

6/65

1.

S. Mbanjwa.

SOLOMON MBANJWA: (Sworn, states) (Speaking Zulu).

*The Stat
is a
charge*

BY MR. COMBRINK: Your Lordship I omitted to point out to your Lordship that, in this case, this witness will be an accomplice. I ask your Lordship, however, although he has taken the oath to explain the witness' position to him in (5 terms of Section 254 of the Criminal Procedure Act as amended.

HARCOURT, J.: Mr. Combrink subject to any objection by you I normally allow that to be done by the Interpreter, knowing Zulu myself, and then I record that he has been warned in (10 a manner which complies with the Section. I think it's that much quicker if you have no objection.

BY MR. COMBRINK: I have no objection at all.

HARCOURT, J.: Mr. Nel would you just explain, first of all, that although he has been sworn his rights will again (15 be explained to him as if he were not sworn, so to that extent he is liberated from his oath.

(AT THIS STAGE INTERPRETER EXPLAINS TO THE WITNESS THE PROVISIONS OF SECTION 254 OF THE CRIMINAL PROCEDURE ACT.)

BY THE WITNESS: I understand. (20

HARCOURT, J.: Now do you, in the light of that warning elect to be sworn as a witness or not?

BY THE WITNESS: Yes, M'Lord.

HARCOURT, J.: It will be recorded that the witness, having been warned by the Interpreter in terms which fully comply (25 with the Section, elects to be sworn.

AT THIS STAGE WITNESS IS SWORN.

BY MR. COMBRINK: Your Lordship with regard to this witness' evidence I have an application to make, and that is that your Lordship obtain from members of the Press an (30 undertaking that in their reports of this case and his evidence, his name be not disclosed. This application is done/.....

done for fear of retribution which might come from members of the organisations mentioned in the indictment or late members of these organisations. I point out, M'Lord, that this has been done in several trials of this nature before today, some of which are - an instance is the State versus Ismail, another is the State versus Shabalala and others and the State versus H. Gwala. (5

HARCOURT, J.: Now when you say that I should obtain an undertaking from the Press - I don't know how many of the Press are represented here, but is it not better if I have the power that I should prohibit publication unless they refrain from disclosing his identity. (10

BY MR. COMBRINK: M'Lord whichever attitude your Lordship prefers to adopt. It will have the same effect.

HARCOURT, J.: Well then it seems to me if somebody with knowledge of that order then contravenes it, then they are guilty of contempt of Court and can be adequately dealt with in that way. It does not cover the situation of a person who is not aware of the ruling. (15

BY MR. COMBRINK: Yes, your Lordship, I understand that of course. Arrangements could be made to convey the warning to whoever joins the members at the Press gallery, M'Lord. (20

HARCOURT, J.: Now Mr. Law what do you have to say about that application?

BY MR. LAW: M'Lord I have nothing at all to say about the application. I don't consent to the application and I don't oppose it. (25

BY MR. FULLER: (Inaudible - away from microphone).

HARCOURT, J.: Now Mr. Combrink, in view of the fact that there is no consent has yet, in terms of what Section do you make this application? (30

BY MR. COMBRINK: M'Lord there is no specific provision as far

as I am aware.

HARCOURT, J.: And, secondly, is this witness one who gave evidence in the case which was terminated yesterday?

BY MR. COMBRINK: Yes, M'Lord.

(FURTHER DISCUSSION ENSUES BETWEEN THE COURT AND MR. COMBRINK).

AT THIS STAGE THE COURT GIVES RULING. (Previously typed).

SOLOMON MBANJWA:

EXAMINED BY MR. COMBRINK:

(10

Mr. Mbanjwa, do you know an organisation named Mkonto we Sizwe? ----- Yes, M'Lord.

Were you a member of this organisation? ----- Yes.

What were the various names under which this organisation is known? ----- Another one - it is known as (15 the Spear of the Nation.

Has it got another name? ----- Yes. It is also known as M.K.

What type of organisation is this? ----- It is a military wing of the Mkonto we Sizwe, of the African National Congress.

Will you enumerate to this Court the objects of this organisation, Mkonto we Sizwe? ----- (The Court intervenes).

HARCOURT, J.: Just before that is done Mr. Combrink, should you not lay a foundation that there is no written document containing such objects, otherwise the witness is giving secondary evidence. You see if there is a written constitution then that should be produced or its absence should be accounted for. *I don't know whether there is or not.*

BY MR. COMBRINK: Does your Lordship mean a written constitution of the organisation as such, or a document from

which/

which the objects might be derived?

HARCOURT, J.: No, a written constitution. The objects of an organisation are normally in a written foundational document which is frequently called a constitution. If there is such then that is the conclusive primary evidence of (5) the objects.

BY MR. COMBRINK: Yes, I understand M'Lord.

Are you aware of a written constitution in existence of Mkonto we Sizwe? ----- No, M'Lord, there is not.

Will you tell the Court what the objects of (10) Mkonto we Sizwe are? ----- To overthrow the Government by means of violence.

What form was the violence to take? ----- Sabotage.

Sabotage of what? ----- Government installations and also Municipal installations. (15)

What instruments are to be used in sabotage of this...(The Court intervenes).

HARCOURT, J.: Just a minute. Is it clear that all the accused can understand Zulu?

BY MR. COMBRINK: As far as I am aware they all are Zulu. (20)

HARCOURT, J.: Could you just find out Mr. Interpreter?

BY THE INTERPRETER: They all know Zulu but they can't hear the witness.

HARCOURT, J.: Solomon would you please speak up. There is no difficulty in speaking up and there is no reason why you (25) shouldn't speak up.

BY THE WITNESS: M'Lord I will try but I have not got a loud voice.

BY MR. COMBRINK: (Examination continued).

Now what instruments were to be used in the (30) commission of sabotage? ----- Dynamite and other things.

You've already said that you were a member of this

organisation? ----- Yes.

During January/February 1963, what position did you hold? ----- I was a platoon leader combined with the section leader.

And subsequent to your holding that post what did (5) you become, if anything? ----- I became a recruiting officer. I was a recruiting officer in the Regional Command.

BY MR. LAW: I apologise for interrupting but when the witness is talking I can hardly hear him where I am sitting, and I am quite sure that the accused still can't hear him. (10)

HARCOURT, J.: Mr. Law arrangements are under way. There is a person who is interpreting the reply as it is given by Mr. Nel the Interpreter to those of the accused sitting furthest from him.

BY MR. LAW: I'm sorry, M'Lord, I wasn't aware of that. (15)

HARCOURT, J.: Would you just tell the witness that it is still desirable that he speaks up, because there is always the possibility of error in double interpretation and it would be very much better if we could all hear.

BY THE WITNESS: I'll try, M'Lord. (20)

BY MR. COMBRINK: (continued)

Now when did you become a recruiting officer? ----- It was towards the end of March or the beginning of April, 1963.

What were your duties as a recruiting officer in (25) this organisation? ----- I was to recruit young people who would receive military training outside the Republic.

You said young people. Any particular sex? ----- All male persons.

And any particular race? ----- The Bantu race. (30)

Now what was the purpose of the military training for which you recruited? ----- M'Lord to come back and to

assist in furthering the objects of Mkonto we Sizwe.

What were they to do specifically? What were they to do specifically? ----- Because the objects of Mkonto we Sizwe were or are to fight the Government. They were to come back and fight the Government. (5

Now do you know the accused - do you know any of the accused before Court? ----- Yes.

Which of them do you know? ----- M'Lord I know them all but I do not know all their names, or should I say I do not know them all by name. (10

How did it come about that you - Your Lordship I retract that question. With regard to your activities as recruiting officer, did you in any way come into contact with any of the accused or not? ----- M'Lord I did not get into contact with any of the accused when I was already a (15 recruiting officer, but during the time that I was assisting a person who had asked me to assist him in recruiting, M'Lord.

Now whom did you assist? ----- Bruno Mtolo.

Was he a member of Mkonto we Sizwe or not? ----- He was. (20

Now you said that when you assisted Mtolo, you came into contact with the accused. Will you just relate to the Court with which accused and how it developed that you came into contact with them? ----- Must I refer to each one that I contacted? (25

Yes. ----- M'Lord that may confuse me. May I first explain the conversations.

With whom? ----- M'Lord our meetings with Bruno Mtolo up to the time that the accused were arrested.

HARCOURT, J.: That's quite irrelevant surely Mr. Combrink? (30

BY MR. COMBRINK: M'Lord I think I had best approach it in another way.

