".

Yes. Then on page 5 at the top? --- Yes.(The witness reads from Exhibit "N") "Communist, Marks' Leninism is the .... All value comes from labour".

I think that is as far as we need go there. And then on page 6, about in the middle of the page, is there a passage beginning with "Genius of Ladinier Lanien ..."? --- Yes. (The witness reads from Exhibit "N") "The genius of Ladinier..... threw a bright light on the further development of the twentieth century capatalism into it's highest and last stage imperialism".

Now , does the programme then continue to analyse the development of imperialism? --- I haven't read this for some time, but as I remember it, yes.

That is on page 7, the second paragraph, will you just read one sentence there. Page 7 the second paragraph. --- (The witness reads from Exhibit "N"). "Imperialism breeds

war..... and exposed it's true nature to the masses".

Yes. And following that, is there a paragraph dealing with capatalism and the essence of it? --- Yes. Do you want me to read that?

Just the first sentence? --- "Capitalism in it's time was a progressive social system..... The gigantic expenditure on armourments, the ceaseless drive towards aggression and war."

Yes, and then it continues to deal with capitalism? --- "Capitalism is obsolete. It is giving way to the new ..... Everyone who recognize that to work for the benefit of the people is a necessity willingly performed as life's first need".

And then does there follow a passage which refers to the socialist revolution in Russia. That is the second paragraph on page 9? --- (The witness reads from Exhibit "N") "A new era opened in human history . ..... and took the road to socialism".

Now, just one further sentence? --- (The witness reads from Exhibit "N", page 9). "In a number of European and Asian countries ..... And providing a powerful safe-guard for peace, national deliberation, democracy and progress for all the peoples of the world".

Now, did your party regard itself in which camp? --- This is it's programme.

Yes? --- You must accept that that is the policy of the party.

I understand that, yes. So did you regard yourself in which camp of the world? --- In the socialist camp.

Now, on page 12, the last paragraph? --- (The witness reads from Exhibit "N") "It is no longer the imperialist..... Mankind will enter upon a greater freedom in terms of the principles of communism."

Yes? --- "But this great change will not come about of it's own accord..... The weapon of the working class is

organization."

Yes, now I don't want to read all - could you just read the passage at the bottom of page 13, "Headed by the "Marks' Leninist Party" Page 13 the second last line? --- Yes.

(The witness reads from Exhibit "N") "Headed by the Marks' ..... All party members enjoy equal rights, irrespective of race or nationality. All members .. themselves to maintain the highest standard of discipline, political training, loyalty and courage. Led by the party, the working class aims not merely at ..... but at the revolutionary overthrow of the system itself and it's replacement by socialism."

Now, how did you understand the development of this revolution in a situation like South Africa. Did you regard South Africa as - how did you regard South Africa in the light of this imperialist theory? In the light of the theory of imperialism? --- How I personally regarded it, I don't know.

No, I am speaking of your party? What did your party ...? --- I don't know if I can state the policy of the party any better than it is stated in this programme. I find myself in this difficulty where I wouldn't like to be regarded as an expert witness. I am not qualified for one.

No, I am not suggesting that you should give expert evidence. I am asking you how you understood the working of this revolution? How many stages were there to be? --- I think generally the accepted policy was that there should be two stages. In the first the stage where people achieve political rights for all, and then possibly a second stage where a socialist society is achieved.

Yes, how did you call that first stage? --- Those are names that escaped my....

You say there were two stages. How did you understand, could these two stages be achieved separately or could they

/30. be.....

be telescoped, achieved in one? --- That would be entirely something depending on circumstances. I don't think that you could really speculate on that.

Did the party make an objective analysis of the political development in the country? --- Yes, I think this in itself is an analysis of the political situation as it was seen by the party.

And were you personally in favour of this analysis? --- Yes, I was, and still am.

And at page 47 there is a historical description of the old part, or rather of the formation of the new one. Start with the second paragraph? --- (The witness reads from Exhibit "N") "The nationalist boast this that ..... The working class seeks a close alliance with the rural people, and with the urban middle classes and intellectuals in the national democratic revolution."

Now pausing there, what do you understand by this national democratic revolution?

MR. HANSON OBJECTS: (Does not speak anywhere near a microphone, unable to transcribe).

BY THE COURT:

Mr. Hanson, I am not in a position at this stage to say whether it is relevant or not.

BY THE STATE PROSECUTOR:

Your Worship, with respect, my learned friend should speak into the microphone, otherwise.....

BY MR. HANSON:

The accused are charged here for being members of an unauthorized organization. We all know what an unlawful organization is, or a supporter, or any one of the alternative charges. Not the doctrines of that organization. Are they relevant to these proceedings?

EXAMINATION BY THE STATE PROSECUTOR (CONTD.) :

If we look at this "Time for re-assessment". Do you know this document which forms part of the charge? --- I know a document called "Time for re-assessment."

Who issued it? --- It was issued by the secretariate on the instructions of the Central Committee round about the end of 1963.

Is this Annexure "J" before the Court? --- I know the document headed "Time for re-assessment".

When was it issued? --- As I said round about the end of 1963.

And for what purpose was it issued? --- It was merely to be an analysis of the political situation as it then existed in S.A.

And do you remember the contents? --- Not in detail.

Because I want to put a passage to you which deals with the overseas committee. Page 15 of "Time for Re-assessment", Exhibit "J", paragraph (i). It contains the following: "We must use the favourable international situation in every possible way. We must provide constant information on internal events, send out articles, information and all types of material on every aspect of affairs here, particularly the extent of torture and brutality. We must help extend all weapons of boycott and other ..... We must instruct associates overseas in types of activity." Do you remember this? --- Yes.

Now who were these associates overseas? --- Well, as I have said before, I was aware during that time of the existence of such a committee because there was correspondence between the central committtee here in S.A. and that .....

And you were on the central committee, weren't you? --- In South Africa?

Yes? --- Well, the people who were together with me was

Accused No. 1.

Yes? --- Two and three. And Mrs. Hilda Bernstein.

Where is Mrs. Bernstein now? --- I am not aware of her whereabouts.

Yes, but now you say this document was issued by the secretariate? --- On the instructions of the central committee.

And do you know whether it was sent to members? --- I, who was then the contact with the European area committee, received two copies of that document, which I handed over personally to the other members of the area committee. Or rather I handed them over to Miss Middleton and asked her to give Mrs. Barsel a copy.

Yes, I don't want to read this whole document, but was the emphasis mainly on questions of security and secrecy? --- Yes, I think that is mentioned. As I said I don't remember the details .....

The 90 days' detention clause? --- There was instruction that peopld should (?) against the question of 90 days' detention. That I remember.

Rigid discipline and rigid security measures that had to be applied? --- Yes.

And detailed planning and split-second timing? --- Yes, I remember something like that.

And to find legal cover for all in 'legality'? --- Possibly. I must say that I don't quite understand what it means.

Do you want me to read to you? --- Yes.

"All tasks must be carried out in such a way whatever they are, that they appear ordinary and legal. People will have special tasks to do, particularly organizers must assume proper occupations that are above suspicion. If investigated they must appear to be legally occupied earning legal wages. As far as possible activities must appear innocent," I am reading from page 6, paragraph (c). Exhibit "J","but units must

discuss this, as if not well planned can be dangerous ..... (The S/P continues reading from Exhibit "J"). "Your actions can be seen by someone hidden" and so it goes on? --- Yes, I remember that.

Then there is some advice about the fewer the better. "The fewer people who come together thesafer it is?". --- That is also correct.

Then there is an analysis of the present situation? --- Yes.

"It is not easy for us to lay down a complete programme of action for the coming months, particularly as a great many of our decisions are subject to discussions held outside the country?". --- I can only say there that they must have referred to the Overseas or London committee. That committee at some stage was asked, they were written to and asked for a report of their activities. During the time that I was on the central committee such a report was never received.

But at that national conference that you attended, was this question discussed at all? --- The question of?

The question of the overseas committee? -- That was in 1960 I don't know if such a committee then existed.

Now, at the central committee meetings that you attended, was - were the reports of the overseas committee ever raized? -- There was correspondence on some occasions, not many. You - on occasions there was correspondence from them.

Now, I see here on page 11, paragraph (f) it is under the heading "Externally the following appears : ..... (The S/P continues reading from Exhibit "J")."South Africa's biggest allies, Britain and America, have now voted against us". And then page 12, the last sentence of that same paragraph. That's the fourth sentence from the last. "However, activity overseas is always a reflection of events within our own country ..... This is both possible and essential." Is that ...? --- I think that was just a general directation to members that

they should where possible supply information to overseas. I don't remember any specific instruction as to who information had to be supplied to.

Yes, but do you know whether information ....

THE COURT INTERVENES:

(the first part is incoherent).

BY THE STATE PROSECUTOR: He has.

BY THE COURT:

By to whom? --- No, I said that I don't know of any specific instruction that it had been supplied to anybody in particular.

EXAMINATION BY THE STATE PROSECUTOR (CONTD.):

And do you know whether information was sent overseas? --- No, I have no personal information about that.

Now, while I am dealing with this document, I would like to refer you to page 13, paragraph (b), which reads as follows: "We must prepare for mass propaganda amongst people on the forthcoming Bantu Laws amendment act and other new laws". Do you remember that? --- I remember that instruction.

And do you know whether such propaganda was, in fact, prepared? --- I know of only one leaflet that was drafted by the group of which Miss Middleton was the contact, but as far as I know it was never issued, the leaflet was never issued and distributed. It never got further than a draft.

Was the draft ever transmitted to the central committee? --- I am not very sure about that, I know a draft was made out. I think it was submitted. Not to the central committee as such, but to the secretariate of the central committee, but I don't exactly remember now what happened to it after that. I know that it was never issued.

Did you personally handle that leaflet or the draft? -- No, I merely knew of the fact that it was drafted.

I think I have seen the draft too.

Now I see on page 14, paragraph (h) "Education must be organized at every possible level, political education, discussion classes, practical education in survival and methods of activity, all this must be discussed and organized?". --- It was a standing instruction that members should study, and also that where they knew of people who were likely to become members of the party, that they should run study classes for them. It is an instruction that had been repeated many times over the year that I am aware of.

Now I want to start with the meetings held by the different committees of this party. We shall start first of all with meetings of the Central Committee. You say you became a member of the central committee when? -- It was either the end of July, 1963 or the beginning of August, somewhere around there.

Now, where was the first central committee meeting held that you ....? --- The first central committee meeting that I ever held was held in a building near the water tower in Bellevue. I think it is called Westminister something.

Accused (1) (2) (3) were B. and S. of Bayleveld

And who were present with you at this meeting? --- At that meeting was present Mr. Fischer, Mr. Schembrucker.

Accused No. 1, Accused 2? --- Mr. Weinberg.

Accused 3? --- Mrs. Bernstein, myself and Mrs. Slovo.

And do you remember on what day of the week it was? --- No, I don't remember the day of the week. It was in the afternoon I remember.

Do you know when the Rivonia raids were? --- I think it was some time in July. It was not very long after that, so that's why I say that's the way I fix it by saying it was either the end of July or the beginning of August.

And can you remember what was discussed at that central committee meeting? --- The report was made by Accused No. 1

that the only two people left in Johannesburg who were members of the central committee was himself, and Mrs. Slovo, and the suggestion was made at the meeting that people present, that is the ones I have mentioned just now, should constitute themselves into a central committee. Accused No. 1 also told the meeting that two other persons, who were not present at the meeting, were prepared to become members of the committee.

Who were they? --- They were Joseph (?) and Dan (?) People living outside Johannesburg were also mentioned by Accused No. 1 as people who were still members of the central committee.

Yes? --- Those were Mrs. Ray Alexander of Capetown, Mr. Fred Thomason, Mr. Joe Matthews of Basutoland, Mr. (?) 'Michael' of Durban.

Was there anything said about people that left the Republic? --- It was discussed. I think we all knew at the time that certain people had left South Africa, and other people were arrested.

The people who had left South Africa, was there anything said about whether they had ceased their activity or opinion? --- That wasn't discussed in detail. What was discussed is that - the main reason for this discussion was the situation that had arizen as a result of the Rivonia arrests, the question of activity in the party was discussed. It was decided, for example, not to increase activity in those particular circumstances. I remember that the secretariate was elected at that meeting.

Who formed the secretariate? --- Mr. Fischer, Mr. Schermbrucker and Mrs. Bernstein.

What was the object of forming a secretariate? --- The object was first of all that it was thought it was not a good idea to have too many meetings of the central committee as such, or rather to keep the meetings as small as possible, and to have a secretariate who could carry out day-to-day activities and

any source? --- Yes, at some stage - I don't think it was long after that meeting, Mrs. Bernstein showed me a piece of paper that had been received from overseas, from the overseas committee, which instructed us to 'phone a certain 'phone number, and to ask for a person called Dave. To tell him that the person 'phoning was an associate of Lorry in London, and to ask him if he had received 8,000 experimental tissues. Mrs. Bernstein asked me if I would do that. I 'phoned that 'phone number, spoke to a person who identified himself as Dave, and I mentioned this code to him. He then told me that he had received 8,000 pounds .....

MR. BERRANGE OBJECTS:

I must object to the matter that the witness said he was told by somebody who we don't believe to be a member of ...

BY THE STATE PROSECUTOR:

With respect, Your Worship, the witness said he received certain instructions. He proceeded to follow up the instructions. If my learned friend ....

BY THE WITNESS:

I followed up the instructions as a result of ...

BY MR. BERRANGE:

You can argue the case in another court, Mr. Beyleveld, not here. I am addressing His Worship at the present moment, not you.

BY THE STATE PROSECUTOR:

If my learned friend is objecting to the details, I can cut that short.

EXAMINATION BY THE STATE PROSECUTOR (CONTD.):

Did you contact this man? --- I did.

And did you receive anything from him? --- I received £8,000.0.0.

What did you do with the £8,000.0.0? --- I - £2,000.0.0 I handed over to Mrs. Bernstein. I think

ee to correspondence, and the normal type of activities carried out by a secretariate of a committee.

Yes, did this secretariate have any function about anything outside South Africa? --- Well, corresponding with, say the overseas committee, would be one of it's functions. Or was to be one of it's functions.

And the supply of information which was ..... within that time for the assessment? --- I can't remember that that was specifically discussed. I would assume that such would also be a function.

Now, was anything said about the area committee? --- Yes, there was an instruction sent out to area committees and to the district committees - to the area committees through the district committee that in case of contacts being broken between themselves and higher bodies of the party, they must carry on as unanimously until such time as contact was to be established again. I was also asked that particular meeting to get together with Dan(?) and to re-organize the Johannesburg district committee.

Did you do something about that? --- I met Dan (?) and we decided - he told me that the only two members of the district committee was himself and Paul Joseph. We arranged a meeting. Dan (?) also suggested that we .....

AN OBJECTION IS RAIZED:

EXAMINATION BY THE STATE PROSECUTOR:

Now you say, I am asking whether you did something to execute that instruction? --- I had a meeting with 'Clumay' and Joseph, that is what I was trying to tell you.

Now, was there anything said about the district committee? --- No, beyond the fact that I was to become a contact with the district committee, and to see to its re-organization.

Now, just one question before I stop. After the meeting - put it this way, did you get any financial support from

£90.0.0 was spent on buying two duplicators at a later period and the rest of that money was on a decision of the central committee lent to the A.N.C. I was to hand it over to Dan Cluny or to another person whom I knew as Mike, which I did.

Did you do that? --- I hand it over to them over a period of months. They didn't want it all at once. They drew it from me in sums of £675.0.0 and £750.0.0 on one occasion.

Just one more question. What was the purpose of purchasing the duplicators, what did you want to do with them? --- Well, the duplicators was to be purchased for the African and Indian area committees for - to enable them to run off propaganda material. I handed over the money - either all the money to a person called Mack or half of it to a person called M ack and Mike. I am not quite sure now, but I handed over the sum of R180.00.

And was printing done through this means? --- I only know that I handed on occasions stencils over to them. I have no personal knowledge of whether they, in fact, ran them off.

Did you get the finished product back? --- No, the finished product was to be distributed in their area amongst their members.

Your Worship, I think this is a convenient time to take the adjournment.

A DISCUSSION FOLLOWS REGARDING THE REMAND.

THE STATE PROSECUTOR ADDRESSES THE COURT REGARDING THE BAIL OF ACCUSED NO. 14. The State has no objection to the accused not reporting at the police station on the days that he has to appear in court.

BY THE COURT:

Well, accused No. 14 will then be relieved of the necessity for reporting on days on which he has to attend court.

THE CASE IS REMANDED TO 17/11/64 "D" COURT.

/42. On.....

XXn: 73 (2) GB 42 — 120.

ON 17/11/64 - CASE RESUMED.

APPEARANCES AS BEFORE.

MR. HANSON ADDRESSES THE COURT REGARDING EXTRACTS OF THE RECORD REQUIRED.

BY THE COURT:

Mr. Hanson, I think that is more an administrative matter. It was never referred to me, but I understand now your requirements are met with?

BY MR. HANSON:

Mr. Liebenberg has kindly been able to do something to see that they are met.

PETRUS ARNOLDUS BEYLEVELD, Sworn, states:

EXAMINED BY THE STATE PROSECUTOR:

Mr. Beyleveld, yesterday afternoon you dealt with the first central committee meeting that you attended in Westminster Hall?--- That's correct.

You say July last year or early August?--- Either late in July or early in August, yes.

2nd MK Now when was the next meeting that you attended? --- The next meeting of the central committee took place some time after that. I am just vague about, I would say about three weeks possibly. Three weeks after the first one. It was held in Cooper Street in the house of Mr. Cyril Jones. Cooper Street, Cyrildene.

In the house of Cyril Jones?--- That's correct.

And on what day of the week was it?--- I think it was on a Saturday afternoon.

Who attended ? --- Accused No. (1) that's Mr. Fischer, Mr. Schermbrucker,

Accused (2)? --- Mrs. Bernstein, myself and Dan Clumay. I am not sure if Mr. Weinberg was there.

Can you remember what was discussed at that meeting? --- One instance I do remember is that there were letters

/43. from...

from the districts in Durban and Capetown . I remember that the letter came from Capetown, said that although some of the members of the district committee in Capetown was arrested, it was still functioning. I remember that the Durban district committee reported that the only person left on their district committee was a person called George Punin. I think the affairs of the - you know the position of the Johannesburg district was discussed. I myself made a report on that.

And at that time were you connected with the district committee?--- By that time I already had a first meeting with the district committee in Johannesburg.

Now, when was the next meeting of the central committee? --- There was a next meeting that I attended - I must point out there may have been some that I didn't attend.

3rd Yes?--- The next one I attended was to be held in an empty house in Bellevue somewhere, also near the water tower. The persons who were there was myself, Accused Nos. (1) & (2) and Mrs. Bernstein. Accused No. 3 was supposed to bring the Non-European members to this meeting, they didn't come, and the meeting was subsequently cancelled, it didn't, in fact, take place.

And why did you cancel the meeting?--- Well, the intention was to have a discussion with the Non-European members on the central committee and because they didn't come it was decided to cancel the meeting.

How many members were there on the central committee? --- It was altogether seven in Johannesburg.

And when was the next meeting that you attended? --- The next meeting took place - I think it was in January, 1964, the next one that I attended. It was held in 705 - a building in Abel Road, I think it is called Concordia. The people

present was Accused No. 1, myself, Mrs. Bernstein and Mrs. Slovo. I don't think accused No. 2 and 3 were there.

And what was discussed at that meeting? --- We discussed that Mrs. Slovo, who was then going to leave S.A. - the political situation in S.A., because she was going to make a report to the overseas London committee, and I remember specifically that she was asked to discuss with the London committee the question of raising funds overseas, or assisting organizations raising funds overseas for the purposes of defence in political trials.

And was any decision taken? --- In regard to?

In regard to what Mrs. Slovo had to do? --- No, not besides making a report to London on the situation here, and the question of raising funds for defence in political trials. I can't remember any other specific decisions.

And did you see any report that was prepared?--- Tt wasn't a written report, it was merely, we had a discussion on the political situation and she was to make a verbal report.

And did you personally do anything at that central committee meeting, did you make any reports?--- I may have reported on the position in the district committee. I was in contact with the district committee, and at these meetings I usually reported on what was going on in the Johannesburg district.

Who usually arranged these meetings?--- The person who told me as a rule about them was Mrs. Bernstein.

NB (3)

And when was the next meeting? --- The next meeting that I attended was held in 'Rowallan' Court in Noord Street. I think the number of the flat is No.8. At that meeting the question of bringing two other people onto the committee, because the two Non-European members were no longer available, was discussed.

Yes, when was this meeting? --- It must have been round-about March, April possibly of this year. And it was decided at that meeting that persons who were known to me as Mack, an

/45. Indian...

Indian person, and a person whom I know as Slapani, was supposed to be co-opted to the central committee to take the place of the other two Non-European members who were no longer available.

Who were present at this meeting? --- Accused No. 1, I don't think was there. The Accused No. (2) and (3) Mrs. Bernstein, myself. I think it was the four of us. I don't think Accused No. 1 was there.

And did you arrange anything about the two persons, Mack and Slapani? --- It was agreed that they be co-opted, and I was told to get in contact with them to tell them about it, and to arrange with them where they could go to the next meeting.

And was it decided there where the next meeting was to be held? --- The next meeting was to be held - I remember it was on a Saturday morning, at a place called Twickenham also in Abel Road, Berea . I didn't attend that meeting. It was supposed to be held on Saturday morning. I personally did not attend.

But did you communicate with any of these people?--- I asked somebody who was known to me as Mike to tell them about this, and I think I personally spoke to Mack also, the person who was known to me as Mack.

Now, when was the next meeting that you attended? --- The next meeting was held in Twickenham - I think it must have been in June of this year. That was held in 82, I think the number is of the flat, Twickenham, also in Abel Road, Berea.

Who were there? --- There was Accused No. (1), No. (2), Accused No. (3) was there, Mrs. Bernstein and myself.

What was discussed there?--- The thing that I particularly remember was discussed at that - we discussed the possibility it was felt at that particular time that the situation was rather dangerous for people operating politically, and the question of allowing the party to go dormant, at least for some time, was discussed. The members present felt that the committee could

/46. not...

not take such a decision without consulting with other areas, with other district committees. It was agreed that Mrs. Bernstein was to write to people in the other areas and arrange a meeting with representatives from those areas at which this question was to be discussed. At the time of my arrest nothing further had been done about that, that I know about.

Now, does that conclude the number of central committee meetings that you attended? --- That is meetings that I attended, yes.

Now I want to proceed to the district committees. When did you become a member of the district committee?--- At that first meeting, as I mentioned yesterday, of the central committee, it was decided that I together with Dan Clumay, will try to reorganize the district committee. Shortly after that I had a discussion with Clumay, and the two of us decided to convene a meeting that was to be attended by myself and Clumay and a person called Paul Joseph, and a person known to me as Mike. This meeting took place some time in August.

Of what year? --- Of 1963. I picked the persons up in Fordsburg near the bus shed here, I think in Avenue Road, or Market Street, I am not sure which, and we drove around in my car. We discussed the whole question of the district at that particular time.

Yes, and what I want to know is what did you have in mind, howwas this district committee to be re-organized? --- Well, at that stage it was decided that the four of us who were present there, were to constitute a district committee. Dan Clumay was appointed as the convener.. He convened another meeting very shortly after, I think about a week after that one . At that meeting it was felt that that was too soon, that we shouldn't have so many meetings, and that meeting was held in a house somewhere in Ophirton,I think it is.

Yes, but now how did you re-organize the district committee?

/47. --- At....

committee, or their contact with the district committee. I had a meeting with Mack and Mike and we decided to try and re-organize and re-establish the district committee. We had a first meeting of that district committee to which was co-opted Accused No. (5) that is Mr. Norman Levy, and another person with the name that is known to me as Josiah from the African area committee. We then re-constituted the African area committee, which then consisted of Mack and Mike, myself, Mr. Levy and this person called Josiah. We had our first meeting in a place called 'Beltring' Court in Bellevue, in Viljoen Street, Bellevue.

Do you remember the number? --- 02. It was a flat that I myself obtained and I had obtained it then for my sister who was coming to live in Johannesburg. It has since been given up.

And, on what day of the week did this meeting take place? -- It was during the week, I can't remember the day. It was held in the evening.

And you say the five of you attended this meeting? --- No, I think this person called Mike was not at that particular meeting. He was out of Johannesburg at that time if I can remember correctly. So that there was Mr. Levy and myself, the person called Mack and Josiah.

Did you take any decision?--- The decision was to constitute ourselves, that is the people who attended plus this person, Mike, who wasn't present there, into the district committee, a new district committee.

And did you take any decision in regard to the meetings to be held?--- Yes, it was agreed that we would not hold many meetings, this particular committee, and these two people, Mack and Mike, and myself were to keep in contact with one another regularly every week, and we were to convene a district committee as and when we considered it necessary.

/50. For...

For some time after that I met regularly with these people, either one of them or both of them. We had an arrangement whereby we met at the corner of Eloff and Albert Streets, I think it is. The meetings took place approximately once in every eight days. It was just short things that lasted about five minutes. It wasn't really meetings. It was just to keep ourselves in contact with one another.

Yes now for how long did you keep this up?--- This must have lasted for , if I remember correctly, that meeting in Beltring Court must have been about April, I would say. During May I saw these people regularly, and then we were going to organize a full district committee meeting again some time in the middle of June. We were to meet in a house in Fordsburg, where we were supposed to meet this person, Mack, in a street in Fordsburg. I have forgotten the name now, and he was to take us to a house. I met Mr. Levy and the two of us walked down the street where we met this person, Mack, who told us that the police were around the area, they were keeping the area under observation, and we decided to abandon the meeting, it never took place.

And what was really the object of that meeting?--- The object of that meetings was to discuss the whole position in the Johannesburg district, and to decide on future activities.

And did you receive reports from the area committee? -- No, I don't think at that particular meeting. We received reports from the area committees at the various district committee meetings, but I don't think at this particular meeting we - of course, it wasn't held, and it wasn't the intention. The intention was rather to sort of map out a plan, and then convey it to the area committees.

Now, was that the last ...?--- That was the last meeting of the district committee that I attended. I had an arrange-

/51. ment...

between the district committee and the area committee until, I think, round about the end of 1962, when Mrs. Bernstein also came onto the committee and took over from her as the contact with the district committee.

Now, until when did Mrs. Barsel remain on the area committee? --- All the time that I was on it until July, 1964.

And accused 6?--- Also from the time that she was co-opted until the time of my arrest.

And Accused 7? Miss Middelton?--- I mean, you know she remained on it from the time when she was co-opted until the end of - until I was arrested. And then Mr. Levy was co-opted onto this committee also some time at the beginning of 1964, and he remained a member until the end.

Accused 5. Now, did you know the house of Meyerson in Cyrildene? --- The last meeting of the area committee was held in the house of Mr. Meyerson in Cyrildene. I don't know the address. The people present were myself, Mrs. Barsel, Miss Middelton, Mr. Baker and Mr. Levy.

And what was the purpose of that meeting? --- That meeting was a meeting that was convened for the purpose of receiving a report from the district committee, the one I have just mentioned, that didn't come off. Where we were supposed to draw up some sort of plan of activity or some plan for the future, and that meeting was convened for the purpose of receiving a report, of course, there was no report to give because the district committee meeting didn't take place. It was supposed to have been held just a few days prior to that.

Can you remember what date it was?--- It was roundabout the middle of June. I can't put a specific date on it.

When you served on the area committee, did you represent any groups?--- Yes, I represented a group when I

came first on the area committee, which consisted of Mr. Mr. Michael Hammel, Mr. Issy Hamony, Mrs. Pixie Benjamin and myself.

Did you represent any other group? --- Not at that time, but later on I left that particular group and I was in another group which I organized, which consisted of myself, Accused No. 1, Accused No. 7 and Miss Anne Nicholson. I don't know her...

Accused No. 8? --- Her number. That is Mr. Fischer, Miss Middelton, Mis Nicholson and myself.

And, when were you the contact man, or representative of this group, this last group? --- I think it was during 1962. I think the first part of 1962.

Until when? --- I would say round-about August, September, possibly of 1962. I am again not very sure about specific dates.

Now while you served on the area committee, did you issue any propaganda? --- No, the area committee as such did not issue propaganda, but on occasions leaflets were received from the central committee through the district committee, through our contact on the district committee, which the area committee arranged for the groups to distribute. I can remember a few leaflets that we received and were posted out to people from names taken from voter's rolls. On one occasion I took part in a leaflet distribution where we tied leaflets in bundles and hanged it up at the pedestrian subways at the Ellis Park Station. That particular operation was done by Miss Middelton and myself. It must have been, I think round-about the beginning of 1962.

But what was the purpose of tying up the leaflets in a bundle and...?--- The idea was that people going through the subway should just tear them off and read them.

Now, after that, did you - can you give us an idea what were those leaflets about?

MR. BERRANGE INTERVENES:

With regard to this type of evidence, and it is not the first time this has happened. Evidence is now being led from this witness in regard to activities which implicate members of the accused's body which fall outside the period of the charge-sheet. The witness is now talking about an incident at the beginning of 1962 in which there was a leaflet distribution and in which he alleges he took part with Miss Middelton. Your Worship will see that the charge-sheet confined the period of operation to the period May, 1963 - I think it is, until June 1964, or July.

BY THE COURT:

And what date?

BY THE WITNESS:

This took place some time in 1962.

BY MER. BERRANGE:

I don't know how the relevant - or how it is admissible for evidence the relevance on the face of it of the commission of an offence with which we obviously are not charged.

BY THE STATE PROSECUTOR:

With respect, Your Worship, although the charge alleges the period from May to - 1963, to July, 1964, the State is still entitled to rerly on the legal principle of a course of conduct, namely, that the accused acted and indulged in these activities over a period, and all the evidence is relevant to show with what mental state they took part in these activities. It is relevant to show the association. It is relevant to show the understanding of the nature and purpose of their activities. It is relevant for various reasons to show the - to show that these people weren't confined to only issolated acts, or merely committed a few issolated acts without knowing the true import of them, and that they were associated with an organization over quite a period, the same organization. We are not

/55. charging...

charging them with belonging to any other organization, we charge them with belonging to this particular organization, and all the activities preceding the period of the indictment to throw light on the activities later, and actually there are not many instances where the State goes outside the limits of the indictment - of the charge.

BY MR. BERRANGE:

It is the first time that I have ever heard that the principle on which evidence can be led of other acts as far as it constitutes a course of conduct can be used to support a submission; that you can lead evidence in respect of offences committed which do not form the subject matter of the charge. If, indeed, my learned friend was intending on this charge to lead evidence about the commission of offences outside the period mentioned in the charge, it is quite clear that the accused must not necessarily be embarrassed and come to court and meet the charge, and if this evidence was thought to be led of offences committed at that stage, well, then the indictment should have said so. And the fact that my learned friend says it is not often that he does this, is completely irrelevant, once is enough.

BY THE COURT:

My ruling is that acts done outside the period alleged in the charge-sheet are inadmissible.

MR. BERRANGE INTIMATES TO THE COURT THAT THE ACCUSED ALLEGE THAT THEY CANNOT HEAR THE EVIDENCE BEING LED TOO WELL.

THE ACCUSED ARE RE-ARRANGED IN ORDER TO PUT THEM IN A BETTER POSITION TO HEAR THE EVIDENCE.

EXAMINATION BY THE STATE PROSECUTOR (CONTD.):

Now, did the area committee take over any functions from the district committee? --- When the area committees were formed, it was the intention that it whould take over the organizational function, I would say, of the district committees,

/56. such....

April, I think, of 1964. I am not sure again of the date. I looked at this place and decided that it was unsuitable, and I handed back the key to her.

And, who decided - did members have to pay subscriptions? --- That is correct.

Who decided on what...?--- There was a layed down tariff. I think the minimum was 3/- (30 cents.) People earning up to £30. 0. 0., I think per month, must pay 10/-. People earning up to £50. 0. 0., a £1. 0. 0. People earning up to £75. 0. 0., £2. 0. 0. People earning £100. 0. 0. per month, £5. 0. 0. £150. 0. 0., £7. 10. 0. And £200. 0. 0. and over, 10% of their income. That was the tariff layed down as I remember it - I may be mistaken on some of the figures, but that is how I remember it.

Now you say Accused No. 7 was the contact of her group on the areas committee?- -- That is correct.

And, did she have to pay over money to the area committee that she collected? --- Money that she collected from her group was to be paid over to the area committee, except where they had expenses to defer, in which case they would have the right to defer those expenses first and then hand over only the balance.

Did they give a report, details of the expenses?--- They would normally ask to spend money on particular purposes. I remember for example the area committee approve the purchase of postage and envelopes,where they sent out things by post, and on one occasion a request was made to allow them to use some of the money to pay for paint, which this particular group was using for slogan painting in connection with another group that they had contacted.

And was permission granted?--- Permission was granted.

Did you receive any reports about any slogans that were painted? --- Only the general 'sense' on the area

such as seeing to the grouping of members, and seeing that the groups function. That was the intention originally of forming the area committee. If you remember at that time, there was also branch committees, and when the branch committees was dissolved, of course, it also took over the functions of the branch committees, which was a sort of contact committee, where information was dissimulated from the top down and from the bottom up . So that it had the two functions of being a contact committee and organization committee.

Now, did the area committee have any other function apart from recruiting of members, apart from being a contact between... ? -- It was responsible for the approving of recruits.

Yes. And what about meeting places?--- The area committee normally found it's own places where it could meet. During the last year I think it was held most of the time in motor cars, it was very short meetings. I must point out that during the last year of the existence, meetings were much more irregular than they were before. On a number of occasions groups were instructed to find meeting places, which wasn't necessarily for the use of the area committee though, it was a general instruction that groups should try and find places where people could meet and then pass on the information to whoever needed it to make use of it.

Did you inspect any place that was found?--- On one occasion I asked Miss Middelton if her group could find a place where meetings could be held. My intention was that the district committee was to meet there. I don't think I conveyed that to her. I merely asked them to find a place. She handed over to me a key shortly after that, and an address of an office some-where in motor town. I think it was either Harry Street or..... I am not quite sure of the address.

When did that take place? --- It was here round-about

/57. April....

committee, not in detail. It wasn't detailed reports like "We painted this, that and the other thing, slogan." The only thing was to get the approval of the area committee for the group to take part in that type of activity.

Now, did you know of any leaflets that were distributed during the period of the charge, that is from May, 1963 to July, 1964? --- No, not leaflets that were issued by the party as such. I can't remember any, not publically distributed leaflets. I know that the same group, of which Miss Middelton was the contact, reported to the area committee that they or some of their members, the members who were concerned with that group and also the members concerned with the group for which Mr. Norman Levy was the contact, were concerned with the distribution of a lithograph news sheet called "Focus", but the only knowledge I have of that is the reports made by those two accused on the area committee.

Yes, now what did those two accused report about "Focus"? --- They merely reported that they were receiving copies from Capetown, and they were preparing it here in Johannesburg for posting, and posted it out to, I presume a list of members that they had. A list of addresses that they had.

And did the distribution carry the approval of the party? --- Well, the area committee carried the area committee's approval, they reported their activity to the area committee. They didn't object to it.

And, what about the publication, African Communist?-- African Communist as far as I am aware is an organ of the S.A. Communist Party that are prepared and printed on behalf of the party in Britain, and it is sent out to members in S.A. either direct by post or it's sent to groups who give it to members. I do not know the exact details of how it was used, and how it was sent out. I myself have received copies by post for a number of years with exception of about

the last year, during the last year, I think I only received one copy, the others didn't come.

And did you know the publication "Marks' Review?" --- Yes, I know the publication "Mark's Review." There again it was a publication that was received from England. The instruction was that where groups wanted it, they could ask for it if they supply a cover address to which it could be sent. This address was then posted on to England, I can't give details again there, and it was received by group contacts and sold to members at .....

And "Marksism Today?" --- The same thing applies that applies in the case of "Marks' Review," and also "Labour Monthly." I think occasionally there was copies received of a thing called "Creaping Review," although that was more irregular, I think.

And what do you know about the "Freedom Fighter?" --- I think that during the beginning of this year, Mrs. Bernstein told me that she together with a few young people, young friends of hers....

No, I want to, I think we must bind. In what capacity did she make that statement to you? To what committee...? --- She was a member of the central committee and also a member of the secretariate.

Yes?--- She told me that she together with some of her friends were going to produce this thing called "Freedom Fighter," and asked me if I would get the permission of the district committee to assist with the distribution of it. She told me that she could supply me with two sets of stencils, and asked me if I would then hand it over to the African and Indian area committees, and ask them to distribute it. I raised this with the district committee, and it was agreed, and a person called Mr. John Matthews after that brought me

/60. on...

on a number of occasions, I think three or four occasions, two sets of stencils , which I handed over to the contacts which I had with the area - the contacts on the district committee from the Indian and African area committee. Mr. Matthews also asked me if I could obtain more addresses of Europeans for him to which he could post it. I raised this with the area committee, and asked them to ask members who wanted a copy of this, to hand in their names and addresses to Mrs. Barsel, who Matthews told me he would get the addresses from.

And did you receive any of the finished documents? --- I personally did not receive any. I never handed my name in. I saw one which was shown to me by Miss Middelton. There was quite a lot of criticism about this publication, discussed at the area committee. Miss Middelton for example was very critical about it. She thought it was not of a high enough standard for the organization to be concerned with it. At that meeting that was held in Beltring Court of the district committee, I raised it also with the district committee, and I discovered that the other area committees were also unhappy with it, and after that I conveyed that criticism to Mrs. Bernstein. That was here shortly before my arrest.

Do you know the document called "The Kurt (?) Danziger Article?" --- There again I merely know that Miss Middelton reported at the area committee that her group was concerned with the publication of - duplicating of an article which had originally appeared in the Cape Times, and was written by Prof. Kurt (?) . Theywere going to reproduce and distribute it, but I don't know whether they ever did.

What was it about? -- It concerned the effects, psychologically I think, of people detained under 90 days. I never read the article myself.

/61. And...

And what was your party's attitude in regard to ..... of propaganda against the 90 days detention clause ? --- There was an instruction to members through the area committees through the district that as much propaganda with regard to 90 days' detention should be produced. There was no specific instructions, it was a general instruction that members should concentrate on publicising the effect of 90 days detention.

Now do you know a document called "South Africa on Trial?" --- I think I have seen it. I don't specifically remember it now. If I could possibly be shown a copy.

I could make arrangements to show you one. "Comment S.A. Special?" --- I don't specifically remember it.

And "Brute Force?" --- No, over the years I have seen a number of these documents, and I am afraid I can't recall them unless I can possibly see them.

"Peace, Freedom and Socialism?" --- The name sounds familiar, that's all I remember about it.

Did you ever see a copy, did you ever...?--- I may have. I can't be sure now.

"Sanctions against Apartheid?" --- There again I don't remember it.

Now, I want to deal with the groups, the formation of - the functioning of the groups. For how many years were you a member of a group? -- I was a member of the first group that I was ever put in from about 1956 until some time in 1961.

And what were the main occupations of the groups?--- During that time the existence of the party wasn't known, and the group that I was in merely met occasionally, usually about once a fortnight, and we had a sort of general discussion. Occasionally we received instructions or political analysis from the central committee. Occasionally we ran

BY MR. BERRANGE:

Insofar as it can be shown that anyone of the accused during the period with which they are charged in the indictment, dealt with, handled or approved of any of these documents. If that were the evidence to be led, I would have no objection, but insofar as these are activities of the organization outside the period mentioned, and I cannot understand how it can be.....

BY MR. LIEBENBERG:

With respect, Your Worship....

BY MR. BERRANGE:

May I finish? As I say, if it can be shown that these documents were in any event relevant to the period mentioned in the charge in the sense that the accused participated in the distribution or handled them, or perused them or had anything to do with them, I wouldn't make any objection, because I don't care what date a document had been issued if it was in the period of the charge sheet, but..... (incoherent.)

BY THE COURT:

I am prepared to allow that evidence. I think anything in connection with the history or policy or the aims of communism is relevant.

EXAMINATION BY THE STATE PROSECUTOR (CONTD.):

Will you hand in that document, Exhibit 2? Then, Exhibit 3 "A Call to the Youth?" --- This I think was issued some time in 1962. This is one of the documents that the area committee arranged for some of the groups to post to the list of addresses taken from voter's rolls.

