

COURT: I am afraid I do not see the relevance myself, Mr.

Prosecutor.

PROSECUTOR: I withdraw the question sir.

NO FURTHER QUESTIONS

RE-EXAMINATION BY MR. BOWMAN

Miss Foley, in reply to a question by my learned friend the Prosecutor, you said when dealing with your meeting with Sergeant Nel, that you were also scared at the time of being assaulted. Now did Sergeant Nel himself ever actually threaten to assault you or to have you assaulted? -- He said I would be assaulted. (10)

COURT: But did he himself assault you? -- No.

MR. BOWMAN: My learned friend asked you whether was any suggestion made to you about what you were to tell the magistrate, this is for the second time as to why you wanted to repeat your confession.

Your answer was "I said that I should .." sorry, "Mr. Scheepers said that I should say that there was something I'd forgotten"? --- Yes.

Now the answer recorded by the Magistrate who took your second confession, he asked you "Waarom verlang u dan om die verklaring te herhaal?" and your answer is there recorded "Omdat ek iets nagelaat het in vorige verklaring." --- Yes.

Is that the answer you gave the Magistrate to that question? --- Yes. (10)

Now we've heard a fair amount of evidence about the three boys involved in the shooting of the policeman. Is it correct that they are Patrick, Lungile and Luzuko? --- Yes.

Now do you know where they are at the moment? --- No I do not know.

Your answer to the Magistrate in regard to your friends having told you that you could make a confession to a Magistrate, what I want to ask you is as at this date which is the 21st or the 22nd March 1978, did you have any friends who had in fact made confessions to Magistrates? --- No. (20)

And the seven men that Sam Kolati brought to your house with him that day, you, as I understand you, say that you don't know why they were leaving the country? --- Yes.

And in reply to a question from His Worship to this effect that even if you don't know, do you admit that they might have gone for military training, you said that that was possible? --- Yes.

Is it also possible that they might, for example, have gone to further their education? --- Yes, that is also possible.

Or in fact that they might have gone ..(Court intervenes

COURT: At the moment you are leading the witness. You are leading your own witness.

MR. BOWMAN: Is it possible in your view that they might have gone for some reason other than military training? --- Yes.

NO FURTHER QUESTIONS.

MR. BOWMAN: I call Accused No.3.

PAGA GREEVES MTUTUZELI TINJ, sworn states:

EXAMINATION BY MR. BOWMAN:

How old are you? --- This is my 23 year.

What is your standard of education? --- Form 2. (10

When last did you attend school, in what year? ---

In 1971.

And have you been working since then? --- Yes.

At the time of your arrest, where were you employed?

--- G.M.

It is common cause that you were arrested on Saturday the 18th March last year. Is that correct? --- That is correct.

At what time during the day? --- Between 8.30 and 9 a.m.

And who were the policemen involved in your arrest? (20

--- Lieutenant Wilkens, Captain Siebert and Lieutenant Roelofse. There were four but I do not know the fourth one.

Were you arrested at home? --- Yes.

Who was present at home at the time of your arrest?

--- My mother, my father, my sister and brother.

Were you awake or were sleeping at the time of your arrest? --- I was sleeping.

At 8.30 or 9 o'clock in the morning? --- Yes.

Did anybody speak to you on that occasion at your house? --- Lieutenant Wilkens woke me up. All four of them / were ...

were in the house and they all had guns in their hands. He woke me up and he asked me my name. On the dressing table was my reference book. I gave it to them.

What then happened? --- I was still lying on the bed when I handed the reference book over to them. Lieutenant Wilkens then asked me to get up and dress and leave my shoes. I then went out. As we were going out my sister wanted to know why they were taking me. Lieutenant Wilkens pointed the gun at her and said she should turn back.

Did you then go out of the house? --- Yes. (10

To a motor vehicle? --- Yes.

Were any of the other accused there at the time? ---

Accused No.1.

Were you put into the car? --- I was put in the boot.

Of the motorcar? --- Yes.

Do you know what kind of car it was? --- I do not remember the colour but it was a Chevrolet 3.8.

Do you know who was then driving that car? --- No I do not know who was driving the car.

Were you transported in the boot of the car? --- Yes. (20

Where to? --- To New Brighton Police Station.

When you got there what happened to you? --- I alighted and then I was taken into the Charge Office.

Were there other people there at the time? --- Yes.

Were you asked anything about them? --- Lieutenant Wilkens asked me whether I knew the people who were standing there.

And what was your reply? --- I said I did not know them.

And what was Lieutenant Wilkens' to that? --- He said I was lying.

/ Were ..

Were you then left in that office or were you taken out? --- I was taken out to a passage.

By whom? --- Lieutenant Wilkens and Lieutenant Roelofse and Captain Siebert and another white whom I do not know.

Did anything happen to you in that passage? --- I was assaulted with fists and I was sprayed.

With what? --- With a small gun ..(indistinct)

What was the effect of that spraying on you? --- My eyes burned. I was coughing. My nostrils were also burning.

Are you aware of any reason why the police should have assaulted you at that stage? --- While I was being assaulted one of them spoke, I do not know who. He spoke in Afrikaans. He spoke in Afrikaans and said "Jy vat die mense Botswana toe."

And what did you reply to that suggestion? --- I said it was not the truth, I knew nothing about it.

(Question inaudible) ? --- Lieutenant Wilkens, Captain Siebert, Lieutenant Roelofse.

(Question inaudible)? --- Yes.

About how many blows were struck? --- I did not count the number of blows. Many. (20)

More than ten? --- Yes.

Were they punching you on your body or on your face or where? --- On my body.

What happened after that? --- I was taken to the office where on my arrival I found the others sitting.

Do you know the names of any of those other people? --- On my return I found Accused No.1, Accused No.2, Luko, Gideon and I do not know the others, I have forgotten their names.

Do you know where this Luzuku is at the moment? --- No.

/ What ...

What happened in that room, if anything? --- The policeman who sprayed at me, when I was taken back to that room he opened the door and he sprayed.

Into the room? --- Yes.

Where all of those people were sitting? --- Yes.

How often? --- He pulled it once.

Did he stay in the room or did he go out? --- After spraying he went out and closed the door.

Did he come back into the room and repeat this spraying?
--- No he did not come back. (10

Were the windows of the room open or closed? --- The were closed.

Were they opened at any stage? --- Yes.

Who opened the windows? --- I opened the window.
After a policeman knocked on the window from outside, a policeman Keti, he said we should open the window.

COURT: After policeman Keti had done what? --- He had asked us to open the window. He had knocked and said we should open the window.

Sometimes you talk of windows and then you talk of (20 window. How many windows or window did this building have?

--- It was not just one window but I opened only one window.

You opened one window but the room has more than one?
--- Yes.

MR. BOWMAN: Did you open the window? --- I opened the window.

From the inside? --- From the inside, yes.

MR. BOWMAN: You said that a policeman called Keti had knocked on the window? --- Yes.

From inside or outside? --- From outside.

What happened thereafter? --- We were taken out to another office opposite this one.

/ Yes ...

Yes? --- We sat there.

And were your names then taken? --- Yes, Lieutenant Du Plessis then entered.

Did anything else of any consequence happen in that office? Related to you? --- Lieutenant Du Plessis entered this office and asked for our names.

And after taking your names were you left there or were you moved? --- He came back and handed over this document to a stoutish policeman. Thereafter Accused No.1 and myself were taken out and Gideon and Sepiwo. (10

Yes? --- We were put in a motorcar. Sepiwo and I were then sent to Jeffrey's Bay. I do not know where they took Accused No.1 to as well as Gideon.

Do you know was it a policeman who drove you to Jeffrey's Bay? --- Yes.

Do you know who they were? --- Yes.

Who were they? --- Kati. I do not remember the stoutish policeman.

This was a Saturday? --- Yes.

You were then placed in a cell at Jeffrey's Bay? --- (20
Yes.

Did anything happen on that evening or the next day?
--- No.

You just slept in the cell at Jeffrey's Bay? --- Yes.

Were you alone or with somebody else? --- There was somebody in the cell I found.

Do you know his name? --- He introduced himself as Vusumzi Soyeye.

Did anything happen on the Monday? --- Yes.

What happened? --- We were taken away.

Yes, where to? --- To Patensie.

/ Who

Who took you? --- Busani.

When you say "we", who do you include? --- Sepiwo.

At Patensie were there other policemen there? (Court intervenes)

COURT: Just Sepiwo and you? --- Yes.

MR. BOWMAN: Sorry. Did you mention the name of the policeman who took you? --- Yes Busani.

And at Patensie, what happened? --- At Patensie I was taken to a place like a court. At the Charge Office. There I found Mr. Scheepers and Mr. Du Plessis. (10

Did either Mr. Scheepers or Mr. Du Plessis touch you at all? --- Mr. Du Plessis.

In what manner? --- He caught hold of me by my shirt.

Why did he do that? --- He asked me about Mita.

COURT: About what? ----- Mita.

Is that a person? --- That is a person yes. About Mit and Major, people I did not know.

Major? --- And Major, yes.

Is that the name, Major? --- Yes I think it is a name.

MR. BOWMAN: You say they were people you did not know? --- (20
Yes.

And you told that to Lieutenant Du Plessis? --- Yes I told him that I did not know them.

(Question inaudible)? ----- No.

What other policemen were there at the time? --- Busani was present and Mr. Scheepers.

How long did you spend with Mr. Scheepers and Lieutenant Du Plessis on that occasion? --- About 15 minutes.

And this was at the Patensie Police Station? --- Yes.

Were you then kept in that Police Station? --- No, I was taken away.

Where to? --- To Hankey.

/ Who ...

Who took you away? --- Mr. Scheepers and Mr. Du Plessis.

Was it only Mr. Scheepers, Mr. Du Plessis and yourself in the car? --- It was myself, Mr. Du Plessis, Mr. Scheepers and Gideon.

And did anything happen at the Hankey Police Station?

--- Yes.

What? --- We went into another office. That was myself, Scheepers and Mr. Du Plessis.

Yes? --- Mr. Du Plessis then said to me "Ray, today you are going to tell us the truth." I asked him "The truth about what?" He then asked me as to whether I knew Ndomiso Zarana. I said I did not know him. (10)

What was their response to that? --- Mr. Scheepers then called another policeman and told this policeman to take me back to the cell and that they were coming back.

Were you then taken back to the cell? --- Yes.

This was at Hankey on Monday, the 20th March last year?

--- Yes.

Were you then kept in those cells at Hankey? --- Yes.

From the Monday when next did anything of any importance happen to you? --- They arrived on Friday. (20)

But before then were you taken out at all during the week? --- Yes.

Where to? --- I was taken to New Brighton.

What for? --- I do not know why I was taken away.

What happened to you at New Brighton, if anything? --- Nothing was done to me. I was taken away by Lieutenant Du Plessis. He went along with me to the location. He then stopped in front of a house, I cannot tell or describe the house. He then asked me as to whether I knew who stayed there. I said I did not.

Is that all that happened on that (inaudible)? --- Yes.

Now ...

Now you mentioned the Friday, the 24th March? ---
While I was still sitting in the cell ...(interrupted)

You had been in custody since the previous Saturday,
which was about 6 days? Is that correct? --- Yes.

Had anybody charged you with any crime? --- No.

Had anybody told you in terms of what Provisions or
what Statutes you were detained? --- No.

