

half past twelve.

And then having given them that money what happened?---- When I had given them the money we all sat down there.

Yes, and?----There Solomon Mbanjwa told me (5 that they were short of people who had to go overseas for military training for the Spear of the Nation. I then suggested the name of Cleotus Mzimela, who was a member of the sub committee of the Ad Hoc Committee.

Which sub committee?----The Trade Union (10 sub committee. Then they said it would be advisable for me to get hold of Cleotus Mzimela. I then went to Lakhani Chambers and there I phoned up, I phoned Johannes Mkwanazi and asked him to get hold of Cleotus Mzimela for me as soon as possible. And then to tell him to go to the surgery (15 of Dr. Weidlinger in Lancers Road, Johannes Mkwanazi then said he would try and do for me what I asked him to do for me. Johannes Mkwanazi, then, he was a member of the Trade Union Committee, which is a sub committee of the Ad Hoc Committee of the A.N.C. (20

While you were phoning was Solomon Mbanjwa still in this park?----I had left them at the park.

And then did you go back to the park to give a report to Solomon Mbanjwa?----Yes.

How long after you had left them did you (25 return?----Return from where?

From the telephone conversation?----I can't say how long it was.

Half an hour?----As I say I can't say what length of time it was. (30

Well was it many hours, or a relatively short time?----It was just a short time; not many hours.

Were/.....

Were they still there when you came back?----Yes.

And who did you speak to?----I spoke with them.

And did you address your words to Solomon Mbanjwa?----Just to the three of them sitting there. (5

What did you say?----I told them that I had phoned up to Johannes Mkwanazi, and that Johannes Mkwanazi had said he would do what I had told him to do.

And did Solomon Mbanjwa say anything to you when you made this report?----I don't remember whether he (10 spoke or not, I just sat there waiting, intending to go up to Lancers Road.

And then what happened after that? Did you leave?----Yes.

About what time was that?----I didn't (15 look at the time.

Well would it have been early afternoon, middle afternoon, early evening?----I would say going on for about 2:00. But I am not sure of that.

Did you go off alone?---- Yes. (20

Did you leave the others behind or did they also go off at the same time that you went off?-----I left them there.

Now Solomon Mbanjwa, having asked you to get this person, did he do that because he was a recruiting (25 man?-----He was a recruiting officer of the Spear of the Nation.

And had you ever handed anyone over to him? When he was recruiting people?-----Yes.

Can you say who?----I came back with (30 Cleotus Mzimela.

And handed him over to Solomon Mbanjwa?----Yes.

Have/.....

Have you ever handed anybody else over to Solomon Mbanjwa?----(The Court intervenes)

THE COURT: Is that the same day?----Yes.

Time?----I think round about 2:00: but I can't say the exact time. (5

MR. UNTERHALTER: And where? Where did you hand him over? ----In Albert Park.

The same place where you had been sitting with them earlier?----Yes.

Now apart from this man, have you ever handed(10 anyone else over to Solomon Mbanjwa?-----Yes.

Who?----Jetsin Khuzwayo.

And did you hand him over to Solomon before the events that you have described in Albert Park, or after those events?----After that. (15

How long after?-----I think in June last year.

And where?-----At the surgery of Dr. Meidlinger.

Anybody present when you handed him over?----- I don't remember any more whether there were any people there in the waiting room of the surgery. (20

And what time of day was it?----It was in the afternoon.

Apart from this recruiting work, what else was Solomon Mbanjwa doing?-----He was in charge of the Rural Areas' Sub committee of the African National Congress. (25

Anything else?----And he was the Secretary of the organisation that was under the South African Congress of Trade Unions.

Working in a Trade Union, was he?----He was a Secretary of the Trade Union. (30

Which Trade Union?-----I think the Timber Workers' Union.

Now/.....

Now Mr. Mtshali, this - these two people that you had recruited for Solomon Mbanjwa, for what organisation had you recruited them?----(Court intervenes)

THE COURT: Did the witness say he recruited them?

MR. UNTERHALTER: Well brought them to Solomon Mbanjwa, (5
let us put it that way,-----The Spear of the Nation.

Did you know for what purpose?-----Yes.

What purpose?-----For them to go outside and get military training, outside the Republic.

And did you do that because you were (10
interested in MKONTO'S activities?-----Yes.

What interest did you have in MKONTO?-----
Well I was a Platoon Leader, and then I was again in the Regional Command of the Spear of the Nation.

And did you take an active part in what (15
Mkonto was doing?-----Yes.

Did you engage in sabotage?-----Yes.

Sabotage involved the use of dynamite?----Yes.

Did you ever discuss the use of dynamite?-----
Yes. (20

At meetings?-----Do you mean the use of dynamite,
how to use it?

Well let me put it another way; did you discuss getting hold of dynamite?----Yes.

At a meeting?----Yes. (25

When?-----If I remember correctly it was 1962.
The end of 1962.

Do you remember the month?----The end of '62.

Where?----At Lakhani Chambers.

And do you remember who was present at the (30
meeting?----Yes.

Can you tell his Worship who was?----There was

Justice /.....

Justice Mpanza, Riot Mkwanazi, Duma from Kwa Mashu, Nduli that came from McCord Hospital. Cleotus Mzimela, Sithole, Gcoba, myself: there might be one other or two others that I might have left out that I don't remember. I am not too sure any more. (5

And who spoke?----Justice Mpanza.

And what was the discussion about?----Talked about getting hold of dynamite.

Give us a little more detail?----Justice Mpanza opened the meeting. He said that we should say where (10 we would be able to get dynamite, and how we could get it. And he would then take that report to the higher authorities. Riot Mkwanazi then said there was a place in the Location, near the Location, near Kwa Mashu, where dynamite was being hidden, where it was stored. (15

THE COURT: Did he say by whom this dynamite was stored near the Location?-----No.

MR. UNTERHALTER: Yes?----And Riot Mkwanazi said he had gone there previously but he did not see anybody guarding the dynamite. (20

Yes?----Then it was agreed - we agreed, it would be advisable for us to go to that place and inspect the place there. And after we had inspected the place then we would try and get things with which we could open the place there and get hold of the dynamite. Justice (25 Mpanza then said he would take that report to the higher authorities and then he will come and tell us what they said.

Was that the end of the meeting?----As far as I remember, yes. (30

How sometime before that had you been concerned with petrol bombs?----Before that, or after that?/.....

that?

Well either before or after?----- (Mr. Unterhalter adds) Had you been concerned in regard to a bomb placed near the office of a man called Mr. Brum?-----Yes.

And it had not done any damage?---- (Mr. Unterhalter adds) (5

Is that correct?-----The first one?

Yes?---- It did nothing.

And did you make a second attempt?----Yes.

Who were the people who went with you to make (10 the second attempt?----It was Justice Mpanza, Riot Mkwanazi, Russell Mapanga, Duma, and I think Petros Kunene, and myself.

You have a clear recollection of this?-----Yes, I remember it. (15

Did you know that this very dangerous and extremely unlawful business upon which you were engaged? -----Yes.

Everyone whose name you mentioned can be most seriously affected by what you said?-----Yes. (20

You are quite satisfied that you have spoken all the names?-----There might be one that I have left out. I think we were six or seven.

But whoever you have mentioned certainly was there?-----As far as I remember, yes. (25

You are not making any mistakes in this serious allegation that you are referring to?-----As far as I am remember I am not making a mistake.

You see, Mr. Mtshali, you give your evidence with great confidence, as if you are certain of (30 every person as you state the name.----As far as Petros Nene(?) was concerned, I said I thought it was Petros

Kunene./.....

Kunene.

That is the only one that you have any difficulty about?-----Yes, that I don't remember too well.

So if this were a case in which the death sentence had to be imposed upon these people for what they(5 did, your evidence would have to implicate them?-----I am mentioning the people whom we were with, and those I don't remember too well, I say so that I don't remember too well.

All right. Now Mr. Mtshali, let me just go (10 back to a detail of yesterday. I want to be clear on it.

At first you decided not to answer questions? When you were taken into 90-day detention?-----Yes.

And a few hours after that you decided to speak? -----Yes. (15

And you started to speak?-----Yes.

When you had finished speaking verbally, you commenced to prepare a written statement?-----Yes.

How long after you had finished your verbal statement did you commence your written statement?--- - (20 If I remember correctly, I think it was the Tuesday, I had been arrested on the Saturday.

And I think you said the statement took you some while to complete. How long?----- As I said between three weeks and a month. (25

It was then completed?-----Yes.

It was typed?-----I don't remember too clear whether it was then typed or not.

But in due course it was typed?-----Yes.

And you signed it?-----Yes. (30

That was a full statement of your activities? -----Yes, it was a full statement.

And/.....

And was that the end of your questioning?-----

No.

What happened?-----The police used to come and ask me other things.

And what happened?-----If I knew then I would(5 answer it and if I did not know then I would turn round and say that I did not know.

So from time to time after you completed the statement, the police would question you and you would answer, if you knew, or you would tell that that you didn't know(10 if you didn't know?-----Yes.

And you were detained until April of 1964?-----
Yes.

And is that all that happened, that from time to time they would come and ask you other questions and you(15 would either answer it, or say that you didn't know?-----
Yes, if they came they came, and sometimes they did not come: they didn't always come.

And then you remained on your own?-----Yes.

You did nothing else?-----Like what? (20

Well I am asking you, anything else that you care to tell us that you did during this period of detention?-----Well I stayed inside, I did exercises, sometimes I would go out to go and wash in the mornings.

You have given us a full description of everything⁽²⁵ that you have done in relation to the police? And their questioning of you?-----Yes.

I asked you some questions a little earlier on and said that you answered them with some confidence. -----
Is it possible that you answered these questions, (30 particularly in regard to names because you learnt it off by heart over quite a long period?-----No.

Is/.....

Is it possible that you have been furnished with your statement and in the long period that you have had nothing to do you have gone over the statement again and again to memorise it, so that you could be word-perfect in Court?-----No. (5

THE COURT: You were asked whether you had gone over a statement; and you were also asked whether you were provided with a copy of it. Were you provided with a copy of your statement?----To give it to me to read and then to sign and then they took it away again. (10

How long did you have it?-----It wasn't a long time that I had it; I just had it, I read it and then signed it, and handed it back.

MR. UNTERHALTER: It hasn't happened in all cases, but in your evidence-in-chief, in certain instances, the names (15 as you give them of certain of the meetings follow very closely the order of the names as they are set out in the charge sheet. Is this just an accident as far as you are concerned?----I have never seen the charge sheet.

All right. (20

PROSECUTOR INTERVENES AND ASKS IF THE DEFENCE CAN PERHAPS INDICATE IN WHICH INSTANCES THE WITNESS HAS FOLLOWED CLOSELY THE NAMES OF THE PEOPLE MENTIONED IN THE CHARGE SHEET.

MR. UNTERHALTER: Yes, your Worship, if the machine is (25 switched off I will get the detail from my learned junior.

THE COURT: Mr. Interpreter, I see the witness is talking to you, what is he saying?

INTERPRETER: No, I looked up the word "involved" (30 that I had difficulty with in my dictionary, and I just showed him the Zulu word. It is a long word which I told him

I/.....

I don't understand, I didn't understand what it means.

THE COURT: Well I think perhaps you had better not communicate with the witness other than to interpret what is put by the prosecutor, or the defence or the Court. (5

MR. UNTERHALTER: I have a note here of meeting No. 7, as taken down by my junior. With the Court's leave, I should like to put to the witness the order as it was recorded, and the order on the charge sheet; they are not identical, but similar. May I do so? (10

THE COURT: Yes.

MR. UNTERHLATER: Mr. Mtshali, this was written down in regard to the meeting at the office of George Mbele, where the charge sheet alleges that the organisation of the A.N.C. was discussed, and it is listed as meeting No.7. (15

THE COURT: Is this the meeting, Mr. Unterhalter at which it was alleged that there was a knock at the door?

MR. UNTERHALTER: Yes.

THE COURT: Did the witness speak about the knock just after he gave the names? (20

MR. UNTERHALTER: That is so. That is the meeting, Mr. Mtshali, where there was a knock at the door; do you remember speaking about that?-----Yes.

Now you gave the names in this order, George Mbele, Selborne Maponya, Solomon Mbanjwa, Stephen (25
Dhlamini, yourself, Pascal Ngakane, Fred Dube, Curnick Ndhlovu, Jerry Kumalo, and Milner Ntsangane.

