

IN THE SUPREME COURT OF SOUTH AFRICA.
(TRANSVAAL PROVINCIAL DIVISION).

BEFORE:

THE HON. MR. DE WET, J.P.

In the case of:

THE STATE vs. MANDELA AND 9 OTHERS.

CHARGE: Sabotage.

PLEA: Not guilty.

Dr. Percy Yutar }
and with him } - FOR THE STATE.
Mr. Naude }
Mr. Vorster }

Mr. Berrange }
Mr. Bizos } - FOR THE DEFENCE.
Mr. Chaskalsen }
Mr. Fischer }

Mr. Lee - - INTERPRETER.

6th DECEMBER, 1963.

- EXTRACT OF EVIDENCE -

Belt 30B

ISMAIL ESSOP MAKDA, declares under oath

EXAMINATION BY DR. YUTAR:

Makda, what are your qualifications?---I am a clerk in the employ at present Eric Singer.

A clerk. You were formerly in the employ of James Kantor and Partners?---That is so.

Do you hold any degrees?---Yes, I have a B.A. at the University of the Witwatersrand, and I have just written my final one subject in the Attorney's ^{Ad} Submission Examination.

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Attorney's Submission Examination. When did you

Clerk.

As an Articled Clerk. I am not going to ask you what your duties were there then, because I am only interested in the period 1961, 62, 63. At beginning of July 1961, what was your position with the firm then?---
.....My Articles had expired and I stayed on with the firm as an ordinary clerk.

As an ordinary clerk?---Yes.

Yes, and what were your duties?---I did all the work I did two years previously, except that I wasn't allowed to go to Court or interview prisoners in court. 10

You were not allowed?---No, I was disqualified.

And who were the members of the partnership, when you joined in 1956? What changes took place thereafter?---There were no partners when Mr. Kantor opened his practise in 1956.

I can't hear?---When I joined the firm, I joined the firm Edelstein and Kantor.

Edelstein and Kantor?---And a few months later Mr. Kantor and Mr. Edelstein split partnership, and I joined Mr. Kantor, although he was practising under 20 the Name of James Kantor and Partners, he was on his own.

He was on his own. Did anybody join him?--- Subsequently yes, Mr. Zwarenstein and Mr. Joffe joined him.

Zwarenstein and Mr. Joffe. For the purpose of record, is Mr. Joffe you refer to, is that the instructing attorney in this case?---Yes.†

Not for Mr. Kantor, but the instructing attorney for the other accused?---Yes.

Right then, under what name did that further

long.

Yes, and then what happened?---And then Mr. Wolpe joined the firm.

Mr. Wolpe joined the firm. When did he join the firm?---Towards the end of 1959/60, the beginning of '60.

And the partnership now traded under...conducted a profession under what style?---It wasn't a partnership. Mr. Wolpe was articulated to Mr. Kantor.

Yes?---If I recall correctly, and the firm was still conducted under the name of Kantor, Zwarenstein 10 and Partners.

Did Mr. Wolpe conclude his articles?---Yes, to the best of my knowledge, yes.

And any change in the style?---Subsequently the firm was called James Kantor and Partners.

James Kantor and Partners, and who in fact, were the partners?---Mr. James Kantor and Mr. Harold Wolpe.

And Mr. Wolpe. Mr. Kantor and?---Harold Wolpe.

Did Mr. Kantor have his own office?---His own private office, yes. 20

Did Mr. Wolpe have his own office?---That is so.

And did you have an office?---That is right.

Any blinds in your office?---Yes.

I'll come back to that later. Did Mr. Wolpe have blinds in his office?---Yes. All the offices....

All the offices were furnished with venetian blinds?---Venetian blinds, with the exception of one.

Now, did you know a man...well I think there is no dispute about this, Mr. Kantor is accused No. 8 in this case?---That is so. 30

Harold Wolpe ofcourse, is not with us at the

in politics?---Yes, I did.

Do you know whether he maintained that interest whilst he was a member of the firm James Kantor and Partners?---Yes.

Can you tell whether that fact was known to the office?---I am unable to say that.

Unable to say. As far as you are concerned, did he continue with his political activities?---Yes.

In fact, what did you call him in the office?++
You can say it, its quite in order?---I used to often 10 call him a Communist.

Well you can give us the full title?---I used to call him "you bloody communist".

"You bloody communist", in the office?---Yes.

And what was his answer to that?---Well, he used to call me a racialist.

Call you a racialist in reply. Now did you know how the office was run?---Yes.

Who had signing power of cheques, during this period?---That is during the time James Kantor and Partners, was a partnership between Mr. Kantor and Mr. Wolpe, or prior to that?

That is the only time I am referring to?---There were three people who had signing powers originally, namely Mr. James Kantor, Mr. Harold Wolpe and Mr. Abraham Kantor.

Yes, Abraham Kantor being the late father of Mr. Kantor?---That is so.

Anybody else thereafter?---Yes, thereafter I had the power to sign cheques.

You also had a power to sign cheques, and do

Now let me put in straightaway, that's out of context, but for a good reason, this file. Do you recognise it? (File handed to witness)? Don't look inside, just the answer?---No, I do not recognise this file.

I mean can you tell me where the file comes from? ---Yes, it comes from the office of James Kantor and Partners.

Now, this file, there is a number there?---There is a number 5275.

5275. Is that a file kept in the office of James Kantor and Partners?---It is supposed to be.

Right, do you recognise the cover?---Yes.

Do you recognise the number in blue?---Yes.

And whose handwriting is on it?---The handwriting is that of Mr. Wolpe.

The handwriting is that of Mr. Wolpe. EXHIBIT 'KI' HANDED IN TO COURT. And the handwriting of Mr. Wolpe, contends the word "File - Minister's Order," and in the corner "Spark"?---That is so.

Is that the usual procedure adopted with regard to the filing system, that you have a subject matter on top, and when the file is disposed of you put "file"?---That is so.

Allright, I want you to open it now, and tell us what is the first document there? The very first one?---The first document is the Magazine headed "Spark", Mandela visit to Africa.

Its Headed "Spark"?---Yes.

Well we shall lead evidence as to that in due course. Now I want you to turn to the cover. What does the cover show? I'm referring to the cover of that book?---It's headed "Spark" and it reads "Mandella's visit to Africa".

"Mandela's visit to Africa", and there's a big photograph there?---There's a big photograph.

Let me interrupt again, do you know Mandela?---
Yes, I do.

Who is he?---Accused No. 1 in this case. 10

Was he in any way connected with the firm?---No,
he was not.

Was he a client of the firm?---Yes, I think he was.

Did he ever come to the firm?--- Yes, on a few occasions.

On a few occasions. No don't turn it over so quickly, I am not finished with it yet. Now there's a photograph there of Mandela?---That is so.

Taken with whom?---I do not recognise the other two persons. 20

You don't recognise the other two persons. Right.

Now would you please be so kind as to read the subscription to that photograph?---(Witness reads, as requested by Mr. Yutar).

Yes, it says "more pictures on pages 4 and 5"?---
Yes.

Now let's take those pictures in turn. The top one?---"Mandela's visit to Africa!" Left: Is a photograph of Mandela with a person I don't recognise.

The subscription, yes?---(Witness reads sub- 30
scription).

You recognise his photo?---Yes, I do.

And the subscription reads?---(Witness quotes from subscription).

And do you know what the F.L.N. stands for?---
No, I do not.

You don't know. Alright, we'll lead the evidence in due course. Now, those are the two pictures on that page. Right now the next page?---There is also another photograph of Mr. Mandela with two others whom I do not recognise. 10

And the subscription reads?---(Witness reads subscription). There is also another photograph...

They don't mention names here? That's right, there are no names mentioned. Two other Tunisian Government representatives there, sitting around a table?---
It appears to be round a table.

Right, now further about that?---Mandela with a gentleman in a military or uniform. (Reads subscription).

You don't know who he is?---No, I don't.

We shall lead evidence of somebody who met him, 20 to give evidence in this court. Now would you pass that to His Lordship please, and then he can show it...(Handed to the Court). EXHIBIT KI.A HANDED INTO COURT.

I just want to refer to one other document there. (Handed back to Mr. Yutar). Now just one other book there, and that is entitled?---"Fighting Talk".

"Fighting Talk", published on what date?---February 1963.

Printed by?---Published by the person at Box 1355. It is on the first page. 30

Right, now all I am interested in is the photo-

Five. Just give us the names?---Dhuma Nokwe.

Dhuma Nokwe?---Moses Kotana.

Moses Kotana?---Robert Resha.

Robert Resha, yes?---Oliver Tambo, and Tennissen Makawana.

Those are the five people mentioned, and what is the subscription to that composite photo of that five?---(Witness reads).

The A.N.C. Team abroad. Do you know what the A.N.C. stands for?---Its the African National Congress. 10

African National Congress. Now could I just mark that and hand to his Lordship. EXHIBIT 'K1.B'
HANDED IN TO COURT.

Now the other documents, it is only fair to state, contain advice, legal documents on which legal opinion was sought, and in fact obtained?---That is so.

That will be then exhibit 'K1' (handed back to Court). Now I would like to deal with the people who visited the office of James Kantor and Partners, and I am going to make here a division - the people visiting 20 before the time when communication between communists was prohibited, and after. Now will you tell his Lordship who visited the offices of James Kantor and Partners before that restriction was brought into law?--- Dr. Yutar you are asking me the most impossible question. Hundreds of thousands of people must have visited.

What I mean, people with a political affiliations? ---The political affiliations that I know of included Mr. Sisulu.

That's Accused No. 2?---no. 2. Mr. Kathrada. 3 e
Accused No. 5.---Mr. Bernstein.

Allright, Mr. and Mrs. Hodgson. Right?---Mr. and Mrs. Harmel.

Mr. and Mrs. Harmel. You say you knew No. 1?--- Yes. I knew him.

Was he a client of the firm? Did he visit the firm?---Yes, once or twice.

Once or twice?---Some time ago.

Yes, so you have mentioned No. 1, No. 2. No. 3, did he visit the office?---No, I don't know Accused No.3.

You don't know him. No. 4?---No, I don't know 1 Accused No. 4.

No. 6, you've mentioned?---Yes My Lord.

No. 7, do you know?---I don't know.

No. 9 and 10?---No.

Now do you know Goldrieck?---I have heard of him. I don't know him.

You don't know him. Vivian Ezra?---Yes.

When did he visit the office, before or after?--- Before.

Before. Julius First?---Yes. 20

Did he visit?---After.

After, right. Michael Harmel?---Yes.

Before or after?---Before and after.

Before and after. Bob Alexander Hepple?---No.

Mosey John Jack Hodgson?---Is that Mr. Hodgson?

Yes?---Yes, he came.

BY THE COURT: I don't follow that, before or after this restriction?---Before and after.

EXAMINATION BY MR. JUTAR (CONTINUED):

Ronald Ronnie Kassrils?---I don't know him.

You don't know him. Moses Kotani?---I don't 30 know him.

John Joseph Marx?---Yes, before.

Before. Johannes Modeso?---I don't know him.

George Nayer?---I don't know him.

Billy Nayer?---I don't know him.

Look Smart Suwande Ngundle(?) ?---I don't know him.

Philemon Dhume Nokwe?---I know him, but he was at the office before.

Before. James Dube Radebe?---I don't know him.

Robert Reshwa(?) ?---I don't know him.

Joseph Joe Slovo?---I know him, but he didn't 10 visit out offices.

He did not visit the offices. Harold Strachan? ---I don't know him.

Oliver Tambo?---I don't know him.

Benjamin Turok?---Yes.

Before or after?---Before.

Cecil George Williams?---Yes.

Before or after?---It was only before.

Before. Now when these people arrived at the office, the period before the restriction who saw them 20 and where?---Mr. Wolpe in his office.

In his office. Did they go direct to his office, or did they go the waiting room before?---There is a waiting room.

There is a waiting room, so what would be the procedure?---They had to advise the receptionist of their presence, and the person they wanted to see.

And then they would?---Well the person who was to be seen would tell the receptionist to send the person through.

