

COMMISSION OF INQUIRY
INTO THE SOUTH AFRICAN COUNCIL OF CHURCHES

HELD AT PRETORIA

ON 17 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

INVESTIGATING OFFICER: ADV ETIENNE DU TOIT

SECRETARY: MR M L MARAIS

ON BEHALF OF COUNCIL FOR THE

S A C C: ADV S KENTRIDGE SC
 ADV P A SOLOMON

LUBBE RECORDINGS (PRETORIA)

/Idem

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/VMD

WITNESSES: DR W KISTNER
 BISHOP DESMOND TUTU

VOLUME 71

(p4141 - 4190)

THE COMMISSION IS RESUMED ON 17 MAY 1983

WOLFRAM KISTNER, still under oath:

MR VON LIERES: Doctor, did you perhaps find the document, "Time to Resist"? --- M'Lord, I had a few other commitments yesterday night. I had to go to the airport first, and then I had a commitment - another commitment, and I could not go to the office, but I made enquiries and I think the document will be in the office. I could not go to the office yesterday night.

CHAIRMAN: Would it be possible to make it available to the Commission at some stage? --- Yes. 10

MR VON LIERES: Allright.

MR KENTRIDGE: Perhaps we can arrange to get it over in the course of the day, if you do not mind my speaking to Dr Kistner during the adjournment.

CHAIRMAN: Of course. Do so now.

MR KENTRIDGE: I just thought - there will be people coming over from the office later. Perhaps at the adjournment Dr Kistner could telephone the office and give someone instructions as to where to find it, that it might be brought over. 20

CHAIRMAN: Just before Dr Kistner continues, I would like to refer back to an episode yesterday concerning a question which was put by Mr Von Lieres, which might be construed as containing a suggestion. It seems to me that the question is capable of that construction, and to the extent that it is, it should not be seen as a suggestion coming from the Commission. Certainly it is not - it should have been better worded, and I think we must just leave it at that. It is impossible for the 30

Commission/...

Commission to monitor in advance every question which is put, and what the Commission is interested in is getting to the fact. Every cross-examiner has his own particular style and it is inevitable that as we carry on, here and there questions may be put in a way which could lead to a certain conclusion. We will just have to live with that, because a commission is not like a trial where the issues are defined or where an attitude is taken. It is a very, very awkward and difficult way of getting through to the ascertainment of the facts. I think it would be as 10 well if we would all just accept with and live with that situation.

MR KENTRIDGE: M'Lord, I fully accept that, and as I have made clear, I have not taken any objection to the questions My Learned Friend is asking. They have been fair questions, and obviously useful information has come from them, and I hope it will not be taken as - what I said yesterday will not be taken as any objection to the line of questioning taken, which is obviously relevant.

CHAIRMAN: Well, the press seems to have made some- 20 thing of that, and that is why ..

MR KENTRIDGE: I have not seen that. I am sorry, perhaps I should look at it and perhaps ..

CHAIRMAN: Well, perhaps you might have a look at the publication in The Citizen and if there is anything which you think needs to be corrected, you could do so.

MR KENTRIDGE: Yes.

MR VON LIERES: So I think, Doctor, we must then provisionally step away from this particular document and whether you have any objections against it, because 30

obviously/...

obviously you have not had the time to have a look at it. ---
Yes.

But could I deal with one other aspect in the same letter that we dealt with at the adjournment yesterday, that is the letter you wrote to Pastor Barndt on 28 July 1978, and this is the letter we dealt with yesterday in which you respond to a number of questions or topics, and make some suggestions in connection with the document had had provided you with. If you look at page 1 of your letter, the fourth paragraph, the fourth line from the 10 bottom of that paragraph, we find the following:

"Dr Berglund has sent me a message through a visitor returning from South Africa, that our friends and protectors are observing and watching me and the work of the Division of Justice and Reconciliation very carefully".

Have you got that? --- Yes.

You continue there and you say:

"I was therefore told to be very careful with documents when I return to South Africa". 20

Could you perhaps just explain this reference to the Commission? --- Well, M'Lord, I have experienced on my return to South Africa on one occasion how I was searched, every piece of literature in my suitcase, was searched at the airport, and here I was warned to be careful what type of study material to take with me, because I often take study material which I get, documents and other papers where I read what - relating to problems in Europe, which I get, I take them with me. I also take - here I visited my sister who lives in the German Democratic Republic, 30

and/...

and I simply read whatever material is there, on how the church relates to that situation, and that can cause suspicion, but it is - I find it simply my task to read whatever I can get, but I was warned here that people are watching me and I should be careful with documents.

The first part about confiscation, you deal with in the sentence just preceding the one I have read out to you. There you say:

"I would be very glad if you could send me another copy of this draft through a visitor to South Africa as a precautionary measure against my present copy being confiscated when I return". 10

Right? --- Yes.

Now, I asked you about the next sentence:

"Dr Berglund had sent me a message through a visitor, returning from South Africa, that our friends and protectors are observing and watching me".

What is this reference to the friends and protectors that are observing and watching you? --- I suppose - I do not remember the details, that Dr Berglund has in the meantime had certain experiences of people who come to him as friends, but are watching him, and he has told me stories of that nature, and he sent me a message, be careful with documents you bring in. 20

Could I just ask you one other question in connection with the reference to the conservative German bishops, you find on page 5, who oppose the work of the liberation theologians. That is page 5, paragraph 6. --- Yes.

Where do you see yourself standing on the scale? --- M'Lord, I do not quite understand the question, 30
conservative/...

conservative - well, it refers to the term 'conservative' or liberation or both. I am a person of a very conservative background, and I think I try to preserve the heritage of my church, the Lutheran Church, and point out that there are certain misinterpretations of this heritage, and I would like to make this heritage relevant to the South African situation, particularly the heritage of the reformation, and the heritage of the - particularly also of the church at the time of the National Socialist regime, but I do that against the background, and I think I 10 am trying to preserve the - preserve and conserve the heritage of the Lutheran Church; in relation to liberation I try to point out that in this heritage there has been a concern for liberation from the outset, at the reformation. I remember that in one of the submissions and statements of the German church leaders, I think it was Dr Held, who came to this Commission, spoke about that too, how he understood the reformation, also the time of the confessing church or the role of the confessing church in Germany, and thus I do not see that conservatism, true con- 20 servatism, and liberation are opposites, but here as far as I know, this passage refers to the role of Roman Catholics, Roman Catholic bishops, the Roman Catholic Bishop's Conference in Germany, but I would have to check that out. I do not even know whether I have papers, because this happened at that time, and that statement of the Roman Catholic bishops in Germany at one time, they made derogatory statements about liberation theology in Latin America, and I felt that in those statements they did not take seriously the situation in Latin America, the role the 30 church/...

church has played in America and did not show enough understanding about what had happened in Latin America.

So can I accept that you are conservative then, as far as theology is concerned? --- In one way, in another way other people would describe me in other terms, even in my own church. It depends on what you understand by conservatism.

Doctor, we were dealing with international links and could I summarise the position by saying that from the documentation and letters, it appears that there 10 is a continuous flow of documentation, information both from the Council towards its international partners, and vice versa? -- M'Lord, I think that is one of the functions of the Council, to be in continuous communication with the other ecumenical partners, and this expresses the church as the body of Christ which is not limited to one particular nation state, but comprises Christians and churches all over the world.

CHAIRMAN: Is there not also a continuous flow of ideas from churches and church bodies in Europe and else- 20 where in the world, and related churches and church bodies in South Africa, whether or not there is an SACC, in the sense that the Lutheran Church in Europe or America exchanges ideas with the Lutheran Church in South Africa? --- Yes.

And that goes on, the Church of the Province communicates with Anglican Churches elsewhere, and the Methodist Church? There is that exchange of ideas, and churches, particularly those which support the ecumenical idea all over the world, it is an on-going thing? --- M'Lord, 30

I think that is true. I know about this particularly from the Lutheran setting, between the Lutheran Churches in other countries and here, but there is a certain difference because these are mostly bilateral, or people from one of the same world confessional family, and the task of the - an ecumenical body is to take care that what happens in one denomination also goes into another denomination.

MR VON LIERES: But it is a normal activity, Doctor?

This is the flow of information? --- It should be, yes.

Doctor, on 7 November - let me ask you first 10
differently: did your discussion with Pastor Barndt on the topic of "Time to Resist" have any results in South Africa in some way or another? -- M'Lord, what I remember of this discussion, that we discussed a lot of the understanding of the letter to the Ephesians, and I think it had an impact on one's thinking, on both sides, but I would have to check the document first.

Well, perhaps I should just give it to you. In the letter dated 7 November 1979, you write to The Reverend Barndt and you say to him: 20

"You will have realised that our talks on 'The Time to Resist' have not been in vain. I suppose you have received reports of the last National Conference. I shall send you reports as soon as possible".

Now, with regard to what resolution, what activity at the National Conference would have reflected the content or discussion on the talk on "Time to Resist" have not been in vain? Is that resolution 15 of 1979? --- I have not got resolution 15 in front of me. M'Lord, in the letter to the Ephesians I remember that we discussed that 30

sin cannot only be understood in the individual - relating to the individual but it can be entrenched in structures, or sin as relating to the individual is important and should never be left out of consideration, but in the letter of the Ephesians you speak of principalities and powers, which dominate our thinking and I also remember, I do not know whether it was on this occasion, that we said, this in one way creates a better understanding for people, because people who live in a certain system, for instance if one takes another example, the people, young people who 10 have been educated in the Socialist Democratic Republic under that ideological education, they are simply victims of a certain system. You cannot blame them as individuals, necessarily, but that this is an aspect of the letter to the Ephesians that it describes the entrenchment of powers which determine our thinking and that that in systems, and that from that point of view the church has to resist certain systems, at the same time have an understanding for the people who live under those systems, and try to find an approach how to speak to them, and these 20 were considerations at that meeting, and in saying here, you will have realised that our talks have not been in vain, I suggest that it may have been that in these resolutions these ideas have come out, perhaps in the reports on Justice and Reconciliation or in resolutions.

Would this resolution 15(e) perhaps be the one that you had in mind? That is in the document before you under Justice and Reconciliation, paragraph (e)? -- Paragraph (e) - M'Lord, I would think it would refer to the whole approach that more contacts are necessary, that the 30 experiences/...

experiences which people make in South Africa are communicated to other churches, like for instance the removal of hundreds of thousands of people, and also that the time of confessing has come.

To the whole Justice and Reconciliation resolution? --- I think it would refer to the whole section, not only to the whole passage on Justice and Reconciliation, not only to paragraph (e).

Now, in that same letter, let us just go over to the next item, you say that it would be important 10 for you to come to the United States again. I think it is the second or third paragraph of that letter. Do you see that? -- Yes.

Why would it be important for you to come to the United States again? -- Simply to have contacts with the churches there.

And in effect you went to the United States following on this letter, in March the following year, 1980? --- Yes, I suppose that was evident from some papers yesterday.

Yes, and the Lutheran Coalition arranged your 20 trip there? --- I was invited by the Lutheran - by the American Lutheran Church, Mr Siefkès.

Yes, but that was not an official invite, or was it? -- It was an official invitation, and it was - Reverend Siefkes is the official representative of the - that church, and at the same time he is related to various of these projects like Lutheran Coalition and another project, the Wine Exchange.

Well, an official request for your release to attend that particular conference did arrive and was 30

addressed/...

addressed to the General Secretary on 4 January 1980, and it was signed by The Reverend Siefkes as Director of Discovering Ministry. That is quite correct. --- Yes.

But then, on 22 January 1980, there is a letter in your file, written by The Reverend Barndt: in which he says:

"Jim Siefkes and I have agreed that I will handle all the arrangements. So all further correspondence should come to me. Although the official request comes from our 'Internationalisation of Mission Office', your visit is not an official visit sponsored by the ELK which would have required your visiting a lot of church officers"

etcetera. Would you just have a look at that please? --- Thank you.

The middle paragraph? --- Yes. M'Lord, this refers to the invitation, I had insisted I cannot come to the United States without an official invitation, and if I am going there, I have to see also church officers, and I did so, but the intention here was also to have contacts with groups like - and certain projects in the different churches. Thus on the one hand it was an official invitation, but the person who was - who extended that official invitation and is responsible in various projects within the United States and also on this project Internationalisation of Mission, asked Reverend Barndt to organise the journey. Thus it is in one way official, but he extended this - he gave this task to Reverend Joe Barndt.

Allright. The Inter-Faith Centre on Corporate Responsibility, in a letter dated 25 August 1977 you wrote

to/...

to them after they had sent you some material, and you told them:

"We are very grateful for the concern that committed groups and organisations show in the United States towards the South African problem and their willingness to support us".

What is this Inter-Faith Centre on Corporate Liability? --- Corporate Responsibility.

Responsibility? --- M'Lord, I find it difficult to describe the details. As far as I remember they work 10 on human rights, on relationships with other countries, on international - through research on international relationships and so on.

That is a letter - just confirm please? --- Yes, it is Mr Tim Smith, is involved in that project, and he works on investment, the investment issue.

Are these people - is this organisation, the Inter-Faith Centre on Corporate Responsibility, is it not also involved in confronting multi-national companies with regard to their investment in South African and so 20 forth? --- That could be. I do not remember. I know there are such organisations, but I could not say, but from this I would think that that could be the case, from this letter.

It is not only to the United States that you write. You also write to people in Canada and so forth, and the SACC makes no secret of its attitude to these overseas church agencies, as appears for example in this letter of 2 January 1979, in which you tell Mr Kaderer of the Christ Church Cathedral in Vancouver of British Columbia, that the South African Council of Churches agrees 30

with/...

with the aims of the liberation movements which thrive for a radical change of the South African political system, though we are committed to non-violent methods in pursuance of the aims of the liberation; we are aware that we find ourselves already at present in a situation of entrenched violence etcetera? --- Yes.

Just identify that? It is the second-last paragraph on page 1. --- Yes, this is my letter.

Now, Doctor, I think the documentation is before the Commission. We do not need to spend too much 10 time on that. You also have extensive correspondence with church links in Europe; there is however just one aspect I would like to discuss with you, and that is, in your relationship to the Church of Sweden Mission. Now, in a letter - let us first identify Dr Axel-Ivar Berglund with whom this correspondence was conducted. Is it correct that he was previously a director of Theological Education and sometimes Acting General Secretary of the South African Council of Churches? --- He was Director of Theological Education, Acting General Secretary, I would not 20 know, because ..

In the absence, when the General Secretary was on leave? -- M'Lord, that - usually this term has been used simply if the General Secretary is absent, somebody takes his - it is not a continuous office. It is simply anybody who is available.

Now, Dr Berglund returned to Sweden where he became the Africa Secretary of the Church of Sweden Mission on 15 August 1979? --- He did that, as far as I know, in an acting capacity. 30

How/...

How long did he spend with the SACC? --- I would think at least 4, 5 years, perhaps longer.

Now, in the reference to Pastor Barndt, we have just mentioned the fact that Dr Berglund referred you to your friends who say that you are being watched, you must be careful? -- Yes.

Is that the same Dr Berglund? --- That is the same.

Now, is it - would it be correct to ask you whether Dr Berglund provided you with feed-back on the thinking in Swedish church circles, concerning their attitude 10 towards the SACC? --- M'Lord, I do not remember that, because I had very little contact with him. I was in - met him once, he was once in South Africa after he had left, and I saw him only shortly, for a short while, and I saw him at a conference in Jerusalem, where we did not have much talk with one another. His son had just passed away, and I saw him a few weeks ago in Sweden where I had to attend a meeting of the Lutheran World Federation, but there was no talk about this issue, and he is not Africa Secretary at present. 20

Now, in 1979 he wrote to you and the General Secretary a joint letter which I will show you as soon as it comes up. -- Yes.

And he asked you to please supply more detail on how the moneys are used with regard to both Asingeni and the Church Development Fund. Do you recall that? --- I do not recall the letter, but I would have to see.

Allright, I will show it to you just now. Now, in that letter he says that we (referring to himself and probably some other persons) have an up-hill struggle 30

to/...

to keep and uphold confidence in the kinds of things that we do and in the surroundings we work in, referring to the provision of funds by the Swedish Church for Asingeni?

--- Yes.

And you also had some further telephonic discussions with him in December 1980, in which he told you according to your file note, that he had great difficulty to convince the donors that Asingeni could not submit all the accounts. Do you recall that? --- Well, if it is on the note, it must be correct. I do not recall the calls, but that 10 is quite possible.

As soon as that arrives, I will show you that, so perhaps we can just go on to the next point. We have already dealt with the Internationalisation of Resettlements yesterday, when we referred to various letters that were written. These are the two letters I referred to, 25 May 1979 by Dr Berglund to you, and the General Secretary, and your reply to him. --- M'Lord, the letter of Dr Axel-Ivar Berglund I identify his signature; it is written on 25 May, and here he asks for information on the Asingeni 20 Fund, and ..

Excuse me, for information, more details? --- More detailed information, and it looks to me that he read quite a lot in the papers about - also rumours, the rumours puts it that the fund is not involved and engaged as it was previously, and therefore substantial sums previously required are not applicable, and he was saying that he does not have enough information to cope with the question, because the people in Sweden would also have read the papers, and then I am replying to this letter, on 19 June, 30

and/...

and I did not want to give detailed information, because I suppose it must have been at a time when the General Secretary was not available, and then I say that I would discuss this - no, I would discuss this matter with the General Secretary tomorrow, but I did not want to go into the details about the Asingeni Fund, because I am not well informed about that.

The second item on the telephone note, I will show you now, it is dated 10/12/80. Just read paragraph 3 please? -- I did not get that? 10

Paragraph 3, I am sorry. --- Give Dr Berglund information at the request of Bishop Tutu, and what I say here is simply passing on the information, I suppose, which I received from Bishop Tutu.

And making a note of the information that Dr Berglund supplied you with? Just paragraph 3 please? --- Paragraph 3 reads:

"Dr Berglund stated that he and Mr Maertens have great difficulty to convince the donors that it is not possible to submit audited accounts for the 20 Asingeni Fund. They have personally given assurance that the money for the Asingeni Fund is spent in the right way. However the donors have not yet given the approval for the release of money for the Asingeni Fund. There is as yet no indication when money will be released".

MR VON LIERES: I think that is enough. That sort of covers it. You conveyed that to Bishop Tutu? --- Yes, well, this is my method of working. As soon as I get a message, I write it down and pass it on. 30

Thank/...

Thank you. Can we then go over to the next item that I just want your comment on. In your international relations you provide information on for example, resettlements and the problems; we have discussed that in broad outline yesterday already. Now, in that same letter in front of you, you say to Dr Berglund in the third paragraph - yes, that letter you have got there, in the third paragraph:

"It was a distressing experience to notice how the homelands policy apparently gradually finds acceptance with many people". 10

Have you got that? --- That is right.