HARCOURT, J.: Just ask him: "Do you know accused No. 1? When did you first meet him? What were the circumstances?"

BY MR. COMBRINK: Yes, M'Lord, but according to the statement they were recruited in groups, so I best not take one out of one group and then - because he is sitting next to another (5 accused of another group. I agree. I think the witness might become confused.

HARCOURT, J.: Well you just ask your questions as you wish subject to the rules of evidence, but what this witness proposes is quite impermissible unless each and every one (10 of the accused were present in all those conversations.

BY MR. COMBRINK: I do not intend to examine this witness on the question of the conversations taking place.

First of all, during the beginning of 1963, was any number of recruits required for the purpose set out by you? (15 ----- Yes.

How many were required? ----- Twenty (20).

And from where did these recruits have to come? ----- M'Lord it was for us to decide, either Durban, districts, or Pietermaritzburg. That is what was decided. (20

What was decided? ----- That we would look for recruits in Durban and Pietermaritzburg and surrounding districts. And other places too, M'Lord.

I see, and did you - will you first relate to the Court which persons you approached in Durban, if any? ----- (2 Russel Mpanga.

Will you point him out, if you are able, to the Court? ----- No. 6 accused.

Now where did you come into contact with him? ----- At Lakhani Chambers in Durban. (3

Where did you at that stage have an office, if any? ----- At Lakhani Chambers I had an office.

What was the nature of your employment at that stage? ----- I was a secretary of the various trade unions. There were two.

Well you came into contact with Russel Mpanga, accused No. 6, at Lakhani Chambers? ----- Yes. (5

What occurred? What took place? What happened between you and the accused No. 6? ----- He was told that there was an organisation, an underground movement.

Who told him that? ----- I did.

Yes? ----- M'Lord, that this organisation was to (10 fight the Government by means of violence.

Continue. ----- And that we required young men who would receive military training outside the Republic, that these people should do so willingly on their own and that they would not be forced in any way, and that when they (15 have received their training they would come back to the Republic to carry on with that work. At that time I did not tell him what organisation I was talking about. M'Lord he said that he would be prepared to go. He said that he would go home first and, when he came back, he would talk to me (20 again.

Yes? ----- We then parted.

Yes, did he fulfill his promise and come back later or not? ----- Yes, he did.

When did he come? ----- A week later. (25

And where to? Where did you meet him at least? ----- In my office at Lakhani Chambers.

What happened then? ----- I asked him whether he was still prepared to go as we had agreed and he said yes.

HARCOURT, J.: As you had agreed, you say? ----- Yes, because (30 he had agreed to go.

BY MR. COMBRINK: Will you tell the Court, relate to the Court again/.....

again what the agreement was between you and accused No. 6?

----- M'Lord he had agreed to leave the Republic for military training, but said he wanted to go home first for a week and then come back.

Yes, what happened then, after he came to tell you (5 that he was willing to go as agreed? ----- He then came back, told me that he was prepared to go. I told him to wait, he would be informed of the dates, and that he should not tell anyone, he must be the only one that knows about it.

Yes? ----- And that he should prepare clothing (10 and be prepared to leave at any time.

Now did you or anyone else subsequently - I rephrase. Did you at any occasion inform accused No. 6 that he had to go or when he had to go? ----- Yes, I told him.

How long after you saw him the second time? ----- (15 Between 3 and 4 days.

Did you make any arrangements with him? ----- That he should come to my office on the Saturday, that he should see either Curnick Ndhlovu or Bruno Mtolo.

What did Curnick Ndhlovu have to do with the (20 organisation, if anything? ----- He was a member of Mkonto we Sizwe and he was a member of the Regional Command. He was the Regional Commander of Mkonto we Sizwe.

Did you see any other person concerning the same matter you saw accused No. 6 about? ----- Osborne Mthunywa. (25

If he is present in Court and you're able to point him out, do so. ----- He is the fifth from the right end.

Accused No. 10. ----- That is the person.

HARCOURT, J.: Accused No. 10? ----- Yes, M'Lord.

BY MR. COMBRINK: Now where did you meet accused No. 10? ----- (30

I saw him in Hoosens Building, M'Lord.

Where in Hoosen's Building, are you able to say? -----

In Queen Street in Durban.

HARCOURT, J.: The question was where in the building. -----

(Interpreter: Oh, where in the building?)

Yes. ----- Near the office of A.C. Shangase.

On the fourth floor.

(5)

BY MR. COMBRINK: Now when was this, can you say?

Approximately what month? ----- About the end of January or the beginning of February 1963.

I think I omitted to ask you, Mr. Mbanjwa, during what time you saw accused No. 6 in this connection? ----- (10)
M'Lord it was about the same time, end of January or the beginning of February, 1963.

Yes, will you relate to the Court what took place between you and accused No. 10 on that occasion? -----

I spoke to him, there were only the two of us together. (1)

I told him about an organisation which was an underground movement, which was fighting with the Government by means of violence. M'Lord and that this organisation was in need of young male persons who were prepared to go and receive military training outside the Republic. When they have (20)
received this training they would return to the Republic and carry on this work.

Well did you explain to him or not what the full extent of the work was to be? ----- M'Lord only to say that they were to fight the Government. (25)

What was the accused's attitude? ----- He agreed.
I asked him to see him again the following week.

When you say 'He agreed', what did he agree to? -----
To leave and receive this military training.

Continue, and after he agreed what did he do? ----- (30)
We agreed that we would see each other the following week.

Yes? ----- To receive further instructions.

Yes/.....

Yes, and then? ----- We saw each other the following week.

Where did that take place? ----- The same building.

Yes? ----- I told him to get everything ready, to get prepared, and to see me at Lakhani Chambers. (5

(Interpreter: M'Lord I withdraw that). That he should go to Lakhani Chambers and there he would see Bruno Mtolo and also or Curnick Ndhlovu. On the first occasion I had told him not to tell anyone about this.

What happened then? ----- We then parted (10 after arranging to go to the office on Saturday.

Now do you know whether he in fact went to the office as arranged on that Saturday or not? ----- M'Lord I was not there on Saturday. I had gone somewhere else.

I see. I shall come to that in a moment. (15

Now you've already said that you also told accused No. 6 to come to the same place as you've mentioned with regard to accused No. 10. Was that on the same occasion or a different one that they had to come to that place? ----- The same Saturday. (20

Yes, did you meet anyone else in this regard? ----- Kaifas Mkize.

If he is present in Court and you are able to do so please point him out. ----- That's No. 13. Second from the end on the right hand side. (25

Yes, where did you meet him and when and what took place? ----- Saw him at Lakhani Chambers.

Did you make a request to him or not? ----- I approached him also, there were only the two of us together at Lakhani Chambers. (30

Was there any difference - M'Lord I ask this advisedly - was there any difference between what you told

him on that occasion and what you told the other two you've already mentioned to the Court previously, or not? ----- It was the same, no different.

And what was the attitude of accused No. 13? ----- He also agreed to go and receive military training. (5

For what purpose? ----- To come back after he has received his training to fight the Government, as I had explained to them.

Did you explain, on each occasion when you approached a person in connection with this type of training, what you (10 already told the Court you explained to accused Nos. 6, 10 and 13? ----- (By the Interpreter: Could you please repeat the question?)

On each occasion when you approached a person in order to have this person undergo - to recruit a person to (15 undergo military training, did you explain to him as you told the Court you explained to accused Nos. 6, 10 and 13, or not? ----- That is so.

Who was the next person you approached, if anyone? ----- Those are the three at Durban. The others were at (20 Charlestown.

Apart from those you saw at Charlestown did you see anyone at any other place or not? ----- Yes, some in Pietermaritzburg.

Now which of the two places did you go to first? (25 Charlestown or Pietermaritzburg? ----- I went to Charlestown first.

What was the purpose of your going there? ----- I went there to address a meeting of Trade Unions at Charlestown.

When was this? ----- Towards the end of January (30 1963.

And did you meet anyone there in this connection? -----

Petrus Sibeko and Philip Ngwenya.

If they are present in Court will you point them out? ----- No. 3 accused is Petros Sibeko. No. 8 accused.

Did you see them together or on different occasions?
----- They were together. (5)

And what did you say? What was said? ----- I also told them that there was an organisation which is an underground movement, which is fighting the Government by means of violence. M'Lord this organisation was wanting young people, males, to go and receive military training, training (10) outside the Republic. When they have received their training they would come back to carry on their work here.

And did you explain them the nature of their work here? ----- M'Lord only that they would come back and fight the Government. That was all. (1)

What did they say? ----- They also agreed.