Now they are not in the same order as on the charge sheet, but you have mentioned George Mbele's name first in your evidence and the charge sheet gives his (30
name first. You mention Milner Ntsangane's name last, and the Milner Ntsangane's name is last on the charge
sheet./.....

sheet. You mention Selborne Maponya second; the charge sheet mentions Stephen Dhlamini second. The name that follows after Selborne Maponya in your evidence is Solomon Mbanjwa, and Solomon Mbanjwa follows the name of Selborne Maponya in the charge sheet. You then (5 mention in your evidence Stephen Dhlamini and yourself; in the charge sheet your name follows that of Solomon Mbanjwa. Then in your evidence you mention the accused, Fred Dube, Curnick Ndhlovu and Jerry Kumalo. They are not given in that order in the charge sheet, but that (10 group of names, Curnick Ndhlovu, Jerry Kumalo and Fred Dube are at the bottom of the list in the charge sheet. Now is there anything you want to say about that?----- (Silence.)

Mr. Mtshali?----- (INTERPRETER: Are you (15 waiting for him?)

Yes?-----It is hard for me to grasp everything into my head there as you are reading it down there, the order of the names, just as you have mentioned them there. But if I understood you correctly you are (20 saying that George Mbele's name is always first?

Well it is first in meeting No.7 on the charge sheet.-----It was first with that meeting. I ended with the name of Milner Ntsangane.

Correct.----- If I heard you correctly. (25

That is so.-----I still remember that at the Ad Hoc Committee the chairman of the Ad Hoc Committee was George Mbele, and the chairman at that meeting at which it was knocked on the door was George Mbele. And then I mentioned the names of the members of the Regional (30 Committee, as I have mentioned. And I ended with the name of Milner Ntsangane who had come from the National Executive./.....

Executive.

I am going to refer you to evidence that you gave in connection with the meeting in the house of one Amos Mngoma.

THE COURT: Is this evidence-in-chief Mr. Unterhalter? (5
Before this evidence to which you are now referring, or after that?

MR. UNTERHALTER: It would seem to be after. It certainly would be according to the charge sheet.

THE COURT: That is 9 is it? (10

MR. UNTERHALTER: Meeting No.9.

Now according to the record as taken down by my learned junior, in giving the people who were present at the meeting in the house of Amos Mngoma, you said it as follows: Ghalaki Selo, Pascal Ngakane.... (15
(Court intervenes)

THE COURT:Mr. Unterhalter just give me a chance to find it.

MR. UNTERHALTER: I'm sorry, I thought the Court had it. I understand it was before tea yesterday morning, your Worship. (20

Now the people present are recorded in this order by my learned junior....(Court intervenes)

THE COURT: Mr. Unterhalter, the witness said he had difficulty in answering your question because he couldn't remember the sequence in which you put your question. (25
Now I'm thinking about what would be fairest to everybody concerned. You are reading from a note that you have before you, and you are reading from the charge sheet as well. In the interests of fairness shouldn't we let the witness see a list as he gave it in evidence and then (30
see the list as it appears on SCHEDULE 'A'?

MR. UNTERHALTER: As your Worship pleases.

THE/.....

THE COURT: I don't know. I'm thinking of the value of the question and the value of the answer. He says: "Look, you are looking at paper when you are asking me the question. I'm only, - I've only got it in my head." Isn't there something in what he says? I don't know (5 I will have to decide that when I decide upon his credibility.

MR. UNTERHALTER: Your Worship, I am quite happy, if the Court so wishes, to write out the list of names as they are, submit it to my learned friend, and then let the (10 witness see it,, and then he can follow it, that might perhaps assist. Well, if the machine could be switched off, your Worship.

THE COURT: Yes. I wonder if we have got them in the same order, Mr. Unterhalter.

(15

He said the following persons were present:
Selo, accused, Enoch Mhlango, David Ndawonde, Francis Dhlamini and myself.

MR. UNTERHALTER: That is my note, the note of my junior.

THE COURT: Have you heard what I said, witness?----- (20 Yes, I've heard, but it is hard for me to memorise them all, to remember which name you started with...(The Court intervenes)

Yes, can't you remember which name I started with?-----You started with Selo's name. (25

And then?----I think the accused.

And then?----I don't remember then which followed then.

Can you tell me who were present without remembering the order in which I gave them to you?----- (30 Yes.

Who were the others?----There was Pascal

Ngakane./.....

Ngakane, Rilo, Enoch Mhlongo, David Ndawonde, Francis Dhlamini and myself.

MR. UNTERHALTER: Shall I proceed, your Worship?

THE COURT: Do you want the names written down?-----Yes.

Yes, it seems to be, Mr. Unterhalter, quite a (5 significant hour.

MR. UNTERHALTER: Yes, I shall write it in the tea adjournment, your Worship.

THE WITNESS STANDS DOWN:

THE COURT TAKES THE SHORT ADJOURNMENT. (10

ON RESUMPTION:

STEPHEN MTSHALI: (still under former oath)

MR. UNTERHALTER RESUMES CROSS-EXAMINATION:

Mr. Mtshali, I have printed in ink the names of the people alleged to be present at meeting No.9 in the (15 house of Amos Mngoma,-----Yes.

I place it before you. Will you read those names. Meeting No.9. You have read the names?----Yes.

Now if you will be kind enough to follow that list - it may assist you in understanding the question I am (20 going to put to you presently. Now the evidence that you gave in chief in regard to the meeting at the home of Amos Mngoma is as follows; you said there were present Ghalaki Selo, Pascal Ngakane, Enoch Mhlongo, David Ndawonde, Francis Dhlamini, and myself, meaning (25 you the witness. The charge sheet alleges that the persons present at this meeting were Ghalaki Selo, Enoch Mhlongo, David Ndawonde, Francis Dhlamini, Stephen Mtshali. Now with the exception of the name Pascal Ngakane, which is given in your evidence immediately (30 after Ghalaki Selo, the order is the same. Have you anything to say about that?-----I would like to know

where/.....

where is Pascal's name on the charge sheet?

No, Pascal Ngakane's name doesn't figure on the charge sheet in the detail. ----- Detail of the names?

Yes. The charge sheet alleges at the beginning that he attended all these meetings, and then there is (5 an Annexure....(Court intervenes)

THE COURT: That is all the meetings mentioned on the Annexure.

MR. UNTERHALTER: Yes. And then in the Annexure is given the names of the persons present, and it is (10 clear that in addition to those persons present it is alleged that the accused was also present.-----Didn't you say that on the charge sheet and in my evidence-in-chief the names are down in the same order?

I told you in regard to meeting No.9 that, with(15 the exception of the name Pascal Ngakane, which you give immediately after the name Ghalaki Selo, the order is identical.-----I asked you where is the name on the charge sheet of Pascal Ngakane.

The name is not in the annexure. Do you (20 want to say anything?-----Say what?

In reply to what I have just said to you?----- Do you mean that the names here are the same?

In reply to what I have just put to you?-----What I did was I mentioned the names of the persons who (25 were at the meeting. And I started with the name of the person who was the chairman at that meeting, and then I follow with the other names.

Do you want to say why the order bears such a remarkable similarity?-----Is it the same, or is it (30 similar?

With the exception of Pascal Ngakane's name following/.....

following Ghalaki Selo, it is identical.----As I have said I have never seen the charge sheet. I was giving the names as I remembered them of the persons who were at the meeting.

And, according to you, you have only seen your(5 statement twice, once before the Ladysmith trial, and once in July this year? Is that right?-----Yes, I saw my statement in July of this year.

All right. Now when I questioned you yesterday as to the first meeting that you attended when you joined the(10 African National Congress, you gave certain details. Can you remember the next meeting that you attended?-----As far as I can remember I think it was a meeting that was at Khubeka's.

And do you remember who was present there?----- (15 Some of them I still remember; some I don't remember any more.

Well would you like to attempt it?----Yes, I'll try.

All right, please do so.-----Curnick Ndhlovu, (20 Mrs. Khubeka, Khubeka, David Khubeka her son, Riot Mkwanzazi, and I think Mrs. Kumalo. I don't remember any others any more, whether there were any others or not.

Do you not remember them because of the length of time between these events and today?----I don't remem- (25 ber them because I don't remember them.

Well would you say there were any more or do you think that that was the lot?----I don't remember too well any more. There might have been others as well; that might have been all. (30

Yes. Can you remember if Elias Kunene was at that meeting?----No, he was not there.

Charles/.....

Charles Ndhlovu?----No, he was not there.

Jerry Kumalo?----No.

Freda Mhlongo?-----Freda might have been there,
Freda Mhlongo; she might not have been there.

You are not certain?----I don't remember too (5
well.

Selborne Maponya?----No.

Fred Dube?----No.

Why are you so certain those others, these people
were not there?-----Because those people do not stay at (10
Kwa Mashu, apart from Elias Kunene: him I remember that he
was not there.

Well do you remember the third meeting that you
attended?----- (Court intervenes)

THE COURT: Mr. Unterhalter, when you talk about a (15
meeting, do you any kind of meeting? The way you put the
question is : "Do you remember the third meeting you attended?"
That might have been a cricket meeting; it might have been
any meeting any time. Do you mean a meeting of the African
National Congress? (20

MR. UNTERHALTER: Your Worship I prefaced this series of
questions by saying: "You have given us yesterday of the
first meeting that you attended when you joined the
African National Congress." I then questioned him about the
second, now I am questioning him about the third. It is (25
in connection with the African National Congress.

Of the African National Congress, Mr. Mtshali.
-----I will say that I do remember, but I would ask you to
assist me by telling me at least the place.

Well I will assist you to this extent; it (30
was a meeting that took place after Khubeka's meeting, was it
not?----- (Mr. Unterhalter adds) Does that give you the

lead/.....

lead that you want?-----The meeting I remember, I don't know whether it is the one that you are mentioning, it was a meeting of the volunteers; that was in 'C' Section in Kwa Mashu.

Yes? Well give us some particulars please?-----
I was advised by Curnick Ndhlovu about this meeting that (5
was going to be held in 'C' Section, about the volunteers
who refused to accept the Mandela Plan for them to go under-
ground.(INTERPRETER: The witness corrects the interpreter.)
Who refused to accept the Mandela Plan and go underground;
that they should leave off marching and go underground. (10

Now who was at that meeting?-----The ones I
remember who were at that meeting were M.B. Yengwa,
he was the chairman, Milner Ntsangane, he was the speaker,
Elias Kunene, Shangase from Kwa Mashu, Riot Mkwanzazi,
Dorothy Nyembe, Evatt Luthuli, and his volunteers, (15
those are the ones I remember.

Now what you have said is quite correct as far
as I can judge it from my copy of the record of the Lady-
smith trial. I am going to read to you from page 40 of this
record, line 20. (20

QUOTATION:

"Can you name some other people that were present?
-----...."

QUOTATION ENDS:

I should perhaps start at page 39. (25
You are questioned about a meeting and then the phrase is
used - well we will start at the bottom of page 38.

QUOTATION:

"Now after this meeting at Khubeka's house, did
you attend another meeting?-----Yes. (30
"Where was this?-----It was in 'C' Section.
"Is that at Kwa Mashu?-----Yes.

"Can/....."

(Quotation continues)

"Can you remember approximately when this meeting was held?----I can't remember when it was.

"Approximately how long after the meeting that was held at Khubeka's house?----A short while. (5

"Would you say it was still during that period July/September 1962? Or would it extend beyond that period now?----I don't remember, I'm not too clear there.

"But you say it was shortly after Khubeka's (10 meeting?----Yes.

"And it was held at 'C' Section; at what place at 'C' Section was it held?----In a house there in 'C' Section."

QUOTATION ENDS:

(15

Then the rest of the evidence is as to Curnick Ndhlovu having told you and so on. And dealing with the same meeting at page 40 you are asked at line 20:

QUOTATION:

"Can you name some other people that were (20 present?----Yes, I can.

"Yes?----Elias Kunene, Ntshangase of Kwa Mashu,"

(Court intervenes)

THE COURT: Now is that "NTSHANGASE" or "NTSANGANE"? (25

MR. UNTERHALTER: Ntshangase.-----It is Shangase, your Worship. (Tshangase. spelt by the Interpreter.)