30

Allright. Now can you tell His Lordship, speaking generally, did they see Wolpe singly, or in pairs or more?---No, I presume at times singly, and at time

a bookkeeper was there not? A Mrs. Schneider?---Not at that stage.

I see, but there was another bookkeeper at that stage?---That is so.

Yes, but the supervising of the administration and bookkeeping was done by Wolpe?---That is so.

And are you aware that Wolpe consulted with Joffe about the installation of a mechanical system of bookkeeping ---That's not within my knowledge.

Are you aware that a mechanical system of book- 10
keeping was installed?---Yes.

Can you say approximately when that was? Would that be about the end of 1960 or early 1961?---....

You don't want to keep any great precision on these dates, but is that in accordance with your recollection?---That is true, about 1961.

Now this mechanical system of bookkeeping gave rise to the method to which you have referred in your evidence here?---That is so.

And it was a complete change-over from the old 20
system?---That is so.

And we heard of the arrangements in regard to the installation, were in fact made by Wolpe?---That is so.

And he was the person who took the trouble to understand it, and who in fact, administered it?---That is so.

When did Mrs. Schneier come in as a bookkeeper?---
I am unable to detect that, but she has been our bookkeeper for...

Is she quite a highly qualified and trustworthy person?---I am not aware of her qualifications, but she is 3
very efficient and trustworthy.

In relation to your matters, and the matters you were handling, did you ever come across any confusing or any serious mistakes?---Well, not serious mistakes, but confusion occasionally arose in the accounts.

I didn't hear that one?---I said, confusion occasionally arose in the accounts, in the matters that I dealt with occasionally.

Yes, but on the whole the books were in very good order?---That is so.

Now Makda I want you to give some sort of a 10 picture to His Lordship of the life that was led by Mr. Kantor and the role played by him in this partnership, after the stage when Joffe left and Wolpe came in? Now would you say first of all, that Mr. Kantor was a tremendously busy and hardworking attorney?---Yes, I would.

Did he act in a great number of cases?---Yes.

Both criminal and civil?---That is so.

Did he act for an astonishingly wide variety of people?---That is so.

From quite humble persons, who were charged with 20 crime to eminent socialites, very wealthy and influential people, dealing with their private affairs?---That is so.

Would it be correct to say Mr. Makda, that at most times he was continually under a tremendously heavy pressure of work?---That is so.

The waiting room was always full of people waiting to see him?---Very often there were large numbers of people to see him.

Yes, and he was very frequently away from the office and in court?---That is so.

He carried a heavy burden of court work himself?---

during actions when Counsel were engaged?---That is so.

And would it be fair to say that he was the person who was principally responsible for handling the difficult work in the firm and bringing in the majority of the firm's clients?---That is so.

Now give His Lordship some idea of the layout of the offices. Can I put it to you this way - the client entering the office comes into a waiting room?---That is so.

In which there is a Receptionist?---That is so.
There are two waiting rooms. 10

Yes?---And the African waiting room was in the back of the office, and the european waiting room was in the front of the office.

Yes. From these there is a passage, which runs off, and there are a number of offices opening off this passage?---That is so.

Yes. Now let us deal with the people who have their own different offices in the firm. Did you have an office of your own?---That is so.

Did Mr. Wolpe have an office of his own?---That is 20
so.

Throughout most of the time that you were employed there, did Mr. Abraham Kantor, the father of the accused, have an office of his own?---That is so.

Dealing with him, was he employed as a professional assistant?---That is so.

He was a somewhat elderly gentleman?---That is so.

He was not very healthy?---That is so.

But he was paid a salary and kept busy in the firm?---That is so. 30

You had an office of your own?---Yes, I had.

An Articled Clerk. Did he have an office?---

That is so.

And there was another clerk Sam Ford?---That is so.

Did he have an office?---He and Selvyn Klein shared an office.

I see. Now there was a Miss or Mrs. Bloom ^{who ran} ~~around~~ the collection department?---That is so.

Did she have an office of her own?---Together with her typists.

Together with her typists. Was that typist a 10 person called Strydom?---Her typist was a person called Strydom and the lady who typed for me, also shared that office. The lady who typed for me and Selvyn Klein.

I see. Where did the office messengers?---The office messengers occupied an office with ...where the non-european clients used to call.

Yes. And what about the bookkeeping department?

BY THE COURT: I don't follow that. What office did the messengers occupy?---The same office as the reception office ~~of~~ for African clients. 20

CROSS-EXAMINATION BY MR. COAKER (CONTINUED):

Now that's the office where the receptionist worked is it?---No.

Not. Now what about the bookkeeper Mrs. Schneier, did she have an office?---Yes.

6 And was the accounting done in that office?--- That is so.

And finally Mr. Kantor, had an office right at the end of the corridor, furthest away from the reception room?---That is so. 30

Now to your knowledge Mr. Kantor's private

is so.

And it was equipped with an inter-communication system, which enabled him to make contact with any department without leaving his office?---That is so.

I suggest to you Makda that his practice was to enter the office wherever he came from and proceed immediately, once he had dealt with the desk to find out if there were any messages, to his own office?---That is so.

He would then close the door and by and large would not be seen again on the premises until he left?---That is so.

And would communicate with people, staff members, partners and the like, by means of this inter-communication system?---That is so.

Would it be correct to say Mr. Makda that the work in this office was largely departmentalised? In the sense that Mr. Kantor would deal with his own clients and his own matters?---Yes, that is true.

That Wolpe would deal with his clients and his matters?---That is so. 20

You would deal with your clients and your matters? ---That is so.

Mr. A. Kantor would deal with certain clients and certain classes of matters?---That is so.

Did Mr. Kantor ever take an interest or interfere with which other people were dealing?---No, very rarely.

I am suggesting to you that he was always under considerable pressure of work himself?---That is so.

Have you ever been in to him and sought to discuss one of your own matters with him?---Yes. 30

How were you received?---I was told to look up

What about fees? Did Mr. Kantor intervene in the question of how much you charge your clients by way of fees?---No.

I suggest to you that you were left a very wide discretion in this matter?---Full discretion.

Full discretion?---That is so.

The same applied to Mr. Wolpe?---I presume so.

I suggest to you that you have never at any time had Mr. Kantor discussing the question of Wolpe's fees with him?---No.

10

I'll take it a step further - did Mr. Kantor know what matters you were handling, or how many?---I don't think he had any knowledge of the matters I had. If he did, he might have had a knowledge of a few matters only.

Did he ever call you in and ask you to analyse what matters you were handling, how many they were, how much money they were producing and that sort of thing?---Never.

As far as you know did he ever do that to Wolpe?---Not to my knowledge.

20

And would it be correct to say that Mr. Kantor was so much involved with his own clients and his own matters that he was most of the time almost oblivious of what was happening in the rest of the organisation?---I don't know his state of mind, but he was a very busy man.

I didn't hear that?---I wouldn't be able to judge on his state of mind at any particular stage, but he was always a very busy man.

Yes. Mr. Makda you knew perfectly well, didn't you, that Mr. Kantor did not take an interest in what other people were doing, and he didn't know what they

Yes, and it was common knowledge in the firm was it not? That that was his attitude?---That is so.

To everybody?---That is so.

Now the people with signing powers, one gathers from the exhibits that have been put in, were James Kantor, Is that right?---That is so.

And Harold Wolpe?---That is so.

And yourself?---That is so.

And the late Abraham Kantor?---That is so.

And Mrs. Bloom apparently?---No. 10

Mrs. Schneier the bookkeeper?---That is so.

Yes. Anybody else?---No.

Do you know why it was necessary to have so many people with signing powers?---Well, the...all the people mentioned didn't have the signing power, all in the same time. Originally Mr. J. Kantor, Mr. Wolpe and Mr. A. Kantor had the signing power, and any of these three gentlemen could sign.

Yes?---It happened that Mr. A. Kantor wasn't always very well, and on occasions stayed away from the office, and that Mr. Kantor occasionally was out of the office more often than in the office, or Mr. Wolpe was out of the office, with the result that the cheques had to be signed, they had to be left over until two persons could be found to sign cheques. 20

So the cheques would accumulate until finally there were two signatories available?---That is so. Eventually, a power of attorney was granted in my favour to endorse cheques with one of the other partners, but not together with Mr. A. Kantor. .. 30

I beg your pardon?---I was eventually given power

I see. Not you and A. Kantor?---That's right.

But you and any of the others?---That is right.

Yes, I see. Now you said a moment ago, if I am not mistaken, that Mr. J. Kantor was out of the office more often than he was in it?---Yes, because he was very often in the court, and many times out of town, in court.

You say he spent week-ends at the farm?---Oh, yes he did spend week-ends at the farm, he very seldom came in on Saturday morning.

Yes, so that, as you say there were times when 10
cheques used to accumulate until there were considerable
numbers of them waiting to be signed?---Yes, that is so.

Yes, as a result of the awkwardness about the
signing of cheques, did you ever know of cheques being
signed in blank?---Yes.

Did you ever know of them being signed in blank
by James Kantor?---Yes.

At the request of the bookkeeper?---At the request
of anybody.

Allright, at the request of Wolpe?---Or at my 20
request.

Or?---At my request.

At your request. You would simply say "I want a cheque for this purpose, you are about to rush out of the office, will you please sign it". I never gave any expla-
nations, I just asked him to sign a cheque, and you used
to sign them.

You simply asked him to sign a cheque and he would sign it?---That's right. 30

Yes. Mr. Makda was there a system in this office that it was the responsibility of the bookkeeper to ensure

And did she conscientiously carry out this fashion?
 ---As far as I am aware, yes.

So it was safe to assume that no cheque would ever be posted, sent away, unless it had been ascertained ^{if} that it was a trust cheque, that there was money in the trust account, standing ~~to~~ ^{to} the credit to the particular client, to cover that cheque?---Well that is fair to assume, because the instruction was given to each person, who had the authority to authorise cheques, was to check the Ledger Card before having a cheque issued. 10

Yes. Mr. Makda, Mr. Kantor trusted the members of his staff, did he not?---He did.

He left them in complete control of their operations?---That is so.

And apart from the activities of Harold Wolpe, do you know of any occasion that he had cause to regret this, or to think better of it?---On two occasions I clearly remember My Lord.

I beg your pardon?---I remember two occasions very clearly. 20

Yes, tell us about them?---The first occasion was when the Receptionist/Cashier had the right to deposit the previous day's takings, and this Receptionist/Cashier, and there was no check kept on the banking, with the result that she under-banked on various occasions to the extent of £500/£600.

She kept ^{quite} a lot of money back?---That is so.

And thereafter there was a change in the system, and there was a daily check on cash received?---That is so, and the deposit. 30

On cash deposited in the morning?---That is so.

every morning.

You had the burden of doing most of it?---That's right.

And Mr. Kantor himself personally, did it very seldom?---Very seldom.

Yes, and the other occasion?---Mr. Wolpe did the checking.

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The other occasion you were about to refer to something?---Oh, when an African employeemessenger, was given the authority...everybody at that stage had the authority to draw revenue stamps. 10

And he abused that authority did he?---And he abused that authority, in that he used to debit fictitious or non-existent clients and draw stamps...revenue stamps.

And he successfully got away with this for a number of years, did he not?---For a long period of time.

Yes, eventually he was found out?---That is so.

But I am talking about the particular members of the staff, we've been talking of with signing powers, that is yourself, Wolpe, A. Kantor and Mrs. Schneier, 20 there was no occasion, when that system led to any abuse?--- Not to my knowledge.

Mr. Makda, there have always been large numbers of african clients in your business?---There have been very large numbers of african clients.

With african names?---That is so.

And that is particularly true, I suppose of the criminal side of the practice, and the third-party work?--- That is so.

Yes, and in recent years, would you say that the amount of third-party work has increased fairly substantially?---That is so. 30

So that the number of third-party claims has grown?

in pairs and more.

Now was there any change in the procedure when this restriction became law, preventing communication between communists?---Yes.

Did you receive any instructions?---Yes.

From whom?---Mr. Wolpe.

From Mr. Wolpe. What were those instructions?---

That if people prohibited to see him came to the offices, they would ask for me.

They would ask for you?---Yes.

