

What date was that?---It was a Thursday.

What month?---February, 1963.

And at Swartkop what happened there? Is that a station outside Port Elizabeth?---It is right in Port Elizabeth.

And at Swartkop, you were going to tell us what happened there?---We were all at Swartkop when a man came and explained to us and told us that we are on our way to Tanganyika and to behave ourselves as members of this organisation.

/10

Of this organisation?---Of this organisation.

Which organisation was he talking about?---The African National Congress.

Yes?---The train pulled in and we got into the train and we left.

Now, how many...you say "We were all at Swartkop", how many were you?---We were seven.

Is that the seven of you that had arrived from Uitenhage?---It was myself and another man from Uitenhage.

/20

And did you..who was this man who spoke to you?---I do not remember this man's name any more.

In any event, you then boarded a train - who paid for your ticket?---I do not know who bought and paid for the tickets. The ticket was handed to me from another man while being on the platform.

You did not pay for it?---I was told that my ticket had been paid for, I did not myself pay for it.

And were you given any instructions as to what to say if you were asked where you were going to?--- At that stage, all that was said was if I was asked where I was going to, that I was going to a school.

/30

Were you to say where the school was?---I was told not to say where it was, but just to say abroad.

Yes, and then did you come up to Johannesburg?
---Yes, we got off at Krugersdorp.

When did you arrive at Krugersdorp?---Saturday morning.

What time?---Roundabout 7 o'clock.

What happened at Krugersdorp?---We waited there at Krugeradorp till about 12 p.m.

12 Midday?---Yes. Two men came along. /10

Yes?---They got out of a car and came to us.

Yes?---They asked us where we came from, we told them that we are from Port Elizabeth. Four men from us were called and they were put into the car.

Yes?---This car then left with these four men. I did not know where it had gone to.

What happened to you?---I remained and after some time the car came back.

Yes?---Myself and two others were told to get into this car. /20

Yes?---We then left and went to Johannesburg. We arrived in Johannesburg and came to a house, we got out and there we saw the rest of the men we travelled with, that were taken away by car, in this house.

Yes?---There we remained in this house, food was given to us, and after some time being in this house, a bantu man came there. I understood him to be the owner of this house.

Yes?---He started talking to us.

Do you know his name?---I remember his surname, /30 not the name.

What is his/surname?---Hasha.

Can you point out his photograph if I show it to you?---It is some time that I last saw him, perhaps I can point him out.

My lord, I have a number of photographs here, fourteen photographs. My lord, they are numbers but the names of the particular parties do not appear there. Underneath there is a separate list. I hand your lordship a list of the names and the numbers are on the photographs. We will call that Exhibit 'B' my lord.---I point out No. 10.

Evidence will be led that that is in fact, /10
Hasha my lord. Photographs handed in Exhibit 'A' and the list of names as Exhibit 'B'. Now, you say this man Hasha then came and spoke to you - what happened then?--- Hasha was there for some time when another came in.

How long did you remain at this house?---I was not there the whole afternoon.

Where did you go to from there?---Myself and two other men were taken to another house.

Yes, whereabouts? In Johannesburg?---In Johannesburg. /20

Yes?---We arrived there and stayed there and we slept there.

Yes?---The next day Sunday, just after the midday meal a Kombi arrived.

Yes?---I was told to get into this Kombi, myself and the two other men.

Yes?---We got into the Kombi and drove on. Along the way others were picked up. After there was enough people in the Kombi, we went outside, out of the location. /30

Yes?---There we met two other Kombis, the three Kombis then drove off.

Yes?---We drove along until we got to the border of the Republic and Bechuanaland.

When did you get there?---That was Monday morning when we arrived there.

What time?---I do not remember the time when we arrived.

Was it still dark or was it light?---It was still dark.

And when you reached the border, did you cross the border?---We did not quite stop at the border, it was a little distance away from there, we got out of the Kombi and then we walked across the border. /10

You stopped on the Republic side, is that it? ---Yes.

And what about the other two Kombis?---The three Kombis stopped.

And did all the occupants of all three Kombis cross the border then?---Yes.

On foot?---Yes.

And where did you go to once you crossed the border?---We went into Bechuanaland into some bushes, a forest. /20

Yes?---We stayed there the whole of Monday. It is the Monday after midday meal, we were told to go to an office to register.

You were told to go to the office to register? ---Yes.

Now, who told you?---Joe Gqabi told us. A

Who is Joe Gqabi, is he here?---Accused No. 1.

Now, do you know a man by the name of Joe Modiso?--- I have heard the name. /30

Do you know who he is? Have you ever seen him?

---I think he is the man whom I saw who spoke to us.

Belt
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Spoke to you where?---The person who spoke to us in Lobatsi.

In Lobatsi or in the bush?---I call them both the same whether in the bush or in Lobatsi.

Yes, but where did this man that you think is Joe Modiso speak to you - in the bush or in Lobatsi?---

In the bush.

When?---It was the day when we left.

Was that the first time you had seen him?---

It was not the first time, I am not sure.

/10

BY THE COURT TO WITNESS:

How far is this bush from Lobatsi?---It is not very far.

Can you walk the distance?---Yes, you can.

Yes, but how many miles is it?---No, that I cannot say.

Well, how long will it take you to walk it?

---Normal walking, it would be about 20 minutes.

Did you walk from the Bechuanaland border to this bush?---Yes.

/20

EXAMINATION BY MR. REDPATH (CONTINUED):

Could you see Lobatsi from this place in the bush that you have referred to?---If you get on a rise, you can see it there.

Now, when you arrived, you say it was early on the Monday morning - in the bush?---Yes.

Did anybody come to meet you in the bush?--- Do you mean on the Monday morning on our arrival?

Yes?---Yes, the person did come there.

/30

And who was this person?---It was Joe Gqabi.

Did you see how he arrived there?---I cannot

say how he came there, or by what. I just saw him there.

Was that the first time you had ever seen him?

---Yes, it was the first time.

That is the first accused you are talking about?

---Yes.

Now, when you saw him was he alone?---He was not alone when I saw him there.

Who was with him?---It was Accused No. 1 and Samson Fadana.

Is that No. 3 Accused?---Accused No. 3. /10

Those two were together?---And Henry Makghoti.

No. 2? ---I saw them together.

That is Nos. 1, 2 and 3 Accused?---Yes.

Was that the first time you had seen any of those three accused?---Yes, it was the first time I had seen the three accused.

This person who you think is Joe Modiso, when was the first time you saw him?---I think I saw him for the first time in one of the houses here in Johannesburg. /20

That was before you went on this journey?---Yes.

Did you see him in Bechuanaland at all?---Yes, he was there.

Was this at the spot in the bush or elsewhere?

---It was in the bush.

On what day did you see him in the bush?--- It was Monday.

Monday morning or afternoon?---It was during the day, it was not in the morning.

Did you see him speak to any of the accused? /30

---At that stage, I did not see him speak to the accused.

In any event, he was there and then you say

that Joe Gqabi, the first accused, told you to go and get registered in Lobatsi?---Yes.

