Well I thought he had the right to.

Now do you know whether he was ever told who had made statements and what the contents of those statements were? --- He was told on the day he called us all together, Sir.

I see, who told him? --- I have already said
I don't know, Sir.

He was told the contents of your statement? --He was not told what the contents of my statement was,
Your Worship, he was told that we had made statements.

So he didn't tell you what to say in Court? --- No he did not Sir.

Did he tell you you were to refrain from giving evidence for the State? --- Your Worship, he said that if we changed our statements we would not give evidence.

Did he tell you not to give evidence for the State? --- I did not know that I would be called to give evidence, Sir.

Will you answer my question. Did he tell you to refrain from giving evidence for the State? --All he told me, Your Worship, he told us that we must change our statements.

Did he tell you that you must not tell the Court the truth? --- No he did not, it was obvious that we would not tell the truth, Your Worship, because the original statements were the truth and we were told to change them.

Is that so? --- Yes.

Howdid he know that you had given the truth in your statement? --- I did not say that he knew that it was not the truth Sir.

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Lincoln Kakasa

But you're implying that he by implication told you to tell lies? --- I did not say that he told us to tell lies, Sir, but if we had done what he advised us to do, Your Worship, it would have been lies.

Your Worship, allow me a moment. I see that my learned friend and I are working on two completely different charge sheets, here Your Worship.

Both I understand, supplied by the State. PROSECUTOR.

Sir, they are not quite entirely different charge sheets, some charge before the Court and I supplied two copies of two charge sheets to the defence, Your Worship, and Mr Mkentani is in possession of the charge sheet is similar, the same charge sheet as now before Court, Your Worship, that is the attorney who wrote to me asking for the charge sheet, copy of the charge sheet.

And I notice that my learned friend has not the charge sheet before the Court, Your Worship and I give one to him a copy of the charge sheet before Court. 20 DEFENCE.

I'm grateful to my learned friend, Your Worship.

DEFENCE CONTINUED.

Did he tell you, did he tell you to tell the Police that your statement was false? --- Your Worship, he said that those who had made statements must change their statements.

Now let's be careful about this, must change their statements or were entitled to change their statements? --- He told us to change them before the eleventh.

Did he/...

Did he not say you were entitled to change your statement? --- Originally he did say that we had the right to we're entitled to.

You say originally? --- Yes he did say that we had, that we're entitled to.

But wasn't all this at the same little interview that you had? --- Yes.

All in a space of minutes? --- On the ... while we were together with him, Sir, he told us this.

Yes, now he didn't tell you, you say to tell the Police that your statement was false? --- He did not say that we must tell the Police that it was not the truth, he just told us to change them, he said if we did not change them we would get others into trouble Sir.

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He said that; when did he say that? --- When he told us to change our statements.

When did you think of that? --- I remember now that he said.

You never remembered it up to this moment? --- 20 Now, I remember it now.

You never told anybody else about that before this, have you? --- A person like who.

Will you answer my question? --- Why are you telling lies now about this.

PROSECUTOR.

My learned friend is not entitled to put to the witness he's telling lies, he can refer to decisions. Decisions reached in Court, Your Worship.

DEFENCE CONTINUED.

acc you have to wing the citest off your face?

I see you have to wipe the sweat off your face? PROSECUTOR.

Your Worship, that remark is passed on the witness is (inaudible) but I don't notice any perspiration on this/....

Lincoln Kakasa

this, on the face of the witness, Your Worship, I don't know why that remark is passed.

BY COURT.

The witness can be criticised in the press about this remark but not while he is giving evidence, please Mr Stewart.

DEFENCE.

I don't intend to criticise him, Your Worship, but I wish it recorded, I wish it recorded that he pulled a handkerchief out of his pocket and wiped his lobrown, my learned friend apparently didn't see it.

PROSECUTOR.

This is not the way the question was put to the witness, Your Worship.

DEFENCE CONT.

Now lets go back to what you were saying. [6]
You've just remembered now that the accused said that
unless you changed your statement you'll get other
people into trouble? --- Yes he did say so.

Have you told anybody else that? --- No Sir.

Did you tell the Police that in your statement; did you tell the Police that your statement, its quite a simple question? --- No I did not.

You didn't say so in your evidence in chief?

And when I asked you everything that the accused had said you never mentaged that until just now?
--- I've only just remembered it now, Sir.

Were there amongst you people who said that they have been beaten by the Police? --- I don't know 30 anything about the others, Your Worship, I was not assaulted.

Did/ ...

Did you hear any of them say that they had been assaulted? --- No.

You know that during the case some of them said that they had been beaten by the Police? --- Your Worship, when Mdingi applied for bail here in this Court he did say that he had been assaulted.

Apart from that did you know of any of the others saying that? --- No not that I can remember.

Now after that interview you had with the Accused, here in Court, did you go and tell the Police 10 that you were changing your statement? --- Yes.

What did you actually say to them? --- I said that my statement was a pack of lies.

And did you say, did you say you were with-drawing it? --- I said I cannot swear to that statement, Sir.

Yes, Did they ask you for a reason? --- No your Worship, I was just, I was told that I could go.

And why did you then in those circumstances write the letter? --- That was the advice given me by 20 my Attorney, Sir.

Did you go and ask him for advice? --- I asked him what we could do sir.

About what? --- We were given subpoens and told that we would be giving evidence on the 31st.

Yes? --- I asked him what can we do under the circumstances, Sir.

Why, why did you want advice, why did you want to know what to do in the circumstances? --- I didn't want to give evidence, Sir.

Why not? --- Because he said we would get other people into trouble, Sir.

NB.

When did he say that? --- The day we gathered here in Court, Sir.

He said then that if you gave evidence you would get other people into trouble? --- He said if we did not change our statements we would get other people into serious trouble.

Yes. But at that stage now you had changed your statement, hadn't you? --- I told Sergeant Hattingh Your Worship, but the second statement I made to him was not taken down in writing.

Yes but now look you said just now that you wanted advice from your Attorney because you had been served with a subpoena to give evidence, and when I asked you why you wanted advice, you said because your Attorney had told you that if you gave evidence you would get the others into trouble. We are not talking about the statements at all, are we. Nobody has mentioned the statement, we talking about why you wanted advice from your Attorney, because you had been subpoenaed to give evidence? --- Your Worship Sergeant Hattingh said that 20 we would give evidence according to our original statements.

But you've just said that Sergeant Hattingh said it was quite alright when you said that you withdrawing that statement? --- That was on the first, Sir, I beg your pardon, on the eleventh. Your Worship Sergeant Hattingh told me that I, everything was alright on the first.

Yes? --- It was on the eleventh that I spoke to the accused, Sir.

Had you seen Sergeant Hattingh in the meantime? 30
--- He was the one that gave us the rail warrants Sir.
And had, what had he told you? --- He told us

TO GO HOME AND WE'LL HAVE TO RETURN HERE ON THE 31ST to give evidence.

Anything else he told you? --- No, nothing else sir.

In these circumstances why was it necessary to ask your Attorney for advice in regard to the giving of evidence? --- Because I had already told Sergeant Hattingh that the first statement was false.

