

Let me put it this way - under suitable conditions.

Now, do you remember expressing similar views Mr. Gay, at meetings of this Committee, when it was suggested that you cannot go about killing people because they gave evidence in a trial? Did you take up the attitude that how did you expect to bring about conditions for a successful civil war?---For this reason I questioned sabotage. My point of view was that without mass support, only under mass support could one embark upon anything else. Without that, sabotage in itself, would achieve nothing. 10

Try and answer my question Mr. Gay - did you at meetings of this committee, suggest that if your co-members on this committee were so timid as not to be prepared to go about killing people who may have given in a case, conditions would not have been brought about suitable for a civil war?---I do not quite understand the question - please?

Did you at any meeting of the committee that you call the National High Command, suggest that conditions favourable to a successful civil war, were not likely 20 to come about, if the others on that committee with you were so timid as not to want to kill people that may have given evidence in cases?---No, I never made any such suggestion, as to the timidity of my colleagues.

Well, you are subscribing to this Chinese ideology?

COURT points out to Mr. Bizos that he understood the evidence to be that it was a unanimous decision to eliminate. Mr. Bizos explains that he is putting to the witness that there was no decision on this. 30

BY THE COURT TO WITNESS: Am I correct, or am I wrong?---

My lord that is the position - I agreed with the principle. I made a strong recommendation that we refer it to higher authority.

Yes?---There was the question of the Indian, I did not argue against it. I think I nodded an approval in favour of it, but it was subsequent to that, that I sought to leave the High Command. But may I say, on the question of the China/Soviet dispute, this was not discussed formally and lengthily, but it was discussed at private level essentially. I had the support of Ac- 10
cused No. 2.

CROSS-EXAMINATION BY MR. BIZOS (CONTINUED):

Well, if I understood Accused No. 2 correctly, it is going to be the opposite, that you were with his term - that you were supporting the Chinese ideology and that he was not - but let us take it one step further Mr. Gay - is it not correct that it would have been completely in line with your ideology that there should be no half measures?---In keeping with my concept of Mar- 20
xism, any action must be preceded by a thorough analysis of the situation. The strength of the support. I do not know whether the Court wishes me to elaborate.

BY THE COURT TO WITNESS: Yes, but you are at cross-
purposes - he is asking you about the decision to eliminate?
---My lord, I think the concept of my philosophy is
misunderstood by....

CROSS-EXAMINATION BY MR. BIZOS (CONTINUED):

Well, I did not want to bore his lordship with a theoretical exposition of the Chinese dispute. I am sure that his lordship is not interested in the full 30
implications, I certainly am not, but you have agreed that

it is a more militant approach?---Yes.

It is enough for my purposes. Now, would it not have been completely in accordance with your attitude, or your approach to Marxism, that there should be no half measures - if people were traitors, they must be killed?---In principle perhaps, but when one is involved from the inside, theory and practice do not always coincide.

Now, I just want to return to one other question - you have already told us that you understood 10 that these questions of policy, had to be referred to the political organisations?---No, the position as I understood it, was that we, the High Command, were subject to a political leadership.

Yes, and that you understood right through your association with Umkonto We Ziswe?---Yes, we could not, for example, embark upon guerilla warfare without approval of the political leadership.

Or loss of life for that matter?---In terms of the word autonomous, as used by Accused No. 2 introducing the first meeting, this was possible. 20

Now, when there was talk of this on this committee, and the evidence if need be, will be that you initiated the discussion that how can you have a successful revolution when you have ^{people} in Pretoria giving the whole game away?---Allow me to say again, that at the first meeting Accused No. 2 raised the question of informers.

Not you - alright. In this connection, the political organisations had not been consulted, before there was a decision to change the policy of Umkonto in 30 regard to loss of life?---Please repeat that?

According to you there was a decision to change M.K.'s policy in regard to loss of life, before consulting the political organisations?---There was a decision in principle.

Now, why did you make yourself a party to that decision? Were you not being disloyal to your Communist Party?---No, it was considered a favourable policy by the other three. From my historical context I agreed with this. Being involved in it one has reservations, but I made the strong recommendation that it be considered to higher authority. From what Accused No. 2 said, this was not necessarily the case, 10

But now, look, you had been a member of the Communist Party, and you still were?---Indeed.

You knew, presumably, that the Central Committee is the governing body of the Communist Party? ---Indeed.

You have already told us that it is kept a secret amongst people in M.K., who is a Communist and who is not? Correct?---I do not think I said that, but that is the position that one.... 20

I am sorry, you are quite correct - I think it was another witness, but that is a correct statement. Now, what one would have expected, if your evidence is correct Mr. Gay, to do, is that you would have said as soon as this question was raised, "I must make contact with the higher up in the Communist Party, and find out whether this is now good policy or not"?---It was not for me to make contact. My contact was through Accused No. 2, 30

Yes, but that was in the M.K., that was not

in the Communist Party?---At this time, I was attached to no formal cell. This is the question which I sought to raise, that I should be given the opportunity of discussing basic party policy.

Yes, but you could still, as a member of the Communist Party, do you say that it was impossible for you to get in touch with the higher ups?---I got in touch with them through No. 2.

Well, was this the position then at this meeting - what are we discussing this question for? Can we make up our mind about matters of this nature? Is it not a matter for the political organisations?---That was my point of view, but if I take No. 2's statement literally, that was not the case. This reference to an autonomous body. 10

Well, did you during the course of this discussion ask No. 2 but when/^{has}there been a change that we can make decisions of this nature on our own?---I did not raise that question.

Why not?---I raised it in the sense of making a strong recommendation that this matter be referred to a higher body. 20

Yes, but you see the two are inconsistent. Mr. Gay, a man of your intelligence, are we to believe that you agreed that murder should be committed, and merely coupled with that, a recommendation that it should be referred to the political organisations?---This was the stage to which matters had borne in M.K.

Now, if I understood your evidence in chief correctly, and the answers given to my learned friend, you learnt later that is at a subsequent meeting, that 30

the decisions of the National High Command were subject to the approval of the political organisations?---I do not understand this.

You did not understand that - very well, if it is there, it is there.--May I just say that I am not aware of this. It would have been the duty of No. 2 as chairman, as it were, there was no formal appointment, it would have been his duty to refer to the political leadership from time to time, and say this is what we are doing, this is what we are doing.

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Officially, you did not know whether No. 2 was a Communist or not?---I have already referred to an application that was put to me by John Gizelle for membership of the Communist Party, which I passed on to Accused No. 2.

That was only an inference, that he was a Communist?---Allow me just to say what Accused No. 2 said.

Yes?---This was an occasion when I had been picked up at Kirchoff's Seed Store in town, and we were proceeding to pick up the other two. It was on this occasion that I passed this request on, and I said to Accused No. 2 I am not recommending John Gizelle, but I am passing on his request, to which Mr. Kitson replied, in words to the effect "We cannot be fussy at this stage. We do not have many applications at all".

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Now, were you prepared to agree that murder be committed without direct and specific reference to your political organisation, to whom you were looking for political guidance?---In view of the statement Talms(?) body, let me repeat, I do not think it is necessary, I made a strong recommendation, but in our organisation we

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observed the rule that the majority decision holds, and even if I had put my foot down on that question, it was not raised by the other three members - this reference to political leadership, and it would have passed. Either then, if that happened, I should have left or subscribed to the view.