And did you go into Lobatsi and get registered?---Yes, I did go.

When did you go?---That same day, Monday.

In the afternoon or the morning?---It was after midday.

Where did you go to in Lobatsi?---Inside the location there are houses and there were police there.

And how did you go about registering?---I remember what I was asked: It is my name, where I came from and where I was going to. /10

What did you say?---I was given a name which was given to me here in Johannesburg.

A false name or your right name?---It is a false name.

What was the false name you gave?---Tony Nzondene.

How do you spell it?---Nzondeni.

Now, as at Monday afternoon did all your group go into together or did you go in on separate occasions?--- We went in groups. /20

Did they all go on the Monday or did some go later on?---We all went there the same day.

By the way, you gave your false name - where did you say you were going to?---I said I was going to Tanganyika.

Were you asked why you were going there?--- I was asked why I was going there, and I said further education. /30

And after you had registered, where did you go?---We went back to this place in the bush.

That was that Monday afternoon?---Yes.

What happened after that?---We stayed there the Monday night, it started raining the Monday night. It was not much, it was a little rain that fell.

Yes?---We remained there, we pulled some twigs near to one another to protect us from the rain.

Yes?---The Tuesday morning, we stayed there for the whole of Tuesday and Wednesday.

What happened on Wednesday?---That Wednesday evening a lorry turned up. /10

Yes?---We all got onto the lorry. After we were all in the lorry, a person spoke outside the lorry, he was standing on the ground.

Who was he?---That was Joe Modiso. }

Were all of you, the whole party, already in the lorry?---Yes.

And what about the first accused, where was he?
---The Accused No. 1 was in front with the driver when this person spoke, he got out of the lorry in front and went to the back of the lorry. /20

And where was Joe Modiso standing?---He was standing behind the lorry.

So in relation to Joe Modiso, where did the first accused go and stand?---He stood alongside him.

Alright, what did Joe Modiso say?---Joe Modiso said that he felt bad that we had to leave our relatives behind.

I did not catch that?---He said he felt bad that we should leave our relatives behind.

Yes?---But we leave to go to be soldiers. /30

Yes?---He said we should travel well and look after us and behave ourselves.

Yes?---And that we should remember that all the bantu people are dependant on us, that we carry their respnsibility on our shoulders.

Yes?---After Joe Modiso had said this, Accused No. 1 walked to the front of the lorry and got in.

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You mean he got in next to the driver?---Yes.

Did you then drive off?---Yes.

Now, where were the other three accused when Joe Modiso made this speech? Accused Nos. 2, 3 and 4?--- They were in the lorry with us at the back. /10

Could they hear the speech?---Yes, they did.

What language did Joe speak in?---He spoke in Xosa.

Now, did anybody raise any objections about this speech, after Joe had made it?---Nobody did.

Now, you say during your stay in the bush, before you left, you had met Nos. 1, 2 and 3 Accused?--- On our way back from Lobatsi after coming from this office, we met Accused No. 4 along the way.

But you had met the other three before you went?---Yes. /20

And you say you met No. 4 when you came back? ---Yes.

Now, during your stay in the bush or while you were being registered, did you ever speak to No. 1 Accused?---No, I did not speak to him.

And did you ever speak to No. 2 Accused?---No.

Ever speak to No. 3?---No.

Did you ever speak to No. 4?---Yes, I did speak to Accused No. 4. /30

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Where?---I spoke to him after we came back from Lobatsi.

What did you speak about?---He asked me my name, I told him, and I asked him who he was, what his name was.

Yes?---He asked me where I was going to.

Did he ask you?---Yes.

Yes?---I told him.

What did you tell him?---I told him I was going to school, that is where I was going to.

Where?---In Tanganyika.

Yes?--- He told me that he was also going to his school, that he had been to a school in Mafeking. /10

Yes?---And he told me that he had not been out of school very long and that he was going there for education. He did not say where he was going to.

You mean he did not say which country he was going to?---No.

Now, why did you tell No. 4 that you were going to Tanganyika to go to school?---The reason is because I was told not to just tell anybody where I was going to.

From this place in the bush, where did you go to?---After the third day we got into a lorry and we left from the bushes. /20

That is on the Wednesday?---Yes.

And from there, where did you go?---We went to Zambesi.

Is that the river?---Yes.

When did you get there?---Friday morning we arrived there.

Yes, what happened when you got there?---

When arriving at the Zambesi River, we were told to wait for the boat to take us across. We waited. /30

Who told you to wait?---It was Joe Gqabi,

Accused No. 1.

Who actually was your leader from the bush in Bechuanaland to the Zambesi?---We were not directly told who was in charge of us.

Yes?---But I could see from the way No. 1 Accused acted, that he was in charge of all of us.

What made you think that he was in charge?---He gave us food and he also saw that we got there.

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Who ordered the stops and all that sort of thing?---Accused No. 1 ordered the stops.

Who gave instructions as to when you should leave?---He gave instructions when to leave.

You got to the Zambesi River and then you waited for a boat, and did you get the boat to go over? ---The boat arrived, we got on and it took us across to the other side, and on the arrival on the other side of the Zambesi River, Joe Gqabi gave each man a £5 note, or £ rather.

Yes?---We waited there for a short while, and afterwards we were told to walk along, that on the way we will meet up with a Land Rover, we had not walked far when we met this Land Rover.

Just a moment, what was this £5 for?---The £5 was for food and our trainfare.

From where to where?---From Livingstone to Tanganyika, that is by train.

Were you supposed to buy your own tickets at Livingstone?---Yes.

And to which town in Tanganyika did you have to buy your ticket?---We were told to buy a ticket at Livingstone, Rhodesia to go to Tanganyika.

Were you told the name of any town?---I do

/10

/20

/30

not remember being told that.

So where would you have bought your ticket too?

---To go to Tanganyika.

Is that what you would have asked for when you bought your ticket?---If I arrived at the ticket office, I would have asked how much a ticket would be from Livingstone to Tanganyika.)

Were you all together when No. 1 Accused handed out the 5 notes to everybody?---Yes, we were all together. /10

How big was this party, do you remember?---37.

And that included the four accused?---All of us were 37.

Did you actually see the first accused give the second accused £5?---I did not see Accused No. 1 give Accused No. 2 money.

Did you see him give Accused No. 3 any money? ---No, not any of the accused.

You say that you got instructions to walk for a while and then you were met by a Land Rover?---Yes. /20

Who gave you those instructions to walk?--- It was Joe Gqabi, Accused No. 1.

You met the Land Rover - what happened then? ---When we met up to this Land Rover he took thirteen men.

Yes?---I left with the others and this Land Rover drove off with thirteen men.

Yes?---The Land Rover was away for some time, it came back again.

Yes?---Myself and others were then taken away by this Land Rover. /30

Did you eventually all land up at Livingstone?

---Yes.

And where were you dropped in Livingstone?---
At the station.

Was Joe Gqabi already there when you arrived?
---Joe Gqabi was at the station when we arrived.)

