

was happening in the South African army before that date?---
There was talk but never on specific issues.

Never on specific issues?---No.

Was this the first time that a serious request
had been made to you?---Yes, this was the first time that
a serious request had been made.

You cannot remember whether any request had
been made to you on a prior occasion?---No, the only
prior occasion I remember was when they asked me write an
article for New Age on the call-up in....

If there was a request prior to your last mee-
ting with the accused of a serious nature, you would have
remembered it?---Yes, I would have remembered it. That is
if I would have considered it serious.

Yes?---Yes.

Now, you see the accused is going to tell his
lordship that there was a discussion with you prior to
your last meeting in regard to the army - will you deny that?
---I will not deny it, we did talk about the army quite
frequently, the police, the army, all forces, opposing
the Liberation Movement.

Also 1963 was regarded in this amorphous body
of people that you have mentioned as a year of destiny - I
think those are the very words used, was it not?---That is
correct.

And it was expected by the non-White Political
organisations that big things would happen, or there would
be big advances, to use their phraseology, in their struggle
for freedom during 1963?---That is correct.

The accused will say that pursuant to that talk
he, prior to your last meeting, asked you to get information
as to whether or not the Government was taking this talk
seriously - do you remember that?---I am trying to recollect

here, I had many conversations with the accused. I know - I should perhaps explain that in the Leftist circles, there was a lot of talk at all times, what was the Government doing against us, how was the Government reacting to our moves, and it is a bit difficult to specifically say whether the accused ever discussed this with me in detail or not. I could not be too sure.

You could not be too sure?---I could not be too sure. There was a lot of talk of that nature.

If the accused tells his lordship that his interest was, as a journalist, as to whether or not the Government itself was reacting to this general talk of having reached the year of destiny, and that he has had specific discussions in that regard with you, will you be able to deny that?---No, I cannot deny that.

But what you do remember is that at your last meeting, he had a very large wad of notes, to use your own words, and that he specifically asked you for information? ---Yes.

And that he said that we, whoever that may be, were prepared to pay for that information?---Yes, he used the words "Are there not any people we could bribe".

BY THE COURT TO WITNESS: When he said "Whom we could bribe", did that include you? Or was he talking the way one speaks when he said that?---I think he meant the Movement.

The whole Movement?---Yes, he did not specify any person, and I did not ask.

CROSS-EXAMINATION BY MR. BIZOS (CONTINUED):

Now, this was important, an important request seriously made about the ... one of the things that you wanted to know about?---Yes.

This was of utmost importance to both you and your superiors?---That is correct.

Can you say that you are possibly mistaken about this fact and that the accused had a large amount of money and that he offered you...suggested to you that you should go about bribing individuals to get this information?---I could not be mistaken.

Now, this could have led could it not Mr. Ludi, to further investigations, could it not?---Yes, very much so.

BY THE COURT: What do you mean by that?---MR. BIZOS: Following up I mean, my lord.

Investigations by whom?---Well, by the witness and his superiors.

CROSS-EXAMINATION BY MR. BIZOS (CONTINUED):

That is the way you understood me Mr. Ludi?--- That is correct, I understood that you meant that I would take this request to my superiors and we would discuss that and we would make a plan.

Take the matter further, perhaps protest(?) suspect persons in the army, whatever you and your superiors may have decided in that regard?---That is correct.

Now, this happened some time ago Mr. Ludi, and you told us that you submitted reports in writing to your superiors?---Yes.

And/^{have}you refreshed your memory from your reports before you came to give evidence?---Not within the last three months.

Well, before you came to give evidence in this case, did you refresh your memory from your reports?---Do you mean immediately prior to the.....

In order that you may be able to give accurate evidence to his lordship, did you refresh your memory from your reports?---No.

Why not?---This particular event which I gave evidence about, stood out in my memory right through the

infiltration career, because I took it as one of the most important things that ever happened, because I think espionage is a very serious matter.

Yes?---And it always stuck out, I always remember that fact.

And did you consider it so important that you reported it to your superiors?---As far as I remember, I went through to Pretoria personally to discuss it with him.

And you did not refresh your memory from any report?---No, I did not refresh my memory.

You see Mr. Ludi, you refreshed your memory for the purposes of giving evidence at the Fischer trial? ---That is correct.

Why did you not go through your reports before you came to his lordship, just to fortify yourself?---I have to give the explanation. First of all, in the Fischer trial I was asked to give very detailed evidence on a lot of matters, covering a long period of time, which naturally many of the things I have forgotten. They were not like this incident - one particular incident sticking out in my mind. There I had to give detailed evidence of what was said at meeting, after meeting, after meeting. Secondly, I have been working on a book of my experiences and for that purpose I went through all my reports several months ago, and in order to work on this book I had to get everything that happened into good chronological order. I refreshed my memory very extensively of all I had done over the years, in fact, I know it very well now. It has all come back to me and it has stuck, sort of played a second time.

Very important matters must have been in your reports when you refreshed your memory a few months ago?

---I cannot remember, I cannot remember whether I submitted a report on it or not.

BY THE COURT TO WITNESS: Did you give a written report?---
I had written a report, yes, because I mentioned just now,
I went through to Pretoria.

CROSS-EXAMINATION BY MR. BIZOS (CONTINUED):

Now, reading through your reports or your report
in connection with this matter would be of assistance to
you and to his lordship, don't you think Mr. Ludi?---Possibly,
I do not know.

Do you want to have a look at your report in
order to see whether you reported this matter, or you
included this important event in your reports?---I do not
feel that I have to, but if the Court thinks so - I do not
know.

Would you want to be given that opportunity by
his lordship?---I do not think so.

You see, there is one issue between us, and that
is whether the accused had a large sum of money on that
day and that he offered you large sums of money to bribe
members of the South African forces.

BY THE COURT: That is not quite how I understood it. He
did not offer it to him, he indicated to him that money
was available.

CROSS-EXAMINATION BY MR. BIZOS (CONTINUED):

Money was available to pay anyone who was pre-
pared to give information?---That is correct.

BY THE COURT TO WITNESS: Am I right, that he did not hand
it to you?---No, he did not even specify amounts, he just
held this. It was more an illusion, he had it in his hand,
and he kept on saying people that could be bribed, you know.
He did not even say "I have this money available" or anything
like that, but the illusion, the fact that he was holding
this large role of money sort of under my nose, saying that
money was available.

CROSS-EXAMINATION BY MR. BIZOS (CONTINUED):

You see, the other issue between us is that this meeting at Club 77, between you and the accused was not for the purpose of making this request but that the request had been made before, and that this was a meeting for the purpose of ascertaining from you whether you had, in fact, obtained any information or not. That is what the accused is going to tell his lordship?---No.

Was that definitely false?---That is definitely false.

BY THE COURT TO MR. BIZOS: Would you just repeat that please?

---That the last meeting at Club 77 was for the purpose of ascertaining whether the witness had got the information which he had been asked to get on a previous occasion. The answer was that is not so. It is definitely untrue.

CROSS-EXAMINATION BY MR. BIZOS (CONTINUED):

Correct Mr. Ludi?---That is correct.

And that there was no reference to money. Do you not perhaps want, in fairness to the accused, to have a look at your report Mr. Ludi?---I did not hear that first part

Do you not perhaps want to have a look at your report, in fairness to the accused, that you may be mistaken or have forgotten? Do you not want to look at your report in regard to this?---If the Court feels that I should, I would, but I do not feel that I have to.

You are satisfied that...?---I am satisfied that I remember this event clearly.

Mr. Ludi, I am going to give you an opportunity to explain something. We are going to submit to his lordship that this did not happen and that in fact, you did not report this, because Mr. Ludi, I might now inform you, we have your report on this matter?---It did happen, and it is untrue

to say this did not happen.

Have you forgotten Mr. Ludi, that your report in regard to this matter had been put in in the Fischer trial? ---I doubt that it was put in in the Fischer trial.

