

R v Segal

Saks 2119

MCH91-8a-21-8

Examiner's Initials:  
Voorletters van Eksaminator:

# UNIVERSITY OF CAPE TOWN

## UNIVERSITEIT VAN KAAPSTAD

SUBJECT of Examination (to be copied carefully from the heading on the Examination Paper):  
EKSAMENVAK (presies so afskryf as op Vraestel aangegee):

DATE of Examination/DATUM:

NAME of Candidate (in full):  
VOLLE NAAM van Kandidaat:

YEAR in which first registered:  
JAAR waarin kandidaat eerste keer geregistreer het:

### NOTICE TO CANDIDATES

#### WAARSKUWING

1. Candidates must not use both sides of the paper for their answers. The left-hand pages may be used for rough work, but the examiners will only give credit for answers written on the right-hand pages.

2. No candidate may have with him in the examination room any books or notes whatsoever unless specially instructed by the Registrar by written notice to bring such with him, when he may take into the room the books indicated but no other books or notes.

3. A candidate attempting to help or obtain help from any other candidate, or having any unauthorized books or notes in his possession, will be liable to be disqualified and to be further dealt with as may be determined by the Senate.

4. A candidate must not take out of the examination room any examination books supplied by the University.

5. Pages must not be extracted from this book.

1. Eksamenantwoorde mag net aan één kant van die papier geskryf word. Kladwerk mag op die agterkant van 'n bladsy gedoen word, maar die eksaminator sal vir eksamendoeleindes alleen in aanmerking neem wat op die voorkant geskryf is.

2. Geen kandidaat mag boeke of aantekeninge van watter aard ook by hom in die eksamenkamer hê tensy die Registrateur deur skriftelike kennisgewing las gegee het om bepaalde boeke mee te bring.

3. 'n Kandidaat wat probeer om 'n ander kandidaat te help of om hulp van 'n ander kandidaat te verkry, of wat ongeoorloofde boeke of aantekeninge in sy besit het in die eksamenkamer, stel homself bloot aan diskwalifikasie en watter verdere behandeling die Senaat nodig mag ag.

4. Geen eksamenskrifte deur die Universiteit verskaf mag uit die eksamenkamer weggeneem word nie.

5. Geen bladsye mag uit hierdie eksamenskrif geskeur word nie.

Five of us coming from Athlone Cliffton Rd. ~~to deliver something to~~  
someone that delivered b. leaflets to various people & just  
before arrival, had delivered one bundle to a house  
to which I had been guided by one of the  
occupants of the car, who left the car shortly after  
was dropped near his home after delivery. Immediately  
after dropping him I saw in my mirror a car  
following us, coming up very quickly behind us. I  
slowed down & they swung in front of me. ~~forced me to~~  
I stopped at one of the few people in plain clothes kept out.  
One <sup>asked me for my name, which I gave. He then said</sup> said "Would you wait please."  
I said "of course."

Two waited by the car & the other two drove off.

I made ~~remarks~~ <sup>Bastinige</sup> about the weather.

(Alex in front middle, Joe in front by window: in back, perhaps  
leaflets & SNF boxes) This was  $\pm 10:30$ .

At  $\pm 10:45$  three cars came, & sixteen plain clothes men

\* came out of 3 cars at speed, screeching to a stop, came  
out & surrounded us. It was really like a military  
operation.

A man came to my window - I later discovered that it  
was Capt. ~~rd Westhymen~~ & said "get out please". We all  
got out, just before that - one looked through the window &  
said: "Ah! LaQuina & Madry". When I left the car I  
was ~~sure~~ found myself besieged by all 16, looking at  
me with great excitement. Then a man whom I  
later gathered to be Capt. ~~rd Westhymen~~ said:  
"Mr S. Have you a permit to be in Nyanga?"

"No"

"Do you know you have to have a permit?"

"No." But I do now.

You're here without a permit Ken

I'm quite prepared to sign an admission.

\* // He then ~~said~~ Yes. That will we like

Lucy avec Albis: Does p 3. para 8 apply (1<sup>st</sup> section)  
Piet Bay

Herbst - reported, photographed, Col. lived: about 3 mths ago  
Admin official: Pauseground; Wanted some 2 hrs.

