

your meeting with Elias from Gladys Manzi. When you spoke in Court a few minutes ago before you were asked to leave the box, you told his Worship that you only assumed that he knew, you couldn't say definitely that he knew. Do you understand the difference between the two versions? ----- (5)
Yes, I understand.

Will you explain to his Worship why your two statements differ? ----- I did say in my evidence in chief that I heard from Ntlabati that he had been told by Gladys Manzi, but late that afternoon when I was going to go to (10) Ladysmith, I saw Gladys and I asked her why did she tell other people - I was cross. I asked her why did she tell Ntlabati and Gladys denied it saying that she did not tell him. Therefore, as I say, I cannot swear now that Ntlabati did hear from Gladys because I only heard from Ntlabati. (15) He said so. That's why I say I'm assuming.

This is how you propose to explain the conflict, do you Mr. Mngoma? ----- Yes, that's how I explain it.

You consider yourself to be a clever man, do you? ----- I can't answer that question. (20)

Throughout my cross-examination I've put a number of conflicts to you and in nearly every case you sought to give some involved explanation of why your statements differ. Now in regard to this one you're giving evidence in this Court under oath. You know that. (25) ----- I know that.

You are expected to be careful in your evidence and you're expected to place the Court in full possession of the facts. You know that? ----- Yes.

Why did you leave the Court under the impression (30) then in your evidence in chief that, in fact, this is what happened. That the Reverend had received a report from Gladys/.....

Gladys Manzi. Why didn't you go on to add in your evidence in chief: 'But, your Worship, I found out later that day from Gladys Manzi that, in fact, according to her she'd made no report to the Reverend Ntlabati.' -----
The Prosecutor was leading me about Ntlabati. (5)

Very well Mr. Mngoma. So at this chance meeting the Reverend Ntlabati who, according to Gladys Manzi, had not heard of your meeting with Elias Kunene, says to you that he had heard of your meeting? ----- Yes.

Well if Gladys was not speaking the truth, how (10)
do you suggest the Reverend Ntlabati knew that you'd met Elias? ----- (By the Interpreter: If Gladys was not speaking the truth?)

Yes. No, if Gladys was speaking the truth. -----
I myself do not know. (15)

It's very strange, Mr. Mngoma, from a mysterious source the Reverend Ntlabati hears about your meeting with Elias; quite by chance you run into him in the street on that occasion and you have a discussion on this very important topic, without knowing at any stage that this man (20)
was in the secret. How do you explain that? ----- It could happen perhaps that Gladys talked to somebody else about it and it came to the ears of Ntlabati.

Mr. Mngoma, my question is just this. This is a most dangerous mission on which you were embarked; the (25)
discussion had taken place, according to you, between the accused, Tami and yourself. At no stage have you mentioned the name Reverend Ntlabati in connection with those earlier discussions. Yet, according to you, when you meet this man by chance in the street, you're prepared to enter into (30)
a discussion with him on this matter without preliminary inquiries as to the extent of his knowledge, as to his
credentials/.....

credentials, or what he knows about your part in it. Will you please comment on that to his Worship? ----- Firstly Ntlabati was connected in that case. He was in that case. Secondly he took me by surprise when he said that he had heard from Gladys and what he told me was the truth, that he had seen Gladys, and then I just told him shortly, I said: 'No, I have seen Elias and spoken to him' and I took it, well, that he knew about it now and I knew that he was a man connected with the case.

Do you want to add anything? ----- No. (10)

And do you want to comment on the curiosity that you have a discussion by chance with the Reverend Ntlabati in the street and, earlier when the accused and Tami had come to you, it was also not by appointment, not by any arrangement? ----- No, it's something that happened. (15) They came there without arrangement.

And in both cases, according to you, there was no preliminary discussion or exploring the situation, either with the Reverend Ntlabati or with the accused and Tami? They both got down to business at once. Can you suggest (20) why? ----- Perhaps they had made arrangements to meet at my office. I do not know.

NO FURTHER QUESTIONS BY MR. UNTERHALTER.

RE-EXAMINED BY THE PROSECUTOR: (25)

Just one point. In cross-examination you were questioned at length about the reasons why you were banned. ----- Yes.

You told his Worship that you don't know. ----- Yes. (30)

Does the notice served on you state why you were banned? ----- It said that if I was not banned the aims and objects/.....

objects of the communism would be furthered.

Did you ask for further information about how your actions were furthering the aims and objects of communism? ----- No, I did not ask.

NO FURTHER QUESTIONS BY THE PROSECUTOR.

(5

BY THE PROSECUTOR: Before I call my next witness, may I ask the Court's indulgence for a few minutes adjournment? I want to get my papers in order and make some arrangements.

NO OBJECTION BY MR. UNTERHALTER.

COURT ADJOURNS.

ON RESUMPTION/.....

ON RESUMPTION:

STEPHEN MTSHALI: (sworn, states)

PROSECUTOR: Your Worship, before this witness gives his evidence, I would inform the Court that he is, in respect of Counts 1 and 2, an accomplice. I also ask that like (5 the witnesses Elias Kunene and Amos Mngoma, his evidence be taken in camera. I also indicate that the State has no objections to particulars of his evidence being published as long as it does not disclose, or is likely to disclose his identity. The reasons for my request (10 is the same as those I gave when Elias and Amos gave their evidence.

THE COURT: Any comment Mr. Unterhalter?

MR. UNTERHALTER: No, your Worship.

THE COURT: Gentlemen of the Press, you have heard the (15 request of the prosecutor: I take it that you will comply. Thank you.

EXAMINED BY THE PROSECUTOR:

Stephen, how old are you now?----22.

How far did you go at school?----VIII. (20

And where do you live?----Kwa Mashu.

Are you married?----Yes.

How many children have you got?----One.

Were you arrested by the police in connection with certain activities?----Yes. (25

Can you remember the date of your arrest?----I don't remember the actual day any more but it was in August.

Of which year?----1963.

After your arrest - I'm sorry - do you know under the provisions of which law you were arrested?----As (30 far as I know I was arrested under the 90-days.

How long were you kept in custody?----I would say

eight/.....

eight months and a few days.

After your arrest were you asked questions by the police?----Yes.

And did you make a statement to the police?----
Yes. (5

Have you given evidence in various criminal trials?----Yes.

Is that, did you give evidence for the State?
----Yes.

Will you tell his Worship which cases you (10
have given evidence in?----The Sabotage case that was in
Maritzburg, and the one in Ladysmith.

The one at Ladysmith, was that a Sabotage case?
----No.

Is it correct that that was the case of (15
The State versus George Mbele and others.?----Yes.

Did you become a member of the African National Congress?----Yes.

Will you tell his Worship when you joined that organisation?----Between July and September, 1962. (20

Were you recruited by anybody into that organisation, or did you just go along and join on your own?----
There is somebody who recruited me.

Who was that person?----It was Gurnick Ndhlova.

At the time of your joining was the (25
African National Congress functioning openly?----No.

How was it functioning?----It was working underground.

Until when did you remain a member?----Until the day I was arrested. (30

Apart from the African National Congress were you interested in other political - sorry, I shouldn't -

other/.....

other movements, other organisations?-----Yes.

Will you tell his Worship what those were?-----
It was the South African Congress of Trade Unions, the
Communist Party, the Residents' Association.

The South African Congress of Trade Unions, (5
will you tell his Worship what position you occupied in that
body?-----I was the founder of the workers of the Workers'
Union, that was affiliated to the South African Congress
of Trade Unions.

Which Workers' Union was this?-----The (10
African Tin Workers' Union.

In any event, I don't want to go into any detail
about your association with S.A.C.T.U.. At the time you
joined the African National Congress were you a member
of S.A.C.T.U.? Your Worship I use "S.A.C.T.U." it is (15
an abbreviation for South African Congress of Trade Unions.
------(INTERPRETER: When he joined the....?)

African National Congress?-----Yes.

You mentioned the Communist Party?-----Yes.

At the time when you joined the African (20
National Congress were you a member of the Communist Party
then?-----I don't remember too clear any more. I think I
was not yet a member of the Communist Party then.

Did you remain a member of the Communist Party?
-----Yes. (25

Until when?-----Until my arrest.

His Worship has heard evidence about an organ-
isation which is called THE SPEAR OF THE NATION.-----
THE SPEAR OF THE NATION - MKONTO WE SIZWE.

Can you tell his Worship anything about that (30
body?------(Prosecutor adds) Were you a member or not, that
is really all I wanted to know.-----Yes.

When/.....

When did you become a member? Before you were recruited into the African National Congress, or after you joined the African National Congress?----After I was a member of the African National Congress.

After you became a member of the African National Congress did you meet other people belonging to the African National Congress?----Yes.

Do you know George Mbele?----Yes.

Afterwards - I'm not talking immediately after you became a member, I'm talking now about the period from (10 the time that you joined the movement until your arrest?---- Yes.

Did you meet Milner Ntsangane?----Yes.

Did you know Elias Kunene?----Yes.

Solomon Mbanjwa?----Yes. (15

And other people?----Yes.

When you joined the African National Congress what branch did you join?----The Kwa Mashu branch.

Did you pay subscriptions?----Yes.

How much did you pay?---- 2/6d. (20

Who did you pay?----That is the levies.

THE COURT: Per what? Week, month, day, year...?-----
Per month.

PROSECUTOR: Did you pay that amount every month?----Yes.

Who did you pay to?----I paid it to (25
Freda Mhlongo.

And who was Freda Mhlongo?-----She was the
Zone Leader.

Of which Zone?----Of Zone 'C' and 'D' at
Kwa Mashu. (30

Now after you became a member did you hold any
positions in the African National Congress?----Yes.

Will you tell his Worship, just briefly I don't want you to go into great detail, just how you progressed in the African National Congress?----I started by being a group leader of Zone 'C' and Zone 'D'. After a while I was an assistant secretary of the Kwa Mashu (5 branch. Then after that I was a member of the Ad Hoc Committee.

Yes, I want you to pause there please. How did it come about that you went to the Ad Hoc Committee?---- Stephen Dhlamini informed me....(Prosecutor intervenes) (10

I'm sorry, I must interrupt you there. Did a man called Stephen Dhlamini speak to you?----Yes, he spoke to me.

Now I am not certain whether what he told you and the discussion that ensued would be admissible in (15 evidence against the accused, so I am not pursuing that matter any further.

Did you serve as a member of the Ad Hoc Committee afterwards, after Stephen Dhlamini had spoken to you?---- Yes. (20

And after that did you attend meetings of the Ad Hoc Committee?----Yes.

Now you said there - which organisation was this an Ad Hoc Committee of?----The Ad Hoc Committee of the African National Congress. (25

Do you know the accused?----Yes.

Can you remember when you first met him?---- Yes.

Yes, will you tell his Worship?----It was at a meeting of the branch Executives of the African (30 National Congress that was in Lamontville at the place where the Reverend Ntlabati stayed.

Can you remember the date?----It was in between the 26th and the 29th January 1963.

How did you know about the meeting of the branch Executives that was going to be held at this house?
-----I was informed by Curnick Ndhlovu. (5

And what position did Curnick Ndhlovu hold in the African National Congress at that time?----He was the secretary of the branch at Kwa Mashu.

And at the time of this meeting what position did you hold?----I was the assistant to the Secretary (10 of the Kwa Mashu branch.

How did you go to this meeting?----We went by bus.

From where?-----From town.

And what time of the day was this meeting (15 held?----In the evening.

Who was the chairman?----The Chairman was Pascal Ngakane.

The accused?----Yes.

Was that the first time that you met the (20 accused?----Yes.

And that evening when you saw him did you know what his position, or his connections with the African National Congress were?----No.

Did you know how it came about that he (25 was Chairman of that meeting?----No.

Now you say the meeting was held at the place where the Reverend Ntlabati was staying?----Yes.

Is this a house, or a room? What was it? -----
It is a house. (30

Do you know if the Reverend Ntlabati was present?----At the time we arrived there, he was there.

Where did you see him?----I saw him at the time we entered the house; he was in the kitchen.

Which place in the house was the meeting held?-----Some of us were in the lounge. Some of us were standing in the passage because it was so full of people(5

Yes?----And some of us were in another room; I would call it a bedroom.

Where was the chairman and the speakers?-----
The Chairman and the speakers were in the lounge.

THE WITNESS STANDS DOWN: (10

THE COURT TAKES THE LONG ADJOURNMENT.

ON RESUMPTION:

STEPHEN MTSHALI; (still under former oath)

PROSECUTOR RESUMES EXAMINATION-IN-CHIEF.

Just before the Court adjourned for lunch, (15
I was asking you about the meeting that was held at the house of the Reverend Ntlabati. Can you remember who all those people are who attended this meeting?----Some of them I still remember.

Not all of them?----There are some also (20
who were there whom I did not know.

Well all I want to know now is whether you can tell the Court the names of all the people who attended the meeting or not?----I can try.

Yes, well will you give me the names, (25
those that you can say?-----Those who were there at that meeting, there was Pascal Ngakane.

Yes, you told his Worship he was the chairman.
----Yes.

Now, go on, who else?----George Mbele. (30
Selborne Maponya. Stephen Dhlamini. Curnick Ndhlovu.
Bernard Nkosi, Jerry Kumalo, Mzizi Dube.

What/.....

What is his other name?----I think "Harrison."

Yes, go on?-----Simalane Memela.

Do you know his other names, or his Christian names?----No, the surname is Memela.

Yes, go on?----A.C. Shangase. Shangase from (5
Kwa Mashu.

Is that not the same person as A.C. Shangase?

----That is another Shangase.

Yes, go on?----Robert Kunene, Cecil Nduli,
Dorothy Nyembe, Alzina Zondi, Mrs. A.C. Shangase, (10
Freda Mhlongo, and others.

You have given his Worship the names of 17 people
Tell his Worship approximately how many people in all
attended this meeting?----I think they could have been as
much as 40. (15

Who were the speakers?----It was George Mbele,
Selborne Maponya.

At that time do you know what position, if any,
George Mbele held in the African National Congress?----
At that time I didn't know what position he held in the (20
African National Congress.

Selborne Maponya?----The same applies to him.

Will you tell his Worship what George Mbele and
Selborne Maponya discussed, what they said? At the meeting?
----- George Mbele and Selborne Maponya they placed (25
before the meeting the plan of the Regional Committee of the
African National Congress in connection with the taking out
of passes by the womenfolk, on the 1st February 1963.

Is that the day on which the carrying of passes
became compulsory for women?----Yes. (30

Now you said that George Mbele and Selborne
Maponya put forward the plans of the Regional Committee.
How do you know it was the plan of the Regional Committee?

----/.....

-----The accused said at the meeting, when he opened the meeting, that George Mbele and Selborne Maponya they are going to place the plans of the Regional Committee before the meeting in connection with the day of the taking out of the passes. (5

What plans were put forward?-----The plans which George Mbele and Selborne Maponya put forward, firstly, that there should be a meeting of all the people, even if the meeting would only be after the day on which they have to have passes. (10

What would you refer to that meeting as; how would you refer to that meeting? Would you give it a special name, a special connotation: how would you describe it?-- --I would say a mass meeting.