What happened on the Friday? --- I was brought out of
the cell by a policeman from Hankey. As I was coming out
I saw Mr. Scheepers and Mr. Du Plessis on the stoep. Mr. (10
Scheepers then spoke and said "Yes Gray, today you are going
to tell us the truth." We then entered an office. I was
standing, he was sitting down. Mr. Du Plessis was also
standing.

Were you then questioned? --- Yes.

Were you assaulted or threatened in any way in that
room? --- Mr. Scheepers got up and he smacked me.

How? --- With his flat hand.

Where? --- In my face.

How often? --- Once. They took me to against the wall. (20

COURT: They took you ... what? --- Against the wall.

WITNESS: At that stage Buzani had joined them.

MR. BOWMAN: Now who was in the room? Warrant Officer
Scheepers and Buzani? --- Yes.

And who else? --- Mr. Scheepers, Mr. Du Plessis and
Buzani.

What happened when you were taken against the wall?
--- Mr. Scheepers got hold of me by my arm and Mr. Buzani.
I was hit on the stomach by Mr. Du Plessis saying why do I
lie to them, why do I not tell them the truth. He left me
and I asked for some water. He said I could not get water

/ unless ..

unless I through with them.

Did anything else happen in that room on that occasion?

--- No.

That was the Friday? --- Yes.

Was anything said to you on that occasion, on the Friday, about going before a Magistrate? --- No.

Were any threats made to you? --- Yes.

What? --- Mr. Scheepers said he would keep me in detention for a long time, for some years and I would not see my people. (10

If what? --- If I did not want to tell the truth.

That was the Friday. Where did you sleep that night?

--- At Hankey.

The Saturday, that is the day on which you are alleged to have made your confession? --- Yes.

Before a Magistrate? --- Yes.

How did it come about that you went to see that Magistrate? --- I was taken by a van by a Hankey policeman. He took me to Mount Road Police Station.

Do you know what time of the day this was? --- It was (20
between 7 and 8 p.m.

P.m.? --- Yes.

You arrived at the Mount Road Police Station? --- Yes.

And then? --- I saw Mr. Scheepers.

And what happened? --- He told me "Gray, you are now going to the Magistrate and you are going to make a statement."

Did he say anything else? --- He said should I talk my nonsense there, they knew what they were going to do to me because the statement was going to come back to them.

Did you then go to a Magistrate? --- Yes.

It appears from the form of the confession that there was no interpreter? --- Yes.

/ But ...

But I understand that you are quite satisfied that that Magistrate was perfectly fluent in the Xhosa language being the language in which he spoke to you? --- Yes.

The State alleges that you made that confession to that Magistrate or that statement to the Magistrate, whatever it might be, freely and voluntarily and without being unduly influenced to make it. What do you say to that? --- It was not freely and voluntarily.

COURT: I take it you are now referring to Exhibit W?

MR. BOWMAN: Yes.

(10

NO FURTHER QUESTIONS BY MR. BOWMAN.

COURT: Mr. Prosecutor are you ready to cross-examine or what is the position?

PROSECUTOR: I think it would be better if we adjourn at this stage Sir or apply for an adjournment at this stage to go through the evidence and to check with the police involved what the position is.

COURT: Have you any idea what length of time you will need?

PROSECUTOR: Sir the only problem is to get hold of all the witnesses or the police implicated in the version of the accused. (20

MR. BOWMAN: I am quite prepared to make to my submission as clear as I tried to make it yesterday in regard to my Learned Friend's difficulties. I would have no objection.

COURT: In other words for the rest of the day or would you require the Court to resume at 2 o'clock?

PROSECUTOR: There is a possibility that we could resume at 2 o'clock.

COURT: In that case the Court will now adjourn until 2.

COURT ADJOURNS.

COURT RESUMES.

COURT: Please tell the witness that he is still under oath.

CROSS-EXAMINATION BY THE PROSECUTOR:

Are you also known as Gray? --- Yes.

And you are a man in accordance with Xhosa custom?

--- Yes.

And a younger person or an unmarried girl spoke to you they would refer to you as "Buti Gray"? --- That depends upon the person whether married or not.

But that would be a normal way of addressing you?

--- It depends upon that particular person to address me as "Buti Gray" or "Gray".

(10

On the 18th March you were arrested at approximately 9.30 a.m.? --- I said between half past eight and nine.

It is not very important but could it have been later than 9 o'clock? --- I do not know.

In any event you obviously didn't check on the time there? --- No, I did not.

Why would Lieutenant Wilken have told you "Leave your shoes behind"? --- I don't know. He should know.

He will deny that? --- I do not know as to whether he is going to deny it. But it is so.

(20

How did Lieutenant Wilken point this gun, as you said, at your sister? --- As he she was following us he turned and said she must go back.

When he turned, did he still have the gun in his hand? --- Yes.

So with him turning around the gun then pointed in the direction of your sister? --- Yes.

So he didn't specifically direct and point the gun at your sister? --- He specifically directed the gun at her because he spoke to her and said she must turn back.

He will deny that he specifically pointed the gun at

/ your ...

your sister? --- If that is illegal he would deny it.

Do you know accused No.1, before your arrest? --- No.

And when the police came to your house, you said you saw Accused No.1? --- Yes.

Where did you see him? --- Inside the house.

What was he doing with the police inside your house?
--- He did nothing. He came in with the police.

My information is that he in fact pointed your house out to the police? --- That I do not know.

When you were arrested at your house, it was quite (10 late in the morning? --- Yes.

And it was on a Saturday morning? --- Yes.

Where do you live? --- At home.

Where is your home? --- Kwazakele.

Which street? --- Vuambo Street.

Is that a street with residential houses on both sides?
--- Yes.

And I take it that when you were taken to the car, there were many people around in the street? --- I cannot say that because I just got up from my sleep and I was rather (20 shocked. I only noticed my people.

The car in which you were placed, was parked in the street? --- Yes.

And in the street you were instructed to get into the boot? --- Yes.

The police will deny that they ever placed you in the boot of a motorcar? --- If that is illegal then they would deny it. But if it is legal then they will not deny it.

After you had been taken to the New Brighton Police Station, did the police come in with anybody else who hadn't been at the Police station on your arrival? --- No, I do not

/ remember ...

remember.

You see the police tell me that you were the last person whom they arrested that morning. Do you agree to that? --- I do not know. I cannot say whether I was the last one or not. They were working, not me.

Why did the police assault you? --- They assaulted me because they asked me as to whether I knew those people and I said no.

Which people were they referring to then? --- Accused No.1 and No.2 - no, No.1 was not there. No.2, Gideon, (10
Luzuko and Patrick. I do not remember the others.

Did you know any of them? --- No.

My information is the police will say that they never questioned you at all, they merely arrested you? --- I say they questioned me.

The investigation was then handed over to Lieutenant Du Plessis and Warrant Office Scheepers? --- After they had assaulted me.

Who assaulted you? --- Lieutenant Wilken, Captain Siebert and Lieutenant Roelofse. (20

The way I understood your evidence is that while they were assaulting you, you were also sprayed with this small gun you referred to? --- Yes, that is so.

Was that whilst they were busy hitting you with the fist? --- They were busy hitting me with the fist and then they moved away. I was strayed then.

By whom? --- I do not know the white policeman who sprayed me.

Where were Lieutenants Wilken, Roelofse and Captain Siebert then? --- After they moved away from me and during the time I was sprayed at, I did not see them because I could not see properly.

/ How ...

How far did they move away from you? --- The last time I saw them they were behind the man who sprayed at me.

You weren't sprayed at whilst you were being assaulted?

--- No.

So they actually allowed this person, whoever he is, to spray you with this gun? --- Yes.

What happened to you after that? --- I was taken away to the office where the others were sitting.

Who took you there? --- The policeman who sprayed.

Where was Lieutenant Roelofse, Wilken and Captain (10 Siebert then? --- I did not see them at that time. When I was taken away to the other room, I did not see them.

What injuries did you sustain as a result of the assault? --- My body was aching. I was coughing, my eyes and nose were burning.

Were there any marks on you at all? --- No.

Any swelling? --- No, only my body was aching.

You also referred to a policeman who sprayed at you whilst you were in the room? --- Yes.

Was that the same policeman who sprayed you in the (20 passage? --- Yes.

When he sprayed you in the room, where was Lieutenant Wilken, Roelofse and Siebert then? --- I do not know. I did not see them.

Did they ask you - were you asked anything else by the police apart from the question if you knew the people who you saw? --- I heard somebody say "Ek vat mense Botswana toe". I do not know who said so.

But you were never questioned by them as to the allegation which you say they put to you? --- No, they did not ask me about it.

/ When

When you said you didn't know these people, no other questions were asked to you by Lieutenants Wilken, Roelofse or Siebert? --- No, not when we were there.

And after you were assaulted by them, they didn't even ask you then if you now admit that you know these people whom they referred to? --- No.

So they didn't try and get you to make any confession or confessions of acknowledgement of any offence by assaulting you? --- No.

The police will say that they never assaulted in any way whatsoever? --- I say they did. (10)

And this passage where they assaulted you, is that the long passage in the New Brighton Police Station? --- Yes.

That passage is a passage used by members of the public and the policemen stationed at New Brighton? --- I do not know as to whether the public uses it. It was the first time that I entered the place.

Was that passage - from the passage all the different offices lead off from that passage? --- I remember the two offices I made mention of.

Did you know Constable Ketji before that day? --- (20) No, I did not know him.

How did you know that he was the man who knocked on the window? --- I know that because he is the man who took me to Jeffrey's Bay.

Did you then learn his name? --- Yes.

You see Ketji will deny that he instructed you or told you to open the window? --- He is a policeman, he could deny that because he is scared of other (inaudible).

And at that stage did the spray which you referred to still affect you in this office? --- At which stage?

When Ketji knocked on the window? --- I was still

/coughing ..

coughing.

But was there still some of this spray hanging in the air? --- Yes.

Are these windows that you referred to all on the same level, the same height? --- Yes.

Why did you only open one window? --- Although I did it, I was scared.

But according to you, you were given permission to open the window? --- It is a black person who gave me that permission, I was scared of the whites. (10

Why didn't you use the opportunity then of opening as many windows as possible to get rid of the spray and the affect it had on you? --- I thought that even if one window was open, as long as there came in some air, the position would have bettered.

On that Monday you were at Jeffrey's Bay? --- Yes.

Before you were taken to Patensie, did you see anybody else at Jeffrey's Bay? --- I do not remember seeing any other person except the policemen who came to fetch me, Buzani and the person whom I went along with Sipiwo. (20

Did you see Accused No.1 at Jeffrey's Bay? --- No.

Scheepers and Lieutenant Du Plessis? --- They were not at Jeffrey's Bay.

Then you say you were taken to Patensie? --- Yes.

Was it a hot day? --- I do not remember. It has been a long time in detention.

In any event you weren't at Patensie for a long time? --- No.

Were you taken out of the car at Patensie, out of the Police vehicle and taken into this room which you describe as a courtroom? --- Yes.

The police will say that they did take you to a room which you describe as a courtroom because that is the only - or one of the only cool places in Patensie on that day? --- Cool in which respect.

They didn't want to have you sitting outside and baking in the hot sun in the ^{police} vehicle? --- That I do not know.

You said that Lieutenant Du Plessis got hold of you by your shirt? --- Yes.

How was he holding you by your shirt? --- As the witness in now demonstrating. (10

And he then asked you about Mita and a certain Major? --- Yes.

After you denied knowing these people, did he do anything else to you? --- No.

Do you agree that if he had any intentions of assaulting you, he could have done so? --- He could have done.

