

IN THE MAGISTRATE'S COURT - REGIONAL DIVISIONHELD AT HUMANSDORP.CASE NO.: RC. 9/65.DATE: 8th MARCH, 1965.THE STATE vs.JOHN PATI AND OTHERS.BEFORE:MR. B.P. LOOTS.CHARGE:A.N.C.PLEA:NOT GUILTY.FOR THE STATE:MR. P. KOTZE.FOR THE DEFENCE:MR. S. SAPIRE.INTERPRETER:MR. E. HEIN.

CONTRACTORS:LUBBE RECORDINGS (PTY.) LTD.

THE STATE VERSUS:

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| (1) <u>JOHN PATI</u> | (2) <u>SAJINI HOMANE</u> |
| (3) <u>JIMMY TOSE</u> | (4) <u>ALFRED KALIPA</u> |
| (5) <u>PHILMOT MFEKETHO</u> | (6) <u>WILSON RESHA</u> |
| (7) <u>JULY NTANTISO</u> | (8) <u>DOUGLAS GABULA</u> |
| (9) <u>JEFFREY KEYE</u> | (10) <u>JACKSON MABELE</u> |
| (11) <u>ENOCH NDENGNI</u> | (12) <u>MABEL MALI</u> |
| (13) <u>REBECCA NDONGENI.</u> | |

STATE PROSECUTOR READS CHARGE-SHEET.

CHARGE: 4 counts relating to the African National Congress
as set out in the charge-sheet.

ACCUSED Nos. 1 TO 13 PLEAD NOT GUILTY.

DISCUSSION re age of accused No.11. Application that accused No.11 be tried separately. (16 years of age) State Prosecutor wishes to know on what grounds application is made. Mr. Sapire replies: the only reason being that he is a juvenile. Further discussion ensues. Father of No.11 is deceased and his mother, accused No.13, is present in Court. Mr. Sapire indicates that he will not persist with application.

EVIDENCE FOR THE STATE:

ATTWELL GAZO d.s.s.

EXAMINATION BY STATE PROSECUTOR: Are you a detective-sergeant in the South African Police at Port Elizabeth? --- I am.

And are you attached to the Security Branch of the Police Force? --- I am.

Sergeant, I would like you to have a look at this document I now produce. Can you tell the Court anything about the document now in your possession? --- Yes.

What? --- This document is a photostat of a document...

A photostatic copy? --- Yes, copy of a document I picked up in New Brighton during the course of my investigation in June, 1961.

(Your Worship, the document now identified by this witness is handed in as Exhibit A.)

Sergeant, did you pick up the document in New Brighton only? --- No, I picked up... this is one of the documents I picked up the same night, during the early hours of the morning.

Where? --- At New Brighton, Port Elizabeth, Kwazakele, Veeplaas and Walmer Locations in New Brighton, in Port Elizabeth.

New Brighton and Kwazakele and Veeplaas, are those Bantu Locations in the district of Port Elizabeth? --- Bantu Locations, that is correct.

Now, did you find one document only? --- No, I found a lot of them. Some were scattered in the streets. Some were left in piles at bus stops and bus terminals, that is in New Brighton, Kwazakele and Walmer.

Were you on patrol duty the previous night? --- The previous night I was.

Did you observe any documents in the street then? --- Not the previous night.

Do you remember the date when you picked up the document on that occasion? --- It was in the early hours of the morning of the 26th June.

1961? --- 1961.

In what language is the document, Exhibit A, printed? --- Exhibit A was printed in Xhosa.

Are you a Xhosa linguist? --- I am.

You have told the Court that you can speak also English and read English? --- I have.

Did you translate the contents of Exhibit A from Xhosa to English? --- I did.

Did /...

Did you record your translation, your English translation? --- Yes.

I now produce the document. Will you please have a look at it? --- Yes, Exhibit B is a copy of my translation of Exhibit A.

(Your Worship, the translation of Exhibit A, recorded on the document as referred to by the witness, Exhibit B, will now be read out and handed in in this case as Exhibit B.)

WITNESS READS EXHIBIT B: "Remember the 26th June...." etc.

PROSECUTOR PROCEEDS: Sergeant, do you adhere to your translation as recorded on Exhibit B? --- Yes, Sir.

Is Exhibit B a correct translation of the contents of exhibit A? --- It is.

I would like you to have a look at this document, Sergeant. Can you tell the Court anything about the document now handed over to you? --- Yes, I can.

What? --- This document is also a photostatic document....

Is it a photostatic copy? --- Copy, yes, I am sorry, of one of the documents I also picked up in New Brighton, Kwazakele, Veeplaas and Walmer, in the district of Port Elizabeth.

(The document now identified, Your Worship, is handed in as Exhibit C.)

Sergeant, when did you pick up the document on that occasion? During which month? --- I picked it up also in June.

Which year? --- 1962.

And where did you find the document on that occasion? --- These were also picked up in the streets, at the bus-stops and at the bus terminals in these Bantu Locations I have mentioned.

During what time of the day? --- During the early hours of the morning.

In what language is Exhibit C printed? --- Exhibit C

is /...

is printed in the Xhosa language.

Did you translate the contents of Exhibit C from Xhosa? --- I did.

Did you record your English translation of Exhibit C? --- I did.

I show you a document. Is the document I have now handed over to you, your recorded translation of Exhibit C? --- It is.