A mass meeting. Now you say that was the first(1 one, that a mass meeting of all the people would be held even if it was after...? Which date?-----The 1st of February 1963.

Was it explained what the nature of this meeting would be?-----This meeting, they said, would be a (20 meeting to find out how the people would respond to that - to see how the people would respond if they were called to come to the meeting.

Anything else? What other plans were mentioned?-----The Corporation of Durban, this man (25 Mr. Borquin(?) he had said that it would be advisable if the women would hurry and take their passes as soon as possible in Durban, it would be advisable if the beerhalls and the bottle stores and the Corporation transport be boycotted. The third reason - oh the third plan (30 (INTERPRETER: Sorry.) The third plan would be a strike. (INTERPRETER: Sorry, your Worship, not a strike.)

A general "stay-at-home".

Yes, and was there anything further discussed about these three proposals of the Regional Committee?

----Those members of the Regional Committee....(The Court intervenes) (5

THE COURT: Now who said all this?----This was put forth at the meeting by George Mbele and Selborne Maponya.

PROSECUTOR: Yes?----They carried on further, saying it would be advisable if they would prepare for these plans and to find out the reaction of the people, the response of the (10 people. The women who were at the meeting, they criticised these plans a lot.

What was their criticism? The women?----The women said the Regional Committee it has no proper plan, in connection with this day of the 1st. (15

Who was the woman speaker?----It was Dorothy Nyembe.

Did she say why or how it came about that the Regional Committee had no proper plans for that day of the 1st? Did she elaborate on that? Why did she say, (20 why did the Regional Committee not have any proper plans?---- She said that, because the Regional Committee as far as she said some of the women together with her tried to get proper plans for things to be done on that day. They were trying to get proper plans from the Regional Committee (25 for things to be done on that day. But the Regional Committee does not come out with proper plans to be done on that day. Dorothy went on to say further if the Regional Committee doesn't put forth proper plans she will go and board a bus. (INTERPRETER: I made a mistake, (30 I'm sorry.) She will go and take out a pass.

And did she say she would be - did she say

anything/....

anything else?----As far as I remember. That is what I still remember.

In other words it amounted to the criticism of the plans put forward by Mbele and Maponya, plans of the Regional Committee?----Yes. (5

Do you remember if anybody else spoke at the meeting?-----Yes.

Go on?----At that meeting there was - at that meeting it was queried whether the women had any passes yet. (10

THE COURT: Whether what?----- (INTERPRETER: No, the witness corrects the Interpreter, Sir.) There was a query then as to the women who already had passes, what would they do. And also that the women who had no passes, it will be difficult for them to obtain houses because (15 the people in charge there want the passes from the women if they come to look for a house.

PROSECUTOR: The people in charge where?----In the Locations.

Do you remember who raised these queries in connection with the passes?-----A.C.Shangase was one of the (20 persons that put forth one of the queries.

Yes, do you remember what he said?----A. C. Shangase said that the women who already had passes what should they do, and those that did/^{not} have them, should they go and take them out? (25

Yes, go on?----And then it transpired at the meeting that the women had their own plans but in the beginning the women did not like to disclose their own plans.

The women then disclosed the plans which they had for that day, the 1st. (30

Yes?-----They said that their intention on that day is to fast, and to wear black dresses, black

clothes./...

clothes, and that they would send a resolution to the Bantu Commissioner.

What sort of a resolution? What would the resolution say?----I would say that the women did not say at the meeting what the resolution would say, and that (5 the beer should be boycotted on that day, the beerhall should be boycotted on that day.

Is this what the women said?---That's one of the plans of the women.

I see, to wear black clothes, and fast, send(10 a resolution to the Bantu Affairs Commissioner - and do what with the beerhalls?----Boycott the beerhalls.

Go on.-----The meeting then agreed it would be advisable on that day if the beerhalls were boycotted.

Yes?----And that the bottle stores would (15 also be boycotted, but the people would be allowed to drink beer at their own homes at the shebeens where they drink. There was going to be a leaflet....(Prosecutor intervenes)

Who said this?----George Mbele. (20

He said there would be a leaflet; did he say where the leaflet would come from?----Yes.

What did he say?----He said that leaflet would be produced by the African National Congress.

Yes?----And then he said it would be (25 advisable if all the secretaries of the branches that they say the number of the leaflets that they require in their branches. George Mbele went on further to say steps similar to this, like boycotting the beerhalls, and other smaller steps, and just minor steps, the last thing (30 would be that the buses would be burned.

The buses?----(INTERPRETER: Oh "passes",

I am sorry, your Worship, I understood the word wrong.
They sound nearly the same, bus and pass.)

Go on?----At the meeting it was decided that the
Regional Committee should call another meeting of the
branch Executive Committee, the Regional Committee singular, (5
should call another meeting of the branch Executive
Committee, to let the branch Executives know of the steps
that were going to be taken, the boycott, whether it is a
success or not. If these steps were successful then it would
be decided at that meeting on a further step that would be (10
taken.

Yes, anything else?----After the meeting the
boycott was...(prosecutor intervenes)

Yes, was there a boycott subsequently held?----
It was held. (15

I will get to that later on. Were any other
matters discussed at this meeting at the house of the
Reverend Ntlabati?----I don't remember well whether there
was anything that was said or not.

Now did you - you have already said this (20
was a meeting of the branch Executives of the African
National Congress?-----Yes.

Do you know if a pamphlet was subsequently
boycott of the
distributed about the/beerhalls?-----Yes.

Did you assist in the distribution or not? (25
-----I don't remember any more whether I assisted or
not, but I know that there was one distributed.

What do you mean there was one distributed?-----
Not meaning one, but pamphlets distributed.

Yes. Now I am still dealing with this (30
same meeting where you said the accused was the chairman.
Was it said at the meeting what sort of a meeting it was?

-----I want you to explain to me what you mean when you say what sort of a meeting?

Whether it was explained whether it was an Ad Hoc meeting of the African National Congress, was it explained whether it was a meeting of the Residents' Association, was it explained whether it was a meeting of the Regional Committee; was it said what meeting it was? (5

-----Yes.

Yes?-----It was said it was a meeting of the branch Executive Committee - Committees of the African National Congress. (10

Who said so?-----If I am not sure, I think the two speakers in the beginning of their talking said so.

You mentioned that a boycott of the beerhalls was staged in Durban?----- Yes. (15

Was this successful or not?-----No, it was not successful.

You have also told his Worship that this meeting was held before you were appointed to the Ad Hoc Committee?

-----Yes. (20

How long after this meeting was it that you went to the Ad Hoc Committee?-----Just a short while.

Approximately? Can you give his Worship an indication? A week, or a month, two months, three months? Between February and March - the beginning of March. (25

Between February and the beginning of March; was that when you went to the Ad Hoc Committee?-----Yes.

THE COURT: 196.....?

PROSECUTOR: Which year?-----1963.

Now when did you have anything to do with the accused again?-----At the meeting that was in the house, which was opposite the house of George Mbele. (30

Where/.....

Where was that?----In Lamontville.

When was that meeting held?-----I would say
in March.

Can you give the exact date or not?----I can't
give the date. (5

THE COURT: March 196....?----1963.

PROSECUTOR: How did you go to the meeting?----Do you mean
by bus or how...?

Yes?----By bus.

And did you go alone or were you accompanied (10
by anybody?----I was accompanied by Stephen Dhlamini and
Jerry Kumalo.

What kind of a meeting was this one?----It was
a meeting of the old and a new Regional Committee.

What time of the day was this meeting held?(15
----In the evening.

The members of the old Regional Committee, you
say it was also a member of the old Regional Committee;
on what committee or committees did those members of the
old Regional Committee serve then?-----They were then (20
on the Ad Hoc Committee of the African National Congress.

How did it come about that you attended this
meeting?----I was told by Stephen Dhlamini to go to the
meeting.

Who were all present at this meeting?---- (25
There was George Mbele, Stephen Dhlamini, Selborne Maponya,
Jerry Kumalo, Elias Kunene, Fred Dube, Pascal Ngakane.

The accused, yes.-----The accused, Pascal
Ngakane, and myself.

Yes?----That is all. (30

And are those the only people who attended
the meeting?-----As far as I can remember Ernest Galo

came/.....

came, and then he left again afterwards.

I just want to take the names of the persons you have mentioned: George Mbele, what position did he hold at that time?----At that time of the meeting he was the Chairman of the Ad Hoc Committee. - (5

Stephen Dhlamini?----He was on the Ad Hoc Committee.
Jerry Kumalo?----He was on the Regional Committee.

Elias Kunene?----He was on the Regional Committee
Fred Dube?----He was the secretary of the (10
Regional Committee.

Selborne Maponya?----He was the secretary of the Ad Hoc Committee.

You yourself, you said you were on the Ad Hoc Committee?-----Yes. (15

Ernest Gallo, do you know what his position was? ----At that time I did not know what position Ernest Gallo had.

Did you find out afterwards?-----Yes.

Now the accused, Pascal Ngakane, do you (20
know what position he held? At that time of this meeting?
----He was the Chairman of the Regional Committee.

Who was the Chairman at this meeting, at this joint meeting?----It was George Mbele.

Yes, will you tell his Worship what (25
happened at this meeting?----Yes.

Go on?----George Mbele opened the meeting, he said it was a meeting of the old and the new Regional Committees. The old Regional Committee could hand over the properties of the Regional Committee and other (30
property - money - to the Regional Committee.

To which Regional Committee now?----⁴o the

new Regional Committee.

Go on?----George went on to say there are properties of the Regional Committee, he said where the property was.

Can you remember any particulars?----- (5)
I don't remember any more, where he said this property of the Regional Committee was.

Yes, go on?----And then he went on to say that there ^{were} some funds, some monies of the African National Congress of the Regional Committee. (10)

Did he say where those funds were?----Yes.

Go on?----He said that there is some money in his possession that has been ^{put in the} bank in the name of N.T.Naicker, and then he said there was some other money of the Regional Committee in the possession of (15)
Stalwart Simelane.

"Stalwart" is it his Christian name?----
Yes.

Yes?----And he said there was some other money too in the possession of Elias Kunene. (20)

Do you remember if he said where the money of Simelane and Kunene, where that money was kept? -----
He did not say where it was being kept.

Go on, what else can you remember of this meeting?----George Mbele then further said he was not (25)
able to hand them a financial statement, but he said he would hand it to them afterwards, when it had been prepared.

Go on?----After that meeting Jerr Kumalo complained that the meeting took a long time. (30)

Yes, well had the meeting been taking a long time?----Yes.

What/.....

What was it that was taking up the time of the meeting?----Well there's nothing really that took up a long time, it was just this matter being discussed.

Yes, go on?---That made Jerry Kumalo complain. Because I think the meeting closed at 12:00 at night. (5

What time did you start this meeting? -----
It started between 8:00 and 9:00.

Yes, go on?----After the meeting myself and Jerry Kumalo went out and we went to sleep where Stephen Dhlamini had taken us to. (10

Where?----To go and sleep.

THE COURT: Just say that again? ----After the meeting Stephen Dhlamini took myself and Jerry Kumalo to the place where we were going to sleep.

PROSECUTOR: Yes, and where did you go to?----At (15
Lamontville Stephen Dhlamini took us.

Now can you remember whether the accused took any part in the discussions at this meeting?----I don't remember clearly any more.

Can you remember any other matters that (20
were discussed at this meeting, apart from the property and the finances?----No, that is all.

When next did you have anything to do with the accused?-----I want to know do you mean at another meeting at which he was present? Or where we talked about (25
his name?

Yes, after this last meeting that you just told his Worship about, did you have a meeting at which certain discussions in connection with the African National Congress took place?-----Yes. (30

You say the name of the accused was mentioned?
-----Yes.

Was the accused present at this meeting?-----

No.

What type of meeting was this at which the name of the accused was mentioned?----It was a meeting to elect the people who were going to serve on the sub- (5 committees of the Ad Hoc Committee of the A.N.C.

Yes?----And also that would serve on the Regional Secretariat.

Was this an Ad Hoc meeting, or a Regional Committee meeting, or what meeting was this?----It was (10 a meeting of the Ad Hoc Committee and the Regional Committee and including somebody else who came from the National Executive.

Who was that person?----That was Milner Ntsangane. (15

Do you know where this meeting was held?----- It was at the same place where the last meeting was at Lamontville where the accused was present.

And approximately when?----In March.

Of what year?----1963. (20

I don't want to go into great - your Worship this is not a meeting which is alleged in the indictment, I see your Worship looking up the Annexure, it is not mentioned there. You told his Worship the accused was not present, you said it was a meeting at which certain (25 elections took place, and you also said the accused's name was mentioned. In what context was his name mentioned? ----His name was mentioned in connection with the Propaganda Committee which was a sub committee of the Ad Hoc Committee of the A.N.C. (30

In what - which way - in what way was it mentioned?-----He was appointed to be a member of the

Propaganda/.....

Propaganda Committee which was in charge of George Mbele.

You say the accused was not present; and the other members of the - at the meeting, what was their reaction to the appointment of the accused to this (5 sub committee?-----They agreed the accused should be on the Propaganda Committee.

Very well. Apart from this one appointment did other elections and appointments also take place?

-----Yes.

(10

I don't want to go further into it at this stage, I don't think it is relevant, entirely relevant.

Did you attend a meeting subsequently at which the accused was present?----Yes.

How long after the meeting that you have (15 just told his Worship about, where the accused was appointed to the Propaganda sub committee?----It is not a long time, it is a short while afterwards.

The same month or the next month? Can you give the Court some indication?-----I would say it was (20 somewhere at the end of March, and April.

Yes, I don't quite understand. You say somewhere at the end of March and April? How do you mean end of March and April?----I say what I mean is the meeting could have been in the last week of March, or in the (25 month of April.

Can you give the exact date of this meeting or not?----No.

At what time of the day was this meeting held?----In the evening. (30

Where?----At the place where George Mbele worked.

Where/.....

Where was that?----At the office of N.T. Naicker.

Did you know where that was?----In Valbro Chambers.

Valbro Chambers, is that in Durban?----(5
Yes.

What kind of meeting was this?----It was a meeting of the Regional Committee, Ad Hoc Committee and somebody who came from the National Executive.

Who was that person?----That was Milner (10
Ntsangane.

You say it was a meeting of the Ad Hoc and the Regional. Will you give the names of the persons who were present? Take the members of the Ad Hoc Committee first. ----George Mbele, Selborne Maponya, Solomon (15
Mbanjwa, Stephen Dhlamini and myself.

Yes?-----Then there was Pascal Ngakane.

Is that the accused?----The accused.

Was this now Ad Hoc or Regional?-----This is the Regional. (20

Right, you say the accused; who else?----

(Court intervenes)

THE COURT: What do you mean "Regional"?