But he didn't? --- He didn't.

Why would he have grabbed you in front of your shirt, by the shirt? --- Because I did not know these people.

Did he grab you after you said you didn't know these (20 people or before that? --- After he had asked whether I knew them and I had said I did not know them.

You see that is not the way I understood your evidence-in-chief. Because in your evidence-in-chief you started by saying words to the effect that Lieutenant Du Plessis caught hold of you by your shirt and "Asked me about Mita and Major" ? --- Yes.

"I didn't know them". "I said I didn't know them." ? --- Yes.

MR. BOWMAN: With respect Sir, my recollection of that is that the witness said that Lieutenant Du Plessis had grabbed / him ..

him by the shirt and I said "Why did he grab you by the shirt?" and he then said "Because I had said that I didn't know Mita and Major". If I am wrong then the record will certainly speak for itself Sir.

COURT: My notes on the matter are that he was taken to a place which was like a court where Mr. Scheepers and Mr. Du Plessis - "Du Plessis caught him by his shirt and asked him about Mita and Major, people I did not know. I told them so." "He did not believe me." That was the sequence. It was first the grabbing and then he asked him whether he knew these (10 people.

PROSECUTOR: That is what you said in your evidence-in-chief, that he first grabbed you and then asked you. Now which is correct? --- He grabbed me, when he grabbed me he was asking as to whether I knew them.

So he didn't grab you after he asked you? --- No.

But why would he grab you at all? If he didn't even know what your answer would be to his question? --- It is possible that he wanted me to admit that I knew them although I did not because I would have been scared of being assaulted. (20

But at that stage how was he to know what your reply would be to his question? --- He expected both. He expected that I could have said I knew them or I would have said I did not know them.

He said that he didn't believe you when you replied?
--- Yes.

But he didn't do anything to you? --- No.

Lieutenant Du Plessis will deny that he caught hold of you by your shirt? --- I do not know as to whether he is going to deny it.

You said you were then taken to Hankey by Warrant Officers Scheepers and Lieutenant Du Plessis? --- Yes.

/ That ...

That was also on a Monday? --- Yes.

According to you at Hankey Lieutenant Du Plessis said that "Today you are going to tell them the truth"? --- Yes.

But he had just spoken to you in this courtroom as you said? --- Which courtroom?

At Patensie? --- We were at Hankey then.

Yes but he had just spoken to you, according to you, at Patensie and then you were taken to Hankey? --- When he spoke he said "Why did I tell them lies. Why did I not tell them the truth." (10

About what? --- About those people I said I did not know.

Which people? --- This Major and Mita.

What else did he ask you? --- I do not remember anything further that he asked me.

So you only remember him repeating the same question he had asked you at Hankey - I beg your pardon, at Patensie? --- At Hankey he said "Today you are going to tell us the truth."

Is that your reply to my question? --- That is what (20 he said at Hankey.

And did he then repeat the same question he asked you, about Mita and Major, at Hankey? --- He asked me about another person.

Which person? --- Ndomiso Darana.

But you just said that he asked you about Mita and Major at Hankey? --- It was at Patensie that he asked me about Mita and Major.

And then you said at Hankey he also asked you about Mita and Major? --- No.

That is what you said? --- No.

/ You ...

You said that he asked you why you told them lies, why you didn't tell them the truth and then I asked you "About what?". You said the people he had asked you about. Then I asked you "Who?" and you said Mita and Major. --- At Hankey he asked me about Ndomiso Darana.

Well why say then that he asked you about Mita and Major? --- He asked me about Mita and Major at Patensie.

But there could have been no mistake between you and myself because I had placed you at Hankey and you knew that we were busy with Hankey. Is that correct? --- You asked (10 me a question and said "What did he say when you were at Patensie?"

Did he ask you anything in the car on your way from Patensie to Hankey? --- No.

He could have asked you about Ndomiso Ndarana at Patensie? --- I do not know as to whether he could have asked me about it. It was up to him.

But was there any reason why he couldn't have asked you that question at Patensie? --- He should know about the reason. (20

The only reason why you were taken to Hankey was to have you locked up in the police cells there? --- I do not know. On my arrival they asked me about this person Ndomiso Ndarana. Thereafter I was locked up.

And when you said you didn't know, did Lieutenant Du Plessis or Mr. Scheepers do anything to you? --- They called a white policeman and instructed him to take me to the cells, that they would come back again.

The question is, after you denied, Lieutenant Du Plessis didn't do anything to you or Mr. Scheepers? --- There is nothing they did.

If they wanted to assault, they could have done so

/ even ...

even on that occasion too? --- They were in a position to assault me if they wanted to.

You told the Court that during that week, you were taken to New Brighton by Lieutenant Du Plessis? --- No.

What did you say then? --- I was taken by Keti and Buzani. And in New Brighton they handed me over to Lieutenant Du Plessis.

And then? --- Then Lieutenant Du Plessis, Buzani and myself left. We went to New Brighton.

That is what I said, you went to New Brighton with (10 Lieutenant Du Plessis. Yes, and what happened in New Brighton? --- They stopped in front of another house and asked me if I knew the occupant of that place. I said I didn't.

Whose place was that? --- I do not remember the name they mentioned.

Didn't you first say "They didn't ..." and then you changed your sentence? --- Changed it how?

You started off by saying "Azange ba .." and then you changed your sentence? --- But I've told you now (indistinct) to what I'm telling you. (20

Is that the way you started off your sentence? --- I do not know that I started it in that way.

Didn't you first want to say that they didn't say whose house it was? --- We arrived and then they asked "Who stays here?".

The question is, didn't you first want to say that they didn't say whose house it was? --- Don't lead me.

I'm asking you the question? --- I'm telling you what they said to me when I was there.

That is not what you wanted to say in reply to the question initially? --- Which thing?

That they didn't say whose house it was? --- No.

/ Did ...

Did they ask you whose house it was - or rather did they ask you if you knew the house of a certain person before they took you away from the New Brighton Police Station? --- No.

So they went to all the trouble without establishing if you knew the person who they wanted to find out where his house was? --- They never asked me in New Brighton.

Is that all they wanted to know from you? --- Yes.

During that week, did you get hold of clean clothes? --- Oh no. Even shoes. (10)

You never got clean clothing? --- No.

Weren't you taken to your house during that week to obtain clean clothing? --- No.

On the 22nd March, were you informed by the police at Hankey that you were then being detained in terms of Section 22? --- No.

Did anybody tell you that at any stage? --- No.

So you were never informed that you were detained in terms of Section 22? --- No.

COURT: Were you on occasions visited by a Magistrate? --- (20 A Magistrate? No I do not know.

PROSECUTOR: On Friday, the 24th March, you said that you saw Scheepers and Lieutenant Du Plessis on the stoep of the Hankey Police Station? --- Yes.

That was on a Good Friday? --- Yes.

Weren't you surprised to see Mr. Scheepers and Lieutenant Du Plessis coming out to Hankey on a Good Friday? --- No it didn't. They could have arrived there at any time. In fact I expected them to arrive at any time.

Mr. Scheepers will say that the purpose of his visit to Hankey on that Good Friday was to take out the warrant of / detention ...

detention in terms of Section 22 of Act 62 of 1966? And that in fact he informed you again that you were being detained in terms of that Section? --- No, he never informed me.

Did he offer you any document to read? --- No.

He will say that he also produced the relevant document and asked you if you were interested in reading it? --- When was that?

On that Friday, the 24th March? --- No, he never.

But your story is as to what happened on that day, is that Scheepers told you that today you will tell the truth (10 and at a later stage he assaulted you? --- He smacked me with a flat hand.

Why? --- He slapped me because he asked me about those people he had asked me about. I do not know why he slapped me. He said I was lying.

Mr. Tini I would kindly ask you to give one reply to a question because the way I understood you now, you gave three replies to that question. (Indistinct) the Interpreter to give all your different replies. Kindly say why, according to you, he assaulted you? --- He said I was lying, I did not (20 want to tell them the truth.

Anything else? --- He then got up and smacked me with his flat hand.

But did he qualify why he said that you weren't telling them the truth? --- No, he didn't.

So at some stage he just decided that you weren't telling them the truth and he got up and slapped you? Is that what you are saying? --- Don't lead me.

COURT: The witness has used this expression on a number of occasions, "Don't lead me". I want to explain to you that the Prosecutor is entitled to ask you each and every legal question and you must reply to them. You have no right to

/ tell ...

Tini.

tell the Prosecutor not to lead you. If the Prosecutor makes a statement like that, you can just say "That is correct" or you can say "It is not correct". But it is not permissible for you to use that expression. Can you understand this? --- Yes.

What is your reply to that question? --- Repeat the question.

"Please". --- Please repeat the question.

PROSECUTOR: Why did Mr. Scheepers assault you? --- He said I did not want to tell them the truth. (10

Is that the only reason? --- Yes.

Did he say why you weren't telling the truth? --- Yes. What did he say? --- Who?

Was there anybody else speaking to you except Mr. Scheepers? --- Mr. Scheepers was speaking to me.

Well why do you ask "Who?" ? --- Mr. Scheepers was speaking to me.

Then why do you ask "Who?" ? --- I thought you asked how many people spoke to me.

Mr. Tini have you any difficulty in hearing what the Interpreter is saying? He is sitting right next to you? --- (20
No.

You see I never related anything about other people also. --- Perhaps I misunderstood you.

What did Mr. Scheepers say why weren't you telling the truth? --- He asked me about people I did not know.

What people? --- I do not know. I do not remember them.

What don't you remember? --- As to who those people are about whom he asked me.

Up to this stage of your evidence you had no difficulty / in ...

in remembering names of people who you were asked about and people who you didn't know, such as Mita, Ndumiso Ndarang and Major? --- What about them?

Why can't you remember the names that Mr. Scheepers questioned you about and that being the reason of the assault? --- I say I cannot remember all.

I'm sorry, that's not what you said. You said you couldn't remember the names? --- I said I could not remember them. I still remember those that are still in my memory.

That he asked you about on the occasion that he (10
smacked you, according to you? --- Yes.

Why don't you give those names then? --- I say I do not know them, I do not remember them.

But I thought you had just indicated that there are some which you have in your memory? --- Those that are in my memory are those that I have mentioned here.

But you weren't assaulted when you were asked about Ndumiso Ndarana for instance? --- I was not assaulted.

Why remember his name? --- It is still in my memory.

But you were assaulted because you said you didn't (20
know certain people? --- Yes.

You can't remember those names? --- No.

After Mr. Scheepers smacked you in the face, what happened then? --- They took me next to a wall, against the wall. Mr. Scheepers and Buzani held me by both my arms, one on each arm. I was then assaulted by Lieutenant Du Plessis.

Why did Lieutenant Du Plessis assault you? --- He assaulted me for the same reason as Mr. Scheepers did.

But Mr. Scheepers is a big, strong man. Do you agree with that? --- Yes.

Lieutenant Du Plessis is much smaller than Mr.

/ Scheepers ..

Scheepers? --- Age is another factor.

What about the age? --- Mr. Scheepers is heavily built but he is old, he is no more powerful.

So I take it that that slap that he gave you, didn't hurt you at all? --- It gave me some worry.

So he was quite capable of giving you a good hiding if he wanted to do so? --- Yes, he could have but I thought to myself he is no more so strong as he thinks.

COURT Adjourns.

COURT RESUMES.

(10

COURT: Mr. Interpreter please tell the witness that he is still under oath.