You did not think that you were wasting your time with M.K. did you Mr. Gay?---At times I had reservations about what we were doing.

But you did not think that you were Wasting 10 your time? You took your duties seriously?---I did.

Now, there is another question I want to put to you at this stage Mr. Gay - as you are standing there now, what do you think will happen to you if you depart in any material respect from the evidence that you have already given?---I shall be subject to severe punishment, and possibly the worst.

Namely?---Partly why I am standing where I am today, that I was afraid of this.

I will repeat my question - what do you 20 think will happen to you if you depart from your evidence in any material respect?---Well, I am at the mercy of the Court.

What is the worst that you fear?---In view of the fact that I was a party to a number of serious decisions.

Yes?---The consequences could be very serious.

What do you think the consequences will be?
---They could be as much as a life sentence, or even a sentence of death.

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Has this been made clear to you by anybody?

---It has not, but I know what went on, in the organisation.

Yes?---And I know that the Rivonia accused received a life sentence. I know that a second High Command was set up, disregarding as it were, the life sentence that was passed in the Rivonia trial.

Yes?---So we can hardly expect anything less than a life sentence.

So, you have given evidence, in your view, literally for your life?---Yes, and I have other reasons.

Now, since you have given evidence for 10 your life, I do not think that you are going to change any portion of your evidence, however hard you may be pressed?---I would change evidence where I am seriously convinced that I have omitted to tell the Court something, or I have made an error which I sincerely believe -- sorry, or in cases where, having made a statement which was queried, and if I acknowledge the incorrectness of it, I will be prepared to say so.

Now, you I am putting to you Mr. Gay, have in front of your eyes a typewritten statement, have 20 you?---No.

Not literally - is that not so?---A type written statement.

A typewritten?---As to the evidence that I created to the Court?

Yes?---Certainly not. I have been in detention for five months, and I have had ample time to think of my contribution and the contribution of others.

And even where the prosecutor tried to stop you from uttering a number of things, you decided that 30 you had to come out with it?---In the course of trying to

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establish a question, yes. I might have been wrong on this question, and it is a matter of procedure, but for example, you raised the question should everybody not know about an informer. I sought to tell you that this was not necessarily the case, and I raised other matters to try and confirm this. Perhaps I should not have done so, I am not aware.

In order that you may save your liberty, you have thrown overboard, have you not, the unofficial, to say the least, oath of loyalty to the Accused?---Yes, 10 this could be regarded as a disloyal act. It could be.

And I notice that originally you did not take the oath, you affirmed?---Yes, on the grounds of a question and the belief of God.

I beg your pardon?---For the simple reason that I did not want to bring God into my oath, because I am an atheist.

And you broke this oath to the accused, in order that you may achieve your liberty?

BY THE COURT TO MR. BIZOS: Are you now wrapping him ac- 30
ross the knuckles for what he is doing, or are you cross-
examining on evidence that he has given?---On the possible
motives. (Further discussion ensues).

MR. BIZOS: I was going to put my lord, in my next
question, that if he was prepared to break his oath of
loyalty to the accused to in order to save his liberty,
he might similarly not have told your lordship the whole
truth.

CROSS-EXAMINATION BY MR. BIZOS (CONTINUED):

Did you hear the question Mr. Gay?---I 30
understand the logical argument.

What is the answer?---What I have said in this witness box is the truth, I am aware of certain omissions, I can bring them to the attention of the Court, if the Court so desires.

Now, you see, on this one question for instance, the five months of detention might have persuaded you to the correctness of things that were not correct Mr. Gay - on this question that Accused No. 3 reported the death of an Indian informer, you are absolutely convinced of its truth?---The report came. Whether the act was committed, I am not aware of this. 10

I beg your pardon?---The report was made. Whether the act was committed, only No. 3 will know the details.

Well, I am putting to you that this question of the only Indian found murdered in Johannesburg during January, 1964, was the subject of an inquiry in a Court of Law?---I put the date at about January.

And the information that you have given to the police, led them to believe that you were talking about the death of one Gangat. Not to be confused my lord, with a similar name on the record as Ganga. The accused were interrogated about this, presumably on your statement to them. Now, in case No. G.276 of 1964, the circumstances of the death of this man were investigated by a Court, and four persons found to be involved in gangsterism, were convicted for his death. Does that shake perhaps the confidence of your statement that a report was made?---I have told this Court the information which was brought to the High Command. I can say nothing else in connection therewith. The information was brought, and I 20 30

brought it to the attention of the Court, what was said.

I am going to tell you something else, perhaps to see whether anyone can shake a faith in yourself - that there was a trial in this Court of a number of persons, where the State contended that the deceased in that case that was in this very Court, were killed because the other persons, the accused in that case, were responsible for the death of two persons who were suspected of the murder of Gangat? Have you got the picture?---I am not quite sure of the picture. 10

Well, I can simplify it very simple - that there was a case in this Court where the prosecution contended ^{the} that/ motive of a murder that the Court was trying, was the death of Gangat? And that the motive was in order to square off in gangster warfare - does that shake the confidence that you have in yourself, that Accused No. 3 reported this?---No, not at all. Accused No. 3 made a report which I brought to the attention of the Court.

Now, the other question that I want to take up with you, is the question of the units being armed? 20
---Yes.

Do you say that there was a decision that they should be armed?---A decision was taken to the effect that M.K. groups should endeavour to arm themselves.

Do you know whether that was ever communicated to the groups?---I do not know. I do not see no reason why our decisions were not, any decisions were not.

Now, was that decision taken during the end of 1963, or the beginning of 1964?---Prior to mid-April at a meeting in my home. 30

1964?---Prior to mid-April, 1964, at a

meeting in my home. I can classify meetings in a number of ways. I do not remember which details were discussed when.

I just wanted the month and the year?---
Prior to that.

Now, did that question, or rather, was that question referred to the political organisations?---Not to my knowledge.

Would that not have been a change in policy?
---Yes, indeed because I understood that M.K. groups were 10 never armed before.

Should not that have been referred to the political organisations?---I have no doubt that a report was made to the effect that this decision had been taken. If indeed the reverse did not take place, in the sense that the political leaderships made certain suggestions to Accused No. 2, if I am not aware of this. I suspect that procedure may have been adopted.

But now, did you not consider yourself merely a functionary and not a policy maker?---Myself? 20

Yes?---No, together with the other three members of the National High Command, I was a policy maker.

WITNESS: In the sense that the original directive from Accused No. 2 that we constitute an autonomous body, get on with the job as best you can.

Yes, but you have already told us that very shortly after Accused No. 2 told you this, it became quite clear to you that that was not so?---In terms of the directive relating to informers and the Rivonia accused.

Your own words were that "I later learnt 30 that that was not so. We were subject to what Accused No. 2

called the political authority."---In the sense that this specific directive had been brought do not proceed with this case of informers, lest the chances of the Rivonia accused are prejudiced.

But we are now talking about another matter? ---All I am trying to point out is that the political leadership by virtue of their overriding authority, could counter-act our suggestions, our decisions.