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- 1<sup>st</sup> July:

"What have you in your pockets?"

I took out my revolver gun & gave it to him  
He said: "Have you a license for this?"

I said: "No, but the chief may, said I could borrow one."

"Never mind that. Have you got a license?"

"No" ~~where did you get this?" A: "I'm not prepared to say"~~  
And before we go any further, will not answer  
any q's until I have ~~got in touch with~~ my lawyer.

"Well. There's no telephone here."

We went to the car. & ~~they~~ <sup>one</sup> said: "What have you  
got here?"

"Boycott leaflets. But it is quite legal. My  
lawyer told me."

They said. "Will you come with us?"

I said. "What are you charging us with?"

vd. W (?). "You'll see."

Saevan came with me in front & one went in back. Last

I saw of Alex or Joe was at Phillippi plus station. I then asked  
to phone lawyer. They said. "in a minute."

I was there searched. ~~They~~ <sup>They</sup> read my letters, ~~papers~~  
at my cheque book. ~~as~~ <sup>an article & speech (both of which kept)</sup> They took away my files

"What & are I being charged with?"

Saevan said: "We are not charging you yet you can be  
detained for up to 48 hrs."

Then given permission to phone. Phoned Bernard at home &  
was advised not to make any statement.

Taken to side room. S. filled in 2 forms, asking you

personal details. Fingerprints were taken & physical characteristics  
jotted down.

We then went to Calicut sq. Saevan & others & me in my  
car & vd. W & others in a large. cheap car & another car.

We waited at Calicut sq. I remained outside - then

to my flat which was searched by about 4 men

At flat vd. W & S. asked no question about whether I was  
was anything about boycott. I said no.

By my bed they found a box & asked me what

(Key took it)  
nd W: I said it was the box for the revolver.  
Are you prepared to tell me now when you got the revolver?

J. said NO.

nd W. You'll have to tell me some & later you know  
Segal: Well when I have to tell you I'll tell you

\* // nd. D. You're right on mountain-side. I would like  
to live here.

Segal: That why do you think I wanted a revolver?

We then woke up TV K to get keys of office

\* We then went there & as I got in I picked  
up wire on my desk & handed it to him & said  
"I suppose you'll want this: ~~that I have with me~~  
~~has to do with the burglary."~~

nd W: "That's very kind of you."

They found nothing at the office except wire. What said:

"LKR excluded. Letter following. Notice." (addressed to me)

We went to Wynley (with me, with  
Sawner & one other). We stopped for coffee at Parade  
& among other things S. said I would probably  
get bail & I said that we should go via  
lawyer & he assured me that the LR taken for us  
would be enough since as far as he was concerned I  
could go on our own recognizance.

At Wynley, officially charged & permitted to  
go to Phillips, in order to bail. Was told to appear  
in Mag. ~~at~~.

To policeman:

1. Nyanga a big place

Mr Paussegrow

Does he know which parts are proclaimed as location  
what are the borders.

What is the procedure for getting a permit.

How many policeman arrived following  
the arrest.

Was admission of guilt offered

Do you know Nyanga Reg. passed a tens of  
out (quote but no sup)

Sp. Sgt.:

How many of them

What did they seize

Have they returned the leaflets

Go over the parts in his statement that  
are asterisked

~~Have you heard of the blue bla~~

Have you been keeping a watch on  
Segal's premises?

Do you know of K. L. F.

Have you had any success in tracing  
them.

Does he agree they may be dangerous

Does he know they have destroyed Mpetu's  
office, burnt Segal's car, exploded the gas  
bank at Doll ~~letter~~ he agree there "

9 am

✓ Segal personal details. - ed - look of  
✓ conventions - violence etc

✓ being in question - What was your doing  
✓ where did you begin.

✓ How did you get about delivery

Do you know the area well

What was Lafuma doing when the revolver  
to

Arrest: How many police,  
Was revolver taken

Now I want you to tell us why exactly  
you had this revolver. ~~Would you think~~  
was it that first made you feel the need  
for a revolver

[ go over stuff in letter to Rae ]

Did you receive certain advice  
from the Chief Magistrate?