Continue. What happened then? ----- I told them to wait, they will be informed of the date of departure. I already knew the date but I did not tell them.

Yes, and then? ----- I told them not to tell (20) anyone, they were the only ones to know.

Did they agree to this or not? ----- Yes.

What happened then? ----- I told one Thusi, the date. He is the one that had brought them to me to speak to them. I called Thusi to one side and, in secret, I told him of the (2) date when they should be in readiness.

Was anything said? ----- That was the date of departure. I told him to tell them a few days before to get prepared.

HARCOURT, J.: Now what date was it that you communicated to (Thusi? ----- I don't remember the date anymore today, but it was the Saturday.

Surely this was an important day, wasn't it, when all of them were to go? ----- It was an important day but I did not I don't remember the date.

I assume from the number of people you had to tell that you told a large number of people the same day, that that(5 was the day? ----- Yes.

And you don't remember what the day was? ----- I don't remember the date but I remember that it was a Saturday.

Yes.

BY MR. COMBRINK: When you spoke to these persons, did you (10 tell them what date they had to meet or on what day they had to meet? -----M'Lord I never told them on what day they would depart, I only told them on what day to report. M'Lord I only told Johannes Thusi the day they would depart, not the accused. That I have mentioned. (15

And on that occasion did you tell him the date or the day? ----- I told Thusi the day and date.

After you had told Thusi this, what did you do? ----- I went back to Durban.

Where did you meet with Petrus Sibeko and Philip (20 Ngwenya in Charlestown? ----- In the building where we had the meeting.

What type of building was this? ----- It was a Bantu home. An ordinary - built on European lines.

A house, in other words? ----- Yes. (25

What happened in Durban after you left there? You said you left to Durban. ----- I made reports to Bruno Mtolo and Ronnie Kasrils.

Who is Ronnie Kasrils? ----- He was a member of the Regional Command of Mkonto we Sizwe. (30

Was he a European? ----- Yes.

Yes, and after you made this report what happened? -----

I went to Pietermaritzburg.

With what purpose? ----- I came up to Pietermaritzburg to see Harry Gwala.

And did you? ----- Yes.

Was Harry Gwala a member of Mkonto we Sizwe or not? (5) ----- As far as I was aware he was not.

Now where did you see Harry Gwala? ----- At his home at Ockertskraal.

Is that in... (The witness intervenes) ----- In Pietermaritzburg district. (10)

Yes, what did you do there? ----- I arrived at his home, I spoke to him, I told him that there was an organisation which was an underground movement fighting the Government by means of violence. And that that organisation was in need of young men who would be required to leave the Republic to (15) receive military training, and that when they have received that training they would come back to the Republic to carry on that work. I asked him, I said it was necessary for us to find ten (10) persons in the Pietermaritzburg district. I asked him whether he could try and get us that number of men. (20) I told him that everything we do we did in secret. Gwala agreed to find ten (10) recruits.

Why did you tell him that? That what was done was done in secret. ----- M'Lord to tell him not to divulge this conversation, to anyone, that we've had. (25)

Yes? ----- To keep it to himself. And to tell everyone that he speaks to not to say anything about it.

And did he agree or not to find these persons? ----- Yes, he agreed. I then already knew on what day they would be required to depart and I told him that I would come and (30) see these people, a few days before they were due to leave.

And did you see them? ----- Yes, I saw some of them.

How many did you see? ----- On the first day I got there I saw six (6) and he made a report to me about the others, that they were at work, the other four (4).

HARCOURT, J.: When you say 'he' do you mean Gwala? -----
Gwala yes, M'Lord. (5)

BY MR. COMBRINK: Now where did you see these persons? -----
At Gwala's home at Ockertskraal.

Now will you be able to tell the Court which of the persons you saw there are before Court, if they are so before Court? ----- No. 1 accused, his name is William Khanyile (10)
M'Lord; No. 7.

HARCOURT, J.: What is his name? ----- I don't know his name,
M'Lord.

Now let us be certain that we have the right one.
Is he one of the two sitting between the two benches? Is (15)
that the one? ----- No. 14 accused, M'Lord. Bernard Mhlongo.

You know his name? ----- Yes.

Now what did you say about accused No. 7? -----
M'Lord I'm not too sure at the moment. It's a long time that
I last saw them, M'Lord. (20)

Well now when you pointed to accused No. 7 the first time you had been asked to indicate whether any of the people in Court had been seen by you at Gwala's house. ----- Yes.

Now can you tell me whether you saw accused No. 7 at Gwala's house or not? ----- No, M'Lord. I did not see (25)
him there.

You did not see him there? ----- No.

BY MR. COMBRINK: You've mentioned accused No. 1 and accused No. 14. ----- Yes.

Did you know them before that occasion or not? (30)
----- I knew them before.

I see. Are you able to identify any other persons

who/.....

who were present at Harry Gwala's house on that occasion? -----
Another one is the fourth from the right hand side.

HARCOURT, J.: Just ask him to stand up please. Is that the person? ----- Yes.

That's accused No. 11, is it? Do you know his name? (-----
----- No, M'Lord.

BY MR. COMBRINK: Yes? ----- No. 5 accused. I do not know his name.

With regard to accused No. 1, whom you pointed out, where did you see him with regard - when did you see him (10
first? ----- I saw him in Pietermaritzburg when I had come to a meeting of S.A.C.T.U. He was selling pamphlets, New Age, before it was banned.

And S.A.C.T.U., what does that stand for? -----
South African Congress of Trade Unions. (15

Was he present at Gwala's house or not? ----- M'Lord I made a mistake, he was not at Gwala's home when I arrived there, I met him on the way. I met him on the way when I - in the train on the way to Johannesburg.

With whom was he then? ----- He was with the others (2
here and they were separated in separate groups.

Now you say 'He was with the others here'. Which others do you mean? ----- The others from 'Maritzburg.

And you say 'others', do you mean those you've pointed out to the Court? ----- Yes. (25

Now when you saw the six (6) persons at Gwala's house, what took place between you, Gwala and the six (6)? ----- I asked Gwala: "As these people are here, do they know what they are here for."

HARCOURT, J.: Was that in the presence of the persons whom (3
you have now indicated as being there? ----- Yes, M'Lord. Except No. 1 accused, William Khanyile.

And No. 7? ----- He was not there.

What did you ask Gwala? ----- I asked Gwala whether they knew what they were here for, whether he had explained to them. I then told them that they would leave by the Saturday night train for Johannesburg. I told them to (5) prepare their things and not to tell anyone about it. And when they were leaving they should try not to be seen.

And what did they say with regard to the purpose of their leaving Pietermaritzburg? Did they say anything or not? ----- M'Lord they asked no questions as they were in (10) the know.

From what do you gather that they were in the know? ----- M'Lord no one asked questions, everybody was happy, no one got a fright or surprise to ask what was going on.

Yes, what else was said if anything? ----- We (15) parted there after I had given Gwala money to buy the tickets for the rail fare. I did not give Gwala the money in their presence, they had left. I told Gwala to take out tickets to Vereeniging. When I say that I refer to their rail tickets, third class, from Pietermaritzburg to Vereeniging. (20) I asked Harry Gwala to be at the station to see whether they went to the station, and to hand them their tickets one by one, as they arrived at the station.

Was this agreed to or not? ----- Yes.

What did you do then? ----- I got on the train, (25) left for Charlestown, to go and make arrangements for those at Charlestown.

Yes, what happened then? ----- In Durban I had left money with Curnick Ndhlovu who would hand it to Bruno Mtolo so that he would see that all those in Durban would get on (30) to the train and to buy their tickets.

When you are referring to those in Durban who

had/.....

had to get on to the train, to whom are you referring? -----
 M'Lord those that I pointed out that were recruited in Durban,
 including others that were not recruited by me. I knew that
 there were others.

And by whom were they to be recruited? ----- (5

Bruno Mtololo.

Now did you go to Charlestown as you've indicated?

----- Yes.

Yes, and what did you find there? ----- I went to
 Johannes Thusi. I consulted with Johannes Thusi. (10

As a result of this consultation what occurred? -----
 He made a report to me.

Yes, and then? ----- (Mr. Combrink adds)

As a result of this report, what did you do
 personally? ----- Must I not say what the conversation was (15
 between Johannes Thusi and I?

No, you can't. ----- I gave Johannes Thusi
 instructions as to what time the train was leaving, and what
 time certain men had to be at the station. I gave him the
 instructions about those two that I have referred to. (20

What was your instruction to him? ----- Petrus
 Sibeko and Philip Ngwenya.

