

COMMISSION OF INQUIRY
INTO THE SOUTH AFRICAN COUNCIL OF CHURCHES

HELD AT PRETORIA

ON 10 MAY 1983

CHAIRMAN: THE HONOURABLE MR JUSTICE C F ELOFF

COMMISSIONERS:

MR S A PATTERSON

MR T L BLUNDEN

PROF P OOSTHUIZEN

MR F G BARRIE

CHIEF INVESTIGATING OFFICER:

ADV K P C O VON LIERES SC

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ADV ETIENNE DU TOIT

SECRETARY:

MR M L MARAIS

ON BEHALF OF COUNCIL FOR THE

S A C C:

ADV S KENTRIDGE SC

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LUBBE RECORDINGS (PRETORIA)

/Idem

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THE COMMISSION IS RESUMED ON 10 MAY 1983

WOLFRAM KISTNER, still under oath:

MR KENTRIDGE: Dr Kistner, you have come to the heading, Response to the Contents of Some of the Allegations of the SAP Memorandum, and Section 1 is the issue of non-violent action and of violence. Would you please continue from there? --- Mr Chairman, I am reading the second section of this paper, response to the contents of some of the allegations of the SAP memorandum. The issue of non-violent action and of violence. 10

"Soon after he had started to work in the SACC, the Director of the Division of Justice and Reconciliation tried to obtain some information on the background of the 1974 SACC resolution on conscientious objection. Since the documents he found were not adequate for a clear picture, he tried to obtain some oral evidence in addition from several well informed people. On the basis of this evidence he arrived at the conclusion that this resolution has to be attributed to a desire to find an alternative method of contributing towards 20 justice in South Africa, that differs from the method the liberation movements operating from outside South Africa have chosen and that at the same time shows a concern for justice in South Africa. Rev Robertson has given a correct interpretation of the outline that is given in an unofficial paper of the Director of the Division of Justice and Reconciliation under the heading 'Conscience in Conflict', in a later unofficial paper under the heading 'Background Paper for the Discussion of the Problem of a Just Revolution', and in a 30

further/...

further later unofficial paper 'Response of the South African Council of Churches to the WCC Programme to Combat Racism (1969 - 1979) - A Documentation'."

Mr Chairman, this evidence has been given by Rev Rob Robertson to the Commission, and I think it is available to the Commission.

"In his capacity as part-time worker of the Division of Justice and Reconciliation, Rev Rob Robertson had drawn up a draft 'Statement on the Position of the SACC to Violence' in which he describes the different stances of opinion that prevail in the SACC and its member churches on the issue of non-violent action. In paragraphs 99 - 100 Rev Robertson has sketched his own understanding of 'non-violence' and that of the Director and the differences as well as the agreement between them. This description is correct as far as the Director is concerned except for the fact that Rev Robertson did not consider the use of modern weapons of mass destruction in warfare as a new dimension that invalidates any justification of a war relying on such weapons, as a defensive war.

On page 50 the authors of the SAP Memorandum refer to the 'Background Paper for the Discussion of the Problem of a Just Revolution'."

According to my understanding and study, this concept has occurred recently for the first time at a Plenary Assembly of the Lutheran World Federation in 1977 in Dar-es-Salaam.

"They observe that this background paper does not in any way condemn the ultimate use of violence for the attainment of the aims of the South African Council of Churches.

The background paper to which the memorandum refers has gone through various stages. It was first worked out by an individual as a preliminary working paper and then amended in two sessions of a sub-committee of the Division of Justice and Reconciliation, consisting of members of different churches. It was framed in such a way that it could be used either by the Praesidium or the Executive Committee or the National Conference as a draft for an official SACC statement. As a result of various circumstances the document 10 never attained this status.

The exhibits of the SAP memorandum show that the two final drafts of the paper were available to the South African Police. An accurate study and comparison of the two final drafts could have made clear to the South African Police why the sub-committee that was responsible for the drafts did not condemn the use of violence on the part of the people who are concerned about fundamental change of the South African political system. In both drafts the paper contains the 20 following suggestion:

'The SACC admits that the long history of seeking to achieve justice in South Africa through non-violent and peaceful means has not achieved much in terms of changing the system'.

The first draft contains the following further suggestion:

'That the SACC believes violent resistance to a tyrannical system can be justified as a last measure in certain instances and leave the decisive 30

question/...

question whether to strive for justice through peaceful or violent means to the conscience of individual Christians'.

This paragraph of the first draft is omitted in the second draft. It is replaced by the suggestion that:

'The SACC should question whether its member churches have really tried to use effective and forceful means of non-violent change'.

A comparison between the first and the second final draft leads to the following conclusions: 10

The rejection of the apartheid system on the basis of the Christian faith and the obligation of the Christian to seek to bring about fundamental change in the South African political situation are re-affirmed. Christians are encouraged to consider that circumstances can arise in which the right to resist evil laws becomes apparent. The members of the sub-committee did not think fit to condemn people who in their resistance resort to violent action nor do they justify the use of violence. Instead they direct critical questions to those people who 20 claim that they reject violence as well as to those who resort to violent methods of change.

The paper shows that the sub-committee considered the violence that is inherent in the apartheid system and in evil laws to be the basic problem in the South African situation. The sub-committee suggested that the SACC expresses its solidarity with the aim of the liberation movements, but qualified its support by subjecting the concept of freedom to the human rights criterion. At the same time the sub-committee 30

pointed/...

pointed towards the need of de-ideologising the concept of revolution.

The documents to which the SAP memorandum refers indicate the strong preoccupation of the sub-committee with non-violent methods of change - a preoccupation that is characteristic of the SACC as a whole.

ECONOMIC PRESSURE

The concern to promote non-violent measures of change made it necessary for the SACC to consider non-violent methods of change with some prospect of success. In this connection the use of economic pressure as a means of non-violent change has been discussed particularly in two areas: the use of economic pressure by trading partners of the Republic of South Africa in foreign countries and the potential of the labour movement within South Africa to promote fundamental change.

ECONOMIC PRESSURE THROUGH THE TRADING PARTNERS OF THE REPUBLIC OF SOUTH AFRICA IN FOREIGN COUNTRIES

The Division of Justice and Reconciliation has attempted to promote reflection and responsible action on this issue in South African churches. With a view to this task it translated a booklet of a German study group on 'Boycotts as a Problem in Social Ethics' and published the English version for study and consideration in the member churches of the SACC. The reasons for undertaking this work are explained in the preface to the publication. The most important passages of this preface read as follows:

'The demand that economic pressure in the form of/...

of boycotts be used as a relatively peaceful means to exert pressure on the government of the Republic of South Africa to change its policy of apartheid has been raised by several representatives of churches and also Black community leaders in the Republic of South Africa. It has been discussed widely in churches in Germany. In this connection the question has frequently been raised whether a boycott is a means which churches and their members may support in their efforts to bring about fundamental change in South African society. Are boycott measures ethically justifiable and do they really promote the aim which they are meant to serve? Different replies have been given by Christians to these questions. In wrestling with these issues the need has been recognised to find a Biblically based approach which at the same time makes use of the experiences of the church in the course of its history and which furthermore analyses the particular forces that are at work in the present complex South Africa 20 situation and its inter-relatedness with forces in the world economy and world politics'.

'We are making the English version of these two contributions available to the Executive Committee of the South African Council of Churches, the member churches and their individual members in the hope that it will promote consultation between South African churches and their overseas partners on their joint responsibility for promoting peace and justice and freedom within the Republic of South Africa and 30

in international relationships according to criteria which receive their orientation from the Gospel'. These passages in the preface, explain why the SACC has to devote attention to the issue of sanctions, boycotts and economic pressure. The memorandum merely states in a footnote that according to the preface the publication has been submitted to the Executive Committee - a remark that is misleading since it creates the impression that the booklet with its two contributions has been officially endorsed by the Executive Committee, which is not the case. 10

LABOUR ISSUES

The Division of Justice and Reconciliation has found it necessary to devote attention to newly emerging labour organisations and their potential to contribute towards change in a non-violent way. It has accepted the viewpoint that management in economic enterprise needs to encounter organised labour, in order to realise that negotiations with labour representatives on an equal level is necessary for ensuring peaceful human relations and that their reliance on restrictive labour legislation, security laws and the police force is ultimately harmful to the economy. In its concern for the contribution which labour organisations can make towards better human relations in South African society, the Division has been careful not to undertake initiatives on its own, but to respond to requests, to keep in contact with labour organisations, to gather information and to promote in the church constituency an awareness of the churches' responsibility 20 30

for/...

for the workers. The Division has been concerned to promote an understanding for the demand of workers' organisations of powersharing particularly in areas which affect their own lives and the lives of their families. It has emphasised the possibility to withhold one's labour as a human right. At the same time the Division has, in co-operation with other organisations, promoted the training of qualified church members for mediation in management - labour conflicts. The Division furthermore has undertaken efforts to expose the 10 harrassment of labour leaders who enjoyed growing grass-root support, on the part of the authorities.

The Division has devoted attention to the constructive engagement argument of foreign based economic enterprise which maintains that it promotes fundamental change by its involvement in the South African economy. It has noticed that this argument is often used as a defence against the criticism that the South African political system encounters abroad. At the same time the argument results from a serious communication gap 20 between management and labour in many of the firms concerned. In order to draw attention to this communication gap, the Division has published an English version of a German study report on the experiences of workers in twelve German firms in the Republic of South Africa. This publication has been given the heading 'The Dilemma of Code III'. The purpose of publishing this research report and distributing copies among management as well as labour organisations particularly of the firms concerned, has been outlined in a

covering letter of the General Secretary of the SACC. The most important sections of this letter read as follows:

'The special feature of the research report 'Dilemma of Code III' lies in the fact that it is based primarily on data collected from workers, independently from control by management. One of the main impressions one gets from reading the report is a considerable discrepancy in the evaluation of conditions in these firms between the official 10 reports of management and the reports and statements of workers.

Apparently there is a very serious lack of communication between management and the workers ..'

' .. The SACC is concerned that the management of foreign firms and the public as well as the government of the countries in which such firms have their headquarters or their mother organisations take account of the experience of people who otherwise have very little opportunity of making their 20 voices heard without harrassment'.

In the Fatti's and Moni's strike the SACC has undertaken efforts to mediate between management and labour. The memorandum of the South African Police gives a negative interpretation to this effort, by remarking on page 71: 'Thus, for instance, the South African Council of Churches has acted as socalled mediator in the Fatti's and Moni's boycott action in 1979 - 1980 ..'."

MR KENTRIDGE: Dr Kistner, just pause there for a 30 moment/...

moment. Could you just tell the Commission a little more about the action of the SACC or of your Division in acting as a mediator in that dispute? --- Mr Chairman, according to my recollection, the General Secretary of the SACC offered the two parties that he would be prepared to initiate mediation and that the South African Council of Churches would fulfil this function. I am not clear whether he was approached by the labour organisations, but he made this offer, and then the Division of Justice and Reconciliation was asked to take care of this matter, and we got the assistance of a 10 man who is trained, a person, a lecturer on business matters and social ethics, a theologian who has experience with these matters, to work with us and we formed a committee to negotiate with Fatti's and Monis, first of all that committee negotiated with the firm and told about the difficulties they had, and then we arranged some talks with this theologian who was prepared to be involved in this matter, and who was stationed in Cape Town, and therefore negotiated on our behalf, and as far as I can see, these negotiations were successful. 20

According to the Police memorandum, it says that the South African Council of Churches has acted as so-called mediator. That adjective 'so-called' do you know if there is any justification for it? --- I do not see any reason for this term 'so-called', because I think it was a true effort to negotiate.

No honest reason for it anyway? --- It sounds that this is the meaning of the term 'so-called'.

Allright, would you continue then please? --- (READING)

"On page 77 the authors of the memorandum 30

evaluate/...

evaluate the whole effort of the South African Council of Churches in the area of management - labour relationship and labour organisations in a negative light.

'The South African Police are of the opinion that the involvement of the Council in the areas mentioned above has various motives. The South African Council of Churches has intentionally taken a position in opposition to the political ideology of the South African Government. It opposes racism. It is opposed to apartheid. It is opposed to capitalism'.¹⁰ They give no reasons why it is to be considered reprehensible".

MR KENTRIDGE: Well, if we can pause there. I suppose we can take it for granted that the SACC is opposed to racism and is opposed to apartheid? -- Yes.

What about the statement that the SACC is opposed to capitalism? --- Mr Chairman, the SACC did not make - has said on various occasions that it is in favour of redistribution of resources and sharing of power, and that of course does not bind the SACC to any particular concept, but 20 it has most explicitly taken a decision that it rejects capitalism. There might be people in the SACC who have views tending towards a socialist form, but there will also be others, and I cannot understand this remark, because other churches at certain times have had socialist views. I could remark for instance that the Dutch Reformed Church at certain times of its history has had very pronounced socialist views, the only mistake that these were limited to Whites, and they have made statements in the 1930 years about justice that has to be accorded to the poorer sections 30

of society, which have very strong socialist connotations. I therefore cannot understand why the South African Police here say - make a statement of this nature. I have got with me a statement of the Dutch Reformed Church on this matter. I hope I can find it.

CHAIRMAN: Is that the statement by The Reverend Brink? --- It is a statement by The Reverend Brink, which is - it reads as follows:

"The aim of the church is to bring about social justice. Justice must be done to the poor and oppressed, 10 and if the present system does not solve this purpose, the public conscience must be roused to demand another. If the church does not exert herself for justice in society, and together with the help, she can also be prepared to serve as champion of the cause of the poor, others will do it. The poor have the right to say, 'I do not ask for your charity. I ask for the opportunity to live a life of human dignity'."

Mr Chairman, these are principles which according to my view, could be subscribed exactly in this form by the 20 South African Council of Churches.

MR KENTRIDGE: What was the date of that statement? --- It was - must have been in 1947.

Of course, things were different then; there was a different Government, was there not? --- Yes.

Yes, and I suppose that was before the days of General Coetzee, no doubt? --- Yes.

Right, well, then would you go on at the top of page 24? I suppose Mr Brink would have had short shrift from the General, M'Lord. --- (READING) 30

'THEOLOGICAL TRENDS IN THE WORK OF THE DIVISION

A careful study of the reports and documents of the Division leads to the observation that the following general theological insights are of decisive importance in its work:

'God has exalted Christ who died for us while we were sinners and has entrusted our future and the future of the human community to His care. This assurance and hope places Christians under an obligation to insist on the limit of secular authority and to oppose all claims of absolute power and all abuse of power. 10

Love of the neighbour, including love of the enemy is the new dimension which Christians, relying on the presence of Christ in their midst, have to contribute to human relationships. It places them under an obligation to use this gift as a criterion for their participation in shaping the structures of the state and society so as to achieve in the best possible way justice to all its members and groups. 20

The reliance on the presence of Christ in their midst places Christians and the churches under an obligation to search in each given situation for the best possible and most comprehensive forms of the sharing of resources and participation in decision-making, and for responsible stewardship over God's creation on behalf of the present and of future generations'.

These insights in the work of the Division have 30

resulted/...

resulted in a strong rejection of a policy on the part of the State which casts all blame for the tension that exists within the country on an outside enemy and justifies its extraordinary security measures and the growing concentration of power in the hands of a small group of people by a total onslaught.

The Division has been aware, that the same total onslaught ideology which is used by the State to justify its measures of repression can easily find its repetition in the life of the churches when they are 10 in opposition to the State and when their eyes become blind to **what** is at fault in their own midst. It has pointed towards the need to rely in all spheres of life on Christ who has died for us while we were sinners, as the only safeguard to be protected against this danger and to see ourselves as we are with all our weaknesses. In this connection it has been the concern of the Division to emphasise the need to combat the obsession of people in the Church as well as in the State and society with an enemy image, by 20 preaching, teaching and practising the truth of the Gospel.

The theological concern giving direction to the activities of the Division can be illustrated by quotations from several documents. A report on the Cluster Justice and Society, submitted to the 1982 SACC National Conference, that was delivered against the background of a meditation on the conclusion of the Lord's Prayer and that emphasised the concept of power-sharing contains the following passage: 30

'Our watchword "Thine is the power" helps us to be concerned about the liberation of the oppressor, who is a victim of fear, and to use the confrontation that is inevitable also for his liberation. Very little would be changed merely by a change of the persons or the groups who control power in the Republic of South Africa. As the church, we are called to bear witness in our proclamation and service to the forgiveness and love of God in Christ, which comprises the whole of the human community and all of Creation and which aims at its liberation from the forces of evil. From relying on the presence of Christ in His church we derive the potential and the criteria for contributing towards a political and economic system and for laws that in the given situation ensure justice and freedom in the best possible way and that protect and promote possibilities for the development of the human potential of all people'. A report submitted to the Committee of Justice and Reconciliation on August 24, 1982, comprises the following passage in the context of a reflection on the concept of the support and practice of apartheid by Christians, as a heresy:

'If it is true that the Gospel may never be limited to doctrine, but comprises proclamation, service and the practical life of Christians and the church including their human relationships and their lifestyle, the verdict of heresy entails a special responsibility on the part of Christians who pronounce it, to develop models of different practice and

fellowship than those which they condemn. It also demands a special caution that the people whom one holds responsible for heresy experience that they are not hated but loved by those who confront them and that their opponents are concerned about their liberation so as to help them to recognise and confess the truth of the Gospel'.

The activities and the thrust of the Division of Justice and Reconciliation in rejecting the policy of the South African Government which has already led to the 10 deprivation of approximately eight million of South Africans of their citizenship have to be understood in the context of the effort to interpret the Gospel in relation to the experience of the people of South Africa and to the insistence that Christians are under an obligation to resist this policy -

For example:

the protest against the uprootal of millions of people as a result of relocation measures which discard hundreds of thousands of people in already overpopulated 20 homelands with limited chances of survival and the long term prospect of mass destruction of human lives and potential and the case for relocated communities; the condemnation of the security laws and the security measures;

the insistence that Christians are under an obligation to resist this policy;

have to be understood in the context of the effort to interpret the Gospel in the context of the experience of the people of South Africa. 30

A report of the Division of Justice and Reconciliation to the SACC National Conference of June 1982, contains the following passage:

'In the Christian community, Christians in their mutual relationships have nothing to rely on but the fact that Christ has died for them and has been raised from the dead by God, as their brother, and that they are accepted by God irrespective of their social standing, their wealth and of any merits they may have. They are accepted only because God forgives our sins through Christ. Whenever God's forgiveness in Christ is in the centre in the life of a community, the marginalisation of people must come to an end. Whenever this is the case, the church is bound to take a stand against any policy which discards people and makes them homeless, even, or especially, if this happens under euphoric terms such as "homelands", or even under the claim that God has given each nation (tribe) an identity which the Government of the Republic of South Africa as a Christian government is obliged to protect and preserve'.

