

MC H 91-7a-6-3

Copy of an internal report of a meeting of the management of the Capetown branch of D and A held on 14 July 1961. I was in fact a member of this committee. I will just identify the names of the people that appear. The Chairman, Peter Hjul, was Chairman of the LP in Capetown. The Treasurer, Mr Musikanth, was an accountant who might have been very sympathetic to the objects of the fund, but was not particularly active. Thomas Mgwena, the Vice Chairman, was an African political leader and Trade Unionist who had belonged to the ANC in the early 1950's when I had known him well, but to a large extent had acted on his own with a small group around him, and had associated with a number of groups apart from the ANC. Not very long after this, in the early 1960's, he went to Rhodesia, and unfortunately dies not very long after arriving there. The Molteno referred to is Donald Molteno, who was then a QC, and a former MP who had represented Africans in the South African Parliament. The Sachs referred to is myself. I do not recall who Mentisi was, or Toladia. The

Malindi would be Zolly Malindi, a leading member of the ANC, a taxi driver who was detained in fact in the same police station as I was in 1963, and had extremely rough experiences at the hands of the police. The Makanda referred to is probably an African student who was known as 'Welsh' Makanda who was generally a supporter of the ANC. It is not possible for me to make out the next name, but then comes Imman Haroun who died in 1969 in circumstances which aroused extreme indignation.

Rita Tabakain was a white lady with a left wing background going back a number of years who had always been active in periods of distress or emergency, helping with defence and assistance for families. Mrs Ngwena was probably the wife of Thomas Ngwena. Mrs Zackon was Daphne Zackon, the wife of Barnet Zackon, solicitor who was very active in the LP and who than handled a number of cases for D and A. Sally Shapiro was then Secretary of D and A. She was an English woman who had come to Capetown some years earlier, had got married to a South African - Benny Shapiro - and had gradually got involved in this kind of work.

The persons referred to in apologies are: Barney Zackon, a solicitor who had been in practice for 12 or 15 years, and had, particularly in this period, undertaken a considerable amount of political work. Adrian Leftwich, then President of NUSAS, who was to himself to become very involved in political activities and trials, in circumstances that are well known. Oxley was also a member of the LP, but I don't recall very much about him. Mrs Robb was a leading member of Black Sash, and the wife of a well known Capetown financier and businessman. She also became very active in the D and A Fund, and I think her experience in dealing with concrete cases probably brought her to more radical political views than she would have otherwise have had. Peggy Roberts was a close friend of Donald Molteno.

The membership of the committee reflected quite a wide spread of political groups, many of whom would not have collaborated on other issues, but were prepared to come together for the purposes of D and A. It was a lively committee that got through a lot of work. It was very involved in a number of cases, dispersed relatively large sums of money, and the differences in outlook between the different members of the committee led to lively, even heated exchanges. One of the big problems was whether or not persons charged with offences involving violence should receive any form of



support from the committee. The ANC people strongly favoured supporting every being charged under political laws, and not assuming that anybody was guilty of the charges until they had been proved, and felt even then that the Fund should be there to support relatives, expose torture, irregularities and so on, independently of what the accused might have done. Some of the other members were very unhappy about this. They thought that it would compromise the Fund if it was seen to be involved in supporting revolutionary-type activities, but the Fund nevertheless did not break up over this issue - partly because of its concentration on concrete cases rather than trying to define a particular line as a matter of policy. In fact, towards the end, the Fund was taking just about every case that came to it on the basis that the methods used to interrogate suspects, and collect evidence, was so unfair, that the whole trial process was being so distorted that in the interests of justice even the more conservative members of the committee were quite prepared to allow the energies and resources of the Fund to be used to back lawyers and support relatives of the accused in those circumstances.

The Fund was eventually banned in 1966. A reference to this is contained in a law report which reached the appeal court in South Africa. This case dealt primarily with the form to be used to ban the organisation. The point was that this was done quite automatically despite the fact that the organisation by and large was a pretty respectable organisation. People like myself or the ANC members had by this time already been banned, were in prison, or in exile, and what was left was the more respectable section of the body. But in spite of this the organisation was banned, because clearly the Government was opposed to anything that that would have the effect of boosting the morale of accused persons being picked up for political trials, and which had the effect of strengthening the hands of the defence counsel, enabling them to expose irregularities, involve the Govt in costly proceedings etc, so the Govt tried to prevent these things being done, and said that Government paid counsel could always be appointed. I might say that when it came to this form of legal aid, as far as African clients were concerned, they were extremely adamant from the beginning that they didn't want Government paid people as they didn't trust them, even if they had been chosen by a committee from the bar, or by solicitors. They wanted the right to be able to choose their own lawyers and in the South African situation it is quite clear that they were right



right to insist on this - not because the other would necessarily have been corrupt, although some of them might have been, or acted as informers, but because the understanding of the political background of the accused was so important to the proper handling of the defense in cases like this, that to employ somebody insensitive or unaware would have been disastrous.

As far as funds were concerned, audited accouts were kept. The amounts involved were large in relation to what could have been raised by the defendants themselves, but were very small in relation to the purposes to which they were being put. A fairly large amount was spent on lawyers' fees. I might mention that I did a large number of cases myself, and as a matter of policy never accepted any fees. I would obviously have felt very embarrassed being on the D and A committee, but enen before that, following the practice laid down earlier by a very close friend of mine, Lionel Foreman, I had decided never to take fees in a political case. I might mention, b y the way, that I had to keep this a tremendous secret, because it would have lander me in a lot of trouble if it had become known. It was quite acceptable, even respectable, to do political cases for the fees you could get ou of them, but to have handled the cases for nothing was highly suspect, and could have got me into trouble with the bar to whom one was supposed to report all cases done for nothong.