Yes, You told us all that? --- Your Worship,
Mr Mtshizana was my legal representative and I wanted
legal advice from him as to what to do.

Yes, I see you are going to answer my questions, so we'll go on to another one. Had you told your legal adviser that you had been subpoensed to give evidence? --- Yes.

And did you ask him what your rights were? --- /s

Yes what did he say? --- He said we could write a letter and register it to Sergeant Hattingh saying that our statements were false.

Now at that stage did he know what was in your Statement? --- No I did not tell him what my statement contained.

Well how did he know what is was false? --Well I don't know how he knew it, but he told us to
change those statements saying that they were false.

Have anybody told him that those statements of yours were not legally binding on you for any reason at all, you as a group? --- No I don't remember anybody saying anything like that.

You see the difficulty I have with this part of your exidence is this. You say that this man who is an attorney, without knowing what you have said simply/....

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Agreet life they sw opplled that the stale & work fold.

simply says go and tell the Police that it is false. I must put that to you squarely to see if you can possibly explain how it comes about. Is there no way whatsoever that he might have been told beforehand that your statement is false or that you yourself wanted to change your statement? --- Your Worship, it is possible that he guessed what the contents of the statements were because there are a number of members of the P.A.C. organisation at Lovedale.

Yes I'm afraid I don't follow that perhaps 10 you can clarify it? --- We were arrested because we were members of P.A.C. here at Lovedale, Sir. He knew that we, that we had been arrested for being members of P.A.C. Sir, and it is quite possible that one of the members told him that there were members of P.A.C. at Lovedale. And it is possible that this person told him that we were at meetings that were held.

Now who do you think that this mysterious person was? --- I have only said it is a possibility, Sir.

Did you people tell him that you were guilty 20 of the charge? --- I did not tell him personally, Sir.

Or what was his instructions to defend you or to plead in mitigation? --- I don't know, I think he was going to defend us.

You were all going to plead "not guilty"? --- 15.

Yes. We were later told to change our statements, Sir.

Oh now look will you please answer my questions, were you going to plead "guilty" or "not guilty"? --- We were going to plead "not guilty" Sir.

Had you agreed between all of you that that 30 was what you were going to do? --- Yes.

Was this before you saw him, before you saw

the accused? --- Your Worship, we met him and he told us to change our statements and say they were false.

I see you are determined to come back to the same thing over and over and over. Have you decided before you saw him to plead "guilty" or "not guilty"? --- Your Worship before meeting the accused I myself decided that I was going to plead "not guilty".

How could you plead "not guilty" if you had made a statement like that? --- Because Mdingi said that nobody was forced to go into the witness box, Sir, and then the statement would be useless, it would not be used in Court. That's why I was going to plead "not guilty".

And that was what was in your mind when you were told by the accused that you were entitled to withdraw your statements? --- Yes.

Now, when you saw the accused, when you approached the accused in front of the Charge Office, in order to ask his advice, was there anybody with him?

--- He was alone in his car, Sir.

Do you know the Attorney Mr. Mkentani? --- Yes. Was he present? --- No.

Did you speak to the accused while he was in the car or while he was out of the car? --- Your Worship, he was outside, next to his car, Sir.

And who was present with you? --- I was with Sokupa and Mtshemla.

Were you the only person that the accused spoke to? --- No there were three of us, but I spoke to him Sir.

You were the spokesman for the group? --Well I was the one who asked him what we could do about
this/...

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this Sir.

Yes. And he told you to write registered letters? --- Yes Sir.

Did he say anything else? --- He did not say anything else, Sir.

Are you sure? --- I don't remember him saying anything else.

Now will you think back. Can you remember anything else? --- No I can't remember anything now, Sir.

And then did you just go off and write these 10 letters? --- Yes.

Did you tell the people in King Williams Town that they must write similar letters? --- I told them what Mr Mtshizana had told us, Sir.

Yes, which was? --- I said that Mr Mtshizana said that we could send registered letters.

And you agreed that you would do so? --- Yes.

It wasn't a case of your carrying an instruction at all, was it? --- He did not know that we, the accused did not know that we might meet these others, Sir₂₀

No. He didn't instruct you to tell others to write letters? --- No he did not instruct us, Sir. NO FURTHER QUESTIONS BY DEFENCE.

COURT ADJOURNS.

DEFENCE.

Your Worship, before my learned friend reexamine might I put one more question to this witness
that I ommitted to put.

DEFENCE X.X.D.

You say that you had made a statement to the Police? --- Yes Sir.

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Lincoln Kakasa

Was this so that you would be used as a State witness? --- I wasn't told that, Sir.

Why did you make the statement? --- I was told to tell what happened at Alice, Sir, which I did.

Did you think that would help you with the case? --- I did not know that it would help me, Your Worship.

Was it just a statement made out of your own free will for no reason at all? --- I was told to tell what I knew in connection with the P.A.C. at Lovedale. 10

Yes, now we know that but why did you tell?

--- The Police who had arrested me told me to do so
Sir.

Were you afraid? --- Before I was arrested I was frightened Sir.

Is that why you made the statement? --- I gave a statement because I was told to.

NO FURTHER QUESTIONS BY DEFENCE.

PROSECUTOR X.X.D.

You say that Mdingi told you, that you could not be forced to give evidence. Do you know that he gave you this information on his own or whether you was whether he had received advice to that effect? --- I don't know whether he was told by anybody else, Sir.

NO FURTHER EXAMINATION BY PROSECUTOR.

BY COURT.

I see in this letter that you wrote to

Sergeant Hattingh you said. "I did not make it

voluntarily" That is your statement. "I was

threatened". Is that true. Were you threatened? --
I was not threatened, Sir.

And why did you say this then? --- I was trying to impress upon him or prove to him that the first statement I made was false.

Did/...

Lincoln Kakasa

Did you do this out of your own? --- Yes.

PROSECUTOR CALLS.

DILISAZA SALMAN s.s.

PROSECUTOR X.D.

Are you a student at Lovedale Institution? --- Yes, Sir.

During May, 1963, were you arrested? --- Yes, Sir.

And were you later brought before Court on a charge under the Provisions of Act 44 of 1960? --- 10
Yes Sir.

In connection with an unlawful organisation of Pan African Congress? --- Yes Sir.

Did you appear in Court with others? --- Yes.

That included Mdingi and Sogwiyeya? --- Yes Sir.

Now. were you given the opportunity to make a statement to the Police, if you wished to do so? --- Yes Sir.

And did you decide to make a statement? --- I did.

I will now read out the statement to you and will you please tell the Court whether this is the statement you made to the Police.

PROSECUTOR READS OUT STATEMENT.

PROSECUTOR CONT.

Nowthis is the statement. Is this the statement you made to the Police, and the statement you signed? --- Yes, Sir, this is it.

The statement is exhibit "G", Your Worship.

And did you swear to the contents of that

statement/...

statement. Did you swear that it was true? --- Yes, Sir.

Now you have already told the Court that you have appeared in Court with others. Did you instruct an Attorney to appear on your behalf? --- Yes.

Who is the Attorney you instructed? ---Mr Mtshizana Sir.