Now, I would just like you to explain to the Commission how - or whether the finding of acceptance of that policy has any effect or influence on the South African Council of Churches' policy of fundamental change? --- M'Lord, it has deep implications. It is evident from quite a number of documents of the SACC that the SACC stands for a unitary South Africa, and sees no future, peaceful future if the country is being divided up because 20 of the insistence that we belong together, White and Black people belong together in this country, after they have gone through this development of coming together, of mutual dependence in the economy, and that it is not possible to divide them again and push Black people into rather undeveloped areas and give them their citizenship rights or nationality in those homelands. But this is a policy which is against the principles which the SACC tries to derive and justify on the basis of its understanding of the Gospel. On the other hand, this policy also 30

causes divisions within the churches. In the urban areas many church members reject this policy. In the homelands some people find it accepted, and very often you find ministers under pressure in the homelands, they are being offered good jobs, and are - some ministers, and they are co-operating, leaving the service of the church because they get better salaries. They are the educated people in the homelands, and this is rejected then by the church, and we find in different homelands, in some homelands even a tendency to put up a type of ethnic homeland church, like - 10 there seems to be indications of this in the Ciskei or to promote something, like an ethnic religious feeling, where ministers are put under pressure to attend services and Holy Communion with their congregations, and this whole homeland policy causes a lot of division within the churches.

I think you have expressed this problem rather well in a different letter to Reverend Barndt. dated 21 February 1978, in which you tell him, in the last paragraph:

"Since you left South Africa it has become clear how many pastors in the homelands are attracted 20 by the opportunities which independence offers them. The Methodist Church has great difficulties with those of its ministers that support the new homeland dispensation, they demand the establishment of an independent Methodist Church for that country".

Do you recall this? Would you like to see the letter? --- At least that is my thinking. This is my letter, yes.

Now, perhaps - I know we are dealing with international links, but perhaps it is an opportune stage to ask you, what type of actions does the SACC undertake with 30

regard/..

regard to the implications that the homelands have on the SACC's thinking?--- M'Lord, this matter has been discussed to a considerable extent in the SACC, and it causes a great dilemma, because the SACC has member churches who have great parishes, congregations in the homelands, and those people have not chosen to live there, and we simply - we cannot say we have not got anything to do with these people, and thus the question arises if there is need of support, how can that be given properly, and in general the attitude has been, the SACC may not neglect Chris- 10
tians living in the homelands. If it is involved in projects, it should be careful not to be involved in big projects, which demand a close co-operation with the homelands authorities. On the other hand, in nearly all projects you need some type of recognition, and that the priority should be to help the people in those areas. But I would think for further details this would be a question to be put to the General Secretary, because it is a matter of the general policy of the Council.

Now, if we now summarise the international 20
links, could you in a nutshell tell the Commission what it is, apart from ecumenical brotherhood, that you - the SACC wishes to achieve through these international links? --- M'Lord, the SACC is concerned, and this Division is concerned, about Justice and Reconciliation, and there is a great need to consider how justice can be achieved. In the global level we in South African have to learn not only to look at our problems, but to see them in a worldwide context, because there is injustice in other countries too, and to see - to find out which are the forces 30
which/...

which cause disruption in the human community, why can we not promote peace, and one of the insights, basic insights in the ecumenical community which needs to be emphasised is today that there can be no justice and there can be no peace, unless we understand ourselves as a human community in general. From this it follows that the time for the nation states, the sovereignty of the nation states actually is over. The nation states at one stage fulfilled a valid function, because they were already an enlargement of small units, small territories which were continuously at war with one another, and - but today we are living in a world in which the survival even of the human community depends on better mutual relationships, and I think from that context, it is necessary for us to see this as a global problem and identify our role in that context, and see as part of that problem, and on the opposite too, see how we influence this concern about peace, either positively or negatively. If we find a solution for better human relationships in South Africa, then that would be in a microcosm, be a model for the world and the churches here have to be concerned about that, and in this context we have emphasised in our interpretation of the Gospel that from the outset the Gospel is orientated towards the whole human community, that the incarnation of Christ, that He has become man, relates to every human being, that every person is a very important person, and that we have to find new structures, not only with regard to South Africa, but with regard to international relationships as a whole, and therefore find an international - or prepare, thinking on an international economic order/...

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order/...

order and an international political order, and we have to realise that this is not a problem relating only to South Africa, but relating to other countries and what they do as well. And my impression was that it is very important for us to get this type of thinking into our churches, here, and on the other hand allow them to participate in our experiences, and find out how we can mutually help one another.

Doctor, did I understand you correctly when you - that you say in the global context, the time for the 10 sovereignty of nation states is over? --- Yes, absolute sovereignty is over.

Is that a situation that might develop then that you may have a sort of a global community? --- I did not say that.

No, I am asking? --- But I suppose that the church through being an ecumenical body, can show something of a model, because the sovereignty of the individual nation state threatens the human community, and the survival of the human community, and that the church could show 20 that there are possibilities of better co-operation.

Is this - is it in connection with this idea that the Internationalisation of Mission consultations took place in the United States? --- That is right.

Which you attended? --- Yes.

And - now, this church model, was the possible church model of the future discussed in the context or against the background of the fact that the time for the sovereignty of nation states is over, and that the church could create a model, how the world should look like? 30

--- M'Lord/...

--- M'Lord, I did not describe - say it like that. I said that the international community of the churches could be a model that means an example, how states could create better - a better order, and in speaking about the sovereignty of the nation states being over, it does not mean that you do not require nation states, but you require authorities which can lay down and - principles of justice, and see that they are respected, also in the relationship between different nation states, and at present they do not have that authority. 10

Could I just then ask you one last question on the international relationships? Do you see international links as being able to facilitate change in South Africa by exerting pressure on the existing Government or regime? -- I think pressure can always have an effect. I learnt in my own life that you learn by pressure, by difficult experiences which you have not sought yourself, but pressure cannot be an end in itself. It can facilitate thinking and negotiation, and I think in that respect pressure is a valid method. 20

It is a means to an end? --- That is right.

Doctor, then I would like to speak very briefly with you on the issue of disinvestment. Now, could I first of all ask you, I understand that the Commission has forwarded a copy of an article published in the Journal for Contemporary History of the University of the Orange Free State, which I hand to you now, that was written by a Prof Kunert of the Witwatersrand University's Department of International Relations, for comment. Did you receive that article? --- M'Lord, I could not .. 30

Did/...

Did you receive that article? --- I have this article and I only glanced at it, because I was very busy, but I have not studied it in detail.

MR KENTRIDGE: M'Lord, we did receive this article, and we understood that Your Lordship would like someone to deal with the allegations in it. I have given it to Bishop Tutu, and he certainly does - in his evidence, which will come next, we certainly do propose to deal with it. Of course, if My Learned Friend wants to question Dr Kistner on it, I have certainly no objection, but it did 10 not occur to me that I should also have put it to Dr Kistner as well as to Bishop Tutu. It is quite a long article, and could I respectfully suggest that if My Learned Friend does want Dr Kistner to comment on it, he should perhaps have some time to read it. It is about 25 pages.

MR VON LIERES: Yes, it is rather lengthy. Well, I thought you might have a look - have a look at it, because investment is part of your portfolio? --- Yes, M'Lord, that is true, but I have to read so much that you cannot cope with all the material you get to read. 20

Now, let us just look at the brief overview at the whole disinvestment debate, surrounding South Africa. Could we perhaps start, Doctor, with the Utrecht resolution in August 1972, in which the World Council of Churches adopted a policy of disinvestment towards South Africa. Are you familiar with that resolution? --- I remember that it was discussed there. I have not got the resolution.

That is alright. Now, in 1973, I have sort of selected - taken the date at random, but in 1973 the South African Council of Churches' National Committee of 30

Justice and Reconciliation had minuted its attitude towards investment and disinvestment as follows: the church attitude to foreign investment in South Africa; generally the Committee did not favour the principle of disengagement. In this particular instance it concerns, should they remain shareholders, to be active and so forth. Are you aware of this? -- I think so, yes.

Would you like to see it? It is in the minutes. -- Yes.

Of the Council's .. -- Yes. 10

That is the minute for 26, 27 April 1973, of the National Committee of Justice and Reconciliation. --- Yes.

CHAIRMAN: What month?

MR VON LIERES: 26/27 April 1973, M'Lord.

Then I would also like to refer you just as historical background to the minutes of the Executive Committee meeting which was held on 20 and 21 June 1973, in which a comment is made on the press statement of Dr Baldwin Sjoelmma who at that stage was the Director of the World Council's Programme to Combat Racism. Do you have the press statement in front of you? -- Yes. 20

Would you read it into the record please? Perhaps I could just lead you a bit there. The Executive Committee is responding to an article that appeared in the Rand Daily Mail reflecting or purporting to reflect certain views expressed by Mr Baldwin Sjoelmma concerning the dangers inherent in paying higher wages to Black workers in South Africa. -- Ye.

And if you would then like to take it from there please? --- The yellow part? 30

Yes/...

Yes, if you think the yellow part is a fair reflection otherwise you can read the whole thing? --- It says here:

"Dr Sjollemma is reported to have stated at a press conference that actions such as the raising of Black wages in South Africa are dangerous, because they could stop agitation for change. While we recognise the need for fundamental change, and that the slowness of the South African political and social system in adapting to the need for change lends some 10 credibility to Dr Sjollemma's view, we repudiate the implication that the raising of Black wages will actually impede radical change. One implication is that Blacks should continue to suffer such privation and poverty that they will ultimately resort to violence. It is arrogant for any man to presume to prescribe this kind of action from the outside, particularly when he himself will not have to suffer the consequences. We also believe that the kind of massive radical confrontation implied in 20 Dr Sjollemma's approach holds disaster for all South Africa. We reject this paternalism of this approach which presumes to prescribe what is best for Black South Africans".

MR VON LIERES: Now, that was the attitude that existed in 1973. You are, I take it, also familiar with articles of Mr David Thomas, a previous Director of Communications of the Council, has written on this issue in which he confirms this basic attitude? I will just refer you to one of them. This is an article "Church/State Relations 30

in South Africa; Uncomfortable Bed-fellows", published in South African International in July 1982, and he says on page 60:

"Only a decade ago the official policy of the SACC was anti-disinvestment, the organisation then taking the classic liberal position that investment and economic growth were likely to help undermine apartheid".

Now, Doctor, at the National Conference in 1976 - yes? ---
M'Lord, I think as far as I remember, Mr David Thomas 10
described the process of change and gave certain reasons, at least in one of his books. He does that, why - he explains how that change came about.

Well, this is his comment, let me show it to you.
I have read to you what he says there. This is an article of a later date than the book that he has written. ---
Yes. In the following passage he appears to give some reasons, he says, the stand has become more radical, particularly as a result of the replacement of White-controlled administration by a growing number of Black people 20
in the SACC, and he also argues that this attitude has been influenced by the banning of Black political organisations, and as a result, SACC block churches have been left as one of the main bearers of that political alternative for South Africa. Thus he gives an explanation how this change came about, and then he says, nevertheless, in spite of this development, the SACC has clung to the vision of a non-racial society. Thus I think his concern is to describe this development and to give reasons.

Yes, incidentally, do you agree with those 30
reasons/...

reasons he gives for the change of the SACC from anti-disinvestment stance? -- M'Lord, I think there are other reasons too, but this matter has been discussed a lot, and also there has been a lot of research work, on the role of industry, particularly now during the last two years, what does this technology mean for industry, because investment and technological advance does not create - necessarily create jobs. It sometimes creates unemployment, and I think all those things have contributed, apart from these factors which he mentions here. 10

Do you consider those factors that he mentions as valid considerations? --- Well, there may be some factors, that there are more Black people in the SACC voicing their opinions, and that other organisations have been banned, and that can have an influence, yes.

Now, Doctor, the National Conference 1976, a resolution was adopted in which it was suggested that the options of investment and disinvestment should be investigated and the matter was referred to your Division? --- That is right. 20

We have dealt with that already? --- Yes.

Now, by this time, the EKD had already since the early 70's commenced discussions with firms to try and exercise an influence on investments and responsible socio-political consequences in the interests of the Black sector of the South African population. Do you know about that? --- Yes.

That incidentally is their view as they set it out in their 23 June 1978 statement, concerning the report on investment by the SACC. Now, by this time that 30

this/...

this resolution was adopted and you started working on the task, you and your Division, started working on the task, that the National Conference had entrusted to you, is it correct that various overseas church agencies had already adopted resolutions supporting totally or partially the World Council's disinvestment stance? --- M'Lord, as far as I know there were churches. I could not mention examples, at the same time there was a lot of discussion within the churches, and what was the best procedure.

Now, the British Council's Christian Aid, or 10 rather, the British Council of Churches' Division for International Affairs had already come out in support of the WCC stance? -- Yes, I do not know the date of that.

Yes, the Swedes had reacted? --- Yes, I do not even know that date, when that happened.

And the Ecumenical Research Exchange had also come out in support of the WCC's stance, as you will recall? ---- Yes, I do not know the year, but it may have been already at that time.

Now, at that stage, the attitude of various 20 South African groups and their advice on investment, was also known. I refer you now to the British Council of Churches' confidential discussion paper on British investments in South Africa, dated September 1978, or amended in 1978, and on page 3 they say:

"During the period under review, the position of the liberation movements on this question has not altered. Here are three typical statements:

A The African National Congress.

The investor is the ally of our oppressors, a 30 beneficiary/...

beneficiary from our misery. We want all foreign investors to get out of our country and leave us free to deal with our oppressors without their interference. See that you, your country, your church, your university, your union withdraws from firms with interests in South Africa".

This statement, they say, was made in 1973. Then they quote a statement by the Pan African Congress of Azania made in 1977, and another statement of the Black People's Convention made in 1972, all three of them expressing 10 the view that foreign investors should get out and stay out of the country. You can have a look at that. --- Yes, I see that.

So the only point I am making is that by 1977 the stance of the liberation movements towards investment or disinvestment, was well-known? --- Yes.

This is in fact confirmed in the WCC's paper that appeared towards the end of 1977, "South Africa's Hopes: What Price Now", you will find on page 10 where they say that the call to end financial support for the 20 apartheid system came first from the liberation movements, ANC and PAC. Do you see that? Page 10 of that document. --- Yes, it says that. It says it was later repeated by many of the now banned Black organisations.

That is right.

CHAIRMAN: What page of the document?

MR VON LIERES: Page 10 of the document "South Africa's Hope".

Is that correct, page 10? --- Yes.

Now, your report on investments was submitted 30
to/...

to the National Conference of the Council of Churches at Hammanskraal, July 26-28 1977. It also served as a basis for the October 1977 discussions with the EKD at Königstein in Taunus where you were present? --- Yes.

Now, could we just very briefly establish one or two aspects about this: in the introduction, on page 1, you say that the memorandum has not - the Committee has not undertaken a new investigation of the foreign investment issues. It rather has made use of the findings of published and unpublished reports of a number of re- 10 search teams, and you list the various report in an annexure. Is that correct? --- Yes, well, I have not got the document here, but ..

I will show you the document. Let me just ask you two other questions, also related to page 1, and then you can check it. You also say that this document - in presenting the memorandum you do not only comply with the commission you got from the National Conference, but it is also a response to a long-standing request of the EKD. And then you say in brackets, other overseas churches 20 have made similar requests to the SACC. Now, the similar requests are, for a memorandum on the stand of the SA churches on the issue of foreign investment in the South African economy. Perhaps you would just like to have a look at page 1 first? --- Yes, page 1, it is correct.

Now, which other foreign churches had asked you for a memorandum on the stance of the SACC, apart from the EKD? --- I suppose it would have been Britain, but this came through the General Secretary. This is what - the General Secretary at that time participated very 30 much/...

much, and this was what he said, but I think it would have been Britain, possibly also the United States. I do not know that.

Doctor, if you turn to page 4 of that document, in the first three paragraphs, you set out what the aim of the discussion is, or the memorandum sets out what the aim is? -- Yes.

Would you just read those three paragraphs into the record please? --- (READING)

"These discussions were initiated several 10
years ago, when it became clear that negotiations with the political authorities on the abandoning of apartheid would be of no avail unless some form of pressure was exerted on the Government. Since that time one of the most frequently considered means of inducing non-violent change, has been the withdrawal of economic co-operation by foreign firms and governments".

MR VON LIERES: Those are the first three paragraphs. Would that fairly summarise the aim of the memoran- 20
dum? --- M'Lord, the aim of the memorandum was, I think, the memorandum was largely a response to questions from partner churches, how should - they asked how should we respond to this pressure to which they were exposed themselves, and they asked the South African Council of Churches what can - advice can you give us.

Now, on page 5, in the middle, I think it is marked with a word-picker, a reference is made to a rejection of the popular theology prevalent in South Africa. Would you just read that paragraph please? --- (READING) 30

"Many/...

"Many Christians hold that the churches should not concern themselves with politics and economics, but rather confine themselves to the spiritual needs of man. We cannot accept this viewpoint; in our opinion a strict division between the spiritual and the material needs of man is based on a fallacy."

I do not see the term "popular theology".

No, I used the term, because I wanted to ask you whether that statement is in line with your thoughts we discussed earlier, on this popular theology that has 10 the strict division between the spiritual and the worldly? --- Yes, but you can have that same tendency also within theologies which you could not describe as popular theology.

Now, if you would just turn to page 3 of that document now, page 3, the first paragraph suggests that certain educational and other basic demands cannot be met unless there is a change and a new order comes. Have you got that? --- Yes.

Would you just read the relevant sentence 20 please? --- (READING)

"Many in South Africa lack adequate food, housing, clothing and education. They have little chance of obtaining these basic rights until a new political order is created".

MR VON LIERES: Now, does this position hold true for South Africa only, that there is a lack of adequate food, a lack of housing, a lack of education? --- You have poverty in other countries as well, lack of education, certain countries of the Third World. 30

So/...

So it is not an unusual feature to find those conditions in South Africa? --- No, but it is a question how - what are the root causes of that poverty. You can have different causes of poverty.

The root causes, does that set South Africa apart from the other countries that have the same problem, food, education, housing etcetera? -- I would think in certain ways it is - the situation in certain other countries can be similar, where you have a concentration of wealth in the urban areas, and a growing impoverishment of the rural areas, and concentration of wealth in the hands of a few people. You can enumerate quite a number of such countries, but in South African this goes hand-in-hand with racial policies. I think that is the difference.

Please turn to page 7 of the report - at the bottom of page 7 there should be a word-picker referring to employment in the Defence Force. Would you just read that paragraph please? --- (READING)

"However we know from the fact that the pressure of unemployment and starvation is motivating many Blacks to seek employment in the South African Defence Force, which is there to protect and maintain the status quo. Moreover the potential of the Black labour force to exert pressure on the political and economic structure is reduced during a time of recession".