CROSS-EXAMINATION BY THE PROSECUTOR - CONTINUES:

How did you land up against the wall? --- I was caught by Mr. Scheepers and he pushed me towards it.

Did you resist? --- No.

How did he push you? --- He pushed me to be nearer the wall.

What did he do then? --- He then caught hold of my arm and Buzani caught hold of the other arm. The witness points and shows the right arm. (20
came

Was anything said before Buzani and grabbed your arm? --- Yes there is but I do not remember.

Who said something? --- I do not remember who it was but there was somebody.

So Buzani just came out of his own and also grabbed hold of your other arm? --- Yes he got hold of me by my right arm.

He wasn't instructed to do so? --- That is why I say I do not remember as to whether he was instructed to do it.

Surely if he was instructed, you would remember that?

/ ---

--- One is inclined to forget.

And then Lieutenant Du Plessis started hitting you?

--- Yes.

Did he say anything? --- I do not remember as to whether there was something he said. He was hitting.

Was there anything said as to why he was hitting you?

--- No.

In your evidence-in-chief you said that he hit you, that is Du Plessis, in your stomach? --- Yes.

And he asked you why you didn't tell the truth. What do you say to that? --- While he was hitting me? (10

Did he say that? --- I am asking while he was hitting me?

I'm asking you if he said that? --- (No reply)

Why do you take so long to answer the question? --- I have to think.

COURT: There is no reply from the witness.

PROSECUTOR: After Lieutenant Du Plessis hit you, what happened then? --- I asked for some water.

Who from? --- From anyone of them.

But did you speak to somebody specifically? --- No, (20 I was just standing there and I said I was asking for water because it appeared as if my stomach was aching.

And then? --- They said I would not get water until I was through with them.

Through with them? --- Yes.

Who said that? --- Lieutenant Du Plessis.

In what language were you speaking then? --- I was speaking Xhosa.

When you asked for the water as well? --- When I asked for water I spoke English.

When did you speak Xhosa? --- When I spoke to Mr.

Scheepers.

About what? --- Asking me about these names.

But we were on this question on asking for the water and you said you spoke Xhosa? --- When I asked for water I spoke in English.

What made you think that I was referring to any other incident at the stage when I asked you what language you were speaking in? --- Kindly repeat the question.

You see I had a very good reason in asking you that question because Lieutenant Du Plessis can't speak Xhosa at all, he can't understand it either? --- Yes, I know that. (10

Why would he be the man to refuse you water and say you won't get it until you are through with them? --- I asked water from all of them and he gave the reply.

Weren't you speaking Xhosa then? --- No, I was speaking in English.

Why did you first say you were speaking Xhosa? --- I never said so.

Did you in fact, on that day, tell Mr. Scheepers what you knew? (Mr. Bowman intervenes)

MR. BOWMAN: Sir I object to that question for the same (20 reason as my earlier objection because it would seem that my Friend is attempting to illicit a response which would have reference to some sort of statement made by the witness to Mr. Scheepers and if that is so, it might well be that that statement constitutes a confession which would be inadmissible. For that reason I object to it.

PROSECUTOR: Sir my question is not referring to any statement.

COURT: Provided that the witness doesn't give particulars of any statement, if any, made I think the question can go through, provided he doesn't touch on any subject matter of any statement, if any one was made at all.

Without telling the Court what you said to Mr. Scheepers, did you tell him about what you knew? --- No.

PROSECUTOR: You see Mr. Scheepers will tell the Court that you were fully co-operative with him; that he had no reason to assault you and that in fact he didn't assault you?

(Court intervenes)

COURT: I think that question will have to be broken up into its components Mr. Prosecutor.

PROSECUTOR: As the Court pleases.

COURT: Firstly whether he was co-operative or not? --- I (10 do not know that.

PROSECUTOR: You do not know? --- No I do not know that.

So you didn't co-operate with Mr. Scheepers? --- About what?

About the case in general? --- I did not co-operate with him.

Why not? --- In which respect could I have co-operated with him?

COURT: The question is not whether you should have co-operated. The question is whether you did in fact co-operate with him? --- No. (20

Was there any reason why you did not co-operate? --- Yes there is.

PROSECUTOR: Why not? --- I could not have co-operated with him in a thing I did not know.

Lieutenant Du Plessis will also deny that he assaulted you? --- I do not know as to whether he is going to deny it. If it is illegal to assault me, then he'll deny it but if it is legal then he will not deny it.

Mr. Scheepers will also deny that he told you that he would keep you in custody or in detention for years? --- I cannot say as to whether he is going to deny it or not. I / do ...

do not know but he did in fact say it.

My next step will be to go over to the new aspect of the evidence Sir. I don't know if this is a suitable time for the Court to adjourn Sir, because the aspect on which I intend going over to now Sir will be - out of that will result quite a number of questions.

COURT: In that case I think it is a suitable time to adjourn. It is now 10 minutes past 4 and I think it is a suitable time at which to adjourn. The Court will adjourn until tomorrow at 9 o'clock.

COURT ADJOURNS.

COURT RESUMES ON 7.3.1979.

GREEVES MTUTUZELI TINI, sworn states further: (Speaks Xhosa):

CROSS-EXAMINATION BY PROSECUTOR CONTINUES:

You told the court that on the Saturday you were taken to the Mount Road Police Station in Port Elizabeth?
--- Yes.

Where you met Mr. Scheepers? --- Yes.

Was that the first time for you to see Mr. Scheepers on that day? --- I last saw Mr. Scheepers in that place (10 on Good Friday.

So you saw him for the first time on the Saturday at the Mount Road Police Station? --- Yes.

Are you sure about that? --- Yes.

Didn't Mr. Scheepers see you at Hankey? That day before you were taken to Port Elizabeth? --- No.

Did Mr. Scheepers obtain a statement from you? --- Yes.

When was that? --- On Friday.

At Hankey? --- Yes. (20

When you saw Mr. Scheepers at Mount Road what did he say to you? --- He told me that now you are going before a magistrate to make a confession.

Did he say anything else? --- Should I tell the magistrate my nonsenses that statement would come back to him, he knows what he is going to do.

Is that all he said? --- Yes, that is all he said.

Was that the first time that he spoke to you about making a statement before a magistrate? --- Yes.

And also the only time then? --- Yes. (30

Are you sure he didn't say anything else? --- He did

/not...

not say anything else.

Why did you make the statement to the magistrate?

--- It was because Mr. Scheepers said now you are going to make a statement to the magistrate and I went to the magistrate.

Do I understand then that you weren't threatened to make the statement to the magistrate? --- He said what he said to me, that you are now going before a magistrate and should you talk your nonsenses there, he knows what he was going to do. (10)

But did you regard that as a threat? --- ^IThought of the other things he had said at Hankey.

What other things? --- That of my being kept in detention for years, and my being assaulted there.

The magistrate asked you if you were assaulted, threatened or influenced to make a statement before him. --- Yes, he asked me.

What was your reply to that? --- I said nothing was done to me.

But why didn't you tell the magistrate that you (20) were assaulted and threatened? --- I was scared because he had told me that the statement would go back to him.

The magistrate also asked you the question if you were encouraged by anybody to make the statement. --- Yes.

What was your reply to that? --- I said no one had encouraged.

Tell the magistrate that you requested to make a statement before him? --- No, I do not remember making that request to him. I did not make a request.

Is that what you told the magistrate? Die (30)
antwoord lei as volg: "Nee, ek het gevra om n verklaring
/af...

af te lã." --- I do not remember.

COURT: Do not remember saying that to the magistrate?

--- No, I do not remember.

Are you denying that you said that? --- No, I'm not denying it.

PROSECUTOR CONTINUES: And was that the correct position?

--- I said I do not remember.

The magistrate also asked you if you had made a similar statement previously? --- Yes.

What did you tell the magistrate? --- I said yes. (10

Did you tell the magistrate you had made that statement to Mr. Scheepers at Hankey? --- He asked me to whom I had made the statement and I told him that I had made it to Mr. Scheepers.

Did you tell the magistrate that you wanted to confirm that statement or you wanted to confirm the truth of that statement which you made to Mr. Scheepers before him, the magistrate? --- Yes.

Was that the correct position? --- That was not the correct position. I was scared of Mr. Scheepers. (20

And what was your physical and mental state when you appeared before the magistrate? --- I was somewhat trembling. I had caught some cold because (interrupted)

COURT: He was trembling? --- Yes, and I had been placed at the back of the van.

You were cold? --- Yes.

PROSECUTOR CONTINUES: How were you dressed when you appeared before the magistrate? --- I was dressed in a black jersey, a blue shirt with stripes, the stripes are blue and white. (30

Yes? --- A grey pair of trousers, a light grey.

/And...

And would you expected the magistrate to see that you were trembling? --- I don't know, I tried to contain myself.

What was your mental state? --- My mental state was that for a sort of person who was somewhat lost.

What do you mean by that? --- The place where I was, was unusual to me, it was unknown to me.

Are you then saying that you weren't at ease at all? --- I was not at ease.

You see the magistrate made a note as to the (10 clothing which you wore on that day, which you confirmed, and he also made a further remark. It reads as follows: "op sy gemak, glimlag terwyl hy praat". What do you say to that? --- I do not remember myself smiling.

Before you were taken to the magistrate were you seated in a car with Mr. Scheepers? That is at the Law Courts waiting for the arrival of the magistrate. --- Were not seated in a car, we went inside and waited at the charge office.

Did you have anything to eat before you were taken (20 to the magistrate? --- No, I had nothing to eat before I went to the magistrate. I asked for something to eat from Mr. Scheepers.

Where was that? --- Inside the charge office.

And? --- From there, when I was taken to Algoa Park, he handed over some money to the police and requested them to buy me bread, fresh milk and chips.

Was that after you made your statement? --- Yes.

You see Mr. Scheepers will say that before you were taken to the magistrate he had fish balls, chips, (30 pies and milk with you. --- No.

I gather from your evidence that from the time that you met up to Mr. Scheepers, up to the time that you a...in the charge office waiting for the magistrate's arrival, you and Mr. Scheepers were not on good terms at all? --- I would say, I wouldn't say we were on good terms or the opposite, but at the charge office he did not speak to me.

You see I want to suggest to you again that you were on good terms with Mr. Scheepers, that is why you asked him for food. --- It is because I was taken away from (10 the Hankey charge office without having food, I should have had food.

What did you understand by the words used, according to you, by Mr. Scheepers to the effect that if you should talk nonsense to the magistrate, he would know what to do? --- I thought of what happened to me at Hankey.

What? What were you thinking of that happened to you at Hankey? --- Being kept in detention for years and the assault on me.

And did you know what nonsense Mr. Scheepers was (20 referring to? --- No, I did not know. He said I should not talk my nonsenses or nonsense there. Should I do so, they know what they will do.

So if I understand you correctly, your only defence on the making of the confession to the magistrate is that you had the assault in mind, or not? --- I thought about the assault.

And you thought about the threat of being detained in custody for a long time? --- Yes, and that he never requested me to go and make a statement. He just said (30 you are now going to make a statement before the magis-
/trate...

trate.

Fourthly your defence is that Mr. Scheepers said you mustn't speak nonsense when you are with the magistrate. If you should do so, he knows what he'll do to you? --- Yes.

Before you made the statement to the magistrate was there any discussion between you and Mr. Scheepers? About the possibility of you giving evidence as a State witness? --- No.

You see Mr. Scheepers will say that he interviewed (10 you at Hankey on the Saturday, the 25th March. That you made a statement to him on that day. --- Do you want a reply?

