

IN THE SUPREME COURT OF SOUTH AFRICA

(EASTERN CAPE DIVISION).

THE STATE v. 1. JACKSON NKOSIYANE
2. NICODEMUS NOGCANTSI.

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JRIFFIER, APPELHOF
25-7-1966
BL-EMFONTEIN
NORTH-EASTERN DIVISION



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I entered the Transkei as a business man dealing in crayfish.

Did you have any equipment?---I had a one-ton refrigeration truck and a Permit from the Department of the Interior of the Transkei to enter any Native areas in the Transkei.

And did you still remain resident in Durban?---I did.

Now do you speak any Native languages?---None at all.

Any conversation that you will refer to between yourself and any Bantus will be in what language?---It will be in English. 10

Now did you proceed to Coffee Bay?---My first trip was to Coffee Bay.

And did you make enquiries there?---I made enquiries as regards the crayfish business and I was told by different people I should approach the Chiefs from different areas to get their permission to get crayfish in their areas.

Did you do so?---I did so. 20

Who was the Paramount Chief?---Chief Sabata was the Paramount Chief. He was the Chief of that area.

And did you visit him?---I visited him yes at the

end of April last.

Where did you visit him?---At the Great Place in the Elliotdale District.

And was he prepared to assist you in your project?

---He was.

And were any arrangements made with him about further future meetings or contacts?---Yes, he gave me a phone number in Umtata at which I had to phone him. He told me he would arrange a meeting between Chief Poto and Mr. Guzana, the Chief Opposition Whip and himself and myself. 10

And did you later phone?---I phoned him some time later only to be told that Chief Poto was still in East London undergoing treatment.

Was this about May?---Early in May.

What were your activities in May and June?---During May and June I proceeded to the Transkei, made a few trips and obtained crayfish in the refrigeration truck. I also visited Chief Sabata on a few occasions.

Again in connection with the Crayfish?---In connection 20 with the crayfish and we had political discussions too.

What was your relations?---He was calling me Jim.

And you?---I called him Chief Sabata.

Now we get to July. Did you phone Chief Sabata during July?---Yes I phoned the Great Place and a voice I did not recognize answered the phone and I asked who was speaking and I was told it was Jackson Nkosiyanane who was a Member of the Legislative Assembly and Secretary to Chief Sabata..

Can you now identify the voice that you heard that day?---Yes.

Whose voice was it?---No. 1 accused.

Did you pay any attention particularly what date it was?---It was early in the month, the first week of the month. 10

In July, 1965?---Yes.

Were any arrangements made?---He told me that any discussions I wanted to have with Chief Sabata would have to be made with him first. I asked him when it would be convenient for him to meet me and we made the arrangement to meet a few days latter outside the Bunga at Umtata. I gave him a description of my car.

Yes?---A few days later I parked outside the Bunga as arranged and No. 1 accused came over to the car. I got out and we introduced ourselves to each other. 20

What did he introduce himself as?---Jackson Nkosiyanane.

Was that the first time you met?---The first time we met. He asked me if I could meet him about an hour later outside Manning and Patterson.

What is that?---A Garage in Umtata, next door to the Bunga.

Yes?---I met him about an hour later and he asked me if I could take him out to his home in Mqanduli District and we could have a discussion on the way.

About?---I told him I wanted to discuss crayfish business with him.

10

Yes?---I told him.

Did you take him out to Mqanduli?---I took him out to Mqanduli and on the way I told him about the crayfish business and asked him for his support.

Yes?---We then got on to political topics. He told me that he had been banished to Soekmekaar a few years previously.

What did you represent yourself as to your political views?---In sympathy with the Opposition, the Democratic Party.

20

Yes what else was said about politics?---He told me because he was opposed to Matanzima he was called a Communist. He then went on to say the Communist slogan

is "We come to liberate you". The Nationalist slogan is "Separate Development" which means oppression. "We are tired of being oppressed so we accept the liberators."

Well did you drop No. 1 then at his home at Mqanduli?
I did.

Was any arrangement made to meet again?---Yes we arranged to meet at 5.30 the following evening.

For what purpose?---No. 1 accused would take me to the Great Place of Chief Sabata and we would have a further discussion.

10

Yes the next day?---The next evening at 5.30 I picked No. 1 up at his house and we proceeded to the Great Place of Chief Sabata.

And did you in fact interview Sabata that evening?
---I saw him. When we arrived at the Great Place we were told he was about 20 miles away.

You did not in fact speak to him that evening?---I tried to speak to him. He was drunk at the back of his car and No. 1 forbid me to speak to him and said "it would hurt his dignity".

20

Was any further arrangement made that evening?---
When I dropped No. 1 accused at the Great Place where he said he was going to sleep he gave me telephone number

X030 at Umtata and told me to phone him .

Nearly the same as your number. Do you remember the dates?---We are still in July.

What happened then?---I phoned the following week and made arrangements to meet him once again outside the Bunga.

Yes?---I parked on the appointed day and the appointed time outside the Bunga.

Yes?---And after waiting a short while No. 1 accused walked from the opposite side of the road over to my car and told me that Chief Sabata wanted to see me. 10

Yes?---I asked where Chief Sabata was and he pointed out and said the car was coming in the opposite direction and we should follow his car. I followed Chief Sabata's car and he parked on the outskirts of Umtata near the Game Reserve.

Yes?---I parked my car behind him and I got out and he got out of his car and No. 1 accused as well got out of my car.

Yes?---Chief Sabata was well under the influence of liquor. He came up to me and put his arm round my shoulder and said "Jim we have discussed you a lot". 20

Where was No. 1?---He was with me.

What did he say?---"We have discussed you a lot and we are glad to have a man like you on our side." Words to this effect. "The time has come for positive action and we are going to eliminate some of the Opposition". "George Matanzima is the first."

Yes?---"And the best time to eliminate him is while his brother Chief Matanzima is in the Republic".

Yes?---I said to him "Well Chief you have taken me by surprise. I am only interested in crayfish. But I promise you my support."

10

Yes?---Sabata told me that he had 20 good trained men who had been trained to stir up trouble in the Transkei. Twenty men of the Tembus.

Yes?---After a further discussion he went off in his car.

Just before you go on, did you take this conversation as being serious? Did you think Chief Sabata was serious? ---No I did not take him seriously.

Why?---Because he was well under the influence of liquor. He flabbergasted me too. I did not expect to have a thing like that said by a man of his standing.

20

You told us he drove off in his car and what about No. 1?---No. 1 and myself drove to a quiet spot and I

parked the car and we had something to eat.

Yes?---No. I said to me "Well Jimmy you can see Sabata is drunk again. Either you are with us or you are against us now that you know everything." I said "Jack you have not got to worry about me. I have more to gain by coming in with you people."

Yes?---"In any case tell me how are you going to eliminate George Matanzima without being suspected? In any case Chief Kaiser Matanzima will only be in the Republic for a short time as far as I know."

Yes?---His reply was "If you meet me in a few days' time" and he gave me the date, "I will let you know". No I am wrong, we just had a general discussion. He did not say anything more as far as I can remember.

It is a long time ago and as far as you can remember there was no further discussion?---No I believe I took him back to Umtata and dropped him there with an arrangement to meet him at a later date.

Did you meet him at a later date?---I did.

Was this still during July, 1965?---It should be towards the end of July.

Yes where did you go this day?---Oh when we parted he made arrangements to meet him later and we would go

to Chief Poto.

Is Chief Poto also a chief in one of the areas?---

Yes of one of the crayfish areas, the Port St. Johns Coast.

You went to see Chief Poto at his Great Place?---Yes.

Yes was there any discussion on the way to Chief Poto between you and No. 1?---I said to No. 1 "Look Jack what are you going to gain by having George Matanzima eliminated? If you kill him the Government will simply put someone else in his place and that is that", and he said "No I think you are right".

10

Did you visit Chief Poto?---We visited Chief Poto.

Did he also promise support?---He promised me support.

What happened after this then?---We made arrangements with No. 1 accused - I made arrangement to meet the following day. He promised he would take me out to the Coast in the Elliotdale district and speak to the various headmen about obtaining crayfish.

And was this done?---This was done.

Any conversation on the way there?---No, on the way back.

What was said on the way back?---On the way back he was confiding in me different things and in one case he said Chief Kaiser Matanzima was trying to have him

murdered a year ago. "If he had succeeded my brothers would have killed him". He then went on to say "Jimmy my people would pay a large sum of money to a man who would kill Chief Kaiser Matanzima while he is in the Republic."

Did you make any reply?---I laughed and said "How much would they pay"?

Yes anything else?---He said "well if we make arrangements for a later date I will tell you when next we meet how much they would pay and how long he would be in the Republic." 10

Is this still in July?---I think it was towards the end of July. He also at that stage during conversation he told me he had a revolver which was jamming and asked me if I could have it repaired for him, if I knew of anyone who would repair it without questions being asked.

Did you agree?---I agreed. I was determined to get the revolver.

And before parting did you arrange for any further meeting?---Yes we arranged to meet again a few days later. 20

Before meeting No. 1 again did you make any trip anywhere?---Yes I believe it was the 2nd or 3rd August

I went to the Office of Rowley Arenstein in Durban, an Attorney. I told him that I had trouble with the crayfish business. I further told him I had met Chief Poto and Chief Sabata and Jackson Nkosiyanane.

Yes?---He supplied to me

Mr. Wilson: I do not know what the admissibility of this is?

Jennett, J.P.: How is this admissible.

Mr. Masters: It is admissible, he created a sense of trust between the accused and Arenstein. The evidence will be he went there and got a message from Arenstein to take back. 10

Jennett, J.P.: Confine it to Rowley Arenstein.

Mr. Masters: It is not important.

Did Arenstein give you a message?---He asked me to convey his regards to Chief Sabata and Jackson Nkosiyanane.

After this visit did you meet No. 1 again?---Yes I met No. 1 and we went for a drive. He brought up the subject of killing Chief Kaiser Matanzima again and he told me he and Chief Sabata had a long discussion and it had been decided to levy the Tembu Tribe to pay the man who would kill Chief Kaiser Matanzima. 20

What about Arenstein?---I went to him.

You told us you had a message from Arenstein?---I gave him the regards from Rowley Arenstein and asked him to convey them to Chief Sabata as well. He in turn asked me to give his regards, and Chief Sabata's, next time I see Rowley Arenstein.

Did you visit Arenstein again? You told us about this discussion with No. 1?---Yes I went to see Arenstein roundabout the first week in August. I conveyed No. 1 accused's message to him and I gave him his and Chief Sabata's regards.