Have you any recollection of either Accused No. 1 or Accused No. 2, or anyone else, coming and saying 10 that this question that M.K. units should arm themselves was discussed by the political organisations?---No.

^{if}
Would not/what you told us up to now is correct, would one not have expected some sort of query by one or other of you, but what do the political organisations say about this?---Mr. Kitson raised this question, the decision was made, I take it that was referred to the political leadership. They would not let us proceed without some liaison.

But surely, you considered yourself a 20 policy maker subject to the political guidance of some other body, would you not have enquired Mr. Gay "But what do the political bodies say about this?"---I did not on that occasion. I did not raise the question.

Nor on the prior occasion in regard to informers?---I made a strong suggestion that a certain decision be referred to higher authority.

I am again putting to you Mr. Gay, that you are incorrect in saying that there was a decision that the M.K. groups should arm themselves?---No, there 30 was a decision.

You were, however, perfectly aware of the prior policy that members going out on sabotage were not to arm themselves?---I was not aware of that specifically, but in the context of our decision, that must have been the case. I was not closely associated with the old National High Command, but from what decisions we took, I concurred certain....

Did you follow the Rivonia trial fairly carefully?---Fairly carefully.

Do you remember that Nelson Mandela said that he was of the first High Command?---No, I do not remember that statement. 10

Do you remember in his statement, his informing the Court that in order to avoid loss of life, there was a decision that people going out to commit acts of sabotage, should not be armed?---I do not remember that, but I have no doubt that this was the case.

Did you not follow his statement in the newspapers?---I did, but I am aware that it was a statement which was not made under oath. 20

Oh I see, you bear that distinction too, yes. And you did not see this reference to the possibility of loss of life?---No, I am aware that the old High Command was very adamant on this question that life must be spared.

Have you ever been warned by your interrogators Mr. Gay, that you must not expect as lenient a treatment as other persons on similar positions as yourself in the past?---No, this was not suggested to me. I inferred it from what had taken place before. 30

Now, in ...one or two aspects in regard to

Accused No. 1 - is it not correct that he missed a fairly large number of meetings?---Accused No. 1?

Yes?---He missed two meetings.

Is that all? Not that it is so terribly important, but my instructions are that because he had to come from the townships, road blocks, security measures and that sort of thing, made him absent himself more often than you had hitherto said?---No, I remember two occasions. One on which Mr. Kitson was ill. Bri-Bri also failed to turn up, and then some time in June, when I understand a system of road blocks existed. 10

And one other small point - was it not Hodgson who reported on the Sasolburg act of sabotage? ---Yes, this was discussed at a meeting of the Technical Committee.

And Not No. 2?---No, in...this question was discussed this year, not in the sense of a suggestion that this kind of sabotage take place, but Mr. Kitson again drew our attention to the fact that....

Yes, I am not joining issue with you Mr. Gay, in your evidence in chief it appears that Accused No. 2 made the report, but I think that you were interrupted. The record speaks for itself. It appears in your evidence in chief as if No. 2 made the report. 20

Now,....?---It is not necessary for me to...?

No, it has not been offered as a criticism to you because it is consistent with what you said in your evidence in chief.

Now, I want to return to the other question Mr. Gay, and that is what should be done with informers. In view of the fact that it might become necessary to 30

lead certain evidence, I want you to please try your best now to tell us the times at which decisions were made?---The principle was discussed at the first meeting.

Now, just give me the month?---I do not know whether I can give you the month, but I think our High Command was set up just before the original proceedings started. I have another statement which would throw light on this question.

No, if you could just try and give me the month. I do not want to burden the record with anything 10 more. You can work out mentally in whichever way you please, but as long as you could give me the month more or less. I am only interested in dates at the moment? ---November or December, the first meeting at which the principle was discussed.

Yes, and you say that there was a decision to eliminate informers?---In principle.

Then when was the next meeting when this question was discussed?---I think at that stage, we probably met weekly. If the case of Hepple arose at all, it would 20 have arisen perhaps, the week after or two weeks after.

So that that would make it approximately the middle of December?---Not necessarily, I said November or December when we set up. Depending what time in November, so that it will carry one....

Well, perhaps I might assist you - the evidence in the Rivonia trial commenced on the 2nd of December, I want just check - yes, it was the 2nd of December - that might assist you, because this question of dates becomes somewhat important. The actual evidence, 30 never mind the indictments and quashings - the actual evi-

dence started on the 2nd of December?---Yes. Are you interested in the case now?

BY THE COURT TO WITNESS: That is just to give you a date, and in relation to that date, can you determine?---The commencement of the evidence at the trial proper - I am just a bit puzzled about the quashing of the original indictment.

COURT asks Mr. Bizos to give witness that date.

CROSS-EXAMINATION BY MR. BIZOS (CONTINUED):

For your information, that was, in case 10
that assists you, I think that was on the 29th of October.
---Let me put it this way - that if the case of Hepple
was discussed at all, it would have been discussed about
a week before he left the country. A week of that order,
and the principle a week before that.

When did Hepple leave the country?---I am
not certain.

Will you be surprised to hear that the only
discussion that there was about Hepple, was when he ...
after he had been branded a traitor in Freedom Fighter 10
No. 1?---I do not think.....

I beg your pardon? Apparently I am wrong -
did the Freedom Fighter come out in June or January?---
I cannot tell you. I read No. 2. Whilst detained I had
subsequently seen other editions, whether they bear dates
or not, I do not know.

And the only discussion that there was about
Hepple, I am going to put to you was initiated by
Accused No. 1, what right had they got to brand him a
traitor, he did not even...?---No, if Hepple was discussed 20
at all, he was not discussed in that context.

the Rivonia trial. Are you interested in that?

I just wanted to know when the question of political leadership arose - was it at the first meeting?
---That is when it was mentioned.

Yes?---Whether the names were mentioned at this stage, I am not certain.

At the same meeting, ^{where} / the question of the liquidation of informers was discussed, the question of political leadership was discussed, is that right?---
Not discussed.

Mentioned?---Mentioned.

And as you have already told us, the question of political leadership, you understood to mean the Communist Party?---I understood that, and if the names were mentioned at that stage, that would have confirmed my belief, otherwise it would have been a strong one later.

Well, even without mention of names, you still would have thought that the political leadership was the Communist Party, as you have already told us?---Yes.

And you owe allegiance to the Communist Party - you are a Communist yourself?---Yes.

And the discipline of the Communist Party, I take it is very strict?---Not very strict.

I beg your pardon?---It is a matter of degree. It is strict, but not very strict.

Anyway, you would not like to take a decision apart from that of the Communist Party?---If I was delegated to do such decision making, it is a different matter.

In any event Mr. Gay, the point is that you, when the question of informers was discussed, on the first meeting, you then suggested that the matter be referred to

the political leadership?---By virtue to the serious nature of this question.

And you would have been prepared to subject yourself to any directive which came from the political leadership?---Yes, one either submits oneself, or one leaves the organisation.

And you would have subjected yourself to that directive?---If it came to action, that would be a different matter.

It is a simple question Mr. Gay - you would 10 have subjected yourself to the directive of the political leadership, because you knew that the political leadership was the Communist Party?---While I remained a member of the Party, yes.

