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no date

- I. B. Makadq - Cross Examination -
by Dr. Yutur for State - Money,
Cheques Paid for the Accused

And how many had power to sign cheques?---At any one stage three people had power.

So if Mr. Kantor was not available, there were still two left?---Yes, my lord.

Now, I ask you again, what was the necessity for Kantor to sign a cheque in blank?---Occasionally it happened that the other was not available either. On holiday. Like Mr. A. Kantor was often away from the office, not being well.

Did he ever sign cheques in blank - A. Kantor?---I can't remember.

Did you ever sign cheques in blank?---Yes, my lord.

You did?---Yes, my lord.

At whose request?---It was once or twice at the request of Mrs. Scaneier.

Now, I want to deal with the third point raised by my learned friend in cross-examination - when he referred to the account of Kathrada. I am showing you the file of Kathrada - Exhibit "K(83)" - what did that file deal with?---It is an action by Kathrada against M... and R...(?)

In the ordinary course of affairs, ha?---Yes, my lord.

Are there annotations on the cover?---Yes, my lord.

Detailed annotations?---Fairly detailed.

2 Under date?---Yes, my lord.

When were those annotations made?---After the action was completed, my lord.

Not contemporaneously?---No, my lord.

How do you know that?---Because I made them, my lord.

Now, there are several dates here, under June, July, August, October... did you make them all at the one time? I would like his lordship to see this.

My lord: Is this information extracted from the document on the cover?---From the document, as well as from annotations

with Mr. Wolpe, my lord.

~~As-asked~~ BY MR. YUTAN (Continued): And you sat down on one day and you made all those annotations?—Not on one day, my lord. As I was drawing the bill of costs. If I couldn't get it from the correspondence, then I would go to Mr. Wolpe and say, "Now, what happened here?". Then he would give me the information, and I would put it down, and draw the bill of costs, my lord.

Was there any reason why those annotations could not have been done contemporaneously?—Well, it would have meant going through the whole cover first, and then going to him with my queries.

I beg your?—I could have done that, my lord, but that would have meant going through the whole cover first, making the queries, and then asking him questions, as to what happened.

Did notice that there are three different types of ink?—That is right, my lord.

I show you now Exhibit "K(32)". With what does that deal?—It is Katarada - house arrest - my lord.

Who dealt with that matter?—Mr. Wolpe, my lord.

How do you know that?—It is his handwriting, my lord.

And do you know that for a fact from your own knowledge?—That is so.

Look inside the cover - who dealt with it?—The letters are written under the name of J. Kantor, my lord.

Who signed it?—I can't say that, my lord.

It is written under the name of James Kantor?—That is right, my lord.

Was there a letter there from the Senior Magistrate addressed to the firm for the attention of Mr. James Kantor?—That is so, my lord.

When did you first see that?---This one I saw right now, my lord.

For the first time?---That is right, my lord.

Any notes on the cover?---No, my lord.

Why not?---I can't give you any reason for that, my lord - not reason.

Is there any difference between the one matter dealt with in "K(83)", and the matter dealt with in "K(82)"? Any difference, from the point of view of the office?---Yes.

What is the difference?---Here we had to tax a bill of costs, in one matter, and the other one would have been a fee to the client.

Is there any notation there, interviews?---No, my lord.

Or what the fee should be?---No, my lord.

In fact, only fees sent to him?---Not from the cover.

Would you like to look at his card?---I have seen it - there was no fee, my lord.

Can you give any reason for the distinction?---No.

No, my learned friend, Mr. Conker, questioned you, about the meetings of banned persons, that took place in your office?---Yes, my lord.

And you told his lordship that the blinds were down?---That is right.

Do you know what was discussed at those meetings?---No, my lord. I was not at the office when those meetings took place, my lord.

But you told his lordship that when you went in they stopped their discussions?---That is right, my lord.

Now, you have told his lordship too that on one occasion you were out of the office whilst this meeting of banned persons took place in your office, for over an hour?---That is right, my lord.

What did you do during that time?---I must have floated around the various offices, my lord.

So that they could have seen you floating around the office - anybody in the office?---That is right, my lord.

Now, you also told my learned friend, or said in answer to my learned friend, that the transfer of the registration of a company - the work in connection with the transfer of the registration of a company from the firm of James Kantor and Partners, to Furman, was nothing unusual. Those were your words. "Nothing unusual".---It was nothing unusual, in the sense that if your instructions were withdrawn... It often happens that clients just withdraw the instructions, and take the matter away.

Do you know of any other instance where the work in connection with the registration of a company was transferred from James Kantor and Partners, to another firm?---No.

Do you know of my reason why the work was transferred in this case?---No, my lord.

Now we come to another point. You said, in reply to my learned friend, that the reason for the drawing of cheques in practice details need not be given?---That is right.