10

I think on the 15th August were you admitted to Hospital for a major abdominal operation?---Yes.

Were you out of action for some time.?---Yes.

Do you remember when you next met accused No. 1?---About the 3rd or 4th January of this year.

Where did you meet him?---In Umtata.

Yes did he want you to take him somewhere?---Yes he told me it was imperative for him to go to Durban to see Rowley Arenstein and asked me to take him.

Did you agree?---Yes.

20

Yes?---I arranged to take him - this was a Tuesday and I arranged to take him on the Friday of that week. He also asked me while we were going to Durban if I could

at that stage take his revolver in and have it repaired.

Yes?---On Friday No. 1 accused and myself, accompanied by my wife went out to No. 1's home.

Yes?---No. 1 accused asked if I would allow my wife to carry the revolver in her handbag in case we were searched on the road because he did not think her handbag would be searched and I agreed.

You then proceeded to Durban, you and No. 1 and your wife?---Yes.

When you arrived in Durban what did you do?---I contacted Captain Claasen and handed the revolver over to him. 10

Would you recognise this revolver?---I would I think.

Just have a look at this revolver?---It is similar.

The same nickel plate - Exhibit 6.

In the afternoon did you take No. 1 accused somewhere?---Yes I took him to Rowley Arenstein's office.

Did Arenstein ask you to do a favour for him?---Yes he asked me to bring back on my return trip the two copies of the latest Hansard.

Mr. Wilson objects.

Jennett, J.P.:

Was No. 1 present?---Yes he was.

Mr. Masters:

I won't lead any important inadmissible evidence.
You were asked to get the books from No. 1?---From No. 1
accused.

In the afternoon did you retrieve this revolver from
Captain Claassen?--Yes.

What did you do with it?---I showed it to No. 1
accused and told him that it was in working order.

And did you hand it over to him?---No he asked me to
hand it over to my wife again and asked her to accompany
us to Umtata. 10

When did you return from Durban to Umtata?---The
following morning, the Saturday morning.

What did you do with the revolver?---Yes in No. 1's
presence and my presence it was handed over, I think
he said to his sister-in-law.

On the way you had a motor accident?---Yes.

So did you go back to Durban?---Yes I returned to
Durban. I was inactive for a couple of days while the
car was repaired. 20

When was your next visit to Umtata?---About a week
later, towards the end of the following week.

What was the purpose for your visit?---I went through

to renew my permit with the Department of the Interior for 1966 to enter the Bantu areas.

Did you meet either of the accused?---I met No. 1 accused.

Was this by arrangement?---No it had not been arranged.

Where did you meet him, in Umtata?---No I went out to his house this time.

What happened?---He seemed to be very eager to talk. He told me that he and Chief Sabata had long discussions at the Great Place about killing Kaiser Matanzima and they had decided now that they were going to have it done. 10

Yes?---He put the following proposition to me: he said "Jimmy if you can get a white man to kill Kaiser Matanzima we will pay him a deposit of R40 and on completion of the assassination a balance of R160 making R200 in all". "In any case," he said, "let us go to Chief Sabata and discuss it further with him."

Yes?---He further told me that he and a certain friend of his by name of Nicodemus Nogcantsi, who is now No. 2 accused, had paid a certain witch-doctor a sum of money which I understood to be £33 to kill Chief Kaiser Matanzima, but he had failed. 20

Yes so you said No. 1 suggested you should go out

and see Sabata?---Yes.

What happened?---We duly arrived at Chief Sabata's home.

That is you and No. 1?---No. 1 and myself.

Yes?---We went into the lounge and had tea and Chief Sabata came into the room looking very much the worse for wear.

Who were present in the room?---No. 1 and Chief Sabata and myself.

Only three of you?---Yes.

10

No. 1 accused and Chief Sabata said to me "Well Jim if you cannot get somebody to do the job for us we will have to get somebody ourselves".

Yes?---He went on to say "We are not afraid of you because a friend of Rowley Arenstein won't harm us". I became alarmed because I could see he was serious and I told him I would get a man.

When would this have been do you remember approximately?---Towards the end of January. It could have been round about the 24th or 25th.

20

We are still in January?---We are still in January.

What happened after this meeting?---I dropped No. 1. We left Sabata's place, the Great Place, and I took No. 1

accused into Umtata and dropped him and arranged to meet him the following morning and he would take me to Mount Frere to meet his friend Nicodemus Nogcantsi.

Had you not up to this stage met Nicodemus Nogcantsi?

---No.

Do you identify him today?---No. 2 accused.

No. 1 was to take you out to meet No. 2 accused?---Yes.

Yes why? What was the purpose?---Well incidentally

I forgot to say that when Sabata told me if I get a man to kill Matanzima he said I should take him out to
accused No. 1. 10

Why was No. 1 accused taking you to No. 2?---He told me he wanted to discuss this with No. 2 and also that I should not bring the man to him but take him to No. 2
accused.

What happened then?---We went to Mount Frere and I was introduced to No. 2 accused as Nicodemus Nogcantsi.

What name were you introduced by?---Jim

Where did you go?---No. 2 accused got into the car and it was decided between the three of us that he
would be taken right back to Umtata with us so that we
could have a discussion. 20

Was that done?---Yes. On the way to Umtata No. 1

and No. 2 sat in the back seat having a conversation in Xhosa.

Yes?---When they finished No. 1 said to me "Jim it is as we have arranged, when you bring the man you must take him to Nick,"not Nicodemus.

What did No. 2 say?---No. 2 agreed.

Yes was anything said about a firearm?---No not at that stage. We went to Umtata where I dropped No. 1 and No. 2 accused at the house of Albert Raziya.

Yes?---I picked - I went back about an hour later, 10
picked up No. 2 accused and we went back to Mount Frere.

Yes?---On the way No. 2 asked me if it was possible for him to accompany me on a trip to Durban as he wished to see Rowley Arenstein very urgently. He also told me that he had a .45 revolver and a Martini Henri rifle which he would like to swop for two .38 revolvers and he asked me if I could do anything about it and I told him I would see what I could do.

Any other conversation?---He further told me that they themselves would have to be definite about killing 20
Matanzima because he and Nkosiyane had arranged and had paid a herb doctor a sum of money to kill Chief Kaiser Matanzima but he had failed.

Yes?---I dropped No. 2 accused at Mount Frere and returned to Durban where I immediately reported to Captain Claasen.

You have told us that No. 2 asked you to take him to Durban. Did you make any arrangements?---Yes I told him I would take him on the following Friday. I told him I would take him.

You said he also asked you to exchange these firearms. Did you make any arrangements?---Yes I told him I would see what I could do.

10

You have told the Court that you regarded the threat, or statement by Sabata as serious?---Yes this I took as serious.

And you told the Court you immediately proceeded to Durban and reported to Captain Claasen?---Yes.

What was done to your car?---On the 26th January this year a technical device was installed in my car to do recordings.

You will give evidence of various conversations recorded on a tape recorder?---Yes.

20

A few general questions in regard to these tapes, did you in all cases, or did you not remove the tapes yourself from the car?---I did.

And when you removed these tapes what did you do with them?---I handed them to Captain Claasen. Let me indicate if I had to use two tapes while in Umtata I had sealed boxes and the boxes I would take the first tape off and it would immediately be put back in the first box and break the seal in the second box and keep it until my return to Durban.

From the time the conversation was recorded until you handed these tapes over to Captain Claasen was there any possibility that anybody could have tampered with them?---None whatsoever. 10

And you yourself did you do anything else than just take the tape out and handed it over to Captain Claasen? ---No.

After you handed the tape over to Captain Claasen were they played over in your presence?---Yes.

Immediately or as soon as possible after you handed it over?---The position is as soon as I arrived in Durban I would phone Captain Claasen and he or I would play it and sat and listened to it. 20

Were you able to satisfy yourself that the conversations as you recalled them was what was on the tape?---Yes.

Were you able to identify the voices that you heard

on the tapes?---Yes.

Transcriptions have been made of all these recordings and have you read the transcriptions and satisfied yourself by listening to the recordings as far as you are concerned that they are substantially accurately transcribed?---Yes.

My lord I will get the recordings in a moment. The position at this stage is the Defence had an opportunity yesterday to listen to these tape recordings. I am not suggesting that any admission be made by the Defence 10 at this stage but what I do suggest is that I hand in at this stage the various transcriptions made of these various recordings and when Mr. Dunne has given his evidence-in-chief I suggest that the Court, together with the accused and Counsel listen to the recordings together with the transcriptions that are available.

Mr. Wilson: We have no objection to the course my learned friend has indicated.

Mr. Pitman: That is so.

Mr. Wilson: They are long recordings. 20

Jennett, J.P.: The position is you hand in the transcript and you continue with his evidence-in-chief and at the end of the evidence-in-chief all those concerned in this

will listen to the transcript?

Mr. Masters: Yes.

Mr. Pitman: May I say this? This does not indicate that we accept the correctness of the transcript.

Mr. Masters: I do not suggest that. There are numerous inaccuracies but I do not think they are important.

I think then at this stage as I lead this witness' evidence if he could merely refer to a conversation recorded as "A", "B" and "C".

Jennett, J.P.: Are they so marked?

10

Mr. Masters: Yes your lordship will see the index at the beginning the transcript has been numbered there and each Exhibit has a number appearing on the top.

Jennett, J.P.: Yes.

By Mr. Masters:

You have told us that on the 26th January of this year a tape recorder was installed in the motor-car you were using?---Yes.

When was your next contact with the accused?---On the 27th.

20

With who was this?---I went to Mount Frere and picked up No. 2 accused. No. 2 accused and myself then proceeded to Umtata where I picked up No. 1 accused.

Yes?---A conversation took place between the ~~three~~ of us and this was recorded.

Will you just glance at the transcript?---

Mr. Wilson: I object to him looking at the transcript. I want him to rely on his memory. He did not make the transcript.

Jennett, J.P.: If we are going to look at them?

Mr. Wilson: My learned friend can just get him to say what the conversation was about before he reads it.

By Mr. Masters:

10

Yes what was the conversation about, the general topic?---The assassination of Matanzima, the payment of the assassin, the amount which had been offered was unacceptable to the assassin.

I do not know if the Defence object me putting it to the witness to identify? My learned friends can always test the witness in cross-examination if necessary but at this stage I suggest we can merely get them identified. Will you just glance at Exhibit A?---Yes this is it.

20

I may mention too at this stage I think your lordship has a list of exhibits documentary and non-documentary?

Jennett, J.P.: I have not seen it.