And you remained a member of the Party?---Yes.

Now, the question of the Indian informer, that you say Accused No. 3 mentioned, the liquidation of the Indian informer, when did that arise?---.....

At what meeting?---I do not know which specific meeting - I put this at about January. It could have 20 been later, it could have been earlier.

In any event, it was after the first meeting? ---Indeed, yes.

And at that stage, you already knew that the political leadership of M.K. was against the killing of informers?---No, not at all.

Well, what is it?---This directive was brought to us after the report back regarding the Indian, and before action could be taken in the case of the African informer.

In other words, when the question of the 30 Indian informer was brought to your attention, no directive

had arrived yet from the political leadership?---As I said before, I made this recommendation to be referred. I do not remember specifically Mr. Kitson saying that yes, I have indeed referred it to them and the answer is yes. This I do not remember.

In any event, there was about four or five intervening meetings from the first one to the one in which the case of the Indian informer was discussed?--- It could be four or five, yes.

And did you not ask what the political leadership felt about the killing of informers? Did you not enquire?---I did not ask, because the report ^{back} was made to the effect, ^{go ahead} /but I do not remember this specific report being made. I can only conclude the point of view of my own suggestion. 10

You say a report was made go ahead. In other words, go ahead with political killings?---No, I am suggesting that if this report was made, I have said again and again that I do not remember the specific report being brought. Having made that strong suggestion if it was brought, I would have asked about it. 20

In other words, it boils down to this that you felt very strongly - you did not want to embark upon any decisions until you knew what the Communist Party thought about it?---Not any decision.

This particular decision I am talking about? ---Yes.

Now, when the question of the Indian informer arose, it was mentioned you say, by Accused No. 3?---Accused No. 3, Mr. Chiba. 30

Before I go any further - Accused No. 3 of

course, denies this evidence, that he ever mentioned the question of an Indian informer! In any event, a decision was taken then when Chiba, Accused No. 3, mentioned this thing about the informer, a decision was taken to liquidate him?---A decision was taken.

But why did you approve of it Mr. Gay? I cannot understand that - why did you approve that this Indian informer should be liquidated? Why did you approve of it?---I said before, I did not argue against this, I did not speak in favour, I think I nodded my approval. 10

Well, I take that to be approval?---Now, this on the basis of a general decision in principle, made earlier.

But you were bound Mr. Gay, not by the M.K. or its committees. Your first loyalty, you implied that in your evidence, was to the Communist Party?---And as such I had been delegated by them to serve on the High Command.

Very well, but your loyalty was still with the Communist Party?---That I had been given a job to do on the High Command. 20

Very well. Your loyalty to the Communist Party was so strong that you referred the question of the killing of informers, you insisted that it be referred to the Party?---I would not argue that. I would rather suggest that I considered this matter such a serious one that I made the strong recommendation that it be referred to the higher body.

Mr. Gay, would it not have been far more logical that when the question of the killing of the Indian 30 informer arose, for you to have said we still have to await

a directive from the political leadership. Would that not have been the far more logical thing for you to have done?---I can only say what I have said before, if I did not raise that then Accused No. 2 must have come to us and said they approve.

No, but your evidence is entirely different to that!---No, I said that I do not recall specifically Mr. Kitson saying so, reporting back that he had been above.

Well, I might have misunderstood your evidence, but I understood you to say that it was reported 10 back to the committee that there should be no killing of political informers whilst the Rivonia trial was still in progress?---No, no, this was subsequent to the case involving the Indian, and while the African informer was being watched, as reported by Accused No. 1.

In any event, the truth of the matter is that when, as you say Accused No. 3 mentioned the question of the Indian informer, you did not bother to insist that a directive...that before any decision can be taken, the Party must first say what its views are?---No, I can only 20 conclude that, following my recommendation, this was done and that the political leadership approved. Although I repeat I do not remember Mr. Kitson saying so specifically.

BY THE COURT TO WITNESS: This African informer, where was he - in Johannesburg or....?---Yes.

In Johannesburg?---In Johannesburg.

CROSS-EXAMINATION BY MR. HARE (CONTINUED):

Well, in any event Mr. Gay, it was quite easy to get in touch with various Communist Party cells in Johannesburg?---Not for me. 30

But for Mr. Kitson it would have been?---I

presume so, because he brought the original directive, about my appointment.

In your evidence in chief Mr. Gay, you say that Mr. Kitson brought a directive from the National High Command....brought a directive to the National High Command, from the political leadership to the effect that no action should be taken against informers, lest the chances of the Rivonia accused be prejudiced. Now, do you say this directive came after?---Subsequent to the report about the Indian. 10

And did the political section at any stage say no action should be taken against anyone?---This is what the directive said.

Yes?---But subsequent to a report involving an Indian.

Yes, but do you know what month the directive came?---I cannot remember the specific date - I can put this at about February. That is all I can say. It could have been March.

In any event Mr. Gay, No. 3 as I have put to 20 you denies any knowledge of this, and he says that whilst in custody, after he was detained, he was interrogated about the killing of an Indian man, by the name of Gangat. As a matter of fact, all the accused say that they were questioned about the killing of an Indian Gangat. Now, did you suggest that name to the police?---Not at all.

Did the police question you about this person Gangat?---They sought further information on the question. I could not help them.

In other words, you gave no information, 30 other than what you have told the Court?---I did not have the

information to give.

Anyway, I must tell you that Accused No. 3 was questioned about Gangat's killing, and it is quite clear that he was killed in a fight, that he killed somebody and that he was killed in return by others who were present. You do not know anything about that?---No, nothing at all.

Also the question of the carrying of arms, Accused No. 3 also says that at no stage was any decision taken that M.K. units would carry any arms,--- 10

Now the question is this - when the question of arms was discussed, did you insist that the matter be taken to the political committee?---I did not.

Can you give any reason why not?---I did not consider this such a serious question.

No, for what purpose did you think Mr. Gay, people carry arms? Surely it is to kill?---That I have told the Court - I understood this decision to be taken so that groups actively engaged in sabotage could protect themselves if confronted by the police. 20

In other words, shoot the police? That is what it boils down to?---It would come to that, yes.

You see, on the one hand when the question of an informer is discussed, you refer the matter to the political committee, and yet when the shooting of other people are considered, you do not consider that necessary to be referred to the political Committee. Now you said Mr. Gay, it is not logical really is it?---Allow me to say that working for this organisation, one initially raises questions about building times, then you get accustomed 30 to the idea, and so it progresses on and on.

In other words, you try to tell his lordship that a man with your intelligence, going into the thing with your eyes open, was completely carried away with the passage of time?---I would say that, yes. I would say too that.....

Thank you Mr. Gay.

BY THE COURT TO WITNESS: Yes complete your sentence?---
My lord, I was going to add that this question of arming, was a strong recommendation, a strong, very strong suggestion by Accused No. 2. Mr. Kitson made the suggestion. 10

MR. HARE: No further questions.

RE-EXAMINATION BY MR. MASTERS:

Mr. Gay would you mind looking at this exhibit R.39?---Yes.

Do you recognise that document?---Yes, Programme of the South African Communist Party - Ruth First passed me a copy of this document.