(Your Worship, the translation of Exhibit C will now be read out and handed in as Exhibit D.)

Please read out Exhibit D, Sergeant?

WITNESS READS EXHIBIT D: "26th June is the Freedom Day...."

PROSECUTOR PROCEEDS: Sergeant, do you adhere to the translation as recorded on Exhibit D? --- I do.

Is Exhibit D a correct translation of Exhibit C? --- It is.

Will you please have a look at this document I now hand over to you? Can you tell the Court anything about the document now handed over to you? --- Yes, the document is similar to one of the many documents I picked up in New Brighton, Kwazakele and Veeplaas in May, 1963.

What do you mean by "the document is similar"? --- I mean this is a copy.

Is it a copy? --- A copy.

A copy of what?

BY THE COURT: What kind of a copy? --- A photostatic copy, Your Worship, I am sorry.

PROSECUTOR: The document now identified is handed in as Exhibit E. Now the document, Exhibit E, is a photostatic copy of what, Sergeant? --- Of a number of copies I picked up at Kwazakele, New Brighton and Veeplaas.

A number of copies or a number of documents? --- A number of documents.

When /...

When did you pick up the documents on that occasion?
--- During the early hours of the morning.

Which year? --- In May, 1963.

Where? --- At New Brighton, Kwazakele and Veeplaas.
BY THE COURT: Can you remember the date in May, 1963? ---
Unfortunately, Your Worship, I cannot.

In the early hours of the morning on a certain day
in May? --- In May.

PROSECUTOR: Where in Kwazakele and New Brighton did you pick
up documents on that occasion? --- I picked up these documents
at the bus-stops and in the streets, that is at the bus termi-
nals. Some were placed on the benches and a stone placed on
top. Some were lying loose. Some were scattered against the
yards.

Sergeant, the document, Exhibit E, now before Court
consists of two leafs, two separate leafs? --- Yes.

And the documents you picked up on that occasion? ---
It was only one leaf printed on both sides.

In what language is Exhibit E printed? --- It was in
English, except for two words.

Can you please read out Exhibit E, Sergeant?

WITNESS READS EXHIBIT E: "Umkonto we sizwe....."

PROSECUTOR PROCEEDS: Sergeant, the words "amandla ngawethu"
appear on this document Exhibit E. Are they Xhosa words? ---
It means: "Strength is ours!"

Now, in this document Exhibit E, reference is made to
Leballo? --- Yes.

Do you know from your own knowledge whether this is a
name of a person? --- It is the name of the leader of the
P.A.C., Pan Africanists, also a banned organisation.

Will you please have a look at this document now
produced? I hand it over to you. Can you tell the Court
anything about the document now handed over to you? --- Yes,
it is also a photostatic copy.

Copy of what? --- Of that document.

Which document? --- The document I picked up in New Brighton and Kwazakele also.

(The document now identified, Your Worship, is handed in as Exhibit F.)

When did you pick up the document, Exhibit F? --- 1964.

When in 1964, in which month? --- April.

Do you remember the date? --- I can't remember the date but it was round about the 16th, 17th.

Where about in Kwazakele and New Brighton did you pick up the documents on that occasion? --- These were also picked up at the bus terminals. Very few in the streets. Most were picked up at the bus terminals.

Is Exhibit F printed in Xhosa? --- Printed in Xhosa.

Did you translate the contents of Exhibit F from Xhosa into English? --- I did.

Did you record your translation? --- I did.

Is this document now handed over to you your recorded translation of Exhibit F? --- It is.

(Your Worship, the translation, Exhibit F, will now be read out and handed in as Exhibit G in this case.)

Will you please read out Exhibit G, Sergeant?

WITNESS READS EXHIBIT G: "The 15th April - Afrika Day..."

PROSECUTOR PROCEEDS: Sergeant, is Exhibit G a correct translation of Exhibit F? --- It is.

Do you adhere to the translation? --- Yes.

Now, this document, Exhibit F, reference is made to Soga, George Gazo and Du Preez? --- Yes.

Are these the names of people attached to the Security Branch of the Police Force at Port Elizabeth? --- Yes.

And are they the persons who investigated the activities of unlawful organisations? --- That is correct.

No further questions by the State Prosecutor.

No questions by Mr Sapiro.

COURT ADJOURNED.

HEARING RESUMED.

ALEXANDRIA MBANE d.s.s.

EXAMINATION BY STATE PROSECUTOR: Did you become a member of the African National Congress? --- Yes.

Do you know when? --- Yes, during 1960.

During 1960? --- Yes.

Before 1960? --- I joined in 1960.

Where did you join? --- At Kwazakele, Port Elizabeth.

When in 1960 did you join the African National Congress?
--- During the beginning of 1960.

Do you know that the African National Congress was declared unlawful? --- Yes, I remember it was banned.

Do you know when? --- It was during 1960.

Do you know when in 1960? --- During April, 1960.

Did you become a member of the African National Congress before it was declared unlawful or after? --- I joined the organisation prior to its banning.

After the banning of the African National Congress in April, 1960, did you continue to be a member? --- Yes.

How did it come about that you continued to be a member of the African National Congress? --- Well, I conducted or did the work of the organisation during its banning - or after the banning.

Did you attend any meetings of the African National Congress after the banning? --- Yes.

Do you remember the first meeting you attended after the banning? --- Yes, Sir, there was a meeting that I recall in 1960.

When about in 1960? --- It was during May.