10

The derogatory remarks of the memorandum on pages 119 and 122 on what is called a 'self-protective piety', and 'political theology', do not take the efforts on the part of the SACC and its Divisions to understand and interpret the Gospel in the context of the South African situation, seriously".

MR KENTRIDGE: If you can pause there, have you any idea/... 30

idea what General Coetzee meant by this accusation of a self-protective piety? --- I did not quite understand the term, but I suppose he meant a piety which subordinates the statements of your faith to your own interests, when you use your religious life to protect your own interests.

Yes, did you find any justification in the work of the SACC for that sneer on the part of General Coetzee? --- I do not find a justification, because the statements which we have read - just read, and also practical actions, have shown that the SACC is not concerned only to have a 10 piety which fits any particular section of South African society or the human community in general.

Now, your next section, Section 4, is headed the Confessing Church, and we will recall that there was a long section in the Police memorandum presumably from the theological division of the Security Police, on "Die Konsep van 'n Belydende Kerk". Do you take that as the equivalent of the confessing church? --- That is right.

Now, before you read this section, would it be possible for you to put in your own words very briefly 20 for the Commission what you mean by the confessing church? --- Mr Chairman, this term 'confessing church' has its setting in churches which in their tradition have had a very close relationship between the State and the church, where - belonging to a certain territorial church on the continent, especially in Germany, at the same time meant belonging to a particular church, unless you explicitly expressed that you do not want to belong to this church, and as a result of this legal understanding of the church, which had its doctrine defined in doctrinal writings, 30

the/...

the term 'confessing church' came up, that confession is not merely subscription to a document, a doctrinal document, but that loyalty to your confession means that you have to confess in a concrete situation what the doctrinal tradition, the insides of the history of your church, make clear to you and what you believe is correct, and that you have to test in each situation how you confess in that situation. The Lutheran World Federation has said in one of its resolutions, the Lutheran Churches are confessional churches, and they say confessional subscription is more than 10 a formal acknowledgment of doctrine, and that this has to - churches which have signed the confessions, commit themselves to show through their daily witness and service that the Gospel has empowered them to live as the people of God, and I think that is a definition of what the term means.

Then will you carry on on page 28, under the heading "The Confessing Church"? --- (READING)

"Comparisons of events and developments at different times and in different countries can easily lead to distortions. They can, however, be very helpful 20 to understand the specific nature of a situation, if the different historical contexts are taken into account. With these reservations it is valid to compare the situation of the churches at the time of Nazi Germany with the situation, fifty years later, of the churches in South Africa.

The following features of the regime of Hitler bear a resemblance to what happens in the present day Republic of South Africa:

The enemy image projected on Jews and on the 30
alleged/...

alleged Communist onslaught on Germany that diverted attention from what was wrong inside Germany and justified the intensifying repression and persecution of people who were considered to be enemies of the State; The tactics of using constitutional means to obtain absolute power on the part of Hitler and his associates; The security laws; Escalating militarism and interference in the affairs of neighbouring states; The deprivation of the citizenship rights of the 10 Jews and ultimately the persecution of the Jews in Germany; The attempt to use the churches for political ends and at the same time to demand that the churches should not take a stand on the repressive policy of the government.

In this connection churches in South Africa can learn important lessons from the experience, the strength and the failure of the churches at the time of the Nazi regime. Special significance is to be attribut- 20 ed to the contribution of Dietrich Bonhoeffer and his understanding of the concept of 'status confessionis' in his own contemporaneous context.

The concept of 'status confessionis' goes back to the time of the Reformation when disputes arose about the matters that were considered to be matters of discretion ('adiaphora') on which Christians may have different opinions and practices, such as church ceremonies and rites. It was argued that, at a time of persecution by the Papal Church, these opinions 30

and/...

and practices, which in normal circumstances are matters of discretion, become crucial issues for the Reformation Christians which force them to express their dissociation from the Papal Church. In such situations matters of discretion became issues on which the Reformation Christians and congregations had to take a stand.

At the time of the Nazi regime a wellknown German theologian, Dietrich Bonhoeffer, raised the issue of 'status confessionis' in the context of the persecution of the Jews by the National Socialists. The Confessing Church as a whole protested loudly against the persecution of the Jews only when the State interfered directly into church life and when it tried to forbid baptised Christians of Jewish background to be ministers in the German Protestant churches. Dietrich Bonhoeffer, however, from the outset realised that the 'status confessionis' had arisen for the churches not only as far as the State intervened in the inner life of the church, but also by the mere fact that Jews were deprived of their civil rights. In such a situation it was no longer possible for a Christian to be a National Socialist. He was under an obligation to resist".

This happened already in 1933 when the street demonstrations against the Jews started, then he already took this stand.

"The issue of 'status confessionis' has been raised at the Assembly of the Lutheran World Federation in 1977 at Dar-es-Salaam. This Assembly took a resolution on the South African issue of which the decisive/...

decisive section reads as follows:

'Under normal circumstances Christians may have different opinions in political questions. However, political and social systems may become so perverted and oppressive that it is consistent with the confession to reject them and to work for change'.

The Division of Justice and Reconciliation has tried to promote thinking on the 'status confessionis' concept in the memorandum of the 21st of 1980. It has emphasized the insistence of many Christians that the rejection of the system of apartheid is a matter of confessional integrity and that the churches and their members are under an obligation to resist the present political system in the Republic of South Africa. On page 100 - 105, the authors of the memorandum of the South African Police have accurately observed that the concept of the Confessing Church, of 'status confessionis' and of an obligation to resist, and activities in accordance with these concepts, have played a considerable part in the work of the Division of Justice and Reconciliation. 10

THE STABILITY OF STATE AND SOCIETY

Bonhoeffer's understanding of 'status confessionis' is closely linked with his interpretation of the concept of law and order which is being given so much prominence in the efforts of the South African State to justify security measures. In a lecture on 'The Church facing the Jewish question', delivered in 1933, Bonhoeffer distinguishes between a situation in which there is too much of law and order and a situation 30

where/...

where there is too little of law and order. A condition of 'too much law and order' prevails, if the State intervenes in the inner life of the church. Such intervention occurred for instance, when the National Socialist regime tried to exclude Christians with Jewish background from having access to the ministry in Protestant churches in Germany. A situation of 'too little of law and order' prevails, according to Bonhoeffer, if the State excludes certain groups of people from civil rights. In both cases, the church, according to Bonhoeffer, 10 finds itself in a 'status confessionis' and has to take a stand against the State. In resisting the State in such instances, the church does not destabilise the State, but protects it against its own self-destruction.

In taking a stand against an ideology of total onslaught and pronouncing criteria to be derived from the Gospel for a fundamental change of the political, social and economic order of the country, and in standing for the human rights of people whose voice is not being heard, the South African Council of Churches and 20 its member bodies protect the South African State against its own self-destruction and do not destabilise it.

FUNDAMENTAL CHANGE

The Division of Justice and Reconciliation has been consistent in its emphasis that a fundamental change is required in the South African political, social and economic system. It has stressed that the issue at stake is not merely injustice, but injustice that is entrenched and legalised in the present political, social and economic order of the country and in 30

its/...

its constitution, and that is given a Christian legitimation. The Division has furthermore been anxious to promote an understanding in the churches and their constituencies that, notwithstanding the strong emphasis on the personal dimension in the biblical concept of sin, sin can according to the biblical message also be entrenched in structures and in social and political systems. This can happen to such an extent that people living within the confines of these structures can be pious persons in their individual lives and yet at the same time not realise the injustice in which they are involved by participating in the responsibility for the structures of the State.

In the light of these insights the Division has been anxious to analyse what the present Government announces as the prospect of a new dispensation for the future of South Africa. An example of such an analysis is to be found in a report of the Director of the Division of Justice and Reconciliation on the Cluster Justice and Society, submitted to the SACC National Conference at St Barnabas College at Bosmont, June 19 - 24 1982. The relevant section of paragraph 12 reads as follows:

'It must be admitted that the government in introducing the concept of power-sharing has identified the key issue in the South African conflict situation. The fact that this new watchword was introduced in the Nationalist Party programme is in itself an indication that the Government was bound to give in, at least in its formulation of its policy, to the/...

the pressures of those groups which demand power-sharing. Something new had to be offered, particularly to the Indian and Coloured people, in order to win their support for the newly envisaged President's Council and in order to make them accept the continuation of White predominance as well as the possible prospect of being conscripted to the South African Defence Force. One has to examine whether the South African Government envisages power-sharing'.

According to our understanding of the new constitutional 10 arrangements that are envisaged, the Government in spite of its verbal announcements, is anxious to avoid power-sharing as long and as far as possible. The homeland policy has been introduced with the aim of avoiding power-sharing in the Republic of South Africa with African people, who constitute by far the majority of the people in South Africa. The Status Act which deprives African people who have been assigned to the political authority of an independent homeland, of their South African nationality remain in force. Promises of a greater 20 say in local government for African people and vague remarks about a constellation of states in no way compensate for the loss of South African citizenship. The removal of hundreds and thousands of Black people continues in terms of the Homeland Policy which aims not at sharing, but at controlling power.

For the Indian and the Coloured people, the new constitutional dispensation also does not entail the prospect of power-sharing. The Group Areas and Registration of Population Acts remain in force. 30

The new dispensation that is envisaged also does not even portend power-sharing for White people. In the new political dispensation power is to be vested primarily in the Executive President. More and more White people are to be excluded from power-sharing.

Against the background of these developments we arrive at the following conclusion".

MR KENTRIDGE: Dr Kistner, this quotation which follows, what is the source of it? --- It is the same context as the previous one, the report of the Director of the 10 Division of Justice and Reconciliation on the Cluster Justice and Society, submitted to the SACC National Conference, 1982.

Thank you. Read it please? --- (READING)

'The policy or strategy which is proclaimed by the present Government as power-sharing in effect results in the exclusion of more and more Black and White South Africans from genuine power-sharing. Recent legislation and a variety of measures of the South African Government appear to confirm the assertion that what is being proclaimed as power-sharing in 20 effect entails the exclusion of more and more people from power. We refer to the envisaged transfer of Swazi people living in South Africa so as to be incorporated into Swaziland. We furthermore refer to the new law which is to tighten influx control. The growing trade union movement is a clear indication of the resolution of Black workers to share in - decision-making processes affecting their lives. The mere fact that so many leaders and organisers of the movement are detained without trial is an 30 equally/...

equally clear indication of the determination of the authorities not to permit power-sharing'.

The South African Police memorandum tends to create the impression that the insistence on fundamental change of the South African political system in itself constitutes a threat to the South African State. It does not take account of the far-reaching constitutional changes which the South African Government itself has introduced ever since the creation of independent homelands." 10

I think these are changes which are very difficult to reverse again.

"It also does not take account of the constitutional changes which the South African Government still intends to introduce, particularly the turning away from the Westminster system of government and the permanent exclusion of African people from power-sharing in a unitary state."

I believe, Mr Chairman, that there are criticisms also from White South Africans against the Government that is 20 introducing fundamental change, not the same type of fundamental change which the SACC would like to be brought about, but that these are fundamental changes, and in the Police memorandum there is no criterion how to evaluate fundamental change.

"CHRISTIAN FAITH AND RESISTANCE

The Division of Justice and Reconciliation recently has sent out an English version of a study document 'Christian Faith and Resistance' to the church leaders of SACC member bodies. The study document sets 30

out/...

out principles and criteria that have been developed in the Federal Republic of Germany in an EKD memorandum of 1974 in order to serve as guidelines for Christians and their responsibility to contribute towards peace and justice in the human community at a time when any war relying on modern weapons would probably lead to massive destruction on a global scale. The document makes use of the same guidelines as a help for Christians in Germany to recognise their responsibility with regard to the South African issue, which has become a 10 global issue. It analyses the South African situation and political system and indicates how the South African State is undermining its own security by its refusal to comply with internationally accepted norms of justice.

The German document draws particular attention to the ethical issues of resistance against an unjust political system and describes the long tradition of non-violent action in the history of the ANC as a resistance movement. In the course of approximately 50 years, 20 the ANC did not succeed to redress a course of intensifying repression on the part of the South African State. It was only after this long period of non-violent action that the ANC finally resorted to a form of resistance which can be described as 'controlled violence'.

The document has been sent out by the South African Council of Churches to church leaders of member bodies in order to make them aware of biblical and theological criteria which have been worked out by Christians in another country and in order to help them in their 30

reflection/...

reflection on guidelines for a response of South African churches and Christians to the challenges in their own situation.

On page 110 the authors of the memorandum of the South African Police express their main reservation against this study document. According to their view, it is extremely sympathetic towards the decision of the ANC to make use of violent methods in their resistance. However, the German document does not accept violence as a means to an end but shows an understanding of such a course of action after a long period of attempting to obtain democratic rights and principles by other means. These principles are set out in the Freedom Charter of the ANC.

The Division of Justice and Reconciliation in drawing attention to the way in which Christians in another country think and attempt to develop biblical and theological criteria for a responsible understanding and response to the South Africa situation, is not destabilising the South African State but helps Christians and churches in South Africa to take their own decisions on how to contribute towards justice and peace in their own setting".

I believe that this way of thinking together with Christians in other countries, can help one to take own decisions and develop valid criteria.

"ECUMENICAL VISITORS' PROGRAMME

The SACC has to cope with numerous visitors from partner-churches in foreign countries. Many of these visitors are being referred either by the authorities of

the SACC or by the partner-churches in foreign countries to the Division of Justice and Reconciliation for information and for arranging contacts and interviews with representatives of different churches in different parts of the country.

The time absorbed by visitors from partner-churches in foreign countries has made it difficult for the Director of the Division of Justice and Reconciliation and other staff members to cope with their normal day-to-day duties. It was realised that church offices of 10 other denominations are facing the same difficulties. On the other hand it was also realised that taking care of the needs of visitors from partner-churches in other countries is an important task of the church which may not be neglected. At the time of the New Testament and the early church, ecumenism found its origin and support mainly in the mutual visitation of Christians from different parts of the world, as known at that time, in fellowship at the table and prayer in the houses of Christians. This insight led a group of 20 Christians in the Johannesburg area to consider how the churches could cope with their responsibility for visitors from churches in other countries. In the discussions, there was agreement on the following points:

(1) This task is a vital task of the church and should not be left to commercial or government supported agencies which pursue their own interests in taking care of visitors. These interests differ fundamentally from those of the church.

(2) Since church institutions and church bodies 30

also/...

also tend to pursue their own individual and particular concerns, an office should be set up, which is independent from the control by any individual church or institution, including the South African Council of Churches, and which is responsible to a Board of Trustees.

- (3) The office should follow an approach which differs from the traditional approach which institutions taking care of the needs of visitors often have taken. They often have facilitated contacts of visitors primarily with what are considered to be the so-called 'Very Important Persons'. The Ecumenical Visitors' Programme that was to be established, was to promote contacts also and primarily with people of no special status, and to make visitors acquainted with the experience of people in every-day-life situations and particularly with the response of Christians to the situation in South Africa.
- (4) The Ecumenical Visitors' Programme should try to encourage Christians in South Africa to take visiting Christians from churches in other countries into their homes and to discourage visitors from overseas from relying on hotel accommodation. This should be done with a view to encouraging personal contacts between Christians.
- (5) Attempts should be undertaken to obtain finances for the Programme from the Protestant churches overseas as well as from the Roman Catholic Church.

The memorandum of the South African Police takes 30

exception/...

exception to a letter of the Director of the Division, to Rev W Conring in Germany. In this letter the Director suggested that the Ecumenical Visitors' Programme might obtain subsidies from funds available to the Centre for Development Related Agencies which supports programmes of political and development education.

One of these programmes makes people aware of the negative effects which visits of tourist groups to foreign countries can have, if such tours are not undertaken with a proper preparation and consideration of 10 the political, economic and other factors at force in the country that is visited.

The letter also states that the Ecumenical Visitors' Programme is to counteract the propaganda of government supported agencies. This need has become clear to the Director of the Division of Justice and Reconciliation from studying reports of people who had visited South Africa through government supported agencies. It appears that visitors using such agencies do not easily get contact with people who experience harassment 20 and persecution. In many cases such visitors are not trusted because of the fact that they made use of government supported agencies and because of the reputation which such agencies have obtained as a result of the 'Information Scandal'.

The passage which appears to have aroused strong reservations on the part of the authors of the South African Police memorandum reads as follows:

'In our work we experience the disastrous effects of visits of people who come to our country and 30 who/...

who return home without having had any experiential encounter with the suffering and the growing frustration of a great number, if not the majority of South Africans, and without having undertaken an effort to obtain an insight into the underlying cause of the situation. We are also aware of the damage that is done by visitors after their return, in most cases probably unintentionally, by superficial reports and statements on South Africa'.

The authors of the South African Police memorandum 10 have not submitted any evidence that these allegations are incorrect.

The Ecumenical Visitors' Programme fulfils a valid and important task in promoting contacts and fellowship between Christians in different countries.

CHURCH AND THE STATE

In view of the content of the South African Police submission this topic should be dealt with in some detail and these are my views on the subject.

Clearly there is a difference between the role of 20 the State and the role of the church. The State is a secular organisation and as such, is obliged to protect certain institutions which are a consequence of the policy of the rules of the time and more generally, to maintain a sane social order conducive to the peace and well-being of its people. In this sense the State cannot be controlled by or live in subjection to the church. The church is, in turn, to jealously affirm the sovereignty of God which is above all governments, all people and the Church. This is the most loyal 30 service/..

service which the church can render to the State, to a particular government and to itself - it is to protect the government from itself and from unreasonable demands made by its people. It is to counsel the State to obey God. The long-term consequence of this will be both social order and abiding peace. The task of the government is clearly to seek for the specific political details of such a policy and to contend with the various political and counter-political forces which contribute toward or distract from such a possibility. This the church is to understand. The task of the church, however, is to test all political options against the Gospel. This the State is to understand.

Ultimately, the State has the human resources and power to oppose and even to attempt to silence the voice of the church and to promote groups or church organisations which adapt the Gospel to its own power interests. However, in using its instruments of power the State destroys its own authority and is bound to become more and more powerless and unable to maintain its position without the use of repressive legislation, intimidation and violence."

It is meant, if it uses its power to oppress the voice of the church.

"There are indications that this situation has already arisen in South Africa.

By proclaiming the Gospel and by emphasising that Christ has died for us while we were sinners, the churches in South Africa have the authority, the task and the potential to counteract the self-destruction of the South African State and to contribute towards a society

society in a unitary state in which security is not being sought in resorting to enemy images and division, but in the mutual acceptance of people of different background and traditions.