I think you did refer to a document in your evidence this morning, did you?---Yes, today. Programme of the Party. 20

And that was a document which was handed to you by a fellow Communist?---Yes. I was never associated with Mrs. First herself, but I understood she was a member of the Party.

Well, to whom did you make the approach for it?---To her, yes.

You asked her?---Yes, because I was not.... this was mentioned before that when First saw me, that is prior to the Rivonia raid in connection with building a new transmitter, in connection with the suggestion as 30 to what I put an Indian in Durban or from Durban, to do,

L.S. GAY, S.M. NAMET
A. MTEMBU, A.E. KHUTA
A. BHABHA D. MILWIDSKI
ES BIZZELL
I. RAWI

and it was at one of those meetings that I said how about something to read.

MR. MASTERS: No further questions.

(WITNESS IS EXCUSED)

ABEL MTEMBU, still under oath (Recalled)

CROSS-EXAMINATION BY MR. BIZOS:

Mr. Mtembu, you speak English well enough do you not?---I would not say that.

Well, you understood that anyway. Alright, the questions will not be very difficult, if you do not understand any question, you can appeal to his lordship. COURT instructs that interpreter stands by.

MR. BIZOS: Informs Court that he will not cross-examine this witness, as the previous witness, on the merits of the case.

CROSS-EXAMINATION BY MR. BIZOS (CONTINUED):

You told us that you joined the African National Congress when?---In 1954 if I remember very well.

And were you born here in Johannesburg?--- I was born in Pretoria.

Now, when you joined the African National Congress, it was a legal organisation?---Correct.

Now, your organisation, the African National Congress, was declared an unlawful organisation in 1960 in April?---Correct.

Were you detained in 1960?---During the state of emergency.

During the state of emergency?---Yes.

Now, when you came out, I take it you continued being a member of the African National Congress?--- 30

Correct.

Before its banning, how high up were you in the African National Congress?---I served in the Transvaal Executive.

Now, you continued serving the A.N.C. after it became an unlawful organisation?---Correct.

Now, would you mind explaining to his lordship why?---Because.....

It must have been an easy decision for you at the time, I am sure, having been given an indemnity, 10 that you do not have to worry Mr. Mtembu, about expressing yourself freely to his lordship? You need not be afraid - I do not think so?---It is because the African National Congress intended to continue its course, and being a lawful organisation and it had a course for the African people to take, that is the reason why I continued serving as a member of the organisation.

Even after it became unlawful?---Even after it became an unlawful organisation.

Now, the policy of the organisation - was 20 that a peaceful policy or a policy of violence, prior to 1960?---The policy was a peaceful policy, not a violent policy.

Now, you also told us that you attended a meeting at Pietermaritzburg?---Correct.

Now, what was the call that was made at that meeting?---A call was made for a stay at home for all the African people to demonstrate their attitude towards the Government by staying home.

Belt 60

Over what event?---I do not understand you 30 when you say over what event.

What was the occasion when they were to stay at home?9--Well, it was during the time when the country was proclaimed a Republic.

Now, who presided at that meeting and who delivered the main address?---I do not remember the person who presided over that meeting, but the main address was addressed by Nelson Mandela.

And that was when a call for a National convention was made?---Correct.

Now, were you concerned with that stay at home in May, 1961?---Did you say was I concerned? 10

Yes?---Yes.

Now, did you feel, you as a member of the A.N.C., did you feel that an open choice was left to the AFRICAN people in the townships as to whether they should stay at home or not?---I felt so.

BY THE COURT TO WITNESS: Were the masses free to do as they pleased, if they wanted to stay at home they were free to stay at home?---Well, that is how we, in fact, conducted the campaign. 20

CROSS-EXAMINATION BY MR. BIZOS (CONTINUED):

Was there any feeling in A.N.C. circles as to whether the authorities had done the same?---Well, that did not come to me at that time. I do not know.

Let us put it to you this way - what did the authorities do? Were there saracens sent to the townships?---I do not remember. There were some saracens sent. I do not know whether it was during that occasion.

Now, towards the end of 1961, was there anything left, or any constitutional way, or any lawful way in which you felt, as an African, that you could register 30

your protest? In regard to your citizenship rights in South Africa?---Well, according to the laws of the country, it is well-known that in as far as that aspect is concerned, no constitutional, in fact, chances were left.

Yes, and do you know whether those were the reasons why Umkonto We Ziswe was formed?---I would not say that. I do not know.

Well, you were a member of Umkonto from the end of 1961, were you not, or I am sorry, as soon as you returned?---The reasons why Umkonto We Ziswe were formed, 10 I would not say. I was merely, in fact, also recruited as one.

And you have already told us that even at that stage, Umkonto We Ziswe decided that there should be no loss of life at all?---Correct.

Now, have you ever seen Mr. Gay before? Had you seen him before?---Mister...?

Mister Gay?---Mister Gay?

Yes?---I do not know that name.

Will you have a look at photograph No. 31 in 30 Exhibit 002?---I do not remember this photograph.

And you have given his lordship certain reasons or one reason really, why you said to the presiding judge at the Rivonia trial, that you had only been to Basutoland? Do you remember?---Yes, I do.

And have you given his lordship here, all the reasons why you said that? No other reasons?---Correct.

And a very small point in relation to the other issues - I am putting to you, not that it really matters, that you saw no pipes at the back of No. 2's 30 car? ARE you sure you saw pipes there?---Well, I said

in answer to that question, I saw some irons. Some looked like pipes.

MR. BIZOS: No further questions.

DEFENCE: No questions.

MR. TUCKER: No re-examination.

AT THIS STAGE THE COURT ADJOURNS UNTIL
10 A.M. ON MONDAY THE 30TH NOVEMBER, 1964.

ON RESUMING ON THE 30TH NOVEMBER, 1964:

AMOD BHABHA, declares under oath

WITNESS warned in terms of Section 254.

EXAMINATION BY MR. TUCKER:

Now, Mr. Bhabha do you reside in Benoni?---
In Roodepoort.

You reside in Roodepoort, but you were employed before your detention as a teacher at a High School in Benoni?---Yes.

Now, during the years the late fifties and the early sixties, were you sympathetic towards the ideas of the Indian Congress?---Yes; 10

Now, do you know any of the accused before the Court?---I know Chiba.

(Chiba requested to stand up). Is that the man?---Yes.

Now, when did you meet Accused No. 3 for the first time?---It was about two years ago.

Now, during the beginning of June, 1964, that is June this year, did you see Accused No. 3 again in Ferdsburg?---Yes. 20

And what did you and Accused No. 3 speak about?---He asked me to operate a transmitter.

Yes, and what did he tell you about this transmitter that you had to operate?---I beg your pardon?

BY THE COURT TO WITNESS: Would you speak up a bit? It is difficult to hear you in this large Court?---A broadcast had to be made.

EXAMINATION BY MR. TUCKER (CONTINUED):

Yes, and did he tell you where this transmitter was, or how you had to go about it?---I had to meet a certain person by the name of Peter to get the 30

transmitter.

And had you to assist this person, or what had you to do?---This man Peter was to show me how to operate the transmitter, when I was to operate the transmitter.

Now tell me, did you have to meet this Peter in the absence of Accused No. 3?---Yes.