How did you get into contact with  
the gentlemen who lent you the revolver.

(Name the lawyers). (What, as far as  
you know, was his relationship with the lawyers)

Did he

What their business (Had in certificate  
give name & address)

Why did you not give his name  
to police at time.

Herbst :- Monday 3 months ago C Times

Reptar ordered out of Nyanga.

to cover ANC meeting w/

stopped at permit office & asked for  
directions; they gave us instructions  
to get there.

When meeting started the fees came &  
took names & addresses.

~~ordered & summarised & paid adv. of grant~~

Mr Jessup



JA. Harais : Spoor S.M.P. C.T.

12<sup>th</sup> June, 10.25 pm. I, accompanied by other police,  
was on duty at Nyanga location.

Ek het motor CA 5957 uit een van die sybantjes  
aen kom. Ons het die motor agtervolg en  
ontrek  $\frac{1}{2}$  myl weder, nog in die lokaal, die  
motor ingehaal en vasgekeer. Ek het ons  
voertuig uitgehaal, en aan die ander voertuig  
aangevat en het die besk. op die  
wiel aangekeer. Hagg kom het in  
blyklyk na. en besk is rasiaal na. besk is in  
blanke. Ek het die besk gevra (wat hy  
was seker) en hy het geantwoord dat hy in  
vriend. hinstoo. geling het. Ek het gevra  
wie die vriend was, en hy het in  
nat. raan wat ek nie kan antoon nie

Nyanga lokaal is situated in proclaimed  
area of Div. Council Area of Cape Town

Ek het toe die besk gevra of hy in hand  
van 'n punt om in die lokaal te wees, en  
sy antwoord was dat hy nie <sup>in hand na is</sup> 'n punt is.

Ek het hom beveel om 'n tydjie te wag, en  
daryn het hy 'n het 'n hoedskaf gestem  
na die Phillips Johannesburg <sup>Dist H.C.M.T.</sup>

Ons treks 10.45. het Sp. Saveman en  
Kops od Westlyer daar opgedaag en het die  
sach aan Saveman oorgeleed

## Chrostoff

Asst Supt at Nyanga, employed by Div. Const.  
of N. Z.

Duties to safeguard law & order.

By native law in the location needs permit  
to reside there or be there.

Before he goes into location he has to have  
permit books.

May a law officer visit the location  
provided they obtain the necessary permit.

He must get permit from our offices. We  
have three offices.

All in location

I am in charge of these offices.

I have not seen accused & on evening 12<sup>th</sup> 9  
did not see him. I am in charge of all  
offices

No permit issued to the accused that day. That is  
established for records.

There are 2 official entrances & both have  
notices to effect that no one may enter without  
permit.

Nyanga is proclaimed area. by govt notice.  
859 859. 12-6-57.

37 pages are proclaimed, published in  
go g 5885 d.d 12-6-57

Permits are given out at terminus & at gates  
& at main office

Entered up to 10 pm & not take -  
from must show permit if asked for it

After 10 pm there are 2 constables who  
live in location who have permit books.

Solon T. Smeoni of Board of Labels S.A.P.

at C.T. 12<sup>th</sup> June 1909 let ch same met  
ten beds van my personeel, of parollie web in die  
sheddend. take in die aan let ch aery  
Nyaga gehou. On 12<sup>th</sup> 20 10 40 let ch  
in vestag gehou van Parais. De result  
I wet to a road in Nyaga was ch die  
best. asod in net a klewby geerd in a  
har. I asked if Ry was in former to  
perit. None could produce a fact.

---

"a venarous attend"

---

Met Lufkin Ray SA CT. + He 2 Agents outside  
a debt store in Adley St. They asked me to  
assist distribute leaflets. Know it dealt  
with boycott.

you knew at time he was listed Communist?  
I didn't know

I know him He is a good acquaintance.  
I was the driver. I think we were  
stopped on the tarmac road.

I had been driving all over the peninsula,  
always by direction & I had no way of  
knowing, not cared particularly to know, where I was  
going, since I assumed that the passengers in the  
car were responsible enough to arrange matters.