What was your instruction to Thusi concerning the
 persons mentioned? ----- To be at the station on Sunday morning
 early at 9 o'clock. And that they were leaving, and to tell (25
 them about their luggage.

I see. And what did you do? ----- I slept at
 Charlestown. Sunday morning I went to the station.
 I got three (3) tickets. Two (2) for them, one (1) for me.

Yes? ----- The two of them arrived at the station. (30
 Petrus Sibeko, No. 3 accused, and Philip Ngwenya, No. 8
 accused. We got on to the train. I checked up on the train

all/.....

all the recruits, to see how many there were. I found that there were fifteen (15) in all.

Are you able to identify the persons you found on the train? ----- All the accused were on the train although I do not know them all by name. (5)

You mentioned fifteen (15) persons. Who was the fifteenth person? ----- William Msimango. He is not here.

Now will you explain to the Court where William Msimango comes from? ----- From Hammarsdale, district of Camperdown. (10)

And how did it come about that he was on the train with, what you call, the recruits? ----- I had spoken to him.

What was the nature of the conversation which took place between the two of you? M'Lord I might explain that this - I do not intend to ask your Lordship at a later stage (15) to infer anything against the accused from what was said between the two, because it won't be possible. It will just explain why he was present on the train.

HARCOURT, J.: Yes.

BY MR. COMBRINK: Yes? ----- M'Lord he had come to me and (20) said he wanted means of going to study overseas, and he would possibly not get a passport and he had no money. M'Lord I told him that he could possibly leave together with these recruits, and he should go also as a recruit, and when he got to the other end he could see for himself what he did. (25)

And did he agree to go as a recruit or not? -----
Yes, M'Lord.

AT THIS STAGE CASE ADJOURNED TO MONDAY 22.3. 1965.

RESUMED ON 22.3.1965.

APPEARANCES AS BEFORE.

SOLOMON MBANJWA: (Witness warned still under former oath).

EXAMINATION BY MR. COMBRINK CONTINUED: (5)

Before the Court adjourned on Friday you said that all the accused were on the train - on the Durban/Johannesburg train, do you recall that? ----- Yes.

Now can you say how many were - and you also said that you then checked up on the recruits, as you put it? ----- Yes, I checked up.

How many were from Pietermaritzburg? ----- Five (5)

M'Lord.

Of this five (5), how many did you see at Harry Gwala's house? ----- Four (4). (15)

Which one was the fifth one? ----- William Khanyile was the fifth one.

HARCOURT, J.: Yes, he's accused No; 1.

BY MR. COMBRINK: Now what did you - what was William Khanyile's position? ----- He was one of the recruits (20) there, M'Lord.

Did you speak to him personally or not? ----- I asked Bernard Mhlongo how many there were and he said five (5) including No. 1 accused.

M'Lord I did not know that was going to come. (25)
The question was, did you speak to accused No. 1 personally?
----- No.

Where was he in relation to the other persons from Pietermaritzburg? ----- He was with them in the same compartment. (30)

The persons whom you saw at the house of Harry Gwala - you've already pointed out accused No. 14, Bernard Mkize, Accused No. 11/.....

Accused No. 11, Anthony Xaba and accused No. 5. -----
 (By transcriber: When interpreting Interpreter says:
 "Accused No. 14 Benati Mahlango".) Yes, M'Lord.

Are you able to point out the fourth person or
 not? ----- No. 4 accused. (5)

Do you know his name? ----- I do not know his name.
 Now how many of the accused came from Durban? -----
 Eight (8), including the one from Hammarsdale.

And the one from Hammarsdale, is he William
 Msimango? ----- Yes. (10)

He is not before Court? ----- No.

You've already said that you personally recruited
 accused No. 6, 10 and 13 and William Msimango? ----- Yes.

Are you able to point out the others from Durban?
 ----- Yes. (15)

Do so. ----- No. 2.

Do you know him personally? ----- Yes.

What is his name? ----- Roy Ngcamu, M'Lord.

The others? ----- No. 6, Russel Mpanga.

HARCOURT, J.: No. 6 is one you said you recruited. You've (20)
 been asked to point out the others from Durban. ----- No. 7.
 I do not remember his name.

BY MR. COMBRINK: Continue. ----- No. 9. I do not remember
 his name. No. 12.

Do you know his name? ----- I do not remember (25)
 his name.

And how many were from Charlestown? ----- Two.

Who were they? ----- No. 3 and No. 8.

HARCOURT, J.: Do you know the name of accused No. 3? -----
 Petrus Sebeko, M'Lord.

No. 8? ----- Phillip Ngwenya, M'Lord.

MR. COMBRINK: Now from Charlestown where did you go? ----- We
 got/.....

got to Germiston and there we changed trains.

And 'we', does that include all the accused or not? ----- Yes.

And William Msimango? ----- Yes.

Continue, please. ----- We took a train for (5
Vereniging, M'Lord. We arrived there at half past seven
(7.30) in the afternoon. We waited for a person who was
supposed to meet us at the station. He did not arrive so
I took taxis at nine (9) o'clock in the evening. I then went
to White City in Johannesburg. (10

Alone or with others? ----- Including the accused.
We went in two taxis, M'Lord. At White City I went to a
certain home, I knew the people, to get sleeping accommodation
for the accused. They did not open for us at this home.
I suggested we sleep on a football ground and that we (15
would see the following day what we would do. We slept
there that night. I left them there and I went to look for
a person that I knew at White City.

Is White City in the district of Johannesburg? -----
Yes. (20

Continue. You went to look for this person? -----
I found the person that I was looking for. I asked for a
place where I could put these people that were with me.
I told him that we had come in connection with an A.N.C.
meeting. (25

HARCOURT, J.: That seems irrelevant, Mr. Combrink.

BY MR. COMBRINK: Yes, M'Lord. What eventually became of
the persons in your charge? ----- Joe Modise took them over
from me, M'Lord.

I see. Now where did that take place? ----- At (30
White City in Johannesburg.

And what was he to do with them? ----- M'Lord that

is where my duties ended, by handing them over to him.

When you handed these persons over to Modise, what became of them? Where did they go, if anywhere? -----

(The Court intervenes).

HARCOURT, J.: Now before any answer is given to that do you (5 mean to his knowledge did they go anywhere?

BY MR. COMBRINK: Yes, M'Lord.

HARCOURT, J.: I don't want hearsay evidence.

BY MR. COMBRINK: No, M'Lord. Did they go away from him or did they stay where he was, at that same place. (10

HARCOURT, J.: (To Interpreter) Could you put it that way.

BY THE WITNESS: M'Lord I remained with them and he, Joe Modise, took them in groups of five (5) at a time until they had all left.

BY MR. COMBRINK: Was anything said regarding the luggage, (15 the accused had with them? ----- Yes.

Where were the accused when this was said? ----- They were present.

What was said and by whom? ----- Joe Modise spoke.

What did he say? ----- He said they had too much (20 luggage, they had better reduce it so that some of the luggage can go back.

Yes, and what did they do? ----- They only took the things most necessary, the other luggage was placed into six (6) suitcases. (25

Yes, what had to become of the cases, do you know? ----- Joe Modise said he would send them to me in Durban to - on my own name.

And when this was said where were the accused? ----- They had left, they were no longer present. (30

HARCOURT, J.: Then we must disregard that.

BY MR. COMBRINK: Yes, M'Lord. I beg your pardon, I was not

aware of this.

Now did you get six (6) suitcases after that, or did you see them, I beg your pardon? ----- M'Lord does that question mean in Durban?

No, in Johannesburg. Did you see the cases? ----- (5)
They were left with me, where I was.

Will you be able to identify these suitcases if you see them? ----- Yes, because these suitcases were in my possession for a full day.

Will you examine EXHIBIT '1' before Court? (10)
M'Lord I might indicate EXHIBIT '1' consists of six (6) suitcases, they are numbered EXHIBIT '1' (a), (b), (c), (d), (e) and (f). ----- I see the suitcases.

Can you say anything regarding those suitcases EXHIBIT '1'? ----- They are similar to the suitcases that (15)
I saw there on that day.

When you saw them on that day did they have any tickets on them or not? ----- No.

You say those suitcases were similar to EXHIBIT '1'.
Can you say whether they are in fact EXHIBIT '1' or not? (20)
----- M'Lord I can only say that they are similar. I can't say that these are the suitcases because I don't know where these suitcases came from.