118 Please read last paragraph overleaf.

Minutes of a meeting of the Management Committee held on 14th July 1961 in the Cape Town Offices of DEFENCE AND AID FUND, at 8.00pm.

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Present: Messrs. Hjul (Chairman) Musikanth (Treasurer) Ngwenya (V-Chairman) Moltano, Sachs, Mentyisi, Teladia, Malindi, Makanda, Ntwana, Iman Haroun. Mesdames: Tabakin, Ngwenya, Zackon, Shapiro

Apologies: Messrs. Zackon, Leftwich, Oxley, Mesdames Hobb, Roberts, Henderson

1. The minutes of the previous meeting were read and confirmed.
2. Matters arising: Co-options: The following members have been co-opted onto the Management Committee, as a result of a resolution passed at the previous meeting:- Messrs. Teladia, Mentyisi, Ntwana, Makanda, Malindi, Leftwich and Iman Haroun. In accordance with a further decision, Messrs. Makanda and Mentyisi have also joined the Executive Committee. These co-options were formally approved by members.

3. TREASURERS REPORT for the period Dec. 15th to June 30th 1961 (attached)

4. Bail  
 The treasurer reported that donations of R202-20 and loans of R1135 had been received. A total of R1380 had been paid out, including R100 in sureties. Cash on hand in the bail fund was R133-20.  
Report on resolutions made at previous meeting:  
 a) Appeal letters: These had been duplicated and were being sent out.  
 b) Trustees: No trustees had yet been appointed to the bail fund. It was agreed that the Executive Committee should continue to administer the bail fund until such time as a separate committee is formed for this purpose.  
 c) A maximum of 75% bail to be paid: This resolution had not been adhered to, mainly because, in the majority of cases, the friends and relations of the arrested had raised far more than their 25% of the bail, and as all the funds raised by them had come to Defence and Aid, it was impossible to enforce a 75% limit under these circumstances. In some cases, too, the full sum had been forwarded to Defence and Aid to be used for a particular individual's bail. It was agreed that until there is a substantial cash reserve in the bail fund which will permit us to pay the 75% of bail outright, this rule cannot be adhered to. Other suggestions put forward for consideration during further discussion included (i) that loans should be for specific rather than indefinite periods of time (ii) a few large loans are preferable to numerous small ones (iii) persons bailed out should be asked to sign a form stating that they would not estreat their bail.

5. Secretary's report: Mrs. Shapiro reported on the major legal cases which were

a) Incitement Case: The case had come up again on 3rd July and one of the accused, Zoot Mahomed, had been discharged. The case was retanded until August 9th and no charge sheet has been given to the attorneys to date. The remaining men on trial are: Archie Sibeko, Zollic Malindi, Reg September, Alex La Guma, Wilfred Brutus, Taufie Barden, George Peake.

b) Nyanga East Case: As reported at the Executive Committee meeting the previous day (13.7.61), some difficulty was experienced by the attorney in finding advocates to appear on behalf of the 24 accused, who were alleged to have stoned a bus in Nyanga East. Advocate Moltano, who had been consulted about this earlier in the day, said that he had interviewed three advocates, and the difficulty arose through the apparent lack of political implication in this case. The advocates had expressed their willingness to assist Defence and Aid, but could not see on the face of it, that this was a matter for Defence and Aid to handle at all.

Members discussed various aspects of the case and in particular the following points (i) the incident had occurred on the eve of the strike, ie. May 28th (ii) One of the charges was intimidation, and the stoning of the bus had been to prevent night-shift workers from going to work (iii) all accused had been detained under the twelve-day Detention Bill (iv) They had been arrested in a mass round-up following the strike, at a time when the police were detaining any-one who had been connected with the strike.

After considering these points, it was concluded that there were definite political implications; Advocate Moltano said he would contact the advocates again, and he felt confident that once



these points had been put to them there would be no further difficulty.

c) Advocate Molteno asked for more details of a case that had been brought to his attention. It was of a certain man on trial who had been told by Defence and Aid that he could not be represented by the attorney and advocate who had appeared for him at the commencement of the case, even though they were prepared to act pro amico. Mrs. Shapiro explained that the man had, subsequent to his first appearance, been charged jointly with several other men, whose attorney had suggested that a joint defence was preferable. He had already briefed an advocate and the services of a Queen's Counsel. The man in question had had a full discussion with Mrs. Shapiro and had seemed happy with the idea of a joint defence. His attorney and advocate had also concurred and had agreed to withdraw. It left them free to assist Defence and Aid with other cases, and the advocate, for example, had already been approached to appear in another important case.

#### 5. Legal Panel

Advocate Molteno pointed out that this panel was prepared to assist organisations such as Defence and Aid, CAFDA, the Black Sash, Institute of Race Relations, etc. Cases should only be referred to it when Defence and Aid is unable to pay for the defence.

#### 6. Scope of Defence

Members discussed the type of case which Defence and Aid could undertake, and in particular whether legal assistance should be given to those who deliberately set out to break the law, and where there seems to be no legal defence. Advocate Sachs pointed out that even where there is little defence to offer, and the Crown appears to have a strong case, it does not necessarily follow that the accused will be found guilty. Even if he is, his attorney can often obtain a lighter sentence than would be given were the accused undefended.