Do you recall where that meeting was held? --- I remember, yes.

Where? --- At the residence of Ndongeni.

Where /...

Where is that residence? --- He is resident at Kwazakele.

Do you know the christian name of this person Ndongeni? --- Douglas is the first name.

What meeting was it? --- This meeting we were called to attend, it was a meeting of the organisation, the A.N.C.

During what time of the day was this meeting held? --- The meeting was held that evening at seven o'clock.

Who attended that meeting? --- There were many of us members that attended this meeting.

What members? --- Of the A.N.C.

Do you know the persons who attended? --- I do, yes.

Can you give the Court their names? --- I can quote the names, Sir, although in the organisation we did not make use of our names, we referred to each other as comrades.

BY THE COURT: Give the names of your comrades. --- Freddy Mali.

PROSECUTOR: Do you see him in Court? --- No, I do not see him.

Please go on.--Lionel Mbane. I do not see him here either. Myself, Pagamile Njikelana, Rebecca Ndongeni. She is here.

Where is she? --- Accused No.13. And Philepot Mfeketho.

Do you see Philepot Mfeketho here? --- If you will grant me the opportunity to have a look, Sir?

BY THE COURT: Can you read numbers? --- Yes, Sir.

Well, each of the persons sitting there has a number. See if you see the man here and if you do see him say what his number is. --- No, I don't see him, Sir. Another person was Mabel Mali, that is Accused No.12. Also Cafente... at least that is the name we knew him by. That is Accused No.1. Another one we used to see there was Tose, Accused No.3. Reshe was another.

BY THE COURT: R-e-s-h-a? --- R-e-s-h-e, Sir.

PROSECUTOR: Who is he? --- Accused No.6.

Yes? --- Keye was another, that is Accused No.9.

Others again we only used their clan names. Mostly we referred to these other persons as comrades and not by name. Accused No.7, Sir, as well as the others, were present. What I mean by that, Sir, is that all the accused before Court were there.

Do you know the names (Court intervenes)

BY THE COURT: Mr. Prosecutor, this man has been called upon to give the names of those who attended. Now, if it is possible for him to give the names he must stop this nonsense about comrades and so on and give the names of those that he knows. If he doesn't know the names of the others then he must point them out to me as being persons present at that meeting, whose names he does not know.

PROSECUTOR: As Your Worship pleases. That is the question I am asking him, Your Worship.

PROSECUTOR PROCEEDS: Do you know the names of any of the other persons? --- I don't know some of the names of the others.

Now, do you see any of the persons in Court? Persons you don't know the names of? --- Yes, there are those in Court whom I do not know the names of.

Can you see the numbers on the accused persons? --- Yes.

Now point them out - the persons whom you had seen at the meeting. --- Accused No.1. He is the one I referred to as Cafente, Sir. I do not know the name of Accused No.2.

What about him? You do not know his name but what about him? --- I do know he was in the organisation, Sir.

BY THE COURT: You have not been asked about the organisation, you have been asked about the people who attended the meeting that you say was held at Ndongeni's house in May, 1960. I want you to listen to the questions being put to you and give your attention to that. You are asked to point out any persons in

Court here who attended that meeting. Point out the person and if you know the name, say the name also. You have told the Court that No.1 was at the meeting, was No.2 there too? --- He was there, yes.

At the meeting in May, 1960? --- Yes, he was.

All right, carry on. --- Accused No.3 was there.

No.3, do you know his name? --- That is Tose, Sir.

PROSECUTOR: Yes, go on? --- No.4 was at the meeting, but I do not know his name. Reshe, that is the surname of Accused No.5.

COURT: No.5, get up!

Is that Reshe? --- Sorry, Sir, I made a mistake.

This witness seems to be very worried. Let the man go out and point out the person he is referring to. --- I point to No.6 as being Reshe, Sir.

You were last at No.4. You are now at No.6.

PROSECUTOR: And No.5? --- Yes, Accused No.5 was at the meeting, but I don't know his name.

No.7? --- That is Ntantiso. He was at the meeting.

No.8? --- No.8 was at the meeting, but I do not know his name.

Yes? --- Accused No.9 is Keye. He was at this meeting. I do not know the name of Accused No.10, but he was present at the meeting. No.11 we know as Shvele. He is related to Ndongeni. C-h-e-w-e-l-e. That is his Xhosa name. He was at the meeting as well. Accused No.12 was there, she is Mali. Accused No.13 is Ndongeni, she is the mother of Douglas Ndongeni.

COURT: The man in whose house the meeting was held? --- That is correct.

PROSECUTOR: Did anybody address the persons present at this meeting? --- Yes, Douglas Ndongeni addressed the meeting.

What did he say? --- He said that the government did not heed us and we would have to resort to violence. That a

change /...

change had taken place, that is that we would now have to work underground. Meetings would be held on a rotatory basis. It would not now be common knowledge. The old membership-cards were to be destroyed.

COURT: What do you mean by "on a rotatory basis"? --- What was meant by that, Sir, is that the meeting would not be held at the same place but first in the house of one and then the next meeting in the house of another and so forth. This was an attempt to evade the Police so that we would not be arrested.

PROSECUTOR: Yes, what else did he say? --- The old membership-cards were to be destroyed.

What else? --- That a new system would be introduced.

New system as to what? --- Receipts would now be made use of.