"Shangase of Kwa Mashu.

"He is not an accused person?----No.

"Yes?----Dorothy Nyembe. (30

"That is not an accused person is it?-----
No.

"Yes?/.....

(Quotation continues)

"Yes?----Riot Mkwanazi.

"Yes, you've said his name before; he is not an accused. Yes?---- Myself and Evatt Luthuli and his volunteers." (5

QUOTATION ENDS:

Now Mr. Mtshali, the point of my reading this out to you is to suggest to you that the order in which you gave this at the Ladysmith trial is the same when you start with the name of Elias Kunene, as the order that you have (10 given it here?----- (Court intervenes)

THE COURT: Did he?

MR. UNTERHALTER: Well if I am wrong, your Worship, I would like to be corrected.

THE COURT: Well, according to my note, I'm sorry to say, (15 you are Mr. Unterhalter.

MR. UNTERHALTER: Then I am corrected, your Worship. I have followed it as the witness gave it to me, and I was under the impression that it is so. If I am wrong would your Worship indicate it? (20

THE COURT: The order which he gave here was the following, - would you like him to go outside? I think it would perhaps be fairer to everybody concerned. Will you please go out Mr. Mtshali.

THE WITNESS LEAVES THE COURT-ROOM.

A DISCUSSION ENSUES. (25

MR. UNTERHALTER: I am corrected, your Worship, and I will put that to him.

THE WITNESS RETURNS TO THE WITNESS STAND.

MR. UNTERHALTER: Mr. Mtshali, when I read the record I was concerned with the order of people present, from (30 Elias Kunene. I want to read to you what was said higher up in the record. Page 40, line 5:

QUOTATION. /.....

QUOTATION:

"Who was the main speaker at this meeting?-----

It was Milner Ntsangane.

"Is that accused No.18?-----Yes.

"And who was chairman of this meeting?----M.B. (5
Yengwa.

"Those are his initials? "M.B."?-----I know him
as M.B. Yengwa.

"Will you be able to point him out?-----Yes."

Then you stand down and point out accused No.17. (10

"You say accused No. 17 was the chairman of this
meeting?-----...

"BY THE COURT: Are you able to tell me Mr.
Prosecutor to which meeting you are referring?

"BY THE PROSECUTOR: I am sorry, it is meeting(15
No.28. You say accused No.18 was the main
speaker, and accused No. 17 was the chairman.
Can you name some other people that were present?
----Yes, I can...."

QUOTATION ENDS:

(20

And then follows what I read to you last time,
commencing with the name Elias Kunene. Now leaving aside
Milner Ntsangane whom you informed the prosecutor was the
main speaker, and leaving aside M.B. Yengwa, whom you
informed the prosecutor was the chairman of the meeting, (25
I want to put it to you, that,with the exception of the
order of Dorothy Nyembe and Riot Mkwanzazi, and the fact that
in the record you mention "aysself" and here you say you
were present at this meeting, there is a close similarity
in the order of the names. (30

Do you want to say anything?----I would like you,
it might take the time of the Court, to write down the

names/.....

names for me as you say in the order that I have mentioned them in the record, and in the order that you say I mention them today when you asked me.

Subject to his Worship's permission that can be done. (5)

THE COURT: Any comment, Mr. Prosecutor? It seems to me to be a fair way of doing things?

PROSECUTOR: Yes.

THE COURT: Yes. I think you can leave the machine off while the names are being written. (10)

MR. UNTERHALTER: I have printed for you the names as given in evidence.----- (INTERPRETER: Evidence today?)

Yes, and the names on the record as I have read it to you, show it to my learned friend, who is handing it to you.-----I would like to know where is M.B. Yengwa and (15) Milner on your record, because here they aren't down here.

Yes, well that was written down as his Worship called it out: but I shall read to you from the record at page 40:

QUOTATION: (20)

"Who was the main speaker at this meeting?-----

"It was Milner Ntsangane.

"Who was the chairman of this meeting?-----

"M.B. Yengwa."

QUOTATION ENDS: (25)

THE COURT: Just to make it quite plain to you Mr. Mtshali. at Ladysmith you mentioned first of all that the chairman of that meeting was M.B. Yengwa, and you said that Milner was the main speaker: according to what has been read here today. So at Ladysmith you did mention (30) both Yengwa and Milner.-----Who did I start with at Ladysmith between Milner and Yengwa?

MR./.....

MR. UNTERHALTER: According to the record you were asked: "Who was the main speaker?" and you said it was Milner. After that you were asked: "Who was the chairman?" and your answer was "Yengwa",-----That means I started with Milner (5 Ntsangane?

Well you gave the name "Milner" in reply to a question: "Who was the main speaker?"-----The evidence that I gave today did I say where I was on the list? Or did I mention myself as being there? (10

There doesn't appear to be a record. You said that you were at a meeting, and I assisted you, at your request, by using the phrase that it was after Khubeka's meeting. You then replied that you remembered attending a meeting in 'C' Section, and you then gave the names. (15

THE COURT: Of the other persons who were present apart from yourself,-----That means in my evidence today I haven't mentioned myself at all? (INTERPRETER: Oh -) In my evidence today I did mention myself but I did not place myself as No.7 as it is written on the record there. I have number-(20 ed the names on my two lists, your Worship, to be able to compare them properly.

MR. UNTERHALTER: Now, apart from that, do you want to say anything else?-----Also in the record I have got Riot Mkwanzazi as No.6 and today in my evidence I have given Riot (25 Mkwanzazi as No.5. Then I come back to Dorothy Nyembe. In the record I have mentioned Dorothy Nyembe as No.5, and in my evidence I have mentioned her as No.6. Then I go back to Evatt Luthuli and his volunteers. In the record as you read out there I have mentioned him as No.8. Today he (30 is No.7. And in the record M.B. Yengwa is the second person mentioned. Milner Ntsangane is the first one, as you said I was/.....

was asked there. In my evidence today Milner Ntsangane is second, M.B.Yengwa is first. That shows that the evidence I have given today, and the evidence I have given on the record is different. Apart from Elias Kunene and Shangase, they are in the same order today as on the record. (5
As far as Dorothy Nyembe and Riot Mkwanzazi is concerned on the record I started with Dorothy Nyembe and I ended with Riot Mkwanzazi. In today's evidence I mention Riot Mkwanzazi and then Dorothy Nyembe. And then I ended with Evatt Luthuli and his volunteers. Those were the people that (10
were called to the meeting.

Now when you asked me to assist you as to the meeting that followed the Khubeka meeting, I used the phrase "...after Khubeka's meeting.." that wasn't perhaps a catch phrase that enabled you then to get the next (15
set of names at the meeting in 'C' Section?-----No.

All right. You know Elias Kunene?-----Yes.

Have you known him a long time?-----Yes.

Since when?-----I would say since 1962.

Friendly with him?-----Do you mean whether (20
we are friends or not?

Well whether you were friends before your detention?-----Before?

Before your detention, yes?-----Yes.

Consider him a fairly reliable person?----- (25
In connection with what?

Just generally?----(Court intervenes)

THE COURT: I think I should place on record that the witness hesitated for about ten to fifteen seconds before he asked you: "In connection with what?" (30

MR. UNTERHALTER: As your Worship pleases,-----If I remember correctly, you haven't answered me?

I/.....

I have answered you, and I am not under interrogation, Mr. Mtshali; you are.----- (Mr. Unterhalter adds) My answer was: Generally?-----Well, yes, I would say he's a person whom you could rely on.

Now you knew him fairly well?----Yes. (5

You were working closely with him?---- What do you mean when I said I worked closely to him?

Well you were on an Ad Hoc Committee and I believe he was on a Regional Committee of the A.N.C. and the two Committees used to meet?----Yes. (10

You would recognise him if he attended any meetings, wouldn't you?----Yes.

And you don't seem to make mistakes about people who attend meetings, do you?----Those whom I remember I mention them and say that I remember. Those whom I (15 don't remember I say that I do not remember.

Now this meeting at the Rev. Ntlabati's house, where you say there was a discussion about the passes for the women, and a proposal for a boycott. Have you given us the full list of the people whom you remember as (20 being present?----I gave a list of the persons who were at that meeting whom I know.

And if there is any one that you know and that was at that meeting you would mention his name?-----If I remember it, yes. (25

You are proud of your memory I take it?----What I remember I remember. What I don't remember I do not remember.

In your evidence-in-chief - well, your Worship to save time perhaps if the witness would go outside for (30 a moment.

THE COURT: Please go outside.

THE WITNESS LEAVES THE COURT-ROOM:

MR. UNTERHALTER: Your Worship, I have no record of Elias Kunene being mentioned by this witness at that meeting.

THE COURT: No. I made a note at the time that he hadn't mentioned it. (5

THE PROSECUTOR AGREES WITH BOTH THE COURT AND MR. UNTERHALTER.

MR. UNTERHALTER: As your Worship pleases. I shall put it to him.

THE WITNESS RETURNS TO THE WITNESS STAND.

MR. UNTERHALTER: Now according to the note that I have of the names you gave of those who were present at this (10 meeting at the Rev. Ntlabati's house, when women's passes were discussed, you made no reference to Elias Kunene being there. Is the Court then to assume that he wasn't there?-----He was there.

Well I gave you a very full opportunity before (15 you left the Court, because I said to you if the names do not appear as you stated them in your evidence-in-chief can his Worship assume that that person was not there and you said yes. Now that I mention the name you say that he was there. Why did you not mention his name in (20 chief?-----As far as I thought, I had said that he was there, because he was there.

Well this matter was checked carefully when you went out of Court and we are all agreed, both my learned friend for the State, his Worship, and myself, that you (25 did not mention that name.-----Well as I said as far as I remember I thought I had said to the prosecutor that he was at the meeting.

You are not perhaps as careful in regard to these names as you ought to be?----- (Silence.) (30

Do you want to say anything about that?-----I am careful.

Anything/.....

Anything that makes you remember Elias Kunene being at that meeting?----(INTERPRETER: "Is there anything?")

Yes.-----Yes.

What is it?----As the meeting was carrying on,(5 we went back, myself and Elias Kunene, and stood by the door, and he stood on the side of me by the door and I spoke to him.

Is that what assists you to remember his being there?-----Yes. (10

Anything else?-----Just that; that he was there; he stood close to me and I even spoke to him.

Nothing else?----That's what I remember now.

The two of you next to one another?----Yes, we were this distance apart.(INTERPRETER: He indicates, (15 your Worship.)

Does that mean there was nobody between you?-----
THE COURT: One pace, indicated by the witness,-----One pace. We were standing in the doorway. I was leaning this side of the doorway; he was leaning that side of the (20 doorway.

MR. UNTERHALTER: And there was nobody between you?-----
I don't remember too well any more, but I think there were people in between us, but I spoke to Elias, we were this distance apart. (25

And he spoke to you?----And he spoke to me.

You looked at him?----Yes.

He looked at yo.?-----Yes.

For how long were you in each other's company?
-----I didn't look at the time. (30

Five minutes, half an hour, twenty minutes?-----
We stood there a while. I didn't look at the time.

Well was it a short time or a long time?-----
I can't say whether it was a short time or a long time.

Well was it just a minute?-----Well as I say I
can't say the time.

Quite incapable of remembering?-----What (5
I remember is that my conversation with him was a very short
one.

Do you remember what you spoke about?-----
Yes, I do.

What did you speak about?----As far as (10
I can remember I think we spoke about Marxism, I will put
it that way.

That is a Communist doctrine, is it?----Yes.
And did he contribute to the conversation?----
Yes. (15

That is all you spoke about?----Yes, as far
as I can remember.

I want to tell you that Elias Kunene has
given evidence in this Court, and the record that we have
made of his evidence is to the effect that he doesn't (20
remember if you were present at this meeting. Now in the
light of what you have just said, that the two of you
stood together in sight of each other, and you spoke about
Marxism, isn't it a bit remarkable he doesn't remember
your being there?-----I can't say anything about what (25
Elias said because when he said it I was not present.

Well you have my assurance, and I will be
stopped by the representative for the State if I don't put
it to you correctly. You have my assurance that that is
what Elias Kunene said when he gave evidence in this (30
Court,-----
(Mr. Unterhalter adds) What do you say to that?
-----I still stand by what I said.

Now is there anything which you know that would reinforce you in your statement that he was at the meeting?-----As I have said what I remember right now is what I have said.

