15/71

G.P.-S. J. 445.

In the Supreme Court of South Africa
In die Hooggeregshof van Suid-Afrika

(APPELLSTE DIVISION).
AFDELING).

APPEAL IN CRIMINAL CASE.
APPÈL IN STRAFSAAK.

(J. J. Hermanus)

FRANK SIWA & OTHERS

Appeliant.

versus/teen

THE STATE

Respondent.

Appellant's Attorney G. A. Hill, McHardy & de Bruyn *Respondent's Attorney* A.G. (C. Town)
Prokureur van Appellant *Prokureur van Respondent*

Appellant's Advocate D. H. Seggie *Respondent's Advocate* J. G. H. Jansen
Advokaat van Appellant C. Cubitt *Advokaat van Respondent*

Set down for hearing on 6 - 5 - 1971
Op die rol geplaas vir verhoor op

4. 7. 8.

(E.C.D.)

Coram Holmes, Rabie, Muller. J.J.A

C. A. V.

9.45 am — 11.00 am
11.45 am — 12.45 pm
2.15 pm — 3.45 pm

Muller J.A.:- [A]ppeal dis[miss]ed.

REGISTRAR.
24.5.1971

IN THE SUPREME COURT OF SOUTH AFRICA.

APPELLATE DIVISION.

In the matter between:

TEMBA BENEDICT TENGIMFENE

AND OTHERS .... APPELLANTS.

AND

THE STATE .... RESPONDENT.

Coram :Holmes, Rabie et Muller, JJ.A.

Heard :6 May 1971 Delivered: 24 May 1971

J U D G M E N T .

Muller, J.A. :

This is a rather belated appeal against the conviction of the appellants during July 1969, on certain charges under the Suppression of Communism Act, No.44 of 1950, as amended.

The five appellants were charged, together with nineteen other adult males, in the Eastern Cape Division of the Supreme Court with the following offences:

Count 1: Contravening section 21(1) of Act No.76 of 1962 by conspiring

with..../2

with each other and with other persons, to aid or procure the commission of, or to commit acts of sabotage.

Count 2 : Contravening section 3(1)(a)(i) of Act No.44 of 1950, as amended, by becoming, continuing to be or performing acts as office-bearers, officers or members of an unlawful organization, to wit the Pan Africanist Congress, also known as Pogo.

Count 3 : Contravening section 3(1)(a)(iii) of Act No.44 of 1950, as amended, by contributing or soliciting funds in aid of the said unlawful organization.

Count 4 : Contravening section 3(1)(a)(iv) of Act No.44 of 1950, as amended, by taking part in the activities of the said unlawful organization.

Count 5 : Contravening section 11(e) of Act No.44 of 1950, as amended, by allowing premises to be used for the purposes of the said unlawful organization.

The..../3

The last mentioned count was limited to some of the accused only, including two of the present appellants, namely, accused Nos. 2 and 6; and in respect of the said count there was attached to the charge sheet a schedule of meetings alleged to have been held at different premises in Graaff-Reinet, over the period January 1966 to January 1967, for the purposes of or in connection with the offences covered by Counts 2, 3 and 4.

For convenience I shall hereinafter refer to the appellants as accused Nos. 2, 3, 4, 5 and 6 respectively, being the identifying numbers assigned to them at the trial.

The Attorney-General for the Eastern Cape having directed that the accused be tried summarily, without a preparatory examination having been instituted against them, the matter was so heard by Jennett, J.P., assisted by two assessors; the trial commencing on 23 June 1969. The accused were represented by Counsel and they all pleaded not guilty to the charges.

The State called 10 witnesses in all, 8 of whom testified that they were members of the Poqo organization in Graaff-Reinet during the year 1966. Nearly all of them had either been born

and bred in Graaff-Reinet or had lived there for many years, and were well acquainted with the Bantu community living in that town. The following course of events is gathered from their testimony.

Accused No.1 was appointed as Minister of the Methodist Church of Graaff-Reinet. He arrived in Graaff-Reinet during 1964 and took up residence in the Bantu location. A short time after his arrival he founded the Wesley Guild with the object, so he declared, of providing diversion for the youth and fostering their interest in church affairs. As from 1965 Accused No.1 started voicing his dissatisfaction with the living conditions and conditions of employment of the Bantu community living in Graaff-Reinet. He propagated the idea that the members of the Bantu Community should organise themselves with the object of overthrowing the present regime, if need be by force. The organization which was to work in that direction would be a Poqo organization, the members of which were to prepare themselves in body and mind for the future commission of acts of sabotage when the time was considered opportune. Such acts would include attacks on police stations and the killing of members of the police force, the destruction of public

works..../5

works and buildings, the poisoning of public drinking water, the cutting of telephone wires, the destruction of power stations and the killing of members of the White population and also members of the Bantu population who were opposed to the Poqo movement.