MR VON LIERES: Now, let us assume that this unemployment does exist, would it be wrong for a Black to take up employment with the Defence Force? I do not understand that? -- M'Lord, I think that would be the - it would/...

would be the decision of that particular person, of course, whether he considers this wrong or right, but this report was written at a time when the SACC had already passed a resolution on conscientious objection, though this is not conscription. I think that resolution refers to the South African society as a fundamentally unjust society, and this is seen here - it is seen here, the argumentation is here that the South African Defence Force, I would think so, I do not remember the discussion that happened on this point, but it looks to me that the South African 10 Defence Force is considered as maintaining and protecting this type of society, and if this type of society serves the interests mainly of White people, then you could argue, unemployment forces them into the Defence Force.

Now, should they not go into the Defence Force? --- Well, I think that would be the particular ..

How should they live, if they do not have employment? Must they not take up the employment? What would they do? --- I suppose the - the report here describes the situation that as a result of unemployment, Black people 20 take that decision, and I think in such a situation the person may have a family, he may have no choice, may take such a decision.

Doctor, the report also goes on and it discusses the role of external and internal economic pressure, and then it contains some reflections on capitalism. Could you perhaps just turn to page 20? I think it is marked? --- (READING)

"We believe that the time has come to assess the ethical principles underlying the capitalist 30
or/...

or free enterprise system".

MR VON LIERES: Ethical principles, and then if you would just turn to page 27 please. You will see there is a similar reference? --- Yes.

Would you just read that into the record? --- (READING)
"There is increasing talk in Black circles about the introduction of socialism and/or African communalism. This can be seen as a reaction to the dilatarious effects for Blacks of capitalism in Southern Africa".

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MR VON LIERES: Now, could you just very briefly explain to the Commission what you had in mind or your Division had in mind with regard to the statement of ethical principles and capitalism, as it appears on page 20? And whether there is any relation between that and the statement on page 27 that socialism or communalism is a reaction to capitalism? ---Yes, M'Lord, first of all I would like to say something on this report. It was worked out by a commission, particularly the General Secretary was involved. I have to be responsible and I have to
give account for it, because it was published by the Division, but I had at that time said I am not yet sufficiently equipped to deal with such a topic, and this work is a communal work; you had economists who were not people of the Division of Justice and Reconciliation, who were asked for advice on this matter.

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So you do not really find yourself capable or expressing any opinion? -- Well, I can, I will do that, but I say that I am not completely solely responsible for this matter, nor is my Division, but there were certain
experts/...

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experts we asked about the opinions, because when this task was tackled, I objected, how can I deal with such a difficult topic. Nevertheless I think since it is published by the Division of Justice and Reconciliation, I have to respond to questions on this paper, and with regard to page 20, the time has come to assess the ethical principles underlying the capitalist or free enterprise system; it is well known that the capitalist system allows scope for powerful individuals to get tremendous economic power, and very often at the expense of people who do not have the same possibilities, be it education or resources, and that can lead to disruption within a society; even in Western states you have - which are capitalist, you have socialist elements in capitalist societies, and within the tradition of the Afrikaner people, you have had a period where the Afrikaner people were economically powerless, and subject to exploitation, where there was a lot of thinking about the ethical principles of capitalism and also a rejection of those principles, and I think that is a valid point in churches to make, particularly now, if one considers the whole global community and the relationship between Western industrialised countries and other countries. The last - the question related was then, how does this relate to what has been said on page 27, African communalism. This can be seen as a reaction to the dilatorious effects for Blacks of capitalism in Southern Africa. Here it is said that in view of the experience which many Black people have, they now turn to their tradition; where can they find other models? How could it be done differently, and they turn to

African/...

African communalism, and of course you could say, where does that exist, how can that exist, in an economy like this, in South Africa, can that perhaps - can forms of social life which develop in a rural community, simply be transferred to industrial countries like ours, but the fact is that many Black people think like that, and this exactly, this type of thinking was one of the reasons why we set up a Commission on Faith and Ideologies, because you tend to idealise certain systems and given them certain labels, and that we thought that the principles 10 underlying each of these ideologies, has to be investigated, and one of them was also African communalism, though I do not think it was used - the terminology was used in exactly the same way.

Now, Doctor, the recommendations by this study group are in the back of the booklet? --- Yes.

And they were all accepted by the National Conference 1977? --- Yes.

Now, just turn to the recommendation on page 32. There are two aspects that I want to just ask you 20 about, 32, a large number of the recommendations on page 31 and 32 deal with the need to recognise, establish and train trade unions? --- Yes.

Now, did that - did those recommendations related to the trade unions, did they arise out of a recognition of the role that the trade union can play in effecting fundamental change? --- M'Lord, at that stage, 1977, I do not think there was too much thinking on trade unions, but there was in these commission meetings, or in these group meetings, there was the idea, it does not 30 suffice/...

suffice simply to get better economic conditions, but there has to be an insistence in a code of conduct for participation of workers in decision-making, in the firms.

Those recommendations were adopted even before the Riekert or Wiehahn reports appeared? --- Yes.

And you will recall, when we dealt with labour yesterday, I referred you to one of your letters in which you had written to your colleague in the United States? --- Yes.

That special attention should be paid to the labour movements as a force for change? --- Yes. 10

Now, in the light of your attitude that you - or the thoughts that you had already expressed in 1976, in connection with the possible importance of labour and trade unions as a force for change, I am now asking whether that was one of the considerations that led to those recommendations? --- M'Lord, I did not quite catch the question, because Wiehahn was later.

Yes, that is a fact. --- Yes.

It is not related to the question. Wiehahn came later. I am asking whether in view of your expressed vision or thought that labour and trade unions can be an instrument to effect change, whether that fact was one of the considerations that led to the recommendation in connection with the recognition of trade unions? --- Yes, 20
I do not remember the details of the discussions, but I would think that that was the case.

Now, then the second question I would like to ask you about these recommendations, is specifically recommendation no 17 on page 32. This is a recommendation - 30

will/...

will you just read it into the record please? -- (READING)

"Refusing to invest in or assist projects connected with the manufacture of arms".

MR VON LIERES: This was a recommendation addressed to South African and overseas churches? --- Yes.

And investors, or only churches? --- Well, it reads here, churches in membership with the SACC for consideration and report back to the next National Conference, and to overseas church bodies and agencies who asked for a guide from the churches in South Africa, as to what their attitude in these matters should be. As these recommendations were made, according to the heading, for consideration and report back, by member churches, and as such I suppose the booklet at least was sent to partner churches showing that there is a process of thinking on these matters. 10

Now, what was the idea underlying this recommendation, virtually an ecumenical arms boycott, if I can put it in inverted commas? -- M'Lord, this is a very frequent thought, particularly in groups on - thinking on non-violent methods, that one should not participate in the production of arms, and I think that recommendation came from that quarter. 20

Did you think that such a recommendation could possibly upset the authorities of the day? --- Here in South Africa?

Yes? --- I think it could also upset the overseas partner churches in relation to their own countries, because there is also production of arms in those countries.

Now, the EKD, Doctor, in their statement on 30

the/...

the report, they say on page 8, paragraph 14, the report confirms, or they say:

"To summarise it can be said that the report confirms that political questions taken precedence over economic and social questions".

Would that be in agreement with your understanding of the main thrust of the report? That political questions take precedence over economic questions and social questions in the report? --- Evaluation, yes. I do not think that that sentence describes - and that evaluation adequately - 10 ly describes the inter-relationship of political and economic factors, because they are so mutually inter-dependent.

It is qualified to this extent, and it says:

"Political questions take precedence over economic and social questions to the extent, to which there is also a link between carefully calculated pressure from abroad, internal unrest and the readiness of the SA Government to make change".

That is the complete sentence. --- M'Lord, I suppose that is a sentence translated from German, and they are 20 usually very long, and I find it difficult to understand without reading it.

Well, let me give it to you.

THE COMMISSION IS ADJOURNED

ON RESUMPTION:

WOLFRAM KISTNER, still under oath:

CHAIRMAN: Did you have a chance of studying the document?

MR VON LIERES: Yes, Doctor, I asked you about the EKD's impression, in paragraph 14? --- M'Lord, I have had a look at this sentence, which is a rather long sentence. 30

I suggest that the explanation of this statement which says, it can be said that the report confirms that political questions take precedence over economic and social questions, has to be found in the following sentences, and the following sentences - you find the following statements: here it must be clearly recognised that pressure from outside cannot bring about positive change in South Africa on its own, and that one must therefore be warned against over-estimating the value of economic boycott as an instrument. The EKD evaluates the 10 document in the following way, saying that merely by economic pressure on its own, you will not bring about political change in South Africa, and political change is the basic question, but that will have to come within, because they argue, in the subsequent sentences they argue from without you can perhaps exert certain pressure, but there will be no change unless the political system in South African itself changes, and I would interpret this evaluation of the EKD like that.

The question of carefully calculated pressure 20 which appears in the first sentence qualifying the political pressure as the main thrust, how do you understand that? --- M'Lord, I would think it could be given different interpretations, first of all that pressure is not an end in itself, it serves the purpose of negotiating, thus you would have to ask yourself, when has the point of negotiation come again, what are your demands, and you would have to define that exactly, what do you want to achieve by such pressure. It could also mean that you select areas where you exert pressure, that you do 30

not speak about boycotts in general or sanctions in general or whatever is the type of economic pressure, but you select certain types of pressure which might be effective.

If I understood - remember that sentence correctly, it tries to bring carefully calculated pressure, non-violent - and non-violent action in alignment with one another, to exert pressure. Is that not the qualification? --- I do not see non-violence mentioned here.

Could I just - this is what it says. It says, there should be a link between carefully calculated pres- 10
sure from abroad - sorry, internal unrest and the readiness of the Government to make changes. Are these three not linked in context with the impression that the EKD expresses that the report confirms that the political questions take precedence over economic and social questions? Does that not make it clear? --- As I indicated, I think the explanation is in the subsequent sentence.

Allright. Now, the - do you know what the reactions of the member churches of the SACC to this memorandum was? --- M'Lord, there were discussions. I do not - 20
there was follow-up work, and there is a summary of attitudes which prevail in the SACC and its member churches on this issue, and where it is pointed out that there are different attitudes with regard to the whole question of foreign investments. There is quite a considerable part of the Black community, believe that economic pressure can be a means of change, others have reservations, and that has been stated in a document of the - I think it is the Executive Committee of the SACC.

The Church of the Province appointed a

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commission/...

commission to identify its response to the investment memorandum. Do you recall that? --- I remember, but I do not remember the findings very well.

Well, in this article of the findings - are set out and basically it amounts to the fact that the Church dissociated itself from the disinvestment campaign, and thought overseas companies should improve the employment conditions of Blacks. I think it is on page 18 to page 19 of that particular document. Are you aware of that? --- Well, I must have read it, but I have not got it in mind. 10

MR KENTRIDGE: M'Lord, if My Learned Friend would allow me to say that according to that article, what the commission of the Anglican Church said, is while dissoaciating itself from the disinvestment campaign, it came out in favour not merely of overseas companies improving the employment conditions, but the words used are "came out in favour of bringing pressure to bear on overseas companies to improve the employment conditions of Blacks".

MR VON LIERES: Now, Doctor, the next step in the disinvestment debate, is then to be found in the 1978 20 resolutions on disinvestment at the National Conference.

CHAIRMAN: I am not with you. Did you refer to 1978?

MR VON LIERES: The 1978 National Conference resolutions.

A report in Ecunews Bulletin 20 of 1978, dated 21 July 1978, under the heading "Section 4 Features the 10th National Conference of the SACC: An Assessment" by The Reverend Palos. He is a member of the Division of Justice and Reconciliation? -- He is a part-time worker for the Division, yes.

And he has a comment on the foreign investment 30
debate/...

debate on page 6 of that particular bulletin. Now, let me just refer you to the resolutions. These resolutions are published in Ecunews Bulletin 20 of 1978, also the same date, 21 July 1978, and they concern firstly overseas investments and loans, secondly, they concern investments, domestic and foreign, and are rather lengthy resolutions, but basically, if I could briefly summarise the first one on overseas investment and loans, it says that there is an urgent consideration how to bring an end to the minimum of violence - excuse me, how to bring an end with the 10 minimum of violence and suffering, the South African system of institutionalised violence and the armed struggle creates, how to facilitate the orderly transition towards a just, sustained and participatory society, then the National Conference (a) confess that we have tended to conform to the apartheid society instead of presenting a Christian alternative, and urgently call on foreign countries and organisations for the sake of justice to revise radically their investment policies and employment practices in regard to South Africa in such a way as to benefit 20 the total population of South Africa. Do you recall this, or would you like to see it? --- I think it would be good to see it. I recall it, yes.

Is that correct? --- Yes.

Now, would you just turn the page, go to page 17 and you will find the second one, investments, domestic and foreign, there, in which the National Conference confesses that it has tended to conform to apartheid, and it calls, in paragraph (a) on all churches, and in paragraph (b) to all business organisations operating 30 within/...

may be a contravention of one of three laws, the Publications Act or the Terrorism Act or the Sabotage Act? --- Yes.

Those paragraphs, were they then adjusted or altered? -- I do not remember this letter.- It is addressed to Bishop Tutu, and I do not have any recollection. It could be that it has been discussed with me, but I have no recollection.

But do you know that legal advice was asked for? --- Well, I only know it now, but I could have forgotten it. But I have no recollection. 10

But investment is part of your portfolio. How is it that you do not know whether legal advice was asked for or not? --- M'Lord, I think that is - partly that has to do with the type of work which we have to do in the SACC, where a lot of travelling is involved, and since we have to travel to our partner churches, to regional councils, and that can happen, that you have urgent - these things have to be done, and then the General Secretary has to attend to these matters, if the Director is not there, and it can very easily happen that the 20 Director returns, and then the General Secretary has to move to some place. That is quite easily possible. There is no intention behind it, but it is the difficulty in organisations like the SACC, and it has again and again - if the SACC makes efforts to be grassroot-related, it has to go out. But that makes organisation very difficult, and I could - if there has been no consultation, which I would not assert on this matter, but I cannot - I can only say I do not remember it. 30

Now, in the event, Doctor, was the resolution 30
adopted/...

adopted that was envisaged should have been adopted, or was it much watered down? --- M'Lord, in view of the situation in the SACC member churches, I think the resolution is realistic, because it takes account, it does not - it emphasises the need to think through the type of investment, how to use investment, and I think in view of the feelings that are - we know that - or differences of opinion on this matter, it is a realistic resolution, and whether it was watered down or not, you find this out at a consultation or at a National Conference, what people think, 10 and if we are concerned to take decisions not on our own, we have to take into account the feeling, the thinking and the contributions of the delegates at a National Conference. I suppose that was taken into account in formulating this resolution.

Could I perhaps refer you to The Reverend Palos' observations on this particular debate? I refer you to the same Ecunews. Perhaps you could just read the first paragraph into the record and then you can comment on it please? 20

CHAIRMAN: Which page of the Ecunews?

MR VON LIERES: What is the page number there, Doctor? The page number of that document you have in your hand? --- Page 6.

Page 6 of Ecunews. --- The report reads:

"The debate on foreign investments held in committee and with a legal adviser present evidenced the restriction on open discussion of this issue, under threat of prosecution in terms of the Terrorism Act.

An anomalous act with differing motivations 30

developed/...

developed into call a say-nothing, one reason being to avoid possible contravention of the law; the other being to high-light the suppressive nature of South African legislation and policy. Therefore it is preferable to say nothing if we cannot say it at all. In the event a resolution was adopted after strong debate which inter alia called on foreign countries and organisations for the sake of justice, to revise radically their investment policies with regard to South Africa in such a way as to benefit the total population of South Africa". 10

MR VON LIERES: Does that paragraph reflect your recollection of the discussion on the investment issue? --- I must say, I have not got too accurate recollections. I would say if I would have them, but I think here Reverend Palos says, he indicates that in his opinion this has been - the resolution has been watered down in view of a possible contravention of the law. I do not think he emphasised the other aspect, that there are different opinions in the SACC itself, and in its constituency. 20

Well, was there a lawyer present? --- Well, according to this report there was a lawyer present, but as I say, I am - I do not have accurate recollections.

Now, there is one other question I would like to ask you about - in both those resolutions the National Conference confesses to it having adhered to apartheid or followed apartheid - that is in the very first heading. --- Yes.

Just read that sentence? --- (READING)

"We as the National Conference of the SACC 30
confess/...

confess that we have tended to conform to the apartheid society instead of presenting a Christian alternative".

MR VON LIERES: What does that mean? We confess that we have tended to follow the apartheid society? --- I would say that it means that the church representatives at present at the National Conference stated that they have reflected simply - or participated in detentions, the divisions in the apartheid society, instead of presenting a Christian alternative. 10

How does this - the use of the word 'confess' in this context relate to the question of the status confessionis? --- M'Lord, the status confessionis issue at this time was not very much considered in the SACC member churches. It was considered possibly in the Lutheran Churches, and I would think that the other denominations in speaking, they use a different terminology, could express the same ideas in a different terminology, but confessing is something which you do every Sunday in the worship service, and you could not say, well, this refers to the 20 particular concept of status confessionis, and here it is a confession in a certain way, a confession of guilt which also happens in every Sunday's service, and if you read this in context with the next paragraph, you see that there is a confession of failure, because they say, we are now compelled to consider and decide upon the moral issue involved in economic relationships between the developed and the developing world, and between the Republic of South Africa and its major financial partners in particular. I would suggest that here confessing is 30

a confession of failure in the responsibility towards God, indicating that formerly churches have failed to consider the moral issue of economic relationships.

Doctor, we have already dealt with the question of what motivated change in .. (INTERVENTION)

CHAIRMAN: Just before you do that, I am not quite sure that I understand the facts in relation to the resolutions. The one which you have just been asking about, which Dr Kistner was asked, on page 17 of Ecunews, that was the resolution which according to Ecunews was taken, but 10 the one which was - in relation to which the legal advice was sought, I am not sure, could you establish through Dr Kistner what happened to that? It was altered in consequence of the legal advice, how does that compare with the resolution which we have here?

MR VON LIERES: Doctor, the National Conference at its 1978 meeting, adopted two resolutions on the investment issue. The first resolution dealt with overseas loans and investments, and the second resolution dealt with churches and businesses, and what their attitude should 20 be? -- Yes.

The paragraph out of the Reverend Palos' report, that you have read into the record, is an overview - does it constitute an overview of the debate that took place before these resolutions were voted on? --- It is in the context, this is under the heading "The 10th National Conference of the SACC". I think it is - and it is related - this passage is related to the foreign investment, the debate on foreign investment, he says.

And that - what would normally happen - or 30 perhaps/...

perhaps you can recall this, did your National Conference divide into groups again, one group dealing with Justice and Reconciliation issues, one group dealing with the next division, and another group with the next division? --- It has happened often in that way, but it has also happened that they dealt with the same issues. It was not always the same method.

And in these discussions that the National Conference had on these various issues, these two resolutions emerged? --- Yes, I would think so. 10

And The Reverend Palos' observations on the debate that took place relates to the position before the two resolutions were adopted? --- Yes.

You see, I recall you have read - he says, the question was raised whether a resolution should be adopted, if they cannot say anything that you want to say, or whether a different version should be adopted, and then finally a compromise was reached and these two resolutions were produced. That is what he says? --- Yes.