Now, did you have any discussions with him in connection with the case against you then? --- I met him on the first of July, Sir.

Did you meet him in the Court with the others or where did you meet him? --- Here in the Court room in Alice, Sir.

Will you please tell the Court what happened on that occasion? --- After the Court had adjourned I asked him to defend me, Sir.

Was that on the eleventh? I beg your pardon on the first? --- On the first Sir.

Yes and then? --- We were then asked if we had made statements.

Who asked you? --- By our Attorney, Sir.

Who is he? --- Mr Mtshizana Sir.

Yes and then? ---

BY COURT.

Is he the accused? --- Yes Sir.

PROSECUTOR CONT.

Yes? --- He said we are accused persons and we could change our statements.

Anything else? --- Our Attorney then told us that we must go and change our statements then.

Did he tell you how you must change your statement? --- He told us to go to Sergeant Hattingh and tell him that we wanted to change our statements.

How? --- To say that what we had said in .

our/

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our statements are not true, is not true.

Anything else you can remember what was said? --- Nothing else, Sir.

And what did you do as a result of this advice given by the Attorney? --- I went to Sergeant Hattingh and told him.

The same day, the first of July? --- Yes.

What did you tell Sergeant Hattingh? --- I told Sergeant Hattingh that I wanted to change my statement.

Did you tell him anything else? --- No Sir.

Did you tell Sergeant Hattingh how you wanted to change the statement? What did you tell the Sergeant about the statement? --- Your Worship, I told him that my statement that I had made to him was a complete fabrication, it was not the truth.

And after that occasion. Now lets get back to this. When the accused gathered with you and asked you if you had made statements, did you tell him that you had made a statement to the Police? --- He said all those who had made statements.

And did he by any chance ask you what you have told the Police in this statement you had made?

Did he at any time ask you anything about the contents of that statement? --- No.

Did you make a written statement to your Attorney, the Accused? --- No.

Did you make any statement to him at all, in connection with the case against you? --- All I told him is that I had made a statement.

Did he ask you to make a statement to him? --No Your Worship, he said that because we are arrested
persons we could change our statements.

And you/....

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And were you taken to gaol? --- Yes.

And on the eleventh of July, 1963, did you again appear in Court at Alice? --- Yes.

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Did you appear with the others, including Mdingi and Sogwiyeya? --- Yes.

And was the accused present then in Court? ---Yes.

That day was he acting as your Attorney? ---Yes he was. Sir.

Now on that day was the case withdrawn against 10 you and others? --- Yes.

Now tell the Court what happened after the case had been withdrawn against you? --- We were taken back to the Police Station and we were given rail tickets to go home.

Who gave you the tickets? --- Mr Hattingh. Did you receive any subpoena from Sergeant Hattingh? --- Yes I did.

Did Sergeant Hattingh explain to you why he was giving you tickets and subpoenas? --- He told us 20 to be back here on the 31st.

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To do what? To give evidence on those statements of ours, Sir.

Was it on the eleventh of July, 1963, was the case postponed until the 31st of July. The case against Mdingi and Sogwiyeya and the others? --- Yes.

On that day the eleventh did you have any other discussions with the accused, your Attorney? --- No.

Did he speak to you at all that day? --- No,

Now on the eleventh were you waiting for the train at King Williams Town? --- Yes Sir.

Sir.

And did you meet Kakasa, Sokupa and Mshemla, there/...

there? --- Yes Sir.

And did they give you some information in connection with letters? --- Your Worship, Kakasa informed me that I must write a letter.

Yes he gave you certain information in connection with letters, Kakasa? --- Yes registered letters, Sir.

As a result of that, did you write a letter to Sergeant Hattingh? --- Yes, Sir.

Vas Sergeant Hattingh the member of the Police 10 Force who was investigating the case against Mdingi and Sogwiyeya and yourself? --- Yes.

And did you write the letters? --- Yes.

And did you register the letter? --- Yes.

Is this the letter, the letter now produced as exhibit "A", the letter you wrote to the Police, Sergeant Hattingh? I beg your pardon, Your Worship, "H", and the envelope? --- Yes Sir, this is the letter. Your Worship, exhibit "H" the letter is mine but exhibit "I" the envelope is not mine, Sir. No I beg your pardon it is mine, Sir, my name is written on the back.

Envelope is handed in exhibit "I", your Worship.

Were you later again arrested before the

31st of July, 1963? --- Yes, Sir.

Now did you tell the truth to the Police in the statement you had made to the Police? --- Yes. I told them all I knew. Sir.

And did you give evidence in Court, evidence according to the statement you had made to the 30 Police? --- Yes.

Is that when you were called as a State witness? --- Yes, Sir.

If the/....

If the accused had not informed you, that you must go to the Police, to tell the Police the statement is false, would you have done it? --- I did not think of that, Sir.

NO FURTHER QUESTIONS BY PROSECUTOR.

DEFENCE X.X.D.

May I see exhibits "H" and "I" please, your Worship.

Did you decide to plead "not guilty" to this charge? --- No, I was not going to plead "not guilty", 10 Sir.

Were you going to plead "guilty"? --- Yes.

Because of the statement you'd made? --- Yes.

Why did you then change your statement? --I was advised to.

By who? --- On information given to me by Kakasa, Sir, our legal representative advised us to change them.

So it was Kakasa who told you to change your statement? --- Well on the first of the month, Sir the accused advised us to change our statements.

We'll deal with that in a moment. When did you first know, when were you first told to change your statement? --- The first.

And before that? --- No, not before that. BY COURT.

Is is the first of July? --- Yes Sir. DEFENCE.

Why did you change your statement, because of what your attorney had said? --- Your Worship, I thought 30

I would/....

I would get off free.

Because according to what you have said your Attorney didn't know what was in your statement, did he? --- Well he did not ask me what it contained.

According to what you've said your Attorney did not know what was in your statement, did he? --- He did not question me, Sir.

And you didn't tell him? --- All I told him is that I had made a statement.

You didn't tell him what was in your statement? 10

So he was telling you to change something that he did not know? --- Your Worship, he knew that I had made a statement and told me to change it.

He was telling you to change something that he didn't know the contents of? --- I don't know whether he knew it or not.

Well lets go back to where we started, he didn't get it from you, did he? --- All that I told him is that I'd made a statement.

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Did you tell him with your own mouth that you had made a statement? --- Yes.

When was that? --- The first of July, Sir.
Here in Court? --- Yes.

What were your words to him? --- He asked who were the people who had made statements.

And you joined the group? --- Yes, I answered him, Sir.

You answered him? --- Well I listened to him.

You listened. So that he did not even know 30 at that stage whether you had made a statement or not? ***
He asked/...

Dilisaza Salman

He asked for the names of people who had made statements, Sir, and he had a list in front of him and he was ticking off as the names were mentioned.

I see. Who gave him the names? --- I can't be sure, Sir.

Was your name on that list? --- I think it was, Sir.

I'm trying to establish from you whether the accused knew that you were one of the persons who would take his advice or not. And I would like you to 10 help the Court in that regard. Do you think the accused knew that you had made a statement? --- He asked who all made statements, Sir.