Exhibit 4, "For higher wages, Land, Freedom and Equality?" -- That was also issued some time in 1961. Shortly after the party emerged. Either the end of 1960 or the beginning of - possibly 1960. Towards the end of 1960. I remember seeing this, and I took part in it's distribution. It was also

/64. one...

a study class of our own, but we weren't particularly active. At that time I was President of the Congress of Democrats, and it was the general policy of the party that people who were office bearers of other organizations shouldn't be active beyond the activity inside their groups, and then, of course, the party emerged some time in 1960 by declaring it's existence in a leaflet, and it was in 1961, shortly after that, that I then changed to another group.

I was wondering whether you could identify some of these leaflets that your party issued. There is one in 1950 "The Communist Party of S.A." In 1960 "The S.A. National Congress. Who will they ban next?" --- I have seen that document before I think it was one of the very first that was issued after the party declared it's existence. It was one of thoæ leaflets that was distributed.

Then that is handed in as Exhibit 1. And "The Story of the Communist Party?" --- Yes, this I remember. This was also issued, I think some time in 1961. The group I was with then distributed this . I think Mr. Slovo, Mr. Hodgson and myself also hanged this up in bundles at the Ellis Park Railway Station. That was in the subway of the Ellis Park Railway Station. That was some time in 1961.

MR. BERRANGE OBJECTS:

Again we are dealing with activities outside the .....

BY THE STATE PROSECUTOR:

With respect, Your Worship, this is on a slightly different basis. Here these documents were issued by the party. One of the charges against the accused is that they furthered the objects of communism, and I submit that these documents are relevant insofar as they represent the policy of the organization, insofar as they support or corroborate this witness in what he has already said. I submit for that purpose it is relevant.

/63. BY.....

one of the documents that was hanged up by the group that I was in then at the Ellis Park Station.

Exhibit 5, "Syllabus on fundamental principles of Markism"? --- This was supplied to a group by the central committee. At the time when this particular book was issued, I think it must have been about also round about 1961. It is merely a syllubus of how you can go about studying this particular book of fundamentals of Markism.

And briefly speaking, does this syllabus set out what books the study classes should use?--- If I remember correctly, it only deals with one - this particular book. It was a sort of resumè of the contents of that particular book indicating how you should read it and discuss it.

Yes, I see on page 1, the basic book for the whole syllabus is A. Burns' introduction to Markism?--- Then I was wrong because I thought it only dealt with the one.

It goes on it says - have you the document in front of you, the third paragraph. "In addition those desiring to undertake deeper study of the fundamental principles of Markism and especially tutors taking classes in the syllabus will find 'Fundamentals of Markism Lenninism ....' absolutely essential." Do you know that book? --- Yes, I know - Fundamentals of Markism I remember.

So there is also mentionned Karl Marks' introduction to The Critic of Political Economy. Do you know that book? --- Yes. I remember it.

And "Lannin's Imperialism?"-- I know about it.

"Lannin's Imperialism , and "The split in socialism? " --- It soundsfamiliar, that's all I can say about it.

The Exhibit 6, "The Revolutionnary way out?" --- I remember this, but I can't say now at what particular stage I saw it. I remember having seen it.

Now, you mentioned yesterday the Bantu Laws Amendment Bill, do you remember that?--- I mentioned that there was

/65. a....

a leaflet drafted, which as far as I know, was never published or distributed.

Yes, butwhat I am not sure about is did you mention in which group the leaflet was drafted?--- It was drafted by somebody in the group of which Miss Middelton was the contact, but I don't know who actually drafted it.

And did Accused No 7 speak to you about it? That's Miss Middelton?--- She spoke to me about it, but I don't remember the details. As I said yesterday, I remember that this was drafted. I saw the draft at some particular stage, and I remember it was never actually published. I can't remember now the details of what happened, exactly why it wasn't published, and sort of where it went and who all saw it.

Now, were these groups free to do as they liked, or did they have to...?--- No, in the case of a leaflet like this, where they drafted a leaflet, they would have had to get the - the leaflet had to be approved by the central committee, or at least by the secretariate of the central committee before it could be published.

Now, did you take any precautions about the addresses to which literature was sent?--- Groups were asked to arrange cover addresses, to arrange an address to which literature that they wanted could be sent. These addresses were handed in to the district contact and sent to the district committee, who then, I presume, made arrangements to hand it over to somebody to send it to the people from whom stuff were ordered. I must mention that during the last year this system to a large extent collapsed. People had abandoned addresses, and others no longer wanted things at certain addresses, and the system of distribution by way of cover addresses to a large extent went out of the...

/66. Did...

Did Accused No. 7 ever make a report about a post box ? --- She reported once that she had lost a key to the post-box that she had for that particular group; that she applied to the Post Office, but that she couldn't supply them with a signature, you know, to get another key, and that she had to abandon the box.

And, you mentioned something about making use of the voter's roll to find addresses to which documents could be sent? --- During - it was round-about 1962, I think, I mentioned one of those leaflets was the one we saw there "The call to youth," a few leaflets like that, about two or three were sent out, and that was the method used on the instructions of the area committee by the groups, that they should take names from the voters rolls, and post a certain number of leaflets to as many as were available, to addresses taken from various voters rolls.

And what did you do in regard to printing, in regard to a press or preparation of literature? --- Round about the end, I think it was in about December of 1963, I was introduced for the first time to this person that I knew as Mack, by Paul Joseph. He took me to a house in Fordsburg, where I met this person, and Mack told me that .....

Now there, did you see anything there? --- No. He made a report to me.

Were you then on the area - is that...?--- No, I was then on the central committee.

Yes, but what did you see there? --- I didn't see anything there, I merely had a discussion with this particular person with regard to printing.

Yes, but now did you have to make any decision there? -- Well, I was to discuss the matter with the central committee, which I did. The discussion was to the effect of whether we should purchase more printing machinery than was

available for the purpose of setting up a printing press. I myself was against this idea, because I thought it would be - the organization simply wasn't in a position at that time to maintain a printing press. The central committee agreed with me. The idea was abandoned, but it was agreed to purchase two duplicators for the Indian and African area on which they could run off stencils which would be supplied to them, or such propaganda as they wanted to issue, and I handed over, I think £180.0.0. - R180.00 for the purpose of the purchase of those two duplicators.

Did you know Club 77?--- I once attended a meeting. The people present there was Miss Middelton, Mr. Gerald Ludy. I think a person called Miss 'Mellows' and 'Temkin'. There may be some others, but that's the ones I remember at the moment.

Any of the accused? --- Miss Middelton was present there that I remember.

Any others, any other accused? --- Yes, I think Mr. Trewhela was there too.

Accused 10? ---- Where they discussed a club that they were running at Doornfontein that time. They had a house and they were running a club for social functions.

When did this happen by the way? --- I think it was early in 1963. It was shortly after the banning of the Congress of Democrats. I think it must have been early in 1963.

Were these people then members of the Congress of Democrats? --- The Congress of Democrats then was already a banned organization, but they were running this club, or they were concerned with the running of the club.

How long did this club last? --- That is the only knowledge that I have about it, is what was told to me at this particular meeting, or some other private discussion. I personally had

/68. nothing...

I don't remember any particular occasion on which it was discussed.

THE COURT ADJOURNS.

THE COURT RESUMES - APPEARANCES AS BEFORE.

PETRUS ARNOLDUS BEYLEVELD (Still under his former oath):

EXAMINATION BY THE STATE PROSECUTOR (CONTD.):

I think you said you were in two groups at various stages?--- During the whole period of my membership, I was in three different groups.

Now, when did you go into the last group, or can you first tell me who were the members the other members of the last group in which you were? -- The last group I was in, I was connected with two groups at the latter stage, two groups at the same time. One group consisted of Accused No. 1, Accused No. 7, Miss Nicholson and myself. The other one of Mr. Barsel and Mr. Harmel, Mr. Hodgson and Mrs. Benjamin and myself. That group went out of existence because Mr. Harmel and Mr. Hodgson received house arrest orders, and Mrs. Benjamin was arrested at the time for some other offence and she stopped being active in the organization, but I left the two groups at the same time more or less.

But when you left that group in which Michael Harmel was - took over as contact? --- No, that group stopped to function.

And what did you mention about Issy Hayman?--- Well, he was in the same group, I thought I had mentioned him. Actually at that stage, at the stage where the group ceased to function, Mrs. Benjamin was not there any more, Mr. Hayman. I am sorry, I was wrong. It was Mr. Harmel, Mr. Hodgson, Mr. Hayman and myself. Mr. Hayman and Mr. Hodgson received house arrest orders and I then left that group and it ceased to function as a group.

Then you said you were in a group with Accused 1, 7 and 8? --- That is correct.

/70. And...

nothing to do with it. At this meeting they discussed the question of whether they should continue with this club, because they said they had some difficulties with it. I remember suggesting to them that if they had difficulties, they should abandon this club, and I believe it was subsequently abandoned. They also discussed the question of how they should remain in contact with former members of the Congress of Democrats. There was some suggestion that they should form some organization. I suggested to them that they shouldn't, because the formation of such organization may be construed as continuing the activities of the Congress of Democrats. I advised them, therefore, against formation of such a - of any type of organization, and suggest that if they want to carry on political activity they could do it by means of ..?.. committees.

Do you know anything about a body called "The Volunteers?" --- This particular group which I have referred to just now that was doing the slogan painting, I think was also some times referred to as volunteers, but there again it is merely something I have learnt from conversation.

From whom? Who told you? --- Well Accused No. 7 amongst others.

Told you that a group of volunteers functioned ...? --- A particular group of people were merely, you know, sometimes referred to as volunteers, and sometimes the youth. It was just a group of people with whom the individual members of that particular group was in contact.

Do you know this document entitled "The Message of Rivonia?" It forms part of the charge, Exhibit "O"? "O1" and "O2?"--- Here again I can remember seeing the thing, but I have no specific memory as to on what occasion I saw it, and in what connection.

But was it ever discussed how it became to be issued? ---

And..?--- I also left that group more or less the same time. I think it was round about the end of 1962.

Yes, but do you know a person by the name of John Benjamin? --- Originally when that group was formed, Mr. Benjamin was supposed to become a member, or I was given his name. I approached him, he felt that he was too busy and couldn't take part in activities, and he, in fact, never attended group meetings.

Now, did Accused 1 remain a member of that group all the time?--- As far as I am aware.

But what can you say about his activeness?--- Miss Middelton told me at some stages that he was not attending group meetings, and I still remember remarking to her that he was busy with the Rivonia Trial and had enough to do.

Was he on the same group with her?--- That was that particular group, yes.

But, Mr. Beyleveld, where was really the place where you found possible members for your party? What was the idea of recruiting grounds?--- Members were as a rule in all cases that I am aware of, was recommended by a specific group. They were normally people that members of that group were in contact with, or people whom they had in study classes.

Yes, but I mean where would these people be found originally? --- Well, they would be found - they would be people that members of the party were in contact with, either individually or which they work with in other organizations, such as the Congress Organizations when they existed. It was people known to the members. You could only become a member on recommendation.

Yes, perhaps I am not making myself clear. Did you require some sort of educational standard from members?--- A member would be required to know something about the policy of the party, and about communist ideology in general.

/71. Yes.....

Yes, I know, but apart from that, did you direct your attention to the intellectual....? --- To people who were politically active, I would say.

Yes, but did you take an interest in intellectuals? --- No, I don't think intellectuals were requisites. I don't know what is really meant by an intellectual.

No, I am trying to find out you find people studying ..? --- You find people who had knowledge and background of politics. It was obviously the best sort of person to work amongst.

Where did you find people who studied politics? --- In political organizations, possibly amongst University students. People who are interested in politics always gravitate towards places where there are political activity.

Now, can you tell the court during the time of the charge, that is from May, 1963 to July, 1964, roughly how many members were recommended as members, or how many persons were recommended as...?--- During '63 to '64?

July, '64? --- During that period I can only remember Dr. Gazides.

Is that Accused 9?--- Yes.

But during the time that you were on the area committee, that would be from '62? --- From '61?

Yes?--- I remember that Mr. Tony Hall and Miss E. Hall were recommended and they were turned down. Mr. Gerald Ludy, whose recruiting was approved and Miss Duncan.

Accused 12?--- Yes. Those that I can remember were recommended during that period.

And Accused 10, Trewhela? --- Accused No. 10 was a member when I came to know about his existence. I approached him together with Accused No. 7 to put him into a group.

Oh, I see, he was put in another group?--- Yes, he was put into a group, but..

And Accused, I think 9, Sylvia Neame?--- That as I mentioned

/72. yesterday...

72 (see next page)

him? --- The only action that was taken was that he once left Johannesburg for Capetown. He applied through his group to be placed in a group in Capetown. The area committee considered it, and decided not to. Similarly when he came back from Capetown, there was some hessitation on the part of the area committee of placing him in a group again, but on the insistence of the - this particular group, it was eventually acceded to, it was agreed that they take him back into their group.

NO FURTHER QUESTIONS BY THE STATE PROSECUTOR.

MR. HANSON APPLIES FOR HIS CROSS-EXAMINATION TO STAND DOWN TO A LATER STAGE.

A DISCUSSION BETWEEN THE COURT AND MR. HANSON FOLLOWS REGARDING THE ABOVE MATTER.

THE STATE PROSECUTOR DOES NOT OBJECT PROVIDED THE CROSS-EXAMINATION OF THE WITNESS IS CONCLUDED BEFORE THE NEXT WITNESS IS CALLED.

MR. BERRANGE ADDRESSES THE COURT REGARDING THE PROVISO THAT THE WITNESS' CROSS-EXAMINATION SHOULD BE CONCLUDED BEFORE THE NEXT WITNESS IS CALLED. MR. BERRANGE IS PREPARED TO PROCEED WITH SOME FORM OF GENERAL CROSS-EXAMINATION, BUT IS NOT IN POSITION TO DO SO IN REGARD TO ANY DETAILS IN REGARD TO WHICH THIS WITNESS HAS GIVEN EVIDENCE.

BY THE COURT: You may then proceed, Mr. Berrange.

CROSS-EXAMINED BY MR. BERRANGE:

Mr. Beyleveld, how old are you?--- 48 years.

And I understand - correct me if I am wrong, that you were born in the Orange Free State?--- That is correct.

Whereabout?--- Rouxville.

And you are from Afrikaner stock, your are an Afrikaner? --- That's correct.

Where did you go to school? --- I went to school in a place called Goedemoed in the Free State, and I also went to school in S.W.A. in Otjiwarongo and in Windhoek.

/74. And...

(Strip one (neg))

yesterday,was put into a group when she arrived in Johannesburg. But from my information that I had was that she was then already a member.

And did you take a decision about the group...?--- We took a decision about putting her into a group.

And with whom was she placed? --- Also with the group of which Miss Middelton was the contact. She was subsequently transferred to another group of which Mr. Levy was the contact.

And did you receive reports from time to time about how the different members in the groups were co-operating with one another? --- Only, I think when there was trouble of some description or other, or otherwise normally it would just be on the general activities of the group would be reported.

Yes, but now what would be your duty in regard to any trouble arizing in a group?--- We had to consider it.

Did you receive such reports from the group in which No. 10 accused was? --- Yes, reports were made by Accused No. 7, Miss Middelton, about some difficulties they had with Accused No. 10, that's Mr. Trewhela.

Yes? --- The report was to the effect that some group of young people with whom they were connected, that he caused some trouble and she reported this to the area committee, suggested on one occasion, I think,that he be taken out of the group. This wasn't agreed to. She on numerous occasions discussed it with me personally also.

And did they find him a difficult person, or what?--- That was the impression I got, that they found him a difficult personality to work with.

And Ludy, was there any trouble about him? --- On one occasion, I am sorry, I don't remember the date really, Mrs.Bernstein told me that .....

I want to know whether you had to take any action about

/73. him....

Both

And when did you leave Rouxville?-- I think it was in 1934.

And that is some 30 years?--- That's correct.

And what did you do after you left school? --- I farmed for some time before the war until 1939, I think it was. Then I was in the Army during the war until 1946. And after that I came to Johannesburg after my discharge from the Army. I worked for the Springbok Legion for some months.

Yes, I know that. As a matter of fact, you held a very responsible position in the Springbok Legion?--- I was the National Chairman at the latter stages.

And, it was in the Springbok Legion, if I am not mistaken, that you met Mr. Jack (?)? --- That is correct.

Was that the first time you have met him?--- Yes.

And he was also very prominent in the Springbok Legion? --- That is correct.

Now, you joined the Springbok Legion, I think during the war, was it not, because that was an organization which was set up during the war?--- I joined it in Egypt. It was I think round-about 1944.

'43?--- '43 or '44. I am not sure.

And in the Springbok Legion care was taken particularly the people in the upper echelon to see to it that they got some form of political education, not so?--- I attended some lectures during in the Army. It was given by the Information Officer.

Your answer is yes?--- Yes.

When did you first start getting interested in politics? --- I think about that time, it would be correct to say.

And you were then how old?--- About 28, I think.

And that is - shall we say that you were about 26, 27, 28, when you first became politically aware?--- I think so.

The war had a great deal to do with that, I suppose? --

/75. Possibly....

Possibly, I don't know. It is a bit difficult to pin-point to.

I can't talk for you, you see, I have got to ask you to give us the answers. I mean to say then you had a situation i n which there was a fight against Fasism, and Nazism, not so? --- That's correct.

And the U.S.S.R, was one of the countries that was fighting against this evil?--- That's correct.

And as such in those days the U.S.S.R, if I may say so was really very popular amongst the Western World? --- In a general sense I think that is correct to say that.

And you then left the Springbok Legion and what was the next organization of a political nature that you joined? --- The S.A. Congress of Democrats.

Now that is an organization which flourished for a number of years and has now been abandoned?--- That is correct.

And that was an organization too, which was implacably imposed to the racial policies and the economic and social pdicies of the Government? --- The racial policies specifically. Yet,the Congress of Democrats had a narrow policy, it had no specific policy in regard to economic matters. It purely declared itself on the question of political rights for Non-White people.

And it was very vocal and very vociferous in its opposition, is it not?--- That's correct.

Used to hold lots of meetings and send their members to various meetings. It used to send people to United Party meetings and Nationalist Party meetings, and that sort of thing, not so? --- That's correct.

Their object being at meetings of such political parties was to ask questions and what is known in the political world as to heckle?--- Correct.

And to try and put across the line of the S.A. Congress of Democrats?--- Correct.

/76. Which...

I know you might find it difficult to accept compliments for yourself, but that is the true position, not so?--- That may be so. I am prepared to accept that.

Because you would never have held these positions you had , not so?--- Yes.

And, now when was it that you left what is generally known as S.A.C.T.U.? --- I think it was in 1955. I was President from '54 to '55, I think so. I am a bit vague on dates.

Yes, well, I only want approximations. And in the S.A. Congress of Democrats, you remained a member of that? --- I was its President throughout its existence.

And you will agree with me that is also a high position? --- Yes.

Then in 1956, that is some 8 years ago, you gravitated towards the Communist Party?--- That's correct.

I suppose you were regarded as, if I may use the expression, a natural, in view of your position in these various anti-government organizations? -- They recruited me and I agreed to join.

Well, that would be a fair assumption, wouldn't it? --- I think so.

And, of course, it didn't take you long before you became more than purely a rank and filer?--- Well, I went onto another committee in 1961.

Into what committee was that? --- That was the area committee....

Well, that was quite a step forward. And thereafter you rose steadily . Then to the district party committee, and ultimately to the highest echelon in the party, and that was the central committee? --- That's correct.

So all in all, may we say that it wouldn't be an exaggeration if I were to put it to you that you have at

Which was a line in bitter opposition to the policies of the Government?--- Correct.

And I think one might fairly say the same about the Springbok Legion, not so? That was also opposed to the policies of the then Government? In other words White Domination?--- That is correct. Although the Springbok Legion was largely and Ex-Serviceman's organization.

Well, not Ex-Servicemen , please?--- People who were fighting in the war. It started as a Serviceman's organization and Ex-Servicemen.

First Servicemen and Ex-Servicemen?--- Correct. You had to fight in a war of some kind to become a member.

And, of course, it also had its sister organization for people who were not able to fight in the war, and that was the Home Front League of the Springbok Legion? --- In the early days. That was before I was closely connected with it.

That was for civilians?--- Correct.

In any event, they were also opposed. And then you held a very high position, Mr. Beyleveld, in the S.A. Congress of Trade Unions?--- I was the President for one year.

And for how many years were you its member?--- Only that one year.

A member?--- Yes, I was one of the founder members. People who founded the S.A. Congress of Trade Unions. I represented as such the Textile Worker's Union. I became its first President. I remained that for a year. I then resigned as President and I also left the Trade Union movement so that I had no further connection with them.

But it is quite clear from what you have told us about yourself that you were regarded - I wonder if I may use the expression, on the left , as being a person of some importance? --- I don't know.

all stages throughout your political career, starting from the Springbok Legion ending up in the central committee of the Communist Party, have been a very prominent member of anti-government organizations?--- That's correct.

And as such, you must necessarily have been a gentleman, or perhaps I should use the word comrade, who was regarded with esteem, and who was trusted?--- I think so.

It must naturally follow, I mean otherwise, particularly in an underground organization, people were got rid of very quickly? --- Yes, I think that's correct.

And, of course, as you have already told us, in order to be a member of the Communist Party, whether it be legal or whether it be illegal, it is, one of the prerequisites is that members thereof should acquaint themselves with political ideology for want of a better word?--- Yes, that is correct.

Of your members only get into the organization, both legal and illegal, after they affirmed certain aptitude in drafting the essentials of historical and dialectical materialism? --- That is correct.

And members would certainly only devide to high positions in the party if they had more than an elementary, they had a somewhat more profound knowledge of the principles?--- I wouldn't say that I have a profound knowledge.

I never asked you about yourself? --- Well, that's why, I don't think necessarily follows. I agree that a person should have some knowledge.

But in any event, you would agree, of course, because after-all you were heard, in questions put to you by my learned friend for the State, to express yourself in regard to political ideology when you gave your evidence-in-chief. Do you remember you said quite a few... ?-- I was asked for some opinions. I gave my opinion, and I also said that I was not expert.

I am not going to embark upon a cross-examination to

test your knowledge of political - of historical and dialectical materialism, or anarchism or 'anarchisindicalism' or anyone of the 'isms'. I am not embarking upon that, but in general the policy of the party, that are legal or illegal, must necessarily be known to you?--- I think that is correct.

And there is just one point I want plain, of late years. I think probably it dates from round-about 1963 or so, there have been numbers of matters which have required argument and discussions on an ideological plane in regard to what is happening as the communist movement as a whole?--- Yes, that's correct.

For instance, there was this - some people called The bombshell when after the death of Stalin exposures were made about him and the Communist Party and the U.S.S.R. at the twentieth congress of the U.S.S.R? --- That's correct.

And that occasioned a great deal of debate and discussions in the party? --- It caused some debate. I don't know in the circles in which I move, I don't think it will be correct to say that there was a great deal of debate, there was some debate.

But you were a constant reader, I am sure, of the newspaper called at one time "The Guardian" and thereafter called "New Age?" --- Yes, I read it.

And that paper was absolutely filled with debate in regard to the rights and wrongs and the pros and cons of Stalinist policy or Kruschev's policy?--- Yes, that's correct. I specifically remember a pamphlet by Mr. 'Tockliati' leader of the Italian Communist Party.

Obviously it was something which in the party itself was a matter that had to be decided? --- It was discussed.

Yes, and had to take a line. In other words, people had to come and discuss it particularly with the persons who were in groups. They were demanding that they should be guided

/80. along...

too.

And then, of course, there was the even more serious question, and that was the division, or shall we say the slip between the followers of Ma Setung and Mr. Kruschev? --- That's correct.

In other words, the Chinese Communist Party and the Communist Party in the U.S.S.R.?--- That's correct.

And that, of course, has been a debate that is going on even today. It has been going on ever since it..?--- That's correct.

And some parties and some countries have followed the one line and other parties in other countries have followed the other line? --- That's correct. The S.A. Party didn't associate itself with either. In other words, it didn't take sides.

In other words youare trying to say that they wanted the best of both worlds? --- No, it merely said "We are not prepared to take sides in its dispute."

The reason, of course, being the short-term policy? -- I must - I don't think any of us in the S.A. Party here, from discussions that I had, knew very well what the dispute was about. On one occasion some information...

Did you not get literature?--- One part...

You had a stream of literature coming in?--- Yes, from other countries.

Yes, from other countries, of course. We don't exactly have to know what the dispute was about? --- I am not sure.

You are not sure. Well, could we put it down on a simple basis, and that is that - this is a great over-simplification, I know to a party member such as you, you may laugh at me for my over-simplification, but may we put it on this basis that the Chinese Communist Party were, in fact, not happy about Mr. Kruschev's policy of peaceful co-existence? --- That is

/82. how...

along the right lines?- - That is correct, yes.

And for that purpose the people who were regarded as being politically advanced were called upon to discuss these matters with the groups after they themselves had discussed it?--- That is correct.

And that is only one instance of this, because one found the same thing happening for instance when there was the invasion of India by the people - the public of China. Do you remember that,amongst other things, split the Indian Communist Party right into two?--- I heard about that, yes. I don't remember any lengthy or specific discussions taking place in the S.A. Communist Party.

I didn't ask you that. Let me put my question, don't anticipate and think you know what question I am leading up to. Sometimes you may know. And, afterall, you have spoken about the World Communist movement?--- Yes.

And, of course, it is the ideal of communists that the world communist movement should be as united as possible?--- That is correct.

And, therefore, anything that were to happen in any country which causes a division in the World Communist Movement, or in its country itself, would be a matter concerned to all Communist Parties in all parts of the world? --- That is correct.

I am not putting that too high, am I? --- No, that's correct.

And, therefore, would be a matter that again would be required to be discussed?--- Yes.

And you won't disagree with me that this was a matter that was also raised in the newspaper "New Age," and that it was also discussed in party circles in South Africa?--- Yes.

I am going to use the word "party" for short, because both you and I understand it, and I am sure His Worship

/81. too....

how I understand it, yes.

In other words, they adopted - once again you had the business coming up about the dispute between the Anti-Stalinites and the Pro-Stalinites?--- I don't know, I quite agree with that.

Any event, one thing you would agree with that this is a matter that caused great concern amongst not only the S.A. Communist Party, but amongst all countries?--- That is correct.

And a great deal of discussion, and people were puzzled and bewildered?--- Yes, some discussion took place. People were constantly asking for information.

People were constantly asking for information and guidance? --- Information at this stage.

And guidance? ---May be, from the groups that I was in contact with, they were asking for information.

Well may be your group was more advanced politically, and therefore, it didn't need guidance. You know, we have had evidence in other trials - you may not know about it, I think you should know about it, because if you were following - or having an interest in the party to which you belonged - I am sure you followed it. That there were many debates and lectures given, not only to party members, but by party members to outside - people outside the party in regard to this dispute that was going on?--- That may be so. I have no personal knowledge of that.

You never even read about it in the newspaper?--- I may have.

Anyway, you would readily concede, Mr. Beyeleveld, that in a party that calls itself the Vanguard of the Working Class, that this is the sort of thing that does require discussion?--- Yes, I agree.

Now then, you did tell His Worship when you had been asked to read certain extract from the programme of the S.A. Party called "The Road to S.A. Freedom," that you agreed with what

/83. is...

is contained herein?--- That is correct.

You not only agreed in the past, but you still agree today?--- Correct.

That is what you said. And obviously no man of your intelligence, could possibly agree with anything, unless he had read and studied?--- That is correct.

And, I would, therefore, now like to read certain parts of this programme, but before doing so, may be you would allow me to ask you a very simple question. Why did you join the Communist Party? --- Because I agreed with its policy and I thought I could work to advantage politically inside the organization. I was asked at the time, I considered it, and I agreed.

Just because you had a great feeling of humanity for what is known as the underprivileged. You felt that they...?-- I like to think that.

You like to think that. I am sure you did have. I am not for a moment suggesting you didn't. You felt that the Non-Whites in this country were not receiving humane or (?), just to put it as shortly and simply as that ?--- Well, that was one of the reasons, yes.

That was one of the reasons, besides, of course, the ideological reason , because after all, no one joins an organization unless they think the organization can succeed in doing some good?--- Correct.

Has got such and such a policy?--- Correct.

So basically it was your feeling of picking and your desire for justice for the underprivileged in this country that caused you to join the Communist Party?--- I agree with that.

And, let me just refer you for instance to page 27 of Annexure "N", at the bottom of the page. There we read "A rapid presence of industrialization .....

/84. But....

But no commen.... benefit of this industrialization had been enjoyed by themassas of Non-White people." This is a general statement without analysing the reason for saying it, with which, I take it, you are in complete agreement with?--- That's correct.

And further down on page 28 we have the words "The indignant population..... (Mr. Berrange continues reading from Exhibit "N") ..... by a group which does everything it can to emphasize and perpetuate the Alien European ... character." That is something which you also...?--- I agree with the principle of it, yes.

Yes, well, this is really one of the reasons which caused you to join the Communist Party, because you felt this yourself?--- Yes.

And when at page 29 it states "That all Whites enjoy privileges in S.A.....(Mr. Berrange continues reading from Exhibit "N".) .....They have used this privilege to monopolize nearly all economic educational, cultural and social opportunity." There again you feel that this is something which should be set right?--- Yes, I agree.

You felt in regard to this type of thing that you had to do something in ord-er to throw your weight behind those people who were trying to change this type of thing?--- Yes. As I said before, I considered, I was asked to join, I considered the party, the policy, I thought that I could work usefully in such a political organization, and I agreed to join it.

Because you couldn't - because you wanted to throw in your weight behind any organization, and this seemed to be the most suitable organization, which would set right the wrongs which you deplored in this country?- - That is correct.

Now, page 30. They speak about the monopolists, those are the people who are Mining Industry, Commerce, farming and

that sort of thing." They are the real power in S.A..... (Mr. Berrange continues reading from page 30, Exhibit "N".)..... and paid out a dividend of one-hundred-and-one-million rand." I am not asking you about the figures, but you do agree that one of the things that also caused you to take the type of political action which you have taken was your feeling that you had to do something to get rid of the system that led to low Non-White wages, the compound labour system, the importation of contract labourers from beyond our borders, the pass laws, the poll tax, and control of labour and it's movements. Those were all things which as far as you were aware , as far as you were concerned, were matters which you desired to change? --- That is correct.

And, I am sure that amongst the party, the question of pass laws must have been something that was a matter that was discussed very often, literature was got out in regard thereto. I think there is some of the literature here. It is the one thing which you felt was doing more to perpetuate the system which you deplored than anything else? --- That is correct.

I am just trying to see if I have got these figures, because these are figures that I know are so often ..... but I don't think I have them here. I don't think it is terribly important other than to say this, that you have felt it to be wrong that every year thousands and thousands of Africans should be gaoled for under the pass laws?--- Yes, I agree.

And that the pass laws should be used for the purpose of restricting labour and the movement of labour?--- Correct.

In other words the African can't sell his labour where ever he wants to, he is prohibited under the pass laws to doing that?--- I agree.

And you deplore it?--- I did.

/86. And...

And have always deplored it?--- Correct.

And you still do it today?--- I do.

And getting down to some figures. I see that on page 31 some figures have been worked out in regard to the Mining Industry. There you have shifting worker population, don't you?--- Yes in migratory labour to a large extent.

Non-White miners receive a regular - I beg your pardon. "Non-White Miners receive an average of R144.00 a year plus food and compound housing, White miners receive R2,470.00 a year as an average..... (Mr. Berrange continues reading from page 31, Exhibit "N".) ..... Whites, R1,050.00 a year." This grave disproportion in the amount of wages earned, both by African miners and African farm labourers , is also something which you wanted to see changed? --- Correct. I , of course, can't vouch for those figures.

No. You have often heard of these figures, haven't you? -- I have.

Then there is, of course, the fact the question of the ownership of land?-- Yes.

What do you say about that? Do you feel strongly about that?--- I can say this that I was one of the committee members who drafted "The Freedom Charter," on which this question of...

Yes, that's what I was coming to. You see, you do know what I am going to put to you? --- More equitable division of land was strongly advocated, so I always adopted the attitude that the division of land between the racial groups are not equitable.

And you feel that - you have always felt that this is a scandalous situation?--- I felt it was a wrong situation, yes.

You don't like my attitude?-- No.

Because, to put it quite bluntly, the position is that out of a population of 15 million people , of which

approximately three million are white, two million are asian and coloured and ten million are africans, the land is devided in the proportion of 13% to the Africans, and 87 % to the Whites. Those are the figures...?--- I can't vouch for the figures.

Well, those are figures you have often seen, you have always accepted them, haven't you?--- That's correct. I accept the fact that division of land was an unequitable one, and as I say I just can't vouch for the figures.

Those figures are figures that you have often seen. They are figures that are raized by everybody in your position when they address meetings, and when they address gatherings and...?--- I have heard it often, yes.

You have often read it, I am sure. In other words, 13% of the land is allocated to 66% of the population, that's what it breaks down to?--- Yes.

And of the 13% you have also, from your studies, seen that, or gained the knowledge that some of it is added, some of it is good, but it is always overcrowded, eroded, and there are people starving?--- They are overcrowded, that is the main...

And people starve?--- Yes.

And that is one of the things that you from the bottom of your heart wanted to change?--- Correct.

Starvation is something that you cannot?--- Correct.

And the organization that you felt would be best suited to bring about this change was the organization which you joined? --- That is correct.

And now I am referring to page 33, which deals with reserves. "One third of the African people live on the reserves ..... (Mr. Berrange continues reading from Exhibit "N.) ..... They are grossly overcrowded already, and far too small to maintain their present population of 3½ million." That is what you sincerely believe, not so? --- Yes, that's

correct.

That comes from the.... ? -- The reserves are too small to maintain the population.

And again causing starvation ? --- Correct.

Which is something you felt very deep?--- I do.

And then, of course, something that is really part of your speciality, which is Trade Unions. I take it one of the - I wonder whether you would like me to call it in your parliament scandels, is the fact that the Africans are not allowed to form themselves i nto Trade Unions?--- Registered Trade Unions.

Registered Trade Unions?--- Correct.

And nor are they allowed to have the right to embark on any strike?--- Well, because their Unions aren't registered.

And if they do embark upon strikes, it is a criminal offence, and they get prosecuted and charged and in many instances thrown into gaol? --- That is so.

As you know,it has happened over and over again?--- That is correct.

And that is the situation which offends you to the bottom of your soul?--- Yes, I disagree with that.

And, naturally, in your position and keeping yourself informed of what is happing in this country, feeling as deeply as you do, you know, of course, that large sums of money were recommended by the - in the Tomlinson Report to be allocated to the reserves?--- Yes, I know about the report, not in detail, but I know about it.

And, of course, this recommendation has never been implimented ?--- As far as I know it has not.

And, in fact, instead of the reserve being - instead of people being drawn from the reserve, what is happening is that as a result of the Laws, more and more people are being pushed into the reserves?--- That is the intention. I don't think it

succeeds.

I see, that is the intention as you see it, which you think is also scandalously unfair, correct?--- Correct.

For instance, there is an endeavour to move the whole of the African population from the Western Cape?-- I have heard about that.

And how do you re-act to that? --- I think it is wrong.

Rather an understatement as far as your true feelings is concerned, isn't it? --- I think I will leave it at that. I think it is wrong, there are people who are born there and have to be moved, and I think it is wrong.

Again leading to people dying through starvation?- - Possibly.

Well, it is not possibly, it is inevitable? --- Yes, in a case like that, I think it is correct.

And to a tremendous incidence of malnutrition and malnutritional diseases?--- That's correct.

You,I am sure too, that in the course of your reading and your studies in regard to the situation in the country, you know and you have come across figures to show that the life expectancy of the African is 36 years and that of the European, the White man, is 70 years?-- I have read those statistics.

And that the illness of (?), which is a nutritional disease, for the African is 15,560, and for the White man is 80 ? -- I have read....

You have read those figures. These are all figures that have affected you in your political approach? --- It certainly did.

Take for instance infant mortality for 1,000 births, and I am giving you the figures now for Durban. It is 246 for Africans and 27.7 for White people. You have read those figures too?--- I can't specifically remember.

Anyway, you know the tremendous difference between the infant mortality for the Whites or for the Blacks?-- That I do know.

/90. And...

periods from their wives and families." And may I take it further, confined in compounds which are hardly fit, I think, to house animals in?--- Yes, the compound labour - compound system has been a sore point in S.A. Polictics for years.

And a sore point with you?--- That is correct.

And then, of course, there is another class. There is the African businessman. He also has - if I may use the colloquialism - in your eyes a raw deal?--- Yes.

Page 37. "They are not allowed to own fixed property?" -- Correct.

"They may not trade in the centres of the City?" --- Correct.

"The main areas of commercial activity, but are reallocated to the African Townships and the outskirts?" --- That is correct.

"They are subjected to the pass laws and all the restrictions, and insecurities imposed upon all Africans?" -- That's right.

"The African businessman is not allowed to open a branch elsewhere or to trade anywhere outside his place of residence?" -- I agree.

You agree and deplore it? --- Correct.

And perhaps you might say that the type of education which is given to the Africans is an education which you also deplore? --- Bantu education, yes, I disagree with the inferior type of education.

Well, your programme sets this out, page 37. "The intellectuals and professional groups among the Africans show with ..... (Mr. Berrange continues reading from Exhibit "N.") They have to work in appalling conditions, in overcrowded class-room, lacking modern equipment, teaching half starved children." That is something which you deplore? -- Yes.

Something which you were prepared to do all you could to

/92.put...

And it is also one of the matters that has promted you to take up the political .... also in the way in which you have done?--- Yes, correct.

And coming back to the reserves, I take it you agree with what is contained on page 34 of the programme. "Under its preposterous BantuStand Scheme..... (Mr. Berrange continues reading from Exhibit "N") ..... They present the proposal as a concession to the African people and to world opinion?" -- Yes, I agree to that.

You find that scandalous, don't you?--- Yes, I agree with what is said there.

No, I am interested in knowing how you feel about it, that is the whole purpose of my question. I am not here making political propaganda?--- I merely agree with a programme to which I was a party.

And insofar you as an individual is concerned, you feel that this sort of thing is scandalous?--- Correct.

(Mr. Berrange continues reading from Exhibit "N") "Millions of agricultural workers and labour tenants are employed on White-owned farms throughout the country..... (Mr. Berrange continues reading from Exhibit "N.") "The food they are getting is too little. It is always the same and it is unhealthy diet."

BY THE COURT:

What page is that please?

BY MR. BERRANGE:

That is the second paragraph, page 35.

X-EXAMINATION BY MR. BERRANGE (CONTD.):

And on the next page, it is page 36 "The 4½ - the four-hundred-thousand African labourers working on the gold and coal mines have to do the most backbreaking, dangerous and unhealthy work.....(Mr. Berrange continues reading from Exhibit "N") ..... +They are separated for long

/91. periods...

put right?--- That's correct.

"The Nationalist policy of Bantu education imposes upon ..... (Mr. Berrange continues reading from Exhibit "N") ..... The new tribal colleges are set up instead by the Nationalist Government are a traversi of institutions of higher education." With all of that you associate yourself and agree?--- Yes, I do.

"They have no facilities to train architects, engineers scientists, dentists or technicians in most fields. Passports for those who wish to study abroad are usually refused. (Mr. Berrange continues reading from Exhibit "N") ..... "Nearly all public libraries, theatres, concert halls and other cultural facilities are reserved for Whites and a few for Non-Whites are inferior?" --- Yes, I agree.

And deplore it?--- Correct.

And at the bottom of page 38, which I don't propose to read out, is a reference which you have already made to what happens to the African Worker in the Trade Union movement? ---Yes.

And then the programme also contains reference, of course, to the other sections of the Non-White population. At page 39 reference is made to the Coloured and the Malay people. "Like all Non-Whites, the Coloured people are subjected to many forms of racial discrimination..... (Mr. Berrange continues reading from Exhibit "N") .... housing, nutrition and health." Against that sort of thing you were prepared to fight?--- Yes, correct.

"Coloured farm labourers work and live under wretched conditions. Their pay is scandalously low, and on the wine farms it is partly made up by a liquor ration, the top system which undermines their health. Coloured teachers and other State employees are paid much less than their White counterparts for doing the same work." That you also

deplore?--- Correct.

And that is a situation which you were also prepared to fight against?--- Correct.

To the best of your ability?--- Correct.

And let us be fair to you, not only were you prepared to fight for a rectification of the condition, not only didn 't deplore them, but you were half prepared to make sacrifices yourself, personal sacrifices in order to change the situation? -- That is correct.

And you have made sacrifices for years and years of a personal nature because you have felt so deeply about this situation?--- Yes, I think that is correct.