PROSECUTOR: I'm sorry the Regional Committee,----Regional committee. (25

THE COURT: I don't understand you now. You said this is a meeting at Valbro Chambers, it was a meeting of the Regional Committee and the Ad Hoc Committee and the Milner Ntsangane. Present were George Mbele, Stephen Maponya(?), Solomon Mbanjwa, Stephen Dhlamini, yourself (30
and the accused. Then you say Regional Committee. What does that mean?

PROSECUTOR: I'm sorry, your Worship, when I asked the witness to give the names of the persons who were present I said to him to give me the names of those who were present and give me first the members of the Ad Hoc Committee who were present, and he has just given them. I asked him now to give those members of the Regional Committee who were present. (5)

THE COURT: I'm sorry, I didn't hear that. Who were the members of the Ad Hoc? Ad Hoc Committee meeting?----There was George Mbele, Stephen Dhlamini, Selborne Maponya, Solomon Mbanjwa, and myself. (10)

PROSECUTOR: Those are the members of the Ad Hoc Committee who were present?----Yes.

Now give me the names of the Regional Committee members who were present?----Pascal Ngakane, Fred Dube, Curnick Ndhlovu, and Jerry Kumalo. (15)

Yes?-----And then there was Milner Ntsangane who came from the National Executive.

What happened at this meeting?----George Mbele opened the meeting. The speaker at that meeting was Milner Ntsangane. He was speaking, he was holding papers in his hand. While speaking he would look down at the papers. (20)

Go on?----While he was still speaking there was a loud knock on the door. (25)

Go on,-----We kept quiet for a while and the knocking continued, and we thought that perhaps those knocking on the door might be members of the Special Branch, and the knocking carried on.

Go on,----Milner Ntsangane was the first person to tear up the papers which he had in his hand. The other members also started taking out their note books and/..... (30)

and their diaries to rub out what they had written in -
 Yes?----- One of us then said it was no use rubbing out
 what was written because the members of the Special
 Branch would be able to see what had been written there.
 The other members then started tearing up the papers (5
 the pages out of their diaries. After that the knocking
 on the door was still carrying on all the time.

Go on.----Selborne Maponya took out a bottle.
 I would say it was a nip of liquor.

What sort of liquor?----Brandy. He said if (10
 it happens that the Special Branch do come in we will say
 that we were drinking. And he put it, if I remember
 correctly, on top of the table. But the contents of the
 nip disappeared very quickly.

THE COURT: Did it evaporate?----No, it was drunk. (15

PROSECUTOR: Yes?----- After that George Mbele, used the phone.
 He phoned up N.T.Naicker.

Where did he phone from? Where was the telephone?
 ----In the same room that we were in.

Yes, go on.----He phoned up N.T.Naicker, (20
 and he told N.T. Naicker that there is some very loud
 knocking on the door and we think it might be the
 Special Branch. He then asked N.T.Naicker to come to
 the office. If he came and he found members of the
 Special Branch there then he said - George said (25
 to Naicker Naicker must tell the police that we were
 talking about the case against him, George Mbele and
 Stephen Dhlamini.

Yes?----But N.T.Naicker did not come.

Yes, go on.-----The knocking stopped on the (30
 door. And then the meeting did not carry on after

that./c.c.c.c.

that.

Continue. ----That being so I don't remember what was spoken before the police knocked.

Was it the police that knocked? Do you know who knocked?----We thought it was the police, the Special (5 Branch.

Yes, but did the police ever come in, or did you ever go and see who knocked?----The police did not come in.

Did you go and look?----I don't remember (10 any more whether we did go and have a look. But I think there was one of us that went to go and look, but I am not altogether sure.

When you left the office were the persons who knocked still there or not?----No, the knocking had (15 stopped on the door.

Now you have told his Worship that you do not remember what was discussed before the knocking on the door started?----Yes.

You say Milner was speaking?----Yes. (20

Can you remember what the purpose of this meeting was? Why it was called?----I don't remember any more.

What was the next meeting that you attended at which - I'm sorry, Sir, if I may rephrase that question.

Did you attend another meeting at which the (25 accused was present?----Yes.

Where was this one held?----That meeting was in Lamontville, I think the second house from the house of Fred Dube.

And approximately when?----Do you mean (30 the month?

Yes?----Between April and May if I am not

mistaken./...

mistaken.

Can you give his Worship the exact date of this meeting?----No.

And what time of the day was this held?----In the evening. (5

And what kind of a meeting was it?----That was a meeting of the Ad Hoc Committee, the Regional Committee, and the Regional Secretariat, together with a member who came from the National Executive.

Who was this man?----That was Milner Ntsangane. (10

Can you remember who were all present at this meeting?----Yes.

Go on?----There was George Mbele, Stephen Dhlamini, Selborne Maponya, Solomon Mbanjwa, myself.

Are those the members of the Ad Hoc Committee? (15
----Yes.

Yes, go on, who else?----Fred Dube, and Curnick Ndhlovu, Elias Kunene, Pascal Ngakane, Jerry Kumalo, Mzizi Dube, Albert Zomo, Cecil Nduli, Moosa Jali.

This man Moosa Jali, what committee did he (20
serve on?----On the Regional Secretariat.

And also Milner, I think you have mentioned him already, not so?----Yes.

These names you have mentioned now are they the only persons who attended this meeting, or are there (25
others whose names you have forgotten?----I think those are the only ones who were at the meeting.

Yes, now what took place at this meeting at this house near Fred Dube's?----The meeting was opened by George Mbele, and there was some discussion which I do (30
not remember any more.

Do you know what the discussions, what they
were/...

were about?----It was discussions about the African National Congress because it was a meeting of the African National Congress.

You can't remember details?----No.

What happened then?-----Then after that (5
George Mbele he asked the members of the Regional Secretariat to leave the meeting, and then there remained the Ad Hoc Committee, the Regional Committee and Milner Ntsangane. After certain discussions which I do not remember any more, George Mbele requested the members of the Regional Committee (10 to leave the meeting. The only one that remained behind was Curnick Ndhlovu, who was a member of the Regional Committee. From there we went to a house, I think it was the house - oh....(INTERPRETER: Witness corrects the interpreter.) Not "I think" it was, it was the house of Pascal (15 Ngakane. There the meeting of the Ad Hoc Committee carried on. Those who were now present at that Ad Hoc meeting, I'm mentioning the names now: George Mbele, Stephen Dhlamini, Selborne Maponya, Solomon Mbanjwa, Milner Ntsangane and myself, Pascal Ngakane. (20

Yes, go on?----He was there for a while and then his wife called him, then he went into another room. Then Pascal Ngakane and his wife and another visitor, a female, went away. I think it was a visitor, the other female. (25

Before you go further, do you know what this address is where this meeting was held?----Yes, just behind the Ebony Centre.

Ebony?----Yes.

Where is that?----- It is at Lamontville. (30

How did you go to this - why did you go to this address of the accused, from the meeting that was

held/.....

held at the house near Fred Dube's?----I am not too sure what took us away from the room in which we were.

How did you go from this other meeting to Pascal Ngakane's house?----You mean did all of us Ad Hoc Committee go there? (5

Yes, did you go there in one group, did you go one by one, or did you go by bus or walk or what?----- We walked on foot because it was nearby.

Can you tell his Worship how it came about that you came to that house of Pascal Ngakane....(The (10 Court intervenes)

THE COURT: He said he was not too sure. You have just asked him.

PROSECUTOR: I'm sorry, Sir.

THE And I think you have also mentioned it was (15 in the evening?----When the meeting started, yes.

THE WITNESS STANDS DOWN:

THE ACCUSED IS REMANDED TO 4.8.1964:

THE COURT ADJOURNS:

(20

ON 4.8.1964 THE ACCUSED APPEARS BEFORE MR. H.S. BOSMAN IN 'U' REGIONAL COURT, DURBAN, AND IS FORMALLY REMANDED TO 5.8.1964 TO PIETERMARITZBURG.

(25

ON 5.8.1964 THE COURT RESUMES:

APPEARANCES AS BEFORE:

STEPHEN MTSHALI: (sworn, states)

EXAMINATION BY THE PROSECUTOR CONTINUES:

At the last hearing when the Court adjourned (5
you told his Worship that after a meeting that was held
at the house of Fred Dube certain members went to the
house where the accused was staying at the Ebony Centre at
Lamontville and that they walked there.-----Yes.

Who all assembled at the house of the (10
accused?----(Prosecutor adds) At the house that he was
staying at?----George Mbele, Stephen Dhlamini, Selborne
Maponya, Solomon Mbanjwa, and Milner Ntsangane and myself.
The accused was also there but he went away afterwards
when he was called by his wife. (15

These members that you have named now, did they
belong to any committee of the African National Congress?
----They were members of the Ad Hoc Committee. Curnick
Ndhlovu was a member of the Regional Committee and also the
accused. (20

I am not quite sure, was Curnick Ndhlovu at the
accused's house?----Yes.

What happened at the house of the accused? Will
you tell his Worship?----There George Mbele opened the
meeting. Then he gave Milner Ntsangane who came from (25
the National Executive Committee a chance to speak.
Milner Ntsangane told those who were present that the
MKONTO WE SIZWE, THE SPEAR OF THE NATION, is the baby of
the African National Congress. That means the MKONTO WE
SIZWE is the military wing of the African National (30
Congress. He went on further to say, Milner Ntsangane,
it would be advisable if there could be a person that is

a member of the African National Congress, who is a Regional Committee member of the African National Congress, that that person could be a link between the Regional Command of the MKONTO WE SIZWE, The Spear of the Nation, and between the Regional Committee of the African National Congress. At that stage I had a certain position in the Mkonto we Sizwe, the Spear of the Nation. (5

I want you to pause for just one moment please. Do you know where accused was when this discussion took place?-----The meeting was opened when accused was still there. I can't say exactly at what stage he left, when he had been called by his wife. (10

Can you say whether the discussions had started already, or had discussions not started yet?-----When he left? (15

Yes?-----As far as I can remember I think the discussions had already started.

Will you go on now to the events of the meeting. You said that after Milner had spoken, you went on to say that you, at that time, held a certain position in the Mkonto we Sizwe. What happened then?-----I was a platoon leader in the Mkonto we Sizwe, the Spear of the Nation. I had certain knowledge about the procedure of the Spear of the Nation. I then asked Milner Ntsangane if the African National Congress wanted the Spear of the Nation to work in a certain place, at a certain time, how will that be brought to the notice of the Spear of the Nation? And I said also if the African National Congress did not want the Spear of the Nation to work in a certain place at a certain time, how will they be notified? -----Milner Ntsangane then said that would be the work of a person who was to be a link between the Regional Command (20 (25 (30

of the Spear of the Nation and the Regional Committee of the African National Congress. I then also asked Milner how would the recruiting for the Mkonto we Sizwe be done, the Spear of the Nation?----Milner Ntsangane then said that all the members of the Mkonto we Sizwe they know their (5 work, and they know how the recruiting is done. I did not ask him any more questions then. Milner Ntsangane then made mention of the presence of Curnick Ndhlovu at the meeting. After that the meeting was then closed.

Did Milner say anything about Curnick (10 Ndhlovu's presence at this meeting?-----Yes.

Yes?----I think he said that Curnick Ndhlovu was at the meeting because he, Milner Ntsangane, had asked him to be there.

Any other business that was discussed at (15 this meeting that you can remember?----No, that was all.

This man Curnick Ndhlovu, do you know whether he belonged to any other organisation, apart from the African National Congress?----Yes.

Which organisation?----He was a member of the (20 Regional Command of the Spear of the Nation.

Was he your senior in The Spear?----Yes.

And of the other persons who were present at this meeting in the house of the accused, were there any other members of the Spear of the Nation who were also (25 members of the African National Congress?----Yes.

Who was that?----Solomon Mbanjwa, he was a member of the Ad Hoc Committee of the African National Congress. That was the committee that was in charge of the African National Congress in the whole of Natal. He (30 was in charge of the Rural Areas' sub committee of the African National Congress, and he was also in the Regional

Command/.....

Command of the Spear of the Nation. In that way he was then a recruiting officer for the Spear of the Nation.

And the other members? George Mbele, Stephen Dhlamini, Selborne Maponya?----Stephen Dhlamini was a member of another organisation, not the Spear of the Nation. (5

What organisation did he belong to?----He was a member of the Communist Party, and he held quite an important position.

And George Mbele?----He was on the Ad Hoc Committee of the African National Congress. (10

Did he belong to any other organisation that you are aware of?----No.

And Selborne Maponya?----The same with him also.

Can you remember whether accused, before his (15 departure, took any part in the discussions at this meeting? ----I don't remember too well.

I think I have asked you already, I just want confirmation, what time of the day was this meeting held? ----You mean the one at Pascal Ngakane's? (20

Yes?----(Prosecutor adds) Morning, afternoon, night time?----In the night.

When did you see the accused at a meeting of the A.N.C. again?-----Accused came to a meeting that was going to be at George Singh's place. But it transpired (25 that it was not a meeting of the Regional Committee and then he went away again. It was a meeting of the Ad Hoc Committee together with two members who came from the National Executive.

Yes, I want you to tell me a little bit more (30 about this meeting please. When was it held?---- I think it was going on towards April.

Of what year?----1963.

Was it before this meeting at the house of the accused, or after that?-----After it.

And where was this meeting held?----That was a meeting which was at George Singh's. (5

Where is George Singh's place?---If I am not mistaken I think it was at Riverside.

Is that in the district of Durban, or in Durban?----In the district of Durban.

And you say this was a meeting of members (10 of the Ad Hoc Committee?----Yes.

And you say also that two members from the National Executive...(witness intervenes)----Yes.

Who were these two members?---There was Govan Mbeki and Dan Hlume. (15

And what time of the day?----Between 7:00 and 8:00 p.m.

You say accused arrived?----Accused arrived. Just explain to his Worship what happened when accused arrived?----Accused came into the room (20 there by George Singh.

Yes?----And we all sat down. We were just having an ordinary discussion, the meeting had not started yet. After that we went to have supper together with the accused at George Singh's. (25

And then?----After that he, the accused, was when told that it was not a meeting at which he should be present. If I'm not mistaken I think either George Mbele or Govan Mbeki told him. After that accused then went away after he had been told that he should not be at (30 the meeting.

Did he have dinner at George Singh's house?

----Yes./.....

----Yes.

And when did the meeting take place? After the accused's departure?----Yes.

Which members of the Ad Hoc Committee were at this house of George Singh's?----- There was (5 George Mbele, he was the chairman of the Ad Hoc Committee.

Go on?----Stephen Dhlamini. He was in charge of the finance committee of the Ad Hoc Committee.

Yes?----There was Solomon Mbanjwa. He was in charge of the Rural Areas' Committee of the Ad Hoc Committee. (10 There was myself, I was in charge of the Trade Union Committee of the Ad Hoc Committee.