Receipts for what? --- And that the subscriptions would be monthly, amounting to 20c per person. Also the fact that we should endeavour to get people to join. I am trying to recollect some other things. He then said this is the way that we would carry on in future, by working underground.

Now, at this meeting you attended during 1960, that you have just described, was there anybody present at this meeting holding an office? --- Yes.

Who? --- Ndongeni, Sir, he was the Chief Steward.

Chief Steward of what? --- Of Zone 9.

At Kwazakele? --- That is correct.

And the other persons present there? --- I don't quite follow, Sir.

Did any of them hold any office? --- Yes.

What? --- We were all Volunteers.

Volunteers of? --- Of the African National Congress.

Was that the last meeting - the only meeting you attended after the banning? --- No, that wasn't the last meeting.

Did /...

Did you attend other meetings after that one? ---
Yes, Sir, although I will not be able to remember all of
these. They were many.

How were the meetings held? --- Meetings were held on
Tuesdays.

Every Tuesday or only some Tuesdays? --- Every week,
Tuesday.

Until when were the meetings held on Tuesdays? ---
Well up until my arrest in 1963.

When in 1963? --- I was arrested on the 21st July, 1963.

Where were these meetings held? --- They were held at
the residence of Douglas Ndongeni. I have already explained
that this meeting that was discussed was held at the residence
of Ndongeni.

Yes, but the question was - you have told the Court
that since then, since the meeting you had attended at
Ndongeni's place, you held meetings every Tuesday until your
arrest? Now I want you to tell the Court where those meet-
ings were held? --- There was a meeting held at my house and
there was another meeting again that we held at the residence
of Ndongeni. At the residence of Njikelana. As I have ex-
plained, Sir, there were many meetings that I had attended.
I have forgotten them, except three. The one was..(Court
intervenes)

BY THE COURT: You are not being asked now to recall what
meetings you attended. You are being asked to say where were
all the meetings held from 1960 until 1962. You say there
were many meetings. You are not being asked to give details
about those meetings, you are just being asked to say where
did you people meet regularly on Tuesdays for these meetings.
Can you understand this very simple question? In other words,
were all your meetings held at the house of Douglas Ndongeni
or at your house or at Njikelana's house, or were meetings

held /...

held elsewhere? Do you understand? Were the meetings only at three places, at your house, Njikelana's and Ndongeni's? --- They were held in all the houses of the various members, including the three houses which I have mentioned of course.

PROSECUTOR: Who are you referring to as the members? --- The ones before Court.

COURT: In other words, the members of Zone 9? --- Yes, Sir.

PROSECUTOR: Now, how was it made known where each meeting was to be held? --- The venue of the next meeting would be made known to us by the Chief Steward at a meeting. If we were meeting tonight, Tuesday night, we would be informed: "Look, next week's meeting will be held at the residence of..." so and so.

Do you know the addresses of all the accused now before Court? --- I do not know the numbers of their houses but I do know where their houses are.

Can you point out their houses? --- Yes, I could.

Do they all live in Kwazakele? --- Yes.

Now, on the occasion when a particular meeting was held in the house of any of the members of your Zone, where would that member be, that person, the occupier of the house? --- He would be present at the meeting.

COURT ADJOURNED.

HEARING RESUMES.

WITNESS WARNED: Still under former oath.

EXAMINATION BY STATE PROSECUTOR (cont.): You have told the Court that you attended meetings of the African National Congress until your arrest? --- Yes.

And you have told the Court at the first meeting you recall, which you attended after the banning of the organisation, you were told about the receipts issued - to be issued for the subscriptions? --- Yes.

Did you pay subscriptions? --- I did.

What /...

What amount? --- 20c.

For a year? --- Per month.

Did anybody else pay subscriptions in your presence?

--- Yes, all of the accused.

Who received the money from you? --- I handed the subscription money to Ndongeni.

Did Ndongeni collect (Court intervenes)

COURT: We have got several Ndongeni's.

PROSECUTOR: Which Ndongeni are you talking about? --- Douglas Ndongeni.

Did he collect the money from you for the whole period, until your arrest? --- Ndongeni collected the money. He used to hand it to Ngoyi. Thereafter, or some time in 1962, I commenced to collect the money.

Why did you take over collecting? --- I was elected by Ngoyi.

You were elected as what? --- I was elected to the post of Chief Steward.

From whom did you collect the money? --- From all the members.

Who are you talking about as "all the members"? --- I mean by that, Sir, all the members who were under me as well as the ones before Court. That is the accused persons.

Apart from attending the meetings and subscribing the amounts you have mentioned, did you do anything else for the African National Congress? --- Yes, in 1961.

What did you do? --- I called the members together and we had a meeting at my house. It was then pointed out to the persons that I had now been elected.

Who attended that meeting? --- We were all there, Sir, including all the accused before Court.

When in 1962 was that meeting held?

COURT: He said 1961. "In 1961 I called the members together" he said.

PROSECUTOR /...

PROSECUTOR: When in 1961? --- During June of 1961.

Why do you remember that meeting? --- I remember this meeting, Sir, because it was an important one. I conveyed to them that they should subscribe an amount of R1 per person.

Why? --- This money was to be used for the purposes of employing or briefing attorneys to assist those persons who may be arrested.

Who may be arrested what for? --- Well, Sir, a Policeman had been killed. Those persons who had been arrested were to be defended.

Was that money to be used for everybody arrested or any group of persons, or a particular person? --- No, this money was to assist A.N.C. members who were arrested.