I think so too. That's what I know, that's not what I have been told. And a reference is made on page 40 in the first paragraph. "This policy was not only - but with the deliberate removal by the Nationalist Government one after another of all the privileges that were extended to the Coloured people in the past..... (Mr. Berrange continues reading from Exhibit "N") ..... working class and democratic leaders are coming to the fall." Now, I am only referring to the removal one after the other of the privileges extended to the Coloured people. You are aware of those?--- I am aware of them.

And turning to the Asian, or let me call it the Indian community it speaks of the community being half-a-million. I think it is possibly more now since this programme was issued. They are mainly the descendents of the indentured labourers who came to work in the sugar fields a century ago. And you know that, in fact, they are citizens of this country? --- Yes, I know that.

And they owe elegance to this country and to no other country?--- Correct.

They don't owe elegance to India which they haven't seen for a century? --- That is correct.

/94. But...

But they are deprived of civic rights?--- Yes, of certain civic rights.

You don't see them sitting in the houses of parliament, or you don't see them voting? --- That is correct.

And the whole question of a franchise is one of the matters that has also caused you to say that you were going to take up the ..... on behalf of the Non-Whites?--- That is correct.

The fact that the Non-Whites are not allowed to vote, and the fact that they are not allowed to take the seat in either the House of Assembly or the Senate?--- Correct.

Something you felt very deeply about?--- That is correct, yes.

And talking about the Indian workers it says here at page 40. "The Indian workers face appalling problems of unemployment and overcrowding in slum conditions..... (Mr. Berrange continues reading from Exhibit "N") and economic and educational opportunities." How do you regard that? --- I agree with that.

Well, how do you regard it, something that has got to be rectified?--- Yes, that is correct.

And you were going to do what you can to rectify it?--- Correct. I said so for years.

" They are not allowed to move from one province to another without special permit and are completely debarred from the Orange Free State. (Mr. Berrange continues reading from Exhibit "N") ... uprooting them from their homes and livelihood and threatening to resettle them in issolated areas where they face complete ruination." --- Yes, I am aware of that.

You are aware of it, you deplore it, you were prepared to fight against it and you are prepared to make sacrifices and have made innumerable sacrifices to cure that situation? --- That is correct.

/95. And...

And when you came to join the Communist Party, you did it because in your view the Communist Party for years had a simple platform, in other words, it stood for equal rights for all?--- Yes, that is so.

Both political and economical?--- Yes, correct.

And it is for that reason you felt that it was correct in having allways loyaly supported the A.N.C. in it's demands?--- Yes, I have done that.

And you agreed to it?--- I did.

NO VIOLENCE

I think reference wasmade to that, as a matter of fact, I am not sure?--- Yes, I read it yesterday.

But in endeavouring to set - or endeavouring to alter the position and the situation in this country, you will agree with me that the one thing that the leadership and the members of the Communist Party have endeavoured to avoid, is a situation equivalent to the Algerian situation? --- Yes, that is correct. I remember that. That has been the aim of the Communist Party since I was a member.

Since you are a member, and so far as you are aware has always been the aim and object of the Communist Party?--- Yes, that's correct.

And you know that writers who were members of the Communist Party, or perhaps closely affiliated with the Communist Party, have repeatedly written articles inwhich they have warned the white people in this country that if they are not careful an Algerian situation will develop, and they have deplored such a development not so?--- That is correct. I have written articles like that myself.

What you want to do, and what the Communist Party wants to do, is to bring about a transition, a political change in such a way that there is no blood shed, and no violence if this can be achieved?--- That is correct.

/96. And...

And that has been the aim and the programme of the Communist Party all the way. Acts of terrorism are completely condemned, are they not? --- Terrorism, yes.

I think it is found in some of the documents that you have put in?-- We read something about it.

Yes. I mean to say things like station explosion is something that would be condemned?--- As an act of terror, that is correct.

Completely condemned as being an act of terrorism, and something that should never have taken place?--- Correct.

And that is the position so far as the Communist Party is concerned?--- That is correct.

And it is something you agree to?--- Yes, I agree.

And you were reading at page 53 and 64 yesterday. I am not quite sure, if you had read the part that I propose to read out to you now, and that would be the third paragraph therein. "The party does not dismiss all prospects of a non-violent transition to the Democratics Revolution. (Mr. Berrange continues reading from Exhibit "N") .... revolutionary and militant people supporters." Let's get one thing quite clear right away. When the word "revolutionary" is used in this context or in any other context, that does not necessarily mean and, in fact, does not, in fact, mean a change by violence? ---No, it means change.

It means change. It means a turning over, a revolution, but not a revolution by violence?--- Correct.

BY THE COURT:

Are you reading from page 53?

BY MR. BERRANGE:

Page 54 on the third paragraph.

CROSS-EXAMINATION BY MR. BERRANGE (CONTD.):

(Mr. Berrange continues reading from Exhibit "N", page 54.) "The illusion that the White minority can rule for ever

/97. over....

over a disarmed majority will crumble before the reality of an armed and determined people." I think you find very much the same thing expressed, I haven't looked at it for a long time, but in that exhibit that you handed in this morning, the "Revolutionary Way Forward." Do you remember that. You find the same theme expressed there, don't you? --- I haven't read that for some time.

I think I remember it. "The crisis in the country and the contradiction in the ranks of the ruling staff will deepen.... (Mr. Berrange continues reading from Exhibit "N") the possibility would be open of a peaceful a negotiative transfer of power through representative of the 'opprossed' majority of the people?" --- I didn't quite follow that, I am sorry.

"The crisis in the country, and the contradiction in the ranks of the ruling class will deepen." I think you spoke yesterday about the contradiction in the ranks of the ruling class. This is part of your studies in dialectical materialism?--- Yes.

Which leads, therefore, to something new. Nothing is ever static?--- Yes, correct.

So it goes on. And it says "The crisis in the country and the contradictions in the ranks of the ruling class will deepen. The possibility will be opened of a peaceful and negotiated transfer of power to the representatives of the 'oppressed' majority of people?" --- I have always maintained that that was possible.

And that has been what has been maintained by the Communist Party? --- I think that is correct, yes.

You know it is correct?--- Yes.

And it is for the reasons that I have dealt with this afternoon that you joined the Communist Party and that you sincerely believe in Communism?--- Correct.

You are one of those who has had the misfortune to be

at that stage.

Not at that stage. Well, at what stage were such pressures brought to bear on you?--- I don't think it is correct for me to say that pressures were brought to bear on me.

Well, why do you say not at that stage?--- Well, I should have then said that pressure, as such, was not brought to bear...

Allright pressure. We will put it in the singular then, and not in the plural. And when pressure was brought to bear, when was that? --- There again, I don't know if the word pressure is correct. It was round about the 20th of August.

Change the word then, I don't mind. You agreed with it, if you want it changed?--- I had lengthy discussions with various members of the police force, for hours.

You had lengthy discussions?--- Yes, which lasted for hours.

Isn't that also something of an understatement?--- Well, they were questioning me.

Well, they were interrogating?--- Yes, they were interrogating.

And, I take it that even when they were questioning and interrogating you, you were resisting? You endeavoured to do your best to resist?--- I, after this interrogation had been going on for about - I think six or seven hours, I agreed to make a statement.

Six or seven hours?--- Yes.

I don't know what type of treatment you received, but I don't suppose any torture was implied to you?--- No.

You were not illtreated?--- No.

Evidence will be given by some of the accused here who will say....

THE STATE PROSECUTOR INTERVENES:

With respect, how can this witness now comment on what the other witnesses will say about treatment?

detained in terms of Section 17 - known as 90 days' imprisonment?--- That's correct.

You were arrested when? --- On the 3rd of July of this year.

And, are you still a detainee in terms of that?--- That is correct.

And, you were kept in solitary confinement? --- In the beginning, yes, I am still kept in solitary confinement.

You are no longer in solitary confinement?--- No, I am still by myself in the cell.

You are by yourself, but may I put it this way, you are not given the same type of treatment as is given to a person who has not made a statement?--- I am at least given books to read, yes.

And visits too?--- Well, I even got visits from my wife, that I wasn't in the beginning.

Now, I take it that in view of the fact that this type of detention is done for the purpose of getting people to make statements, that you were approached to make a statement?--- That is correct.

1st approach for statement

When were you first approached, how long after you had been taken into custody? --- About a fortnight after I was taken into custody, I was asked whether I would be prepared to make a statement. Then again another fortnight later, I think.

Yes?--- Again I think round-about the 20th of August.

Now, I take it that when you were first asked to make a statement, you resisted the suggestion?--- Yes, I refused it.

And you were told that there is no point in your refusing, that you will have to make a statement?--- In the beginning it was just a flat question. There was no argument.

Yes. Were no pressures brought to bear upon you to cause you to - try and cause you to change your mind?--- Not

MR. MAREE ADDRESSES THE COURT (Incoherent)

BY MR. BERRANGE:

If you want to address the court you stand up, will you, and have some manners and some courtesy.

BY MR. MAREE:

Your Worship, with the greatest respect, it has been a custom that whenever Mr. Berrange is opposing or addressing the court my learned colleague, Mr. Liebenberg, sits down, and I think that will also be procedure for him to sit, otherwise there is an argument.

BY THE COURT:

I must ask you to sit down, Mr. Maree. At present the objection is made by Mr. Liebenberg, and I don't think that I listen to you.

BY MR. BERRANGE:

All I wanted to say if Mr. Liebenberg, who gets on very well with me, and I hope I get on very well with him, if he had listened to my question and let me complete my question he may not have made an objection.

BY THE STATE PROSECUTOR:

With respect, Your Worship, I submit my learned friend is not entitled to put that type of question. He wants to put to this witness what some of these accused will say what their experiences were, and I submit it is irrelevant. It is something that should not - it is improper, it's not fair. It should not be put under any circumstances because this witness is not in a position to comment about.

BY THE COURT:

Well, that I don't know. He may be in a position to comment and he may not be. I will allow that question.

BY MR. BERRANGE:

To put my learned friend at ease, I don 't want the witness to comment on it. All I want to put to the witness

/101. is....

is this: I am asking him about his experiences whilst he was so detained. I want to tell him that a number of the accused have told me, and will perhaps tell the court that they were made to stand for hours and hours and hours in one spot. Some for 30 and some for 40 hours on end in order to break their resistance.

CROSS-EXAMINATION BY MR. BERRANGE (CONTD.):

I merely want to ask you, I don't want you to comment, whether the same type of treatment was dealt out to you? --- I was required to stand, or asked to stand for a certain period of time, I...

How many hours?--- I don't think it was more than about three hours. I then pointed out that I had a sore back, and I was allowed to sit down.

I see. Was that before or after you had indicated your willingness to make a statement?--- No, before.

Before that. Well, then in other words, you did not receive anything like the same type of treatment which the accused have told me they have?---No.

There was no brutality?--- No.

There was no torture?--- No.

There was no intimidation? --- No.

But, of course, you were told that you had to make a statement? -- Yes, that is correct.

And there was persistent questioning at this stage, not so? --- That is correct.

And you were given by the police certain names, certain incidents, meetings which they said they knew about, these were all put to you?--- Yes, that is correct.

And before we finish this afternoon there is one more thing I want to ask you. When you actually did agree to make a statement, it was on the understanding ultimately that if you gave your evidence satisfactorily in court, you would be

/102. granted...

granted an indemnity, or the magistrate would be asked to grant you an indemnity?--- Not at that stage.

But later on? --- At a later stage I was asked whether I would be prepared to give evidence, yes.

I see, it was when the stage came for you to be asked to give evidence that you were told that His Worship would be asked to grant an indemnity in the event of your evidence being satisfactory?--- Yes, that's correct.

Now, in making a statement, I suppose it was made perfectly clear to you that your interrogators would not be satisfied with anything but the truth?--- Yes, I think that is true.

The whole truth and nothing but the truth. That is what they wanted?--- Yes.

They wanted you to come out with everything, and they wouldn't be satisfied if you kept anything back?--- Correct.

And, in fact, you did tell them, not only the truth but the whole truth?--- Yes.

You kept nothing back from them?--- I tried my best to remember everything that I knew over the years.

But you kept nothing back that you can remember?--- Correct.

And the same applies to your evidence in court today?--- Correct.

In other words, you have come out with every possible conceivable thing that you can remember in regard to the charges before the court?--- That is correct.

After all, you know what the nature of your oath was? --- Yes. The truth, the whole truth and nothing but the truth?--- Yes, I am aware of that.

By the way, is this the first time you have given evidence? --- Do you mean in court?

At any time?--- No, I have given evidence on other occasions.

In? -- In other courts I have given evidence.

Do you usually take the oath?--- Yes. I have on occasions affirmed, but I normally take the oath.

Does the oath mean anything to you? --- Yes, I think it does.

You think it does. You are not quite sure it does. Do you know the word think applies an element of doubt?--- It does mean something.

Why do you say think?--- I put it positively that it does mean something.

Despite your studies of dialectical and historical materialism?--- Correct.

Why do you then sometimes affirm and sometimes take the oath?--- That is a difficult question to answer.

I know, it is intended to be?--- At a stage I had - on one or two occasions when I gave evidence I felt that I would rather confirm, and I did.

You mean affirm?--- Affirm.

Yes?--- But as I say on most occasions I felt that I could take the oath and it has not clashed with my conscience.

Why do you do one thing some times and the other thing on others?--- I will try to answer it to the best of my ability. To me conscience really makes no difference. I can't think of the difference it...

It doesn't make any difference?--- No. I am promising to tell the truth.

THE CASE IS REMANDED TO 18/11/64.

ON 18/11/64 - CASE RESUMED.

APPEARANCES AS BEFORE.

PETRUS ARNOLDUS BEYLEVELD, Sworn, states:

CROSS-EXAMINATION BY MR. BERRANGE (CONTD.):

Mr. Beyleveld, you told us yesterday about the undertaking that had been given to you by the police, namely, that

/104. if...

if you told them everything and was prepared to give that evidence, that an application would be made to the Magistrate for you to be granted an indemnity?--- That's correct.

And were you told that you would be required to give evidence in this particular case?--- That's correct.

Was it indicated to you that it would be only in this particular case, or in more than one?--- I have been asked to give evidence in one other case.

And are you going to do that?--- I haven't discussed that. That was just a request that was made to...

Are you prepared to do that? -- I am prepared to discuss it with the police or the prosecutor.

Are you prepared to give evidence?--- Yes, I will do that.

You will do that. And if there was more than one other case. If in other words you were going to be turned into what some of the witnesses in a similar position to you have been in, to what we have been calling a travelling witness. Are you prepared to do that?--- No further request has been made to me about other cases. I haven't even thought about it. I don't know if there are other cases in existence.

Well, assuming that you are asked to be a travelling witness, are you prepared to be one?--- I think it is an unfair question. The question hasn't cropped up. I will have to consider the circumstances if it does crop up.

Are you prepared to give evidence in two trials?--- That's correct.

But you are not able to say whether you are prepared to give evidence in three trials?--- No. I can't say at this stage.

You are not prepared to say that? --- No.

Now, you did say when you were asked who is 'Bidie," do you remember that you said you didn't know this party name, but you found it out later. Do you remember giving

that evidence on Monday?--- I mentioned that about Julia, not "Bidie."

About Julia?--- That's correct.

But all I am interested in, and I don't care whether it was Bidie or Julia, from whom did you find it out later? --- I was asked here whether I knew the code name for Miss Duncan, and I said I didn't remember it at the time. Mr. Prosecutor then asked me who Julia was, and I then remembered, and said I remembered it because the name was mentioned to me.

Then I will have to take you back to what my notes read, and I would be surprised to find that it is inaccurate. You were, in fact, asked about "Who is Bidie?"and you said you don't know, - you didn't know then, but you subsequently found out who Bidie was. All I want to know from whom did you subsequently find out, was it from the police?--- That is correct.

That's all I want to know?--- No, I thought Mr. Berrange referred to the case of the discussion I had with the prosecutor yesterday.

No, I am not making little points, don't worry about that. I only want to know if the police had told you that?--- That is correct.

This is one of the numerous things that were told to you by the police? --- Correct.

And one of the numerous names that were given to you by the police?--- Lots of names were mentioned to me by the police.

And, just for the sake of clarity, you said in regard to No. 10 Accused, that you put him into a group?--- Is that Mr. Trewhela?

Yes?--- That is correct.

When was it that you put him into a group?--- It was some time early in this year.

And in regard to Miss Neame. You said you also put her into

/106. a.....

a group?--- I said that the area committee decided on grouping her in a certain group after a report had been received from Capetown.

When was this? --- I think it was also some time early this year.

And one other matter that I would like to have cleared up is you spoke about The World Communist Movement, do you remember that?--- Yes.

And you said that the Communist Party was part of the World Communist Movement, do you remember that?--- I don't know if those were the words I used. I said that the Communist Movement endeavoured to get establish a common policy throughout the world. I may have used the word part of the Communist Movement.

No, I am only asking you one thing. You said that this party, of which you were such a leading light and leading member, was part of the World Communist Movement?--- Yes, I think I said so.

What I want to know is what do you mean by the World Communist Movement? Is there only one World Communist Movement? --- There are a number of Communist Parties throughout the world sharing a common policy. That's how I understand it.

And would you say that the Chinese and those Communist Parties which adhere to the present policy of the people's Republic of China are part of the World Communist Movement? --- Yes, I think they are, except that there are disagreements on certain aspects of the policy between them.

But they are fundamental disagreements, aren't they? --- I have said yesterday and I repeat again, I have never been quite clear on exactly what those differences are.

Despite all the reading you have done?--- Despite all the reading I have done.

And despite all the writing you have done because...? --- I haven't written about this specific...

/107. I....

I don't say you have written about this, but you have been a prolific writer too, haven't you?--- No, I wouldn't say that. I have written articles, not very many.

You have?--- Yes.

In which organs?--- In Fighting Talk mostly, as far as I can remember. Some Trade Union Magazines.

Because I have read articles under your name on numbers of occasions?--- That may be correct.

That is so. So you have not only read, but you have also written. And, it is quite clear from the evidence that you gave yesterday that you personally throughout the greater portion of your adult life, have been an implacable opponent of the Government's policies?--- Yes, I agree with that.

ARE YOU INVOLVING INNOCENT PEOPLE

Why did you testify?

And leading to your joining the Communist Party some eight years ago?--- Correct.

You have told us why you joined it, because you felt so strongly and so deeply about the various matters that I read out to you from the programme and from various other documents?--- Yes, that's correct.

And you have been dedicated, and you said you have joined the party because you found that that was the one organization which would do something, or seem to have a chance of doing something to set the evil right?--- That's correct. I said so.

So you have been dedicated to its cause and to its ideals?--- Correct.

And you firmly have believed in its theory and practise? — That is correct.

So could we say then that you are a dedicated communist in a high position in the party, or you were?--- I was. I would like to withdraw from politics.

You would like to withdraw from politics?--- That's correct.

I see, despite your dedication? --- Yes.

Despite the years that you have given up?--- Correct.

Well, let's go back on your history. I am sure that I wouldn't be overstating it if I put it to you that you have been so dedicated that on occasions you worked day and night for the party, you have made tremendous sacrifices, have you not? You told us that yesterday or ...? --- I have put a lot of work into political activities, yes.

And you have made tremendous sacrifices you told us yesterday?--- Yes, I have.

In other words, you have sublimated yourself to the cause of the Organization which you felt was such an excellent organization?--- That is correct.

And you were a party to this document, Annexure "J". Do you remember you referred to it, it is "Time for Reassessment?" --- I assisted in the distribution of it, and was a party to - I wasn't actually instrumenting in drawing it up.

No, but in your...?--- But in giving the instruction for it to be drawn, I was a party.

Yes, and you were aware of the contents, of course, in your capacity as a member of the central committee? --- I know the central committee did not approve as such the contents, but I saw the contents afterwards.

And you were satisfied?--- That is correct.

And I refer particularly to...?--- I had some criticism of it.

Well, the parts that I read out, I am sure you won't tell us that you had any....?--- No.

When it speaks about the position or the question of 90 day detention and says it is a cruel and rootless weapon?--- Yes, I agree.

And it is the duty of comrades - I am reading at the bottom of page 3 and page 4. "To resist torture people must be strong and brave..... (Mr. Berrange continues reading

/109. from...

annexure "J".) .... by realizing what lies ahead of them if they are arrested." You agreed with that?--- Yes.

People must be strong and brave. "By preparing themselves mentally and resolving not to answer questins or make statements under any circumstances." You agreed with that too? At the time? --- I felt that at the time.

Well,"We also have failed methods of illiciting information from people which are not new or original to S.A. but standard police practise throughout the world." By the way may I interject and put it to you, Mr. Beyleveld, you were also one of the accused during the treason trial?--- That is correct.

I think that lasted like something over 4 years?--- Well, not in my particular case. My particular case lasted more than a year, I think. I wasn't with the final lot who eventually went to trial.

In other words, you sat through the Preparatory Examination? -- That's correct.

Well, that took about 18 months?--- Something like that.

But you weren't thereafter put on trial?--- I was put on trial, but the indictment was quashed.

And then the matter was dropped?--- Was dropped.

In any event, you had many, many months of the treason trial? --- That is correct.

And you had much opportunity then of coming into contact with police officials and seeing the way they go about things, and that sort of thing, did you not? It became very apparent during the course of the Preparatory Examination? --- Yes, I was arrested by the police.

Yes, and you sat throughout the treason trial, 18 months of evidence , in which you had every opportunity of studying police tactics and technique?--- That is correct.

And then the document Exhibit "J" goes on to say

/110. "Because....

"Because the police concerned themselves ignorant and stupid in the past, they didn't even bother to study such practise." --- I didn't agree with that sentiment.

You didn't agree with it?--- No.

You think the police have always been very clever?--- I have always warned people that they should not underestimate the police.

In other words, you put people on their guard against any tricks that they may play on people?--- Correct.

And there are certain methods of interrogation, for instance such as playing one person against another, that's one of the tricks?--- Yes, I appreciate that.

Using the sympathetic kindly investigator after the cruel crude one, confronting the victim with issolated bits of information that appear to show some-one else has given the whole thing away. None of this did you criticise...?--- No.

And then further down at the bottom of the page "There are courages comrades who remained unbroken by any ordeal, and their magnificent stand will become an honourable part of the history of our country.....(Mr. Berrange continues reading from Exhibit "J") ..... to numerous arrests, detentions and long-term gaol sentences." And then on the next page it gives the names of such people who will go down in history. "Even if they are told to go free now, their punishment will be far greater than any prison sentence. They will find it impossible in the future to live either with their own selves, or with their own people." I suppose none of this did you disagree with?--- No, I didn't disagree with it.

And, it is quite clear that the whole theme of this portion of the document is one in which impresses upon Communist Party members the necessity for complete loyalty to their organization?--- That is correct.

And I think that you find the same sort of thing set out

/111. in...

in - even in the parties programme, although one wonders what place it has here. Yes, on the bottom of page 14. "All party members enjoy equal rights irrespective of race..... (Mr. Berrange continues reading from Exhibit "N") .... and it's replacement by socialism." That, of course, is something which you also agreed with?--- That's correct.

And, afterall, you did mention in your evidence too that one of the rules was not to expose other members and to keep the organization secret?--- That's correct.

I would put it a bit more strongly than that it isn't the rule it is the credo which is the first and foremost thing that every communist is taught to think about. It is not only the rule?--- That is correct, I agree with it.

When a person joins the party he only joins it after he has been thoroughly examined, after he has been through study classes, as we know, after reports are made upon him as far as he personally is concerned in regard to his general attitude, psychological reaction. A person is thoroughly examined before he is allowed to join?--- That is correct.

And investigated And when a person so joins the party, he does so on the understanding that the party comes first before everything else, not so?--- Correct.

I mean to say that is common about all parties throughout the world?--- Correct.

It becomes before its friends, before its work, before its own comforts and convenience. That is why you have made sacrifices in the way which you have done?--- Yes.

And you have always accepted it as part of your creed as a party member?--- I did.

In fact, the literature, and particularly party literature is full of - redolent of instances in which communists have sacrificed their lives, and their loyalty towards the party? --- That is correct.

/112. By.....

By refusing to talk even under the most excruciating force? --- Correct.

And this is the ideal of every party member, isn't it so, and particularly those in high positions? --- Thatis the ideal.

Yes. And that is what is expected and particularly of those in high positions?--- Correct.

Complete and utter loyalty to the party of which that person is a member?--- Correct.

And it couples naturally with courage? --- Yes.

If your evidence is true that the arrests that have taken place - if they lead to conviction, must be a shattering blow to the S.A. Communist Party?--- That is correct.

If your evidence is true, then the officers of the central committee, area committee, the district party committee and a deserted group of people who were in groups, have all been arrested?--- That is correct.

And you know, of course, you realize, that you are the main witness in these proceedings?--- That I do not know.

You don't know. But you realize that you are a terribly important witness? --- I accept that.

As a matter of fact, the only one who is in a position to talk about the central committee and the existing party committee and the area committee?--- No, that I can't say. I am not aware if the police have other evidence or not.

But if you evidence is true, then you are being a party to the removal from the Communist Party of the leading members thereof? --- I am aware of that.

That is what you say?--- That's correct.

But, your evidence amounts to this, that for nearly the whole of your adult life you have been an implacable opponent of the Government?--- That is correct.

For 8 years you have been a devoted and dedicated member of the Communist Party?--- Correct.

/113. You...

You made sacrifices, you worked for the party, you have given your best for the party?--- Correct.

You have accepted that/the outstanding creed of the party is - for any member, is that of loyalty to the party?--- Yes, I have accepted that.

No tortures were inflicted upon you, no brutality was shown to you, no ill-treatment was inflicted upon you?--- Correct.

Are you going to find it easy to live with yourself and your wife and your friends?--- I was faced with a set of circumstances, I took a decision, it wasn't an easy one and it isn't easy now.

But I would still like to have an answer to my question. Are you going to find it easy to live with yourself and your wife, your son and your friends?--- Yes, once I have taken a decision I will live with myself.

You will find it easy to live with yourself?--- Yes.

There is only one basis I want to suggest to you in which you could find it easy to live with yourself and that is if, in fact, you have carried out the first requirements of every party member, and partidularly that of a devoted member in a high rank, such as you are, of loyalty to the party. If in your own mind you know that you have been loyal to the party, you will find it easy to live with yourself, your wife and your son?--- I have taken a decision, I have done something. I am prepared to face up to it.

I know you have taken a decision, and we all realize that you are a highly intelligent individual, a person who had a highest position in the party, a person who has worked for this party for years, a person who owes loyalty to the party, a person who knows that other members in a far humbler position than you have undergone excreting tortures and still have, and you say that the literature is full of such instances?--- That is correct.

/114. I....

I am putting it to you that you are going to find it easy to live with yourself if you are still loyal to the party, and if you have been loyal to the party all the way through? --- Put it then that I have failed. I am not trying to make excuses.

You have failed, but a man in your position without any pressure - do you remember yesterday you even objected to my suggesting that pressures were put on you by the police. Without any pressure being put on you, you have failed?--- That is correct.

I find it terribly difficult to believe. But, Mr. Beyleveld, can we put it this way in view of what you have told us, you are falling into one of two categories, you are either a perjurer or you are a traitor?--- I am not a perjurer, and...

Which category do you offer out for?--- If Mr. Berrange wants to call me a traitor, then he may do so.

I want to know what you call yourself, not what I call you? --- No, I haven't tried to categorize myself.

Well, I want to know. Would you agree that you could only fall into one of two categories, I am not going to even ask you at this stage which category you say you fall into, but would you agree that you can only fall into one of two categories, that is either a perjurer or a traitor. Do you agree? --- No, I don't quite agree.

Well, is there a third category into which you can base yourself? --- As I have already said, I was faced with a set of circumstances, and I took a decision. I agree that that decision was to a large extent selfish and that is the position with which I am faced.

Mr. Beyleveld, are you trying to tellthis court, I mean, are you trying to get His Worship and the rest of us to believe that you fall into the same category as A. Left-wich , I suppose you read the paper last night, didn't you?

/115. --- Yes...

--- Yes, I did.

You read what His Lordship, the Judge President had to say about Leftwitch?--- Yes, I saw that.

You did. I have not seen all these men, but I have seen an listened to that hero of ..... Adrian Leftwich. Counsel in his address referred to him as a rat." I did not object to that appellation at the time, but on reflection, I am not sure that it is not a trifle ~~unfair~~ unfair on the ..gross. rat." Said the judge. Are you trying to get this court to believe that you fall into that category with your background?--- If you want to put it that way, I am not going to argue about it.

I want to know whether that is...?--- I told you I do not place myself in that category. I can't be responsible for what other people think.

Well, which category do you wish to place yourself into. I have suggested I can only see two categories, but I may be stupid. I suggested that you can be in only one of two categories. Either that of being a perjurer or a traitor? --- I have already said that I am not a perjurer.

I will accept that answer then and leave the remains outstanding, because I want to put to you that with your history and your position owing the loyalty which you do owe to the party, that it would take more than three hours questioning whilst you are standing to get you to surrender this tremendous loyalty which is the creed of every member of the party?--- I have already admitted that I have failed in that respect.

So easily, a man in your position. A man with your belief a man who has fought his life, nearly all his adult life in the way in which you have, so easily have you fallen. Do you really want us to believe that ? --- I have stated that.

/116. Or...

Or are you still owing loyalty to the party? --- No, in the circumstances I can't claim that.

You can't claim that?--- No.

But, if you are, in fact, throwing loyalty still to the party, and have been throwing loyalty all the way to the party, you obviously wouldn't agree to it, would you? You couldn't? --- I don't understand that question.

Don't you. I think everybody else does. Mr. Beyleveld, a man of your intelligence and a man with your experience of the court will realize that it is so easy for a witness who knows the facts to tell a story that is 95% true but not 100% true, and in so doing to give that story an atmosphere of very true., isn't that so? --- Yes, I understand that, but that doesn't apply in the case....

Yes, to add a little lie there, to testify to a false meeting, but generally to tell a story that is true, and will, therefore, give to the court - give it to the court , the story, a ring of truth. It is very easy, you realize that, don't you? --- That may be easy, but I deny that that applies to my evidence.

With all your loyalty?--- That is correct.

And your background. You could, in fact, have tried if you wanted to within the framework of the general evidence, which may be true, probably is true, a meeting which, in fact, took place, you could give details of the place, the dates , the topic of discussion, who was present and add just one more name, couldn't you have, and it would be almost impossible ....? --- I never intended to do that, and I certainly haven't done it.

I say you could do it if you wanted to, and you are intelligent enough to know?--- I possibly could do it if I set out to do it, yes.

You could tell the truth of committees and how they met, of security measures that have been taken, where these committees met, the nature of their work, the object - and you could always

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conceal a name or two if you were a loyal member of the party? —- Yes, I suppose it could be done.

Yes, and you could always add a name or two in substitution if you were a loyal member of the party?--- I could, yes.

You could even give the names of some who you thought to be expendable just to make your evidence even more truthful?--- Yes, I suppose I could do that.

And it would be almost impossible to rebut, except against the background of your loyalty to the party? --- I must again say that I don't know the implication is that I have, in fact, done that. If that is the implication, I deny it.

I am only putting it to you at this tage that it would be a very simple thing to do, nothing more am I putting to you, and you agree, don't you?--- I agree that it would be possible, yes.

And simple, and in doing so, you would give the whole of your story an air of...a.. correct?--- It may be so.

And when I put to you the question a little bit earlier that you fall into one of two categories, either that of being a traitor or a perjurer, all that you were prepared to say was that you are not a perjurer?--- I said that.

You are not prepared to take it any further?--- I have said that if you choose to call me a traitor there is nothing I can do about it.

I haven't called you anything. I am asking you to put yourself where you are. I am sure that you have read "The Marksism by J. Wright Mills," haven't you?--- No.

A Penguin book?--- No, I have not.

In any event at page 387 one of the leading Communists said this .....

BY MR. LIEBENBERG:

I don't want to interfere with my learned friend, but

if the witness says he hasn't read the book, what is the earthly use of putting to him passages from that?

BY MR. BERRANGE:

I only want to know if the witness would agree. I only want to know with his background of loyal and leading member of the party.

CROSS-EXAMINATION BY MR. BERRANGE (CONTD.):

"The party is required to help unite the people of their various nationalities and not to.... Measures are to be taken which are beneficial and not harmful to socialist ...firmation, and socialist construction. To help to consolidate, not undermine or weaken the peoples democratic ..... To tend to strengthen and not to cast off or weaken the leadership of the Communist Party." All of that you agree with?--- I agree that it accords with Communist policy.

And as you say loyalty is a pre-requisite?--- Yes, correct.

But you are prepared to say that you are not loyal? Despite your background?--- I have taken certain actions and I am prepared to stand by that, and I have to be judged by that.

Why won't you answer that question?--- Then I am not loyal. That leaves us with the ultimate category in which you have placed yourself. I suggest that is not altogether true.

MR. BERRANGE INTIMATES TO THE COURT THAT THIS IS THE CONCLUSION OF THE CROSS-EXAMINATION WHICH HE HAS TO PUT TO THE WITNESS ON GENERAL LINES, AND APPLIES FOR A REMAND IN ORDER TO ENABLE HIM TO OBTAIN FURTHER INSTRUCTIONS REGARDING THE LINES OF CROSS-EXAMINATION.

MR. HANSON ADDRESSES THE COURT AND ALSO REQUIRES A PERIOD OF TIME TO CONSULT IN ORDER TO CROSS-EXAMINE THE WITNESS.

MR. MOHAMED IS IN A SIMILAR POSITION AND ALSO WANTS TO OBTAIN INSTRUCTIONS.

MR. LIEBENBERG OBJECTS:

I have a very serious objection, because I indicated to the

urt yesterday that we cannot call a second witness before this witness has been disposed of, and it is of vital importance to the general administration of justice that this witness be disposed of. He has already indicated that he might be called upon to give evidence in another trial, and the defence has had, I am sure, about two months to prepare their defence. I think the charge was served easily six weeks ago. I happen to know that a lot of communication took place, discussions with the accused. I do not suggest it was improper, it was their duty, and it cannot take so much time to get instructions from the various accused. We have been sitting here since Monday, and it is very easy to take instructions on the various aspects of the evidence of the witness. I must leave it entirely to Your Worship, but if any adjournment has to be granted, I would suggest that it be of a very short period, well, I do not suggest that I would be unreasonable if I say that half-a-day would suffice, or two hours would suffice to take instructions.

BY THE COURT:

What are your requirements, Mr. Hanson?

B Y MR. HANSON:

Well, my requirements are that I am really in a difficulty because the particulars are such that I found it futile to attempt to consult with my clients until I knew something of the Crown case. (MR. HANSON CONTINUES ADDRESSES THE COURT REGARDING THE ABOVE MATTER.)

A FURTHER DISCUSSION BETWEEN THE COURT AND MR. HANSON FOLLOWS REGARDING THE ABOVE MATTER.

MR. BERRANGE ADDRESSES THE COURT IN REGARD TO THE STATE PROSECUTOR'S OBJECTION:

Perhaps I might first of all reply to some of the submissions made to you by my learned friend for the State. First of all I admit that the fact that this witness is re-

uired to give evidence elsewhere really doesn't mean anything at all, because there is no reason why this witness shouldn't give evidence in another court and come back to finish evidence here, if he is required immediately, and we don't even know when he is required. I don't think that is a good ground for objection, but we have - I am talking about myself and my juniors, have to take instructions from 13 accused in regard to a most complicated indictment, which has a number of Acts set out, which I think amounts to something like 19 or 20 acts in paragraph (d) of the annexure. I have already indicated to Your Worship that the State has been completely unhelpful in its further particulars, by its refusal to say which of the accused is alleged to have committed any one or other of these particular Acts. We are still not in any better position than we were before, because this witness has not assisted us at all. (MR. BERRANGE CONTINUES ADDRESSING THE COURT REGARDING THE ABOVE MATTER)

A DISCUSSION BETWEEN THE COURT AND MR . BERRANGE FOLLOWS REGARDING THE ABOVE MATTER AND IN REGARD TO INVERVIEWING CLIENTS.

MR. KUNY DOES NOT WISH TO ADD ANYTHING FURTHER TO WHAT HAS ALREADY BEEN SAID.

BY THE COURT:

I would just like to indicate that I am sympathetically inclined towards the application. I have not got the particular authorities available at the moment, but there are injunctions in our law reports to judicial officers that they should lean over backwards to assist the defence, and I think the circumstances of this case, where no preparatory examination has been held, and where the allegations refer to a considerable period of time, that I should give some assistance in the matter. I do not know whether it is possible for the State and the defence to come to some arrangement. The difficulty I

foresee is that this case was set down for 14 days, then a break of a week and then I think, I am not sure, another period of 14 days. If we break off for a week from now, there will be very little time to .....the next meeting. I would appreciate it if the State and the defence could discuss this matter bearing in mind my views.

THE COURT ADJOURNS.

THE COURT RESUMES - APPEARANCES AS BEFORE.

MR. BERRANGE INTIMATES TO THE COURT THAT A DATE HAS BEEN AGREED UPON ANDTHAT IS 23/11/64.

MR. KUNY ADDRESSES THE COURT REGARDING HIS DIFFICULTY IN CONSULTING THE ACCUSED IN THE PRESENCE OF MEMBERS OF THE POLICE FORCE, AND REQUESTS THE COURT TO MAKE AN ORDER THAT THEY ARE ENTITLED TO CONSULT THEIR CLIENTS.

BY THE COURT:

Yes, well, I do agree with that. I will be glad if the State could go into the matter, Mr. Liebenberg?

THE CASE IS REMANDED TO 23/11/64.

ON 23/11/64 - CASE RESUMED.

APPEARANCES AS BEFORE.

MR. MOHAMED ADDRESSES THE COURT AND INFORMS THE COURT THAT THE DEFENCE TEAM HAVE BEEN UNABLE TO COMPLETE THEIR CONSULTATIONS AND APPLIES FOR A FURTHER POSTPONEMENT.

BY THE STATE.PROSECUTOR:

With respect, I have every objection. I was informed by my learned friend, Mr. Berrange, on Friday afternoon that he might have to ask for a further day's postponement this morning, in case he wasn't ready, but my position, I have to make it clear, the State is very anxious to see the end of this case and a lengthy postponement was granted initially shall I say from the time of the arrest until the time the trial started about six weeks or two months' postponement was granted, and very reluctantly the State agreed last week

to a further few days and postponed it to today, and even if my learned friend, Mr. Berrange and his team, are not in a position to go on then nothing prevents Accused No. 1, or his Counsel to proceed with the cross-examination in his own case. I cannot see what the position of Accused No. 1 has to do with that of the other accused. I would really impress on the defence the need - the urgency to get on with this case, to get on with the evidence, the leading of the evidence and the conclusion of the cross-examination. We have numerous witnesses we would like to call and arrangements have to me made, everything is virtually left in the air while there is this uncertainty about being able to go on with the cross-examination. As I say again, Accused No. 1's position is different to that of the others, surely he can go on, at least several of the defence counsel can go on. It is not such a difficult case where with respect, allegations against the accused have been detailed at great length in the charge. They know perfectly well what the allegations against them are, it is very simple to get insructions and cross-examine a witness.

MR. MOHAMED ADDRESSES THE COURT AND INFORMS THE COURT THAT HE WAS INSTRUCTED BY MR. BERRANGE THAT A POSTPONEMENT WOULD BE GRANTED BY ARRANGEMENT, AND THAT THERE IS APPARENTLY SOME MISUNDERSTANDING.

BY THE COURT:

Is there any possibility of a misunderstanding in this case, Mr; Prosecutor?

BY THE STATE PROSECUTOR:

There is with the greatest respect, Your Worship, no misunderstanding. I may explain that I received a telephone call about 4 o'clock on Friday afternoon from my learned friend, Mr. Berrange, to say that he was not ready to go on on Monday. I didn't even make any comments about it, and asked him how much time he had to interview the various accused, and I left it at that. I didn't discuss the matter with any of the other counsel, I cannot see how they could draw any conclusions from the discussion

I had with Mr. Berrange. As I say again, the arrangement was last week that the case would go on this morning, but in any case my attitude would be entirely irrelevant, again it was till today and on that basis I took it that counsel for No. 1 accused would be able to go on, even if there were difficulties about the others.

BY THE COURT:

Did you indicate to Mr. Berrange that you would be prepared to accede to his request?

BY THE STATE PROSECUTOR:

I did not, under no circumstances, otherwise I would not get up now and insist on the other accused going on with their cross-examination.