10

Yes?---And that I would have to ask them to come into my office, and then advise Mr. Wolpe, either I advised him or the receptionist advised him, and then I had to leave my office, when Mr. Wolpe saw the person concerned.

Now did they come to you singly, or in pairs or in larger groups?---Singly.

And how did they gather in the office? Singly or more?---Mr. Wolpe and the person came.

Wolpe and the person. Was there any occasion when there was more than two persons, that is including Wolpe and...?---No I can't recall.

You can't recall. And did you take any other precautions, as far as your office was concerned, when such people arrived?---I was instructed to close my venetian blinds.

By whom?---By Mr. Wolpe.

By Mr. Wolpe. Did you do so?---Yes, I did.

You did, and can you give his Lordship some estimate of the time that they so spent in your office?---30
Well, usually it was a very short visit.

*Kan for -
similar
instructions?*

---That is so.

Now is it correct that most the european third-party claims was handled by Wolpe?---That is so.

And most of the non-european third-party claims were handled by yourself?---That is so.

But quite a few of those also, ofcourse, by Wolpe?---
A few african clients, for third-party claims were handled by Wolpe.

Yes, and with reference to third-party claims, would it happen that substantial sums of money would come into the office and go out of the office?---That is so.

It is in the nature of that sort of work, is it not? ---That is so.

Now with regard to criminal matters, in the nature of that sort of work is it not, that large sums of money come into the office and go out?---They go out in the sense of paying bail or...

In the sense that bail has frequently to be found, sometimes in large amounts?---Yes.

If you have a large number of clients on one day in connection with different people's bail, you may receive substantial amounts in cash?---That is so.

And if you have to find bail for a number of clients on one day, you may have to pay out substantial amounts of cash?---That is so.

In regard to such matters, cash cheques would sometimes be made out?---That is so.

I want to turn, before we go further, to the episode when you delivered a parcel at Mr. Wolpe's request, to Mr. Sepel. You know the instance to which I am referring?---Yes, I remember that incident. 30

He didn't instruct you as a matter of the business of the firm?---No.

That you were to go out, get a receipt and behave in a normal and official sort of way?---That is true.

He asked you as personal favour to him to carry a parcel across to Mr. Sepel?---That is so.

I take it that nobody else in the office, except you and Wolpe, knew about that episode?---I wouldn't be able to answer the question.

You can't point to anybody who knew about it?--- 10
I didn't hear the question.

You can't indicate anybody who knew about it?---No.

On much the same basis as if he had asked you to go out and pick up his drycleaning for him, or something like that?---That is so.

I want to turn back Mr. Makda, to the personality of Mr. A. Kantor. You have told us he was elderly and not very well. Is it correct that he ^{really} ~~nearly~~ took no interest in other people's work or matters at all?---Never took interest in anybody else's matters at all. . 2

And he would sign virtually anything that was put before him?---That is so.

Without query and without looking at it?---That is so.

This must have been known to Wolpe?---I presume so.

Tell me about Mrs. Bloom's actions. Did she run the Collection Department?---That is so.

Did she have a large number of collections?---A very large number of collection matters.

And as a result of those collections, did some 30
of the money come in?---That is so.

I think there was one client called Western Credit which required individual payments in regard to every collection that was made?---That is true.

So that whether it was R1,000-00 or R5,000-00, on a hire purchase contract for a motofcar, or R50-00 on a little matter, there had to be an individual cheque made out the following day and sent off to Western Credit?---Well, I don't know the following day, but there had to be an individual cheque in respect of Western Credit.

Yes, they couldn't simply collect these monies 10 into the trust account and then pay them out at the end of the month in a single cheque?---No.

Mr. Makda, it was your function in the firm was it not, to draw bills of costs, when they had to be drawn?---Yes.

On the whole, in criminal matters, is it ever necessary to draw a bill of costs?---No.

In criminal matters, the firm works for an agreed fee?---That is so.

On the whole in third-party claims, and that sort of matter, do they tend to get settled?---That is so.

As a rule, are bills of costs drawn, or are agreed amounts settled?---Very often agreed amounts of fees are settled.

Yes. With regard to things like the registration of a company, that would be done for an agreed fee would it not?---That is so.

You told us in your evidence what Mr. Kantor's fee was, and what your fee was?---That is so.

So, no bills of costs?---No, bills of costs. 30

So that could one say that a high percentage of

Now Mr. Makda, you have indicated to my learned friend that it was the practice, I think you may have said the usual practice, to make notes on the covers of the firm?---Well, that is the usual practice in any firm of attorneys.

Yes. Now how many firms of attorneys have you worked for Mr. Makda?---Two firms of attorneys.

Two firms. Do you mean Edelstein and Kantor?---That's right.

And Kantor and Partners?---That's right. 10

That is this firm in its two various names?---That is so.

And do you say that you personally adhered to this practice of making notes on covers of everything that happens?---No.

You sometimes failed to do so?---Yes.

Mr. Makda isn't this the position? That firstly, if you anticipate the necessity for drawing a bill of costs and taxing it, it will become necessary to make notes on the cover?---I agree with you. 20

But that there are many types of matters, in which it is wholly unnecessary to do so?---That is so.

And therefore that there are many types of matters in which, in this office, to your knowledge, no notes whatsoever, were ever made?---I would agree with you.

In fact I would like to suggest to you that it was rather the exception than the rule to find any detailed notes on covers?---I agree with you.

I beg your pardon?---I agree with you.

Now Mr. Makda I want to put before you a cover 30 which I am instructed is one of your matters. Its the

a matter that you handled?---Yes.

What is on the cover?---The name the Delrio, c/o
(Inaudible) Re Mr. J. McKenzie.

Yes, is there any note there?---The word "file".

Written in whose handwriting?---My handwriting.

BY THE COURT: The word "file"?---Yes.

CROSS-EXAMINATION BY MR. COAKER (CONTINUED):

No other note whatsoever on the outside or on the
inside of that cover?---Inside of the cover is the instruc-
tions. 10

You have a separate piece of paper with something
on it, but not instructions?---That is so.

Yes, have you made any note on the file itself?---
No.

Can you give any explanation as to why, there is
no note on that file?---I cannot give any explanations.

I don't hear?---I cannot given an explanation.

You cannot. We'll send that file up to His
Lordship.

BY MR. COAKER TO COURT: My Lord I don't propose to hand in²⁹
these files. They are available to my learned friend
of course, and.....

BY THE COURT: It is important for me to know exactly what
this matter is about. I see you wrote a letter of demand?---
That is so.

What happened further?---I got no further instruc-
tions from my client.

You got no further instructions?---That is so.

So the matter was rejected?---That is so.

CROSS-EXAMINATION BY MR. COAKER (CONTINUED):

30

Can you tell the Court whether your letter of

It didnot. I see. Now let me put before you another of your files, that of Casper Ngabani.

BY THE COURT: I take it that last matter you refer to, you didn't charge a fee, or you would have noted it on the file?---I did not. The matter was that of a friend of mine.

CROSS-EXAMINATION BY MR. COAKER (CONTINUED):

It was a friend of yours, so you charged no fee?--- I did not in that instance, charge a fee My Lord.

BY THE COURT: If you had arranged for a fee, would you have entered that on the cover?---Yes.

Or would you remember it yourself?---I would have put the fee on the cover when I filed the cover away.

CROSS-EXAMINATION BY MR. COAKER (CONTINUED):

Now this matter, this file I've put before you, the matter of Ngabani. Is there any note on the outside of that cover?---With the exception of the name and the reference of the matter, and the word "file" in my handwriting, nothing further.

No, and on the inside do you find any notes?--- No.

There are papers inside the file from which you can find out what it was about?---That is so.

Yes, and if you had to tax a bill on that file, I suppose you could find out enough about it to do so?--- That is so.

But you didn't deem it necessary to make any notes on the outside of the cover or the inside of the cover as such?---That is so.

Was there any money paid in in connection with that matter?---There doesn't appear to be on the cover 30

case.

And/^{is}there anything sinister about the fact that you made no notes on the inside or the outside of that cover?---No.

Will you just turn that cover up so His Lordship can see what it looks like. (Witness shows file to Court-). Now I would like Mr. Makda to show you another of your files. Now will you just read what's on the cover of that file?--- The name of the client and the reference of the matter.

Do you find any notes there?---No. 10

Do you find any dates when the matter was put off or diarsied?---I just filed. The word "file" appears in my handwriting.

Just the word "file". Now correct me if I'm wrong. That is a Supreme Court Action, is it not?---That is so.

Look inside at the papers?---I am aware of the data.

You are aware of the contents of that file?--- That is so. 20

I see. Did that matter actually go to trial?--- No.

Did it go the stage of pleadings?---Yes, it went to pleadings.

Was Counsel instructed on pleadings?---Yes. I did not do the original part of the action. It was brought to me at the close of pleadings.

Yes, who did the initial part?---Attorney Kramer and Kramer.

Yes, did you have consultations with clients in that matter?---Numerous. 30

Did you have to tax a bill?---No.

As ...If you had had to tax a bill, no doubt, you could have ascertained from the contents of that file sufficient information to say what your attendances were and what you had done?---That is so.

Now looking at that file itself, can you ascertain what monies came in and what monies went out in connection with that matter?---No.

From the cover itself?---No.

What happened to that matter? Was it settled?--- 10
It was settled.

And as a result of that was there a payment, either in or out?---There were payments received and payments out.

Yes, and if he wanted to find out anything about those payments, he would have to go to bookkeeping system, wouldn't you?---That is so.

You couldn't find it on the cover itself?---It would have meant a lot of work to find the information required.

Yes. Is it not the purpose of a mechanical bookkeeping system to obviate the unnecessary making of manual notes about all stages and all aspects of matters?---I wouldn't be able to answer that question.

I suggest it to you Mr. Makda. If you give it a moment's thought, is that not the reason why one installs a mechanical bookkeeping system, to try and obviate the time spent otherwise on continually making manual notes?--- My Lord my knowledge of bookkeeping is so wide that I will be able to ...

So you can't deal with that question?---No.

But at any rate, once the mechanical bookkeeping 30

might be true.

Yes. Mr. Makda, I could continue this process, you will agree, to enormous proportions?---That is so.

I could take a lorry load of files from your offices over here, I could hand them to you one by one, couldn't I?---That is true.

And one by one they would find that the making of detailed notes on covers was more the exception than it was the rule?---It is true.

Yes, put it this way Mr. Makda. Isn't true that 10 different people operate in different ways?---That is so.

Some attorneys make extremely detailed notes of every step they take?---That is so.

Others, eminent attorneys, never make a note, or virtually never make a note on a cover?---That is so.

What they do, the action they take is to be found in the cover or somewhere in the bookkeeping system?---That is true.

And to a great extent it is kept in the mind of the particular attorney?---To that extent, yes. 20

Yes. Now you look at one of your covers, without a note on the cover. You can tell me that that is a matter in which you had numerous consultations?---That is true.

And you can tell me that amounts of money were paid in, and was paid out?---That is true.

Now let's take different categories of matters, just to see what you think about note making. Take a criminal case. You would normally see the client and take a statement from him, would you not?---Yes, that's true. 30

Suppose you have to get bail for him, would there

You say it should be on the cover?---Is that the amount.

Yes?---Yes, its normally put on the cover.

But in many instances it might not be on the cover. Do you agree?---It's true.

What you would do, was if you looked through the accounting system, we would find that a certain amount of cash was deposited with the Magistrate, Johannesburg, and a bail bond was given for it?---It is true.

And you would find that on such an occasion when 10 cash was deposited with the Magistrate, that a cheque was drawn on the same day for the same amount as that cash?---It is true.

BY THE COURT: I don't quite follow all that Mr. Coaker. How would the bookkeepr know. Now when a client comes in and gives you say R50-00 for bail, you don't make any note on the cover, that presumably according to Mr. Coaker, you would give that R50000 to your bookkeeper?--- To the Receptionist/Cashier My Lord.

To your Receptionist/Cashier. Now does that mean 20 that you would have to go and verbally tell her this is Mr. So-and-so?---That is so.