Yes. --- I say I made the statement on a Friday to him.

That after the statement was recorded by him, your rights were explained to you, and you elected to make a statement before a magistrate. --- My rights like what?

Did Mr. Scheepers explain anything to you at Hankey on the 25th March? --- On Friday, the last time I saw (20 him, he said nothing.

Mr. Scheepers then told you that he would see if he could get hold of a magistrate because this was on a Saturday. --- No. He never said it.

He then managed to get hold of a magistrate in Port Elizabeth. He then phoned Hankey police requesting them to bring you to Mount Road police station. Have you any comment on that? --- No, I do not know that. What the truth is, is that police from Hankey took me to Mount Road and the rest I do not know. (30

Sir at this stage I would request a 5 minute

/adjournment...

adjournment, sir. There is just one aspect of the witness' evidence that I would like to consider.

COURT ADJOURNS.

---oOo---

COURT RESUMES.

COURT: Mr. Interpreter please tell the witness that he is still under oath. --- Yes.

PROSECUTOR CONTINUES: Mr. Tini there is just one aspect that I want to clarify. If I understand you correctly Mr. Scheepers didn't tell you what to tell the magistrate. (10

MR. BOWMAN: I object to that question. (Not in microphone - inaudible)...that is not an issue which is now at present before your worship. The only question which is at issue on this accused's case in this trial within a trial is the question as to whether or not he made the statement freely and voluntarily. Your worship has already been referred to Leboni's case which is, in our submission, clear authority for the proposition that my learned friend, Mr. Crous, is not entitled to cross-examine this witness as to the content of his statement (20 and that is the only effect that this question could have.

COURT: This witness, if I recall correctly, has not stated that he was told what to say.

PROSECUTOR: At no stage, sir.

COURT: Mr. Prosecutor?

PROSECUTOR: Sir, the way I see it is that the trial within a trial is to establish the -basically the question if the statement was freely and voluntarily made, but on the other hand once that has been established and (30 there is a defence as to the contents of the statement,

/surely...

surely that must be dealt with in the trial within a trial. Not as to the correctness or incorrectness of the statement, but if it is part of the defence that the witness was told what to tell the magistrate, then obviously this is a question that must be dealt with during the trial within a trial.

COURT: With this particular witness that is not one of the issues. His evidence has never been that he was told what to tell the magistrate. It has not been his evidence. (10

PROSECUTOR: Sir there is one aspect of the evidence of the witness which isn't quite clear to me. Initially he told the court in his evidence that he knew nothing about the allegations against him. He also told the court that Mr. Scheepers told him not to talk nonsense to the magistrate. He then goes and makes a statement to the magistrate. It is not clear to me at this stage whether it is part of his case that he was instructed by Mr. Scheepers what to tell the magistrate. For that reason, for purpose of clarification on that aspect, I (20 posed this question to the witness to clarify his defence as to the statement as such.

COURT: I'm afraid I cannot agree with you Mr. Prosecutor and the objection is upheld.

PROSECUTOR: As the court pleases. In that case I have no further questions.

RE-EXAMINATION BY MR. BOWMAN: No re-examination.

BY THE COURT:

Tini there is only one aspect that I should like to put a few questions to you. Yesterday when you gave (30 evidence you were never still in the witness box for a /single...

single second, you always moved about, you pressed your hands together, you felt your neck, you felt your ears, you pressed your breast with your hands, you fumbled and you moved about. Why was that? This morning it's quite different. This morning you stand still and you don't fumble with your hands and you stand still. Why did you behave like that yesterday? --- I do not remember doing such things, touching my neck and over my body, no.

Mr. Prosecutor what is the exhibit number of the statement made by this witness? (10)

PROSECUTOR: Exhibit W. I've got it here.

COURT: You've got it.

NO FURTHER QUESTIONS.

---oOo---

MR. ALEXANDER: The next witness, your worship, is the father of accused No. 3. (Not in microphone - inaudible)...Tini.

ARTHUR TINI, sworn states: (Speaks Xhosa):

EXAMINATION BY MR. ALEXANDER:

Are you the father of accused No. 3? --- Greeves Tini, yes. (20)

How old are you? --- 54 years of age.

Where do you reside? --- 9052 Site and Service.

Did accused No. 3 stay with you at any time? --- Always.

Do you remember the day on - when he was arrested? --- Yes, very well.

That was Saturday the 18th March last year? --- Yes.

Were you at home when the police arrived? --- Yes.

Your son was arrested on that occasion? --- On that day, yes. (30)

/Yes...

Yes. Can you remember more or less what time of the day it was? --- I was busy reading the documents about horses and these people, when they entered the house, it was exactly half past 8.00.

COURT: Didn't the witness first say quarter past 8.00?

WITNESS: No, half past 8.00.

COURT: I'm speaking to the Interpreter. I distinctly heard you say quarter past 8.00.

WITNESS: No, quarter past 8.00 I was reading (interrupted) (10)

COURT: Don't interrupt me. --- I'm sorry.

I'm putting on record that the witness is quite clearly conversant with English and when I address^{-ed} my question to the Interpreter, he starts answering. I heard you say distinctly quarter past 8.00. --- At quarter past 8.00 I was reading these papers about the horses on the table.

The people, the police came and arrested your son at 8.30? --- Half past 8.00.

You understand English very well, don't you? --- I (20 don't understand but I can hear ^{the} a little bit you have said to me.

Were you reading an English paper? --- I was reading a book about horses and the Evening Post horses tips.

MR. ALEXANDER CONTINUES: Can you remember anything about the policemen who came to arrest your son? Can you describe them if you don't know their names? --- I do not know their names.

Can you describe them? --- If I can see them I can point them out. (30)

That point is not in issue, sir, I think it's

/clearly...

clearly on record who the people were and that is not in issue. Very well. Where was your son taken after being arrested? --- When he was arrested he was asleep. He was then taken out of the house to a motor car, thereafter he was placed in the boot of the motor car.

Who placed him in the boot? --- By a white man tallish and a shortish one.

Can you describe the car? --- If I can see it I can point it out to you. One day it was standing outside here. (10

What colour and make is the car? The witness is pointing to the green inside the constable's cap, your worship. And the make of the car? --- (Witness speaks English): G.M. make but I don't know what sort of a car it is.

COURT: Now would you repeat that ^{Mr.} Interpreter otherwise what the witness has said will not be on record. --- That is a G.M. make but I do not know what type of car it is.

Mr. Tini I must ask you this. Should you wish (20 to give evidence in English please say so. If you do not wish to give evidence in English then you must say so because you cannot use Xhosa one minute and English the next. What would you prefer? What would you prefer?

INTERPRETER: Xhosa, he says, your worship.

COURT: Well would you kindly stick to Xhosa then, otherwise it becomes a terrible mix-up. And just control yourself (interrupted - witness not in microphone - inaudible). (30

No, no, I don't want to go into a conversation with /you...

you. What did the witness say, Mr. Interpreter?

MR. ALEXANDER: It was a G.M. car.

INTERPRETER: It was a G.M. make.

COURT: G.M. make. --- Yes.

Yes, alright.

MR. ALEXANDER CONTINUES: I understand you to say you've seen the same car outside the court here? --- Yes, one day it was standing outside here.

Did you note the number of the car when your son was arrested? --- It was 114 stroke - I do not know (10 the rest of the number.

And do you know the place of origin of the car? --- Port Elizabeth.

Now from that day, the 18th March, 1978, was your son, accused No. 3, ever brought back to your home for any reason that you know of? --- No, he was never brought back. I saw my son again in L Court when they appeared on the first case.

Is that the first time you saw him since his arrest? --- Yes. (20

Are you normally at home during the day? --- Yes, I'm always at home, I go nowhere.

I understand you are retired? --- Yes.

Thank you.

CROSS-EXAMINATION BY PROSECUTOR:

Where did you work Mr. Tini? --- I worked at Tough Plast.

COURT: What? --- Tough Plast.

MR. ALEXANDER: It sounds like a plastic firm, your worship. Tough Plast or P-l-a-s-t (not in microphone (30 - inaudible). /Court...

COURT: (Indistinct)...it's not important. Thank you.

PROSECUTOR CONTINUES: When accused No. 3 was taken out of the house by the police, what did you do? --- I did nothing because they said to me "jy sit net daarse ou man".

Did you remain in the house? --- Yes.

Where were you seated? --- In my front room next to the table.

When the police left your house, or rather when they arrived was the door open or closed? --- The front (10 door was open and the back door was closed.

Where did the police enter your house? --- Two entered from the front and two from the back.

Could you see the back door from where you were sitting? --- As you enter the house, there is the door, I was sitting next to the table looking at the horses, they said I should remain seated like that, which I did. The two white men entered by the front door, the other two entered later on after the first two had already entered. (20

Mr. Tini my question was, and still is, could you see the back door from where you were seated? --- Yes, I could see it because I can see the front as well as at the back.

The back door and the front door opposite each other? --- They are like that, as the witness is now demonstrating, and I was seated on this side.

COURT: He shows at right angles. How many rooms has your house? --- Two doors.

How many rooms? --- Four rooms. (30

PROSECUTOR CONTINUES: Could you see out both doors, the /back...

back and the front door? --- Only the front door.

Through which door did your son leave the house? ---
This is the front door, there is the room.

COURT: Mr. Tini you have very very long replies to simple questions. This takes up a lot of needless time. The question put by the Prosecu^tor really needs an answer of two words, possibly three. The question is from which door did accused No. 3 leave the house. No, I was wrong, it needs an answer of four words. --- Entering or going out? (10)

From which door did No. 3 leave the house? --- Front door.

It took two words.

PROSECUTOR CONTINUES: Who else was in the house when accused No. 3 was arrested? That is prior to the police arriving? --- It was myself and my daughter, and another daughter.

And accused No. 3, I take it? --- Yes, he was asleep.

So it was only the four of you? --- And my other son who had returned from a night shift, they were both (20 sleeping like this.

COURT: You were five persons in the house? Count them. You, accused No. 3, your other son, and two daughters. --- My wife had gone to the shop, she was not at home.

PROSECUTOR CONTINUES: And did she return only after the police had taken your son, accused No. 3, away? --- They were long gone when she returned.

According to accused No. 3 his mother was present at home. When the police arrived. --- My son was asleep. (30

How many policemen arrived at your house? --- I saw
/four...

four, I do not know the others.

Have you a watch? --- There is one in the house.

Where is the watch in the house? --- It is standing on my...top of my wireless where I was reading about the horses.

And did you - how do you know it was quarter past 8.00 when you - or how do you know rather that it was 8.30 when the police entered? --- It is because they said "sit net daarso" and I sat and looked at my watch.

Mr. Tini and this is a long time ago, the 18th (10 March, 1978. --- What?

That this happened. --- Yes.

Was the time important to you at all? --- Yes, it was important because I was looking for my son all the time.

You didn't make a note of the time, did you? --- No, we don't record it down, you keep it in your head.

You see the police made a note at the time of the arrest of accused No. 3. The time that they recorded is 9.30. --- There is no such. There is no such. (20

And you are not prepared to say that it's possible that you are making a mistake as to that? --- I am not making a mistake, there is no such a time.

COURT:

Why was he sleeping so late? --- Who?

Your son, accused No. 3. --- He had returned from night shift.

PROSECUTOR CONTINUES: See accused No. 1 only referred to one sister being at home. --- No. 1?