In encountering opposition to this interpretation of the Gospel on the part of the State, the church is powerless in the sense that she does not dispose over secular power instruments for her protection. However, she has power in another sense. She can rely on the assurance of the presence of Christ. If the State decides to silence the Church and to consider a truthful proclamation and interpretation of the Gospel as a danger to its security, Christians still have the power to bear witness to the Gospel by suffering without hating those who hate them and without losing sight of their own fallibility and their need to rely on God's forgiveness. In such a situation the words which Dietrich Bonhoeffer wrote to a young theologian to serve him as guiding principles in a 'status confessionis' situation of the church, can be of help to South African Christians". 20

Dietrich Bonhoeffer wrote these words in exactly the same year, 1933, in which he spoke about the 'status confessionis' in relation to the task of the church of protecting the human rights of the Jews.

'The young theologian should be sure that in his theology he serves the true Church of Christ which inerrantly confesses its Lord and that he lives under this responsibility ..'.

'He should learn "not to represent what is black 30

as being white, but should call truth truth and heresy heresy. He should consider this and testify this in modesty, in an objective manner and in love. If he does not do this, he will have to give account for that himself before the Lord of the Church whom he serves. He should know where the source of the life of the Church is to be found and (be aware) how this source can be blocked and poisoned.'

'And if the church whom he serves finds itself in the "heretical confusion", he must realise that the Gospel is being changed into heresy .. He must realise with a discerning eye that new alien contents are hidden beneath old (well-known) words ..'

'In such times he must know that he can serve his church and the cause theology stands for under no circumstances with tactical considerations, but alone with the pure truth ..'

'As a true theologian he should know, that even where his understanding of the truth and the purity of the true Gospel of Jesus Christ separates him 20 from heresy, he shares solidarity in guilt and that he stands next to the erring people who have been led astray, and that he acts on their behalf and prays for them. He should know that he lives not from his knowing better nor from his being on the right side, but alone from (God's) forgiveness ..'.

MR KENTRIDGE: Now, M'Lord, we have annexed to here a third section which is a critical analysis of the theological and ideological presuppositions underlying the Police memorandum. Now, M'Lord, I do not know whether it will appeal to 30

Your/..

Your Lordship and the other members of the Commission, if instead of reading this right through, we will ask - to ask Your Lordship and the members of the Commission to read it and I will simply draw the witness' attention to a few selected passages which I will ask him to read out.

CHAIRMAN: I might say that I read this last night, and it occurred to me that it would be unnecessary to go into this sort of theological question in depth, because the Commission accepts that it is not its function to criticise or do anything of that sort in relation to the theology. It will probably in its report, because that is fact of the life of the SACC, set forth its understanding of the theological motivations, as best it can and as objectively as it can, of the SACC, but that is as far as the matter goes. Therefore any debate on - opposing theological viewpoints will not be of great assistance, but if you feel free, if you want to read out portions of that, it occurred to me that here and there one can by reading a single sentence, give ..

MR KENTRIDGE: Yes, Your Lordship then will not mind if we do not read it all out?

CHAIRMAN: No.

MR KENTRIDGE: Let me make it clear that this section is not intended simply once again to set forth the SACC's or Dr Kistner's views on theology. The object of it is to show that although the South African Police memorandum said that it was not its function to consider theological viewpoints, in fact it either explicitly or implicitly did so in certain situations. Well, in that case, Dr Kistner, do you have it in front of you? --- Yes.

This/...

This critical analysis of the theological and ideological presuppositions. You say in the first paragraph that the Police memorandum explicitly observes that it falls outside the role and the function of the South African Police to consider theological viewpoints, but you go on to comment that it is quite clear that only is the Police memorandum controlled by certain hidden and implicit theological views, but it contains an extensive theological critique of the SACC and by implication SACC member churches, and you say a brief and tentative response to this hidden theology 10 of the Police must suffice, and that is what this memorandum is, that it exposes what you call the hidden theology behind the Police memorandum as presented by General Coetzee. Then in the Section 1, Theological Sources and Criteria, you point out that the Police memorandum draws on certain rather interesting political sources, incorrect historical presuppositions and selective theological insights in presenting a certain model of the church which cannot be defended either biblically or theologically, and then you analyse certain aspects of that memorandum. I would just like you to 20 turn to the next page, and there is a passage there which I would like you to read. If you will read 10 lines from the top, the passage which starts, "The historical picture of the ecumenical movement", do you see that? --- Yes.

Would you mind reading that? I think that is of some importance, if you would read from there? --- (READING)

"The historical picture of the ecumenical movement in the sixties and seventies in the SAP memorandum fails to take account of the radicalising socio-political context created by the ideology of apartheid which 30 compelled/...

compelled the churches of this land to identify themselves anew with the Word of God. This necessitated their rejection of the apartheid ideology. The memorandum under consideration, for example, takes no account of the Cottesloe Consultation of South African churches, which included the Cape and Transvaal Synods of the NGK".

CHAIRMAN: May I interrupt you? Is there not this to be said for the Police point of view, that the Cottesloe Conference was not organised by the South African Council 10 of Churches; it was arranged as a consultation between the South African churches, including the Dutch and Transvaal Synods of the Dutch Reformed Church and South African churches and the World Council of Churches? It was in other words not an SACC programme? --- Yes, but the memorandum refers to the ecumenical movement and to the WCC, and that is of relevance to the ..

Well, it is of relevance unquestionably in relation to the ecumenical movement, but it just occurred to me when I read your critique, that it might be said that this 20 is not an event really strictly in the life of the SACC.

MR KENTRIDGE: What do you say to that, Dr Kistner? Was it an event in the life of the SACC? --- I think it was an event in the life of the SACC, insofar as the SACC has the task to facilitate ecumenical contact, that is its purpose, and the consultation, Cottesloe Consultation finally resulted in these two Dutch Reformed Synods withdrawing from the ecumenical dialogue and ecumenical contacts in South Africa. They at that time were not still - they were members of the WCC, and there has been a very strong longing in the 30

SACC to get the Dutch Reformed Churches incorporated again. They had withdrawn during the Second World War, but after they withdrew from the WCC, they went even into further isolation and became more and more difficult to have a common searching for the truth of the Gospel in the South African situation. Later attempts were made again and again, in recent years, particularly the present General Secretary has undertaken great efforts to get the Dutch Reformed Churches involved, has invited certain officials to participate and it was - it did not happen. Thus insofar as this 10
Cottesloe Consultation has had a very far-reaching impact on ecumenical relations in South Africa, and has led to a certain isolation of the churches of English tradition, if you can say that, in their ecumenical efforts in the Council of Churches.

While you are on this topic, I just want to make sure that my understanding is correct. I recall from having studied SACC documentation that from time to time the SACC expressed itself in favour of inviting the Dutch Reformed Churches to renew their association which once existed 20
in the SACC or in its forerunner, but the most recent attitude of the SACC is that it will take up dialogue with the Dutch Reformed Churches if they confess apartheid to be a heresy and on that basis they will renew discussion?
--- Yes, I think there has been a movement in that direction, and I think that that is the latest development, but one would have to examine exactly what heresy means, those documents, what is meant by that.

MR KENTRIDGE: Just finish that paragraph please, Dr Kistner?

--- I have lost the ..

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Let/...

Let us take it from "The Consultation rejected apartheid as being contrary to the Word of God". --- (READING)

"The Consultation rejected apartheid as being contrary to the Word of God. The memorandum also does not allow for the violent oppression of Black people and the deliberate interference in the affairs of the church since the election of the National Party to power in 1948.

The increasing radical stance of the SACC, its member churches and organisations such as the Christian Institute and the host of Black organisations banned in 1977 10 is primarily due to the increased oppression of people in this country. Every major church body beyond South Africa and all major churches within this country, with the notable exception of the Afrikaans Reformed churches, have opposed such oppression as an explicit denial of the Gospel of Christ.

The historical record of the witness of Christians against apartheid in and beyond this country is blatantly missing from the police memorandum. This allows its authors to ignore the theological grounds 20 for opposition to apartheid and 'to ascribe this ecclesial opposition to extraneous sources from beyond and within the country'."

MR KENTRIDGE: When you speak of the witness of Christians against apartheid in and beyond this country, are you referring only to individual Christians or also to churches? --- Also to churches.

Then, in the next paragraph you deal again with the question of the theological approach to the question of when the use of violence may be justified, and in the last 30

paragraph/...

paragraph on that page, you deal with the selectivity shown by the authors of the Police memorandum, and at the top of the next page you question the fact that they have quoted certain secondary sources and not gone back to John Calvin's own writing. Then I think what you say in the second paragraph on that page, we should perhaps read, the paragraph stating "Clearly the sources and criteria of the theology". Do you see that? --- Yes.

Would you mind reading that to the Commission please?

--- (READING)

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"Clearly the sources and criteria of the theology which underlies the memorandum submitted by the South African Police are such that they must necessitate a one-sided interpretation, governed as it is by a biased national-security type ideology, of the SACC. These sources and this interpretation cannot stand beneath the spotlight of biblical and theological critique. As such they must be rejected by all Christians who seek to be theologically obedient to God alone - as His will is made known in Scripture and witnessed to in the history of the Church".

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MR KENTRIDGE: Yes, thank you. And then you develop that, and in the next section 2, you deal with the nature of the church. I would just like you to read that little paragraph (i) starting at the foot of the page and going onto the next page, where you say, "In this regard the SACC has made its position clear"? --- (READING)

"It regards the policy of the present Government and more particularly the political and socio-economic exploitation and oppression of people in this country on the grounds of their colour or for any other

ideological/...

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ideological or indiscriminate reason as contrary to the declared purpose of God. As such, it has made it known that it will use all constitutional means available to it in working for constructive and meaningful change in this country. Above all, it has resolved to show on the basis of theological analysis why this Government is not furthering this declared purpose of God. As such it must be accepted that the allegation made in the Policy Statement that the SACC is in a position of opposition to the South African Government's political ideology is correct. It needs to be further stated that the member churches have expressed support at least at the level of principle with this general position of the SACC in relation to the Government".

MR KENTRIDGE: Now, you then develop that, and at the foot of the page, you have a quotation from Karl Barth, and at the top of the next page you state your own understanding of the nature of the church. Would you just read that short paragraph at the top of the next page, page 5? --- (READING)

"The church is, in a word, a community of people who radically affirm that God is one and that there is no other like him. This is the motivation of those Christians in the SACC and beyond it who feel themselves compelled to obey God. If this brings them into conflict with the prevailing but passing rulers of the day they are still compelled to obey and ask for God's grace to take the consequences".

MR KENTRIDGE: Yes, then you deal with the church and Ecumenicity, which I will ask the members of the Commission to read, but in the last paragraph of that Section 3,

you deal directly with this question of the funding of the South African Council of Churches from sources abroad. Before I ask you to read that, you will recall that one of the recommendations of the South African Police, through General Coetzee, is that the South African Council of Churches should by the application of legislation be prohibited from receiving funds from abroad. Do you recall that? --- Yes.

Now, before we deal with this question from the ecumenical point of view, according to evidence we have had, if that were done, one of the immediate results of it would be that large numbers of Black school children who are helped with their education, would no longer be helped with their education, and that large numbers of very poor people who need the support of the South African Council of Churches to buy food or clothing or to pay their rents, will not have that support. From the practical point of view, would that be a matter of concern to the South African Council of Churches? --- I think it has to be a concern of the South African Council of Churches, because we have pointed out that the Gospel relates to all aspects of 20 life, that the church has a special responsibility for people who are suffering, and this service would be in great danger if we would not get the support from our partner churches, and one has also to see that the South African churches themselves have their own budgets, and have to provide for their payment of their ministers, and many of them find it difficult, and they have combined to do this work together, and that would be very difficult, and also I would think that one has to see that much of this poverty is not simply poverty, but it is a result of certain actions and measures 30

like/...

like removals, and one has to take particular care of people who are suffering from these measures.

Now, you have studied the South African Police memorandum with some care, is that right? --- With some care, yes.

Do you find in that memorandum of the South African Police any indication of any sensitivity to the needs of Black people in South Africa? --- M'Lord, I find it difficult to discover that, and I do not think because - I would say for a certain reason, because if you concentrate all your attention on an enemy who threatens you from outside, 10 you cannot see really what the needs of the people are.

Do you find in it, when they make this recommendation, any consideration for the plight of those Black children who deprived of the benefits of your scholarships, would simply be uneducated and uncared for? --- M'Lord, I think I remember a passage where they admit that the African Bursaries Fund does some good work, that is in the passage, but I do not remember seeing any comment on what would happen if the money would not come forth, and that work would be stopped. 20

I think we had better leave this subject. I notice General Coetzee's assistant stirring uneasily in his seat at the back. We do not want to cause him any more pain. Let us just go on with - let us just go on with - at the end of paragraph 3, Dr Kistner, you deal with this question of funding. You say, "The matter of funding of the SACC from the ecumenical community", just read what you say there? --- (READING)

"The matter of funding of the SACC from the ecumenical community is also relevant to this point. Biblical 30 writings/...

writings provide ample evidence of early church congregations in Asia Minor providing financial assistance to the Church of Jerusalem, enabling this church to be the church. Clearly this did not mean the Church of Jerusalem was ideologically submissive to the views of those Gentile congregations who sent their collections to her. On the contrary, the evidence indicates that there was significant tension between Gentile and Jewish Christians in the early church. In a similar way it needs to be noted that certain differences of opinion and policy can exist between the SACC and, for example, the EKD. Clearly Christian giving does not imply ideological control, and for the South African Police to seek the termination of overseas funding of the SACC by declaring it an affected organisation is not to address the fundamental theological issue which motivates the SACC and at the same time it is to interfere directly in the affairs of the church".

MR KENTRIDGE: Then in paragraph 4 you deal with the church and the world, and you say that yet a further implication of the church's obligation to be obedient to God alone concerns the church's relationship to the world, and then in the next paragraph, on page 1.6, you deal with the South African Police suggestion, which is to be found at page 10 of their memorandum; would you read just that paragraph with "To suggest that this obligation ..", on page 6? ---

(READING)

"To suggest that this obligation involves no more than personal salvation or conversion is to grossly underestimate the nature of the biblical imperative. It entails/...

entails broad-based caring for people and especially for those people who would not normally receive support from the community as a whole. In the South African situation this means those persons who have been acted against for their political convictions or actions and the dependents of such people. In this sense the SACC is selective in its funding of programmes such as Asingeni, the African Bursary Fund, and so on. This is clearly theologically defensible in terms of the biblical injunction of Luke 4:18 and 19, and there is positively nothing sinister about it. For the government to curtail this kind of humanitarian aid is to directly interfere in the compassionate ministry of the church".

MR KENTRIDGE: Yes, and then you go on to deal with labour disputes and you end with an observation of Gerhard Ebeling. Who is he? --- He is a German theologian.

Now, Dr Kistner, that concludes what you have written out, but I take it that you would be happy to expand on anything in this memorandum of yours in answer to any questions from members of the Commission, or from Mr Von Lieres. That is all that I propose to ask Dr Kistner.

THE COMMISSION IS ADJOURNED

ON RESUMPTION:

WOLFRAM KISTNER, still under oath:

MR VON LIERES: Dr Kistner, perhaps we can just clear up the status of your evidence. Is this in your personal capacity or is it in your capacity as Director of Justice and Reconciliation that you have given evidence before the Commission? --- I have been asked by the South African

Council of Churches to come here to the Eloff Commission. I did not do it on my own, and they asked me in my capacity as Director of the Division of Justice and Reconciliation, of which I am in charge.

And the annexure to your memorandum setting out the theological presuppositions or the hidden presuppositions which you say the Police have relied on, is that in the same capacity? --- Yes.

Now, in the course of your evidence, you told the Commission that the South African Council of Churches 10 has the task to facilitate ecumenical contact, and as the Division of Justice and Reconciliation is in that connection for example, tasked, if I understand it correctly, to maintain the necessary international and ecumenical contact. Is that correct? --- That is one of the aspects, yes.

One of the aspects. I know you do not do it exclusively, but you do it through your Division? --- Yes.

One of the modes would be for example, from time to time you visit overseas, the EKD, to maintain these links? --- That is right. 20

Now, before dealing with Justice and Reconciliation, I have just got a loose point which is connected here with the international ecumenical relations. A letter has come to hand which unfortunately was not available at the time when the various witnesses from the EKD testified, but I wonder whether you know about this. Could I first ask you, in your view, where does the EKD and the KED stand in terms of loyalty towards the SACC? --- As far as I know, and experience, also during visits, the EKD stands behind the SACC, and they have expressed this on many occasions. 30

This/....

This does not say that there are not differences of opinion in the constituency of the SACC. They have expressed, if you consider the matter of Justice and Reconciliation, their rejection of the apartheid system very explicitly, within the constituency there may be differences of opinions about the strategy, but there is an agreement about support to the SACC.

In one of the files that was made available to the Commission from the Council, there was a letter written by the President of the EKD, Bishop Hammer, to 10 various members of the EKD. This letter is dated 12 November 1980. I would like you to have a look at it please. You will find first the German version, and then you will find an unofficial translation in the following - if you page towards the front of the file, and one more, that is the start of the letter. Now, let us just see what this letter says. This is a letter addressed by - the date is 12 November 1980. Is that correct? --- That is right.

And I am referring to the English translation. It is addressed to various senior officials of the EKD 20 and FELC, Bishop Lohser, Dr Hild, Bishop Kruse, Dr Hoffmann, Dr Held, Superintendent, Mr Linnenbrink, etcetera. Do you see that? --- Yes.

Now, in paragraph 4 on page 2, the President sets out the following. I read to you from that. He says:

"Finally the basic question is raised: where does the EKD and the KED stand in terms of loyalty to the threatened South African Council of Churches and its General Secretary".

Have you got that? --- Yes.

30

Then/...

Then he makes the first point, that practical agreements are in force, and continue to be adhered to. Secondly, that the KED had given priority to the problems of Southern African for years, and had decided itself clearly for a partnership with the churches, particularly with the SACC as their spokesman, especially in view of public pressure against the SACC, and personal threats against Desmond Tutu, the relationship must be maintained. Do you see that? --- Yes.

And the third point this letter makes is that the 10 EDK holds as a whole to this relationship, and the President expresses his view then that in this respect there is no difference of opinion amongst us and I should be grateful if you on your part, that is the addressees of the letter, would support and further this position and relationship. Is that your - does that conform basically to your understanding of the relations between the EKD and the SACC? --- I wonder whether I could have time to read the letter in context and not only this passage, in order to see how it relates to my Division and my overseas contacts, because 20 I feel that this is a matter between the SACC in general, not relating to the Division, furthermore, I was present when Mr Conring was examined, and I thought that this matter had been discussed with him as far as I remember. But I would have to read first the whole letter before I can reply to that question.