So would it be a correct inference then that 20 his report on the foreign investment debate related to the debate by the National Conference prior to the adoption of the resolutions? --- Yes. It looks to me like it, but it is getting - it is confused, because everything - this whole article is under the heading "10th National Conference", but in the next passage you have - it reads, the address by Mr Eddy Webster on investment, a moral crisis, that refers again to this consultation. Thus it looks as if he refers to the discussion prior to the National Conference.

In connection with Mr Webster. That is a 30
different/...

different topic he deals with in the next paragraph? ---
Yes, but I would think both passages would refer to the
same occasion.

CHAIRMAN: I would just like to have clarity on what
happened then, the draft was prepared, it was put up for
legal advice, the legal advice led thereto that certain
paragraphs were left out. What happened to the attenuated
proposal? Was it adopted? Could you establish that from
the witness please?

MR VON LIERES: M'Lord, the witness says he does 10
not recall the wording of the draft resolution.

CHAIRMAN: Yes, very well, perhaps we can get clarity
on what precisely happened through some other witness.
--- M'Lord, I would have to check this with documents.

MR VON LIERES: Could I just have that letter please?
No, the letter from the attorneys, and the draft. Mr
Chairman, merely glancing at the draft and comparing it
with the two resolutions, there seem to be some material
differences.

Now, Doctor, we have already dealt with the 20
reasons that motivated this change of attitude by the Coun-
cil from an anti-disinvestment posture to this new posture,
when we deal with the article of Thomas. So I would like
to go onto the next item. In 1977 in the minutes of your
Committee on Justice and Reconciliation - would Your Lordship
just bear with me a moment please? In the minutes of
the meeting of Justice and Reconciliation for 23 and 24
February 1977, in paragraph 15 under the heading "Invest-
ments", it says:

"The Committee received a report on the work 30
of/...

of the commission which has the task to investigate the problems connected with investment in South Africa. One of the members of the Committee reported that opposition is growing in the Black community to the prevailing economic system. According to another viewpoint there is a growing acceptance of the present economic system by a number of Black people of middle-class background".

Right? Now, would this growing acceptance of the present economic system by Blacks of a middle-class back- 10 ground, would that have any effect on the SACC? --- M'Lord, first of all I would like to make some comments on this minutes. They simply reflect what people say at the meeting. It does not in any way reflect what the SACC thinks, but simply being put down what people say at such a meeting.

Doctor, let us accept that a member gave this input, it was considered important enough to note it. The input is from a member that there is a growing acceptance of Blacks of a middle-class origin of the present system. If that is, how does it - if at all - affect the 30 South African Council of Churches? -- M'Lord, the South African Council of Churches in its stand would be affected by what the member churches - what comes out in these discussions from the member churches. Of course you can make an input of what you think should be done. The General Secretary can express his opinion, but it would depend on whom the delegates, which are the delegates whom the member churches send to these meetings, and then on what happens at the consultations, and as I indicated yesterday, I think the term the Black middle-class are people 30 being/...

being co-opted, you never have a middle-class where all people take the same stand. You very often have, from experiences also in other countries, certain middle-class people taking more radical stands. Thus it is very difficult to say in advance what effect would this have. It also depends on the experiences of middle-class people with their own children.

Now, in your minutes for the meeting March 17 to 18, 1981, the Committee of Justice and Reconciliation raises the question, page 6, that the question should be investigated whether such pressure could have the effect of making the South African Government more willing to negotiate on a fair and realistic basis, on a new and a more just dispensation for all people living in South Africa. Now, it was suggested here that research should be undertaken on the positive or disadvantageous effects which economic pressure on the Republic could have or would have. Let me just show you, it is paragraph 9.5, March 1981 minutes page 6. --- Yes. Yes, that is - I remember this discussion.

Now, Doctor, I was wondering, what was the result of that investigation? --- M'Lord, there is no resolution, I think, on - there was no direct resolution taken as a result of this discussion. This was a suggestion made. I do not remember that any committee was appointed to do that, except that there was to be the suggestion that an advisory committee be appointed on economic issues to advise the General Secretary, and I remember that I said that so much investigation has been done on this matter, and that we in the Division would not have the facilities and the expertise to do that investigation. One could/...

could simply, and you have very contradictory findings. I remember that that was one contribution I made. I do not know whether it happened at this meeting, but I suppose it was said at this meeting.

Doctor, the whole idea of this disinvestment is to pressure Government to change. Has your Division or Committee given consideration to the position if Government does not heed any of the pressures flowing from this disinvestment situation? --- M'Lord, I think it is quite clear that in our work we have consistently tried to work for 10 non-violent change, and again and again asked ourselves what can one do in a particular situation, and that pressure has always been - if there were suggestions of pressure, there was the idea of pressure with the aim to get people together for negotiation.

Yes, I understand that. Now, the question is, if you do not succeed in getting Government together to negotiate, what then? --- Well, we have had - made suggestions for a national convention in the SACC, and I do not think we have proceeded beyond the hope that there is still 20 scope for coming together and for finding a common solution.

CHAIRMAN: May I have your understanding, please, of what the underlying idea is of disinvestment? What is sought to be achieved? Would it be too over-simplistic a view to say that what it amounts to is that by promoting disinvestment, the economy may be harmed, and that may induce a conservative electorate to reconsider their attitude? -- I think that is one - could be a consequence. It also could have symbolic consequences, symbolic significance, that - and perhaps one could use an 30

example/...

example, the Falkland crisis, where Britain insisted on the European community, that they should introduce certain sanctions or economic pressure, which happened too. The difference there was that this was in connection with war, and in the South African situation economic pressure, and in the South African Council of Churches and its member churches, it was always considered as an alternative, so as - the fear that if there is no change, that brings people together and introduces sharing in decision-making, then you could have eruptions of violence, and that 10 warning has come very often from prominent church people, in the South African Council of Churches' member churches, before the Soweto unrest, this happened, there was a warning by the then Dean of Johannesburg, which was Bishop Tutu, and this fear, "if something does not happen and there is no negotiation, violence will come, and this has been said by people who are very close to the Black community. The difference with the Falkland crisis is that this was additional pressure to the war effort, of Britain, where here it is considered to be an alternative. 20

MR VON LIERES: Doctor, let me just touch on a different matter also connected with the investment issue. There exists in the - in Europe certain codes of employment, and you have made mention in one of your reports of a German research report which is entitled "The Dilemma of the Code (III)", because that reflects the third study of that particular code. Is that correct? --- Yes.

Now, what code is referred to in this study? --- That must be the European community code.

Is there a separate employment code that 30 exists/...

exists within the Federal Republic of Germany? -- I think they have the European ..

Do they accept the European community code? --- As far as I know.

Now, this third report on the dilemma of the code, apparently investigated whether the code is observed and if so, how far by the German firms, whether consultations take place between management and the workers, whether it can be regarded as an instrument of peaceful change and what the workers think of it? That is basically what it investigates. Is that correct? --- Yes. 10

Now, Doctor, in your view, does this code contribute towards fundamental change? --- M'Lord, that code includes provisions on trade unions, and I believe that trade unions on the whole can have - recognition of trade unions under legislation which gives scope to trade unions to develop, can contribute to a certain extent towards change, and that was one of the ideas which was emphasised in the first report of the SACC, on foreign investments. In that study as far as I remember, the contents, the whole - they 20 have a historical review, and came to the conclusion that this whole code discussion has started only as a result of the fear of firms based in Europe to - about sanctions.

Did you observe any signs whether this code in fact contributes towards political and economic change? Is there an example you can demonstrate, that it had success? --- Well, I think it - there are certain improvements in labour relationships in certain firms, that might be the case. I also have noticed, but I could not say whether these are German firms, that certain firms in South 30 Africa/...

Africa have recognised the need of working with representative trade unions, and that the idea you can find amongst certain employers or certain firms, in that respect it can contribute towards change.

What was the intention with this code, when it was drafted? --- Well, according to that report it was - there was discussion about sanctions being applied against South Africa, and then in a haste this code was drawn up, and that report tries to point out that the code was not observed, and there were contradictory reports and the 10 firms refused to report to the German Government about what happened in the firms.

And your view apart from these improved labour relations, that you mentioned, that could have taken place as a result of the code, is it assisting in promoting fundamental change, in political and economic spheres or not? --- M'Lord, as far as I can see, the polarisation in South African society has increased in the meantime, and the tensions have increased, thus I cannot see that the overall effect yet, and I do not know whether that is an 20 adequate means of bringing about change, and perhaps that German evaluation in one sense has - is right that it says there must be fundamental political change, we will not simply obtain this and merely by - can contribute towards change, but you have to have overall change in all areas of life.

Doctor, your report on this particular code, is to be found in paragraph 9.1 on page 12 of the minutes of the Committee of Justice and Reconciliation meeting in August 1981. Perhaps it may be of some assistance 30

to/...

to the Commission if you just briefly read this - identify this and then perhaps just read it into the record. ---

(READING)

"The Director of the Division gave a report on the findings of the German research report on the conduct of German firms in the Republic of South Africa. The report is based on statements of workers and workers' organisation. There is a very marked discrepancy between the reports of management and the statements of workers. According to the data 10 provided by the latter the German firms on the whole do not observe the code of conduct. The research report also provides valuable insights into what led to the formulation of the code. The motivation quite obviously was to avert international pressure on the Federal Republic of Germany, demanding sanctions to be imposed on the Republic of South Africa because of its repressive racial policy. Allegedly the code is meant to be an instrument for fundamental change in South Africa. Until now there are 20 no signs that the code contributes towards fundamental political and economic change. The observance of the code is not monitored, especially the provisions relating to the trade union issue are not observed. On the whole the underlying intention of the code is to leave economic and political power in the control of White people. The officially stated aim is to contribute towards fundamental change and the abolition of racial division and tension. This alleged aim, however, cannot be achieved by 30 methods/...

methods which pursue a different purpose, namely the maintenance of the present economic and political power structures. This exactly is the dilemma of the code".

M'Lord, this is a summary of the contents of this report which I read.

Do you agree with those views expressed there? ---

M'Lord, I cannot - this is a research report. I have not been involved in this investigation at all, but this is what is being said there. I think that the historical 10 background is correct, and according to this investigation this is the findings from statements of workers, and they point towards the discrepancy between what management says and what the workers say. I have seen other reports of a similar nature in other countries, like, I think the United States has something similar, where you find indications of similarity, but I myself - I have not worked in such an investigation. I can only say, this is what the findings of this report were, and similar reports.

And how do they strike you? Are they in ac- 20 cordance with your observations or are they not? --- I find statements, if one talks to Black people, you find people confirming this, and quite a number of people, confirming similar views. There is quite - on the other hand occasionally you find also other people saying, the situation has improved considerably.

And you have no personal view on the correctness or otherwise of that report? --- I think there is - I would say that there is quite a lot of oral evidence which points towards - which points in the direction that these 30

findings/...

findings could be correct.

Doctor, was there any response by the EKD to this report? -- I am not sure that the EKD sent a response. I am not sure. There will have been discussions, but I am not sure.

Did the EKD not express its appreciation for the firms, the German firms who were trying to effect change? --- Yes, that is right.

Is that so? --- I think so, but I would have to check which date it happened, did they respond to the findings of this report, I do not know on which occasion that was. 10

Yes, well, let me perhaps then refresh your memory. Let me refer you to a document, Doctor, items to be discussed with the General Secretary, Deputy General Secretary dated August 1981, paragraph 3, In paragraphs 1 and 2 you discuss the publication of the code, and in paragraph 3 you have got the heading "The Response of the EKD to the Code". Paragraph 3 is on page 1? --- Yes.

Just read what you have written there? --- 20

(READING)

"I have seen a resolution by the EKD Council. As far as I remember it was the EKD Council which expresses the appreciation of the efforts which German firms are undertaking for bringing about change in South Africa. This resolution does not take account at all of the findings of the study report which was already available at the time when the resolution was taken".

MR VON LIERES: Your heading, "Response of the EKD to/... 30

to the report" seems to indicate that this resolution was adopted after they saw the report? --- Well, I say here that they did not take account.

They did not consider it? --- Yes, I do not know why, whether that ..

Now, were you satisfied with the response of the EKD? --- Well, I would think that it would have been good if they would have responded to the findings of this report, that management in - or that in EKD they would have dealt with this report. Possibly that has happened at a 10 later stage.

But did they or did they not? Let us just get some clarity. Paragraph 1 and paragraph 2 deal with the publication of this report. It sets out what the report investigated? --- Yes.

And paragraph 3 has a heading "The Response of the EKD to the Code". Is that correct? --- That is right.

And then you say the EKD adopted a resolution in which they expressed their appreciation for the German firms? --- Yes. 20

Now, does that not - what does that mean then? --- Well, the heading would indicate that they responded, but under the - in the next sections I say that they did not take account at all of the findings of the study report, which is a ..

But is that not a form of comment or criticism on the nature of the resolution that the EKD had adopted in response to the report? --- If you read it like that, it is true, yes.

Yes, because my suggestion, I think, is 30 supported/..

supported if you read the next sentence there, where you say that there exist tensions within the EKD? --- On the whole, that is right, I say ..

On the whole question? --- There is tension between different people in key positions, in the EKD, on the whole South African issue. This tension also finds its expression in the evaluation of the study report on the dilemma of the code. Thus I think if one interprets this, that there might have been an intention, not to take account of this study report. 10

So could one then perhaps round off this thing by asking you whether it would be fair to say that you were not very happy with their resolution? --- Well, I would have expected a resolution where they take account of these findings of this study report.

Now, in paragraph 1, Doctor, there is a sentence which states that the investigation was undertaken at great risk for all the people concerned. Have you got that? --- Yes.

Yes? -- I think they say that themselves in 20 the text somewhere.

Do you know what risk was involved? --- Well, I do not know how they did it, but I think that is quite obvious, that if they want to speak to workers and if a worker expresses opinions which are not agreeable to management, it could involve difficulties.

You also - the next point you make there is that the Germans were - the EKD were hesitant to provide moneys to translate the report? On page 2 at the top? --- I said there is hesitation with several people to 30

have/...

have - I say not the EKD, with several people to have the report published in the English language.

And in your recommendations, Doctor, there is one that I do not quite understand. You knew what the response of the EKD to this report of the code was, yet in your recommendations, on page 2, item 2, you suggest to the General Secretary that he write a letter to the EKD asking them to respond? --- Yes, because I felt that this report had not been sufficiently discussed, because in that meeting it had not been presented, and it would be good 10 to hear from them an opinion.

So on the whole, Doctor, if you look at the whole disinvestment issue, internally, externally, the monitoring process, the codes and so forth, how would you evaluate the effectiveness of external pressures in relation to bringing about fundamental change in South Africa? --- I do not think that the countries, other countries or industry in other countries has responded yet, to a call for - not for disinvestment or even stop to further investments, from wherever that call may have come, and that 20 there are very strong economic interests which prevent them from doing so. Thus the - there has not yet much pressure been exerted, because one of the most - whereas the most powerful trading partners, they are concerned to have economic links with South Africa. It looks to me that that is the situation, but in detail I would not be able to say what has been the effect.

Doctor, in connection with this whole investment issue, the EKD has made a fundamental - the principal statement concerning the role of the church. They say in 30 their/...

their statement concerning the report on investments, that the church is certainly not an instrument for implementing political and social theories, nor a socio-revolutionary action group, nor the representatives of economic interests of whatever group it may be. I suppose I had better show you that, that is paragraph 4. What I would like to ask you in general is this: the activities or the action programme of the South African Council of Churches, such as for example the Commission on Violence and Non-Violence, the question of conscientious objection, the creat- 10
ion of action groups and so forth, the whole disinvestment question, how do those actions, not the plan, the content of the fundamental change, but the actions to promote the fundamental change, how do they fit in to this principal statement by the EKD? --- M'Lord, I would like to refer first of all to the statement of the EKD. We have just heard the first sentence, but the second sentence, the subsequent sentence, starts with the word 'but', but the Gospel of Jesus Christ and the message of the coming Kingdom of God include consequences which relate to man and 20
his world, to the human community and the rules for its common life.

And if you read the next paragraph you will find that explained, as implying that the church can make a contribution, same as the philosopher or the politician or the economist, to questions? --- Yes, it says, it is not an attempt to intervene in an alien matter and to claim competence which it does not have, but rather to make its contribution to the comprehensiveness of the discussion, which will only be constructive if all the arguments 30
involved/...

involved are considered.

That is right. Now, I am asking now, actions to promote fundamental change, how does that fit into the principal statement of the EKD that I have referred you to? --- I do not see the contradiction, M'Lord. I think it refers to this sentence, that the message of the Kingdom of God includes consequences which relate to man and his world, and it does not mean that the church is a party-political power, but that it can promote thinking and that it can also - can stimulate its members to undertake 10 certain actions. There are situations where the church can ask its church members to undertake certain actions. Usually it is in the case of obvious injustice, where you can tell your church members, can you co-operate in this instance, and refusal of co-operation is action.

So you think these actions are included in that general statement? --- I think they are not excluded.

Doctor, we have dealt with the whole concept of the confessing church during the evidence of The Reverend Storey. I therefore do not wish to cover the thing, traverse 20 it in detail. From the Ecunews' and the records of the Council it appears that it was introduced into the Council through the 1977 LWF Conference at Dar-es-Salaam. That is the first mention that was made of it? --- M'Lord, I do not think that is quite accurate, because you have had already in the confessing - the term 'confessing church' in the 1960's, was - there were discussions on that, and the term 'confessing church' of course comes very much from churches which have partnership relations, with German churches, and you would find that expression in 30

Lutheran churches particularly, and this term has been used before that time.

Well, let us just deal with it from 1977, when it reached a greater degree of prominence. --- Yes.

It reached this prominence as a result of the resolution at the Lutheran World Federation's 6th Assembly in Dar-es-Salaam? --- That is right.

When they called upon South African Christians to declare a status confessionis, is that correct? -- That is correct. 10

Now, this idea of declaring a status confessionis was one that you had presented to the National Conference in 1979, and you had referred to it before 1979, in the background paper for the discussion - let me just find it - yes, you introduced that at the 1979 National Conference in your report to the National Conference. Was that the first time? --- M'Lord, I would imagine that I would not have used that term the first time in the SACC context. It may be the first time at a National Conference.

Yes, I show you the report to the National Conference of 1979, the confessional integrity in the South African context, is the heading? --- Yes. 20

So that was the first time it was introduced as a concept to the National Conference? --- Yes.

Did you discuss it at other consultations before the time? --- I think it could have been an input into Justice and Reconciliation Committee meetings, that there was some discussion. I would have to check that. I could not imagine that this was the first time at the National Conference, and in Lutheran circles it was discussed. 30

CHAIRMAN: At what level? --- At the level of pastors' conferences and so on.