We are going to argue to his lordship that you must have been certain that it was not put in and that is why you gave this evidence, and that is why you were reluctant to refresh your memory from your report?---I am not reluctant to refresh my memory from the report.

In your report the accused is borne out, in your report, what I put to you as the version of the accused, is borne out Mr. Ludi?---I doubt that.

You also did not report the fact that money was given or offered or that he was in possession of large sums of money?---If the Defence is commenting on this particular meeting where the two of us were alone at the house, the matter would have been written into the report, without question.

I do not understand you?---I said, if the Defence is in possession of the particular report in which I report on this conversation between the accused and myself alone at Club 77, then that whole matter would have been included.

It would have been included?---Oh yes, definitely.

Well, I am going, in due course, to show you your report Mr. Ludi, where this is not at all included.

BY THE COURT: You speak as though you are quite definite that it was a report of that meeting to which he refers?--- There can be absolutely no doubt.

CROSS-EXAMINATION BY MR. BIZOS (CONTINUED):

"On the 20th of February, 1963, Joe Gqabi telephoned me and asked me to meet him at 77a. When he arrived we discussed several things. (1) I told him that I had been trying to do something about the chaps I knew in the

army. (2) He suggested that we get a telephone at the house in somebody else's name than my own." And a third item which has got nothing to do with the army, it has got the name of another person, I do not know. That is all you reported to your superiors in writing Mr. Ludi?---No, that report is a report to a meeting subsequent to the one which I gave evidence on.

You said, in answer to me Mr. Ludi, on three occasions that this was the last time that you met the accused? The last time that you met the accused, money was offered to you?---Well, I was mistaken if.....

Speak up Mr. Ludi, I cannot hear you?---I was mistaken if I said that, and I doubt if I said that it was the last time I had seen him.

I will read you my learned friend's note Mr. ~~Ludi~~ Ludi.

BY THE COURT TO MR. BIZOS: He said that to you?---To me.

Yes, I haven't got a note of it. (Court asks for the machine to play back).

AT THIS STAGE THE COURT ADJOURNS.

ON RESUMING:

GERARD GUNTHER LUDI, still under oath

(Mr. Bizos hands copy of transcript of evidence to Court).

CROSS-EXAMINATION BY MR. BIZOS (CONTINUED):

Now Mr. Ludi, do you remember on Friday you gave your evidence in chief confidently, that the accused was missing

BY THE COURT TO MR. BIZOS: Are you dropping this point?---No, I am coming to it after a certain amount of development.

CROSS-EXAMINATION BY MR. BIZOS (CONTINUED):

That the accused was missing and that thereafter you met him twice - once in a shebeen in the centre of town, and once at Club 77 -do you remember that?---Yes, I said that.

Mr. Ludi, I am prepared to accept that you quite justifiedly remembered at that stage only those two. This morning you were reminded of the fact that you met the accused on another occasion, also at 77, but not alone but at a party?---Yes, in fact, I think there could have been two parties, we had two parties during that month, and I am not too sure if the accused might have attended both of them.

The accused tells me that he attended only one party?---I am prepared to accept that.

Now, you remember that you said in your evidence in chief after giving a description of this wad of money and the accused's request that was made to you, you finished your evidence in chief off in this way "To find out the training methods? (that was a question by my learned friend). "The training methods and arms and so forth. I then told him that I would definitely do something and supply us with information. He did not press the point any further then and a few weeks after that, a short time after that, he was arrested for leaving the country without a passport and I never heard anything further about the whole matter". You said that?
---That is correct.

Now, when cross-examining you this morning, I put this question to you: "If there was a request prior to your last meeting of a serious nature, you would have remembered it?---Yes, I would have remembered it. That is if I considered it serious. Yes?---Yes". You said that?---
That is correct.

Now, when you were giving evidence under cross-examination this morning, you were satisfied in your own mind that this important conversation between you and the accused took place at the last meeting you and the accused had?---
I was not satisfied about that. I do not know if I gave the Court that impression, but....

Let me read you this: "If there was any question prior to your last meeting of a serious nature, you would have remembered it?---Yes, I would have remembered it. That is if I would have considered it serious". Now, the last meeting that you described in your evidence in chief, is the meeting at which the suggestion was made?---That is correct.

Immediately prior to the adjournment, you said to his lordship in relation to this report that is a report of a subsequent meeting?---That is correct.

"If I said it, I was mistaken, when I said that this was the last meeting that I had with the accused" - correct?---That is correct.

That is the explanation upon which you now stand? ---Yes.

Now, it means then that after the accused had been missing for well over a year, you had more than two meetings with the accused?---Yes.

How many?---As far as my memory goes now, after seeing that report, I would say anything between three and five
BY THE COURT TO WITNESS: That is after he came back?---Yes, after he came back. There is the first one at the shebeen, he telephoned me, I can remember that very clearly, I was most surprised to hear his voice, then I went to see him at this particular shebeen, then we had these two parties to open and launch this Club. I remember that he was at one of them, or perhaps at both of them - I am not too sure. There were a lot of people I could not remember. Then inbetween these parties, before the party or just after the party, this was all in the space of a few weeks, I saw him alone at that house and from the report which the Defence counsel has just read out, my memory has been jogged, I cannot remember the

meeting off-hand, but I must concede that I must have met him again alone shortly afterwards.

CROSS-EXAMINATION BY MR. BIZOS (CONTINUED):

In your evidence in chief Mr. Ludi, you described one meeting at Club 77?---That is correct.

And you described it in your evidence in chief? ---Yes, because I remember that meeting very well.

And in your mind, when you were giving evidence, that was the last meeting, because you then proceeded to tell his lordship that thereafter you heard of the accused's arrest?---I did not mean in my evidence in chief that I might not have run into him in the streets or seen him casually somewhere before. I said that was the last serious meeting we ever had.

Are you satisfied with the authenticity of this report?---I am satisfied with it.

I do not know if your lordship wants to see it.
BY THE COURT: I am not particularly interested. Mr. Redpath will, no doubt, look after the State's case.

CROSS-EXAMINATION BY MR. BIZOS (CONTINUED):

You see Mr. Ludi, it appears now that however clear you may have been in your evidence in chief, that you are, to a certain extent, confused about the meetings that you had with the accused after his re-appearance, so to speak? Do you agree with that?---Not all the way.

Well, do you say that you are not at all confused? That you have not at all been confused about it?---Well, I am slightly confused as to the fact that I did not see him again afterwards. I did not remember that.

You see, because I put to you this morning that he had mentioned the fact that you were to get information prior to your meeting at 77, and that your meeting at 77 was for the purpose of getting the information - do you

remember that?---Yes, I remember that.

Can you deny that?---Well, that meeting which I described in my evidence in chief was the ~~at~~ first time the accused ever spoke to me seriously, on that subject.

That is not the question Mr. Ludi. When I put to you a certain conversation prior to your meeting at 77, and that the purpose of your meeting at 77 was for the accused to find out whether you had obtained the information, you denied that?---As far as I follow the question, I am correct in denying that the accused ever asked me before our meeting which I described in examination in chief.....

Mr. Ludi, please try and listen to the question. You are not answering - when I put to you that the accused would say that he requested you to obtain information in Belt 64 regard to the army prior to your meeting at 77 and that the purpose of your meeting at 77 was that you should report to him, you denied it?---That is correct.

Now, that denial was not a correct denial. I want quite clearly at this stage, to say that you possibly did not deliberately try to mislead his lordship, but that was a denial, and it cannot be correct, because you reported to the contrary?---There I do not know whether the Defence counsel is referring to that meeting or the previous meeting which I referred to in evidence in chief.

Mr. Ludi, I put it to you clearly that the purpose of your meeting the accused at 77 was in order that you may report whether or not your had obtained the information? ---No.

You say that that is not so, even now?---I deny it, yes.