MR KENTRIDGE: May I ask that the witness read the letter?

WITNESS: I was not informed about this letter. I did not see this letter. As far as I remember, I was - heard that about Bishop Schwarz, but if, the whole matter is 30

a matter which was not discussed with me. As far as I understand this letter, it shows that there were certain misunderstandings about the administration between the EKD; at the same time there is a general agreement, we endeavour to seek understanding about sensitive points, and as I have pointed out, in this paper, there existed tensions between the Christians in Jerusalem and in other parts, in Macedonia, and perhaps the Christian way of solving those conflicts, is simply to communicate with one another, and this is being done in this letter. But about the de- 10
tails of this matter, which concern financial control, I am not adequately informed because that does not fall within my sphere of work.

Yes, I quite understand that you are not up-to-date as far as financial matters are concerned, for the reasons that you have mentioned. But that letter is a letter that was circulated internally in the EKD. Is that correct? --- Yes. From what I see here, the addressees here.

And it was an internal distribution which forms part of the response to the original letter of complaint 20
that Bishop Tutu had written to the EKD following on Dr Conring's visit to South Africa, in which he asked the EKD whether the doctor's visit does not reflect the unhappy example of ecclesiastical new colonialism. Do you recall that letter? --- Well, I have heard that Bishop Tutu was writing to this - this letter, with his complaints, but I do not remember having seen that letter, and I think in order to give an opinion on that, you would have to see all those documents. I really do not find that that is a matter to ask me about, but to ask Bishop Tutu 30
about/...

about, who is the writer of that letter.

MR VON LIERES: Now, did you translate this letter from German into English? --- I would have to check whether this is my style. I cannot remember. I would have remembered the contents of this letter, and I do not think it is my style of translation, but I could not give a definite opinion, whether I - I have often translated letters for Bishop Tutu.

Would you just have a look at the last paragraph of the letter, on page 3? --- Yes.

Would you just read that for us please? --- The 10
last paragraph?

Yes, please? --- (READING)

"So much, Honourable Gentlemen and Brothers, by way of an attempt of clarifying the issues to be treated in this connection. Please understand that I find it difficult not to take up with Mr Tutu in all clarity his, as I feel hardly responsible, unfounded and ultimately defamatory utterances made in respect to the activities and the person of Mr Conring. Genuine partnership and taking one another seriously es- 20
pecially also the Black partner, should actually sustain a clear protest against such conduct. The wide dissemination of copies of his letter put the occurrence rather in the light of a campaign than a personal letter. Consideration of the situation in the Republic of South Africa and also of Mr Tutu personally, known to all of us, causes me to refrain from such a step this time. This, however, cannot be a carte blanche for always, for this would constitute new colonialism in the reverse direction. To you I would like 30

to/...

to say that we stand fully behind our brothers Conring and Dr Zschucke and would also in future not tolerate if one tries by deliberate actions from outside, by accusations and suspicions to exercise influence on decisions, taking our realm, as in turn we will not enter upon such parts. Partnership is a matter based on mutuality".

MR VON LIERES: And this was written by the President of the EKD? --- That is right.

Now, in fact, you know that a reply did come from 10 the EKD responding to Bishop Tutu's allegations, that the EKD was committing new colonialism? You were aware of that? --- I do not remember having seen that letter.

Can I show you the letter please? It was made available to the Commission by Dr Held - by Reverend Conring when he testified on 16 March of this year, and there - the original of that letter is in the file in front of you. --- M'Lord, I think I have seen this letter.

There is quite a contrast in content between the internal letter circulated internally in the EKD and that 20 letter that was the response to Bishop Tutu's letter of 30 October? --- Yes.

Now, does this - how does this affect the openness of the partnership between the EKD and the SACC? --- Well, again I would say that this is a matter which is a matter of the General Secretariat and not my own, but if I look at it from my point of view, as I only see this first letter, at least take notice of it now, the first one has the date 12 November; the second one, I do not see the date here. Which date is this letter? 30

Could/...

Could I just have the file in front of you, and we will find you the date, because the original is in there. Unfortunately the original is also undated, but that would have been after 30 October 1980? That I think is obvious?

--- Yes. I would interpret the difference between the letters as follows: there were certain tensions about Reverend Conring and a man who was having a look at the administration from Germany, coming to South Africa, and those tensions have been expressed in an exchange of letters between the SACC and the office of the EKD, President Hammer, but 10 then there was an attempt, if this is a later letter, to settle those differences, which is a Christian way of doing it, and here you get a notification that they have discussed this in Germany and they have come to this conclusion, and bring this letter to Bishop Tutu, and this letter is - the second letter is not signed by President Hammer, who is in charge of that office, but it is signed by the Ratsvorsitzende, that is Bishop Lauser and Dr Held, who is in this room now, and thus I would think an attempt has been made to settle this, and this is a letter trying to say 20 that these tensions are to be over now.

On your visits to Germany, did you feel any - or notice any of these tensions? --- M'Lord, wherever you visit a church, whether in South Africa, a member church, and if you are sensitive, you notice tensions that exist, if you are sensitive to it, but I do not consider this my task, simply to go about and ask details about it, and I have not done this in this respect, only if people ask something, then I respond to it, because I am visiting - if I go overseas, on the one hand I am an official of the SACC, 30 but/...

but I am primarily concerned about matters of Division of Justice and Reconciliation, about the theological understanding. Of course I would try to explain what I know about the SACC, but I do not make it my principle, not to go too deeply into - without knowing the details, into areas where there seem to be some tensions.

This letter was never supposed to have reached South Africa, that confidential EKD circular. There is no single South African addressee on that letter, is there? --- Well, I cannot answer that. 10

Have a look? --- I beg your pardon?

Just have a look at the list of addressees of the letter written by President Hammer? --- Yes, those ..

Right at the back of the file. -- Yes, those are people in Germany.

Now, you will see on the English translation, there is a note there, which reads as follows, to Bishop Tutu. Strictly Confidential:

"When the attached became known (referring to this letter we have been talking about) friends advised 20 against making it confidentially available to you on the grounds that the distortions and defamations contained therein would upset you, and also for security reasons in case of mail despatch. It is now made available to you because of the belief that you have a right to know what is going on behind your back, and to give you background information on the attitudes of highly placed officials. It must under no circumstances be made known that you know of this letter and have it, particularly not to any journalist" 30

and/...

and it appears to be dated 9 March 1981. Now, how did this letter reach the SACC? --- I am not informed about how it reached the SACC. It could have been given to somebody to pass that letter on. I did not see this letter.

MR KENTRIDGE: He has said so already.

MR VON LIERES: This reference to security reasons in case of mail despatch, can you cast any light on that? --- M'Lord, I think there are security reasons that mail is sometimes checked and read and intercepted. People have experiences with that. 10

M'Lord, just for the record, this is document no 27, found in Room 303 of the South African Council of Churches in Khotso House, uplifted on 27 September 1982.

I will try and find the details from Bishop Tutu when he testifies. Now, you have given us your personal background yesterday. You say your one son is in Germany. Do you have any other family overseas? --- Well, I have occasionally had children visiting overseas. I have got other relatives overseas.

Do they stay there permanently? --- Relatives, 20
yes.

Now, let us now turn to the situation you found at the South African Council of Churches when you arrived there in 1976. At this time when you arrived, I suppose one of the first tasks that you performed was to familiarise yourself with what the position was and what the nature of your duties would entail? --- That is quite natural, I did that.

Now, did you have regard for example to the resolutions of the National Conference of 1975? The Executive 30

Committee minutes and the various Justice and Reconciliation minutes of the previous years, to see what tasks and so forth were awaiting your attention? --- I do not remember that I read the minutes of the Executive Committee from the time prior to my coming there. I had access to the files of the Division of Justice and Reconciliation.

And the National Conference of 1975, did you have a look at that? --- I do not remember whether I saw that, but I suppose it may have been.

Now, let me try and refresh your memory then 10
slightly, because I think the background is rather important. At the 1975 National Conference a resolution was taken - was adopted identifying the new social order that the South African Council of Churches wished to promote, and I would like to read you this particular resolution. It is resolution no 4 and under the heading "Proposed Statement on Detente". This resolution says:

"We therefore call on the Government and the White people of South Africa, not excepting our own churches and ourselves, to humble themselves, to pray 20
and seek God's will and to turn away from the evil of all racial injustice, towards a radically new social order in which there will be: a fair sharing of power, responsibility and land; adequate housing for all Black people; an end to the present migratory labour system; and a consequent disruption of many Black families; the right of Blacks to own land, homes and open shops, businesses, industries wherever they wish; proportionately equal money spent by the State for the free and equal education of 30
children/...

children of every race; adequate training centres; an end to job reservation, the rate for a job; and the right of Blacks to form registered trade unions; an end to bannings, house arrest, detentions without trial".

Do you recall this? --- I may have seen it, but it does not - I cannot say whether I saw it or not.

Well, can I just put it to you then that on the documentation of the Council at the time you took over, we had the first resolution adopted by the National Conference to exhorting the Government and the Whites to accept the necessity to move towards the acceptance of a new social order. Would that be a fair statement? That existed at the time you took over? --- If that is the reading of the National Conference, I think you could say that, but I would have to check it. I have not got it in front of me. That is correct, yes.

Now, whilst you have the National Conference minutes before you, you will see attached to them are the discussions and the recommendations of Group 2 and Group 4 and Group 20 3. You know it is practice and perhaps you can tell us whether we understand it correctly, but at the National Conference the delegates divide into various groups to discuss the works of various divisions. Is that normal practice? --- Group 2 and 3?

Yes? Dr Kistner, just before you read it, excuse me, I just want to put the background on record. Is it still normal practice today that at a National Conference the delegates divide into groups to discuss the works of various commissions? --- It has happened while I was 30 there/....

there, there have been - as far as I remember there were also National Conferences where there was a lot of time pressure, because of - and there was not sufficient time and there was a complaint that we do not have sufficient time to discuss the work of the different divisions, and that was taken account of, but very often there were very urgent general matters, and there have been difficulties with that.

Now, at this National Conference it appears from the minutes that the delegates divided into four groups? --- Yes.

And I would like to refer you to the recommendations 10 of Groups 2 and 3 which you have in front of you, I think. If you look at the bottom part, you will see some word-picker having been used. --- Should I read it out?

No, it is not necessary. I just want to put this to you very broadly, that Groups 2 and 3 at this National Conference identified the necessity for grassroots support and the necessity for change at the local congregational level. -- That is correct.

Now, that - those recommendations, were incorporated in resolutions taken in connection with the functions 20 of Justice and Reconciliation? --- Yes.

If you would like to turn to the text, to the minutes now, you will see on the page following the one you just read from. Please turn to page 6 paragraph 19. Have you got that? --- Yes.

The heading is "Justice and Reconciliation". --- Yes.

The following recommendations from the group on Justice and Reconciliation were noted by the National Conference, referred to the Executive and the Division of Justice and Reconciliation for investigation and 30

implementation/...

implementation where necessary. --- Yes.

Are you with me? The first that is listed here is the following:

"The group raised the following points:

1. The urgently expressed desire for change.
2. The fundamental importance and key function of the local congregation in the process of change".

Do you see that? --- Yes, I have got it.

- "3. The powerful influence wielded by the members of the clergy in their congregations. 10
4. The original purpose and the intention underlying the formation of the Division of Justice and Reconciliation".

Now, then the following recommendations were offered, that the Division of Justice and Reconciliation firstly is to concentrate its attention primarily on the full-time workers in the churches for the next two years. Do you see that? --- Yes.

Now, flowing from the preceding, and the emphasis and the key function of the local congregations, the process 20 of change as well as the influence, one could see that the purpose of this was to get the full-time workers to become more active. Would you agree with that or not? --- Yes.

Then secondly, your Division was tasked to co-operate with the Justice and Reconciliation groups in the denominations and regional councils? --- Yes.

And thirdly it was tasked to engage, if necessary, in a confrontation with the leadership of the churches who at present may be hesitant in relation to matters of Justice and Reconciliation. Fourthly, to produce theological 30 motivation/...

motivation related to practical issues of social justice. Now, I am not going to read them all. Did you familiarise yourself with these tasks entrusted to your Division as set out in this National Conference resolution on Justice and Reconciliation? --- I asked about what would be expected from me. I do not remember whether these principles set out at the previous National Conference were presented to me, but I must say that this was something which we took seriously in our Division. I suppose that the concern of the question is to show that it was the task of the 10 Justice and Reconciliation Division to try to get contact with the member churches and with the local level and with the congregations, and this has been discussed often in our meetings, and I think to a certain extent it has been taken seriously. First of all the delegates in the Committee of Justice and Reconciliation are delegates from the churches. They are the people who are delegated and sent there, and some of them are people who are responsible in their respective churches, for Justice and Reconciliation issues. Secondly the - I for a long time was alone in that 20 Division, at least as a full-time worker. I had a secretary, but when the need became clear to have assistance, I was anxious to have people working with me who remain in contact with the church at the local level, and thus we had people employed on a part-time basis, so that you get at the level of the National Conference, information on what people at the level of local congregations think, and vice versa, that they know what the SACC does, and this has happened, for instance, Reverend Rob Robertson is a part-time worker who is in charge of a congregation and also 30

Reverend/...

Reverend Jimmy Palos. They are part-time workers in the Division of Justice and Reconciliation.

Could I just interrupt you for a second? Perhaps we can just summarise these recommendations in 1975, as follows, that the National Conference had identified that in any change process in which the church is involved, the local congregation is an absolutely vital key, and if you have not got its support, you are not going anywhere. Would that be a fair summary? --- I think, yes.

And for that reason, for that reason, it wanted 10 the Division of Justice and Reconciliation to concentrate on the churches, to get support? --- Yes.

And could you just explain this to me; - I do not understand this one, 1.3 on that page, that Justice and Reconciliation should engage if necessary in a confrontation with the leadership of the churches, who may be hesitant in relation to matters of Justice and Reconciliation. Now, before you answer that question, may I just ask you, is my understanding correct, that the words Justice and Reconciliation as used here, are to indicate the type of 20 work and the change that the Council wishes to see take place in this country? --- I would think that that was the consideration when this title was given to this Division. I would think, because I was not participating in that, but I would think that the people formulating that would have said, there can be no reconciliation without justice, and the word 'reconciliation' is being abused if you leave out the dimension of justice. On the other hand that justice in this country requires and also has to serve reconciliation, that both are mutually inter-dependant. I would have 30

added/...

added, if I would have participated, perhaps also the mention of freedom.

And justice according to the SACC perception requires fundamental change? --- Well, I think that is implicitly said, yes.

Now, could we then just go to this, to engage in a confrontation with the leadership of the churches. What was supposed to have been done? Why was it necessary to instruct Justice and Reconciliation to engage in a confrontation with the leadership of the churches? --- Mr 10
Chairman, again I did not participate in this and I do not remember that I was informed about it. I can only interpret how I read it now, and there can be situations in which realising what happens in the country, and insights come only through a type of confrontation, and in fact I have experienced that in my own life, that you do not learn before you have certain confrontations, and you can live in this country in a completely isolated way, and think everything is in order, and you can have people of that nature in the leadership of churches, and I must say 20
I had in my church fairly leading positions and certain tasks at least, and did not know what happened in the country, and that - an understanding for that only comes if you encounter people who experience the situation, from a situation - the situation from the viewpoint of suffering and helplessness, and I suppose that it is not easy for people to take sometimes, and it means that church leadership has to take courageous decisions, expose themselves, sometimes say things which are not comfortable, to their church constituency, that requires courage, and that 30
there/...

there might have been certain - in certain member churches certain leaders who were not free enough to do that yet. I would interpret this sentence like that.

Incidentally, Dr Kistner, just before we step off this, this is just a bit of background. You know that this suggestion - are you aware of the fact that this resolution setting out the new dispensation, the radical new social order as it is called in the resolution, was suggested to the National Conference in the address of the then General Secretary under the title "The Church at the Crossroads", 10 Mr Rees' address to the 1975 Conference? --- Yes . I do not remember whether I have read that address, because I am reading quite a lot and I do not - may have read it or not, but ..

I do not think it is necessary to read it, but the ideas that were adopted in the resolution are advanced in the address; nevertheless. Could we then just say that those were the resolutions adopted at that particular stage, and it was expected that the Division of Justice and Reconciliation would pay attention to them, more specifically the Director. Your appointment - when did you commence your work as Director of Justice and Reconciliation? --- In January 1976 I came before simply to find solutions for my family, I also popped into the office when the university had ended in November 1975, but officially I started in January 1976.

Now, you had an interview with the General Secretary prior to your appointment in 1975? --- Yes, there was an interview, perhaps even more than one.

And at that stage you were still attached to 30
the/...

the University of Pietermaritzburg as you have told us? ---
In 1975, yes.

Now, who approached whom in connection with your appointment? Were you approached by the Council of Churches or did you see the advertisement and approached them, or how did this come about? --- I did not see an advertisement. As I put out in this submission, there was a theologian, Lutheran theologian who was involved in the Council, a Council official, Dr Axel-Ivar Berglund, who drew the attention of the Council towards me, and I had quite close contacts 10 with him, and he asked - and I think it came through his mediation, that the Council approached me and I was asked to come to Johannesburg, but I did not apply for a post.

Now, according to the documentation that you made available to the Commission, amongst all other things that you were doing, you spent the first six months in evaluating the position, what is the function of Justice and Reconciliation, what has been achieved, what are the stumbling blocks, how could they be overcome and so forth. Would that be a broad outline of what you did in the 20 first six months, apart from everything else? --- I could not limit this, I do not know if it was six months, but that was work which I had to do during the first months, and I think I am doing it all the time, because you have to re-evaluate all the time.

Now, I would just like to discuss with you what you have done during these first six months as far as this is concerned. The first six months of 1976, yes, that is up to the National Conference which was held in July 1976, perhaps it is 6½ months. In your one document, the 30
general/...

general review of the work of the Division for Justice and Reconciliation, you describe the reason for the establishment of the Division, as follows, and I read from page 1:

"This Division was established several years ago at a time when the SACC member churches and the SACC itself were desirous of testifying to the sister churches in the WCC that there are alternatives to violent methods of change and that they wanted to be involved in such non-violent processes of change".

Do you recall that? Should I provide you with a .. 10
--- I think it is better if I have it in front of me.

MR KENTRIDGE: I think that should be done automatically, M'Lord, with respect.