Mr. Masters: If your lordship has the Exhibits Non-Documentary Exhibit 1, a tape recording, in that is Exhibit A and Exhibit B, certain conversations were recorded on various tapes. Exhibit 1 is the tape with the conversations A and B and so it goes on. And on the other List the Documentary List that also refers back.

Now I think you told us that on the previous occasion you had agreed to take No. 2 accused to Arenstein on the 28th January?---Yes.

You told us what happened on the 27th and what happened on the 28th?---On the afternoon of the 28th I accompanied him to the Office of Rowley Arenstein.

10

And when did you bring him back?---The following day, the Saturday.

What happened now?---On the way I asked him about his guns which he told me he had and I made a recording.

So this recording refers to the guns which No. 2 said he had?---Yes.

Well just look at Exhibit B is that what you are referring to?---Yes.

20

Now what happened after this do you remember?---On the 1st February of this year I was introduced to Warrant Officer B. Burger by Captain Claasen.

And you and Warrant Officer Burger were given certain instructions by Captain Claasen?---Yes.

What happened the next day, the 2nd February?---Yes on the 2nd I left Durban about 5 a.m. accompanied by Warrant Officer Burger and followed by Captain Claasen and Lt. Fouche in their car.

Where did you proceed to?---We proceeded to Mount Frere. I dropped Warrant Officer Burger at the New Carlton Hotel at Mount Frere.

About what time?---This could have been just between 9 and 10. 10

Burger got out you say at the New Carlton Hotel?---Yes.

Where did you go?---I went from there to the house of accused No. 2 and told him I had brought the assassin.

Yes and did you and No. 2 then proceed there?---Yes. We left No. 2 accused's house with No. 2 sitting in the front of the car with him next to me. We proceeded and returned to the Hotel and Warrant Officer Burger got into the car and sat in the back.

Did you introduce Burger?---I introduced Burger as Karl and No. 2 accused as Peter. 20

With the three of you in the car now where did you proceed to?---I turned the car and parked outside a

petrol station opposite the Hotel.

Had this been previously arranged?---Yes Captain Claasen and Lt. Fouche were also parked there.

Where was your car in relation to their car?---They were alongside me.

Did you fill up with petrol there?---Yes.

And then?---I then proceeded a short distance outside Mount Frere on a gravel road directed by No. 2 accused.

Yes?---A conversation took place between No. 2 accused and Warrant Officer Burger. 10

And yourself?---And myself. This was recorded.

What was the subject of this conversation?---The subject of this - Warrant Officer Burger asked No. 2 accused what he wanted done and he told him he wanted him to kill Matanzima and also his own revolver to do the job with.

By Jennett, J.P.:

Whose revolver?---No. 2's.

By Mr. Masters:

And?---And also the amount to be paid. It was to be R300 deposit and R300 at the completion. 20

Rand or pound? Look at Exhibit C, is that the con-

versation you have referred to?---Yes.

What happened after the conversation?---We returned to the main road where I dropped No. 2 accused near his house. Warrant Officer Burger and myself went back to the Hotel and had a cup of coffee.

Yes?---A short while later I picked up No. 2 accused. He was accompanied by a woman who he said was his wife and asked us to give him a lift into Umtata.

Yes?---We proceeded to Umtata and I dropped No. 2 accused at the edge of the New Location, in the main road, the road running down to the house of Albert Raziya.

10

Had you met Raziya before?---Yes.

You did not actually go into the house?---No I pulled up on the main road, he walked down from the main road.

You proceeded with his wife to Umtata?---I dropped his wife at the bus rank at Umtata and Warrant Officer Burger and myself proceeded to the Imperial Hotel at Umtata where we booked in in room No. 33 on the first floor.

Yes?---At approximately 1 p.m. I went down to the house of Albert Raziya.

20

Yes?---When I went in No. 2 accused told me that he had received a phone call from No. 1 accused asking if I

could go down and fetch him at the Great Place of Chief Sabata.. I agreed to this. We proceeded to the Great Place of Chief Sabata and on nearing the turn-off to Chief Sabata's place we were stopped by a car coming from the opposite direction. No. 1 accused got out and came over to my car. The other car then drove off. No.2 accused then related to No. 1 what had transpired that morning between him and Warrant Officer Burger. A recording was made of this conversation.

You say this recording relates to No. 2 explaining to 10 No. 1 the meeting with Warrant Officer Burger that morning?---Yes.

Any further points you perhaps remember about it?

---In general it was almost a repeat of what Warrant Officer Burger had said about No. 2 about the amount of money he wanted for a deposit and the full amount.

Any other names mentioned?---Yes something to this effect that No. 1 said well they had no money and No. 2 said "What about Chief Sabata? Is he then out of pocket?" and No. 1 said "yes". Then we spoke - it comes to me 20 now - they suggested different names and then the name of Majija.

Look at Exhibit D then, is that the conversation you

have referred to?---Yes.

Where was this recorded, at the turn-off to Chief Sabata's kraal?---Yes.

And then what happened after that?---We returned to Umtata and proceeded to the home of Lewis Majija in the Engcobo District.

Had you met Majija before?---No.

When you arrived there?---I was introduced to Majija as Jim by No. 1 accused.

I do not know if you have told us what the object of this visit was to Majija?---They were going to see how much money Majija could raise for them towards the deposit. 10

What happened at Majija's?---We were invited inside and sat talking in general and eventually No. 1 accused and Majija got up and they went and stood outside the kraal. They were in my line of vision all the time. Where I sat I could see them all the time.

Yes?---After a considerable time they came and called No. 2. 20

And you were left alone?---I was left alone and they eventually came back into the room and we had tea.

Yes?---And we left. As we were walking towards my car

at about 6.30 a.m. I picked up accused No. 1 at the Old Location.

Do you remember the date?---The 2nd or 3rd.

Yes you picked up No. 1?---He told me he would like to speak to the man who I had brought to kill Matanzima.

Yes?---I parked my car outside the Hotel underneath my window and went in to call Warrant Officer Burger. No. 1 accused at this time was sitting in the back of my car.

Yes how was he dressed?---He had a hat on and dark glasses. 10

Yes?---Warrant Officer Burger got into the front and sat next to me.

How was he introduced, what name?---Warrant Officer Burger said "My name is Karl" and No. 1 accused said "There is no need to mention names because I am a man of authority."

Yes?---"I have just come to ask for a bit of time until about 9 o'clock to raise the deposit. I am going to see a mutual friend of ours." 20

Is there anything else?---Yes everytime Warrant Officer Burger looked up at No. 1 he put his hand up to his face when he spoke.

Apparently there is no record of the conversation?

---A recording was made but when we took it up to the room to play we found the tape recorder had jammed.

Is this the gist of the conversation?---This is the gist of the conversation. I left out something.

He, No. 1 also mentioned to Burger that they were in earnest as they had tried various means. They had tried a witch-doctor and he had failed.

Is that the lot?---As far as I can remember.

I take it Burger got out of the car?---Warrant

10

Officer Burger got out of the car and I pulled off with No. 1 accused; we picked up No. 2 accused and proceeded to the house of D.D.P. Ndamase in Libode.

Had you met D.D.P. before?---No.

When you arrived at his house did you all get out, or who got out?---No. 2 got out and told us that No. 1 and I should wait in the car.

Yes?---He went in and stayed for about half an hour and eventually came out and asked me if I would go back to Umtata with No. 1 accused as he and Ndamase would come with Ndamase's own transport and they were going to see how much money they could raise.

20

Did you leave No. 2 then at the house of Ndamase

and you and No. 1 proceeded to Umtata?---Yes to Umtata.

Where did you stop at Umtata?---We stopped outside the Hotel. No. 1 accused then asked me if he could again speak to Warrant Officer Burger.

Yes?---I parked the car in the same place and called Warrant Officer Burger.

Where is the same place?---Outside the hotel.

Yes you went in and called Burger?---Yes.

Yes?---Warrant Officer Burger got into the car and a conversation took place. This was recorded. 10

What was this conversation about?---Also about giving them a bit more time and the raising of the money. More or less on the same theme as the previous one.

Will you look at Exhibit F? Is that the transcript of the conversation you recorded?---Yes.

Yes what happened after that?---I dropped No. 2 accused in Umtata and arranged to meet him and No. 1 outside the Lounge Tearoom later.

By Jennett, J.P.:

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I thought No. 2 and Ndamase was going to come in? My note says No. 1 asked to see Burger and the conversation was recorded and the gist of the conversation was given.

Was No. 2 there?---No.

Did Burger leave the car?---Burger left the car and I moved off with No. 1.

By Mr. Masters:

And then where did you go?---I dropped No. 1 in the main street of Umtata.

Did you make any arrangement?---I told him I would pick him and No. 2 accused up later that afternoon.

Yes and did you meet the accused that afternoon?---
Yes I met them later that afternoon and they asked me to 10
take them to the home of Albert Raziya.

Where is his home?---It is in the New Location, I cannot pronounce that name.

Is it close to Umtata?---I would say about 2 miles out of town.

And you had met Raziya before?---Yes.

What happened at Raziya's house?---Nos. 1 and 2
accused, Raziya and myself sat in the lounge. A dis-
cussion took place between Nos. 1 and 2 accused and
Raziya in Xhosa. I frequently heard the name of 20
Matanzima mentioned.

Yes?---After a while Raziya then spoke in English and said "Well you should not have let me know what

the money is for but now that I know I am prepared to give R12 towards it, but I will take Nogcantsi," that is No. 2, "out to see some people to raise some more money."

So No. 2 was going to go with Raziya?---Yes.

And what happened to you and No. 1?---I then returned to Umtata and dropped No. 1 and I went to my hotel.

Yes?---At approximately 6.30 p.m. that evening I went to the location and just at the entrance of the location I heard someone call me from a car. It turned out to be Raziya's car.

10

Who was in the car?---Raziya, his driver and No. 2 accused. Raziya and No. 2 accused got out of Raziya's car and they came over to my car. Raziya called out something to his driver and his driver went off. They entered my car and Raziya said to me "We have been able to raise another R38, making R50 in all but the R38 can only be collected tonight at 9 o'clock, so will you please take Nogcantsi to the location but I do not want you to go to the place where he is collecting the money. You can drop him somewhere in the location." At 9 p.m. I picked up No. 2 accused and we drove to the old location.

20

Yes?---We entered the location and No. 2 must have

forgotten Raziya's instructions because he told me to stop outside a shop. After a few moments he came out and got into the car and told me that the money had already been sent to Raziya's house. I drove him to Raziya's house. He went in and after a few moments came out and told me he had received cash from Raziya, that the shop had sent a cheque but Raziya had cashed the cheque.