What does this mean? "Joe Gqabi 'phoned me and asked me to meet him at 77a. When he arrived we discussed several things. (1) I told him that I had been trying to do

something about the chaps I know in the army". Was it not one of the purposes of the meeting at 77 in order to ascertain whether you had obtained any information which had been previously sought from you?---When you are speaking about that meeting, that meeting is subsequent to the one I described in evidence in chief. I must explain there that naturally I went to my chiefs and I said to them I had this person now who hinted that I should try and get spies for them in the army and what are we going to do about it? Are we going to find someone that would give false information? What is the position? They told me to hang on, they would discuss it with the military authorities. Subsequently, I did not remember, but I see now that I saw the accused subsequently, so naturally when I saw him subsequently I said "Hang on I am trying to do what you asked me to do", and that is what that refers to.

There must, therefore, be a previous report?

---Yes, there is a previous report.

Where is that?---It must be in Pretoria, in the possession of the police - I do not know.

BY THE COURT TO WITNESS: Did you say you went over personally?---I went over personally.

When you are talking about reports, let us be more explicit. Was the previous report in writing or a verbal report?

MR. BIZOS: I will come to that, because the witness said that.....

CROSS-EXAMINATION BY MR. BIZOS (CONTINUED):

This important matter, did you report it in writing?---I am not too sure, I think there is a good chance that I wrote a report and went over with it personally. I cannot remember that exactly.

That was the practice was it not - that you would

wrote a report and when further amplification was required, then you explained?---Not always. If something very important happened, I used to go and see the chief personally and discuss it with him. Sometimes I wrote a report, sometimes not.

Now, will you concede me this though, that your memory has been refreshed this morning about an additional meeting with the accused?---That is correct.

Also are you able to say that this meeting was not at the shebeen, that the request was made that you should get the information?---No, it definitely was not made at the shebeen.

BY THE COURT: I understand this witness now to say - there has been this dispute between you and the witness all along as to what is meant by a request, and you yourself climbed down at one stage and spoke about a discussion, and I understood the witness to say there was talk of getting information from the army before the serious request was made.

WITNESS: My lord, I understood the Defence there to mean that in 1961, previously, a long time ago, were there not always talk about the army, the Defence read out the terminology used by the Movement of the forces opposing it, and the Defence cited 1963 as an important year, a decisive year for the movement.....

BY THE COURT: After this exhibition of the wad of notes, that only happened once?---That only happened once.

Was there a suggestion which you took up earlier, prior to that day that you should try and get information from the persons in the army?---No, no request, for specific information.

Did you of your own initiative try and get it?---
No, nothing was done.

You first approached your superiors after the wad of notes was produced to you?---That is correct.

And then you say you went back and told him that he must hang on?---Yes.

I asked you that because I got the impression that you meant that all along the suggestion is thrown around that some contact should be made with persons in the army and you had done it before even the wad of notes?---No.

Is that not correct?---No, that is not correct.

CROSS-EXAMINATION BY MR. BIZOS (CONTINUED):

Mr. Ludi, you showed a reluctance to refresh your memory before the adjournment and before the production of this report that we have available. Have you changed your mind?---I was not showing a reluctance to having to refresh my memory. ^{Having to refresh my memory} /X/ would mean either driving through to Pretoria and wading through pages and pages looking for this report. It would hold up the time of this Court considerably. If the Defence considered that the report is necessary, I would be glad to do it.

You see, we would like to see this report Mr. Ludi, because it is rather important. The accused is going to tell his lordship that he did not have this wad of money and I want to put to you, I want to put to you the full version to give you an opportunity to comment on it. In 1961 there was the Mayday strikes, remember?---That is correct.

During that period you were trying to infiltrate into what you call Leftist Organisations?---That is correct.

And you used many stratagems in order to achieve your purpose?---That is correct.

That was the time when you told the accused of your sympathies with the cause of the African people?---That

is correct.

The African people expected important developments in regard to their struggle, to use their terminology, as the result of the May strike?---That is correct. I would like to add that the African people are defined by the Left Movements.

Now, do you remember coming to the accused then and saying that the army is going to be used to suppress the strike if it is successful?---Yes, there was a general call-up of A.C.F. draftees.

And you then held yourself out as a man who had some knowledge of military happenings, of what was happening in the army?---That is correct.

This was of particular interest to the accused who is a journalist, because there was a lot of talk at the time as to whether workers would stay away voluntarily or whether they would be intimidated to stay at home - correct?---That is correct.

Also there was a lot of public discussion as to whether the army would be called up to suppress - we will confine it to the movement, open discussions, as to whether or not the army would be used to suppress the strike, correct? ---Yes, that is correct.

And you attempted to give the accused the impression that you were a person who could get information as to what use the army would be put?---I do not recollect that, but I recollect telling the accused that I expected to be called up and that I would refuse to take up arms, in order to impress the accused, to take up arms against my fellow citizens who were fighting for their.....

Also, I do not know how relevant it is, to this you also impressed yourself or tried to impress yourself on him as a militant young man who was prepared to go to far-

reaching lengths in order to assist the National Liberation Movement?---I do not know how militant an impression I gave, I tried to conform with the pattern of those people.

The accused is going to say that you, prior to the 1961 May strike, were talking of sabotage? And that he gave you a bit of fatherly advice and said that you are a little too wild, you had better go along and join the C.O.D. to tame you down - do you remember that discussion?---I do not remember that.

Well, you used so many stratagems, are you prepared to say that that was not so, if the accused says that that is what happened?---I am prepared to concede that I might have talked about sabotage, but I will not concede that he gave me some fatherly advice that I must join the Congress of Democrats.

Well, he did suggest to you that you join the C.O.D.?---Yes, I can tell you why he told me to join the Congress of Democrats.

Yes?---I suggested to him, this is in order to boost myself a little, that if he could get me some copies of the Freedom Charter, I would go and paste this up around Johannesburg.

Yes?---But then he advised me that mass political action was better than individual political action, and I should join the Congress of Democrats.

You do not remember that you said that you were prepared to do much more serious things?---I cannot remember.

Then the accused will tell his lordship that he met you at the shebeen in 1963? The accused will explain to your lordship what the position is. That he then asked you whether the Government was taking this suggestion of the year of destiny seriously - do you remember that?---I

cannot remember that.

Will you be able to dispute it if the accused tells his lordship so?---Could you just repeat it again please

That there was talk between the two of you as to whether the Government was taking the suggestion that this was a year of destiny seriously or not?---There could have been.

Do you remember whether he told you whether you had heard that the Government, according to some reports, was taking it seriously enough?---Do I remember?

Do you remember?---Yes.

That it had started to train anti-guerilla units? ---This information had appeared in the press as far as I know.

Do you remember that there was this discussion between you and the accused at the shebeen?---No, not at the shebeen.

How can you remember that it was not at the shebeen?---No, because he came with this new suggestion, he spoke about these guerillas and I attached great significance to the fact that he was speaking about guerillas at the second meeting.

Had you got the meeting right the first time, we might have been impressed with your categorical statement Mr. Ludi?---Could you repeat that question please?

If you had not been confused in your mind about the number of meetings you had with the accused, I would have suggested to you that you might be confused - how can you say that it was not at the shebeen?---No, he did not say it at the shebeen.

And then that he met you privately at 77 once only?---Well, I thought once, but seeing that that report has refreshed my memory, then we have met twice. The second time for a short time.

You were certain that it was the last meeting, both in your evidence in chief..?---I was not certain that it was the last meeting, but I was certain that it was the last serious private discussion.

Mr. Ludi, that this information was required by the accused's newspaper - what have you got to say to that? Are you able to admit it or deny it? I think you have admitted it already.

BY THE COURT: That it was required by the newspaper?---That his interest was that of a journalist.

CROSS-EXAMINATION BY MR. BIZOS (CONTINUED):

Are you prepared to admit or deny that this was required by his newspaper?---Do you mean the information regarding the anti-guerilla...?

Yes?---Of course, I cannot say what goes on in another man's mind, but the way he spoke, the impression I got it was not for the newspaper.