And what happened then?---We arrived at
Livingstone in the morning, that evening the police arrived
at Livingstone station and we were detained.

Now, which evening was this? What day of the
week?---The Friday.

Had you made any effort to buy your ticket to /10
Tanganyika?---No, there was no time to buy a ticket, we
were already being arrested. }

Yes, but I thought you said you arrived in
the morning?---We arrived at the river, the other side, in
the morning. INTERPRETER: I misunderstood the witness,
or he misunderstood me, he says "We arrived after midday
at Livingstone, it was the morning when we arrived at
the river".

Your evidence is that you arrived on Friday
afternoon in Livingstone on the station?---We arrived in /20
the afternoon at Livingstone station.

How long were you there before the police
arrested you?---We were not there very long.

How many minutes, hours?---An hour and a few
minutes, the sun had already set.

Were you all brought back to the Republic?---
Yes, my lord.

Was there any singing while you were tra-
velling?---Yes, there were songs which we sang.

Where did this singing start?---After we came /30
out of this lock-up and we were then travelling, then we
started singing.

That is after you were arrested?---Yes.

And how were you transported back to the Republic?---We changed on our way, we travelled by bus to Bulawayo, from Bulawayo we were put into a lorry as far as Beit Bridge, from Beit Bridge we were transported from lorries from the Republic, from Pretoria.

Now, this singing that you took part in, what songs did you sing?---~~M'b'ye~~ We will shoot them with M'bye M'bye.

Is that song connected with any particular organisation?---The Umkonto We Siswe, I am sorry my lord, /10
the African National Congress.

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Is that the only song you sang?---Then the other one, Mandela is coming.

You sang that as well?---Yes.

Now, is that associated with any organisation? ---It is also an organisation song.

Which organisation?---The African National Congress.

Did the four accused join in the singing?--- Yes, they were also singing. /20

Any other songs?---The others were ordinary songs which were being sung in general by everybody.

AT THIS STAGE THE COURT ADJOURNS UNTIL
10 A.M. ON THE 18TH MAY, 1965.

ON RESUMING ON THE 18TH MAY, 1965:

FREDDIE TYULU, still under oath (Interpreted)

EXAMINATION BY MR. REDPATH (CONTINUED):

Yesterday you were telling us that you were singing songs on the way down from Livingstone?---Yes.

And you told us what the songs were and eventually you were also all taken into custody again in Pretoria?---Yes.

Now, subsequently, you were charged for leaving the country without a passport?---Yes.

And on the 5th of April 1963, you were sentenced to two years imprisonment for that offence?---
That is correct. /10

And you were transferred to the Leeuwkop Prison?---I remained at Pretoria, and later I was transferred to Leeuwkop.

When did you go to Leeuwkop?---I do not know the month, but it was in 1963 that I went to Leeuwkop.

And did you see the four accused there?---I did.

Did you have any conversation with them about your journey up to Livingstone?---No, not at that time, I did not discuss it. /20

Did you ever have any conversation after that with them about the Livingstone trip?---I did not.

Now, you have told us about this man that addressed you in the lorry before you left for Bechuanaland? You say you think his name was Joe Modiso?---Yes.

Will you be able to recognise a photograph of him?---I will try.

I show you Exhibit 'A'?---I think No. 13 indicates him. /30

According to Exhibit 'B' my lord, that is Joe Modiso.

MR. REDPATH: No further questions.

CROSS-EXAMINATION BY MR. BIZOS:

You told his lordship that you became a member of Umkonto We Siswe in 1962?---Yes.

My lord, this organisation Umkonto We Siswe, has been abbreviated to M.K. in other trials. If your lordship will allow the abbreviation. It is known as M.K.?---Yes.

Now, were you in sympathy with the aims and objects of that organisation?---I do not understand your question. /10

Its objects according to you, were to overthrow the Government and to bring about the freedom of the African people?---Yes.

You approved of those objects?---Yes, I did.

And you did your work in a wholehearted manner?---Yes.

And you thought that this was for your own good and for the good of the other people of South Africa?---Yes.

You never had any regrets about what you had done until after your arrest?---That is correct. /20

And you were pleased that you had been elected as one of the persons who was to go out of the borders of the Republic to be trained to do the work that you say that you did, in a more efficient manner?---Yes.

And you were very happy to find yourself in Bechuanaland in a group of persons who were going out for the same purpose?---Yes.

Now, do you change your tune in accordance with what you think might suit you best?---If Counsel will repeat the question, I do not follow. /30

Well, I will be a little more specific - you

gave evidence in Court No. 1 here?---I did.

And you were asked similar questions to the ones that I have asked you a short while ago?---If I can remember, I think that is correct, I had answered them.

And did you give his lordship presiding at that trial the same answers as you gave this morning?--- I think so.

Let me read it to you. In the case against Sibundi Hasha, before his lordship Mr. Justice Ludorf, on the 27th and 28th of August, 1964, this is the evidence /10 that you gave: Page 38: "And you agreed to go out of the country for the purpose of military training, and you were then charged with that". WITNESS: Yes.

Did you agree to go for military training?
---Yes, I had agreed.

What was your answer to his lordship in the other trial?---I do not remember the reply now.

Did you try to tell his lordship the truth in that trial?---Everything I told the judge was the truth.

Now listen to your answer: "I did not agree to go". Did you say that?---I will not be able to remember, it is some time ago. /20

Now, well, it is recorded and are you prepared to accept that this is a correct record?---I will not admit, because I did not keep the record.

It is a very clever answer! Would it be true if you did say "I did not agree to go"?---I do not know.

Well, surely you know what the truth is about this very fundamental thing, whether you agreed to go out for military training or not?---As I said, I had agreed to go. /30

Would it be untrue to say "I did not agree to

go"?---I will not admit or deny what is written on that record, I do not know.

Would you mind answering the question?

BY THE COURT TO WITNESS:

You are not being asked whether the record is true or correct. You are being asked if you had given that answer, would that have been a true answer or not?--- I will admit that.

CROSS-EXAMINATION BY MR. BIZOS (CONTINUED):

Admit what?---The question that is put to me that is on the record that I did not agree to go. /10

His lordship indicated to you that you must answer the question. Was it true to say "I did not agree to go"?---It is the truth.

BY THE COURT TO WITNESS:

What is the truth?---That I did not agree to go, my lord.

Are you saying now that you did not ever agree to go?---Yes.

That is your evidence today, that you did not agree to go to undergo military training?---That is the truth, but later I thought I must say that I had decided to go, because I agreed to go. /20

Now, what is the position - when you started on this journey, were you then satisfied to go and receive military training?---I had agreed to go.

CROSS-EXAMINATION BY MR. BIZOS (CONTINUED):

Now, was it untrue then to say "I did not agree to go"?---That was a mistake of mine.

It was a mistake? You did not by any chance want to get sympathy from the Court in that case, by suggesting that you were an unwilling party to the crime /30

that you committed? ---Yes, I also wanted that.

BY THE COURT: Mr. Bizos, was he an accused in that trial or a witness?---A witness.