Deposit the money. Open an account for him and put it in his name?---No. The Receptionist/Cashier would then issue a receipt.

Yes?---And the bookkeeper would then open an account, when she goes through the Receipt Book to enter...

I mean instead of writing it in the file, you would to walk there and give her verbal instructions?---Not to the bookkeeper.

Who would you give the instructions to?---The

Five/ten minutes, but...?---but on one occasion I can't remember who the person was, who saw Mr. Wolpe in my office, the time was about 1½ hours.

1½ hours, and what did you do, when you were sort of evicted from your own office?---Well, I walked around the office.

You walked around the office, and did the staff see you walk around the office?---Yes.

They did. Did you ever have occasion to go back to your office whilst these meetings were on?---Yes. 10

Did you notice anything when you entered the office? Did the conversation continue?---No.

What happened, tell His Lordship?---Immediately stopped.

Conversation immediately stopped, and did it remain stopped whilst you were in the office?---That's right.

Then you left?---Yes, I left.

Any such meetings take place during the lunch hour?---Yes, do you mean after or before the restriction? 20

Before and after?---Well before, afterwards I don't think they were during lunch hours.

Before but after you don't think so. Allright. Did you ever pay any visits to Wolpe's office...Mr. Wolpe's house?---Yes, I did.

Can you recall any particular occasion, that you went there...?---Yes, it was some time in 1961. He invited me to dinner at his house.

In his house, and who did you see there?---A large number of people, about twenty. 30

Who were there?---It appeared to me members of

You would simply send your client there to go and pay the money?---I may take him there or go myself or leave it in there.

And then the money would be paid in, and what would happen to the receipt, wouldn't that come into your file?---Yes.

You mean you would get the receipt back and the bookkeeper will put it in your file?---That is so, not from the bookkeeper, from the tray alongside the Receptionist/Cashier's desk My Lord. The first copy of the 10 original receipt which has to be given to the client is given to the client. In many instances not, but the second copy was then torn by the cashier and left in the tray for people to collect, their receipts.

But now who would collect it? Would you then go and see whether there is anything belonging to the various files around?---Well, mainly the secretaries employed by each person or is working for each person, would go in the morning or in the afternoon or sometime during the day. Sort out the receipts, and letters she 20 recognises as being handled by a particular person, and hand that over to him, or alternatively put in the receipt herself.

I don't see how the mechanical bookkeeping system helps that very much. I mean you still have to get the document back in your file, would'nt you, the receipt of money that is paid in, not so?---The receipt yes.

CROSS-EXAMINATION BY MR. COAKER (CONTINUED):

We'll take such a case. The monies have been deposited with the Receptionist/Cashier and the receipt has 30 been issued?---That is so.

I take it there are several different ways in which that cash might be obtained?---That is so.

If there was a large amount of cash in the office that day, cash would simply be taken out of the cash box would it not?---That is true.

And the necessary 2, or 3 or R500-00, would be handed to the Magistrate as bail?---That is so.

Now in order to balance that amount of cash that had been taken out of the cash box, would not a cheque be drawn?---That is so. 10

Payable either to cash or to ~~sales~~ ^{SELVES}?---That is so.

And debiting of the cheque to the client's account?---That is so.

So you would find, amongst the cheques on such an occasion, a cheque payable to ~~sales~~ ^{SELVES} or a cheque payable to cash?---That is so.

Then you or some other member of the staff would go off and deposit the bail with the Magistrate?---That is so.

And receive a bail bond?---That is so. 20

The conclusion of the matter, now let us assume that your client, was either acquitted or convicted, his bail would then be recovered from the Magistrate?---That is so.

And at that stage, corresponding entries would be made on his Ledger Card in respect of fees. Is that right? ---That is so.

And in respect of any refund that there might be? ---And in respect of....

And in respect of disbursements?---In respect of 30 the refund of the bail by the Magistrate.

Yes?---That would be also a further entry.

That would also appear on the Ledger Card, yes.

With regard to the retention of original receipts in ^{FILES} trials. Mr. Makda is it not a common thing in your office that a client simply doesn't wait for his receipt?---It often happens.

And is it not a common thing too, that a client knows you well and trusts you implicitly?---Yes, that is true also.

And is it not the case that there are many hundreds of files probably, in this office, we haven't been through them all, in which you will find original receipts as well as duplicates and triplicates?---Very large numbers of files.

A very large number of files, and in some files you will find a very large number of original receipts too? Where there have been repeated payments by the client?---That is true.

Yes. Is that done with any sinister motive?---
Not on my part. 20

And if you came across a file in which there was an original as well as a duplicate receipt, would your suspicions be aroused, would you think something extraordinary is going on?---No.

With regard to this mechanical system and how it helps Mr. Makda, do you understand how to read the Ledger Cards?---I understand to read the first portion of the card only.

Belt 42B

Only the first portion?---Not the other portion.

Yes, and can I just put it to you in broad outline that the other portion relates to the internal adminis- 30

the business account and the trust account?---That is so.

So that a person understanding one of these card on looking, provided that it is up to date, can see at a glance what the position is?---That is true.

And would not, therefore, have to call for the cover or to examine the manual notes, if any that have been made on the cover?---That's true.

But by calling for this card could see immediately both what the total position was and what the trust account position was, and what the business account position was?---That is true. 10

And it is not necessary to add up columns of figures, as in a manual bookkeeping system and finally arrive at a total, because in each step or operation in this system, the new totals are given?---That is so.

Yes, so long as this system is properly operated, it would always be up to date within a day or two?---That is so.

And usually completely up to date?---That is true.

Now Mr. Makda, before I go any further, I want to show you a document, which must be in the possession of my learned friend, and that is a requisition slip which should be dated September the 28th 1962, relating to cheque No. 4249, a cheque made out to cash for R150-00. I will give you the Exhibit Number of that cheque shortly. I wonder if we may have that document from my learned friend. It relates to Exhibit K.11 I am informed. 20

BY THE COURT: What is the cheque Number?---The cheque number My Lord, is 4249, and it should be attached to in the triplicate of the cheque book. 30

BY DR. YUTAR TO COURT: It will be K.95 My Lord?---I beg

AT THIS STAGE THE COURT ADJOURNS FOR LUNCH.

ON RESUMING:

ISMAIL ESSOP MAKDA, still under oath

CROSS-EXAMINATION BY MR. COAKER (CONTINUED):

Mr. Makda I was just about to show you at the adjournment, the original cheque requisitions in respect of cheque No. 4249, that was a cheque dated the 8th of September 1962, for R150-00, and it was drawn on the account of A. Letele. Will you examine the requisition which is attached to a triplicate cheque form in Exhibit 10 K.95 the cheque book? Do you see the one there?---Yes.

Now that requisition is initialled by yourself, isn't it?---That is so.

Now when that cheque was put to you by my learned friend in your evidence in chief, he said that Mr. Cox the accountant will say that this cheque was requisitioned by James Kantor. Do you remember that?---I can't recall it.

If Mr. Cox the accountant were to say that, he would be wrong would he not?---Well, I could say I have requisitioned for it. 20

Yes. Mr. Makda why did you requisition that cheque? ---I presume I was asked to do so.

Can you actually remember why?---No, I can't remember.

Can you remember who asked you to requisition it?--- I presume Mr. Wolpe.

You presume Mr. Wolpe. You actually requisitioned this cheque, and you signed quite a number of the cheques which have been put in by the State and are relied upon?--- That is so.

Can you actually remember any particular occurrence of that sort, when Wolpe said "come, here's a cheque I want you to sign it"?---Yes.

You can remember such instances?---Yes.

Yes, with regard to this specific one, you have no specific recollection?---No.

No. Well the effect of this evidence is that there is an error on Schedule E, in regard to this item for September the 8th.

BY THE COURT: Requisitioned by J.K.?---(Reply inaudible 10 altogether).

CROSS-EXAMINATION BY MR. COAKER (CONTINUED):

Mr. Makda I also want to show you requisitions, such as exist, which are referred to on Schedule G, that is in relation to the account of Julius First. The first of those relates to cheque No. 3602, dated the 8th of March. All those cheques were dated the 8th of March. 3602 it is a cheque on the J. First Account. (Searching for details).

BY DR. YUTAR: That will be K.42. 20

CROSS-EXAMINATION BY MR. COAKER (CONTINUED):

That would be found in a cheque book which has not as yet been put in, the cheque books that were put in were from 4201 - 5,000. Now that requisition in regard to 3602, I would like to just show you. (Handed to witness). It is the top one on the first page?---The bottom one on the first page.

3602, is it the bottom one or the top? Oh yes its the bottom one. You're quite right. Now is that the initial of Harold Wolpe?---That is so. 30

Now look at cheque No. 3603. Is that requisitioned

3605?---I cannot identify this.

It is not the initial of James Kantor?---No, it is not.

And 3606?---Harold Wolpe.

Yes. You have got the copies of the cheques there in front of you, the third copy of each cheque?---I have.

In whose handwriting are they?---They are all in the handwriting of Mrs. Schneier.

That is the bookkeeper?---That is so.

Yes. Right will you hand back that book? (Book 10 handed back).

Mr. Makda when you requisitioned the cheque which you did requisition, I take ^{it}/you had no idea that you were participating in any unlawful activity?---That is true.

Otherwise you would hardly have signed it?---
Most certainly not.

And when you signed various of these cheques you had no such idea?---No, I had no such idea.

No. Now Mr. Makda you were in the office a great deal more than Mr. Kantor, weren't you?---That is true. 20

And you had far more to do with the people in the office than...in the affairs of the office than he did?---Well, I would say, yes.

And you didn't closet yourself in a soundproof office, and see very little of the other people there?---
Never had the privilege to do so.

No, quite. Nevertheless, you didn't suspect when you signed various cheques that...at the request of Mr. Wolpe, that you were taking part in some form of unlawful activity?---I had no idea at all.

Now I put it to you that it would be a fair assump-

*In same
direction as
Kantor*

No, but you do know that he was there far less frequently than you?---That is so.

That he was working under immense pressure?---He was extremely busy always.

That he concerned himself principally with his own clients and his own matters?---That is true.

That at week-ends he even used to go out to his farm at Hartebeestpoortdam to be away from town?---That is true.

He was constantly in court, not in the office?--- 10
Very often.

Mr. Makda there was a certain interval of time, was there not between the arrest of Wolpe and the arrest of Mr. Kantor?---That is true.

In that period of time if anyone in the office had suspected that there had been anything unlawful going on there, it would have been perfectly simple to find and remove or destroy all the files and cheques and exhibits that have been put in today and yesterday?--- Quite possible to do so. 20

As far as you know not the slightest attempt was made to conceal anything or destroy anything?---No.

And when the Police searched the offices, every assistance was given to them?---That is true.

Mr. Makda in your evidence in chief, you remarked that you knew that Wolpe was interested in politics?---Yes.

And I suppose there are lots of people who are interested in politics?---I presume there might be.

Yes. Now you yourself are not interested in politics?---I am not. 30

Have you always kept severely away from politics?---

to people who are interested in politics, not so?---I happened to have the occasion My Lord.

I didn't hear you reply?---I said I have happened to have had the occasion.

Yes, you found yourself, through no fault of your own in proximity to Wolpe?---That is true.

And the same with Kantor?---That is so.

I want you to enlarge on this abit. You knew, I take it that Wolpe was unsympathetic to the present Government?---That I knew. 10

And I suppose you knew that Wolpe had formerly been associated with certain political parties or movements?---That is true.

I don't know too much about the details of this, but let me put it to you this way - If you had had any idea that Wolpe was using the office for unlawful political purposes, you would have refused to sign his mysterious cheques or taken any part in his activities, wouldn't you?---Certainly.

So, you had no such idea?---Not in the least. 20

You knew that he had had certain sympathies and probably still had them?---That is true.

But it never entered your mind that he was making use of the facilities of the office for promoting any sort of unlawful or subversive activities?---It never occurred to me.

I put it to you that you actually saw a great deal more of Wolpe and his activities than James Kantor did!---Its quite possible My Lord.

It was in fact so, wasn't it?---Well, due to 30
Mr. Kantor's frequent absence in the office, I would say, ye

social contact between Mr. Kantor and Wolpe, his brother-in-law?---I am not aware of that.