I still don't know whether he knew about you or not? --- Well He's bound to know, Your Worship, I was there in front of him.

Had you discussed this statement of yours before, had you told anybody else that you'd made it? --- No, Sir.

Where were you in gaol? --- Your Worship, I 20 was first detained at the place called Lekfontein.

Yes and then? --- And on the nineteenth of June I was transferred to Fort Beaufort.

Were you in a cell in Fort Beaufort with others, who were charged with the same offence? --- Yes Sir.

Who were they? --- Sogweyiya, Zamba and Nongele, Nofemele, Noncape.

Mdingi? --- And Mdingi.

That's enough I think, there were others, as well I presume? --- Yes there were others awaiting trial prisoners detained there, Sir.

And in that cell with those people did you discuss the question of whether any of you had made statements? --- Yes Sir. And did/...

And did you tell these other people that you had made a statement? --- No.

Why not? --- I did not want to tell them.

Why not? --- It was my choice.

Why? --- It was my choice.

You were afraid? --- No.

Weren't you? --- No.

Didn't you think that because you'd mentioned names of other people, that you might get them into trouble? --- No.

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You didn't think they'd get into trouble because you put them in your statement? --- No I did not think of that.

'hat did you think was going to happen with your statement? --- Well I gave the Police the information they wanted.

What did you think was going to happen with your statement? --- I was asked if I would confirm my statement in Court.

Yes. You thought you would be used as a witness didn't you? --- I did not think of giving evidence Sir.

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How did you think it was going to be confirmed in Court? --- I was going to be asked and it will be seen then if I tell the same story as I have told the Police.

You would be called as a witness? --- I did not know that.

Alright we'll leave that. Did Mdingi and the others try to find out who had made statements? --Yes they did.

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And if somebody admitted that he had made a statement, did they ask what was in it? --- Yes.

And did they find out in that way that their names/...

Dilisaza Salman

names were in some of the statements? --- Yes.

Did you tell them that you had also put their names in? --- No.

And did they discuss ways of getting out of this question of the statements? --- I did not hear them .

Weren't they upset or alarmed because their names had been given to the Police as being members of a Danned organisation? --- No, nobody was upset.

Well you know one of the other witnesses has 10 said that there was talk about that aspect of it, are you sure you're right? --- Well, the impression I gained, Sir

Was anything said about some of you having been beaten by the Police? --- No.

Nothing at all? --- No.

Well you see one of the letters which has been handed in to Court, one handed in by the last witness says there that his statement was not freely and voluntarily made, was there anything said about that? --- I never met Kakasa, Sir, apart from meeting him here at Court, Sir.

Were your statements not discussed at all?

Did anybody say "we must tell our Attorney about these statements"? --- No.

All that happened was that certain people said that they had made statements. There was nothing further discussed? --- Nothing was discussed Sir.

I put it to you that while you were at gaol 30 at Fort Beaufort attempts were made to find out who had given statements and what was in those statements?

--- Yes, they did that.

And I put it to you that there was also discussion as to how to evade the consequences of those statements/...

statements? --- If it was discussed it was not discussed in my presence, Sir.

On the day that the accused told you that you were entitled to change your statements, where were you? --- Here in Court.

And where was he standing here in Court, will you show us? --- Just beyond the bench in front of the prisoners dock, Sir.

And where was, the accused was standing there do you say? --- Yes he was surrounded there by people, 10 Sir.

And where were you in the group that was surrounding him, were you right in front or towards the back or in the middle or where? --- I was in the middle of the gathering.

Are you sure you could see him? --- Yes.

Could he see you? --- I can't say whether he could see me or not.

Who was your spokesman there? Who was talking to your Attorney? "Or were you all asking questions? --- I can't say, Your Worship, everybody was gathered there and talking.

There was a whole lot of people talking at once, asking questions? --- We did not all ask questions at once. Sir.

No but they were asking questions on that occasion? --- Yes they were asking questions, Sir.

What were they asking? --- Asking how they could change their statements.

Who asked that? --- I only heard the voices Your Worship, I cannot say who it was.

And did they tell the Attorney about the statements? --- He asked who all made statements and he ticked/...

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ticked their names off, Sir.

I want to know what they said to him first before he spoke to them? --- You told us what he was saying, I want to know what the other people were saying? --- We all listened to the altering of these statements, Sir.

Yes I know but what were the people saying to the Attorney, to the accused? --- I did not hear what was said, Sir.

So you don't know what was said to him, do you? --- All I heard was that it was said that we must change our statements.

I'm sorry but I got to get more clarity in this case. Were other things said that you didn't catch? --- Yes.

So you don't know everything that was said. You can't repeat now in the box everything that was said on that occasion? --- No I can't.

A lot of people were talking and there was apparently a certain amount of confusion, is that the position? --- Yes.

And can you deny if the accused says that he was asked for his advice?

INTERPRETER: I didn't catch that.

DEFENCE CONT.

Can you deny it if the accused says he was asked for his advice? In regard to statements which had been made which were not freely and voluntarily made? --- I thought he was advising us, Sir.

Yes I know, but is it possible that he was advising you in response to a question? --- He was our legal representative Sir, and he was advising us.

Is it possible that he was advising you in response to a question put by one of your group or more than/...

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Dilisaza Salman

more than one of your group? --- Yes.

Because he will say that that is what happened. He will say that he was asked what the position was in regard to statements which had been obtained from people not freely. And he gave you the advice which you told the Court. He said to you that you could withdraw those statements, you can change them? --- Yes.

Is that so. Did it happen like that? --- Yes.

Did he say anything else about the statements, apart from what you have already told the Court? --No, Sir, apart from what I heard from Kakasa, Sir.

No I don't want to know what you heard from Kakasa, I want to know what you heard the accused say here in Court apart from what you have already told us? --- Nothing further, Sir.

Nothing further was said at all? --- I can't remember anything else, Sir.

Well you see we had a witness just now who said that he also said that those statements would injure people amongst you, you didn't hear him say that, did you? --- No I did not hear that, Sir.

But you heard the advice he gave? --- All I was interested in is, was the advice in connection with altering the statements.

Yes. I should think that would be what you were interested in. And you didn't hear him say these statements of yours will injure people if you don't withdraw them? --- No.

Tell me why did you make the statements to the 30 Police in the first instance? --- What made you do it, let me put it that way? --- I was told to make a statement, Sir.

By who/...

By who? --- The Police.

By who? --- van Eden.

van Heerden, I think he means Mr Interpreter.
--- Yes van Heerden and Mhonzi.

And did they tell you you didn't have to make a statement? --- Did they tell you that you didn't have to make a statement? --- They said I was not forced to make a statement, Sir.

Why did you then make one? --- I wanted to make one.

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For what reason? • What made you, what was in your mind, why did you make a statement when you didn't require, you weren't required to make a statement?
--- I told the Police all about why I was arrested, Sir.

Did you think that would help you at the trial? --- I did not think of that, Sir.

Did you think that you would get into trouble if you did not make a statement? --- I did not think of that either, Sir.

You just made a statement with a perfectly blank mind, apparently? --- That is right.