And had you to use any specific name?---He was to call me by the name of Ganga.

BY THE COURT TO WITNESS: You know, it is absolutely 10
necessary that you speak up! It is very difficult to hear you in this Court. You know the accoustics are so bad in this Court!

EXAMINATION BY MR. TUCKER (CONTINUED):

And where was it arranged that you should meet this man Peter?---In front of the University Book Shop.

And on what day had you to meet this man Peter?---It was on the 23rd of June.

Was it during the evening, the afternoon, the 20 morning - when?---At about 5 o'clock.

And were you and Accused No. 3 alone when you discussed these arrangements?---Accused No. 3 was not present.

No, no, who made these arrangements with you to meet Peter at the University Book Shop?---Accused No. 3 made the arrangements.

And on the 23rd of June, did you then go to the University Book Shop?---Yes, I did.

As arranged?---Yes.

30

And did you meet a man there?---Yes.

And did you introduce yourself as Ganga to him?---He called me by Ganga.

And how did you address him?---As Peter.

Now, will you please just have a look at Exhibit '00.2' and see if you can, in that volume, see a photograph of this man whom you met as Peter?

MR. BIZOS informs the Court that he would have no objection if the witness is led on this point. It was not disputed with 'D' and it is not going to be disputed with this witness.

EXAMINATION BY MR. TUCKER (CONTINUED):

10

Will you have a look at page No. 31?- Is that the man whom you met as Peter?---I cannot make him out.

You cannot?---I cannot make him out.

(Court asks to see photograph). In any case, you met this man Peter, and then?---We went to his house.

With his car or with your car?---With my car.

Yes, and then what happened there?---I took the transmitter from there, and came into town, picked up a friend of mine, and took the transmitter to the place from it was used. 20

Yes, now who is this friend of yours that you picked up in town?---Salim Mayet(?). In fact there were two friends of mine - Salim Mayet and Ahmed Khutan(?).

And then at that stage, were there only the three of you in the car - that is you and Khutan and Mayet?---Yes.

And where did you go to?---To a club, Waldish (?) Club near Kliptown.

Did you know the way to that club, or did somebody indicate the way to you?---Well, I knew the way. 30

Yes, and arriving at that club, what did you do?---We left the transmitter there.

Where? In the street or where?---The club has got a big yard. We left it there in the yard.

In the yard, openly?---Yes, there is an old cement block there.

Yes. Now, a radio was found in the disused filter plant at that club. Did you put it in that filter plant?---That is it, it was a filter plant.

Now, do you see that radio that you took to the filter plant in Court here? Just have a look at Exhibit 12?---That is the one. 10

Now, after you put this thing in the filter plant, did you return to town?---Yes.

And did you drop Khuta?---We dropped Khuta.

And did you and Mayet remain in the car?---Yes.

And did you pick anybody else up?---We took Peter there.

Did you pick Peter up in town?---Yes.

Then did you take him to this club?---To the club. 20

And there at the club, what did you people then do?---Peter showed us how to operate the transmitter.

Yes, and then was the transmitter complete? Were all the parts there, or were there some parts missing? ---There were some parts missing.

Yes, so what did you do?---So we went back to Peter's house.

The three of you?---The three of us.

And there, did Peter hand you anything?---I beg yours? 30

Did Peter give you anything there?--- he gave us the parts.

Now, will you just have a look at Exhibit 13? Is that the part that Peter handed you at his house? Or what did that part look like? See if you can see it in Court here?---I think they were those earphones.

The earphones Exhibit 8 and what else?--- Those bulbs.

Bulbs Exhibit 4 - were those the parts Peter gave you?---Yes. 10

Yes, and then after you collected the parts at his house, what did you and Mayet do?---We went home.

Then after ...Now, tell me in your discussion with Chiba, Accused No. 3, were you told for when this transmission was scheduled? What day it had to take place? ---Yes, on the night of the 25th of June.

Yes, and then on the 25th of June at about 6 p.m. did you and Mayet go to the club again?---Yes.

And did you then instal the missing parts? The parts that you were given by Peter?---Yes. 20

And did you set the radio on the correct meter band?---Yes.

And then, did you actually do the broadcast? ---Yes.

Did you connect everything up, and connect the tape recorder?---Yes.

Now, will you just hage a look at Exhibit 11 - is that the tape recorder that was used?---Yes.

Now, what did you actually do there at the time when the transmission took place?---I operated the tape recorder. 30

Yes?---And Mayet operated the other parts.

The transmitter itself?---Yes.

And how long did this transmission take?

How long approximately - how many minutes?---About 20 to 25 minutes.

And then after you had done this transmission, what did you then do?---We left the transmitter there, and we left.

You went home?---Yes.

Now, about two days after this, did you meet 10 Accused No. 3 again?---Yes.

And did he tell you anything?---He told me that the broadcast had not come over the air.

Now, just tell me, after the whole tape was played on this night in question, what happened to it?--- What happened to the tape?

Yes?---While I was re-winding it, the tape snapped.

Yes, and so did you leave it there?---No, we took the tape and destroyed it. 20

Did you leave portions of the tape there? Portions of the tape that snapped? Just tell me this, did you work in the dark?---We worked in the dark, yes.

And the tape snapped?---The tape snapped.

Yes, and how did you destroy the tape?--- On the way bak we threw it out on the road.

Was the tape on a reel?---No, it was not on a reel.

Now, will you just have a look at Exhibit 153 - can that be portion of the tape that was used on that 30 night?---It could be the portion.

And will you have a look at Exhibit 152 -
WHAT CAN YOU TELL THE Court about that reel?---I think
it was the reel that we used.

Yes, and do you know where a reel was re-
covered?---Yes, it was discovered on the road.

Who recovered it?---The police recovered it.

Who showed you where the reel was?---I showed
them.

Now, will you have a look at this Exhibit 154?
It is a piece of nylon cord - do you know anything about 10
that nylon cord?---Yes.

What do you know about it?---It was used
with the aerial wire, for the aerial.

And where did you instal that?---It was
used with the aerial.

Yes, but where was the aerial - up in the air,
or down in the earth or where?---It was tied up with a tree.

And was it tied with this nylon cord?---Yes.

Now, while this transmission was taking place,
did you listen in with the earphones?---Yes, I did. 20

Did you hear the broadcast?---I did not hear
the broadcast.

Now, before the date of the broadcast, did
you arrange with Khuta that he had to remove the radio
and store it?---Yes.

And on the 17th of July, 1964, were you pre-
sent when Khuta pointed out the radio to the police at
Union Rice and Grey?---Yes.

Now, what he pointed out at Union, Rice and
Grey, was it all these articles here including the two 30
batteries before the Court?---Yes.

That is Exhibit 12.14 my lord.

MR. TUCKER: No further questions.

MR. HARE AND MR. BIZOS reserve the cross-examination.

(WITNESS STANDS DOWN).

ACHMAT ESSOP KHUTA, declares under oath

EXAMINATION BY MR. TUCKER:

Now Mr. Khuta, do you know the last witness Amod Bhabha?---Yes, I do know him.

On the 23rd of June, 1963, did he make a request to you?---That is right. 10

What was his request?---He requested that I should show him a farm, Shangrela Club, on the way to Cape Town.