Now apart from attending the meetings, did you do anything else for the African National Congress? --- Yes, Sir, we distributed leaflets. We also attended concerts. I also attended tea parties.

For what purpose were the tea parties held? --- The purpose of these A.N.C. tea parties was for gathering in money.

Who attended these tea parties? --- All of us. All of us members used to attend these tea parties. —

When you talk about all of us, who do you mean? --- What I mean by that, Sir, is all of us members of the A.N.C.

All over the country? --- All the members of the Zone...

Which Zone? --- Zone 9, the one in which I was.

And who took part in the distribution of pamphlets? --- The volunteers, Sir, except the women.

Who are they? --- All these volunteers before Court.
Excluding the women? --- Excluding Accused Nos. 12 and 13.

And the others, Njikelana and Lionel Mbane and Freddy Mali? --- Including them.

Can /...

Can you recall when you took part in the distribution of the pamphlets? --- I have just momentarily forgotten. It will come back to me in 1961.

Do you know when in 1961 - during which month? --- If you will just give me an opportunity to think, Sir. June of 1961.

Can you recall any other occasion? --- In 1962.

When in 1962? --- In May.

Any other occasion? --- 26th June.

Are you now talking of a different occasion or the occasion you have just mentioned? --- I am talking about the 1962 one.

Now you have mentioned the June, 1961, and you have now mentioned 26th June, 1962? --- Yes.

Is there any other occasion you can remember? --- 1963.

Do you perhaps know when in 1963? --- May, 1963.

Which time of the day did you receive the pamphlets? --- Between the hours of ten and twelve at night, Sir. We estimated when the people could now be in bed and then distributed them.

When did you take over as Chief Steward of Zone 9, during which year? --- I was elected in 1961.

Why did you take over, do you know? --- Because our Chief Steward was arrested.

What was his name? --- Ndongeni.

His christian name? --- The one whom I have referred to, Sir, Douglas.

No further questions by State Prosecutor.

BY THE COURT: This was in 1961 you say? --- Yes.

CROSS-EXAMINED BY MR. SAPIRE: Do you know the address 2396 Kwazakele? --- That is my address, yes.

Who lives in 2397, your next door neighbour? ---

Philpot /...

Philpot Mfeketho. He resides at that residence.

Have you never seen Accused No.5 in your life before?
Don't you know his name?

PROSECUTOR objects to two questions being asked, requiring two different answers.

MR. SAPIRE PROCEEDS: You will remember you went along this line of people here this morning, telling us who were at meetings? --- I remember, yes.

You came to No.5? --- I remember.

First of all you said his name was Reshe?

PROSECUTOR: No, Your Worship, with respect, when he was in the witness-box he mentioned Reshe. Then when he came down and pointed out the persons, he didn't do so. According to my recollection.

COURT: I don't want any argument. The question as put by the learned advocate for the Defence is quite correct. The witness stood there and he said No.5 was Reshe. I then had No.5 stand up and then he said: "No, this is not Reshe, the next man is Reshe". Then he walked down and then he said No.6 was Reshe. I will have no argument on this point.

PROSECUTOR: As Your Worship pleases.

MR. SAPIRE PROCEEDS: You first said that No.5 is Reshe. Then you said: "I am sorry, I made a mistake. I point to No.6." Is that what happened? --- I remember, yes.

Then you said No.5 was at the meeting but you do not know his name? --- I remember, yes.

But he is Philpot? --- What confused me this morning was this, that you will observe these people have grown beards and they did not have beards previously.

Look very carefully at him - No.5. --- Ever since I have known this man he was clean shaven.

Do you recognise him now? --- Yes. He is a next door neighbour of mine, but what confused me this morning

was /...

was the fact that I have never seen this man before with a beard.

This is despite the fact that you were specially looking out for him and you specially went within a few inches of him to have a look at him? --- Yes, but bear in mind the fact that he has got a beard now. I didn't recognise him with that beard.

But in any case, you came to this Court today you know, to give evidence against your neighbour Philpot? --- I can't quite follow your question saying that I know that I came here to give evidence against him - specifically or did I know .. did I come here knowing that I was going to give evidence?

You knew that you were coming to Court this morning to give evidence against Philpot and other accused? --- Yes.

You expected to find Philpot here? --- I knew I would see him here, yes.

And you mentioned the name of Philpot as the third or fourth name you mentioned, when you came to this witness-box? --- Yes, I mentioned it.

Then you said: "If you grant me the opportunity to have a look" and then that you don't see him here? --- I did in fact say I wanted an opportunity to have a look, yes.

And you did in fact look up and down the line? --- Quite correct. I didn't see him for his beard.

So the beard made all the difference, hey? --- That is what I said, yes.

Right. There are a number of accused persons whose names you do not know? --- Yes.

Have you ever been taken to an identification parade to see whether you could point them out? --- No.

So, those people whose names you haven't mentioned you are pointing out for the first time today as persons who

were /...

were at meetings and took part in A.N.C. activities? --- Yes.

Under what circumstances did you make a statement to the Police? Involving the accused. --- I was arrested and kept in custody. I then realised, Sir, that I wanted to tell the truth.

How long were you in custody before you decided to tell the truth? --- I made my statement to the Police a week after I was kept in custody.

And how long after you had made your statement were you kept in custody? --- A long time, approximately three months.