Accused No. 3, sorry. --- We were all there with my daughter, his sister. (30

I see you are looking at somebody at the back of /the...

the court. Is his sister here? --- Yes, she is here seated in court.

Which one is it? --- The one with the black hat.

COURT: There are 1, 2, 3, 4, 5 women with black hats, which one? Would you kindly get up? --- The one right in front with the black hat.

Thank you. Is that one of the sisters who was at home? --- Yes.

What is her name? --- Nomvuyo.

Who was the other one who was at home? --- Twakie,[?](10 but she is at school.

Twakie? --- Yes.

PROSECUTOR CONTINUES: Were you at court yesterday? --- Yes, I was. I was sitting over there.

COURT: Over where? --- I was there sitting at the restroom because my lawyer said I must not come in here, I should sit over there.

Yes, that's quite alright.

PROSECUTOR CONTINUES: Your daughter who you pointed out in court, she was also present? --- When? (20

Yesterday. --- Yes, she was also outside, sitting there.

No, Mr. Tini, she was sitting in court yesterday. --- No, she was sitting outside.

Do you deny that she was in court yesterday? --- When I arrived she was seated there on the grass.

Just reply to the question please. Do you deny that she was in court yesterday? --- I cannot deny it but I know that she was seated there.

Well I want to tell you and I'm putting it to you (30 that she was in court. I saw her personally. --- I saw

/her...

her outside that's why I do not know whether she was inside.

Did she tell you what your son told the court yesterday? --- I did not talk to children about all these things.

Mr. Tini just kindly answer the question please? --- She did not.

Nothing? Not a word? --- She said nothing.

Weren't you curious to know what was taking place with your son in court and how he was giving his evidence? (10
--- I was interested if I was told by people outside.

But your own daughter who was present never told you a word? --- No.

And you didn't ask her anything either? --- No, I had already heard about people outside.

COURT: You'd already heard what? --- I'd heard that my son was giving evidence.

PROSECUTOR CONTINUES: But did the people tell you what evidence he had given? --- No, they did not because they knew I had to come and stand here. (20

Who told you? Who spoke to you yesterday? --- People who were here yesterday, I do not know them, they were seated over there.

COURT: Were seated where? --- On the stoep, says the witness.

PROSECUTOR CONTINUES: You see Mr. Tini at the moment I want to put it to you there is only a very small number of people attending this trial, and you say you don't know the people who spoke to you yesterday? --- No.

Where did you sleep last night? --- 9052 Site (30
and Service.

/Did...

Did you come here by car? --- Yes.

Whose car? --- There it is standing over there.

And the question is whose car, not where it's standing. --- I do not know that old man's name.

Is he in court today? --- No, he is sitting in the car.

Did your daughter who you pointed out in court today, did she drive with you to Port Elizabeth and came back with you this morning? --- Yes.

She also slept at your house? --- Yes. (10

You never asked her what Greeves had told the court in his evidence? And what questions the Prosecutor were asking him? --- No, I did not ask her.

She didn't tell you? --- No, she did not tell me, I don't know, perhaps she told her mother, but she told me nothing.

You see what is strange is to me is that accused No. 3, when he gave evidence, also didn't want to concede beyond 8.30 although he didn't look at a watch. Sorry, I withdraw that question, sir. Where was the police (20 car parked at your house? --- A distance like that car standing outside there.

COURT: This side of the street or the other side? --- That red one.

30 paces.

PROSECUTOR CONTINUES: And how was it parked in relation to, or what part of the car could you see? How was it parked? --- This is the front of the car, this is the back of the car. The back was facing directly at my house. (30

If one normally stops, or parks a car, at that spot
/where...

where the police car was standing, would one normally park it in the manner in which the police stopped? --- Normally a car never stops like that, it was the first car I saw parked in that manner.

COURT: Is this a suitable stage at which to adjourn or would you like to finish a question or two first?

PROSECUTOR: I would like to put two or three questions, with the court's permission, thanks.

PROSECUTOR CONTINUES: If I understand, or would I be (10 misunderstanding you if I say that according to what you told the court now is that this car was actually straddling the road?

COURT: Parked at right angles.

PROSECUTOR CONTINUES: That is correct, sir.

COURT: Would you rephrase like that please.

PROSECUTOR CONTINUES: Are you saying that this car was parked at right angles? --- On this side of the road, as the witness is demonstrating, demonstrates with his right-hand.

So was it, the front part of the car obstructing a (20 portion of the road? --- There is a house at the corner. As the car was parked it proceeded like this. The front was facing directly to the road.

COURT: And the rear of the car was facing your house? --- Yes.

You say that's the normal way for a car to park there? --- No, they never stop like that.

Were there people in the street? --- People appeared when they saw this motor (indistinct) the motor car and the person was being placed in the boot of this motor (30 car.

/Prosecutor...

PROSECUTOR CONTINUES: Before that was the street quiet?

--- Before that the street was quiet.

How do you know that? --- It was in the morning.
It was in the morning that.

Yes, Mr. Tini, it was on a Saturday morning at
8.30 according to you. --- Yes.

How do you know the street was quiet? --- Not many
people walk along our street. It is only people who are
going to their work.

Mr. Tini were you busy working out your Jackpot and
your Jillpot? --- When they went to the motor car I had
stopped. (10)

No, when the police arrived. Before they arrived.
--- When they arrived I was busy with my horses on the
table.

Mr. Tini I take it that you were concentrating to
work out which horse was going to win on that Saturday?
--- Yes, I was concentrating and I lost because they
disturbed me.

Now bearing that in mind, how would you know what (20
was going on in the street? --- I went out when they were
taking my son to the car.

But you said there weren't people in the street be-
fore the police arrived, they only arrived after the
police had taken your son. --- People were moving up and
down, there were not many, 2 or 3 at times.

But you were concentrating on your horses. --- I was
concentrating. I have told you that I went out at the
stage when they were taking Greeves to the motor car.

Didn't you say that the police told you to remain (30
seated there, which you did? --- Yes, they did so and I
/obeyed...

obeyed them, but they were now through, they were now taking my son away, I followed for a little distance, wanting to know where they were taking my son to.

This is a suitable stage to adjourn, sir.

COURT ADJOURNS.

---oOo---

COURT RESUMES.

COURT: Mr. Interpreter please tell the witness that he is still under oath. --- Yes.

PROSECUTOR CONTINUES:

Mr. Tini in reply to a question you said that you (10) didn't go out the house. --- Go out and go where?

After the police had told you to remain seated.

COURT: Did he say that Mr. Prosecutor?

PROSECUTOR: Yes, we have a note on that, sir.

COURT: Was this in examination in chief?

PROSECUTOR: No, sir, cross-examination.

COURT: Cross-examination?

PROSECUTOR: The question was "when accused No. 3 was taken out of the house by the police, what did you do?" His reply was "nothing, they said "jy sit net hierso ou (20) man". Then he said the never went out.

COURT: At what stage of the cross-examination was that?

PROSECUTOR: Roundabout the second question, sir.

COURT: Yes, that is correct, that is what he said. I think the question should be put to the witness in that form because he did not actually say I did not go out, he said I did nothing. They said to me "jy sit daar ou man". I sat in the front room, next to the table. In fairness to the witness I think it should be put in that form.

(30

/Prosecutor...

PROSECUTOR CONTINUES: Mr. Tini you told the court that the police told you to remain seated at the table where you were when they entered. --- Yes.

Did you in fact remain seated? --- I remained seated and then they went into the bedroom.

Did they say that when they were leaving the house? --- When they entered the house.

Did you at any stage leave the house? --- No, I did not leave the house.

Till after the police had driven off? --- Until (10 the police came out with my son, they went out through the gate, I then followed up to the gate.

Then you did leave the house? --- Yes, I went out, I wanted to look where they were taking my son to.

Anybody else leave the house with you? --- I was muddled up, I cannot say whether there was anybody.

Can you recall (interrupted) --- I was shocked by the revolvers they had.

Can you recall where accused 3's sister and brother (20 was at the time, when the police left the house with him? --- This is what I have told you. I do not know because at that stage I was muddled up. I only went to the gate and stood there alone. I do not know what happened to them.

Didn't see them outside? --- No, I did not see them outside.

And you didn't see them going through the front door after the police left the house with accused No. 3? --- No, I was excited and I wanted to know where they were taking him to. I followed slowly to see where (30 they were taking him to.

/Mr. Tini...

Mr. Tini I gather from your evidence that from the time they left the door to the time that they put accused No. 3 into the boot of the car, according to your evidence, you could see what was taking place? --- Yes, I saw the motor car well.

But you could see what was taking place? --- Yes, I saw everything that took place.

Did any of the police do anything with a gun? Before accused No. 3 was placed into the boot of the car? --- That I did not notice. (10

Mr. Tini if the police had threatened anybody with a gun after leaving your house, surely you would have seen that? --- I did not see because I was worried, I had my worries, I was worried over the fact that where they were taking my son to and placing him in the boot.

Any of your daughters were threatened by the police with a gun surely you would have seen that? --- I have just said I had my own worries, I could not have seen that. (20

Mr. Tini you have also said that you had seen everything. --- Yes, I have told you that I saw them placing him in the motor car. I did not see the other things.

No, you told the court that you saw everything that took place from the time that accused No. 3 was taken from your house to the time that he was placed into the boot of the motor car. --- That is what I have told the court about, I know nothing else.

Anybody complain to you that the police threatened that person with a gun? --- I do not know.

Your daughter never mentioned that to you? --- (30
I was worried, I said nothing to the daughters, nor did

I ask them anything.

But even after that, up till today? --- I had my own worries.

But if that had been reported or discussed with you, you would have remembered that? --- I do not know.

So the only thing that you really remember from the time that the accused left your house is the fact that he was placed in the boot of a motor car? --- I should have thought about that because I know you cannot even place a fly in the boot of a motor car, that is dangerous. (10

Wouldn't you say it's dangerous to threaten and... somebody with a gun and point the gun at that person? --- Who was threatened with a gun? I do not know that person.

Accused No. 3 told the court that one of his sisters was threatened with a gun and the gun was pointed at her, by the police. --- Perhaps he knows about it, I do not know.

Did you see anybody speaking to the police from the time they left your house to the time they placed accused No. 3 in the boot? --- You could not see anybody talking to the police because they just took him, placed him in the boot and they drove away in the motor car. (20

Any member of your family, other than accused No. 3, speak to the police after they had left the front door of your house? --- I do not remember that, honest. I cannot remember that. My nerves are worrying me and I was worried, I do not know.

But Mr. Tini you can remember much finer detail than that, for instance the exact time. --- At that stage I was not worried, I was writing my things, sitting /in... (30

in my house.

If your daughter had spoken to the police after they arrested accused No. 3 and after they had taken him from your house, you would have seen that? --- Perhaps I would have seen it.

Did you or didn't you? --- Seen what?

Your daughter speak (interrupted) --- I do not understand the question.

Your daughter speaking to the police. --- I have told you that I had my worries, I was not looking to see(10 as to whether anybody was speaking to the police. I was worried by the fact that they took my son and put him in the boot.

Accused No.3 tells the court that one of his sisters asked the police why they were taking him away. --- Perhaps they spoke to them. I did not see because it was said "sit net daar stil", which I did. I only came out after they came there, perhaps they said so when they went into the room. I did not see what transpired in the room. (20

Didn't you say Mr. Tini "di pumé sebekile"? Mr. Tini did you say that or didn't you?

COURT: What does that mean?