I had no idea I was in a location  
I have no way of telling if I am in location  
when the are obvious fences up at 10:30 at night  
whether I am in location or not. I have at  
times visited an Agent friend of mine who lives in  
Crowford. If I see what under oath whether I know  
was a location or not I would say I thought not.  
because there were no fences.

I knew there was a place called Nyaga  
that was my first visit to it.

I know the beginning of an idea that I was  
stopped in Nyaga. I was told I was stopped  
in Nyaga.

Why did you wish to pay admission of  
guilt? If I paid in a non-false way -  
I had reason to believe that it was not a  
non-false way I would still like to pay admission of  
guilt rather than go through and proceed in truth  
As I remember there were the questions asked  
me: "Do you know that you need a permit to

be here. I said no. He said: Have you a  
pound. I said no. ~~He said~~ I didn't know, but  
now that I know I am prepared to pay any  
of guilt.

Doesn't say many he ~~two~~ 2 books.  
I have been threatened since April 1951.  
I don't know what race. I would assume from  
the voices over the phone that they are Col. but I would be  
mistaken. I feel then to be Col.

Why did you have to have a number to check -  
My old way was not limited to entry in leaving  
Nigeria. I had to return to my flat alone, late at  
night of the people threatening me - had forced me and  
flame that they know where I lived

Had to do a lot at times. They did not believe  
they were going to hurt. This leaflet in the book  
one I knew hypothesis was actually legal - I  
had consulted my lawyer on the matter my  
interest was only in ensuring those who had  
arranged to have the leaflets distributed.

Witness: Flynn Bernard advised - He said he could  
arrange for me to borrow some & that I could do so  
legally. He did not tell me anything about 14 days  
had when I went to borrow it from RW Hogg.  
He told me he was lending it to me for 2 weeks.  
by the end of which date I assumed I would  
have heard from the Min. He said arm  
belonged to his brother

[ This arm is buried in name of Henry Hogg -  
I had no such item ] I borrowed the gun from  
RW Hogg on the understanding that it belonged  
to his brother Wanda Hogg's estate. JF of

is registered in Mrs H. Hlegg, she is his wife -  
The only member of the family I know is Mrs H.  
Hlegg, who is well known to me.

I have met Mrs Hlegg as many times as I have  
met Det Sgt. I last met her in 1952

At time of ~~the~~ borrowing arm, I knew she was  
not in Cape Town

Eric Hlegg handed me gun in his office in  
CT. This was first time I had met him.

He knew I wanted the arm. Mr Bennett had  
spoken to him.

~~He~~ Didnt you ask Mr Hlegg to produce the  
receipt? I generally trust people, since I  
assumed Mr Hlegg sufficiently reputable to let me only  
what was his, & that any lawyer, who is someone I  
greatly respect, would never have set me to Mr Hlegg  
in the first place when he was quite sure of Mr H's  
reputability. I would have been entitled to  
question Mr Hlegg on whether or not he had a  
receipt.

You knew no one is entitled to be in  
possession of a firearm? I knew you needed a license  
& that my lawyer said I could borrow one & that  
the chief magistrate had said so. Mr Leo Senter  
saw the " " "

Didnt attorney tell you arm must be described?  
Didnt he look up law - your license? - Not in my  
presence.

~~You didnt ask Mr~~ I asked Mr Hlegg for nothing  
except the arm receipt. I didnt ask him to  
describe it, not even for a document. He said  
would you sign this double-receipt?

You knew that you had to have such a letter?  
I had no idea of what I had to have. I knew

I had to have a license. I knew that if I didn't have a license I could borrow an arm.

I did not know I had to have a letter. My lawyer informed me that he had from 9<sup>th</sup> of June, when told by Hayes, I knew that I needed the document.

I did not know that I have it with me. I knew I had to have it, but not that I had to carry it with me. I knew it

I did not have it with me on the eve I was arrested. It was lodged in my file in the attorney's office.

On night of arrest, P.S. did ask him if I had a permit, I gave the exact words, "No was left at W: He said: 'Have you a license for this?' I said 'No, but the mag said I could borrow one.'

W: said: "I didn't ask you that. I asked you whether you have a license." I then said "No."