A FURTHER DISCUSSION REGARDING THE ABOVE MATTER FOLLOWS BETWEEN MR. MOHAMED AND THE COURT.

THE COURT ADJOURNS IN ORDER TO HAVE MR. BERRANGE AND MR. HANSON PRESENT.

THE COURT RESUMES - APPEARANCES AS BEFORE.

MR. BERRANGE ADDRESSES THE COURT REGARDING THE MISUNDERSTANDING.

THE STATE PROSECUTOR ADDRESSES THE COURT AND INTIMATES THAT HE HAS NO OBJECTION TO A FURTHER POSTPONEMENT.

THE CASE IS REMANDED TO 24/11/64.

ON 24/11/64 - CASE RESUMED.

APPEARANCES AS BEFORE.

PETRUS ARNOLDUS BEYLEVELD, Sworn, states:

CROSS-EXAMINATION BY MR. BERRANGE (CONTD.):

Mr. Beyleveld, you have had a number of days now to think about the evidence that you gave last week?--- That is correct.

And is there anything you want to change in your evidence? --- No.

Are you quite satisfied with what you have given?--- That is correct.

You don't want to qualify anything?--- No.

You don't want to add anything?--- No.

First of all, if you would agree with me that you seem to

your capacity as being on the highest committee of the Communist Party? --- That is correct, although that concerned the area committee, not necessarily the central committee.

Yes, but you were on the area committee?--- That is correct.

So it is from your presence on the area committee that you were able to come to that conclusion? --- Correct.

Now, I don't know whether it is necessary for me to go into the question of the various organizations and the way in which they came to be formed, but you did know about Club 77, you mentioned that?--- I mentioned that I attended a meeting, where it was discussed, yes.

You have also mentioned that No.7 was at that meeting, I think you made a mistake there, didn't you?--- That is?

Miss Middelton? It wasn't she at all?--- Yes, Miss Middelton is the person who asked me to come to that meeting.

I want to suggest to you that it wasn't she? --- It was held in her flat.

I know it was held in her flat, but I want to suggest to you that she had nothing to do with Club 77?--- That may be so. Yes, I don't know whether she had anything to do with it. I am merely mentioning that she asked me at the time to meet these people.

Club 77, do you know how it came to be formed? How it came into being?--- As I understood it, from discussions and from that particular meeting that the object of Club 77 was merely to establish a sort of social club where people of different races could meet. That was my understanding of it.

And this came into existence after the banning of the Congress of Democrats?--- That is correct.

And you found a number of people, particularly young people who had been in the Congress of Democrats, who now no longer had any political home or no place or places or means whereby they could

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have been what one might call a king-pin in this organization, the Communist Party. You had your finger on the pulse?--- During the latter part of it, yes.

I don't know whether I should say on the pulse or in every pie? --- During the latter part of it.

Yes, well, that's the part we are concerned with. And you were on the central committee according to you?--- That's correct.

You were on the district committee?--- Yes.

You were also on an area committee according to you?--- That is correct.

You also represented a group according to you?--- Not during that period.

Were you not in a group during that period?--- No.

Were you not representing any group?--- No.

When did you cease being a member of the group?--- I think it was round-about the end of 1962.

Now, I think there is one thing that is not quite clear insofar as study classes are concerned. The persons who attended those study classes were not necessarily members of the Communist Party?--- That is correct.

Some may have been members, and some were not members?--- That is correct.

And another thing that I want to deal with, which you mentioned on (?) was the question of volunteers. You remember mentioning volunteers? --- I said that there was a group of people which was some-times referred to as volunteers.

Yes. Those were not necessarily all party members?-- That is correct. I don't know whether they are or not.

Their speciality was the painting of slogans?--- That is how I understood it, yes. I never had anything personally to do with them, I only know what I heard from other people.

Well, that was the information that you received in

can only say again I knew of its existence. I really don't know of any other details of that particular organization.

But do you know anything about the Rand Youth Club? --- Yes, I have heard about it before. I think it was sort of part of that particular thing as I understood it.

It was originally an all African club, but later its membership extended to include other race groups?--- I think I heard that.

And later on Club 77 was abandoned?--- That is correct. I think the decision to abandon it was taken at that meeting that I attended. At least, that's the impression I got from the people who were present.

Surely not. When was this meeting which you say Club 77 was abandoned? --- I can't even give an approximate date.

Club 77, I want to put it to you, was formed instead of the Congress of Democrats continuing to exist as an underground organization. It took the place of the Congress of Democrats, but it was not to be a continuation of the Congress of Democrats? --- That is correct. It was formed - this thing came into existence after the Congress of Democrats was banned.

And continued for some time?--- But that meeting also took place after that.

And continued for some time? --- Yes, that's correct.

But at the time that there was a discussion as to whether the Congress of Democrats should continue, as an underground organization, that was before Club 77 was formed, and it was decided that the Congress of Democrats should not continue as an underground organization?--- This meeting that I am referring to had no - there was no discussion about the Congress of Democrats. It was then banned for some time.

Yes, but wasn't it at this meeting that you say that you advised that the Congress of Democrats should not continue as under-ground organization? --- No. I think Mr. Berrange

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get together and discuss political matters? --- The thing was - my mind was a bit confused at that time. They had - on the one hand they had this club, which was a social club.

Yes, that is Club 77?--- Then they also talked about forming other organizations, as I told the court last time I advised them not to form these organizations at that particular meeting.

There were some people who were inclined to find a way continuing the work of the Congress of Democrats, which had then been banned?--- That is corre t. There was a lot of talk at that time, what I considered wild talk, and that is why I advised them against it.

And there were a number of others who advised against it too?--- That is correct.

And a person in your high position, of course, would necessarily have exercised some authority when you gave advice?

--- I was the President of the organization that was then banned, and I thought it was my responsibility to give my - to express at least an opinion.

As I say, you were in high position, and therefore your advice would naturally have a considerable degree of authority? --- I think so.

I think so too. And you spoke about a number of other organizations. They were for instance the organization known as the New Africa Youth ~~form~~ Forum which was a multi-racial committee. It started before the Congress of Democrats was banned?--- I knew of its existence and....

Yes, it consisted of Africans, Indians and Whites?--- That is correct.

And it was also a - shall we call it a talking shop, if I may use that expression,whereby certain young people of different race groups were able to get together, to mix socially, organize demonstrations and have political discussions? --- I

misunderstands me. I said that at this particular meeting Club 77 was discussed. These people who were present discussed the difficulties that they had in regard to Club 77. I expressed the opinion that if there was difficulties the club should be discontinued. At that same meeting there was a discussion about forming a discussion club and also to not to underfine talk, if I can say it. At that meeting I said "Look, if you are going to form organizations, you must be careful not to form anything that can be construed as continuing the activities of the Congress of Democrats, because it may be dangerous." It may be illegal, but that was long after the Congress of Democrats was banned.

I know it was. And the idea was that there were, as I have already pointed out, a number of young people who want to continue to be able to meet socially, exchange views, hold functions, organize demonstrations and that sort of thing?--- That is how I understood the functions of Club 77 to be basically social, yes.

And when Club 77 went out of existence the volunteers, however, still continued to function, and they were...?--- The colunteers as far as I know existed long before that.

Oh yes, I am not suggesting that they didn't. But my question was if it was volunteer or these volunteers thereafter consisted of a number of these young people who were drawn from these various groups, from the New Africa Youth Form, from the Rand Youth Club, and that sort of thing?--- That may be so. I don't know who the personnel was.

And that wasn't a Communist Party organization at all?--- No, not at all.

And the volunteers, therefore, and the youth - I think it was generally known, was a separate organization themselves from the Communist Party? --- Yes, that's how I understand it.

Although they may have been members of the Communist

Party in all these organizations?--- Yes, for all I know.

As they have been members of the Communist Party in other organizations, such as the S.A. Congress of Trade Unions, the S.A. Indian Congress, and organizations such as that?--- Yes, correct.

But that doesn't make them Communist organizations?--- I agree.

Now, it is, of course, quite apparent, isn't it, Mr. Beyleveld, that if you - you were a banned and listed person, is it not?--- That is correct. I was banned, not listed at that stage.

Have you never been listed?--- I have been listed later on in terms of the ban of the Congress of Democrats, but not at that stage.

Well, I wasn't talking at any stage. I said you are a banned and listed person?--- That's correct.

And if a person such as you wanted to meet people in other organizations, or even persons just sympathetic to the anti-apartheid movement, it would be a dangerous thing to do because you were not allowed to talk to and meet with people of that type, or with anybody at all? --- I was at that stage not allowed to go to gatherings, banned from gatherings.

And it would be very dangerous, therefore, for you to meet people who belong to other organizations with whom you would want to make contact?--- Correct.

And any such meetings which you may have wanted to hold would necessarily have to be held in secrecy?--- Correct.

And, of course, so far as the Communist Party is concerned members of the Communist Party often had meetings and discussions with members and officials in other organizations which were sympathetic to the anti-apartheid movement? Or with persons generally opposed to the Government's apartheid policy? --- Yes, I don't know - I suppose so. I can't .....

/130. Say....

Say for instance it was essential for the Communist Party to find out, and to keep in touch with what is happening in other organizations which had the same aim of fighting apartheid?--- I never attended a meeting with another organization where I so to speak represented the Communist Party.

No, I didn't put it on that basis that you were representing the Communist Party at all. Perhaps you are not understanding me?--- I attended meetings of the Congress of Democrats.

I know. Assuming a member of the Communist Party wanted to find out what was happening in, shall we say the S.A. Congres of Trade Unions, or in any of the youth organizations, or the S.A. Indian Congress, these were all legal organizations, were they not? --- That's correct, yes.

And, of course, it was very necessary - it goes without saying, that the Communist Party have to a certain extent the same aims as - the same general aim of fighting the Government's apartheid policies. It was necessary for the Communist Party to be advised of what was happening in these other organizations. The Communist Party couldn't exist in a vacuum?--- No, that is correct.

And in meeting people from such other organizations, I give you a few, such as S.A.C.T.U, if I may call it that for short, that is the S.A. Congress of Trade Unions, or shall we say the Women's Federation, a legal organization, or the S.A. African or Transvaal Indian Congress. Party members in having meetings and discussions with members of these particular organizations, wouldn't necessarily have them with other party members? --- I must admit that I am not quite clear.

On my question?--- Yes. I personally never attended a meeting as a member of the Communist Party to find out what another organization is doing, and I don't know of any specific instances like that.

I am not putting it to you that you attended the ....

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in your representative capacity as a member as a member of the Communist Party because, after all, the Communist Party was an illegal organization?--- Correct.

And you wouldn't if you wanted to find out some information as to what has happened in S.A.C.T.U., or in The Women's Federation, or the Indian Congress, you wouldn't go along and say "I am here now representing the underground illegal Communist Party," obviously not?--- Correct.

But at the same time you have already conceded that it was necessary for members of the underground and illegal Communist Party to know what was happening in these other organizations? --- Yes, correct.

And in order to do so, it would have to meet members of these other organizations?-- Yes.

That is correct. And such members of other organizations which a member of the Communist Party would meet, would not themselves necessarily be Communist Party members?--- Yes.

Correct. So that is obvious that the Communist Party wasn't going to exist on its own without knowing what was happening in other organizations which had basically the same anti-Government policies?--- Correct. / For years, for example, I was a member of the N.C.C. of the Congress movement, and as such I had an idea what was going on in the various organizations.

You made it your business to find out?--- Yes.

But when you met members of the N.C.C., they weren't necessarily members of the Communist Party?--- No, not necessarily.

They may have been or may not have been?--- That is correct.

Now, whilst we are on this aspect in order to enlighten His Worship, what was the N.C.C.? --- The N.C.C. was a - I think....

What do the words stand for first of all?--- National Consultative Committee. It is a committee set up by the

five organizations.

Yes, name them please?-- African National Congress, the S.A. Indian Congress, the S.A. Coloured People's Organization, as it then was. The S.A. Congress of Democrats and the S.A. Congress of Trade Unions.

Yes?--- It did what its name implied, it was a consultative committee.

Yes?--- In other words a committee on which members of the - of one organization consulted with members of other organizations.

BY THE STATE PROSECUTOR:

I am not clear. Is the witness referring to the N.C.C. of the Congress / of the People, or the subsequent one?--- There wasn't an N.C.C. of the Congress of the People. The N.C.C. came into existence after the Congress of the People. It was in the nature of a liaison committee between five organizations.

CROSS-EXAMINATION BY MR. BERRANGE (CONTD.):

And it demonstrates what I have been trying to indicate to you that there was an endeavour, a necessesity to co-ordinate efforts and to exchange views and ideas?--- That is correct.

Now I want to review the remainder of your evidence against the background of what you have already told us on the first day in which I examined you. I want you to remember, of course, your professed creed of great loyalty to the Communist Party. The very high position held by you in the Communist Party and in other organizations over numbers of years, and of course, the fact that you have told us that little pressure, if any, appears to have been applied to you in order to make you talk. You have told us that whilst being questioned by the police numbers of names, incidents and meetings were put to you by the police. Do you remember telling us that? --- I said that names were mentioned to me, yes.

You said more than that. Do you remember I started my

examination by asking you if there is anything which you want to withdraw or qualify. You told us that names were put to you by the police, that meetings were put to you by the police, and that incidents were put to you by the police?--- Yes, I was questioned by the police.

Well, don't let's try and get away from that. That is what you have said, and I am hoping that is what you are going to stick to. Did the police also tell you that they had taken, or were in possession of a number of electronic recordings?--- Yes, they did.

And did the police also indicate to you some of the things that appears on these electronic recordings?-- Not in detail.

I said some, please listen to my question?--- They put certain things to me and say "Do you know about a thing like that?" But I didn't necessarily know whether they got it off recordings or where they got it from.

But you have already indicated to us that the police did tell you that they had taken electronic recordings?--- That is correct. They did tell me.

And they showed you from time to time transcripts of these electronic recordings, or read out to you from transcripts of these electronic recordings?--- No. Not the police.

Not the police?--- No.

Well, if it wasn't the police, who was it?--- I have been told that there are certain transcripts when I was preparing my statement with the prosecutor, but the police never showed me any transcripts of - they told me that they had transcripts. They never showed it to me.

They told you they had transcripts of - taken from electronic recordings? --- That is correct.

So, therefore, they told you that they had names, they knew about meetings, they knew about certain incidents, and they

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told you that these many instances were backed up by electronic recordings? --- That I think is correct, yes.

Yes, I think so too. And, I take it that at first when you were questioned by the police, you denied, you gave a series of denials of your complicity and the complicity of others in this organization?--- I at first refused to make any statement whatosever.

Yes, and then when they put to you certain names and meetings for instance, did you continue to deny?--- I did.

And when they told you that these - a lot of the information was backed up by electronic recordings, did you continue to deny?--- Yes, I did.

You did?--- I didn't deny anything, I just said I wasn't prepared to make a statement of any description.

But now they said to you "We know about a meeting ," for instance which was held - let's get some imaginary address - "At Innes Chambers," or some such place. Did you say "I refuse to tell, " or did you say it wasn't true? --- I merely refused to make any statement at all, of any description.

You refused to make any statement at all?--- That's correct.

Now, you have given us in your evidence a number of names, which you say were the names allotted to members of the Communist Party?--- That is correct.

Now, take for instance the name of No. 11 Accused. Was that put to you?--- That is ?

Miss Neame?--- No, I knew Miss Neame's name.

No, of course, if your evidence is true you knew her name, but was it...?--- It may have been put to me, I can't specifically remember.

Was her name put to you by the police?--- It may have been. I can't specifically remember.

/135. Well....

Well, whose names were put to you by the police? --- They asked me a lot of people. "Do you know Mr. Fischer?"

They gave you the name of Mr. Fischer? -- Yes. "Do you know Mr. Levy?" and a number of names were mentioned to me, and I was asked if I knew these people.

Yes. And did they give you the name of Mr. Weinberg, did they mention the name of Mr. Weinberg?--- I can't remember specifically now which names were mentioned to me , and which not.

Well, you have remembered Mr. Fischer's name which they have put to you?--- Yes, I remember that.

Yes, did they put to you Mr. Schermbrucker's name, that is No. 2 Accused?--- I can't remember. I don't think so.

Why not? Why can't you remember this? --- I must repeat again the police asked me a lot of questions. I refused to make a statement. Then I eventually agreed to make a statement. They gave me a piece of paper, put me down at a desk, and I wrote a statement. After that questioning...

Yes, as simple as all that, you loyal comrade of the party?--- Well, that's how it happened.

It is as simple as all that, you want us to believe?--- But that is how it happened.

But I am still wanting to come back to the question of names. They did put - they did suggest to you Mr. Fischer's name. Now I want to know whether...?--- I remember specifically them asking me if I know Mr. Fischer.

Yes, well, you know Mr. Fischer, but it wasn't the question of whether you knew Mr. Fischer in relation to the fact that he is a very well known barrister of the bar. It was in relation to the question as to whether you knew Mr. Fischer in relation to alleged activities in the Communist Party, otherwise there would be no point in putting his name to you, would there, isn't that so? --- That is correct.

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Well, then I w nt to know whether they put Mr. Schermbrucker's name? --- I have said I can't specifically remember. A number of names were put to me. I can't remember now exactly which they are, whose names they were and how many. I can't specifically remember if they asked me any questions at that stage about Mr. Schermbrucker.

Well, then let's talk about Mr. Weinberg?--- The same applies to Mr. Weinberg.

If your evidence is true, these were very important names, because if your evidence is true, these are the names of people who were in the highest position in the party. Now I find it almost impossible to believe that you can't remember whether the names of people of the alleged central committee were put to you or not? --- How does Mr. Berrange mean when was it put to me, after I have made my statement?

When they were trying to get you to make your statement? -- No, I don't think they mentioned Mr. Weinberg and Mr. Schermbrucker.

You don't think?--- No, I can't remember that they did.

You can't remember that they did?--- No.

Well, tell me who they did mention then?--- They mentioned Mr. Levy, I remember. They mentioned Miss Middelton. Mr. Baker they mentioned to me.

Yes?--- Miss Nicholson, Mr. Gazides.

Yes?--- They mentioned Mr. Trewhela to me.

Yes? --- Miss Neame.

Yes, they mentioned her?--- And Miss Duncan.

Yes? --- At that stage I think that's the ones I can remember of the accused.

Yes. But there are a lot of other names other than the persons who are in court?--- That is correct.

Who? --- Any number of names of Africans which I don't remember now, which I didn 't even know at the time.

If you find it difficult to remember African names, let's hear about a few non-African names, White names. Who did they mention to you other than those who are in court? --- Mr. Herson, Mr. Prager, Mr. Slovo, Mrs. Slovo, Mr. Harmel, Mr. Hodgson, Mrs. Hodgson.

Yes?--- Any number.

And when they were mentioning all those names you said you were not prepared to talk?--- That is correct. At that stage I said I wasn't prepared to make a statement, and I didn't.

But the important names are the names of the persons who are on the central committee, that was the highest organ of the party. You remember Mr. Fischer's name being mentioned. You say he was on the central committee?--- That is correct.

Do you want this court to believe that you cannot remember whether they mentioned the names of Mr. Weinberg and Mr. Schermbrucker?--- That is correct. I don't think they were mentioned to me at that stage.

You don't think?--- I am nearly sure that the police never at that stage - that particular stage when they questioned me, mentioned either Mr. Weinberg or Mr. Schermbrucker.

Well, at what stage did they mention his...?--- After I made a statement, in my statement I mentioned the names.

I see. So you are trying to suggest to His Worship that you cannot remember whether they mentioned Mr. Schermbrucker's and Mr. Weinberg's name before you made your statement?--- I am nearly positive that they didn't.

Come on, we are coming further and further. First of all you couldn't remember, now you say you are not sure, and now you say you are nearly positive? --- I can't remember, I can't be absolutely positive, I can't say it it specifically that they

didn't mention Mr. Schermbrucker or Mr. Weinberg. I can only say I don't remember that they ever asked me about those two people before I made a statement.

If, in fact, your evidence is true that Mr. Schermbrucker and Mr. Weinberg were on the central committee, if that evidence is true how could you possibly not remember. If they didn't mention the names, you must have said to yourself "Thank goodness, they don't know about these people." If they did mention their names, you must have said to yourself "Gracious me, they know about them." How can you be heard to say that you don 't remember? --- I repeat again, before I made a statement possibly a hundred names were mentioned to me. I can't remember whose names they were at this particular stage.

Yes?--- I then made a statement. In my statement I told the story as I know it.

Yes, you told the story. Do you know why?--- I told the story that I know of my own knowledge.

Why? --- Because I made a statement.

Why did you make a statement?--- I decided to make a statement, which I did.

Why? --- I was detained for 90 days. I was required to make a statement. At first I refused to make a statement. I then decided to make a statement.

When you say that you were detained for 90 days,it is not the question I asked you. Are you trying to suggest that 90 day detention had such a devastating effect upon you as to make you forget all about your vows of loyalty?--- It may have, I don't know. The fact remains that I made a statement.

Are you trying to say when you mentioned - when you volunteerd 90 days a moment ago, that the effect of 90 days was so devastating as to make you forget all about your vows of loyalty?--- I did make a statement, the fact is there.

Why don't you answer my question?--- Well, say it was then.

I don't want to say anything. I want the truth from you. I a m not giving evidence, you are?--- My evidence is that I eventually decided to make a statement,which I did. That is a fact.

I want to know why. But now I want to come back to the question of 90 days. You volunteerd this a moment ago that I must remember you were under 90 days. Are you wanting to tell His Worship now that 90 days had such a devastating effect upon you as to make you forget all about your vows of loyalty?--- Yes.

Well, then how does that equate with your earlier evidence which you gave on the last occasion when I specifically asked you the question whether 90 days had any effect on you and you said "No, it had not?" --- No, I don't think I said that.

You did say that?--- No, I did not use those words.

Well then, did I ask you last time whether or not any pressures had been brought to bear on you?--- That is correct, yes.

And do you remember correcting me in saying "Not pressures." You didn't like me using the word in the plural? --- That is correct.

Well, I am very interested now, and now we will canvass this question of 90 days, or are you just trying to get out of this?-- No, I am not trying to get out of anything.

What did 90 days do to you?--- It is difficult to say. It is not an easy thing to be detained for 90 days, it has an effect on a person.

It has an effect on you?--- Yes, it has.

Such an effect as to make you forget your years of service to the party; the sacrifices that you were prepared to make to the party, your high position in the party, your oath of

loyalto to the party?-- I am still faced with the fact that I did make a statement.

Yes, but I am going to get an answer from you as to why, because in due course I am going to suggest, as I think I have already impliedly suggested to His Worship,your reasons for saying what you have said in this court. Do you remember the time this document, The Time for Reassessment? --- Yes, I remember it.

Do you remember I read it out to you last time?--- Correct.

Do you remember that you said you agreed with everything at the time that it was prepared?--- I said I had some reservations, but I agreed to it basically.

You agreed with the parts I read out at any rate?--- That's correct.

And do you remember I read out from page 3, the chapter headed "90 days" , do you remember that?--- Correct.

That such methods ..... that were the old methods - that the State had to prove its case in the courts in the ordinary means, and then there is reference to the 90 days detention. And there is reference to the fact that comrades must resist torture, they must be strong and brave, they must prepare themselves in advance?--- Correct.

Did you prepare yourself in advance as you instructed the party members to do? --- I thought I did at the time, yes.

Let me finish my question, will you?--- I thought you were finished.

Did you prepare yourself in advance as you instructed the members of the party to do. Did you?--- I said I thought I did.

Yes, did you prepare - I am reading from the statement - did you prepare yourself mentally and resolve not to answer questions or statements?--- Yes.

Were you aware, as it is set out in this document, of the police technique to playing one person against another? -- Yes.

Were you aware of the technique of confronting the victim with isolated bits of information that will appear to show that someone else has given the whole thing away? -- Yes.

So you were prepared for all that?--- Yes.

And then came a day in which you stood for three hours, and you said that your legs were feeling a bit sore, so they said "Take a seat, Mr. Beyleveld, " and you sat down and wrote out a statement? --- It didn't happen like that.

That's what you have told us?--- The fact is that I at one stage agreed to make a statement, and I did.

Yes. Why? --- I considered the situation with which I was faced, and I made a decision. I am not going back on that decision.

We are going round in circles, and we are not children. You are a highly intelligent man. You know perfectly well what I am trying to drive at, and what I am trying to get at. Don't say to me when I ask you why you made a statement that you made a decision, because then I have got to ask you again why did you make a decision?--- I changed my mind.

Why? --- I don't know, I don't know how to answer that question. I considered a set of circumstances and I came to a decision.

You see, Mr. Beyleveld, I want to suggest to you that the decision that you came to was a decision whereby you were going to protect as much as you possibly could the true members of the party, particularly those in the higher organs of the party. That is the decision you came to even though it meant in doing so your having to give evidence against persons who were not implicated, that was a very difficult decision to come to?--- I deny that emphatically.

Allright, then you deny it. If you deny that, then you tell His Worship why under these circumstances with

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wreck? --- At that stage I refused to make any statement whatsoever. I thought this over for some weeks before I decided to make a statement.

And when you decided to make a statement, and when names had been given to you and meetings and incidents and electronic recordings had been referred to you, weren't you still then anxious to save as much as you could from the wreck? --- When I made a statement I made a statement of the facts as I knew them.

You are not answering my question. It would be much simpler if you would do so? --- I don't know what else....

Were you not even then when you decided, because the police purported to know a lot, were you not even then anxious to save as much as you could from the wreck, loyal-hearty member that you are? --- No, when I decided to make a statement, I made the statement of the facts. I decided to tell the truth.

You did not want to save anything from the wreck, if you could?--- No.

If you could have saved even one name because the police didn't know about it, would you have done so?--- No.

Loyal party member..?--- I gave the facts as I knew them.

You have said that over and over again to me. I am asking you a simple question. If you could have saved one person, loyal party comrade that you are, because the police didn't know about him, wouldn't you have tried to save him?--- No.

Why not?--- Because I realized when I made a statement that the only way I can do it is to do it factually.

But if the police hadn't mentioned a certain incident, or a certain meeting, or a certain name, and you, therefore, were not under the impression that they knew anything about it, would you not have tried to at least save that person and that incident from the wreck?--- No.

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your back ground, with your advanced knowledge of what to expect if you were arrested, with your oath of loyalty to the party, why did you come to this decision to make a statement? --- As far - I recognized defeat. I recognized the situation that the party and its existence has been defeated then I decided to make a statement and I subsequently decided to give evidence.

Mr. Beyleveld, why did you recognize defeat? --- From the people who were detained.

I can't hear you?--- From the evidence that the police told me they had.

Exactly. Now I take at least ten minutes to get that from you. The police came to you and they said "We have got this evidence, we have got that evidence, we have got this name, we have got that name,"and you fell in with their suggestions? --- Correct.

Then I come back to the point one of the names they suggested was Mr. Fischer?--- Yes, they asked me if I knew Mr. Fischer.

Were you still anxious to try and protect what you could as a loyal member of the party...?--- Your Worship....

Let me finish my question. Do you know in advance what question I am going to put to you?--- No, I think sometimes you are finished with a question and you are not.

Did you know in advance what persons the police wanted you to implicate?--- No.

What? They mentioned Mr. Fischer's name, they mentioned..? --- They mentioned a lot of names.

They mentioned all the other names to you, yes. Were you not still then anxious even though you realized that the police had a lot of information or the police purported to have a lot of information, and told you they had a lot of information. Were you not anxious to save as much as you could from the

Yes, and if you are told by the police of an incident which, in fact, may not be true, but which you may think the police would like you to incorporate in your statement, it would also be an easy way of getting yourself out of your difficulty?--- No. I have never, where the police asked me if I know of a certain incident and I didn't know about it, I said I didn't, and I said so in my statement.

Yes. You are not for a moment trying now to suggest that the police didn't make suggestions to you, are you?--- Yes, they may have made suggestions.

I am not asking whether they may have, did they?--- Yes.

They did. Well, don't use the word may? --- Not suggestions, they told me that certain things....

They told you they knew this, they told you they knew that, they told you they knew this name and that name? --- And when I did know anything about it I said so.

But the two names that you can't remember are the names of Weinberg and Schermbrucker, who were members, according to you, in a high position in the party? --- I will repeat it over and over again I can't remember that those two names were mentioned to me.until such time as I have made my statement.

You can't remember?--- Correct.

It would have been a terrible shock to you, surely, if there names were mentioned?--- I don't know if it would have been a shock to me.

Why not. You are a loyal member of the party. According to you you know exactly what is going on inside the party?--- It was a shock to me for example to find out the police knew as much as they did.

Yes, and therefore, I say if they mentioned the names of Schermbrucker and Weinberg, would it not have been a shock to you?--- Possibly.

Could you have forgotten it?--- But I don't think it was

Because once you make a statement and you don't make it fully.....

Would the police know that you were not making it fully? --- That I can't tell. The police didn't tell me everything they knew.

I am not suggesting, I never asked you whether they told you everything they knew. I want to find out how your mind operated?--- My mind operated that once I decided to make a statement, I realized that I can only do it fully in accordance with the facts as known to me.

And the facts as known to the police? --- I don't know. I can't say that. I don't know what facts were known to the police.

Is that true ? -- Of course it is true.

That you didn't know what facts were known to the police when you told us over and over again that the police have told you about meetings; that the police have told you about recordings; that the police have mentioned a number of names to you so much so that you said you decided to surrender. Do you mean to say that you don't - you are telling the truth when you say that you don't know what the police knew?--- Well, I don't know whether the police told me everything they knew. I wasn't in a position to say that what the police told me, or mentioned to me, was all the facts known to them.

Did you think - I never asked you whether they were all. Did you think that the facts that the police gave to you were the truth or not? --- Well, where I knew it was the truth, I knew it was the truth. Others I had no knowledge of.

Yes, but such factors were within your knowledge. Did you think that the police were, in fact, bluffing you or telling you the truth or guessing?--- If you are told something by a policeman, which you know of your own knowledge, then you obviously know whether it is true or not.

mentioned to me. I don't remember any occasion. I can only repeat it again.

If it hadn't been mentioned to you, would you not immediately have said to you "My word, the police don't know as much as I thought they did?" --- I don't know why I should say all the other people I remember was mentioned to me, and deny that those two people were mentioned to me if I knew they were.

I want to know from you too why you are doing it, you see, because again I come back to the fact that you are trying to save as much as you can for the party?--- I deny that, I don't see how.....

And may I come back...?--- When I made my statement and mentioned that I was a member of the central committee, I had to tell - I told the police who the other members were to my knowledge.

Yes?--- And I then mentioned those two names.

Yes. You see, No. 2 Accused, that is Mr. Schermbrucker, was detained in July. You only made your statement - and you know he was detained in July?--- No, I didn't know that.

You didn't know it?--- No.

Well, in fact, he was. And you made your statement in August?--- That is correct.

Are you really seriously trying to suggest that when Mr. Schermbrucker having been detained in July, that the police would have mentioned all these other names to you and not mention Mr. Schermbrucker's name when he had already been in custody that time for weeks?--- I can only again repeat my memory of what happened. I don't remember Mr. Schermbrucker being mentioned to me.

You see, I am trying to find out for the benefit of His Worship, and also for my own benefit, having regard to the background that you have painted of yourself, your years of loyalty, your years of work, your high position what was it

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that made you ultimately make a statement? --- I can only repeat that I saw complete defeat, and I decided in the light of that to make a statement, and eventually decided to give evidence.

You saw complete defeat because of what the police purported to tell you they knew?--- Correct.

And, therefore, may I please come back to my original question to you, you were then either a traitor or a perjurer? --- I have already denied that I am a perjurer, and if Mr. Berrange wants to call me a traitor I am not going to argue about it.

I don't want to argue about it. I want to know whether you want to accept that appellation?--- No, I don't accept it.

You don't? --- It is not my appellation at all.

Why not? You have told us that - if your evidence is true - you dealt a shattering blow to this organization, which has been your whole life in existence, for years, why don't you want to admit that? Have you dealt a shattering blow to this organization if your evidence be true?--- I think that is so, yes.

Yes. And you still don't want to call yourself a traitor? --- Well, call me a traitor.

No, I want to know what you do?--- Allright, I will agree to it.

I don't want you to agree to it?--- Well, I am not prepared to categorize myself. I have said that time and again and I stand by that.

I find it difficult to believe that a man with your background, your position and your intelligence to possibly be a traitor to this organization. I find it very difficult, and I think that is the difficulty that you are finding in not wanting to answer that question?--- I don't know how to answer it any other way.

In telling you about electronic recordings, when the police spoke to you about electronic recordings, they must necessarily have done so for the purpose of trying to get you to talk., such was apparent with the meanest intelligence? --- I am trying to think when they told me about the electronic recordings. I think that was only after I have made my statement.

When I was asking you whether the police had suggested names, incidents, meetings, it was all in the context, and it was perfectly understood between you and me and everbody else, that this was before you made a statement. Now, do you want seriously to suggest to this court that if the police told you about names and meetings before you made a statement, and you were still denying or refusing to talk, that they wouldn't have told you that they also had electronic recordings?--- No.

Of course not? --- I was told about electronic recordings after or during the time that I made my statement, not before that. They didn't specifically mention to me that we got information as a result of electronic recordings.

But it would have been the most potent weapon in their hands in order to make you talk, for them to come and say "Look, what is the good of keeping silent, Beyleveld, we have got recordings," it would have been the most...?--- No, they didn't mention recordings. They said "Look, we have facts about this, that and the other thing," but I must say that at that time I suspected that they possibly had recordings.

I see?--- But the fact that they had,in fact, got recordings was not mentioned to me until after I have made my statement.

Well, I can see no reason for them even mentioning and giving away their case to you by saying that they had electronic recordings once you started to make a statement?--- That's what they did,

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What reason would there be for them to mention it then? --- The fact - the specific fact of electronic recordings was not mentioned to me at that time.

Can you suggest why it should be mentioned after you had decided to make a statement?--- I don't know the motive.

You will agree with me that the only reason the police ever could have for having mentioned their possession of such recordings, would be in order to induce you to make a statement? --- No, they mentioned to me that they had possession of certain facts. They didn't say to me "We have got this as a result of recordings in our possession."

So you want to suggest to His Worship that quite unnecessarily after you decided to make a statement they gave away gratuitously this information that they had electronic recordings, afterwards, and not before?--- That is what happened.

If you had been a police officer, would you not - if you were trying to break a man down and get him to talk, mention the fact that you had recordings, it is no use keeping quiet? --- I don't know what I would have done if I was a police officer.

What?--- I say I don't know what I would have done if I was a police Officer, I have never given it a thought.

But you have often thought of what police officers do do, don't you? --- Yes, possibly.

So then can we take it then your evidence is to this effect that it was only after you had made a statement , or decided to make a statement that they mentioned electronic recordings?--- That is correct.

And they didn't mention it beforehand for the purpose of trying to make you talk?--- No, they did not.

But they mentioned beforehand the fact that they had names, and they gave you names, they gave you meetings, they gave you incidents all of which....?--- That is correct, but they did not tell me how they obtained that information. They didn't

After I made my statement a number of people discussed my statement with me.

And at that time there was no point in referring to the electronic recordings after you had made....?--- Nevertheless, then they referred to it.

I said there was no point in it, was there?--- Well, I don't know whether...

Well, did you see any point in it? --- I can't answer for the most....

Did yousee any point in it?--- Most of it somebody discussed with me.

I am not asking you to talk for the police, I am asking you whether you saw any point in it?--- Yes, I can't see anything wrong with it.

I didn 't ask you whether there was anything wrong with it. It is the fourth time I am putting the same question to you, may I have an answer please?--- I say I saw a point in it.

What was the point in it? --- To get clarifications on some things that I said in the statement.

After you have finished your statement?--- Correct.

So then, did you have to make certain corrections? --- No, I didn't make any corrections.

Then what point was there in referring to these recordings? --- I don't know, I don't know the motives of the police in referring to the recordings at that time, but I was told that they then had electronic recordings.

Did you see any reason for telling you that?--- I see no reason for not telling me that.

Why don't you answer my question, it is such a simple question?

THE STATE PROSECUTOR OBJECTS:

With respect, Your Worship, my learned friend keeps on and the witness gives him the same answer and he persists.

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tell me that they obtained it by way of electronic recordings.

No, I am not suggesting that they obtained all their information from electronic recordings. How many statements did you make? --- I only made one statement.

And how long did it take you to make it?--- A couple of days.

What does a couple mean?--- I think I worked on it for about four days. The best part of a week.

In consultation with the police all the time?--- No, I sat in an office and wrote a statement.

You sat in an office and wrote the statement?--- Yes. And then after I handed in the statement they gave me a questionnaire, a written questionnaire.

Yes?--- And I wrote a suplementary statement answering some of the questions.

Based on this questionnaire?--- Correct.

And when you get a questionnaire, a questionnaire obviously must contain suggestions, not so? --- Well, it asked questions about certain aspects.

It asked questions about certain facts, and from that you could gather that the police were suggesting that this, that and the other had happened, because that is what happens with a questionnaire?--- That is correct.

But, if you were sitting by yourself and making your statement, how on earth could the police then have done what you earlier said that they did, that was to refer to these recordings during the time that you were making your statement? -- I said after I made the statement.

I beg your pardon, you said that during the time that you were making your statement they referred to these recordings? --- If I said that...

Do you want to correct that?--- It was after. Yes, I want to correct that. It was after I made the statement.

is.

And then did you add to your statement thereafter?--- It wasn't necessary for me to add to my statement. Most of these things they asked me I didn't know about, and I said so. On occasions it had already been referred to in my statement, and I would say "I have mentioned that in my statement on such and such a place."

Tell me this, in referring to the electronic recordings, they were trying to get certain information from you?--- That is corre-ct.

And,therefore, they must have told you in relation to those parts of the recordings what was in the recording?--- Correct.

Whose names did they mention when they referred to the recording? --- Miss Middelton was mentioned.

Did they refer to No. 1, did they refer to No. 2, did they refer to No. 3?--- No.

Any of the accused as appearing in these recordings?--- They referred to Mr. Levy, Miss Middelton, Miss Duncan, Miss Neame, Mr. Trewhela, Mr. Gazides, Miss Nicholson.

As appearing in the electronic recording ?--- That is correct.

Anybody else? --- I think Mr. Fischer, Mr. Ludy. They referred to discussions that I had with Miss Middelton. That is about the ones I can remember.

It may take us a bit of time, but I am afraid I have got to do it, and I think the easiest way is to start with No. 1 Accused, because I can go right through all the accused. Now what did they say about Mr. Fischer in regard to the electronic recording, let's start with him first of all? --- No, I can't specifically remember what was referred to in regard to Accused No. 1.

What's that? --- I can't remember what specifically from

We will be here all day with this repetitious type of cross-examining.

BY MR. BERRANGE:

Because I am getting the same answer that I am going on.

BY THE COURT:

I am not prepared to find that the question cannot be repeated.

CROSS-EXAMINATION BY MR. BERRANGE (CONTD.):

I just want a simple answer. You had made your statement it had been completed and quite gratuitously, if I understand your evidence correctly, the police then come and tell you about electronic recordings?--- Yes.

Now my simple question is this: Would you yourself - I am not asking you to answer for the police, so don't give me that answer - could you yourself see any point or any reason for the police at that stage to give you this gratuitous bit of information?--- Yes.

Well, if you say yes, then tell us what in your view was the point or the reason for the police giving you this gratuitous bit of information to the effect that they had electronic recordings after you had completed your statement? --- For example, the police would say to me "We know this from a recording, do you know anything about it?"

But you had completed your statement if your evidence is true?--- Yes.

So after you had completed your statement signed, sealed and deliver d, could you yourself see any point in their giving you this gratuitious information ?--- It was not gratuitous information, the police wanted me to - to know whether I know some of the fact that they know from the recordings, or not. They then said to me "Look, we have heard this on a recording, do you know anything about it, is it true?" or what the position

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Did they mention to you how they were able to get into Miss Middelton's flat?-- No, they didn't tell me how it was done.

Weren't you interested? --- They didn't tell me.

Didn't you ask?--- No, I didn't.

I suppose they must have mentioned that you appeared very often in the electronic recordings?--- I have already said they told me that they have a number of conversations of mine with Miss Middelton that they had recorded.

What made them say that it was over a period of nine months? --- I can't remember on what context it was said. I remember that somebody told me it was done over a period of nine months.

Round-about the middle of this year we know that political trials were being held all over the country?--- Yes.

And you were aware of that? --- That is correct.

I must say we are talking now of before your arrest? --- That is correct.

And, it was of great interest for you to know about these political trials, because you never knew when you yourself might get involved?--- Yes, I was interested, yes.