You are not aware of that. You can't dispute that?
---No, I can't dispute that.

Now as far as you were concerned, did it appear to you that Wolpe confined his political activities to assisting with the defence of persons who became involved in legal troubles?---That is the impression I got.

On a legitimate basis as a lawyer?---That is true.

Did he sometimes act without charging fees?---Not to my knowledge.

Not to your knowledge?---I don't know what Mr. Wolpe's fees were, and what matters he dealt with.

Well assuming that he may have acted without charging fees, or that he may have instructed Counsel in matters, where he didn't personally charge a fee, would that be unusual?---That is not unusual.

There were also in your firm, a number of what I might call, political criminal cases, which came there through the Defence and Aid Organisation?---I don't know the source of the origin of these cases. 20

I beg your pardon?---I wouldn't know the source of the origin of these cases.

You wouldn't know the source of the origin, but do you not know whether the Defence and Aid Organisation ever sent cases through your office...to your office?---Yes, I do.

They did?---Yes, they did.

Now Mr. Makda, there was nothing unlawful or suspicious about attorneys taking cases from that organisation, was there?---I don't know the ins and outs of ^{that} ~~the~~ organi- 30
sation.

Kantor Here? persons present at this party, did they come to the office of James Kantor and Partners?---No, I didn't recognise one of the persons who had called at our offices, at that party.

And were you happy about that position, being invited to this gathering?---No, I wasn't.

Now do you know, you said you spoke about a man called Ezra?---Yes.

Where did you meet him for the first time?---I can't remember when, but I met him at our offices. 10

Our offices.---Two or three occasions.

Two or three occasions. Do you know who he saw there?---He saw always Mr. Wolpe.

Always Mr. Wolpe. Do you know the purpose of these visits?---I do not know the purpose.

You do not know. AND ON the occasions you saw him, did he come in with assistance, with a walking stick or how did he come in?---No, he walked normally.

He walked normally. Anything the matter with him?---Not to my knowledge. 20

Not to your knowledge. Allright. Did you ever speak to him?---Yes, I did.

About what?---He enquired about an Indian traveller he was interested in employing, and he asked me whether I knew that Indian.

I see, yes. Now did your office do registration of Companies?---Yes.

Who handled that?---Well, everybody in the office, whose matter it was, handled it.

Did Kantor handle that?---Yes. 30

INTERJECTION: I'm sorry My Lord, I didn't hear that

persons to assist accused persons?---It is not within my knowledge.

You don't know that. Very well. Do you know whether your firm used to accept legal aid matters from the Legal Aid Society?---Yes.

Were there a number of those matters too?---I don't know, I had one.

And the other people had others?---Possibly.

And those matters, I take it the fees were not charged?---That is true. 10

And then I showed you a cover this morning in which you had acted for a friend and you hadn't charged a fee?---That is true.

And I assume that there were other cases when you acted for friends of yours and didn't charge a fee?---That is true.

And I assume that there was no inflexible rule in your office that in every matter you must charge fees?---That is true.

In fact, I suppose that attorneys regard it as 20 part of their duty, or perhaps their privilege, to act for people sometimes, who...without charging fees?---That is true.

So that it never crossed your mind that Wolpe's interest in politics would tend any way beyond the possible sympathy that he might have for persons accused under certain laws?---That is true.

You remarked to His Lordship that it was your practice to call Mr. Wolpe a "bloody communist"?---Yes. 30

Did you intend to insult him and offend him?---No.

I take it this was a little private joke between

an active and vigorous communist, it would have been rather insulting to speak in that way, would it not?---That is true.

You did it because you regarded it as a little joke?---Yes.

And you say that he used to call you a racialist?---That is so.

And I take it that this was also his idea of a little joke?---I presume so.

You never took offence?---No.

10

And you didn't mean when you said, "I know you are a communist who is plotting a revolution"?---No, I never said that.

All you meant by that, was that in some stage in your career you might have^{had} sympathies of that sort?---He was a listed person My Lord.

I beg your pardon?---He was a listed communist.

He was a listed communist. Right. I think you have already made the point, but I just want to make certain Mr. Makda, that the large number of persons with 20 signing powers in the office, resulted from the fact that it was often difficult to get hold of either of the partners?---It is true.

And very difficult to get hold of them both?---At the same time, yes.

And even when signing powers had been so extended, I take that it sometimes happened that for two or three days on end the cheques might pile up, until the necessary number of people were available?---That is true.

And so if the cheques were being made out at the 30 rate, of say twenty a day, on the third day there would

And if somebody was ill it might go on for a whole week, might it not?---That is true.

And if they were piling up at the rate of 30 a day, or twenty, then at the end of the week, there would be something of the order of 200 cheques to be signed?--- If you arithmetic, is correct that would be the case.

The main reason why there was so many people with signing powers, was because Mr. Kantor himself very frequent wasn't there?---He was very frequently out of the office.

Yes. Now you handed in an identified, Exhibit 10 K.1, which contained two papers called "Spark" and "fighting Torch". Do you remember that?---Yes.

It was a file?---That is so.

BY MR. COAKER TO COURT. I wonder My Lord if I may just consult this file briefly, K.1? (File handed to Mr. Coaker).
CROSS-EXAMINATION BY MR. COAKER (CONTINUED):

You looked at that file and its contents yesterday I think?---Last time.

Now does this file contain some instructions to Counsel?---May I just refresh my memory please. 20

Well, I'll try to in a moment. You know there was some background information and some notes, and then does it contain a copy of a Government Gazette Extraordinary?---I am unable to admit this, can I look at the cover again My Lord.

In terms of which a certain paper entitled, "Fighting Talk" is prohibited. It seems to be only the first page of this Gazette left in the file, and does it also contain Counsel's opinion, you noticed that yesterday, did you not?---I've looked at quite a number of files, I can't remember any particular cover. 30

Yes. Just look at this cover. (Handed to witness). Just confirm that what I have put there is correct. Background information, instructions to Counsel, Government Gazette and Counsel's opinion, plus the copies of the paper?---It is correct.

Just look at the face of that cover? Is there any notes on that cover?---No.

Any indication whether Counsel was paid a fee?---No.

Any indication of the date on which instructions were received?---No.

Do you find that particularly sinister?---No.

Is it significant of anything at all? Does it tell you whether counsel was or was not paid?---It indicates nothing.

And does it tell you whether the firm did or did not charge a fee?---It does not say so.

In fact, in respect to this matter of notes on covers Mr. Makda, apart from matters where you seriously anticipated taxing a bill, I put it to you that that was 20 the normal practice in the firm, not to make detailed notes on covers!---It could be true.

And I say Mr. Makda in the course of your evidence today, you made reference, when my learned friend asked you to do so, to an Exhibit K.83, one of the files of Kathrada. Do you remember that Exhibit?---Yes.

Now that file had a certain number of notes on it?---It is true.

But those notes were not contemporaneously made by the party who handled the matter?---That is true. 30

They were subsequently made by you on re-construct-

costs!---That is so.

So when you received that file from whoever was handling it, it didn't have a note on it?---It had no note on it My Lord.

And you couldn't have told from looking at the file whether it had a deposit or not?---No.

Whether he had paid Counsel or not?---No.

But from looking at the contents and at the accounting system it was possible to re-construct all that?---

It is true. 10

Well, now then to revert to your evidence in chief, will you please return that file to his Lordship? (File returned to Court). (Mr. Yutar asks for permission to look at file). You gave quite a lot of evidence Mr. Makda about a certain number of visitors to the offices of the partnership?---Yes.

And you will recall what you said about them. You were asked to divide your evidence into two parts?---It is true.

Relating to a period before communication between 20 named or banned persons had been prohibited, and the period thereafter. Is that right?---That is true.

Now you asserted in your evidence that the following persons used to come to the office before communications were so prohibited. First of all you mentioned Sisulu, Accused No. 2?---I don't remember the particular order I mentioned the people.

No, I am not interested in the order either, Mr. Makda. Within your knowledge was Sisulu a client of your firm?---Yes. 30

Did he have several matters handled through your

You can't say how many, in each case were they handled by Wolpe?—That is so.

You mentioned Accused No. 5, Kathrada?—Yes.

And you were shown a cover of his yesterday which seemed to refer to a number of matters of his?—Yes, I think that was this morning.

This morning. Was Kathrada a client of the firm?—Yes.

Did the firm handle a number of matters of his?—Yes. 10

Did Wolpe handle all those matters?—That is so.

Do you know whether they were criminal or civil or both?—I think they were criminal and civil, both.

Criminal and civil. You mentioned Accused No. 6, Bernstein, you may recall?—Yes.

Is he also a client?—Yes.

Did he also have matters handled by Wolpe?—Yes, as far as I can recall.

And quite a number of occasions?—Yes.

And you mentioned Mr. and Mrs. Hodgson, P.J. Hodgson?—Yes. 20

To your knowledge, did Mr. Hodgson, have an accident case run in your firm by Wolpe?—It is so.

Did he participate in a defamation action that was run through your firm by Wolpe?—I can't recall this.

Did he have other matters, civil and criminal?—Off-hand I cannot admit it.

Was it your impression that he was a client of your firm?—Yes.

That he was a client of Wolpe's?—That is so. 30

What about Mrs. Hodgson. Was she likewise a client

...1....any of her matters or not.

You don't know. It's quite possible?---It's quite possible.

Yes. Now what about Mr. and Mrs. Harmel? Take Mr. Harmel - did he have matters dealt with by Wolpe?---Yes

Did he have civil action for damages dealt with by Wolpe?---Yes.

Did he have other criminal matters dealt with by Wolpe?---Yes.

Did he have questions of planning, and house arrest and so on?---It is true.

On which he consulted the firm or sought advice?--- It is true.

And Mrs. Harmel similarly?---Mrs. Harmel I think was a collection client of ours.

Pardon?---A, collection client of ours.

She was a collection client of yours, and you used to do collections on her behalf?---Yes, and Mrs. Bloom used to handle that aspect.

Yes, on one or two occasions you say Mandela came into the office?---It is true.

Accused No. 1. He was a colleague of yours?---At that stage, yes.

Yes. Was he ever a client of yours or at the office?---Yes, we had to do one matter for him.

You did a matter for him. That was handled by Wolpe?---Yes.

Yes. You made mention of Ezra, and I think you told His Lordship that Ezra once spoke to you about an Indian traveller that he knew?---Yes.

Did this arouse your suspicions and make you think

business into the firm or just ordinary property business in to the firm?---I wasn't aware at that stage of any property businesses My Lord.

Did you ever become aware of the fact that he had had a property transaction with the firm?---I had subsequently become aware of it.

Is that after the arrest of Wolpe and Kantor?---
That is so.

Prior to that you didn't even know that Ezra's property transaction had been handled through your firm?---
That is so.

Now you mentioned that prior to the restriction on communications, some of these persons sometimes came singularly and sometimes came more than one at a time?---It is so My Lord.

Mr. Makda can you tell us the date on which they came on any particular occasion?---Not a gagle date that I can think of.

Can you tell us which particular persons came together on any particular occasion?---No.

Was there a greater degree of pluralism than just husband and wife, say Mr. and Mrs. Hodgson or Mr. and Mrs. Harmel?---I can't follow the question, I'm sorry.

Can you remember whether when more than one came, it would be more than just say husband and wife?---Yes, more than just that.

More than just that. Others would come as well?---
That is so.

You say these people would enter the waiting room wait for a bit and then go into Mr. Wolpe's office?---Well 3
it all depended on a particular day, whether there was any-

Yes, what happened inside his office, you have no idea?---It is true.

Can you tell His Lordship whether to your knowledge Mr. James Kantor actually saw any such group of persons go into Wolpe's office, or coming out?---Not within my knowledge.

No. If you were sitting behind Mr. Kantor's desk in his office, even if the door was open, you couldn't see people going into Wolpe's office, could you?---No.

And in fact, the door was always kept closed?--- 10
That is true.

You mentioned to me earlier in your evidence, that your firm acted for people in all walks of life both high and low?---That is so.