The meeting closed at 10.30pm

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29th August 1961

It was decided at the last meeting of the Executive Committee held on 24.8.61., that the proposed General Meeting be placed as an item for discussion at the forthcoming Management Committee Meeting. Certain points have been put forward for discussion by the Executive Committee, the main suggestion being that due to the forthcoming General Election the meeting be postponed until early in November. Nevertheless it is necessary to commence organising for the meeting, and in particular to decide which individuals and organisations shall be invited to partake.

Members of the Management Committee are therefore requested to draw up a list of persons and organisations whom they would like to be invited, and to submit their suggestions at the meeting on September 5th. Any member unable to attend this meeting is requested to forward a copy of his suggestions to the Secretary before that date.



## OFFICE PROCEDURE

FINANCIAL ASSISTANCE IS ONLY GIVEN TO DEFENCE AND AID CASES, i.e. people who qualify under our constitution for assistance. (People who do not qualify are nevertheless helped with advice, etc) This does not include the straightforward "pass" case, which normally we are unable to assist either legally or financially.

Persons whom we assist fall into the following categories:

- i) Men and women on trial and their dependants
- ii) Men who have just been released from prison
- iii) Persons, or their dependants, who are victimised and in need as a result of their political affiliations, etc. a man who loses his job because the police have advised his employer he is politically active. Or if he loses his job following arrest or detention, even though he is later released. (No specific ruling has been laid down regarding people who are unemployed after participating in a strike.)
- iv) Families of men who are in prison.
- v) Very occasionally, old SERF cases need assistance - e.g. a man detained under Section 4 (bis) works his way back to Cape Town only to be "endorsed out" - then he may be given a small sum of money for food.
- vi) Persons (or dependants) injured during the State of Emergency who are still unfit for work.

### AMOUNT OF FINANCIAL ASSISTANCE

Those who fall into categories (ii)(iv) and (vi) are almost entirely cared for by the Society of Friends. To date, this assistance has never been supplemented by Defence and Aid. But in some cases the man has no family (or none in Cape Town) and therefore the Friends have not given previous assistance. Such men are usually helped for about four weeks. If they have families in the country who are in difficulties, a sum of money is sent direct by us. There is no hard and fast amount - it has varied from R6 to R20 in the past, according to their need and our bank balance. The amount of direct assistance to the man is also dependant upon our resources; and at the moment a maximum of 30/- a week is given. This should be raised if our financial position improves. A minimum of R4 for a bachelor and R5 or R6 for a married man is desirable and those amounts used to be paid in the past. Those who are free to seek work and who have no obstacles such as permit problems, cases pending, and so on, should be advised that assistance can only be given for approximately four weeks. No inflexible rules are applied here, as the man's health and other factors must always be taken into consideration. Assistance in other ways is equally important. Employers and ex-employers should always be contacted if there is any chance of re-employment. The Registration offices should be telephoned, written to, or preferably visited personally should there be any problems to be ironed out. This is important especially when dealing with Nyanga East, since letters are not always given full attention.

Injured people are cared for by the Friends. However, claims for compensation, disability pensions, medical certificates, etc. are not in every case handled by the Friends, and these things can be arranged through us by referring the man to an attorney, the Bantu Affairs Dept. at Salt River (for pensions, warrants, food parcels, etc) or to a hospital. The Friends should be consulted before any assistance or advice is given to anyone in categories (ii)(iv) or (vi). The broad principal is that the Friends see to the welfare of these people and Defence and Aid handles any legal problems.

### Men on trial or men who have been arrested

Men in categories (i) and (iii) are assisted on the same financial scale, i.e. a present maximum weekly payment of 30/-, and a definite limit is imposed once the trial is over. No inflexible rule is laid down, but the average period is about four weeks. In every case, the man's personal circumstances must be fully



/be fully

looked into. A man staying with friends needs less than a man paying £4-15-0d a month rent, and of course the number of dependants must be considered. Additional assistance for rent arrears is given when necessary - but not offered. In the same way, any appeal for extra assistance with medical expenses, pressing debts, etc. should always be considered, if necessary by the Executive Committee. Men on trial should be given their fares to court even if they are employed, if it is felt that they cannot afford the fares out of their salary. In the same way, men who lose a day's pay through attending court sometimes apply for assistance. This should be given if really necessary but not as a matter of course. (e.g. a man earning under R7 a week would find it difficult to miss a day's pay).

Fares:- From Nyanga East to town and back is 3/- and to Wynberg Court is 2/-. The fares from Nyanga West to town is slightly less. If a man or woman is requested to call at our office, or at an attorney's office in town, or if they are referred here by mistake, the fare should be paid - unless it seems unnecessary.

#### People who cannot be helped

People sometimes appeal for assistance which we are unable to give - e.g. fines, legal defence for non-political matters, straight-forward pass problems. The latter can be referred to the Institute of Race Relations, and in the case of women particularly (but not only) to the Black Sash Office, Bell's Garage, Athlone - Mondays Weds., and Fridays at 10.00am. They can also be referred for further advice to someone like Archie Sibeko or Christopher Mlokoti, if they say they are associated with them. (These men assist on Vigilance Committees etc).

