

TREASON TRIAL Memory Tests For Special Branch Men

From Robert Resha
IN spite of the early adjournment last week, to give the Crown and the Defence more time to find ways of shortening the trial, the Crown informed the Special Court on Monday morning that it had not been possible to devise means of shortening the proceedings. Consultations between the Crown and the Defence, however, were still going on.

The Court proceeded in its usual fashion but it has become a monotonous affair. The normal procedure of the Crown is now well known by the accused.

"You are a detective sergeant stationed where? How long have you been attached to the Security Branch of the police? What have you before you? Notes of a meeting held where and on what date? Have you an independent recollection of what happened at that meeting?"

The usual answer by the witness is "NO".

"If you look at your notes and refresh your memory will you be able to tell the Court what happened at that meeting?"

The witness replies in the affirmative to all these questions. The witness is then allowed to refresh his memory and reads from the notes or transcript of the notes.

ACCUSED TIRED

This week the accused looked more tired than ever. Every adjournment for tea, lunch or for the day seemed to be a great relief. On their hard benches they were restless. They sat straight, sideways or leant forward. Gazed absent-mindedly this way and that way. Many have given up listening to what the Crown and some of the witnesses have to say. This week the Court orderlies almost worked overtime going between the accused and members of the Crown team, all along asking them to please speak into the microphone.

There was an argument in Court on the admissibility of certain evidence. Det.-Sgt. Gladwill Ngcai, who is still in the witness box testifying to 22 meetings he attended and took notes of during the period of the indictment, said in regard to a particular meeting that after making a transcript of the report from the notes he took down at the meeting he destroyed the original notes. The Defence contend that where original notes have been wilfully destroyed, the witness cannot be allowed to give evidence on the copy or transcript of such notes as this would be secondary evidence.

Mr. Hoexter (for the Crown) quoted English and American authorities and argued that the witness could use the notes not as evidence but to stimulate his brain. He went on to show that the transcript or notes were used to revive the actual recollection of the witness and that where the witness had no mental image of the happenings, the notes might, because of peculiar features, remind him of what happened.

After some argument between the Crown and the Court as to whether witness Ngcai was in a position without the transcript to remember what happened at this particular meeting, Mr. V. C. Berrange (for the defence) was allowed to cross-examine the witness.

Mr. Berrange: I take it you have attended a number of meetings?—Yes.

Mr. Berrange: It would be almost impossible to remember what was said at these meetings without your notes?—Yes.

If I were to ask you where you were on the 13th December, 1953, you would not remember where you were without looking at your notes?

—It is so.

Mr. Berrange: How long after attending a meeting do you make your transcript?

Sgt. Ngcai: The next morning. It all depends. If the meeting goes out early I make my report the same day but if it is late then I make it the following day.

Mr. Berrange: Mostly the next day. That is 24 hours after the meeting?—Yes.

Mr. Berrange: When you make the report you look at your notes?—Yes.

Mr. Berrange: Some of these meetings take a long time, three to four hours?

Sgt. Ngcai: Yes.

Mr. Berrange: It would be impossible for you to remember what was said unless you looked at your notes?

Sgt. Ngcai: It would be a mix up.

Mr. Berrange: In your report you put the same language that you find in your notes?

Sgt. Ngcai: I actually look at the notes, taking it directly from the notes.

Mr. Berrange: You do not add or delete anything?—No.

Mr. Berrange: If your report was lost or pick-pocketed from you after the meeting would you be able to write the report?

Sgt. Ngcai: I would remember very little to submit a report. I would tell my superiors that I lost my notes.

Mr. Berrange: You reported a meeting which took place on the 13th December, 1953. This meeting took 3½ hours and you wrote the report the next day?—Yes.

Mr. Berrange: You destroyed your notes of this meeting?—Yes. For a certain period we used to destroy our notes but after a certain date we were instructed not to destroy the notes.

Your report is in affidavit form?—Yes.

In your notes you have left gaps and blanks to indicate that there are words left out?—Yes.

Mr. Berrange: In your report to your superiors, you do not indicate words which you did not hear?

Sgt. Ngcai: Yes. I leave out a sentence which is incomplete.

Mr. J. C. van Niekerk (for the Crown) then re-examined Det.-Sgt. Ngcai.

Mr. Van Niekerk: When you make your report the next day would you say your report was correct?

Sgt. Ngcai: You mean if I write my report eh . . . I don't understand your question. If I write a report do you mean that when I write my report do I know what was said yesterday, is that the question?

Mr. Van Niekerk: When you look at your notes the next morning do you remember what was said?

Sgt. Ngcai: Yes. When I look at my notes the next morning I know that this is what has been said.