Now after you left Johannesburg where were - at least when you left where were they? ----- I left them at (25)
the home of Modise.

Is that the same person who took away the accused from you? ----- Yes.

Where did you go? ----- I came down to Durban.

Did you hear anything or did you find anything (30)
concerning the cases after that? ----- I received a slip at my office to claim these suitcases.

Yes, what did you do with this? ----- I handed it to one Curnick Ndhlovu.

Do you personally know whether they were ever claimed or not? ----- I have not.

Now other than your association with accused with (5 regard to this venture, did you know any of the accused personally? ----- (The Court intervenes).

HARCOURT, J.: Before that, you mean?

BY MR. COMBRINK: Before this, M'Lord. Thank you. ----- M'Lord if the question is put more clearly does that mean (10 know them by sight or to know them personally?

Well first did you know any of them personally? ----- Yes, there are some that I knew personally.

Which? ----- Bernard Mahlongo, M'Lord.

How long did you know him before you recruited (15 him? ----- (By the Interpreter: That is No. 14 accused, M'Lord). I had known him from about 1960.

And in that period where did he live? ----- In Pietermaritzburg where I knew him from, M'Lord.

And did he work here in Pietermaritzburg during (20 all that time or not? ----- M'Lord I don't know anything about his employment, whether he was employed or not. I knew him from Pietermaritzburg.

And did he live in Pietermaritzburg throughout or not? ----- I only knew him from Pietermaritzburg. It was (25 an organiser of S.A.C.T.U. I don't know where he lived. I only knew him from Pietermaritzburg.

Who else do you know personally? ----- No. 13, M'Lord, accused. Kaifas.

That is Kaifas? ----- M'kize. (30

Yes? ----- He worked in the hospital.

Where? ----- At King Edward, a hospital in Durban.

And for how long have you known him? ----- About 1962.

Who else do you know? ----- Phillip Ngwenya.

How long have you known him? ----- 1962.

And do you know anything concerning his work? ----- (5

He worked in a clothing factory at Charlestown.

And who else? ----- Russel Mpanga, No. 6 accused.

Yes, tell the Court what you know concerning him.

----- He worked at the Match factory in Durban.

And how long did you know him? ----- 1962. (10

Who else? ----- Petrus Sebeko, No. 3 accused.

How long have you known him, where did he work? -----

1962.

Yes? ----- He worked in the clothing factory at

Charlestown. (15

Who else? ----- Roy Ngcamu, No. 2 accused.

Yes, when did you..(not completed). ----- He worked in the tearoom in Durban. I know him from 1961.

Are all the accused Zulu nationals, do you know?

Are all the accused of Zulu nationality? ----- (The Court (20 intervenes).

HARCOURT, J.: How would he know, Mr. Combrink?

BY MR. COMBRINK: M'Lord if they were of any other Batu race, he will know through the language, from having spoken to them.

HARCOURT, J.: Well are they Zulu speaking. That's all (25 you need ask him.

BY MR. COMBRINK: Are the accused Zulu speaking as far as you know? ----- As far as I heard them they spoke Zulu, all of them M'Lord.

Do you know in what street Lakhani Chambers is (30 to be found? ----- The corner of Saville Street and Grey Street, M'Lord, in Durban.

NO FURTHER QUESTIONS BY MR. COMBRINK.

CROSS-EXAMINED BY MR. LAW:

Now Mr. Mbanjwa, what is your age? ----- Thirty-six (36) M'Lord. (5)

Did you go to school? ----- Yes.

What school did you go to? ----- The last school I went to was Fort Dunford at Estcourt.

And what standard did you pass at school? ----- Standard seven (7). (10)

Do you speak English? ----- Yes, M'Lord, but I won't say well.

Now you have told the Court that you were a member of Mkonto we Sizwe? ----- Yes. That is so.

When was Mkonto we Sizwe formed? ----- I don't know. (15)

When did you join Mkonto we Sizwe? ----- 1962.

What month in 1962? ----- I don't remember the exact month but it was before June of that year.

The second half of June, 1962. It is after June 1962. (20)

HARCOURT, J.: In the second half? ----- The second half of the year.

BY MR. LAW: Now is Mkonto we Sizwe a countrywide organisation? ----- Yes, as far as I know.

Do you know how many branches there are in Mkonto we Sizwe? ----- M'Lord there was the National High Command, the Regional Command. (25)

The National Command, I take it, was the countrywide organisation, the head... (The Court intervenes).

HARCOURT, J.: The National High Command. (30)

BY MR. LAW: The National High Command was the headquarters of all the various branches, was it? ----- Yes, where the

Regional/.....

Regional Command met, M'Lord. All the Regional Commands are under the National High Command.

Now do you know how many Regional Commands there are? ----- I only knew the one in Natal. I did not know the Regional Commands in the other provinces. (5)

Now is the Regional Command in charge of Mkonto activities in the whole of Natal? ----- Yes.

And how many subsidiary committees or arms are there in the Regional Command in Natal? ----- There are sections under the Regional Command. (10)

HARCOURT, J.: Well how many of those were there? ----- I never got a report as to how many there were.

BY MR. LAW: Now which section did you belong to when you joined Mkonto? ----- I had my section at Hammarsdale.

When you joined Mkonto were you a section leader (15) immediately? ----- I was first a member when they were looking round to see in which section to put me.

So you joined the Hammarsdale section, did you? ----- I started the Hammarsdale section.

You started the Hammarsdale section? ----- Yes. (20)

And did you remain in the Hammarsdale section until the end of your activities with Mkonto? ----- Yes.

Did you ever serve on the Regional High Command? ----- Yes.

What was your job on the Regional High Command? (25) ----- I was a recruiter. Recruiting officer.

And when were you appointed as a recruiting officer? ----- It would be the end of March 1963 or the beginning of April of that year.

Why did you join Mkonto we Sizwe? ----- I (30) was interested, also to fight against the Government.

I want to know your reasons for joining Mkonto we

Sizwe. ----- M'Lord to fight for the rights of the people.

Did you feel that there was a necessity to join an organisation which advocated the use of force? ----- At that time yes, M'Lord. If I did not think at that time that it was necessary I would not have joined. (5)

Now do you still think that it is necessary for people to join an organisation which advocates the use of force against the Government? ----- As far as I can see now it is not necessary.

Now when did you change your mind? ----- After (10) I had seen what happened subsequently.

Well what happened subsequently? What made you change your mind? ----- M'Lord I realised that the person who started this organisation had not worked it out properly.

HARCOURT, J.: That may be a reason for being dis- (15) satisfied with the organisation, but how did it come about that you saw that force was no longer necessary? ----- M'Lord it was only after I saw the results of this organisation, people who were arrested, M'Lord. There are many reasons. (20)

Now do you want them Mr. Law?

BY MR. LAW: M'Lord perhaps I can go about it..(inaudible - away from microphone).

You joined the Mkonto we Sizwe because you thought that there was a need? ----- (Mr. Law adds) (25)

To fight the Government by force. ----- Yes.

Do you still think that there is a need to fight the Government by force? ----- I said, M'Lord, no.

No. Now when did you decide that there was no longer any need to fight the Government by force? ----- (30) It was only afterwards that I saw that there was - that that was not necessary.

Well I would like to know when, at what time, you decided that there was no longer any need to fight the Government by force. ----- As far as I can think back probably the beginning of this year. The beginning of last year, M'Lord. (5

While you were a member of Mkonto, did you take part in the sabotage activities? ----- Yes.

You had something to do with the blowing up of pilons, didn't you? ----- Yes.

Were you ever arrested? ----- (Mr. Law adds). (10

As a result of your membership or your activities in Mkonto we Sizwe? ----- Yes.

When was that? ----- 26th of June 1963.

And in connection with what were you arrested? ----- All my activities in Mkonto we Sizwe and the A.N.C. (15

Have you ever been charged in respect of any of your activities? ----- M'Lord apart from being informed by the police that I would be charged, I have never been brought to Court.

Were you also a member of the African National Congress? ----- Yes. (20

When did you join the African National Congress? ----- 1956.

And when was the African National Congress banned? ----- 1960. (25

Did you remain a member of the African National Congress after it was banned? ----- No, I only started being a member again in 1962.

So between 1960 and 1962 you had nothing to do with the activities of the African National Congress? ----- That is so. (30

And have you ever been a member of the Communist Party/.....

Party? ----- Yes.

When did you join the Communist Party? -----
The beginning of 1961.

During the early part of last year did you give evidence in a trial at Ladysmith? ----- Yes, I remember (5
that.