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NO FURTHER QUESTIONS BY DEFENCE.

PROSECUTOR. RE-XXD.

Did you at any time tell the accused that the statement you had made to the Police was not freely and voluntarily made? --- No, never.

Did he at any time ask you whether you made a statement freely and voluntarily? --- All he did was to ask "who made statements".

NO FURTHER QUESTIONS BY PROSECUTOR.

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PROSECUTOR CALLS.

David Takane

DAVID TAKANE. S.S.

Are you a student at Lovedale Institution at Alice? --- Yes Sir.

And during May in 1963, were you arrested?

And were you charged under the provisions of Act 44 of 1950, for being a member of an unlawful organisation or taking part in its activities? --- Yes Sir.

The organisation was the Pan African Congress? 10

Were you given the choice to make a statement to the Police if you wished to do so? --- Yes Sir.

I'll now read out the statement to you and will you please tell the Court whether this is the statement you made to the Police.

PROSECUTOR READS OUT STATEMENT.

PROSECUTOR. CONT.

Is this the statement you made to the Police, and is that, your signature appearing on the statement? 20 --- This is my statement signed by me, Sir.

The statement is handed in Exhibit "J", Your Worship.

And did you swear to the contents of that statement exhibit "J"? --- Yes Sir.

Would it as far as your knowledge was it correct and the truth what you know about the case? --- Yes Sir.

Now on occasions did you appear in Court at Alice on charges under the Act 44 of 1950, for being members of the organisation of P.A.C.? --- Yes Sir.

Sokweyeya and Mdingi were they amongst the persons appearing? --- Yes.

Were you/...

David Takane

Were you in the first instance charged jointly? --- Yes.

Did you instruct an Attorney to appear on your behalf in the case? --- Your Worship, I did not engage the Attorney personally, my parents did so.

Now who was the Attorney who was engaged? --Mr Mtshisana Sir.

Is he the accused now before Court? --- Yes Sir.

Did you have any discussions with the accused in connection with the case? --- No, Sir.

Do you remember the first of July, 1963? ---Yes, Sir.

Nh.

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On that day did all of you appear in Court at Alice, Nagistrate's Court? --- Yes Sir.

Was the case then remanded until the eleventh of July, 1963? --- Yes, Sir.

On that day after the case was remanded did you speak to the 'ttorney, the accused or did he speak to you? --- No Sir.

Pid you gather in the Court room? --- I did 20 not myself, Sir, I did not meet him myself.

What happened there? --- Your Worship, after leaving Court I was told that we could go and change our statement, and that Mdingi said that our statements would mean nothing in Court.

Who told you that? --- I don't know who the one was who said that, Your Worship, we were a number of us here in Court.

Where were you in Court? --- Your Worship we were scattered about all over here, some were eating 30 others were standing about.

Where was the accused? --- If I remember correctly/....

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David Takane

correctly he was sitting here at the table, Sir.

Did he say anything to you? --- He did not speak to me at all. Sir.

Did he speak to anybody else in your presence? --- He did speak to others, Sir.

Did you receive certain information and what did you do about that. Did you receive information from other people in connection with changing, changing statements, what did you do about it? --- I went to change mine, Sir.

How did you do it? --- I said this statement is wrong.

Why did you say that? --- As I heard that an undefended statement was useless in Court, Sir.

On the eleventh of July, 1963 did you again appear in Court? --- Yes, Sir.

Was the case against you withdrawn? --- Yes, Sir.

Did you receive a subpoena and a railway ticket? --- Yes Sir.

Were you told by Sergeant Hattingh to return on the 31st of July, 1963, to Alice? --- Yes, Sir.

To do what? --- To give evidence, Sir.

Do you see this letter now before Court? --- Yes Sir.

Did you write that letter? --- Yes Sir.

The letter is handed in exhibit "K". And do you see that envelope attached to the letter? --Yes Sir.

I hand in the envelope as exhibit "L".

Why did you write this letter? --- Your Worship, 30 at King Williams Town, I was told that we had been advised to write letters to Sergeant Hattingh.

Who told you that? --- Kakasa Sir.

David Takane

Now were you satisfied that the information given in the statement you made to the Police was correct? --- Yes Sir.

And were you called as a State Witness in the case against some of the others? --- Yes Sir.

At first did you appear with Mdingi and Sogwiyeya and yourself? --- Yes Sir.

And did you give evidence for the State? --- Yes.

Did you give evidence according to the statement you made to the Police? --- Yes Sir. 10
NO FURTHER QUESTIONS BY PROSECUTOR.

DEFENCE X.X.D.

Where were you held in gaol? --- Seymour, Sir.

Was there talk there about making statements
to the Police? --- No.

Did you find out whether anybody else had made statements? --- Yes.

How did you find out? --- The day we went to change our statements, Your Worship, I heard that there were others who had made statements already.

Until then you didn't know? --- No Sir.

Was there no discussions here during your remands in this Court about statements? --- No, Sir.

Were you going to plead "guilty" to this charge? --- I was going to plead "guilty" Sir.

Was there any discussion amongst you about people saying that they had been beaten by the Police at any stage? --- No Sir.

None of you ever alleged the Police had beaten, I am not saying its true, I am just asking you if 30

there/...

there was a discussion about it? --- No Sir.

You never heard anything like that? --- I did not hear anything at all, Sir.

NO FURTHER QUESTIONS BY DEFENCE.

PROSECUTOR CALLS.

MLAMLI MAKASI. s.s.

MAGISTRATE.

Is that the same witness that is called Gladwin in this charge Sheet?

INTERPRETER. Also known as Gladwin, Sir. 10
PROSECUTOR. X.D.

Are you a student at Lovedale College at Alice? --- Yes Sir.

During May in 1963, were you arrested? --- Yes Sir.

And were you informed why you were arrested? --I was only informed of the charge against me here at
Alice, Sir.

And were you given the opportunity to make a statement to the Police if you should wish to do so? --Yes Sir. 20

And did you prefer to make a statement? --- Yes.

I will now read out the statement to you:

PROSECUTOR READS OUT STATEMENT.

PROSECUTOR CONT.

This statement is signed. Is that your statement, the statement you made to the Police? --- It is the statement made by me, Sir, and signed by me.

As far as you know this statement is the truth of what you know about the Pogo activities at Alice? ---

Yes Sir.

Did you instruct, I beg your pardon, Your Worship, I think I have named, mentioned the number of the exhibit, exhibit "M", your Worship, his statement.

Did you instruct an Attorney to appear on your behalf? --- Nineteenth of July, Yes I did, Sir, at least the nineteenth of June.

Who did you instruct? --- Mr Mtshizana, the accused Sir.

Did you speak to him on the nineteenth of 10

July, nineteenth of June? --- All I did, Your Worship,

was giving him my name and asked him to defend me.

He said he would contact my parents.

Now on the first of July, 1963, did you appear win Court, with the others Mdingi, Sogwiyeya and the others? --- Yes Sir.

And did you speak to your Attorney, the accused on that occasion? --- After the Court had adjourned he called his clients to him.

Were you also called to him? --- Yes.