Now after accused's departure you say the meeting was held and I don't want particulars of the meeting now. Can you just give in outline, briefly, what the (15 meeting was about?----Those two members who came from the National Executive Committee they had come to get reports on the work that had been done by the Ad Hoc Committee.

Were reports given to him by the members? ----There were no reports yet on the work that had been (20 done.

Did discussions take place with Govan Mbeki about the activities of the A.H.C.? -----Yes.

I don't want any further particulars of the discussions at this meeting, please Mtshali. When next (25 did you see the accused? ----I saw him then again at a meeting which we had I think at the place of Amos Mngoma.

Can you remember when this meeting was held? ----It was on a Saturday.

Yes?----About midday, going on for about (30 2:00 o'clock.

What month of the year?----I think July.

What/.....

What year?----1963.

Can you give the exact date of this meeting?-----
No, I can't give the exact date.

Before I come to this meeting, during the time of the last meeting at which the accused was present at his (5 house and this meeting at Amos Mngoma's, did you - what was happening with the African National Congress at that time? Were further meetings held during that time?----There were meetings until the time that members were arrested of the African National Congress. (10

You say meetings were held; did you attend meetings?----Yes.

Of which committees did you attend meetings?---- Meetings of the Ad Hoc Committee and the Regional Committee.

Now after - let me put it this way - during (15 the time of the meeting held at the accused's house and this one at Mngoma's house, did you see the accused at any other meetings during that period?----Do you mean whether I did see him again?

At meetings? You told us that you saw him at (20 the house of Singh, but that wasn't a meeting at which he was allowed to be present. I'm talking about actual meetings?----No.

Do you know where the accused was during that time? -----He was in Durban if I am not mistaken. (25

You say you continued having meetings until certain people were arrested?----Yes.

Who was arrested?----Firstly, Stephen Dhlamini, George Mbele and Selborne Maponya. And then Curnick Ndhlovu was arrested, Solomon Mbanjwa, Jerry Kumalo, Fred (30 Dube.

Yes, what happened after the arrest of these

people?/....

people?----We stopped for a while having meetings then. That is where I then met Mzizi Dube and Albert Dhlomo at the rank in Victoria Street in Durban.

Yes?----And then he told me there would be a meeting at King Edward where the doctors stay. (5

Who told you that?----At the King Edward Hospital where the doctors stay.

Who told you that?----Mzizi Dube and Albert Dhlomo told me.

THE COURT: Where who stays?----Where the doctors stay. (10

One doctor?-----"Doctors" - plural, your Worship.

PROSECUTOR: Yes, would that be the doctors' quarters at King Edward?----Yes.

Yes?-----The next day I met Ernest Gallo; he said I shouldn't worry myself about going to that meeting. (15 He said he would go. He said also Ghalaki Selo who was a member of the Ad Hoc Committee will not go to that meeting, because he said he does not know why the meeting was called, by whom it was called, and what for. And Ernest Gallo said he only would go. He said that we (20 shouldn't expose ourselves to people whom we did not know. And then I met again Ghalaki Selo and Ernest Gallo at the office of Bhengu in Lodson House, on the 7th Floor, in Durban. And the three of/^{us}then had a meeting of the Ad Hoc Committee. (25

THE COURT: When was this?----Between the end of June and July.

PROSECUTOR: Go on.----We three were the only members left of the Ad Hoc Committee.

THE COURT: June and July, which year?----1963. (30

PROSECUTOR: Go on?----Ernest Gallo then said that he had gone to that meeting....(prosecutor intervenes)

Yes,/....

Yes, did Ernest Gallo make a report to you about what had happened at that meeting?-----Yes.

Is that the meeting at the doctors' quarters at King Edward Hospital?----Yes.

Yes, and then what happened after that, after (5 the report?----After the report we then appointed members of the Regional Committee.

Who appointed the members? You...?----Ghalaki Selo, Ernest Gallo and myself.

Why did you set about forming a Regional (10 Committee now?----Because some of the members of the Regional Committee and the Ad Hoc Committee were arrested.

Would it be correct to say you had appointed new members to those committees?----Yes, we elected new members, and we put ourselves in the Regional Committee. (15

Yes, and which people did you appoint to the Regional Committee now?----Pascal Ngakane, who was on the Regional Committee, and he was the chairman of the Regional Committee.

Go on?----Charles Ndhlovu. He was also a person(20 who was on the Regional Committee. David Ndawonde, Francis Dhlamini, Enoch Mhlongo, Ernest Gallo, Ghalaki Selo and myself.

And you say these appointments were now made by the three of you after a number of the old members of (25 both the Ad Hoc and the Regional Committees had been arrested by the police?-----Yes.

From what you have told his Worship it also appears that the accused was not present at this meeting when he was re-appointed to the Regional Committee?----- (30 He was not present.

Do you know whether he was informed of what

had/.....

had happened?-----Yes.

Did you inform him or not?-----No.

Why do you say he was informed?----I say so because after that he came to a meeting of the Regional Committee. (5

Yes, I will get to that just now. Immediately after these appointments, did you have a meeting of the Regional Committee?----Yes.

Where was this meeting?----The first one we had was in Convent Lane, in Durban. (10

At whose house?----I don't know whose house it is, but I think the owner is a relation of Enoch Mhlongo.

Was the accused present at this meeting or not? ----No.

I don't want to go into particulars of what (15 was discussed at this meeting. When next was there a meeting of this Regional Committee?----It was in July.

Of what year?----1963.

Where?----At Amos Mngoma's place.

Was this the second time this new committee (20 had had a meeting?----No.

Yes, I want to take them in order. You said the first meeting was at this house in Convent Lane. Where was the second meeting held of the new committee?-----It was in the office of Francis Dhlamini in Noor Chambers, (25 in Grey Street, Durban.

Was the accused present at this meeting?----No.

Very well. We don't detain the Court by going into particulars of this meeting. I want to get to the next meeting, the third meeting. Where was the third (30 meeting held?----It was at Amos Mngoma's place.

Good.----In First Avenue, in Durban.

Was/.....

Was the accused present at this meeting?----Yes.

And you have already told his Worship that you think it was in July of 1963, and it was approximately going on for 2:00 p.m. on a Saturday,----Yes.

When you arrived there where was Amos, was he (5 present or not?----He was present.

Yes, and then?----(Prosecutor adds) Did he remain present or not?----No, he didn't stay, he went out.

Who were all present?-----There was Ghalaki Selo, Pascal Ngakane, Enoch Mhlongo, David Ndawonde, Francis (10 Dhlamini, and myself.

Are these the members of this new Regional Committee that you say was formed after the arrest of these other people?----Yes.

Now what happened at this meeting? Will you (15 tell his Worship?----Ghalaki Selo opened the meeting. Then he said he wants to explain to Pascal Ngakane the position and then he explained to Pascal Ngakane that a New Regional Committee had been formed and told him who the members were. (20

Why was it necessary to explain to accused?----- That was the first meeting at which accused attended.

The first meeting of what?----Of the New Regional Committee.

Yes, go on, what happened then?----- After (25 that Ghalaki Selo wanted to know why was Charles Ndhlovu not at the meeting. David Ndawonde/^{then}said that he had seen Charles Ndhlovu and he had explained to him that a new Regional Committee had been formed, and also as to who the members were, and Charles Ndhlovu was very pleased. (30 But he was unable to come to that meeting. Ghalaki Selo then further said he had gone to the National Executive

Committee/.....

Committee and he had a very difficult time in getting hold of them to see them, but eventually he was able to see them. And then he explained to them what the position was - what was the position and what was decided by the remaining members of the Ad Hoc Committee. Ghalaki (5 Selo then said that the members of the National Executive Committee said it would be advisable if we filled the vacancies of those people who have been arrested. And then he said the Ad Hoc Committee and the Regional Committee could function again as it did before. That meant that three (10 members of the Regional Committee would then be brought out into the Ad Hoc Committee, that's those who were members of the Ad Hoc Committee. That is Ghalaki Selo, Ernest Gallo and myself.

Yes, go on.-----And then the Regional Committee they would fill all the vacancies again there, and it could work as it did before. (15

Before, or at the time when this meeting was called was there, at that time then, an Ad Hoc Committee functioning in Natal or not?-----No. (20

So Ghalaki returned from the National Executive and at this meeting he reported what should be done to constitute the Ad Hoc again, and to form - re-appoint members to the Regional Committee?-----Yes.

Yes, go on?-----After that we then appointed (25 members of the Regional Committee, we arranged them as follows: Pascal Ngakane, he carried on as the chairman of the Regional Committee

And what was the accused's reaction to this appointment?----- He agreed to carry on in that position (30 as the chairman,

Yes?-----Enoch Mhlongo was then the Secretary

of/.....

of the Regional Committee. And David Ndawonde was then the Treasurer of the Regional Committee. Charles Ndhlovu was a member. Francis Dhlamini was also a member. And then another Ndhlovu, who was a secretary at a branch at Umlazi. (5

Was this other Ndhlovu, this secretary of the Umlazi branch, was he present at this meeting at Amos' house?----No.

Yes?----I then put forward the name of Jethro Ndhlovu. And the other members of the Regional Committee(10 said they would not accept that name, we had better leave that vacancy open until it could be filled.

Was any reason given why Jethro Mdhlovu was not acceptable?----Because Jethro Ndhlovu was a person who was not working. (15

Yes, go on?---- After that Pascal Ngakane asked the members, appealed to the members....(Court intervenes)

THE COURT: Was this still at Amos' house?----Yes.

PROSECUTOR: Continue?----Pascal Ngakane appealed to the (20 members who were there. He asked, pleaded with them, not to create a division which existed before in the Regional Committee. Some of the members of the Regional Committee were members of the South African Congress of Trade Unions, and some members were also members of the (25 African National Congress and the Regional Committee.

No, I don't understand. ----In the Regional Committee there were members of the South African Congress of Trade Unions.

Yes,-----Who were members of the African National(30 Congress.

Yes,-----Who were on the Regional Committee of

the/.....

the African National Congress.

THE COURT: Mr. Prosecutor, aren't we going around in circles?

PROSECUTOR: Yes, your Worship. All the witness is trying to express is that of the members of the Regional Committee there were certain members who were also members of S.A.C.T.U. (5

Yes, and then?-----Then Pascal Ngakane appealed to the members not to create a division between the members of the Regional Committee and members of the South African Congress of Trade Unions, divisions which had been there previously. (10

Previously, what were relations between S.A.C.T.U. and the African National Congress? Amicable or not?----- There was disagreement between the South African Congress of Trade Unions and the African National Congress.

I don't want to go into it. And you say (15 accused, at this meeting, appealed to the members not to create that division again?-----Yes.

Yes, and what happened? Any other business that was discussed at this meeting?----Pascal further said those members who could not come to any decision because of (20 that division, yes those members could not come to a decision because of that division.

Any other business that was discussed at this meeting?----No.

About what time did this meeting finish?----- (25 In the afternoon.

Yes, approximately what time would you say?----- I would say round about five o'clock but I'm not too sure of the time.

And by when you dispersed, had Amos arrived (30 back yet or not?----He came back while we were still there.

Was/.....

Was the meeting still in progress?-----The meeting was already finished.

Were you present when Amos arrived back?-----
Yes.

The other members, were they all still present?(5
-----Yes.

When next did you attend a meeting at which accused was present?-----It was on a Monday, in July, 1963.

Do you know what date it was?-----I don't remember the date any more. (10

Yes, and where was this meeting?-----That meeting was in a room in Beatrice Street of the daughter of Chief Albert Luthuli.

Will you tell his Worship how you came to be at this particular meeting?-----Myself and David Ndawonde (15 left from a meeting of the Regional Command of the Spear of the Nation.

From where was this?-----It was at Kloof.

You and David Ndawonde were on your way back from this meeting at Kloof, yes?-----And we went behind the (20 university. There is a road there near the university, I think it is called University Lane.

Is this the University of Natal in Durban?-----
Yes.

Yes, and then?----- From there accused took (25 us with his car. It was he himself, the accused, and his wife, David Ndawonde, myself, and Enoch Mhlongo. He went and dropped us in Beatrice Street and we went up to the meeting.

THE WITNESS STANDS DOWN. (30

THE COURT TAKES THE SHORT ADJOURNMENT.

ON RESUMPTION:

STEPHEN MTSHALI: (still under former oath)

EXAMINATION-IN-CHIEF CONTINUED BY THE PROSECUTOR:

Yes, you told his Worship that you went to a meeting at the place of Chief Luthuli's daughter in Beatrice Street.----Yes. (5

Now how did it come about that you and Ndawonde met the accused in this street behind the University in Durban?----(Prosecutor adds) Did you meet there by arrangement or how did it come about you met him there? ----If I am not mistaken I think it was an arrangement (10 between the accused and David Ndawonde and other members.

And what time was it that you met the accused in this place behind the University?----In the evening.

Approximately what time?---- I would not be (15 able to say the time.

This spot where you met the accused, can you just describe it a bit closer? Is it in the street, or on a corner, or just describe it?----It was in the street, near to the space there where they teach the people to (20 drive motor cars.

Who got there first? You or the accused?----- We found accused there.

Now what place in Beatrice Street did the accused drop you?-----Near the church that is there, (25 the Methodist church. (INTERPRETER: The witness corrects the interpreter) No, I didn't say Methodist. Just church. Near the church.

And where did you go to from there?----We went into the yard there and we went upstairs. And there we (30 went into the room where the daughter of Chief Luthuli stayed.

And/.....

And did you have a meeting in this room?-----

Yes, we had a meeting there.

Now you said that the accused dropped you; what happened to him after he had dropped you?----We went up to the room together with the accused. (5

And what happened to the wife of the accused?----

(Court intervenes)

THE COURT: Just a minute. The witness didn't say that she was there.

PROSECUTOR: I'm sorry, Sir. I was under the impression(10 he said she was in the motor car. I might have that wrongly.

THE COURT: Yes, what I'm not clear about is that we have heard that the accused is married to Chief Luthuli's daughter, is this room and this daughter the accused's (15 wife's room, or is it another daughter's room.

PROSECUTOR: This is another daughter's room.

I will just get it clear from the witness.

You have told his Worship that the wife of the accused was in the car with you and David Ndawonde and (20 Ndhlovu. I'm sorry, Enoch Mhlongo,----Yes.

What happened to this wife of the accused after he stopped in Beatrice Street?----She got off, together with us, and also went upstairs.

May I just clear up this matter that his (25 Worship has raised. This room in which this meeting was held, is that the room of the wife of the accused? Because we have heard that he is married to Chief Luthuli's daughter; or is that another daughter of Chief Luthuli? ----No, that is another daughter of Chief Luthuli. (30

Do you know what her Christian name is?----

No.

Now/.....

Now who were all at this meeting?----At that meeting was Pascal Ngakane.

THE COURT: Who is that? Is that the accused now?-----The accused, who was the chairman.