Let us just get this, that there was in 1963 talk whether the actions of the Government constituted a threat to world peace?---Yes, there was talk in Leftist Movements, yes.

New Age as the mouthpiece of the National Liberation Movement tried to create the impression that the outbreak of war was imminent?---Yes, the outbreak of civil war.

That is what I referred to?---Yes.

And you were, or you had made yourself, or pretended that you were a member of this movement, would this information have been of some importance to the Movement and to the newspaper? At that time?---Do you mean the information he asked me to get?

Yes?---Yes, it would have been of great assistance.

Now, in regard to the month Mr. Ludi, the accused is going to tell his lordship that it is correct that

he asked you to go and buy some beer, but he has a particular recollection, just shortly before his arrest, that he did not have more than £12 in his possession?---I would say it was a bit more. Definitely a bit more than that.

Belt 65

A bit more than that?---It was a large role of money.

Do you agree that there is a different between 1,000 and 12 - there might not be very much difference to persons like yourself and myself Mr. Ludi, between 1,000 and 2,000?---Yes, definitely there would be.

You see, the accused will deny that he had any large sum of money. How certain are you of the size Mr. Ludi?---I am certain that it was larger than any amount I have ever carried on me.

BY THE COURT TO WITNESS: Well, that does not mean a thing to me. I do not know what sort of amounts you carry around with you?---My lord, I have carried amounts up to, say £150 to £200 on me, and it was larger than that. I was quite impressed with the amount of money. It was, as far as I recollect, what struck me about it my lord, was it was rolled round. Usually when you have a lot of money it is flat, but as the amount grows it tends to get round, and this looked like a round role, and it was very hefty. He held it in his hand like this.

CROSS-EXAMINATION BY MR. BIZOS (CONTINUED):

Well, do you know what was in the middle and what the notes were Mr. Ludi?---I could see that they were the green and the blue notes, R10 and R2.

Mr. Ludi, you know now what the allegations against the accused are, do you not?---I am not too sure actually, I just know that he is being charged with leaving the country for training guerillas or something like that.

Yes. Now, you will be able to find your reports

dealing with your conversations with the accused?---I will make an effort to look for them.

Now, this army talk you told us was of a general nature and you had conversations with persons other than the accused?---Could I ask you which period you are referring to?

1963?---Yes, it was in the Movement. The nature of discussions in the movement centred around the opposition of the Government by army police. It was all the time, anyone spoke about.

You see, because of this confusion in your mind now that this report has been brought to light, is it possible that you might be confusing this with a discussion about the bribing or someone else?---No.

I want to also put to you in case your reports do not take the matter any further and we do not make an application to recall you at that stage, a number of other subsidiary things - the New Age newspaper was a newspaper as distinct from Fighting Talk which was, I am informed, a ~~theoretical~~ ^{journal} theoretical germ?---It was a pamphlet, I understood it to be a pamphlet. Well, a german brought out the pamphlet.

That is Fighting Talk?---Fighting Talk, yes.

New Age was a weekly newspaper?---That is correct.

You told us that it supported the policies of the National Liberation Movement?---That is correct.

And well, you described it as almost Communist? ---Well, I had seen comments on foreign policies not affecting South Africa and cartoons which were decidedly pro-Communist.

Pro-Communists?---Yes.

Those were matters such as the Suez Canal, Cuba, Algeria - is there a considerable body of opinion in what is called the non-committed nations favouring the same line that it is not the business of America and Britain to interfere in the affairs of other nations such as Cuba and Algeria?---It

is a difficult question because there are blocks within the non-committed nations.

Yes, what I want to get from you is this - that it was not only Communists who said that America had no right to interfere in Cuba?---I admit it was not only Communists, but the Communists had a certain way of tackling the problem with demonstrations and arguments, while in the non-committed block....(Mr. Bizos interrupts witness).

Could you tell his lordship perhaps, who was the editor of New Age throughout this period?---Well, at the Johannesburg Office it was Mrs. ^{Ruth} ~~Wright~~ Slovo.

Well, I do not think we will be doing her an injustice, I understand she is out of the country - she was generally suspected to be a member of the Communist Party? ---That is correct.

I want to put this to you as a detail, because the accused, if he is questioned about it will say, and I do not want it to be held that I did not put it, that in order to infiltrate or to make the accused believe that you were in sympathy with the aspirations of the African people, in 1961, you suggested sabotage, I have already put to you, and more particularly you suggested that the voting papers should be spoilt - do you remember that?---Yes, I suggested that to the accused.

By putting chemicals into (?)?---I do not know what I suggested, but we had a discussion and I....

And that was your contribution to this?---My contribution.

MR. BIZOS: No further questions.

(Discussion between Court and Mr. Bizos as to whether this witness will be recalled on the matter of the reports to be produced. Mr. Bizos informs the Court that they did not object to this evidence, but it was on a collateral issue.)

EPL

going for military training? --- He just said that we would be trained so that we could fight the government.

You weren't told how you would fight? ---No, we weren't told.

And that applies to the last final word that was given you at Swartkops station when you all left? ---Yes.

No further questions.

24th FEBRUARY, 1965.

EXAMINATION BY PROSECUTOR: ^{mzwandile} FREDDIE MXWANDILE TYULU: s.s.

Do you stay at Uitenhage? ---Yes.

Were you ever a member of the African National Congress? ---Yes, I was a member.

Do you know the organisation Umkonto We Sizwe? --- Yes, I heard of that.

Do you know Pappa Mbatoti, accused no. 2? ---I know him.

Where did you meet him? --- In Port Elizabeth.

Do you know whether he was a member of the A.N.C.? --- I won't say that he was a member because I first met him then.

A // Did you ever leave the country to go and do training on behalf of the A.N.C.? --- Yes.

How did this come about? --- I left Uitenhage, I was there fetched/by another man.

When was this? --- 1963.

Do you know which month? --- It was in February.

Do you know which date? ---I don't remember the date.

Yes. ---I was taken from Uitenhage to Port Elizabeth by another man. In Port Elizabeth he took me to the house of another man and from there we went to another house where there were other men.

Is this in one of the location? --- Kwazakele Location, yes.

Yes? --- While we were in this house I was called out by this man that took me from Uitenhage. And then he said to me that I'm going on military training now.

Who was this

TYULU.

Who was this man? --- Vuyisela Twala.

And he told you you were going for military training.

---Yes.

Yes? --- I asked him then if he says now I've got to go on military training who is going to look after my relations at home, my family. He said I mustn't worry, he will look after them.

Why? --- While we were sitting in this house then some other men came there, arrived and it was said then it was getting late, we must go to the station now. At the station this man that was together with us and the other men said we are now going on a military training course.

Do you know what day of the week this was? --- It was a Thursday.

Who were these other men you mentioned? --- Those whom I went along with, Lizo Sitoto, Hubert Jakavula.

Do you see him here today? ---Yes.

Where is he? --- No. 13.

Yes, who else? --- And Terra Ndebo, and Pappa Mbatoti.

Accused number 2. --- Harry Bambana and myself.

Do you know accused Number 12? ---Yes.

Did you see him there that evening? ---He was there.

Now you met these people at Swartkops Station. --- We went together to the station.

What was said to you at the station? --- We were told there that we are going now for military training, and we must look after ourselves there.

Who told you this? --- Another man, one of those that went along with us.

And did he say on behalf of whom you were going to do this training? ---It was that if we come back we were to go and fight when we get back.

Fight on behalf of whom? --- We fight for the black people against the Europeans.

Yes, but who was organising this fighting? --- The A.N.C. was the

was the organisation.

And did you people leave that night on the train? ---

Yes.

Where did you go to? --- We went to Krugersorp.

Did you stop over at Park Station? ---No, we didn't go through Park Station.

Now what happened when you got to Krugersorp? --- We got off the train and we waited a little while. And then two men arrived there by car. And they came to us and asked us where we came from and then they said four of us must get on the car. And four got on the car with them and three of us stayed behind.