MR VON LIERES: Now, what, Doctor, would the effect be if such a resolution declaring a status confessionis was adopted, what effect would that now have, on the church, on the member, on society? -- M'Lord, in effect the member churches of the - several member churches have done exactly that, and irrespective of the status confessionis, there is discussion, but there is a very great similarity in resolutions which member churches of the SACC have 10 taken. They define or express the same idea in terms of their own tradition. I could mention the call to obedience conference of the Methodist Church, they have very similar ideas, and I think each church has taken a similar stand, rejecting apartheid on the basis of Christian faith, and sometimes they say this is sin, sometimes they say it is heresy, and it points towards the same concern as the status confessionis resolution. Here a Christian has no longer an option, here he has to take a stand.

CHAIRMAN: Is that what you say the effect is of 20 such resolution, your question was, what is the effect of a resolution such as that which was taken in 1979 by the National Conference. You started off by saying that other churches had acted in a similar way. Would you please react specifically to the question to what is in your opinion the effect of a resolution such as was taken in 1979 by the National Conference? -- M'Lord, that churches examine how their faith relates to the South African political system, and discuss this with their church constituency, because it is no use simply saying, this is - you 30 have/...

have to take a stand on your - the basis of your faith. You will have to discuss this with your church constituency, you have to listen to them. It is necessary to study the Bible in relation to that, the tradition of your church, and I felt that this is very necessary; it is not adequate simply to take resolutions on a high level of the church, if there is no adequate information and also participation of the churches in such decisions, and discussion with church members.

MR VON LIERES: Doctor, all I am trying to establish 10 is, once you have got a resolution declaring a status confessionis to exist, what is the value of that resolution? What does it mean to the Christian? What does it mean to the church? How does it affect, if it does, your relations with other institutions in society, such as the Government or private enterprise or ethnic groups? What is the value of a status confessionis resolution? -- M'Lord, the value of such a resolution is that it is a call by the churches at this point, you have to consider the consequences of the Christian faith for your situation, 20 and be careful that you do not deny your faith, and particularly you point towards certain areas where your faith is at stake, and very often those are areas which people think, here this is not a matter of faith, and here these points are identified, and I think that is very relevant to the South African situation, and that here one could learn from the experience of the confessing church, and in taking up this term, I thought that at least my contribution on the part - in the Council of Churches is to bring in certain aspects from my own denominational 30 background/...

background and also help people to take account because of the failures, certain failures of the church in that situation.

Does it make you a better Christian if there is a confessional status resolution? Does it give you moral support, or what are the practical implications? --- M'Lord, I find it difficult to say whether anything makes a better Christian, better Christians, but I find it important to say where the areas are, where the Christian faith in a certain context is being - could be denied by 10 Christians. Without - sometimes without them even noticing it, and I find that very important that in every situation we are aware of those areas.

CHAIRMAN: I am still interested in your answer to the question, what are the practical implications of such a resolution?-- M'Lord, I think first of all, it is, as I have said just now, the practical implication, if a status confessionis is indicated particularly by the leadership of the church, this implies that you have to study the Bible, the Biblical message, the preaching in your 20 church in relation to your context, and examine, are we really confessing Christ generally in our situation.

MR VON LIERES: Let us see what you reported to the National Conference in 1980 on this matter. I read from page 3, paragraph 3, one of your reports where you discuss Bonhoeffer's view on the boundaries of the church, and you say:

"The problem of the boundaries of the church arises when it encounters the enemy who threatens to undermine the faith of the believers. In such a 30

case/...

case a confessional situation arises. The need to define its boundaries is imposed on the church by the enemy concerned. This is the confessional situation. It obliges the church to indicate clearly where the enemy stands. Bonhoeffer stated in his lecture: where the boundaries of the church are, is at all times determined only in the encounter between church and unbelief. It is a decision taken by the church. It means that the determination of the point at which disagreement becomes a 10 confrontation, that splits the church, is a decision taken by the church itself. This decision arises from the action of the church, by which it indicates in a special way the place at which the enemy makes an inroad and at which it, the church, therefore offers resistance to him. A war is decided in a limited battle. The place at which this battle is fought therefore depends on where the enemy stands. Here a decision has to be taken. Therefore in no way has the place of decision necessarily 20 always to be the same place".

Now, this is now an explanation of the circumstances when a confessional status can be called for. Is that correct?

---Yes.

Now, when you talk about the enemy here, to whom are you referring? --- M'Lord, I am not referring to an enemy who has - uses weapons and the army, but I am referring to particular situations where in the church you have views which are threatening the church, and very often by church members themselves. They can also be 30 imposed/...

imposed from outside by people, and the whole understanding of - I think he refers here to the whole understanding of a confession. Usually a confession is formulated towards - in relation towards a particular danger. In the history of the church this has happened again and again, and at certain stage - and in new situations, certainly a problem crops up, and people do not notice that at this point their faith is in danger. For instance, when the demonstrations against the Jews started in Germany, and Bonhoeffer pointed out - that was in March, and in April he pointed 10 out, this affects your confession of the faith. You cannot be a Christian and a National Socialist in this situation, and this is determining the point at which the enemy stands, and at the time of the confessing church in Germany, the National Socialists in the beginning stage tried to make use of the structures of the church. They marched into the churches in order to get control of the churches.

CHAIRMAN: In Bonhoeffer's time then, was the enemy the National Socialist State? -- It was National Socialism, the ideology and .. 20

Or the government which enforced it, which adopted it? --- Both, but the government made use of Christians also.

Now you used the thinking of Bonhoeffer in the South African context and saw some certain similarity. Where is the enemy then in South Africa? -- I think the enemy is - in the South African situation, a lack of awareness that justice has to be extended to all people, that we do not sufficiently take account of the economic structures, that we tend to divide between a spiritual sphere 30

and/...

and a secular sphere, without realising the full implications of the Gospel, and relating this to - well, the present political issues, that those are matters which are not outside the sphere of the Gospel, but they have to be taken into account by the churches, and that matters of church structures also have to be taken into account, but because very often you find political structures determining the life of the churches.

MR VON LIERES: Is the crux of the placing of the church in a confessional situation, not that the church 10 and its members are placed in confrontation to an enemy? However you want to describe the enemy? --- Yes, it is an enemy.

The crux of the whole thing? --- Yes, but that enemy may be in the church itself.

And that this fact that the church has declared a situation of extreme emergency, this fact could provide the moral support for its members to take the necessary steps, or to resist that enemy? --- Yes, but it presupposes, and Bonhoeffer, I think he says that too, first of 20 all it requires to make people aware of this danger, where the enemy stands.

Could one describe such a declaration of a status confessionis then as an official declaration by the church, that it and its members have identified an enemy, that creates a situation of extreme emergency? --- M'Lord, I think it could come from - such declaration could come from the official representatives of the church. It could, however, be that there are ministers or lay people in the church as happened in Germany, in certain churches 30

where/...

where the church leadership was adapted to the National Socialist regime and lay people and ministers took the lead, and it could also - in other churches it was the leadership of the church which was involved in declaring a status confessionis.

In fact, if one reads the terminology of Bonhoeffer to which I have referred, one could virtually say it is a declaration of war against the enemy, whatever or whoever it may be? --- I think he wants to indicate in that situation that the war is imposed already. It is only 10 to recognise that that danger exists. It is imposed from outside, he says.

So when this status confessionis is declared, the background is such that there is already a war that has been imposed from outside, that is by the enemy? --- Yes, it is - and it may even be unnoticed, because very often they use Christian slogans.

And this simply then means, if I can summarise it very briefly, tell me whether I understand it correctly, that the status confessionis now says, I am taking 20 up the battle with this enemy? --- Yes, which ..

And one example would be the 1979 resolution in which a non-co-operation with the State was identified in respect of those laws that violate the Law of God? That would be a limited war? ---Yes, I do not know whether that concept was used in that context, but if you say on the basis of the Christian faith we are under an obligation to resist these laws, you practically say the same as if you use the concept status confessionis.

Now, Doctor, in connection with this status 30
confessionis/...

confessionis, there is a matter I must just refer you to, and this is contained in your confidential evaluation of the 1980 Hammanskraal National Conference. Prior to the National Conference in 1980 being held, May 5 to 9, there was a staff retreat of the Executive of the SACC, it was held on 8 to 10 April 1980, is that correct? --- Yes.

And during this staff retreat the concept of a confessing church was again discussed. Is that correct? --- Yes. M'Lord, I think the document is available to the Commission, but I find it very difficult to speak 10 about a staff retreat, because this is an internal matter where you are together with the General Secretary and your colleagues. Thus I would not like to speak on details on a staff retreat, because I think that could violate - I am a minister and a staff retreat is a pastoral matter. I do not hesitate to answer any questions, but the document is there, which I prepared for my own, in order simply to get clarity for my own on the issues that are at stake there. But it is true that - I can say that - what was stated now is correct, but I really would hesitate 20 to get into further questions on a staff retreat.

Allright, Doctor, I will not ask you further questions on the staff retreat. We will take it that what you have written here in connection with the staff retreat is correct. Let us then just identify what you actually say here.

"Members expressed their pain at the inability of member churches to move forward and to be engaged in actions that correspond with the verbal condemnation of racism and the policy of separate 30 development/...

development".

That is the first one. Secondly:

"There was frustration that church leaders did not take the lead in some relevant action".

Thirdly:

"The question was raised whether the church leaders are not captives of the church structures".

Fourthly:

"The church leaders could possibly be helped to be liberated from this captivity". 10

And then a suggestion was made that at the next National Conference the staff members should simply take the initiative in some action that corresponds with the relevant confession of the Christian faith in the South African situation. That is so recorded. Is that correct? I do not want detail. Is this correct? --- Yes, M'Lord, I think the document is in the hands of the Commission. It is a private document. I do not deny that something is correct or incorrect, but I find it very difficult as a minister, an ordained minister, to speak about the 20 staff retreat, because ..

I will not ask you any further detail about this retreat, Doctor. I just want to establish this. Now, the next step ..

MR KENTRIDGE: Sorry, I think what the witness is saying is that he would rather not be asked any questions on this document. I think it is - I rather gather he is asking Your Lordship, not My Learned Friend.

CHAIRMAN: Well, we would like to respect your feelings about this. Could I just be clear about exactly what 30
you/...

you feel, would you rather not be asked anything at all, about the document, or would you have any objection to being asked to confirm that that document says, but being asked about the document and have the contents read into the record? Would you object to that? --- M'Lord, I am prepared to contribute towards clarity.

I think that is all that Mr Von Lieres is after? -- Yes, and - but I do not like documents of a - which were prepared for me when I re-evaluated my impressions of a staff retreat, to be used at a public hearing. I 10 think for quite obvious reasons, in our church we have a - we even have to get permission if we go into a court case, so that ..

Feel assured that I will respect as far as I possibly can whatever feelings you have on that. --- Yes, but I will be prepared to give - and I think I know what the direction of the question would be, what happened at a subsequent meeting, to answer those questions, because since the Council has decided it will co-operate and give you all the information the Commission needs, I am 20 prepared to do that.

Thank you.

MR VON LIERES: Could we perhaps just summarise this in a nutshell? After the staff retreat, a consultation took place to consider how action could be taken in respect of the forthcoming National Conference. At that consultation the suggestion was made that if you came with a verbally prepared manifesto, you would surprise the Conference and they would feel that they are being manipulated, and the suggestion was then made that one should 30

emphasise/...

emphasise in the report of the General Secretary the central issues in relation to which the confessional statement on the part of the Conference might be necessary. This central issue was identified as the total strategy and the unrest in the country. Now, that is quite clear from your report to the National Conference in 1980 in which the total strategy of the Government, the interest groups backing that strategy, and the reception of the strategy, the persecution of opponents of the total strategy, are set out and then the confession of the Christian
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faith with a view to the total strategy is identified; Bonhoeffer's views are offered, and the function of a confessional statement, according to Bonhoeffer, is set out in some detail, and then finally the need of a confessional statement of South African churches with a view to the total strategy. So this was set out in great detail in your report. You can perhaps just glance at that. Now, we know as an objective fact, Doctor, .. --- This is my report, yes.

We know as an objective fact from the minutes
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and records, that the agenda that was prepared for the National Conference was suspended, after the General Secretary's address? --- Yes.

And the Conference considered whether this confessional resolution should be adopted or not, and it was defeated by one vote, 17 to 18. That we know. There is only one question that I would like to ask you, and that is, was the General Secretary aware of the role that he had to play in getting the National Conference to discuss this resolution on the status confessionis? ---
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M'Lord/...

M'Lord, I think there are several points which have to be mentioned, to get the context of this whole matter. It is true that there had been insecurity about the role of the staff at a National Conference; should they speak, should they participate or should they simply attend, and be available if they are asked to make their contributions, and this was - in 1980, the present General Secretary had assumed office already, but there was some insecurity, and there was frustration and some people felt that there was to be more involvement of the staff. I must say 10 from my own tradition and experience also at international conferences, I always have been hesitant at such conferences as a staff member. I usually only have spoken when I was asked to do so, but prior to this meeting, there was a conference - I think it must be prior to this meeting, a conference on racism. I am not able to establish that.

That was February 1980? -- Yes, and at that meeting one has to take the context into account, there was an offer - or there was - Bishop Tutu, the General Secretary, was very alarmed that the Dutch Reformed Church did 20 not accept an invitation, and was not present, and he then pointed out that after long meditation and Biblical - and prayer, Biblical meditation and prayer, he had come to the conclusion that he must send a letter to the Dutch Reformed Church, and it was a very considered - that letter, I think he read that letter to the Conference, and he - in that letter admitted that also the SACC member churches participate in the guilt - I can only - for this situation, polarisation. I can only quote from - say what I remember. I cannot establish the exactness of what I am 30

saying/...

saying. On the other hand there were participants particularly from the Black - from the Dutch Reformed Church family, who were not at all satisfied that such a letter be sent as an expression of the Conference, because they had had the experiences within the Dutch Reformed family, and then they decided, the people in the Dutch Reformed Church had taken a stand, and there was a Black caucus meeting where Whites did not participate, and at that Black caucus meeting, where only Black people participated, the term 'Black Confessing Church' was used, and it was then brought 10 into the Conference, and thus you have that factor; then you have this - a certain feeling of frustration amongst staff members, there is not enough determination on the part of church leaders. Moreover in that context I think it was the context of the Silverton siege, where you had a very - could feel how different the evaluation of the situation was, between White and Black people. Black people took part in the funeral services of people who died in the Silverton siege, spoke about them as heroes. In the White community they were terrorists, and all 20 this was in the atmosphere at that time, and then at this National Conference, it is true that this report was presented, but I see the context of what happened, the resolution, as far as I remember, there was the idea that one should now make a public demonstration to the authorities, and then a resolution was taken, not on this document as far as I remember, but on whether one should not have a demonstration in Pretoria to show the authorities the alarm of the churches, and that was defeated. Thus I think - but I am not quite sure, that what has been 30

reported/...

reported now, refers to that proposal, not to this document, and it has to be seen against the background of this frustration in the staff members - amongst staff members, and that conference on racism. On my own part I must say I would have personally participated, but I think in one document where I made an evaluation, I felt that after that resolution was defeated, there was quite a lot of frustration, but my evaluation was that it was very surprising to get as many members of that - participants in that Conference meeting, take such a resolution, 10 when they were not at all prepared for taking such a stand. That was my personal evaluation, and thus my personal attitude always has been at these meetings to be on a low profile as a staff member, but other people felt different, and this was - there was some discussion and some insecurity, what should be the role of the staff at the National Conference, but I would see as far as my recollection goes, this is not in direct connection with this paper. I would see this paper as emphasising the need of confession. I think the need of confession and the awareness of the 20 church is particularly necessary wherever you find the term 'total', a total strategy, a total onslaught. I think wherever that is the case, the church has to be very careful, because a Christian may not render total obedience, and he may not be intimidated by such terms, but I do not see quite, before this has been proven, the connection between this and the other events that have been referred to.

I am afraid you have lost me now. Let us just see what happened. We will come back to the other 30

problem/...

problem. This Conference was very carefully prepared.

CHAIRMAN: You are referring now to the National Conference?

MR VON LIERES: Yes, to the National Conference. It was very carefully prepared, the themes were specifically identified. We have already referred to the most urgent problems that you covered in your report to the National Conference, an economic and a legal expert were invited to participate as consultants in the Conference, and with a view to making church leaders and delegates aware of the extent and the suffering that the removal and relocations policy caused; you included a number of special items in the programme, such as a visit of church leaders to Winterveld, a presentation of the slide show "The Promised Land", a dramatic presentation aimed at communicating in a drastic way to church delegates what the people affected by removals and relocations had experienced, and a number of other points which are dealt with in detail in your report? --- Yes.

This was very well prepared. Then the Conference started, and the agenda was changed after the General Secretary's address. Now, my only question is, did you request the General Secretary to allow the Conference an opportunity to deviate from the agenda, to discuss the question of the confessional status in the light of the total strategy, or how did it come about that the General Secretary decided not to follow the agenda and have this topic discussed? That is the only question? --- M'Lord, the suggestion did not come from myself. I do not know from whom it came, but it was a very tense situation at that Conference, and I do not know - I could not

remember/..

remember that, from whom that suggestion came, that the agenda should be suspended. It could be that the General Secretary in his report even indicated the possibility that if you want the agenda to be changed, this could happen, but I would suggest that this be taken up with the General Secretary. He would know how it happened.

Could I perhaps just ask you, who was this economic expert who participated as a consultant? -- If I am not mistaken, there was a lecturer who gave a lecture, there was a topic at that Conference on the economics, on 10 this role of the economics - on the economic situation in South Africa, and that should be - this report has been printed. One should check, the Conference report has been printed. One could check that in that report.

And the legal expert? --- I do not remember who was the legal expert, but I think the economist was a man from Cape Town.

THE COMMISSION IS ADJOURNED

C22 THE COMMISSION RESUMES:

DR. W. KISTNER CONTINUES HIS EVIDENCE:

ADV. VON LIERES: Doctor, just one last question on the Confessional Church matter, page 8 of your memorandum, the very last sentence where you deal with the fact that no traces can be found of the Resolution of the Council to become a confessing church, I take it we read the subject to the 1980 happenings, staff retreat and so forth, that we have just discussed? --- Yes.

CHAIRMAN: I would like to just understand this, what is the 10
last sentence, no trace can be found of?

ADV. VON LIERES: The doctor deals, M'lord, with the question of the confessing church, and the last sentence he says: "no traces can be found of a Resolution of the SACC to become a confessing church".

CHAIRMAN: How did you interpret the 1979 National Conference Resolution? --- M'lord, may I ask how the Resolution reads exactly?

ADV. VON LIERES: I think you have got them there, Doctor, it 20
is Resolution 15E to which I referred you earlier this morning, it is the one setting out the requirement of obligatory resistance and non-co-operation?

CHAIRMAN: Did you not interpret that as being the sort of resolution which you were discussing in the final sentence of your report to which you have just been referred? --- Yes, M'lord, this text comes here from a Conference on racism where a Black group decided that unless within twelve minutes - twelve months' time there would be fundamental changes in the churches they would have to establish a Black confessing church.