PROSECUTOR: Go on.-----David Ndawonde, Enoch Mhlongo, (5 Ndhlovu from Umlazi, and then myself.

And what kind of a meeting was this?----That was a meeting of the Regional Committee.

Yes, what happened at this meeting?----The accused, Pascal Ngakane, opened this Regional Committee (10 meeting of the African National Congress. And then he gave me an opportunity to speak. I spoke at that meeting of the Regional Committee of the African National Congress. I spoke about the volunteers of the African National Congress. And I told the members who were at the meeting, who (15 were present at the meeting, volunteers are required;

it would be advisable to establish a volunteer committee. Volunteer committees at the branches of the African National Congress in Durban. I further went on to say that there would be a person who would visit the volunteers at the (20 branches. I said that because the time had now come to use the volunteers of the African National Congress with the MKONTO, the Spear of the Nation. (INTERPRETER: Witness corrects the interpreter.) To be used "by" the Spear of the Nation. Pascal Ngakane then wanted (25 to know whether the volunteers and the youths were not the same.

The youth what?----Were the same ones, were the same.

What youths are you talking about now? You (30 said whether the volunteers and the youths were the same. -----The youth of the African National Congress.

/.....

Yes, go on?----I answered the question, saying that the youths and the volunteers were not the same.

Yes, go on?---- The volunteers under the Mandela Plan, were first screened to see whether they would be suitable as volunteers of the African National Congress. (5)

Go on.-----After I had said that the members who were there, I think it was David Ndawonde, Enoch Mhlongo and Pascal Ngakane the accused, they asked me to stay at the meeting until it was finished. (1)

To stay at the meeting until it was finished?---
Until the meeting was finished.

Yes, then?----I didn't agree, I said there was a certain work which I still had to go and do.

Yes?-----After that I went out and left the meeting and the meeting still carried on. (1)

Now why did you go to this Regional Committee to speak about the formation of volunteer committees in the branches? Did you do that on your own or did you receive instructions from anybody to do it?-----I had received instructions. (2)

What was the reaction of the meeting to this suggestion that volunteer committees should be formed?----
The members who were there received that instruction, they agreed to it, and David Ndawonde even said that Paul Dhladhla has already appointed a committee of volunteers at Benoni, and at Benoni was a branch of the African National Congress. Benoni at Cato Manor. (2)

Yes, Paul Dhladhla had already formed a committee of volunteers at the Benoni Branch of the A.N.C. at Cato Manor?----Yes. (1)

You also said that you told the meeting this

because/.

because volunteers were going to be used by MKONTO WE SIZWE?----I want to explain that, your Worship.

Yes, I will get to that just now. That is what you said, not so?----Yes.

Did you explain to the meeting here the purpose(5 in forming these volunteer committees or not?----I said that the volunteers would be used and there would be a person who would visit the volunteers at the branches.

So you left the meeting whilst it was in progress? ----Yes. (10

Now did you attend any further meetings after this one?---- I didn't go to another meeting of the African National Congress.

Were you arrested sometime after this last meeting?----Yes. (15

Can you remember the date of your arrest?----I don't remember the date any more on which I was arrested.

What month was it?----It was in August.

What year?----1963.

And were you kept in custody?----Yes. (20

Do you know under the provisions of which law you were kept in custody?----I was in custody under the 90-days.

Were you questioned by the police after your arrest?----Yes. (25

What was your reaction at first when you were questioned? Did you answer the questions asked by the police? ----No.

Did you afterwards answer questions?----Yes.

Did you make a statement to the police? (30

----Yes.

Did you make a full, complete statement to the

police/.....

police about your activities in the African National Congress, and the people associated with it?----I made a statement of everything that I still remembered.

And about your activities as a member of the MKONTO WE SIZWE, did you tell the police about that?----- (5
Yes.

And when were you released from custody, can you remember?----In April, 1964.

Now apart from this case, have you given evidence in any other trials as well?----Yes. (10

Can you just tell his Worship which trials you gave evidence in?----At the Sabotage trial that was in this Court.

That was in the Supreme Court?----Yes.

Yes, and what other cases?-----And another case (15
that was in Ladysmith, the case of the African National Congress.

Is that the case where George Mbele and the others were charged?----Yes.

Any other cases?---There is no other case, (20
apart from this one.

Now you told his Worship that you were a member of the MKONTO WE SIZWE: did you actually commit acts of sabotage?----Yes.

NO FURTHER QUESTIONS BY THE PROSECUTOR: (25

CROSS-EXAMINED BY MR. UNTERHALTER:

You told his Worship that you studied until Standard VIII?----Yes.

What school did you study at?----I started at Mount Carmel, in Cato Manor. (30

How old were you when you finished Standard VIII?----I don't remember any more how old I was.

Well/.....

Well you are 22 now.----Yes.

Let us go back and see how many years from now, it is now 1964; when did you leave school?----I came out of school in '60.

That was four years ago?----Yes. (5

So you were a boy of 18 when you finished school? ----I would say so.

Why are you doubtful about it?---Well I didn't count the years.

Wasn't it a rather important step in your (10 life, that you had completed your schooling?----Even if it was important, I didn't take notice of the years.

When you left school, what did you do?----I worked.

Had you not worked before?----I had worked (15 previous to that.

Do you say that you were attending school and yet you had worked previously to leaving school?----First I left school and then I went back to school again.

How old were you when you left school the (20 first time?----I would say I was about 17.

Do you know your exact age?----Yes.

Do you know the year in which you were born?---- Yes.

What year was it?----1942. (25

So you have no difficulties with dates? You have no difficulty in remembering dates?----It is difficult. I have difficulty.

Well what is the difficulty about remembering that you were 17 when you left school?----I did say that (30 I was 17.

Yes, but you expressed a little doubt about it.

You/.....

You didn't give your answer confidently, and with assurance?
 ----Well it wasn't something that I kept on remembering,
 writing it down, that I counted.

You didn't remember that you left school in
 1959 for the first time?-----I did remember that I (5
 left in 1959.

If you were born in 1942, and you left school
 in 1959, it is a simple matter to tell his Worship you left
 for the first time when you were 17, without expressing
 doubt about it. Are you certain it was then,----When? (10
 1959 when you were 17 years of age?-----

Yes.

What class were you in when you left school the
 first time?----I was busy with Standard Vlll, doing Standard
 Vlll. (15

Why did you leave?----There was a shortage of
 money at home so I went out to go and work.

For how long did you work?----I think it is less
 than six months.

Then did you go back to school?----Yes. (20

And did you finish Standard Vlll in the same
 year that you had left?----No.

You had to do another year?----Yes.

And did you not go further than standard Vlll?
 ----No. (25

Why not?----I had already left school then
 and I was working.

Now you completed your studies to the end of
 Standard Vlll. The question is why didn't you go on to
 Standard LX and Standard X?----I had then got a girl (30
 into trouble so I left school.

Is this the woman that you have since married?

-- --Yes./.....

----Yes.

Were you a good student at school?----How do you mean good?

Well were you a successful scholar? Did you come high in your position in your class?----Yes. (5

Did you write a public examination?----I wrote an examination.

And did you pass it successfully?----Yes.

Is your knowledge of English good?--- Not too good. (10

Can you read English?----Yes.

Do you read newspapers?----Yes.

Have you got a good memory?-----What I remember I remember, and what I forget I always forget.

Just answer the question. Some people have (15 got good memories, some people have got bad memories. What kind of memory do you think you have?-----I can't say what my memory is like. What I remember I remember and what I forget I forget.

If you have to remember things that happened (20 three or four years ago, can you remember them easily?---- What I remember I remember, and what I don't remember, I just don't remember.

I have asked you this question several times, I am a little puzzled as to why you are evading my (25 question. I will put it to you again. In regard to events, say of three or four years ago, are you able to recall them easily, or is it difficult for you to recall them?----Some I do remember, some I do not remember.

Some events you remember?----- (Mr. Unter- (30 halter adds) And some events you don't remember; three or four years ago? ----Yes.

Now/.....

Now most of the events of three or four years ago, do you remember them easily, or would most of them, would you not be able to remember?-----Some I do remember, some I do not remember.

I am now asking you in a little more detail (5 what is your capacity to remember most of the events? Would you remember most of them, or would you only remember a few of them?-----As I have said I can't say how much I can remember and how much I cannot remember, but some things I can remember and others I don't. (10

Now you were in Standard VIII you say?-----
Yes.

At the school called what...?----- First time when I started Standard VIII, I started at Ohlange Institute.

Yes? And the second time you started?----- (15
St. Augustines at Dundee.

Now let's deal with the first school; let's deal with your memory. How many people were in the class?
----(Prosecutor intervenes)

PROSECUTOR: Is that now at Mt. Carmel? (20

MR. UNTERHALTER: Yes.----Do you mean in my class?

Yes, in your class.

THE COURT: I'm not quite clear what you mean.

MR. UNTERHALTER: Your Worship, the witness said that he was in Standard VIII on two occasions; the first, as I (25 understood, was at the school called Mt. Carmel, the second at a school called St. Augustines.

PROSECUTOR INTERVENES AND DISCUSSION ENSUES.

MR. UNTERHALTER: Yes, I was confused by the reference to Mt. Carmel. (30

The Ohlange Institute, you were studying the Eighth standard at the Ohlange Institute?-----Yes.

How/.....

How many pupils were there in the class?-----
I don't remember any more how many there were in our
class.

Do you know the names of your school mates in
that class?----Some I remember, some I don't. (5

Well I don't want you to give us the names, just
tell us how many people you remember without giving us the
names?----I can't say how many I still remember.

For how long were you in this class?----From
the time the school opened until that term closed in (10
June.

How many months would that be?---I would say five
months if I am not mistaken, but I don't remember any more
when actually the school opened.

And you were with your class mates from Monday(15
to Friday of each week?----Yes.

You sat in the same classroom with them?----
Yes.

I presume you played games with them?---- What
do you mean by "games"? Played games? (20

Well football, cricket, basket-ball...(interpreter
intervenes and part of question is unintelligible)-----
With some of them, yes.

You made friends with some of them?----Yes.

You can't tell his Worship how many of (25
these people you still remember?----No.

Do you remember the subjects you studied?----
(The Court intervenes)

THE COURT: Do you mean during those first five months?

MR. UNTERHALTER: Yes?----Yes. (30

What were they?----It was bookkeeping, commerce,
Zulu, English, Afrikaans, Arithmetic, - I have forgotten
the/.....

the seventh subject.

Let us take the subject of English. Do you know what^a/set work is?---- Yes.

What is it?----Well I would say it is set work.

Can you use some other words to explain (5
it?----(Court intervenes)

THE COURT: Mr. Unterhalter do you mean a set work book in English?

MR. UNTERHALTER: Yes, we are dealing with the subject.

THE COURT: Yes, but you simply said^a/set work? (10

MR. UNTERHALTER: Yes, but your Worship I prefaced the question by saying : "Now let's take the subject of English. Do you know what set work is?" And the answer is: "A set work." "No, give us some other words to describe a set work." (15

THE COURT: Are you talking about set work, or a set work book?

MR. UNTERHALTER: Set work book.----I can't explain it in any other words.

Well let me try and assist you. Do you agree (20
that a set work book in the subject of English is a book that you are given to study, like a novel, some writing of a great English writer. ----Yes, as far as I know, I agree.

Were you given books such as I have described to you for study, in those first few months?-----Yes. (25

How many set works were you required to study? ----I don't remember the number any more as to how many.

Well give us the names of the books, of some of them?----The one we had at that time was: "THE TALE OF TWO CITIES." That is one I remember. (30

You don't remember any more?----I don't remember any others, I remember that one, we were learning
it/. ...

it at that stage.

Well were there any others?-----If I am not mistaken I think there were others.

You have forgotten their names?-----I don't remember the names clearly. (5

All right, you then came back to school later on at St. Augustines.-----Yes.

That would be the year 1960, would it?----Yes.

Beginning of the year?----Yes.

You went into Standard VIII?----Yes. (10

How many pupils were there in the class?----
I don't remember any more how many of us there were in the class.

Can you give us the names of some of those whom you knew?----- Yes. (15

About how many did you know?----I knew all the people in the class.

Well if you knew all the people in the class, and I were to ask you, you could give us their names, could you? -----Of those whom I still remember. (20

So therefore you could work out the number of those whom you knew?----I want you to repeat your question?

You could work out the number whom you knew?----
I have said that I knew all the people in our class, but some of them I have already forgotten their names. (25

And you knew them all, even if you've forgotten their names I take it you could still work out the number of people in the class?-- --As I said I don't remember clearly how many we were in the class.

I'm not blaming you, Mr. Mtshali, it is not (30
easy to remember these things, is it?----Well it is something I wasn't taking notice of.

And/.....

And for that reason it is not easy?-----Yes.

Now did you study the same English set work in St. Augustines?----No,

Do you remember/that you ^{the set works} studied?----Yes.

How many?----I remember one. (5

Yes, what was the name of that?----"THE HOUND OF THE BASKERVILLES:"

And were there others beside that?----As far as I remember, I think there were no others.

So it was a different position from the (10 other class that you had left?----How do you mean if you say it was different?

Well you said that you studied "The tale of two Cities" in the other school; there were other set works, you can't remember them: here you say there was only one (15 set work, "The Hounds of Baskerville."----Yes.

Now when you left school you went to work?---- Yes.

Who did you work for?--- I worked for the Metal Box Company. (20

Which department?----In the Press Department.

Was it a big department?----Yes.

When did you start to work for them?---- I 1961.

What month?----If I remember correctly, I think (25 in February.

And for how long did you work in that department? ----Until June, 1963.

How many workers were there in that department? ----There were a lot. (30

Approximately how many?----I can't say how many there were.

Do you remember the names of any of them?-----

Yes.

How many?----(INTERPRETER: Do you mean how many does he remember the names of?)

How many of them do you remember the names? (5
----I have never counted the number of the people, the names that I remember in the department.

What month in 1963 did you leave?----I think in June.

In June of 1963. Now when you work, do you(10
work at a bench with a group of men?----Sometimes, not always.

How many men would work at that bench with you?
----It goes according to the kind of work that is being done at the time. (15

Well whatever the work is, when you work with a group of men at a bench, how many men do you work with?
----As I said it goes according to the kind of work done and how great the work is that is to be done.

We know that. You have told us that you worked(20
at times with a group of men at a bench. Now at that the time when you worked with this group of men at the bench how many of you worked together?----It goes according to what the European says, how many people must work there, and how many there. (25

Well how many did the European say must work there?----It goes according to the type of work that has to be done there, and as to how great the job is.

You are trying very hard to evade the question now. (30

PROSECUTOR: Your Worship, I object to that particular remark made to the witness. I am submitting the witness is

not/...

not trying to evade the question at all, he is trying his best to answer a question which is put in vague generalities.

THE PROSECUTOR ADVANCES FURTHER ARGUMENT ON HIS OBJECTION.