MR VON LIERES: I will give him the original.

MR KENTRIDGE: I certainly did not mean to say he should have - the witness should have the original. If he has a copy, of course, that is quite alright.

CHAIRMAN: Have you a copy?

MR VON LIERES: I am afraid not, M'Lord. I have been working off a copy, because I did not want to scratch 20 the originals or mark them.

You have three documents before you. The first one has a title "General Review of the work of the Division for Justice and Reconciliation". It is marked paper 2 in brackets. Have you got that? --- Yes, that is right.

The second document would be a report to the Executive Committee dated June 1976? --- Yes.

And the third one would be your report to the National Conference? --- That is right.

Have you got those three documents in front of 30
you/...

you? --- Yes.

Now, are you in a position to tell us in what sequence these documents were prepared? Which one was first, second and third? It appears to me that the National Conference came last and then the Executive Committee minutes because the National Conference was held in July 1976? --- I have not read these papers probably since the year 1976, thus I would not be able to do that now, to see the sequence.

I can just tell you that the National Conference in 1976 was held from 27 July to 29 July 1976. --- Yes. 10

And your report would have been prepared for that Conference? --- I suppose so.

So that would have been the last one. Could we now deal with your familiarisation task there, and I would like to refer you to the document General Review of the Work of the Division for Justice and Reconciliation. Have you got that in front of you? --- Yes.

Now, on page 1 paragraph 1 the third paragraph which starts "It may be considered superfluous", have you got that? --- Yes. 20

Now, four lines down, there you set out a definition of the function and purpose for which the Division was established. Do you see that? --- This Division was established - yes, that is right.

Now, that was your attitude for the reason for the Division to exist. Could I summarise it this way: Justice and Reconciliation should be instrumental in non-violent change in South Africa? --- I think this sentence refers to what I discovered in the documents, that this - it is a statement why according to my - of those documents, 30

member/...

member churches were desirous of testifying, and that they wanted to develop alternatives to violent methods of change.

Yes, and your Division would be a facilitating agency to achieve this end? --- Well, yes.

Is that what you understood? --- That is right.

Now, if you would please turn now to your report to the National Conference for 1976, have you got it? --- The National Conference?

Yes, National Conference Minute, the first page, you have paragraph (a), the power of the church in the 10 South African context. If you go down five lines you will find the following: "In the South African context the topic suggests that all talk about justice and reconciliation is irrelevant if it does not aim at the liberation of those groups of the South African people who at present have no meaningful share in the decision-making processes, determining the social, political and economic structures of our country". Have you got that? --- Yes.

So you expressed your view to the National Conference here, that if justice and reconciliation are not in- 20 volved in the liberation of the oppressed, all talk about it is irrelevant? --- I think it has to be read in the context.

Yes? --- The paragraph starts, "Justice, Reconciliation and Liberation in Southern Africa is the topic which the All-African Churches Conference formulated for a consultation to be held at the beginning of the year 1976. Although the consultation did not take place, it is worthwhile to consider the understanding of justice and reconciliation implied by the topic that was assigned to 30

it. In the South African context the topic suggests that all talk about justice and reconciliation is irrelevant if it does not aim at the liberation of those groups of the South African people who at present have no meaningful share in the decision-making processes determining the social, political and economic structures of our country". Thus the starting point is the topic as it has been formulated for the - this conference, and then it says here that the consultation did not take place, but this was the under-
- - - - -
ducing therefore a third dimension which makes it clear that justice and reconciliation is related to the present structures, present power structure in South Africa, and that that was that understanding of justice and reconciliation underlying the formulation of that topic, and I find a justification of that aspect, that freedom, participation in - as I would formulate it now in power-sharing, is an aspect of justice and reconciliation too.

Would it be wrong to say that you saw that Justice and Reconciliation should concentrate - or should be 20 concerned with the liberation of the under-privileged or oppressed, as one dimension there? --- Yes, but I do not - I think it is one dimension. I do not see the difference between the original definition and this one. It is only high-lighting a certain aspect which has to be taken into consideration.

Now, can we take it one step further: will you please turn to the general review of the work for the Division of Justice and Reconciliation, that is paper 2, to page 2 paragraph 3? --- I am sometimes hearing not - 30

which/...

which paper is it?

The general review, page 2, paragraph 3, under the heading "Planning for Action". --- That is right.

Now, I do not wish to deal with the whole paragraph there. I would like to suggest to you that in this paragraph you have identified important stumbling blocks for the work of the Justice and Reconciliation, and that is the strongly expressed doubts by a number of leading church people that the churches may be - may not have any credibility left. --- Yes. M'Lord, these were opinions 10 which I heard from church leaders, why do we have meetings, it does not change anything.

So that is what you noted as a possible stumbling block? --- This was what they said to me.

And the second point, that they also told you was that conferences have made no decisive contribution towards action, with a view to changing the situation. That is in the first paragraph. --- That is right.

So you noted that. Now, in your view, did the question of church credibility reflect on whether the 20 church was able to create and awaken an awareness amongst the grassroots level, or is that only part of it? Did it relate to the structures, or what was the cause for the lack of church credibility? --- Could I read the section?

Yes, sure? --- As I interpret this that I had written at that time, and I recall what happened, there was a reservation against having conferences where there is a lot of talking and there is not action following out of these conferences, and that such action is often not easily brought about, because on the one hand, of restrictions through 30

Government legislation, the scope for action is limited, but there is also difficulty with the structures of the South African churches, and I think this is quite understandable, in the South African Council of Churches you have member churches with very different structures of decision-making, and to get action in that body is not very easy, and a way had to be found, and people were frustrated that so little happens, because it is a very complicated organisation, and then the question is being asked, do these structures permit effective action which is relevant to the South African situation. This is simply a description of practical difficulties. 10

Now, on page 4 of that same document, the general review, would you turn to that please? You will see right at the bottom of page 4 you have got Part 3 under the heading "Encounter with Popular Theology at Parish Level in the Context of Justice and Reconciliation Issues". --- Yes.

Now, what you say here is this: at a meeting of the provincial Justice and Reconciliation Commission of the Church of the Province of South Africa and at a meeting of the corresponding Committee of the Methodist Church of Southern Africa, a great concern of the committee members for Justice and Reconciliation issues was apparent. At the same time both meetings showed that in the CPSA as well as the Methodist Church, similar difficulties are experienced as in the SACC. It is very difficult to awaken an awareness of Justice and Reconciliation issues at the level of the local parishes and of initiating processes of change. --- Yes. 20

So that was the general experience, not only the/... 30

the South African Council of Churches had, but also member churches? --- Yes.

As noted here? You could not see an awaking awareness, or it was very difficult to awaken awareness on the grassroots level, local parish level. Now, on page 5 of the same document, it appears to me that you set out the reason why this problem existed. Would you turn to page 5 please? --- Yes.

Now, on page 5, if I may summarise the matter, you say that a certain brand of theology exists; you call 10 it the popular theology, according to which the church and the world are considered as separate entities. Do you see that, in the third paragraph, page 5? --- Yes.

And you say in that same paragraph, that this type of theology, this popular theology which divides the church and world as separate entities, prevails or appears amongst the privileged groups in the South African society. Have you got that? The fourth line of the third paragraph on page 5? --- Yes.

And in paragraph 4 on page 5, you also express 20 your impression that the same type of theology has strong roots in a wide section of the underprivileged people. Do you see that, the first and second lines? --- Yes.

So you then continue and you identify that on your view the adherence of this popular theology consist both of the privileged groups, the underprivileged groups, and it is not limited to any particular denomination. That you will find in the third paragraph from the bottom. It is not limited to any particular denomination. Have you got that? --- No, I have not got that. 30

The first, second, third paragraph from the bottom of page 5? --- Yes.

Have you got it now? --- Yes.

You say the pattern of theology as described above is not limited to any particular denomination, and you carry on and you say, it is a uniting force between Christians of different denominations. Do you see that? --- Yes.

And in your report - let me just make this one other point on page 5, the fifth paragraph from the top of page 5, the same page, you say that the support which 10 this pattern of theology receives from strong sections of the privileged groups, as well as from the underprivileged groups, is a guarantee against any effective change being initiated by the churches in their own structures. Do you see that? --- Yes.

Now, would you please explain to the Commission, what - very briefly please, what is the fundamental difference between this popular theology that considers church and world as separate entities and the theology that you support? --- Mr Chairman, I myself have been brought up 20 in a type of theology like this, where there is a tendency to separate church and world or to distinguish it very clearly. I think the distinction is necessary, and that this is a pattern in a certain type of piety. You had this in mission societies, very widely spread, that for a certain period there was a very strong emphasis on the individual and salvation of the individual, which is a valid emphasis, but it was very often limited to that, as a result you could have people who get comfort from the Gospel for their personal lives, valid comfort, but do not 30

see/...

see that that - this acceptance by God liberates me for
action, that the world in which I live, God's creation,
also is effected by Christ becoming Man, and we have done
research, or we had in the SACC a man who did research on
the image of Christ which exist in certain groups of the
South African people, where Christ is far above the world,
and therefore you turn towards Him, but that He is present
in the world where we live, and that He shares and wants
us to - to use as His tools to share in the situation, that
that is neglected, and you find this attitude in cir- 10
cles who are against change, privileged groups, because
of course they are afraid of change, and you also find it
in groups which do not think that the situation can change,
accept their situation as it is, but nevertheless get cer-
tain strength from the comfort in their situation and in
their despair, and those two attitudes mutually reinforce
one another, and they are both preventing a theology or
an understanding of the Gospel which relates to the fact
that Christ has become man, and that His being here with
us has consequences and enables us to bring about 20
change. I would never say it enables us to create a per-
fect society, but work for better conditions, and improved
social relations and better structures, and that this under-
standing gives us the freedom to do so, and hope for the
future, and therefore the distinction of the theology of
which I am talking, is that we believe that Christ is pre-
sent and that the salvation which we have achieved, liber-
ates us for action, and that sin is not only a matter which
relates to the individual. It certainly relates to that,
but it can be entrenched also in structures, that 30

you/...

you can live also in certain situations where you cannot see what really your neighbour experiences. You can celebrate Holy Communion, in a White suburb, and really not understand it, because Black people are far away. You never share their experiences, and there you can talk and preach about love, but what love implies and what it demands from you, that you do not experience, and this type of traditional theology is very widely spread in the churches, and I wanted to say here that this is a theology which has helped people in difficult situations, but it does not take 10 - help us to take account of the situation in which we are, and neglects a very valid dimension, and I wanted to emphasise that the world in which we live, is a disruptive world, and if we do not bring in the other aspects of the Gospel, particularly in the South African situation, or in the world community in general, which destroys itself, then we are not proclaiming the true Gospel. I did not condemn these people with this popular theology. I would condemn people who are closely related to myself and whom I love, but for their own sake, I find, it is necessary to 20 emphasise this aspect of theology and also for the future of this country and for the future of the human community, and I think there are indications, though I have advanced in my thinking on this, or done further work since that time, I think the elements of this thinking are already here. In fact yesterday night there was - we had asked a lecturer, theological lecturer from UNISA, who is at the same time a sociologist, to have a meeting in Johannesburg to help people understand why certain types of theology find appeal in certain sections of society, what 30

image of Christ prevails, in these groups of society, in that image - in that theology, and we think that that is an important function of the Council.

Could I perhaps ask you whether my understanding of the difference between the theology you support and the theology described here as a popular theology, is put in secular terms, as follows, that the popular theology does not believe in the doctrine of the corporate sin of man and the sin attached to the structures of society, but it believes sin is something related to the individual 10 and not own to the society, broadly speaking? --- M'Lord, I would hesitate to say this type of theology thinks that because the other type of theology has to take the personal dimension of sin very seriously too, thus it would not be an absolute separation between the two, but I would think there is an emphasis on this in that type of theology.

The theology that supports the corporate sin concept is generally known as based on the social Gospel idea? --- I would not accept that definition, because the - I think that it has become a slogan and people understand 20 very different things under the term social Gospel or - and sometimes you have the tendency to say this is a type of interpretation of the Gospel where the personal dimension of sin is neglected, and you find such types of theology, but this is not what I am thinking about here.

Can we then just perhaps take this question of popular theology and the implications of it one step further? If you would refer now to your report to the Executive Committee in June 1976, on page 1, paragraph 4, we find that you informed the Executive Committee that in the 30

membership/...

membership of the SACC churches among the White and Black people the theology has found wide-spread acceptance at the grassroots level of the parishes, which is hostile to involvement in action, relevant to the present South African situation. You set out the principles we have discussed already, and - excuse me? --- I am sorry, I am a bit slow in finding the ..

Paragraph 4 on page 1 of your report to the Executive Committee, June 1976. Have you got that? --- Yes.

So you reported your views to the Executive 10 there, and in paragraph 5 you suggest that the following is necessary. You say an involvement of the South African Council of Churches in peaceful processes of change demands:

"5.1 an encounter with the theology described above at the grassroots level of the parishes".

What were you trying to convey with the word 'an encounter'?

---- Here I wanted to express the fact that particularly theologians find it very difficult sometimes to express their ideas, whereas this popular theology which has a tradition, finds it easier because it can easily arouse 20 emotions, and they have a simple language, and very often they operate also in what I would say, not in racial terms, white-black pictures. There is the good - in dualisms. You have some - an enemy, that is the enemy and here is the - there is the world, there is the church, here is the converted Christian who is completely different, and here is the man who is lost, and very often they operate with these very simple patterns which do not really do justice to reality, to our own personal life as Christians where we are sinners, and at the same time Christians 30

who/...

who receive God's forgiveness, and that we sometimes find it difficult to convey this type of message. On the other hand, to have an encounter means, you have to listen to those people with that theology, with their experiences. If you want to communicate with them, you have to get an area, a level of communication, and that is sometimes very difficult.

Well, I had a look in the dictionary, I think in the chambers, and it defines 'encounter' as a meeting as adversaries. That created or conjured in my mind the 10 picture of some sort of a confrontation between the popular theology and the one that should supplant it. --- I did not look into the dictionary when I wrote this report, and English is not my home language, but as I understand the word 'encounter', it can mean simply having the experience in getting - in facing somebody who is different from you. It can include the dimension of conflict.

Let us go onto the next suggestion that you made.

MR KENTRIDGE: I think I would invite the Court to look at the dictionary. My Learned Friend has taken one 20 definition. Encounter can include a loving encounter. I think the witness' English is as good as - perfectly adequate for that.

MR VON LIERES: The next demand, Dr Kistner, 5.2, you state an awareness that participation in peaceful processes of change in the present situation can involve civil disobedience on the part of the Christian and willingness to suffer. Now, civil disobedience can be involved in peaceful processes of change, and did you want the SACC to realise that this is a possibility if they want 30
to/...

to effect change? Or how should we understand this here?
--- M'Lord, I here wanted to say, as far as I can read it
now in this context, that the ultimate criterion cannot
be legality for the action of the church. There can be
situations where a church has to do something even if it
is illegal. For instance, if people cannot worship together,
you can have a situation where you have to express the unity
of the church in spite of such laws. This is a theoretical
- I do not have any specific example now, but in the tra-
ditional theology and also in my tradition, we have 10
been brought up with a very strong emphasis on obedience
to the authorities, with a particular passage, Romans 13,
and I wanted to say here, obedience to the authorities,
secular authorities, has its limitations, and if the church
and the unity of the church is hindered and the expression
of its life, by certain laws, also its work of compassionate
service, then situation of civil disobedience can arise,
where this can be a possibility and can be even a necessity
to confess one's faith.

Let us just read 5.2 in context. It reads: 20

"An involvement of the SACC in peaceful processes
of change demands an awareness that participation
in the peaceful process can involve civil disobedience".

Now, where must this awareness be, with the SACC or with
its member churches or with whom? --- M'Lord, I would believe
it would be the SACC, has not a different Bible or a dif-
ferent faith and its member churches, you have denomination-
al difference, but that would apply to both, and the ques-
tion of obedience and the limits of obedience would be -
a clarity on that would be necessary in the SACC as 30

well/...

well as in its member churches. And I would think that one member church, the Presbyterian Church of South Africa, has taken a decision to this effect with regard to the minister's function in solemnising marriages of people who are of different racial background.

The next point you make there, in 5.4 is a clarification of the basic theological concepts, the aims and the policy of the SACC in the present situation, 5.4. --- Yes.

These theological concepts, aims and policy of the SACC were in fact submitted to the National Conference 10 in 1977, is that correct?--- I did not check that, but it could be. It was - this one is the Executive Committee, I could imagine that this was a meeting of the Executive Committee, prior to the National Conference.

For 1976? This is 1976 we are dealing with now. I am talking about 1977, one year later. Allright, we will come there in due course. It does not matter. Now, what were you trying to convey on your demand in 5.3, that the relationship between the proclamation of the Gospel and the church as an institution, be sorted out, or be 20 dealt with? In your final recommendations on page 3 of that same document, paragraph 2, you put it slightly shorter; you say, the Executive Committee to ask the Commission to study the relationship between the proclamation of the Gospel and the structures of the church. What were you trying to convey with that? --- M'Lord, I have not got much time now to study this carefully, but I believe that the mission of the church is sometimes obstructed by certain structures. For instance, if you have mission work done by one missionary of a particular background, who is a 30 theologian/...

theologian, you might need lay people with him, and you have certain structures in the church where decisions are taken from above, whereas mission tries to bring the Gospel to the grassroots, and as a result decisions about mission do not necessarily always take account of the proper way how to proclaim the Gospel, and especially with regard to the SACC, if you have different denominations with very different decision-making processes, one congregationalist have the emphasis on the local congregation, the Anglican Church has very much emphasis on the Bishop's church, 10 on the Bishop's office, then to get together and get involved in mission, this requires accurate thinking, how can we do mission work, particularly in the urban areas, you have people coming together from different denominations. The question arises, is each church now to invest its funds and set up a separate church quite close to another church, is that serving the cause of mission, or is it causing division? And this I would say was the idea of the structures of the church, and the structures are related to developments that happen in society. 20

Must I - how is one to understand what you say? Must the church be able to adjust to the changing situations continuously? --- I think so, yes.

In the same way as its theology must continuously be updated and contextualised to the now existing socio-political situation? --- I think if the Gospel is related and is a message to the people, it can be understood as Gospel and as a joyful message, only if it takes account of the situation of the people and the situation of the people and the experiences of the people change, and 30

that/...

that the mission of the church has always to take that into account.

Now, the relevance of the structures of the church, to a particular society or the situation existing in a particular society, would be reflected, for example, by updating or a new contextualisation of its particular theology. Would it not? --- M'Lord, I feel that you always have certain tensions, because structures tend to be solid, whereas the development takes - goes rather fast, and in that situation you always have to examine whether the structures are 10 appropriate.