And this must have been in your organization a matter of discussion?--- Correct.

And there were a number of problems arizing from these political trials?--- Yes.

One of these problems, I should imagine, was that - seeing that so many trials were being held, was that of finding people who , sympathetically inclined to the anti-apartheid movement, would be able to defend persons who were being tried all over the country?--- Yes, I knew about that.

That was a burning problem?--- Correct.

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the recordings, was referred to....

I don't want chapter and verse. I don't for a moment think that you are a Helmann student, that you are able to remember chapter and verse. Just give us in regard to each and every one of the accused?--- No, I can't remember in regard to Accused No. 1. Whether it was mentioned in connection with the recordings or in some other connection.

But you have just told us "I was asked whose names were referred to in regard to these electronic recordings?" --- I had to think back, and I said that I think that Accused No. 1 may have been mentioned.

No, you said he was mentioned?--- I said I think. Thinking back now, I can't remember that it was, in fact, so. I don't think so. I think I must change my evidence in that respect. I don't think Accused No. 1 was mentioned to me in respect of recordings.

Did they indicate to you where these recordings had been made? -- Yes.

Where?--- At Miss Middelton's flat.

And where else? --- No, that was the only one they told me about.

The only one they told you?--- Yes.

Sure?--- That is correct.

They didn't mention to you that they have been made in anybody else's flat?--- No.

They didn't mention to you that they had been made in a motor car?--- No.

Did they mention to you when it was that they first started making these electronic recordings?--- I think they mentioned to me that it was done over a period of about nine months.

Nine months prior to the arrest? --- I presume so. They didn't give me any dates.

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And the type of pressures that, I take it were discussed, were matters of great interest to you, were pressures such as boycotts, sanctions, and that sort of thing?--- Correct.

And also a matter, I take it that was of concern, was the question of what finance could be obtained from outside for the purpose of assisting both for the defence of people being charged and also for the assistance to be given to dependants?--- Correct.

And when I talk about this, I am talking about this in relation to Communist Party circles and discussions and debates? ---Correct.

And you have told us that the police mentioned meetings to you that they knew about, names that they knew about, incidents that they knew about?--- Yes.

One of the things of necessity which they must have told you is the fact that they had been keeping observations and had kept observation, I should put it this way, on this meeting that you say was held on the 16th of June, 1964?--- I don't know if I mentioned the date of a meeting.

Well, that was the meeting that you called the meeting of the area committee at the house of Mr. Meyerson?--- That is correct.

And as a loyal comrade when they first told you that they kept this meeting under observation, and this house under observation, did you at first try and deny that this had been a party meeting? --- I made no statement, and refused at that stage. I think this was the very first thing that was mentioned to me. I refused at that stage to make a statement. NB

Was this the very first thing that was mentioned to you? --- Yes, I think so if I remember correctly.

But didn't you as a loyal comrade say "Well, whatever you may have seen, this wasn't a party meeting?" --- I made no statement whatsoever.

However, the police, I take it, were not satisfied with

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Burning issue. A big problem. And another burning issue was the fact that as a result of the trials hundreds of dependants were being left destitute, and that also must have been a matter of discussion in your organization?--- Correct.

They were beingleft destitute not only as a result of the power of themselves, but as a result of arrests under 90 days, under Section 17, and as a result of convictions?--- Yes, correct.

And a further problem that was presenting itself to your organization was the question of the children of the parents, the question of educationfor these children, and looking after these children?--- Yes, correct.

And it was a matter, I take it, that was discussed often as to what steps should be taken for the purpose seeing that these children don't suffer from the point of education? --- I know it was discussed, I wasn't concerned with any sort of organizational committees who looked after that.

I didn't ask you that, I want...?--- I knew that it was discussed and it was a problem.

It was a problem. It was one of the issues that arose during that time?--- Correct.

And, of course, something that I am sure must have been discussed over and over again, was the question of what outside help was being organized in the struggle against the Government?--- Yes.

I mean to say, I suppose you people were desperately anxious to ascertain what amount of assistance could be forthcoming from outside?--- Correct.

And what steps were being taken by organizations outside to assist you people?--- Correct.

And to bring pressures onto the present Government? --- Correct.

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your not making a statement until such time as you did make a statement?--- That is correct.

And they told you that it is useless your trying to deny this meeting, because this is one of a number of meetings that they had observed?--- They may have used that word, I don't know. They told me that they had observed this meeting. // NB

Making it apparent to you that it was useless for you to try and deny it? --- Yes.

What other meetings did they tell you they had observed? --- No, I can't. It is difficult to remember any other meeting.

Come on, you have mentioned a number of meetings in your evidence?--- Yes that is meetings I mentioned in my statement when I made my statement.

Now just relate those meetings which you have mentioned in your evidence to meetings that the police told you that they had observed, and that they had evidence?--- No, I don't know. They didn't mention, the meetings that I mentioned in my statement wasn't specifically mentioned to me as having been observed by the police.

Listen, the police told you, as you have already told us yesterday - on the first occasion and again this morning, the police have mentioned a number of meetings to you, do you remember saying that?--- Yes, that's correct.

This meeting of the 16th of June was one of the meetings? --- That is correct.

You have mentioned for instance a meeting at Beltring Court, did they mention that meeting?--- No.

You mentioned an abortive meeting, that is what you say you tried to hold near some place in Fordsburg, did they mention that to you?-- No.

Well, what meetings did they mention to you?--- Some of the meetings they mentioned to me that they had observed I knew nothing about. I wasn't there.

Well, tell me what meetings they mentioned to you. You have only told us about one that they mentioned to you?--- I told you this is a specific thing where the police told me they have observed this particular meeting.

Now you have mentioned that they mentioned a number of meetings. Tell me just one more meeting that they mentioned to you?--- I can't. I was interrogated by a number of policemen who threw things at me. I can't remember now what specific meetings they told me they knew about or didn't know about.

So is your evidence this - you have told us on a number of occasions, you told His Worship on a number of occasions that the police had mentioned to you meetings that they knew about. The only meeting that you can remember now is this one meeting of the 16th of June?--- That is correct.

And you can't remember anyone of the other meetings that they mentioned, that they spoke to you about?--- No.

You are not for a moment going to suggest that you've got a bad memory, because you seem to have a phenomenal memory? -- I remember one meeting they asked me about wasn't a meeting. They told me they saw Mr. Levy and Miss Middelton and myself going into an hotel for example.

Which hotel? --- It is an hotel, I don't know what the name is, just in front of the hospital.

Yes?--- Well, actually it wasn't a meeting. Miss Middelton, Mr. Levy and I merely went there to have a drink in the lounge.

I would like to take you through a few of these meetings that you have referred to. You referred to a meeting at flat No. 8 Rowallan Court?--- That is correct.

When did that take place? --- Either some time in May or the beginning of June this year.

May or the beginning of June, yes?--- I am not quite sure.

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And tell me what happened at that meeting?--- The main discussion at that meeting was the fact that the central committee was informed - the central committee discussed the fact that Mr. Clumay , who was a member of the meeting, had left S.A. Mr. 'Catchalia' no longer wanted to serve, and we discussed the question of co-option of two other members onto the committee. That I remember was the main thing discussed at that meeting.

Who was present? --- Mrs. Bernstein was there, myself, Mr. Schermbrucker and Mr. Weinberg. I don't think Mr. Fischer was there.

And, is that all you can remember about that meeting? --- Yes, that was the main thing of the purpose of the meeting.

My question wasn't was it the main thing, is that all you can remember?--- That was what I can remember, yes.

All you can remember?--- Yes.

And the meeting that you say was held at a place called Twickenham?--- Yes.

What was discussed there? --- At that particular stage when we held that meeting, both Mrs. Bernstein and I felt strongly that the members of the party were exposed and becoming dangerous, and that for some time we should at least to some extent become dormant. I think that was the expression used. That was discussed at length. It was agreed to invite people from other areas to discuss this question as to the future of the party. That was the main discussion at that meeting.

Anything else?--- Only discussion that I remember.

Is that all you can remember?--- Yes.

Now the meeting that I really want to ask you about then is this meeting at - by the way, when was this meeting? At Twickenham? --- It was in June, not very long before I was arrested. I think it was before the middle of June, but it was in June some time.

How long before your arrest? --- A couple of weeks.

By that you mean two weeks?-- Yes, it may have been two or three weeks. I would say two or three weeks before I was arrested.

Was that before or after this meeting that the police have told you about, this meeting of the 16th of June?--- I think it was before that. Just before that. Not long before that, but it was before that.

And the meeting that I want to speak to you about is this meeting that you say was held in a building near the water tower. What was discussed there?--- The whole purpose was to reconstitute a central committee. That was the object of that meeting and that is what was discussed. You know, whether we should constitute a central committee.

Anything else discussed? --- Well, the whole question of the situation as it arose after the Rivonia Trial was discussed.

Yes. Anything else?--- For example at that particular meeting the question of my taking over as contact with the district committee was one of the things discussed.

Yes, anything else? --- We discussed the question of areas and groups, functioning in case of contacts not being available between one committee and another.

Yes?--- Functioning on their own. A secretariate was elected.

Now you say you had a number of area meetings too? --- Yes. We had meetings of the area committee. During the last year not very regularly, it was erratic. Sometimes often, sometimes quite a period passed that we didn't have some, but the committee functioned.

Are you able to tell us what was discussed at these area meetings each and every one of them?--- No, I can't even remember how many was held, or where they particularly were held during that period. I know that we had regular meetings. The organization wasn't active during that period, so that - you know there wasn't,

You can't tell us what you chatted about?--- No, I can't remember.

Now you have told us that you have known these people who were there for a long time?--- That is correct.

And you also know a great deal about what their political affiliations and their political activities are? --- That is correct.

And had been. You know, of course, that Mr. Levy is a Vice-Principal at a certain college?--- Yes, I knew that.

Occasionally you used to give him a lift home?--- That is correct.

And you remember you gave him a lift home once when his car had been overturned and had been involved in an accident? --- That is correct.

And you also knew that Mr. Levy was attending the University?--- Yes, I knew about that.

And you also knew that Mr. Levy was very sympathetically disposed to all organizations and movements that had as their main objective the - getting rid of the apartheid policy of this Government?--- Yes, Mr. Levy and I had been on the same organization for many years.

C.O.D. ? --- Correct.

Congress of Democrats. That is the organization you referred to. And, therefore, he would be a sympathetic individual? --- Correct.

In regard to anything that was suggested to him that would have as its reason opposition to the Government's racial policy? --- Yes.

And Mrs. Barsel, you have known for a long time?--- That is correct.

And you have known her also to have the same form, tipe of simpathy for people opposed to the racial policies of the Government, as you have mentioned in regard to Mr. Baker - Mr. Levy?--- Correct.

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I can for example remember the discussion on the recruiting of Mr. Gazides and things like that.

You can't say when or where that took place? --- No, I can't specifically remember. I think most of those meetings took place driving around in a car. A number of them was held like that.

In coming to this meeting of the 16th, you have told His Worship when you gave your evidence that this was an area meeting which was being called for the purpose of receiving a report from the district committee?--- That is correct. The district committee was never held. The result is that this meeting was to a large extent an abortive one, because the ~~board~~ report wasn't available.

So, I don't suppose very much was discussed there?--- No, it didn't last very long either.

How long did it last?--- I don't think it lasted for more than an hour, and most of the time we just sat and chatted.

Most of the time you just sat and chatted?--- That is correct.

And more or less a social - this meeting turned itself, because of the fact that it was an abortive meeting, turned itself more or less into a social gathering?--- That is correct.

Tea and cakes and that sort of thing?--- No, I don't think we had tea or cakes because we had no hosts.

Well, then what did you chat about?--- We just talked. We were all people who knew each other for many years.

That's right. And I don't suppose you can remember really what you did talk about?--- No, I don't.

All you can remember is that you had been unable to hold this district committee meeting, and - so there was nothing else for you to talk....?--- With the result that I couldn't give the report that I was supposed to give at this meeting.

So that was the end of the meeting?--- Correct.

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And you also know that she is,one of the things that she is very, very good at, is organization and the collecting of funds, fund raizing. She is very well known for that?--- Yes, correct.

And Mr. Baker, of course is - I hope you won't mind my terming him that, he is a left-wing attorney. His sympathies are with - as with Mr .Levy, as with Mrs. Barsel, with organizations and actions which are trying to get rid of the Government?--- Correct.

And he is also a man who has appeared to your knowledge in a number of trials of a political nature ? --- Yes, I know about that.

In which he has given signal.s.?--- I know about that.

Whilst we are on that, we might as well refer at this stage to Mr. Schermbrucker. Mr. Schermbrucker you have known for a number of years?--- Yes, I have known him since during the war some time.

And you know that his position was being that of manager of what was first of all called The Guardian newspaper, and then became New Age?--- I knew about that.

General Manager of that. And he was also the Sales Manager, General and Sales Manager in the Johannesburg office of this newspaper? --- Correct. I know about that.

And you also know that as a result of his work on the newspaper he necessarily attended numbers of meetings of organizations such as the Indian Congress, the African National Congress , Trade Unions, and in the days of the Communist Party was at legal Communist Party meetings naturally, because that's what his job necessarily required?--- Yes, I knew that he was active.

And as such he would come, to your knowledge, into contact with large numbers of people in the anti-apartheid group?--- Yes, I accept that.

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And do you know the magazine called "Fighting Talk?" --- Yes, I do.

It was from his office that this journal,Fighting Talk, was distributed?--- During the latter period of its existence, yes.

And he served on a committee which conducted the affairs of this magazine?--- I have no specific knowledge of that, not during the latter period of the existence of the magazine.

What you will have knowledge about is the fact that when the Congress of Democrats was formed, he on a number of occasions went to meetings of the Congress of Democrats for the purpose of getting assistance in regard to the sales of the newspaper?--- That is correct, yes.

And, as a matter of fact, you used to do some printing yourself for The New Age newspaper, and subsequently for Spark? --- No, not for Spark. I printed some labels, some wrappers, that's all.

I am talking about wrappers?--- Yes, I printed wrappers for New Age, that's correct.

And Mr. Weinberg, of course, you know has been one of the photographers who used to take photographs for this newspaper? -- Yes I was aware of that.

All very prominent people in the circles in which you moved?--- That's correct.

Now, at the time themeeting of the 16th of June was held, there were all these issues in which not only the Communist Party was involved - I dealt with them a little bit earlier, but in regard to which the whole anti-apartheid and anti-Government movements was held?-- Yes.

The issues about dependants, assistance to them, money for defence, finance all that type of thing?--- Correct.

All these movements and all individuals who were sympathetic towards the anti-apartheid movement, but intimately concerned with

these problems?--- Correct.

And I take it for granted that assistance was sought and welcomed by the Communist Party from every sympathetic and anti-Government source?--- Yes.

Irrespective as to whether that source included members of the Communist Party or not?--- Yes, correct.

You would have been prepared to take assistance from anybody. And, of course, with regard to the topics that I suggested to you earlier, the topics of immediate and burning interests at that time, people such as Mr. Levy and Mrs. Barsel and Mr. Baker, would be people who could serve a very, very useful purpose?--- That is correct.

Because you see, I want to put it to you right away that once again as I have suggested earlier, you have told a story which to a great deal is true but is not a whole truth, and that you have added something to it? --- I deny that.

I want to put it to you that this meeting which was held in Mr. Meyerson's house on the 16th of June, 1964 had nothing to do with an area meeting, and was, in fact, not a meeting of the Communist Party? --- It was the last meeting that I attended of the area committee, European area committee of the Communist Party.

You need only admit or deny, I never asked you whether it was the first or the last or the second meeting. These matters that I have already suggested to you in which you agreed were burning issues at that time, were the matters that were discussed, I want to put it to you, at that meeting on the 16th?--- No.

And let us start off one by one. Just prior to this meeting of the 16th, you will remember that a Sanctions Conference was called in London and if I remember correctly it was called by Mr. Segal?--- Yes, I know about the conference.

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That was a matter of great interest to people such as you? --- It was some time prior to that.

It was two or three weeks prior to that?--- It may be. I am not sure of the date.

And that was a matter of great interest to people such as you, and also to people such as those who attended the Meyerson's house on the 16th of June, it would necessarily be, wouldn't it? --- Yes, correct.

And you know, of course, that Mr. Julius Baker, that is the brother of Mr. Lewis Baker?--- Yes, I know him.

Was in London?--- Correct

And you know, of course, that he was very active in doing what he could there in the anti-apartheid movement?--- That is what I understood.

And one of the things that was discussed during the (?) social evening which you had that evening, was the fact that he had sent message to his brother, Mr. Lewis Baker, in regard to what activities were being carried out in London in regard to sanctions, boycotts, and the raising of funds. Do you remember that?--- No, I don't remember that. I know that a report was received from London - from the people in London, either parties, setting out their participations or their co-operation in calling this particular conference, which was circulated to members.

And that was one of the things that was of great interest to you people at that time, wasn't it?--- Correct. We circulated the report.

And that was one of the things that was discussed , not by way of having it on any agenda or anything of that sort, but it was one of the things that was discussed during the time that you people were sitting in the Meyerson's house after you found that it was no use trying to hold an area committee meeting because you had no report from...?--- That may be so.

Meyerson's house, and you can't remember what you spoke about ?
--- We talked, we may very well have talked about some of those issues you mentioned.

I asked you what you spoke about and you said you couldn't remember?--- I can't.

Although this meeting took place just two weeks before your arrest?--- Correct.

And you can't remember what was discussed other than the fact that you reported that the district committee hadn't been able to meet?--- That is correct.

That's all you can remember? --- Yes.

With your memory. Yet, you were able to tell His Worship what was discussed at this meeting, that meeting and the other meeting of the central committee, which I suggest you have learnt by heart. That you are able to remember, but what was discussed for one hour on the 16th of June two weeks before your arrest, you cannot remember?--- No.

One hour's discussion?--- I can't remember the discussion that took place after the meeting, and the topics that were discussed. I can't remember it,not specifically.

And I want to put it to you that one of the things that were suggested was that Mr. Levy, Mr. Norman Levy, regard being had to his contacts at the University, that he should make contact with fellow students there in order to attend - to try and get a group to raise funds, to attend to education and to publicity? --- That was discussed at a meeting some months prior to that one.

That you can remember?--- Yes.

That you can remember, but you say that it wasn't discussed that night?--- No, I don't remember it being discussed that particular night. I don't think it was.

Because he would be the natural person to get to this meeting for the purpose of doing that sort of thing, if you wanted to

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I can't specifically remember it, but I would agree that that may have been one of the topics....

And one of the things that were discussed too, was the question of how to provide for the relief and the assistance of dependants, which was also a burning issue at that time? --- That was often discussed.

I didn't ask you whether it was often discussed, I was putting a specific question to you as to whether that was discussed on the 16th of June, 1964 in the Meyerson's house?--- No, I can't remember that that was specifically discussed at that particular occasion.

I want to put it to you that that is - and the other topics which I have already mentioned to you, is a reason for your having got these people together to this house, because these are the very sort of people who could do this sort of work that you would like, or the party would like to have had done?--- I deny that that was specifically the reason for this meeting.

Can you?--- Yes.

And I want to put it to you that the question of the education of children was discussed that night?--- No, I don't remember that.

And I want to put it to you that the question of how one could get more lawyers, sympathetic and interested, so as to enable them - so as to enable you to secure their services in need for political trials. That is one of the things that was discussed?--- No, again I don't remember .....

You don't remember that. The only thing you can remember that was discussed that night, is the fact that you came along to say that the district committee hadn't been able to meet, and therefore, there was no point in holding a meeting?--- That is correct.

After that you sat for an hour in this room in the

But I want to suggest to you that that is the reason why you got these people together , because you wanted to co-ordinate your efforts, and you wanted to get something really going at that time? --- I deny that.

And it was also at a time shortly after this conference in London had been held, the Sanctions Conference too, do you deny that?--- I am not denying it that it was at that time.

Mr. Beyleveld, it is dangerous for people like you to meet in the way in which you say you did meet, wasn't it? --- It was.

The less meetings that could be held, the better?--- Correct.

To hold meetings for no purpose at all would be the height of folly?--- Yes.

There is always the danger, of course, that you may be seen, and it might be observed?--- Yes, there is that danger.

And, indeed, in regard to this particular meeting of the 16th of June, you find out later that you had been seen, and had been observed?--- Correct.

And the whole object of this meeting was for you to deliver a report on the deliberations of the district committee, which had not met?--- That is correct.

Regard being had to the danger and the difficulties, the tendance upon this sort of activity and these sort of meetings, why didn't you call it off when you found that you had nothing to report from the district committee? --- Because it wasn't so easy. The district committee, I think, was supposed to take place a day or two days before that.

Yes? --- And I didn't have the opportunity to get in touch with all these people.

You didn't have an opportunity?--- No.

Why not? --- It wasn't the only thing I had to do.

Mr. Levy you used to give lifts home. All you had to do was to drop by at his school and say "The meeting is off?" --- I

do it, wouldn't he?--- Yes.

And Mrs. Barsel would be the natural person to get to this meeting for the purpose of organizing and collecting funds, and conducting a fund raising campaign, wouldn't she? --- Yes, they would be natural persons.

She would be the natural person. And Mr. Baker would be the natural person to get to this sort of meeting if you wanted to get more legal assistance, and if you wanted to get someone to interest more attorneys and lawyers in your cause?--- Yes, but it was discussed at meetings prior to that one also.

Those are the very people that you would get for that purpose, wasn't it?--- It is discussions that have taken place over months, not at this particular meeting.

And this was five days after Rivonia that this meeting was held, wasn't it?--- No.

Five days after the conclusion of the Rivonia ...?--- This was during 1964, it was a year after Rivonia.

I am talking about five days after the conclusion of the Rivonia trial. Five days after that when this was a burning issue. There was the dependants of the accused there. There was the dependants of a number of accused in other parts of the country all had been arrested and tried?--- I agree that all these things were discussed. I say they were discussed over a period of meetings prior to that one.

This was the critical period, five days after Rivonia, when all the other trials were still pending, wasn't it?--- All these things were critical over a period of months. It didn't become critical all of a sudden in the middle of July.

It became even more so, do you suggest there was no discussion about this..? --- There may well have been. I don't specifically remember it in relation to that meeting. I remember all these things in a relation to a number of meetings. It took place over a couple of months.

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tell us what was spoken about?--- No, I don't remember the conversation.

THE COURT ADJOURNS.

THE COURT RESUMES - APPEARANCES AS BEFORE.

PETRUS ARNOLDUS BEYLEVELD (Still under his former oath):

CROSS-EXAMINATION BY MR. BERRANGE (CONTD.):

Mr. Beyleveld, you have told us that if you wanted to, and tried hard enough, you could have cancelled this abortive meeting. Tell me, who did you meet first that evening, the night of the 16th?--- I think it was Mr. Levy.

You think it was?--- Yes. I picked him up at his College, I think.

Why think?--- I am not absolutely sure.

Don't you know what your movements were before you arrived at the Meyerson's house? --- Yes, I am trying to recall it, and as I say, I think the first person I picked up was Mr. Levy.

You are not sure ?--- I am not absolutely sure. I may have picked him and Miss Middelton up at the same time, but I think I picked him up before.

You haven't got any clear recollection?--- No, I haven't got a clear recollection.

What about Mrs. Barsel? --- Mrs.Barsel. I picked up Mrs. Barsel after I had picked up Miss Middelton and Mr. Levy.

Where? --- In Yeoville some where.

Where? --- I think it was on the corner of Louis Botha Avenue and Bedford Road, if I am not mistaken.

And at the time you picked all these people up as you did from time to time prior to the meeting, let us assume you picked up Mr. Levy first. Did you say to him "Well, it is no need to come to this meeting, we will have to cancel it because there is nothing.....?" --- Mr. Levy knew....

Will you let me finish please? Did you not say to him "Look, there is nothing for us to discuss tonight, the D.P.C.

didn't give him lifts often.

Mrs. Barsel you could have done the same thing,not so. Why didn't you call the meeting off, you knew that the district committee hadn't met?--- Yes, correct.

Why didn't you call this meeting off? -- Mr. Levy also knew that the district committee hadn't met.

That is a very nice remark, but not an answer to my question. I am asking you?--- Because I didn't have the opportunity.

You are the member of the central committee, you are the member to say whether a meeting should or should not be held. Why didn't you contact these people and say "Look, it is no use our meeting, the'D.P.C.'has not been able to meet , therefore there is nothing for me to report, there is no reason to hold a meeting." Why didn't you call it off regard being had to the dangers of meeting?--- For the simple reason that between the time that the district committee was supposed to have been held, and that meeting took place, I didn't have the opportunity to go round and see all these people.

So you would rather take the danger of meeting unnecessarily?--- I did in this particular instance.

I beg your pardon? --- I did take the chance.

You think what?--- I say I did take the chance of meeting.

Unneccessarily ?--- In this particular case, yes.

But you could have called it off if you tried hard enough? -- I could have.

You could have, but you didn't?--- I didn't.

I want to suggest to you that that is another reason why I am going to submit to His Worship that this wasn't a meeting of the nature that you suggest at all, it was a meeting of the nature that I have suggested? --- I can already repeat the evidence I have already given.

For one hour you sit there, and you don't know - you can't

It was a meeting for the purpose that I have already suggested to you?--- I have already said that the purpose that Mr. Berrange has suggested to me was things that happened over a number of meetings prior to that one, not specifically at that one.

Yes. But these were the right sort of people,were they not, to do the sort of work which I suggested were the burning issues at that time, immediately after Rivonia. They were the right sort of people, weren't they? --- Correct.

To have there?--- Correct.

And Miss Middelton, she was a teacher, also and educationist? --- Yes.

She could play h r part too, could she not?--- Correct.

In doing this sort of thing that I suggested was required, that was the education of the children of dependants, attending to that sort of thing?--- Yes.

Correct. But nevertheless, you didn't cancel it?--- No, I didn't cancel it.

You would rather take a chance in being observed as you were observed?--- We did unfortunately.

You see, we have got this position (a) It was extremely dangerous to meet. (b) These were the right sort of people to get together if, as I suggest, the meeting was for the purpose that I have suggested, you have conceded that?--- Yes.

Correct. There was a great need for secrecy,even meeting for this innocent purpose, was there not?--- Yes.

Because you were a banned person, you were not allowed to talk to any of these people, were you? --- I wasn't allowed to attend a gathering.

Yes, well, this was a gathering?--- Correct.

It was a gathering, so therefore, there was great need for secrecy?--- Correct.

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meeting has not been held. The whole object of the meeting has fallen through, let's cancel it?" --- Mr. Levy knew the position as well as I did. We were together at that abortive meeting of the district committee.

That's what you say?--- That was a fact.

But what I want to ask you is this, did you not say to him "Well, let us cancel this meeting?" --- No, I can't remember saying that to him, no.

But isn't that the natural thing to say, afterall, you have already told us of the great dangers inherent in meeting in this way ? --- Yes.

And you were aware of the great dangers?--- Correct.

Why didn't you discuss with him the question of cancelling this meeting? --- No.

Why not? --- Because the groups were represented by Mrs. Barsel,and Miss Middelton may have wanted to raise something at the meeting. It wasn't entirely dependant upon me.

This meeting you have told us, unless you want to start changing your evidence, was for the purpose of getting a report from the district committee?--- That is correct.

And you know at that time that there was no report to give? --- Correct.

So when you picked up Mr. Levy, and when you picked up Mrs. Barsel, and picked up whoever else you may have picked up, you could then have cancelled the meeting if you wanted to, couldn't you?--- That is correct. We could have cancelled it.

You could have cancelled it before you arrived at the house?--- We did not.

You did not?--- No.

I want to suggest to you that the reason why you didn't was because you know perfectly well that this was not a Communist Party meeting?--- No, that is not correct.

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And that's why it was necessary to engage a room in the way in which it was engaged, in which you could meet in secrecy, even though it was an innocent meeting, not a party meeting?--- Correct.

It all falls into the picture, doesn't it? --- Yes.

And so you can again give evidence of having attended the meeting with these people, evidence which would be, as I have already suggested to you once before, nearly completely correct, 99% correct, and all you have got to do in order to bring your evidence within the ambit of the indictment, is to say that it was an area meeting, if you wanted to?--- If I wanted to, possibly, but that is not the correct position.

Yes. That's all you need do, isn't it? To add one little thing and say "This was an area meeting?" --- No, I think that is oversimplifying the th-ing.

Why is it oversimplifying things?--- Because I don't think it will be possible for me in the circumstances to tell a story like that and expect it to stand up.

A story like what? A story in which you say this is an area meeting to receive a report from the district committee, which was abortive, and then you sat for an hour and spoke about things that you don't remember?--- Well, I can only repeat that it was, in fact, and area committee meeting.

And you also know that in this respect, and in regard to this meeting, there is no electronic recording to give the lie to your evidence?--- I don't know. I don't think there is. I haven't heard about any.

No, of course, you have never heard of it, and it was never suggested to you. All that was suggested to you was that the police saw you people at this house at this meeting, that was all. That you did know?--- No, that was not the way in which it was mentioned to me the first time.

So you did know that the police have mentioned this meeting

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to you. You have told us that that was the first meeting they ever menttioned to you when they started questioning you? --- The first time I heard about this meeting was when the police told me that Mr. Levy mentioned it in his statement.

Mr. Levy mentioned it in his statement?--- Correct.

As being an area meeting?--- Correct.

Is that what you say the police told you? --- That is what the police told me, correct.

When was this?--- Before I made my statement.

When? --- Some time round about the 20th of August.

The 20th of August was when you completed your statement, wasn't it? --- No, I didn't.

When did you complete your statement?--- The latter part of August. I was still working on it at the beginning of September, I think.

You had already decided to make a statement?--- I think I decided to make a statement on about the 23rd of August.

Did you not tell us that you made your statement on the 20th of August? --- No, I said it was some time after the 20th of August.

After the 20th?-- That's correct.

Was that when you first decided to make your statement? --- That is correct.

After the 20th? --- Correct.

I see. Anyway, come back to my question, and that is this: In order to make your evidence consistent with the allegations in the charge-sheet, knowing that the police had observed this meeting, because that was the first thing they ever mentioned to you when they first questioned you, all you had to do was to add one little bit and say "This was a meeting of the area committee." That's all you had to do, wasn't it? --- I merely had to state the facts once I made a statement. I didn't add little things here and there as is suggested.

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broken up, smashed up. It was then that his car had been involved in an accident, not so?--- Yes, his car may have been then involved....

Not may have been, you know it was ?--- I know his car - he told me his car was in the garage being repaired.

And that is the occasion when you took him home, and I am wanting to suggest to you that that is the occasion which you are now trying to say was an abortive district committee meeting?--- That abortive committee meeting took place. Mr. Levy was there. I can only repeat it.

Yes, and you say it was a committee meeting. I want to put it to you that,if that is the same occasion, I want to put it to you that was nothing other than the occasion in which you took him home, because his car had been broken?--- I did take him home on that occasion, yes.

At a time when his car had been broken?--- Yes. A few days prior to that I also took him home on one occasion.

I don't want to be any much time with you any longer, I just want to put some general propositions to you, and I want to put it to you that as to the other meetings that you have testified to, meetings at Beltring Court, a central committee meeting, my clients are not in a position to put what was discussed there, because they themselves don't know, and I again want to put it to you - just to put your evidence in issue, that was in the general scope of my clients plea of not guilty, that your evidence in regard to my clients is untrue?--- I deny that.

Because again, we are to regard you as a loyal member of the Communist Party, I am suggesting to you that you are still a loyal member; that if you substituted the names of members of the central committee or you substituted the names of other persons as being members of the central committee, some of the members of the area and district committee, and if you said that

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On the basis that you knew that the police had observed this meeting, which we now know was an abortive meeting, all you had to do was to say, if you wanted to, that this was an area meeting?--- If I wanted to, yes.

That's all. A meeting, which as I say, you didn't cancel because you didn't - I think you said had time, you could have done, and you could have cancelled it even on your way to the meeting, if you had wanted to ?---Yes.

And co-incidently, you had completely the rights of the people to do this sort of job, which I suggest was the purpose of this meeting, quite co-incidently? --- Only one of the people - not only these people, many others could have done that sort of job.

I am sure there are many others, but these are the people that could have done this sort of job?--- Yes, I agree.

I want quite shortly to put a few things to you. You spoke about a meeting, which was a meeting of the district committee, which you say was abandoned because the police were there, and the police observations, do you remember that? --- Yes, I remember that.

I want to put it to you that that is a lie when you say that Mr. Levy attended any such meeting, or tried to attend any such meeting. I want to put it to you that Mr. Levy does remember an occasion in June when you gave him a lift home, as his car had had an accident, you have already conceded that you did give him a lift home when it had an accident, have you not?--- Yes, correct.

And I want to put it to you that if this is the occasion referred to by you, then it is untrue?--- No, this is not the occasion. It was in that same period of time, but not this specific occasion. On that particular occasion I took Mr. Levy home also.

Yes, because his car was not in order, his car had been

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this meeting of the 16th of June was an area committee meeting, when in fact, it was something else, you would be telling a story which would be 90% true, only with the substitution of the content of the meeting and the substitution of names. Such an easy thing to do, wouldn't it, if you wanted to?--- If I wanted to, yes, but I deny that I did.

And it would then leave your evidence intact and it would also leave the true leadership of the Communist Party intact, and you would get your indemnity?--- I deny that.

And the leadership of the Communist Party would still be left to function?--- I deny any such...

Would you not like the leadership of the Communist Party to still be left to function? --- I am not in a position to want anything at this particular stage.

You are not perhaps a freedom fighter? Fighting for your freedom? And for the preservation of your party to which you owed so many years of loyalty?--- No.

NO FURTHER QUESTIONS BY MR. BERRANGE.

CROSS-EXAMINED BY MR. HANSON:

My client, Accused No. 1, is a very well known person in South Africa, isn't he? --- That's correct.

He is very widely respected in all parts of the society? -- That is correct.

That's from your own observations?--- Yes.

His political views are widely known?--- Yes.

By all parts of the society?--- That is correct.

And they have never been concealed?--- No.

I just want to put that for many decades, to your knowledge, he has been well known as the champion of the poorer people and the underprivileged classes?--- That is correct.

He is much concerned about the questions of their education?--- Correct.

Their advancement economically?--- Correct.

Socially?--- Correct.

Politically?--- Yes.

The poorer classes and the Coloured classes?--- Correct.

And it has never been concealed?--- No, that is correct.

For years he has expressed these views in terms of the socialist philosphy?--- Correct.

He is known, openly known, as the bitter oponent of apartheid?--- That is correct.

And in the days before the Communist Party was declared an unlawful organization, he was an open exponent of the principles and its philosophy?--- Yes, to my knowledge.

And was widely known as a member?--- Correct.

He never concealed his membership?--- Correct.

And with all that he was still a widely respected individual?--- Yes.

A personal character, he was a kindly man?--- Yes.

Generous to the extreme?--- Very much so.

With time for all men?--- Correct.

And all men took advantage of that, didn't they? --- I think they did.

Anybody who wanted his advice, who wanted his assistance could call and see him and get it?--- That is correct.

From a intellectual point of view, he was a man well versed in political science?--- Yes.

He was abreast of world affairs? --- Correct.

You have known him intimately?-- Yes, I have.

And I mean on the socialist aspect he always did form 'views'?--- Correct.

For instance on matters of burning interest to...?--- Correct.

..... . sino soviet disputes he abused?--- Yes, I had personally discussions with him on that matter.

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who would want to know about charitable institutions that were available to help the dependants of detainee's,would come to him, wouldn't they?--- Yes.

Some of the victims would want to know about themselves and the education of their children?-- Yes, possibly.

They would go to Braam Fischer ?--- Yes, I know. I concede all that.

You know it is not concession...?--- No, I know it from my own personal knowledge. I put it wrong.

A person who would automatically be sought out on the question of funds for legal defence?--- Yes.

Both as to its expenditure and as to people that were anxious to contribute?--- Correct.

A matter that he would be interested in?--- Yes.

And where possible his assistance would be enlisted?--- Yes, correct.

Hewas a well-known hazard individual, and well-known to the individuals of your party?--- That is correct.

I put to you before he was respected by all sections of the people and revered by some?--- Yes!

By you?--- Yes.

Revered by you?--- Still is.

Still is?-- Yes.

I am interested to hear you say that. I don't like to put this in my client's presence, but he is a man that carries something of an order of saint like quality, does he not? --- I agree.

Tell me, is it correct that when you decided to make a statement, which on the face of it now involves Mr. Fischer, who thought as you do on the problems of this country, would you believe that it was only your evidence that existed against it? --- At the stage when I made my statement, no, I didn't know then whether it was or not.

Yes, and on the sino Indian disputes?--- Correct.

And on the Kruschev Stalin fight?--- Yes.

His attitude of these things, which are matters, simply of international interest, were sought by people?--- Yes,

Including you?--- Correct.

The sought,for instance, his knowledge which was fundamental of socialism?--- Yes.

His views on the colour bar, for instance in this country? --- Correct.

He had views, so I am told,on the creation of one party estates in Africa. Its causes, reasons - talked about it?--- Yes, correct.

It is not surprizing is it, that he was invited to lecture on these topics?--- No.

Difficult as it was? --- As far as I know, yes.

And on the personal level, he was a person that was referred by people, by individuals, on problems at the Indian congres - ses, Transvaal Indian congress , S.A. Indian congress. Indians would - private individuals would come to him and discuss with him problems which arose there?--- To my knowledge that happened, yes.

And with you too?--- Correct.

On group area problems you would be consultant?--- Yes.

Youth, for instance, anxious to avoid contraventions of the law, would talk to him about how to organize to oppose the colour bar?--- Yes, I sent them to him on occasions.

Young Africans concerned in forming legal organizations, to seek education would come and talk to him, wouldn't they? --- I think that is correct, yes.

Or study groups or matters of that description?--- Correct.

He was a natural sort of person, having regard to his personal character, since the 90 day detention, people

Is police interrogation as simple as that?--- No, I don't erstand, the police ask you "Do you know this person, do know that person?" "What do you know about them?" They may to you "We know that Braam Fischer is a member of the munist Party," or some-thing to that effect.

They would tell you that?--- Yes.

It didn't stop there, did it? Anyway, I am not really ng to take you at great length. You knew that the police wanted ormation that Mr. Fischer was a member of the Communist Party? Yes, I think that is correct to say.

You knew that?--- Yes.

And when you made a statement were you prepared to mention name that was rather a famous like man you have ....?--- I did.

Why? --- Because that was the truth.

Why were you prepared to involve all your loyalty - let me it , if you stood in this dock and said that you broke down er pressure, if you said that you had a religious revival and retted everything that you have done, I could understand it. ant you to tell me why you went back on everything that makes an mention your friend as a man you revered ?--- I can only eat that at some stage I decided to make a statement. I was that time detained under 90 days. I don't know to what ex- t that influenced my conduct. I decided to make a statement. e I made a statement I had to tell the truth.

Had to tell all the truth?--- Correct.

And why, what effect do you think 90 days had on you? --- on't know. It is not an easy thing, I can tell you that. I tell the court that.

It is not an easy thing?--- No.

And what sort of effect did it have on you? --- I don't w. It is difficult for me to describe what sort of an effect. fusion is one of them possibly.

You are the only one that can describe it. The only one

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Did you believe it was only on your evidence that he would be in jeopardy?--- No.

What did you believe? --- I had no knowledge of anything. I could merely make surmises at that stage.

Well, what surmise did you make?--- Well, I surmised that there was other evidence.

Hadn't you been told it?--- Not specifically.

Not specifically?--- Not specifically.

Having a State liked man who you revered, you were prepared to put in gaol?--- I made a statement.

Were you prepared to put him in gaol? Don't talk about making statements as if there was no consequence depart from it? --- I knew the consequences.

Were you prepared to put Mr. Fischer, who you had this high opinion of, in gaol? --- When I made the statement I never even considered the question of giving evidence. I only decided to give evidence long afterwards.

When you decided to give evidence, were you prepared to put him in gaol?--- I accepted that that would be one of the consequences.

You see, I have a script of your answers to Mr. Berrange that you had had certain information from the police?--- I don't understand this question of whether I had some information.

Well, was Mr. Fischer's name mentioned to you?--- I was asked whether I know Mr. Fischer.

That's all?--- Yes, I was asked that on numerous occasions.

And were you asked what you knew about him?--- Not at that stage.

Were you?--- Yes, I was asked what I knew about him.

You were asked what you knew about him, and you were saying "I won't make a statement?" --- That's correct.