Yes, what you have in mind in the ultimate sentence to 30
which / ...

which you have just been referred in your report was a confessional resolution by the SACC as a body? --- Yes.

ADV. VON LIERES: Doctor, the discussion of the problem of a just revolution during the 1978 National Conference, you will recall you prepared a background paper on this item. Now without going into the detail of this discussion - or perhaps we should just say, tell me whether my summary is correct, that you discussed the problem of a just revolution and you came up with a suggestion that one should not call it a just revolution but one should rather consider using the terminology "justifiable resistance"? --- Yes. 10

And in 1979 this terminology "justifiable" was changed to "obligatory"? --- That is right.

And the idea behind the theology of justifiable resistance or obligatory resistance was to try and prevent or try and decrease the degree of violence that could otherwise be anticipated to effect change? --- The term obligatory applies to a situation where you have to take a stand and where you have to take a resistance in relation to certain laws. 20

Now, what was the reason behind the discussion of this problem of a just revolution? --- This started in the LWF Conference where the term just rebellion or just revolution was used. It then came into the discussion in the World Council of Churches, it came into the paper..(intervention)

Excuse me, could I just interrupt you, when you talk about the World Council are you referring to the document South Africa's Hopes - What Price Now? --- That is right.

Which was issued on 17 January 1978? --- That is right, and then this paper was sent out as a study document to 30

member churches and they were asked to respond.

Yes, and now my question, why was it necessary to introduce this topic to the National Conference in 1978, was this actually a response then to those papers you have mentioned? --- Well, if the SACC member churches, most of them are member bodies of the World Council of Churches, the SACC is not itself a member body, it has a different status.

It is affiliated? --- Yes.

Right. Now, do you say that this was introduced because of these discussion papers that you have mentioned? 10
--- It was, since 1977 this has been discussed quite a lot.

Now, Doctor, in connection with the violence that is inherent in the South African system, the phraseology "institutionalised violence" is something - or "structural violence" is something that one hears very frequently, I see that you discussed in your comments on the previous Commission of Inquiry this particular terminology in connection with the Christian Institute. Could I refer you to a document with the title "The Commission of Inquiry in the light of its Report", I think this relates to one of the Schlebusch or Le Grange 20
Commissions? --- Yes.

Could I ask you then just to turn to page 6, and in the first paragraph you deal with the evaluation of the Christian Institute in respect of the South African political situation, and you say that "the Christian Institute propounds views that are directly opposite to those propagated by the Government". Have you got that sentence? --- That is right.

And the point you make is that the Institute said that the responsibility for the tensions in South Africa and the hostile attitude of the outside world towards South Africa, 30

is / ...

is attributable to the injustices which the different people are subjected to as a result of the lack of privileges compared to the Whites in the country? --- That is right.

Then if we skip a few lines you note that Dr. Naudé became aware that the evil may be inherent - that evil may be inherent in the political system at a time when thoughts of this nature were still rare in ecumenical discussions? --- Yes.

And then against that background you deal with the term "institutionalised violence". Perhaps you can just read that explanation into the record, starting with: "It was only since the Geneva Conference". --- Witness reads:

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"It was only since the Geneva Conference on Church and Society in 1966 that they became more pronounced. Since that time the term 'institutionalised violence' or 'structural violence' circumscribes a patent type of violence and oppression which has its roots in the political, social and economic structures of a country. It is true that stimuli from the works of Marxist thinkers have contributed towards such new insights. Statements on structural violence may, however, not be understood merely as an indication of growing Marxist tendencies in the ecumenical discussion and the individual churches. They only show that the questions which Marxism presents to the western world are taken up by theologians and churches".

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And you then go on and say: "The Church has tried to find answers on the basis of the Gospel to the new challenges to which they are exposed"? --- Yes.

Now, could I just ask you one or two questions here,

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the / ...

the new challenges to which the churches are exposed, does this refer to the stimuli of these Marxist thinkers, or to what does it refer? --- It refers to this concept of institutional violence. At the Conference on Church and Society in 1966 that played an important role, and there is quite a lot of analysis involved, economic analysis, and this economic analysis is generally accepted at universities in many countries nowadays also in history, and there are certain Marxist influences on that, how to analyse the institutions, what influences changes in institutions. 10

These answers that the churches tried to find, is that then usually what has been described as contextualising, is it expressed in a form of contextualisation? --- Well contextualising means to relate the Gospel to the problems in your own environment, to the experiences of people in your own environment. In this context I am speaking mainly of the ecumenical discussion, that you respond to ideas which come from other churches and relate that to your own environment, but here the context, the South African context is one aspect of it. You can speak also of contextualising in 20 a local context.

I see. So when we come across this terminology "institutional violence" or "structural violence", the definition that you provide here is that the one one should accept? --- Definition on?

Well, your description, "it circumscribes a hidden type of violence and oppression which has its roots in the political, social and economic structures of a country"? --- That is right.

Would that include the legal provisions also? --- It can include them, it depends. 30

Now, Doctor, also at the 1978 National Conference, a report on the commission on the problems of ministers as marriage officers was attached. This report gave rise to investigations and consultation with the churches, if I may summarise it briefly, to try and establish whether ministers could not refuse to comply with the civil part of the marriage officer's function, in other words the registration of the marriage? --- Yes.

Now, from 1978 this matter was in discussion amongst the churches and eventually was it decided that the churches 10 were not willing to have their ministers refuse to comply with the civil bit? --- Yes.

So marriage which was held out as an expression of civil disobedience, did not find acceptance amongst the member churches? --- M'lord, if I could comment on that, I think the development was a bit different, we in the Council were asked to do work in the Division of Justice and Reconciliation, there was quite a lot of discussion of this, there were various meetings with the church representatives who were present, and it was very difficult to arrive at a 20 uniform opinion, some ministers said you have to take account of the pastoral needs of people in rural areas, and it would be very difficult for them if the minister does not celebrate or does not have the civil part - take care of the civil part of the marriage, and that discussion, we closed that whole work showing that there was no willingness on the part of the churches because the views were very different. But then the initiative, as far as I remember, was taken by an individual church, member church, and that was the Presbyterian Church which worked on the question of marriages 30 and / ...

and mixed marriages particularly, and they came at their Assembly to the resolution that in this area ministers should be prepared to practise civil disobedience, if you get people of different racial background who want to get married, a minister should be prepared to marry them. But according to my recollection it was exactly the opposite that in the Council we did not come to a uniform opinion on this, but initiative was taken by an individual member church and from there the discussion came back into the community of churches, particularly since the whole mixed marriages legislation had been discussed quite a lot during the past two years.

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Now in your Minute of J & R Committee, April 15/16 1980 at the bottom of page 7, under the heading "Prohibition on mixed marriages legislation", it is minuted that the committee received a report on the Prohibition of Mixed Marriages Act and the various consultations on marriage registration by ministers of religion. It continues:

"It has become clear that the churches are not prepared to encourage their ministers to withdraw from co-operation with the State by refusing to be marriage officers. The question was raised whether it would not be advisable to follow a different procedure".

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Could you perhaps just confirm that? --- Yes, that is correct.

And then, Doctor, in another Minute of the Justice and Reconciliation Committee August 25/26 1981 on page 4, under the heading "marriage licences", a report is made to the committee on a meeting that had taken place on the Prohibition of Mixed Marriages and on the Immorality Act.

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Then / ...

Then it deals with the question whether ministers should or should not serve as marriage officers, and I would just like to refer you to this, you say - the Minutes read as follows:

"With reference to the question whether ministers should or should not serve as marriage officers, a report was received on the discussion of this issue in the United Congregational Church of Southern Africa. For a variety of pastoral and practical reasons the majority of the ministers were in favour of continuing to serve as marriage officers. It was stated that on the whole Black ministers were in favour of continuing to serve as marriage officers. On the whole the church leaders tended towards a more radical point of view. The Assembly felt bound to take into account the views and experiences of the clergy. It decided that for the time being ministers should be free to function as marriage officers. The discussion on this topic by the J & R Committee showed that similar trends prevailed also in other denominations".

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That is August 1981 - I will show you the Minute? --- M'lord, this is correct.

Now, have there been any other developments since 1981? --- M'lord, the question of the Prohibition of Mixed Marriages Act has been taken up at discussions on a different level, I think it has been taken up in the dialogue between representatives of the SACC member churches with the Prime Minister where it was mentioned, and there has been a statement by the Prime Minister at one stage, I do not remember the date, that change would not be possible, and before the churches

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themselves / ...

themselves arrive at a uniform opinion on this matter, in the meantime then after that there was a meeting of the member churches, as far as I know it was not initiated by the SACC but by member churches together with representatives of the SACC, and in the meantime the Presbyterian Church worked on its own on this issue, and came to that resolution I believe at its National Conference in 1981.

Doctor, there is an aspect I want to ask you in relation to 1978. In a minute of the Executive Committee of an Extraordinary National Conference of the South African Council of Churches, which was held on 20 January 1978 in Braamfontein, certain discussions took place which are set out in paragraph 8 of this particular Minute which I will show you in a second. Paragraph 8 reads as follows:

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"After having obtained a further waiver of required notice, Mr. Rees outlined the proposed scheme whereby the SACC donate assets and liabilities of certain divisions to associations which would have separate constitutions, and those divisions would then no longer exist. Trusts would be set up to protect the funds of three of these associations".

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There was then a discussion, a vote was taken and the suggestion or the motion was defeated. The Praesidium was asked to find out the best ways of protecting the life and work of the South African Council of Churches. I show you this particular Minute? --- M'lord, I do not discover my name among the list of participants and - yes, I was present.

Doctor, please tell the Commission what that was all about, give us some detail? Why the suggestion that certain divisions become associations removed from the Council with

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special trusts, what was the idea behind that? --- M'lord, I would have to check whether the document in itself does not indicate this. I do not remember the discussions, but I would imagine that it was the idea if the SACC or if the tension between the SACC and the South African situation, between authorities and the Government get worse, it could happen that particular divisions might be affected by some action of the Government and that that would not mean destroying the whole Council, I do not know whether that - I do not remember those details but I could imagine that that was the context. 10

Was there such discussion at that stage in 1978, in January 1978, this was before Bishop Tutu became General Secretary by two or three months, so he would not know anything about it I presume, but you were then a staff member? --- Yes, there was the idea that one would not know what the future might bring to the SACC.

Could you perhaps tell the Commission on what was this idea based that one would not know what the future might bring to the SACC? --- Well there had been tensions quite often, you remember the tension that developed after that resolution on conscientious objection, there was in 1976 you had the unrest in Soweto and the SACC took a stand on behalf of people who suffered at that time, there was this tension. 20

Was that tension so severe or so serious in the view of the SACC and the church leaders that consideration to disband was justified? --- M'lord, in 1977 a number of organisations were banned.

Are you referring to 19 October 1977? --- That is right.

Doctor, you mention in your evidence to the Commission 30

about / ...

about the question of stability of the State. Now, how important does the SACC regard the question of stability of the State? --- M'lord, I think it is a great concern of the SACC to have stability in the State and in the community in general and to consider which means can bring about stability in the State.

Now how can one reconcile the requirement of stability in the State with civil disobedience actions? --- M'lord, I think I have pointed out this in the submission, that the stability of the State as the SACC - at least according to my interpretation - sees it, is endangered by introducing further divisions, there is an emphasis on a united South Africa because the SACC emphasises that we belong together in one country and that peace cannot be secured by further divisions and that peace depends on us living together and sharing in decision-making and sharing in the resources of the country. 10

Doctor, a second last aspect. In the document which is dated 14 April 1980, you describe on page 3 under the heading "paragraph 5" a dilemma in which the SACC finds itself, and you describe this dilemma as follows: 20

"In South Africa the SACC stands for fundamental change of the prevailing political, social and economic system. At the same time the SACC depends in its work very largely on the financial support of overseas churches. In these churches the key persons who make available funds in many cases tend not to be in favour of fundamental change in South Africa, but of reformist change that do not basically alter the system of legalised injustice. Possibly these church representatives are afraid consciously or unconsciously that / ... 30

that fundamental change in South Africa would require a fundamental change also in the society and in the church of which they are members. The question arises will the reformist approach that often prevails in overseas partner churches, or at least in the offices of overseas partner churches, not in the long run invalidate and neutralise the concern of the SACC for fundamental change?"

Do you recall this? --- Yes, I have written that down.

Could I ask you, what is the position today, this was written in April 1980, where you set out this dilemma, does it still exist today or does it not? --- M'lord, I find that difficult to answer, the overseas churches and some of the people in responsibility do not experience the situation as we have it here, and there is still quite a lot of hope that by introducing reformist changes, they always speak about steps, you have to take small steps in the right direction, and these are goodwilling remarks, these people, but here in the SACC member churches we listen to many people, we feel that they have a completely different understanding, because they say or they express the view they are not steps being taken in the right direction but very big steps in a wrong direction which cause more alienation, I only refer to the deprivation of citizenship rights of many people. These are steps which are nearly irreversible without considerable conflict, and thus there is a different interpretation of the situation, and this causes some different understandings and differences in analysis of the situation, and I do not know whether the situation has changed essentially since that time, but I think this is something which has to be discussed

continuously / ...

continuously between the SACC member churches within the SACC itself, is there any prospect of achieving something by these reformist steps or are we getting further and further away from a peaceful solution, and if that is the case what can the churches still contribute.

Is the - as you express it here, a reformist approach that prevails in overseas partner churches, not acceptable to the SACC? --- Well I would not like to speak for the SACC as a whole although I do this in this paper, but I think one should ask Bishop Tutu how he sees it because he is the official representative of the SACC.

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Well let me ask you then as head of Justice and Reconciliation, how do you see it, is this reformist approach that prevails in overseas churches acceptable or not? --- No, my analysis of the South African situation is different, I see a growing escalation or a tremendous build-up of military power, of security laws and I do not see that that has changed in any way, and that this deprivation of people of their citizenship which comes in the context of the homeland policy has changed.

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And thus? --- And thus I would say that the reforms have not led or are not leading to an improvement in general.

Right. Then in paragraph 4, Doctor, I will show you the document in a second you say the main difficulties that you experience in your work are the following, you list lack of contact with the constituencies of the churches, lack of a supportative basis - base and understanding in your own church, and difficulty to assess the time when one should leave the SACC in order to make room for a person with different experiences and different approach, and also

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difficulty / ...

difficulty to assess where one can go and work after one has served in the SACC - there are some others but they are personal and I do not think that is necessary. Do these difficulties still exist today? --- M'lord, if I hear the paper now I have the impression that was a paper..(intervention)

April 14 1980? --- Yes, where we were asked perhaps by the General Secretary to give our evaluation of our role in the SACC, and thus that is a very personal paper too, but I am prepared to answer to the objective questions. First, one question was whether I personally still have a role in the SACC. In an ecumenical organisation you have to take care that you have an exchange of gifts, that certain persons are not staying too long because we come from different denominational backgrounds and each one can make his own contribution from that background, but the time comes when there has to be a change, and therefore in such organisations you have to be very careful not to stay too long, and you do not have to wait until people tell you that you should go now, because that is usually already too late. Thus that is a personal consideration about which I am prepared to speak. The other I forgot?

Lack of contact with the constituencies of the churches? --- M'lord, I think that is a continuous problem, I have tried to do my best to have contact, but it is also a matter of the question how much one can do. I suppose I have given the investigators of the Commission a lot of work by doing all the reading of the papers, and this costs a lot of time, and then you have the task to visit the constituency, you have the task to be in contact with overseas churches, and this is very difficult, but you have the same difficulty with all organisations / ...

organisations of this nature, you have it even with the individual member churches, and sometimes particularly if you are in a type of work where you are in such an office you feel there is a time when you need again to have a different type of work, to get closer to people in the parish, because our work covers the whole country, and that is some of the background for that question.

We will skip the other two they appear to be personal, the next one here is delay in obtaining official decisions that are necessary for implementing action. How is that position? --- I did not understand that question? 10

I am sorry, one of the main difficulties, the next one - I am skipping a few which are personal - the next one is delays in obtaining official decisions that are necessary for implementing action? --- M'lord, that has to do with the difficulties of an organisation of that nature where it takes a very long time until you have decisions in the member churches, the member churches are not bound to decisions of the SACC and each of those member churches has its particular decision-making processes, and in some cases those member churches have not enough staff or they have their own particular problems, as a result the work you do takes a long time to get it attended to at all. 20

I see. Doctor, then there is another document - that is the second one, could you perhaps just identify the first one please, that is the document I have referred you to? --- This is another personal statement, M'lord.

I am sorry, the first one was the one I quoted from the one you have in your hand now, is that your document? --- It is signed by me or at least it is a copy of a document 30

signed / ...

signed by me, M'lord.

Is it dated April 18 1980? --- Yes.

Now I have also given you a second document, this document is undated, it consists of two and a quarter pages?

--- Yes.

In the first paragraph of this document you deal with - well, let me first ask you, is this your document as well? --- M'lord, I think it is my document and if I remember correctly we were asked by the General Secretary of the SACC to do this on various occasions, but I see that these are personal documents and I really do not see the meaning of having in a public hearing matters discussed which you are asked to express your opinion on by a General Secretary who is a Bishop. I am not referring to if I express my personal feelings here.

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Well could we then say would you identify this document and we can make it available to the Commission and the Commission can consider the document? --- It is not signed but I suppose it is my style. Yes, I think it will be my paper.

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I just think there is one aspect, Doctor, if you look at page 2, paragraph 3 right at the bottom, there you deal with proposals for the SACC, do you think those are personal too? --- I think I was asked to make a personal statement, and this personal statement has no status in the SACC, it was to be handed in to the General Secretary of the SACC who is a bishop.

No, I accept that, Doctor, this just reflects your view of what should be done and so forth? --- Yes.

Are you satisfied now that this is your document?--- Yes.30

You / ...

You see on page 1 it is marked with your file reference A3.3.1.3? --- Yes.

You then identify the document and the Commission can look at it themselves? --- Yes. Though I must say I do not see even for dealing with such documents I find that a very strong attack on personal life.

ADV. KENTRIDGE: Well perhaps Your Lordship will rule that the witness does not need to hand that in.

CHAIRMAN: Well perhaps I had better have a look at it.

ADV. KENTRIDGE: Would you mind, Dr. Kistner, if His Lordship personally had a look at it? --- That is right. 10

CHAIRMAN: And if I find that it is something which we should not use I will return it. (PAUSE) Dr. Kistner, I fully understand your concern about any reference being made to what are clearly personal statements and I assure you I will respect that. Might I just sound you on this, where you dealt with the function of the SACC and possible obstacles, would that embarrass you at all if that were to be studied, because the Commission has to as best it can find the facts on the history of the SACC and the direction in which it is going, and it might be that a personal expression, evaluation by yourself positioned as you were in the SACC might be of value, but I do not want to embarrass anyone who is giving evidence here and for that reason I would like to sound you on whether paragraph 3 - paragraphs 1, 2 and 3, whether that might not be considered by the Commission, we will exclude the others, if need be we can ensure that they are not even read? --- M'lord, personally I would not have objections to this but it is also a question about the person who asked for this personal statement, and that was the General 20 30

Secretary, is he prepared to release that, I would not have objections, but is he prepared to release that if he asked me to say something to him.