Did you see this money at that stage?---Not at that stage.

10

Was that the last on that day?---No we then drove up into town and I stopped outside the Imperial Hotel under my window.

You and No. 2 accused?---Me and No. 2 accused.

What had you gone there for?---No. 2 wanted to pay the R50 over to Warrant Officer Burger.

And when you got to the Hotel did you park?---I parked my car under my bedroom window; I left No. 2 sitting in my car on the front seat, on the passenger side; I went upstairs and in my room were Captain Captain Claasen, Lt. Fouche and Warrant Officer Burger was present. I was searched by Captain Claasen and Warrant Officer Burger and myself left the room followed

20

by Lt. Fouche leaving Captain Claassen at the window of the bedroom which was just opposite the car.

Yes?---Warrant Officer Burger got into the back seat of my car. I got into the driver's seat.

So you and No. 2 were sitting in front?---Yes in front. No. 2 then paid over an amount of R50 to Warrant Officer Burger. A recording was made of this transaction about the handing over of the money.

Will you look at Exhibit G?---Yes.

How was the money made up, you saw it?---No I only 10
heard him counting it out.

You did not see it?---No.

Jennett, J.P.: This is a good stage. We will not resume until 11.15 a.m.

Court adjourns at 10.57 and resumes at 11.15 a.m.

JAMES DUNNE, still under oath:

Examination-in-chief by Mr. Masters continued.

We have got to the stage where you said that you heard the money being counted although you did not see the money itself. Will you carry on from that point?--- 20
I won't say I could not see the money. I saw notes being passed but I cannot say what dimensions they were.

Yes did that conclude the business in the car?---It

did not conclude the business. It was arranged that No. 2 accused would pay me another £150 the following Wednesday to send to Warrant Officer Burger.

I take it that is all on the tape?---Yes.

What happened after that?---Warrant Officer Burger got out of the car, went to his room and I took No. 2 to Albert Raziya's house. I dropped him and told him I would pick him up the following morning at 5.30.

Carry on the next morning?---The next morning just after 5 a.m. I left Umtata accompanied by Warrant Officer 10 Burger and followed by Captain Claassen and Lt. Fouche. I picked up No. 2 accused at Albert Raziya's house and we proceeded to Mount Frere. On the way to Mount Frere I asked No. 2 accused if we should at this stage pick up the gun which he had promised to Warrant Officer Burger and he said "yes". We rode through Mount Frere in the direction of Mount Ayliff for a distance of approximately 11 miles and then turned off at a side road, a gravel road, and proceeded for about 1½ miles. We were then told by No. 2 accused to stop the car. We 20 remained in the car and he got out.

Yes?---He disappeared and was away for a while and eventually came back to the car panting and out of breath

and got into the car.

Did he have something with him?---Yes he handed a .45 revolver and two bullets, one bullet with a mark on the firing pin, on the percussion cap to Warrant Officer Burger.

Could you identify those?---There were two revolvers.

Exhibits 7 and 8?---It looks very similar. I know it was a short barrel one Warrant Officer Burger had and the other he handed to me and it looked the same.

Look at the two bullets Exhibit 9?---The one has an indenture on the percussion cap and I would say they are similar to the two handed over. 10

Yes?---A recording was made of the handing over of the guns.

What was the subject then of this recording?---It was the matter of Warrant Officer Burger discussing the revolver telling him he would have a new percussion cap to the one and handing over the revolver to Warrant Officer Burger.

Look at the Exhibit H and tell us if that is the transcript of the recording?---Yes. 20

Was there any point about this recording you would like to make, or mention?---After No. 2 had handed the

revolvers to us he again left the car and was away for quite a long time. I would say easily 5 to 8 minutes and eventually he returned to the car carrying a cabbage.

How is this reflected on the tape?---A recording was made and at that stage when he got out of the car we were still talking. We were sitting with the door open and when I looked up again he had disappeared out of the car. I had the tape running and I did not switch it off.

What happened after this now, what happened?--- 10
Warrant Officer Burger and myself took No. 2 accused back to Mount Frere and then we proceeded to Durban.

What happened to the firearms?---The firearms and the tapes were handed over to Captain Claasen.

Where?---At my home in Durban.

When you left No. 2 accused had any arrangement been made about a subsequent meeting?---Yes that he would phone me and tell me when the money was ready, the balance of the deposit.

Yes?---The following morning I received a phone 20
call from the accused No. 2 telling me they would be ready for me on the Wednesday with the money.

What date would that be, what month?---It all took

place in February.

Yes?---The following Wednesday I proceeded to Mount Frere and picked up No. 2 accused at his house.

Now before this?---Oh I paid a visit to Rowley Arenstein's Office in Durban.

You collected something there?---And Rowley Arenstein handed me some books. In two of them his name was written in front. Some pamphlet from the Institute or Race Relations and also a document which he read out to me in his office and put into an envelope. 10

You say you got some books from Mr. Arenstein. Have a look at the books and tell the Court if these are the books or not?---May I open them?

Yes?---"South Africa Today" is one of them "1966". The other two had his name in.

Exhibit 16 "South Africa Today 1966". Yes?---"The State of South Africa Yearbook 1963".

Exhibit 14?---With Rowley Arenstein's name in. "South Africa in the Sixties", also with Arenstein's name on the second page. 20

Exhibit 15?---Yes.

You collected these books you say from Mr. Arenstein and then?---The following day I proceeded to Mount Frere

or a day or so after that. I picked up No. 2 accused at his house and he sat in the car and told me that he had a day or two before met the person who had recommended the witch-doctor to him who was to kill Chief Kaiser Matanzima.

Yes?---I was determined to find out who this herb doctor was and we arranged - he told me then at that stage that the name of the person who had introduced the herb doctor to him his name was Wanda - we then proceeded to the kraal of Wanda.

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What was the purpose of this?---No. 2 accused said that he wanted to find this herb doctor because he wanted to get his money back which he had paid him.

What was he going to do with the money?---He was going to put that towards the deposit.

You say you then went out with No. 2 to this man Wanda?---Yes.

Where does he live?---He lives about a quarter of a mile off the national road on the way to Mount Ayliff and about a quarter of a mile past the Cedarville turn-off in the Cedarville area.

20

Did you get to his kraal?---No about half-way to his kraal we saw a couple of Bantu males and a Bantu woman

approaching the car. No. 2 accused told me to stop as he said this was Wanda.

Yes?---We stopped the car and No. 2 accused called the man who turned out to be Wanda, introduced him to me and a recording was made.

What was the subject of this recording?---There was a lot of it in Xhosa between No. 2 accused and Wanda but at the end, after they had spoken in Xhosa he, No. 2 asked me "What time was it? " Wanda had to go elsewhere, what time would be suitable for me to pick him up and we arranged to pick Wanda up at 2 o'clock that day. 10

Look at Exhibit "I" is that the conversation you refer to?---Yes.

You say you arranged to pick up Wanda the same day? ---Yes.

Where did you proceed to after that?---From there we proceeded to Tabankulu. I was told by No. 2 to stop outside the Court in Tabankulu, the Magistrate's Court.

Yes?---No. 2 accused went into the Court building and a while later came out accompanied by an African. The two of them walked to my car. No. 2 accused opened the back door and the front door. He introduced me to 20

a person and said this is Mr. Diko. A conversation took place and this was recorded.

Just the main points of the conversation?---About raising the amount for the killing of Matanzima and he said Sabata should pay all the money and they would refund it to him.

Look at Exhibit "J", is that the conversation you have just referred to?---Yes.

Yes?---Diko then got out of the car and we drove off to pick up Wanda on the national road as arranged between Mount Frere and Mount Ayliff. We sat in the car waiting for Wanda to appear and I caught No. 2 accused off guard and I said "What is the name of the herb doctor you got to kill Matanzima?" and he said "His name was Doubt" and a recording was made of the conversation.

10

Is that the recording, Exhibit "K"?---Yes.

Wanda did not turn up?---Yes.

What did you do then?---We then proceeded to Umtata.

I will just have to go into a tiny bit of detail.

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We rode around looking for No. 1 and could not find him so I dropped No. 2 in Umtata to find No. 1, or to find out where he was. I rode up the road towards the

hospital and saw Lewis Majija and another African enter the hospital grounds.

Yes?---I stopped and greeted them and I went back into town and picked up No. 2 accused and told him I had seen Majija enter the hospital grounds. No. 2 then asked me to go up quickly to the hospital grounds to take him up quickly so that he could see Majija. I drove into the hospital grounds and saw Majija walking in the grounds. I parked my car and No. 2 accused got out and went to speak to Majija. After a while No. 2 10 accused returned to my car. I asked No. 2 what had transpired between him and Majija. A recording was taken.

What was his reply?---Well he said more or less that he had been to Sabata and he had not managed to phone No. 1 accused on the day at Nobantu Post Office when he should because the phone was out of order and he had gone to another shop and could not get through.

Will you look at Exhibit "L"?---Yes.

There is a little bit of background noise to the 20 recording?---It appeared I had parked outside a Children's Ward and you can hear the crying.

Do you remember the date of this recording?---No.

Now after this conversation?---No. 2 accused and myself went down into Umtata and met No. 1 accused outside the Bunga.

Yes?---No. 1 accused got into the car. The three of us drove off to a quiet spot. I handed over the books and pamphlets and the envelope from Rowley Arenstein to No. 1 accused.

Those are the books you have already referred to?
---Yes and a recording was made.

What was the discussion about?---The names of the 10 books were mentioned and there were terrific ejaculations from No. 1 when he saw Rowley Arenstein's name. He wanted to cut it out or rub it out.

Exhibit M is the conversation?---Yes.

After this conversation?---No. 1 accused asked me to take him down to his home as he wanted to hide the books and documents from Rowley Arenstein.

Was No. 2 accused still with you?---Yes, No. 2 went with us.

The three of you then proceeded to the home of No. 1 20 accused?---Yes.

What happened there?---He put the books into a hut there and told me he was hiding them.

And then did you depart?---I am not just very clear on the next.

Do you remember what happened the next day?---I am just trying to follow the sequence of events.

Take your time?---As far as I can remember I returned to Umtata, proceeded to Mount Frere, dropped No. 2 accused in Mount Frere and I returned to Durban. My lord I just want to think this over very carefully. I stayed over at Umtata that night and the next day met No. 1 and No. 2 accused and we proceeded to the house of Chief Sabata at the Great Place. 10

Yes?---We arrived at the Great Place and I parked my car under some trees and Nos. 1 and 2 went into the Great Place. They were in for quite a while and eventually they came out and we drove off and I parked in a quiet spot and asked them what transpired and a recording was made of the conversation.