Why do you say that?---Details are only given for purposes of record, my lord.

Well, you have seen these cheque forms - for what reason is the last two lines used?---To note the person to whom the cheque must be debited, and the reason for the cheque.

Well, if it is in practice not necessary to give the reasons, why were... why was this printed Re: Client?---The Re refers to the person receiving the cheque, my lord. To know why he has received that cheque, my lord.

When provision is made there on the cheque - why was it not utilized?---I won't be able to answer that, my lord.

Why did you say to my learned friend that in practice

details are not given?---Need not be given.

Why did you say that?---Because a cheque is negotiable without the reasons on it, my lord.

I know it is?---That is what I mean - if the reasons are not given the bank will still...

Oh, is that what you meant - the bank will still cash the cheque?---Yes.

But I am talking now from the point of the bookkeepers, the accountants, the auditors - I don't want to know anything else.. Don't they want to know the reason for the cheque?---Yes, my lord.

Can you give me any reason why it should not be put onto the cheque?---I can give no reason, my lord.

Now, I now refer you to Exhibit "K(96)" - here are two cheques. Look at cheque number 4577, and 4579.---Yes, my lord.

Are the reasons for the cheque given in those two cases?---Yes, my lord.

And what are the reasons?---In the one case it was ~~State witness~~ ^{versus} ~~State witness~~ ^{State witness} Bithole, my lord, and in the other case it was a refund, ~~State witness~~ ^{versus} J. Kwadaki?

So the reasons are given?---That is so, my lord.

And the account?---The account is also given.

Whose account?---The first instance - that of N. Bithole

The accused?---The accused.

And the second?---John Kwadaki?

Also the accused?---Also the accused.

And to the first one is a requisition attached?---

That is right, my lord.

Are the reasons given there?---Yes.

There we have a case now where the reasons for the drawing of the cheque is given, both on the cheque, and on the

requisition?---That is so, my lord.

Now, keep that in front of you, and I want you to compare that with something else, now. Now, I would like you to look at "K(55)". The cheque. Now, is that the normal practice - those two cheques to which I have drawn your attention. ---It is the normal practice.

Any deviation from that, would that be abnormal?---
That is, so, my lord.

Now, look at "K(22)". Now, that is a cheque made payable to Huron (Pty) Ltd., and there is a reason given?---That is so. What does it say?---Bail funds, my lord.

2 Now, was Huron ever an accused?---Not to my knowledge. Was Huron ever a client of the firm?---Not to my knowledge, my lord.

Why the difference between "K(55)", and the other two cheques I have shown to you? As far as the reason is concerned?---There is no difference, my lord.

Well, the first two cheques that I mentioned, don't they give the name on the accused on whose behalf bail is paid?---
Oh, yes, my lord.

In this case, "K(55)" - is the name of the accused given? And on whose behalf bail is paid?---No, my lord.

So, what was that money saved for?---I wouldn't know.

Look at "K(56)". That is made payable to Amateur Photography?---That is so.

And it just says "Bail funds".---That is so.

On whose account?---Defence and Aid, my lord.

Was Amateur Photography an accused person?---Not to my knowledge, my lord.

Was the client...was it a client?---Not to my knowledge

Can you say why those bail funds were paid out? ---No.

And another thing too - both those amounts "K(55)", and "K(56)", are like amounts - \$2,000.00 each?---That is so.

Do you know what it is for?---No, my lord.

Then you went on to say, in answer to my learned friend, "If the reasons for the cheque are not found on the face of the cheque, then they will be found on the requisition".---It would be found?

It would be found on the requisition?---Yes, my lord.

What would you say if in fact there are cases where the reasons for the cheque are neither given on the cheque, or on the requisition?---It would be quite possible, my lord.

How would that happen?---Because the requisitioning does not mention the reason for the cheque and makes out the cheque, and does not put down reasons for the cheque on the cheque itself, my lord.

Why did you say to my learned friend - and I am quoting your words - "If the reasons are not found on the face of the cheque, then they would have been found on the requisition"?---That is not possible, my lord.

What did you say?---I would not have said that, my lord. It is not possible.

Well, what would you have said?---If they don't appear on the cheque, then they won't appear on the requisition, my lord.

Is that in accordance with normal practice?---No.

Not normal practice?---No, my lord.

How would the bookkeeper, in the first instance, or the accountant, and in the second instance, the auditor, know for what purpose the cheques are drawn, if there are no reasons given on the cheques, or on the requisition?---They would have no reason at all.

Now we come to this - you said that cash cheques were

drawn on the Trust account remember?---Yes, my lord.

There were some instances of cheques drawn on the trust account, but the crossing was cancelled?---Yes, my lord.