On what day did you get to Krugersdorp? --- Saturday we arrived there.

Yes? --- While we were waiting they came back again to come and fetch us.

And where did they take you to? --- One of the locations in Johannesburg. When we arrived there we met the other four that went off first from the station. We stayed in this house and an old man came in after a time. He came in and he introduced himself but I don't remember his name anymore. And there we sat and there was a conversation that went on there. And then another man turned up there, he asked our names. And he then gave us other names. My name was Toni Zondile. After a while we were picked up there and myself and two other men were taken to another place.

This is the Saturday evening? ---Yes. We slept there Saturday night. After lunch on Sunday we were fetched again. We went and we picked up the other people until we came to two Combi's. These Combi's then took us to the border at Bechuanaland.

How many Combi's were there altogether? --- Three.

Would you recognise the drivers of these Combi's? ---
I didn't take so much notice of him.

But would you recognise the driver of any of the Combi's?

I won't be

TYULU.

---I won't be sure. If he says he is the driver, I will not deny it.

Where did these Combi's take you to? --- We got off at the border of Bechuanaland.

Who got off there? --- Those people that were loaded on the Combi's.

Do you know how many there were? --- There were quite a number of us there.

Can you give an estimate? --- We were six that went through there. I don't know the others how many there were. They'd already left when we went.

Where did you go to? --- To Bechuanaland in the bush.

When/you arrived in the bush? --- Early Monday morning.

And how many were you there? --- Quite a few of us. I wouldn't know how many of us.

Did you have a good look at these other people you met there? --- Yes, because we stayed together there.

Would you be able to point them out again? ---Yes.

Do you see them here today? --- Yes, all the accused were there.

Every single one of them? --- Yes, they were all there.

Did you at any stage discuss why you were going up there? --- The group?

Yes, the group as a whole. --- There wasn't much said there about it. The only thing was said there that if somebody asked us where we're going, we must say we're going on studies.

How long did you stay in the bush? --- Two days.

And then what happened? --- A lorry came there and it took us up to the Zambesi. We crossed the Zambesi.

Did the lorry load all of you up? --- All of us. The other side of the Zambesi we got onto Land Rovers to go to the station.

Which station? --- Livingstone Station.

What

Can't say

A

B

TYULU.

What happened at Livingstone Station? --- While we sat at the station the Police turned up there, and they collected us together there and they arrested us.

And you were handed over to the South African Police a few days later at Messina? --- Yes, at Messina.

Did you at any stage go through a gate when you went through to Bechuanaland? --- There was a gate that we went through, yes.

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A Do you know one Joe Gqabi? ---Yes.

Was he a member of this group? --- He was.

Now you've told us you went through a gate. Where exactly was this gate? ---It was on the border of the Republic and Bechuanaland.

Was it on a main road? ---Yes, it was on a road.

And did you go through this gate? ---Yes.

COURT: Do you know Gladstone Gaxamba? ---Yes.

Was he there? ---He was.

He told us that the party went into the bush over a fence. --- That is possible, as we were divided up. There were six in my group. Perhaps his group went through the fence.

Did you all gather together when you were on the other side of the border? ---Yes, when we arrived there, the others were sitting there waiting already.

And when you stayed the two days, where was that? --- In the bush.

What did you have to eat? --- Bread and water.

Now, you've said that all the accused were there. Were there others beside them? ---Yes.

Do you know how many were in the Combi you went in? --- No, I don't remember how many were in the Combi.

B

I want you to tell me if any of the accused were in the same Combi with you? --- It is a bit difficult, because I didn't take that much notice of the people that go into the Combi where I was.

TYULU.

CROSS-EXAMINATION BY DEFENCE: You were charged with leaving the country unlawfully. Is that right? Without a passport? ---Yes.

And you were sentenced to two years. Is that right? ---Yes.

And when is that sentence due to expire? --- This year in April.

And when was it that you made a statement in connection with this particular case? --- 1963, I don't remember the month.

When you were in jail? --- That's when we were arrested.

Just after your arrest in Livingstone? ---Yes.

And how did it come about that you made a statement? ---I was told by the Police that this was a wrong thing that I did to leave home. Then I thought to myself I'd better make a statement.

And did you say merely that you'd left the country without a passport, or what? ---Yes.

Is that all you said? ---Yes, I told them I left here without a passport.

And did you mention anything about the training you were going for? --- When we were asked what we were going to do there, then I said we were going on a military training course.

Were you alone when you said that? --- Yes, I was alone when they asked me.

How many days after the arrest at Livingstone was this? --- I don't remember how many days after that.

Well weeks, months? --- Could be a month. I don't remember.

And were you being kept together with the people who were arrested with you at Livingstone, or were you being kept alone? --- We were kept together.

How did it come about that you were singled out for a statement

TYWLU.

statement? --- We were called out one by one and then I made a statement.

Why did you make the statement? ---I made it because I wanted to speak the truth.

You made a confession? ---Yes, I told them.

And you realised the possibility that you could be charged? ---I knew.

And you were not scared of being charged? ---No, I'm not scared, because I did it.

You thought you'd go to jail? --- Yes.

Do you mean you wanted to go to jail? ---If I was to be sent to jail, then I wanted to.

And before you made your statement, was it mentioned to you that you could become a State witness? Not that you would become, that you could become. ---No, I wasn't told that.

Did you realise the possibility? ---No.

After your statement were you again confined with the people with whom you'd been arrested? ---Yes.

How many of them made statements? ---I don't know.

Did you tell them you'd made a statement? --- They did not ask me.

Did you not tell them? ---I did, not tell them.

And none of them told you? --- No.

Why did you keep it quiet? --- They would have a grudge against me perhaps if I told them, that's why I didn't tell them.

And you considered that they might well have a grudge against you before you made your statement? ---No, I didn't know that.

You thought it was a possibility? ---I won't say yes or no. I don't know.

Well, how come then you had that idea afterwards? --- Because I made the statement and nobody said to me that they

made a

made a statement and I didn't tell anybody either.

Yes, but you didn't tell anybody because you thought they'd have a grudge? ---Yes, that could be.

And when you made your statement you must have thought well, I'm going to talk now. I wonder what the others are going to think of me? ---I did think of that.

You did? ---Yes.

Before your statement? ---Yes.

Then you realised there were going to be some amongst them who'd be very angry that you'd done that? --- Yes.

You jumped in first to save your skin? ---Yes, that is true. Everybody had the opportunity to help himself.

So you realised that there was a good chance that things would go better for you if you got in first and made a statement? ---I didn't know that it will help me.

You must have seen the possibility. ---Yes, I saw if I speak the truth that will be better.

What did you think would happen? --- There is a lot of things that can happen to you if you speak the truth.

You could have been set free. --- That was possible. On the other hand they could have locked me up.

And you could have been used as a State witness. --- That I didn't know.

Had you never heard of that possibility? ---No, I was never told that.

And you'd never heard about that in connection with those other cases either? --- That there was a thing like that, I never heard.

Had you heard of other cases against members of this organisation? ---Yes, I heard.

Before your excursion to Livingstone. ---No, not before, I only heard this afterwards.

You hadn't heard that there were cases against any of your fellow members? --- I knew, but I didn't ^{take} much interest

in it

TYULU.

in it.

And you knew that they were being charged as a result of belonging to this banned organisation? ---I didn't know that they were charged for that.

What were they charged for then? ---I don't know.

Did you hear of trials then? --- I heard about cases not knowing what the cases were about.

What cases did you hear about? --- Those cases that came off then. I won't remember what they were about.

Why do you mention cases if you don't know what they were about? --_I don't know.

You'd heard at that stage about the Poqo organisation, didn't you? --- I heard it.

And you knew that there were certain of their members being prosecuted with sabotage and all sorts of things. --- I just heard that there were members prosecuted for that.

Yes, you read the papers, didn't you? ---I did read the papers.

And you read some reports about those trials, surely? --- I have no reply to that.