And the accused persons in this trial were charged with what?---With assisting this person and others my lord, along their way to get military training. It was the trial of Hasha. I might indicate my lord, that he was acquitted.

CROSS-EXAMINATION BY MR. BIZOS (CONTINUED):

Now, are you prepared to deceive the Court /10 in order to get its sympathy?---No, that is not my intention.

Well, why did you try to mislead the Court then?---As I have said, it is a mistake.

No, but...?---My intention was not to mislead the Court.

But you wanted to get, you have already told us, that you want to get the sympathy of the Court, by suggesting that you were an unwilling party, "Yes, I also wanted to get the sympathy of the Court", that was /20 your answer a short while ago? What is the answer? A moment ago you said that you also wanted to get the sympathy of the Court, and that is why you said that you had not agreed?---Yes.

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So, you are prepared to lie? In order to get the sympathy of the Court?---My intention is not to lie.

Did you tell the Court, his lordship Mr. Justice Ludorf, that you were compelled to go on military training?---I do not know, I do not remember.

Would it be true for you to say to anyone /30 that you were compelled to go for military training?--- I will not say so.

Look, is your answer clear and categorical that it would not be true to say to anyone that you were compelled to go?---it would not be the truth.

I want to read you the question and your answer on page 39: "Yes, just explain that to me please?" that was my question "I was only told when I was in Port Elizabeth". The next question: "That what?" And your answer was "I had no alternative but to go because he said something else may happen to me if I do not go". Then the next question was: "I see, so you were compelled /10 to go?" Do you remember what your answer was?---I would like Counsel to tell me, my lord.

Do you remember what your answer was?---I do not remember it.

Try and answer that same question to his lordship now?---I would like to explain what happened from Uitenhage to Port Elizabeth.

Just listen to my question and then any explanations that you might have to give, will be given in due course. Your answer was "Yes"?---To what was my /20 reply yes, I would like the question to be read.

Yes, the question was: "So you were compelled to go"and your answer was "yes"?---Yes, that is so.

A moment ago you told his lordship, clearly and categorically those were the words, that it would be untrue to say that you were compelled to go?---I understand.

On this occasion, you must have deliberately told untruths?---That is why I want to explain the position to the Court. }

You can give any explanation you like now? /30
---The reason why I first said that I did not agree to go, is because I left my wife at home with a sick child.

I left and I was taken to Port Elizabeth. This person who took me from Uitenhage to Port Elizabeth, I had put certain questions to him from Uitenhage on our way to Port Elizabeth, asking him why he was doing this. He did not reply to all the questions but he said something to me when arriving at Port Elizabeth, telling me that "You are going now". I asked him "Where am I going to". The explanation he gave to me was that I was leaving to go for military training, after that he told me not to ask a lot of questions, he told me that he would look after my family at home. I then saw what the position is, I then gave myself over saying that I will leave. It came in my mind if I refuse to go or leave and then turn back along the way, I did not know what may happen to me. Especially my family that was left behind. I then gave myself wholeheartedly over and I then left like the others did. This is now where the question arises by Counsel, that the first time I did not agree. /10

It arises now with Counsel that I first agreed and later did not agree. It is also correct what is written in the record what I first said in Court 1. My reason was also given in that Court but it was not taken down in writing. Counsel only write down what I said in the Court, but not the explanation, and that is my explanation which I would like to give to the Court. /20

Q We will examine a couple of aspects of your explanation - when you left Port Elizabeth after you had been told all these things by this man, you said that you decided to wholeheartedly give yourself to this military training?—Yes. /30

A So, does your explanation amount to this: That you were forced to agree before you left Port Elizabeth,

but then you said to yourself "Well, I will now wholeheartedly ~~thee~~ throw myself into the military training"?

---Yes.

And after you left Port Elizabeth, your heart and soul was in this military training?---Yes.

Tyulu, you are a pitiful figure, because on the same page, page 39, you were asked a number of other questions: "Now, you say that when you agreed to come from Port Elizabeth to Johannesburg you came out of fear?---Yes, I was". Did you say that?---I do not remember saying it, but there were two explanations I gave at that stage. /10

Would it have been correct to say that you went from Port Elizabeth to Johannesburg out of fear?---I do not remember.

That is not the question I am asking you! Would it have been correct to say that you came from Port Elizabeth to Johannesburg out of fear?---It would not be the truth.

Would it be the truth to say that from Johannesburg to Bechuanaland you went out of fear?---No, I was not in fear from Johannesburg to Bechuanaland. /20

And would it be correct to say that from Bechuanaland to Rhodesia you went out of fear?---I was not afraid.

Now, I am going to read to you line 17 to line 25, in the Hasha record: Page 39: "Now, you say that you agreed to come from Port Elizabeth to Johannesburg out of fear?---Yes, I was."---That is on record, but I do not agree to that. /30

"And did you go from Johannesburg to Bechuanaland out of fear?---That is so".

"And from Bechuanaland to Rhodesia out of

fear", and the answer was "Yes". Did you say that?
---I do not remember whether I did say so.

It would have been untrue if you did?---I do not know.

Well, surely you know that, you have already said that it would have been untrue! You did not go out of fear?---I was not afraid.

Now, if you said so, it was untrue?---(No reply).

Have you any answer?---At the moment I have no reply. /10

Well, you might think of one. Now, one other point that I want to take up with you, this house burning that you have talked about, we know from other trials, took place in September/October, 1962?---It was 1962, I do not remember the month.

Belt
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Now, did those house burnings in fact, cease?

---Yes.

BY THE COURT: I want to know whose houses were burnt burnt?

MR. BIZOS: Yes, these were opponents of your organisation?/10

BY THE COURT TO WITNESS:

Is that so, that opponents of your organisation had their houses burnt?---Not houses of other organisations, but houses of other people.

People outside your organisation?---People who did not agree with our organisation.

CROSS-EXAMINATION BY MR. BIZOS (CONTINUED):

Those were stopped, were they not, as the result of instructions from above? From higher up in the organisation?---The burning was ceased. Why they /20 ceased burning the houses, I cannot say, where instructions came from.

Now, you were a ranken file member of this organisation and you did not know its precise policy, did you?---That is correct, I did not know.

You say that you received certain instructions as to what you were to say?---Yes.

What were those instructions?---I would like Counsel to tell me whether it is the houses setting alight, or what instructions he is referring to.

No, the question was were you given any instructions as to what to say if you were intercepted anywhere along the way?---I was instructed to say if anyone asked me where I was going to, to say that I was going to school. /10

Is that all the instruction that you were given in regard to that?---As far as I can remember, those were the instructions.

When were those instructions given?---In Port Elizabeth.

By whom?---I do not remember the person's name that gave the instructions.

Were those instructions ever changed?---They did not change along the ^{way} ~~main~~, it remained like that.

Throughout your trip?---Yes. /20

Now, you said yesterday that it was Accused No. 1, Joe Gyabi, who told you to go to the registration office to register?---Yes.

Now, are you sure of that?---Yes.