That you were standing in the doorway and (5 discussing Marxism?----Yes.

Well I would like to give you an opportunity to think over carefully the events of that evening to see if there is anything else that you remember that will assist you in saying that he was there?-----Also after (10 the meeting had come out I saw him again behind the house at Ntlabati's place.

Anything else?----That's what I still remember right now.

Nothing else?----No. (15

I want to repeat, I want to give you the fullest opportunity. Please think over all the events of that evening. You see you give names of people present at all sorts of meetings, displaying a very remarkable memory; I am now suggesting to you that you use this remarkable (20 memory in this connection.-----If I remember correct, your Worship, when the meeting came out, when the meeting came out I saw him, Elias Kunene, I think he was standing with George Mbele, Selborne Maponya, I think they were drinking, after that then the minister, Ntlabati, came along (25 and he asked them why were they drinking seeing that beer was boycotted. Then they laughed and they carried on drinking that bottle, which they had. That is what I remember.

Is that all you can dig out of your (30 memory?-----What I remember now.

Nothing else?----No.

You/.....

You are finding it a bit difficult without any assistance?---- What I remember is what I have now said. What I don't remember I don't remember.

You see you haven't had any catch-words given to you to assist you.-----What I do not remember (5 I do not remember, and what I do remember I do remember.

How did you come to the meeting?-----We came by bus.

Who was with you?----Those whom I still remember that went with me, there was Curnick Ndhlovu; (10 Freda Mhlongo, and I think Elias Kunene, and others whom I do not remember any more.

Why do you say you think Elias Kunene?----- Because I don't remember for sure, as I have said.

You are not certain?----I don't remember (15 well.

You gave evidence in the Ladysmith trial on this matter, and at page 74 of the record you are questioned about coming to this meeting, and this is what you said: (20

QUOTATION:

"And from where did you leave?-----We
"boarded the bus in Victoria Street bus
"rank.

"In Durban?-----In Durban. (25

"Who went in your company?----It was Curnick
"Ndhlovu, Freda Mhlongo.

"Is that the person accused No.6?-----Yes.

"Yes?-----Elias Kunene and others."

QUOTATION ENDS: (30

Now when you gave that evidence you expressed no doubt whatsoever.-----Yes.

Is/.....

Is it correct then, or are you still uncertain that he was in your company?-----At the present time I had not remembered clearly any more.

I think I must have given you about five minutes to recollect any situation in connection with the (5 name Elias Kunene and this meeting. You didn't respond, -----What I remember I told the Court, and what I was not sure of.

Well you are now in the Court today and you are asked to remember if Elias Kunene came with you or you (10 are asked to say if you are uncertain: what is the position? And you are also reminded that you said at the Ladysmith trial, without qualification, that he was with you. Now what is the position please.-----Today I had not remembered clearly any more as I had said that I did not remember (15 clearly any more. What I did remember I told you.

Well, having assisted you with your evidence at the Ladysmith trial, do you now say that Elias Kunene did come with you?----Yes, I say so.

You see, Mr. Mtshali, I want to tell (20 you something else. Mr. Kunene gave evidence and he is definite that he didn't come with you by bus.-----As I say Elias Kunene gave his evidence when I was not present, and I am also saying now what I still remember as to what happened. (25

Well, if Kunene gave that evidence, that he did not come with you by bus, is he wrong?----As far as I am concerned I came with him by bus.

Your memory is now coming back, and you are now becoming certain of the facts?-----Yes, I remember now (30 that I came with him by bus.

Do you remember being at a meeting where

physical training and Judo for volunteers was discussed?-----

Yes.

Do you know where this meeting was?----Yes.

Where was it?----It was in the office of the N.I.C., in Lakhani Chambers. (5

Yes, and who was present - I mean who spoke? -----Fani spoke at that meeting.

Who?----Fani. (Spelt.)

Yes?-----Elias Kunene, Milner Ntsangane.

Yes, now do you know the date of that (10 meeting?---- I don't remember the date of that meeting any more.

You perhaps remember the month?----As at the present I don't remember the month, but I think it was 1962. (15

What was it that Elias Kunene said?---- Elias Kunene said if the volunteer is told to do - to go and take robots away in Grey Street or West Street, it was required for it to do as it is told, without talking back or asking any questions. (20

Yes? Did he say anything else?-----That is what I remember, what Elias Kunene said.

And it was at this meeting, was it, that there was a discussion about physical training and a teaching of Judo?-----Yes. (25

Now Elias Kunene has given evidence and he admits hearing a speech about physical training and Judo for volunteers, but he says it was at another meeting, not at this meeting. Is Kunene wrong?----- (The Court intervenes) (30

THE COURT: Mr. Unterhalter, is it possible for the witness to identify exactly the meeting you are referring

to?/.....

to?

MR. UNTERHALTER: Your Worship he has already said it was in the offices of the N.I.C. - the Natal Indian Congress - at which Milner and Fani spoke.

DISCUSSION ENSUES:

(5

THE WITNESS STANDS DOWN:

THE COURT TAKES THE LONG ADJOURNMENT.

ON RESUMPTION:

STEPHEN MTSHALI: (still under former oath)

MR. UNTERHALTER RESUMES CROSS-EXAMINATION.

(10

Your Worship had been looking in the record for the particular passage to which I was addressing the witness' mind. I don't know if you have found it, your Worship?

THE COURT: Yes, I found it.

(15

MR. UNTERHALTER: Should I proceed now?

THE COURT: Would you like the witness to go out?

MR. UNTERHALTER: Your Worship I submit I have put the question correctly, I don't know if one wants to be a little more careful.

(20

THE COURT: Yes, I wonder if you won't put the question again now, so that the witness' mind can be refreshed as to what it was.

MR. UNTERHALTER: Mr. Mtshali, I think I had said to you before the adjournment that this speech about physical training and Judo and so on, for volunteers, Elias Kunene admitted hearing such a speech but he says it was not at this meeting, it was at another meeting. What do you say?-----It was at that meeting that was at the office of the Natal Indian Congress in Lakhani Chambers.

(30

At which Milner and Fani spoke?-----Together with Elias.

If/.....

If Kunene says it was at another meeting then Kunene is wrong?-----I say it was at that meeting where that was said.

THE COURT: Just leave the machine off for a moment.

The witness has been asked to leave the Court. (5

Mr. Unterhalter, I would like to find the two meetings, to which you are referring now, in my notes.

DISCUSSION ENSUES:

THE COURT: Yes, let the witness come back please.

THE WITNESS RETURNS TO THE WITNESS STAND. (10

MR. UNTERHALTER: At this meeting at the offices of the Natal Indian Congress do you remember if there Milner Ntsangane said something about volunteer "cards" or volunteer "codes"?-----Yes.

What did he say?---- He said the (15
volunteers would be given volunteer codes in their branches and they would have to sign them.

A code or a card?----Code.

What was meant by code?-----He didn't explain, but he said volunteer codes. (20

Kunene says he doesn't remember ever hearing this, about the volunteer codes. Was he there at that time?----Yes, he was there.

Would you say he was there throughout the whole meeting?----- (The reply is not given up by the (25
interpreter.)

Now you have told his Worship about the statement Elias Kunene made about taking away a robot if he is instructed to do so?---- (INTERPRETER: Just repeat that?) (30

You have told his Worship about Kunene having said that if a person is instructed to take

away/.....

away a robot he must do so.-----Yes.

Kunene said that he never made any such statement; is he wrong?-----He did say that at the meeting at the offices of the Natal Indian Congress.

You are not making a mistake?----No. (5

And, therefore, Kunene is wrong to deny it?
-----Yes, he is wrong, if he says so.

Do you know what Kunene's attitude to violence was?-----I never spoke to Kunene about violence, apart from at this meeting where he made that statement. (10

Did you get the impression from his manner or anything else that he was in fact supporting violence at this meeting?-----I got the impression there that he was stressing the fact that the volunteers should respect and be obedient if they are given any instructions. (15

Even if it meant uprooting a thing like a robot?----Yes.

You have given evidence about a meeting at the house of Fred Dube.-----No.

No, near the house of Fred Dube - I beg (20
your pardon - which was continued at the flat of the accused at the Ebony Shopping Centre.-----Yes.

And I think you said in your evidence that Elias Kunene was present?----He was present where?

At the meeting?----Which meeting? (25

In the house near the one of Fred Dube in Lamontville?----Yes.

Are you sure about that?----Yes.

You don't make mistakes Mr. Mtshali when you implicate people and say that they are at meetings? (30
-----Where instances where I don't remember it clearly
any more I say so, but where I still do remember it/^{clear}then

I/

I say so.

Even though there have been such a large number of meetings you have attended?-----Well how is that?

No, I just want you to be quite sure that when you implicate a person and say he is at a meeting you(5 are satisfied about it.------(Silence.)

You are sure?-----If I am not sure then I say I am not sure.

You see....(witness intervenes)----Where I am sure, then I say so. (10

This was put to Elias Kunene, the meeting was described, and he denied being present.----I say he was there.

Mr. Mtshali, who is in a better position to know? The man who is affected, or you, who is an outside(15 observer?----I was also there at the meeting, and he.

Well can you suggest any reason why he should deny being present at that meeting?-----I don't know what is the reason that makes him deny it.

Your memory doesn't fail you?-----There (20 is nobody living on this earth, your Worship, who does not make a mistake.

Now you remember the meeting that was held at Beatrice Street, when Govan Mbeki and Hlume were present? ----Yes. (25

What do you say about Elias Kunene? It is not a meeting, your Worship, involving the accused: but it is a meeting which was mentioned to Elias Kunene.

DISCUSSION ENSUES BETWEEN THE COURT AND MR. UNTERHALTER AS TO WHICH MEETING MR. UNTERHALTER IS REFERRING. (30

MR. UNTERHALTER: Do you remember such a meeting, along with George Singh?-----Yes.

Who/.....

Who do you say was present?-----The ones whom I remember, who were at that meeting, Dan Hlume, M.B.Yengwa, Govan Mbeki, George Mbele, Stephen Dhlamini, Selborne Maponya, Solomon Mbanjwa, Fred Dube, Elias Kunene, Curnick Ndhlovu, Jerry Kumalo. I would say those are the ones (5 I still remember. There might be others that I have left out.

Now Kunene denies being at that meeting.----I say he was there.

Do you remember when it was? What month? (10
----Between April and May.

You are not certain?----I am not certain which month it was, which of the two.

You see Kunene goes further.....(witness intervenes)----1963. (15

Kunene goes further and he says that he couldn't have been at that meeting because he wasn't even in Durban.----I say he was there.

This meeting that was held at the Natal Indian Congress offices to discuss the volunteers was there (20 a further meeting to follow up what was discussed at this meeting?----Yes.

Was Elias Kunene present at the follow-up meeting?-----I don't remember very well any more who was at that meeting. It could be possible that he was at that (25 meeting.

Well what happened to you all of a sudden, Mr. Mtshali? Why do you suddenly find that you can't remember?-----Well as I have said, some things I do remember, and some things I do not remember. (30

Well now, have a try, Mr. Mtshali. Try to remember.----No, I can't remember who were there at that

meeting./...

meeting.

Nobody?----There were people who were there, but at the moment I am unable to remember.

You gave evidence at the hearing of George Mbele and Others in Ladysmith,-----Yes. (5

The hearing commenced on the - at the beginning of February, I believe - well, towards the end of February, 25th February of this year,----I don't know when it started.

Well you gave your evidence sometime in (10 February/March, didn't you?----Yes.

It is not such a long time ago, is it?----- I would say it is a long time.

Well you remember when I put to you this morning your evidence in regard to what happened after (15 Khubeka's meeting? You didn't have any difficulty in giving me an answer, did you?----What I do remember I remember, and what I do not remember I do not remember.

My learned friend tells me, I am just trying to find it in the record....(Court intervenes) (20

THE COURT: It is page 54 line 8, according to what you said when you were cross-examining Kunene, Mr. Unterhalter.

MR. UNTERHALTER: Well at page 54 - it appears that in fact your evidence was given on the 1st of April this (25 year,----- (INTERPRETER: At Ladysmith?)

At Ladysmith,----- (Mr. Unterhalter adds)

Yes, page 23 of the record shows that the proceedings/^{commenced} again on the 1st of April; it is only four months ago Mr. Mtshali. Anyway, this is one of the (30 things you can't remember. You can't remember?-----I don't remember too well.