What was said then?---That Sabata had said we should go and see D.D.P. Ndamase again and the raising of the money, that Sabata said that by Saturday he would have some funds ready as well and he also said Sabata phoned D.D.P. Ndamase while they were present and he also tried to phone Dr. Bala but the phone was engaged. 20

Is this the conversation which took place, Exhibit N?---Tes.

And after that had been recorded?---We drove off to Umtata and I was asked by the accused to take them to D.D.P. Ndamase.

You and No. 1 and No. 2 then went to D.D.P.'s?---Yes.

Where is his house?---In the Libode district.

And then?---We arrived at the home of D.D.P. and the three of us went into the house. We sat in the lounge and No. 1 and No. 2 accused and D.D.P. Ndamase spoke in Xhosa. Eventually the two accused and D.D.P. went into his office, a door opposite to the lounge where we were sitting. After a while D.D.P. Ndamase came to the door of the lounge and called me and told me to come into the office. I went into the office and he asked No. 1 and No. 2 accused

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What was said by D.D.P. is not permissible. But did he phone or what happened?---Must I not repeat what he said to me?

By Jennett, J.P.:

Wasn't it said in the presence of the accused?---He asked No. 1 and No. 2 to leave the room.

Then you must not repeat.

By Mr. Masters:

He made a phone call?---Yes Umtata 657. He asked me to leave the room while he made the phone call.

Did you receive something from Ndamase?---Yes we went back to the lounge and Ndamase handed me an automatic type revolver and asked me if I could have it exchanged for a bigger one, for a .38.

Will you look at Exhibit 10?---The bag is marked D.P.

That was the bag in which the revolver was before handed to you?---Yes similar. 10

And the revolver is similar too?---It was a Brownie type.

Exhibit 10, that was handed over to you for what purpose?---To exchange for a bigger one.

Why did you end your visit to Ndamase?---Yes I then returned to Umtata accompanied by Nos. 1 and 2 accused with the revolver in my possession. I dropped No. 1 accused off in Umtata and I took No. 2 to the place which he directed me to. I parked outside. It turned out to be the Star Sweet Factory, Hansard Buildings. 20

Did No. 2 get out?---No. 2 got out. Captain Claasen was parked a few yards behind me.

Yes?---No. 2 eventually returned to the car and handed me a cheque for R20. A recording was made of the handing over of the cheque.

Let us just deal with the handing over of the cheque?

---From the cheque I read out the name "Star Sweet Factory" and I read out the amount and I said I thought the cheque was alright.

Is that Exhibit M?---Yes.

Will you identify the cheque Exhibit R?----I would say it is the same cheque. 10

I am not clear why the cheque was handed over to you. What was the purpose?---That was to pay to Warrant Officer Burger towards the deposit.

Now after you received the cheque?---I proceeded to Mount Frere.

That is with No. 2?---With No. 2 - accompanied by No. 2 and his wife and his little child.

Yes?---I dropped them, No. 2 accused and his wife and child in Mount Frere. I proceeded to Kokstad where I met Captain Claasen and I handed over the cheque and 20 revolver to him.

Did you meet the accused again?---It was the last time. It was on a Saturday but I do not remember the

date. It would be roundabout the middle of February I picked up the accused in Mount Frere.

That is No. 2?---No. 2 accused in Mount Frere.

Yes?---He asked me if I would take him to Wanda as he wanted Wanda to take him to this herb doctor, as he called him "Redoubt" in the Elliotdale District so that he could get back the money he paid to Redoubt. We then proceeded, No. 2 accused, Wanda and myself then proceeded to Elliotdale District and we duly arrived at the home of the herb doctor Redoubt only to find that he was not there. 10

And you turned back to Umtata?---We returned - we turned back to Umtata. I dropped Wanda in Umtata and told him I would pick him up the following day. No. 2 accused asked me to take him to No. 1 accused to tell him what had transpired.

Yes?---We met No. 1 accused and No. 1 and No. 2 then asked me if I would take them the following morning to Butterworth to see Dr. Bala. The following morning the two accused and myself proceeded to Butterworth. 20 They directed me to the home of Dr. Bala. I dropped the two of them at Dr. Bala's home and I went into Butterworth to have some lunch. I returned to Dr. Bala's home, I

parked outside and Dr. Bala came out and invited me in for a cool drink, after which we said goodbye and left Dr. Bala's house. I asked Nos. 1 and 2 accused what had transpired at Dr. Bala's house and a recording was made of this.

What was that discussion?---No. 2 accused told me Dr. Bala had given him only R4 and that he promised him a substantial amount at the end of the month.

Did he mention the amount?---No.

Look at Exhibit P is that the one?---Yes.

10

What next?---We then proceeded to Umtata and just outside Umtata I stopped the car under some trees and I had a long conversation with No. 1 and No. 2 accused. A recording was made of this conversation.

What was the conversation about?---I asked them if they realized what they were doing. What they were going to get if they killed Chief Kaiser Matanzima and I also told them they should not kill Matanzima and I got the reply - Jackson insisted that Chief Matanzima had to be killed and that Chief Hlatikulu should be put in Sabata's place.

20

Look at Exhibit "Q" is that the conversation?---Yes.

That is the last recording?---That was the last recording.

After making that record?---I dropped No. 1 accused in Umtata and No. 2 accused and myself then proceeded to Mount Frere. No. 2 accused told me that he had some more weapons which he wanted to swop for .38 revolvers and said he could give them to me.

And did he?---Yes, he handed them over, the .38 Military revolver.

Look at Exhibit 11?---It was stamped with the "Military" mark. Yes this is it.

And the rifle, Exhibit 12?---Yes this looks like it. 10

On the 21st February did you accompany Captain Claasen to the home of No. 1 accused?---Yes I did.

Were you present when Captain Claasen searched the hut of No. 1 accused?---I was.

And did Captain Claasen show you Exhibit 6?---The .38 automatic?

The one you had previously had repaired?---Yes.

And you came out with the books, the Exhibits you have already referred to as the ones you received from Arenstein?---Yes.

20

Exhibits 14, 15 and 16?---Yes.

Just one point. I wonder if you can recollect the first revolver you received from No. 1 accused. I think

you told the Court you handed it to Captain Claasen in Durban?---Yes.

The second revolvers you received do you remember whether you handed those over to Captain Claasen, Nos. 7, 8 and 9 the bullets. You did tell the Court that you handed them over to Captain Claasen in Durban, is that still your recollection?---When I say I handed them over I should say that we, Warrant Officer Burger being the receiving man he actually had the revolver.

I am interested in the place. Did you always hand 10 them over in Durban, or in some other spot?---If I may just once again think.

Jennett, J.P.:

Yes?---I would like to correct that. It has come back. There are so many revolvers and rifles. These two were handed over at the Motel in Kokstad but not the tape recorder.

Mr. Masters: That is the evidence-in-chief. Might the Court adjourn until 2 o'clock.

Jennett, J.P.: Yes you will inform us where you have 20 arranged the hearing of the tape recordings and we will adjourn until 2 o'clock.

Court adjourns at 12 noon.

At 2 p.m. The Court, Counsel, Accused and Officials of the Court meet in The Hon. Mr. Justice O'Hagan's Chambers to listen to the play-back of the tape recordings referred to in the evidence of the witness Dunne. Captain Claasen operates the tape recorder and plays the tapes in the following order: A, B, C, D, E, F, G, H, I, J, K, L, M, N, O, P, Q, each of the Members of the Court as well as Counsel and the 2 accused having been provided with a copy of the transcript of the tapes.

Court adjourns at 3.55 p.m.

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On 7th June, 1966, Court resumes at 9.30 a.m.

Mr. Wilson: My Lord a great deal of evidence was led yesterday and it is essential for the Defence to get detailed instructions and I would require an adjournment until tomorrow morning to enable my learned friend and myself to take detailed instructions on that evidence.

Mr. van Rensburg: The State has no objection.

Jennett, J.P.: You both understand English. Your

Counsel has applied for an adjournment until tomorrow

20

morning so that they can consult you. The State has no objection and I adjourn the case formally until 9 o'clock tomorrow morning

Mr. van Rensburg: At this stage the State applies that no Photographs be taken of the witness Dunne.

Defence Counsel: No objection.

Jennett, J.: Yes it will be ordered accordingly.

On 8th June, 1966 Court resumes at 9,30 a.m.

JAMES DUNNE, still under oath:

Cross-examination by Mr. Wilson:

Mr. Dunne you have told us you are known as Secret Agent RO20?---That is correct.

For how long have you been so known?---1961.

10

You have been working as a Police Agent on contract for five years?---Correct.

What were you before this?---I was farming in the North-Western Cape.

On what basis do you get paid?---I am afraid

Mr. Masters is not objecting?---I am paid

Mr. Masters: I might explain he is bound by the Official Secrets Act and I have indicated to him I will object if necessary?---I am paid a fixed monthly salary.

By Mr. Wilson:

20

For how long is your contract?---My contract now is just about to expire.

Was it a five-year contract or on a monthly basis?---

No.

And you were sent down to the Transkei by the Police is that correct?---That is correct.

And apparently from your evidence your instructions were to make contact with people down there?---I received instructions from Captain Claasen.

And you were supplied with a van for that purpose?---Correct.

Is it correct when you got down there you got yourself introduced to people as a business man; that you were going to start a crayfish business in the Transkei?---Yes. 10

And a tanning business?---Yes.

Both these businesses were to be situated in the Transkei?---Yes.

And you told people you were opposed to the Border Industries; that to do the Transkei any good they had to have the industries in the Transkei?---Yes.

And did you later tell them you had been refused the permit to start your industries?---Yes. 20

Did you tell them that the Nationalist Government was hindering you in your plans?---I did.

And that you had sunk all your money in the

crayfish business in the refrigeration truck?---Correct.

And did you also tell them that Kaiser Matanzima was following similar policies, the Chief Minister of the Transkei was following similar policies to that of the Nationalist Government?---It is quite possible that I did.

And that these policies were not in your interest as a man who wanted to start businesses there and help the people of the Transkei?---That is correct.

You represented yourself to be a thoroughly disgruntled man didn't you?---I did. 10

And you sought to find the people who were disgruntled with the policies of the present Government?---I sought to find the people I was instructed to find.

In talking to people did you repeatedly make out you were disgruntled with the policies of the Government?---Not to all people.

To a great many?---Yes to a great many.