These matters were raised by Accused No.1 in private discussions with persons whom he sought to convert to participation in the movement, many of whom were thus converted, and such matters were also raised by him, tentatively at first at meetings of the Wesley Guild early in 1966, and later with more candour and vigour at meetings held specifically for the discussion of Poqo affairs and activities at the houses of some of the accused. At these last mentioned meetings and also in private talks with the State witnesses individually, Accused No.1 discussed the aims of Poqo, the recruitment of new members for the organization, the observance of secrecy, the payment of contributions by the individual members, which funds would be applied towards the acquisition of arms, and the selection of suitable persons out of the body of members who would be sent overseas for training in warfare and sabotage. At some of the meetings, and also in private, contributions were collected from the members; an oath was administered

and..../6

and the Poqo salute demonstrated. A committee was also formed to assist accused No.1 as the leader of the organization.

From the evidence of the State witnesses generally it appears that accused No.1 had great influence over the individuals whom he sought to convert to the Poqo movement. No doubt this was because of his personality and his status in the Bantu community as a minister of religion. Fears expressed by some of the converts as to the dangerous path which was being trodden were stilled by the explanation of accused No.1 that the Poqo organization would be working under cover of the Wesley Guild.

Towards the middle of 1966 accused No.1 informed the other members of the organization that he expected to be transfered from Graaff-Reinet and that if and when that should come about accused No.2 would act in his stead. His transfer, to Peddie, was notified during December 1966 and he left Graaff-Reinet in January 1967.

Once he had departed from Graaff-Reinet no further meetings of the Poqo organization took place and the whole movement appears to have died a natural death.

The ...... /7

The following explanation for this turn of events is found in the evidence of one of the State witnesses, Ponie Jafta, who was an elder in the Methodist Church and a confessed member of the Poqo organization:

> "Die rede is, rede nommer een is dat die leier Eerwaarde Hermanus (accused No.1), hy was toe nou op pad, of al weg gewees, toe is ons toe nou sonder leier, die tweede is dat ons bang was om te werke te gaan, veral toe ons gehoor het dat manne op Laingsburg en Beaufort-wes gevang.was. Toe sien ons nie verder kans nie."

The reference in this testimony to arrests at Laingsburg and Beaufort-West, was, presumably, intended to relate to arrests of persons later charged with being members of the Poqo organization in those towns.

Concerning the activities of the organization in Graaff-Reinet, it was the State's case that the following meetings alleged to have been held by, or at the instigation of, accused No.1, while he was in Graaff-Reinet, were meetings in futherance of the aims and objects of Poqo, namely:

MEETING.	DATE.	VENUE.
A	January 1966	Wesleyan Church Hall.
B	February 1966	Wesleyan Church Hall.
C	March/April 1966	House of accused No.6.
D	April 1966	Study of accused No.1.
E	May/June 1966	House of accused No.2.
F	June 1966	" " " "
G	July 1966	" " " "
H	July/August 1966	House of accused No.6.
I	September 1966	Wesleyan Church Hall.
J	October 1966	House of accused No.6.

MEETING	DATE.	VENUE.
K	December 1966	Study of accused No.1.
L	January 1967	House of accused No.6.
M	May 1966	Study of accused No.1.

And, with regard to the complicity of the various accused alleged to have attended any one or more of the said meetings, the State relied on the presumption provided for in Section 12(1) of Act No.44 of 1950, which reads as follows:

> "If in any prosecution under this Act, or in any civil proceedings arising from the application of the provisions of this Act, in which it is alleged that any person is or was a member or active supporter of any organization, it is proved that he attended any meeting of that organization, or has advocated, advised, defended or encouraged the promotion of its purposes, or has distributed or assisted in the distribution of or caused to be distributed any periodical or other publication or document issued by, on behalf or at the instance of that organization, he shall be presumed, until the contrary is proved, to be or to have been a member or active supporter, as the case may be, of that organization.

According to the testimony of the State witnesses the individual accused had attended the said meetings or some of the meetings.

And there was also evidence that some of the accused had at the said meetings and/or on other occasions done or said certain

things....../9

things, which evidenced their association with and membership of the Poqo organization.