Never been in any doubt?---As far as I can remember, he was the person who told us.

Yes, but you could not forget an important thing like that?---As far as I can remember, it is Accused No. 1.

Were you ever in any doubt as to whether this /30 was the man that stood there in the bush in Bechuanaland, and said "You must now go and register", ever in any doubt

about that?---I have no doubt.

You have no doubt now, and you have never had any doubt?---I have no doubt.

And have you any doubt as to who brought the food into the bush?---It is not accused No. 1 who brought food into the bushes.

I want to read to you a passage of your evidence in Natal on page 19 , on line 15 to 17: "Who told you to go and register at Lobatsi?" Your answer was: "I am not sure, but I think the person who said that we must go and register at Lobatsi was Joe Gqabi". Did you say that?---I have said as far as I can remember, it is Accused No. 1. /10

Did you say that you were not certain, but you thought that it was Joe Gqabi?---I did say so.

Now, why did you say you were not sure?---I cannot say what the reason was I said I was not sure if it was Joe Gqabi, but it was Accused No. 1.

Have you any explanation whatsoever as to why you said you were not sure?---I have no explanation. /20

You know that this is a prosecution against Joe Gqabi and others, not so?---Yes.

And you know that you have been and still are in a difficult position?---Yes.

You may be charged for all the offences that you have committed?---Yes.

And you are at the mercy, so you think, of the security police?---Yes.

And you think that the more you assist them, the greater your prospects of your being finally free of the difficulties that you have found yourself in? ---Perhaps it is still so, I do not know. /30

You were in a difficult position, because the police appeared to you to know everything?---Yes.

One of the things that appeared clear to you that the police knew was that Joe Gqabi was the leader of this group?---Yes.

And you knew that if you did not agree what you thought the police wanted it to be that you did not stand a chance, and you were a witness by then?---I did not know if I told the police the truth that they would use me as a witness.

/10

Do you think that the police would have believed you if you said Joe Gqabi was not the leader? ---I do not know, I did not know what their thoughts were.

But they told you that they knew who the leader was?---I do not remember.

You have already said that the police knew everything, and also that it was clear to you that they knew that Joe Gqabi was the leader? You have already said so?---When did I say so.

Attempts to make you answer

A moment ago? Do you deny that you said it? ---I do not deny it.

/30

Let me tell you it is necessary for you to look at the investigating officer, you will not get any assistance whatsoever from him?---I am not looking at him. I am looking at Counsel, not at the investigating officer.

Well, I am not going to enter into a dispute, I have got my own vision to guide me in regard to that. Now, do you deny that you said a moment ago that the police...you have again admitted that the police knew when they came to you that Joe Gqabi was the leader? ---Yes.

/30

If you told them that Modiso was the leader and one of his assistants whilst you were in Lobatsi, do you think that they would have believed you?---I cannot say whether they would believe me or not.

Do you think they would have believed you?---
I am unable to think, I do not know.

You know where Modiso is today, do you not?
---I do not.

Do you not know that Modiso fled the country?
---I do not know anything about it. /10

Well, have you ever heard that Modiso has fled the country?---I have not heard it.

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Now, I am going to put to you that you implicating Modiso as the leader in Lobatsi, one of his assistants, would not have been of any assistance to... I will repeat the question - that you knew that in order to protect yourself you had to be used as a witness?---
No, I did not help myself.

Do you want to retract your statement that the more useful you were to the police, the greater your prospects of getting free?---My intention was not to assist the police. /20

The intention was to help yourself?---My intention was to tell the truth.

Alright, you have said enough for my purposes. Now, did the police ever question you about Modiso?---Yes, I was questioned about Joe Modiso?

Were you shown his photograph?---No, he was just described to me. At that stage, his photo was not shown to me. /30

Now, did Modiso have an assistant in Lobatsi?
---I did not know who assisted him.

Was anyone assisting him?---Is that in Lobatsi?

BY THE COURT TO WITNESS: Freddie, look, you must stop hedging around, you must answer the questions or I will deal with you. You were asked did Modiso have an assistant in Lobatsi, and then you said "I did not know who assisted him", that is not an answer to the question!---
Joe Gqabi assisted him in there.

See later
NB

CROSS-EXAMINATION BY MR. BIZOS (CONTINUED):

Did he have any person who was in any way assisting him?

/10

BY THE COURT: I thought he said Joe Gqabi assisted him.

CROSS-EXAMINATION BY MR. BIZOS (CONTINUED):

Other than the accused?---No, there was nobody.

X Now, after his lordship's admonition, I am going to put to you that you decided to falsely implicate the accused, because you were asked who assisted Joe Modiso at Lobatsi, or it might have been differently phrased as his lordship pointed out, did Modiso have an assistant, and your answer was: "I do not know who assisted Joe Modiso at Lobatsi"?---I did not understand it the first time, it is only the second time that I understood the question.

/20

Look, you went off on an answer of your own: "I do not know who assisted Joe Modiso at Lobatsi". Why did you give that answer?---I replied it after not understanding.

Do you think that your indemnity might not be given to you if you do not implicate Accused No. 1 as often as you can?---....

BY THE COURT: It seems to me to be unfair, because he is being invited to say who assisted Joe Modiso, and then he does not implicate any of the accused, and now you

/30

accuse him of trying to implicate the accused whenever he can.

MR. BIZOS: The point that I am trying to get across to him my lord, is that after your lordship's admonition, he obviously interpreted it that he must implicate the accused.

BY THE COURT: And only then he said No. 1 Accused assisted.

MR. BIZOS: That is correct, that is the point that I am trying to get at, that after the admonition he finds himself in the position of having to implicate the accused./10

CROSS-EXAMINATION BY MR. BIZOS (CONTINUED):

Is that so? Is it so that after the admonition by his lordship you decided that despite the fact that you did not know who assisted....

BY THE COURT TO WITNESS:

Well, let me put it - at first you said "I do not know who assisted Joe Modiso", and when I told you not to hedge around and to answer the question and after I had warned you in that way, you said No. 1 assisted him. Now, did you understand from my admonition /20 that I wanted you to implicate the accused, and that consequently you did so, and you said No. 1?---That is not the way I understood your lordship.

Now again, did Joe Modiso have an assistant at Lobatsi?---At the time when we were there he had nobody assisting him. After Joe Modiso had left, I did not see him any more, then Joe Gqabi, Accused No. 1 took over, my lord.

But that was only after Joe Modiso had addressed you just before the lorry departed?---Yes. /30

Well now, why did you a few moments ago tell me that No. 1 assisted Joe Modiso or did you not say so?

---I did say Joe Gqabi, Accused No. 1, assisted him. I said so, because after Joe Modiso had disappeared Accused No. 1 then took over. That is why I say he was assisting Joe Modiso.

CROSS-EXAMINATION BY MR. BIZOS (CONTINUED):

Look, your answer was "I do not know who assisted Joe Modiso at Lobatsi"---I did say so.

Would it be correct to say that Accused No. 1 was not in any way in charge of you before you left Lobatsi?---I would say that he was in charge of us because he said that we must go and register.