Amongst other things your firm acted for a great many members of the Police force?---Yes.

Mr. Kantor himself acted often in departmental enquiries?---It is so.

He acted often in civil claims and in criminal matters?---It is so. 20

In which members of the force were involved?---It is so.

And so if these ^{PLOTTERS} (trotters), or revolutionaries were having meetings in Wolpe's office, they might have walked out at any moment straight into the arms of a Policeman?--- Quite possible.

Because there were often Policemen waiting in your waiting room, weren't they?---They were.

Sometimes in uniform, and sometimes in plain clothes?---It is so. 30

appears to be the case.

You mentioned one or two other persons. You mentioned Julius First?---Yes.

To your knowledge, did your firm handle the sale of the house for him?---It appears on the cover that I showed this morning.

Yes, did your firm handle a collection account for one of his companies, President Sowing I think it was called?---If it is his company, then yes.

Yes. You mentioned one Marx?---Yes.

1 0

Was he a client of your firm?---Can't recall.

You don't know?---Well I can't recall that he was or wasn't a client.

You can't think whether he was or was not?---That's right.

Yes, now you mentioned one Nokwe. Do you know whether he was a client of your firm?---Yes.

Did your firm act for him in an action for damages? ---Possibly.

Did you act for him in certain criminal matters?---²⁰
Yes, we did act for him in a claim for damages.

You did in a claim for damages?---Yes.

You also acted for him in certain criminal matters? ---Yes.

What about Turok. Did your firm act for him?---
Yes.

Instructed Mr. George Coleman, Q.C., to appear for him at his trial?---I am not aware of instructions to Mr. Coleman.

Yes. Do you know that your firm acted for him 30
in various matters?---I know that the firm did act for him.

body in the office who dealt with that matter, including Accused No. 8.

EXAMINATION BY DR. YUTAR (CONTINUED):

And you say Mr. Kantor dealt with it?---Mr. Kantor dealt with it.

It is important to know, what was his average fee for that work?---Mr. Kantor's fee for registering a Company was 75 guineas.

75 guineas. Did Mr. Wolpe do that?---Yes.

And what his average fee?---I am unable to say. 10

Unable to say. Did you do that?---Yes.

And what was your average fee?---£45-0-0.

£45-0-0, and of those fees what percentage constituted actual disbursements, or what constituted clear profit. I don't want to disclose legal secrets, but its important in this case, for reasons that will appear later?---Quite a substantial part of the costs were fees.

Quite a substantial part were for fees, the rest disbursement?---Disbrusements. 20

Was there anything difficult about that work?---No, unless it was a complicated....

Complicated, nothing difficult about it?---Nothing

And had the firm James Kantor and Partners ever turned away from its offices the registration of a company?---Not within my knowledge.

Not to your knowledge. Was your office competent to deal with it?---I should say, yes.

Allright. Do you know an attorney called Furman?---I don't know him personally. 30

You don't know him personally. Do you know of

In various matters?---I am unable to say the number of matters that the firm acted for him.

Yes. Then you have described the procedure that used to take place after restrictions were placed upon communications?---That is so.

You used to vacate your office, and leave the field to Wolpe and his visitor?---That is so.

On those occasions there was nothing to excite any suspicion on the part of Mr. Kantor, was there?---No.

Did you think that by lending your office on those occasions, you were lending yourself to a criminal conspiracy?---Possibly, yes.

Possibly yes?---I knew that they were banned people.

You knew that they were banned people, and you thought that they might be breaching the terms of their bans by communicating with one another?---That is true.

But you didn't think that they were going further than that, did you?---It is so.

You told us of an occasion when you visited Wolpe's house?---Yes. 20

And you say that you didn't recognise a single person at that party?---It is true.

Yes. During your evidence in chief Mr. Makda, my learned friend placed some emphasis in leading you, upon the fact that in surrendering, shall we call, the formation of the company Navian (Pty.) Ltd., the firm was sacrificing 75 guineas or some other amount of fees. Do you remember that?---Well, I was told that the matter was dealt with subsequently by another firm of attorneys.

Now do you know what Mr. Wolpe was in the habit of charging for forming companies?---No, I have no knowledge

75 guineas?---Yes, I do.

Now I take it that every now and then a member of the firm might form a company ~~with~~ for a friend without charging a fee?---It's quite possible.

You must have done it yourself on occasions Mr. Makda?---Not yet. I have not had occasion yet.

You have not had occasion yet. If a close friend of yours comes to you and says "look here will you float a company for me, I'm hard up at the moment". You would do it, wouldn't you?---I would. 10

Do you think that if this came to the attention of Mr. Kantor, it would cause any great excitement?---No.

He gives you a free hand in such matters, does he not?---He did.

Yes you are right. You are speaking in the past tense, you are perfectly correct. As far as you know, the formation of this Compant Navian never came to the notice of Mr. Kantor at all?---It never came to my notice. I wouldn't know if it came to the notice of Mr. Kantor or not.

Yes. I want to take a different point in the 20 course of your evidence in chief. You were dealing with the question of receipts for cash that was brought in. I don't want to go over this again, you have already dealt with it in outline, but let's just get it quite clear. When cash was brought in, the cashier who was the same person as the receptionist, would then and there write out a receipt?---That's true, unless the cash was by post.

If it came by post, this would be done after the opening of the post?---That is so.

By the end of the day at any rate, a full series of receipts for the day's cash takings whether in notes, or 30

handed to the clients?---It is so.

And in other instances they would have been pinned inside the files?---Yes.

There was no system in your office by which receipts which were not handed personally to the client, were posted to that client?---There was no particular system.

There was no particular system. Sometimes it happened that it was deemed necessary and sometimes not?---It is so.

Now at the end of the day, the cash takings would be tallied, usually by yourself, sometimes one of the partners?---That is so.

And the following morning deposited?---That's right.

I want to turn away from that to the next point in your evidence in chief. You dealt with the incident when bail for Accused No. 2, Sisulu, was ^{fixed} fetched one morning, the sum of R6,000-00 and found within a remarkably short time the same day?---It is so.

You asked Wolpe how it was done, and what was his reply?---Mind your own business. 20

Now sofar as this bail was concerned, was there not an application made to the Supreme Court to compel the Magistrate to fix bail?---I do not know the contents of the application, but an application was made.

Yes, and that application was made, or at any rate was lodged some little while before it was heard, at least some days before it was heard?---Unless I see the papers, I won't be able to confirm or deny that.

No, and it was heard the previous day and Mr. Justice Galgutt ordered the Magistrate to fix bail?---I 30
can't remember the exact time, but it was previously or

bail was fixed. Do you know?---No.

Not. Very well. So that it didn't come as a complete surprise to everybody out of the blue that bail was fixed for Sisulu on a particular date?---I don't follow the question.

Well anybody who was interested in the affairs of Sisulu, would have seen or known that an application was being made to the Supreme Court to compel the fixing of bail?---No, I was aware of the application.

And that the application had been granted?---Yes. 10

And that bail would, in due course be fixed?---Yes.

So it wasn't as though the matter happened completely without the slightest warning?---No.

I understood you to say Mr. Makda, turning to a different point, that so far as cheques were concerned, the duplicate copy was filed in the cover, and then subsequently posted away to the client?---That is not true.

Did I misunderstand you?---You certainly did.

b I beg your pardon. Well perhaps you will just tell me what you did say?---Duplicate copies of receipts 20 are taken by the bookkeeper from the cheque book then posted on to the Ledger Card and filed in small little folders.

Yes?---Until such time that the Statement of Account was sent to the client.

So they were filed in a separate folder not in the cover?---No, not in the cover of the client.

Yes, and then at the conclusion of the matter?--- The conclusion of the matter, if it was a collection matter, then when a Statement of Account was rendered, then the messenger would be given a Statement of Account, and he 30 would then draw out from these various folders the relevant

Yes I see. So we wouldn't expect to find duplicate cheques unless there has been some oversight?---That's true My Lord.

Yes. Now insofar as the requisitions were concerned, you gave evidence about the information that was required to be placed on the requisitions. Remember that?---
Yes.

Now just to pursue the system of it, it's correct is it not, that the requisition will be sent normally to the bookkeeper?---Is she was available. 10

Yes, but I think you told us that you used to make out your own cheques?---That is so.

But the other people in the office normally sent their requisitions to the bookkeeper, did they not?---That is so.

And looking at the requisition form, she would know how to make out the cheque?---It is so.

She would know amongst other things, which account to debit?---It is right.

Now if the partner himself, if for example Mr. 20
Wolpe wrote out a cheque in his own handwriting in the cheque book, I suggest to you there was no reason to fill in a requisition form at all, because the cheque itself would show what account to debit?---It is true.

And it might or might not show, re what the cheque was made?---Yes, that is true.

5 Now do you agree with me Mr. Makda that although it may have been in theory necessary to show on the cheque and the requisition, in respect of what the cheque was being drawn, there are in fact, cases where it is not 30
necessary to show that, and where it is not shown? Let me give you an example of the sort of thing I mean - If

Credits, it would be essential to indicate would it not, in respect of what matter this cheque was being drawn?---Yes.

And in such a case you would always insert in re--- such and such a collection and whether it was for a summons or for this, that or the other?---That's right.

Well, if you had a much simpler transaction, where you simply had one client, Mr. Smith or Jones, and he said "I am paying in some money, and I want you to pay it out to Mr. Brown on the happening of a certain event", it wouldn't be necessary to put in in re. the happening of a certain event, because you would know that's the only account of Mr. J. Smith in your firm related to the paying of Mr. Brown?---Yes, if the example is as simple as that, it is true.

Yes, and there were instances almost as simple as that, were there not, where there was only one client, of a particular name, and only one matter relating to that client?---Yes.

I suggest to you that in such matters, although it might have been the proper thing to do to put in full particulars, in fact this was sometimes not done?---It is true.

Because nobody could be confused?---It is so.

So that if you saw a cheque payable to Webber, Wentzel, Hoffmeyer, Turnbull and Company, debit account re Ezra, and it didn't say what it was in respect of, would it arouse your suspicions immediately?---No.

If it did have re "deposit on farm "Lilyleaf"" it would be quite beyond any suspicion as far as you were concerned, wouldn't it?---It is true.

Before Mr. Wolpe arrived in the practice as an

book, with a counterfoil and a single cheque?---It is so.

Without any copies that had to be filed anywhere?---

That is so.

And without any requisition slips?---That is so.

Now at that stage there was no other source of information about the purpose or the nature of a cheque payment than the counterfoil?---It is so.

But after the change of the system, even if the information was not shown on the cheque, it might have been found on the requisition?---Its true. 10

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But at that stage then on the face of a cheque there would be nothing at all to indicate who was to be debited, or in re what matter, the cheque was made up?--- Which respect are you referring to.

The earlier period, when the ordinary counterfoil system was used?---Yes, obviously.

Because the reference would be then to the counterfoil?---Yes, and notes would be made as to the person to be debited.

On the counterfoil?---On the counterfoil. 20

But not on the cheque itself?---It all depended on the person making out the cheque. If it was not enclosed with a letter or compliment slip, it might have the notation as to the reason for the cheque.

Yes, it might, but there wasn't a special provided, and the information in fact, was recorded on the counterfoil?---I can't recall...

I'm not putting that to you Mr. Makda, I don't know what the position is, I just want information?---Well, I can't remember the type of the cheque, but there was a 30 place on it for notation.

before Wolpe arrived Mr. James Kantor was ...would always query any cash cheque drawn on the trust account?---If he noticed it, yes.

Now there were even occasions then, were there not when he failed to notice it?---Quite possible.

Despite the fact...well you say quite possibly, don't you know such occasions?---Well, I can't remember any instance.

Is it your impressions that there were such occasions?---There certainly would be.

Yes, to your knowledge even in those days, Mr. Kantor worked under great pressure?---Yes.

And he sometimes had to sign considerable numbers of cheques in a hurry?---It is true.

6 But you said that once Wolpe came in, he said it was nonsense that crossed cheques could not be made out to cash?---Yes, when I drew his attention to Mr. Kantor's attitude to cash cheques.