Were you actually kept in custody for 90 days? --- Yes, I was.

When you made your statement you said you were going to tell the truth? --- Yes.

And did you make your statement because you were told if you told the truth you would also not be prosecuted? --- I didn't have that in mind at all, Sir. When I made my statement .. that I may not be prosecuted.

Didn't you hope to get any benefit at all if you made your statement? --- No, I didn't expect any benefit whatsoever.

Were you ever prosecuted, or were you ever charged? With being a member of the A.N.C. --- I was arrested for being a member of the organisation.

Apart from being arrested, did you come to Court being charged with being a member? --- I went to Court, yes.

I am asking whether you had been charged, as these accused are being charged here, with having been a member of the A.N.C., furthering its activities or taking part in its activities? Were you ever charged in a case? --- No, Sir. In fact, isn't the mere fact that you are arrested and told what you are being arrested for a charge?

No, it isn't, and you know it isn't.

COURT: /...

COURT: I don't think there is justification for that statement. It has been my experience that these people cannot distinguish between appearing in Court and being charged.

MR. SAPIRE: I may be wrong, Your Worship, I am sorry.

COURT: You can put it to him if you want to, but I cannot allow that statement to stand unless you question the witness on it.

MR. SAPIRE PROCEEDS: Well, do you know the difference between being arrested and also being brought before the Magistrate, and a charge being put to you and you being asked to plead whether you are guilty or not guilty? --- No, Sir, I cannot differentiate between the two. In my opinion it is one and the same thing because you are arrested and you are told what you are being arrested for, and then you are taken to Court.

Do you know whether you were ever found guilty or not guilty of belonging to the organisation? --- No, I have not.

At the moment are you free or are you still in custody? --- That I am afraid I cannot answer. You see, although I am free, bodily....

I don't understand that - bodily?

COURT: What of you is not free? --- I will then say, Sir, I am free. I am outside.

MR. SAPIRE: I don't want to go unnecessarily into anything but have you any doubt about being free? You seem to have a doubt. --- No, I have no doubt, Sir, but I don't know whether I may still be charged.

Oh, you don't know whether you may still be charged. --- No, I don't know that. I therefore, Sir, cannot answer that question of yours.

What I really meant is: are you now living at home or are you living in jail? --- I am at home now, Sir.

When did you first cast your mind back to this

meeting /...

meeting which took place in May, 1960? When did you first try to remember who was at the meeting? --- I am afraid it is difficult for me to answer that question. I have described this meeting. The question is just a little beyond me.

We will go slowly and try to get an answer. After the meeting in May, 1960, you attended a number of meetings, isn't that so? Quite a number? --- That is so.

And I take it the membership of Zone 9 .. the A.N.C. membership of Zone 9 must have consisted of quite a lot of people? I mean the accused here before the Court weren't the only people who were members, were they? --- These are not all, no.

No, there were lots more? --- We were all members, including myself.

That is not the question. Look, you were the Chief Steward of this group at one time? --- Yes.

You must know about how many members you had? --- Well, Sir, I did not count them.

Yes, but you must know whether you had twelve or eleven or if you had twenty or thirty? --- I have never really counted them. There were many. As a matter of fact I do not think I even could estimate the number.

All right. Now, you don't know do you, who was at each meeting on each Tuesday night? --- It is compulsory, Sir, that the members attend these meetings - these meetings which were held on Tuesdays.

It may have been compulsory, but it is very difficult if there are more than say twenty people, that each one attends every meeting. Sometimes somebody is sick or they work late or something happens and they can't come to a meeting. --- Yes, Sir, but if anything like that did happen, it would be necessary for that person to inform me that he will not be able to be present.

Well /...

Well, did it ever happen? --- But everybody used to be present.

Is your evidence that at each meeting that was held, each member of the A.N.C. in Zone 9 attended? --- They were always present, yes.

So that you say that from May, 1960, until you were arrested in 1963, each one of these accused attended each meeting on each Tuesday night? Is that what you are saying? --- I think I have answered that question correctly, in the affirmative.

COURT: Just answer it again. You are being asked the same question again to make certain that there is no doubt about your reply. Just answer it again. The question is: Were all the members always present at all the meetings from May, 1960, until the time of your arrest in 1963? In other words, never on any occasion during that period was there ever a single accused or any other member of Zone 9 absent - you were always in one-hundred per cent attendance? Something like a world record in fact! --- Yes, Sir, they used to always be present.---

All of them? --- At all times, all of them.

BY MR. SAPIRE: And so were you? You never missed a single meeting? --- No, I did not miss any meetings.

All right. Did you know when you came to Court this morning, did you know who to expect to see here among the accused? --- Yes, I knew who would be here.

You were later asked by my learned friend, the Prosecutor, to tell us at whose houses you attended meetings. Is that correct? --- Yes.

And your reply to that was, well the meetings were held at the houses of all the accused? --- That is what I said, yes. Including all the members... of the A.N.C.

Can you tell us approximately when each meeting was

held /...

held at the house of each accused? Can you do that?---

No, I cannot.

You also said that you don't know the numbers of the houses, is that right? --- I said so, yes.

Well, first of all you knew the number of the house of accused No.5, didn't you?

PROSECUTOR: Your Worship, with respect, I don't think that that is a fair question. He knew the number when the number was given to him. My learned friend gave him the number, he did not tender it.