Speaking for myself it sounds rather like a sort of evaluation such as that which came from the Reverend Wing which I personally found to be of value, a person who has been with the SACC for a long time expressing a point of view? --- On my part I would be prepared, but I think it would be fair ..(intervention)

Well let me take it and then when Bishop Tutu comes I will sound him on how he feels about it. So may I just retain the document for a spell and then we can consider this later on.

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ADV. VON LIERES: If I may just make the remark, M'lord, on this document, this document expresses the views, the personal views of a very senior official of the Council of Churches with regard to the problems that the Council encounters in his view, and in that sense I think it may be relevant to the Commission's considerations of the matter.

CHAIRMAN: Well, I will give this thought, I still want to study it further.

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ADV. VON LIERES: Doctor, during the period 1976 to date, if you have to review the position very briefly, how would you say the position has developed, or has it not developed in relation to Justice and Reconciliation activities. Have you expanded your activities, have you kept them constant, or how would you assess the development in your division from the time you became director to date? --- From 1976 up to today?

Yes? --- M'lord, when I started this work I came from university, I was not at all experienced and I showed a great

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interest / ...

interest in the work and I found satisfaction, I had to do a lot of study, in the initial stage I did do quite a lot of historical study simply to get the background because I felt that you cannot understand people if you do not understand where they come from and what their thinking is about. In the course of the time also as a result of growing experience I more and more came to the insight that we need more contact with the grass roots, I hesitated to have too many people employed in my division on a fulltime basis, because I felt otherwise you get a big organisation and you do not have people who have contact with the grass roots, and thus I preferred to work with quite a number - with two part-time workers employed by the Council, but with a growing number of people involved in the churches who co-operated on a voluntary basis, and this of course meant a considerable extension of the work, but it also meant that you get more and more information, and thus it is true that the work expanded and expanded largely through getting people who were prepared to co-operate and to give their views and I have had a lot of help from people doing this simply out of their own private concern. This is one aspect of the work. Moreover the workload expanded since I realised very soon that in studying what people think one should not only take minutes but you should study with each conference the setting, what happened at the time of that conference, which were the people at that conference, from which background did they come, and thus I did a lot of work and that found its reflection in these long study papers, and that cost a lot of work, and also in travelling, with every journey I made I tried to find something about the church life and

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conditions / ...

conditions in other countries. In that way the ecumenical contacts have expanded, and I had a lot of interviews with people trying to find out what happens in their country and also inside the country with people coming to the office and there was far more - in the later years there were more and more people coming to the office asking for research material, asking for information, and this was one aspect which we tried to develop too in the division, we tried to build up a good filing system so that we have material available, and thus the work has expanded considerably. On the other hand, there have been also developments, and I think the tension in the country has been growing all the time, thus the demands on the division have been intensified. I do not know whether that is adequate for a description of the development that has taken place.

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Doctor, finally, the three confidential evaluations of the 1979, 1980 and 1981 National Conferences, you have seen them in the course of your evidence and you have identified them all, and they are available for the Commission to look at? --- Yes, I think they are available, and it should be seen as - exactly with this National Conference I was not satisfied in simply reading a report, I tried to find out how do you understand what happened at that conference, which were the key words that were being used, because I found that important for my further work, because these are personal documents but I do not mind if those personal documents are taken for what they are, they are not any expression or evaluation by the SACC of such a conference.

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Yes, I just wish to ask you one last question in

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connection with something you have written concerning a new phase that has been reached in the history and the work of the SACC and its member bodies. Your evaluation following on the 1981 Conference was that the strengthening of self-acceptance and awareness is no longer a priority task.

What is required primarily now is a low profile organisational work to develop a network of people in different churches at the local and regional level who can stimulate and undertake effective ecumenical action. You say: in this

connection it will be necessary to integrate the valuable initiatives of concerned individual Christians and committed groups into the life of the churches, so as to stimulate the life and witness of the churches as a whole. One even has to reckon that in the measure in which the totalitarian tendencies of the South African regime intensify, the possibilities of the churches - the possibility of the churches as established organisations to act will decrease.

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More and more responsibility will have to be taken over by small informal groups which can develop quick initiatives and which are flexible without depending from case to case

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on the approval of a church body or a church committee. Has work been done in this direction? --- M'lord, these are ideas which I have expressed quite a lot of times, I think there was a time where it was necessary for Black people to find their own - particularly for Black people to stress that they have their own dignity and this was - big meetings were necessary for mutual affirmation, but in the long run now the question comes what can we do, and I do not think in churches in general, also in other churches overseas, action starts with resolutions from the church leadership, it very

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often / ...

often starts with initiatives at the grass root level. For instance the background from which I come, a mission initiative in spite of all criticisms and it happened simply as a movement in the churches, and later on the churches in Europe had to take account of the mission responsibility of the church, and this is what I am pointing here to, and to get action started you need very committed people, committed people who take upon themselves financial sacrifices, sacrifices in time, and I have made the observation that very often small groups can achieve far more than big organisations, and that it is a task of the churches to make use of these initiatives.

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CHAIRMAN: What sort of tasks do you envisage could be effectively performed by such small groups? --- For instance taking care in an area where there are relocations, taking care of the needs of the people. If you always have to refer to the next church meeting to get many, here you can get sometimes voluntary people doing service without being paid anything, or you could get - even in our office sometimes I did get offers of people who were prepared to type for me without taking any money, and I think it is an obligation of the churches and our obligation to make use of such willingness to help.

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Must these small groups be seen, Doctor, in the context of the implications of increasing totalitarianism? --- They can be seen in that context, and I think they have their significance in that context too, because very often you have very sudden emergency situations arising, like for instance the shack removals in Orlando East, and people are in real difficulty.

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The type of thing the Reverend Rob Robertson deals with in his commission, the support groups for example? --- It can be that type of task, it can be the type of task where you do simply relief work because people need - it is getting winter now and you have to do something. Should you wait for the next church committee meeting to take a decision and to decide where you can get the finances from, very often these people find their own ways of organising something.

Doctor, a last question, would it be possible to provide the Commission with the Minutes for 1982 up to date, of your Committee on Justice and Reconciliation?

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--- Yes, M'lord, I have been at this Conference in Sweden and as a result I was away for four weeks, as a result the last J & R committee meeting took place two days before I left, and when I came back I had to make myself available for these sessions and the Minutes are not yet ready, but they will be ready soon and can be submitted.

The two Minutes for 1982 we do not have either?

--- Oh, I will have to check that.

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Thank you, M'lord.

ADV. KENTRIDGE: Dr. Kistner, I am afraid your ordeal is not quite over yet, I have got a few questions for you, I will try and keep them short. Dr. Kistner, you were asked some questions today about structural violence and you were asked whether structural violence or institutional violence could include in part or be included in legal institutions of the State and you said sometimes it could be? --- Yes.

Could you give an example to the Commissioners? --- I think if there is legislation which allows security measures

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of / ...

of such a nature that persons who are being detained have no access to legal assistance, that could be regarded as institutional violence in a legal sense. Where such actions are formally legal and there is no recourse to the legal protection of such a person.

Yes, what do you say about legal positions which allow communities to be removed from their homes to places to which they do not want to go, allow them to be so removed without their consent? --- M'lord, I think that is also part of structural injustice because legally the State has the power to remove them, they might have property rights, they can claim compensation, but against the removal itself they have no recourse to law, and moreover these people are Black people, and they are even in a more difficult situation, they have no citizenship rights within the country, or no political rights in the same sense as Whites. 10

Now, Dr. Kistner, this leads me to one of the other things you were asked about, you were asked about the question of non-co-operation, it arose in particular from the Ecunews of 3 August 1979, there is the passage on page 35 where you have a number of resolutions accepting the report of your division, and Resolution E on page 35 states: 20

"That the Conference believes that South African churches are under an obligation to withdraw as far as that is possible from co-operation with the State in all those areas in the ordering of our society where the law violates the justice of God".

Do you recall that? --- Yes.

Now again I would ask you to give an example or any example you can where you would believe that the South African churches / ... 30

churches are under an obligation to withdraw from co-operation with the State. In what area would you consider that that was a requisite? --- M'lord, in the discussion this afternoon mention was made of the solemnising of marriages where one particular church has decided this is what ministers should do in a situation where they would not be prepared to co-operate with the State.

CHAIRMAN: Is the Church Clause not also one which is commonly referred to? --- That is right, yes. I have heard that in the case of removals churches were very often willing to sell their property, their farms, and facilitate the removal in that sense. I would think that that would also fall under the provision of non-co-operation with the State.

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ADV. KENTRIDGE: Well now, if I could just ask you a more particular question, supposing you were present at a time when persons were being forcibly removed from their homes, and a police officer called upon you to assist him in removing them, what would your - in terms of this Resolution what would you recommend? --- M'lord, I would not be prepared to assist, on the contrary I would try to talk to the policeman and to refer to other people and to try and get people who are present at that scene, even if that would not be allowed by the authorities.

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Well now, again on a similar topic, you have been asked a number of questions about civil disobedience. Now let us just get this in perspective, has the South African Council of Churches ever embarked upon a campaign of civil disobedience in which it has disobeyed laws? --- I do not remember that the Council of Churches has embarked on a

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general campaign of disobedience, but it has pointed out there can be areas where the Christian and the Church is under an obligation..(intervention)

Yes, yes, I know that, Dr. Kistner, that is why I am asking whether in contrast to what it has pointed out, it has ever embarked on a campaign of civil disobedience in which it has been disobeying laws? --- PAUSE

CHAIRMAN: Would you like to reflect on that, we will take the adjournment now.

THE COMMISSION ADJOURNS

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THE COMMISSION RESUMES:

DR. W. KISTNER CONTINUES HIS EVIDENCE:

ADV. KENTRIDGE: Well now, you were asked to think about the question whether the SACC had ever embarked on anything that could be called a campaign of civil disobedience? --- M'lord, the SACC has never embarked upon a campaign of civil disobedience.

Now again, on a matter on which you were asked this afternoon and before the luncheon adjournment too, that is the status confessionis, I do not want to spend too much time on it, in your memorandum or statement which was handed in and is before the Commission and which you read out, you deal at pages 28 to 31 in detail with the confessing church? --- Yes.

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You were asked a question though of what are the implications of adopting the status confessionis - can I just clarify this first, who or what adopts a status confessionis, is it the individual or a church? --- It is a church but the initiative usually starts with individuals.

So the answer is it is a church. Now if I can just expand / ...

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expand on the questions put to you, you were asked what the implications were of adopting the status confessionis. Let me put it to you this way, if a particular church adopts the status confessionis in South Africa, what does that mean that the church would actually do. Let us just take an example, supposing your church, the Lutheran Church were to adopt the status confessionis, how would that affect its actual conduct? --- It would mean that it is rejecting the South African political system, but the implications have to be spelt out, how do churches relate to the homeland issue, 10 how do they relate to removals, and it would also imply first of all that the church has informed their membership about how the Christian faith relates to this issue.

Yes. Now has any church in South Africa actually adopted the status confessionis? --- M'lord, in a certain way this has happened because - although it is not the same concept, they say very similar things..(intervention)

Who is "they" which church? --- The Methodist Church, the Anglican Church has statements of that nature.

CHAIRMAN: Well that was dealt with by the Reverend Peter Storey when he gave his evidence of similar actions by in his case the Methodist Church. --- Yes, that is right. 20

ADV. KENTRIDGE: And the Lutheran Church, your church? --- The Lutheran Church has it in its Dar es Salaam Assembly and the member churches are asked to respond to that.

Now, Dr. Kistner, a few other points, at one stage, I do not know when it was it seems very very long ago, my Learned Friend, Mr. von Lieres, in asking you certain questions, asked the question which might have had the implication in it that the South African Council of Churches 30 has / ...

has abandoned all hope of dialogue in South Africa. I may have misunderstood him, but may I just ask it as a question, has the South African Council of Churches abandoned dialogue? --- M'lord, the South African Council of Churches has never abandoned the aim at dialogue, the call for a national convention, everything has pointed towards the preparedness of dialogue.

Well in other words the answer is no. Now, Dr. Kistner, another question which you were asked relating to dialogue related to the South African Council of Churches support of trade unions, and particularly for the families of trade unionists during strikes, and in connection with the Fatti's and Moni's strikes my Learned Friend asked you whether if you had not supported the strikers, the strike would not have collapsed and therefore no mediation would have been required. Now supposing you had not supported the strikers and the strike had collapsed and the workers had not obtained the meeting of their demands by the employers, that would presumably have meant that the workers would have been worse off and the employers would have been better off?

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--- Yes, that would have meant that the workers would have been worse off and possibly very soon again you would have had a new strike.

Now I do not know whether the suggestion in my Learned Friend's question was that it would be better if the workers had not had their demands acceded to and their strike had collapsed, but do you find anything wrong in helping workers even indirectly to obtain better conditions? --- No, it is an obligation to help them.

Do you not feel as apparently - I do not know whether that / ...

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that was behind the question - that perhaps you ought to care for Fatti's and Moni's and help them ensure that they do not give their workers better conditions? --- No.

That would not be the view of the SACC. No, I did not think it was. Let me ask you something else about this, I think it was put to you that it was the object of the SACC to have strikes drag on as long as possible. Is there any truth in that? --- No, there is no truth in it.

I would like to refer you to one of the documents that were put before you, it was the Asingeni Relief Fund Report No.20, I think it was July 1980 - 21 July 1980 - and you were referred in particular to the passages on labour and boycotts on page 2. I would just like to read out to you what is said in sub-paragraph (c) on page 2:

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"We should add that the unrest in the motor industry has subsided because the workers have won large concessions as a result of their strike action. The SACC played some part in this through one of our staff at the request of one of the companies".

Now this indicates that the SACC seems to have been glad that unrest in the motor industry had subsided because of concessions won by workers. Would you go along with that? --- Yes, I think there was reason to be glad.

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You were asked in this connection about the Asingeni Report No.23 of September 1981 where you were referred to the heading on page 2 "Labour Unrest", and I remind you of it, it is the passage that starts: "The Black trade unions have shown their muscle and their militancy", and it is the one which goes on to say they are the most significant force for reasonably peaceful change, and the Government is aware

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of this, and then it goes on to say:

"I hope our friends will be generous in money donations because these unions have no strike funds, and that the workers won't be able to strike for long unless they are supported".

Let me just show it to you again. Just read through that passage again, particularly the last few lines of it - read the whole paragraph and tell me when you have read it. --- I am ready.

On the basis of that paragraph I think it was suggested to you that it indicates that the SACC would like to keep strikes going on and on and on. Do you think that is a fair comment on your attitude in the SACC to the support of strikers? --- No, it is not a fair comment, the SACC would like that the trade unions have the possibility of negotiating.

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And if they do not have the strength in a proper case to go on strike, do they have the possibility of a successful negotiation? --- No.

Now there is one other matter which I would like to ask you a question about, Dr. Kistner, it was on the question of removals, and you were asked about a suggestion which was made to publicise the removal of I think it was the Makgota tribe, on the basis that if this were publicised abroad the publicity might deter the Government from making other removals in South Africa? --- Yes.

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Do you think that that sort of publicity is a legitimate form of pressure on a government? --- M'lord, it is a legitimate form, because this happens to human beings and we belong together as human beings wherever we are, furthermore

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there / ...

there are churches from overseas supporting people in that area, and they are interested about what happens to those people and they are old relationships.

Now if a government is shamed by publicity into ceasing to do things like removing people, do you see anything wrong with that? --- I do not see anything wrong, I think it is one of the principles of democracy, publicity.

I wonder if I could ask my Learned Friend for the report of the Tenth National Conference, that is the one with the orange cover - thank you very much. My Learned Friend put certain passages from this to you from Appendix 2 which was the background paper for the discussion of the problem of a just revolution, I just want to draw your attention and the attention of His Lordship and the other members of the Commission to passages on pages 5 and 8, I see there is a passage marked by my Learned Friend in yellow in paragraph 5 on page 5 where it says:

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"To speak then of a just revolution is meaningless, for the circumstances and means of such a revolution can hardly prove wholly acceptable to God".

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Do you remember that passage? --- I do not remember.

I will show it to you. And then on page 8 in subparagraph (d) this appears:

"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, but questions whether the member churches have really tried to use effective and forceful means of non-violent change".

And then it asks a number of questions such as saying what

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positive steps have they ever taken to resist and oppose the violence inherent in the South African system; what studies have they made of non-violent techniques of achieving change; how much are they prepared to suffer and sacrifice to cause non-violent change and so on. And these questions are asked - would you just have a look at that on page 8? --- Yes.

Now, Dr. Kistner, these various questions raised here, are they regarded by the SACC as serious questions worthy of debate? --- M'lord, I think they are regarded as questions worthy of debate, I have indicated that this paper has not got into the official bodies, but it does not mean that it is not worthy of debate, and in fact these principles have been observed. 10

And, Dr. Kistner, is this question of when violence might be justifiable in your view an easy question? --- It is a very difficult question, that is exactly why it is saying here: "the term 'just revolution' is meaningless" it points towards the ambiguity because you get the impression that this term is to justify revolution, in fact it is related to the term of "just war", where the just war concept actually is meant to reduce violence and to have certain criteria, and the same would apply to the just war, but the terminology is misleading. 20

Yes, in other words as you put it, the theology of the just war is designed to show that it is very few wars that can be justified? --- Yes.

Dr. Kistner, I have no further questions, but if you just remain where you are for a moment in case His Lordship or the other members have questions. 30

CHAIRMAN: I have not. Thank you very much, Dr. Kistner, thank you for your contribution.

ADV. KENTRIDGE: M'lord, it has not been possible to get that document over here today, but we are going to try and bring it over tomorrow.

CHAIRMAN: Thank you. Thank you, you are excused.

ADV. KENTRIDGE: M'lord, I would like to recall Bishop Tutu on behalf of the SACC.

BISHOP DESMOND TUTU, declares under oath:

ADV. KENTRIDGE: M'lord, if I could just by way of an introduction to this evidence say something. In the time that has passed since Bishop Tutu first gave evidence to this Commission, a number of allegations have been made against the SACC, some of which have been dealt with by other witnesses. Your Lordship has indicated to us informally a number of questions on which you would like Bishop Tutu's assistance, and then we have also had to take into consideration the allegations made in memoranda such as the police memorandum and memoranda like that. M'lord, one of the things that will have been observed particularly in the police memorandum, also in the memorandum of the Reverend Mr. Cain who gave fairly lengthy evidence here, is that as one might expect they have had a good deal to say about the activities and the speeches of Bishop Tutu himself, as he is the General Secretary of the SACC, and therefore, as Dr. Kistner has pointed out, in many contexts although not all, the spokesman of the SACC, and his views are identified often with those of the SACC, sometimes correctly and at other times incorrectly. A feature of the criticisms of Bishop Tutu's statements and activities which

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is to be found in some of the memoranda, is an imputation on the motives of Bishop Tutu and of the SACC. It is in these memoranda often stated, and at other times insinuated that his concerns are not really religious, that they are purely political, even that his religion is a disguise for political views of various sorts, and therefore Bishop Tutu has considered it necessary, and I would submit, M'lord, that it is necessary for Bishop Tutu to explain again what it is that motivates the SACC and what motivates him personally in taking the stances which he does, and he proposes to show Your Lordship that the view which he takes on current South African problems, and the view which is often expressed by the SACC and by the SACC through him, is something which has arisen out of his deep personal spiritual and religious experience in the South African context. He is concerned to show that the views he has formed are his views, are what I would call indigenous South African views, that he does not carry out the instructions of the WCC or any other overseas body.