/10

So, would you say that he was Modiso's assistant?---Yes.

Why did you say, this is how it started on page 19 of the Natal record, that you were not sure who told you to go and register at Lobatsi? Have you any explanation for that?---This is the first time I explained this, I saw them and they were together, this is what I mean - if the one is ^{not} there, the other one takes over. If Joe Modiso is away, Joe Gqabi would take over.

/20

AT THIS STAGE THE COURT ADJOURNS FOR TEA.

ON RESUMING:

FREDDIE TYULU, still under oath (Interpreted)

CROSS-EXAMINATION BY MR. BIZOS (CONTINUED):

* You told us yesterday that you were given a false name?---Yes.

Who gave it to you?---Joe Modiso.

Are you certain of that?---Yes, it was him.

You have always been certain of that?---Yes.

You had a lot of dealings with Modiso - you met him in Johannesburg?---I was with him when he gave me the name.

/30

Yes, and you had a lot of dealings with him in the bush in Bechuanaland, in Lobatsi?---Yes, I saw him.

Now, did you ever tell anyone that you did not know the name of the person that gave you the false name?---I remember saying that I did not remember the name of the person who gave me the name.

How could you have forgotten Joe Modiso's name? ---You do forget, you do not have everything in your mind.

To whom did you say that you did not remember the name of the person that gave you the false name?--- /10
As far as I can remember, it is to the detective who questioned me about him.

When was that?---This year or last year, I am not sure.

At the time that you made your statement?--- Not at the time when I made my statement, it is when I was asked about him that I remember it.

So, and since then have you always remembered Joe Modiso's name?---Yes.

Shows how he accepts future. Provides his evidence to suit Police case.

Is that because the detective gave you the name?---Yes. /20

And you have remembered it ever since?---Yes, I thought about it and remembered it.

And you have always repeated the name in the Courts?---Yes, when I was being asked.

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Yes, I think that you are quite right about that, because in Natal you did not remember what the detective had told you?---That is correct, because it is during this year when I was asked about this man.

The Natal case was only a few weeks ago?---Yes./30

Do you admit that you said: "A bantu male came to us, I do not remember his name, he asked our names, we

gave him our names, he then gave us false names"?---Yes. /

But before that, you remembered it and when you gave evidence before his lordship, you remembered what the detective had told you?---.....

What time did you arrive in Bechuanaland?---
In the morning.

Early in the morning, mid morning or midday, what?---It was in the early morning, the sun had already risen.

Yes, at or about sunrise?---Yes. /10

And who was leader then?---When arriving there, I did not notice anybody who was a leader.

So, there was nobody in charge of you when you arrived. When did the first leader emerge?---That question would be difficult, because arriving there, others were already there.

Well look, you arrived at sunrise?---When arriving there others were already there.

Now, when did it occur to you that that man over there "Is our leader"?---When we were asked "Why do you arrive now, where were you?" /20

Yes, who asked you that?---Joe Modiso was the person who asked that.

When did you see him? How long after your arrival?---Not long after we arrived.

A few minutes afterwards?---It was minutes after we arrived.]

Minutes after you arrived. Let me read what you said in your evidence in chief - "I saw Joe Modiso in Bechuanaland in the bush on Monday during the day, not in the morning"?---The reply was to the question that we saw him for a few minutes after arriving. /30

The note taken by my colleague is the same:
 "I saw Joe Modiso in Bechuanaland, it was in the bush on
 the Monday during the day, not in the morning" - did you
 say that?---I did say so.

Was that false?---There is no explanation
 to that, there is no mistake.

Is that false?---No, it is not.

Now look, you have told us that ^{you saw} Joe Modiso
 immediately upon your arrival early in the morning at
 sunrise?---The times are ~~were~~ wrong. When we arrived /10
 there he asked us "Where had you been". That is the
 time we saw him.

I think you understand my question. Have
 you any other explanation besides the one that you have
 just offered?---Yes.

Now, on the Monday was Joe Modiso in the bush
 at about lunchtime or early in the afternoon?---He was
 not there the Monday, I am talking about the Sunday.

Did you not leave on the Sunday evening from
 Johannesburg?---Counsel is correct, we arrived there /20
 on Monday.

Yes, did you see Modiso in the vicinity of
 the bush where this group was, roundabout lunchtime
 or early afternoon of the Monday?---I did not see him
 midday, but I saw him on the morning when we arrived.

And not in the afternoon?---Not after midday.

Was he a person who was coming and going into
 the bush to see you?---I saw him when he arrived in
 the morning after we had arrived. I did not see him
 coming and going. /30

Did you see Modiso only twice - once when
 you arrived early in the morning and again when he made

a speech whilst you and the others were on the lorry?---
I saw him on three occasions, my lord.

When was the third?---The second was when he
asked us "Where had you been", the third occasion was
the time at the lorry.

I am sorry, the first occasion was in Johannes-
burg, is that what you mean?---Yes.

The second when he met you at sunrise, and
the third when he said goodbye to you on the lorry?---
Yes, my lord. /10

Now, did you go into the village into Lobatsi
for a purpose other than registering?---No.

Did you not iron your clothes?---I did not.

Are you sure?---Yes, I am.

Is that not where you met Accused No. 4?---No.

Now, this speech by Modiso, the farewell
speech, that was a very important event in your life,
was it not?---Yes.

Not something that you are likely to forget.
Everything that Modiso said is very clear in your mind? /20
---Yes.

You could not have forgotten any important
part of the speech?---I will not say that I would re-
member everything he said.

But any important part you would not forget?
---Yes.

You gave evidence in Graaf Reinet?---Yes.

About this trip of yours, you did not mention
the speech by Modiso at all?---Because I was not asked.

Do you remember specifically that you were /30
not asked?---If I was asked, I would have mentioned it.

Do you remember specifically that nobody asked

WB

you about Modiso's speech?---I do not remember.

Why do you then say you were not asked?---I say that because if I was asked, I would have told them.

Now, you were cross-examined, was rather interested in the group as a whole, and these are the questions that you were asked the answers that you gave at page 31 my lord, the Graaf Reineet trial: "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. /10 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 to on the route. And was it mentioned or discussed what you were going for?---No, we did not because we were already told that. Did you all travel together, all 37?---That is correct. Always in one vehicle?---One lot. 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 /20 was the talk about?---Just about the nature around there and the road." I am sorry my lord, "Just about the nature there on the road". The scenery in other words. "Well, if people who had been told in this trial was as you had been told at Swartkop Station", correct?--- Yes.

You agree that you did not mention Modiso there at all?---I do not remember.

Now, defences were put to you by each one of the accused on behalf of the accused. "Now, you /30 stated that No. 2 went along with you", this is on page 33, "Did you at any stage of your journey speak to him

Belt
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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 study in drama and music", your answer was "He might say so, but I told the Court what was said to us on the station and he was present". You did not mention the Modiso speech there?---Yes.

You did not mention it, nor did Gladstone Makamba, nor did Harry Lambani. Who gave evidence first?---I do not remember, we were many there.