With a few exceptions (one of the exceptions being accused No.1) all the accused entered the witness box and denied under oath that they were or had been members of the Poqo organization or that they had in any way been associated with the Poqo movement. They denied that they had attended any Poqo meetings. Some of them admitted that they had attended meetings of the Wesley Guild and/or of a football club but stated that such meetings were not concerned at all with Poqo or its activities. Indeed, their evidence on the whole was that they were unaware of the existence of any Poqo organization in Graaff-Reinet. A few of the accused raised the additional defence that they could not have attended certain meetings testified to by some of the State witnesses inasmuch as they were not in Graaff-Reinet at the time when such meetings were stated to have been held.

On the whole, as the accused would have it, the totality of the State evidence was a tissue of lies. And it was suggested, at least by some of the accused, that the State witnesses

were....../10

were prevailed upon by the police to concoct the whole story concerning the existence of a Poqo organization in Graaf-Reinet. Indeed, accused No.2 testified that he had been assaulted by the police until he was prepared to make a written statement admitting his complicity; and the suggestion was that the police had bullied him into making that statement with the hope that he, having once made the statement, could be used as a State witness. Counsel for the State informed the court that the police denied these allegations, but no evidence was led in rebuttal thereof.

Accused No.3 also told the court that he had been ill-treated by the police, but his evidence was so unsatisfactory that the court had no hesitation in disbelieving him.

All the State witnesses emphatically denied that they had been ill-treated or intimidated by the police. There was, however, some evidence, though of very little persuasive value, that two of the State witnesses, Klaassen and Pixie May, had been assaulted by the police. In the case of Pixie May the court accepted his denial of any assault upon him. In the case of Klaassen, however, the court regarded his evidence as

suspect ..... /11

suspect and, for other reasons also, considered him to be an unsatisfactory witness. Another State witness whose evidence was found by the court to be unsatisfactory was Hintsa Hloyi, and his testimony was disregarded altogether.

For the rest, the court regarded the State witnesses as reliable and, in some cases, impressive witnesses. On their evidence the court found that there had indeed been a Poqo organization in existence at Graaf-Reinet under the leadership of accused No.1; that various meetings of the organization were held over the year 1966 and that, in so far as some of the accused were concerned, there was sufficient and reliable evidence that they had attended these meetings as members of the organization.

In considering the evidence concerning the complicity of the various accused, the court was faced with certain practical difficulties. These difficulties arose from the fact that the precise dates of the alleged meetings could not be fixed; indeed, in respect of some of the meetings, not even the month in which the meeting was held, could be fixed - for example meeting C March/April 1966; meeting E May/June 1966; meeting H July /August 1966 -

and the matter was further complicated by the allegation, and also the evidence, that other meetings were held during April (meeting D), June (meeting F) and July (meeting G).

If regard is had to the fact that the witnesses were testifying (in1969) to events which had taken place some 3 years before, it can readily be understood why there was at times confusion at the trial as to which particular meeting or meetings a witness was directing his testimony.

It was because of this state of affairs that the trial court adopted an approach which the court itself described as "artificial", but which the court reasoned would be favourable to the accused. This approach was to the effect that, where only one witness testified as to a particular meeting having been held, the evidence concerning the attendance of any of the accused at such a meeting should be disregarded; and further that the testimony of only one witness as to the attendance of a particular accused at a single meeting should not be regarded as sufficient evidence against him, unless the attention of the witness to a particular accused was fixed by more than his mere passive presence at the meeting.

On....../13

On this approach quite a number of the accused, though implicated by the State evidence, were held not to have been sufficiently identified as members of the unlawful organization.

It was futhermore the court's view that meetings A and B should not be regarded as meetings of the unlawful organization inasmuch as the court felt that those meetings should rather be looked upon as meetings at which the persons present were merely notified of the intention to form a branch of the Poqo organization in Graaff-Reinet.

The trial court, after having analysed the evidence against each of the accused, on the basis of the criteria aforementioned, found that in respect of quite a number of the accused the State had failed to prove the charges beyond a reasonable doubt.