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Now consequently, M'lord, in the evidence which he is about to give, Your Lordship will see that there are three main aspects in this memorandum of his. The first which he has called A Spritual Pilgrimage, links up his own personal and religious experience in South Africa, with the view he has formed of what his religion requires of him, and of what he thinks is the function of the SACC in South African society.

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Then Your Lordship will find that there is, starting at page 46 of his memorandum, a long section in which he deals again with certain theological - more technical

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theological / ...

theological aspects of his thinking and his work and the work of the SACC. Subject to Your Lordship's direction I do not propose that Bishop Tutu should read out that middle section, I will ask him just to comment on or draw Your Lordship's attention to one or two aspects of it.

Then starting at page 94, there is an extensive reply to the submissions of the South African Police. M'lord, Your Lordship will find in going through this, this refers to the last parts which I have mentioned, Bishop Tutu deals with a number of the issues which Your Lordship has asked us to deal with, in some cases, M'lord, I will of course ask him to expand on those matters which seem particularly important. 10

When the written memorandum is finished, I do propose with Your Lordship's permission, to ask Bishop Tutu a number of specific questions on issues which have arisen for example in the course of Dr. Kistner's evidence, where it seems that Bishop Tutu is the person who ought to deal with some of those issues. So, M'lord, when I say with Your Lordship's permission, I do not propose to create yet another document to deal with what I would call those loose ends which have to be tied up, I will just ask Bishop Tutu questions about that. Now, Bishop, you have prepared a further document which I would ask you to present to His Lordship and the other Learned Members of the Commission, but first I will ask you why you have thought it apposite and appropriate to begin this final part of your evidence with what you have called a spritual pilgrimage? --- M'lord, I felt that it was important for all of us that it was seen that the motive behind everything that I do and say, the motive is 20 30

entirely / ...

entirely spiritual, that I am under constraint I believe myself, a Divine constraint that is due to my encounter with our Lord Jesus Christ in the sacraments of the church, in prayer, in meditation, in Bible study, and that it is not politics at all that moves. And I thought too that it was important for the Commission to know the kind of influences that have worked on me. I have been influenced as I say by some very remarkable people, and I thank God and I wish the Commission to share a little bit of what God has done to me.

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Well now, Bishop, in that case may I ask you to turn to page 1 of your document, which you have headed A Spiritual Pilgrimage, and I am going to ask you to read it, I will interrupt you from time to time to ask you specific questions, but in the meantime would you kindly read it to His Lordship and the members? --- Thank you. Preamble:

"May I start, M'lord and members of the Commission, by expressing our appreciation to yourselves and especially to you, Mr. Chairman, for the amicable atmosphere in which the public sessions of this Commission have been held, and for the helpfulness of the officers of the Commission in many ways which I will not enumerate. I want to thank you, Mr. Chairman, for maintaining a non-trial spirit, shown for instance in the invitations you have extended to witnesses called by the SACC to have tea with the Commission. We are particularly thankful for the help your Commission has given in assisting our overseas friends to obtain visas in often record time to enable them to come to our beautiful but sad land to testify on behalf of the

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SACC. We are glad too that you permitted them so to testify.

It will be strange when there is no longer an Eloff Commission, M'lord. For nearly two years now the existence of the SACC has been affected to a very large extent by this Commission which has been investigating its affairs, and which has unavoidably intruded even on the personal lives of those connected with the SACC. My personal correspondence which has been in my files in the General Secretary's office has passed before the eyes of the Commission's investigating officers. It has left one feeling vulnerable, naked and somehow abused as if we were accused of a heinous felony. The Council's life has been profoundly affected. It could not be otherwise. We have sought to go on with our normal work as if nothing had been happening, as if a huge sword of Damocles were not hanging over our heads threatening a very substantial part of our work. I want publicly to pay tribute to my outstanding colleagues who have stuck so wonderfully to their tasks. I have said we have gone on with our normal work. We have started our day as we have started every other day before this Commission was appointed in the chapel in Khotso House where we have adored, worshipped and praised the ineffable Trinity, Father, Son and Holy Spirit in spiritual songs, and through meditating on the Holy Scriptures. We have given thanks to God for His manifold mercies to us and to His children in the world for which we have interceded feebly as the fallible

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creatures / ...

creatures we are, but we have interceded regularly for this world which God loved so much that He gave His only begotten Son for it.

On occasion, at least once a month, we have celebrated the Holy Mysteries of the Body and Blood of our Blessed Lord and Saviour Jesus Christ, when we have made a memorial of His perfect sacrifice made once for all on Calvary thereby sealing the New Covenant which God made with us all, many though we are we have become one body, one fellowship, one koinonia transcending 10
all the barriers which human beings thought separated people from one another - race, culture, time, space, sex, colour, language etcetera. We have even been able to have our normal week-long retreats for both non- Executive -and Executive staff. Strengthened by this worship, in the power of the Spirit of God, my colleagues have gone about their daily tasks.

We have done our normal ordinary work - our secretaries have written the letters that are part of the routine of an organisation such as ours. We have done our 20
ordinary work in the African Bursary Fund to provide about 1 000 new bursaries for secondary education each year to children in the rural areas, which means mostly in the bantustans, giving the lie to allegations that the SACC refuses to fund projects in the bantustans.

My colleagues have gone about their normal everyday work providing through the University Bursary Fund, new bursaries enabling a fresh batch of about 100 Black children annually from all over South Africa (which for us includes the bantustans because we do not recognise 30

the unilateral balkanisation of our country) to study at universities and technical colleges. We are helping to provide some of the skilled manpower that this country needs so desperately. My colleagues in Khotso House have been doing their normal work in Interchurch Aid, e.g. processing self-help community projects, health schemes, water-drilling projects - designed to help people to help themselves, for instance, in providing day-care centres for the many working mothers who are a growing phenomenon in our modern economy, in funding sewing and knitting centres to help people in depressed areas to generate some income, and this again mainly in the rural areas and bantustans. My colleagues have gone on providing training through an agricultural officer for people in the bantustans to grow their own food when the South African Government's schemes of forcibly uprooting millions from their former homes have had these people dumped in so-called resettlement camps where there has been little work and little food.

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The food growing projects funded by the SACC have helped to prevent widescale starvation that has come about to satisfy the demands of a pernicious racist ideology. My colleagues have all this time gone about their normal business of providing blankets for the aged to help them face the rigours of the cold winter and to fund soup kitchens to feed the hungry. They have given training to help people especially in the rural areas to grow kitchen gardens and learn how to eat properly and yet cheaply, and how to provide a clean / ...

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clean water supply and how to improve and maintain the health of their families by for instance building simple but effective latrines, helping to prevent such diseases as cholera, which have been a scourge in some bantustans, a strange anomaly in a country that pioneered heart transplants. My colleagues have gone about their ordinary work organising seminars and conferences on such burning issues as alcoholism the stability and sanctity of the family in a country with one of the highest divorce rates in the world, 10 and they have gone about their ordinary work of studying illegitimacy and prostitution. My colleagues have gone about their normal work providing monthly grants for the dependants of political prisoners, detainees, banned persons as well as assisting the families of political prisoners to visit their loved ones on Robben Island and other maximum security prisons. Such persons have come from all over the country including the bantustans and the SACC has assisted most of them. 20

My colleagues in the Justice and Reconciliation Division have gone about their normal work seeking to bring theological insights to bear on crucial issues such as conscientious objection, violence and non-violence, war and peace, on developing the Churches' relationship with the trade unions, a phenomenon any concerned for the future peace and stability of our land can ignore only at their peril - dealing with such contentious issues as the celebrated Ingwavuma and Kwa Ngwane land deal. My colleagues found themselves vindicated 30

in their opposition to the Government's original plan to incorporate this land into Swaziland by the unanimous ruling of the Appeal Court. The SACC is not irresponsible. Deep and careful thought accompanies its decisions buttressed as they are often by the meticulous and painstaking theological work of Dr. Kistner and those who collaborate with him.

I want to pay a very warm tribute to my colleagues Messrs. Matt Stevenson and Dan Vaughan. They have given almost all their time to Eloff Commission work on behalf of the SACC and they have done us proud. They have been prodigal in the gift of themselves. Quite remarkably they too have been able to give some time to their ordinary SACC work. Matt Stevenson, a former general manager of Prestcold Scotland, earning several times over what he now receives at the SACC, has presided, and I must stress this point, over a very impressive improvement in the financial administration of the SACC, something attested to by Mr. Wessels, the auditor appointed by this Commission, amongst others. He has had to take on additional responsibility for fund-raising for the SACC because the General Secretary has been prevented from travelling abroad - this action has hamstrung the Council quite considerably, if the Government finds pleasure in that. This has meant considerably more travelling for Matt Stevenson which he and his wife Sue have accepted without complaining too much.

Dan Vaughan, a former civil servant, has carried on his normal work as being responsible for our

communications and has improved the quality of Ecunews in spite of an almost impossible work load. Incredibly, he has carried on his normal work of being in charge temporarily of the SACC's Mission and Evangelism concerns whilst we try to make a permanent appointment. He very recently organised a consultation of the persons responsible for mission and evangelism work from our member churches, this when the Commission was holding public sessions. Incidentally, this demonstrates that this SACC so vilified, does care about such things as proclaiming the Good News of God's love for His world and the winning of souls for our Lord Jesus Christ. Dan Vaughan is living like a migrant labourer most of the time in Johannesburg away from his family in Cape Town. Mr. Chairman, I mention all this to indicate the calibre of persons I have the privilege to call my colleagues. I am honoured to lead a team of quite splendid and gifted persons. They could command, many of them, better salaries elsewhere without much of the wear and tear involved in working for the SACC. They are committed first to our Lord and Saviour Jesus Christ, and as a result of that commitment are dedicated to serve Him in serving the least of His brethren. The Hound of Heaven has taken hold of them and they can do no other. In their own way, they can echo the Apostle's cry, "Woe is me if I preach not the Gospel".

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And quite remarkably, facing an uncertain future, my colleagues' morale in Khotso House has never been

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higher / ...

higher. You would have seen a wonderful demonstration of this if you had visited us on March 1st. I had forgotten then that I was appointed General Secretary of the SACC five years ago on March 1st, but my colleagues had not and they gave me a superb surprise party and anniversary gift. There was much laughter, singing and eating."

And may I just add here, Mr. Chairman, that a week ago on Friday one of our colleagues who had worked 15 years for the SACC was also given a surprise party, Irene Meadows, and there was that laughter and that singing and that eating and that crying.

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"We are not without our tensions, and yet fundamentally we are filled with laughter and know the joy our Lord spoke about that no one could take away from us. It is a paradox of our faith. We know we are upheld by the prayers and love and caring of many round the world and as the prophet Sechariah saw God like a wall of fire surrounding Jerusalem, so we know ourselves as surrounded by this tremendous wall of prayer and love from many we count our brothers and sisters in the world but on whom we are most unlikely ever to set eyes this side of death. That team, M'lord and Members of the Commission, is a first fruits of the South Africa for which we and our member churches are working. We have in the SACC headquarters staff nearly all the racial groups to be found in our beautiful land except for the Chinese, and we work harmoniously together because we value our diversity which makes not for separation as in apartheid, but for our unity and

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harmony / ...

harmony, for the most important thing about us is that we are persons each created in the image of the triune God. I myself have secretaries - one White, one Black, and they get on like a house on fire, yes, as if they were sisters. They are sisters in our Lord Jesus Christ. What a magnificent country we are going to have the day we accept one another as persons. We are cosmopolitan in the SACC. We have a Scotsman appropriately looking after our finances. M'lord, and members of the Commission, I 10 have kept saying that my colleagues are carrying on the normal ordinary work which makes up the normal ordinary activities of this Council that you have been appointed to investigate. That is what you are looking into, these activities, these activities of Christian compassion and caring and how they are funded. Mr. Wessels is on record as saying that he has not found evidence of any illegal financial activity on the part of the SACC. He has found no evidence that, for instance, the SACC received money from sources regarded 20 as illegal by the present Government of South Africa with its plethora of draconian security laws. Mr. Wessels has not found evidence of illegal personal enrichment by SACC staff people or those closely associated with it, other than in those cases in which the police have instituted prosecutions successfully or unsuccessfully. He has found no damning evidence. That is because there is no such evidence. What he has found in a professional piece of work, competently executed, is that at one time the Council's financial 30 administration / ...

administration left a very great deal to be desired. But the SACC has been the first to admit that this was so, and reported all these facts to those to whom the Council was accountable - its member churches and those who gave it the funds enabling it to operate for God's Kingdom in South Africa. I have written several reports to our member churches and to our donor partners detailing this unsatisfactory state of affairs. The Council has never tried to hide what might have been embarrassing from those who had to know. The Commission has the relevant documentation to hand." . 10

But may I please refer to some of the reports that I have written, I append two which the Commission probably already has had. The first is dated September 1980 and it is to all church leaders and secretaries of member churches and observer member churches and executive committee members - what we excluded here was our overseas donor partners, but they did receive it. In the second paragraph headed "appreciation" I wish to underline the last sentence of paragraph 1.1: 20

"Unfortunately the financial support from the churches is still small, 90% of this financial support comes from overseas".

And then on the second page of that same report, paragraph 4 at the bottom I give an extensive report on our finances, I say:

"As a result of gross dereliction of duty in SACCAS, the company 75% owned by the SACC, we have received our worst auditor's report, we were guilty of a material irregularity because SACCAS whom we paid 30

R50 000 did not keep proper books. We attach a copy of the audited accounts and indicate the steps that the auditors said we had to take if they were not to report the SACC to the Public Accountants' Board".

Then the next report is dated September 1981 and it is to church leaders and general secretaries of member and observer member churches, executive committee members, regional councils of churches, overseas donor partners and in paragraph (b) headed "appreciation" No. 1 the second and third paragraphs of that particular section:

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"Whilst the direct support that our churches gave to their Council financially is very small, only about 10%, you must note that there is increasing giving especially through the Month of Compassion Appeal, and the Dependants' Conference in a number of areas. But we want to suggest that our local support from the churches should be responsible to fund the general secretariat which administers the Council which belongs to the churches, this would amount to R346 000 in the current budget".

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"The Commissioner of Police designate, General Johann Coetzee, is on record as admitting that none of the activities of the Council is illegal. And he should know. The Security Police have kept the Council under surveillance for a long time. I have been amazed at the volume of Council documents in the hands of the police marked 'Top Secret' by the police and wondered how they got our papers. I have been even more amazed that they had copies of our telexes and were so well informed through their network of spies

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to the National Conference of the Council of Churches at Hammanskraal, July 26-28 1977. It also served as a basis for the October 1977 discussions with the EKD at Königstein in Taunus where you were present? --- Yes.

Now, could we just very briefly establish one or two aspects about this: in the introduction, on page 1, you say that the memorandum has not - the Committee has not undertaken a new investigation of the foreign investment issues. It rather has made use of the findings of published and unpublished reports of a number of re- 10 search teams, and you list the various report in an annexure. Is that correct? --- Yes, well, I have not got the document here, but ..

I will show you the document. Let me just ask you two other questions, also related to page 1, and then you can check it. You also say that this document - in presenting the memorandum you do not only comply with the commission you got from the National Conference, but it is also a response to a long-standing request of the EKD. And then you say in brackets, other overseas churches 20 have made similar requests to the SACC. Now, the similar requests are, for a memorandum on the stand of the SA churches on the issue of foreign investment in the South African economy. Perhaps you would just like to have a look at page 1 first? --- Yes, page 1, it is correct.

Now, which other foreign churches had asked you for a memorandum on the stance of the SACC, apart from the EKD? --- I suppose it would have been Britain, but this came through the General Secretary. This is what - the General Secretary at that time participated very 30 much/...

speculatively what must have been the case in such and such an instance (e.g. Dr. Kistner's own relationship with the German churches thought to be sinister when it could have been explained quite simply if they had come to us). All they needed to do was to have approached the SACC and voilà, they would have had the information they needed and spared themselves untold manhours on something they tended to get wrong in any case, for instance, the status of documents and pronouncements by certain individuals. 10

We operate openly. This does not mean lack of confidentiality or prudence. I am not scoring a debating point but I am quite happy for instance, if it will help the police in future, to give them advance copies of my speeches, as long as they will honour the embargo. I say in public much what I say in private. This true certainly about apartheid and the state of our nation.

M'lord, and Members of the Commission, this Inquiry has been an expensive exercise for the SACC. The 20 Government has at its disposal vast financial resources in taxpayer's money and it is used to losing large sums without being too embarrassed about it and which it would not normally bring to the notice of the public had it not been for the questioning of certain persistent individuals - for instance, the Info Scandal that cost the South African public over R30 000 000, or more recently the Salem debacle costing we are told, another R30 000 000 or so. Nor is the SACC able to write off quite in such a cavalier 30

fashion / ...

fashion a deficit as in the case of the Defence budget for last year of R134 000 000. It was incredible to hear the head of the Defence Force, General Viljoen, attempt to explain what happened - that the Defence Force had not overspent its budget. All that had happened was that there was insufficient money in a special fund. I can imagine telling my bank manager that I did not really overspend my monthly budget - what he calls an overdraft is merely the fact that there are insufficient funds in my account and he should not be too unreasonable. What is even more incredible, is that the South African public accepted General Viljoen's statement, it seems, as making sense. You may recall that the Auditor General pointed out that of that total deficit, R11 million was due to bad bookkeeping. In one year the Defence Force has lost through poor financial administration what represents nearly four years of the SACC's total budget. Now, if the SACC's alleged maladministration could be a matter of public interest, a fortiori, the Defence Force's financial inefficiency. I am not intending to score a debating point when I ask: will the Government appoint a Commission of Inquiry into the Defence Force's financial administration in line with the Government's concern about the SACC's finances which are a minute fraction of the funds handled annually by the Defence Force?"

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CHAIRMAN: Might this be a convenient stage in your presentation, Bishop, or would you like to come to a point?

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--- I think - PAUSE -

ADV. KENTRIDGE: M'lord, I think this is in fact a convenient point, because we now come on to something about the actual finances of the SACC.

CHAIRMAN: Thank you.

THE COMMISSION ADJOURNS.