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And then what transpired? --- Your Worship, he said those of us who had made statements were entitled to change them at the Police station.

What else did he say? --- I don't remember anything else, Sir.

Did he ask any of you if you had made statements? --- Yes.

Did any of you indicate that you had made statements? --- I said "yes I made a statement". I don't know about the others Sir.

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Did he ask you what you had told the Police in the statements? --- No he did not Sir.

Did he ask you whether the statements was

made freely and voluntarily? --- No Sir.

Did he tell you what to do in connection with the statements? --- He said I could change the statement if I wanted to.

What did you do about it? --- I didn't do anything about it, Your Worship it is still here, there it is handed in.

Yes but he told you that you could change your statement if you wished to, did you wish to change the statement? --- I did not want to change it, Sir. 1

And did you contact the Police after that, did you go to Sergeant Hattingh after you had spoken? --Yes I went there together with others.

Did you tell him anything? --- We said we have come to change our statements that we made to him.

What did you tell Sergeant Hattingh about

Hattingh about the statement you had made to the Police?

--- I said that I wanted to change it because it was not the truth.

Why did you say that? --- Because I had been 20 advised that a person could change a statement.

Pid you choose out of your own free will to change that statement? --- I did not go out of my own free will, Your Worship, I was advised to.

You were advised to do what? --- To change my statement.

Advised or told to do it, according to your story the accused told you that you could change the statement if you wished to do so, is that all he told you?--- He said that we must go and change them Sir.

Is that why you went to the Police, thereafter to Sergeant Hattingh, is that why you told him that the statement is not true? --- Yes.

Then after that, what happened then? --- On the eleventh/...

NK

Mlamli Makasi

eleventh of July we were in Court.

In the Court at Alice? --- Yes.

Yes and then? --- (nd the case was withdrawn against me.

Was the accused present when the case was withdrawn against you and the others? --- Yes he was present.

And then what happened? --- Those of us that the case was withdrawn against were informed that we could go home.

Yes and what else? --- We were given subpoenas and told to be here on the 31st of July.

To do what? --- To give all the information we knew about the other accused, Sir. At King Williams

Town I met Kakasa and was given certain information.

Your Worship, there Kakasa told me that we had to write registered letters to the Police.

Did you write a letter? --- Yes.

Is this the letter you wrote to the Police exhibit "N", now produced? --- Yes this is the letter 20 exhibit "N", Sir.

Do you see the envelope, exhibit "O"? --- Yes.

Is this the envelope in which you placed the letter, exhibit "N"? --- Yes, this is it, Sir, and I wrote the letter too, Sir.

Now before the first of July, 1963, were you prepared to give evidence in Court according to the statement you had made to the Police, if you were called upon to do so? --- Yes.

In fact, when Mdingi and others appeared in 30 Court you were called as a State witness? --- Yes.

And did you give evidence for the State? --- Yes.

And was that evidence substantially according to the statement you had given to the Police? ---Sir, Yes.

NO FURTHER QUESTIONS BY PROSECUTOR.

DEFENCE. X.X.D.

Who told you to tell Sergeant Hattingh that your statement was not true? --- Mr Mtshizana did so here in Court after he had called us together.

What did he say to you? What were his 10 words? --- Your Worship, he said those who have made statements are entitled to change them.

Well now will you please answer my question because you wouldn't answer my learned friend either when he asked you the same question. Who told you to say to Sergeant Hattingh your statement was not true?

Did he use those words to you. Did he say go to Sergeant Hattingh and tell him your statement is not true? --- No, Your Worship, all he said was that a 20 person is entitled to change it.

Well we must get some clarity on this point.

Did anybody tell you to tell Sergeant Hattingh that your statement was not true? --- No Sir.

Well then why did you do so, why did you use those words to Sergeant Hattingh? --- Well, Your Worship it is obvious when a person wants to change a statement that it must be untrue.

Why didn't you say to Sergeant Hattingh I have been advised that I am entitled to change my statement, 30 I wish/....

I wish to change my statement? --- I told him *hat I wanted to change my statement, Sir.

May I have exhibit "N" please, your Worship.

And this letter that you wrote to Sergeant Hattingh says "I wish to make it clear to you beyond reasonable, that I still adhere to the statement I made to you at Seymour on the third of July, 1963. That is the true statement I made voluntarily and it runs thus"; and you quote "I know nothing about P.A.C." Where did you get that word "Voluntarily" from. Do you know what it means? --- Freely, Sir.

Yes. Who told you that word, when did you first hear it. Did you know it before this case? Have you used it or was that the first time you'd used it? --- I knew this word beforehand Sir.

Did you know that a statement not made freely and voluntarily or voluntarily to the Police was not binding on you? Did you know that a statement which was not voluntarily made to the Police was not binding on you? --- I did not know that, Sir.

Well why did you use that word in that letter? --- I just used it, Sir.

You did. I put it to you that while you were in gaol there were discussions about these statements? --- Not to my knowledge, I dont remember.

You don't remember, other people remember, why can't you. Other people remember about talking about these statements in gaol? --- Your Worship, not everybody's memory is the same.

When were you first advised of the charge against you? --- The 27th of May.

Here at Alice? --- Yes.

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How long were you arrested before that? --About four days, Sir.

Were you in gaol with any of the other accused? --- I was arrested on the 22nd of May. Sir.

And advised of the charge on the 27th, five days, it doesn't matter. Now were you then locked up with any other of the accused? On the 22nd? --- Yes.

Were you surprised to be arrested? --- I did get a fright, Your Worship, because I was not told why I was being arrested.

Yes, and I have no doubt that you asked the others if they knew what they were arrested for? --- Yes.

And you discussed between the lot of you what you might possibly be in gaol for? --- Yes, I did question them.

And then after a short while some of you made statements? --- Yes.

How many of you that you know of? As far as you can recollect? --- I can recall three in our cell Sir.

You were the second of those three? --- I was the third Sir.

You were the third of those three. And when you got back did you talk to each other and say I made a statement I see you made a statement too, what did you say? Did you say to the others 'what did you say in your statement to Sergeant Hattingh"? --- No, I did not question them Your Worship, all I said is that I made my statement.

Did they tell you that they had made statements? --- Yes.

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They told you this in the cells? --- Yes.

Who else was in the cell with you? --- I remember the three of us there, Sir.

I'm talking about Fort Beaufort now. Were you at Fort Beaufort? --- I wasn't in Fort Beaufort, Sir. Here in Alice, Sir.

I see. The three of you here? --- Yes.

And when you had your remand, did you meet the other people. The other accused who came from other gaols? --- Yes here in Court, Sir.

I understand you also had meals together here 10 in Court, there was evidence just now about people eating here in Court, during a remand? --- Yes.

Did the other people ask you what was happening with you, where were you being kept, what...? --- Yes they did ask me, Sir.

And did they want to know how you were being treated? --- Yes.

Did you tell them? --- Yes.

Did you tell them that you made a statement?
--- They were not questioning about a statement, Sir.

Did you ask them? --- No I did not ask them.

What did they ask you about? --- They just asked how we were treated, where we were being detained, Sir.