Well, did you or didn't you? --- I didn't see them.

And you never discussed/^{it}with anybody? ---No, I didn't speak about things that went on then.

Who did you think was giving evidence at those trials? ---I won't say that I thought anybody because I didn't know them at the time.

You didn't know them, but you knew of these cases. --- I just read in the papers about them, not trying to find out more about them.

So you/^{did}read in the papers about them? ---Yes.

And you knew that it was always members of those organisations who came and testified against their fellow members. ---I won't say that I knew it was members of the organisation that gave evidence against co-members.

What did you.....

TYULU.

What did you read then? --- Just saw in the papers that people were being arrested for doing things.

And you say you've never heard of this possibility of being a State witness? ---I was never told that.

When were you told you'd be giving evidence here? --- When I received the summons then I noticed.

When was that? --- Last week.

At jail? ---No.

Where? --- Outside jail.

Are you outside now? ---I'm out, yes.

Is your sentence not due to finish in April this year? ---Yes.

Have you been released then? ---Yes, I was released.

When precisely were you released? ---Last year. I don't remember the month.

The middle of the year or the end of the year? --- Towards the end of the year.

Were you allowed to go back to your home area? Uithage? ---Yes, I went back home.

Now, you mentioned a man called Bambana? ---Yes.

And do you know if he was released too? --- No, I didn't know that he was released.

Have you seen him recently? --- Yes, I saw him here.

Before seeing him here. --- No, we don't live together.

You'd not seen him at all since your time at Livingstone or your time in the jail, let me put it that way. At the time you were in jail? --- I don't remember if I've seen him after we'd been released.

You can't remember seeing him? ---I can't remember seeing him.

Now let's just get it quite clear. Did you or didn't you see Bambana between your release and the case here? --- No, I did not see him.

And Gladstone, do you know when he was released? ---No, I don't

Saw him in 1913

A
MBB

I don't know the day.

And did you see him between your release and this trial? ---No.

Do you know that he was released? ---No, I don't know. I see him here today.

Now when you left from the Swartkops Station, you say Harry Bambana was present there? --- Yes, we went together.

Were you in the same compartment with him? --- We first sat together.

And then? --- After a while I went out of their compartment.

And who did you travel with? --- We didn't stay apart all the way. I just went to this compartment of Maxoti.

Yes, but who did you have in your compartment at night? --- Maxoti was with me in the compartment.

And was Bambana not with you at that time? --- No, he was in another compartment.

And was that the pattern all the way through the journey? ---No, we got together sometimes.

Yes, but at night, when you went to sleep? --- It was myself and Maxoti and Hubert Jakavula.

Number 13? --- That is correct.

Bambana used to sleep in another compartment? ---Yes.

And when at Krugersdorp station four of you were taken away before the other three, you remained behind with the three? --- Yes, we were three that stayed behind.

And was Bambana one of the three or was he one of the four? ---He was one of the three.

Eventually you met up with the four again and in the location? ---Yes.

And you and two others were later taken elsewhere where you slept. Is that right? --- That is correct.

Was Bambana one of those two? ---No.

You left him behind? --- Yes, I left him behind.

Do you know where he slept? ---I do not know.

You say you

TYULU.

You say you were given the name Tole Zondile? ---
That is correct.

Do you know what name Bambana was given? ---I don't
remember it.

What was the purpose of these aliases that you were
given there? -- I don't know the reason. We were just told
that they were going to give us other names.

Now you've mentioned the name Ndebo. Is that right?
---Ndebo.

And was that a nickname or rather a pseudonym or was
that the person's real name as far as you know? --- It
was just a name that was given to a person.

That was not a pseudonym of any accused before the
Court that you've mentioned. It wasn't a false name of any
accused here? --- That was Number 12's name, accused No. 12.

Yes, he will say he told you that subsequently. ---
What^{did}/he tell me?

That that was his name? ---Yes, I just heard when they
called him there they spoke to him, they said Terra Ndebo.

Now was this before Johannesburg, before you were
given these names? --- After we got the names.

Before that you did not know his name? ---No, I never
asked him what his name was.

When you eventually set off in the Combi's did you see
where Bambana went, in which Combi? ---No, I didn't take
notice in which Combi he was.

In fact you didn't take notice of any of the people in
yours? ---I had no reason to study them, who they were that
were with me in the Combi.

It was dark in the Combi and it was at night? --- That
is correct.

Now, when you were told that you were going for train-
ing at the station, do you remember that? ---Yes.

Were you told any details of what sort of training you
would receive? --- They said we were going on a military

training

TYULU.

training, and we must look after ourselves and they added to that that when we come back we were to fight the Europeans.

Yes, but were you told what sort of training? Were you going to drill or learn to fly machines or learn to drive machines? --- That wasn't explained to us.

D | Now, you've stated that you stayed in the bush there for two days. --- That is correct.

Who appeared to you to be the leader, the instructor at this stage of the proceedings? ---I wasn't told there who the leader of us were.

A | Yes, but who appeared to you. Did anybody? --I'd say Gqabi, Joe Gqabi seemed to be the leader.

B | Where did this food come from that you were given? --- I don't know where that came from. When I saw it, it was there already with water.

Yes, but do you know whether it was brought to you or whether it was taken with you? Have you any idea? ---I don't know if it went along with us or whether it was brought, but there was food there in the bush.

Now, you've stated that all the accused before the Court were in the group that was in the bush there? ---Yes, they were there.

I want you to be very careful. Do you see accused NO. 3? ---Yes.

Was he there? ---He was there.

You have no idea how he got there? ---No Idea.

And when you people went from the veld there in Bechuanaland up to Livingstone, did you discuss your eventual destination with each other? ---No, we did not discuss that.

Well, did you talk at all amongst yourselves? ---No, that was never mentioned.

What was not mentioned? ---It was never mentioned where we were going on the route.

And was it mentioned or discussed what you were going for?

--- No, we

Compare
Compare pgs 10
of Durban Trial

TYULU.

No, we did not, because we were already told then.

Did you all travel together, all 37? --- That is correct.

Always in one vehicle? ---One lorry.

And as far as you know there was no discussion of what purpose you were fulfilling or what purpose you were going for? --- As people who were told, we did not discuss that.

What was the talk about on the way? ---Just about the nature around there on the road.

Is that all? --- That is all.

Gladstone was with you in the lorry? ---Yes.

And he stated before the Court that this purpose that you were going outside the country for, was freely discussed amongst all you people on the way. --- Perhaps he was talking about it. I never heard anybody speak about it.

Not a soul. ---Not a soul I heard.

Do you think he is mistaken then? --- I won't say that.

Well, if he says he heard it and you say you didn't, who is mistaken? ---I won't accused anyone. I don't know.

Did you go through Southern Rhodesia or any part of Southern Rhodesia on the way? --- We didn't go through a town in Southern Rhodesia.

Any/^{part}of Southern Rhodesia as far as you know? --- I won't know, but never a town that we went through that we were told this is now Southern Rhodesia.

And where did you cross into Northern Rhodesia? --- A road along the bushes.

And how did you cross? --- By boat.

And this place where you crossed was this near a town or at a town or was it in the veld completely? ---It wasn't far from a town to my knowledge.

Do you know if there was a town there? --- There were houses there that I saw. It seemed to me that that could be part of a town.

Do you know whether that was in Southern Rhodesia? ---

No, I

---No, I don't know if it was Southern Rhodesia or where.

Now, I shall put it to you that accused 1, 4, 9, 10 and 12 will say that they left from P.E. Station. --- Where in Port Elizabeth?

They will say that they left from Port Elizabeth Station and they will say that Harry Bambana was with them. ---Just repeat that please, again.

These accused I have mentioned. ---Yes.

Will say they left from Port Elizabeth Station and Harry Bambana was with them, not with you. --- That is not like that. May I have the numbers please again.

1,4,9,10 and 12. --- Accused No. 12 got on the train with us, not the others.