And did they tell you what it was they wanted you to know about it?--- No.

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twisting innocent actions into something sinister?--- I deny that.

You deny that. If you thought that the police have the powers that control your liberty?--- Not at all.

You are still not at liberty, are you?--- No.

You are still kept in a cell by yourself?--- Correct.

You are still issolated from the rest of humanity?--- Correct.

Even if your wife comes to see you it is under surveillance, isn't it?--- Yes.

And it is only when you are finished playing your roll that you will win your liberty, isn't it so?--- I hope so.

I am going to . .... that I can get concessions out of you, Mr. Beyleveld.

NO FURTHER QUESTIONS BY MR. HANSON.

BY MR. KUNY : No questions on behalf of Accused Nos. 8, 9 and 12.

CROSS-EXAMINED BY MR. MOHAMED: (For Accused Nos. 10 and 11)

Mr. Beyleveld, you have already said this morning that after the end of 1962, you attended no group meetings? --- That is correct.

And you were, therefore, not present in any group meeting at which either Accused No. 11 , Miss Neame, or Accused No. 10, Mr. Trewhela, were present?--- That is correct.

And, therefore, anything you might say about whether they were present at any meeting or not, is something which somebody has told you? You yourself of your own knowledge do not know? --- That's what I know from being a member of the area committee, that's all.

But of your own knowledge you do not know?--- That is correct.

Whether they ever attended any meetings, or whether they were members?--- That is correct.

in this court who can describe it?--- I have already said it is not easy. In fact, its very difficult.

..... from it?--- Yes, possibly.

You see as well as the motive that my learned friend has suggested to you, were you not also motivated by a desire to save your own skin?--- If you want to put it that way.

I don't want to put it any way?--- Well, I will accept that. I don't think it .....

You can't accept, you are wanting to say?--- Yes, I will say that then.

You will say it?--- Yes.

Is that a confession, or is it the truth?--- No, it is possibly true.

Your liberty became important to you, didn't it?--- Yes.

In fact, it became the most important thing in your life, and in your mind, your liberty, isn't it so? --- No, I don't think it is altogether so. It has an important factor, I agree.

Do you think of anything else but your liberty? Do you? --- No, I concede that.

You will concede that you thought of nothing else but your liberty. So important to you, your liberty is, you are prepared to go back on your principles of a life-time?--- That is correct.

And principles ceases to matter with you if you can win your liberty? Isn't it so?--- No, I don't agree.

What principle's have you today? What principle's have you?--- I don't know what the relevance of that is of my particular principles.

Have you any other principles than the principle of giving your liberty? Have you?--- Allright.

Allright, you have conceded. I put it to you that on your own confession your desire for liberty is so strong, that I put it to you it would extend in the case of Fischer, to

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Why do you remember that meeting so well, the place? --- It is one of the meetings that took place not long before my arrest, and when I made my statement it was something that I remembered. I remember also from the point of view that I had to do something after that particular that particular meeting, and that is something I remembered.

And are you very definite about the date when it took place?--- No, I am not definite about the date at all. I know that it was - I can't be very sure when it was held. I know it was held in the evening, but I can't be sure of the date.

And the meeting that took place at Twickenham? --- That's the last meeting that I personally attended.

Are you definite about that date?--- I am not either.

Now, you were also questioned about the meaning of the oath to you, do you remember?--- Yes, I remember.

Now I want to know in terms of Marxist Leninist theory, is there any teaching on the question of religion?--- Well, dialectical materialism. Part of the theory is atheistic. I have already said that I personally have no conscientious objection to taking an oath, I never had.

If a person accepts religion, or certain parts of religion, is he - can he be regarded as a true Marxist?--- I think so, yes. Yes, there are Marxists who are religious.

Now, when did you first hear about the detention of Accused No. 2, that is Mr. Schermbrucker? Can you remember? --- No, I can't remember, but it must have been - I think at the time when I was working on my evidence with Mr. Prosecutor.

Did you know of the existence of any other party, save the one that you have described here?--- No.

Did you know of any other central committee ?---No.

NO FURTHER QUESTIONS BY THE STATE PROSECUTOR.

BY THE COURT:

The central committee, is that then the central committee

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NO FURTHER QUESTIONS BY MR. MOHAMED.

RE-EXAMINED BY THE STATE PROSECUTOR:

After you have given this evidence in court, do you think that you will still be acceptable as a member of the party?--- I don't think so. I am sure I won't.

You were questioned about your loyalty to the party and the possible expendability of certain members?--- Yes.

Now, is there anything that you think you can gain from the point of your loyalty to the party and the continuation of that party, by giving evidence and by - against the accused?--- Not a thing.

When you were questioned by the police , did you gather from them that they knew that you were a member of the central committee initially?--- No.

Who told the police, as far as you know, that you were a member of the central committee?--- I did myself.

MR. HANSON OBJECTS. (Does not speak in the microphone)

BY THE COURT:

I will allow that question.

BY THE WITNESS:

I myself told them.

RE-EXAMINATION BY THE STATE PROSECUTOR (CONTD.):

Yes. And did you for that matter mention other central committee members, the names?--- Other members known to me, yes.

You were not concerned with anybody outside the accused in this court?--- Correct.

Do I have to lead you on that point? Now, is there any bit of your evidence which you can say was influenced improperly by the police?--- No.

Now, you were questioned about a meeting that took place in Rowallan Court?--- That is correct.

Do you remember that one?-- That is correct.

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of the Republic, our Republic?--- That is correct, it was in the nature of a national executive committee.

THE COURT ADJOURNS.

THE COURT RESUMES - APPEARANCES AS BEFORE, EXCEPT THAT MR. THERON IS NOW APPEARING ON BEHALF OF THE STATE AND MR. FOURIE IS ACTING AS INTERPRETER.

PETER SEKO SIMELANI, Sworn, states:

EXAMINED BY THE STATE PROSECUTOR:

Do you know Accused No. 6, Mr. Baker, in this case? --- I do.

How do you know him? --- I know him from Benoni.

Are you interested in politics? --- I used to like politics.

Since when? --- Since 1940.

And did you become a member of any party since 1940? --- I became a member of the African Mine Worker's Union.

When?--- In 1940.

And of any other party? --- I joined the Communist Party in 1944.

Where did you stay at that time? --- I was living in Paynville, Springs at the time.

And till when did you stay a member of the Communist Party? --- Up to 1950.

And were you a member of what branch of the Communist Party? --- Paynville Location branch.

And of what district was that a branch?--- Springs district.

Now, do you know who the Chairman of the Springs district was at that time? --- Magoathlani was the chairman at the time.

And the secretary? --- Rapolile was the secretary.

During this period of 1944 to 1950, did [illegible] at any stage? --- On many occasions.

Are you sure of the year now, 1961 or could it be later, 1962 or earlier, 1960? What I am trying to find out is how sure are you about the exact year? --- I am not very certain about the year, but I remember that I went and saw - I saw a son of mine who was still at school then, and he left school in 1961.

Yes?--- And that's why I say it must be in 1961.

In connection with what did you see Mr. Baker? --- My son had a case against him and I wanted Mr. Baker to conduct his case.

Yes, and then did you have any further political dealings with Mr. Baker? --- Yes. This was then the first time that I had heard about politics.

Yes. Tell us exactly what happened? --- I went to Mr. Baker in connection with my son's case.

Yes? --- I then read certain articles in the paper about communism.

Yes? --- So I then asked Mr. Baker what the real problem was of communism, because whenever I read a paper or I listen to the radio , there is some talk about communism.

Yes? --- I had been banned - named, I beg your pardon, as a communist prior to this, and this worried me when I read about communism in the paper, and that's the reason why I wanted Mr. Baker to explain the matter to me.

Yes?-- And he greed to explain things to me.

Yes? --- I was then satisfied even if it took days to get the correct information about communism.

Yes? --- I then got a lecture from Mr. Baker about communism.

Where and how was it arranged?--- In his office.

When? --- At Benoni.

Yes, but what time of the day more or less? --- In the evening after office hours.

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Where?--- In his office.

Yes? - - I always met him in the office.

Did you attend any conferences of the Communist Party? --- I did.

What conference did you attend? --- The Communist Party had an office in Springs, Payiville - Benoni, not Springs.

Yes? --- And the conference was held at Benoni.

Who was the secretary of these conferences you attended? --- Mr. Baker was the secretary.

Was that Communist Party conferences? --- Yes.

How many of them did you attend? --- About ten. I attended many conferences, but I think I attended about ten.

What kind of conferences were these? --- The discussions took place as to the functions of the Communist Party.

But was that a conference of only the district or was it a conference of the whole Communist Party as a whole? --- Only the districts.

District conference. Yes, and then what happened in 1950? --- In 1950 they were dissolved.

The Communist Party was dissolved? --- The Communist Party dissolved.

Did you become a member of any other organization then? --- Yes, I became a member of the African National Congress.

Until when did you remain a member of the African National Congress? --- Up to 1959.

What ended your membership in the African National Congress? --- There was some dissatisfaction about matters in our branch.

After 1959, when did you see Mr. Baker again? That is Accused No. 6? --- If I remember correctly, I went and saw Mr. Baker in 1961.

Near the end or beginning of 1961? --- It was the beginning of 1961.

BY MR. HANSON:

I have been asked by some members of the public to bring something to the notice of the court, which I think does concern Your Worship's conduct of your court. It appears that some members of the public this morning, including one whom I am told is a relative of one of the accused, were approached by the police and asked for their names and addresses . It seems to me that such action taken in a public court can be calculated to be .... members of the public the idea that they fall into disfavour if they attended the court. I have in mind a ruling that was once given by His Lordship, the late Mr. Justice Ramsbottom that the police should not be responsible for any conduct that will dissuade public of their right of free access to the courts, and I am hoping that Your Worship will feel the same way about it.

BY THE COURT:

If any member of the public should feel that they are being in any way victimised by attending this court, I would be glad if they would get in touch with the State Prosecutor. That is if they have any grievance in this connection.

DEUR DIE HOF:

As daar enige lede van die publiek is wat enige grief het in verband met enige ondervraging deur die polisie of enige klagtes, sal ek bly wees as hulle in aanraking met die Staatsaanklaer sal kom as hulle werklik 'n grief het in daardie verband.

BY THE COURT:

I take it that you are referring to Europeans or Non-Europeans?

BY MR. HANSON:

These were Europeans.

PETER SEKO SIMELANE (Still under his former oath):

EXAMINATION BY THE STATE PROSECUTOR (CONTD.):

Now how long after you have started to attend these

Yes? --- I then went to the office for the purpose of receiving or getting lectures after office hours.

On a number of occasions? --- During a period. It wasn't a long period.

Yes, and then? Who was present when you got these lectures? --- I was alone.

With Mr. Baker? --- Only the two of us, yes.

Yes, and then later? --- I then thought of Mr. Mabuso.

Was he a friend of yours? --- He was a friend of mine. I used to meet Mabuso on and off, and we would talk to each other.

About politics? --- Yes, about the matters I had read in the papers.

Yes, you thought about him, and then what did you do about it? --- And he also wanted to know more about communism.

Yes?--- And I told him some things about communism.

Yes? --- Amongst other things I told him that he could receive lectures.

You can't tell this court what you told Mr. Mabuso or what he told you. What did you do about it, after you found that he was also interested in politics? --- I then took him along, and I introduced him to Mr. Baker in his office.

Yes? --- He was then accepted by Mr. Baker.

Accepted by Mr. Baker as what or to do what? --- He accepted him to be lectured.

Did he thereafter attend these study classes with you, or lecturing classes?--- Yes, Mabuso and I attended the classes.

During the time that you attended the classes, did anybody else attend them, save Mabuso?--- Nobody else attended.

THE COURT ADJOURNS.

THE COURT RESUMES - APPEARANCES AS BEFORE.

classes did Mabuso join you? --- It was not a long time after I went for lectures.

For how long did it continue?--- I think about three months.

And how did it stop? What prevented you from going there? --- I stopped attending these lectures because I realized that it would take me too long to know enough about it.

Now, what was said at these study classes? Can you give the court some indication of what transpired at these classes? --- Amongst other things there was a discussion about the revolution changing, things changed from time to time.

Yes, anything else? --- I was also told that some time ago in the olden days, there was - communism existed and it was called primative communism. That was in the olden days.

Yes? --- Then after the old communism, then the slavery communism commenced. Then there came the feudal system and then came the capatilist and the final was the communist ..... Communist system?--- We were told how these different communism existed.

How these different what? --- Different - the systems of the different kinds of communism existed.

Were you told that every system or every stage was to communism? --- First came the primative communism and then the slavery communism.

No, Mr. Interpreter, that is not correct, he said slavery system?

BY THE INTERPRETER:

I beg your pardon, slavery system.

BY THE COURT:

What came first?--- Primative communism.

EXAMINATION BY THE STATE PROSECUTOR (CONTD.):

Yes, secondly?--- Slavery system. And the feudal

system.

Yes?--- Capitalist system, and the communist system.

Now, did you deal with all these systemsor stages: at these classes? --- The discussions were completed as far as the primative communism was concerned and when we started on the second stage, the slavery system, I stopped.

And did you understand everything that was said at these meetings, did you fully understand what this means? --- Yes, I could understand. At the time he was talking and explaining to me I understood.

Now, what was Mr. Baker's point of view, did he tell you what his point of view was about the different - or his political outlook was? --- He was inclined to be on the Communist side.

Were these classes held quite openly, did you speak to your friends or to the other people in the location? --- No.

Why not? --- I was told by Mr. Baker that I shouldn't discuss this with anybody else outside.

Do you know whether Mabuso also stopped at the same time as you did? --- I cannot say, because I then moved. I went and livedin Kwa Tema Location. I did, however, see Mabuso again after that, and he made a report to me. Mabusa asked me something.

NO FURTHER QUESTIONS BY THE STATE PROSECUTOR.

BY MR. HANSON : No questions.

MR. BERRANGE ADDRESSES THE COURT AND INTIMATES TO THE COURT THAT HE WILL HAVE TO GET INSTRUCTIONS FROM HIS CLIENT BEFORE HE CAN COMMENCE WITH HIS CROSS-EXAMINATION.

A DISCUSSION BETWEEN THE COURT AND MR. BERRANGE FOLLOWS REGARDING THE ABOVE MATTER.

THE STATE PROSECUTOR DOES NOT OBJECT TO THE CROSS-EXAMINATION OF THIS WITNESS STANDING OVER UNTIL TOMORROW, AND STRESSES THAT IT IS ONLY IN REGARD TO THIS WITNESS THAT THE STATE WILL TAKE

One I know if you are a member of an established communist family and your parents are active in the Communist Party, it more or less follows on that if you are interested in the same way, that you will become a communist too. Or if you are a communist in a country outside South Africa, active in the communist party, and you come to South Africa, and you desire to be attached to the local party, I think that is possible. And the third method is of a lengthy period of going through political education in other organizations before eventually becoming to the Communist Party. It is a pretty lengthy and involved process.

Why do you say lengthy and involved? --- It took me several years to complete.

Why? --- Because the Communist Party is not a ligitimate body. It was banned in 1950. I knew of no offices where to go to and ask if I could join. Also I later learned that once I had joined the party that if you go up to a communist office bearer, he will deny it to a stranger that he has anything to do with the party.

So how did you then manage to join a party?--- I joined organizations which I then suspected were operating to be used either as fronts, or set up as fronts by the Communist Party with the specific purpose of eventually joining the Communist Party.

Now, what were your duties as a member of the S.A. Police Force?--- I was instructed to investigate and if I could possibly infiltrate listed movements, which I suspected to be operating with assertion with the underground Communist Party, and report on them.

By the way, did you succeed there?--- Yes.

How did you operate?--- I operated in complete secrecy. I never wore uniforms. I don't think anyone ever knew that I was a policeman besides the handful of Security Police Officers. I never told anyone that I was a policeman.

And, from your own knowledge, did you ever gather that

THIS ATTITUDE.

A FURTHER DISCUSSION BETWEEN MR. BERRANGE AND THE COURT FOLLOWS REGARDING THE ABOVE MATTER.

THE STATE PROSECUTOR FURTHER ADDRESSES THE COURT REGARDING ARRANGEMENTS THAT WILL BE MADE TO ENABLE MR. BERRANGE TO CONSULT WITH HIS CLIENT IN THE MORNING.

THE WITNESS STANDS DOWN.

AT THIS STAGE MR. MAREE APPEARS ON BEHALF OF THE STATE.

GERALD GUNTHER LUDI, Sworn, states:

EXAMINED BY THE STATE PROSECUTOR:

Mr. Ludi, first of all, what is your occupation? --- I am a Detective Warrant-Officer in the S.A. Police attached to the Security Branch, Pretoria, on secretory duty.

Do you think you know anything about communism and in particular I am referring to your qualifications?--- I think I have a clear idea of it. I am a graduate of the University of the Witwatersrand in political science. I also took associated political subjects, Native Administration, Public Administration and Local Government. I also attended a number of Marxist Leninist study classes, and I attended a large number of political discussion groups,whereby I was instructed in the theory of communism.

Is that all? I think we can go on with the next question. Were you ever a member of the Communist Party? --- Yes.

In particular the S.A. Communist Party?--- Yes.

Did you join the Communist Party?--- Yes, on the 12th of May, 1963.

Could you explain to the court how does one become a member of the Communist Party, and in particular, how did you become a member of the Communist Party? --- I know of several methods of joining the underground S.A. Communist Party.

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you were suspected of being a policeman? --- From my own knowledge I doubt it.

For instance, have you ever given evidence in any court? --- No.

How were you referred to amongst police circles, let's put it that way?--- I was instructed not to use my name, I used the reference Secret Agent Q018.

Now, did you submit any reports on your progress?--- Yes, I submitted reports to the police regularly on everything that I did. Every meeting I attended, and every stage of the infiltration.

Do you know what these reports were meant for?--- These reports were, as I assumed, meant only for intelligence purposes. I never suspected that they would ever be used in a court case. I compiled them entirely according to my own methods. I used my own typewriter, and compiled them a few days or a day, or if possible, the same day after the events, while the events were still fresh in my memory.

Before we get to that, were you instructed how to compile these reports?--- No.

And you say you did compile reports when ? --- I compiled them as soon as I possibly could, as it was safe for me to do so after the event I was reporting on actually took place.

And did you, in fact, compile these reports as soon after these events as possible? --- I did this, in fact. I think the latest I ever compiled a report was about two or three days after the actual events took place. There are exceptions to this, this is when I left South Africa, and especially when I was behind Iron Curtain countries and it was not safe for me to do anything like that.while I was there.

When you were behind the Iron Curtain you say you didn't compile reports?--- I didn't compile them exactly while the events were taking place, but I compiled a lengthy report when

I returned to South Africa.

Is that the only occasion?--- And when I went to Swaziland.

What did you then do in those two instances? --- I - do you mean when I went to Swaziland and....?

No, about reports? --- About the reports?

Yes?--- I compiled them when I returned to S.A. The moment I returned I started compiling them.

So you told us that you compiled these reports when the events were still fresh in your memory, is that correct?--- That is correct.

Now, can you at all give evidence without referring to these reports? --- I doubt very much so. A lot of things happened in these years. I think the reports cover something like four years. I think that I compiled something between 500 and 600 reports, and it is a lot of material. I doubt whether I could give evidence without refreshing my memory from the reports.

So you told us that you infiltrated. Can you now tell us how did you start your infiltration? --- The first stage or my infiltration was to attend a large number of multi-racial parties in Johannesburg.

Was that to eventually become a member of the Communist Party of this country?--- This was the intention of eventually becoming.a member of the Communist Party.

You said that you attended multi-racial parties?--- Yes. //

Yes, proceed? --- These were held at - usually in the houses of people in the northern suburbs of Johannesburg. I attended parties at the houses of people such as Benjamin Turak, Eli Weinberg (I think that is Accused No. 2).

You mention the names and I will then refer to their numbers. No, Mr. Weinberg is Accused No. 3. If I may explain Mr. Braam Fischer is Accused No. 1. He is sitting next to the dock, do you see?--- Yes.

Party, and possibly the Spear of the Nation, Umkonto We Sizwe.

I want to take you ahead a bit, did you - or after you joined the Communist Party, how were you instructed to refer to this party?---When I joined the Communist Party we were instructed never to refer to the Communist Party when discussing Communist Party affairs as "The Communist Party," but to refer to it by a code name, "The Family", which was later changed to "The Office." We also sometimes referred to the Communist Party when discussing Communist Party affairs in Communist Party meetings as "The Movement." And then we expressly meant the Communist Party of S.A., and nothing else.

And to the senior officials of the Communist Party? --- We referred to them as "The leaders of the movement, " or "The Higher ups."

The Leaders or Higher-ups? --- We never referred to them by names because we weren't supposed to know who they were.

So after you joined the Communist Party, were you then told, or did you find out what the usual procedure was or the usual procedure adopted by the Communist Party was, to recruit new members? --- The procedure I was told, was mostly the same as it had been in my case, a lengthy process of gradually sort of, I can almost say preparing a person for eventual membership.

Would you refer to this as the first stage of your infiltration? --- Yes.

Anything else that you would like to add, or not?--- No.

And the second stage then?--- The second stage I became friendly with two members of the African National Congress. They were senior people in this organization, Joe Nqgabi and Robert Resha.

Yes? --- With these two people I attended again a large number of multi-racial parties, and this time I met numerous people who openly admitted that they belonged to the various congress organizations, which I mentioned previously. The

And then we start with 2,3,4,5,6,7, 8 - is Miss Nicholson. 9,10,11,12,13 and 14 is Mr. Hymie Barsel?--- Yes.

And then, you said that you attended these multi-racial parties, and you started off with Mr. Eli Weinberg, I think, Accused No. 3?--- Yes. I also attended, I think, two or three parties at the house of Accused No. 1, Mr. Abraham Fischer. And at people such as the Slovo's, and Benjamins. I think I also attended a party at the house of Accused - Mr. Hymie Barsel.

That is Accused No. 14? --- And sometimes I didn't know at whose house the parties were.

Now, did these multi-racial parties introduce you to anything?--- Yes, they gradually introduced me to a crowd of people, which I think it is a bit difficult to explain, that there were a large crowd of people who moved more or less in a social circle, it was a close-knit circle. They referred to each other as "The Movement", or sometimes as"The Left," or sometimes as "The Progressors," and this is distinct from the Progressive Party in South Africa.

This is distinct from the Progressive Party in S.A., yes, anything else about this movement? --- I understood at that time that the movement meant The African National Congress, people who belonged to the African National Congress, the Congress of Democrats.

Just before we go on. How is the African National Congress generally referred to?--- The A.N.C.

And then the next one? --- The Congress of Democrats.

Congress of Democrats referred to as? -- . .COD.

COD or C.O.D.?--- That's correct.

COD and then?--- Then the Transvaal Indian Youth Congress, or....

Transvaal Indian Youth Congress referred to as? --T.I.Y.C.

Yes?--- Or the S.A. Congress of Trade Unions, referred to sometimes as SACTU, and of course, the underground Communist

At?--- Multi-racial parties.

4, Esther Barsel?--- No, I never saw her.

5, Norman Levy? --- I saw him once or twice.

At, where?---- Once at COD Offices, I think, in Fox Street, and also at parties.

6, Lewis Baker? --- I never saw him.

7, Jean Strachan?--- I saw her at COD Offices and at parties.

8, Anne Nicholson?--- I saw her at parties and at the Congress of Democrat's offices.

9, Dr. Costa Gazides, or Constantinas Gazides? --- I saw him again at both parties and the Congress of Democrats offices.

10, Paul Henry Trewhela? --- At that stage I never saw him.

11, Sylvia Neame?--- No, I didn't see her either.

12, Florence Duncan or Flo Duncan?--- Yes, I saw her at the Congress of Democrats Offices, and at parties.

Of course, when you say parties, I take it that you mean multi-racial parties, or not?--- Yes, that's correct.

13, Mollie Doyle? --- Yes, I saw her at the offices and at multi-racial parties.

When you first met her was she Mollie Doyle then?--- No, she was called Mollie Anderson.

And 14, Hymie Barsel? --- I am not too sure, I don't think I saw him.

What was the trend of the discussions ?--- Are these at the Congress of Democrats Offices?

Yes, did you attend any meetings there?--- Yes. They regularly held lunch-hour meetings where political matters were discussed. I also went to several meetings in private houses. I remember one specific one in the flat of a person called Kay Draper, and another one in the house of a person called Eve Hall.

What was the trend of these discussions? --- General matters were discussed and the general congress alliance political

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A.N.C., COD ,T.I.Y.C., SACTU and The Coloured People's Congress, and they also openly expressed their soviet sympathies, and I knew then that I was on the right track to the Communist Party.

By the way, did you ever express your political feelings, or beliefs?--- Well, at that stage I frequently expressed political views and feelings,which were not my own, but I expressed the views that I believed that the S.A. Government whether United Party or Nationalist was fascist and oppressive in character and that it should be overthrown by a revolution or some other means, whereby a people's type of Government could be established. I also said that I believed in the terms "Freedom and Democracy" as defined in countries such as Cuba, Soviet Russia or Ghana as my ideal form of Government. I think that is all.

Did you have anything to do with the C.O.D. during this period of infiltration? --- At first I socially met a number of members of the Congress of Democrats at these parties, and eventually through my association with Joe Nqgabi and Robert Resha I moved closer and closer to these people, and I eventually joined the Congress of Democrats on the 4th of December, 1963.

Were any of the accused members of the Congress of Democrats when you joined?--- Yes, I saw several of them in the offices. They include Jean Middelton, Norman Levy, Molly Doyle, Florence Duncan and Dr. C. Gazides and Anne Nicholson.

So shall we then start with No. 1, Mr. Fischer? --- No, I never saw him.

No.2, Schermbrucker? --- I saw him at New Age offices and I recognized him too as a member of the movement, but I never saw him in the Congress of Democrats.

Of the movements?--- Yes.

And 3, Eli Weinberg? --- I saw him once or twice.

Where or in what connection?--- I am not too sure, but I think I saw him at the Congress of Democrats offices, but I saw him frequently at parties.

outlook, how to gain power in the country through strikes, civil commotions, a general civil disobedience. There were arguments as to between passive resistence and violence, and also specific issues such as the press, particular aspects of the congress history, etc.

What were you doing at the time? --- I was also a student at the University of the Witwatersrand.

Were you elected on any committees at the University? --- Yes, I served on the committee of the Human Rights Society at the University. This had been as the result of my activities in the Congress of Democrats. I was elected onto the regional Council of - the regional committee of the Congress of Democrats. I think it was in February, 1963, and there I was given the task of handling (?). affairs, infiltrating into the affairs of the University. In connection with this, the person, Eve Hall, who was then the general secretary of the Congress of Democrat's offices in Johannesburg, arranged with a certain student at the University called Derick Bostock. He was sympathetic .....

MR. BERRANGE INTERVENS:

I don't want to interrupt my learned friend, but is this admissibile as to arrangements which people made who are not members of the accused's body, Eve Hall arrangingwith Mr. Bostock that something should be done at the University. I hessitate to interrupt my learned friend, but I think that ..... It is my submission that any arrangement should be instructions from one to another. Persons who are not part of the accused's body and who were not alleged to have been present can't deny the .....

BY THE STATE PROSECUTOR:

I will leave it at that.

EXAMINATION BY THE STATE PROSECUTOR (CONTD.):

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So, I want to refer you now to one of your reports. It is marked in my handwriting "A.17 A". Could you tell us what this report is about? First of all,when did you compile that report?

MR. HANSON OBJECTS TO THE REPORT:

..... on the evidence already given that this is a question of refreshing memory, I am not taking that point, but I would like to know what it is about before it is referred to in evidence. It may not be admissible in itself.

BY THE STATE PROSECUTOR:

Of course, that report is in connection with a meeting of the Congress of Democrats and I think I will lay the basis first before replying.

EXAMINATION BY THE STATE PROSECUTOR (CONTD.):

When did you compile that report? --- I compiled it on the 13th of April, 1962.

Now can you give evidence as to what transpired at this particular meeting without refreshing your memory? --- No.

Did you compile that report immediately after this meeting when these events were still fresh in your memory, or not? --- I did.

And on that basis, Your Worship, I submit with respect that the witness will be entitled to refer to that report in giving evidence.

BY MR. HANSON:

The indictment in this case covers the period from the 12th of May, 1963 to the 2nd of July, 1964. I fail to see, unless some ground is established, what a meeting of a different body called the Congress of Democrats has got to do with this case, and on what grounds the evidence is admissible, and all I am asking is that if that report is to be referred to and to be handed in , to get a sight of it in order to determine whether I object to it, or not. As far as I can see no ground has been

ABOUT TO BE REFERRED TO BY THE WITNESS AND OBJECTS TO SAME:

As I understand the matter it is a little difficult to come to any arrangement with the State Prosecutor about the bundle of documents they have. The only one I have at the present time is the document presently handed to the witness. I want to say I have no obj ction to Your Worship reading this document. It is the document from which the witness is to refresh his memory in order to give evidence. He is going to give evidence, as you will see when Your Worship gets a sight of this document, of a meeting of the C.O.D. action cell held on the 13th of April, 1962, at which certain persons were present, and certain aims of this organization are set out. It concerns a meeting of an organization the name of which is not even mentioned in the indictment before Your Worship. It is an organization for which - I only speak on behalf of my client, my client is not in any way alleged to be responsible. It covers the period outside the indictment, and I know of no ground in which meetings of another body unrelated to the present charge before Your Worship can possibly be evidence in this case, and I object to it. I have no objection to Your Worship seeing this. Your Worship will see and on the type of evidence that's forthcoming, Your Worship would appreciate that my objection is really - its of the evidence that is to be given not to the document as such.

MR. BERRANGE ADDRESSES THE COURT (Incoherent.)

BY THE STATE PROSECUTOR:

Again then the objection taken is one of relevancy, and I think it is now time that I, if I may, refer the court to the relevant section, that is Section 240 of the Criminal and Procedure Act. It reads:

"Inadmissibility or irrelevant evidence: No
"evidence as to any fact, matter or thing shall
"be admissible which is irrelevant or immaterial,

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laid to show that it is admissible against any of the accused in relation to this indictment.

BY THE COURT:

Have you any objection to the defence seeing that document before it is read out?

BY THE STATE PROSECUTOR:

No, Your Worship, they can see it.

MR. BERRANGE ADDRESSES THE COURT REGARDING THE REPORT AND REQUESTS THAT COPIES OF THE REPORTS SHOULD BE HANDED TO THEM IN ORDER TO SAVE TIME.

THE STATE PROSECUTOR ADDRESSES THE COURT AND INFORMS THE COURT THAT THERE ARE NOT COPIES AVAILABLE OF THE REPORTS, BUT THE ORIGINAL REPORTS ARE AVAILABLE FOR THE DEFENCE TO SEE THEM. A FURTHER DISCUSSION BETWEEN THE COURT AND THE STATE PROSECUTOR FOLLOWS REGARDING A SHORT ADJOURNMENT.

BY THE STATE PROSECUTOR:

My attention was just drawn to the following that, of course, it is trite law that when I deal with these reports and ask the witness to refresh his memory, or the witness asks to refresh his memory from these reports, they do not go in as exhibits, they only go in if they are referred to under cross-examination, and that is also one of the reasons why, of course, we did not make copies of these reports.

BY MR. HANSON:

... is quite wrong. If the witness refers to a document, I can call for it and it can go in, whether my learned friend refers to it, or doesn't refer to it.

MR. BERRANGE ADDRESSES THE COURT AND INTIMATES THAT HE MIGHT BE ABLE TO HAVE COPIES OF THE REPORTS MADE TO ENABLE THE DEFENCE TEAM TO STUDY SAME.

THE COURT ADJOURNS.

THE COURT RESUMES - APPEARANCES AS BEFORE.

MR. HANSON ADDRESSES THE COURT REGARDING THE DOCUMENT

"(f) Facts which are excluded because they are not the "best , that is hearsay or secondary evidence of the "facts in issue." (Also not applicable.)

"The only one which can probably be applicable is (a) "Similar but unconnected facts, and it is, of course, the "submission of the State that these are not unconnected "facts. In this regard I would also like to refer to "Phibson on evidence, it is the tenth edition. It is "page 131:

"Facts relevant to prove the main facts: Facts which as "a matter of ordinary logic or experience tend to render "the existence of the main facts, probable or improbable, "e.g. those which are only or chiefly consistent with its "existence and in rebuttal. Those which are inconsistent, "or show to it to have been impossible, are relevant and "in general admissible. Such facts may themselves be proved "either by direct testimony or by circumstantial evidence - "that is by other relevant facts. On the other hand, facts "which though not wholly irrelevant, tend merely to create "prejudice, confusion of issue or waste of time, may, and "generally will be, rejected."

The contention of the State, with respect is, that the main fact which it intends to prove is as this witness, Mr. Ludi, testified, that he joined the Communist Party. He also told us how he infiltrated, and he told us that he later learnt, after becoming a member of the Communist Party, that to join the Communist Party, you must infiltrate, and thus you are accepted by the Communist Party.

On another ground which I would like to address the court is that this evidence is relevant to give background, and events that lead out to his being accepted as a member of the Communist Party, and as part of the training which he had to undergo to be accepted as such. On that ground alone I also refer the Court to

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"and cannot conduce to prove or disprove any point or "fact and issue in any case which is being tried, and then the learned authors go on in Lansdowne, page 446. "This is what they have to say about relevancy and ad- "missibility:

"Relevancy is a term used to denote the position when "one fact is so associated with another to render "the question of the existence of the latter probable "or improbable. The infinite variety of the connections "between facts renders it possible precisely to define "the limits of relevancy. These facts and those only, "which have a rational probative value are relevant, "but the area of relevancy thus determined is further "circumscribed by the operation of certain exclutionary "rules. In the law of evidence the fact which is relevant "is in consequence of its relevancy admissible unless "its admissibility is destroyed by the operation of one "or other of these exclutionary rules." And then on "page 447 these rules are set out:

"Facts which though logically relevant to a judicial "issue are inadmissible by reason of the operation of "some exclusionary rules of the law of evidence may, "in general be classed under the following heads:

"(a) Similar but unconnected facts. (b) The act that "the accused is a person of bad character. (Which of "course is not applicable my submission is.)

"(c) The fact that the accused has in circumstances of "duress or absence of freedom or will, made a self- "condemnatory statement. (I also submit it is not appli- "cable).

(d) Facts which, on ground of public policy are accorded "to the privilege of non-disclasure.(not applicable)

(e) The fact that a certain person holds an opinion of "belief in respect of the matter in issue. (Also not applicable.)

Mr. Beyleveld's evidence where he explained that you had to attend study clases first of all,and that members are recruited from other organizations. Now the evidence that we intended leading on this point when the objection was taken is, that this witness attended a meeting of the Congress of Democrats, so that is - that is coinciding with the evidence of Mr. Beyleveld, that that is where the new members are recruited, and also the study classes. On this point I refer the Court to REX VERSUS N'THAULING AND ANOTHER, 1943 A.D. page 649. (I quote from page 652.) - The charge here was, of course, murder. I would first like to quote from page 650. That is that it is admissible in view of the background that it gives to the Court:

"Mr. F.P. van Gas, K.C., Attorney-General, O.F.S. for
"the Crown advanced the following argument, and I don't
"quote this as an authority, but merely to - as by way of
"introduction:
"The evidence objected to in the first question was relevant
"to give background, and the events that led up to the at-
"tack on the deceased, to prove accused's intent and to
"negative any defence of self-defence on the basis of the
"principles laid down in the following authorities."
(And numerous authorities are then quoted.) On page 652 the learned judge, Mr. Greenberg, J.A. said the following:

"The position, therefore is as follows: The accused
"through their counsel in the first instance put evidence
"before the Court that there had been an attack on Izak,
"but that this took place not less than an hour before
"the fatal assault on the deceased. As against this there
"was the evidence in the dying declaration that there had
"been an affray in the course of which the first accused
"stabbed Izak and the second accused stabbed the deceased,
"the latter stabbing arising out of the former,

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"in these circumstances it does not appear to me that "it can be said that the evidence to which objection is "taken was irrelevant. It had the effect of calling into "question the evidence that the stabbing of Izak and of "the deceased were part of the same incident which was "probably before the Court. In fact, this evidence "was never referred to in the summing up, and I have "some doubt whether it made any impression on the jury, "etc., but as it was relevant it is not open to objec- "tion and the first question reserved must be answered "in favour of the Crown. "

Your Worship, I repeat this particular portion here, "It had the effect of calling into question the evidence that the stabbing of Izak and of the deceased were part of the same incident which was properly before the Court," and I maintain,with respect, that the attendance of this particular meeting referred to on report 17A., is part and parcel of this witness' infiltration and his 'modus operandi' as he was engaged in his activities.

The third point which I wish to make is that the evidence of this witness refers to acts prior to the first date mentioned in the charge. That is, of course, the objection made by Mr. Hanson, are so closely mixed up with the history of the guilt of the guilty act itself, that it forms part of one chain of relevant circumstances. In that connection I refer the court to REX VERSUS MORRISON AND AURET, 1930, T.P.D. page 419. I refer the Court to page 425. It is a judgment given by Greenberg, J. - page 425.

"Now, in the present case I propose first to deal with "the passage in Paul's evidence, where he refers to the "usual arrangement between the parties and the usual course "of leading. In connection ith this evidence a statement "from the case of REX VERSUS BOND, 1906 is relevant. In "the course of his decision in that case, Kennedy, J, said "at page 400:

"The general rule which I think is the rule with regard

"to allowing inadmissible evidence, cannot be applied "where the facts which constitute distinct offences are "at the same time part of the transaction which is the "subject of the indictment. Evidence is necessarily "admissible as to acts which are so closely and inex- "tricably mixed up with the history of the guilty act "itself as to form part of one chain of relevant cir- "cumstances and so could not be excluded in the present- "ment of the case before the jury without the evidence "being thereby rendered unintelligible. It appears to "me that this passage applies to the piece of evidence "to which I have just referred. It is clear that on "the Thursday night the parties did not enunciate ex- "pressly the terms of the agreement. Part of the terms "were implied and they were implied because of previous "transactions between the parties. They did not provide, "for instance, for a place of delivery, which is a very "material portion of the agreement. The only way in which "to make the express agreement intelligible to the Court "is to put the whole circumstances before the Court and "to explain the previous transactions out of which the "implied terms arize, and this appears to me to be all that "was done in admitting this piece of evidence."

Again, Your Worship, it is the previous transaction referred to. In this case, the previous meetings and infiltration referred to. The reference is REX VERSUS MORRISON, 1930 T.P.D. , page 426.

Then further, it is the submission of the State that when a charge is one of taking part in the activities of an unlawful organization or anticedents and subsequent acts to prove a common purpose and the adherence of the accused to the common purpose are admissible. In that connection, I

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of course, first of all refer the Court to count 3 where the State alleges a common purpose. In this connection I refer the Court to REX VERSUS MILLER AND ANOTHER, 1939 A.D., page 106. I first quote from page 115:

"An examination of text books shows that there is a well "recognized rule that the acts and declarations of one "conspirator are admissible in evidence against another "provided that they are acts performed and declarations "made in furtherance of the common purpose. Then on "page 117 the following judgment given by Watermeyer, J.A.: "It is interesting to note that in REX VERSUS FROST (at "page 243) it was argued that evidence of the acts and "declarations of one conspirator was not admissible against "another until it was proved that such acts had been "authorised or ratified by the accused, placing the ob- "jection on grounds similar to these advanced by "counsel in this case. But the Court rejects that argu- "ment. Tindal, C.J. said "It appears to me that this "evidence upon the principle which has been established "in other cases and by various decisions is admissible. "What the value or effect of it may be a matter of ob- "servation afterwards when the counsel come to make their "observations upon the whole case to the jury. It is "very true that one mode of showing conclusively that "the conspiracy has been entered into between various "persons is by showing antecedent acts, or acts which "may bring them together. But that is not the only "mode; Another mode is by showing various "acts subsequently in which they have concurred, acts "done by them; leaving it afterwards to be inferred by "the jury, from the agreement or disagreement of those

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"acts which with reference to a common design, whether "such common design existed or not."

As I said, Your Worship, we allege a common purpose here and on these grounds I submit also that the evidence of this witness is admissible. This case is also referred to in REX VERSUS MAYET, 1957 (1) S.A.L.R. page 492, it is an Appellate Division decision .....