Did they ask you if the Police had assaulted you? --- Yes.

And what did you tell them? --- I said I had not been assaulted.

Did they say some of their people had been assaulted? --- No they also said that they had not been assaulted Sir.

And why did they ask you if you were assaulted/...

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assaulted, Did they give any reason, did they give any reason for wanting to know? --- They gave us no reason, Sir.

I see, then you met the accused here in the accused here in Court on the first of July? --- Yes.

Did you instruct him that you were going to plead guilty to the charge? --- No I did not.

Did you instruct him that you were going to plead guilty to the charge? --- No I did not.

Did you intend to plead guilty? --- I have 10 not made up my mind, Your Worship, I would have only decided the day the case was to come off.

But you had already given a statement to the Police, on which you admitted your guilt, hadn't you? --- I would have pleaded guilty according to my statement, Sir.

And if you could get out from your statement, get away from your statement, would you have pleaded not guilty? --- (No reply) ... I had no other plan, Sir.

But if you hadn't made a statement to the 20 Police, you would have pleaded not guilty, wouldn't you? --- I don't know, Your Worship, I would have decided on that day.

I see. You would have just gone to Court and seen which way the thing went? --- Yes.

But you were quite pleased of an opportunity to get away from the consequences of your statement.

When you were told that you were entitled to change your statement you were very pleased, weren't you? --- I was not pleased Sir.

Were you sorry? --- No.

Well then we back to where we started. So why did you say your statement was not true, that's something you thought up yourself, isn't it? --- Your Worship

I was/...

I was told that I could change it and I decided to change it.

You thought it was a good opportunity now to try and get out of the trouble you got yourself into --- Yes that is what I thought.

Did you go to your Attorney before you went to Sergeant Hattingh? --- No I did not.

Did you go to your Attorney and say to your Attorney look I have made a statement, what I've said in that statement is the truth, what is my position? --- 10 No, Sir, I did not have the opportunity to.

But wasn't he speaking to you here in this Court room? --- Your Worship, it was only a short while that he was here while the Court adjourned.

Do you tell me that you don't know that you can say to the Police before you take me back to gaol please let me see my Attorney for a few minutes? --- I did not 'mow that, Sir.

Never entered your head to say to your Attorney "I'm in a peculiar position I have made a statement to 20 the Police which is the truth but does your advice to me hold good or doesn't it, you never thought that, did you? --- I did not think of that, Sir.

You just rushed off in a group to go to Sergeant Hattingh? --- I did not think of seeing him first, Sir.

Yes. There was a certain amount of confusion on that occasion, wasn't there, when people were talking and your Attorney was talking? --- Yes.

Somebody had said that there was people over 30 towards the door there and were eating, is that right?---

There were people eating, Your Worship, but I didn't take particular notice of them.

And there was a group, there was a group of you standing around the accused? --- Yes.

And people were asking him questions? --- I do not remember the questions he was asked, Sir.

Was he being asked things though even if you don't remember what they were? --- Yes.

Yes what does he say? --- Your Worship he was / asked by others but in the confusion I could not hear 10 what the questions were.

There was quite a lot being said that you touldn't hear I presume? --- I only heard some of it, Sir.

Yes. So if he says that he was told that statements had been made which were not freely and voluntarily made, you can't deny that? --- I cannot dispute that, Sir.

In fact you don't even know who told your Attorney that you, that certain of you had made statements do you? --- I don't know the others, Sir.

You certainly never told him yourself? --- I told him that I made a statement, Sir.

Now I put it to you you didn't tell him, I put it to you you joined the group. When a question was asked "who were those who had made statements" you were amongst that group? --- Your Worship, he had a list of names saying who made a statement and would tick the name off on the list.

Yes. You never spoke to him personally? --No, I just said "I made a statement" and he put a mark 30
next to my name.

I see, and he said you were entitled to change/....

change that statement? --- Yes that's correct.

And you accepted that as being advice from your Attorney? --- Yes, Sir.

And you had no further conversation with him? --- No, Sir, not that I can remember.

Did he say anything further that you heard? --- Not that I know of, Sir.

Are you sure? --- There's nothing further that q I know, Sir.

Did he say anything about statements injuring 10 people? --- I don't remember that being said, Sir.

Would you have heard it if he had said so, at the same time when he was saying to you people "you have the right to change your statements" didn't he also say, did you hear him say "those statements will injure certain of you"? You didn't hear that, did you? --- I did not hear that, Sir.

NO FURTHER QUESTIONS BY DEFENCE.

PROSECUTOR X.X.D.

Now I wish to make it clear. Now was it 20 your own wish to change the statement you have made to the Police? --- Your Worship, I went because I was advised to. It was not my wish to, Sir.

And who told you to go to Sergeant Hattingh the Policeman? --- Mr Mtshizana, Sir.

NO FURTHER RE-EXAMINATION BY PROSECUTOR.

PROSECUTOR CALLS.

MVUYO JALI S.S.

PROSECUTOR. X.D.

You are a student at Lovedale College? --- 30
Yes/...

Yes Sir.

During May 1963, were you arrested? --- Yes.

Were a number of other persons, students, of Lovedale College also arrested? --- Yes.

Was the charge against you that you are members of, were members of Pan African Congress? --- Yes.

Now were you given the opportunity to make a statement to the Police, should you wished to do so? --- Yes.

Did you make a statement? --- Yes.

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Was it recorded the statement you made to the Police? --- Yes Sir.

Did you say in the statement inter alia,
"I have been warned that I'm not obliged to make a
statement, but what I say may be taken down in writing
and used in evidence. I make the statement freely and
voluntarily without having been influenced thereto.
I am in my sound and sober senses. Did you say that
Jali? --- Yes. Sir.

And did you sign the statement? --- Yes Sir.

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Is this the statement you made to the Police? Statement exhibit "P" now produced, your Worship? --- This is my statement signed by me, Sir.

And did you swear to the statement? --- Yes Sir.

Is that statement the truth what you know about the Pan Africans Congress activities at Alice? --- Yes, that is the truth.

That is a true statement, contains what you know about the case against Mdingi and Sogwiyeya and others who were charged for being members of Poqo?

--- Yes Sir.

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Now you appeared in Court with the others, Mdingi, Sogwiyeya and the others? --- Yes.

Were you then jointly charged, did you appear together/....

together on the same charge sheet? --- Yes.

Did you engage an Attorney in that case? --- Yes.

Who? --- Mr Mtshizana the accused, Sir.

Now tell the Court what happened between you and the accused? --- Your Worship, my Attorney came to visit me in the Police cells at Fort Beaufort.

Is it the accused who visited you? --- Yes, Sir.

Yes, what happened when, do you remember that date? --- I dont know, Your Worship, all I can say is early in June.

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Yes, and then? --- He came to me and asked me if I wanted an Attorney and I said "NO". I beg your pardon he said "Do you want an attorney to defend you or not".

Ja. --- I said I want one.

Yes, go on? --- That is all that took place on that day.

Now was that after you had made a statement to the Police, the statement exhibit "P" before Court?
--- It was after I had given the statement, Sir.

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And after that what happened? --- I told him that I had made a statement to the Police, Sir.