And did you show him the way?---That is right, I told him that I would show him the way, provided he brings me back at half-past seven.

Now,?---He came before 6 p.m. to my shop.

And then did you ...when you showed him the way, did you notice anything in his car?---That is right.

What was in the car?---It was a radio set. 20

Was it anything similar to Exhibit 1 to 14 now before the Court?---That is right.

Were it these things?---That is right.

BY THE COURT TO WITNESS: Which things?---These things - the whole radio set.

EXAMINATION BY MR. TUCKER (CONTINUED):

Now, did you question Bhabha about this?---
Yes, I asked him what was all these. He told me that they were going to operate a Freedom Radio from that place, called Shangrela Club. 30

Belt 62.

Now, did you then assist him to off-load the radio at the club?---That is right, I assisted him to off-load it.

And did he bring you back to town?---That is right, yes.

Was there another man in the car with you and Bhabha?---Yes, there was another man by the name of Mayet.

Now, on the 26th of June, did Bhabha 'phone you again?---That is right, he telephoned me up. 10

Yes?---And he told me that if I was going to that place on Saturday afternoon, I should try and pick up the radio set. He left it there in the concrete well.

Yes?---So I told him that if I do go down, I will bring it with. I will not promise. On that Saturday afternoon, I took my children to a Baragwanath air display. There was an air display there on Saturday afternoon.

Yes?---While I was watching the air display, I remember about Bhabha's telephone call, it was very near 20 from where I was watching the air display.

Yes, did you go and fetch the radio?---I decided to go and fetch it.

And then what did you do with the radio?---I brought it the same afternoon from that place and left it in my car. I waited for Bhabha that evening to come and fetch it, Bhabha did not turn up.

So, what did you do with the radio?---So, I decided to go and leave it, it was on Sunday or Monday, I cannot remember, I think it was on Sunday morning that I 30 decided to leave it at a friend's place at Union, Rice and

Grey at Robertsham.

And did you then store the radio?---I left it there, and I saw Bhabha after I think a few days again. He came and asked me did I bring the radio. I said yes, I brought the radio set and you were supposed to come and pick it up on Saturday night, you did not turn up.

Yes?---He said he was very busy with his school exams, that he could not make it.

So, did you tell him where you stored it?
---I told him that it was at this place, he should go and fetch it.

Now, on the 17th of June,...on the 17th of July this year, did you accompany Lt. Dirker and Lt. van der Merwe?---That is right.

And did you go and point out this place Union, Rice and Grey to them?---That is right.

And did you, at that place, point out the exhibits 1 to 14 now before the Court, to them?---That is right.

MR. BIZOS AND MR. HARE: Reserve cross-examination.

20

(WITNESS STANDS DOWN).

SALIM MOHAMMED MAYET, declares under oath

COURT warns witness in terms of Section 254.

WITNESS 'F'.

EXAMINATION BY MR. TUCKER:

Now Mr. Mayet, do you know a man by the name of Amod Bhabha?---Yes, I do.

Now, during June of this year, did he approach you?---Yes, he did.

Can you remember what date it was?---More or less about June the 21st.

Yes and what did he ask you or tell you to do?---He asked me to accompany him, we are going to broadcast a Freedom Radio .

Yes, did you agree?---I agreed, yes.

Now, did you arrange then to meet somewhere in town?---Yes, Joubert Street.

Yes, did he meet you there?---Yes, he did.

Was he in the car?---That was on June the 23rd.

Oh, June the 23rd he met you in town?---Yes. 10

And was he in a car?---He was.

And did you notice anything in the car?---
Not immediately.

Yes?---Later while we were driving.

Yes, what was it that you saw in the car?---
Parts of a radio.

Will you just have a look at Exhibits 1 to 14 here before the Court? You can come out and have a look and see if these are the things or similar things in the car?---Yes, it was. 20

Now, was there another person with you two in the car?---Yes.

Who?---I came to know him as Khuta.

Yes, and where did you go to?---Shangrela Club in Kliptown.

Yes, and what did you do there?---But before that, before Khuta there was somebody else. A person by the name of Lionel Gay, who took us to this place....

Who took you to that place?---At least, Bhabha took us to that place, but somebody else was in the car 30 before that, before Khuta.

Yes, who was that person?---I came to know him as Lionel Gay after a while.

Yes?---He put the radio into place.

Where?---At the club, Shangrela.

Yes?---And we came back and then we picked up Khota.

Yes?---No, I am sorry, everything is mixed up.

Well, start again then?---On Tuesday at 6 o'clock, or about that time 6 o'clock, we went to the club with Khota. 10

Yes?---He showed us the place, we unloaded the radio and came back.

Where did you put the radio, was it in the filter tank?---Yes, filter tank.

Yes?---And when we came back we picked up Lionel Gay.

Is that after you dropped Khuta?---After we dropped Khuta, yes.

Yes?---And then we went with Lionel Gay. He put the radio into place, and explained what must we do. 20

What had to be done, yes?---Yes.

Yes, and then?---And we came back on Thursday that is June the 25th, we attempted a broadcast.

Yes, but now who was present when you attempted the broadcast?---Myself and Amod Bhabha.

Now, did you two actually operate the tape recorder and the radio?---No, I put up the aerial.

Where did you put the aerial up?---From the tennis court to the tree. 30

And did you use this piece of nylon cord before

the Court?---Yes.

To fix the aerial?---Yes.

Exhibit No. 144. Was the tape recorder played?---I was played, yes.

Over the transmitter?---Over the transmitter.

And then after you did this, you played the tape recorder over the transmitter, what happened?---After?

Yes?---We dismantled the radion and got home.

10

And took it home?---No, we left it there.

You left it there and you went home?---Yes.

MR. TUCKER: No further questions.

MR. BIZOS AND MR. HARE: Reserve cross-examination.

(WITNESS STANDS DOWN).

LEWIS MATOTI, declares under oath (Interpreted).

EXAMINATION BY MR. TUCKER:

Now, Matoti do you reside in Post Village, New Brighton, Pat Elizabeth?---That is correct.

Now, will you just have a look at Exhibit H 20 before the Court?---Yes.

And tell the Court what you know about that letter and that envelope?---On the second of July of 1964, I received this letter in my letter box. I did not know who had written this letter. I took the letter and handed it in to the police.

Now, where was that letter posted according to the envelope there?---It was posted in Johannesburg.

On what date?---I would not know the date.

But can you not see on the envelope?---22/6. 30

And when did you receive it did you say?---
I received the letter on the 2nd of July.

MR. TUCKER: No further questions.

MR. BIZOS AND MR. HARE request that cross-examination stand down for a while.

(WITNESS STANDS DOWN).

AT THIS STAGE THE COURT DJOURNS.

ON RESUMING:

AMOD BHABHA, still under oath

10

CROSS-EXAMINATION BY MR. BIZOS:

Mr. Bhabha I only have one or two questions to put to you - this broadcast that you tried to do, did you know anything about its content at all at any time?---No.

You did not listen to it, and you were not told by anybody what its contents were, other than that, it was Freedom Radio? Is that correct?---What is that question ?

You did not know what its contents was, or other than that it was Freedom Radio?---Yes. 20

And you, whilst in the company of any of the others such as Khuta or Mayet, were never told what its contents were?---No.