/10

Now, what was the practice in Graaff Reinet - when you finished your ~~eviden~~ evidence, did you have to remain in Court?---After you finish, you go outside.

You are sure of that?---I did not remain in Court, my lord.

Now, you are sure that you were not reminded of Modiso's speech somewhere along the way between Graaff Reinet and Pietermaritzburg, were you?---I was not told about it.

/20

Do you have any explanation why this defence was being put to you, for not volunteering the Modiso speech yourself? You volunteered the speech at the station in Port Elizabeth?---That is correct.

Have you any explanation why you did not volunteer the other important speech?---I will try and give an explanation but I am unable to give one why I did not mention the speech.

You see, on page 10 of the Natal record, you were asked: "Before you left in the lorry?---Yes, there was a person before we left. Now, who was this person,

/30

do you know his name?" Your answer was: "I do not remember the name". That is what you told the Natal Court - you did not remember the name of the person who delivered this important speech. Do you agree with that?---Yes, I agree.

What improved your memory between your giving evidence in Natal in March and now? What happened to improve your memory?---From Pietermaritzburg up to now by quick/^{working of my}memory I remembered who this person is.

Unassisted?--- Unassisted.

/10

Why did you think about it at all?---I was thinking about this journey and people whom I saw and people whom I met.

Why?---I cannot give the reason that made me think of it.

You travelled along in the same motorcar back to Graaff Reinet from Pietermaritzburg with Bambani and Makamba, did you?---Yes.

Did you ask one of them "You know, this man that made the speech at the lorry, his name has just slipped my ~~eyes~~ memory", why did you not ask that?--- I do not remember doing it.

/20

Why did you not?---....

It is a very natural thing if someone has forgotten someone's name and you have reason to believe that someone else knows it, to just ask him "What was this man's name"?---I do not remember asking them.

Now, was it dark when you left Lobatsi?---Yes.

The sun had set for some time?---Yes.

Pitchdark?---It was strong dusk.

/30

You seem not to be sure about this day on which you left, the day you arrived?---.....

And in that respect you might be excused.
Did you not leave on Tuesday night?---We left Wednesday.

And to you it was fairly late at night?---Is it a question or are you putting it to me?

Well, I am putting to you that it was fairly late, if you are able to deny it?---It was shortly after sunset when we left.

Now, how far away from the village was the lorry when you got onto it?---I cannot give it in miles, but we were not near the village. - /10

Could you see the village from where you left?
---No, you could not see it.

I am going to put to you that you in fact, left from the outskirts of the village?//Do you deny that?
---No, we left from the bushes, the place where we arrived, my lord.

Does the bush come right to the outskirts of the village?---The place where we were is far away from the village.

Does the bush come right up to the edge of the village?---I did not take notice of that. /20

Did you leave from the spot where you had camped, or did you walk some distance to the spot where the lorry was in order to get onto it?---Yes, we walked some distance to where the lorry was.

Are you able to say what that distance was?
---It is not very far.

I am going to put to you that you did not see Accused Nos. 1, 2 and 4 in the bush?---At what time?

I am putting to you that you at no stage saw these three persons in the bush?---They were in the bush. /30

Now, you got to know Accused No. 1 fairly well

after your arrest, because you were together?---Yes.

The lorry was covered with a 'seil'?---Yes, it was, my lord.

It was flapped at the back?---Yes.

I am going to put to you that the person next to Modiso was not No. 1?---The person who was next to Modiso was Accused No. 1.

I am going to put to you that No. 1 was at the back of the lorry with you?---Accused No. 1 was outside at the back of the lorry with Modiso. /10

And that on the trip he did not sit in front? ---He was seated in front.

Did the lorry driver have any assistant?--- Yes, there was.

How many?---Two.

Was there a businessman...?---It was a driver and somebody assisting him, two only.

You did not perhaps change your mind did you? Was there a businessman who was travelling North?---....

To Bechuanaland and who was not going to go any further?---I did not take notice of anybody who was a businessman. /20

Now, ^{as} ~~if~~ you were travelling along, was most of the actual driving done at night?---Yes.

And where you stopped, did you make a fire?---....

Was there evidence that other people had used it as a stopping place, because there were ashes and all sorts of other things?---I did not take notice of that.

Because I am going to put to you that the person who was in charge up to the Zambesi was the lorry driver. Do you deny that?---That is Counsel's thoughts, and I say Accused No. 1 was the person in charge of us. /30

Does U.N.I.M. mean anything to you?---I do not know what it is.

Well, do you know the name of a political organisation in Northern Rhodesia at or about the time that the federation was about to be dissolved?---I know nothing about it.

I am going to put to you that the persons in charge of transport from the time that you reached the Zambesi, were members of U.N.I.M.?---I do not know anything about it. /10

And Accused No. 1 will deny that he gave you any money?---He did.

Did Modiso say anything about the lorry driver in his speech?---No, he did not.

How long after your arrival at Livingstone station were you detained?---I would guess the time, it was from five to nine o'clock when we were detained by the police.

So, you had about four hours on the station? ---Yes. /20

To buy tickets?---I did not.

Why not?---I was still waiting for the rest to come along, because we were taken in parts. We were not taken together. ||

For what purpose had the money been given to you?---It was given to me to buy a ticket and also buy food.

To where?---To go to Tanganyika.

By train?---Yes.

And that was what Accused No. 1 told you: "Here is the money so that you can go to the Livingstone station and buy a train ticket that will take you to Tanganyika"?---Yes. /30

If, in fact, there is no train service between Northern Rhodesia and Tanganyika, Accused No. 1 could not possibly have known what he was talking about? If Accused No. 1 told you to buy a ticket to Tanganyika from Livingstone and there is no train doing that route, then he could not have known what he was talking about?--- It could be that he did not know, but he did say so.

Now, the prosecutor in your evidence in chief, asked you for how long you were on the station?---Yes.

Do you remember what your answer was?---I do /10
not remember.

Could you guess then?---You can remind me, I do not remember what my reply was.

Well, I am not sure whether you said a few minutes or an hour and a few minutes, that is why I asked you?

BY THE COURT: An hour and a few minutes.

CROSS-EXAMINATION BY MR. BIZOS (CONTINUED):

Now, why did you have to wait for the others to arrive before you bought the ticket?---Because I was travelling with them, I would not go aside and leave them alone. /20

What time was the train to Tanganyika to leave? ---9 O'clock.

You were arrested just before the train was to leave?---Yes.

And you still had not bought the ticket?---Yes.

And you fully intended to get on that train? ---That is so.

Upon your detention, were you told that you /30
would be returned to Francistown?---Yes.

But you were instead returned to Beit Bridge?---Yes.

Now, these songs, why do you in answer to the question as to what songs you sung, give the answer "Mandela is coming"?---Those were the songs that we sang.

But you sang many other songs?---That was not the only one I mentioned. There is another one I mentioned as well.

Alright, why do you mention only the political songs?---Because we were political people.