They will say that it was the six of them and also Gladstone. ---No. 12 got on the train with us. We were 7 altogether. I do not know where the others got on the train.

They will say that they eventually met you the first time at Lobatsi. ---I got on the train with them in Port Elizabeth.

You've mentioned a man who was with you by the name of Gotlo? --- I never mentioned the name Gotlo.

Was he not with you at all? --- He wasn't with me.

Was he on the journey at all? ---He was, but not with the gang I went along with.

Now you stated that Number 2 went along with you. Did you at any stage of your journey speak to him about why he was going out of the country? --- I never asked him that.

And he never spoke to you about it? ---No, he never spoke to me about it. We were all told and there was no necessity that we would ask each other where we were going.

He will say that the purpose of his journey was to further his studies in drama and in music. --He might say so, but I tell the Court what was said to us on the station and he was present.

And he will say that he did not leave from Port Elizabeth at all, he

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A

at all, he left from East London. ---He left from Port Elizabeth.

Have you seen him in Port Elizabeth apart from when you left? --- That was the first time I saw him.

He will say that he once went to Port Elizabeth in 1953, but has never, apart from that, on one single occasion been there since. ---I'm not from Port Elizabeth. I'm from Uitenhage, but I met him in Port Elizabeth.

He will deny that. ---He cannot deny that, he was at the station.

He will say that he eventually met you for the first time in Livingstone. ---He got on the train in Port Elizabeth.

He will say that on his way to Livingstone, he travelled alone, by himself all the time. --- We were all together in Bechuanaland.

I'd better explain to you by alone I mean not with any of you or your crowd or any of the accused. --- We were together in Bechuanaland and we went together.

Do you know about this interest of his in music and singing, drama? --- No, I don't know. I did not live with him.

Subsequent to your arrest? --- After we were arrested then I heard that he is interested in singing.

He spoke to you about that? ---Yes, he spoke to me when he heard me singing.

Now, as regards accused number 3. Did you speak to him at all? --- No.

He will say that he travelled alone, and again by alone, I mean not with any of the accused or any of you. --- Where to?

He found his way to Livingstone? ---He was there in Bechuanaland.

And he will say he was going to join former friends of his, living in Tanganyika. --- Being a person that I have seen in Bechuanaland with us, I never asked him where he was going or what he heard or anything.

Well, can

TYULU.

Well, can you deny what his purpose was in going? ---
As people that were told where they were going and he was
together in the same group as what I was.

As regards accused Number 7, I presume the same holds
good, you didn't speak to him either? ---I saw him in
Bechuanaland too.

Yes, but you didn't speak to him? ---No, never spoke
to him in Bechuanaland.

He will say that he met you in Livingstone. ---I met
him in Bechuanaland and we went together.

He too, will say that he found his way independently,
eventually was arrested at Livingstone. --- We were together
in Bechuanaland, we went along together and we were arrested
together.

And he will say that his purpose in leaving the country
was to go to Ghana for educational purposes. ---I met him
in Bechuanaland and he was then put into the same group as
I was in.

Do you know that he has any particular physical dis-
ability or infirmity? ---I do not know.

You didn't even find out during your arrest? ---No,
I didn't want to know anybody's defects.

And you did not speak to accused number 8? ---I met
him in Bechuanaland too.

Well, he too will say he found his way independently,
and that his purpose was to go and complete his education in
Dares-Salaam. --- We met in Bechuanaland, we went together
and we were all arrested at the same time.

He will say that the first time he met you was in
Livingstone. --- We met in Bechuanaland.

And again you didn't speak to Number 11? ---No.

He will say that he too was going to further his
educational studies. ---I met him too, there.

And he too will say that he met you at Livingstone, for
the first time. --- We were together on the trip.

TYULU.

Number 13 will say he also made his way independently, arrested at Livingstone and he was going to further his training as a carpenter. --- We left together in Port Elizabeth.

He too will say that the first time he met you was at Livingstone. --- We met in Port Elizabeth and we went along together.

Now as regards accused number 2, he will deny any association with the A.N.C. or the Umkonto. -- We were together in Port Elizabeth where we were told all these things.

You were told that this was for Umkonto We Sizwe. Is that correct? --- They didn't say about the Umkonto We Sizwe, but it was for the A.N.C..

You didn't hear that it was for the Umkonto at all? --- No, I didn't hear about the Umkonto We Sizwe.

Did you ever hear Umkonto We Sizwe mentioned at all at any stage of your journey? --- I don't remember if that was mentioned.

And definitely not at the station when you left Swartkops? ---It was said there we must go like volunteers of the A.N.C.

Admittedly it was on another occasion, but Gladstone stated that they got instructions that this training was for U.W.S. ---He wasn't there when we left. He left afterwards.

Number 7 will deny any association with the A.N.C. --- I met him in Bechuanaland and he was with this group that I was told would ^{get} sent out to be trained, to get military training for the A.N.C.

Number 8 also will deny any association. ---I met him in Bechuanaland too. We were together.

Number 11 will say his association with the A.N.C. ceased in 1960. --- But he was there.

As will number 13 say that in 1960 he had nothing further to do with the A.N.C. ---I won't say that he remained a member

member after the organisation was banned, but when we went on this trip to be trained, to go on military training, he was there, he was going along with us.

Now, subsequent to your arrest, when you were in prison, at Leeukop, remember that? ---Yes.

Number 7 accused was with you there? ---Yes.

You saw quite a bit of him? ---Yes, we were together there.

Was there trouble between you? --- Yes, we had trouble.

What was that? --- The reason why I had trouble with him, he found pleasure in teasing us.

What about? --- It is a bit difficult for me to explain now why we fought in jail, myself and him.

Well, you did fight between the two of you in jail. ---Yes, we did.

And that gave rise to a feeling of enmity between the two of you. ---We forgave each other after we had the fight.

You actually had a fight? --- Yes, we did.

Did you not discover then that there was something wrong with his left arm? ---If I had known and he had known there was something wrong with his left arm, he wouldn't have fought with me, we would never have had the fight.

He will say that there was a fight and that you knew very well there was something wrong with his left arm. --- With respect, I am not a doctor to examine him and find something wrong with him if he didn't tell me about it.

He will say that there was a weakness in his left arm and what's more, you threatened to injure his other arm. -- What is the reason? Why did I then say I'll break his other arm or damage his other arm?

He will say that that is what you threatened to do. --- Where did this start that I said so?

He will say this was in jail. --- What does he say,

what was

what was the cause of this quarrel? It was in jail.

You were going to tell the Court that. ---I didn't bring this up to the Court. He was the one that first mentioned it. Now he must tell the Court what the reason was.

I'm asking you whether you know what the quarrel was about? --- I tried my best to assist the Court. It was the way he kept on teasing us.

And what did he tease you about? --- I couldn't say now what it was that he teased me about in the cell there, because it is a long time ago and we had already forgiven each other.

Did he fight with anybody else? ---No, I didn't fight with anybody else.

Did he? ---I don't remember him fighting with anybody else.

It was just the two of you? ---Only the two of us, yes.

And you can't remember what he teased you about? --- It is a long time ago and I don't carry a grudge to say that was the cause. It is a long time ago and we had forgiven each other already.

He will say that this caused enmity between you which still exists. ---If he doesn't forgive, I have forgiven him.

Now, you've mentioned that some of you at any rate, went through the gate into Bechuanaland. --- That is correct.

And you've mentioned it is possible Gladstone had gone some other way. --- As my Lordship had said Gladstone said he went through a fence, that was another way. We went through a gate.

And what about Bambana? Did you see which way he went? --- No, I did not take notice to what way he went.

Well, did all the people that you were with in those three Combi's, did they all go through the gate or did some of the passengers go through the fence? --- Myself and the others with me went through the gate.

And did you see others go over the fence? --- These

Combi's

TYULU.

Combi's followed after each other and we were a little distance away from the gate.

When? --- When we crossed the border there when we went through the gate.