MR. BIZOS: No further questions.

MR. HARE: No questions.

MR. TUCKER: No re-examination.

(WITNESS IS EXCUSED).

ACHMAT ESSOP KHUTA, still under oath

CROSS-EXAMINATION BY MR. BIZOS:

Mr. Khuta just one or two questions about this that I am going to put to you - did you know what was in this broadcast at all?---I did not know it.

Were you not told by anybody what was on the tape, or what the subject matter was?---I was not told anything.

MR. BIZOS: No further questions.

MR. HARE: No questions.

MR. TUCKER: No re-examination.

(WITNESS IS EXCUSED).

10

AHMED MOHAMMED MAYET, still under oath

CROSS-EXAMINATION BY MR. BIZOS:

Mr. Mayet, did you know what was on this tape at any stage?---No, not at any stage.

You were never told by anybody what the subject matter was that was dealt with on the tape?---No.

Just one or two other questions that I wanted to ask you about - you knew that what you had to do was to be done secretly?---Yes.

And that you were doing a dangerous thing?--- 20
Not dangerous.

Well, an unlawful thing?---Unlawful, yes.

If you were asked then whether you had been questioned in the future you would speak about it, what would your answer have been then?---Would you mind repeating that please?

If you had been asked before your detention whether you would be prepared to speak in Court or publicly about it, what would your answer have been?---No.

You see, I am asking you these questions be- 30

cause I think you have shown a reluctance to speak about it. What made you change your mind Mr. Mayet?---I made it clear that I will not implicate anybody, whatsoever. I am not implicating anybody, that is why I am prepared to give evidence.

MR. BIZOS: No further questions.

MR. HARE: No questions.

MR. TUCKER: No re-examination.

MR. BIZOS informs the Court that Matoti is not required, and the witness is excused.

DAVID MILWIDSKI, declares under oath

EXAMINATION BY MR. TUCKER:

Now Mr. Milwidski, are you a commercial traveller?---Yes.

MR. BIZOS applies that the doors of the Court are opened to the public, while this witness is giving evidence.

COURT grants application.

EXAMINATION BY MR. TUCKER (CONTINUED):

Mr. Milwidski, in the course of your business, do you travel in the Witbank/Middelburg area?---Yes.

Do you know the firm Silk Wholesalers (Pty.) Ltd., Pritchard Street, Johannesburg?---Yes.

Do you know who the bookkeeper of that firm was?---Yes.

Who was the bookkeeper?---Mr. Matthews.

Do you see Mr. Matthews in Court today?---Yes.

Where is he?---He is the man with the glasses.

(Accused requested to stand up). Is that the man?---Yes, that is Mr. Matthews.

Accused No. 4. Did Mr. Matthews, that is Accused No. 4, at any stage make a request to you?---Yes.

What was the request Mr. Milwidski?---He asked me to get native names in the Witbank area.

Names only?---Names and addresses.

And when approximately was this Mr. Milwidski?---Well, it must have been about eight months ago to my recollection.

That would bring us to about March of this year?---March or April, yes. 10

Of this year - and then Mr. Milwidski, did you obtain names and addresses of natives in that area for Accused No. 4?---Yes, I did.

And did you give that to him?---I gave it to him, yes.

Now, Mr. Milwidski, will you please refer to Exhibit 'J.M.3', now before the Court?---Yes.

What is 'J.M.3' Mr. Milwidski?---It is a cigarette box.

Yes, do you know that cigarette box?---Yes. 20

Can you just tell the Court about it?---Well, I tried to get different native names. At the time I never had a piece of paper or a pencil. I had a pencil but I never had paper.

Yes?---So I used a cigarette, the empty cigarette box to get these names.

Did you write the names and addresses on that cigarette box?---Yes.

And what did you do with that cigarette box?---I handed it in to Mr. Matthews. 30

Now Mr. Milwidski, do you know why Accused No. 4

wanted these names and addresses?---No, I do not.

Did you not ask him about it?---I asked him about it.

And what did he say?---Well, he said it was... he did not sort of answer me, but I assumed that it was for business advertising or something.

MR. TUCKER: No further questions.

MR. BIZOS AND MR. HARE: Requests a short adjournment.

COURT ADJOURNS FOR A FEW MINUTES.

ON RESUMING:

10

MR. BIZOS: Have no questions of witness.

(WITNESS IS EXCUSED).

ERIC JOHN LINDSAY BIZZELL, declares under oath

EXAMINATION BY MR. MASTERS:

Do you know any of the accused before the Court?---No.

And did you know a Mr. Lionel Gay?---Yes.

Now, do you see this exhibit before Court, this pistol?---Yes.

Exhibit 180 and this shoulder holster Exhibit 20 182?---Yes.

And the magazine which goes with the pistol, Exhibit 181?---Yes.

Do you recognise the exhibits that you have just mentioned?---I recognise the shoulder holster. The gun I do not know if it is the same gun, but it looks very much like the gun I once had.

Will you have a look at it?---I would say it is the same as one....

You would say it is the same as what?---As the

one which I gave Lionel Gay.

How did you come into possession of this?---
I was given it by Graham Medlinger in Durban.

Is that Doctor Medlinger?---That is right.

And then you later handed it over to Mr.
Lionel Gay?---That is right, yes.

Why did you hand it over to him?---Because
I thought he could use it, or give it to those who could
do something with it.

Well, what was your reply?---I said because 10
I felt that he could use it or give it to somebody or
make use of it.

Well, when you got it from Dr. Medlinger,
was it given to you, or what was the transaction?---He gave
me a suitcase which he said would I keep for him.

Yes?---He said it was a hot suitcase, this
is about the best description, and I had it for about a
month, and I opened it and there was a pistol and those
things. I think there was some ammunition too and some
books. 20

When you opened it you found books and this
exhibit before the Court?---Yes.

Now, who was present when you opened it?---
Just me.

Now, had you met a woman by the name of Hilda
at this stage?---Yes.

What is her^{other} name?---I did not know at that
time, but I have since discovered that her name was
Bernstein.

Hilda Bernstein?---That is right. 30

And how did you come to meet her? In connection

with what?---She came to see me soon after I arrived in Johannesburg from Durban when I came here to live and work.

Perhaps we can get a few dates - when would that have been Mr. Bizzell?---I think I came here at the beginning of August last year.

1963?---Yes, that is right.

Yes?---And she approached me, and she said that she knew I was from Durban and that I had been in the Congress of Democrats and things like that, and would I do a few odd jobs for her, and I agreed to. 10

Yes, what were the odd jobs?---I used to receive mail for her.

Did she use your address to have her mail sent?---That is right, yes.

And what name did she use?---What name?

Yes?---Do you mean when she spoke to me?

No, when these letters were addressed?---They were addressed to me.

They were addressed to you?---Yes. 20

And then what was the procedure?---Well, there would be an envelope inside, and usually it said Hilda, and then inside was the letter, and then I would hold on to it until she got in touch with me, and then I would hand it over to her.

And were there ever any coded letters received that way?---There was one which I opened, which had a lot of numbers.

Numbers only?---Numbers only.

And did you hand that over to her too?---That is right, yes. 30

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