MR. UNTERHALTER: Your Worship, I will put it in a little more detail, if the Court pleases. (5

What work requires to be done at a bench by a group of men?----There are lots of different kinds of work that is being done at a bench.

Elect any one you like and tell the Court what it is.----There are the lids of bottles, ink bottles. (10
You put the little papers in that go inside the lid.

That has to be done at a bench, does it?-----
Yes.

And how many men are required to work at the bench to do that?----It goes according to how great that (15
work is, and how many men the European wants at that particular bench.

You were working there in June of 1963?----Yes,
I stopped working there in June, 1963.

Was that particular work that you have (20
mentioned done during June of 1963, or don't you remember?
-----There's lots of work that is done there. I can't
remember that that particular work was done in that month.

Can you remember if it was done in any particular
month? March? February?----I can't remember which (25
work was being done in which particular month.

By that do you mean not only the work that you
have just described, or any other work that has got to be
done by a team of you at a bench?----There is lots of
work that is done at a bench. (30

Perhaps you haven't understood my question.
You said you don't remember the work. My question to you

is/.....

is it the work that you have just described that you can't remember, or is it any kind of work that has to be done at a bench that you can't remember?----What I am trying to say is this. The work I described just now, I don't remember that that work was done in June. And also other work (5 that was done at the firm. I can't remember that this work was done in this month; that work was done in that month; and that work was done in that month.

And I don't expect you to, Mr. Mtshali, I would like you to know. Because any ordinary person couldn't (10 remember. And if I criticised you for not remembering it you would think that I was very harsh with you, wouldn't you?-----How do you mean "hard"?

Well you would think it was wrong of me, wouldn't you?----Hard or harsh? (15

Harsh. It would be unreasonable of me to expect it of you; isn't that so?----Yes.

Now if you can't remember the work, can you remember the names of the people who were associated with you at the bench at any particular time during the month (20 of June, 1963?----You mean people I worked with at the bench in 1963.

Yes, in June 1963?-----As I said it was the European who picked the people who were going to work at the bench; it wasn't the same people always working at (25 the bench.

Well, of those who did work with you? Do you remember the names, or is it also too difficult to remember? ----I wasn't working with the same people at the same time.

Well any of them?----Yes, I remember. (30

How many?----It goes according to how big the job was and how many people the European chose for that

particular/...

particular job.

You can't give us a maximum or a minimum?-----
As I say it goes according to how big the job is, and how many Bantus the European wants there for that job.

I know that. You know what maximum and (5
minimum mean, don't you?-----How do you mean? The maximum
of what?

Well what was the greatest number of men you worked with at a bench and what was the smallest number that you worked with at the bench.-----It would happen (10
sometimes that there would be two or three of us working at the bench. I don't remember what the maximum number was.

All right. When did you become associated with the activities of the African National Congress?----
During July and September, 1962. (15

THE COURT: Did he say during July and September, or between July and September?----Between.

He said "phakathi",----- (INTERPRETER: "Phakathi" - between. Sorry, I gave it up wrong, Sir.) Between, not during. (20

MR. UNTERHALTER: Can't you remember the exact month?----No.

What is the difficulty, why can't you remember it?----Well I just don't remember.

Too long ago?----No, not that it is a long time ago. I don't remember. (25

What makes you place it between July and September then?----Because I say it was that time.

Any special events that assist you to fix the time between July and September 1962?---- I would say so.

What are they?----I think it might have been (30
at the time that Mandela was arrested; whether he was arrested yet or not, I don't know.

All right/.....

All right. Did you start to work at once for the A.N.C.?----Yes.

What was the first meeting you attended?----
It was the meeting of the African National Congress.

Where was it held?----It was in the house (5
of Makanya.

What address is that?---- Kwa Mashu in the
Location.

And what date was it held on?----You mean
what month, and what day of the month? (10

Yes?----I remember it was on a Sunday morning,
but I don't remember the month.

That was the first meeting you attended?----
Yes.

How many people were present?----It might (15
have been as many as ten.

Can you give his Worship the names of the ten
people?----Yes.

Will you please do so?---Milner Ntsangane,
Curnick Ndhlovu, Freda Mhlongo, Enoch Mhlongo, Simon (20
Mkwanazi, Riot Mkwanazi, Makanya and myself.

What was the purpose of the meeting?-----
It was a meeting to explain to the people who were there
about the Mandela Plan of the African National Congress.

Who were the speakers?-----The speaker was (25
Milner Ntsangane.

Only one?----The other person who spoke was
the chairman.

What was his name?----Curnick Ndhlovu.

That was the first meeting that you attended (30
as a member of the African National Congress?----Yes.

And from then on, I take it, you attended

meetings/. . .

meetings and were active until your arrest?-----Yes.

From that meeting until your arrest, how many meetings of the African National Congress did you attend?

----I can't say the number of the meetings that I went to of the African National Congress. (5

Are they a large number?----Yes.

Well would you say that they ran into 100?

Would you say there were as many as 100 meetings?----There are some meetings I remember that I went to, and some that I went to that I probably have forgotten. (10

I am just trying to get the number. As much as 100 meetings?-----I can't say. I have never sat down and counted the number.

Well is it possible for you to go back in your mind, remember all the meetings, and then count them up (15 and tell us; or is it not possible?----I could do that with the meetings that I remember.

I am talking of all the meetings.----That I remember.

Then are there meetings that you may have (20 attended that you have forgotten about?----Could be so, there might be.

How many meetings do you remember attending? ----As I say I have never sat down and counted the number of meetings I have been to. (25

Do you want to perhaps spend a portion of your lunch hour reconstructing it?----I'm going to eat at lunch time.

Well I am inviting you to take the opportunity when the Court adjourns, to go over in your mind (30 the number of meetings that you attended from the time that you joined until your arrest, so that you can inform

his/.....

his Worship of the number that you remember. Now I shall put the question to you again when the Court re-assembles.

Now of the meetings you remember, do you remember when each one took place that you attended?----Some I remember as to when the meetings were. (5

And some you don't?----Some I don't.

Do you remember the places of all the meetings you attended?-----Yes.

Of all the meetings you attended?----Well as I have said there are some I don't remember any more. (10

Do you remember the names of all the people of all the meetings that you attended?----Some I remember who were at the meetings, those I still remember.

And certain meetings that you may have attended, you no longer remember who was there?----Some of the (15 meetings I have already forgotten.

Now would you say of every meeting that you remember, do you remember every person who was present at that meeting?-----I remember those who were at the meeting that I remember. (20

Yes, and you remember the chairman of each such meeting?----Yes.

You remember the speakers of each such meeting? ----Yes.

And you remember the subject of each such (25 meeting?-----In some I do, some meetings that I remember I don't remember any more what was discussed.

Now apart from your activities as a member of the African National Congress, you have been involved in other matters too, I understand?----- (Mr. Unterhalter (30 adds)

Such as the Spear of the Nation?----Yes.

And/.....

And the commission by you of acts of sabotage?

-----Yes.

You have got a clear recollection of your activities in that field of your work?-----Do you mean the sabotage? (5

Yes?-----The majority of the sabotage acts I remember, not all.

And the meetings of MKONTO, or the Regional Command, or whatever it was that you were associated with, you remember that too?-----Yes, I remember it. (10

People who were present at these meetings?--
Yes.

And what was discussed?-----Yes.

Mr. Mtshali, how is it that you are so confident about your ability to remember these things and you are (15 uncertain about the other matters on which I have questioned you? ----Do you mean what you have asked me now about the Spear of the Nation?

I have questioned you about your schooling. I have questioned you about your work, and I have (20 questioned you about your political activities. According to you you have a clear recollection of a great deal of detail in connection with your political activities. You don't seem to have the same recollection of detail in regard to the other matters: and I am asking you why? (25
-----As I said, what I remember I remember: what I don't remember, I don't remember any more.

THE WITNESS STANDS DOWN:

THE COURT TAKES THE LONG ADJOURNMENT.

ON RESUMPTION:

(30

STEPHEN MTSHALI: (still under former oath)

MR. UNTERHALTER RESUMES CROSS-EXAMINATION:

Before/.....

Before the Court adjourned I had suggested to you that you might use a portion of the lunch hour going over in your mind the number of meetings that you had attended from the time you joined the African National Congress, between June and September, 1962, and the time (5 of your arrest in August 1963. Have you thought about the meetings?----Yes.

How many meetings do you say that you had attended?----- Between 40 and 50.

Now of these meetings would you remember the (10 date of each one of them?----Some of them I remember the day.

Not all of them?----Yes.

Do you remember the place where each meeting was held?----Yes. (15

Do you remember the people who attended each of those meetings?----Yes.

That is not only the number but the names of the people?----Yes.

Do you remember the chairman of each of these (20 meetings?----Yes.

THE COURT: When you say "Yabo Nkosi" what do you mean? Yes, what? That you remember all of them or some of them? ----Those whom I know the names of I remember.

MR. UNTERHALTER: Mr. Mtshali, let us be clear on the (25 point, You said that you can say that there were 40 to 50 meetings that you attended during this period.---- Yes.

I take it that you built this number up, between 40 and 50 by reconstructing in your mind what happened (30 over the period?----Yes.

Now in respect - let's take the lower number of/.....

of 40 meetings.

Do you remember the month in which each one of these meetings was held?----Some I remember the month of, some I don't. Some I will just give an estimate, saying it was such and such a month. (5

Now in regard to these 40 meetings, do you remember the place of each one of them?----Yes.

In regard to the number of people who attended each of these 40 meetings, could you say the number of people at each meeting?-----I haven't sat down to count (10 out as to how many were at this meeting, how many at that meeting.

But if your mind were directed to it, do you think you could answer the question satisfactorily?---- If I take the time and I think over it properly and count (15 them.

You could do so?----Yes.

And regarding the names of these people at these 40 meetings, could you also remember those accurately? ----Yes. (20

And regarding the chairman of each one of these 40 meetings, you could remember who it was?----Yes.

The speakers of each of these 40 meetings, can you remember who spoke at each one of them?----Yes.

And the subject of the meeting, the business (25 of the meeting, what was spoken about at each of these 40 meetings could you also remember that?----In some of the meetings I remember the subjects that were discussed. In some of them I do not remember.

Well of the 40 how many meetings would you (30 not remember what the subject was?----I haven't sat down yet and counted how many meetings I do not remember what

was/.....

was discussed at them.

Would they be very few?----They are not many.

Not many what? Not many that you remember or not many that you forget?---The subjects that I do not remember any more. (5

You say there are not many meetings that you have forgotten?----What do you mean not many meetings where I have forgotten?

Well the business of the meeting? There are only a few meetings whose business you have forgotten?---- (10
The subjects of a few I have forgotten.

Most of them you remember?----Yes, some I do remember.

I want to say, Mr. Mtshali, I think you are a remarkable man. (15

Now you were taken into custody in August of 1963. And you were held under the 90-day laws?----Yes.

You knew that you were being so held?----Yes.

You knew that you would not be released, or that you need not be released until you had answered all (20
questions to the satisfaction of the Commissioner of Police?
----Yes.

Where were you held?---I was at the Mayville Police Station.

Were you held in solitary confinement?----Yes.(25

And you were just allowed out for a portion of a day, about half an hour a day, was it, or an hour a day for exercise?----I didn't count the time how long it was, I did not have a watch.

It was only a short period each day that you(30
were allowed out for exercise?----Well it was a time, I can't say how long it was, I didn't have a watch.

Why/.....

Why did you refuse to answer questions in the beginning?-----I was still thinking over the position I was in.

How long after you were detained did the police first approach you?-----Just a very short while. (5

A couple days?-----No.

A couple of hours?-----I would say less than an hour.

How many policemen approached you?-----I don't remember any more how many police came to question me. (10

One? Two? Four?-----As I say, I don't remember any more how many.

I am talking of the very first occasion that you were either summoned into the presence of the police or they visited you in your cell?-----You mean called me to come (15 and question me?

Yes?-----After I was arrested?

Yes?-----I was questioned at Wentworth.

I didn't ask you where you were questioned. I asked you how many policemen came and questioned you. (20 -----As I said I can't remember the number of policemen that came to question me.

On that first occasion?-----Yes.

This was a serious crisis in your life, wasn't it?-----Yes. (25

A rather terrible experience to befall anybody? -----Yes.

And I suggest to you an occasion that would have been imprinted very vividly on your mind?----- (Mr. Unterhalter adds) (30

Do you agree?-----Which is that?

Your arrest and your interrogation?-----Not that

I/.....

I should count how many police there are interrogating me.

You see, I want to put it to you your memory is so excellent on all the affairs of the 40 meetings of the African National Congress. It is a bit surprising you (5 don't remember this interesting event in your life, in respect of the number of policemen who called on you?-----

(Mr. Unterhalter adds)

Do you want to say anything?----- In connection with what? (10

Well I have just made a comment; you can comment on it if you wish.---I want you to repeat your comment.

I have said to you that since you remember so clearly details of the African National Congress Meetings, and the number of people who attended each one of them, it is (15 strange that you don't remember the number of policemen who called on you for your first interrogation after your detention?----- (Mr. Unterhalter adds)

Do you want to say anything?----I did say that I did not count the number of policemen. (20

What was the first question that was asked you by the police when they called on you on the first occasion that you were interrogated?----I don't remember the first question because I was asked many questions.

What was the general tenor of the questions (25 that were put to you on that occasion?----They wanted to know about my work that I was doing.

What work? In a tin factory?----In the organisations of the African National Congress, and the Spear of the Nation. (30

Why didn't you answer?----Do you mean answer the police?

Yes?/.....

Yes?----I was still thinking, considering the position I was in.

So what answer did you give them?----When?

When they asked you these questions on the first occasion?----First I refused to answer questions. (5

Did you tell them that, that you refused to answer questions?----Yes.

Did they go away?----No, they did not.

Did they remain in the cell, or wherever it was that they were questioning you?----Just repeat your question again? (10

Mr. Mtshali I repeat with pleasure: but why do you ask me to repeat it? Do you have difficulty in understanding me?----No, I didn't hear your question, that is why I said repeat it. (15

Is it that the interpreter is speaking indistinctly? ----I didn't hear your question; that's why I said repeat it.

Are you not listening to the interpreter properly? ----I am listening to the interpreter. (20

Or are you asking me to repeat the questions because you would like a little more time in order to provide an answer?----I did not hear your question.

The question is, that, having asked you about your work, and your having told the police that you are not answering, did the police then go away?----No. (25

What did they do?----They kept on asking me questions.

The same questions about your work?----Yes.

Even though you'd refused to answer?----Yes. (30

For how long did they continue to worry you then on that first occasion?----They didn't worry me, nor did I

use/.....

use the word that they did "worry" me.

What I mean by "worry" is continue to ask you the questions?-----They asked them for a while. It might be a long time, but I don't know how long.

Eventually they went away?-----Yes. (5

How long was it before they returned?----A short while.

Well, a day? An hour? A week?-----On the same day.

So what would you say the interval was? An (10 hour, half an hour, a few hours?-----On the same day.