And did you encourage those people to talk and tell you what they thought?---I did. 20

It was part of your job to find out that sort of thing? I do not want to go into details?---It was.

You were there purely to make people talk to find out

what was going on?---I was there to find out what was going on.

And you would find that out by getting people to talk to you?---That is so.

And is it correct to say that in almost all of your J-
dealings with people in the Transkei you made yourself
out to be a sympathetic politically associated person -
associated is perhaps the wrong word, to have similar
political views?---As I stated previously, most of them,
not all. 10

And you sought to ingratiate yourself to these people?
---I did.

And you invariably agreed with their views?---I did.

As soon as those views were expressed, when they
expressed views - as far st as they expressed views you
fell in with the views and agreed?---Yes.

And you wanted them to think the whole time that
you were on their side?---That is correct.

I would like to go into more specific matters. You told us you went down to the Transkei firstly about April, 20 1965?---Yes.

And you made enquiries about the crayfish business. You also said you visited Paramount Chief Sabata at the

end of April?---On the 30th April.

What day was that?---I have a faint recollection it could have been a Sunday, I am not sure.

Where did you visit him on that day?---At the Great Place in the Elliotdale district.

Had you seen him before or had you not seen or met him before?---No I had not met him before.

Did you have any difficulty in seeing him on that Sunday?---I had no difficulty whatsoever.

Was he willing to see you straightaway in his Great Place?---He received me. 10

How often do you say you saw him between April and July?---About five times.

Where?---At the Great Place and in Umtata.

Who did you see with him in his company?---On which occasions?

On any occasion?---I saw the accused.

Before you met the accused between April and July? ---I saw him on his own. He was on his own.

Did you never meet anyone else with him?---No not at the Great Place. 20

And in Umtata?---I met him with the accused, in company of accused No. 1.

When was that?---That was the time when he made the proposition to me.

Before you met the accused you told us you met Paramount Chief Sabata first, you met him at his Great Place and in Umtata between April and July?---I did not say I met him in Umtata before I met the accused. You did not ask me whether I had met the accused at that time.

Before you met the accused how often had you met Chief Sabata?---About four times at the Great Place. 10

On what dates?---I do not know, it was on my trips.

You only met him at the Great Place?---Yes.

You cannot say what days?---No.

You said four times?---Three or four times.

Who did you meet in his company?---I said a few minutes ago I met no one.

You said the Paramount Chief was alone?---There were women and Councillors outside but nobody inside.

You saw the Paramount Chief entirely on his own?---
Yes. 20

And on each occasion at the Great Place?---Yes.

You cannot say at all on what day?---I cannot say.

You know Paramount Chief Sabata is a Member of

Parliament?---Yes.

You know the Parliament was in Session at Umtata?---

Yes.

And you never saw him there?---No.

Wouldn't that have been a more convenient place?---

No he told me I could see him during weekends or in the evenings at Umtata, he would go home at the weekends but he would stay at Umtata during the week.

You had not mentioned that it was always weekends when you saw him when I asked you before?---It must have been on Saturday or Sunday but I am not sure.

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Who else did you meet before you met the accused in the Transkei? What other prominent people?---I went to see Mr. Guzana, the chief Opposition Whip.

And who else?---And Chief Poto. That was after I met him.

Before?---Mr. Guzana.

That is all?---As far as I can recollect only Mr. Guzana.

In your three months of visits to the Transkei the only prominent people you saw was Paramount Chief Sabata and Guzana?---Yes because I was at the coast.

20

Did you tell the accused you had been given his name

as an important person who would introduce you to others?

---Accused No. 1?

Yes?---In my evidence previously I told you he spoke to me on the phone and made an appointment.

Hadn't you met him?---I did not know him. I had not met him.

You did not know him?---I did not know him.

Did you know of him?---Yes I knew of him.

Why?---I cannot disclose that. I am bound by the Secrets Act. 10

Why not?---I cannot. I have been given instructions.

May I remind you of your evidence on Monday that you told us then. Didn't you tell us Sabata mentioned him to you?---I never mentioned that in my evidence.

Didn't Sabata mention him to you?---No.

Didn't you hear about him from Sabata?---No.

Never?---No.

Didn't you hear from others that he was Sabata's Chief Secretary?---No.

Didn't you enquire from other people?---No I took 20 my time to meet the different people I wanted to meet.

Three months?---Yes.

Did you ever phone Sabata's place and ask to speak

to the accused?---I did.

Before you met No. 1?---I phoned the Great Place
once.

And said you wanted to talk to No. 1?---No I did
not know of No. 1 accused before I met him. I knew of
him but I did not know him.

You knew of him?---I knew of him but I did not know
him.

You knew of him, Did you ever phone and try and
make contact?---I did not try. I did not know he was 10
at the Great Place. I would have met him in good time.
I have my own ways and means.

It was pure luck you met him at Chief Sabata's?---
Yes it was pure luck.

It was very fortunate for you?---It saved me a bit
of time may be.

And you then said he said any discussion with Sabata
should be with him first?---Correct.

Did you know he acted as Sabata's secretary in the
wide sense of the word?---No I did not. 20

Did you not know some people referred to him as
Sabata's right-hand man?---Not as his secretary but that
he had great influence.

Not as a shorthand typist secretary but as a personal secretary, you did not hear?---No.

You were on good terms with Sabata by now?---I was. He was calling me Jim.

You say that you then met the accused outside the Bunga in Umtata?---Yes.

And you told him about your plans for the Transkei? ---I did.

And you made them sound very pleasant to the people of the Transkei?---I did. 10

You said there would be employment for many?---That is correct.

And you at one stage offered accused No. 1 a job as manager?---I offered him a percentage of the crayfish.

Didn't you offer him a job as manager of the Tannery? ---Later I offered him.

He said he thought it was a good plan for the Transkei?---Yes.

And he said to you that because he was opposed to Matanzima he was a communist?---Correct. 20

And didn't he say how unfair it was. He was given the label of communist because he was opposed to Matanzima?---Yes more or less in those terms. He was a

communist because he was opposing Matanzima.

And he then said the Nationalist Party would oppress us. Didn't he tie that up with Matanzima's policies? --- He said the communists.

I ask you to answer my question. He said the Nationalist Party were oppressors and did he tie that up with the policy of Matanzima?---This was not tied in with the policy of Matanzima. He went on with a different statement to say the communists said we have come to liberate us and the Nationalist slogan is separate development therefore oppression and we are tired of oppression, we want liberty. 10

Did he tie the Nationalist Policy up with Matanzima?

---No I cannot say he tied it in.

Isn't that how he explained how he came to be called a communist?---No he said he was called a communist because he was opposed to Chief Matanzima.

And he spoke about the Nationalist Party?---Correct, not about the Communist Party.

What did the Nationalist Party have to do with that? 20

---He told me they were oppressors.

In the Transkei it was a different party. Were you talking about the parties in the Transkei when talking

about the Nationalist Party?---As far as I am concerned Chief Matanzima was taking instructions from the Nationalist Government.

That is what I wanted, thank you Mr. Dunne. You then alleged that you spoke on the next day to Chief Sabata and accused No. 1, is that correct?---The next day?

After this conversation we have just been dealing with?---No not the next day.

You tried to speak to Sabata on a subsequent day. 10
You spoke to both. You said Sabata said "We have discussed you a lot. We are glad to have a man like you on our side". Is that because of what you had said?
---Quite possibly.

That was the picture you tried to paint, as a man who was with them all the way?---Correct.

And he said "The time for positive action has come and George Matanzima must be eliminated", and your immediate reaction was you expressed surprise but promised your support?---Yes. 20

Once again you painted a picture of you are all there?
---Right through.

To show yourself in complete sympathy at all times?---

Yes.

To agree to all their suggestions so that they
would continue to confide in you?---I did.

You did it readily and freely?---Yes.

And you did that in a manner to lead them to believe
you were with them to the hilt?---Yes.

This is what you went there for and did so?---To
the best of my ability.

And each time they made suggestions you fell in
with them?---I did.

You did not take these suggestions seriously?---
No not at the first.

And you mentioned it to accused No. 1 at a later
stage and he said he agreed with you there was no merit
in it?---In killing George Matanzima.

You then said at some stage accused No. 1 mentioned
to you some idea of levying the Tembu Tribe?---That is
correct.

But that never materialized?---As far as I know
it never did.

It was a vague suggestion that is all?---He told
me it had been decided by him and Chief Sabata.

From your discussions with them later on it was

This number was inadvertently omitted.

quite clear the Tembu Tribe was never levied?---No.

You say he mentioned to you, that is accused No. 1, "Jim my Tribe will pay a large amount of money to anybody who will kill Chief Matanzima outside the Republic?"--- No he said "My people would pay a large sum of money to the man who would kill Chief Matanzima while in the Republic". I did not say outside.

He mentioned a large sum?---I did not ask him how much.

It was a very vague and loose discussion. You in fact did not take it seriously?---I do not know really what my feelings were then. I cannot really say how I accepted that statement. 10

At that stage you were on very friendly terms?---Yes he called me Jim and I called him Jack.

He was travelling all over the Transkei with you? ---Yes.

You were going to meet chiefs and headmen and he was introducing you to people for your crayfish business and you ate together, you supplied picnic lunches?--- I gave him food out of my hamper which I brought on the road. 20

And you used to talk to him about your business and

other things?---There were many discussions.

And it was in the course of these discussions that he mentioned this?---No this was on the way back from Elliotdale when the discussion came up about the killing. The first thing he said was "There was something large to be brought up". He said Chief Matanzima had tried to have him murdered a year previous to that. If he had succeeded his brothers would have killed him and then he said "We will pay a large sum of money to the person who murdered Chief Matanzima while outside the Transkei." 10

Murder or kill?---Kill Matanzima.

Did you say he said he reported it?---He told me at a later date.

That he had the trouble and he had gone to the Police about it?---He did mention it at a later stage.

So this came out as part of the story of how people had tried to kill him?---Yes Matanzima had tried to kill him, not people.

Did you use to take a gun with you into the Transkei on each one of the trips?---A .38.

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Did it have straps on?---A shoulder strap.

Did you lend it to the accused?---I was determined to get his revolver and I took the magazine out and left

it at his place as a sign of good faith and took his.

You left him yours?---I did not leave it with him.

You left it with his kraal?---Yes.

A lot of people down there seemed to have firearms?

---It certainly seemed so after the amount I found.

You got his gun repaired for him and gave it back to him?---I did.

When you brought it back you did not hand it to him, you handed it to this woman in his kraal?---I did not but my wife did.