#### Legal Assistance

If a person qualifies for legal assistance from us, first obtain as much information as possible - eg. time and place of arrest, charge, remand date, bail (if granted and amount) etc - phone police station, prison, courts, if necessary - before referring the case to the attorney in the usual way.

#### Misc. Points

Families assisted in Worcester are given an amount of about R6 per month, either sent through Rev. Nkloti, Joseph Mpose, or Mrs. Knox. (Full details in files). Their rents are sent separately direct to the Municipal Offices.

Where a case needs clothing really desperately and there is none available, it can be obtained very cheaply through Mrs. Jansen of CAFDA.

If any rents are paid in Cape Town, it is preferable to send a cheque either to the City of the Divisional Council

Polltax is paid for the current year if it is found that the man has genuine reasons for being unable to pay it.



DEFENCE AND AID - CAPE DIVISION

Income and Expenditure Account for the period  
19th December, 1960 - 30th June, 1961

<u>TOTAL COLLECTIONS</u>		6226.33
Cash taken over from S.E.R.F.	1523.49	
Defence & Aid Contributions	4000.00	
Sundry Donations	352.84	
Society of Friends (Note i)	<u>350.00</u>	
 <u>DISBURSEMENTS IN CONNECTION WITH RELIEF</u>		
(A) <u>Aid to dependants of persons awaiting trial</u>	3147.55	
(Note ii) Weekly pay out taken over from S.E.R.F.	3068.70	
Additional Assistance	<u>78.85</u>	
(B) <u>Aid to Defence &amp; Aid Cases</u>	985.51	
Fares	231.51	
Hire Purchase Instalments	28.50	
Rent	56.00	
Taxes	29.50	
Food	124.70	
General	<u>515.30</u>	
(C) <u>Aid to Dependants of Banished Persons</u>	70.00	
(D) <u>Aid to Dependants of Convicted Persons</u>	782.38	
(Note i) Paid and due by the Society of Friends	500.00	
Aid to Dependants, Worcester	<u>282.38</u>	
(Note iii) <u>LEGAL AID</u>	907.83	
(Note iv) <u>BAIL ESTREATED</u>	<u>250.00</u>	
<u>TOTAL AMOUNT OF RELIEF</u>	6143.27	
<u>ADMINISTRATION EXPENDITURE</u>	604.99	
Rent	75.60	
Salaries & Wages	279.00	
Bank Charges	24.15	
Telephone	37.79	
Travelling Expenses	8.83	
Teas, Lunches, Postages, Stationery etc.	92.19	
Curtains, Furniture etc. (Note v)	<u>87.43</u>	
<u>TOTAL EXPENDITURE</u>	<u>6748.26</u>	
<u>NET DEFICIT</u> →		<u>521.93</u>
This shortfall is financed as follows:		
(Note iv) Bail Fund	250.00	
Loan P. Hjul	110.00	
Due for Legal Fees	<u>253.70</u>	613.70
<u>Less Resources and Assets on Hand</u>		
Cash at Bank	62.09	
Cash on Hand	20.68	
Telephone Deposit	8.00	
(Note v) Furniture, Curtains etc.	<u>1.00</u>	<u>91.77</u>
<u>NET DEFICIT</u> →		<u>521.93</u>



Financial Report - notes.

1) The Society of Friends generously consented to waive the the monthly contributions of R150 per month, due by Defence and Aid (Cape) for aid to the dependants of convicted persons. R350 represents the amount Defence and Aid should have paid before the new arrangements with the Society of Friends became effective.

2) In the initial stages of this fund, weekly assistance to dependants of persons awaiting trial amounted to R150 per week. Due to lack of funds and certain cases being completed in the courts, this amount was drastically reduced. The amount of weekly assistance has now been reduced to approximately R45 per week. All weekly assistance should come to an end by the 16th July 1961. At that stage all the cases will be reviewed and assistance will be granted dependant on the circumstances of each case at that stage.

3) In addition to the legal assistance accounted for in this financial statement, we are committed as follows:

(i) Case of 12 arrested at Adderley Street, March 21st, now on appeal - attorneys not charging - Advocates fees R67

(ii) Sit-in case - on appeal - attorney not charging - advocates fees R42

(iii) Ngowabe - charged with carrying on activities of banned organisation - advocate's fee approx R16

(iv) Habeas Corpus Case 1960 - balance still owed - R50

4) In terms of Defence and Aid (Johannesburg)'s agreement with Mr. Hjul in March, Defence and Aid (Cape) will be granted an additional amount of R250 to cover bail estreated by Philip Kgosana and four others. On receipt of this money, the same will be paid forthwith to the persons who originally advanced the money.

A new bail fund was started at the beginning of July 1961. The following is a detailed statement of this Bail Fund's affairs at the 30th June 1960. This Bail Fund is run completely independant of the ordinary affairs of Defence and Aid. A separate banking account has been opened for this purpose.

Donations Received		209.20	
Loans Recvd	1149.00		
Less loans refunded	<u>14.00</u>	<u>1135.00</u>	
Total Receipts		1344.20	
Add sureties utilized		<u>100.00</u>	1444.20
Less Bail advanced		1380.00	
Cash	1280.00		
Sureties	<u>100.00</u>		
Deduct Bail money returned for cases completed		<u>70.00</u>	<u>1310.00</u>
			<u>134.20</u>
Less Bank Charges			<u>1.00</u>
Cash on hand			<u>R133.20</u>

The above statement does not reflect the R250 due by Defence and Aid for the estreatment of bail by P. Kgosana and four others.