Well/.....

Well you had no doubt when you gave the evidence as to who the people were, because at page 55 line 6 this is what your evidence reads:

I will start from line 3:-

QUOTATION:

(5

"Can you still remember who attended this particular meeting?----Yes.

"Yes, will you tell his Worship?----Some of those I still remember who were there, it was Milner Ntsangane....

(10

"Is that accused No.18?----Yes. And Fani, Elias Kunene, Riot Mkwanazi and Zone leaders and group leaders, and the different branches of the African National Congress."

QUOTATION ENDS:

(15

Now you did say that at that trial, did you not?----Yes.

Now this was put to Elias Kunene and he says he doesn't remember being present. And he says that you may be mistaken, because he, Kunene, often went to N.I.C. offices in Lakhani Chambers. Now Mr. Mtshali may you have given this evidence at Ladysmith by mistake, about Elias Kunene.----- (INTERPRETER: About Elias Kunene being there?)

(25

Yes,----He was there. Now that you read it to me I remember it.

You have given evidence about a meeting in the office of George Mbele. It will be meeting No.7, your Worship. Where the organisation of the A.N.C. was discussed, and George Mbele and Milner Ntsangane, among others, were present. A joint meeting of the Ad Hoc and Regional Committees. Do you remember the one I am referring/.....

referring to? This is the one - the meeting about the knocking on the door. And I am sorry, you didn't give evidence as to what took place at the meeting because you were disturbed by the knocking on the door. This was the occasion when the nip of liquor evaporated. Do you (5 remember it?----What do you mean? It was drank?

Well, the nip disappeared, you didn't say how - or you may have said how. Anyhow it is not important, it is just to remind you of the meeting.-----Yes.

Now you don't mention Elias Kunene being (10 at that meeting.-----Yes.

Are you satisfied he wasn't at that meeting? -----As far as I remember, as I have said, he was not at that meeting.

You will be interested to know that Mr. (15 Kunene agrees with you for once.-----With what?

Well he agrees that he wasn't at that meeting. But I want to read to you the evidence of Solomon Mbanjwa. And it appears at page 329 of the record. Now at page 330 the prosecutor refers to the meeting as meeting (20 No.7. And among those present at the top of page 330 the name of Elias Kunene is given. Now at page 335 line 19 the Court asks a question.

QUOTATION:

"I want to ask you about this meeting (25

"No.7.....!"(witness intervenes)

-----Who was the Court asking?

He was asking Solomon Mbanjwa.

"The one just before the one you have been
"speaking about now, there in the office(30
"of No.1 in Valbro Chambers. Was this
"meeting interrupted?-----Yes.

"Tell/.....

(Quotation continues)

"Tell me what happened?----There was a knock
 "at the door when we were having the meeting
 "and the meeting then stopped. We thought
 "it was the Special Branch knocking on the (5
 "door. After that we went out, we went
 "away and we didn't see anything outside.
 "Did anybody phone?----Yes, George phoned.
 "George Mbele, accused No.1?-----Yes.
 "Can you remember who he phoned?-----I (10
 "remember he phoned N.T. Naicker.
 "Can you remember what he said to N.T.Naicker?

(At the top of page 336.)

"----He spoke softly, I couldn't hear what he
 "said. I was not close to him. " (15

QUOTATION ENDS:

Well that is the meeting that you referred to
 in your evidence.-----Yes.

And you will notice that Solomon Mbanjwa
 says that Elias Kunene was there?----- You haven't read (20
 to me there yet that Elias Kunene was there?

I thought I had. Let me find the passage for
 you.

THE COURT: Page 330.

MR. UNTERHALTER: Now at the bottom of page 329 (25
 line 27 this is what is said:

QUOTATION: "Can you still remember the names of the
 people who were present at this meeting?----
 Yes.

"Yes, who were the Ad Hoc Members there? (30
 ----George Mbele, Stephen Dhlamini, Selborne
 Maponya, Stephen Mtshali, myself.

"Who/.....

(Quotation continues)

"Who else?----Members of the Regional Committee.

(Top of page 330.) There was Pascal Ngakane, Fred Dube, Charles Ndhlovu, Elias Kunene, Curnick (5 Ndhlovu, Jerry Kumalo.

"George Mbele and Stephen Dhlamini, these are accused Nos. 1 and 2?-----Yes."

QUOTATION ENDS:

So you see, Elias Kunene is mentioned. (10
Is Mbanjwa wrong when he says that?-----As far as I am concerned Elias Kunene was not at that meeting.

So Solomon Mbanjwa must be wrong?-----As far as I am concerned Elias Kunene was not at that meeting.

I want to refer you to the meeting of the (15
old Regional Committee and the new Regional Committee which you say was held in the house opposite the house of George Mbele in Lamontville,----- (INTERPRETER: That was held at whose house?)

Opposite the house of George Mbele in (20
Lamontville. Meeting No.4 your Worship.

Just tell us again, please, who was present at that meeting.---- Is it the meeting of the old and the new Regional Committees.

I will read you your evidence-in-chief. (25
You said:

"This was a meeting of the Regional Committee, the old one and the new one. It was held in the evening...."

(witness intervenes)-----That is what I had asked. (30

"....in the house opposite the house of George Mbele in Lamontville."

You said it was in March, 1963, you thought. That gives
you/.....

you enough material, doesn't it?----Yes, I just enquired for those particulars because there were two meetings at that particular house.

Yes, are you happy now as to the meeting I am referring to?-----Yes, I did know there were two meetings.(5

No, having identified the meeting, as I see you have, please give us the people who were there?----- I will start by saying who was the chairman at that meeting. George Mbele, Stephen Dhlamini, Selborne Maponya, Fred Dube, Pascal Ngakane, Elias Kunene, Jerry (10 Kumalo, together with myself.

Are you finished? Anybody else?-----If I remember correctly, Ernest Gallo came and then he went out again.

That is all you want to add?----If I remember(15 correctly.

Now Elias Kunene also gives evidence of this meeting and he does not refer to the presence at that meeting of Jerry Kumalo? ----(Prosecutor intervenes)

PROSECUTOR: I submit he does, your Worship; in (20 cross-examination he mentioned that Kumalo was at that meeting.

MR. UNTERHALTER: I may be wrong. If my learned friend says so it is quite in order.

THE COURT: He did say so, Mr. Unterhalter. (25

MR. UNTERHALTER: Yes. Now I am under the impression that - well at this meeting, according to Elias Kunene there was a man called Mandhla Sithole. Now you make no reference to this name in your evidence. What do you say about that?----I don't remember him at all (30 being there, Mandhla Sithole.

Well would you go so far as to say he wasn't there?/.....

there?-----As I say I don't remember that Mandhla Sithole was there.

My question is another one. Would you go so far as to say that he wasn't there?-----As I say I don't remember him being there. (5)

You are not answering my question Mr. Mtshali. I am not asking you if you don't remember: I am asking you if you are prepared to go further and say definitely that he was not there?-----I stop there, saying that I do not remember him, Mandhla Sithole being at that meeting. (10)

You are not prepared to go further?-----I'm saying that I don't remember him being there.

You are not prepared to go further?-----
No, I won't go further. I say I don't remember him at all being at that meeting. (15)

You know the note that I have made of your evidence-in-chief on this matter is that you gave the names of the people there, and then you said: "That is all." Do you remember saying that?-----Yes, I did say that those whom I remember I mention, and those whom I do not remember I do not remember. (20)

No, Mr. Mtshali, I haven't got a note of your saying that. My note is that you gave the names and you said: "That is all."

THE COURT: Mr. Unterhalter, my note is different. (25)
My note is that he gave the names of the persons present and you then said to him: "Is that all?" and his answer was: "AS far as I recall E. Gallo came and left. I did not know his position then."

MR. UNTERHALTER: Your Worship, this is my note in (30)
examination-in-chief, not in cross-examination.

THE COURT: Of meeting No.4?

MR./....

MR. UNTERHALTER: Of meeting No.4.

DISCUSSION ENSUES: THE WITNESS LEAVES THE COURT-ROOM

FURTHER DISCUSSION ENSUES:

THE RECORD IS PLAYED BACK:

THE COURT: Mr. Interpreter, did you listen carefully? (5

INTERPRETER: Yes.

THE COURT: Did you yourself interpolate the word
"kupela"?

INTERPRETER: Yes, I did.

THE COURT: Did you ask the witness a question? (10

THE INTERPRETER: Yes, that meant a question: "That's all?"

THE COURT: And what is the question?

THE INTERPRETER: "Is that all?"

THE COURT: Did you ask that on your own initiative?

INTERPRETER: Yes. (15

THE COURT: Mr. Unterhalter, you have now heard - I'm not
a Zulu linguist, but there are a few words I know: that
is one of them.

MR. UNTERHALTER: Yes, well your Worship, it is capable of
two interpretations; the one is "That is all the (20
people who were there." The other is: "That's all I have
to say."

THE COURT: No, no I'm not interpreting it.

FURTHER DISCUSSION ENSUES:

MR. UNTERHALTER: Your Worship, while the witness is (25
out might I also make this remark, my recollection is
that just before he left he persisted in saying that
in his examination-in-chief, at this stage, he said he
doesn't remember any more, or that is all he could remember,
or something to that effect. (30

THE COURT: He said: "When I remember something I
remember it and when I don't remember something, I don't

"remember /.....

"remember it." He said that several times.

FURTHER DISCUSSION ENSUES.

THE RECORD IS PLAYED BACK:

FURTHER DISCUSSION ENSUES:

THE WITNESS RETURNS TO THE WITNESS STAND:

(5)

MR. UNTERHALTER:

Mr. Mtshali, the record has been played back, insofar as it relates to the evidence you gave of the people who were present at this meeting. The record as we hear it says that you gave the names; that the Interpreter then, in the Zulu language, used the word "pe" to you. (INTERPRETER: "Kupela." (Spelt by the Interpreter.)) "Kupela", and then the words came through "That is all." Now as far as you are concerned were you satisfied that was the complete list of names? When the Interpreter spoke to you and used that Zulu word? ----I was saying the people, mentioning the people with which we carried on the meeting until it finished, apart from Ernest Gallo.

I want to put it to you that in your evidence-in-chief you didn't make any reference to remembering? As the record has been played back - your Worship I am very sorry to impose on the Court, I'm perhaps a little tired at this time of the afternoon, it is the phrase that I more or less indicated he said in reply to my question in the cross-examination, he had suggested that he had said it earlier and I would be indebted to your Worship....(Court intervenes)

THE COURT: Do you want me to repeat it?

MR. UNTERHALTER: Yes.

(30)

THE COURT: He said: "I mention those that I remembered, and those that I didn't remember I didn't mention."

It/.....

It is the same as what he has said before. In other words : "The things I remember I mention then, and those I don't, I don't." That is how I understood it.

MR. UNTERHALTER: Your Worship, I don't think I will take it any further. (5

Now at this meeting there was a discussion, was there, about the property of the Regional Committee? ---Yes, of the Regional Committee.

And was this meeting the one that closed at 12:00 at night?-----Yes. (10

You are not in any doubt about that?----You mean about the time of closing?

The time of closing, yes?-----I did say that it was going on for 12:00 midnight.

When Elias Kunene gives evidence of this (15 meeting he places the time of closing much earlier. Is he wrong?-----I don't know what time Elias Kunene said?

Well I shall try to give it to you if I can.

THE COURT: Do you want me to give you the time that he said Mr. Unterhalter? I have got a note. My note (20 says that the meeting lasted from 8:00 to 10:00 p.m.

MR. UNTERHALTER: Thank you, your Worship. That's my recollection.----As far as I remember it was going on for 12:00 o'clock because we had no conveyance to take us home and we actually went and slept where Stephen (25 Dhlamini took us.

So Kunene must be wrong also in his estimates of time?-----As far as I remember it is as I have said.

Now / ^{I had} said a little while ago that the meeting, according to you, discussed property of the Regional (30 Committee, including money, financial statement that George Mbele said he wasn't able to hand in.----Yes.

And/.....

And there was a complaint by Jerry Kumalo that this took such a long time?----Yes.

You were there throughout the meeting?----
Yes.

Is that an accurate statement of what took (5
place at the meeting?----Yes.