What would you say the interval was? Or can't you remember?----I can't say what time the interval was.

They repeated the questions?----Yes.

Did you continue to refuse to answer?----- (15 After I thought well over the matter I realised it would be advisable for me to answer.

Does that mean that you made the decision to answer on that first day when they came back, after the few hours?-----Yes. (20

So your decision to answer was fairly prompt? -----I decided to answer after I had realised it would be advisable for me to answer.

But it was fairly prompt?----What do you mean if you say it was fairly prompt? (25

Well you didn't keep the police waiting a period of weeks; you didn't even keep the police waiting a period of days.----Yes.

And then what was it that made you decide you should answer?-----Firstly, in connection with the Spear (30 of the Nation, I thought of the serious position that I was in. As far as the African National Congress was

concerned/.....

concerned, I wasn't satisfied with them.

In what way were you dissatisfied with the African National Congress?----The way in which it was carrying on.

In what way was it carrying on that gave you(5 dissatisfaction?----- Firstly, the way in which I was the Assistant Secretary at Kwa Mashu, and how I came into the Ad Hoc Committee. Secondly the way in which the Ad Hoc Committee carried on, and the Regional Committee, right down to the branches. And the way in which the (10 Communists wanted to control the African National Congress, and also the way in which the monies of the African National Congress disappeared.

So you were displeased with the African National Congress because the monies of the African National (15 Congress had disappeared?----Yes.

There appeared to be a Communist control of the African National Congress?----Yes.

And you were also dissatisfied because of your branch - did you say? Kwa Mashu branch?----Yes, the way (20 in which I left the branch of Assistant Secretary and went into the Ad Hoc Committee.

Now what displeased you about the way you left and - as Assistant Secretary, and went into the Ad Hoc Committee?----I was pushed to being the Assistant (25 Secretary.

THE COURT: I don't follow that,----I was pushed from... (Court intervenes)

From?----I was pushed from being the Assistant Secretary to the Ad Hoc Committee. (30

MR. UNTERHALTER: And you didn't like being pushed, is that it?----Yes.

You/.....

You knew if you spoke about the African National Congress you would have to involve your political colleagues and workers, co-workers?-----Yes.

Now why did you want to implicate them because you had been pushed from the branch to the Ad Hoc committee?(5
-----Well because, as I said, I was not satisfied with the African National Congress.

I know: but because you were dissatisfied with them why did you have to implicate your colleagues, the men who had worked with you?-----I had already decided on (10
my own that it would be advisable for me to tell them everything that I did in the African National Congress and also disclosed those whom I worked with.

In other words, the reason was that you felt it was in your own best interests?----How? (15

Isn't that what you have just told us?----I realised that it would be advisable for me to tell them everything I know and what I did and with the others whom we did it with.

It was advisable because you were in a serious(20
position?----The serious position I was in was with the Spear of the Nation.

You were also in a serious position with the A.N.C. because it was an unlawful organisation and you could face a prosecution?-----I knew that all along, (25
but what I thought of most was the Spear of the Nation, my position with that was very dangerous.

But your reason for speaking was that it was in your own best interests to make a clean breast of everything?----- As far as the African National Congress (30
was concerned, I thought that it would be advisable for me to bring everything to light as far as it was concerned,
because/.....

because I was not satisfied with it any more.

Well I must come back to the original question then. Why was it advisable for you to talk about the African National Congress because you were not satisfied with it, and thereby to implicate your political colleagues? (5
 ----Because I was no longer satisfied with the African National Congress.

So why must you drag your colleagues in because you are not satisfied?----In the African National Congress whatever I did I didn't do alone, I worked with my (10
 colleagues.

So why must they be implicated by you because you are dissatisfied with the way it worked?---- What made me not satisfied with the African National Congress was because of things they did; it didn't do things (15
 on its own.

So you were going to implicate your colleagues because your colleagues had done things that displeased you?----I would like you to explain that question to me.

What don't you understand? It is a simple (20
 question.----I want you to explain the question to me, I don't understand it too well.

Well do you want it explained, or do you want it repeated?----I want you to explain it to me.

Were you going to implicate your colleagues (25
 because it was your colleagues that had done things that displeased you?----I was bringing out into the open work which I did together with them. And then it would have been up to the police themselves to decide whether they were going to charge them or not, for the things (30
 which we used to do.

But then why were you implicating them?----

I/.....

I worked with them. We worked together. If I am going to tell the truth to the police then I must tell the police all the things we did together, and with whom.

Even though some of these people had nothing to do with the finances of the African National Congress?(5
 ----Had nothing to do with it in what way?

Well you complained that the African National Congress displeased you because there was something wrong with the way its finances were handled. Now you propose to implicate a man even though he might not have been (10
 responsible for the finances?---- (Mr. Unterhalter adds)

What do you say to that?----If the person was in the African National Congress and I worked with him, then I would tell the truth to the police, then I must bring him - disclose him, bring him into the open as well. (15

So he must take the consequences of the bad running of the African National Congress just the same as everybody else?----If he was a member of the African National Congress and I worked with him, then I must disclose him and it is up to the police to decide whether they are (20
 going to charge him or not.

Isn't the real reason that being held in custody knowing that you were likely to face very serious charges, you decided to talk because you hoped it might perhaps improve your serious position.-- --In what way? (25

Don't you understand what the word "improve" your position means?----I don't know whether I understood your question correctly. Do you mean that if I decided to speak to the police then my position would improve?

Yes, that is what I am putting to you? Isn't (30
 that the situation?----Well I did think that if I told them the truth about the Spear of the Nation my position might

be improved, but that was up to the police.

But that was in your mind when you decided to speak?-----In connection with the Spear of the Nation.

And as far as the A.N.C. was concerned, you couldn't help yourself, you had to speak about that too? (5
-----As far as the African National Congress was concerned, I spoke because I was not satisfied with that.

I am putting it to you that you knew very well that if you spoke about the Spear, hoping to improve your position, and you refused to speak about the A.N.C. (10
then you wouldn't be able to improve your position, and that's the reason why you spoke about the A.N.C.?-----No.

Anyway you did speak?-----Yes, I did speak.

And this was on the second occasion the police visited you?-----Yes. (15

What was the first question they asked you?-----
As I said I don't remember the first question.

And you don't remember how many people were present on this second occasion?-----No.

What was the trend of the questions on the (20
second occasion?-----They wanted to know everything I had done, my work.

Well how did they phrase the question to you?
-----I don't remember any more how they phrased the question.

You see I have listened to your evidence-in- (25
chief; you've described a number of meetings, and you have described what the speakers have said, and you haven't had any difficulty in conveying to his Worship generally how these speeches were phrased and you have given a fair amount of detail, and this was much earlier than (30
August of 1963. Now I am inviting you to favour us with the same amount of detail in regard to your interrogation.

Are/.....

Are you able to do so?----What I remember, I tell the Court: but what I do not remember I cannot tell the Court.

Well, do your best then. Let us listen to what took place on the second occasion please.----As I have (5 said they asked me some more questions again. I then told them that I would tell them the whole truth, and I started telling them the truth.

Yes, and how did you open up?----I want to know what do you mean when you say how did I open up? (10

Well how did you commence? Mr. Mtshali this is the third occasion that you have questioned me. Is my language too difficult?----I understand your language, but I must understand the question properly before I answer.

I will paraphrase it, How did you commence? (15 ----I started by telling the police the truth.

Well give us the detail please.----What I remember is the police wanted to know very much about the Spear of the Nation. And then I told them what I knew, what I remembered about the organisation, about the (20 meeting of the Spear of the Nation, that we were going to have on that day at Kloof.

Did you commence your replies by describing something that happened at Kloof?----I started by telling them what was going to happen at Kloof on that day. (25

On which day?----On the day that I was arrested.

You didn't start by telling them how you came to join MKONTO?-----No.

And who recruited you?----I came to that (30 afterwards.

And then you told the whole story?----Yes.

And/.....

And then did you talk about your A.N.C. activities?----Yes.

And you finally made an end of your replies?----
(Mr. Unterhalter adds)

You finished them?----Yes. (5

How many days did your answers take?----I don't know how many days it took. They used to come to the cell and then ask me questions.

You can't remember the time?----No.

When you had finished answering the questions(10 what followed?-----When I had finished with the questions and making a statement then I stayed inside the cell.

When you say "making a statement", do you mean by word of mouth?----No.

Did you write it out?----Yes. (15

You didn't write it out at the same time you answered questions; you wrote it out after the questioning was finished?----I would say I had finished answering questions on that day that I was arrested.

And then you commenced to write your statement?(20
-----After a few days.

Yes, you see I am under the impression, from an earlier question that I put to you, that you couldn't remember for how long you were engaged in answering the questions. Is that correct?-----I didn't look at the (25 watch to see what time it took.

But whether you can or cannot remember how long it is, you are satisfied that you completed the answers to all the questions on the day that you commenced to answer?-----As I said, even afterwards they used to (30 come and ask me questions.

So the questioning didn't stop on the first

day?/.....

day?----I finished whatever they asked on that day, and then they came back again afterwards because they wanted to ask some more.

They asked again on other days?-----Yes, other days they also came to ask. (5

And you answered on other days?----Yes.

And you don't know how long this went on for?----
No.

And at the end of all these questionings you commenced to write your statement?----And at the time (10
I was still writing my statement they also came to ask me questions.

Do you remember in what month you started to write your statement?-----Yes.

What month?----In August. (15

And as you wrote it the police continued to question you?----Yes.

Did they read it as you were writing it?-----
If I am not mistaken they used to read it.

Yes, and did they question you on what you had(20
written down?----Some things they asked me about.

As a result of their questioning you did you at any stage alter anything that you had written?-----
No.

For how long did you continue to write?----- (25
I think between three weeks and a month.

And then what happened to the statement when you'd finished it?----The police took it.

Did you see it again?----Yes.

How long after the police took it away did (30
you see it for the first time?----A short while.

And what happened when they brought it back?

-----They/.....

----They said I must sign it, and then they - I signed it and then they took it away again.

Did you read it before you signed it?----Yes.

In what way, if at all, was it different from the written one that you'd handed to them?-----It was (5 still the same. Everything in there was still the same as I had written it.

The one that you had written was in your own handwriting?----Yes.

The one that was brought to you was it still (10 the written one or was it a typewritten one?-----A typed one.

Did you have an opportunity of comparing the written one with the typed one, or was only the typed one placed before you?----I didn't compare it. (15

So that only the typed one was placed before you?----They gave me the typed one.

That was taken away by the police?----Yes.

Have you seen any copy of it since it was then taken away?----Yes. (20

When?----I think it was three or four weeks after I had seen it.

How what month would that have been?----I think in July.

Of this year?----This year, yes. (25

You were taken into custody in August of 1963. You made a written statement which took about three weeks? ----Yes.

And some while afterwards they brought back the typewritten statement; which was in what month approximately?----(Mr. Unterhalter adds) (30

Then you signed the typewritten statement in

what/.....

what month was it approximately?----I think sometime between the end of August and the beginning of September.

Now after that date when did you next see your statement?----I remember seeing it again this month that has passed, July. (5

Not before that?----I don't remember seeing it before that.

Is that because you have got a bad memory, or in fact was it not shown to you?----I'm not getting your question too well; repeat it again? (10

The same difficulty in understanding me?-----
No, I am asking you to repeat your question.

I am asking you is it that you have a bad memory or that in fact the statement was not shown to you from the time you signed it until July of this year?-----I (15
don't think that is it.

Well, can you say positively that the statement was not shown to you from the time that you signed it until July of this year?----As I say I don't remember too well.

Well I am giving you an opportunity to think (20
about it, and, subject to his Worship's leave, you may have as long a time as is necessary.

THE COURT: The witness has now been standing for two minutes.

MR. UNTERHALTER: Are you now in a position to answer (25
my question?-----Yes.

Will you please do so.-----We discussed this statement of mine before the Ladysmith case started, I think round about the time I was in Ladysmith. Round about the time the case started. (30

Who discussed it?--- Myself and the prosecutor.
Nobody else?----- (Mr. Unterhalter adds) Did

nobody/. . . .

nobody else discuss it with you?----No.

Not once with the police in the police station at Ladysmith, were you looking at the statement, just about the time of the Ladysmith trial?----No, I did not look at the statement when I was in the charge office. (5

You don't remember the Advocate, Mr. Thirion, and Mr. Buys coming in to see you there?-----I remember them coming in but we were not at the charge office.

Weren't you looking at some documents when they came in?----No. (10

Well what were you doing when they came in?-----I was standing.

Were you surrounded by some police?-----I think there were police that were there but not that they surrounded me. (15

And was there no paper in front of you at that time?----There were papers on the table.

Not your statement?----As far as I remember it was not my statement.

As far as you remember? You can't be definite (20 about it to say it wasn't your statement. ----- (INTERPRETER: What is your question?)

Are you definite that it wasn't your statement? -----As far as I'm concerned I say it was not my statement.

Now why did it take you so long to reply to (25 this earlier question of mine as to whether you'd seen the statement between your having given it to the police in July of this year?---- As far as I remember you are the one who said you would give me as much time as I wanted to.

Why was it necessary for me to give you any (30 time at all?----I did not tell you to give me any time.

Well you were not able to answer the question when/.....

when I put it to you originally.----How did you know that I was unable to answer the question?

Because I waited for the answer, and it wasn't forthcoming?-----I did not say that I was not going to answer the question. (5)

I said that subject to his Worship's leave you can have as much time as you like, and you didn't say to me: "Mr. Unterhalter it is not necessary to give me any time, I am in a position to answer the question and I shall do so now."-----You are the one that thought for me; (10) it wasn't I.

Well my learned junior has recorded, and his Worship will check me on this if I am wrong, that the reply was that you can't remember?----If I am not mistaken I think my answer was that I think I could not remember. (15)

Now what is it that has suddenly brought it back to you if you couldn't remember it then?-----I thought you meant having the statement with me in my possession, not discussing it.

You really misunderstand my question so (20) radically, do you?----In what way?

Am I not speaking clearly?-----Yes, you are speaking.

Is my language too difficult?----I have said to you that my knowledge of English only comes up to (25) a certain standard, and the interpreter also helps me: but sometimes if I still don't understand then I ask you to repeat it.

Have you any difficulty about the way my language is being interpreted to you?----Yes. (30)

What, in particular, is the difficulty about the interpretation?-----Well sometimes when the interpreter has/.....

has interpreted to me and I haven't understood the question, then I ask for the question to be repeated. When the question is repeated then I understand it.

Now are you saying that before the Ladysmith trial your statement was gone through with you?----I (5 discussed it with the prosecutor.

Was it read to you?----I don't remember any more but I know we discussed it.

And was your memory refreshed by this discussion? ----I would say that I was still remembering the things (10 that I had written down.

Please answer the question. It is a simple one, and the answer is yes or no. Was your memory refreshed by the discussion?----I did remember all along.