5) The value of soft furnishing, curtains and furniture has been written down to R1.00



in a position to pay it themselves. Thus people can be punished by spending months in prison whilst awaiting trial, without ever being found 'guilty'. It was noticed that the bail asked for was far in excess of the fine eventually imposed on conviction. For example, two young men were remanded for twelve days without bail, which when granted was R50 - and the fine imposed by the court on their conviction was R4.00.

A case at the Supreme Court.

The youngsters from Nyanga East, who were charged with Public Violence last June, were all acquitted. At the preparatory examination, twenty-four appeared, and the Attorney-General committed eight of them for trial in the Supreme Court. At that stage, even the Magistrate expressed his doubts as to whether the Crown evidence justified their being committed for trial at all. At the conclusion of the Supreme Court case, the eight were discharged, and the Judge commented on the unsatisfactory way in which the case had been conducted. The out-come of this case must not overshadow the very real suffering that was caused to many of the accused. They spent some weeks in prison - and prison is no place for youngsters of only fourteen or fifteen years of age. Some lost their jobs, and an additional burden was placed on the shoulders of children who not only faced trial on a serious charge, but also had the responsibility of providing for their families. Children still at school spent long hours in court instead of the classroom, and those still in employment worried every time they were forced to request leave of absence - for jobs are precious and workers are easy to replace.

Another Victim of the State of Emergency.

The tragic story of Jeremiah Nombidah has reached its final stage. When our first report was written twelve months ago, he had just left for the Transkei: he had been injured by a random bullet at Langa in March 1960, and after months in hospital it was clear that he would never recover full health, owing to the severity of his injuries. He had been promised a permanent disability pension but had to apply for it from the Transkei. In our second report the news from Jeremiah was bad. He wrote complaining that the pension had not been forthcoming, that he was sick, cold and hungry. We still do not know if the pension ever arrived, but eighteen months after his injuries he was still waiting for it: and if it did arrive, it came too late, for news of his death reached us at the end of the year. His death was due to illness, malnutrition, neglect. If our funds had been adequate, perhaps we could have prevented it.

A "displaced" Family.

Another person whose history has been featured in our previous reports has now paid his last visit to this office - Gibson Matinyane. He was convicted of incitement in 1960 and when released from prison about twelve months ago, he was immediately endorsed out of Stellenbosch. He was told to return to the town of his birth - which he had left over sixty years ago. Not surprisingly, there was no place there for him, and fortunately the Bantu Affairs Department ascertained this before sending him on

his way/.....



DEFENCE AND AID FUND

Report for the period September 1961 - April 1962 (inclusive)

Cape Town,  
1st May, 1962.

REVIEW OF 1961

STATS 84/4

Our last report dealt mainly with the activities of the Fund during the wave of arrests which preceded and followed last year's "Stay-at-Home" campaign. Many of these cases were still proceeding when the report was written, but since then they have all been concluded. At the end of 1961, 94 persons brought before the courts had been found "not guilty" (or alternatively the State had withdrawn charges) and 32 were convicted. Of these latter, 5 were sentenced to terms of imprisonment not exceeding six months, and the remainder paid fines. Generally speaking, the majority of convictions were for minor offences such as contravening Municipal by-laws, or distributing leaflets on railway property. 14 of the 30 are appealing against their conviction for holding an "illegal demonstration" - a placard demonstration outside a city restaurant. More serious charges, which carry heavy sentences, warrant a detailed analysis:

<u>Charge</u>	<u>No. charged</u>	<u>Convicted</u>	<u>Acquitted</u>
Incitement .....	33	1	32
Carrying on activities of a banned organisation ..	13	1	12
Intimidation .....	5	2	3
Public Violence or assaulting police .....	30	1	29
Being in possession of gunpowder .....	2	-	2
	<u>83</u>	<u>5</u>	<u>78</u>

On looking at these figures, one can assess the value of the role the Fund has played, in providing defence and bail for these people - few of whom were in a position to raise the bail required, quite apart from legal fees. Many people would have spent weeks in prison without bail; and many more might have been convicted if they had had no representation in court.

CONCLUSION TO CASES MENTIONED IN LAST REPORT

An incitement trial mentioned previously is a good example of the way people are detained on flimsy grounds, and where, in spite of refusing bail at first, the State has eventually been unable to lay any specific charges. In this case, several people were arrested in May and June last year. They were all active in various spheres, either politically or in the trade union movement. Their bail - at first refused - averaged R200 each, and the conditions were onerous. They were required to report to a police station daily and were confined to certain magisterial districts. The case dragged on for several months and one by one the men were discharged. In every case the bail required was of a very high order, and few of the accused would have been in

a position/.....



It

Report of Defence and Aid work in Capetwon, and genrally speaking its con-  
tants are self explanatory.