In respect of Count 1, it was the court's view that it had not been proved that any of the accused, including accused No.1, had committed acts of sabotage as defined in the relative Statute. The court's reasoning in this regard is stated as follows in the judgment of the court:

"...we must bear in mind the peculiar position

> that throughout the nine months or a year of the existence of the Graaff-Reinet Branch of Poqo it did no more than meet and hear No.1 tell them that they would in due course, on some future but undetermined date, be able to and be required to perform some or all of these unlawful acts. In the circumstances we consider that we should refuse to say that even No.1 has been shown to have committed sabotage, as defined in the relative Act, by his incitement because, in effect, he was inciting them to become members of an organisation with that criminal conduct as its object. They, by agreeing, did no more, in our view, than to agree to belong to such an organisation."

There was no doubt whatsoever in the mind of the court that accused No.1 was guilty of the offences charged in Counts 2, 3 and 5, and he was convicted accordingly. The present appellants, (accused Nos. 2,3,4,5 and 6) as well as 6 other accused were convicted on Count 2 and two of the appellants (accused Nos. 2 and 6) were convicted on Count 5. The rest of the accused were found not guilty on all counts and were discharged.

The sentences imposed on the appellants were as follows:

Accused No.2 imprisonment for a period of 2 years and 6 months.

" No.3 " " " " " " " .

" No.4 " " " " " " " .

" No. 5 " " " " " " " .

" No. 6 " " " " " " " and 6 months.

As....../15

As from the date of judgment and sentence (2July 1969) a period of approximately 7 months passed before the appellants filed an application in the Eastern Cape Division for leave to appeal to this Court and for condonation of the late filing of the said application. The matter was heard by Jennett, J.P., who, although condoning the delay in bringing the application, refused leave to appeal because, in his judgment, there were no reasonable prospects of success on appeal. A further application to this Court, for leave to appeal was successful; the appeal being heard on ~~the~~ 6 May 1971.

Although the appellants had by that date served nearly two years of their sentences of imprisonment, no blame for the delay in bringing the matter to finality can, it seems, be attributed to anybody, other than the appellants themselves or their legal representatives.

The appeal to this Court against the convictions of the appellants was argued on various grounds, all of which, howe ever, turned around a central theme, namely, that the trial court should not have accepted the evidence of the State witnesses.

Although a variety of reasons were advanced for this contention, they can conveniently be classified under the following main submissions:

(a) that, in view of the particular circumstances surrounding the alleged contraventions, the trial court should have approached the evidence of the State witnesses with special caution;

(b) that the court should, on the evidence, have had a grave doubt as to whether a Poqo organization had in fact been formed in Graaff-Reinet;

(c) that, even if such an organization had been formed, the court should not, in the absence of credible evidence probative of the complicity of the accused, have found them to have been members of that organization merely because of their passive attendance at meetings of the organization;

(d) that the evidence of the State witnesses concerning the

identification ......

identification of the persons who had attended the various meetings was wholly unsatisfactory, and should have been rejected.

In respect of the first of the said submissions, that under (a) above, counsel for the appellants laid emphasis on the fact that the case was a complex one, involving 24 accused and a large number of State witnesses who had to testify to events which had occurred some two to three years before the trial. In such circumstances, so it was argued by counsel, the possibility, and indeed probability, of confusion and mistakes on the part of the witnesses was such that the trier of fact was required to approach the evidence of the State witnesses with special caution. This argument is a sound one, but should not be stretched too far. That the lapse of time and the complexity of the case must of necessity have affected the acceptability of the evidence of the State witnesses with regard to details, for example, as to particular meetings to which their evidence was directed or as to the persons present at such meetings, cannot, I think, be gainsaid. But, as I have already indicated, and will again refer to later

in this judgment, the trial court ~~[appears to have been]~~ was fully aware of the dangers which, in the particular circumstances, were inherent in accepting the testimony of any one witness without corroboration.

Futhermore, whatsoever doubt there may be on this score as to the ability of the State witnesses to recall particular events or to remember which of the accused were present at particular meetings testified to by them, the same consideration does not apply to the evidence generally that, at the instigation of accused No.1, a Poqo organization was formed; that a series of meetings were held during 1966 at which the aims and objects of Poqo were discussed and at which meetings at least some of those who attended, by their conduct, identified themselves with the Poqo movement.

A further argument propounded on this aspect of the case was that,inasmuch as there had been evidence by two of the accused that they had been assaulted by the police - a matter to which I have already alluded - , the likelihood that the State witnesses

could have been subjected to similar methods of intimidation and violence in order to obtain false testimony against the accused, should have weighed heavily with the court. As I have already indicated, the court *a quo* in fact gave proper consideration to this aspect of the case, and, in evaluating the testimony of each of the State witnesses, the court appears to have been fully conscious of the possibility of police interference with such witness. Indeed, it was on this ground, *inter alia*, that the court regarded the evidence of John Klaassen not to be reliable.