Were you asked at that trial whether you had ever been a member of the Communist Party? Were you asked at that trial whether you had ever been a member of the Communist Party? ----- I don't remember whether I was (10
asked.

Will you try and cast your mind back and think whether you were asked? ----- M'Lord I was asked many questions. I couldn't remember them all. There were three Defence counsel at that trial. (15

And do you remember denying at that trial that you had ever been a member of the Communist Party? ----- I don't remember. If I did deny it, it is possible that a mistake was made.

HARCOURT, J.: What do you mean by a mistake? ----- M'Lord (20
it is possible that I could not have understood the question when it was put to me. After having a lot of questions asked one is not sure about the questions, M'Lord. I could have said no.

BY MR. LAW: And how would that be a mistake? ----- M'Lord (25
when a question is being asked you think of saying yes and you say no instead, and it's only afterwards that you think about it.

I take it that if that line of questioning were persisted in, you would realise that you had made a mistake? (30
----- Yes. If they repeated the question several times I would have realised that I've made a mistake.

And you wouldn't persist in your denial that you were a member of the Communist Party? ----- That is so.

Are you still a member of the African National Congress? ----- Now, M'Lord?

Now. ----- No.

(5)

Are you still a member of the Communist Party? -----

No.

Are you still a member of Mkonto we Sizwe? -----

No.

When did you sever your connections with these bodies? ----- M'Lord I have never resigned, I just stopped my activities. (10)

Did you stop your activities before the 26th of June 1963 when you were arrested? ----- No.

So was it only as a result of your arrest that you stopped these activities? ----- After I was arrested, yes. (15)

Can you remember how many acts of sabotage you have participated in? ----- Three (3).

Did you suffer under a sense of grievance at the time that you joined these organisations and performed those acts of sabotage? ----- I was furthering the activities of the organisation to which I belonged. (20)

HARCOURT, J.: Yes, but counsel wishes to know if, at that time, you suffered a sense of grievance. ----- M'Lord could that be explained to me what is meant by 'grievance', M'Lord. (25)

Would you like to elaborate, Mr. Law?

BY MR. LAW: Did you feel at that time that the Government of the country was causing the lot of the Bantu to be a particularly hard one and that this should be remedied? ----- The laws of the Government yes, M'Lord. (30)

Do you still feel that way? ----- No.

Now what made you change your mind? ----- The

whole plan of this organisation as they wished to carry on. I don't agree with it anymore.

What made you change your mind about it? ----- The way this organisation tried to carry out their plan, I don't agree with it now. (5)

Perhaps you could elaborate a little. The question I really asked you was whether you were suffering from a sense of grievance at the time you joined the organisation, and you said yes the laws of the Government were oppressive. ----- Yes.

But you don't think so anymore? ----- I don't say (10) that I agree with all the laws of the Government. M'Lord I don't agree with the way this organisation wished to carry on.

Now was there anything which happened before your arrest which made you disagree with the methods of operation of the organisation? ----- No, I never really had time to (15) think about it, I was so busy.

You mean you never disapproved of the methods of the organisation before you were arrested? ----- M'Lord there were certain things we did not agree with, but there was no time to sit down and discuss this matter and to thrash it out, and (20) we were not allowed to see the National High Command to tell them our complaints, and to investigate certain things which we could not see how they got on.

After your arrest you had time to think about these things? ----- Yes. (25)

You said the date on which you were arrested was the 26th of June, 1963, did you? ----- Yes.

Now how long were you in custody before you were released? ----- Ten (10) months.

Was that until about April last year? ----- Yes. (30)

When did you give evidence in a political trial for the first time? ----- September or October 1963.

And how many times have you given evidence for the State in political trials and sabotage trials or trials of that nature? ----- Fifteen (15) or sixteen (16) times.

I take it that you offered your services to the State? ----- M'Lord I was one of those that had done wrong. (5
I am still giving evidence about things that I did at that time. There is nothing new that I am starting today.

Now why have you given evidence for the State in fifteen (15) or sixteen (16) trials? What are your motives? ----- I am called to give evidence. (10

You realise that as an accomplice you are not obliged to give evidence? ----- Yes.

Then why, what is your motive for giving evidence in this case and the other cases in which you have given evidence? ----- M'Lord there is no motive. I am called to (15
give evidence and I give the evidence.

You realise, don't you, that you are not obliged to give evidence? You can't be forced to give evidence as an accomplice. ----- (Mr. Combrink intervenes).

BY MR. COMBRINK: With respect, M'Lord, I hesitate to (20
interrupt, but my learned friend is putting a question of law to the witness.

HARCOURT, J.: Well he's already agreed with it.

BY MR. COMBRINK: Wrongly, M'Lord.

HARCOURT, J.: Well I don't know. But do you say it's (25
merely because it's repetitive or-because he's entitled to ask what this witness believes to be the position, surely?

BY MR. COMBRINK: M'Lord I'm just pointing out that it's not in law the position that he may answer questions.

HARCOURT, J.: That is a matter you may argue, but what he (30
believes to be the law is a matter for him to say.

BY MR. COMBRINK: Yes, M'Lord, I appreciate that.

HARCOURT, J.: I appreciate possibly the incorrect basis of the question, but if the witness cares to say what his understanding of the law is, that must be relevant.....(Mr. Combrink intervenes).

BY MR. COMBRINK: Well I'm only pointing out that basically (5 the question is wrong.

HARCOURT, J.: Yes. Mr. Law perhaps you wish to reframe your question or perhaps you want to leave it as it is, or perhaps you don't want to repeat it because he's already answered your question. (10

BY MR. LAW: That is so, M'Lord.

Now in - at each of the trials that you have given evidence, have you been informed that if you give your evidence in a satisfactory manner you will not be charged in respect of the offence with which the accused in that case have been (15 charged? ----- Yes.

And is the true reason that you are giving evidence at all these cases, that you wish to avoid prosecution for what you have done? ----- As I have said, this is not the first time, I have given evidence in many cases. (20

HARCOURT, J.: But counsel wishes to know whether your true reason for giving evidence is that you wish to avoid prosecution. ----- No, I can't say that that is the real reason. The first time I was called to give evidence I did not know what was going to happen to me, M'Lord. (25

The second, third and fourth instance - fifteen times, you did know? ----- Yes, I knew then.

Counsel wants to know that on those occasions was it the true reason that you wished to avoid prosecution? ----- M'Lord the first case I did not know whether I would be (30 prosecuted or not, then after that I knew that I would not be charged for cases after that.

BY MR. LAW: Were you not told before the first case that you would not be charged if you gave your evidence satisfactorily? ----- M'Lord I was given the warning, but there were so many cases against me that I did not know whether I would be charged or not. (5

HARCOURT, J.: Now look, in regard to these fourteen (14) accused persons here today, have you ever testified concerning the recruitment of these people or their travel from Natal up to the Transvaal as you've described to me? ----- I have given evidence in another similar case but not against these (10 accused here.

I'm speaking of these accused. ----- No, I have never given evidence in their presence as they are charged now.

Or in any case concerning the recruitment or departure of these persons. ----- I have, yes. (15

Where? ----- In Pretoria.

Was that in connection with a charge against them for leaving the country without proper travel documents? ----- There were others that were arrested at Zeerust, M'Lord.

Now look, not the accused. I said very clearly I (20 wanted you to think of these fourteen accused persons. Now have you ever testified in a case concerning the recruitment and departure of these fourteen persons? ----- In their presence?

Yes. ----- No, this is the first time I give evidence against them in their presence. (25

Now do you realise that it is alleged that they have committed a crime, or crimes, by virtue of being willing to be recruited and being willing to leave the country as they did?----- Yes.

Do you realise that you are today testifying about (30 crime, concerning which you have not previously given evidence? ----- Yes.

I think that may have cleared the ground for you,
Mr. Law.

BY MR. LAW: Are you aware, or do you think that you could
be charged with the accused for the same offence which they
are charged with? ----- Yes. (5)

You realise that if you give evidence against them
and your evidence is satisfactory, that you will not be
charged? ----- Yes, as I have been warned by the Court. ✓

Now do you know that the State want to convict these
people? ----- (The Court intervenes). (10)

HARCOURT, J.: Well I don't think that's quite properly put,
Mr. Law. The State can't convict them. The Court can
convict them. I don't know that this witness will appreciate
the difference.

BY MR. LAW: As your Lordship wishes. (15)

HARCOURT, J.: They wish them to be convicted, if you wish.