In how many vehicles were you being driven on your way back to Bulawayo?---One. /10

And on your way back from Bulawayo to Beit Bridge?---One lorry.

And from Beit Bridge to Pretoria?---Also one lorry, my lord.

Were you never split up into groups?---Do you mean in the lorry?

Put into more than one vehicle?---I think back now, from Bulawayo I think there were two vehicles. Along the way we were put into one lorry.

For the purpose of clarifying to the Court, /20 the distinction is drawn my lord, between the bush and Lobatsi and what I have put, I think it was clear to the Court, I think with respect, I want to make it quite clear for the purposes of the record and my learned friends, Accused Nos. 1, 2 and 4 will not deny that they were on the lorry, they left at the same time, but that they came from the village and not from the bush. I think that is clear now, my lord. Now, do you remember when you came up here to Johannesburg to give evidence against Hasha? ---I remember, yes. /30

That was in August, 1964?---Yes.

And you remember that Bambani was the other

witness?---Yes.

And at that stage, that you and Bambani were free then?---Yes.

You had both been released a couple of months before?---Yes.

You gave evidence in Graaff Reinett some time after that?---Yes.

And did you tell the Court in Graaf Reinett that you had not seen Bambani since the day of your release?---Which Court? /10

In the Eastern Districts, at Graaff Reinett? ---I do not remember.

My lord, I must have written down the wrong page number. On page 28: "Now you mentioned the man called Bambani?---Yes. And do you know if he was released too?---No, I do not know that he was released." Was that a deliberate untruth?---I did not know of Bambani's release, I only saw him when these trials were on.

Look, you saw him here outside Court No. 1?---Yes.

Dressed in a flashy sort of a way?---Yes. /20

You just told me that you knew when you saw him in Hasha's case that he was a free man?---It is Makamba I was referring to, Counsel is wrong when he says Bambani.

Look, we specifically said Bambani. Bambani gave evidence in Hasha's case in Court No. 1, you were asked about Bambani here?---Yes, I remember I was with him.

And I asked you at that stage that you and Bambani were free men? And you said yes?---Yes.

Did you tell a deliberate untruth to his lordship in Graaff Reinett when you said you did not know whether Bambani was released or not?---I was telling /30

the truth.

You gave evidence in Graaf Reinett in February of 1965?---I did not know at that stage that Bambani was released. It was only after leaving this trial here.

Yes, after you left this Court building in August, 1964, you knew that Bambani was a free man?---Yes.

You gave evidence in Graaff Reinett in February after the Hasha case?---Yes.

You knew when you gave evidence in Graaff Reinett that Bambani had been released?---Yes.

Why did you tell the Court in Graaff Reinett: "I do not know whether he too was released"?---I thought they were referring to the case in Johannesburg.

BY THE COURT TO WITNESS:

What was your answer - "I thought they were referring to the case in Johannesburg"?---Yes, my lord.

Now, what do you mean by that?---The question was put whether we have come to Johannesburg to give evidence. Then the question was put whether I knew whether Bambani was released, and then I replied that I did not know at the time, I knew later.

CROSS-EXAMINATION BY MR. BIZOS (CONTINUED):

"Now, have you seen him recently", you were asked, "That is Bambani?---Yes, I saw him here. Before seeing him here?---No, we do not live together. You had not seen him at all since your time at Livingstone or your time in gaol, let me put it that way, at the time you were in gaol?" Your answer was: "I do not remember if I had seen him after we had been released".

"You cannot remember seeing him?---I cannot remember seeing him. Now, just let us get it quite clear, did you or did you not see Bambani between your release and the case

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here?---No, I did not see him." Did you say that?---I think I did.

But now, in fact, you had come from the Eastern Districts in the same motorcar to Johannesburg with Bambani to give evidence in the Hasha case? Correct? ---Yes.

You had stayed in Johannesburg for at least two days, the case was on for two days? Correct?---Yes.

How many days did you, in fact, stay in Johannesburg?---I do not remember. /10

And you then were taken in the same motorcar from Johannesburg to the Eastern Districts, together in the same motorcar with Harry Bambani?---Yes.

And you still say you did not deliberately attempt to mislead the Court in Graaf Reinett?---I do not know. /

Are you afraid to admit that you and Bambani and Gladstone Makamba spoke to each other about this case?---I will not admit, because we did not discuss these cases. /20

Are you afraid to admit that you, Bambani, and Gladstone Makamba were in the company of each other? After your release?---We do not live in the same place, we live in different places.

Answer the question! Are you afraid to admit that you had been in the company of the other two after your release?---I am not afraid to admit that we were together, because we did not come together.

Have you any explanation for the untruths that you told his lordship at Graaff Reinett then?--- What about it? /30

You will never admit that you told an untruth,

will you?---(No reply).

Will you?---I will not admit it.

Because you are afraid that you might lose your indemnity?---No, I am not afraid of that, it can happen.

You are not the sort of man who wants to go back to prison? Are you?---I have no reply.

MR. BIZOS: No further questions.

MR. REDBATH: No re-examination.

GLADSTONE MAKAMBA, still under oath (Interpreted) (Recalled)

CROSS-EXAMINATION BY MR. BIZOS (CONTINUED): /10

Was it light or dark when you arrived at Bechuanaland?---It was still dark.

And you knew that you were in Bechuanaland, did you not?---The following day.

Not before your arrival?---No.

You did not see a board which said Republic on the one side and Bechuanaland on the other?---I did see it.

Was that at the road? Near a road?---I did not know whether there was a road, but this board was next to a fence. /20

In the bush?---Yes.

You do not know for what possible motive someone would go and put up notices in the middle of the bush?---I do not know.

Now, you were sitting at the back of the lorry throughout this trip from Lobatsi to the Zambesi, were you not?---Yes.

And did you know whether anyone gave specific instructions to the driver to stop?---I would be unable to hear it, because I was at the back and the driver is /30

in front, my lord.

Why did you say yesterday that it was No. 1 who gave instructions to the lorry driver when to stop? ---I said yesterday Accused No. 1 said to us after we stopped to gather wood and to make fire.

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Do you deny that you said that Accused No. 1 said when you must stop?---No, I deny that because I could not hear in front of the lorry.

Now Gladstone, I want to take you back to the time shortly after your conviction. You had been sentenced to two years imprisonment?---Yes. /10

So had Bambani?---Yes.

Now, do you remember that you still had some hope then, because there was an appeal pending?---Yes, I knew about it.

Yes, you knew that there was some prospect of your getting off the difficulties that you were in, because your proceedings were said to have been irregular? ---Yes, we expected to get off on appeal, because they had appealed on our case. /20

And in fact, your sentences were set aside, and ... you were sent back for re-sentencing and you received the same sentence?---I did not go back.

You did not go back, but anyway, you expected some sort of remission. You heard that an appeal failed for all practical purposes?---I heard it.

Now, did you hear that whilst this question of appeal was going on, that Bambani had started giving evidence?---I heard it.

And that he was getting certain benefits, as a result of giving evidence?---I did not hear about his treatment, I heard that he gave evidence. /30

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