10

They regarded you as a thoroughly respectable and responsible person?---I think so.

It was never suggested to you that you should kill Matanzima?---No.

The very idea, I say, made you smile. That was so that you were never regarded by them in that light?---I do not know whether they regarded me in that light as one who would kill Chief Matanzima.

You did not take that as probable?---No.

And now you have told us about this technical device you installed in your motor-car?---Yes.

Am I correct in saying, my learned friend may object to details, it was so small you could operate it without

drawing any people's attention to the fact?---

Mr. Masters: I do not object.

By Mr. Wilson:

It could be operated?---Attention had to be distracted before I could operate it.

The whole purpose of the device was that it would not be noticed by the people you took?---It could be noticed but people were not watching.

At that stage you were so trusted that no people watched you?---I have learned not to trust many people. 10

You may have but other people seemed to have trusted you?---Yes.

They have not got your wide experience?---I do not know how far they trusted me.

Did you think they doubted you?---There is always that in the life of an Agent. There is that after all the ages.

Didn't it appear to you?---I have been told that before in my career that I was **not** trusted, that they were ready to kill me. 20

Remarks made by the accused to you like "I am telling you this in confidence" and "I do not want it to go further" and you said "yes it is alright it is staying

in the car" and all the time you were taking it down?---

Yes.

They have been put in. You heard these various tape recordings. I want to ask you one or two questions. You listened to them the other afternoon. It is quite clear is it not that on the occasion when you went to fetch accused No. 1 from Sabata's Great Place, the date was the 2nd February, and you met him and he got out, you said at the turn-off accused No. 1 got out of another car and came up to meet you at your car, do you recollect that occasion?---I do. 10

Do you remember accused No. 1 saying on that occasion "Now the thing is I have no hope at present" - this is about getting money?---Yes I do.

Page 11 line 49 of the transcript and this over the page he repeated the same sentiment "No hope whatsoever, my Paramount Chief is also bankrupt"?---Yes.

And it is quite clear accused No. 1 at that stage saw no hope whatsoever of raising any money? That is what he was telling you, as far as he was concerned he could not see where the money was coming from?---I accepted that, that he had a little bit of the African way of thinking and of speaking. I am open to correction. 20

But I took it to mean he had no hope at present while we were there from Chief Sabata's kraal that he was not able to raise any money from Chief Sabata.

Other suggestions were not forthcoming from him?

---Other suggestions such as?

Accused No. 1 did not suggest - he said his attitude was "We have no hope"?---As far as I can remember No. 2 made certain suggestions.

And in their discussions in the car with Burger alias Karl there again they did not get the money for him? They did not get the deposit. The idea was that they would contact you if they get the money?---Yes. 10

And you made it clear that Burger's expenses were R50 a time. His travelling expenses were R50 a time?--- Yes I did.

And that is the amount they gave Burger, R50?--- Yes.

And there was some mention was there not if Burger did not get this R50 he would start hitch-hiking?---No I think I can almost repeat, Burger said he would not stay in the hotel anymore because people would or were watching him and he said he would get out and go to the Station. 20

And he would get out of the road?---He was giving them the impression that people were watching him. He did not want to be seen about Umtata much.

And he was in such a position he would have to hitch-hike because your car was damaged?---No we were sitting in my car when this conversation took place.

Weren't your exhaust pipe the worse for wear?---No.

You had trouble?---With the previous car.

You came down with this car in January?---Yes.

Burger was giving the impression there that he would have to start hitch-hiking?---I do not know what you mean, in other words if he did not get paid. I would please like to enlarge. I think Counsel is trying to say if they did not pay then he had no money to go back and then he would start hitch-hiking and go back. What Burger meant is "I cannot stay in the Hotel any longer. People are getting suspicious. They are looking at me. I must get out of the town", and I said "Go to the Station" and he said "then I will have to start hitch-hiking". It stands to reason he would go back with me in my car. 10 20

He could have gone back with you in your car. Do you recollect Burger saying "I had expenses coming down.

If you could give me some money"?---Yes he did.

And you made it clear Burger was going back in your car. You said he could go back but you did not give that impression to the accused?---I do not recall anything like that.

Burger said "Then I'll have to take the road and start walking" and you said "No, Christ, people will pick you up, then you'll be known". You did not say "I will take you in my car", do you remember that?---I remember it very well.

10

And he had been told then they did not have the money and he was trying to give the impression that they must do something about it?---Burger himself must tell you what impression he tried to give. I cannot in honesty say - a policeman and an agent. I knew what was transpiring. I was not concerned with any impression.

I suggest Burger was going to hitch-hike. He was trying to bring urgency into the transaction wasn't he?---Before I told him he said he could not stay in the Hotel room. He said "We will have to go back and I will have to wait in the Hotel room" and I said "No after twelve it is a full day." We will have to pay for another day and he then said "I will go to the

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Station or hitch-hike."

Why did he say that?---I do not know, Warrant Officer Burger will have to give that reason.

He was trying to play a part. He did not have to hitch-hike?---That is the thing, he was trying to play a part.

You heard the conversation?---I heard the conversation. I cannot say what was going on in another man's mind.

What impression did you get?---I did not get any impression. 10

You were performing a duty too, you were listening carefully. You were picking up your queue?---I was not impressed. He did not have to impress me.

Weren't you following the same line and continuing the same impression as him?---Not as far as him having to leave at 12 o'clock or hitch-hike, or going to the Railway Station. That is what he said.

And you came in and continued, you said "No, Christ, people will pick you up, then you'll be known". You brought in a question of urgency and secrecy weren't you? 20
---I must say again that the impression there caused I was not interested.

Are you asking the Court to believe in the meeting with you and the two accused you created no impression, Burger was creating?---No I do not ask the Court to believe the evidence of having to hitch-hike and the rest. It did not impress me. I can tell a lie and say it did impress me but I must say quite plainly it did not impress me talking about leaving the Hotel.

Before that wasn't it the same thing, Burger said you must give me something?---I do not think it was before that.

10

After that?---Quite possibly yes, I think it was.

Burger saying he must get something?---Yes.

Pressing them to do something?---Yes.

And Burger was brought down by you after Captain Claasen had introduced you?---He came with me yes.

And you knew he was down there on duty to assist you in this investigation?---Yes.

That he was down to corroborate your evidence?---
Yes.

To play the part of a hired gunman from Johannes-
burg?---That is correct.

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And that is also a gunman who was ready and willing to perform the task they wanted?---That is correct.

And that is the impression he gave to them throughout, the same as you, that is the impression he gave to them throughout that he was a gunman down from Johannesburg willing and ready to do their business?---Yes.

That he was ready to do it all the time?---As a gunman yes.

Playing his part he gave that impression, he fell in with their suggestions and agreed with them?---He did not fall in with all their suggestions. He did not fall in with the suggestion that he should stay longer. 10

But with the suggestion regarding the killing of Matanzima?---Yes he was there to do the job.

He gave that impression?---That is correct.

And you said - you made this statement there were hundreds of hours of conversation between you and the accused on ~~topics~~ almost about everything under the sun? ---Yes that is correct.

You went down and gave the accused a Christmas present didn't you?---I did, No. 1 accused.

I must make it clear I represent No. 1 accused and 20 you brought messages down from Mr. Arenstein?---Correct.

You had visited him in the guise of a client. You introduced yourself to him as a prospective client?---I did.

And you took other people to him as clients, or another person?---I arranged it so. I knew of a person who wanted to go to Arenstein for advice and he asked me if I knew an attorney and I took him.

And you told him he was an acquaintance?---That was the first time I met Arenstein.

That was the means you used as an introduction?---Whose friend?

The person you took along?---No the person, who is right out of it, he has a business in Natal.

10

I do not want to involve him but you took a man to Arenstein who had a genuine legal problem?---Correct.

And you showed yourself as a friend of the man and the relationship was an attorney and client relationship?---Yes.

And you met Arenstein very casually didn't you?---I do not know what you mean by casually.

Once or twice?---I had not met him up till then.

After that didn't you meet him about 5 or 6 times in his office?---Yes in his office and I received correspondence from him too.

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One or two other points. You mentioned in evidence some visit to Dr. Bala and you said no amount was mentioned.

You said that on Monday?---Will you repeat please?

You mentioned on Monday a visit to a Dr. Bala who you said gave R4 and mentioned a substantial amount at the end of the month. No amount was mentioned?---From the tape recorder?

No that was your evidence?---I do not think I gave that in evidence-in-chief. I was put points from the transcription.

Yes you said Dr. Bala gave R4 and mentioned a substantial amount at the end of the month?---I did not 10 mention that in my evidence-in-chief.

I could be wrong - Exhibit "Q".

By Jennett, J.P.:

Yes in your -evidence-in-chief you said "I asked them what had transpired and No. 2 said that only R4 had been paid and he promised a substantial amount at the end of the month. No amount was mentioned. We then proceeded to Umtata. We stopped just outside and had a long conversation"?---I am sorry.

By Mr. Wilson:

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In the Transcript Exhibit "P" there is an amount of R90-00?---No that had nothing to do with it. That was another person.

If we could go back to certain points. Do you know that it is the custom of the chiefs, particularly the Paramount Chiefs, that when a stranger visits their kraal they must be introduced by somebody close to the Paramount Chief?---I do not know that and I had no trouble in meeting Chief Sabata.

You say you were not screened in any way?---No I was not.

And that nobody spoke to you or asked you your business before you saw the Paramount Chief?---No. 10

And you cannot identify anybody else who was there at the same time as you?---No.

Did you use this number X030?---Yes it is a public call box which I used.

Did you often use it?---Yes.

In phoning No. 1?---Yes.

The motor-cars - one or two points about them - the Vauxhall, that was an N.D. Car registration?---Yes.

And that you used until about January?---Yes.

And did you then change to a blue Valiant?---Yes. 20

Was that a T.J. Registration?---Yes.

And was that the one which had a certain device in?

---As long as I am allowed to say which car?

Mr. Masters: I have no objection.

Witness: Yes that is the one.

By Mr. Wilson:

On the 27th January you would have been driving the blue Valiant?---Yes I got the Valiant about the 23rd or 24th January.

You got the Valiant before anything was done to it?

---Yes.

Did the exhaust pipe of the Valiant break and was thrown away at any stage?---No it was the Vauxhall. 10

No further questions.

Cross-examination by Mr. Pitman:

Just going back to the beginning again, when you first met Chief Sabata, you say you visited him at the end of April?---On the 30th April yes.

And did you phone him first?---No I did not.

Did you just drive to the Great Place?---I took a chance yes.