They were a little distance away from the gate? ---Yes, we did not stop at the gate.

Did you go over the fence near the gate? ---I went through the gate. I didn't go through the fence.

COURT: On foot? ---On foot yes.

How many in your party? --- We were six then.

DEFENCE: And of the crowd that ended up in the bush, the 37 that eventually were held in Livingstone, were those, did those all cross at the same time that same night as you? --- The same day we crossed.

All of you? --- All of us.

And all 37 as far as you know were contained in those three Combi's? ---I won't say that because some of them we met in the bush there. They were there already when we came.

And at the time when you crossed, quite a number of people crossed? Apart from you six? --- After us?

At about roughly the same time. --- Those in the cars and that, they'd already gone through when we went through.

In the cars? ---In the Combi's.

Did some Combi's go through? ---No, they all stopped where I say they stopped.

Did you know Bambana before you saw him at Swartkops Station the night you left? ---I didn't know him.

The first time you'd ever seen him there? ---I saw him for the first time there.

And did you speak to him, asked him where he came from? --- No, I did not ask him.

No further questions.

RE-EXAMINATION BY PROSECUTOR: No, w you say that night when

you got to

Put ~~_____~~

in

Ggabi file

Mr Bizos

IN THE SUPREME COURT OF SOUTH AFRICA
(WITWATERSRAND LOCAL DIVISION).

CASE NO. 294/65.

BEFORE: The Honourable Mr. Justice Hiemstra.

In the matter of:

THE STATE versus JOE GOABI and THREE OTHERS.

CHARGE: Contravention of section 11(b) ter
read with section 11(i) bis of
Act No. 44 of 1950 as amended.

PLEA: All accused - not guilty.

FOR THE STATE: Mr. Redpath.

FOR THE DEFENCE: Mr. Bizos, Mr. Chaskelson.

17TH MAY, 1965.

RECORD OF PROCEEDINGS -

MR. REDPATH: Addresses the Court and makes application
that the names of witnesses not be published in public
interest.

MR. BIZOS: Has no objection.

BY THE COURT: I make an order that the names of witnesses
are not to be published in the press.

MR. REDPATH: Outlines case to the Court. Mr. Redpath also
informs the Court that the defence have certain admissions
to make - it will not be disputed that the accused were, in
fact, arrested at Livingstone and brought back to the
Republic.

MR. BIZOS: As long as it is widened that all the accused
were arrested outside the Republic and not confine it to
Livingstone.

MR. REDPATH: Informs the Court that the admissions have
been typed and he hands in a copy to the Court.

THE STATE CALLS:

FRANCOIS ALWYN SMIT, verklaar onder eed

VERHOOR DEUR MNR. REDPATH:

Mr. Smit, u is n Speurder Adjudant-Offisier in

die Suid-Afrikaanse Polisie, gestasioneer te Pretoria?---
Ek is.

Op die 4de Maart 1963, het u na die gebied
Suid Rhodesië gegaan te Beit Brug?---Dis reg.

En in die bewaring van die B.S.A. Polisie het
u 37 bantoemans aangetref?---Dis reg.

En het jy hulle vergesel na die immigrasie-
kantore?---Ja.

Vir die Republiek te Beit Brug?---Ja.

Waar u hulle almal oorgeneem het en gearresteer /10
het?---Ja.

Op n klagte dat hulle die land verlaat het
sonder paspoorte?---Dis reg.

Het jy hulle al 37 begelei na Pretoria?---Dis
korrek.

Ken jy die vier beskuldigdes?---Ja.

Dit wil s'e Joe Gqabi Nr. 1?---Ja, Henry
Makgothi Nr. 2, Samson Fadana Nr. 3 en Michael Mahlangu Nr. 4.

Was hulle van die 37 bantoemans wat u oorge-
neem het?---Hulle was oorgeneem van die 37 groep. /20

Het u enigiets aan die lapel van Samson Fadana
gekry?---Ja, ek het so n klein lapelwapentjie, wat ek
nou inhandig, aan die lapel van Samson Fadana se baadjie
gevind. Dit is n tekening van Afrika met die woorde
"Amandhla" op dit.

U handig dit in as Bewysstuk 1?---Ja.

My lord, further evidence will be led on this
exhibit.

MR. REDPATH: No further questions.

MR. BIZOS: No questions. /30

(GETUIE WORD VERSKOOEN).

GLADSTONE MAKAMBA, declares under oath (Interpreted)

COURT: Warns witness in terms of Section 254 as amended by Act 80 of 1964.

EXAMINATION BY MR. REDPATH:

Gladstone, do you come from New Brighton, Port Elizabeth?---Yes.

Do you know an organisation known as the African National Congress?---I ~~did~~ do.

Do you also know another organisation known as Umkonto We Siswe?---Yes. /10

Were you ever a member of either organisation? ---I was a member of the Umkonto We Siswe.

What are the objects of this organisation?--- To fight and get the freedom of the bantu people.

Who were you going to fight?---I will fight with other members who belonged to this organisation.

BY THE COURT TO WITNESS:

Against whom?---We would ~~fight~~ fight the white people.

Of the Republic?---Of the Republic. /20

EXAMINATION BY MR. REDPATH (CONTINUED):

In order to carry out these objects to fight the white people, did you agree to undergo training as a soldier?---Yes, I agreed.

And when did you first start your activities as a member of Umkonto We Siswe?---In 1963.

① What month?---I cannot remember the month, but it was during the year.

And were you yourself recruited to undergo training?---I was. /30

Who recruited you?---A man called Mthwala. Twala(?).

Where?---In Port Elizabeth.

And where were you to undergo this training?---I was told at Tanganyika.

And you agreed to undergo training?---I agreed.

What sort of training was it?---We were told that we would train as soldiers and come back and fight the Government.

And at a certain stage, did you leave Port Elizabeth to go to Tanganyika?---Yes.

When?---In 1963.

What month?---February, 1963. /10

Can you remember the date you left Port Elizabeth?---The 27th or the 28th of February.

What day of the week was it, can you remember that?---Friday.

The last Friday in February, 1963, and you left Port Elizabeth by train?---I did.

Belt
2

Were you accompanied by other people going on the same mission?---I was accompanied by others.

How many?---Ten all told.

Other
Gth bantu youths?---Yes, young men. /20

And who paid for your trainfare?---A man called Mkaba paid for the trainfare.

And where ... after you left Port Elizabeth, where did you go to?---From Port Elizabeth we came to Johannesburg. From Port Elizabeth we came through to Johannesburg station.

Yes?---From Johannesburg station we took another train to Krugersdorp.

When did you arrive in Krugersdorp?---It was roundabout 8 p.m. when we arrived at Krugersdorp. /30

Was that on the Saturday?---Yes, the Saturday.

When you arrived at Krugersdorp, were you met by

anybody?---It was Sunday when arriving at Krugersdorp. There was a bantu male there who met us. He had arrived there with a small car.

You said Sunday?---It was Sunday when we arrived at Krugersdorp.

Was it 8 p.m. on Saturday that you arrived in Johannesburg?---We arrived in Johannesburg about 7 a.m., took a train from Johannesburg to Krugersdorp and arrived there about 8 a.m.

8 a.m. on Sunday?---Yes. /10

And you were met you say?---Yes, a person came there, he was travelling by car.

In a small car?---A small car.

Had you been told that you were going to be met?---Yes, we were told.

And who was the man who met you, do you know? ---I do not know his name, it was the first time I had seen him when he came to meet us.

Was he a bantu?---He was a bantu.

And did you go anywhere with him?---We came to Johannesburg, one of the bantu locations, I do not know the name. /20

Did he take all ten of you in this small car? ---No, we were taken away by two groups, five at a time.

And you say you were taken to this location? ---Yes.

And what happened there?---We remained there until that Sunday evening.

Yes?---A person arrived there with a van, we were then loaded into this van. /30

Yes?---We travelled along, and along the way we met up with two other vans. We travelled for some time,

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