Could we now turn to - oh yes, could I just put this to you, that these recommendations of yours made to the Executive Committee, they were approved by the Executive Committee at its meeting on 1 and 2 June 1976, page 3, of those minutes, just for the record. --- M'Lord, I did not check this. I cannot say that. It would have to be checked in the minute book.

Well, if you would like to, I have got it here. Could we now turn to your report to the National Conference 20 for 1976, that is the third document that I gave you. Now, in the first two pages of this particular report, your prime emphasis is in setting out the thesis that the church does have power? --- Yes.

And if you - take your time and read it, please. -- I have the gist of it.

Very well. We have dealt with the first paragraph already in which you say that the - talk about Justice and Reconciliation is irrelevant if it does not aim at the liberation of these groups. If you now turn to the 30

second-last paragraph on the first page, the last three lines you have written here, it appears that the Christian understanding of liberation and its implications for the South African context should receive priority in the work of the Division. Have you got that? --- Yes.

So the Christian understanding of liberation should then become the main thrust or one of the main thrusts of the activities of Justice and Reconciliation. Is that correct? --- Yes. I would add that this again has to be read in context. You have in the paragraphs before the 10 report on the unrest in Soweto, where you have a very strong expression of the longing of people for freedom, and as we said just now, the Gospel cannot be understood as Gospel if it does not relate to the experiences of people, their suffering, their hopes and so on, and this was the topic at that time, what is liberation, what is freedom, and the church cannot leave the people alone in finding their own answers to that problem. It has to pay attention to that, and therefore here it says, after these events in 1976, that this should receive priority. 20

Then you also address yourself to the question whether the church has power or not, can it make a decisive contribution to the liberation of man in the South African society or not, and - I am just summarising very briefly. If we then turn to page 7, you suggest that the churches are in fact under an obligation to examine how they can contribute towards the restoration of power and authority in South Africa. That is in the first paragraph, and you find as follows, the sixth line from the top:

"Nevertheless the churches in South Africa as 30

well/...

well as in other countries, by being institutions in the society in which they live and work, participate in the shaping of power structures and exert power". Have you got that? --- I have not got it, but I know what it means.

The fifth line from the top of page 2. --- Yes.

So your conclusion is that churches in fact exert power? --- Yes.

And that they participate in the shaping of power

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In any society? --- Yes. M'Lord, I would have to explain this. The idea here is that churches and church people, and that has been pointed out, that people say, we have no power, and I point out that the church has power, it is power of a particular dimension. If you have in your parish every day, every Sunday, 40, 50, 60, 70, 80 people whom you address, you have power, and it is simply not true to say that is no power, and by that, speaking to those people and speaking to them regularly, you relate to the power structures in the society in which these people live. Even if you say you have no power and if you do not take account of what happens in that society, that has some relevance to power, and I wanted to point this out, and on the other hand, that there is a misunderstanding on the part for instance of secular authorities, on what power really is. Very often authorities try to show their power by demonstrating weapons, by using weapons, by using arms, and in fact that is a - what they demonstrate is a loss of power, because you can - the demonstration of such type of violent means, of means of violence, can be

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an indication that you have lost your true authority, your true power, and very often power - violence is a loss of power. It can also be an expression of frustration, but very often it is a loss of power, and I want to point out that the church also has power, but power of a particular dimension, which differs from other types of power, and that power, it is not said here in detail, refers to the possibility of addressing people, but it refers to the fact that people live from God's forgiveness, that they do not have a need to retaliate, and repay evil for evil 10 because they have been accepted by God, and that is a power which Christians have to bring into society, and that people can suffer without retaliation, Christians. That is a dimension of power, and this aspect of power is of relevance to the exercise of power, and to a criterion of the best possible forms of power structures in society, and these ideas - in later years I did a bit more thinking on these, are already reflected in 1976 when the situation demanded from us to think on the concept of power.

CHAIRMAN: We will take the adjournment now. Just 20 before we do, I think it would bring about a saving of time if the documentation which you intend to discuss with Dr Kistner, be put to him, and perhaps, Mr Kentridge, if you have copies available, so that he will be familiar with what you are going to discuss.

MR KENTRIDGE: Possibly, M'Lord, if it does not prejudice My Learned Friend's cross-examination, he might even give some of the documents to Dr Kistner, who will probably be able to peruse some of them over the adjournment.

CHAIRMAN: Yes, that is what I had in mind. 30

THE COMMISSION IS ADJOURNED

8

THE COMMISSION IS RESUMED AT 14h00 ON 10 MAY 1983

WOLFRAM KISTNER, still under oath:

MR VON LIERES: Doctor, before the adjournment we were trying to briefly review your first 6½ months in office as Director of Justice and Reconciliation. We touched on a number of points, stumbling blocks that you identified, such as the popular theology, and your recommendations to overcome some of these stumbling blocks, and we were busy with the question and your identification of the church as a participant in the shaping of power structures and the exercise of power in society, at the adjournment. You were referring to the - your report to the National Conference of the South African Council of Churches for 1976, and on page 2 of that particular document. Now, your advice to the National Council - perhaps, incidentally I should just put something else to you here. You have explained to the Commission yesterday afternoon that you have talked about yourself in the third person in your evidence to the Commission, because what decisions came from the Division of Justice and Reconciliation were decisions that were taken by the National Committee on Justice and Reconciliation and that they were not your own personal individual decisions. So that you - and this National Committee you explained consisted of - I do not know whether you explained it, but for clarity's sake then, this National Committee consists not only of the staff of Justice and Reconciliation but also of members appointed by various churches who serve on it, is that correct? --- The members of staff are not members of the Commission. They participate in the Commission meetings, but they are not members

of/...

of the Commission.

The delegates appointed by the various churches make up the Committee, the National Committee of Justice and Reconciliation?--- That is right.

Now, as far as 1976 is concerned, and your report to the National Conference, I was unable to find any minute of the meeting of the National Committee of Justice and Reconciliation in which your recommendations were discussed or approved. Unless I missed one of them, there was one meeting held on 17 and 18 February 1976, and the next 10 one was held on 27 and 28 October 1976, according to the minutes that we were supplied with. Now, this document of yours to the National Conference does not, according to the minutes, seem to have been discussed by your Committee. --- Yes. M'Lord, that is quite possible, because this was the beginning when we still - when I came into office, and I think that we had - there was a meeting planned somewhere in June, and that - then we had the unrest, Soweto unrest, and quite a number of things did not take place as a result, but later on we had regularly the meet- 20 ings of the Justice and Reconciliation committees, but it is not necessarily - it has not always happened that the Justice and Reconciliation Committee discusses reports submitted to the National Conference. It has rather developed like that, that in the report of the Director to the National Conference as the higher body, you report about the work that is being done by the - in the National Committee about their recommendations.

Yes, I have got no problem about that, but your normal procedure is, your committee would sit, it would discuss 30

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the matters on the agenda, it would take resolutions, and you would then inform the Executive Committee with a covering minute in which you set out what has happened, your report will go to the Executive Committee and you usually attach the minutes of your National Committee to your report to the Executive Committee, and they will then consider your National Committee's recommendations, resolutions and so forth, and take decisions on them. That is the normal procedure, except as far as the National Conference is concerned, at the National Conference you submit the overview 10 of the work of the Division of Justice and Reconciliation to the National Conference, who then consider your report. Do I understand the position correctly? --- M'Lord, it has been slightly different, the practice. As soon as the Justice and Reconciliation Committee meeting has taken place, the minutes are being written out and the copies of those minutes regularly go to the General Secretariat, and it is the matter of the General Secretary then who, if he wants certain comments, to call me in, and from time to time, it is not at every Executive Committee meeting, that the Justice 20 and Reconciliation Committee reports, but they set times when an individual division reports, but in the meantime of course things go on and resolutions are taken, but that happens under the supervision of the General Secretary, and the General Secretary has occasion to report this, if he thinks there is something necessary to report it to the Praesidium, but at the next meeting of the Executive Committee, where our Division is asked to report, I would report on the overall situation.

And then prepare a special report summarising 30

what/...

what has happened, or just a covering report? --- No, I usually prepare an own report for the Executive Committee. Very often these have been our reports, not written out, and in some cases they have afterwards asked that the report be written out, and then it is available.

Now, could we then turn to page 2 of your 1976 report to the National Conference, and we - I would like to refer you to the last paragraph of that particular report, the fifth line from that particular report. There you say:

"In our efforts for the liberation of man in 10
South African society, we should in the first instance
be concerned about the freedom of the church".

Have you got that? --- Yes, I have got it here.

Now, is there any limitation that the Commission should take notice of, that affects the freedom of the church, according to your understanding of the position in South Africa? --- I point towards two obstructions which the church might have and can have in certain situations, in saying or doing what it thinks has to be done, on the basis of its understanding of the Gospel. The one can be 20
that the authorities that - that a pronouncement is unacceptable to the authorities, or it can also encounter opposition from its constituency in the forms of threats, if you say this, and if you emphasise this aspect in your understanding of the Gospel, we shall withdraw our financial support. You could have obstructions which make it difficult, hinder the freedom of the church to say what on the basis of its understanding of the Gospel it feels bound to say. It could come from above, from secular authorities, but it could also come from powerful groups in the 30

constituency/...

constituency who say, if you do this or say this, we will withdraw our financial support.

So what you are looking for, can I put it this way, what you are looking for is more freedom of movement for the church leadership? Excuse me, this freedom of church question, must we understand that what you are looking for is greater movement for the church leadership, to be less bound to the demands of the constituency or unacceptableness by the authorities or not? --- I did not say that. I said freedom of the church from powerful groups which - 10 in the constituency which could use money in order to control the church, and its proclamation has to be free from that too. That is an indirect way how you can influence the church, if you have powerful groups in the church who by their financial power, can exert pressure on the church.

Now, you also identified another task, a few lines down from that, and that is, it will be necessary to help and support individuals and groups within the church who are exposed to slander and hatred, because of their efforts to relate the Gospel in a meaningful way to the 20 South African situation. Would you explain that please? --- That situation can arise with any minister in a local parish, if he says in his proclamation of the Gospel things which are not easily accepted and very often it is a necessity to do that, then he can encounter opposition difficulties, slander, and such a minister then needs the support of other people in the church, in this case a local minister, of his church authorities, and you have in many churches, you have people who take a stand and get unpopular, and very often they can be supported by groups within 30 these/...

these churches, showing their solidarity. I could mention an example, today if I have to sit here, which is not an easy situation for me, because I have no experience with such commissions, the church in Germany has sent a representative who should be present here. So even if he does not speak here, he is present here. That is a token of solidarity irrespective of what I say or do not say, whether he accepts that or not, agrees with it or not, and this is necessary especially in crisis situations, that ministers should take a stand on the basis of their conscience, 10 and on the basis of their understanding of the Gospel that they are not left alone, and if there are tensions, that there are people who pray with them. I also know of people who do not agree with me at all, in my church, who are praying for me, and that is a solidarity which you need in the church.

A sort of form of moral support? --- Yes.

Now, you also say that authorities use the mass media to keep the South African people misinformed, and that this situation, you say, gives rise to doubts, whether 20 the South African churches would act wisely in placing hope on negotiations for obtaining concessions for the oppressed people within the present structures. Have you got that sentence? It is about ten lines from the bottom. The reaction of the authorities to the recent unrest on the Witwatersrand and other parts of the country and the use they have made of the mass media to keep the South African people misinformed. Have you got got? --- I think I will find it. Yes.

It is about fourteen lines from the bottom. --- 30

Yes/...

Yes. M'Lord, that was my impression at that time, at that particular stage, on the basis of what I read about the information on the unrest.

Now, when you use the phrase 'mass media', do you include radio, television, newspapers of various types? --- I had a radio at the time. I did not have a television set. I suppose I referred mainly to radio and newspapers.

And could you perhaps just explain why this misinformation created doubt in your mind whether the churches should negotiate concessions for the oppressed? --- M'Lord, 10 I would think that negotiations can be fruitful only if the people concerned get the possibility of negotiating themselves, and since at that time, as I read it here, there was no possibility of themselves making their voices heard, I think there was not a good chance for the churches to negotiate at that time.

I see. You summarise your assessment of the church as a power structure in society by suggesting the following. You say that priority should be given to the task of helping church members to become aware of the evils 20 inherent in the South African political structures and of their responsibility not to support but to resist laws and regulations which are basically immoral. That should be a priority task, you say. How did you envisage this awareness to be effected, this programme to be translated into action at that stage? --- M'Lord, I now see that this relates to the previous sentence. On the one hand I said that negotiations - there is not much prospect of negotiation with the authorities at present. Priority should be given to the task of helping church members to become 30 aware/...

aware of the evils inherent in the South African political structures. If the church members are not aware of what happens, then how can you negotiate with the Government as representatives of the churches, and therefore the emphasis is here on making people in the churches aware of what happens, and also of the root causes of the unrest, and in that respect the responsibility of the church members is to - not merely to see injustice which happens, but ask for the root causes and these root causes are here seen as laws and regulations which are basically immoral, 10 and I think that a possibility for that is simply by explaining the Bible in relation and the Gospel in relation to the situation in which we find ourselves, relating this to the South African context, but also then in the next sentence I say, churches could undertake efforts to develop models of a new fellowship, and of sharing as preparation for a new South African society. The intention is here to point out that you cannot convince people often merely by speaking from the pulpit or merely by criticising by what is wrong, but the churches should in themselves, 20 in their own lives, develop models of how human relations can be bettered, for instance, Black and White relationships in the church, if you cannot practise that in the church, then your voice towards the Government, what you have to say towards the Government authorities, has not much credibility, and thus the emphasis is on the church here in its own midst, should develop alternative models of a new fellowship. I remember somebody told me, I visited services often in Soweto, where there is in a church where you - where the unrest was very strong, where 30

young/...

young people lost their lives, and where this custom of giving the peace greeting, where you go around dancing and embracing one another before you receive Communion, where that is very strong, and I asked these people when did you start that, is it an old custom, and then they said, well, after the unrest there was a strong discussion about this; should we do - can we do this, because very often White people go to that service; can they have such an embracement of peace in such a situation, and such an involvement of White people in the midst of a place where young 10 people have lost their lives, and then they told me, well, it has developed this way particularly after the Soweto unrest, where the church in its own life, in coming to Holy Communion, symbolically demonstrated a fellowship and a mutual concern and sharing in the midst of that conflict situation. That is different from what happens otherwise in society.

Just one more question surrounding the necessity to create awareness and the responsibility of the church members to resist immoral laws. Who is to decide what law 20 is moral or what law is immoral? --- I believe that from the Gospel you can derive certain criteria of what cannot be tolerated in a society or of what a Christian may not support. I do not believe that you can devise an ideal social order, but you can simply by thinking the Gospel is a sort of a text book for a constitution, that you can derive certain criteria, and one of the criteria has been indicated in this submission, that love of the neighbour, including the enemy, is a criterion for structures in society, does a structure serve the mutual acceptance 30 of/...

of people or does it obstruct it? Do laws help people to come together, and understand one another, or do they have the opposite effect, and for instance, I would say that mixed marriages legislation, I could not see how that can be defended on the basis of the Gospel. Of course, in coming to such conclusions, it is necessary to have a lot of discussion among Christians about these matters.

If this had to be translated in practical terms, I know you worked on this through the Reverend Rob Robertson and the Commission on Violence and Non-Violence, for 10 example, we will deal with that later, but just as a general matter, would the South African Council of Churches indicate guidelines as to what it regards as immoral in the line of laws or regulations, or would the member churches of the SACC do that, or how would it be in practice? --- I think this has been done on numerous occasions, where the SACC has indicated what it considers to be immoral in society, and it has been done by the member churches of the SACC as well.

Now, amongst the various theologies that exist 20 in South Africa, take for example the popular theology you have referred to, would there - could there be a difference of opinion as to whether a law is moral or immoral? --- There can be differences, M'Lord.

Now, which of the voices should Government then heed to decide what is moral and what is immoral? --- I think the South African Council of Churches is an ecumenical organisation, and in this ecumenical organisation you try to bring together people of very different backgrounds with different views, different doctrinal traditions, but 30

also/...

also with different views on what is right and what is wrong, even in their understanding of the Gospel, and one of the functions of such an organisation is to try to bring those people into discussion with one another, and dialogue with one another, and to try to find an agreement, and you can, if one examines over the years, processes of consultation on these matters, find that in certain areas they come closer together, and find a common approach, and that is of considerable significance, because here you have White and Black Christians together, and it is far more difficult 10 in churches where White and Black Christians are organised on separate lines, because they do not have this continuous contact with one another.

I am just thinking of one example, a general response by all the South African churches on a topic that is fashionable at the moment, or rather, current would probably be a better word, the Immorality Act. There does not seem to be any sort of agreement emerging as amongst the churches. Now, the question that I simply want to put is, how must Government decide? Let us assume it wishes 20 to accept the guidance of the churches, which church's guidance must it accept? --- M'Lord, this whole legislation has very much to do with the present power structures, and I suppose that the Commission is aware, as has been indicated in the cross-examination yesterday, that there is a very different understanding in the family of White Dutch Reformed Churches, and of the churches which are member bodies of the South African Council of Churches, and the South African Council of Churches has again and again tried to involve the Dutch Reformed Churches, and as long as - in the 30

White/...

White Dutch Reformed Church, or the churches, White churches of Afrikaner tradition, there is a strong backing of the policy of the Government, it will be very difficult to get a common opinion on the immorality laws, and I do not think that has to do so much with theology as with the relation of a church to the people who are in power.

Could we then continue, the next point you make here, in this submission to the National Conference is that churches could develop a strategy of non-violent resistance to laws and regulations, which deepen the alienation 10 and hatred between the different groups in the South Africa society. Now, .. --- Could I just get the ..

Page 2 at the bottom, the fourth line from the bottom, that is your - another suggestion, a strategy of non-violent resistance to laws and regulations. We will deal with non-violence a bit later. Now, in - on the next page, page 3, you come to the conclusion in the second paragraph from the top, that the credibility of the witness of the church will depend largely on the willingness of its members to suffer on account of their resistance to the oppres- 20 sion, of a large section of the South African people, and you then continue and you say, it is an urgent task of the South African churches to prepare their members for such suffering, which may imply that they have to walk a lonely path. Could you perhaps enlighten us a bit, what is it you are trying to convey with the suggestion that members should suffer on account of their resistance to the oppression of large numbers? --- M'Lord, at the time this was written, many people were detained. This was in 1976. Many people suffered. The authorities tried to find out 30

what/...

what is behind this unrest; security laws were applied, and there were other Christians who did not have - experience the same suffering. As far as I see it here, what I wanted to say, that those people who do not share that suffering the same way, have to be prepared to speak out openly, and that could mean isolation from people who are very close to you, whom you love, and that is a type, for White people, a type of suffering which is of a different nature than direct physical suffering, but it is a type of suffering - not the same, and that this preparedness to suffer 10 together is a potential for change, without hating. I believe that a Christian - preparedness for suffering and sharing the suffering of people who have no power, is a potential for change, and it can bring great isolation. This morning we quoted Dietrich Bonhoeffer. Dietrich Bonhoeffer at his time was a lonely figure in his church, as far as I know, there were - he was not even included in the list of people for whom intercessions were done.