Nothing to add?----As far as I remember that
is what was discussed at that meeting.

Nothing more?-----As far as I say, as far as
I remember, I remember what I have said. (10

I want to read to you what the charge sheet
says: It is alleged that what took place at this meeting
was the following:- Discussions on (1) handing over of
A.N.C. Property to new Committee members, (2) Explaining
of functions of Regional Committee to new members, (15
(3) Finances of A.N.C., (4) State of A.N.C. organisation
in Rural Areas of Natal, (5) State of A.N.C. organisation
in Durban.

Now when you prepared your statement did you
embody all these five points in the statement? In reg- (20
ard to this meeting?----No.

Can I put it to you this way: would you say
that no discussion took place about A.N.C. organisation
in the Rural Areas of Natal? ----What I remember is what
I have said. (25

Well let us go a little bit further, would
you say that no discussion took place about Rural Areas?
-----I don't remember. I only remember this what I have
said.

Would you say that no discussion took place (30
about A.N.C. organisation in Durban?-----I don't remember
at all. I only remember what I have said.

Would/.....

Would you say that no discussion took place of the explaining of functions of the Regional Committee to new members?-----There I would say the members of the old Regional Committee handed over their work to the new members, the members of the New Regional Committee. (5) But I do not remember the work of the Regional Committee being explained, I only remember that.

Is your memory perhaps not so good now in regard to this meeting?----I have already mentioned what I remembered. What I don't remember I haven't mentioned.(10) I only remember that.

Now dealing with the meeting where there was the knocking on the door - that is meeting No.7-- in the office of George Mbele.-----Yes.

I understood you to say in your evidence- (15) in-chief that you don't remember what the purpose of this meeting is either?----(INTERPRETER: Of that meeting was? Just repeat that?)

I understood you to say in your evidence- in-chief that you also do not, that you don't remember (20) the purpose of that meeting?----I thought I had said that I had not remembered what points were being discussed at that meeting before there was the knock on the door.

Why don't you remember?----(The Court intervenes) (25)

THE COURT: Just a minute.

Mr. Unterhalter, the question you put to him was: "I thought you said you didn't remember what the purpose of the meeting was?" I have been trying to find my note of his having said that and I haven't found the (30) note yet that he said that.

DISCUSSION ENSUES:

THE/.....

THE COURT: The note I have got, I think I was referring to a note of another meeting when I spoke two minutes ago, I'm sorry, Mr. Unterhalter. I was reading out another reference. But I think that this note refers to what you are talking about. To put it in its context I - he says (5 that "Mbele phoned Naicker but Naicker didn't come. The knocking stopped and the meeting did not carry on. I don't recall what was spoken before the police came. We thought it was the special branch; the police did not come. I don't recall if we did go and look. I think one (10 of us did. When we left the office the knocking had stopped. No I can't recall what was the discussion before the knocking. Milner was speaking." That is the note I have. Does that agree with what you have got? I have no note that he said he didn't know what the purpose (15 of the meeting was. That was the question.

FURTHER DISCUSSION ENSUES.

THE COURT: I beg your pardon, that is right, my note does go on and it does say your question was: "The purpose of the meeting was?" and the answer was: "I don't remember (20 any more."

MR. UNTERHALTER: As your Worship pleases. I'm indebted to your Worship.

Now Mr. Mtshali, from this discussion you will have gathered that your evidence-in-chief is to the (25 effect that you didn't know the purpose of this meeting, and you don't remember what was spoken before the police came. Now how is that? Why don't you remember?----- I don't remember just because I don't remember.

Memory not so good on this occasion?----- (30 What I do remember I remember and I say it; what I don't remember I don't remember and then I also say that I

don't/.....

don't remember.

How is it that you remember some things about this meeting and not others?-----Because what I have said what I remember I do remember and what I do not remember I do not remember. I'm not going to say I remember (5 something if I do not remember it.

You remember that this was apparently a meeting of Ad Hoc and Regional Committees, and that Milner Ntsangane had come to attend it from the National Executive and you also have given the names of the people who (10 were present. And yet you can't tell us what it is about? -----Yes, I know that it was a meeting of the African National Congress of those two committees. But I do not remember what they were talking about before the police knocked. (15

If you remember the people who were present and that it is a meeting of the Ad Hoc and Regional Committees, and you don't remember what the discussion was about is it possible that you are making a mistake as to the people whom you say were there?----- No. (20

All right. Now you also give evidence, or you gave evidence of a meeting in a house near that of Fred Dube, which you say was later continued at the flat and surgery of the accused.----Yes.

Now before that meeting adjourned to the (25 surgery, do you remember what took place at the meeting? -----What happened I remember there, but the matters that were being discussed I do not remember.

What happened then?-----After certain discussions George Mbele asked the members of the Regional (30 Secretariat to go.

That's all right. In other words what you are/.....

are saying is that you remembered what happened so far as the adjournment is concerned to another place, and also that certain people were asked by the chairman to leave the meeting.----Yes.

But what was discussed before this happened (5 you don't remember?----I don't remember it any more, as I have said.

So you see, Mr. Mtshali, just to round this off, I have put to you three meetings now: you can speak confidently as to the nature of the meeting, and the (10 people who were present; you can say nothing about the discussions. Is that right?----What I do remember I say, what I do not remember I do not say because I do not remember it.

Is it perhaps that it is easier to memorise (15 names of people than it is to memorise details of discussion? ----What I remember I put to you. What I do not remember I do not remember.

THE WITNESS STANDS DOWN:

THE ACCUSED IS REMANDED TO 7.8.1964:

(20)

THE COURT ADJOURNS:

ON 7.8.1964 THE COURT RESUMES:

APPEARANCES AS BEFORE:

STEPHEN MTSHALI: (sworn, states)

(25)

MR. UNTERHALTER RESUMES CROSS-EXAMINATION:

You gave extensive ^{evidence}/at the Ladysmith trial where George Mbele and others were accused?----Yes.

About lots of meetings?----Yes.

You say the evidence you gave there was (30 accurate?----Yes, I spoke there, I said what I remembered, and what I didn't remember I didn't say.

My/.....

My question is this, the evidence that you gave at the Ladysmith trial was it accurate evidence?-----
Wherever I spoke where I wasn't sure I said that I wasn't sure.

I'm not questioning you as to whether you (5
were sure or not: I'm questioning you as to whether the
facts that you spoke about were accurate.----Yes, I spoke
as I remembered, accurately, as it happened.

Just to revert for a moment to this meeting
at the home of the Rev. Ntlabati, where there was the (10
discussion about the women's passes and the boycott of
beerhalls. When you came to that meeting were you met
by anybody?----Yes.

By whom?----Elsin Kanyile.

And was Kunene present at all?----Yes. (15

He doesn't remember that at all.----Well,
that's his affair, if he doesn't remember.

And I want to tell you I have re-read the
cross-examination of Mr. Kunene and he was asked by me
as to whether there is any fact at all that he can (20
recollect to assist him in being sure of your presence at
that meeting. Now his reply in effect was that there was
nothing that could assist him to remember, and he certainly
doesn't speak to a conversation between the two of you
in Marxism in the way you deposed. Now do you want to (25
say anything about that?-----Well as I said, if he doesn't
remember, that's his affair, it is not mine.

I take it that at Ladysmith you wished to give
the Court the fullest information?-----I gave the Court
the information I remembered and what I didn't remember I(30
didn't give it.

I'm not questioning you on whether you

remembered/.....

remembered it or not. You seem very sensitive about that this morning, Mr. Mtshali. I'm questioning you on another matter: and that is when you could remember you spoke very fully on subjects?----Yes.

You left out nothing that you knew about?---(5
There is nothing that I remembered that I left out, apart from what I didn't remember.

Yes, very well. Now I want to refer you to the meeting which was held at the house opposite George Mbele's at Lamontville. Meeting No.4. In your (10
evidence here in this Court you referred to Ernest Gallo coming and going. Do you remember that?-----Yes.

Now you gave evidence about this meeting at the Ladysmith trial did you not?-----Yes.

The reference to this meeting commences (15
at page 95 line 10 and it concludes at page 98 line 22, and in the course of your evidence between those two pages you mention the people who were at that meeting, you make no reference to Ernest Gallo.

Now in the light of what you said that (20
everything that you remember you would speak of accurately, what do you say?-----As I have said what I remembered I put before the Court at Ladysmith, and what I didn't remember I left out because I did not remember it.

So your answer is that at Ladysmith you (25
didn't remember about Gallo?-----Yes.

And the Ladysmith trial was some months earlier than this one?---Yes.

And now you remember about Gallo, even though it is later in time?----Yes, I remember. (30

How does it come that you remember things now that it is later, and you forgot them when it was

earlier?/....

earlier?----If I remember anything, I remember it. If I don't, I don't remember it. But if I do remember anything then I must say it, no matter what time it is.

Is that the only answer you want to give to that question?----That is the answer for that question. (5

Can you say whether the Regional Committee, there was meetings during April, May and June of 1963?-----Do you mean the Regional Committee alone?

Yes, meeting of the Regional Committee. (10
-----I would say that perhaps it did have meetings, but I did not attend a meeting of the Regional Committee.

You are not able to speak to it?-----No, I never entered a Regional Committee meeting at that time.

April, May or June?-----1963? (15

Yes.----Apart from the Regional Committee meeting that I attended after some of the members had been arrested.

Well which one do you have in mind?-----The new Regional Committee which was appointed by us, (20 the three members of the Ad Hoc Committee.

And which met where?----Which one do you mean? Which one that met where?

Well you are telling me of the meetings that you attended of the Regional Committee that was appointed (25 by the Ad Hoc Committee; now you refer to them?----The first meeting of the Regional Committee that was appointed by us was in Convent Lane in Durban.

And when?----After the others had been arrested. (30

Which others?-----Do you want me to mention the names, or to say which Committees?

Yes,/.....

Yes, please mention the names.----Solomon Mbanjwa, Curnick Ndhlovu, Jerry Kumalo, Elsin Kanyile, Fred Dube and others.

Who are the others?----Stephen Dhlamini, George Mbele, Selborne Maponya, Elias Kunene, I don't (5 know whether there are perhaps any others that I am leaving out.

These names come off your tongue trippingly.

THE COURT: How?

MR. UNTERHALTER: Trippingly. Perhaps I should para- (10 phrase it, it is Shakespear your Worship.

Quickly, easily, with facility.

THE COURT: Is there a Zulu word for trippingly, Mr. Interpreter?

INTERPRETER: No, there isn't. Just to trip somebody when (15 he walks.

MR. UNTERHALTER: Well put it to him.----(Silence.)

Do you agree, you give these names quite quickly?----Yes.

You do it because these are men you knew (20 well?----Yes, because I remember them.

You worked often with them?-----Yes.

Those were actually the people that you worked closely with nearly every day?----Yes, I worked with them, but not every day. (25

And these were usually the people who attended meetings with you?----Yes.

And they were divided into two clear groups, Regional Committee meeting people - Ad Hoc Committee meeting people?----Yes. (30

Now after - there were two meetings of this Regional Committee, and then there was a third one at

Amos Mngoma's house, is that right?-----Yes.

Which month?-----As far as I remember it was July last year.

The charge sheet alleges that it was in June.-----It was after the people had been arrested. I (5 think the majority of them had been arrested at the end of June.

So was this meeting towards the end of June, or do you say definitely in July?-----In July.

Now the charge sheet refers to meeting (10 No.8, which is in the house of one Fred Dube at Lamontville. I'm sorry, your Worship, yes - near Fred Dube's - near the house of Fred Dube. -----Yes.

Do you remember the date of that meeting?----- I don't remember the date. (15

Well give us the month?-----If I'm not mistaken I think it was April 1963.

In your evidence-in-chief you said it was between April and May, "if I am not mistaken" - those are your words.-----Yes. (20

The charge sheet says March or April; would it be March?-----I remember that it was April or the beginning of May because there were some who were arrested in May.

Do you remember when George Mbele was (25 arrested?-----Yes.

What date?----If I am not mistaken I think it was the first or the second Saturday in May, 1963.

Yes. And how long before his arrest would you say this meeting took place?----- (Mr. Unterhalter (30 adds) The one near that of Fred Dube in Lamontville? -----I can't say how long it was before he was arrested.

Well/.....

Well would it be a week, would it be a month?
 -----I don't remember clear there.