THE MAGISTRATE INTERVENES :

Mr. Prosecutor, excuse me interrupting you, but I will have to stop you at this stage. We will never be able to get through this argument this afternoon, but I would be glad if - I would like to put my difficulty to you, and perhaps tomorrow you would assist me on the point. Is there any connection being proved between the C.O.D. and the Communist Party? Had this document related e.g. to some sports gathering or some Sunday school meeting or something like that would it have been admissible? The point I am trying to make is that I must see some connection for a start between the C.O.D and the Communist Party. I wonder if you could deal with that aspect tomorrow morning?

THE CASE IS REMANDED TO 25/11/64.

ON 25/11/64 - CASE RESUMED.

APPEARANCES AS BEFORE.

BY THE STATE PROSECUTOR:

Your Worship, yesterday I was called upon by the court to inform the court what the connection is between the Congress of Democrats and the Communist Party. First of all, this witness, that is Mr. Ludi and .....

MR. HANSON INTERVENES:

I don't think, I do apply that the witness should not be in court while the argument of admissibility of evidence is....

BY THE COURT:

I think it would perhaps be better if you remained

outside for the time being.

BY THE STATE PROSECUTOR:

So this witness, Mr. Ludi and Mr. Beyleveld both told the court that the Communist Party recruited new members from other organizations, and the State will endeavour to prove that that this Communist Party, of course, also recruited new members from the Congress of Democrats.

Secondly, Piet Beyeleveld referred to the volunteers, and also in the charge-sheet it is alleged that the Communist Party organized, that is financed and run, the volunteers. Mr. Ludi will testify that the term, volunteers, was first used at a regional conference of the Congress of Democrats. The court will eventually be asked to hold that the volunteers were, in fact, controlled, run and financed by the Congress of Democrats, and the Communist Party rather.

Then thirdly, Mr. Ludi will testify that in May, 1962, it was announced at Congress of Democrats meetings that anyone who could find his own way to Finland to attend the youth festival and to Moscow to attend the International Peace Congress, could attend as an official delegate of the Congress of Democrats. Later on, or in that connection, was it the President, or in any event, the Congress of Democrats gave him a credential to empower him to go to these congresses, and this credential will eventually be handed in as an exhibit.

And lastly, of course, it will be argued, or the State will prove that the Congress of Democrats was used as a front organization by the Communist Party. And that is how far I can take the query raized by the court yesterday afternoon. I have nothing further to add. Of course, my submission is that these reports are admissible on all the grounds that enumerated yesterday and the grounds, of course, also of this morning.

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N'THAULING. I think it is 1943 A.D., if I am not mistaken - 1943 A.D. page 649 where the charge was one of murder and before the accused actually killed the deceased he also stabbed a person by the name of IZAK.

BY THE COURT:

Three days before?

BY THE STATE PROSECUTOR:

No, that was hours before - I am not sure, it was hours before, and it was held admissible. That evidence was admissible.

BY THE COURT:

That was one continuous act or transaction?

BY THE STATE PROSECUTOR:

Yes, Sir. But if I may point out, and I want to re-iterate that yesterday I specifically did not argue cause of conduct, because I think that is a different category. This argument is solely based on the fact that it is a continuous act. Its given back-ground etc., but if Your Worship would like me to argue cause of conduct I can do so and get the authorities within minutes. Like for instance on a fraud or a forging and uttering charge where evidence is led that this accused committed similar acts prior to or before the one that he is now actually charged for, held admissible.

BY THE COURT:

Yes, well that is purely to rebut the defence of accident or mistake.

BY THE STATE PROSECUTOR:

Yes, but that is cause of conduct. I did not argue cause of conduct yesterday or today. That is cause of conduct, and I maintain with respect, that that is altogether different from the issue that we are busy dealing with today.

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BY THE COURT:

Do you think that mention of the names of any of the accused is admissible?

BY THE STATE PROSECUTOR: Yes, Your Worship.

BY THE COURT:

I will put it this way: If you are merely trying to show the system, procedure or organization ....

BY THE STATE PROSECUTOR:

That was the argument that I advanced yesterday. The system, the procedure, the background etc., but now if the names of any of these accused are mentioned, I can get the authorities, but there are numerous authorities on the point, thus, on these grounds if the names of an accused person is mentioned in connection with another matter, and even if it shows that he committed another offence, apart from the one with which he is charged, it will still in some circumstances be admissible.

BY THE COURT:

Would it be admissible in these circumstances? When it relates to a period not alleged in the charge-sheet?

BY THE STATE PROSECUTOR:

Well, Your Worship, if a person is for instance charged with murder and it is - in the evidence it comes out that he stabbed somebody else, say two or three days earlier, then that would be admissible, and I can't see any difference between - that would be then course of conduct, but I specifically did not argue course of conduct yesterday. There are numerous cases on course of conduct.

BY THE COURT:

Are you alleging that if a man is charged with culpable homicide or with stabbing somebody else, evidence can be led that three days prior to that he stabbed some other party?

BY THE STATE PROSECUTOR:

Yes, I quoted the authorities there. REX VERSUS

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If I may say this, that this question that was put to me yesterday, "What is the connection between the C.O.D. and the Communist Party?" is exactly what I am trying to avoid in this respect that if we give all this or lead all this evidence, we put the court in the picture to see how these things led up to his eventual - the witness' eventual becoming a member, and what transpired after that. We want to give the whole history of.....

BY THE COURT:

Yes, I've got no objection to you giving me the system and the procedure. That I have no objection to. The point that is worrying me is whether you can mention the names of any of the accused in the course of such evidence.

BY THE STATE PROSECUTOR:

But I maintain with respect, that even if their names are mentioned, and even if it should show that they committed other offences, then it would still be admissible. As I said N'Thauling and numerous other cases on cause of conduct, that would be admissible. I cannot take it any further.

BY THE COURT:

This particular difficulty has cropped up before and I would like to make my views as clear as possible, that if the State wishes to show by the evidence of Mr. Ludi that one or other of the present accused has propensity to commit political offences, then my view is that the documents that was shown to me , and which contains the name of one of the accused is inadmissible quite clearly. It is trite law and common practise that propensity to commit any offence is inadmissible evidence . For example, a housebreaking in 1960 or in 1961 would never be relevant on a housebreaking charge in 1962. One could not argue that the mental outlook of the housebreaker was relevant to the issue, and I

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can see no difference in principle between political offences and ordinary common law offences. If the State is relying on one continuous act which seems to possibly be the position, according to the cases quoted, then my view is that the State should from the commencement have stated that these offences were committed during the period 1961 or 1962 to the second of July, 1964. I am not really confining the State to event that occurred during the period 12th of May, 1963 to the 2nd of July, 1964. My view is that the State has as it were, confined itself to the events of that period, but my view is, however, that if the State is merely trying to show system, procedure or organization, then the documents or possibly evidence given by the witness after refreshing his memory from such document is admissible, but I feel I cannot allow the names of the present accused to be revealed in such evidence because that could tend to show a propensity of one or other of the accused - a propensity towards committing political offences.

My view is then, I have no objection that evidence be led if it is purely evidence of system, procedure and organization of the communist movement, but I do not think that any - there should be any mention of any of the present accused who may have been present at such meetings. That is then my ruling in the matter.

BY MR. HANSON:

If Your Worship pleases, I don't find your ruling clear. Your Worship has given a ruling that evidence can be led of activities of the Communist Party. Unfortuniately Your Worship didn't call on me to reply, but there are things I would have said, that I do want to say now in any event. Mr. Ludi was no proposed to give evidence of any activities of the Communist Party. He is going to give evidence of activities of the Congress of Democrats, and

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what Your Worship is concerned with on my objection,is the relevance of that evidence. The indictment of this case, and after all, that determines the scope of this of this trial, lays three charges. One is becoming or continuing to be a member of the Communist Party during the period 12th of May, 1963 to the 2nd of July, 1964. The fact to be proved, the fact that is in issue, was whether my client and any of the other accused in this case became members or continued to be members of the Communist Party. That's the fact to be proved. Now, what can be proved - what evidence can be led in connection with this? Now, the authorities are clear. You can lead evidence, direct evidence,of all the facts in issue and evidence that is relevant to the existence of that fact, and the fundamental rule of relevance is something which is logically relevant. To prove the facts, or to disprove a fact in issue. The facts Your Worship is not concerned with in this case - one of the facts in this case is not how Mr. Ludi became a member of the organization. It is not how Mr. Ludi qualified himself an infiltered into the movement. If he were an accused, that evidence could be led against him. If there is to be evidence that some of these accused persons became members of the Congress of Democrats, went to a conference, were selected and then went to a study class, those things would be relevant against that particular accused, but the proceedings of the Congress of Democrats have simply nothing to do with the facts in issue. It's nothing to do whether it took place in the period of the indictment, or before the period of the indictment. It is only evidence which is going to take the time of this court for days, and which is not relevant to the issue.

Now that is the first count. The second count on the indictment, and that is what we are concerned with, is taking part in the activities of an unlawful organization. The activities being those particularized in annexures "B" to "J".

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It is not alleged, indeed, it would be surprizing if it were, that one of the activities were taking part in the Congress of Democrats, or having anything to do with it. It is not alleged. The Crown has limited itself to those particulars, "B" to "J" in their indictment.

Similarly with the third count it is exactly the same as the second count, and I say that it is very much of a splitting, that is performing acts calculated to achieve the objects of communism being the act particularized in Annexure "B", that is attending - it is the same as the other count, that is in Annexures "B" to "J", attending the meeting, "C","D", "E", "F", organizing study classes in "C", painting slogans as in "H", printing documents set out in "J", and distributing various documents which are specified. Now those arethe facts in issue. Did Mr. Fischer take part in the activities in the Communist Party as particularized in the indictment? Not at large, because it is trite principle where an indictment is lodged, the particulars are furnished, and that's the case we have come to court to meet, not any other case.

Did Mr. Fischer attend meetings or any of the other accused, because this applies to all of them, organize study classes, paint slogans or be responsible for these things? I don't know if Your Worship needs authority, but Your Worship would find it all summarized in 'Nodoud' on evidence at page 5. Where he says that the fundamental rule is that all evidence which is logically relevant to prove or disprove a fact in issue, is admissible. Now, neither membership nor the facts set out in annexures "B" to "J" are proved by the evidence which it is intended to lead Mr. Ludi on at this feature of the case. We have heard that there are some 500 reports. If they concern activities of the Communist Party, if they concern anything relevant to any of these issues as

by inference from the folbwing facts, and then they list six facts from which they are going to draw an inference of common purpose. And the meeting of the Congress of Democrats is not one of them, or any association with the Congress of Democrats is not alleged to be any one of them. Therefore, in my submission, it is in order to cut down the ambit of this trial . The evidence which must be led must be relevant evidence,and evidence deemed to be relevant is another word that is used,that the phrase has defined, means logially connected with the facts to be proved. What has my learned friend argued here? The main fact,says my learned friend, is that Ludi joined the Communist Party and was told by the police he had to infiltrate into other organi-zations in order to build up a front, and, therefore, any fact relevant to this issue, is relevant. But that is not the issue. The issue was not whether Ludi joined the Communist Party, if he did, he can say so. That is not the fact to be proved against the accused. It is irrelevant,in so far as the guilt of the accused is concerned,whether Ludi joined the Communist Party or he didn't. The main fact is whether Fischer or the accused was a member of the Communist Party; whether they performed the acts,"B"to "J". Whether or not and how Ludi joined the Congress of Democrats or the Communist Party is completely irrelevant to this issue. It would only be relevant if Ludi were a member.

My learned friend's other ground relevant to the background, parts, training, how members were recruited, attendance at Congress of Democrats, was part of the process of his infiltration, that's not a fact in issue, and it is not a fact relevant to any fact alleged in the indictment. My learned friend quoted and referred to again this morning, this case of N.'Thauling, 1943 A.D. It was a murder trial, it was a question reserved for the Appellate Division as to the admissibility of certain evidence. This evidence was that the accused

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alleged against any of the accused, he can lead his evidence. What has the Congress of Democrats meeting got to do with this? What has the student's body that he joined at the University in order to put up a front for himself, got to do with this? What has the fact that he went to Finland, I don't know whether he went or not, as a member of the Congress of Democrats and the proceedings at the meeting in Finland, what has it got to do with the indictment in this case, that each of these accused were members of the party - of an illegal oranization here; that they took part in the activities of that unlawful organization, or they performed acts calculated to achieve the object of communism? Those specified in the indictment. In any event, the Crown's answers are quite specifically, the particulars on page 5, paragraph 5 on count 1. "The State does not rely"- they were asked questions as to what they relied on in order to prove membership - "The State does not rely on an inference from facts or documents for the purpose of proving the membership or other offences of any of the accused." The State has limited itself to that particular. The other acts which are alleged against the accused are those in annexures "B" to "J", and they are only provable by direct evidence any way. That they painted slogans, or took part in - that they attended meetings, which is the main thing, organized study classes, printed slogans, these are only provable by direct evidence. You can't prove those by inferences. And as far as common purpose is concerned, which my learned friend seems to have put some - rather confused things before. The particulars, page 6, give the only facts from which common purpose is to be proved. You will find that on page 7 of the indictment. On page 6, at the bottom of the page, this is the answer: "It is not alleged that the common purpose or conserted action rested on any agreement between the accused. The existence or common purpose of the conserted action will be sought to be proved

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committed an assault on a third person, and arising out of that assault the deceased was stabbed. So the court said this is one event, it is a contemporaneous act which accounted for the stabbing of the deceased and the stabbing of the deceased arose out of the stabbing as part of the one incident of a third person. There is no principle of law laid down there. What happened in that case is that it was held by the court that the whole thing was one incident and the evidence could be led.

Then my learned friend put forward some sort of argument, but he seems to not have relied on it this morning. Evidence of closely connected events my learned friend argued. A sort of 'res gestae' argument. He has used the word that a sort of 'res gestae' that the things closely connected can be proved, and he relied on the case of REX VERSUS MORRISON. In that case nothing to do with this. My learned friend has just quoted almost every authority on evidence and put it out of context. In that case there was a charge of fraud. The material portion of the evidence was an unlawful agreement for the sale of liquor. The terms of the actual sale of liquor that were the subject of the charge were not expressly annunciated, but were implied terms. There was evidence that previous dealings between the same people of similar agreement, and the court admitted that evidence as making the present agreement before the court intelligible. In other words, what was shown was that there was a contract by reference. The judgment of His Lordship, Mr. Justice Greenberg makes that clear, that the liquor sale that was the subject of the charge the term was that it was made on the usual arrangement and in terms of the usual course of dealing. So, of course, you could prove the usual course of dealings. If they entered into a contract in one year, the following year enters into a contract that is on the same terms and conditions as the previous contract, well, of course, you can prove the previous contract, because

you....

you are proving the terms of the latter contract, and that is all that that case decided. It didn't..... that my learned friend is relying on. My learned friend says that where a charge is taking part in an unlawful organization all antecedent acts and subsequent acts are relevant to prove a common purpose. In certain circumstances they are, but they must be within the ambit of the relevant facts. Those are the facts set out in the indictment. What has the proceedings of the Congress of Democrats to do with the question as to whether or not there was a common purpose to carry on the business of the Communist Party? without some allegation. If the allegation is that the Communist Party didn't trade under its own name, but it traded in the name of the Congress of Democrats, well, allege that fact and prove it. Prove anything that is relevant. Logically relevant to that. But we have sought particulars in this case. We sought rather full particulars. We were given answers and we rely on those answers, and in my submission this court will be taking up days of time here to hear what the Congress of Democrats decided or didn't decide. Your Worship sees it from that first document, and that is the last Your Worship will hear of it in this case, because as the present reply is I won't cross-examine on it. The Congress of Democrats is not on trial in this court, and there is no fact alleged in the indictment that makes their proceedings relevant to this case.

BY MR. BERRANGE:

I wonder if I may add just shortly one thing. On the submissions made to my learned friend, Mr. Hanson, to the effect that the State is bound by its charge and the allegation set out in the further particulars and taking Mr. Hanson's argument further in the sense that it applies also to other evidence which has already been given by this witness. I draw the court's attention to that portion of the evidence in which he described various occasions and various places at which

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where it was..... (Does not speak in the microphone.)

MR. MOHAMED DOES NOT WISH TO ADDRESS THE COURT AT THIS STAGE.

BY THE COURT:

I would - besides that I have no wish to clutter out the record with unnecessary evidence, my big difficulty is that until I have heard the evidence of this witness , and possibly the rest of the evidence in the case, it will be most difficult for me to say whether any inferences can be drawn from that evidence or not. I am only prepared at this stage to say that I am not prepared to rule that the evidence which the State is now wanting to tender, that that evidence is admissible at the present moment. Subject to what I have already said, I do not think that any of the accused can be referred to in the evidence if the period in question is a period not covered by the charge-sheet. If the evidence is purely to show me what the procedure of the Communist Party was,where the Communist Party recruited its people for study classes andsoforth, then I am quite prepared to admit it. I am not prepared then to say that the evidence tendered by the State is inadmissible, subject to none of the present accused being implicated during periods not covered by the charge-sheet.

BY MR. HANSON:

That would mean that the evidence can be led if it is relevant to the activities of the Communist Party ,and only on that ground?

BY THE COURT:

If it is, or subsequent evidence may show it to be relevant.

MR. HANSON APPLIES FOR A SHORT ADJOURNMENT.

THE COURT ADJOURNS.

THE COURT RESUMES - APPEARANCES AS BEFORE.

he is alleged to have seen numbers of the accused, and I refer in particular to Nos. 2, 3, 5, 7, 8, 9 , 12 and 13. In regard to No. 2 accused he said "I saw him at the New Age offices." In regard to No. 3"He I saw attend multi-racial parties. " In regard to No. 5 "I saw him once or twice - once at the C.O.D. offices and at parties." And in regard to No. 7, 8, 12 and 13, the evidence by the witness is that I saw him - 7, 8, 9, 12 and 13 - that I saw these people at parties and at C.O.D. Offices, and basing my arguments on the same submissions made by my learned friend, Mr. Hanson, that the Crown is bound by its indictment and by the particulars furnished therein, particularly in regard to the acts that are alleged against the accused, in my submission this falls within the same scope of argument as that that has already been advanced by my learned friend, and this evidence also in my submission, cannot be admissible. If it was, as Mr. Hanson has said, the intention on the part of the State to establish that the Communist Party and the Congress of Democrats were one and the same organization, or that the one organization acted on behalf of another organization, to use the .. . expression, as a front, then it should have been alleged in the indictment, and we should have been advised thereof and been prepared to come and meet such an allegation.

BY MR. KUNY:

Your Worship, I have nothing further to add, except that the C.O.D. was never an unlawful organization. It remained throughout its lifetime as a lawful organization there is no evidence.....

BY THE COURT:

Would you mind repeating what you said that the C.O.D. was never an unlawful organization?

BY MR. KUNY:

It was a lawful organization until banned during 1962

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a meeting which I was summoned to by a person called Pixie Benjamin.

Yes, now tell us about the meeting?--- And this meeting was in connection with a re-organization of certain Congress of Democrats activities, to wit, volunteer work.

Tell us what transpired there at this meeting. Again please, if the names of any of the accused are mentioned, don't mention it in court?-- Yes. At this meeting Pixie informed us that the Congress of Democrats was expecting to underground in the near future, because it was expecting a ban, under the similar lines as the African National Congress.

BY MR. HANSON:

If Your Worship pleases, I have a different objection. This is hearsay evidence. Pixie informed the witness. There is no ground or foundation been laid for the admissibility of such evidence.

BY THE STATE PROSECUTOR:

I concede. So don't tell us what other people told you. Tell us what you saw there and what transpired there.

BY THE WITNESS:

Can I say that she instructed us?

BY THE STATE PROSECUTOR:

No, that is also hearsay.

BY THE WITNESS:

Well, at this meeting then it was decided that a new type of action group would be formed, which was to do slogan painting, and poster painting work. The instructions were that this cell was to operate in complete secrecy and efficiency.

BY THE STATE PROSECUTOR:

I think that is sufficient, Mr. Ludi.

BY MR. HANSON:

I ..... with this evidence. I object to it on the ground that this is hearsay. Things that happened, other people gave

BY MR. HANSON:

Quite obviously this wealth of evidence may prove of considerable embarrassment to the defence, but we are not sure of it, and I propose to let the evidence proceed a little way and we will consider it at the next adjournment. We may have an application to make.

GERALD GUNTHER LUDI, Sworn, states:

EXAMINATION BY THE STATE PROSECUTOR (CONTD.):

Mr. Ludi, yesterday you told us that you joined the Communist Party on the 12th of May, 1963?--- That is correct.

And you are now giving evidence of events prior to the 12th of May, 1963? -- That's correct.

You will be asked to refer to certain of your reports that you compiled during this period, prior to the 12th of May, 1963, and I want you please now not to mention the names of any of the accused, should they also be included in any of those reports?--- I see.

Any of the reports prior to the 12th of May, 1963, do not mention the names of any of the accused?--- Yes.

Yesterday you told us that you attended a meeting of a C.O.D. action cell - I think on the 13th of April, 1962, and you told us that you compiled reports on that meeting, is that correct? --- That is correct.

When did you compile this report?--- Either the same evening or the following morning.

At what stage, were these events still fresh in your memory, or not?--- Very much so.

I want to show you this report, and again, Your Worship, I would like to indicate that I marked these reports,"A.17" "AA.17", "B" etc., etc. So that we can identify them. And I show you report, "A.17.A". What is that - do you want to refresh your memory before giving evidence?--- Please.

First of all, what is that report about? --- It is about

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instructions. There has no foundation been laid at all to the admissibility of this evidence.

BY THE COURT:

Is this evidence going to assist the State in any way at all, or assist the court?

BY THE STATE PROSECUTOR:

Apart from the fact that it was the beginning or the word "volunteers" were mentioned there. But I am satisfied, the witness did tell us that a volunteer group, I think, was established. That is all I am interested in.

BY THE COURT:

I will allow that evidence then. Yes?

MR. HANSON ADDRESSES THE COURT REGARDING COPIES OF THE DOCUMENTS REQUIRED.

THE STATE PROSECUTOR INTIMATES TO THE COURT THAT COPIES IN THE TRUE SENSE OF THE WORD ARE NOT AVAILABLE, BUT AS MOST OF THESE REPORTS ARE REFERRED TO IN MR. LUDI'S STATEMENT IT IS THE INTENTION TO GIVE THE DEFENCE PORTIONS OF THE STATEMENT AFTER THE WITNESS HAS REFERRED TO ANY OF THESE REPORTS.

A DISCUSSION BETWEEN MR. HANSON AND THE COURT FOLLOWS REGARDING THE REPORTS.

BY THE COURT:

The position is that there are no copies at the moment, and my suggestion is that the witness passes the document down .....

BY MR. HANSON:

That will do for the time being.....

EXAMINATION BY THE STATE PROSECUTOR (CONTD.):

Yesterday you told us about your visit to Finland and Moscow. How did it come about ? --- In approximately, I think it was May, 1962 at a Congress of Democrats committee meeting it was mentioned that anyone who had enough money to

make his own way to London, could attend a Youth Festival in Finland, and a World Peace Congress - no they didn't mention that we could attend the World Peace Congress, they just said that we could attend the Youth Festival in Helsinki, which was going to be held that July in Helsinki. I discussed this with several members of the Congress of Democrats, including some of the accused, and also other persons, and told them that I was interested in going to this festival. When I showed interest in going, a person called Hilda Bernstein asked me if I wasn't interested in going....

So did you then decide to go to this festival first of all? -- Yes, I decided to go.

And did you get any credentials? --- Yes, I did get some credentials.

How many? --- Two.

I am now showing you Exhibits G.L.(1) and G.L. (2). So tell us first of all where did you get Exhibit G.L.(1)? Or what is G.L.(1) all about? --- G.L. (1) is a form of credential which I was given by the National President of the Congress of Democrats. At that time, Piet Beyleveld. He gave this to me.

Who gave it to you?--- Piet Beyleveld at the offices of the Congress of Democrats.

In his capacity as?--- National President.

Of?--- The South African Congress of Democrats.

When did he give it to you? --- I can't - well, it is dated the 25th of June.

The 25th of June, 19 ..?--- '62.

And could you read it out please? --- (The witness reads out Exhibit G.L.(1))

And the other one, Exhibit G.L. (2)?--- (The witness reads out Exhibit G.L.(2).

Where did you get Exhibit G.L.(2)? --- I got that from M. Moolla in the offices of the Transvaal Indian Youth Congress.

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And did you then make use of those two credentials? --- In a way. When I went overseas I was met in London by a person called Julius Baker. He is a brother of one of the accused.

Accused No. 6, is Mr. Lewis Baker? --- A brother of Mr. Lewis Baker, Accused No. 6 , and he told me....

No, what he told you is no evidence. What did you do as a result ...?--- He took me to the Russian Embassy in London, where I was given a diplomatic visa. He also introduced me to the other delegates to the Moscow Peace Congress, which were Toni Bernstein and Valerie Phillips, or Valerie Meidlinger, she used both names. He also gave me three air tickets for the three of us to Moscow, and we took a criss-cross route across Europe because we had been told ...

That would be hearsay. Why did you take the criss-cross route? ---- The idea was to avoid detection by British Entilgence Agents. They should not find out that we were going to Moscow.

So did you then go to Moscow?--- Yes, I went to Moscow.

Do you remember more or less when you returned? --- To South Africa?

Yes? --- It was approximately the middle of August, 1962.

Did your visit to Moscow and Helsinki pay any results? --- Yes, I learnt a considerable amount about communism, and I now was convinced that the Congress of Democrats and other organizations were definitely communist sympathetic.

So what did you do coming back in the country?

BY MR. BERRANGE:

I have been trying to object without interrupting the court proceedings on evidence, which is obviously inadmissible, but if my learned friend won't accept the hint, then I am afraid

then I must make a formal objection.

BY THE COURT:

Has this got anything to do with the guilt or innocence of the accused?

BY THE STATE PROSECUTOR:

We can leave it to the point where the witness said that he learnt much about communism. Is that what you said, Mr. Ludi?

BY THE WITNESS:

That's correct.

BY THE COURT:

Yes?

EXAMINATION BY THE STATE PROSECUTOR (CONTD.):

So coming back? Or let's put it this way: Did you ever join a Marxist Study Group? -- Yes.

A33. I now would like to refer you to report A.33., and again if reference is made to any of the accused, don't mention the names. Did you compile that report, first of all? --- Yes.

When?-- I think the following day after the incident. ?

When was the incident? --- On the 3rd of December, 1962.

1962?--- That is correct.

Were the events still fresh in your memory when you compiled that report?--- Yes.

What is that report about? --- It is in connection with an invitation to join a Marxist Study Group.

And did you join the Marxist Study Group as a result of that invitation?--- At this invitation I was invited to go to a certain address in Berea and to get hold of a book called "The Fundamentals of Marxism". Unfortunately I could not go on the date mentioned, they wanted me to come on the 10th of December, 1962, and eventually I did not join that study group.

/234. Were....

Were you again recruited for a Marxist Study Group?

--- Yes.

And I now refer you to report A.34 - or let's put it this way: What happened to that study group that you were supposed to join?--- I was later told that ....

First of all - that report, I want you to bear in mind that whenever you refer to a report to tell us when it was compiled, and whether the events were still fresh in your memory, etc.?--- Yes. This report was compiled on the 4th of January, 1963, and I compiled it while the events were still fresh in my memory.

How long after the events did you compile the report? In other words, was it the same day, or a day after?--- I think it was the day after. I did not eventually join this study group because the lecturer of this particular study group had been placed under 24 hour house arrest, and he could no longer attend the study groups.

Ct. A34.

The lecturer being?--- Michael Harmel, also referred to as Mick Harmel.

Were you again invited to join a Marxist Study Class? Or a study group?--- Yes.

I now refer you to report A.38 and A.53(b). First of all, when were these reports compiled? --- A.38 I think I compiled either two or three days after the event. The events were still fresh in my memory then, and A53(b) - I think I compiled that the following day.

And the events? Were they still fresh in your memory? --- The events were still fresh in my memory.

So what happened then? --- I was again approached to join a study class.

Did you join? --- Yes, I eventually joined that study class. It was another study calls to the one I had previously been asked to join.

MR. KUNY INTERVENES AND INFORMS THE COURT THAT THE ACCUSED CONSTANTLY COMPLAIN THAT THEY CAN'T HEAR WHAT THE WITNESS IS SAYING.

THE WITNESS IS REQUESTED BY THE COURT TO RAISE HIS VOICE CONSIDERABLY

EXAMINATION BY THE STATE PROSECUTOR (CONTD.):

Yes, tell us about this study class? --- Could I just refresh my memory first?

Yes, please do, and you can take your time.

THE COURT ADJOURNS.

THE COURT RESUMES - APPEARANCES AS BEFORE.

BY MR. BERRANGE:

Your Worship, it is customary at the commencement of trials to ask the court to make an order that all witnesses,both for the State and the defence, should remain outside court whilst evidence is being given. We omitted to ask Your Worship to make such an order, and I will be glad if Your Worship would make such an order at this stage.

THE COURT ORDERS ALL WITNESSES TO LEAVE THE COURT.

BY THE STATE PROSECUTOR:

With except one exception if I may. I doubt whether any witnesses did attend the trial so far. With the exception, of course, of the Investigating Officer, and I think it is also right for the Investigating Officer to be present. He is only giving - shall I say, formal evidence to a large extent. It is customary for the....

BY MR. BERRANGE:

I have obviously no objection to the Investigating Officer being in court provided his evidence is of such nature as will not corroborate that of any other witness' evidence whose evidence we may want to assail. Now I am not in a position to know whether that is the case or not. My learned friends for the State are in a position to know that, and I leave it entirely in their hands to see to it that if any evidence is being given by any witness which can be corroborated, shall we say by

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the Investigating Officer, that at such times I leave it to my learned friends to ask the Investigating Officer to step outside.

BY THE COURT:

Will that suit you, Mr. Prosecutor?

BY THE STATE PROSECUTOR:

Yes, it does, Your Worship. And I omitted another thing. We have a gentleman here who made these transcriptions. It was already mentioned to the court that certain recordings were made, and he made these transcriptions. I wonder whether there is any objections for him to attend?

BY THE COURT:

Why does he want to attend?

BY THE STATE PROSECUTOR:

Because he takes an interest, I think, Sir.

MR. BERRANGE DOES NOT OBJECT TO THE TRANSCRIBER BEING PRESENT.

GERALD GUNTHER LUDI (Still under his former oath):

EXAMINATION BY THE STATE PROSECUTOR (CONTD.):

Before the adjournment you referred to reports A.38, and 53(b). Just tell us whether you, in fact, attended another Marxist study class, that's all I want to know?--- Yes, I attended another Marxist study class.

When?--- The first time I went to the study class meetings was on Tuesday, the 30th of April, 1963.

And after that, did you attend another study class,in this connection I refer to report A.53(a). Is that 53(a) you have there? --- Yes.

When did you compile the report, were the events still fresh in your memory?--- I compiled the report on the following day, and the events were still fresh in my memory.

And, did you attend another study class then?--- Yes, I attended another study class.

When?--- It was, I think, the 4th of November.

Are you refreshing your memory from that report?--- Yes,

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but the report is not dated.

And you think the date is? --- The 4th of November.

COURT: Which year?--- 1963. Sorry, I have got that date wrong. It would have been the 4th of May about.

EXAMINATION BY THE STATE PROSECUTOR (CONTD.):

4th of May, 1963?--- Yes.

Now was there a lecturer that night or that day?--- Yes, there was a lecturer present.

Who was the lecturer?--- It was early in the morning. Not early in the morning, it was during the course of the morning that we held this.

Who was the lecturer? --- The lecturer was Joe Slovo.

Did any other persons apart from the accused attend? --- Yes. Apart from the accused...

No, if the accused did attend don't mention them, but did any other people attend? --- A person called Margaret Smith.

Would that be the only Marxist study classes that you attended? --- No, I attended another one with the same persons and the same lecturer about a week afterwards. We discussed communism. The lecturer read from prepared notes on the theory of knowledge of Marxism. He recommended to me that I read either "The Funlamentals...."

No in any event, what he recommended would be hearsay, but you said the fundamentals were discussed, or what did you say? Or the theory of knowledge?--- The theory of knowledge of Marxism.

What other works were discussed at these study classes? --- The Fundamentals of Marxism, this is a book and also a series of books of three volumes called Dialectical Materialism, by Morris Cornforth.

Dialectical Materialism by....?--- I managed to get hold of these copies and did some reading in them after the study

long to, to know who sits on the area committee. This was for the sake of security so that nobody could know who was on the committee above.

Will you just repeat that? ---- She would be the only person to know....

Who is this person that you are now referring to? --- Jean Strachan.

What was she?--- She was the leader of the cell which I had been asked to join.

Yes, continue, refreshing your memory from this report? --- She also mentioned that the Supreme Body is the central committee of the Communist Party in S.A., and that contact between the central committee and the committees below it is by means of - by the same way, by means of a contact, and the contact is the only person to know who is in the committee above. This is again for security so that nobody knows who the leaders of the Communist Party are. She also told me that I must keep absolute secrecy at all times. I must not tell anyone that I was a member of the Communist Party, and that I should never admit to anyone that I was a member of the Communist Party. She also told me that I should tell her how much I earned so that I could be taxed by the Communist Party. They had a scale, which she later gave me details of, not at this particular meeting, and she told that I could expect to pay as much tax as I paid to the Government of the country. She also stressed that the Communist Party was a disciplinary organization . We had to obey the instructions of the leaders without question, at all times.

Yes?--- She also told me that if I go on holiday, or leave the area I stay in at any particular time, I must tell her and first get the permission of the leaders before I could do this.

Yes, anything else? --- She also told me that the first meeting of our particular cell would take place in her flat

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group.

What would you say would be the last step before actually becoming or joining the Communist Party? --- I would say the last step would be to join a Marxist Study Group. This is to get theoretical knowledge of communism, to be trained in the theory of the philosophy of communism.

Did you visit Accused No. 7, that is Jean Strachan, on the 12th of May, 1963? --- Yes.

I am showing you report, A. 61. When did you compile that report?--- I compiled this report on the same evening, the events were still fresh in my memory.

And can you remember what transpired there that night without refreshing your memory? --- I have a fair idea, but I can't remember all the .....

So do you want to refresh your memory or not?--- I want to refresh my memory.

I want you to tell us what happened there that night if you want to refresh your memory, you can do so. You can take your time ?--- When I first arrived at the flat we discussed some slogan painting matters, which we had discussed a previous date to this. Then the second thing she discussed with me was, she asked me to join the Communist Party. I agreed to do this, and then she outlined some of the functions of the Communist Party to me. I noticed at the time that she spoke very quickly and seemed slightly nervous when doing this. She told me that I had been nominated for party membership, and had been accepted, and that I was to function on a district cell. She also told me that above the cell sits a committee, which is the area committee, which controls the various cells in the district. She then mentioned that the contacts between the area committee and the cell is by means of a courier or a contact. This person is the only person, or would be the only person in our cell, or the cell which I was going to be-

/239. long...

Yes, you can do that. Do you know what the report is now about?--- Yes.

Now you can go through that report paragraph by paragraph if you so desire? --- The report is in connection with a meeting of a cell of the Communist Party. It took place on the 14th of May, 1963 at 305 Santa Barbara Court, Hillbrow, Johannesburg.

Who were present? --- Present at this meeting was Jean Strachan.

That is Accused No. 7? --- Anne Nicholson.

Accused No. 8? --- Flo Duncan.

Accused No. 12? --- The Chairman of the meeting was Jean Strachan.

Whose flat was this?--- It was Jean Strachan's flat.

Yes? --- The first thing Jean told me when we started the meeting was the fact that every Communist Party member had to have a code name. She told me that her own personal code name was Clara. That Flo Duncan was known as Julia.. That Anne Nicholson was known as Richard. And I also had to chose a code name. I chose the code name Harry.

Yes? --- They also spoke of two other cell members who were not present at this meeting. They had the code names Henry and Jan.

Henry and Jan. Was that at this particular meeting?--- Yes, they mentioned that.

And you say these two people were not present? --- They were not present.

Yes? --- At this meeting Jean also told me that White and non-White Communist Party cells operate seperately.

Yes? --- And she also told us that the task of this particular committee or cell was to attempt to control and infiltrate White youth movements.with (?) tendencies.

Yes?--- She also told me that all Communist Party members were classified at some stage or other according to a certain

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on that coming Tuesday, the 14th of May, 1963.

In this report I see you refer to the district cell committee? --- Yes.

Could you explain what happened there? --- I consequently later found out that the structure of the Communist Party - this was told to me by Jean Strachan later, that...

That's Accused No. 7?--- That the structure is as follows: The Supreme Body is the central committee. Below that operates the District Committee, and below the district committee operates the area committee, and below the area committee operate the cells or groups. While she was explaining this to me I was listening very carefully, but somehow or other, I think she was rushing over the thing, and we got confused and I thought that I was going into a district cell committee, and I made no mention whatsoever of the fact that the district committee existed above the area committee. I later, subsequently discovered that from the way the people spoke in Communist Party cell meetings that there must be another committee;that I have got this term, district committee, confused, and then I realized that I should ask Jean about it. I asked her, and she explained to me that the district committee is the committee which operates above the area committee .

Report A.62, did you attend this meeting on the 14th of May, 1963?--- Yes.

And did you compile a report?--- Yes, I compiled this report - I cannot remember exactly when, I think it was the following morning. The events were still fresh in my memory.

Do you want to refer to that report when giving evidence?--- Yes.

Yes, please? --- Could I please glance at the report?

Yes? --- Can I go through this report paragraph by paragraph?

Anything else? Any other name? --- She did not mention any instructions, but I know that during discussions we frequently used the word "The Movement."

So you were to refer to the Communist Party as "The Family" or "The Movement", is that right? --- Yes. But she did not instruct us to use the term "The Movement," but I know that in practise they slipped in speech using the term "The Movement."

Yes? Before we go any further. Who is "The Party?" --- The Communist Party.

No, "The Party," do you know what "The Party" is? --- The Party, that is the Communist Party.

Why do you say that? --- Well when we said at meetings "The Party," we meant the Communist Party.

Yes, please proceed? --- Jean also told me at this meeting that all correspondence with this cell goes through a post office box which she had rented under a false name, or someone has rented for her under a false name at the Hillbrow Post Office. She also mentioned that frequently they changed the use of a particular post office box number so that if by any chance the police become suspicious of the box, it will not be - they cannot keep observation on it too long.

Yes? --- From the way she spoke I assume that she attended meetings of the area committee at least twice a month.

Yes? --- She told us that everything we discussed on this particular cell would then be taken to the area committee, where it will again be discussed and we could not act on anything, we could not act on our own until the area committee had given us permission to do so. She said that the area committee is the committee that controls various cells similar to our own operating in Johannesburg. When the meeting started she officially welcomed me as a new family member, and she told me something of the method of how people are recruited into Communist Party cells.

/244. Yes....

grading. This was how well they were known to the police. "A" members were people - listed Communists who were in gaol. In other words, well known to the police

"A" members were?--- Listed communists in gaol . In other words people who were known to the police - communists. Sorry, I am confused there. "A" members were out of gaol while "B" members were known communists in gaol.

"B" members were known communists? --- In gaol. While "A" members were known communists out of gaol. In other words they assumed that the police knew the fact that they were communists.

Yes? --- "C" members were people whom the police had dealings with but did not actually suspect to be communists.

Yes?--- She said that included most probably all of us in this particular cell.

That was yourself? -- Florence Duncan, Anne Nicholson and Jean Strachan.

Yes? --- She also mentioned that there were people referred to as "D" members. These people it was assumed by the Communist Party were totally unknown to the police , and these people met in cells on their own. So there would never be any chance of a leak to the police of these people's identity.

How would they meet again? --- They would meet in cells on their own with a contact, so there would never be a chance of a leak of their identity.

Could you explain that perhaps? --- I think what she meant was this, that .....

But did you not find out subsequently? --- No.

Yes, continue then? --- She also told me that we should never refer to the Communist Party as The Communist Party when discussing matter, but only as "The Family." This was the code-name for the Communist Party.

Only as The Family? --- Yes.

/243. Anything....