Was that on that occasion when he first saw you in the gaol? --- Yes.

And what discussion was there between you and the accused in connection with the statement? --- He said I am not forced to give evidence in Court.

What else? --- That was all.

Now on that occasion did you tell him that you made a statement to the Police? --- Yes.

And did you tell him what you have told the Police in the statement? --- No Sir.

Did he ask you what you have told the Police? --- He did not ask me, Sir.

Yes and what happened after that occasion? --- After a few minutes of talking to me he left.

Yes? --- I saw the accused again on the mineteenth of June, here in Court, Sir.

Yes? --- And I confirmed that I wanted him to defend me, Sir.

Now on the nineteenth of June, did you appear in Court on that day? --- Yes.

And was the accused appearing for you? --Yes Your Worship, he came, he appeared for us.

And did you speak to him? --- I said to him Your Worship, "I want you to defend me".

Anything else? --- No Sir.

And then was the case remanded till the first of July,? --- Yes, Sir.

On the first of July, 1963, did you again appear in the Magistrates Court at Alice? --- Yes.

Was the case then remanded until the eleventh of July, 1963? --- Before the first, Your Worship, I spoke to the accused.

Where? --- Here in Court, Sir.

What did you speak to, what did you tell him, he what did he tell you? --- He again said I wasn't forced to make a statement Sir.

Now do you remember when was that? --- He said it depends entirely on me.

Do you remember when that took place that took place? --- On the first of July, Sir.

On the first of July. Now tell the Court about the/...

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spoke to the accused? --- It was in the morning before the Court commenced. Sir.

Was it inside or outside the Courtroom? --Here inside the Court room, Sir.

What did he tell you, before the Court commenced? --- Your Worship he said that I could speak in Court or not it depended entirely on me.

Did you all appear in Court, was the case remanded until the eleventh? --- Yes.

What happened after the case was remanded? --Your Worship, after the case had been remanded and
application for bail had been heard, others said to
me that we must change our statements.

Who said that to you? --- I don't remember very well Sir.

Was the accused present when it was said? --He was present, Your Worship, but was not in the centre.

Did you speak to the accused on that day on the first of July, 1963, after the case had been postponed? --- No, Sir.

Did you gather with him? --- Your Worship some gathered with him behind the prisoners dock, I was sitting here with others.

Did you receive any instructions from him?

Did anybody else in your presence receive any instructions from the accused? --- All I heard Your Worship, was the others saying we must change our statements.

Did you hear anybody receiving any instructions from the accused? --- I did not see him giving anybody any instructions, Sir.

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And did/...

And did you hear the accused say anything about any statements made to the Police by any of the accused persons? --- I only heard others say that he said so. Sir.

I asked did you hear the accused DEFENCE.

May it be struck off please, Your Worship, object to that little book.

COURT.

No we don't want that, Mr Interpreter we don't want.

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PROSECUTOR.

Your Worship, may I ask for a short adjournment Your Worship.

COURT.

Well I, as a matter of fact it will still be admissible (Magistrate and Defence speaking together)

DEFENCE.

Yes provided it is not evidence, not accepted 20 as evidence of being the accused. No its the evidence of what happened. That's not evidence of the fact that the accused said so. If Your Worship accept it in that line I have no objection.

INTERPRETER.

I warned witness that he is still under oath. PROSECUTOR CONT.

I want more clarification on what happened in the Court on the first of July, 1963, on that day did you appear in Court? --- Yes.

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And the case was remanded? --- Yes.

And did anybody call you in a group? --- Not that I can remember Sir.

Did anybody call you in a group? --- DEFENCE.

Your Worship, I trust that my learned friend is going to cross-examine that it is for the purpose of discrediting this witness otherwise I assume he won't cross-examine.

COURT.

I have an idea that the witness said that others gathered there and he was with some other people.

INTERPRETER.

10

Your Worship the witness had just stated that the accused called his clients together. PROSECUTOR. Cont.

Now were you also one of his clients? --- Yes.

And did you gather with the accused? --- I stood close by, Your Worship, but I did not listen to what was, he said because I had already spoken to him in the morning.

Did you hear anybody giving any instructions to anybody there? --- Mdingi was also present, Sir.

20

Did you hear anybody giving any instructions? --- Mr Mtshizana was the only man speaking, Sir.

What did he say? --- He was speaking to the others gathered there, Sir, I did not hear what he said to the other people that were gathered with him, Sir. That is I heard from them afterwards what had been said.

Did you hear anybody saying anything in connection with the statements which had been made to the Police? --- Yes.

30

Who? --- Mdingi told us to go to the Police station Sir.

Did the accused say anything in connection with the statements? --- Mdingi told us that we must change our statements.

Did the accused say anything in connection with the statements? --- He did not speak to me about them.

Did anybody mention Sergeant Hattingh? --Mdingi mentioned Sergeant Hattingh's name, Sir.

Did the accused mention Sergeant Hattingh's name? --- I did not hear him speak, Sir.

Did anybody say anything about giving evidence? --- I don't remember, Sir.

Did you make a statement to the Police in connection with this case in which the accused is now appearing? --- Yes.

Can you read English? --- Yes Sir, I'll try to.

The statement you made to the Police in connection with this case, was read over to you?

Did you sign it? --- Yes.

20

10

Did you sign it after you have sworn to the correctness of the statement? --- Yes.

Is this the statement you made to the Police, in connection with the case against the accused; I produce the statement and hand it in as exhibit "Q", Your Worship. Look at the signature. Is this the statement you made to the Police? --- Yes Sir.

You see in this statement you told the Police
"On the first of July, 1963 we again appeared in Alice
Magistrate's Court for a remand. On that day Mr 30
Mtshizana again called all of us that made statements
to a group in the Magistrate's Court. He, on this
date instructed us that made statements that we must
immediately after the Court adjourned all go to
Sergeant Hattingh and inform him that the statements/...

the statements that we made to the Police are false and that we are not prepared to give evidence". Now this is in conflict with your talk at Court just now. Can you offer any explanation.

INTERPRETER.

Well Your Worship I think it is.

PROSECUTOR. Cont.

Can you offer to, yes I agree with you, it is, but can you offer any explanation for the conflict?

--- Your Worship, I don't think it is in conflict 10 with I'm telling the Court today of what Mdingi told us to do in connection with the changing of the statements.

Your Worship, I hand in the statement exhibit "Q".

NO FURTHER QUESTIONS BY PROSECUTOR.

WITNESS.

I don't understand what's going on now, Sir. DEFENCE X.X.D.

Mdingi was the person who told you people to 20 go to Sergeant Hattingh? --- Mdingi was the one who said that Mr Mtshizana said that we must go, Sir.

Yes but the words came from Mdingi not from the accused? --- I could hear Mr Mtshizana slightly, Sir.

You know you are already getting yourself into trouble. Now I think if you just say exactly what happened it will help you. Mdingi is the one who suggested to the group that they went to Sergeant Hattingh, isn't it. The words came from his mouth?

--- Yes and he told us that Mr Mtshizana had told him to do so.

Yes he went round here in the Court room apparently/...

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