BY MR. LAW: Do you know that the State are endeavouring to
secure the conviction of these people who are now before the
Court? ----- As they are appearing before a Court that must
be so. (20)

And do you think that the State would be gratified
if you helped to secure the conviction of the accused? -----
M'Lord I'm only saying what I - what part I took and what I
did in this matter.

Will you answer the question please? Do you think (25)
the State will be gratified if you help secure the conviction
of the accused? ----- Be gratified in what way, M'Lord.

HARCOURT, J.: Be pleased to see the punishment of people
who are considered to be guilty of crimes against the State.
----- M'Lord I don't know whether they would be pleased or (30)
not.

You're being asked what you think the position is.

Do/.....

Do you think they'll be pleased or do you think they'll be displeased? ----- I don't know.

BY MR. LAW: If you had not been given an indemnity in this case would you still give evidence? ----- (The Court intervenes)

HARCOURT, J.: Mr. Law how can ^{you} put it that way? He hasn't been given an indemnity.

BY MR. LAW: If you had not been promised - M'Lord I'm sorry I withdraw that question.

I want to turn to another aspect of this case. When did you first recruit people to go overseas or out of the Republic for military training? ----- 1963. (10)

Did you ever recruit anybody before the accused in this present case? ----- No, these were the first ones.

Now as I recall your evidence in chief, Natal was to supply twenty (20) people? ----- Yes. (15)

Now apart from the accused in this case whom you say you recruited, did you approach any other people for recruitment? ----- M'Lord there are only two that I spoke to at Gwala's residence, that did not leave.

And apart from those two, did you not attempt to recruit any other people than the people who are charged in this case? ----- There was one at Charlestown that I told that he could wait for the next batch to go up. (20)

Any others? ----- I don't remember any others.

AT THIS STAGE THE COURT TAKES THE SHORT ADJOURNMENT. (25)

ON RESUMPTION:

SOLOMON MBANJWA: (Warned still under oath).

CROSS-EXAMINATION BY MR. LAW CONTINUED: (30)

Tell me, Mr. Mbanjwa, do you hope to gain anything by giving evidence in this case against the accused and by having given/.....

given evidence in the other cases in which you have given evidence? ----- No.

You hope to gain nothing? ----- No. I haven't been promised anything.

I'm rather interested in the fifteenth person (5 who was on the train with you, William Msimango. Did you know Willy Msimango before he came and spoke to you? ----- Yes, he came to speak to me.

Did you know him before that? ----- Yes.

Now where did you know him from before that? ----- (10 He was an Interpreter in the Law Courts in Durban.

Where did you first meet him? ----- At Hammarsdale.

How did you meet him? In what circumstances did you meet him? ----- We were drinking.

And when did you meet him? ----- About 1961 (15 when I arrived at Hammarsdale.

And did you see him often after that? ----- No. Not always. We just happened to meet sometimes because his people also live at Hammarsdale.

And do your people live at Hammarsdale? ----- Yes. (20

So he wasn't a personal friend of yours? ----- No.

When he came to speak to you, what did he speak to you about? ----- He wanted a way to go overseas to go and study.

Now where did he speak to you about this? ----- At my home. (25

And where was that? ----- At Hammarsdale.

Can you remember when he spoke to you? ----- It was in January and it was on a Sunday afternoon.

January, 1963? ----- Yes, after Christmas. 1963. 1962, M'Lord. (30

HARCOUET, J.: After Christmas of 1962, it was in January of 1963?

----- That is so.

BY MR. LAW: Now you say that you were in your house? -----
Yes.

Did he come to your house without being sent for, or did you send for him? ----- He came out of his own.

And what was the conversation that took place? ----- (5)
M'Lord he asked me for a way to get overseas to study and he told me that he did not get on with his father.

Did he tell you where he wanted to go and study? -----
He mentioned Britain, M'Lord, in England.

And did you tell him that you would get him to (10)
Britain? ----- I told him that I could assist him here, but I don't know what would happen later.

Now was it just by chance that he came to speak to you? ----- Yes, he came and saw me, he asked if he could speak to me in private. (15)

Do you know whether he knew that you were busy at the time recruiting people to train as soldiers in Tanganyika? ----- M'Lord it appeared as though he knew that some people were leaving, but he didn't know that I sent them away for training. (20)

So he didn't know that you were involved in people going away? ----- No, he did not know.

And yet he came to you and asked if you could get him out of the country because he wanted to go and study? ----- Yes, he came to me. (25)

[Now why do you think he picked on you? ----- Because I was known there as being a member of the A.N.C.

And the members - do members of the A.N.C. have ways of getting people out of the country to study? ----- M'Lord to me it appeared as though he thought it was being done by (30
the A.N.C.)

Now is one of the objects of the A.N.C. to send

people/.....

people outside the country to study? ----- No, not to my knowledge. I have never been at meetings where such a thing has been discussed.

When I say 'study' I mean apart from military training. ----- That is what I mean too. (5)

Now if it is not one of the objects of the A.N.C. to get people out of the country to study, do you know of any reason why he should come to you as a member of the A.N.C. and tell you - and ask you to get him out of the country to study? ----- M'Lord I can't speak on his behalf, I don't know what (10) was going on in his mind.

Now as a result of his request what exactly did you tell him you would do for him? ----- M'Lord I told him that the only way I could get him away was to send him away with some recruits. When he got outside the Republic he will have to (15) find his own way.

Now did you explain to him how he would get outside the Republic? ----- As I said, that I would send him away with some recruits as if he were a recruit.

And did you mention anything about payment of his (20) train fare to Johannesburg or his taxi fare from Johannesburg? ----- I told him that all the expenses up to there would be paid by the organisation.

Now the organisation was prepared to pay, as far as you knew, expenses for people who were going for military (25) training? ----- Yes.

Why do you use the organisation's money to take Msimango outside for the purpose of study - outside the Republic for the purpose of study? ----- M'Lord I did that because he had put all his troubles to me, and he wanted to (30) go.

And you felt justified in using the money of the organisation/...

organisation just because he put his troubles to you? -----
I did it.

Now when was the next time after this discussion that
you saw Willy Msimango? ----- Shortly before they were due to
leave. (5)

Where? ----- At Lakhani Chambers.

And again where did you see him after that? -----
At Lakhani Chambers again when I told him when he had to
report at the office. That being the day when they had to
leave. (10)

And when did you see him for the next time? -----
That was the next time, I've just explained.

HARCOURT, J.: Yes, but after that. ----- I told - the day when
I told him to go to the office to report to either Curnick or
Bruno Mtolo, that I would then no longer be there, I would (15)
be gone.

BY MR. LAW: Now as I understand the position so far, you saw
him once at Hammarsdale, you saw him once - twice at Lakhani
Chambers? ----- Yes.

Now when was the next time that you saw him? ----- (20)
In the train.

In the train. Now apart from these four (4) occasions
that you've mentioned, once at Hammarsdale, twice at Lakhani
Chambers and once on the train, did you see Willy Msimango in
connection with the matters with which the accused has been (25)
charged at all, anywhere else? ----- Yes.

Where was that? ----- At Leeuwkop prison.

Well I didn't phrase my question very well. I
mention in - before you got on the train, from the time he first
spoke to you about going overseas until you got on the train, (30)
did you see him at any place other than the places you've
mentioned? ----- Was that in connection with this matter or
any/.....

any other matter?

In connection with this matter. ----- I don't remember.

Did you ever see him at Pietermaritzburg in connection with this matter? ----- No. (5

I see. (Do you remember attending an identification parade at Leeuwkop gaol on the 4th of May, 1964? ----- Yes.

Do you remember the people who were lined up in the identification parade? ----- Yes.

Was Willy Msimango one of those people? ----- (10
Yes.

Did you point out Willy Msimango at all? ----- Yes,
I did.

Did you point out Willy Msimango as one of the people who had attended a meeting at Harry Gwala's house? (15
----- No.

Are you quite sure of that? ----- Yes.

I understand that evidence can be led from the person who conducted that identification parade, to the effect that you pointed out Willy Msimango as a person who had (20
attended a meeting at Harry Gwala's house. ----- (Mr. Combrink intervenes).

BY MR. COMBRINK: With respect, M'Lord, the fact being put is wrong. Now the fact being put to the witness is a wrong one, M'Lord. I have knowledge of that. I don't know whether he is asking the witness what he thinks.

HARCOURT, J.: No. No. Mr. Law could I suggest to you that you use the formula which I have always found to be the best in these circumstances? "If evidence were to be given that this that or the other happened, what would you say?" Then you are not suggesting any personal knowledge on your part or....
(inaudible). "If evidence were to be given, what would you say to that?"