With regard to the appellants' second main submission, that under (b) above, it was contended that the fact that no acts of sabotage were committed brings in question the whole idea that a Poqo organization was in existence. A proper consideration of the evidence clearly shows, however, that there is no force in this contention. Accused No.1, who was the founder and leader of the organization, impressed on his followers that acts of sabotage would have to be postponed until the time was ripe for the use of force, i.e. until they were properly organized and had arms at their disposal.

Before that time arrived, accused No.1 was transferred from Graaff-Reinet and the organization came to an end.

For the rest, the contentions advanced under this submission consisted mainly of a detailed comparison of the evidence of the various State witnesses with the object, so it was stated, of showing that there were material contradictions between the witnesses on various matters relied upon by the State as evidencing the existence of an organization. Many of the suggested contradictions appear, upon analysis, not to be such at all. That there were differences between the State witnesses on various matters is clear. Thus, for example:

(i) some witnesses testified as to the appointment of a committee, others were not aware thereof;

(ii) most of the witnesses testified that they were asked to pay subscriptions and did in fact pay, while a few stated that they did not pay;

(iii) some witnesses testified to the taking of an oath, whereas others made no reference in their evidence

to ...... /21

to the taking of an oath or testified that they did not take an oath.

(iv) there were differences between the witnesses as to whether individual members were permitted to recruit new members or not.

The fact that there were such differences between the witnesses, particularly concerning the matters mentioned in (i), (ii) and (iii) above, is explicable on the evidence, which was to the effect that the State witnesses did not all attend each and every one of the meetings which were held, and the likelihood of bona fide mistakes having been made, by at least some witnesses, in testifying to a certain occurrence having taken place at a particular meeting whereas in fa[illegible]ct it could have taken place at another meeting. A witness could therefore have been unaware of occurrences at meetings not attended by him.

An explanation for certain differences between the evidence of the various State witnesses concerning the

recruitment of new members is, it seems, to be found in the following passage in the testimony of Ponie Jafta:

> "Ons moet vir hulle (prospective recruits) sê hoe sleg ons posisie is in die lokasie, en dat ons is nou van plan om 'n organisasie te stig om die mense te help. En dan as hy inwillig moet ons hom dan oorgee aan Eerwaardwe Hermanus (accused No.1), hy sal nou finaal met hom praat".

In a sense, therefore, existing members were expected to canvass prospective members, but it would be for accused No.1 to decide whether a person so canvassed would be admitted to the organization. This explains what in fact some of the witnesses meant in saying that they were not to recruit new members.

On the evidence as a whole, I cannot agree with the submission that the trial court should have been in doubt as to whether the meetings alleged to have been attended by the accused were meetings of the Poqo organization - that is meetings other than meetings A and B held respectively during

January ...... /23

January and February 1966, which two meetings should, in the opinion of the trial court, not be regarded as meetings of the organization but rather as meetings at which the persons present were notified of the intention to form a Poqo organization. The matters dealt with at the later meetings were clearly of such a nature as to stamp ~~such~~ those meetings as meetings of the Poqo organization.

Regarding the appellants' third main submission, that under (c) above, it was contended by counsel for the appellants that, even if the meetings in question were to be regarded as meetings of the unlawful organization, the mere passive attendance of such meetings by the accused would not bring into operation the presumption provided for in section 12(1) of Act No.44 of 1950 (quoted above). His argument was that before the presumption could operate it was necessary to establish that the accused were aware that a particular meeting was a Poqo meeting and/or that the accused associated themselves with the ideas expressed at such a meeting. I cannot agree with that contention. The presumption that an accused is a

member of an unlawful organization arises, in terms of section 12(1), immediately it is established that he attended a meeting of that organization. The onus is then on the accused to rebut the presumption.

It is, however, unnecessary for the purposes of the present case, to decide whether the appellant's contention as to the requirements for the operation of the said section is sound or not, because, on the evidence, the appellants, as I will indicate later, were not mere passive auditors at the meetings in question.

I come now to the last of the appellants main submissions, that under (d) above, which was to the effect that the identification of the various accused at the different meetings of the organization was wholly unsatisfactory. Counsel for the appellants demonstrated, by reference to the record, not only that there was confusion and uncertainty between the State witnesses as to the time of the year when certain meetings took place, but also that there were in many instances a conflict between the witnesses as to which accused were present

at ...... /25

at particular meetings. That there were such differences between the various State witnesses is, in the circumstances, not suprising. But what indeed surprises me is that the State witnesses purported to remember, after the lapse of more than two years, which persons were present at a particular meeting, and that without there having been any reason at the time when the meetings were held to take particular note as to the persons in attendance.