Who received you?---Chief Sabata.

What did you talk about on that occasion?---I 20
discussed the crayfish business with him. I asked him for his support. I told him that I had a permit to enter the different Bantu areas. He in turn promised

me support and told me he was glad I had come to him and not gone to Chief Matanzima as Matanzima was a stooge of the Nationalist Party.

Did he elaborate on anything on that occasion?---Just touching on the Bantustans and touching on the political position in the Transkei and I told him I was in sympathy with him.

Now did you meet anybody else on that occasion at that house?---No he was on his own. There was another person who accompanied me but he has nothing to do with 10 it whatsoever. He was on his own and I was on my own. Just somebody I took with me to help me drive the truck.

A European?---A European.

Was Sabata pleased with you that you had come? Did he appear to be pleased?---Yes very pleased.

Did he ask you to go in?---Yes and he asked me if I had something to drink for his councillors in the car as well.

Did he ask you to come again?---Yes.

On the first occasion was he sober?---Yes. He told 20 me the doctor had put him off liquor for a while.

He was sober?---Yes.

You went again on three more occasions before you met

accused No. 1?---Yes.

Did you have discussions with him on these three occasions?---Yes, the discussions got more to the political side.

You were steering him in that way?---Yes that is correct. I was steering him in that way.

And how did you steer him in that way? What did you talk about?---About the political situation in the Transkei and sympathizing with him here and there.

Now when you say you steered it you were the initiator of the course of the conversation, is that what you meant?---No Chief Sabata was only too willing to talk. 10

When you steer a motor-car you determine the course, you determine it's course of travel. When you steer a conversation you determine the course of the conversation?---You can put on the brakes and let someone else take over.

It is the person who steers who puts on the brakes? ---Yes and you let somebody else take over. 20

You in fact expressed yourself in support of Sabata's policies?---Yes, may I say this? I have been asked the same question all along, but acting on

instructions I went in with everything they spoke and
suggested to me in the Transkei. I acted on instructions.

I suggest you were not a back-seat driver, you drove the car. You actually put to Sabata that he was hardly done by?---No. I did not put it in his mind. If he said he was hardly done by I agreed.

Anyway you agreed that you steered the conversation towards politics?---Yes.

And surely you will agree that it would have been unlikely for Sabata to have discussed politics with you unless you had expressed yourself in support of him? 10
---It may be he would have and it may be he would not have.

Did you guide the conversation into that direction by saying "I am a Nationalist, let us talk politics", or did you say "Let us talk politics"?---I told him I was in sympathy with the Democratic Party.

Did you say you did not like Matanzima?---It is quite possible I said it.

I want you to think and tell the Court whether you 20
expressed that view, not necessarily in those words, but whether you expressed that view?---It is quite possible.
I have many conversations to remember during the last year.

In your subsequent conversations with the accused, both of them and Sabata, Matanzima was a central theme if I understand your evidence correctly?---From their side, not from mine.

It takes more than one person to make a discussion. In the discussions Matanzima was a central theme in the dialogue between yourself and the accused?---Yes.

Now surely you can remember whether during your early discussions with Sabata you discussed Matanzima?

---I did say just how he brought it up. He said "I am 10
glad you came to see me and not Kaiser Matanzima because
Matanzima is a stooge of the Nationalist Government"
and I probably agreed with him. I wasn't steering him.
I agreed with him.

You went on?---Yes we discussed politics in general, Chief Poto and himself.

What did you discuss about Matanzima?---It is hard to say what was discussed, just in general, he was against Matanzima and I agreed with him.

You said you were also against him?---I agreed with 20
him. I did not say I was against him. When he said
he was a stooge of the Nationalist Government I agreed
with him. I did not say I was against Matanzima.

He did not say he was against Matanzima?---He just told me Matanzima was a stooge of the Nationalist Government, therefore he did not agree with him.

You did not agree with what was said about Matanzima?
---No.

You had four meetings in all with Sabata?---That is correct. Not four meetings in all.

Before you met accused No. 1?---Before I met the accused yes.

And in those four meetings you said the conversations became more political all the time?---Yes I would say it became more. 10

And Matanzima was discussed quite a lot. But apart from saying you agreed with him you cannot remember what your contribution to the conversation was about Matanzima?---No I cannot.

On all those four occasions did you just drive to the Great Place on each occasion?---After the first time I had an invitation to visit Chief Sabata on any occasion. 20

By Jennett, J.P.:

Did you then go there without telephoning him first?
---Yes.

By Mr. Pitman:

On each occasion he was there?---No I went there on one occasion when he was not there.

Was that during the week or weekend on that occasion?

---It must have been a weekend as well when he was not there. Something in the back of my mind tells me on the first occasion he was not there and that was during the week but other times it could have been the weekend that I saw him, Friday or Saturday or Sunday. He still told me he came home on Friday afternoons. He was there 10 for weekends during the sitting of the Legislative Assembly.

If he told you that on the first time you remember he told you when you could find him there?---I was asked what day it was. I do not knowwhether it was a Friday or a Saturday or a Sunday.

But each time you went without prior arrangements having been made?---That is correct.

Now when in July did you telephone him first, at the time when you got the accused on the telephone?---Because 20 at that stage every time I asked Chief Sabata about this meeting that was to take place between Chief Poto, Guzana, himself and myself, he told me Chief Poto was still in

East London. In July I telephoned to ask if Chief Poto was now back from treatment in East London.

Why didn't you visit him rather than phoning?---

Because I had been promised. Chief Sabata said he would arrange a meeting between Chief Poto, himself, Guzana and myself and discuss the crayfish industry and get Chief Poto's support.

I wondered why you changed your medium. Was there any reason?---No as I say it is quite long, I had been out there and asked each time about meeting Chief Poto and he was still under treatment. This time I phoned to ask whether Chief Poto was back in the Transkei. 10

When you telephoned you got the voice of accused No. 1, as you subsequently discovered?---Correct.

And he told you that any discussions with Sabata would have to be with him first?---That is correct.

Didn't you query this and say "I have always spoken to Chief Sabata myself?---Yes, I told him Chief Sabata knows me and I had seen him.

You told accused No. 1 you had met Sabata before? 20
---I did.

Didn't you then ask to speak to Sabata on the telephone?---Yes definitely and it came out that Chief Sabata

was on the binge and was not capable to come to the telephone. Nkosiyané - Jackson Nkosiyané confided that in my afterwards.

What did he say?---He said his name was Jackson Nkosiyané, Member of the Legislative Assembly and Secretary to Chief Sabata, any conversation I had to have with Chief Sabata I would have to contact him first and I asked him when it would be convenient to meet him.

You asked him what?---When it would be convenient for him to see me, when and where.

10

Yes and what did he say?---He made an appointment for a few days later, to meet him outside the Bunga Building in Umtata.

When you met No. 1 accused you discussed politics with him did you?---On our first meeting?

Yes on the first meeting?---Yes.

How did you get on to politics with him?---Well he asked me, after I had discussed the crayfish business with him, he asked me , I beg your pardon, he asked me to give him a lift out to Mqanduli and on the way I asked him I wanted to discuss the crayfish business with him which I had discussed with Chief Sabata and then we got on the political side.

20

How did you get on to that?---No he started off by saying we should not be seen together. He was a well-known person in Umtata and he was worried about scrutiny by the Security Police. I asked him "Why?" and he said he was bitterly opposed against the Nationalist Government. He had been to Soekmekaar and his wife had died while he was away.

Didn't you say "We have nothing to worry about you continued the conversation along Nationalist lines"?---Yes.

And he said to you - this ground has been covered to 10 a certain extent - he said to you because he was opposed to Matanzima he was called a "Communist"?---That is correct.

Now what did you understand that to mean, didn't it mean that he was in fact not a Communist?---At that moment, but not from the next few lines.

We will come to that Mr. Dunne. He was explaining to you was he not that he was called a Communist simply because he was opposing Matanzima?---Yes that is correct.

In other words at that stage he was indignant that 20 he was called that?---No I do not think he was indignant at all.

Did you discuss Matanzima any further at that state,

at that conversation?---No.

Not at all?---He stopped there and he went on to tell me the next part of his story. I took it this way, because I am opposed to Chief Matanzima I am called a Communist. The Communist slogan is "Liberation", the Nationalist slogan is "Separate Development". We are tired of oppression so we accept the liberators. I followed from his conversation that he was a Communist and was quite proud of that.

You know you have repeated those three sentences in 10 the Court. Now were there many other sentences on the political line?---That stayed in my mind very vividly.

These sentences are to anybody with discernment somewhat contradictory?---No.

The first sentence is that he implies he is not a Communist and then?---No he does not say yes or no in the first sentence.

Did the rest of the discussion enlighten you anymore as to what he was?---No.

You did not need enlightenment because you saw no 20 conflict in those three sentences?---That was never carried on with.

Isn't the position that any little thing that might

seem to reflect badly on the accused you remember and what does not reflect badly you do not remember?---In meeting Chief Guzana and Chief Poto I put in a very favourable report about them. I was very impressed by the way they approached the political position and I said I did not feel there was anything wrong in their views. Each time I met a person I put in a report to Head Quarters. Each time I met somebody I put in a report about him.

By that you mean the other people you spoke to 10
there was no criminal offence to which they could be tied or which they had committed?---Chief Poto?

No you mentioned a series of other people?---I mentioned the two, Chief Poto and Mr. Guzana.

In your view they committed no criminal offences?---
I did not say a person commits a criminal offence because they have leftist ideas.

So that you were then left with the two accused after you had seen Poto and Guzana. Isn't the position that you steered them into this course?---Into what 20
course.

This aggression to Matanzima?---Need I keep on saying this? I agreed with everything they said. I went the

whole hog with them. It was my object to find out what
was going on and I agreed with them and the moment
I disagreed - I could not go in and say "I am a Member
of the Nationalist Party" and if I disagreed with them
naturally I would not have got any more information. I
was acting on orders and instructions. Counsel keeps
on telling me I was steering the conversation. I
listened to them. I put my bit in and if they said
anything against the Government I agreed. I did not
think of them as criminals. It does not mean in this
country if you are against the Government you are
criminals. I make that submission.

You met Sabata again after you had met the accused?

---Correct.

He got out of a car

Jennett, J.P.: I do not want to interrupt you but you
are representing No. 2.

Mr. Pitman: My submission is the charge is one of
incitement as far as this witness is concerned. It might
be wiser if I were to detail my approach and not to
have the witness present - the purpose of my cross-
examination

Jennett, J.P.: I take it sooner or later it will become

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