PROSECUTOR: I went out after they had left. Wasn't that also part of your reply? --- Yes, I said so. I said so. They said "sit net daar" and I went out after they had left.

A while ago you said that you went out before they left. --- No.

Mr. Tini let's clarify this for once and for all (30 now. At what stage did you leave your house? Your

/seat...

seat from where you were sitting and what stage did you leave your front door? --- As they went out with my son, this is the door, as they went out by the front door one of the white men had him by his back pocket of his trousers, taking him to the motor car. When they went out by my gate, I then stood up to look as to where they were going to with him.

And then? --- They then took him to the motor car.

COURT: Which was how far from the gate? --- The gate could have been as where I'm standing, there was the (10 motor car at the spot I pointed out.

How far? The gate is here. --- The gate is here.

Where's the car? --- This is the house.

I'm not asking for the house. Where is the gate? The gate is where you're standing now. Where is the back of the car? How far, the distance. --- From where the witness is standing to that flower over there.

The witness points out a distance of about 15 paces. You had your eye on the police and your son all the time? --- Yes. (20

PROSECUTOR CONTINUES: Yes, and what did you do then? --- From there immediately they pulled away with the car I went to all the police stations looking around as to where my son was.

Yes, I appreciate that but please tell me when did you leave your house? --- How do you mean leaving how?

When did you go out of your house? --- As they went out with him through the gate, I followed. I looked at them from the gate.

What did you mean when you said then that you (30 went out after they had left? --- If a person goes out

/that...

that person has gone out. Has he not gone out by the door ?

Mr. Tini are you saying now that you didn't mean that the police had left already? They had pulled away with the car when you said that? --- No, they had not left, the motor was still stationary there, as they put him into the boot I stood at the gate.

You saw nothing else happening? --- They pulled away in the motor car.

Who else was placed in the boot? --- I saw nobody (10 else.

How was your son placed into the boot? --- The boot is open like this. He was not yet ready inside the boot when they pulled the lid down.

Did he climb into the boot himself? --- He was lifted up by the shortish policeman who held him by his back pocket, lifted his legs and then he placed him inside the boot.

By closing this lid of the boot did they slam the lid on top of him? --- They closed it like the...as the (20 witness is now demonstrating.

The question is did they close it forcefully? Did they slam it? --- Yes, it was closed forcefully, that is how it went down.

And in that process the lid of the boot hit your son? --- No, that I do not know. He was inside. He should tell the court about it, if it hit him.

According to you he wasn't properly in the car. --- He was not properly in the car, yes.

And the accused didn't say anything about any (30 injuries that he sustained, in that process. --- That

/is...

is why I said he should know, if he was injured.

The police will deny that they placed your son in the boot of the car. --- That we cannot deny, we cannot say anything, we know that that is being denied.

Mr. Tini were any clean clothes ever obtained from your house for accused No. 3? --- No, no clean clothes were ever obtained. My son arrived there to one of the Regional Courts, I think it was in L Court. He was as dirty as a pig.

Up till today have they obtained any clean clothes?(10
At your house? --- Obtain from where?

From your house. --- From when?

From his arrest? --- The day he had to appear in L Court I brought him some clean clothes.

Didn't the police ever obtain any clean clothing from your house? --- Since they left, they never went back to my house.

Edelagbare ek vra net vir n kort vergunning, ek wil
iets
net bevestig. Mr. Tini are you always at home? --- Yes,
all the time. (20

You never leave your house? --- No, I am no more working. I have this head ache of mine. I get some epileptic fits. I only clean my yard.

And don't you even visit your neighbours? --- At times I would go to those in front of me, not other places.

And do you ever go to town? --- Sometimes when I go to the doctor.

And I'm sure that you won't be able to tell the court now with any amount of certainty when you left (30
your house after the 18th March, 1978? --- Going where?

/Visiting...

Visiting your neighbours or going to town or visiting the doctor. --- I just go to visit the doctor, come back, and I sit on my stoep.

I'm not denying that. What I'm saying is that you can't tell the court now exactly when you went to the doctor or exactly when you visited your neighbours etcetera, since the 18th March. --- No, I can't.

Would you then concede that it is possible that the police was at your house or could have been at your house after the arrest of accused No. 3? --- The police never (10 arrived there. My children always play in the yard. What takes place there at my place they would tell me. They play in the yard, they will tell me father, so and so arrived here, such and such a thing took place here.

And I take it your children attend school? --- No, not the small one.

And they also go and play with the other children of the neighbourhood? --- No, they do not go out of the yard. They play there in the yard. There are many, I have eight of them, they play with their dolls in the (20 yard.

They're all small children? --- Yes, steps.

What would the age of the eldest one be? --- They are not my children, in fact they are my grandchildren. Their ages range from 12, 10, 11 and so on downwards.

Mr. Tini but when you go to the doctor or visit your neighbours or go to town, you can't say what the children are doing, you're not there (Interpreter and Prosecutor speaking simultaneously - inaudible). --- I wish you could go and see my yard. I lock my gate whenever I (30 go away. I am scared of trucks knocking over my children.

/Court...

COURT: I think these are points that could be made in argument.

PROSECUTOR: As the court pleases. I have no further questions.

RE-EXAMINATION BY MR. ALEXANDER:

When you saw accused No. 3 at L Court, can you say what clothing he was wearing? --- A black jersey, white shirt, a grey pair of trousers.

COURT: A black jersey, a white shirt? --- And a grey pair of trousers. (10)

And a grey pair of trousers.

MR. ALEXANDER CONTINUES: Can you say what clothing he wore when he left your house at the time of his arrest? --- The same clothes.

You say the state of his clothing was very dirty? --- If you could see a pig sty.

Was it dirty when he left the house on his arrest? --- No, my child is clean and neat. I don't want to tell lies about him to court here today. He does not like dirty things. (20)

^{As}
/We understand the cross-examination at an earlier stage by the State, it was suggested that not that the police came to get clothing for your son, but they actually brought him back to your house. Do you know anything about him ever being brought back to your house? --- Ever since he left from that place I saw him in L Court.

As I understand your evidence if you leave the house you lock the gate? --- Yes.

Could anybody get into the house without forcing (30 the gate, in your absence? --- Just enter the house or

/do...

do what?

Could anybody enter - you say you would lock the gate when you go say to town. --- Yes.

Could anybody have entered the house without forcing the gate in your absence? --- Nobody would enter unless he forces the gate.

Did you ever find the gate forced? --- No, not now.

Now it may be suggested by my learned friend that your evidence is a recent fabrication in the sense that this incident about the boot may have been told to you (10 by somebody who'd been in the court yesterday. --- No, it is a thing I saw with my own eyes.

Is it correct that you were at court on the very first day this trial started at the end of January? --- Yes.

Is it correct that you came up to the trial when the learned junior was sitting and spoke to him on that day during an adjournment? Outside. Did you? I was there too. --- Yes, I went up to him. I was asking you for a document to enable us to stay here. (20

Right, and at that stage were you asked anything about the incidence of the arrest? --- No, nobody asked me.

(Indistinct)...the learned junior counsel.

PROSECUTOR: Leading question, sir, I object to that.

MR. ALEXANDER: Alright.

MR. ALEXANDER CONTINUES: Do you remember having a consultation outside the court at any stage about your evidence, that is before today? --- Consultations with whom? (30

With the defence advocates? --- No, I don't under-
/stand...

stand. I don't understand.

Well let me try and help you. You've been at court every day since the trial started? --- Yes.

Was there any time when you were asked in consultations by my learned friend or myself about your son's arrest? --- Yes.

And was that only yesterday, or today or was it before today? --- The other attorney when he was here spoke to me.

Is that the Indian attorney (interrupted - speaking(10 simultaneously - inaudible). --- The Indian attorney, yes. He said I was wanted here.

Your worship I am finished with the witness but I'd like to invite, I'm making an offer to my learned friend to peruse at his convenience, part of the statement prepared by the defence long before the trial started, where the following appeared. It's the statement by accused No. 3, and I read the relevant passage, my learned friend can verify, "all my family and various other people in the vicinity saw me being put (not in (20 microphone - nothing on machine).

NO FURTHER QUESTIONS.

---oOo---

MR. ALEXANDER CALLS ACCUSED NO. 4.

FEZIWE JOSEPHINE BOOKHOLANE, sworn states: (Speaks Xhosa):

EXAMINATION BY MR. ALEXANDER:

How old are you? --- I'm 36 years of age.

At the time of your arrest last year is it so that you were employed as a nursing sister? At the Day Hospital at Kwazakele in Port Elizabeth? --- Yes.

You are a qualified nursing sister? --- Yes. (30

/On...

On Thursday, the 23rd March, 1978, at about 11.30 in the morning did you receive a message to report somewhere?

COURT: I'm sorry, what date was this?

MR. ALEXANDER: 23rd March '78, at about 11.30. --- Yes.

Where were you told to report? --- I had to report at the matron's office.

When you got there, who did you see? --- I saw Mr. du Plessis and Mr. Scheepers.

Which Mr. du Plessis is that? Well is it the (10 lieutenant or the captain? --- The one you mentioned first.

The lieutenant? --- Yes.

What did they want of you? --- They said they had come to take me.

Did you ask for what? --- Yes.

Whom did you ask? --- I asked the lieutenant.

What was his reply? --- Do not ask any questions, otherwise you'll leave everything of yours behind.

Were you then taken away from the matron's office?(20 --- Yes.

To the Mount Road police station? --- Yes.

By the same policemen? --- Yes.

Anything said to you on the way? --- Yes.

What was that and who by? --- It was said by Mr. Scheepers. He said we are going to detain you, the most uncomfortable cell in the Eastern Cape, for a good number of months, if not for years.

PROSECUTOR: Sorry, sir, to interrupt. I think the witness also mentioned the word "days". (30

COURT: The witness has switched to English and Mrs. -

/is...

is it Miss. or Mrs. Bookholane? --- Mrs., ja, it's Mrs.

Mrs. Bookholane I must ask you please either to give your evidence in English all the time or to give it in Xhosa all the time, otherwise it leads to problems with the recording. They said they would keep you in the most uncomfortable cell in the Eastern Cape for a good number of what? Days, months, years? --- Months.

But when you testified you said days? I heard that myself. --- I made a mistake.

MR. ALEXANDER CONTINUES: Immediately you corrected (10 yourself, as I remember, and you said months if not for years? --- Yes.

The word "for" is it f-o-u-r or is it f-o-r? --- F-o-r.

I see. Now why did he say you would be kept for this length of time in the cell? --- He said until they were satisfied with me.

What did they want to be satisfied about? Did you know at that stage? --- No, I did not.

Was anything else said to you by Mr. Scheepers or (20 Lieutenant du Plessis on the way to Mount Road police station? --- No.

Now you were brought to the Mount Road police station on this day which was a Thursday? Is that correct? --- Yes.

At about what time of the day was that now? --- It was before 12.00.

Did you see any other policemen there?

COURT: (Not in microphone - inaudible).

MR. ALEXANDER CONTINUES: At the Mount Road police (30 station, I'm sorry. --- Yes, I saw a black policeman.

/What...

What was his name? --- Buzani.

Right. What happened with him?

PROSECUTOR: Your worship it seems to me that the witness is reading from a statement.

INTERPRETER: I cannot see (interrupted)

MR. ALEXANDER: I'd be very surprised if she can see my brief here.

PROSECUTOR: Well sir the witness is definitely looking at the statement and trying to make out what (voice drops - inaudible). (10

MR. ALEXANDER CONTINUES: Now don't look at my papers, eh?