I didn't hear that answer?---I say when I drew his attention to Mr. Kantor's attitude to cash cheques. 20

Yes?---He told me it was nonsense.

He said it was nonsense. You never went and drew Mr. Kantor's attention to Wolpe's attitude to cash cheques? No.

And in fact Mr. Makda, isn't this the position, that as your firm began to do more accident work for car clients, ^{who} you didn't have banking accounts, the payment out of cash cheques became commoner than it had previously been?---The bigger the sums of money we got, in certain cases we had to make out cash cheques for african clients.3

Yes, many of them didn't have banking accounts?---

I see., and I think apart from that you also mentioned that there were instances where monies were provided by the firm for purposes of bail and such like?---
Yes.

And cash cheques were made out and debited to the appropriate account and deposited the following day to balance the books?---That's right.

So that it was not unheard of event in the firm of James Kantor and Partners for a cash cheque to be made out?
---It is true. 10

With the crossing cancelled and the word order substituted by the word bearer?---That's right.

And this would be cheques drawn on the trust account?---Depending on the circumstances of each case.

The circumstances we have been discussing, the sort of instances we have been discussing are all trust cheques aren't they?---These are all trust cheques, yes.

There could be other instances for different purposes when cash cheques would be made out on the business account?---It is true. 20

For example, payments of wages to somebody who didn't have a banking account?---That was most frequent.

If revenue stamps were required for transfer, and had to be obtained in a large amount, would a cash cheque sometimes be made out, for the amount of the stamps?---Yes.

And the appropriate trust account would be debited?
---It is so.

I suggest to you Mr. Makda that in fact, Mr. Wolpe's attitude towards cash cheques never produced any catastrophe in the office?---I would be unable to answer the question. 30

You don't know of any large amount of money that

Or any small amount that was lost in that way.---

No.

So far as you are aware, the auditors of James Kantor and Partners never warned them that this was an undesirable practice, or was improper in any way?---I am not aware of the attitude of the auditors.

So far as you are aware, they never wanted the partnership?---I very seldom saw the auditors or spoke to them.

Yes, you did see the auditors presumably on the 10 premises?---Yes.

Working with the books?---Yes.

I want to deal with the procedure with regard to the endorsing of cheques. Whether they were made to sales or any other cheque that had come in. Are you aware that the cheques would be placed in a pile face downwards, and come to the person who was to endorse?---That's right.

And at least as far as Mr. James Kantor was concerned, the endorsements would simply be signed one after the other without even looking at the face of the cheques?---I should say, yes.

Was that your own procedure?---That is right.

Was that Wolpe's procedure?---It is true.

Any checking or balancing that had to be done was done by Mrs. Schneier in the Accounts Department?---Yes, if there was any error, yes.

But the minimum of time was spent on endorsing, it was simply the cheques were already rubber stamped, they were simply put face down in front of somebody who was going to endorse, and he would sign them?---It is right.

Now, ofcourse the purpose of endorsing cheques,

I do.

How did you come to know him?---One morning Mr. Wolpe asked me to deliver a parcel to Mr. Sepel of Mr. Furman's office.

This is rather important. Can you place the date? ---I can't.

The month?---I think it was sometime towards the end of November 1962, I think.

Towards the end of November 1962.---It was November 1962.

Allright, we can get the date from Sepel when he gives evidence. And you say Mr. Wolpe called you and gave you instructions?---To deliver this parcel to Mr. Sepel of Mr. Furman's office. 10

Right, what was the parcel?---It was a flat envelope-like parcel.

Yes, bulky?---Not extremely bulky.

Not extremely bulky, and what did he say when he gave you the instruction to deliver this parcel to Mr. Sepel of Furman's office?---He said I should deliver it to him personally. 20

Deliver it to him personally. Did he indicate whether or not Mr. Sepel was expecting it?---No, he didn't.

He didn't indicate. Did he indicate whether or not Mr. Sepel knew about it?---No, he didn't.

Did he indicate whether or not you were to wait for a reply?---No, he did not.

He did not. And did you carry out that instruction?---I did.

And where was this office?---Its in Loveday 30

And without the endorsement, the bank wouldn't accept them and wouldn't know where to pay them to?---That is true.

Yes, as to whether to endorse "trust" or "business" that decision was made by Mrs. Schneier? The bookkeeper?--- No, I wouldn't say that is true.

Well, there was a rubber stamp wasn't there?--- The procedure normally that I know of, was that all receipts, monies received irrespective of whether cash or otherwise, would be deposited in the Trust Account. 10 Only after fees had been put through or other debits had been debited, would a transfer be made from the trust or the business account, whichever was found necessary.

I see. So they were always endorsed "trust account" were they?---As far as I know yes.

Yes. That may well be so. I haven't checked up on that one? Now Mr. Makda in your evidence and in the exhibits which you have identified and dealt with, you dealt with a period from August 1961 to March 1963?---It might well be. 20

Yes, and that is a period of some twenty months?--- It might be.

Yes, Mr. Makda, during that period of twenty months, to your knowledge, did....were any large number of cheques drawn on the trust account get signed by the firm?--- Besides these that I have seen I can't recall all the cheques.

No, ofcourse you can't but you know it must have been a large number don't you?---I am unable to answer the question. 30

You wouldn't be able to *dispute* assert that there were in

No, and you will agree I suppose, that the number of cheques drawn on the business account over that period would also be fairly substantial?---Possibly, yes.

What was that answer? Was that "possibly, yes"?---
Yes.

Well surely you could make it "yes"? You know that there were business account cheques also being drawn every day?---Yes, but I wouldn't be able to say how many.

No. All I ask you to say is that it is a substantial Number?---It could possibly be. 10

Yes. That we might well have the situation in which there something of the order of 4,000 cheques issued over the whole period on both accounts?---Quite possible.

Yes. Now in this matter, the cheques relied upon by the State and handed in through you, are 40 in number, if we include the bank guarantee for "Lilyleaf"?---That might be.

In fact, the actual cheques are 39 cheques?---It might well be.

Yes. Now you wouldn't dispute then, that the 20 number of cheques relied upon is something like 1% of the total number of cheques signed?---You say it is much less than 1%, that is the case.

Now over this whole period, Mr. Makda, can you make an estimate of how many matters were handled and how many clients the office must have had?---Its impossible for me to say. That is out of the question.

Would it run into many hundreds or into thousands?--- Its very difficult for me to say My Lord. Each person had his own set of clients. 30

The number would be ver substantial would it not?---

of the 39 relied upon James Kantor counter-signed 16 of these cheques over the whole period?---It might well be.

Yes. You wouldn't dispute that the total amount paid through the trust account and relied upon by the State is R51,550-49 cents?---I wouldn't be able to dispute that.

You wouldn't dispute that the total amount paid out on cheques on which the signature of James Kantor appears as co-signatory is R7,170-92 cents?---I wouldn't be able to dispute that. 10

You wouldn't dispute either that all the requisition forms which are available are in fact, made out apparently by Wolpe?---It is so, with the exception of one that was shown to me...

One which you made out yourself?---It is so.

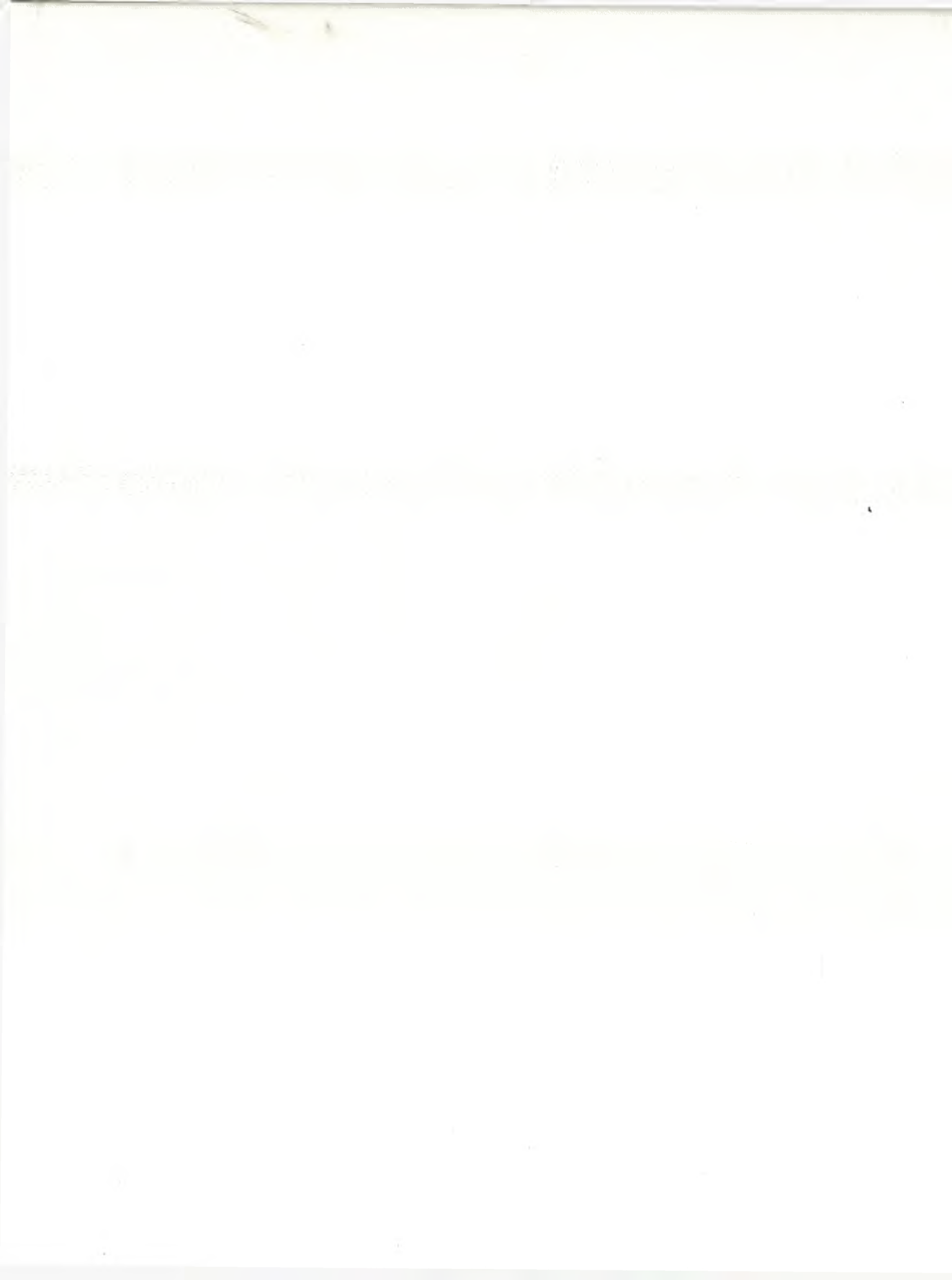
Yes. There are six cheques Mr. Makda, in respect of which there appear to be no signed requisition forms?---It might well be.

Two of those there are requisition forms which are unsigned, they are not initialled?---I haven't seen them. 20

You have not been shown the requisitions at any stage, in preparing our evidence?---Well, I can't remember that My Lord.

And I put it to you that the remaining cheques, either have Wolpe's handwriting or his signature upon them which runs right through onto the duplicate or triplicate copy, indicating that Wolpe in fact signed these cheques while they were still in the book?---That is the case.

And these matters in regard to which you handed in Exhibits today, and yesterday, every single one of them were matters handled by Wolpe?---That is so.



No, in fact, I put it to you that the covers which you have dealt with show that not a single one of these matters were handled by Kantor?---That is true.

And Mr. Makda, you yourself countersigned an appreciable number of these cheques?---That is so.

I put it to you that you regarded this countersigning as a pure formality?---Exactly.

And it was a formality which nobody in the firm took seriously!---It is so.

Once the partner or the person who wanted the 10 cheque had gone through the procedure nobody else acted as a watchdog one for another!---As far as I know, not.

Now Mr. Makda, let us deal in a little more detail with some of these cheques, signed by Kantor. With regard to the account of Letele. Remember that one?---Yes.

There were on that account four cash cheques?---I can't recall the exact number My Lord.