I cannot credit the witnesses with such phenomenal memories; and, had the issue been whether a certain accused had attended a particular meeting, I would have felt constrained not to rely on the memories of the witnesses unless there was other strong corroborating evidence. That, however, was not the issue. The trial court was called upon to decide a broader issue, namely, whether it had been established that a particular accused had attended any of the Poqo meetings held during 1966. And that issue was adjudicated upon by the court after having made allowances in favour of the accused as explained earlier in this judgment.

In the case of the appellants, accused Nos. 2, 3, 4, 5 and 6, at least four witnesses testified to the attendance by each of them of Poqo meetings - that is without having regard, for the reasons stated by the trial court, to the evidence of the witnesses Klaassen and Hloyi -; and on the evidence of the witnesses, other than the two just mentioned, the said accused each attended at least five Poqo meetings - and that is without having regard, also for the reasons stated by the trial court, to meetings A and B and certain other meetings alleged to have been Poqo meetings.

All the appellants were well known to the State witnesses. Indeed three of them were school teachers; and it is unlikely that the witnesses could have been mistaken as to their identity.

It is moreover clear from the testimony of a number of witnesses, that each of the appellants, by his conduct, unmistakably associated himself with the Poqo movement. Thus two of them, accused Nos. 2 and 6, allowed their premises to be used for Poqo meetings; four of them, accused Nos. 2, 3, 4 and 5, were appointed and were agreeable to serve on the

committee of the organization; some of them addressed certain of the meetings and others again notified members of meetings which were to be held and/or were seen to collect or pay subscriptions.

In view of the above, and subject to what I am about to say with regard to one of the appellants, accused No.5, there is in my opinion no reason to question the finding of the trial court as to the guilt of any of the appellants.

The position of accused No.5 was somewhat different from that of the other appellants because of an alibi raised by the said accused in his defence.

The evidence against accused No.5 was that he had attended the following meetings:

MEETING	MONTH	WITNESSES.
C	March/April 1966	Ponie Jafta Gilbert Futshane Temba Ntyebi Pixie May.
E	May/June 1966	Gilbert Futshane

according to the accused, he was in the employ of a commercial traveller, a Mr Flack, and was away from Graaff-Reinet.

Towards the end of the trial counsel for the State informed the court that he had been in communication with Mr Flack and that the State was prepared to accept that accused No.5 was away from Graaff-Reinet over the following periods in 1966, namely,

(i) end of May to 14 July, save for the period 2 to 4 July.

and

(ii) 6 October to 19 December, save for the period 19 to 22 November.

The defence in turn admitted that accused No.5 was in Graaff-Reinet until the end of May, then from 2 to 4 July and again from 15 July to 6 October.

Upon analysis the alibi, accepted by the State, only rules out the attendance of accused No.5 at meeting F held in June 1966. Two witnesses, Ponie Jafta and Pixie May, placed him at this meeting. The firstmentioned, however, conceded

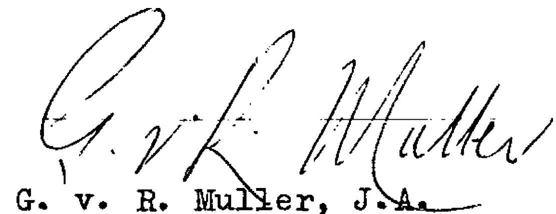
that ....../30

that he could be mistaken as to the presence of the said accused at that particular meeting. And Pixie May, although referring in the relevant part of his evidence to meeting F, was clearly, so the trial court found, referring to meeting E.

Accused No.5 could, therefore, have attended the other meetings listed above, -unless such meetings were held on one or other of those days when acussed No.5 was not in Graaff-Reinet, but there is no reason to think that that was the case - and the evidence is that he did in fact attend such meetings. Moreover, according to the evidence, he was one of the persons appointed to the Poqo committee and had also at a particular meeting propagated the aims of the Poqo movement.

Also in his case, therefore, I can find no reason to question the finding of the trial court as to his guilt.

The appeal cannot succeed, and is dismissed in respect of each of the five appellants.



G. v. R. Muller, J.A.

Holmes J.A.
Rabie J.A. } Concur.