Yes?--- She said that at least two members of a cell must nominate a potential recruit , and if the Chairman of this cell, of this committee is satisfied with this nomination he - the person's name is then referred to the area committee, which then makes a decision. She told me that my acceptance had been delayed for some time because I have not attended enough Marxist Study Groups. She also mentioned that most recruits must have circulated in front organizations, organizations which the Communist Party was using for its own purposes, and in these front organizations they must have shown promise as potential Marxists. She also said that at one stage or another while a recruit is under consideration a member of the Communist Party will go up to this recruit and argue some or other political argument on strong anti-Communist lines, and if the potential recruit responds and defends communism, he has passed one of his tests. She also mentioned that the "D" type Communist Party cell member - the persons who were completely unknown to the police were usually recruited as personal friends of well-known communists. They did not have to go through the procedure of circulating so to say in well known '(?) legal organizations. She also mentioned at this meeting that the Communist Party was recruiting very strongly amongst non-Whites in the country, specially amongst Natives , but that a lot of recruits, Native recruits were lost because some of them tended to be Nationalistically minded. She also mentioned that a fairly large number of Marxist Study Groups were in operation amongst the Indian community, and from what I gathered things were going well there. Flo Duncan, or Anne Nicholson, I am not sure, also then asked me whether I was surprized to see who actually were members of the Communist Party. I told them that I was-and that I was also insulted not to have been recruited sooner as I had joined the Congress of Democrats with the intention of joining the Communist Party. We then discussed

/245. another....

another person called Eve Hall. Jean told us that the feeling in the Communist Party at that time was that Eve Hall had broken down while serving a gaol sentence and had made an extensive statement to the police. Jean spoke there of a comrade, she did not mention the person's name, and she said this person knew everything that Eve was doing at the moment. All the cell members at this meeting expressed the opinion that the best thing would be for Eve Hall and her husband, Toni Hall, to leave South Africa. We were instructed to keep people who were being freshly recruited into the Communist Party - no, into the front organizations and into this loose mass of organizations which were referred to also as "The Movement," but not the Communist Party in particular, the larger meaning of the word of "The Movement"; that we should keep new recruits in this movement away from Eve Hall. We should also not discuss anything of importance in front of Eve. The only thing she could know were things which she knew already. Jean said that this instruction had come from the area committee. She also added although Eve Hall had been the office secretary of the Congress of Democrats she did not know very much. Anne Nicholson was the Security Officer of this cell, of this group.

Anne Nicholson is Accused No. 8? --- She reminded us of a few facts. Firstly that we were sure that we were not being followed to the flat.

Which flat is that now?--- The flat at which the meeting was being held. That we did not have any papers or documents on us which could link us with any political organization. She also reminded us - this was sort of a drill practice, which I think was done for my benefit, because I was new - that we should never refer to each other by our Communist Party code names outside Communist Party meetings, and never by our real names in Communist Party

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of Democrats had been banned already, as a suitable premises. During January of 1963 I attended a meeting where methods of continuing the activities of the Congress of Democrats were discussed. At this meeting it had been decided that a social type club which to all outward appearances looks like a social club where people of different racial groups could meet for social activity, should be established, and that this social type club would then serve as a continuation of the Congress of Democrats and besides social activities, the members of this club should then also organize political discussion classes at which new recruits again to this term, the wider sense of the words, The Movement, would be taught and introduced. This club we had to abandon shortly before I joined the Communist Party. I think it was in April, the middle of April of 1963, because two of the club's most regular - how can I put it, comers, or members were two young Indians, Sherrish Nanbhai and Indres Naidoo.

Yes? --- These two regular members at the club had been arrested while committing an act of sabotage near the Langlaagte station. When arrested, one of the two persons, Sherrish Nanbhai, gave Club 77, which was housed at 77a Davies Street, Doornfontein as his home address.

So you told us that this club was then abandoned ? --- Yes, we abandoned this club because the police searched the premises shortly after that, and the feeling was that it was dangerous to go back to the place. We then held many discussions on how to continue the activities of this particular club.

Again, who is we then? When you say we, who are you referring to?--- I am referring to some of the accused. That is before the actual date of charge.

Well, was Club 77 then eventually abandoned? --- Yes, we abandoned it in a hurry.

So you told us that you discussed the - at this Communist

meetings. Jean also gave us a little lecture in which she again stressed that we must always keep absolute security at all times, and silent. We should never tell anyone about anything of the happenings. They also mentioned that both Jean Strachan and Flo Duncan had been members for some time while Anne Nicholson had only recently joined the party, the Communist Party that is.

So when you refer to the party, you mean the Communist Party?--- Yes.

Yes?--- It was also mentioned that Jan and Henry the two mysterious people who were referred to only by their code names were older people and older members of the Communist Party. It was also mentioned that people who had emotional problems - in other words were emotionally unstable, were dropped from the Communist Party. We then discussed in great detail future activities by the White Youth as we referred to it. This White Youth was a continuation - an attempt at continuation of activities of the Congress of Democrats, which was now banned. At that time we had established a club, which we referred to as Club 77.

Did you do any explaining at this meeting in this connection?--- Yes, I explained at this meeting what our plans were and...

What plans? --- The plans of how we were going to continue the running of Club 77.

Who is our? --- Our plans is the plans of the youth, which was Anne Nicholson and myself.

And then you mentioned something about Club 77?--- Club 77 was a club which was supposed to have been a continuation of the Congress of Democrats youth activities. This club had been established after a house had been hired in Doornfontein. I hired this house and I offered it to the Congress of Democrats' continuation, which was underground at that stage, because the Congress

Party meeting you discussed the future methods to be used by the youth, is that right?--- Yes.

Referring to?--- The activities of Club 77. Our activities were to make propaganda amongst the White people of South Africa and to,if we could, find new recruits for or organization.

Why was Club 77 discussed at this meeting, do you know? --- Club 77 was discussed because it was a front activity of the Communist Party.

So you and Accused No. 8 then explained the activities to this meeting. What happened after that? --- After that it was approved and we went ahead .....

By the way, but we don't know yet what you suggested to the meeting, you explained to us the club itself, but you have told us that you and Accused No. 8 explained the methods to this meeting, or to the people attending this meeting?--- Yes, I can't remember exactly, I will have to rely on memory now, because in my report I don't illuminate on it, I don't give any details on it, because I had reported on it previously.

I think for the time being we can leave that out. What happened after you made the suggestions?--- After I made the suggestions Jean Strachan said that she would take these suggestions to the area committee and once the area committee had discussed them and approved of them, we could go ahead and do as we had planned.

Yes? Yes, and after that? --- After that Florence Duncan.

Accused No. 12, is it? --- Yes, told us that she was serving on two finance committees. I do not exactly know what these committees were , and she never explained it. She then complained that the youth, and by that she meant the Congress of Democrat youth as continued in Club 77 were very irresponsible with their finance. She gave myself and Anne Nicholson, who were members of this youth, a bit of a pep talk on discipline.

Yes?--- Jean then also mentioned that she would try and persuade a person called Piet Beyleveld to make a duplicating machine available to the youth for their activities. Jean then also opened some packages, I could almost call it, which she had apparently, or she told us, had taken out of the post box, and she opened these in front of us and I was given a copy of The World Marxist Review and Marxism Today, which I had to pay for.

Yes? --- Then we discussed an organization which was known as The Volunteers.

Before we get to that , did you have to pay for these magazines or pamphlets?--- Yes, I paid for them.

How much, can you remember?--- I think it was 15 cents each copy.

Yes, and then, after that? --- After that we discussed an organization known as The Volunteers.

Now before we go any further. Can you explain what you mean by volunteers? --- Yes. It is pretty lengthy, it is a process which had been going on for quite some time. I belonged to this organization before I actually joined the Communist Party, and once I joined the Communist Party I realized that one part of the volunteers was directly organized and financed by the Communist Party.

Tell us more about that? --- Shall I go right back to the beginning?

No, after you joined the Communist Party, you said that you still belonged to the volunteers?--- Well, there were two sort of similar groups which both called themselves The Volunteers, operating at the same time.

So to avoid any confusion, I think you have to start right at the beginning? --- The term, volunteers, the first time I ever heard it mentioned was when I was a member of the

/250. regional..

pline. We listened without question to the leader of the group, and we also worked out a carefully prepared programme as to how we would do slogan painting. We would always be four people, one to paint, one to hold the paint or to watch, another to drive the car, and another to watch some distance away. This secret organization which I was drawn into formed, the basis of the secret organization formed all the future basis to our slogan painting work. This one type of underground volunteers, which I belonged to right through into my membership into the Communist Party, was later taken over by Jean Strachan, who then became the leader of this underground strictly secret volunteers and we continued to paint slogans and put up stickers, and put up posters and distribute leaflets. But at the same time the front organization of the Congress of Democrats, to wit, Club 77, which was still continuing as a form of the Congress of Democrats, also had a volunteers section... This Volunteers section, which operated completely seperately from the underground volunteers, was also supposed to be in a way underground, but it had other members, although some of the members of these volunteers also belonged to the other volunteers. It was a confusing situation, and these volunteers of Club 77, were also to draft, print and distribute leaflets and stickers. I don't think they ever went slogan painting.

Is that all? --- I think that covers the....

So you told us that at this meeting Accused No. 7 discussed the volunteers ?--- Yes.

Now, which group did she then discuss, because you told us that there was a Club 77 volunteers, and the volunteers of which Accused No. 7 was the leader?--- We were discussing the group of which Accused No. 7 was the leader.

Yes, continue? --- I had been told, or I knew at that stage, sorry, that I and a person called Dr. Jerry Doyle were - I don't know what term really to use, the Lieutenants to Accused

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regional committee of the Congress of Democrats, and this was in January or February, 1962.

Yes?--- And the regional committee of the Congress of Democrats was then re-organized at a conference, and at this conference work was subdivided into fields, into various categories, and one of the categories it was sub-divided into, was termed "Volunteer Work," and the people who worked or operated in this category were termed "The Volunteers." Their task was to paint slogans, put up posters and distribute leaflets.

What do you mean by painting slogans and putting up posters, etc.? --- By painting slogans I mean taking paint and brush and going to a bridge or a wall and putting up a political slogan like "Free Sisulu" or "Hang Vorster," or something like that.

Yes? And did you also say poster pasting? --- Yes, this was done in such a way - we usually received large pieces of paper, which I would say were approximately 18 inches wide and two feet high, usually, and these had again political slogans on it regarding certain current political issues. They varied from time to time, and then we would go out at night with a glue, put the glue on, and put it up walls and shop windows and wherever there was a convenient spot, and nobody was watching.

Yes, you have now started with these two groups of volunteers , if I may refer to them in that way? --- Yes. After that, once The Congress of Democrats was banned, or it was in the air, I think The Minister Of Justice, or somebody like that made a speech once intimating this fact, then the Congress of Democrats started preparing for this banning by adapting itself to operating as an underground organization. One of the first signs was when I was recruited to a new type of cell, which they also referred to as the volunteers, this volunteers, this new volunteers organization was my first introduction into a cell type organization. In this organization we adhered to strict security, strict disci-

we arranged then to - when to hold the next meeting or not. It was too long ago.

A64 Report A.64. Your Worship, if I may explain, according to the annexure - I forget the annexure number, it is of all the group or cell meetings, annexure "F", Your Worship would see that we have the heading "Meeting Number", "Date of Meeting," "Place where meeting held," "Name of Accused in attendance." So the meeting numbers are the numbers referred to by this witness, and of course, I think two or three others.

MR. BERRANGE ADDRESSES THE COURT REGARDING THE COPIES OF THE RELATIVE REPORTS HANDED TO HIM AND AS TO THE CORRECTNESS THEREOF.

THE STATE PROSECUTOR ADDRESSES THE COURT AND INTIMATES THAT THE REPORTS HANDED TO THE DEFENCE COUNSEL ARE NOT COPIES OF THE RELATIVE REPORTS, BUT PORTIONS OF THE STATEMENT.

A FURTHER DISCUSSION BETWEEN MR. BERRANGE AND THE STATE PROSECUTOR FOLLOWS REGARDING THESE EXTRACTS.

BY MR. BERRANGE:

I am appreciative of the State in trying to ease our task for us, but it doesn't ease our task unless we can get an assurance that that which is contained in the original is also contained in the document that has been handed to us, becausdif I understood my learned friend correctly a moment ago, he says there may be certain names or sentences in the documents handed to us, which appear to be copies, which have been omitted therefrom, and which are contained in the original report.

BY THE COURT:

Would you like to see the original report then?

BY MR. BERRANGE:

I am trying to save time. It means that unless I can get this assurance from my friend, it means that after.....

BY THE COURT:

Well, as I understood the prosecutor, he says that he can't guarantee there aren't any things - as I understood,in the

/254. way...

No. 7, that is Jean Strachan, in this organization. She controlled it, and....

What organization now?--- The Volunteers. And Dr. Doyle and myself each controlled sub-sections of it. At this meeting we discussed volunteer business. We made arrangements to go out slogan painting the following evening, that was Wednesday the 15th of May, 1963 and we arranged to paint only at 12.30 in the morning, in other words, the Thursday morning. Jean told us that she would be taking a person called Molly Fischer, Flo Duncan and possibly Paul Trewhela with her to paint this slogan.

Paul Trewhela is Accused No. 10? Is that right?--- Yes, and I told the meeting that I would take Anne Nicholson and two other persons.

And Anne Nicholson, of course, is Accused No.8 ? --- We agreed on the slogan which we would paint. The slogan was going to be "90 days, who next?" Jean then also suggested that one night members of the volunteers should go out and put up what she referred to as family slogans. In other words slogans deliberately on behalf of the Communist Party. I told her at this meeting that I thought this was a very good idea and I suggested that we go out one pre-arranged evening and paint hammer and sickles. Jean Strachan thought this was a good idea.

Were you informed of the date of the next meeting? --- I am not too sure. The custom in Communist Party cell meetings was to sometimes make arrangements , in fact, most of the time, I think, we made arrangements when we would meet again. Some times we could not find a convenient date right then and then we would leave it over to later when somebody would contact each of us and we would then meet at that arranged date. At this meeting I make no mention in my report of - in my report I make no mention of the next meeting. I can't remember whether

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way of typing ....

BY MR. BERRANGE:

No I am not referring to that, but I wanted to be assured that nothing has been deliberately omitted. There may be sentences, there may be names, there may be incidents in the report referred to by this witness, which have been deliberately left out of the copies that are handed to us. As long as I have the assurance that that hasn't happened, then I am not worrying about such things as typing errors.

BY THE COURT:

Are you able to give that assurance, Mr. Prosecutor?

BY THE STATE PROSECUTOR:

That also I can't give, because I would like to reiterate these reproductions that are now handed over, was for my purpose or the prosecution purposes only.

BY THE COURT:

So there may be something omitted?

BY THE STATE PROSECUTOR:

Yes, Sir, but can I give this assurance that whenever this witness refers to a portion or a paragraph or a word that will be in those reproductions. But, of course, the originals are always available.

BY MR. BERRANGE:

That means that we have to check through each one, and, therefore, these don't really help us a great deal.

BY THE COURT:

Mr. Berrange, I take it there will be an opportunity later, if necessary, of you verifying the copy with the original?

BY MR. BERRANGE:

I am sure Your Worship would give me such an opportunity. I was trying to avoid my having to ask Your Worship the time to do it, by getting this assurance from the State, but if the State is not in a position to give that assurance, then we will have to be forced to ask Your Worship for time.

EXAMINATION BY THE STATE PROSECUTOR (CONTD.):

So, did you then also - shall I refer to it, attend the second Communist Party meeting? --- Yes.

And did you compile a report ?--- Yes, I compiled this report either the following day or the same evening, or possibly a second day afterwards. I doubt very much that it happened the second day, I think I compiled it the following day, and the events were still fresh in my memory.

Do you want to refer to this report when giving evidence? --- Yes.

I show you report A. 64 (A64) So - do you want to have time for that, Mr. Ludi?--- No, thank you.

Do you want to go on and give evidence, or do you want to have a rest?--- No, I am fine.

Because the witness indicated to me yesterday he was tired, and possibly I would have to ask for short adjournments in between, Your Worship. --- No, I am fine, thank you. This was the second Communist Party meeting I had attended. It was held on Wednesday the 22nd of May, 1963.

What was it? --- It was a meeting of a cell of the Communist Party of S.A. Present at this meeting were....

I am sorry, where was this meeting held?--- This meeting was held at Jean Strachan's flat, 305 Santa Barbara, Ockerse Street, Hillbrow,Johannesburg.

Yes?--- Present at this meeting were Jean Strachan, code name, Clara. Flo Duncan, code name Julia. And a person called Braam Fischer, Abraham Fischer, code name Jan.

Who was he? --- He was also a member of the cell.

Yes, but is he here today? --- Yes, he is Accused No. 1.

And did you tell us what his code name was?--- Yes, Jan.

And, of course, yourself?--- I myself with the code name, Harry, was also present.

Yes? --- The first thing we discussed at the meeting

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volunteers. By the front organization I again mean the continuation of Club 77. Several suggestions were made , one of these was that a person - this suggestion, incidently, was made by Florence Duncan. She suggested that a person called Eli Weinberg should go...

Who is Eli Weinberg? --- It is one of the accused.

Is that Accused No. 3? --- That's correct. That this person should go and address a meeting on the East Rand, to which we would invite Terry Bell, his friends, and some other people. He should talk to them on a political subject such as Trade Unions. We then decided also, I think Jean suggested it, that she - that is Jean Strachan, and myself should meet Terry Bell one evening and discuss methods, safe methods of painting slogans with him. I assume Jean included me in this, because I think she thought I was rather an old hand at paiting slogans by then. The idea was was to devise the best possible ways of painting a slogan and not getting caught.

I am sorry, but I don't quite understand why Flo Duncan, Accused No. 12, suggested that Eli Weinberg, Accused No. 3, should go and talk to Terry Bell?--- The reason being Terry Bell was considered at that stage not to be sufficiently knowledgable and educated in left political matters at that stage, and it was considered that a person of old standing in The Movement, I am using the wider term again, should go and talk to them and bring forward left inspired ideas of political organization to these people.

And then you told us that Accused No. 7, Terry Bell, and yourself would get together and explain to Terry how to paint slogans?--- Yes. We then also discussed means and methods of getting the White youth, or the term which I frequently use, the youth, to operate again after the abandonment of Club 77. Your Worship will see from later reports that this was almost a chronic subject, it occurred at every meeting.

Yes? --- Jean told me that I should convence an (?)

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was that the area committee - that is the committee operating above the cell, Jean Strachan was the contact between the area committee and the cell, and Jean Strachan told us that the area committee had instructed all cells to put up as many slogans in Johannesburg in the near future as it was possible.

Yes? --- In the light of this instruction, we discussed the organization known as The Volunteers, and this is the secret volunteer cell type of organization of which Jean Strachan was the head, and we examined possibilities, we discussed it at great length, and we discussed methods of setting various groups into action. How it could best be done to set these groups into action, and there was also talk of re-shuffling and re-organizing these volunteers.

Is it the same volunteers that you referred to earlier on?--- Yes, these are the same volunteers. Jean Strachan mentioned that a person called Terry Bell had recruited seven white volunteers for this type of work in the Germiston area. She told us ...

Who is she? --- Jean Strachan, that she had taken...

Accused No. 7? --- Terry Bell and some of his friends out slogan painting on the evening of the 20th of May, 1963. And when they went out they painted three slogans on walls, and I believe also on a bus shed, I am not too sure. I think that was the time they painted one on a bus shed in Hillbrow. She told us of another group which was going to operate, and this group would include a person called Molly Fischer, and Zena Tempkin.

And?--- She then told me that my group would be re-organized to include Florence Duncan, Anne Nicholson and another person.

Did you know at the time who Molly Fischer was? --- I knew her to be the wife of Accused No. 1.

Yes? --- We then discussed methods of recruiting Terry Bell and his friends into the front organization, and into the

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this meeting that this person had been recommended as a Communist Party recruit. Jean told us that his name had been forwarded to area committee, but nothing had been heard of since. It was also said at the meeting, I can't remember who said this, - it could have been Jean; that both Paul Trewhela and Dr. Jerry Doyle had refused to carry on slogan painting activities. Just before the meeting ended, Braam Fischer had a short talk with me. He appeared to be a very friendly person, and he welcomed me to the Communist Party. He warned our group of police infiltration, and he told us to be very careful, and he made special reference to the case of a person called Jack Tarshish. At this meeting we also decided that our theory of communism was shaky, and Braam Fischer would lecture us on economics at the next Communist Party meeting.

Braam Fischer, is that, of course, Accused No. 1?--- That is correct.

Yes?--- We also discussed a person called Marius Schoon. There had been suggestions from people, I do not know who, that Marius Schoon worked for the police.

Were you informed at the next meeting, or not? --- I presume that I was, because I attended the next meeting, but I make no mention of it in my report.

THE COURT ADJOURNS.

THE COURT RESUMES - APPEARANCES AS BEFORE.

GERALD GUNTHER LUDI, (Still under his former oath):

EXAMINATION BY THE STATE PROSECUTOR (CONTD.):

Then did you attend the third C.P. meeting?--- Yes.

And did you compile a report?--- Yes.

When?--- I compiled the report either the same evening or the following day.

When the events..?--- Were still fresh in my memory.

A.65

I show you report A.65. Is that the report that you

committee. I think I should explain at this stage that I had been elected Chairman of Club 77, and Jean instructed me to convene an 'Ad-hark' meeting of the old Club 77 committee as soon as possible. Jean then also told us - this is Jean Strachan, that another person would be soon joining our Communist Party group. She referred to this person as "X" and she said that this person was a student at the University of the Witwatersrand, who had recently come to Johannesburg from Capetown, and this person could assist us in re-organizing University affairs. I must mention it was felt too in the Communist Party at that time that agitation amongst students at University was not at all going well at that stage. I then complained at the meeting about the amount of money, the rent I had to pay for the house of Club 77, which was then suddenly abandoned overnight, as it had been promised to me by certain people that I would be assisted in paying the rent of that house. At this meeting both Flo Duncan and Jean Strachan agreed that I should be given some financial compensation or the other, to help pay - carry the burden of the rent of this house, to which I had signed a lease. Jean also mentioned the duplicating machine which we had discussed at the previous meeting. This is the duplicating machine which she had promised Piet Beyleveld would allow the youth to use to bring out leaflets and other printed material, and she said at this meeting that she would let us have this machine as soon as possible. We never got it actually.

That machine was meant for?--- For producing leaflets.

By? --- The volunteers of Club 77. That is the other volunteers.

Yes?--- At this meeting we also mentioned that a person called Paul Trewhela.

Is that Accused No. 10? --- Yes. It was mentioned at

that Jean Strachan was not carrying out her task properly, and that she, that is Flo Duncan, and Anne Nicholson had decided at a previous meeting to complain about this.

Did you say a previous meeting?--- A previous Communist Party meeting. I presumed it was a Communist Party meeting, I don't know.

Yes? --- She also told me that the area committee, that is the area committee of the Communist Party, had chosen Jean Strachan in preference to Florance Duncan, and apparently Florance had been a contender for the position, because there was a large number of, what she called, relatively unknown people on the area committee then. That again is the area committee of the Communist Party. I also mentioned to - Flo also added that very little correspondence with other Communist Party cells had taken place from the cell which I was attached to, in other words, our cell, and she blamed this slack state of affairs also on Jean.

Since when?--- She said that this situation had been in progress since October, 1962. I also told Flo Duncan then that I was going to Capetown for several months,later that year, and she told me that I should insist on being attached to a cell of the Communist Party in Capetown to keep myself politically active while I was down there. I,naturally,agreed to this. She also told me that she had been a member of another cell of the Communist Party before she had been grouped or before she joined our particular cell. She also said that the central committee knew everything about us, and our background etc., I assumed that she meant that they almost had a docket on our full history. She mentioned that she attended a large number of meetings of an organization called "The Women's Federation", and she said that she expected to be busy that whole coming week-end with this organization. She also mentioned that on this organization

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are referring to? --- Yes.

Can you give evidence as to what transpired at this meeting without referring to that report, or refreshing your memory from that report?--- No.

Yes, please?--- This was a meeting of the S.A. Communist Party, of a cell of the S.A. Communist Party, and this meeting was held at Jean Strachan's flat, 305 Santa Barbara Court, Ockerse Street, Hillbrow, Johannesburg. In fact, it was supposed to be held there. The arrangement had been to hold this meeting there. I arrived at the above address. When I arrived there, nobody was there. I then drove to another address, the house of a certain person called Mr. Benjamin Tourok, at which Anne Nicholsonwas staying at that time.

Accused No. 8? --- And when I arrived at this house, which is in Thirteenth Street, Orange Grove, Braam Fischer...

Accused No. 1?--- Jean Strachan.

No. 7? --- Flo Duncan.

No. 12? --- And Anne Nicholson were sitting in the lounge of the house. I had another person with me, who was not a member of the Communist Party, and I indicated to - I think it was Anne Nicholson, whether I should leave again with this person, in case this was the Communist Party meeting, and they were in progress, and I walked into the lounge with this other person who was not a member of the Communist Party. So she then whispered to me that it was allright, they had very shortly discussed something and it was over now, and we could stay. This was purely a social meeting. Later that evening Flo Duncan took me aside in the house and asked me to take her home as she had a few things to tell me. I did this, and on the way Flo Duncan told me various things. She told me the date of the next meeting, which I don't mention in my report.

Yes? --- And she also told me that she thought Jean Strachan was a very bad contact for the group. And she said

the road I travelled.

So it is again slogan painting?--- Yes.

Yes? What did you then suggest? --- I suggested that I paint in red paint "The people shall rize" with a red arrow next to it.

What is the significance of this arrow? --- This arrow was to signify - a dual significance actually. It was to signify the spear of the nation, the spear which is attached to the spear of the nation, the symbol of the spear of the nation, and also the facts of subjected people pushing upwards with a red arrow. I told her that we would look for rock surfaces on main roads on which we were travelling and would paint these slogans. In fact, we did not paint any. I asked Jean to tell me whether I could go out that night. I had an instruction as a member of the volunteers to speak to Jean, and to get her permission before I did any slogan painting whatsoever.

Is that also included in that report? --- No. There is mention of it, but I just mention the fact that I asked her for permission.

Yes, tell us about this permission then? --- She had instructed me that I must always get permission from her before I go slogan painting. The reason for this was that if any other associate organization of the movement - and I use the movement in the wider sense of the meaning again, had anything else on. In other words , if there was going to be any violence by the spear of the nation, or any slogan painting by any other Communist Party groups, I would not be allowed to go out the same evening, the argument being that if - and there has been an incident earlier on, during the course cf that particular evening, then there will be a lot of police cars patrolling the area, and it would be extremely dangerous to go and paint a slogan, or do whatever we were going to do.

Did you have, or did she have to get permission for any

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was a person called Helen Joseph. This is the Women's Federation, who was giving her - and this is Helen Joseph was giving her a lot of trouble because Helen Joseph was anti-family as she termed it, anti-Communist.

Yes? --- She also mentioned another organization called "The Women's League For Racial Harmony."

Was any mention made of that .....? --- She said that this organization was practically defunct, and that the only persons who were still running it were herself and Jean Strachan.

Is that "The Women's League for Racial Harmony?" --- That is correct. She also mentioned that she had made out a mailing list on the advice of which this list was used to send out African National Congress leaflets which strongly attacked the Pan Africanist Congress.

Now before we go on, I wonder whether you could explain what you mean by a mailing list, shortly, very briefly? --- What I understand by a mailing list is in the Communist Party I was told at one stage or the other by Jean Strachan there were two cells who specifically dealt with mailing propaganda. These cells compiled mailing lists. They took names and addresses which were collected from members of the Communist Party at random from the voter's roll or just simply at random, and these names were then carefully kept and every time the Communist Party, or the Communist Party using the name of one of its front organizations wanted to mail anything, envelopes would be prepared with stamps and the addresses of these people on the mailing list.

Yes, continue? --- After I had taken Flo Duncan home, I went back to visit Jean Strachan, who had now returned to her flat, and I told her that I was going away for the week-end with a friend, and we intended painting slogans. This was just to boost my esteem with Jean Strachan, the fact that I would go away for a week-end and paint slogans all along

/263. the...

of these groups or volunteers to go slogan painting?--- I normally asked her , and sometimes she said that I must first wait, she would check up with the leaders if things were allright, and I noticed she always did this during a period of time that year when The Spear of the Nation was still very active. When The Spear of the Nation became in-active, I noticed that she always said "Oh, it's allright, you can go."

And then did you also attend the fourth C.P. meeting - before we go any further, I want you to refer again to report 65 and tell me when this third C.P. meeting was held. When was this third C.P. meeting held? --- It was held on the 30th of May, 1963.

Then again I repeat, did you also attend the fourth C.P. meeting? --- Yes.

Did you compile a report?--- Yes, I compiled a report..I think on the following day I compiled the report while the events were still fresh in my memory.

THE COURT ADJOURNS TO ENABLE THE S.P. TO FETCH THE RELATIVE REPORT.

THE COURT RESUMES - APPEARANCES AS BEFORE.

BY THE STATE PROSECUTOR:

Apparently I mislaid this report, and I will go on with the next one for the time being, and I would like to come back to this particular meeting at a later stage.

GERALD GUNTHER LUDI (Still under his former oath):

EXAMINATION BY THE STATE PROSECUTOR (CONTD.):

Did you visit Jean Strachan, that is Accused No. 7, on the 6th of June, 1963? --- Yes.

And did you compile a report as to what transpired there? --- Yes.

A67a I refer you to report A. 67a. Did you compile a report first of all?--- Yes, I compiled a report on the following day. Again I must say I compiled so many reports, I am not exactly sure when I did each one, but I again emphasize I never left it

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more than two days while the events were still fresh in my memory.

Do you want to refresh your memory from that report?--- Yes.

Yes?--- On this particular day, the 6th of June, 1963 I went to visit Jean Strachan at her flat , 305 Santa Barbara, Ockerse Street, Hillbrow, Johannesburg.

Yes? --- It was a discussion in connection with the volunteers, and these volunteers are again the volunteers controlled by Jean Strachan, the underground organization. We had arranged to go out that particular evening to paint slogans, and I was to collect the container of aerosol or aerolak paint from her and I was then to pick up my group and paint slogans in Johannesburg. When I go to the flat and spoke to Jean she told me that the hardware shop where she normally buys her supplies of paint had run out of stocks and, therefore, we would have to postpone painting that particular evening. I then went and informed the other members of my slogan painting cell, Anne Nicholson and another person, and told them what Jean had told me. Anne was very angry when she heard this, and said that Jean was being very lax.

And what else did she say?--- I think that was hearsay.

No, is it what Anne said?--- Yes, she told me that another person had told her. She told me that Jean Strachan had told her.

No, that is not hearsay? --- Anne told me that Jean Strachan had told her that she might be wanting me to take over the running of this entire volunteer slogan painting group in the future.

Who might be wanting you to take this over? --- Jean Strachan.

Yes? -- The thing I would have to do then, is I would have to recruit people into the volunteers, screen them for security, and then think up slogans to paint, and do all the other organizational work attached to this. This, in fact, never took place.

Do you remember telling us that at the second C.P. meeting held on the 22nd of May, 1963, you were given instructions to convene a meeting of an "Ad-hog" committee to follow up Club 77, is that correct?--- That is correct.

So what happened afterthat in that connection? --- I convened an "Ad-Hog" committee of as many members I could get hold of of the old Club 77.

And in this connection did you compile a report?--- Yes, I compiled a report the day or - the same day of the meeting, and I compiled this report while the events were still fresh in my memory.

A67

I refer you to report A.67. Is that the report that you are referring to? --- Yes.

Do you want to refresh your memory from that report when giving evidence?--- Yes.

Yes, please? --- Although it is not stated on the report, I remember that this meeting, this particular meeting took place at the flat of Paul Trewhela.

Accused No. 10?--- No. 505 Towerhill, Kotze Street, Hillbrow, Johannesburg.

When ?--- The date was on the 11th of June, 1963.

Yes?-- Present at this meeting were Paul Trewhela.

No. 10? --- Anne Nicholson.

No. 8? --- Myself.

Yes? --- And a person called Zena Tempkin, and two other persons. I was the chairman of this meeting. The first thing discussed was the propaganda committee of the volunteers. The task of this propagande committee of Club 77 was to draft political leaflets, leaflets of a political nature, which would later be distributed in Johannesburg, and on the reef. Paul Trewhela was the head of this propaganda sub-committee, and he reported that the propaganda sub-committee, which consisted

might call them, were printed in Capetown.

What were you supposed to do with these pamphlets? -- I was supposed to distribute them to people sympathetic to The Movement.

BY MR. BERRANGE:

I am not sure how much this is not appending against Your Worship's ruling in regard to the mentioning of names at meetings which are not the subject matter of this charge. Your Worship, I understood the ruling in this regard, that the names of accused persons who attended meetings which are not a subject matter of the charge, and these particulars, should not be given, because of the want of relevance in regard thereto?

BY THE COURT:

I think you misunderstood me. It was a question of the period, anything outside the period charged.

BY MR. BERRANGE:

Yes. My only basis on which I am raizing the matter is want of relevance, because I don't see how this is relevant - a meeting of another organization, which is not part of the organization which we are charged with, as in regard to which no particulars have been given. The meeting in regard to which the State relied are set out in the further particulars , but now we are faced with meetings, of what is called a continuation of Club 77, which is not part and parcel of the particulars, and therefore, in my submission, I don't think the State can rely upon this.

BY THE COURT:

No, I am prepared to admit that.

EXAMINATION BY THE STATE PROSECUTOR (CONTD.):

How far did we get?--- We had dealt with the fact that Anne Nicholson had given me some leaflets.

That's right?--- Another recommendation made at this

of himself, a person called Margaret Smith, and another person called Chris Day was still functioning, and was functioning well. He said that they were busy drafting a leaflet and they would be in a position to produce a considerable number of leaflets in the near future. He also mentioned...

He being?--- Paul Trewhela, Paul Trewhela was at that time working as a reporter on the Rand Daily Mail, and he mentioned that he was interested in joining a magazine called "News Check." He eventually did this. The person, Chris Day, also worked on the Rand Daily Mail as a reporter, and he, Paul, told us, was going to leave the Rand Daily Mail to work as a copy-writer for an advertising agency. I think I must at this stage perhaps explain. We discussed here the various sub-committees, or organizational sub-committees, which Club 77 had. They included a printing section, a leaflet drafting section, a leaflet distribution section, and a social affairs section. The second item we discussed was the printing section.

So you said at this meeting you discussed the pringing section, is that corr ct?--- Yes. At this meeting we discussed this group, and we decided that we would amalgamate it with the distribution group. In other words, we would take the distribution group and the printing group and bring them together to work together as one group. We also had the difficulty at that stage, we did not have a room to house our printing equipment, and I had promised to try and obtain a room somewhere for this organization which we called The Continuation of Club 77. At that stage too, I was supposed to be running the distribution section, and I made arrangements that other persons took over the running of this section from me while I was away in Capetown. At this meeting Anne Nicholson gave us some leaflets. I do not mention in the report what they were called, but I am almost sure - if my memory is not incorrect, that they were called "Focus." Anne told us that these leaflets or pamphlets, as a person

might call them, were printed in Capetown.

What were you supposed to do with these pamphlets?
--- I was supposed to distribute them to people sympathetic to The Movement.

BY MR. BERRANGE:

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EXAMINATION BY THE STATE PROSECUTOR (CONTD.):

How far did we get?--- We had dealt with the fact that Anne Nicholson had given me some leaflets.

That's right?--- Another recommendation made at this

word. At this meeting Zena Tempkin also reported from another committee, which was in existence at that stage, I had served on this committee too before I had been a member of the Communist Party, and the committee was called The New Africa Youth Form. NAYF This committee was an inter congress consultative committee. It consisted of delegates from the underground African National Congress, the underground Congress of Democrats and the legal Transvaal Indian Youth Congress. When I was on the committee, there were two delegates, two White delegates from the Congress of Democrats, four Natives from the African National Congress, and two, sometimes three Indians, from the Transvaal Indian Youth Congress. At these meetings, I think I have mentioned this, points of common interest to all the three organizations mentioned were discussed, and also joint campaigns, political campaigns were worked out and consulted on. Zena Tempkin had taken over my position as delegate to the New Africa Youth Form, and she reported that the organization was still functioning at this particular meeting, and she mentioned that the Indians on this committee had expressed the desire that multi-racial parties should be organized soon again. We also decided to step up the recruiting of members for our organization, and this is the continuation of Club 77. Anne also told us at this meeting that another committee - which had been set up, which was a local committee of an international organization, which was called AMNESTY, and Amnesty had approached members of The Movement for delegates from the continuation of the Club 77 committee, who also sit on the local Amnesty committee. We chose one of the persons who was present at this committee meeting, to attend . After the particular committee meeting Anne gave this person instructions about how going about, becoming a member of this Amnesty committee, and she told him, in my presence, that he should see a person called

committee meeting, I can't remember who made it, was that a second - we at that stage already had a typewriter, the recommendation was that we should buy a second second-hand typewriter , which would be kept by the distribution committee, and it was decided that Zena Tempkin and Anne Nicholson would assist in typing out and compiling leaflets in the distribution and printing sub-committee. Anne Nicholson also reported to the meeting that the silk screen which the pringing and distribution sub-committee had undertaken, had not taken place yet. Anne Nicholson was an expert at using the machine, which I don't know very much about, called a silk screen, whereby a type of poster is printed . She had undertaken to print a poster prostenting against 90 day arrests.

What do you mean by the silk screening committee or sub-committee, or how did you refer to it?--- It was, in fact, a sort of part of the printing committee. The printing committee did two things. (a) They roneod leaflets, (b) They silk screened leaflets. It was part of the printing committee, sub-committee.

Yes? --- Zena Tempkin reported to this meeting that she had collected a considerable amount of money from older members of COD, and by that I mean - with that we usually meant when discussing the older members of COD, people who had been members of the Congress of Democrats at some stage or the other, but were now banned, and therefore, no longer in the limelight of the organization. These were usually more elderly people, and at this meeting we then decided to entrust finance - the matter of finance to Zena Tempkin, and she was given the task of collecting money to finance our organization from sympathetic people in The Movement, and there I again use the word,Movement, in the wider term of the meaning of the

them out. The S.A. Communist Party through its members, the accused, also provided the finance required for the carrying out the activities of the volunteers or youth. The nature, script, object, activities and purpose of the organization were directed mainly as (aa) The painting of slogans on public buildings or places visible to the public (bb) The printing and distribution of leaflets, the identity of which is not known to the State. (cc) The pasting of propaganda posters at places visible to the public. (dd) And other work assigned to them by the accused, the precise nature of which is not known to the State. That is my answer.

BY MR. BERRANGE:

The submission I make is that the State isn't entitled to rely upon any slogan painting, take that as an example, other than those that are set out in the indictment, and on top of that, the State has got to establish that the slogan painting falls within the ambit of the charge in the sense that these were paintings done by The Communist Party, which is the party that is charged. Here the State is endeavouring to give evidence about slogan painting, to which no reference has been made in the indictment, and made by and done by an individual of another organization.

BY THE COURT:

The evidence is on record. I would reserve my decision on this particular point until a later stage.

EXAMINATION BY THE STATE PROSECUTOR (CONTD.):

Did you attend the fifth Communist Party meeting? --- Yes.

Did you compile and submit a report? --- Yes, I compiled a report, I compiled it either the same evening or the following day, and I compiled it while the events were still fresh in my memory, and I would like to refer to this report to refresh my memory.

A68.

I show you report "A68"? --- Yes.

/273. Yes...

Ivan Schermbrucker, who was also serving on this Amnesty committee. I then gave this person a lift to the house of Ivan Schermbrucker.

Is that Accused No. 2? --- Yes. And this person then went into the house, and I don't know what transpired. While this person was busy with Ivan Schermbrucker, I took Anne Nicholson with me, and we painted some red arrows on a few walls.

MR. BERRANGE OBJECTS:

I do again want to raise the objection that I raised a few moments ago, my attention has been drawn again to the charge and the further particulars, and I draw Your Worship's attention specifically to page 8 of the further particulars, in which the question was asked "Does the State by the use of the words'inter alia' in Annexure B to count 2 intend to rely upon acts and/or activities other than those specifically set out in Annexure B read with Annexure C, D, E, F, G,H, and J. If so, full and precise particulars of each and every such act and/or activity is required specifying (a),(b),(c),(d)." The answer is "The State does not rely on acts or activities not set out in annexures (B),(C),(D),(E),(F),(G),(H) and (J) as amended." We are now getting evidence of acts and activities by present members of the accused which the State has told us specifically they do not rely on.

BY THE STATE PROSECUTOR:

First of all I refer the Court to page 2 of Annexure B, item 14. "Did organize, finance and direct the activities of an organization known as The Volunteers." I also refer the Court to annexure "M", page 20, paragraphs 4 and 5. "The nature, .." - let's read 4 and 5. "All the accused took part in the organization of The Volunteers or youth, and in the direction of the activities by constant discussion of the activities, and deciding on suitable means of carrying