BY MR. SAPIRE. Well, if I may do it slightly differently. This man whom you had recognised, accused No.5, you recognised him as being a person who had attended meetings - despite the fact that he now has a beard and is so different from what you used to know him as, you didn't recognise him for whom he was? --- Yes, he used to go to the meetings.

Yes, it is a very interesting question. If he is so disguised by having a beard now that you couldn't even tell that he is your neighbour that lives next door to you, how can you say that he is a man who attended the meetings? --- I must repeat what I had said, Sir, that this morning when I made that error it was due to the fact that I had never previously seen accused No.5 with a beard.

COURT: Yes, but my good man, this morning you said that a certain man attended the meetings - you gave the name of Philepot, and you gave the names of other people who also attended. Then you went right through this row and you said No.5 attended. You said: "I don't know the name of No.5." Now this is the point. If you did not know who No.5 was.. if you did not recognise him as your next door neighbour, how on earth could you recognise him as a person who attended meetings? These two things are absolutely irreconcilable. They do not mix, it is like oil and water. No matter how

you /...

you try to explain it. It is impossible. There is no earthly explanation that I could possibly think of. And I will go through this again with you. You said this morning there was a man who attended meetings and his name was Philepot Mfeketho. Then you went through all the accused and you said: "I do not see that man here". You gave the names of other people who attended. Then you said: "Some people attended that I cannot remember the names of but I shall point them out." You did so. You came to No.5 and you said: "This man attended meetings but I do not know his name." If this is so, how could you possibly say that accused No.5, who is a man whose name you could not say, whom you couldn't recognise when he had a beard, how can you say that he attended meetings? By what did you recognise him when you said this morning, without knowing this man's name: "I can say he attended meetings"? --- Your Worship, correct, I did mention the name but I did not see him in Court. Even though that I may not know the name, I still can point a person out.

BY MR. SAPIRE: At least you are making a very big mistake, because you must be mixing him up with somebody else. But never mind about that, for the moment. I want to go on to something else. I reminded you just now that you were asked about the houses at which these meetings were held. Did you know that your house was No.2396? --- That is so.

Why did you never say that a meeting was held next door to you? --- I had replied to the question saying that meetings were held at the houses of the various members.

You also indicated - I am going to argue that - although you might be able to point out these places you did not know their numbers. Didn't you know that Philepot lived right next to you - your number is No.2396 and he is 2397, didn't you know that even before I told you this this afternoon?

COURT: The question is really very simple. Did you know the number of the house of accused No.5? --- Yes, Sir, the number is 2395.

BY MR. SAPIRE: 2395? --- I beg you pardon, Sir, 2397.

You knew that all the time? --- I knew it.

When you were asked for numbers by my learned friend you said you can point out the places but you won't be able to give the numbers. All right. Were meetings this is not really a question - were other meetings held in other houses in your street? --- Yes, there were other meetings held in other houses.

What numbers? --- I wouldn't be able to quote the numbers.

COURT: Which accused? --- They were held in all the houses of the accused.

Did all the accused live in one street? --- No.

Well then I don't think you understood the question properly. You live in a particular street in Kwazakele which has no name? --- Correct, Your Worship, the houses have numbers.

In that same street do any of the other accused, any of these thirteen people in Court here, live? In the street where you live, that same street? --- Yes, there are.

Which ones - give me their names. Man look, don't stand and stare into space! Look at these people and give me the numbers of these people who live in your street. Start with No.1 and look through them one by one. Don't be a dud! Try to show some intelligence! You have told me that some of the accused live in the same street in which you live. One single street. I don't want the numbers, I want you to point out these accused to me who live in the same street where you live. --- May I start on the....

You can start anywhere you please. --- Accused No.12,
accused /...

accused No.8 and the man whom I did not immediately recognise this morning, accused No.5.

Who else? --- Those are the three persons who reside in the street in which I reside.

The question following on that: Were any A.N.C. meetings held in the houses of 12, 8 and 5? --- Yes, Sir, they were.

BY MR. SAPIRE: Well, now let's get this straight. Do you know the number of No.8? --- No, I don't know his number.

All right, let's see if you are able to work things out a little bit. You live in No.2396? --- Yes.

How far does this man No.8 live from where you live? --- 2395. I beg your pardon, I'll explain it in a different manner. Two houses are between my house and the house of No.8.

And the numbers, do they get higher or get lower towards No.8's house? --- They go up.

So you are in 2396. In 2397 lives No.5 ... there is another house and another house and that is where No.8 lives? --- Yes.

Do you know what his number is? Can you count? Just say yes or no. Do you know the number?

COURT: If you don't know it, you can just say no. There is nothing wrong with that. The question is not whether you can do arithmetic. --- Perhaps if you will give me an opportunity to do a little bit of arithmetic, Sir?

No, but I don't want you to do a little bit of arithmetic. I want to know... this has always been the question, do you know the number of No.8? And it is no offence if you don't know the number. I have many friends and I cannot remember the number of one of their houses! There is nothing wrong with that. I just want you to reply to the question. I don't want you to do arithmetic. No need for it. --- I don't know, Your Worship.

That /...

That is fair enough.

BY MR. SAPIRE: Do you remember how many meetings were held say at No.5's house? --- No, I couldn't possibly remember the number.

You can correct me if I am wrong. I don't suppose you know how many meetings were held in each of the accused's houses? --- No, that I wouldn't be able to say.

Would it be correct to say in fact that you can't remember the occasion of a meeting at the house of any one of the accused, but you assume...