COURT: I'm sorry, we may be having difficulties now Mr. Alexander. In the past the contractors have said that they have great difficulty in typing, hearing what you say, so if you should move around, as you so dramatically did a while ago with your books, then this problem might well be enhanced.

MR. ALEXANDER: Well my learned friend is suggesting that the witness has seen my papers, sir, and I want to (20 obviate any fear of this happening again, if it happened in the first place, and I've obviously got to move something and I'd imagine I'm the most convenient thing to move. I'll try and of course speak in the direction of the microphone.

MR. ALEXANDER CONTINUES: Now before that interruption I think you said you met Mr. Buzani and my question was what happened with him? --- Mr. Scheepers said to him he must watch me and that I should not sit down.

What must you do rather than sit down? --- I (30 should stand all the time.

/Mr. Scheepers...

Mr. Scheepers say anything else to you? --- Yes.

What? --- He said my back was exposed.

What does that mean? --- He there further stated that the other people had already spoken.

I want to know what is the meaning of this expression, your back is exposed? --- They knew something about me.

Which language did Mr. Scheepers speak to you? --- He spoke in Xhosa.

And what did he add to that expression about some people having said something about you? --- He said I (10
? was going to difficate. Difficate or shit.

Because why? --- He said they knew everything about me.

I don't want to go into that expression more deeply but I - is it the impression, you're giving me the impression - if my learned friend will allow me - that you are in grave trouble because of what they said to you? Or what they said about you? --- Yes, that's what he said, your back is exposed, we know everything about you, you are going to shit. (20

Alright. Did he then leave? --- Yes.

Were you allowed to sit down? --- No.

Thereafter where were you taken? --- I was taken to the New Brighton police station.

Who by? --- By Buzani.

Now when next did you see Mr. Scheepers? --- At the New Brighton police station.

On what occasion was that? The same day or thereafter? --- The same day.

Did you have any further conversation with him? (30
--- Yes.

/What...

What did he say to you? --- He said I must go along, they were going to my house.

Yes. Were you taken to your house? --- Yes.

Where were you brought back to after your house? --- To the New Brighton police station.

What time of the day was that? --- It was 5.00 o'clock.

Right. Now was Mr. Scheepers still with you? --- Yes.

Any further conversation between you and him? --- (10 No.

Where were you then taken to? --- I was taken to Patensie.

And at that stage were you booked into the Patensie police station? --- Yes.

Do you know on what charge? --- I heard Mr. du Plessis telling the policeman there.

What? --- He said "Wet op Terrorisme".

That is the first day, the 23rd March? --- Yes.

Now let us deal with the 24th March '78. Did (20 you see these police officers on that occasion, on that day? --- Yes.

When? When about? --- It was in the afternoon.

What was said to you on that occasion? --- Mr. du Plessis spoke.

Saying? --- And he said as we have already said we heard everything about you.

And? --- Now what I want from you, I want that tomorrow you must go before a magistrate and go and make a confession, or otherwise I am going to detain you (30 under Section 6 indefinitely. Your people will never

/come...

come to you. No attorney will come. No reading matter, I will obtain no reading matter, and my people will not know where I - my whereabouts.

Did these words have any effect on you? --- Yes, very much.

In what way? --- It perturbed me to know that I would be detained under those conditions.

To what extent were you perturbed? --- I was perturbed to such an extent that I prepared to do anything that he asked me to do. (10

If he hadn't uttered these words, would you have gone to the magistrate to make a confession? --- No.

I come now to the Saturday, which is the 25th March. It is correct that on that day you were taken to the magistrate's court, is that right? --- Yes.

By whom? --- Mr. du Plessis came to take me from Patensie.

At about what time would that have been? --- I do not know what the time was, but it was after breakfast.

Anything said to you on the way from Patensie to (20 Port Elizabeth? --- Yes.

What is that? --- He said as I told you yesterday that I want you to go before a magistrate, if you do not do that I will detain you under Section 6 for two years. We arrived at the New Law Courts. Mr. Scheepers then came to me. He came to fetch me from the motor car.

Did he say anything else to you? --- Yes. He said now you are going to a magistrate. Do not tell the magistrate that you had been threatened because the confession will come back to us. That would bring (30 difficulties on you. He put it this way, it would

/prolong...

prolong your own agony, because you would be assaulted by the "boers" at Sanlam, and your people will never know about that.

This word "boers" is that your word or is it his word? --- It is his word.

It seems that at about 2.00 o'clock that afternoon you were brought before a magistrate? --- Yes.

And it is quite clear that the magistrate, Mr. Kläckers, asked you certain questions before you made your statement to him? --- Yes. (10

The first set of questions are to do with whether you have been forced to make the statement, influenced, assaulted and so on, to all of which you said no. --- Yes.

What is the reason for that remark in the light of your evidence? --- I was told that the confession would go back to them and they would see it. That was told to me by Mr. Scheepers.

That's not quite an answer to my question as to why you had answered these questions about assaults and (20 threats in the negative. --- I would not say that I had been influenced.

Why not? --- Because the confession would go back to Mr. Scheepers, as he had said.

Questions of the magistrate continue with these two questions, which I am going to read to you, and your answers. The first question is as follows: Het u vantevore n verklaring van dieselfde aard afgelê en, indien wel, wanneer en aan wie. The answer recorded is: ja, te Hankey aan mr. Scheepers. Is that correct? --- (30 Yes.

The second question is as follows: Waarom verlang u dan om die verklaring te herhaal. Answer: mr. Scheepers het gevra of ek die verklaring aan n landdros wil (not in microphone - inaudible). Is it "maak" sir?

COURT: (Not in microphone - inaudible).

MR. ALEXANDER: Yes. En toe sê ek ja. Now is that what you told the magistrate in answer to that question?

--- Yes.

What does it mean and why did you say that? --- I did not want to bring to the notice of the magistrate (10 that certain threats had been effected.

Is it correct that you had asked, that Mr. Scheepers had asked you whether you wished to make a statement to the magistrate to which you said yes? --- No.

What was your state of mind in making the statement to the magistrate? --- I was greatly shocked.

Why did you make this statement to the magistrate? --- Because I had been sent.

COURT: You had been what? --- Sent to.

Sent to.

(20

MR. ALEXANDER CONTINUES: You mean sent to him? --- I was forced by Mr. du Plessis and Mr. Scheepers.

The State will contend that you made the statement freely and voluntarily without being forced to do so.

--- I do not say so.

COURT: What was that reply? You did not say so? --- I did not say so. I do not say so.

CROSS-EXAMINATION BY PROSECUTOR:

How long were you employed at the Day Hospital before your arrest? --- Since June, 1976. (30

Sir I would ask for adjournment at this stage sir

/to...

to give me the opportunity of going through the evidence before I can cross-examine.

COURT: Any idea of the length of the adjournment Mr. Prosecutor?

PROSECUTOR: I may be ready to start at 2.00 o'clock, sir.

COURT ADJOURNS UNTIL 2.00 O'CLOCK.

---oOo---

COURT RESUMES.

COURT: Mr. Interpreter please tell the witness that she is still under oath. --- Yes. (10

PROSECUTOR CONTINUES:

Where did you meet Mr. Scheepers and Lieutenant du Plessis at the Day Hospital? --- They were in the matron's office.

Is there an office or a room nearby where medical equipment is kept? --- No, I'm not sure about that room.

You see because Mr. Scheepers tells me that he didn't actually meet you in the matron's office, but there is a small room where medical equipment is kept where he met you. Or where you met him then. --- I (20 say I met him in the matron's office.

And you were asked by the police to accompany them. --- Yes, they said they had come to fetch me and I must accompany them.

Did you know Mr. Scheepers before meeting him on that occasion? --- Yes.

Did he tell you that he knew you? --- No.

Didn't he refer to the incident relating from your previous meeting with him? --- No.

Relating - when they asked you to accompany them (30 /you...

you then said what was the matter? --- I asked them why they were taking me.

Did Mr. Scheepers reply to that? --- Mr. du Plessis replied.

Mr. Scheepers will say that you knew him as a member of the C.I.D. and that he told you that you should know that he wouldn't want to speak to you about anything else but a criminal matter. --- He is lying.

You then asked him where he knew you from. --- He is lying. (10

After he referred to a certain incident, you remembered him. --- He is lying.

Before you were taken away from the Day Hospital did you go to the room where you keep your private property such as your handbag and things like that? --- Yes.

And after that did you go to an office which is possibly the office of the sister in charge? --- No.

Did you hand a piece of paper and a (interrupted)

MR. ALEXANDER: Your worship I have full reason to believe that my learned friend is dealing with contents of the merits of his case now. I think he knows that I know what he is referring to and it is evidence that he is now eliciting, which has nothing to do with, in my submission (not in microphone - nothing on machine)...that is to do with the merits of the case against the accused. (20

COURT: Mr. Prosecutor?

PROSECUTOR: Sir with all due respect it is of importance what transpired between the police and the witness from the stage of her arrest to the stage that she was taken to the magistrate and making her statement. My (30
/submission...

submission is that my learned friend might be correct, that this might be evidence, but I don't think there's any reason to exclude this evidence at this stage.

COURT: Has this matter a bearing on the willingness or otherwise of her statement which she later on made to the magistrate?

PROSECUTOR: It will have bearing on the question of the attitude of the police towards the witness.

COURT: It's very hard for me to judge now because put as it is the question does not seem to have a bearing (10 on the merits of the case against the accused. I think I must for the moment allow this questioning to go through. I can see how, if it develops further. What was your last question?

PROSECUTOR CONTINUES: Did you hand a piece of paper and a R1,00 note to one of your colleagues? --- No.

Mr. Scheepers will say that he then took this piece of paper and this R1,00 note from this colleague to whom you had handed it. --- He would be lying.

At a later stage he returned this R1,00 to you (20 at Mount Road police station. --- He is lying.

What was said to you in the car after you had been removed from the hospital? --- Mr. Scheepers said they were going to lock me up in one of the most uncomfortable cells in the Eastern Cape for a number of months or years until they were satisfied with me.

At that stage he hadn't told you anything as to why you were arrested or anything about the charge? --- No.

So he didn't ask you anything about the charge or about any facts before making this statement to you? (30 --- No.

/You...

Collection Number: AD2021

SOUTH AFRICAN INSTITUTE OF RACE RELATIONS, Security trials 1958-1982

PUBLISHER:

Publisher:- Historical Papers, University of the Witwatersrand

Location:- Johannesburg

©2012

LEGAL NOTICES:

Copyright Notice: All materials on the Historical Papers website are protected by South African copyright law and may not be reproduced, distributed, transmitted, displayed, or otherwise published in any format, without the prior written permission of the copyright owner.

Disclaimer and Terms of Use: Provided that you maintain all copyright and other notices contained therein, you may download material (one machine readable copy and one print copy per page) for your personal and/or educational non-commercial use only.

People using these records relating to the archives of Historical Papers, The Library, University of the Witwatersrand, Johannesburg, are reminded that such records sometimes contain material which is uncorroborated, inaccurate, distorted or untrue. While these digital records are true facsimiles of the collection records and the information contained herein is obtained from sources believed to be accurate and reliable, Historical Papers, University of the Witwatersrand has not independently verified their content. Consequently, the University is not responsible for any errors or omissions and excludes any and all liability for any errors in or omissions from the information on the website or any related information on third party websites accessible from this website.

This document is part of a private collection deposited with Historical Papers at The University of the Witwatersrand.