BY MR. LAW: Now if evidence were to be given that you pointed out Willy Msimango as a person whom you had met at Harry Gwala's house, and he'd afterwards travelled on the train with you, what would you say to that? ----- M'Lord before I reply yes or no to that question, I wish to explain something. (5

HARCOURT, J.: Provided it's relevant. What do you wish to explain? ----- M'Lord I wish to explain how it happened that I pointed out these people in connection with Harry Gwala's place M'Lord. At first I wasn't told only to point out four (4) persons. I understood the question to be that I (10 must point out all the people that I know. I then pointed out all the people that I knew.

BY MR. LAW: How many people did you point out at that identification parade? Do you know? ----- I don't remember, there were many. (15

I put it to you that you pointed out those people in different categories. Some as people you'd seen at Harry Gwala's house and some as people that you'd met on the train for the first time. ----- At first I was asked to point out all the people that I knew, and in the first row I said those (20 four (4) people I met at Harry Gwala's place. There was then a second row. I pointed out all the people that I knew.

The second row, you say? ----- M'Lord when the first lot had been removed and a second lot were on the parade.

So did you, in fact, have two parades? ----- Yes. (25

At Leeuwkop on the same day? ----- Yes.

Now do I understand you as saying that you were taken to a place where there were people lined up? ----- Yes.

And what were you asked to do there? ----- I was asked to point out the people at the meeting at Harry Gwala (30 and the people that I knew.

HARCOURT, J.: Well which was first? ----- Those that were

at/.....

at Harry Gwala's at the meeting.

And the second - then did you go away, come back when another parade had been formed up of other people? -----

That same parade, I pointed out other persons that I knew.

BY MR. LAW: And do you say that those people were taken away (5 then? ----- Yes, all those were taken away.

And were you taken away as well or did you remain in the room? ----- I was taken away and put in another cell.

And then brought back again? ----- Yes.

And were there other people then lined up? ----- (10 Yes.

And what were you asked to point out this time? ----- I was asked to point out all those that I knew on that parade.

Were there any people on that parade who had been on the earlier parade? ----- No. This was another lot. (15

Did it have anything to do with this case? ----- I don't know, I was just - I just did what I was told to do, I don't know with which charge it was connected.

HARCOURT, J.: Now when you were first asked to point out those who you had seen at the meeting at Harry Gwala, did you point (20 out people all of whom are amongst the present accused? ----- Yes, they are here.

Then you were asked to point out all the people you knew, and you pointed out people. Are they all also amongst the present accused? ----- Yes. (25

Then on the second parade, after you had been taken back to another cell, did you point out more persons? ----- Yes.

And were any of those persons people who are now accused before this Court? ----- Yes, there are some of them here, M'Lord. (30

BY MR. LAW: Now how many people did you point out at that parade as being the people who you saw at Harry Gwala's house?-----

Four (4).

Do you know who they were? ----- Bernard Mhlongo. 8

That is accused? ----- Accused 14.

Yes? ----- No. 11 accused and 4 and 5.

HARCOURT, J.: And William Msimango? ----- I pointed him out (5) as being a person that I knew, not as a person that attended the meeting at Gwala's.

BY MR. LAW: Now we may come back to that point later. Will you please tell me how many people altogether you personally spoke to or attempted to recruit apart from the accused who (10) are before the Court at the moment? How many people did you attempt to recruit for this particular expedition, who are not before the Court at the moment? ----- M'Lord as I have said two (2) in Pietermaritzburg and one (1) at Charlestown.

You didn't speak to the two at Pietermaritzburg? (15) You didn't attempt to recruit them, did you? ----- M'Lord there two with Harry Gwala that I spoke to personally, that are not here, and there is one from Charlestown.

Now referring to Charlestown, did I understand your evidence earlier to be that he had asked you, told you, that (20) he was willing to go and that you told him he would have to wait until later? ----- Yes.

Now why did you tell him that he would have to wait until later? ----- Because I was under the impression that when I was at Charlestown that I had the required twenty (20). (25)

In fact you didn't have the required twenty (20)? ----- That is so.

In fact you thought you had nineteen (19) and Willy Msimango? ----- Yes.

You were prepared to let Msimango go along at the (30) expense of somebody else, even though you knew that he wasn't going for military training? ----- M'Lord as a result of the

conversation/.....

conversation we had I did do this.

Did you tell any of your colleagues in Mkonto we Sizwe, that you were doing this, in relation to Willy Msimango?

----- No.

You didn't tell Bruno Mtolo? ----- No.

(5

And why didn't you tell them? ----- That is a thing that I did on my own, privately, it was not a thing connected with the organisation.

Didn't it concern the organisation at all? -----

M'Lord it was connected with the organisation, only the purpose for which he left was not.

(10

Well why didn't you tell them what you were doing about him? ----- It couldn't be done, because I was doing something outside their rules.

HARCOURT, J.: You were cheating them to get your acquaintance taken out of the country at their expense, is that what you say? ----- M'Lord that is so, I couldn't go and report myself that I had done something wrong.

Now let me get this clear. You knew it was wrong to use the organisation's money to transport your acquaintance? ----- Yes.

Did you regard it as theft of the money? ----- I didn't think on those lines.

Well what lines did you think on? ----- I just thought that I was assisting him, M'Lord.

But the organisation was paying, wasn't it? ----- Yes.

And you knew they wouldn't pay if he were not to be trained for their purposes? ----- Yes.

So you were using their money for a purpose which you knew they would never agree to? ----- Yes.

What did you think you were doing with their money? ----- M'Lord technically it would be that I was stealing their money, but that never ever entered my mind.

I was thinking that I was assisting a person.

BY MR. LAW: In fact you misled the organisation, didn't you? ----- In that respect I did, yes.

And was this person Willy Msimango, important to you? ----- Important in what respect? (5)

Well important enough to mislead the organisation. ----- M'Lord I let him go as a result of our conversation. I know it was a bad thing if it came to the ears of the organisation.

HARCOURT, J.: Why did you do it? ----- M'Lord I did do it. (10)

I've heard you say you did it, but I want to know what it was that could cause you to do a thing you knew to be bad in the eyes of the organisation, for Willy Msimango. ----- I just did it to assist him. That was my whole idea, is to assist him. (15)

Now did you know that funds of the organisation were fairly stretched in carrying out these activities of training people? ----- M'Lord I did think that a lot of money was required for this, although they never told me how much.

But what you're being asked is really this, did (20) not Willy Msimango occupy a particular position towards you, to tempt you to misuse the money of the organisation? ----- M'Lord the only thing I can say is I was living on his father's property, that may have entered into the matter.

BY MR. LAW: Now if anybody else whom you knew, as slightly (25) as you knew Willy Msimango, had come to you with the same request would you have acceded to that request as well? ----- M'Lord I may have agreed, I may not have agreed. All depended on the conversation, the way he put it.

So all I want to get out of you at this stage, is (30) that for a person who is not important to you - who was not important to you - you were prepared to mislead your organisation/....

organisation, and you were prepared to steal their money? -----
 M'Lord I did this for one person only, but there are greater
 things that were done by the organisation, bigger than what
 I did.

All right. Now did you tell the Court that you (5)
 recruited accused No. 6, Russel Mpanga? ----- Yes.

Now where did you know Russel Mpanga from, where had
 you first met him? ----- In Durban.

Where in Durban? ----- At a S.A.C.T.U. meeting.

Do you know when that was? ----- Perhaps 1961, (10)
 we've had many S.A.C.T.U. meetings.

He was never a personal friend of yours? ----- He was
 an acquaintance, M'Lord, I can't say that he was a friend.

You never visited him at his home? ----- I don't
 even know where his home is. (15)

He never visited you at your home? ----- No.

Where did you say he worked? ----- The last I knew he
 was working at the Match factory.

When was that? ----- Before he left, it may have been
 1962. (20)

Now on the occasion that Mpanga - that you spoke to
 him - where do you say you spoke to him? ----- Lakhani Chambers

And can you say when that was? ----- I think it was
 January.

HARCOURT, J.: Now I think there may be a misunderstanding. (25)
 You say when you first spoke to him, do you mean in regard to
 recruiting?

BY MR. LAW: M'Lord I didn't say that very well. I meant in
 regard to recruiting.

BY THE WITNESS: That's January, 1963. (30)

HARCOURT, J.: At Lakhani Chambers? ----- Yes.

BY MR. LAW: Can you remember what he was doing at Lakhani
 Chambers/.....

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