At that moment I said: "Before I answer any further questions I wish to see my lawyer." I told Alfred Wetlyper Mag had advised me to borrow it. At 10:30 P.M. was I arrested, until 4 a.m. was I held.

I was asked "from whom did you borrow it?" I said I am not prepared to say. I was asked twice.

I was twice asked I did not give the name because I didn't want someone who has done me a service to suffer persecution either from the people threatening me or from the authorities. Why did you think he could be persecuted?

A Cal. student came to see me in all innocence to say  
goodbye. He stayed, not above 10 minutes  
(- 7 - interrupted by pres.) I have at  
least 3 or 4 friends who have been questioned because  
they went to musical evenings at home  
suspected by J. B.

Thursday 10th

Crossed files: Robert Hill he has been in N. loc.  
before. It has been a loc. of other houses is a locata  
are the same only because of the same night.

I was however that of unknown people a locata was a  
locata when it said in 1911 I went there had been in  
a locata to my knowledge.

I was doing - had 2 informants, I was  
doing under instructions M.

Samson did not ask me the firearm. Call on W  
asked me if I had a night of arrest. Samson  
did not ask me the document. I had  
already been charged - my lawyer had  
instructed me on no account to answer  
questions connected with the case, but that  
the motive for refusing was that I had not  
yet consulted the lawyer of the post.

I did not tell them about ~~letter~~ until I  
had asked Mr. Hertz whether he would permit me  
to disclose his name. I was not prepared  
to have his name known by anybody.

I am giving evidence about a year or two  
years why I found it.



~~Flegg~~

Mr Flegg left C.T. round about December, 1958.  
P.A. Gave me power to deal with Mrs. Flegg's general affairs.  
I did not know that ~~it~~ the revolver belonged to Mr. F.  
I believed it was part of my brother's estate. My  
attorney said that I could lend the revolver for  
14 days. I was at no time owner of this revolver.  
Mrs. Flegg gave me the revolver, so that I assumed  
it was my brother's. I handed the pistol to the  
accused on Tuesday morning.

Mag: Why were you prepared to lend this revolver  
to a total stranger?

Fl: He was introduced to me by my attorney.  
I learnt on the 8th that Mr. Segal was also  
a client of the attorney's. I learnt that Mr.  
Segal wanted a firearm & I said that  
I could lend ~~one~~ to him. It was on my  
initiative that the note was written out.

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## Memo

① Freeman: Question never put to acc  
or to Leggs that freeman not  
possessed.

② Johnny description - numbers illegible copy  
would still

Johnnie Kemens and Westhuse: Kaptein . S.M.  
bevel va verlyhadstak Kaptein.  
Ek was teenwoordig toe.

Saunders asked acc. if he was prepared  
to say to whom the freeman belongs

Acc did not want to say.

Saunders asked him if he had any  
documents to be in possession of prisoner.

He said he would say that before  
he went.

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What is a law. Bell's SA. Legal Dictionary. A.O.L.  
means 'statutory' law as opposed to common law"  
39-E-35; 46-C-251; 12-A-414;  
27-E-273.

What is a law  
take Interpretation of Laws Act No 5 of 1910  
INP / Definitions section. (see 3)  
A law

Construction in favour of liberty: God. p 19

Labour statute is followed.

There is presumption law is not meaningless. (see perhaps Sellenberg's case)

Sec 35 of cons not disarmed in R v Sitwana: 52-2-p 366 at 368  
Position of an executor.

Mens Rea: Laga, '36-C-160. (unnecessary)

INB: R v Mhombela: 33-A-at 272 (mention  
of nec. that applies also to statutory crimes - eg.  
R v M - 44 AD - 121.

Essential books

1. Arms Act.
2. File of Regs.
3. 1957. statutes with amendments!
4. Nature of Act.
5. Interpretation Act of 1910 sec 3.
6. That case of Subbiah re. ally unknown.
7. A case on uncontroverted evidence
8. Gardner & Downe Vol 1

Sarkis case. (53-1)

33AD

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Ask for

- ①. Power of Attorney Bond
- ②. Gun
- ③. leaflets