Well I am trying to assist you, Mr. Mtshali. I have given you, or I have asked you to give the date of Mbele's arrest. That should be a signpost for you.-----
 It wasn't a long time but I can't say how long.

Well in your evidence-in-chief you say the meeting was held between April and May. So would it be towards the end of April? Would you position it there?-----
 I would put it as I have said it, in April or the (10
 beginning of March, but it was before they were arrested.

All right. Now you gave evidence as to the people who were present at this meeting and you described its adjournment to the flat of the accused.----Yes.

Now George Mbele adjourned it, didn't he? (15
 ----Yes.

He first asked the Secretariat to leave the meeting in the house near that of Fred Dube?-----Yes.

Then he asked the Regional Committee to leave that house?-----Yes. (20

And then the Ad Hoc Committee was left?-----
 Yes.

Now did he do that because there were matters that could only be heard by the Ad Hoc Committee?
 -----Together with Curnick Ndhlovu who remained behind, (25
 who is a member of the Regional Committee.

Now Curnick Ndhlovu remained behind because he had a particular position in another organisation, didn't he?----- Yes.

He was on the Regional Command of (30
 Mkonto, would that be correct?----Yes.

So that if the Ad Hoc Committee were going
 to/.....

to mention matters about Mkonto they could mention them in the presence of Curnick Ndhlovu because he was on that Regional Command?----You mean because he was present?

No, no. If there was going to be a discussion about Mkonto, and Curnick Ndhlovu was on the (5 Regional Command of Mkonto, that would be a reason for him to be present?-----I want to ask you a small question because I don't understand your question. Do you mean whether there is going to be any Ad Hoc Committee meeting, wherever it is, where they are going to discuss the (10 Mkonto?

No, this particular one in the house near that of Fred Dube: that is the one we are talking about. -----Do you say then it is necessary for Curnick Ndhlovu to be there because he is a member of the Regional Committee?(15

You mustn't ask me questions; I am putting questions to you and....(witness intervenes)----I asked you because I didn't get your question, and I want to get it clearly and then answer it.

It is not that you are being overcautious (20 because you are frightened that you don't know where it is leading?-----I said that I don't understand the question that is why I was going to ask the question, to be able to understand yours.

All right: why was Curnick Ndhlovu (25 permitted to remain at that meeting?-----Milner Ntsangane said that he, Milner, had asked Curnick Ndhlovu to be present at that meeting.

Why do you think that Milner had asked Curnick to be present at that meeting?-----What I (30 thought after the meeting, I thought that Milner had asked him, Curnick, to be present at the meeting so that he could hear/.....

hear when they spoke about matters concerning the Mkonto we Sizwe because they did speak matters about....(Court intervenes)

THE COURT: So that who could hear?----Curnick Ndhlovu.

MR. UNTERHALTER: Why particularly should Curnick Ndhlovu (5 have to hear the discussions about Mkonto we Sizwe?----- As far as I thought, I thought that he should hear it because he was a member of the Mkonto.

Of the Regional Command of Mkonto?----Yes.

Precisely. That is what I put to you.... (10 (witness intervenes)---That is as far as I thought.

....a little earlier, and which, apparently, you didn't understand. Anyway you have given the answer.

Now this was a highly confidential matter that was discussed, wasn't it?----Yes. (15

The fact that there was any relationship at all between Mkonto and the A.N.C. was something that had to be kept as private as possible at that time?-----Yes.

It had to be kept private because this was very dangerous information?----At that time. (20

Mkonto was an organisation that was concerned with sabotage?-----Yes.

And the fewer the people that knew about it, the better for all concerned?----Yes.

It was for that reason that the Regional (25 Secretariat was asked to leave the meeting?----There were certain matters discussed concerning the Ad Hoc Committee and the Regional Committee after the Regional Secretariat had left.

But the Regional Secretariat was asked to (30 leave so that they shouldn't be present when Mkonto was discussed?----Yes, so that it should not be present when matters/.....

matters should be discussed about the Ad Hoc Committee and the Regional Committee.

THE COURT: What is that? I don't follow you. When you used the word "Secretariat", you said the Regional Secretariat had left, do you mean the Regional Committee had left? (5
-----The Regional Secretariat left, and the Regional Committee and the Ad Hoc Committee remained behind.

Now what was the difference between the Regional Committee and the Regional Secretariat?----The Regional Secretariat, I would say, is a sub committee of (10 the Regional Committee.

What sort of sub committee?----A sub committee of the African National Congress.

Yes, but why does the Regional Committee have to have a sub committee and call it a Secretariat?----- (15 The Regional Secretariat was the body that visited the branches of the African National Congress to see how the work was getting on, and it would gather in the reports and then hand the reports on to the Regional Committee.

So it was in effect just the Regional (20 Committee under another name?----It was a section of the Regional Committee? I would say it was a sub committee of it, because it was under the Regional Committee.

MR. UNTERHALTER: Anyway this sub committee of the Regional Committee certainly were not supposed to hear about (25 Mkonto at that time?----Yes, at that time.

THE COURT: I am still not quite clear about this. Did Mbele ask all the members of the Regional Committee to leave, or did he ask only the members of the sub committee to leave, the Secretariat?-----Firstly George Mbele asked (30 the members of the Regional Secretariat to go, and after certain discussions then he asked the Regional Committee

to/.....

to go. Curnick Ndhlovu remained behind and then we went to the house of Pascal Ngakane.

Was Curnick Ndhlovu the only member of the Regional Committee who remained behind?----And Pascal Ngakane. (5

And you then^{went}/where?----We went to where Pascal Ngakane stays.

Pascal Ngakane being who...?----The accused.

MR. UNTERHALTER: Now you have already said that the Regional Secretariat certainly couldn't listen to the discussions about Mkonto at that time?----Yes. (10

And members of the Regional Committee couldn't listen to those discussions?----Not all.

The Ad Hoc Committee could listen?----Yes.

Why are you smiling?----I see nothing to make me cross. (15

Yes, but what do you see....(Court intervenes)

THE COURT: Just a minute. I must place on record that I am writing, I did not see the witness smile.

MR. UNTERHALTER: I did, your Worship. (20

You say you see nothing to be cross about; you did smile didn't you?----I see nothing that could make me cross.

THE COURT: Yes, kindly answer the question. It is simple enough. Did you smile or didn't you?----Yes. (25

MR. UNTERHALTER: Why did you smile?----It is something I am used to doing.

What was the occasion for smiling?----When?

Now,----I'm not smiling because anything happened; it is something I am used to doing. (30

Do you smile because you think you understand the drift of my questions?----No.

Very/....

Very well: let's go back to the questions.

The Regional Committee were not supposed to hear at that time the discussions about Mkonto?-----As I have said, not all the members of the Regional Committee.

Curnick Ndhlovu was permitted to because of (5 his position on the Regional Command of Mkonto?-----I said that that was just what I thought.

Well it seems reasonable, doesn't it?-----
As far as I think.

And if the Regional Committee was asked to (10 leave the meeting then it was because they shouldn't listen to the discussion about Mkonto?-----As I said not all.

Please answer the question, and don't fence with me. I have put it to you that the Secretariat left because they should not listen to those discussions? (15 I am putting it to you that the Regional Committee left so that they should not listen to those discussions. I have put it to you that Curnick Ndhlovu was permitted to remain as the Regional Command of Mkonto: is that correct?----- I said that I thought that he remained behind/^{because}he was a (20 member of the Regional Command.

Mr. Mtshali, I put a question to you in three parts and I would like you to answer it. I didn't ask you a question only about Curnick. I spoke to you about the Secretariat, I spoke to you about the Regional Committee (25 and I spoke to you about Curnick Ndhlovu. Do you agree with the question in the way I put it to you or do you not?-----Which question did you ask me?

Just one minute ago I put that question to you.-----Which question? (30

You don't remember any more?-----(The Court intervenes)

THE COURT: Mr. Unterhalter, will you indicate exactly what it is you want an answer to now.

MR. UNTERHALTER: As your Worship pleases.

The Regional Secretariat left because they shouldn't hear the discussion of Mkonto, you have agreed (5 with that?_---I said not all members of the Regional Committee.

I'm talking of the Regional Secretariat.-----
Do you mean that it also left because it was not allowed to listen to the discussions of Mkonto? (10

No, you agreed to that five minutes ago?-----
Yes....(Mr. Unterhalter intervenes)

Well why are you hesitating about it?-----No, I am not hesitating: I agree.

Right. Now you are smiling again? Why? (15
---I'm listening to your question.

And do they occasion you amusement?-----There is nothing that amuses me; I'm only listening to your question.

You said that Curnick Ndhlovu could remain(20 because he was a Regional Commander of Mkonto?----(Prosecutor intervenes)

PROSECUTOR: The witness never said anything of the sort, your Worship. He never said he was a Regional Commander of the M.K. - he said he was a member of the Regional (25 Command. It doesn't necessarily make him a "Commander".

MR. UNTERHALTER: Your Worship, that was a slip. I didn't mean to suggest he was a Regional "Commander" - I meant to suggest that he was a member of the Regional Command.

Do you agree with that?-----As I have said(30 that I thought.

And the Regional Committee was asked to

leave/.....

leave because it was undesirable that they should hear about Mkonto?-----As I have said, not all the members of the Regional Committee.

All right, Mr. Mtshali, we will go on. Do you say that not all members of the Regional Committee (5 meeting left that meeting then?----Yes.

Who remained behind? Of the Regional Committee, apart from Curnick Ndhlovu?----Pascal Ngakane remained behind.

Nobody else of the Regional Committee, (10 apart from Curnick?----Nobody else.

Are you quite sure about that?----Yes.

I am going to read to you from the evidence that you gave at the Ladysmith trial. You did speak about this meeting at the Ladysmith trial, didn't you?---- (15 Yes.

It appears at page 118 of the Record, at line 23:

QUOTATION:

"Now the members of the Regional Committee(20 if you can?----Fred Dube.

"You pointed him out yesterday; is that accused No.16?----Yes.

"Yes?----Curnick Ndhlovu, Elias Kunene, Jerry Kumalo. (25

"Jerry Kumalo is accused No.15; is that him?----Yes. And Pascal Ngakane.

"Were those the members of the Regional Committee?----Yes.

(At the top of page 119) (30

"Can you remember the names of the Members of the Regional Secretariat?-----."

.... and/.....

and then you give them.

Line 10:

"Apart from these people were there any other persons present?----Yes, Milner Ntsangane."

Line 16 : (5

"Who was the chairman of this meeting?
----George Mbele."

Line 20: You were asked to go on with your
evidence:

"The meeting was opened by George Mbele. (10
After a few discussions which I don't remember
any more George then asked the members of the
Regional Secretariat to go. Then those of the
Regional Secretariat went out.

"I'm sorry to interrupt you, when (15
accused No.1 asked the members of the
Regional Secretariat to leave that meeting,
did he give any reason to them why they
should leave?-----As far as I remember, I don't
think he mentioned a reason. (20

"Very well. After the members of the
Regional Secretariat had left, what happened
then?----Then the meeting carried on. The
Ad Hoc Committee, the Regional Committee and
Milner Ntsangane." (25

Top of page 120:

"Some of the other members of the Ad Hoc
Committee and the Regional Committee, they
had been drinking, they had been drinking,
they were drunk. I don't remember what (30
discussions were discussed at that meeting,
but George Mbele also asked the Regional

"Committee/.....

"Committee to go out as well. Then what remained behind was the Ad Hoc Committee Milner Ntsangane, together with Curnick Ndhlovu."

QUOTATION ENDS:

(5

Now there isn't a word in your evidence at the Ladysmith trial that Pascal Ngakane remained behind when the Regional Committee had been asked to leave, and your evidence is to the effect that Pascal Ngakane was a member of the Regional Committee.----You mean there is (10 no evidence there to say that Pascal Ngakane was asked to remain behind?

There is no evidence there to the effect that he did remain behind, and your evidence, as I have read it to you includes Pascal Ngakane among the members of the (15 Regional Committee. What do you say to that?----Yes, Pascal Ngakane is the chairman of the Regional Committee of the A.N.C.. That being so, I agree, I did not say in Ladysmith that Pascal Ngakane remained behind; but I did mention it that we went to the house of Pascal Ngakane. (20

Why did you not mention at the Ladysmith trial that Pascal Ngakane remained behind?----Because Pascal Ngakane did not stay a long time at our meeting of the Ad Hoc Committee, as I have said. That's all.