ADDING AND SUBTRACTING

Mr. Justice Bekker: In reply to a question put to you by the defence, you said in your report you did not add or subtract anything. You also said that where a sentence was unfinished you left it out in your report.

Sgt. Ngcai: That is so My Lord.

Mr. Justice Bekker: When you say that your report is correct you refer to those sentences which you have written in your report?—Yes.

Mr. Justice Bekker then referred the witness to one of his transcripts and said: "Look at the exhibit and tell me whether this is a correct report."

Sgt. Ngcai: I don't know now whether I left out anything.

Mr. Justice Bekker: Can you tell us whether what you have here is what was in your notes or is there anything left out or added?—I am not able to say whether I left a

word out of this report now.

Mr. Van Niekerk: What was the purpose of a report, what was it supposed to convey?

Sgt. Ngcai: The report I make to my office is supposed to be what happened at a particular meeting.

On Monday the defence will argue on the inadmissibility of the transcript in question.

CHANGE OF GOVERNMENT

One of the speeches taken down by Det.-Sgt. Motseki Maselela was a speech by Peter Selepe (one of the accused).

"WE WILL RULE"

Speaking at an African National Congress meeting in Alexandra Township, Johannesburg, on May 4, 1954, Selepe is reported to have said: "As time goes on we will rule the whites. We must unite to fight the enemy. I will fight the Nationalist Government until the last day of my life. We will rule in our lifetime in our country, before Malan dies." At the same meeting, the same speaker is also reported to have said, "The whites must go."

At another meeting held in Alexandra Township on July 4, 1954, another accused, Phineas Nene, is reported by Sgt. Maselela to have said: "It is the aim of the African National Congress to overthrow Malan, and Lutuli to take his place. The ANC is not strong yet. When

WAS MAC'S SPEECH TREASON?

From "Jurist"

TO one who dutifully attends the treason trial in Pretoria every day—Monday to Friday—like an industrious factory worker, the question naturally presents itself: **HOW LONG WOULD IT TAKE TO REHABILITATE THE ACCUSED IF EVER THEY SHOULD BE FREE FROM THIS CASE?** Sorry. Maybe the word rehabilitate is wrong. I mean a change from the mode of life they have been forced to lead since their arrest on December 5, 1956.

For three years they have listened to Crown witnesses give evidence against them and their colleagues; they have listened to legal argument on the definition of treason, in war time and peace time; they have heard hundreds of authorities quoted by the Crown and defence teams and they have listened to cross-examination of witnesses. If they were at a university perhaps all would have qualified by now and would meet the world better equipped than most other students.

SEA LAWYERS

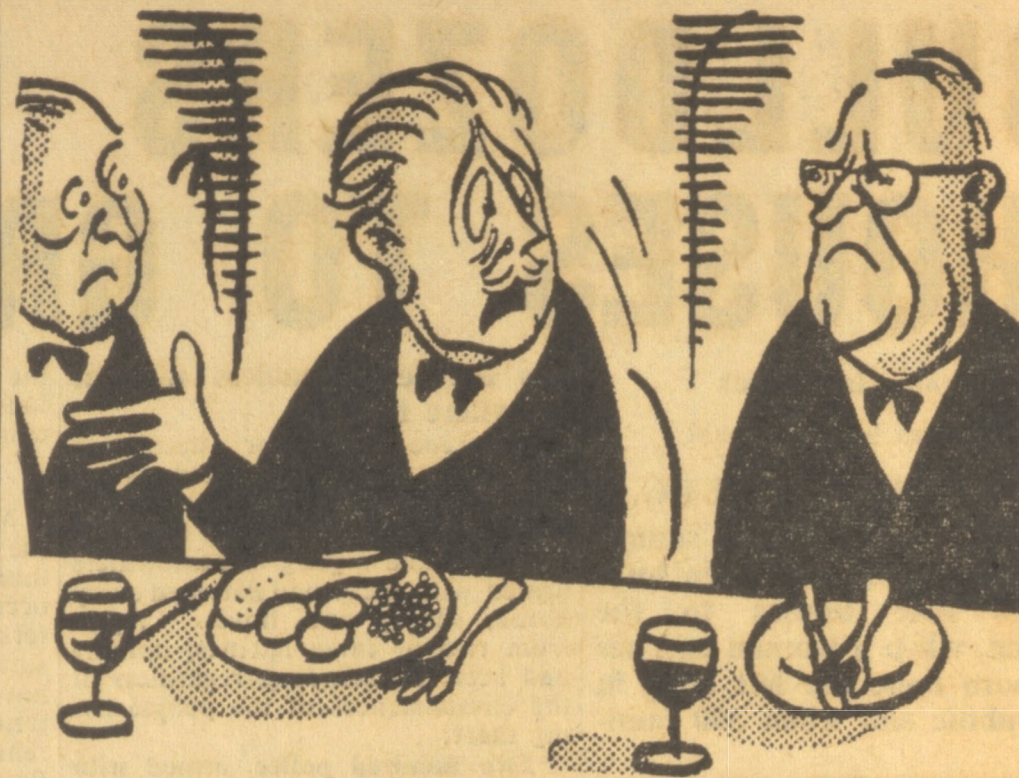
It may well be that some of the accused will, if and when they are free, take up law, provided of course, the opportunities are there and that "Old Man Age" does not catch up with them as he has more often than not robbed many a man of his chance in life.