COURT: Break this up into small pieces, Mr. Sapiro. This witness is absolutely unable to understand a long question. I am sorry to have to interrupt like this.

BY MR. SAPIRE: No, no, I appreciate Your Worship's.... I also want to get to the bottom of it.

Is it true to say that you cannot remember a specific meeting being held at any specific house of one of the accused?

COURT: The question could also be put a little differently. I think this man has great trouble in understanding the questions. You have told the Court about a meeting that was held at Douglas Ndongeni's house? --- Yes.

Now, was there any meeting held in the houses of any of the accused that you can remember in the same way as you remember that one in Douglas Ndongeni's house? --- No, Sir, I can't. All I can, Sir, is that they were in fact held.

They were held? --- Yes.

And you can also remember that there were meetings held in your house? --- That is so, Sir.

And in the house of Njikelana? --- Pagamile Njikelana, yes, Sir.

BY MR. SAPIRE: The second part is - I am putting it to you that in fact you assumed that meetings were held at each one of these houses because you say that these are members of the A.N.C. and meetings were held at each one of the members'

houses /...

houses, therefore meetings must have been held at the house of each one of the accused.

COURT: No, I don't allow that question. It is quite a fair question, or possibly a fair question, but it is so long drawn out. I am quite sure that you can rephrase that, Mr. Sapire, and get some clarity so that it is a question which could in fairness be answered by witness with the mental capacity of this man. --- May it please, Your Worship. I'll try and do that.

Otherwise you will have to break it up a little bit. You might find that hard but it is not the type of question that this man can answer, that I am convinced of.--Your Worship knows what I am getting at. I am just thinking of a way to phrase it.

In the meantime the Interpreter can put it to the witness again. There is just a possibility that he may be able to follow.

BY THE WITNESS: We had meetings at all the houses of the accused as well as other persons. I was present.

COURT: There is of course a difference. Did you have meetings in all the houses of the accused or in the houses of all the accused? The reply implied that the accused might have more than one house. --- Just like the meetings we held in my house, Sir, so it was in respect of the other accused, in their houses.

BY MR. SAPIRE: Look, I want you to think very carefully. This accused No.11, in 1960 or 1961 he was a little boy of twelve. Did he have his own house? --- No, he was staying with his mother.

COURT: Who is his mother? --- Rebecca, accused No.13.

BY MR. SAPIRE: Do you know these people well - accused No.13 and No.11? --- I know them, yes.

COURT ADJOURNED.

HEARING /...

HEARING RESUMED : 9th MARCH, 1965.

ALEXANDRIA MBANE warned : still under former oath, states:

CROSS-EXAMINATION BY MR SAPIRE (cont.): We were going to deal yesterday with the question of subscriptions. Did you give receipts for these subscriptions which you had received? --- I did.

Did you write out receipts? --- Yes.

What information did you give on these receipts? --- You would affix the date, and you just give a long number with a stroke. No name would figure.

What was this number? --- Any number, there was no specific number. Whatever number I thought of. It didn't appertain to a house number.

I mean what was this number for? What was the purpose of this number? --- This number we inserted was to confuse the Police. So that should anybody be arrested and found in possession of a receipt such as this, he wouldn't be able to make head or tail out of it.

If you put nothing on? It will still be confusing to the Police - I mean you just pick a number out of your head? --- All that would be reflected would be the date, the amount subscribed, and then you would think of any number whether the figures amount to six or more in number.

What is the purpose of this receipt? --- To show that a person had in fact contributed.

Yes, but it didn't show that any particular person had contributed? --- That is quite correct, Sir, but in terms of the policy of the A.N.C., immediately upon receipt of this receipt the individual must destroy it.

Did you keep a copy? --- Yes, the copies were retained by the one in charge - by myself. You would remove the original and hand this to the individual whilst the copy was retained in the booklet. You would, of course, insert a piece of carbon-paper between the original and the duplicate

copy /...

copy first of all.

So, the person who got his receipt had to destroy it immediately? --- Yes. In terms of our policy, after he received this receipt he must dispose of it by destroying it.

Then why do you give him a receipt in the first place? --- That was in terms of instructions received by myself.

COURT: What would you do with the duplicate copy that you get, the carbon copy? Were these things contained in a little book? --- Approximately three to four inches in length, Your Worship, the book.

Yes. What would you do with the carbon copy in that book? --- Your Worship, when I'd finished or completed one receipt-book, I would take this and hand it to Edgar Ngoyi and make a report as was required.

You would hand the book to Edgar Ngoyi? --- Correct.

And what would you do with the money that you had collected and for which you had issued receipts in this book? --- He, Edgar Ngoyi received the money from me. That which I collected, as well as....

Did he look in the book to see whether the money you had collected was all handed over to him? --- That is perfectly correct, Sir.

And who was Edgar Ngoyi - what was he? Was he a member of the A.N.C.? --- Yes, Sir, he was a man very high up. He was a contact in fact.

BY MR. SAPIRE. So, from this book a check could be kept on you to see that you had given to the A.N.C. all the money that you had collected. Is that the position? --- This was the custom, the receipt-book system, in respect of all area zones. All zones were issued with this new method, i.e. the receipt system after the destruction of the membership cards.

The point is that from your receipt-book, from your carbon-copies, you weren't able to tell by looking at the book, who had given their subscriptions and who hadn't given their /...

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