Signed by Kantor over the period from 31st of October 1962 to 6th ...I beg your pardon, the 21st of August 1962 to the 6th of October 1962?---It might very well be. 20

Yes, and in every case these cheques indicate on the face of them the party to whom they are going to be debited?---It might well be.

And they indicate also, that Kantor was the second signatory?---Quite possible.

All the rest of the cash cheques on that account were not signed by Kantor, they were signed either by Wolpe and Makda or Wolpe and A. Kantor?---Quite possible.

And there are no other cash cheques in this whole series of cash cheques that were signed by Kantor?---I 30
wouldn't be able to admit or deny that.

drawn payable to ^{SELVES} sales, and there was also one cheque drawn payable to ^{SELVES} sales on account Ezra in respect of disbursements?---Quite possible.

Now these cheques drawn payable to ^{SELVES} sales, you indicated to His Lordship, would raise no query in the ordinary way?---Its true.

Because of the practice of using cash monies and immediately balancing the books by drawing a cheque payable either to cash or to ^{SELVES} sales?---It is so.

And that apart from this, there are a number of 10 other individual cheques which don't fall neatly into these categories, and with respect to which all one can say generally, is that is that there is nothing to arouse anybody's suspicion?---Well it didnt arouse my suspicion.

No. Were you present on occasions Mr. Makda, when Kantor was signing cheques?---Yes.

Did you sometimes see him with a bundle of cheques in front of him signing a number of cheques at ~~one~~ time?---That is so.

Did you sometimes see him signing cheques while 20 he held his telephone clamped against his ear with his shoulder?---It is so.

And simply rattled through the cheques without even looking at them?---It is so.

While he continued a conversation on the telephone?---It is so.

Did you sometimes see him when he was leaving the office?---...

He kept pulled back by somebody who would say "quick Mr. Kantor, before you go, there are some cheques that need to be signed"?---That is so.

He certainly was not wasting any time?---That is so.

BY MR. COAKER TO COURT: My Lord at this stage I wish to apply to reserve the remainder of my cross-examination of this witness. There are My Lord, some files that have been placed before Your Lordship, there are about twenty other files in the possession of my learned friend which I have not had the opportunity of studying, and there are still certain aspects of this matter on which my accountant, has not been able fully to qualify himself, or therefore to instruct me.

WITNESS WILL BE RECALLED FOR FURTHER RE-EXAMINATION AND FURTHER CROSS-EXAMINATION.

Not very far. Now I want you to tell His Lordship exactly what you did when you came to that office, with this parcel?---Well, I went into the office to the Receptionist and told her that I wanted to see Mr. Sepel, and gave her my name, and she announced me and I was called in.

Did you meet Mr. Sepel?---Yes.

Was that the first time you saw him?---That was the first time I saw him.

Now tell His Lordship exactly what happened?---I handed him the parcel, and asked him whether there was a reply. He said "no".

Yes, but did you tell him who you were, where you came from?---Yes, I said "Mr. Wolpe has sent this parcel".

Mr. Wolpe sent this parcel. Did Mr. Sepel open the parcel in your presence?---No,

He didn't open the parcel, and did you leave?---I left immediately thereafter.

BY THE COURT: He did not open it?---He did not open the parcel My Lord. 20

Belt 32

EXAMINATION BY DR. YUTAR (CONTINUED):

Mr. Makda did you know that that parcel contained R5,000-00 in cash?---No.

In bank notes?---No, I did not.

At that stage, did you know...had you met Mr. Ezra? On that date when you delivered the parcel to Sepel ---I can't recall.

You can't recall?---The delivery was fairly early in the morning.

Yes, but have you met Mr. Ezra at all prior to this incident?---I can't say that it was prior or after 30

you were asked to deliver?---No, I was asked to deliver other parcels as well.

By whom?---Well everybody but once I was asked to deliver a parcel to Mr. Kathrada by....

That's the one I want. Who asked you this time?---
Mr. Wolpe.

Wolpe, and he asked you now to deliver a parcel to Mr. Kathrada. Who is he?---Accused No. 5.

Accused No. 5. What type of parcel was that?---
It was an ordinary parcel. 10

Similar or dissimilar to the first one?---Dis-
similar to the first one.

Beg yours?---Dissimilar to the first.

Dissimilar. In what way?---It was wrapped in
brown paper.

Wrapped in brown paper, and where did you deliver
it to No. 5?---At his flat.

Where was his flat?---13 Colvert House.

13 Colvert House, where is that?---Market Street,
Johannesburg. 20

Did you tell him who you were, or did he know?---
He knows me.

He knows you, and did he open the parcel in your
presence?---No.

Did he give you any reply?---No.

No. Now evidence is going to be led Makda, that
this parcel contained R5,000-00 in cash and that a receipt
for that amount was made out by Sepel, in favour of Ezra,
and that receipt which I will produce presently to you,
was found in Kantor's Office files! Do you know anything
about that?--- I know nothing about that. 30

EXAMINATION BY DR. YUTAR (CONTINUED):

You know nothing about that. Tell me when your office received money by way of cash or cheque?---Yes.

And did you give receipts to the people who...?---
If the office received it, yes.

Yes, and what happened to the original receipts?---
It was given to the client.

Given to the client?---Not always, the client some times didn't wait for a receipt. We didn't give them to them. 10

Then did you post it on later?---Not always.

Not always. Why not?---Just laziness.

Pardon?---I suppose it was laziness.

Laziness, and what happened to the duplicate receipt?---It was kept in the file of the person concerned

Is there any reason why in any case both the duplicate and the original receipts should be retained by the office and kept in the files?---I have personally done it many times myself.

You have done it many times. Can you recall any 20 such occasion?---I've got at the moment in the office, at least fifty covers where I have the original receipts which clients have paid in.

Cash?---Cash and cheques.

Is there any reason why you haven't given it over? ---As I said its just laziness on our part.

Laziness on your part. Right. Now you remember Accused No. 2 was involved in some legal proceedings?---
Yes.

And bail had to be found?---Yes, bail was granted 3
to him.

The Supreme Court made an order, I think, as the result of which the Magistrate fixed bail?---No.

BY THE COURT: Which Accused is that?---Sisulu No. 2.

EXAMINATION BY DR. YUTAR (CONTINUED):

That's right.

Sisulu No. 2. Do you know what the amount of the bail was?---R6,000-00.

Now in that instance, who was acting for Accused No. 2?---Mr. Wolpe.

Mr. Wolpe, and was bail found?---Yes, bail was found.

I would like you to tell His Lordship, when bail was found, in the morning?---That is right.

About what time?---It was pretty early in the morning.

Pretty early in the morning. About?---About tennish.

About 10 o'clock. Was bail found?---Bail was found.

By what time?---By 1 o'clock.

20

By 1 o'clock. Who gave you the bail?---Mr. Wolpe.

How was that bail made up?--- One was a cheque for, I can't remember the exact figure, and the rest was in two bail bonds, that they asked me to cash, and pay as part of the bail.

Did you make any comment on the fact that bail was fixed only that morning in the sum of R6,000-00? And that it was found in the matter of a few hours?---Yes, I did.

What did you say to whom?---I asked Wolpe how did he manage it....I can't remember the exact words, but

30

I should mind my own business.

Mind your own business. Did you in fact, know where that money came from?---No, I did not.

Now, I want to deal with the subject of the signing of cheques. Will you tell His Lordship, the procedure followed. Did you have an ordinary cheque book with counterfoils, or what?---No, we did not have an ordinary cheque book with counterfoils.

Right, but you had a cheque book which was in duplicate?---We had a duplicate of the cheque itself. 10

A DUPLICATE of the cheque itself?---In exclusion of all the printed matter.

Yes, what was it now in duplicate or did you have the first copy?---In triplicate.

In triplicate. Allright. Now then let's take it this way - you first have the original cheque?--- That's right.

With all the printing thereon, and provision for details. We'll come to that later. Then you...what happened to that cheque when that was filled in and 20 signed?---The original?

Yes?---Well, I had to post it to the person concerned, hand it to him. †

Post it or hand it to the person to whom it was made payable. Right. †

MR. COAKER TO JUDGE: My Lord I wonder if I might ask the witness to speak up a little bit, as I am having that difficulty in getting the notes?---Yes.

BY THE COURT TO WITNESS: Speak a little more slowly and a little more clearly. Counsel over there will not 3 hear what you are saying.

the details were filled in, and in due course, either was sent to or handed to the person in whose favour it was made out?---That's right.

Second copy?---We, in the office had the mechanical system of bookkeeping, with the result that the second copy went to the bookkeeper, who entered the cheque on the Ledger Card, and filed the copy in a little folder, which copy was eventually forwarded to the client at the conclusion of the matter, or if it was, for example, a collection matter, at the end of the month together with a Statement of Account.

So that second copy therefore, served as a sort of Statement or note of payment which was sent to the client with his weekly or monthly statement?---That's right.

And the third copy?---Was kept in the cheque book.

In the cheque book, and that ofcourse, was used by the bookkeeper, and the auditors?---Quite right.

Now let's deal with the procedure, as to how a cheque comes to be made out. Was there any system of requisitioning for a cheque?---There was a system of requisitioning for cheques.

What was that system?---Anybody...not anybody, certain people in the office, could requisition for a cheque.

Those people being?---Mr. James Kantor, Mr. A. Kantor, Mr. H. Wolpe, myself, Mr. S. Klein and...

Mr. S. Klein. Who was Mr. S. Klein?---An Articled Clerk to Mr. James Kantor.

Right. Yes?---Mrs. Bloom.

Mrs. Bloom, who is she?---She used to be in charge

*Auditors
justes? //*

And did you have special requisition forms?---
That is so.

And what was the information called for on those requisition forms?---The information called for was firstly, the amount, secondly, that it was a trust or a business cheque, and the cheque No., thirdly it was in favour of whom to be made.

In favour of whom to be made. Yes?---And who the client was, the date, and the person authorising it.

What about the details, or the reason for the 10 drawing of the cheque?---That's what I said the person to be debited, for example say, a cheque had to be made out in respect of an accident claim. The cheque was made out to the person. He was debited re accident claim.

Re accident claim. So you had a column there which said Re. and then you had to put out the purpose or the reason for drawing that cheque?---That is so.

Allright. Now was that system in vogue when you joined the firm?---No, it was not.

When was it introduced?---Very, very much later. 2

When?---When Mr. Wolpe introduced the system,
I think.

Who introduced the system?---I think its Mr. Joffe or Mr. Wolpe. One of the two.

Mr. Joffe or Mr. Wolpe. You don't know when?---
No, I can't remember.

Allright, and now as far as the actual making out of the cheque is concerned. Oh by the way, when this requisition was made out, who was it sent to?---Well, it had to be sent to the bookkeeper. 30

To the bookkeeper?---But more often that not, the

bookkeeper made out the cheques.---That's right.

Allright, now here I want you to be extremely careful, and to tell His Lordship what the position was before Wolpe arrived on the scene, where a cheque was drawn, was it or was it not, essential to indicate on the cheque form the reason for cheque?---It has always been.

Always. In fact at the bottom of the cheque they had - "Pay so and so, the sum of so much re..."
 There you put in the reason for the cheque?---That's right.

And then "client" and you put in the client's name. Is that right?---That's right.

Was that essential or not?--- That was essential.

It was essential, and now the payee. What was the procedure adopted before Mr. Wolpe arrived on the scene? ---I don't follow your question Doctor?

In regard to the payee, was it or was it not necessary to put the payees name?---Yes.

Was it necessary?---It was necessary.

What about the crossing "Not negotiable"? Was that ever cancelled or not?---Yes, occasionally it was cancelled.

Now what was the position with regard to the cases, in which the crossing was cancelled, before Wolpe arrived on the scene?---Mr. Kantor was never pleased to see a trust cheque with the crossing cancelled.

Mr. Kantor was never pleased to see a trust cheque with the crossing cancelled. Did he insist on any procedure being followed?---Well, if he noticed that the crossing was cancelled, he would ask the reason why the crossing was cancelled.

He asked the reason why, the crossing was cancelled.

Instances when he did not know why not crossed

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