What some of the accused have listened to during this period has occupied quite a sizeable part of their vocabulary. You just have to travel with them to and from Pretoria, be among them at tea intervals or during lunch adjournments to get to know how much legal language is freely and effortlessly spoken.

Let one refer to a discussion that took place somewhere and the question is put by one of the listeners: *Have you an independent recollection of what happened?* Without any hesitation the speaker will reply: *I have a mental image.*

The other day one accused was quarrelling with another for having failed to fulfil an appointment. After telling the other how disgusted

MacAlice in Verwonderland



"No, no, it's not a boycott—I'm just not hungry, I tell you."

it is, it will take over the Government. We have not yet received instructions from headquarters for volunteers but that day will come."

MEETING OF TEMPERANCE ASSOCIATION?

In one of the meetings held in Newclare, Johannesburg, which Det.-Sgt. Gladwill Ngcai is testifying to, he read something to this effect . . . "My fathers I am appealing to you not to go to the beer hall."

Mr. Justice Bekker: What is this, a meeting of the Temperance Association?

Mr. Van Niekerk (for the Crown): No My Lord, it's about the boycott of the beer hall.

Mr. Justice Bekker: What's that got to do with the issues in this case?

Mr. Van Niekerk: My Lord, Eh . . . Eh . . .

Mr. Justice Rumpff: Carry on Mr. Van Niekerk.

he was, he went on to question his friend.

Questioner: You kept me waiting there for hours before I could decide to go, only to find these people gone. What the hell, why did you fail to keep our appointment?

Answer: I'm sorry man, I just could not make it. I'm really sorry.

Q. Really sorry. It's just an excuse. It's not the first time you have failed.

A. That may be so. But does that carry your case any further?

Q. Well, I am still laying a foundation.

A. O.K. carry on.

Q. As Your Lordship pleases.

GALLOP GALLOWS

It was Monday lunch time. "What is the latest about Gallop Gallows?" came a question from one of the accused as he seated himself on the lawn munching.

The other: Where did that take place?

Accused three: What is the exhibit number? Is the organisation alleged to be responsible for that mentioned in the indictment?

Accused four: Are you refreshing your memory from your original notes or transcript?

The man who spoke about Gallop Gallows then re-entered the discussion. "What is this you chaps are talking about. All I want to know is what is the latest? My submission is that I am entitled to ask this question."

Accused two: Your question is vague, embarrassing and bad in law.

Accused four: Are you applying for further particulars?

After the accused had spoken in these unfamiliar terms outside a court of law, it transpired that the questioner wanted to know what suggestions have been made to shorten the treason trial. Still that did not satisfy accused number two. Later he came back to the issue.

"Will the Crown educate the Court as to what is meant by Gallop Gallows?"

Accused three: I would be grateful, My Lords, I am a layman, I do not know what this means.

But this argument was interrupted by some one who came with something entirely different.

One day a visitor of the accused who listened to a discussion by a few accused was stunned and flabbergasted.

Accused one, having taken a handsome bite of a sweet juicy watermelon, asked his colleague: "What do you think of Macmillan's speech?"

Accused two: My submission is that his speech is a treasonable speech.

Accused one: What makes you say that?

Accused two: To criticise apartheid is a treasonable act.

Accused one: What has that got to do with the speech of Macmillan?

Accused two: My submission is that Mr. Macmillan's speech should not be taken in isolation. I will go on to show later there is a conspiracy. Macmillan and Nokwe have entered into this conspiracy and Chief Lutuli is a co-conspirator.

"The second point is that what Macmillan is advocating is not merely going to be implemented in a hundred years, it is being implemented now in some countries which are under British rule in the continent of Africa."

Hesitatingly, the visitor wanted to know why this man thought Macmillan's speech was treasonable, only to learn that the accused were joking.

Metal Workers Call Conference

JOHANNESBURG

African metal workers will hold a conference this Sunday, February 21, to adopt a Charter of Workers' Rights. The conference will be held at the Trades Hall, 30, Kerk Street, Johannesburg, from nine in the morning until five p.m.

All metal workers are urged to attend.

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