I am going to read to you again from page (25 118 of the record in the Ladysmith trial, line 15.

QUOTATION:

"Can you just give me the name, if you can of course, the names of the members who attended this meeting.----George Mbele, (30 Stephen Dhlamini, Solomon Mbanjwa, Selborne Maponya and myself.

"Are/.....

"Are those the members of the Ad Hoc Committee from what you have previously told the Court?----Yes."

QUOTATION ENDS:

You did say that at the Ladysmith trial, (5 didn't you?---That they were the members of the Ad Hoc Committee?

What I have just read out to you, you did say it didn't you?----Yes.

And it is correct, isn't it?----Yes. (10

Right. Then at page 120, I will read to you again at line 6, what you said:

QUOTATION:

"Then what remained behind was the Ad Hoc Committee, Milner Ntsangane, together (15 with Curnick Ndhlovu."

QUOTATION ENDS:

I want to put it to you that the Court there could not have been left with any impression other than that only the Ad Hoc Committee, Milner, and Curnick were (20 there. What do you say to that?----(The Court intervenes)

THE COURT: Just read that again Mr. Unterhalter?

PROSECUTOR: Sir, may I just intervene at this stage: I'm not so certain that the proposition that my learned friend is putting to the witness is perhaps an entirely valid one (25 to ask him what conclusions the Court might have come to on that evidence. What my learned friend has quoted so far is perfectly correct; but I also submit that it can be open to a different interpretation.

THE PROSECUTOR ADVANCES FURTHER ARGUMENT ON HIS SUBMISSION. (30

THE WITNESS LEAVES THE COURT-ROOM:

ARGUMENT/.....

ARGUMENT ENSUES:

THE COURT: Perhaps we could resolve the whole difficulty by asking Mr. Unterhalter if he, what he really wants the witness to do is to simply comment on the proposition that he is putting to him. In other words, Mr. Unterhalter isn't (5 saying: "Look here, this was the position at Ladysmith." He is saying: "Look, isn't this what the position at Ladysmith was?"

FURTHER DISCUSSION ENSUES:

THE COURT: If you put the question to him (10 succinctly and say: "Look, today you say the accused remained behind, at Ladysmith you didn't mention it: what have you got to say about it?"

MR. UNTERHALTER: I shall do that.

THE COURT TAKES THE SHORT ADJOURNMENT: (15

ON RESUMPTION:

STEPHEN MTSHALI: (still under former oath)

MR. UNTERHALTER RESUMES CROSS-EXAMINATION:

I had read to you what you said at the Ladysmith trial in connection with this meeting?----Yes. (20

Namely:

"Then what remained behind was the Ad Hoc Committee, Milner Ntsangane together with Curnick Ndhlovu."

In this Court you said that Pascal Ngakane was there too. (25 ----(Court intervenes)

THE COURT: "...remained behind too."

MR. UNTERHALTER: Yes. After the Regional Committee had gone. Now you can comment.-----Yes. I said "Yes."

Is that the only comment you want to (30 make?----No, there is nothing.

I shall submit to his Worship, when I argue this/.....

this case, that there is a difference between the evidence you have given in this Court and the evidence that you gave in Ladysmith. Do you want to say anything?----No.

Very well. Now in your evidence-in-chief here you say that you went from the house near that of (5 Fred Dube to the house of Pascal Ngakane, and you say there the meeting of the Ad Hoc Committee carried on and those who were now present at that meeting were George Mbele, Stephen Dhlamini, Selborne Maponya, Solomon Mbanjwa, Milner, yourself and Pascal Ngakane. He was there for a while, his (10 wife called him, and he went into another room. That is what you said in your evidence-in-chief, wasn't it?----Yes.

Now I am going to read to you what you said at Ladysmith. It starts at line 7. Page 120.

QUOTATION:

"We then left that house where we were in, (15 which was near Fred Dube's and we went to where Pascal Ngakane stays. There / ^{the} meeting of the Ad Hoc Committee carried on, together with Milner Ntsangane and Curnick Ndhlovu. At that meeting Milner Ntsangane was the speaker. He (20 told those who were present at the meeting that the Spear of the Nation is the child, is the baby, of the African National Congress. Milner Ntsangane said it was necessary that there should be a person who would be a link between the (25 Regional Committee of the African National Congress, and the Regional Command of the Spear of the Nation."

QUOTATION ENDS:

And the record then goes on to say that you (30 asked certain questions and there were certain discussions. ----(INTERPRETER: That the witness asked certain questions?)

Yes./.....

Yes. You did say that, what I have just read out to you; didn't you?----Yes.

Now there is no reference at all at the Ladysmith trial to the fact that Pascal Ngakane was present when the meeting adjourned to his house? Do you want to (5
comment on that?-----Yes. What I want to say is this what made me not mention Pascal Ngakane is because he didn't stay a long time at that meeting, as I also said here in this Court. And also I do not remember whether I was asked at the Ladysmith trial where Pascal Ngakane was. (10

Yes. Mr. Mtshali you told his Worship earlier this morning that you gave accurate and full information at the Ladysmith trial, of everything that you remembered. Do you remember saying that?----Yes.

Well, in the light of what you said, how do (15
you explain your failure to mention at the Ladysmith trial that Pascal Ngakane was present at the meeting at his house?----As I have said before.

Is that all you want to say?---Yes, as I did tell the Court just now. (20

You don't want to add to it?----No.

I put to you earlier that this was a very secret discussion on a dangerous matter, and it could be revealed to the Ad Hoc Committee which was the senior body in Natal, representing the National Executive, and you agreed(25
with that, didn't you?----Yes.

I put it to you further that Curnick Ndhlovu would be present?----Yes.

And in fact was allowed to be present?
As a member of the Regional Command of Mkonto. You (30
agreed with that?----Yes, I said that's what I thought after the meeting.

And/.....

And that is understandable, isn't it?-----To me.

Yes. What do you suggest, on your version, qualified Pascal Ngakane to be present?----Firstly I thought because Pascal Ngakane was the chairman of the (5 Regional Committee of the African National Congress.

Secondly?-----And also there was a matter discussed between Milner Ntsangane and George Mbele, about the presence of Pascal Ngakane at the meeting, and then those two agreed that Pascal Ngakane could stay at the (10 meeting. And he stayed, he the accused, stayed that little while at the meeting until his wife called him.

None of which, of course, you said at the Lady-smith trial?----I was not asked about it.

Now Mr. Mtshali at the flat of Pascal (15 Ngakane everybody could hear what was said?----All that were where?

At the flat of Pascal Ngakane?----Hear what? What was said?----Spoken where?

At the flat of Pascal Ngakane?----Do you (20 mean at the meeting or in one of the other rooms?

At the meeting, of course,----I can't say that others in the flat would have heard because I wasn't in the other parts of the flat; I was in the meeting.

I'm talking of the members of the meeting, and(25 you know that is what I am talking about,-----Yes. (INTERPRETER. He said: "Thank you.")

Are you agreeing with me that everyone who was present at the meeting in Ngakane's flat heard what took place?----Yes. (30

It was a most important message that Milner had brought?----Yes.

And/.....

And I have no doubt it made a very deep impression upon everyone who heard it? Do you agree?----I say yes, it is something that stayed.

And it made a deep impression on you, didn't it?

----Yes.

(5

Because now it is revealed that the Mkonto is the baby of the African National Congress.----Yes.

And there is a link between the two bodies?-----

And that there should be a link between the two bodies.

Yes. All right, let me ask you something else(10

Do you remember attending a meeting of the Ad Hoc and Regional Committees held in the house of the daughter of Chief Albert Luthuli in Beatrice Street in Durban?

At which Ghalaki Selo was the chairman?----Yes.

And there was some discussion about Elias Kunene(15 having to hand in a financial statement?-----Yes.

And you remember there being a report, or rather a statement by Elias that he had used seventeen pounds, or seventeen rand of the money of the Regional Committee?

----Yes.

(20

Do you remember when that meeting was?-----

Yes.

Will you tell us?----It was after the arrest of George Mbele, Stephen Dhlamini and Selborne Maponya.

What month would you say?----I would say in (25 May or June but it was before Elias Kunene and Jerry Kumalo were arrested.

I'm sorry - just repeat that?----I would say sometime between May and June, but it was before the arrest of Elias and Jerry Kumalo, together with others. (30

But it was certainly after the arrest of George Mbele?----Yes, it was after the arrest of them.

This/.....

This was by way of being some sort of criticism against Elias Kunene, was it not? This question of his having taken the money?----Yes.

Do you remember anything more than what I have just put to you?-----In connection with...? (5

With this comment on Elias Kunene having taken this money?-----*(Mr. Unterhalter adds)* What happened when this discussion arose? Can you tell us?----Different speakers spoke. There was different comments about this matter of Elias Kunene having used the money of the African National Congress. (10

Well tell us some of the people who spoke?----

Jerry Kumalo, Ernest Gallo, and if I remember correctly Ghalaki Selo also said something about the money, and Ernest Gallo also.

Are those the only three whom you can remember? (15
----Yes, that spoke in connection with this matter of the money.

Who was the first one you mentioned?----Jerry Kumalo.

What did he say?---- Jerry Kumalo said (20
that Elias Kunene used money of the Regional Committee and he was the treasurer of the Regional Committee. (INTERPRETER: Witness corrects the interpreter.) Elias Kunene used the monies of the Regional Committee. He, Elias Kunene, very well knowing who was the treasurer of the Regional (25
Committee, because the requirement is that all monies should go to him, the treasurer. And Jerry Kumalo went on further to say that Elias Kunene paid himself with money of the organisation, and now he said today the organisation is left with an amount of money, I think, less than one rand, (30
because Elias Kunene had taken the money and paid himself. And he also said that Elias Kunene was a person who was

being/.....

being paid by the organisation. There is nobody else who has paid himself: but Elias took the monies of the organisation and paid himself.

So he was critical of Elias?----Yes.

Who else spoke? What was the second name you gave?(5

----Secondly Ernest Gallo spoke.

What did he say?----I don't remember any more what he said but he also spoke.

Would you say he criticised Elias Kunene for taking the money?----Yes. (10

Who was the third person?-----I think Ghalaki Selo also had something to say.

Did he also criticise Elias Kunene?----Yes, if I am not mistaken.

Did anyone come to the defence of Elias Kunene? (15
----No.

I believe Fred Dube was there; was he?----Yes, he was there.

Did Fred Dube say anything?----I don't remember any more whether Fred Dube did say anything about the (20 money as well. But he, Fred Dube, took out the agenda of the meeting and handed it to Ghalaki Selo.

Would you say that generally this meeting was criticising Elias Kunene for what he had done?----Yes.

And apparently there was no satisfactory (25 explanation for what Elias Kunene had done?-----
Yes.

There was no satisfactory explanation?----- As far as I know there was no satisfactory explanation.

You see Elias Kunene was questioned by me on this(30 matter and his explanation given to his Worship is that Fred Dube authorised him to take the money and that Dube

said/.....

Collection Number: AD1901

**SOUTH AFRICAN INSTITUTE OF RACE RELATIONS, Security trials Court
Records 1958-1978**

PUBLISHER:

Publisher:- Historical Papers, University of the Witwatersrand

Location:- Johannesburg

©2012

LEGAL NOTICES:

Copyright Notice: All materials on the Historical Papers website are protected by South African copyright law and may not be reproduced, distributed, transmitted, displayed, or otherwise published in any format, without the prior written permission of the copyright owner.

Disclaimer and Terms of Use: Provided that you maintain all copyright and other notices contained therein, you may download material (one machine readable copy and one print copy per page) for your personal and/or educational non-commercial use only.

People using these records relating to the archives of Historical Papers, The Library, University of the Witwatersrand, Johannesburg, are reminded that such records sometimes contain material which is uncorroborated, inaccurate, distorted or untrue. While these digital records are true facsimiles of the collection records and the information contained herein is obtained from sources believed to be accurate and reliable, Historical Papers, University of the Witwatersrand has not independently verified their content. Consequently, the University is not responsible for any errors or omissions and excludes any and all liability for any errors in or omissions from the information on the website or any related information on third party websites accessible from this website.

This document is part of a private collection deposited with Historical Papers at The University of the Witwatersrand.