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his way. Matinyane was told over twelve months ago that he had no right to be in Stellenbosch. Neither had he any right to return to his birthplace. In fact, he had no legal right to be anywhere in South Africa. He was refused permission to seek work, and his wife's permit was also withdrawn, so for twelve months they have existed on whatever their friends, and organisations such as ours, could give them. Early this year he was informed that he must go to Humansdorp. After an appeal from friends of the Fund, the authorities consented to make quite certain that a home and a job would be available, before making him go. In April they told him that everything was in order, that he and his family would be given travel warrants, and that his furniture would be transported free of charge; providing, however, that he paid an amount of R16 in rent arrears, which had accumulated during twelve months of forced unemployment. Even if he was forbidden to work, it was explained, and forbidden to leave - rent must be paid. A member of the Black Sash negotiated with various Council officials, and members of the town council, on his behalf. He was given less than a week's notice of departure and nothing had definitely been settled by the time he left. He was only permitted to take his furniture after the Black Sash member, having explained his circumstances, agreed to stand surety should the town Council insist on the arrears being paid; they have since agreed to take no further action and Matinyane and his family left during April, and as this report was being prepared, some three weeks later, a letter arrived giving us further details. "The Humansdorp Magistrate" he writes, "did not permit (to stay) he told me to go to Engcobo, the place where I was born, we are here now in Engcobo. They did'nt give me any work or a house to live. They said now I must pay a tax for this year £1.15. .... It's hard here, my furniture is not arrived, I have no place to stay here. Make a plan, please ....."

Often in cases of this nature we hesitate to take steps to expose the way in which officials act, less it results in more hardship for the individual we are trying to help. But in this case, matters have reached a stage where nothing worse can happen to the person concerned; we are therefore using every channel open to us to expose the shocking system which results in people becoming "displaced" in the land of their birth, with a view to obtaining some relief for Matinyane.

#### NEW CASES

Since the beginning of December of last year, approximately forty men have been arrested and charged under the Suppression of Communism Act, and bail has ranged from R50 to as much as R300 per person.

#### Detained for three months.

Four men from Paarl were detained from December until the case commenced a few weeks ago. Their bail was fixed at R300 each, and our own funds were insufficient, neither were we able to raise the amount needed. Consequently the four men were remanded in custody and no evidence was led until the 6th March. After three months in prison, one man was then discharged without any evidence being given against him. As he walked out of court, he was re-arrested and told by a detective that "he cannot be discharged". He was then taken back to Paarl in custody, and actually appeared

before a /.....



before a Magistrate. He was not released until two days later. As he has now been "endorsed out", it is probable that this second arrest, was in connection with his Reference Book not being order. Lawyers are considering whether he has a good case for claiming for wrongful arrest on the first charge, if the authorities grant him permission to stay in the area whilst this claim is being made. The other three men were found guilty and sentenced to 18 months. They do not wish to appeal.

#### R2,600 Bail

Thirteen men were arrested early in December in Kensington, and charged with carrying on the activities of a banned organisation. Their bail was eventually fixed at R200 per man, and the credit for raising half this amount must go to the families of the accused. One by one they came to the office with R100 contribution towards the bail (this amount being offered, and not requested by the office). It was an inspiration to the Defence and Aid members, who had felt rather dismayed at the task of raising such a large amount. In view of the all-out effort on the part of the families, Defence and Aid could do no less, and within a day or two the amount of R2,600 was paid and the thirteen men came out in time to spend Christmas with their families. This is still proceeding, and the bail has been tied up for five months.

#### Incitement to commit Public Violence

In March this year there was another wave of arrests. Seventeen men were charged with "Incitement to commit Public Violence". The connection between the men arrested and the incident which the prosecution has in mind - namely, a riot earlier in March where a policeman lost his life - is not clear. They are certainly not accused of being involved in this incident, for others have been charged with Public Violence in an entirely different case not being handled by this Fund.

One man who was arrested was remanded for twelve days without bail, in spite of the fact that he is banned from attending any gathering and could not, therefore, have 'incited' anyone. He and two others were discharged from the case, but not until they had spent two weeks in prison. The same man was separated from his companions in Roeland Street Prison, and brutally assaulted by non-political prisoners. There are now fifteen persons charged with incitement, for other arrests took place over the weeks and although they are out on R50 bail each, the conditions on which this bail was granted are causing hardship. The accused have to report daily to a police station, and in most cases this entails travelling a considerable distance. There is no police station at Nyanga West at all, for example. The accused have to remain at home between the hours of 8 p.m. and 4 a.m. which in several cases interferes with the livelihood of the men; neither can they attend gatherings or partake in any kind of political activity. The daily reporting and the nightly confinement particularly affected the only woman in the case, who is pregnant and in poor health generally. Defence and Aid therefore arranged for this condition to be challenged in the Supreme Court. Two of the accused gave their reasons for wanting the conditions relaxed, and the Judge ruled that the 'curfew' be changed from 8 p.m. to 11 p.m., which has made a great difference to the lives/.....



to the lives of the people concerned. Others amongst the accused are preparing to take similar action. Four of those on trial have lost their jobs, one most certainly as a result of the police speaking to his employer when they came to a factory to arrest him. Unlike the others, he was arrested later in the month and on the day preceeding a 'long weekend'. He was therefore back at his place of work immediately after the weekend, (bail being granted immediately) and without being asked for the reasons for his arrest, he was informed "We do not employ agitators here", and dismissed at once.

Victimisation of politically active men.

The incident mentioned above is not an isolated episode. It is a problem we have come up against on other occasions, and it indicates a new trend in the treatment of politically active people. The mass round-ups which were a feature noted in past reports - where people were arrested at random and "investigations" followed instead of preceeded their detention - still continue. But a new, potent, - and far more effective form of victimisation has made its appearance, of which we have had several examples over the past few months. The police are visiting the employers of politically active or allegedly politically active - persons, and in spite of the fact that these people have broken no laws and are therefore immune to prosecution, the employers are advised to dismiss them because they are "agitators" "communists" and so on. Although no specific pressure is put on employers other than this, it usually results in the worker losing his job. The local authorities then "endorse" him out of the area, and he is forced to leave Cape Town.