Mr. Mtshali, I am going to ask you that (15 again. You have a habit not of answering my question, but of paraphrasing it and going around it. I want a direct answer to this question please.

Was your memory refreshed by this discussion? ----I had been remembering all the time. (20

Do you say your memory was not refreshed by this discussion?----I had not forgotten.

Do you say that your memory was not refreshed by this discussion?----Our discussion was the same, because I had been remembering all along. (25

So as far as you are concerned, if the prosecutor had not discussed the statement with you it would have made no difference, your memory would have been just as perfect? ----Yes.

And thereafter, having discussed the state- (30 ment with you, you gave evidence at the Ladysmith trial?----- Yes, I say so.

And/.....

And did you see your statement after the Lady-smith trial?----Yes.

Where did you see it?----At Wentworth.

And when did you see it?----I think in July this year. (5

Who brought it to you?----We were discussing it, myself and the prosecutor.

Was it left with you?----I read it for a while.

Was it left with you? Mr. Mtshali, please, it is a simple answer, it either was or it wasn't?----I (10
want to know what do you mean when you say it was left with me because it was not at my home, it was at Wentworth.

I want to know if the statement was left in your possession?---Do you mean that it stayed with me?

It remained with you, yes, left with you. (15
Remained with you, Stayed with you.----No, it did not stay with me. If I understand your question correctly.

It was in your possession for a short time then?
-----Yes.

For how long?----- I didn't look at the time (20
to see....(Mr. Unterhalter intervenes)

Well, half an hour? Two hours; five minutes?
-----As I say I didn't look at the time, but I think it
could be more than half an hour.

Yes, at the beginning of July did this happen? (25
----I would say so if I am not making a mistake.

And in that half hour were you able to read the
whole statement through?--- I didn't say in a half-an-hour.

Well let me put it to you another way. Did you
read the whole statement through?----Yes. (30

Did it refresh your memory?----Yes.

This time you needed it to help you remember?

----/.....

-----Not so much.

But you needed it more than for the Ladysmith trial?-----I want you to explain that. What do you mean when you say "more than at the Ladysmith trial"?

Well you have told his Worship that as far as (5 you are concerned, when you were approached before the Ladysmith trial you didn't really need the statement to assist your memory. Your present answer seems to suggest that in July the reading of your statement was assisting your memory. There is, therefore, a difference between (10 your situation today and your situation before the Ladysmith trial. Do you understand now what I am putting to you?---- Yes, I understand.

Will you now please reply?-----As I said I didn't require it so much. (15

When?----This now, in July.

So as far as you are concerned, is his Worship to understand that even if you didn't go through the statement your memory would still be as good as when you wrote out your statement?-----I would have remembered the meetings.(20

And you would have remembered the dates?---- As far as the dates are concerned, I said that even when I made the statement I didn't remember all the dates of the meetings.

And you would have remembered all the places?(25 ----Yes.

And the people present?----Yes.

And what was discussed?----I said so in the beginning that I didn't remember everything that was talked about at all the meetings. (30

And you would have remembered this, even though some of the meetings are nearly 18 months ago?-----

Yes./.....

Yes.

In addition to reading the statement you had a discussion with the prosecutor?----Yes.

What was the general discussion about?-----
About this case. (5)

You were asked various questions arising from your statement?----Yes.

You probably gave certain explanations of your statement?----Repeat your question?

You probably gave certain explanations of your(10
statement?----Yes.

And this also assisted you to remember what you had written?----No.

It didn't?----No.

Did it hinder you, or did it not make any (15
difference?----That didn't make any difference.

I want to put it to you that anyone who discusses a statement that is made long ago is helped to remember it by the very fact of discussing it with someone else?----

(Mr. Unterhalter adds) (20)

What do you say to that?----Some, not me.

It didn't help you?----No.

This, I take it, because you have this remarkable memory that doesn't require much assistance?----
I don't know whether you are asking me or telling me? (25)

I am asking you.----Well then ask your question in a way that it is a question.

Mr. Mtshali, you will be kind enough not to give me instructions as to the way I put my questions to you. There is a question on record, and I should like (30
a reply please.----Well I would like you then to repeat your question.

Don't/. . . .

Don't you understand it?----No, I didn't understand it.

What is the difficulty about it?----I didn't understand it; I want you to repeat it?

Well I shall in due course submit to his (5
Worship that the form of my questions has been perfectly
intelligible, and that there is no reason why you shouldn't
be able to answer them without my repeating them, and I
shall make the submission that in resorting to this tactic
you are playing for time in order to frame an answer to (10
my question. Now before I put my question again, do you
want to comment on what I have just said to you?-----I
say it is not so.

Now the question that I put, and I would be
grateful to you if you would listen to it carefully, is the (15
following? I take it that you are not assisted by a
discussion of your statement with the prosecutor because
you have got a perfect memory and you don't need such
assistance.

THE COURT: Mr. Unterhalter, the last time you put the (20
question you said "because you have a good memory". Now
you said "because you have a perfect memory."

MR. UNTERHALTER: Well, it doesn't make any difference...
(The Court intervenes)

THE COURT: It does make a difference; there is a difference (25
between a good memory and a perfect memory.

FURTHER DISCUSSION ENSUES:

MR. UNTERHALTER: I should like to rephrase the question
slightly, your Worship, so he now has an opportunity....
(Court intervenes and further discussion ensues.) (30

MR. UNTERHALTER: I want to say "remarkably good".-----
What I do remember I do, and what I don't, I don't: as I
have/.....

have said before.

As far as you are concerned it would have been quite unnecessary for the prosecutor to have discussed the case with you?

THE COURT: From the point of view of his memory? I (5
think you had better put it to him this way. "From the point of view of your memory it would have been unnecessary..."

MR. UNTERHALTER: From the point of view of you as a witness and your memory as a witness it would have been quite unnecessary for the prosecutor to go over your statement (10 with you?-----As I have said before it did help me but not so much.

THE WITNESS STANDS DOWN:

THE ACCUSED IS REMANDED TO 6.8.1964:

THE COURT ADJOURNS: (15

ON 6.8.1964 THE COURT RESUMES:

APPEARANCES AS BEFORE:

STEPHEN MTSHALI: (sworn, states)

MR. UNTERHALTER RESUMES CROSS-EXAMINATION: (20

Yesterday I was questioning you as to the reasons for you making a statement to the police when you had been taken into 90-day detention?-----Yes.

Among the reasons you gave was one to the effect that the African National Congress was Communist, (25 or controlled by Communists - I have forgotten your exact words.-- What was the position in regard to your criticising the A.N.C. and Communism? Just put it exactly because I may not have put it to you correctly?
-----The Communists had come into the African National (30 Congress. I could say they started with the National Executive. The whole National Executive was controlled

by/.....

by the Communists. In the Ad Hoc Committee we had Communists. There were some who were Communists and a few that were not Communists. It was the aim of the Communists also to control the African National Congress right down to the branches. (5

And did you not approve of this?----Yes.

Well what does yes mean? That you did not approve, or that you did approve?----I did not approve.

Why did you not approve?----I didn't agree with it because there was no agreement amongst the (10 African National Congress. It was this division was created through the African National Congress and the Communists.

What division?----Well the agreement that existed between the African National Congress. The disagreement (15 between the members of the African National Congress was created by the Communists.

I take it that for some years you have been interested in the welfare of African people?----Yes.

And your political thinking is affected (20 by what you consider are discriminatory laws?----Just repeat your question again?

Your political thinking is affected by what you consider are discriminatory laws operating in the Republic?----(After long interpretation Mr. Unterhalter (25 intervenes)

Don't you understand my question?----(INTERPRETER: No, he is not understanding me either. Can you put it a different way?)

THE COURT: The question which was put was, your political (30 thinking is affected by what you consider discriminatory laws in a Republic. Put it to him again Mr. Interpreter,

----/.....

-----Can you put the question in another form because I am not getting the question so that I understand it?

MR. UNTERHALTER: You are opposed, as an African, to the pass laws?-----Yes.

You are opposed to the law that doesn't (5
allow Trade Unions to be recognised, if they are African ones, under the Industrial Conciliation Act?----(Court intervenes)

THE COURT: "...to be recognised under...."?

MR. UNTERHALTER: The Industrial Conciliation Act.----- (10
Yes.

And to join organisations that were opposed to laws such as the ones I have cited to you?-----Yes.

And one of such organisations was the African National Congress?-----Yes. (15

That was for you, I take it, an important organisation in trying to get freedom for the African people as you saw it?-----Yes.

And you didn't want that organisation to be divided among itself, against itself; one part against (20
the other?-----Yes.

And as far as you could see the Communist influence was causing such a division?-----Yes.

And that is why you were against the Communist influence?-----Yes. (25

Does that mean that you are not a Communist yourself?-----No.

And have you not ever....(Court intervenes)

THE COURT: Just a minute. What does your answer mean? You said "No," Does it mean it doesn't mean that you (30
are a Communist, or does it mean that it does mean that you are a Communist?-----I am a Communist.

MR./....

MR. UNTERHALTER: And at the time before you were taken into custody were you also a Communist?-----Yes.

A member of the Communist Party, working underground?-----Yes.

And giving your time and energies to the Communist Party?-----There was very little work of the Communist Party that I did. Not much. (5

You did a little, though?-----Yes.

And you were a member of the Communist Party because you believed in its policy?-----Yes. (10

And I take it, as all good party members are, you were loyal to the leadership of the Communist Party?-----
(Court intervenes)

THE COURT: Just repeat your question?

MR. UNTERHALTER: I take it, as all good Party members are, (15
you were loyal to the leadership of the Communist Party?
-----No, I wasn't in agreement with everything.

What did you disagree with?-----There is something that was written in the document of the Communist Party. It said all members of the Communist Party it is (20
advisable for them to go into the African National Congress and to get all the positions in the African National Congress, and to get all the positions in the African National Congress and also get other Communists into the positions of the African National Congress. (25

When did you first see this instruction?-----
I don't remember the time any more, but I think I was already a member of the Ad Hoc Committee.

What month would it be?-----I don't remember the month any more, but it was in 1963. (30

Well did you take any steps to alter this decision of the Communist Party?----- (COURT INTERVENES)

THE/.....

THE COURT: This decision? Did he say "decision"?

MR. UNTERHALTER: Or this instruction of the Communist Party?-----No.

Why not?----I didn't think that my not agreeing with it would assist in any way to change it. (5

Did you take steps to warn the various bodies of the African National Congress of this infiltration by Communists?----I did place that division at the one meeting of the Ad Hoc Committee of the African National Congress, but I didn't say that it was created by the (10 Communists.

What division did you refer to at that meeting? The division that there was between the South African Congress of Trade Unions, and the African National Congress.

Did you know other members of the Communist (15 Party?----Yes.

Did you see them come on to committees of the African National Congress?-----They were on the committees of the African National Congress.

In fairly senior positions?----Yes. (20

Well what did you do about getting them off? ----I didn't do anything to get them off.

Well if you were opposed to this infiltration, why didn't you do anything? ----I had no authority to remove them. (25

But you were disturbed about this?-----Yes, it was something that disturbed me.

Couldn't you start a debate on the subject to see that things were changed?----I did not think of that.

You didn't think that you ought perhaps to (30 resign from the African National Congress Committees, if there were now Communists operating there?----No.

So/.....

So you continued to co-operated with the Communists who were working with you on the committees of the African National Congress?----Yes.

And, not having done anything to get rid of the Communists, and not having yourself resigned, you (5 still thought that this was a good reason for you to inform when you were detained?----Inform who?

The police about the A.N.C.?-----Yes.

Isn't it a rather involved reason that you are giving?-----(The Court intervenes) (20

THE COURT: An involved reason for what Mr. Unterhalter?

MR. UNTERHALTER: Isn't it an involved reason that you are giving to explain your statement to the police about the African National Congress when you were taken into detention? ----Can you give me another word for the word "involved"(15 -I'm having difficulty with the word "involved."

Is it really a genuine reason that you are advancing, this reason?-----Yes.

Even though you yourself were a Communist?---- Yes. (20

As a Communist I take it that you met with other Communists?----Yes.

I take it that you met with other members of the Congress Alliance?----When you say I met with other members of the Congress Alliance, do you mean that (25 perhaps at a meeting or how?

No, just generally, anywhere?----No.

You know what the Congress Alliance means: don't you?---- I would say yes I know.

It's that body that consisted of the (30 African National Congress, the South African Indian Congress, the South African Congress of Trade Unions, the

Congress/.

Congress of Democrats, and the South African Coloured Peoples' Organisation: is that correct?----Yes, as far as I know, that is so.

And from time to time you met with people who were members of those bodies?-----I used to meet (5
people who were members of the Natal Indian Congress.

Well let's take a name at random. In this trial there has been mention of the name, one "Naicker".
----Who is Naicker?

Have you never met anybody by that name?----- (10
There are many Naickers.

The one I am thinking of is a man called "GEORGE NAICKER"?-----Yes.

You have met such a person?----Yes.

Where did you meet him?----I would say at (15
the office of J.N. Singh, if I am not mistaken.

When was it?----If I remember correctly I think it was May last year.

How did you come to meet him?----I was sent by Curnick Ndhlovu, Solomon Mbanjwa and Bruno Ntolo to (20
George Naicker.

Did you know who George Naicker was?----No, I did not know him.

You'd never seen him before?----No.

Where were you when you were sent by (25
these three people to him?----We were at Albert Park in Durban.

Yes, and who spoke to you and asked you to go to George Naicker?----Solomon Mbanjwa and Curnick Ndhlovu. (30

Both of them? ----Yes.

What did Curnick Ndhlovu say?----Curnick

Ndhlovu/....

Ndhlovu gave me a letter which he had written and he told me to go and give it to George Naicker.

What did Solomon Mbanjwa have to do with this?
 ----Solomon Mbanjwa said it would be advisable for me to go and look for some money from George Naicker and to tell (5 him that I had been sent by them. He would then know. George Naicker would then know.

Did you know how much money you had to get?----
 I think I didn't know. I don't remember too well.

Is this memory of yours letting you down now? (10
 ----What I do remember I remember, and what I don't remember I don't remember.

Anyway did you find George Naicker?----First, in the beginning, I did not find him.

Afterwards did you?-----Yes. (15

And what did he do?----What was he doing, or what did he do?

What did he do?----- (Mr. Unterhalter adds)
 George Naicker?----He gave me that money that I wanted. (20

Do you remember how much it was?----I am not sure any more whether it was £25 or £50.

And what did you do with it?----I went back with it to Albert Park.

Yes, and...?----Then I handed it to (25
 Curnick Ndhlovu and Solomon Mbanjwa; they were sitting together with Bruno Mtololo.

Do you remember what time this was?-----Yes.

What time was it?----It was in the day time.

Yes, at what hour approximately? Morning, (30
 afternoon...?----If I remember correctly, and not making a mistake, I think it was going on for 12:00 or perhaps
 half/.....

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