So what you are suggesting here then is that the churches should create the awareness of its members, first- 20 ly to resist immoral laws and regulations, secondly to accept that in this process of resistance to - they may suffer, and that they should be prepared to accept such suffering?
--- Yes.

Now, this theme is taken further in one of your Justice and Reconciliation Committee minutes, which is dated 23 and 24 February 1977. I will give it to you in a moment. It is on page 3, paragraph 7 under the heading "Preparation for Periods of Detention, Pastoral Care for Detainees, Ministry to the Security Branch" etcetera. The Committee 30

recommended/...

recommended, 7.1:

"that the SACC devise some way how people who are in danger of being detained can prepare themselves for standing through spiritually and mentally a period of detention, isolation from all contact with their fellow-men, example prayer, meditation, practice, etcetera. In this connection inquiries should be made about a way in which detainees in Germany and in the Netherlands and other countries managed to stand through the pressure of detention during 10 the period of Nazi and Fascist regimes. Furthermore competent psychologists should be considered on this matter. It was suggested that this concern be discussed with the SACC division which takes care of detainees and their families".

That was one of the recommendations. This - the preparation of members to suffer, would that also include those who then are detained by the Police or whatever the case may be? --- In this context - this refers to people who might face detention. We know for instance that labour 20 leaders have often been detained, and very often they come into solitary confinement, and solitary confinement is regarded by many people, and I believe it can be regarded in itself as a type of torture, when you suddenly are cut off from all your surroundings, because life - human life is reaction, you react to other people, and you are cut off from that, and how can you stand that through as a human being, and there are experiences of people who have gone through that experience, but how can you be prepared spiritually and mentally for instance, nowadays, Christians, 30 very/...

very few Christians remember Bible passages. That is a preparation that you learn certain Bible passages, which would be appropriate Bible passages for such a situation. You could learn from experiences of people who have been in that situation, how do you regard the watchmen who - the people in prison who take care of you, and I have observed that in visiting prisoners very often, visiting prisoners, that if you pray with a detainee, not prisoners, a detainee, the policeman in charge, they also fold their hands, and that the church has a responsibility for 10 them too. How can one take care of these policemen? And some of these concerns are expressed in this section.

The recommendations that you then ultimately submitted to the National Conference, were on - you can find them on page 6 there, they were briefly, firstly, page 6 paragraph (c), firstly, Justice and Reconciliation in South African should be considered in the context of the target of liberation of man in the South African society; secondly - I am just summarising these, please follow, the SA churches are involved in the power structures of 20 the SA society; thirdly, the traditional view in Christian circles that power in itself is evil, is wrong; fourthly, SA churches should examine how they can contribute towards combating institutionalised violence and other forms of violence in South Africa; fifthly, on page 7, to back individuals and groups within the churches who are prepared openly to defy; the churches are to develop a strategy of non-violent resistance to institutional violence and other forms of violence; churches should remind their members that suffering is part of the Christian witness, 30 and/...

and ten - I have lost track of that - the last one is that you say - you state no effective way has yet been found to communicate the concerns of Justice and Reconciliation. Those were your basic recommendations at that stage. Now, is one now to understand from these three documents that I have discussed with you, that within the first 6½ months of the commencement of your employment, with the South African Council of Churches, that you identified the necessity for resistance and confrontation, and the necessity to neutralise what you term the popular theology, as a method of promoting the liberation of the oppressed in South Africa? --- I think that is a description and summary which is not complete, and I think there are certain terms linked together. I think I have shown that this resistance and confrontation is to serve to the liberation of all people, and the freedom of all people and better human relations, and it is not a confrontation for its own sake, and this has been written in the context of the events of the Soweto unrest, where you had to consider how can we get out of the situation, and against that background these recommendations have to be understood. 10 20

Well, I understand that if one succeeds in liberating the oppressed, the oppressor will also automatically be liberated, or do I understand this position wrongly? --- I think liberation is - the liberation at least in the eyes of the church has to be a concern of people helping mutually towards their mutual liberation.

Now, just one other question about these first 6½ months. Did these convictions that we have now discussed, did they grow on you or did they exist before you 30

joined/...

joined the SACC? --- M'Lord, I find that question difficult to answer, as I pointed out, I come from a church with a very strong tradition, with emphasis on German - on the German background, of South African - certain South Africans, with an emphasis on the Lutheran tradition, already at the time - for a long time, in spite of certain experiences in Germany, in my youth, I adapted again to my environment, when I got into mission work, these reminiscences came up again because I noticed what happened to other people, and I then came to think about what is really my tradition; are certain elements in my tradition not simply omitted and neglected, and then I came back to the confessing church in Germany, which was neglected here in South Africa, and the experiences, I discovered that very important aspects of the Lutheran tradition are neglected, and this insight came already before I came to the Council of Churches. But when I came to the Council of Churches, I suddenly came into an ecumenical setting, because formerly I did not have that ecumenical setting, and the ecumenical setting has the effect that you now encounter also churches, where Black and White people belong together. This was not the case in my church. It was a church of Whites, for Whites, and this as a Christian, you have to listen to what they experience, and then you ask the question, how can this happen, and how can such - how can certain things be done by Christians, and that helped my thinking very much. There is thus a continuous development of thinking, and I think that is how theology has to be done, and that one needs in our present day context, in South Africa but also in general, the encounter

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of people from different parts of the world, so as to understand how the faith, the Christian faith, relates to the problems of today's world, and how the Gospel can be understood as Gospel. Thus it is not simply a matter of saying, did you have already this opinion before. There have always been adjustments, and I must say that I have learnt a lot through the ecumenical contacts within the Council of Churches, also with regard to my own thinking and understanding my own tradition. Thus I could not say yes or no in regard to the question which was raised now. 10

The recommendations with regard to resistance, confrontation, conscientisation and civil disobedience that we have discussed, I take it you gave this very serious thought before you made such recommendations? --- I hope I gave it some thought. I do not know whether I considered all the - took into account all the considerations. In the meantime I have given more thought to it. This was in 1976.

Could we now see what happened to your suggestions? I do not know whether you have had time to go through that little book "Liberation"? --- I looked at the places which were marked with a yellow pen. 20

A word-picker. I am not going to deal with that verbatim. Let us just first establish, according to that publication which you have in front of you, with the title "Liberation", that publication was issued by the South African Council of Churches? -- Yes, it is in the title.

And it was made available to the Commission as the record of the proceedings of the National Conference. We have no other minutes than that contained in the particular booklet. Now, Archbishop Hurley delivered an address. 30

to/...

to the National Conference entitled "Mobilisation for Peace"?

--- Yes.

What were the circumstances that gave rise to the Archbishop's appearance at the National Conference? Are you able to recall? --- This was in 1976. It was a situation where there had been conflict and where there was - had been a lot of violence, and the question arose, how do we relate to violence? And the SACC has co-operated a lot with the Roman Catholic Church, and this is a matter of common concern. As a result Archbishop Hurley 10 was invited, and there was some thought about the question of a topic on which he could speak, in a situation of violence. The term 'mobilisation' usually is used as a military term, but if you take that title "Mobilisation" not for a military conflict, but mobilisation for overcoming that, for peace in South African society, and I think these were the considerations which gave occasion for the formulation of this topic, and there was the idea that Archbishop Hurley would be the proper church leader to speak on this topic. 20

Was this a discussion of the staff or the Executive to invite the Archbishop? --- M'Lord, I would think that such discussions had taken place in the Executive, and I remember it was also discussed with the staff, but I could imagine that the initiative could have come from the Executive.

And was the Archbishop ask to speak on this particular theme, mobilisation for peace? --- I think - well, this was before the time of the present General Secretary, but I could not answer that question. That would have 30

been/...

been the task of the General Secretary to define the topic.

Dr Kistner, let us just deal very briefly with the Archbishop's address. I think more or less the first bit, that is marked there with a word-picker, is the Archbishop's view that the cause of the conflict in South Africa is due to the attitude of the White community? --- Yes.

Do you agree with that interpretation by the Archbishop? --- May I read a bit what he says?

Yes, certainly. --- The context as far as I can see is the following: he wants to take a stand against 10 a certain fatalism, that Christians say, we cannot do anything in this situation. He speaks about the earthquake in San Francisco, how do you react to an impending earthquake? You cannot do anything; it comes. But then he says, should this be the attitude of Christians? Is that the way of the church? Let us confess that it often has been, but not always. Alongside the many unhappy occasions when the church has failed to measure up to her calling, there are glorious episodes in her history when she has. Dare we say that there is such a possibility now 20 in South Africa, and that we must grasp it, and then he addresses and turns particularly to the White community, because that is the community which has a certain control of power, and he points out that there is a possibility of changing attitude, and that the church should concentrate on changing the attitudes of Whites, sufficiently to render it no longer a cause of violent conflict. As he sees, that the violent conflict has not come because there were groups of students marching in Soweto, but because of the response to that, and that - and he says that the 30

attitudes/...

attitudes of Whites have to be changed.

Now, this idea of the Archbishop's, does this - this appears to agree with the intended encounter with the popular theology that you had in mind, does it? --- I do not - did not have any discussion with Archbishop Hurley on this whole concept of popular theology, whether he would agree with it or not, but the popular theology as I indicated there, was not merely a matter of Whites.

Yes, except for that qualification. It is more or less the same thing; it is this popular theology 10 that creates a particular attitude which is resistant to change ultimately? --- Yes, but I would hesitate to attribute that to Archbishop Hurley, before I really have not found traces that this is his type of thinking.

In any case, let us try and summarise the Archbishop's address very shortly. He refers to the intractability of group attitudes there, and the stubborn resistance to change, and he suggests that if no significant change takes place by 1980, then violence would have been inevitable. That was in 1976. Now, the Archbishop poses the question 20 what the church can do to avoid that particular violence, and he suggests that attitudinal changes of an extremely involved matter - have you got that there? --- Matter of attitudinal change.

And he explains there that guilt and punishment have attained a corporate nature as a result of education and wide-spread political participation. --- I did not find that passage yet.

It is on the left-hand page, as you look at the book. It is about - it starts at the top, it has not been 30 picked/...

picked with a word-picker all the way. Just give me the book; I will show you. Page 68, third paragraph. --- Yes.

Now, he appears to suggest, and you could perhaps assist the Commission there, because I may understand it incorrectly, but he appears to suggest that the development of a new dimension of ethics in which the corporate nature of guilt and punishment and sin is identified, that in respect of group relations this development of a new dimension of ethics really lies in the field of the social Gospel.

--- Yes.

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Is the thought that the Archbishop expresses there, is that broadly speaking in line with your theological thinking, without going into too much detail, do you share the same broad idea as the Archbishop? --- M'Lord, I have difficulties in simply being associated with the theology of another person, because I have my own approach from my own tradition and Archbishop Hurley has his approach from the Roman Catholic tradition. On the other hand he emphasises here what I have also said in my submission, that one has to have an understanding, nowadays particularly, also for the corporate dimension of sin, in that respect there is a similarity. Also Archbishop Hurley does not say that you have - neglect the individual dimension of sin and forgiveness. He says here, at present this is a priority, and I suppose he wants to point out that since this dimension has been neglected for so long in the tradition and in the teaching of the church, this is now something which has to be - receive a lot of attention, and that you - he can see how groups are captivated in a certain thinking, and you cannot liberate them without educating about

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this/...

this dimension of sin.

I think he then goes on to stress the question of social sin. Somewhere he says words to the effect that the most important and consequential manifestation of the struggle between good and evil, will be social ones, the ones involving groups and communities. He follows, on page 68, and the Archbishop's suggestion is that this revolution into the new dimension of ethics, namely the social one, this transformation from the predominantly individual to the predominantly social one, for that a revolution 10 in Christian ethical education is required? --- Yes.

Some components of this Christian ethical education is obviously the question, of awareness and conscientisation that we have mentioned already? --- Yes.

Now, he makes three suggestions then. The first one is that we must identify what the actual situation in South Africa is; the second one, at his recommendations there, this was the first one. The second one is, how one can respond to the situation, and the third one is to communicate. --- Yes. 20

And as far as communication is concerned, he refers not only to the ecclesiastical or church field, but also to the secular field, through all means available. --- Yes.

And the Archbishop also came to the conclusion just before those recommendations, I think, that the revolution in the new Christian ethical education has not yet reached the stage of successfully influencing the masses. --- Yes.

Of any fairly large Christian community. So in other words, he also accepts that there is a lack of grassroots support. --- I think he wants to point out, there is 30

a lack of grassroots awareness, they have not understood it.

Sorry, a lack of grassroots awareness; let us put it that way then.

THE COMMISSION IS ADJOURNED

ON RESUMPTION:

WOLFRAM KISTNER, still under oath:

MR VON LIERES: The General Secretary - the then General Secretary, Mr John Rees, delivered an address entitled "Liberation" at the 1976 National Conference, and he 10 called for the necessity to invest - to examine the question of investment or disinvestment by the South African Council of Churches. Are you familiar with that? --- Yes.

And I would just like to draw your attention to a few resolutions here, and I refer you to page 78 of this particular book. I will make the book available to you now so that you could check these resolutions. They call on the - the National Conference calls on the Executive to devise an act of public witness and penitence which will have an impact on the constituency as well as society, 20 such as the dramatic actions of the prophets of old. Now, that demonstration of public witness never took place. Is that correct? --- I really do not know what this means, what type of public witness was meant with that resolution, and I do not know - remember what took place or did not take place.

Another resolution was that the churches were called upon to examine their structures, as sometimes being a hindrance to liberation? --- I suppose that will have happened continuously, that one found that certain structures 30 had/...

had to be changed, certain churches have formed their own Justice and Reconciliation committees, which is a structural step.

And a third one I would like to refer to is that the Division of Justice and Reconciliation is requested to in collaboration with the established Justice and Reconciliation committees of the constituent churches, to look in depth at methods of non-violent opposition to violence, by bringing concrete recommendations to the next National Conference. This would be in accordance with your idea that strategies of non-violent action should be identified. Would that be correct? --- That is right. 10

And then the oppressive system of apartheid is again rejected, and the resolution calls for the liberation of the Black man. That is nothing new; we have had it with the Message in 1968 already. Then there was a resolution on the question of investment, in which the SACC was called upon to undertake in co-operation with its member churches and organisations an urgent and careful study of the issue of investment and disinvestment in South Africa, in order to ascertain which of these two directions would open better opportunities for the development of the underprivileged sector of the population. Do you recall that one? --- Yes. 20

Similarly the Conference calls on - in a different resolution, on member churches to participate with the Division of Justice and Reconciliation in the study of the encounter between the church and ideologies of social change. Do you - would you perhaps just like to satisfy yourself? --- Thank you. 30

The first three were read from the mixed group recommendations. In the middle of that page you will see, reference is made to the church as an alternative society. Do you see that? --- Yes.

What does that mean? --- I think it is explained in that resolution. The resolution reads:

"Invigorating the church to be the church, the zone of our common life over which the church has control, so that it can offer an alternative society in which on national, regional and local levels all aspects of apartheid will be eliminated." 10

This refers to the area which the church has controlled, its own life, that in that own life of the church and in its structures, it removes apartheid, aspects of apartheid. I know for instance that there were circuits where you had White and Black ministers, assembling separately in the Methodist Church, and those are structural aspects which they have worked on, to create something which is more - showing an alternative society, and not simply reflecting the divisions that are in South African society. 20

I see. Could we then - yes, there are some more resolutions I have read to you. Just satisfy yourself, if you turn the page, you will find the investment one at the top? --- Yes, it is here. I have got the resolution on investment.

So a number of your conclusions in your document you submitted to the National Conference were incorporated in the resolutions of the National Conference? --- Some of these were included, and of course one can see that there has been some consultation and some aspects have 30

been/...

been slightly modified.

Doctor, I would now like to turn to the year 1977, and I am making available to you now the minutes of a meeting of Justice and Reconciliation Committee held at Diakonia House on 23 and 24 February, and I would like to refer you to paragraph 5, in which you dealt with a report of a sociologist who has confirmed the information that - and the observations - firstly the informations that you had received and the observations that you made yourself, to the effect that churchgoers in the churches of the English as 10 well as of the Afrikaans tradition in South Africa, are the staunchest upholders of the existing structures and of the status quo. That is paragraph 5, about the sixth line. Do you see that?--- Yes.

And in the second-last paragraph of that page, the fourth line from the start of the paragraph, we find noted or minuted that the local pastor should be held responsible for education on the level of the local congregation? --- Yes.

And the rest of paragraph 5 deals with the at- 20 titude towards the homelands ministers. Now, this report of the sociologist, is this in accord with what you had reported to the National Conference, on page 6? --- I believe that this was a - as far as I remember, a study of a lecturer at UNISA which I discovered afterwards, not - it rather confirmed what I had said before. It could not - but I am not quite sure on it.

Could I now just tie this up with one other point? Would you just look at page 6 of your report to the National Conference of 1976, page 6, paragraph 6. Now, we 30

have/...

have already referred to the fact that the Church of the Province and the Methodist Church had experienced the same problems as the SACC had experienced, namely a total lack of awareness at grassroots level. We have seen the report of the sociologist, and on page 6, paragraph 6 of your report to the National Conference for 1976, you quote another post-graduate student on this particular matter. You say -

"Recently a German post-graduate student had written a thesis on South Africa and the anti-racism programme. The thesis had been published in the German lan- 10 guage. Of special interest is the author's evaluation of the Division of Justice and Reconciliation in the South African Council of Churches. He writes: 'In spite of this far-reaching participation of the South African churches, in spite of institutionalising the programme of the SACC and granting finances, in spite of the formulation of numerous statements, there is one criterion which ultimately will be decisive for the effect of the programme. This criterion is the evaluation whether there is a response at the 20 grassroot level of the congregation. It will be decisive for the success of the Programme to Combat Racism and for its evaluation by many Christians, whether the average White Christian is challenged by it in such a way that the church and the South African society which is dominated by White Christians, can be fundamentally changed'."