Can you recall what instances?---Well, where bail has to be paid, and we have money in trust, and the... assuming the bail is in a district Court, outside Johannesburg, then our cheques are not accepted, and cash must be deposited with the magistrate. In those instances one has to draw a cash cheque. Alternatively, in transfer duties, and revenue stamps, for cash, drawn on Trust Account, if there is money in the clients account.

That is two instances. What other instances?---If a matter was finalised, and the client did not have a banking account, and wanted her or his money, then a cash cheque was given to him.

That is three.---I can't recall, offhand, any more.

Right. Let us deal with each one in turn. If bail had to be found and deposited to a Court outside Johannesburg, then a cash cheque would be drawn?---That is right.

Would that also apply to Johannesburg or not?---No. Our cheques are accepted in Johannesburg.

What details would then be placed on those cheques? --- All relevant details necessary - bail so and so.

And the crossing would be cancelled?---Yes.

You have already told us in your evidence in chief that Mr. James Kantor always required, if you cancelled the crossing, to give a reason why you wanted the crossing cancelled? ---That is so, my lord.

And did he carry out right to the end?---No, towards the end he didn't enquire about it, my lord.

How do you know?---I think I once or twice went up to him with a cheque for signature, and he just printed it out to him, and he just signed it, my lord.

Once or twice - let us have the details of that?---
I can't remember. I can remember that I had been to him, and
he just signed them, my lord.

And you can't recall the details?---No, my lord.

Was it usual or unusual, my lord?---Unusual.

And although it was unusual you cannot recall the
incident?---That is right.

The second instance you said that drawing cheques,
payable to cash, on the Trust Account, was for payment of
stamps?---Stamps - stamp duty.

Now, can you recall any such instance there?---Yes,
my lord. Revenue stamps, that are purchased weekly or monthly.

Yes?---Assuming that there is a property transfer,
and a large amount of stamps are necessary, because of the
value of the property, then, of course, a special cheque is
drawn for that.

Details given on the cheque?---All details given
on the cheque.

And the client will be shown as?---The person to be
debited, my lord.

So, I show you again this check of Lett, for R19.25 -
Exhibit "K(20)". Was this cheque drawn for stamps?---It
gives no reason at all, my lord.

Was it drawn for stamps?---No, my lord.

And I ask you why did you say to my learned friend
it might have been for stamps ---He suggested to me that it
could have been. It could have been for anything.

Anything?---Anything.

Stamps too?---Stamps too.

It was for stamps can you suggest any reason why it
should not have been recorded?---No, my lord.

And the third reason you gave for drawing cash cheques on the trust account is that a client of the firm who didn't have a banking account, and therefore the crossing would be cancelled and you would pay him out of cash?—Cash, or let him cash it at the bank.

Can you recall any such instances?—Yes, my lord.

Who?—I cannot remember names, but I remember certain third party claims that I had to finalize, where I had to pay out my client, eventually. I drew cash cheques, and there were some large cash cheques.

But did you not tell his lordship that you drew it in favour of the person there, but cancelled the crossing?—That is right, my lord.

So that the payee had to endorse the cheque?—That is right, my lord.

I am not talking about that. I am talking about cheques made payable to cash?—No, I don't recall anything like that.

Finally, did you say to my learned friend.... Finally I want to come to this Letele account. Do you know who this Letele is?—No, my lord.

Never heard of him?—I subsequently heard of him.

When did you hear of him?—After Mr. Kantor's detention, my lord.

From whom did you? —From Detective Sergeant van Reenburg, my lord.

You didn't know him at all?—No, my lord.

Look at his file. File "R(3)". Ledger card "L(4)".

Is this the file for A. Letele?—Yes, my lord.

Was this a new client, as far as you were concerned? Was that a new client?—Well, I didn't know of a client A. Letele, my lord.

Whose handwriting is that?---wolspe, my lord.

Any instructions there?---Not on the cover, my lord.

Inside the cover?---No, my lord.

He paid in a lot of money - R8,000.00?---Yes, my lord.

On the 20th August, 1962?---Yes, my lord.

It is also reflected on "K(4)", not so?---That is so.

And a whole number of cheques were paid out?---That is so, my lord.

16 cheques - to different people?---That is so.

How did the firm know to pay out those 16 cheques to different people?---I would not know, my lord.

I am interested also in the last amount there. If you total all those amounts it will come to R7,999.25.---That is so, my lord.

Leaving a balance of 75 cents?---Yes, my lord.

What happened to that?---That amount was transferred to the account of Defence and Aid, my lord.

On whose instructions?---I wouldn't know, my lord.

Can you now, as one of the employees of James Kantor and Partners, with joint signing powers, can you tell the Court any reason why there should be no instructions, there, as to how the money should be disposed of?---No, my lord.

DR. YUTAR: I have no further questions.