We have had four outstanding examples of this recently, and one man, Simon Makhetha, has already left the area. Every aspect of his case has been examined and checked by members of the Fund, who immediately interviewed the employer concerned. The latter confirmed Makhetha's story, namely that the police informed him that he was employing a "dangerous character", and the point was emphasised that if the man was dismissed (after eleven years service, unfortunately with a year's break) "they would be able to get him out of the area". The police also said that the man had made dangerous anti-white propoganda at meetings. Our members pointed out that if this were the case, the police would have charged him, instead of resorting to these methods. The employer seemed genuinely unaware that he had been co-erced into doing the work of the police for them.

Self Censorship.

The above facts were reported to a local paper, whose reporter submitted a story to the news editor. As is customary, the reporter was instructed to check the facts with the police, but when he spoke to the head of Cape Town's Security Branch, he was told that "they never do this sort of thing". The story was therefore not published in spite of the fact that the employer openly admits to the details stated here. Furthermore the story has been published in both "Contact" and "New Age" without any action being taken by the police.

What are the effects of this type of action? In this case, Mr. Makhetha had t

leave the /.....



leave the area immediately, leaving behind him his wife, four small children and a house-ful of furniture. He comes from the Free State, but received a warning, or possibly a threat, "that the police would be waiting for him" when he arrived. So he made his way to Basutoland where he has now been granted residence. His wife has found domestic work, the children are with relatives. In fact, the family is now scattered with their home broken up completely. But in spite of the hardships he has undergone, Mr. Makhetha writes to us in an inspiring and restrained way: "I am aware of the difficulties ahead, but I am more aware of the possibilities", he said in a recent letter to the Fund, "I pledge myself to help in every legitimate way in the solution of those difficulties and in the realisation of those possibilities. I believe ..... that an era of progress and prosperity will begin ..... prosperity where black and white could live together in peace and harmony, side by side, as they need each others' help". Words such as these, from a man alleged to be "dangerous and anti-white", are a very real source of encouragement for us to continue our work.

#### Unreasonable bail.

Recently the Fund was asked to assist in paying the bail of a young school teacher charged with breaking the terms of her banning order. The case is still sub judice, and so details cannot be given. However, it is interesting to note the way in which she was arrested. After being warned that she would be "prosecuted", she expected to receive a summons in the ordinary way, but instead she was arrested late the following evening and taken to the Central Police Station. A reporter who had heard of the incident telephoned the Security Police some time after her arrest and was informed that they knew nothing about it. Meanwhile her attorney attempted to obtain bail for her but this was refused, and so she was forced to spend the night in the police cells in the company of a woman arrested for prostitution. The bail asked by the prosecutor next morning was R400, but the magistrate allowed it to be reduced to R200.00. At her first remand, the accused was interested to note that immediately preceding her was a case where a man, charged with attempted murder, was released on exactly half her bail, namely R100!

#### Our day-to-day work

Although the major portion of our work lies in providing legal defence and maintenance to people who are on trial, there are other activities which are carried out by the Fund. These include the investigations of miscarriages of justice, as in Mr. Makhetha's case, and where appropriate, we endeavour to publicise our findings. This however, is becoming increasingly difficult through the acceptance of the policy of self-censorship by so many newspapers.

At the moment we are making every effort to assist a young African who is studying at the University of Cape Town and who is a member of both our Executive and Management Committees. He has been charged with incitement, and "endorsed out" of the area, in spite of the fact that he is registered at University. The reason for this action by the authorities appears to be that he is earning money to cover his fees by free-lance journalism, and they maintain that he was given a permit to be in Cape Town for the purposes/.....



for the purposes of studying - not of earning money. In this particular case, legal advice has been taken. Other approaches have been made to appropriate bodies to make representations on this student's behalf.

Even in straightforward cases where a man is arrested and charged, there are many duties which cannot be undertaken by attorneys and which are dealt with by committee members. For example, if a man loses his job we endeavour to persuade the employer to re-employ him, and try to find alternative work for the man if we are not successful. Permit problems often entail a great deal of work, including personal visits to the Registration Bureaus. The payment of bail is a lengthy business, and when several people are being bailed out and/or there are bail conditions, it can take several hours. Liberation warrants have to be taken to the prison when bail has been paid, and this is probably the most rewarding task of all. Parcels are taken up to the prison for waiting-trial prisoners, and sometimes their wives are driven there if they are not able to visit them without assistance. Personal visits to families in the townships are undertaken, and one of the pleasantest errands that comes our way is the meeting of a man released from a country prison, and sharing his first joys of re-union and freedom. On a more practical level, rents have to be paid, and small weekly sums of money distributed. There are innumerable other small every-day tasks which keep our committee members continually active. The Fund also acts as a liaison between attorney and client, passing on messages, and keeping in touch with both.