Your comment then follows:

"I do not have the impression that the Division for Justice and Reconciliation in the first half of 30 this/...

this year has succeeded in reaching through its work the grassroots of the congregations and even less, in changing attitudes. We have to consider how this can be achieved in the best possible way".

Well, your suggestions how it could be achieved, we have dealt with already. So could I just summarise this question of the grassroot support by saying that at the time of the National Conference in July 1976, you had found that you could not reach the grassroots, but that you were not alone in this, certain member churches such as the CPSA and 10 the Methodists, experienced the same problem, as far as Justice and Reconciliation issues were concerned? --- Yes. Mr Chairman, I do not see that I have said that the CPSA and the Methodist Church have a total lack of grassroot support. I said there is a lack of grassroot support, but this does not mean a total lack, and at the end of six months of work, I came to the conclusion that this is a real difficulty, and to reach the grassroot level, but I noticed - I know that this is a difficulty which churches have, if they want to introduce or make congregations aware 20 of something which is difficult for them to understand, it takes a very long time, and the church always has to take account of longer time spans. After six months of course, was my impression that I had not achieved very much. The question is could one achieve very much in six months' time, moreover since I was alone in the Division. But the three research- or two research works which have been mentioned, point towards this difficulty of relating to the grassroot level of the churches. Of course one can then ask, how should this be done? A national organisation 30

like/...

like the South African Council of Churches cannot do the grassroots work itself. You can only relate to intermediate people who come together and with whom you work, and they bring down what the result of your discussion, recommendations to the grassroot level, and of course, within six months' time, you could not expect very much more to happen, but it is true that this is what is written here.

We will deal with your recommendations that devolution to the regional and the local levels should take place at a later stage. This is just the position as it was at 10 that particular stage. --- Yes.

Now, I think chronologically, it would probably be appropriate to deal with the issue you mention on page 16 of your memorandum to the Commission, where you deal with the South African Council of Churches' resolution on conscientious objection. Now, you have told the Commission that you tried to obtain some information on the background of the 1974 resolutions on conscientious objection. Why was this necessary? What did you have in mind with such information? --- I noticed that this has been an im- 20 portant resolution in the SACC and somebody told me this is an important matter, and I wanted to see what has really happened at this conference, what is the background of that resolution.

Now, you have told the Commission that the documents that you found were not adequate for a clear picture, and you tried to obtain some oral evidence from well-informed persons? --- Yes.

What documents were available? Can you recall? --- Well, first of all the resolution itself. I do not 30 remember/...

remember whether I saw discussions in - but there are certainly books where this resolution is mentioned.

Yes, there were publications, in the SA Outlook, for example, in which various articles, one by Prof Hugo and so forth were included. Did you have regard to that? --- I believe so, yes.

Now, who were these well-informed persons you approached to obtain further information? --- Well, persons who were present at these meetings, persons who had international contacts and I wanted to find out, how did this resolution come about. 10

Was that The Reverend Bax, The Reverend Dr Naude and the then General Secretary, Mr Rees, were they amongst the persons you approached? --- I think spoke with - I remember that I spoke with Mr Rees about it. I do not remember whether I knew Reverend Bax at that time. I came to know him at a later stage.

Now, what did you intend to do with this information once you received it? --- I had been asked to do some work on this. 20

What type of work? --- Well, simply to get more information on this whole question of conscientious objection.

Do you recall who asked you to get this information? --- As far as I know it was Mr Rees who told me that some work would have to be done on this, but I am not sure.

Now, you say in your memorandum that on the basis of the evidence that you had gathered, you arrived at a conclusion that the 1974 resolution had to be attributed to a desire to find an alternative method of contributing towards justice in South Africa, and that this 30

alternative/...

alterantive method should differ from the methods of the liberation movements. Did you - what are you trying to say here? Are you suggesting that the liberation movements are also contributing towards justice in South Africa, but that their methods are defective? --- I believe that those people who joined the liberation movements, had the concern to contribute towards justice in South Africa.

And you did not approve of their method of armed revolutionary struggle? Your alternative method was the one of non-violent action? -- Yes, I think that was the 10 concern that one should develop alternative methods.

Now, ultimately you wrote a historical - or a historical document on conscientious objection was produced, and it received the title "Conscience in Conflict"? --- Yes.

It is attached to the document I had handed to you. --- Yes.

Attached to 14 February. What do you say is the status of that document? --- That document actually has not been completed. I noticed in the course of the work on this document that it would require much more work. I 20 believe, as far as I remember, they wanted to have this published, a paper published on this whole question, but I hesitated to do this, because I felt that there would be extensive research necessary on this matter, and I did not have the time to do that.

What is the present status of that document? Is it a document reflecting the official views of the South African Council of Churches? Does it reflect the view of the National Committee on Justice and Reconciliation or is it a personal view that is expressed there, or what do you 30

say/...

say is the position? --- I think it is a document which has not come to completion. I - as far as I remember it was - there was a report that this work is being done in the Executive Committee at one stage, and they encouraged one that one should continue, but later on it was dropped. I even believe that they wanted a publication, but I did not do that, and I felt that my evidence is not adequate, that you must have more safe grounds to do a publication on such a matter.

Well, let us now just see what actually hap- 10
pened to this particular document. If you would turn to paragraph 9.1 of the minutes of the meeting of Justice and Reconciliation for 23 and 24 February 1977, that is the document I gave you - that one, yes. The top two pages is your report to the Executive of March 1977, and following, the third page starts with the minutes of meetings of Justice and Reconciliation. Have you got that page? -- Yes.

If you turn the page, you go to page 4 of the minutes, you find paragraph 9 there? --- Yes.

Now, these are the official minutes of your 20
National Committee? -- Yes.

And it says in 9.1 that the paper "Conscience in Conflict", the Committee discussed the paper "Conscience in Conflict" submitted by the Director of the Division. It took the following resolution, 9.1.1:

"The paper 'Conscience in Conflict' is to be published as soon as possible".

Do you see that? --- Yes.

As far as that committee was concerned, this document was then completed? --- Yes. 30

The/...

The Reverend Wing and Dr Kistner will work out a short introduction referring to the historical background of the discussion on conscientious objection. Do you see that? --- Yes.

On page 24 and 25 of the draft submitted to the Committee a short paragraph is to be inserted indicating how legislation on military defence and the concept underlying it, have affected the Black community. --- Yes.

And 9.1.2, Mr Dave Thomas of the Division of Communication is to be asked to write a short summary of the 10 paper in simple style and language for distribution to young people. --- Yes.

So at this stage, with these resolutions, whatever the status of the document may have been before this meeting, at this meeting it was accepted, I want to suggest to you, as a document of the National Committee on Justice and Reconciliation?--- Yes. It was accepted by Justice and Reconciliation and by the Executive Committee with the - well, with - yes, with the addition that it should be - that there should be a short introduction, and that has not happened. 20

Yes, now, this document was in fact sent overseas. Was it not? --- I do not know. It was not - I do not think it would have been sent to partner churches overseas.

Well, I have a letter here out of one of your files, in which you send a document to Mr Ryperd in the Netherlands on instruction of your General Secretary. Do you recall that? --- I do not recall it, but if the letter is there, it will have happened.

Yes, I would like to show you the letter. Just a second. It does not seem to be in here. Doctor, I 30

will/...

will produce the letter in a second. I cannot lay my hands on it now. The second occasion on which this particular document was used, was at the Commission - the Consultation on Racism that was held in February 1980. It was included as part of the response of the SACC to the World Council's Programme to Combat Racism. Is that correct? --- I would have to check that. I cannot remember it.

Page 9. I am now referring you to a document which has the title "Response of the South African Council of Churches to the World Council's Programme to Combat Racism", 1969 - 1979, page 9, the SACC resolution on conscientious objection. --- M'Lord, I have a question: does it say that there this paper "Conscience in Conflict" is attached, as appendix? 10

No, the text of the resolution, that is the 1974 resolution, is attached, not the paper. --- Yes. But then this was not used at the Conference on Racism, if it was not attached.

Would you turn to page 10 of that report in front of you? And the second paragraph. I will now read to you from the original "Conscience in Conflict" document which you also have there, if you turn that to page 22, and you will find that the paragraph on page 10 of the response and the information page 22 of the historical overview, co-incide in the entirety? --- That is right. 20

Just read that for us please? --- The sentence reads:

"The resolution of the SACC on conscientious objection has thus to be understood as a response to the expectations of the liberation movements"

but it does not say that this paper "Conscience in Conflict/..." 30

"Conflict" was presented to the Conference on Racism. It just shows - it indicates that this document, in preparing this report, has been used for preparing this report.

Yes, the motivation for the resolution, the 1974 resolution, has been taken out of the historical survey and transposed into your response? --- It describes it in the same way, yes.

Now, the views that you expressed here, in this particular document, are obviously not your own personal views; they are the views you obtained from the well-informed 10 people and the documents you referred to? --- In "Conscience in Conflict"?

Yes? -- Yes, at that time I was not - I had not any background. I did my reading and asked certain persons. But I afterwards also asked other persons who did not agree with that, but I had that in this paper at that time.

The letter I promised to show you is a letter dated 7 March, your file reference D532, addressed to Mr Ryperd, Pax Christi, Netherlands.

"Dear Mr Ryperd

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Mr Rees, General Secretary, told me you are very interested in the question of conscientious objection. He has asked me to send you a copy of the paper 'Conscience in Conflict' which I have recently worked out. It describes the discussion on conscientious objection in South Africa. I am sending you the paper in the dossier .."

etcetera. Will you just identify the letter? --- Yes, that is correct.

Now, let us just go to the - to your

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understanding/...

understanding of what the informed people told you was the crux of the motivation for this particular resolution, and may I refer you to paragraph - page 22 of the original, page 22. --- Of "Conscience in Conflict"?

Yes. Now, the first - this historical survey has been subdivided into various parts. Page 22 appears as Part 4 of the historical survey. Part 4 commences on page 21. --- Yes.

And would you read to us what the title of Part 4 is? --- The title is "Conscientious objection as a Lever 10 for a General Rejection of the South African System".

As a lever for a general rejection of the South African system. Now, was that your part heading, did you give it this heading? Is that your pen that speaks there? -- I think it must have been mine, but based on information I got, because I did not have any own experience.

What are you trying to convey in this heading, conscientious objection as a lever for a general rejection of the South African system? --- Could I just read this through? 20

Yes? --- M'Lord, I checked this through, at least part of this chapter, and I think it says that formerly the churches also were concerned about conscientious objection namely to achieve through negotiations that the possibility of conscientious objection is being recognised, and here I say, it is not in this case - the resolution is not merely concerned about justice to be done by the Government to the conscientious objector, but rather encourages South Africans to consider whether they should in view of the injustice institutionalised in South African society, 30

choose/...

choose the path of conscientious objection. Thus it speaks about - I think in that resolution we have the term the South African system is a fundamentally unjust society, and that Christians should consider whether they can support that society by military service, that this is a decision they have to take. I would think according to what I know about the text of the resolution - yes, it encourages them to consider. It does not say they should not do it, but to see this as an ethical issue.

Could we just turn to page 21, the last para- 10
graph on page 21. You report here, the Conference under these circumstances had good reason to consider carefully how the South African Council of Churches could respond to the expectations of the liberation movements. Right? Have you got that? --- Yes.

Now, the SACC according to your historical survey had to respond to the expectations of the liberation movements. What were the liberation movements expecting of the SACC? --- According to this interpretation which I read at that time - which I wrote at that time, there had 20
been - there was a conference and they had met people from liberation movements, they had seen that these people had taken their decisions and these were not people who were involved Christians and had taken the decision to bring about change by violent means, and that the people from South Africa could not accept these methods, but on their part they saw an obligation to contribute towards change, and this change should be by non-violent means, and such change by non-violent means could be one method or one approach could be to raise the question, if we are 30

concerned/..

concerned to bring about change by non-violent means, can we then do military service in a set-up which is meant to protect an unjust, fundamentally unjust society, and this was - thinking on this issue was then an obligation of people who after that encounter with representatives of liberation movements, whom they understood were involved Christians, how could they contribute, the South African people could contribute in the country towards fundamental change, and then - I think the resolution came, at least, it is described here as the resolution being brought about as 10 a result of these considerations. The contribution of the South Africans would be to consider whether you can as a South African concerned about fundamental change, do military service or whether you have to consider as a possibility, conscientious objection.

9 I am not quite sure that I understand your answer fully. Could we just take this step by step please? The liberation movements were and still are today engaged in revolutionary struggle to take over the power or to change the structures of the South African State? --- Yes. 20

As you phrased this here, these liberation movements were expecting something from the SACC? -- Yes.

Now .. -- According to the information I received.

Now, this expectation, was this linked to the aim and objective of the liberation movements, namely the liberation of South Africa? --- It was linked to the aim to bring about fundamental change in South Africa.

So .. --- But it was also associated with the concept of non-violence.

That was the SACC's response? -- Yes.

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Non-violence/..

Non-violence? -- Yes.

But the point is, the way you put it here, the liberation movements expected the SACC to do something as a result of the meeting at the Lusaka Conference of the SACC? --- Yes, what I wanted to convey, that they had an encounter with representatives of liberation movements, they realised these people as Christians have taken an option and this is their option, by these methods, to try to achieve liberation, and they themselves, the people from South Africa, could not go that way, but they recognised the need 10 of contributing towards liberation and freedom in South Africa or fundamental change, and their way should be a non-violent one, and that non-violent approach made it necessary for them to consider whether a Christian can do military service or whether he has to offer conscientious objection.

Now, if one bears in mind that as it was put here, you had to respond to fulfil expectations of the liberation movements, and we then turn to page 22, then we understand the second paragraph in a somewhat different light, where it says, the resolutions of the SACC on conscientious 20 objection has thus to be understood as a response to the expectations of the liberation movements. It is not in the first instance concerned about justice to be done by the Government to conscientious objectors, but rather encourages South Africans to consider whether they should in view of the injustice institutionalised in the South African society, choose the path of conscientious objection. Have you got that? --- Yes.

And then you carry on and you explain the difference you say, in this respect the resolution differs 30

essentially/...

essentially from previous efforts of the SACC and other organisations with regard to the recognition of conscientious objection by the authorities. It is meant - I skip the one sentence there, it is meant to enhance the credibility of their concern for justice in the eyes of the liberation movements. So the purpose, as you set it out here, read with page 21, was to comply with the expectations of the liberation movements, to enhance the SACC's credibility in the eyes of the liberation movements. That was the primary concern? --- M'Lord, if I can explain that 10
again, formerly, before this time, there was quite a lot of negotiation with the Government about conscientious objection, but that was the pacifist approach, that people who are pacifists and by religious conviction want - do not want to do military service, or feel bound by conscience not to do so, get that right recognised from the authorities. The type of conscientious objection which we are dealing with here, one could call selective conscientious objection, where the reason for refusing to do military service is the view of the South African political system, which 20
is regarded as a fundamentally unjust system, and after that encounter with the liberation - representatives of the liberation movements, the South Africans came to the conclusion that in insisting that this is to be taken up in South Africa, this could be a contribution which they can make towards fundamental change. And according to the information I received, this was a result of an - of that encounter. I did not have written evidence for that.

Let me just get some clarify on this aspect now. When Mr Unterhalter was asked by the Chairman what the 30
status/...

status of this document is, he replied, on page 2194 of the record, as follows: he said:

"You also asked, Mr Chairman, in regard to Dr Kistner and conscientious objection. That document likewise is not the view of the Council. It is the view of Dr Kistner. He will give evidence".

In your memorandum to the Commission, on page 17, you describe this document as an unofficial paper, at the top of page 17, if you would like to have a look there? ---

Yes.

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Do you remember that, an unofficial paper?--- M'Lord, according to the papers which have been submitted here, it has the status of a paper accepted by the Justice and Reconciliation Committee.

By the Executive? --- And - yes, the paper also - the Executive. But at the same time it was said it should be extended, the final form has not been submitted to the Executive.

Yes, well, at the time when it was approved, everybody was happy with it? -- Well, the Executive did not read this document. Of course you could say, why did they not read it, they simply - it was pasted on the resolution of the Justice and Reconciliation Committee, and in that respect I did this simply by - I was not aware that this had gone through the Justice and Reconciliation Committee.

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Doctor, nowhere in this particular document does one find any reference or statement expressing the church's concern for the individual and his conscience. That gets secondary treatment? --- In the document "Conscience in Conflict"?

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Yes/...

Yes? --- Yes.

Now, is it not the task of a caring church to look after the individual and his conscience as a primary task? --- M'Lord, I think this paper is a historical survey, and this paper was not to present what the church should do, but simply what I found out, what has been done before, but I think there was - there are remarks how, on previous occasions the church has - was concerned about military service about the individual.

Yes, we have got that evidence before the Com- 10 mission already. --- Yes.

Now, this particular resolution, I was just wondering, it creates the impression, I am not suggesting I understand it correctly, but it does not - the document itself, with the reasons that it advances, does not create the impression of the expectations one would attach to a caring church? --- M'Lord, I think you have had documentation submitted by Reverend Rob Robertson where you find quite a lot of evidence of the concern for the individual conscientious objector, and as I mentioned, I was not satisfied with this 20 document and did not want to publish it. Meanwhile Reverend Rob Robertson whom I did not know at that time, has got involved in this matter, and he has worked on this, and there is a lot of evidence of concern of the church for the individual conscientious objector, for their relatives. He has visited them; he has talked to them.

Could I ask you something else concerning this particular document? I have noticed that you have a very meticulous filing system in which each document gets a file number, A35 of 53 or whatever the case may be. This 30 particular/...

particular document, together with your report to the Executive, I did not find that in your J & R reports. You will see, if you look at the front there, there is no number on it. It was obtained from another source. What could have happened to your file copy of this document? --- I think it must be under the section - in a study document Violence and Peace. It is a bit thick for simply attaching to the minutes, but I do not know what the reason is. But I have this in my documentation, this document. I think it is - we have a card system. I showed your investigators 10 where the card system is, where they can check up and he could even check it now, whether it is on the register or not.

In any case, I accept what you tell me. It just was not in your normal J & R reports or in your reports to the Executive file? -- Yes.

CHAIRMAN: The Commission will now adjourn to tomorrow morning.

MR KENTRIDGE: M'Lord, before the Commission adjourns, I wonder if we could get some directive on what is 20 likely to happen tomorrow. We understand Mr Potter is coming at 2 o'clock. I do not know whether My Learned Friend can give us some indication as to whether he will be busy with Dr Kistner all morning. It is a question of whether we can have our next witness here tomorrow, or leave him until Monday morning.

THE COMMISSION IS ADJOURNED