#### Official complaints.

If serious complaints are received by the Fund, after investigation, an approach is made to the appropriate authority. A very recent example of this occurred when several men were released on bail from Roeland Street Prison. Their report on the conditions to which they were subjected warranted further investigations, which we are not in this instance able to pursue. A detailed memorandum has therefore been drawn up, and it contains allegations serious enough to justify mentioning in this report:- the unbalanced diet was the main source of protest - purely carbohydrate in content, containing no fats, proteins, and few of the vitamins essential to health. (Beans and meat are served twice a week but rarely reaches the average prisoner). Most of the men pronounced the food as uneatable, and either relied on outside supplies or preferred to go without. Other general complaints dealt with damp cells, dirty blankets, and obscene language and brutal behaviour from the warders. More specifically, the practices of "gaol courts" (which on previous occasions prison officials have admitted exist, but say they are powerless to prevent) and the assault of a prisoner by this "court" referred to earlier in this report - were of course mentioned. The memorandum has been sent to the Social Services for investigation, and it is hoped that a member of Parliament will take the matter up.

#### Transkei conditions.

/Defence and Aid Fund is also assisting in the Transkei. Our work is hampered by lack/.....



by lack of information and of personal contact, but several cases have been referred to this office; on each occasion, assistance is either arranged through this branch, or the information is sent to our Durban or Johannesburg branches. Ultimately it is hoped that Defence and Aid will open a branch in the Transkei, for there is no doubt that there are many cases of which we never hear, and in which the accused have neither legal defence or other assistance.

Worcester.

Many people in Worcester are still experiencing real hardship, though a colleague of ours has done much to alleviate the suffering which exists in this, as in other country districts. Her hard work has made a great deal of difference to the families of convicted men and to the men themselves when they are released; but in spite of her efforts, there is nothing that can be done to save men who are "endorsed out", as those released from prison invariably are. Even in Cape Town the authorities are still reluctant to issue bail warrants and in the country they often refuse to consider the matter. A man is not, it seems, "indigent" after two years imprisonment. "He walked here", said one official, "and he can walk home again". Every effort is made to assist such men with a small sum of money, clothing, and by intervening on their behalf with the appropriate authority. But on the whole, little can be done outside of Cape Town from the financial angle, for our inadequate funds do not permit it.

FINANCE

Our financial position has never been good; but it has never been quite as precarious as it is at the moment. Until this year, we relied mainly upon Christian Action's contributions to Defence and Aid, which have always made up the major portion of our income. But at the 30th April 1962, only R200 had been received by the Cape Town branch from overseas. Thanks to the efforts of an extremely hardworking and efficient fund-raising committee, sufficient has been raised locally to enable us to carry on for another two months. No matter how capable the fund-raising committee may be, it is nevertheless impossible for us to continue to function through their efforts alone. The number of people in South Africa willing to contribute to a fund such as ours is not very great, and they have to meet other heavy commitments. We are making every effort to stimulate interest and support for Defence and Aid both here and in Britain.

Our bail fund has functioned well, and we find that given a real demand for funds, it is generally possible to raise the amount needed. At the moment, an amount of R4240 is out on bail, which includes in some cases a proportion paid by the accused. Since the Fund was established sixteen months ago, 110 people have been assisted with bail which ranged from R10 - R200 a person.

In Cape Town and elsewhere, our warmest appreciation and gratitude must be expressed to members of the bar and side bar, who have made it possible to keep our

legal expenses/.....



legal expenses to a minimum - and thus enabled us to provide men on trial with at least the minimum necessary to keep themselves and their families. Our sincere thanks, too, must go to those citizens of Cape Town who have contributed so generously to our general fund, and to our bail fund, besides co-operating with us on fund-raising activities.



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SMU 84/5

a quarterly News Letter issued by  
the South African Defence & Aid Fund

No. 2                      October - December 1961

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D&A NEEDS MONEY

This news letter - the second to be issued by the South African Defence and Aid Fund - deals with a few of the political trials which have taken place in South Africa during the past few months. There have, however, been many others which are not mentioned here although D&A hopes to publicise them early next year.

In some of these trials, mainly the mass trials in Pondoland, the crimes were of a violent nature - murder or arson - but the background was political.

In others - a majority - the offences were purely political: no crime in the usual sense of the word was committed. People found themselves in court because they had held political meetings, issued political leaflets, urged workers to stay at home for a few days, or attended political, and even non-political, gatherings. Many of these people were detained for some days before they were charged.

These cases show to what extent the Government is today determined to prevent peaceful resistance to its apartheid policies, especially by the millions of voteless Africans, Indians and Coloureds.

D&A has been active in many of these trials. It has enabled the accused to have lawyers to defend them and it has made bail money available. D&A has also helped families of men in jail and political prisoners after they have served their sentences.

In many cases the accused have been found not guilty or have been given suspended sentences. Often, D&A has helped those found guilty to win their cases on appeal.

So far, D&A has been able to help most of those political offenders who have approached it. But this work needs money - for bail, for administration and for lawyers. If D&A is to continue with its work - and there is no doubt that the wave of political prosecutions will continue - it must get further donations from those who support its aims.



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A branch of D&A was recently formed in Bloemfontein. The chairman is the Bishop of Bloemfontein, Dr. B.B. Burnett, and the secretary is Mrs. E. Colman.

The address of the branch is 176, Milner Road, Bloemfontein.

"NO BAIL" ACT - IN THE TRANSVAAL.

Ninety-six people have been arrested in the Transvaal since May this year and charged with incitement or contravening the Unlawful Organisations Act.

Most/

Most of these people were kept in jail for twelve days before they were charged - in terms of the No Bail Act passed in May this year. (See page 11 for Cape Town statistics)

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